

# 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

## Planning Permit Application

### Applicant Details:

Name:	CROWTHER & SADLER PTY LTD		
Business trading name: (if applicable)			
Email address:	contact@crowthersadler.com.au		
Postal address:	PO BOX 722		
	BAIRNSDALE	Postcode	3875
Phone number: Home:	Work: 5152 5011	Mobile:	

### Owners Details: (if not the applicant)

Name:	F. & L. FLUITSMA		
Business trading name: (if applicable)			
Email address:			
Postal address:			
Phone number: Hor			

### Description of the Land:

Street number:	9	Street name:	THE BILLABONG		
Town:	METUNA	Postcode	3904		
Legal Description:					
Lot Number:	114	<input type="checkbox"/> Lodged plan	<input type="checkbox"/> Title plan	<input checked="" type="checkbox"/> Plan of Subdivision	Number: 517830A
Crown Allotment Number:			Section Number:		
Parish/Township Name:					
Has there been a pre-application meeting:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Officers name: A. HOLLOW		
Your reference number:	18299				

#### 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 submitting documents to Council you are confirming that you have authority to use those documents. In the event that the giving of notice is required pursuant to Section 52 of the Planning and Environment Act 1987, you permit documents submitted as part of this application, including your full contact information to be made available for public viewing on Council's website

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)

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 ABN: 81 957 967 765

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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will the proposal result in a breach of a registered covenant restriction or agreement?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Description of proposal:</b> Describe the use, development or other matter which needs a permit: <div style="border: 1px solid black; padding: 5px; min-height: 100px;"> <p style="font-size: 1.2em; margin: 0;">TWO LOT SUBDIVISION + VARIATION OF RESTRICTIVE COVENANT</p> </div>	
<b>Existing conditions:</b> Describe how the land is used and developed currently: <div style="border: 1px solid black; padding: 5px; min-height: 100px;"> <p style="font-size: 1.2em; margin: 0;">EXISTING DWELLING + ASSOCIATED OUTBUILDING</p> </div>	
Estimated cost of development: Note: You may be required to verify this estimate	\$ —

If you need more space or have more information, please attach with this form.

Please make sure that:

- Form is filled in fully and signed
- The correct fee is paid or payment enclosed
- Attached any supporting information or documents
  - **Required** - Title (must have been generated within the past 30 days)
  - Covenants or Section 173 agreements
  - Site plan/floor - plan/elevations
  - Planning report
  - Supporting information/reports (e.g. – Land Capability Assessment, Bushfire Management Statement, Geotechnical report/waiver)

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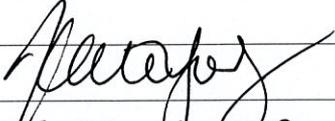
Telephone: (03) 5153 9500  
Fax: (03) 5153 9576  
National Relay Service: 133 677  
Residents' Information Line: 1300 555 886  
ABN: 81 957 967 765

## Declaration:

I declare that I am the applicant and that all the information in this application is true and correct and the owner (if not myself) has been notified of the permit application.

I confirm that I have authority to use the relevant documents.

In the event that the giving of notice is required pursuant to Section 52 of the Planning and Environment Act 1987, I permit documents submitted as part of this application, including my full contact information, to be made available for public viewing on Council's website.

Applicant signature:	
Name:	CROWTHER & SADLER
Date:	5/03/2020

<b>Office Use Only:</b>
Reference Number: AP/D/PP/_____ Method of Payment: <input type="checkbox"/> Cash <input type="checkbox"/> Cheque <input type="checkbox"/> Credit Card <input type="checkbox"/> Eftpos
Amount Paid: \$_____ Receipt Number: _____ Receipt Date: ____/____/____

## Submitting your application:

<b>Electronic</b>	Fax to 03 5153 9576 Email to <a href="mailto:planning@egipps.vic.gov.au">planning@egipps.vic.gov.au</a>
<b>Mail</b>	Post the signed, completed form together with any applicable fees or copies of any documentation to: PO Box 1618 BAIRNSDALE VIC 3875.
<b>In Person</b>	Bring the completed form and supporting documents to any of the following locations;  Service Centre Opening Hours: 8:30am to 5:00pm. Monday to Friday.  Mallacoota Service Centre Opening Hours: Monday and Tuesday 10.00am to 2.00pm Wednesday, Thursday, Friday 2.00pm to 5.00pm

Bairnsdale Corporate Centre: 273 Main Street.  
Bairnsdale Service Centre: 24 Service Street.  
Bairnsdale Business Centre: 34 Pyke Street.  
Lakes Entrance Service Centre: 18 Mechanics Street.  
Omeo Service Centre: 179 Day Avenue.  
Orbost Service Centre: 1 Ruskin Street.  
Paynesville Service Centre: 55 The Esplanade.  
Mallacoota Service Centre: 70 Maurice Avenue

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VOLUME 10941 FOLIO 496

Security no : 124081723804G  
Produced 19/02/2020 11:26 AM

## LAND DESCRIPTION

Lot 114 on Plan of Subdivision 517830A.  
PARENT TITLE Volume 10838 Folio 730  
Created by instrument PS517830A 10/05/2006

## REGISTERED PROPRIETOR

Estate Fee Simple  
Joint Proprietors  
FRANCIS JOHN FLUITSMA  
LYNN FLUITSMA both of NICHOLSON VICTORIA 3882  
AG868617Q 13/11/2009

## ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AK613084Q 25/09/2013  
NATIONAL AUSTRALIA BANK LTD

COVENANT AF799003U 22/04/2008  
Expiry Date 31/12/2025

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  
AB573238L 20/09/2002

AGREEMENT Section 173 Planning and Environment Act 1987  
AC166290V 30/06/2003

AGREEMENT Section 173 Planning and Environment Act 1987  
AD201621Y 26/10/2004

AGREEMENT Section 173 Planning and Environment Act 1987  
AE324337A 01/05/2006

## DIAGRAM LOCATION

SEE PS517830A 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: 9 THE BILLABONG METUNG VIC 3904

## ADMINISTRATIVE NOTICES



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NIL

eCT Control 16089P NATIONAL AUSTRALIA BANK LIMITED  
Effective from 23/10/2016

DOCUMENT END



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Document Type	<b>Plan</b>
Document Identification	<b>PS517830A</b>
Number of Pages (excluding this cover sheet)	<b>4</b>
Document Assembled	<b>19/02/2020 11:29</b>

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<b>PLAN OF SUBDIVISION</b>		STAGE No. /	LTO USE ONLY <b>EDITION 1</b>	PLAN NUMBER <b>PS 517830A</b>
<p style="text-align: center;"><b>LOCATION OF LAND</b></p> <p><b>PARISH:</b> BUMBERRAH <b>TOWNSHIP:</b> _____ <b>SECTION:</b> _____ <b>CROWN ALLOTMENT:</b> 81A &amp; 81E (PARTS) <b>CROWN PORTION:</b> _____</p> <p><b>TITLE REFERENCES:</b> VOLUME 10838 FOLIO 130</p> <p><b>LAST PLAN REFERENCE:</b> LOT G ON PS517828L</p> <p><b>POSTAL ADDRESS:</b> KINGS COVE BOULEVARDE, (At time of subdivision) METUNG, 3904</p> <p><b>MGA84 CO-ORDINATES:</b> E 573 590 (Of approx. centre of land in plan) N 5807 040 <b>ZONE:</b> 55</p>		<p style="text-align: center;"><b>COUNCIL CERTIFICATION AND ENDORSEMENT</b></p> <p><b>COUNCIL NAME:</b> EAST GIPPSLAND SHIRE COUNCIL <b>REF:</b> 196/2003/CRT</p> <p>1. 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.</del>  <del>Date of original certification under Section 6 / /</del>  <del>3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988.</del></p> <p><b>OPEN SPACE</b></p> <p>(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 06 / 05 / 2005  <del>Re-certified under Section 11(7) of the Subdivision Act 1988</del>  Council Delegate  Council seal  Date / /</p>		
<b>VESTING OF ROADS AND/OR RESERVES</b>				
	IDENTIFIER	COUNCIL/BODY/PERSON		
	RI RESERVE No. 1 RESERVE No. 2	EAST GIPPSLAND SHIRE COUNCIL EAST GIPPSLAND SHIRE COUNCIL SPI ELECTRICITY PTY LTD		
<b>NOTATIONS</b>				
<b>STAGING</b> This is / is not a staged subdivision Planning Permit No 03/00334/DS				
<b>DEPTH LIMITATION</b> DOES NOT APPLY				
LOTS 1 TO 101 HAVE BEEN OMITTED FROM THIS PLAN				
SURVEY: THIS PLAN IS / IS NOT BASED ON SURVEY THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s)				
<b>EASEMENT INFORMATION</b>				LTO USE ONLY
LEGEND A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT
				RECEIVED <input checked="" type="checkbox"/>
				DATE 01 / 05 / 2006
				LTO USE ONLY
				PLAN REGISTERED
				TIME 12:48 pm
				DATE 10 / 05 / 2006
				<i>Smalley</i> Assistant Registrar of Titles
				SHEET 1 OF 4 SHEETS
<p><b>Crowther &amp; Sadler Pty. Ltd.</b>          LICENSED SURVEYORS &amp; TOWN PLANNERS          162 MACLEOD STREET, BAIRNSDALE, VIC., 3875          TELEPHONE (03) 6162 6011</p>		<p>LICENSED SURVEYOR PAUL ANTHONY DWYER</p> <p>SIGNATURE ..... DATE 11 / 03 / 2005</p> <p>REF 10509 VERSION 3</p>		<p>DATE 06 / 05 / 2005</p> <p>COUNCIL DELEGATE SIGNATURE</p> <p>ORIGINAL SHEET SIZE A3</p>

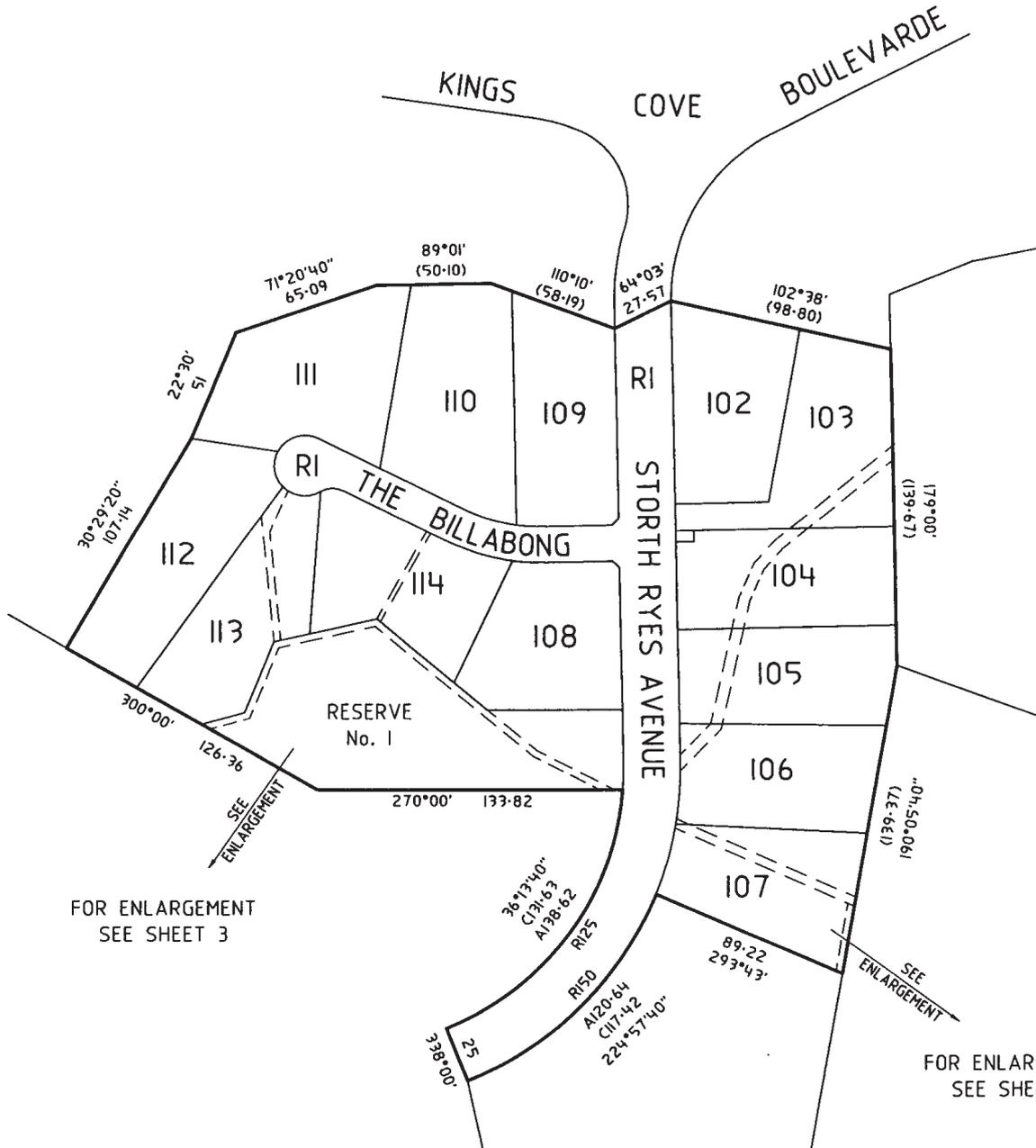
**PLAN OF SUBDIVISION**

STAGE No.

PLAN NUMBER

**PS 517830A**

AMG ZONE 55



FOR ENLARGEMENT SEE SHEET 3

FOR ENLARGEMENT SEE SHEET 4

**Crowther & Sadler Pty. Ltd.**  
 LICENSED SURVEYORS & TOWN PLANNERS  
 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875  
 TELEPHONE (03) 5162 6011

SHEET 2 OF 4 SHEETS

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

LICENSED SURVEYOR ..... PAUL ANTHONY DWYER .....  
 SIGNATURE ..... DATE 11 / 03 / 2005 .....  
 REF 10509 ..... VERSION 3 .....

DATE 06/05/2005  
 COUNCIL DELEGATE SIGNATURE

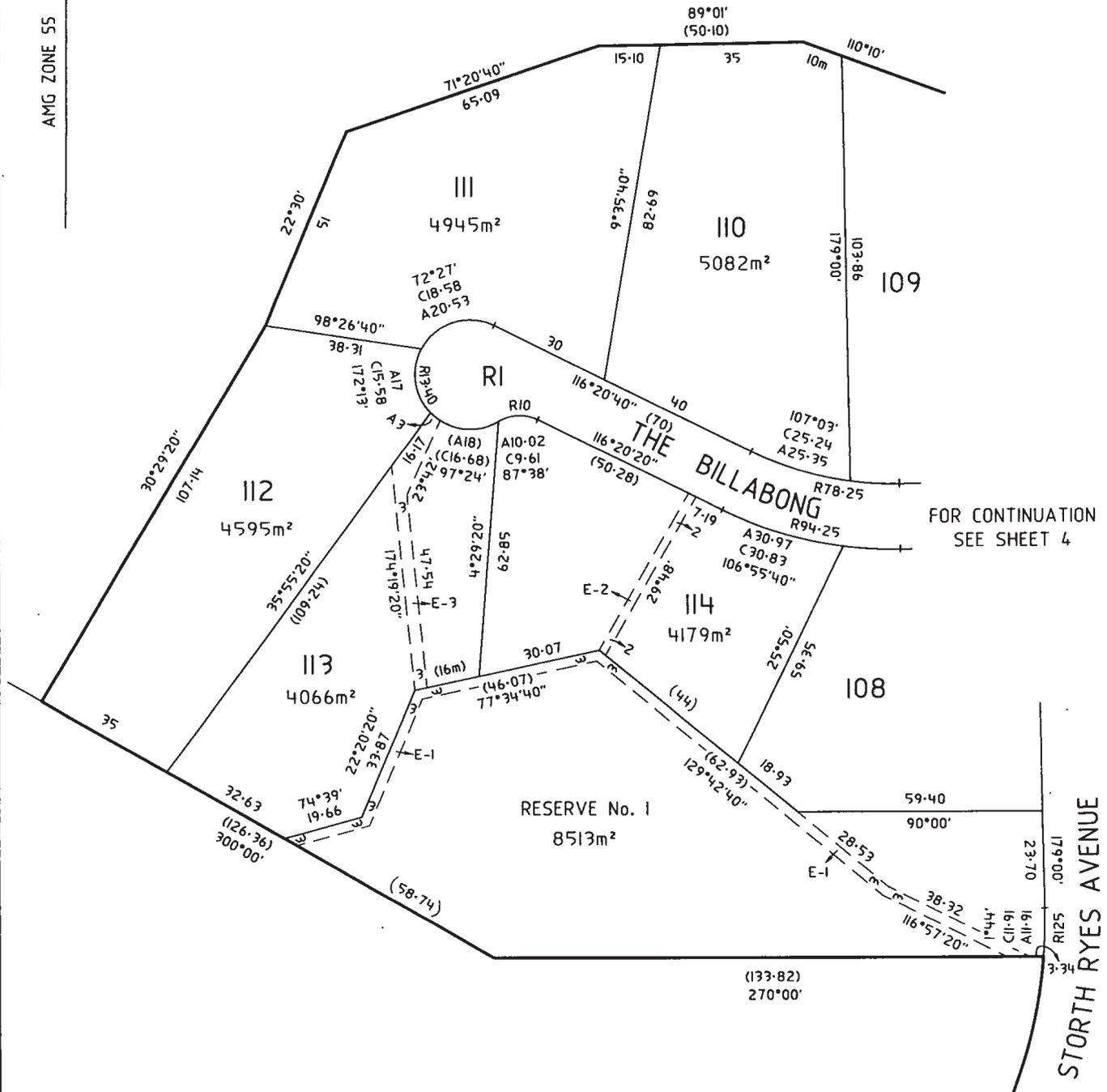
**PLAN OF SUBDIVISION**

STAGE No.

PLAN NUMBER

**PS 517830A**

AMG ZONE 55



FOR CONTINUATION  
SEE SHEET 4

STORTH RYES AVENUE

**Crowther & Sadler Pty. Ltd.**  
 LICENSED SURVEYORS & TOWN PLANNERS  
 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875  
 TELEPHONE (03) 6162 6011

SHEET 3 OF 4 SHEETS

ORIGINAL	SCALE	10 0 10 20 30 40
SHEET SIZE	SCALE	LENGTHS ARE IN METRES
A3	1:1000	

LICENSED SURVEYOR **PAUL ANTHONY DWYER**  
 SIGNATURE ..... DATE 11 / 03 / 2005  
 REF 10509 ..... VERSION 3

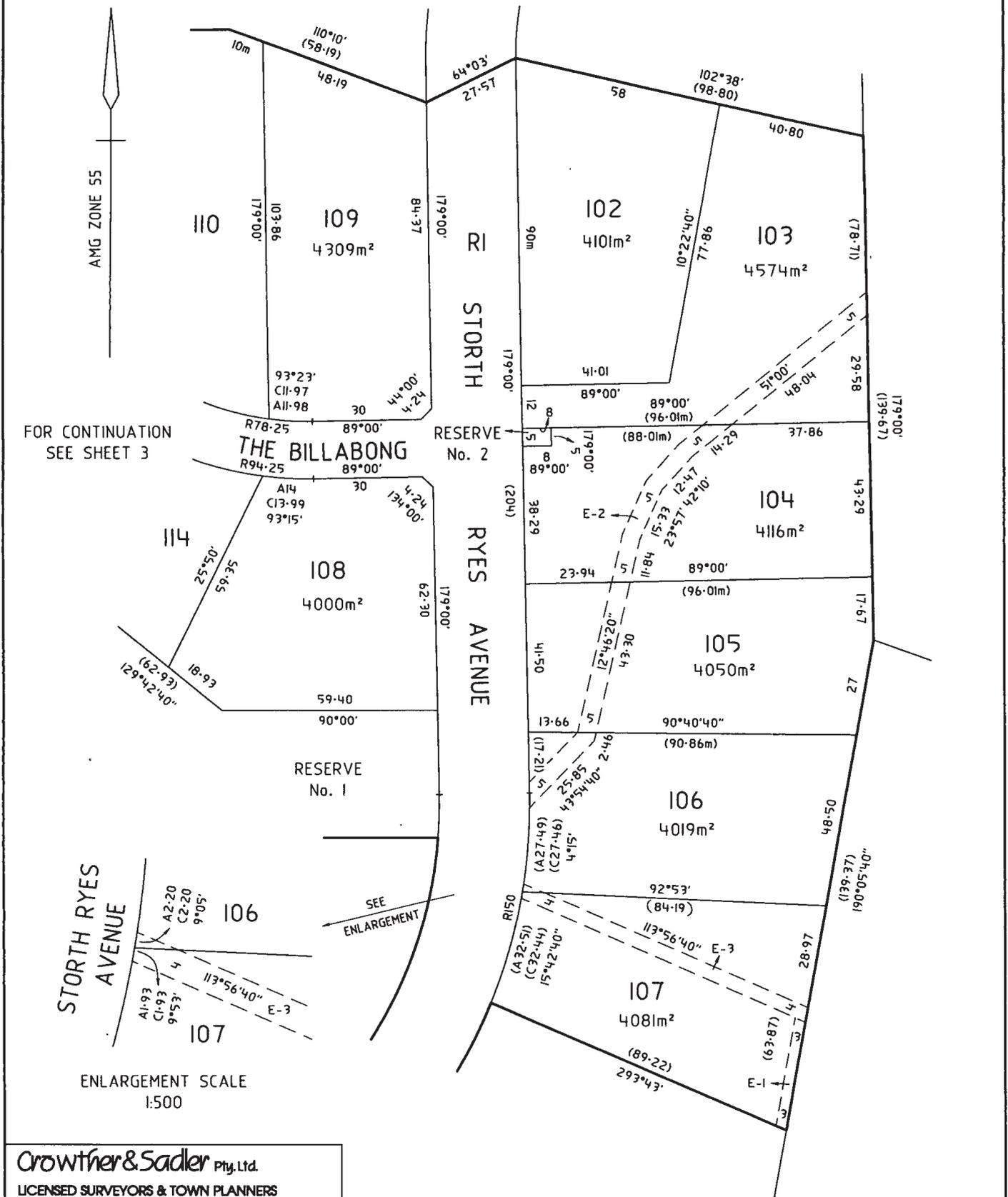
DATE 06 / 05 / 2005  
 COUNCIL DELEGATE SIGNATURE .....

**PLAN OF SUBDIVISION**

STAGE No.

PLAN NUMBER

**PS 517830A**



FOR CONTINUATION  
SEE SHEET 3

STORTH RYES  
AVENUE

ENLARGEMENT SCALE  
1:500

SEE  
ENLARGEMENT

**Crowther & Sadler Pty. Ltd.**  
LICENSED SURVEYORS & TOWN PLANNERS  
162 MACLEOD STREET, BAIRNSDALE, VIC., 3875  
TELEPHONE (03) 5162 6011

SHEET 4 OF 4 SHEETS

ORIGINAL	SCALE
SHEET SIZE	10 0 10 20 30 40
A3	1:1000
	LENGTHS ARE IN METRES

LICENSED SURVEYOR ... PAUL ANTHONY DWYER ...  
SIGNATURE ..... DATE 11/03/2005  
REF 10509 ..... VERSION 3

DATE 06/05/2005  
COUNCIL DELEGATE SIGNATURE



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Document Type	<b>Instrument</b>
Document Identification	<b>AE324337A</b>
Number of Pages (excluding this cover sheet)	<b>8</b>
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LODGED BY Warren, Graham & Murphy,

CODE 1716W VICTORIA

AE324337A



Titles Office Use Only

APPLICATION BY A RESPONSIBLE AUTHORITY under Section 181 Planning and Environment Act 1987 for ENTRY OF A MEMORANDUM OF AGREEMENT under Section 173 of that 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 10838 FOLIO 730

ADDRESS OF LAND 48 KINGS COVE BOULEVARD, METUNG 3904

RESPONSIBLE AUTHORITY EAST GIPPSLAND SHIRE COUNCIL

PLANNING SCHEME EAST GIPPSLAND PLANNING SCHEME

AGREEMENT DATE THE 07 DAY OF March, 2006
AGREEMENT WITH KINGS COVE METUNG PTY LTD

A copy of the Agreement is attached to this Application

Signature of the Responsible Authority [Handwritten Signature]

Name of Officer AARON HOLLAND, MANAGER DEVELOPMENT

Date 07 March 2006

[Handwritten Signature] 1 MAY 2006

**AE324337A**

01/05/2006 \$92.30 173



**EAST GIPPSLAND SHIRE COUNCIL**

Council

- and -

**KINGS COVE METUNG PTY LTD (A.C.N. 006 383 179)**

Owner

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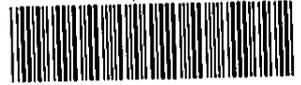
**Agreement under Section 173 of the Planning and  
Environment Act 1987**

---

Subject Land: 48 Kings Cove Boulevard, METUNG VIC 3904  
Certificate of Title Volume 10838 Folio 730  
Lot G on PS 517828L  
"Storth Ryes Avenue" & "The Billabong", Kings Cove  
PLAN OF SUBDIVISION NO. 517830A  
(Stage 5 - Lots 102 - 114)

**AE324337A**

01/05/2006 \$92.30 173



PLANNING AND ENVIRONMENT ACT 1987  
SECTION 173 AGREEMENT

THIS AGREEMENT is made the 7 day of March 2006

BETWEEN:-

EAST GIPPSLAND SHIRE COUNCIL of 273 Main Street, Bairnsdale in the State of Victoria ("Council")

- and -

KINGS COVE METUNG PTY LTD (A.C.N. 006 383 179) of Level 1, 63 The Esplanade, Paynesville, in the said State ("the Owner")

BACKGROUND PROVISIONS:

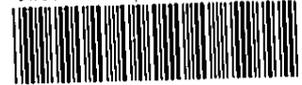
- A. The Owner is the registered proprietor of all that piece of land being the whole of the land described in Certificate of Title **Volume 10838 Folio 730**.
- B. The Owner has made application to the Council for a Planning Permit.
- C. The Council has issued Planning Permit Number **334/2003/P** subject to certain conditions, one of which is that the parties enter into an agreement pursuant to Section 173 of the Planning and Environment Act.

OPERATIVE PROVISIONS:

- 1. The parties confirm the Background Provisions to this agreement.
- 2. This agreement is made pursuant to Section 173 of the Planning & Environment Act.

**AE324337A**

01/05/2006 \$92.30 173

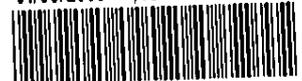


3. The Owner covenants, pursuant to Clause 11 of the Planning Permit, that:-
- (a) The development of each lot approved by the Planning Permit will only be carried out in accordance with the requirements of a Soil and Water Management Plan.
  - (b) Each lot will be developed and used for the purpose of a single dwelling and associated outbuildings in accordance with the document "*Kings Cove - Metung- Guidelines for Construction, Siting of, External Alterations and Additions to Buildings and Structures on Kings Cove Stages 2 to 9, Low Density Residential Zone*", dated December, 2001 (or as amended) (The Document).
  - (c) Any amendment to The Document will be to the satisfaction of the Responsible Authority.
  - (d) The Provision of access to and development of the proposed Public Open Space Reserve shall be to the satisfaction of the Responsible Authority.
  - (e) A copy of the Planning Permit will be attached to and will form part of the Contract of Sale for every lot.
  - (f) Landscaping works around private residences will have regard to the Storth Ryes Landscape Concept Report, which encourages the use of indigenous plant species and recommends appropriate planting objectives and plant lists for site conditions. Known weed or invasive "pest" plants will not be encouraged.

- (g) This Agreement may be ended wholly or in part or as to any of the land by the Responsible Authority with the approval of the responsible authority with the approval of the Minister or by agreement between the Responsible Authority and all persons who are bound by the Agreement.
  - (h) This Agreement will bind the Owner(s) and will run with the land so that all successors in the title are bound by the agreement.
  - (i) This Agreement will be prepared at the Owner's cost and to the satisfaction of the Responsible Authority and must be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.
4. The Owner must not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the land or any part of it without first disclosing to its successors the existence and nature of this agreement.
5. The parties acknowledge and agree that the covenants and agreements entered into by the Owner in this agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the land and which shall bind the Owner, his successors, assignees and transferees, the registered proprietors for the time being of the land and every part thereof.

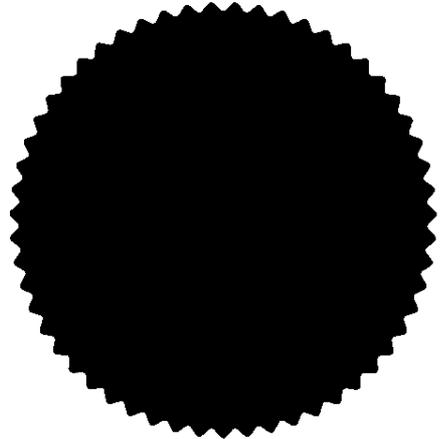
**AE324337A**

01/05/2006 \$92.30 173



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

The COMMON SEAL of EAST GIPPSLAND  
SHIRE COUNCIL was affixed on behalf of )  
Council by authority of the Chief Executive )  
Officer on the 21st day of February )  
, 2000 in exercise of the power delegated )  
under Administrative Procedures (Use of )  
Common Seal) Local Law in the presence of)



.....

..... P. Wiseman .....

The COMMON SEAL of KINGS COVE METUNG )  
PTY LTD was hereunto affixed in )  
accordance with its Constitution in the presence of:- )

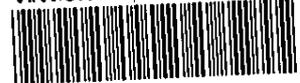


..... Director

..... Director/Secretary

**AE324337A**

01/05/2006 \$92.30 173





### Mortgagee's Consent

GIPPSLAND SECURED INVESTMENTS LIMITED as Mortgagee of Registered Mortgage No. **X256305M** consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

.....  
For & on behalf of the Mortgagee.

**AE324337A**

01/05/2006 \$92.30 173



EAST GIPPSLAND SHIRE COUNCIL

- and -

KINGS COVE METUNG PTY LTD

---

AGREEMENT UNDER SECTION 173  
OF THE PLANNING AND  
ENVIRONMENT  
ACT 1987

---

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REF: ACT;act4020/05  
PS 517830A (Stage 5)

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## Planning Report

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### Two Lot Subdivision and variation of Restrictive Covenant 9 The Billabong, METUNG

Our reference – 18299

19 February 2020



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	Proposed Subdivision Plan (Version 4)	
	Building Envelope Plan	
	Copy of Title	
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*Note: Applicable Planning Application fee is \$1,977.15<sup>1</sup>*

<sup>1</sup> *Planning and Environment (Fees) Regulations 2016*: Regulation 9, Class 18 (\$1,318.10) & Class 21 (\$1,318.10), with 50% of the lesser fee payable pursuant to Regulation 10.

## 1. Introduction

This Planning Report is prepared in support of a proposed two lot subdivision at 9 The Billabong, Metung. The Report addresses the provisions of the Low Density Residential Zone, Incorporated Plan Overlay (Schedule 1), Vegetation Protection Overlay (Schedule 3) and Erosion Management Overlay as contained within the *East Gippsland Planning Scheme*.



*Aerial Image with site outlined (Source: GeoVic)*

## 2. Subject Land & Surrounding Context

The subject land is formally described as Lot 114 on Plan of Subdivision 517830 and is approximately 4,182m<sup>2</sup> in area. The land is developed with an existing dwelling and large outbuilding.

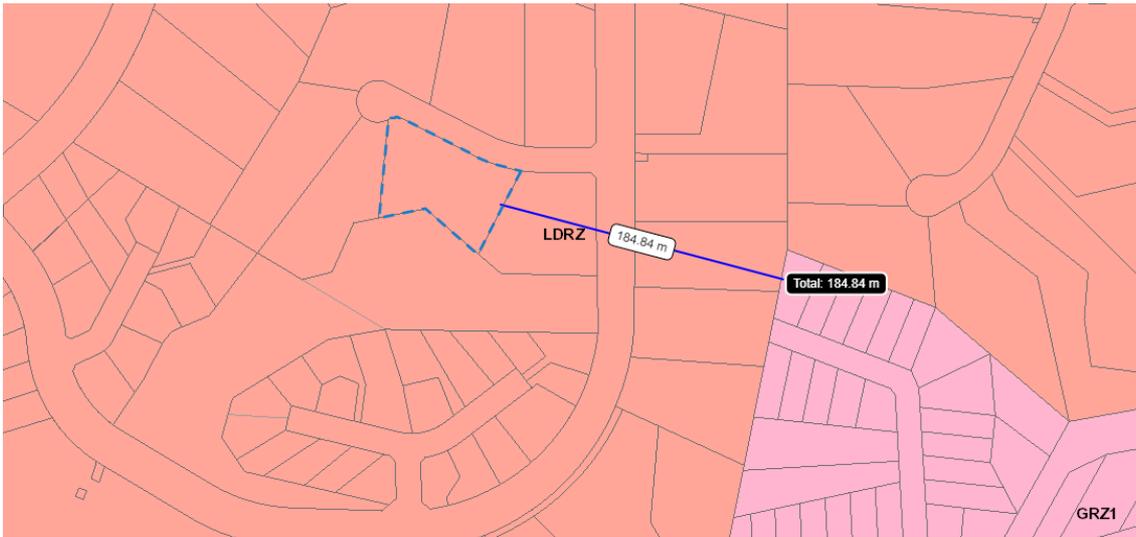


*Existing dwelling and outbuilding (Source: GeoVic 3)*

The existing dwelling is of contemporary design, constructed approximately 7 years ago by Metricon Homes. Landscaping associated with the dwelling is well established in an ornamental context, incorporating retaining wall structures, fruit trees, a swimming pool and associated fencing.

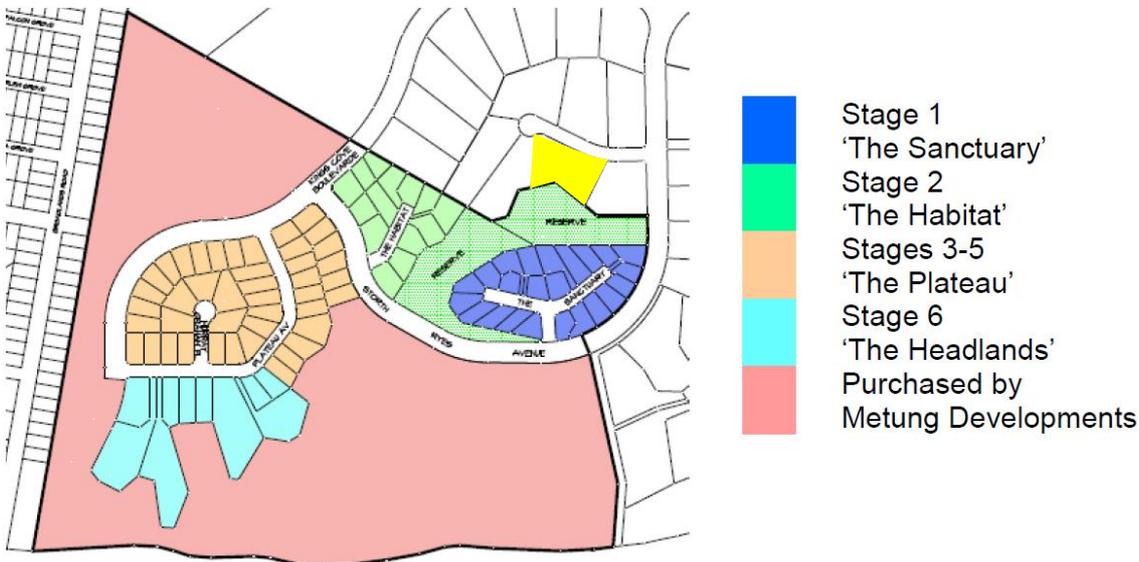
The associated outbuilding is substantial, and incorporates a solar panel array and workshop, in addition to area for the secure parking of vehicles. Both the dwelling and shed are setback approximately 12m from the frontage to The Billabong, with each building provided with independent sealed access.

The subject land forms part of the Kings Cove Estate which provides for substantial variation in lot size across the precinct. The subject land, together with adjoining properties to the north, east and west are included within the Low Density Residential Zone ('LDRZ'). Smaller residential lots are located to the south of the subject land. Land to the south-east is contained within the General Residential Zone, located approximately 185m from the subject land.



Extract from Zone mapping (Source: VicPlan)

Land to the south has been progressively developed in accordance with Clause 51.01 of the Planning Scheme relating to *Specific Sites and Exclusions*. Utilising approvals provided within the *Resort Hotel/Motel & Convention Facility Development Schedule*, eight stages of subdivision have been completed by three separate property developers over the last thirteen years, creating lot sizes varying in area, shape and topography.



Land affected by the Resort Hotel/Motel & Convention Facility Development Schedule, with the subject land highlighted in yellow

This unusual statutory context results in great diversity in allotment size. Properties to the north and immediate east of the subject land typically have an area ranging from 4,000-5,000m<sup>2</sup>. Just 50m south of the subject land sees lot sizes of predominantly between 600m<sup>2</sup> and 850m<sup>2</sup>. To the west, lot areas vary significantly, between 800m<sup>2</sup> and 4,000m<sup>2</sup>.



**Agreement AD201621Y** was registered on 26 October 2004 as a Condition of Planning Permit 334/2003/P that approved, amongst other things, the subdivision known as Stage 1B. At the time the Agreement was registered on Title, the subject land was a balance cell for future development, formally described as Lot G on PS517828L. The Agreement was registered on the Parent Title, despite the land subject to the Agreement clearly defined at Clause 1.7 as Lot F on PS509057V (Vol.10743 Fol.418).

**Agreement AE324337A** was registered on 1 May 2006 as a Condition of Planning Permit 334/2003/P that approved, amongst other things, the subdivision known as Stage 5 that created thirteen lots including the subject land (Lots 102-114 inclusive on Plan of Subdivision 517830A). The obligations of the Agreement that have ongoing relevance to the subject land are summarised as follows:

- Lots to be development in accordance with the endorsed Soil and Water Management Plan (3(a));
- Lots to be developed and used for a single dwelling and associated outbuilding in accordance with Design Guidelines (3(b)); and
- Landscaping of individual lots to have regard to the Storth Ryes Landscape Concept Report (3(f)).

**Covenant AF799003U** was registered on 22 April 2008 at the time of transfer, and imposes relatively standard obligations for amenity protection, including the prohibition of:

- Commercial breeding or boarding;
- Training kennels;
- Keeping of poultry or horses;
- Motor vehicles exceeding 5 tonne gross vehicle mass (except for the purposes of loading or unloading or construction vehicles);
- Boats, caravans or similar, unless screened from view;
- Services and infrastructure normal to a dwelling (e.g. clotheslines, bins, water tanks, etc) unless reasonably screened from view.

The Covenant also requires any buildings or structures (including fences) to be approved in writing by the liquidated Developer, Kings Cove Metung Pty. Ltd. or its nominee. We understand there is currently no nominee in place to oversee this task, and with Kings Cove Metung Pty. Ltd. formally wound up, no mechanism available by which a nomination could occur. The Covenant will expire on 31 December 2025.

Of the four Agreements registered on title, only one is considered to have ongoing force or effect, being Agreement AE324337A. For the remaining three Agreement (AB573238L, AC166290V and AD201621Y), the description of the subject land within the definitions provided by each Agreement deliberately excludes the subject land.

Furthermore, each of these three Agreements contain the following identical Clause that could be interpreted to preclude further development:

*“the Subject Land shall only be developed in accordance with the Endorsed Plans and the conditions of the Planning Permit or any subsequent amendment to the permit approved by the Council.”*

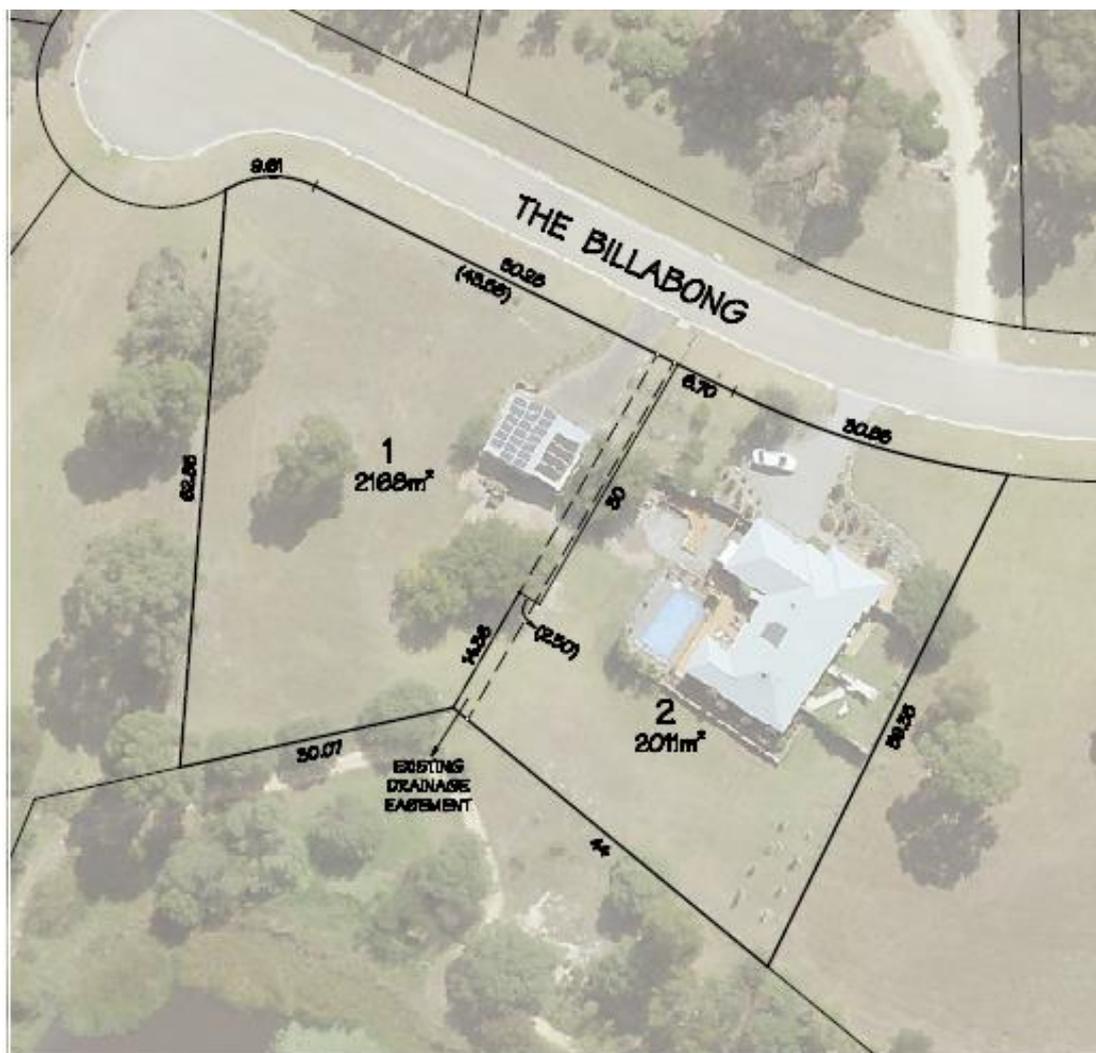
By virtue of the fact that each of these Agreements have not prevented further subdivision on multiple occasions, we are led to conclude that Council has interpreted each Agreement in a manner that does not prevent the further subdivision of land that is not defined as the Subject Land, despite the agreement being registered on title.

### 3. The Application & Proposal

The subject Application seeks approval for a two lot subdivision to create an allotment of approximately 2,011m<sup>2</sup> containing the existing dwelling, with a predominantly vacant allotment of approximately 2,168m<sup>2</sup> containing the existing outbuilding.

Each of the proposed lots exceeds the minimum subdivision area of 2,000m<sup>2</sup> specified for the Low Density Residential Zone, given each lot will be connected to reticulated sewerage. The proposed subdivision represents infill development that makes good use of existing investment in infrastructure, as anticipated with the gazettal of Amendment VC100 on 15 July 2013.

Each allotment will have a generous frontage to The Billabong, and will be provided with an established point of vehicle access. Each lot can be efficiently and economically serviced utilising existing infrastructure available within the precinct.



Extract from Proposed Subdivision Plan (Version 4)

It is acknowledged that the subdivision as proposed will result in the creation of a lot containing an outbuilding, the use of which for a store would be prohibited under the Low Density Residential Zone without a dwelling being developed on the same land. To avoid the need to remove this purpose built structure, the execution of a Section 173 Agreement is proposed to prevent the use of the outbuilding for the purposes of a dwelling until such time as a dwelling has been lawfully established on the same land. This is an approach that has been implemented elsewhere, and is considered to achieve a logical and orderly outcome that seeks to make best use of existing investment in infrastructure.

The Application is supported by a Building Envelope Plan that demonstrates the proposed Lot 1 contains appropriate cleared area, sufficiently separated from the existing outbuilding, to facilitate the future development of a dwelling.

The future siting of a dwelling on a vacant allotment may require the removal of planted vegetation, however that is not the premise at this time. Vegetation removal does not form part of the subject Application. Any future vegetation removal would require consideration in accordance with the Vegetation Protection Overlay (Schedule 3).

To achieve an orderly outcome, the subject Application also proposes the variation of the Restrictive Covenant as applying to the subject land to delete Clause b), severing the connection to the now liquidated Developer, Kings Cove Metung Pty. Ltd. In the absence of a nominee to perform the function of a review panel, there is no ability to satisfy the obligation. To provide certainty and facilitate development, the proposed removal of this Clause is considered a logical approach.

The Application is also premised upon the amendment of Agreement AE324337A to delete Clause 3(b), given the reference to Development Guidelines imposed by the liquidated Developer. Should the subject Application be determined favourably, it would be our expectation that a Condition of Permit require the amendment of the Agreement to the satisfaction of the Responsible Authority prior to the issue of Statement of Compliance.

The subject Application triggers approval at the following Clauses of the *East Gippsland Planning Scheme*:

- **Clause 32.03-3** for subdivision in accordance with the Low Density Residential Zone;
- **Clause 44.01-5**; for subdivision in accordance with the Erosion Management Overlay; and
- **Clause 52.02** for the variation of a Restrictive Covenant in accordance with Particular Provisions relating to Easements, Restrictions and Reserves.



## 5. Planning Policy

State and Local Planning Policy is addressed below in support of the proposed development.

### 5.1 Planning Policy Framework

Clause 11-01-1S relating to *Settlement* seeks to promote sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements. The subject land forms part of an existing residential precinct, located within the defined settlement boundary for Metung. The site is well located, only a short drive from the village centre, and is serviced by reticulated water, power, sewer and telecommunications.

As the subject land is mapped as being Bushfire Prone, Clause 13.02-1S relating to *Bushfire Planning* has been considered. Each lot contains sufficient area to accommodate appropriate defensible space to mitigate risk to life and property. Vegetation contained within properties to the north, east and west of the subject land is able to be classified as 'low threat' given its managed status. Appropriate offsets from the vegetation within the reserve to the south can be achieved.

The objective at Clause 12.01-2S relating to *Native Vegetation Management* seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. Whilst the proposed subdivision will result in the creation of lots less than 0.4ha in area, all vegetation contained on site, as all mature trees within the Kings Cove estate, has been planted and is therefore exempt from consideration of Clause 52.17. Each lot contains sufficient area to accommodate future development without the need to remove vegetation.

Consideration has been given to Clause 13.04-2S relating to *Erosion and landslip* as the subject land is mapped as being affected by the provisions of the Erosion Management Overlay. The objective to protect areas prone to land degradation processes is upheld as demonstrated by the accompanying Geotechnical Risk Assessment which summarises the risk of erosion as negligible.

The proposal responds positively to the provisions of Clause 15 relating to *Built Environment & Heritage*, providing an additional residential opportunity within a functional, accessible, safe and diverse physical and social environment. The proposal responds positively as it will provide opportunity for further development within an existing residential precinct which has good access to services and community facilities.

The proposed subdivision adheres to objectives relating to *Subdivision Design* (Clause 15.01-3S) and relevant supporting strategies as the scheme of subdivision has been designed to ensure each allotment is capable of accommodating appropriate future residential development. The proposal provides for the inclusion of an additional allotment within an attractive, safe, accessible, diverse and sustainable neighbourhood.

The proposal provides for an additional allotment of a generous size having regard for the surrounding, diverse *neighbourhood character* (Clause 15.01-5S), with development able to retain the open feel and low scale of established development.

The proposal responds positively to strategies relating to *Housing diversity* (Clause 16.01-3S) which encourages a range of housing types to meet the varied needs and preferences of the community.

## **5.2 Local Planning Policy**

Clause 21.05-2 relating to *Erosion* seeks to ensure that land use and development is directed to locations and carried out in ways that minimise its vulnerability to the threat of erosion. The objective and strategies to this Clause are addressed through the inclusion of a Geotechnical Risk Assessment which has been provided in support of the proposal.

The Objective to Clause 21.05-3 relating to *Bushfire* seeks to ensure that land use and development is directed to locations and carried out in ways that minimise its vulnerability to the threat of fire. The threat of fire is minimised in this instance as the property is located within an established settlement comprised of managed properties. Careful consideration has also been given to the design of the proposed subdivision which achieves appropriate separation from classifiable vegetation to facilitate the future construction of a dwelling with associated defensible space.

Local Planning Policy relating to *Metung* identifies the town's role as a strong residential community on the Gippsland Lakes. The proposal will not undermine the environmental and landscape values of the precinct, with the subdivision achieving an attractive outcome having regard for the context.

The subject land is well located to take advantage of the existing pedestrian pathway network that connects the Kings Cove estate to the broader Metung area, and is consistent with strategies that acknowledge the low-density residential use of the precinct.

## 6. Planning Elements

The planning zone and overlays as affecting the subject land are addressed below.

### 6.1 Low Density Residential Zone

The subject Application is entirely consistent with the purpose of the Low Density Residential Zone ('LDRZ') by providing for low-density residential development in a manner consistent with the Municipal Planning Strategy and the Planning Policy Framework.

The creation of two lots each exceeding 0.2 hectares in area is entirely consistent with the minimum lot size prescribed at Clause 32.03-3, given the subject land is connected to reticulated sewer.

The proposal utilises the amendment to zone provisions facilitated through Amendment VC100 that sought to make best use of existing investment in sewerage infrastructure, achieving positive public health and waterway outcomes by avoiding onsite wastewater disposal. The proposal is entirely consistent with the primary objective of VC100 which sought to *"provide for the fair, orderly, economic and sustainable use and development of land"*.<sup>2</sup>

The size and dimensions of the proposed allotments are able to be easily integrated within the surrounding subdivision pattern which ranges from larger lots to the north to smaller, conventional residential allotments to the south. The subdivision layout as proposed represents a transition between densities and topography, bleeding in a southerly direction towards the medium density housing as approved by the Schedule to Clause 51.01.

The Building Envelope Plan accompanying the Application demonstrates how the proposed vacant lot can be developed for the purposes of low-density residential living, making good use of the existing shed, solar array and access provisions without impacting established landscaping. The property retains sufficient area for further landscaping, without requiring agricultural techniques and equipment for the purposes of maintenance.

The following table provides an overview of the proposal's compliance with the relevant requirements of Clause 56, in accordance with the decision guidelines of Clause 32.03-6.

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<sup>2</sup> Amendment VC100 Explanatory Report, [file:///C:/Users/User/Downloads/adc0fd91-6c70-e811-a857-000d3ad11148\\_9dca2553-6afc-4675-be95-e33dda91e66b\\_VC100%20Explanatory%20Report%20Approval%20Gazetted.pdf](file:///C:/Users/User/Downloads/adc0fd91-6c70-e811-a857-000d3ad11148_9dca2553-6afc-4675-be95-e33dda91e66b_VC100%20Explanatory%20Report%20Approval%20Gazetted.pdf)

<b>Objective</b>	<b>Design Response</b>
<p><b>56.07-1</b> <b>Drinking water supply objectives</b></p>	<p><b>Complies</b></p> <p>The subject land is currently connected to reticulated water. A new water connection would be made available to Proposed Lot 1 prior to the issue of Statement of Compliance.</p>
<p><b>56.07-2</b> <b>Reused and recycled water objective</b></p>	<p><b>Not applicable</b></p> <p>East Gippsland Water do not require the provision of reused and recycled water supply systems at this time, and there is no infrastructure available within the locality.</p>
<p><b>56.07-3</b> <b>Wastewater management objective</b></p>	<p><b>Complies</b></p> <p>The subject land is currently connected to reticulated sewer. A new sewer connection would be made available to Proposed Lot 1 prior to the issue of Statement of Compliance.</p>
<p><b>56.07-4</b> <b>Urban run-off management objectives</b></p>	<p><b>Complies</b></p> <p>The subject land is located immediately adjacent to an existing bioremediation basin which has been designed in accordance with best practice guidelines for urban stormwater management.</p> <p>The sloping landform, good coverage of vegetation and other permeable surfaces ensures there are no impediments to drainage. The existing drainage easement that runs parallel to the proposed subdivision boundary will remain unaltered.</p> <p>The existing dwelling is currently connected to the legal point of discharge, with any future development able to comply with regulatory requirements.</p> <p>We note that land included within the LDRZ are excluded from the provisions of Clause 53.18 relating to Stormwater Management in Urban Development, which is understood to be linked to the larger allotment sizes and extent of permeability available on site.</p>





In response to the provisions of the Incorporated Plan Overlay, our position is that a Planning Permit may be granted, should Council determine the Application favourably, given an incorporated plan has been incorporated into the Planning Scheme in accordance with the requirements of Schedule 1 to the Overlay. The proposed layout is generally in accordance with the Incorporated Plan.

### 6.3 Erosion Management Overlay

The subject Application requires consideration of the Erosion Management Overlay for subdivision.

There is no evidence of erosion, landslip or other degradation on the subject land. The subject land has a good coverage of grass, with a gentle slope downward (approximately 6 degrees or 10% slope) in a southerly direction towards the adjacent bioremediation basin.

The extent of earthworks will be minimised to that associated with the installation of domestic services normal to a dwelling, which is an exempt activity pursuant to Clause 62.02-2, dot point 13. No other earthworks are proposed.

The Application is supported by a Geotechnical Risk Assessment prepared by Intrax for the subject land. This Assessment found the subject land to have a low risk site classification, with silty sands with little or no ground movement from moisture changes. The expected range of movement under Australian Standard AS2870 is zero. Soils were not of a moderate, highly or extremely reactive nature, meaning there will be no additional requirements with respect to construction techniques to be applied at the time of development of the proposed vacant lot.

The proposed subdivision will not give rise to an increased risk of geotechnical hazard to life or property.

The future development of Proposed Lot 1 could be undertaken in a manner that avoids cut or fill exceeding 1 metre in depth. The proposed building envelope is generously proportioned to accommodate any retaining structures (subject to further Council approval) should the need arise.

## 6.4 Easements, Restrictions and Reserves

The subject Application triggers consideration of Clause 52.02 to enable the variation of the Covenant under Section 23 of the *Subdivision Act 1988*.

The existing Covenant is proposed to be varied to delete Clause b) in its entirety. Clause b) currently states the following:

*“Construct or externally alter or allow to be constructed or externally altered on the land hereby transferred any building or structure (including fences) other than in accordance with plans and specifications previously submitted to and approved in writing by the Transferrer, Kings Cove Metung Pty. Ltd., or its nominee”*

The proposed variation is considered an appropriate and logical response to the current impasse being experienced by landholders at various locations in Metung and Paynesville, who have a similar requirement registered on Title with no mechanism available to satisfy the obligations.

There is no ability to obtain approval in writing from a dissolved Company with no nominee, bringing the validity of the clause into doubt due to a lack of fairness or reasonableness.

Whilst Council has the ability to pursue a Planning Scheme Amendment to vary the affected Covenants as applying to parts of the Kings Cove and Riviera Properties estates, consistent with the approach taken for Amendment C128, in this instance the variation of the Covenant utilising the Planning Application process is considered a more efficient method.

The proposed variation will not detract from or discount the amenity of existing residents, with the elements of the Restrictive Covenant relating to the keeping of animals, parking of large vehicles, and screening of services and infrastructure and the like to be retained without change.

## 7. Conclusion

The proposed two lot subdivision at 9 The Billabong, Metung is considered to accord with all relevant provisions of the Low Density Residential Zone, Erosion Management Overlay and relevant Particular Provisions, and is generally in accordance with the Incorporated Plan as forming part of the *East Gippsland Planning Scheme*.

The proposal is consistent with Planning Policy Framework and Local Policy and has been designed to make best use of existing investment in infrastructure whilst also complementing the surrounding character.

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



MICHAEL SADLER  
Managing Director

**GROUP FOUR  
BUILDING  
SURVEYORS**

**BUILDING PERMIT**

ISSUED 04/09/2012

NUMBER BS-U 1419-20122587/0

RELEVANT BUILDING SURVEYOR

Gary Gommers

BS-U 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED



## GEOTECHNICAL SITE ASSESSMENT

**DATE:** 11.04.2012

**DATE OF FIELDWORK:** 02.04.2012

**JOB NUMBER:** 37790

**SITE ADDRESS:** LOT 114 NO 9 THE BILLABONG,  
METUNG

**CLIENT:** METRICON HOMES  
501 BLACKBURN ROAD  
MT WAVERLEY, 3149

### SUMMARY OF ASSESSMENT RESULTS

<b>Site Classification:</b>	"A" in accordance with AS2870-2011
<b>Wind Rating:</b>	"N2" in accordance with AS4055-2006
<b>Bushfire Attack Level:</b>	"12.5" in accordance with AS3959-2009

Structural  
 Geotechnical  
 Civil  
 Residential  
 Forensic  
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11 April 2012

**BUILDING PERMIT**

ISSUED 04/09/2012  
NUMBER BS-U 1419-20122537/0

RELEVANT DOCUMENTS ARE SUBJECT TO THE 'INTRAX TERMS AND CONDITIONS' AND 'INTRAX TERMS AND CONDITIONS- NAC' DOCUMENTS.

ALL DOCUMENTS ARE AVAILABLE ON OUR WEBSITE.

BS-U 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

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### Document Template

Template V 2.0 released 27.11.2011.

### Document Revision History

Date	Version	Author	Comments
11.04.2012	V 2.0	Lisa Lloyd	First Edition

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11 April 2012

**BUILDING PERMIT**

ISSUED 04/09/2012

NUMBER BS-U 1419-20122537/0

RELEVANT BUILDING SURVEYOR

**Gary Gommers**

BS-U 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

**1 Executive Summary**

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11 April 2012

**BUILDING PERMIT**  
**1 Executive Summary**

ISSUED 02/04/2012

NUMBER BS-U 1419-20122537/0

RELEVANT BUILDING SURVEYOR

Intrax Consulting Engineers Pty Ltd

On page 6

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

Intrax Consulting Engineers Pty Ltd (Intrax) have been engaged by the client to conduct a geotechnical assessment of the subsurface conditions at **LOT 114 NO 9 THE BILLABONG, METUNG** as seen in figure 1, with a view to report on the Site Classification and Footing Recommendations for a single/double storey articulated brick veneer dwelling.

The fieldwork for this project was completed on **02.04.2012**, and comprised of **THREE (3)** boreholes in the locations as shown on the site plan, presented in Appendix A. The boreholes were advanced to the depths as indicated on the borehole logs, refer to Appendix B. This site has been classified "A" in accordance with AS2870-2011 "Residential Slabs and Footings - Construction". As requested a Wind Rating was conducted for this site with the assessment resulting as **N2**. The Bushfire Attack Level (BAL) rating for this site has been assessed to be **12.5**, refer to Appendix C.

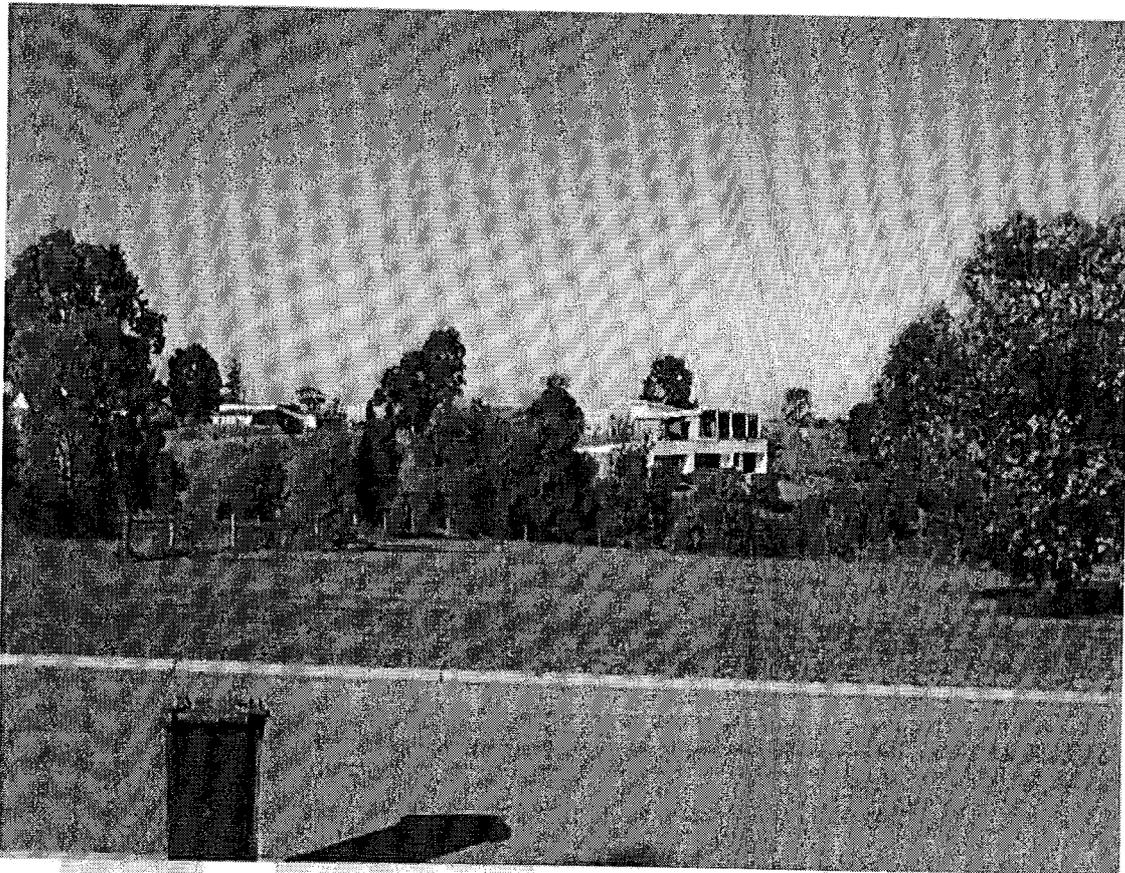


Figure 1.

**BUILDING PERMIT RESULTS OF FIELD ASSESSMENT**

ISSUED 04/09/2012

NUMBER BS-U 1419-20122537/0

RELEVANT BUILDING SURVEYOR

Gary Gommers

BS(U) 1419

TERMINATION DATE

BUSHFIRE PRECAUTION REQUIRED

**2.1 Field Investigation And Site Geology**

THREE (3) boreholes were advanced using a **MECHANICAL AUGER** to the depths indicated on the borehole logs (refer to Appendix B). These boreholes were positioned as indicated on the site plan (refer to Appendix A) along with details of the site conditions such as slope, trees, and existing buildings. The relatively disturbed material obtained was logged and then classified in accordance with AS2870-2011. Full details of the observed subsurface material and conditions have been recorded on the borehole logs and presented in Appendix B. The available Geological Survey Maps showed the site to be underlain by **TERTIARY aged SEDIMENTARY deposits**. The subsurface profile encountered in the boreholes is considered to be consistent with the geological map indications.

**2.2 Site Classification**

In accordance with AS2870-2011 "Residential Slabs and Footings - Construction" a site classification of Class "A" is applicable to this site.

On the basis of the findings in this investigation, including visual-tactile identification of the soil profile combined with this writer's local knowledge and experience, the characteristic surface movement (Ys) on this site, under normal condition, has been estimated to be **0mm**.

**2.3 Alternate Site Classification**

Subject to the implementation of the new standard by the BCA, an alternate classification under AS2870-1996 of Class "A" may be adopted for this site. All other conditions as detailed in this report apply to this classification.

**2.3.1 Additional Notes Relating To This Site Classification**

This assessment is based on a limited geotechnical assessment. Should the subsurface conditions encountered during construction vary from those described above, further geotechnical advice should be sought from Intrax. Based on experience with similar soils and with reference to Table D1 of AS2870-2011. The use of standard footings as presented in AS2870-2011 is only applicable to building with a loading and a construction style similar to that of a residential dwelling. It is recommended that footing excavations and subgrade conditions are consistent with those on which the design recommendations are based.

**IMPORTANT NOTE:**

**Numerous trees are present over the building area on this site - trees and tree roots/material will need to be removed over the proposed building area. Any holes resulting from the removal of trees need to be filled. Any soft or loose material that does not respond to compaction should be excavated to achieve a firm working base then, holes should be filled with non-porous fill compacted in 300mm (maximum) layers.**

**2.4 Wind Rating**

At the time of our site visit, an investigation of this site and the surrounding terrain was conducted to determine the Wind Classification Design Speed. The maximum design gust wind speed for this site is **40m/s** based on wind speed calculation (Vh) for use in ultimate limit state design only calculated in accordance with the limitations as in AS4055, Section 1.2.

The Wind Rating for this site has been assessed as **N2**.

**3 Footing Recommendations**

**BUILDING PERMIT**

ISSUED 04/09/2012

NUMBER BS-U 1419-20122537/0

RELEVANT BUILDING REGULATIONS

CLASSIFICATION: A  
BS-U 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

The following recommendations assume that aspects of site drainage, paving and landscaping are taken into account and implemented in accordance with CSIRO Building Technology File (BTF) 18 "Foundation Maintenance and Performance: A Homeowner's Guide".

If you are not familiar with the above CSIRO guide please refer to [www.publish.csiro.au](http://www.publish.csiro.au). Should you have any difficulties with this please do not hesitate to contact Intrax for a copy.

**3.1 Stiffened Raft Slab**

A stiffened raft footing system appropriate to a class "A" classification may be appropriate. Refer to AS 2870-2011 Fig. 3.1.

Edge and load bearing beams should be founded in firm natural bearing materials and penetrate through any fill material and founded at least 100mm into the recommended founding material.

Slab panels and non-heavily loaded internal beams can be founded in the natural soil profile or in compacted surface filling. Compacted filling used to raise levels beneath panels must be placed and compacted as per specifications for Controlled or Rolled fill in accordance with section 6.4.2 AS2870-2011. Total fill depths beneath slab panels and internal stiffening (including any existing filling on site) must not exceed that specified in clause 6.4.2 AS 2870-2011.

**TABLE 1: STIFFENED RAFT SLAB FOUNDING RECOMMENDATIONS**

Borehole	Minimum Founding Depth (mm) for slab edge beams & heavily loaded internal beams	Founding Material	Maximum Allowable Bearing Capacity (kPa)
1	150	NATURAL MATERIAL	60
2	150	NATURAL MATERIAL	60
3	150	NATURAL MATERIAL	60

**3.2 Strip and Stumps Footing System**

Strip and stump footings should be proportioned in accordance with a class "A" classification and penetrate through any surface fill and to be founded a minimum 100mm into the recommended founding material. At the borehole sites, the suitable foundation levels for the strip and/or pad footings are as shown below:

**TABLE 2: STRIP FOOTING SYSTEM FOUNDING RECOMMENDATIONS**

Borehole	Minimum Founding Depth (mm)		Founding Material	Maximum Allowable Bearing Capacity (kPa)
	Strip	Pads		
1	375	400	SILTY SAND	100
2	375	400	SILTY SAND	100
3	375	400	SILTY SAND	100

*The above minimum depths were based on the existing ground surface at the time of the site investigations and cutting or filling may alter these founding depths. Furthermore, local deepening of trenches may be necessary if soft spots are encountered.*

**GROUP FOUR  
BUILDING  
SURVEYORS**

Intrax Consulting Engineers Pty Ltd

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11 April 2012

**3.3 Waffle Slab  
BUILDING PERMIT**

ISSUED 04/09/2012

NUMBER BS-U 1419

RELEVANT BUILDING SURVEYOR

**3.3.1 Where Fill Does Not Exceed 300mm**

BS-U 1419

TERMINATION OVER DEPTH

BUSHFIRE PROTECTION REQUIRED

If existing site fill and compacted fill material makes up part or all of the foundation, this fill must be in accordance with AS2870-2011, Cl.6.4.2.

**3.3.2 Where Fill Does Exceed 300mm**

Where the overall depth of fill exceeds 300mm and/or is not compacted as per the requirements of AS2870-2011 Cl.6.4.2, the waffle slab is to be supported on concrete piers.

For single storey construction, the location of piers and reinforcement is to be in accordance with AS2870-2011 Cl.3.2.

For double-storey construction, the location and spacing of piers and external rib reinforcement is to be determined during design by a qualified engineer.

If the existing fill on site is "Controlled Fill" in accordance with AS2870-2011 Cl.6.4.2 (a), a "slab-on-fill" design may be adopted where the waffle footings are founded entirely on the existing fill material. However, this office must undertake an assessment of the fill or be supplied with a suitable compaction report to utilise this design approach.

## **4 Construction Techniques & Difficulties**

### **BUILDING PERMIT**

ISSUED 04/09/2012

NUMBER BS-U 1419-20122537/0

#### **4.1 General**

RELEVANT BUILDING SURVEYOR

Gary Gomer

BS-U 1419

TERMITE PROTECTION REQUIRED  
BUSHFIRE PROTECTION REQUIRED

The presence of groundwater with surface soils may lead to construction difficulties during wet winter and spring months.

• Surface filling of natural sands may cause collapse of side of excavations.

• Any filling placed across the site to assist in levelling prior to slab construction should conform with requirement for either Controlled or Rolled fill as outlined in clause 6.4.2 AS 2870-2011.

- Floaters/Boulders may be encountered within proposed excavation depths.
- Scrape a minimum depth of 100mm and remove vegetation and roots off the building area.
- We recommend a second soil test be undertaken if the site is cut more than 600mm.
- Plumber shall lay waste pipes below ground surface at minimum grade. Risers are to be staked firmly.
- Care shall be taken with surface drainage of the allotment from the start of construction and must be well drained so that water cannot pond beside or adjacent to footings. The drainage system shall be completed by the finish of construction of the house in accordance with AS2870-2011 Clause 5.5.3 (a).
- Proper site drainage is very important in reactive sites such as this site. It is therefore recommended that the ground surface immediately next to the perimeter footings be graded away or site drainage issues be addressed. Should you the client require detailed design for specific site drainage plans please do not hesitate to contact Intrax Consulting Engineers.

#### **4.2 Waffle Pod**

- Cut site to form a level bench.
- Place the layer of quarry product over the building area which shall extend at least 1.0m outside the building line.
- Prepare waffle raft within formwork in accordance with the footing plan and details. Waffle pods shall be cut and taped around plumbing pipes. Use minimum of 0.2mm approved plastic membrane under waffle pods & ribs and extend up the inside of the formwork. Once the concrete has gone off the plastic membrane should be taped to concrete to ensure the sides of the concrete slab is not in direct contact with the surrounding soils.

#### **4.3 Site Specific**

- This site contains significant trees which may affect the foundations of the proposed residence. Remove existing trees and tree roots/material over the proposed building area. Any soft or loose material that does not respond to compaction should be excavated to achieve a firm working base. Fill holes with non-porous fill compacted in 300mm (maximum) layers.

## 5. Articulation Of Buildings BUILDING PERMIT

ISSUED 04/09/2012

NUMBER BS-U 1419-20122537/0

RELEVANT BUILDING SURVEYOR

Garth Gummars

BS-U 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

Per details on drawings

incorporated for buildings,

Foundation movement may be the cause, amongst others, of visible cracks in buildings. It is therefore important to ensure the flexibility of the structure by providing full height openings (doors and corridors) or construction joints at suitable spacings.

Brickwork should be in accordance with industry guidelines and articulation of masonry walls should be provided as per details on drawings. Cement & Concrete Association-TN61". However, construction joints should also be incorporated for buildings, particularly at locations where changes in foundation materials occur.

## 6 Conditions Of Use Of This Report

### 6.1 Report Limitations

- I. The recommendations made in this report may need to be reviewed should any site works disturb any soil 200mm below the proposed founding depth.
- II. The descriptions of the soils encountered in the boreholes closely follow those outlined in AS1726-1993; Geotechnical Site Investigations. Colour descriptions can vary with soil moisture content and individual interpretation. It should be noted that colour and shade descriptions outlined in this report are made when the soil is in a moist condition, colour alone should not be used to identify soils.
- III. If there is any doubt in relation to the founding material and bearing capacity of such and depth of fill, the owner or builder must contact Intrax for a site inspection prior to any footing being poured. The owner/builder will be responsible for any fees associated with this additional work.
- IV. This report assumes that the soil profile observed in the boreholes is representative of the entire site. If the soil profile and site conditions appear to differ substantially from those reported herein, then Intrax should be contacted immediately and this report may need to be reviewed and amended if appropriate.
- V. It is expected that all relevant information regarding the site, for example previous filling, old water courses etc, has been investigated by the client and this information has been supplied to Intrax even if it is after the report has been written. Consequently, Intrax reserves the right to amend the initial report on receipt of supplementary and relevant information. In the event of an amended report, Intrax will not accept responsibility for any financial loss consequential or otherwise.
- VI. The user of this report must take into account the following limitations. Soil and drilling depths are given to a tolerance of +/- 200mm. Where spot levels or a feature survey have been undertaken, levels are given a tolerance of +/- 200mm.
- VII. It must be understood and a condition of acceptance of this report is that whilst every effort is made to identify fill material across the site, difficulties exist in determining fill material, in particular, for example, well compacted site or area derived fill, when utilising a small diameter auger. Consequently Intrax emphasises that we will not be responsible for any financial losses, consequential or otherwise, that may occur as a result of not accurately determining the fill profile across the site.

### 6.2 Variations To This Report

It is neither economically feasible nor practical to determine every subsurface feature on the site. Studies have shown that a large number of boreholes leads to only a slight increase in probability of detecting hidden site features (such as a filled well or cellar) in the foundation soils. As such, any variations, or discrepancies in soil type, colour, or horizon depth must be reported to the Engineer immediately so that their potential influence on the footings may be assessed.

**GROUP FOUR  
BUILDING  
SURVEYORS**

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11 April 2012

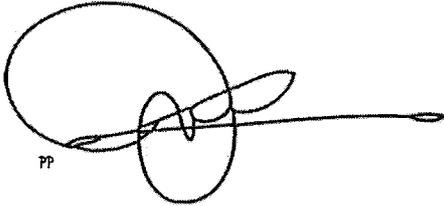
**6.3 Loss Or Damages  
BUILDING PERMIT**

Subject to the limitations of this report as expressed in Section 6.1 Intrax Consulting Engineers Pty Ltd will not accept liability for consequential or otherwise based on the recommendations of this report, other than for the cost of re-assessment. This geotechnical assessment should not be considered a comprehensive analysis of the subject site, should a more detailed geotechnical assessment be required Intrax Consulting Engineers Pty Ltd can provide such a report. Please contact Intrax Consulting Engineers Pty Ltd to discuss this further.

TERMITE PROTECTION REQUIRED  
BUSHFIRE PROTECTION REQUIRED  
on 03 8371 0100.

Should you have any questions regarding this report please do not hesitate to contact the Intrax Geotechnical Division

For and on behalf of Intrax Consulting Engineers Pty Ltd



PP

**Robert Borzillo**  
**BE (Civil) CPE MIE Aust**  
**NPER**  
**EC-38229**

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SURVEYORS**

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11 April 2012

**BUILDING PERMIT**

ISSUED 04/09/2012

NUMBER BS-U 1419-20122537/0

RELEVANT BUILDING SURVEYOR

**Gary Gommers**

BS-U 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

# APPENDIX A

## Site Plan

**GROUP FOUR  
BUILDING  
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Intrax Consulting Engineers Pty Ltd

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11 April 2012

~~Site Plan~~

**BUILDING PERMIT**

ISSUED 04/09/2012

NUMBER BS-U 1419-2012253770

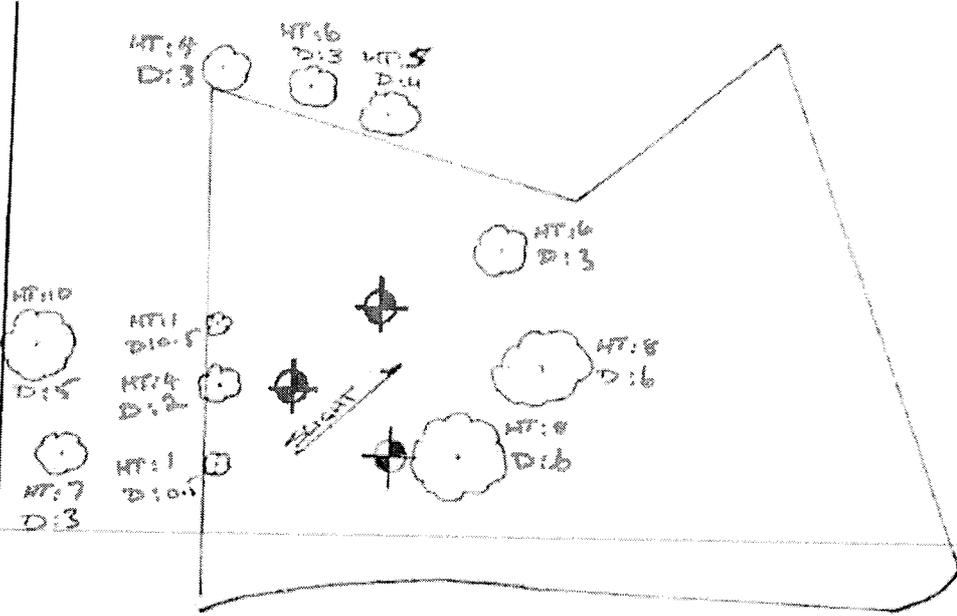
RELEVANT BUILDING SURVEYOR

**Gary Gommers**

BS-U 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED



THE BILLABONG

NOT TO SCALE

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BUILDING  
SURVEYORS**

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11 April 2012

**BUILDING PERMIT**

ISSUED 04/09/2012

NUMBER BS-U 1419-20122537/0

RELEVANT BUILDING SURVEYOR

**Gary Gommers**

BS-U 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

## APPENDIX B

### Borehole Logs

**Borehole Logs**

DATE OF FIELDWORK: 02.04.2012

JOB NUMBER: 37790

SITE ADDRESS: LOT 114 NO 9 THE BILLABONG, METUNG

**GROUP FOUR  
BUILDING  
SURVEYORS**

**BUILDING PERMIT**

ISSUED 24/09/2012

NUMBER BS-11419-201225378

RELEVANT BUILDING SURVEYOR

Gary Summers

BSU 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

Horizon	Description	Hole 1 (mm)	Hole 2 (mm)	Hole 3 (mm)	Hole 4 (mm)	Hole 5 (mm)	Hole 6 (mm)
A	SILTY SAND (SM) - damp, medium strength, mottled brown grey to light brown, medium dense, low plasticity, minor surface fill evident, root material.	0 - 1800	0 - 1800	0 - 1800			
END OF TEST NO REJECTION IN ALL BOREHOLES							

Horizon A - SILTY SAND - 1000 MPa at 100 mm into layer.

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11 April 2012

**BUILDING PERMIT**

ISSUED 04/09/2012

NUMBER BS-U 1419-20122537/0

RELEVANT BUILDING SURVEYOR

**Gary Gommers**

BS-U 1419

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

## APPENDIX C

### BAL Assessment

**GROUP FOUR  
BUILDING  
SURVEYORS**

Intrax Consulting Engineers Pty Ltd

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11 April 2012

**BUILDING PERMIT**

ISSUED 04/09/2012  
NUMBER BC 2011/19201229370

RELEVANT BUILDING SURVEYOR

**Gary Gommers**

The BAL for this site has been calculated using the Simplified Procedure (Method 1 – Cl 2.2) in accordance with the requirements of AS 3959-2009 - Construction of Buildings in Bushfire-Prone Areas.

TERMITE PROTECTION REQUIRED

BUSHFIRE PROTECTION REQUIRED

**Bushfire Attack Level Assessment**

For this particular site, with the house siting supplied, the following parameters were observed:

Fire Danger Index (FDI)		100			
Approximate direction		North	East	South	West
Exclusions as per AS3959-2009 CL 2.2.3.2		(e) (f)	(e) (f)	(e) (f)	(e) (f)
Distance to Classifiable Vegetation from proposed siting	Grassland	>50m	>50m	>50m	>50m
	Non-Grassland	>100m	>100m	>100m	>100m
Type of Classifiable Vegetation (if within 100m of siting)		-	-	-	-
Slope of Vegetation (if within 100m of siting)		-	-	-	-
<b>Bushfire Attack Level (BAL)</b>		<b>12.5</b>			

**Notes:**

1. If the house siting changes, the BAL will need to be reassessed to address the impact of moving the house further or closer to the various vegetation near this site.
2. The above BAL rating is measured based on the condition of the vegetation at the time of assessment and it is valid on the condition that the vegetation is maintained as such.

# GROUP FOUR BUILDING SURVEYORS

## Site and Survey Assessment

### BUILDING PERMIT

ISSUED 04/09/2012

NUMBER BS-U 1419-20122537/0  
Job Number 37790

RELEVANT BUILDING SURVEYOR

Gary Gommers

Site Address: LOT 114 NO 9 THE BILLABONG, METUNG

Map Reference: VIC 690 A4

Municipality:

Client Name: METRICON HOMES

TERMITE PROTECTION REQUIRED  
BUSHFIRE PROTECTION REQUIRED  
Gas  Yes  No

### 2.0 Site

- Sewer  Yes  No  Not Sighted
- Power  Yes  No  Not Sighted  Underground  Overhead  Same Side  Opposite
- Water  Yes  No  Not Sighted Tapping:  Yes  No
- Water Main  Yes  No  Not Sighted  Same Side  Opposite
- Stormwater Pit  Yes  No  Not Sighted
- Discharge Point  Yes  No  Not Sighted

Existing Boundary Pegs:  LR  LF  RR  RF  None

Is Re-Establishment Survey Required:  Yes  No

Is Subdivision Complete:  Yes  No Estimate Until Subdivision Complete

Levels May Change:  Yes  No

Any Existing Fencing:  Yes  No  Left  Right  Front  Rear  Brick  P&W  Metal  Palings  
Condition:  Good Condition  Poor Condition

Silt Barriers  Yes  No

Any Trees on Site:  Yes  No Tree Comment/Details:

Any Trees on Adjoining Sites:  Yes  No Tree Comment/Details:

Surrounding Residential Development:  0%  25%  50%  75%  Built Up

### 3.0 Road Details

- Type & Condition:  Graded Gravel Road  Bitumen  Concrete  Unmade Road Damage?
- Footpath:  Yes  No
- Roll Over Kerb:  Yes  No
- Kerb & Channel  Yes  No
- Kerb Opening:  Yes  No
- Vehicle Crossing:  Yes  No  Concrete  Gravel Other:

### 4.0 Adjacent Details

- Left Hand Side:   Windows Construction Notes:   1 Storey  2 Storey
- Right Hand Side:   Windows Construction Notes:   1 Storey  2 Storey
- Rear:   Windows Construction Notes:   1 Storey  2 Storey

### 5.0 Access + 6.0 General Notes

Access to Site Is:  Good  Difficult When Wet  Steep  Difficult

General Notes:

Author:

[Print to PDF](#)

Our ref: 18299

5 March 2020

Land Use Planning Officer  
East Gippsland Shire Council  
Via email: [planning@egipps.vic.gov.au](mailto:planning@egipps.vic.gov.au)

**Attention: Mr. Ben McGeehan**

Dear Ben,

**Re: Planning Application 61/2020/P  
Two Lot Subdivision and Variation of Restrictive Covenant  
9 The Billabong, Metung**

We refer to Council's correspondence of 4 March 2020 requesting further information to assist with the consideration of the above mentioned Planning Application.

As requested, please find attached a revised Application for Planning Permit form (that spells the street name correctly) and a copy of the Covenant as registered on title.

A list of beneficiaries as determined through a title search for each beneficiary is shown on the following page, with copies of the individual titles attached for your information.

In the event this information does not satisfy Council's request, we respectfully request an extension of time to enable further discussion with Council to understand why the information is deemed unacceptable or insufficient.

We trust this will enable the further processing of the Application, and look forward to receiving Council's requirements for public notification.

Regards,



KATE YOUNG

*Encl. Application for Planning Permit Form  
Covenant AF799003U  
Copy of Titles (Lots 102-113 inclusive)*



FS 520900



**Beneficiaries to Covenant AF799003U (as at 5 March 2020)**

<b>Lot Details</b>	<b>Street Address</b>	<b>Registered Proprietor</b>	<b>Owners address as listed on title</b>
Lot 102 PS517830A	11 Storth Ryes Ave, Metung	Gary William Smith Judith Ann Smith	17 David Road, Metung Vic 3904
Lot 103 PS517830A	17 Storth Ryes Ave, Metung	Judith Marion Manning Daniel Joseph Egan	38 Miller Street, Essendon Vic 3040
Lot 104 PS517830A	19 Storth Ryes Ave, Metung	Allan Geoffrey Hancock Eileen May Hancock	1 Peter Road, Metung Vic 3904
Lot 105 PS517830A	23 Storth Ryes Ave, Metung	Stephen Ronald Morris Angela Maria Morris	3 Alverstone Grove, Mount Eliza Vic 3930
Lot 106 PS517830A	27 Storth Ryes Ave, Metung	Tania Veronica Da Silva	25 Stoke Avenue, Kew Vic 3101
Lot 107 PS517830A	31 Storth Ryes Ave, Metung	Robert Laurie Gilbert Gillian Maree Margaret Gilbert	16 O'Donnell Drive, Lakes Entrance Vic 3909
Lot 108 PS517830A	1 The Billabong, Metung	Sandra Joan Armitage Fiona Gladys McBride	31 Golden Grove, Portarlinton Vic 3223
Lot 109 PS517830A	2 The Billabong, Metung	Bill John Matsinos Margaret Ellen Matsinos	179/25 Best Street, Lane Cove NSW 2066
Lot 110 PS517830A	8 The Billabong, Metung	Rachel Helen Hyman	96 Clarence Street, Caulfield South Vic 3162
Lot 111 PS517830A	14 The Billabong, Metung	Richard Vernon Travers	8 Rosewood Court, Frankston South Vic 3199
Lot 112 PS517830A	17 The Billabong, Metung	Cory Scott Bleasby  Jason Mark Bleasby	20 Watson Road, Mount Martha Vic 3934 19 Bay Road, Mount Martha Vic 3934
Lot 113 PS517830A	15 The Billabong, Metung	Josephine Rosetta Hope	37 Archibald Drive, Metung Vic 3904

# TRANSFER OF LAND

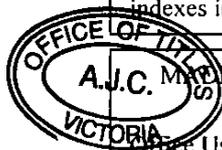
Section 45 Transfer of Land Act 1958

Lodged by: **National Australia Bank Limited**  
 Name: **National Australia Bank Limited**  
 Phone: **200Q**  
 Address: **200Q**  
 Ref.: **200Q**  
 Customer Code:

**Privacy Collection 5**  
 The information from statutory authority and maintaining publicly indexes in the Victor

**AF799003U**

22/04/2008 \$435 45



Office Use Only

The transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed —  
 — together with any easements created by this transfer;  
 — subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer; and  
 — subject to any easements reserved by this transfer or restrictive covenant contained or covenant created pursuant to statute and included in this transfer.

Land: *(volume and folio reference)*

**CERTIFICATE OF TITLE VOLUME 10941....FOLIO...496**

Estate and Interest: *(e.g. "all my estate in fee simple")*

**All its estate in fee simple**

Consideration:

**\$131,000.00**

Transferor: *(full name)*

**KINGS COVE METUNG PTY LTD [A.C.N. 006 383 179]**

Transferee: *(full name and address including postcode)*

**SUZANNE  
 Susan Anita Williams OF 4 Essington Close, Metung 3904**

Directing Party: *(full name)*

**Not applicable**

Creation and/or Reservation and/or Covenant:

The Transferee with the intent that the benefit of this covenant shall until the 31<sup>st</sup> December, 2025 be attached to and run at law and in equity with the whole of the land comprised in Plan of Subdivision Number **517830A** (other than the land hereby transferred) and that the burden thereof shall be annexed to and run at law and in equity with the land hereby transferred and each and every part thereof and that the same shall be noted and appear on every Certificate of Title for the said lot and every part thereof as an encumbrance affecting the same **DOTH HEREBY COVENANT** with the Transferor and the other registered proprietor or proprietors for the time being of the land comprised in the said Plan of Subdivision (other than the land hereby transferred) that the Transferee will not:

Continued on T2 page 2

Approval No. 18170511L

ORDER TO REGISTER

Please register and issue title to

**T2**



Signed

Cust. Code:

STAMP DUTY USE ONLY	
This stamp is	ABN 12 004 044 937 AP 161 Victorian Duty \$ <b>3520</b>
SRO	Consideration / Advance \$ <b>131,000</b>
Property	Victorian Assets % ..... Section .....
NOT TO BE COPIED	Original Counterpart / Collateral / Upstamp Transaction No: <b>478417008</b> Endorsing Date: <b>21 / 4 / 03</b> Signature: ..... No 17

**THE BACK OF THIS FORM MUST NOT BE USED**

Land Registry, 570 Bourke Street, Melbourne 3000. Phone 03 8636 2010

- a) Permit the land hereby transferred or any part thereof to be used for the purpose of commercial breeding, or boarding of or training kennels or cages for cats, dogs or birds, or the keeping of poultry, or for the grazing of horses, or for the parking garaging or servicing any motor vehicle in excess of five tones gross vehicle mass (GVM) except for the purposes of loading or unloading of goods unless the vehicle is a construction vehicle engaged on construction works thereon or unless the vehicle is a boat, caravan or similar vehicle and is screened fro view from the roadways and adjoining properties;
- b) Construct or externally alter or allow to be constructed or externally altered on the land hereby transferred any building or structure (including fences) other than in accordance with plans and specification previously submitted to and approved in writing by the Transferor, Kings Cove Metung Pty. Ltd., or its nominee;
- c) Permit or authorise any part of the land hereby transferred to be used for the purpose of the drying or clothes, storage of garbage, or housing of gas, fuel or water tanks, or similar uses unless such areas are reasonably screened from public view.

Dated: **DO NOT DATE** 28/2/08

Execution and attestation:

The Common Seal of KINGS COVE METUNG PTY LTD [A.C.N. 006 383 179] was affixed in the presence of authorised persons:

Director.....  
 Full Name..... TIMOTHY RICHARD WELCH  
 Usual Address..... LEVEL 1, 51 THE EDWARDS, MANSFIELDVILLE



Co. Director.....  
 Full Name..... MARGARET ENE SUPPLITT  
 Usual Address..... 159 BAY RD, EAGLE POINT

Signed by SUZANNE *[Signature]*  
 Susan Anita Williams

*[Signature]*  
 SW + *[Signature]*

Witness..... *[Signature]*  
 (Witness to sign here)

Approval No. 571027L

# T2 Page 2

## AF799003U

22/04/2008 \$435 45



# PROPOSED SUBDIVISION

PARISH OF BUMBERRAH  
CROWN ALLOTMENT 81A (PART)

C/T VOL 10941 FOL 496  
LOT 114 ON P5517830A



9 THE BILLABONG, METUNG

**Crowther & Sadler** Pty. Ltd.

LICENSED SURVEYORS & TOWN PLANNERS  
182 MACLEOD STREET, BAIRNSDALE, VIC., 3875  
P. (03) 5182 5011 E. [contact@crowthersadler.com.au](mailto:contact@crowthersadler.com.au)

FILENAME: 18299 Prop V4.pro

## NOTATIONS

AREAS ARE APPROXIMATE ONLY  
DIMENSIONS ARE SUBJECT TO SURVEY

SCALE (SHEET SIZE A3)

1 : 500

SURVEYORS REF.

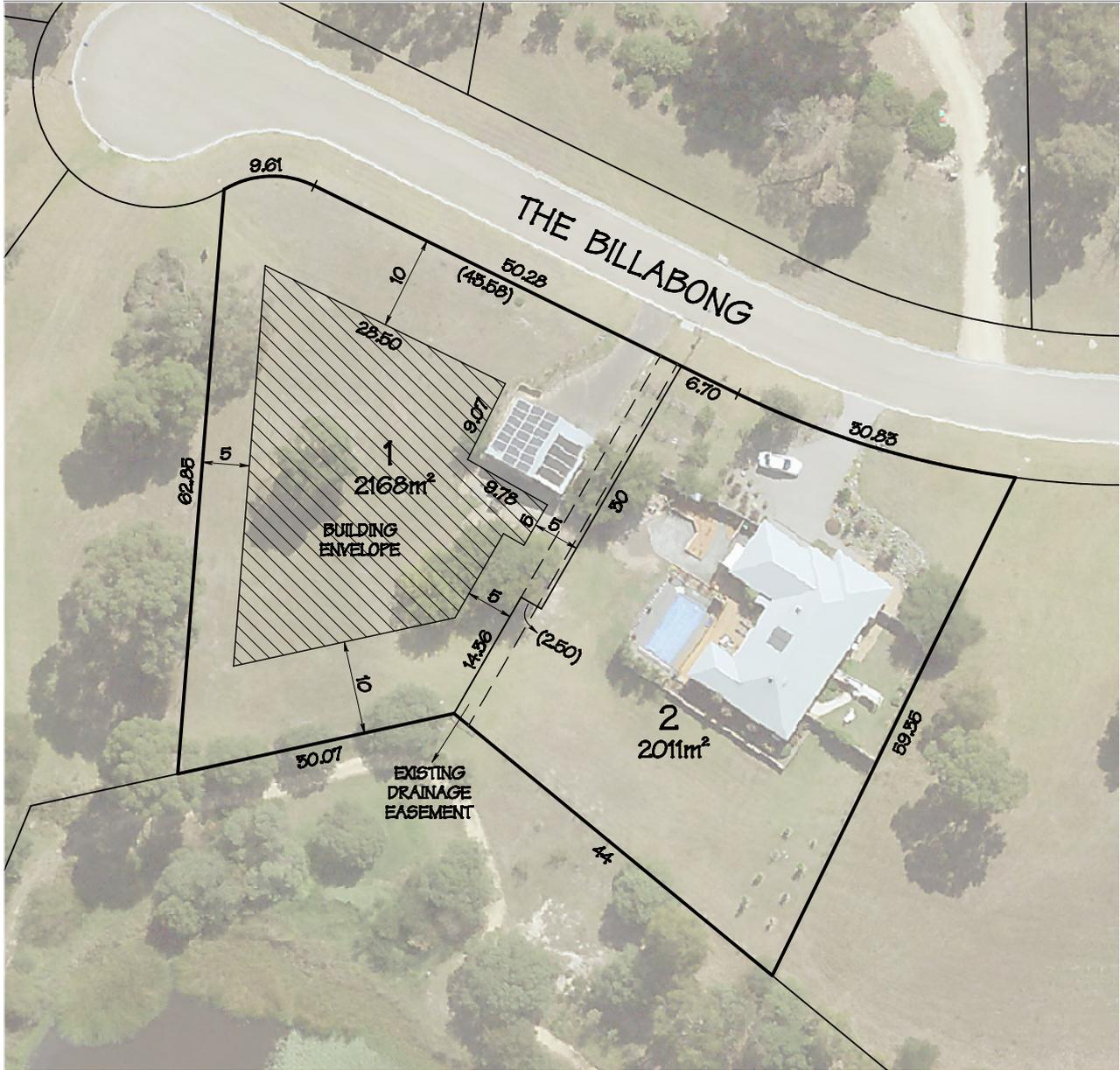
18299

VERSION 4 - DRAWN 26/07/2019

# BUILDING ENVELOPE PLAN

PARISH OF BUMBERRAH  
CROWN ALLOTMENT 81A (PART)

C/T VOL 10941 FOL 496  
LOT 114 ON P5517830A



9 THE BILLABONG, METUNG

**Crowther & Sadler** Pty. Ltd.

LICENSED SURVEYORS & TOWN PLANNERS  
182 MACLEOD STREET, BAIRNSDALE, VIC., 3875  
P. (03) 5182 5011 E. [contact@crowthersadler.com.au](mailto:contact@crowthersadler.com.au)

FILENAME: 18299 Bld Envel V1.pro

## NOTATIONS

AREAS ARE APPROXIMATE ONLY  
DIMENSIONS ARE SUBJECT TO SURVEY

SCALE (SHEET SIZE A3)

1 : 500

SURVEYORS REF.

18299

VERSION 1 - DRAWN 16/08/2019

# East Gippsland Shire Council

273 Main Street (PO Box 1618)  
Bairnsdale Vic 3875  
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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: Graham & Kathy Cole			
Postal address: [REDACTED]			
Metung, Victoria			Postcode 3 9 0 4
Phone number: Home:	Work:	Mobile: [REDACTED]	
Email address: [REDACTED]		Fax:	

Permit Details:

Planning permit number: 61/2020/P
What has been proposed? <u>Two lot subdivision and variation of restrictive covenant at Kings Cove Metung.</u>
What is the address to be used or developed? <u>9 The Billabong, Kings Cove Metung.</u>
Who has applied for the permit? <u>Name with held on application</u>

Objection Details:

What are the reasons for your <b>objection</b> ? <u>We believe that the proposed development is a direct contravention to the current restrictive covenants in place and strongly object to this approval going ahead. It does not respect the the current guidelines that have been adhered to by your rate payers that live on 4000sqm blocks. It does not respect local context and street pattern or, in particular, the scale and proportions of surrounding homes within this stage. A precedent has been set and adhered to regarding the original Covenant and you should protect your rate payers when the previous entity was resolved. Failure by your office not to notify all residents that could be potentially affected by this approval is greatly disappointing.</u>
--

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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### Your Details:

Name: <u>PETER AND HELEN CROSSLEY</u>			
Postal address: [REDACTED]		<u>METUNG</u>	
Phone number: Home: [REDACTED]		Work: [REDACTED]	Mobile: [REDACTED]
Email address: [REDACTED]		Postcode <u>3904</u>	
		Fax: [REDACTED]	

### Permit Details:

61/2020/P

Planning permit number: <u>AE324337A</u>
What has been proposed? <u>SUBDIVISION OF PROPERTY.</u>
What is the address to be used or developed? <u>9 THE BILLABONG KINGS COVE METUNG.</u>
Who has applied for the permit? <u>CROWTHER AND SADLER.</u>

### Objection Details:

What are the reasons for your objection? <u>PLEASE SEE ATTACHED</u>

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How would you be affected by the granting of this permit? \_\_\_\_\_

*Please See ATTACHED.*

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: *Pete Crossic*

Date: *26/03/2020*

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Objection Reasons to proposed subdivision of 9 The Billabong Kings Cove Metung 3904

Studies have shown that there are significant health benefits to be surrounded by green and living within a natural space.

This was a primary reason for us to purchase our property in Kings Cove. We were attracted to the treed park like spaces, lack of high density living, room to move and the ability to enjoy the vista without the impedance of multiple roof lines. We were also attracted to the native bird and wildlife associated with this type of environment.

Since moving to the area, we have noticed a marked development profile to smaller and yet smaller blocks. This reduces the availability of land for trees, and native flora, which impacts severely upon the native wildlife in the area, as their habitat is becoming increasingly reduced.

This continued decimation of trees and native flora is producing a sparse and barren landscape which is in opposition to the original design of the area and is inconsistent to living in a semi-rural environment.

If this proposal is accepted, this will set a precedent to all and sundry who wish to capitalise in a purely monetary sense to further encroach upon an established plan of environment. This presents a potential to impact upon our health and wellbeing.

We would like to re-iterate that the primary reason for our relocation from an urban centre was to be able to live without congestion and hopefully attain some communion with the rural type of environment and enjoy the native flora and fauna.

As a précis of this objection, we strongly disagree with any proposed further subdivision of the existing design plan for this area.

If it is a requirement of the applicants of this subdivision to wish to live on a smaller footprint, then it should be suggested that they purchase a plot more in accordance with their lifestyle, and not impart their preferences upon the majority of their neighbours.

Peter and Helen Crossley

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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>STUART and JENNIFER DALGLEISH</u>			
Postal address: <u>[REDACTED]</u>			
<u>METUNG, VIC</u>			Postcode <u>3904</u>
Phone number: Home:	Work:	Mobile:	<u>[REDACTED]</u>
Email address: <u>[REDACTED]</u>	Fax: <u>[REDACTED]</u>		

### Permit Details:

Planning permit number: <u>61/2020/P</u>
What has been proposed? <u>TWO LOT SUBDIVISION AND VARIATION OF A RESTRICTIVE COVENANT</u>
What is the address to be used or developed? <u>9 THE BILLABONG METUNG LOT 114 PS 517830</u>
Who has applied for the permit? <u>CROWTHER and SADLER PTY LTD</u>

### Objection Details:

What are the reasons for your objection? <u>SEE ATTACHED SHEET</u>

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JUL15

# East Gippsland Shire Council

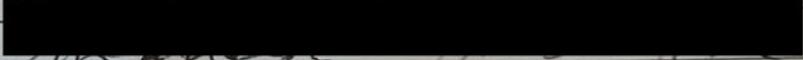
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How would you be affected by the granting of this permit? SEE ATTACHED SHEET

If you need more space for any part of this form please attach another sheet.

Signature: 

Name: STUART DALGLEISH

JENNIFER DALGLEISH

Date: 29/03/2020

### Office Use Only:

Objection Received by: \_\_\_\_\_

Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_

Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## OBJECTION TO 61/2020/P

- **What are the reasons for your objection?**

The Kings Cove development was designed with many one-acre lots for those looking for larger spaces and fewer houses and some smaller lots for those who wish to live in a higher density area.

We chose a one- acre lot and the covenant gave us confidence that the development would proceed as planned. The attractions for us were the minimum 10 metres between houses, space for a large garden, and no commercial activity.

The application justification based on the demise of Kings Cove Metung Pty Ltd focuses on various regulations but pays no regard to the rights of those who rely on the covenant to protect their property as purchased. An example is the argument that halving the allotment size still satisfies the LDRZ but ignores the potential increase in houses, population, traffic, noise etc. in this part of the estate.

Granting this permit will set a precedent and encourage even further sub-division to even smaller lots. Current vacant lots in particular could be subdivided.

Approval of this application would destroy trust in covenants. What is the point of a covenant if it can be overturned at the whim of one owner?

- **How you would be affected by the granting of this permit**

If this application is approved, those of us who purchased one acre lots in good faith would be greatly disadvantaged by one owner who has obviously changed their mind since purchasing their lot and whose sole purpose now appears to be financial advantage.

Allowing subdivision of 9 The Billabong would defeat the purpose of the covenant and allow further subdivision, thus changing the entire character and amenity of this part of the development.

STUART DALGLEISH

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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Your Details:

Name: MR R & MRS S DIXON			
Postal address: [REDACTED]			
METUNG, VICTORIA			Postcode 3904
Phone number: Home:	Work:	Mobile:	[REDACTED]
Email address:	[REDACTED]	Fax:	

Permit Details:

Planning permit number:	61/2020/P
What has been proposed?	Two lot subdivision and variation of a restrictive covenant
What is the address to be used or developed?	9 The Billabong, Metung Lot 114 PS517830
Who has applied for the permit?	Crowther & Sadler Pty Ltd

Objection Details:

What are the reasons for your objection?
<ul style="list-style-type: none"> <li>• There is sufficient land supply to satisfy development opportunities and demand. There are a wide range of block sizes available on the market.</li> <li>• A precedent would be set for further sub division of existing blocks and result in a higher density development on Kings Cove.</li> <li>• There is an existing balance of larger blocks 4000sq metres or greater and smaller blocks of varying size. Further sub division would be detrimental to that balance and the uniqueness of Kings Cove.</li> </ul>

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How would you be affected by the granting of this permit? \_\_\_\_\_

- The removal of the Restrictive Covenant would provide an opportunity for any block to be sub divided and further developed.
- The lifestyle we have bought into at Kings Cove would be undermined.
- Increased development beyond that already planned would impact on traffic flow, environmental quality and the unique character of Kings Cove.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: Roger Dixon

SUSAN J DIXON

Date: 03/04/2020

### Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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Your Details:

Name: Mrs. Kesteven Bond + Andrew Emerson			
Postal address: [REDACTED]			
Melung			Postcode 3904
Phone number: Home: [REDACTED]	Work: -	Mobile [REDACTED]	
Email address: -		Fax: EGSC -	

Permit Details:

Planning permit number: 61/2020/P	6 APR 2021
What has been proposed? Two lot subdivision + restrictive covenant	INFORMATION MANAGEMENT of a
What is the address to be used or developed? 9 The Billabong - Melung lot 114 PS 517830	
Who has applied for the permit? Crowther + Sadler P/L.	

Objection Details:

What are the reasons for your objection? we bought here because of the high density land, coming from such a busy area we just wanted space, tranquility + quietness. This property value was also in our favour. As the property in question is directly below us it would cause great concern for more traffic noise and not to mention everyday disturbance. we don't need extreme development because of smaller blocks.

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We looked into great heights for our retirement and decided that Metung - particularly Kings Cove - was just the place for us with such large blocks and not smaller ones. We don't need or want to have neighbours right beside where we live, we left that environment so we just want to have some space and peace of mind knowing that there will be no added stress because of small building blocks and extra development.

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How would you be affected by the granting of this permit? This would just set a  
precedent for small subdivision blocks in the area, and  
thats not why we came to buy in Kings Cove.  
There are blocks directly below us, they could  
possibly be subdivided and 'perhaps' 2 storey town-  
houses could easily be built and that would  
just not be appropriate to our treed outlook!

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: Hesleigh K. Bond + Andrew Emerson Date: 2 / 14 / 20

### Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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### Your Details:

Name: <u>TIM GEIER</u>			
Postal address: <u>[REDACTED] METUNG VIC</u>		Postcode <u>3904</u>	
Phone number: Home: <u>—</u>	Work: <u>[REDACTED]</u>	Mobile: <u>[REDACTED]</u>	
Email address: <u>[REDACTED]</u>		Fax: <u>[REDACTED]</u>	

### Permit Details:

Planning permit number: <u>61/2020/P</u>
What has been proposed? <u>TWO LOT SUBDIVISION AND VARIATION OF RESTRICTIVE COVENANT</u>
What is the address to be used or developed? <u>9 THE BILLABONG, METUNG VIC 3904</u>
Who has applied for the permit? <u>CROWTHER x SADLER PTY LTD</u>

### Objection Details:

What are the reasons for your objection? <u>Most areas of Kings Cove estate including 9 The Billabong were originally restricted to one house per allotment. The large blocks of around an acre are one of the most appealing aspects of this estate and one of the reasons many like myself decided to purchase a property in Kings Cove Estate. Granting this application could open the door to many more such applications which would severely affect the appearance and ambience of the estate - not to mention the value of other properties should the estate lose this unique feature and its charm.</u>
--

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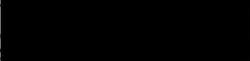
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How would you be affected by the granting of this permit? I feel that granting this permit would open the door for similar developments and risk destroying the feel and ambience of the estate which could in turn affect property prices. I currently own a property in a street full of acre plus allotments which has an open and uncluttered charm. I am concerned that should this permit be granted, similar permits may be granted for other properties - including the recently sold vacant lot next to me. I believe there is a real possibility that this would adversely affect my property, my street and the entire Kings Cove Estate by impacting our lifestyles and potentially our property values.

If you need more space for any part of this form please attach another sheet.

Signature: 
Name: <u>TIM GEIER</u> Date: <u>4 / 4 / 2020</u>

<b>Office Use Only:</b>	
Objection Received by: _____	Date Received: ____/____/____
Planning officer responsible: _____	Date Received: ____/____/____

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### Your Details:

Name: ROBERT + GILLIAN GILBERT			
Postal address: [REDACTED]			
METUNG			Postcode 3904
Phone number: Home: [REDACTED]	Work:	Mobile:	
Email address: [REDACTED]	Fax:		

### Permit Details:

Planning permit number: 61/2020/P
What has been proposed? TWO LOT SUBDIVISION AND VARIATION OF RESTRICTIVE COVENANT 9 THE BILLABONG, METUNG
What is the address to be used or developed? 9 THE BILLABONG, METUNG LOT 114 PS 517830
Who has applied for the permit? CROWTHER & SADLER PTY LTD

### Objection Details:

What are the reasons for your objection? WE OBJECT TO THIS PLANNING PERMIT APPLICATION FOR THE FOLLOWING REASONS 1. The land in question (9 The Billabong) according to the original covenant was never intended to have more than one dwelling on it, approval of a change to the covenant could mean that others would also seek to sub divide or apply for dual occupancy. These options would severely detract from the layout of the Kings Cove Estate. Most, if not all who purchased these larger allotments did so with full PTO
---

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# East Gippsland Shire Council

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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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Residents' Information Line: 1300 555 886  
ABN: 81 957 967 765

Knowledge that they couldn't build anymore than one residential dwelling. There are other allotments purposely created for those that want a smaller allotment.

2. One of the residents of 9 The Billabong (Lynn Fluitsma) is also a director of the Kings Cove Club. As a director she is supposed to be looking after the rights of the shareholders of the Kings Cove Estate, this Planning Application should be seen as a conflict of interest and something most shareholders would not be in favour of.

3. We believe the intention of the 5 stages of the estate was to preserve the open space living by restricting development to see below

If you need more space for any part of this form please attach another sheet.

Signature:	
Name:	Robert Gilbert <i>GILLIAN GILBERT</i> Date: <u>31 / 3 / 2020</u>

3 continued,  
that original concept. This is why we chose to build and live in the Kings Cove Estate,

### Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

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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>BARBARA &amp; ERWIN GRUBER</u>			
Postal address: [REDACTED]		<u>C/O POST OFFICE</u>	
<u>METUNG VIC</u>		Postcode	<u>3904</u>
Phone number: Home: <u>N/A</u>	Work: <u>N/A</u>	Mobile:	[REDACTED]
Email address: [REDACTED]		Fax:	<u>N/A</u>

Permit Details:

Planning permit number: <u>61/2020/P</u>
What has been proposed? <u>TWO LOT SUBDIVISION AND VARIATION OF RESTRICTIVE COVENANT</u>
What is the address to be used or developed? <u>9, THE BILLABONG, METUNG VIC 3904</u>
Who has applied for the permit? <u>CROWTHER &amp; SADLER LICENSED SURVEYERS &amp; TOWN PLANNERS</u>

Objection Details:

What are the reasons for your objection? <u>WE MOVED FROM A SUBURBAN AREA CLOSE TO THE CITY, FROM THERE TO METUNG, BECAUSE OF THE BEAUTIFUL AMBIENCE OF KINGS COVE. WE WANTED A LARGE BLOCK OF LAND THAT WAS PROTECTED BY A COVENANT TO ALL WHO WANTED TO LIVE HERE AND HAD TO AGREE TO AND CONFIRM WITH A SIGNATURE.</u>
<u>EGSC</u>
<u>2 APR 2020</u>
[REDACTED] <u>INFORMATION MANAGEMENT 2-4-2020</u>

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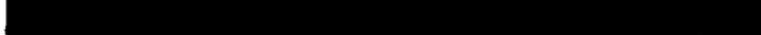
How would you be affected by the granting of this permit? THIS PROTECTION HAS NOW BEEN REMOVED, DUE TO THE COLLAPSE OF "KINGS COVE PTY LTD."

BUT OUR REASON FOR LIVING HERE HAS NOT CHANGED, AND WE DO NOT WANT TO LIVE ONCE AGAIN IN A SUBURBION AREA.

CHANGES TO THE PRESENT ENVIROMENT WOULD SERVERLY EFFECT THE FLORA AND FAUNA OF THIS AREA AND SURROUNDING AREA'S.

SO WE OBJECT IN THE STRONGEST TERMS HAS IT WOULD DISTROY ALL THE REASONS OF WHY WE CAME TO LIVE HERE.

If you need more space for any part of this form please attach another sheet.

Signature: 

Name: BARBARA GRUBER & ERWIN GRUBER Date: 214 19020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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**From:** SeamlessCMS@seamless.com.au  
**Sent:** Tuesday, 24 March 2020 6:56:25 PM  
**To:** Planning Department  
**Subject:** Objection to Planning Permit Submitted

## Online Form Submitted

Date Submitted: 24 Mar 2020 06:56 PM

Name	Allan Hancock
Email address	[REDACTED]
Postal address	[REDACTED]
Home	
Work	
Mobile	[REDACTED]
Fax	
Planning permit number	612020p
What has been proposed?	Sub division of land out of current covet
What is the address to be used or developed?	9 the Billabong
Who has applied for the permit?	Growther and Sadker PTY LTD
What are the reasons for your <a href="#">objection</a> ?	We moved here because of the strict building code. This will desecrate the community and open flood gates for people who don't care about our community. It's clearly a cash grab in our current desperate limit.
How would you be affected by the granting of this permit?	
Additional information	No file attached

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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: RACHEL + PETER HYMAN		
Postal address: [REDACTED]		Postcode: 3904
METUNG		
Phone number: Home:	Work:	Mobile: [REDACTED]
Email address: [REDACTED]		Fax:

### Permit Details:

Planning permit number:	61/2020/P ID P5517830A
What has been proposed?	TWO LOT SUBDIVISION AND VARIATION OF A RESTRICTIVE COVENANT + S.173 AGREEMENT
What is the address to be used or developed?	9 THE BILLABONG METUNG 3904
Who has applied for the permit?	CROWTHER + SADLER ON BEHALF OF FRANCIS + LYNN FRUITSMAN

### Objection Details:

What are the reasons for your objection?
PLEASE SEE ATTACHMENT

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How would you be affected by the granting of this permit? \_\_\_\_\_

PLEASE SEE ATTACHMENT

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: RACHEN HYMAN

PETER HYMAN

Date: 6 / 4 / 20

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Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## OBJECTIONS

### 1. LOT SIZE and DIVERSITY

a) The original vision underpinning the entire development of Kings Cove was that it would be a subdivision creating a park-like large allotment environmental landscape around a golf course. This proceeded with the first 5 stages of subdivision having every allotment greater than 4000sqm with many much larger than that. Each of those first 5 subdivisions have a different undulating topographical feel with each given a name e.g. The Fields, The Stockyards, The Billabong etc.

Each of these 5 subdivisions is located within a defined geographical area surrounding the golf course and are on the north side of the reserve and the waterway of the billabong itself. The separate development of each of these 5 subdivisions encouraged the development of a micro-community within a community, defined by the boundary name and gave residents a sense of place.

After the first 5 stages were subdivided, later stages were subdivided into a denser settlement pattern. This resulted in a different character and landscape pattern to the first 5 stages than was originally envisaged. Allotment sizes ranged from around 600sqm plus. These later stages also had their specific topographical features, sense of place and name e.g. The Sanctuary, The Plateau, The Habitat.

The difference in how the first 5 stages were subdivided and developed and how later stages were subdivided and developed has resulted in two distinct landscapes within Kings Cove. The first 5 stages with the large allotments have a park-like feel with a low building imprint, whilst later stages have a denser more urban character.

I object to the use of Amendment VC100 justifying subdivision of any of the first 5 stages of development, by stating that a subdivision of 9 The Billabong into two approximate 2000sqm allotments still falls into a "Low Density" category. Subdivision of allotments in the first five stages of development would degrade the park-like environmental character of these stages. The important environmental park-like character of Kings Cove which was the original vision for the estate should be preserved by rejecting this Application which would be the beginning of subdivision of the larger allotments of the first 5 stages of development.

b) All allotments in the first 5 stages far exceed the new definition of Low Density by thousands of square metres. To subdivide any allotment in the first 5 stages to make it less than 4000sqm is not in keeping with the consistent pattern of all allotments being a minimum 4000sqm. This would fracture the cohesive unique uniform park-like environmental landscape and character of these subdivisions. I object to the planning of my place in The Billabong within Kings Cove being altered from the original overall strategic framework plan of the first 5 stages of Kings Cove that are protected by Covenants and Section 173 Agreements.

c) This Application is not in keeping with Council visions of orderly development and landowner certainty. I object to the granting of a Planning Permit to subdivide any

2.

allotments in The Billabong which is contrary to the East Gippsland Shire Council vision that strategies are to be implemented to ...”Advance planning that provides community members and land owners with certainty about the way that land will be used and developed..”(P.30 East Gippsland Shire Council Revised Council plan 2017-2021).

d) I object to the assertion that The Billabong is a “transition” zone (P140 paragraph 1 of Application). The Billabong is its own separate subdivision and is geographically separated from the closest higher density development of the Sanctuary by the Reserve. The Billabong is firmly within and part of the other four surrounding subdivisions that all have minimum allotments of 4000sqm. I refute that the proposed allotments “...are able to be easily integrated within the surrounding subdivision which ranges from larger lots to the north to smaller, conventional residential allotments to the south.” (P.148 paragraph 5).The Billabong is part of the “larger lots to the north” and part of the uniform planned subdivision of allotments greater than 4000sqm.

**MAP A.** Stage 1-5 allotment sizes all over 4000sqm and the Reserve separating The Billabong from the higher density “The Sanctuary” subdivision.

**MAP B** The Billabong, The Fields and The Stockyard subdivisions all with minimum allotments of 4000sqm firmly incorporated into the first 5 stages of subdivision.

e) Subdividing The Billabong to “bleed” (P.148 paragraph 1 of application) into the higher density separate geographical areas is contrary to the original vision and planning of the estate. I have no reason to want The Billabong to “bleed” into The Sanctuary by decreasing the size of allotments in The Billabong and object to The Billabong being changed from a large allotment only subdivision.

f) Kings Cove is currently offering close to 100 vacant allotments in the denser subdivisions of The Habitat, The Plateau, The Sanctuary, The Headlands and North Course. North Course alone is offering 25 larger allotments of 2000-2500sqm. There is no pressure on land availability in the estate now or in the foreseeable future. There is ample opportunity to purchase 2000sqm allotments in other parts of the estate that fit into that subdivision as planned and not to interfere with the planned subdivisions of the first 5 development stages of the estate.

I object to the creation of more allotments in the estate at the expense of the size of uniform existing large allotments in The Billabong. This is an obfuscation of The Billabongs’ geographical place in the context of the denser subdivisions with no market requirements for such a subdivision to be undertaken.

g) All allotments in The Billabong are greater than 4000sqm. I object to juxtaposing two smaller allotments of approximately 2000sqm between the remaining 6 large allotments that are all over 4000sqm. This will compromise the well planned character of The Billabong, the pattern of development within The Billabong and the spatial amenity of the remaining 6 allotments.

3.

h) The granting of this Application could see Applications for the remaining 3 undeveloped allotments in the Billabong (109,111 and 112) increasing the number of originally planned dwellings in The Billabong from 7 to 11, a 57% increase in density. I object to any further subdivision in The Billabong that would increase housing density, negatively impact the environment and the landscape, and not in the Council approved original subdivision.

## **2.PLANNING CONSIDERATIONS**

a) There is no evidence that Council will allow further subdivision in the first 5 stages despite later subdivisions being altered to denser settlement. The Applicants conclusion (P.142), is conjecture, without evidence, and appears to be directing a decision to suit their argument.

b) The Application of Clause 15-01-3s (p.146 last paragraph) infers that the Kings Cove estate including the larger allotments is potentially, due to the VC 100 Amendment subject to future division and that this is desirable.

I object to this clause being inappropriately applied to the first 5 stages of subdivision of the estate, that clearly had the vision of park-like allotments of a minimum 4000sqm allotments based around a golf course, protected from future subdivision by a Restrictive Covenant and Section 173 Agreements and promoted as "A Sense of Living."

c) The economic and sustainable use of infrastructure in Kings Cove to support amendment VC100 has been achieved by the dense development of later stages and it is not a requirement that it be supported by the first 5 stages of the subdivision of the estate.

d) The subdivision of any allotment in the first 5 stages of Kings Cove requires the installation of water and sewerage infrastructure only originally designed to service a planned number of allotments. I object to any disruption to the settled areas of the estate and unplanned infrastructure works in a development less than 20 years old.

e) A newly subdivided block requiring a new Section 173 Agreement due to an existing shed gives a discriminatory commercial advantage to the applicant in creating a saleable allotment. This is irregular and unfair, whilst all other residents of Kings Cove have abided by the Restrictive Covenant and their Section 173 Agreements. I object to this unfair discrimination.

The unfair discrimination continues if alternatively, and for whatever reason, the vacant part of the newly subdivided lot is used by the Applicant to build and live in a new home, then I object on the basis that there are adequate opportunities to downsize and relocate within the estate or elsewhere. I object to the Applicant interfering with the residents of the larger allotments ability to continue the quiet enjoyment of their planned and subdivided allotments under the protection of the Restrictive Covenant and Section 173 Agreements.

## **3.RESTRICTIVE COVENANT AND SECTION 173 AGREEMENTS**

a) The existing Restrictive Covenant on all our titles expires December 2025. The need for this covenant to ensure orderly, planned and spacious development to continue has not

4.

diminished and needs to remain in place until it expires. This is to protect all residents living on the larger allotments in the estate. I object to the removal of the pivotal central clause b) of the Restrictive Covenant that would allow subdivision, unplanned, and unexpected development of a currently well-planned subdivision. The Covenant continues to preserve the attractive neighbourhood, the amenity space between adjoining properties and minimises the building footprints in The Billabong. I also object to the removal of any similar clause in the Section 173 Agreement AE324337A. This Application is evidence that these restrictions are still required.

b) It appears from Clause 3g) of the Section 173 Agreement AE324337A that Council would need to seek Ministerial Approval to remove the clause in that agreement restricting each allotment to one dwelling only. As a rate payer, I object to the use of scarce council resources that would unfairly benefit one ratepayer only.

c) It is also questionable as to whether the Council under the Planning and Environment Act 1987 S60(5) is permitted to allow a variation of a restriction if those who are benefitted by the restriction will suffer any detriment of any kind including any perceived detriment as a consequence of the removal or variation of the restriction.

d) Clause 52.02 P.154 requires the Responsible Authority to consider the interests of all affected people in varying a Restrictive Covenant and Section 173 Agreement. As all residents in Kings Cove have these restrictions on title, all Kings Cove residents should be consulted. I object to the removal of these restrictions by a Planning Application without consulting not only the immediate neighbours of 9 The Billabong but all the other affected residents in the estate. Any change to legal documents requires all residents be considered.

e) I object to the inference that because Kings Cove Metung Pty. Ltd. no longer exists, that the Restrictive Covenant and Section 173 Agreements are no longer required in their original form. These restrictions are on title and remain legally enforceable regardless of whether Kings Cove Metung Pty. Ltd. exists or not. This Planning Application appears to be an opportunistic attempt to profit from the hiatus in Kings Cove Metung Pty. Ltd. ceasing to oversee the execution of the encumbrances on title, and an alternative mechanism being in place to oversee the execution of the guidelines and restrictions. Now more than ever the Restrictive Covenant and Section 173 Agreement are needed to continue in their present form, and a new body formed to oversee and safeguard the continued orderly planned development of the estate, not only for current residents, but as a legacy for future generations.

## **EFFECTS ON ME OF GRANTING THIS PERMIT**

### **1. LOT SIZE AND DIVERSITY**

a) In 2008 there were 20 developed properties in Kings Cove. I was attracted to Kings Cove estate because of the beautiful entrance, the sweeping boulevard and a multitude of large allotments all over 4000sqm. Large allotments were available in The Terrace, The Boulevard, The Fields, The Stockyard, Storth Ryes Avenue and The Billabong. My allotment in The Billabong is over 5000sqm, has many large gum trees, a beautiful view over the reserve, the billabong and the lake, and was subdivided so that I would only have six neighbours, all on large allotments in a small quiet cul-de-sac.

With the certainty provided by the placement of a Restrictive Covenant and Section 173 Agreements by the developer and Council, in good faith, I invested in what would be a lifestyle choice of a golf course, reserve, trees, fauna, sky, lake, expansive space between neighbours, peace and quiet and little traffic. It was a conscious decision to build a home in one of the most spacious and quiet parts of the estate and not in one of the denser subdivisions.

With the possibility of 9 The Billabong being subdivided, and with the possibility that any of the other 3 remaining undeveloped blocks (109,111,112) or all of them in The Billabong also being subdivided, the original reasons for buying in The Billabong would greatly diminish. If a Planning Application is granted, there is the possibility the increased density of dwellings from the originally planned 7 dwellings to 11 dwellings, an increase of 57% in density. Instead of having 6 neighbours, I would have 10 neighbours.

This would undoubtedly change the character of the neighbourhood, detract from the natural environment, impact on my ability to enjoy the existing planned spatial amenity, increase traffic flow and noise and cause me to live with anxiety and uncertainty as to what is going to happen next on each allotment, and how the Billabong will look once all the allotments have been developed.

b) We are on the high side of The Billabong and overlook 9 The Billabong. If this application is granted, not only will there be a new dwelling across the road and possibly a bulky double storey dwelling, but it would be directly in our view from our living room and deck where we spend the majority of our time. A new dwelling would block off our view of the Reserve and take up most of what is currently open green space across the road. We would lose the views and the open spatial amenity that we now enjoy, and it would significantly detract from the very reason I chose this block in the estate in the first place. I would lose the unique park-like environmental landscape.

c) The benefits of living on 4000sqm plus parcels of land that make up The Billabong are important to me and I would be affected by those benefits being threatened with a denser settlement pattern. It was a conscious choice to purchase an allotment in that part of the estate that according to the Restrictive Covenant and the Section 173 Agreements, would

6.

remain part of the estate having allotments greater than 4000sqm. To begin to subdivide allotments in The Billabong is not in keeping with the original plan for the estate and is diluting that part of the estate where there would be consistency in the allotment size landscape.

## **2. PLANNING CONSIDERATIONS**

a) The East Gippsland Planning Scheme, (Clause 11.02-1) and Municipal Strategic Objectives (Clause 21.02-1) consider neighbourhood character and landscape amenity to be important in making our communities liveable. It is important to me that Council honours and demonstrates its commitment to continue to protect my neighbourhood environment as it was presented to me at subdivision so as not to be adversely affected regarding the character and spatial amenity that I currently enjoy.

b) The granting of a permit on this Application would affect me adversely by increasing the building footprint of The Billabong against Clause 21.12 of East Gippsland Planning Scheme relating to Metung. This would adversely affect the landscape and environmental value that I currently enjoy.

## **3. RESTRICTIVE COVENANT AND THE SECTION 173 AGREEMENT**

a) The removal of the Restrictive Covenant would affect me by diminishing my enjoyment of The Billabong as was originally planned and subdivided. I have bought this property to have an allotment of more than 4000sqm to give me the spatial aspects of being surrounded by other allotments of similar size, abundant flora and fauna and a limited and minimised building footprint density. Varying the Restrictive Covenant and the Section 173 Agreement will affect me by removing the protection and certainty of enjoying the spatial amenity of being surrounded by large semi-rural parcels of land and a light building footprint.

b) If Clause (b) of the Restrictive Covenant is removed, it could affect me by further flow on dilutions of the remaining parts of the Restrictive Covenant. The Restrictive Covenant should remain in place in its entirety until its expiration regardless of whether there is a management company or not, to prevent me from being affected adversely by other possible deletions or variations of the Covenant. Possible consequences could be unexpectedly having a horse or chickens on the block next to me.

c) This Application would affect me unfairly, by a neighbour diminishing the amenities that I currently enjoy in The Billabong in attempting to change the size of allotments in the estate. This is despite all landowners in the first 5 stages of subdivision agreeing to buy their land with the knowledge there were restrictions on their title.

d) To remove clause b) in the Restrictive Covenant and similar clauses in the Section 173 Agreement could also set a precedent whereby other landowners in the estate could do the same thing. This would affect me by diminishing all the amenities that I currently enjoy in the estate.

MAP A



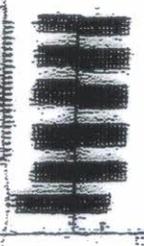
- STAGES 1-5
- The Terrace
  - The Boulevard
  - The Billabong
  - Storth Ryes No.
  - The Fields
  - The Stockyard
  - WATER DENSER STAGES
  - The Sanctuary
  - The Habitat
  - The Plateau
  - Northcote
  - The Headlands } NOT SHOWN

**Crowthers & Sadler Pty Ltd**  
 LICENSED ARCHITECTS & TOWN PLANNERS  
 125 MACARTHUR AVENUE/DEAKINSVILLE NSW 2578  
 TELEPHONE: (02) 8192 0311

STAGE 10  
 STAGE 11  
 STAGE 12  
 STAGE 13  
 STAGE 14  
 STAGE 15

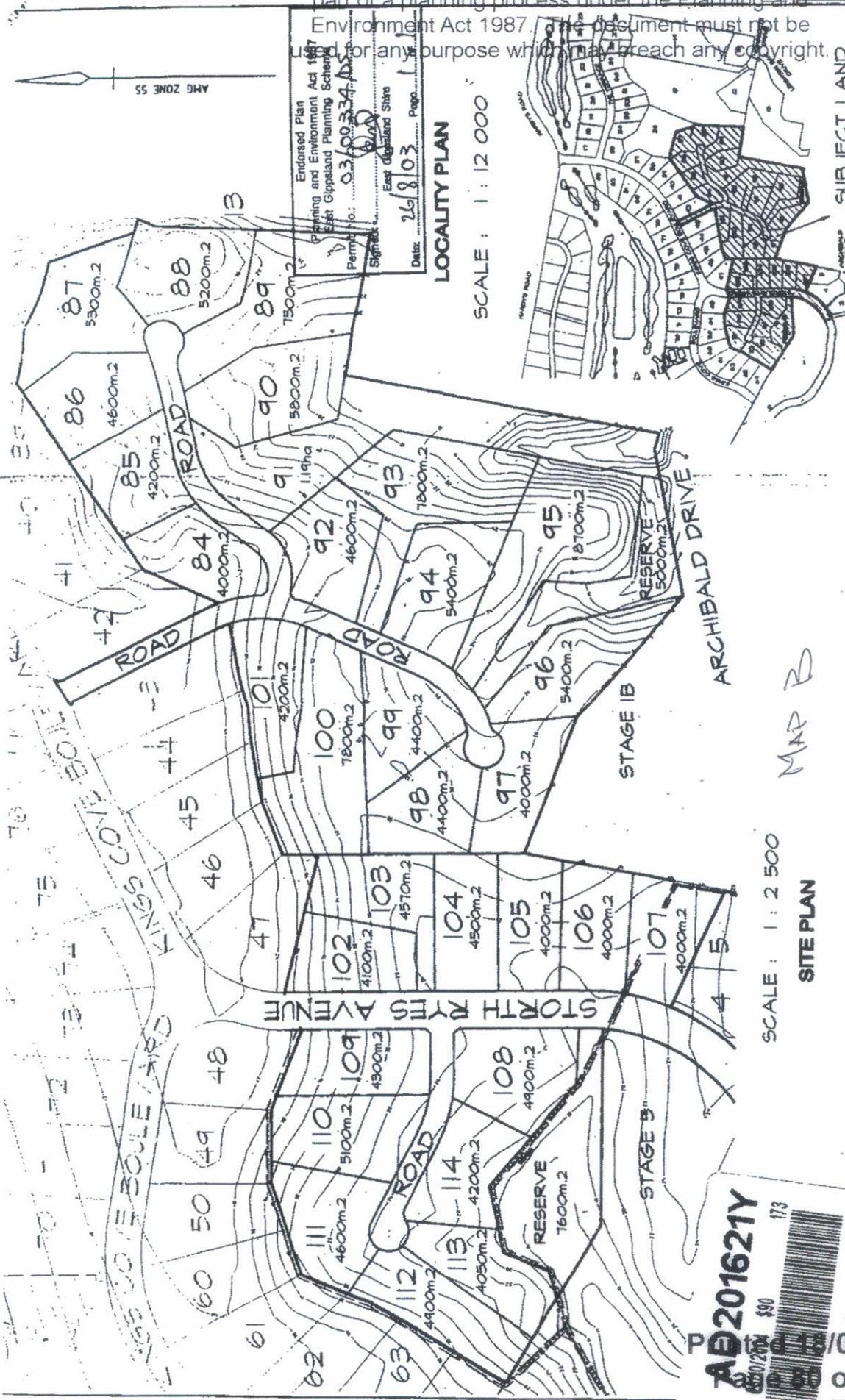
THE BILLABONG

FUTURE STAGE  
 FUTURE STAGE  
 FUTURE STAGE  
 FUTURE STAGE



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Endorsed Plan  
Planning and Environment Act 1987  
East Gippsland Planning Scheme  
Permit No.: 03100334  
Signed: [Signature]  
East Gippsland Shire  
Date: 26/8/03 Page: 1

<p><b>PROPOSED SUBDIVISION</b></p> <p>PARISH OF BUMBERRAH CROWN ALLOTMENTS 78A, 81A, 81E (PARTS) LOT F ON PS 504091V</p>	<p><b>NOTATIONS</b></p> <p>STAGES 1B &amp; 5 HEIGHTS ARE IN METRES TO AHD DATUM CONTOUR INTERVAL 2 m FINAL LOT DIMENSIONS SUBJECT TO SURVEY AREAS ARE APPROXIMATE ONLY</p>	<p><b>SUBJECT LAND</b></p>
<p><b>KINGS COVE</b> KINGS COVE BOULEVARD, METUNG</p>	<p><b>10352</b></p> <p>SURVEYORS REF.</p>	<p><b>AD201621Y</b></p> <p>18/03/2020</p> <p>173</p> <p>174</p>
<p><b>Crowther &amp; Sadler Pty Ltd.</b> LICENSED SURVEYORS &amp; TOWN PLANNERS 182 MACLEOD STREET, BARNESDALE VIC. 3676 TELEPHONE (03) 5122 6011 FAX (03) 5122 8008</p>		

# East Gippsland Shire Council

273 Main Street (PO Box 1618)  
Bairnsdale Vic 3875  
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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>Claudia Lichte &amp; Lyndon Seys</u>			
Postal address: <u>[REDACTED]</u>			
<u>METUNG</u>			Postcode <u>3904</u>
Phone number: Home:	Work:	Mobile:	
Email address: <u>[REDACTED]</u>	Fax:		

### Permit Details:

Planning permit number: <u>61/2020/P</u>
What has been proposed? <u>Two lot subdivision &amp; variation of restrictive covenant</u>
What is the address to be used or developed? <u>9 The Billabong Metung</u>
Who has applied for the permit? <u>Francis John and Lynn Fluitsma</u>

### Objection Details:

What are the reasons for your objection? <u>Current owners of the 1 acre blocks purchased their properties on the premise of low density residential zoning as per S.173 of the Planning Environment Act, that each lot would have a single dwelling. Changing this would greatly affect the amenity of Kings Cove. A precedent for further subdivisions would increase the number of residents, &amp; as a consequence interface with the management of Gippsland Waterways contrary to original subdivision planning principals</u>
---

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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)

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How would you be affected by the granting of this permit? There are at least 8  
vacant one acre blocks within a 3 minute walk  
of our home. Approving this subdivision  
would potentially create a precedent for the  
landowners of vacant blocks & further distort  
the overlay & amenity of our environment.

If you need more space for any part of this form please attach another sheet.

Signature: 

Name: Claudia Kichre

Date: 5 / 4 / 2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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**From:** SeamlessCMS@seamless.com.au  
**Sent:** Monday, 30 March 2020 12:08:46 PM  
**To:** Planning Department  
**Subject:** Objection to Planning Permit Submitted

## Online Form Submitted

Date Submitted: 30 Mar 2020 12:08 PM

Name	Fiona McBride
Email address	[REDACTED]
Postal address	[REDACTED]
Home	
Work	
Mobile	[REDACTED]
Fax	
Planning permit number	61/2020/P
What has been proposed?	Two Lot Subdivision and variation of restrictive covenant
What is the address to be used or developed?	9 The Billabong Metung
Who has applied for the permit?	Crowther & Sandler
What are the reasons for your <a href="#">objection</a> ?	Approval opens the door for the destruction of our beautifully planned estate and allows haphazard construction of dwellings on blocks currently built upon. I also object to any changes to Section 173 AE324337A 3 (b).
How would you be affected by the granting of this permit?	If allowed to proceed all vacant land within the Billabong could be subdivided resulting in high density living and increased traffic. This will be further impacted with the development of Metung Hot Springs.
Additional information	No file attached

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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: F M Carroll & R J McNamara			
Postal address:			
[REDACTED] Metung			Postcode 3 9 0 4
Phone number: Home:	Work:	Mobile: [REDACTED]	
Email address: [REDACTED]	Fax:		

Permit Details:

Planning permit number: 61/2020/P
What has been proposed? Two lot subdivision and variation of Restrictive Covenant
What is the address to be used or developed? 9 The Billabong, Metung, 3904
Who has applied for the permit? Crowther & Sadler Pty Ltd

Objection Details:

What are the reasons for your <b>objection</b> ? See attached Notes part A

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## NOTES ATTACHED TO OBJECTION TO PLANNING PERMIT 61/2020/P

**AUTHORS:** F M CARROLL & R J McNAMARA, [REDACTED] Metung

### **A: OBJECTION DETAILS**

#### **1. Lot size and diversity in Kings Cove Estate (the Estate),**

- a. there is already "*substantial variation in lot size across the precinct*". This information is provided by Crowther & Sadler (Applicant) on p4 of the submission. We agree with the Applicant, and believe the Application for a 2-lot subdivision should fail on this ground alone
- b. the process of subdivision "*has been completed by 3 separate property developers over the last 13 years, creating lot sizes varying in area, shape and topography. This unusual statutory context results in great diversity in allotment size*". Reference p5 of the Application. We agree with this summation, and believe that no further changes to the size and diversity are warranted
- c. The subject allotment (No 9 The Billabong) is in "*an established low-density residential precinct, and the adjoining wetland reserve, marks the transition to a higher density*" area to the south (refer p6 of the Application). This wetland density-boundary is entirely logical from the perspectives of good urban design, lot layout, built amenity and streetscape. The 2-lot subdivision should be refused to maintain the current status quo.
- d. Our analysis is that the Applicant has not demonstrated that there is either a market demand to change the current balance of low-density and smaller allotments.

Currently, in the Estate, there are:

- 154 smaller allotments (approx.)
- 87 one-acre allotments (approx.)
- Several large parcels of un-subdivided land (south side of the Golf Club and south of The Plateau)

Many lots in both categories of size are vacant. There is quite of lot of supply. And, furthermore, there are many more smaller allotments in the Tambo Bluff area immediately to the west of the Estate.

So, there is no demonstrated need for the 2-lot subdivision based on supply and demand.

## **2. Restrictive Covenants in the Estate**

The Applicant properly describes 4 restrictive covenants applying to the Estate and, as part of the Application proposes amendments to the covenant to enable/allow Council to consider the matter. (Refer p10 of the Application).

We consider this issue to be a significant issue of property and planning law. We question whether Council has the authority to make a change to the title of the property as proposed by removing Clause b of the restrictive covenant (please refer to the Section B of these notes on how this affects us).

## **3. Incorporated Planning Overlay – Schedule 1**

The development of the Estate has proceeded over 13 years with many alterations to the original approved subdivision layout. (Refer to p16,17 & 18 of the Application comment and provides plans of the changes to verify those comments).

We note this historic “ad-hoc” compliance with the overlay, and object to the Application because it seeks to take advantage of that history by making an opportunistic claim for a 2 lot subdivision. The Billabong was originally planned as 4 lot cul-de-sac. It has been built as 7 lot court. That is enough deviation from the original plan of the Estate.

This application cannot be approved on the assumption that a historic chain of events that are not “consistent with the overlay” should be followed by another inconsistent decision.

### **B: How would you be affected by the granting of this permit**

#### **1. Lot Size and Diversity**

Owners of properties in the Estate have made purchasing and building decisions based on the certainty provide by the Developers about the location of low-density and higher density lots. We too made a purchasing decision to buy our property for the “lifestyle choices” it offered and because of the certainty of neighbouring land uses based on the approved plans of subdivision and the restrictive covenants. We enjoy the current balance of densities, the

diversity of residential development created and the variety of occupants who have chosen to live here. The current Overlay provides us with certainty of surrounding developments.

This Application, if approved, will cause significant uncertainty to us about what our future neighbourhood development could look and feel like.

It will cause unnecessary anxiety and loss of enjoyment of our property.

## **2. Removal of Restrictive Covenants**

The Application proposes the removal of a restrictive covenant for its convenience.

We note that all properties in the Estate have similar, if not identical s173 Agreements in place and registered on titles. More than 260 properties are encumbered by this agreement. These agreements have been executed by purchasers on the understanding that it was an “Estate wide” agreement aimed to preserve and protect the residential amenity of the neighbourhood.

The removal of the covenant by Council as requested (para 5 of p20 of the Application) for only 1 property may be invalid on the grounds that it lacks procedural fairness to all owners in the Estate. That is, if the Council chooses to approve this Application, then it should make the same amendment to every other property title in the Estate.

If this Application is approved, it will become another “overlay breaker” in the history of this Estate, and it will/could lead to a flood of other applications of a similar nature. It is not just the owners of 1-acre properties that are impacted, but also those who own smaller properties who may see an increase in their number, and a possible decrease in their property values, and even an inability to sell a vacant property.

If a change of covenant confers a benefit on just 1 landowner, then that is unfair to others.

Until we, as residents and owners, know the legality of any course of action proposed to be implemented by Council with respect to the amendments of the s173 Agreements, then the Application should be refused.

# East Gippsland Shire Council

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## Objection to Planning Permit Application Planning and Environment Act 1987

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### Your Details:

Name:	THOMAS MOORE & MARGARET SUSAN MOORE		
Postal address:	[REDACTED]		
	METUNG VIC	Postcode	3904
Phone number: Home:	N/A	Work:	N/A
		Mobile:	[REDACTED]
Email address:	[REDACTED]	Fax:	N/A

### Permit Details:

Planning permit number:	61/2020/P
What has been proposed?	Variation of restricted covenant to provide a two lot subdivision
What is the address to be used or developed?	9 THE BILLABONG, METUNG, 3904
Who has applied for the permit?	CROWTHER & SADLER ON BEHALF OF F & L FRUITSMAN, EGSC

### Objection Details:

31 MAR 2020

What are the reasons for your objection?	INFORMATION MANAGED
THE PLANNED VARIATION TO THE COVENANT GOES AGAINST THE CONCEPT OF KINGS COVE IN THAT IT WATERS DOWN THE ORIGINAL PLAN THAT WAS DEVELOPED OF BLOCK OF 4000 SQUARE METRES.	
THE MAJORITY OF RESIDENTS WHO LIVE ON THE ESTATE PURCHASED THEIR PROPERTIES WITH A VIEW TO THE AMBIENCE OF THE ESTATE AND THE PLANNING OF THE ESTATE TO ENSURE THE AMBIENCE CONTINUES.	

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JUL15

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How would you be affected by the granting of this permit? WE ARE RESIDENT AT 17 THE FIELDS, METUNG  
SHOULD THIS APPLICATION BE APPROVED, WE CONSIDER  
THAT A PRECEDENT WOULD HAVE BEEN SET.  
AS WE HAVE A NUMBER OF NEIGHBOURING BLOCKS  
WITH THE POTENTIAL TO BUILD MORE THAN ONE DWELLING  
IF THE COVENANT IS LIFTED, WE FEEL THAT WE ARE  
POTENTIALLY AT RISK OF LIVING IN A MUCH DENSER  
HOUSING DEVELOPMENT THAN WAS PROMISED WHEN  
WE PURCHASED OUR PROPERTY 12 YEARS AGO.  
THIS WOULD CHANGE THE WHOLE AMBIENCE OF THE  
ESTATE WHERE WE INTENDED TO LIVE IN RETIREMENT.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: THOMAS MOORE

MARGARET J. MOORE Date: 26 / 03 / 2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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Your Details:

Name: CAROL + ADRIAN MOYES			
Postal address: [REDACTED]			
METUNG VICTORIA			Postcode 3904
Phone number: Home:	Work:	Mobile: [REDACTED]	
Email address: [REDACTED]		Fax:	

Permit Details:

Planning permit number: 61/2020/P
What has been proposed? TWO LOT SUBDIVISION AND VARIATION OF A RESTRICTIVE COVENANT
What is the address to be used or developed? 9 THE BILLABONG (LOT 114 PS) METUNG VIC 3904
Who has applied for the permit? CROWTHER + SADLER Pty Ltd

Objection Details:

What are the reasons for your objection?
--

1. We and all other lot owners in the Kings Cove Estate, including the owners of 9 The Billabong, purchased land subject to Section 173 of the Planning and Environment Act 1987. This document was intended to **PROTECT** owners from undesirable development by **STOPPING** owners or developers doing exactly what the owners of 9 The Billabong are looking to do: **CHANGE** the open space ambience and lifestyle of stage one of the estate. Those wanting a smaller allotment have the opportunity to purchase land or existing dwellings in the other parts of the estate where smaller lots are available.
2. Subdividing 1 acre allotments will create a denser living space – unlike the one we bought into, by reducing the open space, and neighbor distancing & country/rural lifestyle
3. Reduced open space will have a negative impact on wildlife habitat and corridors
4. More housing will have greater environmental impacts on water, sewerage, power etc.
5. It will create increased traffic to an already busy estate
6. We object to the removal of clause b) of The Covenant referred to in the Transfer of Land because it prohibits the removal of existing dwellings or fences, and prohibits further subdivision of lots.

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How would you be affected by the granting of this permit? \_\_\_\_\_

1. The 2 lot subdivision and removal of clause b) of the covenant will affect **all title owners in the estate**, because any lot will be able to be subdivided. Therefore we could expect to have more houses built on adjoining land now or in the future, altering our views, our wildlife enjoyment, and our quality of life.
2. The home we have built was with the understanding and assurity that we could not be 'built out' in the future. This will not be the case should this permit application be approved.
3. It will remove the existing protection against haphazard development
4. Has the very real possibility that it will devalue our current investment.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: CAROL MOYES

Date: 10/04/2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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JUL15

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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### Your Details:

Name: JOANNE DIGBY PARK			
Postal address: [REDACTED]			
IVANHOE VIC		Postcode	3079
Phone number: Home:	Work:	Mobile: [REDACTED]	
Email address: [REDACTED]		Fax:	

### Permit Details:

Planning permit number:	61/2020/P
What has been proposed?	TWO LOT SUBDIVISION AND VARIATION OF A RESTRICTIVE COVENANT
What is the address to be used or developed?	9 THE BILLABONG, METUNG VIC. 3904
Who has applied for the permit?	CROWTHER & SADLER PTY. LTD.

### Objection Details:

What are the reasons for your objection? We bought our property, 47 Kings Cove Boulevard, Metung on the understanding that our part of the development was low density, spacious acreage blocks with a park-like appearance that complemented the environment and the special "uniqueness" of this part of Metung. This is something we firmly believe should be preserved otherwise it will be lost forever. For these reasons we object to subdividing 9 The Billabong, Metung.
---

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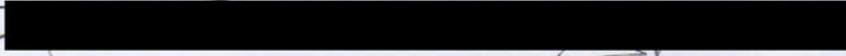
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How would you be affected by the granting of this permit? If the permit was granted it would set a precedent to overturn the covenant for our part of the subdivision, which has been upheld since its inception. This protected our part of the subdivision from high-density housing and the ensuing loss of green open space, abutting the Kings Cove Golf Course. This golf course subdivision is one of a kind within Victoria and should not be compromised and the original founding covenant should be implicit and respected.

If you need more space for any part of this form please attach another sheet.

Signature:   
Name: DIGBY PARK & JOANNE PARK Date: 1 / 14 / 2020

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# East Gippsland Shire Council

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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>ROSS &amp; JAN PAVEY</u>			
Postal address: <u>[REDACTED]</u>			
METUNG			Postcode <u>3904</u>
Phone number: Home:	Work:	Mobile:	<u>[REDACTED]</u>
Email address: <u>[REDACTED]</u>			Fax:

### Permit Details:

Planning permit number: <u>61/2020/P</u>
What has been proposed? <u>VARIATION OF A RESTRICTIVE COVENANT &amp; TWO LOT SUBDIVISION</u>
What is the address to be used or developed? <u>9 THE BILLABONG METUNG LOT 114 PS 517830</u>
Who has applied for the permit? <u>CROWTHER &amp; SADLER P/L</u>

### Objection Details:

What are the reasons for your objection? <u>PLEASE SEE ATTACHED</u>

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How would you be affected by the granting of this permit? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PLEASE SEE ATTACHED

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you need more space for any part of this form please attach another sheet.

Signature:

Name:

R. PAVEY

Date:

1 / 4 / 2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Reason for Objection and affect by the granting of the permit

The owners of No 9 The Billabong, Kings Cove, Metung are seeking to vary the Restrictive Covenant (RC) on the Kings Cove Estate land titles, by removing clause 3b of Section 173. This is to enable them to subdivide their property into two parcels, one of 2168 sqm and the other 2011 sqm which will contain the existing dwelling.

The RC currently provides for compliance with the Kings Cove development guidelines that have prevailed over the five stages of development since its inception. Up till now those guidelines have been respected by all owners, architects and builders. The Kings Cove area subsequently is an outstanding success in providing the current aesthetic appearance, general amenity, low density housing, and environment.

The owners of 19 The Stockyard Metung are retired, permanent residents, and sought out this specific development concept followed on the Kings Cove Estate, which through their land and building purchase they currently enjoy.

The northern portion of Kings Cove Estate is a low density residential estate, restricted to a single dwelling per Section 173 clause 3b, and in which the subject property, No 9 The Billabong resides. The adjoining wetland reserve marks the transition of the boundary to a higher density residential zone as you move south from the property. This is a clear delineation line.

The proposed variation of the RC will injure the current owners of 19 The Stockyard, who are entitled to the benefit of the restriction, by discounting the amenity of Kings Cove area, affecting the nature, quality and value of the land.

The RC variation will allow future applications to reduce the size of the existing minimum land parcel from 4000sqm to 2000sqm, which negatively impacts the current low residential dwelling zoning, the vegetation corridors between buildings (preserving the environment), and the land value. It will be detrimental to the overall ambience of the Kings Cove Estate concept of an open living environment.

Variation of the RC should be denied as the application has no merit.

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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: ROGER AND FRANCES PHILWIPS			
Postal address: [REDACTED]			
Metung			Postcode 3904
Phone number: Home: [REDACTED]	Work: N/A	Mobile: [REDACTED]	
Email address: [REDACTED]		Fax: [REDACTED]	

Permit Details:

Planning permit number: 61/2020/P
What has been proposed? Two lot subdivision and variation of a restrictive covenant
What is the address to be used or developed? 9 The Billabong, Metung Lot 114 PS 517830
Who has applied for the permit? Crowther & Sadler Pty Ltd

Objection Details:

What are the reasons for your objection? The proposed subdivision is requesting to break the Planning & Environment Act 1987 Section 473 Agreement, which was designed to keep rural, low density properties, exactly that. The covenant was applied to PROTECT the area from future development of Stage 1 of Kings Cove. It also breaks Covenant AC4041abP dated 15/10/2003
---

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How would you be affected by the granting of this permit? Merung & surrounds, is not designed to sustain extra volume of traffic.  
It will devalue properties, it opens the door for the destruction of the well planned, kings core large blocks. Lifestyles cannot be guaranteed, it will allow haphazard construction of dwellings on the blocks around us.  
It would significantly alter the density of houses and future developments of a rural area.

If you need more space for any part of this form please attach another sheet.

Signature: [Redacted Signature]  
Name: Roger and Frances Phillips Date: 01/04/2020

**Office Use Only:**  
Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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ABN: 81 067 067 765

## 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>GAYLE &amp; THOMAS POHL</u>		
Postal address: <u>[REDACTED], METUNG</u>		Postcode: <u>3904</u>
Phone number: Home: <u>—</u>	Work: <u>—</u>	Mobile: <u>04</u>
Email address: <u>[REDACTED]</u>		Fax: <u>—</u>

### Permit Details:

Planning permit number: <u>61/2020/P</u>
What has been proposed? <u>SUBDIVISION PLANNING APPLICATION TO SUBDIVIDE EXISTING LOT INTO TWO LOTS &amp; REMOVE RESTRICTIVE COVENANT</u>
What is the address to be used or developed? <u>9 THE BILLABONG, METUNG</u>
Who has applied for the permit? _____

### Objection Details:

What are the reasons for your objection? <u>- as per attached sheet</u>
_____
_____
_____
_____
_____
_____

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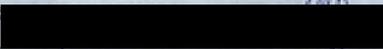


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Fax: (03) 5153 9576  
National Relay Service: 133 677  
Residents' Information Line: 1300 555 888  
ABN: 51 057 067 765

How would you be affected by the granting of this permit? \_\_\_\_\_

-as per attached sheet

If you need more space for any part of this form please attach another sheet.

Signature:   
Name: GAYLE POHL TOM POHL Date: 26/03/2020

### Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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JUL 15

East Gippsland Shire Council  
Objection to Planning Permit Application

Addendum to application from Gayle & Thomas Pohl

26/03/2020

What are the reasons for your objection?

1. First and foremost there is only one access/egress into Kings Cove and to allow a subdivision of an existing block will create a precedent for others to follow and put pressure on emergency access, e.g. Bushfires. Plus, once Metung Hot Springs comes into operation this will further increase the pressure on the one access road.
2. Changing the covenants is an affront to the people who have complied with these and may result in indiscriminate buildings that change the overall general appearance of this estate.
3. Existing owners have purchased in this area because of the larger block sizes and then to have the potential for these to be made smaller discriminates against the original landowners, as they have had no choice in the matter. They chose not to purchase in a high-density housing estate!
4. The Person/s who have applied for this subdivision purchased and built knowing the restrictions. They had choice at the time so should not be allowed to change their mind after the fact.

How would you be affected by the granting of this permit?

1. As recent homebuilders in Kings Cove, we are concerned if changes to the subdivision covenant occur, it will dramatically impact on traffic management especially during times of panic and emergency such as the recent bushfire situation.
2. We purchased land knowing and accepting the covenants and built according to these. To suggest that these are to be removed is very disappointing.

[Redacted signature]

# East Gippsland Shire Council

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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Your Details:

Name: <u>PETER AND LYNETTE RICHERS</u>			
Postal address: <u>[REDACTED] METUNG</u>		Postcode <u>3904</u>	
Phone number: Home:	Work:	Mobile:	<u>[REDACTED]</u>
Email address: <u>[REDACTED]</u>		Fax:	

Permit Details:

Planning permit number:	<u>61/2020/P</u> <u>AE 324337A</u>
What has been proposed?	<u>SUBDIVISION OF PROPERTY</u>
What is the address to be used or developed?	<u>9 THE BILLABONG KINGS COVE METUNG</u>
<b>EGSC</b>	
Who has applied for the permit?	<u>CROWTHER AND SADLER</u> <u>6 APR 2020</u>

INFORMATION  
MANAGEMENT

Objection Details:

What are the reasons for your objection?
<u>1/ IT WOULD ALLOW FOR OTHER CURRENT OWNERS TO ALSO TAKE LIKE ACTION FOR HAPHAZARD CONSTRUCTION OF DWELLINGS ON A BLOCK NEXT TO YOU THAT ALREADY HAS DWELLINGS THAT WHERE THE OWNER THEN DECIDES TO SUBDIVIDE PART OF THEIR BLOCK THAT CAN THEN BE TWO OR MORE DWELLINGS WOULD BE ON IT.</u>
<u>2/ THE LIFESTYLE OF THOSE WHO HAVE BOUGHT LARGE ALLOTMENTS CAN NO LONGER BE GUARANTEED.</u>
<u>3/ IT WOULD BRING IN APPROPRIATE DEVELOPMENT INTO KINGS COVE THAT WAS ORIGINALLY PLANNED WITH LARGE ALLOTMENTS &amp; TO ONLY HAVE ONE DWELLING ON THE BLOCK.</u>
<u>4/ IT WOULD SIGNIFICANTLY ALTER THE DENSITY OF KINGS COVE OVERALL IF THE GATE IS OPENED.</u>

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Planning and Environment Act 1987

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Your Details:

Name: <u>PETER AND LYNETTE RIGGERS</u>			
Postal address: <u>[REDACTED]</u>		<u>MEUNG</u>	
		Postcode	<u>3904</u>
Phone number: Home:	Work:	Mobile	<u>[REDACTED]</u>
Email address: <u>[REDACTED]</u>		Fax:	

Permit Details:

Planning permit number:	<u>61/2020/P</u> <u>AE 324337A</u>
What has been proposed?	<u>SUBDIVISION OF PROPERTY</u>
What is the address to be used or developed?	<u>9 THE BILLABONG KINGS COVE MEUNG.</u>
Who has applied for the permit?	<u>CROWTHER AND SADLER</u>

Objection Details:

What are the reasons for your objection?	<p><u>1/ IT WOULD ALLOW FOR OTHER CURRENT OWNERS TO ALSO TAKE LIKE ACTION FOR HAPHAZARD CONSTRUCTION OF DWELLINGS ON A BLOCK NEXT TO YOU THAT ALREADY HAS DWELLINGS AND WHEN THE OWNER THEN DECIDES TO SUBDIVIDE PART OF THEIR BLOCK THAT CAN THEN BE TWO OR MORE DWELLINGS WOULD BE ON IT.</u></p> <p><u>2/ THE LIFESTYLE OF THOSE WHO HAVE BOUGHT LARGE ALLOTMENTS CAN NO LONGER BE GUARANTEED.</u></p> <p><u>3/ IT WOULD BRING IN APPROPRIATE DEVELOPMENT INTO KINGS COVE THAT WAS ORIGINALLY PLANNED WITH LARGE ALLOTMENTS &amp; TO ONLY HAVE ONE DWELLING ON THE BLOCK.</u></p> <p><u>4/ IT WOULD SIGNIFICANTLY ALTER THE DENSITY OF KINGS COVE OVERALL - THE GATE IS OPENED.</u></p>
--	--

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How would you be affected by the granting of this permit? \_\_\_\_\_

SEE ATTACHED

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: CATHERINE SCOTT

Date: 31/03/2020

### Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## **OBJECTION**

The purchase of a property is the greatest single investment that most Australians make. Acts of Parliament have, for over a hundred years, endeavoured to bring certainty to protect both purchasers and vendors of land.

The Kings Cove development contains dozens of parcels of land of approximately 4,000 square metres and a large number of smaller parcels of land in designated areas.

When we considered purchasing a property in Kings Cove, there were several factors of major importance. Of greatest importance was the sense of space and privacy afforded by the 4,000 square metre blocks.

We relied on the protection of the Restrictive Covenant in providing only one dwelling on a 4,000 square metre block.

The proposed subdivision adversely affects the lifestyle choice that we and others have made. The proposed subdivision is a cynical disregard of the legal certainty provided by the Restrictive Covenant.

Irrespective of the reasons of the owners of 9 The Billabong, the effect on other property owners in Kings Cove will be devastating.

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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: Carol Simmons & MARK HOPKINS			
Postal address: [REDACTED]			
TETONG			Postcode 3904
Phone number: Home: /	Work: /	Mobile: [REDACTED]	
Email address: [REDACTED]			Fax: /

### Permit Details:

Planning permit number: 61/2020/P
What has been proposed? Two Lot Subdivision and variation of a restrictive covenant.
What is the address to be used or developed? 9 THE BILLABONG, TETONG, VIC 3904 Lot 114 PS 517830.
Who has applied for the permit? CROSWELL + SADLER PTY LTD

### Objection Details:

What are the reasons for your objection? We are residents of Kings Cove and have been for the past 10 years. We purchased a one acre site because it gave us the space and tranquility that we desired. We feel that if this planning application was allowed to go ahead it would set the precedent for the large blocks to become small subdivisions which is something we definitely don't want to see in Kings Cove.
---

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How would you be affected by the granting of this permit? \_\_\_\_\_

Our lifestyle choice would be greatly impacted, with the knowledge that any surrounding area to our property could easily become high density. It would also de-value our property.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: CAROL SIMMONS, MARK HOPKINS Date: 26 / 3 / 20.

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

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IN

# East Gippsland Shire Council

273 Main Street (PO Box 1618)  
Bairnsdale Vic 3875  
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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

## 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:

EGSC

Name: <u>CW + JA SMITH</u>		30 MAR 2020	
Postal address: <u>[REDACTED]</u>		INFORMATION MANAGEMENT	
<u>METUNA</u>		Postcode	<u>3904</u>
Phone number: Home: <u>---</u>	Work: <u>---</u>	Mobile:	<u>[REDACTED]</u>
Email address: <u>[REDACTED]</u>	Fax: <u>---</u>		

Permit Details:

Planning permit number:	<u>61/2020/P</u>
What has been proposed?	<u>TWO LOT SUBDIVISION &amp; VARIATION OF RESTRICTIVE COVENANT</u>
What is the address to be used or developed?	<u>9 THE BILLABONG METUNA</u>
Who has applied for the permit?	<u>CRAWFORD &amp; SAULER Pty LTD</u>

Objection Details:

What are the reasons for your objection? Our objection is based on the variation of restrictive covenants. We bought our large block and believed that the covenants on building would be maintained. The reason for the application is on a commercial basis which shouldn't be allowed to impact all existing residents.

Our houses and gardens were designed with the existing covenants taken into account. Why should the financial gain of a few affect our privacy and life style

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How would you be affected by the granting of this permit? \_\_\_\_\_

VARIATION OF RESTRICTIVE COVENANTS IN PINE  
ON KINGS COVE.

OUR RESIDENTIAL ADDRESS IS

[REDACTED]  
KINGS COVE 3904  
MORONG

If you need more space for any part of this form please attach another sheet.

Signature: [REDACTED]

Name: ANNE SMITH Judith Smith Date: 25/03/2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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**STAN O'LOUGHLIN and LOUISE STOLTZ**

[REDACTED]  
[REDACTED]  
**METUNG.VICTORIA.3904.**

25<sup>th</sup> March 2020.

Cc: Tim Bull. MP.  
Darren Chester. MP.

East Gippsland Shire Council.,  
Planning Permit Division,  
[REDACTED]  
Bairnsdale. VIC. 3875.

Dear Sirs / Mesdames,

It is with horror that we became aware of a proposed application for a planning permit to allow a two lot subdivision, and variation of a restrictive covenant on one of the larger lots in the Kings Cove area, namely 9 The Billabong, Lot 114 PS 517830.

Attached is an Objection to Planning Permit Application, signed by myself and my wife Louise.

We purchased our land; [REDACTED] Subdivision No 448625J., Title Vol [REDACTED] Metung.3904., in good faith on 1<sup>st</sup> June 2007.

Agreement Section 173 Planning and Environment Act 1987, AB573238L 20/09.2002, and AC129582R 13/06/2003.

We purchased deliberately to build and live in an open environment, in a beautifully planned area, on the understanding that we would remain in a low density zone.

Any permit to allow subdivision in this environment would act as a precedent for further, and possibly more radical subdivision.

We strongly object to this application, which could lead to destruction of a well planned and beautiful estate.

REGARDS

STAN O'LOUGHLIN and LOUISE STOLTZ

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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**EGSC**

Your Details:

3 APR 2020

Name: <u>CHRISTA &amp; RICHARD WHITAKER</u>		INFORMATION MANAGEMENT	
Postal address: <u>[REDACTED] METUNG</u>		Postcode <u>3904</u>	
Phone number: Home:	Work:	Mobile: <u>[REDACTED]</u>	
Email address: <u>[REDACTED]</u>		Fax:	

Permit Details:

Planning permit number:	<u>61 / 2020 / P</u>
What has been proposed?	<u>LOT SUBDIVISION OF TWO + VARIATION OF A RESTRICTIVE COVENANT</u>
What is the address to be used or developed?	<u>9 THE BILLBONG, METUNG 3904</u> <u>LOT 114 PS 511830</u>
Who has applied for the permit?	<u>CROWTHER + SADLER PTY. LTD.</u>

Objection Details:

What are the reasons for your objection?	<u>SUBDIVISION + VARIATION OF A PROTECTIVE COVENANT WOULD IMPACT NEGATIVELY ON ALL OTHER LOW DENSITY (ONE ACRE +) RESIDENTIAL LAND WITHIN KINGS COVE BOTH IN THE NUMBER OF RESIDENCES ALLOWED TO BE CONSTRUCTED AND THE EXISTING "PARK LIKE" SETTING THAT ALL OTHER RESIDENTS NOW ENJOY. KINGS COVE IS A UNIQUE ENVIRONMENT THAT WE DO NOT WANT TO SEE CRODDED BY FUTURE COMMERCIAL DRIVEN DEVELOPMENT. THIS PATENTLY GOES AGAINST WHY WE ALL BOUGHT HERE IN THE FIRST PLACE.</u>
--	---

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How would you be affected by the granting of this permit? \_\_\_\_\_

\* PLEASE REFER TO ATTACHED LETTER.

1. DIMINISHED QUALITY OF OUR LIFESTYLE AS RESIDENTS
2. INCREASED NUMBER OF RESIDENTS IN KINGS COVE WITHOUT ASSOCIATED INCREASE IN INFRASTRUCTURE.
3. WITH THE PROPOSED HOT SPRINGS DEVELOPMENT FOR KINGS COVE, IT WOULD DRAMATICALLY INCREASE TRAFFIC FLOW YEAR ROUND.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: CHRISTA WHITAKER. RICHARD WHITAKER Date: 28/03/2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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R D & C M Whitaker

[REDACTED], Metung 3904

28<sup>th</sup> March 2020

East Gippsland Shire Council

PO Box 1618

Bairnsdale Vic 3875

Attention: Planning Permit Department

Re: Planning Permit Application 61/2020/P

9 The Billabong, Metung 3904

Lot 114 PS 517830

Dear Sir/Madam

We object to the Planning Permit application 61/2020/P that has been submitted for the above property in Kings Cove Metung. This application being for the subdivision of an existing low density residential block into two smaller building blocks along with the variation of an existing protective covenant relating to this. Please note that we **strongly object** to there being any change (removal/variation) to what is currently in place. We purchased our [REDACTED] property (1+ acres [REDACTED]) over six and a half years ago because we were wanting to live in "park like surroundings" (as advertised by the Kings Cove developers) with a low density placement of homes. At the time, we were assured that there was a permanent protective covenant in place and this was a major motivating factor in our purchase. On that basis, we also went ahead and purchased [REDACTED] Kings Cove (1+ acres [REDACTED]) a few years later.

It is of no benefit to residents of Kings Cove to eventually be surrounded by the increased congestion of more and more higher density sub divided blocks. It is a surety that approval to this planning permit application would be the start of corrosive change within Kings Cove. We moved here to get away from the possibility of that happening. Had we known that this change to our protective covenant was possible, we would not have invested into this area.

The owners of number 9 The Billabong purchased their land with the full knowledge that there was a covenant in place over all the properties in the Kings Cove estate.

Surely it is the responsibility of Shire Planning Departments to protect the integrity of existing covenants put in place to protect rate payers properties from the erosion of inappropriate development where individual commercial gain is the end goal.

Kings Cove today, along with the Golf Course as its centre point, is a unique and green park like residential development at the shore of the Gippsland Lakes. It is in fact a one off, and that's been the lure for all of us to move here in the first place.

Yours faithfully

A large black rectangular redaction box covering the name of the signatory.A handwritten signature in black ink, appearing to read 'Richard and Christa Whitaker'.

Richard and Christa Whitaker

CC Tim Bull MP

Darren Chester MP

**From:** SeamlessCMS@seamless.com.au  
**Sent:** Tuesday, 24 March 2020 6:02:22 PM  
**To:** Planning Department  
**Subject:** Objection to Planning Permit Submitted

## Online Form Submitted

Date Submitted: 24 Mar 2020 06:02 PM

Name	Heather Wilkins
Email address	[REDACTED]
Postal address	[REDACTED]
Home	
Work	
Mobile	[REDACTED]
Fax	
Planning permit number	61/2020/P
What has been proposed?	Subdivision
What is the address to be used or developed?	9 The Billabong Metung
Who has applied for the permit?	
What are the reasons for your <a href="#">objection</a> ?	We bought in the estate because of the prestige of the area, and we feel that if people area allowed to subdivide larger blocks that it will change the estate for the worse.
How would you be affected by the granting of this permit?	The block is opposite us and we hope to have as less houses as possible squeezed in on one previous block.
Additional information	No file attached

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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5000

3 APR 2020

Your Details:

INFORMATION  
MANAGEMENT

Name: ROGER ARSU			
Postal address: [REDACTED] MZUNGA			
		Postcode	3904
Phone number: Home: [REDACTED]	Work:	Mobile:	[REDACTED]
Email address: [REDACTED]		Fax:	

Permit Details:

Planning permit number:	61/2020/P
What has been proposed?	TWO LOT SUBDIVISION AT KING'S COUS MZUNGA
What is the address to be used or developed?	NO 9 THE BILABONE KING COUS MZUNGA
Who has applied for the permit?	NAME WITH HELD ON APPLICATION

Objection Details:

What are the reasons for your objection?	A PRECEDENT WOULD BE SET IF THIS WAS TO GO AHEAD OPENING THE WAY FOR FURTHER R3 DEVELOPMENT OF LARGER BLOCKS. THERE ARE THREE AREAS SET ASIDE FOR HIGH DENSITY THE PLATAU, HABIT AND SANCTUARY. THESE ARE NARROW ROADS WITH NO FOOTPATHS THIS IS AFFECTING PUBLIC SAFETY AT THIS ADDRESS.  THE EAST GIPPSLAND SHIRE SHOULD TAKE UP THE RESTRICTIVE COVENANT TO THE ESTATE DOES NOT END UP LIKE TAMBO BLUE ESTATE
--	--

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How would you be affected by the granting of this permit? \_\_\_\_\_

THE OPEN PLAN LIVING, CREATES A PARK EFFECT  
WITH THE LARGER BLOCKS ADDING TO THIS.  
REDUCING BLOCK SIZE WOULD GIVE A HIGH DENSITY  
LOOK TO THE ESTATE. AS THERE IS NO PUBLIC  
SPACE ON THIS ESTATE FOR CHILDREN TO PLAY &  
WITH NARROW SIDING.

If you need more space for any part of this form please attach another sheet.

Signature: _____	
Name: ROBERT ADAMS	Date: 31 / 3 / 2020

<b>Office Use Only:</b>	
Objection Received by: _____	Date Received: ____/____/____
Planning officer responsible: _____	Date Received: ____/____/____

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## Objection to Planning Permit Application

Planning and Environment Act 1987

INFORMATION MANAGEMENT

6 APR 2020

There are some hard words in this form. The hard words are in blue. You can read what they mean on page 3.

EGSC

### Your Details:

Name: <b>ANDREW BELL</b>			
Postal address: [REDACTED]		<b>METUNG</b>	
<b>VICTORIA</b>			Postcode <b>3904</b>
Phone number: Home: [REDACTED]	Work: [REDACTED]	Mobile: [REDACTED]	
Email address: [REDACTED]		Fax: [REDACTED]	

### Permit Details:

Planning permit number: <b>61/2020/P</b>
What has been proposed? <b>TWO LOT SUBDIVISION and a VARIATION of a RESTRICTIVE COVENANT</b>
What is the address to be used or developed? <b>9 The Billabong Metung 3904</b>
Who has applied for the permit? <b>CROWTHER and SADLER PTY LTD</b>

### Objection Details:

What are the reasons for your objection? <b>Increased Population</b> <b>The relaxation of the existing Covenant</b> <b>would result in an increase in population within</b> <b>the first five Stages of Kingscove which will</b> <b>adversely impact on Utility Services (Underground)</b> <b>amount of Traffic, Car Parking and due to</b> <b>increased dwelling hardstand, roof/driveway etc there</b> <b>would be greater surface water run off to Road</b> <b>Drainage System</b>
--

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JUL15

# East Gippsland Shire Council

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How would you be affected by the granting of this permit? \_\_\_\_\_

The Impact of Increased Population:

The underground services, water, power, telephone and sewer have been sized to suit the originally planned single resident plus 4000m<sup>2</sup> sized blocks within Stages 1 to 5. The change in covenant would double the usage requirement resulting in upgrade/expansion of services — Who would Pay — new tenants, residents of Kingscove, Shire Council and or East Gippsland Rate Payers — all of which is unfair — why approve change.

The road drainage is not designed to handle double on off capacity — resulting in local pooling, flooding etc — health risk → accident risk.

Signature: \_\_\_\_\_  
 Name: ANDREW GRAHAM BELL Date: 04/04/2020

← The road drainage culverts are not sized and at present block now. this would become a bigger problem — cost — who would pay. ??

Please refer attached sheet.

**Office Use Only:**  
 Objection Received by: \_\_\_\_\_ Date Received: \_\_\_/\_\_\_/\_\_\_  
 Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_/\_\_\_/\_\_\_

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## Objection details

Permit application reference number: 61/2020/P

### Continuation of Andrew and Anne Bell's Objections

Reasons for my objection	Affects on me
A restrictive covenant was imposed on the land and is not due to expire for a number of years.	The restrictive covenant protects my visual amenity and the spatial aspects of the low density living zone that are important to us. Removing the covenant will diminish our amenity.
The neighbourhood character of the plus 4000 sqm stages of Kings Cove will change i.e. The first 5 stages.	The plus 4000 sqm land parcels with a single dwelling that make up the first 5 stages of the Golf Course precinct should not change as the neighbourhood character we purchased in, will be threatened and adversely impacted by a denser housing outcome..
The applicant uses this statement to imply that the covenant should be changed: 'Kings Cove Metung Pty Ltd no longer exists, and the authorisation role has not been transferred to another entity'.	If this application is allowed and allows the removal of Clause (b) of the covenant it will have implications that other rules made can be changed due to the original 'entity' no longer existing. We understand that the expiry date on covenant AF799003U of 31 December 2025 is legally enforceable regardless of whether there is a management company or not.
The surrounding neighbourhood character and natural landscape	The East Gippsland Planning Guidelines as shown on its Website states that 'planning for urban growth should consider neighbourhood character and natural landscape'. A council decision to allow reduction in residential lot size would impact on our visual appreciation and enjoyment of my existing natural landscape views and neighbourhood environment. This is important to us and a strong reason why we purchased in Kings Cove.
The proposed change in Covenant	Clause 21.12 of the EGPS 'Ensure development does not adversely affect landscape and environmental values and incorporates measures to protect those values including . . . minimisation of building footprints.' Any change to the existing Covenant adversely impacts this Clause and would be contrary to the

	Shires guidelines and destroy existing Stage 1 to 5 Kings Cove landscape and environmental values which we cherish.
The application is contrary to the overall Kings Coves planning development.	Kings Cove is a staged development operating under approved guidelines which allow for Stages 1 to 5 larger plus 4000 sqm lot sizes around the Golf Course to allow open plan single dwelling properties followed by the so called front land, closer to the Lake staged developments which include smaller Lot sizes accommodating both residential and commercial dwellings and enterprises. This development plan has the approval and our understanding , acceptance by the East Gippsland Shire Council as it complements the Shires Planning guidelines for this overall Estate development. Any change to the existing Covenant would contravene these long standing accepted guidelines and throw into confusion what can and can not be achieved on this overall Estate.
Commercial advantage to the owner of 9 The Billabong if this proposal is approved.	The East Gippsland Shire Councils notes for the Objection Form state "that the responsible authority may reject an objection which it considers has been made primarily to secure commercial advantage" This guideline should be followed as our objection seeks no financial gain by sub division of my plus 4000sqm lot. This application if accepted/ approved by the Shire will be discriminatory against us and others who object to changing the existing Covenant etc as outlined in the Owners of Lot 9 the Billabong application as they will benefit when they sell half of their existing Lot size.

The Application of 9 The Billabong and the changes suggested are not consistent with the East Gippsland Shire Councils Planning Guidelines and are contrary to the Section " **A Liveable Region** " clauses, which are attached to assist our strong objection to this application " **Two Lot Subdivision and a Variation of a Restrictive Covenant** " specifically:

**Clauses 21, 22, 23,** the changes in Covenant etc would adversely impact on energy use, greenhouse emissions, waste recycling and waste dump areas due to doubling of population and house dwellings.

**Clauses 24,25** will impact on the certainty that the landowners have and enjoyed on their plus 4000 sqm lot sizes over the past 15 years or so. The initial certainty on land purchase allowed the residents/ landowners to position their dwellings and

develop their gardens to complement the natural environment, landscape and geography. Any change on lot size will absolutely damage this.

Also any change in the legislation that protects our investments will reduce confidence in the market as the now beautiful environs that now exist will be abused by further housing squeezed in to facilitate the reduced block size.

**Clauses 26, 27** We have covered this previously and would be extremely disappointed in change as our community does not want change which is evident that this request is the first by a landowner in the past 15 years (approx.). It should not be allowed. The residents of Kings Cove have shown during this time that they are satisfied with the land sizes as proposed, purchased and developed over the years.

### **Advocacy and Partnerships**

**Clauses 28, 29** These clauses advocate working with the majority, **not one** to ensure a better environmental experience and we believe this is the case as only one family have lodged for change to our existing and beautiful environmental environs. No change should occur as they do not represent the majority. Also any change in land size would increase (double) the costs associated with waste management in the plus 4000sqm lot size areas. Change would be contrary to this directive and should not occur.

### **Strategic Indicators**

**Clauses 1(b), 2** Any change to housing density would not compliment and would greatly impact our appreciation of the natural geography, landscape and environs as the existing plan/layout design of the plus 4000sqm lots was designed to enhance the views, vegetation and local terrain.

Also the single dwelling and associated buildings located on the plus 4000sqm lots are strategically located to minimise the visual impact of roads, carparking, buildings and the neighbouring residences. If this application is approved it would impact severely on the Landscape Guidelines Clause 2 (ii) as the doubling up of residences occurs. Any visual advantages that now exist would be severely impacted. We do not want this as the open space vista now experienced is unique to Kings Cove and a wonderful attraction. Why Change.

Andrew and Anne Bell of [REDACTED] Metung 3904.

# East Gippsland Shire Planning

## A liveable region Guidelines 2017-21.

Act as some of my objections as we view Sustainable planning and growth supports thriving townships, while maintaining our commitment to sustainability and protecting our natural environment.

these as supportive of our existing Kingscove Plan.

### What results do we want? (Strategic Objectives)

### How will we achieve this? (Strategies)

Reduce Council's energy use and greenhouse gas emissions by 2021.

21. Work with communities to be resource smart and invest in innovative programs and projects to reduce energy use and greenhouse gas emissions.

By 2030, East Gippsland will reduce waste to landfills by 20 per cent.

22. Develop and implement a waste recycling and reuse approach for the region that reflects world's best practice and the use of smart technology.

23. Increase recycling, reuse and regeneration through innovative waste management practices and ongoing community education.

Ensure land use growth respects the unique characteristics, environment and priorities of our towns.

24. Advance planning that provides community members and land owners with certainty about the way that land will be used and developed in their town.

25. Ensure that the East Gippsland Planning Scheme continues to facilitate investment confidence to support sustainable growth in East Gippsland.

Ensure no loss of significant landscape, natural character and environmental priorities of our towns.

26. Seek opportunities to work in collaboration with the community to take strategic action to enhance the environment of land that Council manages.

27. Ensure that services and activities delivered are designed to minimise the impact to the environment.

### Advocacy and Partnerships

28. Work with private property owners and the Victorian Government to embed better environmental performance into new and existing developments.

29. Advocate with other councils to the Environment Protection Authority to minimise costs associated with waste management.

### Strategic indicators

Reduce Council's energy use and carbon emissions.

Increase the proportion of waste diverted from landfills - household waste, recyclables and organics collected from kerbside bins.

1(b) To ensure that the scale, intensity, bulk and character of any development compliments the natural system or landscape value of the land.

2. Landscape Guidelines

(i) create and maintain a high-quality environment.

(ii) minimise the visual impact of roads, car parking and buildings.

# 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:	Peter John Caddy		
Postal address:	[REDACTED]		
	Metung	Postcode	3904
Phone number: Home:	[REDACTED]	Work:	—
		Mobile:	[REDACTED]
Email address:	[REDACTED]	Fax:	—

Permit Details:

Planning permit number:	61/2020/P
What has been proposed?	Two lot subdivision and variation of a restrictive covenant
What is the address to be used or developed?	9 The Billabong Metung Lot 114 PS 517830
Who has applied for the permit?	Crowther + Sadler Pty Ltd

Objection Details:

What are the reasons for your objection?	We purchased our property in Kings Cove based on the idea of one house on a 1 acre block (and in our case) overlooking the golf course. All the properties in our street are set up similarly which creates a well ordered separation and ambience. To allow subdivision would have a negative impact.
--	---

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How would you be affected by the granting of this permit? \_\_\_\_\_

The view from Hardy's Road and Kings  
Cove Boulevard between Hardy's Road  
and Kings Cove Club reflects the  
expectation that we bought into.

To allow subdivision of the 1 acre  
blocks would devalue the investment  
we have made.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: Peter Caddy

Date: 6/4/2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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### Your Details:

Name:	Belinda Blundell					
Postal address:	[REDACTED] Metung					
		Postcode	3	9	0	4
Phone number: Home:	[REDACTED]	Work:		Mobile:	[REDACTED]	
Email address:	[REDACTED]				Fax:	

### Permit Details:

Planning permit number:	Application Number: 61/2020/P
What has been proposed?	Subdivision of land
What is the address to be used or developed?	9 The Billabong, Metung
Who has applied for the permit?	Crowther and Sadler

### Objection Details:

What are the reasons for your objection?	I am an owner of nearby house/land in Kings Cove area.
	The land in this area was made 1 acre plus to provide space and lifestyle.
	I object to someone buying a 1 acre lot and then applying to subdivide.
	If they wanted a small parcel of land there were plenty of other places to buy one.

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How would you be affected by the granting of this permit? \_\_\_\_\_

My house/land is nearby and allowing a subdivision of this nature would open up to decreasing other parcels of land and negatively effecting the space and lifestyle acreage living provides.

I am currently in the process of selling my home with the advertised benefit of living the acreage estate lifestyle. Allowing this part of Kings Cove to become medium density is not desired as there are plenty of other places to buy smaller parcels of land.

If you need more space for any part of this form please attach another sheet.

Signature: 

Name: Belinda Blundell

Date: 06 / 04 / 2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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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: PETER + CAROLYN FOUNTAIN			
Postal address:		[REDACTED]	
METUNG.		Postcode	3904
Phone number: Home	[REDACTED]	Work:	—
Email address:		Mobile:	[REDACTED]
[REDACTED]		Fax:	—

### Permit Details:

Planning permit number:	61/2020/P
What has been proposed?	Two lot Subdivision and Variation of a restrictive covenant.
What is the address to be used or developed?	9 THE BILABONG, METUNG 3904
Who has applied for the permit?	CROWTHER + SADLER PTY LTD

### Objection Details:

What are the reasons for your objection?
see attached sheet

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ABN: 81 957 967 765

How would you be affected by the granting of this permit? \_\_\_\_\_

see attached sheet.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: C. FOUNTAIN / PETER FOUNTAIN

Date: 7/4/20

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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JUL 15

### What are the reasons for your objection?

The original concept of Kings Cove Estate was for areas of both high and low density housing with one residence and all who have purchased here, did so with this knowledge.

We do not believe the Shire should contemplate allowing any Variation of the Covenants, which still have 5 years to run and we believe should protect our rights as property owners until this time elapses.

There is no reason to allow this permit for a subdivision and it should not even be considered by the Shire. (The owners of "9 The Billabong" should consider selling their property if it is too large for them and look for a smaller properties, either in Kings Cove Estate or elsewhere).

There is already provision in Kings Cove Estate for people to select the size of block they wish to purchase, with blocks still available.

Subdividing "9 The Billabong" would no doubt lead to a second residence being built, making it higher density housing in an area set aside as low density, lifestyle blocks, with just one residence.

If this Permit were to be granted it could lead to profiteering from other large block owners, who may also decide to subdivide, leading to an untidy mix of block sizes and residences, in an area that was originally planned for low density living, to be open, spacious and park like, each with a single residence.

### How would you be affected by the granting of this permit

As owners of an acre block on Kings Cove Boulevard, with an undeveloped large block adjacent to us, we could be directly impacted by any decision to grant approval to "9 The Billabong", as this would set a precedent.

We believe this could devalue of our existing house on 1 acre. Existing building envelopes allow distance between residences, giving privacy and lifestyle, the underlying reasons we purchased our acre block originally.

We also do not want the original concept of Kings Cove Estate to be compromised. It has provided a unique option for living in Metung.

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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### Your Details:

Name:	PETER & LESLEY BIRCH						
Postal address:	[REDACTED] METUNG (21 THE FIELDS)		Postcode	3	9	0	4
Phone number: Home:	[REDACTED]	Work:	—	Mobile:	[REDACTED]		
Email address:	[REDACTED]			Fax:	[REDACTED]		

### Permit Details:

Planning permit number:	61/2020/P
What has been proposed?	Two lot subdivision and variation of restrictive covenant
What is the address to be used or developed?	9 The Billabong METUNG Lot 114 PS 5178.30
Who has applied for the permit?	Crawther & Sadler ESSE

### Objection Details:

INFORMATION  
MANAGEMENT

What are the reasons for your objection?	The reason that we and others bought large allotments in Kings Cove was because of the attractive park like surroundings and because we did not want to live in small suburban blocks. It was designed to retain our views and give us a wonderful lifestyle. If the subdivision of 9 The Billabong goes ahead and the covenants are changed this would have a serious effect on this estate, not only for those on large blocks but for people who drive through to smaller blocks. The aesthetics of the estate would be severely compromised.
--	--

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How would you be affected by the granting of this permit? \_\_\_\_\_

We understood when we bought that there could be only one dwelling on our block and that would be protected by the covenant. I believe the value of our property would decrease if our neighbours on either side, or in the Billabong or the Terrace decided to follow suit & subdivide their blocks too. Our views would be affected badly as would our lifestyle.

We only became aware of this application less than 2 weeks ago and believe we have not been given ample notice to contact this proposal. We cannot meet with neighbours to discuss because of the lockdown and suggest that it be postponed until we can do so.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Lesley Birch

Date: 3 / 4 / 2020

If the owners of 9 The Billabong want a smaller block, they could move to the Plateau or the Sanctuary and let the rest of us retain our larger blocks.

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Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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### Your Details:

Name: James Ford & Kaye Ellis		
Postal address: c/o Metung P.O.		Postcode: 3904
Phone number: Home:	Work:	Mobile: [REDACTED]
Email address: [REDACTED]	Fax:	

### Permit Details:

Planning permit number: 61/2020/P
What has been proposed? Two lot subdivision & variation of restrictive covenant
What is the address to be used or developed? 9 The Billabong, METUNG. Lot 114 PS 57830
Who has applied for the permit? Crowther & Sadtler P/L

### Objection Details:

What are the reasons for your objection? If subdivision is allowed in Kings Cove Estate it will be the beginning of the end of what attracted us to the area.

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How would you be affected by the granting of this permit? \_\_\_\_\_

The potential loss of the open feeling  
of the estate.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

JAMES FORD

KAYE ELLIS

Date: 07/04/2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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JO

HOPE

Metung | Metung Victoria 3904 Australia

## Objection to Planning Permit 61/2020/P

### 9 The Billabong Kings Cove Metung.

4<sup>th</sup> April 2020

- *Sections in Red are my objections relating to how the proposed application for a subdivision next door to my proposed house will, or may impact my partner and me.*

### My Interest

I am the owner of [REDACTED] Metung. My partner and I bought this block intending to build a house and shed as soon as my partner, Frans van de Pas had sold his house. That transaction has now been completed and we are almost ready to apply for a building permit. We chose to buy [REDACTED] because of its large size, the atmosphere of seclusion and view over the Billabong.

I benefit from the restrictive covenant and bought the land believing that it would not expire until the 31<sup>st</sup> of December 2025. By that time the trees, that I would plant along the fence line to comply with the requirement to replace vegetation removed, would obscure any possible development.

I would also benefit from living on an estate with large blocks and strict design guidelines to ensure quality buildings and gardens which enhance the park-like atmosphere of Kings Cove.

1. Charles (Chas) Heath had a vision for a low-density, quality development in Metung, built around a golf course. He was the driving force behind the establishment of Kings Cove Estate. It was to be his legacy and became his legacy to Metung. Kings Cove was

developed in 6 stages, before Kings Cove Metung Pty. Ltd was liquidated in 2013 Stage 1 to 5 with blocks all exceeding 0.4 hectares, and stage 6, a higher density to justify the extensive infrastructure of the development. There are, to the best of my knowledge no 0.2–hectare blocks in the estate.

### Objection

Page 150 of the application asserts that variations have already been made to the incorporated plan but these were all done before there was any housing or sale of the blocks on the section of the development involved, not after blocks in that section have been sold and built on. This is not comparable with the proposed subdivision of 9 The Billabong, by an individual owner, for a profit and to the detriment of surrounding properties including my own.

2. There is a clear line of demarcation and no transition or ‘mixed development’ A subdivision of 9 the Billabong would I believe infringes the original intention of the developers to create a spacious environment for residents. There have not been numerous subdivisions as stated in the application other than the original ones as intended by the developer with some variations, in 6 distinct stages.

If the developer had intended Stage 5 to be a transition zone, it could have done this at the time of the original subdivision, especially as 9 The Billabong has an easement through the middle of the block. There was never any intention or any attempt to ‘bleed’ from the high density of Stage 6 to the low density of stages 1–5. As stated on page 148 of the application

### Objection

I believe this was never the intention of the developer, to change the park–like appearance of Stage 5 but for it to remain consistent with stages 1–4. This would affect me adversely and I object strongly that a landowner should be able to sell a part of their land with a large, free–standing shed at a considerable profit when this option has never been available to other landowners. The applicant stands to make an unreasonable profit.

3. A covenant and agreements under Section 173 of the Planning Act were signed and implemented. The most important of these being the provision allowing only a single dwelling and outbuildings on a block.

The covenant was to stay in force until 2025 and to this date has not been breached despite the liquidation of Kings Cove Development Metung Pty. Ltd.in 2013

I submit that there is no reason to remove this for the following reasons:

The owners of the blocks in Kings Cove bought into all the agreements and covenant and abided by them to preserve the consistent design and amenity features of the development.

#### Objection

A subdivision next door would impinge on my right to enjoy the features and privacy that uniformly large blocks entail which was the reason I purchased 15 The Billabong. The covenant and agreements are listed on my Title, and at the time of purchase, I had no reason to think that this would change before 2025. Planning and Environment Act 1987 S60 S60-(5)

4. The proposed subdivision will necessitate the removal of more established trees which are unlikely to be replaced, due to the small size of the blocks and fire regulations. There is a mature tree in the middle of the block which would have to be removed to build a house, contrary statements in the application

#### Objection

I object because this will also impinge on my enjoyment of The Billabong, its low-density housing and natural features.

5. The applicants have applied to remove Clause (b) of the Restrictive Covenant because Kings Cove Metung Pty. Ltd. has been liquidated. This Clause, when read in conjunction with the Section 173 Agreements, under the Planning and Environment Act 1987, states that each block shall have only one dwelling.

#### Objection

Removal of this provision is not consistent with the overall strategic framework plan for the area, as outlined in the Metung Urban Design document Appendix C that defines a Low-Density Residential Zone in Metung as being not less than .4 of a hectare.

6. If the 9 The Billabong is subdivided, a house detrimental to the cohesive vision of the developer of Kings Cove could be built on a smaller block, without any regard to the right of neighbours to peace and privacy and other amenities. Under Section 32.03-5

"The council must consider among other things whether there have been changes to the character of the neighbourhood to the extent that the covenant is no longer required."

#### Objection

I contend that the character of the neighbourhood has not changed and that the neighbourhood is a cohesive and attractive LDRZ in a park-like setting with indigenous vegetation mingling with Australian native vegetation.

I also believe that "Subdivision will 'unreasonably affect the amenity of the beneficiaries" including me and my partner Franciscus van de Pas and will not "positively contribute to the existing neighbourhood character." Planning Scheme Section 32.03-5 (e)

7. If these restrictions are removed for No 9 The Billabong, there is nothing to prevent other owners of vacant land in Kings Cove, and particularly the Billabong to apply for a similar subdivision for commercial gain.

#### Objection

I contend that the council would find it difficult to refuse these requests, so changing the character and cohesion of Kings Cove forever. Section 32.03.-5 (f) of the Planning Act, As this proposed subdivision affects the whole estate, I object that all property owners in Stages 1 -5 of the development were not consulted.

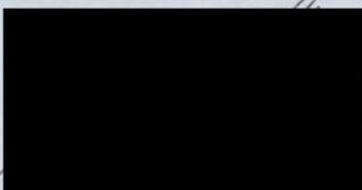
#### Objection

8. The Billabong has three large vacant blocks that if subdivided would be detrimental to my enjoyment of my surroundings and the amenities of peace, tranquillity and natural environment which my block affords. I question whether this is allowable under the Planning and Environment Act 1987 S60- (5) and object accordingly.

I request that the council reject the application for sub-division but amend regulations the Architectural Review Committee so that building may proceed without delay.

Thank you

Yours faithfully

A large black rectangular redaction box covering the signature area.

# East Gippsland Shire Council

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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:	MICHAEL METCALFE		
Postal address:	[REDACTED]		
	METUNG	Postcode	3904
Phone number: Home:	Work:	Mobile:	[REDACTED]
Email address:	[REDACTED]	Fax:	

### Permit Details:

Planning permit number:	61/2020/P
What has been proposed?	Two lot subdivision and variation of a restrictive covenant.
What is the address to be used or developed?	9 THE BILLABONG METUNG
Who has applied for the permit?	CROWTHER & SADLER PTY LTD

### Objection Details:

What are the reasons for your objection?	see attached sheet.
	EGSC
	8 APR 2020
	INFORMATION MANAGEMENT

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How would you be affected by the granting of this permit? \_\_\_\_\_

see attached sheet.

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: MICHAEL METCALFE

Date: 6 / 4 / 20

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## **REASON FOR OBJECTION**

My wife and I bought an acre block in the Kings Cove Estate some 9 years ago. The semi rural setting and the planned natural environment with protections on what could be built attracted us to this area. We built a house on our block adhering to the covenants that were in place and enjoy the natural ambience that comes with the Kings Cove Estate.

The proposed planning permit seeks to allow multiple dwellings to be built on a single block. We bought and developed our property on the basis that we would not be built out with neighbours on our boundaries. It was quite clearly documented in everyone's 173 Agreements on their land title that "Each lot will be developed and used for the purpose of a single dwelling.....". It was clear to us that our objective to live in a planned, natural environment where building densities were regulated would be protected.

This proposed permit application seeks to overturn this understanding and will, if granted, set a precedent where any resident can build multiple dwellings on their blocks.

The owners of 9 The Billabong, bought their property knowing full well of the covenants and the clause in their 173 Agreement restricting each lot to a single dwelling. If they wanted to live in a high density subdivision then they should have purchased elsewhere.

## **EFFECT ON US OF THE GRANTING OF THIS PERMIT**

A change in the status quo of the existing low residential dwelling zone (LDRZ) of 4000+sqm could see the destruction of the beautiful open aesthetics of the Kings Cove environment included in the first five planning subdivisions of the estate. The reduction of the LDRZ size of blocks in Kings Cove from 4000+sqm down to the minimum of 2000sqm as proposed would be detrimental to the overall ambience of the five stages of the Kings Cove Estate that were subdivided and planned to create an open living environment. Everybody who bought into the estate did so on the basis that this would not change and that there was legal protection under section 173 on the title and also on the Restrictive Covenants.

This permit would diminish our environmental amenity and would set a precedent for other blocks to be redeveloped as multi dwellings.



Michael and Anne Metcalfe

# East Gippsland Shire Council

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## Objection to Planning Permit Application Planning and Environment Act 1987

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Your Details:

Name: <u>DION + LAUREN NICKLESS</u>			
Postal address: <u>[REDACTED] METUNG</u>		Postcode <u>3904</u>	
Phone number: Home: <u>—</u>	Work: <u>—</u>	Mobile: <u>[REDACTED]</u>	
Email address: <u>[REDACTED]</u>		Fax: <u>—</u>	

Permit Details:

Planning permit number: <u>61/2020/P</u>
What has been proposed? <u>TWO LOT SUBDIVISION AND VARIATION OF A RESTRICTIVE COVENANT</u>
What is the address to be used or developed? <u>9 THE BILLABONG (LOT 114) (PS 517830) METUNG, VIC. 3904</u>
Who has applied for the permit? <u>CROWTHER + SADLER PTY LTD.</u>

Objection Details:

What are the reasons for your objection? <u>CHANGING THE WELL THOUGHT OUT KINGS COVE COVENANTS IS LUDACRIS. IT OPENS THE DOOR FOR THE DESTRUCTION OF THE BEAUTIFULLY PLANNED OUT LARGE ALLOTMENTS, WHICH IS A MAJOR DRAW CARD FOR THOSE THAT LIVE HERE AND FOR THOSE LOOKING TO PURCHASE HERE.</u>
---

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JUL15

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How would you be affected by the granting of this permit? \_\_\_\_\_

IF THIS PERMIT GETS APPROVED THE BLOCK IN QUESTION  
WOULD LOOK UNSIGHTLY, DRIVEWAYS BEING TOO CLOSE, HOUSES  
BEING TOO CLOSE IN WHAT SHOULD BE MEDIUM DENSITY  
RESIDENTIAL. THEREFOR THE NEIGHBOURS WHO PURCHASED EITHER  
SIDE OF 9 THE BILLABONG WOULD BE IN JEOPARDY OF  
LOSING THE SPACE + ATMOSPHERE THAT WE ALL SIGNED  
UP FOR PURCHASING LAND IN AN ESTATE WITH PLENTY  
OF COVENANTS. ALSO IF THIS GETS APPROVED THEN THERE  
IS A CHANCE OTHERS WILL BE EXEMPT FROM THE  
~~THE~~ COVENANTS. THIS WOULD DRAMATICALLY ALTER KINGS COVE +  
OUR HOUSE PRICES!

If you need more space for any part of this form please attach another sheet.

Signature: \_\_\_\_\_

Name: LAUREN + DION NICKLESS

Date: 29/04/2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Objection to Planning Permit Application

Planning and Environment Act 1987

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EGSC

Your Details:

8 APR 2020

Name: <i>Paul &amp; Marion Thorstenson</i>	INFORMATION		
Postal address: [REDACTED]	MANNINGHAM		
	Postcode		
Phone number: Home [REDACTED]	Work:	Mobile [REDACTED]	
Email address: [REDACTED]	Fax:		

Permit Details:

Planning permit number: <i>Planning Application 61/2020/P</i>
What has been proposed? <i>Subdivision of an existing low density Lot into two Lots creating medium/high density Lots.</i>
What is the address to be used or developed? <i>9 The Billabong, KingsCove, Mering</i>
Who has applied for the permit? <i>The current owner of 9 The Billabong through Crowther &amp; Sater.</i>

Objection Details:

What are the reasons for your objection? <i>When Kings Cove was developed, the majority of the lots were zoned Low Density Residential and covenants registered on the title of each lot. It was a key reason for many of us to purchase properties in the development to enjoy a rural residential feel with large open spaces, prolific vegetation and bird life providing a wonderful amenity. This will now be eroded away and would set a bad precedent for future lots to be subdivided in the Low Density zone.</i>
--

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How would you be affected by the granting of this permit? *If the permit is granted it creates precedent for other land owners in the Low Density Housing Zone to subdivide. This will erode the amnity value and economic value of surrounding lots. There are already several pockets of high density housing and these should not be allowed to spread into the low density zone.*

*The original land purchase agreements stated that "the Agreement will bind the Owner(s) and will run with the land so that all successors in the title are bound by the Agreement". The Agreement is registered on the title and the purchaser would have been aware of it and is bound by it.*

If you need more space for any part of this form please attach another sheet.

Signature: [REDACTED]

Name: *Pall Thorstenson.*

Date: *06/04/2020*

*It is also disappointing that the East Gippsland Shire Council only notified the immediate neighbours in the Billabong. This planning application has the potential to affect all land owners within the Low Density Housing Zone of Kings Cove*

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_/\_\_\_/\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_/\_\_\_/\_\_\_

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How would you be affected by the granting of this permit?

SEE ATTACHED

If you need more space for any part of this form please attach another sheet.

Signature:



Name: FRANK VANDEPAS

Date: 7/4/20

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Objection to a Planning Permit Application

**Name:** Franciscus van de Pas

**Postal address:** [REDACTED] Paynesville, Vic 3880 **Date:** 2 April 2020

**Phone number:** [REDACTED]

**Permit application reference number:** 61/2020/P

**What is proposed?** Two lot subdivision and a variation of a restrictive covenant

**What land is proposed to be used or developed?** 9 The Billabong Metung

**Who has applied for the permit?** Crowther and Sadler Pty Ltd

Reasons for my objection	Affects on me at [REDACTED] if the permit is granted
<p>1. A restrictive covenant AF799003U was imposed on the land in Stage 5 of Kings Cove in 2008 and is not due to expire until 31 December 2025. The expiry date should be kept.</p> <p>The restrictive covenant consists of 3 parts and the applicant proposes to vary it by removing part (b).</p> <p>Part (b) is the central clause of the covenant that, in conjunction with Section 173 AE324337A, has determined the spacious landscape setting of the Stage 5 development of Kings Cove,</p>	<p>I have commissioned a new house to be built by Blay Builders on the lot adjoining the subject land to the west. My partner, [REDACTED] bought the vacant lot at [REDACTED] in August 2019 on my behalf with the intention of transferring it to me once I sold my house.</p> <p>I am a beneficiary of the covenant. It protects my visual amenity and the spatial aspects of the low density settlement that are important to me, and the reason I chose to move to The Billabong.</p> <p>Removing part (b) of the covenant will diminish my amenity. It will also pave the way for a 0.4-hectare lot adjoining my land to be subdivided. It will allow two dwellings and associated outbuildings on a 0.4-hectare sewered lot as this meets the Planning Scheme standard of Clause 32.</p> <p>However, I believe this is contra to the intention of the covenant being registered on the titles 12 years ago. It is clear to me that the restrictions on the titles of lots in Stage 5 were intended to create a spacious settlement.</p> <p>In August 2019, I knew that it would be 6½ years before the covenant was due to expire. I therefore expected that once my house was built I would have at least 5 years of registered protection as with all blocks in my immediate neighbourhood were encumbered by the same covenant regardless of when they were built on.</p> <p>Five years of the protection afforded by the covenant is a significant amenity at my stage of life at 77. It is something I value and do not want to see diminished.</p>

<p><b>2. The surrounding neighbourhood character must be considered.</b></p> <p>The neighbourhood character of this stage of Kings Cove will change.</p>	<p>The East Gippsland Planning Scheme emphasises in Clause 11.02-1 that 'planning for urban growth should consider neighbourhood character and landscape'. A decision to allow the subdivision would show to me that council does not value my neighbourhood environment created by the current restrictions on title.</p>
<p><b>3. The subdivided block will allow another dwelling to be built. The Building Envelope Plan on page 174 of the application shows that a new dwelling could have a large dimensional footprint. If a double-storey is built it will be a bulky addition to the landscape.</b></p>	<p>Increased building footprints and bulk are contra to Clause 21.12 of the East Gippsland Planning Scheme in relation to Metung: 'Ensure development does not adversely affect landscape and environmental values and incorporates measures to protect those values including . . . minimisation of building footprints.'</p>
<p><b>4. The application to subdivide is not part of any overall strategic framework plan for Kings Cove.</b></p>	<p>It would be unfair for one landowner to be able to change the neighbourhood strategy implied by the covenant.</p>
<p><b>5. The application applies for a <i>variation</i> of the restrictive covenant when in fact it is the <i>removal</i> of a central clause.</b></p>	<p>Removing clause (b) implies to me that I could apply for the covenant to be varied by having clause (a) removed as I would have a good argument in doing so in order to run a cattery, boarding kennel or small chicken farm.</p>
<p><b>6. The proposal will give direct commercial advantage to the landowner as it creates a saleable new block of land.</b></p>	<p>The notes to the Shire's objection form state that 'the responsible authority may reject an objection which it considers has been made primarily to secure . . . commercial advantage . . .</p> <p>This principle should be applied ipso factor to the landowner.</p> <p>My objection has no commercial advantage. It is discriminatory against me that the applicant would benefit financially if the application is approved.</p>
<p><b>7. If the particular clause (b) in restrictive covenant is removed this will create a precedent for other areas of Kings Cove and Metung, and will have a flow-on effect for the rest of the shire.</b></p>	<p>The removal of the clause (b) will not deliver any net community benefit, only a potential financial gain to the landowner of 9 The Billabong. I believe this will lead to other landowners wanting to do the same. This would be an undesirable precedent.</p>
<p><b>8. The applicant uses this statement to imply that the covenant should be changed: 'Kings Cove Metung Pty Ltd no longer exists, and the authorisation role has not been transferred to another entity'.</b></p>	<p>If this circumstance is allowed to validate the removal of clause (b) of the covenant it will have implications for any other rules made that can be changed due to the original 'entity' no longer existing. I maintain that the expiry date on covenant AF799003U of 31 December 2025 is legally enforceable regardless of whether there is a management company or not at this time.</p>

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## Objection to Planning Permit Application Planning and Environment Act 1987

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### Your Details:

Name: <u>Jim Fyfe</u>			
Postal address: <u>[REDACTED]</u>		<u>Kings Cove</u>	
		Postcode	<u>3904</u>
Phone number: Home:	Work:	Mobile:	<u>[REDACTED]</u>
Email address: <u>[REDACTED]</u>		Fax:	

### Permit Details:

Planning permit number: <u>61/2020/P</u>
What has been proposed? <u>Two lot subdivision and variation of a restrictive covenant</u>
What is the address to be used or developed? <u>9 The Billabong Metung (Kings Cove)</u> <u>Lot 114 PS 517830</u>
Who has applied for the permit? <u>Crowther &amp; Sadler P/L</u>

EGSC  
8 APR 2020  
INFORMATION MANAGEMENT

### Objection Details:

What are the reasons for your objection? <u>SUMMARY:</u> <u>The C+S report relies on the range of block sizes across the whole of Kings Cove to justify its proposal. The variation in block size is negligible within each neighbourhood area. This was a deliberate design. To change <sup>allow</sup> the size of blocks will set a precedent. The proposal seeks to change a concept all residents agreed to without consultation. The covenants are important to retaining neighbourhood... // See attached</u>
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ABN: 81 957 967 765

How would you be affected by the granting of this permit?

The proposal will set precedents that will affect all of the neighbourhoods with large blocksize changing the character of a brilliant design. Our choice to live here was because of this unique development that defines neighbourhoods by physical location as well as names that reflex their position or history. This creates a sense identity and belonging to a particular place. The character & charm of Kings Cove will be lost by different size blocks & lack of design rules

If you need more space for any part of this form please attach another sheet.

Signature: [Redacted]  
Name: JIM FYFE Date: 7/4/2020

### Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Objection to Proposal 61/2020/P

Jim Fyfe Kings Cove 3904

The development of Kings Cove Estate is extraordinary in its concept of "community". Extraordinary because the vision of its creator, Charles Heath, embodied a concept of "community development" that has rarely been achieved by developers. Local governments around the country should want its basic principles in all housing development.

Kings Cove is a community within a defined geographic area that has within it a series of Neighbourhoods that have both a name and a defined physical boundary. The names such as "The Billabong", "The Fields", "The Plateau", "The Terraces", "The Stockyards", "The Headlands", and others, each give its residents a sense of Belonging to a particular neighbourhood. Their neighbourhood is defined by its name, its physical characteristics or its history. This sense of Identity with an area is vital for people in making friendships with other new arrivals. "We live here" is an important dynamic in the forming of support networks and the development of Community.

**The Crowther & Sadler report p.139 is misleading** in suggesting that there is a general diversity of land size across Kings Cove Estate, and by implication that this proposal is therefore not exceptional and should proceed. **There is in fact uniformity of land size in each of the neighbourhood areas.** All blocks in the The Terraces are roughly the same size. All blocks in The Plateau are smaller but of the same size within that neighbourhood. The same is true for each of "The Fields, The Stockyard, The Sanctuary, The Billabong and The Boulevard.

**The neighbourhoods comprising Kings Cove are separated by land features that give each a sense of Place.** In turn that creates identity of neighbourhood and belonging for residents. They are not as represented by the Crowther & Sadler report 2D flat map of the area, *which is misleading in suggesting variations in block size are common within a short visible distance.* The topography and vegetation separates each neighbourhood of same size lots.

**The report's use of a diagram p.138(of the proposal document) showing 185M to a smaller block size subdivision is misleading.** The reference is to an old area of Metung that backs onto the estate on the other side of a hill. It is not visible from The Billabong. It is not accessible directly from the Kings Cove estate.

The separate development over time of each neighbourhood of same size blocks was appropriate to each physical location and its topography. The report's statement p.139 "*eight stages of subdivision have been completed by three separate property developers over the last thirteen years, creating lot sizes varying in area, shape and topography.*" is misleading by implying no consistency to the design principles of the estate.

**1. This proposal would change that design concept** by allowing future subdivision which will alter the style of each large block neighbourhood. The restriction to permit only one residence per original block should remain.

**2. The absence of an "Architectural Review Committee"** does not imply the residents who bought into Kings Cove because of those restrictions have changed their view on their place of living and neighbourhood.

The Metung Nungurner Community Plan 2012-2017 adopted by Council incorporates the Kings Cove estate as one of five areas. The Values of OUR PLACE are described in this report, and echoed in Council's Plan 2017-21.

This estate represents an opportunity to take the Shire's own concept of **Place Planning** further as a concept for community development. Kings Cove has already identifiable neighbourhoods cohesive in size and location to support such a development that does not exist in any other community in this shire.

The Metung Nungurner Plan p.1 says "these five communities are all different in many ways, but collectively reflect similar values and aspirations. The values and aspirations expressed are mainly to do with the preservation of a way of life where the environment is an essential part". In a similar manner the residents of each neighbourhood area in Kings Cove see the whole estate as a choice they made, and any change to the design concept should be addressed to the whole of the estate, not just the owners of adjacent blocks.

Historically, the development of broad acre housing estates to the east and west of Melbourne has had few distinguishing landmarks or features; they have lacked identifiable "neighbourhood" boundaries. From the early 1970s that practice continued out through the cities of Waverley, and then to Knox in the east and Melton in the west. In the 1990s it continued through the newly amalgamated cities of Casey and Wyndham, each rivalling the other to be the fastest growing municipality in Australia.

**The challenge for local governments over these decades has been to foster community development, "a sense of belonging".** Inner city suburbs already had an infrastructure that made it easy for people to feel part of a neighbourhood. They generally defined it as the people in their street, the people over the road and the people over the back. It was further defined by main roads, railway lines and strip shopping centres. It was your immediate neighbours

and the broader place that you lived. **You identified with that Place.**

In many new suburbs of the 1970s Progress Associations formed to ensure local and state authorities were aware of the need for services, like pre-schools, playgrounds, phone boxes and footpaths. What generally they lacked were the social meeting places to get to know each other. The excellent work "The Private Future" by Martin Pawley (1973) highlights the contribution "modern" estates made to social isolation. He describes factors such as driving to anonymous shopping centres, houses you enter from the garage, clothes washing and drying inside the house, all keeping you from seeing the neighbours, getting to know them and the local shopkeepers, not chatting over the fence and not pushing the pram around local streets meeting new people. In the more enlightened 1990s, large housing development proscribed preschools, primary schools and playgrounds and general shops central to the estate, but the important meeting places were not incorporated and residents still travelled long distances by car for most shopping and entertainment.

One strategy from the 1970s was the "neighbourhood / community house" that ran informal arts / education programs providing child care and a place to meet other locals from the area in a non-threatening environment. Generally this served to create friendships and develop supportive relationships among people who generally had moved away from families and friends that once provided that role. A central meeting place has always been the essential ingredient to a healthy active community. The Kings Cove Club has fulfilled some of that important role in introducing new residents and forming friendships and supportive relationships.

Country towns have pubs and clubs and shops that know their regular customers. But when new estates are developed on the outskirts of small towns they invariably lack the provision of community facilities because the number of lots falls below minimum requirements for authorities to reserve land for services like maternal and child health, preschool or a community hall. Subsequent incremental add-ons to the first development also fall short and the eventual outcome is a conglomerate of houses in sterile surroundings. They could be any place. They don't really identify with the town. The town people often see them as outsiders. There is generally little new residents can use to create a sense of identity. It can be hard work for newcomers to make friends, particularly if they are not confident or lack social skills.

The important element to neighbourhood identity is the recognition of a physical feature that says to you "I'm back". It's that crossing the river, view of the water, large river gum or simply turning the corner into the street to your place that says "this is where I live".

Changing the size of blocks within Kings Cove neighbourhoods will change the character of each area and lose a vital part of Place Planning. Our place. Our Plan.



8/4/20

# East Gippsland Shire Council

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**Received EGSC**  
 Time.....am/pm  
 - 6 APR 2020  
**Lakes Entrance  
 Service Centre**

## 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: Michael and Gaye Quinton				
Postal address: [REDACTED] Metung		Postcode		
		3	9	0 4
Phone number: Home:	Work:	Mobile:	[REDACTED]	
Email address: [REDACTED]	Fax:			

### Permit Details:

Planning permit number: 61/2020/P
What has been proposed? <u>Two lot subdivision and variation of a restrictive covenant.</u>
What is the address to be used or developed? <u>9 The Billabong Metung Victoria 3904</u>
Who has applied for the permit? <u>Crowther and Sadler Pty Ltd</u>

### Objection Details:

What are the reasons for your objection? \_\_\_\_\_

1. We and all the other owners in the Kings Cove Estate, including the owners of 9 The Billabong, purchased land subject to Section 173 of the Planning and Environment Act 1987. This document was intended to PROTECT owners from undesirable development by STOPPING owners or developers doing exactly what the owners of 9 The Billabong are looking to do: Change the open space, ambience and lifestyle of stage one of the estate. Those wanting a smaller allotment have the opportunity to purchase land or existing dwellings in the other parts of the estate where smaller lots are available.

2. Subdividing 1 acre or more allotments will create a denser living space unlike the one we purchased, by reducing open space, neighbor distance and a country/rural lifestyle.

3. Reduced open space will have a negative impact on wildlife habitat and corridors.

4. More housing will have greater environmental impacts on water, sewerage, power & internet etc.

5. It will create increased traffic to an already busy estate.

6. We object to removal of (clause B) of The Covenant referred to in the Transfer of Land because it prohibits the removal of existing dwellings or fences and prohibits further subdivision lots.

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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?

1. The two lot subdivision and removal of (clause B) of the covenant will affect all title owners in the estate, because any lot will be able to be subdivided. Therefore we could expect to have more houses built on adjoining land now and in the future, altering our views, our wildlife, enjoyment and our quality of life.
2. The home we purchased with the understanding and assurity that we could not be (built out) in the future, This will not be the case should this permit application be approved.
3. It will remove the existing protection against haphazard development.
4. It has the real possibility that it will de-value our current investment.

If you need more space for any part of this form please attach another sheet.

Signature:

[Redacted Signature]

Name:

Michael Quinton

Date: 02/04/2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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8 April 2020

Mr. Ben McGeehan  
Land Use Planning Officer  
East Gippsland Shire Council  
Via email: [planning@egipps.vic.gov.au](mailto:planning@egipps.vic.gov.au)

**EGSC**

8 APR 2020

**INFORMATION  
MANAGEMENT**

Dear Ben,

**Re: Planning Application 61/2020/P  
Two Lot Subdivision and Variation of Restrictive Covenant  
9 The Billabong, Metung**

Thank you for the opportunity to provide a submission in relation to the above mentioned proposal to which we are opposed.

The Kings Cove Estate is a cohesive, master planned development where neighbourhood character has been, and continues to be of prime consideration.

Properties have been, and continue to be purchased within the Kings Cove Estate with the expectation that those allotments containing existing dwellings will continue to exist in that same form. Existing allotments created in accordance with the provision of the Low Density Residential Zone are typically well designed homes on generously proportioned allotments with extensive landscaping and a feeling of spaciousness achieved through appropriate separation and large setbacks. The proposal represents a deliberate deviation from this established character.

None of the allotments within the Kings Cove Estate, save for those super-lots created with the specific intent of further development, were ever created with an expectation of further subdivision.

Whilst the modification to the Low Density Residential Zone made by the former Minister for Planning allowed for the creation of lots less than 4,000m<sup>2</sup> where connected to reticulated sewer, such development is not a foregone conclusion. Each subdivision is still required to be considered on its merits, having regard for the decision guidelines, Planning Policy Framework and Local Planning Policy Framework of the East Gippsland Planning Scheme.

Just because a Permit can be granted does not mean that it should. We implore Council to refuse this Application to avoid an unacceptable outcome, and protect the character of the area.

Yours faithfully,



ROSS HEATH  
DIRECTOR

**METUNG DEVELOPMENTS PTY. LTD.  
PO Box 5471  
BAIRNSDALE VIC 3875**

**From:** Ross Charles Heath [REDACTED]  
**Sent:** Friday, 17 April 2020 5:06:57 PM  
**To:** Planning Department  
**Subject:** 61/2020/P

Hi Ben,

I received your letter acknowledging receipt of my submission to the above mentioned Planning Application, thank you.

The applicants surely must have been advised against this process yet have decided to proceed anyway. Clearly there is no way the Council can approve this application given the nature of the King's Cove precinct and the planning history behind it.

Please contact me using this email address.

Regards

Ross

Ross Heath  
[REDACTED]



# 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>RICHARD CHARLES MULLETT</u>			
Postal address: [REDACTED]			
<u>METUNG VIC</u>			Postcode <u>3904</u>
Phone number: Home: <u>—</u>	Work: <u>—</u>	Mobile: [REDACTED]	
Email address: [REDACTED]		Fax: <u>—</u>	

### Permit Details:

Planning permit number: <u>61/2020/P</u>
What has been proposed? <u>SUBDIVIDE LAND INTO TWO LOTS WITH LOT 1 OF APPROX 2168m<sup>2</sup> AND LOT 2 OF APPROX 2011m<sup>2</sup></u>
What is the address to be used or developed? <u>9 THE BILLABONG, METUNG</u>
Who has applied for the permit? <u>CROWTHER &amp; SADLER PTY LTD</u> <span style="float: right;"><u>28 April 2020</u></span>

INFORMATION  
MANAGEMENT

### Objection Details:

What are the reasons for your objection? KINGS COVE RESIDENTIAL, GOLF AND MAINTAIN ESTATE WAS DEVELOPED WITH SPECIFIC RESTRICTIVE COVENANTS TO ENSURE THE ORIGINAL INTENTION OF LOW DENSITY AND OPEN PLAN LIVING WAS MAINTAINED.

THIS PROPOSED SUB-DIVISION IS IN DIRECT CONTRADICTION TO ALL CONCEPTS OF LOW DENSITY LIVING. ALL PURCHASERS OF LAND IN KINGS COVE ARE CLEARLY MADE AWARE BY WAY OF SALE CONTRACTS THAT THESE COVENANTS MUST BE ADHERED TO. APPROVAL OF THIS APPLICATION WOULD SET AN UNDESIRABLE PRECEDENT.

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How would you be affected by the granting of this permit?

GRANTING OF THE PERMIT WOULD OPEN THE OPPORTUNITY FOR OTHER LAND OWNERS TO FOLLOW SUIT.

THIS WOULD CLEARLY ENDANGER THE OPEN PLAN LIVING CONCEPT INTENDED TO BE PRESERVED ON KINGS COVE.

THERE ARE STILL MANY UNUSED HOUSING BLOCKS ON KINGS COVE. SUB DIVISION OF AN EXISTING BLOCK WOULD ADD TO THE NUMBER OF AVAILABLE PARCELS OF LAND WHICH HAS THE POSSIBILITY OF DECREASING LAND VALUES ACROSS THE ENTIRE ESTATE.

If you need more space for any part of this form please attach another sheet.

Signature:

Name:

WILLIAM MULLETT

Date:

6/4/2020

## Office Use Only:

Objection Received by: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

Planning officer responsible: \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_

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**EAST GIPPSLAND SHIRE COUNCIL  
PLANNING CONSULTATION MEETING  
FOR 61/2020/P TWO LOT SUBDIVISION AND  
VARIATION OF A RESTRICTIVE COVENANT – 9 THE  
BILLABONG METUNG**

**Record of Meeting  
(Assembly of Councillors)**

**MONDAY, 15<sup>th</sup> March 2021**

**COUNCIL CHAMBERS  
BAIRNSDALE CORPORATE CENTRE**

**COMMENCING AT 6.13 P.M.**

---

**1. PROCEDURAL**

**1.1 APOLOGIES**

Cr Greacen, Cr Reeves, Cr Van Diggele, Cr Stow, Cr Buckley, Cr Crook, Richard Mullett (objector)

**1.2 IN ATTENDANCE**

Councillors: Cr Urie, Cr, White, Cr Allen (virtually)

Applicant: Kate Young (Crowther & Sadler)

Objectors: Claudia Lichte & Lyndon Seys, Jo Hope, Allan Hancock

Officers: Jodie Pitkin (GM Place & Community – attended virtually), Nicole Reynolds (Acting Manager Planning), Robert Pringle (Statutory Planning Coordinator)

### **1.3 DECLARATIONS OF CONFLICT OF INTERESTS**

Nil

## **2. REPORTS/PRESENTATIONS**

### **2.1 PLANNERS REPORT**

2 lot sub, lot 1 vacant and retain shed 2168m<sup>2</sup>, lot 2 2011m<sup>2</sup> will retain dwelling

To develop lot 1 variation to covenant would be required.

42 objections

LDRZ used to be 4000m<sup>2</sup> minimum (when subdivision created), now it is 2000m<sup>2</sup>

Objections are about neighbourhood character, fairness in equity, they were not allowed to subdivide and developed their properties accordingly.

### **2.2 APPLICANT PRESENTATION**

Application of 2 parts, variation of covenant to delete clause b, and subdivision of land

Variation of covenant is separate to 173 agreement issue of Kings Cove estate

Could not create lots less than 4000m<sup>2</sup> due to not having reticulated sewer, but that is no longer the case, changed in July 2013, if site had access to reticulated sewer, minimum lot size is 2000m<sup>2</sup>

Seeking to maximise the use of appropriately zoned land

What is character of Kings Cove, there is varying neighbourhood character

Map showing site and Kings Cove estate, showing numerous properties within Kings Cove that are under 4000m<sup>2</sup>

200m radius circle of site plan shared, 51 properties range from 521m<sup>2</sup> up to 5082m<sup>2</sup>

Pointed out differing property characters

Covenants do not allow people to do maintenance, and some covenants have expired, but some don't expire until 2026 or 2031.

Cr White reflected on the Howitt Ave Eastwood situation as a similar comparison

Cr Urie requested clarification about agreements and covenant

### **2.3 OBJECTOR PRESENTATIONS**

Jo Hope – purchased neighbouring property because of larger size lots, wanting privacy, amenity.

Not wanting to live in mish mash of large and small lots

Allan Hancock – chose this area because of strict covenants

Sited dwelling right in middle, whereas applicant has sited theirs right on boundary to they could subdivide

Cr Allen queried whether units could be constructed in Kings Cove, if subdivision went ahead.

Rob Pringle advised units was less likely to be approved

Lyndon Seys – Purchased when Kings Cove was advertised and promoted as higher end domestic living environment.

Have entrance to estate driven by acreage lots with single dwellings, which appealed to us.

Remain concerned that subdivision creates a precedent for 1 acre blocks around us

**2.4 PRESENTATIONS IN SUPPORT OF APPLICANT**

Nil

**2.5 CLOSING COMMENTS**

Mr Pringle, advised that link to review meeting will still be available after this meeting, and a report on the application would be presented to council meeting as soon as practicable

**3. MEETING CLOSE**

The meeting closed at 7.06 PM

Detailed Assessment – East Gippsland Planning Scheme  
Two Lot Subdivision and Variation to restrictive covenant AF799003U applying to the land by  
deletion of clause (b) at  
9 The Billabong, Metung – 61/2020/P

#### Planning Policy Framework (PPF)

##### 15.01-5S Neighbourhood character

###### Objective

To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

###### Strategies

Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.

Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.

Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:

- Pattern of local urban structure and subdivision.
- Underlying natural landscape character and significant vegetation.
- Neighbourhood character values and built form that reflect community identity.

##### 21.12-2 Lakes and Coastal

###### Metung

###### Vision

Metung will be a key destination for visitors to the Gippsland Lakes system and a significant boating hub.

It will continue to have a strong residential community.

Preservation of environmental and landscape values will be a key priority.

It will have an attractive village centre that promotes community interaction, with extensive pathways linking the village centre to other attractions. The village will be contained and meet the day to day needs of residents and visitors, but there will remain a reliance on external sources for higher order goods and services.

The buildings in Metung will remain modest in scale – generally two to three levels.

Materials and colours will complement the natural environment.

###### Objectives

- To retain the landscape setting, environmental qualities and lifestyle that contribute to the 'village' character of Metung.
- To ensure that development does not adversely affect landscape and environmental values.
- To support Metung's boating centre role and improve water access.
- To create a cohesive and attractive village centre.
- To improve pedestrian circulation and safety.

###### Strategies

- Ensure that the development of Metung occurs generally in accordance with the Metung Strategy Plan.
- Limit urban development to areas south of Metung – Nungurner Road and Hardys Road.

- Retain the north-east area of Metung as low density residential development, reflecting the physical constraints and existing character of the area.
- Ensure new development does not adversely affect landscape and environmental values and incorporates measures to protect those values including by protecting visually and environmentally significant native vegetation, the vegetated escarpment of Lake King and vegetated wildlife corridors; protecting wetlands; provision for on-site storm water management and erosion protection; minimisation of building footprints; and encouraging additional planting of indigenous plant species.
- Contain commercial development to suitably zoned areas or approved sites.
- Provide better visual connections to the water and increase water edge activities.
- Limit building height to retain the human and village scale of the area.
- Provide additional parking opportunities on the fringe of the village centre.
- Ensure consistent signage that communicates an appropriate village theme.
- Improve pedestrian connections along both sides of the peninsula, providing waterfront links between the village centre and the rest of Metung.
- Ensure that development adjoining the Village Green and Patterson Park preserves the village atmosphere.
- If the resort proposal on the Storth Ryes site between Metung and Tambo Bluff does not go ahead, encourage the progressive development of this site for low density residential uses, subject to the preparation of an Incorporated Plan.
- Ensure that land use and development adjoining Metung Road, Nungurner Road and Kalimna West Road do not detract from the scenic landscape values of the road corridors and the views from them.

*PPF Assessment:*

The Incorporated Plans for Storth Ryes Estate, established in the East Gippsland Planning Scheme in 1999 and modified by C002 provide a consistent expectation for neighbourhood character, dwelling density, and subdivision layout. Although the overall development concept plans are at a scale and quality that are illegible, the map for C002 from June 2000 gives clarity to the preferred lot layout and subdivision design. The proposal is considered to be inconsistent with this plan as it proposes a lot size which is inconsistent with the prevailing lot size demonstrated on the plan.

The applicant argues that consideration of neighbourhood character must include areas to the south of The Billabong. It is considered irresponsible to consider this area as a part of a neighbourhood character assessment as the provision which established the density for areas of The Sanctuary and Storth Ryes Avenue is the Incorporated Documents (former Clause 52.03 – now the Specific Sites and Exclusions provisions at Clause 51.01), not the Low Density Residential Zone provisions. The Incorporated Plan effectively permits dwelling density similar to that of General Residential Zone, and this should not be used to justify a departure from the existing neighbourhood character.

The proposal fails to respond to its context and fails to respect the pattern of local urban structure and subdivision.

It is noted that the Metung Strategy Plan suggests infill development occur to the South of Hardys road. This plan was created and has only been refined partially following the implementation of the East Gippsland Planning Scheme. Significant infill has already occurred, and further intensification and infill needs to be considered strategically, assessing development demands. It is suggested that without the strategic backing, that the proposal adversely affects

landscape and environmental values, specifically by increasing development adjacent to regenerated landscapes, including the adjacent reserve which has become a significant flora and fauna habitat within the estate.

### Low Density Residential Zone (LDRZ)

#### Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

#### Subdivision

##### Permit requirement

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone.

Any area specified must be at least:

- 0.4 hectare for each lot where reticulated sewerage is not connected. If no area is specified each lot must be at least 0.4 hectare.
- 0.2 hectare for each lot with connected reticulated sewerage. If no area is specified each lot must be at least 0.2 hectare.

#### Application requirements

##### Subdivision

An application must be accompanied by a site analysis, documenting the site in terms of land form, vegetation coverage and the relationship with surrounding land, and a report explaining how the proposed subdivision has responded to the site analysis. The report must:

- In the absence of reticulated sewerage, ...
- Show for each lot:
  - o A building envelope and driveway to the envelope.
  - o Existing vegetation.
  - o ....
- Show how the proposed subdivision relates to the existing or likely use and development of adjoining and nearby land. If a staged subdivision, ....

#### Decision guidelines

##### General

Before deciding on an application, 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.

##### Subdivision

- The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- The relevant standards of Clauses 56.07-1 to 56.07-4.

#### *LDRZ Assessment:*

On face value, the subdivision of land proposed is in accordance with the provisions of the Low Density Residential Zone, which has been revised since the land was subdivided in accordance with the control. At the time of subdivision, 9 The Billabong could not be further subdivided as the minimum lot size was 0.4 hectares (4000 square metres). The provision has since been amended, and based on the availability of reticulated sewerage, the land can be subdivided to 0.2 hectares (2000 square metres).

The zone provides that the land can be subdivided into two lots. Given the presence of an easement in the middle of the current lot, the proposed subdivision is consistent with the zone provision. Decision guidelines for subdivision include Integrated Water Management Objectives of residential subdivision provisions. Relevant to this proposal is 5607-4 Stormwater Management Objectives. There is generally support for the

### Incorporated Plan Overlay

#### Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To identify areas which require:

- The form and conditions of future use and development to be shown on an incorporated plan before a permit can be granted to use or develop the land.
- A planning scheme amendment before the incorporated plan can be changed.
- To exempt an application from notice and review if it is generally in accordance with an incorporated plan.

#### Requirement before a permit is granted

A permit must not be granted to use or subdivide land, construct a building or construct or carry out works until an incorporated plan has been incorporated into this scheme.

This does not apply if a schedule to this overlay specifically states that a permit may be granted before an incorporated plan has been incorporated into this scheme.

A permit granted must:

- Be generally in accordance with the incorporated plan, unless a schedule to this overlay specifies otherwise.
- Include any conditions or requirements specified in a schedule to this overlay.

#### Decision guidelines

Before deciding on an application under any provision of this scheme which is not generally in accordance with the incorporated plan, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The incorporated plan.
- Any other matters specified in a schedule to this overlay.

## STORTH RYES, METUNG

#### Requirement before a permit is granted

A permit must not be granted to use or subdivide the land, construct a building or construct or carry out works until an incorporated plan has been incorporated into this Scheme.

This does not apply to a use, subdivision, development or buildings and works if they are in accordance with the specific site controls set out in the Schedule to Clause 51.01 of this Scheme.

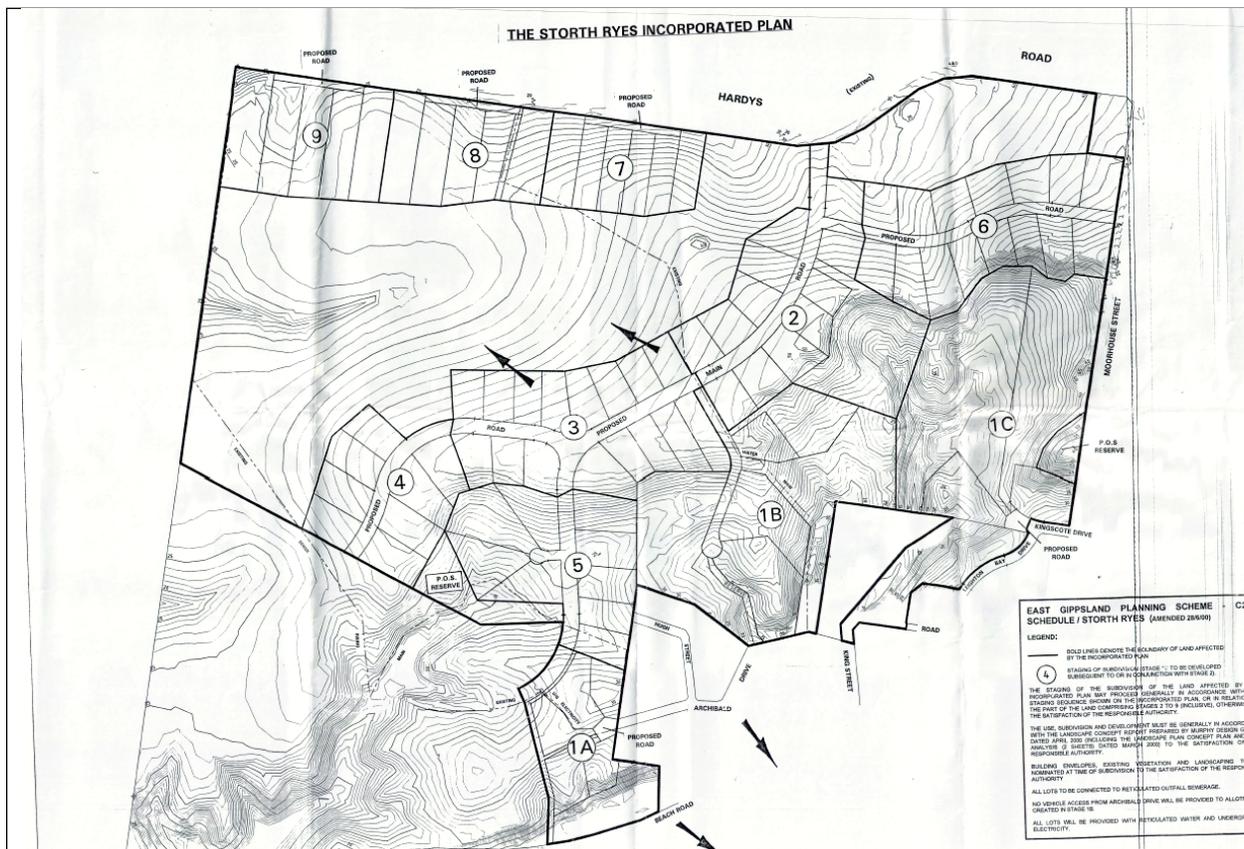
Except with the grant of a permit, the use, subdivision and development of the land must be generally in accordance with the Incorporated Plan.

#### Preparation of the incorporated plan

The purpose of the Incorporated Plan Overlay control is to regulate the future use, subdivision and development of the land pursuant to the provisions of the Low Density Residential Zone until an incorporated plan has been incorporated into this Scheme.

The incorporated plan must contain the following information to the satisfaction of the responsible authority:

- Details of all existing significant physical features of the land including topography, vegetation, viewpoints
- The general subdivisional layout for the land
- The position and width of existing and proposed major access roads
- The staging of subdivisional works within particular development areas or stages
- Building envelopes
- Areas of proposed landscaping
- The nature of utility services (including waste disposal arrangements)
- Any other matter which is considered appropriate by the responsible authority to satisfy the requirements of this Scheme



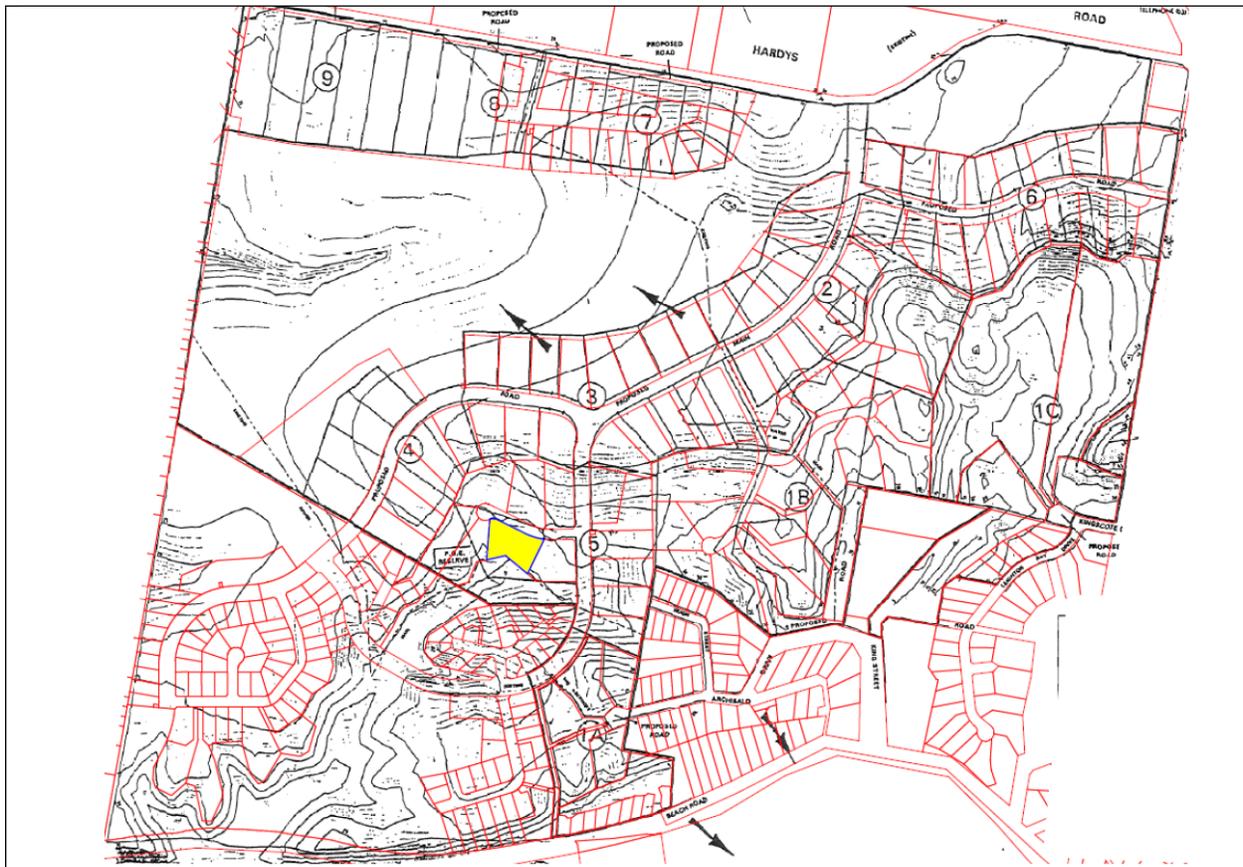
#### IP01 Assessment:

The provisions of the Incorporated Plan Overlay have remained consistent since the Schedule was introduced to the new format planning scheme, however the format has been updated to SMART planning framework. The requirements set out above are not all clearly provided on the endorsed plan, however the general subdivision layout, position of major access roads, and

staging is generally shown and the plan has largely been implemented consistent with the plan. There have been a few notable departures including:

- The number of allotments on and length of The Billabong;
- The size and shape of the reserve lands to the south of The Billabong;
- The size and position of a balance allotment in Stage 4; and
- The lot size and access/road along Hardy's Road (Stages 7, 8, and 9), which have been subdivided following the amendments to the Low Density Residential Zone.

The applicant provided the following comparison between the plan and the current parcels (red lines), which demonstrate that generally speaking the subdivision has occurred in conformity to the Incorporated Plan.



The above plan originating from C002 supplants the portion of the IPO1 plan that was considered in the New Format Planning Scheme adopted in May 1999. At the time of C002, the Schedule to Clause 52.03 was also amended to remove the Storth Ryes Golf Course and Residential Estate document, which applied to Lot 1 PS 420967K Storth Ryes, Hardys Road, Metung. Had this document been superseded under Clause 52.03, rather than removed, no planning permit would be required for subdivision, as is the case with land in the Resort Hotel/Motel and Convention Facility Development incorporated document.

Without being listed in Clause 52.03 Schedule (now 51.01), the Incorporated Plan for this section has little influence on the subdivision of the land, except to continue to act as a guide. ON the basis that the plan exists and that the plan demonstrates that the precinct provides for lots circa 4000 square metres and greater, and also that the decision guidelines call into

consideration the PPF, it is suggested that the proposal is generally inconsistent with the incorporated plan, by failing to appropriately consider the neighbourhood character which has been established under the incorporated plan. It is suggested that a planning scheme amendment should consider further density increases in the plan area before an infill subdivision should be granted.

### Erosion Management Overlay

#### Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.

#### Subdivision

A permit is required to subdivide land.

#### Application requirements

An application must be accompanied by any information specified in a schedule to this overlay and information showing:

- The existing site conditions, including land gradient and the extent of any existing erosion, landslip or other land degradation.
- The extent of any proposed earthworks.
- The means proposed to stabilise disturbed areas.
- Any other application requirements specified in a schedule to this overlay.

#### Decision guidelines

Before deciding on an application, 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.
- Regional Catchment Strategy (Catchment and Land Protection Act 1994).
- Environmental Guidelines for Major Construction Sites, Environment Protection Authority, February 1996.
- Construction Techniques for Sediment Pollution Control, Environment Protection Authority, May 1991. Control of Erosion on Construction Sites, Soil Conservation Authority.
- Any proposed measures to manage concentrated runoff and site drainage. Any proposed measures to minimise the extent of soil disturbance.
- Whether the removal of vegetation will increase the possibility of erosion, the susceptibility to landslip or other land degradation processes, and whether such removal is consistent with sustainable land management.
- The need to stabilise disturbed areas by engineering works or revegetation.
- Whether the land is capable of providing a building envelope which is not subject to high or severe erosion concern.
- Whether buildings or works are likely to cause erosion or landslip.
- Whether access and servicing of the site or building envelope is likely to result in erosion or landslip.
- Land Capability Report (if prepared) as developed by the Department of Environment, Land, Water and Planning.
- The need to remove, destroy or lop vegetation to create defensible space to reduce the risk of bushfire to life and property.

- Any technical information or reports required to be provided by a schedule to this overlay.
- Any other matters specified in a schedule to this overlay.

### EMO Schedule

Erosion management objectives to be achieved

- To ensure that applications for the development of land subject to high or very high geotechnical hazard are accompanied by expert geotechnical risk assessments.
- To ensure that development is designed and carried out in accordance with the recommendations of expert geotechnical risk assessments.
- To ensure that development does not increase the risk of geotechnical hazard to life or property.
- To encourage the rehabilitation of land affected by geotechnical hazard.

Application requirements

In addition to the information required by Clause 44.01-6 an application to develop land and/or remove vegetation must be accompanied by a Site and Surrounds Plan and a geotechnical risk assessment prepared by a suitably qualified and experienced geotechnical practitioner.

Site and Surrounds Plan

A Site and Surrounds Plan must be drawn to scale with dimensions and show:

- Details of the land and adjoining land including areas of existing erosion, topography, waterways, vegetation, all existing development, retaining walls, drainage, other infrastructure and any other relevant site and locality features.
- All proposed development including details of excavations and fill, vegetation removal, driveways, retaining walls and effluent disposal systems.
- Details of any existing and/or proposed building envelopes on the land.

Geotechnical risk assessment

The geotechnical risk assessment is to include as appropriate:

- Details of the date and methodology of the geotechnical assessment undertaken.
- Details of the geotechnical hazards relevant to the proposed development and to adjoining land.
- Recommendations about measures to be taken to manage geotechnical hazards including but not limited to:
  - o The suitability of the land for the proposed development.
  - o Measures to manage geotechnical hazard during the development period.
  - o Limitations to excavations and fill.
  - o Soil rehabilitation techniques for disturbed areas.
  - o Drainage design and capacity.
  - o Footings and foundation design including any required retaining walls.
  - o The design of structural elements including load bearing capacities.
  - o Any other measures required to be undertaken on- or off-site to manage geotechnical hazard.
- Recommendations to minimise the residual risk to life and property after the development is completed.

Waiver or reduction of application requirements

If a suitably qualified and experienced geotechnical practitioner demonstrates to the satisfaction of the responsible authority that a geotechnical risk assessment is not relevant to the

assessment of an application, the responsible authority may reduce or waive the requirement for a geotechnical risk assessment.

A geotechnical risk assessment is not required to accompany the following applications:

- An application to subdivide land where each proposed lot contains an existing dwelling.
- An application to subdivide land in a rural zone into two lots.

**Independent review**

The responsible authority may require an independent peer review of any application documentation at the applicant's cost.

**Decision guidelines**

Before deciding on a planning permit application, in addition to the decision guidelines of Clause 44.01-8 the Responsible Authority must consider as appropriate:

- The risk to life, property and community infrastructure from geotechnical hazard.
- The recommendations of any geotechnical risk assessment and application documentation.
- The recommendations of any independent review of the geotechnical risk assessment and application documentation.
- The need for any ongoing geotechnical risk management measures.

***EMO Assessment***

Each stage of the subdivision was initially accompanied by an erosion risk mitigation plan, which forms a part of the development guidelines for the subdivision. The relevant plan for this stage of subdivision did not anticipate further subdivision. An geotechnical risk assessment formed part of the application, as provided at **Attachment 1**. Council does not contest the findings of the assessment and concurs that there is low overall risk of erosion if the land were to be subdivided into two lots, and as such the EMO consideration does not form any recommended grounds for refusal.

## **52.02 EASEMENTS, RESTRICTIONS AND RESERVES**

**Purpose**

To enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.

**Permit requirement**

A permit is required before a person proceeds:

- Under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant.
- Under Section 24A of the Subdivision Act 1988.
- Under Section 36 of the Subdivision Act 1988 to acquire or remove an easement or remove a right of way.

This does not apply:

- If the action is required or authorised by the schedule to this clause.
- In the circumstances set out in Section 6A(3) of the Planning and Environment Act 1987.
- If the person proceeds under Section 362A of the Land Act 1958.
- In the case of a person proceeding under Section 36 of the Subdivision Act 1988, if the council or a referral authority gives a written statement in accordance with Section 36(1)(a) or (b) of the Subdivision Act 1988.

- In this clause, restriction has the same meaning as in the Subdivision Act 1988.

#### Decision guidelines

Before deciding on an application, in addition to the decision guidelines in clause 65, the responsible authority must consider the interests of affected people.

#### *52.02 Assessment:*

Generally speaking, the officer considers it appropriate to vary the restriction on title for the following reasons:

- The obligations of the clause to be deleted cannot be met without:
  - o Expending resources to resolve the matter via ASIC (Australian Securities & Investments Commission); or
  - o Waiting for the covenant to expire; or
  - o Seeking to vary the covenant, as has been proposed.
- The obligations prevent the development or redevelopment of land where such use and development as a single dwelling is permissible, largely without the need for a planning permit;
- Delaying development contributes to deteriorating property conditions, increased risk and liability in relation to land management, pest control, and the like.

The decision guidelines require consideration of the interests of affected people. The application was subject to notification in accordance with Section 52 of the Planning and Environment Act, and 42 objections were received. Many of the objections clearly indicated a lack of support for the proposal to vary the restrictive covenant.

Since the objections have been lodged, Council has undertaken a project to end or amend S173 legal agreements on titles within the Kings Cove Estate, and this process has clarified the distinction between a S173 Agreement and the Restrictive Covenants which apply to the land. It is noted that many of the objections have verbally confirmed that they are now supportive of the proposal to vary the restriction, however this hasn't resulted in the withdrawal of objections.

As such, the written objections must be taken into account, and there is overwhelming written objection to the variation of the covenant. As such, a recommended ground of refusal includes that there is significant objection to the proposal by the affected people, and as such, the proposal should not be supported.

#### *Subdivision Assessment:*

As noted above, the proposed subdivision cannot be supported overall for failing to meet the neighbourhood character criteria which is applicable to all controls via the references to the PPF in the decision guidelines. The subdivision cannot rely on neighbouring land subject to site specific controls providing for higher density. The subdivision is inconsistent with the pattern of lot sizes within the precinct, which otherwise exceed 4000 square metres.

#### *Variation of Restrictive Covenant:*

The proposal to vary the restrictive covenant, can be supported on its own (not as a joint application with subdivision proposed), unless a significant number of objections were also provided to such an application. As the matter cannot be separated and the subdivision cannot be supported, the variation must also be refused.