

Kerry Stow

From: SeamlessCMS@seamless.com.au
Sent: Wednesday, 3 July 2019 10:51 AM
To: Planning Department
Subject: Planning Permit Submitted
Attachments: COT_Vol11989Fol268.pdf; 18313_Prop_V2.pdf; 18313_Report_D.pdf

Online Form Submitted

Date Submitted: 03 Jul 2019 10:50 AM

Name	
Business trading name	Crowther & Sadler Pty Ltd
Email address	contact@crowthersadler.com.au
Postal address	PO Box 722, Bairnsdale
Home	
Work	5152 5011
Mobile	
Owners name	Benjamin K Frew & Nanang Hariyanto
Owners business trading name. (if applicable)	
Owners email address	ab.projects@outlook.com
Owners postal address	PO Box 509, Bairnsdale
Home.	
Work.	
Mobile.	0488 123 678
Street number	100
Street name	Racecourse Road
Town	Bairnsdale
Post Code	3875
Lot Number	2
Plan Number	PS814883V
Plan type	Plan of subdivision
Copy of plan	No file attached
Crown allotment No	E (pt)
Section No	
Parish/Township name	Bairnsdale
Has there been a pre-application meeting:	No
Officers name	
Your reference number	18313 Frew
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?	No
Will the proposal result in a breach of a registered covenant restriction or agreement?	No

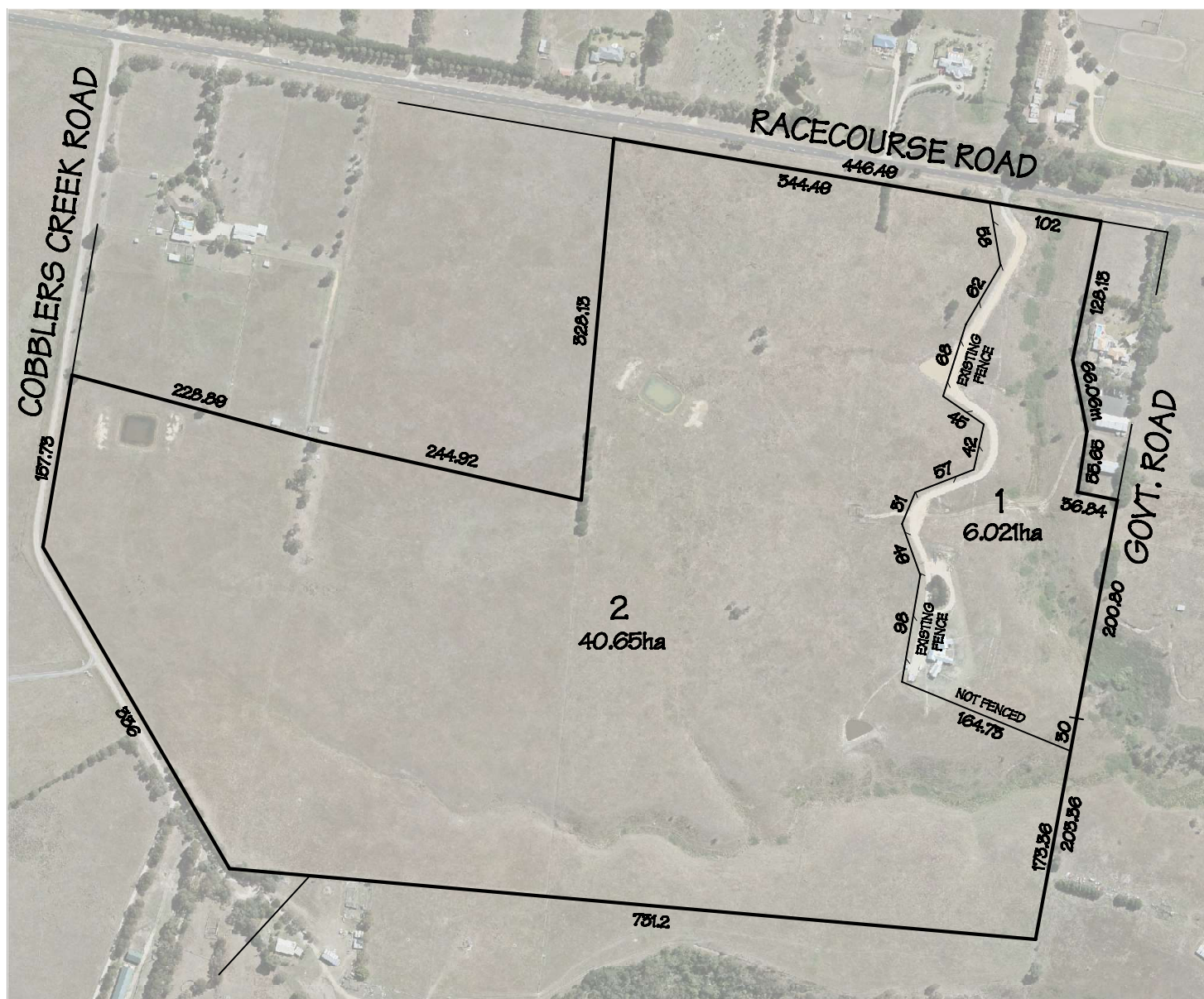
Description of proposal - Describe the use, development or other matter which requires a permit	Two Lot Subdivision (Dwelling Excision)
Existing conditions - Describe how the land is used and developed now	Farming Zone - Vacant Land
Estimated cost of development. Note: You may be required to verify this estimate	N/A
Title (must have been generated within the past 30 days	COT_Vol11989Fol268.pdf (Attached)
Covenants or Section 173 agreements	No file attached
Site Plan/floor - plan/elevations	18313_Prop_V2.pdf (Attached)
Planning report	18313_Report_D.pdf (Attached)
1. Supporting information/reports	No file attached
2. Supporting information/reports	No file attached
3. Supporting information/reports	No file attached
4. Supporting information/reports	No file attached
5. Supporting information/reports	No file attached
6. Supporting information/reports	No file attached
7. Supporting information/reports	No file attached
8. Supporting information/reports	No file attached
I declare that I am the applicant and that all the information in this application is true and correct and the owner (if not myself) has been notified of the permit application.	Yes

PROPOSED SUBDIVISION

PARISH OF BAIRNSDALE
CROWN ALLOTMENT E (PART)

LOT 2 ON PS814883V

MGA94, ZONE 55



BEN FREW

RACECOURSE ROAD, BAIRNSDALE

Crowthier & Sadler Pty. Ltd.

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

FILENAME: 18313 Prop V2.pro

NOTATIONS

AREAS ARE APPROXIMATE ONLY
DIMENSIONS ARE SUBJECT TO SURVEY

SCALE (SHEET SIZE A3)

1 : 4000

SURVEYORS REF.

18313

VERSION 2 - DRAWN 11/06/2019

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

Page 1 of 1

VOLUME 11989 FOLIO 268

Security no : 124078194974R
Produced 02/07/2019 02:53 PM

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 814883V.

PARENT TITLES :

Volume 09550 Folio 358 Volume 10663 Folio 079

Created by instrument PS814883V 12/06/2018

REGISTERED PROPRIETOR

Estate Fee Simple

Joint Proprietors

BENJAMIN KANE FREW

NANANG HARIYANTO both of 100 RACECOURSE ROAD BAIRNSDALE VIC 3875

AR067277J 28/05/2018

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AR067287F 28/05/2018

AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD

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

DIAGRAM LOCATION

SEE PS814883V 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)

ADMINISTRATIVE NOTICES

NIL

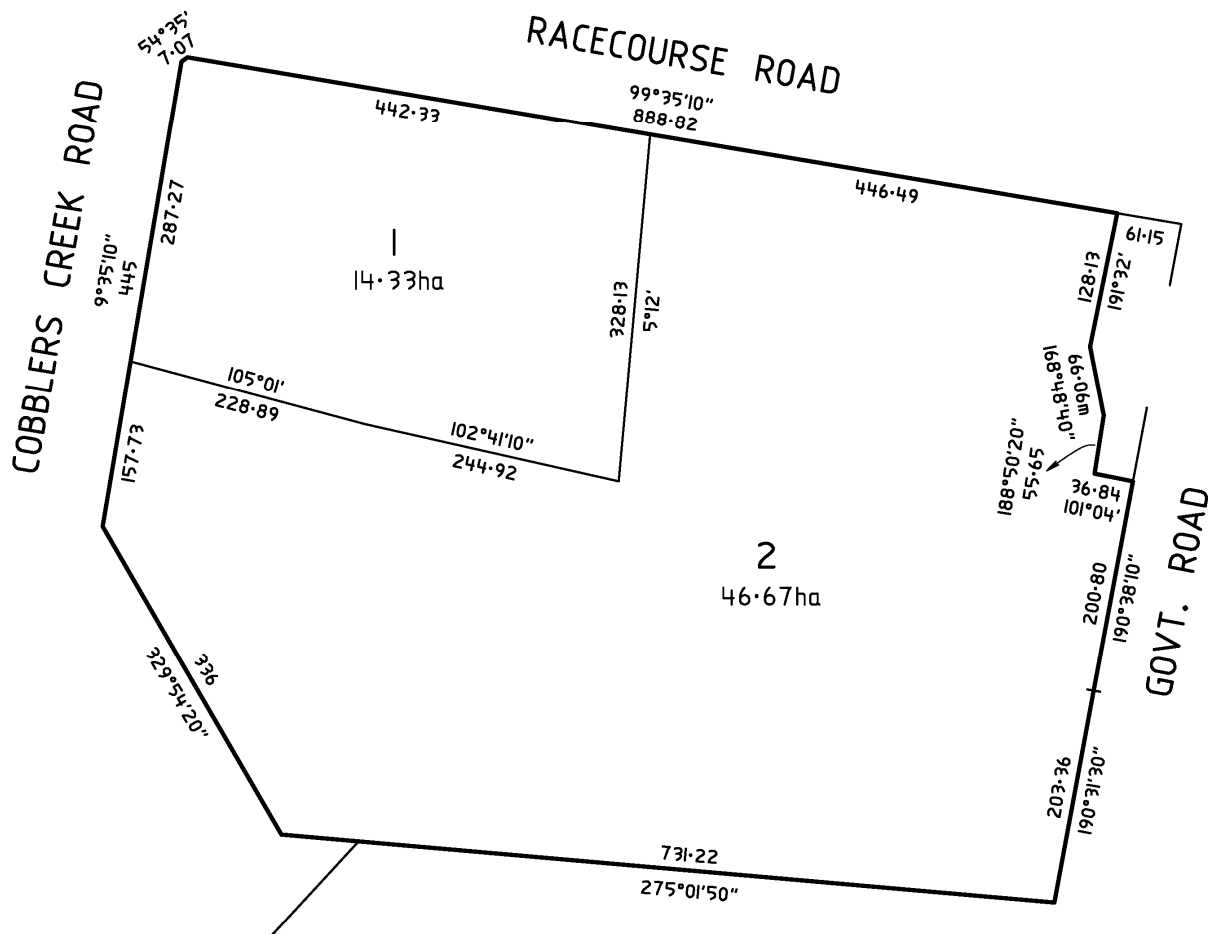
eCT Control 16165A ANZ RETAIL AND SMALL BUSINESS
Effective from 24/10/2018

DOCUMENT END

PLAN OF SUBDIVISION		EDITION 1	PS 814883V	
LOCATION OF LAND PARISH: BAIRNSDALE TOWNSHIP: _____ SECTION: _____ CROWN ALLOTMENT: E (PART) CROWN PORTION: _____ TITLE REFERENCE: VOL 9550 FOL 358 VOL 10663 FOL 079 LAST PLAN REFERENCE: LOT 2 - LPI32717 LOT 2 - PS438843E POSTAL ADDRESS: 60 & 100 RACECOURSE ROAD, (at time of subdivision) BAIRNSDALE, 3875 MGA CO-ORDINATES: E: 552 435 ZONE: 55 (of approx centre of land in plan) N: 5810 720 GDA 94		Council Name: East Gippsland Shire Council Council Reference Number: PS814883V Planning Permit Reference: 381/2017/P SPEAR Reference Number: S113862M 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: Martin T Ireland for East Gippsland Shire Council on 21/12/2017 Statement Of Compliance issued: 21/12/2017		
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON			
NIL	NIL			
NOTATIONS				
DEPTH LIMITATION DOES NOT APPLY				
SURVEY: This plan is based on survey. STAGING: This is not a staged subdivision. Planning Permit No. 381/2017/P This survey has been connected to permanent marks No(s). 341 & 351 & MOORMURNG PM 27 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
Crowther & Sadler Pty. Ltd. LICENSED SURVEYORS & TOWN PLANNERS 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875 P. (03) 6162 6011 E. contact@crowthersadler.com.au		SURVEYORS FILE REF: 17692 Digitally signed by: Michael Joseph Sadler (Crowther & Sadler - Crowther & Sadler), Surveyor's Plan Version (1), 28/11/2017, SPEAR Ref: S113862M		ORIGINAL SHEET SIZE: A3 SHEET 1 OF 2 SHEETS PLAN REGISTERED TIME: 11.23am DATE: 12 / 6 / 2018 HEATH RICHARDS Assistant Registrar of Titles

PS 814883V

MGA94 ZONE 55



Crowther & Sadler Pty. Ltd.

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

SURVEYORS REF
17692

SCALE
1:5000

50 0 50 100 150 200
LENGTHS ARE IN METRES

ORIGINAL SHEET
SIZE: A3

SHEET 2

Digitally signed by: Michael Joseph Sadler (Crowther & Sadler - Crowther & Sadler),
Surveyor's Plan Version (1),
28/11/2017, SPEAR Ref: S113862M

Digitally signed by:
East Gippsland Shire Council,
21/12/2017,
SPEAR Ref: S113862M

Planning Report

Two Lot Subdivision (Dwelling Excision)
100 Racecourse Road, Bairnsdale

Reference – 18313

3 July 2019



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Proposed Subdivision Plan (Version 2, dated 11/06/2019)

Copy of Title (Lot 2 on PS814883V)

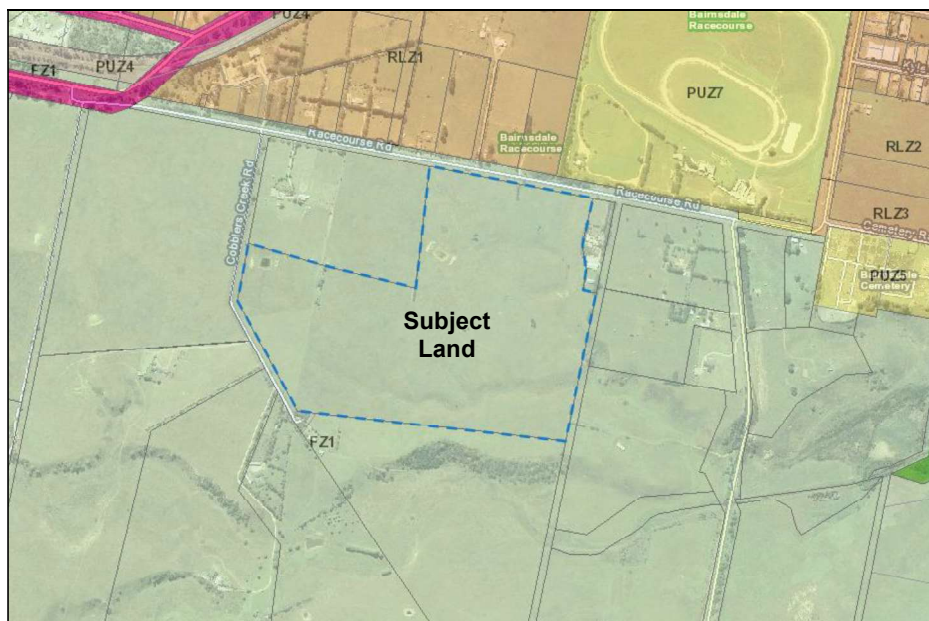
Note: Applicable Planning Application fee is \$1,318.10 (to be paid by cheque)

1. Introduction

This planning report is prepared in support of proposed Two Lot Subdivision (Dwelling Excision) at 100 Racecourse Road, Bairnsdale. The report addresses the provisions of the Farming Zone and Erosion Management Overlay as contained within the *East Gippsland Planning Scheme*.



Aerial view of subject land and surrounding precinct – Source: LASSI SPEAR (DELWP)



Aerial & Zone Mapping – Source: VicPlan (DELWP)

2. Subject Land & Surrounding Context

The subject land is formally described as Lot 2 on PS814883V and is approximately 46.67ha in area.

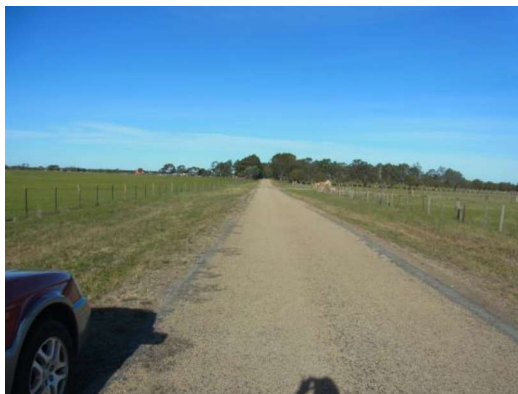


View south east across subject land from Racecourse Road

The site has frontage to Racecourse Road to the north which comprises a bitumen seal. The site also has frontage to Government Road to the east which is currently unmade and to Cobblers Creek Road to the west (sealed).



View east and view west along Racecourse Road



View north and view south along Cobblers Creek Road

An existing dwelling and associated outbuildings are located on the eastern portion of the site which are provided with access via a gravel driveway. Whilst the remainder of the property is predominately cleared grazing land, there are also a number of substantial drainage lines which dissect the property which are tributaries of Cobblers Creek.



View south towards existing dwelling from Racecourse Road

The whole of the subject land is mapped as being affected by the provisions of the Farming Zone – Schedule 1 and Erosion Management Overlay of the *East Gippsland Planning Scheme*.

The adjoining properties to the east, west and south are also mapped as being affected by the provisions of the Farming Zone – Schedule 1. Land on the northern side of Racecourse Road however is mapped as being Rural Living Zone – Schedule 1 and Public Use Zone – Schedule 7.

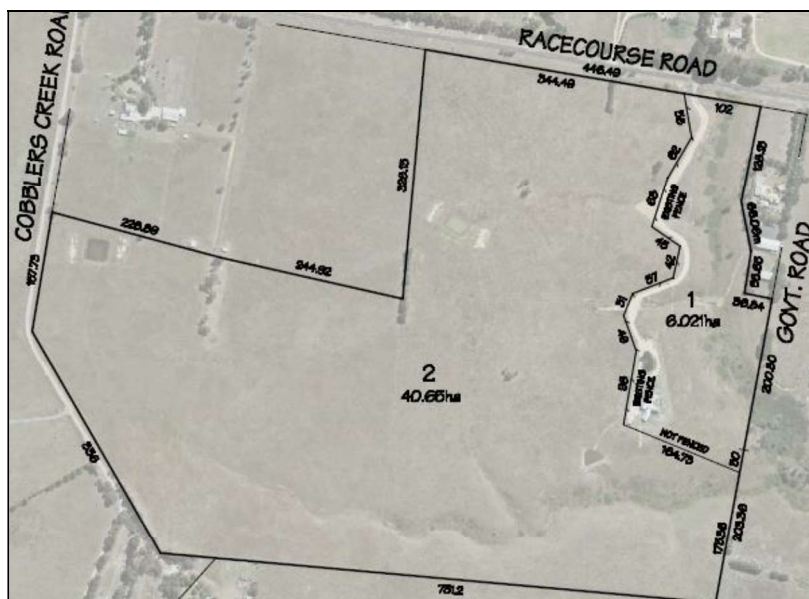
The land contained within the Public Use Zone – Schedule 7 contains the Bairnsdale Race Course however the precinct is otherwise dominated by rural residential style development.



View towards southern side of Racecourse Road

3. The Application & Proposal

The Application seeks approval for a Two Lot Subdivision which will excise an existing dwelling to create Lot 1 of approximately 6.021ha in area which will contain the existing dwelling and Lot 2 of approximately 40.65ha in area which will contain the farming balance.



Proposed Subdivision Layout – Source: Crowther & Sadler Pty Ltd

The subdivision has been designed to respond to the existing site characteristics and the way in which the farm is managed and maintained through nomination of the proposed boundary along an existing section of internal fencing.

Lot 1 has been designed to accommodate the existing dwelling, driveway alignment, septic tank lines and a main drainage line which has been rehabilitated during our client's ownership. This drainage line was previously degraded and infested with blackberries however is now an attractive entry feature.



View towards rehabilitated gully (Lot 1) from Racecourse Road

This drainage line is undergoing revegetation to aid with the stabilisation of the gully and its margins. These areas are quite sensitive and would be subject to erosion should traditional grazing activities be allowed to continue.

It is anticipated that the existing access provisions will continue to service both of the proposed allotments. The existing driveway established from Racecourse Road will be retained with the dwelling on Lot 1 and the balance of the land will retain two existing gateways from Racecourse Road and an existing gateway from Cobblers Creek Road.



Existing driveway access to Lot 1

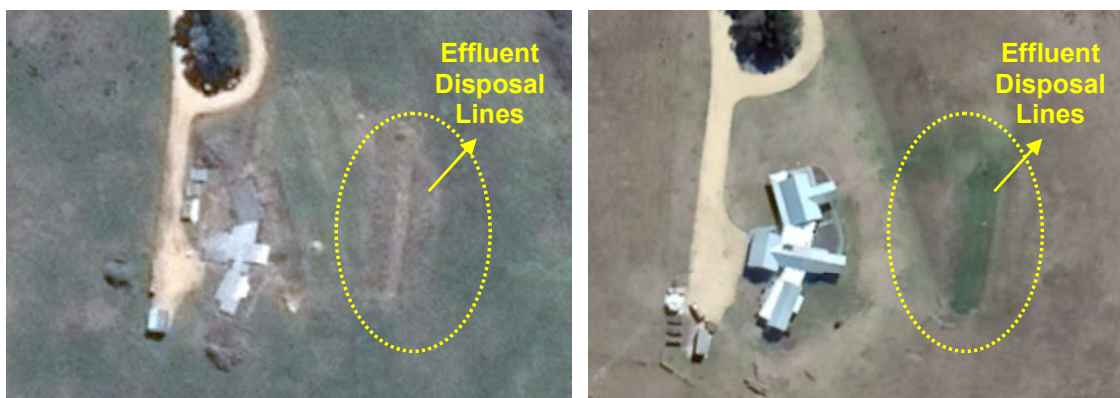


Existing gateways to Lot 2 from Racecourse Road



Existing access to Lot 2 from Cobblers Creek Road

The nomination of the boundaries as proposed will not segment or impact adversely on the existing onsite effluent disposal system, which is located to the east of the dwelling.



Aerial photography 2016 & 2017: Source: Google Earth

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

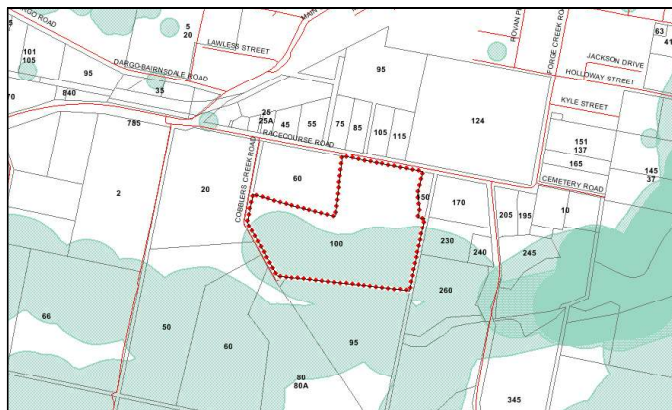
- **Clause 35.07-3** for subdivision of the land in accordance with the provisions of the Farming Zone; &
- **Clause 44.01-5** for subdivision of the land in accordance with the provisions of the Erosion Management Overlay.

4. Cultural Heritage

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

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

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



Cultural Heritage Sensitivity Mapping – Source: Planning Maps Online (DELWP)

Whilst the subject land is mapped in part as being cultural heritage sensitive the proposed subdivision is not deemed to be a high impact activity (Regulation 49). There is therefore no requirement to provide a CHMP in support of the proposal

5. Planning Policy

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

5.1 Planning Policy Framework

Clause 12 of the State Planning Policy Framework relates to *Environmental and Landscape Values* and highlights the importance of protecting and conserving Victoria's biodiversity. The proposed subdivision responds positively to the objectives of the Clause as it has been designed to segment the rehabilitated drainage line from the balance of the farm and associated grazing activities.

The objectives of Clause 13.04-2S relating to *Erosion & Landslip* seek to protect areas prone to erosion, landslip and other land degradation processes which the proposal will ultimately achieve. The current owners of the land have already undertaken extensive rehabilitation works within the drainage system which has stabilised the banks. Segmenting the grazing activities from the more environmentally significant area will assist with protecting the soil stability.

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

- The proposal will not result in the loss of any productive agricultural land from the State's agricultural base, as the subdivision has been designed specifically to segment the viable agricultural land from the remainder of the property.
- There will be no change in land use as a result of the subdivision as the boundaries have been designed to segment the viable agricultural portion of the land from the residential use. The retention of Lot 2 at 40.65ha in area anticipates the continuation of the site grazing activities.
- The proposal simply seeks to excise the existing dwelling and does not seek approval for any development.

Clause 14.01-2S relating to *Sustainable Agricultural Land Use* has the objective to encourage sustainable agricultural land use. The proposal responds positively as the environmentally sensitive portion of the site will be segmented from the agricultural portion of the land. Lot 2 at 40.65ha in area remains sufficient in area for the continuation of viable grazing activities.

5.2 Local Planning Policy

The proposal is considered to respond positively to Clause 21.06 of the Municipal Strategic Statement which relates to *Natural Resource Management*. The Clause discusses the importance of protecting agricultural land which the proposed subdivision will ultimately achieve as the proposed boundary will simply match existing fencing and respond to the current site conditions.



View towards existing driveway and internal fencing

Consideration has been given to Clause 21.05-2 relating to *Erosion* which seeks to ensure that land use and development is directed to locations and carried out in ways that minimise its vulnerability to the threat of erosion. Whilst a Geotechnical Risk Assessment is not required to support the proposed Two Lot Subdivision it is acknowledged that the subdivision has had due regard to the matter of erosion with the sensitive rehabilitated drainage line having been segmented from the grazing activities.

The subject land and surrounding properties have been subject of strategic discussions in relatively recent times. Whilst Council have indicated that the area is earmarked for industrial growth on the basis that it is referenced within the Bairnsdale Growth Strategy (CPG Australia Pty Ltd, November 2009) we acknowledge that further strategic work was subsequently undertaken through the East Gippsland Industrial Land Study (Spatial Economics, 2012).

The East Gippsland Industrial Land Study (Spatial Economics, 2012) was adopted by Council on 5 July 2016, with the summary stating that Bairnsdale has a plentiful supply of industrial land. This document advises that Bairnsdale does not need additional industrial land stocks to meet existing and future needs.

Decision Guidelines

The subdivision has been specifically designed to respond to the site characteristics by matching the proposed boundary with the existing internal fence line. This position is considered to be practical and logical having regard for the position of the existing dwelling, associated curtilage and the presence of the existing drainage line.

Extensive works have been undertaken within the drainage line to the east of the existing dwelling to rehabilitate the area and to remove an infestation of blackberries. The environmentally sensitive nature of this drainage line deems traditional agricultural activities in this portion of the site inappropriate, as it would almost certainly lead to erosion and land degradation issues.

Whilst Lot 1 is somewhat large for a small Lot within a rural context, there is good justification to retain it at 6.021ha in area having regard for the characteristics of the area and the associated environmental values of the drainage system.

Lot 2 has been nominated at 40.65ha in area which ensures that there is sufficient area provided to allow for the continuation of the agricultural grazing activities which have historically occurred across the site. The subdivision will not result in the loss of any productive agricultural land.



View across subject land from Cobblers Creek Road

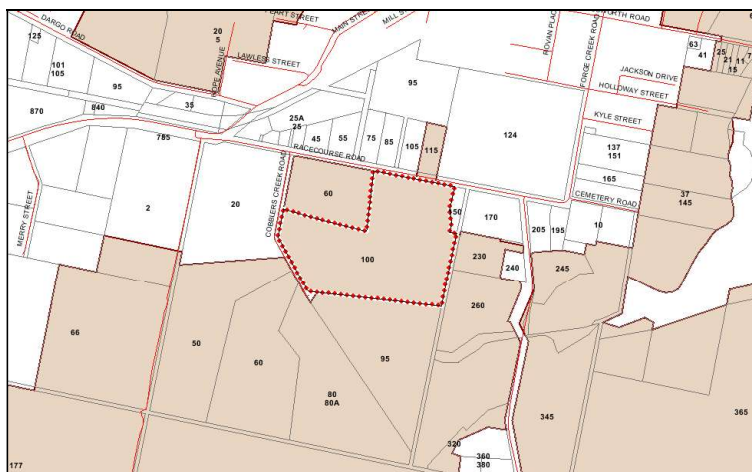
The farming balance (Lot 2) will retain the series of dams which provide a water source for the cattle which graze the property and will benefit from the presence of the various farm gates.

Ultimately the subdivision will simply segment the dwelling and associated curtilage from the productive agricultural component of the land and will not remove any land from production.

6.2 Erosion Management Overlay

The whole of the land is affected by the provisions of the Erosion Management Overlay provisions which seeks to protect areas which are prone to erosion and other land degradation processes.

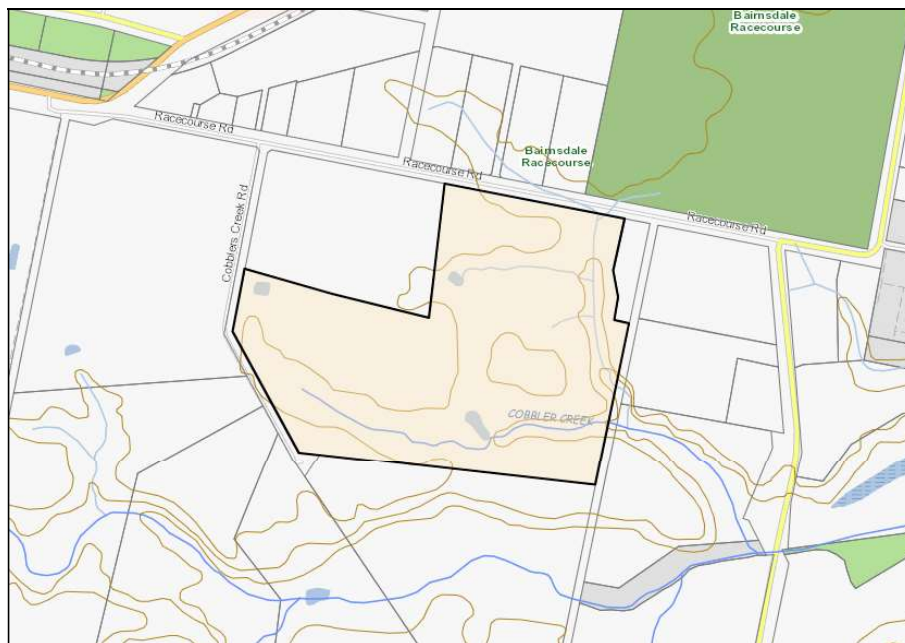
Planning approval is triggered at Clause 44.01-5 for subdivision of the land in accordance with Erosion Management Overlay provisions.



Erosion Management Overlay Mapping – Source: Planning Maps Online (DELWP)

Application Requirements

- Whilst the majority of the subject land is relatively flat in grade there are a series of drainage lines which dissect the property which form tributaries of Cobblers Creek.
- Extensive works have been undertaken by the current owners of the land to rehabilitate the drainage line provided on the eastern portion of the site which was previously infested with blackberries and severely compromised.
- It is considered inappropriate to allow traditional agricultural activities such as grazing to occur within the rehabilitated gully system. The nomination of the boundaries as proposed therefore responds well to the features and constraints of the land.
- The extent of earthworks to be implemented as a result of the proposed subdivision will be limited to a small section of fencing. The existing dwelling contained within Lot 1 is already serviced and there is no expectation that Lot 2 will need to be serviced given its size and agricultural use.
- It is anticipated that the standard suite of Conditions pertaining to soil stability and sediment control be placed on Permit to ensure no issues arise with respect to land degradation issues.



10-20m contours – Source: LASSI SPEAR (DELWP)

A Geotechnical Risk Assessment Report is not triggered as an Application Requirement under the Schedule to the Erosion Management Overlay as the proposal seeks approval for a Two Lot Subdivision within a rural zone

7. Conclusion

The proposed Two Lot Subdivision (Dwelling Excision) at 100 Racecourse Road, Bairnsdale is considered to accord with all relevant provisions of the Farming Zone and Erosion Management Overlay of the *East Gippsland Planning Scheme*. The proposal is consistent with Planning Policy Framework and Local Policy and has been designed to complement the adjoining properties.

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


MICHAEL SADLER
Managing Director

Detailed Assessment of the Proposal Against the East Gippsland Planning Scheme

PLANNING POLICY FRAMEWORK

Clause 11.01-1S Settlement

In general terms, overarching policy includes a series of strategies that support the establishment and reinforcement of settlement boundaries. By virtue of the deployment of the zone as well the Bairnsdale Growth Strategy, the subject land is outside the settlement of Bairnsdale.

Overarching policy also states that urban sprawl (even in the form of ad hoc and incremental subdivision) is to be limited, and growth directed to existing settlements.

The proposal before Council is an ad-hoc subdivision that is in conflict with this clause.

Broadly speaking, if Council elected to undertake strategic work that related to the southern boundary of Bairnsdale, subdivisions such as the one before Council would only add to the complexity and difficulty of any projects or outcomes undertaken at a higher level. Therefore, by compromising future strategic work, the subdivision should be refused in order to 'hold' the land as is.

Clause 14.01-1S Agriculture

Policy states that planning outcomes should protect agricultural land from developments and subdivision that could compromise the ongoing productivity of the land, and adjoining land.

The land in this proposal partly contains an agricultural use and ability, and is in close proximity to the Racecourse. Not only is the subdivision a threat to the agricultural use of this land, it represents a threat to the adjoining farming operations. The proposal seeks to utilise a provision in the scheme that is intended for other purposes, and should be used sparingly not on a 'come one, come all' basis.

By virtue of its inherent nature, the proposed subdivision is inconsistent with policy as it seeks to create a rural lifestyle outcome, which in stark contrast with the objectives of clause 14.01. Policy encourages the consolidation of small lots in rural areas and discourages their creation.

The creation of small lots can be detrimental to the efficient operation of farming if the lot to be created does not relate to farming activity. In this case, no link has been demonstrated. The small lot to be created would effectively be removed from the stock of available agricultural land – an outcome which can not be supported under this clause.

There is also the potential for amenity conflicts to arise between productive farming operations on the adjoining land. Given that the site is in close proximity to the Racecourse, there is the real possibility that the site could be used for a more intense equine outcome (which is an agricultural pursuit).

The subdivision is in conflict with this clause.

MUNICIPAL STRATEGIC STATEMENT

Clause 21.06 Natural Resource Management

21.06-1 Protection of Agricultural Land

Objective 1

To ensure that rural land is used and developed in a way that will support efficient agricultural production.

Strategy 1.1

Avoid subdivision outside areas defined as being suitable for rural residential development to the lot sizes shown in the Schedule to the Farming Zone.

Strategy 1.2

Discourage subdivision for smaller lots in agricultural areas except where the subdivision will facilitate more effective use of the land for agricultural or related purposes. Conditions may be applied to subdivisions prohibiting or limiting development of dwellings.

Under local planning policy – small lot subdivisions are discouraged where the subdivision has no relationship to efficient agricultural production. No link has been demonstrated in this application.

Local Policy states that agricultural and farming areas are key to the economic and social success of East Gippsland. Their protection is given the upmost priority under Local Policy. The fragmentation of land and the potential proliferation of dwellings is an outcome which is not supported at clause 22.06, and this proposal fails to meet policy objectives.

Local Policy seeks to protect agricultural land from inappropriate subdivision – the application before us seeks to create an additional small lot which would only further entrench the loss of this land from farming opportunities and broaden the threat to adjoining operations.

As such, the proposal is inconsistent with this clause of the local policy framework.

Clause 21.08 Housing

Rural Living Development

Objective 1

To encourage developments which increase the quality, diversity of types and tenures, and the affordability of housing.

Strategy 1.1

Ensure that areas proposed for future rural living:

- *are in accessible locations;*
- *will not have an adverse effect on agricultural productivity;*
- *are located on land physically and environmentally capable of sustaining development;*
and
- *can be serviced effectively and economically.*

Strategy 1.3

- *Discourage subdivision for rural living in agricultural areas.*

Strategy 1.6

Control the release of small-lot rural land and rezone at a rate which ensures that land released does not compete with fully serviced lots in urban centres.

Clause 21.08 carries weight, as this clause also requires Council to consider as relevant the Bairnsdale Growth Strategy which is discussed below. More broadly this clause relates to the creation of rural lifestyle lots – albeit directed to appropriate locations. The subject land is not an appropriate location for small lots to serve a rural lifestyle outcome.

Bairnsdale has a surplus of land zoned for rural living purposes to the north of the town, it is in these locations that an outcome such as this could be supported.

The proposal seeks to create a small lot with no agricultural justification to support an approval.

Clause 21.12 Strategies for sub-regions, towns & localities

21.12-2 Lakes & Coastal

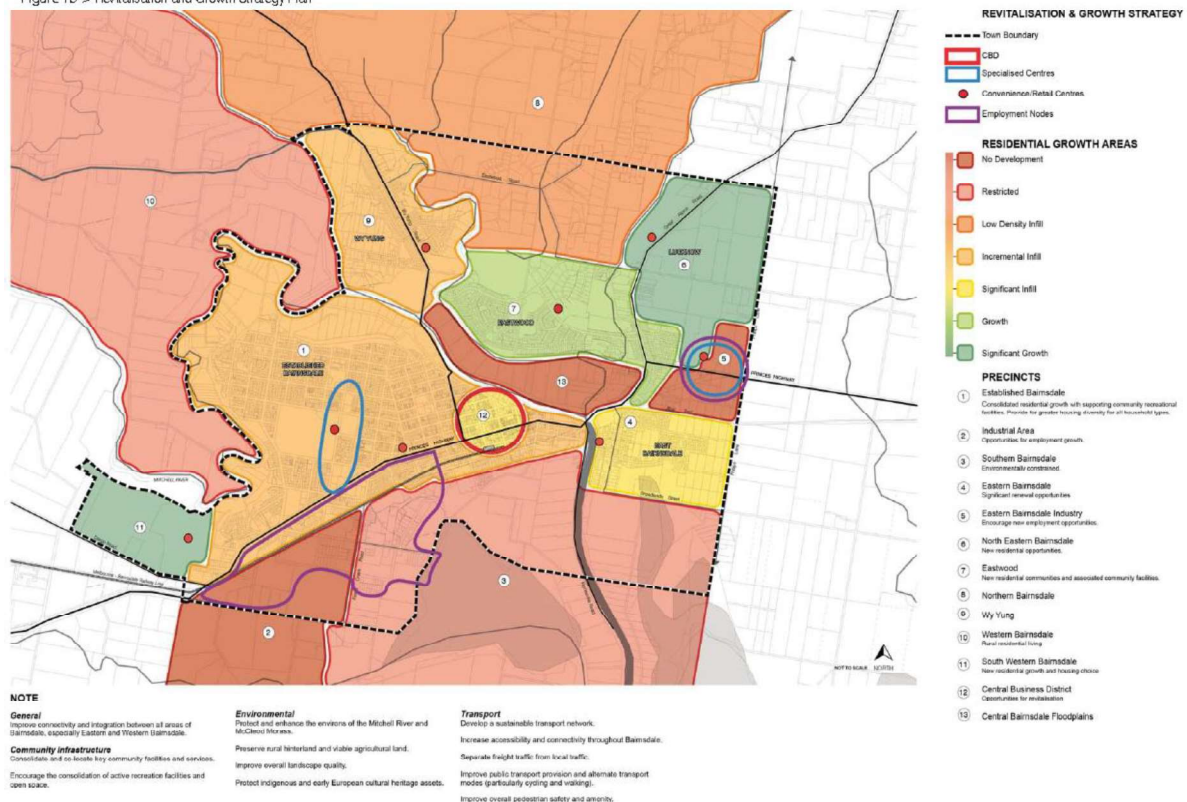
The locality of Bairnsdale falls under the Lakes & Coastal sub-region.

The bulk of clause 21.12 (in terms of Bairnsdale) speaks to the consolidation and support afforded to growing the town and its economic core functions. Rural residential subdivisions outside of current or proposed zonings (GRZ/LDRZ/RLZ) are mentioned as a constraint.

The Bairnsdale Growth Strategy is given weight as a reference document. The Growth Strategy does not support the creation of additional rural residential opportunities in the location of the application currently before us. It directs that growth be directed to within the settlement boundary and to existing residentially zoned land.

A copy of the Growth Strategy is shown below for reference. The subject land is in an area of 'no development' in a residential context.

Figure 1b > Revitalisation and Growth Strategy Plan



ZONE

Clause 35.07 Farming Zone

Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

Any Regional Catchment Strategy and associated plan applying to the land.

The capability of the land to accommodate the proposed use or development, including the disposal of effluent.

How the use or development relates to sustainable land management.

Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

How the use and development makes use of existing infrastructure and services.

Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *Any integrated land management plan prepared for the site.*

Dwelling issues

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

Design and siting issues

- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*
- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*
- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*
- *Whether the use and development will require traffic management measures.*

The Farming Zone gives primacy to using the land for agricultural purposes. Small rural residential lots can compromise the wider strategic ability for rural land to be used to its best and highest purpose. The proposed subdivision would remove land from the stock of productive land available. The proposal includes no compelling reason why it relates to the agricultural use of the land.

There is a temptation to declare that the land is 'lost from agriculture' on the basis that the lot size would be unlikely to be viable. Such claims have not been supported as sufficient grounds for approval by the Tribunal in similar decisions. Despite current economic trends in the agricultural sector, it stands to reason that the land itself still has some farming potential, and therefore should be protected regardless of the lot size.

The subdivision will restrict the ability to use the land for farming activities and could impact the ability of neighbouring farms to carry out agricultural production activities or to expand. This is due to the different amenity expectations upon rural residential properties compared to farming properties.

It is recognised that some activities in rural areas can improve productive farming outcomes, such as the consolidation of farm property or the divestment of farming assets from one enterprise to another. However, the subdivision of land to remove an existing dwelling from the property (a house lot excision) can pose a risk to the 'right to farm' by introducing another small rural residential lot into a farming area. The proposal before Council fits into the latter of these two situations.

Subdivision is not supported where it has the ability to impact on the 'right to farm' existing rural properties or removes land from agricultural production.

OVERLAYS

Clause 44.01 – Erosion Management Overlay

Under the provisions of the schedule of the EMO, a permit is required for a two-lot subdivision but there is no application requirement to prepare a geotechnical risk assessment. No information is available to support an approval under this clause.

CONCLUSION

The conclusion is that the proposal represents an unacceptable agricultural and planning outcome. Specifically, the negative impact that the proposal will have on the agricultural use of the land and adjoining land can not be supported. The Bairnsdale Growth Strategy equally does not support the subdivision. On the balance of the controls, the application is inconsistent with the East Gippsland Planning Scheme and should be refused.

East Gippsland Shire Council

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Objection to Planning Permit Application Planning and Environment Act 1987

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

Your Details:

Name: <u>Shannon & Chloe Egan</u>		
Postal address: <u>95 Cobblers Creek Rd</u>		
		Postcode: <u>3875</u>
Phone number: Home:	Work:	Mobile: <u>0400 617 195</u>
Email address: <u>egan excavations@gmail.com</u>		Fax:

Permit Details:

Planning permit number:	<u>185-2019</u>
What has been proposed?	<u>Plan of Subdivision</u>
What is the address to be used or developed?	<u>100 Rueecourse Rd</u> <u>Bairnsdale</u>
Who has applied for the permit?	<u>Benjamin Frew & Nanang Itarhyanto</u>

Objection Details:

What are the reasons for your objection?
<u>We object to the planning Application, we purchased our property on Cobblers Creek because this area is zoned farming. Our understanding was there would be no subdivision potential to turn the area into small lot rural blocks. Our concerns with this subdivision plan is it again cuts the farming size of the property & we are really concerned this opens the possibility for further applications to</u>

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ARN: 81 957 967 785

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

continue subdividing all lots until the
farming zone is no longer.

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

Signature: *Shannon Egan*

Name: *Shannon Egan*

Date: *10/8/19*