



## Department of Energy, Environment and Climate Action

71 Hotham Street  
Traralgon, Victoria 3844  
Telephone: 03 5172 2111  
[deeca.vic.gov.au](http://deeca.vic.gov.au)

Native Title Committee  
Gunaikurnai Land and Waters Aboriginal Corporation  
27 Scriveners Road  
Kalimna West Victoria 3909

Date: 29 October 2024

Dear Chairperson

### **RE: NOTICE CONCERNING WORKS ON CROWN LANDS (RIGHT TO MAKE SUBMISSIONS) PROPOSED ELECTRICITY TRANSMISSION CABLE – MARINUS LINK**

#### **The Proposal**

Marinus Link propose to construct a 1500 megawatt (MW) capacity power supply for approximately 1.5 million Australian homes.

The project will include the construction of a proposed undersea and underground electricity transmission cable and data interconnector between northwest Tasmania and the Latrobe Valley in Victoria.

The project's cables will span 345 kilometres (km). This includes 255 km of undersea cables across Bass Strait and 90 km of underground cables in Gippsland and will impact a number of Crown parcels subject to native title as detailed further in this letter.

The project includes installing high voltage direct current (HVDC) cables, fibre optic cables, a communications station, and converter stations at each end and will be installed using open trenching wherever possible. Horizontal directional drilling (HDD) will be used when the cable route needs to cross rivers, environmentally sensitive areas, railways, roads or utility services.

The standard construction corridor for trenching will be up to 36 metres wide to allow for trenches, drainage, machinery (like excavators) and utilities. The construction corridor width will be adjusted where necessary to avoid impacts to vegetation and existing infrastructure.

Further information on the overall project can be found online at [www.marinuslink.com.au](http://www.marinuslink.com.au)

The location of the area subject to proposal is outlined in the following attachments:

- Cadastral Plan - Marinus Link
- Cadastral plan showing Crown allotment descriptions.
- Aerial Plan showing Crown allotment descriptions
- On Land Construction Planning Information

#### **Privacy Statement**

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OFFICIAL

### Description of The Native Title Land and Waters Affected

- Crown allotment 5A, Section 3, in the Parish of Mirboo (5A~3\PP5224).
- Crown allotment F30, in the Parish of Hazelwood (F30\PP2749).
- Crown allotment 2020, in the Parish of Mirboo (2020\PP5224).
- Crown allotment 2021, in the Parish of Narracan South (2021\PP5224).

### Seeking Your Submissions

The *Native Title Act 1993* (NTA) requires DEECA to consult and seek submissions from the Traditional Owners of Native Title lands and incorporate appropriate conditions into consent to use and develop the land and if required, facilitate a six month period of 'good faith' negotiations between the parties to reach a mutual agreement. Further detail on the Submissions process is attached to this notice.

We understand that the proponent may also be obliged under Cultural Heritage legislation to contact the Gunaikurnai RAP body concerning this project and we will advise them of those responsibilities as a matter of standard process. However, if you would also like DEECA to raise some specific conditions on cultural heritage protection matters in the exercise of native title right to protect cultural heritage as part of this formal commentary and approvals process, we will be happy to do so at your direction.

Further, your comments on how this proposal might affect other native title rights and interests that may exist, and how that can be managed or addressed as part of this approvals process are also keenly sought.

Please note that the 'non-extinguishment' principle applies to these works.

The Department intends to advise the proponent that the project can proceed after 40 days from the date of this notification have elapsed. We would appreciate the opportunity to discuss this proposal however in the meantime please contact Matt Kelly at the following details.

Sarah Brown  
Program Officer, Gippsland  
Department of Energy, Environment and Climate Action  
71 Hotham Street  
Traralgon, Victoria, 3844

Email: [sarah.x.brown@deeca.vic.gov.au](mailto:sarah.x.brown@deeca.vic.gov.au)

Phone: 0436 642 301

### Legislative Basis for this Notice

The proposed activity is a valid future act pursuant to Section 24 KA of the *Native Title Act 1993*.

Subdivision K of the *Native Title Act 1993* (NTA) allows for acts to be carried out that constitute the establishment of a facility for service to the public as listed in Section 24KA(2) of the NTA.

In this case the work, being the construction an electricity transmission cable and distribution facility, are listed in Section 24KA(2)(a). The future act is being undertaken by Marinus Link as a Statutory Authority appointed by the Crown.

The non-extinguishment principle applies.

*S Brown*

Sarah Brown  
Program Officer, Gippsland,  
Department of Energy, Environment and Climate  
Action Date of Notice: 29 October 2024

## Attachment One: Good Faith Criteria

Developed jointly by the State and Native Title Services Victoria (now First Nations Legal and Research Services), criteria for assessing good faith may include, but should not be limited to, the following statements regarding appropriate conduct for all parties in negotiations.

- Negotiating in good faith may depend on the conduct of the party when considered as a whole. It generally involves approaching negotiations with an open mind and a genuine desire to reach an agreement, as opposed to simply adopting a rigid pre-determined position and not demonstrating any preparedness to shift.
- Some preparedness to shift position or compromise in order to achieve agreement is an important part of good faith negotiations, although it is recognised that parties may have little they are able to offer in resolution of some disputes.
- Negotiation in good faith does not mean that one party has an obligation to capitulate or to accept the other side's position, or mean that a negotiated agreement *must* be reached between the parties.
- If one party acts unreasonably there may be a lesser standard on the other party, depending on the circumstances of the particular case.
- Negotiation in good faith will require more than just facilitating discussions. It will require active participation in discussions and it may require the making of proposals.
- There is a need for frankness and openness in negotiations. Parties should not fail to disclose facts or legal argument that they intend to rely on when the Government is assessing good faith.
- The proponent should actively participate in the negotiation process, and provide information in relation to the proposed act. The proponent should *not*:
  - unreasonably delay initiating communications in the first instance;
  - fail, without explanation, to communicate with the other parties within a reasonable time;
  - fail to contact one or more of the other parties;
  - fail to follow up a lack of response from the other parties;
  - fail to respond to reasonable requests for relevant information within a reasonable time;
  - stall negotiations by unexplained delays in responding to correspondence or telephone calls;
  - unnecessarily postpone meetings;
  - send negotiators without authority to do more than argue or listen;
  - fail to make counter proposals;
  - act in a way which harms the negotiating process, eg: issuing inappropriate press releases;
  - refuse to sign a written agreement in respect of the negotiation process or otherwise.

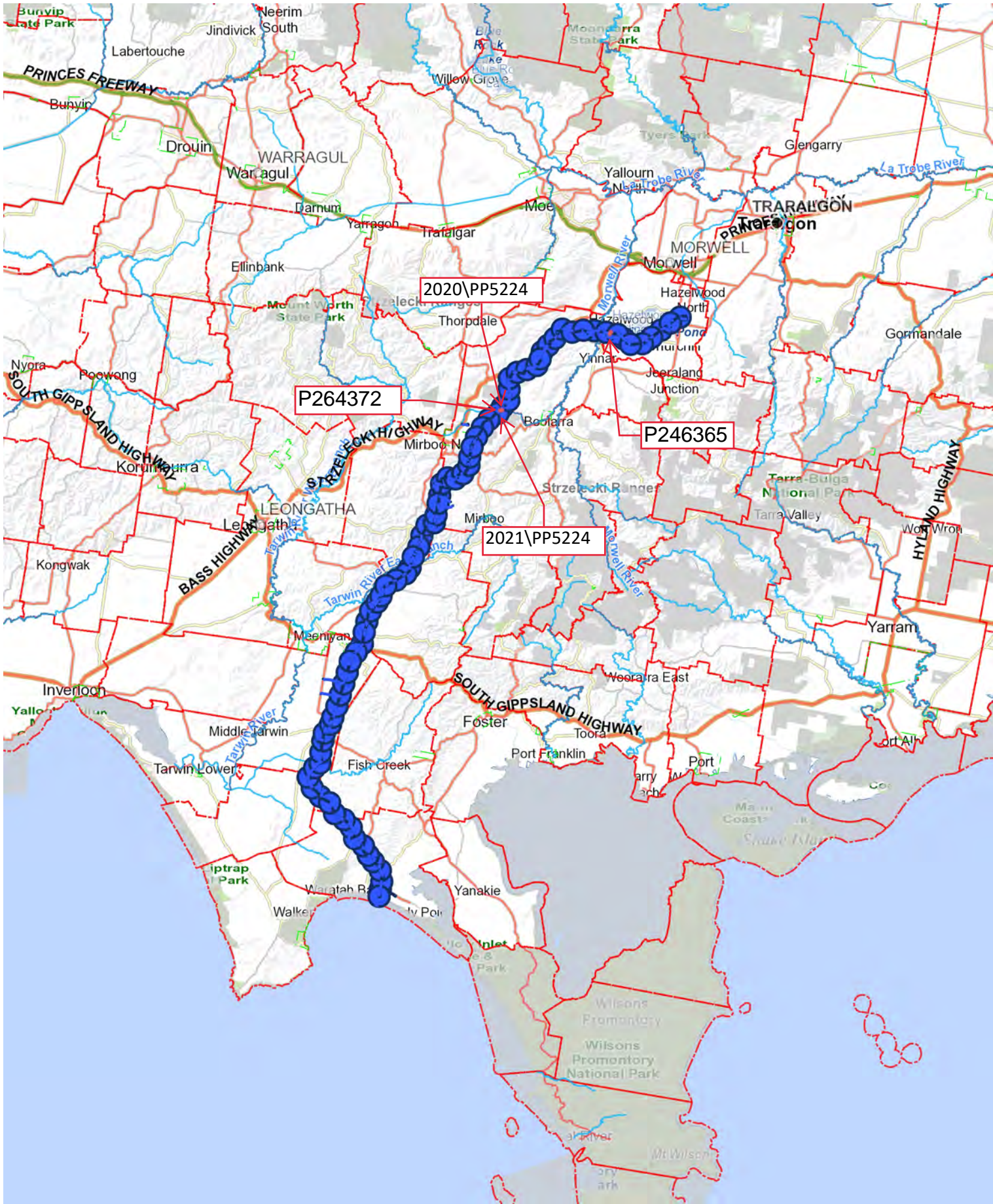
## Attachment Two: The Submissions Process

Summary of the *submissions process*:

- The *submissions process* is based on procedural rights for freehold title holders as set under Part Two of the *Land Acquisition and Compensation Act 1986*. This makes it a relevant process in situations where, under the enabling legislation, title would be acquired if the land was freehold.
- This process is also applied in situations where the relevant legislation does not anticipate freehold rights existing or the Crown acting in relation to freehold land, and therefore a common law procedural fairness approach is required to satisfy *Native Title Act 1993* provisions.
- The *submissions process* provides an opportunity for native title parties to negotiate directly with proponents, and to reach an agreement regarding the terms and conditions of the proposed activity.
- The *submissions process* provides a flexible and realistic timeframe for negotiations: allowing a period of up to 6 months when the activity concerns the development of major infrastructure. The time allowed for resolution of issues, or negotiation of a project specific agreement will be influenced by the nature and scale of the proposal.
- The Submission process is satisfied if the proponent can demonstrate good faith attempts to resolve issues raised in negotiations – even if the issues have not been able to be resolved to the complete satisfaction of all parties.
- Identification of “good faith” criteria means that negotiation protocols are clear from the start and each party is aware of their role in this process. Giving structure to this process ensures that negotiation timeframes and project deadlines can be met. A clearly defined process can assist parties to reach agreement.
- The National Native Title Tribunal (NNTT) can assist if negotiations stall.



Subject areas shaded red



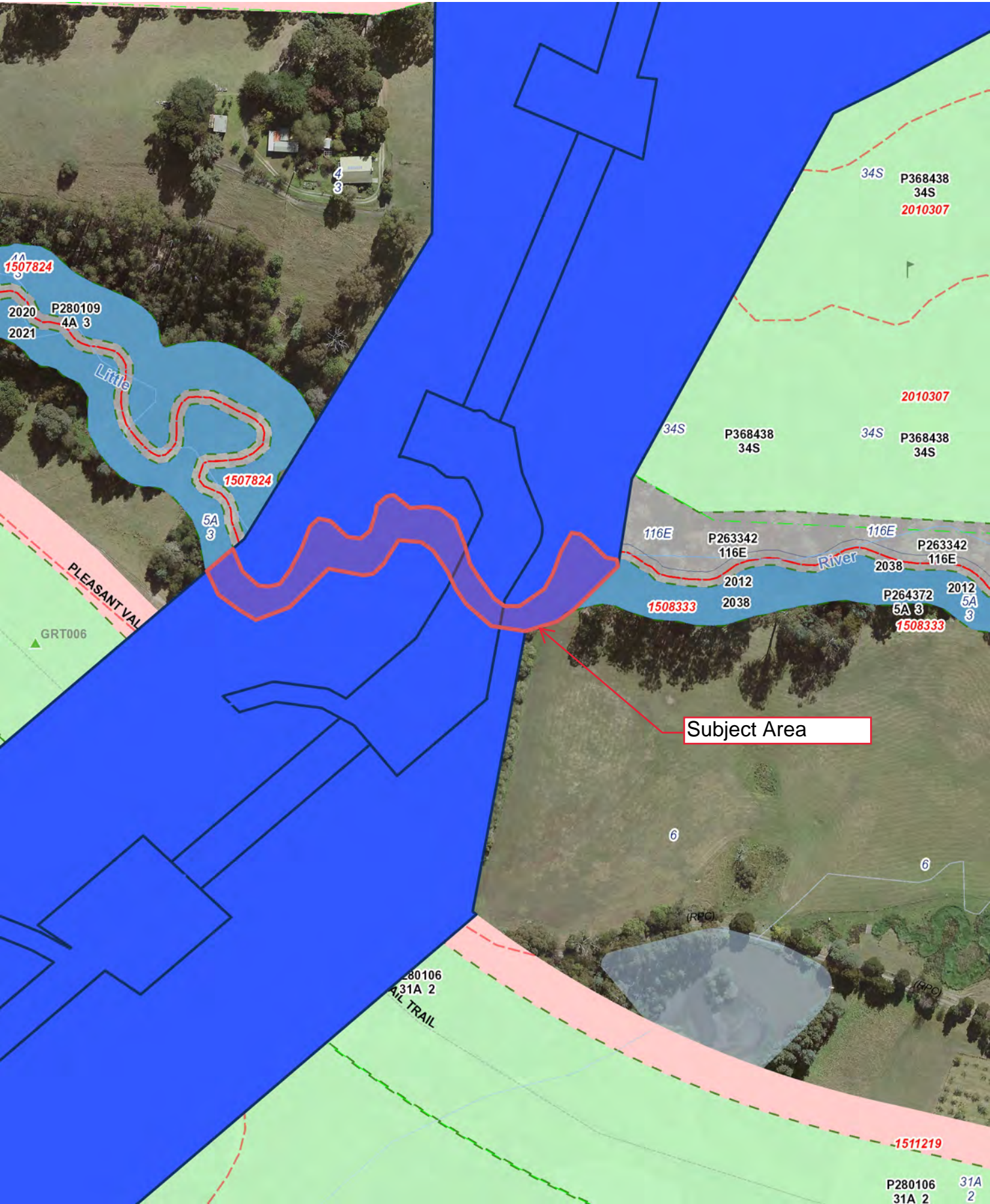
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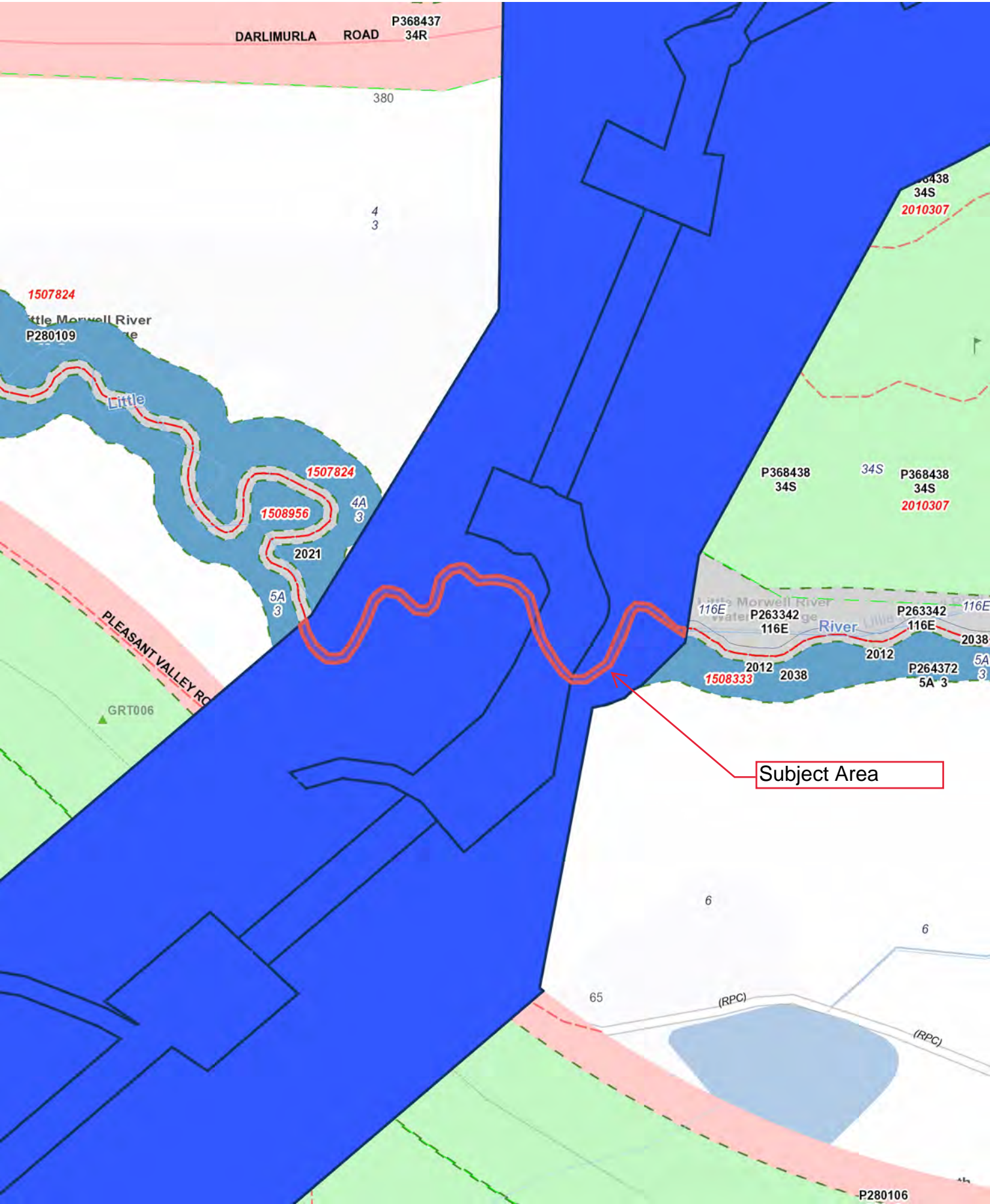
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# ON LAND CONSTRUCTION

January 2023

**MARINUS**  
LINK

# Planning is underway to identify the best construction method for Marinus Link

**Marinus Link is a proposed undersea and underground electricity and telecommunications interconnector between Tasmania and Victoria.**

It will further connect Tasmania to the National Electricity Market, comprising Queensland, New South Wales, ACT, Victoria, Tasmania and South Australia.

Marinus Link will comprise high voltage direct current (HVDC) cables, fibre-optic cables and converter stations in both Tasmania and Victoria.

Marinus Link will be about 345 kilometres long – 255 kilometres of undersea cables and 90 kilometres of underground cables.

It will have a 1500 megawatt capacity, equal to the power supply for 1.5 million Australian homes.

## INSTALLING THE LAND CABLES

The land cables for Marinus Link will be installed using open trenching wherever possible. Horizontal directional drilling (HDD) will be used when the cable route needs to cross rivers, environmentally sensitive areas, railways, roads or utility services.

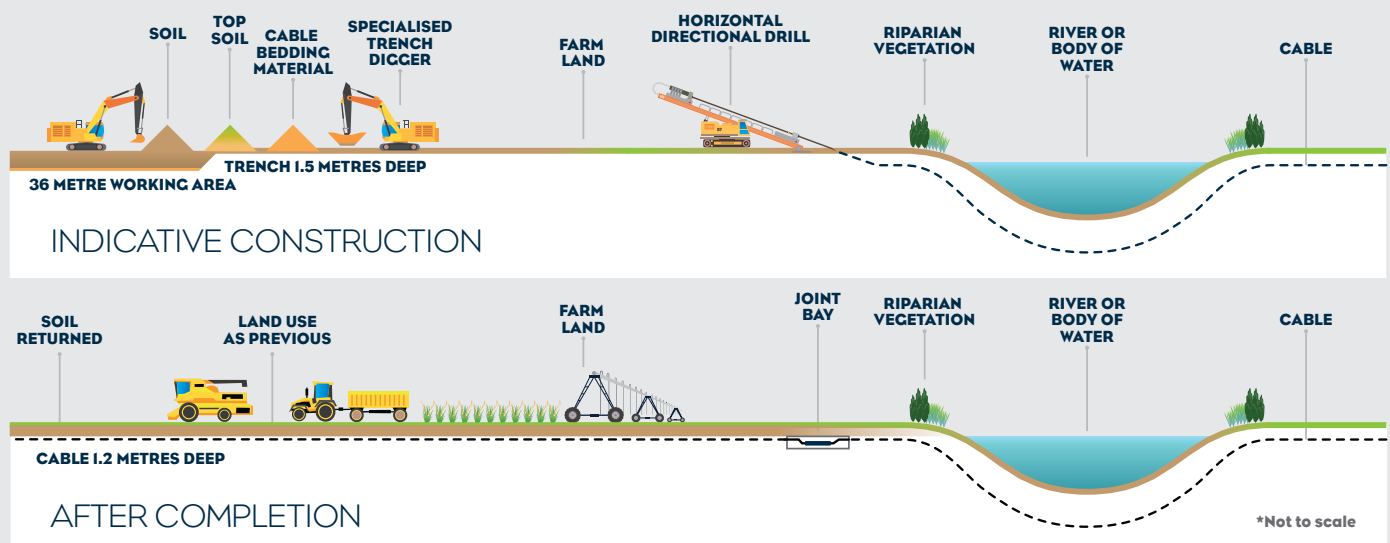
The standard construction corridor for trenching will be up to 36 metres wide to allow for trenches, drainage, machinery (like excavators) and utilities. The construction corridor width will be adjusted where necessary to avoid impacts to vegetation and existing infrastructure.

### Horizontal directional drilling (HDD)

HDD is an underground construction method which uses a horizontal directional drill to create a bore hole in places trenching is not suitable.

The ability to use HDD, as well as the length of time needed for drilling, depends on geology and other land conditions.

Geotechnical and environmental investigations will help determine where HDD will be used.





# LAYING OF THE CABLES

## The land cables will be installed in lengths ranging from 800 to 1,300 metres.

The cable lengths will be connected at joint bays, which are below ground engineered concrete pits. Joint bays are approximately 12 metres long, 2.5 metres wide and 2.5 metres deep, buried at least 0.5 metres below the surface. Where possible, joint bay locations will be selected in consultation with land owners to reduce impacts.

## The construction corridor and other access areas will be reinstated and rehabilitated following construction.

## Victorian shore crossing

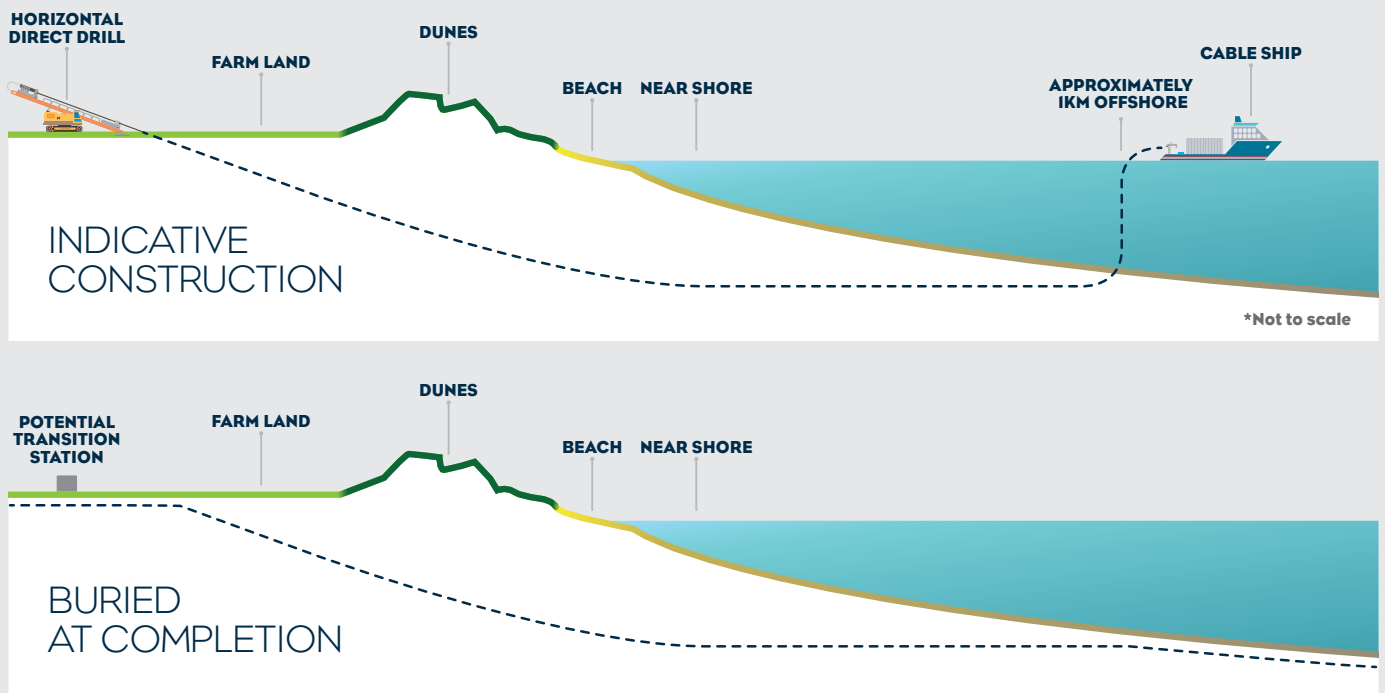
The Victorian shore crossing is proposed to be constructed using HDD.

To construct the shore crossing, a large temporary HDD drill pad of crushed rock will be laid on cleared farmland behind the sand dunes. From the pad, a drill will bore into the ground at an angle, working toward the water. The bore hole will extend into Bass Strait, either one kilometre from the transition point, or to a water depth of around 10 metres, whichever is determined to be safer.

This method means the shore crossing can be constructed with minimal disruption to the dunes, the beach and beach goers. It will also reduce the impacts on any environmental and cultural heritage values identified in the area.

## Disruption to the beach

Beaches at Waratah Bay will remain open during the shore crossing construction. The community will be advised of any temporary closures that may be needed to manage public safety during project activities. There will be no permanent access restrictions to the beach once construction is completed.





# Minimising construction impacts

**Most impacts to native plants, animals and cultural heritage values will be minimised either through minor changes to the route or by using HDD to install the cable in specific locations.**

## Plants

Vegetation may be removed for open trenching and for the construction of the converter and transition stations.

On-site environmental surveys will help determine which vegetation needs to be removed and where adjustments to the route can be made to minimise the impacts.

## Animals

Desktop studies have identified there may be several animal species in the project area.

Field surveys will help determine which of these species are found within our project area and what measures may need to be put in place to minimise impacts.

## Cultural heritage

An assessment of Aboriginal and historic cultural heritage was completed in 2021.

The project is working with Traditional Owners in the area to ensure any Aboriginal cultural heritage sites and areas of significance are respected in accordance with their requirements, values and beliefs.

No places of historic cultural heritage significance have been located within the survey area to date, however on-site studies are ongoing.

## Visual impacts

Using underground cables will minimise the visual impacts of Marinus Link.

Above ground structures such as converter and will be designed to blend into the local environment through building placement and colour schemes.

## MORE INFORMATION

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For further information on the project:

<b>visit</b>	<b><a href="https://marinuslink.com.au">marinuslink.com.au</a></b>
<b>email</b>	<b><a href="mailto:team@marinuslink.com.au">team@marinuslink.com.au</a></b>
<b>call</b>	<b>1300 765 275</b>

**MARINUS**  
LINK