

NOTICE OF AN APPLICATION FOR PLANNING PERMIT

The land affected by the application is located at:	35 Burden Place PAYNESVILLE VIC 3880 Lot: 2 PS: 748253
The application is for a permit to:	Multi Lot Subdivision, Buildings & Works (Jetties & Roadworks) & Removal of Native Vegetation
A permit is required under the following clauses of the planning scheme:	
Planning Scheme Clause	Matter for which a permit is required
Clause 32.04-4	Subdivision in the Mixed Use Zone
Clause 43.02-2	Buildings and Works in the Design and Development Overlay
Clause 43.02-3	Subdivision in the Design and Development Overlay
Clause 44.04-2	Buildings and Works in the Land Subject to Inundation Overlay
Clause 44.04-3	Subdivision in the Land Subject to Inundation Overlay
Clause 52.17-1	Native Vegetation
The applicant for the permit is:	Crowther & Sadler Pty Ltd
The application reference number is:	5.2026.137.1

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.

April McDonald

From: Snapforms Notifications <no-reply@snapforms.com.au>
Sent: Monday, 11 May 2026 4:56 PM
To: Planning Unit Administration
Subject: Planning Permit application
Attachments: 21176 Encroachment Diag V1.pdf; 21176 Planning Report.pdf; 21176 Prop V2.pdf; 21176 Veg Removal V1.pdf; 21176 Jetty Site Layout Plan V1.pdf; Site Drainage plan-G and Catchment Plan-G 13 April 2026.pdf; Jetty Elevation Plan REV A - The Jetty Specialist.pdf; COT Vol11897 Fol496.pdf; 16006 Land Manager Consent .pdf; 21176 Design Response V5.pdf; Access and Servicing Strategy 2057- 100-103 G.pdf; Planning_Permit_Application_2026-05-11T16-55-46_33533541_0.pdf; attachment_errors.txt; Biodiversity Assessment EHP April 2026.pdf; Tree Summary Report - R2L 15 Feb 2026.pdf; CHMP 19236_18August2023_with RAP approval (4).pdf

Planning Permit Application

A "Planning Permit Application" has been submitted via the East Gippsland Shire Council website, the details of this submission are shown below:

Applicant name: Crowther & Sadler Pty Ltd

Business trading name: Crowther & Sadler Pty Ltd

Email address:

Postal address : PO Box 722, Bairnsdale Vic 3875

Preferred phone number: 0351525011

Owner's business trading name (if applicable): Paynesville Point Pty Ltd

Owner's postal address: Mornington Vic 3931

Street number: 35

Street name: Burden Place

Town: Paynesville

Post code: 3880

Lot number: 2

Plan number: PS748253X

Is there any encumbrance on the Title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?: Yes

Will the proposal result in a breach of a registered covenant restriction or agreement?: No

Existing conditions : Vacant land contained within the Mixed Use Zone

Description of proposal : Multi Lot Subdivision, Buildings & Works (Jetties & Roadworks) & Removal of Native Vegetation

Estimated cost of development: 1,100,000

Has there been a pre-application meeting: Yes

Officer's name: Robert Pringle

Your reference number: 21176

ExtraFile: 11

Declaration: Yes

Authority Check: Yes

Notice Contact Check: Yes

Notice check 2: Yes

Privacy Statement Acknowledge: Yes

4. Supporting information/reports: [21176 Encroachment Diag V1.pdf](#)

Planning report: [21176 Planning Report.pdf](#)

9. Supporting information/reports: [Biodiversity Assessment EHP April 2026.pdf](#)

8. Supporting information/reports: [CHMP 19236_18August2023_with RAP approval \(4\).pdf](#)

Plans: [21176 Prop V2.pdf](#)

2. Supporting information/reports: [21176 Veg Removal V1.pdf](#)

3. Supporting information/reports: [21176 Jetty Site Layout Plan V1.pdf](#)

7. Supporting information/reports: [Site Drainage plan-G and Catchment Plan-G 13 April 2026.pdf](#)

5. Supporting information/reports: [Jetty Elevation Plan REV A - The Jetty Specialist.pdf](#)

Full copy of Title: [COT Vol11897 Fol496.pdf](#)

- 10. Supporting information/reports:** [Tree Summary Report - R21_15 Feb 2026.pdf](#)
- 11. Supporting information/reports:** [16006 Land Manager Consent.pdf](#)
- 1. Supporting information/reports:** [21176 Design Response V5.pdf](#)
- 6. Supporting information /reports:** [Access and Servicing Strategy 2057- 100-103 G.pdf](#)

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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.

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

VOLUME 11897 FOLIO 496

Security no : 124134534156A
Produced 11/05/2026 04:20 PM

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 748253X.
PARENT TITLES :
Volume 10949 Folio 730 Volume 10949 Folio 747
Created by instrument PS748253X 10/07/2017

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
PAYNESVILLE POINT PTY LTD
PS748253X 10/07/2017

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT AL144034L 12/06/2014

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
AN841019C 17/05/2017

DIAGRAM LOCATION

SEE PS748253X 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: 35 BURDEN PLACE PAYNESVILLE VIC 3880

DOCUMENT END

Delivered from the LANDATA System by Dye & Durham Terrain Pty Ltd

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PLAN OF SUBDIVISION				EDITION 1	PS 748253X
LOCATION OF LAND PARISH: BAIRNSDALE TOWNSHIP: _____ SECTION: _____ CROWN ALLOTMENT: 146 & 146 ^G (PARTS) CROWN PORTION: _____ TITLE REFERENCE: VOL 10949 FOL 730 VOL 10949 FOL 747 LAST PLAN REFERENCE: LOTS 1 & A - PS545181D POSTAL ADDRESS: (at time of subdivision) 1 THE INLET & 35 BURDEN PLACE, PAYNESVILLE 3880 MGA CO-ORDINATES: E: 563 360 ZONE: 55 (of approx centre of land N: 5804 670 GDA 84 in plan)				Council Name: East Gippsland Shire Council Council Reference Number: PS748253X Planning Permit Reference: 317/2015/P SPEAR Reference Number: S088328V Certification This plan is certified under section 6 of the Subdivision Act 1988 Public Open Space A requirement for public open space under section 18 of the Subdivision Act 1988 has not been made Digitally signed by: Aaron David Hollow for East Gippsland Shire Council on 19/10/2016 Statement Of Compliance issued: 25/05/2017	
VESTING OF ROADS AND/OR RESERVES				NOTATIONS	
IDENTIFIER	COUNCIL/BODY/PERSON			THE DIMENSIONS OF LOT 2 ARE NOT THE SUBJECT OF THIS SURVEY THE AREA OF LOT 2 IS BY DEDUCTION FROM TITLE	
NIL	NIL				
NOTATIONS					
DEPTH LIMITATION		15 METRES BELOW THE SURFACE APPLIES TO CROWN ALLOTMENT 146G ONLY			
SURVEY: This plan is based on survey. STAGING: This is not a staged subdivision. Planning Permit No. 317/2015/P This survey has been connected to permanent marks No(s). 434 In Proclaimed Survey Area No.					
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	DRAINAGE	2	PS545181D	EAST GIPPSLAND SHIRE COUNCIL	
Crowther & Sadler Pty. Ltd. LICENSED SURVEYORS & TOWN PLANNERS 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875 P. (03) 5162 8011 E. contact@crowthersadler.com.au		SURVEYORS FILE REF: 16005 Digitally signed by: Michael Joseph Sadler (Crowther & Sadler - Crowther & Sadler), Surveyor's Plan Version (1), 07/07/2016, SPEAR Ref: S088328V		ORIGINAL SHEET SIZE: A3 PLAN REGISTERED TIME: 10:03 am DATE: 7/8/2016 Ian D Thomson Assistant Registrar of Titles	SHEET 1 OF 2 SHEETS

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Application by a Responsible Authority for the making of a Recording of an Agreement

Section 181 **Planning and Environment Act 1987**



Form 21

Lodged by:

Name: MADDOCKS
Phone: 03 9258 3555
Address: Collins Square, Tower Two, Level 25, 727 Collins Street Melbourne VIC 3008
Ref: KAL:A01C:7061523
Customer Code: 1167E

The Authority having made an agreement referred to in section 181(1) of the **Planning and Environment Act 1987** requires a recording to be made in the Register for the land.

Land: Volume 10949 Folio 747 and Volume 10949 Folio 730

Responsible Authority: East Gippsland Shire Council of 273 Main Street, Bairnsdale, Victoria

Section and Act under which agreement made: Section 173 of the *Planning and Environment Act 1987*

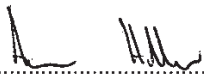
A copy of the agreement is attached to this application

Signature for the Authority:

Name of officer:

Position Held:

Date:


.....
Aaron Hollow
.....
Manager Statutory services
.....
09/05/2017
.....

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Maddocks

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Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Agreement under section 173 and Section 177 of the Planning and Environment Act 1987

Subject Land: 1 The Inlet and 35 Burden Place, Paynesville

East Gippsland Shire Council
and

Paynesville Point Pty Ltd
ACN 167 897 083



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AN841019C



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Agreement under section 173 of the Planning and Environment Act 1987

Dated 13/04/2017

Parties

Name	East Gippsland Shire Council
Address	273 Main Street, Bairnsdale, Victoria
Short name	Council

Name	Paynesville Point Pty Ltd ACN 167 897 083
Address	Unit 2, 12 Trehwitt Court, Dromana, Victoria
Short name	Owner

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17/05/2017 \$92.70 173



Background

- A. Council is the responsible authority for the Planning Scheme.
- B. The Owner is or is entitled to be the registered proprietor of the Subject Land.
- C. Council issued the Planning Permit requiring the Owner to enter into this Agreement providing for the matters set out in condition 5 & 6 of the Planning Permit.
- D. There are two (2) agreements under section 173 of the Act recorded on the certificate of title of the Subject Land. This first agreement was recorded on the title of the Subject Land on 27 June 2002 in dealing number AB373429T and the second agreement was recorded on the title of the Subject Land on 17 November 2004 in dealing no. AD247186G.

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.

CPI means the annual Consumer Price Index (All Groups-Melbourne) as published by the Australian Bureau of Statistics, or, if that index number is no longer published, its substitute

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as a cumulative indicator of the inflation rate in Australia, as determined by Council from time to time.

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.

Development means the development of the Subject Land, including:

- (a) the construction of all Buildings;
- (b) the construction or carrying out of all Works; and
- (c) Development Activities.

Development Activities includes:

- (a) access to, and parking on, the Subject Land by vehicles, including trailers;
- (b) delivery, placement and storage of building and construction equipment and materials; and
- (c) delivery and placement of temporary buildings, including portable toilets and site offices.

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.

First Agreement means the agreement under section 173 of the Act made between Council and Hoddle Securities Limited A.B.N. 86 061 677 218 dated 27 June 2002 and recorded pursuant to instrument AB373429T.

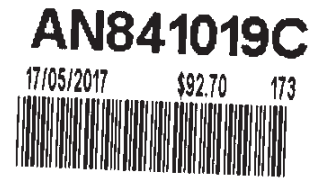
Foundation Construction Zone means that part of the Subject Land which is identified as the 'foundation construction zone' or the like on the Endorsed Plans.

Indexation means an annual adjustment to the Satisfaction Fee carried out in accordance with CPI.

Lot means a lot created by a subdivision of the Subject Land whether in accordance with the Planning Permit or otherwise.

Lot 1 means the area described as 'Lot 1' or '1' or the like on the Plan of Subdivision.

Mitigation Works means works to mitigate the effect of sea level rise in accordance with plans prepared by a suitably qualified engineer and approved by Council from time to time.



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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.

Plan of Subdivision means the approved plan of subdivision or any other plan which depicts the subdivision of the Subject Land as approved by Council from time to time under the Planning Permit.

Planning Permit means planning permit no. 317/2015/P, as amended from time to time, issued on 25 January 2016, authorising subdivision of the Subject Land into 2 lots on the Subject Land in accordance with the Endorsed Plan.

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

Revetment Wall means that part of the land which is shown as the 'canal revetment wall' or the like on the Endorsed Plans.

Satisfaction Fee means a fee payable by the Owner to Council for determining whether any one of the Owner's obligations has been undertaken to Council's satisfaction, or for deciding whether to give consent for anything this Agreement provides must not be done without Council's consent, and which is payable at the rate of:

- (a) \$229.20 if paid within 12 months from the date that this Agreement commences; or
- (b) \$229.20 plus Indexation if paid at any time after 12 months from the date that this Agreement commences.

Second Agreement means the agreement under section 173 of the Act made between Council and Riviera Properties Projects Limited A.B.N. 86 061 677 218 dated 17 November 2004 and recorded pursuant to instrument AD247186G.

Subdivision means the subdivision of the Subject Land authorised by the Planning Permit.

Subject Land means the land situated at 1 The Inlet and 35 Burden Place, Paynesville being the land referred to in certificates of title volume 10949 folio 747 and volume 10949 folio 730 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;

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- 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, page, condition, attachment or term is a reference to a clause, 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 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 issued 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.

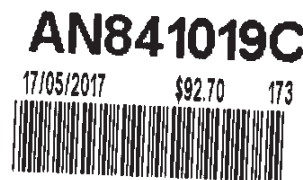
5. Agreement required

The Parties agree that this Agreement will continue to be required until the Owner has complied with all of the Owner's obligations.

6. Owner's specific obligations

6.1 Maintenance and repairs of the Revetment Wall

The Owner of each Lot, at their own cost, is responsible for all maintenance and repair works associated with the Revetment Wall which includes footing and footing foundations.



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6.2 Inspections and associated works

The Owner of each Lot must:

- 6.2.1 ensure the Revetment Wall is inspected every 5 years, or after every flood event, by an independent and appropriately qualified professional to check the structural stability and integrity of the Revetment Wall;
 - 6.2.2 carry out all necessary works and actions as recommended by the inspection assessment to the Revetment wall; and
 - 6.2.3 provide a copy of the inspection assessment and recommendations within one month of the date the inspection and assessment is carried out,
- all at the full cost of the Owner and to the satisfaction of Council.

6.3 Mitigation works

The Owner covenants and agrees that in the event that the Paynesville canal system water level rises permanently above the Revetment Wall, the Owner must at the Owner's full cost:

- 6.3.1 prepare a plan to Council's satisfaction prepared by a suitably qualified engineer setting out the Mitigation Works for Council's approval; and
- 6.3.2 upon the approval by Council of the plan referred to in clause 6.3.1:
 - (a) immediately carry out the Mitigation Works; and
 - (b) thereafter maintain the Mitigation Works.

6.4 Contamination

The Owner of each Lot covenants and agrees to ensure that any operations, actions or practices which take place from either the land or water which form part of the Subdivision and Development will result in no contamination or pollution of the Paynesville canal system.

6.5 Lot 1

The Owner of Lot 1 covenants and agrees that:

- 6.5.1 any habitable structure to be constructed within the Foundation Construction Zone on proposed Lot 1 is to be designed and certified by a suitably qualified engineer; and
- 6.5.2 the Owner must not construct or permit any other person to construct any habitable Structures between the Revetment Wall and the pile construction zone on Lot 1.

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.

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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 s 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 Fees

The Owner must pay any Satisfaction Fee to Council within 14 days after a written request for payment.

7.4 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:

- 7.4.1 preparing, drafting, finalising, signing, recording and enforcing this Agreement;
- 7.4.2 preparing, drafting, finalising and recording any amendment to this Agreement;
- 7.4.3 determining whether any of the Owner's obligations have been undertaken to Council's satisfaction; and
- 7.4.4 preparing, drafting, finalising and recording any document to give effect to the ending of this Agreement.

7.5 Time for determining satisfaction

If Council makes a request for payment of:

- 7.5.1 a fee under clause 7.3; or
- 7.5.2 any costs or expenses under clause 7.4.3,

the Parties agree that Council will not decide whether the Owner's obligation has been undertaken to Council's satisfaction, or whether to grant the consent sought, until payment has been made to Council in accordance with the request.

7.6 Interest for overdue money

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



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7.7 Notification of compliance with Owner's obligations

The Owner must notify Council of its compliance with all of the Owner's obligations.

8. Agreement under s 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 s 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 priority 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.



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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.

13. Ending of Agreement

- 13.1 This Agreement ends when the Owner has complied with all of the Owner's obligations.
- 13.2 After this Agreement has ended, Council will, at the Owner's written request, apply to the Registrar of Titles under s 183(1) of the Act to cancel the record of this Agreement.

14. Termination of First and Second Agreement

- 14.1 The Parties agree that the First and Second Agreements will end pursuant to section 177(2) of the Act at the time that the Registrar of Titles makes a recording of this Agreement in the Register, pursuant to section 181(3) of the Act.
- 14.2 After the ending of the First and Second Agreement, Council will, at the request and expense of the Owner, inform the Registrar of Titles in the prescribed manner of the ending of the First and Second Agreement pursuant to section 183(1) of the Act.

AN841019C



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Signing Page

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

Signed sealed and delivered by the Chief Executive Officer on behalf of the **East Gippsland Shire Council** pursuant to the power delegated to that person by an Instrument of Delegation in the presence of:

CEO: Tony Jeff



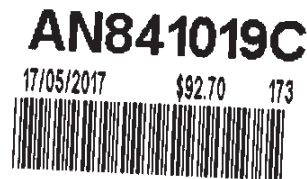
Ad Clare
.....
Witness

ANNE LESLEY CLARE
.....
Print name

Executed by Paynesville Point Pty Ltd ACN 167 897)
083 in accordance with s 127(1) of the Corporations)
Act 2001:)

Grant Andrew Booker
.....
Signature of Director
Grant Andrew Booker
.....
Print full name

DAN HILLINBOTTOM
.....
Signature of Director (or Company Secretary)
DAN HILLINBOTTOM
.....
Print full name



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Transfer of Land

By Mortgagee or Annuitant

Section 77 Transfer of Land Act 1958



Lodged by

Name: Michael Ongarello & Associates Pty Ltd

Phone: (03)9781 1744

Address: Level 2, 454 Nepean Highway FRANKSTON VIC 3199

Reference: 014038

Customer Code: 4419M

The mortgagee or annuitant being the proprietor of the mortgage or charge described in exercise of the power of sale conferred by the Transfer of Land Act 1958 transfers to the transferee the estate and interest of the registered proprietor in the land described for the consideration expressed-

- together with any easements created by this transfer;
- subject to the subsisting encumbrances specified; and
- subject to any easements reserved by this transfer or restrictive covenant contained or covenant created pursuant to statute and included in this transfer.

Land: (volume and folio)

Certificate of Title Volume 10949 Folio 747

Mortgage or Charge number under which power of sale is exercised:

AJ267185T

Consideration:

\$1,064,000.00

Mortgagee or Annuitant: (full name)

GIPPSLAND SECURED INVESTMENTS PTY LIMITED ABN 71 004 860 057 (Receivers and Managers Appointed)

Transferee: (full name and address including postcode)

PAYNESVILLE POINT PTY LTD ACN167 897 083 of 2/12 Trehitt Court, Dromana 3936

Subsisting encumbrances:

The Creation and/or Reservation of Easement and/or Restrictive Covenant set out in the approved Annexure Page A1 (if attached) forms part of this transfer

Dated : 08-04-2014

Execution and attestation:

The Transferee with the intent that the benefit of this covenant shall until the 31st December 2020, be attached to and run at law and in equity with the whole of the land comprised in Plan of Subdivision Number 545181D (other than the land hereby transferred) and that the burden thereof shall be annexed to and run at law and in equity with the said lot hereby transferred and each and every part thereof and that the same shall be noted and appear on every Certificate of Title for the said lot and every part thereof as an encumbrance affecting the same DOTH HEREBY COVENANT with the Transferor and other the registered proprietor or proprietors for the time being of the land comprised in the said Plan of Subdivision (other than the land hereby transferred) that the Transferee will not:

326 9831

Approval No.

T3

Page 1 of 3

Order to Register

Please register and issue the Certificate of Title to

Signed

Original

Section 24

Stamped with \$59,520.00

Doc ID 3269831, 06 Jun 2014

Customer Code 4419M, Date, TRMO

Duty Use Only

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Land Victoria, 570 Bourke Street, Melbourne, 3000, Phone 8636-2010

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AL144034L



Annexure Page

This is page 2 of *Approved Form T3* dated *08-04-2014* between

Gippsland Secured Investments Pty Limited (Receivers and Managers Appointed) and Paynesville Point Pty Ltd [ACN 167 897 083]

Signature of the Parties

- (a) Permit the land hereby transferred or any part thereof to be used for the purpose of commercial breeding or boarding of, or training kennels for, cats or dogs or for the purpose of keeping poultry or pigeons thereon or for the parking garaging or servicing of any motor vehicle in excess of five tonnes gross vehicle mass (GVM) except for the purpose of loading or unloading of goods unless the vehicle is a construction vehicle engaged on construction works thereon or unless the vehicle is a caravan or similar vehicle and does not exceed 2.5 metres in height and is screened from view from the roadways and canals.
- (b) Permit the land hereby transferred or any part thereof to be used for parking, garaging or servicing of any boat (on a trailer or hardstand), caravan, campervan, or similar vehicle unless it is screened from view from the roadways and canals.
- (c) Construct or externally alter or allow to be constructed or externally altered on the land hereby transferred any building or structure (including fences) other than in accordance with plans and specifications previously submitted to and approved in writing by the Transferor or its nominee.
- (d) Permit or authorize any part of the land hereby transferred to be used for the purposes of the drying of clothes, storage of garbage, or housing of gas, fuel or water tanks, or similar uses unless such areas are screened from public view from adjoining roadways and canals.

EXECUTED by PAYNESVILLE POINT PTY LTD)
(ACN 167 897 083) by being signed by the)
person who is authorised to sign for the company:)

Director 
Full Name: Grant Andrew Booker
Usual Address: 49 Pardalote Rise, Red Hill 3937

Director 
Full Name: David Arden Higginbottom
Usual Address: 9 Trafalgar Road, Camberwell 3124

Approval No.

Order to Register

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Customer Code 4419M

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AL144034L



Annexure Page

This is page 3 of Approved Form T3 dated 08-04-2014 between

Gippsland Secured Investments Pty Limited (Receivers and Managers Appointed) and Paynesville Point Pty Ltd [ACN 167 897 083]

Signature of the Parties 

Executed by Gippsland Secured Investments Pty Limited

by being signed by JG 12/6/14

EXECUTED by Adam Nikitius
one of the joint and several receivers and
Managers in accordance with the Corporations Act
2001 (Cth) and the instrument appointing himself



Signature

ADAM NIKITIUS

Full Name

Approval No.

T3

Page 3 of 3

Order to Register

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Page 22 of 77

Planning Report

Multi Lot Subdivision, Buildings & Works (Jetties & Roadworks) & Removal of Native Vegetation
35 Burden Place, Paynesville

Our reference – 21176

May 2026



FS 520900



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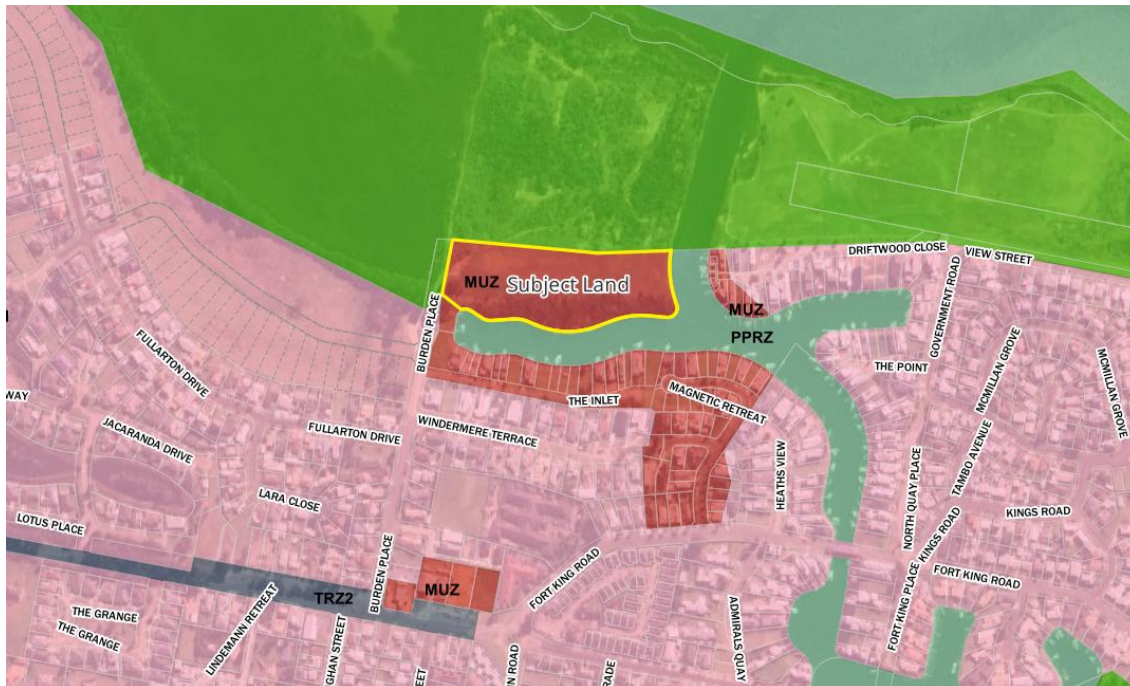
Note: Council has previously agreed to waive application fees for the subject application, on the basis that Planning Application 5.2023.521.1 was withdrawn.

1. Introduction

This Planning Report is prepared in support of proposed Multi Lot Subdivision, Buildings & Works (Jetties & Roadworks) & Removal of Native Vegetation at 35 Burden Place, Paynesville. The Report addresses the provisions of the Mixed Use Zone, Design & Development Overlay – Schedule 2 & Land Subject to Inundation Overlay as contained within the *East Gippsland Planning Scheme*.



Aerial view of subject land and surrounding precinct



Zone mapping and aerial of subject land and surrounding precinct

Background

Planning Application 5.2023.522.1 was lodged on 21 December 2023 seeking approval for a Multi Lot Subdivision, Buildings and Works (Jetties, Boatsheds and Roadworks), and removal of native vegetation on the subject land.

During the planning process, concerns were raised regarding the potential impacts to native vegetation and the construction of boatsheds. In light of these matters, the application was withdrawn to enable the proposal to be reconsidered and refined.

The subject application has reflected on the issues previously raised and represents a more resolved and refined outcome. In particular, the proposal adopts a revised subdivision design which minimises the extent of native vegetation impacts and removes the previously proposed boatsheds from the development.

The key differences between the previous and current application are summarised below.

Element	Withdrawn Application 5.2023.522.1	Subject Application
Subdivision Layout	More conventional layout, typical of that seen elsewhere within the Riviera Harbours estate	Revised layout with larger lots in key areas to reduce vegetation impact, with lots in two parts to ensure each allotment retains an abuttal to the constructed waterway
Boatsheds	Proposed for each lot	Omitted
Native Vegetation	Greater extent of impact, with 100% of vegetation presumed lost, with mechanisms proposed for physical retention	Retention of vegetation maximised as far as possible, with targeted areas of impact kept to a minimal extent
Pathways / Access	Formalised boardwalks connecting building envelopes for Lots 1-10 (inclusive) to constructed waterway	Low-impact crushed rock pathways deliberately aligned to avoid vegetation

2. Subject Land & Surrounding Context

The subject land is commonly known as 35 Burden Place, Paynesville and is formally described as Lot 2 on Plan of Subdivision 748253, being a vacant parcel of land approximately 2.81ha in area.



Looking in a south westerly direction across subject land



Looking south over the western portion of the subject land

The subject land is located on the northern periphery of the settlement boundary for Paynesville with Crown land immediately to the north. The property represents the final stage of developable land within the constructed waterways project commenced by Riviera Properties in the 1980s.

The subject land has frontage and takes access from Burden Place to the west. Whilst Burden Place is in part a constructed road with rollover kerb and channel, it stops short of the subject land, given the expectation of further development of the land.



Looking south along Burden Place

The site enjoys the presence of the constructed waterway immediately to the south and to the east of the land which provides opportunity for water based recreational activities and water views.



Looking in a southerly direction from the subject land over the constructed waterway

The landform across the site slopes in a southerly direction down to the constructed waterway and revetment wall. The northern portion of the land represents the highest and clearest portion of the land with the highest section reaching 4.6m AHD.



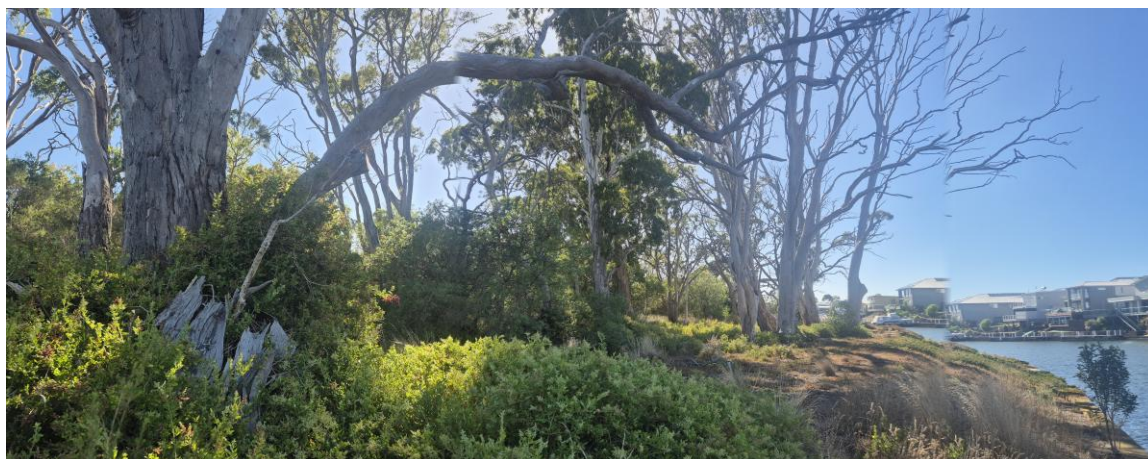
Looking west along revetment wall

Large volumes of fill (up to 3.5 metres in depth) was provided on the northern portion of the land during the construction of the exit canal resulting in the current landform.



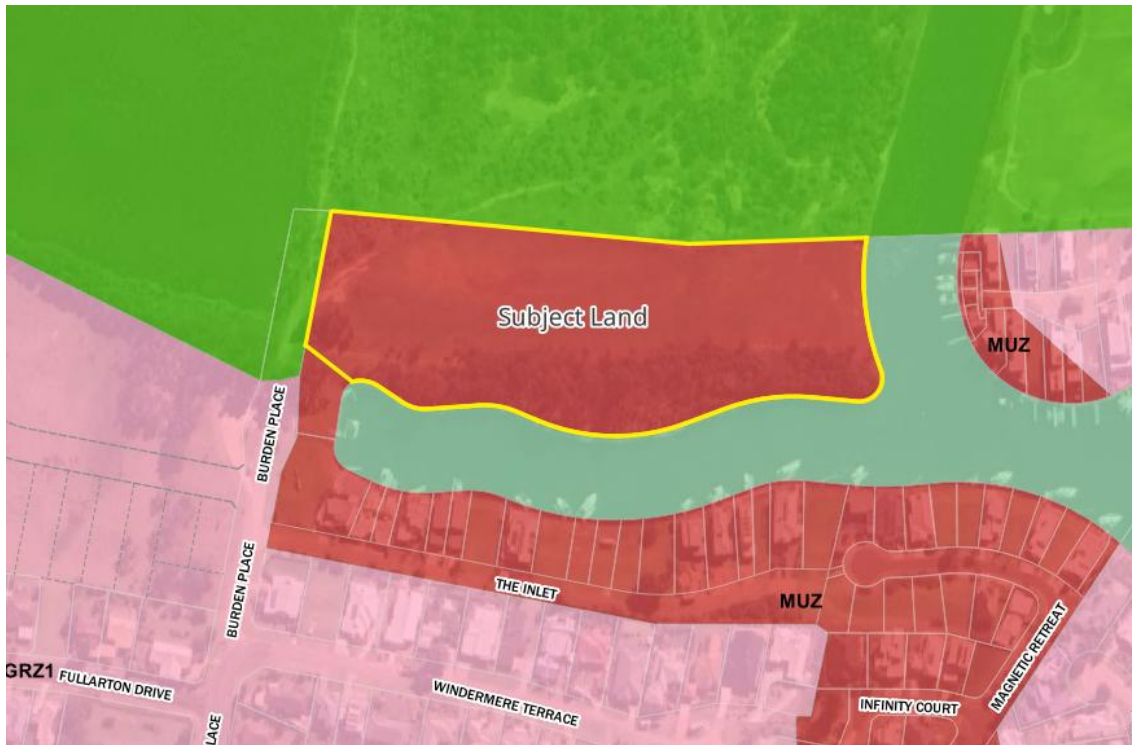
General view south across the subject land

The southern section of the property is steeper in grade and is generally well vegetated with native vegetation comprising established trees inclusive of River Red Gum, Forest Red Gum, Yellow Box and Coast Grey Box.



Looking east over vegetation on the southern portion of the subject land

The subject land is zoned for Mixed Use purposes, which is considered to reflect earlier strategic thinking surrounding the subject land which recognised the prominence of the location on the exit canal to Lake King.



Zone Mapping (Source: VicPlan)

Properties on the southern side of the constructed waterway which take access from The Inlet are also included within the Mixed Use Zone. Most of these properties are developed with multi storey dwellings which present to and interact with the constructed waterway however there are also a couple of allotments within The Inlet which remain undeveloped.



Looking south towards development within The Inlet

The site sits on the northern periphery of an existing residential precinct which is well established with single dwellings on allotments which are generally conventional in size and shape. Residential properties within the precinct are generally oriented to the north to make use of the solar activity and views.

There is some variation in built form within the precinct reflecting the preferences and tastes of individual landowners. Development directly abutting the constructed waterway is generally quite contemporary and comprises two or three storeys, resulting in a highly modified character as the buildings step down the sloping landform.

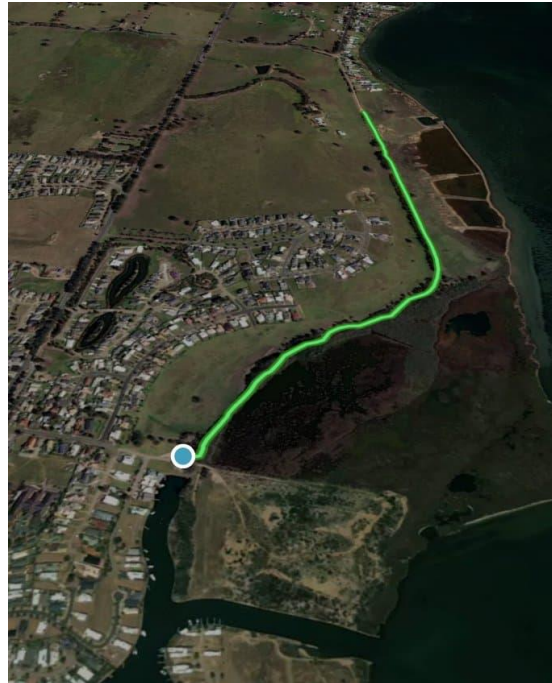
As with all freehold properties adjoining the constructed waterway, the subject land is included within the Design and Development Overlay – Schedule 2. The subject land is also affected by the provisions of the Land Subject to Inundation Overlay.

The constructed waterway is contained within the Public Park & Recreation Zone and land immediately to the north of the subject land is contained within the Public Conservation Reserve Zone.

The Point Fullarton Reserve immediately to the north and west of the subject land provides an important environmental and passive recreational asset that is highly valued by the community.

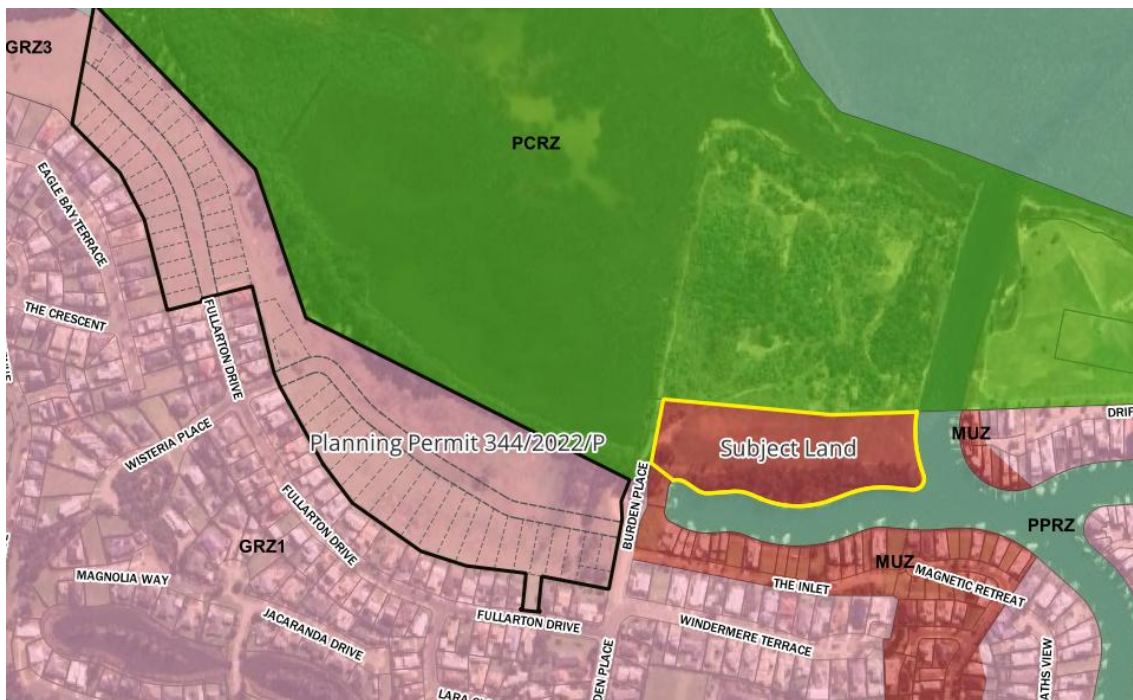
Access is provided to the Point Fullarton walking/cycling path from an existing car parking area provided on the western side of Burden Place. The pathway links Paynesville with Eagle Point, the Point Fullarton Gippsland Lakes Reserve and further north to Lake King.

(R) Wetland walk (Source: [alltrails.com](https://www.alltrails.com))



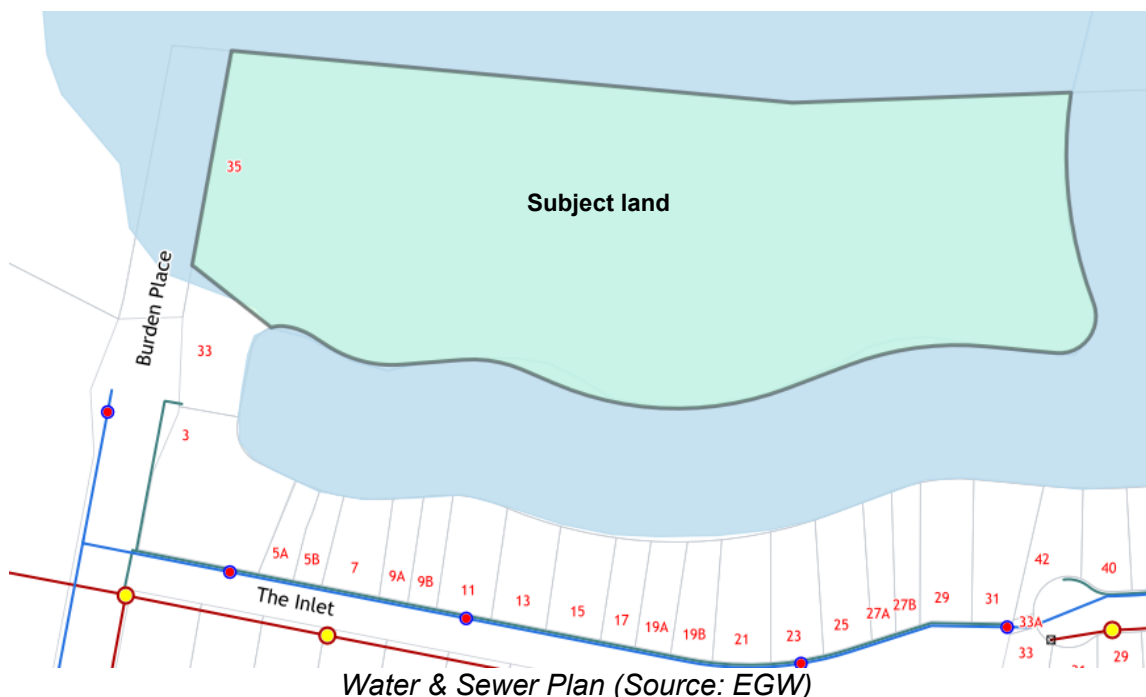
Existing access to the Point Fullarton walking/cycling path

A large parcel of residential land to the west of Burden Place was granted a Planning Permit on 27 February 2026 for a Multi Lot Subdivision and Native Vegetation Removal.



Zone mapping and aerial of subject land and surrounds

The precinct is provided with a full range of services. The subject land is not currently connected to reticulated water and sewer as both terminate within Burden Place to the south and fall short of servicing the subject land. Power is provided overhead within Burden Place with existing power poles on the western side of the road. Electricity is also provided underground within the wider precinct.



Water & Sewer Plan (Source: EGW)

An exfiltration drain is established on the western portion of the subject land and dissects the site in an east west direction. Some prior vegetation removal was undertaken to facilitate construction of the drain which was approved as part of Planning Permit 323/2017/P (issued 4 December 2017).



Existing exfiltration drain

The subject land is encumbered by Section 173 Legal Agreement AN841019C which relates to the Foundation Protection Zone on the neighbouring allotment at 33 Burden Place (Lot 2 on PS814880), and the need for all maintenance and repair works associated with the revetment wall and mitigation works to address sea level rise to be undertaken at the cost of the landowner.

The subject land enjoys relatively easy access to commercial and entertainment areas, educational facilities, active and passive recreational opportunities, community facilities and services as well as employment nodes.

The site forms part of the Paynesville township area which is characterised by Municipal Planning Strategy as a service town generally popular as a visitor and retirement destination. Paynesville is located approximately 16kms south-east of Bairnsdale, which is a regional service centre.

Site Context Plan



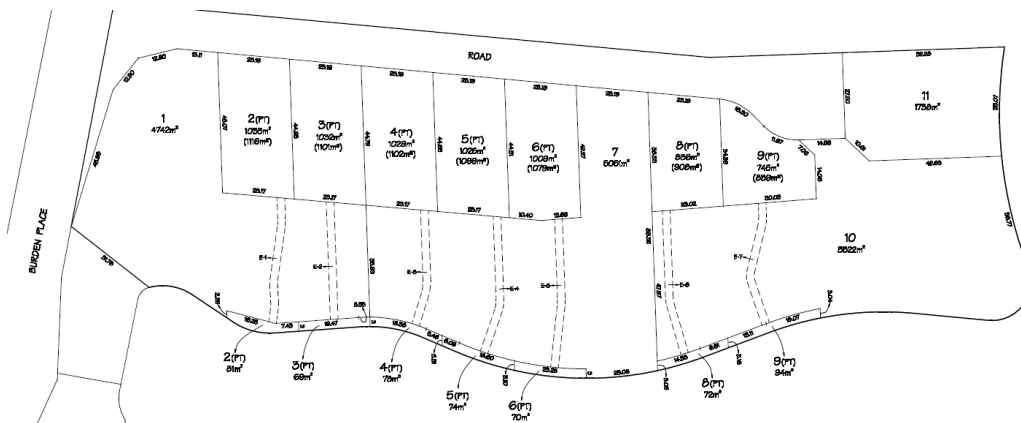
A	Subject land
B	Point Fullarton Wetland and walking track (approximate location)
C	Paynesville Primary School
D	Active Recreation Precinct
E	Paynesville Kindergarten
F	Industrial and Marine Employment precinct
G	Commercial Centre – southern strip
H	Commercial Centre – eastern strip
I	Gippsland Lakes Yacht Club

3. The Proposal

The Application seeks approval for a Multi Lot Subdivision, associated Buildings and Works (jetties and roadworks) and the Removal of Native Vegetation which seeks to balance the anticipated residential use of the site with the environmental values of the land.

Subdivision Design

The proposed subdivision will create allotments ranging in size from 839m² in area to 5,522m² in area as shown on the accompanying Proposed Subdivision Plan.



Proposed Subdivision Layout (Version 2)

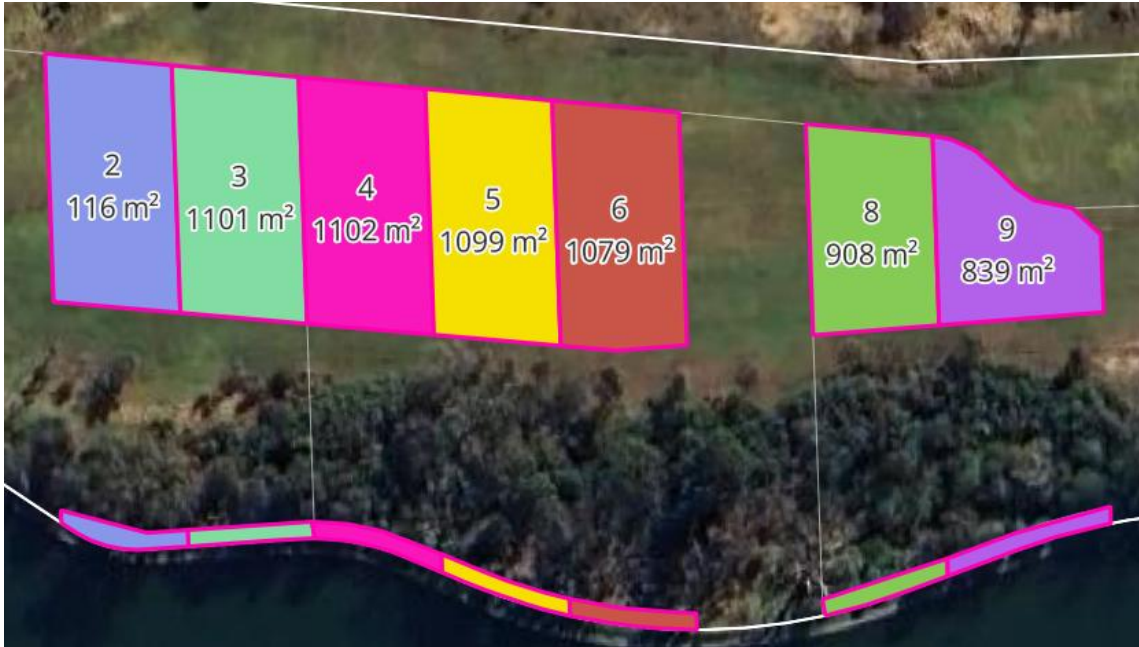
The proposed subdivision has been designed to provide high quality and sought after allotments which can each gain access to the constructed waterway and have sufficient area to accommodate good quality residential design free of constraints.

Proposed Lots 1, 7 and 10 have all been proposed with an area exceeding 4000m² to enhance protection of the more significant vegetation on the southern portion of the land and avoid activating the site area exemption prescribed at Clause 52.17-7. These lots have been designed with sufficient cleared land on the more elevated portions of the property to accommodate future residential development while facilitating the retention of significant site vegetation.



Proposed Subdivision Layout (Version 2), with lots >4,000m² outlined in pink

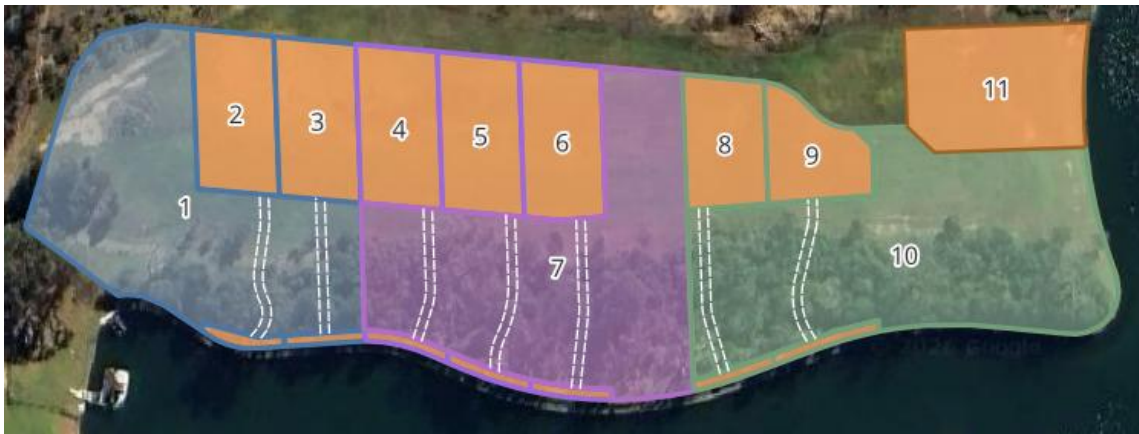
Lots 2 – 6 (inclusive), 8 & 9 are all smaller in area by comparison, and comprised of two parts allowing landowners to own the strip of land adjacent to their individual jetties. The provision of these allotments in two parts is considered logical, particularly where future owners may wish to provide services to the jetties or undertake works to the gangway.



Proposed Subdivision Layout (Version 2), coloured to demonstrate lots in two parts

The proposal nominates a series of carriageway easements over Lot 1 (E-1 and E-2), over Lot 7 (E-3, E-4 & E-5) and over Lot 11 (E-6 & E-7) to provide rights of access to Lots 2 – 6 (inclusive) and Lots 8 & 9.

These carriageway easements have been designed to align with proposed pedestrian pathways that extend from the upper terrace down to the constructed waterway. This approach provides logical and efficient access through the site, while minimising fragmentation of the vegetated areas. Importantly, the owners of Lots 1, 7 and 11 will retain the ability to traverse and maintain their land, retaining the underlying ownership of these areas.



Proposed Subdivision Layout (Version 2), demonstrating carriageway easements

Pathway routes have been carefully positioned to meander around larger trees and minimise impacts to understorey vegetation. Where possible, existing clearings and natural breaks in the vegetation have been utilised to further limit disturbance to native vegetation.

The constructed section of Burden Place will be extended as part of the proposal to facilitate generous frontage and direct access to each allotment whilst catering for reticulated services. Levels on the existing road will be raised to 2.0m AHD, ensuring safe egress in a 1% AEP event under future climatic conditions (2100). The proposed road will be constructed in accordance with the specifications of Council's Infrastructure Design Manual, incorporating a court bowl with a turning radius of not less than 10 metres.

The subdivision design has regard for the sloping landform and environmental values by providing each allotment with elevated cleared land to accommodate future development. Building Envelopes have been nominated on the higher portions of each allotment to ensure that future development is retained above the 2.0 metre contour and does not encroach into the site vegetation.

It is anticipated that a Condition on Permit will require a Section 173 Legal Agreement in accordance with the *Planning & Environment Act 1987*, to secure the location of the Building Envelopes. This will assist in managing purchaser expectations regarding the siting of future development and provide a level of assurance that site vegetation will not be unnecessarily impacted.

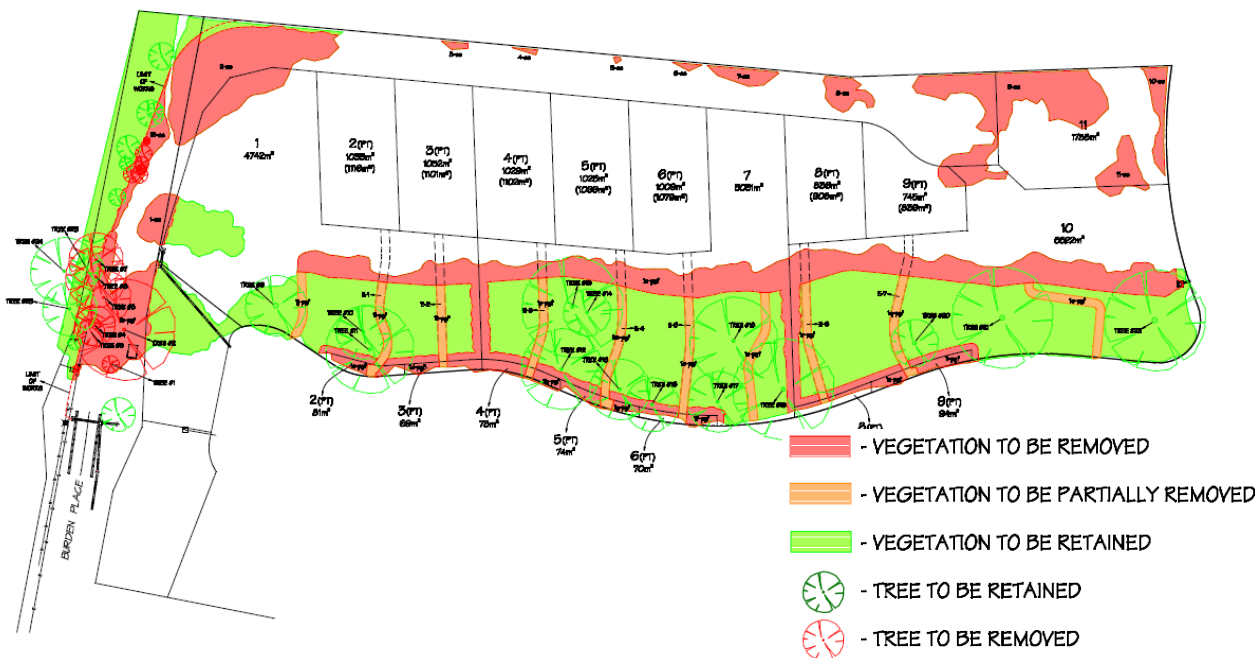
To mitigate against the increase to flood levels associated with the predicted rise in sea levels of 0.8m by the year 2100 in addition to the 1% AEP, we expect that a Condition will be placed on Permit which will require future residential development to be constructed with a minimum finished floor level of 3.1 metres AHD.

Native Vegetation

The subdivision has been specifically designed to carefully balance the expected residential use of the land with the environmental values provided by the presence of existing vegetation and nearby waterways.

The layout provides Building Envelopes located on the higher portions of the site, positioned away from the more established vegetation. In addition, several of the allotments (including Lots 1, 7 and 10) have been designed to exceed 4,000m² in area to reduce any potential of consequential vegetation removal associated with the future establishment of dwellings.

Notwithstanding these design measures, some native vegetation removal will be required to facilitate the subdivision. This includes vegetation removal associated with the extension of Burden Place, the provision of services, and the establishment of pathways connecting the Building Envelopes to the respective jetties. A limited amount of consequential vegetation removal is also expected within portions of Lots 1, 10 and 11. The Application is supported by a Tree Summary Report to inform the considered preservation of trees.



Plan of Vegetation Removal (Version 1)

The proposal seeks approval for the removal of a total of 0.644ha of native vegetation, comprising patches of Plains Grassy Forest (EVC 151) and Swamp Scrub (EVC53), together with the removal of one large tree located within a native vegetation patch. No scattered trees are proposed to be removed.

Vegetation Type	Extent of Removal
Native Vegetation Patches	0.644ha
Large Native Patch Trees	1 tree
Native Scattered Trees	0

Importantly, a substantial portion of the existing vegetation across the southern portion of the site, including large mature trees, will be retained. For additional assurance, we anticipate the requirement for a Legal Agreement under Section 173 to protect retained vegetation in perpetuity.

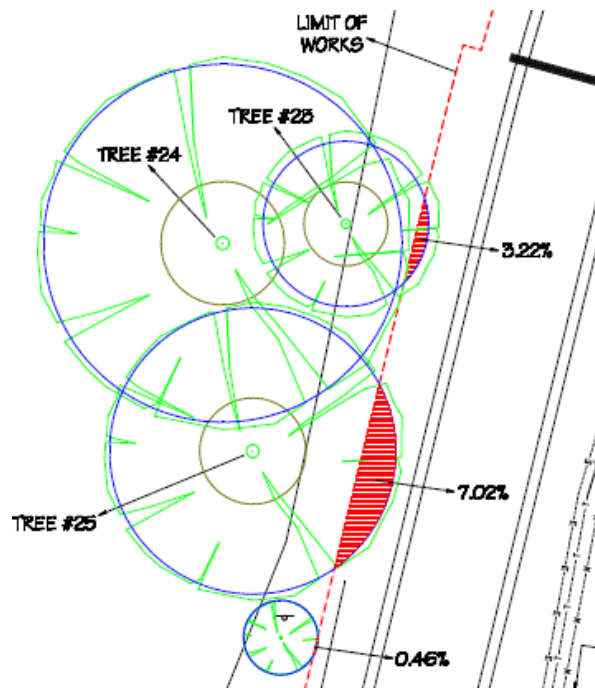
Given the presence of larger trees and informed by the recommendations outlined within the supporting Tree Summary Report for ongoing pruning, the applicant would support a permit condition requiring the preparation of a Property Management Plan to ensure the ongoing protection of vegetation. This is particularly relevant having regard to Tree #9, which is estimated to be in the order of 200-400 years of age and represents a significant environmental and landscape feature of the site.

It is expected the Property Management Plan would be endorsed forming part of the Planning Permit, and obligations included within a Legal Agreement to ensure ongoing implementation.

In this regard, the Property Management Plan could identify key retention requirements and establish appropriate management measures, including weed control and the pruning of limbs in accordance with arboricultural recommendations. The Plan could address the construction standard, limitations and ongoing maintenance of pathways leading to the jetties, ensuring any future works do not adversely impact tree health or contribute to their decline.

To support the application, a Biodiversity Assessment Report (dated April 2026) prepared by Ecology & Heritage Partners has been provided in accordance with Clause 52.17 of the East Gippsland Planning Scheme and the *Guidelines for the Removal, Destruction or Lopping of Native Vegetation* (DELWP, 2017) ('the Guidelines').

A Tree Summary Report prepared by *Roots 2 Leaves Tree Services* (February 2026) has also been provided which assesses the health and structural integrity of the larger trees located on the site and within the adjoining road reserve. An accompanying Encroachment Diagram Plan illustrates the extent of root zone encroachment associated with the proposed works, and has informed the final extent of vegetation removal required.



(R) Extract from Encroachment Diagram (V1)

Given the Biodiversity Assessment Report and Tree Summary Report adopt different tree numbering conventions, the following diagram provides a cross-reference between the two to assist with interpretation of the supporting documentation. For consistency, tree numbering referenced within this Planning Report and supporting plans aligns with the Tree Summary Report.



Tree Numbering Diagram

Jetties

The proposed allotments will benefit from floating pontoon-style jetties which will be constructed in the adjoining constructed waterway, with one jetty provided for each allotment.

The accompanying Jetty Site Layout Plan and Elevation Plan provide detail on the proposed location, layout and design of each of the jetties which will be accessed via a catwalk from the edge of the revetment wall and will be affixed with engineered piles.

The jetties for Lots 1-9 (inclusive) will be provided with floating pontoons 12.0 metre in length, while the floating pontoons for Lots 10 & 11 will be slightly longer at 15.0 metres in length.

The proposal responds positively to the *Paynesville Canals Private Jetty Construction & Guidelines* (EGSC, V2) ('the Jetty Guidelines') for the following reasons:

- a) The Typical Elevation demonstrates that the jetties will protrude 7.0 metres into the canal from the revetment wall and will not intrude on the navigable fairway.
- b) The blue dashed line shown on the Jetty Site Layout Plan represents a 7.0 metre offset from the revetment wall and demonstrates that the proposed jetties will not exceed the maximum length of 7.0 metres.
- c) There are no mooring poles proposed.
- d) The position of the proposed jetties has ensured that the requirement for no structure to be closer than 3.0 metres to the projection of the property boundary into the canal is easily achieved.
- e) The proposed jetties will be a maximum of 7.0 metres from the revetment wall which provides good opportunity for vessels to moor without projecting more than 11.0 metres into the canal.
- f) Obtaining approval concurrently for the eleven jetties as proposed ensures consistency in design and jetty angle.

The Application is supported by correspondence from Council's Manager Community Facilities & Open Space (dated 24 October 2023) which provides Land Manager Consent to the lodging of an application for a Planning Permit and construction of the jetties, subject to conditions.

Traffic Volumes

Traffic volumes generated by the proposed subdivision under today's conditions will result in an increase of more than 10%, which triggers the need for a Traffic Management Strategy under the Infrastructure Design Manual (IDM) as adopted by Council.

Within previous discussions with Council's Planning Department, it was acknowledged that the proposal will result in a modest increase in traffic and that a Traffic Comment prepared by a suitably qualified Traffic Engineer would be sufficient to address this requirement.

A Traffic Comment prepared by *Traffix Group* (dated 31/07/2023) supports the proposal which includes a detailed traffic engineering assessment and concludes that there are no traffic engineering concerns arising from the subdivision proposal.

Traffix Group are well versed with the traffic conditions within the precinct as they also provided traffic advice in support of the recently approved subdivision at 10 Fullarton Drive, Paynesville (Planning Permit 344/2022/P).

We expect that the subdivision at 10 Fullarton Drive will be progressed prior to the subdivision of the subject land. This is a relevant consideration as the traffic volumes within Burden Place associated with the subdivision at hand would be likely to increase by less than 10%, having regard for likely traffic volumes associated with this recent approval.

Site Servicing & Drainage

Accompanying the Application is an Access & Servicing Strategy Plan and Stormwater Management Plan prepared by *Crossco Consulting Engineers* which demonstrates how the land will be serviced.

The plans nominate the extension of Burden Place which will be a minimum of 20.0 metres in width with a 6.0 metre wide carriageway, including a courtbowl with a 10.0 metre radius. This design is considered most appropriate having regard for the one-sided nature of the development which will accommodate all servicing on the southern side of the road.

The extension of Burden Place also incorporates batters associated with the road formation, generally in the order of 2.0-3.0 meters in width (limit of works), as shown on the Access & Servicing Strategy. These batters have been carefully considered in the design process and have informed the assessment of native vegetation impacts.

The proposed allotments will be serviced with reticulated electricity, telecommunications, sewer and water to be established within the proposed road reserve, with connections provided to each allotment.

Whilst the provision of a footpath on one side of the road does not strictly comply with Council's Infrastructure Design Manual, the Traffic Comment prepared by Traffix Group outlines that the extension of the footpath to connect with the wider network is considered to be good practice and appropriate to serve the development.

Drainage will be established within the road via a combination of piped drainage infrastructure, stormwater pits and a berm and swale drainage system which will dissect the southern portion of Lots 1, 7 & 10 in an east west direction. Stormwater will be directed to existing drainage pits and outfalls, with upgrades including new side entry pits and connections to the existing drainage network.

The site drains directly into the adjoining constructed waterway (being a Municipal Reserve for drainage), therefore there is no necessity for onsite detention however treatment to meet best practice will be achieved consistent with MUSIC modelling as outlined within the Stormwater Strategy.

Stormwater will be treated through a combination of swales and rainwater tanks to be used as the primary source for flushing of toilets, laundry services and garden irrigation. The berm and swale drainage system is proposed to generally follow the 1.0 metre contour where practical, assisting in slowing flows and improving water quality prior to discharge.

It is anticipated that a Condition on Permit will require a Section 173 Legal Agreement to be registered on title which will ensure that rainwater tanks with a minimum capacity of 2,000 litres are established with the construction of a dwelling, to be plumbed in for toilet flushing, laundry services and garden irrigation.

Interface with Crown Land

The Crown Land immediately to the north of the site is known to provide habitat for an array of flora and fauna species and is acknowledged as being important for its environmental values.

The proposal has therefore sought to protect these values by nominating bollards along the northern site boundary to prevent vehicle access directly onto the Crown Land, clearly delineate the transition from Road Reserve to Crown Land.

The matter of light spill and potential to impact local fauna has also been considered though the nomination of strategically positioned low reflective bollard lighting within the road reserve, in lieu of traditional street lighting.



Looking in an easterly direction towards adjoining Crown Land (Sept 2023)

Street Trees

It's understood Council are commencing implementation of their own street tree planting within new subdivisions which will avoid developer delivery and ensure a consistent, coordinated standard of street tree planting across the Municipality. We therefore anticipate that Council will require a financial contribution from the developer prior to the issue of Statement of Compliance for the planting and establishment of street trees.

The provision of underground services on the southern side of the road will leave limited ability to establish street trees directly in front of allotments, therefore it is suggested that street tree planting can be accommodated on the northern side of the road. This will also assist in the delineation of the Municipal/Crown interface in addition to the proposed bollards.

4. Application triggers and referrals

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

Planning Scheme Clause No.	Description of what is proposed
32.04-4 ¹ MUZ	Subdivision
36.02-2 PPRZ	Buildings & Works (Jetties)
43.02-3 DDO	Subdivision
43.02-2 DDO	Buildings & Works (Jetties)
44.04-2 ² LSIO	Buildings & Works (Roadworks)
44.04-3 ³ LSIO	Subdivision
52.17-1	Removal of Native Vegetation

The Application is required to be referred to the following referral authorities pursuant to Section 55 of the *Planning & Environment Act 1987*.

Clause	Referral Authority	Authority status
66.01	EGW	Determining
66.01	Ausnet Services	Determining
66.01	CFA	Determining
66.02-2	DEECA	Recommending
44.04-7	EGCMA	Recommending

Pursuant to Clause 66.01, as the proposal does not intend to connect the proposed lots to a reticulated gas supply system, referral to the relevant gas supply authority is not required.

¹ Exempt from notice and review pursuant to Clause 32.04-13 of the Mixed Use Zone.

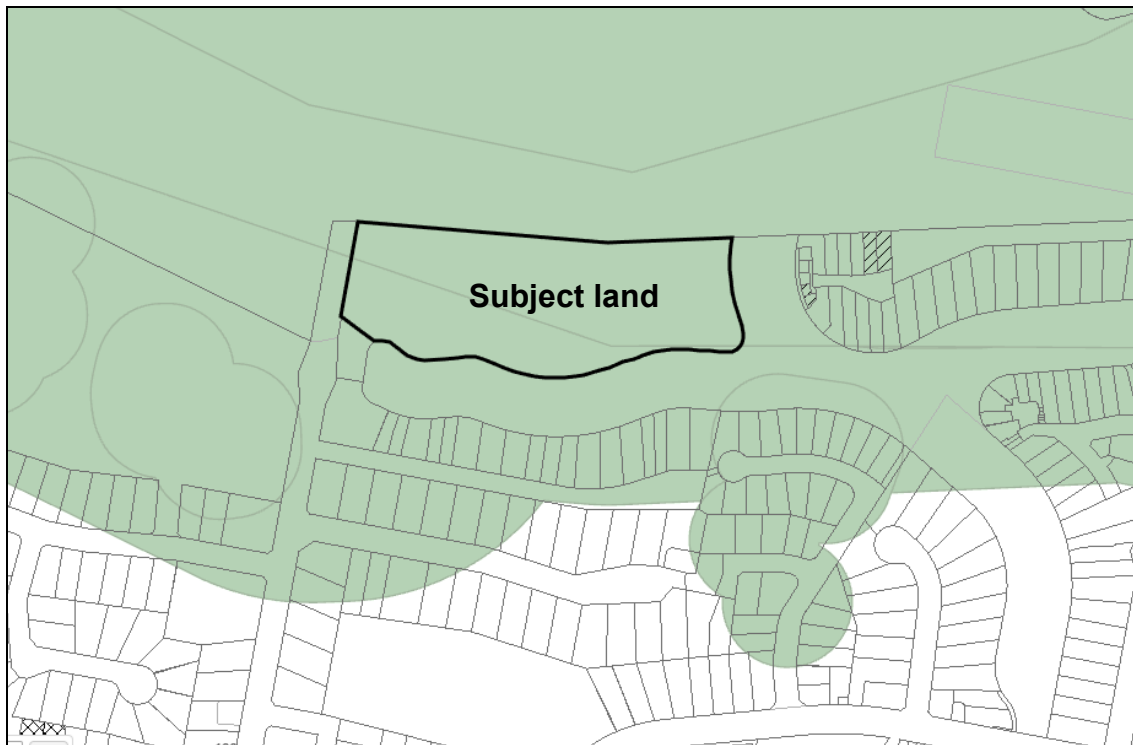
² Exempt from notice and review pursuant to Clause 44.04-6 of the Land Subject to Inundation Overlay.

³ Exempt from notice and review pursuant to Clause 44.04-6 of the Land Subject to Inundation Overlay.

5. Cultural Heritage

Pursuant to Regulation 7 of the *Aboriginal Heritage Regulations 2018*, a Cultural Heritage Management Plan (CHMP) is required under the *Aboriginal Heritage Act 2006* for an activity if:

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



Cultural Heritage Sensitivity Mapping – Source: VicPlan

The preparation of a CHMP is a mandatory requirement as the proposed subdivision is a high impact activity and the activity area is an area of cultural heritage sensitivity.

Unearthed Heritage prepared CHMP 19236 which was approved by GKLaWAC, on 5 December 2023.

As part of the CHMP, the entire activity area was surveyed and did not identify the presence of any Aboriginal cultural heritage.

Historically the subject land was the recipient of large volumes of fill (up to 3.5 metres in depth), being excavation spoil from the construction of the exit canal to Lake King. This fill was placed on the northern portion of the land, avoiding the southern, vegetated portion of the site.

Given the varying levels of ground disturbance that has historically occurred on the land, the activity area was divided into two areas of differing archaeological potential (low and moderate).



Extract from Figure 6-4 depicting areas of Low archaeological potential in blue, and moderate archaeological potential in yellow (Source: CHMP 19236, p.65)

The complex assessment included the excavation of a 1X1m test pit and three 0.5X0.5m shovel test pits, with no Aboriginal cultural heritage identified during the assessment.



Extract from Figure 7-4 (Source: CHMP 19236, p. 76)

Whilst no Aboriginal cultural heritage was found, the CHMP nominates management conditions, being proactive measures that must be followed to appropriately manage Aboriginal cultural heritage and to aid in the identification of unexpected Aboriginal cultural heritage within the activity area should it be encountered during construction.

6. Planning Policy

6.1 Municipal Planning Strategy

Clause 02.03-1 *Managing growth* identifies Paynesville as a District Town with capacity to accommodate population growth and residential development, subject to consideration of environmental value and environmental risk constraints. The policy seeks to direct growth within settlement boundaries and prioritises efficient use of land that is already zoned for urban purposes.

The proposal responds positively to this direction as the subject land is located within the established settlement boundary of Paynesville and represents a logical infill development that benefits from the constructed waterway. The land has long been identified for urban development and effectively forms the final undeveloped parcel within this part of the canal estate.

Development of the site will therefore make efficient use of Mixed Use Zone land and existing infrastructure while contributing to housing supply within a township that is already well serviced and supported by community facilities, recreation opportunities and the commercial centre of Paynesville. The locality provides great opportunity to make use of the Point Fullarton walking/cycling path and water-based activities given the site's position adjacent to the constructed waterway.

Clause 02.03-2 *Environmental and landscape values* recognises the importance of protecting biodiversity, remnant native vegetation and significant environmental landscapes across East Gippsland while ensuring development responds appropriately to these values.

Environmental considerations have been central to the preparation of the proposal. The subdivision layout has been carefully refined to respond to the vegetation present on the southern portion of the site and minimise unnecessary disturbance. Building envelopes have been located on the higher and open portions of the land while the more vegetated areas closer to the constructed waterway are largely retained.

Clause 02.03-3 *Environmental risks and amenity* highlights the importance of managing environmental risks, including flooding and coastal inundation, particularly in areas surrounding the Gippsland Lakes.

The *Coastal Inundation & Erosion Policy* adopted by the *East Gippsland Shire Council* encourages infill development of urban areas provided detrimental impacts from flooding, including sea level rise are mitigated.

The proposed Legal Agreement to ensure future development will have a minimum floor level of 3.1m AHD ensures the proposal responds positively and mitigates against the future risk.

The minimum floor level of 3.1m AHD has been adopted based on the 1%AEP of 2.0 metres plus 2.8 metres sea level rise and 0.3 metres freeboard. Proposed building envelopes are a minimum of 2.0m AHD providing additional certainty that the flood risk will be appropriately managed.

The existing section of Burden Place will be raised to a minimum level of 2.0m AHD, which will provide safe egress to a maximum depth of 0.8m in a 1%AEP event under future climatic conditions (2100).

Clause 02.03-5 *Built environment and heritage* seeks to support development that complements the character, environmental qualities and landscape values of its setting.

The subdivision layout responds to the existing landform and environmental features of the site. Building envelopes have been positioned on the elevated areas of the land which are generally clearer in nature, allowing the vegetated portions of the site to remain largely intact. This approach enables the environmental and landscape qualities of the site to coexist with the anticipated residential outcome.

Future development will therefore occur in a manner that is responsive to the physical characteristics of the land and the established character of development along the constructed waterway.

Clause 02.03-6 *Housing* recognises projected population growth and that approximately 8,300 additional dwellings will be required by 2040 to meet future housing demand. The policy therefore encourages efficient use of existing residential land within established towns and supports infill development where infrastructure and services can be provided.

The proposal responds positively to this direction by facilitating additional residential allotments within the Paynesville township area. The subject land is already located within an urban zone and forms part of an established residential precinct, making it well suited to accommodate additional housing without requiring further outward expansion of the settlement.

The subdivision design has also been prepared having regard to the environmental characteristics of the land. As a result, some allotments are larger than those typically established along the canals, reflecting the need to respond to vegetation retention while still providing appropriate opportunities for residential development within nominated building envelopes.

6.2 Planning Policy Framework

Clause 11.01-1S Settlement seeks to facilitate sustainable growth and development through a network of settlements that provide access to housing, employment, services and infrastructure. The policy encourages development within established settlements and promotes opportunities for infill development where land is already zoned for urban purposes and capable of being serviced.

The proposal responds positively to this direction. The subject land is located within the established settlement boundary of Paynesville and represents a logical infill development opportunity within the constructed waterways precinct. The land has long been identified for urban development and effectively forms the final undeveloped parcel within this stage of the canal estate.

Development of the site will therefore make efficient use of urban land while supporting the established settlement structure of Paynesville. The proposal will contribute to housing supply within a township that benefits from existing infrastructure, community facilities and recreational opportunities associated with the Gippsland Lakes.

Clause 11.01-1R Settlement – Regional Victoria recognises the role of regional settlement in accommodating population growth while protecting environmental values and natural resources.

The proposal aligns with this direction as it represents the logical completion of an existing residential precinct in Paynesville. The subdivision layout has been prepared having regard to the physical characteristics of the site, including site vegetation, ensuring development occurs in a manner that responds to the environmental values of the land.

Clause 11.01-1L-05 Paynesville encourages coordinated development within Paynesville that provides a variety of lot sizes and housing opportunities while maintaining strong connections between residential areas, recreation areas and the surrounding landscape.

The proposal responds positively to this direction by facilitating additional residential allotments within the township while maintaining strong connections with the constructed waterway and nearby recreational areas.

Clause 12.01-1S Protection of biodiversity seeks to protect and enhance Victoria's biodiversity by ensuring that decision making considers the impacts of land use development on important areas of habitat and remnant native vegetation.

The proposal has been prepared having regard to the biodiversity values present on site by adopting boundaries which minimise impacts to the existing native vegetation patch and large old trees on the southern portion of the site.

While some vegetation removal is required to facilitate the subdivision, the design seeks to retain a substantial proportion of the existing vegetation and maintain the vegetated character.

Clause 12.01-2S *Native vegetation management* seeks to ensure there is no net loss to biodiversity from the removal, destruction or lopping of native vegetation through application of the three-step approach to avoid, minimise and offset.

A comprehensive avoid and minimise statement has been provided as part of this report which details the various measures undertaken to reduce impacts on native vegetation.

The application is also supported by a Biodiversity Assessment Report prepared in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DEECA, 2025). The report identifies the vegetation earmarked for removal and confirms the associated offset requirements to ensure there is no net loss to biodiversity.

Clause 13.03-1S *Floodplain management* seeks to protect life, property and infrastructure from flood hazard while ensuring that use and development does not adversely affect the flood carrying capacity or flood storage function of floodplains.

Whilst the subject land is affected by the Land Subject to Inundation Overlay, the proposal has considered flooding hazard by nomination of Building Envelopes and a minimum finished flood level which are expected to be referenced under a Section 173 Legal Agreement.

Clause 16.01-1S *Housing supply* seeks to facilitate well located housing that meets the needs of Victoria's growing population while making efficient use of land and existing infrastructure.

The proposal responds positively to this policy direction by facilitating additional residential allotments within the Paynesville township area. The subdivision will provide opportunities for future housing within an established residential precinct, contributing to housing supply within the township.

7. Planning Elements

7.1 Mixed Use Zone

The proposal responds well to the purpose of the Mixed Use Zone as it will create uniquely positioned and highly desirable residential allotments which can accommodate future development that is responsive to the established character of the area.

Whilst the land is affected by the provisions of the Mixed Use Zone it is anticipated that the proposed allotments will be developed for residential purposes consistent with the surrounding context.

The subdivision layout has also been prepared having regard to the vegetated nature of the southern portion of the land. Lots 1, 7 and 10 are generous in size to minimise impacts to existing vegetation and are therefore larger than the typical allotments established adjacent to the constructed waterway.

Clause 32.04-4 Subdivision

The proposal satisfies all relevant objectives and standards of Clause 56 of the *East Gippsland Planning Scheme* as demonstrated by the following table.

Objective	Design Response
56.01-1 Subdivision Site & Context Description	Complies Please refer to earlier sections of this Report which provides detailed description of the subject land and surrounds. The site sits within an existing residential precinct and has the ability to be connected to a full range of reticulated services. The site is located a short walk to Fullarton Reserve Walking Track and is within close proximity to community facilities, commercial services, educational facilities and active and passive recreation.
56.01-2 Subdivision Design Response	Complies Accompanying the Application is a Design Response Plan which demonstrates the ability to achieve future development within nominated Building Envelopes that respect the site vegetation and landform whilst responding to legislation anticipating future sea level rise. Each of the proposed allotments will be provided with direct frontage to the new road whilst also provided with frontage to the constructed waterway. Whilst the proposed allotments are generally larger than those forming the established allotment pattern, they respond appropriately to the site conditions and lay of the land. The allotment design provides opportunity for future development to be established on each Lot which is above the 2.0 metre contour on cleared land.

Objective	Design Response
56.04-1 Lot Diversity & Distribution Objectives	Complies The proposed allotments range from 839m² in area to 5522m² in area being relatively large for residential style allotments in an intown location. The characteristics of the site limit the ability to achieve a higher allotment yield without adversely compromising the environmental values of the land. The subdivision design is very responsive to the limitations imposed by the site vegetation and seeks to achieve a good balance between the anticipated residential outcome and retention of site vegetation.
56.04-2 Lot Area & Building Envelopes Objective	Complies Building Envelopes have been nominated in response to the site characteristics despite each proposed allotment being greater than 500m² in area. The Building Envelopes can each easily accommodate a rectangle measuring 10m x 15m. The lot dimensions cater for appropriate solar access, private open space, vehicle movements and infrastructure.
56.04-3 Solar Orientation of Lots Objective	Complies The layout and orientation of lots provides appropriate solar orientation. All proposed lots are generous in size with good access to solar activity.
56.04-4 Street Orientation Objective	Complies The subdivision has been designed to provide each allotment with a direct frontage to the new road. Lots have been oriented to provide an active interface to the new road and Crown Land to the north, and to the constructed waterway system immediately to the south.
56.04-5 Common Areas Objectives	Not Applicable No common areas are proposed.
56.05-1 Integrated Urban Landscape Objectives	Complies It is anticipated that a Condition on Permit will trigger requirement for a Landscape Plan to be endorsed which will include the nomination of street trees at a minimum rate of one tree per lot. The extent of servicing to be provided on the southern side of the road severely limits opportunity for street tree planting to be provided directly in front of the proposed allotments. Given the circumstances it is anticipated that planting will occur on the northern side of the road to contribute to the character and identity of the neighbourhood.

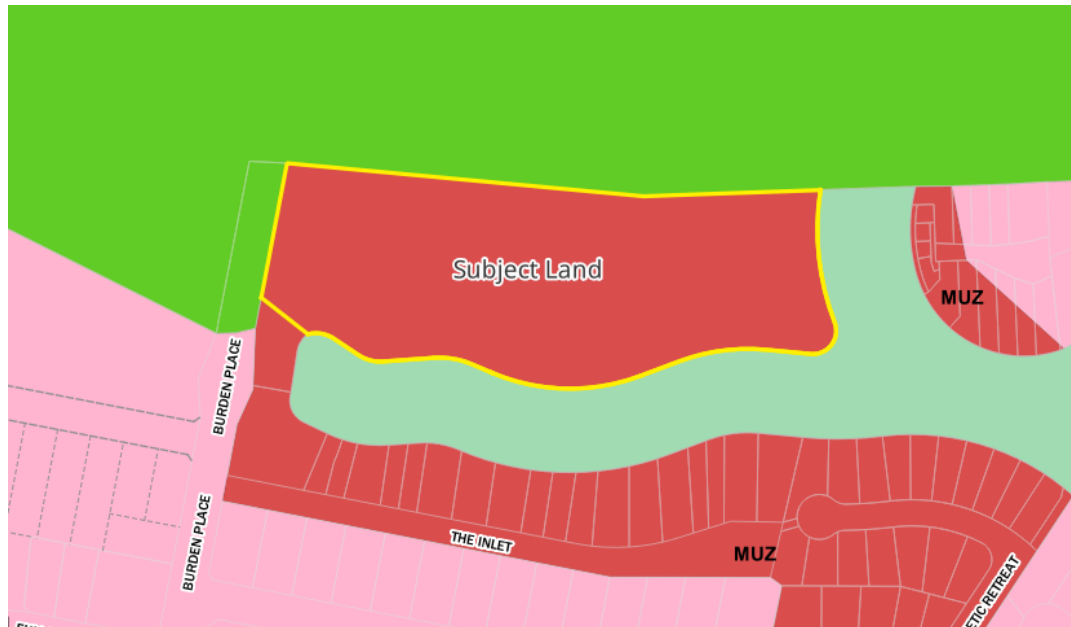
Objective	Design Response
56.06-2 Walking & Cycling Network Objectives	Complies A concrete footpath is nominated on the southern side of the new road to service the proposed allotments. Whilst not provided on both sides of the proposed section of road, the footpath has been extended further to the south to ensure connection with the existing pathway network consistent with Standard C15.
56.06-4 Neighbourhood Street Network Objective	Complies The proposed road extension has been designed to accommodate safe and convenient vehicle movements for residents and visitors. The accompanying Traffic Impact Assessment prepared by Traffix Group confirms that the road is of suitable standard to accommodate anticipated traffic and is consistent with Council's Infrastructure Design Manual and Clause 56.
56.06-5 Walking & Cycling Network Detail Objectives	Complies A concrete footpath has been nominated on one side of the proposed road and will extend further to the south to provide connection with the existing pedestrian pathway network. The provision of the footpath on one side of the street is considered most appropriate in this instance given development is only proposed on one side of the road. The proposed footpath provides sufficient width to accommodate wheelchairs, prams and other footpath bound vehicles.
56.06-7 Neighbourhood Street Network Detail Objective	Complies The proposed road network will be constructed to the specifications of Infrastructure Design Manual (refer to Access and Servicing Strategy Plans). The proposed street has been designed to accommodate expected vehicle movements, and includes splay at corners and sufficient carriageway width to accommodate the extent of traffic anticipated.
56.06-8 Lot Access Objective	Complies None of the proposed allotments will be accessed from an arterial road and each of the Lots are greater than 300m² in area. The proposed road will ensure both safe and convenient vehicle access for all allotments.
56.07-1 Drinking Water Supply Objectives	Complies Reticulated water currently falls short of the subject land however it is expected that the service will be extended as part of the proposal to ensure connection to each lot. A Condition of permit will require the owner of the land to enter into an agreement with East Gippsland Water for the supply of reticulated water to each allotment.

Objective	Design Response
56.07-2 Reused & recycled Water Objective	N/A East Gippsland Water, the relevant local authority does not have any requirements for the installation of reused and recycled water supply in this precinct at this time. The use of rainwater tanks with a minimum retention & reuse of 2000 litres will allow for garden irrigation and use in sanitary facilities, reducing demand for reticulated water.
56.07-3 Wastewater Management Objective	Complies A Condition of Permit will require the owner of the land to enter into an agreement with East Gippsland Water for the supply of reticulated sewer to each Lot.
56.07-4 Stormwater Management Objectives	Complies The accompanying Site Drainage Plan prepared by Crossco Consulting demonstrates how the site can be drained to best practice requirements. Given the site drains directly into the constructed waterway there is no necessity for onsite detention. Treatment consistent with MUSIC modelling will be achieved through a combination of swale drains and rainwater tanks that are to be used as the primary source for flushing of toilets, laundry services and garden irrigation. It is expected that a Condition of Permit will require the preparation of a Detailed Drainage Design to the satisfaction of Council.
56.08-1 Site Management Objectives	Complies The site will be managed to the satisfaction of the Responsible Authority. Site management techniques and information will be included within the project's Construction Management Plan, expected to be required as a Condition of Permit.
56.09-1 Shared Trenching Objectives	Complies Shared trenching for reticulated services will be undertaken where possible in accordance with the standards of the relevant supply agency. Shared trenching is a common construction method that also provides cost benefits to the developer. The need for shared trenching can be stipulated within permit conditions if necessary.
56.09-2 Electricity, telecommunications & Gas Objectives	Complies Electricity and telecommunication are available within the precinct. The installation of services must be provided in accordance with the standards set out by the relevant service provider. Connection to reticulated gas is not proposed.

Objective	Design Response
56.09-3 Fire Hydrants Objective	Complies Details as to the location of fire hydrants will be provided as part of detailed construction documentation in accordance with permit conditions. Hydrants will be located to ensure appropriate coverage to rear of future dwellings by being within 120 metres of rear boundaries.
56.09-4 Public Lighting Objective	Complies Street lighting will be provided as part of the proposal however in response to the presence of the Crown Land to the north, baffled bollard lighting has been nominated rather than traditional street lighting. Detail regarding location and standard will be provided as part of the detailed construction documentation.

7.2 Public Park & Recreation Zone

The constructed waterway adjoining the subject land immediately to the south is affected by the provisions of the Public Park & Recreation Zone which triggers planning approval at Clause 36.02-2 for buildings and works (jetties).



Zone Mapping – Source: VicPlan

The proposed jetties will be constructed adjacent to our client's land, within the constructed waterway, and therefore require consideration under the Public Park & Recreation Zone provisions.

The Application Requirements of Clause 36.02-3 call for written consent of the public land manager, indicating their consent generally to the application for permit being made and to the proposed use or development.

Correspondence from Council's *Manager Community Facilities & Open Space* dated 24 October 2023 confirms Council's consent as the Public Land Manager to the erection of eleven private jetties within the constructed waterway system.

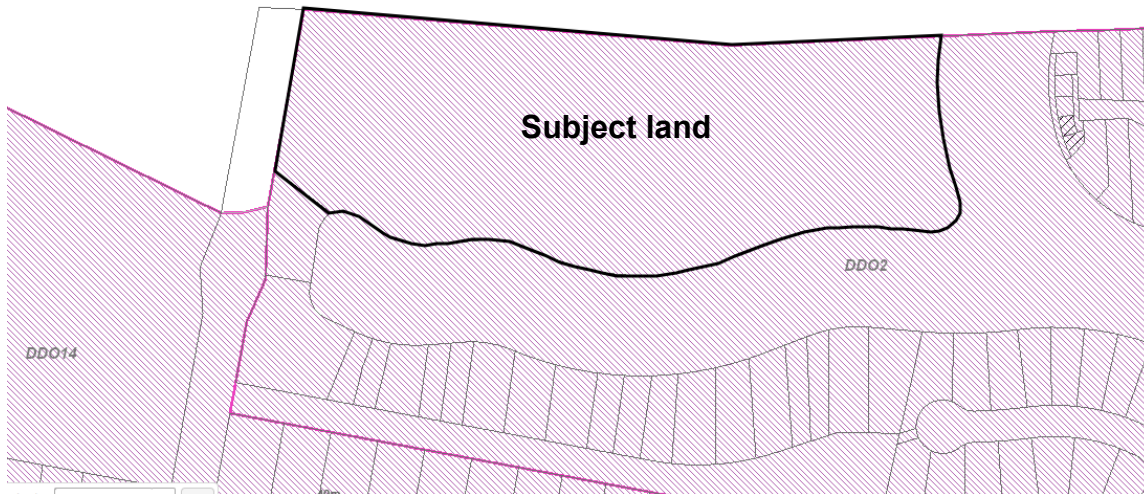
Construction of the eleven jetties concurrently is considered to result in a good outcome as it will ensure consistency in design and jetty angle and avoid ad hoc construction by future individual owners.

The jetties have been designed and sited having regard to *Paynesville Canals Private Jetty Construction Policy & Guidelines* (EGSC, V2) and accord with the relevant specifications.

The established character of the constructed waterway system provides an expectation of a private jetty to cater for each individual allotment. It is not unreasonable that jetties be established at the time of subdivision as there are several jetties established on the constructed waterway system which benefit vacant allotments that have not been developed to date.

7.3 Design & Development Overlay

The subject land is affected by the provisions of the Design & Development Overlay – Schedule 2 relating to *Constructed Waterways, Paynesville*.



Design & Development Overlay Mapping – Source: VicPlan

Clause 43.02-2 specifies that a permit is required to construct a building or carry out works and Clause 43.02-3 specifies that a permit is required to subdivide land unless a Schedule to the Overlay states that a permit is not required.

Schedule 2 to the Design & Development Overlay specifies that a permit is not required where Buildings & Works are within an approved Building Envelope and are more than 10 metres from the boundary of a constructed waterway.

As the proposed development will not be within a previously approved Building Envelope and will encroach more than 10.0 metres from the boundary of a constructed waterway planning approval is triggered for Buildings & Works at Clause 43.02-2.

Planning approval is triggered for subdivision of the land in accordance with Clause 43.02-3.

The proposal responds positively to the Design Objectives to Schedule 2 relating to protection and enhancement of residential and visual amenity of constructed waterways and public areas for the following reasons:

- The subdivision has been designed specifically to ensure the amenity of the area is not compromised. This has been achieved by adopting a design which enables the physical retention of much of the site vegetation enabling the environmental values of the land to coexist with the anticipated residential use.

- Whilst the existing vegetation on the southern portion of the subject land is not characteristic of other allotments established on the constructed waterway system, it has both environmental and aesthetic values which are important to the local community.
- Building Envelopes have been nominated on the northern portion of the land which is both clear in nature and more elevated than the southern vegetated portion of the site. This will ensure that future residential development will be established without impacting the vegetation.
- To provide further assurance that the subdivision will not result in unnecessary physical loss of site vegetation, a Section 173 Legal Agreement will be registered on the title of the land. This Agreement will prevent the ability to remove site vegetation without first obtaining consent from the Responsible Authority.
- The visual amenity of the site will not be unduly compromised by the proposal. When viewing the property from the constructed waterway and from The Inlet, the curtain of vegetation will remain intact.
- Any future development established within the Building Envelopes will be baffled in appearance when viewed from properties within The Inlet.



View north towards the subject land from The Inlet (Sept 2023)

- Future development viewed from the constructed waterway and properties to the east will be more exposed, being very similar to existing development already established along the Canal. The proposed development is not dissimilar to established development at the western end of Driftwood Close where a series of boatsheds and jetties were developed ahead of dwellings to ensure consistent presentation in proximity to the water.



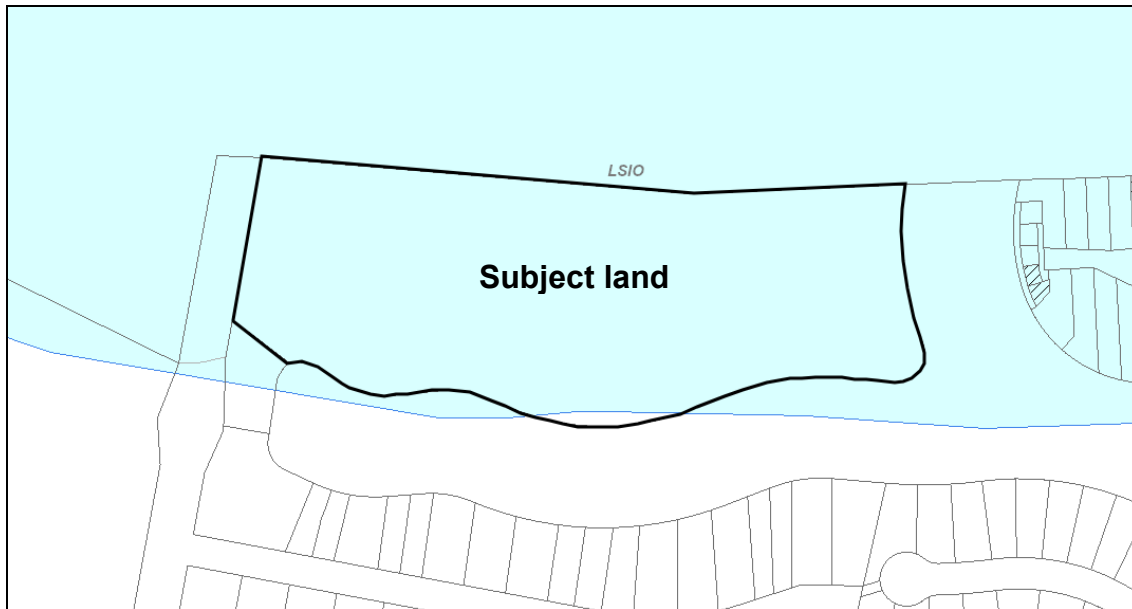
*Looking west towards subject land from
Common Property boatshed at western end of Driftwood Close (Sept 2023)*



View east towards existing development from proposed Lot 11 (Sept 2023)

7.4 Land Subject to Inundation Overlay

The majority of the site is affected by the Land Subject to Inundation Overlay which triggers planning approval at Clause 44.04-2 for Buildings & Works (Roadworks) and Clause 44.04-3 for subdivision of land.



Land Subject to Inundation Overlay Mapping – Source: VicPlan

Consideration of the proposed jetties and associated landing structures are not required under the Land Subject to Inundation Overlay as they are otherwise listed as exempt under Schedule 1 to the Overlay.

Decision Guidelines

The landform across the site is sloping in nature with contours on the northern portion of the land reaching as high as 4.6 metres whilst the southern portion of the land falls in grade towards the constructed waterway and revetment wall.

Arguably the inclusion of the entire site within the Overlay indicates the mapping has not had regard for the extent of fill placed on site. More current mapping would likely see large expanses of the site excluded from the Overlay.

Building Envelopes have been nominated on the higher reaches of the site above the applicable 1% AEP flood level of 2.0 metres AHD in response to the inundation risk.

To mitigate against the forecast sea level rise of 0.8m by the year 2100 we consider it reasonable to ensure that future development of dwellings within the Building Envelopes will be constructed with the minimum finished floor level of 3.1m AHD.

Both the nominated Building Envelopes and the need for a minimum finished floor level of 3.1m AHD are expected to be enshrined using a Section 173 Legal Agreement under the *Planning & Environment Act 1987*.

It is understood that the lowest section of Burden Place is currently around 1.5m AHD being below the 1% AEP flood level of 2.0 metres AHD. This is understood to be acceptable under current controls, which require egress along a route with a maximum depth of 0.8m. The proposal seeks to increase minimum levels along the existing road network to 2.0m AHD, which will ensure safe egress to a maximum depth of 0.8m in the year 2100, in accordance with the State Policy directive for 0.8m sea level rise.

7.5 Particular Provisions

7.5.1 Native Vegetation (Clause 52.17)

Planning approval is triggered at Clause 52.17-1 for the removal of native vegetation in accordance with Particular Provisions relating to Native Vegetation.

The native vegetation being considered under the provisions of Clause 52.17-1 includes that which will need to be physically removed, together with vegetation otherwise assumed to be lost or consequentially lost as a result of the proposal.



Extract of Plan of Vegetation Removal (Version 1)

Application Requirements

The Application complies with the Application Requirements specified within the Guidelines, accompanied by a Biodiversity Assessment Report prepared by *Ecology & Heritage Partners* which incorporates a Native Vegetation Removal Report (NVRR ID: 319_20260421_9CD).

Whilst the proposal has sought to avoid and minimise loss of native vegetation, the total extent of loss is more than 0.5ha in area and therefore triggers a Detailed Assessment Pathway.

The Native Vegetation Removal Report includes detail on the assessment pathway, the vegetation earmarked for removal, mapping and offset requirements, along with other details as required by within Table 4 of the Guidelines.

The native vegetation considered under the provisions of Clause 52.17 comprises patch vegetation totalling 0.644ha, including 1 large tree. Direct and assumed vegetation losses are required to facilitate the proposed roadworks and servicing, to provide adequate area for future residential development on Lots 1, 9, 10 & 11, and to account for consequential losses along proposed boundaries.



Vegetation on the western side of Burden Place to be removed or assumed lost



Tree on the eastern side of Burden Place assumed lost



Looking south towards section of patch SS1 to be removed



Looking north towards vegetation to be impacted on the western side of Burden Place



Looking south towards Burden Place

To compensate for the vegetation losses, a third-party offset will be secured to ensure no net loss of biodiversity, in accordance with the requirements of Clause 52.17-5. A Report of available native vegetation credits (Report ID:35169) forms part of the Biodiversity Assessment Report which confirms the availability of the required offset with all necessary attributes.

In response to the application requirements specified at Table 4 of the Guidelines we offer the following comments in addition to those provided within the accompanying Biodiversity Assessment Report.

	Application Requirement	Response/Comment
1.	Information about the vegetation to be removed	Accompanying the Application is a Biodiversity Assessment Report prepared by <i>Ecology & Heritage Partners</i> which includes a Native Vegetation Removal Report. The Native Vegetation Removal Report confirms the assessment follows a Detailed Assessment Pathway and provides detail on the native vegetation losses and includes associated mapping. The need to follow a Detailed Assessment Pathway has arisen given more than 0.5ha of native vegetation is either proposed for removal or otherwise assumed or consequentially lost as a result of the proposal.
2.	Topographic and land information	Contour detail as captured via Feature Survey is included on the accompanying Access and Servicing Strategy prepared by <i>Crossco Consulting</i>.

	Application Requirement	Response/Comment
3.	Recent dated photographs of the native vegetation to be removed.	Photographs within this report were taken on 19 February 2026 unless specified otherwise, with some additional photographs included within the Biodiversity Assessment Report.
4.	Details of other native vegetation approved to be removed, or that was removed without the required approvals on the property within the past 5 years.	Planning Permit 323/2017/P issued in 2017 approved the removal of native vegetation from the site to allow for improvements to drainage. Whilst the accompanying Biodiversity Assessment Report acknowledges this previous approval, it notes this occurred more than 5 years ago negating any need for cumulative offsets requirements.
5.	Avoid and minimise statement	Avoid and minimise comments provided later within this report are in addition to the avoid and minimise statement within the accompanying Biodiversity Assessment.
6.	Property Vegetation Plan	There are no Property Vegetation Plans applying to the subject land.
7.	Defendable space statement	The subject land is not within a Bushfire Prone Area or within the Bushfire Management Overlay. The vegetation removal element of the project is not being undertaken for defendable space purposes.
8.	Native Vegetation Precinct Plan statement	Application not made under the provisions of Clause 52.16.
9.	Offset statement	As a Permit is required to remove native vegetation, the biodiversity impacts from the removal must be offset in accordance with the Guidelines. It is anticipated standard Conditions will be imposed which specify the offset requirement and the timing to secure the offset. There is no ability to provide vegetation offsets onsite given the residential context of the area. It is therefore anticipated that vegetation offsets will be achieved through third party arrangements. The Biodiversity Assessment includes an offset strategy that highlights there are adequate offsets available to purchase that meet the offset requirements.

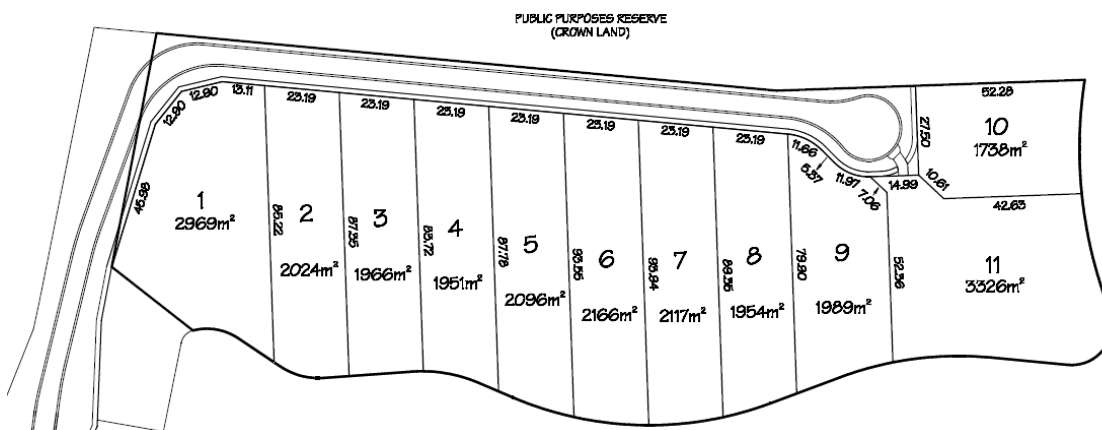
	Decision Guidelines	Response/Comment
1.	Efforts to avoid and minimise vegetation removal to be commensurate with the biodiversity and other values.	As outlined both within the Biodiversity Assessment and the avoid, minimise statement, the proposal has gone to substantial lengths to ensure vegetation losses are commensurate to the biodiversity values. The proposal has sought to balance the residential use of the land with the biodiversity values offered by site vegetation. Incorporating pathways to the jetties at the subdivision stage minimises vegetation impacts, ensuring subsequent development will tread lightly on the landscape, avoiding the risk of ad hoc development impacting vegetation into the future. From a strategic perspective, the site has been earmarked for mixed use development for some time, with the land contained within the Mixed Use Zone since the commencement of the East Gippsland Planning Scheme.
2.	The role of the vegetation being removed in protecting water courses, preventing land degradation and adverse effects on groundwater.	The site vegetation is mapped as 'Location 2', as an endangered Ecological Vegetation Class, and a designated Ramsar wetland. The proposal recognises the environmental value of the site by carefully designing the subdivision to minimise the physical impacts to native vegetation. Whilst all vegetation losses will be offset as part of the project, larger allotments are proposed to retain the majority of native vegetation, ensuring any further vegetation removal may not occur without first obtaining planning permission.
3.	The need to manage native vegetation to preserve identified landscape values.	Landscape values are acknowledged by the proposal which seeks to maximise retention of site vegetation. The retention of the site vegetation as detailed on the accompanying plans will be ensured through a Section 173 Legal Agreement which will prevent physical removal without first obtaining further planning permission. The subject land is not included within the Vegetation Protection Overlay or Environmental Significance Overlay of the <i>East Gippsland Planning Scheme</i>.
4.	Whether the vegetation to be removed is protected under the <i>Aboriginal Heritage Act 2006</i> .	Vegetation earmarked for removal is not protected under the <i>Aboriginal Heritage Act 2006</i> .
5.	The need to remove vegetation for defensible space.	Vegetation removal is not being undertaken for the purpose of establishing defensible space.
6.	Whether the removal is in accordance with any Property Management Plan.	There is no Property Management Plan applying.
7.	Whether an offset that meets the requirements has been identified and can be secured.	The accompanying Biodiversity Assessment confirms there are currently offset sites on the Credit Register that have sufficient offsets for purchase that can accommodate the requirements.

	Decision Guidelines	Response/Comment
8.	Clause 52.16 Applications	N/A
9.	Impacts on biodiversity	The proposal has sought to minimise impacts on biodiversity through adoption of a subdivision design which minimises vegetation loss. The biodiversity values of the land are also recognised through the offer of a Section 173 Legal Agreement which prevents further removal of site vegetation without obtaining further planning permission.

Avoid & Minimise Statement

The proposed subdivision has been deliberately designed to avoid and minimise impacts to native vegetation wherever practicable, consistent with the requirements of Clause 52.17.

During preparation of the current application, careful consideration was given to the previously submitted planning application which was ultimately withdrawn following concerns raised by DEECA. Under the previous design, all proposed allotments were less than 0.4 hectares in area which would have triggered the *site area exemption* under Clause 52.17 and resulted in consequential loss of vegetation within the allotments.



Previous subdivision layout, where all site vegetation was presumed lost (all lots less than 4,000m²)



Extract from superseded Biodiversity Assessment (May 2023), showing previous extent of vegetation presumed lost

While the previous application sought to mitigate this through the implementation of a Section 173 Agreement to protect vegetation within the lots (with offsets provided for any loss), this approach was not supported.

The current proposal has been specifically redesigned to address this concern and significantly minimise vegetation impacts. In particular, Lots 1, 7 and 10 have been deliberately created with areas exceeding 0.4 hectares. This design response enables the majority of the site's native vegetation to be retained within these larger allotments, avoiding the consequential vegetation loss that would otherwise occur through activation of the site area exemption.



Current Layout (21176 – V2)

In addition, the subdivision layout has been refined to reduce the extent of new property boundaries traversing vegetated areas when compared with the previously submitted application. While some consequential loss associated with the fence line exemption cannot be entirely avoided, the extent of such impacts has been significantly reduced. Furthermore, it is noted that several of the boundaries located in proximity to the revetment wall are unlikely to ever be fenced in practice. This is because several allotments have been deliberately designed in two parts to facilitate pedestrian access to the jetties, and fencing along these sections would be impractical from both an access and amenity perspective.

To further safeguard retained vegetation, it is proposed that a Section 173 Agreement be registered on title requiring ongoing protection and management of native vegetation within the larger allotments. The agreement will ensure that future landowners are aware of their obligations to protect and enhance the retained vegetation and will require the consent of the Responsible Authority should any removal or disturbance be proposed in the future.

The subdivision has also been designed to ensure that each allotment contains sufficient cleared land to accommodate a building envelope on the more elevated and less vegetated portions of the site. These building envelopes will be secured through the Section 173 Agreement, thereby limiting the ability for development to occur outside the designated areas without the prior written consent of the Responsible Authority.

Access to the proposed jetties has been carefully considered during the design phase. The proposed pedestrian pathways and associated carriageway easements have been aligned to avoid impacts on larger trees and generally follow the “path of least resistance” through the vegetation. The alignment of the pathways has been progressively refined throughout the design process to respond to on-site vegetation, with adjustments made where necessary to avoid larger trees and minimise impacts to native vegetation.

The pathway network invokes partial removal only, rather than complete loss, as the pathways traverse areas of understory vegetation and avoid canopy trees. The capacity to micro-site pathways during construction will further enable avoidance of individual trees and higher value vegetation.

Unlike the previous application which contemplated more formalised constructed boardwalks, the current proposal seeks to tread more lightly through the landscape, with pathways proposed to be constructed using low-impact materials that minimise disturbance to surrounding vegetation.

The pathways are expected to comprise a light gravel pavement, which will remain permeable and avoid the need for earthworks or compaction within proximity to large trees. Verbal advice from the project’s arborist confirms that where pathways traverse or segment notional root zones, the resulting impact will be minor at best and not detrimental to the ongoing health of the trees.

Importantly, establishing the pathways and jetties as part of the subdivision ensures a coordinated and strategic outcome that minimises vegetation impacts while providing appropriate access to the constructed waterway. This approach also avoids the need for future landowners to undertake ad hoc vegetation removal applications to create their own access paths.

Considerable attention was also given to the design of road and servicing infrastructure. During the design process, discussions were undertaken with the project engineers to determine the most appropriate method of servicing the land while having regard to existing vegetation within Burden Place. Various servicing options were explored, with the preferred outcome being to locate services on the eastern side of Burden Place where vegetation is less dense. This approach avoids a larger cluster of vegetation and mature trees located on the western side of the road, and also reduces the potential for impacts to vegetation within the adjacent Crown Reserve.

Options to reduce the width of Burden Place over a short section were also explored in order to further minimise vegetation impacts. However, Council’s Engineering Department advised that this approach would not be supported as it would deviate from the relevant Infrastructure Design Manual (IDM) requirements.

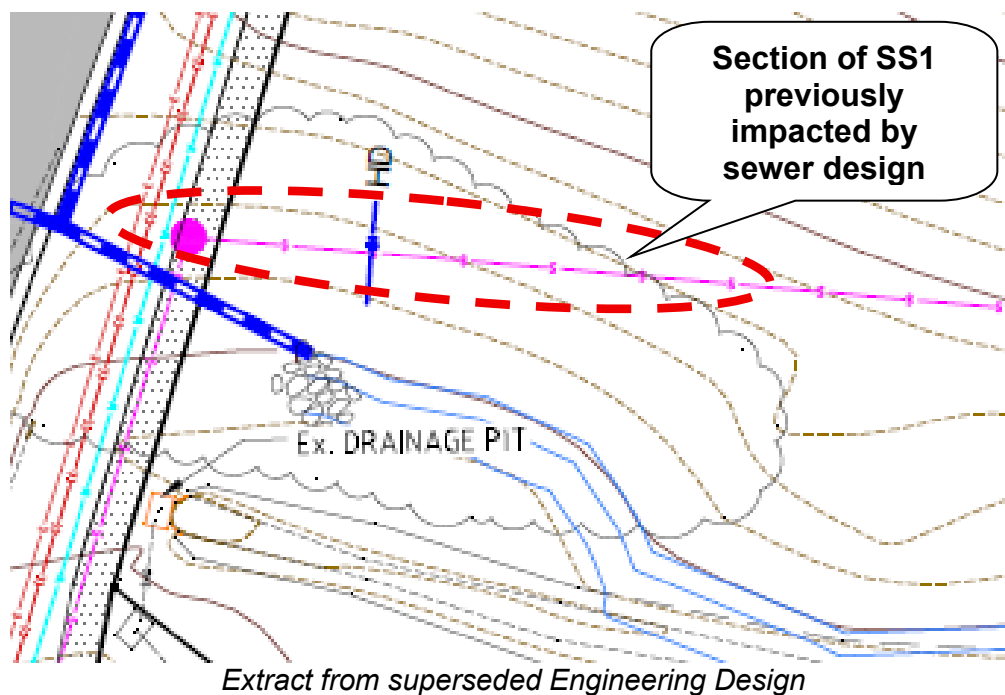
Whilst the project engineering team initially identified a requirement for 6.0-metre-wide batter to the west of the Burden Place carriageway, along the western side of Burden Place, efforts were subsequently made to avoid and minimise impacts on native vegetation.

The use of a retaining wall was explored, however on balance it was not considered a viable option with the use of a batter remaining the preference. A revised engineering solution was developed which reduced the batter to 3.0 metres in width along the southern extent, tapering to 2.0 metres further north.

Some vegetation removal is associated with the construction of the berm and swale. In determining the impact, the extent of vegetation loss has been conservatively defined to include a 0.5 metre offset along the southern edge of the swale, together with the assumption that all vegetation immediately to the north of the swale will also be impacted.

While earlier concepts sought to retain a greater extent of this vegetation, further detailed discussions with the project engineers regarding construction requirements have confirmed that access for machinery and associated works will likely result in disturbance to much of this vegetation. The current assessment therefore adopts a realistic and conservative worst-case scenario to ensure that all potential impacts are appropriately accounted for.

Previous designs also had a section of sewer main impacting the patch of Swamp Scrub (SS1) on the western portion of proposed Lot 1, however the sewer has now been aligned in the road reserve, thereby avoiding these impacts.



The accompanying Encroachment Diagram (V1) has been informed by data within the Tree Summary Report prepared by Roots 2 Leaves and confirms that larger trees (known as Tree #23, Tree #24 and Tree #25) will experience less than 10% encroachment into their Notional Root Zones as a result of the proposed road widening and associated batter formation. These minor encroachments are considered acceptable in accordance with arboricultural standards and will not result in the assumed loss of these trees.

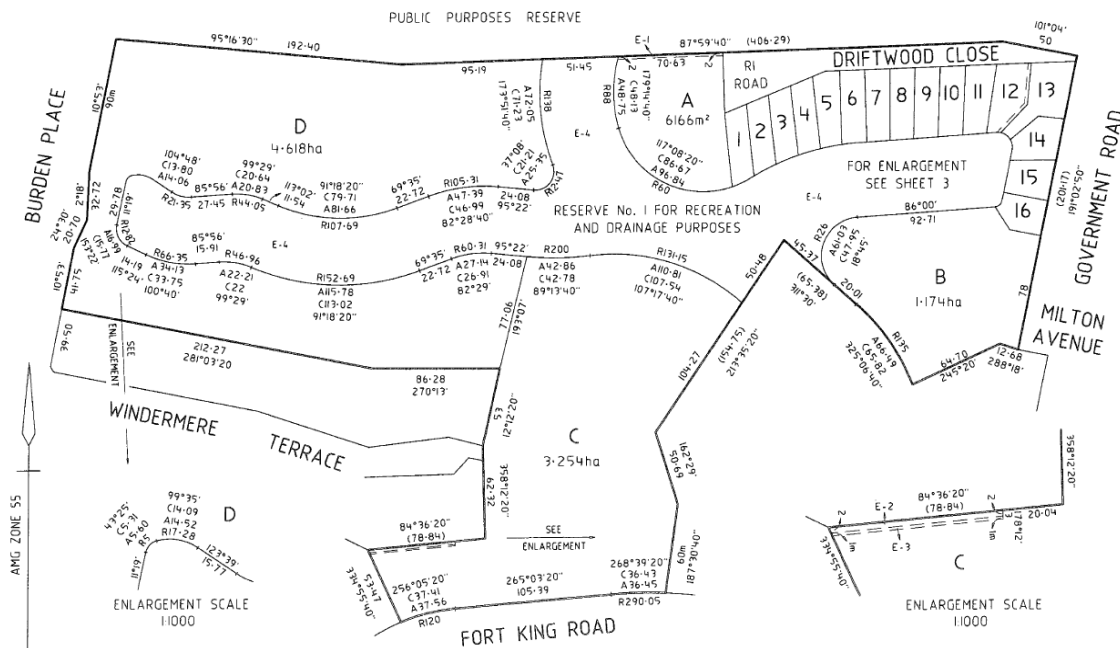
Overall, the proposed subdivision layout represents a clear and deliberate response to the avoid and minimise requirements of Clause 52.17. Through careful refinement of lot sizes, boundary placement, building envelope locations, access arrangements and servicing infrastructure, the proposal retains the majority of the site's native vegetation while facilitating an orderly and well-considered subdivision outcome.

7.5.2 Public Open Space Contribution & Subdivision (Clause 53.01)

Pursuant to Clause 53.01, when subdividing land, a contribution for public open space must be made to Council pursuant to Section 18 of the *Subdivision Act 1988*.

Whilst the Plan of Subdivision included within the accompanying title search particulars indicates a public open space contribution has not previously been made, it is incorrect to assume that a contribution is now required.

An earlier subdivision created subject land as a larger development cell, known as Lot D on Plan of Subdivision 524602Y, also created a substantial area of public open space, identified on the same plan as Reserve No. 1. The Reserve contains the northernmost extent of the constructed waterway network including the major northern exit canal, the smaller canal 'courts' adjoining development in The Inlet, The Point, Driftwood Close, and the southern connecting canal adjoining North Quay Place.



Extract from PS524602Y

Across the entire Riviera Harbours project, the constructed waterways were vested with Council as public open space for recreation and way, deemed to satisfy the provisions of Section 18 of the *Subdivision Act 1988*.

8. Conclusion

The proposed Multi Lot Subdivision, Buildings & Works (Jetties & Roadworks) & Removal of Native Vegetation at 35 Burden Place, Paynesville is considered to accord with all relevant provisions of the Mixed Use Zone, Design & Development Overlay – Schedule 2 and Land Subject to Inundation Overlay of the *East Gippsland Planning Scheme*.

The proposal is consistent with Municipal Planning Strategy and Planning Policy Framework and has been designed to respond appropriately to the site's environmental constraints while facilitating an orderly and logical development outcome.

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

Crowther & Sadler Pty Ltd
On behalf of Paynesville Point

Appendix A: List of Attachments

Application Form (via Planning Portal)

Proposed Subdivision Plan (Version 2)

Design Response Plan (Version 5)

Plan of Vegetation Removal (Version 1)

Encroachment Diagram (Version 1)

Jetty Site Layout Plan (Version 1)

Jetty Elevation Plan (Rev A) – The Jetty Specialist

Access & Servicing Strategy (2057/100-G 13 April 2026)

Site Drainage Plan (2057/105-G 13 April 2026)

Catchment Plan (2057-106-G 13 April 2026)

Cultural Heritage Management Plan 19236 – Unearthed Heritage

Biodiversity Assessment – Ecology & Heritage Partners (April 2026)

Tree Summary Report – Roots 2 Leaves Tree Services (15 February 2026)

Copy of Title (Lot 2 on PS748253)

Section 173 Legal Agreement (AN841019C)

Land Manager Consent (dated 24 October 2023)

Contact: Marc Taylor
Telephone No: (03) 5153 9500
Email: feedback@egipps.vic.gov.au

Corporate Centre
273 Main Street (PO Box 1618)

Bairnsdale Victoria 3875

Telephone: (03) 5153 9500

National Relay Service: 133 677

Facsimile: (03) 5153 9576

Email: feedback@egipps.vic.gov.au

ABN 81 957 967 765

24 October 2023

Pavnesville Point Pty Ltd

MORNINGTON VIC 3931

Dear Kate

Application Erect multiple jetties 35 Burden Place Paynesville

I refer to your Application to Erect Private Jetties adjacent to the above property.

As Council's land manager, I consent to the lodging of an application for a planning permit and construction of the jetties subject to the following conditions;

- That the All planning permit conditions are met.
- Catwalk connection method is submitted to Council for approval prior to any works beginning.
- All boats moored at the jetties have sufficient depth available.
- Proposed jetties meets the minimum standards for private jetties as set down by Gippsland Ports, including nominating the jetty materials; and
- Conforms to Councils policy for Private Jetty Construction within Riviera Harbour Canals – Paynesville.

The jetties would be subject to an annual licence fee.

Yours sincerely

WAYNE RICHARDS
Manager Community Facilities and Open Space

CHMP 19236: Residential Subdivision: Lot B, PS625158D Burden Place, Paynesville, Victoria

Aboriginal Heritage Act 2006
Section 65

Cultural Heritage Management Plan – Notice of Approval

CHMP NAME:	Waterfront Residential Subdivision: Lot B PS625158D Burden Place, Paynesville, Victoria		
CHMP NUMBER:	19236		
SPONSOR:		ACN/ABN:	N/A
Cultural Heritage Advisor(s):			
Author(s):			
Cover date:	18 th August 2023	Pages:	106
Received for approval:	18 th August 2023		

TO BE COMPLETED BY THE Registered Aboriginal Party DELEGATE	Yes	No
I have considered the Evaluation Report for this CHMP and:		
<i>I am satisfied that the CHMP has been prepared in accordance with the standards prescribed for the purposes of section 63 (in the Aboriginal Heritage Regulations 2007 and the Approved Form).</i>	Yes	
<i>I am satisfied that the CHMP adequately addresses the matters set out in section 61.</i>	Yes	
I, Russell Mullett, RAP Manager, GunaiKurnai Land and Waters Aboriginal Corporation, acting under authority delegated to me by the BOARD OF DIRECTORS, and pursuant to section 65(2) of the Aboriginal Heritage Act 2006 hereby <u>approve</u> this cultural heritage management plan:		
Signed: ... RUSSELL MULLETT		
Dated: 5th December 2023		
- This notice of approval should be inserted after the title page and bound with the body of the management plan. - The recommendations in this management plan are now compliance requirements. Officers from the Department of Premier and Cabinet may attend the subject land to monitor compliance with the recommendations.		