



PLANNING &  
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Amendment C348  
Greater Geelong Planning Scheme

April 2016

Prepared for: **Links Investco No 1 Pty Ltd**

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**Table of Contents**

<b>1</b>	<b>Introduction.....</b>	<b>2</b>
1.1	Background to the Amendment .....	2
1.2	Applicant Details .....	2
<b>2</b>	<b>Site Analysis.....</b>	<b>3</b>
<b>3</b>	<b>Planning Controls.....</b>	<b>4</b>
3.1	Existing Zoning .....	4
3.2	Existing Overlays .....	5
<b>4</b>	<b>Proposed Amendment C348 .....</b>	<b>6</b>
4.1	Proposed Zoning .....	6
4.2	Proposed Overlays .....	7
<b>5</b>	<b>Planning Policy Context.....</b>	<b>9</b>
5.1	Objectives of Planning in Victoria.....	9
5.2	State Planning Policy Framework.....	9
5.3	Local Planning Policy Framework (LPPF).....	9
5.4	Particular Provisions .....	10
5.5	Ministerial Directions .....	10
<b>6</b>	<b>Strategic Justification.....</b>	<b>11</b>

**Appendix A – Copy of Title**

**Appendix B – Marble Swirl Holdings Pty Ltd v Kingston CC (Red Dot) [2008] VCAT 973**

**Appendix C –VicRoad’s Correspondence**

# 1 Introduction

This report supports an application to amend the Greater Geelong Planning Scheme ('the Planning Scheme') for the land located at 1-5 Ballarat Road, North Geelong.

Amendment C348 ('the Amendment') seeks to rezone that part of the land that is currently located within the Special Use Zone - Schedule 3 (SUZ3) to General Residential Zone - Schedule 1 (GRZ1). The Amendment also seeks to apply the Environmental Audit Overlay (EAO) to the entire site and delete Development Plan Overlay - Schedule 9 (DPO9).

## 1.1 Background to the Amendment

The Proponent has been investigating proposals for the development of the existing GRZ1 land for the purposes of a residential aged care facility and preliminary discussions have been held with Council to this effect. However, a statutory hurdle has been identified in relation to the use of the existing vehicle crossover to Ballarat Road on the basis that the access is located within the SUZ3 (which prohibits Accommodation uses).

The issue of using land in two zones for the purposes of vehicle access has been dealt with under numerous decisions of the Tribunal including *Marble Swirl Holdings Pty Ltd v Kingston CC* (Red Dot) [2008] VCAT 973. Applying the findings in *Marble Swirl*, any reliance on the SUZ3 land to provide access to a residential development in the GRZ1 land is therefore prohibited.

Discussions have been held with VicRoads, as the relevant road authority for Ballarat Road, in relation to the relocation of the existing access further south (to within the existing GRZ1 zoned land), however VicRoad's view is clear in respect of avoiding any new crossovers further south due to the Site's proximity to the Church Street intersection.

An Amendment to the Planning Scheme is therefore required to facilitate any development of the existing GRZ1 zoned land. Further details in relation to the strategic justification of the Amendment are provided at Section 6.

## 1.2 Applicant Details

Name of Applicant:	Links Investco No 1 Pty Ltd
Postal Address:	15/622 Ferntree Gully Road, Mulgrave VIC 3170
Person who prepared Amendment Application:	Nick Baker
Position:	Associate Director
Organisation:	Planning & Property Partners Pty Ltd
Postal address:	Level 2, 91-93 Flinders Lane, Melbourne, Vic 3000
Email address:	baker@pppartners.com.au
Phone Number:	03 8626 9080

## 2 Site Analysis

The subject land is generally referred to as 1-5 Ballarat Road, North Geelong and comprises all land within Lot S31 on Plan of Subdivision 647500 ('the Site'). A full Copy of Title is provided at **Appendix A** to this report.



Figure 1 - Subject Site

source: nearmap.com

The Site is located on the corner of Ballarat Road and Church Street, and occupies a total area of approximately 6,277 sqm. The Site is a residual lot associated with the redevelopment of the Geelong Golf Club and has predominantly been used for the purpose of a car park associated with the Geelong Golf Club. It is located approximately 1.86km west of the Princes Freeway and 1.67km west of Corio Bay.

A portion of the land along the eastern boundary has been vacant for a period of time and is affected by a drainage easement and overland flow. This part of the site also maintains scattered mature vegetation.

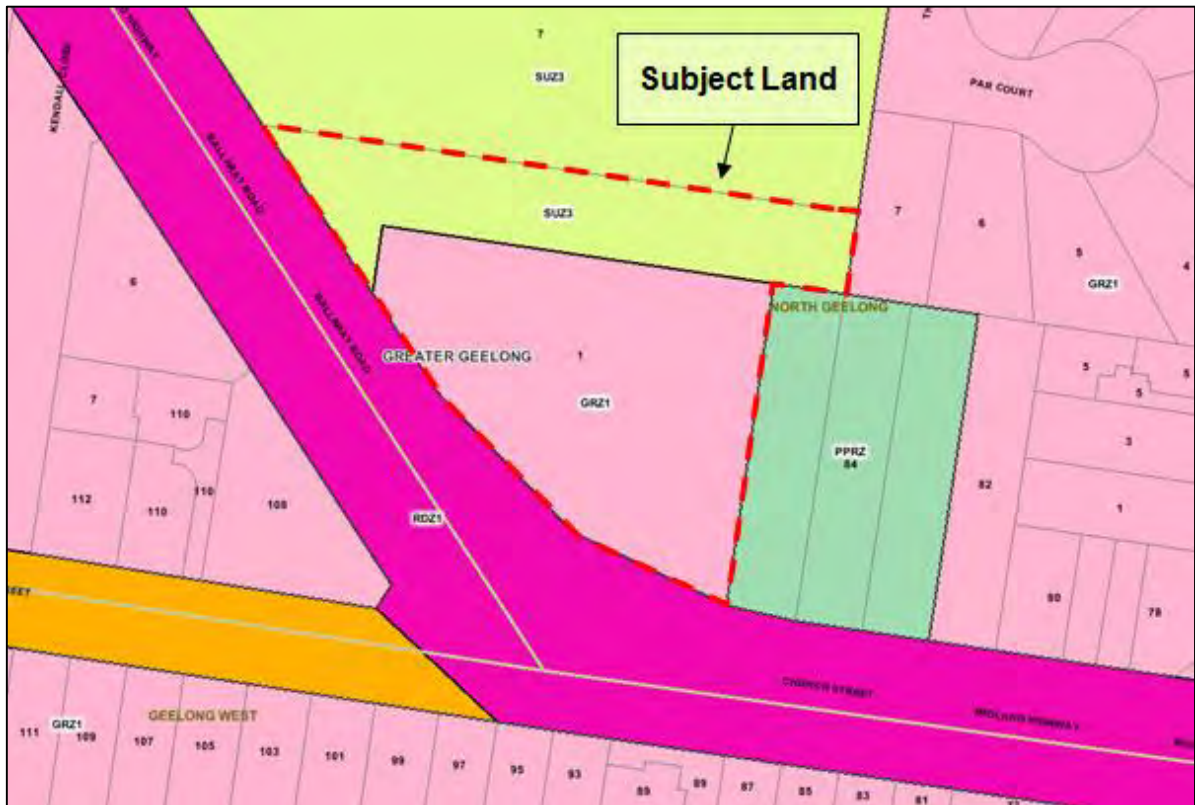
The Site is bordered to the north by the Geelong Golf Club and land that has been set aside for the redevelopment of the new Bowls Club. Only one residential property borders the Site, to the north-east, whilst the Geelong Table Tennis Association borders the balance of the eastern boundary.

### 3 Planning Controls

#### 3.1 Existing Zoning

The site is currently located within two zones in accordance with the Planning Scheme, as follows (refer also to **Figure 2**):

- General Residential Zone, Schedule 1 (GRZ1); and
- Special Use Zone, Schedule 3 (SUZ3).



**Figure 2:** Existing zoning controls

source: [www.delwp.vic.gov.au](http://www.delwp.vic.gov.au)

Whilst the Site is predominantly located in the GRZ1, access to the Site is taken via an existing crossover that is located within the SUZ3. Accordingly, the use of the vehicle access to access a residential development in the existing GRZ1 land is prohibited (see *Marble Swirl Holdings Pty Ltd v Kingston CC (Red Dot)* [2008] VCAT 973 and Section 6 of this report).

VicRoads have been consulted in relation to relocating the existing crossover further south (within the existing GRZ1) to overcome this issue, however they are firmly of the view that the vehicle access must not be relocated to the GRZ1 land due to its close proximity to the intersection of Ballarat Road and Church Street.

It is respectfully submitted that the existing crossover must therefore be relied upon for access to any future development within the GRZ1 land, therefore necessitating this Amendment.



## 4 Proposed Amendment C348

Amendment C348 ('the Amendment') seeks to rezone that part of the land that is currently located within the Special Use Zone – Schedule 3 (SUZ3) to General Residential Zone – Schedule 1 (GRZ1). The Amendment also seeks to apply the Environmental Audit Overlay (EAO) to the entire site and delete Development Plan Overlay – Schedule 9 (DPO9).

Specifically, the Amendment proposes the following changes to the Planning Scheme:

1. Amend Planning Scheme Map No. 37 in the manner shown at **Figure 4**;
2. Amend Planning Scheme Map No. 37EAO in the manner shown at **Figure 5**; and
3. Amend Planning Scheme Map No. 37DPO in the manner shown at **Figure 6**.

The proposed Amendment is described in detail under the following sections.

### 4.1 Proposed Zoning

The Amendment seeks to rezone that part of the land that is currently located within the Special Use Zone – Schedule 3 (SUZ3) to General Residential Zone – Schedule 1 (GRZ1) generally in accordance with **Figure 4** below.

It is submitted that the General Residential Zone – Schedule 1 is an appropriate tool for recognising the current and future uses on the site. It will also overcome the prohibition currently associated with the use of the existing driveway for residential access purposes.



**Figure 4:** Proposed rezoning as part of Amendment C348

## 4.2 Proposed Overlays

The Amendment seeks to make the following changes to the overlays that currently apply to the Site:

- apply the Environmental Audit Overlay (EAO) to the entire site in accordance with **Figure 5** below; and
- delete Development Plan Overlay – Schedule 9 (DPO9) as it relates to the land in accordance with **Figure 6** below.

As noted above, no change is proposed to the LSI0 or SBO that apply to the Site as part of Amendment C348.

It is submitted that the application of the EAO to the entire site provides a consistent assessment framework for the consideration of potential contamination issues prior to the commencement of any new sensitive use on the site.

Development Plan Overlay – Schedule 9 applies to the Geelong Golf Course Development and establishes detailed planning requirements for the development of the land which is located in the Special Use Zone, Schedule 3. The DPO9 does not apply to the existing GRZ1 land and, accordingly, it is respectfully submitted that it should not apply to the land that is proposed for rezoning.



**Figure 5:** Application of EAO as part of Amendment C348

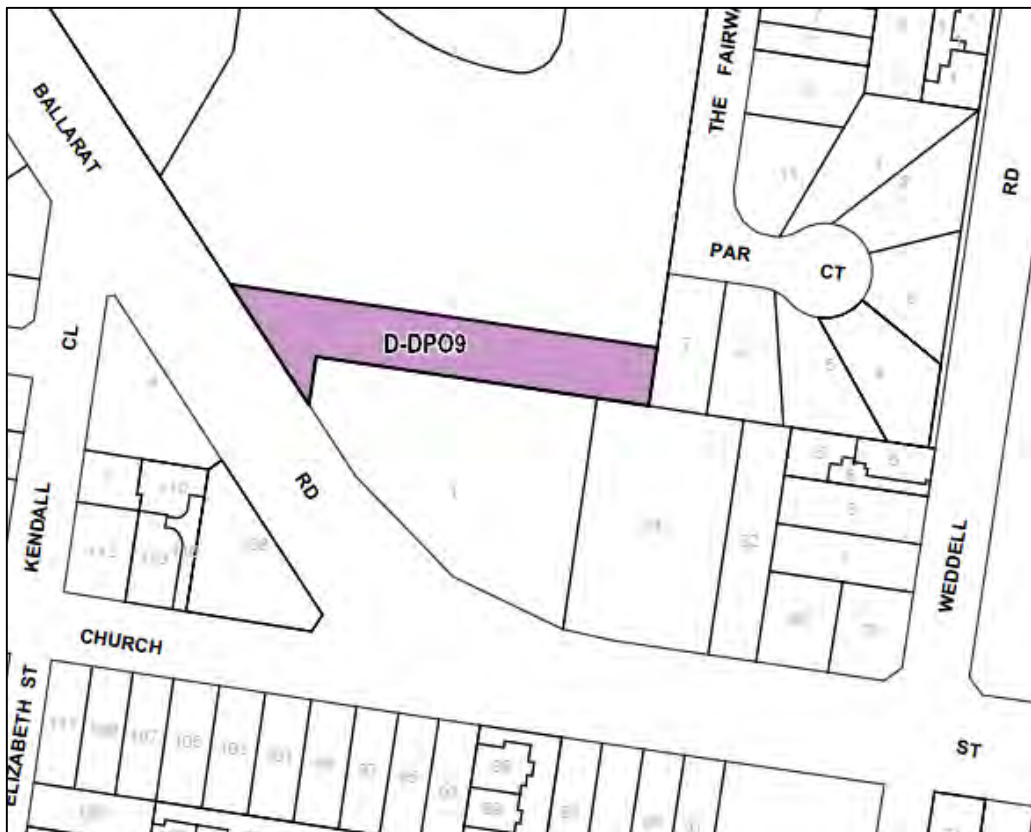


Figure 6: Area to be deleted from DPO9 as part of Amendment C348

## 5 Planning Policy Context

### 5.1 Objectives of Planning in Victoria

The objectives of planning in Victoria are set out at section 4 of the *Planning and Environment Act 1987* and seek, inter alia:

- to provide for the fair, orderly, economic and sustainable use, and development of land
- to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);
- to balance the present and future interests of all Victorians.

The Amendment seeks to apply consistent zone and overlay controls across the entire site to enable the existing residential zoned land to be used and developed in accordance with the GRZ1. The rezoning of the strip of Special Use Zone land will remove the existing prohibition on using the current vehicle access for residential purposes, and will facilitate development in accordance with the objectives of planning in Victoria.

### 5.2 State Planning Policy Framework

The general provisions of the SPPF are relevant to this Amendment. In this regard the following general Clauses are identified as being applicable:

- **Clause 11 – Settlement**
  - Clause 11.02 – Urban Growth
    - Clause 11.02-1 – Supply of Urban Land
  - Clause 11.04 – Metropolitan Melbourne
    - Clause 11.04-2 – Housing Choice and Affordability

In particular, clause 11.04-2 relates to *Housing Choice and Affordability* and seeks:

*“To provide a diversity of housing in defined locations that cater for different households and are close to jobs and services.”*

It is strategy to (inter-alia):

*“Understand and plan for expected housing needs.”*

*“Reduce the cost of living by increasing housing supply near services and public transport.”*

*“Facilitate the supply of affordable housing.”*

It is submitted that the Amendment will facilitate the supply and development of residential land in existing serviced areas. The policy supports development which contributes in a positive way to improving housing stock choice and affordability. The rezoning will facilitate future development of the existing GRZ1 land and assist in achieving broad housing objectives.

### 5.3 Local Planning Policy Framework (LPPF)

In assessing the relevant provisions of the LPPF, it is recognised that local planning policies support the proposed Amendment insofar as it will facilitate the development of existing residential zoned land.

Clause 21.06 relates to *Settlement and Housing* and works to support growth in existing areas throughout the Greater Geelong Region. The Amendment supports increased provision of residential accommodation

by catering for a growing demand in housing and housing diversity. This is achieved through the removal of the statutory prohibition on using the vehicle crossover to Ballarat Road for any future residential development on the existing GRZ1 land.

#### **5.4 Particular Provisions**

Clause 52.29 of the Planning Scheme applies to land adjacent to a Road Zone, Category 1 and seeks to ensure that appropriate access is provided to identified roads. VicRoads is the relevant road authority for the purposes of clause 52.29, and are a determining referral authority for the purposes of the Planning Scheme.

Access requirements for the Site are detailed in Planning Permit No. 362/2011/D (Conditions 15(a) & 72). The access location under the permit is the same as the existing access which was used for the former bowling club.

VicRoads have advised that they would not support any additional access from the Site to Ballarat Road and would not support moving the location of the existing access closer towards Church Street, due to its proximity to the intersection.

It is submitted that VicRoads position, as the relevant road authority, and as a determining referral authority for the purposes of the Planning Scheme, should be highly persuasive in terms of requiring the existing access to be used for any development in the GRZ1 zoned land.

#### **5.5 Ministerial Directions**

The amendment complies with the Minister's Directions under Section 7(5) and Section 12(2)(a) of the *Planning and Environment Act 1987*, including:

- Ministerial Direction on the Form and Content of Planning Schemes.
- Ministerial Direction No. 1 on Potentially Contaminated Land.
- Ministerial Direction N. 11 on Strategic Assessment of Amendments.
- Ministerial Direction No.15 on the Planning Scheme Amendment Process.

These directions are discussed individually as follows.

##### Ministerial Direction No. 1

The Site has previously been identified as being potentially contaminated land. The requirements of Ministerial Direction No. 1 are addressed as part of the amendment by applying the Environmental Audit Overlay over that part of the land which is currently zoned SUZ3 to ensure that any environmental audit applies to the whole site.

##### Ministerial Direction No. 11

The contents of Ministerial Direction No. 11 Strategic Assessment Guidelines have been utilised in the preparation of the Amendment and the accompanying explanatory report.

##### Ministerial Direction No.15

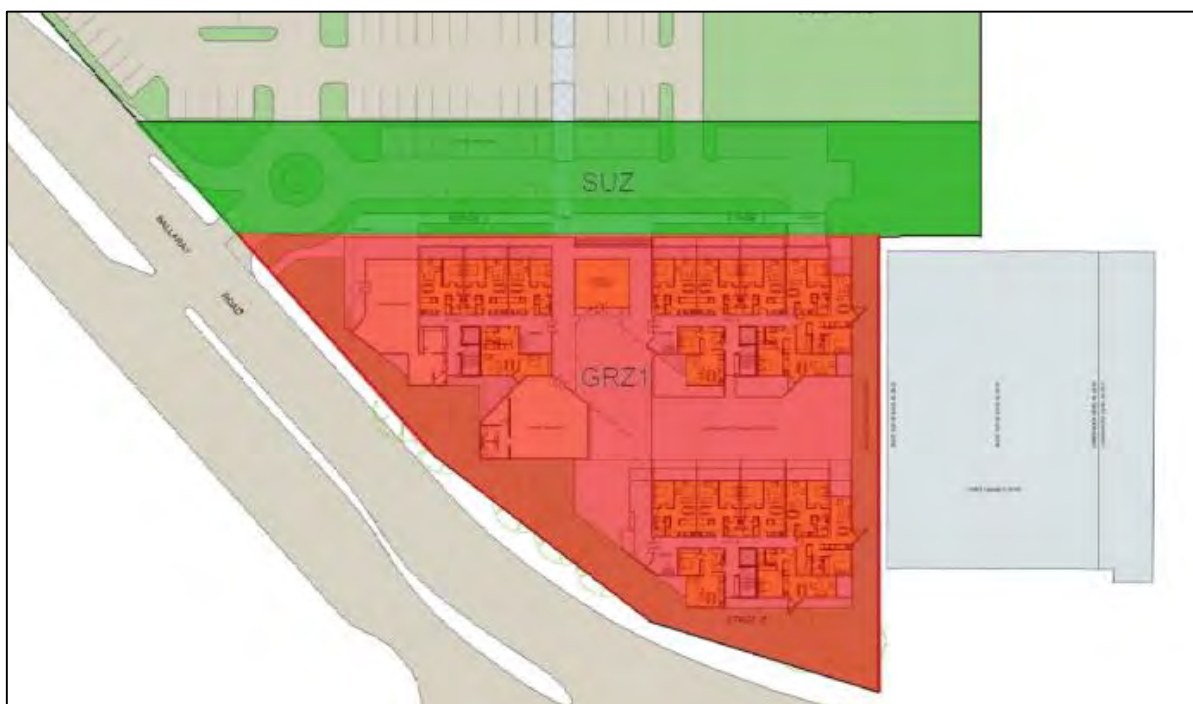
Ministerial Direction No. 15 sets time limits for completing steps in the planning scheme amendment process including exhibition, consideration of submissions, panel hearing dates and a decision. These requirements will be addressed as part of any authorisation of the Amendment and/or will be dependent on any submissions that may be received.

## 6 Strategic Justification

The Proponent has been investigating proposals for the development of the existing GRZ1 land for the purposes of a residential aged care facility and preliminary discussions have been held with Council to this effect. However, discussions with Council have identified a statutory hurdle associated with using the existing vehicle crossover to Ballarat Road for the purposes of any residential development of the GRZ1 zoned land.

As demonstrated at **Figure 7** below, the Proponent’s preliminary proposal is for a multi-level aged care facility. Access is to be provided via the existing crossover on Ballarat Road which is in the SUZ3. An access road (also within the SUZ3) is then proposed between Ballarat Road and the hypothetical basement entry at the eastern end of the proposed building. Associated car parking for the aged care use is also located adjacent to the access road.

It is important to note that the preliminary proposal provided below is in no way sought to be approved as part of Amendment C348. Any future planning permit application will need to be assessed against the provisions of the Geelong Planning Scheme and will be subject to third party notice and review rights. However, as can be demonstrated below, any residential development within the existing GRZ1 land (regardless of its density or form) will need to traverse land that is within two zones.



**Figure 7:** Indicative Redevelopment Proposal

The issue of using land in two zones for the purposes of vehicle access has been dealt with under numerous decisions of the Tribunal including *Marble Swirl Holdings Pty Ltd v Kingston CC* (Red Dot) [2008] VCAT 973 ('Marble Swirl'). A copy of the Marble Swirl decision is provided at **Appendix B**.

In the case of Marble Swirl, the developer proposed to use land in a Residential 1 Zone for the purposes of providing access and a manoeuvring bay to car parking associated with 'shop' and 'office' uses for a proposed development that was within the Business 2 Zone. The use of the land for a 'shop' and 'office' were both prohibited within the Residential 1 Zone.

The Tribunal ultimately found (at para 15):

*“the purpose of the access-way is an integral part of the dominant use or uses to which the subject land is put, because it is the dominant use or uses which need that access-way to satisfy their parking requirement under the scheme. The access-way does not have a separate character or purpose. It has a subservient purpose.”*

Accordingly, the Tribunal ordered that:

*“If it is proposed to use land in a Residential 1 Zone for the purpose of providing access and a manoeuvring bay to car parking associated with ‘shop’ and ‘office’ uses, which uses are prohibited in a Residential 1 Zone, the proposed use and development is prohibited to the extent that the retail shop and office uses use land in the Residential 1 Zone for the purposes of access and a manoeuvring bay.”*

It is submitted that the same set of circumstances apply in this instance, insofar as:

- the access is located in the Special Use Zone, Schedule 3, which prohibits the use of the land for the purposes of ‘Accommodation’ (except for caretaker’s house); and
- any reliance on the use of this land to serve a residential development in the GRZ1 land is therefore prohibited having regard for the findings in Marble Swirl.

VicRoads position, as the relevant road authority for Ballarat Road, is clear in respect of avoiding any new or relocated crossovers further south due to the Site’s proximity to the Church Street intersection. A copy of VicRoad’s correspondence is provided at **Appendix C**.

These circumstances therefore necessitate this Amendment. It is respectfully submitted that the Amendment should be supported for the following reasons:

- the Amendment will remove the statutory hurdle to the redevelopment of the existing GRZ1 land;
- the physical access to the Site will not change;
- the Amendment will not impact adjoining land owners rights in respect of any future permit application for residential use, including third party notice and review rights; and
- the Amendment will facilitate the redevelopment of the GRZ1 zoned land, which has consequential benefits in terms of addressing existing overland flooding issues.

**Appendix A**  
Copy of Title

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the provisions of the Copyright Act and for the purposes of Section  
32 of the Sale of Land Act 1962 or pursuant to a written agreement.  
The information is only valid at the time and in the form obtained  
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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 11588 FOLIO 505

Security no : 124059647305C

Produced 24/03/2016 12:01 pm

LAND DESCRIPTION

Lot S31 on Plan of Subdivision 647500V.

PARENT TITLES :

Volume 11369 Folio 632      Volume 11438 Folio 656

Created by instrument PS647500V Stage 21 06/08/2015

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

LINKS INVESTCO NO. 1 PTY LTD of SUITE 15 622 FERNTREE GULLY ROAD MULGRAVE

VIC 3170

PS647500V Stage 21 06/08/2015

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 as to part Section 173 Planning and Environment Act 1987

AJ148869B 23/08/2011

DIAGRAM LOCATION

SEE PS647500V 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)

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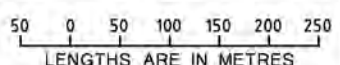
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<b>VESTING OF ROADS AND/OR RESERVES</b>			<b>NOTATIONS</b>		
IDENTIFIER	COUNCIL/BODY/PERSON		STAGING This is/is-not a staged subdivision. Planning permit No.		
RESERVES No.1, No.2 & No.6 RESERVES No.4 & No.5 ROADS R1,R2,R3,R4,R5,R6 R7,R8&R9 ROADS R11,R21&R31	POWERCOR AUSTRALIA LIMITED GREATER GEELONG CITY COUNCIL GREATER GEELONG CITY COUNCIL ROADS CORPORATION		DEPTH LIMITATION (i) 15-24 METRES BELOW THE SURFACE APPLIES TO THE LAND FORMERLY PART OF CROWN ALLOTMENT 73G (LOT 1 LP 95879), (ii) 15 METRES BELOW THE SURFACE APPLIES TO CROWN ALLOTMENT 73J (TP 805197C), (iii) DOES NOT APPLY TO BALANCE OF LAND.		
LOTS IN THIS PLAN MAY BE AFFECTED BY ONE OR MORE OWNERS CORPORATIONS FOR DETAILS OF ANY OWNERS CORPORATIONS INCLUDING PURPOSE, RESPONSIBILITY, ENTITLEMENT & LIABILITY SEE OWNERS CORPORATION SEARCH REPORT, OWNERS CORPORATION ADDITIONAL INFORMATION AND IF APPLICABLE, OWNERS CORPORATION RULES			THIS IS A SPEAR PLAN.  LOT 551 COMPRISES 3 PARTS EASEMENTS E-9, E-10, E-11, E-12, E-17, E-20, E-22, E-23, E-24, E-26, E-31 & E-32 HAVE BEEN OMITTED FROM THIS PLAN. ROAD R4 IS PARTIALLY ENCUMBERED EASEMENT BY E-21. FOR LOT SHEET/INDEX SEE SHEETS 45 & 46. RESTRICTIONS CREATED - SEE SHEETS 39 TO 44.  SURVEY. THIS PLAN IS/IS-NOT BASED ON SURVEY, <span style="float: right;">0549s-COMPILED 01dvg PH/AA</span>		
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<b>EASEMENT INFORMATION</b>					<b>LR USE ONLY</b>
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Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of	RECEIVED <input checked="" type="checkbox"/>
SEE SHEETS 37 & 38 FOR EASEMENT DETAILS					DATE 26/07/2012
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					SHEET 1 OF 46 SHEETS
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<b>PLAN OF SUBDIVISION</b>	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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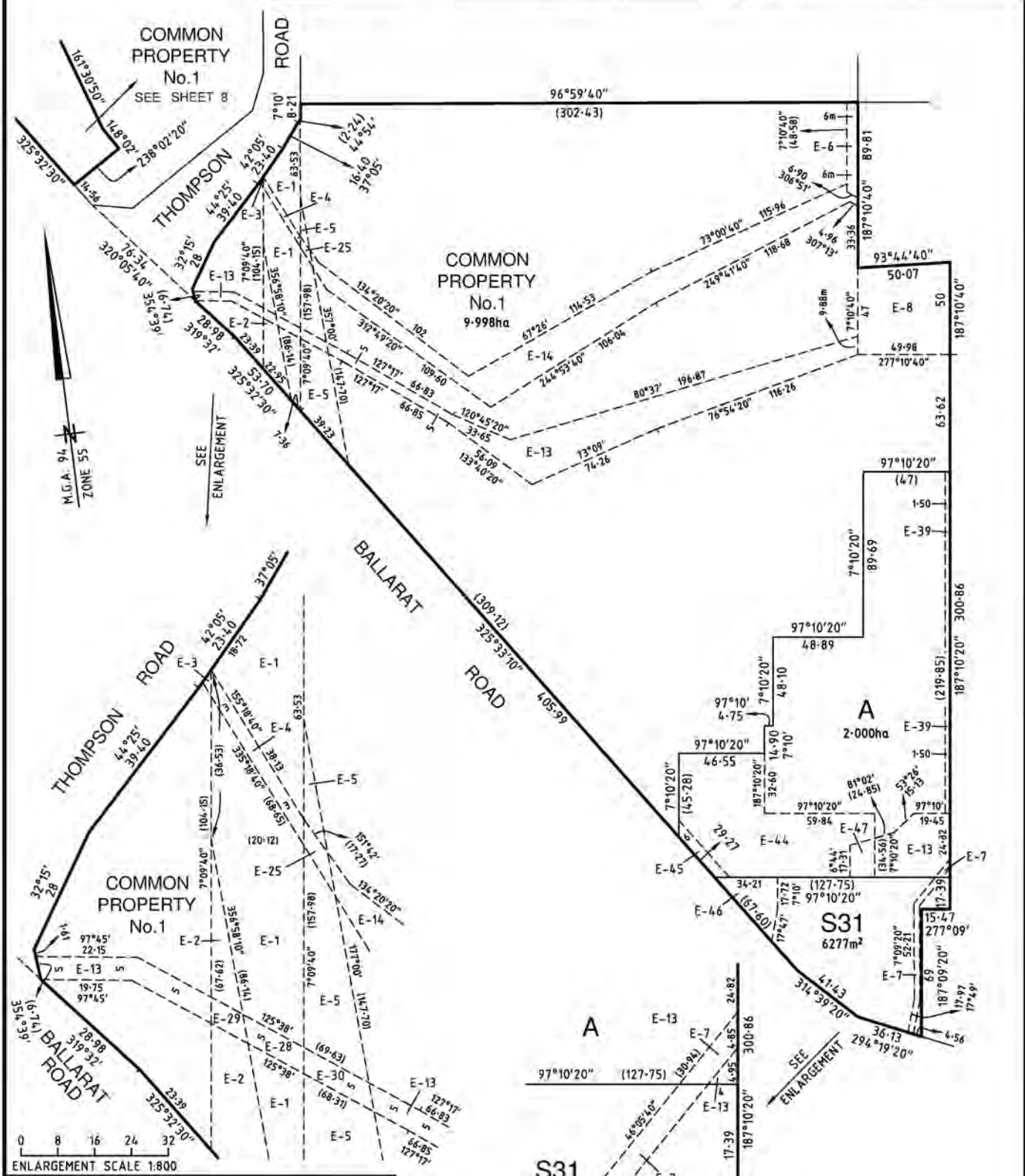
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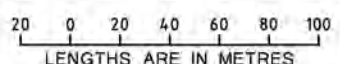




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		<b>PS 647500V</b>




**SMC**  
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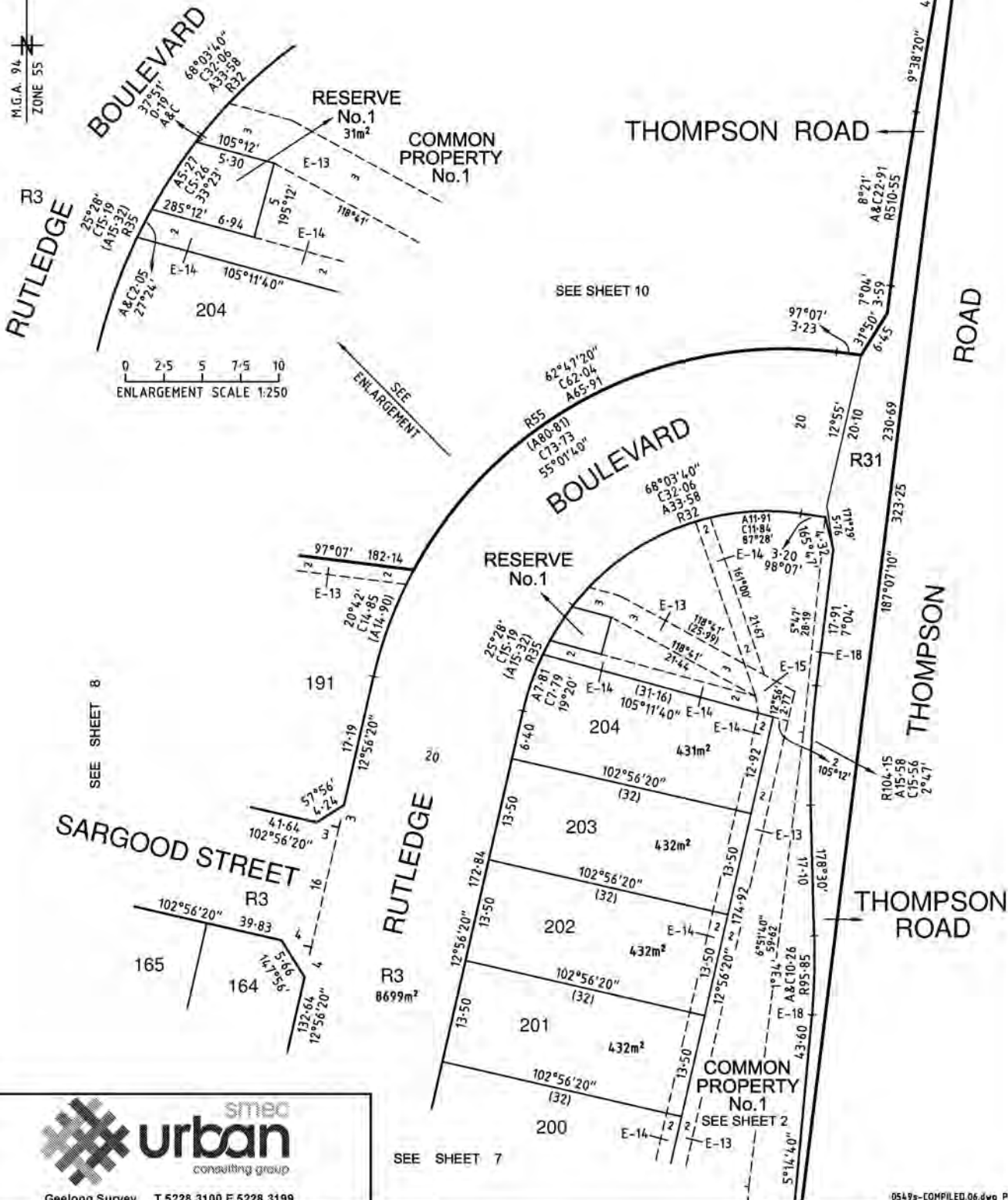
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PLAN NUMBER

**PS 647500V**

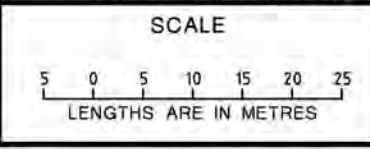
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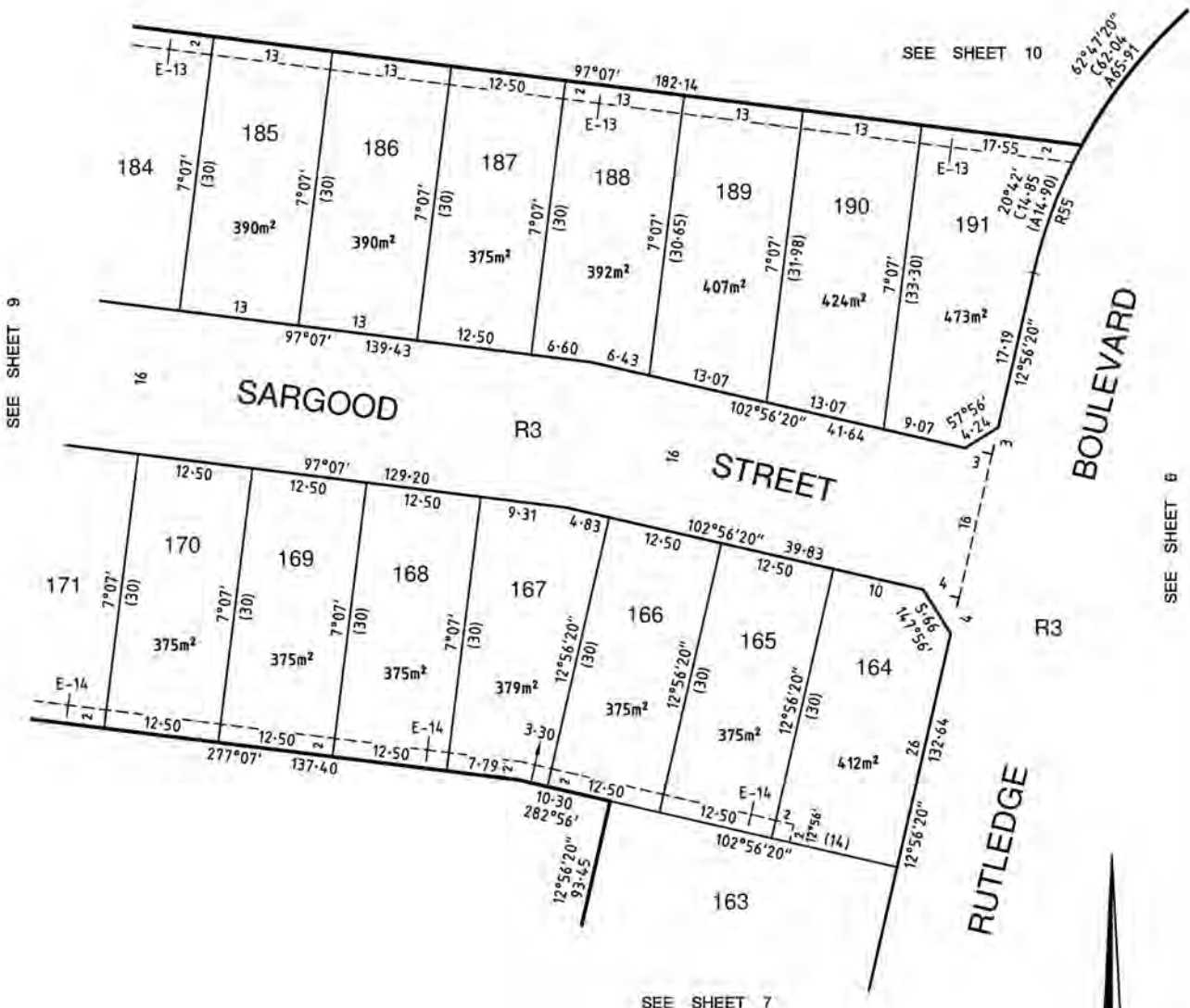
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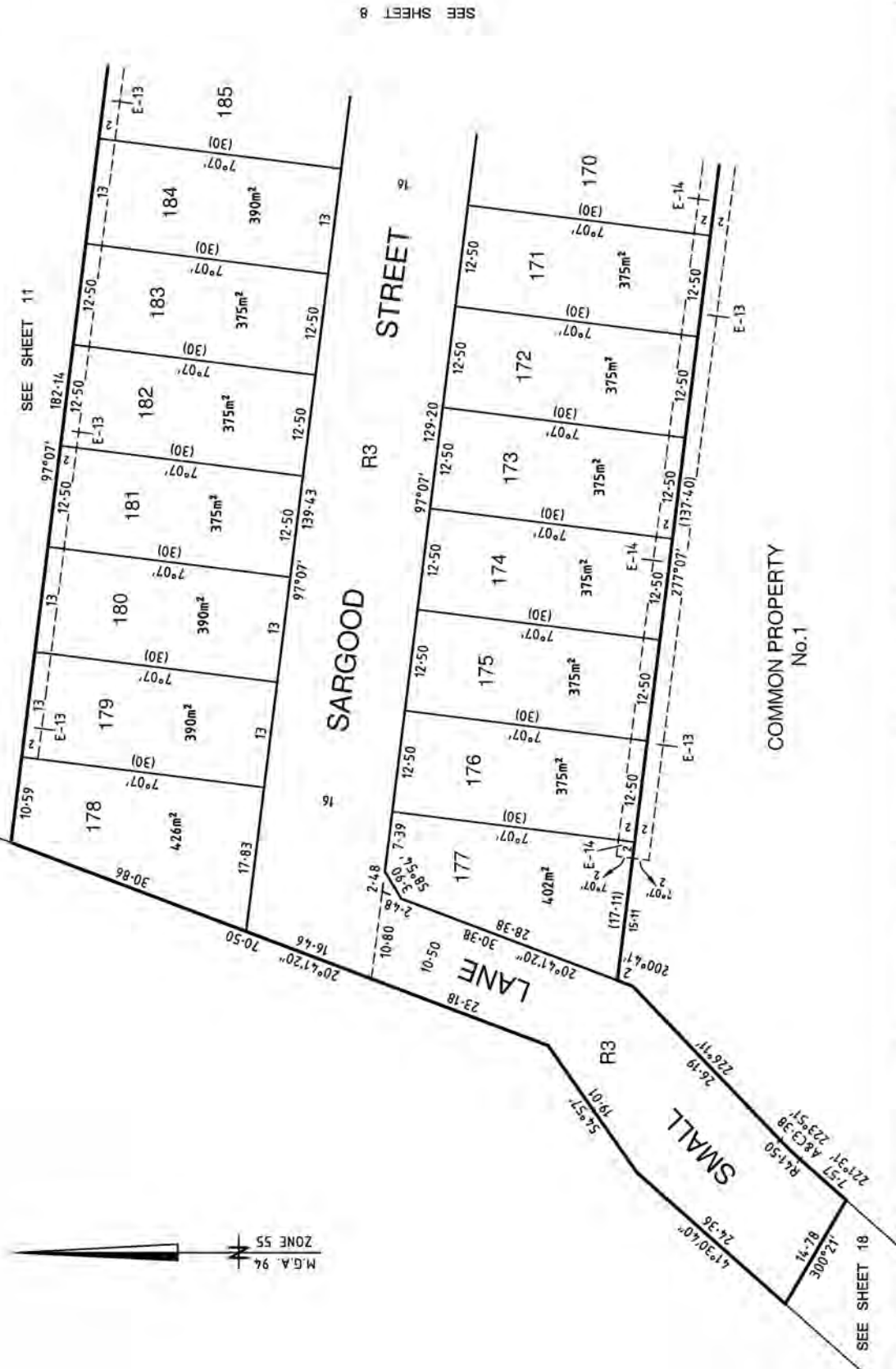
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**PLAN OF SUBDIVISION**

STAGE No. \_\_\_\_\_  
 PLAN NUMBER  
**PS 647500V**



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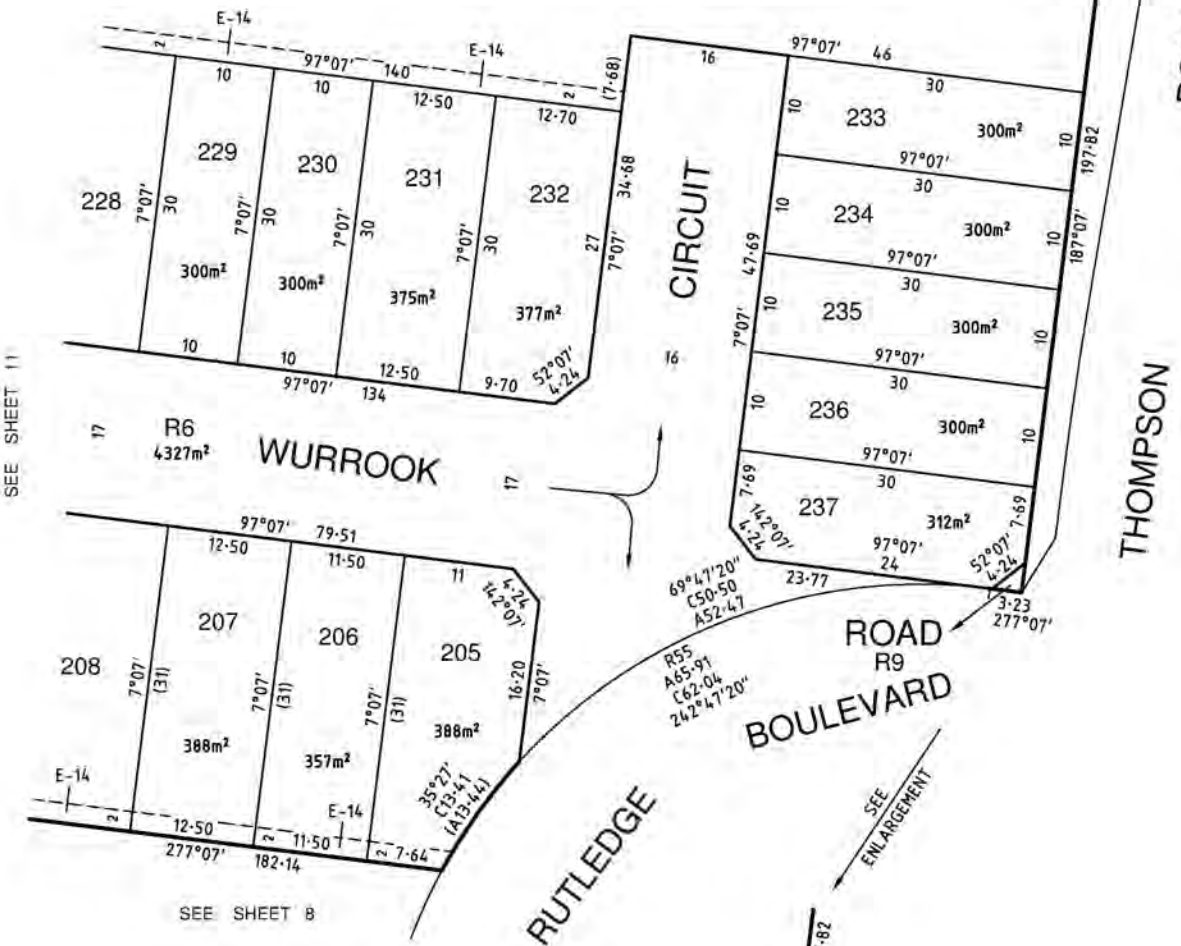
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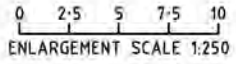
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		PS 647500V

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SEE ENLARGEMENT



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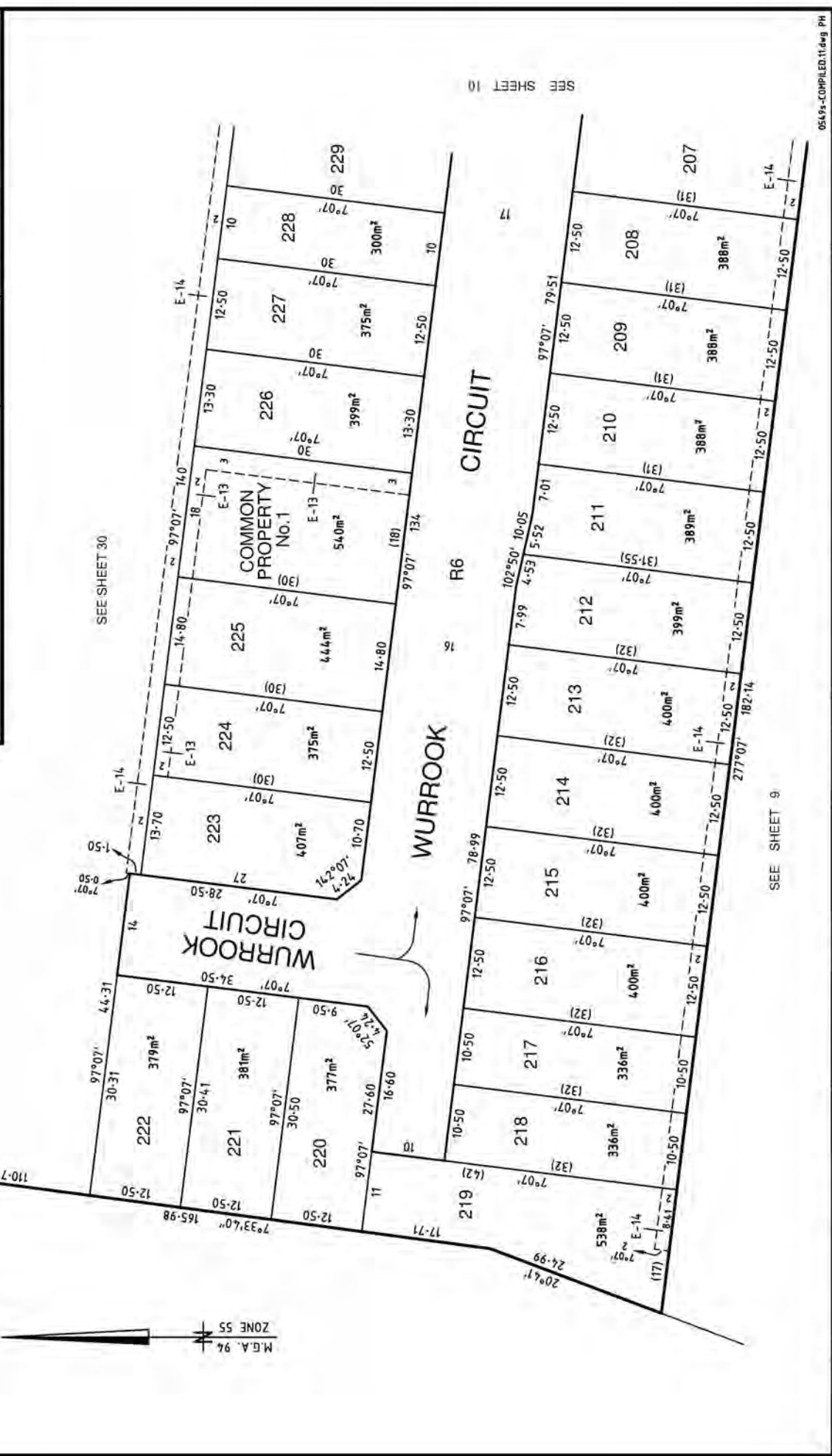
0549s-COMPILED.10.dwg PH

<p><b>SCALE</b></p> <p>LENGTHS ARE IN METRES</p>	<p><b>ORIGINAL</b></p> <p>SCALE SHEET SIZE</p> <p>1:500 A3</p>	<p>LICENSED SURVEYOR (PRINT).....</p> <p>SIGNATURE .....</p> <p>REF <b>0549s</b> COMPILED</p>	<p>DATE .....</p> <p>VERSION .....</p>
<p>SHEET 10</p>			<p>DATE .....</p> <p>COUNCIL DELEGATE SIGNATURE .....</p>

**PLAN OF SUBDIVISION**

STAGE No.

PLAN NUMBER  
**PS 647500V**



0549s-COMPILED.11.dwg PH

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smecc consulting group

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ORIGINAL SCALE 1:500 SHEET SIZE A3

SCALE LENGTHS ARE IN METRES

LICENSED SURVEYOR (PRINT) ..... DATE .....

SIGNATURE ..... DATE .....

REF **0549s-COMPILED** VERSION

SHEET 11

DATE .....

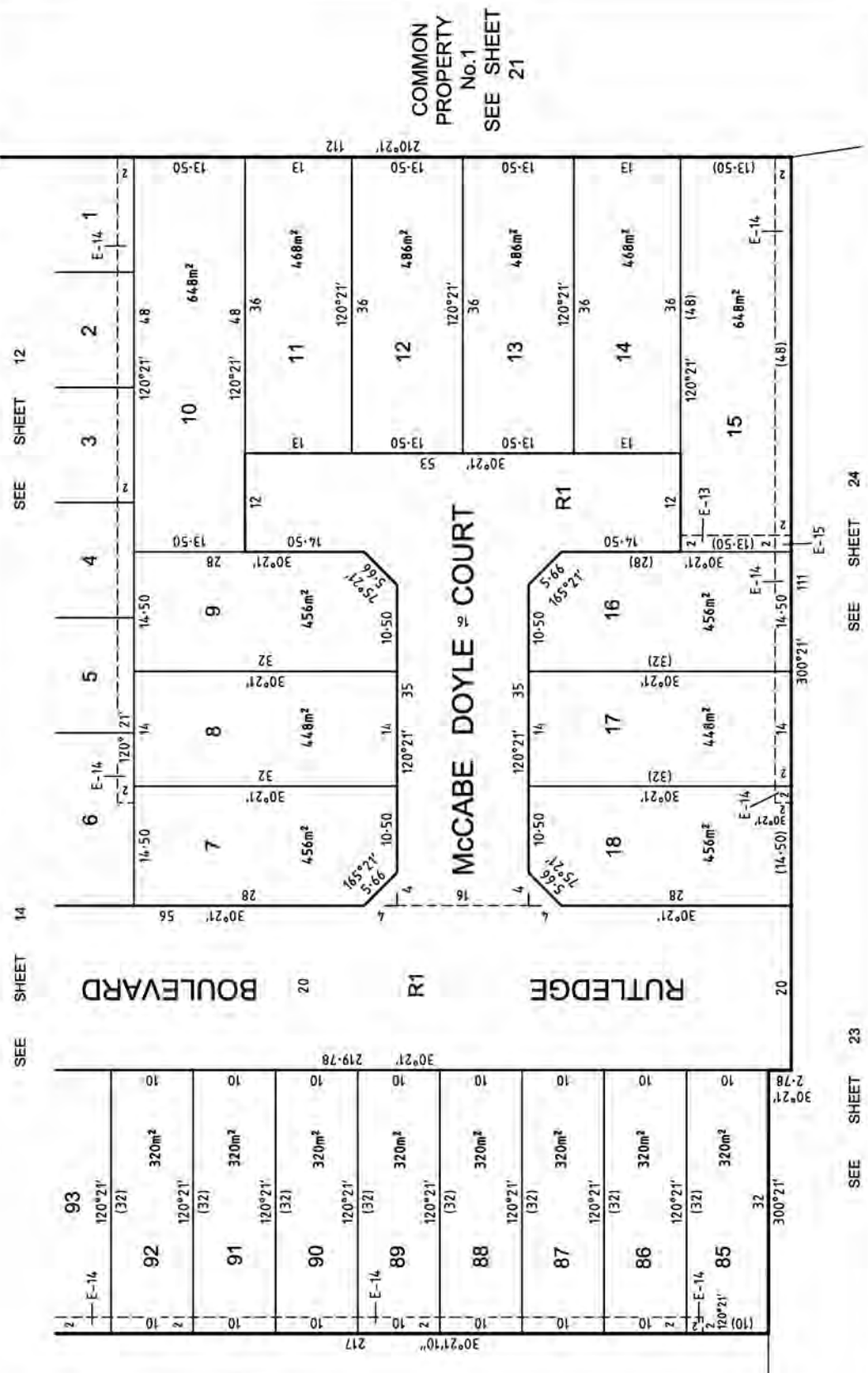
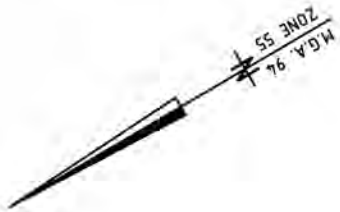
COUNCIL DELEGATE SIGNATURE .....



**PLAN OF SUBDIVISION**

STAGE No.

PLAN NUMBER  
**PS 647500V**



0549s-COMPILED.13.dwg/PH/AA

SHEET 13  
DATE .....  
COUNCIL DELEGATE SIGNATURE .....

LICENSED SURVEYOR (PRINT) .....  
SIGNATURE .....  
DATE .....  
VERSION .....  
REF **0549s-COMPILED**

ORIGINAL SCALE / SHEET SIZE  
1:500 / A3

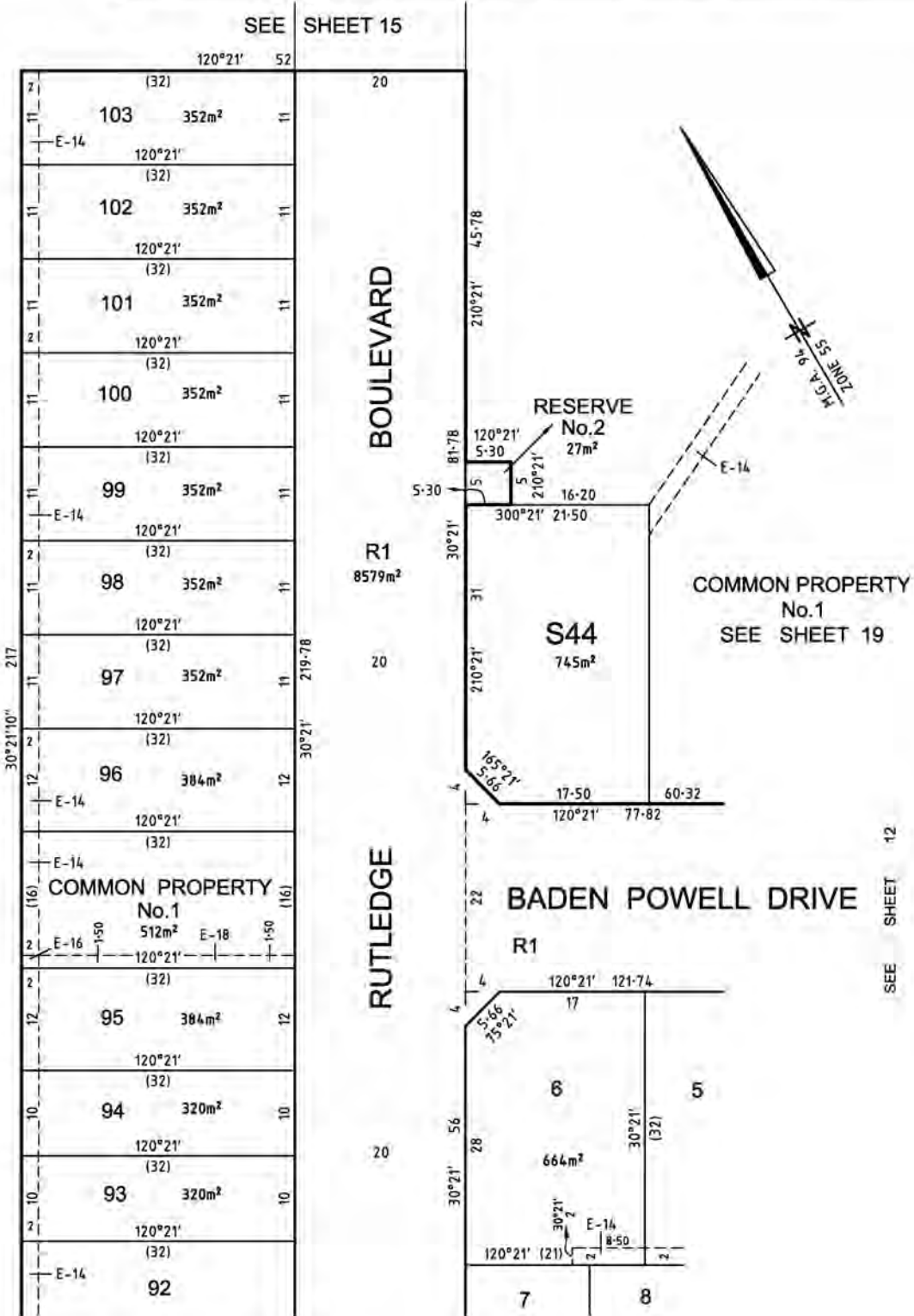


**simec urban**  
consulting group

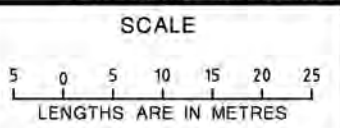
Geelong Survey T 5228 3100 F 5228 3199

PLAN OF SUBDIVISION	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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SEE SHEET 16



SEE SHEET 13



ORIGINAL SCALE SHEET SIZE  
1:500 A3

LICENSED SURVEYOR (PRINT).....  
SIGNATURE ..... DATE .....  
REF 0549s-COMPILED VERSION

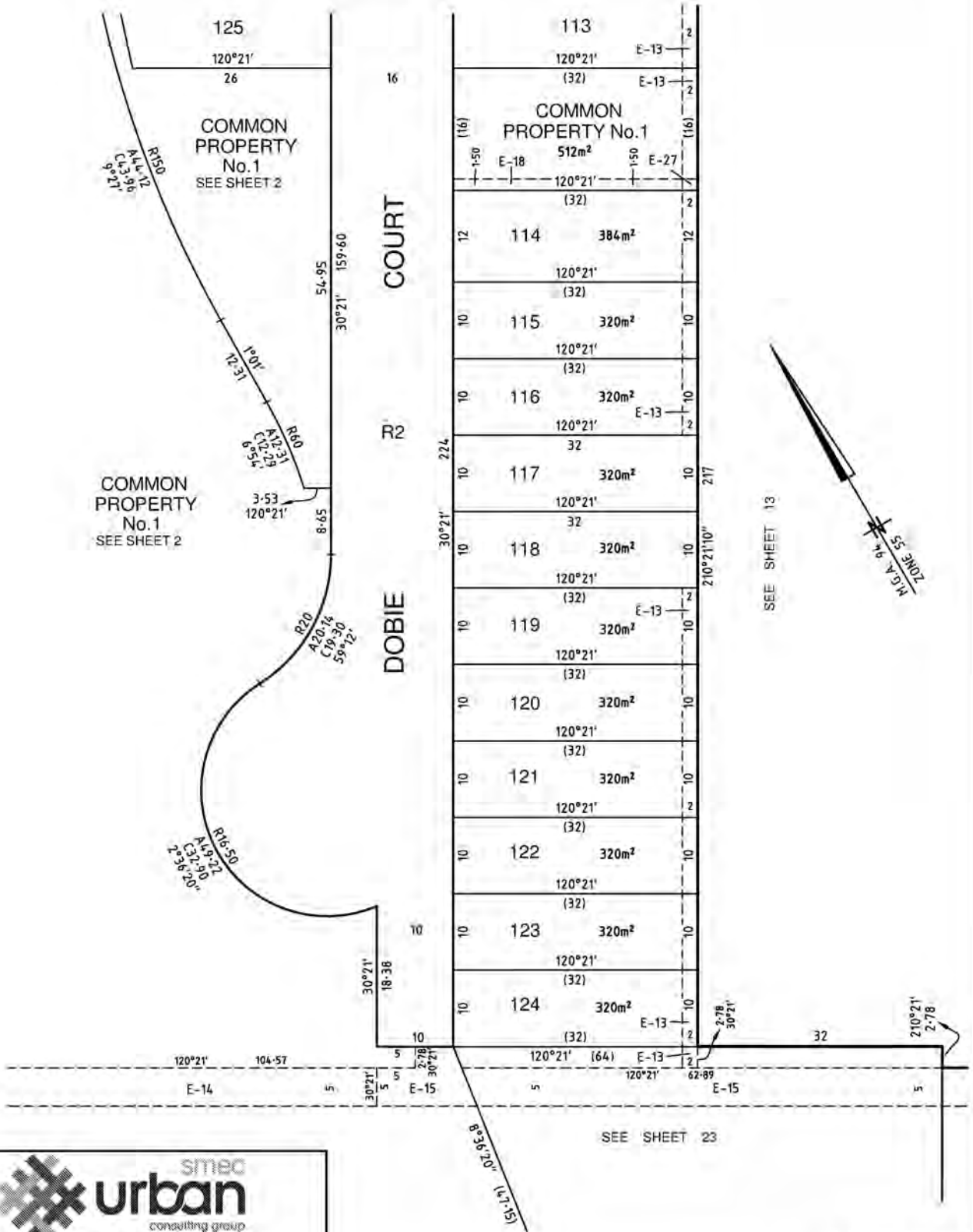
SHEET 14  
DATE .....  
COUNCIL DELEGATE SIGNATURE .....





PLAN OF SUBDIVISION	STAGE No.	PLAN NUMBER
		PS 647500V

SEE SHEET 16



SEE SHEET 23

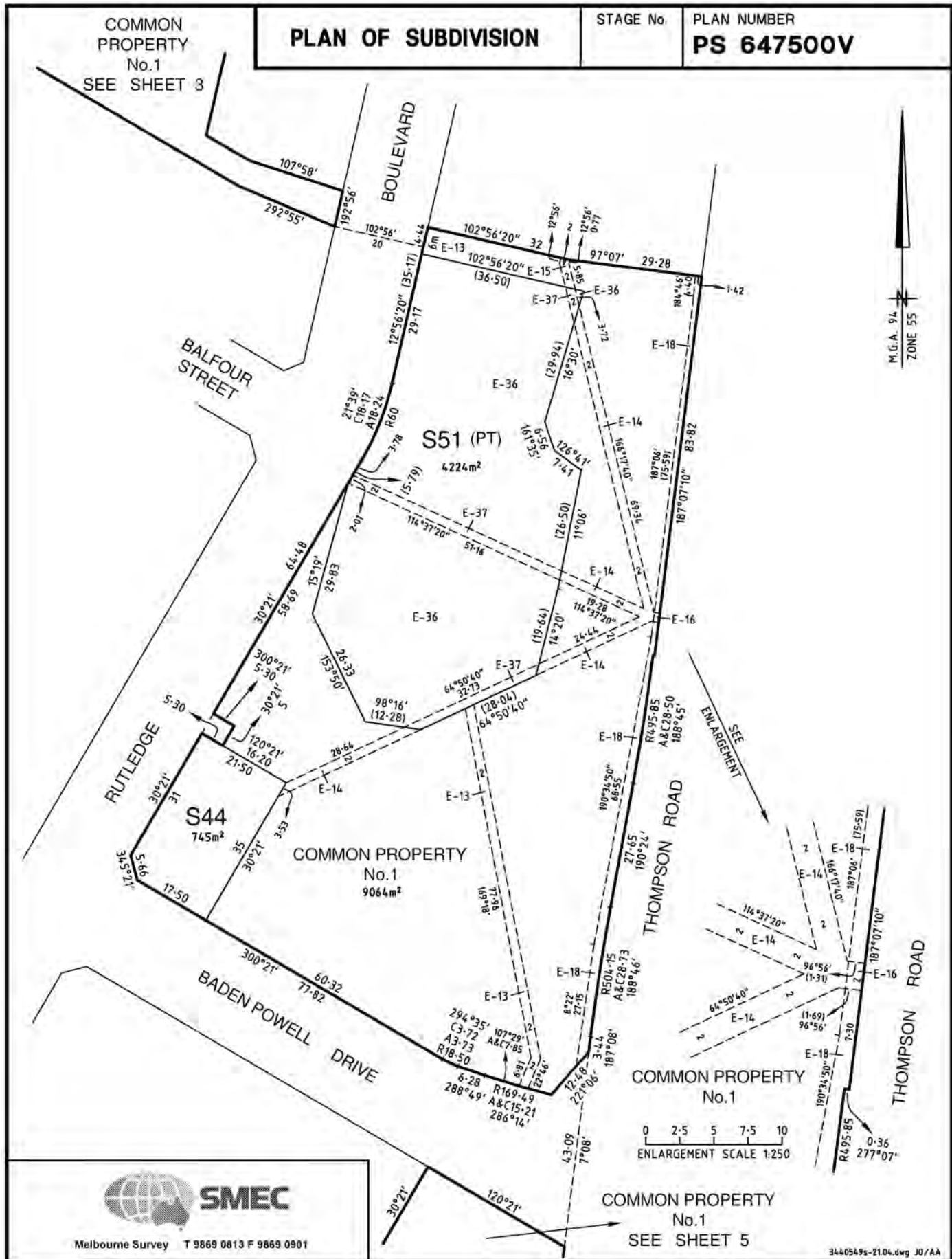
**smec urban**  
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0549sCOMPILED.17.dwg PH/AA

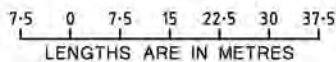
<p><b>SCALE</b></p> <p>LENGTHS ARE IN METRES</p>	<p><b>ORIGINAL SCALE</b></p> <p>1:500</p>	<p><b>SHEET SIZE</b></p> <p>A3</p>	<p>LICENSED SURVEYOR (PRINT).....</p> <p>SIGNATURE .....</p> <p>REF <b>0549sCOMPILED</b></p>	<p>DATE .....</p> <p>VERSION .....</p>	<p><b>SHEET 17</b></p> <p>DATE .....</p> <p>COUNCIL DELEGATE SIGNATURE .....</p>
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Melbourne Survey T 9869 0813 F 9869 0901

SCALE



ORIGINAL

SCALE SHEET  
1:750 A3

LICENSED SURVEYOR (PRINT).....

SIGNATURE .....

DATE .....

REF

0549s COMPILED

VERSION L

SHEET 19

DATE .....

COUNCIL DELEGATE SIGNATURE .....

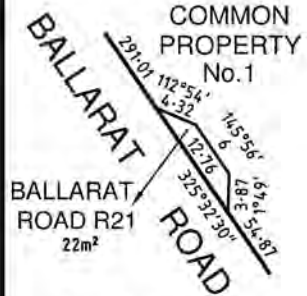
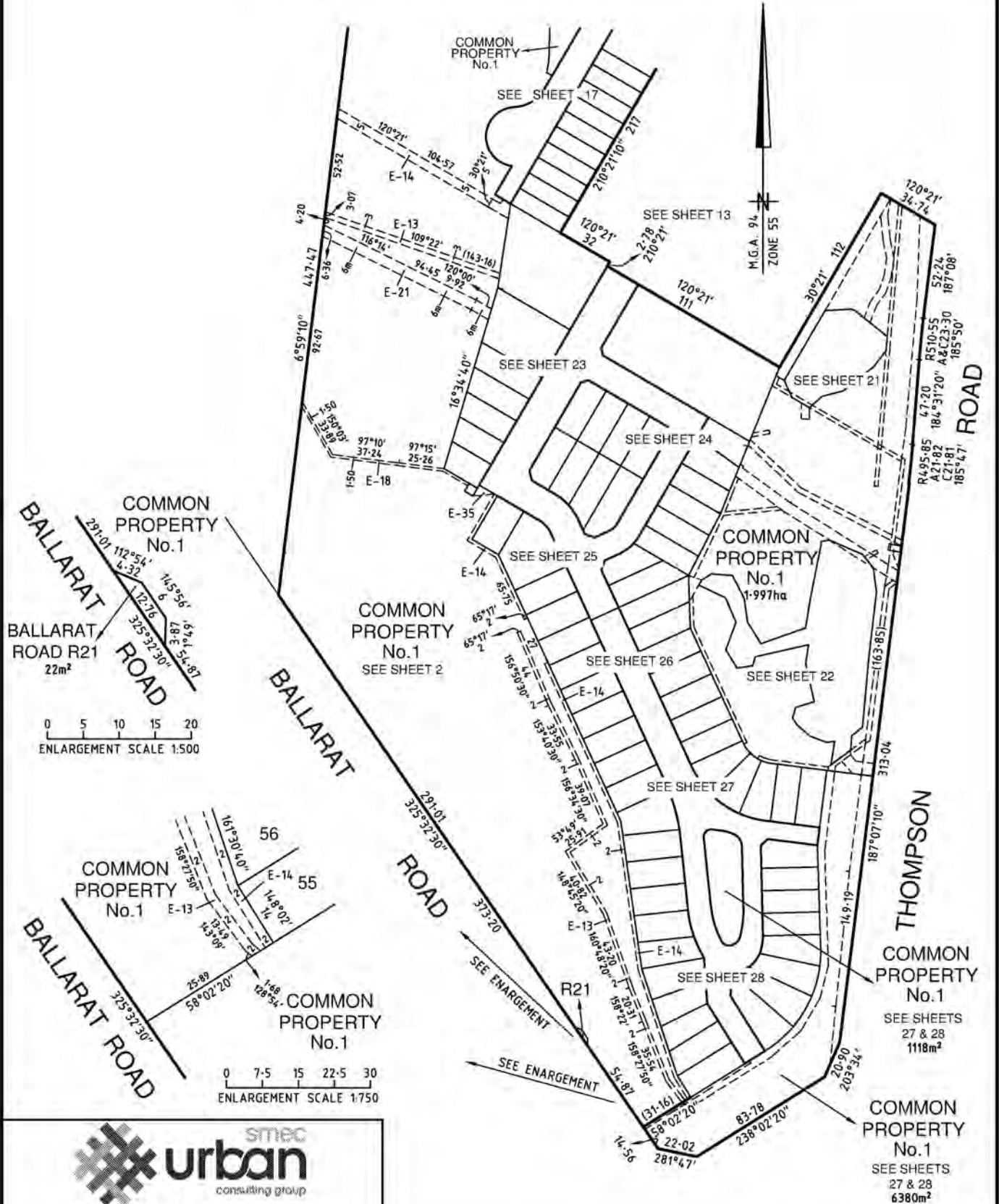
3440549s-21.04.dwg J0/AA

**PLAN OF SUBDIVISION**

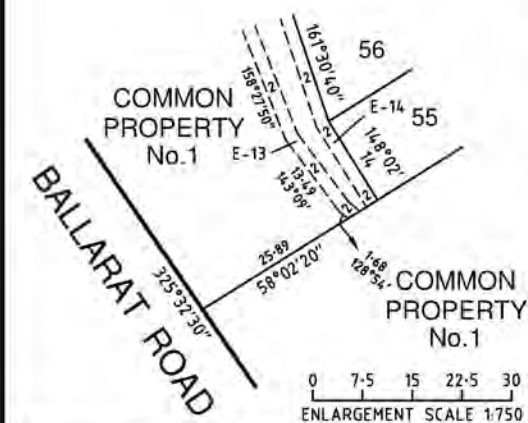
STAGE No.

PLAN NUMBER

**PS 647500V**



0 5 10 15 20  
ENLARGEMENT SCALE 1:500

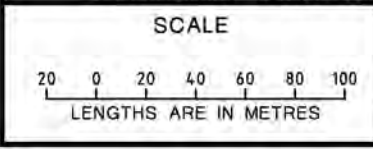


0 7.5 15 22.5 30  
ENLARGEMENT SCALE 1:750



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0549sCOMPILED.20.dwg PH/AA



ORIGINAL SCALE SHEET SIZE  
1:2000 A3

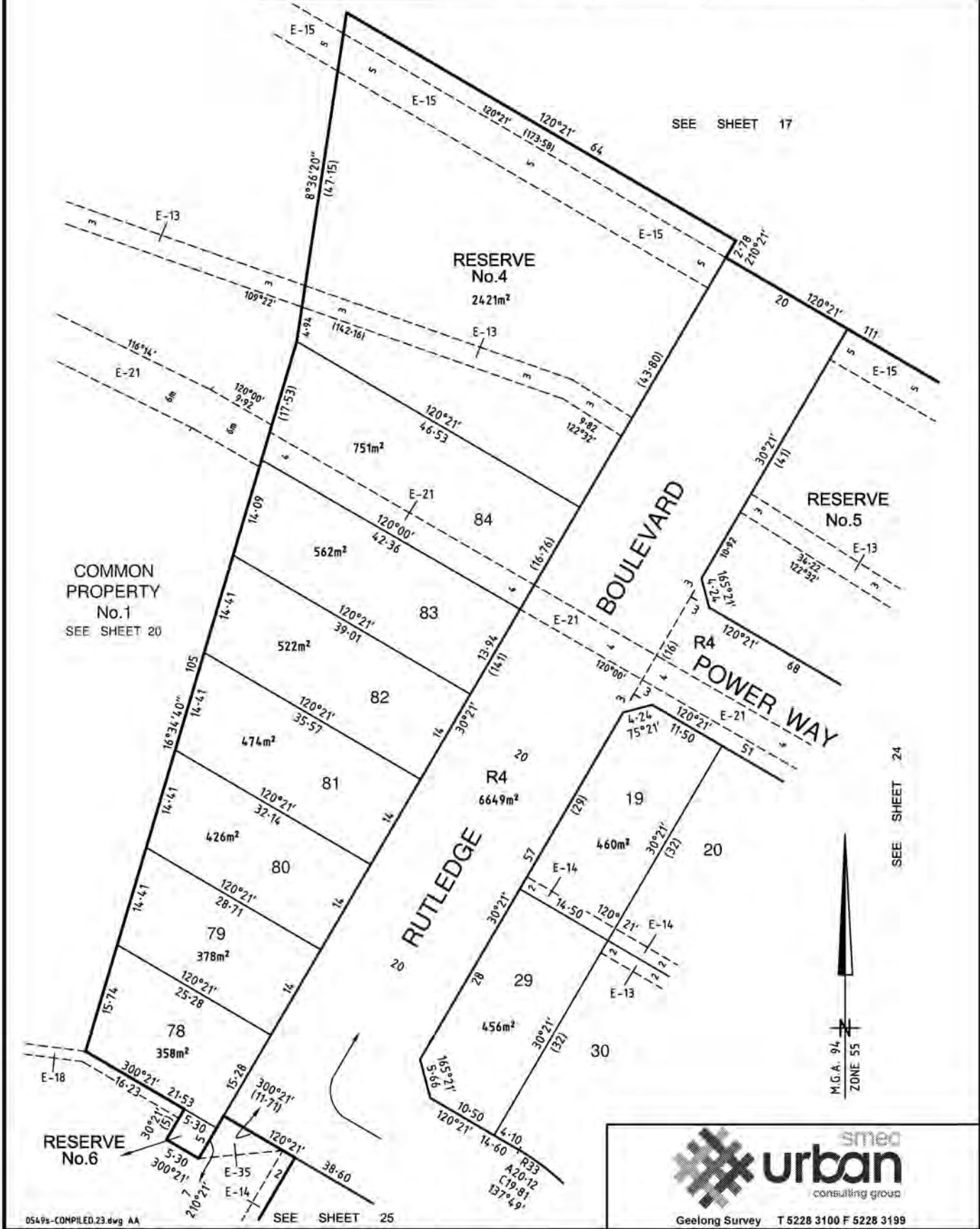
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SIGNATURE ..... DATE .....  
REF **0549sCOMPILED** VERSION .....

SHEET 20  
DATE .....  
COUNCIL DELEGATE SIGNATURE .....





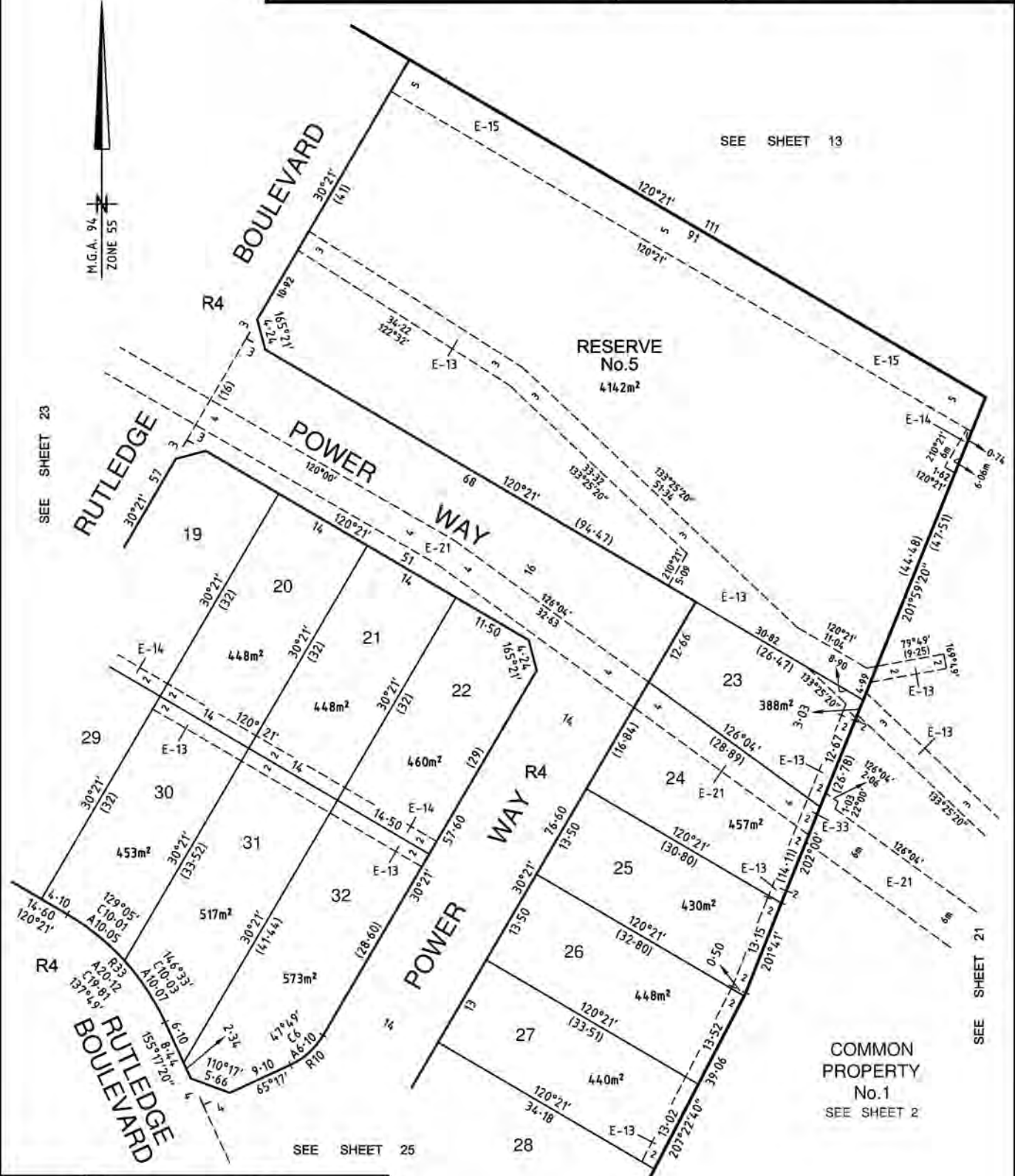
PLAN OF SUBDIVISION	STAGE No.	PLAN NUMBER
		PS 647500V



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<p><b>SCALE</b></p> <p>LENGTHS ARE IN METRES</p>	<p><b>ORIGINAL</b></p> <p>SCALE SHEET SIZE</p> <p>1:500 A3</p>	<p>LICENSED SURVEYOR (PRINT).....</p> <p>SIGNATURE .....</p> <p>REF <b>0549s-COMPILED</b></p>	<p>DATE .....</p> <p>VERSION .....</p>
SHEET 23			<p>DATE .....</p> <p>COUNCIL DELEGATE SIGNATURE .....</p>

PLAN OF SUBDIVISION	STAGE No.	PLAN NUMBER
		PS 647500V



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0549sCOMPILED.24.dwg AA

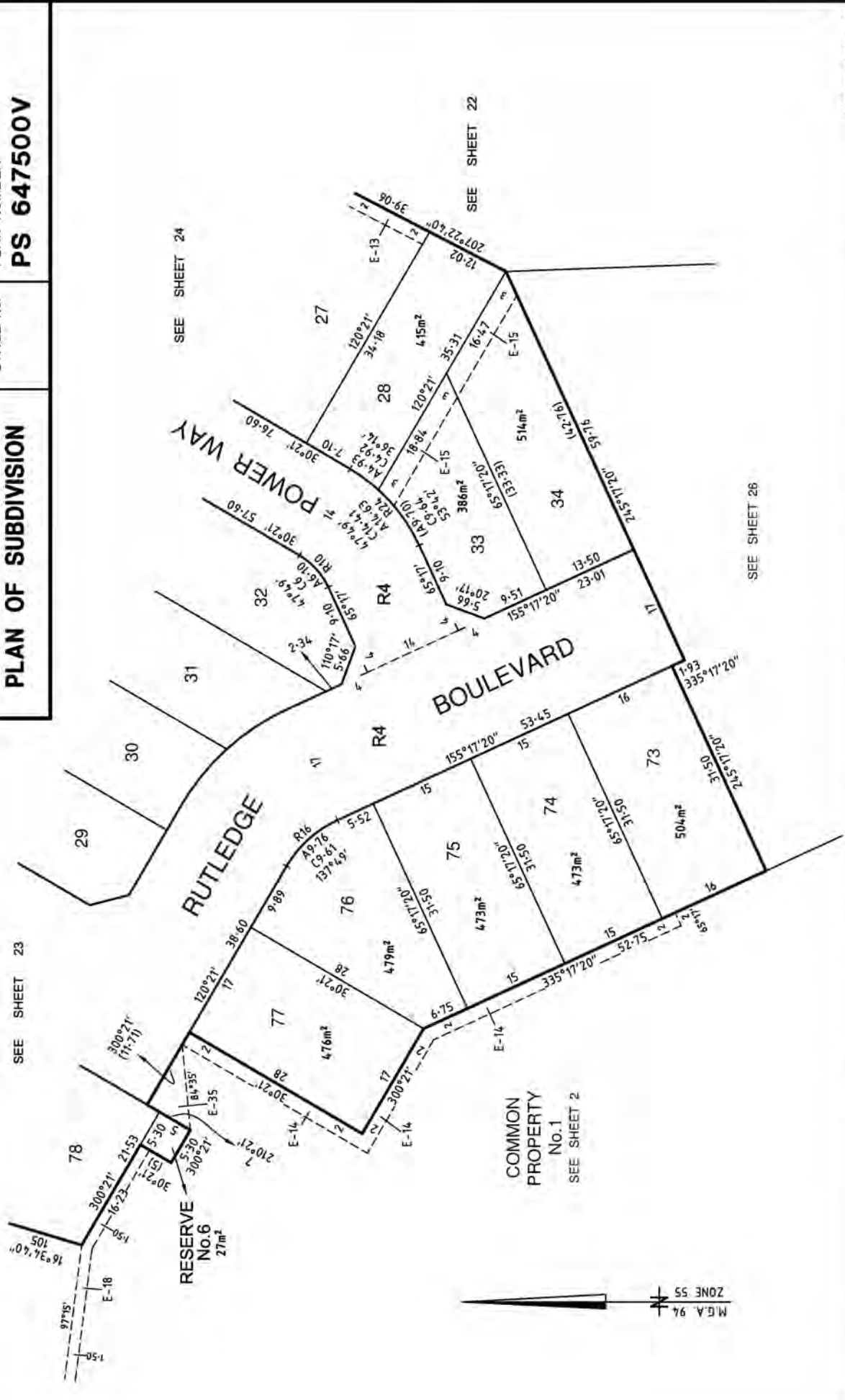
SCALE	ORIGINAL	LICENSED SURVEYOR (PRINT).....
5 0 5 10 15 20 25 LENGTHS ARE IN METRES	SCALE SHEET SIZE 1:500 A3	SIGNATURE ..... DATE .....
		REF <b>0549sCOMPILED</b> VERSION .....

	SHEET 24	
	DATE .....	DATE .....
	COUNCIL DELEGATE SIGNATURE .....	

PLAN OF SUBDIVISION

STAGE No.

PLAN NUMBER  
**PS 647500V**



0549scMPLED.35.dwg AA

SHEET 25

LICENSED SURVEYOR (PRINT) .....

SIGNATURE .....

DATE .....

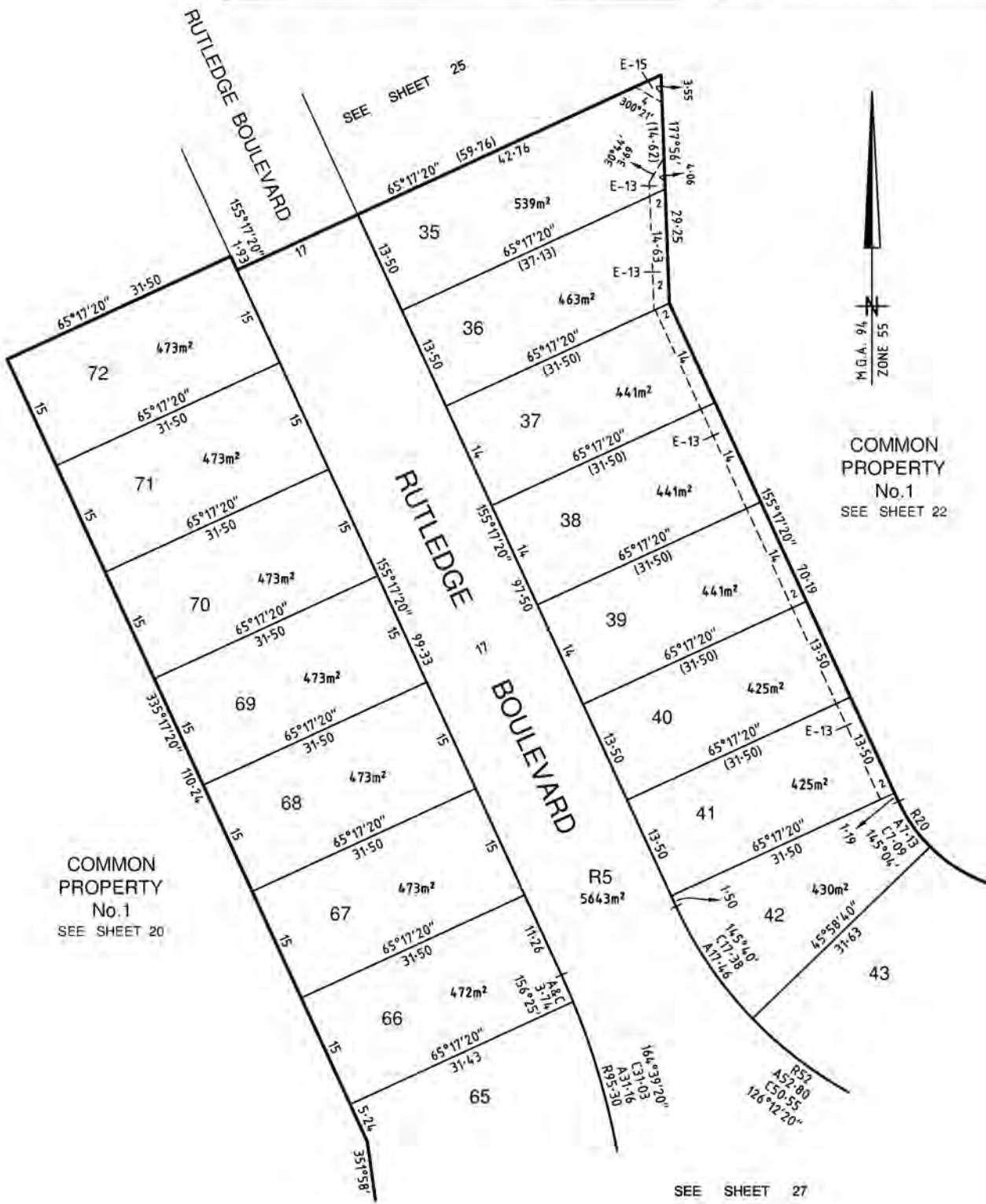
VERSION .....

REF **0549scMPLED**

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<b>PLAN OF SUBDIVISION</b>	STAGE No.	PLAN NUMBER
		<b>PS 647500V</b>



COMMON PROPERTY No.1 SEE SHEET 22

COMMON PROPERTY No.1 SEE SHEET 20

SEE SHEET 27

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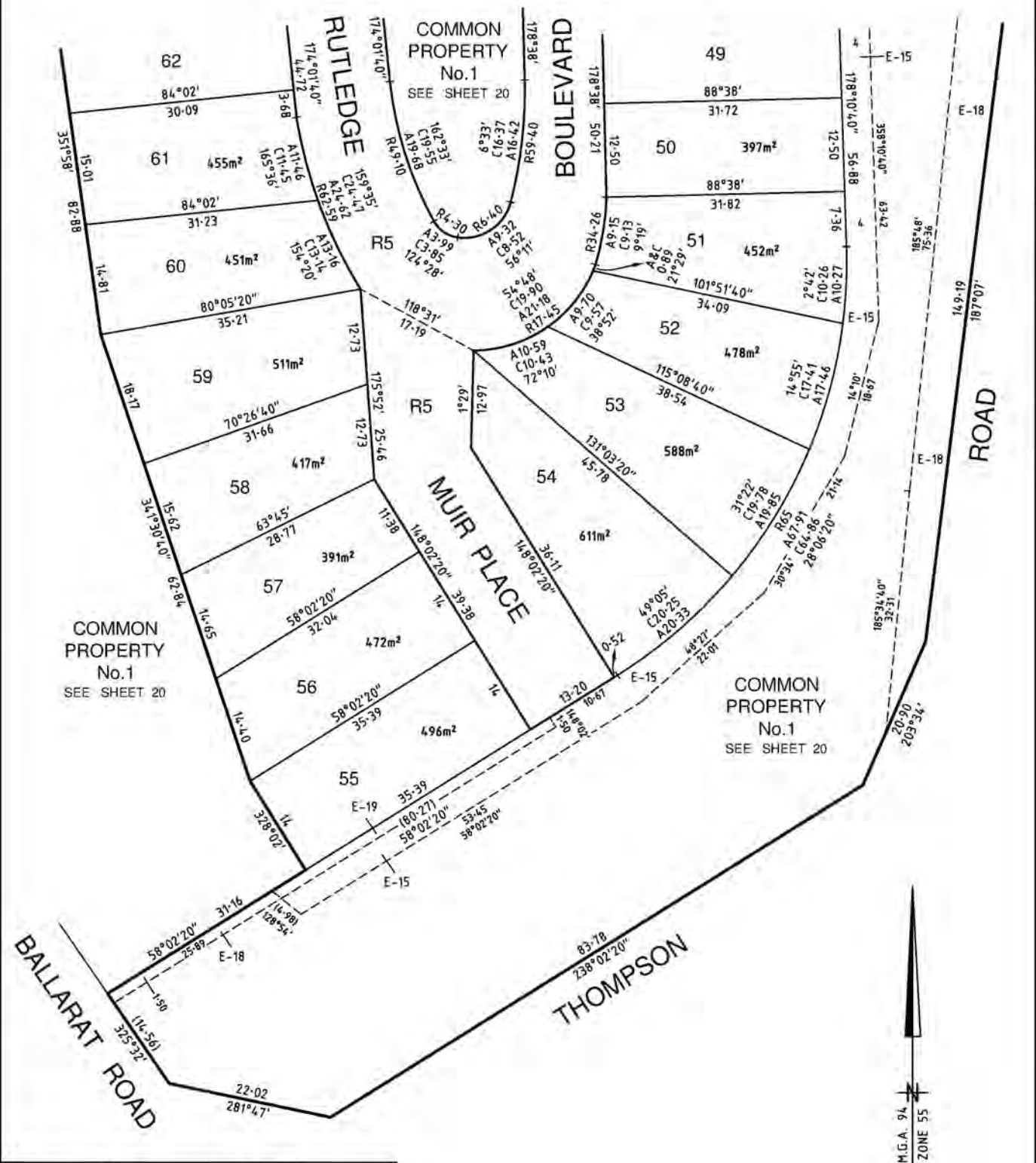
0549s-COMPILED.26.dwg.AA

SCALE 5 0 5 10 15 20 25 LENGTHS ARE IN METRES	ORIGINAL SCALE SHEET SIZE 1:500 A3	LICENSED SURVEYOR (PRINT)..... SIGNATURE ..... DATE ..... REF <b>0549sCOMPILED</b> VERSION .....	SHEET 26 DATE ..... COUNCIL DELEGATE SIGNATURE .....
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PLAN OF SUBDIVISION	STAGE No.	PLAN NUMBER
		PS 647500V

SEE SHEET 27



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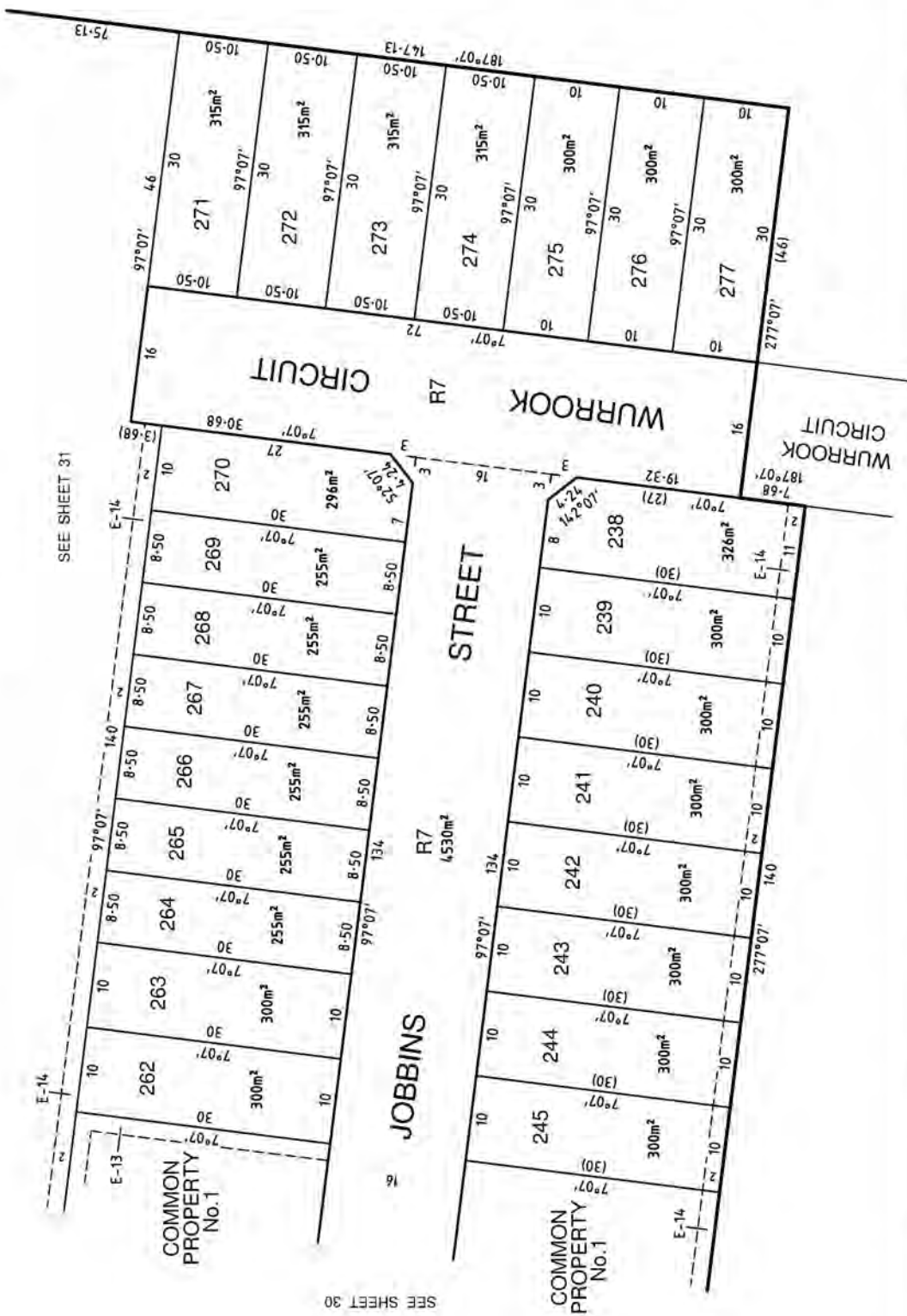
0549sCOMPILED.28.dwg 4A

<p><b>SCALE</b></p> <p style="font-size: 0.8em;">LENGTHS ARE IN METRES</p>	<p><b>ORIGINAL SCALE</b></p> <p style="font-size: 1.2em;">1:500</p>	<p>LICENSED SURVEYOR (PRINT).....</p> <p>SIGNATURE .....</p> <p>REF <b>0549sCOMPILED</b></p>	<p>DATE .....</p> <p>VERSION .....</p>
<p><b>SHEET 28</b></p>			<p>DATE .....</p> <p>COUNCIL DELEGATE SIGNATURE .....</p>

**PLAN OF SUBDIVISION**

STAGE No.

PLAN NUMBER  
**PS 647500V**



0549:COMPILED.29.dwg AA/PH

SHEET 29  
DATE .....  
COUNCIL DELEGATE SIGNATURE .....

LICENSED SURVEYOR (PRINT) .....  
SIGNATURE .....  
DATE .....  
VERSION .....  
REF **0549sCOMPILED**

ORIGINAL SCALE / SHEET SIZE  
1:500 / A3

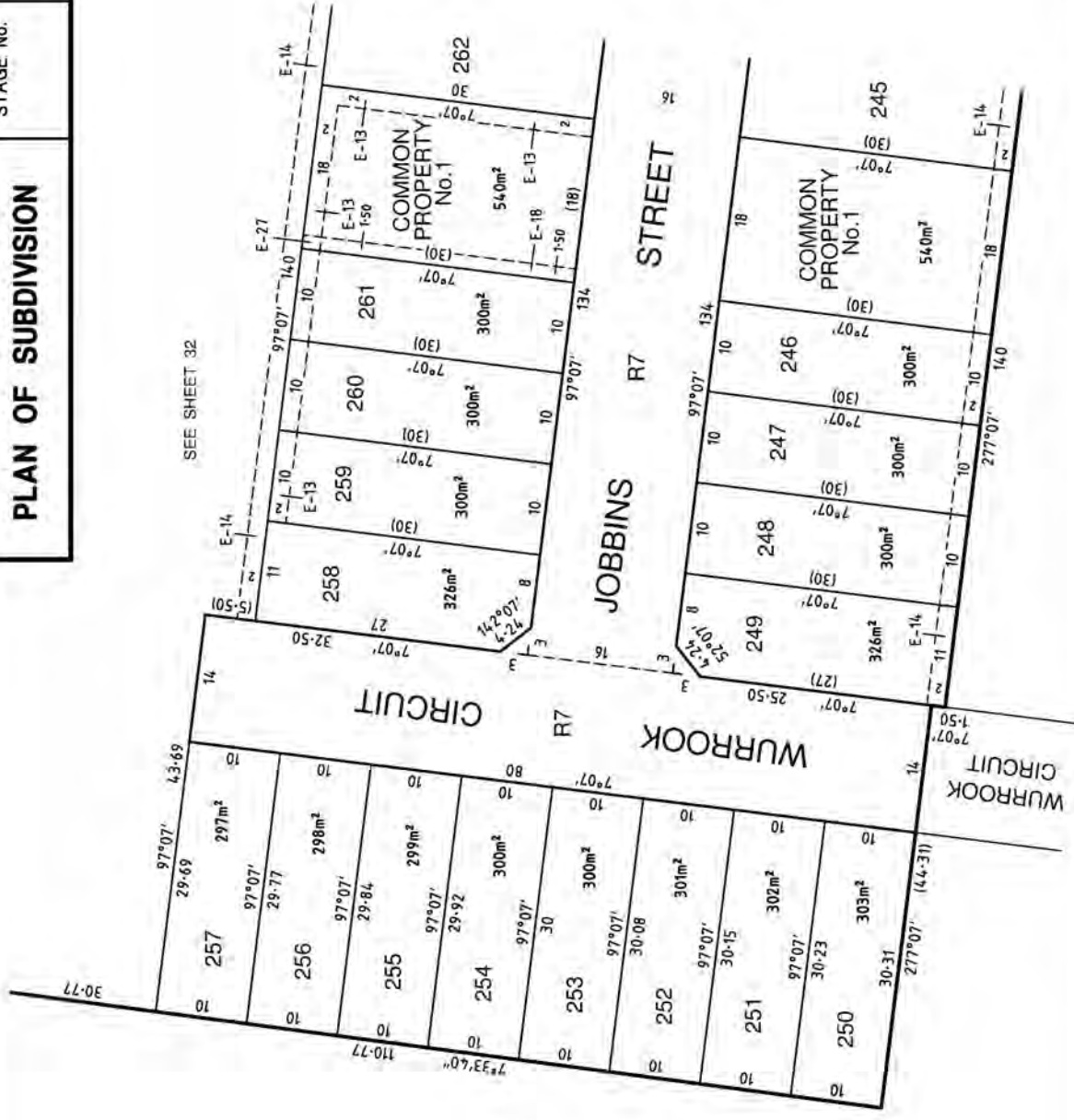


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PLAN OF SUBDIVISION

STAGE No.

PLAN NUMBER  
**PS 647500V**



SEE SHEET 29

SEE SHEET 32



05495COMPILED.304.dwg AA/PH

SHEET 30  
DATE .....  
COUNCIL DELEGATE SIGNATURE .....

LICENSED SURVEYOR (PRINT) .....  
SIGNATURE ..... DATE .....  
VERSION  
REF **05495COMPILED**

ORIGINAL SCALE | SHEET SIZE  
1:500 | A3



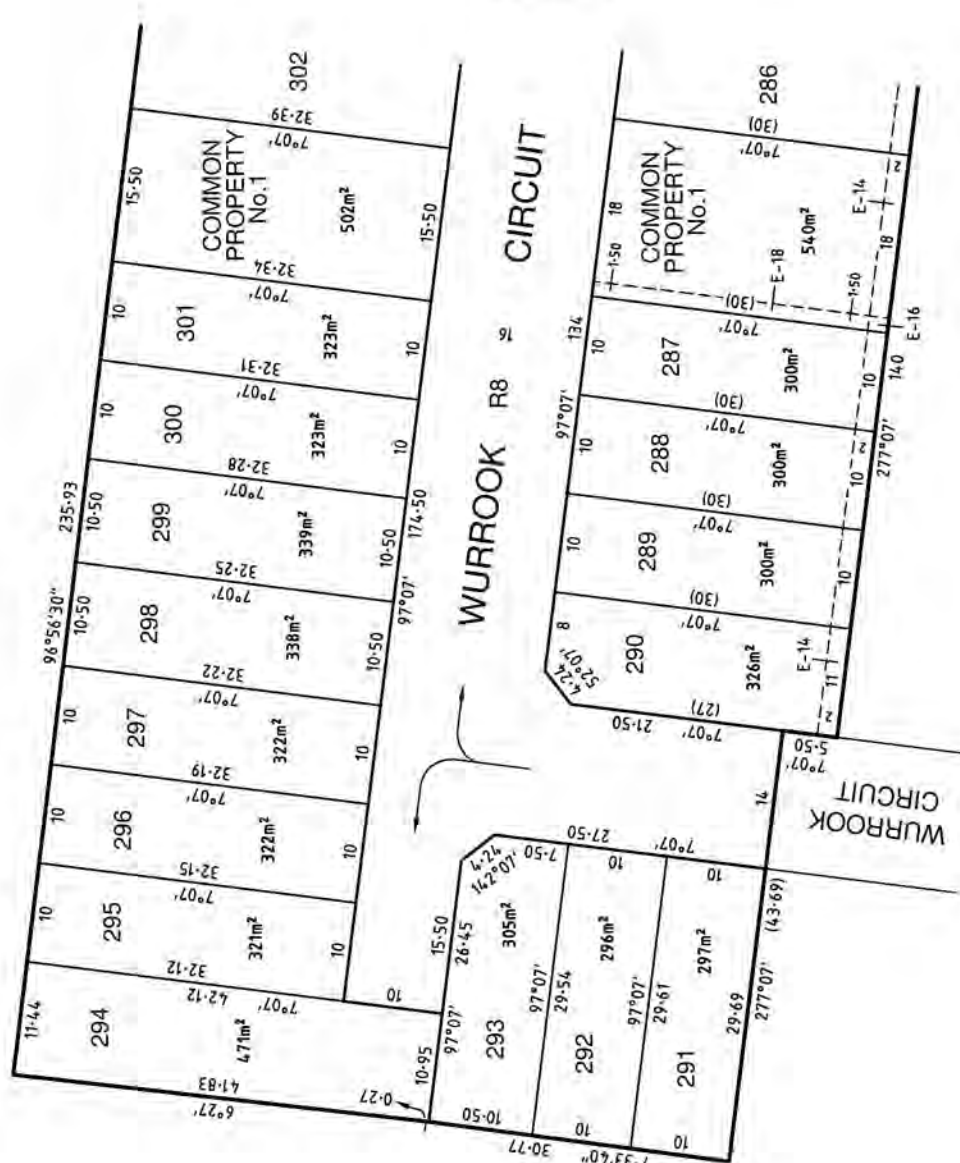
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PLAN OF SUBDIVISION

STAGE No.

PLAN NUMBER  
**PS 647500V**



SEE SHEET 31

SEE SHEET 30



0549s-COMPILED 32.dwg PH

SHEET 32  
DATE .....  
COUNCIL DELEGATE SIGNATURE .....

LICENSED SURVEYOR (PRINT) .....  
SIGNATURE ..... DATE .....  
VERSION  
REF **0549s-COMPILED**

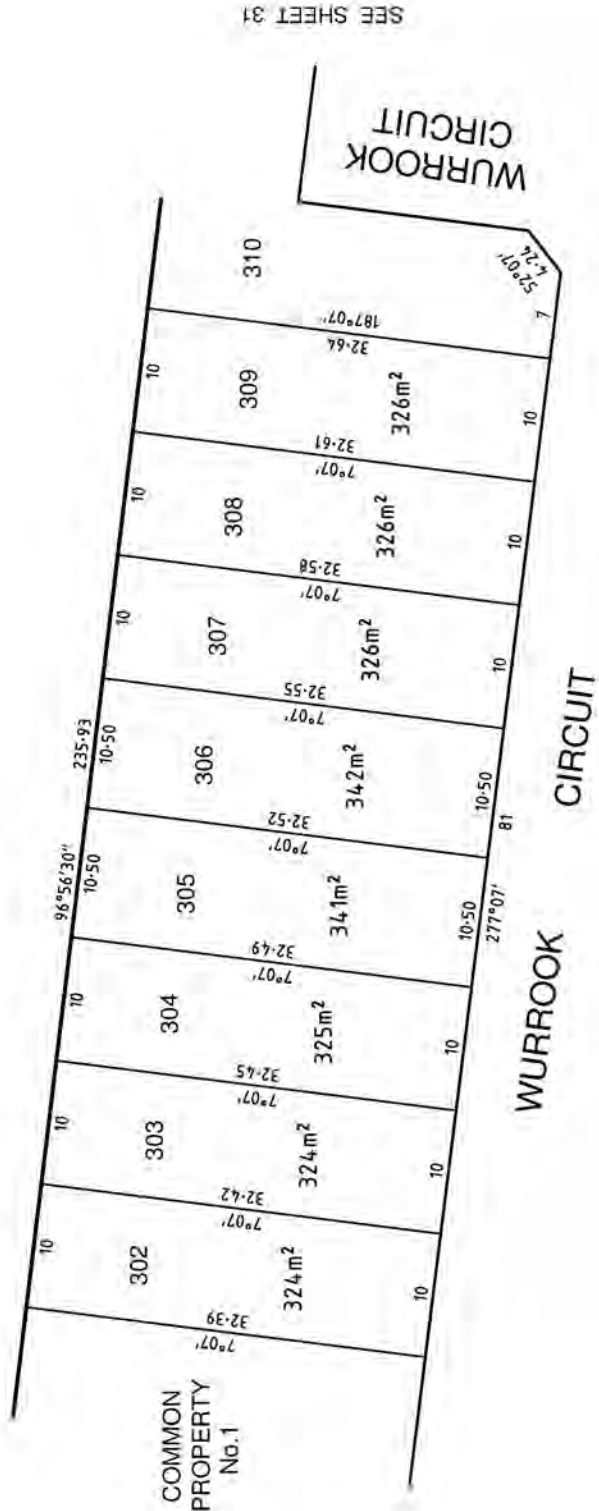
ORIGINAL SCALE SHEET SIZE  
1:500 A3



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**PLAN OF SUBDIVISION**

STAGE No. \_\_\_\_\_ PLAN NUMBER  
**PS 647500V**



SEE SHEET 32

SEE SHEET 31

COMMON PROPERTY  
 No. 1



ORIGINAL SCALE 1:400  
 SHEET SIZE A3

LICENSED SURVEYOR (PRINT) \_\_\_\_\_ DATE \_\_\_\_\_  
 SIGNATURE \_\_\_\_\_ VERSION \_\_\_\_\_  
 REF **0549scOMPILED**

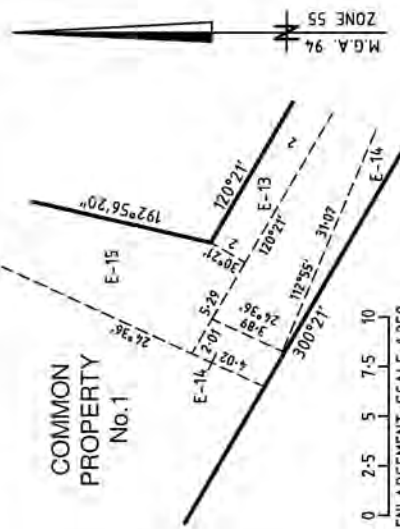
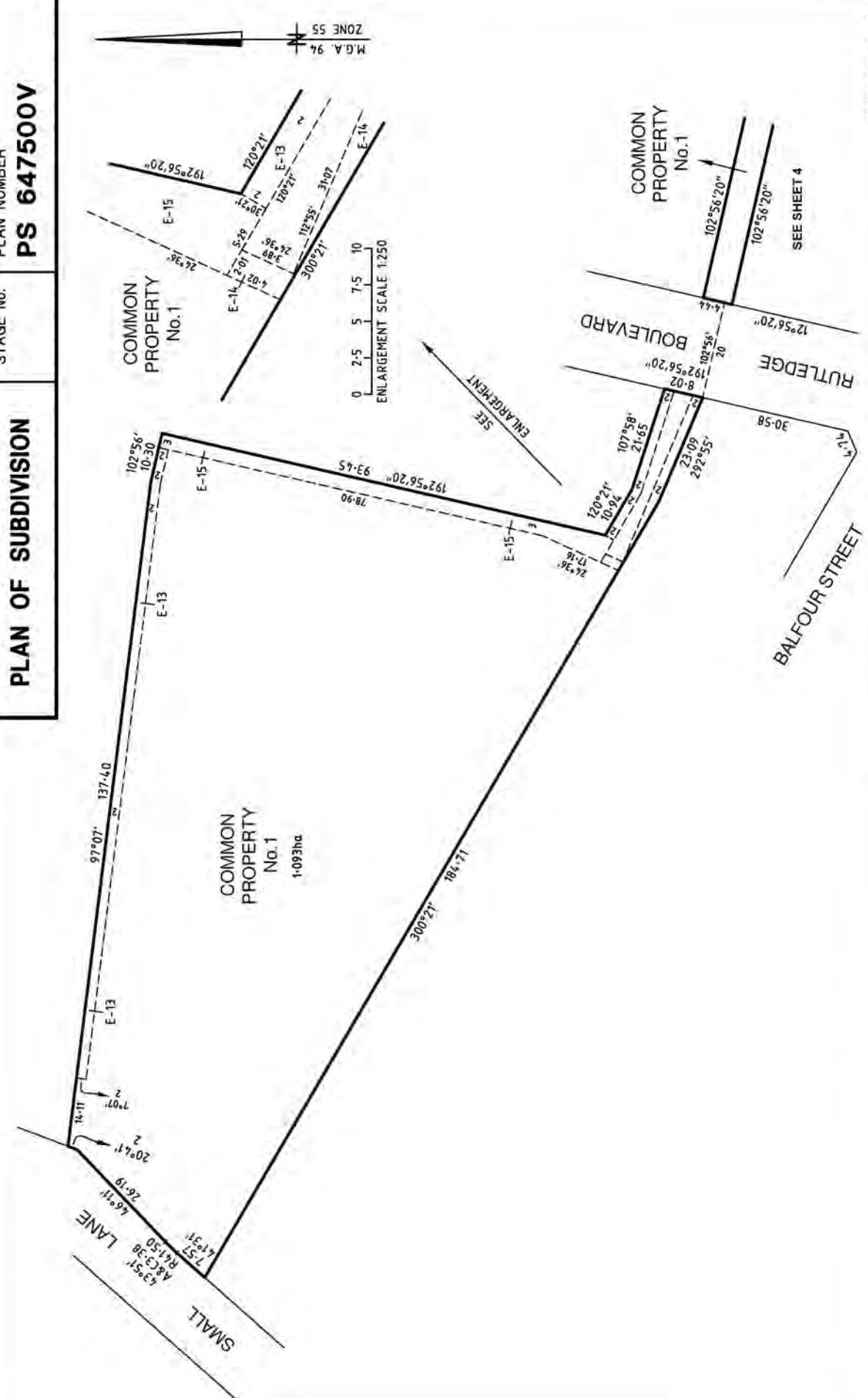
SHEET 33  
 DATE \_\_\_\_\_  
 COUNCIL DELEGATE SIGNATURE \_\_\_\_\_

0549s-COMPILED33.dwg PH

**PLAN OF SUBDIVISION**

STAGE No.

PLAN NUMBER  
**PS 647500V**



Melbourne Survey T 9869 0813 F 9869 0901

SCALE  
7.5 0 7.5 15 22.5 30 37.5  
LENGTHS ARE IN METRES

ORIGINAL SCALE | SHEET SIZE  
1:750 A3

LICENSED SURVEYOR (PRINT).....  
SIGNATURE .....  
REF **0549SCOMPILED**

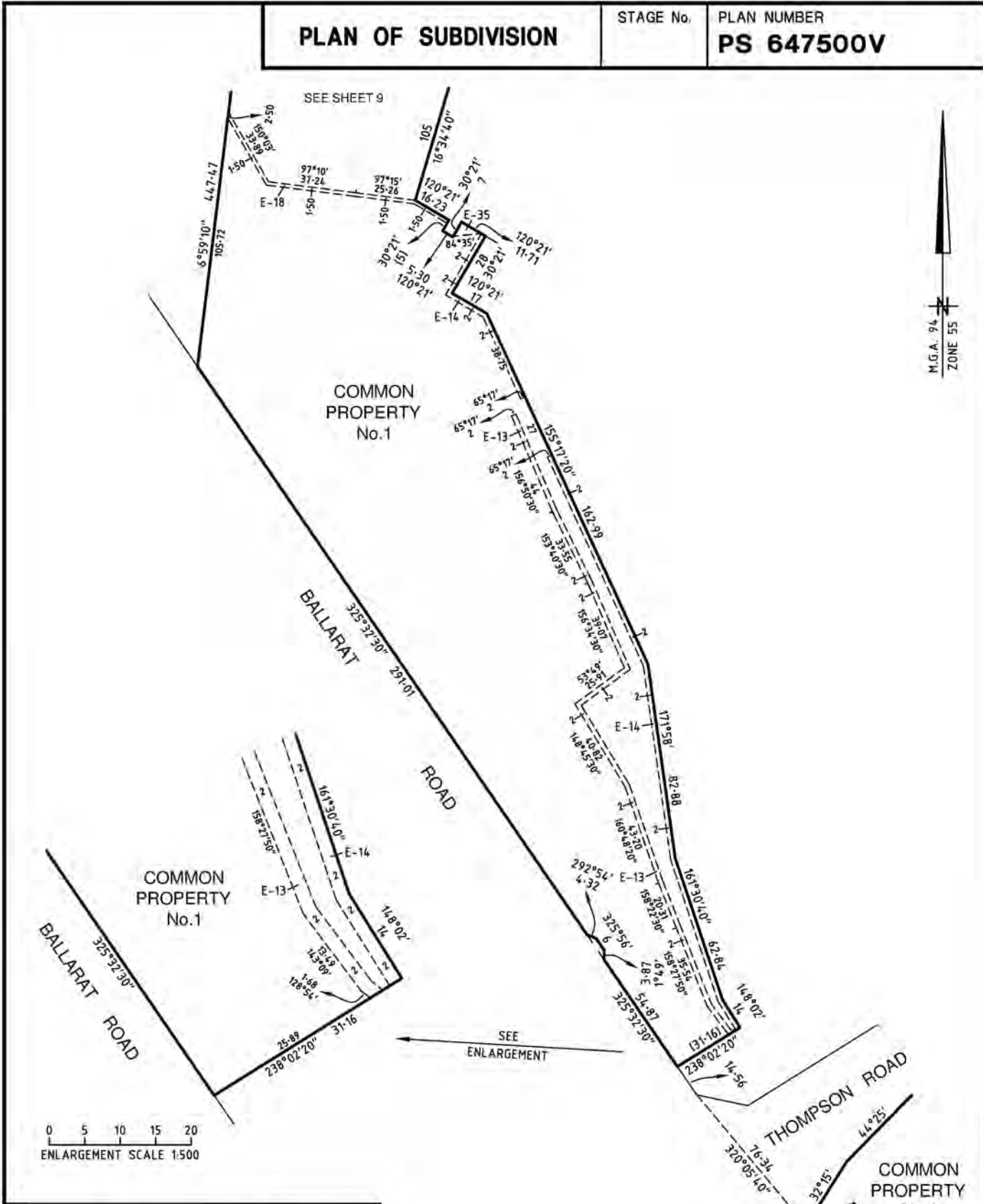
DATE .....  
VERSION

DATE .....  
COUNCIL DELEGATE SIGNATURE

0549SCOMPILED.34.dwg BC/AA

SHEET 34

PLAN OF SUBDIVISION	STAGE No.	PLAN NUMBER
		PS 647500V



0 5 10 15 20  
ENLARGEMENT SCALE 1:500

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<p>SCALE</p> <p>LENGTHS ARE IN METRES</p>	<p>ORIGINAL SCALE</p> <p>1:1500</p>	<p>SHEET SIZE</p> <p>A3</p>	<p>LICENSED SURVEYOR (PRINT).....</p> <p>SIGNATURE ..... DATE .....</p> <p>REF <b>0549sCOMPILED</b> VERSION .....</p>	<p>SHEET 35</p> <p>DATE .....</p> <p>COUNCIL DELEGATE SIGNATURE .....</p>
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0549sCOMPILED.35.dwg BC/AA



PLAN OF SUBDIVISION	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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EASEMENT REFERENCE	PURPOSE	WIDTH (Metres)	ORIGIN	LAND BENEFITED/IN FAVOUR OF
E-1	TRANSMISSION OF ELECTRICITY	SEE PLAN	C/E 1888445	SECV
E-2	TRANSMISSION OF ELECTRICITY	SEE PLAN	C/E 2159489	SECV
E-3	DRAINAGE & SEWERAGE	SEE PLAN	PS 308197M	GEELONG AND DISTRICT WATER BOARD
E-4	TRANSMISSION OF ELECTRICITY DRAINAGE & SEWERAGE	SEE PLAN SEE PLAN	C/E 1888445 PS 308197M	SECV GEELONG AND DISTRICT WATER BOARD
E-5	ELECTRICITY	SEE PLAN	Y8089N (BOOK574 No.589) (AP70396Y)	SECV
E-6	SEWERAGE	SEE PLAN	AC 915370A	BARWON REGION WATER CORPORATION
E-7	DRAINAGE DRAINAGE	3-05 3-05	LP 95879 THIS PLAN	LOTS ON LP 95879 GREATER GEELONG CITY COUNCIL
E-8	RESERVATION IN CROWN GRANT VOL.10650 FOL.126 FOR DRAINAGE PURPOSES DRAINAGE	SEE PLAN SEE PLAN	CROWN GRANT VOL.10650 FOL.126  THIS PLAN	RELEVANT PERSONS/BODIES  GREATER GEELONG CITY COUNCIL
E-13	DRAINAGE	SEE PLAN	THIS PLAN	GREATER GEELONG CITY COUNCIL
E-14	PIPELINE OR ANCILLARY PURPOSES	SEE PLAN	THIS PLAN-SEC 136 OF THE WATER ACT 1989	BARWON REGION WATER CORPORATION
E-15	DRAINAGE PIPELINE OR ANCILLARY PURPOSES	SEE PLAN SEE PLAN	THIS PLAN THIS PLAN-SEC 136 OF THE WATER ACT 1989	GREATER GEELONG CITY COUNCIL BARWON REGION WATER CORPORATION
E-16	PIPELINE OR ANCILLARY PURPOSES	SEE PLAN	THIS PLAN-SEC 136 OF THE WATER ACT 1989	BARWON REGION WATER CORPORATION
	POWERLINE	SEE PLAN	THIS PLAN-SEC88 OF THE ELECTRICITY INDUSTRY ACT 2000	POWERCOR AUSTRALIA LTD
E-18	POWERLINE	SEE PLAN	THIS PLAN-SEC88 OF THE ELECTRICITY INDUSTRY ACT 2000	POWERCOR AUSTRALIA LTD
E-19	DRAINAGE PIPELINE OR ANCILLARY PURPOSES	SEE PLAN SEE PLAN	THIS PLAN THIS PLAN-SEC 136 OF THE WATER ACT 1989	GREATER GEELONG CITY COUNCIL BARWON REGION WATER CORPORATION
	POWERLINE	SEE PLAN	THIS PLAN-SEC 88 OF THE ELECTRICITY INDUSTRY ACT 2000	POWERCOR AUSTRALIA LTD
E-21	SEWERAGE	SEE PLAN	PS 414335K	BARWON REGION WATER CORPORATION
E-25	ELECTRICITY	SEE PLAN	Y8089N (BOOK574 No.589) (AP70396Y)	SECV
	PIPELINE OR ANCILLARY PURPOSES	SEE PLAN	THIS PLAN-SEC 136 OF THE WATER ACT 1989	BARWON REGION WATER CORPORATION
E-27	POWERLINE	SEE PLAN	THIS PLAN-SEC88 OF THE ELECTRICITY INDUSTRY ACT 2000	POWERCOR AUSTRALIA LTD
	DRAINAGE	SEE PLAN	THIS PLAN	GREATER GEELONG CITY COUNCIL
E-28	TRANSMISSION OF ELECTRICITY DRAINAGE	SEE PLAN SEE PLAN	C/E 1888445 THIS PLAN	SECV GREATER GEELONG CITY COUNCIL
E-29	TRANSMISSION OF ELECTRICITY DRAINAGE	SEE PLAN SEE PLAN	C/E 2159489 THIS PLAN	SECV GREATER GEELONG CITY COUNCIL
E-30	ELECTRICITY	SEE PLAN	Y8089N (BOOK574 No.589) (AP70396Y)	SECV



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0549s-COMPILED.37.dwg PH

<b>SCALE</b>  LENGTHS ARE IN METRES	ORIGINAL SCALE SHEET SIZE A3	LICENSED SURVEYOR (PRINT)..... SIGNATURE ..... DATE ..... REF <b>0549s</b> COMPILED ..... VERSION .....	SHEET 37 DATE ..... COUNCIL DELEGATE SIGNATURE .....
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PLAN OF SUBDIVISION	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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EASEMENT REFERENCE	PURPOSE	WIDTH (Metres)	ORIGIN	LAND BENEFITED/IN FAVOUR OF
E-33	SEWERAGE DRAINAGE	SEE PLAN SEE PLAN	PS 414335K THIS PLAN	BARWON REGION WATER CORPORATION GREATER GEELONG CITY COUNCIL
E-34	SEWERAGE POWERLINE	SEE PLAN SEE PLAN	PS 414335K THIS PLAN-SEC88 OF THE ELECTRICITY INDUSTRY ACT 2000	BARWON REGION WATER CORPORATION POWERCOR AUSTRALIA LTD
E-35	POWERLINE  CARRIAGEWAY	SEE PLAN SEE PLAN	THIS PLAN-SEC88 OF THE ELECTRICITY INDUSTRY ACT 2000 THIS PLAN	POWERCOR AUSTRALIA LTD POWERCOR AUSTRALIA LTD
E-36	DRAINAGE RIGHT OF ACCESS - ACCESS BY FOOT AND GOLF CART FOR GOLF PARTICIPATION AND BY SERVICE VEHICLE FOR GOLF COURSE MAINTENANCE	SEE PLAN SEE PLAN	THIS PLAN THIS PLAN	GREATER GEELONG CITY COUNCIL LOT S22 ON THIS PLAN
E-37	DRAINAGE PIPELINE OR ANCILLARY PURPOSES RIGHT OF ACCESS - ACCESS BY FOOT AND GOLF CART FOR GOLF PARTICIPATION AND BY SERVICE VEHICLE FOR GOLF COURSE MAINTENANCE	SEE PLAN SEE PLAN SEE PLAN	THIS PLAN THIS PLAN-SEC 136 OF THE WATER ACT 1989 THIS PLAN	GREATER GEELONG CITY COUNCIL BARWON REGION WATER CORPORATION LOT S22 ON THIS PLAN
E-38	SEWERAGE DRAINAGE RIGHT OF ACCESS - ACCESS BY FOOT AND GOLF CART FOR GOLF PARTICIPATION AND BY SERVICE VEHICLE FOR GOLF COURSE MAINTENANCE	SEE PLAN SEE PLAN SEE PLAN	PS 414335K THIS PLAN THIS PLAN	BARWON REGION WATER CORPORATION GREATER GEELONG CITY COUNCIL LOT S22 ON THIS PLAN
E-39	FLOODWAY	SEE PLAN	THIS PLAN	GREATER GEELONG CITY COUNCIL
E-40	FLOODWAY PIPELINE OR ANCILLARY PURPOSES	SEE PLAN SEE PLAN	THIS PLAN THIS PLAN-SEC 136 OF THE WATER ACT 1989	GREATER GEELONG CITY COUNCIL BARWON REGION WATER CORPORATION
E-41	FLOODWAY POWERLINE	SEE PLAN SEE PLAN	THIS PLAN THIS PLAN-SEC 88 OF THE ELECTRICITY INDUSTRY ACT 2000	GREATER GEELONG CITY COUNCIL POWERCOR AUSTRALIA LTD
E-42	FLOODWAY PIPELINE OR ANCILLARY PURPOSES POWERLINE	SEE PLAN SEE PLAN	THIS PLAN THIS PLAN-SEC 136 OF THE WATER ACT 1989 THIS PLAN-SEC 88 OF THE ELECTRICITY INDUSTRY ACT 2000	GREATER GEELONG CITY COUNCIL BARWON REGION WATER CORPORATION POWERCOR AUSTRALIA LTD
E-43	FLOODWAY SEWERAGE	SEE PLAN SEE PLAN	THIS PLAN PS 414335K	GREATER GEELONG CITY COUNCIL BARWON REGION WATER CORPORATION
E-44	CARRIAGEWAY	SEE PLAN	THIS PLAN	LOTS S31 & S22 ON THIS PLAN
E-45	CARRIAGEWAY PIPELINE OR ANCILLARY PURPOSES	SEE PLAN	THIS PLAN THIS PLAN-SEC 136 OF THE WATER ACT 1989	LOTS S31 & S22 ON THIS PLAN BARWON REGION WATER CORPORATION
E-46	CARRIAGEWAY	SEE PLAN	THIS PLAN	LOTS A & S22 ON THIS PLAN



0549s-COMPILED.38.dwg PH

<b>SCALE</b>  LENGTHS ARE IN METRES	ORIGINAL SCALE SHEET SIZE A3	LICENSED SURVEYOR (PRINT)..... SIGNATURE ..... DATE ..... REF <b>0549s</b> COMPILED ..... VERSION .....	SHEET 38 DATE ..... COUNCIL DELEGATE SIGNATURE .....
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<b>PLAN OF SUBDIVISION</b>	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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**Creation of Restriction A**

Upon registration of this plan the following restriction is created:

**Land to Benefit:**

Every lot on plan of subdivision PS 647500V

**Land to be Burdened:**

Lots 1 to 318 (both inclusive) on plan of subdivision PS647500V

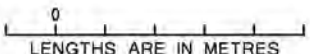
**Description of Restriction:**

1. The owner of a lot must not:
  - 1.1 further subdivide any lot other than a superlot on the Plan;
  - 1.2 construct more than one dwelling on any lot;
  - 1.3 do anything in breach of the owners corporation rules;
  - 1.4 build or allow to be built any building or structure or fence or remove or alter any non-standard boundary fencing (except due to disrepair, to repair or replace with fencing of essentially the same type) that is not in accordance with the Geelong Golf Club Residential Estate Design Guidelines (**Design Guidelines**), a copy of which can be downloaded from <http://www.geelonggolfclub.com.au/designguidelines.html>. For the purposes of this restriction 'non-standard boundary fencing' has the same meaning as set out in the Design Guidelines;
2. In this restriction:
  - 2.1 **lot** means a lot on the Plan to which the restriction applies;
  - 2.2 **owners corporation rules** means the rules of the owners corporation(s) registered in respect of the Plan from time to time;
  - 2.3 **Plan** means plan of subdivision PS647500V
  - 2.4 **superlot** means any S lot created upon registration of this plan or created out of further subdivision of an S lot;
  - 2.5 where a lot owner covenants not to do something in relation to a lot, this shall be read as also imposing an obligation not to allow or permit any other person to do that thing to all or part of that lot;
  - 2.6 an obligation not to do something in relation to a lot shall include an obligation not to do that thing in relation to all or part of the lot.



Melbourne Survey T 9869 0813 F 9869 0901

0549s-COMPILED.39.dwg PH

SCALE	ORIGINAL	LICENSED SURVEYOR (PRINT)..... SIGNATURE ..... DATE REF <b>0549s</b> <b>COMPILED</b> VERSION	SHEET 39
 LENGTHS ARE IN METRES	SCALE SHEET SIZE A3		DATE COUNCIL DELEGATE SIGNATURE

<b>PLAN OF SUBDIVISION</b>	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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**Creation of Restriction B**

Upon registration of this plan the following restriction is created:

**Land to Benefit:**

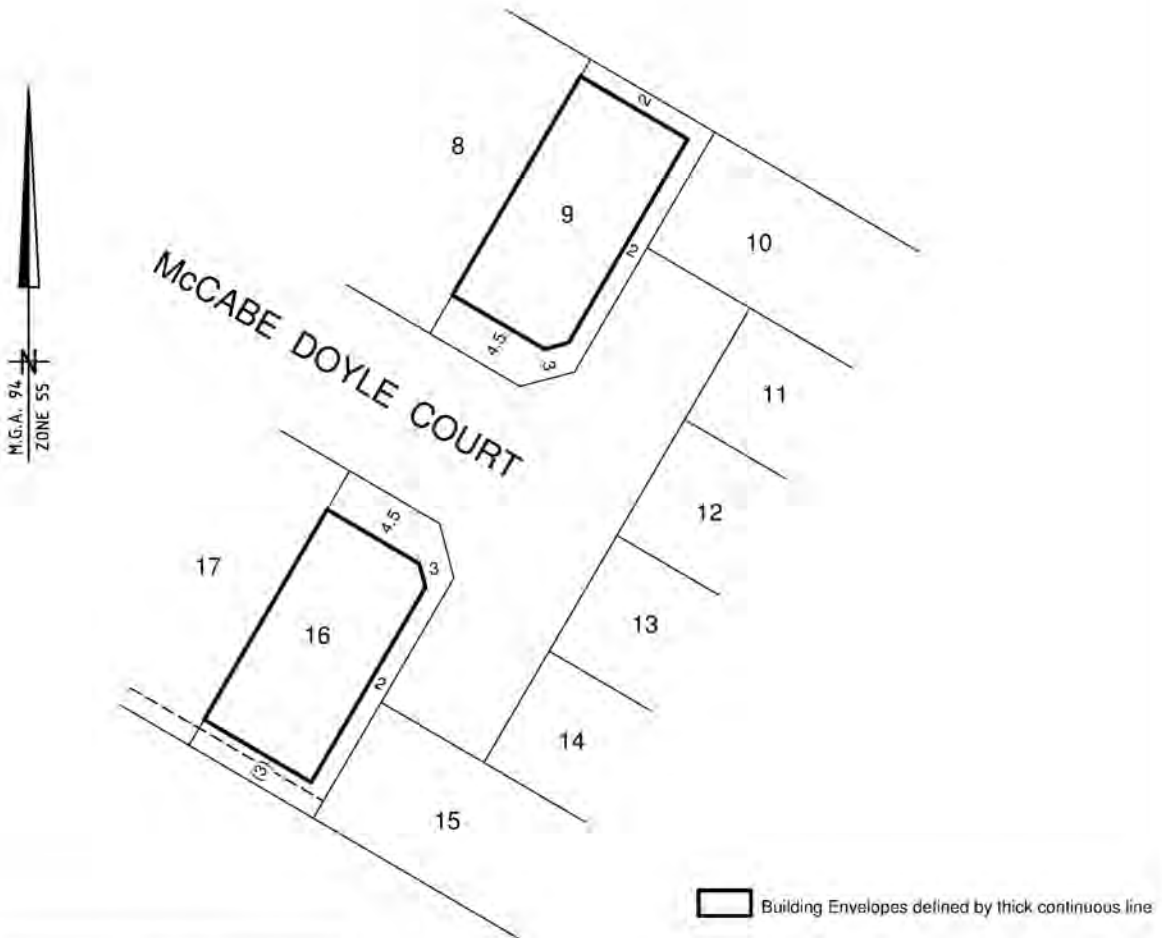
Every lot on plan of subdivision PS 647500V

**Land to be Burdened:**

Lots 9 & 16 on plan of subdivision PS647500V

**Description of Restriction:**

The registered proprietor or proprietors for the time being of any land burdened lot must not build or permit to be built any building outside the Building Envelope as shown on the diagram hereon defined.



0549sCOMPILED.40.dwg PH

<b>SCALE</b>  LENGTHS ARE IN METRES	<b>ORIGINAL</b> SCALE 1:500 SHEET SIZE A3	LICENSED SURVEYOR (PRINT)..... SIGNATURE ..... DATE ..... REF <b>0549sCOMPILED</b> VERSION .....	<b>SHEET 40</b> DATE ..... COUNCIL DELEGATE SIGNATURE .....
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<b>PLAN OF SUBDIVISION</b>	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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**Creation of Restriction B**

Upon registration of this plan the following restriction is created:

**Land to Benefit:**

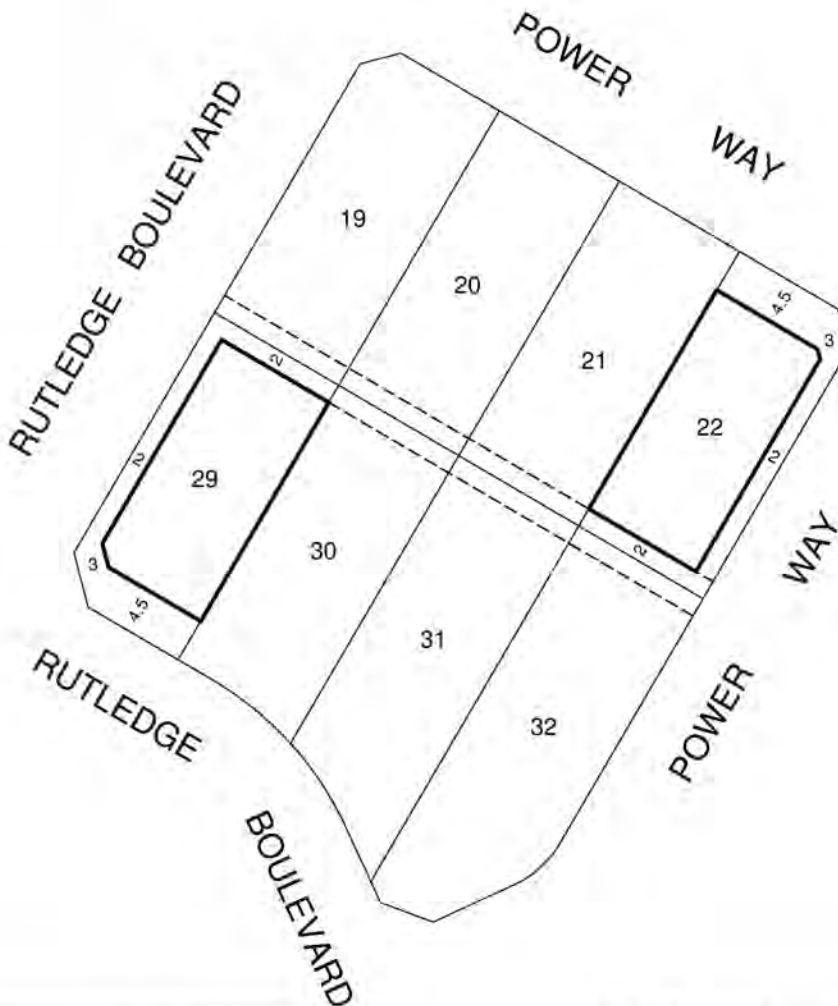
Every lot on plan of subdivision PS 647500V

**Land to be Burdened:**

Lots 22 & 29 on plan of subdivision PS647500V

**Description of Restriction:**

The registered proprietor or proprietors for the time being of any land burdened lot must not build or permit to be built any building outside the Building Envelope as shown on the diagram hereon defined.



Building Envelopes defined by thick continuous line



Melbourne Survey T 9869 0813 F 9869 0901

0549sCOMPILED.41.dwg PH

<p><b>SCALE</b></p> <p>LENGTHS ARE IN METRES</p>	<p><b>ORIGINAL</b></p> <p>SCALE 1:500</p> <p>SHEET SIZE A3</p>	<p>LICENSED SURVEYOR (PRINT).....</p> <p>SIGNATURE ..... DATE</p> <p>REF <b>0549sCOMPILED</b> VERSION</p>	<p><b>SHEET 41</b></p> <p>DATE .....</p> <p>COUNCIL DELEGATE SIGNATURE .....</p>
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<b>PLAN OF SUBDIVISION</b>	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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**Creation of Restriction B**

Upon registration of this plan the following restriction is created:

**Land to Benefit:**

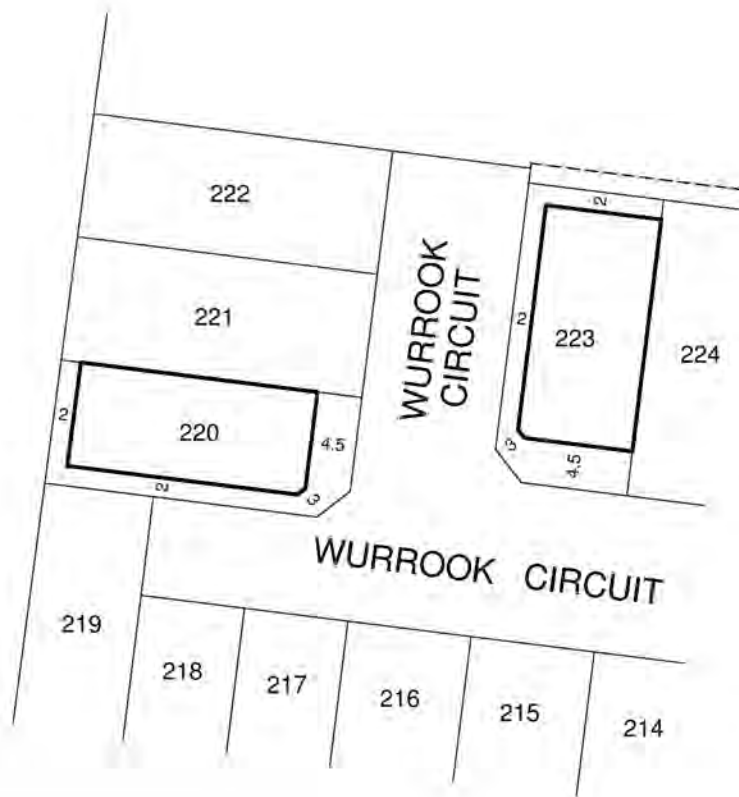
Every lot on plan of subdivision PS 647500V

**Land to be Burdened:**

Lots 205, 220, 223, 232 and 237 on plan of subdivision PS647500V

**Description of Restriction:**

The registered proprietor or proprietors for the time being of any land burdened lot must not build or permit to be built any building outside the Building Envelope as shown on the diagram hereon defined.



Building Envelopes defined by thick continuous line

0549sCOMPILED.42.dwg PH

<p><b>SCALE</b></p> <p>LENGTHS ARE IN METRES</p>	<p><b>ORIGINAL</b></p> <p>SCALE 1:500</p> <p>SHEET SIZE A3</p>	<p>LICENSED SURVEYOR (PRINT).....</p> <p>SIGNATURE ..... DATE</p> <p>REF <b>0549sCOMPILED</b> VERSION</p>	<p><b>SHEET 42</b></p> <p>DATE</p> <p>COUNCIL DELEGATE SIGNATURE</p>
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<b>PLAN OF SUBDIVISION</b>	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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**Creation of Restriction B**

Upon registration of this plan the following restriction is created:

**Land to Benefit:**

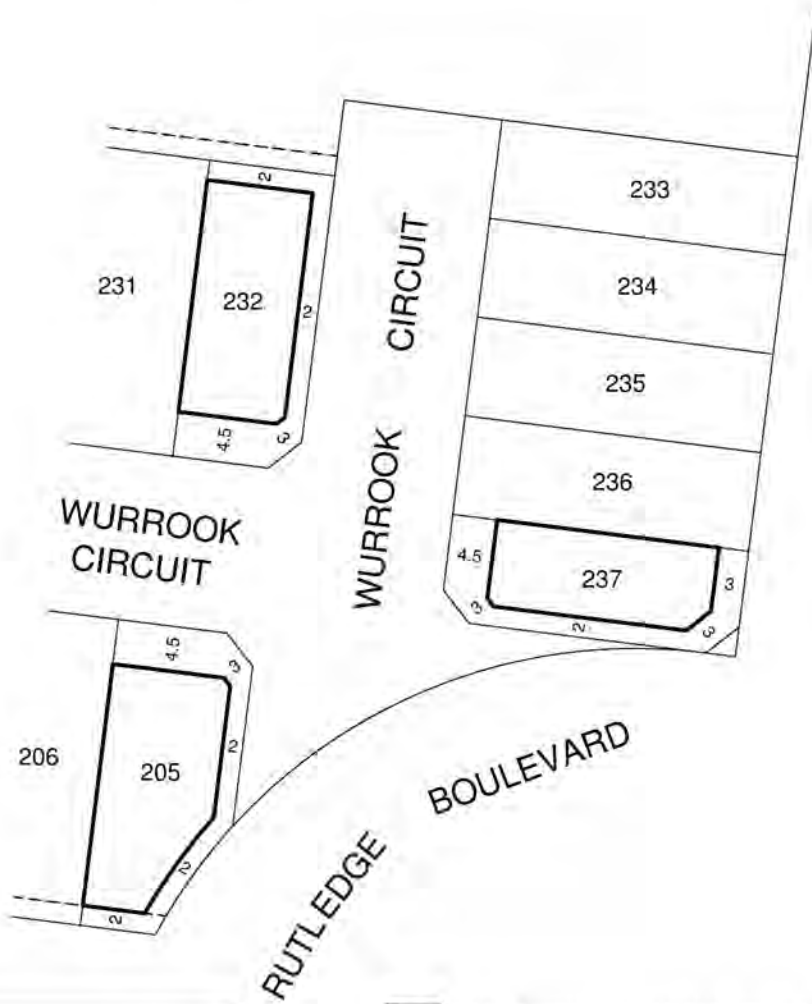
Every lot on plan of subdivision PS 647500V

**Land to be Burdened:**

Lots 205, 220, 223, 232 and 237 on plan of subdivision PS647500V

**Description of Restriction:**

The registered proprietor or proprietors for the time being of any land burdened lot must not build or permit to be built any building outside the Building Envelope as shown on the diagram hereon defined.



Building Envelopes defined by thick continuous line

0549s-COMPILED 43.dwg PH/AA

<p><b>SCALE</b></p> <p>LENGTHS ARE IN METRES</p>	<p><b>ORIGINAL</b></p> <p>SCALE SHEET SIZE 1:500 A3</p>	<p>LICENSED SURVEYOR (PRINT).....</p> <p>SIGNATURE ..... DATE</p> <p>REF <b>0549sCOMPILED</b> VERSION</p>	<p><b>SHEET 43</b></p> <p>DATE .....</p> <p>COUNCIL DELEGATE SIGNATURE .....</p>
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<b>PLAN OF SUBDIVISION</b>	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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**Creation of Restriction B**

Upon registration of this plan the following restriction is created:

**Land to Benefit:**

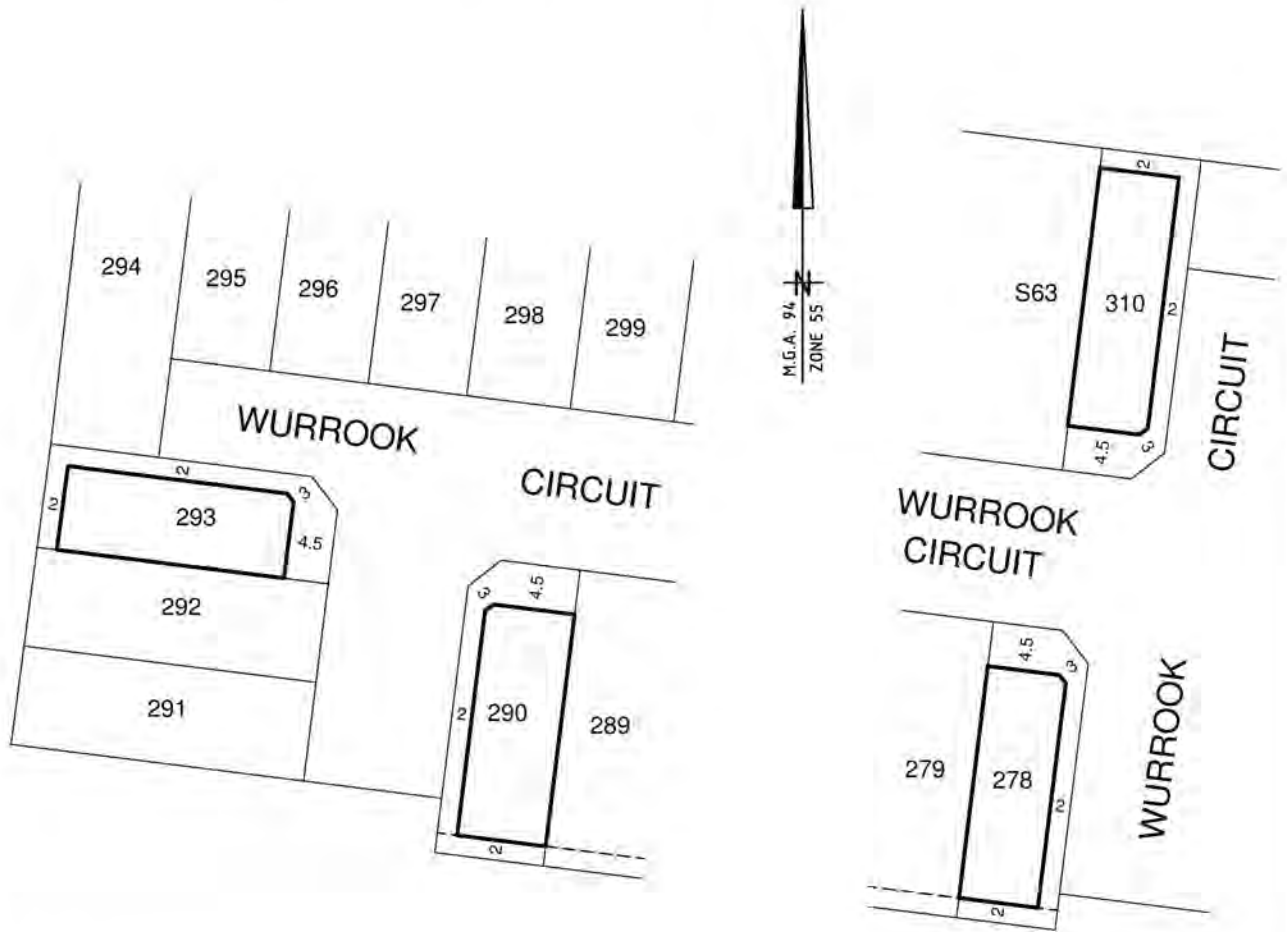
Every lot on plan of subdivision PS 647500V

**Land to be Burdened:**

Lots 278, 290, 293, and 310 on plan of subdivision PS647500V

**Description of Restriction:**

The registered proprietor or proprietors for the time being of any land burdened lot must not build or permit to be built any building outside the Building Envelope as shown on the diagram hereon defined.



**smec urban**  
consulting group  
Geelong Survey T 5228 3100 F 5228 3199

Building Envelopes defined by thick continuous line

0549s-COMPLIED.44.dwg PH

SCALE 5 0 5 10 15 20 25 LENGTHS ARE IN METRES	ORIGINAL SCALE SHEET 1:500 SIZE A3	LICENSED SURVEYOR (PRINT)..... SIGNATURE ..... DATE REF <b>0549s</b> COMPILED VERSION	SHEET 44 DATE COUNCIL DELEGATE SIGNATURE
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PLAN OF SUBDIVISION	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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LOT / SHEET INDEX

LOT No.	SHEET No.	LOT No.	SHEET No.	LOT No.	SHEET No.	LOT No.	SHEET No.	LOT No.	SHEET No.
1	12	51	28	101	14	151	15	201	6
2	12	52	28	102	14	152	15	202	6
3	12	53	28	103	14	153	15	203	6
4	12	54	28	104	15	154	15	204	6
5	12	55	28	105	15	155	15	205	10
6	14	56	28	106	15	156	15	206	10
7	13	57	28	107	16	157	15	207	10
8	13	58	28	108	16	158	7	208	11
9	13	59	28	109	16	159	7	209	11
10	13	60	28	110	16	160	7	210	11
11	13	61	28	111	16	161	7	211	11
12	13	62	27	112	16	162	7	212	11
13	13	63	27	113	16	163	7	213	11
14	13	64	27	114	17	164	8	214	11
15	13	65	27	115	17	165	8	215	11
16	13	66	26	116	17	166	8	216	11
17	13	67	26	117	17	167	8	217	11
18	13	68	26	118	17	168	8	218	11
19	23	69	26	119	17	169	8	219	11
20	24	70	26	120	17	170	8	220	11
21	24	71	26	121	17	171	9	221	11
22	24	72	26	122	17	172	9	222	11
23	24	73	25	123	17	173	9	223	11
24	24	74	25	124	17	174	9	224	11
25	24	75	25	125	16	175	9	225	11
26	24	76	25	126	16	176	9	226	11
27	24	77	25	127	16	177	9	227	11
28	25	78	23	128	16	178	9	228	11
29	23	79	23	129	16	179	9	229	10
30	24	80	23	130	15	179	9	230	10
31	24	81	23	131	15	180	9	231	10
32	24	82	23	132	15	181	9	232	10
33	25	83	23	133	18	182	9	233	10
34	25	84	23	134	18	183	9	234	10
35	26	85	13	135	18	184	9	235	10
36	26	86	13	136	18	185	8	236	10
37	26	87	13	137	18	186	8	237	10
38	26	88	13	138	18	187	8	238	29
39	26	89	13	139	18	188	8	239	29
40	26	90	13	140	18	189	8	240	29
41	26	91	13	141	18	190	8	241	29
42	26	92	13	142	18	191	8	242	29
43	27	93	14	143	18	192	7	243	29
44	27	94	14	144	18	193	7	244	29
45	27	95	14	145	18	194	7	245	29
46	27	96	14	146	18	195	7	246	30
47	27	97	14	147	18	196	7	247	30
48	27	98	14	148	18	197	7	248	30
49	27	99	14	149	18	198	7	249	30
50	28	100	14	150	15	199	7	250	30



Geelong Survey T 5228 3100 F 5228 3199

0549s-COMPILED.45.dwg PH

<p><b>SCALE</b></p> <p>LENGTHS ARE IN METRES</p>	<p><b>ORIGINAL</b></p> <p>SCALE SHEET SIZE</p> <p>A3</p>	<p>LICENSED SURVEYOR (PRINT).....</p> <p>SIGNATURE ..... DATE</p> <p>REF <b>0549s</b> <b>COMPILED</b> VERSION</p>	<p><b>SHEET 45</b></p> <p>DATE</p> <p>COUNCIL DELEGATE SIGNATURE</p>
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<b>PLAN OF SUBDIVISION</b>	STAGE No.	PLAN NUMBER <b>PS 647500V</b>
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LOT / SHEET INDEX

LOT No.	SHEET No.	LOT No.	SHEET No.	LOT No.	SHEET No.	LOT No.	SHEET No.	LOT No.	SHEET No.
251	30	301	32						
252	30	302	33						
253	30	303	33						
254	30	304	33						
255	30	305	33						
256	30	306	33						
257	30	307	33						
258	30	308	33						
259	30	309	33						
260	30	310	31						
261	30	311	31						
262	29	312	31						
263	29	313	31						
264	29	314	31						
265	29	315	31						
266	29	316	31						
267	29	317	31						
268	29	318	31						
269	29	A	5						
270	29	S31	5						
271	29	S44	19						
272	29	S51	19						
273	29								
274	29								
275	29								
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299	32								
300	32								



0549s-COMPILED.46.dwg PH

<p><b>SCALE</b></p> <p>LENGTHS ARE IN METRES</p>	<p><b>ORIGINAL</b></p> <p>SCALE SHEET SIZE</p> <p>A3</p>	<p>LICENSED SURVEYOR (PRINT) .....</p> <p>SIGNATURE .....</p> <p>DATE .....</p> <p>REF <b>0549s</b> COMPILED .....</p> <p>VERSION .....</p>	<p><b>SHEET 46</b></p> <p>DATE .....</p> <p>COUNCIL DELEGATE SIGNATURE .....</p>
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## **Appendix B**

Marble Swirl Holdings Pty Ltd v Kingston CC (Red Dot) [2008] VCAT 973

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

**ADMINISTRATIVE DIVISION**

**PLANNING AND ENVIRONMENT LIST**

VCAT REFERENCE NO. P33/2008

<b>APPLICANT</b>	Marble Swirl Holdings Pty Ltd
<b>RESPONSIBLE AUTHORITY</b>	Kingston City Council
<b>RESPONDENTS</b>	Friends of Mentone Station & Gardens Inc. and Mordialloc & District Historical Society Inc. & Ors
<b>SUBJECT LAND</b>	76-78 Balcombe Road, Mentone
<b>WHERE HELD</b>	Melbourne
<b>BEFORE</b>	Tonia Komesaroff, Member
<b>HEARING TYPE</b>	Preliminary Question of mixed fact and law
<b>DATE OF HEARING</b>	19 May 2008
<b>DATE OF ORDER</b>	26 May 2008
<b>CITATION</b>	Marble Swirl Holdings Pty Ltd v Kingston CC (Red Dot) [2008] VCAT 973

**ORDER**

- 1 If it is proposed to use land in a Residential 1 zone for the purpose of providing access and a manoeuvring bay to car parking associated with “shop” and “office” uses, which uses are prohibited in a Residential 1 zone, the proposed use and development is prohibited to the extent that the retail shop and office uses use land in the Residential 1 zone for the purpose of access and as a manoeuvring bay.
- 2 Costs reserved.

Tonia Komesaroff  
**Member**

**APPEARANCES:**

For Marble Swirl Holdings Pty Ltd

Mr Ian Pitt SC, of Best Hooper Solicitors

For Kingston City Council

Ms Sarah Porritt of counsel, instructed by Maddocks

For Janelle House, Yuonne B Kaye, Ronald McLeod, R C G Tyler & C H Tyler, Mareen Binyon, Nancy Peck, Ray & Judith Thorne, Loretta Knlighon, Peter Lay, D Dennis, Francene & Chris Seebek, Marjorie Kean, Paul & Julie Adams, D Belluz, Margaret Thomas, Sue McCallum, Paul McGarry, Reg Marlow, Pam & Mike Osbondstone, Bernard & Monique Last, Natasha Moroz, Lachlan Marlow, Elizabeth Chandler, Robert & June Hammer, Kostas & Maris Perioris, Catherine McGarry, Michael & Fionnuala Tate, Robert & Susan Petrovic, Eva Lloyd

Mr Peter Barber, town planner of Urban Edge Consultants.

For Friends of Mentone Station & Gardens Inc. and Mordialloc & District Historical Society Inc.

Ms Dorothy Booth

Mr G Roberts, Martha & Nigel Baptist, Ursula Soulsby, Lloyd Eldred and Nik Wallis

In person.

## REASONS

### Background to this preliminary question

- 1 Developers originally applied to use land located only within a Business 2 zone for a mixed use and development of supermarket, five unspecified retail tenancies<sup>1</sup>, gymnasium (catering for 2800 members) and café, possibly a first floor office in an area marked ‘Commercial tenancy area’, 65-room residential hotel and 39 apartments. These uses are served by a car park and loading bay. Access to the car park and loading bay was also contained within the Business 2 zone.
- 2 The developers now suggest ‘amending plans’<sup>2</sup> which moves the access to the car park serving these uses, as well as some car spaces, onto neighbouring land in a residential 1 zone, at 5 Swanston Street Mentone. That access serves as:
  - i a driveway to a basement car park for 263 cars on two levels, and
  - ii a manoeuvring bay for trucks servicing the proposed Aldi supermarket to access its loading bay, which is on the Business 2 zoned land.
- 3 None of the primary or dominant uses<sup>3</sup> on the amending plans are located on that part of the land within the Residential 1 zone. Only the proposed access lies within the Residential 1 zone, as does a manoeuvring bay so trucks arriving to the Aldi supermarket can access its loading bay.
- 4 Another and different application has been submitted to council, seeking apartments on the Residential 1 zoned land, overhanging the access. Those apartments will also be served by the basement car park below. This might raise a question of piecemeal applications, but is not before me.
- 5 Council raises the following legal question:

Given that it is proposed to use land contained in a Residential 1 zone for the purpose of providing access and car parking associated with “retail premises” and “office” uses which are prohibited on the residential land, is the proposed use and development prohibited?
- 6 Parties agreed that to the extent that parking spaces are on R1 land, they could be dedicated for apartment or hotel use<sup>4</sup> and prohibited for shop or office use<sup>5</sup>. This would avoid any argument about specific use of any R1 zoned land for parking for prohibited uses.

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<sup>1</sup> Some of which might be shop uses and some of which might be uses also permissible in a Residential 1 zone, e.g. Food and drink premises, Convenience restaurant and Take away food premises

<sup>2</sup> which they have not yet sought to have substituted

<sup>3</sup> supermarket, five unspecified retail tenancies<sup>3</sup>, upper level office, residential hotel and apartments

<sup>4</sup> Permissible uses in the R1 zone

<sup>5</sup> Prohibited uses in the R1 zone

## The permit applicant's reasoning

- 7 Mr Pitt SC hives off the access-way from the balance of the land and characterises it as a 'mixed use' access-way, as opposed to an access way for multiple individual uses, some of which are permissible in a R1 zone and some of which are prohibited. Mr Pitt SC puts it this way:

In relation to the access area, which will service all uses on the subject land, it will be a separate area of occupation from...areas of occupation to be used for the purpose 'shop' or possibly 'office' .....

The Tribunal should find, as a matter of jurisdictional fact, that that part of the subject land as is within the Residential 1 zone is not being used for the purpose "shop" but if it needs to be categorised separately it is being used for a mixed use purpose within the innominate category.

- 8 Mr Pitt SC elaborates:

Under the proposal the area within the Residential 1 zone is used for no purpose other than access to the full range of uses proposed for the overall site and it accommodates no activity directed to any **one** defined purpose and is not the site of any activities directed towards any **one purpose**.

- 9 Mr Pitt SC distinguishes *Azzure*<sup>6</sup> which dealt with a single use of land whose extension was prohibited in a R1 zone, with this case which deals with multiple uses, some of which are permissible in a R1 zone.
- 10 Mr Pitt SC relies on *Cascone No. 2*<sup>7</sup> to submit that what we have in this case is not a mixture of separate and individual land uses, each of which operates independently of the other, but a new 'innominate' land use. An innominate use of the access-way is not prohibited and therefore can obtain planning permission under Section 2 innominate (discretionary uses) of the R1 zone.
- 11 Mr Pitt SC explained:

Applying the *Cascone* test, the Residential 1 part of the subject land is to be a separate area of occupation used for a multiplicity of uses. ....

The question of fact to be determined ....is whether the access ramp used to access parking for all uses on the subject land and occasionally encroached upon by some vehicles manoeuvring into or out of the loading bay principally serving the "Shop" and "Hotel" components of the use of the subject land, which will ultimately be owned and occupied by the Owners Corporation and before subdivision will be owned and occupied by the applicant, neither of which will conduct any "Shop" activity on the subject land, is the residential 1 part of the subject land, nevertheless to be categorised as being used for the purpose "Shop".

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<sup>6</sup> *Azzure v Port Phillip CC* [2003] VCAT 85

<sup>7</sup> *Cascone v Whittlesea CC* (No. 2) (1993) 12 AATR 41; following *Cascone v Whittlesea CC* (No. 1) (1993) 11 AATR 175 (Ashley J)

- 12 The question for me to determine, therefore, is whether combining the supermarket with other uses that are otherwise discretionary in a R1 zone, changes the character of the mixed use development to an innominate one, or changes the characterisation of the access way to an innominate use of the land.

### **Basis of decision**

- 13 It is my opinion that combining the supermarket with other uses that are otherwise discretionary in a R1 zone, does not change the character of the mixed use development to an innominate one, nor does it change the characterisation of the access-way to a separate and innominate use of the land in the R1 zone. In my opinion, the *Azzure* principle<sup>8</sup> is apposite to this case, and the fact that permissible uses are added to the mix of proposed uses in the B2 zone makes no difference in this instance.
- 14 I distinguish *Cascone (No.2)* on two bases. Firstly, I think Mr Pitt SC has erred in hiving off and characterising the access way separately to characterisation of the rest of the subject land. It is trite planning law that the planning unit is critical, and following the principle in *Pioneer Concrete*<sup>9</sup>, I cannot consider the access way as use of the land for a separate purpose.
- 15 The purpose of the access-way is an integral part of the dominant use or uses to which the subject land is put, because it is the dominant use or uses which need that access-way to satisfy their parking requirement under the scheme. The access-way does not have a separate character or purpose. It has a subservient purpose.
- 16 To the degree that the access-way serves the supermarket, that is its essential character. To the degree that the access-way serves the apartments, that is its character. It takes its character or colour from its masters, from the real and substantial purpose to which the land is put.
- 17 Secondly, I distinguish *Cascone (No.2)* because this access-way cannot be characterised as an innominate use if its master cannot be characterised as an innominate use. Unlike *Cascone (No.2)* where the Tribunal could have found that the retail hire and sale component of the video wholesaler was ancillary to the real purpose of the video business, it in fact found that the land use had morphed into a new and innominate use in the reserved light industrial zone.
- 18 The evidence before me in this case is that each of the purposes to which the land is to be put operate independently and have not morphed into an innominate use where each activity is dependent on the operation of each

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<sup>8</sup> It is long established and well known in planning circles, that it is inappropriate to attempt to segregate out ancillary aspects of the shop development and then attempt to treat them as separate uses for town planning purposes.

<sup>9</sup> *Pioneer Concrete (Qld) Pty Ltd v Brisbane City Council and others* [1980] HCA 1; (1980) 145 CLR 485 at 508; (1980) 44 LGRA 346.

other activity. Nor does the overall activity operate as one new integrated whole, or as an entirely new marketing concept.

- 19 True, the land is to be used and developed for a mixed use of supermarket, five unspecified retail tenancies<sup>10</sup>, possibly a first floor office in an area marked ‘commercial tenancy area’, 65-room residential hotel and 39 apartments. But although each use will benefit by this co-location, each use operates independently and will be independently operated and managed. Nor do I think that the future ownership of the access-way by an owner’s corporation, separate to ownership of the supermarket, hotel or office, will make any difference to the facts. Planning relies upon purpose behind the use of land, not its ownership.
- 20 This is entirely the opposite of the facts in *Cascone (No.2)*, which was decided on the basis that the retail hire and sale of videos was an integral and ancillary part and parcel of the marketing exercise behind the wholesale video business. Statistics were provided of the percentage sales by wholesale as opposed to retail, and an explanation provided as to the way in which the retail component supported the operation of the wholesale activity:

One essential part of the wholesale video outlet’s operation is the provision of up-to-date advice on the state of the market to the retail clients. These clients obviously wish to choose videos that will be popular with the public. With the ancillary public video hire from the premises the operator is able to advise his retail clients as to which videos are the most popular and hence most likely to be hired at the retailers premises.<sup>11</sup>

As mentioned previously, the wholesale video outlet hires videos directly to the public, this part of the operation is similar to those found in any other video store. Persons can only hire videos upon obtaining a ‘membership’ to the library. Members can hire a wide range of videos and video games for various periods of time. These operations which are much ancillary to the wholesale marketing and distribution operations mentioned before, provide accurate and up-to-date figures on the demand for various videos by the general public. This in turn, assists the operator of the wholesale video outlet in advising his retail clients as to which videos are particularly popular with the public. The full range of merchandising associated with the hire of videos is also contained within the outlet and are run as part of the day-to-day operations of the outlet. All of the equipment and promotional products associated with this additional merchandising are sold by wholesale to a wide range of the retail clients.<sup>12</sup>

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<sup>10</sup> Some of which might be shop uses and some of which might be permissible in a Residential 1 zone, e.g. Food and drink premises, Convenience restaurant and Take away food premises.

<sup>11</sup> *Cascone v Whittlesea CC (No. 1) (1993) 11 AATR 175 @ 177 (Ashley J)*

<sup>12</sup> *ibid*

“In the months between August 1989 and May 1990 the sale of videos and associated equipment to retail clients comprised approximately 73% of total turnover of sales. In the more recent period of August, September, October 1993, average daily sales indicated approximately 92% of total turnover was derived by the warehouse and distribution activities and only 8% of the business was derived by the video store operations.....In July 1990 the premises employed a total of four full time employees and one part-time employee. The business now employs six employees for the warehouse/distribution activities and five employees (who work staggered hours) who are responsible for the conduct of the store and to assist in warehouse operations, particularly during the day time”.<sup>13</sup>

21 The Tribunal in *Cascone (No.2)* could have found that the retail hire and sale component of the video wholesaler was ancillary to the real purpose of the video business, but in fact preferred to regard the use as an innominate evolving concept.

22 Were I able to find on the facts that the real purpose behind the use of subject land was a new innominate use as a result of the combination of uses expressed above, the access-way may indeed take its character from that innominate use. But the facts do not support this proposition.

23 In my opinion, the following *habenda* in *Cascone No.1* are applicable:

The ascertainment of purpose of a proposed use may yield the result that more than one separate and distinct purpose is revealed. In that event the question initially arises whether one is dominant. The further question that may arise is whether the lesser purpose or purposes are ancillary to the dominant purpose. ...If the answer to the first question is “No”, each revealed purpose must be available as of right or permitted, else there will be a breach of the scheme. The mere fact that one purpose is authorised will not prevent other revealed purposes from being prohibited. ....

... the adjectival phrase “real and substantial” qualifying “use”..... should not be used to cloud the potential for more than one purpose being revealed. It should not be thought to provide a basis for treating a combination of activities, processes or transactions as necessarily attracting the appellation of “innominate use”.<sup>14</sup>

24 Adding a mix of permissible uses into a supermarket or office use into does not make it lawful in a residential 1 zone or constitute a morphing of that shop or office into an innominate ‘mixed use’.

25 I distinguish *Shoreham*<sup>15</sup> because the access-way and manoeuvring bay is an essential component of the supermarket, whereas in *Shoreham* an awning was held not be an integral component of a shop use. It may also be

<sup>13</sup> *Cascone v Whittlesea CC (No. 2)* (1993) 12 AATR 41 @ 46 (Ashley J)

<sup>14</sup> *Cascone v Whittlesea CC (No. 1)* (1993) 11 AATR 175 @ 190 (Ashley J)

<sup>15</sup> *Shoreham Apartments PL v Mornington Peninsula SC* [2008] VCAT 435 (13 March 2008)

arguable that use of land for weather protection is an innominate and not prohibited use of the land in the R1 zone.

.... verandahs and awnings are not an essential component of a shop. They are a generic type of building element that occurs as an appurtenance to buildings used for many types of purpose. They are not specific to shops and shops are not dependent on having verandahs. We see that as being no more a functional part of a shop's structure than is the footpath adjoining. Furthermore, it would be fairly simple, in this case, to modify the structure of the verandahs and awnings so that they were entirely independent of the building behind.

26 I issue my order in the above terms.

Tonia Komesaroff  
**Member**

tk hg

## Appendix C

### VicRoad's Correspondence

**From:** [Brendan.Grace@roads.vic.gov.au](mailto:Brendan.Grace@roads.vic.gov.au) [<mailto:Brendan.Grace@roads.vic.gov.au>]

**Sent:** Thursday, 17 September 2015 4:29 PM

**To:** John Grigg <[jgrigg@sanctuaryliving.biz](mailto:jgrigg@sanctuaryliving.biz)>

**Cc:** ro'loghlen@geelongcity.vic.gov.au

**Subject:** 1 Ballarat Rd, North Geelong (Geelong Golf Club) - access location

John,

Thank you for your email regarding access for 1 Ballarat Road, North Geelong. Access requirements at this location are detailed in Planning Permit No. 362/2011/D (Conditions 15(a) & 72).

The access location under the permit is the same as the existing access which was used for the former bowling club. The planning permit requires works on Ballarat Road to upgrade the right turn lane & restrict right turn out movements of the site.

VicRoads would not support any additional access from this site to Ballarat Road and would not support moving the location of the existing access closer towards Church Street. Moving the access closer to Church Street would reduce the amount of vehicle storage in the right turn lane.

Should you wish to discuss, please do not hesitate to contact me.

Kind Regards

**Brendan Grace**  
**Senior Statutory Planning Officer**  
**VicRoads - South Western Region**  
**180 Fyans Street, South Geelong, Vic 3220**  
**PO Box 775, Geelong, Vic 3220**

**T** 5225 2504

**F** 5221 6102

**E** [brendan.grace@roads.vic.gov.au](mailto:brendan.grace@roads.vic.gov.au)

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From: John Grigg <[jgrigg@sanctuaryliving.biz](mailto:jgrigg@sanctuaryliving.biz)>  
To: "[Brendan.Grace@roads.vic.gov.au](mailto:Brendan.Grace@roads.vic.gov.au)" <[Brendan.Grace@roads.vic.gov.au](mailto:Brendan.Grace@roads.vic.gov.au)>,  
Date: 11/09/2015 03:31 PM  
Subject: 1 Ballarat Rd, North Geelong

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**Ext:**           **Business Area:**  
**Fax:**           **Internet:**  
**File Name:**   **File Description:**

**This email is from an external source. If it is a Business Record remember to file it in QuickDocs**

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Hi Brendan,

We represent Geelong Golf Developments Joint Venture (GGDJV) as the Development Managers for the site at 1 Ballarat Rd, North Geelong.

GGDJV are investigating various development opportunities for the site, which you will note is heavily constrained in terms of shape, flooding, environmental, and access from Ballarat Rd. The title is also contained within '2 zones' (Special Use (SUZ3) and General Residential (GRZ1)) in accordance with the planning scheme.

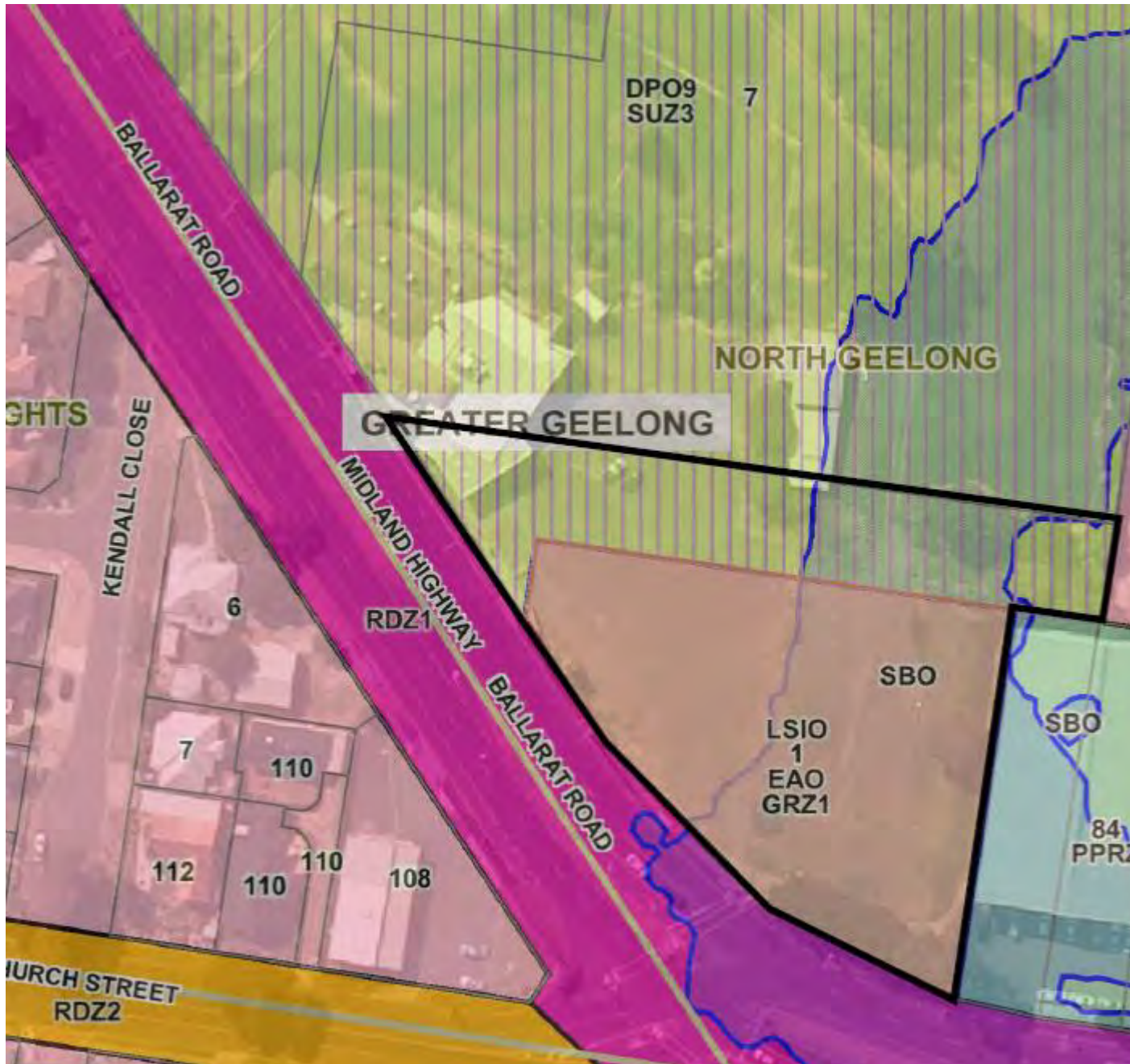


Fig 1 – Site plan, including title boundaries, zones and overlays.

Please see attached “preliminary” schematic layout relating to a retirement living development proposal, specifically, how the design utilises the existing entrance from Ballarat Rd from the SUZ3 portion of the site to provide vehicle access into an undercroft car park beneath the accommodation (located on the GRZ1 portion of the site).

The City of Greater Geelong (CoGG) has reviewed this layout and suggested that the use of the existing access way (in the SUZ3) for the residential component of the development is prohibited.

It is also our understanding, based on previous discussions with Vicroads, that no new access would be permitted along the Ballarat Rd frontage that adjoins the GRZ1 zoned land due to the close proximity of the Church St intersection.

It would be appreciated if you could confirm VicRoads position in relation to new access to the GRZ1 land via return email. In circumstances where no new access is permitted, the site will unintentionally become 'landlocked' and unable to be used for residential purposes.

In these circumstances we intend to work closely with the strategic and statutory planners at CoGG and DELWP to amend the zoning anomaly, and would welcome VicRoads support to rezone the balance of the title to GRZ1 in order to allow the residential development of the site.

Please call should you need to discuss the matter further.

Regards,

**John Grigg** | Development Manager  
Sanctuary Living Pty Ltd  
P 03 9535 0500 | F 03 9535 0505  
Suite 12/622 Ferntree Gully Road, Mulgrave Victoria 3170  
[www.sanctuaryliving.biz](http://www.sanctuaryliving.biz)



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