

# Statement of Environmental Effects

372 and 1476 Low Darling Road, Wentworth  
Lot 5 DP1253993 & Lot 3 DP1250369

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## Introduction

Development approval is sought for a boundary adjustment between two lots. The legal description of the lots is Lot 5 on DP 1253993 (1476 Low Darling Road) and Lot 3 on DP1250369 (372 Low Darling Road) in Wentworth.

The existing configuration of Lot 5 DP 1253993 consists of multiple separate parts linked by a vinculum. The southeastern most portion of the land is located east of the Low Darling Road between Cudmore Road and the Darling River. This portion of the land is remote from the main landholding of Junction Vineyards (client) and not actively used or managed by Junction Vineyards.

It is proposed for this portion of the lot to be consolidated with Lot 3 DP1250369 by way of a minor boundary adjustment. The boundary adjustment will enable the land to be included in the developing agricultural pursuits of Lot 3 DP1250369 and for it to be actively managed. At present no land management activities are undertaken due to its remoteness from the main Junction Vineyards operation to the north.

The land is located in the RU1 Zone – Primary Production, and the boundary adjustment is appropriate given the contents of the Wentworth Local Environment Plan (LEP) and Wentworth Development Control Plan (DCP):

- ♦ The proposed boundary adjustment is permitted with consent under Clause 4.2D of the LEP as it aims to improve the agricultural viability of the land.
- ♦ No adverse impact on the existing character or amenity of the area will result.
- ♦ The proposed boundary adjustment is consistent with the layout of the locality and functional aspects of the land.
- ♦ The boundary adjustment will allow for efficient operations and management of the land.

As a result, the proposed boundary adjustment should be supported with the issue of development consent.

## Background

A development application for the proposed subdivision was previously lodged in 2024. At the time, matters concerning land use on Lot 3 were unresolved. During the notification period of the application, four (4) submissions were received which included concern regarding the unresolved land use.

As a result of the submission, the application was heard at a Council meeting on 26 June 2024. While the Council officer recommendation was to approve the application, the decision by Council was to defer the item pending further information. Subsequent to the decision to defer, the application was withdrawn on the 19 July 2024, to allow the respective parties to resolve outstanding matters.

Since consideration of the previous application for subdivision an alternative subdivision layout was put forward by representatives of the landowner of Lot 5 DP 1253993. The alternative arrangement was to consolidate the eastern most portion of Lot 5 DP 1253993 with Lot 1 DP 1106411. The layout was understood to resolve previous land tenure and easement issues. The offer was declined by the landowner of Lot 1 DP 1106411.

As matters relating to the land use have since been resolved through the issue of development consent for the use of land for a depot (DA2024/016) and operation consent for the construction of a dwelling (DA2021/011), the application for the boundary adjustment is being resubmitted.

While the previous application was withdrawn to allow resolution of outstanding matters, it is noted that decisions are to be made in accordance with Section 4.15 of the *Environmental Planning and Assessment Act*, with consideration limited solely to the proposal itself. Any additional matters raised in submissions that fall outside the scope of the proposal are not relevant to the determination of the development application.

# Proposal

## Existing conditions

The application seeks development approval for a boundary adjustment between two (2) lots. The legal description of the lots is Lot 5 on DP 1253993 and Lot 3 on DP 1250369. The combined lots occupy an extensive area to the north of the darling river spanning across both the east and west of High Darling Road and Low Darling Road. Details of the lots are as follows:

**Table 1** Existing conditions of the lots

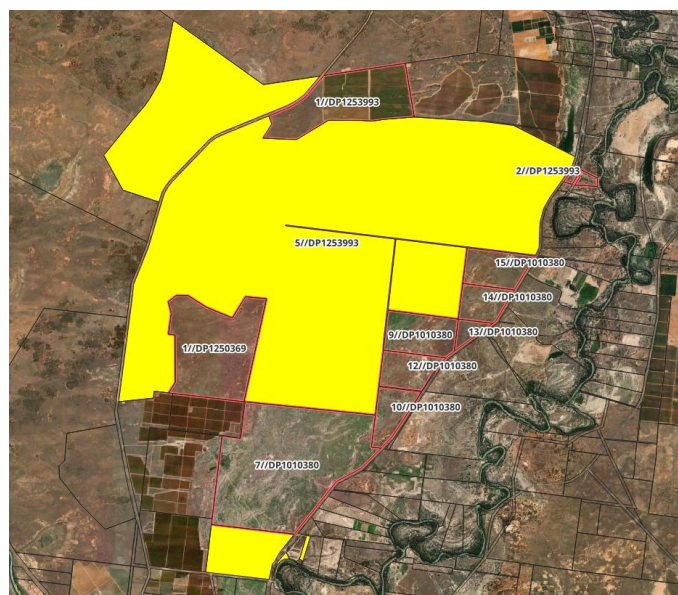
| Lot         | Area     | Use                                         |
|-------------|----------|---------------------------------------------|
| 3/DP1250369 | 13.84 ha | Agriculture and dwelling                    |
| 5/DP1253993 | 5,067 ha | Irrigated horticulture and remediation land |

## Lot 5 DP 1253993

Covering an extensive area and divided into several parts, Lot 5 includes a number of uses include irrigated horticulture to the northeast operated by Junction Vineyards. Connected by vinculum, the parts of the lot to the south are well removed from the larger parts to the north with several small parts that are difficult to manage under the current lot configuration, see figures 1 and 2. Lot 5 extends to the south with parts either side of Low Darling Road including a small part to the east of Lot 3 DP1250369. This part has an area of 5.397 ha and is currently not under active management due to its distance from the primary Junction Vineyards operations.

## Lot 3 DP1250369

Lot 3, also known as 372 Low Darling Road, has an area of 13.84 ha. The lot is undergoing redevelopment to support agricultural pursuits. A recent operational consent (DA2021/011) has allowed for the construction of an approved dwelling to commence and the land also benefits from approval for the use of land as a depot (DA2024/016).



**Figure 1** Extent of Lot 5 DP1253993



**Figure 2** Southern part of Lot 5 relative to Lot 3 DP1250369

## Proposed adjustment

The proposal seeks to adjust the existing boundaries to consolidate the 5.397 ha area of Lot 5 with the 13.84 ha area of Lot 3. This minor boundary adjustment will bring the land under a single ownership, enabling coordinated and active management by the owners, who will reside in

close proximity to the site. The adjustment will also benefit Junction Vineyards by removing the responsibility for managing this portion of land.

The existing and proposed lot layout configurations are as follows:

**Table 2** *Proposed lot configuration*

| Lot   | Area       | Use                                         |
|-------|------------|---------------------------------------------|
| Lot 1 | 5,143.9 ha | Irrigated horticulture and remediation land |
| Lot 2 | 19.24 ha   | Agriculture and dwelling                    |

As Lot 3 already has approval for a dwelling, the boundary adjustment is solely for the purpose of extending agricultural activities.

The proposed configuration sought by this application results in a pragmatic approach to the functioning and role of the agricultural layout and operations of the land.

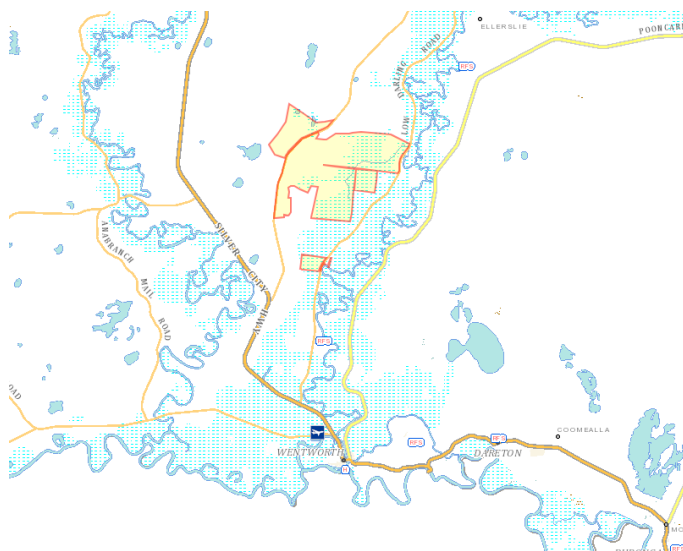




## Locality

The locality is largely used for agriculture and horticultural purposes. The locality includes varied lot sizes reflective of proximity to the Darling River. Larger parcels of land, typically to the northern region, contain remnant vegetation and are utilised for livestock grazing.

Dwellings within the area are typically located along the Darling River corridor. A dwelling in separate ownership is located to the southeast of Lot 3 and the south of Lot 5. The land on which the dwelling is located is landlocked with access provided via carriageway easement on Lot 5. The carriageway easement and the access to the dwelling will remain unchanged.



**Figure 6** Location of site and broader area



**Figure 5** Aerial image of the locality

## Planning controls

### Definition

#### Subdivision

In accordance with Section 6.2 of the *Environmental Planning and Assessment Act 1979*, the subdivision of land is defined as:

*“...the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected:*

- (a) by conveyance, transfer or partition, or*
- (b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.*

### Environmental Planning and Assessment Act 1979

The statutory process under the *Environmental Planning and Assessment Act, 1979* requires an evaluation in accordance with the provisions of Section 4.15. The matters for consideration include:

#### a) The provisions of:

- i. any environmental planning instrument, and*
- ii. any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- iii. any development control plan, and*
- iv. any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- v. the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

*that apply to the land to which the development application relates,*

- b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- c) the suitability of the site for the development,*
- d) any submissions made in accordance with this Act or the regulations,*
- e) the public interest.*

Responses to the relevant matters are outlined in the planning assessment below.

### Relevant State Environmental Planning Policies (SEPPs)

#### SEPP (Exempt and Complying Development Codes) 2008

Subdivision 38 of the SEPP provides exemptions for subdivisions including:

#### “(b) a realignment of boundaries-

- (i) that is not carried out in relation to land on which a heritage item or draft heritage item is situated, and*
- (ii) that will not create additional lots or increase the number of lots with a dwelling entitlement or increase the opportunity for additional dwellings, and*
- (iii) that will not result in any lot that is smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (other than a lot that was already smaller than that minimum size), and*
- (iv) that will not result in any increased fire risk to existing buildings, and*
- (v) if located in Zone RU1, RU2, RU3, RU4, RU6, C1, C2, C3 or C4-that will not result in more than a minor change in the area of any lot, and*
- (vi) if located in any other zone-that will not result in a change in the area of any lot by more than 10%.*

While it is considered that the boundary adjustment will result in only a minor change to Lot 5 (0.10%), the increase to Lot 3 is approximately 39% and therefore not consider to be a minor change.

## Relevant provisions of LEP

### Zone RU1 Primary Production

In accordance with the Wentworth LEP 2011 zoning maps the land is contained within the Zone RU1 Primary Production.

The objectives of the RU1 are:

- ♦ *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- ♦ *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- ♦ *To minimise the fragmentation and alienation of resource lands.*
- ♦ *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- ♦ *To encourage and promote the growth and diversification of economic and employment opportunities in agriculture, horticulture and tourism.*
- ♦ *To enable the development of restaurants and cafes and kiosks as part of agritourism development.*

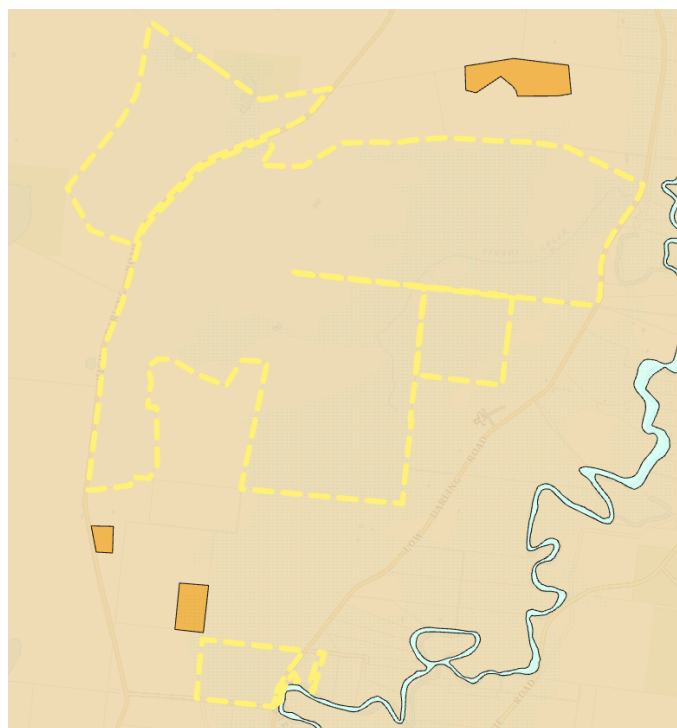


Figure 7 Zone map – Lot 5 DP1253993

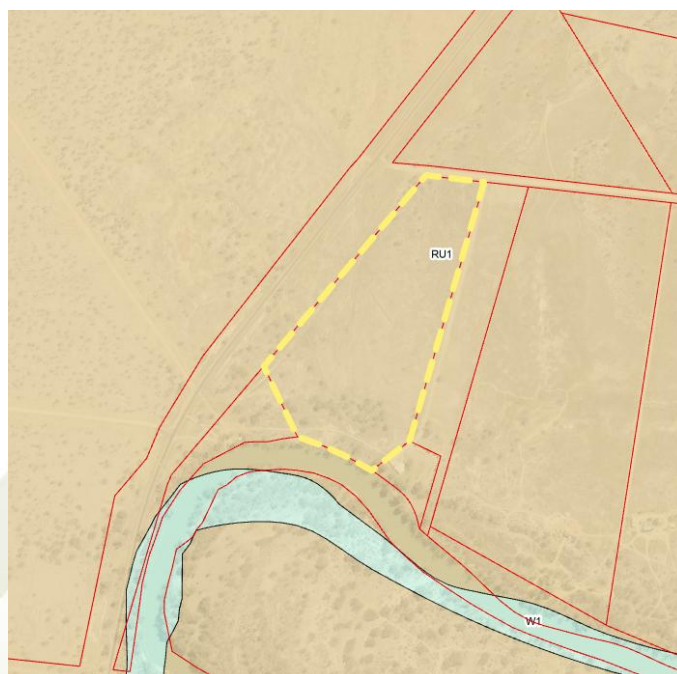


Figure 8 Zone Map – Lot 3 DP1250369

### Clause 2.6 Subdivision – consent requirements

The clause provides the following in relation to consent requirements:

- (1) *Land to which this Plan applies may be subdivided, but only with development consent.*

The Plan applies to the subject land and therefore development consent is required to subdivide the land.

### Clause 4.1 Minimum subdivision lot size

In accordance with the WLEP Lot Size Map, the minimum lot size is 10,000 hectares.

The objectives of the clause are-

- ♦ *To ensure subdivision of land occurs in a manner that promotes suitable land uses and development,*
- ♦ *To establish minimum lot sizes that are consistent with relevant zone objectives,*
- ♦ *To prevent the fragmentation of productive rural land,*
- ♦ *To ensure subdivision does not inappropriately impact on the natural environmental values of the area,*
- ♦ *To provide for more intensive small lot agricultural uses in areas with access to commercial quantities of irrigation water.*

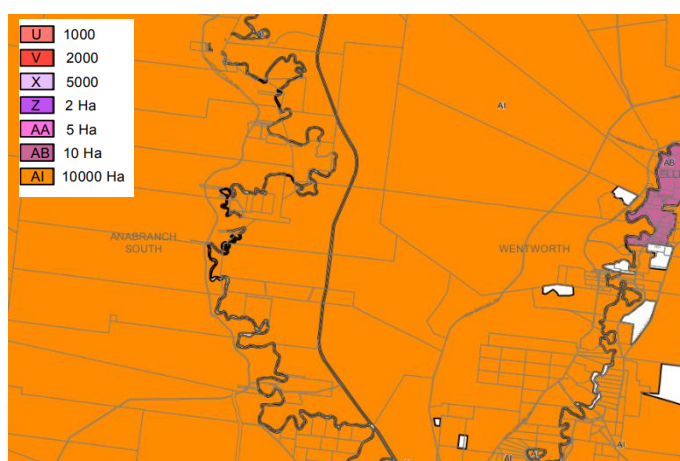


Figure 9 Minimum Lot Size (10,000 ha) (LEP)

### Clause 4.2D Boundary adjustments in Zones RU1, RU4 and C3

The objective of the clause is-

- ♦ *To facilitate boundary adjustments between lots where 1 or more resulting lots do not meet the minimum lot size shown for the land on the Lot Size Map but the objectives of the relevant zone can be achieved.*

An assessment of the relevant matters is outlined in the planning assessment below.

### 7.4 Terrestrial biodiversity

Through the area of the subject lots, land is affected by terrestrial biodiversity mapping.

The objectives of the clause are to:

- ♦ *Protecting native fauna and flora, and*
- ♦ *Protecting the ecological processes necessary for their continued existence, and*
- ♦ *Encouraging the conservation and recovery of native fauna and flora and their habitats.*

An assessment of the relevant matters is outlined in the planning assessment below.

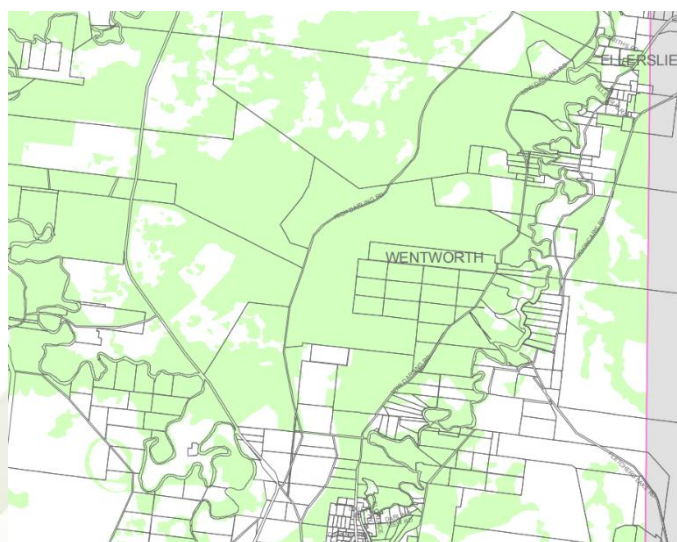


Figure 10 Terrestrial biodiversity mapping



**Figure 11** Lot 3 Terrestrial biodiversity mapping

### 7.5 Wetlands

A small area to the south of Lot 3 is affected by the wetlands map.

An assessment of the relevant matters is outlined in the planning assessment below.



**Figure 12** Lot 3 Wetlands Map (LEP)

### 7.7 Riparian land and Murray River and other watercourses - general principles

A small area to the south of Lot 3 is affected by the Riparian Lands and Watercourses mapping.

The objective of the Clause are to protect and maintain the following-

- ◆ *Water quality within the Murray River and other watercourses,*
- ◆ *The stability of the bed and banks of the Murray River and other watercourses,*
- ◆ *Aquatic riparian habitats,*
- ◆ *Ecological processes within the Murray River and other watercourses and riparian areas.*

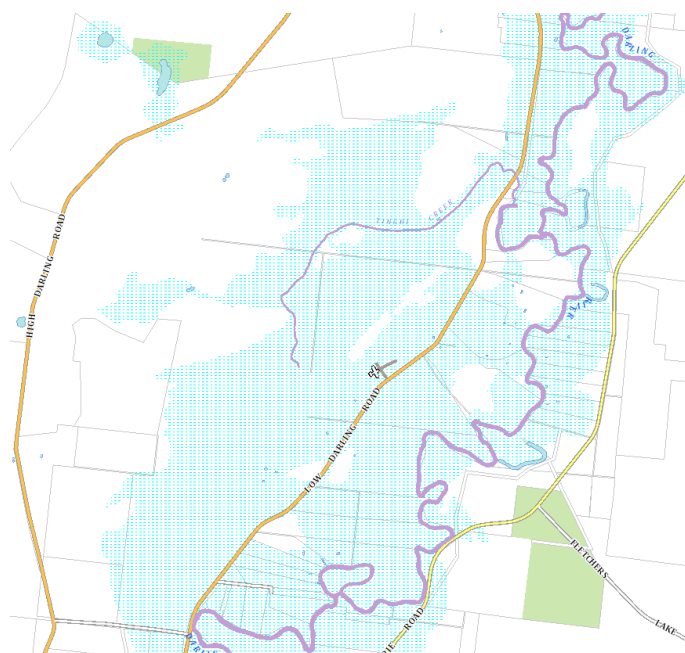
An assessment of the relevant matters is outlined in the planning assessment below.



**Figure 13** Lot 3 Watercourse Map (LEP)

### Additional LEP mapping

Biodiversity values mapping affects Lot 5 to the south and within a central area to the north. The biodiversity values mapping also affects Lot 3 to the south.

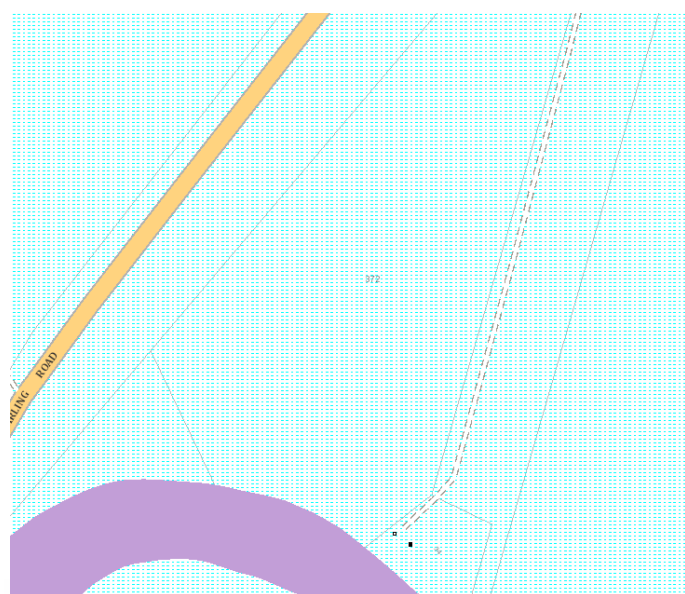


**Figure 14** Biodiversity Values Map (BVM)

- ♦ Control the density of development in order to limit population growth and maintain the rural character of the area.
- ♦ Promote lots of sufficient size to conduct agriculture and other rural pursuits.

The following controls (as relevant) are outlined in the DCP in Chapter 5.2:

- ♦ The controls outlined in this DCP are additional to the compulsory requirements of State Environmental Planning Policy – Rural Lands 2008 as amended from time to time. In relation to the subdivision of land, the Rural Subdivision Principles must be addressed to the satisfaction of Council.
- ♦ Minimum lot sizes are specified in the lot size maps to the Wentworth Local Environmental Plan 2011.
- ♦ Lots should be designed to maximise useable areas of the site and have regard for the topography.
- ♦ Subdivision design should provide opportunity for the retention of significant landscape features including remnant vegetation, rocky outcrops, water elements, appropriate location of boundary lines and building envelopes.



**Figure 15** Lot 3 Biodiversity Values Map (BVM)

## Wentworth Development Control Plan 2011

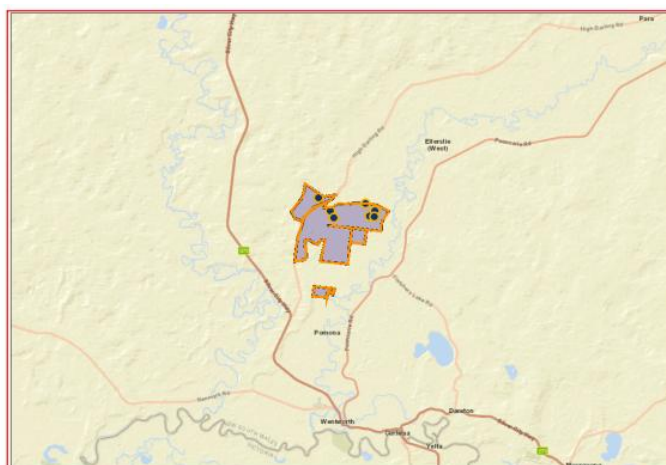
Chapter 5.2 (Subdivision) is relevant to the proposal and has the following objectives:

## Aboriginal cultural heritage

All Aboriginal cultural heritage is protected by the *NSW National Parks and Wildlife Act, 1974* (the Act). Responsibility rests with the proponent of development to demonstrate that due care and diligence have been taken to identify and avoid impacts on archaeological sites through construction works.

*Division 1 of Part 6 - Aboriginal Objects and Aboriginal Places*, of the Act provides defences to a prosecution for an offence. Item (2) of Section 87 includes whether the defendant has exercised due diligence to determine whether the act or omission constituting the alleged offence would harm an Aboriginal object and reasonably determined that no Aboriginal object would be harmed.

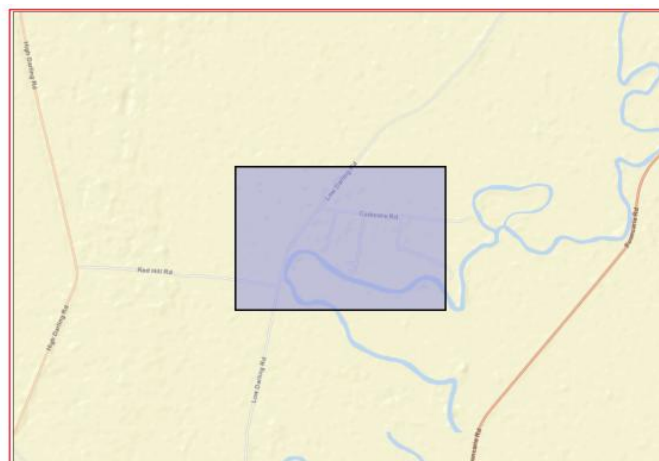
The *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW), provides an outline of due diligence measures to determine whether an Aboriginal Heritage Impact Permit (AHIP) is required. A search of the *Aboriginal Heritage Information Management System* (AHIMS) has been undertaken and while aboriginal sites have been identified in the northern part of Lot 5, no Aboriginal sites or places have been identified within the southern parts of Lot 5 or within Lot 3, see figures 17, 18 and 19.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

|   |                                                                       |
|---|-----------------------------------------------------------------------|
| 0 | Aboriginal sites are recorded in or near the above location.          |
| 0 | Aboriginal places have been declared in or near the above location. * |

**Figure 16** AHIMS search Lot 5



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

|   |                                                                       |
|---|-----------------------------------------------------------------------|
| 0 | Aboriginal sites are recorded in or near the above location.          |
| 0 | Aboriginal places have been declared in or near the above location. * |

**Figure 17** AHIMS search southern part Lot 5



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

|   |                                                                       |
|---|-----------------------------------------------------------------------|
| 0 | Aboriginal sites are recorded in or near the above location.          |
| 0 | Aboriginal places have been declared in or near the above location. * |

**Figure 18** AHIMS search Lot 3

## Planning assessment

### Environmental Planning and Assessment Act 1979

In response to the provisions of Section 4.15, the following is provided:

- ♦ An assessment against the relevant environmental planning instruments has been provided below.
- ♦ At the time of this submission, no proposed instrument that is or has been the subject of public consultation under the Act or that has been notified to the consent authority has been identified.
- ♦ Responses to the relevant provisions of the Wentworth Development Control Plan are provided below.
- ♦ There has not been a planning agreement entered into or a draft agreement offered under section 7.4 of the Act.
- ♦ No regulations applying to the land to which the application relates have been identified.
- ♦ The proposed boundary adjustment is unlikely to result in environmental impacts as the land to be consolidated with Lot 3 contains little remnant vegetation. The consolidation will ensure the continued management of the land to ensure control of pests and weeds. The frontage to the Darling River at Lot 5 is approximately 20m wide with no activity likely to cause impacts upon the river to occur at this location.
- ♦ The site is considered suitable for the proposed boundary adjustment which will increase the size of a small rural lot with only a minor decrease in the size of a larger holding. The existing carriageway easement and access to a neighbouring dwelling will remain unchanged.

### Wentworth LEP Zone

The proposed subdivision aligns with the objective of the Zone RU1 – Primary Production by increasing the size of

a small rural lot to allow for agricultural pursuits and appropriate land management.

#### Clause 4.1 Minimum subdivision size

The minimum lot size across the two sites is 10,000 hectares. While neither lot will achieve the minimum lot size, Clause 4.2D allows for boundary adjustments resulting in lot areas below the minimum lot size.

The proposal results in a considerable increase of the smaller lot while resulting in only a minor reduction of the larger lot. As such, the proposal will result in lot sizes that are better aligned with the minimum lot size than the current condition.

#### Clause 4.2D Boundary adjustments in Zones RU1, RU4 and C3

The Clause allows for boundary adjustments resulting in lots below the minimum lot size provided the objectives of the zone are achieved. In response to the relevant matters of consideration, the following is provided:

- ♦ The boundary adjustment will not result in the opportunity for additional dwellings. Operational consent for a dwelling on Lot 3 has recently been granted with no additional dwelling proposed on the larger land holding.
- ♦ For the reasons outlined above, the number of dwellings will remain the same.
- ♦ The boundary adjustment will not result in the potential for land use conflict as the area is a rural locality with agricultural uses included as a primary objective of the zone and currently undertaken within the surrounding area.
- ♦ The boundary adjustment will improve the viability of agricultural opportunity for Lot 3 while having minimal impact upon the continued agricultural activity of Lot 5.
- ♦ No increase in bushfire risk to an existing building will occur due to the intended land use at the consolidated portion of Lot 5.
- ♦ The dominant land uses are agriculture and horticulture. The proposal will allow for the expansion

of agricultural pursuits in accordance with the dominant land use of the area.

- ♦ The proposed boundary adjustment is a pragmatic approach to the characteristics of the land which will result in the eastern boundary of Lot 3 being shifted approximately 90m further east, increasing the size of the small rural lot.
- ♦ The proposed boundary adjustment will ensure ongoing management of the land resulting in an environmental benefit. No additional activity is proposed toward the river frontage.

The proposal aligns with the relevant provisions of the Wentworth DCP as it will enlarge a small rural lot to enhance its agricultural potential. It will also relieve the larger landholding of the ongoing responsibility to maintain land that is surplus to its needs.

The proposed boundary adjustment is consistent with the objectives of Chapter 5.2 relating to rural subdivisions as the resulting lot sizes will be more appropriate for the area and the ability for agricultural uses. No significant landscape features will be impacted by the proposal and significant vegetation will not be impacted.

#### **7.4 Terrestrial biodiversity**

The terrestrial biodiversity mapping in the area of the proposed boundary adjustment is limited to a small area in the southern most extent of Lot 3 and Lot 5. No activity is proposed within this area as a result of the boundary adjustment. No additional development is proposed within the affected area and therefore no impacts to the vegetation, habitat, ecological value or biodiversity is expected as a result of the proposed boundary adjustment.

#### **7.5 Wetlands**

The area of the subject land affected by the wetlands map is limited to the same small areas as the terrestrial biodiversity mapping. The proposed boundary adjustment does not impede upon the ability for the preservation of natural wetlands. No additional development is proposed within the affected area and therefore no impacts to native flora or fauna, habitats or surface or groundwater are expected.

#### **7.7 Riparian land and Murray River and other watercourses – general principles**

No additional development is proposed in proximity to the watercourse and the intent of the boundary adjustment will not impact upon water quality or flows, aquatic or riparian species, bank stability, fish passage, or future rehabilitation.

### **Wentworth Development Control Plan 2011**

## Conclusion

The proposed boundary adjustment is considered acceptable for the following reasons:

- ♦ Consistent with the provisions of the *Environmental Planning and Assessment Act 1979*, *Wentworth LEP 2011*, and *Wentworth DCP 2011*.
- ♦ Increases the size of a small rural lot to enhance agricultural productivity and land management.
- ♦ Results in only a minor reduction to the larger rural holding, with no loss of its agricultural viability.
- ♦ Does not enable additional dwellings or create potential for land use conflict.
- ♦ No significant environmental impacts anticipated, including to biodiversity, wetlands, or riparian areas.
- ♦ Maintains existing access arrangements and does not alter easements.
- ♦ Supports ongoing environmental stewardship through consolidated ownership and active management.



**James Golsworthy Consulting**

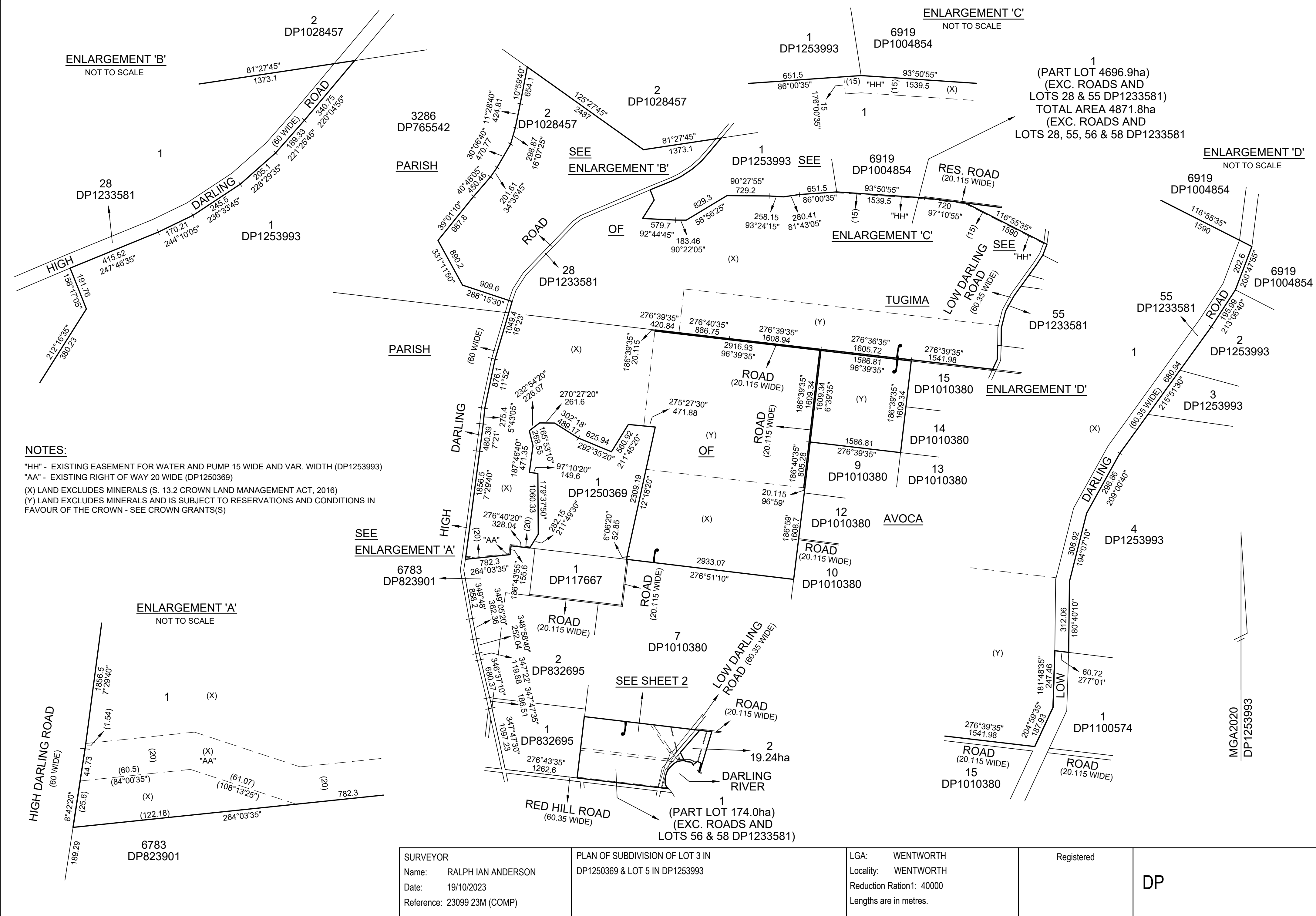
140 Pine Avenue Mildura VIC 3500  
PO Box 1650 Mildura VIC 3502

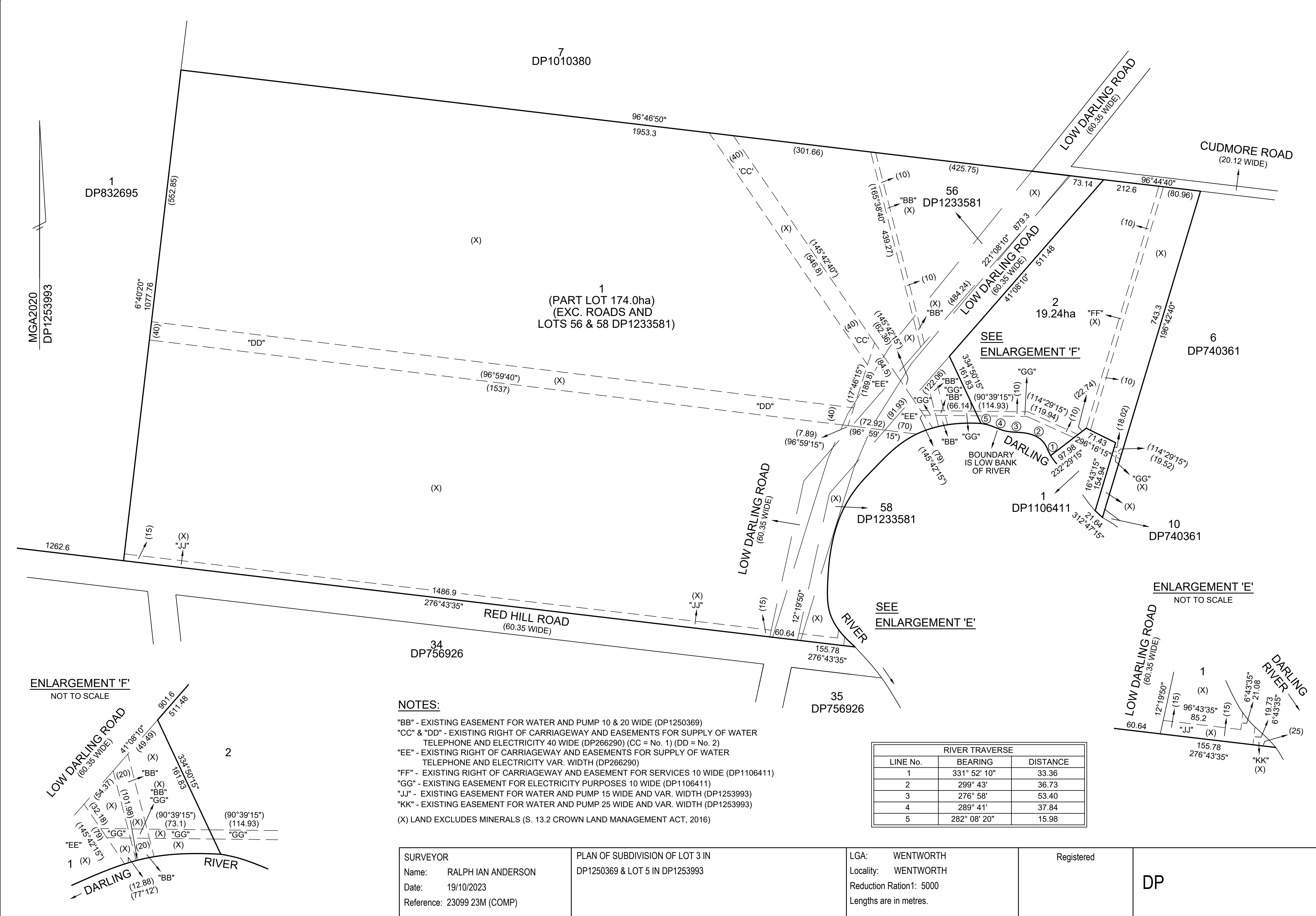
telephone 03 5022 8411

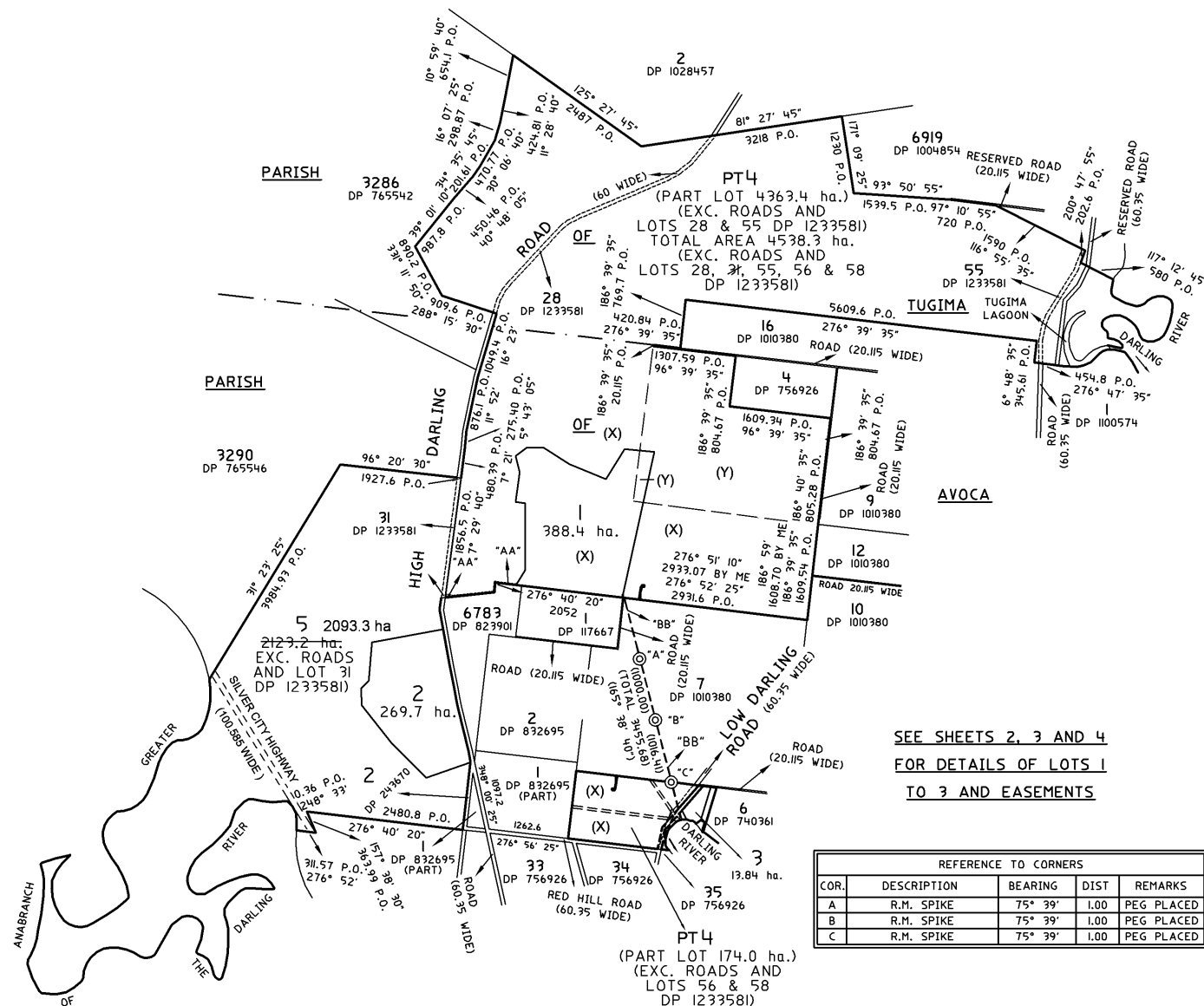
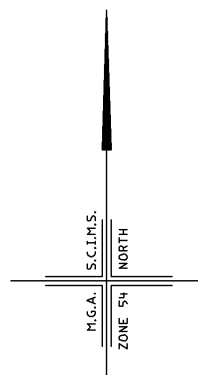
email [james@jgconsult.com.au](mailto:james@jgconsult.com.au)

[www.jgconsult.com.au](http://www.jgconsult.com.au)









SEE SHEETS 2, 3 AND 4  
FOR DETAILS OF LOTS 1  
TO 3 AND EASEMENTS

| REFERENCE TO CORNERS |             |         |      |            |
|----------------------|-------------|---------|------|------------|
| COR.                 | DESCRIPTION | BEARING | DIST | REMARKS    |
| A                    | R.M. SPIKE  | 75° 39' | 1.00 | PEG PLACED |
| B                    | R.M. SPIKE  | 75° 39' | 1.00 | PEG PLACED |
| C                    | R.M. SPIKE  | 75° 39' | 1.00 | PEG PLACED |

(X) LAND EXCLUDES MINERALS (S.13.2 CRWON LAND MANAGEMENT ACT 2016).

(Y) LAND EXCLUDES MINERALS & IS SUBJECT TO RESERVATIONS & CONDITIONS IN FAVOUR OF THE CROWN - SEE CROWN GRANT

#### NOTES:-

G.N.S.S. OBSERVATIONS WERE USED TO DERIVE DIMENSIONS OF THE SURVEY CONTROL TRAVERSE, CONNECTIONS AND THE DISTANCES OF THE BOUNDARIES OF THE SITE THAT ARE GREATER THAN 100 METRES.

"AA" - RIGHT OF WAY 20 WIDE

"BB" - EASEMENT FOR WATER AND PUMP 10 AND 20 WIDE

#### SURVEYOR

Name: PETER ROBERT DANSON

Date: 22-10-2018

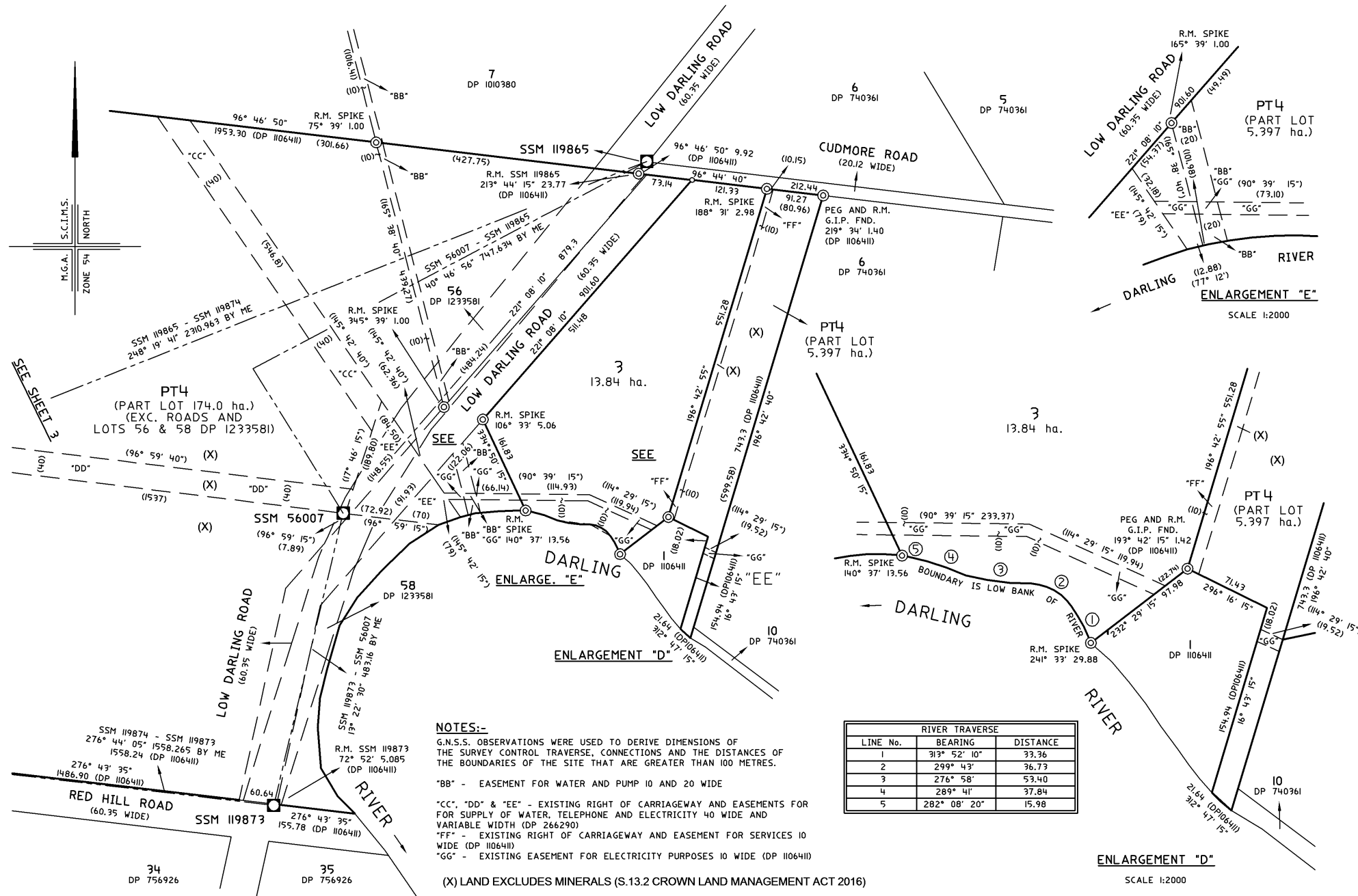
Reference: 9471A

PLAN OF SUBDIVISION OF LOT 2 IN DP 1106411,  
LOTS 5, 6, 43, 44 AND 58 IN DP 756926, LOT 91 IN DP  
43273, LOT 3292 IN DP 765548 AND  
CREATION OF EASEMENT IN LOT 7 IN DP 1010380

LGA: WENTWORTH  
Locality: WENTWORTH  
Reduction Ratio 1: 50000  
Lengths are in metres.

Registered  
21.5.2019

DP1250369



## SURVEYOR

Name: PETER ROBERT DANSON

Date: 22-10-2018

Reference: 9471A

PLAN OF SUBDIVISION OF LOT 2 IN DP 1106411,  
LOTS 5, 6, 43, 44 AND 58 IN DP 756926, LOT 91 IN DP  
43273, LOT 3292 IN DP 765548 AND  
CREATION OF EASEMENT IN LOT 7 IN DP 1010380

LGA: WENTWORTH

Locality: WENTWORTH

Reduction Ratio 1: 4000

Lengths are in metres.

Registered



21.5.2019

DP1250369