

NOTICE OF PROPOSAL TO END AN AGREEMENT

The application reference number is:	AGR.4.2025
Responsible Authority:	East Gippsland Shire Council
Description of the land affected by the agreement:	22 Whitworth Drive NICHOLSON VIC 3882
Description of the proposal:	Request to End Section 173 Agreement AT565404K AT565404K

Who initiated the proposal?

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

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

You may look at the application and any documents that support the application at 273 Main Street, Bairnsdale. This can be done during office hours and is free of charge.

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

The responsible authority will not make a decision on the proposal under section 178E of the <i>Planning and Environment Act 1987</i> before:	17th October 2025
---	-------------------------------------

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

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

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

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

Page 1 of 2

VOLUME 12270 FOLIO 972

Security no : 124123300505Q

Produced 01/04/2025 09:01 AM

LAND DESCRIPTION

Lot 62 on Plan of Subdivision 824715M.
PARENT TITLE Volume 08101 Folio 452
Created by instrument PS824715M 10/12/2020

REGISTERED PROPRIETOR

Estate Fee Simple
TENANTS IN COMMON
As to 1 of a total of 4 equal undivided shares
Sole Proprietor
BRADLEY DANIEL MORRISON
As to 3 of a total of 4 equal undivided shares
Sole Proprietor
LAUREN PATRICIA MADELEY
AU373186D 24/05/2021

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT PS824715M 10/12/2020

COVENANT AU373186D 24/05/2021

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

AGREEMENT Section 173 Planning and Environment Act 1987
AT565404K 01/09/2020

DIAGRAM LOCATION

SEE PS824715M 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: 22 WHITWORTH DRIVE NICHOLSON VIC 3882

ADMINISTRATIVE NOTICES

NIL



Copyright State of Victoria. No part of this publication may be reproduced except as permitted by the Copyright Act 1968 (Cth), to comply with a statutory requirement or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA REGD TM System. None of the State of Victoria, its agents or officers is responsible for any subsequent publication or alteration of the information.

The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, history and cultures. The Victorian Government extends this respect to past, present and emerging.

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

Effective from 27/05/2021

DOCUMENT END

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

Page 2 of 2

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

EDITION 2

PS 824715M

PLAN OF SUBDIVISION

LOCATION OF LAND

PARISH: BROADLANDS
TOWNSHIP: _____
SECTION: A
CROWN ALLOTMENT: 4A & 4B (PARTS)
CROWN PORTION: _____
TITLE REFERENCE: VOL 8101 FOL 452

LAST PLAN REFERENCE: LOTS 1 & 2 - TP335075L

POSTAL ADDRESS: 100 NICHOLSON - SARSFIELD ROAD
(at time of subdivision) NICHOLSON 3882

MGA94 CO-ORDINATES: E: 564 870 ZONE: 55
(of approx centre of land in plan) N: 5814 910

Council Name: East Gippsland Shire Council

Council Reference Number: PS824715M
 Planning Permit Reference: 207/2018/P
 SPEAR Reference Number: S128743J

Certification

This plan is certified under section 11 (7) of the Subdivision Act 1988
 Date of original certification under section 6: 27/11/2019

Public Open Space

A requirement for public open space under section 18 of the Subdivision Act 1988 has been made and the requirement has been satisfied

Digitally signed by: Robert Pringle for East Gippsland Shire Council on 12/11/2020

Statement of Compliance issued: 12/11/2020

VESTING OF ROADS AND/OR RESERVES

IDENTIFIER	COUNCIL/BODY/PERSON
RI & R2	EAST GIPPSLAND SHIRE COUNCIL
RESERVE No's 1, 2, 3 & 4	EAST GIPPSLAND SHIRE COUNCIL
RESERVE No's 7, 8, 9 & 10	EAST GIPPSLAND SHIRE COUNCIL
RESERVE No 5	EAST GIPPSLAND REGION WATER CORPORATION
RESERVE No's 6 & 11	AUSNET ELECTRICITY SERVICES PTY LTD

NOTATIONS

DEPTH LIMITATION DOES NOT APPLY

SURVEY:

This plan is based on survey.

STAGING:

This is a staged subdivision.
 Planning Permit No. 207/2018/P

This survey has been connected to permanent marks No(s). 38, 40, 41

In Proclaimed Survey Area No. _____

NOTATIONS

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	WATER SUPPLY	5	INST. T678224N	EAST GIPPSLAND REGION WATER AUTHORITY
E-2	DRAINAGE & SEWERAGE	3	THIS PLAN	EAST GIPPSLAND REGION WATER CORPORATION & EAST GIPPSLAND SHIRE COUNCIL
E-3	POWERLINE	1.5	THIS PLAN - SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000	AUSNET ELECTRICITY SERVICES PTY LTD
E-4	SEWERAGE	SEE DIAG.	THIS PLAN	EAST GIPPSLAND REGION WATER CORPORATION

Crowther & Sadler Pty. Ltd.

LICENSED SURVEYORS & TOWN PLANNERS
 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875
 P. (03) 6162 6011 E. contact@crowthersadler.com.au

SURVEYORS FILE REF: 18140

Digitally signed by: Michael J Sadler, Licensed Surveyor,
 Surveyor's Plan Version (7),
 04/11/2020, SPEAR Ref: S128743J

ORIGINAL SHEET SIZE: A3

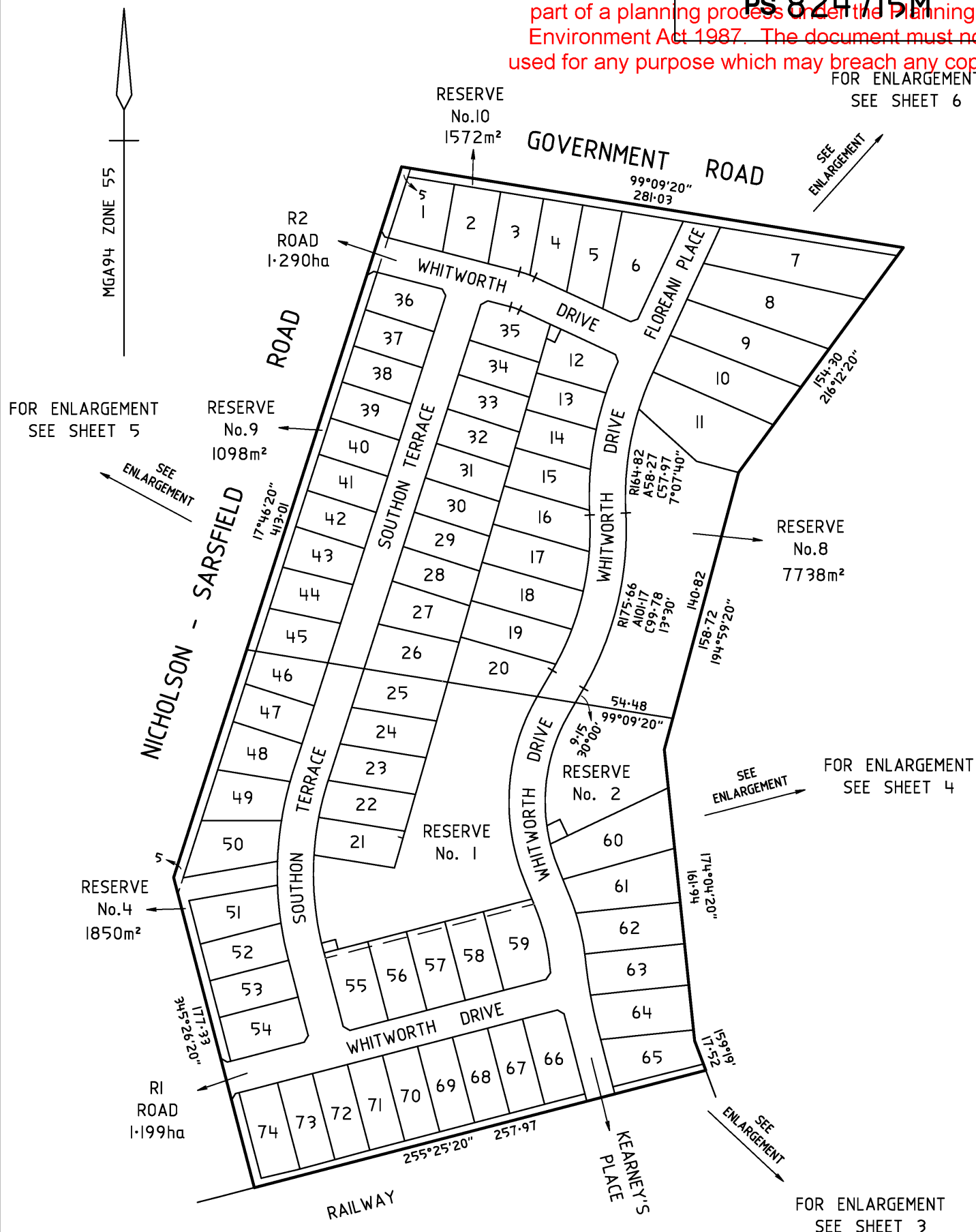
SHEET 1 OF 5 SHEETS

THIS IS A LAND USE VICTORIA COMPILED PLAN
 FOR DETAILS SEE MODIFICATION TABLE HERE

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

PS 824715M



Crowther & Sadler Pty. Ltd.

LICENSED SURVEYORS & TOWN PLANNERS
162 MACLEOD STREET, BAIRNSDALE, VIC., 3875
P. (03) 6162 6011 E. contact@crowthersadler.com.au

SURVEYORS REF
18140

SCALE
1:2000

20 0 20 40 60 80
LENGTHS ARE IN METRES

ORIGINAL SHEET
SIZE: A3

SHEET 2

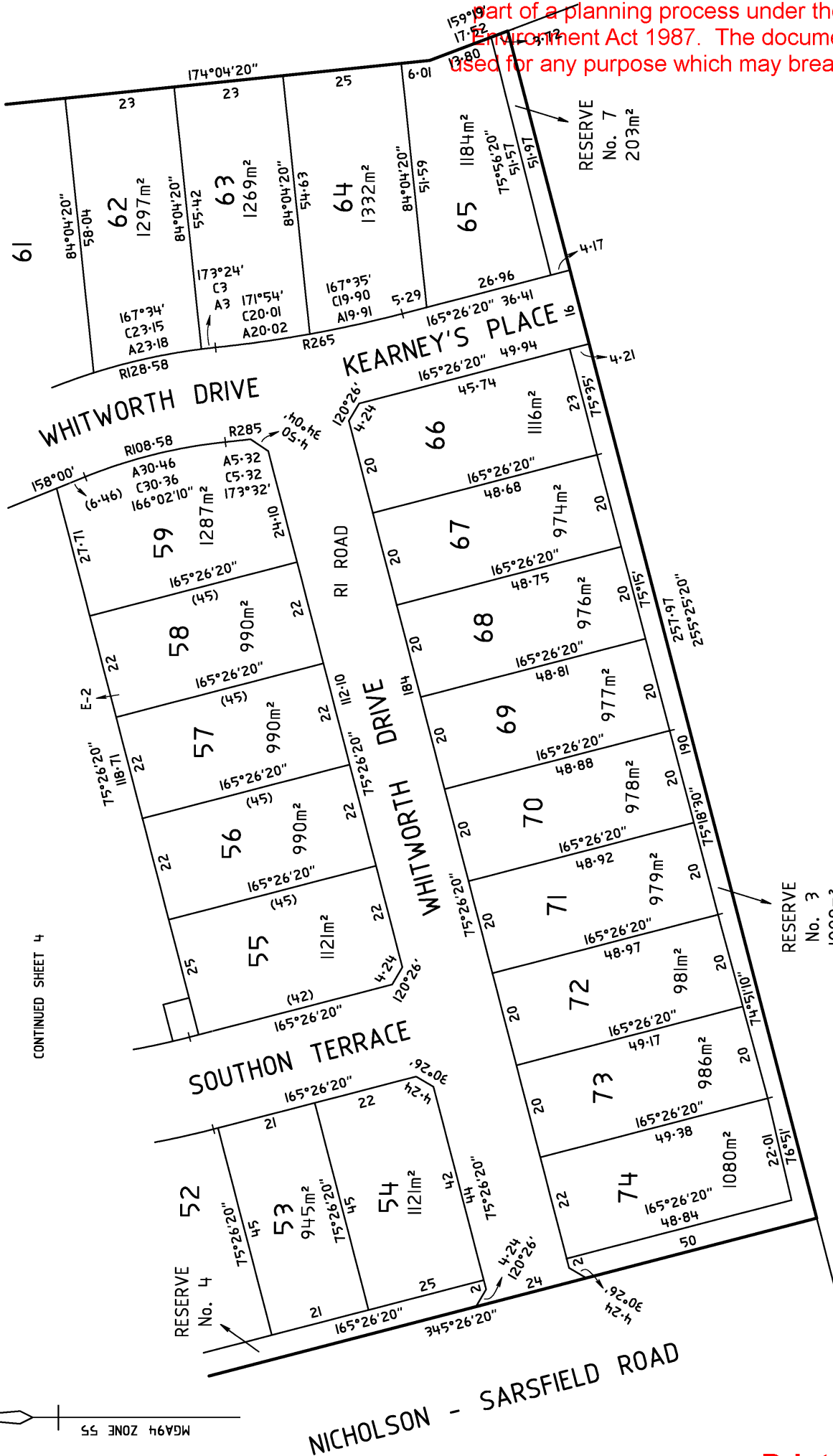
MICHAEL JOSEPH SADLER, VERSION 7

Printed 3/10/2025
Page 5 of 35

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

PS 824715M



CONTINUED SHEET 4

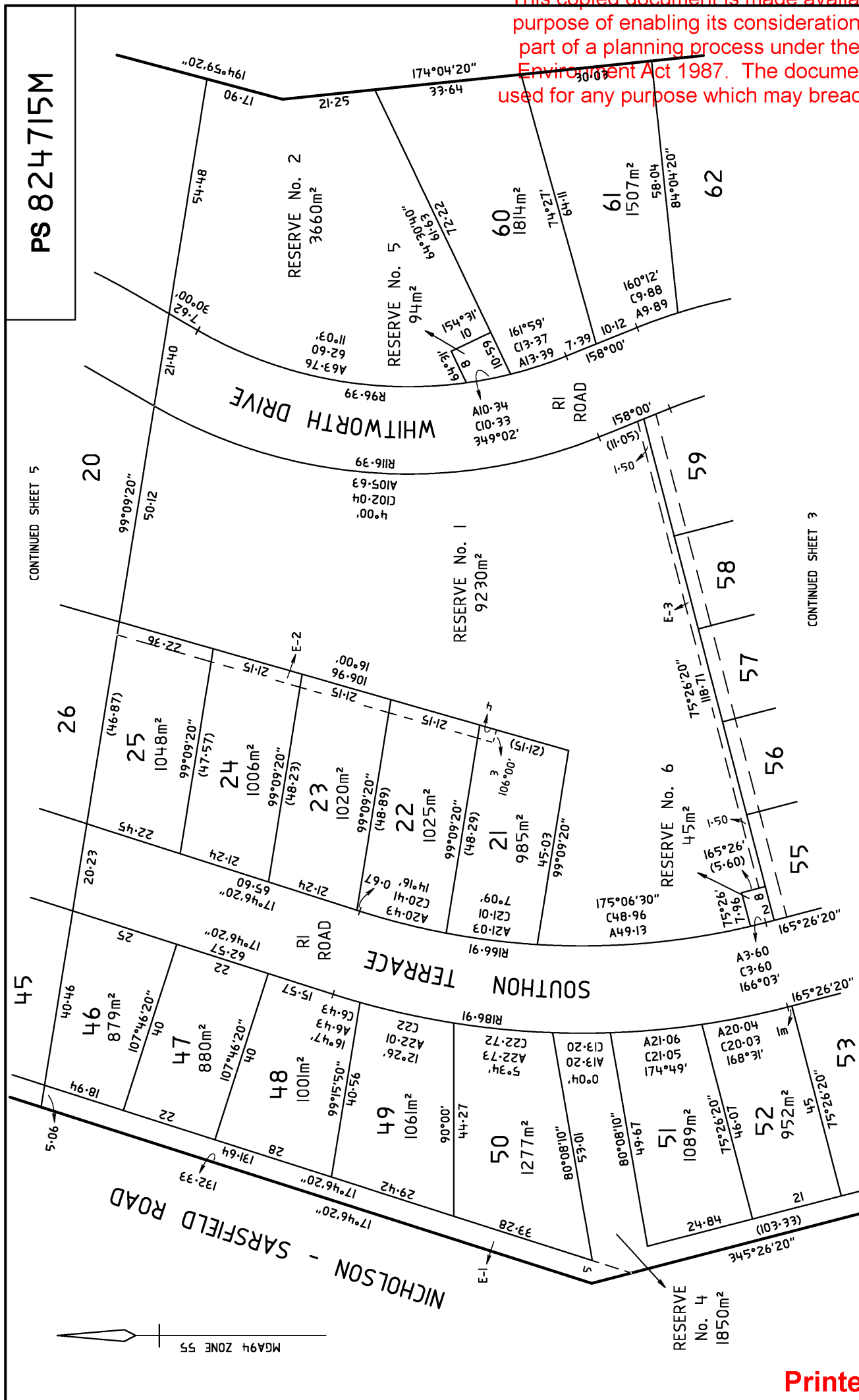
SHEET 3
ORIGINAL SHEET
SIZE: A3
SCALE
1:800
SURVEYORS REF
18140

MICHAEL JOSEPH SADLER, VERSION 7

Crowther & Sadler Pty. Ltd.
LICENSED SURVEYORS & TOWN PLANNERS
182 MACLEOD STREET, BAIRNSDALE, VIC., 3875
P. (03) 5182 5011 E. contact@crowthersadler.com.au

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

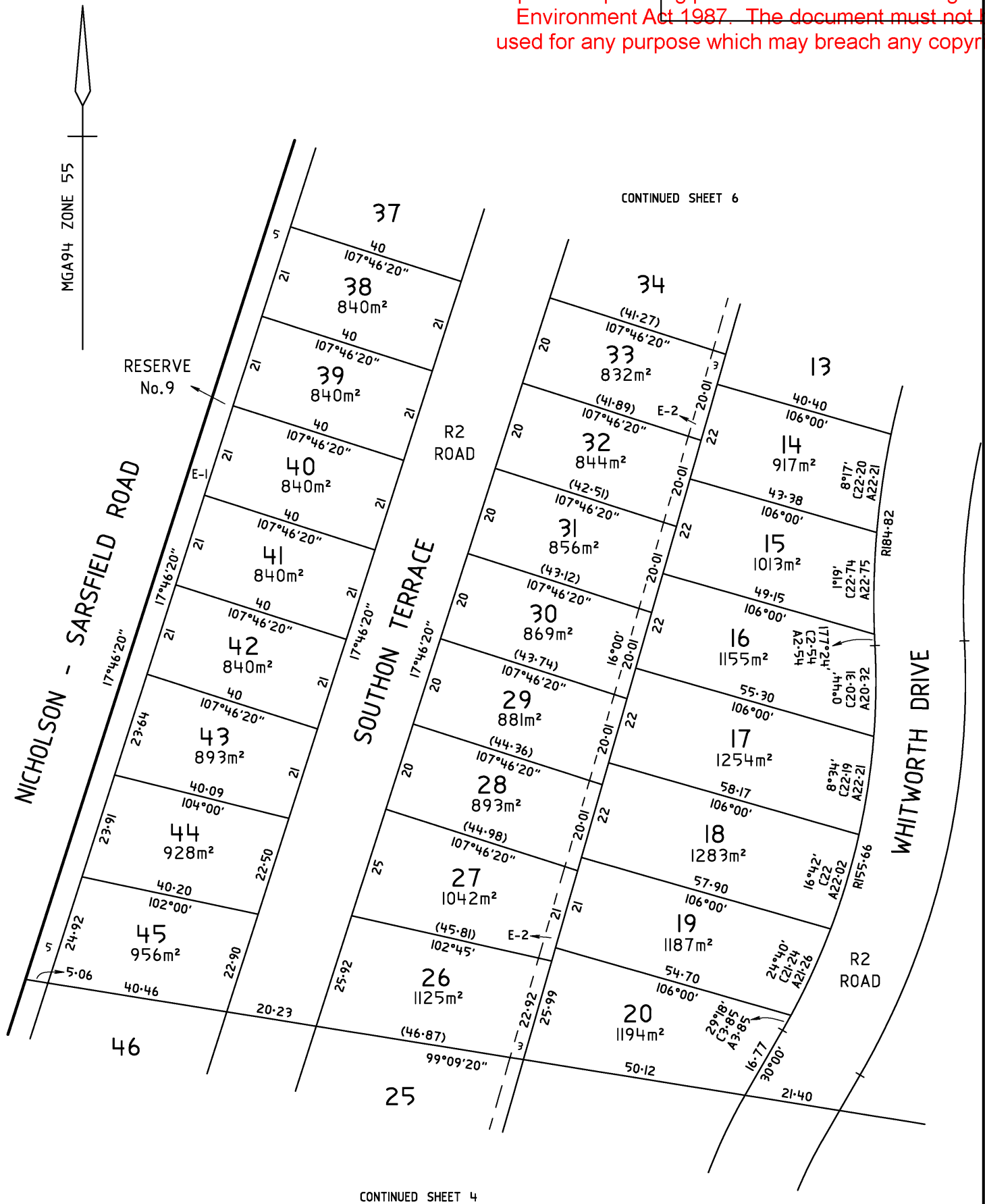


<div>Crowthorne & Sadler Pty. Ltd. LICENSED SURVEYORS & TOWN PLANNERS 152 MACLEOD STREET, BAIRNSDALE, VIC., 3875 P. (03) 5182 5011 E. contact@crowthersadler.com.au</div>		SURVEYORS REF 18140		SCALE 1:800	LENGTHS ARE IN METRES 0 8 16 24 32			ORIGINAL SHEET SIZE: A3
MICHAEL JOSEPH SADLER, VERSION 7					SHEET 7			

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

PS 824715M



Crowther & Sadler Pty. Ltd.

LICENSED SURVEYORS & TOWN PLANNERS
162 MACLEOD STREET, BAIRNSDALE, VIC., 3875
P. (03) 6162 6011 E. contact@crowthersadler.com.au

SURVEYORS REF
18140

SCALE
1:800

8 0 8 16 24 32
LENGTHS ARE IN METRES

ORIGINAL SHEET
SIZE: A3

SHEET 5

MICHAEL JOSEPH SADLER, VERSION 7

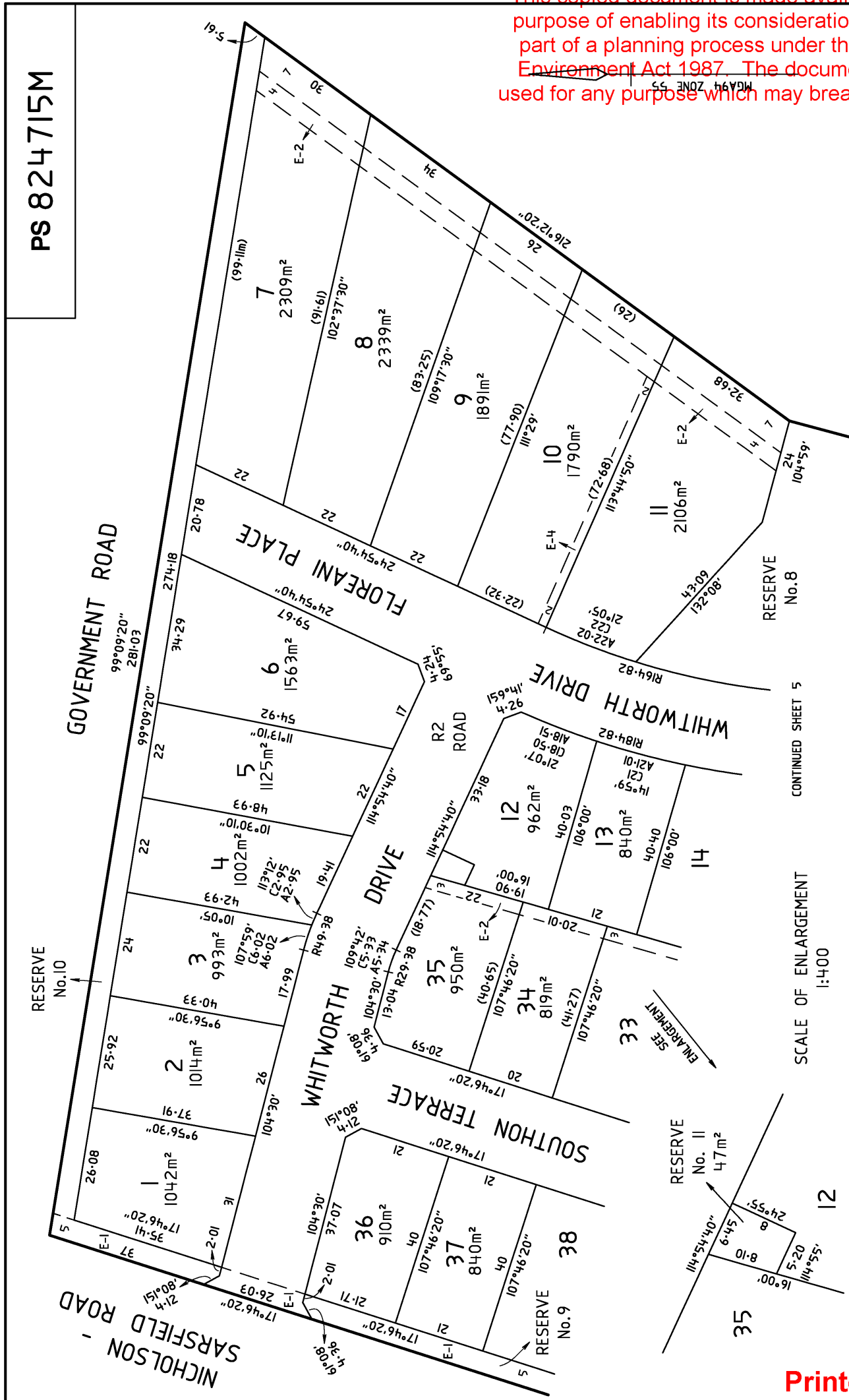
Printed 3/10/2025

Page 8 of 35

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

PS 824715M



SURVEYORS REF 18140	SCALE 1:800	LENGTHS ARE IN METRES					ORIGINAL SHEET SIZE: A3	SHEET 6
		8	0	8	16	24		

MICHAEL JOSEPH SADLER, VERSION 7

Crowther & Sadler Pty. Ltd.
LICENSED SURVEYORS & TOWN PLANNERS
182 MACLEOD STREET, BAIRNSDALE, VIC., 3875
P. (03) 5182 8011 E. contact@crowthersadler.com.au

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

PS 824715M

CREATION OF RESTRICTION

UPON REGISTRATION OF THIS PLAN THE FOLLOWING RESTRICTIONS ARE TO BE CREATED

LAND TO BENEFIT:

LOTS 1 - 74 (BOTH INCLUSIVE), RESERVE No's. 1, 2, 8, 9, 10 & 11 AND R2 ON THIS PLAN

LAND TO BE BURDENED:

LOTS 1 - 74 (BOTH INCLUSIVE), RESERVE No's 8, 9, 10 & 11 AND R2 ON THIS PLAN

DESCRIPTION OF RESTRICTION

THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING OF
LOTS 1 - 74 (BOTH INCLUSIVE), RESERVE No's 8, 9, 10 & 11 AND R2
ON THIS PLAN SHALL NOT:

CONSTRUCT A DWELLING ON A LOT WITHOUT A RAINWATER TANK HAVING A
MINIMUM 5000 LITRE STORAGE CAPACITY AND INSTALLED TO COLLECT ALL
RUNOFF FROM THE ROOF OF THE DWELLING, PROVIDING A DETENTION VOLUME
OF 1200 LITRES AND USED AS THE PRIMARY WATER SOURCE FOR THE FLUSHING
OF TOILETS AND LAUNDRY AND EXTERNAL TAP FOR WATERING OF GARDENS

Crowther & Sadler Pty. Ltd.

LICENSED SURVEYORS & TOWN PLANNERS
162 MACLEOD STREET, BAIRNSDALE, VIC., 3875
P. (03) 5162 6011 E. contact@crowthersadler.com.au

SURVEYORS REF
18140

SCALE

ORIGINAL SHEET
SIZE: A3

SHEET 7

MICHAEL JOSEPH SADLER, VERSION 7

Printed 3/10/2025

Page 10 of 35

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

RECORD OF ALL ADDITIONS OR CHANGES TO THE PLAN

WARNING: THE IMAGE OF THIS DOCUMENT OF THE REGISTER HAS BEEN DIGITALLY AMENDED.
NO FURTHER AMENDMENTS ARE TO BE MADE TO THE ORIGINAL DOCUMENT OF THE REGISTER.

[illegible]



Department of Environment, Land, Water & Planning

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

Electronic Instrument Statement

Copyright State of Victoria. No part of this publication may be reproduced except as permitted by the Copyright Act 1968 (Cth), to comply with a statutory requirement or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA REGD TM System. None of the State of Victoria, its agents or contractors, accepts responsibility for any subsequent publication or reproduction of the information.

The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

Produced 01/04/2025 09:01:39 AM

Status	Registered	Dealing Number	AT565404K
Date and Time Lodged	01/09/2020 10:09:54 AM		

Lodger Details

Lodger Code	20126M
Name	STEFANIE DONNA SUMMERS
Address	
Lodger Box	
Phone	
Email	
Reference	PLANOLOGY - 100 Nich

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
--------------	----------

Privacy Collection Statement

The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Estate and/or Interest

FEE SIMPLE

Land Title Reference

8101/452

Instrument and/or legislation

RECORD - AGREEMENT - SECTION 173
Planning & Environment Act - section 173

Applicant(s)

Name	EAST GIPPSLAND SHIRE COUNCIL
Address	
Street Number	273
Street Name	MAIN
Street Type	STREET
Locality	BAIRNSDALE
State	VIC
Postcode	3875

Additional Details



Department of Environment, Land, Water & Planning

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

Electronic Instrument Statement

Refer Image Instrument

The applicant requests the recording of this Instrument in the Register.

Execution

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	EAST GIPPSLAND SHIRE COUNCIL
Signer Name	ERIC JAMES CABUANG
Signer Organisation	STEFANIE DONNA SUMMERS
Signer Role	CONVEYANCING PRACTICE
Execution Date	01 SEPTEMBER 2020

File Notes:

NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.



Imaged Document Cover Sheet

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

The document following this cover sheet is an imaged document supplied by LANDATA®, Secure Electronic Registries Victoria.

Document Type	Instrument
Document Identification	AT565404K
Number of Pages (excluding this cover sheet)	11
Document Assembled	01/04/2025 09:01

Copyright and disclaimer notice:

© State of Victoria. This publication is copyright. No part may be reproduced by any process except in accordance with the provisions of the Copyright Act 1968 (Cth) and for the purposes of Section 32 of the Sale of Land Act 1962 or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA® System. None of the State of Victoria, LANDATA®, Secure Electronic Registries Victoria Pty Ltd (ABN 86 627 986 396) as trustee for the Secure Electronic Registries Victoria Trust (ABN 83 206 746 897) accept responsibility for any subsequent release, publication or reproduction of the information.

The document is invalid if this cover sheet is removed or altered.

Date 11/08/2020

**Agreement under section 173
of the Planning and Environment Act 1987**
Subject Land: 100 Nicholson-Sarsfield Road, Nicholson

East Gippsland Shire Council
and

Englobo Properties Australia Pty Ltd

Contents

1.	Definitions.....	1
2.	Interpretation	3
3.	Purposes of Agreement.....	3
4.	Reasons for Agreement.....	4
5.	Agreement required	4
6.	Owner's specific obligations	4
	6.1 Subdivision.....	4
	6.2 Building Envelope	4
	6.3 Building Exclusion Zone	4
	6.4 Other Lots	4
	6.5 Landscape Buffer.....	4
	6.6 Access	5
	6.7 Fencing	5
7.	Owner's further obligations	5
	7.1 Notice and registration.....	5
	7.2 Further actions	5
	7.3 Council's costs to be paid	5
8.	Agreement under section 173 of the Act	6
9.	Owner's warranties	6
10.	Successors in title	6
11.	General matters	6
	11.1 Notices	6
	11.2 No waiver	6
	11.3 Severability	7
	11.4 No fettering of Council's powers	7
	11.5 Inspection of documents.....	7
	11.6 Governing law	7
12.	Commencement of Agreement.....	7

Agreement under section 173 of the Planning and Environment Act 1987

Dated 11 / 08 / 2020

Parties

Name	East Gippsland Shire Council
Address	273 Main Street, Bairnsdale, Victoria
Short name	Council
Name	Englobo Properties Australia Pty Ltd
Address	Level 2, 651 Doncaster Road, Doncaster, Victoria
Short name	Owner

Background

- A. Council is the responsible authority for the Planning Scheme.
- B. The Owner is the registered proprietor of the Subject Land.
- C. Council has granted the Planning Permit authorising subdivision of the Subject Land subject to conditions. This Agreement is to give effect to condition 5 of the Planning Permit.
- D. The parties enter into this Agreement to achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

The Parties agree

1. Definitions

In this Agreement unless the context admits otherwise:

Act means the *Planning and Environment Act 1987*.

Agreement means this Agreement and includes this Agreement as amended from time to time.

Building has the same meaning as in the Act.

Building Envelope means that part of Lots 7 to 11 (inclusive) and Lots 60 to 65 (inclusive) which is identified and delineated on the Endorsed Plan as 'building envelope' or the like.

Building Exclusion Zone means that part of Lot 1 and Lots 36 to 50 (inclusive) which is identified and delineated on the Endorsed Plan as 'building exclusion zone' or the like.

Building Regulations means the *Building Regulations 2018*.

Current Address means:

- (a) for Council, the address shown on page one of this Agreement, or any other address listed on Council's website; and
- (b) for the Owner, the address shown on page one of this Agreement or any other address provided by the Owner to Council for any purpose relating to the Subject Land.

Current Email means:

- (a) for Council, feedback@egipps.vic.gov.au, or any other email address listed on Council's website; and
- (b) for the Owner, any email address provided by the Owner to Council for the express purpose of electronic communication regarding this Agreement or any other email address provided by the Owner to Council for any purpose or purposes relating to the Subject Land.

Development Plan means the development plan for the Subject Land, as amended from time to time, approved by Council on 16 November 2017 in accordance with Schedule 9 to the Development Plan Overlay and clause 43.04 of the Planning Scheme. A copy of the Development Plan is available for inspection at Council offices during normal business hours upon giving Council reasonable notice.

Endorsed Plan means the plan endorsed with the stamp of Council from time to time as the plan which forms part of the Planning Permit. A copy of the Endorsed Plan is available for inspection at Council offices during normal business hours upon giving Council reasonable notice.

Landscape and Open Space Master Plan means the landscape and open space master plan forming part of the Development Plan.

Landscape Buffer means that part of the Subject Land which is identified and delineated in the Landscape Buffer Plan as 'landscape buffer' or the like.

Landscape Buffer Plan means the plan approved by Council from time to time in accordance with condition 14 of the Planning Permit. A copy of the Landscape Buffer Plan is available for inspection at Council offices during normal business hours upon giving Council reasonable notice.

Lot means a lot on the Endorsed Plan.

Owner means the person registered or entitled from time to time to be registered as proprietor of an estate in fee simple of the Subject Land and includes a mortgagee-in-possession.

Owner's obligations includes the Owner's specific obligations and the Owner's further obligations.

Party or Parties means the Parties to this Agreement but does not include a person who has transferred or otherwise disposed of all of their interests in the Subject Land.

Planning Permit means planning permit no. 207/2018/P, as amended from time to time, issued on 7 February 2019, authorising subdivision, works and removal of vegetation on the Subject Land in accordance with plans endorsed by Council.

Planning Scheme means the East Gippsland Planning Scheme and any other planning scheme that applies to the Subject Land.

Reserve Lots means the Lots sharing a common boundary with a reserve, being Lots 1 to 11 (inclusive), Lots 20 to 25 (inclusive), Lots 36 to 59 (inclusive), Lots 60 to 65 (inclusive) and Lot 74.

Subject Land means the land situated at 100 Nicholson-Sarsfield Road, Nicholson being the land referred to in certificate of title volume 8101 folio 452 and any reference to the Subject Land includes any Lot created by the subdivision of the Subject Land or any part of it.

2. Interpretation

In this Agreement unless the context admits otherwise:

- 2.1 the singular includes the plural and vice versa;
- 2.2 a reference to a gender includes all genders;
- 2.3 a reference to a person includes a reference to a firm, corporation or other corporate body and that person's successors in law;
- 2.4 any agreement, representation, warranty or indemnity by 2 or more persons (including where 2 or more persons are included in the same defined term) binds them jointly and severally;
- 2.5 a term used has its ordinary meaning unless that term is defined in this Agreement. If a term is not defined in this Agreement and it is defined in the Act, it has the meaning as defined in the Act;
- 2.6 a reference to an Act, regulation or the Planning Scheme includes any Act, regulation or amendment amending, consolidating or replacing the Act, regulation or Planning Scheme;
- 2.7 the Background forms part of this Agreement;
- 2.8 the Owner's obligations take effect as separate and several covenants which are annexed to and run at law and equity with the Subject Land; and
- 2.9 any reference to a clause, schedule, page, condition, attachment or term is a reference to a clause, schedule, page, condition, attachment or term of this Agreement.

3. Purposes of Agreement

The Parties acknowledge and agree that the purposes of this Agreement are to:

- 3.1 give effect to the terms of the Planning Permit; and

- 3.2 achieve and advance the objectives of planning in Victoria and the objectives of the Planning Scheme in respect of the Subject Land.

4. Reasons for Agreement

The Parties acknowledge and agree that Council has entered into this Agreement for the following reasons:

- 4.1 Council would not have approved the Planning Permit without the condition requiring this Agreement; and
- 4.2 the Owner has elected to enter into this Agreement in order to take the benefit of the Planning Permit.

5. Agreement required

The Parties agree that this Agreement will continue to be required unless Council confirms in writing that it is no longer required.

6. Owner's specific obligations

The Owner covenants and agrees that:

6.1 Subdivision

- 6.1.1 the Subject Land may only be subdivided in accordance with the Planning Permit and the conditions of the Planning Permit;

6.2 Building Envelope

- 6.2.1 the Owner of any of Lots 7 to 11 (inclusive) or Lots 60 to 65 (inclusive) must not construct, or permit or allow to be constructed, a Building outside a Building Envelope;

6.3 Building Exclusion Zone

- 6.3.1 the Owner of Lot 1 or any of Lots 36 to 50 (inclusive) must not construct, or permit or allow to be constructed, a Building within the Building Exclusion Zone;

6.4 Other Lots

- 6.4.1 the Owner of a Lot not specified in clause 6.2 or clause 6.3 is not subject to any restrictions on the construction of a Building, other than those contained in the Planning Scheme and the Building Regulations;

6.5 Landscape Buffer

- 6.5.1 the Owner must maintain any indigenous vegetation in the Landscape Buffer and replace any dead and diseased vegetation in the Landscape Buffer:
- (a) at all times;
 - (b) at the full cost of the Owner; and

(c) to the satisfaction of Council;

6.6 Access

6.6.1 direct vehicle access between Lot 1, Lots 36 to Lots 54 (inclusive) and Lot 74 and Nicholson-Sarsfield Road is prohibited;

6.7 Fencing

6.7.1 the Owner must ensure that fencing along the boundary of a Reserve Lot and a reserve is:

- (a) consistent with the Landscape and Open Space Master Plan;
- (b) at least 50% transparent; and
- (c) maintained at all times;

at the full cost of the Owner to the satisfaction of Council.

7. Owner's further obligations

7.1 Notice and registration

The Owner must bring this Agreement to the attention of all prospective occupiers, purchasers, lessees, licensees mortgagees, chargees, transferees and assigns.

7.2 Further actions

The Owner:

- 7.2.1 must do all things necessary to give effect to this Agreement;
- 7.2.2 consents to Council applying to the Registrar of Titles to record this Agreement on the certificate of title of the Subject Land in accordance with section 181 of the Act; and
- 7.2.3 agree to do all things necessary to enable Council to do so, including:
 - (a) sign any further agreement, acknowledgment or document; and
 - (b) obtain all necessary consents to enable the recording to be made.

7.3 Council's costs to be paid

The Owner must pay to Council, within 14 days after a written request for payment, Council's costs and expenses (including legal expenses) relating to this Agreement, including:

- 7.3.1 preparing, drafting, finalising, signing, recording and enforcing this Agreement;
- 7.3.2 preparing, drafting, finalising and recording any amendment to this Agreement; and
- 7.3.3 preparing, drafting, finalising and recording any document to give effect to the ending of this Agreement.

7.4 Interest for overdue money

- 7.4.1 The Owner must pay to Council interest in accordance with section 227A of the *Local Government Act* 1989 on any amount due under this Agreement that is not paid by the due date.
- 7.4.2 If interest is owing, Council will apply any payment made to interest and any balance of the payment to the principal amount.

8. Agreement under section 173 of the Act

Without limiting or restricting the respective powers to enter into this Agreement, and insofar as it can be so treated, this Agreement is made as a deed in accordance with section 173 of the Act.

9. Owner's warranties

The Owner warrants that apart from the Owner and any other person who has consented in writing to this Agreement, no other person has any interest, either legal or equitable, in the Subject Land which may be affected by this Agreement.

10. Successors in title

Until such time as a memorandum of this Agreement is recorded on the certificate of title of the Subject Land, the Owner must require successors in title to:

- 10.1 give effect to this Agreement; and
- 10.2 enter into a deed agreeing to be bound by the terms of this Agreement.

11. General matters

11.1 Notices

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

- 11.1.1 personally on the other Party;
- 11.1.2 by leaving it at the other Party's Current Address;
- 11.1.3 by posting it by prepaid post addressed to the other Party at the other Party's Current Address; or
- 11.1.4 by email to the other Party's Current Email.

11.2 No waiver

Any time or other indulgence granted by Council to the Owner or any variation of this Agreement or any judgment or order obtained by Council against the Owner does not amount to a waiver of any of Council's rights or remedies under this Agreement.

11.3 Severability

If a court, arbitrator, tribunal or other competent authority determines that any part of this Agreement is unenforceable, illegal or void then that part is severed with the other provisions of this Agreement remaining operative.

11.4 No fettering of Council's powers

This Agreement does not fetter or restrict Council's power or discretion to make decisions or impose requirements or conditions in connection with the grant of planning approvals or certification of plans subdividing the Subject Land or relating to use or development of the Subject Land.

11.5 Inspection of documents

A copy of any planning permit, document or plan referred to in this Agreement is available for inspection at Council offices during normal business hours upon giving the Council reasonable notice.

11.6 Governing law

This Agreement is governed by and is to be construed in accordance with the laws of Victoria.

12. Commencement of Agreement

This Agreement commences on the date specified on page one or if no date is specified on page one, the date Council executes this Agreement.

Signing Page

Signed, sealed and delivered as a deed by the Parties.

The Common Seal of the East Gippsland Shire Council was hereunto affixed on the 11th day of August 2020 in the presence of:

..... 11.8.2020 Chief Executive
 Colin Gird Witness



Executed by Englobo Properties Australia Pty Ltd
 ACN 095 299 684 in accordance with s127(1) of the
 Corporations Act 2001:

.....
 Sole Director and Sole Company Secretary
 Print Name: MASSIMO LIVIO CELLANTE

Verification of Identity (VOI) – Registrar of Titles Requirements

Background and Purpose of this Form

The Registrar of Titles requires Planology to take reasonable steps to verify the identity of the person signing documents relating to property transactions, which includes agreements under section 173 of the *Planning and Environment Act 1987 (Act)* (the **Documents**):

Standard VOI procedures require that we personally attend a face to face interview with the signatory and sight original photo identity documents each and every time a Document is signed by Council. However, it is possible for us to take other steps to verify the identity of signatories to Documents as long as we consider them to be reasonable. We consider that this form can be used to show that we have taken the requisite 'reasonable steps' without putting Councillors and Council staff to significant inconvenience each time a Document needs to be signed.

Instructions

A Document must be executed by the duly authorised representative of Council in the presence of a witness (who must be a Council officer) for the purposes of this Form.

The witness to the execution should complete this form by inserting their details and indicating their chosen option where indicated.

The completed form should then be signed by the witness and forwarded to us with the executed Document.

VOI Form (Please complete this section)

I, Jenny Boyd [insert name of Council officer],
Land Use Administration [insert position], of East Gippsland
 Shire Council (**Council**), confirm that the section 173 agreement (**Document**) in respect of
 100 Nicholson-Sarsfield Road, Nicholson was executed by or on behalf of Council by
Anthony Basford [insert name of signatory]
 (**Signatory**) who is known to me personally and who I know holds the office or acts in the
 capacity described in the execution clause in the Document. I confirm that:

1. the Signatory executed the Document in person before me; and
2. the Signatory is not related to me; and
3. I am not a party to the Document.

I understand that Planology will rely on this statement to satisfy the VOI requirement that they have taken reasonable steps to verify the identity of the Signatories of the Document.

Signed: Jenny Boyd 

Name:

Date: 26/08/2020



Department of Environment, Land, Water & Planning

ADVERTISED
This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

Electronic Instrument Statement

Copyright State of Victoria. No part of this publication may be reproduced except as permitted by the Copyright Act 1968 (Cth), to comply with a statutory requirement or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA REGD TM System. None of the State of Victoria, its agents or contractors, accepts responsibility for any subsequent publication or reproduction of the information.

The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

Produced 01/04/2025 09:28:18 AM

Status	Registered	Dealing Number	AU373186D
Date and Time Lodged	24/05/2021 02:14:21 PM		

Lodger Details

Lodger Code
Name
Address
Lodger Box
Phone
Email
Reference

TRANSFER

Jurisdiction	VICTORIA
--------------	----------

Privacy Collection Statement

The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Land Title Reference

12270/972

Transferor(s)

Name	ENGLOBO PROPERTIES AUSTRALIA PTY LTD
ACN	095299684

Estate and/or Interest being transferred

Fee Simple

Consideration

\$AUD 237500.00

Transferee(s)

Tenancy (inc. share)	TENANTS IN COMMON 25 / 100
----------------------	----------------------------

Given Name(s)	BRADLEY DANIEL
Family Name	MORRISON
Address	
Street Number	
Street Name	



Department of Environment, Land, Water & Planning

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

Electronic Instrument Statement

Street Type
Locality
State
Postcode

Tenancy (inc. share)	TENANTS IN COMMON 75 / 100
Given Name(s)	LAUREN PATRICIA
Family Name	MADELEY
Address	
Street Number	
Street Name	
Street Type	
Locality	
State	
Postcode	

Covenants

The registered proprietors of the burdened land covenant with the registered proprietors of the benefited land as set out in the restrictive covenant with the intent that the burden of the restrictive covenant runs with and binds the burdened land and the benefit of the restrictive covenant is annexed to and runs with the benefited land.

Burdened land	the Land
Benefited land	MCP: AA6891
Restrictive covenant	MCP: AA6891
Expiry Date	

Duty Transaction ID
5105614

The transferor transfers to the transferee their estate and/or interest in the land specified for the consideration, subject to any restrictive covenant set out or referred to in this transfer.

Execution

1. The Certifier has taken reasonable steps to verify the identity of the transferor or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	ENGLOBO PROPERTIES AUSTRALIA PTY LTD
Signer Name	MICHAEL KENNY
Signer Organisation	QUEEN ST LEGAL GROUP PTY LTD
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Execution Date	24 MAY 2021



Department of Environment, Land, Water & Planning

ADVERTISED

This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

Electronic Instrument Statement

Execution

1. The Certifier has taken reasonable steps to verify the identity of the transferee or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on	BRADLEY DANIEL MORRISON
behalf of	LAUREN PATRICIA MADELEY
Signer Name	ALECIA JANE BASSETT
Signer	EASTCOAST CONVEYANCING
Organisation	
Signer Role	LICENSED CONVEYANCER
Execution Date	24 MAY 2021

File Notes:

NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

Our ref: 21139

9 September 2025

Penny Cross
Statutory Planning Officer
East Gippsland Shire Council
Via email: planning@egipps.vic.gov.au

Dear Penny,

**Re: Proposal to End Section 173 Agreement AT565404K
22 Whitworth Drive, Nicholson
Lot 62 on Plan of Subdivision 824715M**

Further to our recent discussions we seek to vary the intended change to the Owners obligations imposed under a Section 173 Agreement. The request to end the existing Agreement is maintained, but on the basis that the proposed Owner's obligations are varied from that which was originally proposed.

The request now relies on the following submission.

Planning History Associated with the Building Envelope

As part of the rezoning of the subject land to Township Zone the property became subject to a Development Plan Overlay, Schedule 9. The Development Plan Overlay, Schedule 9 provisions, stipulates that lots with a frontage to the Nicholson River require building envelopes.

A Development Plan was approved for the estate on the 16 November 2017. At 6.1 of the Development Plan building guidelines were approved for lots that had a frontage to the Nicholson River. The building guidelines sought to ensure quality housing was developed with an appropriate appearance from the public realm, provide for low scale buildings, reduce the visual appearance of built form where possible and allow for view sharing corridors between dwellings.

The subsequent planning permit 207/2018/P which approved the multi-lot subdivision (staged), works and removal of vegetation at 100 Nicholson-Sarsfield Road, Nicholson, included condition 5.b) that a section 173 agreement be entered into with the responsible authority which provided that structures must not be built outside the nominated building envelopes as endorsed as part of the permit, on lots 7 to 11 and 60 to 65 (all inclusive).

Section 173 Agreement AT565404K (the Agreement)

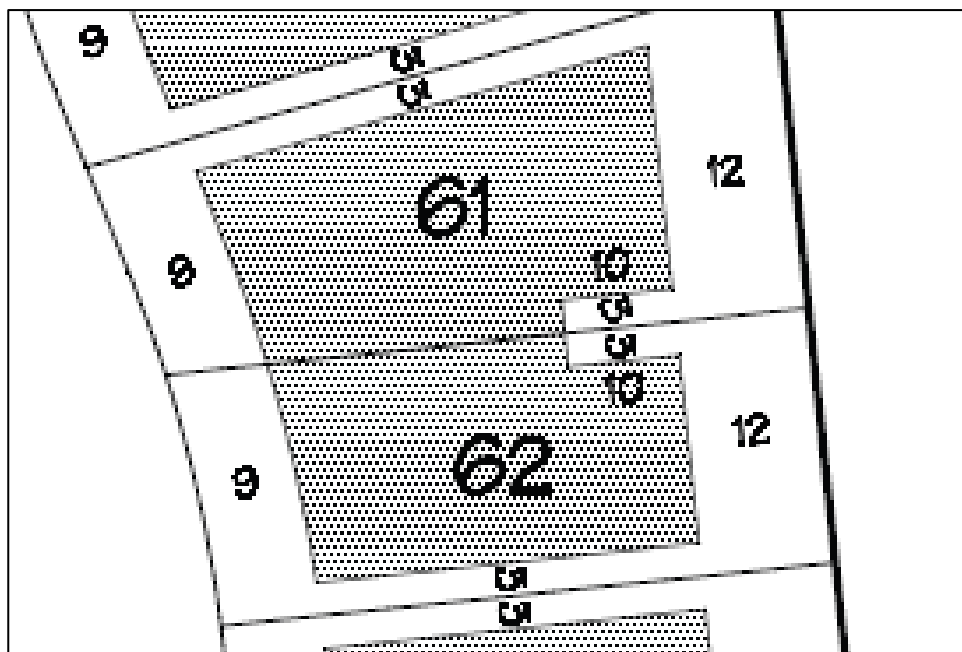
The Owners obligations at Clause 6.2.1 of the Agreement states:



FS 520900



The Owner of any of Lots 7 to 11 (inclusive) or Lots 60 to 65 (inclusive) must not construct, or permit or allow to be constructed, a Building outside a Building Envelope.



Extract of the building envelope plan as it relates to the subject land

The subject land is developed with an existing dwelling and outbuilding within a residential estate which is seeing residential development taking place.



Aerial image of the subject land and surrounds (Source: Google Earth)



Established dwelling at 62 Whitworth Drive, Nicholson

The owners of the subject land want to construct an inground swimming pool on the north side of the dwelling. The swimming pool will for the most part be contained within the existing building envelope that extends along the northern side boundary. A short section of the pool would extend outside the Building Envelope for a length of 4.0 metres and width of 2.2 metres adjacent to the alfresco area at the north-east corner of the dwelling.



An awning has also been constructed on the south side of the shed and outside the Building Envelope. The awning extends toward the southern side boundary without protruding above the height of the boundary fence.



View of existing shed with awning from south-east corner of the property

In many circumstances a Section 173 Agreement will afford Council the discretion to provide consent for structures to be built outside a building envelope when considered appropriate to do so. Unfortunately, no such discretion has been included within Clause 6.2.1 of the current Agreement.

We believe the construction of the inground swimming pool and potentially other appropriate structures that can meet the intent of the agreement and will result in structures that are not highly visible from the street and retain view sharing opportunities.



View of subject land from Whitworth Drive

Application to end Agreement AT565404K

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

Purpose of the Agreement

We are of the understanding that the purpose of the section 173 agreement, apart from having to be entered into to satisfy condition 5 of planning permit 207/2018/P, was to ensure quality built form on the lots fronting the Nicholson River, development of lower scale buildings, reduced visual appearance of built form and allowing for view sharing opportunities to be provided.

Why the Agreement is no longer required

The agreement as it is currently drafted, does not reflect the intent as to why the agreement was entered into and has unintentional restrictions upon property development.

As discussed with senior planning officers in a pre-application meeting it was agreed that the restriction of an inground pool and associated equipment was not the intent of the building envelopes.

Given the intent of the agreement in part was to provide for view sharing, provide for a break in built form and reduce visual appearance, we would suggest that a new agreement could include a requirement for the owner to obtain the written consent from the Responsible Authority for the construction of a building, outside the building envelope.

We propose a new agreement include the following requirement to replace 6.2.1 of the existing agreement (AT565404K):

6.2 Building Envelope

Except with the prior written consent of the Responsible Authority the Owner of the subject land must not construct, or permit or allow to be constructed, any Building outside the Building Envelope.

We anticipate as part of the proposal to end the agreement; Council would require the owner to enter into of a new agreement (to reflect other requirements of agreement AT565404K, and a change to requirement 6.2.1 prior to the agreement being formally ended.

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

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

The reasons why the responsible authority entered into the agreement

The agreement was appropriately entered into by Council at the time in accordance with conditions on Planning Permit 207/2018/P.

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

The subject land title includes a restriction on title, which states:

The registered proprietor or proprietors for the time being of lots 1 – 74 (both inclusive). Reserve No's 8, 9, 10 & 11 and R2 on this plan shall not:

Construct a dwelling on a lot without a rainwater tank having a minimum 5000 litre storage capacity and installed to collect all runoff from the roof of the dwelling, providing a detention volume of 1200 litres and used as the primary water source for the flushing of toilets and laundry and external tap for watering of gardens.

The proposal to end the agreement will not conflict with this requirement.

Any other prescribed matter

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

The Regulations

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

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

Regulation 55(a) - we confirm the joint applicants (owners) for the request to end the Agreement are:

Name	Address	Phone Number	Property Description
Bradley Daniel Morrison	22 Whitworth Drive, Nicholson	0408 427 979	Lot 62 on PS 824715M
Lauren Patricia Madeley	22 Whitworth Drive, Nicholson	0438 446 703	Lot 62 on PS 824715M

C/- Crowther & Sadler Pty. Ltd of 152 Macleod Street, Bairnsdale, Victoria, 3875. Phone number for the Applicant is 5152 5011.

Regulation 55(b) – the agreement AT565404K is to be ended

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

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

Regulation 55(d)(ii) – the proposal seeks to end the agreement as applying to 22 Whitworth Drive, Nicholson.

Regulation 55(d)(iii) – the agreement imposes unnecessary restrictions on the land and conflicts with the owner’s desire to better utilise their property.

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

Payment to the *East Gippsland Shire Council* in the amount of \$726.70 (Regulation 16) has been made to facilitate the processing of this request.

East Gippsland Shire Council

We trust this information provides sufficient detail to facilitate Council's commencement of the process associated with the ending of the agreement as it applies to the subject land.

Should you have any questions please contact our office.

Regards,



RICHARD HOXLEY
Principal Planner