

Form 2

NOTICE OF AN APPLICATION FOR PLANNING PERMIT

The land affected by the application is located at:	2337 Gelantipy Road W TREE 3885 Lot: 2 PS: 309037
The application is for a permit to:	Two Lot Subdivision and Creation of Carriageway Easement
The applicant for the permit is:	Crowther & Sadler Pty Ltd
The application reference number is:	5.2023.203.1
You may look at the application and any documents that support the application on the website of the responsible authority.	COVID-19 Omnibus (Emergency Measures) Bill 2020 now modifies the requirement of Form 2 so that <i>Planning documents previously required to be physically available to view at local government offices are now only required to be available for online inspection.</i>

This can be done anytime by visiting the following website:

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

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

An objection must

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

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

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

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

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

Page 1 of 3

VOLUME 10025 FOLIO 770

Security no : 124106293684Q
Produced 23/05/2023 11:33 AM

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 309037F.

PARENT TITLES :

Volume 09815 Folio 058 to Volume 09815 Folio 059

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

DEBORAH LANETTE SCHMETZER

AT760732D 10/11/2020

ENCUMBRANCES, CAVEATS AND NOTICES

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

DIAGRAM LOCATION

SEE PS309037F 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: "WOMBAT MANOR" 2337 GELANTIPY ROAD W TREE VIC 3885

ADMINISTRATIVE NOTICES

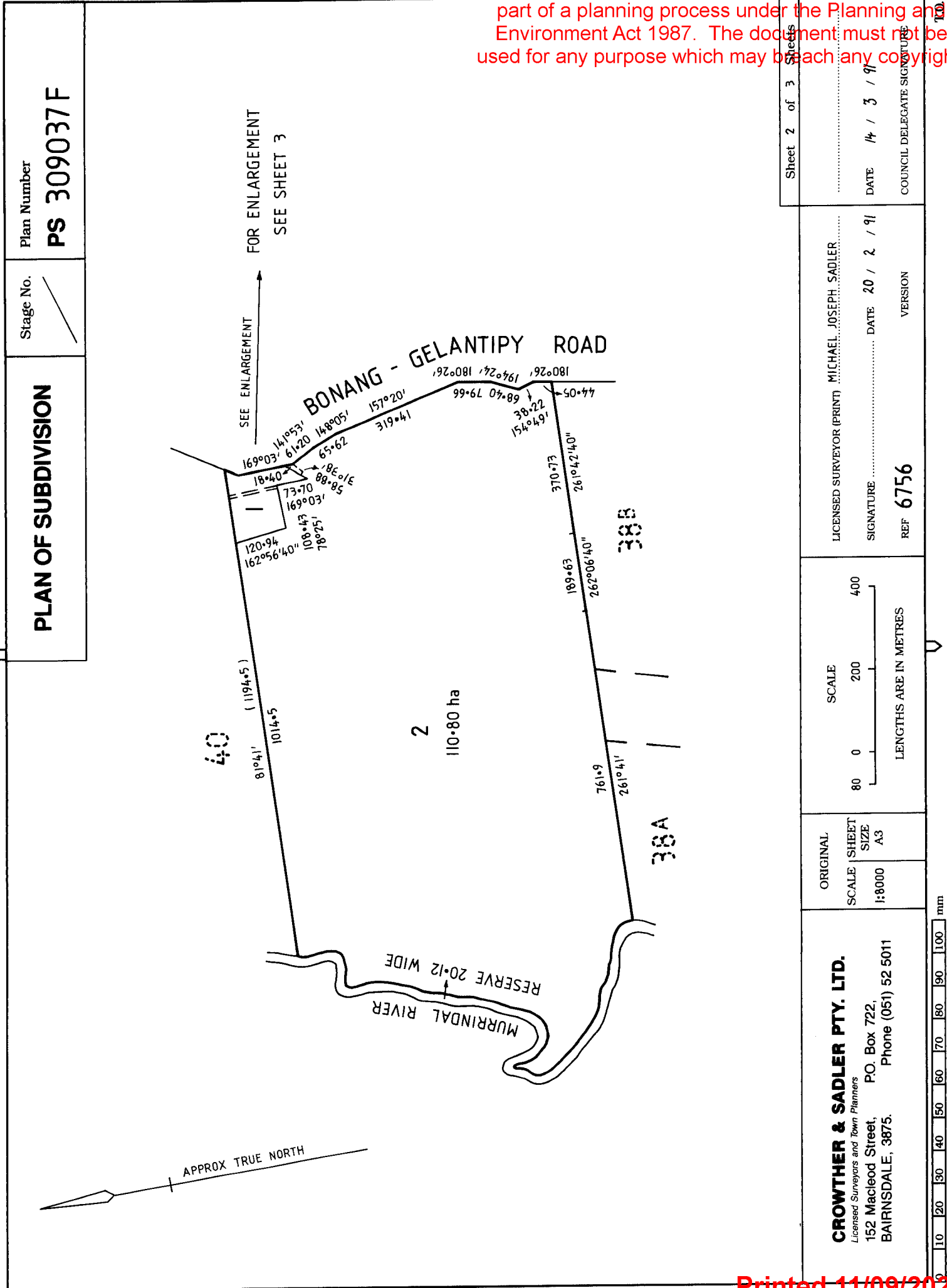
NIL

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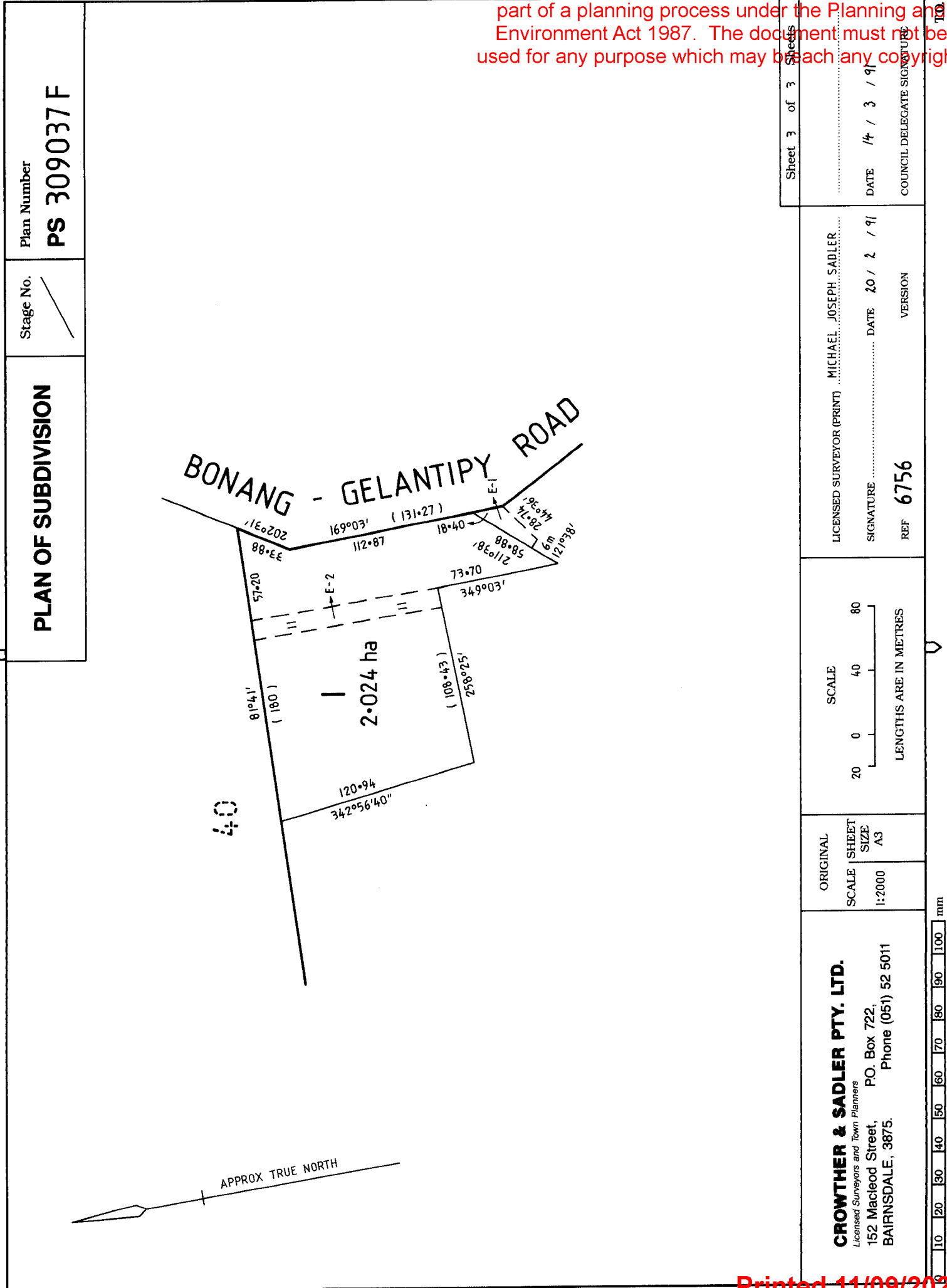
PLAN OF SUBDIVISION					STAGE NO. LTO use only Plan Number														
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p style="text-align: center;">Location of Land</p> <p>Parish: MURRINDAL WEST</p> <p>Township: +</p> <p>Section: —</p> <p>Crown Allotment: 39</p> <p>Crown Portion:</p> <p>LTO Base Record: PARISH 2</p> <p>Title Reference: VOL 9815 FOL 059, VOL 9815 FOL 058</p> <p>Last Plan Reference: LP 211736 M, LOTS 1 & 2</p> <p>Postal Address: BONANG - GELANTIPY ROAD (at time of subdivision) W TREE 3885</p> <p>AMG Co-ordinates E 608 300 Zone: 55 (of approx. centre of land in plan) N 5866 300</p> </div> <div style="width: 50%;"> <p style="text-align: center;">Council Certificate and Endorsement</p> <p>Council Name: SHIRE OF TAMBO Ref: S/0087/309037 F</p> <ol style="list-style-type: none"> This plan is certified under section 6 of the Subdivision Act 1988. This plan is certified under section 11(7) of the Subdivision Act 1988. Date of original certification under section 6 / / This is a statement of compliance issued under section 21 of the Subdivision Act 1988. <p><u>OPEN SPACE</u></p> <p>(i) A requirement for public open space under section 18 of the Subdivision Act 1988 has/has not been made.</p> <p>(ii) The requirement has been satisfied.</p> <p>(iii) The requirement is to be satisfied in Stage.....</p> <p>Council delegate Council seal</p> <p>Date 14 / 3 / 91</p> <p>Re-certified under section 11(7) of the Subdivision Act 1988</p> <p>Council Delegate Council Seal</p> <p>Date / /</p> </div> </div>																			
<p style="text-align: center;">Vesting of Roads and/or Reserves</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Identifier</th> <th>Council/Body/Person</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">NIL</td> <td style="text-align: center;">NIL</td> </tr> </tbody> </table>					Identifier	Council/Body/Person	NIL	NIL											
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<p style="text-align: center;">Notations</p> <p>Staging This is/is not a staged subdivision Planning Permit No.</p> <p>Depth Limitation LIMITED TO 15.24 METRES BELOW THE SURFACE</p>																			
<p style="text-align: center;">LOT 2 IS BY DEDUCTION FROM TITLE</p>																			
<p>Survey This plan is/is not based on survey</p> <p>This survey has been connected to permanent marks no(s) In Proclaimed Survey Area No.</p>																			
<p style="text-align: center;">Easement Information</p> <p>Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Easement Reference</th> <th style="width: 20%;">Purpose</th> <th style="width: 10%;">Width (Metres)</th> <th style="width: 15%;">Origin</th> <th style="width: 45%;">Land Benefited/In Favour Of</th> </tr> </thead> <tbody> <tr> <td>E-1</td> <td>CARRIAGEWAY</td> <td>SEE DIAG</td> <td>THIS PLAN</td> <td>LAND IN THIS PLAN</td> </tr> <tr> <td>E-2</td> <td>POWER LINE AS DEFINED IN COLUMN 2 IN THE 7TH SCHEDULE OF THE SEC ACT 1958</td> <td>11</td> <td>THIS PLAN</td> <td>SEC V</td> </tr> </tbody> </table>					Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of	E-1	CARRIAGEWAY	SEE DIAG	THIS PLAN	LAND IN THIS PLAN	E-2	POWER LINE AS DEFINED IN COLUMN 2 IN THE 7TH SCHEDULE OF THE SEC ACT 1958	11	THIS PLAN	SEC V
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<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>CROWTHER & SADLER PTY. LTD. <i>Licensed Surveyors and Town Planners</i> 152 Macleod Street, P.O. Box 722, BAIRNSDALE, 3875. Phone (051) 52 5011</p> </div> <div style="width: 35%;"> <p>LICENSED SURVEYOR (PRINT) MICHAEL JOSEPH SADLER</p> <p>SIGNATURE..... DATE 20 / 2 / 91</p> <p>REF 6756 VERSION</p> </div> </div>																			
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>LTO use only</p> <p>Statement of Compliance/ Exemption Statement</p> <p>Received <input checked="" type="checkbox"/></p> <p>Date 15 / 4 / 91</p> </div> <div style="width: 35%;"> <p>LTO use only</p> <p>PLAN REGISTERED</p> <p>TIME</p> <p>DATE 3 / 7 / 91</p> <p><i>all state</i> Assistant Registrar of Titles</p> <p>Sheet 1 of 3 Sheets</p> </div> </div>																			
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>DATE 14 / 3 / 91</p> <p>COUNCIL DELEGATE SIGNATURE</p> </div> <div style="width: 35%;"> <p>Original sheet 1 of 3</p> </div> </div>																			

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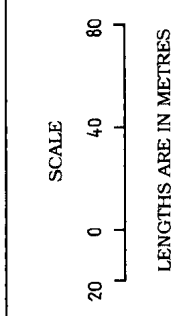


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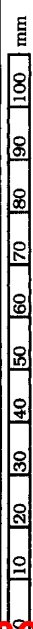


Sheet 3 of 3	
LICENSED SURVEYOR (PRINT) MICHAEL JOSEPH SADLER	DATE 14 / 3 / 91
SIGNATURE	DATE 20 / 2 / 91
REF 6756	VERSION
COUNCIL DELEGATE SIGNATURE	



ORIGINAL
SCALE 1:2000
SHEET SIZE A3

CROWTHER & SADLER PTY. LTD.
Licensed Surveyors and Town Planners
152 Macleod Street, PO. Box 722,
BAIRNSDALE, 3875. Phone (051) 52 5011



Planning Report

Two Lot Subdivision &
Creation of Carriageway Easement
2337 Gelantipy Road, W Tree

Our reference – 20382

2 June 2023



FS 520900



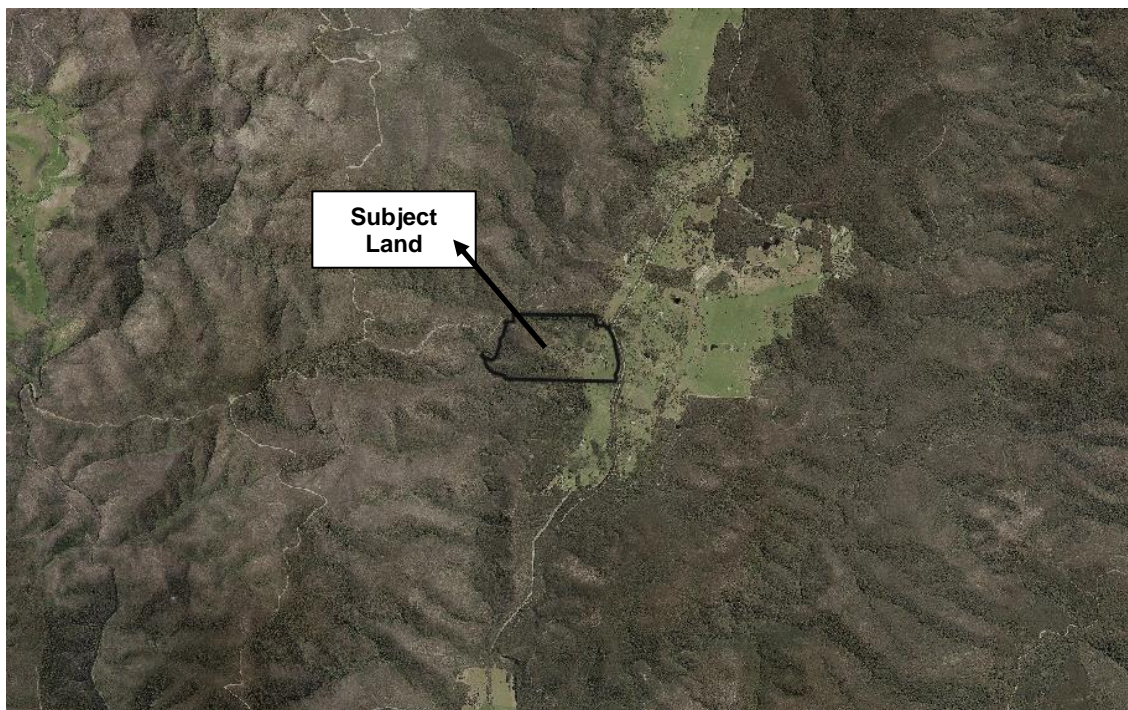
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	Application Form (via planning portal)	
	Proposed Subdivision Plan (Version 2, dated 19/05/2023)	
	Bushfire Hazard Site Assessment (Version 1, dated 8/02/2023)	
	Copy of Title (Lot 2 on PS309037F)	

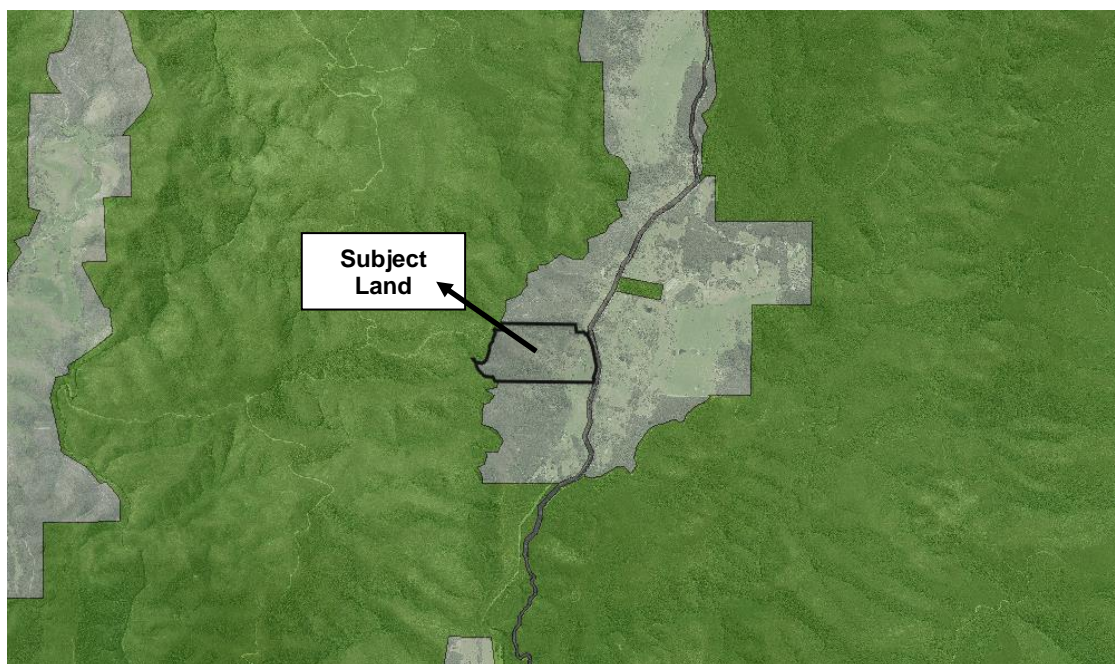
Note: Applicable Planning Application fee is \$1,360.80

1. Introduction

This Planning Report is prepared in support of proposed Two Lot Subdivision & Creation of Carriageway Easement at 2337 Gelantipy Road, W Tree. The Report addresses the provisions of the Farming Zone, Bushfire Management Overlay, Erosion Management Overlay & Vegetation Protection Overlay – Schedule 1 as contained within the *East Gippsland Planning Scheme*.



Aerial view of subject land and surrounds – Source: VicPlan



Zone mapping and aerial of subject land and surrounds – Source: VicPlan

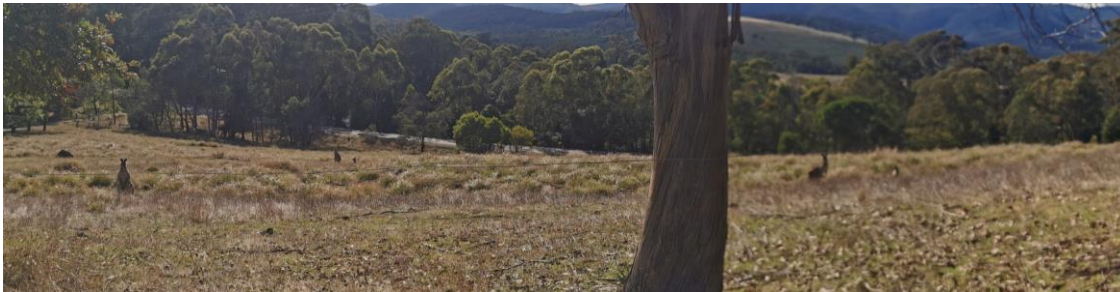
2. Subject Land & Surrounding Context

The subject land is formally described as Lot 2 on Plan of Subdivision 309037F and is approximately 110.8ha in area. More commonly known as 2337 Gelantipy Road, W Tree, the property is contained within Farming Zone – Schedule 1.

The terrain across the site is steep however the eastern portion of the land comprises an existing dwelling and open grasslands which have historically been utilised for grazing purposes. The western section of the property is more mountainous in nature and is well vegetated.



Looking north towards existing dwelling and outbuilding



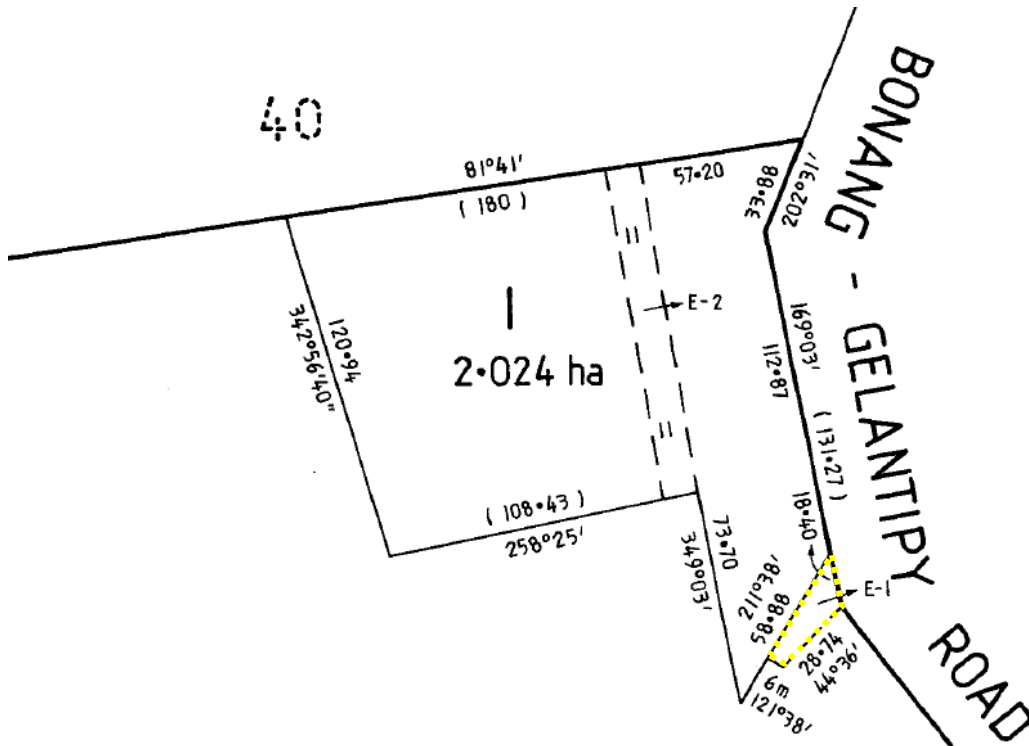
Looking east from existing driveway over cleared grazing land towards Gelantipy Road



General view over the western vegetated portion of the property

The site has frontage to and takes access from Gelantipy Road to the east which is a good quality sealed bitumen road with gravel shoulders which is contained within Transport Zone 2. The western property boundary has frontage to a Crown Reserve which encompasses the Murrindal River.

A section of existing carriageway easement is established over the first portion of the driveway which provides a right of carriageway to the neighbouring property immediately to the north at 2337A Gelantipy Road, W Tree.



Extract from PS309037F, with extent of existing carriageway easement on subject land highlighted in yellow



View south west along existing driveway from Gelantipy Road

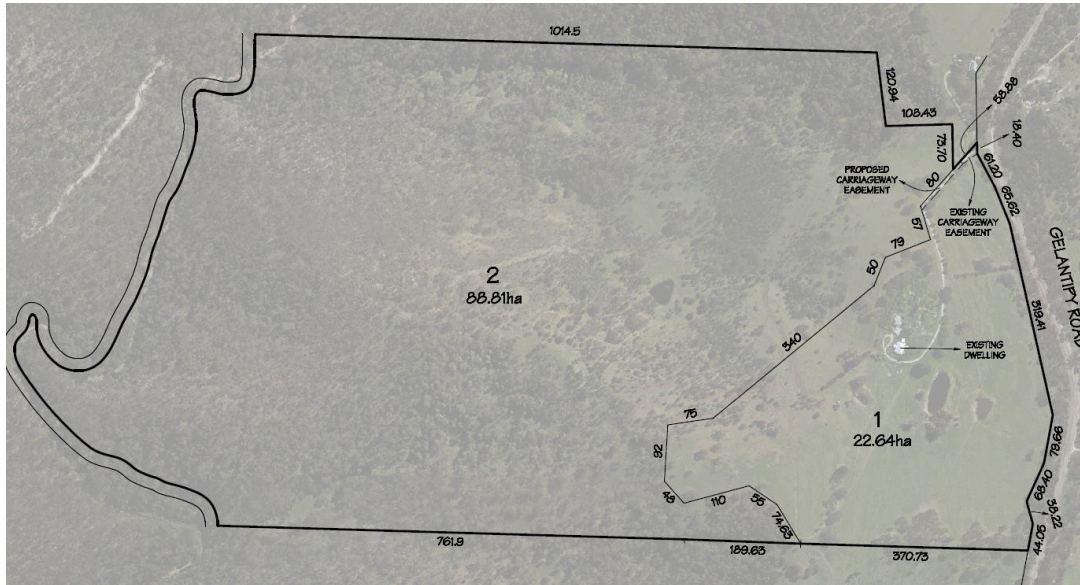
The subject land is affected by the provisions of the Farming Zone, Bushfire Management Overlay, Erosion Management Overlay & vegetation Protection Overlay – Schedule 1 of the *East Gippsland Planning Scheme*.

The site forms part of the rural locality of W Tree which is located approximately 25km to the north of Buchan. W Tree consists of several established dwellings on land contained within Farming Zone and is considered a small farming community.

The wider landscape comprises of forested land on steep slopes which provides good opportunity for outdoor activities and to explore nature. One of the main attractions of the area is the two-tiered W Falls which is located between W Tree and nearby Murrindal which is also a small rural locality.

3. The Application & Proposal

The Application seeks approval for a Two Lot Subdivision to create Lot 1 of approximately 22.64ha in area which will contain the existing dwelling, and Lot 2 of approximately 88.81ha in area.



Proposed Subdivision Layout

As part of the proposal a new section of carriageway easement will be established part way along the alignment of the existing driveway, to facilitate access into both Lots. The new section of carriageway easement will be provided over proposed Lot 1 to provide rights of access to proposed Lot 2.



View south along existing driveway

Establishment of the new section of carriageway easement will avoid the need to establish any new vehicle access from Gelantipy Road to the east, which is logical and appropriate having regard for the vegetated nature of the Road Reserves and Principal Road Network mapping.

The subdivision has been designed to ensure that the new boundary corresponds with existing internal farm fencing where possible. This is most logical from a farming perspective, however also avoids potential vegetation losses having regard to the fencing exemption at Clause 52.17-7.

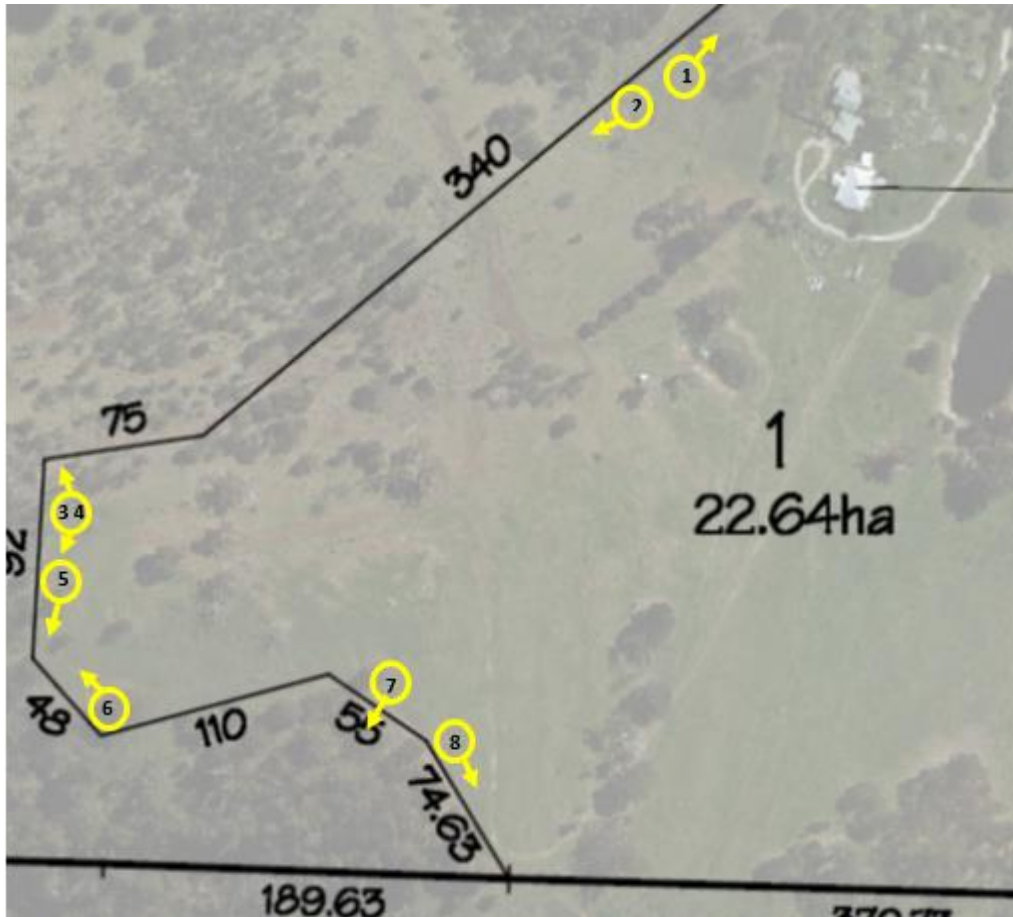


Diagram showing photo locations along existing internal fencing and proposed boundary



Photo 1: West of existing dwelling looking north towards existing fencing



Photo 2: West of existing dwelling looking south-west towards existing fencing



Photos 3 & 4: Taken from southern section of property looking in a northerly and southerly direction along existing fencing



Photo 5: Looking south along existing fencing

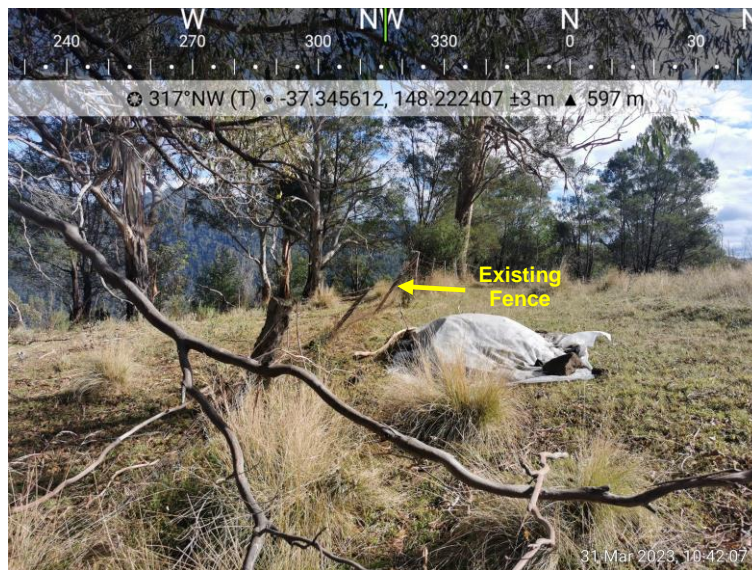


Photo 6: Looking north-west along existing fencing on the southern portion of the subject land

The southernmost section of the proposed boundary does not correspond with any fencing, however it has been located in an existing clearing thereby ensuring the vegetation on the southern portion of the property is not adversely affected.



Photo 7: Looking south from within Lot 1 towards vegetation to be retained within Lot 2

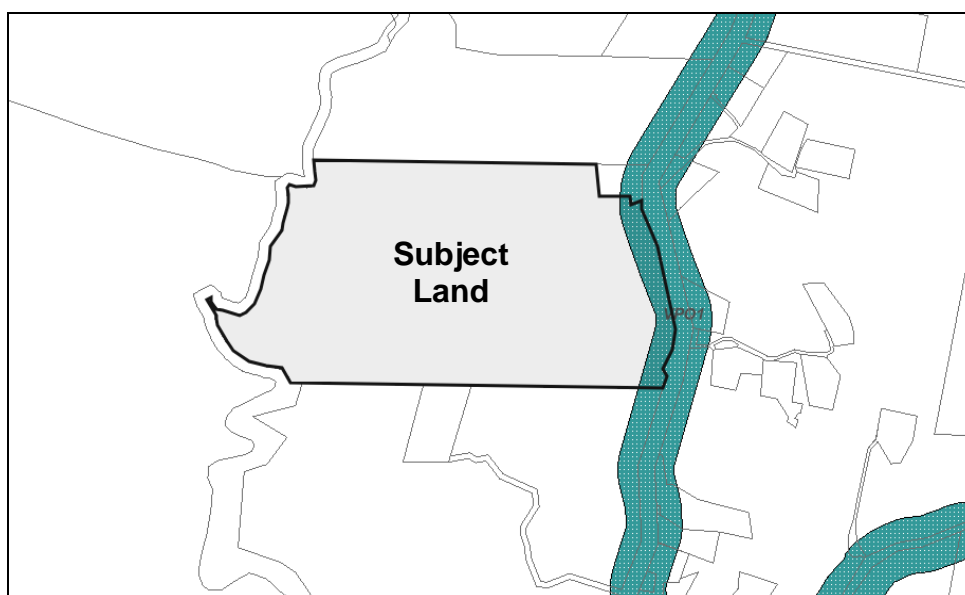


Photo 8: Looking south-east along the southern section of the proposed boundary

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

Planning Scheme Clause No.	Description of what is Proposed
Clause 35.07-3	Subdivision of Land
Clause 44.06-2	Subdivision of Land
Clause 44.01-5	Subdivision of Land
Clause 52.02	Creation of Carriageway Easement

The Application does not trigger any approvals under the Vegetation Protection Overlay – Schedule 1 as there is no vegetation removal proposed or resulting from the proposed Subdivision.



Vegetation Protection Overlay Mapping – Source: VicPlan

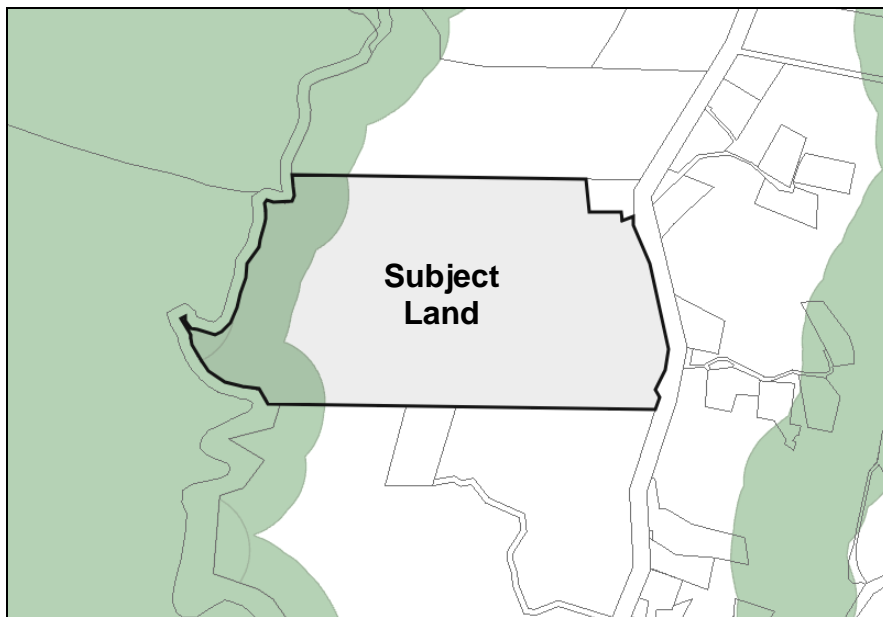
The Application is also exempt from consideration of Clause 52.29 relating to Land Adjacent to the Principal Road Network, given no new access is required to service the proposed lots. The exemption provided by Clause 52.29-3, dot point 4 applies, meaning the Application is exempt from referral to the Department of Transport and Planning.

4. Cultural Heritage

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

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

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



Cultural Heritage Sensitivity Mapping – Source: VicPlan

Whilst the western portion of the subject land is identified as an area of cultural heritage sensitivity the proposed Two Lot Subdivision is not defined as a high impact activity (Regulation 49). There is therefore no mandatory requirement to provide a CHMP in support of the proposal.

5. Planning Policy

The following comments respond to State and Local Planning Policy as relevant to the proposal.

5.1 Planning Policy Framework

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

The subdivision has been carefully designed to ensure that the boundaries adopt existing fencing. This is not only logical from a property management perspective, but also ensures there will be no presumed vegetation loss for the purposes of fencing. The sections of the proposed boundary that are not currently fenced have been positioned in existing cleared areas.

The existing environmental, cultural and aesthetic values of the land will not be compromised by the proposal, as significant consideration has been given to the protection of site vegetation consistent with strategies at Clause 12.05-1L *Environmentally Sensitive Areas*.

The proposal has considered Clause 13.02-1S *Bushfire Planning* given the entire site is contained within the Bushfire Management Overlay. A robust response has been provided against the provisions of the Bushfire Management Overlay (Clause 44.06) and Bushfire Planning (Clause 53.02) confirming the risk associated with the rural subdivision is appropriately mitigated.

Clause 14.01-1S relating to *Protection of Agricultural Land* has the objective to protect the State's agricultural base by preserving productive farmland. The proposal is considered to respond positively to associated strategies:

- The subdivision will not result in the removal of any land from primary production, achieved by adopting boundaries to match existing internal fencing which reflects the way in which the land is used and managed.
- The subdivision will simply segment the vegetated portion of the land from the open grazing component of the land as it is surplus to the farming operation.
- The subdivision will not give rise to any compatibility issues between conflicting land uses. Whilst the subdivision will result in the 'as of right' for a dwelling on Lot 2 under the Zone, there is an absence of intensive agricultural activities nearby due to the landform and soil quality.

Consideration has been given to Clause 14.01-1L-01 *Protection of Agricultural Land* as it is within the Farming Zone – Schedule 1. Associated strategies specifically seek to adopt cluster housing arrangements and to restrict subdivision at W Tree and Gelantipy unless road access and the retention of treated sewerage onsite can be provided to all new lots.

The subject land has the benefit of established road frontage and access from Gelantipy Road to the east. The use of a carriageway easement will ensure that appropriate access is provided to both allotments utilising the existing driveway.

The design of the subdivision ensures that the existing onsite wastewater disposal system associated with the dwelling will be retained wholly within proposed Lot 1. Given the style of subdivision proposed, it is not considered necessary to provide a Land Capability Assessment Report however the extensive area of Lot 2 otherwise ensures that there is ample ability to accommodate onsite wastewater disposal should it be required into the future.

As proposed Lot 1 is less than the scheduled lot size of 40ha, consideration has been given to Clause 14.01-1L-04 *Small Lot Subdivisions*. The proposal responds well to associated strategies as the subdivision is essentially a dwelling excision which will simply segment the cleared grazing land from the vegetated balance.

The proposal also responds appropriately to Clause 14.01-2S relating to *sustainable agricultural land use* as the subdivision will result in a site responsive outcome. It will enable the continuation of genuine farming activities on the cleared portion of the land.

5.2 Municipal Planning Strategy

W Tree is located just north of the rural settlement of Buchan and is boarded by State Forest. Buchan is a small town with an economy which that depends on timber mills, the tourist industry, limestone quarrying and pastoral activities.

Clause 02.03-2 *Environmental and Landscape Values* acknowledges the unspoilt nature of large tracts of native vegetation within East Gippsland and its unique biodiversity qualities. The proposal adheres to associated strategic directions as the site vegetation will not be compromised by the proposal through site responsive design.

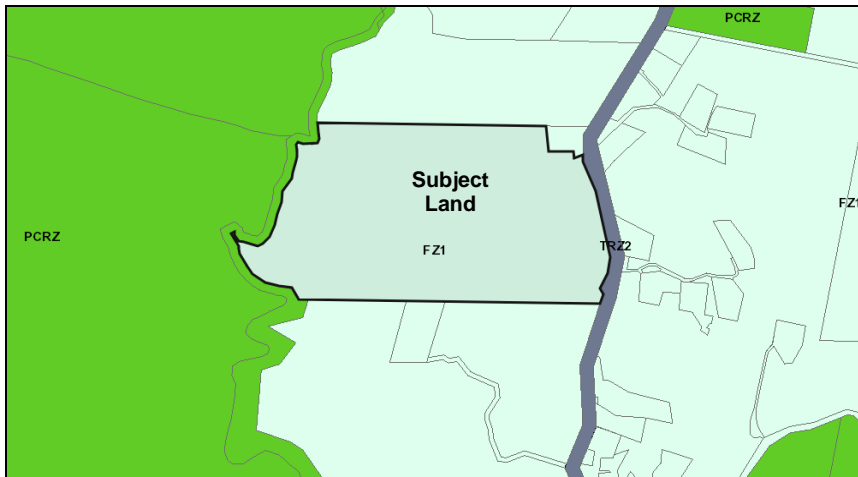
Clause 02.03-3 *Environmental Risks and Amenity* seeks to manage and mitigate environmental risks such as bushfire, with associated strategies seeking to prioritise the planning and management responses and adaption strategies to vulnerable areas.

The site is somewhat isolated and surrounded by large tracts of vegetation on steep land that enhances the risk of bushfire threat. The proposal is limited to rural subdivision only, however a robust response has been provided against the provisions of the Bushfire Management Overlay and Clause 53.02 *Bushfire Planning* which demonstrates the potential to achieve a dwelling on the vacant allotment having regard for the surrounding conditions.

6. Planning Elements

6.1 Farming Zone

The whole of the subject land is included within the Farming Zone – Schedule 1 which triggers planning approval at Clause 35.07-3 for subdivision of land.



Zone Mapping – Source: VicPlan

Whilst the minimum subdivision area specified under Schedule 1 to the Farming Zone is 40ha, the Application can be made having regard for dot point 1 to Clause 35.07-3 which specifies that a permit may be granted to create smaller lots if the subdivision is to create a lot for an existing dwelling.

Decision Guidelines

Although the subdivision will result in the creation of an allotment which is less than 40ha in area, it is most appropriate in this instance given the presence of the existing dwelling and existing use of the land.

The alignment of the subdivision boundary is practical as it adopts an existing internal fence line which separates the vegetated balance of the land from the existing dwelling and open farmland.



General view west from existing driveway towards the vegetated balance

Adoption of the existing fence line reflects the way in which the farm is utilised, which ensures that the boundary does not dissect the existing effluent lines for the wastewater disposal system.

The subdivision will enable the disposal of the vegetated portion of the land which is surplus to the owner's needs given its limited agricultural capacity. The larger dams and other rural infrastructure will be retained within Lot 1 to accommodate the continuation of grazing activities.



View east from driveway over cleared grazing land

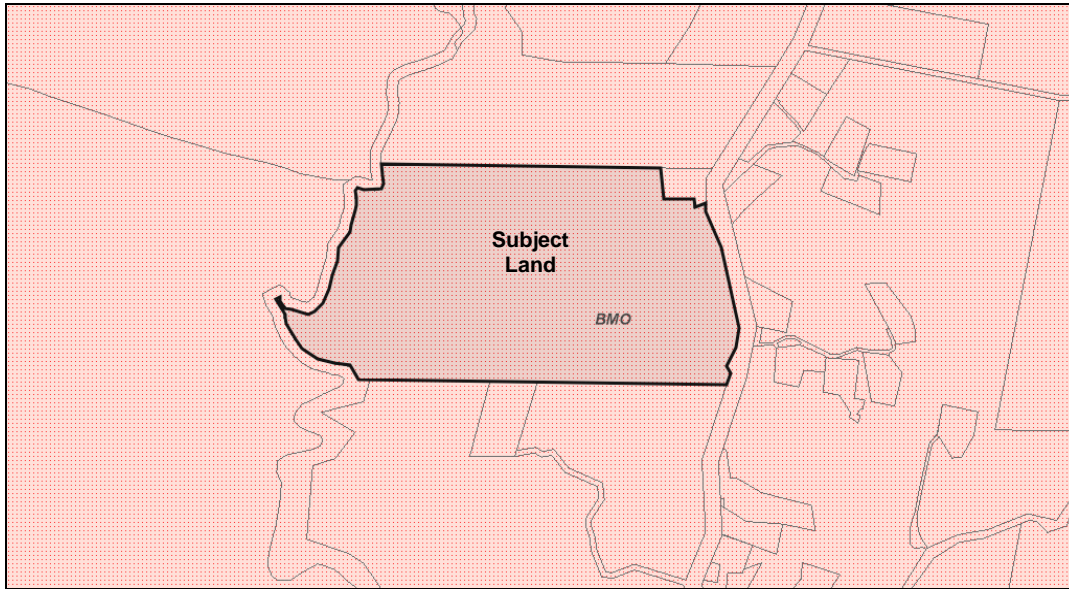
The subdivision maximises the retention of grazing land with the existing dwelling consistent with advice given by Council's Senior Planning staff in pre-Application discussions.

The subdivision will result in an 'as of right' to use of Lot 2 for the purposes of a dwelling under the Farming Zone provisions given it will exceed 40ha in area. This does not cause any concern from a farming perspective given Lot 2 will have limited capacity to cater for viable agricultural uses.

Ultimately the subdivision will not have any adverse impacts on the rural capacity of the site or surrounding properties, as the proposed boundary logically separates the grazing land from the vegetated portion of the property.

6.2 Bushfire Management Overlay

The proposed subdivision responds positively to the purpose of the Bushfire Management Overlay as the risk to life and property from bushfire can be mitigated to an acceptable level.



Bushfire Management Overlay Mapping – Source: VicPlan

Planning approval is triggered at Clause 44.06-2 for subdivision of the land, given the entire site is affected by the Bushfire Management Overlay.

The following Bushfire Hazard Landscape Assessment describes the bushfire hazard more than 150 metres from the subject land. Whilst the property forms part of the W Tree locality which comprises numerous dwellings and cleared farming properties, the wider landscape includes steep, vegetated terrain which isolates the area, rendering it a Landscape Type Four.

Accompanying the Application is a Bushfire Hazard Site Assessment Plan which describes the bushfire hazard within 150 metres of a conceptual dwelling site on proposed Lot 2.

Whilst a dwelling is not proposed as part of this Application, the Bushfire Hazard Site Assessment Plan demonstrates the ability to establish defensible space for a future dwelling wholly within the proposed boundaries. This demonstration ultimately justifies the appropriateness of the subdivision design as proposed herein.

The following Bushfire Management Statement has been provided to describe how the proposed subdivision responds to the requirement of Clause 44.06-3 and Clause 53.02 Bushfire Planning.

Response to Objectives and Standards to Clause 53.02

CLAUSE 53.02-4.1 LANDSCAPE, SITING & DESIGN OBJECTIVES

Objective

Development is appropriate having regard to the nature of the bushfire risk arising from the surrounding landscape.

Development is sited to minimise the risk from bushfire.

Development is sited to provide safe access for vehicles, including emergency vehicles.

Building design minimises vulnerability to bushfire attack.

Approved Measures

AM 2.1

The bushfire risk to the development from the landscape beyond the site can be mitigated to an acceptable level.

Response:

The subject land is located within the rural locality of W Tree which comprises a number of cleared farming properties, many of which contain existing dwellings. Despite this, the area is classified as having a broader Landscape Type 4. This is due to the presence of extremely steep and vegetated land surrounding the locality which presents an extreme bushfire risk.

There is the potential for bushfire to approach the land from more than one aspect and there is limited opportunity for evacuation as Gelantipy Road is the main and predominant access route to and from W Tree. Other roads within the vicinity are generally gravel 4WD tracks which traverse through the forested area.

AM 2.2

A building is sited to ensure the site best achieves the following:

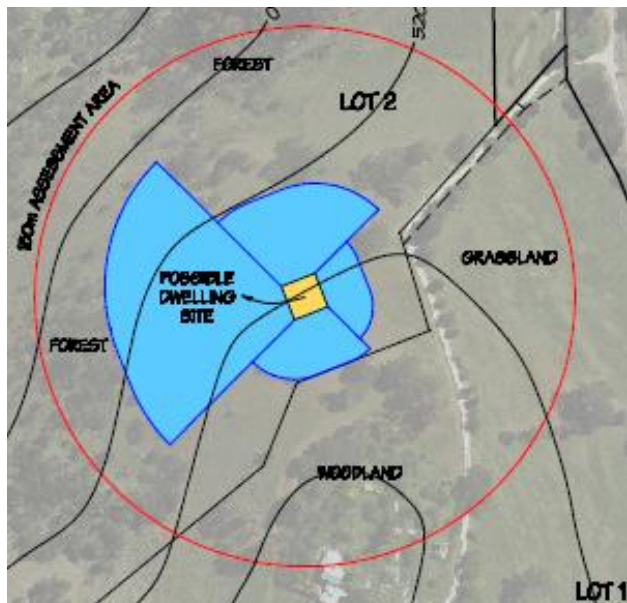
- The maximum separation distance between the building and the bushfire hazard.
- The building is in close proximity to a public road.
- Access can be provided to the building for emergency service vehicles.

Response:

The accompanying Bushfire Hazard Site Assessment has been provided to demonstrate how future residential development could potentially be accommodated on proposed Lot 2 into the future. This has been achieved by showing a conceptual Building Envelope and associated defendable space wholly within the allotment boundaries within proximity of the existing access.



Looking in a north east direction over conceptual Building Envelope site



Extract from Bushfire Hazard Site Assessment

A future dwelling Application would be assessed on its merits, however the accompanying Plan demonstrates the potential for it to be achieved. The demonstrated dwelling site is provided with good separation from the main bushfire threat of forest to the west and is located within close proximity to the existing driveway and access to Gelantipy Road.

The conceptual siting is logical as it is provided on a flatter portion of the site which is generously offset from the vegetated portion of the land. It is not practical to site it further to the north closer to Gelantipy Road having regard for the presence of an existing watercourse and the landform.



Looking in a northerly direction over existing driveway

AM 2.3

A building is designed to be responsive to the landscape risk and reduce the impact of bushfire on the building.

Response:

N/A

The Application seeks approval for subdivision only and no development is proposed at this time.

CLAUSE 53.02-4.3 WATER SUPPLY & ACCESS OBJECTIVES

Clause 53.02-4.3 Objective

A static water supply is provided to assist in protecting property.

Vehicle access is designed and constructed to enhance safety in the event of a bushfire

Approved Measures

AM 4.1

A building used for a dwelling (including an extension or alteration to a dwelling), a dependant person's unit, industry, office or retail premises is provided with:

- A static water supply for fire fighting and property protection purposes specified in Table 4 to Clause 53.02-5.
- Vehicle access that is designed and constructed as specified in Table 5 to Clause 53.02-5.

The water supply may be in the same tank as other water supplies provided that a separate outlet is reserved for fire fighting water supplies.

Response:

As the proposal is for a subdivision within the Farming Zone, there is no requirement to provide a static water supply. However, if a future dwelling was to be established on proposed Lot 2 it would need to be provided with a static water supply of 10,000 litres capacity with fire authority fittings and access consistent with Table 4 to Clause 53.02-5.

If a dwelling is established on proposed Lot 2 in the future, further planning approval would be required under the Bushfire Management Overlay which would need to consider the vehicle access requirements specified in Table 5 to Clause 53.02-5.

There is ample opportunity to establish suitable access consistent with Table 5 to Clause 53.02-5 as the existing driveway does not contain any sharp bends or steep descents.



Existing driveway from Gelantipy Road

AM 4.2

A building used for accommodation (other than a dwelling or dependent person's unit), child care centre, education centre, hospital, leisure and recreation or place of assembly is provided with:

- A static water supply for fire fighting and property protection purposes of 10,000 litres per 1,500 square metres of floor space up to 40,000 litres.
- Vehicle access that is designed and constructed as specified in Table 5 to Clause 53.02-5.
- An integrated approach to risk management that ensures the water supply and access arrangements will be effective based on the characteristics of the likely future occupants including their age, mobility and capacity to evacuate during a bushfire emergency.

The water supply may be in the same tank as other water supplies provided that a separate outlet is reserved for fire-fighting water supplies.

Response:

N/A

CLAUSE 53.02-4.4 SUBDIVISION OBJECTIVES**Clause 53.02-4.4 Objective**

To provide lots that are capable of being developed in accordance with the objectives of Clause 53.02.

To specify at the subdivision stage bushfire protection measures to develop a lot with a single dwelling on land zoned for residential or rural residential purposes.

Approved Measures**AM 5.1**

An application to subdivide land, other than where AM 5.2 applies, demonstrates that each proposed lot is capable of meeting:

- The defensible space in accordance with Column A, B or C of Table 2 to Clause 53.02-5.
- The approved measures in Clause 53.02-4.1 and Clause 53.02-4.3

Response:

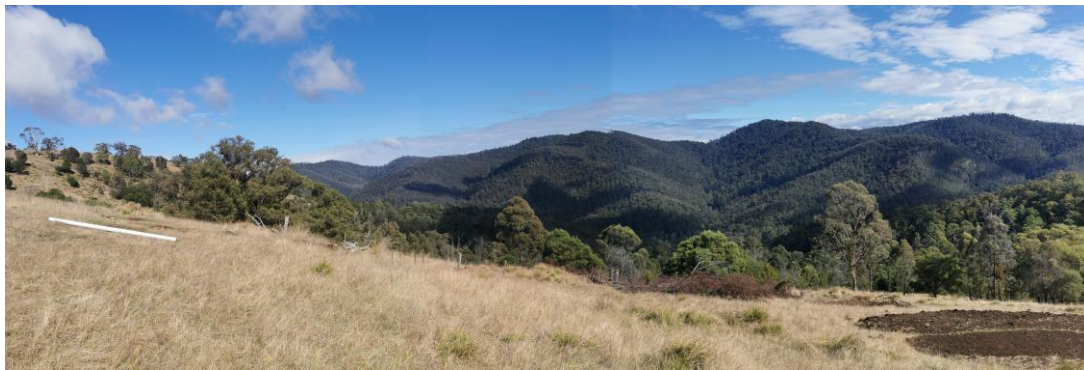
Whilst the Application seeks approval for subdivision, the accompanying Bushfire Hazard Site Assessment Plan demonstrates that balance Lot 2 is capable of accommodating defensible space for a conceptual dwelling wholly within the proposed boundaries consistent with Column A of Table 2 to Clause 53.02-5.

The subdivision design is justified as the existing dwelling and associated curtilage will be contained wholly within proposed Lot 1, and there is sufficient area available within Lot 2 to establish defensible space for a conceptual dwelling site having regard for the surrounding vegetation classifications and slope.

The higher order vegetation classification of forest is provided to the north and to the west, due to the well-established nature of the vegetation which consists of tall trees with generally good canopy coverage.



Looking in a north westerly direction from conceptual dwelling site on Lot 2



Looking in a westerly direction from conceptual dwelling site on Lot 2

Whilst these areas of 'forest' are located on the outer reaches of the 150 metre assessment area, the vegetation closer to the conceptual dwelling site on these aspects is more sparse and not as tall.



Trees to the north of the conceptual dwelling site on Lot 2



Trees to north west of the conceptual dwelling site on Lot 2

The cleared grazing land to the east of the conceptual dwelling site is best described as 'grassland' given the lack of overstorey.



Looking in a north easterly direction from conceptual dwelling site on Lot 2



View east from existing driveway

A patch of vegetation within proximity of the existing dwelling to the south of the conceptual dwelling site has been classified as 'woodland' for the purposes of the assessment, as the trees are not as tall nor are they provided with sufficient foliage cover to be representative of forest.



Looking south towards existing dwelling from conceptual dwelling site on Lot 2



Looking in a south westerly direction from conceptual dwelling site on Lot 2

Whilst the landform to the south is classified as an upslope, the remaining aspects are all downslopes. To the north and to the east, the downslope is considered to be between $>10-15^{\circ}$ however the land to the west is steeper and considered to be between $>15-20^{\circ}$.

It is considered most appropriate to maximise separation distances consistent with Table 2, Column A to Clause 53.02-5 in this instance, having regard for the wider landscape risk. Whilst defendable space would be maximised to BAL-12.5 distances, to further enhance protection we suggest that any future construction of a dwelling in this location could incorporate a higher standard of design (min BAL-29). Consideration could also be given to establishment of grassland zones within proximity to the driveway.

Comments have been provided above which respond to the approved measures in Clause 53.02-4.1 relating to landscape, siting and design and Clause 53.02-4.3 water supply and access.

AM 5.2

An application to subdivide land zoned for residential or rural residential purposes must be accompanied by a plan that shows:

- Each lot satisfies the approved measure in **AM2.1**
- A building envelope for a single dwelling on each lot that complies with **AM 2.2** and provides defensible space in accordance with:
 - Columns A or B of Table 2 to Clause 53.02-5 for a subdivision that creates 10 or more lots; or
 - Columns A, B or C of Table 2 to Clause 53.02-5 for a subdivision that creates less than 10 lots.

The bushfire attack level that corresponds to the defensible space provided in accordance with Table 2 to Clause 53.02-5 must be noted on the building envelope.

- Defensible space wholly contained within the boundaries of the proposed subdivision.
- Defensible space may be shared between lots within the subdivision. Defensible space for a lot may utilise communal areas, such as roads, where that land can meet the requirements for defensible space.
- Vegetation management requirements in accordance with Table 6 to implement and maintain the defensible space required under this approved measure.
- Water supply and vehicle access that complies with **AM 4.1**.

Response:

N/A

As the subject land is contained within the Farming Zone, AM 5.1 applies in this instance rather than AM 5.2.

AM 5.3

An application to subdivide land to create 10 or more lots provides a perimeter road adjoining the hazardous vegetation to support fire fighting.

Response:

N/A

The Application seeks approval for a Two Lot Subdivision only.

AM 5.4

A subdivision manages the bushfire risk to future development from existing or proposed landscaping, public open space and communal areas.

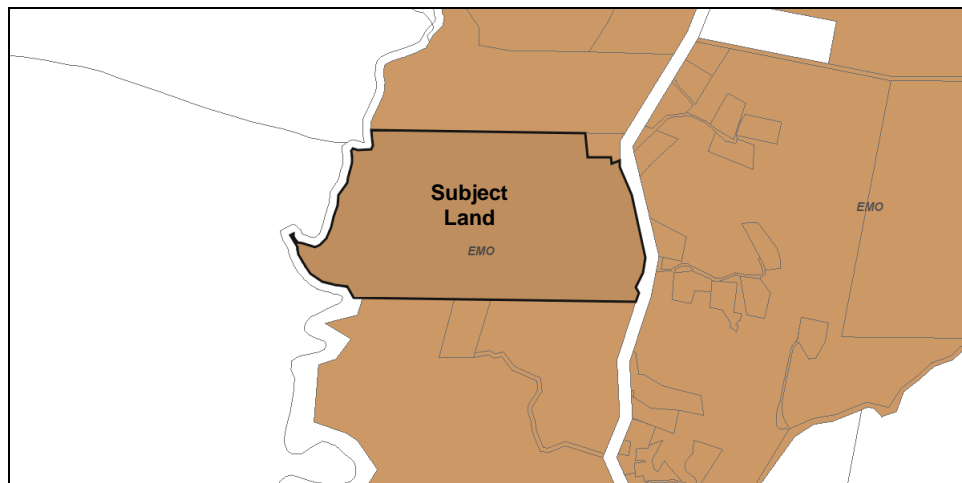
Response:

N/A

It is reasonable to expect that vegetation contained within adjoining land will continue to be managed and maintained in its current state. There are no known plans afoot that would alter the vegetation classifications.

6.3 Erosion Management Overlay

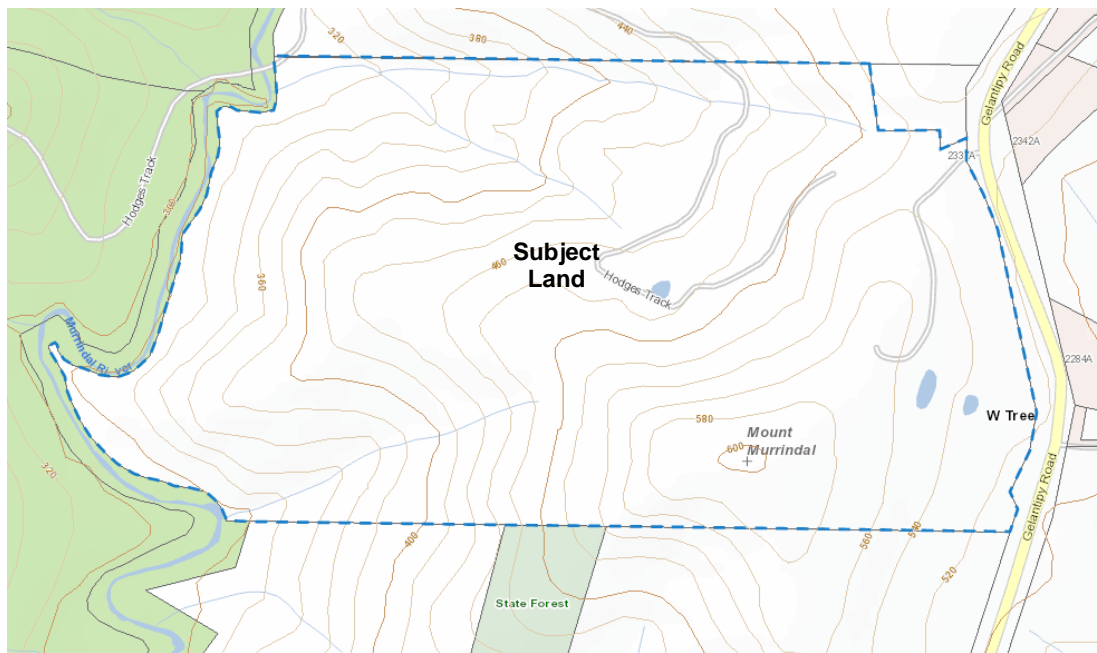
The whole of the subject land is contained within the Erosion Management Overlay which triggers planning approval at Clause 44.01-5 for the subdivision of land.



Erosion Management Overlay Mapping – Source: VicPlan

Application Requirements

- The site terrain is sloping with the front, clearer portion of the property being well elevated and known as Mount Murrindal. The landform on the vegetated eastern portion of the site falls away towards the Murrindal River and is much lower in elevation (approximately 320m difference in elevation).
- Earthworks associated with the proposal will be very limited as the nomination of a carriageway easement will avoid the need to establish any new access, and the majority of the proposed boundary will adopt an existing fence line.
- Given the rural nature of the subdivision there will be no requirement to connect the large balance allotment (Lot 2) to servicing. The existing dwelling within Lot 1 will continue to make use of the existing power supply and onsite wastewater.
- Earthworks associated with the proposed subdivision will ultimately be limited to a small section of boundary fencing only.
- It is anticipated that Conditions on Permit will include the standard suite of requirements for land stability measures to be undertaken during construction. Notwithstanding this, the need to implement stabilisation mechanisms during subdivision works is negligible given the limited extent of works required to facilitate the proposal.



10m contour mapping – Source: VicPlan

As the proposal is for a Two Lot Subdivision in a rural zone, there is no requirement to provide a Geotechnical Risk Assessment in response to the Application Requirements under the Schedule to the Erosion Management Overlay.

7. Conclusion

The proposed Two Lot Subdivision & Creation of Carriageway Easement at 2337 Gelantipy Road, W Tree is considered to accord with all relevant provisions of the Farming Zone, Bushfire Management Overlay, Erosion Management Overlay & Vegetation Protection Overlay – Schedule 1 of the *East Gippsland Planning Scheme*. The proposal is consistent with Planning Policy Framework and Local Policy and has been designed to complement the adjoining properties.

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

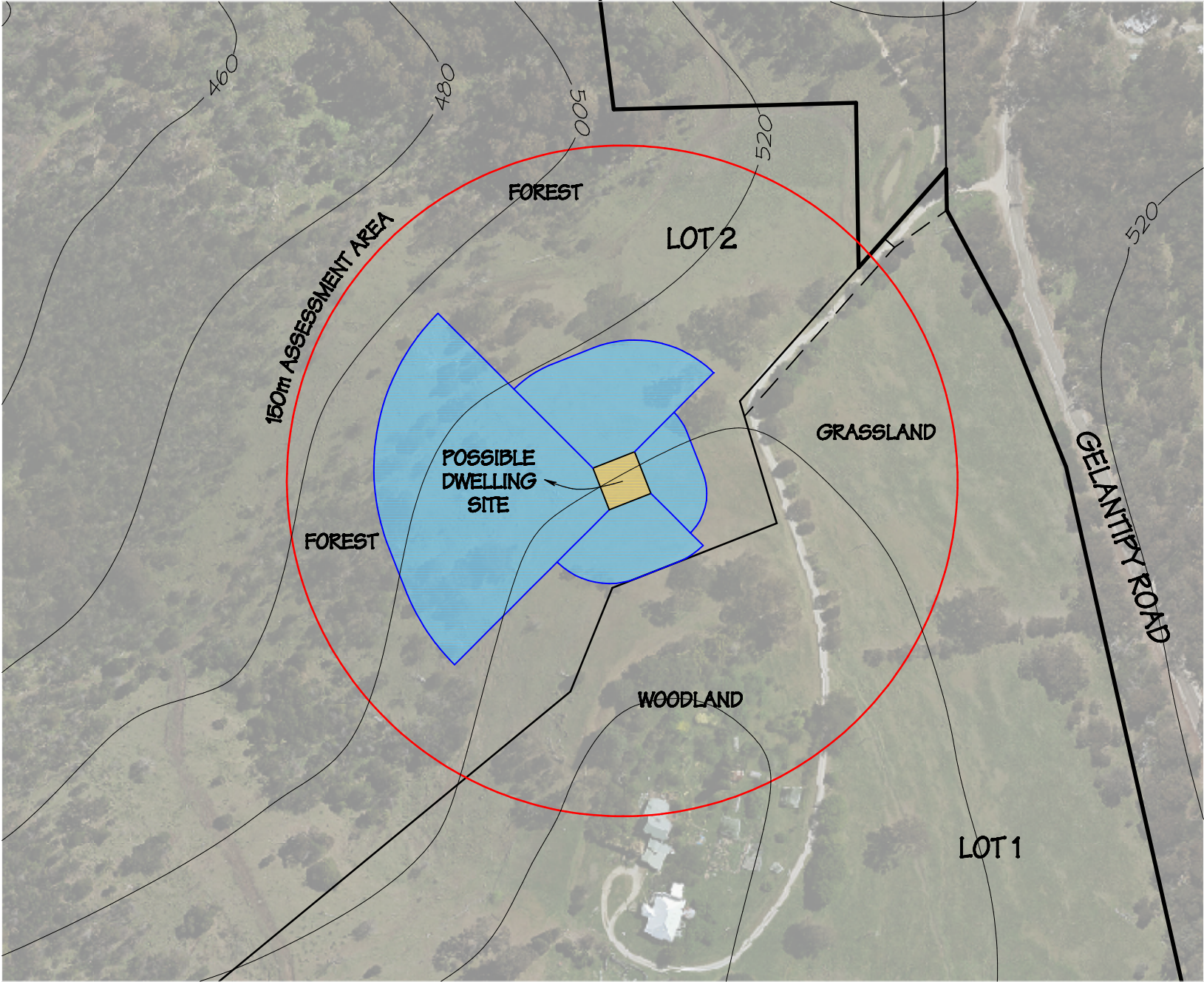
RICHARD HOXLEY
Principal Planner

BUSHFIRE HAZARD
SITE ASSESSMENT

PARISH OF MURRINDAL WEST
CROWN ALLOTMENT 39 (PART)

LOT 2 ON PS309037F

MGA94 ZONE 55



BAL-29	NORTH	EAST	SOUTH	WEST
SLOPE	DOWNSLOPE >10-15°	DOWNSLOPE >10-15°	UPSLOPE	DOWNSLOPE >15-20°
VEG TYPE	FOREST	GRASSLAND	WOODLAND	FOREST
SEPARATION DISTANCES*	50m	25m	33m	98m

*SEPARATION DISTANCES DERIVED FROM
TABLE 2 COLUMN A CLAUSE 53.02-5

Crowther & Sadler Pty. Ltd.

LICENSED SURVEYORS & TOWN PLANNERS
152 MACLEOD STREET, BAIRNSDALE, VIC., 3875
P. (03) 5162 5011 E. contact@crowthersadler.com.au

FILENAME: Y:\20000-20999\20300-20399\20382 Williams\20382 BHSA V1.pro

BEN WILLIAMS

2337 GELANTIPY ROAD, W TREE

SCALE (SHEET SIZE A3)

SURVEYORS REF.

1 : 2500

20382

VERSION 1 - DRAWN BY: [illegible]

Our ref: 20382_{AMP}

28 July 2023

Land Use Planner
East Gippsland Shire Council
Via Email: planning@egipps.vic.gov.au

Attention: Michelle Dixon

Dear Michelle,

**Re: Planning Application 203/2023/P
Two Lot Subdivision & Creation of Carriageway Easement
2337 Gelantipy Road, W Tree**

We refer to Council's correspondence dated 26 June 2023 which sought additional information with respect to land management and provide you with the following information in response.

We confirm that our client has engaged our services to subdivide the vegetated balance off from the existing house and farming component of the land. The intention is for the current owners of the land to retain ownership of the dwelling and grazing land on Lot 1 thereby enabling balance Lot 2 to be transferred to our client.

Our client works for Trust For Nature (TFN) and is interested in this parcel of land specifically for its biodiversity values. The intention is that upon finalisation of the subdivision a TFN conservation covenant will be registered over Lot 2 to ensure the environmental values of the land are not only retained but also to ensure the land is improved.

Our client has advised the standard wording is expected to be used for the TFN covenant which prevents any acts or things on the land which are prejudicial to its conservation. In addition to the preservation of indigenous vegetation it is also expected to ensure the exclusion of stock, further subdivision, trailbikes, mining, and other activities that could otherwise be detrimental to the land's biodiversity values.

The exclusion of stock from the vegetated portion of the land alone will result in huge environmental gains for the land as it will minimise invasion of weed species, encourage species recruitment, and enhance water quality and stability of existing water courses.



FS 520900



The TFN covenant is expected to expand over most of proposed Lot 2 except for the cleared section of land within proximity to the existing driveway. This will provide opportunity for an application to come forward for a dwelling on the land into the future.

From our meeting of 3 July 2023 with members of Council's Senior Planning staff we understand that Council is now quite comfortable with the proposal given the expectation of a TFN Covenant. However, in response to the additional concerns raised we provide the following advice.

- a) **There is no land management plan to support that there will be biodiversity improvements or gains as a result of the subdivision or an additional dwelling into the future.**

The TFN conservation covenant being applied to the vegetated portion of the land on Lot 2 will ensure retention and enhancement of the biodiversity values on an ongoing basis. It will be registered on the title of the land and will prevent actions from occurring on the land which would otherwise be detrimental to the health and integrity of the natural environment.

- b) **The purpose of the zone is provided for use of the land for agriculture.**

The proposal is considered to respond appropriately to the purpose of the Farming Zone as the existing farm will not be compromised and will continue to be utilised for agricultural purposes. This has been assured by adoption of existing fencing for proposed boundaries.

The use of a TFN Covenant over the balance of the land also responds appropriately to the purpose of the Farming Zone as it will ensure comprehensive and sustainable land management practices are adopted. This will be achieved by stock exclusion and preventing actions that are detrimental to the land's biodiversity values such as mining, further subdivision, and use of trail bikes.

- c) **There is no argument in relation to the subdivision of the land based on sustainable land management practices.**

The subdivision will ultimately enhance land management practices as whilst the cleared portion of the land will continue to be utilised for grazing activities, the vegetated balance will be transferred into separate ownership and be the subject of a TFN conservation covenant.

The current landowners do not have the expertise to manage and maintain the vegetated balance to the same degree as our client who comes from an environmental background. Whilst the transfer in ownership will provide the opportunity for improved management and maintenance it will be further assured through the registration of the TFN covenant.

Overall, this will provide for sustainable land management as the grazing activities will still occur consistent with the purpose of the Farming Zone however it will be done so without causing harm the natural values of the land.

The mechanism to exclude stock and other activities from the vegetation section of the property through the TFN covenant will automatically enhance sustainability.

d) In response to the Decision Guidelines:

- a) There are no apparent reason based on sustainable land management.**

See above comments provided under c).

- b) The subdivision does not enhance or support agricultural production.**

The proposal does support the agricultural function of the land by adopting the existing internal fencing as proposed boundaries. There will be no loss of agricultural land as a result of the proposal given the design of the subdivision and existing use of the land.

It is logical to adopt existing fencing as it has regard to the location of farming infrastructure and responds directly to the way in which the existing grazing operation functions.

- c) The land has minimal opportunity given slope, terrain and vegetation cover to sustain agricultural use.**

The proposed subdivision will not alter the lands capacity to accommodate agricultural activities. The existing agricultural activities will not be compromised by the subdivision as it will simply segment the vegetated balance from the existing farming operation. If Council consider the topography of the land restricts the opportunity to sustain an agricultural use then the subdivision will not result in loss or fragmentation of farming land.

- d) There is no integrated land management plan prepared for the site.**

Our clients are purchasing the balance of the land specifically for the environmental values it holds. Their environmental background and keen interest in the natural environment will provide great opportunity for improved land management. The ongoing management and maintenance of the land however will be further assured through their decision to register a TFN covenant.

- e) **The surrounding area vast vegetation and is unlikely to receive a permit for the development of a dwelling considering this fire risk, even if consent is gained from the CFA.**

The application at hand simply seeks approval for a Two Lot Subdivision & Creation of Carriageway Easement which needs to be considered against the provisions of the Bushfire Management Overlay.

The information we have provided on the Bushfire Hazard Site Assessment demonstrating a possible dwelling site has simply been provided to show that spatially a dwelling can be accommodated. Any application for a dwelling on the land however would be subject to further planning approval which would be assessed on merit.

Despite the above we acknowledge that it is our client's intention to lodge a future Application for a dwelling on Lot 2. We were upfront about this subsequent step in our pre-application discussions with Council's Senior Planners however no concern was raised at the time. We also note that we had pre-application discussions with the CFA who also did not raise any substantial concerns.

Given there is sufficient area available within balance Lot 2 to accommodate separation distances consistent with Table 2, Column A to Clause 53.02-5 it is arguable that the design of a robust dwelling with construction to BAL 29 or higher can respond appropriately to the landscape risk.

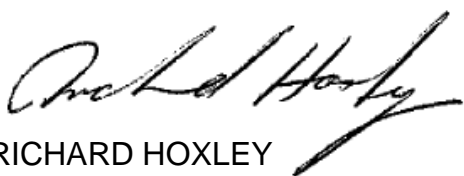
Concluding Remarks

The proposed subdivision will not adversely impact the agricultural capacity of the land and will ultimately facilitate the management and maintenance to enhance the environmental values of the land.

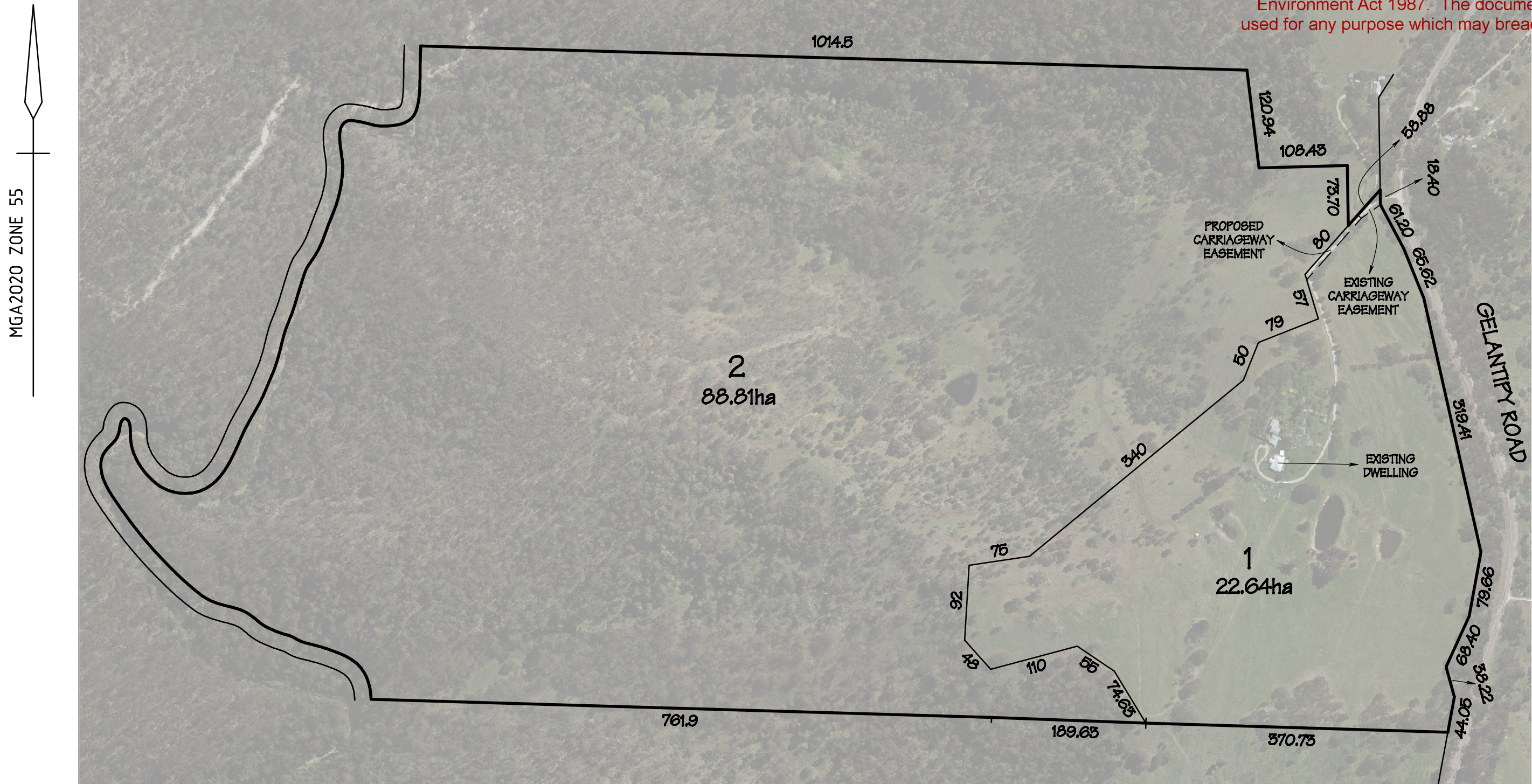
We trust that the enclosed information will satisfy Council's additional information request and enable the further processing and assessment of the Application at hand.

As always, please do not hesitate to contact our office should you have any further questions or queries in relation to this matter.

Regards,



RICHARD HOXLEY
Principal Planner



<div>BEN WILLIAMS</div> <div>2337 GELANTIPY ROAD, W TREE</div>	NOTATIONS		PROPOSED SUBDIVISION
<div>Crowther & Sadler Pty. Ltd.</div> <div>LICENSED SURVEYORS & TOWN PLANNERS</div> <div>152 MACLEOD STREET, BAIRNSDALE, VIC., 3875</div> <div>P. (03) 5152 5011 E. contact@crowthersadler.com.au</div>	AREAS ARE APPROXIMATE ONLY DIMENSIONS ARE SUBJECT TO SURVEY		PARISH OF MURRINDAL WEST CROWN ALLOTMENT 39 (PART) LOT 2 ON PS309037F
	SCALE (SHEET SIZE A3)	SURVEYORS REF.	
	1 : 5000	20382 VERSION 2 - DRAWN 19/05/2023	
FILENAME: Y:\20000-20999\20300-20399\20382 Williams\20382 Prop V2.pro			Printed 11/09/20