

**KOLL HOLDINGS PTY LTD (ACN 633 113 747)
as trustee for the Glenara Trust
("THE VENDOR")**

VENDOR STATEMENT

**PART 130 GEMBROOK-TONIMBUK ROAD, GEMBROOK 3783,
being the land contained in Certificate of Title 11230 Folio 435
and being Lot 4 on Plan of Subdivision 540233N**

**FALCONE & ADAMS
Lawyers
Level 1, 329-331 Belgrave-Gembrook Road,
Emerald VIC 3782
Tel: 5968 3666
Email: office@falconeadams.com.au
JSF:LG:130513E**

FALCONE & ADAMS

Vendor Statement

The vendor makes this statement in respect of the land in accordance with section 32 of the *Sale of Land Act 1962*.

This statement must be signed by the vendor and given to the purchaser before the purchaser signs the contract.

The vendor may sign by electronic signature.

The purchaser acknowledges being given this statement signed by the vendor with the attached documents before the purchaser signed any contract.

Land: 130 Gembrook-Tonimbuk Road, Gembrook 3783,
being the land contained in Certificate of Title
Volume 11230 Folio 435 and being Lot 4 on Plan of
Subdivision 540233N

Vendor's name: Koll Holdings Pty Ltd (ACN 633 113 747) as
trustee for The Glenara Trust

Vendor's signature  **Date**
16 / 10 / 2023
Hans Walter Koll, director

 **Date**
16 / 10 / 2023
Louise Anne Koll, director

Purchaser's name

Purchaser's signature **Date**
/ / 2023

Purchaser's name

Purchaser's signature **Date**
/ / 2023

1. FINANCIAL MATTERS

1.1 Particulars of any Rates, Taxes, Charges or Other Similar Outgoings including any Owners Corporation Charges or Levies ("Outgoings") (and any interest on them)

Are set out in the attached certificates.

If, at settlement, the land sold is rated together with Lots 1-3 and LCM on Plan of Subdivision 540233N, being the part of the land known as 130 Gembrook-Tonimbuk Road, Gembrook, then the land sold will bare the Outgoings for the purpose of the adjustment of Outgoings at settlement based on the Lot Liability.

1.2 Particulars of any Charge (whether registered or not) imposed by or under any Act to secure an amount due under that Act, including the amount owing under the charge:

Nil

1.3 Terms Contract

Not applicable.

1.4 Sale Subject to Mortgage

Not applicable.

1.5 Goods and Services Tax

The sale price in any contract for the property is exclusive of any Goods and Services Tax ("GST") unless the contract provides otherwise. Should GST be or become payable on the sale of the property the price will be increased by the amount of GST so payable.

2. INSURANCE

2.1 Damage and Destruction

Not applicable.

2.2 Owner-Builder

Not applicable.

3. LAND USE

3.1 Easements, Covenants or Other Similar Restrictions

(a) A description of any easement, covenant or other similar restriction affecting the land (whether registered or unregistered):

- As set out in the attached copies of title documents;
- Easements that are implied under section 12 (2) of the Subdivision Act 1988 (Vic);
- Restrictions imposed by the Owners Corporation Act 2006 (Vic) and the Owners Corporations Regulations 2007 (Vic);
- Any public rights of way and any private easement arising by use of the property other than the vendor. These may be evident from an inspection of or observation from the property; and
- Any conditions, restrictions or encumbrances set out in the attached certificates.

- (b) Particulars of any existing failure to comply with that easement, covenant or other similar restriction are:

To the best of the Vendors knowledge there is no existing failure to comply with the terms of any easement, covenant or other restriction except as may be apparent from an inspection of the land.

Note: Drains, sewers, water pipes, gas pipes, electricity and telephone cables (whether underground and/or overhead) may be laid outside registered easements

3.2 Road Access

There is access to the property by road.

3.3 Designated Bushfire Prone Area

The land is in a designated bushfire prone area within the meaning of regulations made under the *Building Act 1993*.

3.4 Planning Scheme

Attached is a certificate with the required specified information.

4. NOTICES

4.1 Notice, Order, Declaration, Report or Recommendation

Particulars of any notice, order, declaration, report or recommendation of a public authority or government department or approval proposal directly and currently affecting the land, being a notice, order, declaration, report, recommendation or approved proposal of which the Vendor might reasonably be expected to have knowledge are as follows:

None to the Vendors knowledge, however the Vendor has no means of knowing of all decisions of Public Authorities and Government Departments affecting the property unless communicated to the Vendor.

4.2 Agricultural Chemicals

None to the Vendor's knowledge.

4.3 Compulsory Acquisition

None to the Vendor's knowledge.

5. BUILDING PERMITS

Particulars of any building permit issued under the *Building Act 1993* in the preceding 7 years (required only where there is a residence on the land) are as follows:

Nil.

6. OWNERS CORPORATION

This section 6 only applies if the land is affected by an owners corporation within the meaning of the *Owners Corporations Act 2006*.

Attached is a current owners corporation certificate with its required accompanying documents and statements, issued in accordance with section 151 of the *Owners Corporations Act 2006*.

7. GROWTH AREAS INFRASTRUCTURE CONTRIBUTION ("GAIC")

Not applicable.

8. SERVICES

The services which are marked with an "X" in the accompanying square box are NOT connected to the land:

Electricity Gas Water Sewerage Telephone

Where any of the above services are disclosed as not being connected the Purchaser should make his own enquiry of the appropriate Authorities as to their availability and cost of connection to the property.

9. TITLE

Attached are copies of the following documents:

- Register Search Statement for Certificate of Title Volume 11230 Folio 435
- Plan of Subdivision 540233N
- Section 173 Agreement AH483228N

10. SUBDIVISION

Not applicable.

11. DUE DILIGENCE CHECKLIST

Attached.

12. MATERIAL FACTS

The owner of the land sold is permitted to use in common with the other members of Owners Corporation 1 Plan No. PS540233N ("Owners Corporation") the dam located on Common Property No. 1. The dam remains the responsibility of the members of the Owners Corporation at all times. This includes, but is not limited to, responsibility for the design, construction, structural integrity, on-going maintenance and liability.

Upon the settlement of the sale of Lot 4 the members of the Owners Corporation must enter into an agreement with the Owners Corporation for the ongoing use and maintenance of the shared dam located on the common property.

13. FURTHER ATTACHMENTS

- Melbourne Water Registration Licence No.:465/740/5016 (BEE019352)
- Letter from Melbourne Water dated 10/07/2023
- Cardinia Shire Council Land Information Certificate
- State Revenue Office Land Tax Property Clearance Certificate
- Planning Permit T010035 as to the use and development of the land for the purpose of crop raising (plant and tree nursery)
- VCAT Order No. 2001/050361

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

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

VOLUME 11230 FOLIO 435

Security no : 124104219983N
Produced 24/02/2023 04:28 PM

LAND DESCRIPTION

Lot 4 on Plan of Subdivision 540233N.
PARENT TITLE Volume 09449 Folio 006
Created by instrument PS540233N 12/10/2010

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
KOLL HOLDINGS PTY LTD of 2972 GEMBROOK-LAUNCHING PLACE ROAD GEMBROOK VIC
3783
AS977160X 11/02/2020

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

AGREEMENT Section 173 Planning and Environment Act 1987
AH483228N 08/09/2010

DIAGRAM LOCATION

SEE PS540233N 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: 130 GEMBROOK-TONIMBUK ROAD GEMBROOK VIC 3783

OWNERS CORPORATIONS

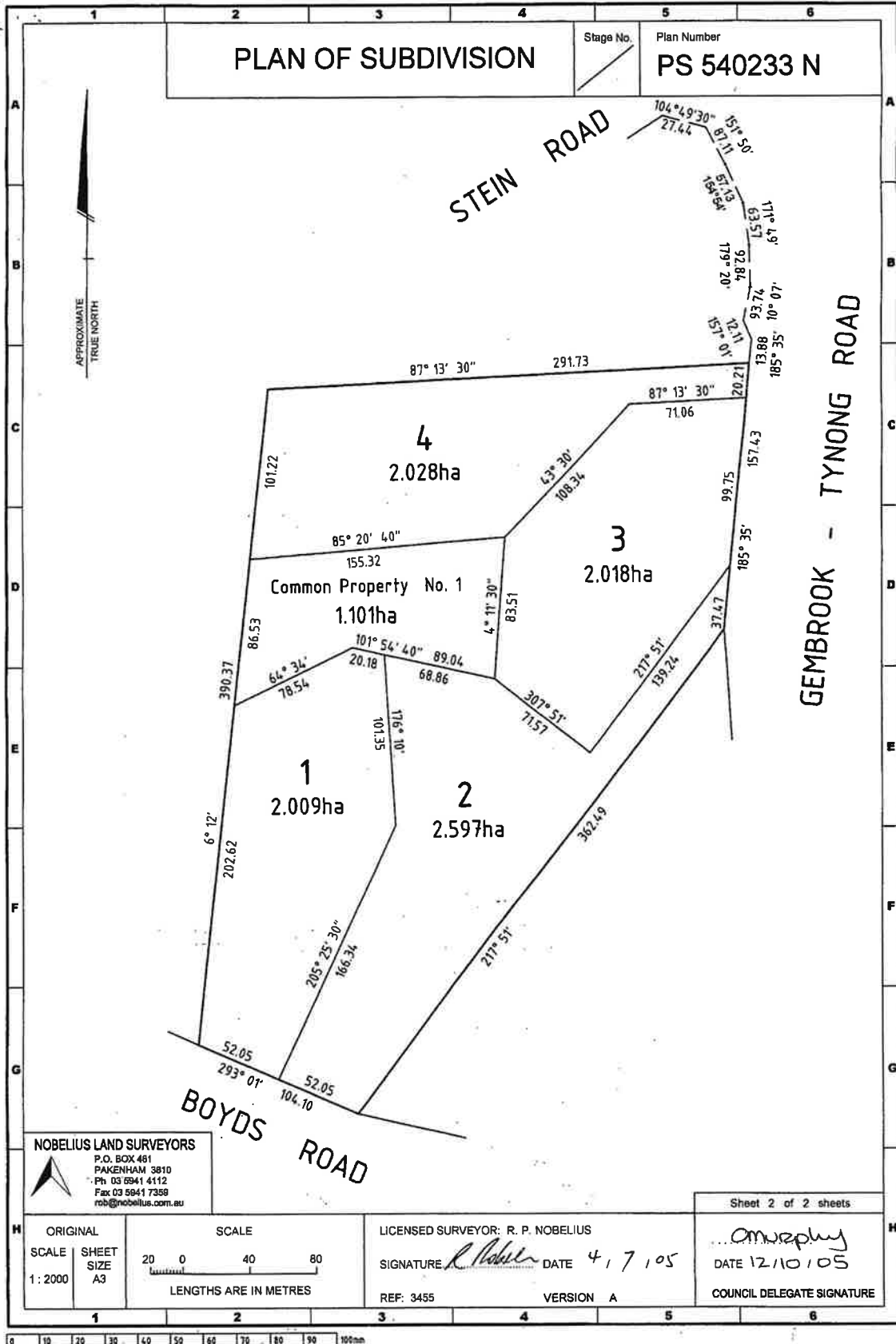
The land in this folio is affected by
OWNERS CORPORATION 1 PLAN NO. PS540233N

DOCUMENT END

Delivered from the LANDATA® System by InfoTrack Pty Ltd.

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PLAN OF SUBDIVISION		LTO use only EDITION 1	Stage No. 	PS540233N 67/10/2010 \$1149.40 PS J
LOCATION OF LAND Parish: Gembrook Township: --- Section: --- Crown Allotment: A14 (Part) Crown Portion: --- LTO Base Record: DCMB Title Reference: V. 9449 F. 006 Last Plan Reference: Lot 3 LP 98419 Postal Address: 150 Gembrook - Tynong Road <small>(at time of subdivision)</small> Gembrook 3783 AMG Co-ordinates <small>(of approx. centre of land in plan)</small> E 373 780 N 5 796 800 Zone: 55		COUNCIL CERTIFICATION AND E COUNCIL NAME: REF: S05/107 1. This plan is certified under section 6 of the Subdivision Act 1988. 2. This plan is certified under section 11(7) of the Subdivision Act 1988. Date of original certification under section 6 --- / --- / --- 3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under section 18 of the Subdivision Act 1988 has/have not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in Stage..... Council Delegate <i>amurphy</i> Council Seal Date 12 / 10 / 105 Re-certified under section 11(7) of the Subdivision Act 1988. Council Delegate Council Seal Date / /		
Vesting of Roads or Reserves				
<small>Identifier</small>	<small>Council / Body / Person</small>			
Nil	Nil			
Notations				
Depth Limitation: DOES NOT APPLY		Staging This is not a staged subdivision Planning Permit No. T020390		
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 Survey This plan is based on Survey This survey has been connected to permanent marks no(s) In Proclaimed Survey Area No.				
Easement Information				<small>LTO use only</small>
Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				Statement of Compliance/ Exemption Statement
Section 12(2) of the Subdivision Act 1988 applies to all land herein.				Received <input checked="" type="checkbox"/>
<small>Easement Reference</small>	<small>Purpose</small>	<small>Width (Metres)</small>	<small>Origin</small>	<small>Land Benefited/In Favour Of</small>
				<small>LTO use only</small> PLAN REGISTERED TIME 8.08 AM DATE 12 / 10 / 2010 Mark Cagdas Assistant Registrar of Titles Sheet 1 of 2 sheets
NOBELIUS LAND SURVEYORS P.O. BOX 461 PAKENHAM 3810 PH 03 5941 4112 Fax 03 5941 7359 rob@nobellius.com.au		LICENSED SURVEYOR: R. P. NOBELIUS SIGNATURE <i>R. Nobellius</i> DATE 4 / 7 / 105 REF: 3455 VERSION A		... <i>amurphy</i> DATE 12 / 10 / 105 COUNCIL DELEGATE SIGNATURE Original sheet size A3





Department of Environment, Land, Water & Planning

Owners Corporation Search Report

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Produced: 24/02/2023 04:28:19 PM

OWNERS CORPORATION 1
PLAN NO. PS540233N

The land in PS540233N is affected by 1 Owners Corporation(s)

Land Affected by Owners Corporation:

Common Property 1, Lots 1 - 4.

Limitations on Owners Corporation:

Unlimited

Postal Address for Services of Notices:

70 GLENARA ROAD HODDLES CREEK VIC 3139

OC008927W 12/10/2010

Owners Corporation Manager:

NIL

Rules:

Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

Owners Corporation Rules:

NIL

Additional Owners Corporation Information:

OC008927W 12/10/2010

Notations:

NIL

Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Common Property 1	0	0
Lot 1	50	50
Lot 2	50	50
Lot 3	50	50
Lot 4	50	50
Total	200.00	200.00



Department of Environment, Land, Water & Planning

Owners Corporation Search Report

Produced: 24/02/2023 04:28:19 PM

OWNERS CORPORATION 1
PLAN NO. PS540233N

From 31 December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan, Instrument or Folio is to be read as a reference to an Owners Corporation.

Statement End.

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Planning and Environment Regulations 1998 No. 8

AH483228N

08/09/2010 \$105.20 173



Form 13

Section 181

**APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE MAKING OF A
RECORDING OF AN AGREEMENT**

Planning and Environment Act 1987

Lodged at the Land Titles Office by:

Name: * Falconer Adams
Phone: * 5968 3666
Address: * 323x Main St Emerald
Ref: * JSF Customer Code: * 0784J

The Authority having made an agreement referred to in Section 181(1) of the Planning and Environment Act 1987 requires a recording to be made in the Register for the land.

Land (Insert Volume and Folio reference) (if part only, define the part)

Certificate of Title Volume 9449 Folio 006

Authority (name and address)

Cardinia Shire Council, Municipal Offices, Henty Way, Pakenham 3810

Section and Act under which agreement made:

Section 173 of the Planning and Environment Act 1987

A copy of the Agreement is attached to this Application

Signature for the Authority: J. Cussen

Name of Officer: JAN CUSSEN

Date: 6 SEPTEMBER 2010

KEEP

This Agreement is made on the 6th day of September 2010

Between

Cardinia Shire Council of Henty Way, Pakenham, Victoria
("the Council")

and

AH483228N



Glenara Nursery Pty Ltd
of 70 Glenara Road, Hoddles Creek 3139
("the Owner/s")

Recitals

- A. The Owners are registered as owners of the land in Certificate of Title **Volume 9449 Folio 006**, being **Lot 1 on TP580108C (formerly known as Lot 3 on LP98419)** and known as **130 Gembrook-Tonimbuk Road, Gembrook VIC 3783** ("the Land").
- B. The Council is the Responsible Authority under the Planning and Environment Act 1987.
- C. Nobelius Land Surveyors on behalf of the Owner, made application to the Responsible Authority for a permit to subdivide the Land into four (4) lots.
- D. The Responsible Authority granted Planning Permit No. **T020390** ("the Permit") on 6 November 2003 for the Land to be subdivided into four (4) lots subject to a condition.
- E. Condition 4 of the Permit provides that:

"The permit holder must enter into a Section 173 Agreement with the Responsible Authority preventing the removal of vegetation within the fenced areas outlined in condition 3 (b) above.
The form and content of the agreement must be to the satisfaction of the responsible authority, and all costs relating to the preparation and registration of the agreement on title must be met by the permit holder. Prior to the issue of a Statement of Compliance, the permit holder must provide a dealing number to the responsible authority to demonstrate that the agreement has been lodged with the Land Titles Office."

AH483228N

08/09/2010 \$105.20 173



The Agreement

1. Agreement to be binding on owners and their successors

- (1) The parties acknowledge and agree that this Agreement is made under Section 173 of the Planning and Environment Act 1987.
- (2) The obligations imposed on the Owners are binding on the successors, purchasers, transferees, mortgagees and assigns of the Owners and on any person obtaining possession of the Land or any part of the Land as if each of those persons had individually executed this Agreement.
- (3) The Owners must not sell, transfer, dispose of or part with possession of the Land or any part of it without first disclosing the existence and nature of this Agreement.

2. Covenants

The Owner covenant and agree with the Council that:

- (1) No vegetation will be removed from the fenced areas outlined in condition 3 (b) of Planning Permit T020390

As required in Condition 4 of planning permit T020390.

3. Terms and registration of this Agreement

- (1) The terms of this Agreement come into force immediately on execution, and runs with the Land.
- (2) The Owner/s must use their best endeavours to have a memorandum of this Agreement registered on the title to the Land by the Registrar of Titles in accordance with Section 181 of the Planning and Environment Act 1987.


4. Cost

The Owner/s must bear the cost of and incidental to the making and the registration of this Agreement.

In witness whereof the parties have set their hands and seals the day and year set out above.

Signed, sealed and delivered

)
)
)



Louise Anna Koll
Director
GLENARA NURSERY PTY LTD


In the presence of:



Witness

Signed, sealed and delivered

)
)
)



Hans Walter Koll
Secretary
GLENARA NURSERY PTY LTD

In the presence of:



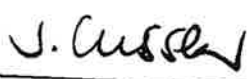
Witness

AH483228N



Signed by and on behalf, and with the authority of the Cardinia Shire Council by **Jan Cussen**, in the exercise of power conferred by an Instrument of Delegation dated 16th November 2009.

)
)
)
)
)
)
)



In the presence of:



Witness

PLANNING CERTIFICATE

Official certificate issued under Section 199 Planning & Environment Act 1987
and the Planning and Environment Regulations 2005

CERTIFICATE REFERENCE NUMBER

911029

APPLICANT'S NAME & ADDRESS

FALCONE & ADAMS C/- INFOTRACK (LEAP) C/- LANDATA
DOCKLANDS

VENDOR

KOLL, HANS WALTER

PURCHASER

TBA, TBA

REFERENCE

4457

This certificate is issued for:

LOT CM1 PLAN PS540233, LOT 4 PLAN PS540233 ALSO KNOWN AS 130 GEMBROOK-TONIMBUK ROAD
GEMBROOK
CARDINIA SHIRE

The land is covered by the:

CARDINIA PLANNING SCHEME

The Minister for Planning is the responsible authority issuing the Certificate.

The land:

- is included in a GREEN WEDGE A ZONE - SCHEDULE 2
- is within a BUSHFIRE MANAGEMENT OVERLAY
- and a ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1
- and is AREA OUTSIDE THE URBAN GROWTH BOUNDARY

A detailed definition of the applicable Planning Scheme is available at :

<http://planningschemes.dpcd.vic.gov.au/schemes/cardinia>

Historic buildings and land protected under the Heritage Act 1995 are recorded in the Victorian Heritage Register at:

<http://vhd.heritage.vic.gov.au/>

01 March 2023

Sonya Kilkeny
Minister for Planning

Additional site-specific controls may apply.
The Planning Scheme Ordinance should be checked carefully.

The above information includes all amendments to planning scheme maps placed on public exhibition up to the date of issue of this certificate and which are still the subject of active consideration

Copies of Planning Schemes and Amendments can be inspected at the relevant municipal offices.

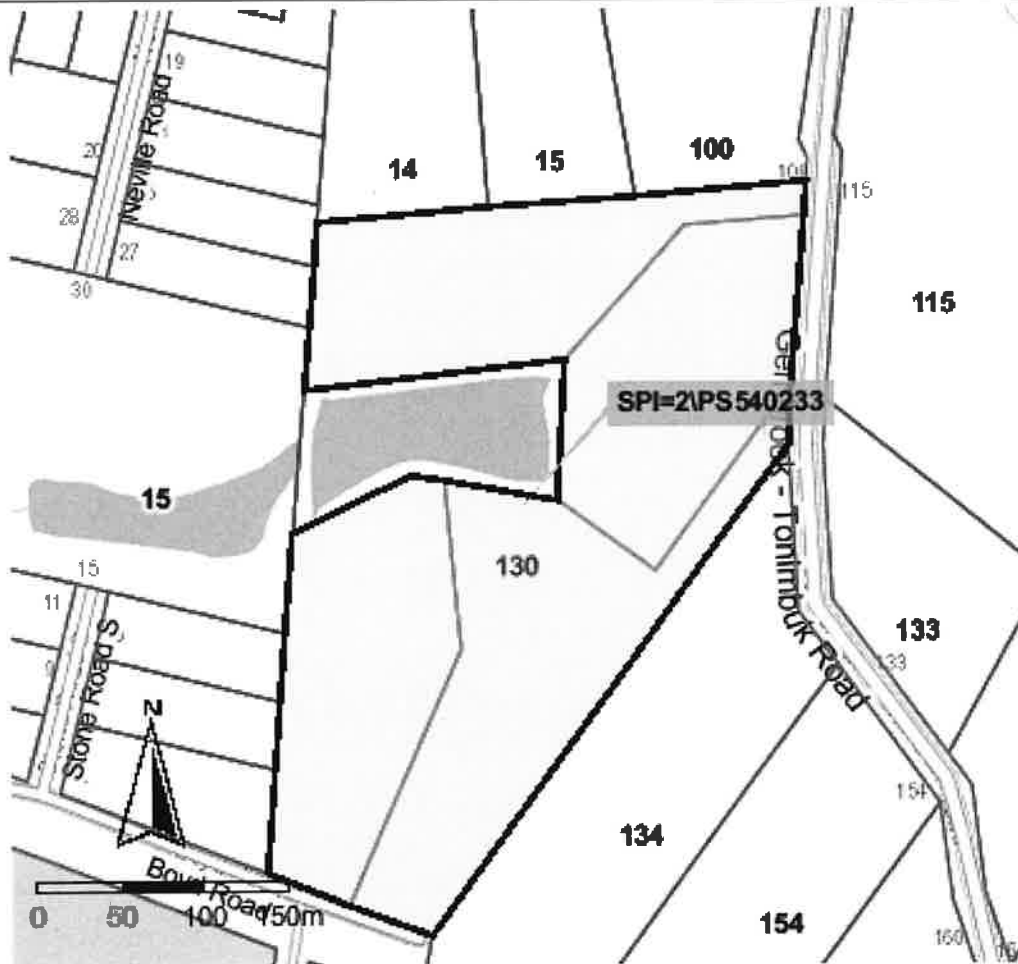
LANDATA@
T: (03) 9102 0402
E: landata.enquiries@servictoria.com.au

The attached certificate is issued by the Minister for Planning of the State of Victoria and is protected by statute.

The document has been issued based on the property information you provided. You should check the map below - it highlights the property identified from your information.

If this property is different to the one expected, you can phone (03) 9102 0402 or email landata.enquiries@servictoria.com.au

Please note: The map is for reference purposes only and does not form part of the certificate.



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Choose the authoritative Planning Certificate

Why rely on anything less?

As part of your section 32 statement, the authoritative Planning Certificate provides you and / or your customer with the statutory protection of the State of Victoria.
Order online before 4pm to receive your authoritative Planning Certificate the same day, in most cases within the hour.
Next business day delivery, if further information is required from you.

Privacy Statement

The information obtained from the applicant and used to produce this certificate was collected solely for the purpose of producing this certificate. The personal information on the certificate has been provided by the applicant and has not been verified by LANDATA®. The property information on the certificate has been verified by LANDATA®. The zoning information on the certificate is protected by statute. The information on the certificate will be retained by LANDATA® for auditing purposes and will not be released to any third party except as required by law.

From www.planning.vic.gov.au at 09 May 2023 05:19 PM

PROPERTY DETAILS

Address: **130 GEMBROOK-TONIMBUK ROAD GEMBROOK 3783**
 Lot and Plan Number: **More than one parcel - see link below**
 Standard Parcel Identifier (SPI): **More than one parcel - see link below**
 Local Government Area (Council): **CARDINIA**
 Council Property Number: **2322250100**
 Planning Scheme: **Cardinia**
 Directory Reference: **Melway 299 H4**

www.cardinia.vic.gov.au

[Planning Scheme - Cardinia](#)

This property has 4 parcels. For full parcel details get the free Property report at [Property Reports](#)

UTILITIES

Rural Water Corporation: **Southern Rural Water**
 Melbourne Water Retailer: **South East Water**
 Melbourne Water: **Inside drainage boundary**
 Power Distributor: **AUSNET**

STATE ELECTORATES

Legislative Council: **EASTERN VICTORIA**
 Legislative Assembly: **MONBULK**

OTHER

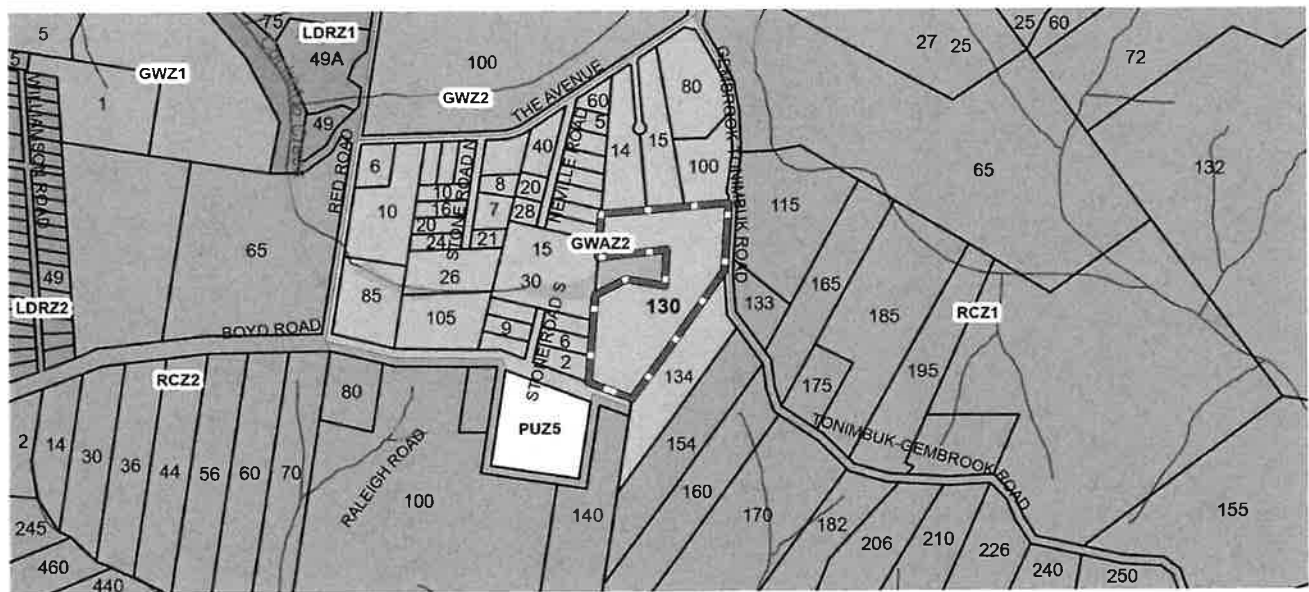
Registered Aboriginal Party: **Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation**

[View location in VicPlan](#)

Planning Zones

[GREEN WEDGE A ZONE \(GWAZ\)](#)

[GREEN WEDGE A ZONE - SCHEDULE 2 \(GWAZ2\)](#)



Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

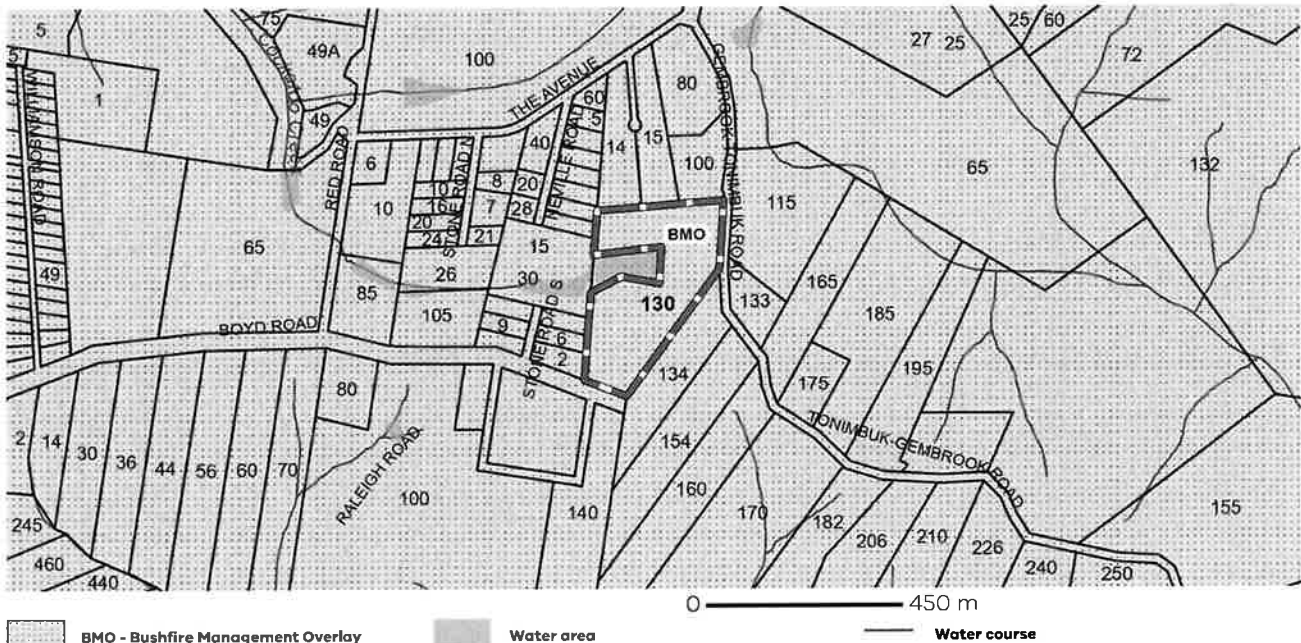
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Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

Planning Overlays

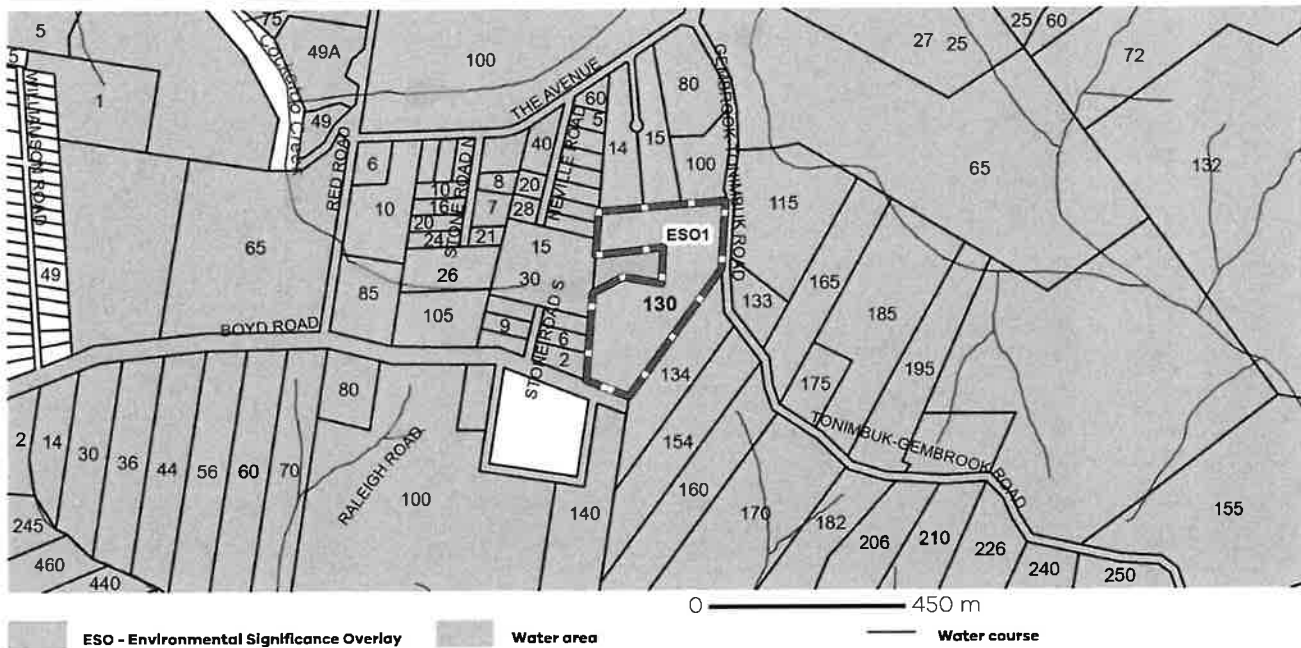
BUSHFIRE MANAGEMENT OVERLAY (BMO)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1 (ESO1)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

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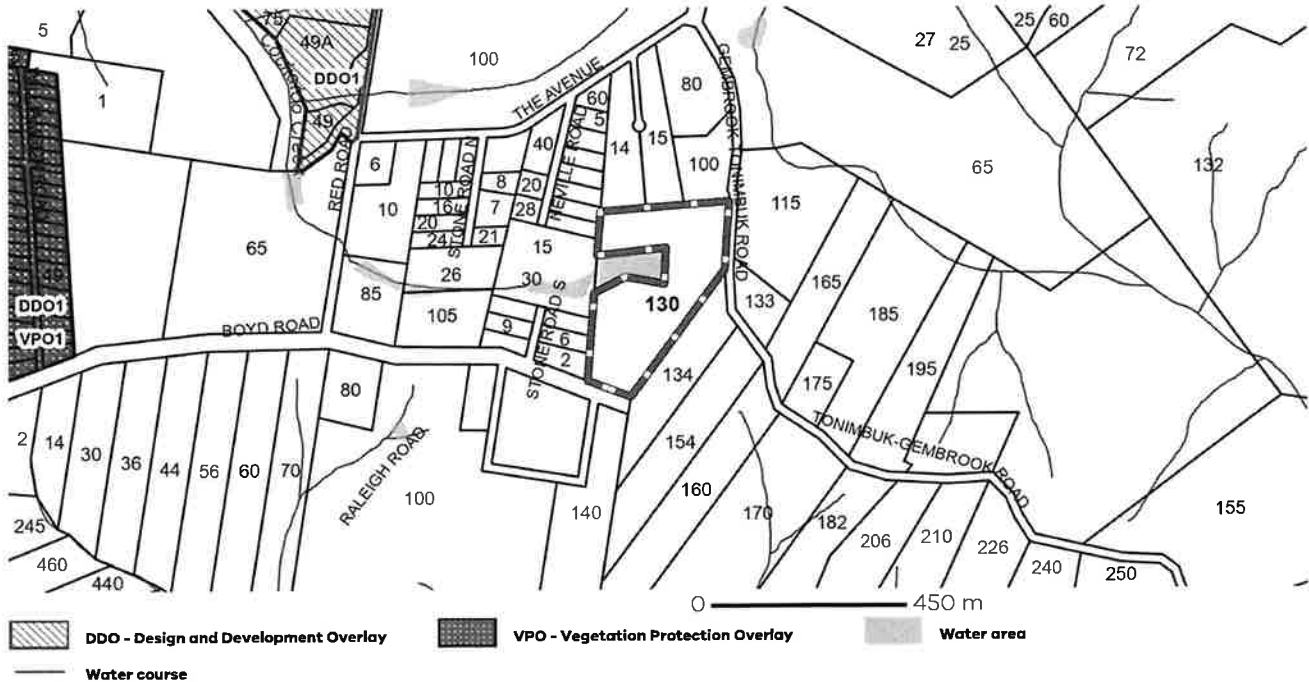
Planning Overlays

OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

DESIGN AND DEVELOPMENT OVERLAY (DDO)

VEGETATION PROTECTION OVERLAY (VPO)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

Further Planning Information

Planning scheme data last updated on 3 May 2023.

A **planning scheme** sets out policies and requirements for the use, development and protection of land. This report provides information about the zone and overlay provisions that apply to the selected land. Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**. It does not include information about exhibited planning scheme amendments, or zonings that may apply to the land. To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit <https://mapshare.maps.vic.gov.au/vicplan>

For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

PROPERTY REPORT



Environment,
Land, Water
and Planning

From www.planning.vic.gov.au at 09 May 2023 05:20 PM

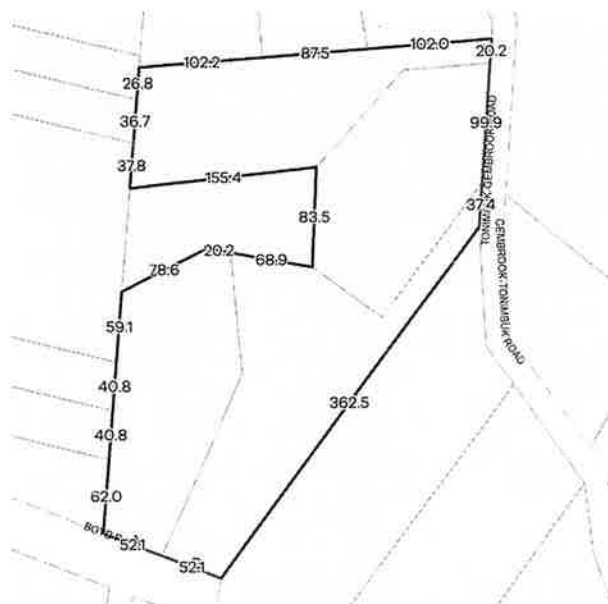
PROPERTY DETAILS

Address: **130 GEMBROOK-TONIMBUK ROAD GEMBROOK 3783**
Lot and Plan Number: **This property has 4 parcels. See table below**
Standard Parcel Identifier (SPI): **See table below**
Local Government Area (Council): **CARDINIA**
Council Property Number: **2322250100**
Directory Reference: **Melway 299 H4**

www.cardinia.vic.gov.au

SITE DIMENSIONS

All dimensions and areas are approximate. They may not agree with those shown on a title or plan.



Area: 86551 sq. m (8.66 ha)

Perimeter: 1626 m

For this property:

— Site boundaries

— Road frontages

Dimensions for individual parcels require a separate search, but dimensions for individual units are generally not available.

Calculating the area from the dimensions shown may give a different value to the area shown above

For more accurate dimensions get copy of plan at [Title and Property Certificates](#)

PARCEL DETAILS

The letter in the first column identifies the parcel in the diagram above

Lot/Plan or Crown Description	SPI
A Lot 1 PS540233	1\PS540233
B Lot 2 PS540233	2\PS540233
C Lot 3 PS540233	3\PS540233
D Lot 4 PS540233	4\PS540233

UTILITIES

Rural Water Corporation: **Southern Rural Water**
Melbourne Water Retailer: **South East Water**
Melbourne Water: **Inside drainage boundary**
Power Distributor: **AUSNET**

STATE ELECTORATES

Legislative Council: **EASTERN VICTORIA**
Legislative Assembly: **MONBULK**

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Read the full disclaimer at <https://www.delwp.vic.gov.au/disclaimer>

PROPERTY REPORT: 130 GEMBROOK-TONIMBUK ROAD GEMBROOK 3783

Page 1 of 2

PROPERTY REPORT



Environment,
Land, Water
and Planning

PLANNING INFORMATION

Property Planning details have been removed from the Property Reports to address duplication with the Planning Property Reports which are DELWP's authoritative source for all Property Planning information.

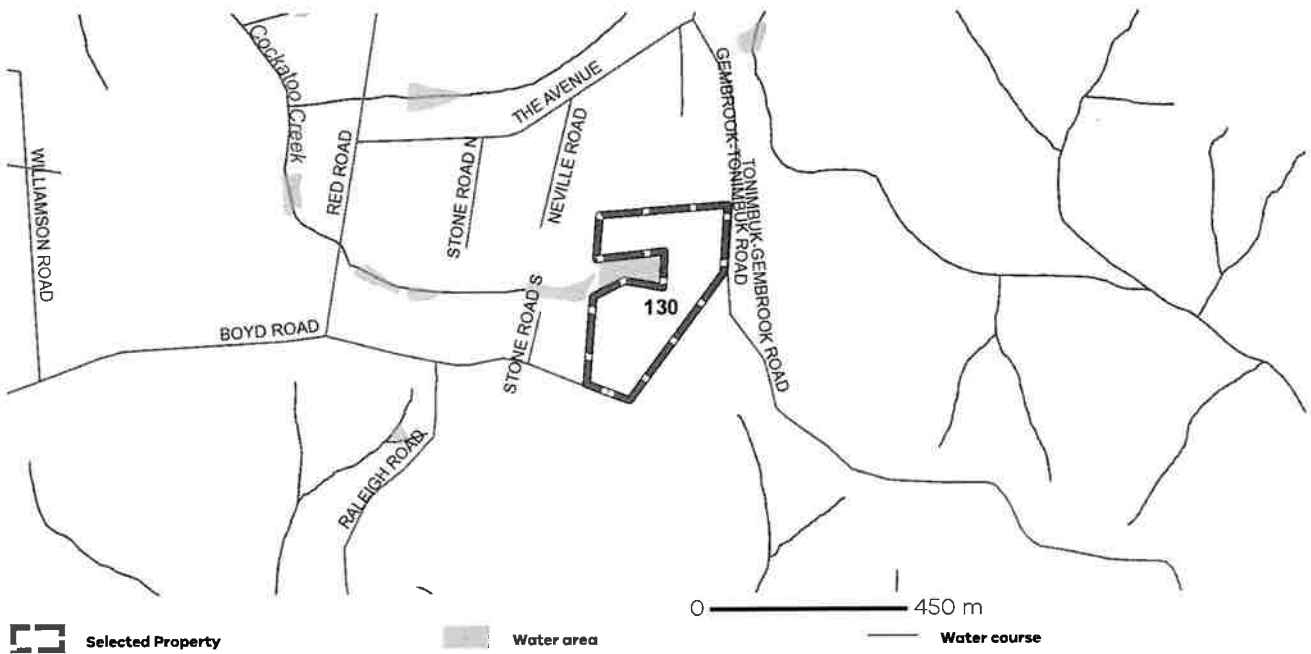
The Planning Property Report for this property can found here - [Planning Property Report](#)

Planning Property Reports can be found via these two links

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

Property and parcel search <https://www.land.vic.gov.au/property-and-parcel-search>

Area Map



OWNERS CORPORATION CERTIFICATE
OWNERS COPORATION NO 1 PLAN NO 540233N
LOTS 1, 2, 3 and 4, 130 GEMBROOK-TONIMBUK ROAD, GEMBROOK VIC 3783

Owners Corporation Act 2006 Section 151, Owners Corporations Regulations 2018 Regulation 16

This certificate is issued for	Lot 4 on Plan of Subdivision No. PS540233N
Postal address is	Lot 4, 130 Gembrook-Tonimbuk Road Gembrook 3783
Applicant for the certificate is	Falcone & Adams Lawyers
Address for delivery of certificate is:	Level 1, 329-331 Belgrave Gembrook Road Emerald 3782
Date that the application was received:	5 June 2023

IMPORTANT:

The information in this certificate is issued on: **7 August 2023**

You can inspect the owners corporation's register for additional information and you should obtain a new certificate for current information prior to settlement.

1.	The current annual fees for the lot are: \$103.25 and are paid annually
2.	The date which the fees for the lot have been paid up to is: 3 March 2024
3.	The total of any unpaid fees or charges for the lot are: Nil
4.	The special fees or levies which have been struck, and the dates on which they were struck and are payable are: Nil
5.	The repairs, maintenance or other work which has been or is about to be performed which may incur additional charges not included in annual fees, maintenance fund or special fees as set out above: Nil
6.	The owners corporation has the following insurance cover: <ul style="list-style-type: none"> • the name of the company: Fitzpatrick & Co • policy number: 141U047603BPK • type of policy: Common Property Public Liability • buildings covered: No Insured • building amount: Nil • public liability amount \$10,000,000.00 • renewal date 3 March 2024
7.	Has the owners corporation resolved that the members may arrange their own insurance under section 63 of the Act? If so then provide the date of that resolution:


	The Owners Corporation has resolved that the members of the Owners Corporation will take out its own building insurance policy for its own lot, if applicable. The Owners Corporation has taken out a public liability insurance policy for the common property.
8.	The total funds held by the owners corporation: Nil
9.	Are there any liabilities of the owners corporation that are not covered by annual fees, special levies and repairs and maintenance as set out above? If so, provide details: No
10.	Are there any current contracts, leases, licences or agreements affecting the common property? If so, provide details: The Owners Corporation has resolved that upon the settlement of the sale of Lot 4 each of the owners for the time being of the lots in Plan of Subdivision 540233N must enter into an agreement with the Owners Corporation for the ongoing use and maintenance of the shared dam located on the common property.
11.	Are there any current agreements to provide services to lot owners, occupiers or the public? If so, provide details: No
12.	Are there any notices or orders served on the owners corporation in the last 12 months that have not been satisfied? If so, provide details: No
13.	Are there any legal proceedings to which the owners corporation is a party and any circumstances of which the owners corporation is aware that are likely to give rise to proceedings? If so, provide details: No
14.	Has the owners corporation appointed or resolved to appoint a manager? If so, provide details - No
15.	Has an administrator has been appointed for the owners corporation, or has there been a proposal for the appointment of an administrator? No
16.	A copy of the minutes of the most recent annual general meeting of the owners corporation is attached.
17.	Documents required to be attached to the owners corporation certificate are: <ul style="list-style-type: none"> • A copy of all resolutions made at the last annual general meeting • A copy of the consolidated rules registered at Land Victoria • A copy of Schedule 3 of the Owners corporations Regulations 2018 entitled "Statement of advice and information for prospective purchasers and lot owners"
18.	NOTE: More information can be obtained by an inspection of the owners corporation register. Please make your request to inspect the owners corporation register in writing to: Falcone & Adams – office@falconeadams.com.au

DATED:


This owners corporation certificate was prepared by: **Falcone & Adams Lawyers**

Postal address	PO Box 214, Emerald VIC 3782
(signature)	<i>Falcone & Adams</i>
(Print name)	Falcone & Adams

SIGNED on behalf of the Owners Corporation by **HANS)
WALTER KOLL** and **LOUISE ANNE KOLL** in their)
capacity as directors of Koll Holdings Pty Ltd being the)
owner of Lot 4 on Plan of Subdivision 540233N and a)
member of the Owners Corporation:)
)
)
)
)



Hans Walter Koll



Louise Anne Koll

Statement of advice and information for prospective purchasers and lot owners

Schedule 3, Regulation 17, Owners Corporations Regulations 2018

What is an owners corporation?

The lot you are considering buying is part of an owners corporation. Whenever a plan of subdivision creates common property, an owners corporation is responsible for managing the common property. A purchaser of a lot that is part of an owners corporation automatically becomes a member of the owners corporation when the transfer of that lot to the purchaser has been registered with Land Victoria.

If you buy into an owners corporation, you will be purchasing not only the individual property, but also ownership of, and the right to use, the common property as set out in the plan of subdivision. This common property may include driveways, stairs, paths, passages, lifts, lobbies, common garden areas and other facilities set up for use by owners and occupiers. In order to identify the boundary between the individual lot you are purchasing (for which the owner is solely responsible) and the common property (for which all members of the owners corporation are responsible), you should closely inspect the plan of subdivision.

How are decisions made by an owners corporation?

As an owner, you will be required to make financial contributions to the owners corporation, in particular for the repair, maintenance and management of the common property. Decisions as to the management of this common property will be the subject of collective decision making. Decisions as to these financial contributions, which may involve significant expenditure, will be decided by a vote.

Owners corporation rules

The owners corporation rules may deal with matters such as car parking, noise, pets, the appearance or use of lots, behaviour of owners, occupiers or guests and grievance procedures.

You should look at the owners corporation rules to consider any restrictions imposed by the rules.

Lot entitlement and lot liability

The plan of subdivision will also show your lot entitlement and lot liability. Lot liability represents the share of owners corporation expenses that each lot owner is required to pay.

Lot entitlement is an owner's share of ownership of the common property, which determines voting rights. You should make sure that the allocation of lot liability and entitlement for the lot you are considering buying seems fair and reasonable.

Further information

If you are interested in finding out more about living in an owners corporation, you can contact Consumer Affairs Victoria. If you require further information about the particular owners corporation you are buying into you can inspect that owners corporation's information register.

Management of an owners corporation

An owners corporation may be self-managed by the lot owners or professionally managed by an owners corporation manager. If an owners corporation chooses to appoint a professional manager, it must be a manager registered with the Business Licensing Authority (BLA).

If you are uncertain about any aspect of the owners corporation or the documents you have received from the owners corporation, you should seek expert advice.

MODEL RULES FOR AN OWNERS CORPORATION

1. Health, safety and security

1.1 Health, safety and security of lot owners, occupiers of lots and others

A lot owner or occupier must not use the lot, or permit it to be used, so as to cause a hazard to the health, safety and security of an owner, occupier, or user of another lot.

1.2 Storage of flammable liquids and other dangerous substances and materials

1. Except with the approval in writing of the owners corporation, an owner or occupier of a lot must not use or store on the lot or on the common property any flammable chemical, liquid or gas or other flammable material.
2. This rule does not apply to -
 - (a) chemicals, liquids, gases or other material used or intended to be used for domestic purposes; or
 - (b) any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

1.3 Waste disposal

An owner or occupier must ensure that the disposal of garbage or waste does not adversely affect the health, hygiene or comfort of the occupiers or users of other lots.

2. Committees and sub-committees

2.1 Functions, powers and reporting of committees and sub-committees

A committee may appoint members to a sub committee without reference to the owners corporation.

3. Management and administration

3.1 Metering of services and apportionment of costs of services

1. The owners corporation must not seek payment or reimbursement for a cost or charge from a lot owner or occupier that is more than the amount that the supplier would have charged the lot owner or occupier for the same goods or services.
2. If a supplier has issued an account to the owners corporation, the owners corporation cannot recover from the lot owner or occupier an amount which includes any amount that is able to be claimed as a concession or rebate by or on behalf of the lot owner or occupier from the relevant supplier.
3. Subrule (2) does not apply if the concession or rebate -
 - (a) must be claimed by the lot owner or occupier and the owners corporation has given the lot owner or occupier an opportunity to claim it and the lot owner or occupier has not done so by the payment date set by the relevant supplier; or
 - (b) is paid directly to the lot owner or occupier as a refund.

4. Use of common property

4.1 Use of common property

1. An owner or occupier of a lot must not obstruct the lawful use and enjoyment of the common property by any other person entitled to use the common property.

2. An owner or occupier of a lot must not, without the written approval of the owners corporation, use for the owner or occupier's own purposes as a garden any portion of the common property.
3. An approval under subrule (2) may state a period for which the approval is granted.
4. If the owners corporation has resolved that an animal is a danger or is causing a nuisance to the common property, it must give reasonable notice of this resolution to the owner or occupier who is keeping the animal.
5. An owner or occupier of a lot who is keeping an animal that is the subject of a notice under subrule (4) must remove that animal.
6. Subrules (4) and (5) do not apply to an animal that assists a person with an impairment or disability.

4.2 Vehicles and parking on common property

An owner or occupier of a lot must not, unless in the case of an emergency, park or leave a motor vehicle or other vehicle or permit a motor vehicle or other vehicle—

- (a) to be parked or left in parking spaces situated on common property and allocated for other lots; or
- (b) on the common property so as to obstruct a driveway, pathway, entrance or exit to a lot; or
- (c) in any place other than a parking area situated on common property specified for that purpose by the owners corporation.

4.3 Damage to common property

1. An owner or occupier of a lot must not damage or alter the common property without the written approval of the owners corporation.
2. An owner or occupier of a lot must not damage or alter a structure that forms part of the common property without the written approval of the owners corporation.
3. An approval under subrule (1) or (2) may state a period for which the approval is granted, and may specify the works and conditions to which the approval is subject.
4. An owner or person authorised by an owner may install a locking or safety device to protect the lot against intruders, or a screen or barrier to prevent entry of animals or insects, if the device, screen or barrier is soundly built and is consistent with the colour, style and materials of the building.
5. The owner or person referred to in subrule (4) must keep any device, screen or barrier installed in good order and repair.

5. Lots

5.1 Change of use of lots

An owner or occupier of a lot must give written notification to the owners corporation if the owner or occupier changes the existing use of the lot in a way that will affect the insurance premiums for the owners corporation.

Example

If the change of use results in a hazardous activity being carried out on the lot, or results in the lot being used for commercial or industrial purposes rather than residential purposes.

5.2 External appearance of lots

1. An owner or occupier of a lot must obtain the written approval of the owners corporation before making any changes to the external appearance of their lot.
2. An owners corporation cannot unreasonably withhold approval, but may give approval subject to reasonable conditions to protect quiet enjoyment of other lot owners, structural integrity or the value of other lots and/or common property.

5.3 Requiring notice to the owners corporation of renovations to lots

An owner or occupier of a lot must notify the owners corporation when undertaking any renovations or other works that may affect the common property and/or other lot owners' or occupiers' enjoyment of the common property.

6. Behaviour of persons

6.1 Behaviour of owners, occupiers and invitees on common property

An owner or occupier of a lot must take all reasonable steps to ensure that guests of the owner or occupier do not behave in a manner likely to unreasonably interfere with the peaceful enjoyment of any other person entitled to use the common property.

6.2 Noise and other nuisance control

1. An owner or occupier of a lot, or a guest of an owner or occupier, must not unreasonably create any noise likely to interfere with the peaceful enjoyment of any other person entitled to use the common property.
2. Subrule (1) does not apply to the making of a noise if the owners corporation has given written permission for the noise to be made.

7. Dispute resolution

1. The grievance procedure set out in this rule applies to disputes involving a lot owner, manager, or an occupier or the owners corporation.
2. The party making the complaint must prepare a written statement in the approved form.
3. If there is a grievance committee of the owners corporation, it must be notified of the dispute by the complainant.
4. If there is no grievance committee, the owners corporation must be notified of any dispute by the complainant, regardless of whether the owners corporation is an immediate party to the dispute.
5. The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee or the owners corporation, within 14 working days after the dispute comes to the attention of all the parties.
6. A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.
7. If the dispute is not resolved, the grievance committee or owners corporation must notify each party of his or her right to take further action under Part 10 of the Owners Corporations Act 2006.
8. This process is separate from and does not limit any further action under Part 10 of the Owners Corporations Act 2006.

MINUTES OF ANNUAL GENERAL MEETING OF OWNERS CORPORATION
OWNERS COPORATION NO 1 PLAN NO 540233N
LOTS 1, 2, 3 and 4, 130 GEMBROOK-TONIMBUK ROAD, GEMBROOK VIC 3783

Date: 1 March 2023 at 10:00am

Venue: 2972 Gembrook-Launching Place Road, Gembrook VIC 3783

Present: Lot 1 – Hans Walter Koll and Louise Anne Koll for DH Koll Pty Ltd
Lot 2 – Hans Walter Koll and Louise Anne Koll for DH Koll Pty Ltd
Lot 3 – Hans Walter Koll and Louise Anne Koll for JH Koll Pty Ltd
Lot 4 - Hans Walter Koll and Louise Anne Koll for Kolls Holdings Pty Ltd

Chairperson: Hans Walker Koll was elected to chair the meeting

**Proxies and
apologies:** Nil

**Quorum
declaration:** A quorum was declared there being a representative of each lot present at the meeting

**Tabling of
Documents:** Nil


Resolutions: The following items were considered and resolved:

1. The Owners Corporation will take out a public liability insurance policy for a minimum sum insured of \$10,000,000 for the common property. The cost of insurance is to be allocated to each lot in accordance with the lot liability.
2. The members of the Owners Corporation will take out its own building insurance policy for its own lot, if applicable.
3. Upon the settlement of the sale of Lot 4 each of the owners for the time being of the lots in Plan of Subdivision 540233N must enter into an agreement with the Owners Corporation for the ongoing use and maintenance of the shared dam located on the common property.

**Other
business:** Nil

Closure: There being no further business the meeting was closed at 10:30am

Signed:


.....
Chairperson

Date: 1 March 2023

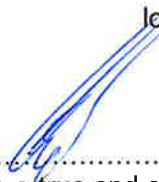
UNANIMOUS RESOLUTIONS OF OWNERS COPORATION NO 1 PLAN NO 540233N
MADE ON 1 MARCH 2023
LOTS 1, 2, 3 and 4, 130 GEMBROOK-TONIMBUK ROAD, GEMBROOK VIC 3783

Members present: Lot 1 – Hans Walter Koll and Louise Anne Koll for DH Koll Pty Ltd
Lot 2 – Hans Walter Koll and Louise Anne Koll for DH Koll Pty Ltd
Lot 3 – Hans Walter Koll and Louise Anne Koll for JH Koll Pty Ltd
Lot 4 - Hans Walter Koll and Louise Anne Koll for Kolls Holdings Pty Ltd

Venue: 2972 Gembrook-Launching Place Road, Gembrook VIC 3783

Resolutions: The members of the Owners Corporation hereby resolve unanimously that:

1. The Owners Corporation will take out a public liability insurance policy for a minimum sum insured of \$10,000,000 for the common property. The cost of insurance is to be allocated to each lot in accordance with the lot liability.
2. The members of the Owners Corporation will take out its own building insurance policy for its own lot, if applicable.
3. Upon the settlement of the sale of Lot 4 each of the owners for the time being of the lots in Plan of Subdivision 540233N must enter into an agreement with the Owners Corporation for the ongoing use and maintenance of the shared dam located on the common property.

.....

Signed as a true and correct record by
Hans Walter Koll on behalf the members

Date: 1 March 2023

BUSINESS PACK INSURANCE / CONFIRMATION OF WHAT YOU TOLD US

Policy Number: 41U047603BPK

Your contract of insurance is based on the information provided to us that is shown below. You must review it and contact QBE Australia immediately if it is incorrect or incomplete in any way in accordance with your duty of disclosure. Please amend any incorrect information, sign and return the document to QBE Australia.

If all the information shown below is correct, then sign and return the document to QBE Australia.

Date: 03/03/2023 **Period of Insurance:** 03/03/2023 to 4pm 03/03/2024

Insured Name: PS 540233N

Other Insured:

Tax Details: ABN None Noted Not Registered

Location of Business: 130 TONIMBUK ROAD
GEMBROOK
VIC 3783

Business Description: VACANT LAND (COMMERCIAL)

Broadform Liability Section

	Sum Insured	Excess
Limit of Liability	\$10,000,000	\$500
Goods in Physical Control	Not Insured	
Annual Turnover		
Payments to Contractors	Not Insured	
Property Owners Yes		Property Value \$500,000
No. of Employees? Nil		

Clauses

PROPERTY OWNERS EXCLUDING TRADE RIS
STEADFAST COMMERCIAL WORDING

Property Section Not Insured

Business Interruption Section Not Insured

Theft Section Not Insured

Money Section Not Insured

Glass Section (Replacement Value) Not Insured

General Property Section	Not Insured
Machinery Breakdown Section	Not Insured
Electronic Equipment Section	Not Insured
Employee Dishonesty Section	Not Insured
Tax Audit Section	Not Insured
Transit Section	Not Insured
Employment Practices Section	Not Insured
Statutory Liability Section	Not Insured

History Questions

1. Have you in the last 5 years

- a. made any claim(s) on an insurer for loss or damage?

Your Answer: No

If Yes, give details - [Date - Cause - Cost - Further Details]

- b. had any insurance declined or cancelled, proposal/application rejected, renewal refused, claim rejected, special conditions or excess imposed by an insurer?

Your Answer: No

If Yes, give details - [Date - Cause - Further Details]

- c. suffered any loss or damage which would have been covered by the proposed insurance policy?

Your Answer: No

If Yes, give details - [Date - Cause - Cost - Further Details]

2. Have you or your partner(s) or director(s) of the business

- a. ever been declared bankrupt?

Your Answer: No

If Yes, give details - [Date - Further Details]

- b. ever been involved in a company or business which became insolvent or subject to any form of insolvency administration (e.g liquidation or receivership)?

Your Answer: No

If Yes, give details - [Date - Further Details]

c. been convicted of any criminal offence within the past 5 years (other than minor traffic convictions)?

Your Answer: No

If Yes, give details - [Date - Further Details]

d. been liable for any civil offence or pecuniary penalty (exceeding \$5,000)?

Your Answer: No

If Yes, give details - [Date - Further Details]

Note: Please attach a piece of paper with any additional information if you have insufficient space to answer on this document.

Signature and Declaration

All answers and statements made in this document are correct and complete in every respect and no information has been withheld.

Applicant's Signature: _____

Date: ___/___/___

PLEASE RETURN THIS SIGNED CONFIRMATION TO QBE AUSTRALIA WITHIN 14 DAYS.



Fitzpatrick & Co
Insurance Brokers
 An Aviso Group Partner

Fitzpatrick & Co Insurance Brokers Pty Ltd
 A.F.S.L. 244386 A.B.N. 25 050 242 914
 PO Box 2230
 Mount Waverley VIC 3149
Ph: 03 8544 1600
Email: insure@fitzpatrick.com.au
Web: fitzpatrick.com.au

NEW BUSINESS TAX INVOICE

PS 540233N
 P.O. Box 187
 GEMBROOK VIC 3783

Date: 03/03/2023
 Invoice Number: 1322230
 Account Manager: Jane Spiers

Type of Policy	Business Insurance - General	Premium	\$250.00
Insured	PS 540233N	FSL	\$0.00
Policy Description	Common Ground Liability - Tonimbuk Road Gembrook 3783	Underwriter Fee	\$0.00
Policy Number	141U047603BPK	Stamp Duty	\$27.50
Period of Insurance	03/03/2023 to 03/03/2024	Broker Fee	\$100.45
Effective Date	03/03/2023	GST	\$35.05
Insurer	QBE Insurance (Australia) Ltd	Invoice total	\$ 413.00
Notes	Common Ground Public Liability Insurance - New Business		

Providing the highest quality protection and advice for over 30 years

We can assist with insurance for your Business, Public Liability, Cyber, General Property, Tools of the Trade and Life & Disability*. Along with your Home & Contents, Motor Vehicle and Landlord.

We have you covered

Please check your schedule carefully and read through the important notices & information regarding your duty of disclosure



Pay by credit card or registered bank account at www.deft.com.au or phone **1300 78 11 45**. Payments by credit card may attract a surcharge.
 Deft Reference Number: 405688213222300

Fitzpatrick & Co Insurance Brokers Pty Ltd

Name:	PS 540233N
Client ID:	35569
Invoice No:	1322230



*498 405688 213222300

Payment Due by 03/03/2023 to ensure your continued protection and continuity of cover

Payments can be made at any Post Office by cheque or EFTPOS. Please make cheque payable to Fitzpatrick & Company Insurance Brokers.



Billers Code: 20362
Ref: 405688213222300

Total Due: \$ 413.00

Contact your participating bank to make payment from your cheque or savings account. Enter the Biller Code and BPAY reference number

Fitzpatrick & Co Insurance Brokers Pty Ltd

A.F.S. 244386
A.B.N. 25 050 242 914

IMPORTANT NOTICES & INFORMATION

INSURANCE BROKERS CODE OF PRACTICE

We subscribe to and are bound by the Insurance Brokers Code of Practice. Download a copy of our Terms of Engagement [here](#) or you can visit our website fitzpatrick.com.au for more information including a copy of the full National Insurance Brokers Association (NIBA) Code of Practice.

POLICY

This notice refers to a contract of insurance that you have entered into via our company. You should refer to your policy document for the full terms and conditions applicable and you should read them carefully. Should any doubts arise as to the scope of cover provided, please contact us for an explanation.

YOUR DUTY TO TAKE REASONABLE CARE NOT TO MAKE A MISREPRESENTATION

You must take reasonable care not to make a misrepresentation to us. This responsibility applies until we issue you with a policy for the first time or agree to renew, extend, vary/change, or reinstate your policy. You must answer our questions honestly, accurately and to the best of your knowledge. A misrepresentation includes a statement that is false, partially false, or which does not fairly reflect the truth. It is not misrepresentation if you do not answer a question or if your answer is obviously incomplete or irrelevant to the question asked. The responsibility to take reasonable care not to make a misrepresentation applies to everyone who will be insured under the policy. If you are answering questions on behalf of anyone, we will treat your answers or representations as theirs.

Whether or not you have taken reasonable care not to make a misrepresentation is to be determined having regard to all relevant circumstances, including the type of insurance, who it is intended to be sold to, whether you are represented by a broker, your particular characteristics and circumstances we are aware of. If you do not meet the above Duty, we may reject or not fully pay your claim and/or cancel your policy. If the misrepresentation was deliberate or reckless, this is an act of fraud, and we may treat your policy as if it never existed.

YOUR DUTY OF DISCLOSURE

It is important that you provide us with complete and accurate information about the risk to be insured otherwise the advice we give you may not be appropriate for your needs. We rely on you to provide complete and accurate information.

Before you enter into an insurance contract with an insurer, you have a duty under the Insurance Contracts Act 1984 to disclose information to the insurer. This Duty of Disclosure applies until the insurer either agrees to insure you or renew your insurance. The Duty of Disclosure also applies before you extend, vary or reinstate your insurance.

If you are applying for or renewing insurance in relation to consumer insurance products such as, your motor vehicle, home building and/or contents, residential strata, travel, personal accident, or sickness and/or consumer credit products, you must answer the specific questions asked by the insurer truthfully and accurately. In answering those questions, you must tell the insurer all information that's known to you and that a reasonable person would be expected to provide in answer to the questions. Not doing so may be considered by the insurer to be a breach of your 'duty to take reasonable care not to make a misrepresentation' and may cause issues in relation to the validity of your insurance contract and/or issues in the event of you lodging a claim.

At renewal, the insurer may either ask you to advise any changes to something you have previously disclosed or may give you a copy of the information you previously disclosed and ask you to advise them if there has been a change. If you do not tell the insurer about a change, you will be taken to have told the insurer there is no change.

If you are either applying for or renewing any other types of insurance, you must tell the insurer all information that is known to you that a reasonable person in the circumstances could be expected to know or that is relevant to the insurer's decision to insure you and on what terms. You do not need to tell the insurer anything:

- that reduces the risk it insures you for;
- is common knowledge;
- that the insurer knows or should know; or
- which the insurer waived you duty to tell it about.

Non-disclosure

If you fail to comply with your Duty of Disclosure, the insurer may cancel your contract or reduce the amount it will pay you if you make a claim, or both. If your failure to comply with the Duty of Disclosure is fraudulent, the insurer may refuse to pay a claim and treat the contract as if it never existed.

If you are in doubt about whether or not a particular matter should be disclosed, please contact your broker.

Where you represent another insured party, you must make sure you explain the Duty of Disclosure to them when we arrange any insurance cover. Alternatively, you may ask any person you represent to contact us and we will explain their Duty of Disclosure to them directly.

RETAIL CLIENTS

Under the Corporations Act 2001 and associated Regulations Retail Clients are provided with additional levels of protection from other insurance purchasers. The Act defines Retail Clients as: Individuals or a small manufacturing business employing less than 100 people or any other business employing less than 20 people.

And that are being provided a financial service or product that relates to the following insurance covers: Motor Vehicle (under 2 tonne), Home building, contents, personal and domestic, Sickness and Accident or Travel, Consumer Credit and other classes as prescribed by regulations.

Fitzpatrick & Co Insurance Brokers Pty Ltd

A.F.S. 244386
A.B.N. 25 050 242 914

WHAT ADVICE IS BEING PROVIDED (RETAIL CLIENTS ONLY)

General Advice is advice that has been prepared without considering your current objective's, financial situation or needs. Therefore, before acting on this advice, you should consider the appropriateness of the advice having regard to your current objective's, financial situation or needs.

If the advice provided relates to the acquisition or possible acquisition of a new insurance policy and the insurer has prepared a Product Disclosure Statement (PDS) we will have attached the PDS for your review. You should consider the PDS prior to making the decision to purchase this product. Further information regarding the income we have been paid by the insurer for this transaction is available upon request.

DISPUTES

Clients not satisfied with our services should contact our Complaints Officer. We are members of the Australian Financial Complaints Authority (AFCA), a free consumer service. Further information is available from our office or contact AFCA directly on 1800 931 678 or by email info@afca.org.au. We also follow the Insurance Brokers Code of Practice.

ELECTRONIC DELIVERY OF DISCLOSURE NOTICES

Please note that where possible we prefer to provide all correspondence and disclosure notices (including Financial Services Guides and Product Disclosure Statements) to you electronically, via email or links to websites etc. If you have provided your email address to us we will typically use that email address for all correspondence and disclosure notices. Should you not wish to be sent disclosure documents electronically please advise us and we will update our records accordingly.

CANCELLATION

If you cancel this insurance prior to the expiry date, we will be entitled to retain such proportion of any broker's fee and/or commission that relate to the unexpired period of insurance. A broker service fee may be charged to process the cancellation.

SUBROGATION

You are warned that should you become a party to any agreement that has the effect of excluding or limiting your insurer's ability to recover from a third party, your insurers may have the right to refuse to indemnify you for such loss where it is shown that your insurer's rights of recovery have been prejudiced by your action.

AVERAGE OR CO INSURANCE

If the subject matter of insurance (or part thereof) relates to Industrial Special Risks, Fire & Perils or Business Interruption/Consequential Loss, then the policy (or part thereof) will be subject to average. This means that if the sum insured you nominate for buildings, plant, machinery, stock is less than 100% of its value (100% for Business Interruption/Consequential Loss) at the time the insurance was affected (or renewed), then part of the loss will/may not be covered by the policy. For example, a policy with a 100 % co-insurance clause pays as follows: if a building is insured for \$150,000 when its value is \$200,000, then in the event of a claim for damage of \$100,000, insurers will only pay \$75,000 and you will be your own insurer for the balance.



www.niba.com.au



www.steadfast.com.au

Fitzpatrick & Co Insurance Brokers Pty Ltd

A.F.S. 244386
A.B.N. 25 050 242 914

When TRADES PACK INSURANCE is shown on the Policy Schedule QBE Trade Policy QM207-0421 applies.
When OFFICE PACK INSURANCE is shown on the Policy Schedule QBE Office Policy QM208-1221 applies.

Fire or Business Interruption - NOT INSURED

Theft/Money/Glass - NOT INSURED

General Property/ Machinery Breakdown - NOT INSURED

Electronic Equipment - NOT INSURED

Employee Dishonesty/Tax Audit/Transit - NOT INSURED

Employment Practices/Statutory Liability- NOT INSURED

TERRORISM INSURANCE ACT - APPLICATION TO THIS POLICY

QBE Australia has determined that this policy (or part of it) is a policy to which the Terrorism Insurance Act 2003 applies. We have reinsured our liability under the Act with the Commonwealth Government reinsurer, the Australian Reinsurance Pool Corporation (ARPC). As a consequence, we are required to pay a premium to the ARPC and that amount (together with the cost of that part of the cover provided by us and administrative costs associated with the legislation) is reflected in the premium charged to you.

As with any other part of our premium, it is subject to Government taxes and charges such as GST, stamp duty and, where applicable, levies.

OUR AGREEMENT

We agree to provide You with the insurance cover set out in each of the Policy sections which You select and which are listed in the Schedule.
You have paid or agree to pay to us the Premium set out in the current Schedule.

The insurance cover is in force for the Period of Cover set out in the Schedule. We will cover You for loss, damage and liability occurring during that Period of Cover, subject to the provisions of the Policy. We will not pay any more than the sum insured or limit of liability for each section which is shown in the Schedule.

We will not pay the Excesses shown in the Schedule. If any loss or damage leads to a claim under more than one Section of this Policy, You must pay the highest applicable Excess, but You need to pay only one Excess.

Fitzpatrick & Co Insurance Brokers Pty Ltd

A.F.S. 244386
A.B.N. 25 050 242 914

STATEMENT OF GENERAL ADVICE

The advice that we are giving you related to this transaction is General Advice.

General Advice is advice that has been prepared without considering your current objective's, financial situation or needs. Therefore, before acting on this advice, you should consider the appropriateness of the advice having regard to your current objective's, financial situation or needs.

If the advice provided relates to the acquisition or possible acquisition of a new insurance policy you should consider the enclosed PDS prior to making the decision to purchase this product.

This invoice provides an outline of your cover only and the Insurer's Product Disclosure Statement/Policy Document (PDS) and any Supplementary PDS should be referred to for specific Clauses and Conditions*.

*** Clauses or conditions which alter or are additional to those shown in the PDS or SPDS may be recorded in this invoice and will take precedence over those within the PDS and any SPDS.**

YOUR DUTY OF DISCLOSURE

Please read the Duty of Disclosure and Non-Disclosure notations within the 'Important Information' document provided with this invoice and advise us immediately in writing should there be any information which requires disclosure to your insurer. If you are unsure of whether a circumstance needs to be disclosed, you should contact your Account Manager to discuss.

COPY OF RECORD IN THE VICTORIAN WATER REGISTER

REGISTRATION LICENCE

under Section 51(1A) of the Water Act 1989

The information in this copy of record is as recorded at the time of printing. Current information should be obtained by a search of the register. The State of Victoria does not warrant the accuracy or completeness of this information and accepts no responsibility for any subsequent release, publication or reproduction of this information.

This licence does not remove the need to apply for any authorisation or permission necessary under any other Act of Parliament with respect to anything authorised by the registration licence.

Water used under this entitlement is not fit for any use that may involve human consumption, directly or indirectly, without first being properly treated.

The Authority does not guarantee, by the granting of the licence, that the licensee will obtain any specific quantity or quality of water. The Authority is not liable for any loss or damage suffered by the licensee as a result of the quantity of water being insufficient or the quality of the water being unsuitable for use by the licensee at any particular time or for any particular purpose.

This registration licence entitles its holders to take and use water as set out under the licence description, subject to the conditions that are specified.

Licence Holder(s)

HANS KOLL of PO BOX 187 GEMBROOK VIC 3783
LOUISE KOLL of PO BOX 187 GEMBROOK VIC 3783

Licence Contact Details

H & L KOLL
PO BOX 187
GEMBROOK VIC 3783
AU

Licence Description

Expiry date	Ongoing
Status	Active
Authority	Melbourne Water
Name of waterway, aquifer or works	Cockatoo Creek
Water system type	Unregulated waterway, spring or run-off
River basin or groundwater unit	Yarra
Licence volume	20.0 megalitres
Licence volume adjusted for temporary trade	20.0 megalitres
Method of taking	Harvesting using an off-waterway dam
Period during which water can be taken	01 Jul - 30 Jun inclusive
Use of water	Irrigation - as well as domestic and stock use, dairy use, and general non-irrigation farm use

Licence Volume Details

Licence volume	20.0 megalitres
Licence volume adjusted for temporary trade	20.0 megalitres

Temporary volume transaction details

<i>Approval date</i>	<i>Volume traded (ML)</i>	<i>Expiry date</i>
Nil		

Extraction Point Details

<i>Easting</i>	<i>Northing</i>	<i>Zone MGA</i>	<i>Location description</i>
373852	5797034		Nil

Land on which the Water is to be Used

Land description

Volume 11230 Folio 436
Lot CM1 of Plan PS540233N

Volume 11230 Folio 432
Lot 1 of Plan PS540233N

Volume 11230 Folio 433
Lot 2 of Plan PS540233N

Volume 11230 Folio 434
Lot 3 of Plan PS540233N

Volume 11230 Folio 435
Lot 4 of Plan PS540233N

The person who owns all the land parcels set out in this copy of record is legally deemed the holder of the registration licence. The water register currently records the following as the owner(s) of the land parcels – however, recent dealings in land may mean that this information is not current.

Property address

130 GEMBROOK-TONIMBUK ROAD, GEMBROOK, VIC 3783
GEMBROOK-TONIMBUK ROAD, GEMBROOK, VIC 3783

This entitlement runs with the land and as such it may not be transferred to another parcel of land.

Maximum area to be irrigated 7.00 hectares

Related Instruments

Related entitlements	Nil
Related works licences	Nil
Other related entities	WLE030763

Application History

<i>Reference</i>	<i>Type</i>	<i>Status</i>	<i>Lodged date</i>	<i>Approved date</i>	<i>Recorded date</i>
PTA032263	Address amendment	Recorded			04 Jun 2015
PTA032262	Address amendment	Recorded			04 Jun 2015
BER019284	Modify	Approved	30 Jun 2014	15 Sep 2014	
PTN012592	Name and address amendment	Recorded	17 May 2013	17 May 2013	17 May 2013
BEI469375	Issue	Approved	29 Aug 2009	29 Aug 2009	

Conditions

This registration licence is subject to the following conditions:

Operation and maintenance

- 1 The licence holder must maintain all works and appliances used to take water under this licence in a safe and efficient working order including any dam if water is taken from a dam under this licence.

Preventing pollution

- 2 The licence holder must not pollute any water, or the environment, through the spillage of fuel or lubricant or any gaseous, liquid or solid matter used in connection with the works and appliances associated with this licence.

Take volume and location

- 3 The licence holder must not use any water in excess of the annual entitlement volume in any twelve month period from 1 July to 30 June.

END OF COPY OF RECORD

OFFICIAL

Our ref: 465/740/5016

10/07/2023

Hans and Louise Koll
Mr and Mrs Koll
PO Box 187
GEMBROOK, VIC, 3783
Delivered via email: hlckoll@bigpond.com

Dear Mr and Mrs Koll,

RE: Stock and Domestic Use from Dam WRK030585(5740/D36) at 130 Tonimbuk Road, Gembrook

I refer to the on-site meeting at the above property on Tuesday, 27th June with Hans, myself, and Melbourne Water Diversions Officer Peter Theoharakos and discussion concerning usage of water from the dam on this property.

We have reviewed the Copy of Titles and Plan of Subdivision (PS 540233 N) for each of the Lots 1-4 on this property and understand the dam is owned by all lot owners as tenant in common.

Melbourne Water can confirm that all lots (1-4) on this property have the ability to extract water from the dam for domestic and stock purposes without a need for licencing. If commercial use is to commence from the dam on the lots, further discussion with Melbourne Water may be required.

I strongly recommend that a dam sharing agreement is put in place between all lot owners to ensure everyone understand their roles, rights and responsibility in relation to the dam, specifically around ongoing maintenance and access. Section 16 of the Victorian Water Act outlines that dam owners are legally responsible for the safety of their dams and accountable for the damage these dams may cause if they fail.

The Registration Licence BEE019352 associated with the dam for 20ML for irrigation purposes remains for Lots 1-3.

The below document, Your Dam Your Responsibility, outlines dam owners responsibilities and liabilities for dam ownership as well as general guidance on dam management.

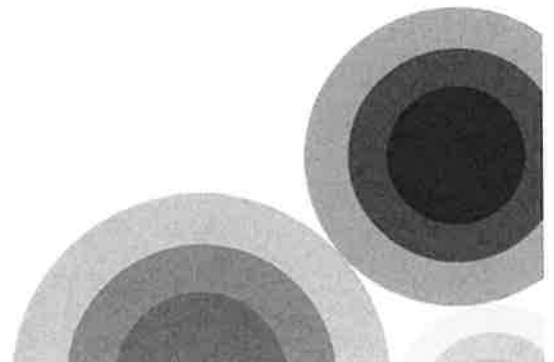
https://www.water.vic.gov.au/data/assets/pdf_file/0017/54251/Your-dam-Your-Responsibility-2018-05-19-digital-version-.pdf

Yours sincerely



Adam Roszak
Senior Diversions Officer
Waterways and Catchment Services

Melbourne Water ABN 81 945 386 953
990 La Trobe Street Docklands VIC 3008
PO Box 4342 Melbourne VIC 3001 Australia
TTY 131 722 F +61 3 9679 7099
melbournewater.com.au
Printed on 100% recycled paper



**LAND INFORMATION CERTIFICATE
SECTION 121 LOCAL GOVERNMENT ACT 2020
LOCAL GOVERNMENT (LAND INFORMATION)
REGULATIONS 2021**



Falcone & Adams c/InfoTrack (LEAP) c/Landata
DX 250639
Melbourne

CERTIFICATE NO: 74147
APPLICANT REFERENCE: 68375543-042-3
DATE: 29/03/2023

This certificate PROVIDES information regarding valuations, rates, charges, other moneys owing and any orders and notices made under the Local Government Act 2020, the Local Government Act 1989, the Local Government Act 1958 or under a local law or by law of the Council.

This certificate IS NOT REQUIRED to include information regarding planning, building, health, land fill, land slip, other flooding information or service easements. Information regarding these matters may be available from Council or the relevant Authority.
A fee may be charged for such information.

ASSESSMENT NO:	2322250100	VALUATIONS	
PROPERTY LOCATION:	130 Gembrook-Tonimbuk Rd	SITE VALUE:	945000
	Gembrook 3783	CAPITAL IMPROVED VALUE:	1130000
TITLE DETAILS:	L1 PS540233 V11230 F432;	NET ANNUAL VALUE:	56500
	L2 PS540233 V11230 F433;	LEVEL OF VALUE DATE:	01/01/22
	L3 PS540233 V11230 F434;	OPERATIVE DATE:	01/07/22
	L4 PS540233 V11230 F435;		
	LCM PS540233 V11230 F436		

PROPERTY RATES & CHARGES

Rates and charges for the financial year ending 30 June 2023

RATES & CHARGES	LEVIED	BALANCE
ARREARS BROUGHT FORWARD		\$0.00
RATES	\$1,918.74	\$480.75
INTEREST		\$0.00
MUNICIPAL CHARGE	\$0.00	\$0.00
FIRE SERVICES PROPERTY LEVY	\$59.89	\$14.98
GARBAGE	\$326.80	\$81.70
GREEN WASTE LEVY	\$0.00	\$0.00

SPECIAL RATES /SPECIAL CHARGES

SCHEME NAME	ESTIMATED AMOUNT	PRINCIPAL BALANCE	INTEREST BALANCE
		\$0.00	\$0.00
		TOTAL SCHEME BALANCE	\$0.00

OPEN SPACE CONTRIBUTION

TOTAL OUTSTANDING \$577.43



Billier code:	858944
Reference:	23222501001

LAND INFORMATION CERTIFICATE
SECTION 121 LOCAL GOVERNMENT ACT 2020
LOCAL GOVERNMENT (LAND INFORMATION)
REGULATIONS 2021

130 Gembrook-Tonimbuk Rd
Gembrook

L1 PS540233 V11230 F432;

L2 PS540233 V11230 F433;

L3 PS540233 V11230 F434;

L4 PS540233 V11230 F435;

~~LCM PS540233 V11230 F436~~

NOTICES AND ORDERS

Other Notices or Orders on the land that have been served by Council under the Local Government Act 2020, the Local Government Act 1989, the Local Government Act 1958 or Local Law of the Council, which have a continuing application as at the date of this certificate if any

OPEN SPACE CONTRIBUTION

Any outstanding amount required to be paid for recreational purposes or any transfer of land required to Council for recreational purposes under Section 18 of the Subdivision of Land Act 1988 or the Local Government Act 1958:

FLOOD LEVEL

A flood level has not been designated under the Building Regulations 1994.
Advice on whether a flood level has been determined, which affects the property, should be sought from Melbourne Water.

POTENTIAL LIABILITIES

Notices and Orders Issued as described above:

Other:

ADDITIONAL INFORMATION

In accordance with Section 175 of the Local Government Act a person who becomes the owner of rateable land must pay any rate or charge on the land which is due and payable at the time the person becomes the owner of the land.

I acknowledge having received the sum of \$27.80 being the fee for this certificate.

Delegated Officer: 

CONFIRMATION OF ANY VARIATION TO THIS CERTIFICATE WILL ONLY BE GIVEN FOR 90 DAYS AFTER ISSUE DATE.
PAYMENTS MADE BY CHEQUE ARE SUBJECT TO CLEARANCE FROM THE BANK.

Falcone & Adams C/- InfoTrack (LEAP)
E-mail: certificates@landata.vic.gov.au

Statement for property:
LOT 4 GEMBROOK TONIMBUK ROAD
GEMBROOK 3783
4 PS 540233

REFERENCE NO.	YOUR REFERENCE	DATE OF ISSUE	CASE NUMBER
62A//19096/00006	LANDATA CER 68076619-052-0	02 MARCH 2023	43554544

1. Statement of Fees Imposed

The property is classified as a serviced property with respect to charges which as listed below in the Statement of Fees.

(a) By Other Authorities

(b) By South East Water

TOTAL UNPAID BALANCE \$0.00

- Financial Updates (free service) are only available online please go to (type / copy the complete address shown below): <https://secureapp.southeastwater.com.au/PropertyConnect/#/order/info/update>

* Please Note: if usage charges appear above, the amount shown includes one or more of the following:

Water Usage, Recycled Water Usage, Sewage Disposal, Fire Service Usage and Trade Waste Volumetric Fees.

Interest may accrue on the South East Water charges listed in this statement if they are not paid by the due date as set out in the bill.

- The total annual service fees and volumetric fees for water usage and sewerage disposal for each class of property are set out at www.southeastwater.com.au.
- Updates of rates and other charges will only be provided for up to six months from the date of this statement.
- If this property has recently been subdivided from a "parent" title, there may be service or other charges owing on the "parent" which will be charged to this property, once sold, that do not appear on this statement. You must contact us to see if there are any such charges as they may be charged to this property on sale and should therefore be adjusted with the owner of the parent title beforehand.
- If the property is sold, the vendor is liable to pay all fees incurred in relation to the property until the vendor gives South East Water a Notice of Disposition of Land required by the Water (Disposition of Land) Regulations 2010. Please include the Reference Number set out above in that Notice.
- Fees relating to the property may change from year-to-year in accordance with the Essential Service Commission's Price Determination for South East Water.

AUTHORISED OFFICER:



MIKALA HEHIR
GENERAL MANAGER
CUSTOMER & COMMUNITY ENGAGEMENT

South East Water
Information Statement Applications
PO Box 2268, Seaford, VIC 3198

- Every fee referred to above is a charge against the property and will be recovered from a purchaser of the property if it is not paid by the vendor.
- Information about when and how outstanding fees may be paid, collected and recovered is set out in the Essential Services Commission's Customer Service Code, Urban Water Businesses.
- If this Statement only sets out rates and fees levied by Parks Victoria and Melbourne Water, the property may not be connected to South East Water's works. To find out whether the property is, or could be connected upon payment of the relevant charges, or whether it is separately metered, telephone 131 694.
- For a new connection to our water or sewer services, fees / charges will be levied.

2. Encumbrance Summary

Where available, the location of sewers is shown on the attached plan. Please ensure where manholes appear, that they remain accessible at all times "DO NOT COVER". Where driveways/paving is proposed to be constructed over easements for water supply/sewerage purposes, or within 1 metre of a South East Water asset, the owner will be responsible for all costs associated with any demolition and or re-instatement works, necessary to allow maintenance and or repair of the asset effected. Where changes to the surface levels requires maintenance shafts/holes to be altered, all works must be carried out by South East Water approved contractors only. For information call 131694. For all other works, prior consent is required from south East Water for any construction over easements for water supply/sewerage purposes, or within 1 metre of a South East Water asset.

Information available at Melbourne Water indicates that this property is not subject to flooding from Melbourne Water's drainage system, based on a flood level that has a probability of occurrence of 1% in any one year.

The natural valley draining west to Cockatoo Creek may be within or is located in the vicinity of the property. For further information contact Melbourne Water on 9679-7517.

ENCUMBRANCE ENQUIRY EMAIL infostatements@sew.com.au

If no plan is attached to this Statement, South East Water is not aware of any works belonging to South East Water being present on the property.

If a plan is attached to this Statement, it indicates the nature of works belonging to South East Water, their approximate location, and the approximate location of any easement relating to those works.

Important Warnings

The map base for any attached plan is not created by South East Water which cannot and does not guarantee the accuracy, adequacy or completeness of any information in the plan, especially the exact location of any of South East Water's works, which may have changes since the attached plan was prepared. Their location should therefore be proven by hand before any works are commenced on the land.

Unless South East Water's prior written approval is obtained, it is an offence to cause any structure to be built or any filling to be placed on a South East Water easement or within 1 metre laterally of any of its works or to permit any structure to be built above or below any such area.

Any work that requires any South East Water manhole or maintenance shaft to be altered may only be done by a contractor approved by South East Water at the property owner's cost.

If the owner builds or places filling in contravention of that requirement, the owner will be required to pay the cost of any demolition or re-instatement of work that South East Water considers necessary, in order to maintain, repair or replace its asset.

AUTHORISED OFFICER:



MIKALA HEHIR
GENERAL MANAGER
CUSTOMER & COMMUNITY ENGAGEMENT

South East Water
Information Statement Applications
PO Box 2268, Seaford, VIC 3198



INFORMATION STATEMENT

STATEMENT UNDER SECTION 158, WATER ACT 1989

This Statement does not include any information about current or outstanding consent issued for plumbing works on at the property.

3. Disclaimer

This Statement does not contain all the information about the property that a prospective purchaser may wish to know. Accordingly, appropriate enquiries should be made of other sources and information.

South East Water has prepared the information in this Statement with due care and diligence. It cannot and does not accept liability for any loss or damage arising from reliance on the information given, beyond the extent set out in section 155 of the Water Act 1989 and sections 18 and 29 of the Australian Consumer Law.

AUTHORISED OFFICER:

A handwritten signature in black ink, appearing to read "Mikala Hehir".

MIKALA HEHIR
GENERAL MANAGER
CUSTOMER & COMMUNITY ENGAGEMENT

South East Water
Information Statement Applications
PO Box 2268, Seaford, VIC 3198



ASSET INFORMATION - SEWER & DRAINAGE

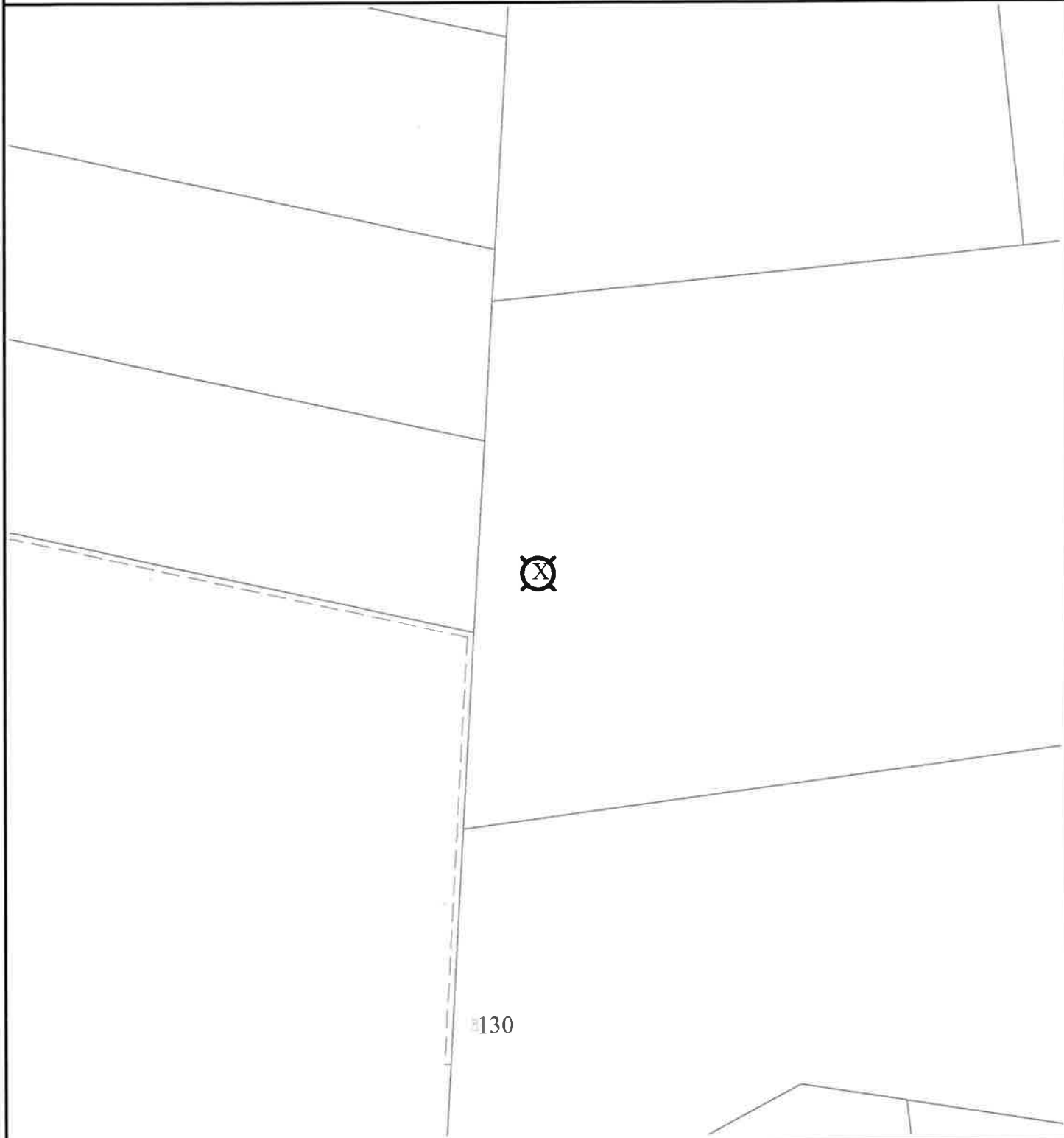
Property: Lot 4 LOT 4 GEMBROOK TONIMBUK ROAD GEMBROOK 3783



Case Number: 43554544



Date: 02MARCH2023



WARNING: This plan is issued solely for the purpose of assisting you in identifying South East Water's and Melbourne Water's specified assets through further investigation only. It is not to be used for any other purpose, including to identify any other assets, property boundaries or dimensions. Accordingly, the location of all assets should be proven by hand on site prior to the commencement of any work. (Refer to attached letter for further details). Assets labelled AC may contain asbestos and therefore works on these assets must be undertaken in accordance with OH&S Regulations. Abandoned and currently unused assets are shown in orange.

	Title/Road Boundary		Subject Property		Maintenance Hole
	Proposed Title/Road		Sewer Main & Property Connections		Inspection Shaft
	Easement		Direction of Flow	<1.0>	Offset from Boundary
Melbourne Water Assets					
	Sewer Main		Underground Drain		Natural Waterway
	Maintenance Hole		Channel Drain		Underground Drain M.H.

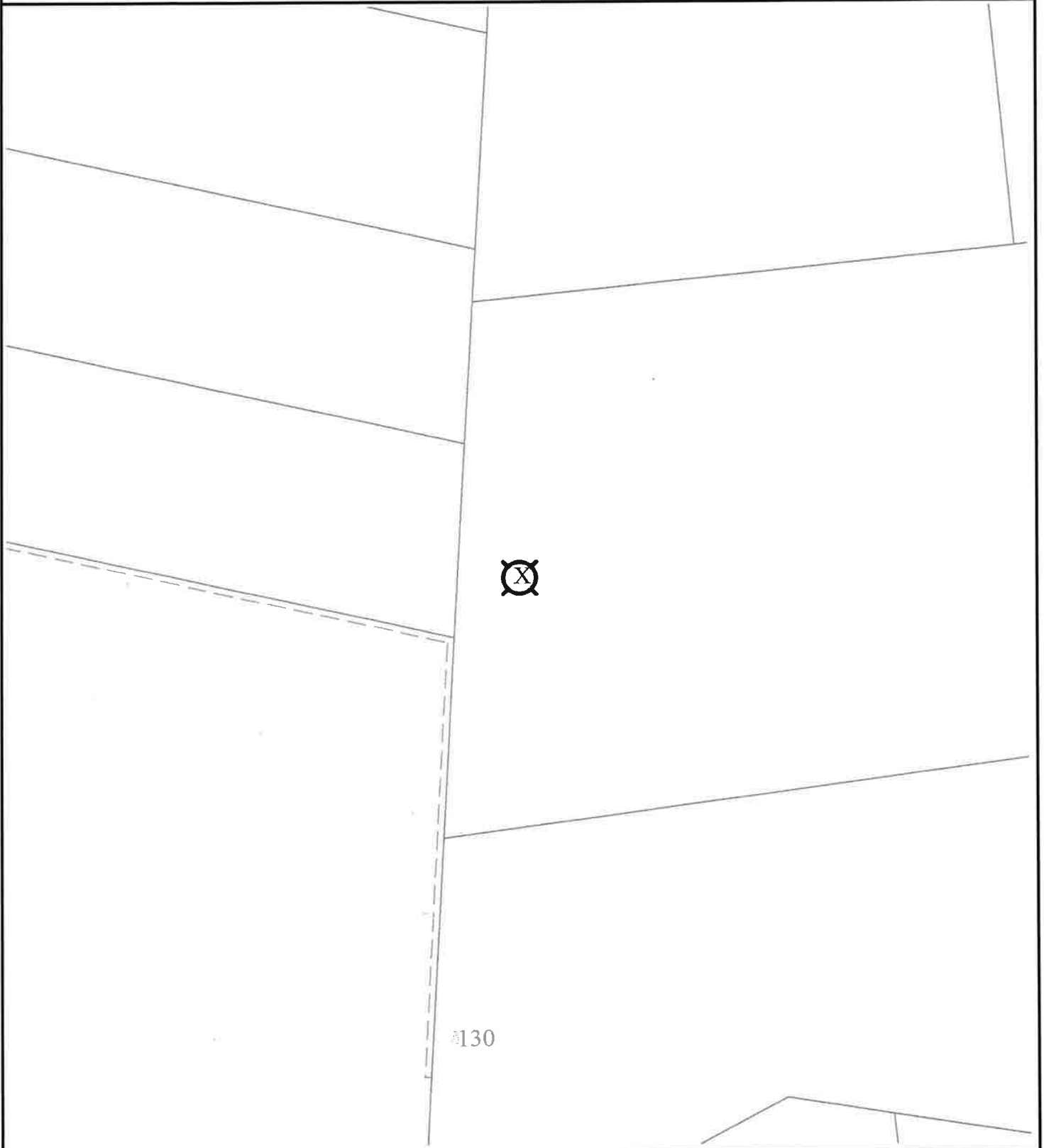


Property: Lot 4 LOT 4 GEMBROOK TONIMBUK ROAD GEMBROOK 3783

Case Number: 43554544



Date: 02MARCH2023



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LEGEND

- Title/Road Boundary
- Proposed Title/Road
- Easement



- Subject Property
- Water Main Valve
- Water Main & Services

- Hydrant
- Fireplug/Washout
- ~ 1.0 Offset from Boundary

ASSET INFORMATION - RECYCLED WATER

(RECYCLE WATER WILL APPEAR IF IT'S AVAILABLE)

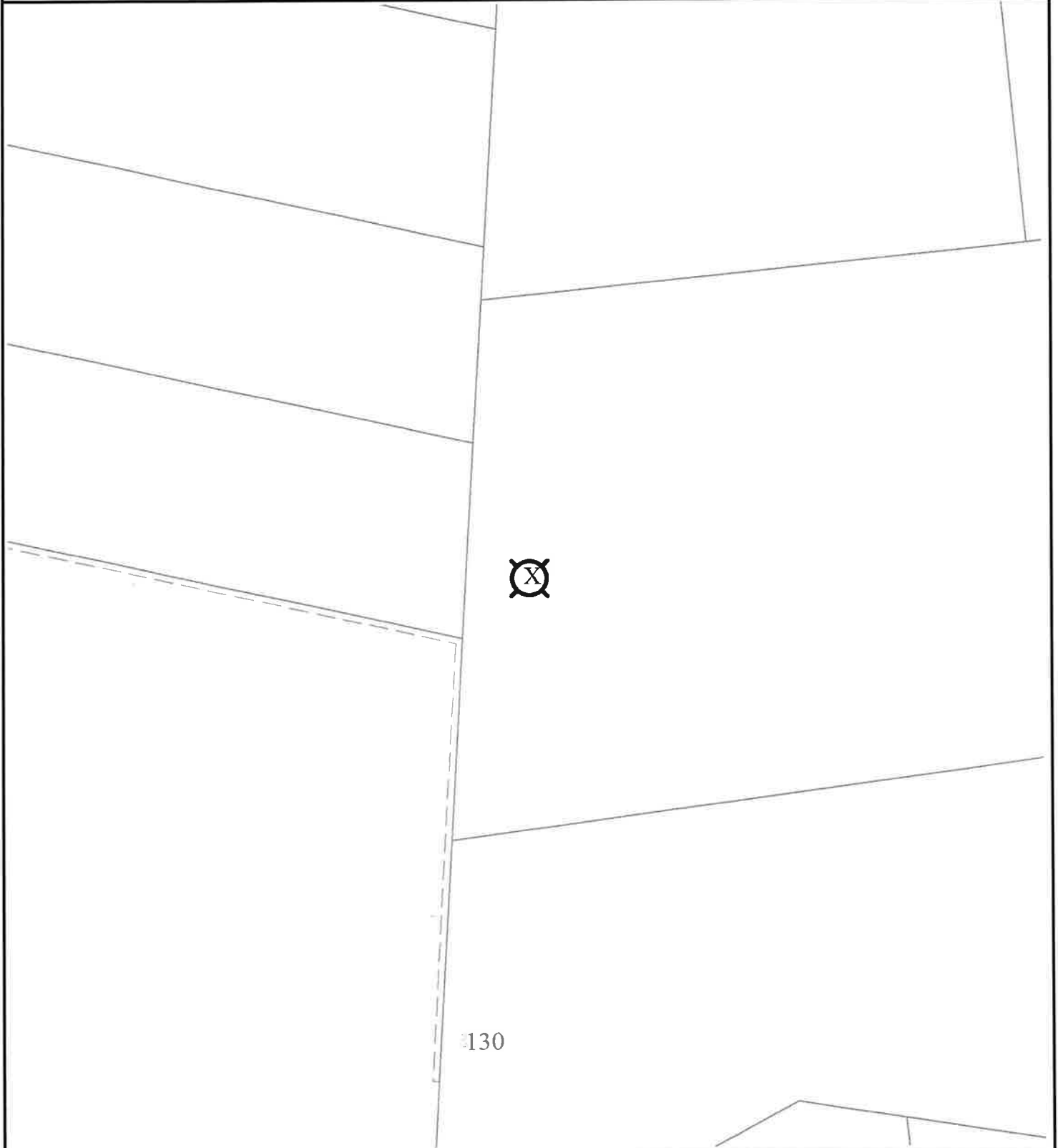
Property: Lot 4 LOT 4 GEMBROOK TONIMBUK ROAD GEMBROOK 3783



Case Number: 43554544



Date: 02MARCH2023



WARNING: This plan is issued solely for the purpose of assisting you in identifying South East Water's and Melbourne Water's specified assets through further investigation only. It is not to be used for any other purpose, including to identify any other assets, property boundaries or dimensions. Accordingly, the location of all assets should be proven by hand on site prior to the commencement of any work. (Refer to attached letter for further details). Assets labelled AC may contain asbestos and therefore works on these assets must be undertaken in accordance with OH&S Regulations. Abandoned and currently unused assets are shown in orange.

LEGEND

- Title/Road Boundary
- - - - Proposed Title/Road
- Easement



- Subject Property
- Recycled Water Main Valve
- Recycled Water Main & Services

- Hydrant
- Fireplug/Washout
- Offset from Boundary ~ 1.0

Property Clearance Certificate

Taxation Administration Act 1997



INFOTRACK / FALCONE & ADAMS

Your Reference: 130513E
Certificate No: 62467684
Issue Date: 29 MAR 2023
Enquiries: PXS9

Land Address: 130 GEMBROOK-TONIMBUK ROAD GEMBROOK VIC 3783

Land Id	Lot	Plan	Volume	Folio	Tax Payable
REFER TO ATTACHMENT					

Vendor: KOLL HOLDINGS
Purchaser: FOR INFORMATION PURPOSES

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
REFER TO ATTACHMENT					

Comments: Refer to attachment

Current Vacant Residential Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
REFER TO ATTACHMENT					

Comments: Refer to attachment

Arrears of Land Tax	Year	Proportional Tax	Penalty/Interest	Total
---------------------	------	------------------	------------------	-------

This certificate is subject to the notes that appear on the reverse. The applicant should read these notes carefully.

Paul Broderick
Commissioner of State Revenue

CAPITAL IMP VALUE:	\$867,613
SITE VALUE:	\$725,570
AMOUNT PAYABLE:	\$0.00

Notes to Certificates Under Section 95AA of the *Taxation Administration Act 1997*

Certificate No: 62467684

Power to issue Certificate

1. The Commissioner of State Revenue can issue a Property Clearance Certificate (Certificate) to an owner, mortgagee or bona fide purchaser of land who makes an application specifying the land for which the Certificate is sought and pays the application fee.

Amount shown on Certificate

2. The Certificate shows any land tax (including Vacant Residential Land Tax, interest and penalty tax) that is due and unpaid on the land described in the Certificate at the date of issue. In addition, it may show:
 - Land tax that has been assessed but is not yet due,
 - Land tax for the current tax year that has not yet been assessed, and
 - Any other information that the Commissioner sees fit to include, such as the amount of land tax applicable to the land on a single holding basis and other debts with respect to the property payable to the Commissioner.

Land tax is a first charge on land

3. Unpaid land tax (including Vacant Residential Land Tax, interest and penalty tax) is a first charge on the land to which it relates. This means it has priority over any other encumbrances on the land, such as a mortgage, and will continue as a charge even if ownership of the land is transferred. Therefore, a purchaser may become liable for any such unpaid land tax.

Information for the purchaser

4. If a purchaser of the land described in the Certificate has applied for and obtained a Certificate, the amount recoverable from the purchaser cannot exceed the 'amount payable' shown. A purchaser cannot rely on a Certificate obtained by the vendor.

Information for the vendor

5. Despite the issue of a Certificate, the Commissioner may recover a land tax liability from a vendor, including any amount identified on this Certificate.

General information

6. A Certificate showing no liability for the land does not mean that the land is exempt from land tax. It means that there is nothing to pay at the date of the Certificate.
7. An updated Certificate may be requested free of charge via our website, if:
 - The request is within 90 days of the original Certificate's issue date, and
 - There is no change to the parties involved in the transaction for which the Certificate was originally requested.

For Information Only

LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$1,602.85

Taxable Value = \$725,570

Calculated as \$975 plus (\$725,570 - \$600,000) multiplied by 0.500 cents.

Property Clearance Certificate - Payment Options

BPAY	
	Billor Code: 5249 Ref: 62467684
Telephone & Internet Banking - BPAY®	
Contact your bank or financial institution to make this payment from your cheque, savings, debit or transaction account.	
www.bpay.com.au	

CARD	
	Ref: 62467684
Visa or Mastercard	
Pay via our website or phone 13 21 61. A card payment fee applies.	
sro.vic.gov.au/paylandtax	

Property Clearance Certificate

Taxation Administration Act 1997

Certificate No: 62467684

Land Address: 130 GEMBROOK-TONIMBUK ROAD GEMBROOK VIC 3783

Land Id	Lot	Plan	Volume	Folio	Tax Payable
38365656	4	540233	11230	435	\$0.00
	2	540233			

Land Tax Details	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
GLENARA NURSERY PTY LTD	2023	\$283,652	\$0.00	\$0.00	\$0.00

Comments: Property is exempt: LTX primary production land.
This certificate also includes Lot 3 of PS540233.

Vacant Residential Land Tax Details	Year	Taxable Value	Tax Liability	Penalty/Interest	Total
-------------------------------------	------	---------------	---------------	------------------	-------

Comments:

Total Amount Payable for Property: 38365656 \$0.00

Land Address: 130 GEMBROOK-TONIMBUK ROAD GEMBROOK VIC 3783

Land Id	Lot	Plan	Volume	Folio	Tax Payable
38365664	4	540233	11230	435	\$0.00
	2	540233			

Land Tax Details	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
GLENARA NURSERY PTY LTD	2023	\$220,413	\$0.00	\$0.00	\$0.00

Comments: Property is exempt: LTX primary production land.

Vacant Residential Land Tax Details	Year	Taxable Value	Tax Liability	Penalty/Interest	Total
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Comments:

Total Amount Payable for Property: 38365664 \$0.00

Land Address: 130 GEMBROOK-TONIMBUK ROAD GEMBROOK VIC 3783

Land Id	Lot	Plan	Volume	Folio	Tax Payable
38365672	4	540233	11230	435	\$0.00
	2	540233			

Land Tax Details	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
GLENARA NURSERY PTY LTD	2023	\$221,505	\$0.00	\$0.00	\$0.00

Comments: Property is exempt: LTX primary production land.

Vacant Residential Land Tax Details	Year	Taxable Value	Tax Liability	Penalty/Interest	Total
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Comments:

Total Amount Payable for Property: 38365672 \$0.00

Total: \$0.00

2322250100

PLANNING PERMIT

Permit No. T010035
Planning Scheme: Cardinia Planning Scheme
Responsible Authority: Cardinia Shire Council

ADDRESS OF THE LAND:

Address: 130 Gembrook – Tonimbuk Road, Gembrook
Lot/LP Details: Lot 3, LP98419

WHAT THE PERMIT ALLOWS:

The use and development of the land for the purpose of crop raising (plant and tree nursery) generally in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Within thirty days of the date of issue of this permit, three (3) copies of a site plan has been submitted and approved by the Responsible Authority. The plan must be drawn to scale and dimensions are to be in metric. The plan must be generally in accordance with the submitted plan but modified to show:
 - a) the location of the land set aside for the purposes of all planting to be carried out for the Plant Nursery, and to indicate specific areas where short and long term planting will take place;
 - b) the spray drift buffer planting in the north-western corner shown on the site plan planted out with the following screen of trees and shrubs indigenous to the locality to the satisfaction of the Responsible Authority.

First 18 Metres from Boundary	Next 20 Metres
Non-propagated non-sprayed vegetation of a variegated height comprising three rows of vegetation with minimum heights at maturity grading from 4 metres for the first six metres to 2½ metres for the next six metres to 1 metre for the last six metres.	Permanent tree stock for propagation purposes (may be sprayed)

- c) nomination of a portion of the farm closest to the north western corner for hand spraying of crops until such time as the buffer tree stock grows to its matured height;
- d) the location of where all chemicals used within the Plant Nursery will be kept;
- e) the location of the water pump used to irrigate the Plant Nursery;
- f) the location of the dam and silt traps around the dam to protect the dam water from pollution;
- g) the location of the dwelling and existing and proposed outbuildings.

Date Permit Issued: 18th October, 2001
Signature of Responsible Authority:
Page 1 of 4



WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit.

(Note: This is not a permit granted under Division 5 of Part 4 of the **Planning and Environment Act 1987**.)

WHEN DOES A PERMIT BEGIN?

A permit operates:

- (a) from the date specified in the permit, or
 - (b) if no date is specified, from:
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal, or
 - (ii) the date on which it was issued, in any other case.
-

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit, or
 - (b) the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two (2) years of the issue of the permit, unless the permit contains a different provision, or
 - (c) the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two (2) years after the issue of the permit or in case of a subdivision or consolidation within five (5) years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
 2. A permit for the use of land expires if:
 - (a) the use does not start within the time specified in the permit, or if no time is specified, within two (2) years of the issue of the permit, or
 - (b) the use is discontinued for a period of two (2) years
 3. A permit for the development and use of the land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit, or
 - (b) the development or any stage of it is not completed within the time specified in the permit, or if no time is specified within two (2) years after the issue of the permit.
 - (c) the use does not start within the time specified in the permit, or if no time is specified, within two (2) years of the completion of the development, or
 - (d) the use is discontinued for a period of two (2) years.
 4. If a permit for the use of the land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of these circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision:
 - (a) the use or development of any stage is to be taken to have started when the plan is certified, and
 - (b) the permit expires if the plan is not certified within two (2) years of the issue of the permit.
 5. The expiry of a permit does not affect the validity of anything done under the permit before the expiry.
-

WHAT ABOUT APPEALS?

The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of appeal exists.

An appeal must be lodged within sixty (60) days after the permit was issued, unless a Notice of Decision to grant a permit has been previously issued, in which case the appeal must be lodged within sixty (60) days after the giving of that notice.

An appeal is lodged with the Victorian Civil and Administrative Tribunal

An appeal must be made on a *Notice of Appeal form* which can be obtained from the Victorian Civil and Administrative Tribunal and be accompanied by the applicable fee.

An appeal must state the grounds upon which it is based.

An appeal must also be served on the responsible authority.

Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Victorian Civil and Administrative Tribunal
Planning List
55 King Street
MELBOURNE VIC 3000
Ph: (03) 9628 9777
Fax: (03) 9628 9789

PLANNING PERMIT

Permit No. **T010035**
 Planning Scheme: **Cardinia Planning Scheme**
 Responsible Authority: **Cardinia Shire Council**

ADDRESS OF THE LAND:

Address: 130 Gembrook – Tonimbuk Road, Gembrook
 Lot/LP Details: Lot 3, LP98419

WHAT THE PERMIT ALLOWS:

The use and development of the land for the purpose of crop raising (plant and tree nursery) generally in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- h) an Environmental Management Plan which addresses the following issues:
- (i) the planting of indigenous grasses to slow drainage;
 - (ii) the planting of indigenous grasses to stabilise the soil around the perimeter of the dam and the edges of the drainage lines;
 - (iii) cultivation of the soil following the contours of the land;
 - (iv) deep soil cultivation to minimise run-off.
2. The layout of the site and the size of the proposed works, as shown on the approved plan, shall not be altered or modified without the consent in writing of the Responsible Authority.
 3. The diesel engine and the attached centrifugal pump housed in the three sided timber enclosure must be fitted with 50mm 35kg/m² Rockwool between the outer skin and the wire mesh inside walls of the enclosure and the open front side on the enclosure must be infilled with a wall similar to the existing structure and again lined with 50mm 35kg/m² Rockwool between the outer skin and the wire mesh inside walls. A vented flue would need to be incorporated to allow the engine to aspirate.
 4. All access to and from the land for works and goods associated with the plant nursery must only be via Gembrook-Tonimbuk Road.
 5. No further vegetation may be removed, destroyed or lopped without the consent in writing from the Responsible Authority.
 6. No plant stock associated with the plant nursery use are to be planted within eighteen (18) metres of the western boundary the property.
 7. Within two (2) months from the date of this Permit the Gembrook-Tonimbuk Road boundary of the property must be planted out with a screen of trees and shrubs indigenous to the locality to the satisfaction of the Responsible Authority. The trees and shrubs must be of sufficient density to provide a visual screen and prevent dust and spray drift emanating from the property. The trees and shrubs must be maintained to the satisfaction of the Responsible Authority.

Date Permit Issued: 18th October, 2001

Signature of Responsible Authority:



WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit.

(Note: This is not a permit granted under Division 5 of Part 4 of the *Planning and Environment Act 1987*.)

WHEN DOES A PERMIT BEGIN?

A permit operates:

- (a) from the date specified in the permit, or
 - (b) if no date is specified, from:
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal, or
 - (ii) the date on which it was issued, in any other case.
-

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit, or
 - (b) the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and the plan is not certified within two (2) years of the issue of the permit, unless the permit contains a different provision, or
 - (c) the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two (2) years after the issue of the permit or in case of a subdivision or consolidation within five (5) years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.
 2. A permit for the use of land expires if:
 - (a) the use does not start within the time specified in the permit, or if no time is specified, within two (2) years of the issue of the permit, or
 - (b) the use is discontinued for a period of two (2) years
 3. A permit for the development and use of the land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit, or
 - (b) the development or any stage of it is not completed within the time specified in the permit, or if no time is specified within two (2) years after the issue of the permit.
 - (c) the use does not start within the time specified in the permit, or if no time is specified, within two (2) years of the completion of the development, or
 - (d) the use is discontinued for a period of two (2) years.
 4. If a permit for the use of the land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the *Planning and Environment Act 1987*, or to any combination of use, development or any of these circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains a different provision:
 - (a) the use or development of any stage is to be taken to have started when the plan is certified, and
 - (b) the permit expires if the plan is not certified within two (2) years of the issue of the permit.
 5. The expiry of a permit does not affect the validity of anything done under the permit before the expiry.
-

WHAT ABOUT APPEALS?

The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of appeal exists.

An appeal must be lodged within sixty (60) days after the permit was issued, unless a Notice of Decision to grant a permit has been previously issued, in which case the appeal must be lodged within sixty (60) days after the giving of that notice.

An appeal is lodged with the Victorian Civil and Administrative Tribunal

An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Tribunal and be accompanied by the applicable fee.

An appeal must state the grounds upon which it is based.

An appeal must also be served on the responsible authority.

Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Victorian Civil and Administrative Tribunal
Planning List
55 King Street
MELBOURNE VIC 3000
Ph: (03) 9628 9777
Fax: (03) 9628 9789

PLANNING PERMIT

Form 4.4

Permit No. T010035

Planning Scheme: **Cardinia Planning Scheme**

Responsible Authority: **Cardinia Shire Council**

ADDRESS OF THE LAND:

Address: 130 Gembrook – Tonimbuk Road, Gembrook
Lot/I.P Details: Lot 3, LP98419

WHAT THE PERMIT ALLOWS:

The use and development of the land for the purpose of crop raising (plant and tree nursery) generally in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

8. Within two (2) months from the date of this permit the north-western corner shown on the endorsed plan must be planted out with the following screen of trees and shrubs indigenous to the locality which trees and shrubs must be maintained to the satisfaction of the Responsible Authority:

First 18 Metres from Boundary	Next 20 Metres
Non-propagated non-sprayed vegetation of a variegated height comprising three rows of vegetation with minimum heights at maturity grading from 4 metres for the first six metres to 2½ metres for the next six metres to 1 metre for the last six metres.	Permanent tree stock for propagation purposes (may be sprayed)

9. It is prohibited to propagate, or cultivate cut flowers on the subject land.
10. A Landscape Plan for the site must be prepared to the satisfaction of the Responsible Authority within two (2) months from the date of this permit and endorsed as part of this Permit. In particular the plan shall address buffer planting around the northern section of the western boundary and along Gembrook-Tonimbuk Road and planting around the perimeter of the dam and along the two drainage lines. All planting must be of species which are indigenous to the area.
11. The crops on that portion of the farm closest to the north western corner nominated on the endorsed plan must be hand sprayed until such time as the buffer tree stock grows to its matured height as indicated on the endorsed plan.
12. The storage, handling, application and disposal of chemical sprays must at all times be undertaken in accordance with the "Code of Practice for Farm Chemical Spray Application" (Department of Natural Resources and Environment).
13. Any persons involved with the storage, handling, application and disposal of chemical sprays must have undertaken a Farm Chemical Users Course and hold an Agricultural Chemical Users Permit or be under the direct supervision of such a person.

Date Permit Issued: 18th October, 2001

Signature of Responsible Authority: _____

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit.

(Note: This is not a permit granted under Division 5 of Part 4 of the Planning and Environment Act 1987.)

WHEN DOES A PERMIT BEGIN?

A permit operates:

- (a) from the date specified in the permit, or
 - (b) if no date is specified, from:
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal, or
 - (ii) the date on which it was issued, in any other case.
-

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit, or
 - (b) the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two (2) years of the issue of the permit, unless the permit contains a different provision, or
 - (c) the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two (2) years after the issue of the permit or in case of a subdivision or consolidation within five (5) years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
 2. A permit for the use of land expires if:
 - (a) the use does not start within the time specified in the permit, or if no time is specified, within two (2) years of the issue of the permit, or
 - (b) the use is discontinued for a period of two (2) years
 3. A permit for the development and use of the land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit, or
 - (b) the development or any stage of it is not completed within the time specified in the permit, or if no time is specified within two (2) years after the issue of the permit.
 - (c) the use does not start within the time specified in the permit, or if no time is specified, within two (2) years of the completion of the development, or
 - (d) the use is discontinued for a period of two (2) years.
 4. If a permit for the use of the land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of these circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision:
 - (a) the use or development of any stage is to be taken to have started when the plan is certified, and
 - (b) the permit expires if the plan is not certified within two (2) years of the issue of the permit.
 5. The expiry of a permit does not affect the validity of anything done under the permit before the expiry.
-

WHAT ABOUT APPEALS?

The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of appeal exists.

An appeal must be lodged within sixty (60) days after the permit was issued, unless a Notice of Decision to grant a permit has been previously issued, in which case the appeal must be lodged within sixty (60) days after the giving of that notice.

An appeal is lodged with the Victorian Civil and Administrative Tribunal

An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Tribunal and be accompanied by the applicable fee.

An appeal must state the grounds upon which it is based.

An appeal must also be served on the responsible authority.

Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Victorian Civil and Administrative Tribunal
Planning List
55 King Street
MELBOURNE VIC 3000
Ph: (03) 9628 9777
Fax: (03) 9628 9789

PLANNING PERMIT

Permit No. **T010035**
 Planning Scheme: **Cardinia Planning Scheme**
 Responsible Authority: **Cardinia Shire Council**

ADDRESS OF THE LAND:

Address: 130 Gembrook – Tonimbuk Road, Gembrook
 Lot/LP Details: Lot 3, LP98419

WHAT THE PERMIT ALLOWS:

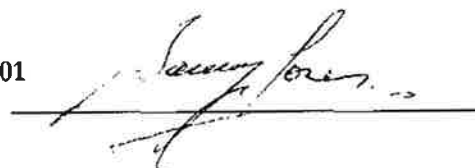
The use and development of the land for the purpose of crop raising (plant and tree nursery) generally in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

14. No Schedule 7 poisons are to be used on the site without the prior written consent of the Responsible Authority.
15. The use of all farm machinery, including the diesel fuel pump used to work on and irrigate the plant nursery must only take place between the hours of 7.30am to 6.00pm Monday to Friday and 8.00am to 5.00pm on Saturday, without the further consent of the Responsible Authority. This condition shall not apply to an electric irrigation pump once it has replaced any diesel pump on the land.
16. The use of the land for a plant nursery must not detrimentally affect the amenity of the area through the emissions of noise. In this regard noise levels generated must comply with the State *Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N1* and the Interim Guidelines for the Control of Noise from Industry in Country Victoria (1989).
17. The amenity of the area must not be detrimentally affected by the use or development of the Plant Nursery, through the:
 - a) transport of materials, goods or commodities to or from the land;
 - b) emissions of noise, vibration, smell, fumes, pesticide spray, dust or waste water.
18. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
19. Diesel pump irrigation may be used between 10.00am and 12 noon, Sundays for the months November to March included.
20. Dam water is to be tested yearly by recognised laboratory for chemicals used in sprays.

Date Permit Issued: 18th October, 2001

Signature of Responsible Authority: _____



WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit.

(Note: This is not a permit granted under Division 5 of Part 4 of the Planning and Environment Act 1987.)

WHEN DOES A PERMIT BEGIN?

A permit operates:

- (a) from the date specified in the permit, or
 - (b) if no date is specified, from:
 - (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal, or
 - (ii) the date on which it was issued, in any other case.
-

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit, or
 - (b) the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two (2) years of the issue of the permit, unless the permit contains a different provision, or
 - (c) the development or any stage of it is not completed within the time specified in the permit, or if no time is specified, within two (2) years after the issue of the permit or in case of a subdivision or consolidation within five (5) years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
 2. A permit for the use of land expires if:
 - (a) the use does not start within the time specified in the permit, or if no time is specified, within two (2) years of the issue of the permit, or
 - (b) the use is discontinued for a period of two (2) years
 3. A permit for the development and use of the land expires if:
 - (a) the development or any stage of it does not start within the time specified in the permit, or
 - (b) the development or any stage of it is not completed within the time specified in the permit, or if no time is specified within two (2) years after the issue of the permit.
 - (c) the use does not start within the time specified in the permit, or if no time is specified, within two (2) years of the completion of the development, or
 - (d) the use is discontinued for a period of two (2) years.
 4. If a permit for the use of the land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of these circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision:
 - (a) the use or development of any stage is to be taken to have started when the plan is certified, and
 - (b) the permit expires if the plan is not certified within two (2) years of the issue of the permit.
 5. The expiry of a permit does not affect the validity of anything done under the permit before the expiry.
-

WHAT ABOUT APPEALS?

The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of appeal exists.

An appeal must be lodged within sixty (60) days after the permit was issued, unless a Notice of Decision to grant a permit has been previously issued, in which case the appeal must be lodged within sixty (60) days after the giving of that notice.

An appeal is lodged with the Victorian Civil and Administrative Tribunal

An appeal must be made on a Notice of Appeal form which can be obtained from the Victorian Civil and Administrative Tribunal and be accompanied by the applicable fee.

An appeal must state the grounds upon which it is based.

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Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Victorian Civil and Administrative Tribunal
Planning List
55 King Street
MELBOURNE VIC 3000
Ph: (03) 9628 9777
Fax: (03) 9628 9789

PLANNING PERMIT

Permit No. T010035
 Planning Scheme: Cardinia Planning Scheme
 Responsible Authority: Cardinia Shire Council

ADDRESS OF THE LAND:

Address: 130 Gembrook – Tonimbuk Road, Gembrook
 Lot/LP Details: Lot 3, LP98419

WHAT THE PERMIT ALLOWS:

The use and development of the land for the purpose of crop raising (plant and tree nursery) generally in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Within thirty days of the date of issue of this permit, three (3) copies of a site plan has been submitted and approved by the Responsible Authority. The plan must be drawn to scale and dimensions are to be in metric. The plan must be generally in accordance with the submitted plan but modified to show:
 - a) the location of the land set aside for the purposes of all planting to be carried out for the Plant Nursery, and to indicate specific areas where short and long term planting will take place;
 - b) the spray drift buffer planting in the north-western corner shown on the site plan planted out with the following screen of trees and shrubs indigenous to the locality to the satisfaction of the Responsible Authority.

First 18 Metres from Boundary	Next 20 Metres
Non-propagated non-sprayed vegetation of a variegated height comprising three rows of vegetation with minimum heights at maturity grading from 4 metres for the first six metres to 2½ metres for the next six metres to 1 metre for the last six metres.	Permanent tree stock for propagation purposes (may be sprayed)

- c) nomination of a portion of the farm closest to the north western corner for hand spraying of crops until such time as the buffer tree stock grows to its matured height;
- d) the location of where all chemicals used within the Plant Nursery will be kept;
- e) the location of the water pump used to irrigate the Plant Nursery;
- f) the location of the dam and silt traps around the dam to protect the dam water from pollution;
- g) the location of the dwelling and existing and proposed outbuildings.

Date Permit Issued: 18th October, 2001

Signature of Responsible Authority: _____



PLANNING PERMIT

Permit No. T010035
 Planning Scheme: Cardinia Planning Scheme
 Responsible Authority: Cardinia Shire Council

ADDRESS OF THE LAND:

Address: 130 Gembrook – Tonimbuk Road, Gembrook
 Lot/LP Details: Lot 3, LP98419

WHAT THE PERMIT ALLOWS:

The use and development of the land for the purpose of crop raising (plant and tree nursery) generally in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- b) an Environmental Management Plan which addresses the following issues:
- (i) the planting of indigenous grasses to slow drainage;
 - (ii) the planting of indigenous grasses to stabilise the soil around the perimeter of the dam and the edges of the drainage lines;
 - (iii) cultivation of the soil following the contours of the land;
 - (iv) deep soil cultivation to minimise run-off.
2. The layout of the site and the size of the proposed works, as shown on the approved plan, shall not be altered or modified without the consent in writing of the Responsible Authority.
 3. The diesel engine and the attached centrifugal pump housed in the three sided timber enclosure must be fitted with 50mm 35kg/m² Rockwool between the outer skin and the wire mesh inside walls of the enclosure and the open front side on the enclosure must be infilled with a wall similar to the existing structure and again lined with 50mm 35kg/m² Rockwool between the outer skin and the wire mesh inside walls. A vented flue would need to be incorporated to allow the engine to aspirate.
 4. All access to and from the land for works and goods associated with the plant nursery must only be via Gembrook-Tonimbuk Road.
 5. No further vegetation may be removed, destroyed or lopped without the consent in writing from the Responsible Authority.
 6. No plant stock associated with the plant nursery use are to be planted within eighteen (18) metres of the western boundary the property.
 7. Within two (2) months from the date of this Permit the Gembrook-Tonimbuk Road boundary of the property must be planted out with a screen of trees and shrubs indigenous to the locality to the satisfaction of the Responsible Authority. The trees and shrubs must be of sufficient density to provide a visual screen and prevent dust and spray drift emanating from the property. The trees and shrubs must be maintained to the satisfaction of the Responsible Authority.

Date Permit Issued: 18th October, 2001

Signature of Responsible Authority:



PLANNING PERMIT

Permit No. **T010035**
 Planning Scheme: **Cardinia Planning Scheme**
 Responsible Authority: **Cardinia Shire Council**

ADDRESS OF THE LAND:

Address: 130 Gembrook – Tonimbuk Road, Gembrook
 Lot/LP Details: Lot 3, LP98419

WHAT THE PERMIT ALLOWS:

The use and development of the land for the purpose of crop raising (plant and tree nursery) generally in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

8. Within two (2) months from the date of this permit the north-western corner shown on the endorsed plan must be planted out with the following screen of trees and shrubs indigenous to the locality which trees and shrubs must be maintained to the satisfaction of the Responsible Authority:

First 18 Metres from Boundary	Next 20 Metres
Non-propagated non-sprayed vegetation of a variegated height comprising three rows of vegetation with minimum heights at maturity grading from 4 metres for the first six metres to 2½ metres for the next six metres to 1 metre for the last six metres.	Permanent tree stock for propagation purposes (may be sprayed)

9. It is prohibited to propagate, or cultivate cut flowers on the subject land.
10. A Landscape Plan for the site must be prepared to the satisfaction of the Responsible Authority within two (2) months from the date of this permit and endorsed as part of this Permit. In particular the plan shall address buffer planting around the northern section of the western boundary and along Gembrook-Tonimbuk Road and planting around the perimeter of the dam and along the two drainage lines. All planting must be of species which are indigenous to the area.
11. The crops on that portion of the farm closest to the north western corner nominated on the endorsed plan must be hand sprayed until such time as the buffer tree stock grows to its matured height as indicated on the endorsed plan.
12. The storage, handling, application and disposal of chemical sprays must at all times be undertaken in accordance with the "Code of Practice for Farm Chemical Spray Application" (Department of Natural Resources and Environment).
13. Any persons involved with the storage, handling, application and disposal of chemical sprays must have undertaken a Farm Chemical Users Course and hold an Agricultural Chemical Users Permit or be under the direct supervision of such a person.

Date Permit Issued: 18th October, 2001

Signature of Responsible Authority: _____



PLANNING PERMIT

Permit No. T010035
 Planning Scheme: Cardinia Planning Scheme
 Responsible Authority: Cardinia Shire Council

ADDRESS OF THE LAND:

Address: 130 Gembrook – Tonimbuk Road, Gembrook
 Lot/LP Details: Lot 3, LP98419

WHAT THE PERMIT ALLOWS:

The use and development of the land for the purpose of crop raising (plant and tree nursery) generally in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

14. No Schedule 7 poisons are to be used on the site without the prior written consent of the Responsible Authority.
15. The use of all farm machinery, including the diesel fuel pump used to work on and irrigate the plant nursery must only take place between the hours of 7.30am to 6.00pm Monday to Friday and 8.00am to 5.00pm on Saturday, without the further consent of the Responsible Authority. This condition shall not apply to an electric irrigation pump once it has replaced any diesel pump on the land.
16. The use of the land for a plant nursery must not detrimentally affect the amenity of the area through the emissions of noise. In this regard noise levels generated must comply with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N1 and the Interim Guidelines for the Control of Noise from Industry in Country Victoria (1989).
17. The amenity of the area must not be detrimentally affected by the use or development of the Plant Nursery, through the:
 - a) transport of materials, goods or commodities to or from the land;
 - b) emissions of noise, vibration, smell, fumes, pesticide spray, dust or waste water.
18. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
19. Diesel pump irrigation may be used between 10.00am and 12 noon, Sundays for the months November to March included.
20. Dam water is to be tested yearly by recognised laboratory for chemicals used in sprays.

Date Permit Issued: 18th October, 2001

Signature of Responsible Authority:

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VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING LIST

NO. 2001/050361

APPLICANT FOR REVIEW/PERMIT APPLICANT	Hans Koll
RESPONSIBLE AUTHORITY	Cardinia Shire Council
RESPONDENTS/OBJECTORS	Peter and Anne-Marie Biram and Others
SUBJECT LAND	130 Gembrook-Tonimbuk Road, Gembrook
WHERE HELD	Melbourne
BEFORE	Tonia Komesaroff, Member
DATES OF HEARING	3 and 7 September 2001
DATE OF ORDER	12 October 2001
Medium Neutral Citation	[2001] VCAT 2119

ORDER

The order of the Tribunal is that the decision of the Responsible Authority is set aside. A permit is granted and directed to be issued under the provisions of section 85(1)(b) of the *Planning and Environment Act 1987* for the land at 130 Gembrook-Tonimbuk Road, Gembrook which allows use for the purpose of crop raising (plant and tree nursery) subject to conditions and generally in accordance with endorsed plans.

The permit must contain the following conditions:

1. Within thirty days of the date of issue of this permit, three (3) copies of a site plan and of an environmental management plan must be submitted to the Responsible Authority for endorsement under this permit and must be to its satisfaction. The site plan must be drawn to scale and dimensions are to be in metric. The plan must be generally in accordance with the submitted site plan but modified to show:
 - (a) the location of the land set aside for the purposes of all planting to be carried out for the plant nursery, and to indicate specific areas where short and long term planting will take place;
 - (b) the spray drift buffer planting in the north-western corner shown on the site plan planted out with the following screen of trees and shrubs indigenous to the locality to the satisfaction of the Responsible Authority:

First 18 metres from boundary	Next 20 metres
Non-propagated non-sprayed vegetation of a variegated height comprising three rows of vegetation with minimum heights at maturity grading from 4 metres for the first six metres to 2½ metres for the next six metres to 1 metre for the last six metres.	Permanent tree stock for propagation purposes (may be sprayed)

- (c) nomination of a portion of the farm closest to the north western corner for hand spraying of crops until such time as the buffer tree stock grows to its matured height;
 - (d) the location of where all chemicals used within the plant nursery will be kept;
 - (e) the location of the water pump used to irrigate the plant nursery;
 - (f) the location of the dam and silt traps around the dam to protect the dam water from pollution;
 - (g) the location of the dwelling and existing and proposed outbuildings.
 - (h) an environmental management plan which addresses the following issues:
 - (i) the planting of indigenous grasses to slow drainage;
 - (ii) the planting of indigenous grasses to stabilise the soil around the perimeter of the dam and the edges of the drainage lines;
 - (iii) cultivation of the soil following the contours of the land;
 - (iv) deep soil cultivation to minimise run-off.
2. The layout of the site and the size of the proposed works, as shown on the endorsed plan, shall not be altered or modified without the consent in writing of the Responsible Authority.
 3. The diesel engine and attached centrifugal pump housed in the three sided timber enclosure must be fitted with 50mm 35kg/m² Rockwool between the outer skin and the wire mesh inside walls of the enclosure and the open front side on the enclosure must be infilled with a wall similar to the existing structure and again lined with 50mm 35kg/m² Rockwool between the outer skin and the wire mesh inside walls. A vented flue would need to be incorporated to allow the engine to aspirate.
 4. All access to and from the land for works and goods associated with the plant nursery must only be via Gembrook-Tonimbuk Road.
 5. No further vegetation may be removed, destroyed or lopped without the consent in writing from the Responsible Authority.
 6. No plant stock associated with the plant nursery use are to be planted within eighteen (18) metres of the western boundary of the property.

7. Within two (2) months from the date of this permit the Gembrook-Tonimbuk Road boundary of the property must be planted out with a screen of trees and shrubs indigenous to the locality to the satisfaction of the Responsible Authority. The trees and shrubs must be of sufficient density to provide a visual screen and prevent dust and spray drift emanating from the property. The trees and shrubs must be maintained to the satisfaction of the Responsible Authority.
8. Within two (2) months from the date of this permit the north-western corner shown on the endorsed site plan must be planted out with the following screen of trees and shrubs indigenous to the locality which trees and shrubs must be maintained to the satisfaction of the Responsible Authority:

First 18 metres from boundary	Next 20 metres
Non-propagated non-sprayed vegetation of a variegated height comprising three rows of vegetation with minimum heights at maturity grading from 4 metres for the first six metres to 2½ metres for the next six metres to 1 metre for the last six metres.	Permanent tree stock for propagation purposes (may be sprayed)

9. It is prohibited to propagate, or cultivate cut flowers on the subject land.
10. A landscape plan for the site must be prepared to the satisfaction of the Responsible Authority within two (2) months from the date of this permit and endorsed as part of this Permit. In particular the plan shall address buffer planting around the northern section of the western boundary and along Gembrook-Tonimbuk Road and planting around the perimeter of the dam and along the two drainage lines. All planting must be of species which are indigenous to the area.
11. The crops on that portion of the farm closest to the north western corner nominated on the endorsed plan must be hand sprayed until such time as the buffer tree stock grows to its matured height as indicated on the endorsed plan.
12. The storage, handling, application and disposal of chemical sprays must at all times be undertaken in accordance with the *Code of Practice for Farm Chemical Spray Application* (Department of Natural Resources and Environment).
13. Any persons involved with the storage, handling, application and disposal of chemical must have undertaken a farm chemical users course and hold an agriculture chemical users permit or be under the direct supervision of such a person.
14. No schedule 7 poisons are to be used on the site without the prior written consent of the Responsible Authority.
15. The use of all farm machinery, including the diesel fuel pump used to work on and irrigate the plant nursery must only take place between the hours of 7.30am to 6.00pm Monday to Friday and 8.00am to 5.00pm on Saturday, without the further consent of

- the Responsible Authority. This condition shall not apply to an electric irrigation pump once it has replaced any diesel pump on the land.
16. The use of the land for a plant nursery must not detrimentally affect the amenity of the area through the emissions of noise. In this regard noise levels generated must comply with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N1 and the Interim Guidelines for the Control of Noise from Industry in Country Victoria (1989).
 17. The amenity of the area must not be detrimentally affected by the use or development of the plant nursery, through the:
 - (a) transport of materials, goods or commodities to or from the land;
 - (b) emissions of noise, vibration, smell, fumes, pesticide spray, dust or waste water.
 18. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
 19. Diesel pump irrigation may be used between 10.00am and 12.00 noon, Sundays for the months November to March included.
 20. Dam water is to be tested yearly by recognised laboratory for chemicals used in sprays.

TONIA KOMESAROFF
MEMBER
PLANNING LIST

APPEARANCES AND EVIDENCE

For the Applicant for Review/Permit Applicant:

Mr Warwick Nelson, Lawyer of Harwood Andrews appeared on behalf of the Permit Applicant and called the following expert witnesses:

- Mr D C Matthews, Agricultural Chemist;
- Mr P J Gebbing, Audiometrist.

For the Responsible Authority:

Mr Andrew Cook of Environmental Resources Management Australia Pty Ltd:

For the Respondents/Objectors:

Dr Robyn Arianrhod for herself and Morgan Blackthorne, Mr Peter Biram for Peter and Anne-Marie Biram, Mr Jim Croxford, Respondents/Objectors, appeared in person.

REASONS

NATURE OF PROCEEDINGS

1. This was an application under section 77 of the *Planning and Environment Act 1987* to review a decision by the City of Cardinia to refuse to grant a permit (in Application No. TO10035) for the land at 130 Gembrook-Tonimbuk Road, Gembrook to be used for the purpose of wholesale plant nursery.

PRELIMINARY MATTERS

2. Discussion occurred during the hearing as to the correct designation of the use for which the permit was sought. Although the application lodged by Mr Koll was for 'wholesale nursery' and the section 52 public notification advertised it as 'plant nursery (wholesale)', Mr Warwick Nelson for the Permit Applicant Mr Koll maintained that 'crop raising' was the correct designation under the planning scheme because Mr Koll was propagating, cultivating and harvesting trees as well as plants and was primarily using the land for the purposes nested under the 'agriculture' group in the VPP format planning scheme rather than for 'retail' purposes under which 'plant nursery' is nested in the VPP format planning scheme. Further, whereas a plant nursery is defined as "land used to propagate, grow and sell plants" it does not mention trees. Further again, the land use term 'plant nursery' does not distinguish between wholesale or retail sales thus including both.
3. Mr Koll's primary purpose for using the land was cultivation rather than sale although as with any commerce or industry, the produce must be sold, or else it would not be produced.
4. During the hearing it was agreed between the Responsible Authority and the Permit Applicant that the correct designation of the land use is "crop raising (plant and tree nursery)". This would by definition prevent retail sales occurring on the subject land.

THE SITE AND ITS LOCALITY

5. The Tribunal finds the following description of the site and locality, taken from Mr Andrew Cook's written submission, to be an appropriate one:

This site is located to the south east of the Gembrook township which is located in the foothills of the Dandenong Ranges. The site has frontage to Tonimbuk Road to the east and Boyd Road to the south.

The site is irregular in shape with a total area of 9.76 hectares. The land slopes down from the north, south and east to the centre of the property which contains a dam. The dam forms part of a natural watercourse which runs further to the west along Cockatoo Creek.

The slope of the land varies from 1 in 5 in the northern portion of the site to 1 in 12 in the eastern portion of the site and 1 in 20 in the southern portion of the site.

Two open drains run through the site connecting to the dam. These run from the north east connecting to Tonimbuk Road and from the south east connecting to the existing driveway.

The southern portion of the site adjacent to Boyd Road has a dense vegetation cover of natural bushland. The balance of the site (approximately 70%) has been cleared and has been used for planting in association with the wholesale nursery.

A single storey dwelling and outbuilding is located on the southern portion of the site with driveway access to Tonimbuk Road. The driveway also connects through to Boyd Road.

The premises has apparently operated as a nursery since it was purchased by the applicant during 1999. The nursery propagates roses, ornamental trees and fruit trees which are sold by wholesale. Apparently, this is one of several nurseries in this area owned by the applicant.

This area of Gembrook is characterised by a mix of smaller scale rural lots of around 2-8 hectares in area and smaller bushland residential lots of around 0.4 hectares in area.

The character of the area is strongly influenced by the undulating terrain, natural bushland setting and the local watercourse (Cockatoo Creek) which runs east-west through this area. The area has a relatively tranquil setting.

To the west of the site are 2 pockets of smaller bushland residential lots located fronting Neville Road and Stone Road South.

Other enterprises in this area include potato farms, nurseries, organic fruit farm, deer stud, winery etc.

The roads in this area are not sealed.

PROPOSAL

6. The Tribunal adopts the following description of the proposal, taken from Mr Andrew Cook's written submission:

The proposal is to use the subject site as a wholesale plant nursery. The nursery grows roses, ornamental trees and fruit trees. The plants are normally grown for a minimum period of 12 months, and often considerably longer, before they are harvested.

The applicant has indicated that a total of 7 full time employees and 4 part time employees are involved in the plant nursery operation. However, it is understood that these staff also work at other nurseries in the area operated by the applicant.

The nursery operation employs rotation planting which means that the whole site is not planted at the one time. Rotation planting allows the soil to recover after harvesting before it is again prepared for planting.

The plant nursery uses water from the dam located in the centre of the site for irrigation purposes. The water is pumped by a diesel pump located on the south side of the dam. The diesel pump is located in a three-sided timber enclosure.

The length of watering varies depending on the time of year, the area of the site to be watered and weather conditions at the time.

The nursery also regularly uses a tractor to spray the plants/soil with nutrients and pesticides. The tractor is also used to cultivate the soil as required.

It is proposed that all vehicles associated with the nursery operation will enter and exit the site via the existing driveway to Tonimbuk Road. No access is proposed to Boyd Road.

The application plan shows that new landscape planting is proposed along parts of the western boundary, along the eastern boundary adjacent to Tonimbuk Road and around the dam.

The plan also shows an area in the northwest portion of the site to be set aside for the planting of permanent tree stock associated with the nursery. This tree stock will be used to supply seed and cuttings for the nursery operation.

PLANNING CONTROLS AND POLICIES

7. The land is zoned Rural Living under the Victoria Planning Provisions (VPP) format Cardinia Planning Scheme. Other relevant overlays are the Environmental Significance Overlay Schedule 1 (Northern Hills).

8. The purposes of the Rural Living Zone are:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for residential uses in a rural environment.

To encourage:

- An integrated approach to land management.*
- Protection and creation of an effective rural infrastructure and land resource.*
- Improvement of existing agricultural techniques.*
- Protection of the bio-diversity of the area.*
- Value adding to agricultural products at source.*
- Promotion of economic development compatible with rural living activities.*
- Development of new sustainable rural living enterprises.*

9. In this zone the minimum lot size for subdivision is two hectares. However the Objectors live on 0.4 hectare lots which have been subdivided prior to the current planning controls.

10. The relevant decision guidelines to be considered and applied when considering whether to grant a permit for use of land in a Rural Living Zone are:

General Issues

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *Any Catchment and Land Protection Strategy and policies applying to the land.*
- *The capability of the land to accommodate the proposed use or development, addressing site quality attributes including soil type, soil fertility, soil structure, soil permeability, aspect, contour and drainage patterns.*
- *How the use or development relates to rural land use, rural diversification and natural resource management.*

Rural issues

- *The maintenance of farm production and the impact on the local rural economy.*
- *Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining and nearby land uses.*
- *The farm size and the productive capacity of the site to sustain the rural enterprise and whether the use or development will have an adverse impact on surrounding land uses.*
- *The need to prepare an integrated land management plan.*
- *The impact on the existing and proposed rural infrastructure.*
- *An assessment of industry requirements, growth expectations, staging of the development and investment requirements.*

Environmental issues

- *An assessment of the likely environmental impact on the natural physical features and resources of the area and in particular any impact caused by the proposal on soil and water quality and by the emission of noise, dust and odours.*
- *The impact of the use or development on the flora, fauna and landscape features of the locality.*
- *The protection and enhancement of the natural environment and the character of the area, including the retention of vegetation and fauna habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridge lines, property boundaries and recharge areas and discharge areas.*
- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*

11. The purposes of the ESO – Schedule 1 (Northern Hills) is:

To identify areas where the development of land may be affected by environmental constraints.

To ensure that development is compatible with identified environmental values.

12. This schedule includes the following statement of environmental significance:

The hills to the northern part of the municipality (generally to the north of Princes Highway) is an area with significant landscape and environmental values. The area is characterised by geology of devonian granitic and sulrian sediment origin, moderate to steep slopes, and areas of remnant vegetation. These characteristics contribute to environmental values including landscape quality, water quality and habitat of botanical and zoological significance. These characteristics are also a significant factor in terms of environmental hazards including erosion and fire risks.

13. This schedule contains permit requirements for certain categories of buildings and works and for vegetation removal.

ACHIEVING A BALANCE

14. Clause 31.01-2 neatly links the strategic and the statutory when it says:

*Because a use is in Section 2 does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce **acceptable outcomes** in terms of the State Planning Policy Framework, and Local Planning Policy Framework, the purposes and decision guidelines of the zone and any of the decision guidelines in clause 65?????*

15. In dealing with development in rural areas it is a matter of balancing the various SPPF policies including those relating to agriculture and the need to protect rural residential living.
16. Clause 11 of the planning scheme sets out the purpose of State policy in planning schemes. The clause also contains the following expectation in relation to the application of State policies and objectives in the consideration of planning proposals:

It is the State Government's expectation that planning and responsible authorities will endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development.

ISSUES FOR CONSIDERATION

17. The Objectors tried to make much of the fact that the Permit Applicant ought not receive a permit because he had unlawfully removed a large stand of wattle from the north-western corner of the land. However Permit No. T00425 issued 10 July 2000 permitted Mr Koll removal of vegetation generally in accordance with approved plans which were endorsed and which certainly indicate permission to remove the large stand of wattles of which the Objectors complained and to replant with sixty boundary trees indigenous to the area. Further, the Objectors confirmed that between sixty to one hundred blackwoods (albeit saplings) have been planted on the north-western property boundary as required by that permit Condition 8, within three months of the removal of that vegetation.
18. The principal issues for consideration in respect of this application for review fall into three categories:
- (i) Noise from the diesel pump used to irrigate the land from the tractor used to spray the crops.
 - (ii) Consequences of the use of chemical sprays.
 - (iii) Erosion and run-off due to the topography and heavy rain falls.

Chemical Sprays and spray drift

19. The Objectors were concerned about:
- (i) spray drift of chemicals used to combat plant disease;
 - (ii) settlement of chemicals into the dam on the subject land which flows into Cockatoo Creek;

- (iii) possible detriment to Croxford organic produce farm in the vicinity.
20. Evidence was given by Mr Donald Charles Matthews, Agricultural Scientist with 39 years' experience in diverse aspects of the agricultural chemical industry.
21. Mr Matthews had water samples taken independently by Gribbles Analytical Laboratories to test the presence of chemicals in Mr Koll's dam and creek. The result of these tests was that the compounds mentioned in the tests which were distributed to all parties are less than the *'limit of detection'* which is currently best professional practice. In other words, all chemicals used by Mr Koll are not present above the level of detection. The samples were taken during the spraying period by Mr Koll, based on a spray diary tendered to the Tribunal by Mr Koll.
22. As to the impact of chemicals on the Croxford organic farm, Mr Matthews was of the firm opinion that the nursery operation and the chemicals it uses would not put the organic operation at risk because sprays that used to be dangerous are no longer in use and the ones that are used by the nursery are mild.
23. The Tribunal is satisfied from Mr Matthews' evidence that Mr Croxford's organic farm will not suffer detriment from the plant farm. The Croxford farm is some distance from the Koll farm and the evidence shows that his fears for loss of his organic certification are unjustified.
24. As far as the spray drift is concerned, Mr Matthews dealt with the DNRE's *'Code of Practice for Farm Chemical Spray Application'* and in particular the buffer zones and vegetative barriers near residences (sensitive areas) as follows.
25. The prevention of spray drift has much to do with performance measures. The performance measures pertaining to good agricultural spraying practice are:
- using an appropriate product;
 - at an appropriate time;

- following the appropriate recommended restrictions under the Code of Practice; and
- using the least amount of spray to achieve the desired effect.

26. It is not only up to the operator to ensure that chemicals reach the plant and not external areas, but it is also in their best interests, otherwise it is economically wasteful for the farmer. The industry has a Code of Practice which should be adhered to by the farmer. He recommends the provision of buffer zones although they do not have to be the 100 metres sought by the neighbours in the manner that the latter interpret the following Code of Practice:

Factor	Potential drift hazard scale		Comment
	High	Low	
Sensitive area	Close (<100 m)	Far (>1 km)	
Buffer zone	None	Distance >100 m	
Vegetative barrier	No vegetation	Live shelter, >2x release height permeability 50%	<i>Casuarina</i> spp. Make excellent barriers

27. Mr Matthews explained the Code of Practice is a guideline only. Its recommendations are not mandatory but it does acknowledge that within 100 metres from the spray source care must be taken in the spraying operation.
28. He explained the 100 metre nominated distance as being “*within a high potential expectation of spray drift*”. However the Code of Practice is not interpreted as requiring a farmer to provide a 100 metre buffer. It is the use of equipment and the management of the operation that determines the risk of spray drift. In other words, sensitive areas are those within 100 metres of the source.
29. Mr Matthews recommended a buffer distance of approximately 12 metres using vegetation graded in height from higher at the boundary to lower towards the commencement of the 12 metre buffer. He recommended a supply of vegetation at twice the spray release height (up to four metres) grading down to one metre over a distance of 12 metres. He recommended three lines of vegetation, three to four metres apart with heights grading as follows:

4 metres > 2½ metres > 1 metre

30. Mr Nelson for the Permit Applicant Mr Koll, in discussing proposed permit conditions submitted by the Responsible Authority in accordance with the Tribunal's Practice Direction, supported the following condition as to provision of a buffer:

First 10 metres from boundary	10 metres	20 metres
Non-propagated non-sprayed vegetation of a variegated height	Tree stock for propagation purposes (may be sprayed)	Rose canes

31. Mr Cook for the Responsible Authority objected to this late alteration by the Permit Applicant, given that its site plan lodged with the application for permit clearly stated apropos the first 40 metres of the north west buffer '*permanent tree stock for propagation purposes*'. Mr Cook's point was that rose canes are low and not *tree stock*.

32. The Tribunal has imposed a condition which meets the recommendations of Mr Matthews' evidence with extra leeway for concerned neighbours, and that meets Mr Cook's objections.

33. Until the buffer tree stock grows to its matured height, the Tribunal has taken up Mr Cook's suggestion and imposed a requirement for hand spraying only in that portion of the farm closest to the north western corner, to be indicated on the endorsed plan. The taller the stock is at its planted height, the quicker hand spraying will be obviated.

Erosion and Run-off

34. There is a permit condition imposed requiring an Environmental Management Plan to be endorsed as part of the planning permit. This should require indigenous grasses to be planted to slow drainage, to stabilise the soil around the perimeter of the dam and the edges of both drainage lines, and cultivation of the soil to follow the contours rather than to cut across them. It is important that that be achieved, but the Tribunal is

confident the Responsible Authority can be responsible for and supervise same by endorsing an appropriate Environmental Management Plan.

Noise emissions

35. It is important to point out that SEPP-N1 does not deal with tractor noise at all. In other words, it is government policy that the noise generated by tractors is not controlled by the noise control.
36. What does need to be considered is the suitability of permitting a use which relies on a tractor in this zone. Given the zoning itself, its clearly expressed purposes and its clear decision guidelines, all of which urge rural economic productivity and value adding at source, provided it is compatible with rural residential living, it is consistent with policy to allow such a use. The tractor noise is seasonal and intermittent, as confirmed in the Upton acoustic report. It must be an expected activity on such a large parcel of rural land. Other neighbouring farms generate similar intermittent tractor noise.
37. That leaves the pump noise. The objectors were very dismayed about the first acoustic report obtained by the Permit Applicant and of the critical judgments made about them by the audiometrist.
38. The Tribunal required an independent non-judgemental report to be obtained and an assessment made in the presence of all the parties. That report is now at hand and remains on the file, together with additional responses allowed the parties by the Tribunal's directions. The Responsible Authority indicated its complete satisfaction with the report and its methodology. The Biram's did not respond at all. Ms Arianrhod and Ms Blackthorne were still dissatisfied with each and every aspect of the assessment and report, including dissatisfaction with the EPA standards set by SEPP-N1.
39. That acoustic report, by Mr John Upton of Shelburg Acoustics Pty Ltd clearly proves that the noise emission from the diesel pump complies with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N1 as well as the more stringent Interim Guidelines for the Control of Noise from Industry in Country Victoria (1989), during EPA daylight hours until 6.00 pm weekdays.

40. The Tribunal is satisfied with the quality and independence of the Upton report and with its methodology. It measured noise (by direction of the Tribunal) at locations much more stringently than required by SEPP-N1 and the Interim Guidelines.
41. The report, also at the request of the Tribunal, suggested some additional insulation treatment to the pump, to further muffle its emissions. The Tribunal has incorporated additional insulation in the permit conditions which are to issue, as a concession to neighbours in recognition of the fact that:
- (i) the neighbours live in a rural residential zone (as opposed to a purely rural zone), they work from home and their work requires periods of quiet contemplation and concentration;
 - (j) the diesel pump operates continuously over long periods of time - as opposed to the tractor which operates intermittently.
42. As to hours of operation, Mr Koll sought extended weekend hours and since the Tribunal has required insulation of the pump housing, it is reasonable to allow some leeway into the EPA weekend daylight hours on Saturday, but none on Sundays except for the diesel pump in the dry season.

CONCLUSION

41. In conclusion, the Tribunal is of the view that the economic and agricultural policy objectives would be met in part by the type of activity to be carried on with the proposed use and that the permit conditions would ensure an operation respectful of rural residential living and environmental requirements as considered earlier in these reasons. Accordingly the Tribunal will allow the application for review and direct that a permit issue subject to conditions which should give objectors peace of mind.

TONIA KOMESAROFF
MEMBER
PLANNING LIST

Due diligence checklist

What you need to know before buying a residential property

Before you buy a home, you should be aware of a range of issues that may affect that property and impose restrictions or obligations on you, if you buy it. This checklist aims to help you identify whether any of these issues will affect you. The questions are a starting point only and you may need to seek professional advice to answer some of them. You can find links to organisations and web pages that can help you learn more, by visiting the [Due diligence checklist page on the Consumer Affairs Victoria website](http://consumer.vic.gov.au/duediligencechecklist) (consumer.vic.gov.au/duediligencechecklist).

Urban living

Moving to the inner city?

High density areas are attractive for their entertainment and service areas, but these activities create increased traffic as well as noise and odours from businesses and people. Familiarising yourself with the character of the area will give you a balanced understanding of what to expect.

Is the property subject to an owners corporation?

If the property is part of a subdivision with common property such as driveways or grounds, it may be subject to an owners corporation. You may be required to pay fees and follow rules that restrict what you can do on your property, such as a ban on pet ownership.

Growth areas

Are you moving to a growth area?

You should investigate whether you will be required to pay a growth areas infrastructure contribution.

Flood and fire risk

Does this property experience flooding or bushfire?

Properties are sometimes subject to the risk of fire and flooding due to their location. You should properly investigate these risks and consider their implications for land management, buildings and insurance premiums.

Rural properties

Moving to the country?

If you are looking at property in a rural zone, consider:

- Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.
- Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.
- Do you understand your obligations to manage weeds and pest animals?

Can you build new dwellings?

Does the property adjoin crown land, have a water frontage, contain a disused government road, or are there any crown licences associated with the land?

Is there any earth resource activity such as mining in the area?

You may wish to find out more about exploration, mining and quarrying activity on or near the property and consider the issue of petroleum, geothermal and greenhouse gas sequestration permits, leases and licences, extractive industry authorisations and mineral licences.

Soil and groundwater contamination

Has previous land use affected the soil or groundwater?

You should consider whether past activities, including the use of adjacent land, may have caused contamination at the site and whether this may prevent you from doing certain things to or on the land in the future.

(04/10/2016)

Land boundaries

Do you know the exact boundary of the property?

You should compare the measurements shown on the title document with actual fences and buildings on the property, to make sure the boundaries match. If you have concerns about this, you can speak to your lawyer or conveyancer, or commission a site survey to establish property boundaries.

Planning controls

Can you change how the property is used, or the buildings on it?

All land is subject to a planning scheme, run by the local council. How the property is zoned and any overlays that may apply, will determine how the land can be used. This may restrict such things as whether you can build on vacant land or how you can alter or develop the land and its buildings over time.

The local council can give you advice about the planning scheme, as well as details of any other restrictions that may apply, such as design guidelines or bushfire safety design. There may also be restrictions – known as encumbrances – on the property's title, which prevent you from developing the property. You can find out about encumbrances by looking at the section 32 statement.

Are there any proposed or granted planning permits?

The local council can advise you if there are any proposed or issued planning permits for any properties close by. Significant developments in your area may change the local 'character' (predominant style of the area) and may increase noise or traffic near the property.

Safety

Is the building safe to live in?

Building laws are in place to ensure building safety. Professional building inspections can help you assess the property for electrical safety, possible illegal building work, adequate pool or spa fencing and the presence of asbestos, termites, or other potential hazards.

Building permits

Have any buildings or retaining walls on the property been altered, or do you plan to alter them?

There are laws and regulations about how buildings and retaining walls are constructed, which you may wish to investigate to ensure any completed or proposed building work is approved. The local council may be able to give you information about any building permits issued for recent building works done to the property, and what you must do to plan new work. You can also commission a private building surveyor's assessment.

Are any recent building or renovation works covered by insurance?

Ask the vendor if there is any owner-builder insurance or builder's warranty to cover defects in the work done to the property.

Utilities and essential services

Does the property have working connections for water, sewerage, electricity, gas, telephone and internet?

Unconnected services may not be available, or may incur a fee to connect. You may also need to choose from a range of suppliers for these services. This may be particularly important in rural areas where some services are not available.

Buyers' rights

Do you know your rights when buying a property?

The contract of sale and section 32 statement contain important information about the property, so you should request to see these and read them thoroughly. Many people engage a lawyer or conveyancer to help them understand the contracts and ensure the sale goes through correctly. If you intend to hire a professional, you should consider speaking to them before you commit to the sale. There are also important rules about the way private sales and auctions are conducted. These may include a cooling-off period and specific rights associated with 'off the plan' sales. The important thing to remember is that, as the buyer, you have rights.

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