

M(12) – 19 DECEMBER 2023

Ordinary Council Meeting

Minutes

The **Ordinary Meeting** of the **Alpine Shire Council** was held in the Council Chambers, Great Alpine Road, Bright on **19 December 2023** and commenced at **5:00pm**.

PRESENT

COUNCILLORS

Cr John Forsyth - Mayor

Cr Simon Kelley – Deputy Mayor

Cr Ron Janas

Cr Katarina Hughes

Cr Tony Keeble

Cr Sarah Nicholas

Cr Kelli Prime

OFFICERS

Will Jeremy - Chief Executive Officer

Helen Havercroft - Director Customer and Community

Michael MacDonagh – Acting Director Assets

APOLOGIES

Alan Rees - Director Assets

Agenda

1.	Recording and livestreaming of Council meetings.....	3
2.	Acknowledgement of traditional custodians, and recognition of all people.....	3
3.	Confirmation of minutes	3
3.1	Ordinary Council Meeting – M(11) – 28 November 2023	3
4.	Apologies.....	3
5.	Obituaries / congratulations.....	4
6.	Declarations by Councillors of conflict of interest.....	4
7.	Public questions	4
8.	Presentation of reports by officers	5
8.1	Chief Executive Officer – Will Jeremy	5
8.1.1	Contracts approved under delegation by CEO.....	5
8.2	A/Director Assets – Michael MacDonagh.....	6
8.2.1	Petition for EV Charge Station in Mount Beauty.....	6
8.2.2	Public Bins and Amenities Cleaning Services	8
8.2.3	Contract CQ230078 Security Patrol Services	12
8.3	Director Customer and Community – Helen Havercroft.....	15
8.3.1	Child Safe Policy.....	15
8.3.2	Quarterly Budget Report - (Q1) for period ending 30 September 2023	17
8.3.3	Audit and Risk Committee Meeting Unconfirmed Minutes	20
8.3.4	Instruments of Appointment and Authorisation - <i>Planning and Environment Act 1987</i>	22
8.3.5	Appointment of Councillors to CEO Employment and Remuneration Committee.....	25
9.	Informal meetings of Councillors.....	28
10.	Presentation of reports by delegates	29
11.	General business	29
12.	Motions for which notice has previously been given	29
13.	Reception and reading of petitions	29
14.	Documents for sealing	30

1. Recording and livestreaming of Council meetings

The CEO read the following statement:

All council meetings are filmed with both video and audio being recorded.

Video is focused on a specific area however audio from the entire room is captured.

In common with all narrative during Council meetings, verbal responses to congratulations, obituaries and question time will not be recorded in the written minutes. By submitting a question, you consent to your question being read aloud at the meeting.

The reasoning behind recording council meetings is to hold us more accountable and improve transparency of Council's decision-making to our community.

The full meeting is being streamed live on Council's YouTube channel which is "Alpine Shire Council" and will also be available on the YouTube channel shortly after this meeting.

2. Acknowledgement of traditional custodians, and recognition of all people

All to stand, the Mayor read the following statement:

Alpine Shire Council acknowledges the Taungurung peoples as the Traditional Owners of the lands on which we are meeting today. Council also acknowledges all of the Traditional Owners of the wider lands of the area known as the Alpine Shire.

We also acknowledge those people who have contributed to the rich fabric of our community and strive to make wise decisions that will improve the quality of life for all.

3. Confirmation of minutes

3.1 ORDINARY COUNCIL MEETING – M(11) – 28 NOVEMBER 2023

Cr Nicholas

Cr Kelley

That the minutes of Ordinary Council Meeting M(11) held on 28 November 2023 as circulated be confirmed.

Carried Unanimously

4. Apologies

Alan Rees, Director Assets

5. Obituaries / congratulations

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to questions.

6. Declarations by Councillors of conflict of interest

8.1.1 Cr Keeble declared a general conflict of interest with respect to Contracts approved under delegation by the CEO.

7. Public questions

Questions on Notice will be limited to two questions per person.

Written Questions on Notice will be tabled ahead of questions from the floor.

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to questions.

Cr Keeble declared a conflict of interest in relation to item 8.1.1 and left Council Chambers at 5.17pm.

8. Presentation of reports by officers

8.1 CHIEF EXECUTIVE OFFICER – WILL JEREMY

8.1.1 Contracts approved under delegation by CEO

Cr Nicholas

Cr Prime

That the Capital Project Contract approved under delegation by the CEO be noted.

<i>Contract No:</i>	<i>Supply and Installation of Water Pump</i>	<i>Process: RFQ 23080</i>
<i>Title:</i>	<i>Supply and installation of Water Pump for snow guns at Dinner Plain</i>	
<i>Tenderer:</i>	<i>Nutrien Pty Ltd</i>	
<i>\$ (excl. GST):</i>	<i>\$129,342</i>	

Carried Unanimously

Cr Keeble re-entered Council Chambers at 5.18pm.

8.2 A/DIRECTOR ASSETS – MICHAEL MACDONAGH

8.2.1 Petition for EV Charge Station in Mount Beauty

INTRODUCTION

This report relates to a petition for the installation of a publicly available Electric Vehicle (EV) charging station in Mount Beauty.

Cr Prime
Cr Hughes

That Council:

- 1. Acknowledge the petition titled 'Petition for EV Charge Station in Mount Beauty' received at the Ordinary Council Meeting held on 28 November 2023;*
- 2. Recommends that the Upper Kiewa Valley Community Association makes a community submission through the existing budget process for assessment and subsequent decision by Council.*

Carried Unanimously

BACKGROUND

On the 28 November 2023, the Upper Kiewa Valley Community Association (UKVCA) delivered a petition to Council for an Electric Vehicle (EV) Charge Station in Mount Beauty. The petition was assessed and considered to satisfy Council's Governance rule G4 'Petitions'. The petition contains 156 signatories and states:

We the undersigned, being residents and/or business owners of the Upper Kiewa Valley, request that at least one charging station for electric vehicles/cars be established in the central business area of Mount Beauty which will be available to serve locals and tourists alike.

In December 2022, Council commissioned a Community Energy and EV Charging Prospectus, through the Australian and Victorian governments' joint resilience grant funding program. This prospectus has considered the suitability of the Mount Beauty Stadium for a public charging facility. The findings and recommendations of the prospectus will inform future decisions regarding public charging infrastructure at Council facilities.

ISSUES

A permit exemption for an EV charging station was recently introduced to Clause 62.02-2 (Buildings and works not requiring a permit unless specifically required by the planning scheme) into all planning schemes via Amendment VC142 on 16 January 2018 to facilitate the construction of these facilities. The exemption does not apply to land in the Heritage Overlay, if the charging station is visible from a street (other than a lane) or public park but can be considered via a VicSmart (a ten working day permit) process.

POLICY IMPLICATIONS

The recommendations are consistent with section 9(2)(c) of the *Local Government Act 2020*:

- Councils are required to promote the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks.

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 3.1 Decisive leadership to address the impacts and causes of climate change

FINANCIAL AND RESOURCE IMPLICATIONS

There are no financial implications related to receiving and noting this petition.

Future investment in EV charging stations will form part of Council's annual budget process, including seeking appropriate grant funding.

RISK MANAGEMENT

There are no risks associated with the report.

CONSULTATION

UKVCA and the Mount Beauty Chamber of Commerce, and other interested parties, will be consulted in future EV charger projects.

CONCLUSION

Council notes the petition and recommends that UKVCA submits a community budget submission through the existing budget process.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Growth and Future
- Sustainability Coordinator

ATTACHMENT(S)

8.2.1 Petition for EV charge station in Mount Beauty

8.2.2 Public Bins and Amenities Cleaning Services

File Number: CQ230019

INTRODUCTION

This report relates to the award of a contract for the delivery of public bins and amenities cleaning services for the Alpine Shire.

Cr Janas

Cr Kelley

That Council:

- 1. Awards Contract No. CQ230019 'Public Bins and Amenities Cleaning Services' to SSX Group for a three (3) year term with an option of a three (3) year extension at a year one (1) lump sum cost of \$796,000 (GST Exclusive) and with a commencement date of 1 February 2024;*
- 2. Delegates authority to the CEO to sign and seal the contract at the appropriate time.*

Carried Unanimously

BACKGROUND

Public bins and amenities cleaning is an important service that contributes significantly to the brand, liveability and ambience of the Alpine Shire for residents and visitors alike. It is the second largest service contract in Council's waste portfolio following kerbside waste collection services.

It is for these reasons that Council seeks to engage a supplier that is committed to building a partnership founded on the following key principles:

- Delivery of a consistently high-quality service,
- Dedicated local teams that take pride in their work and value the community that they live in,
- Customer feedback and complaints are managed, and appropriate corrective action taken and reported to Council, and
- A flexible service that meets seasonal fluctuations in demand.

The scope of this service contract includes:

- Public waste and recycling collection
- Cleaning of public area facilities including public toilets, BBQs, and footpath cleaning
- Cleaning of Council facilities
- Event waste servicing and additional event public amenity cleaning

An extensive review of all services in the scope of this contract was undertaken and the schedules were adjusted to align with the best available information, including accommodating new facilities, improved service delivery and anticipated peak visitor period demand.

The tender was posted on 8 September 2023 on tenders.net in accordance with Council's procurement policy and five submissions were received.

The tenders were evaluated according to the key selection criteria listed in the Invitation to Tender:

- Price
- Qualifications and Previous Performance
- Delivery
- Social
- Environmental

Following assessment of the tender submissions it was determined that the tender from SSX Group best met the requirements of the selection criteria.

ISSUES

Service Continuity

The previous supplier ceased service delivery on 30 November 2023. An interim service delivery model involving a range of local suppliers has been implemented to ensure service continuity through to 1 February 2024, coinciding with the peak tourist period. Planning for the transition to a new supplier and actions to mitigate the risk to service delivery have been discussed with both the recommended supplier and incumbent service providers.

Labour Market

A key pillar in the Alpine Shire economy is a mature tourism, hospitality and accommodation industry, stemming back to the early 1900's with the advent of the snow and mountain tourism industries. The ongoing demand for key workers to serve these industries, especially cleaning and waste services staff, exceeds supply. Over time, this has resulted in a range of distortions in this labour market, including higher than award wages as the norm, in order to attract and retain workers to deliver these critical services.

The successful delivery of this contract is directly related to the supplier's ability to attract and retain staff in the local labour market.

Introduction of Additional Services

As Council completes a range of building projects, new facilities will need to be added to the scope of the contract. In addition, existing buildings and facilities may be added to the contract for operational reasons.

Seasonal Increases in Demand

The seasonal nature of the tourism and hospitality industries has resulted in unexpected and unprecedented increases in demand for public bins and amenities cleaning services.

The service schedules have been updated to reflect these recent increases in demand, however ongoing flexibility is required to enable a rapid response to any future increases in demand.

Increased Frequency of Services

Resident and visitor expectations of the quality of service being delivered continues to increase. It is important to have operational flexibility in the delivery of the contract to be able to respond to these changes.

POLICY IMPLICATIONS

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 3.3 Responsible management of waste

FINANCIAL AND RESOURCE IMPLICATIONS

The adopted budget for this service for the 2023/24 Financial Year is \$650,000. Following amendment to the delivery schedules, which were part of the tender documentation, the year one cost of the recommended contract is \$796,000.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action/Control
Contamination of recycling in public place recycling bins	Almost Certain	Moderate	<ul style="list-style-type: none"> • Education signage on bins. • Clear liners to allow visual inspection. • Consider eliminating recycling bins if contamination rates do not meet required thresholds.
Peak Period Servicing gaps	Almost Certain	High	<ul style="list-style-type: none"> • Service schedules adjusted in new contract following a full review. • Operational flexibility to enable responsive increases in frequency of service included in the contract.
Disruption to service due to staff attraction and retention challenges	High	High	<ul style="list-style-type: none"> • Regional team in Wangaratta to support any recruitment and retention challenges. • Short-term mobilisation of other local providers.
Current Contractors depart without transition	Moderate	High	<ul style="list-style-type: none"> • Council officer to be available for accelerated contract mobilisation, induction, and training. • SSX redeploy staff from other contracts in the short term.

CONSULTATION

Community feedback has been taken into consideration in order to establish revised servicing schedules for the new contract. Extensive engagement had been undertaken with all relevant Council staff.

CONCLUSION

Following a comprehensive assessment, the Tender from SSX Group is considered to present the best value for Council whilst achieving service delivery in line with community expectations.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Acting-Director Assets
- Manager Operations
- Property and Contracts Coordinator

ATTACHMENT(S)

Nil

8.2.3 Contract CQ230078 Security Patrol Services

File Number: CQ230078

INTRODUCTION

This report relates to the awarding of a tender for the supply of security patrol services for the Alpine Shire.

Cr Nicholas

Cr Hughes

That Council:

- 1. Awards Contract No. CQ230078 'Security Patrol Services' to SSX Group for a three (3) year term at an annual cost of \$85,000 (GST Exclusive); and*
- 2. Delegates authority to the CEO to sign and seal the contract at the appropriate time.*

Carried Unanimously

BACKGROUND

Council owns a significant portfolio of buildings and facilities that are important Community assets, providing residents and visitors with the opportunity to undertake activities and enjoy the amenity of the Alpine Shire. These include sporting pavilions and ovals, public amenities, community halls, libraries, visitor information centres and offices.

Council requires security patrols and an alarm call out service at various Council buildings and facilities to ensure the security of these assets for the community and visitors.

Vandalism of public property has become a significant problem for Local Government organisations and in recent times, the frequency and severity of vandalism has increased.

EVALUATION

An extensive review of all services in the scope of this contract was undertaken and the schedules were adjusted to align with the best available information, including new services added to include the Bourke Street toilet block in Bright and the Jubilee Park toilet block in Myrtleford, due to increased vandalism and issues at those sites.

The tender was posted on tenders.net on 10 October 2023 in accordance with Council's procurement policy and three submissions were received.

The tenders were evaluated according to the key selection criteria listed in the Invitation to Tender:

- Price
- Qualifications and Previous Performance
- Delivery
- Social
- Environmental

Following assessment of the tender submissions, it was determined that the tender from SSX Group best met all the requirements of the selection criteria.

ISSUES

Alpine Shire is experiencing increased vandalism and anti-social behaviour at various sites. The terms and conditions of the contract allow Council the ability to change the frequency and number of sites being serviced in order to respond to operational requirements. Changes to the frequency and scope of the contract will be managed in accordance with the Procurement Policy that stipulates how variations are governed and approved.

POLICY IMPLICATIONS

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.5 Assets for our current and future needs

FINANCIAL AND RESOURCE IMPLICATIONS

Following revising, updating and increasing the scope of the delivery schedules, which were part of the tender documentation, the year one cost of the recommended contract is \$85,000 (GST Exclusive) and the total estimated contract value is \$255,000 (GST Exclusive). There is sufficient allocation within the budget for this contract.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action/Control
Increased vandalism resulting in additional services required	High	Moderate	<ul style="list-style-type: none">• Pricing structure allows contract to be adjusted to allow additional patrols

CONSULTATION

A review was undertaken of buildings and facilities that have experienced increased levels of vandalism and anti-social behaviour and the schedule was adjusted accordingly.

Community feedback has been taken into consideration in order to establish revised servicing schedules for the new contract. Extensive engagement had been undertaken with all relevant Council staff.

CONCLUSION

Following a comprehensive assessment, the Tender from SSX Group is considered to present the best value for the tendered services. It is recommended that Council enters into a contract with SSX Group for delivery of these services for a period of three years.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Acting Director Assets
- Manager Operations
- Property and Contracts Coordinator

ATTACHMENT(S)

Nil

8.3 DIRECTOR CUSTOMER AND COMMUNITY – HELEN HAVERCROFT

8.3.1 Child Safe Policy

INTRODUCTION

This report relates to changes in Child Safe legislation and the consequential revisions to Council's Child Safe Policy.

Cr Hughes
Cr Janas

That Council:

- 1. Adopts the revised Child Safe Policy No. 108 (V3.0); and*
- 2. Signs and seals the policy at the appropriate stage of this meeting.*

Carried Unanimously

BACKGROUND

Victoria's Child Safe Standards (Standards) were put in place in 2016 to protect children and young people from harm and abuse. In July 2022 eleven new Standards were introduced to replace the existing seven Standards. Changes made to the Standards will increase protection for children and young people and provide clarity for Council and other organisations that must comply with the Standards (Schedule 1 of the Child Wellbeing and Safety Act 2005 identifies Council as an organisation which must comply with the Child Safe Standards).

Council's first Child Safe Policy was adopted in 2017 and a reviewed Child Safe Policy was adopted in 2020.

This revised Child Safe Policy has been developed with publicly available information and in consultation with key internal stakeholders and engagement with other Victorian Councils and ensures that protecting children's safety and wellbeing is embedded in the culture and the everyday thinking and practices of all Councillors, employees, contractors and volunteers of Council.

ISSUES

Council is legislatively required to develop a Child Safe Policy which reflects the updated Child Safe Standards effective 1 January 2023. This work has been undertaken internally. The protection of children and young people is more than just drafting a policy. An operational action plan will be developed to embed the activities that Council will undertake to meet our commitment of this policy.

POLICY IMPLICATIONS

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

This Policy also relates to:

- *Child Wellbeing and Safety Act 2005* (Vic)
- *Working With Children Act 2005* (Vic)
- Victorian Reportable Conduct Scheme

FINANCIAL AND RESOURCE IMPLICATIONS

The drafting of the action plan related to the operational delivery of this policy is not yet completed. There will be identified existing resources within Council who will have responsibility for specific actions. There is no indication at this stage that a financial cost will be associated with this. No additional resource is being considered.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Failure to comply with legislation and mandatory reporting	Possible	Moderate	<ul style="list-style-type: none"> • Ensure regular review of the Child Safe Policy and implementation of the Action Plan

CONSULTATION

This revised Child Safe Policy was developed with publicly available information and in consultation with key internal stakeholders and using information from other Victorian Councils.

The revised Child Safe Policy was placed on public exhibition for a period of 21 days and Council and no feedback was received.

CONCLUSION

It is recommended that Council adopts the revised Child Safe Policy No. 108 (V3.0).

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Community Development

ATTACHMENT(S)

8.3.1. Child Safe Policy No. 108 (V3.0)

8.3.2 Quarterly Budget Report - (Q1) for period ending 30 September 2023

INTRODUCTION

The purpose of the Budget Report - Quarterly Review (the 'Report') is to provide Council with an overview of the financial position of Council for the period ending 30 September 2023.

Cr Janas
Cr Keeble

That Council receives and notes the 'Q1 Budget Report - Quarterly Review' for the period ending 30 September 2023.

Carried Unanimously

BACKGROUND

This report is prepared quarterly. The report provides Council with an overview of the results for the quarter and an update on the forecast financial position against the full year budget. Explanations are provided for variances to budget greater than \$100,000.

ISSUES

Council is forecasting a full year surplus of \$2.9m, which is \$0.2m higher than the budgeted surplus of \$2.7m. The forecasted variance to budget is the result of a mix of drivers. There is forecast additional income as well as increased expenditure in some areas and reduced expenditure elsewhere. Full details can be reviewed in the attachment.

There is forecast additional income:

- Grants (\$0.2m),
- Rates & Charges (\$0.1m), and
- Other income (\$0.1m).

There is forecast additional expenditure:

- Materials & Services (\$0.2m), and
- Employee costs (\$0.1m).

Revised budget

The *Local Government Act 2020* (LGA 2020) requires that an assessment be made as to whether a revised budget is required after the quarterly finance report is completed.

A revised budget is required under the LGA 2020 before any of the following can occur:

- a variation to the declared rates or charges
- undertake any borrowings that have not been approved in the budget
- a change to the budget that the Council considers should be the subject of community engagement.

At the end of Q1 financial reporting none of these three items is forecast to occur and Council is not required to complete a revised budget for 2023/24.

POLICY IMPLICATIONS

The Report has been prepared in line with the requirements of the *Local Government Act 2020* (LGA 2020).

Section 97(1) of the LGA 2020 (Quarterly budget report) commenced on 24 October 2020 and states that, "As soon as practicable after the end of each quarter of the financial year, the CEO must ensure that a quarterly budget report is presented to the Council at a Council meeting which is open to the public".

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

FINANCIAL AND RESOURCE IMPLICATIONS

Financial performance to date indicates a full year surplus of \$2.9m, which is \$0.2m higher than the budgeted surplus of \$2.7m.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Financial Sustainability	Rare	Major	<ul style="list-style-type: none"> • Quarterly reporting provides a snap shot of performance for Council. Maintaining rigour in financial reporting supports Council to make financially sustainable decisions.

CONSULTATION

Appropriate consultation has been carried out with Council Officers across the organisation in order to compile this report.

CONCLUSION

The Budget Report - Quarterly Review for the period ending 30 September 2023 is presented for noting.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Financial Accountant

ATTACHMENT(S)

8.3.2 Budget Report - Quarterly Review for the period ending 30 September 2023.

8.3.3 Audit and Risk Committee Meeting Unconfirmed Minutes

INTRODUCTION

The purpose of the report is to present the minutes of the Audit and Risk Committee meeting No.2023/24-03 held on 24 November 2023.

Cr Kelley

Cr Prime

That Council receives and notes the unconfirmed minutes of the Audit and Risk Committee meeting No.2023/24-03 held on Friday 24 November 2023.

Carried Unanimously

REPORT

The key items presented to and considered by the Audit and Risk Committee (Committee) at this meeting were a draft Borrowings Policy and noting of Council approved changes to the Audit and Risk Committee Charter associated with Independent Members remuneration.

Draft Borrowings Policy

The Committee received a draft version of the Council's Borrowings Policy for comment. Members of the Committee discussed the proposed policy and were asked to provide feedback to council officers by 24 December 2023. The intention is to table the policy for approval at an Ordinary Council Meeting in the first quarter of 2024.

Updated Audit and Risk Charter

The Committee noted the updated Charter relating to independent member remuneration.

POLICY IMPLICATIONS

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Council borrowings are not adequately controlled.	Unlikely	Moderate	Increase controls related to borrowing funds for set purposes with appropriate oversight and approval.

CONCLUSION

The Committee, being satisfied with the detail provided in its agenda and the officer reports, submits the unconfirmed minutes of its meeting No.2023/24-03 held on 24 November 2023 to Council for noting.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Corporate

ATTACHMENT(S)

- 8.3.3 Minutes (unconfirmed) of Audit and Risk Committee Meeting No.2023/24-03, 24 November 2023

8.3.4 Instruments of Appointment and Authorisation - *Planning and Environment Act 1987*

File Number: Delegations register

INTRODUCTION

Instruments of appointment and authorisation are an important means of Council ensuring that its officers are appropriately authorised under the relevant Acts that Council administers. This report provides for a newly appointed position in Council's Statutory Planning department.

Cr Janas

Cr Keeble

That Council exercise the powers conferred by section 147(4) of the Planning and Environment Act 1987, so that:

- 1. The following member of Council staff referred to in attachment 8.3.4 "S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987" (the instrument) be appointed and authorised as set out in the instrument;*
 - a. Planning Officer*
- 2. The instrument comes into force on 20 December 2023 and remains in force until 30 June 2024, unless Council determines to vary or revoke it earlier;*
- 3. The instrument be signed and sealed at the appropriate stage of this meeting.*

Carried Unanimously

BACKGROUND

Council staff involved in planning roles require current and accurate authorisations to fulfil their duties. Council has appointed a Statutory Planning Officer, who requires authorisation under the *Planning and Environment Act 1987*.

ISSUES

Authorised Officers

Authorised officers have statutory powers under relevant legislation. In the case of Council's staff in the Planning department, the attached Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987* mean that they are authorised officers for the purposes of that Act.

While Council may delegate its powers, duties or functions to staff, so that a delegate acts on behalf of the Council, staff appointed as authorised officers have their own statutory powers under the relevant Act.

Planning and Environment Act 1987

Section 188(1)(b) of the *Planning and Environment Act 1987* specifies that “a planning authority ... may by instrument delegate any of its powers, discretions or functions under this Act to an officer of the authority”. However, Section 188(2)(c) specifically prevents an officer from further sub-delegating any duty, function or power. Therefore, as the responsible authority, Council must authorise staff directly using the “S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987”, rather than via the Chief Executive Officer.

Maddocks Delegations and Authorisations Service

Council utilises the delegations and authorisations service provided by law firm Maddocks. This is a template system used by many councils and provides a detailed way of ensuring that appropriate delegations and authorisations are given to Council staff. All of the relevant legislation affecting local government, including Acts and regulations and the sections that relate to the powers, duties and functions of Council are outlined within the template and the relevant officer is allocated accordingly.

POLICY IMPLICATIONS

Ensuring authorisations are kept up to date ensures that Council's planning staff can undertake their statutory roles.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

FINANCIAL AND RESOURCE IMPLICATIONS

Council has an annual subscription to the Maddocks delegation and authorisation service that is provided for in Council's annual budget. There are no other financial implications associated with these instruments of appointment and authorisation.

Appropriate authorisations allow Council and Council staff to operate effectively and within legislative frameworks.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Authorisations are not in place or are out of date	Possible	Moderate	<ul style="list-style-type: none"> • Ensure that all Council officers have up-to-date authorisations to ensure that they can undertake their duties.

CONSULTATION

The relevant staff and Director have been consulted during the preparation of the IoAAs. There is no requirement to consult the community in the preparation of these instruments.

CONCLUSION

The appropriate appointment of authorised officers to enforce the *Planning and Environment Act 1987* is required to ensure that Council officers can undertake their statutory roles.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Corporate
- Governance Officer

ATTACHMENT(S)

8.3.4 S11A – Instrument of Appointment and Authorisation – *Planning & Environment Act 1987* – Planning Officer

8.3.5 Appointment of Councillors to CEO Employment and Remuneration Committee

INTRODUCTION

Council operates and participates in a range of special, advisory and external committees and groups. Appointment of councillors to the various committees and groups was undertaken at the Ordinary Council Meeting held in November 2023. However, appointment to the CEO Employment and Remuneration Committee was not included.

Cr Janas

Cr Prime

That:

- 1. Councillors be appointed as Council's delegate on the following groups and committees (non-executive):*

<i>Committee</i>	<i>Councillor representatives to October 2024</i>
<i>CEO Employment and Remuneration Committee</i>	<i>Mayor John Forsyth Cr Kelley Cr Keeble</i>

Carried Unanimously

BACKGROUND

Council Representation

Councillor representation on committees is required for Council's own committees / groups, as well as other external committees. A report was presented to Council in November 2023 for Councillor representation on both internal and external Boards and Committees. However, the CEO Employment and Remuneration Committee had not previously been included in the list of representative committees, and formal appointments to this committee had not been made at the November 2023 meeting. In future years, this committee will be included as part of the annual appointment process.

Roles and Responsibilities

The CEO Employment and Remuneration Policy states that the CEO Employment and Remuneration Committee must consist of an Independent Chairperson, and at least three Councillors, one of whom must be the Mayor.

The Independent Chairperson was appointed at the Ordinary Council Meeting in March 2022 for a period of four years, ending in March 2026. Appointment of individual Councillors must be made on an annual basis, noting that the current Council term will end with Local Government elections scheduled for October 2024.

Councillors are bound by their Code of Conduct and must comply with requirements relating to:

- Declaring conflicts of interest.
- Maintaining confidentiality of information.
- Recognising and abiding by their extent of authority i.e., not making decisions on behalf of Council.

Extent of authority

The purpose of the CEO Employment and Remuneration Policy is to consider and make recommendations to Council with respect to performance monitoring of the CEO's key performance indicators, CEO remuneration, and if required, appointment of an Acting CEO or recruitment / appointment of a CEO. The policy further states that the Committee will provide a report to Council following each meeting, describing its activities and making recommendations about any action to be taken by Council.

POLICY IMPLICATIONS

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.3 Bold leadership, strong partnerships and effective advocacy

FINANCIAL AND RESOURCE IMPLICATIONS

Councillors are paid an annual allowance and do not receive additional payments for their involvement on council-appointed committees. Resourcing of councillors attending meetings and participating in the activities of these committees is supported by Council's annual budget.

CONSULTATION

Once Council has appointed its representatives, appropriate communication actions will be undertaken.

RISK MANAGEMENT

Detail the key risks of the matter being addressed by the report and mitigation action / control.

Risk	Likelihood	Impact	Mitigation Action / Control
Councillors are unable to commit to time	Possible	Minor	Council will appoint a new delegate based on experience and areas of interest to maintain continuity.

CONCLUSION

Appointment of councillors as Council's representatives on the CEO Employment and Remuneration Committee must now be made.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Governance Officer

ATTACHMENT(S)

Nil

9. Informal meetings of Councillors

Introduction

In accordance with Chapter 8, section A1 of Council's Governance Rules, if there is a meeting of Councillors that:

- is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- is attended by at least one member of Council staff; and
- is not a Council meeting, Delegated Committee meeting, or Community Asset Committee meeting.

The Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are tabled at the next convenient Council meeting and are recorded in the minutes of that Council meeting.

Cr Hughes

Cr Kelley

That the summary of informal meetings of Councillors for November / December 2023 be received.

Carried Unanimously

Background

The written records of the informal meetings of Councillors held during the previous month are summarised below. Detailed records can be found in Attachment 9.0 to this report.

Date	Meeting
28 November 2023	Briefing Session
12 December 2023	Briefing Session

Attachment(s)

- 9.0 Informal meetings of Councillors – November / December 2023

10. Presentation of reports by delegates

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to reports by delegates.

11. General business

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to general business.

12. Motions for which notice has previously been given

Nil

13. Reception and reading of petitions

Nil

14. Documents for sealing

*Cr Janas
Cr Hughes*

That the following documents be signed and sealed.

- 1. Section 173 Agreement – CS McTaggart
This Section 173 Agreement is required by conditions 22, 23 and 24 of Planning Permit P.2019.063 for a two (2) lot subdivision at 13 Showers Avenue, Bright being the land referred to in Certificate of Title Volume 8579 Folio 652 and described as Lot 12 on plan of subdivision LP066453.
The Agreement provides for bushfire management protection measures, including incorporating a Bushfire Management Plan, and exempts proposed Lot 2 from the planning permit requirement of clause 44.06-2 of the Alpine Planning Scheme.*
- 2. Child Safe Policy No. 108 (V3.0)*
- 3. S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987 – Planning Officer*

Motion Lost

*Cr Nicholas
Cr Kelley*

That the following documents be signed and sealed.

- 1. Child Safe Policy No. 108 (V3.0)*
- 2. S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987 – Planning Officer*

Carried Unanimously

There being no further business the Chairperson declared the meeting closed at 6.31p.m.

.....

Chairperson

9.2.4 Toms Road - Road Discontinuation, Road Deviation and Land Exchange

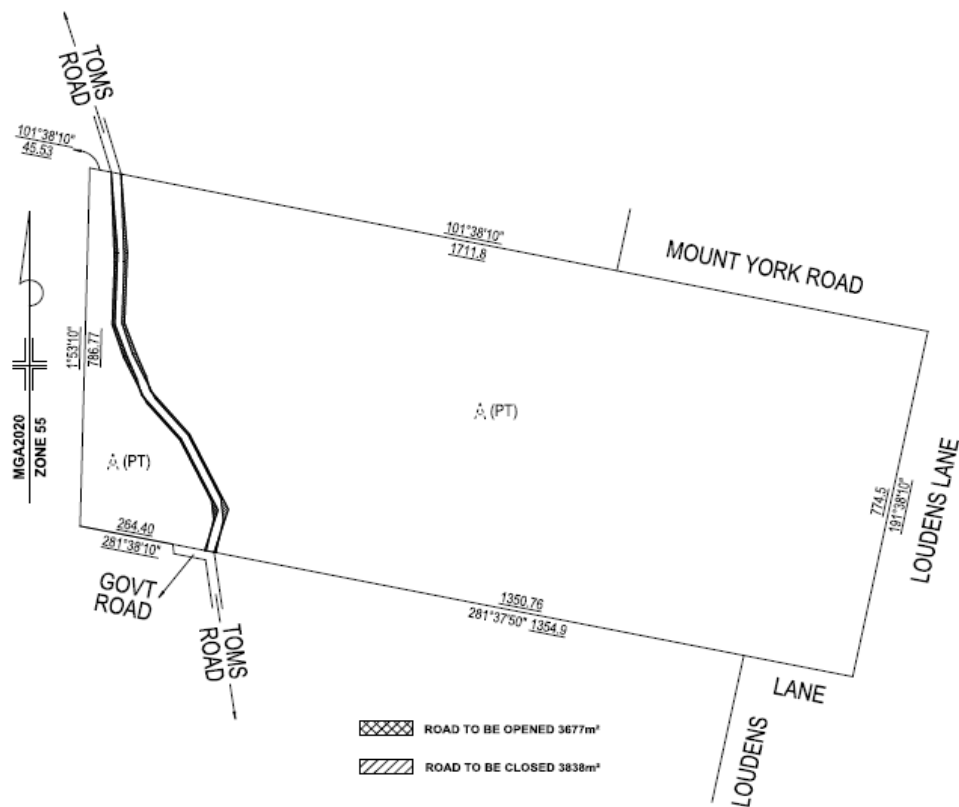
INTRODUCTION

The purpose of this report is to advise Council's intention to discontinue a road and carry out a road deviation and land exchange at Toms Road, Tawonga South.

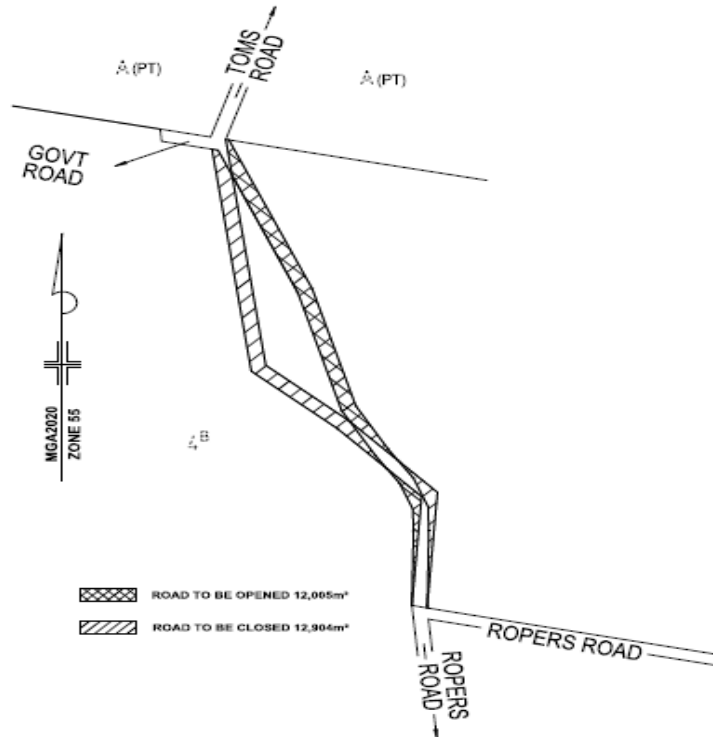
RECOMMENDATION

That Council:

1. *Advertises its intention to discontinue a road and carry out a road deviation and exchange of land affecting parts of Crown Portion A, Crown Allotment 4 (PT), 4A, 4B, and Former Government Road (PT) and private land, Lot 1 TP22014D, Lot 1 PS849572S and Lots 1,2 and 3 TP827582A Parish of Mullindolingong as follows:*
 - a. *Discontinue 3838m² of road in accordance with Schedule 10, Clause 3(a) of the Local Government Act 1989 (LGA 1989);*
 - b. *Exchange the 3838m² of land discontinued as road with the owner of Lot 1 TP22014D under s114(2)(c) of the Local Government Act 2020 (LGA 2020);*
 - c. *Declare 3677m² of land as a road (Land to be Transferred) to be open to public traffic pursuant to Section 204(2) of the LGA 1989;*



- d. Discontinue 12904m² of road in accordance with Schedule 10, Clause 3(a) of the LGA 1989;*
- e. Exchange the 12904m² of land discontinued as road with the owner of Lot 1 PS849572S and Lots 1,2 and 3 TP827582A under s114(2)(c) of the LGA 2020;*
- f. Declare 12005m² of land as a road (Land to be Transferred) to be open to public traffic pursuant to Section 204(2) of the LGA 1989.*



- 2. Provides public notice of the intention to discontinue the road, deviate the road and exchange the land as outlined in (1)(a)-(f) above, inviting public submissions for a period of no less than 28 days in accordance with s207A and s223 of the LGA 1989 and s114(2)(c) of the LGA 2020.*
 - a. Form a committee to hear submissions under s223 of the LGA 1989, if required*
 - b. Present a report to the June Council meeting to formally discontinue the road, deviate the road and exchange the land as described above.*

BACKGROUND

Toms Road, Tawonga South, is 1.6km in length and maintained by Alpine Shire Council. A contract for the upgrade of Toms Road was awarded at the February 2022 Council meeting. During the scoping phase of the project, it was identified that the formed road was not located entirely in the road reserve and that private infrastructure had previously been constructed within the road reserve with the endorsement of Council Officers.

Extensive consultation has been undertaken with landowners, and survey work has been undertaken to establish title boundaries and determine land areas impacted and subject to the road discontinuance and land exchange.

ISSUES

None to report.

POLICY IMPLICATIONS

Road discontinuance and deviation is being progressed in accordance with the *Local Government Act 1989*, including the requirement for public submissions in accordance with s223 of that Act.

Land exchange is being progressed in accordance with the *Local Government Act 2020*, with consultation processes in accordance with Council's Community Engagement Policy.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.5 Assets for our current and future needs

FINANCIAL AND RESOURCE IMPLICATIONS

A valuation of all land to be exchanged has been conducted and has been valued at \$18,000 per hectare. The total difference of the combined land exchanges is 0.106 hectares and totals \$1,907.00. The outcome of the exchange is to the advantage of the landowners. Due to the costs associated with the sales and purchases of the land, no financial consideration will be sought from the landowners by Council.

CONSULTATION

Extensive consultation and negotiations have been ongoing for approximately three years with landowners directly affected by the land exchanges.

The discontinuation, deviation and land exchanges will be placed on public exhibition for no less than 28 days. Public submissions may be received during the public exhibition period. Any person wishing to be heard in support of their submission may request to do so, in which case a committee of Councillors will be formed to hear these submissions.

All written submissions will be considered by Council.

Following the public submission period, a report will be brought back to Council to formally deviate the road and exchange the land. This decision will then be advertised in the Victorian Government Gazette in order to meet all the requirements of the *Local Government Act 1989*.

CONCLUSION

It is recommended that the required discontinuation of the road, deviation of the road and land exchanges are carried through to ensure the existing road alignment is within the road reserve in its entirety.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development
- Project Officer

ATTACHMENT(S)

Nil

9.2.4 Toms Road - Road Discontinuation, Road Deviation and Land Exchange

INTRODUCTION

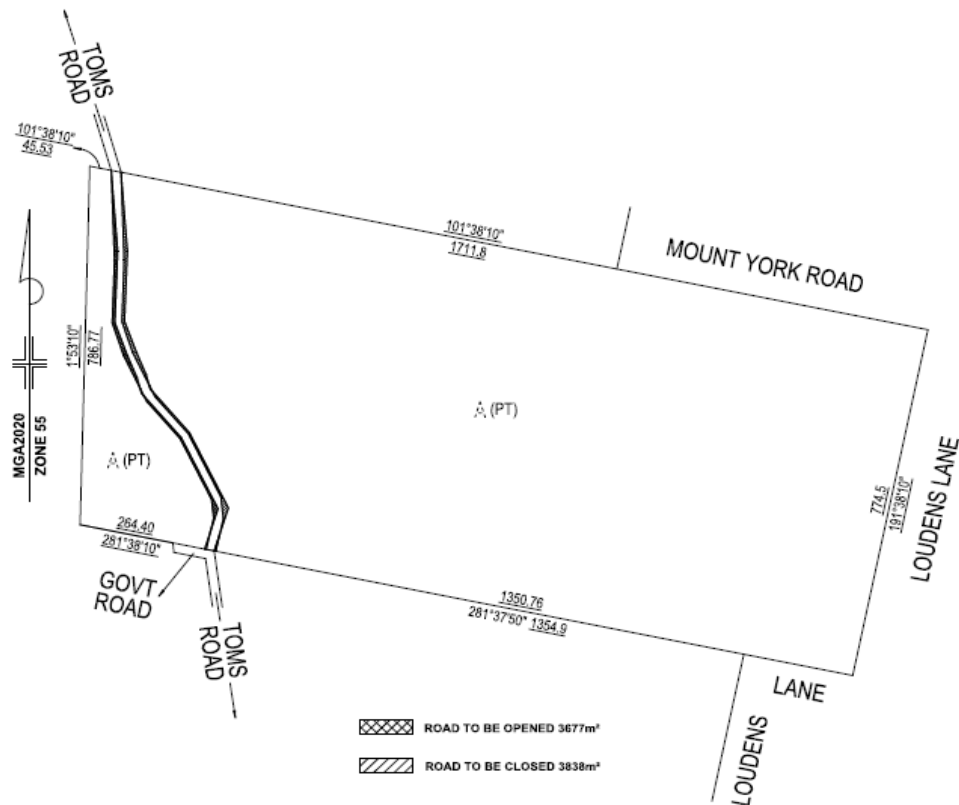
The purpose of this report is to advise Council's intention to discontinue a road and carry out a road deviation and land exchange at Toms Road, Tawonga South.

Cr Janas

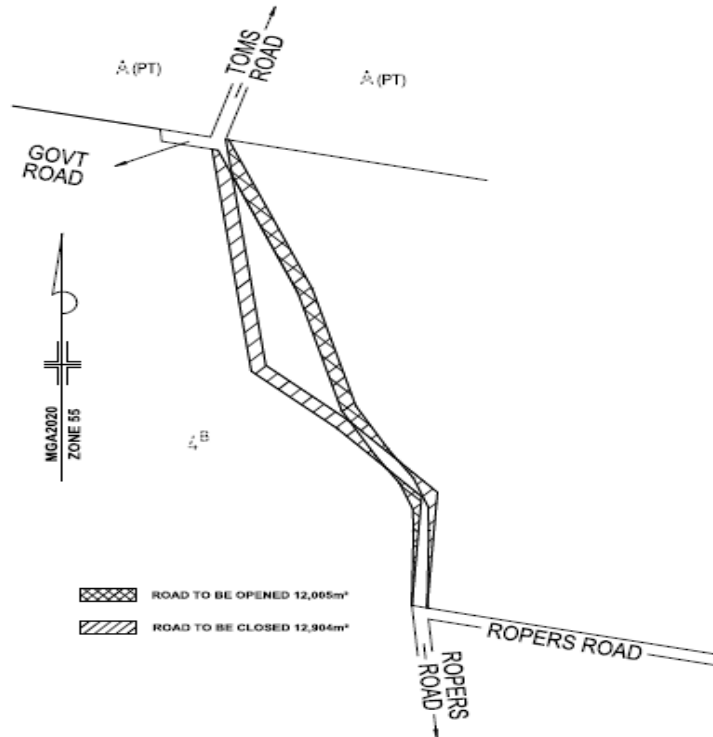
Cr Keeble

That Council:

1. *Advertises its intention to discontinue a road and carry out a road deviation and exchange of land affecting parts of Crown Portion A, Crown Allotment 4 (PT), 4A, 4B, and Former Government Road (PT) and private land, Lot 1 TP22014D, Lot 1 PS849572S and Lots 1,2 and 3 TP827582A Parish of Mullindolingong as follows:*
 - a. *Discontinue 3838m² of road in accordance with Schedule 10, Clause 3(a) of the Local Government Act 1989 (LGA 1989);*
 - b. *Exchange the 3838m² of land discontinued as road with the owner of Lot 1 TP22014D under s114(2)(c) of the Local Government Act 2020 (LGA 2020);*
 - c. *Declare 3677m² of land as a road (Land to be Transferred) to be open to public traffic pursuant to Section 204(2) of the LGA 1989;*



- d. Discontinue 12904m² of road in accordance with Schedule 10, Clause 3(a) of the LGA 1989;*
- e. Exchange the 12904m² of land discontinued as road with the owner of Lot 1 PS849572S and Lots 1,2 and 3 TP827582A under s114(2)(c) of the LGA 2020;*
- f. Declare 12005m² of land as a road (Land to be Transferred) to be open to public traffic pursuant to Section 204(2) of the LGA 1989.*



- 2. Provides public notice of the intention to discontinue the road, deviate the road and exchange the land as outlined in (1)(a)-(f) above, inviting public submissions for a period of no less than 28 days in accordance with s207A and s223 of the LGA 1989 and s114(2)(c) of the LGA 2020.*
 - a. Form a committee to hear submissions under s223 of the LGA 1989, if required*
 - b. Present a report to the June Council meeting to formally discontinue the road, deviate the road and exchange the land as described above.*

Carried

PLAN FOR ROAD EXCHANGE

LOCATION OF LAND

PARISH: MULLINDOLINGONG
TOWNSHIP: -----
SECTION: -----
CROWN ALLOTMENT: -----
CROWN PORTION: A
LAST PLAN REFERENCE: TP22014D
TITLE REFERENCE: VOL. 10585 FOL. 279

NOTATIONS

 ROAD TO BE OPENED 3677m²

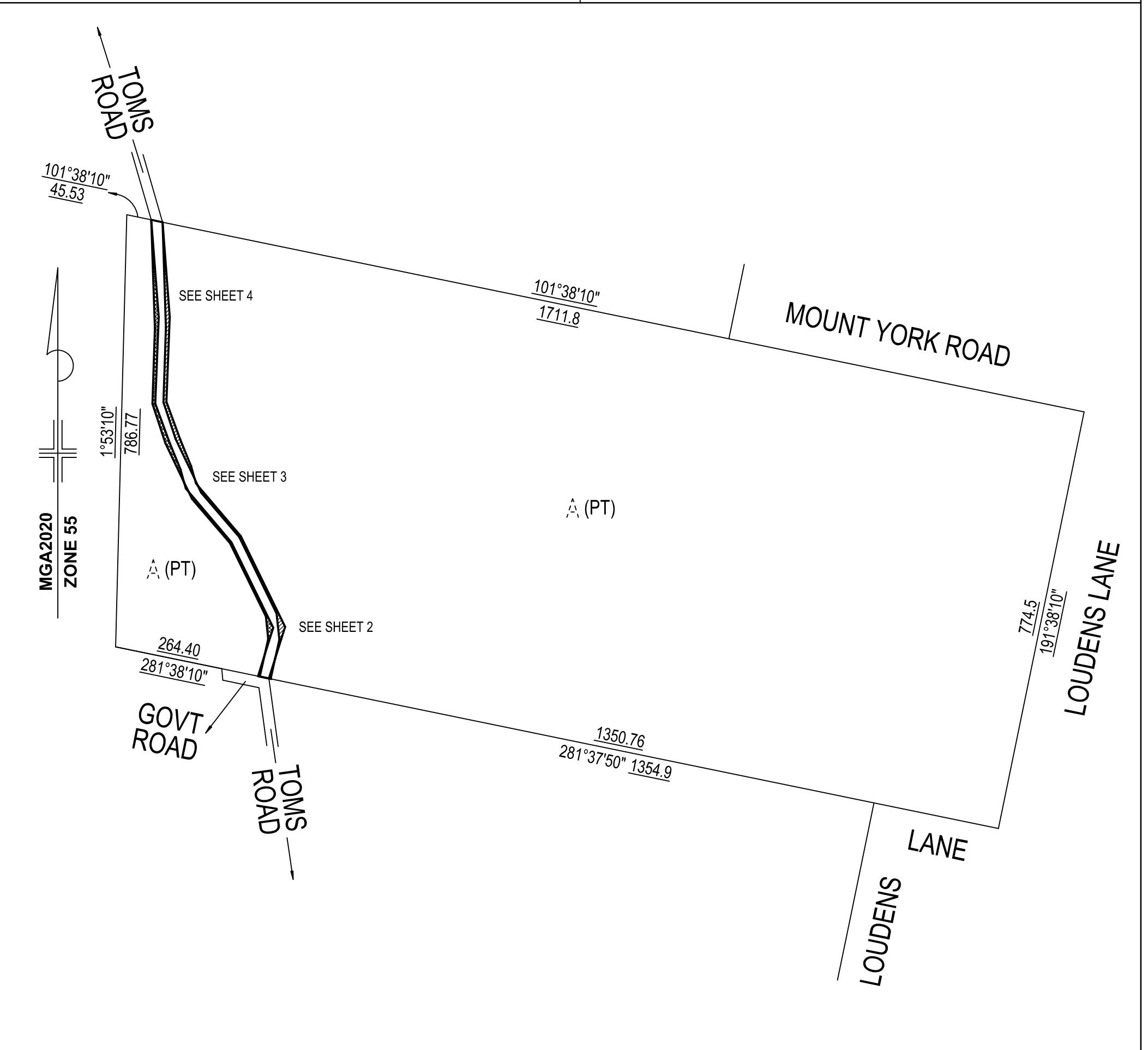
 ROAD TO BE CLOSED 3838m²

SUBTRACT 11°38'10" FOR TITLE

THE DIMENSIONS UNDERLINED ARE BASED ON TITLE AND ARE NOT THE RESULT OF THIS SURVEY

THE LAND TO BE EXCHANGED IS SHOWN ENCLOSED BY CONTINUOUS THICK LINES

MGA2020 CO-ORDINATES: E 514640 ZONE 55
 (of approximate centre of land in plan) N 5940450 GDA 2020

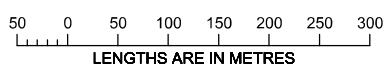


ORIGINAL SHEET SIZE: A3

CERTIFICATION BY SURVEYOR

SHEET 1 OF 4 SHEETS

SCALE
1:7500



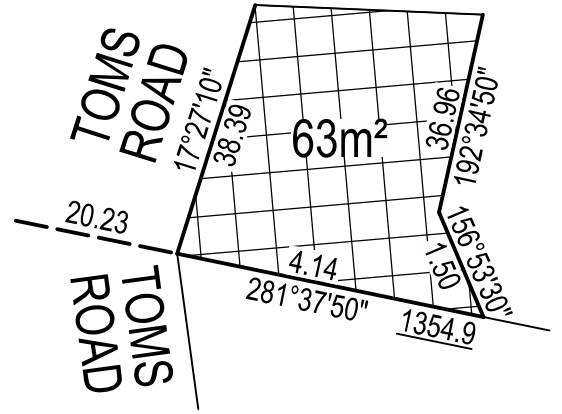
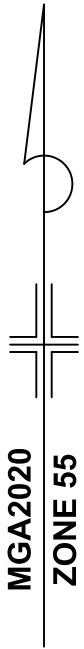
S
F

SEE SHEET 3

13.68
334°28'50"

139°39'40" 120.39
139°30' 106.26
139°39'40" 120.02
319°30' 106.35

A (PT)



ENLARGEMENT No. 1
SCALE 1:100

TOMS ROAD

153°56'10" 193.84
153°57' 154.97
333°57' 148.92
153°56'10" 173.29

1196m²

1358m²

A (PT)

41.07
353°54'30"

17°27'10" 51.62

47.88

173°54'30"

12°34'50" 29.25

17°27'10" 51.62

12°34'50" 34.80

197°27'10" 60.21

264.40
281°38'10"

71m²

40.99

17°27'10"

12°34'50" 40.79

3.48

281°38'10"

63m²

36.96

17°27'10" 38.39

192°34'50"

GOVT ROAD

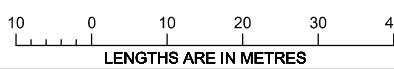
281°38'10"

TOMS ROAD

SEE ENLARGEMENT 1

1350.76
281°37'50" 1354.9

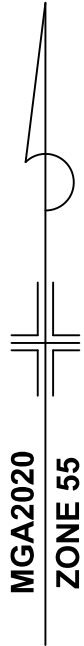
SCALE
1:1000



ORIGINAL SHEET
SIZE: A3

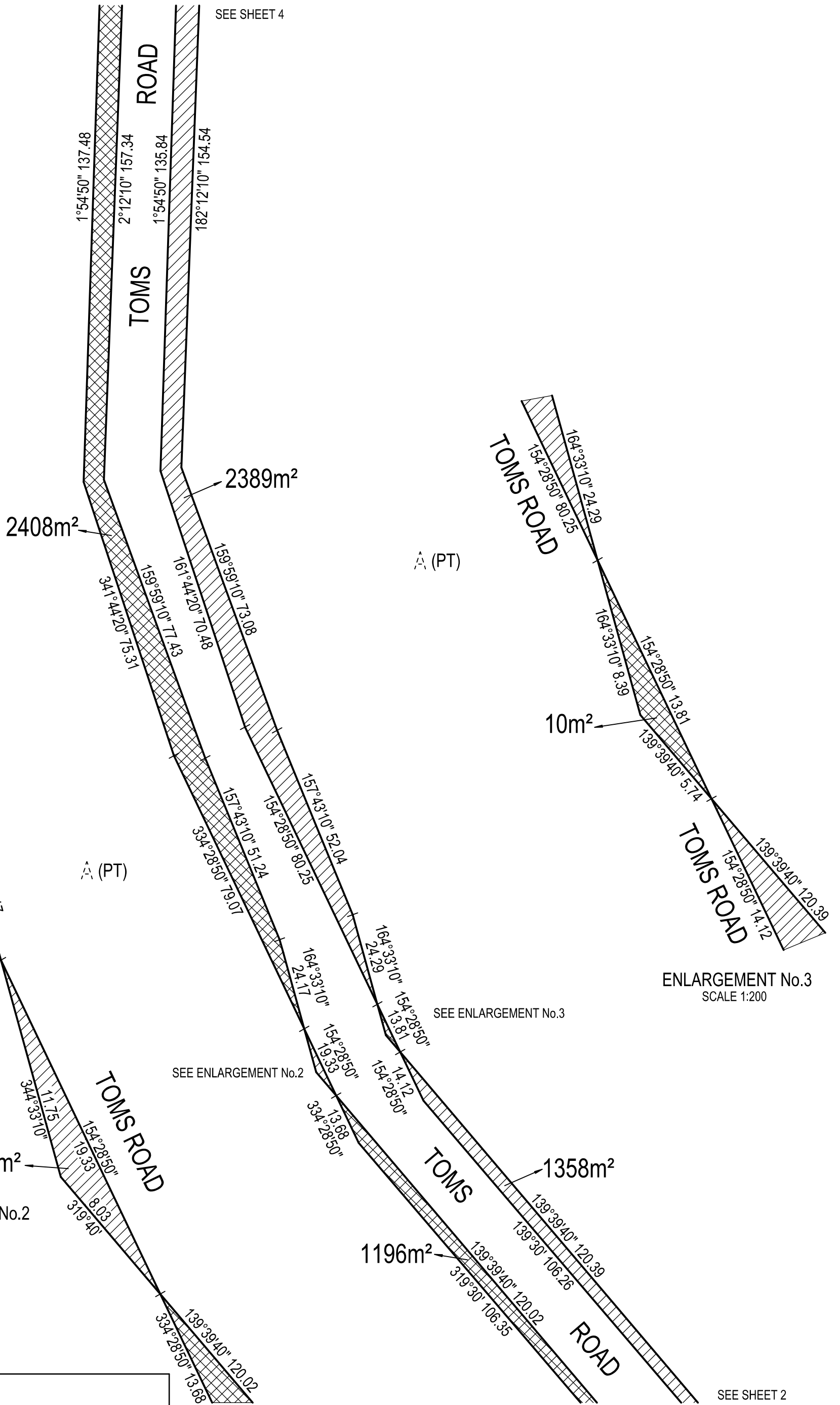
SHEET 2

SEE SHEET 4



MGA2020
ZONE 55

1°52'50"
786.77



ENLARGEMENT No.2
SCALE 1:200

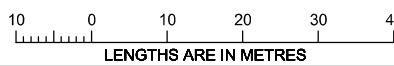
SEE ENLARGEMENT No.2

SEE ENLARGEMENT No.3

ENLARGEMENT No.3
SCALE 1:200

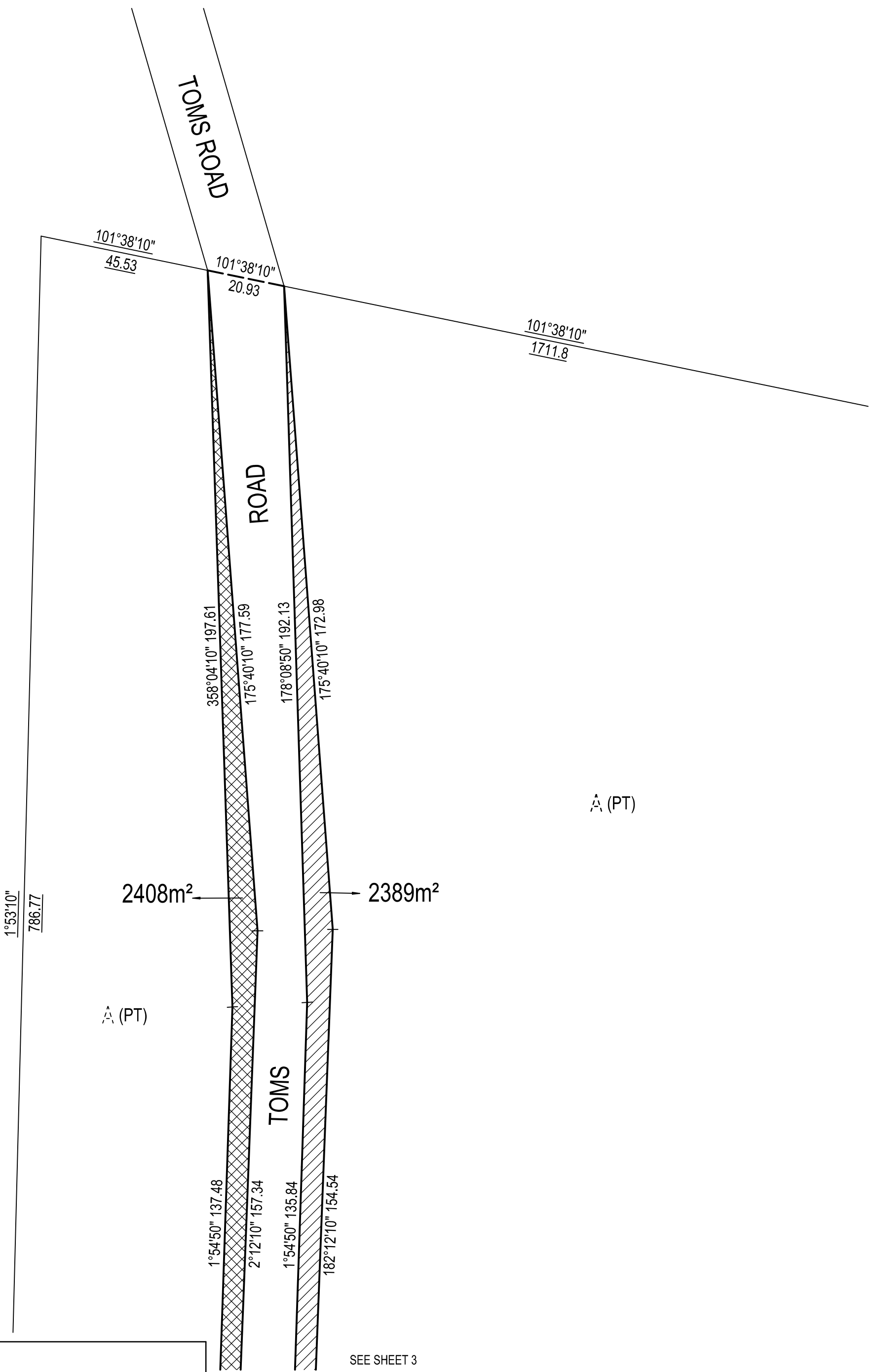
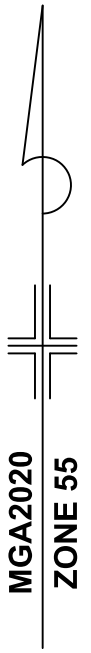
SEE SHEET 2

SCALE
1:1000



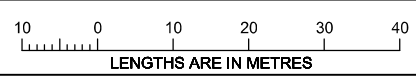
ORIGINAL SHEET
SIZE: A3

SHEET 3



SEE SHEET 3

SCALE
1:1000



ORIGINAL SHEET
SIZE: A3

SHEET 4

PLAN FOR ROAD EXCHANGE

LOCATION OF LAND

PARISH: MULLINDOLINGONG
TOWNSHIP: -----
SECTION: 14
CROWN ALLOTMENT: 4 (PT), 4A, 4B & FORMER GOVERNMENT ROAD (PT)
CROWN PORTION: -----
LAST PLAN REFERENCE: TP827582A (LOTS 1, 2 & 3)
 PS849572S (LOT 1)
TITLE REFERENCE: VOL. 8077 FOL. 082
 VOL. FOL.

NOTATIONS

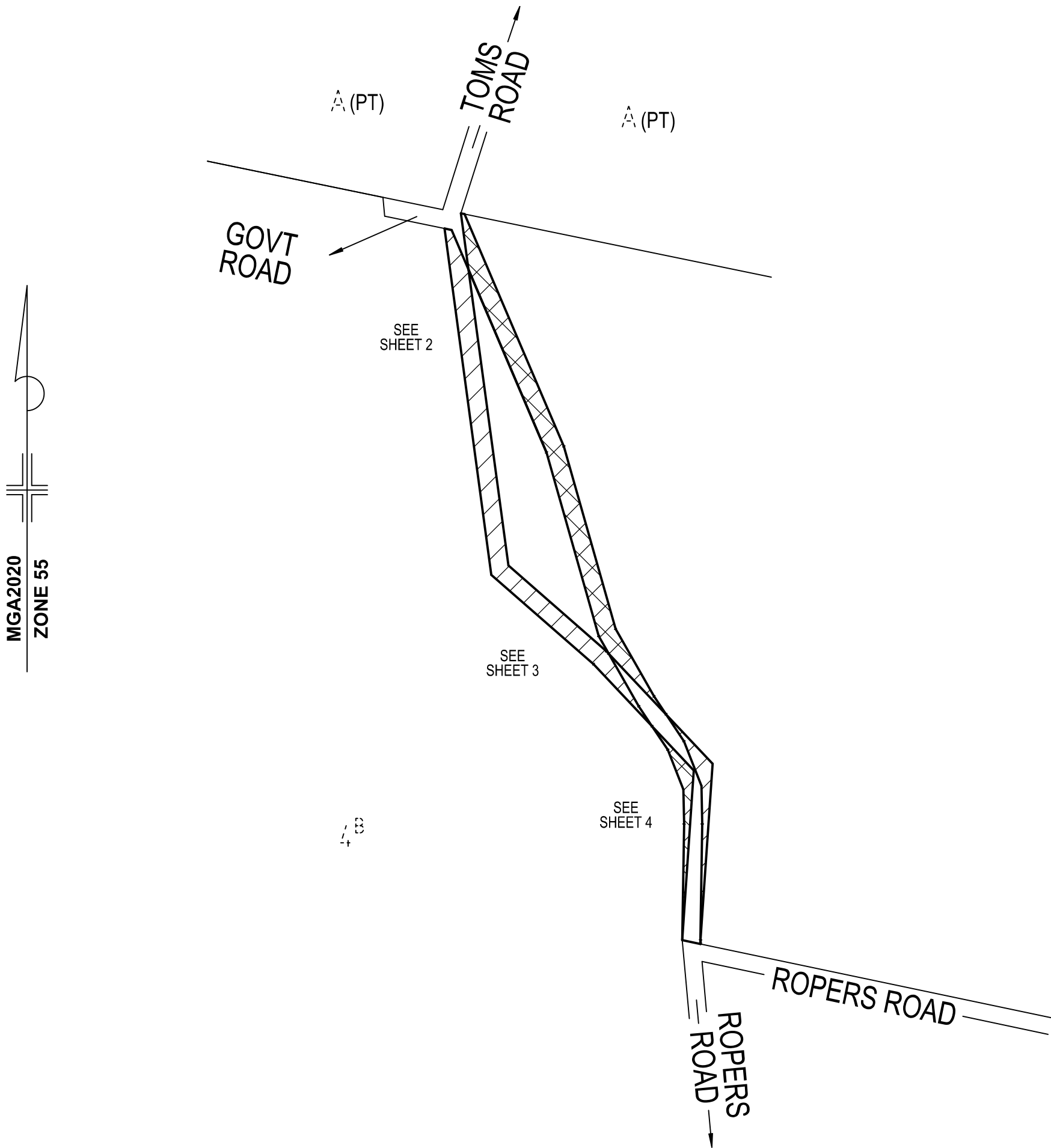
 ROAD TO BE OPENED 12,005m²

 ROAD TO BE CLOSED 12,904m²

SUBTRACT 11°37'50" FOR TITLE

THE LAND TO BE EXCHANGED IS SHOWN ENCLOSED BY CONTINUOUS THICK LINES

MGA2020 CO-ORDINATES: E 514650 ZONE 55
 (of approximate centre of land in plan) N 5939630 GDA 2020



ORIGINAL SHEET SIZE: A3

CERTIFICATION BY SURVEYOR

SHEET 1 OF 4 SHEETS

À (PT)

À (PT)

GOVT ROAD

TOMS ROAD

101°37'50"
4.14

101°37'50"
8.02

62.42

352°18'50"
11.20

156°53'30"

156°53'30"

219m

156°53'30"

278.09

11194m²

10543m²

4.7

352°18'50"

384.56

328.85

172°18'50"

194°11'10"

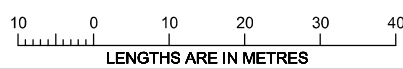
210.02

208.85

194°11'10"

SEE SHEET 3

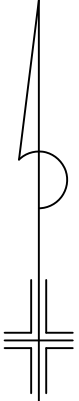
SCALE
1:1000



ORIGINAL SHEET
SIZE: A3

SHEET 2

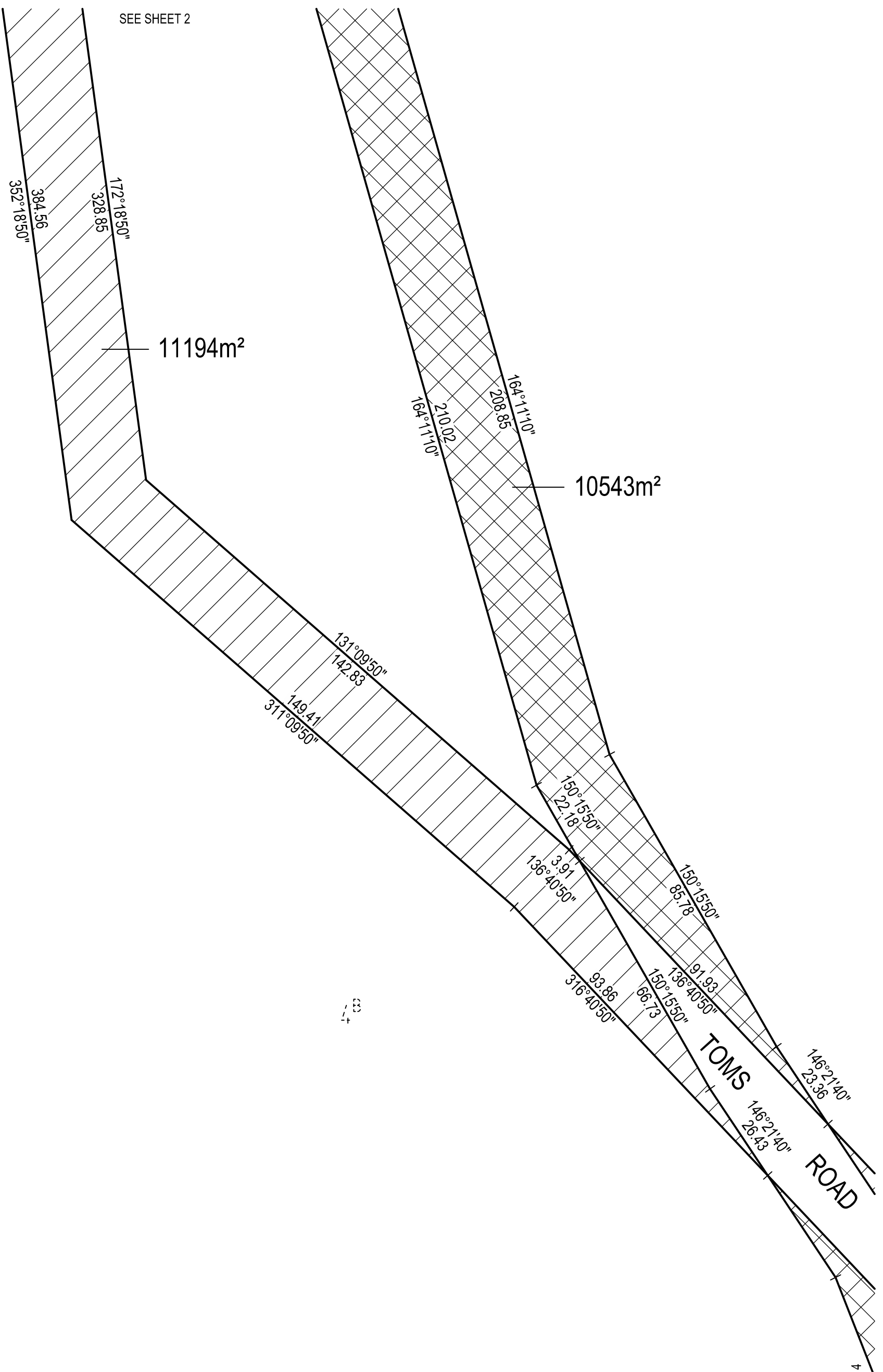
MGA2020
ZONE 55



MGA2020
ZONE 55

47.83

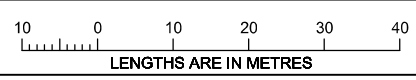
SEE SHEET 2



47.83

SEE SHEET 4

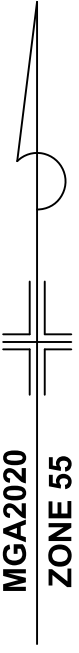
SCALE
1:1000



ORIGINAL SHEET
SIZE: A3

SHEET 3

MGA2020
ZONE 55



SEE SHEET 3

11194m²

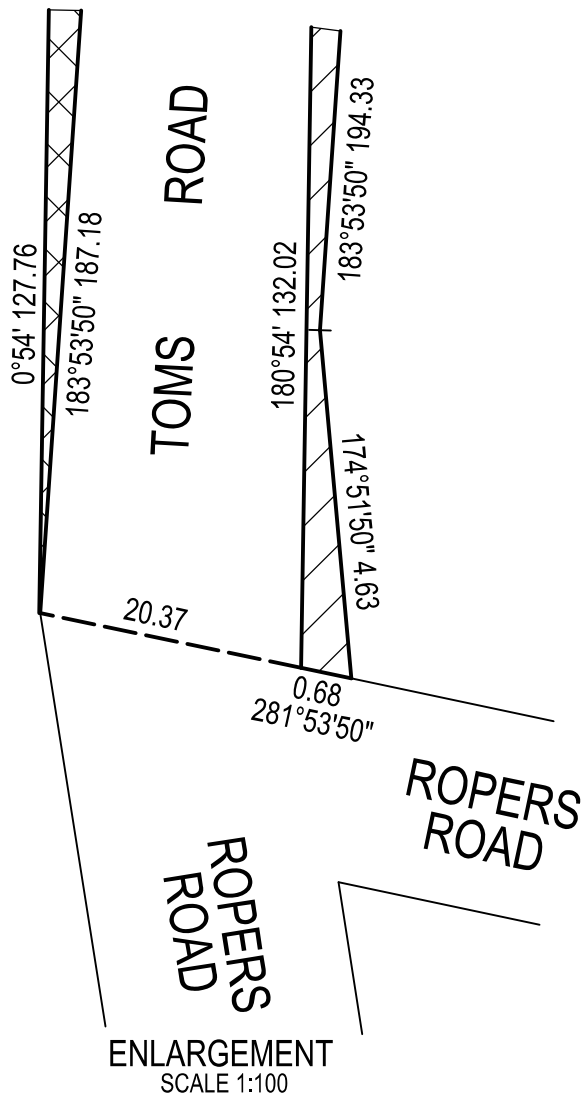
10543m²

SEE ENLARGEMENT No.3

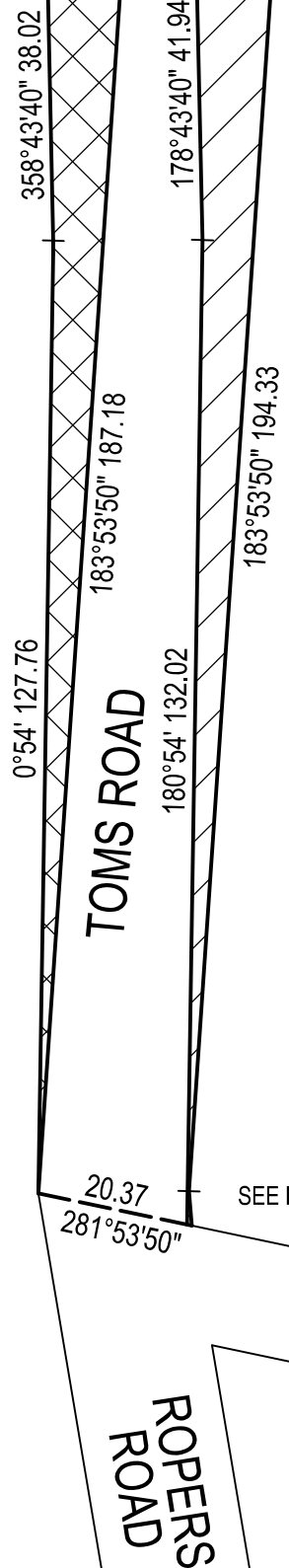
TOMS ROAD

1462m²

1710m²

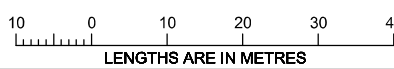


ENLARGEMENT
SCALE 1:100



SEE ENLARGEMENT

SCALE
1:1000



ORIGINAL SHEET
SIZE: A3

SHEET 4

9.2 DIRECTOR ASSETS – ALAN REES

9.2.1 Toms Road, Tawonga - Road Deviation and Land Exchange

INTRODUCTION

This report relates to the deviation of parts of a government road known as Toms Road, Tawonga and a land exchange with the respective adjoining owners.

RECOMMENDATIONS

That Council:

- 1. In accordance with its Governance Rules rescinds the resolution from the April 2022 Council Meeting item 9.2.4 recommendation 1 parts (a) to (f) and recommendation 2 parts (a) to (b).***

Northern section of Toms Road, Tawonga

- 2. Notes that it has entered into an agreement with the adjoining landowners to document the 'in principle' agreement between Council and the adjoining owners regarding the:***
 - a. proposed road deviation of part of Toms Road, Tawonga (North Road), which comprises the following:***
 - i. the part of the North Road shown hatched on the plan contained in Attachment 9.2.1.a. to this report (Unused North Road), which will be discontinued and vest in Council; and***
 - ii. the part of the North Road shown cross-hatched on the plan contained in Attachment 9.2.1.a. (New North Road), which will be designated as a 'road' pursuant to the Local Government Act 1989 (LGA1989) and vested in Council,***
(together, the North Road Deviation); and
 - b. the proposed subdivision and land exchange of the Unused North Road, New North Road and the adjoining owners' titles, which will result in:***
 - i. the land comprising the Unused North Road being registered in the name of the adjoining owners; and***
 - ii. the title to the New North Road (currently registered in the name of the adjoining owners) being registered in the name of Council,***
subject to Council carrying out the necessary statutory processes required by Council to proceed with the proposed road deviation and land exchange.
- 3. Commences the statutory procedures to carry out the road deviation referred to at paragraph 2(a) pursuant to clause 2 of Schedule 2 of Schedule 10 and sections 206, 207 and 223 of the Local Government Act 1989 (LGA1989).***

- 4. Commences the statutory procedures to carry out the land exchange referred to at paragraph 2(b) pursuant to section 114 of the Local Government Act 2020 (LGA2020), such land exchange being subject to the completion of the road deviation referred to in paragraph 2(a).**
- 5. Authorises the Chief Executive Officer to:**
 - a. give public notice of the proposed road deviation and land exchange, pursuant to sections 207A and 223 of the LGA1989, and section 114 of the LGA2020; and**
 - b. undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the LGA1989 and section 114 of the LGA2020 in relation to this matter.**
- 6. Considers any public submissions received in respect of the proposed road deviation and land exchange at a future Council meeting with a date and time to be determined, pursuant to section 223 of the LGA1989 and section 114 of the LGA2020, and receive a further report following the completion of the procedures required under clause 2 of Schedule 10 and sections 207A and 223 of the LGA1989 and section 114 of the LGA2020, prior to making a final decision on whether to proceed with the proposed road deviation and land exchange.**

Southern section of Toms Road, Tawonga

- 7. Notes that it has entered into an agreement with the adjoining landowners to document the 'in principle' agreement between Council and the adjoining owners regarding:**
 - a. proposed road deviation of part of Toms Road, Tawonga (South Road), which comprises the following:**
 - i. the part of the South Road shown hatched on the plan contained in Attachment 9.1.2.b to this report (Unused South Road), which will be discontinued and vest in Council; and**
 - ii. the part of the South Road shown cross-hatched on the plan contained in Attachment 9.1.2.b (New South Road) which will be designated as a 'road' pursuant to the Local Government Act 1989 (LGA1989) and vested in Council,**
(together, the South Road Deviation); and
 - b. the proposed subdivision and land exchange of the Unused South Road, New South Road and the Adjoining owners' titles which will result in:**
 - i. the land comprising the Unused South Road being registered in the name of the adjoining owners; and**
 - ii. the title to the New South Road (currently registered in the name of the adjoining owners) being registered in the name of Council,**

- subject to Council carrying out the necessary statutory processes required by Council to proceed with the proposed road deviation and land exchange.*
- 8. Commences the statutory procedures to carry out the road deviation referred to at paragraph 7(a) pursuant to clause 2 of Schedule 2 of Schedule 10 and sections 206, 207 and 223 of the LGA1989.**
 - 9. Commence the statutory procedures to carry out the land exchange referred to at paragraph 7(b) pursuant to section 114 of the LGA 2020, such land exchange being subject to the completion of the road deviation referred to in paragraph 7(a).**
 - 10. Authorises the Chief Executive Officer to:**
 - a. give public notice of the proposed road deviation and land exchange, pursuant to sections 207A and 223 of the LGA1989, and section 114 of the LGA2020; and**
 - b. undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the LGA1989 and section 114 of the LGA2020 in relation to this matter.**
 - 11. Considers any public submissions received in respect of the proposed road deviation and land exchange at a future Council meeting with a date and time to be determined, pursuant to section 223 of the LGA1989 and section 114 of the LGA2020, and receive a further report following the completion of the procedures required under clause 2 of Schedule 10 and sections 207A and 223 of the LGA1989 and section 114 of the LGA2020, prior to making a final decision on whether to proceed with the proposed road deviation and land exchange.**

BACKGROUND

Toms Road, Tawonga South, is 1.6km in length and maintained by Alpine Shire Council.

A contract for the upgrade of Toms Road was awarded at the February 2022 Council meeting. During the scoping phase of the project, it was identified that the formed road was not located entirely in the road reserve and that private infrastructure had been constructed on the road reserve following previous Council approval.

Survey work has been undertaken to establish title boundaries and determine land areas impacted and subject to the road discontinuance and land exchange.

At the April 2022 Council Meeting, Council resolved to commence a statutory process to carry out a road deviation and exchange of land in respect of the Roads.

Subsequently, Council Officers have established that the resolution does not accurately refer to Council's road deviation powers under the *Local Government Act 1989* (LGA 1989). Specifically, it refers to the incorrect provisions of the LGA 1989 in respect of Council's road deviation powers (being clause 2 of Schedule 10 to the LGA 1989, rather than clause 3).

On this basis, it is recommended that Council rescinds the resolution from the April 2022 Council Meeting and considers the revised recommendations as outlined in this report to commence a statutory procedure to deviate the road which refers to the correct provisions of the Act.

Whilst the error which was made in April 2022 appears administrative in nature, it is important for the road deviation process be followed very precisely according to the *Local Government Act 1989* in order to achieve an outcome which can be upheld under law.

ISSUES

None to report.

POLICY IMPLICATIONS

Council must ensure that it is complying with the relevant sections of the *Local Government Act 1989* and the *Local Government Act 2020* when undertaking road discontinuance, road deviation, and land exchange.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.5 Assets for our current and future needs

FINANCIAL AND RESOURCE IMPLICATIONS

The administrative costs incurred to implement the discontinuation of the road and carry out a road deviation and land exchange will be covered from operational budgets.

RISK MANAGEMENT

None to report.

CONSULTATION

The Road Deviation and Land Exchanges will be placed on public exhibition for no less than 28 days.

Public submissions may be received during this exhibition period. Any person wishing to be heard in support of their submission may request to do so, in which case a committee of Councillors will be formed to hear these submissions.

All written submissions will be considered by Council.

CONCLUSION

It is recommended that the required deviation of the road and land exchanges are carried through to completion as outlined in the recommendations to this report to ensure the existing road alignment is within the road reserve in its entirety.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Engineering and Assets
- Project Officer

ATTACHMENT(S)

9.1.2.a Plan – North Road.

9.1.2.b Plan – South Road

9.2 DIRECTOR ASSETS – ALAN REES

9.2.1 Toms Road, Tawonga - Road Deviation and Land Exchange

INTRODUCTION

This report relates to the deviation of parts of a government road known as Toms Road, Tawonga and a land exchange with the respective adjoining owners.

Cr Keeble

Cr Janas

That Council:

- 1. In accordance with its Governance Rules rescinds the resolution from the April 2022 Council Meeting item 9.2.4 recommendation 1 parts (a) to (f) and recommendation 2 parts (a) to (b).***

Northern section of Toms Road, Tawonga

- 2. Notes that it has entered into an agreement with the adjoining landowners to document the 'in principle' agreement between Council and the adjoining owners regarding the:***
 - a. proposed road deviation of part of Toms Road, Tawonga (North Road), which comprises the following:***
 - i. the part of the North Road shown hatched on the plan contained in Attachment 9.2.1.a. to this report (Unused North Road), which will be discontinued and vest in Council; and***
 - ii. the part of the North Road shown cross-hatched on the plan contained in Attachment 9.2.1.a. (New North Road), which will be designated as a 'road' pursuant to the Local Government Act 1989 (LGA1989) and vested in Council, (together, the North Road Deviation); and***
 - b. the proposed subdivision and land exchange of the Unused North Road, New North Road and the adjoining owners' titles, which will result in:***
 - i. the land comprising the Unused North Road being registered in the name of the adjoining owners; and***
 - ii. the title to the New North Road (currently registered in the name of the adjoining owners) being registered in the name of Council,***

subject to Council carrying out the necessary statutory processes required by Council to proceed with the proposed road deviation and land exchange.
- 3. Commences the statutory procedures to carry out the road deviation referred to at paragraph 2(a) pursuant to clause 2 of Schedule 2 of Schedule 10 and sections 206, 207 and 223 of the Local Government Act 1989 (LGA1989).***

- 4. Commences the statutory procedures to carry out the land exchange referred to at paragraph 2(b) pursuant to section 114 of the Local Government Act 2020 (LGA2020), such land exchange being subject to the completion of the road deviation referred to in paragraph 2(a).**
- 5. Authorises the Chief Executive Officer to:**
 - a. give public notice of the proposed road deviation and land exchange, pursuant to sections 207A and 223 of the LGA1989, and section 114 of the LGA2020; and**
 - b. undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the LGA1989 and section 114 of the LGA2020 in relation to this matter.**
- 6. Considers any public submissions received in respect of the proposed road deviation and land exchange at a future Council meeting with a date and time to be determined, pursuant to section 223 of the LGA1989 and section 114 of the LGA2020, and receive a further report following the completion of the procedures required under clause 2 of Schedule 10 and sections 207A and 223 of the LGA1989 and section 114 of the LGA2020, prior to making a final decision on whether to proceed with the proposed road deviation and land exchange.**

Southern section of Toms Road, Tawonga

- 7. Notes that it has entered into an agreement with the adjoining landowners to document the 'in principle' agreement between Council and the adjoining owners regarding:**
 - a. proposed road deviation of part of Toms Road, Tawonga (South Road), which comprises the following:**
 - i. the part of the South Road shown hatched on the plan contained in Attachment 9.1.2.b to this report (Unused South Road), which will be discontinued and vest in Council; and**
 - ii. the part of the South Road shown cross-hatched on the plan contained in Attachment 9.1.2.b (New South Road) which will be designated as a 'road' pursuant to the Local Government Act 1989 (LGA1989) and vested in Council,**
(together, the South Road Deviation); and
 - b. the proposed subdivision and land exchange of the Unused South Road, New South Road and the Adjoining owners' titles which will result in:**
 - i. the land comprising the Unused South Road being registered in the name of the adjoining owners; and**
 - ii. the title to the New South Road (currently registered in the name of the adjoining owners) being registered in the name of Council,**

- subject to Council carrying out the necessary statutory processes required by Council to proceed with the proposed road deviation and land exchange.*
- 8. Commences the statutory procedures to carry out the road deviation referred to at paragraph 7(a) pursuant to clause 2 of Schedule 2 of Schedule 10 and sections 206, 207 and 223 of the LGA1989.**
 - 9. Commence the statutory procedures to carry out the land exchange referred to at paragraph 7(b) pursuant to section 114 of the LGA 2020, such land exchange being subject to the completion of the road deviation referred to in paragraph 7(a).**
 - 10. Authorises the Chief Executive Officer to:**
 - a. give public notice of the proposed road deviation and land exchange, pursuant to sections 207A and 223 of the LGA1989, and section 114 of the LGA2020; and**
 - b. undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the LGA1989 and section 114 of the LGA2020 in relation to this matter.**
 - 11. Considers any public submissions received in respect of the proposed road deviation and land exchange at a future Council meeting with a date and time to be determined, pursuant to section 223 of the LGA1989 and section 114 of the LGA2020, and receive a further report following the completion of the procedures required under clause 2 of Schedule 10 and sections 207A and 223 of the LGA1989 and section 114 of the LGA2020, prior to making a final decision on whether to proceed with the proposed road deviation and land exchange.**

Carried

BACKGROUND

Toms Road, Tawonga South, is 1.6km in length and maintained by Alpine Shire Council.

A contract for the upgrade of Toms Road was awarded at the February 2022 Council meeting. During the scoping phase of the project, it was identified that the formed road was not located entirely in the road reserve and that private infrastructure had been constructed on the road reserve following previous Council approval.

Survey work has been undertaken to establish title boundaries and determine land areas impacted and subject to the road discontinuance and land exchange.

At the April 2022 Council Meeting, Council resolved to commence a statutory process to carry out a road deviation and exchange of land in respect of the Roads.

Subsequently, Council Officers have established that the resolution does not accurately refer to Council's road deviation powers under the *Local Government Act 1989* (LGA 1989). Specifically, it refers to the incorrect provisions of the LGA 1989 in respect of Council's road deviation powers (being clause 2 of Schedule 10 to the LGA 1989, rather than clause 3).

On this basis, it is recommended that Council rescinds the resolution from the April 2022 Council Meeting and considers the revised recommendations as outlined in this report to commence a statutory procedure to deviate the road which refers to the correct provisions of the Act.

Whilst the error which was made in April 2022 appears administrative in nature, it is important for the road deviation process be followed very precisely according to the *Local Government Act 1989* in order to achieve an outcome which can be upheld under law.

ISSUES

None to report.

POLICY IMPLICATIONS

Council must ensure that it is complying with the relevant sections of the *Local Government Act 1989* and the *Local Government Act 2020* when undertaking road discontinuance, road deviation, and land exchange.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.5 Assets for our current and future needs

FINANCIAL AND RESOURCE IMPLICATIONS

The administrative costs incurred to implement the discontinuation of the road and carry out a road deviation and land exchange will be covered from operational budgets.

RISK MANAGEMENT

None to report.

CONSULTATION

The Road Deviation and Land Exchanges will be placed on public exhibition for no less than 28 days.

Public submissions may be received during this exhibition period. Any person wishing to be heard in support of their submission may request to do so, in which case a committee of Councillors will be formed to hear these submissions.

All written submissions will be considered by Council.

CONCLUSION

It is recommended that the required deviation of the road and land exchanges are carried through to completion as outlined in the recommendations to this report to ensure the existing road alignment is within the road reserve in its entirety.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Engineering and Assets
- Project Officer

ATTACHMENT(S)

9.1.2.a Plan – North Road.

9.1.2.b Plan – South Road

Cr Prime returned to Council Chambers at 5.49

INSTRUMENT OF APPOINTMENT AND
AUTHORISATION
*(PLANNING AND ENVIRONMENT
ACT 1987)*

Planning Officer

Mark Friedrichsen – January 2024

Instrument of Appointment and Authorisation

In this Instrument 'officer' means –

OFFICER	TITLE	NAME
PO	Planning Officer	Mark FRIEDRICHSEN

By this Instrument of Appointment and Authorisation, Alpine Shire Council –

1. Under s147(4) of the *Planning and Environment Act 1987* – appoints the **PO** to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and

It is declared that this Instrument -

- comes into force immediately upon its execution;
- remains in force until varied or revoked.

This Instrument is authorised by a resolution of the Alpine Shire Council made on **30 January 2024**.

THE COMMON SEAL OF THE
ALPINE SHIRE COUNCIL was
hereunto affixed 30th day of
January 2024 in the presence of:

.....
COUNCILLOR NAME

.....
SIGNATURE

.....
COUNCILLOR NAME

.....
SIGNATURE

.....
CHIEF EXECUTIVE OFFICER NAME

.....
SIGNATURE



Informal Meeting of Councillors

In accordance with Chapter 8, section A1 of Council's [Governance Rules](#), the Chief Executive Officer must ensure that a summary of the matters discussed at an Informal meeting of Councillors is tabled at the next convenient Council meeting, and recorded in the minutes of that Council meeting.

Meeting Title: Briefing Session
Date: Tuesday 19 December 2023
Location: Briefing Session – Bright Committee Room
Start Time: 2.00pm
Finish Time: 5.00pm
Chairperson: Will Jeremy, Chief Executive Officer

Councillor and staff attendees:

Name	Position	Name	Position
Cr John Forsyth	Mayor	Will Jeremy	Chief Executive Officer
Cr Simon Kelley	Deputy Mayor	Helen Havercroft	Director Customer & Community
Cr Katarina Hughes	Councillor	Michael MacDonagh	A/Director Assets
Cr Ron Janas	Councillor		
Cr Tony Keeble	Councillor		
Cr Sarah Nicholas	Councillor		
Cr Kelli Prime	Councillor		

Councillor and staff apologies:

Name	Position
Alan Rees	Director Assets

1. Conflict of interest disclosures

Disclosures of Conflicts of Interests must be made in accordance with Chapter 7, sections A3-A5 of Council's [Governance Rules](#), and recorded here.

N/A

2. Record of Councillors that have disclosed a conflict of interest leaving the meeting

N/A

3. Items

Item
Bright River Pool Update
Waste, Fogo and EPA Updates
Capital Projects Update
Ordinary Council Meeting Agenda review

Informal Meeting of Councillors

In accordance with Chapter 8, section A1 of Council's [Governance Rules](#), the Chief Executive Officer must ensure that a summary of the matters discussed at an Informal meeting of Councillors is tabled at the next convenient Council meeting, and recorded in the minutes of that Council meeting.

Meeting Title: Briefing Session
Date: Tuesday 23 January 2024
Location: Briefing Session – Bright Committee Room
Start Time: 2.00pm
Finish Time: 5.00pm
Chairperson: Will Jeremy, Chief Executive Officer

Councillor and staff attendees:

Name	Position	Name	Position
Cr John Forsyth	Mayor	Will Jeremy	Chief Executive Officer
Cr Simon Kelley	Deputy Mayor	Helen Havercroft	Director Customer & Community
Cr Katarina Hughes*	Councillor	Alan Rees	Director Assets
Cr Ron Janas	Councillor		
Cr Tony Keeble	Councillor		
Cr Sarah Nicholas	Councillor		

Attendance via virtual means*

Councillor and staff apologies:

Name	Position
Cr Kelli Prime	Councillor

1. Conflict of interest disclosures

Disclosures of Conflicts of Interests must be made in accordance with Chapter 7, sections A3-A5 of Council's [Governance Rules](#), and recorded here.

N/A

2. Record of Councillors that have disclosed a conflict of interest leaving the meeting

N/A

3. Items

Item
Mint Renewables – External Presentation
Capital Projects Update
Contracts for Award
Significant Development Applications and Compliance discussion
Section 173 Bushfire Management Overlay
Porepunkah Panthers Planning applications
Ordinary Council Meeting Agenda review