

Form 2

NOTICE OF AN APPLICATION FOR PLANNING PERMIT

The land affected by the application is located at:	18 Lakeshore Drive NUNGURNER 3909, 16 Lakeshore Drive NUNGURNER 3909, 182 Nungurner Jetty Road NUNGURNER 3909, 180 Nungurner Jetty Road NUNGURNER 3909 Lot: 2 PS: 702490, Lot: 1 PS: 637659, Lot: 2 PS: 509103, Lot: 1 PS: 702490
The application is for a permit to:	Variation of Restrictive Covenant L932355N to vary Clause (a)
The applicant for the permit is:	Development Solutions Victoria Pty Ltd
The application reference number is:	5.2024.91.1

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

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

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

An objection must

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

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

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

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

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958 Page 1 of 1

VOLUME 11330 FOLIO 472

Security no : 124113330587H
Produced 12/03/2024 01:19 PM

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 637659M.
PARENT TITLE Volume 10698 Folio 639
Created by instrument PS637659M 03/02/2012

REGISTERED PROPRIETOR

Estate Fee Simple
Joint Proprietors
ONDRAE NICOLE RAWNSLEY
CRAIG RALPH RAWNSLEY
AX098960U 28/07/2023

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT L932355N 10/10/1985
Expiry Date 31/12/2032

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 PS637659M 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: 16 LAKESHORE DRIVE NUNGURNER VIC 3909

ADMINISTRATIVE NOTICES

NIL

DOCUMENT END



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Document Type	Plan
Document Identification	PS637659M
Number of Pages (excluding this cover sheet)	2
Document Assembled	12/03/2024 13:19

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PS637659M
19/01/2012 \$924.30 PS

PLAN OF SUBDIVISION

STAGE No. ~~1~~ **FOR USE ONLY**

Location of Land

Parish: Colquhoun
Township: -
Section: C
Crown Allotment: 1C & 1F (parts)
Crown Portion: -

Title References: Val 10698 Fol 639

Last Plan Reference: Lot 3 on P5509103E

Postal Address: 16 Lakeshore Drive,
 (at time of subdivision) Nungurner, 3909

MGA 94 Co-ordinates: E 578 020
 (of approx. centre of plan) N 5806 880 **Zone:** 55

Council Certification and Endorsement

Council Name: East Gippsland Shire Council **Ref:** 154/2010/CRT

1. This plan is certified under Section 6 of the Subdivision Act 1988.
- ~~2. This plan is certified under Section 11(7) of the Subdivision Act 1988.
 Date of original certification under Section 6 / /~~
3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988.

Open Space

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

~~(ii) The requirement has been satisfied.~~

~~(iii) The requirement is to be satisfied in stage~~

Council Delegate *[Signature]*
 Council seal

Date 02/12/2011

~~Re-certified under Section 11(7) of the Subdivision Act 1988~~

~~Council Delegate~~

~~Council seal~~

~~Date / /~~

Vesting of Roads or Reserves

Identifier	Council/Body/Person
Nil.	Nil.

Notations

Staging This ~~is / is not~~ a staged subdivision
 Planning Permit No 312/2010/P

Depth Limitation Does not apply

Survey: This plan is / ~~is not~~ based on survey
 This plan has been connected to permanent mark no(s). /

Easement Information

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

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	Carriageway	See diag.	This plan	Lot 2 on this plan

LRS USE ONLY

STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT

RECEIVED

DATE 19/01/12

LRS USE ONLY

PLAN REGISTERED

TIME 3:44 PM

DATE 3/02/2012

D.REVELL
 Assistant Registrar of Titles

SHEET 1 OF 2 SHEETS

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 Land Surveying Consultants

OnePlan
 Land Development Group

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 sks@oneplangroup.com.au www.oneplangroup.com.au
 GIPPSLAND - MELBOURNE

LICENSED SURVEYOR SCOTT CHARLES KIMM

SIGNATURE *[Signature]* DATE 13/11/2010

REF 09055 VERSION 2

[Signature]

DATE 02/12/2011

COUNCIL DELEGATE SIGNATURE

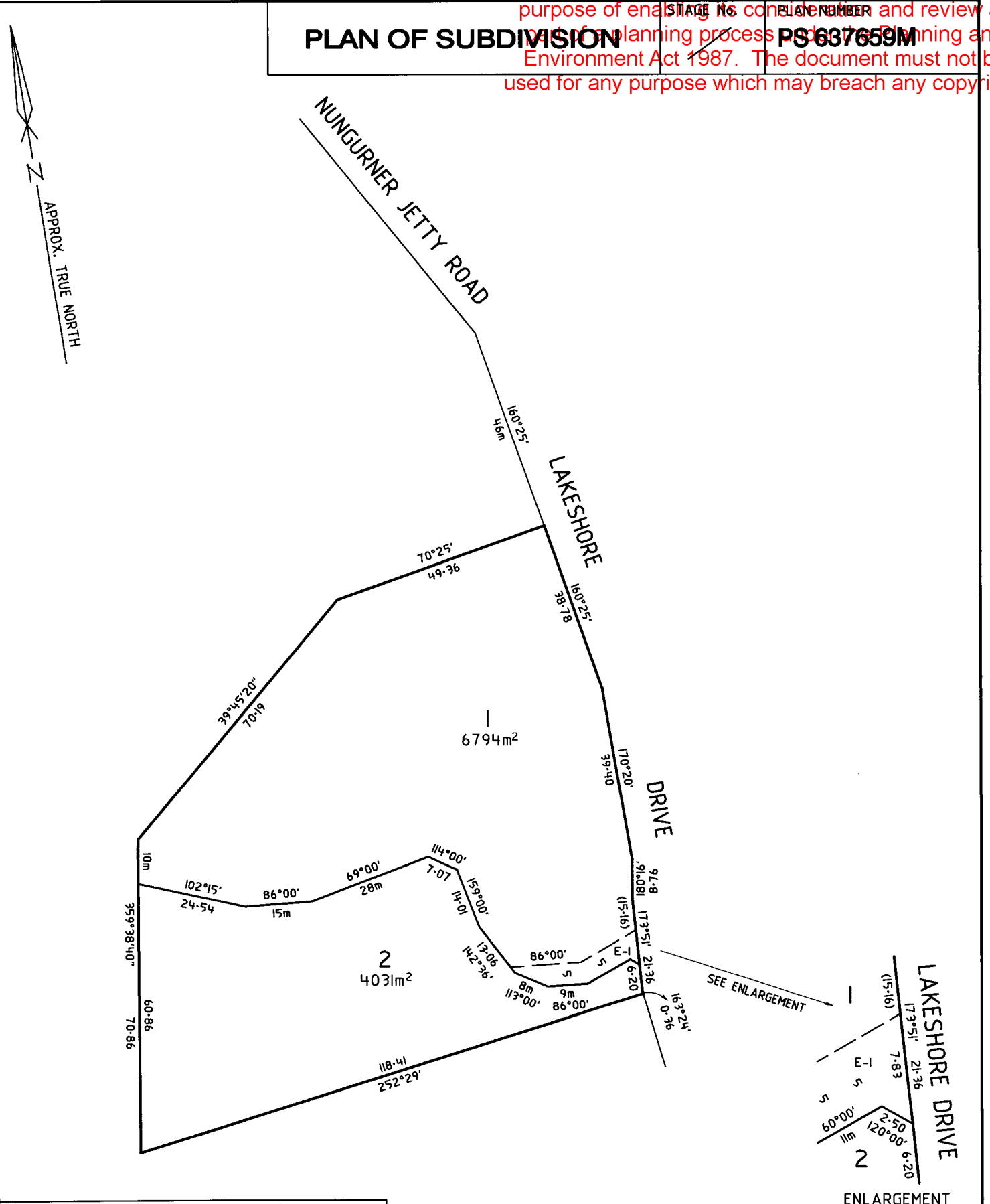
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PLAN OF SUBDIVISION

STAGE No. 1

PLAN NUMBER PS 637659M



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SHEET 2 OF 2 SHEETS

ORIGINAL SHEET SIZE	SCALE	SCALE
A3	1:750	7.5 0 7.5 15 22.5 30
LENGTHS ARE IN METRES		

LICENSED SURVEYOR	SCOTT CHARLES KIMM
SIGNATURE	DATE 13/11/2010
REF 09055	VERSION 2

SIGNATURE	DATE 02/12/2011
COUNCIL DELEGATED SIGNATURE	

Printed 4/04/2024

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958 Page 1 of 1

VOLUME 11423 FOLIO 493

Security no : 124113330858N
Produced 12/03/2024 01:25 PM

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 702490R.
PARENT TITLES :
Volume 10698 Folio 637 Volume 11330 Folio 473
Created by instrument PS702490R 28/05/2013

REGISTERED PROPRIETOR

Estate Fee Simple
Joint Proprietors
 ANDREW ROBERT RADFORD
 ANGELA LEE RADFORD
 AT464193J 28/07/2020

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AT464194G 28/07/2020
 WESTPAC BANKING CORPORATION

COVENANT L932355N 10/10/1985
 Expiry Date 31/12/2032

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DIAGRAM LOCATION

SEE PS702490R 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: 18 LAKESHORE DRIVE NUNGURNER VIC 3909

ADMINISTRATIVE NOTICES

NIL

DOCUMENT END



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Document Identification	PS702490R
Number of Pages (excluding this cover sheet)	3
Document Assembled	12/03/2024 13:25

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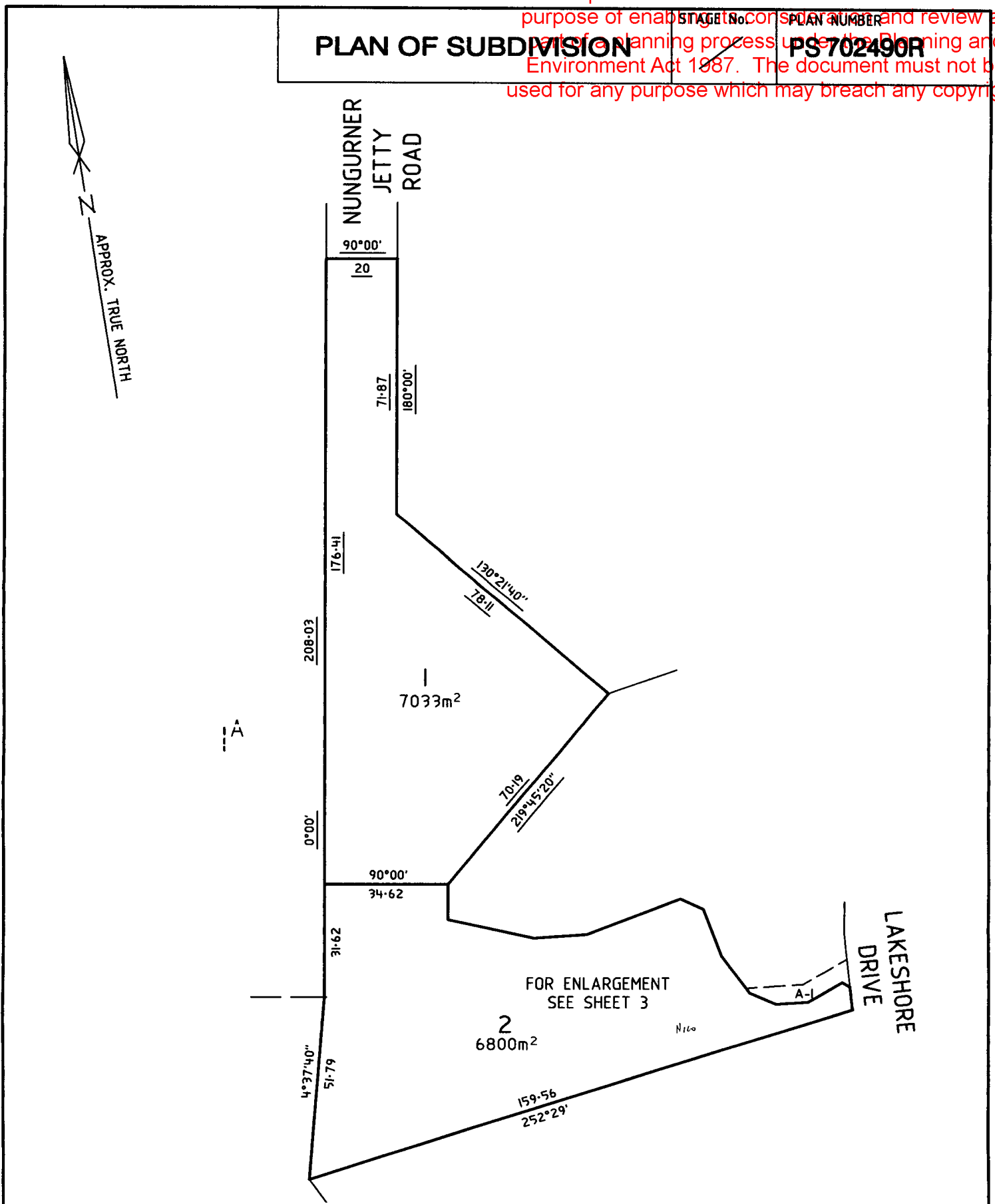
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PLAN OF SUBDIVISION		EDITION 1	Plan Number PS702490R
<p>Location of Land</p> <p>Parish: Colquhoun Township: - Section: C Crown Allotment: 1C & 1F (parts) Crown Portion: -</p> <p>Title References: Vol 10698 Fol 637 Vol 11330 Fol 473</p> <p>Last Plan Reference: Lot 1 on PS509103E Lot 2 on PS637659M</p> <p>Postal Address: 180 Nungurner Jetty Road, (at time of subdivision) Nungurner, 3909</p> <p>MGA 94 Co-ordinates: E 577 980 (of approx. centre of plan) N 5806 850 Zone: 55</p>		<p style="text-align: center;">Council Certification and Endorsement</p> <p>Council Name: East Gippsland Shire Council Ref: 126/2012/CRT</p> <p>1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6 / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988.</p> <p>Open Space</p> <p>(i) A requirement for public open space under Section 18 Subdivision Act 1988 has has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in stage</p> <p>Council Delegate <i>[Signature]</i> Council seal</p> <p>Date <u>17/12/2012</u> Re-certified under Section 11(7) of the Subdivision Act 1988 Council Delegate Council seal Date / /</p>	
Vesting of Roads or Reserves		Notations	
Identifier	Council/Body/Person	Staging	
Nil.	Nil.	This is / is not a staged subdivision Planning Permit No 211/2012/P	
		Depth Limitation	
		Does not apply	
<p>Dimensions underlined are not a result of this survey.</p> <p>Areas of lot 1 & 2 are by deduction from title.</p>			
<p>Survey: This plan is / is not based on survey This plan has been connected to permanent mark no(s). /</p>			
Easement Information		LRS USE ONLY	
Legend		STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT	
A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)		RECEIVED <input checked="" type="checkbox"/>	
		DATE 8 / 5 / 2013	
		LRS USE ONLY	
		PLAN REGISTERED	
		TIME 1:07 pm	
		DATE 28 / 5 / 2013	
		R. W. Grimwood Assistant Registrar of Titles	
		SHEET 1 OF 3 SHEETS	
<p>SKspatial Land Surveying Consultants P:1300 853 157 F:8456 5995 M:0400 543 157 sks@oneplangroup.com.au www.oneplangroup.com.au GIPPSLAND - MELBOURNE</p>		<p>LICENSED SURVEYOR SCOTT CHARLES KIMM</p> <p>SIGNATURE <i>[Signature]</i> DATE 30 / 08 / 2012</p> <p>REF 12195 VERSION 1</p>	
		<p><i>[Signature]</i></p> <p>DATE <u>17/12/2012</u> COUNCIL DELEGATE SIGNATURE</p> <p style="text-align: center; color: red; font-weight: bold;">Printed 4/04/2024</p> <p style="text-align: center; color: red; font-weight: bold;">ORIGINAL SHEET SIZE A5</p> <p style="text-align: center; color: red; font-weight: bold;">Page 8 of 46</p>	

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PLAN OF SUBDIVISION STAGE No. **PS 702490R**



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 sks@oneplangroup.com.au www.oneplangroup.com.au
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SHEET 2
 DATE 17/12/2012
 COUNCIL DELEGATE SIGNATURE

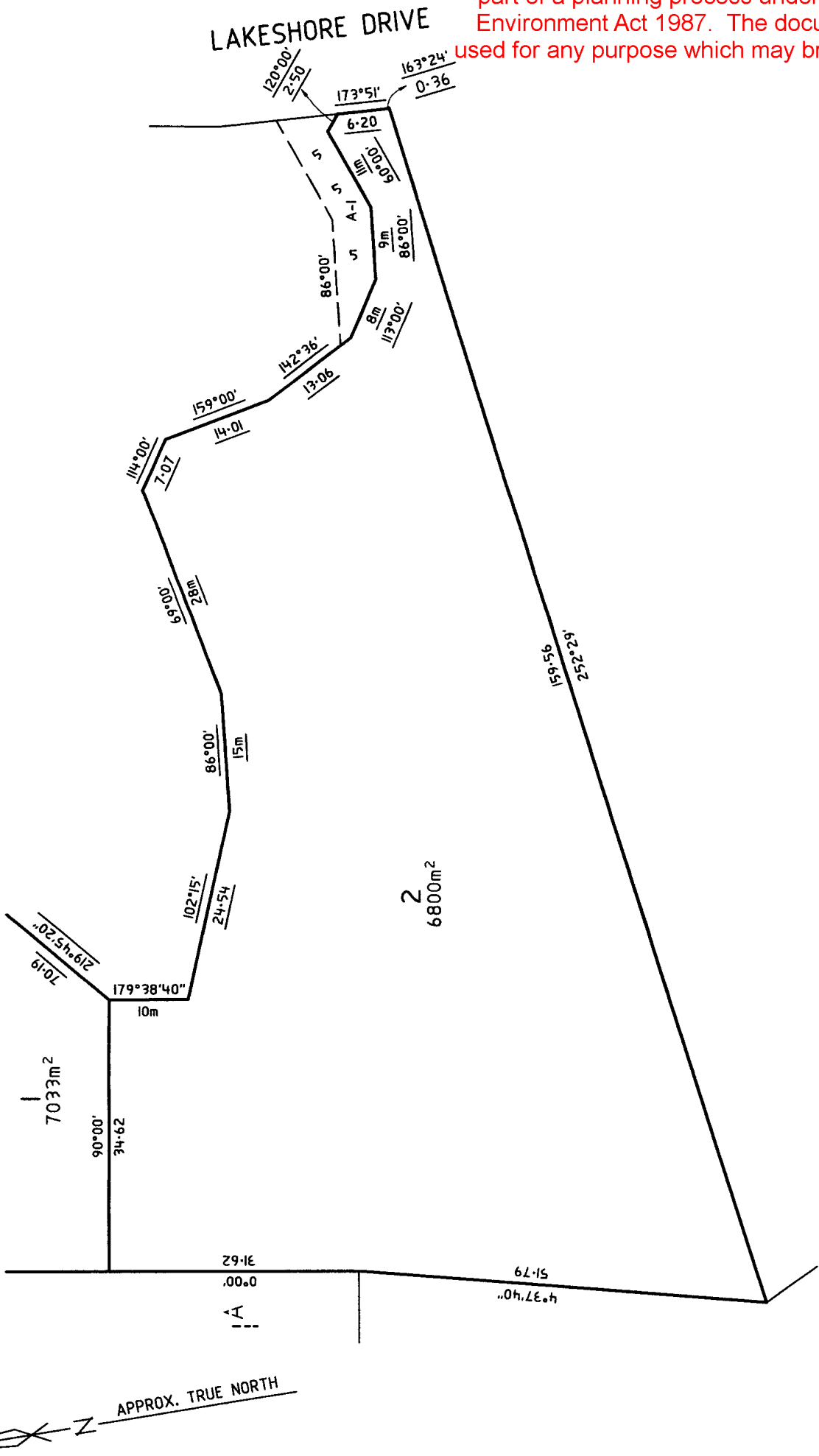
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 LENGTHS ARE IN METRES

LICENSED SURVEYOR SCOTT CHARLES KIMM
 SIGNATURE [Signature] DATE 30 / 08 / 2012
 REF 12195 VERSION 1

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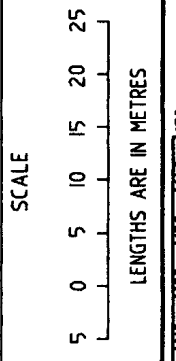
PLAN OF SUBDIVISION
STAGE No. /
PLAN NUMBER
PS 702490R



SHEET 3
DATE 17/12/2012
COUNCIL DELEGATE SIGNATURE

LICENSED SURVEYOR
SIGNATURE
SCOTT CHARLES KIMM
DATE 30 / 08 / 2012
VERSION 1
REF 12195

ORIGINAL SHEET SIZE
SCALE 1:500
A3



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Land Development Group

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958 Page 1 of 1

VOLUME 11423 FOLIO 492

Security no : 124113330406E
Produced 12/03/2024 01:14 PM

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 702490R.
PARENT TITLES :
Volume 10698 Folio 637 Volume 11330 Folio 473
Created by instrument PS702490R 28/05/2013

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
P A BARRY PTY LTD
AU743434A 27/08/2021

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT L932355N 10/10/1985
Expiry Date 31/12/2032

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 PS702490R 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: 180 NUNGURNER JETTY ROAD NUNGURNER VIC 3909

ADMINISTRATIVE NOTICES

NIL

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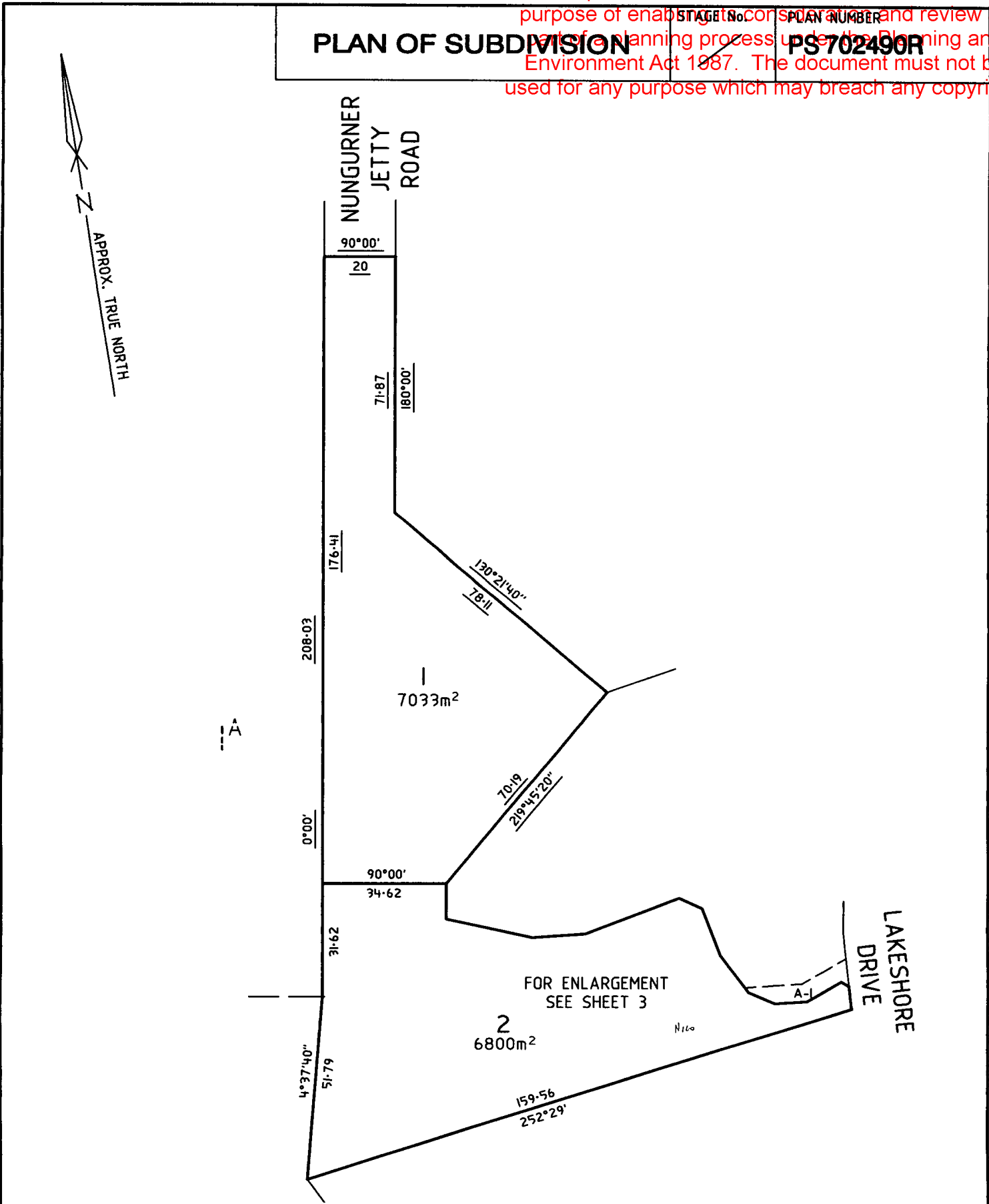
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PLAN OF SUBDIVISION				STAGE No. of Planning EDITION 1	Plan Number PS702490R
Location of Land Parish: Colquhoun Township: - Section: C Crown Allotment: 1C & 1F (parts) Crown Portion: - Title References: Vol 10698 Fol 637 Vol 11330 Fol 473 Last Plan Reference: Lot 1 on PS509103E Lot 2 on PS637659M Postal Address: 180 Nungurner Jetty Road, (at time of subdivision) Nungurner, 3909 MGA 94 Co-ordinates: E 577 980 (of approx. centre of plan) N 5806 850 Zone: 55				Council Certification and Endorsement Council Name: East Gippsland Shire Council Ref: 126/2012/CRT 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6 / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. Open Space (i) A requirement for public open space under Section 18 Subdivision Act 1988 has has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in stage Council Delegate <i>[Signature]</i> Council seal Date <u>17/12/2012</u> Re-certified under Section 11(7) of the Subdivision Act 1988 Council Delegate Council seal Date / /	
Vesting of Roads or Reserves					
Identifier		Council/Body/Person			
Nil.		Nil.			
Notations					
Staging		This is / is not a staged subdivision Planning Permit No 211/2012/P			
Depth Limitation		Does not apply			
Dimensions underlined are not a result of this survey. Areas of lot 1 & 2 are by deduction from title.					
Survey: This plan is / is not based on survey This plan has been connected to permanent mark no(s). /					
Easement Information					LRS USE ONLY
Legend A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)					STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT
					RECEIVED <input checked="" type="checkbox"/>
					DATE 8 / 5 / 2013
					LRS USE ONLY
					PLAN REGISTERED
					TIME 1:07 pm
					DATE 28 / 5 / 2013
					R. W. Grimwood Assistant Registrar of Titles
					SHEET 1 OF 3 SHEETS
SKspatial Land Surveying Consultants P:1300 853 157 F:8456 5995 M:0400 543 157 sks@oneplangroup.com.au www.oneplangroup.com.au GIPPSLAND - MELBOURNE		OnePlan Land Development Group		LICENSED SURVEYOR SCOTT CHARLES KIMM SIGNATURE <i>[Signature]</i> DATE 30 / 08 / 2012 REF 12195 VERSION 1	
					<i>[Signature]</i> DATE 17/12/2012 COUNCIL DELEGATE SIGNATURE ORIGINAL SHEET SIZE A5

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PLAN OF SUBDIVISION STAGE No. **PS 702490R**



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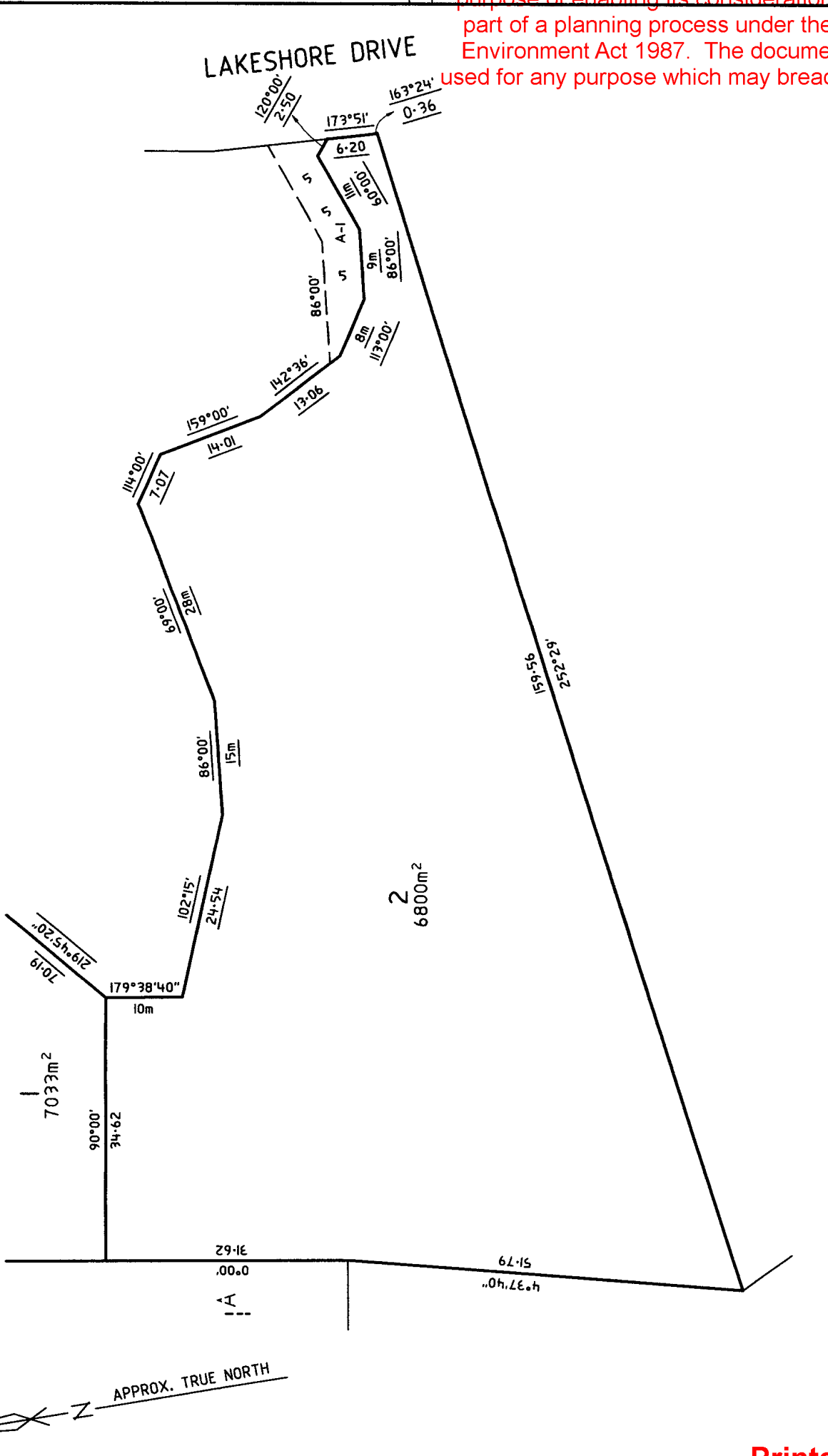
ORIGINAL SCALE
 SHEET SIZE A3 SCALE 1:1000
 10 0 10 20 30 40
 LENGTHS ARE IN METRES

LICENSED SURVEYOR SCOTT CHARLES KIMM
 SIGNATURE [Signature] DATE 30 / 08 / 2012
 REF 12195 VERSION 1

SHEET 2
 DATE 17/12/2012
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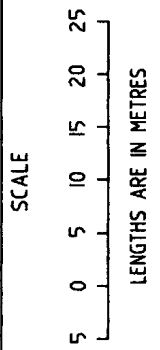
PLAN OF SUBDIVISION
STAGE No. /
PLAN NUMBER
PS 702490R



SHEET 3
DATE 17/12/2012
COUNCIL DELEGATE SIGNATURE

LICENSED SURVEYOR
SIGNATURE
REF 12195
SCOTT CHARLES KIMM
DATE 30 / 08 / 2012
VERSION 1

ORIGINAL SHEET SIZE
SCALE 1:500
A3



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Land Development Group



REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958 Page 1 of 1

VOLUME 10698 FOLIO 638

Security no : 124113330142R
Produced 12/03/2024 01:09 PM

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 509103E.
PARENT TITLE Volume 09470 Folio 867
Created by instrument PS509103E 03/01/2003

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
MATTHEW JOHN HORNER
AT956658W 18/01/2021

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT L932355N 10/10/1985
Expiry Date 31/12/2032

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DIAGRAM LOCATION

SEE PS509103E 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: 182 NUNGURNER JETTY ROAD NUNGURNER VIC 3909

ADMINISTRATIVE NOTICES

NIL

DOCUMENT END



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PLAN OF SUBDIVISION				STAGE No. EDITION 1	LTO USE ONLY	PLAN NUMBER PS 509103E
LOCATION OF LAND PARISH: COLQUHOUN TOWNSHIP: _____ SECTION: C CROWN ALLOTMENT: 1C & 1F (PARTS) CROWN PORTION: _____ TITLE REFERENCES: VOL 9470 FOL 867 LAST PLAN REFERENCE: LP 137683 - LOT 20 POSTAL ADDRESS: NUNGURNER JETTY ROAD, (At time of subdivision) NUNGURNER, 3909 AMG CO-ORDINATES: E 577 900 (Of approx. centre of land in plan) N 5806 750 ZONE: 55				COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF: 02/00064/SD 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6 / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. OPEN SPACE (i) A requirement for public open space under Section 18 Subdivision Act 1988 has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in stage Council Delegate Council seat Date 16/10/2002 Re-certified under Section 11(7) of the Subdivision Act 1988 Council Delegate Council seat Date / /		
VESTING OF ROADS AND/OR RESERVES						
IDENTIFIER	COUNCIL/BODY/PERSON					
R1	EAST GIPPSLAND SHIRE COUNCIL					
NOTATIONS						
STAGING This is / is not a staged subdivision Planning Permit No 99/00255/DS						
DEPTH LIMITATION DOES NOT APPLY						
SURVEY: THIS PLAN IS / IS NOT BASED ON SURVEY THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s)						
EASEMENT INFORMATION					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 20/12/2002	
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of		
E-1	POWERLINE	2	THIS PLAN - SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000	TXU ELECTRICITY LTD		
					LTO USE ONLY	
					PLAN REGISTERED	
					TIME 11.40am	
					DATE 3/1/03	
					Assistant Registrar of Titles <i>[Signature]</i>	
					SHEET 1 OF 2 SHEETS	
Crowthier & Sadler Pty. Ltd. LICENSED SURVEYORS & TOWN PLANNERS 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875 TELEPHONE (03) 5162 8011				LICENSED SURVEYOR (PRINT) PAUL ANTHONY DWYER SIGNATURE DATE 5/8/02 REF 8834 VERSION 3		DATE 16/10/2002 COUNCIL DELEGATE SIGNATURE ORIGINAL SIGNATURE

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PLAN OF SUBDIVISION

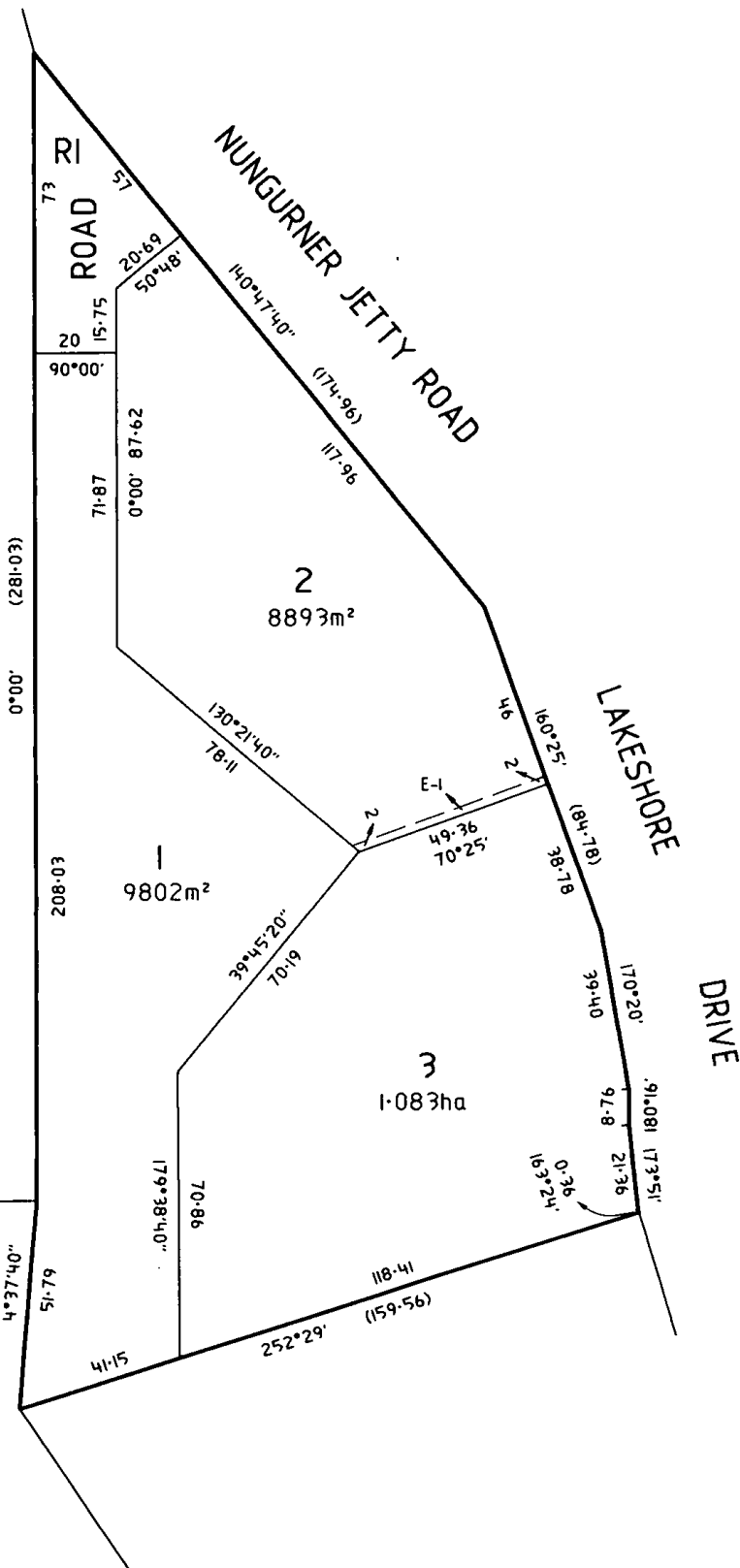
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PLAN NUMBER

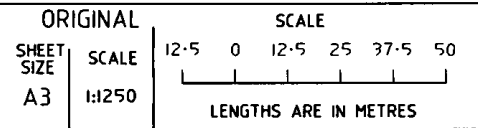
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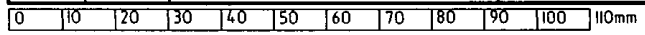


Crowther & Sadler Pty. Ltd.
 LICENSED SURVEYORS & TOWN PLANNERS
 152 MACLEOD STREET, BAIRNSDALE, VIC., 3875
 TELEPHONE (03) 5162 6011



LICENSED SURVEYOR (PRINT) PAUL ANTHONY DWYER
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 REF 8834 VERSION 3

SHEET 2 OF 2 SHEETS
 DATE 16 / 10 / 02
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VICTORIA

TRANSFER OF LAND

Subject to the encumbrances affecting the land including any created by dealings lodged for registration prior to the lodging of this instrument the transferor for the consideration expressed at the request and by the direction of the directing party (if any) transfers to the transferee the estate and the interest specified in the land described together with any easement hereby created and subject to any easement hereby reserved or restrictive covenant herein contained or covenant created pursuant to statute and included herein. (Notes 1-4)

Land (Note 5)

Certificate of Title Volume 9470 Folio 867.

Consideration (Note 6)

(\$58,000.00) FIFTY EIGHT THOUSAND DOLLARS

Transferor (Note 7)

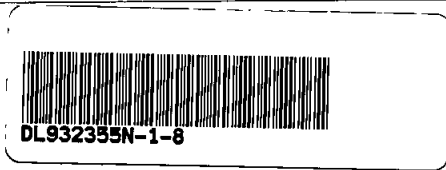
GYTON PROPERTY HOLDINGS PTY. LTD.

Transferee (Note 8)

DOUGLAS EDWARD HADAWAY, Blacksmith and RENATE AGNES HADAWAY, Married Woman
both of 34 Brackenbury Street, Warrandyte as joint tenants.

Estate and Interest (Note 9)

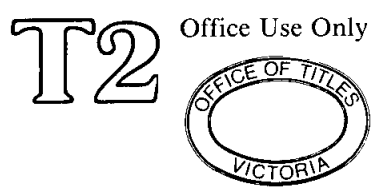
Directing Party (Note 10)



1276-
Computer Use Only
DUTY: \$ 1276
ASSESSOR: R
VALUE: \$ 58,000

Creation (or Reservation) of Easement and/or Covenant (Notes 11-12)

AND the transferees with the intent that the benefit of this covenant shall be attached to and run at law and in equity with the whole of the land comprised in Plan of Subdivision No. 137683 (other than the land hereby transferred) and each and every part thereof until 31st December 2032 and that the burden of this covenant will be annexed to and run at law and in equity with the land hereby transferred and each and every part thereof until 31st December 2032 and be set out as an encumbrance at the foot of the Certificate of



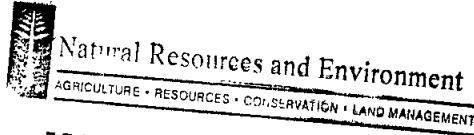
Memorandum of the within instrument has been entered in the Register Book.



CAVEAT

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Title to be issued pursuant to this Transfer HEREBY for themselves their respective heirs, executors, administrators and transferees OVENANT with the said Gyton Property Holdings Pty. Ltd. its successors and transferees and other the registered proprietor or proprietors for the time being of the whole of the land comprised in the said Plan of Subdivision and each and every part thereof (other than the land hereby transferred) that they the transferees will not prior to 31st December 2032:-

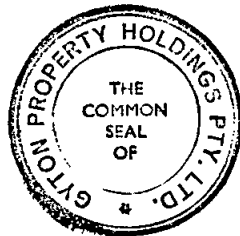
- (a) erect, plaē; permit, licence or authorise on the said Lot:-
 - (i) any main building with walls of fibro cement or with a roof of galvanised iron;
 - (ii) any building unless constructed with new materials save for second hand bricks;
 - (iii) any outbuilding unless painted with two coats of first quality paint in brown or green tonings;
 - (iv) any building with a wall or roof of a reflective material unless treated or painted to avoid such reflection.
- (b) extract or remove or permit the extractions of any soil, gravel or other earth material from the said land except for the purpose of excavation for the foundations of a building, swimming pool, dam, tennis court or garden landscaping.
- (c) use or permit the use of the said Lot or any building thereon for the purpose of commercial breeding, boarding or training kennels for cats or dogs or to keep poultry in excess of ten birds.
- (d) use or permit the use of the said land for any offensive or noxious purpose.

11. OCT 1985

Date the _____ day of _____ 1985. (Note 13)

Execution and Attestation _____ (Note 14)

THE COMMON SEAL of GYTON PROPERTY HOLDINGS PTY. LTD. was hereunto affixed in accordance with its Articles of Association in the presence of:



[Signature] DIRECTOR

[Signature] DIRECTOR

SIGNED in Victoria by the said DOUGLAS EDWARD HADAWAY and RENATE AGNES HADAWAY in the presence of:

x *[Signature]*
x *[Signature]*

Witness *[Signature]*



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285/341

NOTES

1. This form must be used for any transfer by the registered proprietor—
 - (a) of other than the whole of an estate and interest in fee simple
 - (b) by direction
 - (c) in which an easement is created or reserved
 - (d) which contains a restrictive covenant or a covenant created pursuant to statute.
2. Transfers may be lodged as an original only and must be typed or completed in ink.
3. All signatures must be in ink.
4. If there is insufficient space in any panel to accommodate the required information use an annexure sheet (Form A1) or (if there is space available) enter the information under the appropriate heading after any creation or reservation of easement or covenant. Insert only the words “See Annexure-A” (or as the case may be) or “See overleaf” in the panel as appropriate.
 Multiple annexures may appear on the same annexure sheet but each must be correctly headed.
 All annexure sheets should be properly identified and signed by the parties and securely attached to the instrument.
5. Volume and folio references must be given. If the whole of the land in a title is to be transferred no other description should be used. If the transfer affects part only of the land in a title the lot and plan number or Crown description should also be given. Any necessary diagram should be endorsed hereon or on an annexure sheet (Form A1).
6. Set out the amount (in figures) or the nature of the consideration. If the transfer is by direction show the various considerations
 e.g. \$ paid by B to A
 \$ paid by C to B
 In a transfer on sale of land subject to a mortgage it should be clearly shown whether or not the amount owing under the mortgage is included in the consideration e.g. \$ which includes the amount owing under mortgage No.
7. Insert full name. Address is not required.
8. Insert full name and address. If two or more transferees state whether as joint tenants or tenants in common. If tenants in common specify shares.
9. Set out “All my estate and interest in the fee simple” (or other as the case may be).
10. If the transfer is by direction give the full name of any directing party and show the various considerations under the consideration heading.
11. Set out any easement being created or reserved and define the dominant and servient tenements.
12. Set out full details of any covenant and define the covenantee and the land to bear the burden and to take the benefit of the covenant.
13. The transfer must be dated.
14. If an executing party is a natural person execution should read “Signed by the transferor (transferee, directing party) in the presence of”. The witness must be an independent person. If an executing party is a body corporate execution should conform to any prescribed formalities relating to the affixing of the common seal.

MAR
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APPLICATION FOR PLANNING PERMIT

VARIATION OF A COVENANT

16 & 18 LAKESHORE DRIVE AND 180 & 182 NUNGURNER JETTY ROAD, NUNGURNER

REF: 24025

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2	Site Context	5
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4	Zones and Overlays	14
5	Planning Assessment	20
6	Conclusion	22

APPENDIX

- A Copy of Title and Plan of Subdivision
- B Covenant

DOCUMENT REVISION

1	Draft Report	DAC	29/02/2024
2	Final Report	CMC	09/03/2024

16 & 18 LAKEVIEW DRIVE, COOMBERBURY NSW 2263
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1. INTRODUCTION

Development Solutions Victoria Pty Ltd act on behalf of the owners of all land for this planning permit application for the variation of a covenant at 16 and 18 Lakeshore Drive and 182 and 180 Nungurner Jetty Road, Nungurner.

This application seeks approval for the variation of a covenant registered on title as **L932355N**.

There are three options for seeking to vary a covenant:

- Supreme Court under the *Property Law Act 1958* – Section 84
- Amend a Planning Scheme – Part 3 of the *Planning and Environment Act 1987*.
- Planning Permit – Part 4 of the *Planning and Environment Act 1987*.

It is under Part 4 of the *Planning and Environment Act 1987* that we seek to vary the covenant applicable to this land.

The proposal is consistent with the objectives of the East Gippsland Planning Scheme and will result in a positive planning outcome.

Address	16 & 18 Lakeshore Drive and 180 & 182 Nungurner Jetty Road, Nungurner
Site Description	Lot 1 on Plan of Subdivision 637659M Lot 2 on Plan of Subdivision 702490R Lot 1 on Plan of Subdivision 702490R Lot 2 on Plan of Subdivision 509103E
Title Particulars	Vol 11330 Fol 472 Vol 11423 Fol 493 Vol 11423 Fol 492 Vol 10698 Fol 638
Site Area	16 Lakeshore Drive 6794m ² 18 Lakeshore Drive 6,800m ² 180 Nungurner Jetty Road 7,033m ² 182 Nungurner Jetty Road 8,893m ²
Proposal	Variation of a Covenant
Planning Scheme	East Gippsland Planning Scheme
Zone	Low Density Residential Zone
Overlays	Design and Development Overlay – Schedule 11 Erosion Management Overlay Vegetation Protection Overlay – Schedule 3
Aboriginal Cultural Heritage	Not identified as an area of Cultural Heritage Sensitivity
Permit Triggers	Section 178A of the <i>Planning and Environment Act 1987</i>
Notice	No exemptions available
Referrals	No referrals required
Planning and Environment Act 1987	Part 4
Planning Scheme requirements	Easements, Restrictions and Reserves – Clause 52.02 Decision guidelines – Clause 65

2. SITE CONTEXT

Site

The subject site is located at 16 and 18 Lakeshore Drive and 180 and 182 Nungurner Jetty Road, Nungurner. Copies of the Titles and Plans of Subdivision are contained in **Appendix A**. These titles are affected by Covenant L932355N.

Covenant L932355N

The Covenant is due to expire on the 31st December 2032 and generally provides restrictions on building materials including colours, uses of the land and the extraction of earth material.

16 Lakeshore Drive is irregular in shape with a total area of approximately 6,794m² and contains an existing dwelling and associated facilities.

The site is undulating in nature and contains landscaped gardens. The boundaries of the site are delineated with post and wire fencing.

Access is existing via a shared concrete crossover with 18 Lakeshore Drive along the eastern boundary directly from Lakeshore Drive.

18 Lakeshore Drive is irregular in shape with a total area of approximately 6,800m² and is vacant land.

This site is undulating in nature and contains scattered vegetation and a dam in the south west portion. The boundaries of the site are delineated with post and wire fencing, save for the front entrance which contains timber fencing.

Access is existing along the eastern boundary via a shared concrete crossover with 16 Lakeshore Drive.

Lakeshore drive is a bitumen sealed road with rollover kerb and channel traversing in a north to south direction.

180 Nungurner Jetty Road is irregular in shape with a total area of approximately 7,033m² and contains an existing dwelling and associated facilities.

This site is undulating in nature and contains scattered vegetation. The boundaries of the site are delineated with post and wire fencing.

Access is existing along the northern boundary via a shared crossover and driveway with 182 Nungurner Jetty Road directly from Nungurner Jetty road.

182 Nungurner Jetty Road is irregular in shape with a total area of approximately 8,893m² and is vacant land.

This site is undulating in nature and contains scattered vegetation and a dam in the northeast portion of the site. The boundaries of the site are delineated with post and wire fencing.

Access is existing along the northern boundary via a shared crossover and driveway directly from Nungurner Jetty Road.

Nungurner Jetty Road is a sealed bitumen road with grassed shoulders, traversing in a north to south direction.

Details of the sites are depicted in the photographs provided below.

The subject sites in relation to Nungurner as well as the surrounding land, is shown in the locality plans in **Figure 1** and **Figure 2**.

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Figure 1 – Locality Plan – 16 & 18 Lakeshore Drive and 180 & 182 Nungurner Jetty Road, Nungurner (source: mapshare.vic.gov.au)



Figure 2 – Locality Plan – 16 & 18 Lakeshore Drive and 180 & 182 Nungurner Jetty Road, Nungurner (source: mapshare.vic.gov.au)

Surrounds

The land in this locality is predominantly low density residential and farming land.

Adjoining the northern and southern boundaries of the subject sites is land containing existing residential dwellings and associated facilities. Adjoining the eastern boundary is Nungurner Jetty Road and Lakeshore Drive and further residential dwellings and associated facilities. Adjoining the western boundary is land containing residential dwellings and farming land.

Nungurner is located approximately 30 kilometres southeast of Bairnsdale and approximately 16 kilometres from Lakes Entrance. Nungurner does not contain any facilities and services, however, a full range of services and facilities are located in Bairnsdale or Lakes Entrance.

The subject site in relation to Nungurner is shown in the aerial photograph below.



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Photograph 1 – Aerial Photograph of the subject site and surrounding land
– 16 & 18 Lakeshore Drive and 180 & 182 Nungurner Jetty Road, Nungurner
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Photograph 2 – Subject site at 16 Lakeshore Drive, Nungurner.



Photograph 4 – Subject site facing west.



Photograph 6 – Subject site at 18 Lakeshore Drive.



Photograph 3 – Existing dwelling at 16 Lakeshore Drive.



Photograph 5 – Existing shed and tank on subject site facing west.



Photograph 7 – Existing access to 18 Lakeshore Drive.

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Photograph 8 – Shared access to 16 and 18 Lakeshore Drive, Nungurner.



Photograph 10 – Existing dwelling at 180 Nungurner Road facing south.



Photograph 12 – Subject site facing west.



Photograph 9 – Subject site at 180 Nungurner Jetty Road, Nungurner.



Photograph 11 – Subject site facing north.



Photograph 13 – Subject site at 182 Nungurner Jetty Road, Nungurner.

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Photograph 14 – Subject site facing north showing existing dam.



Photograph 16 – Shared driveway access from Nungurner Jetty Road for 180 and 182 Nungurner Jetty Road.



Photograph 18 – Existing dwelling opposite to subject site at 175 Nungurner Jetty Road, Nungurner



Photograph 15 – Existing access to 180 and 182 Nungurner Jetty Road, Nungurner.



Photograph 17 – Existing dwelling opposite the subject site at 173 Nungurner Jetty Road, Nungurner.



Photograph 19 – Existing dwelling adjoining the subject site along the western boundary at 166 Nungurner Jetty Road, Nungurner

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Photograph 20 – Existing dwelling adjoining subject site along the southern boundary at 26 Lakeshore Drive, Nungurner.



Photograph 22 – Lakeshore Drive facing north.



Photograph 24 – Nungurner Jetty Road facing north.



Photograph 21 – Existing dwelling opposite to subject site at 15 Lakeshore Drive, Nungurner.



Photograph 23 – Lakeshore Drive facing south.



Photograph 25 – Nungurner Jetty Road facing south.

3. THE PROPOSAL

This application seeks approval to vary a covenant registered on title as **L932355N**. The covenant was created on 12 October 1985. A copy of the covenant is contained in **Appendix B**.

The above-mentioned covenant was created with the original subdivision. The covenant provides restrictions relating to finished materials including colours for outbuildings, use of the land and the extraction of earth material.

The owner is seeking approval to vary condition a (i) which provides *“any main building with walls of fibro cement or with a roof of galvanised iron.”*

The proposed varied condition will read:

a (i) *“any main building with walls of fibro cement containing asbestos or with a roof of galvanised iron.”*

The proposal also seeks the removal of condition a (iii) which provides *“any outbuilding unless painted with two coats of first quality paint in brown or green toning’s”*.

The variation to this condition is unlikely to impact the amenity of the area particularly given the existing development surrounding the sites. Any future development on the subject site would be subject to all other conditions contained within the Covenant, Low Density Residential Zone, Design and Development Overlay, Erosion Management Overlay and the Vegetation Protection Overlay.

It is expected notice to adjoining landowners in addition to any that may be affected by the variation of the covenant will be undertaken during the advertising period. It is noted all parties to the covenant are applicants in this planning application.

We seek East Gippsland Shire Council to advise us the persons requiring to be notified.

4. ZONES AND OVERLAYS

Low Density Residential Zone

The purpose of the Low Density Residential Zone is:

- 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.

An extract of the Low Density Residential Zone Map is provided to the right in **Figure 3**.

A permit is not required to vary a covenant under the provisions of the Low Density Residential Zone at Clause 32.03 and as such this is not addressed further.

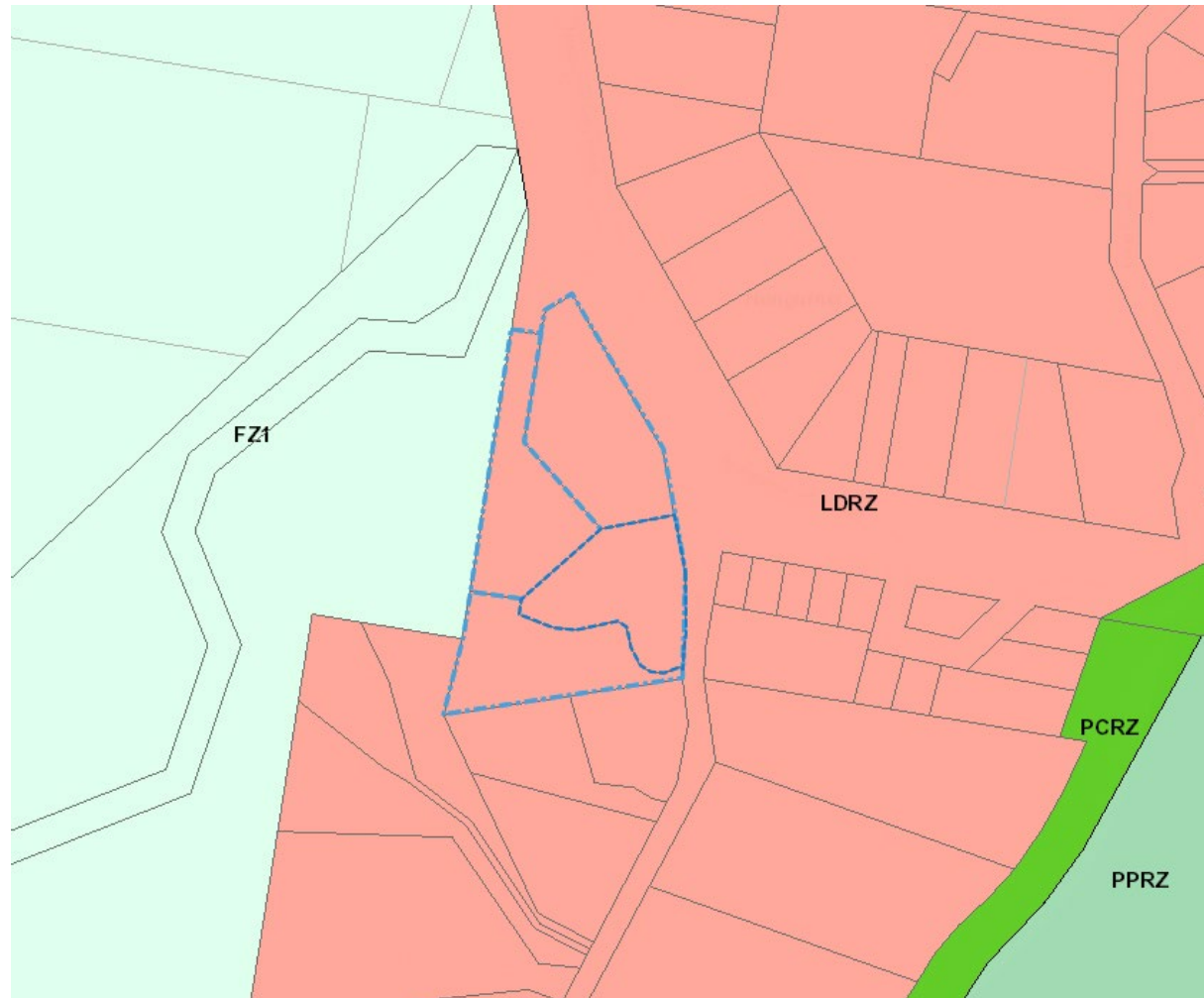


Figure 3 – Low Density Residential Zone – (source - mapshare.vic.gov.au)

Design and Development Overlay – Schedule 11

The purpose of the Design and Development Overlay is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas which are affected by specific requirements relating to the design and built form of new development.

An extract of the Design and Development Overlay Map is provided in **Figure 4**.

A permit is not required to vary a covenant under the provisions of the Design and Development Overlay at Clause 43.02 and as such this is not addressed further.

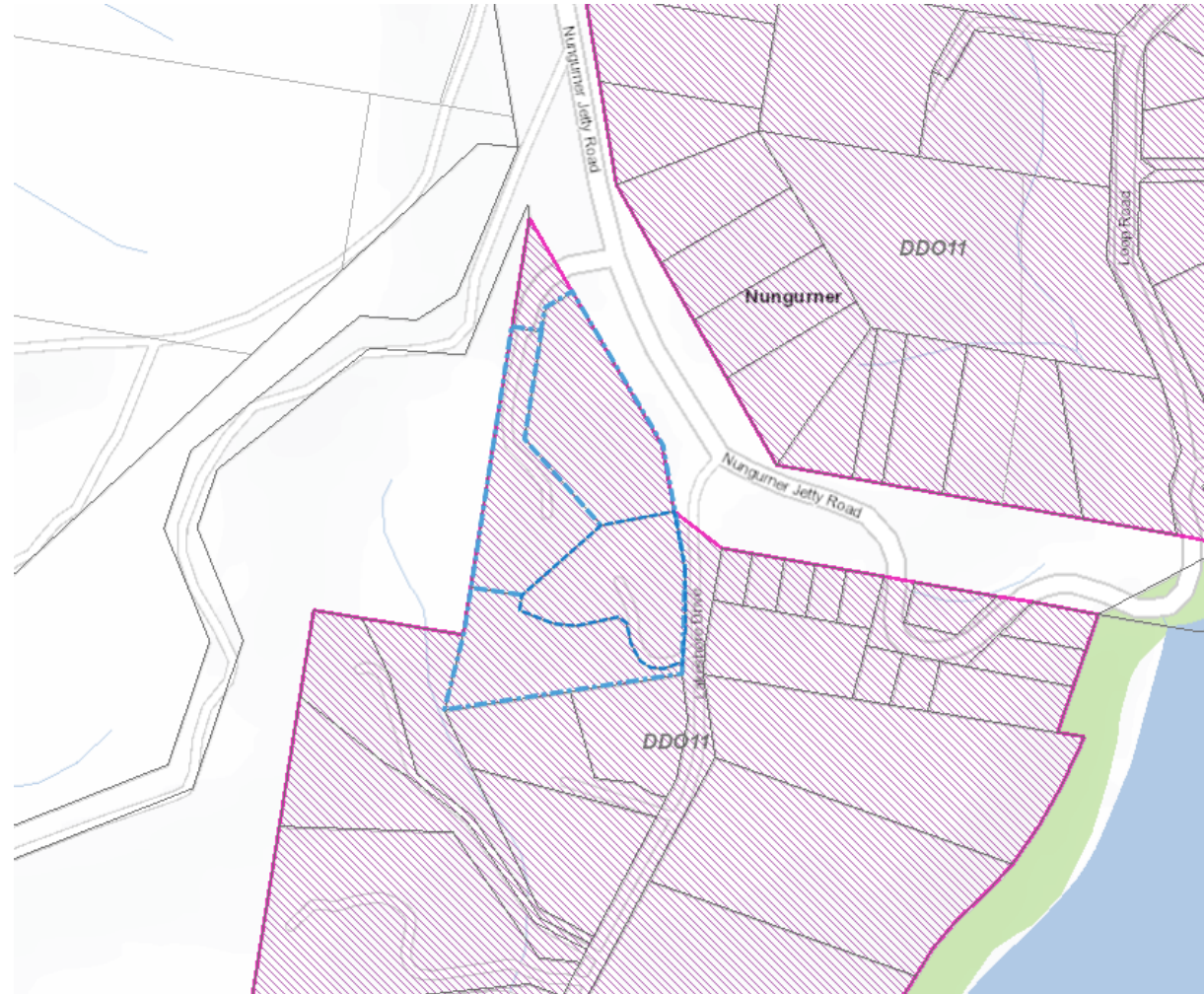


Figure 4 – Design and Development Overlay – (source - mapshare.vic.gov.au)

Design and Development Overlay – Schedule 11 continued:

Schedule 11 to the Design and Development Overlay relates to Residential Development in Coastal Settlements and contains the following design objectives:

- *To protect and manage the township character of coastal settlements.*
- *To ensure that the height and visual bulk of new development is compatible with the coastal neighbourhood setting.*
- *To ensure that new development is designed to minimise visual impacts on the natural landscape.*
- *To ensure that new development is visually and physically integrated with the site and surrounding landscape.*
- *To ensure that new development is sited and designed to be visually unobtrusive through and above the surrounding tree canopy when viewed from nearby streets, lakes, coastal areas, or other distant viewpoints.*
- *To protect the vegetated character of the landscape, particularly where it is a*

dominant visual and environmental feature.

- *To ensure that the scale and character of existing development in areas fronting Marine Parade in Marlo and on the lake frontage at Newlands Arm is preserved and that any new development should be consistent with the prevailing development form and height to retain the existing character and view corridors.*
- *To ensure that the subdivision of land within the Newlands Arm Estate is consistent with the Newlands Arm Estate Restructure Plan, Version 7 (March 2017).*

Erosion Management Overlay

The purpose of the Erosion Management Overlay is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To protect areas prone to erosion, landslip, other land degradation or coastal processes by minimising land disturbance and inappropriate development.

An extract of the Erosion Management Overlay Map is provided in **Figure 5**.

A permit is not required to vary a covenant under the provisions of the Erosion Management Overlay at Clause 44.01 and as such this is not addressed further.

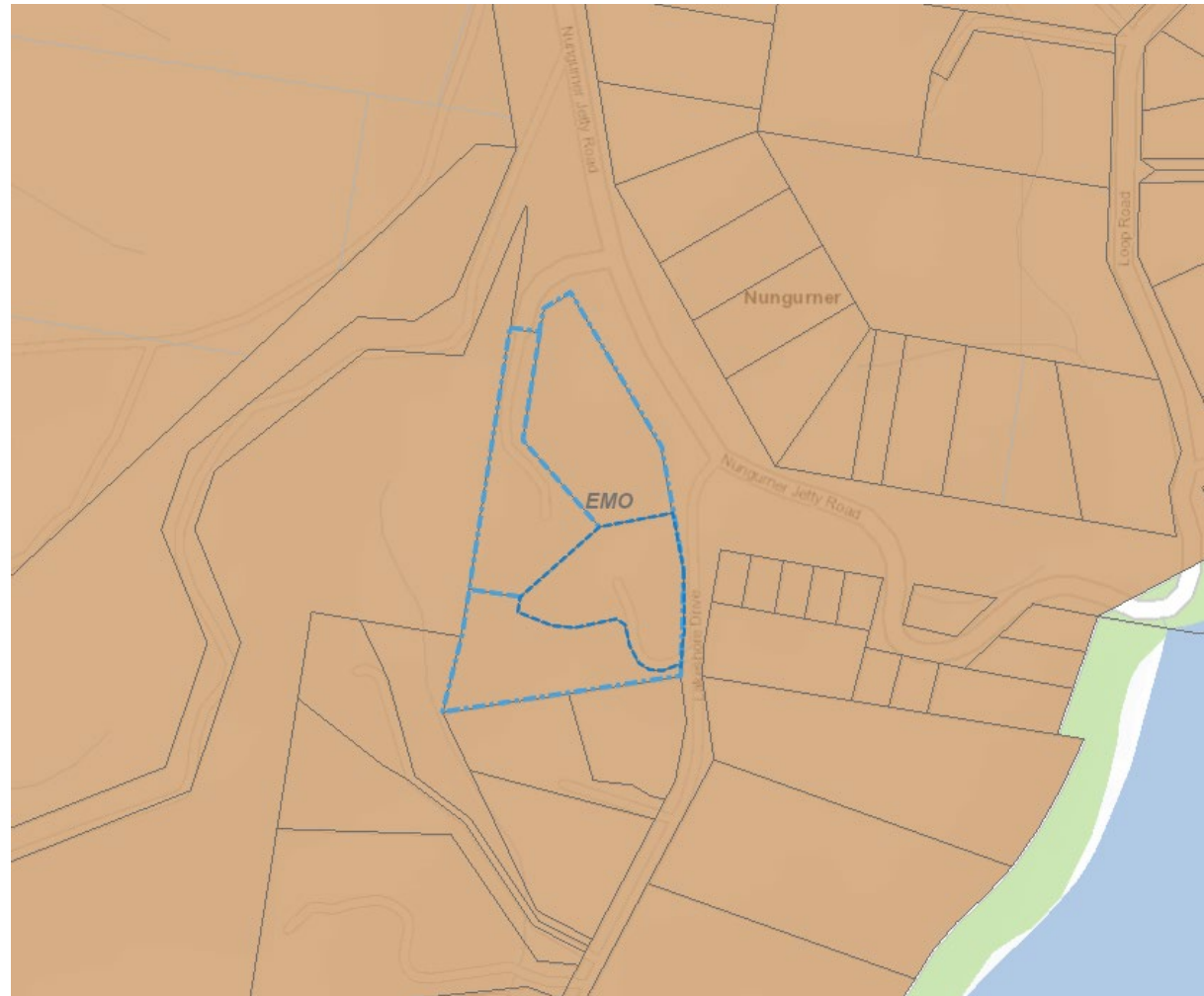


Figure 5 – Erosion Management Overlay – (source - mapshare.vic.gov.au)

Vegetation Protection Overlay – Schedule 3

The purpose of the Vegetation Protection Overlay is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To protect areas of significant vegetation.
- To ensure that development minimises loss of vegetation.
- To preserve existing trees and other vegetation.
- To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.
- To maintain and enhance habitat and habitat corridors for indigenous fauna.
- To encourage the regeneration of native vegetation.

An extract of the Vegetation Protection Overlay Map is provided in **Figure 6**.

A permit is not required to vary a covenant under the provisions of the Vegetation Protection Overlay at Clause 42.02 and as such this is not addressed further.

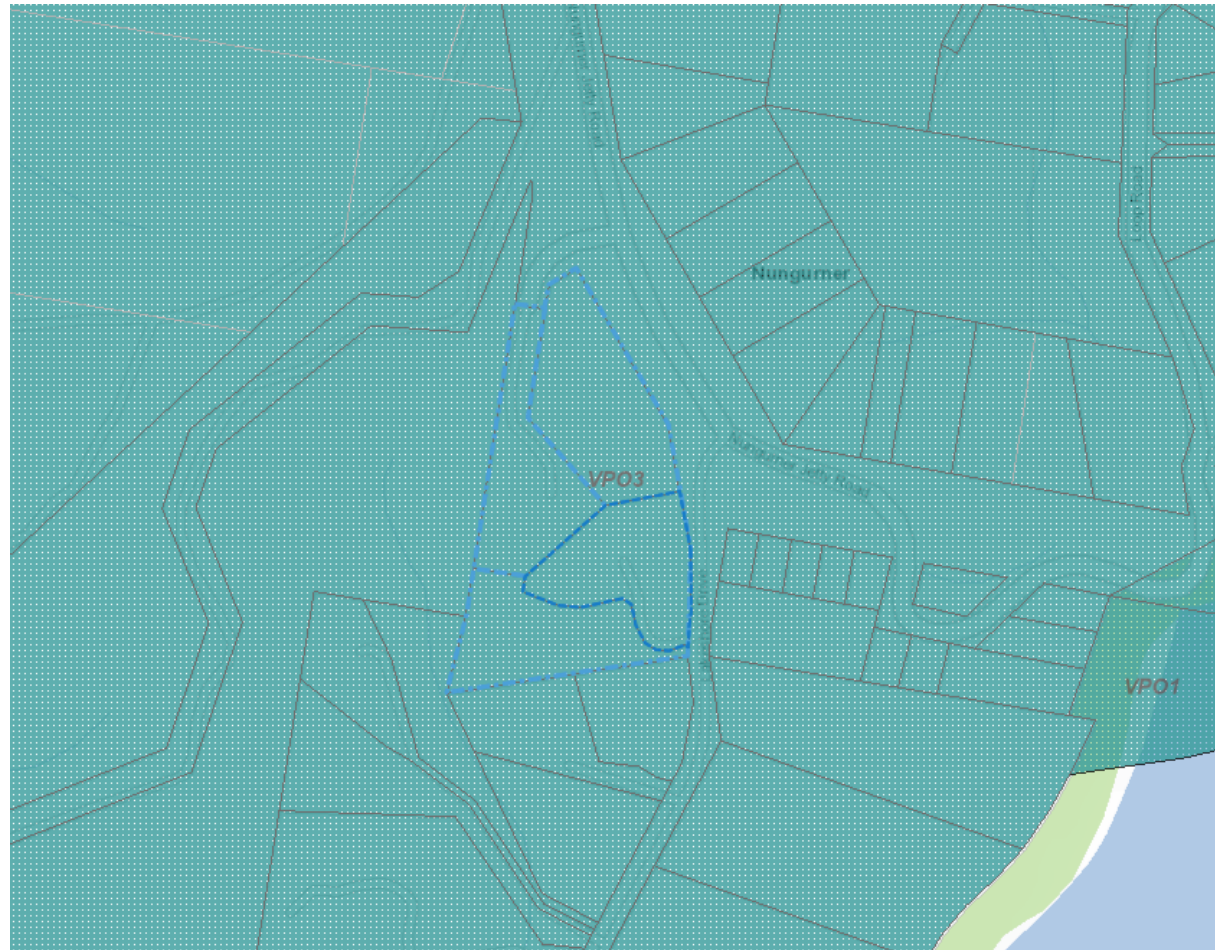


Figure 6 – Vegetation Protection Overlay – (source - mapshare.vic.gov.au)

Aboriginal Cultural Heritage

Under the provisions of the *Aboriginal Heritage Act 2006* the subject site is not recognised as being within an area of Aboriginal Cultural Heritage Sensitivity.

The variation of a covenant does not require the preparation of a Cultural Heritage Management Plan.

5. PLANNING ASSESSMENT

There are limited specific requirements in the East Gippsland Planning Scheme that are relevant to this proposal, as such a permit is not required to vary a covenant under the provisions of the Low Density Residential Zone, Design and Development Overlay, Erosion Management Overlay and the Vegetation Protection Overlay which are applicable to the subject site.

A planning permit is required to vary a covenant or restriction under the provisions of Clause 52.02 – Easements, Restrictions and Reserves.

The *Planning and Environment Act 1987* at S.3(1) provides the definition of a covenant is:

“registered restrictive covenant” means a restriction within the meaning of the Subdivision Act 1988.

The *Subdivision Act 1988* at S.3(1) provides the definition of restriction is:

“restriction” means a restrictive covenant or a restriction which can be registered or recorded in the Register under the Transfer of Land Act 1958.

Section 60 (2) of the *Planning and Environment Act 1987* provides:

(2) The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer –

- (a) Financial loss; or*
- (b) Loss of amenity; or*
- (c) Loss arising from change to the character of the neighbourhood; or*
- (d) Any other material detriment –*

as a consequence of the removal or variation of the restriction.

Section 60 (5) of the *Planning and Environment Act 1987* provides:

(5) The responsible authority must not grant a permit which allows the removal or variation of a restriction referred to in subsection (4) unless it is satisfied that –

(a) the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer any detriment of any kind (including any perceived detriment) as a consequence of the removal or variation of the restriction; and

(b) if that owner has objected to the grant of the permit, the objection is vexatious or not made in good faith.

This submission and supporting documentation provides evidence which supports that no person will suffer any detriment as a result of the proposed variation of a covenant. This is particularly evident given the existing surrounding development. Any new development would still be subject to all other conditions on the covenants and applicable planning controls.

This proposal has been assessed against the objectives and standards of applicable clauses of the East Gippsland Planning Scheme and the *Planning and Environment Act 1987* and it is considered that the proposal is appropriate for the following reasons:

- The proposal meets the requirements of **Clause 52.02** easements, restrictions and reserves.
- The covenant seeking to be varied is registered on title as **L932355N**. The applicant is seeking approval to vary condition a (i) which provides *“any main building with walls of fibro cement or with a roof of galvanised iron.”*
- The proposed varied condition will read: a (i) *“any main building with walls of fibro cement containing asbestos or with a roof of galvanised iron”*.
- The proposal also seeks the removal of condition a (iii) which provides *“any outbuilding unless painted with two coats of first quality paint in brown or green toning’s”*.
- The proposed variation of the covenant will result in the owners having less restrictions with regard to other fibro cement products not containing asbestos and the finished colours of any future outbuilding.
- The remaining conditions on the covenant will continue to restrict materials, use of land and extraction of earth materials.
- This submission has addressed the decision guidelines of **Clause 65**, the proposal supports orderly planning of the area and has taken into consideration the potential effect on adjoining land owners and the amenity of the area.
- There are no natural hazards associated with the site that will be impacted by the variation of the covenant or that make the sites unsuitable for future residential development.

6. CONCLUSION

This submission is in support of a planning permit application for the variation of a covenant at 16 and 18 Lakeshore Drive and 180 and 182 Nungurner Jetty Road, Nungurner.

The relevant provisions of the East Gippsland Planning Scheme have been addressed and it has been ascertained that the proposal is appropriate in this location. It is requested that the proposal be supported for the following reasons:

- The proposal is consistent with the objectives and strategies outlined in the Municipal Planning Strategy and the Planning Policy Framework.
- The proposed variation of the covenant will not result in any loss to any beneficiary of the covenant.
- The variation of the covenant is unlikely to impact adjoining land owners.

It is requested that a planning permit be granted for the proposed variation of a covenant.

Development Solutions Victoria

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This document has been prepared for planning permit application purposes only. The report has been made with careful consideration and with the best information available to Development Solutions Victoria Pty Ltd at the time.

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