

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

Page 1 of 1

VOLUME 12531 FOLIO 977

Security no : 124138235866B
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LAND DESCRIPTION

Lot 1 on Plan of Subdivision 917039K.
PARENT TITLE Volume 10917 Folio 451
Created by instrument PS917039K 19/02/2024

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT PS917039K 19/02/2024

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
AX458575T 17/11/2023

DIAGRAM LOCATION

SEE PS917039K 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: 155 BLACKERS ROAD NARRAWONG VIC 3285

ADMINISTRATIVE NOTICES

NIL

DOCUMENT END

Imaged Document Cover Sheet

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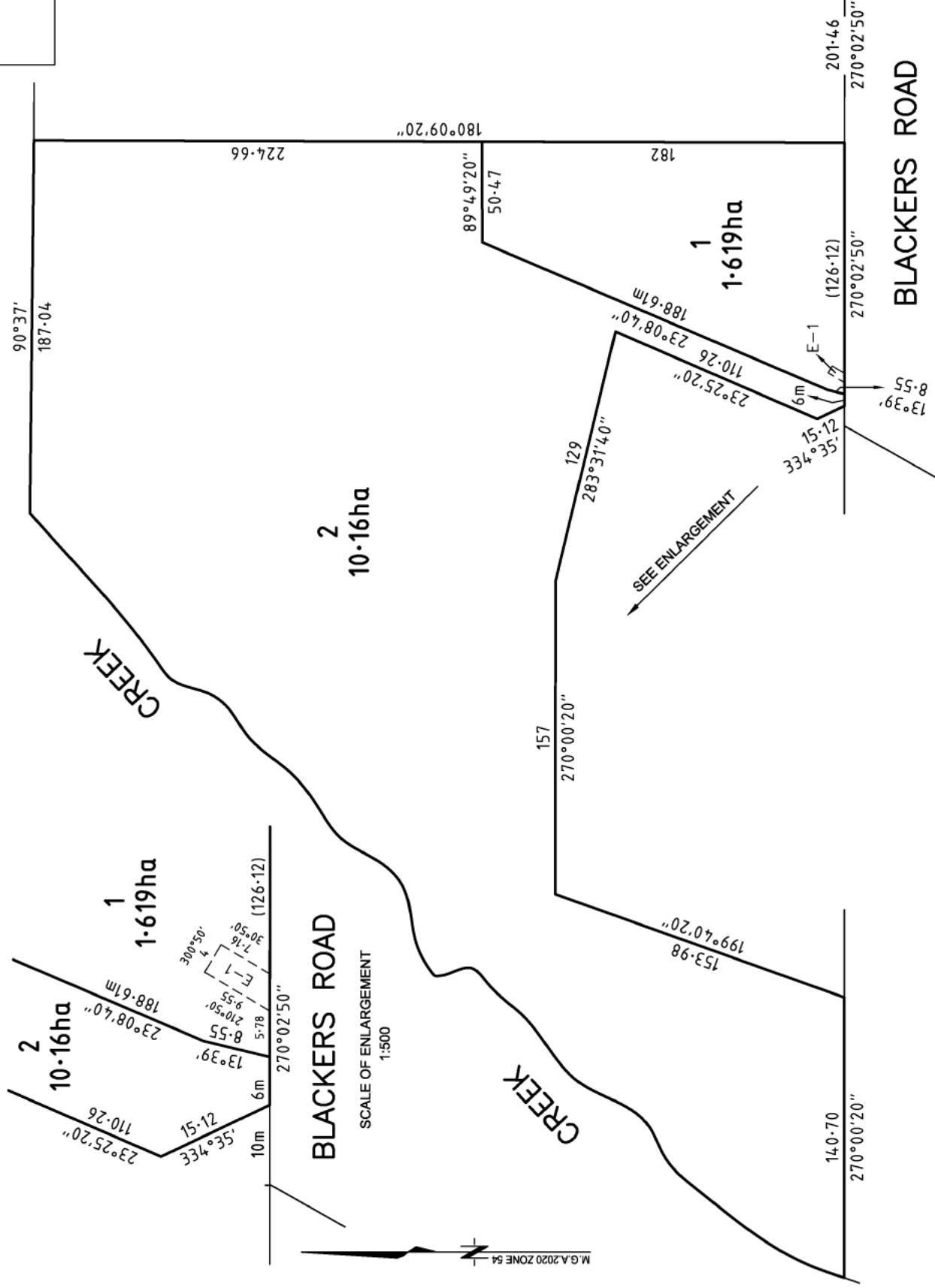
Document Type	Plan
Document Identification	PS917039K
Number of Pages (excluding this cover sheet)	3
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PS917039K



BERRY & WHYTE SURVEYORS PTY. LTD.

**LICENSED LAND SURVEYORS &
DEVELOPMENT CONSULTANTS**

160A PERCY ST. PORTLAND VIC. 3305

PH: (03) 5523 3377 A.C.N. 006 502 870
EMAIL: admin@portlandsurveyors.com.au

EMAIL: admin@portlandsurveyors.com.au

Digitally signed by: [REDACTED] Licensed Surveyor,
Surveyor's Plan Version (1),
28/03/2023, SPEAR Ref: S210526S

Digitally signed by:
Glenelg Shire Council,
20/07/2023,
SPEAR Ref: S210526S

SCALE

SCALE
1:2000

SURVEYORS REF:

ORIGINAL SHEET
SIZE: A3

SHEET 2



Department of Transport and Planning

Electronic Instrument Statement

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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.

Produced 03/09/2026 01:05:18 PM

Status	Registered	Dealing Number	AX458575T
Date and Time Lodged	17/11/2023 09:21:20 AM		

Lodger Details

Lodger Code	18776H
Name	HARWOOD ANDREWS
Address	
Lodger Box	
Phone	
Email	
Reference	22305199-7cmm

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
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Privacy Collection Statement

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Estate and/or Interest

FEE SIMPLE

Land Title Reference

10917/451

Instrument and/or legislation

RECORD - AGREEMENT - SECTION 173
Planning & Environment Act - section 173

Applicant(s)

Name	GLENELG SHIRE COUNCIL
Address	
Property Name	MUNICIPAL
Street Number	71
Street Name	CLIFF
Street Type	STREET
Locality	PORTLAND
State	VIC
Postcode	3305



Department of Transport and Planning

Electronic Instrument Statement

Additional Details

Refer Image Instrument

The applicant requests the recording of this Instrument in the Register.

Execution

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
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 law and any Prescribed Requirement.

Executed on behalf of	GLENELG SHIRE COUNCIL
Signer Name	
Signer Organisation	THE LANTERN LEGAL GROUP PTY LTD
Signer Role	LAW PRACTICE
Execution Date	17 NOVEMBER 2023

File Notes:

NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

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Document Type	Instrument
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GLENELG SHIRE COUNCIL

and



**AGREEMENT MADE PURSUANT TO
SECTION 173 OF THE PLANNING AND
ENVIRONMENT ACT 1987**

Property: 147 Blackers Road Narrawong



THIS AGREEMENT is made on

14th November

2023

PARTIES

- 1 **GLENELG SHIRE COUNCIL**
of Cliff Street, Portland Vic 3305
("Council")
- 2 [REDACTED]
of 147 Blackers Road, Narrawong Vic 3285
("Owner")

RECITALS

- A The Council is the responsible authority under the Act for the Scheme.
- B The Owner is registered or is entitled to be registered as proprietor of the Land.
- C Condition 3 of the Permit provides as follows:

Before the statement of compliance is issued under Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must indicate:

- The land cannot be further subdivided to increase the number of lots or create a smaller lot for an existing dwelling.
- State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Glenelg Planning Scheme.
- Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit (Condition 10).
- State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.
- Include the requirements under Condition 11.

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

- D This Agreement has been entered into in order to:
 - comply with all relevant conditions of the Permit;
 - prohibit, restrict or regulate the use or development of the Land;

- achieve and advance the objectives of planning in Victoria or the objectives of the Scheme in relation to the Land.

E This Agreement is made under Division 2 of Part 9 of the Act.

THE PARTIES AGREE THAT:

1 DEFINITIONS

In this Agreement:

- 1.1 **"Act"** means the *Planning and Environment Act 1987*.
- 1.2 **"Agreement"** means this Agreement including the recitals and any annexures to this Agreement.
- 1.3 **"Business Day"** means Monday to Friday excluding public holidays in Victoria.
- 1.4 **"Endorsed Plan"** means the plan or plans endorsed from time to time with the stamp of Council as the plan which forms part of the Permit.
- 1.5 **"Land"** means the land within the Scheme being the land more particularly described in certificate of title volume 10917 folio 451 .
- 1.6 **"Mortgagee"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as mortgagee of the Land or any part of it.
- 1.7 **"Permit"** means planning permit P22183 issued by the Council on 2 February 2023 authorising the use and development of the Land for the purpose of two lot subdivision.
- 1.8 **"Scheme"** means the Glenelg Planning Scheme or any other planning scheme which applies to the Land from time to time.

2 COMMENCEMENT

This Agreement comes into force on the date it was made as set out above.

3 PURPOSE OF AGREEMENT

3.1 Purpose

This Agreement has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Scheme.

3.2 Incorporated Plan

The plan prepared in accordance with Clause 53.02-4.4 of the Scheme and approved under the Permit is incorporated into this Agreement in the form in Annexure A of this Agreement ("**Incorporated Plan**").

Bushfire Management Plan prepared by Berry and Whyte Surveyors (147 Blackers Road, Narrawong, Ref. 4208, Version 2, Dated 21/11/2022).

4 TERMINATION OF AGREEMENT

4.1 Termination

This Agreement may be ended by mutual agreement between the parties.

4.2 Cancellation of Agreement

As soon as reasonably practicable after this Agreement has ended as to the whole of the Land or as to part of the Land, the Council must, at the request and at the cost of the Owner, apply to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the Register as to the whole of the Land or as to part of the Land as the case may be.

5 OWNER'S COVENANTS

5.1 Further Subdivision

The land cannot be further subdivided to increase the number of lots or create a smaller lot for an existing dwelling.

5.2 Bushfire Management

The Owner covenants that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

5.3 Building Envelopes

The construction of buildings (excluding non-habitable outbuildings associated with a dwelling) must not occur outside of the building envelopes shown on the plan.

5.4 Defendable Space (Lot 1)

Defendable space within and from the edge of the building envelope to all the property boundaries must be provided for Lot 1 where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:

- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 5 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

5.5 Exclusion of Lot 2

Lot 2 is specifically excluded from the following exemption under Clause 44.06-2 of the Scheme:

"A building or works consistent with an agreement under section 173 of the Act prepared in accordance with a condition of a permit issued under the requirements of Clause 44.06-5."

5.6 Successors in title

Until this Agreement is recorded on the folio of the Register which relates to the Land pursuant to section 181 of the Act, the Owner must ensure that the Owner's successors in title give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement including requiring the successors in title to execute a deed agreeing to be bound by the terms of this Agreement. Until that deed is executed, the Owner, being a party to this Agreement, remains liable to perform all of the Owner's obligations contained in this Agreement.

5.7 Further assurance

The Owner must do all things necessary (including signing any further agreement, acknowledgment or document) to enable the Council to record this Agreement on the folio of the Register which relates to the Land.

5.8 Payment of Council's costs

The Owner agrees to pay on demand to the Council the Council's costs and expenses (including any legal fees incurred on a solicitor-client basis) of and incidental to the preparation, and enforcement of this Agreement.

5.9 Mortgagee to be bound

The Owner covenants to obtain the consent of any mortgagee to be bound by the covenants in this Agreement if the mortgagee becomes mortgagee in possession of the Land.

5.10 Indemnity

The Owner covenants to indemnify and keep the Council, its officers, employees, agents, workmen and contractors indemnified from and against all costs, expenses, losses or damages which they or any of them may sustain incur or suffer or be or become liable for or in respect of any suit action proceeding judgement or claim brought by any person arising from or referable to this Agreement or any non-compliance with this Agreement.

5.11 Non-compliance

If the Owner has not complied with this Agreement within 14 days after the date of service on the Owner by the Council of a notice which specifies the Owner's failure to comply with any provision of this Agreement, the Owner covenants:

- 5.11.1 to allow the Council its officers, employees, contractors or agents to enter the Land and rectify the non-compliance;
- 5.11.2 to pay to the Council on demand, the Council's reasonable costs and expenses ("**Costs**") incurred as a result of the Owner's non-compliance;
- 5.11.3 to pay interest at the rate of 2% above the rate prescribed under section 2 of the *Penalty Interest Rates Act 1983* on all moneys which are due and payable but remain owing under this Agreement until they are paid in full;
- 5.11.4 if requested to do so by the Council, to promptly execute in favour of the Council a mortgage to secure the Owner's obligations under this Agreement,

and the Owner agrees:

- 5.11.5 to accept a certificate signed by the Chief Executive Officer of the Council (or any nominee of the Chief Executive Officer) as prima facie proof of the Costs incurred by the Council in rectifying the Owner's non-compliance with this Agreement;
- 5.11.6 that any payments made for the purposes of this Agreement shall be appropriated first in payment of any interest and any unpaid Costs of the Council and then applied in repayment of the principal sum;
- 5.11.7 that all Costs or other monies which are due and payable under this Agreement but which remain owing shall be a charge on the Land until they are paid in full; and
- 5.11.8 if the Owner executes a mortgage as required by clause 5.11.4, any breach of this Agreement is deemed to be a default under that mortgage.

5.12 Standard of Works

The Owner covenants to comply with the requirements of this Agreement and to complete all works required by this Agreement as expeditiously as possible at its cost and to the satisfaction of the Council.

5.13 Council Access

The Owner covenants to allow the Council and its officers, employees, contractors or agents or any of them, to enter the Land (at any reasonable time) to assess compliance with this Agreement.

5.14 Covenants run with the Land

The Owner's obligations in this Agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the Land and every part of it, and bind the Owner and its successors, assignees and transferees, the registered proprietor or proprietors for the time being of the Land and every part of the Land.

5.15 Owner's warranty

The Owner warrants and covenants that:

- 5.15.1 the Owner is the registered proprietor (or is entitled to become the registered proprietor) of the Land and is also the beneficial owner of the Land;
- 5.15.2 there are no mortgages, liens, charges or other encumbrances or leases or any rights inherent in any

person other than the Owner affecting the Land which have not been disclosed by the usual searches of the folio of the Register for the Land or notified to the Council;

5.15.3 no part of the Land is subject to any rights obtained by adverse possession or subject to any easements or rights described or referred to in section 42 of the *Transfer of Land Act 1958*; and

5.15.4 until this Agreement is recorded on the folio of the Register which relates to the Land, the Owner will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the Land or any part of the Land without first disclosing to any intended purchaser, transferee, assignee or mortgagee the existence and nature of this Agreement.

6 GENERAL

6.1 No fettering of Council's powers

This Agreement does not fetter or restrict the Council's power or discretion to make or impose requirements or conditions in connection with any use or development of the Land or the granting of any planning permit, the approval or certification of any plans of subdivision or consolidation relating to the Land or the issue of a statement of compliance in connection with any such plans.

6.2 Time of the essence

Time is of the essence as regards all dates, periods of time and times specified in this Agreement.

6.3 Governing law and jurisdiction

This Agreement is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts and tribunals of Victoria and waives any right to object to proceedings being brought in those courts or tribunals.

7 NOTICES

7.1 Service of notice

A notice or other communication required or permitted, under this Agreement, to be served on a person must be in writing and may be served:

7.1.1 personally on the person;

- 7.1.2 by leaving it at the person's address set out in this Agreement;
- 7.1.3 by posting it by prepaid post addressed to that person at the person's current address for service; or
- 7.1.4 by facsimile to the person's current number notified to the other party.

7.2 Time of service

A notice or other communication is deemed served:

- 7.2.1 if served personally or left at the person's address, upon service;
- 7.2.2 if posted within Australia to an Australian address, two Business Days after posting;
- 7.2.3 if served by facsimile, subject to the next clause, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile; and
- 7.2.4 if received after 5.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next Business Day.

8 INTERPRETATION

In this Agreement, unless the contrary intention appears:

- 8.1 the singular includes the plural and vice versa;
- 8.2 a reference to a document or instrument, including this Agreement, includes a reference to that document or instrument as novated, altered or replaced from time to time;
- 8.3 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa;
- 8.4 a reference to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;
- 8.5 words importing one gender include other genders;
- 8.6 other grammatical forms of defined words or expressions have corresponding meanings;
- 8.7 a covenant, undertaking, representation, warranty, indemnity or agreement made or given by:

8.7.1 two or more parties; or

8.7.2 a party comprised of two or more persons,

is made or given and binds those parties or persons jointly and severally;

- 8.8 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- 8.9 a recital, schedule, annexure or description of the parties forms part of this Agreement;
- 8.10 if an act must be done on a specified day that is not a Business Day, the act must be done instead on the next Business Day;
- 8.11 if an act required to be done under this Agreement on a specified day is done after 5.00pm on that day in the time zone in which the act is performed, it is taken to be done on the following day;
- 8.12 a party that is a trustee is bound both personally and in its capacity as trustee;
- 8.13 a reference to an authority, institution, association or body ("**original entity**") that has ceased to exist or been reconstituted, renamed or replaced or whose powers or functions have been transferred to another entity, is a reference to the entity that most closely serves the purposes or objects of the original entity;
- 8.14 headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Agreement.

EXECUTED as an agreement under Division 2 of Part 9 of the Act.

EXECUTED for and on behalf of **GLENELG SHIRE COUNCIL** by [REDACTED]
[REDACTED] **REGULATORY SERVICES MANAGER**, in accordance with the authority
delegated to me in the instrument of delegation "S6. Instrument of Delegation –
Council to Staff Members" dated 26 September 2023.

[REDACTED]
.....

Signature of Delegate

[REDACTED]
.....

Signature of Witness

[REDACTED]
.....

Name of Witness

SIGNED SEALED AND DELIVERED)
By **TERESA HOWELLS**)

[REDACTED]
.....

in the presence of:

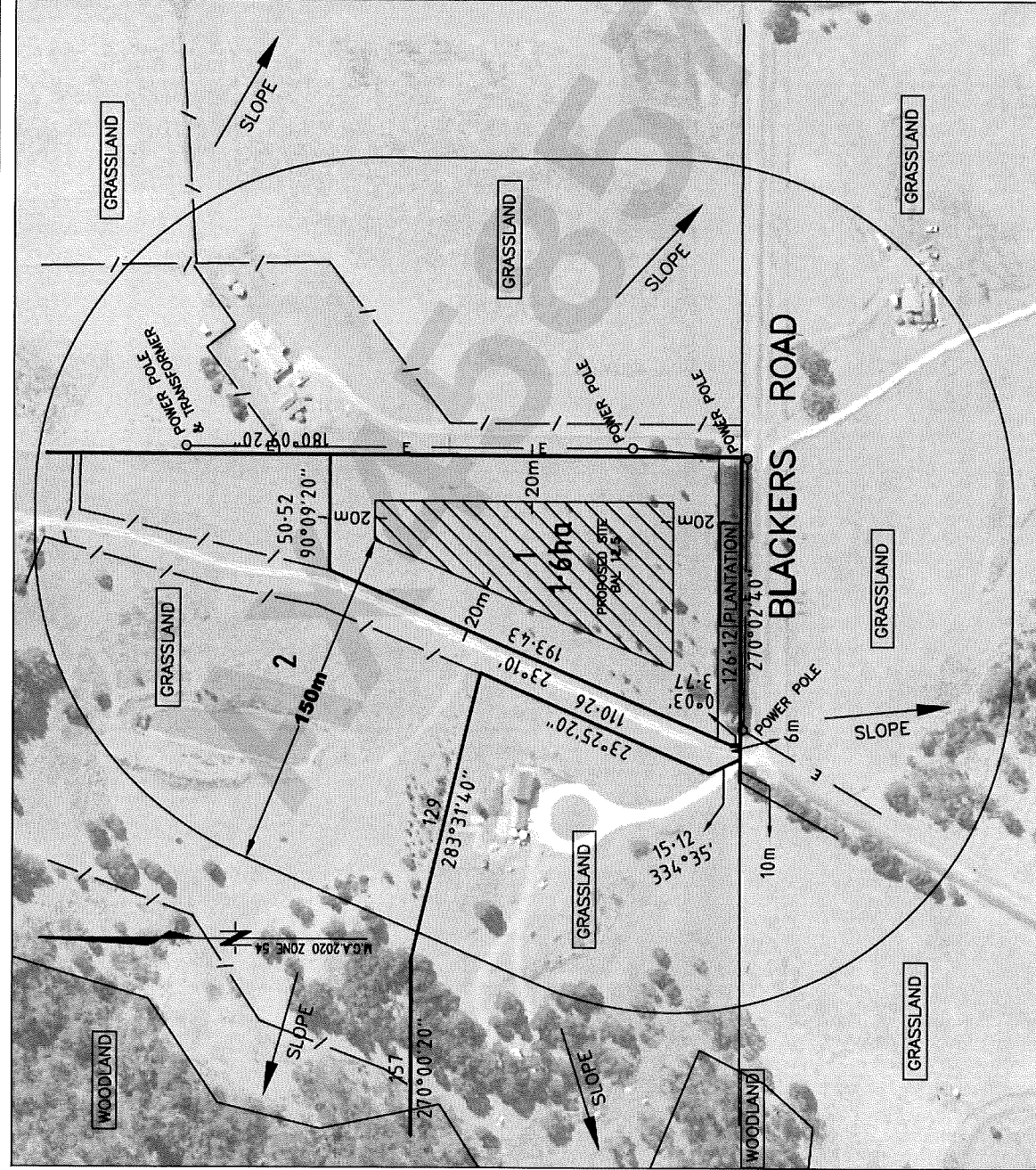
[REDACTED]
.....
Signature of Witness

[REDACTED]
.....
Name of Witness

ANNEXURE A
(copy of Bushfire Management Plan)

AX458575T

Bushfire Mitigation Measures for Lot 1



- a) Defendable Space**
- Defendable space is provided for the following distance around the dwellings: Lots 1 - North: 19m. West 19m, South 19m and East 19m and managed in accordance with the following:
- Grass must be short cropped and maintained during the declared fire danger period,
 - All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
 - Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
 - Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
 - Shrubs must not be located under the canopy of trees.
 - Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
 - Trees must not overhang or touch any elements of the building.
 - The canopy of trees must be separated by at least 5m
 - There must be a clearance of at least 2 metres between the lowest tree branches and ground level.
- b) Construction Standard**
- Dwelling designed and constructed to a minimum Bushfire Attack Level of BAL - 12.5
- c) Water Supply**
- The following requirements apply:
- An effective capacity of 10,000 litres of water storage to be stored in an above ground water tank constructed of concrete or metal.
 - All fixed above ground water pipes and fittings required for firefighting purposes made of corrosion resistant metal.
 - Include a separate outlet for occupant use.
 - The following fire authority fittings and access must be provided:
 - Incorporate a separate ball or gate valve (British Standard Pipe (BSP 65 millimetre) and coupling (64 millimetre CFA 3 thread per inch male fitting).
 - The outlet/s of the water tank must be within 4 metres of the access way and unobstructed.
 - Be readily identifiable from the building or appropriate identification signage to the satisfaction of the relevant fire authority.
 - Any pipework and fittings must be a minimum of 65 millimetres (excluding the CFA coupling).
- d) Access**
- Access Required: Yes
- The following design and construction requirements apply:
- All-weather construction.
 - A lead limit of at least 15 tonnes.
 - Provide a minimum trafficable width of 3.5 metres.
 - Be clear of encroachments for at least 0.5 metres on each side and at least 4 metres vertically.
 - Curves must have a minimum inner radius of 10 metres.
 - The average grade must be no more than 1 in 7 (14.4%) (8.1") with a maximum grade of no more than 1 in 5 (20%) (11.3") for no more than 50 metres.
 - Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.
 - Incorporate a turning area for fire fighting vehicles close to the building.
 - Where length of access is greater than 100 metres the following design and construction requirements apply:
 - A turning circle with a minimum radius of eight metres, or
 - A driveway encircling the building, or
 - The provision of other vehicle turning heads - such as a T or Y Head - which meet the specification of Austroads Design for an 8.8 metre service vehicle

DEFENDABLE SPACE DEFINITION: Building must be inside the defined building envelope. Defendable space must be maintained at the distances defined in this Bushfire Management Plan.	NOTE: Lot 2 has no proposed new development. This lot has not been assessed for defendable space or BAL in this Bushfire Management Plan.
DEFENDABLE SPACE EXAMPLE EXAMPLE BUILDING EXAMPLE DEFENDABLE SPACE	147 BLACKERS ROAD NARRAWONG VIC. 3305 PARISH OF NARRAWONG SECTION 13 - Crown Portion 1 (Part) SHEET 1 OF 1

BERRY & WHYTE SURVEYORS PTY. LTD. LICENSED LAND SURVEYORS & DEVELOPMENT CONSULTANTS 160A PERCY ST. PORTLAND A.C.N. 006 502 870 Ph 03 5523 3377	SURVEYORS REF. 4208 VER 2 21/11/2022 ORIGINAL SHEET SIZE 1:2000 SCALE A3	LEGEND BUILDING ENVELOPE DEFENDABLE SPACE (SEE DIAGRAM ON RIGHT)	BUSHFIRE DIRECTION OF TRAVEL DIAGRAM 1
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