

Ref: Raelene Myers:472006

By Courier

Ms Harshini Samarakoon
Graduate
Division of Resources and Energy
Department of Trade and Investment,
Regional Infrastructure and Services
Level 17
227 Elizabeth Street
Sydney NSW 2000

Dear Harshini

Application to compulsorily acquire an easement for overhead powerlines over Crown land at Nyngan

Essential Energy is writing to seek consent of the Minister and the Governor to issue 5 Proposed Acquisition Notices (**PANs**) in order to acquire an easement for overhead powerlines 40 metres wide (**Easement**) over Crown land known as Lot 7300 in DP1156652 (**Land**) as shown in registered plan DP1185827.

The Easement is being acquired pursuant to section 29 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW).

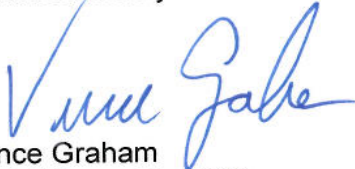
Please find **enclosed**:

1. Letter to Hon. Christopher Hartcher.
2. Copy of the PANs to be served on the interested parties.
3. Copy of letter from the Department of Primary Industries, Crown Lands Division dated 29 April 2013 consenting to the acquisition of the Easement.
4. Copy of letter from the New South Wales Aboriginal Land Council dated 15 March 2013 consenting to the acquisition of the Easement.
5. Copy of letter from Nyngan Local Aboriginal Land Council dated 19 December 2012 consenting to the acquisition of the Easement.
6. Copy of letter from Central West Livestock Health & Pest Authority dated 14 August 2013 consenting to the acquisition of the Easement.
7. Copy of Native Title search of the Land obtained from the National Native Title Tribunal dated 14 August 2012.
8. Copy of a letter from the Office of the Registrar, Aboriginal Land Rights Act 1983 (NSW) dated 1 November 2012.
9. Copy of registered plan DP1185827 (showing the easement in colour).
10. Copy of colour extract of locality map depicting the location of the Easement to be acquired.
11. Draft Notice of Compulsory Acquisition of an Easement for publication in the NSW Government Gazette.
12. Draft Minute Paper for the Executive Council.

Essential Energy would greatly appreciate it if you could put the enclosed submission and other documents before the Minister as soon as possible, so that the Minister's consent can be obtained to issue the PANs.

Should your officers require any further information please do not hesitate to have them contact Raelene Myers from Essential Energy on 02 6589 8810.

Yours sincerely



Vince Graham
Chief Executive Officer

15 OCT 2013

Ref: Raelene Myers:472006

The Hon. Christopher Hartcher MP
Minister for Resources and Energy
Level 37
Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Minister

Application to compulsorily acquire an easement for overhead powerlines over Crown land at Nyngan

Essential Energy is writing to seek your consent to issue 5 Proposed Acquisition Notices (**PANs**) in order to acquire an easement over Crown land at Nyngan.

The easement is being acquired pursuant to section 29 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW).

1. Legal description of easement to be acquired

Essential Energy wishes to acquire an easement for overhead powerlines 40 metres wide (**Easement**) affecting Crown land known as Lot 7300 in DP1156652 (**Land**) as shown in DP1185827.

The Land is affected by:

1. Travelling Stock Reserve TSR26457 (**Reserve**); and
2. Aboriginal Land Claim 7409.

No residential rights are affected by the acquisition.

2. Background and purpose of acquisition

➤ **What is the project and who will benefit?**

AGL Energy Limited (**AGL**) has been selected by the Australian Government under the Solar Flagships Program to develop a 106 MWac solar photovoltaic power station at Nyngan. As part of that development, AGL has requested the solar farm be connected to Essential Energy's existing powerlines between Nyngan and Cobar.

Accordingly, Essential Energy proposes to acquire the Easement to provide Essential Energy with the necessary rights to maintain and operate the powerlines connecting the solar farm to the electricity network.

➤ **Why does it need to be done?**

The additional powerlines are required to connect the solar farm to the electricity network.

➤ **What is the cost of the project?**

The total cost of the project is approximately \$300 million.

AGL will meet the costs of the construction of the powerlines and Essential Energy's costs for the acquisition of Easement.

Once energised, the overhead powerlines will be handed over to Essential Energy to own, operate and maintain.

➤ **What are the consequences of no acquisition?**

The failure to provide a point of connection for the solar farm will mean that the solar farm has no use or benefit and this may also impact the Solar Flagships Program. Essential Energy cannot accept ownership and responsibility for the powerlines without an easement.

➤ **Were alternatives considered?**

Alternatives were not generally considered as the construction of the overhead powerlines are contestable works being carried out by AGL as part of its Solar Flagships Program in connection with the development of a 106 MWac solar photovoltaic power station at Nyngan. The Easement relates to a small section of those powerlines.

3. Ministerial consent to issue PANs

Essential Energy seeks your consent to issue 5 PANs to compulsorily acquire the Easement under the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) and the *Electricity Supply Act 1995* (NSW).

If consent is granted by the Minister, the PANs will be issued to the following interested parties:

1. Department of Primary Industries, Crown Lands Division (**DPI**);
2. New South Wales Aboriginal Land Council (**NSWALC**);
3. Central West Livestock Health & Pest Authority (**LHPA**);
4. Ngemba, Ngiyampaa, Wangaapuwan and Wayilwan (**Nyngan People**); and
5. NTSCorp Ltd.

The DPI has consented to the acquisition of the Easement and has agreed to accept compensation as determined by the Valuer-General.

The NSWALC and LHPA have also consented to the acquisition of the Easement.

As the Land is Crown land, and despite the fact that Essential Energy has obtained consent from DPI, NSWALC and LHPA to the acquisition of the Easement, Essential Energy must use the full compulsory acquisition process under the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) as there is a registered native title claim over the area in which the Land is located and Essential Energy has no evidence that native title rights and interests have been extinguished.

4. Native Title

A search of the National Native Title Tribunal (NNTT) dated 14 August 2012 confirms that there is a registered native title claim made by the Nyngan People over the area in which the Land is located.

Essential Energy has no evidence that Native Title has been extinguished over the particular parcel of Land affected by the Easement. Accordingly, Essential Energy seeks to acquire the Easement subject to the "Non-Extinguishment Principle" under section 238 of the *Native Title Act 1993* (Cth).

The effect of the "Non-Extinguishment" Principle is that any native title rights and interests that are affected by the acquisition of the Easement will not be extinguished by that acquisition and will continue to exist but will be of no force and effect in relation to the Easement.

5. Aboriginal Land Claims

By email dated 7 November 2012, the Office of the Registrar (Aboriginal Land Rights Act) confirmed that the land described is affected by Aboriginal Land Claim 7409 in accordance with section 36 or 37 of the *Aboriginal Land Rights Act 1983* (NSW).

The NSWALC and the Nyngan Local Aboriginal Land Council have both consented to the acquisition of the Easement.

6. Compensation issues

Essential Energy has reached agreement with the DPI in relation to compensation for the compulsory acquisition of the Easement. The DPI and Essential Energy have agreed that compensation for the acquisition of the Easements will be determined by the Valuer-General.

7. PAN notice period

Essential Energy seeks your consent to provide the recipients of the PANs with a 90 day notice period.

8. Documents in support of this application

Essential Energy's application for Ministerial approval to issue the PANs to compulsorily acquire the Easement consists of the following documents:

1. Copy of the PANs to be served on the interested parties.
2. Copy of letter from the Department of Primary Industries, Crown Lands Division dated 29 April 2013 consenting to the acquisition of the Easement.
3. Copy of letter from the New South Wales Aboriginal Land Council dated 15 March 2013 consenting to the acquisition of the Easement.
4. Copy of letter from Nyngan Local Aboriginal Land Council dated 19 December 2012 consenting to the acquisition of the Easement.
5. Copy of letter from Central West Livestock Health & Pest Authority dated 14 August 2013 consenting to the acquisition of the Easement.
6. Copy of Native Title search of the Land obtained from the National Native Title Tribunal dated 14 August 2012.
7. Copy of a letter from the Office of the Registrar, Aboriginal Land Rights Act 1983 (NSW) dated 1 November 2012.
8. Copy of registered plan DP1185827 (showing the easement in fluorescent colour).
9. Copy of colour extract of locality map depicting the location of the Easement to be acquired.
10. Draft Notice of Compulsory Acquisition of an Easement for publication in the NSW Government Gazette.

11. Draft Minute Paper for the Executive Council.

Essential Energy is happy to provide any further information that may be required in respect of the issues raised in this submission.

Should your officers require any further information please do not hesitate to have them contact Raelene Myers on 02 6589 8810 from Essential Energy.

Yours sincerely



Vince Graham
Chief Executive Officer

15 OCT 2013

Ref: Raelene Myers 472006

Simone Collins
Property Development Project Officer
Regional and Strategic Projects
Crown Lands Division
Department of Primary Industries
PO Box 2215
Dangar NSW 2309

Dear Simone,

Proposed Acquisition Notice of Easement – Nyngan

I would like to inform you that the Minister for Resources and Energy has approved the issue of a Proposed Acquisition Notice (**PAN**) under the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) to compulsorily acquire an easement for overhead powerlines 40 metres wide (**Easement**) affecting Crown land known as Lot 7300 in DP1156652 (**Land**) as shown in registered plan DP1185827.

Despite the contents of this letter Essential Energy confirms that it has received your consent to the compulsory acquisition under cover of your letter dated 29 April 2013 and that agreement has also been reached in relation to compensation. Therefore, regardless of whether or not you complete the claim for compensation form, Essential Energy notes that agreement has been reached in relation to compensation and when seeking the Minister's consent to publish the acquisition notice, we will advise the Minister accordingly.

1. Purpose of the acquisition

AGL Energy Limited (**AGL**) has been selected by the Australian Government under the Solar Flagships Program to develop a 106 MWac solar photovoltaic power station at Nyngan. As part of that development, AGL has requested it be connected to Essential Energy's existing high voltage powerlines between Nyngan and Cobar.

Accordingly, Essential Energy proposes to acquire the Easement over the Land affected by the powerlines.

2. Documents in support of this application

As this compulsory acquisition will affect Crown land over which there is no evidence of Native Title having been extinguished, please find enclosed copies of the following documents:

1. Proposed Acquisition Notice.
2. Claim for Compensation Form.
3. Copy of registered plan DP1185827.
4. Copy of a geographic map of the area showing the site of the Easement.

3. Compensation and procedure

Whilst Essential Energy would have preferred not to use the full compulsory acquisition process to acquire the Easement, Essential Energy is required under section 24MD(6A) of the *Native Title Act 1993* (Cth) to provide any native title holders that may be affected by the acquisition with the same procedural rights as freehold title holders.

Essential Energy's native title searches have indicated that there is a registered native title claim made by Ngemba, Ngiyampaa, Wangaapuwan and Wayilwan in the area where the Easement is being acquired.

Essential Energy has no evidence that native title has been extinguished and because Essential Energy is required to afford native title holders with the same rights as freehold owners, Essential Energy must follow the compulsory acquisition process under the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW). It is for this reason that Essential Energy is using the compulsory acquisition process.

In so far as any Native Title rights and interests may exist over the Crown land affected by the Easement, the "non-extinguishment principle" as defined in section 238 of the *Native Title Act 1993* (Cth) applies to the acquisition of the Easement.

Accordingly, Essential Energy encloses, by way of service under the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW), a PAN.

Further details in relation to the compulsory acquisition procedure and compensation are set out in the PAN.

Essential Energy will pay compensation for the compulsory acquisition of the Easement as determined by the Valuer-General.

Should you require any further information, please do not hesitate to contact Raelene Myers from Essential Energy on 02 6589 8810.

Yours sincerely

Vince Graham
Chief Executive Officer

Essential Energy

Notice of Proposed Compulsory Acquisition of an Interest in Land for the Purpose of an Infrastructure Facility

Land Acquisition (Just Terms Compensation) Act 1991 (NSW)

Native Title Act 1993 (Cth) sections 24MD(6A) & (7), 26(1)(C)(iii)(A) & (B), and 238

Native Title (Notices) Determination Act 1998 (Cth)

Native Title (New South Wales) Act 1994 section 103

Description of the area that may be affected by the compulsory acquisition

Essential Energy, pursuant to section 44 of the *Electricity Supply Act 1995* and section 12 of the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* ("the LAJTC Act"), intends to acquire by compulsory process for the purposes of the *Electricity Supply Act 1995* the easement described in Schedule 1, the terms of which are described in Schedule 2. The purpose of the acquisition is to confer rights or interests in relation to the land described in Schedule 1 on Essential Energy and to provide an infrastructure facility within the meaning of sections 26(1)(C)(iii)(A) & (B) of the *Native Title Act 1993 (Cth)*.

Period within which it is intended that the easement will be compulsorily acquired

The compulsory acquisition will occur by acquisition notice published in the NSW Government Gazette under section 19 of the LAJTC Act declaring the easement to be acquired by compulsory process. That notice will appear in the NSW Government Gazette not less than 90 days after the giving of this notice. The compulsory acquisition will have effect from the date of publication of the acquisition notice in the NSW Government Gazette and will continue to have effect thereafter.

Non-extinguishment of native title rights and interests

The "non-extinguishment principle" as defined in section 238 *Native Title Act 1993 (Cth)* applies to this acquisition, with the effect that any native title rights and interests that are affected by the compulsory acquisition of the easement are not extinguished and continue to exist, but have no effect in relation to the land.

Compensation

The acquisition notice may affect native title rights and interest in the land as provided in section 24MD(3) of the *Native Title Act 1993 (Cth)* and compensation may be payable for any such rights and interests so affected. The acquisition notice will vest the easement in Essential Energy subject to the "non-extinguishment principle". Section 55 of the LAJTC Act states that regard must be had to the following matters in determining the amount of compensation:

- (a) The market value of the land on the date of its acquisition;
- (b) Any special value of the land to the person on the date of its acquisition;
- (c) Any loss attributable to severance;
- (d) Any loss attributable to disturbance;
- (e) Solatium; and
- (f) Any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

Claim for Compensation form

A Claim for Compensation form is enclosed. Any owner who wishes to claim compensation for the acquisition is requested to lodge a claim for compensation with Essential Energy within 60 days after the date of this notice.

Date of notice: 2013

For further information contact Essential Energy:

Contact: Raelene Myers
Manager Legal Network Easements
Direct: 02 6689 8810
Fax: 02 6589 8766
Email: raelene.myers@essentialenergy.com.au

SCHEDULE 1

Interest in Land	Easement for overhead powerlines 40 metres wide affecting Lot 7300 in DP1156652 shown as "V – Proposed easement for overhead powerlines 40 wide and variable" on DP1185827.
Locality	Nyngan
LGA	Bogan
Parish	Gilgai
County	Flinders

SCHEDULE 2

The easement for overhead powerlines listed in Schedule 1 is on the terms set out in Part A of Memorandum No. AG189384 registered on the Register held under the *Real Property Act 1900*.

In so far as any Native Title rights and interests may exist over the Crown land affected by the easement, the "non-extinguishment principle" as defined in section 238 of the *Native Title Act 1993* (Cth) applies to the acquisition of the Interest in Land.

CLAIM FOR COMPENSATION

Section 39 Land Acquisition (Just Terms Compensation) Act 1991

To Raelene Myers
Manager Legal Network Easements
Essential Energy
PO Box 5730
Port Macquarie NSW 2444

From The Department of Primary Industries
PO Box 2215, Dangar NSW 2309

1 Description of the Land.

- a) Address Barrier Highway, Nyngan NSW
b) Title Lot 7300 in DP1156652

2 What is your interest in this land?

- ☒ Registered Proprietor ☐ Mortgagee ☐ Lessor ☐ Lessee
☐ Residential Tenant ☐ Licensee ☐ Other

3 If you ticked box "other" provide full details here of your interest in the land.

4 Are you aware of any other persons or corporations that may have an interest in this land? (tick appropriate box) ☐ Yes ☐ No

5 If you ticked the "Yes" box in 4, provide here full details including name, address, nature and extent of interest.

6 Compensation for your interest in the land that has been compulsorily acquired will be determined by the Valuer-General.

You may provide here details of any matters that should be taken into account by the Valuer-General when determining the amount of compensation payable to you.

You should consider each of the following compensation items and where appropriate indicate the amount claimed:

- | | |
|---|----|
| a) The market value of the land on the date of its acquisition | \$ |
| b) Any special value of the land to the person on the date of its acquisition | \$ |
| c) Any loss attributable to severance | \$ |
| d) Any loss attributable to disturbance | \$ |
| e) Solatium | \$ |
| f) Any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired | \$ |
| g) Any other matter | \$ |

Total Compensation Claimed \$

- 7 State short description of documents of title (Leases, Mortgages etc) which support your claim to your stated interest in the land.**

- 8 Provide the following information:**

- a) Names and addresses of person having custody of the above documents

- b) Where can the above documents be inspected

- c) If documents are held or in the custody of someone other than the claimant in what capacity is that other person holding or has custody of the documents

- d) Name and address of your solicitor or agent

Signature(s) of Claimant(s)

Date

The following Statutory Declaration must be completed by the Claimant(s)

STATUTORY DECLARATION

Oaths Act 1900 Ninth Schedule

NEW SOUTH WALES

TO WIT.

Name in full I/We, the undersigned _____

Residence of _____

**Occupation in the State of New South Wales, _____

The facts to be
stated according
to the Declarant's
knowledge, belief,
or information,
severally do hereby solemnly and sincerely declare and affirm that the
information supplied by me/us in paragraphs 1 to 8 above is correct

And I/we, make this solemn declaration, as to the matter aforesaid, according to the law
in this behalf made, and subject to the punishment by law provided for any wilfully false
statements in any such declaration.

Taken and declared at _____

in the State of New South Wales

this _____ day of _____

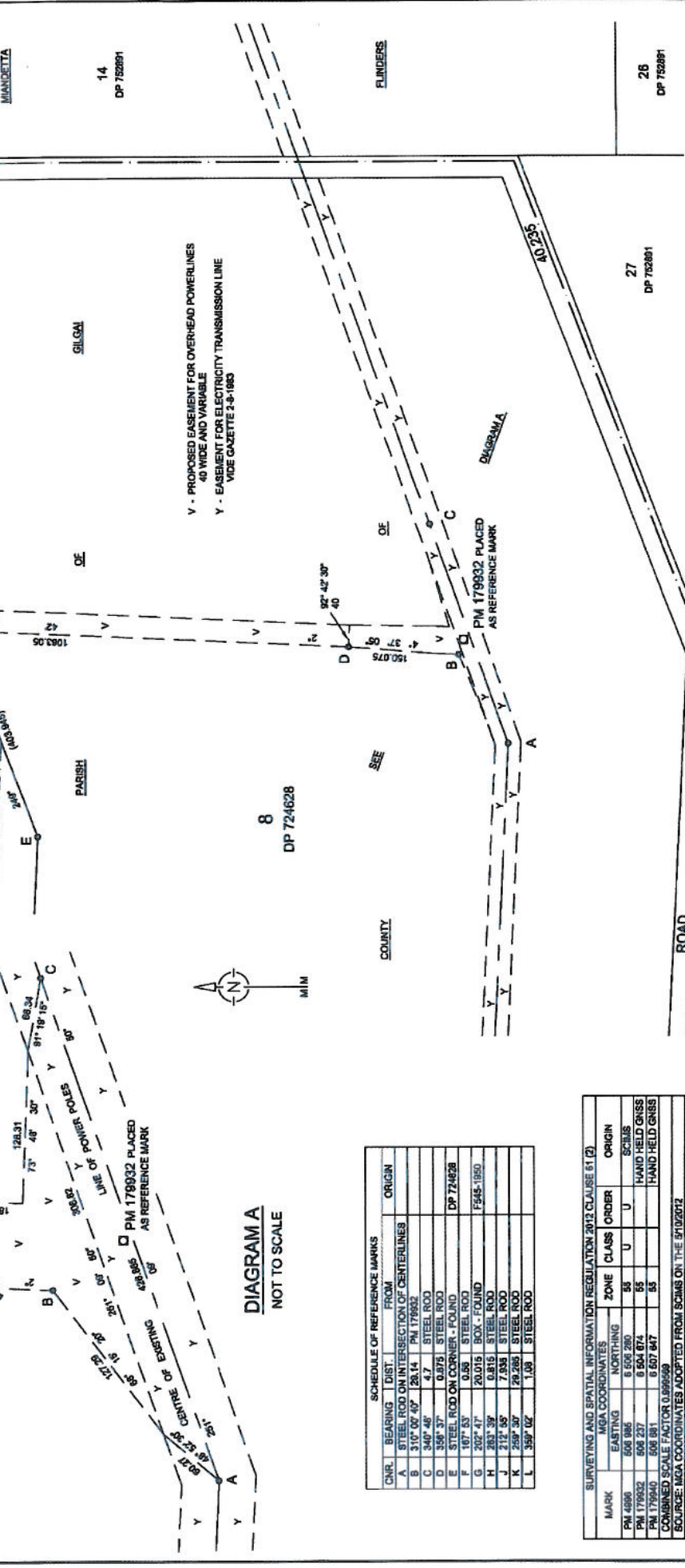
2013, before me:

Justice of the Peace

Claimant(s)

Notes:

1. If this Notice of Claim is not returned to Essential Energy the Valuer-General will determine your interest without the benefit of information you may have been able to provide.
2. The services of a solicitor, registered valuer and/or accountant may be of assistance in providing information to question 6. Where appropriate claims should be supported by relevant business records.
3. No compensation will be payable to you until you have satisfactorily completed this Claim for Compensation form and returned it to Essential Energy.
4. It is a criminal offence to supply false information in this Claim for Compensation.



SCHEDULE OF REFERENCE MARKS				ORIGIN	
CNR	BEARING	DIST.	FROM		
A	STEEL ROD ON INTERSECTION OF CENTERLINES				
B	310° 00' 40"	126.14	PM 179932		
C	340° 46'	4.7	STEEL ROD		
D	356° 37'	0.875	STEEL ROD		
E	STEEL ROD ON CORNER - FOUND		DP 724628		
F	167° 53'	0.68	STEEL ROD		
G	202° 47'	20.015	BOX - FOUND		
H	283° 39'	0.815	STEEL ROD		
J	212° 59'	7.934	STEEL ROD		
K	259° 30'	20.265	STEEL ROD		
L	359° 02'	1.08	STEEL ROD		

SURVEYING AND SPATIAL INFORMATION REGULATION 2012 CLAUSE 61(2)				
MARK	MGA COORDINATES		ZONE	CLASS ORDER
	EASTING	NORTHING		
PM 4996	506 985	6 506 280	55	SCIMS
PM 179932	506 237	6 504 674	55	HAND HELD GNSS
PM 179940	506 081	6 507 947	55	HAND HELD GNSS
COMBINED SCALE FACTOR 0.999999				
SOURCE: MGA COORDINATES ADOPTED FROM SCIMS ON THE 31/03/2012				

Surveyor: WAYNE KETTLER
of LANSFORD AND HOWE SURVEYORS, DUBBO
Date of Survey: 10/10/2012
Surveyors Ref: 2012/148_01

PLAN OF PROPOSED EASEMENT FOR OVERHEAD POWERLINES 40 WIDE AND VARIABLE WITHIN LOT 8 IN DP 724628, LOT 24 IN DP 751310, LOT 7300 IN DP 1156652, LOT 25 IN DP 1161259 AND ROAD 40.235 WIDE
Lengths are in metres. Reduction Ratio 1:5,000

L.G.A: BOGAN
Locality: NYNGAN
Subdivision No: —

Registered
7.6.2013

DP1185827

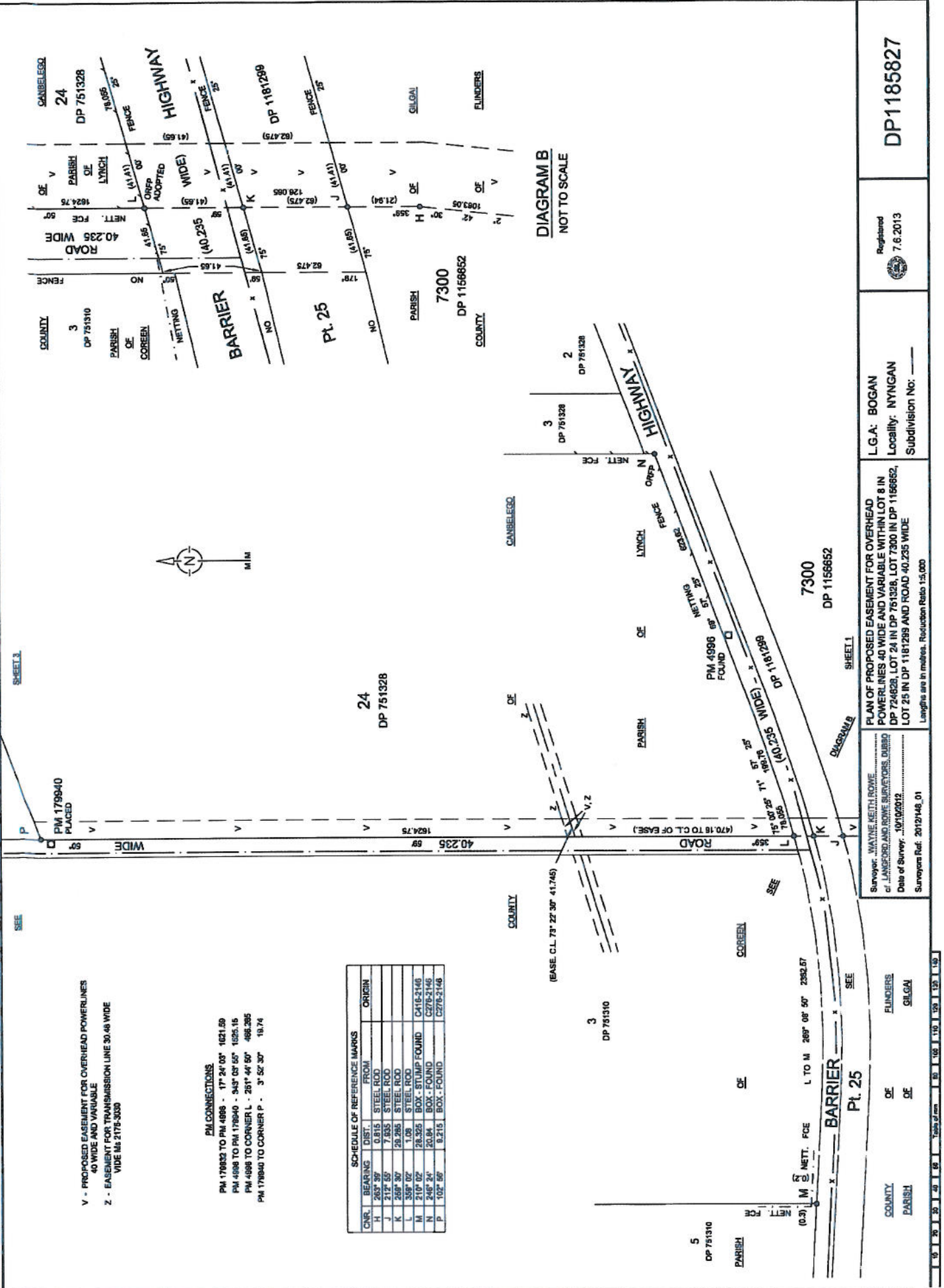
V - PROPOSED EASEMENT FOR OVERHEAD POWERLINES
40 WIDE AND VARIABLE

Z - EASEMENT FOR TRANSMISSION LINE 30.48 WIDE
VIDE MS 2175-3030

PM CONNECTIONS

PM 170932 TO PM 4998 - 17° 24' 03" 1621.59
PM 4998 TO PM 170940 - 34.9° 03' 55" 1625.15
PM 4998 TO CORNER L - 251° 44' 50" 468.285
PM 170940 TO CORNER P - 3° 52' 30" 18.74

SCHEDULE OF REFERENCE MARKS				ORIGIN
CNR.	BEARING	DIST.	FROM	
H	263° 39'	0.815	STEEL ROD	
J	212° 55'	7.835	STEEL ROD	
K	269° 30'	29.265	STEEL ROD	
L	359° 02'	1.08	STEEL ROD	
M	211° 02'	23.325	BOX - STUMP FOUND	C416-2146
N	246° 24'	20.84	BOX - FOUND	C278-2146
P	102° 56'	9.215	BOX - FOUND	C278-2146



Surveyor: WAYNE KEITH ROWE
LANGFORD AND ROWE SURVEYORS
Date of Survey: 10/10/2012
Surveyors Ref: 2012/148_01

PLAN OF PROPOSED EASEMENT FOR OVERHEAD
POWER LINES 40 WIDE AND VARIABLE WITH-IN LOT 8 IN
DP 724828, LOT 24 IN DP 761328, LOT 7300 IN DP 1156695
LOT 25 IN DP 1181299 AND ROAD 40.235 WIDE
Lengths are in metres. Reduction Ratio 1:5,000

L.G.A: BOGAN
Locality: NYNGAN
Subdivision No: —

Registered
7.6.2013

DP1185827

DP1185827

V - PROPOSED EASEMENT FOR OVERHEAD POWERLINES
40 WIDE AND VARIABLE



SCHEDULE OF REFERENCE MARKS				
CHRL	BEARING	DIST	FROM	ORIGIN
P	102° 00'	8.215	BOX - FOUND	C276-2148
G	0° 00'	4.025	8.1 PIPE - FOUND	C276-2148
R	180° 00'	4.025	8.1 PIPE - FOUND	C276-2148

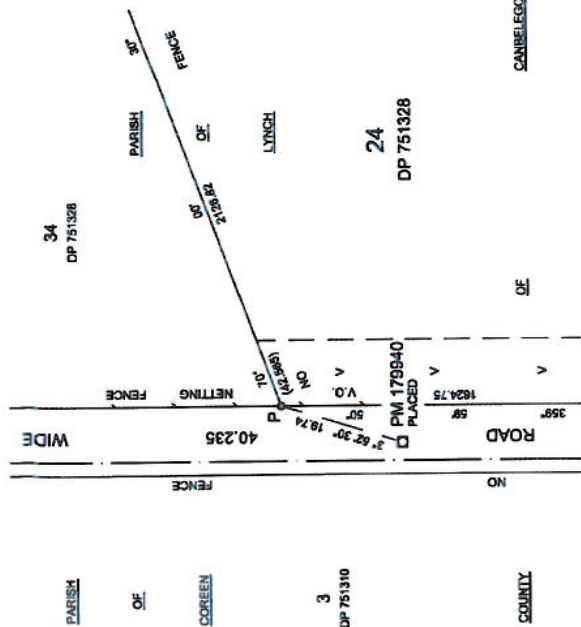
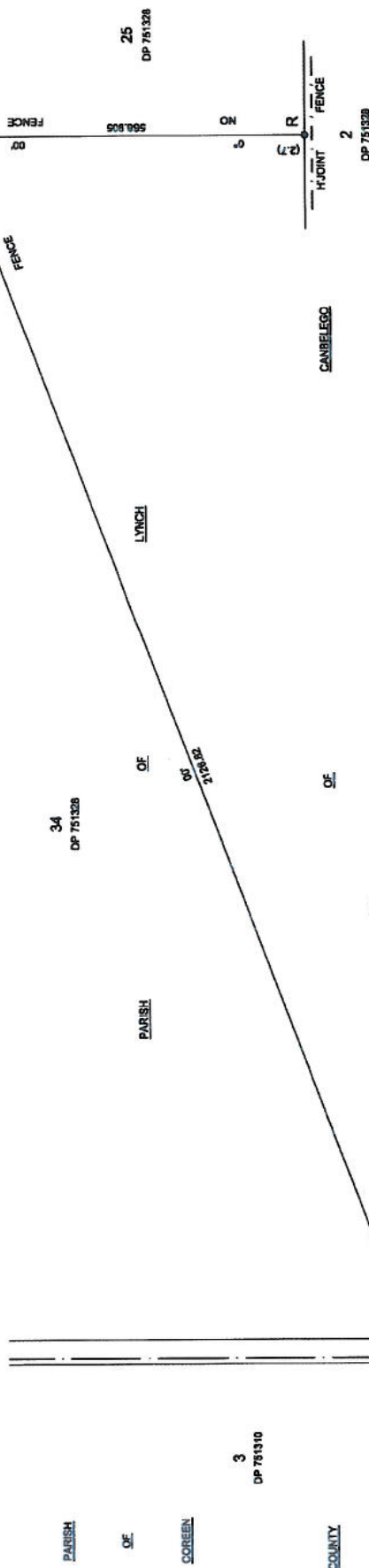


DIAGRAM C
NOT TO SCALE



PLAN OF PROPOSED EASEMENT FOR OVERHEAD
POWERLINES 40 WIDE AND VARIABLE WITHIN LOT 8 IN
DP 724628, LOT 24 IN DP 751328, LOT 7300 IN DP 1156652,
LOT 25 IN DP 1181258 AND ROAD 40.235 WIDE
Lengths are in metres. Reduction Ratio 1:5,000

Surveyor: WAYNE KEITH ROWE
of LANGFORD AND ROWE SURVEYORS, DURBO
Date of Survey: 09/02/2012
Surveyors Ref: 2012148_01

SHEET 2

SEE

SEE

SEE

SEE

SEE

DP1185827

Registered
7.6.2013

L.G.A: BOGAN
Locality: NYNGAN
Subdivision No: ---

**Location of Easement
proposed to be acquired
by Essential Energy**

Nyngan NSW, Australia

Newcastle NSW, Australia

Sydney NSW, Australia



Ref: Raelene Myers:472006

Attention: Lila D'souza
Principal Legal Officer
New South Wales Aboriginal Land Council
PO Box 1125
Parramatta NSW 2150

Dear Sir/Madam,

Proposed Acquisition Notice of Easement – Nyngan

I would like to inform you that the Minister for Resources and Energy has approved the issue of a Proposed Acquisition Notice (**PAN**) under the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) to compulsorily acquire easement for 132kV power line 40 metres wide (**Easement**) affecting Crown land known as Lot 7300 in DP1156652 (**Land**) as shown in registered plan DP1185827.

Despite the contents of this letter Essential Energy confirms that it has received consent from the NSW Aboriginal Land Council (**NSWALC**) on 15 March 2013 and the Nyngan Local Aboriginal Land Council (**Nyngan LALC**) on 19 December 2012 to the compulsory acquisition of the Easement.

1. Purpose of the acquisition

AGL Energy Limited (AGL) has been selected by the Australian Government under the Solar Flagships Program to develop a 106 MWac solar photovoltaic power station at Nyngan. As part of that development, AGL has requested it be connected to Essential Energy's existing high voltage powerlines between Nyngan and Cobar.

Accordingly, Essential Energy proposes to acquire the Easement over the Land affected by the powerlines.

2. Documents in support of this application

As this compulsory acquisition will affect Crown land over which there is no evidence of Native Title having been extinguished, please find enclosed copies of the following documents:

1. Proposed Acquisition Notice.
2. Claim for Compensation Form.
3. Copy of registered plan DP1185827.
4. Copy of a geographic map of the area showing the site of the Easement.

3. Compensation and procedure

Whilst Essential Energy would have preferred not to use the full compulsory acquisition process to acquire the Easement, Essential Energy is required under section 24MD(6A) of the *Native Title Act 1993* (Cth) to provide any native title holders that may be affected by the acquisition with the same procedural rights as freehold title holders.

Essential Energy's native title searches have indicated that there is a registered native title claim made by Ngemba, Ngiyampaa, Wangaapuan and Wayilwan in the area where the Easement is being acquired.

Essential Energy has no evidence that native title has been extinguished and because Essential Energy is required to afford native title holders with the same rights as freehold owners, Essential Energy must follow the compulsory acquisition process under the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW). It is for this reason that Essential Energy is using the compulsory acquisition process.

In so far as any Native Title rights and interests may exist over the Crown land affected by the easement, the "non-extinguishment principle" as defined in section 238 of the Native Title Act 1993 (Cth) applies to the acquisition of the Easement.

Accordingly, Essential Energy is required to follow the compulsory acquisition process under the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) to acquire the Easement and for this reason encloses by way of service under the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) Essential Energy's PAN.

Further details in relation to the compulsory acquisition procedure and compensation are set out in the PAN.

Essential Energy is prepared to and will pay compensation for the compulsory acquisition of the Easement as determined by the Valuer-General.

Should you require any further information, please do not hesitate to contact Raelene Myers from Essential Energy on 02 6589 8810.

Yours sincerely

Vince Graham
Chief Executive Officer

Essential Energy

Notice of Proposed Compulsory Acquisition of an Interest in Land for the Purpose of an Infrastructure Facility

Land Acquisition (Just Terms Compensation) Act 1991 (NSW)

Native Title Act 1993 (Cth) sections 24MD(6A) & (7), 26(1)(C)(iii)(A) & (B), and 238

Native Title (Notices) Determination Act 1998 (Cth)

Native Title (New South Wales) Act 1994 section 103

Description of the area that may be affected by the compulsory acquisition

Essential Energy, pursuant to section 44 of the *Electricity Supply Act 1995* and section 12 of the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* ("the LAJTC Act"), intends to acquire by compulsory process for the purposes of the *Electricity Supply Act 1995* the easement described in Schedule 1, the terms of which are described in Schedule 2. The purpose of the acquisition is to confer rights or interests in relation to the land described in Schedule 1 on Essential Energy and to provide an infrastructure facility within the meaning of sections 26(1)(C)(iii)(A) & (B) of the *Native Title Act 1993 (Cth)*.

Period within which it is intended that the easement will be compulsorily acquired

The compulsory acquisition will occur by acquisition notice published in the NSW Government Gazette under section 19 of the LAJTC Act declaring the easement to be acquired by compulsory process. That notice will appear in the NSW Government Gazette not less than 90 days after the giving of this notice. The compulsory acquisition will have effect from the date of publication of the acquisition notice in the NSW Government Gazette and will continue to have effect thereafter.

Non-extinguishment of native title rights and interests

The "non-extinguishment principle" as defined in section 238 *Native Title Act 1993 (Cth)* applies to this acquisition, with the effect that any native title rights and interests that are affected by the compulsory acquisition of the easement are not extinguished and continue to exist, but have no effect in relation to the land.

Compensation

The acquisition notice may affect native title rights and interest in the land as provided in section 24MD(3) of the *Native Title Act 1993 (Cth)* and compensation may be payable for any such rights and interests so affected. The acquisition notice will vest the easement in Essential Energy subject to the "non-extinguishment principle". Section 55 of the LAJTC Act states that regard must be had to the following matters in determining the amount of compensation:

- (a) The market value of the land on the date of its acquisition;
- (b) Any special value of the land to the person on the date of its acquisition;
- (c) Any loss attributable to severance;
- (d) Any loss attributable to disturbance;
- (e) Solatium; and
- (f) Any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

Claim for Compensation form

A Claim for Compensation form is enclosed. Any owner who wishes to claim compensation for the acquisition is requested to lodge a claim for compensation with Essential Energy within 60 days after the date of this notice.

Date of notice: 2013

For further information contact Essential Energy:

Contact: Raelene Myers
Manager Legal Network Easements
Direct: 02 6589 8810
Fax: 02 6589 8766
Email: raelene.myers@essentialenergy.com.au

SCHEDULE 1

Interest in Land	Easement for overhead powerlines 40 metres wide affecting Lot 7300 in DP1156652 shown as "V - Proposed easement for overhead powerlines 40 wide and variable" on DP1185827.
Locality	Nyngan
LGA	Bogan
Parish	Gilgai
County	Flinders

SCHEDULE 2

The easement for overhead powerlines listed in Schedule 1 is on the terms set out in Part A of Memorandum No. AG189384 registered on the Register held under the *Real Property Act 1900*.

In so far as any Native Title rights and interests may exist over the Crown land affected by the easement, the "non-extinguishment principle" as defined in section 238 of the *Native Title Act 1993* (Cth) applies to the acquisition of the Interest in Land.

CLAIM FOR COMPENSATION

Section 39 Land Acquisition (Just Terms Compensation) Act 1991

To Raelene Myers
Manager Legal Network Easements
Essential Energy
PO Box 5730
Port Macquarie NSW 2444

From New South Wales Aboriginal Land Council
PO Box 1125
Parramatta NSW 2150

1 Description of the Land.

- a) Address Barrier Highway, Nyngan NSW
- b) Title Lot 7300 in DP1156652

2 What is your interest in this land?

- ☐ Registered Proprietor ☐ Mortgagee ☐ Lessor ☐ Lessee
- ☐ Residential Tenant ☐ Licensee ☒ Other

3 If you ticked box "other" provide full details here of your interest in the land.

4 Are you aware of any other persons or corporations that may have an interest in this land? (tick appropriate box) ☐ Yes ☐ No

5 If you ticked the "Yes" box in 4, provide here full details including name, address, nature and extent of interest.

6 Compensation for your interest in the land that has been compulsorily acquired will be determined by the Valuer-General.

You may provide here details of any matters that should be taken into account by the Valuer-General when determining the amount of compensation payable to you.

You should consider each of the following compensation items and where appropriate indicate the amount claimed:

- | | |
|---|----|
| a) The market value of the land on the date of its acquisition | \$ |
| b) Any special value of the land to the person on the date of its acquisition | \$ |
| c) Any loss attributable to severance | \$ |
| d) Any loss attributable to disturbance | \$ |
| e) Solatium | \$ |
| f) Any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired | \$ |
| g) Any other matter | \$ |

Total Compensation Claimed \$

- 7 State short description of documents of title (Leases, Mortgages etc) which support your claim to your stated interest in the land.**

- 8 Provide the following information:**

- a) Names and addresses of person having custody of the above documents

- b) Where can the above documents be inspected

- c) If documents are held or in the custody of someone other than the claimant in what capacity is that other person holding or has custody of the documents

- d) Name and address of your solicitor or agent

Signature(s) of Claimant(s)

Date

The following Statutory Declaration must be completed by the Claimant(s)

STATUTORY DECLARATION

Oaths Act 1900 Ninth Schedule

NEW SOUTH WALES

TO WIT.

Name in full I/We, the undersigned _____

Residence of _____

**Occupation in the State of New South Wales, _____

The facts to be
stated according
to the Declarant's
knowledge, belief,
or information,
severally do hereby solemnly and sincerely declare and affirm that the
information supplied by me/us in paragraphs 1 to 8 above is correct

And I/we, make this solemn declaration, as to the matter aforesaid, according to the law
in this behalf made, and subject to the punishment by law provided for any wilfully false
statements in any such declaration.

Taken and declared at _____

in the State of New South Wales

this _____ day of _____

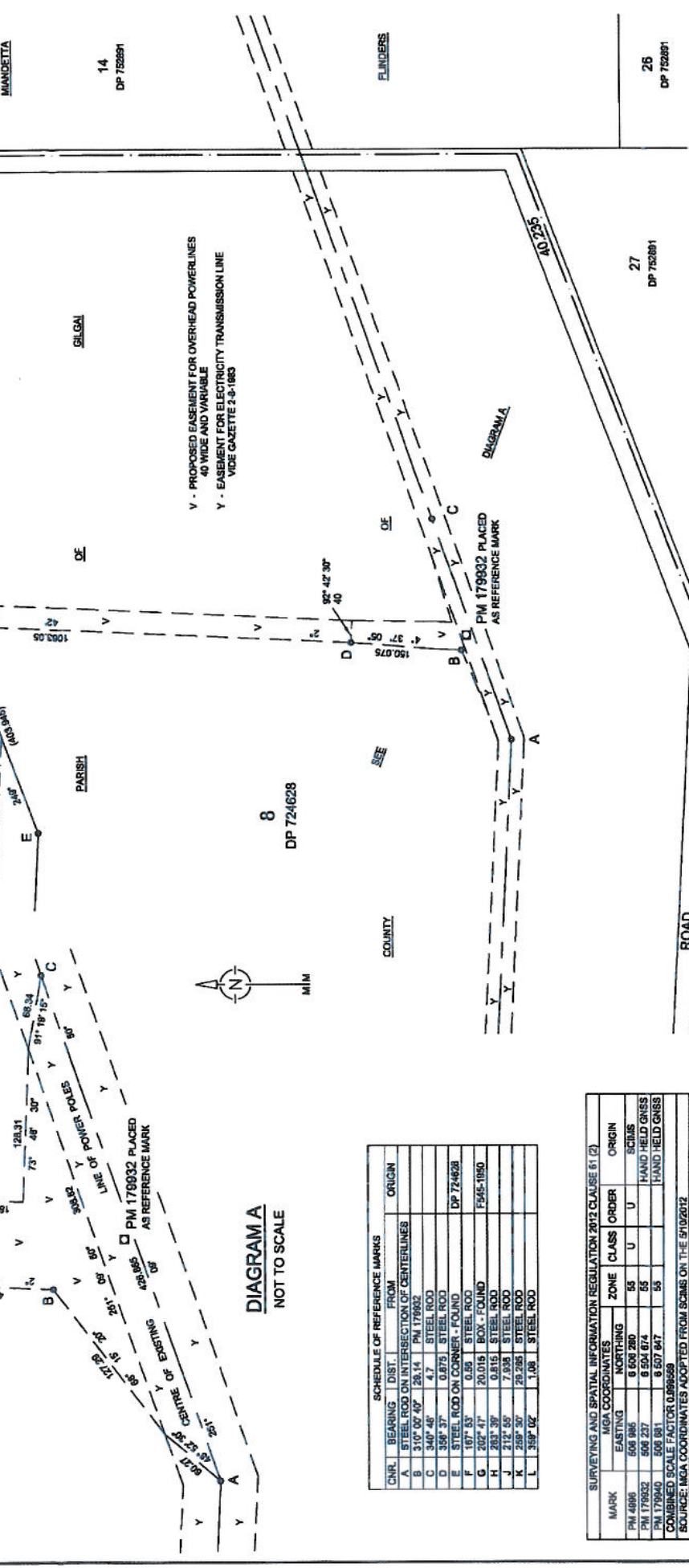
2013, before me:

Justice of the Peace

Claimant(s)

Notes:

1. If this Notice of Claim is not returned to Essential Energy the Valuer-General will determine your interest without the benefit of information you may have been able to provide.
2. The services of a solicitor, registered valuer and/or accountant may be of assistance in providing information to question 6. Where appropriate claims should be supported by relevant business records.
3. No compensation will be payable to you until you have satisfactorily completed this Claim for Compensation form and returned it to Essential Energy.
4. It is a criminal offence to supply false information in this Claim for Compensation.



SCHEDULE OF REFERENCE MARKS			
CHR	BEARING	DIST.	FROM
A	310° 07' 40"	28.14	PM 176932
B	340° 48'	4.7	STEEL ROD
C	340° 48'	4.7	STEEL ROD
D	350° 37'	0.875	STEEL ROD
E	STEEL ROD ON CORNER - FOUND		DP 724628
F	167° 43'	0.55	STEEL ROD
G	202° 47'	20.015	BOX - FOUND
H	283° 39'	0.815	STEEL ROD
J	212° 45'	7.038	STEEL ROD
K	289° 30'	25.285	STEEL ROD
L	350° 42'	1.08	STEEL ROD

SURVEYING AND SPATIAL INFORMATION REGULATION 2012 CLAUSE 61 (2)				
MARK	MGA COORDINATES	ZONE	CLASS	ORDER
PM 4896	606 885	55	U	U
PM 176932	606 237	55	U	U
PM 179940	606 881	55	U	U
COMBINED SCALE FACTOR 0.999958				
SOURCE: MGA COORDINATES ADOPTED FROM SCAMS ON THE 5/10/2012				

PLAN OF PROPOSED EASEMENT FOR OVERHEAD POWERLINES 40 WIDE AND VARIABLE WITHIN LOT 8 IN DP 724628, LOT 24 IN DP 751310, LOT 7300 IN DP 1156652, LOT 25 IN DP 1181299 AND ROAD 40.235 WIDE

Surveyor: WAYNE KEITH ROWE
of LANGFORD AND ROWE SURVEYORS, DUBBO
Date of Survey: 10/02/2012
Surveyors Ref: 2012/148_01

L.G.A: BOGAN
Locality: NYNGAN
Subdivision No: —

Registered
7.6.2013

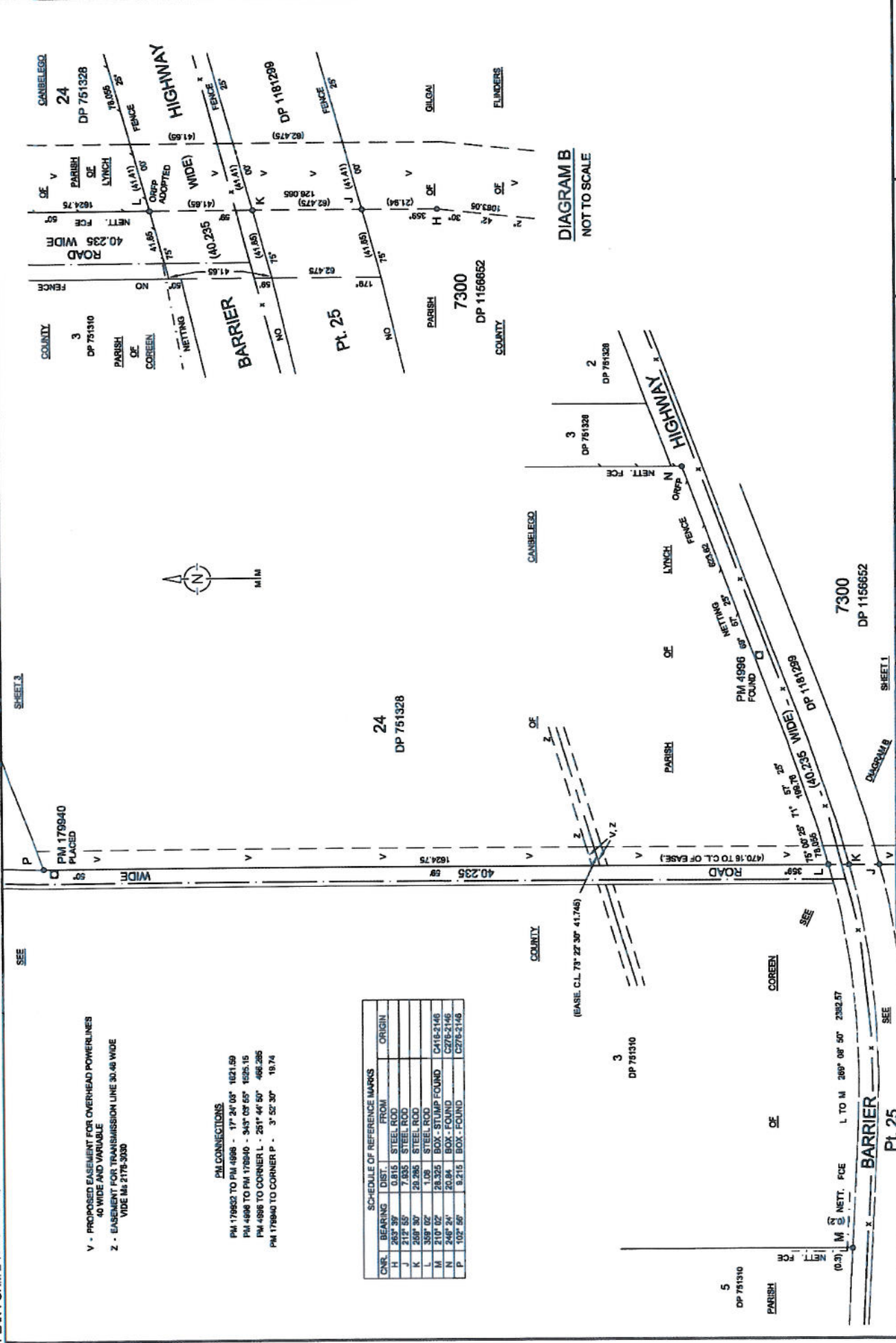
DP1185827



V - PROPOSED EASEMENT FOR OVERHEAD POWERLINES
40 WIDE AND VARIABLE
Z - EASEMENT FOR TRANSMISSION LINE 30.48 WIDE
VIDE MA 2178-3030

PM CONNECTIONS
PM 179832 TO PM 4998 - 17° 24' 03" 1821.59
PM 4998 TO PM 179840 - 343° 08' 55" 4325.15
PM 4998 TO CORNER L - 251° 44' 50" 466.285
PM 179840 TO CORNER P - 3° 52' 30" 19.74

SCHEDULE OF REFERENCE MARKS			
CNR	BEARING	DIST.	FROM
H	263° 39'	0.815	STEEL ROD
J	212° 55'	7.635	STEEL ROD
K	258° 30'	28.285	STEEL ROD
L	358° 02'	1.08	STEEL ROD
M	210° 02'	28.325	BOX - STUMP FOUND
N	248° 24'	20.84	BOX - FOUND
P	102° 56'	9.215	BOX - FOUND



PLAN OF PROPOSED EASEMENT FOR OVERHEAD POWERLINES 40 WIDE AND VARIABLE WITHIN LOT 8 IN DP 724628, LOT 24 IN DP 751328, LOT 7300 IN DP 1156652, LOT 25 IN DP 1181299 AND ROAD 40.235 WIDE

Lengths are in metres. Reduction Ratio 1:5,000

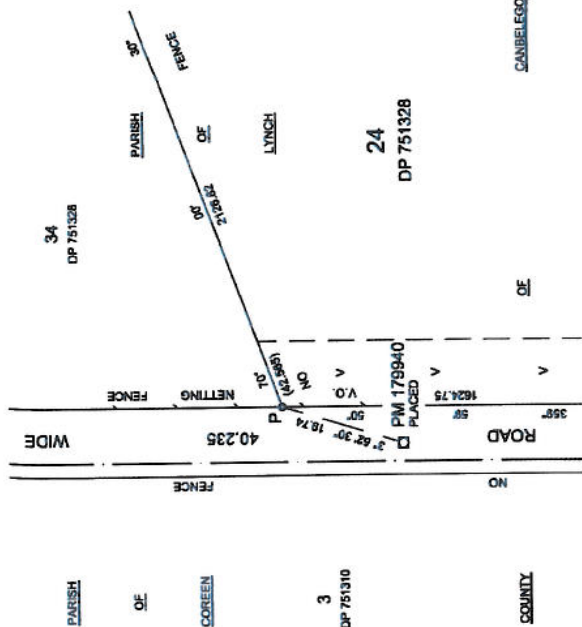
Surveyor: WAYNE KEITH ROWE
of LANDSCAPE AND HOME SURVEYORS DUBUDD
Date of Survey: 10/10/2012
Surveyor Ref: 2012/148_01

L.G.A.: BOGAN
Locality: NYNGAN
Subdivision No: —

Registered
7.6.2013

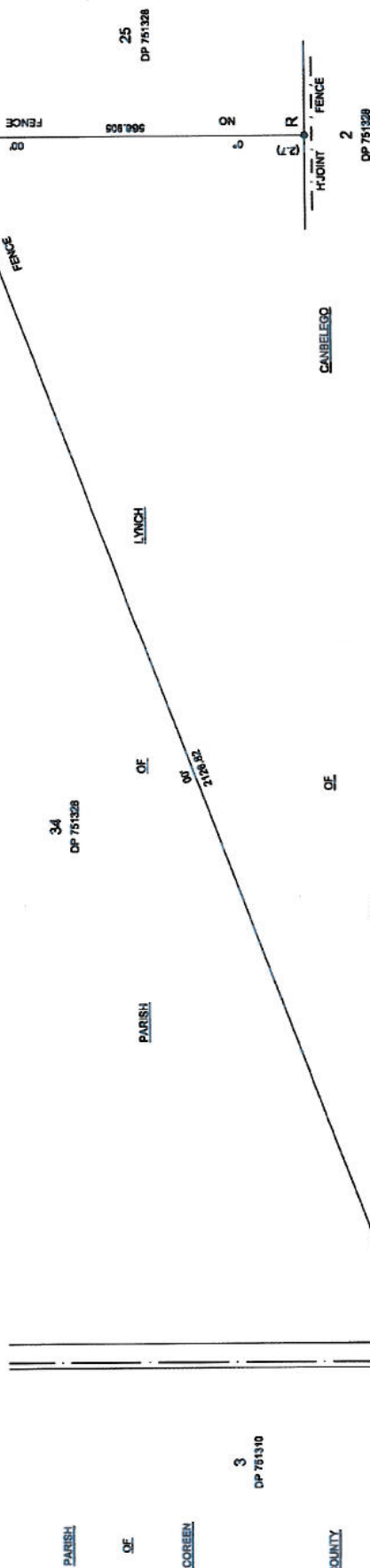
DP1185827

DP1185827



SCHEDULE OF REFERENCE MARKS				
CHRL	BEARING	DIST	FROM	ORIGIN
P	102° 50'	9.215	BOX - FOUND	C276-2148
G	9° 50'	4.028	G.I. PIPE - FOUND	C276-2148
R	180° 00'	4.028	G.I. PIPE - FOUND	C276-2148

DIAGRAM C
NOT TO SCALE



Surveyor: WAYNE KEITH ROWE
of LANGFORD AND ROWE SURVEYORS, DUBBO
Date of Survey: 10/10/2012
Surveyors Ref: 2012/148_01

PLAN OF PROPOSED EASEMENT FOR OVERHEAD
POWERLINES 40 WIDE AND VARIABLE WITHIN LOT 8 IN
DP 724628, LOT 24 IN DP 751328, LOT 7300 IN DP 1156652,
LOT 25 IN DP 1181259 AND ROAD 40.235 WIDE
Lengths are in metres. Reduction Ratio 1:5,000

L.G.A: BOGAN
Locality: NYNGAN
Subdivision No: —

Registered
7.6.2013

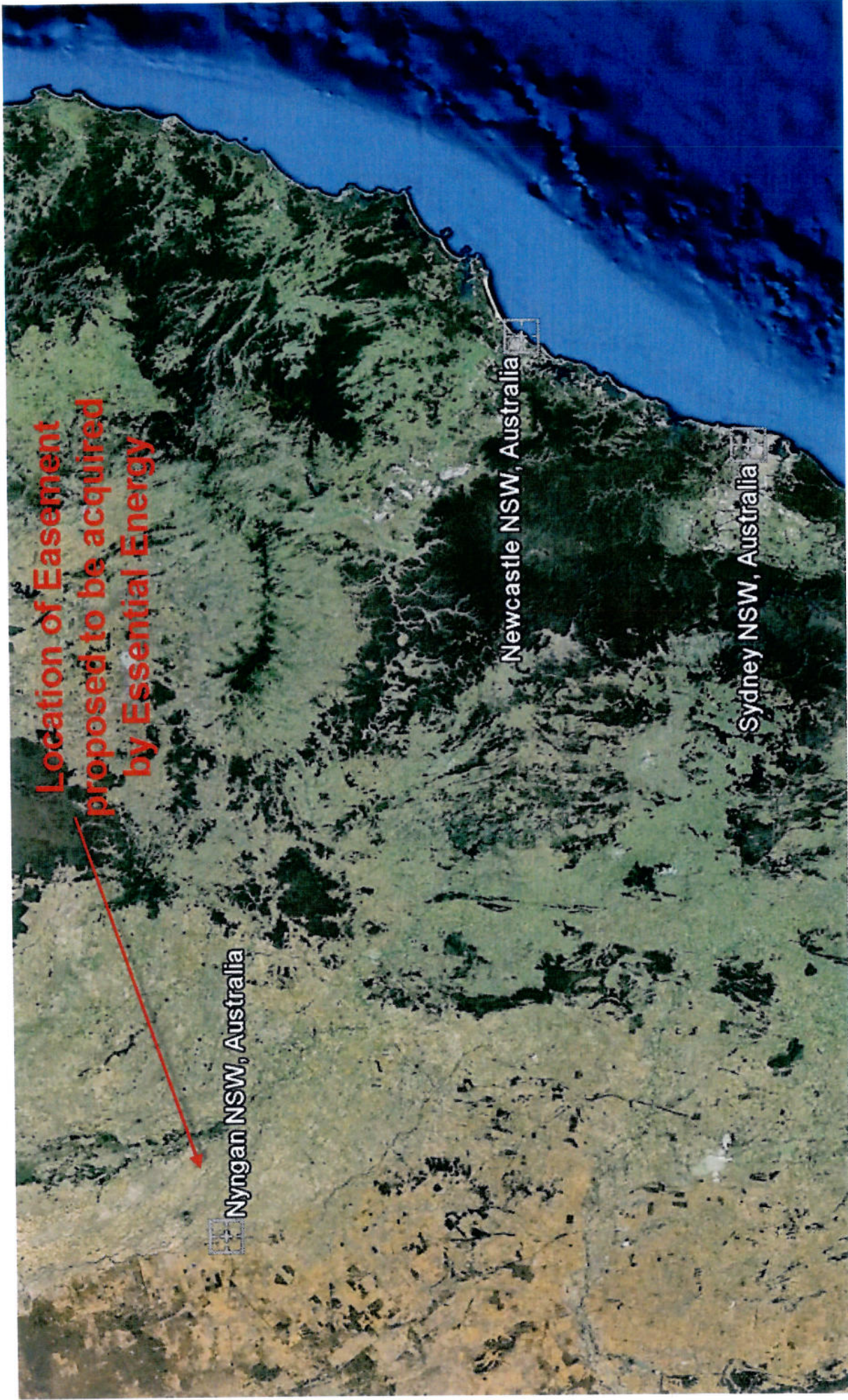
DP1185827

**Location of Easement
proposed to be acquired
by Essential Energy**

Nyngan NSW, Australia

Newcastle NSW, Australia

Sydney NSW, Australia



ESSENTIAL ENERGY
ELECTRICITY SUPPLY ACT 1995
LAND ACQUISITION (JUST TERMS COMPENSATION) ACT 1991
NOTICE OF COMPULSORY ACQUISITION OF AN EASEMENT
FOR ELECTRICITY PURPOSES AT NYNGAN

Essential Energy declares, with the approval of Her Excellency the Governor, with the advice of the Executive Council, that the Interest in Land described in Schedule 1 to this notice the terms of which are described in Schedule 2 to this notice is acquired by compulsory process in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*, for the purposes of the *Electricity Supply Act 1995*.

Dated at Sydney this day of 2013

Vince Graham
Chief Executive Officer
Essential Energy
PO Box 5730
Port Macquarie NSW 2444

SCHEDULE 1

Interest in Land	Easement for overhead powerlines 40 metres wide affecting Lot 7300 in DP1156652 shown as "V – Proposed easement for overhead powerlines 40 wide and variable" on DP1185827.
Locality	Nyngan
LGA	Bogan
Parish	Gilgai
County	Flinders

SCHEDULE 2

The easement for overhead powerlines listed in Schedule 1 is on the terms set out in Part A of Memorandum No. AG189384 registered on the Register held under the *Real Property Act 1900*.

In so far as any Native Title rights and interests may exist over the Crown land affected by the easement, the "non-extinguishment principle" as defined in section 238 of the *Native Title Act 1993* (Cth) applies to the acquisition of the Interest in Land.



Minute Paper for the Executive Council

Subject: - Compulsory Acquisition of an Interest in Land at Nyngan under the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Electricity Supply Act 1995*

Regd. No. of Papers: -

Trade & Investment, Regional
Infrastructure & Services

Sydney

*Approved by the
Executive Council,*

Clerk of the Council.

Minute No.

Date

Approved,

Governor.

.....
I RECOMMEND for the approval of Her Excellency the Governor, with the advice of the Executive Council, that ESSENTIAL ENERGY declare, by way of publication in the Gazette of the attached notice, that the Interest in Land described in Schedule 1 of the notice, the terms of which are described in Schedule 2 of the notice, be acquired by compulsory process under the *Land Acquisition (Just Terms Compensation) Act 1991* for the purposes of the *Electricity Supply Act 1995*.

Chris Hartcher MP
Minister for Resources and Energy

*Her Excellency the Governor
and The Executive Council.*

SCHEDULE 1

Interest in Land	Easement for overhead powerlines 40 metres wide affecting Lot 7300 in DP1156652 shown as "V – Proposed easement for overhead powerlines 40 wide and variable" on DP1185827.
Locality	Nyngan
LGA	Bogan
Parish	Gilgai
County	Flinders

SCHEDULE 2

The easement for overhead powerlines listed in Schedule 1 is on the terms set out in Part A of Memorandum No. AG189384 registered on the Register held under the *Real Property Act 1900*.

In so far as any Native Title rights and interests may exist over the Crown land affected by the easement, the "non-extinguishment principle" as defined in section 238 of the *Native Title Act 1993* (Cth) applies to the acquisition of the Interest in Land.