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Form 2

NOTICE OF AN APPLICATION FOR PLANNING PERMIT

The land affected by the application is located at:	187 Howletts Road NICHOLSON 3882 Lot: 2 PS: 515232
The application is for a permit to:	Two Lot Subdvision
The applicant for the permit is:	Crowther & Sadler Pty Ltd
The application reference number is:	5.2024.22.1

You may look at the application and any documents that support the application free of charge at: https://www.eastgippsland.vic.gov.au/building-and-development/advertisedplanning-permit-applications

You may also call 5153 9500 to arrange a time to look at the application and any documents that support the application at the office of the responsible authority, East Gippsland Shire. This can be done during office hours and is free of charge.

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 made to the Responsible Authority in writing,
- include the reasons for the objection, and
- state how the objector would be affected.

The responsible authority must make a copy of every objection available at its office for any person to inspect during office hours free of charge until the end of the period during which an application may be made for review of a decision on the application.

The Responsible Authority will not decide on the application before: Subject to applicant giving notice
--

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



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REGISTER SEARCH STATEMENT (Title Seatech) for pan ptan setwhich may breach அரும் reopyright. Land Act 1958

VOLUME 10747 FOLIO 662

Security no : 124111900726E Produced 16/01/2024 03:21 PM

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 515232H. PARENT TITLE Volume 09067 Folio 541 Created by instrument PS515232H 04/09/2003

REGISTERED PROPRIETOR

Estate Fee Simple Joint Proprietors

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.

DIAGRAM LOCATION

SEE PS515232H 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: 187 HOWLETTS ROAD NICHOLSON VIC 3882
DOCUMENT END

Printed 8/02/2024

Page 2 of 29

PLAN OF SUBDIVISION

purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be

COUNCIL CERTIFICATION AND ENDORSEMENT any copyright.

LOCAT		$\Delta E I$	AND	
	IL JIN		ANIJ	

PARISH: TOWNSHIP: BUMBERRAH

SECTION:

CROWN ALLOTMENT:

100B

CROWN PORTION:

TITLE REFERENCES:

VOL 9067 FOL 541

LAST PLAN REFERENCE:

POSTAL ADDRESS: (At time of subdivision)

HOWLETTS ROAD, NICHOLSON, 3882.

AMG CO-ORDINATES: (Of approx. centre of land in plan)

TELEPHONE (03) 5152 5011

E 565 450

N 5818 400

ZONE: 55

VESTING OF ROADS AND/OR RESERVES

IDENTIFIER COUNCIL/BODY/PERSON

NIL NIL

Subdivision Act 1988. OPEN SPACE

(i) A requirement for public open space under Section 18 Subdivision Act 1988 has-/ has not been made.

COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 03/00026/50

1. This plan is certified under Section 6 of the Subdivision Act 1988.

Date of original certification under Section 6

2. This plan is certified under Section II(7) of the Subdivision Act 1988.

This is a statement of compliance issued under Section 21 of the

(ii) The requirement has been satisfied.

(iii) The requirement is to be satisfied in stage

Council Delegate

Date 24 / 07 / 2003

Re-certified under Section II(7) of the Subdivision Act 1988

Council Delegate

Date / /

NOTATIONS

STAGING This is / is not a staged subdivision Planning Permit No

DEPTH LIMITATION

15.24 METRES BELOW THE SURFACE.

BOUNDARIES SHOWING DIMENSIONS UNDERLINED ARE NOT THE SUBJECT OF THIS SURVEY.

THE AREA OF LOT 2 IS BY DEDUCTION FROM TITLE.

SURVEY:

THIS PLAN IS / IS NOT BASED ON SURVEY

١

VERSION

THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s) PM 7

EASEMENT INFORMATION LTO USE ONLY STATEMENT OF COMPLIANCE **LEGEND** E - Encumbering Easement R - Encumbering Easement (Road) A - Appurtenant Easement / EXEMPTION STATEMENT RECEIVED Easement Reference Width Purpose Land Benefited/In Favour Of Origin (Metres) E-1 **POWERLINE** THIS PLAN -TXU ELECTRICITY LTD. DATE 20 / 08 /2003 SECTION 88 OF THE **ELECTRICITY** INDUSTRY ACT 2000 LTO USE ONLY LOT I ON THIS PLAN **PLAN REGISTERED** WATER SUPPLY F~2 2 THIS PLAN TIME 2.39 PM DATE 4/9/2002 Assistant Registrar of Titles SHEET I OF 3 SHEETS MICHAEL JOSEPH SADLER LICENSED SURVEYOR Crowther&Sadler Phy.Ltd. DATE 24/07/2003DATE 12/02/03 LICENSED SURVEYORS & TOWN PLANNERS SIGNATURE COUNCIL DELEGATE SIGNATURE 152 MACLEOD STREET, BAIRNSDALE, VIC., 3875

REF 10446

Page 3 of 29



LICENSED SURVEYORS & TOWN PLANNERS

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Planning Report

Two Lot Subdivision
187 Howletts Road, Nicholson

Our reference - 20754

31 January 2024



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	Appl	Application Form			

EGSC correspondence waiving BMO requirements (2/01/2024)

Note: Applicable Planning Application fee is \$1415.10

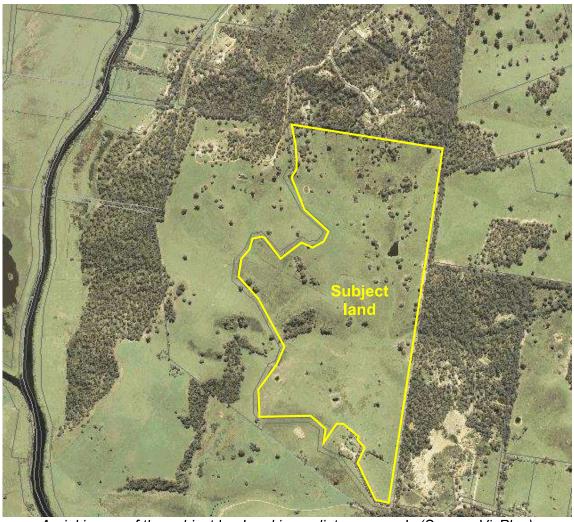
Proposed Subdivision Plan (Version 1)

Copy of Title (Lot 2 on PS 515232H)

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1. Introduction

This Planning Report is prepared in support of a proposed two lot subdivision at 187 Howletts Road, Nicholson. The Report addresses the provisions of the Farming 1 Zone, Environmental Significance Overlay 1–31, Bushfire Management Overlay and Erosion Management Overlay as contained within the East Gippsland Planning Scheme.



Aerial image of the subject land and immediate surrounds (Source: VicPlan)

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2. Subject Land & Surrounding Context

Formally known as lot 2 on PS515232H or more commonly known as 187 Howletts Road, Nicholson, the subject land is a large vacant agricultural property of 81.58 hectares. The land is currently used for the purposes of livestock grazing and is developed with paddock fencing and a stock dam.

Access to the subject land can be obtained from Mulhollands Road and Howletts Road via unconstructed Government Roads.

The land contains numerous scattered native trees and a couple of patches of native vegetation. Being located close to the Nicholson River the property is undulating and contains a number of waterways.



Looking north-west across subject land from Howletts Road

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Existing access from Howletts Road via Government Road



Existing access from Howletts Road.

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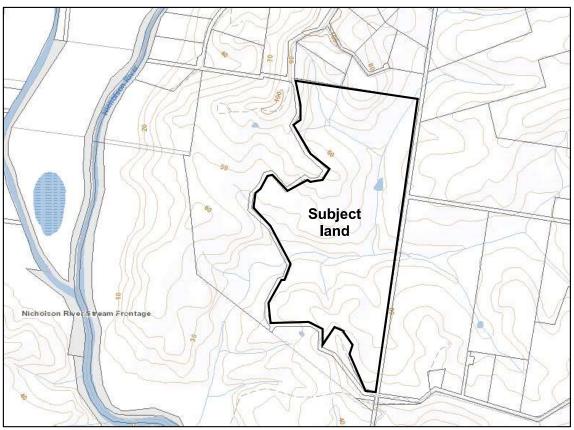
Looking south-east across subject land from Mulhollands Road



Existing access gate from Mulhollands Road via Government Road

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Contour and waterway mapping of the subject land (Source: VicPlan)

To the east of the subject land is an unconstructed Government Road, and further east is an agricultural land holding and a separate land parcel that contains significant native vegetation and a gravel pit.

An unconstructed Government Road is located to the west of the subject land and further west is a larger agricultural property.

To the north are two rural living properties developed with dwellings on Rural Living Zoned land within the Sarsfield South rural living precinct.

South of the subject land is a rural lifestyle property developed with a dwelling and outbuildings and a larger agricultural land holding containing a dwelling and outbuildings.

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Image of 160 Howletts Road, Nicholson in the distance taken across the subject land

The subject land is located to the north of the Nicholson township and to the south of the Sarsfield area.

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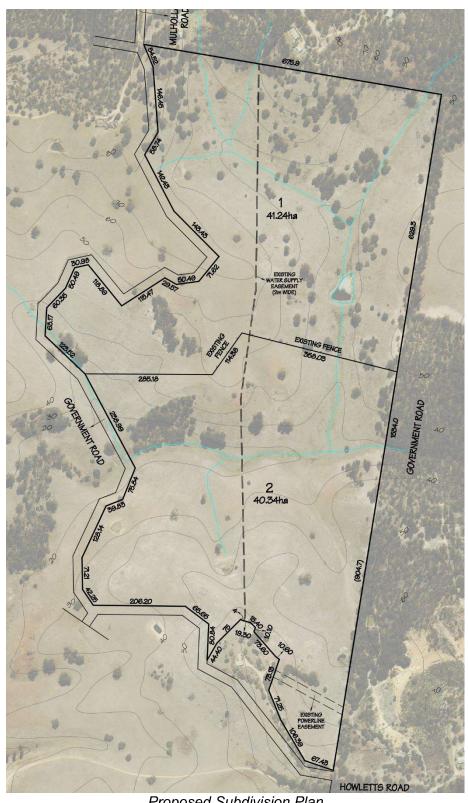


Locational mapping (Source: Google Earth)

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3. **The Application & Proposal**

It is proposed to subdivide the subject land into two lots. The subdivision boundary has been deliberately selected to adopt an existing fenceline, which avoids any additional fragmentation of the numerous waterways on the site.



Proposed Subdivision Plan

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The proposed subdivision has been designed to ensure that each proposed lot exceeds the Schedule minimum area of 40 hectares and is of sufficient size to provide for agricultural enterprises to be undertaken on site.

Lot 1 to the north of the property is proposed at 41.24 hectares and is to be accessed from Mulhollands Road, which will require the construction of a new vehicle crossover.

The proposed access to Mulhollands Road is not proposed to utilise the existing access gate so as to avoid detrimental impacts to native vegetation. The existing access gate serves the purpose of infrequent access however, internally to the property, the access corridor requires careful navigation of numerous native trees.

The proposed access location avoids detrimental impacts to native vegetation and will be more practical without the need to navigate around vegetation.



Image of the proposed access point from Mulhollands Road

Lot 2 to the south of the subject land is proposed at 40.34 hectares and is to be accessed from Howletts Road.

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Image of the existing vehicle crossover from Howletts Road

Planning approval is required pursuant to the following Clauses of the East Gippsland Planning Scheme:

Planning Scheme Clause No.	Description of what is Proposed	
35.07-3 Farming Zone	Subdivision	
42.01-2 Environmental Significance Overlay	Subdivision	
44.06-2 Bushfire Management Overlay	Subdivision	
44.01-5 Erosion Management Overlay	Subdivision	

The application is required to be referred to the CFA pursuant to Section 55 of the *Planning and Environment Act 1987*.

Through pre-lodgement discussions Council has agreed that in this instance it is appropriate to waive the application requirements of the Bushfire Management Overlay. A later section of this report will provide a more detailed response to the provisions of the Bushfire Management Overlay.

Pursuant to the Environmental Significance Overlay notice of the application is required to DECCA for comment.

A small proportion of the subject land is included within the Vegetation Protection Overlay 1. No native vegetation is being removed as part of the subdivision, therefore the Overlay does not require consideration.

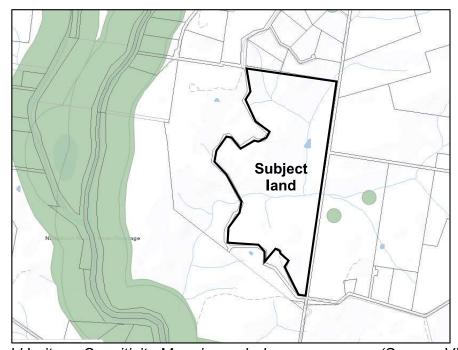
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4. Cultural Heritage

The proposal does not trigger any mandatory requirements to provide a Cultural Heritage Management Plan (CHMP) under the *Aboriginal Heritage Act 2006.*

Pursuant to Regulation 7 of the *Aboriginal Heritage Regulations 2018*, a CHMP is required for an activity if:

- (a) all or part of the activity area for the activity is in an area of cultural heritage sensitivity; and
- (b) all or part of the activity is a high impact activity



Cultural Heritage Sensitivity Mapping – darker green areas (Source: VicPlan)

The subject land is not within an area of cultural heritage sensitivity, and a two lot subdivision is not considered a high impact activity. Therefore, there is no mandatory requirement to provide a CHMP in support of the application.

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5. Planning Policy

5.1 Planning Policy Framework

To ensure there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation is the objective of Clause 12.01-2S Native vegetation management.

The proposed subdivision boundary has partially adopted an existing paddock fence line and has located the balance of the subdivision boundary within a cleared area of the property to avoid vegetation removal.

The proposed subdivision boundary has partially adopted an existing paddock fence, which crosses the north-south waterway on the subject land. In this instance it is not possible to avoid fragmentation of the waterway and achieve two larger agricultural land parcels. The subdivision will reflect the current on ground situation and represents an appropriate planning outcome. It is noted that the landowner has maintained the waterways and native vegetation within the waterways to reduce the potential for erosion consistent with Clause 12.03-15 River and riparian corridors, waterways, lakes, wetlands and billabongs.

Parts of the subject land to the north and east are subject to the Bushfire Management Overlay and as such Clause 13.02-1S Bushfire planning is relevant. The proposed subdivision will create two lots larger than 40 hectares, with significant areas outside of the mapped bushfire risk. Should a dwelling be developed on either allotment, an appropriate planning response would be to locate a dwelling as far as possible away from the mapped bushfire risk, given the priority to protect human life as per Clause 13.02-1S Bushfire planning.

It is expected that the subdivision would result in the need to construct a relatively short length of boundary fencing to the west of the land. Given the minor works involved to construct a non-load bearing rural fence, it is considered highly unlikely that an erosion hazard would be created consistent with Clauses 13.04-2S and 13.04-2L Erosion.

To protect the State's agricultural base by preserving productive farmland is the objective of Clause 14.01-1S Protection of agricultural land. The proposed subdivision will create two large allotments each of an area that exceeds the Zone Schedule size and as such it is considered that both lots have the ability to sustain an agricultural enterprise. The proposal will not see the permanent removal of agricultural land, the property is not located within an area of strategic farming significance and allows for primary production on neighbouring properties to continue.

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It is noted that the subject land is not located within a water catchment that provides for drinking water. Waterways on the subject land will continue to function as currently exists and given the native vegetation management controls in the planning scheme, native vegetation within the waterways is afforded planning protection (Clause 14.02-1S and 14.02-1L Catchment management).

In accordance with Clause 18.02-4S Roads both proposed allotments are afforded access from public roads and Government Roads.

5.2 Municipal Planning Strategy

Subdividing the subject land into two lots, each of an area that can sustain agriculture, results in a boundary that divides the north-south waterway. The waterway is currently divided via existing paddock fencing, and the current situation on ground will not be altered. Adopting the partial fence line avoids the need to remove native vegetation and assists the health of the waterway in accordance with Clause 02.03-2 Environmental and landscape values.

Creating two allotments significant in size provides any potential future development of dwellings on either lot to be located well away from the mapped bushfire risk. The subdivision will likely result in the need to construct some rural fencing, given the minor nature of rural fencing works it is considered that the erosion risk associated with the proposal is low, consistent with Clause 02.03-3 Environmental risks and amenity.

The provision of two generously sized allotments exceeding 40 hectares in area which have the ability to support a range of agricultural uses is consistent with the relevant strategic directions within Clause 02.03-4 Natural resource management.

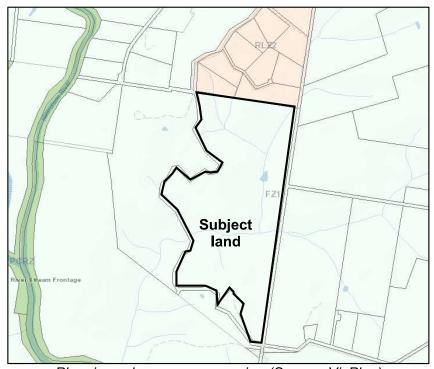
It is considered that the proposed subdivision provides two larger allotments that will be used for agriculture and will continue to support one of the Shire's major industries as referenced in Clause 02.03-6 Economic development.

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6. Planning Elements

6.1 Farming 1 Zone

The subject land is zoned Farming 1 Zone in accordance with the East Gippsland Planning Scheme.



Planning scheme zone mapping (Source: VicPlan)

In accordance with Clause 35.07-3 Subdivision, each lot must be at least the area specified in the Schedule. In Schedule 1 each lot must be a minimum of 40 hectares which the proposal achieves.

The two lots are of sufficient area to accommodate agricultural uses and various different rural enterprises. The subject land has been well maintained and developed to support agricultural outcomes, which will continue without constraint under the proposed conditions.

Decision Guidelines

It is considered that the application advances the relevant decision guidelines:

- Strong policy support is provided within the Planning Policy Framework and Municipal Planning Strategy.
- Subdivision of the land into two larger allotments above the Schedule area allows for the continued use of the land for agricultural purposes.

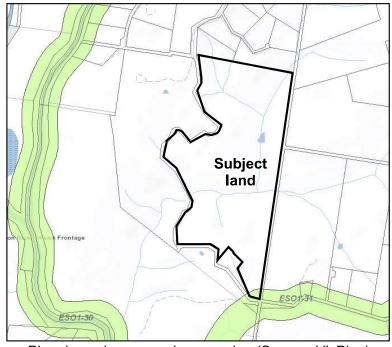
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- Adjoining and nearby land uses range from rural living properties to broad acre gazing. The proposed allotments, given the size and future agricultural use, will be compatible with uses being undertaken within the area.
- The subdivision will not result in the removal of land from agricultural production.
- Creating two agricultural allotments of sufficient size to support an agricultural enterprise provides two properties that can be purchased at a more economical rate than the current larger land parcel, and in doing so encourages investment and employment within the agricultural sector, removing a barrier to entry associated with larger allotment sizes.
- Agricultural qualities of the land are sound and will not be adversely impacted by the proposed subdivision.
- Care has been taken to avoid the need to remove native vegetation on the land through the location of the subdivision boundary and proposed access points.
- The north-south waterway which is already divided by paddock fencing will
 not be adversely impacted as a result of the proposal. Riparian vegetation
 within the waterway is afforded protection through Planning Scheme
 controls and no modification of the waterway can take place without the
 approval of East Gippsland Catchment Management Authority.

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6.2 Environmental Significance Overlay 1 - 31

A small section of the southern part of the subject land is subject to the ESO 1–31 – Nicholson Corridor. Protection of the wildlife corridor is the focus of the statement of environmental significance, nominating management practices which address weeds and pests whilst preserving remnant and roadside vegetation.



Planning scheme overlay mapping (Source: VicPlan)

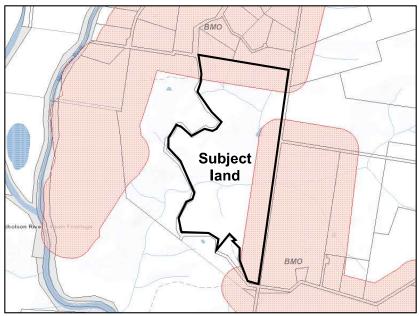
The proposed subdivision will achieve the management practices sought:

- Native vegetation remnants located on the subject land are not proposed to be removed and are afforded protection under the planning scheme provisions.
- The southern allotment will be used for an agricultural enterprise and as such landowners generally undertake weed control.
- Fox control programs can be easily undertaken within this rural area.
- Roadside vegetation has been avoided by the proposed lot access.

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6.3 Bushfire Management Overlay

Parts of the northern and eastern areas of the subject land are located within the Bushfire Management Overlay, linked to the proximity of these areas to classifiable vegetation within the broader locality.



Planning scheme overlay mapping (Source: VicPlan)

The proposed two lot subdivision will create two larger allotments, with significant areas that are not within the mapped area.

It is considered that should a future dwelling on either allotment be proposed, an appropriate planning response would be to maximise the distance between the mapped bushfire risk. Although the land is undulating, there are a number of potential dwelling sites well outside of the BMO mapping that could be developed into the future, where bushfire risk could be minimised by the surrounding grassland vegetation and appropriate provision of defendable space in accordance with AS 3959:2018.

It is therefore considered that the subdivision in itself does not create a risk to human life and property. Should a dwelling on either allotment be undertaken into the future, the opportunity to mitigate the risk from bushfire can be achieved to an acceptable level.

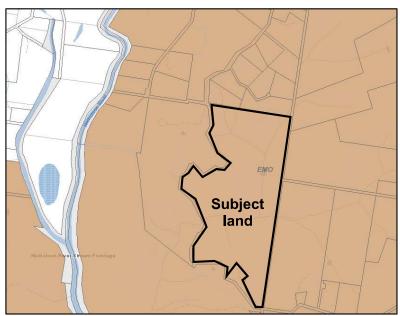
Council's waiver of the Bushfire Management requirements is appropriate given a potential dwelling on either allotment could be located outside of the mapped risk. The area outside of the BMO mapping is bushfire prone, but each lot is capable of accommodating construction to a BAL 12.5 standard.

Should a future dwelling be proposed on either lot within the BMO mapping separate planning approval will need to be sought, with a mandatory referral to the Country Fire Authority a requirement.

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6.4 Erosion Management Overlay

The whole of the subject land is contained within the Erosion Management Overlay. Schedule 1 of the Overlay is Management of Geotechnical Hazard.



Planning scheme overlay mapping (Source: VicPlan)

In accordance with sub-clause 4 of the Schedule, an application to subdivide land in a rural zone into two lots does not need to be supported by a geotechnical risk assessment. This exemption is considered to reflect the relatively low risk associated with a subdivision of this nature.

The proposed subdivision is likely to require a relatively short length of non-load bearing post and wire fencing to be constructed. Such minor construction works are unlikely to create an erosion hazard or have any detrimental environmental impacts.

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7. Conclusion

The proposed two lot subdivision at 187 Howletts Road, Nicholson is considered to accord with all relevant provisions of the Farming 1 Zone, Environmental Significance Overlay 1–31, Bushfire Management Overlay and Erosion Management Overlay of the East Gippsland Planning Scheme. The proposal is consistent with the Planning Policy Framework and Municipal Planning Strategy and will result in the creation of two lots able to be utilised for various agricultural pursuits.

For these reasons we respectfully request that Council consider the merits of the application favourably and resolve to issue a Planning Permit.

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Kate Young - Crowther & Sadler

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Robert Pringle < RobertP@egipps.vic.gov.au> From:

Tuesday, 2 January 2024 1:04 PM Sent:

Aaron Hollow - Crowther & Sadler; Planning Unit Administration To:

FW: 187 Howletts Road, Nicholson - Waiving of Clause 44.06-3 Application Subject:

Requirements

Attachments: 187 Howletts Rd Prop V1.pdf

Good afternoon Aaron,

Per our previous discussions on this matter regarding the suitability of subdivision, I confirm that the BMO requirements can be waived as there are multiple potential development sites for dwellings on parts of the land not affected by the BMO.

The application will be referred to CFA on this basis.

Regards,

■ Robert Pringle ■ Statutory Planning Coordinator

A Please consider the environment before printing this e-mail.

From: Aaron Hollow - Crowther & Sadler <aaron@crowthersadler.com.au>

Sent: Tuesday, December 19, 2023 1:10 PM To: Robert Pringle <RobertP@egipps.vic.gov.au>

Subject: 187 Howletts Road, Nicholson - Waiving of Clause 44.06-3 Application Requirements

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.

Our Ref: 20754,

Hi Robert,

Re: **Proposed Subdivision**

187 Howletts Road, Nicholson

Waiving of Clause 44.06-3 Application Requirements

Please find attached a proposed plan of subdivision for the above property.

The northern and eastern parts of the property are contained within the BMO.

The application seeks a two lot subdivision to create two agricultural land parcels.

Our view is that the subdivision will not increase the risk to life or property, given there is extensive land areas outside of the BMO. Should a dwelling be developed on either lot into the future, it would make sense to locate the dwelling outside of the mapped bushfire risk.

We are therefore seeking a waiving of Clause 44.06-3 application requirements and would ask for your favourable consideration of this request.

Should you wish to discuss please contact me.

Kind Regards,

Aaron Hollow Senior Planner

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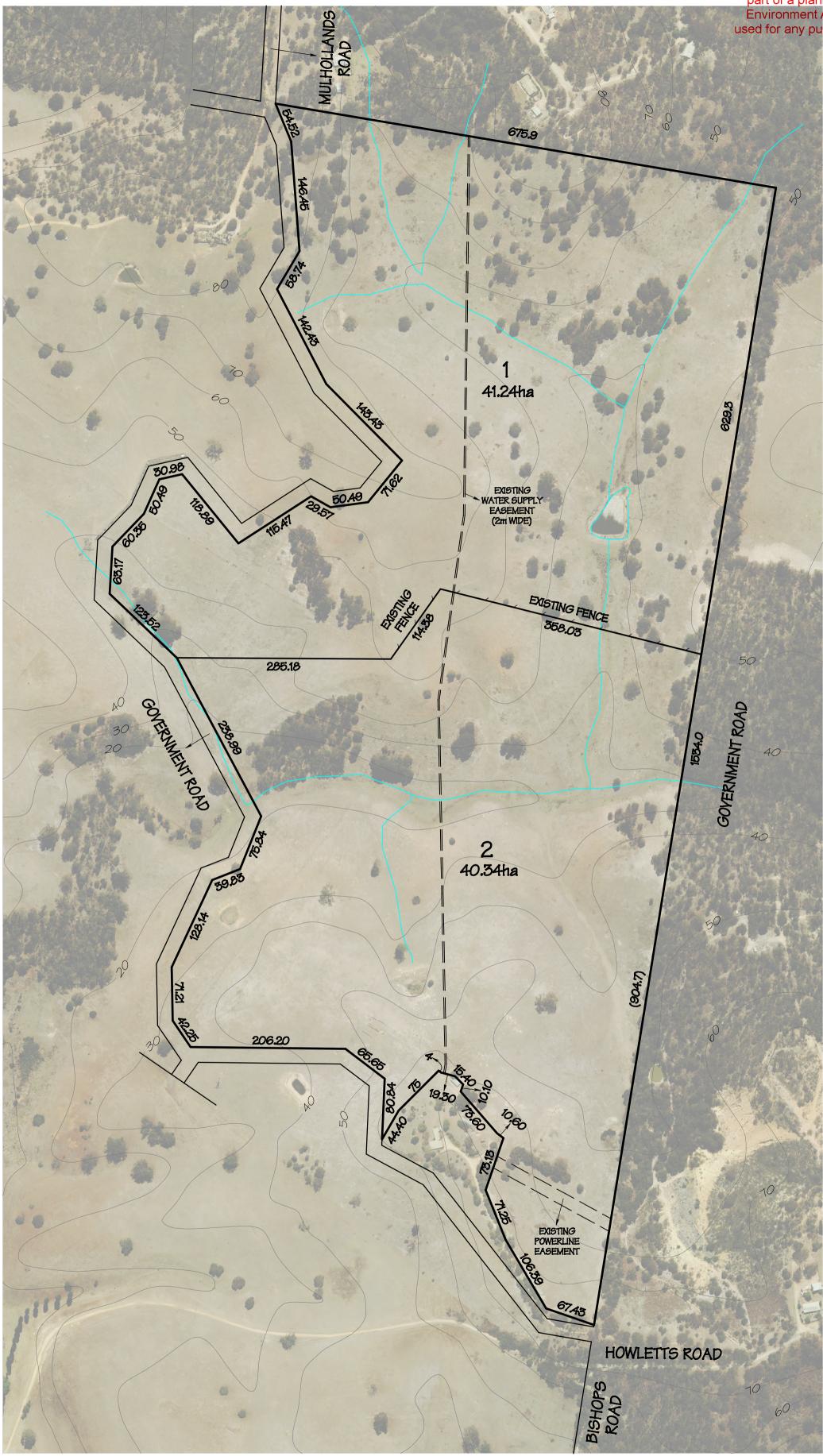


152 Macleod Street, Bairnsdale

PO Box 722, Bairnsdale, Vic, 3875

P: 5152 5011 F: 5152 5705





DOUG PEMBERTON
187 HOWLETTS ROAD, NICHOLSON

Crowther&Sadler Pty.Ltd.

LICENSED SURVEYORS & TOWN PLANNERS
152 MACLEOD STREET, BAIRNSDALE, VIC., 3875
P. (03) 5152 5011 E. contact@crowthersadler.com.au

| FILENAME: Y:\Quotes\Quotes 2023\Pemberton - 187 Howletts Rd, Nicholson\187 Howletts Rd Prop V1.pro

NOTATIONS

AREAS ARE APPROXIMATE ONLY DIMENSIONS ARE SUBJECT TO SURVEY

AREA OF LOT 2 IS BY DEDUCTION

SCALE (SHEET SIZE A2)

SURVEYORS REF.

1: 4000

VERSION 1 - DRAWN 17/11/2023

PROPOSED SUBDIVISION

PARISH OF BUMBERRAH CROWN ALLOTMENT 100B (PART)

LOT 2 ON PS515232H

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