



# Council Meeting Agenda

**Tuesday 7 June 2022 at 6:00 pm**  
Council Chambers (and by video conferencing)  
East Gippsland Shire Council Corporate Centre  
273 Main Street, Bairnsdale 3875





## Acknowledgement to country

East Gippsland Shire Council acknowledges the Gunaikurnai, Monero and the Bidawel people as the Traditional Custodians of this land that encompasses East Gippsland Shire, and their enduring relationship with country. The Traditional Custodians have cared and nurtured East Gippsland for tens of thousands of years.

Council value their living culture and practices and their right to self-determination. Council pays respect to all Aboriginal and Torres Strait Islander people living in East Gippsland, their Elders, past, present, and future.

## Council information

East Gippsland Shire Council live streams, records and publishes its meetings via webcasting ([youtube.com/c/EastGippyTV](https://youtube.com/c/EastGippyTV)) to enhance the accessibility of its meetings to the broader East Gippsland community.

These recordings are also archived and available for viewing by the public or used for publicity or information purposes. At the appropriate times during the meeting, any members of the gallery who are addressing the council will have their image, comments or submissions recorded.

No other person has the right to record Council meetings unless approval has been granted by the Chair.

In line with the *Local Government Act 2020*, Councillors are able to attend Council meetings electronically or in person and the meetings will be open to the public via livestreaming.

Members of the public are invited to view the Council Meeting livestreamed by following the link on Council's website or Facebook page.

*Photo supplied by Destination Gippsland*



## Councillors

Cr Mark Reeves (Mayor)  
Cr Arthur Allen (Deputy Mayor)  
Cr Sonia Buckley  
Cr Tom Crook  
Cr Jane Greacen OAM  
Cr Trevor Stow  
Cr Mendy Urie  
Cr Kirsten Van Diggele  
Cr John White

## Executive Leadership Team

Anthony Basford Chief Executive Officer  
Fiona Weigall General Manager Assets and Environment  
Peter Cannizzaro General Manager Business Excellence  
Stuart McConnell General Manager Place and Community

## Purpose of Council meetings

- (1) Council holds scheduled meetings and, when required, unscheduled meetings to conduct the business of Council.
- (2) Council is committed to transparency in decision making and, in accordance with the *Local Government Act 2020*, Council and Delegated Committee meetings are open to the public and the community are able to attend.
- (3) Meetings will only be closed to members of the public, in accordance with section 66 of the Act, if:
  - (a) there are clear reasons for particular matters to remain confidential; or
  - (b) a meeting is required to be closed for security reasons; or
  - (c) it is necessary to enable the meeting to proceed in an ordinary manner.
- (4) A meeting closed to the public for the reasons outlined in sub-rule 3(b) or 3(c) will continue to be livestreamed. In the event a livestream is not available:
  - (a) the meeting may be adjourned; or
  - (b) a recording of the proceedings may be available on the Council website.

## Governance Rules

A copy of East Gippsland Shire Council's governance rules can be found at  
<https://www.eastgippsland.vic.gov.au/council/council-policies>

## Councillors pledge

As Councillors of East Gippsland Shire Council, we solemnly and sincerely declare and affirm that we will consider each item on this agenda in the best interests of the whole municipal community.



## Vision

East Gippsland is an inclusive and innovative community that values our natural environment, puts community at the centre of Council decision-making, and creates the conditions in which communities can thrive.

## Our Strategic Objectives

1. An inclusive and caring community that respects and celebrates diversity.
2. Planning and infrastructure that enriches the environment, lifestyle, and character of our communities.
3. A natural environment that is managed and enhanced.
4. A thriving and diverse economy that attracts investment and generates inclusive local employment.
5. A transparent organisation that listens and delivers effective, engaging and responsive services.



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# 1 Procedural

## 1.1 Recognition of Traditional Custodians

East Gippsland Shire Council acknowledges the Gunaikurnai, Monero and the Bidawal people as the Traditional Custodians of this land that encompasses East Gippsland Shire, and their enduring relationship with country. The Traditional Custodians have cared and nurtured East Gippsland for tens of thousands of years.

Council value their living culture and practices and their right to self-determination. Council pays respect to all Aboriginal and Torres Strait Islander people living in East Gippsland, their Elders, past, present, and future.

## 1.2 Apologies

## 1.3 Declaration of Conflict of Interest

## 1.4 Confirmation of minutes

That the minutes of the Council Meeting held Tuesday 17 May 2022 and the unscheduled Council Meeting held Thursday 26 May 2022 be confirmed.

## 1.5 Next meeting

The next Council Meeting of Tuesday 28 June 2022 to be held at the Corporate Centre, 273 Main Street Bairnsdale commencing at 6.00 pm.

## 1.6 Requests for leave of absence

## 1.7 Open Forum

### 1.7.1 *Petitions*

### 1.7.2 *Questions of Council*

### 1.7.3 *Public Submissions*

# 2 Notices of Motion

# 3 Deferred Business

# 4 Councillor and Delegate Reports



## 5 Officer Reports

### 5.1 Business Excellence

#### 5.1.1 Discontinuance of Unused Road Reserve - 130 Day Avenue Omeo

Authorised by General Manager Business Excellence

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#### Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

#### Executive Summary

There is an unused government road on Crown land that runs through private property at 130 Day Avenue Omeo (Property). Council has received an expression of interest from the owners of the Property to purchase the land on which part of the unused government road runs through their Property.

The total area of the unused government road is 2,783 square metres. The subject land that runs through the Property is approximately 1,741 square metres.

This report seeks Council approval to commence proceedings for a road closure and discontinuance, to allow the Department of Environment, Land, Water and Planning (DELWP) to complete the sale of the relevant portion of this road to owners of 130 Day Avenue Omeo, refer **Attachment 1**.

## **Officer Recommendation**

### ***That Council:***

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. determines that part of the unused government road that runs through the property at 130 Day Avenue Omeo is not required for public access or any future public use (outlined **Blue** and marked '**B**' on Attachment 1);***
- 3. pursuant to Section 206, including clause 3 of Schedule 10 and section 207(b) of the Local Government Act 1989, and section 12 of the Road Management Act 2004 resolves to advertise its intention to close and discontinue part of the unused government road that runs through the private property at 130 Day Avenue Omeo;***
- 4. authorises the Chief Executive Officer to place a public notice of the proposed road closure and discontinuance of part of the unused government road;***
- 5. appoints a Committee comprising the whole of Council with a quorum of five Councillors, to hear and consider any written public submissions received in relation to the proposed closure and discontinuance of part of the unused government road, in accordance with section 223 of the Local Government Act 1989;***
- 6. nominates 26 July 2022 at 1:30pm as the date and time for the Committee to hear any submissions regarding the closure and discontinuance of part of the unused government road;***
- 7. authorises the Chief Executive Officer to publish a notice in the Government Gazette for the closure and discontinuance of part of the unused government road;***
- 8. notes that as part of the Section 223 process, a report providing a recommendation from the Committee Hearing will be presented at a future Council meeting for its consideration, should any submissions be received regarding the proposed closure and discontinuance of part of the unused government road;***
- 9. notes that no adjoining private property will become landlocked as a result of the closure and discontinuance of part of the unused government road that is proposed to be closed and discontinued (outlined **Blue** and marked '**B**' on Attachment 1); and***
- 10. authorises the Chief Executive Officer to place a caveat on the title of lot 6 ~ 7\PP5617 (outlined **Green** and marked '**C**' on Attachment 1) when the plan of subdivision and consolidation is lodged with the Titles Office to ensure the Property owner can provide road access for any future subdivision of the Property.***



## Background

In May 2019, the owners of the Property approached Council to purchase the part of the unused government road that runs through the Property. The owners of the Property advised that they intend to develop the land and build holiday accommodation on the site. The development of the Property is difficult with the unused government road running through part of the Property.

The property in question is part of an unused government road, which is Crown Land.

In June 2021 the Property owner wrote to Council seeking Council's assistance to close and discontinue the unused government road. Once the unused government road is formally closed and discontinued, the Property owner is required to arrange for a survey to be undertaken. The provisions under sections 206 and 207B, of the *Local Government Act* 1989, including clauses 2 and 3 of Schedule 10 and section 12 of the *Road Management Act* 2004 allow Council to close and discontinue a road. Once the unused government road is closed and discontinued, DELWP will complete the sale of the land on which the unused government road is placed, to the Property owner. This was confirmed in a letter of support from DELWP on 14 January 2022 that Council was able to close and discontinue part of the unused government road.

The total area of the unused government road is 2,783 square metres (**outlined Red and marked 'A' and outlined Blue and marked 'B' on Attachment 1**). The part of the unused government road that runs through the Property and is proposed to be closed and discontinued is approximately 1,741 square metres (**outlined Blue and marked 'B' on Attachment 1**).

The closure and discontinuance of part of the unused government road will not exclude any other private property adjoining the Property from having access to their property as the adjoining private property has access from Day Avenue, Omeo. Therefore, the closure and discontinuance of part of the unused government road will not cause any property to become landlocked (a property that is inaccessible via public thoroughfare, except through an adjacent property). The unused government road adjoins Crown land. Access to the Crown land is via the unused government road from the Old Omeo Highway (**outlined Red and marked 'A' on Attachment 1**) which is not being closed and discontinued.

Officers propose to include a caveat on the title when the plan of subdivision and consolidation is registered with the Titles Office. The reason for the caveat being added to the title is that if this parcel of land was to be subdivided at any time in the future, access must be provided by the Property owner through the Property identified as 6 ~ 7\PP5617 (**outlined Green and marked 'C' on Attachment 1**) so that the Property is not land locked. The provision of that access must be in accordance with the design standards set out in Council's Infrastructure Design Manual for a Rural Access classification road and all costs associated with that access must be borne by the Property Owner.

## **Legislation**

As of 1 July 2021, all provisions from the *Local Government Act 2020* commenced. Some provisions of the *Local Government Act 1989*, that have not been repealed, will remain applicable until such time as they are revoked.

The proposed discontinuance of the unused government road is required to be conducted in accordance with sections 206, 207B, of the *Local Government Act 1989*, including clauses 2 and 3 of Schedule 10 and section 12 of the *Road Management Act 2004*.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

The implications of this report have been assessed and align with the principles and objects of the *Gender Equality Act 2020*.

## **Collaborative procurement**

There are no aspects of this report that require entering into a procurement agreement and therefore external collaboration is not necessary.

## **Council Plan**

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 5: 5.1 A better everyday customer experience is created for our residents and visitors.

## **Council Policy**

The closure and discontinuance of the unused government road is not associated with any Council Policy as Council are only undertaking the closure and discontinuance of part of the unused government road, with DELWP completing the sale of the unused government road.

## **Options**

Two options have been considered in the preparation of this report being:

### **Option 1**

As per the Officers recommendations, Council determines that:

- the unused government road is not required for public access or any future public use; and
- resolve to advertise Council's intention to close and discontinue the unused government road that runs through Property.

### **Option 2**

That Council does not proceed with the road discontinuance as recommended. This option not to discontinue the unused government road, would result in the Property Owner having to liaise with DELWP for the future sale of the unused government road to them.

## **Resourcing**

### *Financial*

All valuation, surveying and legal costs associated with the discontinuance of the unused government road must be met by the Property Owner.

The future sale of the unused government road will be completed by DELWP and DELWP will retain all revenue from the sale of the unused government road.

### *Plant and equipment*

There are no plant and equipment requirements associated with this report.

### *Human Resources*

The implementation of the proposed road discontinuance of part of the unused government road that runs through the private property at 130 Day Avenue Omeo does not require any additional resources.

### *Risk*

When advertised, Council may receive submissions that oppose the proposed road closure and discontinuance of part of the unused government road that runs through the private property at 130 Day Avenue Omeo. Council will consider any written public submissions received, in accordance with section 223 of the *Local Government Act 1989*, and evaluate on a case-by-case basis, taking into consideration the merits and associated risks of each submission.

## **Economic**

There are no perceived economic factors that will be impacted by this report.

## **Social**

There are no identified social impacts in relation to this report.

### *Gender Impact Statement*

The report for the closure and discontinuance of part of the unused government road has considered the *Gender Equality Act 2020* in its preparation but is not relevant to its content.

The closure and discontinuance of part of the unused government road report has been assessed as not requiring a Gender Impact Assessment (GIA).

## **Environmental**

This report is assessed as having no direct impact on climate change.

### *Climate change*

This report has been prepared and aligned with the following Climate Change function/category:

This report is assessed as having no direct impact on climate change.

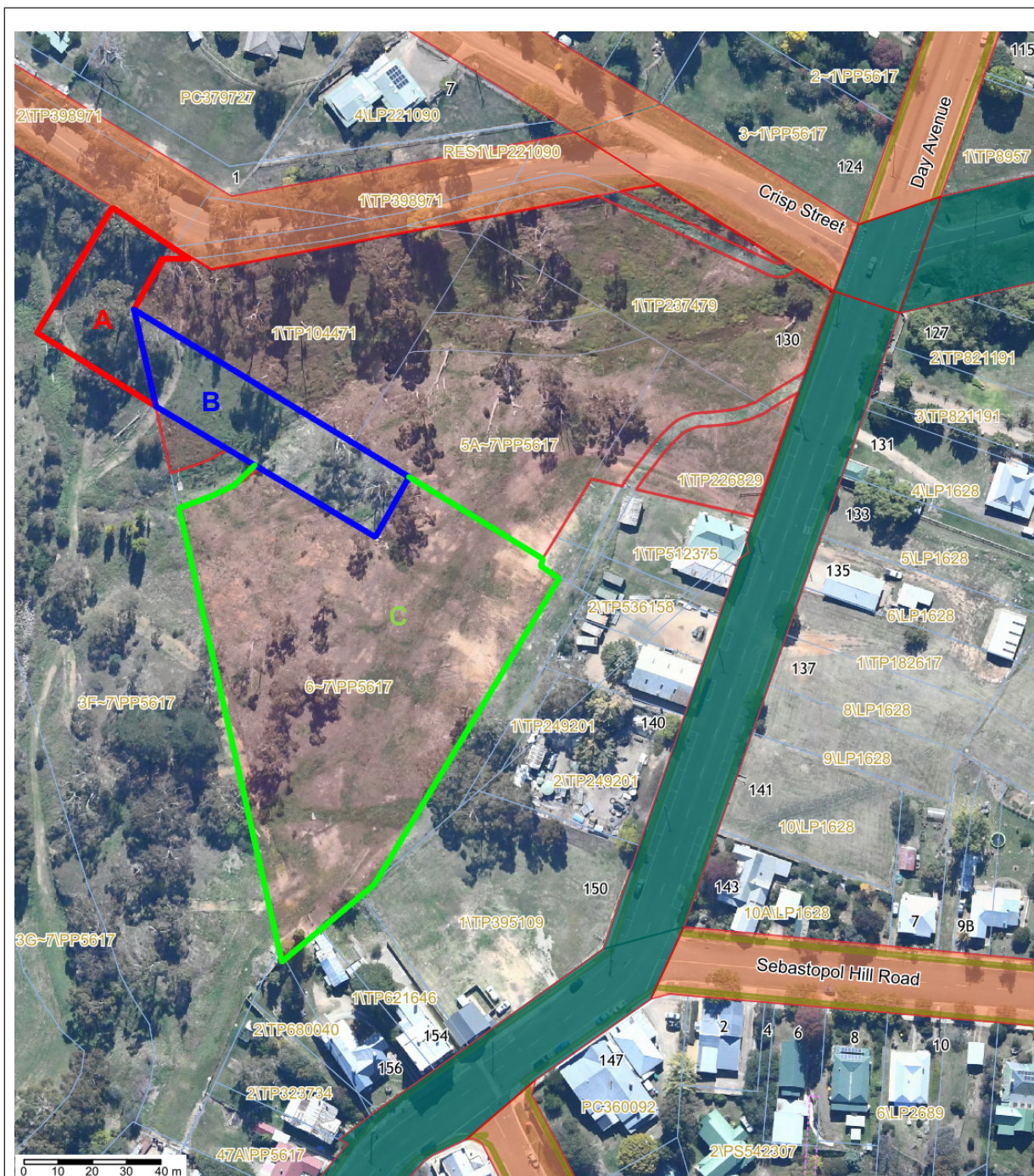


## **Engagement**

Members of the public will be entitled to make a submission response to the public notice and hearing process conducted in accordance with section 223 of the *Local Government Act* 1989.

## **Attachments**

1. Attachment 1 130 Day Avenue Omeo Discontinued Road [5.1.1.1 - 1 page]



This map contains Vicmap information The State of Victoria, Department of Environment, Land, Water and Planning, 2019.

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1:1599

29/03/2022



## 5.2 Place and Community

### 5.2.1 South Bairnsdale Industrial Estate Notice to Vary Special Charge Scheme

Authorised by General Manager Place and Community

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#### Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

#### Executive Summary

Charge Scheme in accordance with section 166 of the *Local Government Act* 1989.

The Special Charge Scheme (scheme) already declared, requires some landholders located in the South Bairnsdale Industrial Estate (the estate), to contribute a portion of the funding required to facilitate works to upgrade the water supply to the estate.

Works to upgrade the water supply will significantly reduce the costs to property owners located in the estate when installing private firefighting services for buildings with floor areas greater than 500 m<sup>2</sup>, thus removing what has been identified by landholders as a key barrier to developing effective use of the land.

The overall project cost to upgrade the water supply to the estate is \$2.4M. Of that, East Gippsland Water has already contributed \$1.1M in works and Regional Development Victoria has provided a grant of \$500,000. This scheme is intended to raise \$400,000 from benefiting landowners and the final \$400,000 contribution will be from Council.

Since the scheme was declared a number of issues had been identified:

- A 30 lot subdivision was created immediately prior to the declaration and the titles subsequently created were not provided notification of the scheme;
- Three properties have been transferred to new owners;
- Some properties were incorrectly included in the scheme; and
- Some properties were not included in the scheme and should have been.

The *Local Government Act* 1989 allows Council to vary the scheme. The variation of the scheme will:

- Ensure the basis for distribution of the special charge among those persons who are liable to pay it is fair, equitable and consistent with the original declaration; and
- Ensure the scheme is fully funded.

A summary of the number of properties impacted by changes proposed is outlined in **Attachment 1 – Special Charge Property Application Plan Variation**.



Those properties affected by the variation are shown in **Attachment 2 – Changes to Properties**, and summarised in the table below:

<b>Reason for adjustment</b>	<b>No. of lots added to the scheme</b>	<b>No. of lots removed from the scheme</b>
Change to reflect a Subdivision	30	2
Correction to ensure property assessment reflects current rating arrangements		20
Correction to ensure consistent application of principles	1	3
Property previously omitted	13	

The average cost of each benefit unit in the scheme will decrease by 2% from the originally calculated \$1,139.60 to \$1,120.45.

On 5 April 2022, Council declared its intention to vary the scheme. Formal notice of Council's intention to vary the scheme was published in the Bairnsdale Advertiser on 14 April 2022 and letters were sent to those landowners affected by the proposed variation. Council invited public submissions in accordance with ss 116(4) and 223 of the *Local Government Act 1989* and no submissions were received.

### **Officer Recommendation**

#### ***That Council:***

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. varies the South Bairnsdale Industrial Estate Special Charge (Special Charge) in accordance with section 166(1)(b) of the Local Government Act 1989 (Act) by varying the amount to be paid, the land to which it applies and the persons liable to pay it by substituting the Special Charge Property Application Plan which formed part of the declaration of the Special Charge on 16 December 2021 with the Special Charge Property Application Plan at Attachment 1; and***
- 3. authorises the Chief Executive Officer, to carry out any and all administrative procedures necessary, including notification to all relevant parties, to enable Council to give effect to this resolution and to carry out its functions under section 166 of the Act.***

## Background

On 16 December 2021, Council declared the South Bairnsdale Industrial Estate Special Charge Scheme.

The scheme was declared to fund water supply upgrades to the Estate that will reduce the need for installation of private firefighting schemes for buildings larger than 500m<sup>2</sup>. Since the declaration of the scheme, Council has become aware of two buildings currently under construction that will benefit from the scheme as a result of not needing to install a private firefighting service, saving up to \$200,000 per building thus demonstrating the value of the scheme.

Since the scheme was declared, a number of issues have arisen:

- A 30 lot subdivision was created immediately prior to the declaration and the titles subsequently created were not provided notification of the scheme;
- Three properties have been transferred to new owners;
- Some properties were incorrectly included in the scheme; and
- Some properties were not included in the scheme and should have been.

Section 166 of the *Local Government Act* 1989 allows Council to vary the scheme, subject to compliance with certain procedural requirements. The variation of the scheme will:

- ensure the basis of distribution of the special charge amongst those persons who are liable to pay it is fair, equitable and consistent with the original declaration; and
- ensure the scheme is fully funded.

Because the proposed variation will, if made, vary the total number of lots and Benefit Units (BU) included in the scheme, the value of a BU must be recalculated accordingly. The amount to be paid by each person who will be liable to pay the special charge will decrease by 2%, with the value of a BU reducing from the original \$1,139.60 to \$1,120.45 per BU.

Outlined in **Attachment 1** and **Attachment 2** is the area and individual lots to which the scheme variation will apply. **Attachment 3** shows the properties that have been added to the scheme and the reasons why. It should be noted that the area to which the scheme applies is not proposed to be changed, the variation will only vary the way that the scheme applies to individual properties within that area.

## Legislation

As of 1 July 2021, all provisions from the *Local Government Act 2020* commenced. Some provisions of the *Local Government Act 1989* (Act), that have not been repealed, will remain applicable until such time as they are revoked.

This report has been prepared in accordance with s166 of the Act, which regulates the variation of special charges.

Before Council can vary the scheme, public notice of Council's intention to do so must be given in accordance with s 166(3) of the Act. This requires Council to:

- publish notice of its intention to vary the scheme in a newspaper, which must:
  - contain an outline of the proposed variation;
  - set out the date on which it is proposed to make the variation; and
  - advise that copies of the proposed variation are available for inspection at the Council office for at least 28 days after the publication of the notice.
- send a copy of the public notice to the persons affected by the variation identified in s166(3) of the Act within 3 working days of the day on which the public notice is published.

On 5 April 2022, Council declared its intention to vary the scheme and authorised the issuing of the public notices referred to above. Formal notice of Council's intention to vary the scheme was published in the *Bairnsdale Advertiser* on 15 April 2022 and letters were sent to those landowners affected by the variation on 14 April 2022.

Further, in accordance with s 166(4) of the Act, once Council has given public notice of its intention to vary the special charge, Council must undertake formal consultation in accordance with section 223 of the Act. The formal consultation requires Council to invite submissions regarding the proposed variation and consider any submissions received before varying the scheme. This consultation has been completed and there were no submissions received from affected landowners.

The public notices issued by Council invited submissions regarding the proposed variation and copies of the proposed variation were advertised at Council offices and on Council's website from 6 April 2022 until 10 May 2022. Council did not receive any submissions regarding the proposed variation.

The Act makes specific provision for special charges to be challenged in the Victorian Civil and Administrative Tribunal (VCAT) on the grounds specified in sections 185 and 185AA of the Act.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

In preparing this report the *Victorian Gender Equality Act 2020* has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the *Gender Equality Act 2020*. The need for a Gender Impact Assessment has also been assessed. The implications of this report have been assessed and align with the principles and objects of the *Gender Equality Act 2020*.

## Collaborative procurement

Not applicable.

## **Council Plan**

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 4: 4.1 Leadership enables economic prosperity, investment, recovery, resilience and growth; and

Strategic Objective 4: 4.3 Council's work with stakeholders fosters entrepreneurship and new business opportunities, particularly with communities facing change.

## **Council Policy**

This recommendation is in accordance with the Special Charge Scheme Policy 2021.

## **Options**

There are two options available to Council:

Option 1 is a variation of the Special Charge Scheme.

Option 2 is that the Special charge scheme is not varied and the shortfall of funds recovered under the scheme be funded through Council's general revenue or Economic Development Discretionary Fund.

Council officers are recommending option 1, on the basis that it is:

- more fair and equitable than option 2;
- will fully recover the costs of the Special Charge Scheme; and
- will not place the scheme that has already been declared at risk.

A variation to the scheme will not expose the scheme that has already been declared to any further risk of challenge at VCAT. The persons currently liable for the special charge, and persons affected by the variation, may challenge the special charge at VCAT and have the same opportunity to appeal the special charge in VCAT on the grounds set out in s185 and 185AA of the Act.

Council officers have obtained legal advice in respect of the options available and considered in this report.

## **Resourcing**

### *Financial*

The financial implication of declaring intent to vary the Special Charge Scheme is the ability to fully recover the landowner costs of scheme.

### *Plant and equipment*

There are no plant and equipment implications.

### *Human Resources*

There are no human resource implications of the variation apart from the work required to manage the variation.



### *Risk*

The risks of this proposal have been considered and are considered low. There is no risk in declaring an intent to vary the Special Charge Scheme.

### **Economic**

This agreement will facilitate further development of the South Bairnsdale Industrial Estate with subsequent economic benefits.

### **Social**

There are no social implications of the project.

### *Gender Impact Statement*

The Special Charge Scheme Variation has considered the *Gender Equality Act 2020* in its preparation. The Special Charge Scheme Variation has been assessed as not requiring a Gender Impact Assessment (GIA).

### **Environmental**

There are no environmental implications of this report. Should the Special Charge Scheme go ahead then all works will be undertaken in accordance with East Gippsland Water's environmental policies and practices.

### *Climate change*

This report has been prepared and aligned with the following Climate Change function/category: building resilience through the increasing of fire-fighting capabilities given the expected (and recently experienced) increase in frequency and intensity of bushfire.

### **Engagement**

Formal community consultation regarding the scheme and the proposed upgrade works was undertaken at the time of declaring the scheme. The scheme is broadly supported by the owners of land in the South Bairnsdale Industrial Estate.

Further, Council invited public submissions in connection with the proposed variation and received no responses.

### **Attachments**

1. Special charge property application plan variation [5.2.1.1 - 7 pages]
2. Scheme Plan of Area [5.2.1.2 - 1 page]
3. Changes to properties [5.2.1.3 - 3 pages]

Lot Number	Property Address	Adjusted Number of Benefit Units	Adjusted Cost @ \$1,120.45
Lot 2 LP 120268, CA 32 Sec B	32 Bosworth Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 2 LP 120268, CA 32 Sec B	32 Bosworth Road BAIRNSDALE VIC 3875	0	\$ -
Lot 1 TP 567627	63 Bosworth Road BAIRNSDALE VIC 3875	3	\$ 3,361.35
PC 371491	83 Bosworth Road BAIRNSDALE VIC 3875	16	\$ 17,927.20
Lot 1 TP 134225	52 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
CA 8 Sec B	108 Forge Creek Road BAIRNSDALE VIC 3875	14	\$ 15,686.30
CP 155570	2 Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 6 LP 127423	4 Giles Street BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 7 LP 127423	8 Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 18 LP 132371	12 Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 19 LP 132371	14 Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
CP 170548	1 Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 349932	1/3 Giles Street BAIRNSDALE VIC 3875		\$ -
Lot 2 PS 349932	2/3 Giles Street BAIRNSDALE VIC 3875		\$ -
Lot 3 PS 349932	3/3 Giles Street BAIRNSDALE VIC 3875		\$ -
Lot 4 PS 349932	4/3 Giles Street BAIRNSDALE VIC 3875		\$ -
Lot 9 LP 132371	1 Hayward Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 10 LP 132371	2 Hayward Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 11 LP 132371	3 Hayward Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 312015	4 Hayward Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 15 LP 132371	7 Hayward Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 16 LP 132371	8 Hayward Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 TP 207779	111 Holloway Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 TP 94328	99 Holloway Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 28 LP 10515	101 Holloway Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 TP 643363	103 Holloway Street BAIRNSDALE VIC 3875	4	\$ 4,481.80
Lot 16 LP 204553	46 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 TP 186008	113-117 Holloway Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 TP 88954	113-117 Holloway Street BAIRNSDALE VIC 3876	1	\$ 1,120.45
Lot 1 TP 550629	113-117 Holloway Street BAIRNSDALE VIC 3877	1	\$ 1,120.45
Lot 1 LP 213976	67 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 7 LP 213976	55 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45

Lot Number	Property Address	Adjusted Number of Benefit Units	Adjusted Cost @ \$1,120.45
Lot 6 LP 213976	57 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 5 LP 213976	59 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 4 LP 213976	61 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 3 LP 213976	63 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 LP 213976	65 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 5 PS 349932	5/3 Giles Street BAIRNSDALE VIC 3875		\$ -
Lot 24 PS 319773	20 Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 25 PS 319773	22 Giles Street BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 26 PS 319773	26 Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 407978	30 Giles Street BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 3 PS 407978	34 Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 414829	71 Bosworth Road BAIRNSDALE VIC 3875	10	\$ 11,204.50
Lot 1 PS 414829	75 Bosworth Road BAIRNSDALE VIC 3875	5	\$ 5,602.25
Lot 1 TP 588484	40 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 TP 549492	46 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 52 LP 869	48 Forge Creek Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 1 TP 611259	50 Forge Creek Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
CP 167938	16 Giles Street BAIRNSDALE VIC 3875	2	\$ 2,240.90
CP 167938	16A Giles Street BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 25 LP 10515	127 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 26 LP 10516	128 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 3 PS 422547	21 Giles Street BAIRNSDALE VIC 3875	2	\$ 2,240.90
PC 361698	1A Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 5 PS 516532	104 Forge Creek Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 1 PS 323053, Lot 1 PS 442906	41 Bosworth Road BAIRNSDALE VIC 3875	13	\$ 14,565.85
Part Lot 5 PS 407978	41 Giles Street BAIRNSDALE VIC 3875	4	\$ 4,481.80
Part Lot 5 PS 407978	67 Giles Street BAIRNSDALE VIC 3875	0	\$ -
Lot 3 PS 442906	21 Bosworth Road BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 2 PS 442906	25 Bosworth Road BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 17 PS 517808	54 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 16 PS 517808	58 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45

Lot Number	Property Address	Adjusted Number of Benefit Units	Adjusted Cost @ \$1,120.45
Lot 15 PS 517808	62 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 14 PS 517808	66 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 516532	82 Forge Creek Road BAIRNSDALE VIC 3875	7	\$ 7,843.15
Lot 1 PS 545169	70 Bosworth Road BAIRNSDALE VIC 3875	15	\$ 16,806.75
Lot 2 PS 521900	11 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 535109	13 Giles Street BAIRNSDALE VIC 3875	4	\$ 4,481.80
Lot 2 PS 535109	17 Giles Street BAIRNSDALE VIC 3875	6	\$ 6,722.70
Lot 13 PS 521900	12 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 8 PS 521900	23 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 4 PS 524605	133 Bosworth Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 5 PS 524606	133 Bosworth Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 3 PS 524605	141 Bosworth Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 4 PS 528615	19 Rovon Place BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 12 PS 528615	33 Rovon Place BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 8 PS 528615	34 Rovon Place BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 11 PS 528615	37 Rovon Place BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 9 PS 528615	38 Rovon Place BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 10 PS 528615	41 Rovon Place BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 11 PS 521900	16 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 10 PS 521900	18 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 3 PS 521900	13 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 4 PS 521900	15 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 12 PS 521900	14 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 9 PS 521900	20 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 527887	53 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 527887	6 Campbells Drive BAIRNSDALE VIC 3875		\$ -
Lot 8 PS 609729	110 Bosworth Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 10 PS 609729	9 Railway Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 18 PS 609729	10 Railway Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 11 PS 609729	11 Railway Court BAIRNSDALE VIC 3875	1	\$ 1,120.45

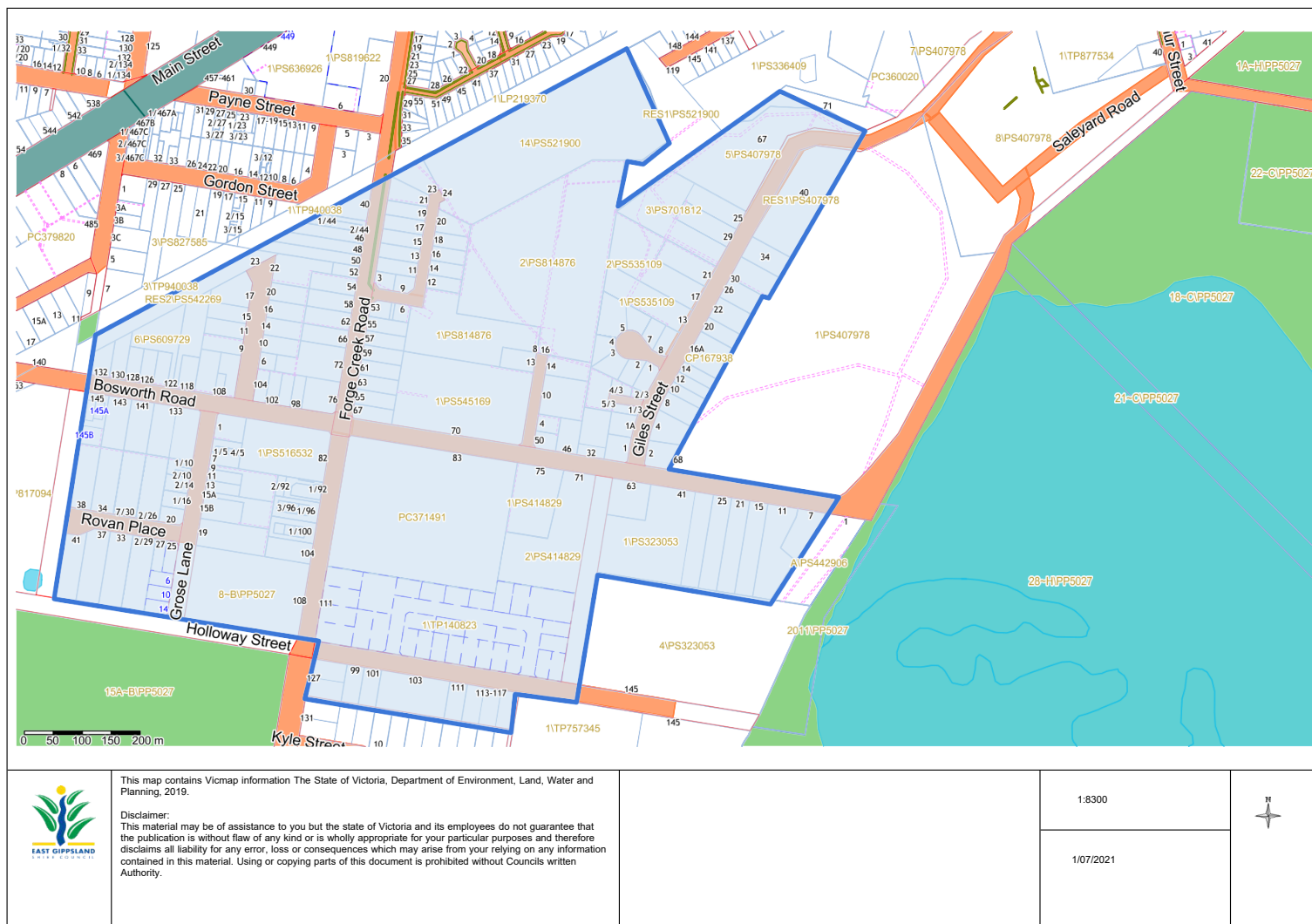
Lot Number	Property Address	Adjusted Number of Benefit Units	Adjusted Cost @ \$1,120.45
Lot 17 PS 609729	14 Railway Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 12 PS 609729	15 Railway Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 16 PS 609729	16 Railway Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 13 PS 609729	17 Railway Court BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 15 PS 609729	20 Railway Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 14 PS 609729	22 Railway Court BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 3 PS 618835	76 Forge Creek Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 1 PS 631898	9 Rovon Place BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 2 PS 631898	11 Rovon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 3 PS 631898	13 Rovon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Part Lot 7 PS 528615	1/30 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 7 PS 528615	2/30 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 7 PS 528615	3/30 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 7 PS 528615	4/30 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 6 PS 528615	1/26 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 6 PS 528615	2/26 Rovon Place BAIRNSDALE VIC 3875		\$ -
Part Lot 7 PS 528615	5/30 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 7 PS 528615	6/30 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 7 PS 528615	7/30 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 7 PS 528615	8/30 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Lot 1 PS 644533	1/100 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
Lot 2 PS 644533	2/100 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
Lot 3 PS 644533	3/100 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
Lot 1 PS 635568	20 Rovon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 4 PS 634473	98 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 3 PS 634473	100 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 634473	102 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 634473	104 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45

Lot Number	Property Address	Adjusted Number of Benefit Units	Adjusted Cost @ \$1,120.45
Lot 1 PS 701812,	25 Giles Street BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 3 PS 701813	26 Giles Street BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 2 PS 701812	29 Giles Street BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 1 PS 524605	145 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 524606	145 Bosworth Road BAIRNSDALE VIC 3875	0	\$ -
Lot 1 PS 524607	145 Bosworth Road BAIRNSDALE VIC 3875	0	\$ -
Lot 2 PS 524605	143 Bosworth Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 2 PS 707809	25 Rovon Place BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 1 PS 707809	27 Rovon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 712494	1/96 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
Lot 3 PS 712494	3/96 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
Part Lot 13 PS 528615	1/29 Rovon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Part Lot 13 PS 528615	2/29 Rovon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Part Lot 13 PS 528615	3/29 Rovon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 4 PS 442906	15 Bosworth Road BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 1 PS 738967	1/10 Rovon Place BAIRNSDALE VIC 3875		\$ -
Lot 2 PS 738967	2/10 Rovon Place BAIRNSDALE VIC 3875		\$ -
Lot 1 PS 702477	1/92 Forge Creek Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 702477	2/92 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
Lot 14 PS 521900	24 Campbells Drive BAIRNSDALE VIC 3875	16	\$ 17,927.20
Lot 1 PS 715253	7 Bosworth Road BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 2 PS 715253	11 Bosworth Road BAIRNSDALE VIC 3875	4	\$ 4,481.80
Part Lot 2 PS 712494	2A/96 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
Part Lot 2 PS 712494	2B/96 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
Part Lot 3 PS 635568	1/14 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 3 PS 635568	2/14 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 2 PS 635568	1/16 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Part Lot 2 PS 635568	2/16 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Lot 2 PS 715871	1/44 Forge Creek Road BAIRNSDALE VIC 3875		\$ -



Lot Number	Property Address	Adjusted Number of Benefit Units	Adjusted Cost @ \$1,120.45
Lot 1 PS 715871	2/44 Forge Creek Road BAIRNSDALE VIC 3875		\$ -
Part Lot 6 PS 528615	3-8/26 Rovon Place BAIRNSDALE VIC 3875	0	\$ -
Lot 5 PS 521900	17 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 10 PS 613284	10 Sammon Place BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 1 PS 613284	13 Sammon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 9 PS 613284	14 Sammon Place BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 1 PS 808317	6 Railway Court BAIRNSDALE VIC 3875		\$ -
Lot 2 PS 808317	72 Forge Creek Road BAIRNSDALE VIC 3875	3	\$ 3,361.35
PC 378227	1 Rovon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 749439	106 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 749439	108 Bosworth Road BAIRNSDALE VIC 3875		\$ -
Lot 19 PS 609729	118 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 5 PS 609729	124 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 609729	130 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 609729	132 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 6 PS 521900	19 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 7 PS 521900	21 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 824725	107 Forge Creek Road BAIRNSDALE 3875	1	\$ 1,120.45
Lot 2 PS 824725	109 Forge Creek Road BAIRNSDALE 3875	1	\$ 1,120.45
Lot 3 PS 824725	111 Forge Creek Road BAIRNSDALE 3875	1	\$ 1,120.45
Lot 4 PS 824725	96 Holloway Street BAIRNSDALE 3875	1	\$ 1,120.45
Lot 30 PS 824725	124 Holloway Street BAIRNSDALE 3875	1	\$ 1,120.45
Lot 5 PS 824725	98 Forge Creek Road BAIRNSDALE 3875	1	\$ 1,120.45
Lot 6 PS 824725	3 Jacksons Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 7 PS 824725	4 Jacksons Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 8 PS 824725	106 Holloway Street BAIRNSDALE 3875	1	\$ 1,120.45
Lot 9 PS 824725	108 Holloway Street BAIRNSDALE 3875	1	\$ 1,120.45
Lot 10 PS 824725	110 Holloway Street BAIRNSDALE 3875	1	\$ 1,120.45
Lot 11 PS 824725	112 Holloway Street BAIRNSDALE 3875	1	\$ 1,120.45
Lot 12 PS 824725	114 Holloway Street BAIRNSDALE 3875	1	\$ 1,120.45
Lot 13 PS 824725	116 Holloway Street BAIRNSDALE 3875	1	\$ 1,120.45

Lot Number	Property Address	Adjusted Number of Benefit Units	Adjusted Cost @ \$1,120.45
Lot 14 PS 824725	16 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 15 PS 824725	29 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 16 PS 824725	14 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 17 PS 824725	12 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 18 PS 824725	10 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 19 PS 824725	5 Jackson Crescent BAIRNSDALE 3875	2	\$ 2,240.90
Lot 20 PS 824725	9 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 21 PS 824725	11 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 22 PS 824725	13 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 23 PS 824725	15 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 24 PS 824725	17 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 25 PS 824725	19 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 26 PS 824725	21 Jackson Crescent BAIRNSDALE 3875	3	\$ 3,361.35
Lot 27 PS 824725	25 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 28 PS 824725	29 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 29 PS 824725	28 Jackson Crescent BAIRNSDALE 3875	1	\$ 1,120.45
Lot 4 PS 649982	7 Rovon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 4 PS 609729	126 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 814876	8 Campbells Drive BAIRNSDALE VIC 3875	10	\$ 11,204.50
Lot 2 PS 814876	16 Sammon Place BAIRNSDALE VIC 3875	16	\$ 17,927.20
Lot 3 PS 609729	128 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 6 PS 609729	122 Bosworth Road BAIRNSDALE VIC 3875	3	\$ 3,361.35
Lot 1 PS 819905	15B Rovon Place BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 2 PS 819905	15A Rovon Place BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 1 PS 312015	5 Hayward Court BAIRNSDALE VIC 3875	2	\$ 2,240.90
Lot 14 LP 132371	6 Hayward Court BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 1 PS 831199	50 Bosworth Road BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 831199	4 Sammon Place BAIRNSDALE VIC 3875	1	\$ 1,120.45
Lot 2 PS 819636	9 Campbells Drive BAIRNSDALE VIC 3875	1	\$ 1,120.45
<b>Total</b>		<b>357</b>	<b>\$ 400,000.65</b>



### Special Charge Scheme Changes to Properties

Property Address	Original Number of Benefit Units	Adjusted Number of Benefit Units	Reason	Increase/decrease
32 Bosworth Road BAIRNSDALE VIC 3875	3	2	Reflects current rating	decrease
8 Hayward Court BAIRNSDALE VIC 3875	1	1	Change of ownership	no change
50 Forge Creek Road BAIRNSDALE VIC 3875	2	2	Change of ownership	no change
127 Forge Creek Road BAIRNSDALE VIC 3875	3	1	Reflects current rating	decrease
41 Giles Street BAIRNSDALE VIC 3875	12	4	Consistent application of principles	decrease
67 Giles Street BAIRNSDALE VIC 3875	4	0	Reflects current rating	decrease
62 Forge Creek Road BAIRNSDALE VIC 3875	1	1	Consistent application of principles	decrease
19 Rovon Place BAIRNSDALE VIC 3875	3	3	Consistent application of principles	decrease
14 Railway Court BAIRNSDALE VIC 3875	1	1	Change of ownership	no change
1/30 Rovon Place BAIRNSDALE VIC 3875	3	0	Reflects current rating	decrease
2/30 Rovon Place BAIRNSDALE VIC 3875	3	0	Reflects current rating	decrease
3/30 Rovon Place BAIRNSDALE VIC 3875	3	0	Reflects current rating	decrease
4/30 Rovon Place BAIRNSDALE VIC 3875	3	0	Reflects current rating	decrease
1/26 Rovon Place BAIRNSDALE VIC 3875	3	0	Consistent application of principles	decrease
5/30 Rovon Place BAIRNSDALE VIC 3875	3	0	Reflects current rating	decrease
6/30 Rovon Place BAIRNSDALE VIC 3875	3	0	Reflects current rating	decrease
7/30 Rovon Place BAIRNSDALE VIC 3875	3	0	Reflects current rating	decrease
8/30 Rovon Place BAIRNSDALE VIC 3875	3	0	Reflects current rating	decrease
25 Giles Street BAIRNSDALE VIC 3875	2	1	Reflects current rating	increase
145 Bosworth Road BAIRNSDALE VIC 3875	2	1	Subdivision occurred	decrease
1/29 Rovon Place BAIRNSDALE VIC 3875	3	1	Reflects current rating	decrease
2/29 Rovon Place BAIRNSDALE VIC 3875	3	1	Reflects current rating	decrease
3/29 Rovon Place BAIRNSDALE VIC 3875	3	1	Reflects current rating	decrease
1/14 Rovon Place BAIRNSDALE VIC 3875	1	0	Reflects current rating	decrease
2/14 Rovon Place BAIRNSDALE VIC 3875	1	0	Reflects current rating	decrease
1/16 Rovon Place BAIRNSDALE VIC 3875	1	0	Reflects current rating	decrease
2/16 Rovon Place BAIRNSDALE VIC 3875	1	0	Reflects current rating	decrease
3-8/26 Rovon Place BAIRNSDALE VIC 3875	3	0	Reflects current rating	decrease
109 Forge Creek Road BAIRNSDALE 3875		1	Subdivision occurred	increase
111 Forge Creek Road BAIRNSDALE 3875		1	Subdivision occurred	increase

Property Address	Original Number of Benefit Units	Adjusted Number of Benefit Units	Reason	Increase/decrease
96 Holloway Street BAIRNSDALE 3875		1	Subdivision occurred	increase
124 Holloway Street BAIRNSDALE 3875		1	Subdivision occurred	increase
98 Forge Creek Road BAIRNSDALE 3875		1	Subdivision occurred	increase
3 Jacksons Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
4 Jacksons Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
106 Holloway Street BAIRNSDALE 3875		1	Subdivision occurred	increase
108 Holloway Street BAIRNSDALE 3875		1	Subdivision occurred	increase
110 Holloway Street BAIRNSDALE 3875		1	Subdivision occurred	increase
112 Holloway Street BAIRNSDALE 3875		1	Subdivision occurred	increase
114 Holloway Street BAIRNSDALE 3875		1	Subdivision occurred	increase
116 Holloway Street BAIRNSDALE 3875		1	Subdivision occurred	increase
16 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
29 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
14 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
12 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
10 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
5 Jackson Crescent BAIRNSDALE 3875		2	Subdivision occurred	increase
9 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
11 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
13 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
15 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
17 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
19 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
21 Jackson Crescent BAIRNSDALE 3875		3	Subdivision occurred	increase
25 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
29 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
28 Jackson Crescent BAIRNSDALE 3875		1	Subdivision occurred	increase
7 Rovan Place BAIRNSDALE VIC 3875		1	Property previously obmitted	increase
126 Bosworth Road BAIRNSDALE VIC 3875		1	Property previously obmitted	increase
8 Campbells Drive BAIRNSDALE VIC 3875		10	Property previously obmitted	increase
16 Sammon Place BAIRNSDALE VIC 3875		16	Property previously obmitted	increase
128 Bosworth Road BAIRNSDALE VIC 3875		1	Property previously obmitted	increase

Property Address	Original Number of Benefit Units	Adjusted Number of Benefit Units	Reason	Increase/ decrease
122 Bosworth Road BAIRNSDALE VIC 3875		3	Property previously obmitted	increase
15B Rovon Place BAIRNSDALE VIC 3875		2	Property previously obmitted	increase
15A Rovon Place BAIRNSDALE VIC 3875		2	Property previously obmitted	increase
5 Hayward Court BAIRNSDALE VIC 3875		2	Property previously obmitted	increase
6 Hayward Court BAIRNSDALE VIC 3875		1	Property previously obmitted	increase
50 Bosworth Road BAIRNSDALE VIC 3875		1	Property previously obmitted	increase
4 Sammon Place BAIRNSDALE VIC 3875		1	Property previously obmitted	increase
9 Campbells Drive BAIRNSDALE VIC 3875		1	Property previously obmitted	increase
	<b>353</b>	<b>357</b>		



## **5.2.2 Request to End Section 173 Agreement AB705662R, 31 May Park Drive, Paynesville**

Authorised by General Manager Place and Community

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### **Conflict of Interest**

Officers preparing this report have no conflict of interest to declare.

### **Executive Summary**

The purpose of this report is to seek Council's decision to end the Section 173 Agreement AB705662R (the Agreement) as it relates to 31 May Park Drive, Paynesville.

The catalyst to end the Agreement is the application for Planning Permit 562/2021/P for a two-lot subdivision. A request to end the Agreement and the relevant title documents, including the Agreement, can be found at **Attachment 1**.

Council provided in principle support to end the Agreement at the 1 February 2022 Meeting (Item 5.4.3). Consultation has now been carried out. Notices were sent directly to the affected landowners with a note that Council would not determine the matter prior to 30 March 2022. At the time of writing the report, no objections have been received, and officers are confident none will be received before the determination is made, as there were no objections or queries from affected landowners in relation to the proposed two-lot subdivision.

Ending the agreement as it relates to 31 May Park Drive, Paynesville is a reasonable request and will enable the land to be subdivided and developed in accordance with the applicable zone and overlays set out in the East Gippsland Planning Scheme. The subdivision is subject to a separate determination to be made under delegation and is pending Council's resolution in relation to the Agreement so that the matters can be progressed concurrently.

### **Officer Recommendation**

#### ***That Council:***

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. agrees to the ending of Section 173 Agreement AB705662R wholly as it relates to Lot 19 on plan of subdivision PS506645 at 31 May Park Drive, Paynesville in accordance with Section 178A of the Planning and Environment Act 1987 and resolves to End the Agreement in accordance with S178E(2) of the Planning and Environment Act 1987; and***
- 3. resolves that all costs of ending the legal agreement are to be borne by the landowner.***

## Background

Council has received a request to end the Agreement, AB705662R, (**Attachment 1**) wholly as it relates to Lot 19 on plan of subdivision PS506645 at 31 May Park Drive, Paynesville. Planning permit application 562/2021/P for a two-lot subdivision of this lot is currently under consideration.

The Agreement was entered into in accordance with conditions of Planning Permit 01/0053536/DS, for a 29-lot subdivision. The purpose of the Agreement was to ensure the planning permit conditions were fulfilled on the subject land, specifically to ensure a consistent lot layout and for provision of services in the precinct, which at the time was the growth area for Paynesville.



*Figure 1 – Proposed Plan of Subdivision – 31 May Park Drive, Paynesville*

The proposed plan of subdivision (Figure 1) responds to the provisions of the General Residential Zone, Schedule 1 and the Design and Development Overlay, Schedule 14 of the East Gippsland Planning Scheme.

Officers considered that the request to end the Agreement is reasonable, as the area has developed fully and is now regarded as being suitable for infill subdivision.

### Current Status

Officers considered that the request to end the Agreement is reasonable, and as such recommended in principle support for the ending of the Agreement. Officers advised the applicant that the planning permit would not be determined until notice of the proposal to end the Agreement was undertaken.

Notice has been given in accordance with the requirements of the *Act* and with no objections received at the time of writing, officers are recommending that the Agreement be ended. This is further justified under "Legislation".

## Legislation

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

In preparing this report the Victorian *Gender Equality Act 2020* has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the *Gender Equality Act 2020*. The need for a Gender Impact Assessment has also been assessed. The implications of this report have been assessed and align with the principles and objects of the *Gender Equality Act 2020*.

The *Planning and Environment Act 1987* pursuant to section 178A provides the opportunity for Council to consider ending an agreement, either wholly or in part, without the consent of all persons who are bound by the Agreement.

The applicant is seeking to end Section 173 Agreement AG845895P wholly as it relates to 31 May Park Drive, Paynesville; however, the consent of all parties bound by the Agreement has not been obtained. Where the consent of all parties has not been obtained, section 178B (2) of the *Planning and Environment Act 1987* provides the framework for the proposal to be assessed and considered by Council.

The proposal to end the Section 173 Agreement has been submitted pursuant to section 178A of the Act. A proposal submitted under this section of the Act, pursuant to section 178B must be considered against set requirements. An assessment against these requirements is as follows:

### *The purpose of the Agreement*

The purpose of the Agreement was to implement conditions of Planning Permit 01/0053536/DS, for a 29-lot subdivision and make sure the planning permit conditions were fulfilled on the subject land, specifically to ensure a consistent lot layout and for provision of services in the precinct, which at the time was the growth area for Paynesville.

### *Whether and why the Agreement is no longer required*

The subdivision has been completed and the development was done according to the permit. Each lot is currently developed with a single dwelling. The literal interpretation of the Agreement means the subdivision of the land is prohibited by the Agreement.

There have been three previous instances of the Agreement being ended and additional development/subdivision occurring, including immediately opposite the site.

The lots are significantly larger than the prevailing general residential zoned land in the surrounding streets.

### *Whether the ending of the Agreement would disadvantage any person, whether or not a party to the Agreement*

It is considered that the ending of the Agreement itself would not disadvantage any person whether party to the Agreement or not.

### *The reasons why the responsible authority entered into the Agreement*

Council entered into the Agreement to reinforce conditions of approval for subdivision, to ensure it would be completed as applied for. The services have been provided as required, and the Agreement has previously been ended on other properties subject to the same agreement.

### *Any relevant permit or other requirements the land is subject to under the Subdivision Act 1988.*

Officers have not yet determined 562/2021/P to prevent conflict between determinations should the ending of the Agreement not be supported. Should Council resolve in accordance with the officer's recommendation, a decision to grant the planning permit will be issued concurrently.

### *Any other prescribed matter*

The Act is prescriptive as to the processing and consideration of proposals to end section 173 Agreements. In accordance with section 178E (2) the responsible authority may, after considering the matters in section 178B – resolve to issue a Decision to End the Agreement in accordance with the proposal, or to consider a variation from that which was proposed. There is no consideration given to a variation, as the proposal provides the greatest certainty for future planning outcomes for the land.

### **Collaborative procurement**

Not applicable.

### **Council Plan**

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 2: 2.1 Statutory and strategic planning for land use delivers sustainable outcomes that balance the need for growth with the enhancement of our lifestyle, character, the built and natural environment.

### **Council Policy**

There is no specific Council policy established for consideration of these matters.

### **Options**

Other than resolving not to support the officer recommendation and issuing a notice of refusal to end the agreement, there are no other options available. The officer recommendation is considered to be an appropriate way to facilitate the best planning outcome for the land.

## **Resourcing**

### *Financial*

There are no financial implications.

### *Plant and equipment*

Nil

### *Human Resources*

Assessment is by Planning department officers.

### *Risk*

The risks of this proposal have been considered and there is relatively low risk in the determinations as recommended.

## **Economic**

The proposal relates to a proposed land subdivision, creating two lots suitable for development of single dwellings or further subdivision. The ending of the Agreement will remove a barrier to the subdivision into two lots and may create opportunity for further subdivision.

## **Social**

Ending the Agreement is not likely to have a negative impact on the wider community.

Consultation during the approval process for the Planning Permit has assessed future amenity impacts.

### *Gender Impact Statement*

Considerations of Gender Equality in Planning are made in relation to planning strategy, including planning scheme amendments and policy changes. Individual assessment of planning applications tend to be gender neutral, however Council officers consider factors such as community safety, privacy, and accessibility in an integrated and multi-faceted decision making process.

## **Environmental**

The proposal will not have any significant environmental impacts.

### *Climate change*

This report is assessed as having no direct impact on climate change. Intensification of existing settlement areas is considered to be generally a positive outcome.

## **Engagement**

The procedure to assess proposals to end section 173 agreements under section 178A of the *Planning and Environment Act 1987* directs that notice of the proposal to all parties bound by the Agreement is undertaken after obtaining in principle support.

Notice took place in the form of direct mail to all persons who own land that has the same agreement included on their title, and to surrounding landowners. A newspaper notice was also requested. Notices were sent by the proponent in accordance with the instructions of the responsible authority and a statutory declaration has been provided advising that the recipients were advised that the responsible authority would not make a determination prior to 30 March 2022.

No objections have been received by Council objecting to the request to end the Agreement. If any objections are received prior to the Council meeting, they will need to be considered and the recommendation altered. Officers are confident that this will not occur based on the lack of objection to the proposed two-lot subdivision, which was advertised in 2022.

## **Attachments**

1. Application to remove agreement [5.2.2.1 - 39 pages]



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Form 18

## NOTICE OF PROPOSAL TO END AN AGREEMENT

Description of the land affected by the agreement:	31 May Park Drive PAYNESVILLE VIC 3880
Description of the proposal:	Request to End Legal Agreement AB705662R
Who initiated the proposal:	Crowther & Sadler Pty Ltd
The application reference number is:	6/2021/AGR
You may look at the application and any documents that support the application on the website of the responsible authority.	COVID-19 Omnibus (Emergency Measures) Bill 2020 now modifies the requirement of Form 18 so that <i>Planning documents previously required to be physically available to view at local government offices are now only required to be available for online inspection.</i>

This can be done anytime by visiting the following website:  
<https://www.eastgippsland.vic.gov.au/building-and-development/advertised-planning-permit-applications>

The proposal was initiated by Crowther & Sadler Pty Ltd, who applied to the responsible authority for agreement to the proposal under section 178A of the **Planning and Environment Act 1987**.

In accordance with section 178A(3) of the **Planning and Environment Act 1987**, the responsible authority has notified the applicant that it agrees in principle to the proposal.

Any person who is given notice of the proposal, or who ought to have been given notice of the proposal under section 178C of the **Planning and Environment Act 1987**, may object to, or make any other submission in relation to, the proposal.

The responsible authority will not make a decision on the proposal under section 178E of the <b>Planning and Environment Act 1987</b> before:	<b>Subject to the applicant giving notice</b>
---	---

If the responsible authority decides to end the agreement, or refuses to end the agreement, the responsible authority will give notice of its decision to any person who made an objection.  
 In most cases, the responsible authority will give notice of its decision to any person who made a submission.  
 If the responsible authority proposes to amend or end the agreement in a manner that is substantively different from the proposal, the responsible authority will give notice of the new proposal to all parties to the agreement and any other persons to whom the responsible authority considers the decision to amend or end the agreement may cause material detriment.

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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, Culture and Culture. The Victorian Government acknowledges its responsibility to their past, present and emerging.

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

Page 1 of 1

VOLUME 10784 FOLIO 394

Security no : 124093762999A

Produced 16/11/2021 12:43 PM

### LAND DESCRIPTION

Lot 19 on Plan of Subdivision 506645G.  
PARENT TITLE Volume 10684 Folio 290  
Created by instrument PS506645G 20/02/2004

### REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
JELLE BURGGRAFF of 155 LAKE VICTORIA ROAD EAGLE POINT VIC 3878  
AQ846215Y 22/03/2018

### ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AT501817T 10/08/2020  
AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD

COVENANT AC880084Q 25/05/2004

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

AGREEMENT Section 173 PLANNING AND ENVIRONMENT ACT 1987  
R333799X 10/05/1991

AGREEMENT Section 173 Planning and Environment Act 1987  
AB705662R 20/11/2002

### DIAGRAM LOCATION

SEE PS506645G FOR FURTHER DETAILS AND BOUNDARIES

### ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 31 MAY PARK DRIVE PAYNESVILLE VIC 3880

### ADMINISTRATIVE NOTICES

NIL

eCT Control 16165A AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
Effective from 10/08/2020

DOCUMENT END

Title 10784/394

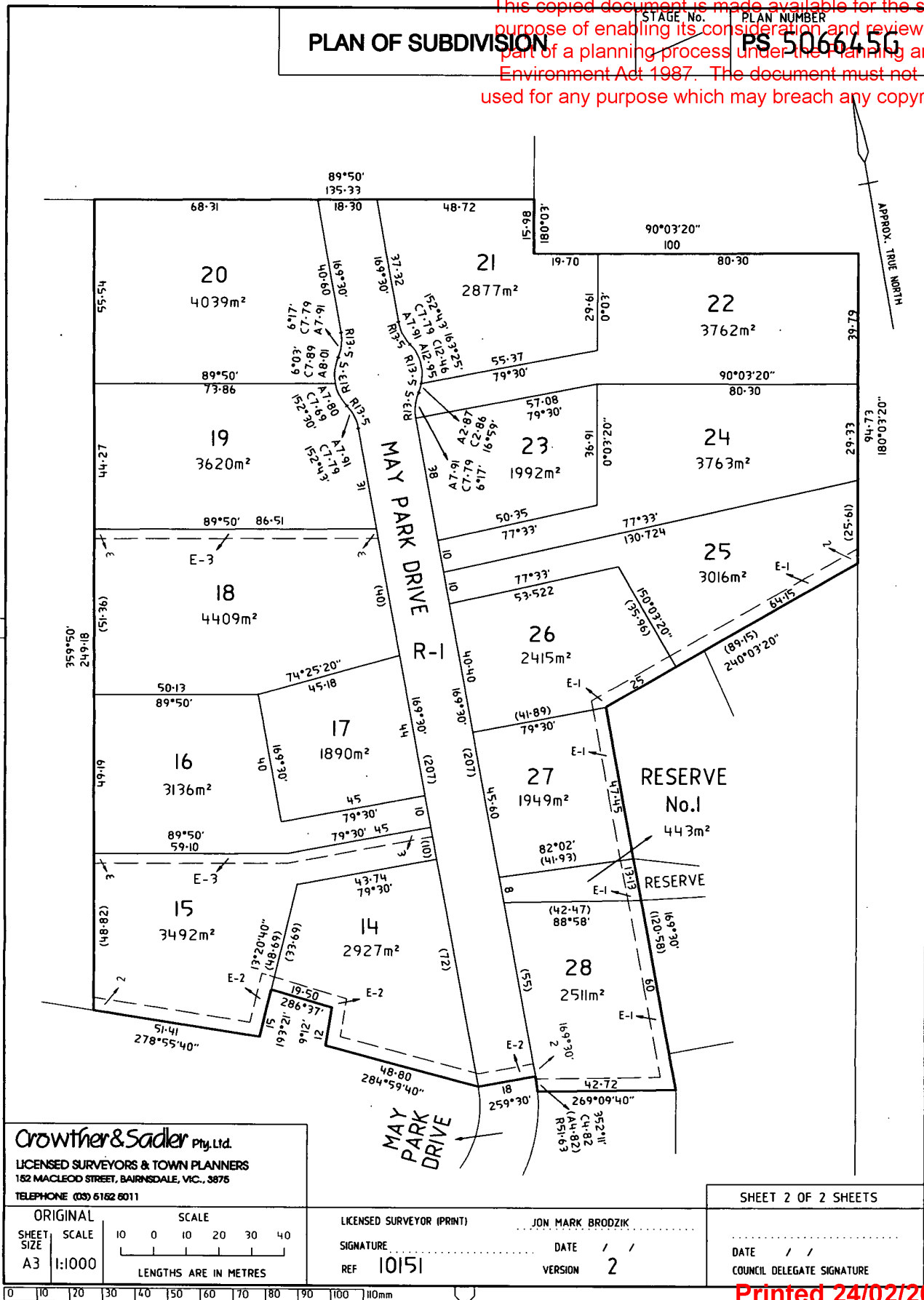
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PLAN OF SUBDIVISION				STAGE No.	LTO USE ONLY	PLAN NUMBER
				EDITION 1		PS 506645G
<b>LOCATION OF LAND</b> <b>PARISH:</b> BAIRNSDALE <b>TOWNSHIP:</b> — <b>SECTION:</b> — <b>CROWN ALLOTMENT:</b> 141 (PART) <b>CROWN PORTION:</b> —  <b>LTO BASE RECORD:</b> VICMAP DIGITAL PROPERTY (RURAL) <b>TITLE REFERENCES:</b> VOL 10684 FOL 290  <b>LAST PLAN REFERENCE:</b> LOT 2 ON PS 506641Q  <b>POSTAL ADDRESS:</b> MAY PARK DRIVE, (At time of subdivision) PAYNESVILLE, 3880  <b>AMG CO-ORDINATES:</b> E 562 500 (Of approx. centre of land in plan) N 5803 650 <b>ZONE:</b> 55				<b>COUNCIL CERTIFICATION AND ENDORSEMENT</b> <b>COUNCIL NAME:</b> EAST GIPPSLAND SHIRE COUNCIL <b>REF:</b> 02/00051/SD 1. <del>This plan is certified under Section 6 of the Subdivision Act 1988.</del> 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6 8 / 7 / 2 3. <del>This is a statement of compliance issued under Section 21 of the Subdivision Act 1988.</del>  <b>OPEN SPACE</b> (i) A requirement for public open space under Section 18 Subdivision Act 1988 has / <del>has not</del> been made. (ii) <del>The requirement has been satisfied.</del> (iii) <del>The requirement is to be satisfied in stage</del> <del>Council Delegate</del> <del>Council seal</del> <del>Date</del> / / Re-certified under Section 11(7) of the Subdivision Act 1988 Council Delegate <del>Council seal</del> Date 8 / 3 / 3		
<b>VESTING OF ROADS AND/OR RESERVES</b>						
IDENTIFIER		COUNCIL/BODY/PERSON				
R-1 RESERVE No. 1		EAST GIPPSLAND SHIRE COUNCIL EAST GIPPSLAND SHIRE COUNCIL				
<b>NOTATIONS</b>						
<b>STAGING</b> This is / is not a staged subdivision Planning Permit No 01/00536/DS						
<b>DEPTH LIMITATION</b> DOES NOT APPLY  LOTS 1 TO 13 HAVE BEEN OMITTED FROM THIS PLAN  SURVEY: THIS PLAN IS / <del>IS NOT</del> BASED ON SURVEY  THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s) IN PROCLAIMED SURVEY AREA No						
<b>EASEMENT INFORMATION</b>						LTO USE ONLY
<b>LEGEND</b> A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)						STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT
						RECEIVED <input checked="" type="checkbox"/>
						DATE 18 / 2 / 4
						LTO USE ONLY
						PLAN REGISTERED
						TIME 12:29
						DATE 20 / 2 / 4
						Assistant Registrar of Titles
						SHEET 1 OF 2 SHEETS
<b>Crowther &amp; Sadler Pty. Ltd.</b> LICENSED SURVEYORS & TOWN PLANNERS 162 MACLEOD STREET, BAIRNSDALE, VIC. 3875 TELEPHONE (03) 5152 8011				LICENSED SURVEYOR (PRINT) JON MARK BRODZIK SIGNATURE _____ DATE / / REF 10151 VERSION 2		DATE / / COUNCIL-DELEGATE SIGNATURE Printed 24/02/2022 ORIGINAL SHEET SIZE A3

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**AB705662R**

20/11/2002 \$63 173



**APPLICATION BY A RESPONSIBLE  
AUTHORITY under Section 181  
Planning and Environment Act 1987 for  
ENTRY OF A MEMORANDUM OF  
AGREEMENT under Section 173 of the Act**

Lodged by:  
EASTCOAST CONVEYANCING  
P O BOX NO 695  
BAIRNSDALE VIC 3875  
Ph: 03 51521171  
Customer Code: 549U



DRB705662R-1-1

The Responsible Authority under the Planning Scheme having entered into an agreement with the parties named for the land described requires that a memorandum of the Agreement be entered on the Certificate of the Title to the land referred to.

LAND

✓ VOLUME 10568 FOLIO 464 (PARENT TITLE)  
NOW = VOLUME 10684 FOLIO 290

ADDRESS OF THE LAND 37 Paynesville Road Paynesville 3880

RESPONSIBLE AUTHORITY **EAST GIPPSLAND SHIRE COUNCIL  
273 MAIN STREET, BAIRNSDALE**

PLANNING SCHEME **EAST GIPPSLAND SHIRE PLANNING SCHEME**

✗ AGREEMENT DATE **15<sup>th</sup>** DAY OF **OCTOBER.** 2002 ✗

AGREEMENT WITH **Lambertus Robert VAN ELDEN  
& Bernadette Anne VAN ELDEN**

A copy of the Agreement is attached to this Application

Signature for the Responsible Authority.....

JOHN TRAPP, STATUTORY PLANNER DATE 15 / 10 / 2002

1001  
20 NOV 2002

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EAST GIPPSLAND SHIRE COUNCIL

-and-

Lambertus Robert VAN ELDEN  
& Bernadette Anne VAN ELDEN

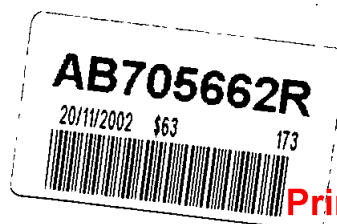


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**Agreement under Section 173 of the *Planning and Environment Act 1987***

---

Subject Land: 37 Paynesville Road, Paynesville in the State of Victoria  
(Lot 2 LP 418876B)



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DAB705662R-3-8

# PLANNING AND ENVIRONMENT ACT 1987

## SECTION 173 AGREEMENT

THIS AGREEMENT is made the *11<sup>th</sup>* day of *OCTOBER* 2002

### BETWEEN:

**EAST GIPPSLAND SHIRE COUNCIL**  
of 273 Main Street, Bairnsdale in the State of Victoria

("Council")

-and-

**Lambertus Robert VAN ELDEN & Bernadette Anne VAN ELDEN**  
9 Newton Close, Paynesville in the State of Victoria

("the Owner")

### INSTRUCTION

- A. The Council is the Responsible Authority for the Planning Scheme under the Act.
- B. The Owner is the registered proprietor of the Subject Land.
- C. The Council has issued Planning Permit No. 01/00536/DS ("the Planning Permit") to subdivide the land into twenty-nine lots. A copy of the Planning Permit is attached to this Agreement and marked "A".
- D. It is a condition of Planning Permit No. 01/00536/DS that the Owner enter into this Agreement to develop the land in accordance with the Endorsed Plans of the Planning Permit. A copy of the Endorsed Plans are attached to this Agreement and marked "B".
- E. The parties enter into this Agreement –
  - a) to give effect to the requirements of the Planning Permit: and
  - b) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.



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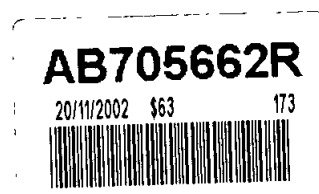
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**IT IS AGREED:****1. DEFINITIONS**

In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise –

- 1.1 **"the Act"** means the Planning & Environment Act 1987.
- 1.2 **"this Agreement"** means this agreement and any agreement executed by the parties expressed to be supplemental to this Agreement.
- 1.3 **"the endorsed Plan"** means the plan, endorsed with the stamp of Council, that forms part of the Planning Permit.
- 1.4 **"Owner"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject land or any part of it and includes a Mortgagee-in-possession.
- 1.5 **"Planning Permit"** means the Planning Permit referred to in recital C of this Agreement.
- 1.6 **"Planning Scheme"** means the East Gippsland Shire Planning Scheme and any other planning scheme which applies to the subject land.
- 1.7 **"Subject Land"** means the land situated at **37 Paynesville Road Paynesville** in the State of Victoria being the land referred to in certificate of Title Volume **10568 Folio 464** and any reference to the Subject Land in this Agreement will include a reference to any lot created by the subdivision of the Subject Land or any part of it.
- 1.8 **"Mortgage"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.



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## 2. INTERPRETATION

In this Agreement unless the context admits otherwise-

- 2.1 The Singular includes the plural and vice versa.
- 2.2 A reference to a gender includes a reference to each other gender.
- 2.3 A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law.
- 2.4 If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 2.5 A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulations or Planning Scheme.
- 2.6 The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
- 2.7 The Obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land PROVIDED THAT if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.



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### 3. SPECIFIC OBLIGATIONS OF THE OWNER

The Owner covenants and agrees that –

#### 3.1 Development in accordance with Endorsed Plans

the Subject Land shall only be developed in accordance with the Endorsed Plans, and the notation thereon, of the Planning Permit or any subsequent amendment to the plan approved by Council.

- 3.2 Owners of all lots will inform Council prior to starting construction activities for a dwelling on the lot to allow an inspection of the existing Council infrastructure and will post an appropriate bond, refundable in full or part on issue of a certificate of Occupancy, to cover the cost of reinstating any damage to that infrastructure, including street trees, stormwater drains, crossovers and footpaths.

- 3.3 The agreement will bind the application as the owner and shall run with the land so that all successors in title are bound by the agreement.

#### Councils Costs to be paid

the Owner must pay to the Council, the Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of the Agreement and until those costs are paid they will remain a debt of the Owner to the Council.

### 4. FURTHER OBLIGATIONS OF THE OWNER

The Owner further covenants and agrees that –

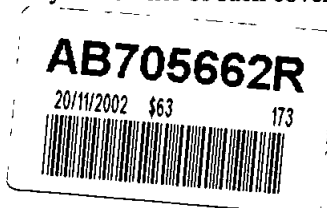
#### 4.1 Notice and Registration



the Owner will bring this Agreement to the attention of all prospective purchasers, mortgages, transferees and assigns;

#### 4.2 Further actions

- 4.2.1 the owner will do all things necessary, including signing any further agreements, undertakings, covenants and consents, approvals or other documents necessary for the purpose of ensuring that the Owner carries out the Owner's covenants under this Agreement and to enable the Council to enforce the performance by the Owner of such covenants and undertakings;



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- 4.2.2 the Owner will consent to the Council making application to the Registrar of Titles to make a recording of this Agreement in the Registrar on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable the Council to do so including signing any further agreement, acknowledgment or document or procuring the consent to this Agreement of any mortgage or caveator to enable the recording to be made in the Register under that Section;

#### 4.3 Exemption

the Owner will exempt the Council, its employees, contractors and agents from and against all costs, expenses, losses or damages whatsoever which they or any of them may incur or suffer, or be or become liable for or in respect of any suit, action, proceeding, judgement or claim brought by any non-compliance thereof.

### 5. AGREEMENT UNDER SECTION 173 OF THE ACT

The Council and the Owner agree that without limiting or restricting their respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.

### 6. OWNERS WARRANTIES

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

### 7. SUCCESSORS IN TITLE

Without limiting the operation or effect which this Agreement has, the Owner must ensure that, until such time as a memorandum of this agreement is registered on the title to the title to the Subject Land, successors in the title shall be required to:

- 7.1 give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 7.2 execute a deed agreeing to be bound by the terms of this Agreement.

### GENERAL MATTERS

#### 8.1 Notices

A notice or other communication required or permitted to be served by a party



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on another party must be in writing and may be served:

DAB705662R-8-9

- 8.1.1 by delivering it personally;
  - 8.1.2 by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time:
    - or
  - 8.1.3 by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party hand delivery or prepaid post.
- 8.2 A Notice or other communication is deemed served:
- 8.2.1 if delivered, on the next following business day;
  - 8.2.2 if posted, on the expiration of two business days after the day of posting; or
  - 8.2.3 if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

**8.3 No Waiver**

Any time or other indulgence granted by the Council to the Owner or any variation of the terms and conditions of this Agreement or any judgement or order obtained by the Council against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

**8.4 Severability**

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be served and the other provisions of this Agreement will remain operative.

**8.5 No Fettering of the Council's Powers**

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Subject Land or relating to any use or development of the Subject Land.

**9. COMMENCEMENT OF AGREEMENT**

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

**ENDING OF AGREEMENT**

This Agreement may be ended by Agreement between Council and the Owner.



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**EXECUTED** by the parties on the date set out at the commencement of this Agreement.

The **COMMON SEAL** of the  
**EAST GIPPSLAND SHIRE COUNCIL**  
was affixed on behalf of Council by  
authority of the Chief Executive Officer  
on the 11<sup>th</sup> day of OCTOBER, 2002  
in the presence of:

*P. R. Davies*

PHILLIP R. DAVIES

.....  
ACTING CHIEF EXECUTIVE

M Bennett



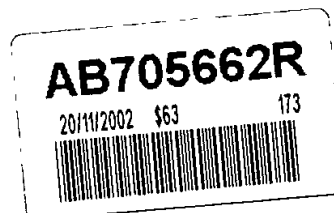
DAB705662R-9-7

**SIGNED SEALED AND DELIVERED**  
by Lambertus Robert VAN ELDEN  
& Bernadette Anne VAN ELDEN  
in the presence of:

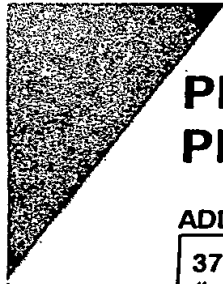
*M Van Elden*

*B. A. Van Elden*

*James Gourley*  
.....  
Witness



**Printed 24/02/2022**  
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# PLANNING PERMIT

Permit No: 01/00536/DS  
 Planning Scheme: EAST GIPPSLAND  
 Responsible Authority: East Gippsland Shire

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Form 4.4

AMENDED

## ADDRESS OF THE LAND

37 Paynesville Road, PAYNESVILLE VIC 3880  
 (Lot 1 LP 418876)



DAB705662R-10-4

BN: 3682

## THE PERMIT ALLOWS

The land to be developed and used for a 29 Lot Subdivision in accordance with the endorsed plans.

## THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

### Amended Plans

- (1) Before the plan of subdivision can be certified, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a) The Ashley Street road reserve extending to the western boundary of the land.
  - b) The May Park Drive road reserve extending to the southern boundary of Lot 28.
  - c) The intersection of the access street between Lots 2 and 13 to be located so as to minimise conflicting traffic movements with Hakea Court that intersects with Ashley Street on the southern side.

### Subdivision not altered

- (2) The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

### East Gippsland Water's requirements

- (3) Enter into an agreement under the Water Act for the provision of water supply works.
- (4) Meet the cost of the necessary water mains extension.
- (5) Payment of a headworks and distribution charge at a level determined by the Authority at the time of payment. As a guide the level applicable at the date of this letter (15/11.01) is \$26000.00 for the additional 26 Lots created by the subdivision.
- (6) Enter into an agreement under the Water Act for the provision of sewerage works.
- (7) Meet the cost of the necessary sewer mains extension.



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20/11/2002 \$63 173

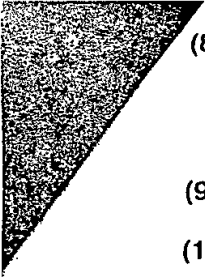


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- 
- (8) Pavement of an outfall and disposal charge at a level determined by the Authority at the time of payment. As a guide the level applicable at the date of this letter (15/11/01) is \$22100.00 for the additional 26 Lots created by the subdivision.
  - (9) Provide easements as necessary.
  - (10) Connect development to Authority's water and sewerage services to the satisfaction of the Authority.
  - (11) Referral of the Plan of Subdivision to the Authority, prior to Certification.

**Country Fire Authority's requirements****Access**

- (12) The minimum width of the trafficable road must be six (6) metres.
- (13) There must be no obstructions within one metre of the edge of the formed width of roads at any time, and there must be four metres height clearance above all roads.
- (14) Adequate provisions for turning of fire brigade vehicles must be provided in dead roads and cul de sacs by either:
  - A court bowl with a minimum trafficable area of 10 metres radius; or
  - A "tee" or "wye" head with a minimum formed road surface of each leg being at least 8 metres length measured from the centre point of the head, and 6 metres trafficable width.
- (15) The amount and location of parking facilities should not impede access of emergency vehicles. Off-street parking is therefore encouraged where possible.
- (16) Road structures should have a minimum load limit of 15 tonnes.
- (17) The average grade should be no greater than 1 in 7 (14.4%), however, a maximum of 1 in 5 (20%) may be allowed for a maximum of 50 metres. Dips should have no more than a 1 in 8 entry and exit angle.
- (18) All roads should have a maximum cross fall alignment of 1 in 33 (3%) and a minimum of curves.
- (19) Curves should have a minimum inner radius of ten metres.

**Water Supply**

- (20) The water reticulation plan must be approved by the CFA.
- (21) There must be a hydrant within 120 metres from the outer edge of the building envelope.
- (22) Fire hydrants must be clearly identified in accordance with the Fire Services Guideline – Identification of Street Hydrants for Fire Fighting Purposes.



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### Protective Features

- (23) Areas of Public Open Space must be managed in a minimum fuel condition during the fire danger period.

### Telstra's requirements

- (24) That the applicant enters into an agreement with Telstra or other licensed telecommunications carrier for the satisfaction provision of telephone cable reticulation (1) metre into each allotment created.
- (25) That the plan of subdivision submitted for certification be referred to Telstra or other licensed telecommunications carrier, whichever is appropriate, in accordance with Section 8 of the Subdivision Act 1988.
- (26) Set aside on the plan of subdivision, reserve/s satisfactory to Telstra, for Telecommunications substation/s if required.

### TXU Networks Pty Ltd's requirements

- (27) The plan of subdivision submitted for certification must be referred to TXU Electricity Ltd in accordance with Section 8 of the Subdivision Act 1988.

The applicant must:

- (28) Enter in an agreement with TXU Electricity Ltd for supply of electricity to each lot on the endorsed plan.
- (29) Enter into an agreement with TXU Electricity Ltd for the rearrangement of the existing electricity supply system.
- (30) Enter into an agreement with TXU Electricity Ltd for the rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by TXU Electricity Ltd.
- (31) Provide easements satisfactory to TXU Electricity Ltd for the purpose of "Power Line" in the favour of "Electricity Corporation" pursuant to Section 44 and Schedule 2 of the Electricity Industry Act 1993, where easements have not been otherwise provided, for all existing TXU Electricity electric power lines and for any new power lines required to service the lots on the endorsed plan and /or abutting land.
- (32) Obtain for the use of TXU Electricity Ltd any other easements required to service the lots.
- (33) Adjust the position of any existing TXU Electricity Ltd easement required to service the lots.
- (34) Set aside on the plan of subdivision Reserves for the use of TXU Electricity Ltd for electric substations.
- (35) Provide survey plans for any electric substations required by TXU Electricity Ltd and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. TXU Electricity Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision.

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- (36) Provide to TXU Electricity Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.

#### Vicroads' requirements

- (37) No access to lots 1 to 27 from the Paynesville Road will be permitted.
- (38) Only one point of access to Lot 28 will be permitted. This access must be at a location and to a standard satisfactory to VicRoads.

#### Engineering

##### Infrastructure Design and Construction



- (39) The applicant shall engage a suitably qualified consultant to undertake the preparation of detailed engineering design, drawings, documentation and specifications for the construction of road and drainage works and for the provision of services, all to the satisfaction of Council and meeting the requirements of the relevant service authorities.
- (40) No works shall commence until such time as all necessary approvals from Council and all relevant service authorities have been obtained.
- (41) Infrastructure shall be designed in accordance with standard engineering principles and practices. Full and detailed calculations and reports of all investigations undertaken shall be provided. The design shall provide for the following minimum requirements.

##### Roads, Pavement and Access

- (42) Investigation shall be undertaken to determine existing site conditions to determine design requirements. All reports and full details of all investigations undertaken shall be provided with designs submitted to Council for approval. Full and detailed calculations supporting all aspects of pavement design shall be provided.
- (43) The cul-de-sac or turning heads of proposed new roads shall be constructed and sealed to provide sufficient space for the manoeuvring of all service and emergency vehicles. "T" or "Y" shaped turning heads are acceptable. Provision of suitable area for vehicles to perform a three-point turn will be acceptable.
- (44) Road pavements shall be provided with kerbing and / or edge restraints to provide for stabilisation and control of pavement and assist with stormwater management.

- i) A driveway crossover or culvert shall be constructed for all allotments to Council's satisfaction and in accordance with Council requirements. Crossing places shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices. Proposed details of design and construction for crossovers shall be provided.

##### Stormwater Drainage

The stormwater drainage system shall be designed in accordance with standard engineering practice to provide for the collection, control and disposal of all stormwater runoff, resulting from a storm having an ARI of 1 in 20 Years, and concentrated by future development of buildings, pavements, and/or site works to avoid damage or inundation to any property.



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- (47) The stormwater drainage system shall incorporate measures to ensure the quality of stormwater discharging from the development is maintained. The drainage system shall provide such water quality measures as considered necessary which may include, but not be limited to, the provision of sediment traps, wetlands, detention basins, Gross Pollutant Traps and drainage pits incorporating litter baskets.
- (48) Swale drains shall be constructed to meet Council requirements. Drains shall incorporate features to prevent erosion which may include but not be limited to suitable stone pitching in the invert or energy dissipation devices placed at regular intervals along the length of the drain.
- (49) Each allotment shall be provided with a connection to the drainage system. Connections to the drainage system shall be in accordance with Council requirements. Pipes through the council verge area shall be constructed of steel or concrete, not PVC.
- (50) Where a proposed drainage system submitted to Council for approval indicates that construction of drains will be on private property easements for drainage purposes and meeting the requirements of Council for access and maintenance purposes shall be vested in Council free of charge.
- (51) Outlets shall incorporate energy dissipation devices to prevent erosion. Stormwater outlets shall be fitted with suitable devices to prevent litter, debris and sediment from entering the stormwater drainage system. Details of the device/structure must be provided to and approved by Council prior to construction.
- (52) Stormwater connections to Council's existing drainage infrastructure shall be designed and constructed to Council's satisfaction.

**Earthworks**

- (53) With the exception of roadside drainage structures roadside verges shall have a batter slope no greater than 8 horizontal to 1 vertical.
- (54) All earthworks associated with the development shall be stabilised in accordance with standard engineering design and practices against erosion and failure. No earthworks may encroach across neighbouring property boundaries.

**Services**

- (55) Design for the installation of services shall meet the requirements of the relevant authorities and shall be approved by those authorities.

**Signage and Traffic Control**

- (56) The design shall address and include all applicable and statutory signage and traffic control requirements. Design drawings and specifications shall provide for the installation of appropriate signage and pavement markings conforming with the requirements of AS 1742 Manual of uniform traffic control devices. Provision of necessary signage and pavement marking shall be undertaken by the developer



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### Landscaping

- (57) A landscaping plan shall be submitted providing for a minimum 1 street tree per allotment of a species approved by Council, to be planted on roadside verges. The applicant shall be required to maintain street trees with watering as necessary for a period of twelve (12) months following the issue of a Certificate of Practical Completion of the works. Trees becoming dead or diseased during this period shall be replaced by the applicant.

### Documentation

- (58) All documentation for the construction of infrastructure shall include adequate provision for:
- maintenance and repair of damage to existing infrastructure damaged as a result of works associated with this development
  - quality assurance and testing procedures
  - provision for adequate notification and inspections by Council representatives at various key stages of the works
  - works to be undertaken with due regard to environmental requirements.

- (59) The works shall be subject to a twelve (12) month defects liability period.

### Supervision of Works

- (60) An appropriately qualified and registered practitioner to the satisfaction of the Responsible Authority must supervise all stages of works to be constructed on the site.
- (61) Copies of all test results certified by a NATA accredited laboratory shall be provided with a certification by a Chartered Professional Engineer that all works have been constructed in accordance with approved plans and specifications will be required.

### Protection of Infrastructure and Environment

- (62) Any portion of Council's existing infrastructure damaged as a result of work undertaken on the site or associated with the development shall be repaired/reinstated to Council's satisfaction at the developer's expense.
- (63) Temporary debris and sediment control measures shall be installed to prevent debris and sediment from entering Council's drainage system during all construction stages of both the land division and future development on the proposed allotments. Pollution prevention measures, shall be in accordance with the Environmental Protection Authority's Publication Number 275 "Construction Techniques for Sediment Pollution Control".

### Public Open Space

- (64) The applicant or owner must pay to the Council a sum equivalent to five per cent of the site value of the land comprised in Lots 1 to 27 in the subdivision. This payment must be made before a statement of compliance is issued and may be varied under Section 19 of the Subdivision Act 1988.



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### Section 173 Agreements

- (65) Before the issue of a Statement of Compliance, the owner of the land shall enter into an agreement with the Responsible Authority in accordance with Section 173 of the Planning & Environment Act, 1987 which will covenant that:

Owners of all lots will inform Council prior to starting construction activities for a dwelling on the lot to allow an inspection of the existing Council infrastructure and will post an appropriate bond, refundable in full or part on issue of a Certificate of Occupancy, to cover the cost of reinstating any damage to that infrastructure, including street trees, stormwater drains, crossovers and footpaths.

The agreement will bind the applicant as the owner and shall run with the land so that all successors in title are bound by the agreement.

This agreement will be prepared at the applicant's cost and to the satisfaction of the Responsible Authority, and shall be registered on the title in accordance with Section 181 of the Planning & Environment Act, 1987.

### Plan Checking and Supervision Fees

- (66) Prior to the issue of a Statement of Compliance the applicant shall pay to the Council an amount of money equal to 0.75% of the estimated cost of the engineering works plus 2.5% of the actual cost of the engineering works for checking of plans and specifications and for on-site supervision of the engineering works respectively in accordance with Clause 8 and 9 of the Subdivision (Permit and Certification Fees) Regulations 1989.

### Time

- (67) This permit will expire if one of the following circumstances applies:
- The subdivision is not certified within two years.
  - The subdivision is not registered within five years of the date of Certification.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

### Notes:

#### TXU Networks Pty Ltd notes:

- (1) It is recommended that, at an early date the applicant commences negotiations with TXU Electricity Ltd for a supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions to be issued).
- (2) Arrangements for the supply will be subject to obtaining the agreements of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.



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- (3) Prospective purchasers of lots on this plan should contact this office to determine the availability of a supply of electricity. Financial contributions may be required.

Amended 15/05/2002: Condition 12 & 14 amended at the request of the Country Fire Authority.

Amended 11/06/2002: Amended to Increase Subdivision size to 29 Lots

Date Amended: 11/06/2002

Date Issued: 14/05/2002

  
Signature for the  
Responsible Authority

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**IMPORTANT INFORMATION ABOUT THIS NOTICE****WHAT HAS BEEN DECIDED?**

The responsible authority has issued a permit.

**WHEN DOES A PERMIT BEGIN?**

A permit operates:

- ♦ From the date specified in the permit, or
- ♦ If no date is specified from:
  1. The date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at direction of the Tribunal, or
  2. The date on which it was issued, in any other case.

**WHEN DOES A PERMIT EXPIRE?**

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

**WHAT ABOUT APPEALS?**

- ♦ The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal where, in such case, no right of appeal exists.
- ♦ An appeal must be lodged within 60 days after the permit was issued, unless a Notice of Decision to Grant a Permit has been issued previously, in which case the appeal must be lodged within 60 days after the giving of that notice.
- ♦ An appeal is lodged with the Victorian Civil and Administrative Tribunal.
- ♦ An appeal must be made on a Notice of Appeal form, which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the prescribed fee. An appeal must state the grounds on which it is based.
- ♦ An appeal must also be served on the responsible authority.
- ♦ Details about appeals and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal

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20/11/2002 \$63 173





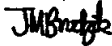

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PLAN OF SUBDIVISION		STAGE NO. LTO USE ONLY EDITION	PLAN NUMBER PS 506641Q																
<b>LOCATION OF LAND</b> BARRISDALE LOT: — UNALLOTMENT: 141 (PART) UNPORTION: — AGE RECORD: VICMAP DIGITAL PROPERTY (RURAL) REFERENCES: VOL FOL PLAN REFERENCE: LOT 2 ON PS 408768 ADDRESS: MAY PARK DRIVE, PAYNESVILLE, 3880 COORDINATES: E 562 500 (loc. centre of plan) N 5803 650 ZONE: 55		<b>COUNCIL CERTIFICATION AND ENDORSEMENT</b> COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 8(7) of the Subdivision Act 1988. Date of original certification under Section 6 / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. <b>OPEN SPACE</b> (i) A requirement for public open space under Section 18 Subdivision Act 1988 has / has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in stage Council Delegate Council seal Date / / Re-certified under Section 8(7) of the Subdivision Act 1988 Council Delegate Council seal Date / /																	
<b>STAGING OF ROADS AND/OR RESERVES</b> <table border="1"> <thead> <tr> <th>IDENTIFIER</th> <th>COUNCIL/BODY/PERSON</th> </tr> </thead> <tbody> <tr> <td>NIL</td> <td>NIL</td> </tr> </tbody> </table>		IDENTIFIER	COUNCIL/BODY/PERSON	NIL	NIL	<b>NOTATIONS</b> STAGING This is / is not a staged subdivision Planning Permit No 01/00536/DS DEPTH LIMITATION DOES NOT APPLY													
IDENTIFIER	COUNCIL/BODY/PERSON																		
NIL	NIL																		
 DB705662R-19-7		AB705662R 20/11/2002 \$63 173 																	
SURVEY: THIS PLAN IS / IS NOT BASED ON SURVEY THIS SURVEY IS CONNECTED TO PERMANENT MARK (s) IN PROCLAIMED SURVEY AREA No																			
<b>EASEMENT INFORMATION</b> A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)		LTO USE ONLY STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT																	
<table border="1"> <thead> <tr> <th>Purpose</th> <th>Width (Metres)</th> <th>Origin</th> <th>Land Benefited/In Favour Of</th> </tr> </thead> <tbody> <tr> <td>DRAINAGE &amp; SEWERAGE</td> <td>2</td> <td>PS 306497K</td> <td>LAND IN PS 306497K</td> </tr> <tr> <td>DRAINAGE</td> <td>2</td> <td>PS4188768</td> <td>LAND IN PS4188768</td> </tr> <tr> <td>WATER SUPPLY</td> <td>4</td> <td>THIS PLAN</td> <td>EAST GIPPSLAND REGION WATER AUTHORITY</td> </tr> </tbody> </table>		Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of	DRAINAGE & SEWERAGE	2	PS 306497K	LAND IN PS 306497K	DRAINAGE	2	PS4188768	LAND IN PS4188768	WATER SUPPLY	4	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY	RECEIVED <input type="checkbox"/> DATE / / LTO USE ONLY PLAN REGISTERED TIME DATE / / Assistant Registrar of Titles SHEET 1 OF 2 SHEETS	
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DRAINAGE & SEWERAGE	2	PS 306497K	LAND IN PS 306497K																
DRAINAGE	2	PS4188768	LAND IN PS4188768																
WATER SUPPLY	4	THIS PLAN	EAST GIPPSLAND REGION WATER AUTHORITY																
<b>Fraser &amp; Sadler Pty. Ltd.</b> SURVEYORS & TOWN PLANNERS 10 STREET, BARRISDALE, VIC., 3875 030 5152 8011		LICENSED SURVEYOR (PRINT) JON MARK BRODZIK SIGNATURE  DATE 7 / 5 / 02 REF 9608 VERSION 1																	
		DATE / / COUNCIL DELEGATE SIGNATURE ORIGINAL SHEET SIZE A3																	

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## PLAN OF SUBDIVISION

PS 506641Q

## PAYNESVILLE ROAD

APPROX. TRUE NORTH



DB705662R-20-2

Endorsement Plan  
Planning and Environment Act 1997  
East Gippsland Planning Scheme  
Permit No.: 01/2002/0001  
Signed: [Signature]  
East Gippsland Shire  
Date: 11/6/2002 Page 1 of 1

AB705662R



**Crowther & Sadler Pty. Ltd.**  
LICENSED SURVEYORS & TOWN PLANNERS  
12 MACLEOD STREET, BARNSDALE, VIC., 3678  
TELEPHONE (03) 5192 6011

ORIGINAL	SCALE
SHEET SCALE	20 0 20 40 60 80
A3 1:2000	LENGTHS ARE IN METRES

LICENSED SURVEYOR (PRINT)

JON MARK BRODZIK

SIGNATURE [Signature]DATE 7/5/02

REF 9608

VERSION 1

SHEET 2 OF 2 SHEETS

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<b>SUBDIVISION</b>	STAGE No.	LOT TO USE ONLY	PLAN NUMBER <b>PS 506645G</b>
<b>EDITION</b>			

**NAME OF LAND**

BARRISDALE

—

—

**SECTION:**

141 (PART)

—

**BASE RECORD:**

VICMAP DIGITAL PROPERTY (RURAL)

**REFERENCES:**

VOL FOL

**PLAN REFERENCE:**

LOT 2 ON PS 5066410

**FAL ADDRESS:**

the of subdivision)

MAY PARK DRIVE,  
PAYNESVILLE, 3880

**CO-ORDINATES:**

(approx. centre of  
in plan)

E 562 500  
N 5803 650

**ZONE:** 55

**COUNCIL CERTIFICATION AND ENDORSEMENT**

**COUNCIL NAME:** EAST GIPPSLAND SHIRE COUNCIL **REF:**

- This plan is certified under Section 6 of the Subdivision Act 1988.
- This plan is certified under Section 11(7) of the Subdivision Act 1988.  
Date of original certification under Section 6 / /
- This is a statement of compliance issued under Section 21 of the Subdivision Act 1988.

**OPEN SPACE**

- A requirement for public open space under Section 18 Subdivision Act 1988 has / has not been made.
- The requirement has been satisfied.
- The requirement is to be satisfied in stage  
Council Delegate  
Council seal  
Date / /  
Re-certified under Section 11(7) of the Subdivision Act 1988  
Council Delegate  
Council seal  
Date / /

LISTING OF ROADS AND/OR RESERVES	
IDENTIFIER	COUNCIL / BODY / PERSON
2-1 RESERVE No. 1	EAST GIPPSLAND SHIRE COUNCIL EAST GIPPSLAND SHIRE COUNCIL

NOTATIONS	
<b>STAGING</b>	This is / is not a staged subdivision Planning Permit No 01/00536/DS
<b>DEPTH LIMITATION</b>	DOES NOT APPLY

LOTS 1 TO 13 HAVE BEEN OMITTED FROM THIS PLAN

LOTS 1 TO 13 HAVE BEEN OMITTED FROM THIS PLAN

**AB705662R**

20/11/2002 \$63 173



SURVEY: THIS PLAN IS ~~1-15-NOT~~ BASED ON SURVEY


THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s)  
IN PROCLAIMED SURVEY AREA No

UNDECLARED SURVEY AREA No

## EASEMENT INFORMATION

A - Appurtenant Easement
E - Encumbering Easement
R - Encumbering Easement (Road)

Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
RAINAGE & SEWERAGE	2	PS 306497K	LAND IN PS 306497K
RAINAGE	2	PS418876B	LAND IN PS418876B



**DAB705662R-21-6**

**LTD USE ONLY**

STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT

RECEIVED

DATE    /    /

**zr&Sadler** Pty. Ltd.
LICENSED SURVEYOR (PRINT)

VEYORS & TOWN PLANNERS
JON MARK BRODZIK

REPT. BARKSDALE, VIC., 3878
DATE 7 / 5 / 02

1132 0011
VERSION 1

**LTD USE ONLY**

PLAN REGISTERED

TIME

DATE    /    /

Assistant Registrar of Titles

SHEET 1 OF 2 SHEETS

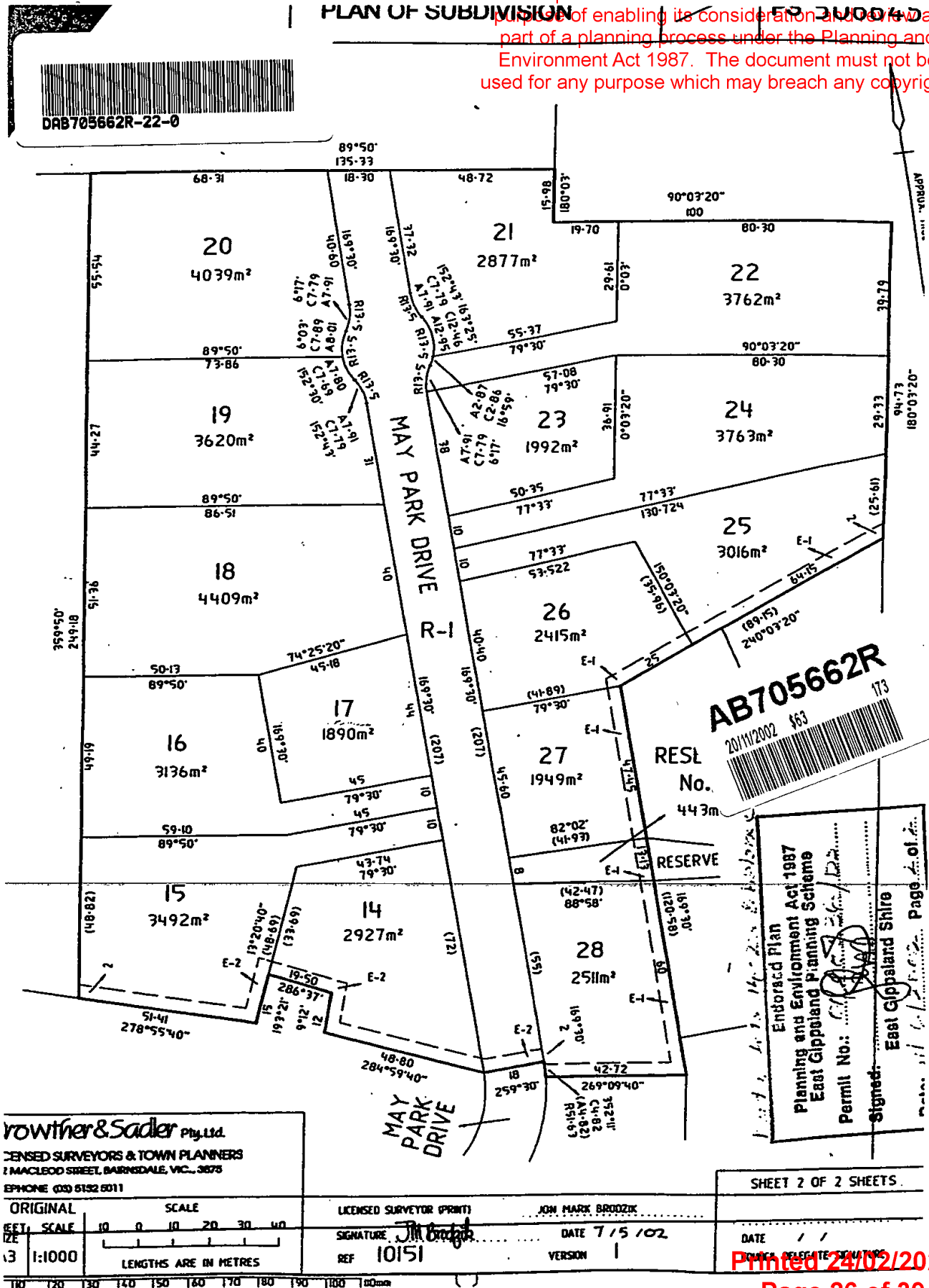
DATE    /    /

COUNTER DELEGATE SIGNATURE

ORIGINAL SHEET SIZE A3

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LODGED BY Warren, Graham & Murphy

CODE...1716W....

VICTORIA

100591 0926 MISC \$51 R333799X

~~100591 0926 MISC R333799X~~

APPLICATION BY A RESPONSIBLE AUTHORITY  
under Section 181 Planning and  
Environment Act 1987 for ENTRY OF A  
MEMORANDUM OF AGREEMENT under Section  
173 of the Act.

The Responsible Authority under the Planning Scheme having entered into an Agreement with the parties named for the land described requires that a Memorandum of Agreement be entered on the Certificate of Title to the land referred to.

LAND Certificate of Title Volume 9630 Folio 629 <sup>new with</sup>  
10020 - 573/573 (6.0)

ADDRESS OF LAND Williamson Street, Paynesville

RESPONSIBLE AUTHORITY Shire of Bairnsdale

PLANNING SCHEME Bairnsdale Shire Planning Scheme

AGREEMENT DATE

10<sup>th</sup> April, 1991

AGREEMENT WITH

TWENTYFIRST MOUNT COPE PROPRIETARY  
LIMITED  
as owner

A copy of the Agreement is attached to this Application

SHIRE OF BAIRNSDALE

Signature for the Responsible Authority

Planning Officer

Name of Officer

D. G. STEWART

Date

15 - 4 - 1991

Prepared by Warren, Graham & Murphy of 119 Main Street, Bairnsdale (DGL:jl)

memorandum of the within instrument  
has been entered in the Register Book.



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SECTION 173 AGREEMENT

THIS AGREEMENT is made the 10<sup>th</sup> day of April, 1991  
B E T W E E N:

THE PRESIDENT COUNCILLORS AND RATEPAYERS  
OF THE SHIRE OF BAIRNSDALE  
 (hereinafter called "the Council")

of the first part

- and -

TWENTYFIRST MOUNT COPE PROPRIETARY LIMITED  
 the registered office of which Company is at  
 119 Main Street, Bairnsdale  
 (hereinafter called "the Owner")

of the second part

W H E R E A S:

- A. The Owner is the registered proprietor of the land described in the First Schedule hereto (hereinafter called "the subject land") and has made Application to the Council as the Responsible Authority under the Bairnsdale (Shire) Planning Scheme (hereinafter called "the Scheme") to subdivide the subject land into five lots as shown on the copy Plan of Subdivision annexed hereto.
- B. The Council has granted Planning Permit Number 77-89-0159 (hereinafter called "the Permit") subject to certain conditions including a condition as follows:  
 "6.3 Public Open Space.  
 The requirement for Public Open Space in accordance with Section 18 of the Subdivision Act shall be satisfied by the setting aside of land equivalent to five per cent of the area of Lots 1 to 5 and the associated access roads and walkways on the subdivision.  
 That part of the Public Open Space not provided in the form of reserves on the subdivision hereby approved shall be deferred in accordance with Section 18.2 of the Subdivision Act until a future stage of subdivision of the Riviera Parklands Estate where reserves are required.
7. Prior to the certification of the Plan of Subdivision, the operator of the permit hereby issued shall enter into an Agreement with the Council under Section 173 of the Planning and Environment Act 1987 which shall covenant that the owners and successors in title shall

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not build any residential development other than one single detached house on any lot on the subdivision and such Agreement shall be registered under the provisions of Section 181 of the Act. The cost of preparation of the Agreement and registration shall be borne by the operator of the permit."

- C. The Council certified the Owners Plan of Subdivision number 306497K effecting the subject land on the 25th day of September, 1990 (hereinafter called "the Plan of Subdivision").
- D. Mortgage number L645957X described in the Second Schedule encumbers the subject land.
- E. The Council and the Owner have agreed that without restricting or limiting their respective powers to enter into this Agreement and insofar as it can be so treated, this Agreement shall be treated as an Agreement under 173 of the Planning and Environment Act 1987.

NOW THIS AGREEMENT WITNESSETH:

1. In this Agreement, unless inconsistent with the context or subject matter:-
  - "Owner" shall mean the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the subject land.
  - "Subdivision" includes:-
    - (a) the dividing of land into two or more parts -
      - (i) by sale, conveyance, transfer or partition; or
      - (ii) by procuring the issue of a Certificate of Title under the Transfer of Land Act 1958 in respect of a part of the land;
    - (b) the subdivision of land by sale, transfer or partition into two or more lots and common property, none of which consists in whole or in part of a stratum or strata;
    - (c) the subdivision of land by sale, transfer or partition into two or more units or into two or more units and common property whether or not any unit is on the same level as any other unit;
  - and "subdivided" has a corresponding interpretation.
2. The Owner with the intent that its covenant shall run with the subject land hereby covenants and agrees that it (which term shall include the Owner or Owners of the subject land or any part from time to time) will:-
  - (a) Comply with the conditions of the Permit.
  - (b) provide Public Open Space in accordance with Section 18 of the Subdivision Act by setting aside land equivalent to five percent of the areas of lots 1 to 5 and the associated access roads and

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walkways on the subdivision and that part of the said Public Open Space not provided in the form of reserve on the said subdivision shall be provided in a future stage of the subdivision of The Riviera Parklands Estate of which the said subdivision forms part.

- (c) Not build any residential development other than one single detached house on any lot on the subdivision;
  - (d) Pay the cost of preparation of this Agreement and its registration in accordance with Section 181 of the Planning and Environment Act 1987.
3. The Owner agrees to do all things necessary to enable the Council to enter a memorandum of this Agreement on the Certificate of Title to the subject land in accordance with Section 181 of the Act including signing any further Agreement, acknowledgement or document to enable the said memorandum to be registered under that Section.
  4. The Owner covenants and agrees to pay the Council's costs of and incidental to the preparation and execution of this Agreement and the registration of a memorandum of the Agreement at the Land Titles Office pursuant to Section 181 of the Act and any duties or fees payable in connection with the Agreement or registration of the memorandum at the Land Titles Office.
  5. The Mortgagee consents to the Owner entering into this Agreement.
  6. This Agreement will lapse pursuant to Section 171 of the Act upon the Owner complying with all of the conditions in the Permit.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

THE COMMON SEAL of THE PRESIDENT )  
COUNCILLORS AND RATEPAYERS OF )  
SHIRE OF BAIRNSDALE was hereunto )  
affixed in the presence of: )

..... Councillor

..... Councillor

..... Shire Secretary

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THE COMMON SEAL of TWENTYFIRST )  
MOUNT COPE was hereunto affixed )  
in accordance with its Articles )  
of Association in the presence of: )

..... Director  
..... Director



AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED the Mortgagee under registered Mortgage Number L645957X of the land comprised in Certificate of Title Volume 9630 Folio 629 HEREBY CONSENTS to the above Application.

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FIRST SCHEDULE

The whole of the land described in Certificate of Title Volume 9630 Folio 629.

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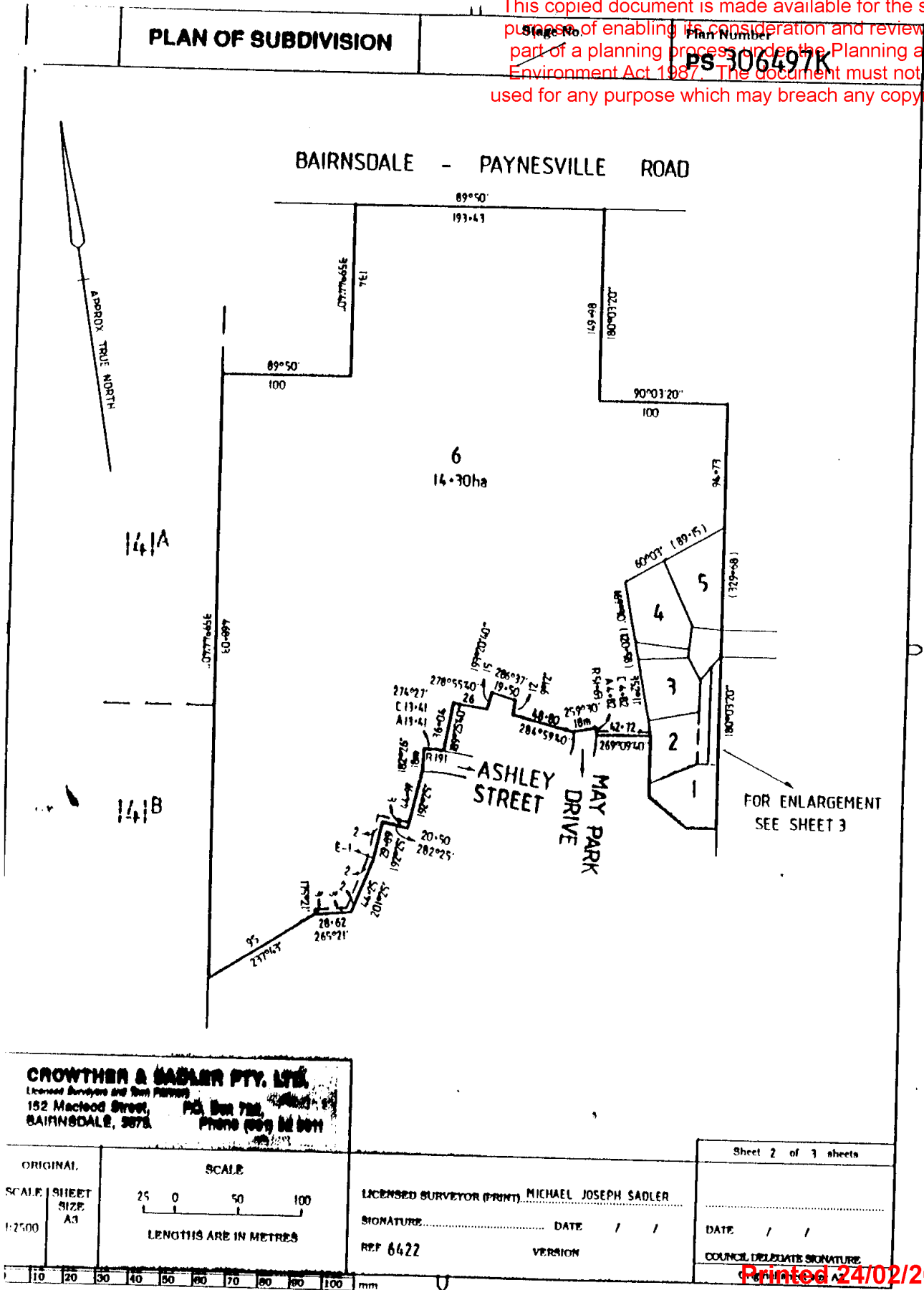
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SECOND SCHEDULE

Mortgage Number L645957X to Australia and New Zealand Banking Group Limited 38  
Franklin Street, Traralgon Victoria.

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Our ref: 19770

16 November 2021

Statutory Planning Coordinator  
 East Gippsland Shire Council  
 Via Email: [planning@egipps.vic.gov.au](mailto:planning@egipps.vic.gov.au)

**Attention: Mr. Robert Pringle**

Dear Robert,

**Re: Request to end Legal Agreement AB705662R  
 Lot 19 PS506645  
 31 May Park Drive, Paynesville**

We refer to our recent two lot subdivision planning application on the abovementioned land which was lodged with Council and respectfully request Council's consent to the ending of Legal Agreement AB705662R as currently registered on title.

Purpose for Removal and Background

The purpose in part of the Agreement was to ensure that the former land parcel was developed in accordance with planning permit 01/00536/DS.

It would appear that this precinct was a growth area of Paynesville at the time the permit was issued and there were concerns as to whether services and infrastructure would be able to appropriately service the precinct. It would also appear that there were concerns that the precinct may not develop in a logical manner and as such this resulted in the requirement for the subdivision layout to be placed in a legal agreement to achieve a logical extension of the urban area with lots connected to services and infrastructure.

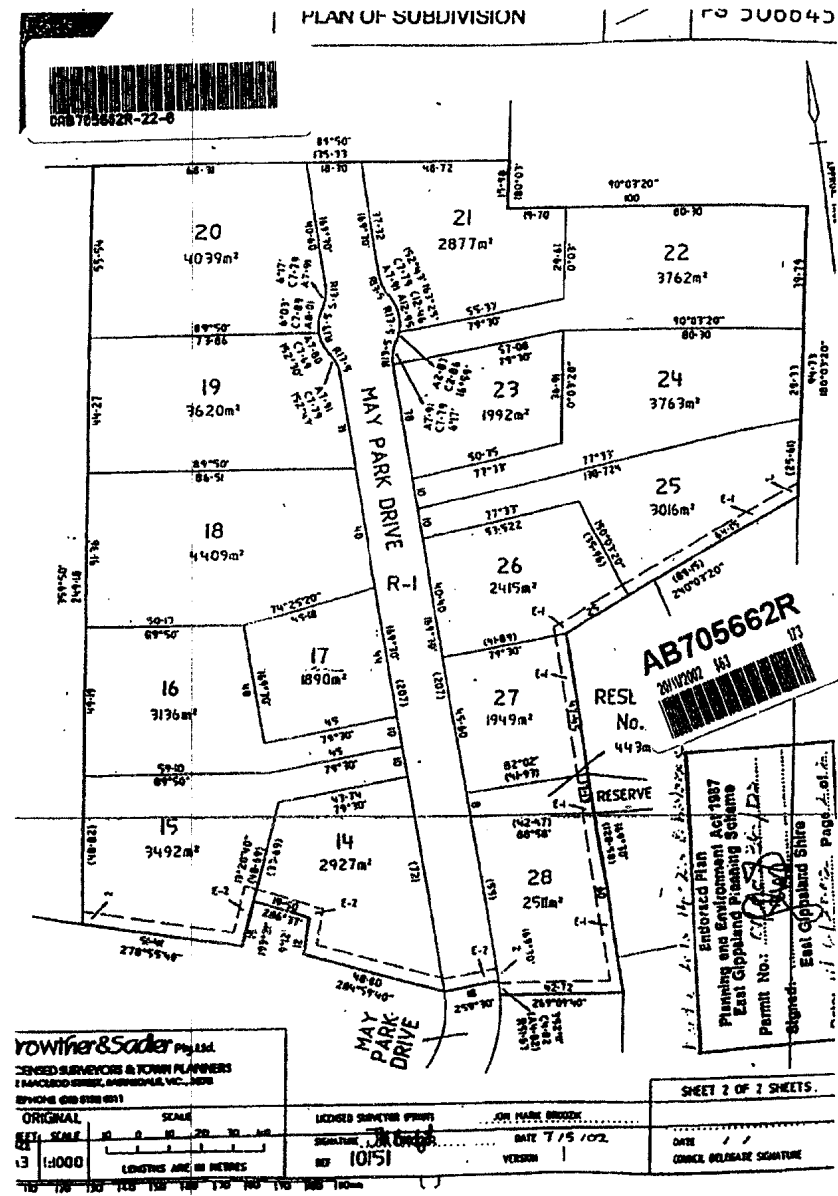
The subdivision layout endorsed in accordance with Conditions 1 and 2 as part of Planning Permit 01/00536/DS continued to apply by virtue of Agreement AB705662R including the subdivision plan, being registered on title to the subject land.



East Gippsland Shire Council

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Extract of Plan referenced within the Agreement

We believe that the Legal Agreement should be ended as the precinct is developed, services have been provided and the agreement is no longer consistent with state and local policy that seeks to promote infill development in existing serviced and zoned land within settlements.

East Gippsland Shire Council

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A planning permit application for a two lot subdivision of lot 19 has been concurrently lodged with this proposal to end Section 173 Legal Agreement AB705662R.



### The Proposal

Our proposal to end the Agreement as it applies to the subject land has been made pursuant to Section 178A(1)(b) of the *Planning & Environment Act 1987*.

Section 178A(2)(b) requires the application to be “*accompanied by the information required by the regulations*”. In accordance with the requirements of Regulation 55 of the *Planning & Environment Regulations 2015* we provide the following requisite information:

**Regulation 55(a)** - we confirm the applicant for the request to end the Agreement is Mr. Jelle Burggraaff, C/- Crowther & Sadler Pty. Ltd of 152 Macleod Street, Bairnsdale, Victoria, 3875. Phone number for the Applicant is 5152 5011.

**Regulation 55(b)** – the Agreement AB705662R is to be ended as it applies to 31 May Park Drive, Paynesville, formally described as Lot 19 on PS506645.

**Regulation 55(c)** - not applicable as the proposal does not seek to amend the Agreement.

**Regulation 55(d)(i)** – not applicable to the proposal does not seek to end the Agreement in part.

**Regulation 55(d)(ii)** – the proposal seeks to end the Agreement as applying to part of the land. The Agreement is to be ended as it applies to 31 May Park Drive, Paynesville, formally described as Lot 19 on PS506645.

**Regulation 55(d)(iii)** – the Agreement is an unnecessary restriction on the land and does not reflect current state and local planning policy and will be at conflict with our Client’s desire to undertake two lot subdivision in accordance with the provisions of the East Gippsland Planning Scheme.

East Gippsland Shire Council

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To assist with Council's consideration of our request in accordance with Section 178(B)(2) of the Act, we are pleased to provide the following information.

### **Purpose of the Agreement**

The purpose of the Agreement was to ensure the growth front of Paynesville was undertaken in a logical and planned manner. It is noted that the subdivision is fully complete and the growth front has continued to develop further westwards of the subdivision.

### **Why the Agreement is no longer required**

The agreement at Clause 3 *specific obligations of the owner*, is no longer required as it relates to 31 May Park Drive, Paynesville, formally described as Lot 19 on PS506645 because the subdivision is complete and it does not accurately reflect today's current state and local planning policy which seeks to facilitate infill development of appropriately zoned and serviced residential land within an urban settlement.

The Agreement is considered to impose an unreasonable limitation on the land that is inconsistent with the provisions of the East Gippsland Planning Scheme. It is therefore appropriate that it be ended.

### **Whether the ending of the agreement would disadvantage any person, whether or not a party to the agreement**

The ending of the Agreement will not give rise to any form of disadvantage to any other person.

The ending of the Agreement will simply enable future subdivision to occur on the subject land consistent with the provisions of the General Residential Zone as currently applying.

The proposed subdivision will be required to proceed through the planning process and obtain a planning permit.

### **The reasons why the responsible authority entered into the agreement**

The Agreement was appropriately entered into by Council at the time in accordance with conditions on Planning Permit 01/00536/DS.

### **Any relevant permit or other requirements the land is subject to under the Subdivision Act 1988**

None applicable.

### **Any other prescribed matter**

We are not aware of any other prescribed matter which is relevant to the request to end the Agreement as it applies to the subject land.



East Gippsland Shire Council

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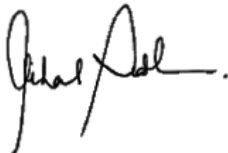
Page 5

Section 178A(2)(c) of the Act requires an application of this type to be accompanied by the requisite fee as prescribed by the *Planning & Environment (Fees) Regulations 2016*.

Payment to the *East Gippsland Shire Council* in the amount of \$668.84 (Regulation 16) has been made to facilitate the processing of this request.

We trust this information provides sufficient detail to facilitate Council's commencement of the process associated with the ending of the Agreement as it applies to the subject land. We respectfully await Council's timely advice regarding the scheduling of this matter on the next available Ordinary Council Meeting agenda.

Regards,



MICHAEL SADLER  
Managing Director

Encl. Copy of Title (Lot 19 PS506645)  
S173LA AB705662R  
Required fee of \$668.84

### **5.2.3 Request to End Section 173 Agreement AD089276J, 8B Kingscote Drive, Metung**

Authorised by General Manager Place and Community

---

#### **Conflict of Interest**

Officers preparing this report have no conflict of interest to declare.

#### **Executive Summary**

The purpose of this report is to seek Council's decision to end the Section 173 Agreement AD089276J (the Agreement) as it relates to 8B Kingscote Drive, Metung.

The catalyst to end the Agreement is that Condition No. 2 of the Planning Permit 555/2021/P requires the Agreement to be ended prior to the construction of the dwelling commencing on the site. A request to end the Agreement and the relevant title documents, including the Agreement, can be found at **Attachment 1**. The responsible authority has approved the earthworks associated to a dwelling, conditional on the ending of the Agreement.

Council provided in principle support to end the Agreement at the 22 February 2022 Meeting (Item 5.4.4). Consultation has now been carried out. Notices were sent directly to the affected landowners with a note that Council would not determine the matter prior to 6 May 2022. At the time of writing the report, no objections have been received.

Ending the agreement as it relates to 8B Kingscote Drive, Metung is a reasonable request and will enable the land to be developed in accordance with the applicable zone and overlays set out in the East Gippsland Planning Scheme. The development is subject to a separate determination made under delegation and construction is pending Council's resolution in relation to the Agreement so that the dwelling can be constructed.

#### **Officer Recommendation**

##### ***That Council:***

- 1. receives and notes this report and all attachments pertaining to this report;***
- 2. agrees to the ending of Section 173 Agreement AD089276J wholly as it relates to Volume 09852 Folio 701 being Lot 2 on plan of subdivision PS521927K at 8B Kingscote Drive, Metung in accordance with Section 178A of the Planning and Environment Act 1987 and resolves to End the Agreement in accordance with S178E(2) of the Planning and Environment Act 1987; and***
- 3. resolves that all costs of ending the legal agreement are to be borne by the landowner.***

## Background

Council has received a request to end the Agreement AD089276J (**Attachment 1**) wholly as it relates to Lot 2 on plan of subdivision PS521927K at 8B Kingscote Drive, Metung. A Planning Permit Application 555/2021/P was received for "Earthworks associated with the development of a dwelling within an Erosion Management Overlay and Design and Development Overlay".

The Agreement seeks to ensure that the former land parcel was developed in accordance with Planning Permit Application 269/2003/P, which allowed for the subdivision of the parent title into three lots and development of two dwellings and associated outbuildings.

It would appear that this precinct was a growth area of Metung at the time the Planning Permit was issued, and there were concerns as to whether services and infrastructure would be able to appropriately service the precinct. It would also appear that there were concerns that the land was constrained by native vegetation, topography and easements.

The subdivision layout was endorsed in accordance with Condition No. 1 as part of Planning Permit Application 269/2003/P to apply by virtue of Agreement AD089276J including the subdivision plan and building footprint, being registered on title to the subject land.

Section 173 Agreement AD089276J provides the following specific obligations on the landowner(s):

### **3. SPECIFIC OBLIGATIONS OF THE OWNER**

The Owner covenants and agrees that –

#### **3.1 Development in accordance with Endorsed Plans**

the Subject Land shall only be developed in accordance with the Endorsed Plans, and the notation thereon, of the Planning Permit or any subsequent amendment to the plan approved by Council.

#### **3.2 the lots created by the subdivision approved in Planning Permit 02/00269/DS will only be developed in accordance with the endorsed development plans for the lots; and**

#### **3.3 the land, which is the subject of this application must not be further subdivided.**

### **3.**

#### **Councils Costs to be paid**

the Owner must pay to the Council, the Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of the Agreement and until those costs are paid they will remain a debt of the Owner to the Council.

Figure 1: Specific Obligations of the Owner as pertained within Section 173 Agreement AD089276J

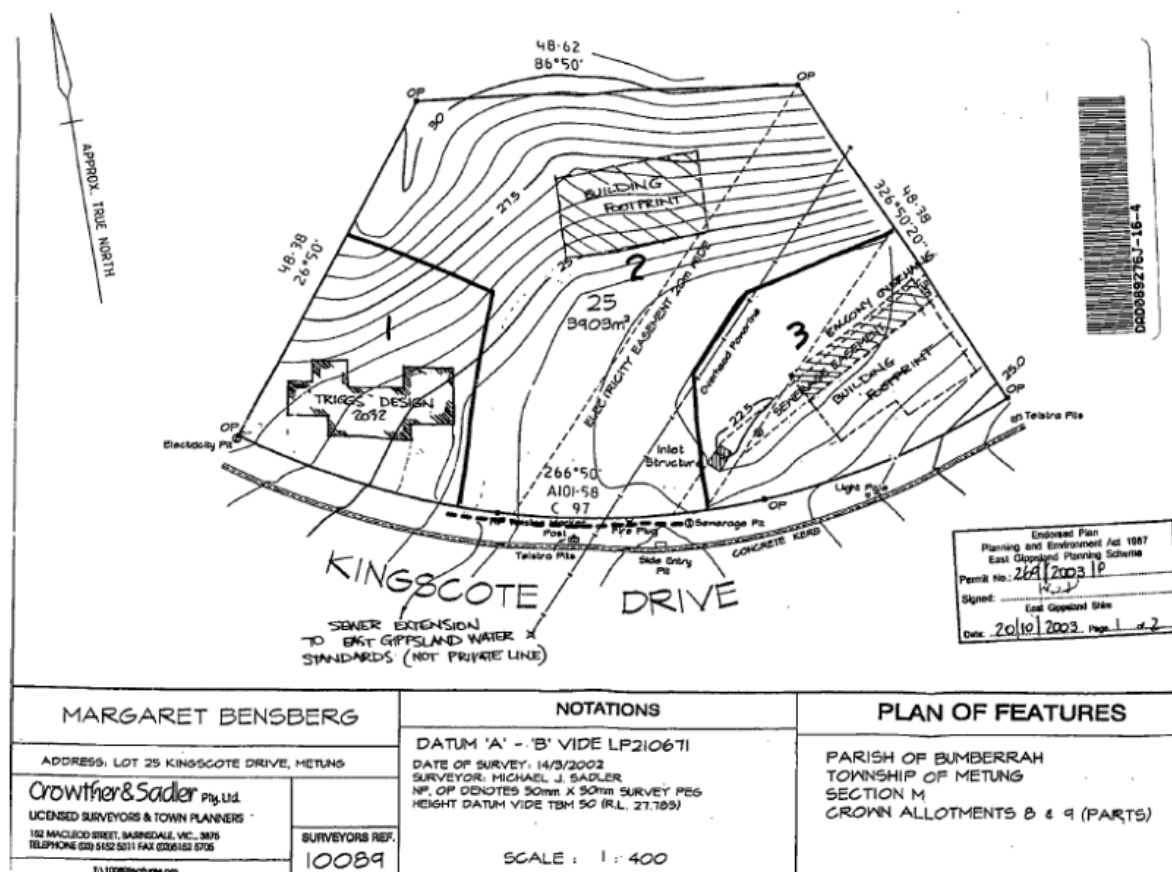


Figure 2: Latest Endorsed Plan, Planning Permit Application 269/2003/P

The ending of the Agreement will allow for the orderly and efficient development of the land, consistent with State and Local Planning Policy.

Notice has been given in accordance with the requirements of the *Planning and Environment Act 1987* and with no objections received at the time of writing, officers are recommending that the agreement be ended. This is further justified under "Legislation".

## Legislation

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

In preparing this report the Victorian *Gender Equality Act 2020* has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the *Gender Equality Act 2020*. The need for a Gender Impact Assessment has also been assessed. The implications of this report have been assessed and align with the principles and objects of the *Gender Equality Act 2020*.

The *Planning and Environment Act 1987* pursuant to section 178A provides the opportunity for Council to consider ending an agreement, either wholly or in part, without the consent of all persons who are bound by the agreement.

The applicant is seeking to end Section 173 Agreement AD089276J wholly as it relates to 8B Kingscote Drive, Metung; however, the consent of all parties bound by the Agreement has not been obtained. Where the consent of all parties has not been obtained, section 178B (2) of the *Planning and Environment Act* 1987 provides the framework for the proposal to be assessed and considered by Council.

The proposal to end the Section 173 Agreement has been submitted pursuant to section 178A of the Act. A proposal submitted under this section of the Act, pursuant to section 178B must be considered against set requirements. An assessment against these requirements is as follows:

#### *The purpose of the Agreement*

The purpose of the Agreement was to implement conditions of Planning Permit Application 269/2003/P, which allowed for the subdivision of the parent title into three lots and development of two dwellings and associated outbuildings. The purpose of the Agreement was to ensure the planning permit conditions were fulfilled on the subject land, specifically to provide for a building envelope for the land.

#### *Whether and why the Agreement is no longer required*

The subdivision has been completed, and the building envelope was a registered restriction on title. Since the time of the subdivision, stricter bushfire controls have been implemented through the planning and building acts and regulations, and as such building within the nominated building envelope would result in significantly increased costs of development. Additionally, there are easements on the title that further restrict the envelope.

#### *Whether the ending of the Agreement would disadvantage any person, whether or not a party to the Agreement*

It could be considered that the removal of the building envelope which is part of the Agreement would disadvantage the neighbours to the west at 8C Kingscote Drive, as the dwelling will be constructed closer to the shared boundary. However:

- The neighbour was aware of the proposal to end the Agreement and to construct a dwelling;
- The dwelling itself only triggered a requirement for earthworks, and such permit was exempt from notice in accordance with the provision of the Erosion Management Overlay; and
- No objection was made to the ending of the Agreement.

Ultimately, the Building Regulations will control the siting of the dwelling and preservation of amenity. Fencing may be required to ensure overlooking is prevented, however the dwelling at 8C sits somewhat higher than the proposed building site.

#### *The reasons why the responsible authority entered into the Agreement*

Council entered into the Agreement to ensure that the former land parcel was developed in accordance with Planning Permit 269/2003/P. The Planning Permit allowed for the subdivision of the parent title into three lots and development of two dwellings and associated outbuildings.

It would appear that this precinct was a growth area of Metung at the time the Planning Permit was issued and there were concerns as to whether services and infrastructure would be able to appropriately service the precinct. It would also appear that there were concerns that the land was constrained by native vegetation, topography and easements.

The subdivision layout endorsed in accordance with Condition 1 as part of Planning Permit 269/2003/P continue to apply by virtue of Agreement AD089276J including the subdivision plan and building footprint, being registered on title to the subject land.

*Any relevant permit or other requirements the land is subject to under the Subdivision Act 1988.*

Officers have already determined permit 555/2021/P and required that the agreement be ended. Should Council resolve against the officer's recommendation, the approved earthworks for a dwelling cannot proceed, and the landowner may need to abandon the proposed development.

*Any other prescribed matter*

The Act is prescriptive as to the processing and consideration of proposals to end section 173 Agreements. In accordance with section 178E (2) the responsible authority may, after considering the matters in section 178B – resolve to issue a Decision to End the Agreement in accordance with the proposal, or to consider a variation from that which was proposed. There is no consideration given to a variation, as the proposal provides the greatest certainty for future planning outcomes for the land.

### **Collaborative procurement**

Not applicable

### **Council Plan**

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 2: 2.1 Statutory and strategic planning for land use delivers sustainable outcomes that balance the need for growth with the enhancement of our lifestyle, character, the built and natural environment.

### **Council Policy**

There is no specific Council policy established for consideration of these matters.

### **Options**

Other than resolving not to support the officer recommendation and issuing a notice of refusal to end the agreement, there are no other options available. The officer recommendation is considered the best planning outcome for the land.

## **Resourcing**

### *Financial*

There are no financial implications.

### *Plant and equipment*

Nil

### *Human Resources*

Assessment is by Planning department officers.

### *Risk*

The risks of this proposal have been considered and there is relatively low risk in the determinations as recommended. If the neighbour had objected to the ending of the Agreement, there would be greater risk.

## **Economic**

The proposal relates to a proposed dwelling development. The ending of the Agreement will remove a barrier to the development and facilitate a new dwelling.

## **Social**

Ending the Agreement is not likely to have a negative impact on the wider community.

Consultation for the removal of the Agreement has assessed future amenity impacts.

### *Gender Impact Statement*

Considerations of Gender Equality in Planning are made in relation to planning strategy, including planning scheme amendments and policy changes. Individual assessment of planning applications tend to be gender neutral, however Council officers consider factors such as community safety, privacy, and accessibility in an integrated and multi-faceted decision making process.

## **Environmental**

The proposal will not have any significant environmental impacts.

### *Climate change*

This report is assessed as having no direct impact on climate change. Intensification of existing settlement areas is considered to be generally a positive outcome.

## **Engagement**

The procedure to assess proposals to end section 173 agreements under section 178A of the *Planning and Environment Act* 1987 directs that notice of the proposal to all parties bound by the agreement is undertaken after obtaining in principle support.

Notice took place in the form of direct mail to all persons who own land that have the same agreement included on their title, and to surrounding landowners. Notices were sent by the proponent in accordance with the instructions of the responsible authority, and a statutory declaration has been provided notifying that the recipients were advised that the responsible authority would not make a determination prior to 6 May 2022.

No objections have been received by Council to the request to end the Agreement. If any objections are received prior to the Council meeting, they will need to be considered and the recommendation would need to be altered.

## **Attachments**

1. Request to End Agreement [**5.2.3.1** - 38 pages]



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Form 18

## NOTICE OF PROPOSAL TO END AN AGREEMENT

Description of the land affected by the agreement:	8B Kingscote Drive METUNG Lot 2 PS 521927
Description of the proposal:	Request to End Legal Agreement AD089276J
Who initiated the proposal:	Crowther & Sadler Pty Ltd
The application reference number is:	8/2021/AGR
You may look at the application and any documents that support the application on the website of the responsible authority.	<b>COVID-19 Omnibus (Emergency Measures) Bill 2020 now modifies the requirement of Form 2 so that <i>Planning documents previously required to be physically available to view at local government offices are now only required to be available for online inspection.</i></b>

The proposal was initiated by Crowther & Sadler Pty Ltd, who applied to the responsible authority for agreement to the proposal under section 178A of the **Planning and Environment Act 1987**.

In accordance with section 178A(3) of the **Planning and Environment Act 1987**, the responsible authority has notified the applicant that it agrees in principle to the proposal.

Any person who is given notice of the proposal, or who ought to have been given notice of the proposal under section 178C of the **Planning and Environment Act 1987**, may object to, or make any other submission in relation to, the proposal.

The responsible authority will not make a decision on the proposal under section 178E of the <b>Planning and Environment Act 1987</b> before:	<b>Subject to the applicant giving notice</b>
---	---

If the responsible authority decides to amend or end the agreement, or refuses to amend or end the agreement, the responsible authority will give notice of its decision to any person who made an objection.

In most cases, the responsible authority will give notice of its decision to any person who made a submission.

If the responsible authority proposes to amend or end the agreement in a manner that is substantively different from the proposal, the responsible authority will give notice of the new proposal to all parties to the agreement and any other persons to whom the responsible authority considers the decision to amend or end the agreement may cause material detriment.

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152 Macleod St  
 Bairnsdale, VIC 3875  
 P: 5152 5011  
 F: 5152 5705  
 E: contact@crowthersadler.com.au

Our ref: 19727

2 December 2021

Statutory Planning Coordinator  
 East Gippsland Shire Council  
 Via Email: [planning@egipps.vic.gov.au](mailto:planning@egipps.vic.gov.au)

**Attention: Mr. Robert Pringle**

Dear Robert,

**Re: Request to end Legal Agreement AD089276J  
 Lot 2 PS521927  
 8B Kingscote Drive, Metung**

We refer to Condition 2 in Planning Permit 555/2021/P which requires the Agreement AD089276J to be removed ended prior to construction of the development commencing. On behalf of the registered owner, Sean Bensberg, we respectfully request Council's consent to the ending of Legal Agreement AD089276J as currently registered on title.

Purpose for Removal and Background

The purpose of the Agreement was to ensure that the former land parcel was developed in accordance with Planning Permit 269/2003/P. The Planning Permit allowed for the subdivision of the parent title into three lots and development of two dwellings and associated outbuildings.

It would appear that this precinct was a growth area of Metung at the time the Planning Permit was issued and there were concerns as to whether services and infrastructure would be able to appropriately service the precinct. It would also appear that there were concerns that the land was constrained by native vegetation, topography and easements.

The subdivision layout endorsed in accordance with Condition 1 as part of Planning Permit 269/2003/P continue to apply by virtue of Agreement AD089276J including the subdivision plan and building footprint, being registered on title to the subject land.



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Crowther & Sadler Pty Ltd



East Gippsland Shire Council

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We believe the Legal Agreement should be ended as the precinct is developed, services have been provided and the agreement is no longer consistent with state and local policy that seeks to promote infill development in existing serviced and zoned land within settlements. However, we also recognise that the land has significant constraints (particularly after the dwelling is developed on the land) and there would be little opportunity to further subdivide the property.

Lot 2 on the endorsed plans also contains a building footprint. The resultant changes in planning policy and building regulations from 2003 has been significant. The building envelope as specified on the subject land is considered no longer necessary or appropriate for the following reasons:

- The subject land is constrained by native vegetation to the north of the property. A dwelling developed within the building envelope would attract a very high Bushfire Attack Level rating (BAL rating) and would result in the need to remove significant amounts of vegetation.
- The land is constrained by topography falling from the north to the south. An Erosion Management Overlay applies to the land. The building envelope would require significant excavations and fill to enable the development of a dwelling and intensifies the risk of creating an erosion hazard.
- The removal of vegetation that would result from developing within the building envelope would detrimentally impact the stability of the land and is inconsistent with the objective to retain vegetation as sought by the Vegetation Protection Overlay.
- There is an alternative location available on the land to develop a dwelling that is more consistent with current planning policy (i.e avoiding steep slopes, vegetation removal and visual intrusion as expressed in the Design and Development Overlay 11).
- The alternative dwelling location achieves a more environmentally sustainable outcome.

### The Proposal

Our request to end the Agreement as it applies to the subject land is made pursuant to Section 178A(1)(b) of the *Planning & Environment Act 1987*.

Section 178A(2)(b) requires the application to be “*accompanied by the information required by the regulations*”. In accordance with the requirements of Regulation 55

**Regulation 55(a)** - we confirm the applicant for the request to end the Agreement is Mr. Sean Bensberg, C/- Crowther & Sadler Pty. Ltd of 152 Macleod Street, Bairnsdale, Victoria, 3875. Phone number for the Applicant is 5152 5011.

19727 Legal Agreement

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Crowther &amp; Sadler Pty Ltd

East Gippsland Shire Council

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**Regulation 55(b)** – the Agreement AD089276J is to be ended as it applies to 8B Kingscote Drive, Metung, formally described as Lot 2 on PS521927.

**Regulation 55(c)** - not applicable as the proposal does not seek to amend the Agreement.

**Regulation 55(d)(i)** – not applicable to the proposal does not seek to end the Agreement in part.

**Regulation 55(d)(ii)** – the proposal seeks to end the Agreement as applying to part of the land. The Agreement is to be ended as it applies to 8B Kingscote Drive, Metung, formally described as Lot 2 on PS521927.

**Regulation 55(d)(iii)** – the Agreement is an unnecessary restriction on the land and does not reflect current state and local planning policy and will be at conflict with our Client's desire to develop a dwelling in a less constrained location on the property.

To assist with Council's consideration of our request in accordance with Section 178(B)(2) of the Act, we are pleased to provide the following information.

#### **Purpose of the Agreement**

The purpose of the Agreement was to ensure the land was serviced (which it now is) and to address the then provisions of the planning scheme (which have changed significantly).

#### **Why the Agreement is no longer required**

The agreement at Clause 3 *specific obligations of the owner*, is no longer required as it relates to 8B Kingscote Drive, Metung, formally described as Lot 2 on PS521927 because the subdivision is complete, serviced and it does not accurately reflect today's current state and local planning policy.

The Agreement is considered to impose an unreasonable limitation on the land that is inconsistent with the provisions of the East Gippsland Planning Scheme. It is therefore appropriate that it be ended.

#### **Whether the ending of the agreement would disadvantage any person, whether or not a party to the agreement**

The ending of the Agreement will not give rise to any form of disadvantage to any other person.

The ending of the Agreement will simply enable the subject land to be developed consistent with the provisions as currently applying to the subject land.

East Gippsland Shire Council

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### The reasons why the responsible authority entered into the agreement

The Agreement was appropriately entered into by Council at the time in accordance with conditions on Planning Permit 269/2003/P.

### Any relevant permit or other requirements the land is subject to under the Subdivision Act 1988

None applicable.

### Any other prescribed matter

We are not aware of any other prescribed matter which is relevant to the request to end the Agreement as it applies to the subject land.

Section 178A(2)(c) of the Act requires an application of this type to be accompanied by the requisite fee as prescribed by the *Planning & Environment (Fees) Regulations 2016*.

Payment to the *East Gippsland Shire Council* in the amount of \$668.84 (Regulation 16) has been made to facilitate the processing of this request.

We trust this information provides sufficient detail to facilitate Council's commencement of the process associated with the ending of the Agreement as it applies to the subject land. We respectfully await Council's timely advice regarding the scheduling of this matter on the next available Ordinary Council Meeting agenda.

Regards,



RICHARD HOXLEY  
Principal Planner

Encl. Copy of Title (Lot 2 PS521927)  
S173LA AD089276J  
Required fee of \$668.84

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

VOLUME 10835 FOLIO 925

Security no : 124094152069X

Produced 02/12/2021 02:52 PM

## LAND DESCRIPTION

Lot 2 on Plan of Subdivision 521927K.  
PARENT TITLE Volume 09852 Folio 701  
Created by instrument PS521927K 20/10/2004

## REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
SEAN ROBERT BENSBURG of 8A KINGSCOTE DRIVE METUNG VIC 3904  
AU673882J 10/08/2021

## ENCUMBRANCES, CAVEATS AND NOTICES

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

AGREEMENT Section 173 PLANNING AND ENVIRONMENT ACT 1987  
P137853Q 18/04/1989

AGREEMENT Section 173 Planning and Environment Act 1987  
AD089276J 02/09/2004

## DIAGRAM LOCATION

SEE PS521927K FOR FURTHER DETAILS AND BOUNDARIES

## ACTIVITY IN THE LAST 125 DAYS

NUMBER	STATUS	DATE
AU673270S (E)	Completed	10/08/2021
AU673882J (E)	Registered	10/08/2021

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 8B KINGSCOTE DRIVE METUNG VIC 3904

## ADMINISTRATIVE NOTICES

NIL

eCT Control 22692Q EASTCOAST CONVEYANCING  
Effective from 10/08/2021

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**APPLICATION BY A RESPONSIBLE  
AUTHORITY under Section 181  
Planning and Environment Act 1987 for  
ENTRY OF A MEMORANDUM OF  
AGREEMENT under Section 173 of the Act**



**AD089276J**

02/09/2004 \$59 173



Lodged by:  
EASTCOAST CONVEYANCING  
P O BOX NO 695  
BAIRNSDALE VIC 3875  
Ph: 03 51521171  
Customer Code: 549U

The Responsible Authority under the Planning Scheme having entered into an agreement with the parties named for the land described requires that a memorandum of the Agreement be entered on the Certificate of the Title to the land referred to.

LAND VOLUME 09852 FOLIO 701

ADDRESS OF THE LAND Lot 25 Kingscote Drive Metung 3904

RESPONSIBLE AUTHORITY EAST GIPPSLAND SHIRE COUNCIL  
273 MAIN STREET, BAIRNSDALE

PLANNING SCHEME EAST GIPPSLAND SHIRE PLANNING SCHEME

AGREEMENT DATE 5<sup>th</sup> DAY OF AUGUST 2004

AGREEMENT WITH Margaret Lucille BENSBERG

A copy of the Agreement is attached to this Application

Signature for the Responsible Authority.....

JOHN TRAPP, STATUTORY PLANNER  
DATE 06/08/2004



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**EAST GIPPSLAND SHIRE COUNCIL**

**-and-**

**Margaret Lucille BENSBERG**

---

**Agreement under Section 173 of the *Planning and Environment Act 1987***

---



**Subject Land: Lot 25 Kingscote Drive, Metung in the State of Victoria  
(Lot Lot 25 LP 210671U)**

**AD089276J**



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## PLANNING AND ENVIRONMENT ACT 1987

### SECTION 173 AGREEMENT

THIS AGREEMENT is made the 5<sup>th</sup> day of AUGUST 2004

#### BETWEEN:

**EAST GIPPSLAND SHIRE COUNCIL**  
of 273 Main Street, Bairnsdale in the State of Victoria

("Council")

-and-

**Margaret Lucille BENSBERG**  
C/O Swan Reach Post Office, Swan Reach in the State of Victoria

("the Owner")

#### INSTRUCTION

- A. The Council is the Responsible Authority for the Planning Scheme under the Act.
- B. The Owner is the registered proprietor of the Subject Land.
- C. The Council has issued Planning Permit No. 269/2003/P ("the Planning Permit") to subdivide the land into three lots and development of two dwellings and associated outbuildings. A copy of the Planning Permit is attached to this Agreement and marked "A".
- D. It is a condition of Planning Permit No. 269/2003/P that the Owner enter into this Agreement to develop the land in accordance with the Endorsed Plans of the Planning Permit. A copy of the Endorsed Plans are attached to this Agreement and marked "B".
- E. The parties enter into this Agreement –
  - a) to give effect to the requirements of the Planning Permit: and
  - b) to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.



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**IT IS AGREED:****1. DEFINITIONS**

In this Agreement the words and expressions set out in this clause have the following meanings unless the context admits otherwise –

- 1.1 **"the Act"** means the Planning & Environment Act 1987.
- 1.2 **"this Agreement"** means this agreement and any agreement executed by the parties expressed to be supplemental to this Agreement.
- 1.3 **"the endorsed Plan"** means the plan, endorsed with the stamp of Council, that forms part of the Planning Permit.
- 1.4 **"Owner"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the Subject land or any part of it and includes a Mortgagee-in-possession.
- 1.5 **"Planning Permit"** means the Planning Permit referred to in recital C of this Agreement.
- 1.6 **"Planning Scheme"** means the East Gippsland Planning Scheme and any other planning scheme which applies to the subject land.
- 1.7 **"Subject Land"** means the land situated at **Lot 25 Kingscote Drive Metung** in the State of Victoria being the land referred to in certificate of Title Volume **09852 Folio 701** and any reference to the Subject Land in this Agreement will include a reference to any lot created by the subdivision of the Subject Land or any part of it.
- 1.8 **"Mortgage"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as Mortgagee of the Subject Land or any part of it.

**AD089276J**

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**2. INTERPRETATION**

In this Agreement unless the context admits otherwise-

- 2.1 The Singular includes the plural and vice versa.
- 2.2 A reference to a gender includes a reference to each other gender.
- 2.3 A reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law.
- 2.4 If a party consists of more than one person this Agreement binds them jointly and each of them severally.
- 2.5 A reference to an Act, Regulation or the Planning Scheme includes any Acts, Regulations or amendments amending, consolidating or replacing the Act, Regulations or Planning Scheme.
- 2.6 The introductory clauses to this Agreement are and will be deemed to form part of this Agreement.
- 2.7 The Obligations of the Owner under this Agreement, will take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land PROVIDED THAT if the Subject Land is subdivided, this Agreement must be read and applied so that each subsequent owner of a lot is only responsible for those covenants and obligations which relate to that owner's lot.



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### 3. SPECIFIC OBLIGATIONS OF THE OWNER

The Owner covenants and agrees that –

#### 3.1 Development in accordance with Endorsed Plans

the Subject Land shall only be developed in accordance with the Endorsed Plans, and the notation thereon, of the Planning Permit or any subsequent amendment to the plan approved by Council.

3.2 the lots created by the subdivision approved in Planning Permit 02/00269/DS will only be developed in accordance with the endorsed development plans for the lots; and

3.3 the land, which is the subject of this application must not be further subdivided.

3.

#### Councils Costs to be paid

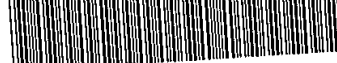
the Owner must pay to the Council, the Council's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, drafting, finalisation, engrossment, execution, registration and enforcement of the Agreement and until those costs are paid they will remain a debt of the Owner to the Council.



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DAD089276J-7-9

#### **4. FURTHER OBLIGATIONS OF THE OWNER**

The Owner further covenants and agrees that –

##### **4.1 Notice and Registration**

the Owner will bring this Agreement to the attention of all prospective purchasers, mortgages, transferees and assigns;

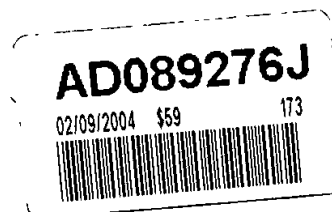
##### **4.2 Further actions**

4.2.1 the owner will do all things necessary, including signing any further agreements, undertakings, covenants and consents, approvals or other documents necessary for the purpose of ensuring that the Owner carries out the Owner's covenants under this Agreement and to enable the Council to enforce the performance by the Owner of such covenants and undertakings;

4.2.2 the Owner will consent to the Council making application to the Registrar of Titles to make a recording of this Agreement in the Registrar on the Certificate of Title of the Subject Land in accordance with Section 181 of the Act and do all things necessary to enable the Council to do so including signing any further agreement, acknowledgment or document or procuring the consent to this Agreement of any mortgage or caveator to enable the recording to be made in the Register under that Section;

##### **4.3 Exemption**

the Owner will exempt the Council, its employees, contractors and agents from and against all costs, expenses, losses or damages whatsoever which they or any of them may incur or suffer, or be or become liable for or in respect of any suit, action, proceeding, judgement or claim brought by any non-compliance thereof.



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DAD089276J-8-7

**5. AGREEMENT UNDER SECTION 173 OF THE ACT**

The Council and the Owner agree that without limiting or restricting their respective powers to enter into this Agreement and, insofar as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.

**6. OWNERS WARRANTIES**

Without limiting the operation or effect which this Agreement has, the Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

**7. SUCCESSORS IN TITLE**

Without limiting the operation or effect which this Agreement has, the Owner must ensure that, until such time as a memorandum of this agreement is registered on the title to the Subject Land, successors in the title shall be required to:

- 7.1 give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
- 7.2 execute a deed agreeing to be bound by the terms of this Agreement.

**8. GENERAL MATTERS****8.1 Notices**

A notice or other communication required or permitted to be served by a party on another party must be in writing and may be served:

- 8.1.1 by delivering it personally;
- 8.1.2 by sending it by prepaid post addressed to that party at the address set out in this Agreement or subsequently notified to each party from time to time; or
- 8.1.3 by sending it by facsimile provided that a communication sent by facsimile shall be confirmed immediately in writing by the sending party hand delivery or prepaid post.

**AD089276J**


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AD089276J-9-5

**8.2 A Notice or other communication is deemed served:**

8.2.1 if delivered, on the next following business day;

8.2.2 if posted, on the expiration of two business days after the day of posting; or

8.2.3 if sent by facsimile, on the next following business day unless the receiving party has requested retransmission before the end of that business day.

**8.3 No Waiver**

Any time or other indulgence granted by the Council to the Owner or any variation of the terms and conditions of this Agreement or any judgement or order obtained by the Council against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Council in relation to the terms of this Agreement.

**8.4 Severability**

If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it must be served and the other provisions of this Agreement will remain operative.

**8.5 No Fettering of the Council's Powers**

It is acknowledged and agreed that this Agreement does not fetter or restrict the power or discretion of Council any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification of any plans of subdivision applicable to the Subject Land or relating to any use or development of the Subject Land.

**9. COMMENCEMENT OF AGREEMENT**

Unless otherwise provided in this Agreement, this Agreement commences from the date of this Agreement.

**10. ENDING OF AGREEMENT**

This Agreement may be ended by Agreement between Council and the Owner.

**AD089276J**

02/09/2004 \$59 173



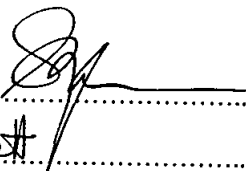
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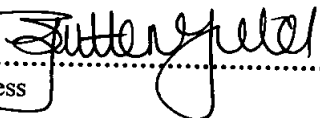
**EXECUTED** by the parties on the date set out at the commencement of this Agreement.

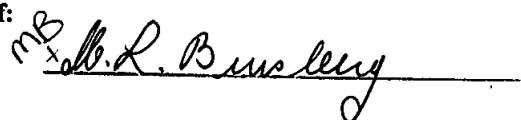
The **COMMON SEAL** of the  
**EAST GIPPSLAND SHIRE COUNCIL**  
was affixed on behalf of Council by  
authority of the Chief Executive Officer  
on the 5<sup>th</sup> day of August 2004  
in the presence of:

  
.....  
M. Bennett



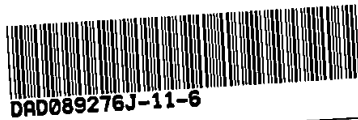
**SIGNED SEALED AND DELIVERED**  
by Margaret Lucille BENSBERG in the presence of:

  
.....  
Witness

  
.....



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## PLANNING PERMIT

Permit No: 269/2003/P AMENDED  
 Planning Scheme: East Gippsland  
 Responsible Authority: East Gippsland Shire

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Form 4.4

### ADDRESS OF THE LAND

8 Kingscote Drive METUNG VIC 3904  
 Lot 25 LP 210671

BN: 45522 0

### THE PERMIT ALLOWS

A subdivision into three lots and development of two dwellings and associated outbuildings in accordance with the endorsed plans and subject to the following conditions:.

### THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

#### *Subdivision not altered*

- (1) *The subdivision as shown on the endorsed plan(s) must not be altered without the written consent of the Responsible Authority*

#### *Section 173 Agreement*

- (2) *Before the issue of a Statement of Compliance, the owner of the land shall enter into an agreement with the Responsible Authority in accordance with Section 173 of the Planning and Environment Act 1987, which will covenant that: -*

- *the lots created by the subdivision approved in Planning Permit 02/00269/DS will only be developed in accordance with the endorsed development plans for the lots; and*
- *the land, which is the subject of this application must not be further subdivided.*

*The agreement will bind the applicant as the owner and shall run with the land so that all successors in title are bound by the agreement. This agreement will be prepared at the applicant's cost and to the satisfaction of the Responsible Authority, and shall be registered on the title in accordance with Section 181 of the Planning and Environment Act 1987.*

#### *Access*

- (3) *Prior to construction, plans showing the design of the driveways shall be submitted and approved by Council. Construction shall be in accordance with Council requirements and to Council satisfaction.*

#### *Drainage*

- (4) *The stormwater drainage system for future development of the proposed lots shall be designed in accordance with standard engineering practice for the collection and control of all stormwater runoff, resulting from a*

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storm having an ARI of 1 in 20 Years, and concentrated by buildings, pavements, and/or site works to avoid damage to any other neighbouring property. The outlet or discharge point shall be constructed with an appropriate device to prevent sedimentation, pollution, erosion and scouring. Detailed drainage design shall be submitted to and approved by Council prior to the commencement of that stage of construction.

**Earthworks**

- (5) All earthworks associated with the development shall be stabilized in accordance with standard engineering design and practices against erosion and failure. No earthworks may encroach across neighbouring property boundaries.

**Protection of infrastructure and environment**

- (6) Any portion of Council's existing infrastructure damaged as a result of work undertaken on the site or associated with the development shall be repaired/reinstated to Council's satisfaction at the developer's expense.
- (7) Temporary debris and sediment control measures shall be installed to prevent debris and sediment from entering the adjacent water course during all construction stages of both the land division and future development on the proposed allotments. Pollution prevention measures, shall be in accordance with the Environment Protection Authority's Publication Number 275 Construction Techniques for Sediment Pollution Control;

**East Gippsland Water's Requirements are: -**

- (8) the applicant shall enter into an Agreement under the Water Act for the provision of sewer supply works;
- (9) the applicant shall meet the cost of the necessary sewer mains extension;
- (10) the applicant shall pay a headworks and distribution charge at a level determined by the Authority at the time of payment. As a guide the level applicable on 21/05/2003 is \$4,000.00 for the additional two lots created by the subdivision;
- (11) the applicant shall modify existing water service piping ( if necessary);
- (12) the applicant shall provide easements as necessary;
- (13) the applicant shall pay an outfall and disposal charge at a level determined by the Authority at the time of payment. As a guide applicable on 21/05/2003 is \$4,200.00 for the additional two lots created by the subdivision; and
- (14) the applicant shall connect development to the Authority's water and sewerage (if available) services to the satisfaction of the Responsible Authority.

**TXU Electricity Limited's (TXU) requirements are: -**

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- (15) The applicant shall enter into an agreement for the extension, upgrading or re-arrangement of the electricity supply to the lots on the Plan of Subdivision as required by TXU. (A payment to cover the cost of such work will be required and easements internal and external to the subdivision and provision of sited for substations may also be required).

Department of Primary Industries requirements are: -

**Soil conservation**

- (16) All earthworks associated with the proposed subdivision, including road works, must be undertaken in accordance with the provisions of Environment Protection Authority (EPA) Publication No. 275 Construction Techniques for Sediment Pollution Control (Copy available from EPA, Traralgon)
- (17) During construction and maintenance activities, adequate steps shall be taken to stop soil erosion and the movement of sediment off site and into drainage lines and watercourses and onto adjoining Crown land. Adequate steps include: -

- control on-site drainage by intercepting and redirecting run-off in a controlled manner to stable vegetated areas on site;
- install sediment control structures such as sediment basins, sediment fences and sediment traps when construction commences and maintain until site is stabilised; and
- revegetate all disturbed areas as quickly as possible or within 14 days after construction works are completed

Topsoil shall be striped from any roads, driveways and building sites requiring excavation, prior to excavation and forming, and stockpiled for re-spreading over the disturbed sites.

Roads and driveways on gradients steeper than 5% are to be surfaced with a non-erodible surface to the satisfaction of the Responsible Authority.

**Vegetation**

- (18) Clearing of vegetation must be limited to the minimum required to facilitate fencing of the subdivision and to ensure that there is no immediate risk of personal injury or damage to the property.

**Certification**

- (19) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant Authority in accordance with Section 8 of the Act.

**Time Limit - Subdivision and development**

- (20) This permit will expire if: -

- the subdivision is not certified within two years; or
- if certified within two years, is not completed within five years of the date of certification; or



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- the development is not started within two years of the date of certification of the subdivision; or
- the development is not completed within two years of the date of commencement.

*The Responsible Authority may consider extending the periods referred to above if a request is made in writing before the permit expires or within three months afterwards.*

**Notes****Cultural Heritage**

DAD089276J-14-7

- (1) All works associated with the development must be in a manner consistent with the provisions of the Archaeological and Aboriginal Relics Preservation Act 1992 and Part 11A of the Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984. Aboriginal Affairs Victoria (AAV) is the Responsible Authority for the administration of those Acts, and the proponent is be advised to contact Mr Gerry Laughton, PO Box 1240, Sale, 3850 or phone 41431644 in relation to the above.

**Erosion Management**

- (2) The land subject to this application has been identified as highly erodible. All earthworks undertaken on the land should be carefully monitored and any signs of active erosion stabilised as quickly as possible. Advice on the most practical and cost effective methods of erosion control can be obtained from the Department of Sustainability and Environment's Bairnsdale office (phone 5152 0600).

**TXU**

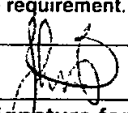
- (3) It is recommended that, an early date, the applicant commences negotiations with TXU for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions to be issued).
- (4) Arrangements for supply will be subject to obtaining the Agreement of other Authorities and any landowners affected by the routes of electric lines required to supply the lots, and planning permits for any tree clearing.

Permit Amended 05/01/2004: Amended to delete Public Open Space requirement.

Date Amended: 05/01/2004

Date Issued: 20/10/2003

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Signature for the  
Responsible Authority

**AD089276J**

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# IMPORTANT INFORMATION ABOUT THIS NOTICE

## WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit.

## WHEN DOES A PERMIT BEGIN?

A permit operates:

From the date specified in the permit, or

If no date is specified, from:

- The date of the decision of the Tribunal, if the permit was issued at the direction of the Tribunal, or
- The day on which it is issued, in any other case.

## WHEN DOES A PERMIT EXPIRE?

A permit for the development of land expires if:

- The development or any stage of it does not start within the time specified in the permit, or
- the development requires the certification of a plan of subdivision or consolidation under the *Subdivision Act 1988* and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision, or
- the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the *Subdivision Act 1988*.

A permit for the use of land expires if:

- The use does not start within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit, or
- The use is discontinued for a period of two years.

A permit for the development and use of the land expires if:

- The development or any stage of it does not start within the time specified in the permit, or
- The development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
- The use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
- The use is discontinued for a period of two years.

If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in Section 6A(2), of the *Planning and Environment Act 1987*, or to any combination of use, development or any of those circumstances requires the certification of a plan under the *Subdivision Act 1988*, unless the permit contains, a different provision:

- The use or development of any stage is to be taken to have started when the plan is certified; and
- The permit expires if the plan is not certified within two years of the issue of the permit.

The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

## WHAT ABOUT APPEALS?

- The person who applied for the permit may appeal against any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal where, in such case, no right of appeal exists.
- An appeal must be lodged within 60 days after the permit was issued, unless a Notice of Decision to Grant a permit has been issued previously, in which case the appeal must be lodged within 60 days after the giving of that notice.
- An appeal is lodged with the Victorian Civil and Administrative Tribunal.
- An appeal must be made on a Notice of Appeal form and lodged with the Victorian Civil and Administrative Tribunal, and be accompanied by the prescribed fee. An appeal must state the grounds on which it is based.
- An appeal must also be served on the responsible authority.
- Details about appeals, notice of appeal forms and the fees payable can be obtained from the Planning & Environment List at the Victorian Civil and Administrative Tribunal.



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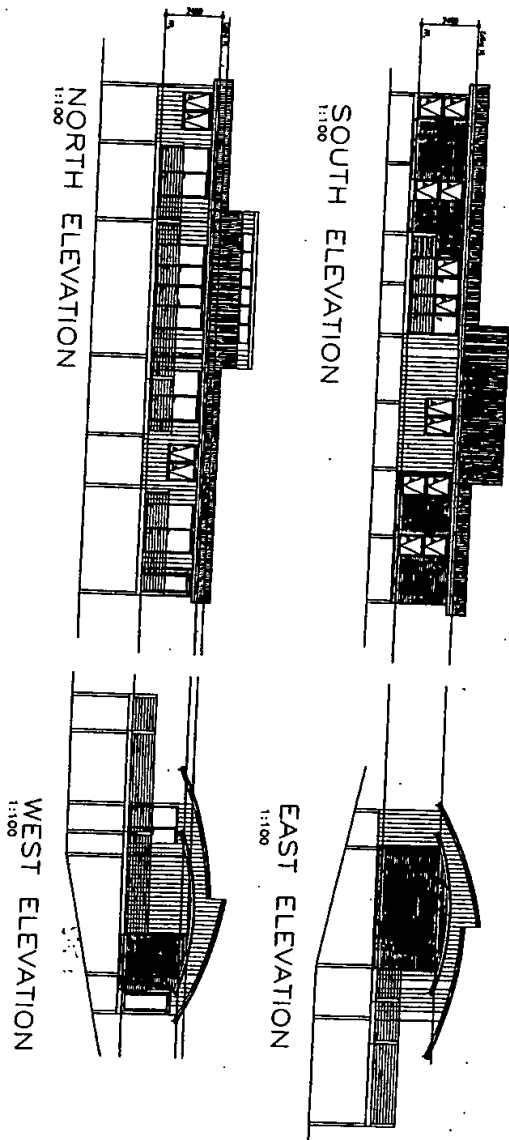
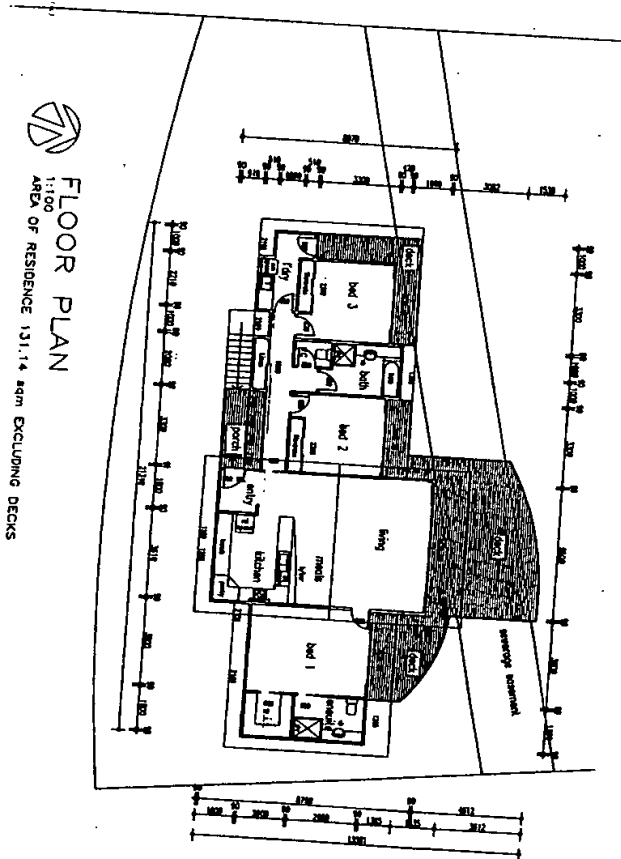
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<b>PROPOSED RESIDENCE</b>	
at LOT 3 KINGSFORD DRIVE	
for MRS. M. BEYENBERG	
DATE	14/04/2022
BY	14/04/2022
FOR	14/04/2022
AS	14/04/2022



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LODGED BY..Warren, Graham & Murphy

CODE..1716W.....

VICTORIA

P137853Q

190189 1038 HISC 445 P137853 30

APPLICATION BY A RESPONSIBLE  
AUTHORITY under Section 181 Planning  
and Environment Act 1987 for ENTRY  
OF A MEMORANDUM OF AGREEMENT under  
Section 173 of the Act.

The Responsible Authority under the Planning Scheme having entered into an Agreement with the parties named for the land described requires that a Memorandum of the Agreement be entered on the Certificate of Title to the land referred to.

LAND	Certificates of Title Volume 9852 Folio 696 to Volume 9852 Folio 719 (both inclusive)
ADDRESS OF LAND	<del>Tambo Upper Road, Swan Road</del> Stirling Road, Metung
RESPONSIBLE AUTHORITY	Shire of Tambo
PLANNING SCHEME	Tambo Shire Planning Scheme
AGREEMENT DATE	7th March, 1989
AGREEMENT WITH	MT. NELSE PTY. LTD. as owner

A copy of the Agreement is attached to this Application

Signature for the Responsible Authority ..... *N. J. Holden*  
Name of Officer ..... *Chief Executive*  
Date ..... *4 April* ..... 1989

Prepared by Warren, Graham & Murphy of 119 Main Street, Bairnsdale (IRC)

1330w

A Memorandum of the within instrument  
has been entered in the Register Book.



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THIS AGREEMENT is made the 7<sup>th</sup> day of March 1988  
 BETWEEN:

THE PRESIDENT COUNCILLORS AND RATEPAYERS  
 OF THE SHIRE OF TAMBO (the Council)  
 of Municipal Offices, Lakes Entrance

of the first part

- and -

MT. NELSE PROPRIETARY LIMITED (the Owner)  
 of 74 Main Street, Bairnsdale of the second part.

WHEREAS:

- A. The Owner is the registered proprietor of the land described in the First Schedule hereto (the subject land) and has made application to the Council as the Responsible Authority under the Tambo Shire Planning Scheme (the Scheme) for the subdivision of the subject land into 24 Lots.
- B. The Council has granted Planning Permit No. 4018 dated 31st October 1988 for subdivision of the subject land including a condition as follows:-  
 "8. Reticulated sewerage, water and electricity shall be provided to the allotments prior to the development or use of the created allotments.  
 Notwithstanding the above, the Developer and the Council may enter into an agreement under Section 173 of the Planning and Environment Act to permit a dwelling to be constructed on an allotment but the agreement must state that the dwelling cannot be occupied until the reticulated services (particularly sewerage) is available."
- C. The subdivision has been lodged for registration at the Land Titles Office and is numbered 210671U (the subdivision).
- D. The Council and the Owner have agreed that without restricting or limiting their respective powers to enter into this agreement and insofar as it can be so treated this agreement shall be treated as being an agreement under Section 173(1) of the Planning and Environment Act 1987.

NOW THIS AGREEMENT WITNESSETH as follows:-

1. In this agreement unless inconsistent with the context or subject matter:-  
 "Owner" shall mean the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the subject land;  
 "subdivision" includes:-

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- .1 the dividing of land into two or more parts
    - (a) by sale, conveyance, transfer or partition; or
    - (b) by procuring the issue of a Certificate of Title under the Transfer of Land Act 1958 in respect to a part of the land;
  - .2 the subdivision of land by sale, transfer or partition into two or more lots and common property, none of which consists in whole or in part of a stratum or strata;
  - .3 the subdivision of land by sale, transfer or partition into two or more units or into two or more units and common property whether or not any unit is on the same level as any other unit;
- and "subdivided" has a corresponding interpretation.
2. The Owner with the intent that its covenants hereunder shall run with the land hereby covenants and agrees that it (which term shall include the owner or owners of the subject land or any part thereof from time to time) will:-
    - .1 comply with the conditions of the permit;
    - .2 not cause allow or permit any dwelling constructed on any allotment on the subdivision to be occupied until sewerage, water and electricity services are provided to that allotment ~~unless with the consent in writing of the Council and on such terms as are stipulated by the Council.~~
  3. The Owner agrees to do all things necessary to enable the Council to enter a memorandum of this agreement on the Certificate of Title to the subject land in accordance with Section 181 of the Act including signing any further agreement acknowledgement or document to enable the said memorandum to be registered under that section.
  4. The Owner covenants and agrees to pay the Council's costs of and incidental to the preparation and execution of this agreement and the registration of a memorandum of the agreement at the Office of Titles pursuant to Section 181 of the Act and any duties or fees payable in connection with either the agreement or the registration of the memorandum at the Office of Titles.
  5. This agreement will end pursuant to Section 177 of the Act on reticulated sewerage, water and electricity being provided to the subject land ~~or such earlier date as the Responsible Authority may authorise in writing.~~
- IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

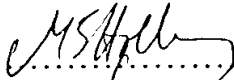
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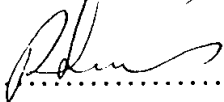
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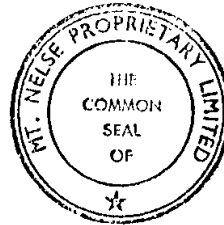
THE COMMON SEAL of THE PRESIDENT )  
COUNCILLORS AND RATEPAYERS OF THE )  
SHIRE OF TAMBO was hereunto affixed )  
in the presence of: )


.....Councillor


.....Councillor

.....Shire Secretary

THE COMMON SEAL of MT. NELSE )  
PROPRIETARY LIMITED was hereunto )  
affixed in accordance with its )  
Articles of Association in the )  
presence of: )



.....Director

.....Director Secretary

FIRST SCHEDULE

THE SUBJECT LAND

Lot 20 on Plan of Subdivision 140180 Parish of Bumberrah being the whole of the land comprised in Certificate of Title Volume 9551 Folio 319 as subdivided by Plan of Subdivision 210671 into Lots numbered 20 to 43 both inclusive being the land comprised in Certificates of Title Volume 9852 Folio 696 to Volume 9852 Folio 719 (both inclusive).

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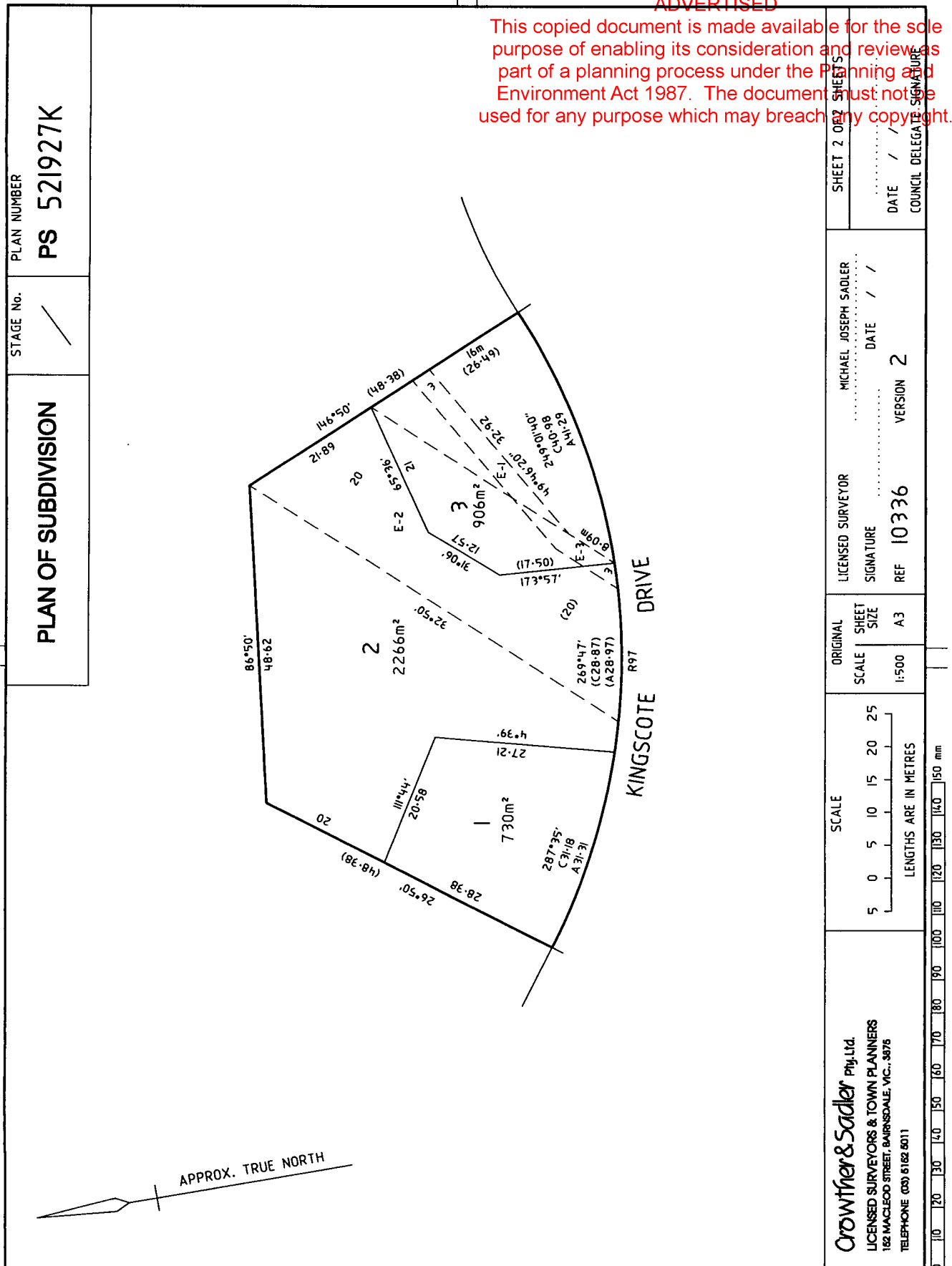
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PLAN OF SUBDIVISION		STAGE No.	LTO USE ONLY	PLAN NUMBER
<b>LOCATION OF LAND</b>  <b>PARISH:</b> BUMBERRAH <b>TOWNSHIP:</b> METUNG <b>SECTION:</b> M <b>CROWN ALLOTMENT:</b> 8 & 9 (PARTS) <b>CROWN PORTION:</b> _____  <b>TITLE REFERENCES:</b> VOL 9852 FOL 701  <b>LAST PLAN REFERENCE:</b> LOT 25 ON LP 21067IU  <b>POSTAL ADDRESS:</b> 8 KINGSCOTE DRIVE, METUNG, 3903 <b>(At time of subdivision)</b>  <b>AMG CO-ORDINATES:</b> E 574 670 <b>(Of approx. centre of land in plan)</b> N 5806 800 <b>ZONE:</b> 55		This copied document is made available for the sole purpose of <b>EDITION 1</b> consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.		
		<b>COUNCIL CERTIFICATION AND ENDORSEMENT</b> <b>COUNCIL NAME:</b> EAST GIPPSLAND SHIRE COUNCIL <b>REF:</b> 4/2004/CRT 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. <del>This plan is certified under Section III(7) of the Subdivision Act 1988.</del> <del>Date of original certification under Section 6: / /</del> 3. <del>This is a statement of compliance issued under Section 21 of the Subdivision Act 1988.</del>  <b>OPEN SPACE</b> (i) A requirement for public open space under Section 18 Subdivision Act 1988 <del>has / has not been made.</del> (ii) <del>The requirement has been satisfied.</del> (iii) <del>The requirement is to be satisfied in stage</del> Council Delegate Council seal Date 11/05/2004 Re-certified under Section III(7) of the Subdivision Act 1988 Council Delegate Council seal Date / /		
<b>VESTING OF ROADS AND/OR RESERVES</b>		<b>NOTATIONS</b> <b>STAGING</b> This is / is not a staged subdivision Planning Permit No JT/269/2003/P <b>DEPTH LIMITATION</b> DOES NOT APPLY		
IDENTIFIER	COUNCIL/BODY/PERSON			
NIL	NIL			
<b>EASEMENT INFORMATION</b>		<b>LTO USE ONLY</b> <b>STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT</b>  <b>RECEIVED</b> <input checked="" type="checkbox"/>  <b>DATE</b> 21/9/04		
LEGEND	A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)			
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1, E-3	DRAINAGE	3	LP 140180	LAND IN LP 140180
E-1	SEWERAGE	3	LP 21067IU	LAND IN LP 21067IU
E-2, E-3	POWER LINE	20	STATE ELECTRICITY COMMISSION - SECTION 103B OF THE STATE ELECTRICITY COMMISSION ACT 1958	S.E.C.V.
E-3	SEWERAGE	3	THIS PLAN	LAND IN THIS PLAN
<b>Crowther &amp; Sadler Pty. Ltd.</b> LICENSED SURVEYORS & TOWN PLANNERS 182 MACLEOD STREET, BAIRNSDALE, VIC., 3875 TELEPHONE (03) 5162 5011		LICENSED SURVEYOR <b>MICHAEL JOSEPH SADLER</b> SIGNATURE _____ DATE 12/12/2003 REF 10336 VERSION 2		<b>LTO USE ONLY</b> <b>PLAN REGISTERED</b> TIME 11:47 DATE 20/10/04 Helen Hymour Assistant Registrar of Titles SHEET 1 OF 2 SHEETS
				DATE 11/05/2004 Printed 14/04/2022 Page 33 of 38

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PLAN OF SUBDIVISION		STAGE No.	LTO USE ONLY EDITION	PLAN NUMBER PS 521927K																																																		
<b>LOCATION OF LAND</b> <b>PARISH:</b> BUMBERRAH <b>TOWNSHIP:</b> METUNG <b>SECTION:</b> M <b>CROWN ALLOTMENT:</b> 8 & 9 (PARTS) <b>CROWN PORTION:</b> _____  <b>TITLE REFERENCES:</b> VOL 9852 FOL 701  <b>LAST PLAN REFERENCE:</b> LOT 25 ON LP 21067IU <b>POSTAL ADDRESS:</b> 8 KINGSCOTE DRIVE, (At time of subdivision) METUNG, 3903  <b>AMG CO-ORDINATES:</b> E 574 670 (Of approx. centre of land in plan) N 5806 800 <b>ZONE:</b> 55		<b>COUNCIL CERTIFICATION AND ENDORSEMENT</b> <b>COUNCIL NAME:</b> EAST GIPPSLAND SHIRE COUNCIL REF: 4/1004/CRT 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. <del>This plan is certified under Section 11(7) of the Subdivision Act 1988.</del> Date of original certification under Section 6 / / 3. <del>This is a statement of compliance issued under Section 21 of the Subdivision Act 1988.</del>  <b>OPEN SPACE</b> (i) A requirement for public open space under Section 18 Subdivision Act 1988 has <del>not</del> been made. (ii) <del>The requirement has been satisfied.</del> (iii) <del>The requirement is to be satisfied in stage</del> Council Delegate Council seal Date 11 / 05 / 2004 Re-certified under Section 11(7) of the Subdivision Act 1988 Council Delegate Council seal Date / /																																																				
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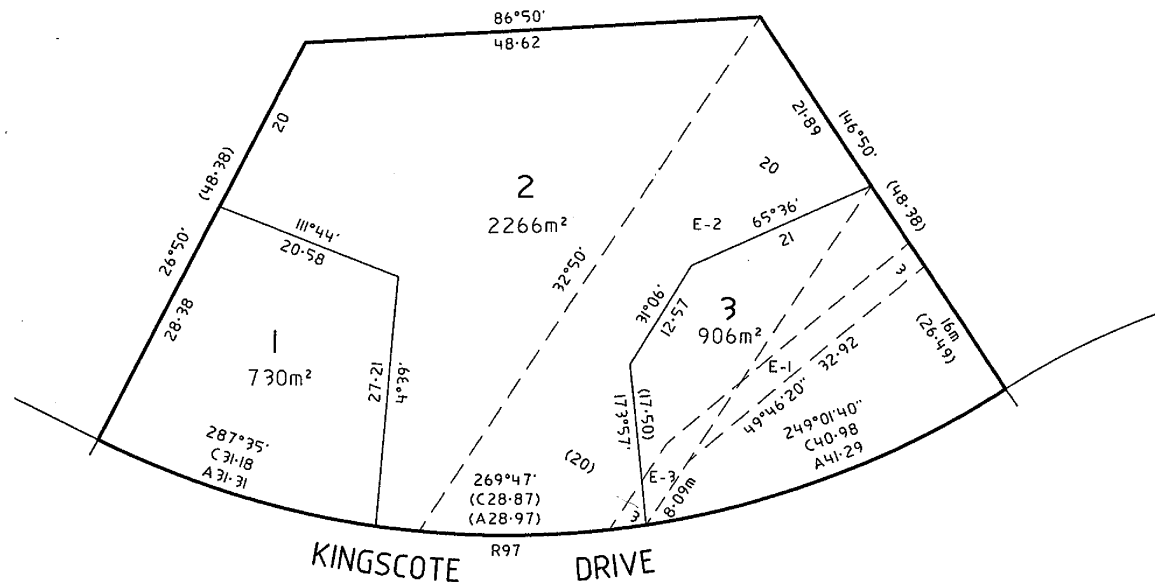
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## PLAN OF SUBDIVISION

PS 521927K

APPROX. TRUE NORTH



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 LICENSED SURVEYORS & TOWN PLANNERS  
 152 MACLEOD STREET, BAIRNSDALE, VIC., 3875  
 TELEPHONE (03) 5152 5011

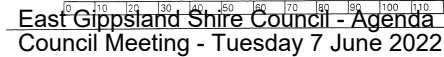
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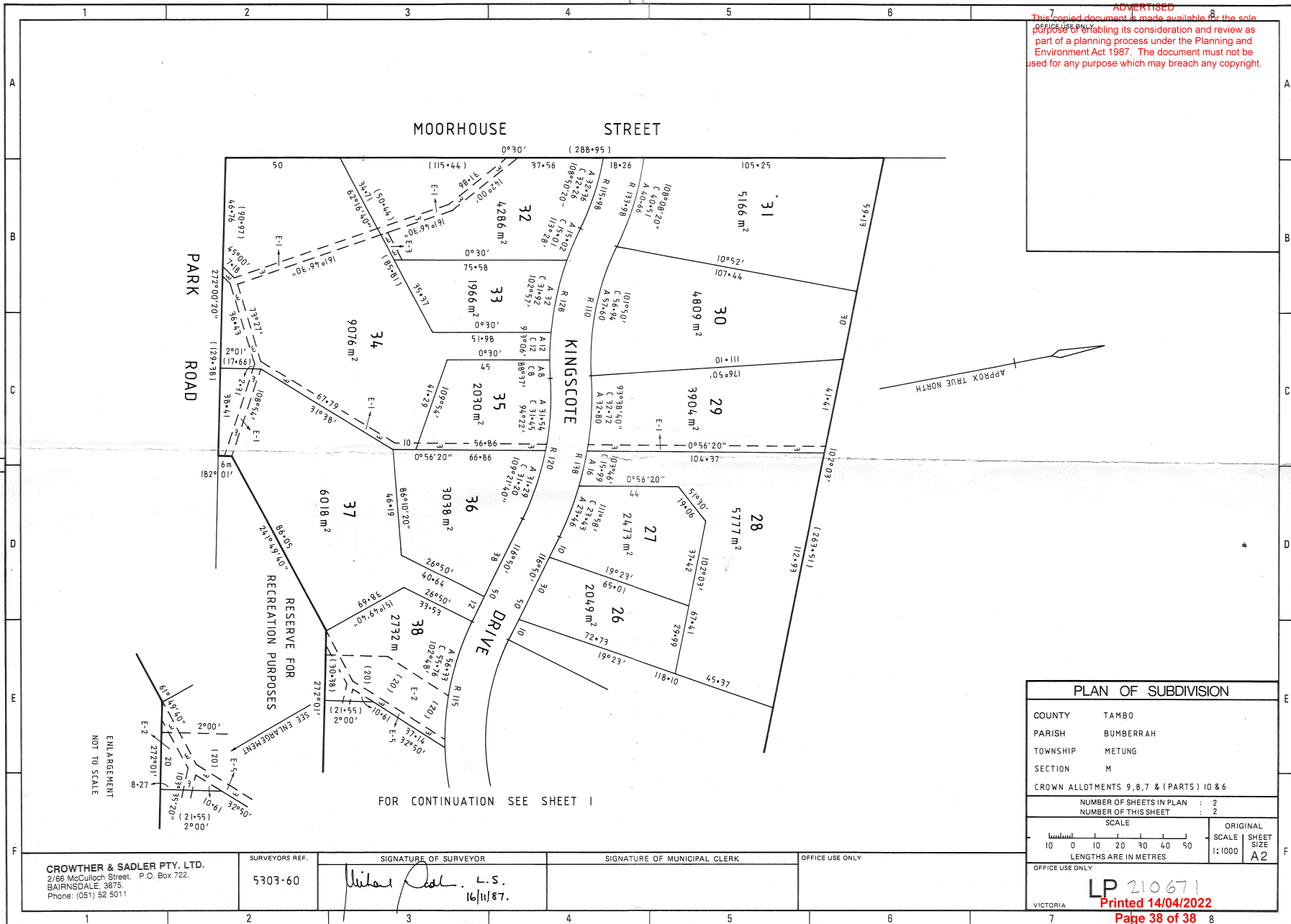
LICENSED SURVEYOR  
 SIGNATURE *Michael Joseph Sadler* DATE 12/12/2003  
 REF 10336 VERSION 2

SHEET 2 OF 2 SHEETS

DATE 11/05/2004  
 COUNCIL DELEGATE SIGNATURE



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## 5.2.4 Planning Permit Application 468/2021/P - Buildings and Works for a Jetty Extension - Barrier Landing Nyermilang

Authorised by General Manager Place and Community

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### Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

The planning permit application currently before Council seeks a permit to carry out buildings and works – jetty extension – to the Barrier Landing Jetty, located within Hopetoun Channel, Gippsland Lakes. The land in question is referred to as Cliff Road, Nyermilang in Council's rating system, which has been the source of some confusion in the notification process. The Barrier Landing is shown in the immediate vicinity (Figure 1) and in relation to the Entrance and Lakes Entrance settlement (Figure 2).

Having considered the relevant controls of the East Gippsland Planning Scheme in detail, it is recommended that a notice of decision to grant a planning permit is issued, subject to limited conditions as outlined in **Attachment 1**.

A copy of the plans and supporting documents submitted with the application can be found via hyperlink at **Attachment 2**.

Public notice has been undertaken and the application has attracted 17 objections. The objections are provided at **Attachment 3**. A planning consultation meeting (PCM) was conducted on 2 May 2022, with minutes provided at **Attachment 4**.



Figure 1: Site and Locality Plan – Immediate Vicinity



Figure 2: Site and Locality

The application relates to land (water) in the Public Park and Recreation Zone and the lodgement and determination of the application must be supported by consent of the relevant public land manager. The application was made with consent from DELWP and further conditional support has been received towards the granting of the permit. This also considers the Marine and Coastal Act Consent to the proposal. These responses are provided at **Attachment 5**.

#### Officer Recommendation

##### *That Council:*

- 1. receives and notes this report and all attachments pertaining to this report; and**
- 2. being the Responsible Authority and having considered all the relevant planning matters, determines that planning application 468/2021/P is consistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a notice of decision to grant a planning permit for the Buildings and Works (Barrier Landing jetty extension) at Hopetoun Channel, Gippsland Lakes subject to the Conditions at Attachment 1.**



## Background

### Site Analysis

The subject land is a part of the Hopetoun Channel, one of two mainly east-west aligned channels leading from the Entrance, in Lakes Entrance to Bancroft Bay, in Metung and westward to the larger Gippsland Lakes. The Barrier Landing Jetty is located adjacent to The Barrier, extending northward towards of Rigby Island.

The Barrier Landing services the Parks Victoria managed Gippsland Lakes Coastal Park. The park is a predominantly day-use only facility with boat only access, primarily originating from other boating facilities in Lakes Entrance. However, it is accessible from Bass Strait via the Entrance and from the Channel through to the rest of the Gippsland Lakes and navigable connected waterways.

Between the landing and along Hopetoun Channel on The Barrier to The Entrance, the land is almost exclusively in public ownership, with the exception of some historic allotments (former cottages) nearer the Entrance. To the west along The Barrier are approximately 30 private lots, many of which are developed with dwellings and which are predominantly used for holiday accommodation. All of the lots are accessible (practically) by boat only, predominantly sharing other jetty facilities. The application of the Planning Scheme for these lots restricts future development.



Figure 3: Existing Jetty Configuration (EGSC Aerial Photography circa 2017)

## Proposal

The proposed buildings and works are for a mixture of fixed and floating extensions to the existing jetty configuration shown in **Figure 3**. The plans are demonstrated in **Figure 4**, and can be described by cardinal directions (northwest, northeast, southwest and southeast):

- Northwest Jetty is currently formed from the northern end of the jetty with a ramp and pontoon (floating) jetty. This pontoon and ramp will be relocated, and replaced with:
  - 12 metre long x 2.4 metre wide fixed jetty aligned with the current position leading to
    - New 10 metre long ramp angled west northwest from the current alignment, leading to
      - New 21 metre long x 2.4 metre wide pontoon jetty, with new piles and guides on either end.
- Southwest jetty is currently a 9 metre fixed jetty, to be extended by:
  - Additional 3 metre fixed jetty leading to
    - Relocated (from northwest) ramp and floating pontoon, aligned west northwest from the current alignment.
- Northeast fixed jetty of 30.315 metres to be extended with additional 12 metres long x 2.4 metres wide fixed jetty on the same alignment; and
- Southeast jetty unaltered.

The proposed jetty extensions will increase the number of jetty berths available at the facility.

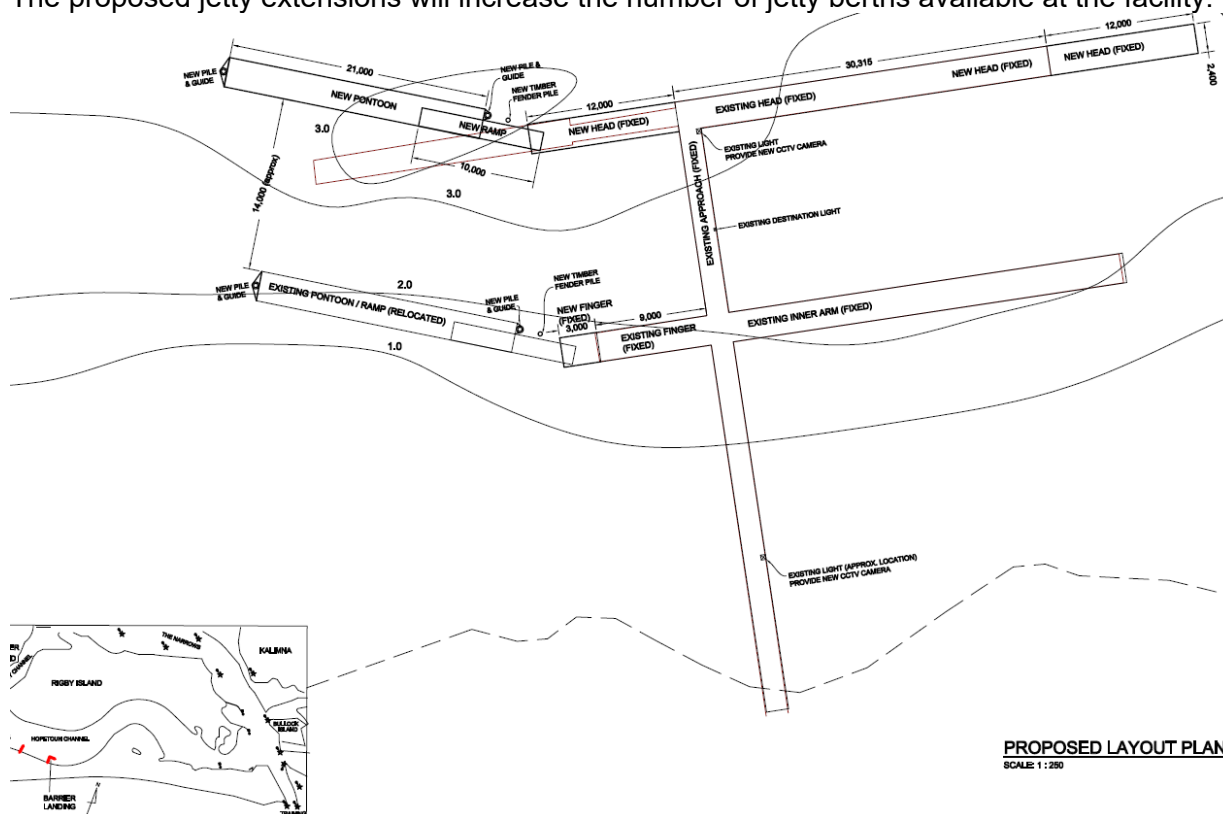


Figure 4: Proposal

A copy of the plans and supporting documents submitted with the application can be found via hyperlink at **Attachment 2**.

## Legislation

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

In preparing this report the Victorian *Gender Equality Act 2020* has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the *Gender Equality Act 2020*. The need for a Gender Impact Assessment has also been assessed. The implications of this report have been assessed and align with the principles and objects of the *Gender Equality Act 2020*.

### East Gippsland Planning Scheme

Planning policy relating to the proposal generally seeks to:

- Direct development to appropriately zoned and serviced land;
- Protect environmental features of significance; and
- Ensure that human life and property is not placed at an unacceptable level of risk.

The key aspect of decision making in relation to this matter will be to ensure that the application has appropriately addressed all the purposes and objectives of the Zone, Overlays and Particular Provisions relating to the subject site and immediate surrounds.

### Planning Scheme Controls and decision criteria

The following is a summary of the controls applicable to the assessment. Detailed consideration of the policy, zones, and decision guidelines is made in **Attachment 6**.

Scheme Part	Detail	Relevance
<b>Zones</b>	Public Park and Recreation Zone (PPRZ)	36.02.2 Buildings and works where the Public Land Manager is Parks Victoria
	Public Conservation and Resource Zone (PCRZ)	36.03-2 Buildings and works where the Public Land Manager is Parks Victoria
<b>Overlays</b>	Land subject to inundation overlay (LSIO)	Clause 44.04-2 A permit is not required for works associated with jetties, as provided for in the schedule to the overlay

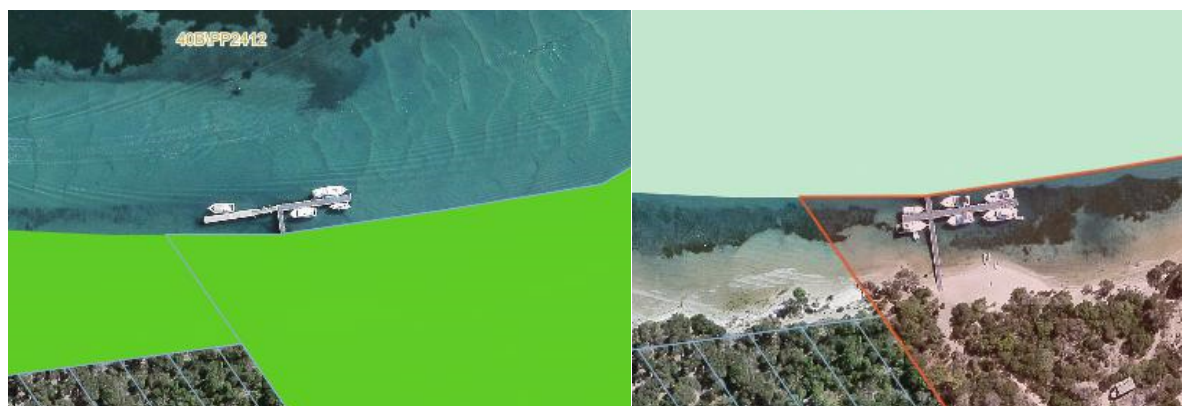


Figure 5 – PCRZ (left) and PPRZ (right) zone extents.

### Summary Assessment:

Through the Planning Scheme, the responsible authority is charged with ensuring the protection of the environment and the access to natural environments in the public realm. Significant concerns have been raised by objectors in relation to the coastal erosion threat as a result of the existing jetty, let alone a proposed extension.

In weighing up whether or not the proposal can be supported, the responsible authority has considered:

- To what extent is coastal erosion happening across the Gippsland Lakes and what are its causes?
- To what extent would the proposal be a significant detriment to the locality?
- To what extent would the additional berths contribute to amenity issues experienced by landowners in the adjacent private land holdings?
- Is the risk of environmental harm appropriately managed through the Marine and Coastal Act Consent issued by DELWP?

It is considered that there is a general acceptance that coastal erosion is an ongoing issue in the broader Gippsland Lakes, and most intensely in those areas affected by increased salinity, tidal currents and storm events. There is a suitable amount of information publicly available to suggest that the coastal erosion issue is broader than can be attributed to a single jetty. Key points are:

- There is an ongoing need for dredging at the entrance from materials deposited from the ocean and from the Lakes/Rivers, as a result of estuarine sedimentation and tidal flow;
- The competition between tides and currents exerts significant force on the shoreline; and
- The problem is not isolated to the Barrier Landing area, it is repeated along the coastline and public authorities have collectively constructed significant seawalls and other shoreline protection measures to combat coastal erosion.

As such, it is considered that the issue is not something that can be significantly affected by the proposed buildings and works to the existing jetty. The jetty will have a minor impact on the local area, but not significantly contribute to changes in coastal processes or cause broad area erosion.

### **Collaborative procurement**

Not applicable.

### **Council Plan**

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 2: 2.1 Statutory and strategic planning for land use delivers sustainable outcomes that balance the need for growth with the enhancement of our lifestyle, character, the built and natural environment.

## **Council Policy**

In accordance with Council's *Planning Permit Application Delegation Policy* 2018, the application attracted 10 or more objections and was subject to a PCM. All matters with 10 or more objections are considered at a Council meeting.

## **Options**

Option One is for Council to grant the planning permit (preferred).

The alternative option for Council would be to issue a notice of refusal to grant the planning permit, subject to reasonable grounds to be set in consultation with officers.

## **Resourcing**

### *Financial*

The recommendation will not result in any financial expenditure and the application has been assessed by existing officer resources.

### *Plant and equipment*

No plant and equipment is required to implement the proposed recommendation.

### *Human Resources*

Assessment of the application is undertaken with existing officer resources.

### *Risk*

The risks of this proposal have been considered and it is considered that the risk would be borne by the proponents in relation to the implementation of the proposed buildings and works.

## **Economic**

An improvement to the facility may attract additional visitors, but as noted in the planning consultation process, it is more likely that similar visitor numbers would occur but use a formal jetty rather than the beach moorings.

## **Social**

It is considered that the proposal has no measurable social impact.

### *Gender Impact Statement*

The assessment of the application has considered the *Gender Equality Act* 2020 in its preparation. The proposal has been assessed as not requiring a Gender Impact Assessment (GIA).

## Environmental

Environmental considerations are outlined in the Engagement section of this report in response to objector concerns, and also in **Attachment 6** – Detailed Assessment in relation to State and Local planning policy.

### *Climate change*

This report has been prepared and aligned with the following Climate Change function/category:

Land Use Planning: Consideration is given to climate change in the local land use planning and includes responses to direct and indirect impacts.

## Engagement

### Notice of Proposal

Public notification was undertaken in the form of letters to adjoining landowners and occupiers, a sign on site, and notice in an edition of the Lakes Post in accordance with Section 52 of the *Planning and Environment Act 1987*.

A total of seventeen (17) objections have been received at the time of writing this report.

Copies of the objections are at **Attachment 3**. As a result of the number of objections, a PCM was held on 2 May 2022 and the minutes of such meeting are available at **Attachment 4**.

In summary the objections raised the following concerns/issues:

### **Coastal Erosion**

- There is existing coastal erosion degrading the foreshore in Hopetoun Channel; and
- There is a lack of evidence that the development will not negatively contribute to further coastal erosion and detriment the private property.

Consideration: The officer assessment relies on relevant control of coastal issues, such as through the Marine and Coastal Act (MACA) consent process, and the permission which has been granted for the application by the relevant authority. The MACA consent process is independent of the planning permit application process, and it is expected that the information submitted by the applicant to fulfill the requirements of that consent may have been different to the application materials presented for Council consideration in relation to a buildings and works planning permit trigger under the two public purpose zones.

Following the PCM, officers of Council contacted the relevant officers at DELWP to confirm they were confident in the consent, raising particular concerns from the objectors. The response provided confirmed that appropriate measures are included in the consent to account for the impact of the proposal on the coast.

Officers suggest that the broader issues of coastal morphology, specifically in proximity to the Entrance, are impacting the area far more significantly than this proposal would. In consideration of the policy requirements of the planning scheme, it is considered that the proposed jetty extension would not contribute significantly and independently to the process of coastal change occurring along this shoreline.

### **Amenity/Intensification of recreational use**

- Already issues with tourists/day users trespassing on private property, waste disposal, under-provision of amenities.

Consideration: The applicant presented in the PCM that the proposal will not necessarily increase users to the recreation area but will provide for formal jetty spaces subject to various time restrictions, that will divert some boats from the informal beaching arrangement currently undertaken, and notably not expected to cease.

The application was made in response to a demonstrated need from existing use. On-shore facilities are not within the remit of the application, nor within the control of the applicant, Gippsland Ports.

Following the PCM, Council officers sought advice from Parks Victoria regarding planning for upgrades of the services and facilities in the reserve. The response provided indicated there are no plans for an upgrade of toilet facilities. However, 27 mooring poles will be upgraded, and signage/walking tracks will be repaired following recent storm damage, including the path leading to the jetty.

### **Biodiversity**

- Increased usage of the reserve area will contribute to damage to flora and fauna; and
- Dogs off lead (permitted in the beach areas, but not the National Park area) will further endanger native wildlife (shorebirds, bandicoots).

Consideration: These aspects are not relevant to the matter of the proposed extension of the jetty. It was well documented in the submissions and presentations at the PCM that the reserve area is visited regardless of the number of jetty berths available, and moored boats on the beach frequently exceeds moored boats on the jetty. Thus, it cannot be considered that the increase in jetty size will directly result in increased usage of the reserve.

Whilst damage to flora and fauna and issues of native wildlife protection are concerning, they do not directly relate to the application before Council for buildings and works for the jetty.

### **Boating Activities**

- Mooring and “rafting” within the narrow Hopetoun Channel

Consideration: Although the proposed extensions to the jetties will reach further into the Channel, the design is created by the relevant port authority, and as such, they have due regard to the requirements of navigation. Any concerns about mooring and “rafting” in this area can be addressed by that authority using their powers. The responsible authority (Council) has no role in this process.



## Emergency Response

- Increased number of people able to attend the area will stretch emergency services response in the area; and
- Disappointment that the application is not referred to emergency services.

Consideration: The application before Council relates to buildings and works for an established jetty facility. A jetty does not require consideration under the bushfire management overlay, and the overlay does not apply to the area of the jetty extension (Figure 6 below), therefore the application does not need referral to the relevant fire authority, which for Crown Land, would be within the remit of Parks Victoria.

There is no statutory obligation for the referral of this planning application to emergency services. Whilst it is acknowledged that the location may limit some access for emergency services, the same is true of many parts of East Gippsland during peak tourist periods, as there is a large land mass to cover with remote areas between settlements. Ultimately, the users of the area must consider the risks, and prepare accordingly, including avoiding the area on days of elevated fire and flood risk.



Figure 6: Extent of the Bushfire Management Overlay in relation to the Jetty

## Process of Notice, MACA Consent

- Concern regarding the quality of information considered for MACA consent; and
- Concerns regarding availability of contact detail in order to lodge an objection, availability of the application for notice.

Consideration: Council has not had oversight of the information which has been provided to DELWP to inform the MACA consent. The information presented to Council related to the buildings and works approval required under the planning scheme. DELWP has reassured Council officers that they are satisfied with the proposal.

It is contended that there is a much broader issue of coastal erosion that will not be significantly aggravated by the proposed buildings and works in isolation. This is addressed in the main report response.



Form 2 is derived from the *Planning and Environment Regulations Act 1988* and sets out the format of Notice regarding a permit application. The Notice sent to the applicant to post contained a web link to Council's website and list of planning permit applications. Council's website contains a number of contact methods, and the planning section provides a form for lodgement of an objection which was used by this objector.

There was some passage of time after the application was lodged to when the application was made subject to notice. This related to officer availability to process the request.

### Referral Authorities

Consultation to authorities has been undertaken in the following manner:

External	Department of Environment, Land, Water and Planning (DELWP) Gippsland Ports are the proponent. They would normally have been sent a copy of the application if it was a private application for a jetty extension.
Internal	Nil

A copy of the referral response and Marine and Coastal Act Consent is at **Attachment 5**.

### **Attachments**

1. Proposed Permit Conditions [**5.2.4.1** - 1 page]
2. Application Documents [**5.2.4.2** - 11 pages]
3. Objections [**5.2.4.3** - 16 pages]
4. Minutes of the PCM 02 May 2022 [**5.2.4.4** - 3 pages]
5. Referral Response DELWP [**5.2.4.5** - 3 pages]
6. Detailed Assessment [**5.2.4.6** - 9 pages]

468/2021/P – Hopetoun Channel, Gippsland Lakes  
Seg 1 - Barrier Landing Jetty Extension

**PROPOSED PERMIT CONDITIONS**

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Before the start of any works associated with the development, a construction management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must include:
  - Location of any temporary construction works office and machinery storage area;
  - The construction works access way;
  - Details of construction days and hours;
  - Vehicle and machinery exclusion zones;
  - Measures and techniques to protect watercourses from sediment runoff from disturbed or under construction areas;
  - Measures and methods to be employed to protect sites of conservation importance, native vegetation and areas of archaeological significance;
  - Location and management of litter storage areas, construction waste areas and chemical storage areas; and
  - Methods of ensuring all contractors are informed of the requirements of the construction management plan and persons responsible for ensuring the construction management plan is adhered to.

All construction works and requirements of the construction management plan must be undertaken and completed in accordance with the endorsed construction management plan to the satisfaction of the Responsible Authority.

**Time Limit condition**

3. This permit will expire if any of the following circumstances applies:
  - The development is not started within two years of the issue date of this permit.
  - The development is not completed within four years of the issue date of this permit.

In accordance with section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

**Notes**

1. All works are to be undertaken in accordance with the Marine and Coastal Act Consent.

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18 March 2022

Form 2

**NOTICE OF AN APPLICATION FOR PLANNING PERMIT**

<b>The land affected by the application is located at:</b>	<b>Cliff Road NYERIMILANG Seg 1</b>
<b>The application is for a permit to:</b>	<b>Barrier Landing Jetty Extension</b>
<b>The applicant for the permit is:</b>	<b>Gippsland Ports</b>
<b>The application reference number is:</b>	<b>468/2021/P</b>
<b>You may look at the application and any documents that support the application on the website of the responsible authority.</b>	<b>(Intentionally blank)</b>

This can be done anytime by visiting the following website:

<https://www.eastgippsland.vic.gov.au/building-and-development/advertised-planning-permit-applications>

Any person who may be affected by the granting of the permit may object or make other submissions to the responsible authority.

**An objection must** ♦ **be sent to the Responsible Authority in writing,**  
♦ **include the reasons for the objection, and**  
♦ **state how the objector would be affected.**

<b>The Responsible Authority will not decide on the application before:</b>	<b>Subject to applicant carrying out notice</b>
---	---

**If you object, the Responsible Authority will tell you its decision.**

Please note submissions received will be made available for inspection and may be made available to other parties in accordance with the Planning & Environment Act 1987. If you have concerns about this, please contact the East Gippsland Shire Council's Planning Office.

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Department of  
Premier and Cabinet

## Process List

Project Name: Barrier Landing Jetty extension

Project Location: Barrier Landing Gippsland Lakes

Date: 30-Sep-2021

	QUESTION	ANSWER
<b>Question 1</b>	Is the proposed activity , or all the proposed activities, exempt?	No
<b>Question 2</b>	Are you undertaking a High Impact Activity as listed in the Aboriginal Heritage Regulations?	Yes
<b>Question 2(b)</b>	Is the activity for or associated with a purpose for which the land was being lawfully used prior to 28 May 2007?	Yes
<b>Answer:</b>	<p><u>ON THE BASIS OF THE ANSWERS YOU HAVE ENTERED</u></p> <p>YOU ARE NOT REQUIRED BY THE REGULATIONS TO PREPARE A CULTURAL HERITAGE MANAGEMENT PLAN FOR THIS PROJECT</p>	
	<p>This process list is for information purposes only; the result must not be relied upon by a statutory authority in deciding whether a cultural heritage management plan is required for a proposed activity.</p>	

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## PLANNING PROPERTY REPORT

From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) at 30 September 2021 10:48 AM

### PROPERTY DETAILS

Crown Description: **Allot. 40B PARISH OF COLQUHOUN**  
 Address: **CLIFF ROAD NYERIMILANG 3909**  
 Standard Parcel Identifier (SPI): **40B\PP2412**  
 Local Government Area (Council): **EAST GIPPSLAND**  
 Council Property Number: **NCPR**  
 Planning Scheme: **East Gippsland**  
 Directory Reference: **Vicroads 84 G8**



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[www.eastgippsland.vic.gov.au](http://www.eastgippsland.vic.gov.au)

[Planning Scheme - East Gippsland](#)

### UTILITIES

Rural Water Corporation: **Southern Rural Water**  
 Urban Water Corporation: **East Gippsland Water**  
 Melbourne Water: **Outside drainage boundary**  
 Power Distributor: **AUSNET**

[View location in VicPlan](#)

### STATE ELECTORATES

Legislative Council: **EASTERN VICTORIA**  
 Legislative Assembly: **GIPPSLAND EAST**

### OTHER

Registered Aboriginal Party: **Gunaikurnai Land and Waters  
 Aboriginal Corporation**

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PLANNING PROPERTY REPORT: Allot. 40B PARISH OF COLQUHOUN

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PLANNING PROPERTY REPORT

Planning Zones

- FARMING ZONE (FZ)
- FARMING ZONE - SCHEDULE 1 (FZ1)
- PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ)
- SCHEDULE TO THE PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ)
- PUBLIC PARK AND RECREATION ZONE (PPRZ)
- SCHEDULE TO THE PUBLIC PARK AND RECREATION ZONE (PPRZ)



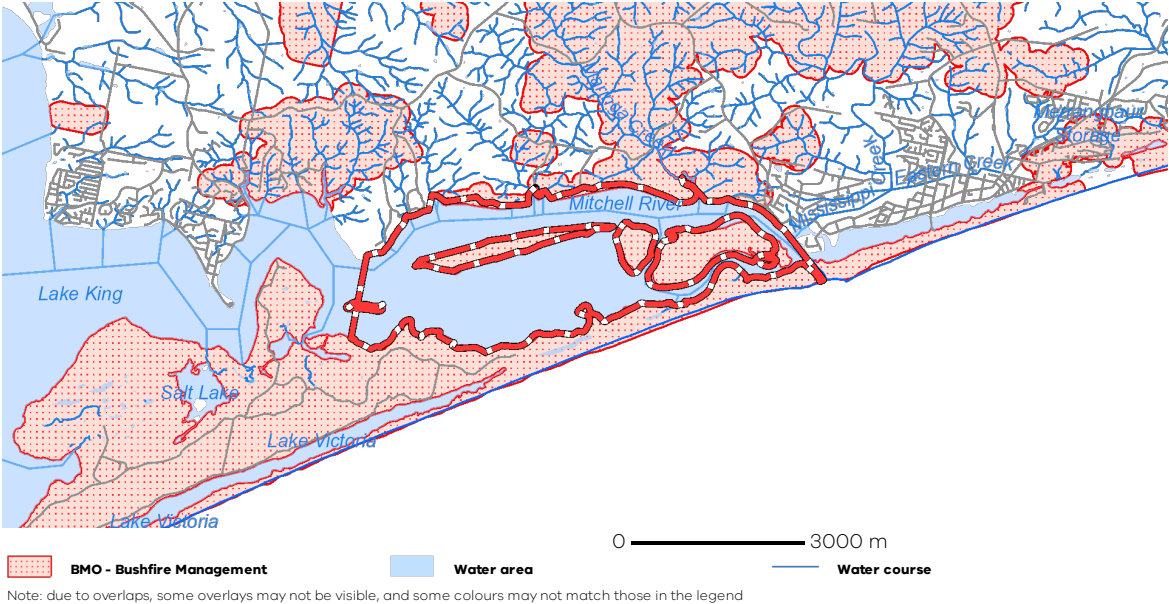
- |                                       |   |  |
|---------------------------------------|---|--|
| C1Z - Commercial 1                    | C2Z - Commercial 2                      | FZ - Farming                           |
| GRZ - General Residential             | IN1Z - Industrial 1                     | IN3Z - Industrial 3                    |
| LDRZ - Low Density Residential        | PCRZ - Public Conservation and Resource | PPRZ - Public Park and Recreation      |
| PUZ1 - Public Use-Service and Utility | PUZ2 - Public Use-Education             | PUZ5 - Public Use-Cemetery/Crematorium |
| PUZ6 - Public Use-Local Government    | PUZ7 - Public Use-Other Public Use      | RCZ - Rural Conservation               |
| RDZ1 - Road-Category 1                | RLZ - Rural Living                      | SUZ - Special Use                      |
| Water area                            | Water course                            |  |

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

PLANNING PROPERTY REPORT

Planning Overlays

BUSHFIRE MANAGEMENT OVERLAY (BMO)

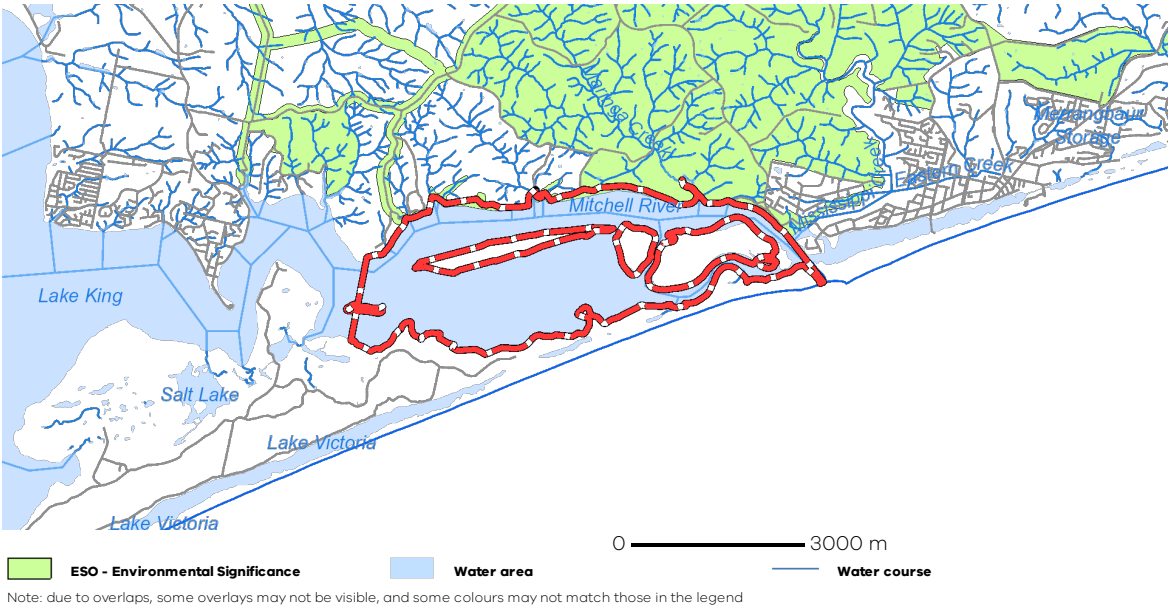


ENVIRONMENTAL SIGNIFICANCE OVERLAY (ESO)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1-46 (ESO1-46)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1-53 (ESO1-53)

ENVIRONMENTAL SIGNIFICANCE OVERLAY - SCHEDULE 1-63 (ESO1-63)



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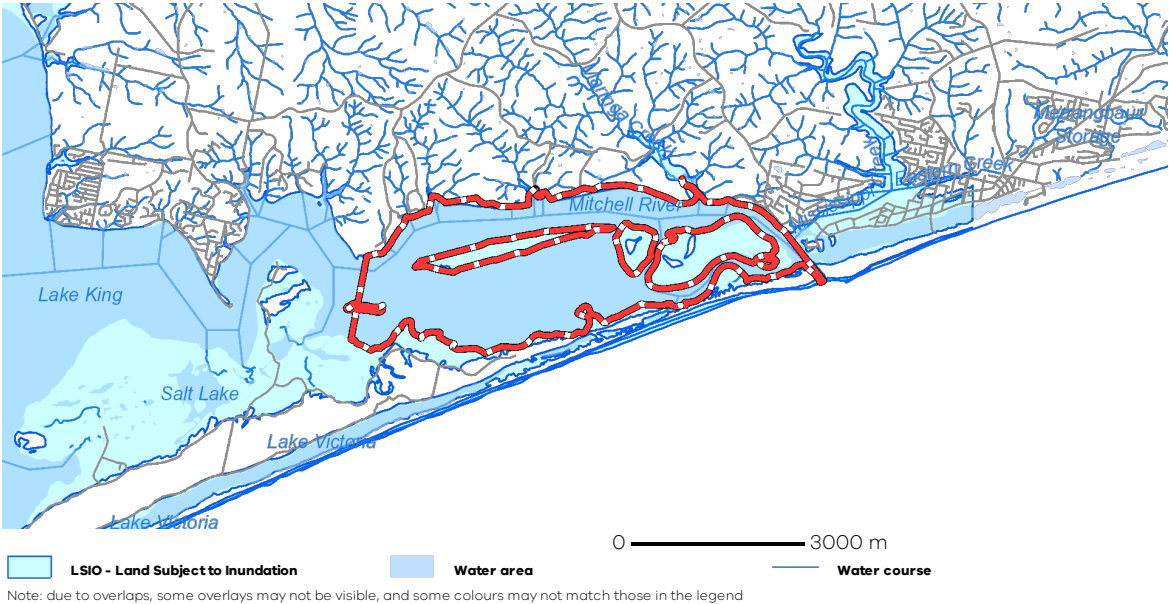
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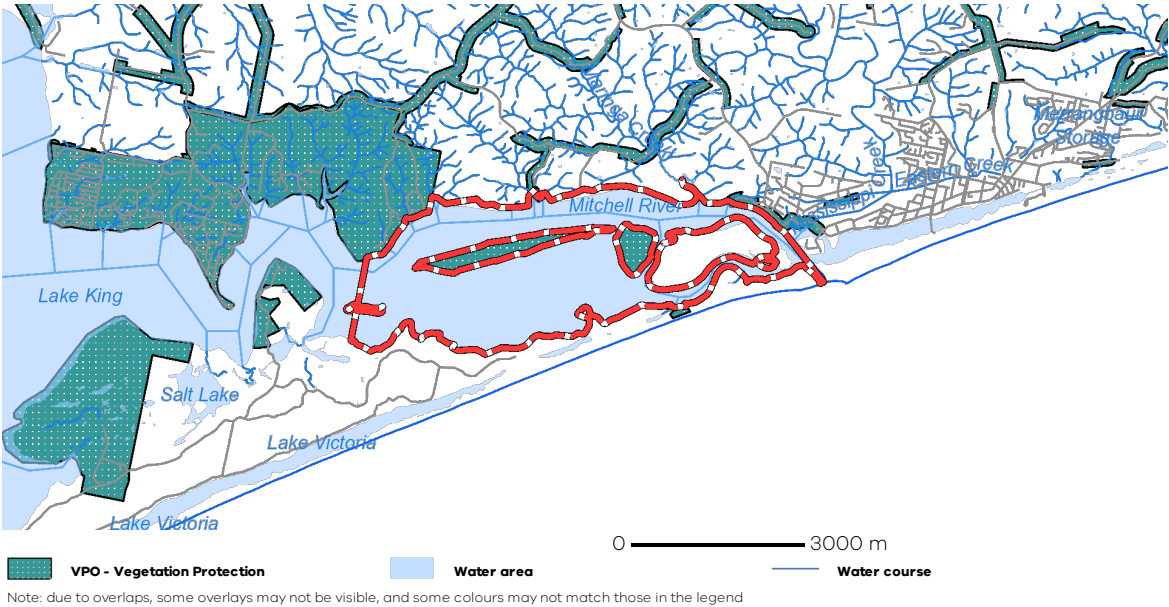
PLANNING PROPERTY REPORT

Planning Overlays

LAND SUBJECT TO INUNDATION OVERLAY (LSIO)  
LAND SUBJECT TO INUNDATION OVERLAY SCHEDULE (LSIO)



VEGETATION PROTECTION OVERLAY (VPO)  
VEGETATION PROTECTION OVERLAY - SCHEDULE 1 (VPO1)  
VEGETATION PROTECTION OVERLAY - SCHEDULE 3 (VPO3)



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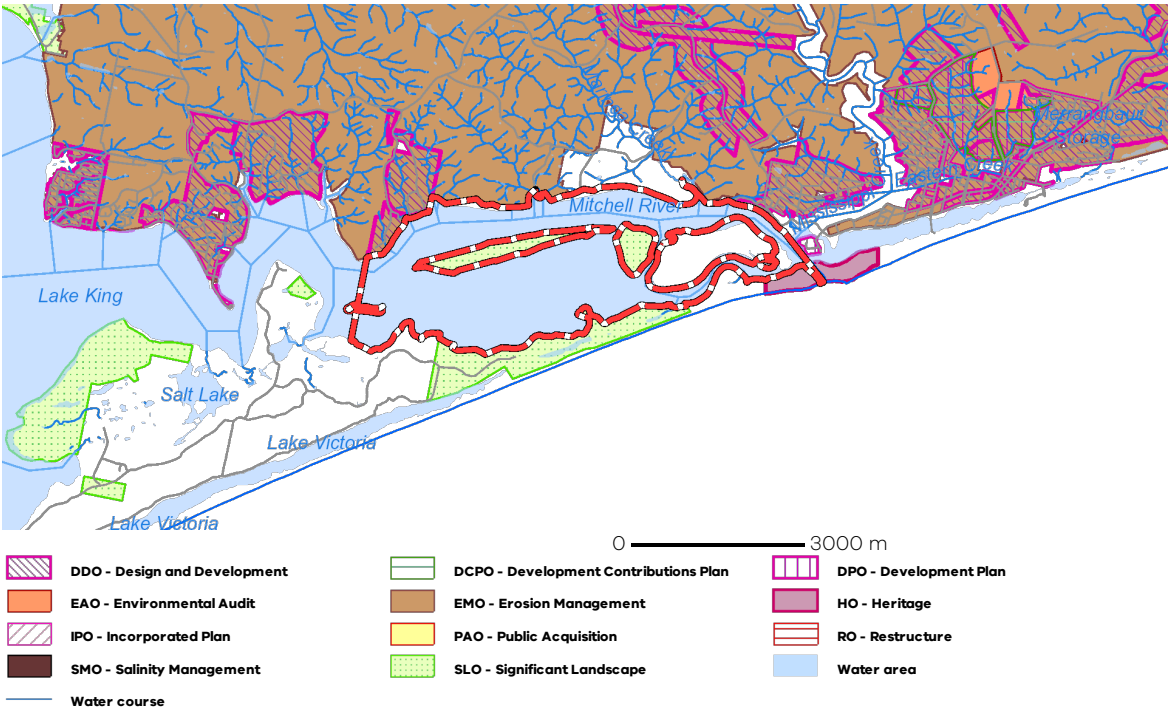
PLANNING PROPERTY REPORT

Planning Overlays

OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

- DESIGN AND DEVELOPMENT OVERLAY (DDO)
- DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (DCPO)
- DEVELOPMENT PLAN OVERLAY (DPO)
- ENVIRONMENTAL AUDIT OVERLAY (EAO)
- EROSION MANAGEMENT OVERLAY (EMO)
- HERITAGE OVERLAY (HO)
- INCORPORATED PLAN OVERLAY (IPO)
- PUBLIC ACQUISITION OVERLAY (PAO)
- RESTRUCTURE OVERLAY (RO)
- SALINITY MANAGEMENT OVERLAY (SMO)
- SIGNIFICANT LANDSCAPE OVERLAY (SLO)



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PLANNING PROPERTY REPORT

Areas of Aboriginal Cultural Heritage Sensitivity

All or part of this parcel is an 'area of cultural heritage sensitivity'.

'Areas of cultural heritage sensitivity' are defined under the Aboriginal Heritage Regulations 2018, and include registered Aboriginal cultural heritage places and land form types that are generally regarded as more likely to contain Aboriginal cultural heritage.

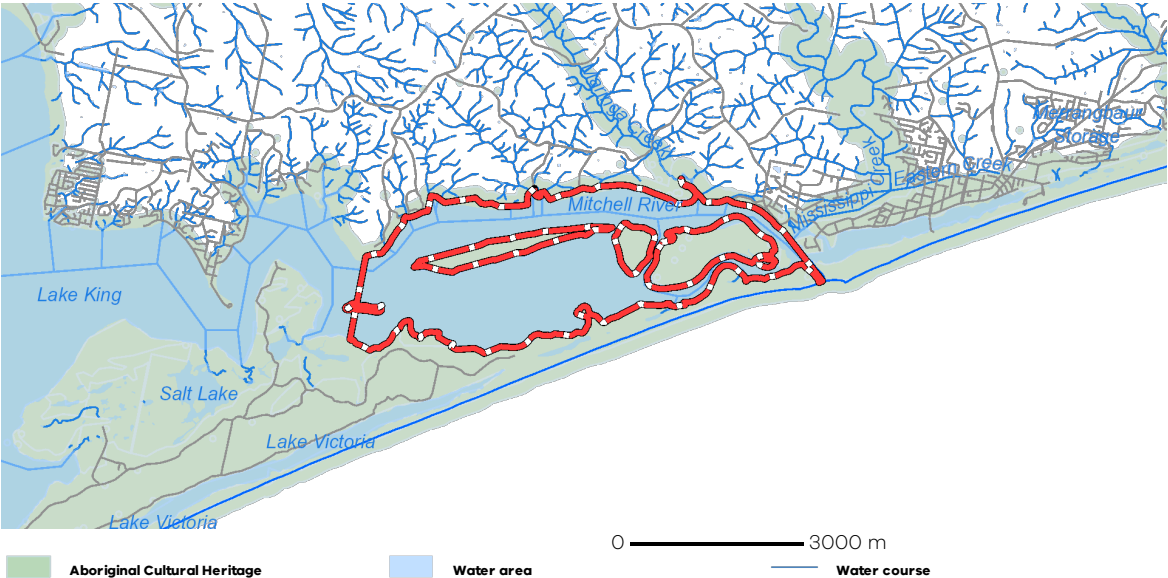
Under the Aboriginal Heritage Regulations 2018, 'areas of cultural heritage sensitivity' are one part of a two part trigger which require a 'cultural heritage management plan' be prepared where a listed 'high impact activity' is proposed.

If a significant land use change is proposed (for example, a subdivision into 3 or more lots), a cultural heritage management plan may be triggered. One or two dwellings, works ancillary to a dwelling, services to a dwelling, alteration of buildings and minor works are examples of works exempt from this requirement.

Under the Aboriginal Heritage Act 2006, where a cultural heritage management plan is required, planning permits, licences and work authorities cannot be issued unless the cultural heritage management plan has been approved for the activity.

For further information about whether a Cultural Heritage Management Plan is required go to <http://www.gav.nrms.net.au/gavQuestion1.aspx>

More information, including links to both the Aboriginal Heritage Act 2006 and the Aboriginal Heritage Regulations 2018, can also be found here - <https://www.aboriginalvictoria.vic.gov.au/aboriginal-heritage-legislation>



## PLANNING PROPERTY REPORT

### Further Planning Information

Planning scheme data last updated on 22 September 2021.

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

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

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

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

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

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**PLANNING PROPERTY REPORT:** Allot. 40B PARISH OF COLQUHOUN

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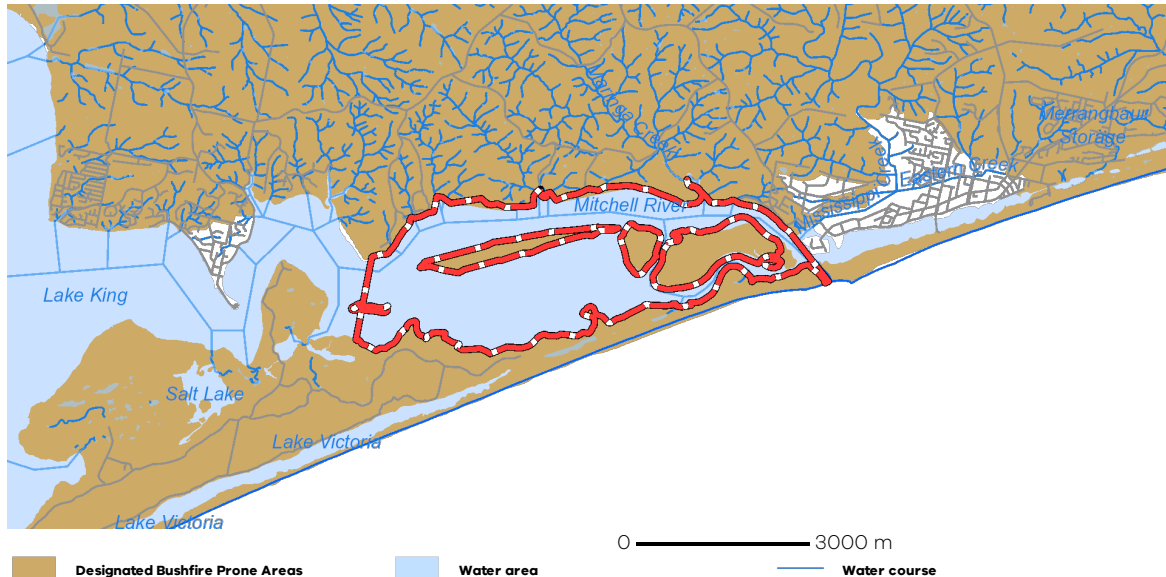
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## PLANNING PROPERTY REPORT

## Designated Bushfire Prone Areas

This parcel is in a designated bushfire prone area.  
Special bushfire construction requirements apply. Planning provisions may apply.



Designated bushfire prone areas as determined by the Minister for Planning are in effect from 8 September 2011 and amended from time to time.

The Building Regulations 2018 through application of the Building Code of Australia, apply bushfire protection standards for building works in designated bushfire prone areas.

Designated bushfire prone areas maps can be viewed on VicPlan at <https://mapshare.maps.vic.gov.au/vicplan> or at the relevant local council.

Note: prior to 8 September 2011, the whole of Victoria was designated as bushfire prone area for the purposes of the building control system.

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>

Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>

For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>

## Native Vegetation

Native plants that are indigenous to the region and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#)

To help identify native vegetation on his property and the application of Clause 52.17 please visit the Native Vegetation Information Management system <https://nvm.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](#) or please contact your relevant council.

You can find out more about the natural values on your property through NatureKit [NatureKit \(environment.vic.gov.au\)](#)

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NEW PILE & GUIDE

21,000

NEW PONTON

NEW PILE & GUIDE

NEW TIMBER FENDER PILE

12,000

NEW RAMP

NEW HEAD (FIXED)

30,315

EXISTING HEAD (FIXED)

EXISTING LIGHT PROVIDE NEW CCTV CAMERA

EXISTING DESTINATION LIGHT

EXISTING APPROACH (FIXED)

14,000 (approx)

3.0

10,000

3.0

NEW PILE & GUIDE

EXISTING PONTON / RAMP (RELOCATED)

2.0

NEW PILE & GUIDE

NEW TIMBER FENDER PILE

NEW FINGER (FIXED) 3,000

EXISTING FINGER (FIXED)

9,000

EXISTING INNER ARM (FIXED)

EXISTING LIGHT (APPROX. LOCATION) PROVIDE NEW CCTV CAMERA

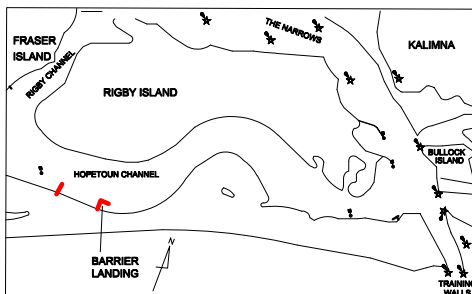
FRASER ISLAND

RIGBY ISLAND

THE NARROWS

KALIMNA

SCALE: 1 : 250



**SCALE: NTS**



REVISIONS		
A	BATHYMETRY ADDED	15/08/2021



Drawn: D Crozier
Date: September 2021
Checked:
Date: September 2021
File Reference: 23-082

Issued for: DISCUSSION
Drawing No: 23-062_P1

Revision: A  
Sheet Size: A3  
Scale: As shown

	Objector	Grounds for Objection?	How will the objector be affected?
1.	Peter Renkin	<ul style="list-style-type: none"> <li>• The area is already over used by moored boats at jetty and beach.</li> <li>• The size of the increase in mooring capacity is not explained;</li> <li>• The impact of the increase in the number of boats moored with the number of people associated has not been assessed, ie consequences on flora, fauna (eg nesting shorebirds);</li> <li>• The effect of water movement on an already very great erosion of the shore has not been assessed;</li> <li>• The need for more public amenities (eg toilet) has not been calculated;</li> <li>• The safety of boat movement in a narrowing channel has not been identified;</li> <li>• The safety of swimmers (especially children) has not been stated; use of tracks to the ocean beach has not been assessed;</li> <li>• What is the impact on the adjacent RAMSAR area and aboriginal heritage?</li> </ul>	I am a member of a family who owns private land abutting the National Park and is adjacent to the Lake foreshore and existing jetty. The increase in population arising from the increase in jetty mooring capacity will impact on my family's enjoyment of the amenity through their bringing dogs, use of an already small beach area for sunbathing/sitting; taking up a scarce swimming area, using the ocean beach and walking on already fragile sand dunes. The Barrier Landing Precinct is NOT only a boating facility. It is a holiday area with private land having built accommodation. The interests of the existing home owners must be considered, <u>not</u> just boat hiring firms and boat users requiring a mooring.
2.	David Carne	2) has the impact on existing wildlife like bandicoots, swamp wallabies and Wombats been considered when encouraging more people and resulting pets like dogs into the National Park Area. 3) What consideration and action is being taken to protect nesting birds on the ocean beach from more pedestrian traffic and dogs. Most visitors to the area are unaware of this impact. 4)How can they justify encouraging more people and boats into an area that is already classified as fragile.	Increased erosion and pollution to a very special area that should be protected more
3.	Rosemary Gooch	I am getting in touch with you with regard to the above mentioned planning permit application submitted by Gippsland Ports and currently being considered by the East Gippsland Shire. I am writing as a member of a family that owns property that adjoins the land subject to the application. I would like to know whether due process of formal notification of the application will be expected by property owners who will be affected by the application as per the	As a regular visitor to this area I have witnessed massive deterioration of the shore line, particularly to the west of the jetty, over the last ten years. I am concerned that extending the jetty will exacerbate this situation. I understand that this site is included

	Objector	Grounds for Objection?	How will the objector be affected?
		requirements of the Planning and Environment Act? I would also like to know if the environmental impact of this proposal has been considered.	within a RAMSAR designated area and may also be subject to Federal Acts.
4.	Rebecca Gooch-Andrew	Encouraging further visitors to an area which is already under threat. See the recent storms for example of how delicate our coast is. March 2022 LCHA was based on outdated (2014) data sets. Impact on already worsening erosion has not been sufficiently addressed. What consideration and action is being taken to protect nesting birds on the ocean beach from more pedestrian traffic and dogs. Most visitors to the area are unaware of this impact. There is a lack of information on how emergency management will manage the increased visitors in the area in case of bush fires.	I am a shareholder of a property on the Barrier Landing. As land owners we regularly engage in coast care activities, aiming to minimise both our impact on the coast and those of visitors. Adding more visitors to this, who often are not aware of how fragile the coast is will make it harder for us to try to look after the land.
5.	Toby Warburton	<p>. Failure to comply with the Marine and Coastal Act and Marine and Coastal Policy 2020 with regard to providing satisfactory technical and other information to enable Council and any Authority (DELWP) consideration of competing interests in assessment of the proposal;</p> <p>. Insufficient information contained within the March 2022 LCHA prepared by WaterTech, on the impacts of climate change on the surrounding shoreline / land environs. Further the LCHA is a desktop analysis based on 2014 data sets which I purport to be outdated;</p> <p>. Dated March 2022, it would seem the LCHA was undertaken 3 months after DELWP issued the Marine and Coastal Act consent to the proposal (DELWP File Ref: 1602147/SP478364). I request information that identifies the 'plans and information' cited in the Consent Form by which DELWP considered and issued a Marine and Coastal Act Consent in December 2021, and that was emailed to me by a representative of Gippsland Ports. Further, that these plans and information enabled due consideration of the requirements of the Marine and Coastal Act and Policy;</p> <p>. There is currently extensive coastal erosion along the Barrier Landing foreshore including around the Barrier Landing jetty and in front of my property that directly abuts the proposed jetty extension. The rate of erosion has increased significantly over the last 5-year period. I consider there to be insufficient information to determine the</p>	I am a shareholder in multiple properties at the Barrier Landing that sit adjacent to the National Park and immediately south of the Barrier Landing Jetty.

	Objector	Grounds for Objection?	How will the objector be affected?
		<p>environmental impact of the proposed jetty extension on coastal processes and subsequent further coastal erosion of the lake beach shoreline, dune system and remnant vegetation directly in front of my property.</p> <p>Further, identification of any dune mitigation works required at the cost to Gippsland Ports or DELWP to ensure that further coastal erosion does not occur to my property, as a result of the proposed jetty extension;</p> <p>. Insufficient information to determine the environmental impact of the proposed jetty extension on lake ecology including any details of dredging or associated ongoing works to maintain water depth for boat access to the jetty extension, and the subsequent impact of disturbance by these works on coastal processes and coastal erosion of the lake beach shoreline and dune system directly in front of my property. Further, the impact to health of remnant vegetation that is stabilising the remaining sand around the jetty and without would exacerbate destabilisation of the dune system in front of my property;</p> <p>. No information provided that assesses pressure of associated intensification of boating activity on-land facilities such as the public toilets and other infrastructure to support more people and boating trips to the Barrier Landing;</p> <p>. No information provided that details referral response from Emergency Management services including the Country Fire Authority (BMO assessment), Police and Fire given that in the most recent 2019 fatal bushfires we were informed that no emergency services would be dispatched to the Barrier Landing in the event of a natural disaster; and</p> <p>. Further I note tardiness in providing no information on the 'Form 2 Notice' of the contact details of the Responsible Authority in order to lodge an objection.</p>	
6.	Carolyn Armstrong	There is currently extensive coastal erosion along the Barrier Landing foreshore including around the Barrier Landing jetty and in front of my property that directly abuts the proposed jetty extension. The rate of erosion has increased significantly over the last 5-year period. I	I am a shareholder in multiple properties at the Barrier Landing that sit adjacent to the National Park and



	Objector	Grounds for Objection?	How will the objector be affected?
		consider there to be insufficient information in this proposal to determine the environmental impact of the proposed jetty extension on coastal processes and subsequent further coastal erosion of the lake beach shoreline, dune system and remnant vegetation directly in front of my property. Further, identification of any dune mitigation works required at the cost to Gippsland Ports or DELWP to ensure that further coastal erosion does not occur to my property, as a result of the proposed jetty extension; · Insufficient information to determine the environmental impact of the proposed jetty extension on lake ecology including any details of dredging or associated ongoing works to maintain water depth for boat access to the jetty extension, and the subsequent impact of disturbance by these works on coastal processes and coastal erosion of the lake beach shoreline and dune system directly in front of my property. Further, the impact to health of remnant vegetation that is stabilising the remaining sand around the jetty and without would exacerbate destabilisation of the dune system in front of my property; · No information provided that assesses pressure of associated intensification of boating activity on-land facilities such as the public toilets and other infrastructure to support more people and boating trips to the Barrier Landing; No information provided that details referral response from Emergency Management services including the Country Fire Authority (BMO assessment), Police and Fire given that in the most recent 2019 fatal bushfires we were informed that no emergency services would be dispatched to the Barrier Landing in the event of a natural disaster;	immediately south of the Barrier Landing Jetty.
7.	Joanna Renkin	CONSIDERATION OF IMPACT ON FRAGILE COASTAL ENVIRONMENT AND IMPACT OF CLIMATE CHANGE The location of the proposed jetty's site is a fragile marine environment already impacted by boating use and increased human traffic in addition to climate change. The permit application does not adequately consider any of the impacts to the surrounding environment. The March 2022 LCHA prepared by WaterTech, on the impacts of climate change on the surrounding shoreline / land environs contains	I am a shareholder in multiple properties at the Barrier Landing that sit adjacent to the National Park and immediately south of the Barrier Landing Jetty.  The destruction to the natural environment bio diversity including flora fauna, marine life will impact me

	Objector	Grounds for Objection?	How will the objector be affected?
		<p>insufficient information and is inexplicably based on a desktop analysis based on 2014 data sets. Such sets being outdated given the significant annual change to the area.</p> <p>Indeed there is currently extensive coastal erosion along the Barrier Landing foreshore including around the Barrier Landing jetty and in front of my property that directly abuts the proposed jetty extension. The rate of erosion has increased significantly over the last 5-year period. The propose material contains insufficient information to determine the environmental impact of the proposed jetty extension on coastal processes and subsequent further coastal erosion of the lake beach shoreline, dune system and remnant vegetation directly in front of my property. I would assume given the propose jetty would have substantial impact on the dunes, identification of any dune mitigation works is required at the cost to Gippsland Ports or DELWP to ensure that further coastal erosion does not occur to my property, as a result of the proposed jetty extension.</p> <p>There is also insufficient information to determine the environmental impact of the proposed jetty extension on lake ecology including any details of dredging or associated ongoing works to maintain water depth for boat access to the jetty extension, and the subsequent impact of disturbance by these works on coastal processes and coastal erosion of the lake beach shoreline and dune system directly in front of my property. Currently remnant vegetation stabilises the remaining sand along the foreshore around the jetty. There is no apparent consideration of how the jetty extension would impact the health of this remnant and no examination of the likely exacerbation the proposed jetty would have on destabilisation of the dune system in front of my property.</p> <p><b>IMPACT ON FLORA, FAUNA, BIO DIVERSITY</b></p> <p>The area of the proposed jetty abuts not only my property but a National Park that is home to native flora and fauna including bandicoots, swamp wallabies, echidnas and wombats. It also is a haven for nesting birds, dolphin and seal populations. A larger jetty will facilitate and increase human and boating activity, including greater than current numbers of domestic animals such as dogs and</p>	<p>greatly as a land owner abutting the jetty who appreciates and works to protect the natural environment an maintain biodiversity of the area. Access and quiet enjoyment of any remaining beach at my property due to the impact of increased boats on the jetty further degrading the fragile area.</p> <p>Further the increased human and domestic animal traffic trespassing on my property to toilet, removing trees for fires, causing noise from overnight camping and remaining at the jetty overnight.</p>

	Objector	Grounds for Objection?	How will the objector be affected?
		<p>cats frequenting the area. The proposed jetty therefore has the potential to greatly impact the biodiversity of the area.</p> <p>There is no apparent consideration of this in the proposed permit application nor evidence as to how this severe impact will be mitigated or is justified pursuant to the Wildlife Act and Councils commitment to biodiversity and protection of native flora and fauna.</p> <p>There is also no information provided that assesses pressure of associated intensification of boating and human activity on the National Park facilities such as the public toilets and other infrastructure to support more people and boating trips to the Barrier Landing.</p> <p><b>NON COMPLIANCE WITH MARINE AND COASTAL ACT AND POLICIES</b></p> <p>I note the process of the permit application did not provide satisfactory technical and other information to enable Council and any Authority (DELWP) to properly consider any competing interests in the assessment of the proposal and in so doing, failed to comply with the Marine and Coastal Act and Marine and Coastal Policy 2020. It appears that a decision was made prior to due process and requirements being fulfilled by the relevant authorities. I request that explanation and proof of due consideration of the requirements of the Marine and Coastal Act and Policy be provided by the Council, given the LCHA (dated March 2022) appears to have been undertaken 3 months after DELWP issued the Marine and Coastal Act consent to the proposal (DELWP File Ref: 1602147jSP478364). I request information that identifies the 'plans and information' cited in the Consent Form by which DELWP considered and issued a Marine and Coastal Act Consent in December 2021, of which I have a copy.</p> <p><b>FIRE DANGER</b></p> <p>In the most recent 2019 fatal bushfires landowners at the Barrier Landing were informed that no emergency services would be dispatched to the Barrier Landing in the event of a natural disaster. I note that no information is provided that details any referral response from Emergency Management services including the Country Fire Authority (BMO assessment), Police and Fire to the proposed jetty.</p>	

	Objector	Grounds for Objection?	How will the objector be affected?
8.	Anna Gooch-Andrew	I am a frequent visitor to the Barrier Landing and over the last 5 or so years have noticed significant erosion to the foreshore adjacent to the Barrier Landing. I do not feel there has been sufficient consideration and proposed mitigation to account for this and I fear that with the damage from the extension works plus increased traffic the erosion will continue to get worse. I also feel there has been insufficient information and consideration of the ecological impacts of the proposed extension - both on the flora and fauna. Will there be an increase in national park rangers to account for the increase in visitors?	My great grandfather used to holiday at the Barrier landing and I would like to see it cared for so that future generations can continue to enjoy the natural beauty that it is. I care about the land and lakes and I want them to be able to be cared for both for their natural beauty and ecological value. I fear that this proposal will damage the local environment which will impact all future visitors as well as the local wildlife and flora.
9.	Thomas Gooch	Failure to comply with the Marine and Coastal Act and Marine and Coastal Policy 2020 with regard to providing satisfactory technical and other information to enable Council and any Authority (DELWP) consideration of competing interests in assessment of the proposal; Insufficient information contained within the March 2022 LCHA prepared by WaterTech, on the impacts of climate change on the surrounding shoreline / land environs. Further the LCHA is a desktop analysis based on 2014 data sets which I purport to be outdated; Dated March 2022, it would seem the LCHA was undertaken 3 months after DELWP issued the Marine and Coastal Act consent to the proposal (DELWP File Ref: 1602147/SP478364). I request information that identifies the 'plans and information' cited in the Consent Form by which DELWP considered and issued a Marine and Coastal Act Consent in December 2021, and that was emailed to me by a representative of Gippsland Ports. Further, that these plans and information enabled due consideration of the requirements of the Marine and Coastal Act and Policy; There is currently extensive coastal erosion along the Barrier Landing foreshore including around the Barrier Landing jetty and in front of my property that directly abuts the proposed jetty extension. The rate of erosion has increased significantly over the last 5-year period. I consider there to be insufficient information to determine the environmental impact of the	Increased public safety risk due to increased boat traffic, putting pressure on on-shore pathways which are under going erosion made worse by increased boat wake.  This erosion of public pathways has made a vertical drop and increases risk of injury to myself, family, friends & visitors. More boats will further the erosion and presence of visitors subject to injury.

	Objector	Grounds for Objection?	How will the objector be affected?
		proposed jetty extension on coastal processes and subsequent further coastal erosion of the lake beach shoreline, dune system and remnant vegetation directly in front of my property. Further, identification of any dune mitigation works required at the cost to Gippsland Ports or DELWP to ensure that further coastal erosion does not occur to my property, as a result of the proposed jetty extension; Insufficient information to determine the environmental impact of the proposed jetty extension on lake ecology including any details of dredging or associated ongoing works to maintain water depth for boat access to the jetty extension, and the subsequent impact of disturbance by these works on coastal processes and coastal erosion of the lake beach shoreline and dune system directly in front of my property. Further, the impact to health of remnant vegetation that is stabilising the remaining sand around the jetty and without would exacerbate destabilisation of the dune system in front of my property; · No information provided that assesses pressure of associated intensification of boating activity on-land facilities such as the public toilets and other infrastructure to support more people and boating trips to the Barrier Landing; · No information provided that details referral response from Emergency Management services including the Country Fire Authority (BMO assessment), Police and Fire given that in the most recent 2019 fatal bushfires we were informed that no emergency services would be dispatched to the Barrier Landing in the event of a natural disaster; and. Further I note tardiness in providing no information on the 'Form 2 Notice' of the contact details of the Responsible Authority in order to lodge an objection.	
10.	Georgina Warburton	Barrier Landing foreshore including around the Barrier Landing jetty and in front of my property that directly abuts the proposed jetty extension. The rate of erosion has increased significantly over the last 5-year period. I consider there to be insufficient information to determine the environmental impact of the proposed jetty extension on coastal processes and subsequent further coastal erosion of the lake beach shoreline, dune system and remnant vegetation directly in front of my property.	My concern is the environmental impact of the proposed jetty extension on lake ecology and the subsequent impact of disturbance by these works on coastal processes and coastal erosion of the lake beach shoreline and dune system directly in front of my property. The eroding

	Objector	Grounds for Objection?	How will the objector be affected?
		Further, identification of any dune mitigation works required at the cost to Gippsland Ports or DELWP to ensure that further coastal erosion does not occur to my property, as a result of the proposed jetty extension; Insufficient information to determine the environmental impact of the proposed jetty extension on lake ecology including any details of dredging or associated ongoing works to maintain water depth for boat access to the jetty extension, and the subsequent impact of disturbance by these works on coastal processes and coastal erosion of the lake beach shoreline and dune system directly in front of my property. Further, the impact to health of remnant vegetation that is stabilising the remaining sand around the jetty and without would exacerbate destabilisation of the dune system in front of my property; No information provided that assesses pressure of associated intensification of boating activity on-land facilities such as the public toilets and other infrastructure to support more people and boating trips to the Barrier Landing;	coastline already provides limited shore line for recreational activities.
11.	Fleur Stone	If the public jetty is to be extended then more work and investment needs to be done in this area. Foreshore erosion needs to be addressed and public amenities, including tracks, toilets and signage needs to be improved.	The foreshore would be further eroded, presenting danger for those using the area now. It would also mean decreasing usability and sustainability of the area for future generations. Flora and fauna, especially around the creek area would be immediately impacted by increased foot and boat traffic.
	Fleur Stone (follow up)	Please except this email as an extension of my comments on the Barrier Landing Extension Plan - in the meeting on Monday night I was not aware if I could comment on matters outside of what I had originally commented on in my 'objection' to the plan. As stated in the meeting, I do not object to the jetty extension, I just want to ensure that all issues have been appropriately addressed.  Firstly, in the meeting Richard said that there had been an increase of sand deposited on the eastern side of the Barrier Jetty from	

	Objector	Grounds for Objection?	How will the objector be affected?
		<p>around mid-2000's onwards (according to Google). I propose that this increase in sand happened as a result of the Barrier Jetty being extended around this time. The Barrier Jetty acts as a groyne in the natural sand movement from west to east and while the sand has built up to the east of the jetty, it has also depleted from west and this is also obvious from the Google images.</p> <p>Richard also mentioned that there has been no impact on flora/vegetation, but I'm not sure he has taken into account the impact to the west of the jetty. The impact, for about 500m west, has been significant and is also obvious in the Google images. This ongoing dune de-stabilization and damage to vegetation is one of the main issues that the Barrier Landing Coastcare group has been trying to address. I have attached a photo of the severe erosion and vegetation degradation immediately to the west of the Barrier Jetty. This photo was taken in September 2021.</p> <p>Secondly, as for on-water impact I think there are two major issues.</p> <p>1. Extending the jetty out in to the main channel of Hopetoun Channel will impact on navigational abilities. The channel is already narrow and in busy months many boats have taken to mooring in the channel for recreation, including fishing, swimming and socialising. They also raft up on the Jetty (see this link (Facebook Video - External) as an example ). In the busy season, large boats often raft up on the Barrier Jetty (sometimes up to 5 boats). This impacts the safe navigability of the channel and there is no body currently managing this situation.</p> <p>2. The increased tide running through here often clocks up to 8knots. This is dangerous environment for recreational use of water (swimming/kayakers) and boating/maneuvering to be occurring at the same time along a long stretch of jetty.</p> <p>I request that you please submit these comments to Councilors with the comments from the meeting.</p>	

	Objector	Grounds for Objection?	How will the objector be affected?
12.	Rebecca Stone	Assessment should include an erosion hazard assessment on the Hopetoun Channel side of the Lakes. The current assessment only includes an assessment on the ocean side which is not as relevant to this project as the Lakes side. Please update to include. My concern is that the addition to the jetty may scour out, or cause additional erosion to the shore line near the existing jetty. Additional boat wash may add to the erosion. To compensate for this options to renourish the foreshore in this area should be explored and implemented as part of this application. If the foreshore could be renourished (sand addition) prior to the works commencing that could protect the area. Additional amenities for additional people / boats - tracks, ablutions, signage etc.	I am a holiday maker / house owner at the Barrier Landing. Affected by damage to tracks and foreshore erosion.
13.	David Gooch	Assessment should include an erosion hazard assessment on the Hopetoun Channel side of the Lakes. The current assessment only includes an assessment on the ocean side which is not as relevant to this project as the Lakes side. Please update to include. My concern is that the addition to the jetty may scour out, or cause additional erosion to the shore line near the existing jetty. Additional boat wash may add to the erosion. To compensate for this options to renourish the foreshore in this area should be explored and implemented as part of this application. If the foreshore could be renourished (sand addition) prior to the works commencing that could protect the area. Additional amenities for additional people / boats - tracks, ablutions, signage etc.	I am a holiday maker / house owner at the Barrier Landing. Affected by damage to tracks and foreshore erosion.
14.	Michael Littleton	Questions I think need to be addressed with further development of the Barrier Landing Jetty 1) has the impact on existing wildlife like bandicoots, swamp wallabies and Wombats been considered when encouraging more people and resulting pets like dogs into the Coastal Park Area. 2) What consideration and action is being taken to protect nesting birds on the ocean beach from more pedestrian traffic and dogs. Most visitors to the area are unaware of this impact. 3)Have they considered the impact of more people and boats into an area that already is struggling to combat things like bank erosion.	Increase erosion along bank of lake More people has detrimental effect on native bird and native animal population in the Coastal Park. Like bandicoots



	Objector	Grounds for Objection?	How will the objector be affected?
15.	Christine Renkin	<p>. Failure to comply with the Marine and Coastal Act and Marine and Coastal Policy 2020 with regard to providing satisfactory technical and other information to enable Council and any Authority (DELWP) consideration of competing interests in assessment of the proposal;</p> <p>. Insufficient information contained within the March 2022 LCHA prepared by WaterTech, on the impacts of climate change on the surrounding shoreline / land environs. Further the LCHA is a desktop analysis based on 2014 data sets which I purport to be outdated;</p> <p>. Dated March 2022, it would seem the LCHA was undertaken 3 months after DELWP issued the Marine and Coastal Act consent to the proposal (DELWP File Ref: 1602147/SP478364). I request information that identifies the 'plans and information' cited in the Consent Form by which DELWP considered and issued a Marine and Coastal Act Consent in December 2021, and that was emailed to me by a representative of Gippsland Ports. Further, that these plans and information enabled due consideration of the requirements of the Marine and Coastal Act and Policy;</p> <p>. There is currently extensive coastal erosion along the Barrier Landing foreshore including around the Barrier Landing jetty and in front of my property that directly abuts the proposed jetty extension. The rate of erosion has increased significantly over the last 5-year period. I consider there to be insufficient information to determine the environmental impact of the proposed jetty extension on coastal processes and subsequent further coastal erosion of the lake beach shoreline, dune system and remnant vegetation directly in front of my property.</p> <p>Further, identification of any dune mitigation works required at the cost to Gippsland Ports or DELWP to ensure that further coastal erosion does not occur to my property, as a result of the proposed jetty extension;</p> <p>. Insufficient information to determine the environmental impact of the proposed jetty extension on lake ecology including any details of dredging or associated ongoing works to maintain water depth for boat access to the jetty extension, and the subsequent impact of disturbance by these works on coastal processes and coastal erosion</p>	I am a shareholder in multiple properties at the Barrier Landing that sit adjacent to the National Park and immediately south of the Barrier Landing Jetty.

	Objector	Grounds for Objection?	How will the objector be affected?
		<p>of the lake beach shoreline and dune system directly in front of my property. Further, the impact to health of remnant vegetation that is stabilising the remaining sand around the jetty and without would exacerbate destabilisation of the dune system in front of my property;</p> <p>. No information provided that assesses pressure of associated intensification of boating activity on-land facilities such as the public toilets and other infrastructure to support more people and boating trips to the Barrier Landing;</p> <p>. No information provided that details referral response from Emergency Management services including the Country Fire Authority (BMO assessment), Police and Fire given that in the most recent 2019 fatal bushfires we were informed that no emergency services would be dispatched to the Barrier Landing in the event of a natural disaster; and</p> <p>. Further I note tardiness in providing no information on the 'Form 2 Notice' of the contact details of the Responsible Authority in order to lodge an objection.</p>	
16.	Philip Cranswick	<p>1) Have they considered a plan to prevent further erosion to the fragile sandy shore line and nearby properties especially; especially 100 metres diameter of the Jetty?</p> <p>2) has the impact on existing wildlife like bandicoots, swamp wallabies and Wombats been considered when encouraging more people and resulting pets like dogs into the National Park Area.</p> <p>3) What consideration and action is being taken to protect nesting birds on the ocean beach from more pedestrian traffic and dogs. Most visitors to the area are unaware of this impact.</p> <p>4) How can they justify encouraging more people and boats into an area that is already classified as fragile.</p>	<p>I simply have a lack of confidence that natural environment is being protected (besides annual fox baiting)</p> <p>This proposal appears just a "narrow focus" on bringing more people to a rather fragile area. Impressive stats can be used to justify anything, but in this case, fall short and miss the point when it comes to a ethical approach where the care of the whole environment is considered. You need to add commitment to also "nurture the environment" and "educate by your actions" ie This could be done an active ongoing and public way.</p>

	Objector	Grounds for Objection?	How will the objector be affected?
			<p>Our property at the Barrier Landing has been in our family for 100 years now and we have many family members concerned about the impact of development on this fragile but amazing place.</p> <p>My main concern continues to be erosion of the sandy shoreline around the jetty with more boats and increase of some careless boat users.</p> <p>Sand washes away quickly but takes years to build up again...</p>
17.	Pauline Sampson	<p>The proposed upgrade to the Barrier Landing Jetty raises a number of concerns and questions. Official recent documents describe aptly the foundation for some of the concerns.</p> <p>1. The Coastal Hazard Vulnerability Assessment: Barrier Landing Jetty (Gippsland Ports 1 March 2022)</p> <p>2. Barrier_Landing_Coastcare_Group_Stabilisation Works_Plan_Nov_2020 (Neville Rosengren: Environmental GeoSurveys Pty. Ltd, Masterton, New Zealand Alison Oates: Oates Environmental Consulting Pty. Ltd, Newhaven, Victoria Doug Froud: Pathways Bushland &amp; Environment, Marraweeney, Victoria)</p> <p>I) Erosion. What will be the effect of more people visiting the Barrier Landing? There is an alarming and ongoing erosion problem in proximity to the jetty, particularly westward with the landward recession assessed as up to 1.0m/year (Coastal Hazards Vulnerability Assessment, p24) Landholders have observed exacerbation of the erosion problems by:</p>	

	Objector	Grounds for Objection?	How will the objector be affected?
		<p>-Visitors climbing and digging into the remaining cliffs and adjacent land</p> <p>-Visitors removing windbreaks and groynes, placed by the landholders in attempts to slow erosion, lighting fires along the beach.</p> <p>What can be done about natural inundation hazards?</p> <p>The Coastal Hazard Vulnerability Assessment: Barrier Landing Jetty talks of coastal inundation hazards based on storm tide levels and existing topography. The report also speaks of the possibility of the barrier being breached by the ocean</p> <p>The Adaption Pathway of this document (p41) suggests:</p> <ul style="list-style-type: none"> <li>• avoiding new users, development and redevelopment away from areas that are or will be negatively impacted by coastal hazards.</li> <li>• Existing structures assets or uses may be ...relocated away from areas that are, or will be, negatively impacted by coastal hazards</li> </ul> <p>2) Vessel wake and its effects; increased footprint of boat travellers and its effects</p> <p>Barrier_Landing_Coastcare_Group_Stabilisation Works_Plan_Nov_2020 points out (p46):</p> <p>.. the Gippsland Lakes Sustainable Boating Plan 2016-2018 (Gippsland Ports Committee of Management 2016 p. 26) acknowledges that "a means of managing vessel wake is required that addresses legitimate concerns related to waterway safety and protection of the environment, while also not unduly restricting vessel operation", and identifies the Barrier Landing as one location ow much consideration has been given to where vessel wake has "Real or perceived safety and environmental impacts".</p>	

	Objector	Grounds for Objection?	How will the objector be affected?
		<p>A further consideration is the physical and ecological footprint (literally) of boat passengers when boat handling, disembarking, boarding and traversing the unconsolidated surfaces of sand and organic muds of the shore zone and backshore. Compaction and dispersion of sediment from pedestrian traffic is evident, with substantive negative effect on surface stability and ecology.</p> <p>3) Has consideration been given to the importance of the Gippsland Lakes RAMSAR management and how increased visitors will impact on the ecology of this area, particularly nesting sites?</p> <p>4) Has consultation occurred with the Gunaikurnai peoples to identify and protect areas of cultural significance with increasing visitors to the area.</p> <p>5) What is the berthing capacity of the current jetty? How many more berths would the planned extension provide?</p> <p>6) What is the official estimate of boats visiting the Barrier and lining the beaches in peak times, e.g. Christmas? Will the jetty extensions impact on these numbers sufficiently to make the expenditure worthwhile?</p> <p>7) Given the narrowness of the barrier at the Barrier Landing, rather than extending the current jetty, has any thought been given to providing another jetty eastwards of the current one where the barrier is wider? (Refer Adaptation Pathway of The Coastal Hazard Vulnerability Assessment, p41)</p>	



**EAST GIPPSLAND SHIRE COUNCIL  
PLANNING CONSULTATION MEETING  
468/2021/P – Barrier Landing (Council Reference Cliff  
Road, Nyermilang)**

**Buildings and works for extensions to a Jetty**

**Record of Meeting  
(Minutes)**

**MONDAY, 02 May 2022**

**VIA MICROSOFT TEAMS**

**COMMENCING AT 6:00 P.M.**

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**1. PROCEDURAL**

**1.1 APOLOGIES**

Councillors: Kirsten Van Diggele, Sonia Buckley, John White, Tom Crook

Objectors:

**1.2 IN ATTENDANCE**

Councillors: Mark Reeves (Mayor), Arthur Allen (Deputy Mayor), Mendy Urie, Jane Greacen, Trevor Stow

Applicant: Richard Hoxley (Crowther & Sadler, advocate for the applicant), Chris Waites & Tom Weatherall (Gippsland Ports),

Objectors: Ro Gooch, Chris Renkin, Fiona Hankinson, Ann Renkin, Fleur Stone, Rebecca Stone, Pauline Sampson

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*East Gippsland Shire Council Minutes Planning Consultation Meeting 392/2016/P/A – 28 March 2022*

Officers: Anthony Basford, Chief Executive Officer; Stuart McConnell, General Manager Place & Community; Martin Richardson, Manager Planning; Robert Pringle, Statutory Planning Coordinator

**1.3 DECLARATIONS OF CONFLICT OF INTERESTS**

NIL

**1.4 ACKNOWLEDGEMENT OF COUNTRY**

**2. REPORTS/PRESENTATIONS**

**2.1 PLANNERS REPORT**

Robert Pringle, Statutory Planning Coordinator

Provided background of the site location, planning controls, proposal details and summary of the number and content of objections and submissions.

Q:

A:

Q:

A:

Q:

A:

**2.2 APPLICANT PRESENTATION**

Richard Hoxley – Crowther & Sadler (advocate for the Applicant)

Q:

A:

Q:

A:

Q:

A:

Q:

A:

**2.3 OBJECTOR PRESENTATIONS**

**Peter Renkin**

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*East Gippsland Shire Council Minutes Planning Consultation Meeting 392/2016/P/A – 28 March 2022*

David Carne  
Rosemary Gooch  
Rebecca Gooch-Andrew  
Toby Warburton  
Carolyn Armstrong  
Joanna Renkin  
Anna Gooch-Andrew  
Thomas Gooch  
Georgina Warburton  
Fleur Stone  
Rebecca Stone  
David Gooch  
Michael Littleton  
Christine Renkin  
Philip Cranswick  
Pauline Sampson

#### **2.4 CLOSING COMMENTS**

Robert Pringle advised that Council will take into consideration all of the content of the evening's proceedings and go back to the Applicant due to the questions raised in the meeting.

#### **3. MEETING CLOSE**

The meeting closed at 7:20 PM





Department of Environment,  
Land, Water & Planning

574 Main St  
Bairnsdale VIC 3875  
Telephone: (03) 5152 0400  
Fax: (03) 5152 6865  
ABN 90 719 052 204

DELWP File Ref: 1602147/SP478364

C Hodgkins  
Ports Engineer  
Gippsland Ports  
PO Box 388  
BAIRNSDALE VIC 3875  
(via email: [carlh@gippslandports.vic.gov.au](mailto:carlh@gippslandports.vic.gov.au))

Dear Carl

**RE: CONSENT FOR USE AND DEVELOPMENT OF COASTAL CROWN LAND  
BARRIER LANDING JETTY EXTENSION (HOPETOUN CHANEL, GIPPSLAND LAKES)**

Thank you for your application for the use and development of coastal Crown land pursuant to Section 70 of the *Marine and Coastal Act 2018*. Your application was received 18 November 2021.

Pursuant to Section 70 of the *Marine and Coastal Act 2018* and as delegated by the Minister, I consent to the proposed use and development subject to the conditions in the attached consent notice.

Note the *Aboriginal Heritage Act 2006* requires the discovery of Aboriginal cultural heritage places or objects on any land in Victoria be reported to the Secretary, Department of Premier and Cabinet.

If you have any further enquiries, please contact Tracey West, Land and Built Environment Program Officer at the Department of Environment, Land, Water and Planning Bairnsdale office on 0457 501 299 or email: [tracey.west@delwp.vic.gov.au](mailto:tracey.west@delwp.vic.gov.au).

Yours sincerely

**DARRIN MCKENZIE**  
REGIONAL DIRECTOR  
GIPPSLAND

16/12/2021

**Privacy Statement**

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002



Environment,  
Land, Water  
and Planning

OFFICIAL



DELWP File Ref: 1602147/SP478364

**CONSENT FOR USE AND DEVELOPMENT OF COASTAL CROWN LAND  
SECTION 70 MARINE AND COASTAL ACT 2018**

**Crown Description:** Part of Crown Allotment 40B (P320517), Parish of Colquhoun  
**Local Name:** Barrier Landing, Lake King (part of the Gippsland Lakes)  
**Street Address:** via Lakes Entrance  
**Consent for:** **BARRIER LANDING JETTY EXTENSION (HOPETOUN CHANEL, GIPPSLAND LAKES)**

Pursuant to *Section 70(1)(d)* of the *Marine and Coastal Act 2018*, and as delegated by the Minister, I consent to the proposed use and development subject to the following conditions:

- a. The works are to be carried out in accordance with the application form and supporting information and plans, received on 18 November 2021.
- b. Any modification to the works proposed will require further written approval by the Regional Manager, Land and Built Environment Programs, Department of Environment Land Water and Planning (DELWP).
- c. Construction equipment, building materials, refuse and site run-off must be contained and controlled and not permitted to impact on the beach, foreshore or enter the waterway.
- d. The access points and the work sites are to be maintained to a safe standard to avoid public risk and where practical public access is to be excluded from the works area using appropriate signage and barriers.
- e. Works must cease immediately upon the discovery of any Aboriginal cultural material and Aboriginal Victoria be immediately notified of any such discovery.
- f. Indigenous vegetation must not be damaged or removed, as a result of the works.
- g. All works must be completed and maintained to the satisfaction of the Regional Manager, Land and Built Environment Programs, DELWP.
- h. This consent under the *Marine and Coastal Act 2018* will expire if the works are not completed within two years of the date of issue, unless an extension of time is applied for and granted by the Regional Manager, Land and Built Environment Programs, DELWP.

**DARRIN MCKENZIE**  
REGIONAL DIRECTOR GIPPSLAND

**DATE: 16/12/2021**

OFFICIAL



Department of Environment,  
Land, Water & Planning

71 Hotham Street  
Traralgon Victoria 3844  
Telephone: +61 3 5172 2111  
[www.delwp.vic.gov.au](http://www.delwp.vic.gov.au)

9 February 2022

Robert Pringle  
Planning Officer  
East Gippsland Shire Council  
PO Box 1618  
BAIRNSDALE VIC 3875  
By email: [planning@egipps.vic.gov.au](mailto:planning@egipps.vic.gov.au)

Our ref: SP479178  
Your ref: 468/2021/P

Dear Robert

**PROPOSAL:** BARRIER LANDING JETTY EXTENSION  
**APPLICANT:** GIPPSLAND PORTS  
**ADDRESS:** CLIFF ROAD, NYERIMILANG  
**LEGAL DESCRIPTION:** CROWN ALLOTMENT 40B, PARISH OF COLQUHOUN

Thank you for your correspondence of 9 February 2022 submitted under Section 55 of the *Planning and Environment Act 1987* (Act).

The application seeks to extend an existing jetty on the Gippsland Lakes.

Under Delegation from the Secretary, the Department of Environment, Land, Water and Planning (DELWP) is providing advice in response to the referred planning permit application. It is noted that the referral trigger relied upon is clause 5 of Clause 36.03 Public Park and Recreation Zone of the East Gippsland Planning Scheme. The referral trigger in the Scheme at Clause 66.03 is for the development and use of an Emergency services facility. For an Emergency services facility type of application DELWP is a determining referral authority. The current application is for a jetty, which is a section 1, no permit required use under Clause 36.03. Consequently, the DELWP response is made as a Section 52 response.

DELWP **does not object** to the granting of a planning permit.

In accordance with section 66 of the *Planning and Environment Act 1987*, please provide a copy of the permit to the above address.

If you have any further queries, or require clarification please contact  
[gippsland.planning@delwp.vic.gov.au](mailto:gippsland.planning@delwp.vic.gov.au)

Yours sincerely

Elaine Wood  
Program Manager Planning & Approvals  
Gippsland

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2014. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to [foi.unit@delwp.vic.gov.au](mailto:foi.unit@delwp.vic.gov.au) or FOI Unit, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.



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## Relevant planning scheme considerations

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## The Planning Policy and Local Planning Policy Frameworks

### Planning Policy Framework

#### 12.01 Biodiversity

##### 12.01-1S Protection of biodiversity

*Objective To assist the protection and conservation of Victoria's biodiversity.*

#### Strategies

- *Use biodiversity information to identify important areas of biodiversity, including key habitat for rare or threatened species and communities, and strategically valuable biodiversity sites.*
- *Strategically plan for the protection and conservation of Victoria's important areas of biodiversity.*
- *Ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity, including consideration of:*
  - *Cumulative impacts.*
  - *Fragmentation of habitat.*

- *The spread of pest plants, animals and pathogens into natural ecosystems.*
- *Avoid impacts of land use and development on important areas of biodiversity.*
- *Consider impacts of any change in land use or development that may affect the biodiversity value of national parks and conservation reserves or nationally and internationally significant sites; including wetlands and wetland wildlife habitat designated under the Convention on Wetlands of International Importance (the Ramsar Convention) and sites utilised by species listed under the Japan-Australia Migratory Birds Agreement (JAMBA), the China-Australia Migratory Birds Agreement (CAMBA), or the Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA).*
- *Assist in the identification, protection and management of important areas of biodiversity.*
- *Assist in the establishment, protection and re-establishment of links between important areas of biodiversity, including through a network of green spaces and large-scale native vegetation corridor projects.*

## 12.02 Marine and Coastal Environment

### 12.02-1S Protection of the marine and coastal environment

*Objective To protect and enhance the marine and coastal environment.*

#### *Strategies*

- *Manage privately-owned foreshore consistently with the adjoining public land.*
- *Enhance the ecological values of the ecosystems in the marine and coastal environment. Protect and enhance the overall extent and condition of native habitats and species diversity distributions across public and private land in the marine and coastal environment.*
- *Encourage revegetation of cleared land abutting coastal reserves.*
- *Minimise direct, cumulative and synergistic effects on ecosystems and habitats.*
- *Maintain the natural drainage patterns, water quality and biodiversity in and adjacent to coastal estuaries, wetlands and waterways.*
- *Maintain and enhance water and soil quality by minimising disturbance of sediments.*
- *Protect and enhance natural features, landscapes, seascapes and public visual corridors.*
- *Plan for marine development and infrastructure to be sensitive to marine national parks and environmental assets.*
- *Protect the heritage values, the aesthetic quality of locations, cultural links with maritime activities, sea country and sense of place*

### 12.02-2S Marine and coastal Crown land

*Objective To ensure the use and development of marine and coastal Crown land is ecologically sustainable, minimises impacts on cultural and environmental values, and improves public benefit for current and future generations.*

#### *Strategies*

- *Design, locate and maintain buildings and structures to effectively manage:*

- *Any increase in exposure to coastal hazard risk, including rates of sea level rise, erosion, accretion or inundation.*
- *Exposure to public health and safety risks.*
- *Any detrimental impacts (in particular increased hazard risk) on neighbouring Crown or private land.*
- *Adverse effects on the environment and associated uses and values.*
- *Impact on marine and coastal functions and processes.*
- *Ensure the siting and design of development on marine and coastal Crown land:*
  - *Facilitates shared infrastructure and the use of land for more than one use.*
  - *Uses materials and finishes that are sympathetic to the coastal environment.*
  - *Is durable in the long term.*
  - *Minimises the environmental footprint.*
- *Ensures that use and development on or adjacent to marine and coastal Crown land:*
  - *Maintains safe, equitable public access.*
  - *Improves public benefit.*
  - *Demonstrates need and has a coastal dependency.*
  - *Minimises loss of public open space.*
- *Consider as relevant:*
  - *Any applicable Victorian Environmental Assessment Council recommendations*
  - *The purpose for which land is reserved under the Crown Land (Reserves) Act 1978*
  - *Any relevant environmental management plan or coastal and marine management plan approved under the Marine and Coastal Act 2018 or National Parks Act 1975*

### 12.03 Water Bodies and Wetlands

#### 12.03-1S River corridors, waterways, lakes and wetlands

*Objective To protect and enhance river corridors, waterways, lakes and wetlands.*

#### *Strategies*

- *Protect the environmental, cultural and landscape values of all water bodies and wetlands.*
- *Ensure development responds to and respects the significant environmental, conservation, cultural, aesthetic, open space, recreation and tourism assets of water bodies and wetlands.*
- *Ensure development is sensitively designed and sited to maintain and enhance environmental assets, significant views and landscapes along river corridors and waterways and adjacent to lakes and wetlands.*
- *Ensure development does not compromise bank stability, increase erosion or impact on a water body or wetland's natural capacity to manage flood flow.*

### 12.05 Significant Environments and Landscapes

#### 12.05-1S Environmentally sensitive areas

*Objective To protect and conserve environmentally sensitive areas.*

#### *Strategies*

- *Protect environmentally sensitive areas with significant recreational value from development that would diminish their environmental conservation or recreational values. These areas include ... the Gippsland Lakes and its foreshore, the coastal areas and their foreshores, ....*

#### 12.05-2S 31 Landscapes

*Objective To protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.*

##### *Strategies*

- *Ensure significant landscape areas such as forests, the bays and coastlines are protected.*
- *Ensure development does not detract from the natural qualities of significant landscape areas. Improve the landscape qualities, open space linkages and environmental performance in significant landscapes and open spaces, including green wedges, conservation areas and non-urban areas.*
- *Recognise the natural landscape for its aesthetic value and as a fully functioning system.*
- *Ensure important natural features are protected and enhanced.*

#### 13 01 Environmental Risks and Amenity

- *Planning should identify, prevent and minimise the risk of harm to the environment, human health, and amenity through:*
  - *Land use and development compatibility.*
  - *Effective controls to prevent or mitigate significant impacts.*
  - *Planning should identify and manage the potential for the environment and environmental changes to impact on the economic, environmental or social wellbeing of society.*
- *Planning should ensure development and risk mitigation does not detrimentally interfere with important natural processes.*
- *Planning should prepare for and respond to the impacts of climate change.*

#### 13.04 Soil Degradation

##### 13.04-2S Erosion and landslip

*Objective To protect areas prone to erosion, landslip or other land degradation processes.*

##### *Strategies*

- *Identify areas subject to erosion or instability in planning schemes and when considering the use and development of land.*
- *Prevent inappropriate development in unstable areas or areas prone to erosion.*
- *Promote vegetation retention, planting and rehabilitation in areas prone to erosion and land instability.*

#### 17.04 Tourism

##### 17.04-2S Coastal and maritime tourism and recreation

*Objective To encourage a diverse range of strategically located and well-designed coastal and maritime tourism and recreational opportunities that strengthen people's connection with the marine and coastal environment.*

#### *Strategies*

- *Support safe and sustainable recreation and tourism development including ecotourism, tourism and major maritime events that:*
  - *Responds to identified demand.*
  - *Minimises impact on environmental and cultural values.*
  - *Minimises impact on other users.*
  - *Minimises direct and cumulative impacts.*
  - *Maintains public safety.*
  - *Responds to the carrying capacity of the site.*
  - *Minimises exposure to coastal hazard risks and risks posed by climate change.*
- *Ensure a diverse range of accommodation options and coastal experiences are provided for and maintained.*
- *Ensure sites and facilities are accessible to all.*
- *Ensure development is of an appropriate scale, use and intensity relative to its location and minimises impacts on the surrounding natural, visual, environmental and coastal character.*
- *Develop a network of maritime precincts around Port Phillip and Western Port that serve both local communities and visitors.*
- *Support a sustainable network of facilities for recreational boating and water-based activities that respond to:*
  - *Identified demand.*
  - *Use and safety considerations.*
  - *The carrying capacity of the location.*
  - *Coastal processes.*
  - *Environmental values.*
- *Strategically plan and operate ports to complement each other in the context of the broader economy, transport networks and the maritime and coastal environments within which they are regulated.*
- *Provide public access to recreational facilities and activities on land and water.*

#### *Policy guidelines*

*Consider as relevant:*

- *Coastal Spaces Landscape Assessment Study (Department of Sustainability and Environment, 2006)*
- *Gippsland Boating Coastal Action Plan 2013 - Gippsland Coastal Board*
- *Recreational Boating Facilities Framework July 2014 - Central Coastal Board*
- *Western Boating Coastal Action Plan 2010 - Western Coastal Board*

#### *Policy documents*



Consider as relevant:

- *Marine and Coastal Policy (Department of Environment, Land, Water and Planning, 2020)*
- *Siting and Design Guidelines on the Victorian Coast (Department of Environment, Land, Water and Planning, 2020)*
- *Victorian Coastal Strategy (Victorian Coastal Council, 2014)*

## Local Planning Policy Framework

### 21.04 Environmental and Landscape Values

*The Council has an important custodial role in relation to East Gippsland's unique biodiversity and large tracts of intact native vegetation. We will continue to work with owners and developers to restore and maintain the biodiversity of our rivers, waterways, lakes and wetlands. We will protect sites of significance by encouraging sensitive development, sympathetic to the character of the area and its aesthetic values. The ideal of integrity guides many of the following objectives and strategies: aesthetic integrity (including views and vistas); integrity of the natural environment; and, importantly, cultural integrity. This Clause provides local content to support Clause 12 of the State Planning Policy Framework.*

#### 21.04-1 11 Biodiversity

*East Gippsland is a reservoir of biodiversity in south eastern Australia, due to the relatively unspoilt nature of its native vegetation. It is the only place in temperate mainland Australia where large tracts of native vegetation are intact from the Alps to the ocean.*

*Objective 2 To recognise, protect and maintain environmental, cultural and aesthetic values within East Gippsland.*

*Strategy 2.1 Protect and where possible enhance sites of significance for their ecological, biophysical, geomorphological/geological, cultural, Aboriginal, aesthetic and archaeological values, with particular attention to coastal wetlands identified under the Ramsar Convention.*

#### 21.09-3 Tourism

*Objective 1 To develop and promote East Gippsland as a major tourist destination.*

*Strategy 1.2 Encourage nature based tourism.*

*Strategy 1.3 Encourage the tourism potential of public land - including National Parks and reserves - in the region and facilitate appropriate access to a wide range of natural attractions for visitors.*

*Strategy 1.5 Encourage provision of tourism facilities, such as toilets, picnic facilities and barbecues, jetties and launching ramps, interpretive signage, and public art in appropriate locations.*

*Strategy 1.8 Encourage the tourist operators to design facilities and services to meet the needs of people with a disability.*

*Strategy 1.9 Encourage tourist facilities to be designed in keeping with the quality of the landscape and environment and the character the particular locality.*

### Summary assessment of Policy Framework

The planning policy framework requires decision makers to consider the environmental impact of proposed development, and specifically for this proposal, the impact on the coastal environment. The nature of the change being proposed is an extension to an existing jetty facility, the extent of the impact is primarily at the surface level, and with a small number of additional piles/poles to support the structures. These structures will have a local impact on the coast, but the extent of that impact is considered to be minimal in relation to broader coastal change.

The decision maker in this case can be confident in the Marine and Coastal Act Consent governing the environmental and coastal impact of the proposal.

Additional policy considerations for the decision maker relate to economic and tourism impact of the proposal. The area is remote in that access is boat-only. The area could be used by people without boats using a boat taxi to access the jetty. A picnic for the day would require stocking up at shops before heading to the area by boat, and associated refueling would be undertaken at local service stations.

On balance, officers are confident in recommending that the proposal meets the policy objectives of the state, regional and local policy frameworks.

### Zone Controls

#### Public Park and Recreation Zone (PPRZ)

##### **Purpose**

*To recognise areas for public recreation and open space.*

*To protect and conserve areas of significance where appropriate.*

*To provide for commercial uses where appropriate.*

##### **Application requirements**

*An application for a permit by a person other than the relevant public land manager must be accompanied by the written consent of the public land manager, indicating that the public land manager consents generally or conditionally either:*

*To the application for permit being made.*

*To the application for permit being made and to the proposed use or development*

##### **Decision guidelines**

*Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:*

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The comments of any public land manager or other relevant land manager having responsibility for the care or management of the land or adjacent land.*

- *Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines.*

#### Public Conservation and Resource Zone (PCRZ)

**Purpose** *To implement the Municipal Planning Strategy and the Planning Policy Framework. To protect and conserve the natural environment and natural processes for their historic, scientific, landscape, habitat or cultural values. To provide facilities which assist in public education and interpretation of the natural environment with minimal degradation of the natural environment or natural processes. To provide for appropriate resource based uses.*

#### **Application requirements**

*An application for a permit by a person other than the relevant public land manager must be accompanied by the written consent of the public land manager, indicating that the public land manager consents generally or conditionally either:*

*To the application for permit being made.*

*To the application for permit being made and to the proposed use or development.*

#### **Decision guidelines**

*Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:*

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The comments of any public land manager or other relevant land manager having responsibility for the care or management of the land or adjacent land.*
- *Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines*

#### PPRZ & PCRZ Assessment

The proposal is considered to be entirely consistent with the objectives of the PPRZ and PCRZ. The development is an extension to the existing facilities on public land (water) and provides improved safety of access points to the on-land facilities in the adjacent Crown land.

DELWP as the relevant public land manager has considered the application and has supported the grant of the planning permit, without specific planning permit conditions. The Marine and Coastal Act consent provides conditions to be met, which are reflected in the proposed permit note.

#### General Decision Guidelines

##### Approval of an Application or Plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.

- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

#### General Decision Guidelines Assessment

Having considered the general decision guidelines, including Section 60 of the Act, the officer recommendation is that the proposal is supported, subject to the recommended conditions.

The responses to other aspects of public submissions are considered within the body of the main report.

The proposal demonstrates compliance with policy and zone provisions. The extent of the proposal is minor in overall impact on the environment and amenity of the locality, and concerns raised in relation to the application focus more on the associated use of the neighbouring Crown land, which is not the subject of this application.

It is recommended that a notice of decision to grant a planning permit be made.

## 5.2.5 Planning Permit Application 392/2016/P/A - Use and development of a Residential Village (amended permit) - 75 Paynesville Road Paynesville

Authorised by General Manager Place and Community

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### Conflict of Interest

Officers preparing this report have no conflict of interest to declare.

### Executive Summary

This report seeks Council's resolution to issue a Notice of Decision to Grant an Amended Planning Permit with conditions outlined in **Attachment 1** for the Use and Development of a Residential Village at 75 Paynesville Road, Paynesville.

The application is an amendment to a previous application, approved via Planning Permit 392/2016/P and seeks:

- Amendment to the original Planning Permit Application preamble 392/2016/P;
- Amendment to the conditions of the original Planning Permit Application 392/2016/P; and
- Amendment to the endorsed plans to include:
  - o 52 less dwellings
  - o A more centralised clubhouse facility
  - o Provision of green links to facilitate pedestrian access.

The proposal is considered to be consistent with the objectives and requirements of the East Gippsland Planning Scheme.

In essence, the basis for the proposal being recommended for approval is:

- State and Local Planning Policy supports development of a diversity of housing types in existing serviced areas;
- The proposal is consistent with the purpose and requirements of the General Residential Zone; and
- The proposal will not have an unreasonable impact on the amenity of surrounding areas.

In addition, there are a range of other matters which can reasonably be addressed through permit conditions.

A copy of the plans and supporting documents submitted with the application can be found at **Attachment 2**. Further information supplied by the applicant, including an amended layout for the development is at **Attachment 3**.

Due to the number of objections and in accordance with the Planning Permit Applications Delegations Policy 2018, the matter was presented at a Planning Consultation Meeting (PCM) on 28 March 2022 which allowed the applicant and the objectors the opportunity to speak to the proposal and for Councillors to be aware of the issues regarding the application. The minutes of the PCM are at **Attachment 4** and full copies of the objections at **Attachment 5**.

Planning officers are of a view that some of the grounds for objection (particularly concerns regarding the two-storey dwellings proposed around the perimeter of the development) can successfully be addressed through permit conditions. A copy of the proposed permit conditions can be found at **Attachment 1**.

In response to the concerns raised, the applicant has provided a revised layout for the development that moves all of the two-storey dwellings from the perimeter of the site and replaces them with single-storey dwellings.

The applicant has also provided further written information and landscape concept plans in response to other concerns.

A detailed assessment against the East Gippsland Planning Scheme has been undertaken (**Attachment 6**), and the proposal is viewed as being consistent with the relevant planning policies and requirements.

### **Officer Recommendation**

#### ***That Council:***

- 1. receives and notes this report and all attachments pertaining to this report; and***
- 2. being the Responsible Authority and having considered all the relevant planning matters, determines that Planning Permit Application 392/2016/P/A is consistent with the requirements and objectives of the East Gippsland Planning Scheme and therefore resolves to issue a Notice of Decision to Grant an Amended Permit for Use and Development of a Residential Village at 75 Paynesville Road, Paynesville subject to the amended permit conditions in Attachment 1.***



## Background

### Site Description

The subject land has been created as part of the broader Paynesville Park residential estate, the development of which was initially commenced as the Coast estate.

The site is relatively flat and has an area of 9.472 hectares with three road abutments: the northern boundary of the site adjoins Paynesville Road, a small section of the site adjoins Ashley Street to the south-east, with George Street adjoining the subject land to the west.

The site is surrounded on the west, east and south by existing residential development of single dwellings on lots ranging from approximately 700-1600 square metres.



Figure 1: The site and locality

## Proposal

The application is an amendment to a previous application, approved via Planning Permit 392/2016/P and seeks:

- Amendment to the original Planning Permit Application preamble 392/2016/P;
- Amendment to the conditions of the original Planning Permit Application 392/2016/P; and
- Amendment to the endorsed plans to include:
  - o 52 less dwellings
  - o A more centralised clubhouse facility
  - o Provision of green links to facilitate pedestrian access.

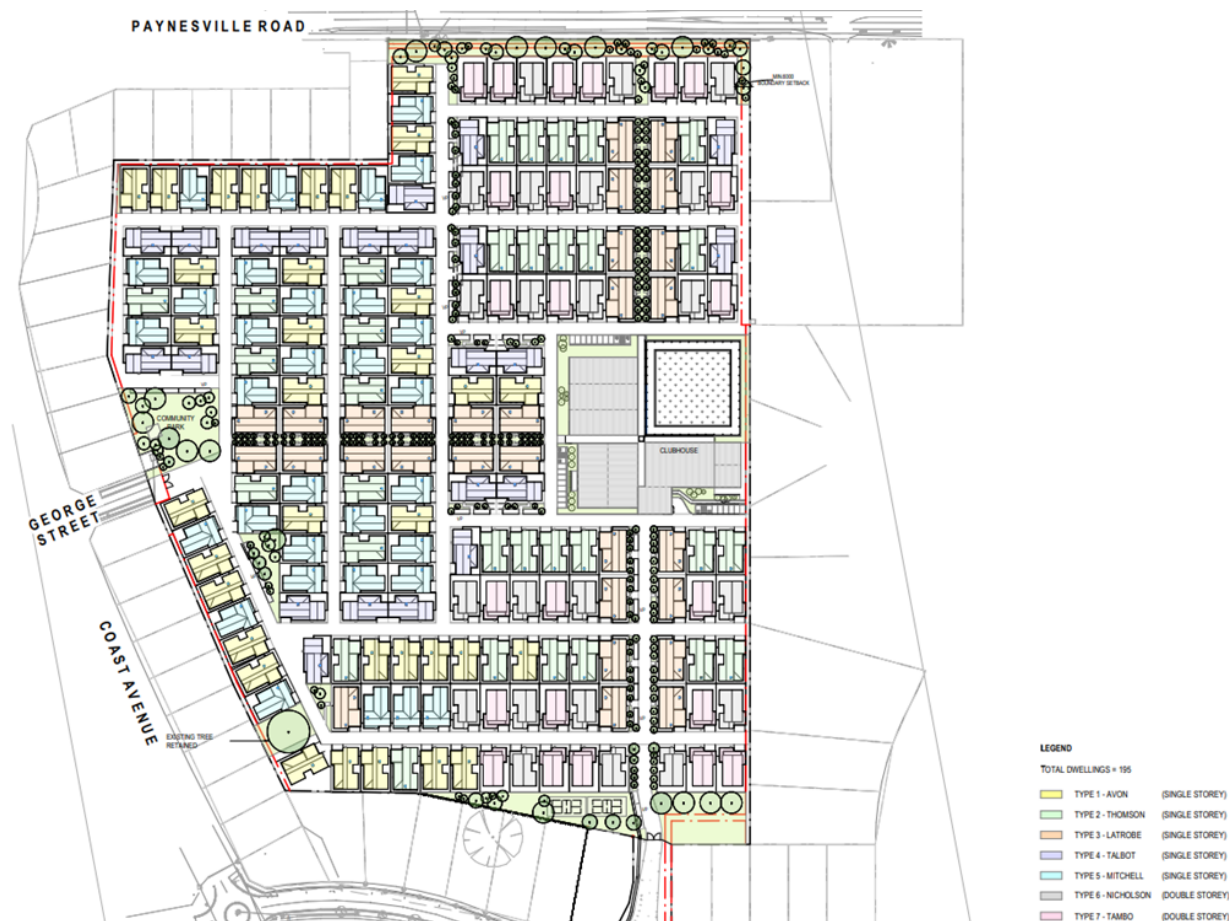
The original approved residential village is for 247 homes and Community Centre and Community Shed and was approved in 2017. The approved site plan is provided below for reference.



All plans associated with the current application are provided at **Attachment 2**.



Since the Planning Consultation Meeting took place on 28 March 2022, amended plans were submitted (dated 13 May 2022). The amended plans sought to address the concerns expressed by neighbouring occupiers and Councillors regarding the two storey development located adjacent to the boundaries of the application site and the resultant relationship with adjacent single storey dwellings. The amended plans show the proposed two storey development relocated toward the centre of the development and away from the boundaries of the site, as indicated in the site plan extract below.



**Figure 3: Amended site plan**

### Assessment

A detailed assessment of the proposal is included at **Attachment 6**.

The proposal is assessed against Clause 32.08 of the Planning Scheme (General Residential Zone).

The use is a Residential Village, which is included in the definition of Accommodation. The use of Residential Village is defined as:

*Land, in one ownership, containing a number of dwellings, used to provide permanent accommodation and which includes communal, recreation, or medical facilities for residents of the village.*

In accordance with Clause 32.08-2, the use requires a Permit.

Under Clause 32.08-6, a Permit is required to construct two or more dwellings on a lot.

The application does not require a permit pursuant to the Design and Development Overlay (Schedule 14) by virtue that no building will have a total height exceeding 7.5 metres above natural ground level.

## Legislation

The application is assessed in accordance with the requirements of the *Planning and Environment Act 1987*.

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights detailed in the Victorian Government's Charter of *Human Rights and Responsibilities Act 2006*.

In preparing this report the Victorian *Gender Equality Act 2020* has been considered. The implications of the report have been assessed and are compliant with the obligations and principles of the *Gender Equality Act 2020*. The need for a Gender Impact Assessment has also been assessed. The implications of this report have been assessed and align with the principles and objects of the *Gender Equality Act 2020*.

## Aboriginal Cultural Heritage

Pursuant to the *Aboriginal Heritage Regulations 2007*, a Cultural Heritage Management Plan (CHMP) is not required as the land has been subject to previous and historical ground disturbance. As per the assessment of the original planning permit application, the applicant states:

*The proposed use is a high impact activity, with part of the subject land identified as being of cultural heritage sensitivity. The subject land is within 50 metres of a registered Cultural Heritage site which we understand was identified as part of investigations of the Toonalook Waters residential estate on the northern side of Paynesville Road.*

*A search of the ACHRIS database has shown the Heritage site related to a scarred tree located in the Reserve to the south of Lotus Place.*

*There is clear evidence to demonstrate significant ground disturbance as defined by the Aboriginal Heritage Regulation has occurred over the 50 metres between the subject land and the Heritage site. This includes Paynesville Road itself, together with sewer mains, both pressurised and localised, water mains, gas mains, and telecommunication services.*

*It is well documented that the strip of land to the north of the subject land previously contained a strip of large mature eucalypts which were removed as part of servicing upgrades for the Paynesville township.*

*Pursuant to Regulation 22(3) of the Aboriginal Heritage Regulations 2007, this systematic significant ground disturbance means that part of the subject land that is within 50 metres of the registered cultural heritage place would no longer be deemed an area of cultural heritage sensitivity.*

*Accordingly, the subject Application does not trigger the preparation of a Cultural Heritage Management Plan in accordance with the provisions of the Aboriginal Heritage Act 2006.*

Council officers note that the strip of land that is mapped with sensitivity has sewerage, drainage and water easements running through it.

Council Officers are satisfied that a CHMP is not required.

## **Collaborative procurement**

Not applicable.

## **Council Plan**

This report has been prepared and aligned with the following strategic objectives set out in the Council Plan 2021-2025:

Strategic Objective 2: 2.1 Statutory and strategic planning for land use delivers sustainable outcomes that balance the need for growth with the enhancement of our lifestyle, character, the built and natural environment.

## **Council Policy**

The application has been referred to Council for determination in accordance with the Planning Permit Delegations Policy.

## **Options**

Council has three options:

1. Adopt the Officer's recommendation to approve the development subject to the amended conditions.

This is the preferred option as the proposal is considered to meet the relevant planning requirements.

2. Set aside the Officer's recommendation and resolve to refuse the application.

Council would need to specify the reasons for refusal, relevant to the provisions of the Planning Scheme.

3. Modify the recommendation to include additional or amended conditions, if considered necessary to address any outstanding concerns.

The proposed conditions are considered to address outstanding matters.

## **Resourcing**

### *Financial*

Nil.

### *Plant and equipment*

Not applicable.

### *Human Resources*

Assessment has been undertaken by Planning staff.

### *Risk*

The risks of this proposal have been considered and are considered to be low.

## Economic

The development represents a substantial financial investment with flow on benefits for the local economy through construction and consumption of goods and services.

## Social

A Social Impact Assessment was undertaken as part of the original permit application.

The assessment provides a detailed commentary on the benefits of the development for well-being, connectedness and social participation by residents, both within the village and in the wider community.

*The intention of the proposed Residential Village is not for residents to be isolated from external interaction, rather it seeks to ensure residents remain engaged with the external community. Communities where Residential Villages have established have found that residents prove an additional source of volunteer hours, providing crucial support to community groups.*

### Gender Impact Statement

The assessment has considered the *Gender Equality Act 2020* in its preparation and has been assessed as not requiring a Gender Impact Assessment (GIA).

## Environmental

The proposal is not considered to have any significant adverse environmental impacts. An existing remnant tree on the site is to be retained and incorporated into open space and there are significant plantings proposed to provide environmental amenity, shade and habitat.

### Climate change

This report has been prepared and aligned with the following Climate Change function/category:

This report is assessed as having no direct impact on climate change.

## Engagement

The application was referred to external authorities as below:

AUTHORITY	DET or REC	REFERRAL CLAUSE	RESPONSE
CFA	Rec (s55)	44.06 and 66.03	Conditional consent
EGW	Rec (s55)	66.03	Conditional consent
DoT	Rec (s55)	For comments only	No response provided

Copies of the referral responses are included at **Attachment 7**.

Note: No response was received from DoT, however as the proposal does not propose direct access to Paynesville Road, the proposal does not require referral to DoT under S55 of the Act. It is considered unlikely that there would be any concerns regarding traffic impacts.

Public notification was undertaken in the form of letters to adjoining landowners and a sign was placed on site in accordance with Section 52 of the *Planning and Environment Act* 1987.

A total of ten (10) objections have been received at the time of writing this report.

In summary, the objections raised the following concerns/issues:

- Bulk and scale of two-storey built form that backs onto existing residential properties;
- To revert back to single storey as per original endorsed plans.
- Overlooking;
- Overshadowing;
- Out of character;
- Devalue existing properties;
- Lack of green area;
- Lack of storage area for future resident's boats/caravan/trailers; and
- No footpaths and narrow roads leading to pedestrian safety.

During the Planning Consultation Meeting concerns were also raised regarding:

1. The provision of a bowling green on site, despite the site only being a short distance from Paynesville Bowls Club and the desire to encourage opportunities for social interaction with the local community, and for occupants to patronise established local facilities; and
2. A lack of meaningful passive open space, resulting in reduced opportunities for informal social interaction between residents within an outdoor setting.

The applicant has provided responses to these issues which are considered to address the concerns, as follows:

1. The applicant states: *In the experience of Palm Lake Works the inclusion of a bowls facility in their residential villages complements and enhances the local bowls clubs. In addition, regular tournaments between the Palm Lake Bowls and the local bowls clubs are often established, which allows a more diverse bowls experience and opportunities for members of the local bowls clubs;* and
2. The revised plans provided show a greater level of detail and an explanation of how the areas of open space would be laid out with street furniture and utilised by residents. Minor amendments are evident such as the repositioning of the shed within the community garden (Area 1) to enable greater use of the open space by occupants. The plans and images also illustrate how the linear parks interact with the residential accommodation and through the provision of active frontages encourage social interaction and sense of community.

Detailed responses to the matters raised are provided in **Attachment 6**.

## Conclusion

The proposed development is consistent with the Planning Policies stated above. The Planning Policy Framework seeks to ensure that the growth of Victoria is carried out in an orderly manner and is to be serviced in a sustainable manner.

The application site is located within an established residential area with the ability to allow future residents to have access to necessary services, infrastructure and facilities required to support the future community.

It is considered that the proposed development will contribute to an attractive, liveable, walkable and sustainable neighbourhood which meets the objectives of the Planning Policy Framework for the following reasons:

- It would direct growth to an existing urban area that has been identified for long term strategic growth;
- The location is recognised as an urban settlement that provides for a range of urban services including retail, food and drink, banking, library, leisure, recreation and community activity;
- The proposal would make effective use of existing road and services infrastructure;
- The proposal is of a quality-built form that will integrate with the broader urban precinct;
- The proposal will meet an identified need for this community sector and provide a more affordable housing range;
- The proposal is compatible with the existing neighbouring land uses, being a residential use; and
- The proposal will contribute to a range of dwelling types to suit the different needs of the community.

It is considered that the objections and concerns raised with the proposal have been addressed in the amended layout provided, and in the further written advice and landscape concepts supplied by the applicant. Amended permit conditions have been drafted to reflect the amended plans provided.

## **Attachments**

1. Conditions amended [5.2.5.1 - 6 pages]
2. Application to amend planning permit - 75 Paynesville Road Paynesville [5.2.5.2 - 29 pages]
3. Amended Plans and supporting documentation - 75 Paynesville Road Paynesville 13.05.2022 [5.2.5.3 - 16 pages]
4. PCM Minutes 75 Paynesville Road 280322 [5.2.5.4 - 5 pages]
5. Objections - 75 Paynesville Road Paynesville - Redacted [5.2.5.5 - 21 pages]
6. Detailed Assessment 75 Paynesville Rd [5.2.5.6 - 17 pages]
7. Referral Responses [5.2.5.7 - 4 pages]

**THE FOLLOWING CONDITIONS WILL APPLY TO THE AMENDED PERMIT:**

1. The submitted application is amended by revised drawings and visuals (numbered TP00-020 Rev4 and TP00-021 Rev7 submitted 13 May 2022), which include alterations to the position of two storey properties and revised and additional landscaping design information. The amended plans and dwelling type plans (TP50-001 – TP50-007) are endorsed as part of this permit.
2. The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
3. This permit will expire if one of the following circumstances applies:
  - a. The development is not started within two years of the date of this permit.
  - b. The development is not completed within twelve years of the date of this permit.
  - c. The use has not commenced within twelve years of the date of this permit.

The responsible authority may extend the periods referred to in accordance with Section 69 of the Planning and Environment Act.

4. Before any works associated with the development start an amended car parking layout plan must be submitted to and approved by the responsible authority. The plan must be drawn in accordance with Clause 52.06 of the East Gippsland Planning Scheme. The works must be implemented in accordance with the car parking plan and must:
  - a. Be constructed to the satisfaction of the responsible authority.
  - b. Be properly formed to appropriate levels to the satisfaction of the responsible authority.
  - c. Be constructed with an all-weather seal coat to satisfaction of the responsible authority.
  - d. Be drained and maintained to the satisfaction of the responsible authority.
  - e. Be line-marked to indicate each car space and all access lanes to the satisfaction of the responsible authority.
  - f. Provide signage 'Private Road' provided at the entry gates.
  - g. Provide a loading bay in close proximity to the clubhouse.

Parking areas and access lanes must be kept available for these purposes at all times.

5. Before any works associated with the development start, detailed drainage construction plans to the satisfaction of the responsible authority must be submitted to and be approved by the responsible authority. When approved, the plans will then form part of the permit. The design and documentation for the drainage works must be prepared in line with standard engineering practice to provide for the collection, control and disposal of all stormwater runoff, and show:

- a. Drainage infrastructure, including swale drains and culverts, piping/drains and pits (where required).
- b. Any modification to the terrain, such as filling and excavation.
- c. Easements and legal points of discharge.
- d. Methods of on-site detention, including the provision of sediment traps, wetlands, detention basins and gross pollutant traps.
- e. Integration of water sensitive urban design principles.

The works must be subject to a twelve month defects liability period.

All earthworks associated with the construction of the drainage must be stabilised to protect against erosion and failure, and must not encroach onto other properties.

All drainage works and requirements must be undertaken and completed to the satisfaction of the responsible authority.

- 6. Before any road works associated with the development start, detailed construction plans to the satisfaction of the responsible authority must be submitted to and be approved by the responsible authority. When approved, the plans will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must show:
  - a. Fully sealed pavement for all new roads, with a minimum trafficable width of 5.5m with semi-mountable kerb and channel on both sides.
  - b. Verge areas with a width sufficient for the construction of drainage infrastructure and for pedestrian access.
  - c. Street lighting.
  - d. Statutory signage and traffic control devices and line marking.

The documentation for the road works must include provision for maintenance and repair of damage to any existing road and drainage infrastructure.

All earthworks associated with the construction of new roads must be stabilised to protect against erosion and failure.

All works and requirements must be undertaken and completed to the satisfaction of the responsible authority.

- 7. Before the development starts a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale and three copies must be provided. The plans must be consistent with TP00-021Rev 7 and show:



- a. A schedule of all proposed vegetation (trees, shrubs and ground covers) which includes botanical names, common names, pot size, mature size and total quantities of each plant.
- b. Natural features that influence the landscape design.
- c. Proposed irrigation methods.
- d. Planting within the site comprising trees and shrubs.
- e. Seating within the landscaped area.
- f. The proposed design features such as paths, paving, lawn, finished surfaces and outdoor lighting

Landscaping in accordance with this approved plan and schedule must be completed concurrent to each stage and maintained until effectively established.

- 8. Before any works associated with the development start, a construction management plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must include:
  - a. Location of any temporary construction works office and machinery storage area;
  - b. The construction works accessway;
  - c. Details of construction days and hours;
  - d. Vehicle and machinery exclusion zones;
  - e. Location and management requirements of stockpiled soil;
  - f. Measures and techniques to protect drainage lines and watercourses from sediment runoff from disturbed or under construction areas;
  - g. Measures and methods to be employed to protect sites of conservation importance, native vegetation and areas of archaeological significance;
  - h. Measures and techniques to manage dust control;
  - i. The location of a machinery and vehicle wash down area and requirements for the ongoing use of the of the machinery and vehicle wash down area by contractors;
  - j. Location and management of litter storage areas, construction waste areas and chemical storage areas; and
  - k. Methods of ensuring all contractors are informed of the requirements of the construction management plan and persons responsible for ensuring the construction management plan is adhered to.

All construction works and requirements of the construction management plan must be undertaken and completed in accordance with the endorsed construction management plan to the satisfaction of the responsible authority.

- 9. Outdoor lighting associated with the clubhouse must be designed, baffled and located to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.
- 10. All earthworks associated with the development must be stabilised in accordance with standard engineering design and practices against erosion and failure. All earthworks or retaining structures must not encroach across neighbouring property boundaries to the satisfaction of the responsible authority.

11. All new services to the development must be placed underground in shared trenching. Design for the installation of services must meet the requirements of the relevant authorities.

**East Gippsland Water Conditions**

12. Extend water supply infrastructure to the satisfaction of East Gippsland Water.
13. Extend sewerage infrastructure to the satisfaction of East Gippsland Water.
14. Submit design, construction, commissioning and as constructed documentation on all proposed infrastructure, or alterations to existing infrastructure, for written approval by East Gippsland Water.
15. Pay applicable development planning charges.
16. Existing water meter (No. 09W081966), is to be disconnected and returned to East Gippsland Water.
17. Each Lot / Unit is to be separately serviced by the water and sewer reticulation systems and able to be separately metered (water) as appropriate, to the satisfaction of East Gippsland Water.
18. Place easement(s) on the plan of subdivision over existing/proposed infrastructure, to the satisfaction of East Gippsland Water.

**Country Fire Authority**

**19. Hydrants**

- a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note: CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au))

**20. Roads**

Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

- a. The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.
- b. Curves must have a minimum inner radius of 10 metres.
- c. Have a minimum trafficable width of 6 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.

- d. Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

### Notes

#### **East Gippsland Water Notes**

- a. In accordance with Section 136 of the Water Act 1989, easements are required over existing/proposed infrastructure. This requirement applies even if the infrastructure is in common property or there is a Section 12(2) easement over the land.
- b. For easement(s) created over East Gippsland Water infrastructure, the Land Benefited/In Favour Of is to be in the name of "East Gippsland Region Water Corporation".
- c. For any lot area that cannot be fully serviced by a gravity sewer connection, building envelopes or minimum floor levels are to be listed as restrictions on title, to the satisfaction of East Gippsland Water.
- d. Should East Gippsland Water determine that a gravity sewerage system is not feasible, then a pressure sewer system may be approved by East Gippsland Water.
- e. Design documentation to be submitted after certification application has been made.
- f. Development planning charges apply where East Gippsland Water approve design, construction, commissioning and as constructed documentation (actual charge is based on the final cost of the works).
- g. Any feasibility study, required to determine how best to service the development, is to be arranged by East Gippsland Water and funded by the applicant.
- h. Any infrastructure, outside of the development, that is required to provide sewerage and/or water supply services to the development, is to be funded by the applicant. The type and extent of additional infrastructure, if needed, is subject to detailed engineering design and approval by East Gippsland Water.
- i. Internal water and sewer pipework that connects each Lot / Unit to East Gippsland Water's infrastructure will be privately owned, operated and maintained by the Developer.
- j. Any specific requirements for sewerage and/or water supply infrastructure relating to coastal inundation or flooding is to be funded by the applicant.

If an amended permit is issued, the following amendments to the original permit are made:

Amendment Date	What is proposed to be amended?
To be determined	<ul style="list-style-type: none"> <li>• Scheme has been amended to alter the layout, design of the residential accommodation and on site community facilities.</li> <li>• The number of residential properties has been reduced by 52 units from 247 to 195.</li> <li>• Condition 1 amended to reflect current proposed plan set.</li> <li>• Conditions 3 and 5 deleted.</li> <li>• Condition 8 amended to remove footpath requirement.</li> <li>• Condition 9 amended to reflect current proposed plan set.</li> <li>• Amendment of EGW conditions and notes.</li> <li>• Conditions renumbered accordingly.</li> </ul>

**The original permit was issued 14 February 2017.**

**Kerry Stow**

---

**From:** Snapforms Notifications <no-reply@snapforms.com.au>  
**Sent:** Monday, 29 November 2021 5:42 PM  
**To:** Planning Unit Administration  
**Subject:** Amend a Planning Permit  
**Attachments:** Application to Amend Planning Permit 392.2016.P - Copy of title. 291121.pdf; Application to Amend Planning Permit 392.2016.P - Lot layout plan and site plan. 291121.pdf; Application to Amend Planning Permit 392.2016.P - Town planning letter. 291121.pdf; Application to Amend Planning Permit 392.2016.P - Dwelling plans and elevations. 291121.pdf; Application to Amend Planning Permit 392.2016.P - Clubhouse plans and elevations. 291121.pdf; Application to Amend Planning Permit 392.2016.P - Endorsed site plan. 291121.pdf  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Amend a Planning Permit**

An 'Amend a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

**Name:** James Million

**Business trading name:** Palm Lake Works C/O Collie Pty Ltd

**Email address:** jjm@colliepl.com.au

**Postal address:** Level 16, 356 Collins Street, Melbourne, 3000

**Mobile phone number:** 0468954562

**Work phone number:** 0386989300

**Owners name:** Suzanne Jensen

**Owners business trading name (if applicable):** Palm Lake Resort Pty Ltd

**Owners email address:** suzannej@PalmLake.com.au

**Owners postal address:** 9 Lawson Street, Southport, Queensland, 4215

**Street number:** 75

**Street name:** Paynesville Road

**Town:** Paynesville

**Post code:** 3880

**Lot number:** 10

**Plan type:** Plan of subdivision

**Plan number:** 742846B

**Planning permit number to be amended:** 392/2016/P

**Is there any encumbrance on the Title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?:** Yes

**Will the proposal result in a breach of a registered covenant restriction or agreement?:** No

**Description of amendment - Describe the amendment being applied for (i.e. change to condition, change to development):** Refer to town planning letter. In summary, changes to the permit preamble, conditions of the permit and endorsed plans are proposed.

**Existing conditions - Describe how the land is used and developed now:** Vacant

**Required - Title (must have been generated within the past 30 days):** [Application to Amend Planning Permit 392.2016.P - Copy of title. 291121.pdf](#)

**Amended plans:** [Application to Amend Planning Permit 392.2016.P - Lot layout plan and site plan. 291121.pdf](#)

**1. Supporting information/reports:** [Application to Amend Planning Permit 392.2016.P - Town planning letter. 291121.pdf](#)

**2. Supporting information/reports:** [Application to Amend Planning Permit 392.2016.P - Dwelling plans and elevations. 291121.pdf](#)

**3. Supporting information/reports:** [Application to Amend Planning Permit 392.2016.P - Clubhouse plans and elevations. 291121.pdf](#)

**4. Supporting information/reports:** [Application to Amend Planning Permit 392.2016.P - Endorsed site plan. 291121.pdf](#)

Declaration: Yes

Privacy Statement: Yes



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

Page 1 of 1

VOLUME 11818 FOLIO 980

Security no : 124094041360J

Produced 29/11/2021 11:11 AM

### LAND DESCRIPTION

Lot 10 on Plan of Subdivision 742846B.  
PARENT TITLE Volume 11643 Folio 867  
Created by instrument PS742846B 13/09/2016

### REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

PALM LAKE RESORT PTY LTD of "SOUTHPORT CENTRAL TOWER 3" SUITE 30406 LEVEL 4  
9 LAWSON STREET SOUTHPORT QLD 4215  
AT612541Q 17/09/2020

### ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AU092760M 01/03/2021  
TASOVAC PTY LTD

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

### DIAGRAM LOCATION

SEE PS742846B FOR FURTHER DETAILS AND BOUNDARIES

### ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 75 PAYNESVILLE ROAD PAYNESVILLE VIC 3880

### ADMINISTRATIVE NOTICES

NIL

eCT Control 19234R MINTER ELLISON  
Effective from 01/03/2021

DOCUMENT END



## Imaged Document Cover Sheet

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Document Type	<b>Plan</b>
Document Identification	<b>PS742846B</b>
Number of Pages (excluding this cover sheet)	<b>3</b>
Document Assembled	<b>29/11/2021 11:16</b>

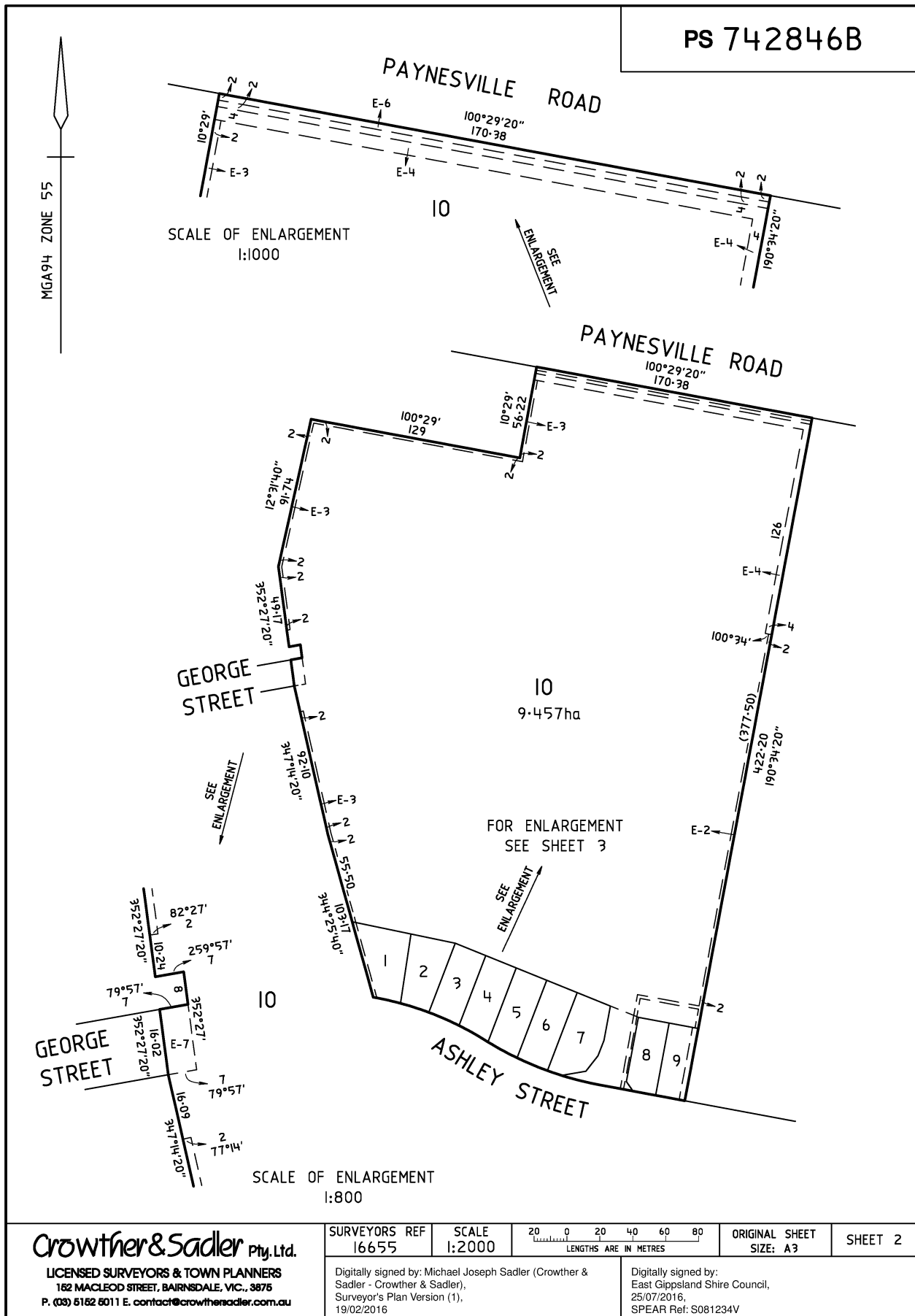
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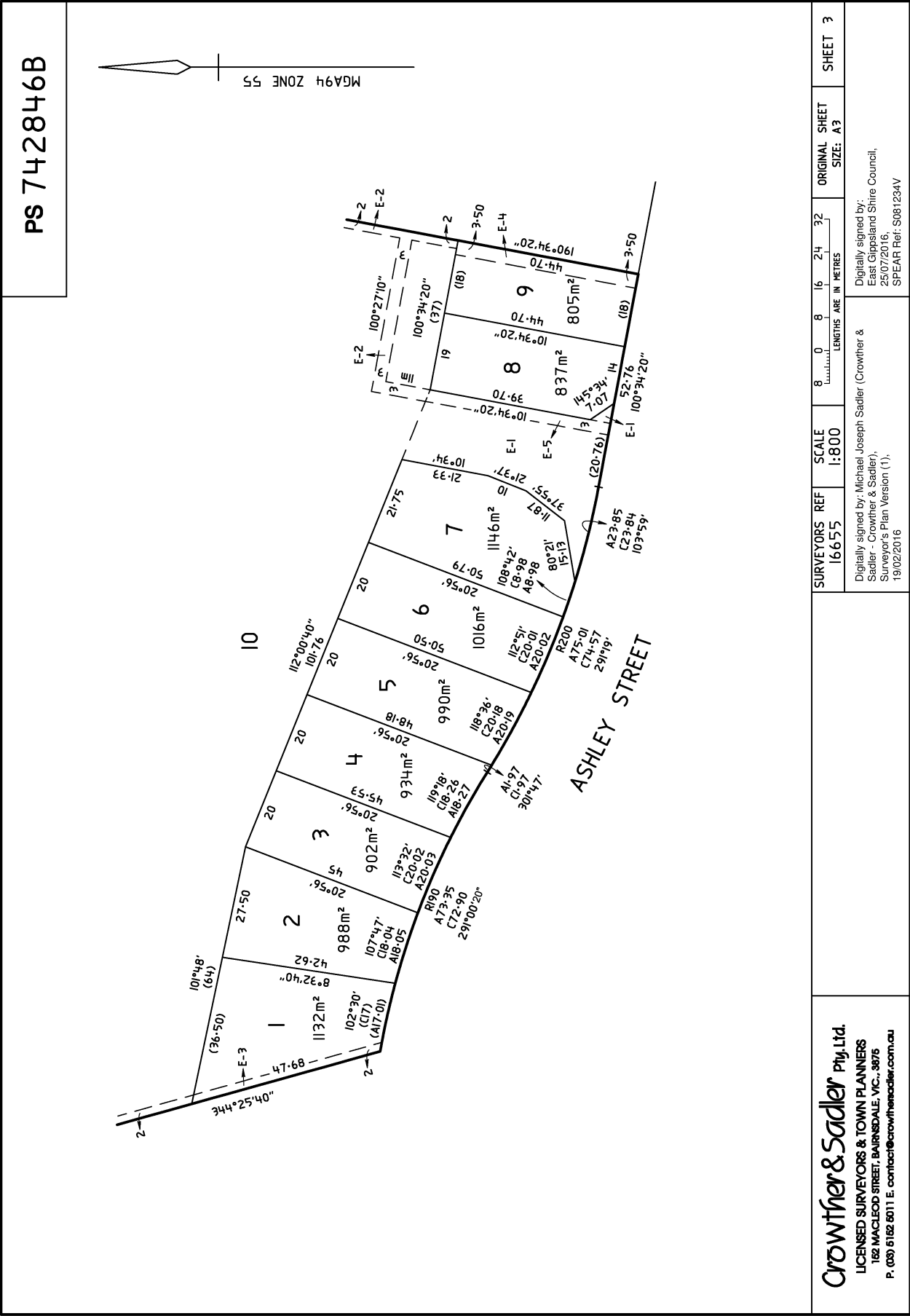
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The document is invalid if this cover sheet is removed or altered.



<b>PLAN OF SUBDIVISION</b>		<b>EDITION 1</b>	<b>PS 742846B</b>	
<b>LOCATION OF LAND</b>  <b>PARISH:</b> BAIRNSDALE <b>TOWNSHIP:</b> _____ <b>SECTION:</b> _____ <b>CROWN ALLOTMENT:</b> 141 <sup>A</sup> (PART) <b>CROWN PORTION:</b> _____ <b>TITLE REFERENCE:</b> Vol.11643 Fol. 867  <b>LAST PLAN REFERENCE:</b> LOT 1 - PS729135M  <b>POSTAL ADDRESS:</b> 75 PAYNESVILLE ROAD, <b>(at time of subdivision)</b> PAYNESVILLE, 3880  <b>MGA CO-ORDINATES:</b> E: 562 470 <b>ZONE:</b> 55 <b>(of approx centre of land</b> N: 5804 160 <b>GDA 94</b> <b>in plan)</b>		Council Name: East Gippsland Shire Council  Council Reference Number: PS742846B Planning Permit Reference: 583/2004/P/C SPEAR Reference Number: S081234V  Certification  This plan is certified under section 6 of the Subdivision Act 1988  Statement of Compliance  This is a statement of compliance issued under section 21 of the Subdivision Act 1988  Public Open Space  A requirement for public open space under section 18 of the Subdivision Act 1988 Has not been made at Certification  Digitally signed by: Aaron David Hollow for East Gippsland Shire Council on 25/07/2016		
<b>VESTING OF ROADS AND/OR RESERVES</b>		<b>NOTATIONS</b>		
IDENTIFIER	COUNCIL/BODY/PERSON			
NIL	NIL			
<b>NOTATIONS</b>				
<b>DEPTH LIMITATION</b> DOES NOT APPLY				
<b>SURVEY:</b> This plan is based on survey.  <b>STAGING:</b> This is not a staged subdivision. Planning Permit No.  This survey has been connected to permanent marks No(s).  In Proclaimed Survey Area No. 375, 453 & 454				
<b>EASEMENT INFORMATION</b>				
<b>LEGEND:</b> A - Appurtenant Easement      E - Encumbering Easement      R - Encumbering Easement (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1, E-5	CARRIAGEWAY	SEE DIAG.	THIS PLAN	LOTS 7 & 8 ON THIS PLAN
E-2, E-5	DRAINAGE	SEE DIAG.	THIS PLAN	EAST GIPPSLAND SHIRE COUNCIL
E-3	SEWERAGE	2	THIS PLAN	EAST GIPPSLAND REGION WATER CORPORATION
E-4	DRAINAGE & SEWERAGE	4	THIS PLAN	EAST GIPPSLAND REGION WATER CORPORATION & EAST GIPPSLAND SHIRE COUNCIL
E-6	WATER SUPPLY	2	THIS PLAN	EAST GIPPSLAND REGION WATER CORPORATION
E-7	POWERLINE	SEE DIAG.	PS729135M - SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000	AUSNET ELECTRICITY SERVICES PTY LTD
<b>Crowther &amp; Sadler Pty. Ltd.</b> <b>LICENSED SURVEYORS &amp; TOWN PLANNERS</b> 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875 P. (03) 5162 8011 E. <a href="mailto:contact@crowthersadler.com.au">contact@crowthersadler.com.au</a>		<b>SURVEYORS FILE REF: 16655</b>  Digitally signed by: Michael Joseph Sadler (Crowther & Sadler - Crowther & Sadler), Surveyor's Plan Version (1), 19/02/2016		<b>ORIGINAL SHEET SIZE: A3</b> <b>SHEET 1 OF 3 SHEETS</b>  <b>PLAN REGISTERED</b> <b>TIME: 11:55 AM      DATE: 13/09/2016</b> B Toscano Assistant Registrar of Titles







## Department of Environment, Land, Water & Planning

### Electronic Instrument Statement

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Produced 29/11/2021 11:16:41 AM

Status	Registered	Dealing Number	AT612541Q
Date and Time Lodged	17/09/2020 12:46:15 PM		

#### Lodger Details

Lodger Code	22998P
Name	HAMILTON LOCKE PTY LTD
Address	
Lodger Box	
Phone	
Email	
Reference	

### TRANSFER

Jurisdiction	VICTORIA
--------------	----------

#### Privacy Collection Statement

The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

#### Land Title Reference

11818/980

#### Transferor(s)

Name	PAYNESVILLE VILLAGE PTY LTD
ACN	618141530

#### Estate and/or Interest being transferred

Fee Simple

#### Consideration

\$AUD 4200000.00

#### Transferee(s)

<b>Tenancy (inc. share)</b>	Sole Proprietor
Name	PALM LAKE RESORT PTY LTD
ACN	005277038
Address	
Property Name	SOUTHPORT CENTRAL TOWER 3
Floor Type	LEVEL



## Department of Environment, Land, Water & Planning

### Electronic Instrument Statement

Floor Number	4
Unit Type	SUITE
Unit Number	30406
Street Number	9
Street Name	LAWSON
Street Type	STREET
Locality	SOUTHPORT
State	QLD
Postcode	4215

**Duty Transaction ID**  
4910012

The transferor transfers to the transferee their estate and/or interest in the land specified for the consideration, subject to any restrictive covenant set out or referred to in this transfer.

#### Execution

1. The Certifier has taken reasonable steps to verify the identity of the transferee or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	PALM LAKE RESORT PTY LTD
Signer Name	JANELLE WATTS
Signer Organisation	HAMILTON LOCKE PTY LTD
Signer Role	LAW PRACTICE
Execution Date	17 SEPTEMBER 2020

#### Execution

1. The Certifier has taken reasonable steps to verify the identity of the transferor or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	PAYNESVILLE VILLAGE PTY LTD
Signer Name	CALVIN TAY
Signer Organisation	SPARKE HELMORE LAWYERS
Signer Role	LAW PRACTICE
Execution Date	17 SEPTEMBER 2020

**File Notes:**  
NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.



## Department of Environment, Land, Water & Planning

### Electronic Instrument Statement

Mortgage Form version 1.5

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Produced 29/11/2021 11:16:41 AM

Status	Registered	Dealing Number	AU092760M
Date and Time Lodged	01/03/2021 09:54:34 AM		

#### Lodger Details

Lodger Code	19234R
Name	MINTER ELLISON
Address	
Lodger Box	
Phone	
Email	
Reference	LYJ DYS 1324715

### MORTGAGE

Jurisdiction	VICTORIA
--------------	----------

#### Privacy Collection Statement

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#### Estate and/or Interest being mortgaged

FEE SIMPLE

#### Land Title Reference

11818/980

#### Mortgagor

Name	PALM LAKE RESORT PTY LTD
ACN	005277038

#### Mortgagee

Name	TASOVAC PTY LIMITED
ACN	108013467
Address	
Floor Type	LEVEL
Floor Number	25
Street Number	255
Street Name	GEORGE
Street Type	STREET
Locality	SYDNEY



## Department of Environment, Land, Water & Planning

### Electronic Instrument Statement

Mortgage Form version 1.5

State NSW  
Postcode 2000

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

#### Terms and Conditions of this Mortgage

(a) Document Reference AA7111  
(b) Additional terms and conditions NIL

#### Mortgagee Execution

1. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
2. The Certifier has taken reasonable steps to verify the identity of the mortgagee or his, her or its administrator or attorney.
3. The Certifier, or the Certifier is reasonably satisfied that the mortgagee it represents, :
  - (a) has taken reasonable steps to verify the identity of the mortgagor or his, her or its administrator or attorney; and
  - (b) holds a mortgage granted by the mortgagor on the same terms as this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.
5. The Certifier has retained the evidence supporting this Registry Instrument or Document.

Executed on behalf of TASOVAC PTY LIMITED  
 Signer Name WAYNE FELLOWS  
 Signer Organisation MINTER ELLISON  
 Signer Role AUSTRALIAN LEGAL PRACTITIONER  
 Execution Date 26 FEBRUARY 2021

#### File Notes:

NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

TOWN PLANNERS | URBAN DESIGNERS | LANDSCAPE ARCHITECTS

**collie**

29 November 2021

East Gippsland Shire Council  
 Town Planning Department  
 PO Box 1618  
 BAIRNSDALE VICTORIA 3875

Email: [planning@egipps.vic.gov.au](mailto:planning@egipps.vic.gov.au)

**APPLICATION TO AMEND PLANNING PERMIT 392/2016/P**  
**Palm Lake Group Residential Village – 75 Paynesville Road, Paynesville**

Dear Madam / Sir,

We write on behalf of Palm Lake Works (the applicant) in seeking under Section 72 of the *Planning and Environment Act 1987* to amend planning permit 392/2016/P (the permit).

The permit was issued by East Gippsland Shire Council (Council) as the responsible authority on 14 February 2017 and allows "use and development of a residential village in accordance with endorsed plans" at 75 Paynesville Road, Paynesville (the site).

In order to assist you with your consideration of this application, please find enclosed the following information.

- An up-to-date (less than three months old) copy of title.
- A copy of the previously endorsed site plan for comparison purposes.
- A copy of the lot layout plan and site plan for endorsement dated 19 November 2021 prepared by VIA Architects.
- A copy of the clubhouse plan and elevations for endorsement dated 19 November 2021 prepared by VIA Architects.
- A copy of the dwelling plans and elevations for endorsement dated 19 November 2021 prepared by VIA Architects.

Please note the applicant intends to pay the application fee of \$1,337.70 electronically once an invoice has been generated by Council.

**1. BACKGROUND**

The permit was issued originally to the previous landowner and an extension to the permit was also sought requiring development to commence by 14 February 2023. More recently, the site was purchased by the applicant and therefore, it is necessary to amend the permit in order to enable the proposed development and use of a residential village, as a quality lifestyle community by the Palm Lake Group.

Notably, the lifestyle community is to comprise 52 less dwellings with a more centralised clubhouse facility and the provision of 'green links' in order to facilitate improved pedestrian access to the clubhouse and to promote walkability. For the reasons detailed in this letter, the proposed village layout achieves a high standard in urban design and will provide a high level of amenity to future residents while ensuring that the amenity of adjoining dwellings is not impacted unreasonably.

**2. THE PROPOSAL**

The following description of the proposed amendment should be read in conjunction with the enclosed plans and elevations prepared by VIA Architects.

- A reduction in the total number of dwellings from 247 to 195 dwellings.

■ **Collie Pty Ltd** ABN 11 076 755 069  
*designers and facilitators*

Level 16, 356 Collins Street  
 Melbourne Victoria 3000  
 Australia

+61 3 8698 9300

[consult@colliepl.com.au](mailto:consult@colliepl.com.au)  
[www.colliepl.com](http://www.colliepl.com)

Z:\projects\21-8844 75 paynesville rd paynesville tp\00200\003 word\finalised\33048L.docx



- A more centralised clubhouse facility that includes a gymnasium, bowling alley, indoor pool and spa, yoga studio, golf simulator, library, cinema and lawn bowls.
- The clubhouse facility is proposed to have a maximum building height of 9 metres and will be setback approximately 4 metres from the east boundary, being the closest interface to existing dwellings.
- A network of internal access roads comprising a road reservation width of 6 metres with a wider road reserve to create a boulevard at the entry to the village from Ashely Street (to the south).
- North-south and east-west green links in order to facilitate improved pedestrian access to the clubhouse facility.
- At least one canopy tree will be planted within the front yard of each dwelling with additional landscaping to be concentrated in areas of high amenity including along the entry boulevard, the green links and within 'pocket parks'. It is intended that detailed landscape plans will be prepared and submitted in response to condition 10 of the permit.
- Seven different dwellings types predominantly single storey in height with some double storey dwellings (types 6 and 7) resulting in further variation in house designs, which will create more diverse and interesting streetscapes within the village.
- Each dwelling will comprise three bedrooms, two or three bathrooms, an open planned kitchen / living area and a secure double garage.
- Each dwelling is provided with either two outdoor entertaining areas with different orientations or one larger outdoor entertaining area typically with a north, west or east orientation.
- At the interface with adjoining residential lots, all dwellings exceed the setbacks recommended by standard B17 of clause 55 and no walls on boundaries are proposed.
- A maximum building height of 7.285 metres is proposed for the dwellings.
- The provision of 56 visitor car parking spaces dispersed throughout the village including 6 disabled spaces.

### 3. PROPOSED AMENDMENTS TO PLANNING PERMIT 392/2016/P

#### 3.1 Permit Preamble

As a result of the clubhouse facility exceeding the preferred height limit under Schedule 14 (DDO14) to the Design and Development Overlay, it is necessary to amend the preamble to the permit as follows.

*"Use and development of a residential village and construction of a building in a design and development overlay in accordance with endorsed plans".*

#### 3.2 Condition 1

A lot layout plan and a clubhouse site plan have been prepared to respond appropriately to the requirements of condition 1.

Given the internal access roads will be constructed in larger stages when compared with the delivery of the landscape works, the size of each stage will instead, be specified in the relevant plans submitted to Council for endorsement under conditions of the permit. For this reason, we request that the requirement for a plan showing the "staging of the development" be removed from the permit.

#### 3.3 Condition 3

As above, we request that condition 3 of the permit be amended as follows.

*"The development of the residential village must proceed in the order of stages approved under relevant conditions of this permit"*

#### 3.4 Condition 5

For cleanliness, we recommend that this condition be amended to allow for the seven different dwelling types that are proposed.

**3.5 Condition 9 a)**

We recommend that this condition be revised to replace the words "semi-mountable kerb and channel on both sides" with "flush pavement, a central swale and drainage pits" in order to reflect the proposed treatment for the internal access roads as contemplated by standard C21 of clause 56.06-8.

**3.6 Condition 9 b)**

Given no verges are proposed, we request that this condition be removed from the permit.

**3.7 Condition 9 c)**

As the internal access roads will carry low traffic volumes with speeds to be limited to 10 kilometres per hour, the internal access roads will operate as a shared zone with priority for pedestrians. As a result, with the exception of along the green links, no footpaths are proposed internally to the village. Within a residential village environment where pedestrian movements are prioritised, the provision of limited to no footpaths is a common planning approach and for the above reasons is an appropriate design response. We therefore request, that this condition be removed from the permit.

**4. RESPONSE TO THE EAST GIPPSLAND PLANNING SCHEME****4.1 Zone and Overlay Controls**

The proposal is consistent with the relevant provisions of Schedule 1 to the General Residential Zone.

In response to DDO14, a planning permit is required to construct a building that exceeds a preferred height of more than 7.5 metres above natural ground level. A planning permit is required therefore, for the construction of the clubhouse facility.

In response to the relevant provisions of DDO14.

- The proposed clubhouse facility and the proposed dwellings incorporate pitched rooves.
- The clubhouse facility has been located deliberately to be central to the site so that it appears visually unobtrusive when viewed from the public realm.
- The clubhouse facility is well removed from adjoining residential lots and therefore, will not impact unreasonably on the outlook from these lots.
- The clubhouse facility and proposed dwellings comprise 'muted' materials and finishes that will 'blend in' with the landscape and are respectful of the 'coastal character' of the broader neighbourhood.

**4.2 Clause 52.06 Car Parking**

Clause 52.06 and its table 1 seeks the provision of one visitor car parking space per every five dwellings, requiring 39 visitor spaces for the 195 dwellings. As 56 visitor spaces will be provided within the internal road network, the proposal exceeds comfortably the visitor parking requirement of clause 52.06.

**5. CONCLUSION**

In conclusion, the proposed amendment is consistent with relevant planning policies as well as the conditions of the permit (as amended) including the permit preamble. For the reasons outlined in this letter, the proposed changes to the endorsed plans are appropriate and should be supported by Council.

We appreciate your assistance with this application and please contact James Million or Michael Collie of this office should you have any queries.

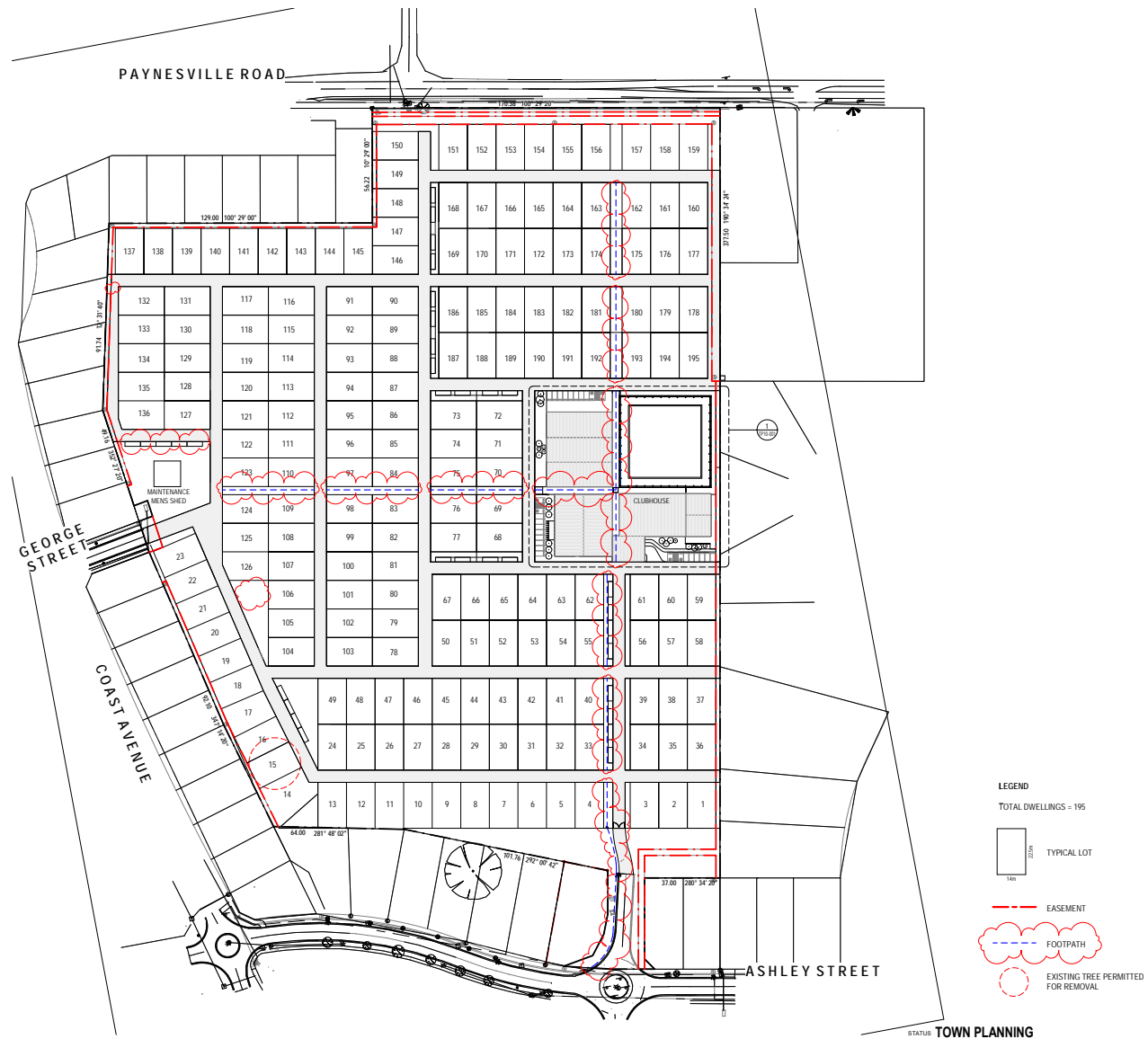
Yours faithfully,



**Collie Pty Ltd**

Copy Ms Suzanne Jensen, Palm Lake Works  
Enclosure: As listed above





**V / A  
ARCHITECTS**

LEVEL 3, 377 LONSDALE STREET MELBOURNE VIC 3000  
+61 3 8678 3300 / v.aarchitects.com.au

East Gippsland Shire Council - Agenda  
Council Meeting - Tuesday 7 June 2022

**REV. DESCRIPTION**

1 AMENDED TOWN PLANNING SUBMISSION

2 UPDATED IN LINE WITH COUNCIL RPT

**DATE BY**

19/11/2021 MK

13/10/2021 MK

**KEY**

PLAN



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**PROJECT**  
THE ENTRANCE AT PAYNESVILLE  
**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

**CLIENT**  
PALM LAKE GROUP  
**DRAWING TITLE**  
PROPOSED LOT LAYOUT PLAN

SCALE (B/A1) 1:1000 / DRAWN BY HX / CHECKED BY MK / PROJECT No. 2110055 / DRAWING No. TP00-020 / REV 2



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Council Meeting - Tuesday 7 June 2022

REV. DESCRIPTION  
1 AMENDED TOWN PLANNING SUBMISSION  
2 UPDATED IN LINE WITH COUNCIL RFP

DATE BY  
19/11/2021 MK  
13/12/2021 MK

KEY  
PLAN

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**PROJECT**  
THE ENTRANCE AT PAYNESVILLE  
**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

**CLIENT**  
PALM LAKE GROUP  
**DRAWING TITLE**  
PROPOSED SITE PLAN

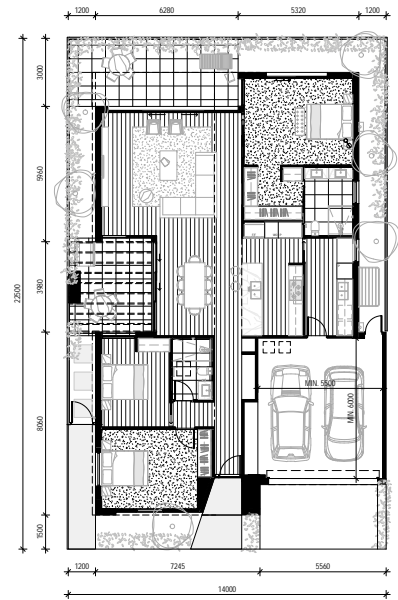
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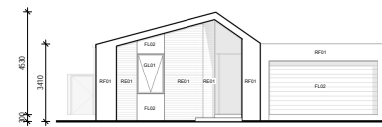


AVON  
3 BED 2 BATH  
185 m<sup>2</sup>

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RS01	COLORBOND ROOF SHEET COLOUR: COLORBOND SHALE GREY	
GL01	GLAZED WINDOW CLEAR GLASS	
GL02	GLAZED WINDOW OBSCURE GLASS	
AW01	POWDER COATED FRAMED WINDOW COLOUR: MONUMENT MATTE	
RE01	TIMBER LOOK ALUMINIUM COLOUR: BLACKBUTT	
FL01	FLASHING/APPLIED FINISH COLOUR: SHALE GREY	
FL02	FLASHING/APPLIED FINISH COLOUR: MONUMENT	



FLOOR PLAN



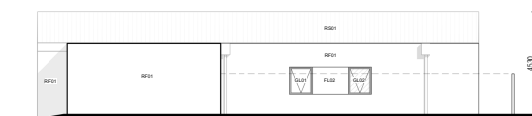
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ELEVATION 2 - SIDE



ELEVATION 3 - REAR



ELEVATION 4 - SIDE

STATUS: TOWN PLANNING

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1 AMENDED TOWN PLANNING SUBMISSION

DATE BY  
19/11/2021 MK

KEY  
PLAN

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**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

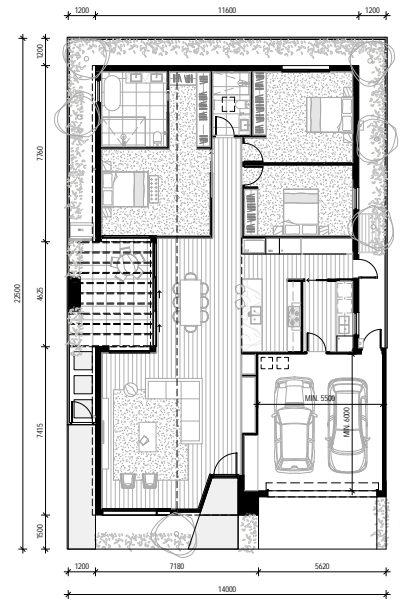
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PALM LAKE GROUP  
**DRAWING TITLE**  
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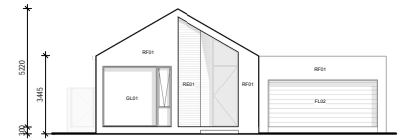


THOMSON  
3 BED 2 BATH  
200 m<sup>2</sup>

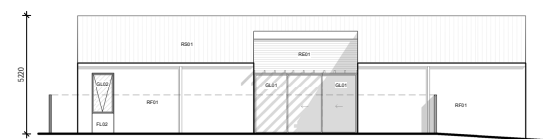
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GL02	GLAZED WINDOW OBSCURE GLASS	
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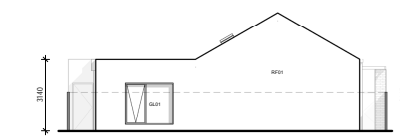
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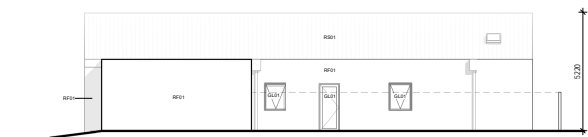
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ELEVATION 2 - SIDE



ELEVATION 3 - REAR



ELEVATION 4 - SIDE

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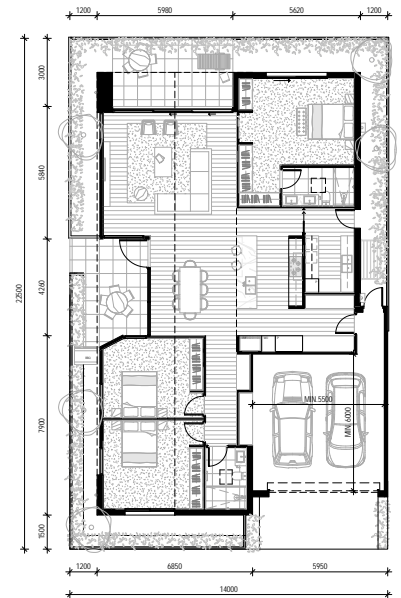
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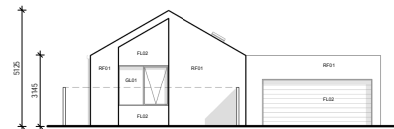


LATROBE  
3 BED 2 BATH  
195 m<sup>2</sup>

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FL01	FLASHING/APPLIED FINISH COLOUR: SHALE GREY	
FL02	FLASHING/APPLIED FINISH COLOUR: MONUMENT	



FLOOR PLAN



ELEVATION 1 - SIDE



ELEVATION 2 - FRONT



ELEVATION 3 - SIDE



ELEVATION 4 - REAR

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**PROJECT**  
THE ENTRANCE AT PAYNESVILLE  
**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

**CLIENT**  
PALM LAKE GROUP  
**DRAWING TITLE**  
TYPE 3 - LATROBE

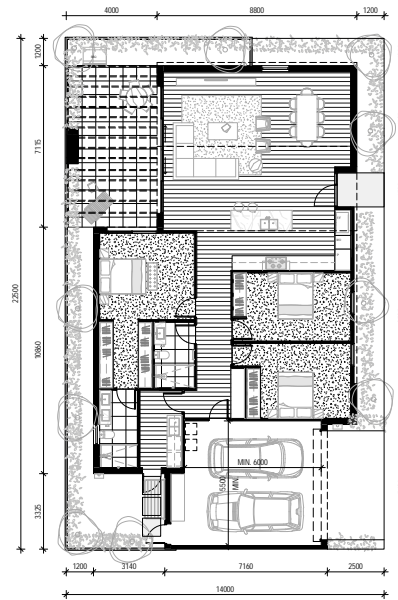
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TALBOT  
3 BED 2 BATH  
190 m<sup>2</sup>

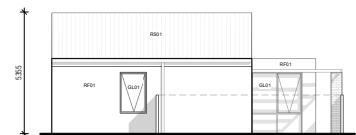
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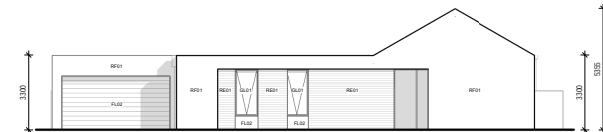
FLOOR PLAN



ELEVATION 1 - SIDE



ELEVATION 3 - SIDE



ELEVATION 2 - FRONT



ELEVATION 4 - REAR

STATUS: TOWN PLANNING

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PROJECT REF: C:\Users\mk\Documents\210055 - PALM LAKE GROUP - 75 PAYNESVILLE ROAD\_UNIT TYPES\_CATALPA\_2D\_ARCH\DWG\TP50-004.dwg

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ADDRESS  
75 PAYNESVILLE ROAD, PAYNESVILLE

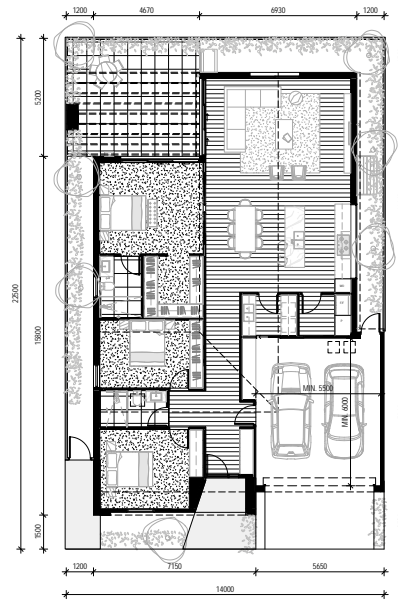
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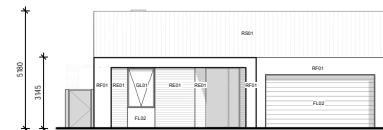


MITCHELL  
3 BED 2 BATH  
190 m<sup>2</sup>

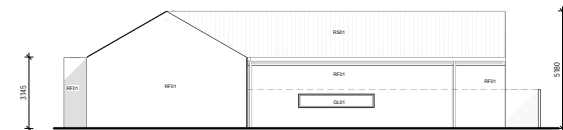
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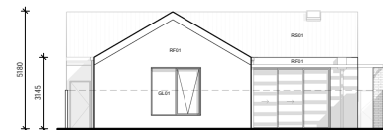
FLOOR PLAN



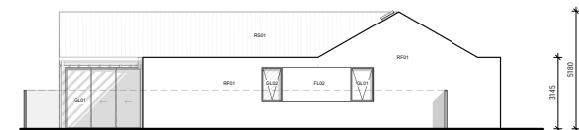
ELEVATION 1 - FRONT



ELEVATION 2 - SIDE



ELEVATION 3 - REAR



ELEVATION 4 - SIDE

STATUS **TOWN PLANNING**

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DATE BY  
19/11/2021 MK

KEY  
PLAN

PROJECT REF: C:\Users\mk\Documents\210005 - PALM LAKE GROUP - 75 PAYNESVILLE ROAD\_UNIT TYPES\_CENTRAL\_2D\_ARCH\04\19112021 - 19112021 1.dwg (7/1)



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**PROJECT**  
THE ENTRANCE AT PAYNESVILLE  
**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

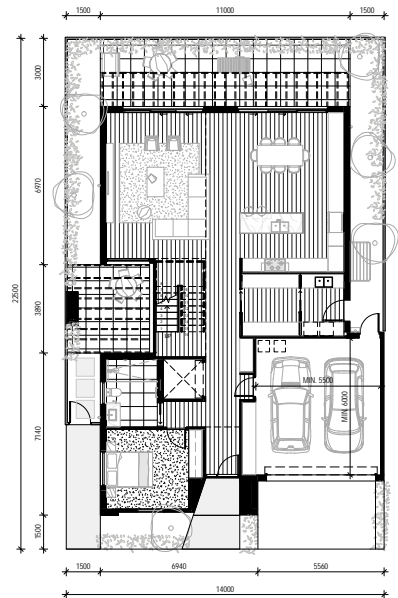
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PALM LAKE GROUP  
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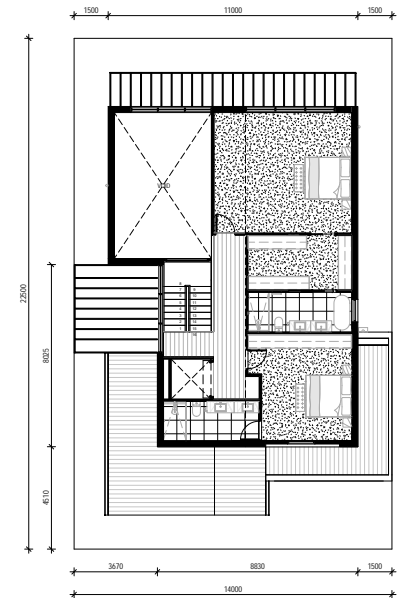


NICHOLSON  
3 BED 3 BATH  
305 m<sup>2</sup>

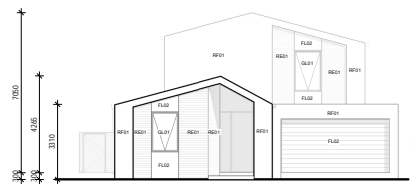
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RS01	COLORBOND ROOF SHEET COLOUR: COLORBOND SHALE GREY	
GL01	GLAZED WINDOW CLEAR GLASS	
GL02	GLAZED WINDOW OBSCURE GLASS	
AW01	POWDER COATED FRAMED WINDOW COLOUR: MONUMENT MATTE	
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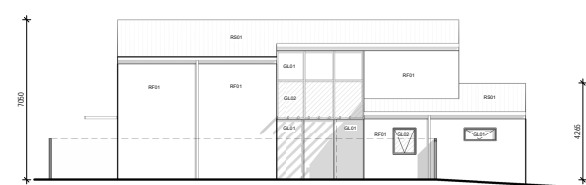
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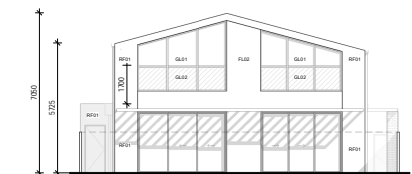
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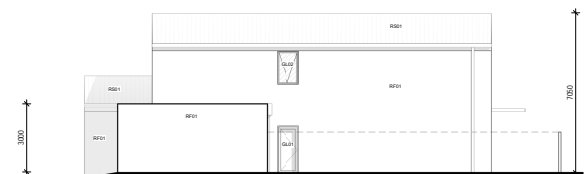
ELEVATION 1 - FRONT



ELEVATION 2 - SIDE



ELEVATION 3 - REAR



ELEVATION 4 - SIDE

STATUS: TOWN PLANNING

V / A  
ARCHITECTS

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REV DESCRIPTION  
1 AMENDED TOWN PLANNING SUBMISSION

DATE BY  
19/11/2021 MK

KEY  
PLAN

PROJECT REF: C:\Users\m\Documents\210005 - PALM LAKE GROUP - 75 PAYNESVILLE ROAD\_UNIT TYPES\_CAD\PLAN\_02\_ARCH\DWG\TYPE6.dwg  
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THE CONTRACTOR MUST VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCING ANY WORK. DIMENSIONS MAY VARY DUE TO CHANGES IN THE DESIGN OR THE WAY THE WORK IS DONE. THE CONTRACTOR MUST BE RESPONSIBLE FOR THE WAY THE WORK IS DONE. THE CONTRACTOR MUST BE RESPONSIBLE FOR THE WAY THE WORK IS DONE. THE CONTRACTOR MUST BE RESPONSIBLE FOR THE WAY THE WORK IS DONE.



PROJECT  
THE ENTRANCE AT PAYNESVILLE  
ADDRESS  
75 PAYNESVILLE ROAD, PAYNESVILLE

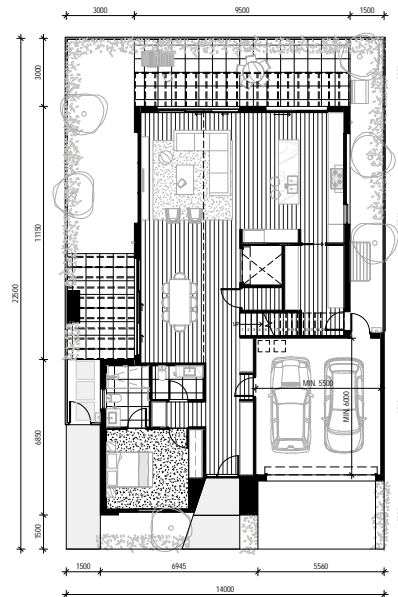
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PALM LAKE GROUP  
DRAWING TITLE  
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SCALE (B/A1) 1:100 / DRAWN BY HX / CHECKED BY MK / PROJECT No. 2110055 / DRAWING No. TP50-006 / REV 1

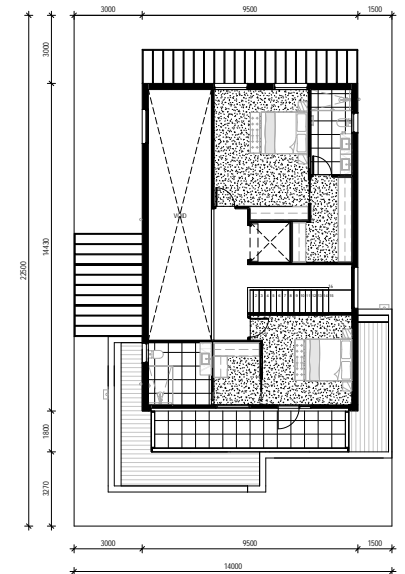


TAMBO  
3 BED 3 BATH  
290 m<sup>2</sup>

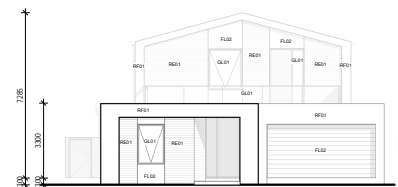
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RS01	COLORBOND ROOF SHEET COLOUR: COLORBOND SHALE GREY	
GL01	GLAZED WINDOW CLEAR GLASS	
GL02	GLAZED WINDOW OBSCURE GLASS	
AW01	POWDER COATED FRAMED WINDOW COLOUR: MONUMENT MATTE	
RE01	TIMBER LOOK ALUMINIUM COLOUR: BLACKBUTT	
FL01	FLASHING/APPLIED FINISH COLOUR: SHALE GREY	
FL02	FLASHING/APPLIED FINISH COLOUR: MONUMENT	



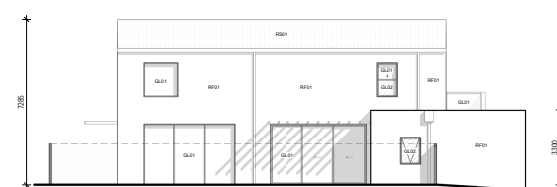
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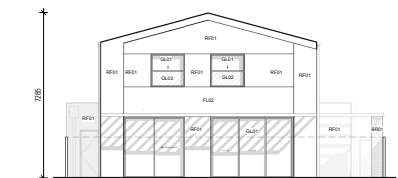
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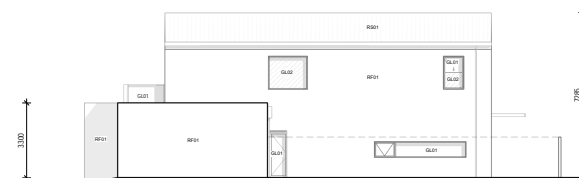
ELEVATION 1 - FRONT



ELEVATION 2 - SIDE



ELEVATION 3 - REAR



ELEVATION 4 - SIDE

STATUS: TOWN PLANNING

**V / A  
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Council Meeting - Tuesday 7 June 2022

REV. DESCRIPTION  
1 AMENDED TOWN PLANNING SUBMISSION

DATE BY  
19/11/2021 MK

KEY  
PLAN

PROJECT REF: C:\Users\mk\Documents\2110055 - PALM LAKE GROUP - 75 PAYNESVILLE ROAD\_UNIT TYPES\_CENTRAL\_2D\_ARCH\04\TOWN PLANNING - 19/11/2021 & 23/01/21



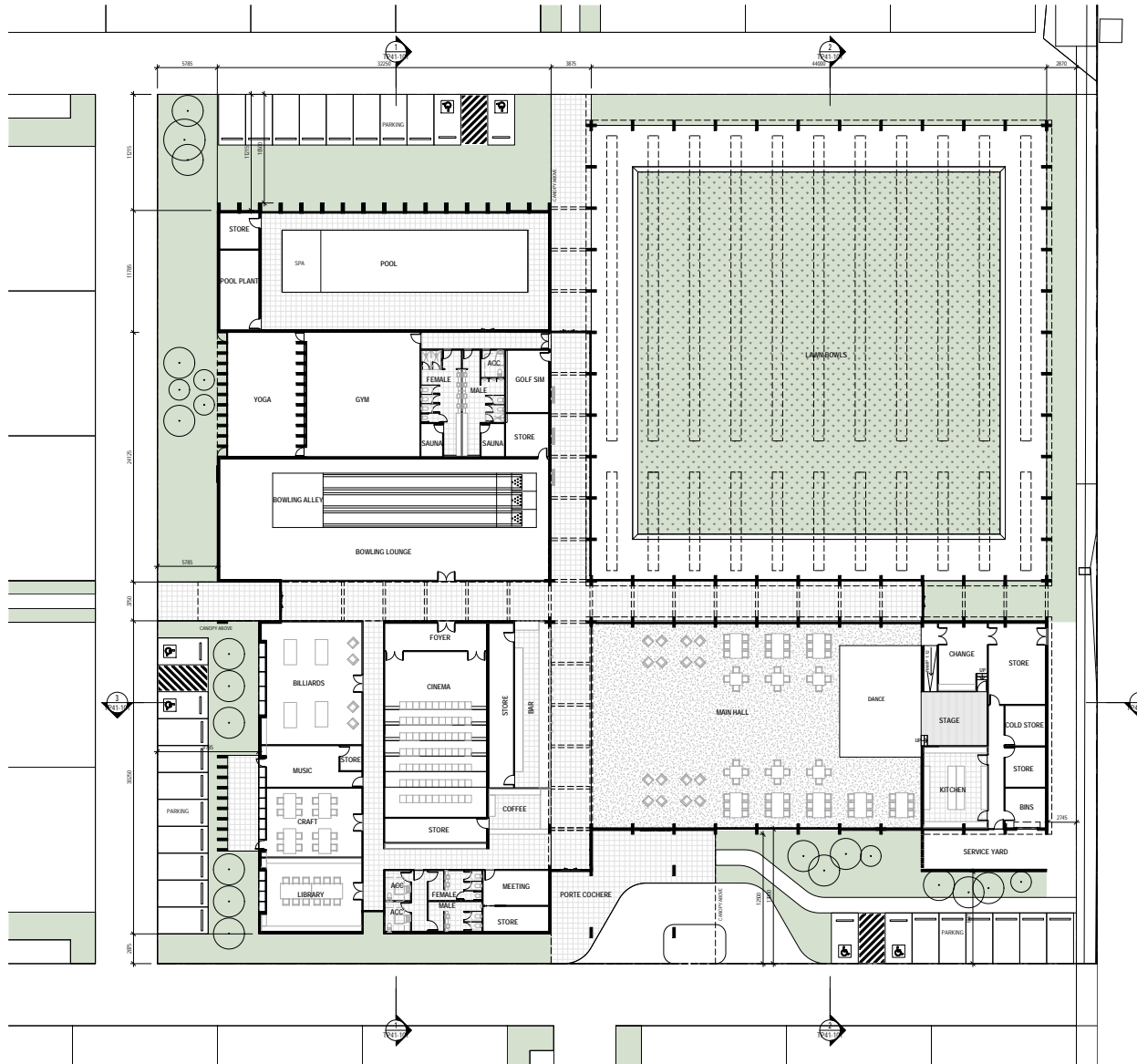
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**PROJECT**  
THE ENTRANCE AT PAYNESVILLE  
**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

**CLIENT**  
PALM LAKE GROUP  
**DRAWING TITLE**  
TYPE 7 - TAMBO

SCALE (B/A1) 1:100 / DRAWN BY HX / CHECKED BY MK / PROJECT No. 2110055 / DRAWING No. TP50-007 / REV 1



STATUS **TOWN PLANNING**

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East Gippsland Shire Council - Agenda  
Council Meeting - Tuesday 7 June 2022

REV. DESCRIPTION  
1 AMENDED TOWN PLANNING SUBMISSION

DATE BY  
19/11/2021 MK

KEY  
PLAN



THE CONTRACTOR MUST VERIFY ALL DIMENSIONS ON SITE PRIOR TO COMMENCEMENT OF WORKS. DIMENSIONS MAY VARY DUE TO AS-BUILT CONDITIONS. DIMENSIONS SHOWN AT THE TOP OF THE DRAWING SHALL BE THE DIMENSIONS TO BE USED FOR CONSTRUCTION. DIMENSIONS SHOWN AT THE BOTTOM OF THE DRAWING SHALL BE THE DIMENSIONS TO BE USED FOR FINISHES.



**PROJECT**  
THE ENTRANCE AT PAYNESVILLE  
**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

**CLIENT**  
PALM LAKE GROUP  
**DRAWING TITLE**  
PROPOSED GROUND FLOOR PLAN

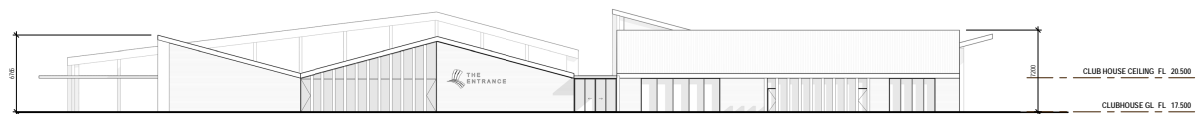
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SOUTH ELEVATION



WEST ELEVATION

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Council Meeting - Tuesday 7 June 2022

REV	DESCRIPTION	DATE	BY
1	AMENDED TOWN PLANNING SUBMISSION	19/11/2021	MM

PROJECT REF: C:\user\info\Documents\0110555 - PALM LAKE GROUP - 75 PAINNEVILLE ROAD, CLUBHOUSE, CENTRAL\_22\_nubad09f.mxd

KEY  
PLAN



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STATUS TOWN PLANNING

**PROJECT**  
THE ENTRANCE AT PAYNESVILLE

**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

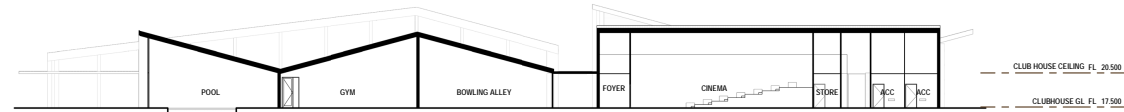
**CLIENT**  
PALM LAKE GROUP

**DRAWING TITLE**  
PROPOSED ELEVATIONS

SCALE (@A1) / DRAWN BY / CHECKED BY / PROJECT No. / DRAWING No. / REV  
1:200 / HX / MK / 2110055 / TP40-101 / 1







SECTION A



SECTION B



SECTION C

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REV	DESCRIPTION	DATE	BY
1	AMENDED TOWN PLANNING SUBMISSION	19/11/2021	MK

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STATUS: **TOWN PLANNING**

**PROJECT**  
THE ENTRANCE AT PAYNESVILLE  
**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

**CLIENT**  
PALM LAKE GROUP  
**DRAWING TITLE**  
PROPOSED SECTIONS

SCALE (B/A1) 1:200 / DRAWN BY HX / CHECKED BY MK / PROJECT No. 2110055 / DRAWING No. TP41-101 / REV 1

**collie**

13 May 2022

East Gippsland Shire Council  
 Town Planning Department  
 Attention: Mr Andrew Bates  
 PO Box 1618  
 BAIRNSDALE VICTORIA 3875

Email: andrewb@egipps.vic.gov.au



**APPLICATION TO AMEND PLANNING PERMIT 392/2016/P/A**  
**75 Paynesville Road, Paynesville – Response to Council Comments**

Dear Mr Bates,

We write on behalf of the applicant, Palm Lake Works, in relation to an application to amend planning permit 392/2016/P (the application) for the development of a residential village at 75 Paynesville Road, Paynesville (the site).

The purpose of this correspondence is to provide a response to comments made by the East Gippsland Shire Council (Council) planning department in a letter dated 26 April 2022 and to seek to amend formally the application. Please note that this response is made further to a meeting between Palm Lake Works and the Council planning department on 12 May 2022.

In order to assist Council with finalising its assessment of the application, please find enclosed the following.

- A copy of the revised plans for endorsement dated 13 May 2022 prepared by VIA Architects.
- A copy of the concept open space plan for information purposes dated 11 May 2022 prepared by VIA Architects.
- A completed 'Amend a Planning Permit Application' form under Section 57A of the *Planning and Environment Act 1987*.

Please note the applicant intends to pay the application fee of \$535.10 electronically once an invoice has been generated by Council.

As you are aware, on 4 April 2022 plans detailing changes to the proposal were issued to Council on a 'without prejudice' basis. We now seek to formalise these changes through the submission of the enclosed revised plans.

Furthermore, in response to the first item of concern raised in the Council letter, we note that Palm Lake Resort provide a covered full size bowls green in all of their residential villages. This facility is provided to encourage social interaction between residents, which call the community home and is not intended to take away from the existing Paynesville Bowls Club. It is noted that the bowls green provided in the village is strictly for residents of the community to utilise and is not open to the public and therefore, will not be to the detriment of the operation of the Paynesville Bowls Club.

In the experience of Palm Lake Works, the inclusion of a bowls facility in their residential villages complements and enhances the local bowls clubs. In addition, regular tournaments between the Palm Lake bowls and the local bowls clubs are often established, which allows a more diverse bowls experience and opportunities for members of the local bowls clubs. Based on the experience of Palm Lake Works, future residents of the village will frequent the Paynesville Bowls Club for meals and social occasions.

Not unlike Council, Palm Lake Works seek to encourage and provide opportunities for residents to socially interact. Rather than simply providing a home, Palm Lake Works provide a lifestyle offering a quality home, a secure community, a community of likeminded people and an array

■ **Collie** Town Planners Pty Ltd ABN 16 655 254 667  
*designers and facilitators*

Level 26, 360 Collins Street  
 Melbourne Victoria 3000  
 Australia

+61 3 8698 9300

consult@collietp.com.au  
 www.collietp.com.au

C:\Users\JamesMillion\Collie Town Planners\Projects - Documents\08844 75 paynesville rd\003 post lodgement tasks\003 word\finalised\33099L.docx

of social opportunities at the residents' doorstep. An important element of this lifestyle offering is the provision of a covered full-size bowls green, which residents can utilise all year round. For the reasons above, it is proposed to retain the bowls green as part of the communal facilities as it is of direct benefit to the community.

In response to the second item of concern, the proposed development offers several varying opportunities for informal outdoor social interaction for future residents of this village. The revised plans and elevations provide more detail in relation to the areas of communal open space. As demonstrated in the plans and elevations, the following six communal open space areas are distributed throughout the development, which offer opportunities for residents to enjoy socialising within an informal setting.

1. Community garden – this is a large communal open space area offering picnic benches and soft garden areas.
2. Bowls-side BBQ area – this communal open space area comprises picnic benches and communal BBQ facilities allowing residents to socialise in small or large groups and will be used also for community events.
3. Pickle ball courts and veggie gardens park (1,100 square metres) – this space offers active outdoor socialising opportunities and comprises two pickle ball courts and community veggie gardens.
4. Tree park – this space will include picnic benches and soft garden beds under a large gum tree to be retained on-site. It is an informal open space area for residents and visitors to enjoy the outdoors under a significant and beautiful tree.
5. Pocket park – this space offers residents a place to informally sit with friends whilst taking a walk through the community or simply a place to sit and relax.
6. Linear open spaces are located across the village and are designed to encourage pedestrian movement throughout. Furthermore, by providing home designs which front these spaces, residents will be encouraged to socially interact as well as to walk to the expansive communal facilities on offer.

In summary, there are ample informal outdoor open space opportunities available to residents of the village. Palm Lake Resort has been developing and operating this style of village across Queensland, New South Wales and Victoria for over forty years and takes pride in the communal open spaces it provides in addition to high quality homes, private open space and clubhouse facilities. The proposed residential village will be no different and will be of an exceptional quality and will offer an excellent lifestyle to its future residents.

In addition to the points above, we note that the current endorsed plans over the site provide approval for 247 dwellings and only 195 dwellings are proposed resulting in a 21 per cent reduction to the size of the village, which equates to a proposed density of 20.5 dwellings per net developable area.

In conclusion, there is no open space requirement for a residential village in the East Gippsland Planning Scheme (the Scheme). Instead, the Scheme requires a residential village to comprise recreation facilities for residents of the village. As mentioned previously, the proposal provides an appropriate mix of passive and active open space that will cater for the needs of the residential village community and the lawn bowls facility plays an important role in satisfying the balance in the provision of passive and active open space.

We appreciate your assistance with this application. Please do not hesitate to contact James Million or Michael Collie of this office should you have any queries.

Yours sincerely,



**Collie** Town Planners Pty Ltd



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**ARCHITECTS**

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East Gippsland Shire Council - Agenda  
Council Meeting - Tuesday 7 June 2022

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**REV. DESCRIPTION**

1	AMENDED TOWN PLANNING SUBMISSION
2	UPDATED IN LINE WITH COUNCIL RPT
3	ADDITIONAL INFORMATION FOR TOWN PLANNING SUBMISSION
4	UPDATED LOT LAYOUT FOLLOWING PUBLIC CONSULTATION
5	FOR REVIEW
6	FOR REVIEW - SALES COMMUNAL BUILDING
7	TOWN PLANNING SUBMISSION

PROJECT REF: C:\documents\documents\210055 - PALM LAKE GROUP - 75 PAYNESVILLE ROAD\_SITE\_PLAN.dwg, 210055 - PALM LAKE GROUP - 75 PAYNESVILLE ROAD\_SITE\_PLAN.dwg, 210055 - PALM LAKE GROUP - 75 PAYNESVILLE ROAD\_SITE\_PLAN.dwg

**DATE BY**

19/11/2021	MK
19/11/2021	MK
21/02/2022	MK
21/02/2022	MK
10/04/2022	TM
10/04/2022	LS
13/05/2022	TM

**KEY**

PLAN



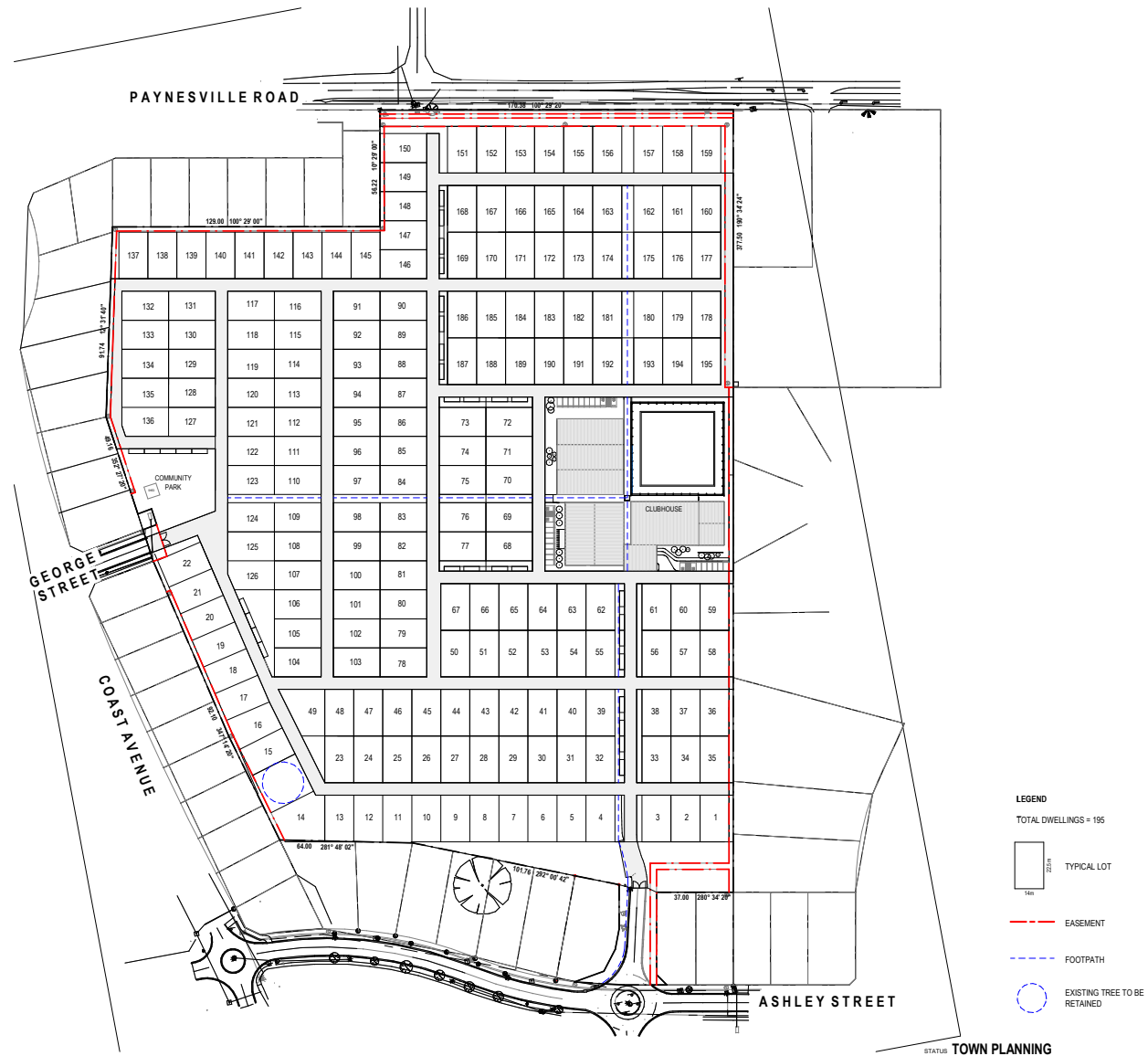
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**PROJECT**  
THE ENTRANCE AT PAYNESVILLE  
**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

**CLIENT**  
PALM LAKE GROUP  
**DRAWING TITLE**  
PROPOSED SITE PLAN

SCALE (B41) 1:1000 / DRAWN BY HX / CHECKED BY MK / PROJECT No. 2110055 / DRAWING No. TP00-021 / REV 7



**VVA**  
**ARCHITECTS**

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East Gippsland Shire Council - Agenda  
Council Meeting - Tuesday 7 June 2022

**REV. DESCRIPTION**

1. AMENDED TOWN PLANNING SUBMISSION  
2. UPDATED IN LINE WITH COUNCIL RPT  
3. UPDATED LOT LAYOUT FOLLOWING PUBLIC CONSULTATION  
4. TOWN PLANNING SUBMISSION

**DATE BY**

19/11/2021 MK  
19/11/2021 MK  
31/03/2022 MK  
13/05/2022 TM

**KEY PLAN**



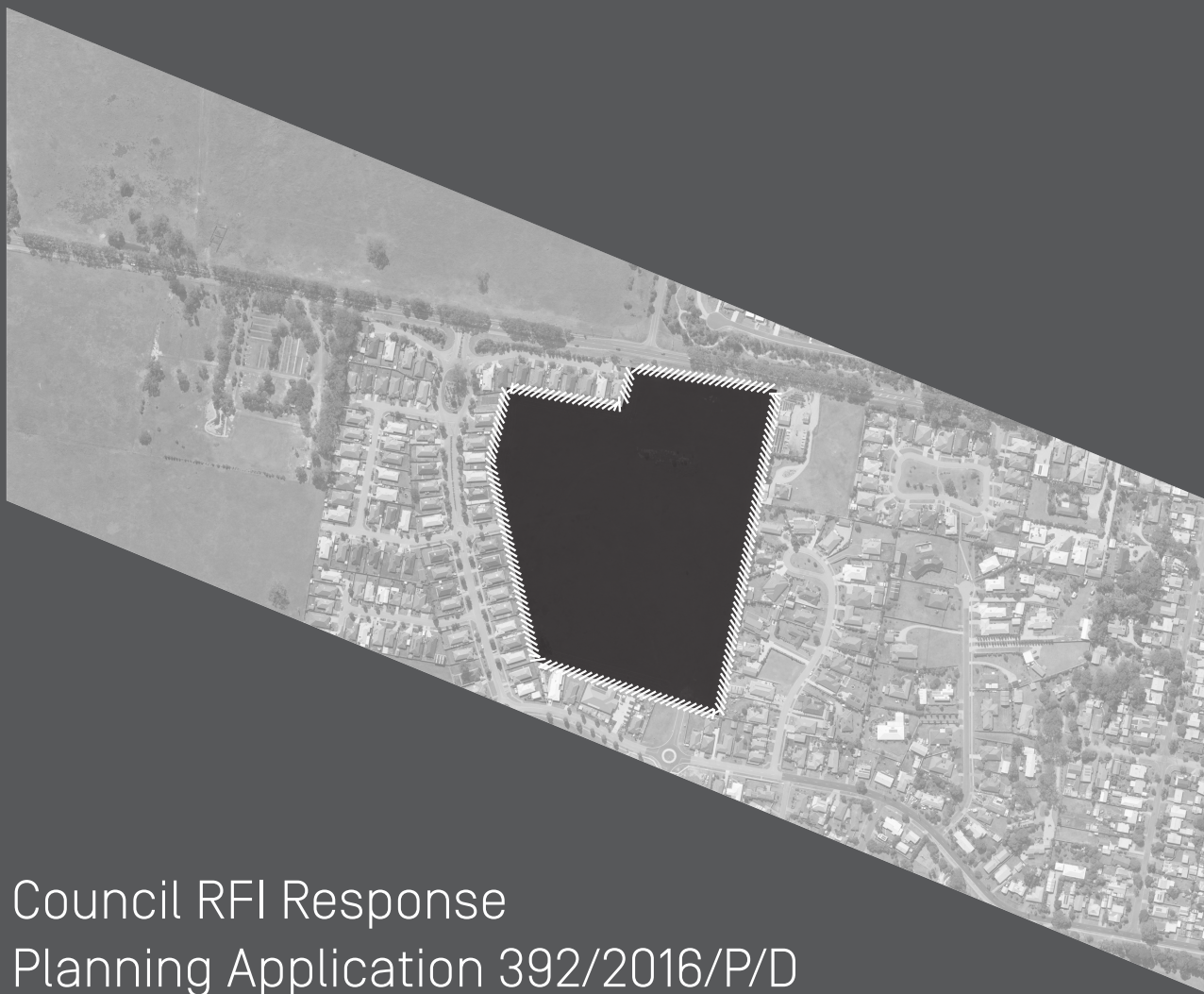
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**PROJECT**  
THE ENTRANCE AT PAYNESVILLE  
**ADDRESS**  
75 PAYNESVILLE ROAD, PAYNESVILLE

**CLIENT**  
PALM LAKE GROUP  
**DRAWING TITLE**  
PROPOSED LOT LAYOUT PLAN

**SCALE (B/A1)** 1:1000 / **DRAWN BY** HX / **CHECKED BY** MK / **PROJECT No.** 2110055 / **DRAWING No.** TP00-020 / **REV** 4



# Council RFI Response Planning Application 392/2016/P/D

75 PAYNESVILLE ROAD, PAYNESVILLE

Prepared by VIA Architects / 10 May 2022 / Rev: 2

V / A  
ARCHITECTS

## OPEN SPACE CONCEPT PLAN

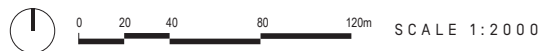


DENSITY // 195 LOTS

 GREEN AREA // 9600M<sup>2</sup>
 OUTDOOR INFORMAL  
SOCIAL OPEN SPACES

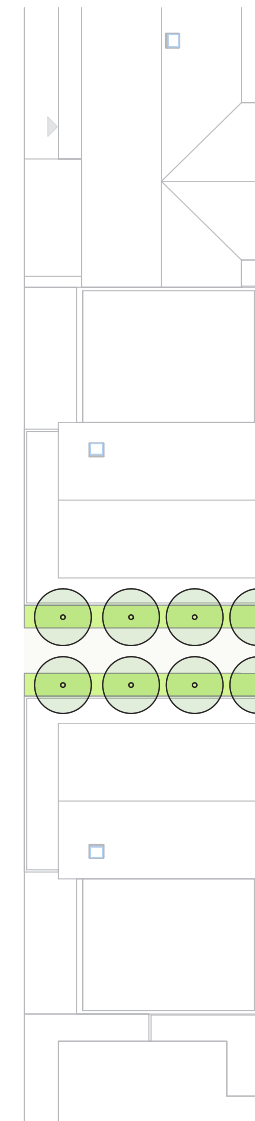
 LINEAR OPEN SPACE
ZONE 1 // 1450M<sup>2</sup>ZONE 2 // 285M<sup>2</sup>ZONE 3 // 1100M<sup>2</sup>ZONE 4 // 350M<sup>2</sup>ZONE 5 // 1420M<sup>2</sup>
**V / A**  
**ARCHITECTS**

/ Project No: 2110055 / Rev: 2 / Date: 10/05/2022



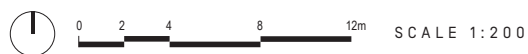


ZONE 1 - COMMUNITY GARDEN



**V / A**  
**ARCHITECTS**

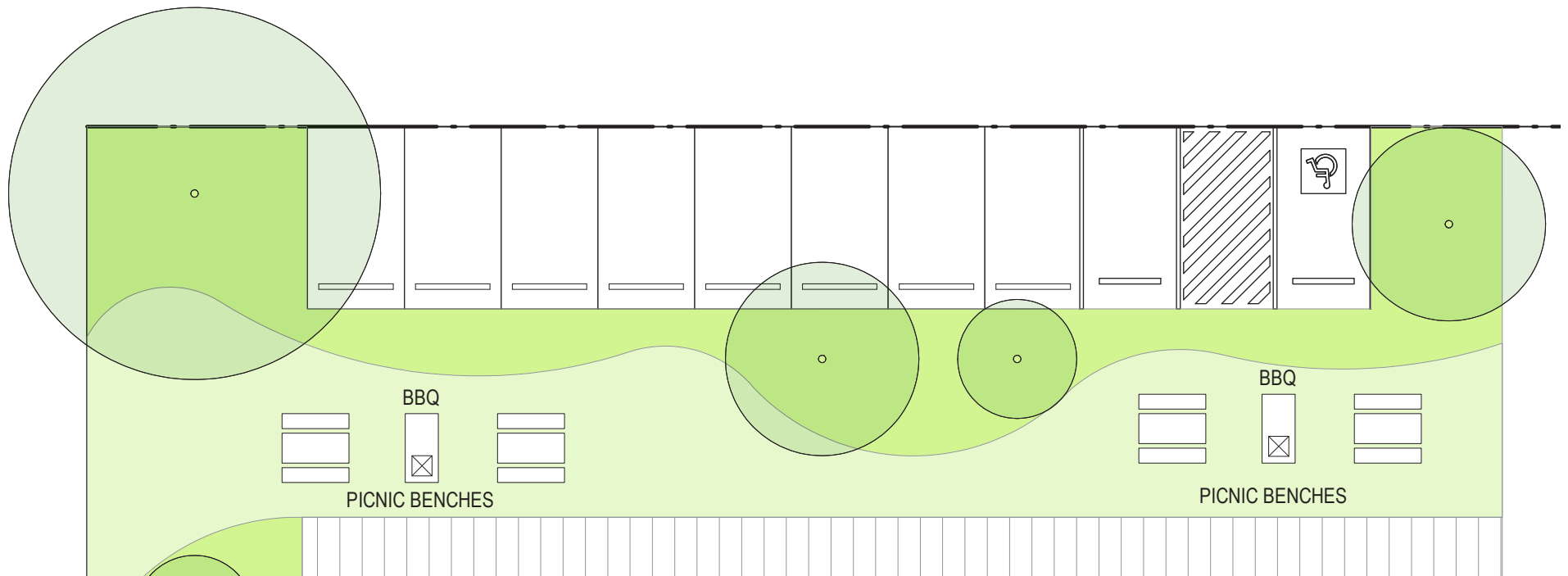
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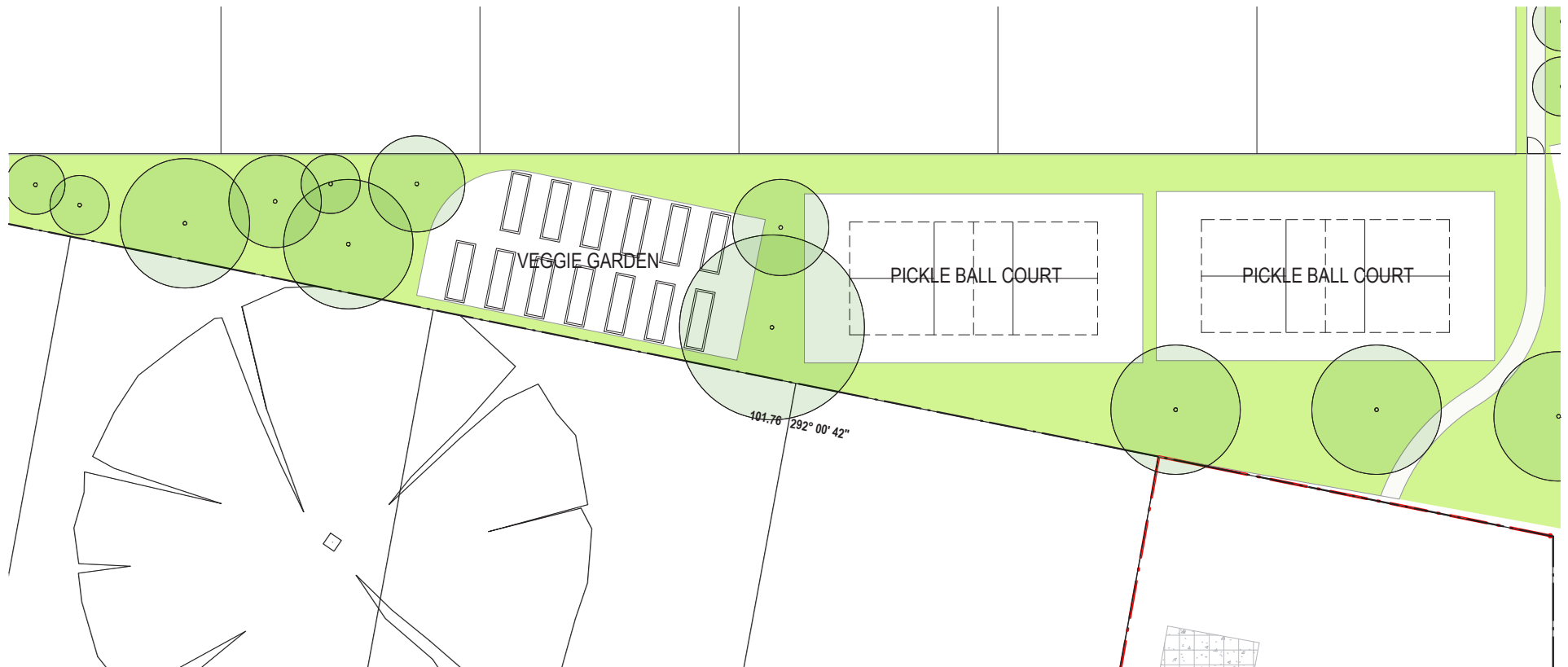
SCALE 1:200



ZONE 2 - BOWLS SIDE BBQ AREA



ZONE 3 - PICKLE BALL + VEGGIE GARDEN AREA



**V / A**  
**ARCHITECTS**

/ Project No: 2110055 / Rev: 2 / Date: 10/05/2022

ZONE 4 - TREE PARK



ZONE 5 - POCKET PARK



**V / A**  
**ARCHITECTS**

/ Project No: 2110055 / Rev: 2 / Date: 10/05/2022



ZONE 6 - LINEAR OPEN SPACE PERSPECTIVE VIEW 01



V / A  
ARCHITECTS

/ Project No: 2110055 / Rev: 2 / Date: 10/05/2022



ZONE 6 - LINEAR OPEN SPACE PERSPECTIVE VIEW 02



V / A  
ARCHITECTS



ZONE 6 - LINEAR OPEN SPACE PERSPECTIVE VIEW 03



V / A  
ARCHITECTS



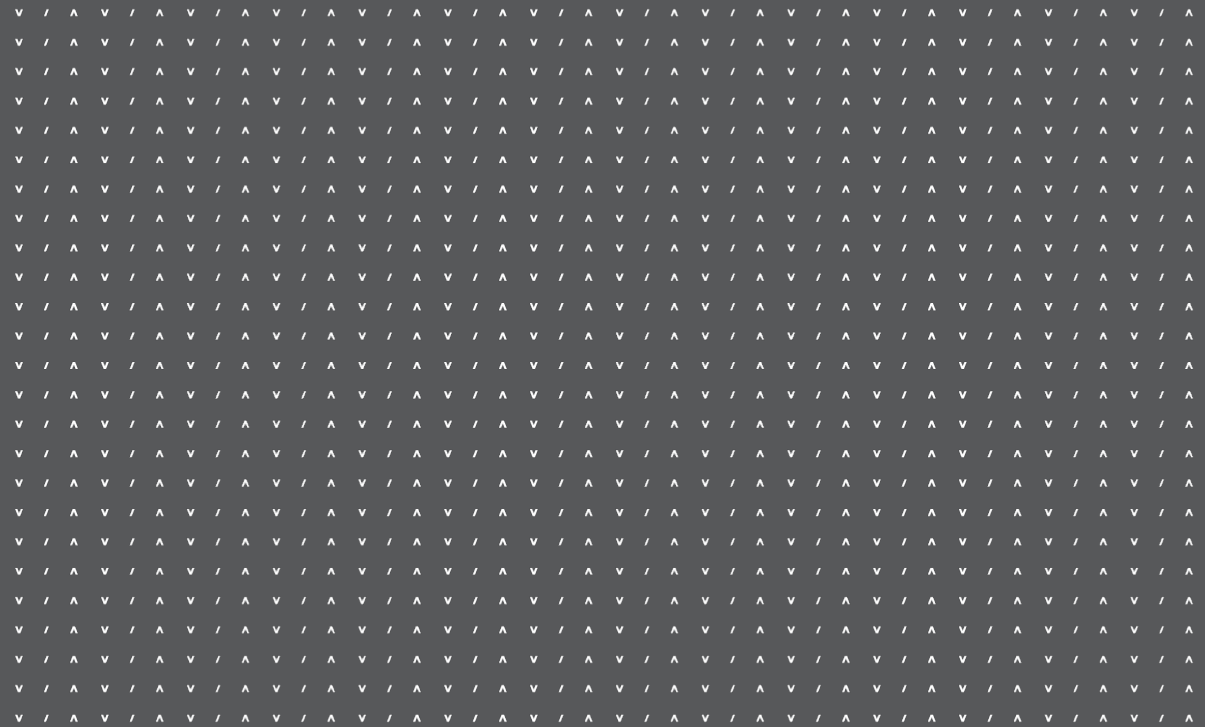
ZONE 6 - LINEAR OPEN SPACE PERSPECTIVE VIEW 04



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/ Project No: 2110055 / Rev: 2 / Date: 10/05/2022





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a / 3/377 Lonsdale Street  
Melbourne VIC 3000

**V / A**  
**ARCHITECTS**



**EAST GIPPSLAND SHIRE COUNCIL  
PLANNING CONSULTATION MEETING  
392/2016/P/A – 75 Paynesville Road, Paynesville**

**Use and Development of a Residential Village  
(amended permit preamble, conditions and plans)**

**Record of Meeting  
(Minutes)**

**MONDAY, 28 MARCH 2022**

**VIA MICROSOFT TEAMS**

**COMMENCING AT 6:00 P.M.**

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**1. PROCEDURAL**

**1.1 APOLOGIES**

Councillors: Kirsten Van Diggele, John White, Jane Greacen, Sonia Buckley, Trevor Stow

Objectors: David Nicastro, Dean Bailey, Kylie Bailey, Julie Wylie, Robert Wenisch, Derelle Coleman

**1.2 IN ATTENDANCE**

Councillors: Mark Reeves (Mayor), Arthur Allen (Deputy Mayor), Mendy Urie, Tom Crook

Applicant: James Million & Mark (architect) – Collier Town Planners/Palm Lake Works

Objectors: Danielle Matthews, Ken Lloyd, Alan Simm

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*East Gippsland Shire Council Minutes Planning Consultation Meeting 392/2016/P/A – 28 March 2022*

Officers: Anthony Basford, Chief Executive Officer; Stuart McConnell, General Manager Place & Community; Martin Richardson, Manager Planning; Emine Mestan, Acting Senior Land Use Planner

### 1.3 DECLARATIONS OF CONFLICT OF INTERESTS

NIL

### 1.4 ACKNOWLEDGEMENT OF COUNTRY

## 2. REPORTS/PRESENTATIONS

### 2.1 PLANNERS REPORT

Emine Mestan – Acting Land Use Planning Officer

Provided background of the site location, planning controls, proposal details and summary of the number and content of objections and submissions. Included in the summary was a history of the prior mediation meeting and clarification of what modifications have been made to the proposal.

Q: Cr Crook - Wanted to see where the green links were located.

A: Mrs Mestan – shared the aerial mapping (*Intramaps*) and Mr Million explained the grid that there were 3 green links in a north to south, and east to west direction that all directed/headed to and from the clubhouse.

Q: Cr Urie – concerned with the width of the roads, no space for seating or gardens.

A: Mark (architect) – the clubhouse is the main centre point so the linear paths and pedestrian access all lead there. There is a 4m to 6m separation with the north and west and additional setback from the units, and the south link is wider.

Q: Cr Urie – requested clarification about the CHMP provision for the scarred tree on Lot 15.

A: Mrs Mestan – would provide that information to Martin Richardson who will circulate the information to the Councillors.

### 2.2 APPLICANT PRESENTATION

James Million – Collier Town Planners/Palm Lake Works

Provided background of the site location and proposal.

Advised that Clause 55 of the Planning Scheme has been assessed.

Assured that there is no overlooking issues into neighbouring properties that the upper floor windows are screened and setback.

The overshadowing meets the minimal sunlight per day.

The visual bulk meet the DDO which the total building height is under 7.5 metres. There is at least 3 metres setback between the first floors of each unit providing reticulation.

The overall density has been reduced from 247 to 195 units.

Hence the traffic volume has been reduced.

As it is a gated community, the pedestrian movements are 10km p/hr for the traffic volume, so the main movement will be primarily walking.

Q: Cr Allen – sought clarification why the outer perimeter is two storey and not single.

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*East Gippsland Shire Council Minutes Planning Consultation Meeting 392/2016/P/A – 28 March 2022*

A: Mr Million – the units meet the DDO and provide a variety of types that results in a good level of amenity.

Q: Mark (architect) – added to the discussion that the style was targeted by the market as it was a product, size and range request.

A: Mr Million – it's well designed, meets the setbacks, upper windows are screened, there's plenty of solar access, which all have a minimal impact on those adjoining properties and so consider it appropriate.

Q: Cr Urie – sought clarification whether best practice has been considered during the design response, as the paths are like a grid that should be easy to navigate.

A: Mr Million – the Woodland (by Gemlife Developers) is a great example with 240 units, that was used in this proposed design as an inspiration. The clubhouse is of similar size.

A: Mark (architect) – Palm Lakes has sites in QLD where the products are of high quality, and a respected brand in Australia.

Q: Cr Urie – would like to see some photographs at those other developments as an example and would also like to see some solar panels for energy efficiency and a kids' play area.

A: Mr Million – the Woodland (by Gemlife Developers) is a great example with 240 units, that was used in this proposed design as an inspiration. The clubhouse is of similar size and similar agecare.

## 2.3 OBJECTOR PRESENTATIONS

- **Alan Simm**

Lives at 88 Ashley Street.

Will have a two storey backing onto his rear boundary.

Also lives next door to a kindergarten.

His master bedroom and ensuite face the development, hence concerns on overlooking issues.

Suggested that the windows can be changed to meet the overlooking concern.

Commented that some people exceed a height of 1.7 metres which they can easily look over the minimum the sill height.

Would rather a single storey built form.

Q: Cr. Crook – clarified with Mr Simm if overlooking was the main issue.

A: Mr Simm – confirmed yes.

Q: Cr. Crook – asked Applicant if the upper floor windows would be screened to 1.7m sill height.

A: Mrs Mestan – There are several screening techniques that can be used, not just the 1.7m sill height.

Q: Mark (architect) – Wanted to know where Mr Simm lives.

A: Mrs Mestan – The aerial image was shown.

- **Danielle Mathews**

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*East Gippsland Shire Council Minutes Planning Consultation Meeting 392/2016/P/A – 28 March 2022*

Commented has lived in Paynesville for 9 years, first along Coast Avenue and now at 90 Ashley Street.

She is against the two storey built form backing onto to all the existing properties.

Requested it be reverted to single storey.

There are overlooking/privacy issues.

Considers proposed changes to be out of character as there are about over 40 of the double storey units part of the proposal.

Commented that the elderly would be unable to use the upper floor.

The built form looks unappealing.

Q: Cr. Crook – asked Ms Mathews is she can see Paynesville Road from where she lives.

A: Ms Mathews – the road is too far but the two storey built form should be built to the north or in the middle.

- **Ken Lloyd**

Lives on Newlands Drive, so not directly impacted.

Would like to ensure that there's sufficient storage facilities as it's a boating town.

Commented on lack of green space.

No need for the bowling green area as there's many located nearby within the vicinity.

Wanted to know the future planning for Paynesville.

A: Mr Richardson – clarified that there some storage facilities on areas of Paynesville for storage. Will visit any objectors who wish to discuss the impacts to hear their concerns in person in greater detail.

Q: Cr. Crook – if James and Mark can comment on the bowling green - if can use the area differently like an open space area.

A: Mr Million – as the village is gated community the bowls facility will be used privately and as part of the private clubhouse and so restricted to public access.

A: Mark (architect) – the bowls facility is associated with the brand and provision that developer adds to their developments. They offer such a lifestyle product.

Q: Cr. Crook – requested clarification if the developers are aware that there are other bowling greens in the area.

A: Mark (architect) – confirmed that were aware, they visited the site and the area but this bowling green as part of the proposal is their product.

Q: Mrs Mestan – questioned the triangular empty block behind #90 Ashley Street.

A: Mr Million – confirmed that is was an architectural error, the vertical line is not meant to be there but instead part of the secluded open space of the units.

Q: Cr Reeves – commented that he and the councillors are happy to meet the developer but need the developer to understand the concerns raised, if can relocate the two storey element or reduce to single storey.

A: Mr Million – stated that the proposal integrates with the surrounds and considers that there's minimal concerns and reducing to single storey will not solve the issues.

## **2.4 CLOSING COMMENTS**

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*East Gippsland Shire Council Minutes Planning Consultation Meeting 392/2016/P/A – 28 March 2022*

Martin Richardson advised that Council will take into consideration all of the content of the evening's proceedings and go back to the Applicant due to the questions raised in the meeting. Will investigate amendments to see if there can be a solution to the concerns raised. He will personally meet any objectors present at tonight's meeting who wish to do so. The application will eventually be reported to a Council meeting for a determination. Further notification to the public is unlikely, however there will be advice sent in advance of the Council meeting.

**3. MEETING CLOSE**

The meeting closed at 7:23 PM

Printed 18/05/2022  
Page 1 of 21

**From:** Alan Simm  
**Sent:** Monday, 11 April 2022 3:10:57 PM  
**To:** Planning Unit Administration  
**Subject:** Re: 392/2016/P/A 75 Paynesville Road Paynesville - Submission of Amended Plans

**EXTERNAL EMAIL:** This email has originated from outside of the East Gippsland Shire Council network. Do not click links or open attachments unless you recognise the sender and know the content is safe. Contact ICT ServiceDesk if you are unsure.

I do not object to the amended plans that do not have the 2 story homes to the back of my home at 88 Ashley St or either side behind 90 Ashley St and behind the kindergarten at 86 and 84 Ashley St.

Thank You  
Alan and Publia Simm

On Monday, 11 April 2022, 01:09:28 pm AEST, Planning Unit Administration <planning@egipps.vic.gov.au> wrote:

Good afternoon,

I am the officer responsible for the planning permit application 392/2016/P/A for the proposed development at 75 Paynesville Road PAYNESVILLE.

I wish to advise that Council has received an amendment to the plans (without prejudice) to remove the double storey built form at the interface of adjoining properties. Please note that the amended plans are not the substantive plan for consideration and would be only being used to inform that an amended plans condition would be placed if a notice of decision to grant was issued. If this application does end up going to VCAT the original plans are under examination, unless the Applicant formerly amends the application.

With this amendment in mind, I am seeking your input on the amended proposal if you wish to retain your rights as an objector or to withdraw them in favour of a permit being granted directly. If no objections are withdrawn and maintain your objection with any amended grounds, the application will be brought to a future Council Meeting. If less than 5 objections remain, officers may be able to make a delegated determination with no further consultation with the objectors, however a Notice of Decision will be provided to the objectors allowing for an application for review to be made to VCAT.

If you could let me know by 5pm Thursday 14 April 2022 if you wish to withdraw, otherwise you will likely receive a Notice of Decision to Grant the Planning Permit shortly thereafter.

For your perusal, we have uploaded the amended application documentation on the Council's website and can be found on this link:

[Amended plans - 75 Paynesville Drive Paynesville](#)

Kind Regards,

■ **Emine Mestan** ■ *Acting Senior Land Use Planner*

 Please consider the environment before printing this e-mail.

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Page 2 of 21

## East Gippsland Shire Council

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### Objection to Planning Permit Application

Planning and Environment Act 1987

There are some hard words in this form. The hard words are in blue. You can read what they mean on page 3.

Your Details:

Name: <u>ALAN SIMM + PUBLIA SIMM</u>		
Postal address:		
<u>PAYNESVILLE</u>	<u>VIC.</u>	Postcode <u>3880</u>
Phone number: Home:	Work:	Mobile:
Email address:		Fax:

Permit Details:

Planning permit number: <u>392/2016/P</u>
What has been proposed? <u>USE AND DEVELOPMENT OF A</u> <u>RESIDENTIAL VILLAGE</u>
What is the address to be used or developed? <u>75 PAYNESVILLE RD. PAYNESVILLE</u> <u>LOT 10 PS 742846</u>
Who has applied for the permit? <u>PALM LAKE WORKS</u> <u>EGSC</u>

27 JAN 2022

Objection Details:

INFORMATION

What are the reasons for your objection? <u>I OBJECT TO THE <del>MANAGEMENT</del> 2 STOREY</u> <u>HOUSES (2) BUILT ON THE LAND AT OUR BACK</u> <u>FENCE, OVERLOOKING OUR BACK YARD AND INTO</u> <u>OUR PROPERTY, INCLUDING OUR MAIN BEDROOM.</u> <u>I AM NOT OBJECTING TO THE VILLAGE AND</u> <u>I WOULD NOT OBJECT TO THESE 2 STOREY</u> <u>HOUSES BEING ONLY 1 STOREY.</u>
--

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## East Gippsland Shire Council

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ABN: 81 957 967 765

How would you be affected by the granting of this permit?

THESE 2 STOREY HOUSES WOULD AFFECT OUR  
PRIVACY. I WAS AWARE OF THE PROPOSED DEVELOPMENT  
WHEN WE BOUGHT OUR PROPERTY AND BUILT OUR HOUSE.  
BUT I WAS NOT AWARE WE WOULD HAVE 2-2 STOREY  
HOUSES LOOKING INTO OUR YARD AND HOME. ALL  
OF THE HOUSES ON COAST AVENUE, ASHLEY ST, AND  
PAYNESVILLE PARK ARE SINGLE STOREY ONLY. IF  
OUR PRIVACY IS COMPROMISED, WE WOULD  
SERIOUSLY THINK OF LEAVING PAYNESVILLE.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: ALAN SIMM

Date: 24/01/2022

Signature: \_\_\_\_\_

NAME: PUBLIA SIMM

Date: 24/01/2022

### Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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JUL15

2/15/22, 8:30 AM

dwa12EA.htm

Printed 18/05/2022  
Page 4 of 21

**From:** Danielle Matthews  
**Sent:** Wednesday, 26 January 2022 11:56:49 AM  
**To:** Feedback Address For Web Page  
**Subject:** Planning Dept - 392/2016/P/A

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2/15/22, 8:30 AM

dwa12EA.htm

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**Page 5 of 21**

Hello

Please see my objection letter for Planning Permit 392/2016/P/A

Thank you  
Danielle Matthews

file:///C:/DATAWRKS/TEMP/9351061/dwa12EA.htm

2/2

January 21, 2022

East Gippsland Shire  
Planning Department  
PO Box 1618  
Bairnsdale Vic 3875

**Re: Application 392/2016/P/A  
75 Paynesville Road, Paynesville  
Palm Lake Group Residential Village**

I reside in the Paynesville Park estate and I wish to object to the following:

**3.4 Condition 5**

**I would like you to remove 2 dwelling types from the selection of seven:**

- **Type 6 – Nicholson and**
- **Type 7 – Tambo**

These are the double storey dwellings which are positioned along the south, west and north boundary of the village.

Each of these double storey dwellings share the back fence with an existing single storey dwelling of the residents of Coast Avenue, Ah Yee Place and Ashley Street.

These are dwellings # 1-23 and # 137-150 in the village.

The double storey dwelling at # 13 in the village will look directly into my back yard and into 2 bedroom windows at the back of my single storey dwelling.

Privacy of my family in our own yard is completely removed by the residents of # 13 having full view from the large rear windows of the Nicholson, directly into my property.

This would be the same situation for all of the other residents along Coast Avenue, Ah Yee Place and Ashley Street who would be sharing a back fence with the double storey dwellings.

The sun shining on my clothes line will also be blocked out for a good part of the day during the non-daylight saving months, by the double storey dwellings.

Every existing dwelling in The Coast and Paynesville Park are single storey dwellings.

I don't believe that double storey dwellings are necessary in the village at all.

The blocks are very small and all of the dwellings are quite large.

The residents are already living in very close proximity to each other, and adding double storey dwellings into this mix is not necessary.

I am asking you to remove the double storey dwellings, and approve every dwelling in the village to be a single storey dwelling only.

Yours sincerely

Danielle Matthews

Paynesville Vic 3880

2/15/22, 8:31 AM

dwaE661.htm

Printed 18/05/2022  
Page 7 of 21

**From:** Rob Wenisch  
**Sent:** Wednesday, 26 January 2022 12:00:28 PM  
**To:** Feedback Address For Web Page  
**Subject:** Attn Planning Dep - 392/2016/P/A

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Hello

Please forward my objection to the Planning Department

Cheers  
Rob Wenisch

January 26, 2022

East Gippsland Shire  
Planning Department  
PO Box 1618  
Bairnsdale Vic 3875

**Re: Application 392/2016/P/A  
75 Paynesville Road, Paynesville  
Palm Lake Group Residential Village**

I reside in the Paynesville Park estate and I wish to object to the following:

**3.4 Condition 5**

**I would like you to remove 2 dwelling types from the selection of seven:**

- **Type 6 – Nicholson and**
- **Type 7 – Tambo**

My reasons are as follows:

- Privacy – A double storey house behind mine removes all of the privacy of myself and my family. I can't walk out to my clothes line naked without being viewed by the neighbours in the double storey houses (I will have 2 very large windows facing directly into my backyard). I have included 2 photos taken with my drone of the view that my back neighbour will have.
- Out of Character – There is not one double storey house at this end of Paynesville in the Coast Estate or Paynesville Park Estate. We do not need 46 double storey houses concentrated in one small area.
- It lowers my property value quite considerably. Who will compensate me for this?
- Aesthetics – Lining the boundary of the village with double storey houses makes the village look like a fortress of some sort.
- If the double storey housing is a ploy to make more money by advertising these properties as 'having a water view' and selling them at inflated prices compared to the single storey properties in the village, and then not having a thought of the existing residents in single storey houses who stand to lose property value because of these double storey dwellings. This scenario is completely unacceptable (social media is a powerful tool)

I do not have a problem with the original plans of the village with all dwellings being single storey. In fact, I welcome it. The double storey dwellings behind all of the existing single storey dwellings is unacceptable. We have been living in this estate for 8 years now, paying our rates and doing the right thing, just to get screwed over by some asshole wanting to make maximum money and not giving a thought to the people who will have to live with this every day.

Yours sincerely

Robert Wenisch

Paynesville Vic 3880

2/15/22, 8:32 AM

dwa954E.htm

Printed 18/05/2022  
Page 9 of 21

**From:** Derelle Coleman  
**Sent:** Thursday, 27 January 2022 12:31:06 PM  
**To:** Feedback Address For Web Page  
**Subject:** Letter of objection re: planning permit for Residential Village at 75 Paynesville Road, Paynesville.

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To Whom It May Concern,

I am writing in objection to the above advertised planning permit (3922016PA\_75\_Paynesville Road, Paynesville).

The proposed plans state there is to be a two storey dwelling at my back fence, this I feel is an invasion of my( and the people who reside with me including my grandchild) privacy with the said dwellings having most of the living spaces on the top floor and would be directly viewing my backyard and bedrooms, (and do retired occupants really need two storey, 3 bedroom houses?).

I'm not objecting to a retirement village just the two storey dwellings(46 to be precise), I would like to see the plans ammended to all 195 units being single storey dwellings. None of the existing houses in the area are two storey properties, it was stated in previous planning permits : that there were to be no two storey dwellings in The Coast or Paynesville Park!!

Again I am objecting to 46 two storey units being built in the proposed building permit at 75 Paynesville Road, Paynesville.

Regards

Derelle Coleman

Paynesville

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## East Gippsland Shire Council

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Rec Page EGSC 21  
Time: 12:07 am/om SE  
Corporate Centre  
ABN: 81 957 967 766

## Objection to Planning Permit Application

### Planning and Environment Act 1987

There are some hard words in this form. The hard words are in blue. You can read what they mean on page 3.

## Your Details:

Name: SHARON & JAMES BELLION			
Postal address: PAYNESVILLE			Postcode: 3880
Phone number: Home:	Work:	Mobile: (	
Email address:	EGSC		

## Permit Details:

Planning permit number: 392/2016/P/A	INFORMATION MANAGEMENT
What has been proposed? Amended Permit for Residential Village.	
What is the address to be used or developed? 75 PAYNESVILLE ROAD PAYNESVILLE	
Who has applied for the permit? PALM LAKE WORKS.	

## Objection Details:

What are the reasons for your objection? We purchased here under the belief the units would be single dwellings. The Industrial look of these buildings will be like a prison wall. There is no 2 storey Houses around the outside of the village so would definitely be an ugly look. Don't want this beautiful coastal town to look like a city.
--

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## East Gippsland Shire Council

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Residents' Information Line: 1300 555 886  
ABN: 81 957 967 765

How would you be affected by the granting of this permit? \_\_\_\_\_

This will definitely affect the value of our home.  
Our privacy will be severely compromised  
Our view from our Kitchen/Outdoor & 2 Back  
Bedrooms will be a depressing outlook.  
We don't want to be looking directly at  
a continuous Solid wall right across the  
entire back fence which will include 4  
dwellings.  
Please do not grant this and leave it at  
single dwellings.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: SHARON BELLION

Date: 24/01/2022.

## Office Use Only:

Objection Received by: Sheree Elseman Date Received: 28/1/22

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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JUL15

2/15/22, 8:33 AM

dwa256A.htm

Printed 18/05/2022  
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**From:** Snapforms Notifications [no-reply@snapforms.com.au]  
**Sent:** Tuesday, 1 February 2022 5:00:07 PM  
**To:** Planning Unit Administration  
**Subject:** Objection to a Planning Permit Application

### **Objection to a Planning Permit Application**

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

**Name:** Kylie Bailey

**Email address:**

**Postal address :** Paynesville

**Mobile phone number:**

**Planning permit number:** 392/2016/P/A

**What has been proposed?:** Use and Development of Residential village

**What is the address to be used or developed?:** 75 Paynesville Road Paynesville LOT 10 PS 742846

**Who has applied for the permit?:** Palm Lake Works

**What are the reasons for your objection?:** I reside on Coast avenue and am objecting to the 2 story dwellings along my back fence line. I believe it is completely unnecessary to line the boundary with 2 story houses impacting greatly on the quality of living in the existing dwellings. I do not object to the residential village if all dwellings are single story dwellings only.

**How would you be affected by the granting of this permit?:** I believe these dwellings will greatly impact on my privacy, as the dwellings will directly oversee our backyard and into the back to bedrooms and kitchen/dining. I fear for my young children and their privacy This will lower my property value considerably. I also do not want to the staring at a large exterior wall, potentially ruining my country feel we currently have. These dwelling will greatly reduce our quality of living. It may force us to reconsider our choice to buy in Paynesville.

**Privacy Statement:** Yes

2/15/22, 8:32 AM

dwa69D3.htm

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Page 13 of 21

**From:** Bob & Julie  
**Sent:** Monday, 31 January 2022 1:06:04 PM  
**To:** Feedback Address For Web Page  
**Subject:** Planning Department - 75 Paynesville Rd. Paynesville.

**EXTERNAL EMAIL:** This email has originated from outside of the East Gippsland Shire Council network. Do not click links or open attachments unless you recognise the sender and know the content is safe. Contact ICT ServiceDesk if you are unsure.

Dear Sir / Madam.

Re: Application Reference No. 392 / 2016 / P/A  
Residential Village, 75 Paynesville Rd., Paynesville.

Having interest in the Development and viewed the Application details online, I wish to draw attention to the following which I feel need amending:

1. There is no provision for caravan or boat storage shown.
2. There are no good sized open space areas - ie lawn with shade trees and bench seats.

I would like to see some of the building blocks ( say 2 - 4 in a block formation ) transferred to green areas.

I would also like to see the bowling greens scrapped ( there are 2 established bowling clubs within 1-2 kms from the Village and only a portion of the local population are bowlers ), and in its place a large picnic / BBQ area which could contain picnic tables, garden seats, electric BBQs, community herb / citrus garden, etc. which everyone would enjoy. Some of this area could be undercover, the rest open to sunshine, grassed and paved. This would create an outdoor space where residents could meet, rather than indoors as outdoor gatherings are regarded as being far healthier in our Virus-ridden World !

3. I also think another more casual meeting / dining / coffee area as well as the main hall would be beneficial.

Thankyou for you consideration.

Yours faithfully,

Julie Wylie,  
Paynesville.

2/15/22, 8:33 AM

dwa846B.htm

Printed 18/05/2022  
Page 14 of 21

**From:** Snapforms Notifications [no-reply@snapforms.com.au]  
**Sent:** Thursday, 3 February 2022 12:06:19 PM  
**To:** Planning Unit Administration  
**Subject:** Objection to a Planning Permit Application

### **Objection to a Planning Permit Application**

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

**Name:** Dean Bailey

**Email address:** (

**Postal address :** (

**Mobile phone number:** (

**Planning permit number:** 392/2016/P/A

**What has been proposed?:** Use and development of residential land

**What is the address to be used or developed?:** 75 Paynesville Rd Lot 10

**Who has applied for the permit?:** Palm Lake Resort

**What are the reasons for your objection?:** I am rejecting to two storey dwellings along the existing fence line.

**How would you be affected by the granting of this permit?:** I am concerned about my families privacy with a bunch of two storey dwellings looking into my back yard and children's bedrooms rear windows. I am not opposed or objecting to the village, just the use of two storey dwellings on my fence line.

**Privacy Statement:** Yes

2/15/22, 8:32 AM

dwa4BCC.htm

**Printed 18/05/2022**  
**Page 15 of 21**

**From:** Loraine & Ken  
**Sent:** Tuesday, 1 February 2022 3:03:14 PM  
**To:** Feedback Address For Web Page  
**Subject:** Proposed Residential Village 75 Paynesville Rd. Paynesville

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2/15/22, 8:32 AM

dwa4BCC.htm

**Printed 18/05/2022**  
**Page 16 of 21**

Please find enclosed some suggestions for the above proposal.  
Yours  
Ken Lloyd

Printed 18/05/2022  
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## East Gippsland Shire Council

273 Main Street (PO Box 1618)  
Bairnsdale Vic 3875  
Website [www.eastgippsland.vic.gov.au](http://www.eastgippsland.vic.gov.au)  
Email [feedback@egipps.vic.gov.au](mailto:feedback@egipps.vic.gov.au)  
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Fax: (03) 5153 9576  
National Relay Service: 133 677  
Residents' Information Line: 1300 555 886  
ABN: 81 957 967 765

### Objection to Planning Permit Application

Planning and Environment Act 1987

There are some hard words in this form. The hard words are in blue. You can read what they mean on page 3.

#### Your Details:

Name: <u>KEN LLOYD</u>		
Postal address:		
<u>PAYNESVILLE</u>		Postcode <u>3880</u>
Phone number: Home: <u>5156 7316</u>	Work: <u>—</u>	Mobile:
Email address:	Fax: <u>—</u>	

#### Permit Details:

Planning permit number: <u>392 / 2016 / P</u>
What has been proposed? <u>RESIDENTIAL VILLAGE</u>
What is the address to be used or developed? <u>75 PAYNESVILLE ROAD PAYNESVILLE</u>
Who has applied for the permit? <u>PALM LAKE WORKS</u>

#### Objection Details:

What are the reasons for your objection? <u>NOT AN OBJECTION BUT SUGGESTIONS.</u>
<u>&gt; STORAGE REQUIRED FOR CARAVANS, BOATS &amp; TRAILERS</u>
<u>&gt; LACK OF GREEN AREA FOR SOCIALISING &amp;</u>
<u>OUTDOOR BBQ'S</u>
<u>&gt; NOT NECESSARY TO HAVE BOWLING GREEN BUT</u>
<u>COULD BE OTHER ACTIVITIES THAT WOULD BE</u>
<u>MULTI USE.</u>

#### Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property. When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail [feedback@egipps.vic.gov.au](mailto:feedback@egipps.vic.gov.au)

JUL15



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## East Gippsland Shire Council

273 Main Street (PO Box 1618)  
Bairnsdale Vic 3875  
Website [www.eastgippsland.vic.gov.au](http://www.eastgippsland.vic.gov.au)  
Email [feedback@egipps.vic.gov.au](mailto:feedback@egipps.vic.gov.au)  
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Telephone: (03) 5153 9500  
Fax: (03) 5153 9576  
National Relay Service: 133 677  
Residents' Information Line: 1300 555 886  
ABN: 81 957 967 765

How would you be affected by the granting of this permit? \_\_\_\_\_

OUR SUGGESTIONS COULD CHANGE OUR MINDS  
TO EVER WANT TO LIVE THERE.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

KEN LLOYD

Date: 05 / 02 / 2022

### Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

### Privacy Statement

The East Gippsland Shire Council asks for details about you to collect rates, approve permits and licences, and run a range of community services. The information you give to us on this form is used only for the reasons set out in the form and is not given to anybody else. Sometimes we may supply details about you to someone else, but only if we are allowed by law, or to protect someone or property.  
When information is given out, Council will always try to make sure your privacy is protected in line with the *Privacy and Data Protection Act 2014*. You may ask for more information about Council's Privacy Policy by contacting our Information Privacy Officer on 03 5153 9500 or e-mail [feedback@egipps.vic.gov.au](mailto:feedback@egipps.vic.gov.au)

JUL15



5/18/22, 12:32 PM

dwa79C1.htm

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**Page 19 of 21**

**From:** David Nicastro |  
**Sent:** Monday, 11 April 2022 1:47:53 PM  
**To:** Planning Unit Administration  
**Subject:** Re: 392/2016/P/A 75 Paynesville Road Paynesville - Submission of Amended Plans

**EXTERNAL EMAIL:** This email has originated from outside of the East Gippsland Shire Council network. Do not click links or open attachments unless you recognise the sender and know the content is safe. Contact ICT ServiceDesk if you are unsure.

Thank you for your email.

My objection still stands.

Best regards

David

On Mon, 11 Apr 2022, 13:09 Planning Unit Administration, <[Planning@egipps.vic.gov.au](mailto:Planning@egipps.vic.gov.au)> wrote:

Good afternoon,

I am the officer responsible for the planning permit application 392/2016/P/A for the proposed development at 75 Paynesville Road PAYNESVILLE.

I wish to advise that Council has received an amendment to the plans (without prejudice) to remove the double storey built form at the interface of adjoining properties. Please note that the amended plans are not the substantive plan for consideration and would be only being used to inform that an amended plans condition would be placed if a notice of decision to grant was issued. If this application does end up going to VCAT the original plans are under examination, unless the Applicant formerly amends the application.

With this amendment in mind, I am seeking your input on the amended proposal if you wish to retain your rights as an objector or to withdraw them in favour of a permit being granted directly. If no objections are withdrawn and maintain your objection with any amended grounds, the application will be brought to a future Council Meeting. If less than 5 objections remain, officers may be able to make a delegated determination with no further consultation with the objectors, however a Notice of Decision will be provided to the objectors allowing for an application for review to be made to VCAT.

If you could let me know by 5pm Thursday 14 April 2022 if you wish to withdraw, otherwise you will likely receive a Notice of Decision to Grant the Planning Permit shortly thereafter.

For your perusal, we have uploaded the amended application documentation on the Council's website and can be found on this link:

[Amended plans - 75 Paynesville Drive Paynesville](#)

5/18/22, 12:32 PM

dwa79C1.htm

Printed 18/05/2022  
Page 20 of 21

Kind Regards,

■ **Emine Mestan** ■ *Acting Senior Land Use Planner*

 Please consider the environment before printing this e-mail.

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Page 21 of 21

**From:** Snapforms Notifications [no-reply@snapforms.com.au]  
**Sent:** Thursday, 10 March 2022 3:20:46 PM  
**To:** Planning Unit Administration  
**Subject:** Objection to a Planning Permit Application

**Objection to a Planning Permit Application**

An 'Objection to a Planning Permit Application' has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

**Name:** David Nicastro

**Email address:**

**Postal address :** Paynesville 3880

**Mobile phone number:**

**Planning permit number:** 3922016PA

**What has been proposed?:** Residential village

**What is the address to be used or developed?:** 75 Paynesville Rd

**Who has applied for the permit?:** Palm lake works

**What are the reasons for your objection?:** + High density design, will add too many additional vehicles to our township, increasing traffic and harming the relaxed and safe coastal neighbourhood character and amenity that has attracted so many of us to the area. + Very limited open space, parkland or green spaces incorporated in the design. Sardine tin style approach of packing in as many dwellings into the allotment as possible. + No footpaths with very narrow roads and dwellings with double garage space seem incredibly incongruous. Pedestrians having to share roads with vehicles is prejudicial to community safety. Pedestrians being forced to share roads with all residents and visitor vehicles poses serious safety and liability concerns. Who is legally liable if a resident is injured or killed by a car? Surely the developer/council would have some liability for approving such a dangerous plan?

**How would you be affected by the granting of this permit?:** Loss of neighbourhood character and amenity- more traffic and congestion on main road and in town. Single lane road in and out of Paynesville is already congested during morning and afternoon peak periods. Adding so many more vehicles is destructive of the neighbourhood character and amenity values.

**Privacy Statement:** Yes



## DETAILED PLANNING REPORT

---

**392/2016/P/A**

**75 Paynesville Road PAYNESVILLE  
Lot 10 PS 742846**

### **Use and development of a Residential Village (amended permit preamble and conditions)**

This report has been prepared to document the statutory planning assessment pursuant to the provisions of the *Planning and Environment Act 1987* and *Local Government Act 1989*.

#### KEY DETAILS

---

<b>Subject address</b>	<b>75 Paynesville Road PAYNESVILLE Lot 10 PS 742846</b>
<b>Land owner</b>	<b>Paynesville Park Pty Ltd</b>
<b>Applicant</b>	<b>Palm Lake Works</b>
<b>Land area</b>	<b>9.45ha</b>
<b>Zone</b>	<b>GRZ1</b>
<b>Overlays</b>	<b>DDO14</b>
<b>Cultural sensitivity</b>	<b>The land is partially culturally sensitive</b>
<b>Site inspected</b>	<b>Desktop Assessment only</b>
<b>Restrictions on Title</b>	<b>There are no relevant restrictions on title.</b>
<b>A Planning Consultation was undertaken on 28<sup>th</sup> March 2022. Following the receipt of 10 objections. Following the meeting the applicant has submitted amended drawings. A re-consultation has been undertaken and 1 objection has been withdrawn (9 objections). Further amended drawings have subsequently been submitted relating solely to landscaping on site.</b>	

#### PROPOSAL DETAILS/DISCUSSION

---

##### Site Analysis

The subject land has been created as part of the broader Paynesville Park residential estate, the development of which was initially commenced as the Coast estate. Master planning approved by Planning Permit 583/2004/P to accommodate a total of 376 vacant allotments for residential development. The Estate is on the western periphery of the established Paynesville settlement, and has been designed to include areas of park and wetland, providing pedestrian, bicycle and road access to adjacent facilities to the east including the Paynesville Primary School and AJ Freeman Reserve.

May 2022

The subject land benefits from three road abutments, with the northern extent of the site adjoined by Paynesville Road. A small section of the site adjoins Ashley Street to the south-east, with George Street adjoining the subject land to the west.



Figure 1: Site and Locality Plan

#### Proposal

The application proposes the following in detail:

- Amendment to the original Planning Permit Application preamble 392/2016/P;
- Amendment to the conditions of the original Planning Permit Application 392/2016/P;
- Amendment to the endorsed plans to include:
  - 52 less dwellings;
  - A more centralised clubhouse facility;
  - Provision of green links to facilitate pedestrian access.

May 2022

### Approved Scheme

Prior to proceeding to discuss the proposed amendments to the approved scheme it is important to fully understand the approved scheme. The approved residential village is for 247 homes and Community Centre and Community Shed and was approved in 2017. The approved site plan is provided below for reference:



Figure 2: Approved Site Plan

May 2022



**PLANNING CONTROLS**

Control	Clause(s)	Consideration
General Residential Zone (Schedule 1)	32.08	<p>Clause 32.08-2 Use of a Residential Village.</p> <p>Clause 32.08-6 Buildings and Works associated with a Section 2 use (Residential Village).</p>

The application under assessment does not require a permit pursuant to the Design and Development Overlay (Schedule 14) by virtue that no building will have a total height exceeding 7.5 metres above natural ground level.

**Cultural sensitivity**

Pursuant to the *Aboriginal Heritage Regulations 2007*, a Cultural Heritage Management Plan (CHMP) is not required as the land has been subject to previous and historical ground disturbance. As per the assessment of the original planning permit application, the applicant states:

*The proposed use is a high impact activity, with part of the subject land identified as being of cultural heritage sensitivity. The subject land is within 50 metres of a registered Cultural Heritage site which we anticipate was identified as part of investigations of the Toonalook Waters residential estate on the northern side of Paynesville Road.*

*A search of the ACHRIS database has shown the Heritage site related to a scarred tree located in the Reserve to the south of Lotus Place.*

*There is clear evidence to demonstrate significant ground disturbance as defined by the Aboriginal Heritage Regulation has occurred over the 50 metres between the subject land and the Heritage site. This includes Paynesville Road itself, together with sewer mains, both pressurised and localised, water mains, gas mains, and telecommunication services.*

*It is well documented that the strip of land to the north of the subject land previously contained a strip of large mature eucalypts which were removed as part of servicing upgrades for the Paynesville township.*

*Pursuant to Regulation 22(3) of the Aboriginal Heritage Regulations 2007, this systematic significant ground disturbance means that part of the subject land that is within 50 metres of the registered cultural heritage place would no longer be deemed an area of cultural heritage sensitivity.*

*Accordingly, the subject Application does not trigger the preparation of a Cultural Heritage Management Plan in accordance with the provisions of the Aboriginal Heritage Act 2006.*

Council officers note that the strip of land that is mapped with sensitivity has sewerage, drainage and water easements running through it.

May 2022

Council Officers are satisfied that a CHMP is not required.

---

#### REQUEST FOR FURTHER INFORMATION

Additional information was requested from the applicant in response to the concerns raised regarding:

- (i) The position of two storey development adjacent to the boundaries of the development site;
- (ii) A perceived lack of open space on site; and
- (iii) The provision of a bowling green as part of the development.

---

#### REFERRAL AUTHORITIES

AUTHORITY	DET or REC	REFERRAL CLAUSE	RESPONSE
CFA	Rec (s55)	44.06 and 66.03	Conditional consent
EGW	Rec (s55)	66.03	Conditional consent
DoT	Rec (s55)	For comments only	No response provided

---

#### INTERNAL ADVICE

DEPARTMENT	SCOPE OF ADVICE	OUTCOME
Technical Officer Development (Engineering)	Drainage & Internal Access	Conditional consent

---

#### PUBLIC NOTIFICATION

##### Advertising Required:

Public notification was undertaken in the form of letters to adjoining landowners and a sign was placed on site in accordance with Section 52 of the Planning and Environment Act 1987.

A total of ten (10) objections have been received at the time of writing this report.

A statutory declaration has been provided that confirms notification was undertaken as directed and that the responsible authority will not decide on the application before 4 February 2022.

In summary the objections raised the following concerns/issues:

- Bulk and scale of two-storey built form that backs onto existing residential properties.
- To revert back to single storey as per original endorsed plans.
- Overlooking.
- Overshadowing.
- Out of character.
- Devalue existing properties.
- Lack of green area.
- Lack of storage area for future resident's boats/caravan/trailers.

May 2022



- No footpaths and narrow roads leading to pedestrian safety.

#### **Officer comments**

Many of the grounds for objection are valid and reasonable. The Applicant provided a response to the objections as follows:

##### *Two Storey Dwellings*

The purpose of Schedule 14 to the Design and Development Overlay (DDO14) states 'to ensure that the height and visual bulk of new development is compatible with the coastal neighbourhood setting'. In response to the requirements of DDO14, the proposed dwellings do not exceed the preferred maximum building height of 7.5 metres and therefore, respond appropriately to the scale of the coastal area as envisaged by DDO14.

##### *Overlooking*

All windows at first floor level with an outlook to existing areas of secluded private open space and existing habitable room windows will be screened with obscure glazing to a minimum height of 1.7 metres above finished floor level in compliance with Standard B22 of Clause 55.

##### *Overshadowing*

As demonstrated in the shadow diagrams, some overshadowing to existing areas of secluded private open space will occur at 9am. Notwithstanding this, each area of secluded private open space will continue to receive solar access at 9am to ensure that these spaces remain usable during the early morning period. Furthermore, almost no overshadowing will occur at 12pm and none at 3pm. Although the proposal is unlikely to comply with Standard B21 of Clause 55, existing areas of secluded private open space will continue to receive solar access throughout the day and in particular, almost no overshadowing will occur from midday onwards ensuring that these areas will be highly usable throughout the periods of the day when they are likely to be used more frequently. For these reasons, the proposal responds appropriately to the Objective of Clause 55.04-5 and provides an appropriate design response.

##### *Side and Rear Setbacks*

For the Type 6 and 7 dwellings that back onto the title boundary, a minimum setback of 3 metres at a maximum building height of 7.285 metres is proposed, which exceeds comfortably the setback of 2.385 metres recommended by standard B17. For the Type 6 dwellings that side onto the title boundary, a minimum setback of 3.5 metres at a maximum building height of 5.725 metres is proposed, which exceeds comfortably the setback of 1.6375 metres recommended by Standard B 17. Furthermore, no walls are proposed on boundaries.

##### *Visual Bulk*

In addition to scale of the proposed dwellings responding appropriately to the coastal neighbourhood setting, all dwellings at first floor level will be separated by a minimum distance of 3 metres ensuring that the built form is well separated at the upper level to reduce further, perceptions of visual bulk when viewed from the adjoining properties.

##### *Pedestrian/Road/Green Links*

In response to the issues raised by the Council's Senior Technical Office (Engineering) in relation to the provision of footpaths and landscaping of the internal access roads, footpaths are proposed within the north-south and east-west 'green links' and along the main entry boulevard to facilitate key pedestrian movements from the north, west and south.

In summary, key pedestrian movements will be facilitated in all directions and the internal access roads have been designed deliberately as a low speed (10 kilometres per hour)

May 2022

environment and to operate as a safe shared zone with pedestrian priority. Lastly, due to the low traffic volumes and the low-speed environment in residential villages, it is commonplace for no footpaths to be provided other than along key pedestrian routes. For these reasons, more than adequate provision has been made to accommodate safe and efficient pedestrian movements within the village.

As shown in the dwelling plans and elevations submitted with the application, a minimum front setback of 1.5 metres is proposed for the dwellings for landscaping purposes. As no front fences are proposed, the front setbacks will appear as an extension of the road reserve, which will provide greenery to the street and break up the appearance of hard surfaces. Furthermore, at least one canopy tree will be planted within the front yard of each dwelling with additional landscaping to be concentrated in areas of high amenity including along the entry boulevard, the green links and within 'pocket parks'.

### Amended Drawings

Since the Planning Consultation Meeting took place on 28<sup>th</sup> March amended plans were submitted (dated 13<sup>th</sup> May 2022). The amended plans sought to address the concerns expressed by neighbouring occupiers and Local Councillors regarding the two storey development located adjacent to the boundaries of the application site and the resultant relationship with adjacent single storey dwellings. The amended plans show the proposed two storey development relocated toward the centre of the development and away from the boundaries of the site, as indicated within the site plan extract below:

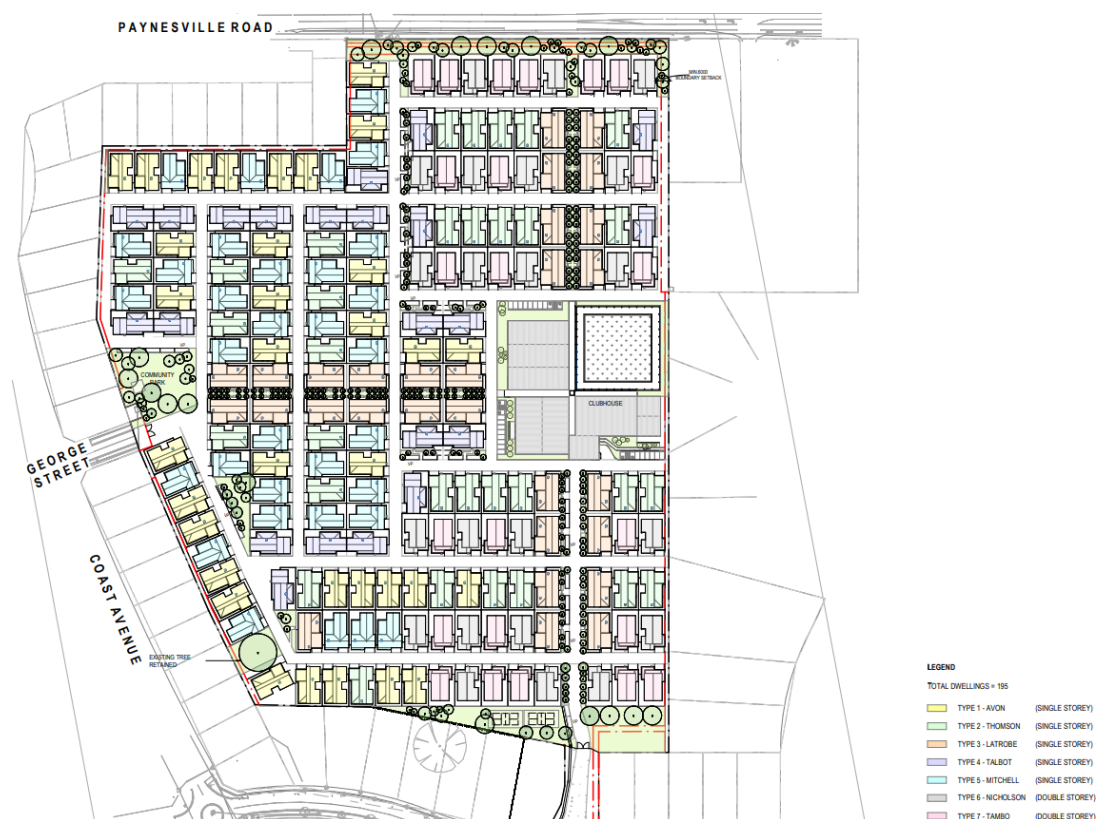


Figure 3: Amended Proposed Site Plan Extract

May 2022

Following the receipt of the above amended plan re-consultation took place with people who had raised objections to the development. Following the re-consultation a single person withdrew their objections.

During the PCM meeting which took place on the 28<sup>th</sup> March concerns were raised regarding:

- (i) The provision of a bowling green on site, despite the site only being a short distance from Paynesville Bowls Club and the desire to encourage opportunities for social interaction with the local community and for occupants to patronise established local facilities; and
- (ii) A lack of meaningful passive open space, resulting in reduced opportunities for informal social interaction between residents within an outdoor setting.

The applicant has responded to the above concerns as follows:

- (i) *'We note that Palm Lake Resort provide a covered full sized bowls green in all of their residential villages. This facility is provided to encourage social interaction between residents which call the community home and is not intended to take away from the existing Paynesville Bowls Club. It is noted that the bowls green provided in the village is strictly for residents of the community to utilise and is not open to the public and therefore, will not be to the detriment of the operation of the Paynesville Bowls Club. In the experience of Palm Lake Works the inclusion of a bowls facility in their residential villages compliments and enhances the local bowls clubs. In addition regular tournaments between the Palm Lake Bowls and the local bowls clubs are often established, which allows a more diverse bowls experience and opportunities for members to of the local bowls clubs.'*
- (ii) The applicant has sought to address the concern regarding a lack of passive open space by providing additional information regarding the open space offering. The revised plans provided show a greater level of detail and an explanation of how the areas of open space would be laid out with street furniture and utilised. Minor amendments are evident such as the repositioning of the shed within the community garden (Area 1) to enable greater use of the open space by occupants. The plans and images also illustrate how the linear parks interact with the residential accommodation and through the provision of active frontages encourage social interaction and sense of community. On the following page is an extract of the revised site plan:

May 2022

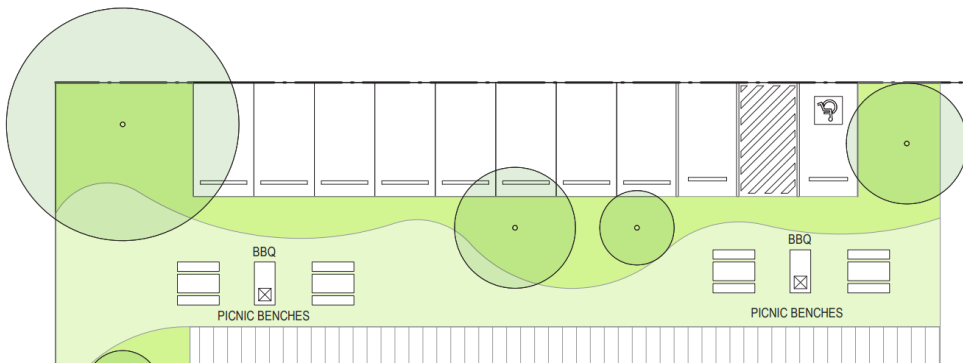


Figure 4: Revised Site Plan Indicating Areas of Open Space



Figure 5: Zone 1 - Community Garden

May 2022



Zone 6: Bowls Side BBQ Area

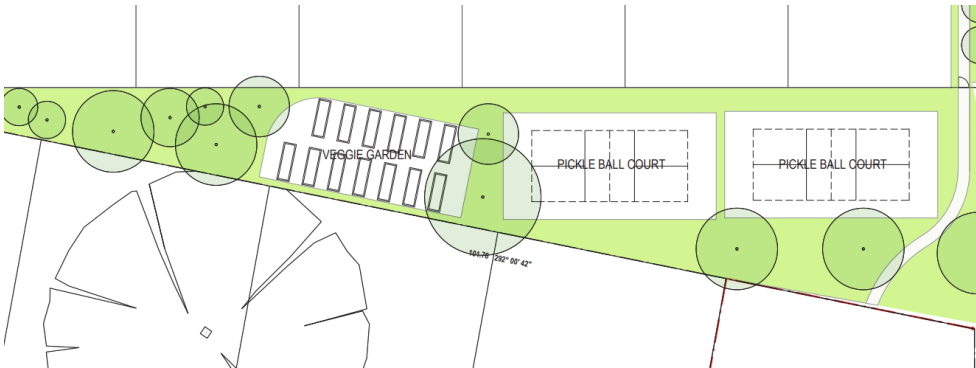


Figure 7: Zone 3 – Pickle Ball + Veggie Garden Area



Figure 8: Zone 4 – Tree Park

May 2022



Figure 9: Zone 5 – Pocket Park



Figure 10: Zone 6 – Linear Open Space Perspective (View 2)

May 2022





Figure 11: Zone 6 – Linear Open Space Perspective (View 4)

## REPORT – PLANNING CONSIDERATION

### Planning Policy Framework (PPF)

The assessment of the application before Council requires assessment against Planning Policy Framework.

The clauses that have an influence upon the assessment of this application include:

- 11 Settlement
- 15 Built Environment and Heritage
- 16 Housing
- 17 Economic Development
- 18 Transport
- 19 Infrastructure

### Assessment:

The proposed development is consistent with the Planning Policies stated above. The Planning Policy Framework seeks to ensure that the growth of Victoria is carried out in an orderly manner and is to be serviced in a sustainable manner.

The application site is located within an established residential area with the ability to allow future residents to have access to necessary services, infrastructure and facilities required to support the future community.

It is considered that the proposed development will contribute to an attractive, liveable, walkable and sustainable neighbourhood which meets the objectives of the PPF for the following reasons:

- It would direct growth to an existing urban area that has been identified for long term strategic growth.

May 2022

- The location is recognised as an urban settlement that provides for a range of urban services including retail, food and drink, banking, library, leisure, recreation and community activity.
- The proposal would make effective use of existing road and services infrastructure.
- The proposal is of quality built form that will integrate with the broader urban precinct.
- The proposal will meet an identified need for this community sector and provide a more affordable housing range.
- The proposal is compatible with the existing neighbouring land uses.
- The proposal will contribute to a range of dwelling types to suit the different needs of the community.

This direct private investment into the area will provide for short and long term direct employment and associated 'spin off' employment opportunities.

#### **Municipal Strategic Statement (MSS)**

Council is required to consider Local Policy as a part of this assessment.

Local Policy clauses that are relevant include:

21.02 Municipal Overview

21.03 Settlement

21.07 Built Environment and Heritage

21.08 Housing

21.09 Economic Development

21.10 Transport

21.11 Infrastructure

21.12 Strategies for Sub-Regions, Towns and Localities

#### **Assessment:**

The provisions of the LPPF are specific to the East Gippsland Planning Scheme and have been considered as part of the proposal. The development will be generally in accordance with the Paynesville Strategy Plan, with the encouragement of development within existing zoned areas and population growth.

The above clauses seek to ensure that future development contributes to the achievement of liveable, productive and sustainable communities in East Gippsland.

A strategy to achieve this is to ensure new development and land use applications consider potential positive and negative social impacts on the community and requires proposals for new development, land use, infrastructure and changes in policy to consider social impact through the preparation of social impact comments and/or assessments as identified in the East Gippsland Shire Council Social Impact Assessment Guidelines for Development Applications.

One of the objectives of Clause 21.12-2 for Paynesville is to manage the expansion of the town boundary and new residential development to ensure a variety of housing types and styles and add to the special character of Paynesville.

Whilst assessing subdivision developments in this policy precinct, it is important to consider the accommodation of growth by attracting a connection between the community and the environmental scale of the area.

May 2022



The proposal has been considered in light of the above identified local policy. The identified points at state level are relevant to the assessment at local level. In addition the following assessment is provided to demonstrate the consistency of the proposal with the MSS

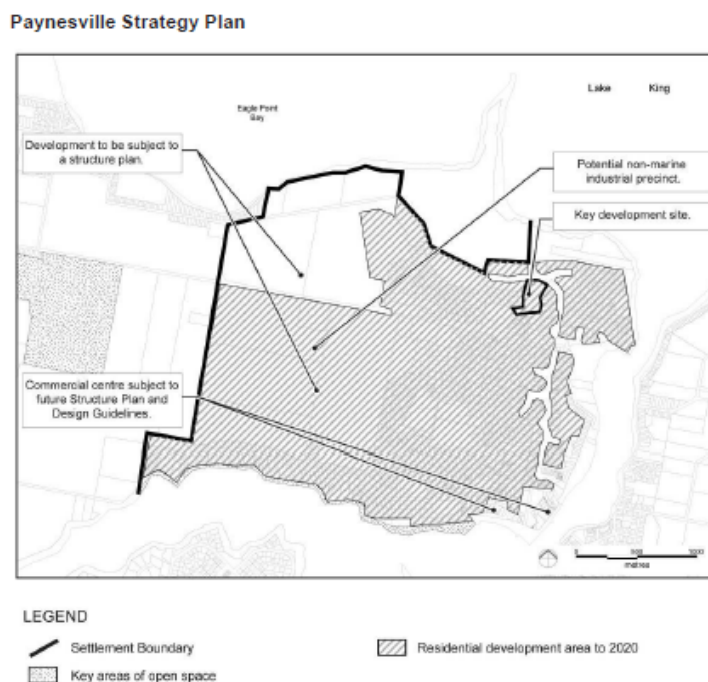


Figure 2: Paynesville Strategy Plan, June 2016

### Paynesville Growth Area Structure Plan

The Paynesville Growth Area Structure Plan was adopted by Council in August 2016. A planning scheme amendment is listed in the current year work plan to introduce the Plan into the East Gippsland Planning Scheme.

The purpose of the Paynesville Growth Area Structure Plan (PGASP) is to provide a set of desired outcomes, objectives, guidelines and requirements for future development of the growth area, based on principles of good urban design and sustainability.

PGASP contains specifies objectives and requirements which identify the need to accommodate housing for retirees in appropriate locations, with which the proposal is generally consistent having regard for the following:

- The subject land is located immediately adjacent to the main arterial road (Paynesville Road), adjoined by a connector road (Ashley Street), and has immediate access to bus routes which service the local community.
- The development layout demonstrates how the proposed development has strong integration with the wider urban structure with vehicle and pedestrian connections at multiple points.

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**Character, identity and the public realm**

The following planning and design principles of the Paynesville Growth Area Structure Plan are relevant.

- *to establish a pattern of residential development across the growth area that supports good access, neighbourhood cohesion and reinforces local identity*
- *to support a strong sense of place and local character that builds on Paynesville's existing character and sense of place*
- *to ensure the interface between the street and buildings supports pedestrian amenity and safety*
- *to ensure the public realm is able to be well-maintained and managed*
- *the sustainability of the Paynesville Growth Area will also be augmented by the significant plantings proposed within the Structure Plan for roadsides, streetscapes, public open spaces, drainage wetlands and retention basins and foreshore reserve revegetation.*

**ZONE**General Residential Zone (Schedule 1)

the purpose of the zone is as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The proposed Residential Village is consistent with the purpose of the General Residential Zone in that it seeks to deliver variety in dwelling type to meet the varying needs of households, whilst remaining respectful of the prevailing neighbourhood character.

Clause 32.08-4 requires assessment against the relevant sections of Clause 55 – two or more dwellings on a lot. This assessment was undertaken on the original planning permit application.

The proposal is contemplated by the zone and overall the proposal is considered to be consistent with the purpose of the zone and delivers a reasonable planning outcome.

**OVERLAY**Design and Development Overlay (Schedule 14)

No planning permit trigger.

**PARTICULAR PROVISIONS**Clause 55 - Two or more dwellings on a lot

May 2022

The applicant originally contended that the development did not warrant the undertaking of a clause 55 assessment as the use is 'accommodation' not 'dwellings'. However, following a request an assessment was provided.

Essentially the development must be considered within its context of being a different type of accommodation provision when compared to a residential development of only dwellings appealing to a broad marketplace.

The residential village is aimed at the more aged sector of the community and their desire to live in a certain way, i.e. a close knit community with smaller properties to maintain. The clubhouse provides for extensive social/leisure activities open to all residents and can be seen to 'offset' that lesser amounts of private open space. Therefore, for this reason, Council officers are comfortable that secluded private open space of approximately 15m<sup>2</sup> or more will be provided for each dwelling regardless which of the three 'villa' types are matched to each residential plot.

There is no specific public open space requirement stipulated within the Local Planning Scheme. However, the proposed development proposal provides 5 pockets of open space within the development, as identified earlier within this report. The development has also been designed to provide active linear parks in the form of footpaths which are lined with soft landscaping. The proposed residential accommodation is designed to provide active frontages along the footpaths to provide for opportunities for passive social interaction.

The proposal meets the overall objectives of Clause 55 and reflects similar development of this type of model.

#### Clause 52.29

There is no permit trigger under Clause 52.29 given the proposal does not seek to subdivide land adjoining a Transport Zone 2. The Application does not require referral to VicRoads under Section 55 of the Act, however, the application was referred to VicRoads for comment who have not responded.

### **GENERAL PROVISIONS**

#### Clause 65 - Decision Guidelines

Clause 65 (Decision Guidelines) state that the Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this Clause. Specifically, the decision guidelines of Clause 65.02 relating to the approval of an application to subdivide the land are to be considered as appropriate. The decision guidelines contain a similar assessment to that found in Clause 56.

The application presents no detriment to the environmental values of the land or to the amenity of the area. The proposal is an acceptable planning outcome that is consistent with the objectives of planning in Victoria.

May 2022

*Response to Objections Raised*

The submitted revised scheme has sought to address the concerns expressed by neighbouring occupiers in relation to overlooking, overshadowing and the bulk and scale of the two-storey development and resultant impact upon surrounding residential properties. Specifically, the plans have been amended to move two storey development away from immediately adjacent boundaries with neighbouring residential properties.

Objections were also raised by the public in relation to a lack of green space. This matter has already been discussed within this report and to confirm, the applicant has, in the view of Officers, addressed the perceived lack of green space by amending the proposed site plan and also providing greater detail with regard to the external green, landscaped spaces. The site is currently predominantly devoid of vegetation. The proposed development will result in the planting of trees within the site and there will be net gain in vegetation. Furthermore, the development has been amended to ensure the retention of the mature tree within the south western corner of the application site.

Concerns were expressed by objectors regarding the narrow width of internal roadways and a lack of provision of footpaths, resulting in pedestrian safety concerns. In response to these concerns, Officers are content that the correct design approach has been adopted within the development. The use of shared surfaces (between vehicles and pedestrians) is suitable and is supported in this form of development. Such an approach is generally accepted to provide natural traffic calming measures and should encourage careful and considerate vehicle manoeuvring around the site. The design and the proximity of site provided facilities should encourage reduced use of private cars to access facilities and should encourage footfall within the site and wider surrounds. Furthermore, the site is provided with dedicated pedestrian streets which act as spine routes through the site to provide access to the site facilities and club house etc and through the use of active frontages along these routes encourage social interaction.

The devaluation of property is not a material planning consideration. The impact of the development upon the amenities of neighbouring occupiers is a material consideration. Officers are confident that the impact upon the amenities of existing neighbouring residential occupiers is considered to be acceptable. The proposals will not prejudice levels of natural light currently enjoyed, quality of outlook or privacy.

Residents of the development will clearly not have the ability to store boats and caravans on site. If there is demand for storage space by residents, Palm Lake would seek land / storage facilities elsewhere, as has been done on some other Palm Lake developments. However, such storage is not typically provided, unless there is demand expressed by residents.

The development is of a general character which would be expected of a residential village such as this. The properties have been designed to take inspiration from the architectural vernacular within the coastal, Victorian location. It is acknowledged that the proposed scheme has introduced two storey development to the scheme. However, the number of units on the site compared with the consented scheme has decreased significantly and the overall quality of the scheme is considered to be an improvement on the extant scheme. Accordingly Officers considered the scheme for consideration to be acceptable and recommend approval subject to the imposition of Conditions.

May 2022



Our patron, Her Excellency the Honourable Linda Dessau AC, Governor of Victoria

CFA Fire Prevention and Preparedness  
8 Lakeside Drive Burwood East Vic 3151  
Email: [firesafetyreferrals@cfa.vic.gov.au](mailto:firesafetyreferrals@cfa.vic.gov.au)

CFA Ref: 11000-483997-115769  
Council Ref: 392/2016/P/A

24 January 2022

Emine Mestan  
East Gippsland Shire Council  
PO BOX 1618  
**BAIRNSDALE VIC 3875**

Dear Emine,

**CONDITIONAL CONSENT TO THE GRANT OF AMENDED PERMIT**

**Application No:** 392/2016/P/A  
**Applicant:** Crowther & Sadler Pty Ltd  
**Address:** 75 Paynesville Road Paynesville  
**Proposal:** Residential Village - Amended Application

Thank you for providing the CFA with the opportunity to comment under Section 55 of the Planning and Environment Act. CFA does not object to the grant of amended permit for the multi-unit development at 75 Paynesville Road Paynesville subject to the following conditions being attached to any permit which may be issued, and a copy forwarded to CFA.

**– Start of conditions –**

**1. Hydrants**

- 1.1 Operable hydrants, above or below ground must be provided to satisfaction of CFA.
- 1.2 The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m and hydrants must be no more than 200m apart.

Note - Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes' available under publications on the Country Fire Authority web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au))

**2. Roads**

Access roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

- 2.1 The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.
- 2.2 Curves must have a minimum inner radius of 10 metres.
- 2.3 Have a minimum trafficable width of 5.5 metres, parking is prohibited on one side of the roadway and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.
- 2.2 Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.
- 2.5 The residential village access road network plan must not be altered without the consent of CFA.

**– End of conditions –**

If you wish to discuss this matter in more detail, please do not hesitate to contact Peter Rogasch, Fire Safety Officer, on 1300 367 617.

Yours sincerely



**Justin Meli**  
Bushfire Planning Coordinator  
CFA Community Preparedness

cc. Crowther & Sadler Pty Ltd  
contact@crowthersadler.com.au



133 Macleod Street, PO Box 52, Bairnsdale Victoria 3875  
**Tel:** (03) 5150 4444 **Fax:** (03) 5150 4477  
**Email:** [egw@egwater.vic.gov.au](mailto:egw@egwater.vic.gov.au) **Web:** [www.egwater.vic.gov.au](http://www.egwater.vic.gov.au)

Our Ref: DOC/22/1781

31 January 2022

**Reference Number(s):** 392/2016/P/A

**Referral Authority:** East Gippsland Shire Council

**For:** Use and development of a Residential Village (amended permit preamble and conditions)

**Location:** 75 Paynesville Road Paynesville

**Applicant:** Palm Lake Works

In response to the above application, East Gippsland Water does not object to a permit being granted, provided it includes the following conditions and notes.

**Conditions:**

1. Extend water supply infrastructure to the satisfaction of East Gippsland Water.
2. Extend sewerage infrastructure to the satisfaction of East Gippsland Water.
3. Submit design, construction, commissioning and as constructed documentation on all proposed infrastructure, or alterations to existing infrastructure, for written approval by East Gippsland Water.
4. Pay applicable development planning charges.
5. Existing water meter (No. 09W081966), is to be disconnected and returned to East Gippsland Water.
6. Each Lot / Unit is to be separately serviced by the water and sewer reticulation systems and able to be separately metered (water) as appropriate, to the satisfaction of East Gippsland Water.
7. Place easement(s) on the plan of subdivision over existing/proposed infrastructure, to the satisfaction of East Gippsland Water.

**Notes:**

- (A) In accordance with Section 136 of the Water Act 1989, easements are required over existing/proposed infrastructure. This requirement applies even if the infrastructure is in common property or there is a Section 12(2) easement over the land.
- (B) For easement(s) created over East Gippsland Water infrastructure, the Land Benefited/In Favour Of is to be in the name of "East Gippsland Region Water Corporation".
- (C) For any lot area that cannot be fully serviced by a gravity sewer connection, building envelopes or minimum floor levels are to be listed as restrictions on title, to the satisfaction of East Gippsland Water.



133 Macleod Street, PO Box 52, Bairnsdale Victoria 3875  
Tel: (03) 5150 4444 Fax: (03) 5150 4477  
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- (D) Should East Gippsland Water determine that a gravity sewerage system is not feasible, then a pressure sewer system may be approved by East Gippsland Water.
- (E) Design documentation to be submitted after certification application has been made.
- (F) Development planning charges apply where East Gippsland Water approve design, construction, commissioning and as constructed documentation (actual charge is based on the final cost of the works).
- (G) Any feasibility study, required to determine how best to service the development, is to be arranged by East Gippsland Water and funded by the applicant.
- (H) Any infrastructure, outside of the development, that is required to provide sewerage and/or water supply services to the development, is to be funded by the applicant. The type and extent of additional infrastructure, if needed, is subject to detailed engineering design and approval by East Gippsland Water.
- (I) Internal water and sewer pipework that connects each Lot / Unit to East Gippsland Water's infrastructure will be privately owned, operated and maintained by the Developer.
- (J) Any specific requirements for sewerage and/or water supply infrastructure relating to coastal inundation or flooding is to be funded by the applicant.

Further enquiries may be directed to Rod Poynton (5150 4476) at our Bairnsdale Office.

Yours faithfully,

A handwritten signature in black ink, appearing to read "L. Caplygin", with a stylized flourish at the end.

**LARA CAPLYGIN**  
**EXECUTIVE MANAGER STRATEGY & ASSETS**  
**East Gippsland Water**

cc: Palm Lake Works ([jjm@colleipl.com.au](mailto:jjm@colleipl.com.au))



## **6 Urgent and Other Business**

## **7 Confidential Business**

Nil

## **8 Close of Meeting**