

NOTICE OF AN APPLICATION FOR PLANNING PERMIT

The land affected by the application is located at:	124 Sundance Promenade, Pakenham VIC 3810 LAF PS845082 V12464 F845
The application is for a permit to:	Creation of carriageway easement.
The applicant for the permit is:	KLM Spatial
The application reference number is:	T240104
You may look at the application and any documents that support the application at the office of the Responsible Authority:	Cardinia Shire Council 20 Siding Avenue Officer 3809 This can be done during office hours and is free of charge. Documents can also be viewed on Council's website: https://www.cardinia.vic.gov.au/advertisedplanningapplications

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:	03 May 2024
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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.

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Planning Enquiries
Phone: 1300 787 624
Web: www.cardinia.vic.gov.au

Application for a Planning Permit

If you need help to complete this form, read MORE INFORMATION at the end of this form.

⚠ 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 a planning process under the *Planning and Environment Act 1987*. If you have any questions, please contact Council's planning department.

⚠ Questions marked with an asterisk (*) must be completed.

⚠ If the space provided on the form is insufficient, attach a separate sheet.

i Click for further information.

Clear Form

The Land **i**

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address *

Unit No.:	St. No.: 124	St. Name: Sundance Promenade
Suburb/Locality: Pakenham		Postcode: 3810

Formal Land Description *

Complete either A or B.

⚠ This information can be found on the certificate of title.

If this application relates to more than one address, attach a separate sheet setting out any additional property details.

A	Lot No.: AF	<input type="radio"/> Lodged Plan	<input type="radio"/> Title Plan	<input checked="" type="radio"/> Plan of Subdivision	No.: PS845082H
OR					
B	Crown Allotment No.:		Section No.:		
Parish/Township Name:					

The Proposal

⚠ You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.

i For what use, development or other matter do you require a permit? *

Creation of a carriageway easement

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⚠ Provide additional information about the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

Cost \$ 0

⚠ You may be required to verify this estimate. Insert '0' if no development is proposed.

If the application is for land within **metropolitan Melbourne** (as defined in section 3 of the *Planning and Environment Act 1987*) and the estimated cost of the development exceeds \$1 million (adjusted annually by CPI) the Metropolitan Planning Levy **must** be paid to the State Revenue Office and a current levy certificate **must** be submitted with the application. Visit www.sro.vic.gov.au for information.

i Estimated cost of any development for which the permit is required *

Existing Conditions i

Describe how the land is used and developed now *

For example, vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Site is currently vacant

Provide a plan of the existing conditions. Photos are also helpful.

Title Information i

Encumbrances on title *

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- Yes (If 'yes' contact Council for advice on how to proceed before continuing with this application.)
- No
- Not applicable (no such encumbrance applies).

Provide a full, current copy of the title for each individual parcel of land forming the subject site. The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments', for example, restrictive covenants.

Applicant and Owner Details i

Provide details of the applicant and the owner of the land.

Applicant *

The person who wants the permit.

Name:		
Title:	First Name:	Surname:
[Redacted]		
Unit No.: S1	St. No.: B2, 3	St. Name: Ordish Road
Suburb/Locality: Dandenong South	State: Vic	Postcode: 3175

Please provide at least one contact phone number *

Contact information for applicant OR contact person below	
Business phone: 03 9794 1600	Email: Manager@klms.com.au
Mobile phone:	Fax:

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

Postal Address:			If it is a P.O. Box, enter the details here:		
Unit No.: S1	St. No.: B2, 3	St. Name: Ordish Road	[Redacted]		
Suburb/Locality: Dandenong South	State: Vic	Postcode: 3175	[Redacted]		

Owner *

The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organisation.

Name:			Same as applicant <input type="checkbox"/>		
Title:	First Name:	Surname:	[Redacted]		
Organisation (if applicable): Galileo Mount Pleasant Nominee Pty Ltd					
Postal Address:			If it is a P.O. Box, enter the details here:		
Unit No.: S407	St. No.: Lvl 4, 15	St. Name: Lime Street	[Redacted]		
Suburb/Locality: Sydney	State: NSW	Postcode: 2000	[Redacted]		
Owner's Signature (Optional):			Date:		
[Redacted]			[Redacted]		
day / month / year					

Declaration

This form must be signed by you.

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

Need help with...

General information about the process

Contact Council's planning officer

Insufficient or unclear information

Has there been a pre-application meeting with a council planning officer?

Date: 21/2/24

day / month / year

Checklist

Have you:

Filled in the form completely?

Paid or included the application fee?

Most applications require a fee to be paid. Contact Council to determine the appropriate fee.

Provided all necessary supporting information and documents?

A full, current copy of title information for each individual parcel of land forming the subject site.

A plan of existing conditions.

Plans showing the layout and details of the proposal.

Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.

If required, a description of the likely effect of the proposal (for example, traffic, noise, environmental impacts).

If applicable, a current Metropolitan Planning Levy certificate (a levy certificate expires 90 days after the day on which it is issued by the State Revenue Office and then cannot be used). Failure to comply means the application is void.

Completed the relevant council planning permit checklist?

Signed the declaration?

Lodgement

Lodge the completed and signed form, the fee and all documents with:

Cardinia Shire Council
PO Box 7
Pakenham VIC 3810

In person: 20 Siding Avenue, Officer

Contact information:

Telephone: 1300 787 624

Email: mail@cardinia.vic.gov.au

DX: 81006

Deliver application in person, by post or by electronic lodgement.

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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

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

VOLUME 12464 FOLIO 845

Security no : 124113337965N
Produced 12/03/2024 03:25 PM

LAND DESCRIPTION

Lot AF on Plan of Subdivision 845082H.
PARENT TITLE Volume 12391 Folio 986
Created by instrument PS845082H 03/04/2023

REGISTERED PROPRIETOR

Estate Fee Simple

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
AR993400W 08/03/2019

AGREEMENT Section 173 Planning and Environment Act 1987
AT292518N 29/05/2020

DIAGRAM LOCATION

SEE PS845082H 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: 124 SUNDANCE PROMENADE PAKENHAM VIC 3810

ADMINISTRATIVE NOTICES


NIL

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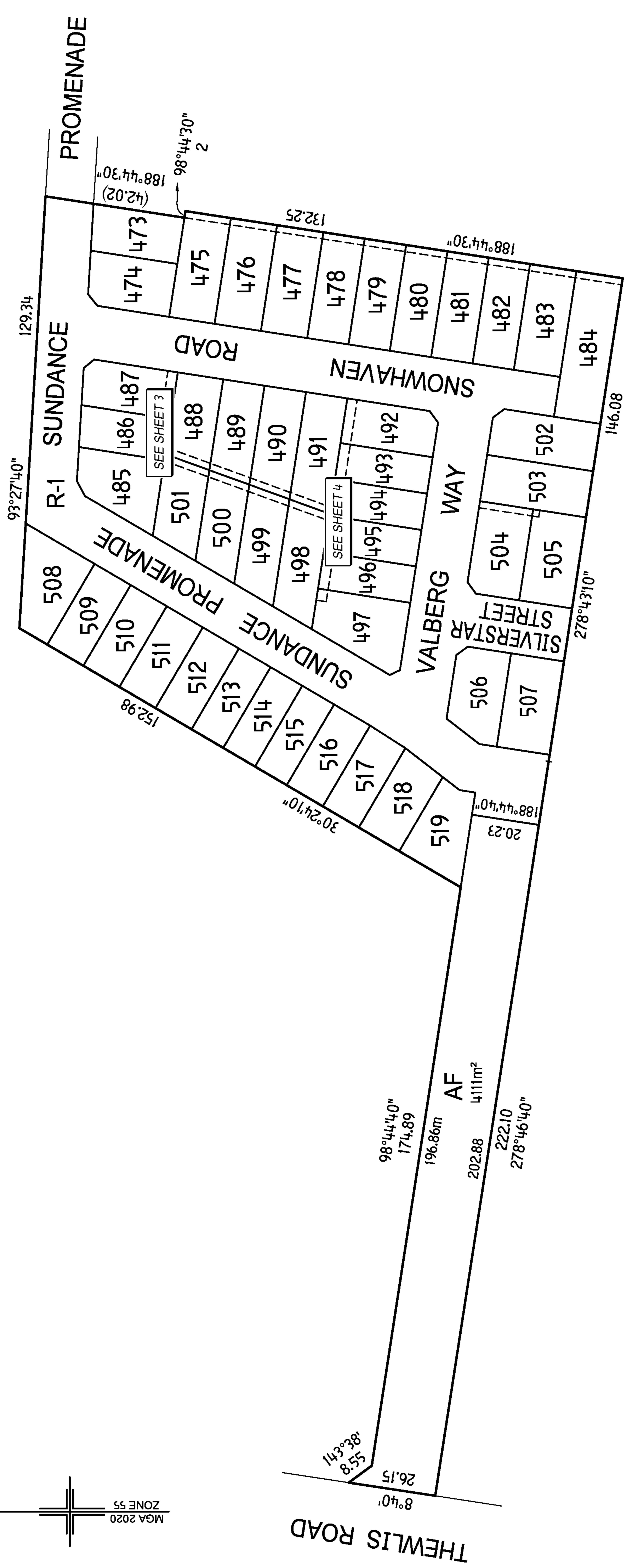
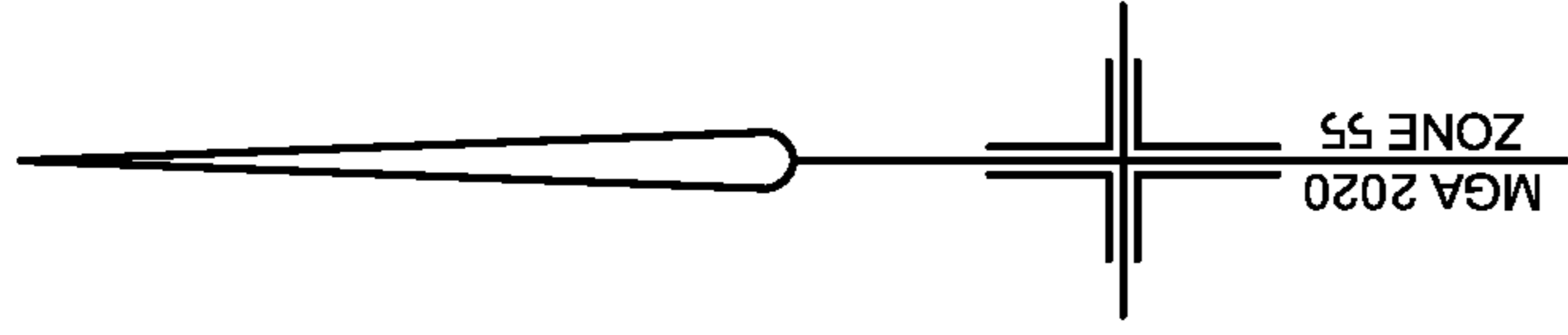
eCT Control 22187E MASON PROPERTY LAW
Effective from 03/04/2023

DOCUMENT END

Delivered from the LANDATA System by Dye & Durham Terrain Pty Ltd

PLAN OF SUBDIVISION			LV USE ONLY EDITION 1	PS845082H
LOCATION OF LAND			<p>Council Name: Cardinia Shire Council</p> <p>Council Reference Number: S21-049 Planning Permit Reference: T170798 SPEAR Reference Number: S173754M</p> <p>Certification</p> <p>This plan is certified under section 11 (7) of the Subdivision Act 1988 Date of original certification under section 6 of the Subdivision Act 1988: 02/06/2022</p> <p>Public Open Space</p> <p>A requirement for public open space under section 18 or 18A of the Subdivision Act 1988 has been made and the requirement has been satisfied</p> <p>Digitally signed by: Sonia Higgins for Cardinia Shire Council on 24/03/2023</p> <p>Statement of Compliance issued: 29/03/2023</p>	
PARISH:	PAKENHAM			
TOWNSHIP:				
SECTION:				
CROWN ALLOTMENT:	1 (PART)			
CROWN PORTION:				
TITLE REFERENCES:	VOL.12391 FOL. 986			
LAST PLAN REFERENCES:	LOT AE ON PS828385K			
POSTAL ADDRESS: (At time of subdivision)	MULCAHY ROAD PAKENHAM, 3810			
MGA Co-ordinates (of approx centre of land in plan)	E 364330 N 5787250	ZONE: 55 GDA 2020		
VESTING OF ROADS AND/OR RESERVES				
IDENTIFIER	COUNCIL/BODY/PERSON			
ROAD R-1	CARDINIA SHIRE COUNCIL			
NOTATIONS				
DEPTH LIMITATION DOES NOT APPLY.				
NOTATIONS				
<p>STAGING This is not a staged subdivision.</p> <p>Lots 1 to 472 (both inclusive) & lots AA to AE (both inclusive) have been omitted from this plan.</p> <p>Other Purpose of Plan: Creation of Restriction. The following restriction is to be created upon registration of this plan Land to be burdened : Lots 473 to 519 (both inclusive) Description of Restriction : Lots 473 to 519 (both inclusive) Except with the written consent of the responsible authority the registered proprietor or proprietors for the time being of any burdened lot on this plan must not erect or allow to be built, any building structure other than a building or structure which is built or erected in accordance with the memorandum of common provisions registered in application no. AA8422 which are incorporated into & by this plan. Expiry Date: 31st December 2037.</p> <p>Survey: This plan is based on survey. This survey has been connected to permanent marks no.(s) 11, 41, 84, 85, 119, 130, 131 & 415 in Proclaimed Survey Area no. NIL</p>				
EASEMENT INFORMATION				
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	DRAINAGE	SEE DIAG.	PS828385K	CARDINIA SHIRE COUNCIL
E-2, E-3	DRAINAGE	SEE DIAG.	THIS PLAN	CARDINIA SHIRE COUNCIL
E-4, E-3	SEWERAGE	SEE DIAG.	THIS PLAN	SOUTH EAST WATER CORPORATION
		Planners Building Designers Surveyors Engineers Suite 1, Building 2 3 Ordish Road Dandenong South 3175 Telephone 03 9794 1600 manager@klms.com.au		KLMS REF: 8413.6B
		Digitally signed by: Damien Marc Rivalland, Licensed Surveyor, Surveyor's Plan Version (8), 17/03/2023, SPEAR Ref: S173754M		ORIGINAL SHEET SIZE A3 SHEET 1 OF 4 SHEETS PLAN REGISTERED TIME: 11.55am DATE: 3/4/2023 A.R.T. Assistant Registrar of Titles

PS845082H



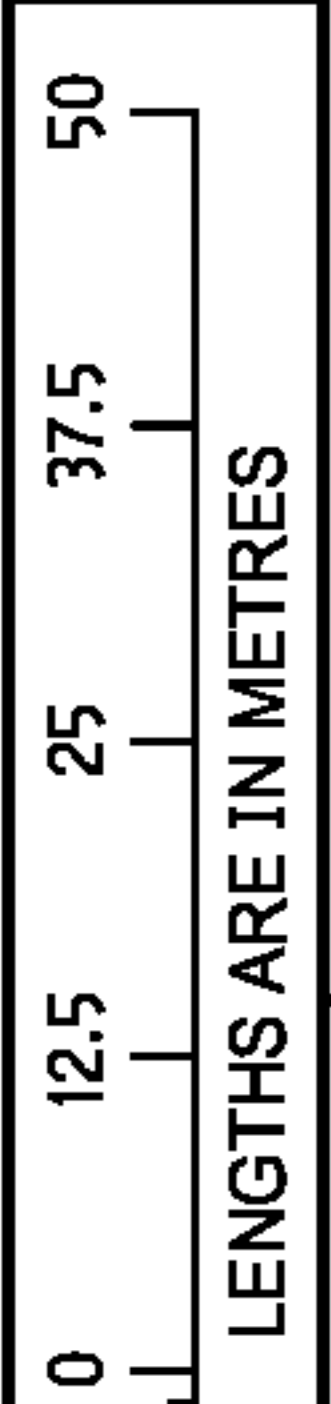
Planners Building Designers
 Surveyors Engineers
 Suite 1, Building 2
 3 Ordish Road
 Dandenong South 3175
 Telephone 03 9794 1600
 manager@klms.com.au

KLM SPATIAL
 LAND DEVELOPMENT INTELLIGENCE

Digitally signed by: Damien Marc Rivalland, Licensed Surveyor,
 Surveyor's Plan Version (8),
 17/03/2023, SPEAR Ref: S173754M

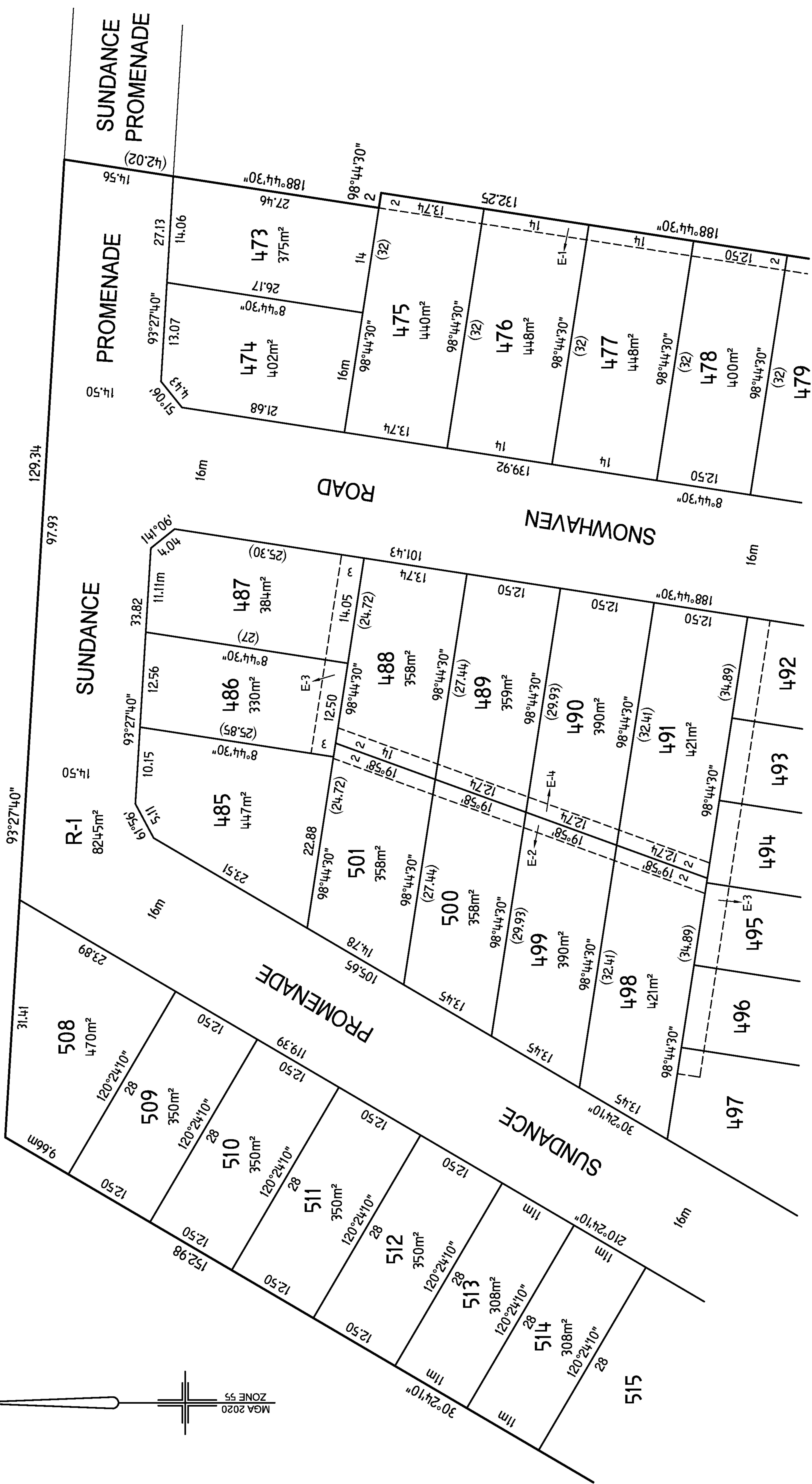
Digitally signed by:
 Cardinia Shire Council,
 24/03/2023,
 SPEAR Ref: S173754M

KLMS REF: 8413.6B SCALE 1:1250 ORIGINAL SHEET SIZE A3 SHEET 2



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PS845082H



SEE SHEET 4

Planners Building Designers
 Surveyors Engineers
 Suite 1, Building 2
 3 Ordish Road
 Dandenong South 3175
 Telephone 03 9794 1600
 manager@klms.com.au

KLM SPATIAL
 LAND DEVELOPMENT INTELLIGENCE

Digitally signed by: Damien Marc Rivalland, Licensed Surveyor,
 Surveyor's Plan Version (8),
 17/03/2023, SPEAR Ref: S173754M

Digitally signed by:
 Cardinia Shire Council,
 24/03/2023,
 SPEAR Ref: S173754M

KLMS REF: 8413.6B

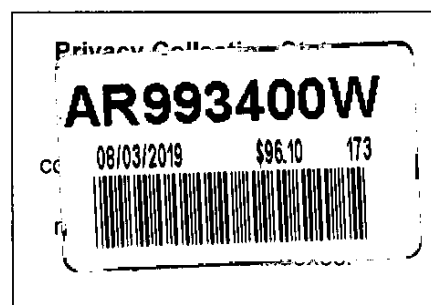
SCALE 1:500

LENGTHS ARE IN METRES

ORIGINAL SHEET SIZE A3

SHEET 3

Application by a responsible authority for the making of a recording of an agreement
Section 181 Planning and Environment Act 1987



Lodged by

Name: RUSSELL KENNEDY LAWYERS
Phone: 03 9609 1555
Address: LEVEL 12, 469 LA TROBE STREET, MELBOURNE 3000
Reference: MJD:302786-00020
Customer code: 17829T

The responsible authority having made an agreement referred to in section 181(1) of the Planning and Environment Act 1987 requires a recording to be made in the Register.

Land:(volume and folio)

LOT J ON THE ATTACHED PLAN BEING PART OF THE LAND IN CERTIFICATE OF TITLE VOLUME 10095 FOLIO 400

Responsible authority:(full name and address, including postcode)

CARDINIA SHIRE COUNCIL OF 20 SIDING AVENUE, OFFICER 3809

Section and act under which agreement is made:

SECTION 173 OF THE PLANNING AND ENVIRONMENT ACT 1987

A copy of the agreement is attached to this application:

Signing:

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35271702A

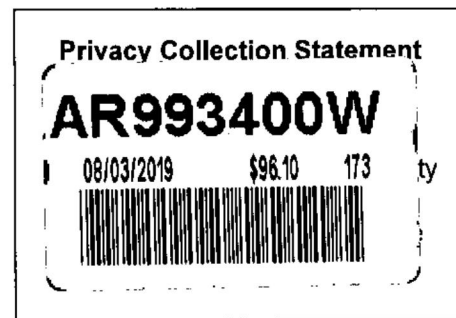
181PEA

Page 1 of 2

THE BACK OF THIS FORM MUST NOT BE USED

Land Use Victoria contact details: see www.delwp.vic.gov.au/property>Contact us

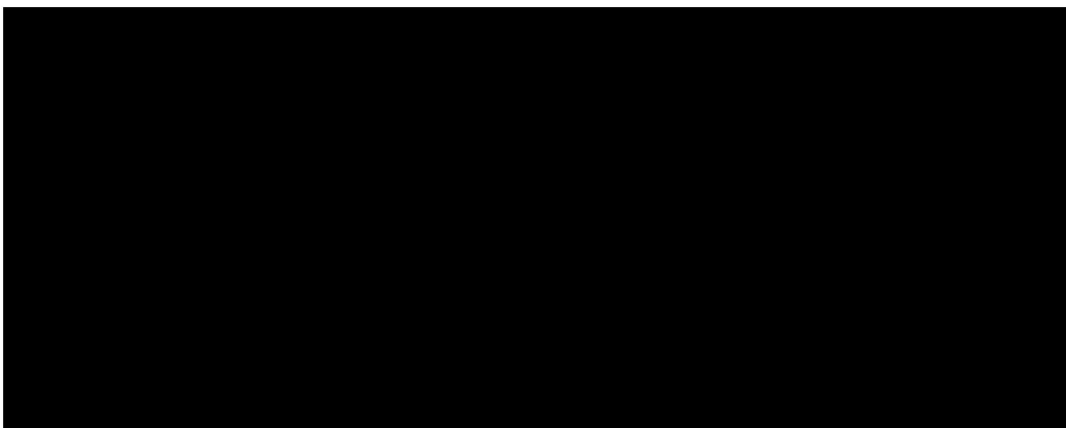
Application by a responsible authority for the making of a recording of an agreement
Section 181 Planning and Environment Act 1987



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Certifications

1. The Certifier has taken reasonable steps to verify the identity of the applicant.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.



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181PEA

Page 2 of 2

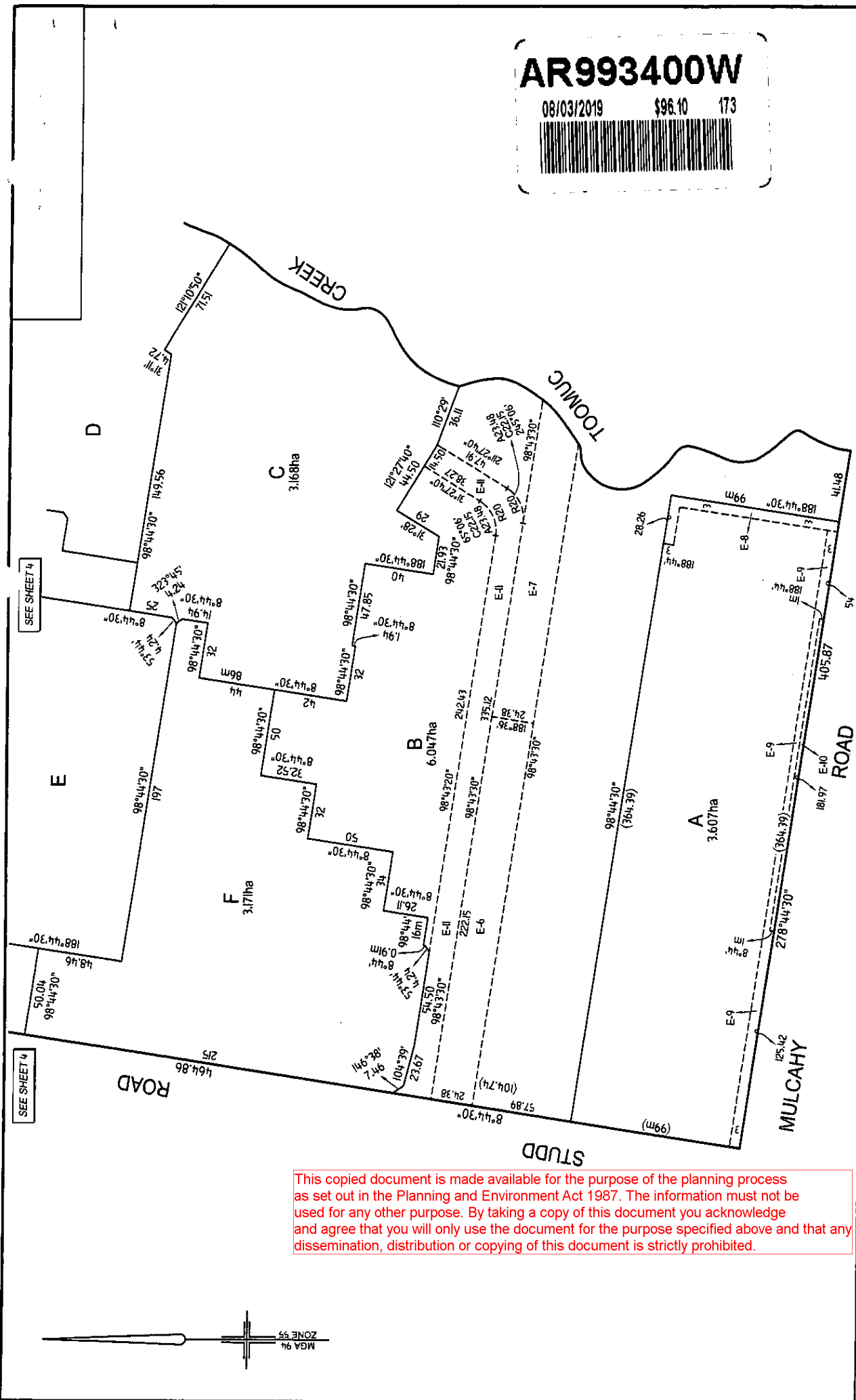
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Land Use Victoria contact details: see www.delwp.vic.gov.au/property>Contact us

PLAN OF SUBDIVISION		LV USE ONLY EDITION	<div style="border: 1px solid black; padding: 5px;"> <p style="font-size: 24pt; margin: 0;">AR993400W</p> <p style="margin: 0;">08/03/2019 \$96.10 173</p> </div>	
<p>LOCATION OF LAND</p> <p>PARISH: PAKENHAM</p> <p>CROWN ALLOTMENT: 1 (PART)</p> <p>TOWNSHIP: PAKENHAM</p> <p>CROWN ALLOTMENT: 13, 13A & 20</p> <p>CROWN PORTION:</p> <p>TITLE REFERENCES: Vol. 10095 Fol. 400 Vol. 11586 Fol. 296 Vol. 11586 Fol. 297 Vol. 11586 Fol. 298</p> <p>LAST PLAN REFERENCES: Lot 12 on TP854736V CA 13 on TP76540B CA 13A on TP76540B CA 20 on TP76540B</p> <p>POSTAL ADDRESS: MULCAHY ROAD (At time of subdivision) PAKENHAM, 3810</p> <p>MGA Co-ordinates E 364930 ZONE: 55 (of approx centre of land in plan) N 5787330 GDA 94</p>		<p>CERTIFYING AUTHORITY CARDINIA SHIRE COUNCIL</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p style="font-size: 8pt; margin: 0;">WARNING</p> <p style="font-size: 8pt; margin: 0;">THIS IS AN UNREGISTERED PLAN OF SUBDIVISION. OWNERS CORPORATION ENTITLEMENT AND LIABILITY, EASEMENTS, RESERVES, DIMENSIONS, AREAS, RESTRICTIONS AND LAYOUTS SHOWN ON SUBSEQUENT SHEETS MAY VARY PRIOR TO REGISTRATION OF THE PLAN.</p> </div>		
VESTING OF ROADS AND/OR RESERVES				
IDENTIFIER		COUNCIL/BODY/PERSON		
NIL		NIL		
NOTATIONS				
DEPTH LIMITATION DOES NOT APPLY.				
<p>STAGING This is not a staged subdivision.</p> <p><u>Other Purpose of Plan:</u> Creation of Restriction.</p> <p>The following restriction is to be created upon registration of this plan</p> <p>Land to benefit : Lot B Land to be burdened : Lot A</p> <p>Description of Restriction Except with the written consent of the responsible authority the registered proprietor or proprietors for the time being of any burdened lot on this plan must not erect or allow to be built, any building or structure other than a building or structure which is built or erected in accordance with the memorandum of common provisions registered in application no. ### which are incorporated into & by this plan.</p> <p>Survey: This plan is based on survey. This survey has been connected to permanent marks no.(s) 11, 41, 84, 85, 119, 130, 131 & 415 in Proclaimed Survey Area no. - NIL</p>				
EASEMENT INFORMATION				
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefitted/in Favour Of
E-1, E-2, E-3	DRAINAGE	SEE DIAG.	LP91100	LOTS IN LP91100
E-2, E-4	TRANSMISSION OF ELECTRICITY	SEE DIAG.	REGISTERED BOOK 627 No.873	STATE ELECTRICITY COMMISSION OF VICTORIA
E-3, E-5	TRANSMISSION OF ELECTRICITY	SEE DIAG.	REGISTERED BOOK 515 No.257	STATE ELECTRICITY COMMISSION OF VICTORIA
E-6	GAS PIPELINE	SEE DIAG.	INSTRUMENT D749484	VICTORIAN PIPELINES COMMISSION
E-7	GAS PIPELINE	SEE DIAG.	REGISTERED BOOK 719 No.878	GAS AND FUEL CORPORATION OF VICTORIA
E-8	DRAINAGE SEWERAGE	SEE DIAG. SEE DIAG.	THIS PLAN THIS PLAN	CARDINIA SHIRE COUNCIL SOUTH EAST WATER CORPORATION
E-9	SEWERAGE	SEE DIAG.	THIS PLAN	SOUTH EAST WATER CORPORATION
E-10	SEWERAGE POWERLINE	SEE DIAG. SEE DIAG.	THIS PLAN THIS PLAN & SECTION 88 ELECTRICITY INDUSTRY ACT 2000	SOUTH EAST WATER CORPORATION AUSNET ELECTRICITY SERVICES PTY LTD
E-11	CARRIAGEWAY	SEE DIAG.	THIS PLAN	LOT C, D, E, G & I ON THIS PLAN
<p style="font-size: 8pt; margin: 0;">Planners Surveyors Engineers Suite 1, Building 2 3 Ordish Road Dandenong South 3175 Telephone 03 9794 1600 manager@klms.com.au</p>		<p>KLMS REF: 8413.00</p> <p>DAMIEN MARC RIVALLAND VERSION 5</p>	<p>ORIGINAL SHEET SIZE A3 SHEET 1 OF 5 SHEETS</p>	

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AR993400W
 08/03/2019 \$96.10 173

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 KLM SPATIAL LAND DEVELOPMENT INTELLIGENCE	Planners Surveyors Engineers Suite 1, Building 2 3 Ordish Road Dandenong South 3175 Telephone 03 9794 1600 manager@klms.com.au	KLMS REF: 8413.00 SCALE 1:2000	ORIGINAL SHEET SIZE A3 SHEET 3
	DAMIEN MARC RIVALLAND VERSION 5		

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CLMS REF: 8413.00	SCALE 1:2500	ORIGINAL SHEET SIZE A3	SHEET 4
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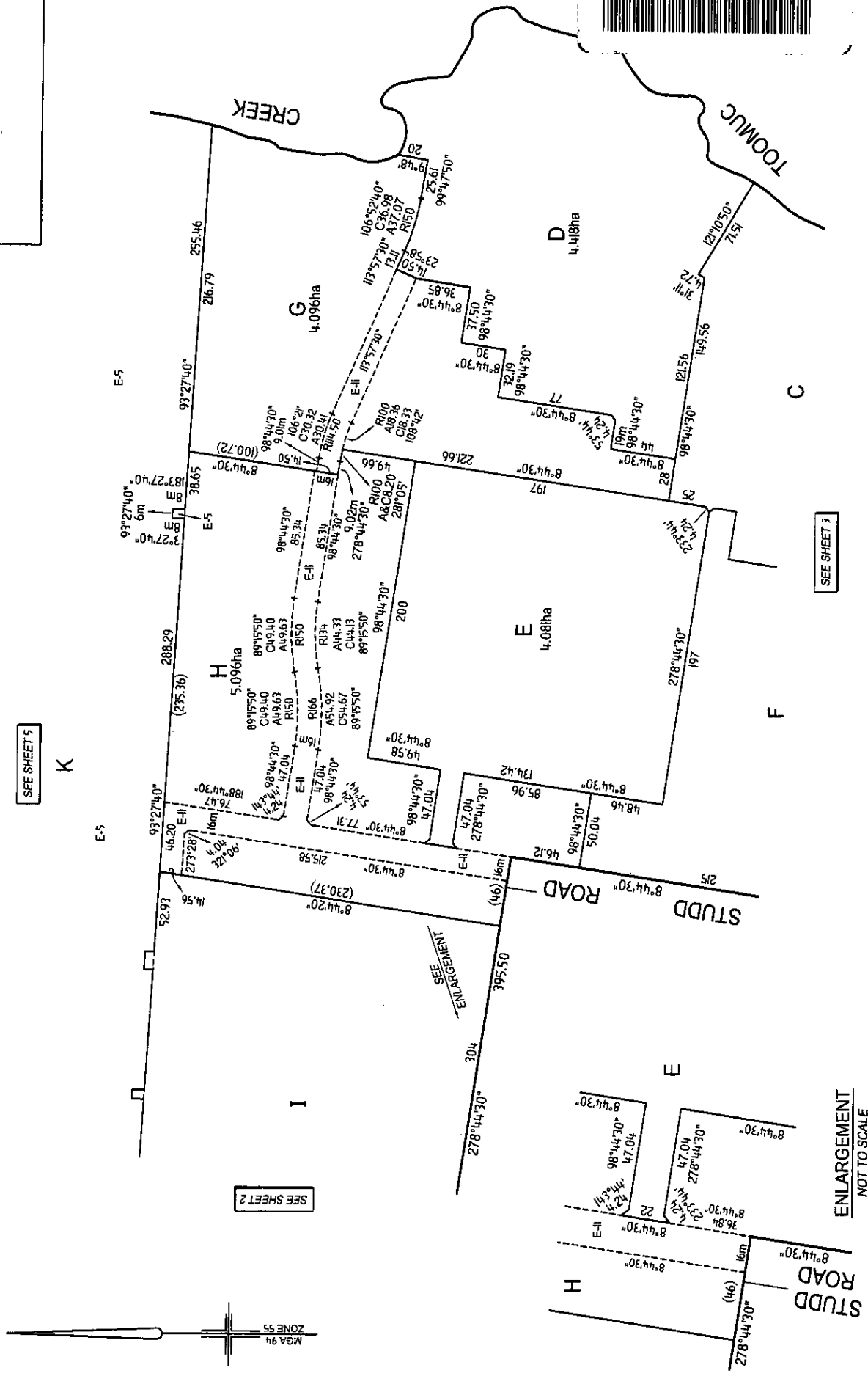
DAMIEN MARC RIVALLAND
VERSION 5

SEE SHEET 5	SEE SHEET 3
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Planners Surveyors Engineers
Suite 1, Building 2
3 Ordish Road
Dandenong South 3175
Telephone 03 9794 1600
manager@klms.com.au

KLM SPATIAL
LAND DEVELOPMENT INTELLIGENCE

ENLARGEMENT
NOT TO SCALE



SEE SHEET 5

SEE SHEET 2

K

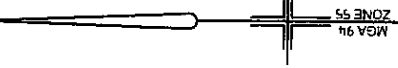
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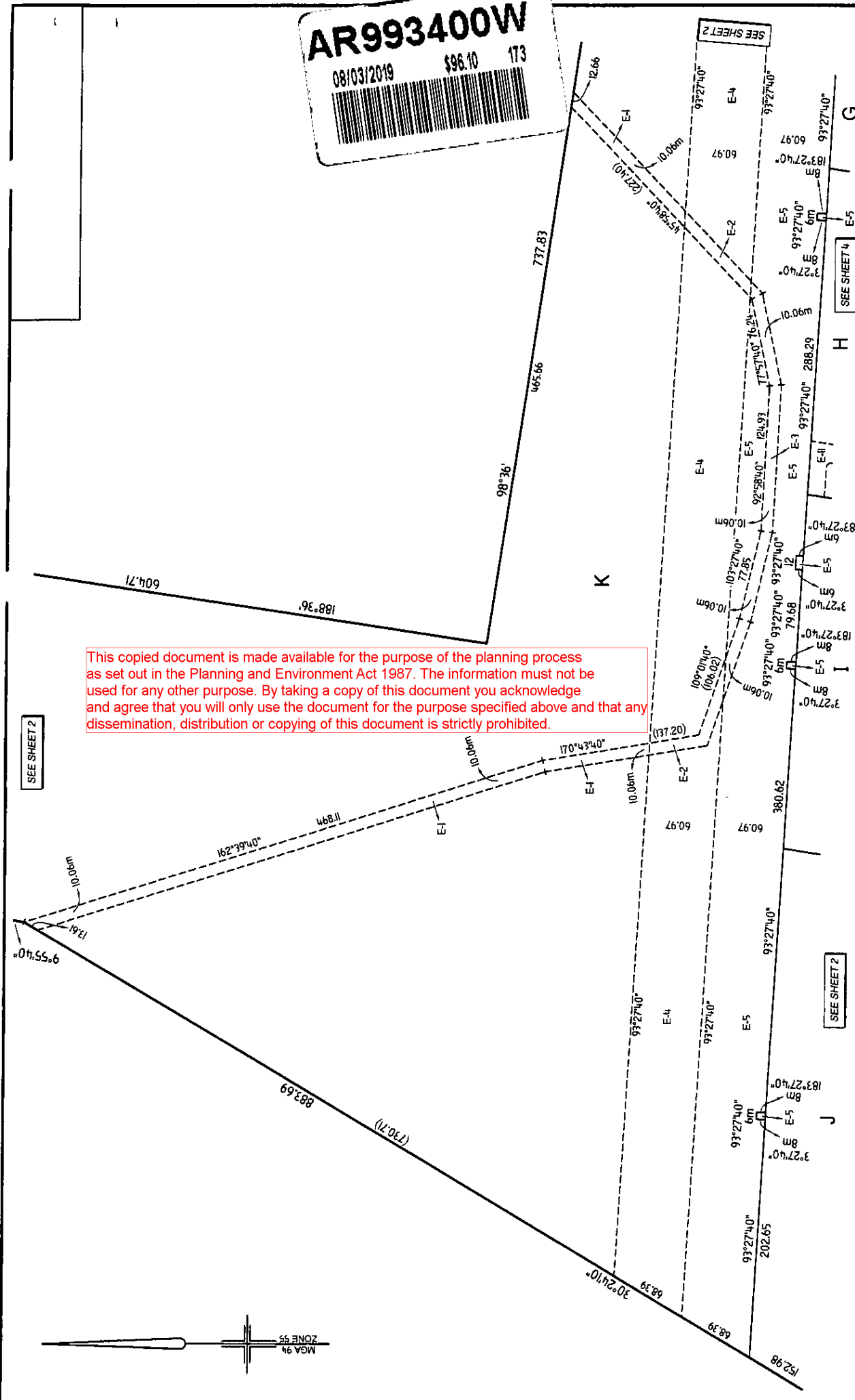
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D
4.18ha



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 08/03/2019 \$96.10 173

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<p>KLM SPATIAL LAND DEVELOPMENT INTELLIGENCE</p>	<p>Planners Surveyors Engineers Suite 1, Building 2 3 Ordish Road Dandenong South 3175 Telephone 03 9794 1600 manager@klms.com.au</p>	<p>KLMS REF: 8413.00</p>	<p>SCALE 1:3000</p>	<p>LENGTHS ARE IN METRES</p>	<p>ORIGINAL SHEET SIZE A3</p>	<p>SHEET 5</p>
	<p>DAMIEN MARC RIVALLAND VERSION 5</p>					



Ref – 8413.6C

13 Mar 2024

[REDACTED]
Growth Areas Planning
Cardinia Shire Council
Via: portal

Dear Statutory Planning Department,

Re - Submission of Planning Permit Application – Creation of a carriageway easement
124 Sundance Promenade , PAKENHAM

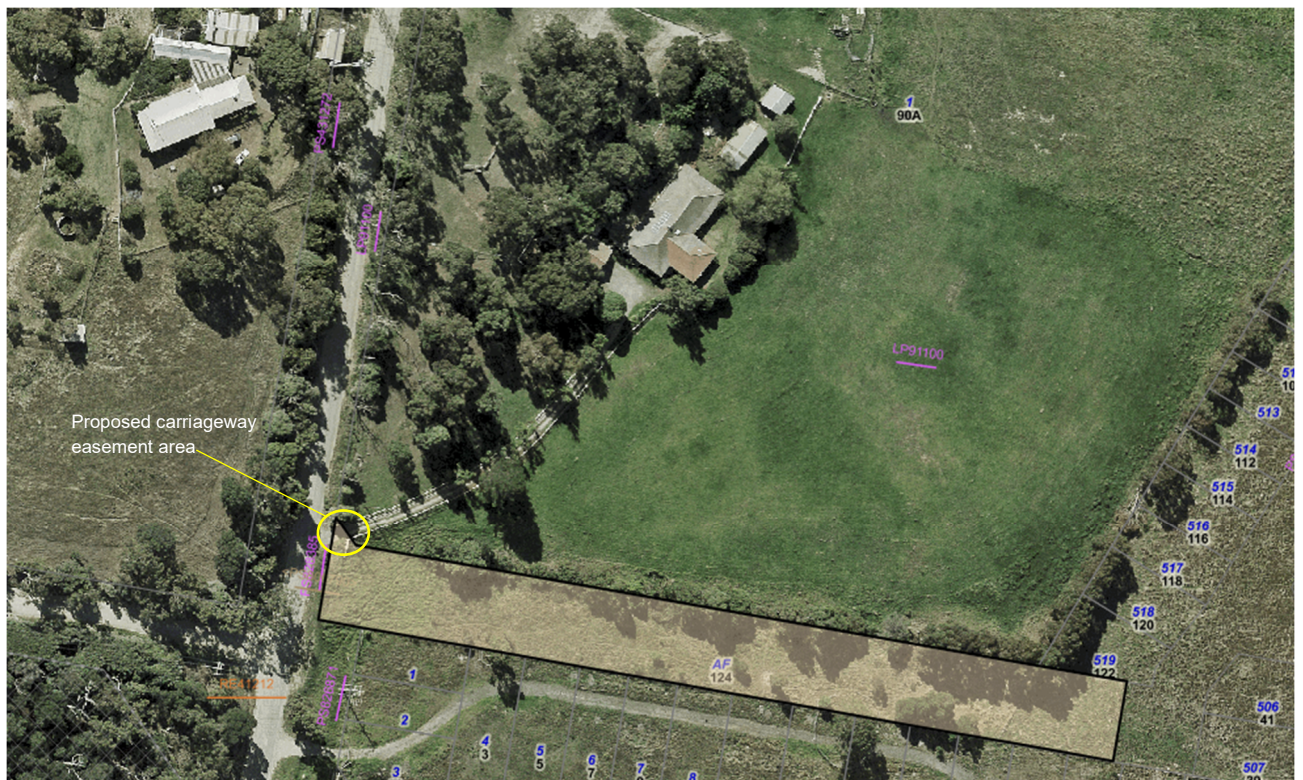
KLM Spatial acts on behalf of the applicant Galileo Mt Pleasant Nominee Pty Ltd in submitting this planning permit application for the creation of a carriageway easement.

Proposal

The proposal is for the creation of a carriageway easement. This easement is proposed for the benefit of 90 Thewlis Road which currently has access to their site through the north-western edge of the subject property as shown in below figure 1. The purpose of this easement is to ensure the adjoining lot can continue to benefit from access through the subject site so that no development on the site occurs that would prevent the neighbor of having access to their property.

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Figure 1 Aerial image showing subject site and location of adjoining driveway running through the site (Source: Lassi, 1/03/2024)



Subject Site and Surrounds

The subject site is commonly identified as 124 Sundance Promenade, Pakenham and can be formally described as Lot AE on Plan of Subdivision 828385K. The title is encumbered by Section 173 Agreement AR993400W and Section 173 Agreement AT292518N. The proposal does not breach the obligations or restrictions of the title instruments.

The subject site is a long and narrow rectangular-shaped allotment with a total area of 4127m. The site exhibits irregular topography that within the north-western most corner shows steep fall that reduces in slope as contours extend east across the site. The site has an interface of approximately 26.2m with Thewlis Road in addition to an eastern boundary of 21m fronting Sundance Promenade. The depth of the site is 202.88m. No building has been constructed at the subject site.

Planning Assessment

The below zones, overlays and particular provisions are applicable to the site and proposal.

Zone	Urban Growth Zone – Schedule 1
Overlays	Development Contributions Plan Overlay – Schedule 2 Environmental Significant Overlay – Schedule 1
Particular provisions	Clause 52.02 – Easements, restrictions and reserves
Decision Guidelines	Clause 65 – Decision Guidelines

Pursuant to clause 52.02 – Easements, Restrictions and Reserves, a planning permit is required to create an easement under section 23 of the act.

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There are no permit requirements under the zoning and overlay provisions and therefore, this assessment is confined to the decision guidelines of clause 52.02 - Easements, Restrictions and Reserves and clause 65.

Under clause 52.02, the responsible authority is required to consider:

- *Before deciding on an application, in addition to the decision guidelines in clause 65, the responsible authority must consider the interests of affected people.*

As set out in [Hill v Campaspe SC \(includes Summary\) \(Red Dot\) \[2011\] VCAT 949 \(19 May 2011\) \(austlii.edu.au\)](#), “affected people” is not confined to just benefiting lots and accordingly, the interests of any person who may be affected by the creation of this carriageway easement must be considered in this application.

In this instance, we say the affected people by this carriageway easement are the owners of the northern adjoining lot (90 Thewlis Road). This is because the proposed easement will provide access to their lot. The proposed easement is intended to benefit 90 Thewlis Road who will be the beneficiary of this easement proposed. 90 Thewlis Road currently has access to their site through the north-western corner of the subject site as seen in the previous figure 1.

The intention of this easement is to ensure this lot continues to benefit from this this accessway as the easement proposed will formalize their access being through the subject site, and ensure no works can occur on the subject site that would impact on their access. This easement will therefore positively impact on 90 Thewlis Road by ensuring access to their property remains.

No other properties are considered to be affected by this proposed carriageway easement given the easements only purpose is to provide access to 90 Thewlis Road and will not impact any other property. The easement proposed keeps the driveway arrangement and the intensity of traffic on the local road network from the creation of this easement will not further increase that would impact the wider area. It is also noted that a separate permit application on the site has been lodged with council (T230106 PA) which does not propose any works in this area.

On this basis, it is considered that the interests of affected people will not be detrimentally impacted by the easement proposed and accordingly, the requirements of clause 52.02 have been sufficiently addressed by this proposal.

In addition to meeting the above requirements of clause 52.02, it is considered that the decision guidelines of clause 65 have been addressed by the proposal based on the following:

- Consideration to the matters in section 60 of the Act has been given and the proposal is in accordance with all requirements. It is worth noting that the proposal is not for the variation or removal of a restriction (covenant) where the matters in S60(2) apply. These are therefore not applicable to the proposal.
- The proposal is consistent with the purpose and intent of the Policy Framework.
- The proposal is not contrary to the Urban Growth Zone – Schedule 1, Development Contributions Plan Overlay – Schedule 2 or the Environmental Significance Overlay – Schedule 1.
- The proposal is consistent with the purpose and decision guidelines of clause 52.02.
- No vegetation removal or environmental damage will occur as a result of the carriageway easement proposed since the land is currently being used as an accessway.

Summary

Based on the above analysis, it is considered that the proposed carriageway easement will benefit the adjoining lot 90 Thewlis Road and will not result in a loss of amenity. We respectfully request that the proposal gain councils support and we provide the following document in support of the application.

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Supporting documents:

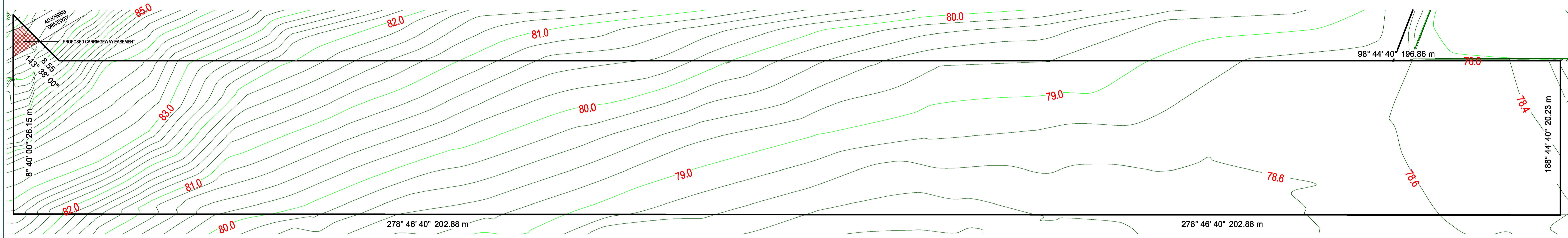
1. Planning Application Form;
2. Copy of current title produced on 12.03.2024 Volume 12464 Folio 845;
3. Carriageway easement plan prepared by KLM Spatial, Revision A dated 12.03.2024.

We trust the above is acceptable to Council and look forward to hearing from you in due course.

If you have any queries regarding the above, please contact the undersigned on 9794 1600 or via email at manager@klms.com.au

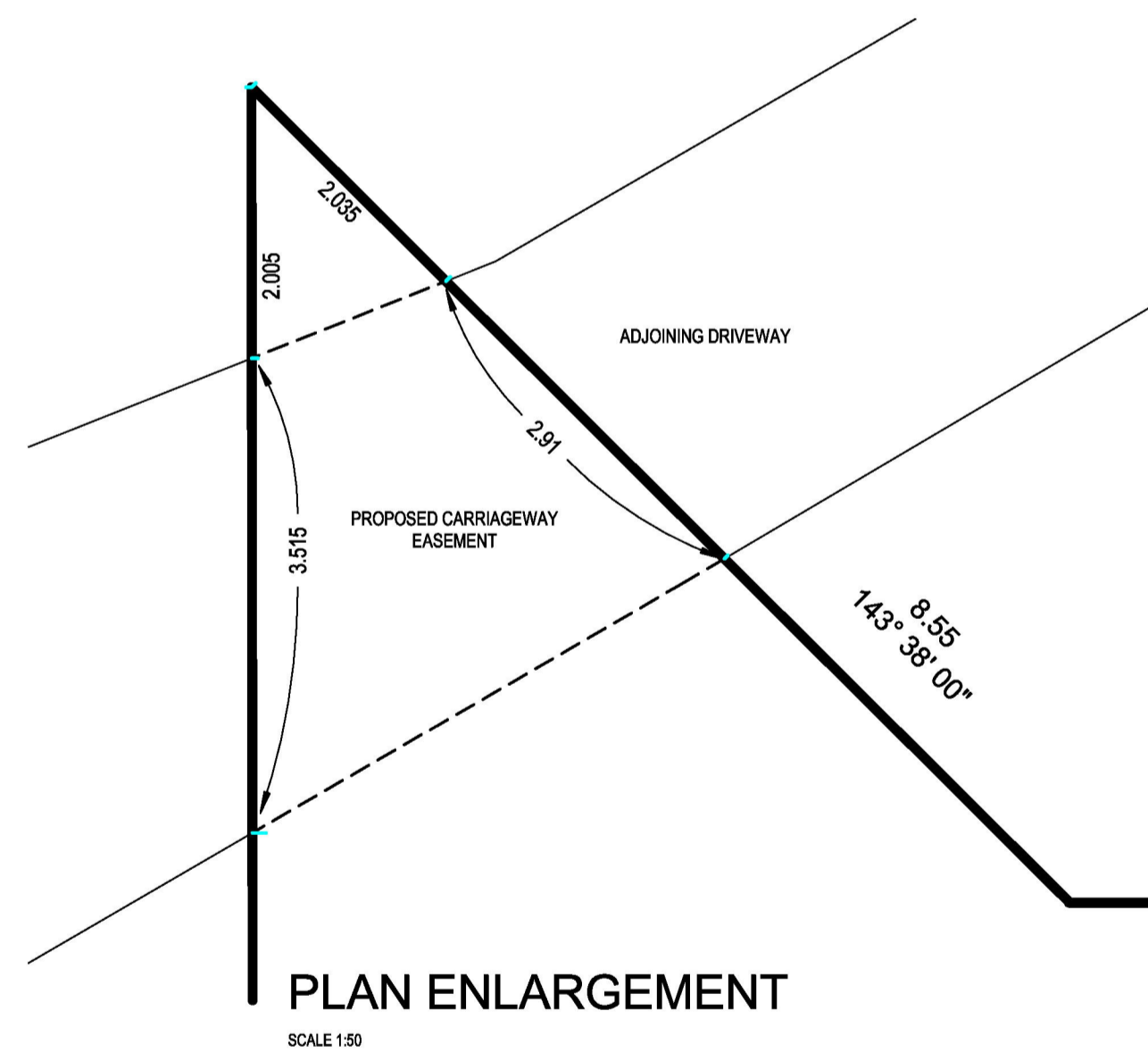


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CARRIAGEWAY EASEMENT/SITE PLAN

SCALE 1: 250



No. DATE: REVISION / ISSUE:
A 12.3.2024 FOR TP SUBMISSION

PROJECT:

CLIENT:

LOCATION:

DATE: 12.3.2024

DRAWN: KJ



4-Design