

Our ref: 18830

22 April 2020

Manager Planning
East Gippsland Shire Council
Via email: planning@egipps.vic.gov.au

Attention: Mr. Aaron Hollow

Dear Aaron,

**Re: Request to end Legal Agreement AD851558A
19A, 19B & 21 Golf Links Road, Lakes Entrance**

On behalf of the respective owners, we request Council's consent to the ending of Agreement AD851558A under Section 173 of the *Planning and Environment Act 1987* as applying to the following three properties:

1. 19A Golf Links Road, Lakes Entrance
Lot 5 on PS535111H
Owner: Kalimna Distributions Pty. Ltd
2. 19B Golf Links Road, Lakes Entrance
Lot 6 on PS535111H
Owner: Kalimna Distributions Pty. Ltd
3. 21 Golf Links Road
Land in PC369358
Owner: Ashley Leon Golding and Hannah Rose Veness

The first two properties described above are currently the subject of Planning Applications being considered by Council, each proposing the development of a single dwelling. Should Council determine Planning Applications 67/2020/P and 68/2020/P favourably, it is expected a Condition on each Permit will require the ending of the Section 173 Legal Agreement as applying to the subject land prior to occupancy.

To assist with Council's consideration of this request, we are pleased to provide some background information relating to the Agreement.

Planning Permit 243/2004/P was issued by Council on 23 July 2004 and approved a 35 dwelling development known as the Kinkuna Heights estate.

Planning Permit 103/2005/P was subsequently issued on 1 July 2005 and approved a nine lot subdivision to create eight vacant allotments, representing the first stage of the approved Kinkuna heights development, and a balance allotment to accommodate the future development of the remaining stages.

Agreement AD851558A ('the Agreement') was executed on 25 August 2005 as a Condition of Planning Permit 103/2005/P. We understand the purpose of the Agreement was to ensure consistency and create a nexus between the two separate Planning Permits issued for the development (243/2004/P) and the subdivision (103/2005/P).

Plan of Subdivision 535111H was registered on xxxx, creating Lots 5-12 (inclusive) and a balance allotment (Lot A).

The Kinkuna Heights development was not completed, with the approved development deemed to have expired. The ability for the approved development to be reinvigorated has now been lost, with Planning Permit 413/2016/P/C approving the development of Lot A for the purposes of a service station, carwash and associated facilities.

Council has previously provided consent to the ending of the Agreement on Lot A, with the matter given 'in principle' approval at the Ordinary Council Meeting of April 2017. Council resolved to consent to the ending of the Agreement at the Ordinary Council Meeting of July 2017. We understand the Agreement has subsequently been removed from Lot A.

The future development of dwellings on each of the three lots the subject of this request will not be undertaken as an amendment to the expired Planning Permit 243/2004/P. We respectfully request the ending of the Agreement as it applies to the subject land pursuant to Section 178A(1)(b) of the *Planning & Environment Act 1987*.

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

Regulation 55(a) - we confirm the Applicant for the request to end the Agreement is Kalimna Distributions Pty. Ltd., Mr. Ashley Golding and Ms. Hannah Veness, C/- Crowther & Sadler Pty. Ltd of 152 Macleod Street, Bairnsdale, Victoria, 3875. Phone number for the Applicant is 5152 5011.

Regulation 55(b) – the Agreement is to be ended as it applies to 19A Golf Links Road, Lakes Entrance (Lot 5 on PS535111H), 19B Golf Links Road, Lakes Entrance (Lot 6 on PS535111H) and 21 Golf Links Road, Lakes Entrance (Land in PC369358).

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

Regulation 55(d)(i) – not applicable to the subject Application as the proposal does not seek to end the Agreement in part.

Regulation 55(d)(ii) – the proposal seeks to end the Agreement as it applies 19A Golf Links Road, Lakes Entrance (Lot 5 on PS535111H), 19B Golf Links Road, Lakes Entrance (Lot 6 on PS535111H) and 21 Golf Links Road, Lakes Entrance (Land in PC369358)

Regulation 55(d)(iii) – the Agreement is required to be ended to sever the connection to the previously approved and now expired development anticipated by Planning Permit 243/2004/P. Each lot is now proposed to be developed with a single dwelling in a manner that differs from that anticipated by the Agreement.

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

Purpose of the Agreement

The purpose of Agreement AD851558A was to establish a connection in perpetuity between the two Permits issued by Council for the former Kinkuna Heights development. The expiration of the development Permit (243/2004/P), and subsequent approvals granted by Council for the development of the balance allotment prevent the development of the Kinkuna Heights estate as previously expected.

Why the Agreement is no longer required

The Agreement currently provides an impediment to any development, given the inability to develop in accordance with an expired Planning Permit. The provisions of the East Gippsland Planning Scheme are considered appropriate to regulate future development in an appropriate manner.

The request to end the Agreement represents an orderly outcome, irrespective of whether Council support the Planning Applications currently afoot. In many ways, the request to end the Agreement is a housekeeping exercise, and on that basis is able to proceed prior to the determination of the Planning Application.

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

The ending of the Agreement will not give rise to any form of disadvantage to any other person. This is evident from the lack of submissions received as a result of the Public Notification Process undertaken for Planning Applications 67/2020/P and 68/2020/P. It is our position that the development of a vacant allotment within the General Residential Zone for the purposes of a single dwelling is an outcome that would be anticipated and expected by any person..

The reasons why the responsible authority entered into the agreement

The Agreement was appropriately entered into by Council at the time in accordance with Planning Permit 103/2005/P.

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

None applicable.

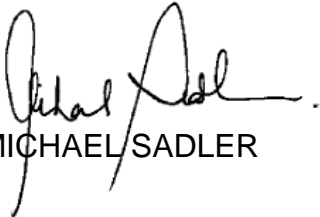
Any other prescribed matter

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

Section 178A(2)(c) of the Act requires an application of this type to be accompanied by the requisite fee as prescribed by the *Planning & Environment (Fees) Regulations 2016*. This request is accompanied by the requisite fee prescribed by Regulation 16.

We trust this information provides sufficient detail to facilitate Council's commencement of the process associated with the ending of the Agreement as it applies to the subject land. We respectfully await Council's timely advice regarding the scheduling of this matter on the next available Ordinary Council Meeting agenda.

Regards,



MICHAEL SADLER

Encl. Fees (\$632.80)
Copy of Titles

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

Page 1 of 1

VOLUME 10902 FOLIO 410

Security no : 124079794110A
Produced 17/10/2019 11:38 AM

LAND DESCRIPTION

Lot 5 on Plan of Subdivision 535111H.
PARENT TITLE Volume 10801 Folio 227
Created by instrument PS535111H 28/09/2005

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
KALIMNA DISTRIBUTIONS PTY LTD of 61 POINT ROAD KALIMNA VIC 3909
AS554949K 23/09/2019

ENCUMBRANCES, CAVEATS AND NOTICES

COVENANT AE662503W 12/10/2006

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
AB738569U 05/12/2002

DIAGRAM LOCATION

SEE PS535111H FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER	STATUS	DATE
AS554949K (E)	TRANSFER BY MORTGAGEE Registered	23/09/2019

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 19A GOLF LINKS ROAD LAKES ENTRANCE VIC 3909

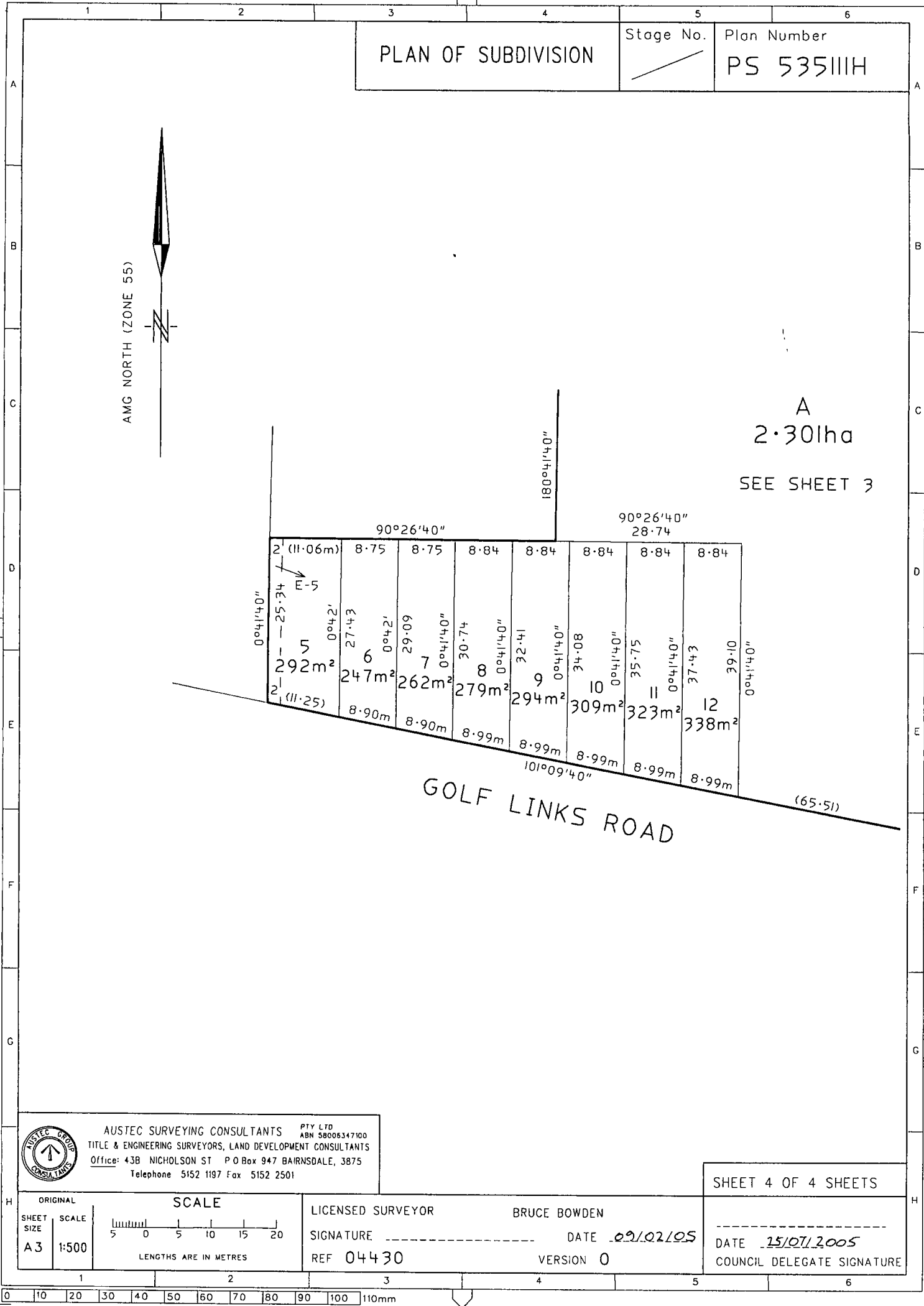
ADMINISTRATIVE NOTICES

NIL

eCT Control 21210T WARREN GRAHAM AND MURPHY PTY LTD
Effective from 23/09/2019

DOCUMENT END

<h1 style="margin: 0;">PLAN OF SUBDIVISION</h1>		Stage No. 	LTO use only EDITION 1	Plan Number PS 535111H
<p>Location of Land</p> <p>Parish: COLQUHOUN</p> <p>Township: _____</p> <p>Section: _____</p> <p>Crown Allotment: 26(PART) & 26A(PART)</p> <p>Crown Portion: _____</p> <p>LTO base record: 2412 DCMB</p> <p>Title References: VOL 10801 FOL 227</p> <p>Last Plan Reference: LOT D on PS 523948Q</p> <p>Postal Address: 17-37 GOLF LINKS ROAD LAKES ENTRANCE</p> <p>MGA94 Co-ordinates: E 589016 (Of approx. centre of plan) N 5808225 Zone 55</p>		<p style="text-align: center;">Council Certification and Endorsement</p> <p>Council Name: EAST GIPPSLAND SHIRE Ref: 41/2005/CRT</p> <p>1. This plan is certified under section 6 of the Subdivision Act 1988.</p> <p>2. This plan is certified under section 11(7) of the Subdivision Act 1988.</p> <p>Date of original certification under section 6 / /</p> <p>3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988.</p> <p>Open Space</p> <p>(i) A requirement for public open space under section 18 Subdivision Act 1988 has / has not been made.</p> <p>(ii) The requirement has been satisfied.</p> <p>(iii) The requirement is to be satisfied in Stage</p> <p>Council Delegate Council seal</p> <p>Date 25/07/2005</p>		
Vesting of Roads or Reserves				
Identifier	Council/Body/Person			
NIL				
Notations				
Depth Limitation: DOES NOT APPLY		Staging This is /is not a staged subdivision Planning Permit No. 103/2005/P		
LOTS 1 to 4 INCLUSIVE & EASEMENT E-1 ARE OMITTED FROM THIS PLAN.		Survey:- This plan is / is not based on survey. To be completed where applicable. This survey has been connected to permanent marks no(s). 24 & 196 In proclaimed Survey Area no. ____		
Easement Information				
Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road) EAST GIPPSLAND REGIONAL WATER AUTHORITY - "EGRWA" EAST GIPPSLAND SHIRE - "EGS" TXU ELECTRICITY LTD ACN 064651118 - "TXU" ** -SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000.				LTO use only _____ Statement of Compliance / Exemption Statement Received <input checked="" type="checkbox"/> Date 16/ 9 /05
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-2 & E-4	WATER SUPPLY	SEE PLAN	LP 222011X & PS 407938S	TAMBO WATER BOARD & EAST GIPPSLAND WATER
E-3 & E-4	SEWERAGE & DRAINAGE	..	LP 222011X	LOTS IN LP 222011X
E-5	DRAINAGE	..	PS 407938S & PS 523948Q	LOTS ON PS 407938S & EGS
E-6	SEWERAGE	..	PS 407938S	EAST GIPPSLAND WATER
E-7	DRAINAGE	..	PS 508288T and PS 523948Q	LOTS ON PS 508288T & EGS
E-8	SEWERAGE & POWERLINE	..	PS 523948Q & ..	EGRWA & TXU
E-9	DRAINAGE	..	PS 523948Q	EGS
E-10	DRAINAGE, SEWERAGE & POWERLINE	..	PS 523948Q & .. L.P. 222011X	LOTS ON LP 222011X, PS 523948Q, EGS, TXU & EGRWA
				LTO use only _____ PLAN REGISTERED TIME 9:18 am DATE 28/09/2005 Assistant Registrar of Titles
				SHEET 1 OF 4 SHEETS
 AUSTEC SURVEYING CONSULTANTS PTY LTD TITLE & ENGINEERING SURVEYORS, LAND DEVELOPMENT CONSULTANTS Office: 438 Nicholson Street P.O. Box 947 BAIRNSDALE, 3875. Telephone (0351) 521197 Fax (0351) 522501		LICENSED SURVEYOR BRUCE BOWDEN SIGNATURE _____ DATE 9/02/05 REF 04430 VERSION 0		DATE 25/07/2005 COUNCIL DELEGATE SIGNATURE Original sheet size A3





AB738569U

05/12/2002 \$59 173



FORM 13

SECTION 181

**APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE
MAKING OF A RECORDING OF AN AGREEMENT**

PLANNING AND ENVIRONMENT ACT 1987

Lodged at the Land Titles Office by:



DAB738569U-1-1

Name: JOHN HIBBERT
Phone: (03) 5155 2377
Address: P O Box 217 Lakes Entrance
Ref: Customer Code 2717P

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: Lots 27, 28 and 29 and Lot C on Plan of Subdivision No. 508288T Parish of Colquhoun and being ~~part of~~ the land comprised in Certificates of Title Volume ~~10668~~ ¹⁰⁶⁸⁵ Folios ~~290~~ ^{391, 392, 393 + 394}

Authority: East Gippsland Shire Council
273 Main Street, Bairnsdale. 3875

Section and Act under which agreement made: Section 173 Planning & Environment Act 1987

A copy of the Agreement is attached to this Application.

Signature of the Responsible Authority.....

Name of Officer... JOHN TRAA (STATUTORY PLANNER)

Date 26th SEPTEMBER, 2002

5/12/02

THIS AGREEMENT is made the 25th day of SEPTEMBER 2002

BETWEEN:

EAST GIPPSLAND SHIRE COUNCIL of 273 Main Street, Bairnsdale ("the Responsible Authority") of the first part

and



DAB738569U-2-0

JOSEPH CHARLES WALTERS and SHIRLEY ANN WALTERS of 3 Golf Links Road, Lakes Entrance ("the Owners") of the second part

WHEREAS

- A. The Owners are the registered proprietors of the land described in the First Schedule hereto ("the subject land") and have made Application to the Responsible Authority under the East Gippsland Planning Scheme ("the Scheme") for a Permit to subdivide the subject land into 4 lots as shown on the Plan attached.
- B. The Responsible Authority has granted Planning Permit No 02/00155/DS issued on 5th August 2002 and amended on 28th August 2002 ("the Permit") for a four Lot subdivision of the subject land subject (inter alia) to a condition as follows:-

"26. Prior to the issue of a Statement of Compliance the owner of the land must enter into an Agreement with the responsible authority in accordance with Section 173 of the Planning and Environment Act 1987 which will provide and covenant that:

- (a) The owner of Lot C agrees to accept stormwater discharge from Lots 27, 28 and 29 which cannot be directed to the street kerb and channel. Should the owner of Lot C wish to further develop or subdivide the land the owner shall be responsible for the design and construction, in accordance with Council requirements, of a stormwater drainage

AB738569U

05/12/2002 \$59



system within the easement provided which shall provide for the control of stormwater runoff from Lots 27, 28 and 29.

- (b) The owners of Lots 27, 28 and 29 agree to control and manage stormwater runoff not able to be directed to the street kerb and channel in such a manner so as not to cause erosion or pollution.

The agreement may be ended wholly or in part or as to any part of the land by the responsible authority with the approval of the Minister or by agreement between the responsible authority and all persons who are bound by any covenant in the agreement.

The agreement will bind the applicant as that owner and shall run with the land so that all successors in title are bound by the agreement. This agreement will be prepared at the applicants cost and to the satisfaction of the responsible authority, and shall be registered on the title in accordance with Section 181 of the Planning and Environment Act 1987.”

- C. The Responsible Authority and the Owners have agreed that without restricting or limiting their respective powers to enter into this Agreement and insofar as it can be so treated this Agreement shall be treated as being an Agreement under Section 173(1) of the Planning and Environment Act 1987.

NOW THIS AGREEMENT WITNESSETH as follows:-

1. In this Agreement unless inconsistent with the context or subject matter “Owners” shall mean the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the subject land or any part thereof.



2. The Owners with the intent that their covenant hereunder shall run with the land hereby covenant and agree that:-

- (i) they will comply with the conditions of the Permit;
- (ii) The owner of Lot C agrees to accept stormwater discharge from Lots 27, 28 and 29 which cannot be directed to the street kerb and channel. Should the owner of Lot C wish to further develop or subdivide the land the owner shall be responsible for the design and construction, in accordance with Council requirements, of a stormwater drainage system within the easement provided which shall provide for the control of stormwater runoff from Lots 27, 28 and 29.
- (iii) The owners of Lots 27, 28 and 29 agree to control and manage stormwater runoff not able to be directed to the street kerb and channel in such a manner so as not to cause erosion or pollution.
- (iv) This Agreement may be ended wholly or in part or as to any part of the land by the Responsible Authority with the approval of the Minister or by agreement between the Responsible Authority and all persons who are bound by any covenant in the Agreement;
- (v) This Agreement will bind the Owners as the owners and shall run with the land so that all successors in title are bound by the Agreement. This Agreement will be prepared at the Owners' cost and to the satisfaction of the Responsible Authority, and shall be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

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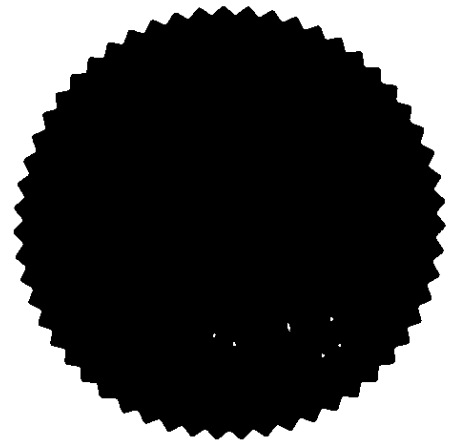
173



DAB738569U-4-6

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day
and year first hereinbefore written.

THE COMMON SEAL of the
EAST GIPPSLAND SHIRE COUNCIL
was affixed on the 25th day
of SEPTEMBER, 2002
in the presence of:



[Signature].....Chief Executive Officer

M. Bennett.....Witness

SIGNED by the said JOSEPH CHARLES
WALTERS in the presence of:

witness x Brennyn Carstairs

)
)
) x [Signature].....JCW
)

SIGNED by the said SHIRLEY ANN
WALTERS in the presence of:

witness x Brennyn Carstairs

)
)
) x [Signature].....SAW
)



DAB738569U-5-4

AB738569U

05/12/2002 \$59

173



EAST GIPPSLAND SHIRE COUNCIL

and

J.C. & S.A.WALTERS

SECTION 173 AGREEMENT



DAB738569U-7-1

JOHN HIBBERT
Solicitor
Shop 2, 271-279 Esplanade
Lakes Entrance 3909

Tel: 5155 2377
Ref: JH/LL
Redlash S173 & S181

TRANSFER OF LAND

Section 45 Transfer of Land Act 1958

Lodged by:

Name: **HARWOOD ANDREWS**
Phone: **(03) 5221 7166**

Address: **2235J**

Ref:

Customer Code:



The information statutory at maintaining the Victo	P	AE662503W	er of ndexes
	12/10/2006	\$193	
MADE BY			ROL
Office Use Only			

The transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed –

- together with any easements created by this transfer;
- subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer; 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 reference)

Certificate of Title Volume 10902 Folio 410

Estate and Interest: (e.g. "all my estate in fee simple")

All its estate in fee simple.

Consideration:

FORTY THOUSAND DOLLARS (\$40,000.00)

Transferor: (full name)

KINKUNA HEIGHTS PTY LTD ACN 105 796 165

Transferee: (full name and address including postcode)

GARY JOHN SWEETTEN AND ALISON CYNTHIA SWEETTEN of 2 Walpole Avenue, Belmont 3216 as joint proprietors

Directing Party: (full name)

NIL

Creation and/or Reservation and/or Covenant:

"The Transferees for themselves and their successors and transferees the registered proprietor or proprietors for the time being of the Land hereby transferred and or each part thereof **DO HEREBY COVENANT** with the transferors for their successors and transferees the registered proprietor or proprietors for the time being of the land comprised in Plan of Subdivision No. 535111H and each and every part thereof (other than the Land hereby transferred) that we shall not at any time:-

- (a) Erect or cause or suffer to be erected upon the said Land a dwelling that does not conform with the Design Guidelines issued by the Transferor, Kinkuna Heights Pty. Ltd. ("the Transferor"). This restriction shall expire and cease to have effect after 31 December, 2010;

Continued on T2 Page 2

Approval No. 8660510A

ORDER TO REGISTER

T2

Please register and issue title to

Signed

Cust. Code



STAMP DUTY USE ONLY

Harwood Andrews Pty Ltd	
ERS	AP 357
vic Duty	\$733.00
Consideration	\$40,000.00
Trans No.	848/2006
Endorse Date	4/10/2006
Section	Original
JHS Signature	

THE BACK OF THIS FORM MUST NOT BE USED

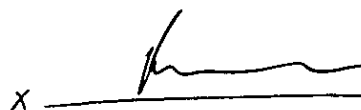
Land Registry, 570 Bourke Street, Melbourne, 3000, Phone 8636-2010

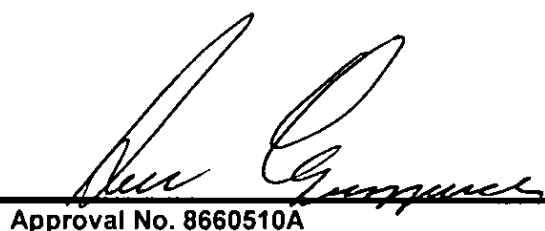
- (b) Commence construction of a dwelling on the Land hereby transferred without first obtaining the written approval of the Transferor that the proposed design of the dwelling complies with the terms of this Covenant and the Design Guidelines of the Transferor. This restriction shall expire and cease to have effect after 31 December, 2010;
- (c) Erect or cause or suffer to be erected upon the Land hereby transferred, a dwelling having less than fifty per centum (50%) of the external wall area constructed of one or more of the following materials: brick, brick veneer, masonry, stone or any other texture coated material;
- (d) Paint any exterior wall, cladding, fences, storage facilities or retaining walls on the Land hereby transferred in any colours which have not been approved in writing by the Transferor. This restriction shall expire and cease to have effect after 31 December, 2010;
- (e) Paint any fascia boards, gutters, trim and all exposed metal work on the Land hereby transferred in a colour which is not co-ordinated with the colour of any dwelling erected on the Land hereby transferred;
- (f) Allow any metalwork to remain unpainted on the Land hereby transferred after the date which is 3 months after the date of issue of the Certificate of Occupancy for any dwelling erected on the Land hereby transferred;
- (g) Allow any reflective glazing to be used in any dwelling erected on the Land hereby transferred;
- (h) Allow any main building erected upon the Land hereby transferred to be used for other than residential purposes;
- (i) Erect or cause or suffer to be erected upon the Land hereby transferred any building structure or fence constructed wholly or partly of second hand materials;
- (j) Erect or cause or suffer to be erected upon the Land hereby transferred any outbuilding with external walls constructed of material other than; brick, masonry, stone, colour bonded iron or any other texture coated material which has first been approved in writing by the Transferor;
- (k) Erect or cause or suffer to be erected upon the Land hereby transferred any relocated building;
- (l) Use or cause or permit of suffer to be used the Land hereby transferred or any part thereof for the purpose of parking, garaging or servicing of any motor vehicle in excess of 5 tonnes gross vehicle mass except of the purpose of loading and unloading goods.

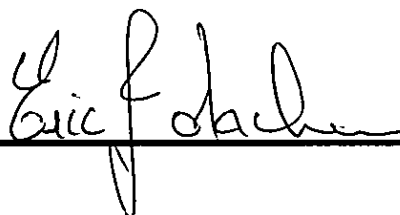
AND IT IS HEREBY AGREED that the benefit of the foregoing covenants shall be attached to and run at law and in equity with the land comprised in Plan of Subdivision No. 535111H so that the burden thereof shall be annexed to and run at law and in equity with the said Land hereby transferred and that the same shall be noted and appear on every future Certificate of Title for the said Land as an encumbrance affecting the same and every part thereof.

Dated: 12/10/06
Execution and attestation:

X 

X 


Approval No. 8660510A



T2 Page 2

AE662503W



THE BACK OF THIS FORM MUST NOT BE USED

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

ANNEXURE PAGE

Transfer of Land Act 1958

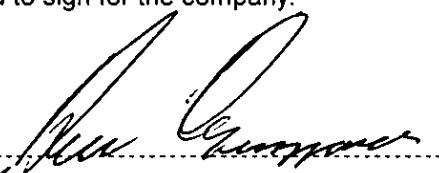
Privacy Collection Statement
The information from this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes in the Victorian Land Registry.

This is page 3 of Approved Form T2 dated 21/10/06
between KINKUNA HEIGHTS PTY LTD and GARY JOHN SWEETEN AND ALISON CYNTHIA SWEETEN

Signatures of the parties

Panel Heading

EXECUTED by KINKUNA HEIGHTS PTY LTD ACN 105 796 165 by being signed by those persons who are authorized to sign for the company:


Director
BENITO GUZZARDI
Full Name

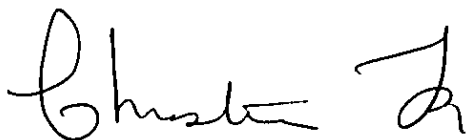
85 MINNIDALE ROAD

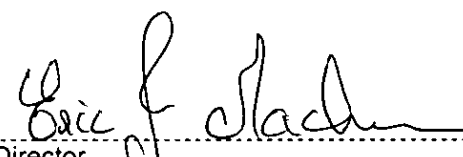
TRARALGON EAST VIC 3844
Address

SIGNED by GARY JOHN SWEETEN in the presence of:



SIGNED by ALISON CYNTHIA SWEETEN in the presence of:




Director
ERIC JOHN MACHEN
Full Name

RMB 4769 BUURMAN DRIVE

HAZELWOOD NORTH VIC 3840
Address

x 

x 

Approval No. 8660510A

A1



1. If there is insufficient space to accommodate the required information on the Form insert the words "See Annexure Page 2" (or equivalent) in the appropriate space. ANNEXURE PAGE IS NOT TO BE USED.
2. If multiple copies of a mortgage are lodged, original Annexure Page must be attached to the copy to which it is annexed.
3. The Annexure Pages must be properly identified and signed by the person to whom they relate.
4. All pages must be attached together by being stapled in the top left corner.

AE662503W
12/10/2006 \$193 45


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

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

Page 1 of 1

VOLUME 10902 FOLIO 411

Security no : 124079813574T
Produced 18/10/2019 10:47 AM

LAND DESCRIPTION

Lot 6 on Plan of Subdivision 535111H.
PARENT TITLE Volume 10801 Folio 227
Created by instrument PS535111H 28/09/2005

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
KALIMNA DISTRIBUTIONS PTY LTD of 61 POINT ROAD KALIMNA VIC 3909
AS554949K 23/09/2019

ENCUMBRANCES, CAVEATS AND NOTICES

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AGREEMENT Section 173 Planning and Environment Act 1987
AB738569U 05/12/2002

DIAGRAM LOCATION

SEE PS535111H FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER	STATUS	DATE
AS554949K (E)	TRANSFER BY MORTGAGEE Registered	23/09/2019

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 19B GOLF LINKS ROAD LAKES ENTRANCE VIC 3909

ADMINISTRATIVE NOTICES

NIL

eCT Control 21210T WARREN GRAHAM AND MURPHY PTY LTD
Effective from 23/09/2019

DOCUMENT END

Imaged Document Cover Sheet

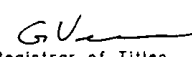

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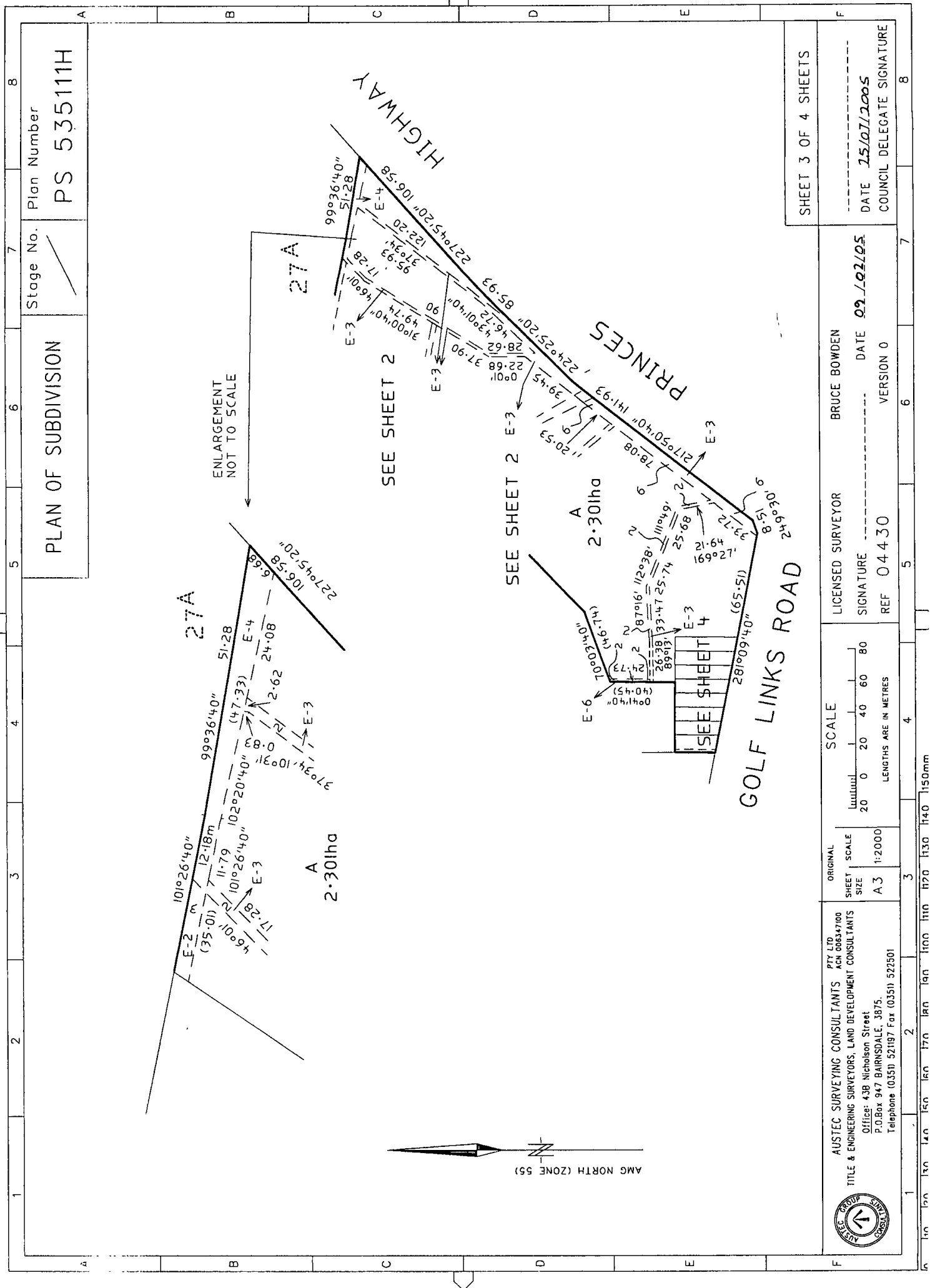
Document Type	Plan
Document Identification	PS535111H
Number of Pages (excluding this cover sheet)	4
Document Assembled	18/10/2019 10:49

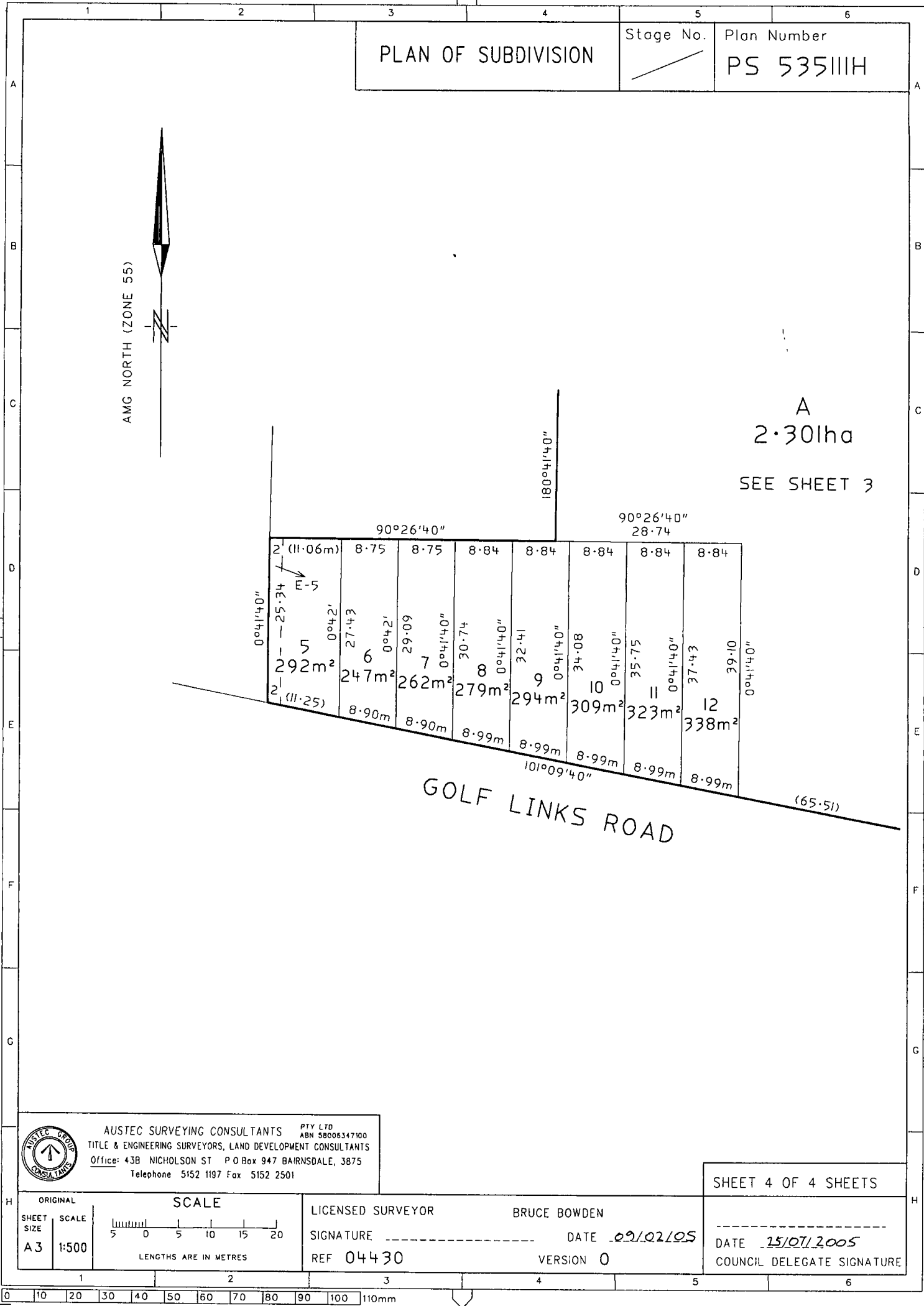
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<h1 style="margin: 0;">PLAN OF SUBDIVISION</h1>			Stage No. <div style="border: 1px solid black; width: 50px; height: 50px; margin: 0 auto;"></div>	LTO use only EDITION 1	Plan Number PS 535111H
Location of Land Parish: COLQUHOUN Township: _____ Section: _____ Crown Allotment: 26(PART) & 26A(PART) Crown Portion: _____ LTO base record: 2412 DCMB Title References: VOL 10801 FOL 227 Last Plan Reference: LOT D on PS 523948Q Postal Address: 17-37 GOLF LINKS ROAD LAKES ENTRANCE MGA94 Co-ordinates: E 589016 (Of approx. centre of plan) N 5808225 Zone 55			Council Certification and Endorsement Council Name: EAST GIPPSLAND SHIRE Ref: 41/2005/CRT 1. This plan is certified under section 6 of the Subdivision Act 1988. 2. This plan is certified under section 11(7) of the Subdivision Act 1988. Date of original certification under section 6 / / 3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988. Open Space (i) A requirement for public open space under section 18 Subdivision Act 1988 has / has not been made. (ii) The requirement has been satisfied. (iii) The requirement is to be satisfied in Stage Council Delegate Council seal Date 25/07/2005		
Vesting of Roads or Reserves					
Identifier	Council/Body/Person				
NIL					
Notations					
Depth Limitation: DOES NOT APPLY			Staging This is/is not a staged subdivision Planning Permit No. 103/2005/P		
LOTS 1 to 4 INCLUSIVE & EASEMENT E-1 ARE OMITTED FROM THIS PLAN.			Survey:- This plan is / is not based on survey. To be completed where applicable. This survey has been connected to permanent marks no(s). 24 & 196 In proclaimed Survey Area no. ____		
Easement Information					
Legend: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road) EAST GIPPSLAND REGIONAL WATER AUTHORITY - "EGRWA" EAST GIPPSLAND SHIRE - "EGS" TXU ELECTRICITY LTD ACN 064651118 - "TXU" ** -SECTION 88 OF THE ELECTRICITY INDUSTRY ACT 2000.				LTO use only _____ Statement of Compliance / Exemption Statement Received <input checked="" type="checkbox"/> Date 16/ 9 /05	
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of	
E-2 & E-4	WATER SUPPLY	SEE PLAN	LP 222011X & PS 407938S	TAMBO WATER BOARD & EAST GIPPSLAND WATER	
E-3 & E-4	SEWERAGE & DRAINAGE	..	LP 222011X	LOTS IN LP 222011X	
E-5	DRAINAGE	..	PS 407938S & PS 523948Q	LOTS ON PS 407938S & EGS	
E-6	SEWERAGE	..	PS 407938S	EAST GIPPSLAND WATER	
E-7	DRAINAGE	..	PS 508288T and PS 523948Q	LOTS ON PS 508288T & EGS	
E-8	SEWERAGE & POWERLINE	..	PS 523948Q & ..	EGRWA & TXU	
E-9	DRAINAGE	..	PS 523948Q	EGS	
E-10	DRAINAGE, SEWERAGE & POWERLINE	..	PS 523948Q & .. L.P. 222011X	LOTS ON LP 222011X, PS 523948Q, EGS, TXU & EGRWA	
				LTO use only _____ PLAN REGISTERED TIME 9:18 am DATE 28/09/2005  Assistant Registrar of Titles	
				SHEET 1 OF 4 SHEETS	
 AUSTEC SURVEYING CONSULTANTS PTY LTD TITLE & ENGINEERING SURVEYORS, LAND DEVELOPMENT CONSULTANTS Office: 438 Nicholson Street P.O. Box 947 BAIRNSDALE, 3875. Telephone (0351) 521197 Fax (0351) 522501			LICENSED SURVEYOR BRUCE BOWDEN SIGNATURE _____ DATE 9/02/05 REF 04430 VERSION 0		
			DATE 25/07/2005 COUNCIL DELEGATE SIGNATURE Original sheet size A3		







AB738569U

05/12/2002 \$59 173



FORM 13

SECTION 181

**APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE
MAKING OF A RECORDING OF AN AGREEMENT**

PLANNING AND ENVIRONMENT ACT 1987

Lodged at the Land Titles Office by:



DAB738569U-1-1

Name: JOHN HIBBERT
Phone: (03) 5155 2377
Address: P O Box 217 Lakes Entrance
Ref: Customer Code 2717P

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: Lots 27, 28 and 29 and Lot C on Plan of Subdivision No. 508288T Parish of Colquhoun and being ~~part of~~ the land comprised in Certificates of Title Volume ~~10668~~ ¹⁰⁶⁸⁵ Folios ~~290~~ ^{391, 392, 393 + 394}

Authority: East Gippsland Shire Council
273 Main Street, Bairnsdale. 3875

Section and Act under which agreement made: Section 173 Planning & Environment Act 1987

A copy of the Agreement is attached to this Application.

Signature of the Responsible Authority.....

Name of Officer... JOHN TRAA (STATUTORY PLANNER).....

Date 26th SEPTEMBER, 2002.....

5/12/02

THIS AGREEMENT is made the 25th day of SEPTEMBER 2002

BETWEEN:

EAST GIPPSLAND SHIRE COUNCIL of 273 Main Street, Bairnsdale ("the Responsible Authority") of the first part

and



JOSEPH CHARLES WALTERS and SHIRLEY ANN WALTERS of 3 Golf Links Road, Lakes Entrance ("the Owners") of the second part

WHEREAS

- A. The Owners are the registered proprietors of the land described in the First Schedule hereto ("the subject land") and have made Application to the Responsible Authority under the East Gippsland Planning Scheme ("the Scheme") for a Permit to subdivide the subject land into 4 lots as shown on the Plan attached.
- B. The Responsible Authority has granted Planning Permit No 02/00155/DS issued on 5th August 2002 and amended on 28th August 2002 ("the Permit") for a four Lot subdivision of the subject land subject (inter alia) to a condition as follows:-

"26. Prior to the issue of a Statement of Compliance the owner of the land must enter into an Agreement with the responsible authority in accordance with Section 173 of the Planning and Environment Act 1987 which will provide and covenant that:

- (a) The owner of Lot C agrees to accept stormwater discharge from Lots 27, 28 and 29 which cannot be directed to the street kerb and channel. Should the owner of Lot C wish to further develop or subdivide the land the owner shall be responsible for the design and construction, in accordance with Council requirements, of a stormwater drainage



system within the easement provided which shall provide for the control of stormwater runoff from Lots 27, 28 and 29.

- (b) The owners of Lots 27, 28 and 29 agree to control and manage stormwater runoff not able to be directed to the street kerb and channel in such a manner so as not to cause erosion or pollution.

The agreement may be ended wholly or in part or as to any part of the land by the responsible authority with the approval of the Minister or by agreement between the responsible authority and all persons who are bound by any covenant in the agreement.

The agreement will bind the applicant as that owner and shall run with the land so that all successors in title are bound by the agreement. This agreement will be prepared at the applicants cost and to the satisfaction of the responsible authority, and shall be registered on the title in accordance with Section 181 of the Planning and Environment Act 1987.”

- C. The Responsible Authority and the Owners have agreed that without restricting or limiting their respective powers to enter into this Agreement and insofar as it can be so treated this Agreement shall be treated as being an Agreement under Section 173(1) of the Planning and Environment Act 1987.

NOW THIS AGREEMENT WITNESSETH as follows:-

1. In this Agreement unless inconsistent with the context or subject matter “Owners” shall mean the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the subject land or any part thereof.



2. The Owners with the intent that their covenant hereunder shall run with the land hereby covenant and agree that:-

- (i) they will comply with the conditions of the Permit;
- (ii) The owner of Lot C agrees to accept stormwater discharge from Lots 27, 28 and 29 which cannot be directed to the street kerb and channel. Should the owner of Lot C wish to further develop or subdivide the land the owner shall be responsible for the design and construction, in accordance with Council requirements, of a stormwater drainage system within the easement provided which shall provide for the control of stormwater runoff from Lots 27, 28 and 29.
- (iii) The owners of Lots 27, 28 and 29 agree to control and manage stormwater runoff not able to be directed to the street kerb and channel in such a manner so as not to cause erosion or pollution.
- (iv) This Agreement may be ended wholly or in part or as to any part of the land by the Responsible Authority with the approval of the Minister or by agreement between the Responsible Authority and all persons who are bound by any covenant in the Agreement;
- (v) This Agreement will bind the Owners as the owners and shall run with the land so that all successors in title are bound by the Agreement. This Agreement will be prepared at the Owners' cost and to the satisfaction of the Responsible Authority, and shall be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.

AB738569U

05/12/2002 \$59

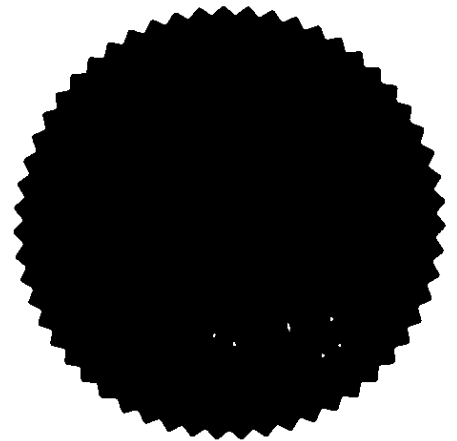
173



DAB738569U-4-6

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day
and year first hereinbefore written.

THE COMMON SEAL of the
EAST GIPPSLAND SHIRE COUNCIL
was affixed on the 25th day
of SEPTEMBER, 2002
in the presence of:



[Signature].....Chief Executive Officer

M. Bennett.....Witness

SIGNED by the said JOSEPH CHARLES
WALTERS in the presence of:

witness x Brennyn Carstairs

)
)
) x [Signature].....JCW
)

SIGNED by the said SHIRLEY ANN
WALTERS in the presence of:

witness x Brennyn Carstairs

)
)
) x [Signature].....SAW
)



DAB738569U-5-4

AB738569U

05/12/2002 \$59

173



EAST GIPPSLAND SHIRE COUNCIL

and

J.C. & S.A.WALTERS

SECTION 173 AGREEMENT



DAB738569U-7-1

JOHN HIBBERT
Solicitor
Shop 2, 271-279 Esplanade
Lakes Entrance 3909

Tel: 5155 2377
Ref: JH/LL
Redlash S173 & S181

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

Page 1 of 2

VOLUME 11011 FOLIO 063

Security no : 124082716219U
Produced 22/04/2020 02:40 PM

LAND DESCRIPTION

Land in Plan of Consolidation 369358J.
PARENT TITLES :
Volume 10902 Folio 412 to Volume 10902 Folio 413
Created by instrument PC369358J 31/05/2007

REGISTERED PROPRIETOR

Estate Fee Simple
Joint Proprietors
ASHLEY LEON GOLDING
HANNAH ROSE VENESS both of 5 MITCHELSON COURT LAKES ENTRANCE VIC 3909
AJ564223G 23/03/2012

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AJ564224E 23/03/2012
WESTPAC BANKING CORPORATION

COVENANT as to part AE604665W 13/09/2006

COVENANT as to part AE614052B 19/09/2006

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
AB738569U 05/12/2002

AGREEMENT Section 173 Planning and Environment Act 1987
AD851558A 02/09/2005

DIAGRAM LOCATION

SEE PC369358J 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: 21 GOLF LINKS ROAD LAKES ENTRANCE VIC 3909

ADMINISTRATIVE NOTICES

NIL

eCT Control 16320Q WESTPAC BANKING CORPORATION

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

Page 2 of 2

Effective from 29/04/2017

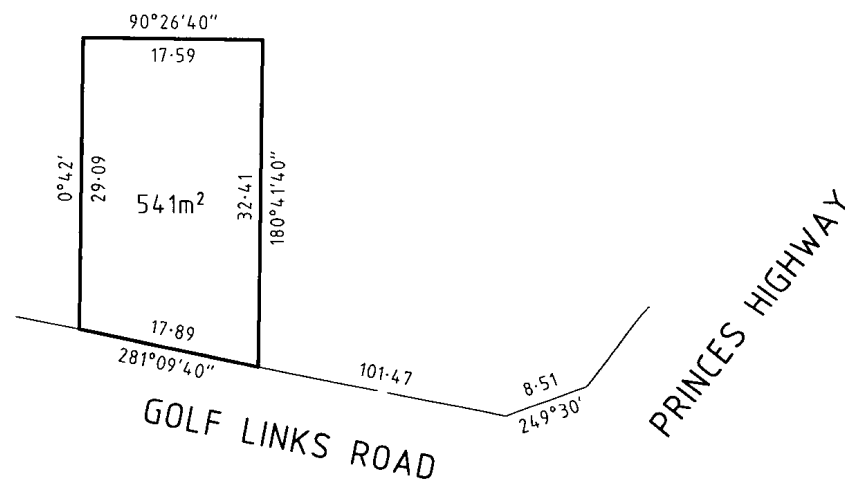
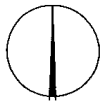
DOCUMENT END

PLAN OF CONSOLIDATION		LR USE ONLY EDITION	PLAN NUMBER PC 369358J
LOCATION OF LAND PARISH: COLQUHOUN TOWNSHIP: _____ SECTION: _____ CROWN ALLOTMENT: 26 (PART) CROWN PORTION: _____ TITLE REFERENCES: 10902/412 & 10902/413 LAST PLAN REFERENCE/S: LOTS 7 & 8 ON PS535111H POSTAL ADDRESS: 21 GOLF LINKS ROAD (At time of subdivision) LAKES ENTRANCE, 3909 MGA Co-ordinates E 588 840 (of approx centre of N 5808 100 land in plan) ZONE 55		COUNCIL CERTIFICATION AND ENDORSEMENT EAST GIPPSLAND COUNCIL NAME: SHIRE REF: 44-2007 1. This plan is certified under Section 6 of the Subdivision Act 1988 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6 3. This is a statement of compliance issued under Section 21 1988 Council Delegate Council Seal Date 30-04-2007 Re-certified under Section 11(7) of the Subdivision Act 1988 Council Delegate Council Seal Date,	
		LR USE ONLY STATEMENT OF COMPLIANCE/ EXEMPTION STATEMENT RECEIVED <input checked="" type="checkbox"/> DATE 29/05/2007 LR USE ONLY PLAN REGISTERED TIME 12.42 pm DATE 31-05-2007 <i>Bath</i> Assistant Registrar of Titles	
		NOTATIONS	
		DEPTH LIMITATION DOES NOT APPLY	
EASEMENT INFORMATION			
LEGEND A-Appurtenant Easement E-Encumbering Easement R-Encumbering Easement (Road)			
Easement Reference	Purpose	Width (Metres)	Origin Land Benefited/In Favour Of

SURVEY

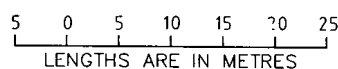
This plan ~~is~~ is not based on survey
This survey has been connected to
permanent marks no(s)
in Proclaimed Survey Area No

MGA ZONE 55

**Earth Tech**

Survey & Spatial Solutions-Bairnsdale
T 5152 1600 F 5152 1202

SCALE



ORIGINAL

SCALE SHEET
1:500 SIZE
A3

LICENSED SURVEYOR (PRINT) BRADLEY D B FREEMAN

SIGNATURE _____ DATE _____

REF **33007471** VERSION **A**

SHEET 1 OF 1 SHEET

DATE _____

COUNCIL DELEGATE SIGNATURE _____

ORIGINAL SHEET SIZE **A3**

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Number of Pages (excluding this cover sheet)	2
Document Assembled	02/03/2020 16:59

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TRANSFER OF LAND

Section 45 Transfer of Land Act 1958

Approved Form T2

Lodged by:

Warren Graham & Murphy

5155 1286

383 Esplanade, Lakes Entrance

Name:

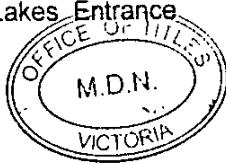
Phone:

1716W

Address:

Ref:

Customer Code:



Privacy

The information collected and is used to maintain registers: Victorian

AE604665W

13/09/2006

\$193

45



MADE AVAILABLE/CHANGE CONTROL

Land Titles Office Use Only

The Transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed -

- together with any easements created by this transfer;
- subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer; 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 reference)

CERTIFICATE OF TITLE VOLUME 10902 FOLIO 413

Estate and Interest: (e.g. "All my estate in fee simple")

ALL MY ESTATE IN FEE SIMPLE

Consideration:

FORTY THOUSAND DOLLARS (\$40,000.00)

Transferor: (Full Name)

KINKUNA HEIGHTS PTY. LTD. (A.C.N. 105 796 165)

Transferee: (Full Name and Address including postcode)

DONNA ELISABETH CULLEN of 109 Golf Links Road, Lakes Entrance in the State of Victoria, 3909 as sole proprietor

Directing Party: (Full Name)

Creation and/or Reservation and/or Covenant:

The Transferees for themselves and their successors and transferees the registered proprietor or proprietors for the time being of the Land hereby transferred and or each part thereof **DO HEREBY COVENANT** with the transferors their successors and transferees the registered proprietor or proprietors for the time being of the land comprised in Plan of Subdivision No. 535111H and each and every part thereof (other than the Land hereby transferred) that we shall not at any time:-

- (a) Erect or cause or suffer to be erected upon the said Land a dwelling that does not conform with the Design Guidelines issued by the Transferor, Kinkuna Heights Pty. Ltd. ("the Transferor"). This restriction shall expire and cease to have effect after 31 December, 2010;

Continued on T2 Page 2

Approval No. 595068A ORDER TO REGISTER

Please register and issue title to

T2



Signed

Cust. Code:

STAMP DUTY USE ONLY

DRS	AP 445
Vic Duty	\$780.00
Consideration	\$40,000.00
Trans No.	4500/2006
Endorse Date	11/09/2006
Section	Original
CHRIS Signature	<i>Chris</i>

THE BACK OF THIS FORM MUST NOT BE USED

non
13/9/06

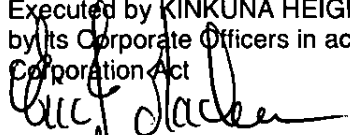
- (b) Commence construction of a dwelling on the Land hereby transferred without first obtaining the written approval of the Transferor that the proposed design of the dwelling complies with the terms of this Covenant and the Design Guidelines of the Transferor. This restriction shall expire and cease to have effect after 31 December, 2010;
- (c) Erect or cause or suffer to be erected upon the Land hereby transferred, a dwelling having less than fifty per centum (50%) of the external wall area constructed of one or more of the following materials: brick, brick veneer, masonry, stone or any other texture coated material;
- (d) Paint any exterior wall, cladding, fences, storage facilities or retaining walls on the Land hereby transferred in any colours which have not been approved in writing by the Transferor. This restriction shall expire and cease to have effect after 31 December, 2010;
- (e) Paint any fascia boards, gutters, trim and all exposed metal work on the Land hereby transferred in a colour which is not co-ordinated with the colour of any dwelling erected on the Land hereby transferred;
- (f) Allow any metalwork to remain unpainted on the Land hereby transferred after the date which is 3 months after the date of issue of the Certificate of Occupancy for any dwelling erected on the Land hereby transferred;
- (g) Allow any reflective glazing to be used in any dwelling erected on the Land hereby transferred;
- (h) Allow any main building erected upon the Land hereby transferred to be used for other than residential purposes;
- (i) Erect or cause or suffer to be erected upon the Land hereby transferred any building structure or fence constructed wholly or partly of second hand materials;
- (j) Erect or cause or suffer to be erected upon the Land hereby transferred any outbuilding with external walls constructed of material other than; brick, masonry, stone, colour bonded iron or any other texture coated material which has first been approved in writing by the Transferor;
- (k) Erect or cause or suffer to be erected upon the Land hereby transferred any relocated building;
- (l) Use or cause or permit of suffer to be used the Land hereby transferred or any part thereof for the purpose of parking, garaging or servicing of any motor vehicle in excess of 5 tonnes gross vehicle mass except of the purpose of loading and unloading goods.

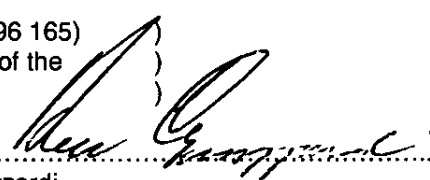
AND IT IS HEREBY AGREED that the benefit of the foregoing covenants shall be attached to and run at law and in equity with the land comprised in Plan of Subdivision No. 535111H so that the burden thereof shall be annexed to and run at law and in equity with the said Land hereby transferred and that the same shall be noted and appear on every future Certificate of Title for the said Land as an encumbrance affecting the same and every part thereof.

Dated: 7 SEPTEMBER 2006

Execution and attestation:

Executed by KINKUNA HEIGHTS PTY. LTD. (A.C.N. 105 796 165)
by its Corporate Officers in accordance with Section 127(1) of the
Corporation Act


Eric John Machen
RMB 4769 Burman Drive, Morwell
Director


Benito Guzzardi
85 Minniedale Road, Traralgon
Director

SIGNED by the Transferor in the presence of:)

witness:  (witness)

DEC: 

Approval No. 595068A

T2 Page 2



AE604665W

13/09/2006 \$193 45



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Land Registry, 570 Bourke Street, Melbourne 3000. Phone 8636 2010

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Document Identification	AE614052B
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Document Assembled	02/03/2020 16:59

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TRANSFER OF LAND

Section 45 Transfer of Land Act 1958

Approved Form T2

Lodged by:

Warren Graham & Murphy

Name:

5155 1286

Phone:

383 Esplanade, Lakes Entrance

Address:

Ref:

CUEN
1716W

Customer Code:



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MADE AVAILABLE/CHANGE CONTROL

Land Titles Office Use Only

The Transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed -

- together with any easements created by this transfer;
- subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer; 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 reference)*

CERTIFICATE OF TITLE VOLUME 10902 FOLIO 412

Estate and Interest: *(e.g. "All my estate in fee simple")*

ALL MY ESTATE IN FEE SIMPLE

Consideration:

FORTY THOUSAND DOLLARS (\$40,000.00)

Transferor: *(Full Name)*

KINKUNA HEIGHTS PTY. LTD. (A.C.N. 105 796 165)

Transferee: *(Full Name and Address including postcode)*

DONNA ELISABETH CULLEN of 109 Golf Links Road, Lakes Entrance in the State of Victoria, 3909 as sole proprietor

Directing Party: *(Full Name)*

Creation and/or Reservation and/or Covenant:

The Transferees for themselves and their successors and transferees the registered proprietor or proprietors for the time being of the Land hereby transferred and or each part thereof **DO HEREBY COVENANT** with the transferors their successors and transferees the registered proprietor or proprietors for the time being of the land comprised in Plan of Subdivision No. 535111H and each and every part thereof (other than the Land hereby transferred) that we shall not at any time:-

- (a) Erect or cause or suffer to be erected upon the said Land a dwelling that does not conform with the Design Guidelines issued by the Transferor, Kinkuna Heights Pty. Ltd. ("the Transferor"). This restriction shall expire and cease to have effect after 31 December, 2010;

Continued on T2 Page 2

Approval No. 595068A ORDER TO REGISTER
Please register and issue title to

T2



Signed

Cust. Code:

STAMPED BY USE ONLY	
DRS	AP 445
Vic Duty	\$760.00
Consideration	\$40,000.00
Trans No.	4906/2006
Endorse Date	15/09/2006
Section	Original
ANNIE Signature	

THE BACK OF THIS FORM MUST NOT BE USED

- (b) Commence construction of a dwelling on the Land hereby transferred without first obtaining the written approval of the Transferor that the proposed design of the dwelling complies with the terms of this Covenant and the Design Guidelines of the Transferor. This restriction shall expire and cease to have effect after 31 December, 2010;
- (c) Erect or cause or suffer to be erected upon the Land hereby transferred, a dwelling having less than fifty per centum (50%) of the external wall area constructed of one or more of the following materials: brick, brick veneer, masonry, stone or any other texture coated material;
- (d) Paint any exterior wall, cladding, fences, storage facilities or retaining walls on the Land hereby transferred in any colours which have not been approved in writing by the Transferor. This restriction shall expire and cease to have effect after 31 December, 2010;
- (e) Paint any fascia boards, gutters, trim and all exposed metal work on the Land hereby transferred in a colour which is not co-ordinated with the colour of any dwelling erected on the Land hereby transferred;
- (f) Allow any metalwork to remain unpainted on the Land hereby transferred after the date which is 3 months after the date of issue of the Certificate of Occupancy for any dwelling erected on the Land hereby transferred;
- (g) Allow any reflective glazing to be used in any dwelling erected on the Land hereby transferred;
- (h) Allow any main building erected upon the Land hereby transferred to be used for other than residential purposes;
- (i) Erect or cause or suffer to be erected upon the Land hereby transferred any building structure or fence constructed wholly or partly of second hand materials;
- (j) Erect or cause or suffer to be erected upon the Land hereby transferred any outbuilding with external walls constructed of material other than; brick, masonry, stone, colour bonded iron or any other texture coated material which has first been approved in writing by the Transferor;
- (k) Erect or cause or suffer to be erected upon the Land hereby transferred any relocated building;
- (l) Use or cause or permit of suffer to be used the Land hereby transferred or any part thereof for the purpose of parking, garaging or servicing of any motor vehicle in excess of 5 tonnes gross vehicle mass except of the purpose of loading and unloading goods.

AND IT IS HEREBY AGREED that the benefit of the foregoing covenants shall be attached to and run at law and in equity with the land comprised in Plan of Subdivision No. 535111H so that the burden thereof shall be annexed to and run at law and in equity with the said Land hereby transferred and that the same shall be noted and appear on every future Certificate of Title for the said Land as an encumbrance affecting the same and every part thereof.

Dated: 7 SEPTEMBER 2006

Execution and attestation:

Executed by KINKUNA HEIGHTS PTY. LTD. (A.C.N. 105 796 165)
by its Corporate Officers in accordance with Section 127(1) of the
Corporation Act

Eric John Machen
RMB 4769 Burman Drive, Morwell
Director

Benito Guzzardi
85 Minniedale Road, Traralgon
Director

SIGNED by the Transferee in the presence of:)

witness: Chris Lull (witness)

Approval No. 595068A

T2 Page 2



AE614052B



THE BACK OF THIS FORM MUST NOT BE USED
Land Registry, 570 Bourke Street, Melbourne 3000. Phone 8636 2010



AB738569U

05/12/2002 \$59 173



FORM 13

SECTION 181

**APPLICATION BY A RESPONSIBLE AUTHORITY FOR THE
MAKING OF A RECORDING OF AN AGREEMENT**

PLANNING AND ENVIRONMENT ACT 1987

Lodged at the Land Titles Office by:



DA8738569U-1-1

Name: JOHN HIBBERT
Phone: (03) 5155 2377
Address: P O Box 217 Lakes Entrance
Ref: Customer Code 2717P

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: Lots 27, 28 and 29 and Lot C on Plan of
Subdivision No. 508288T Parish of Colquhoun
and being ~~part of~~ the land comprised in
Certificates of Title Volume 10668 Folios 290, 391, 392, 393 + 394

Authority: East Gippsland Shire Council
273 Main Street, Bairnsdale. 3875

Section and Act under
which agreement made: Section 173 Planning & Environment Act 1987

A copy of the Agreement is attached to this Application.

Signature of the Responsible Authority.....

Name of Officer..... JOHN TRAA (STATUTORY PLANNER)

Date 26th SEPTEMBER, 2002.....

5/11/02

THIS AGREEMENT is made the 25th day of SEPTEMBER 2002

BETWEEN:

EAST GIPPSLAND SHIRE COUNCIL of 273 Main Street, Bairnsdale ("the Responsible Authority") of the first part

and



JOSEPH CHARLES WALTERS and SHIRLEY ANN WALTERS of 3 Golf Links Road, Lakes Entrance ("the Owners") of the second part

WHEREAS

- A. The Owners are the registered proprietors of the land described in the First Schedule hereto ("the subject land") and have made Application to the Responsible Authority under the East Gippsland Planning Scheme ("the Scheme") for a Permit to subdivide the subject land into 4 lots as shown on the Plan attached.
- B. The Responsible Authority has granted Planning Permit No 02/00155/DS issued on 5th August 2002 and amended on 28th August 2002 ("the Permit") for a four Lot subdivision of the subject land subject (inter alia) to a condition as follows:-

"26. Prior to the issue of a Statement of Compliance the owner of the land must enter into an Agreement with the responsible authority in accordance with Section 173 of the Planning and Environment Act 1987 which will provide and covenant that:

- (a) The owner of Lot C agrees to accept stormwater discharge from Lots 27, 28 and 29 which cannot be directed to the street kerb and channel. Should the owner of Lot C wish to further develop or subdivide the land the owner shall be responsible for the design and construction, in accordance with Council requirements, of a stormwater drainage



system within the easement provided which shall provide for the control of stormwater runoff from Lots 27, 28 and 29.

- (b) The owners of Lots 27, 28 and 29 agree to control and manage stormwater runoff not able to be directed to the street kerb and channel in such a manner so as not to cause erosion or pollution.

The agreement may be ended wholly or in part or as to any part of the land by the responsible authority with the approval of the Minister or by agreement between the responsible authority and all persons who are bound by any covenant in the agreement.

The agreement will bind the applicant as that owner and shall run with the land so that all successors in title are bound by the agreement. This agreement will be prepared at the applicants cost and to the satisfaction of the responsible authority, and shall be registered on the title in accordance with Section 181 of the Planning and Environment Act 1987.”

- C. The Responsible Authority and the Owners have agreed that without restricting or limiting their respective powers to enter into this Agreement and insofar as it can be so treated this Agreement shall be treated as being an Agreement under Section 173(1) of the Planning and Environment Act 1987.

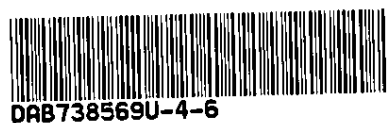
NOW THIS AGREEMENT WITNESSETH as follows:-

1. In this Agreement unless inconsistent with the context or subject matter “Owners” shall mean the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the subject land or any part thereof.



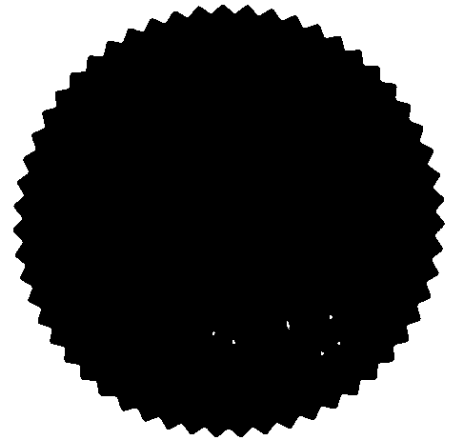
2. The Owners with the intent that their covenant hereunder shall run with the land hereby covenant and agree that:-

- (i) they will comply with the conditions of the Permit;
- (ii) The owner of Lot C agrees to accept stormwater discharge from Lots 27, 28 and 29 which cannot be directed to the street kerb and channel. Should the owner of Lot C wish to further develop or subdivide the land the owner shall be responsible for the design and construction, in accordance with Council requirements, of a stormwater drainage system within the easement provided which shall provide for the control of stormwater runoff from Lots 27, 28 and 29.
- (iii) The owners of Lots 27, 28 and 29 agree to control and manage stormwater runoff not able to be directed to the street kerb and channel in such a manner so as not to cause erosion or pollution.
- (iv) This Agreement may be ended wholly or in part or as to any part of the land by the Responsible Authority with the approval of the Minister or by agreement between the Responsible Authority and all persons who are bound by any covenant in the Agreement;
- (v) This Agreement will bind the Owners as the owners and shall run with the land so that all successors in title are bound by the Agreement. This Agreement will be prepared at the Owners' cost and to the satisfaction of the Responsible Authority, and shall be registered on title in accordance with Section 181 of the Planning and Environment Act 1987.



IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day
and year first hereinbefore written.

THE COMMON SEAL of the
EAST GIPPSLAND SHIRE COUNCIL
was affixed on the 25th day
of SEPTEMBER, 2002
in the presence of:



[Signature] Chief Executive Officer

M. Bennett Witness

SIGNED by the said JOSEPH CHARLES
WALTERS in the presence of:

witness x Brennyn Carstairs

)
) x [Signature] JCW
)
)

SIGNED by the said SHIRLEY ANN
WALTERS in the presence of:

witness x Brennyn Carstairs

)
) x [Signature] SAU
)
)



DAB738569U-5-4

AB738569U

05/12/2002 \$59

173



EAST GIPPSLAND SHIRE COUNCIL

and

J.C. & S.A.WALTERS

SECTION 173 AGREEMENT



DAB738569U-7-1

JOHN HIBBERT
Solicitor
Shop 2, 271-279 Esplanade
Lakes Entrance 3909

Tel: 5155 2377
Ref: JH/LL
Redlash S173 & S181

**Application by a responsible
authority for the making of
a recording of an agreement
Section 181(1), Planning and
Environment Act 1987**

AD851558A

02/09/2005 \$92.30 173



Lodged by:

Name: RICHARD HORSEMAN PTY. LTD.

Phone: (03) 5135 3300

Address: 154 Commercial Road, Morwell 3840

Ref: RH:FCP 50020

Customer Code: 11052R



DAD851558A-1-9

The Council having made an Agreement requires a recording to be made in the Register

Land: Lot D on Plan of Subdivision 523948Q, Parish of Colquhoun being the land contained in Certificate of Title Volume 10801 Folio 227 ("the Land")

Section and Act under which Agreement is made: Section 173 of the Planning and Environment Act

Authority: EAST GIPPSLAND SHIRE COUNCIL of 273 Main Street, Bairnsdale 3875

A copy of the Agreement is attached to this Application.

Signature for Authority:

Name of Officer:

NICK KEARNS

Designation of Officer:

MANAGER DEVELOPMENT

Date:

26/08/2005

2/9/05

SECTION 173 AGREEMENT

THIS AGREEMENT is made the 25th day of August 2005

BETWEEN:

EAST GIPPSLAND SHIRE COUNCIL
of 273 Main Street, Bairnsdale ("the Responsible Authority")

AND



KINKUNA HEIGHTS PTY. LTD. (ACN 105 796 165) of 2/38 Kay
Street, Traralgon 3844 ("the Owner")

WHEREAS

- A. The Owner is the registered proprietor of the land described as Lot D on Plan of Subdivision 523948Q, Parish of Colquhoun being the land contained in Certificate of Title Volume 10801 Folio 227 ("the Land").
- B. The Owner has made application to the Responsible Authority to subdivide the Land in accordance with Plan of Subdivision No. 535111H ("the Plan").
- C. The Responsible Authority has issued Planning Permit Nos. 243/2004/P and 103/2005/P pursuant to the East Gippsland Shire Planning Scheme ("the Planning Permits") authorising the Owner to subdivide the Land on the terms set out therein.
- D. The parties have agreed to enter into this Agreement so that the Owner's obligations to Responsible Authority detailed in both the Planning Permits and this Agreement may be registered on the titles to the Land following registration of the Plan by the Land Titles Office.
- E. The Responsible Authority and the Owner have agreed that without restricting or limiting their respective powers to enter into this Agreement and insofar as it can be treated this Agreement shall be an Agreement under Section 173 of the Planning and Environment Act ("the Act").

NOW THIS AGREEMENT WITNESSES as follows:-

- 1. In this Agreement unless inconsistent with the context or subject matter – "the Act" shall mean the Planning and Environment Act 1987 or any modification, amendment or re-enactment thereof.

AD851558A

02/09/2005 \$92.30 173

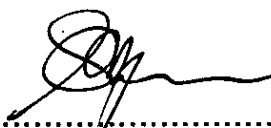


"Owners" shall mean the person or persons entitled from time to time to be registered by the Register of Titles as the proprietor of any estate in fee simple of the Land or any part thereof.

2. The Owner with the intent that the covenants hereunder shall run with Land hereby covenant and agree that they (which term shall include the Owner or owners of the Land or any part thereof from time to time):
 - (a) Covenants that the rainforest area shown to be retained and planted in the approved landscaping plans shall be maintained in accordance with the approved landscaping maintenance plan; and
 - (b) Covenants that it or its successors in Title will contribute to any future special rates and charges scheme for the upgrade of Golf Links Road, Lakes Entrance when required by the Responsible Authority.
 - (c) Covenants that the lots approved for development pursuant to Planning Permit No. 103/2005/P will only be developed in accordance with the Plans endorsed as part of Planning Permit 243/2004/P.
3. The Owner further covenant and agrees:
 - (a) to do all things necessary to enter a Memorandum of this Agreement on the Certificate of Title to the Land in accordance with Section 181 of the Act, including signing any further agreement, acknowledgement or document to enable the said memorandum to be registered under that Section.
 - (b) to do all things necessary including the signing of any further agreements, undertakings, covenants, consents, approvals or other documents necessary for the purpose of ensuring its carries out its covenants, agreement and obligations hereunder and to enable the Responsible Authority to enforce the performance by the Owner of such covenants, agreements and undertakings.
 - (c) to pay all legal costs in connection with the preparation and execution of this Agreement and lodging of an Application at the Land Titles Office to have a Memorandum of this Agreement entered on the Certificates of Title to the subject land and to submit to the Responsible Authority copies of the Certificate of Title after the registration of the Agreement by the Land Titles Office.

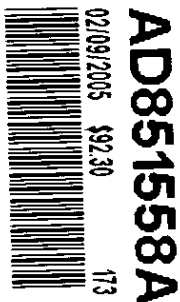
IN WITNESS WHEREAS the parties hereto have executed these presents the day and year first hereinbefore written.

The Seal of East Gippsland Shire Council)
 was hereunto affixed this 25th day of)
 August 2005)
 In the presence of:)



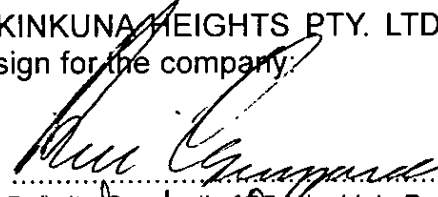
 Steve Kozlowski,
 of 273 main street,
 Bairnsdale

(Chief Executive Officer)

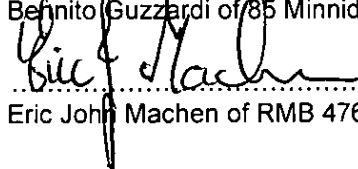


Executed by KINKUNA HEIGHTS PTY. LTD. by being signed by those persons who are authorised to sign for the company:

Director


Benito Guzzardi of 85 Minnidale Road, Traralgon East 3844

Director


Eric John Machen of RMB 4769, Buurman Drive, Hazelwood North 3840



DAD851558A-4-3

AD851558A

02/09/2005 \$92.30 173




20/03/2020

RE : 21 Golf Links Road, Kalimna

We consent to Crowther and Sadler applying to council to request the end of the S173 agreement on our behalf.

Ashley Leon Golding


.....

Hannah Rose Veness


.....

Kerry Stow

From: Robert Pringle
Sent: Wednesday, 29 July 2020 10:30 AM
To: Planning Unit Administration
Subject: (DWS Doc No 8590299) FW: S173 Signed Consent - 23 Golf Links Road, Lakes Entrance
Attachments: 23 Golf Links Road - Titles 20200729.pdf; 23 Golf Links Road - Signed Consent.pdf

Please record

■ **Robert Pringle** ■ *Acting Senior Land Use Planner*

 Please consider the environment before printing this e-mail.

From: Eddie Long <edward@crowthersadler.com.au>
Sent: Wednesday, 29 July 2020 10:28 AM
To: Robert Pringle <RobertP@egipps.vic.gov.au>
Cc: Kate Young <kate@crowthersadler.com.au>
Subject: S173 Signed Consent - 23 Golf Links Road, Lakes Entrance

Hello Robert,

Please find attached the relevant titles and signed consent for the ending of the S173 Agreement at 23 Golf Links Road, Lakes Entrance.

If you have any further questions regarding this please do not hesitate to contact our office.

Regards,

Edward Long
Planning Assistant

Crowther & Sadler Pty Ltd
LICENSED SURVEYORS & TOWN PLANNERS

152 Macleod Street, Bairnsdale
PO Box 722, Bairnsdale, Vic, 3875
P: 5152 5011 F: 5152 5705

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

VOLUME 10902 FOLIO 414

Security no : 124084596561U
Produced 29/07/2020 10:22 AM

LAND DESCRIPTION

Lot 9 on Plan of Subdivision 535111H.
PARENT TITLE Volume 10801 Folio 227
Created by instrument PS535111H 28/09/2005

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
OLGA KARBOULAHANOS of 8 JOHN STREET OAKLEIGH VIC 3166 Executor(s) of NICK
KARBOULAHANOS deceased
AS059738K 03/04/2019

ENCUMBRANCES, CAVEATS AND NOTICES

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

AGREEMENT Section 173 Planning and Environment Act 1987
AB738569U 05/12/2002

AGREEMENT Section 173 Planning and Environment Act 1987
AD851558A 02/09/2005

DIAGRAM LOCATION

SEE PS535111H FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

DOCUMENT END

Delivered from the LANDATA System by GlobalX Terrain Pty Ltd

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

VOLUME 10902 FOLIO 415

Security no : 124084596566P
Produced 29/07/2020 10:22 AM

LAND DESCRIPTION

Lot 10 on Plan of Subdivision 535111H.
PARENT TITLE Volume 10801 Folio 227
Created by instrument PS535111H 28/09/2005

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
OLGA KARBOULAHANOS of 8 JOHN STREET OAKLEIGH VIC 3166
AL740666W 10/03/2015

ENCUMBRANCES, CAVEATS AND NOTICES

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

AGREEMENT Section 173 Planning and Environment Act 1987
AB738569U 05/12/2002

AGREEMENT Section 173 Planning and Environment Act 1987
AD851558A 02/09/2005

DIAGRAM LOCATION

SEE PS535111H FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

DOCUMENT END


Delivered from the LANDATA System by GlobalX Terrain Pty Ltd

27/07/2020

RE : 23 Golf Links Road, Kalimna

We consent to Crowther and Sadler applying to council to request the end of the S173 agreement on our behalf.

Olga Karboulahanos - C/O John Karboulahanos
8 John Street
Oakleigh VIC 3166

DocuSigned by:

...7ED2B380AA094CD...
28/7/2020

1
6

Contact: Courtney Campbell
Our Reference: 103/2005/P
Telephone No: (03) 5153 9500
Email: feedback@egipps.vic.gov.au

1 July 2005

Kinkuna Heights Pty Ltd
C/- Austec Surveying Consultants Pty Ltd
PO Box 947
BAIRNSDALE VIC 3875

Dear Sir or Madam,

Re: Planning Application Number: 103/2005/P
Proposal: 9 Lot Subdivision
Location: 17-37 Golf Links Road LAKES ENTRANCE

We advise that your application for a Planning Permit has been approved and the permit is enclosed.

Your attention is drawn to the conditions of the permit. Please read these conditions carefully, and check whether there are any actions you need to take prior to acting on the permit.

Included with the permit is advice of your appeal rights should you be dissatisfied with any of the permit conditions.

Please note that this permit is not a building permit. If the proposal involves the construction or alteration of a building you may need to obtain a separate building permit.

Yours sincerely



AARON HOLLOW
Statutory Planning Coordinator

PLANNING PERMIT

Permit No: 103/2005/P
Planning Scheme: East Gippsland
Responsible Authority: East Gippsland Shire

Form 4.4

ADDRESS OF THE LAND

17-37 Golf Links Road LAKES ENTRANCE
Lot D LP 523948

BN: 88301 7

THE PERMIT ALLOWS

The land to be subdivided into 9 lots in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.
2. Before the issue of a Statement of Compliance, the owner of the land must enter into an agreement with the responsible authority in accordance with Section 173 of the Planning & Environment Act 1987, which will covenant that:
 - a) The lots approved must be developed in accordance with the plans endorsed as part of planning permit 243/2004/P.

The agreement will bind the applicant as the owner and shall run with the land so that all successors in title are bound by the agreement. This agreement will be prepared by the applicant, at the applicants cost and to the satisfaction of the responsible authority, and shall be registered on the title in accordance with Section 181 of the Planning and Environment Act 1987.

3. The applicant shall enter into an agreement with Telstra or other licensed Telecommunications carrier for the satisfactory provision of telephone cable reticulation one metre into each lot created.
Refer www.telstrasmartcommunity.com to Register Your Development.
4. The applicant shall enter into an agreement under the Water Act for the provision of water supply works.
5. The applicant shall meet the cost of the necessary water mains extension.
6. The applicant must pay a headworks and distribution charge for the additional lot created, at a level determined by the Authority at the time of payment. As a guide, the level applicable on 25/05/2005 is \$16,000.00, for the additional eight lots created by the subdivision.
7. The applicant shall enter into an agreement under the Water Act for the provision of sewerage works.
8. Meet the cost of the necessary sewer mains extension.

9. The applicant must pay an outfall and disposal charge at a level determined by the Authority at the time of payment. As a guide, the level applicable on 25/05/2005 is \$16,000.00, for the additional eight lots created by the subdivision.
10. The applicant must provide easements as necessary.
11. The applicant must connect development to Authority's water and sewerage services (if available) to the satisfaction of the Authority.
12. The application shall pay to Telstra the reasonable cost of any works necessary, as a result of the subdivision, to remove, or alter the position of any existing facility on the subdivision, or on any adjacent land or Government Road, pursuant to Clause 53 of Schedule 3 of the Telecommunications Act 1997. Refer – Dial Before You Dig – Ph. 1100
13. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.
14. The applicant must set aside on the plan of subdivision reserve/s satisfactory to Telstra, for telecommunication/s substations if required.
15. The applicant must enter into an agreement with SPI Electricity Pty Ltd for supply of electricity to each lot on the endorsed plan.
16. Direct access to the Princes Highway will not be permitted.
17. This permit will expire if one of the following circumstances applies:
 - the subdivision is not certified within two years; or
 - the subdivision is not registered within five years of the date of certification.


The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

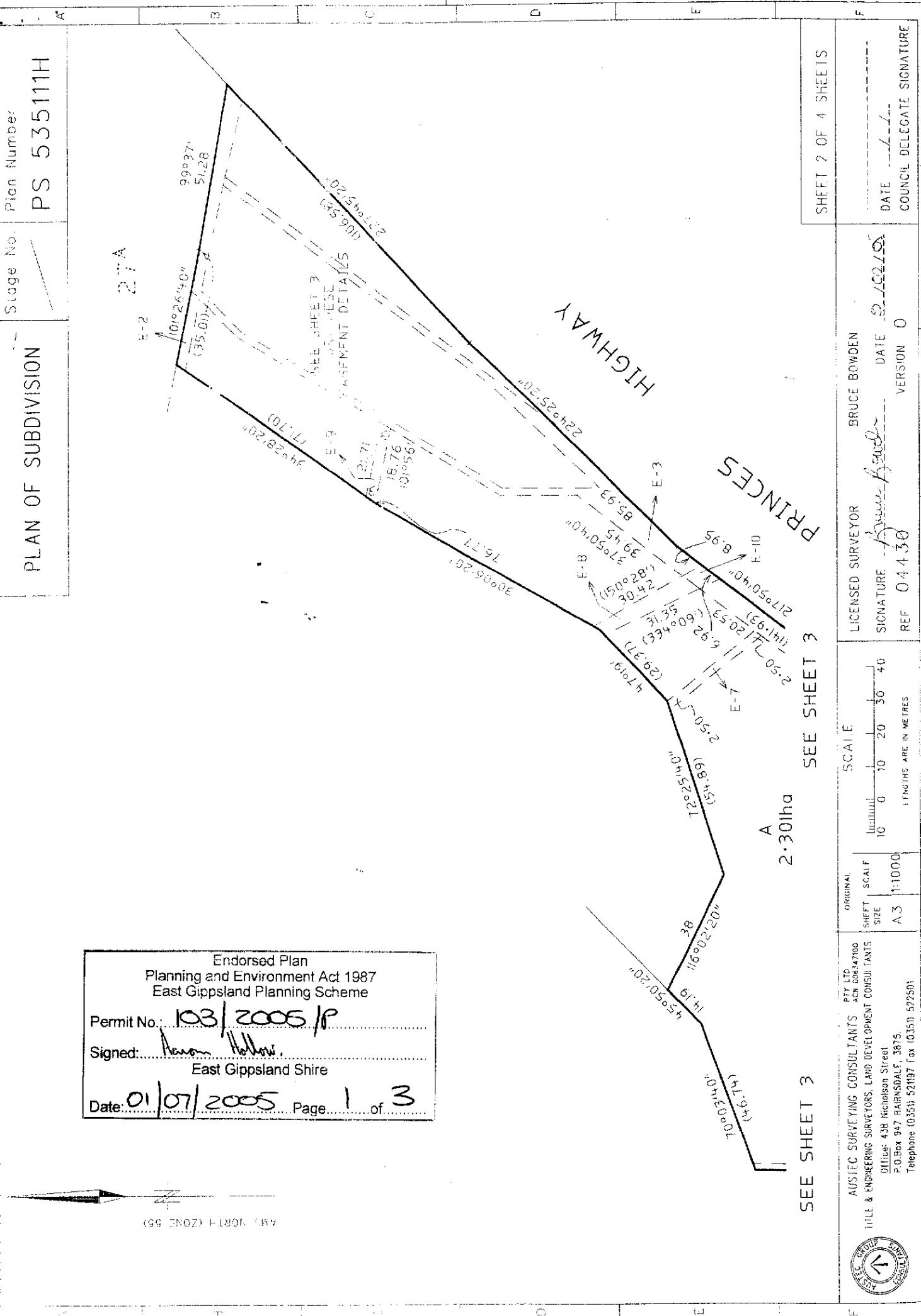
Notes

1. It is recommended that, at an early date, the applicant commences negotiations with SPI Electricity Pty Ltd, in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay.
2. Arrangements for supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric lines required to supply the lots, and planning permits for any tree clearing.
3. Prospective purchasers of lots in this subdivision should contact SPI Electricity Pty Ltd to determine the availability of a supply of electricity. Financial contributions may be required.

Date Issued: 1 July 2005

Page 2 of 2


**Signature for the
Responsible Authority**



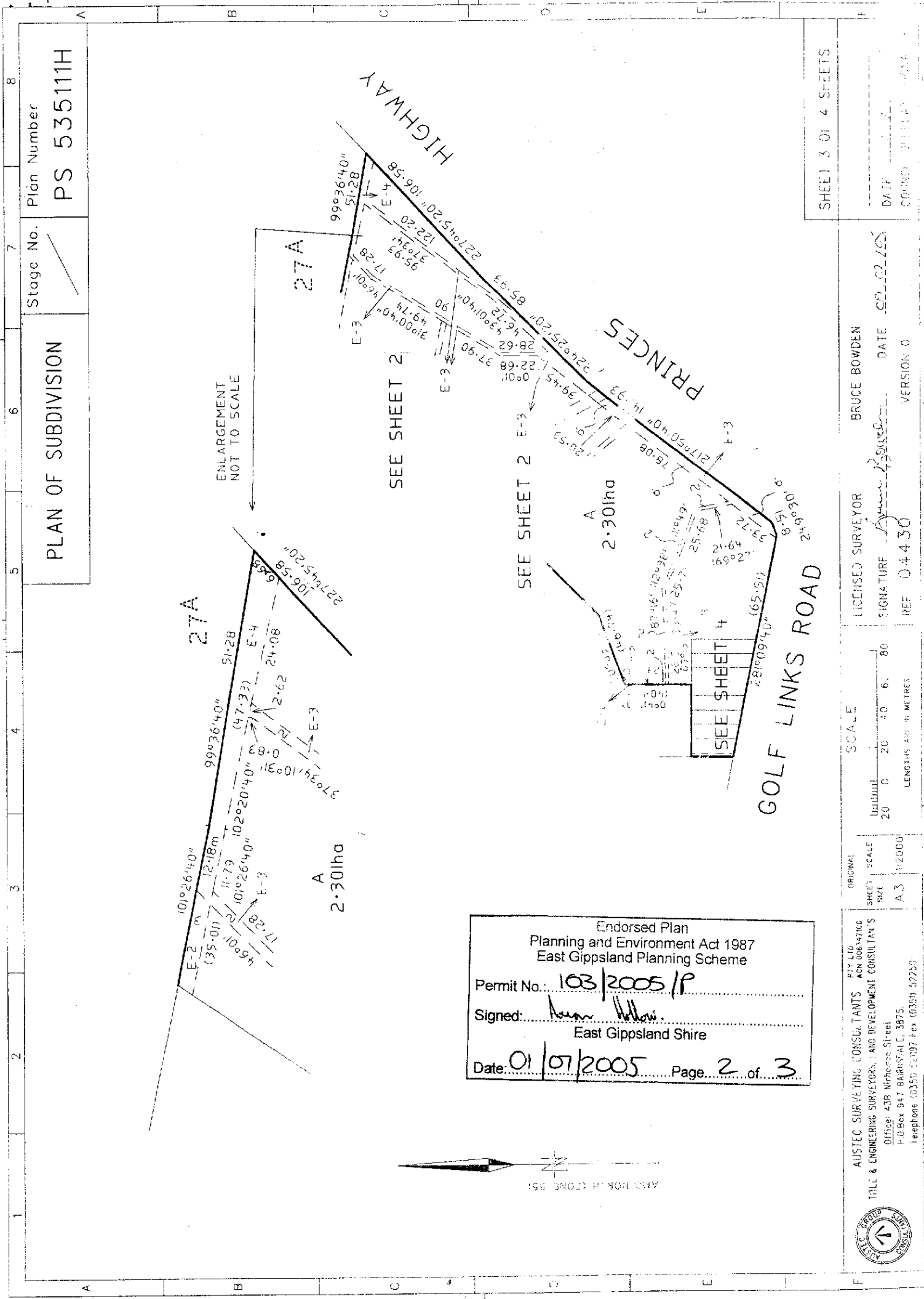
Endorsed Plan
 Planning and Environment Act 1987
 East Gippsland Planning Scheme

Permit No. 103/2005/P

Signed: Simon Holloway
 East Gippsland Shire

Date: 01/07/2005 Page 1 of 3

PLAN OF SUBDIVISION Stage No. <u> </u> Plan Number <u>PS 535111H</u>		SHEET 2 OF 4 SHEETS	
SEE SHEET 3		SEE SHEET 3	
LICENSED SURVEYOR BRUCE BOWDEN SIGNATURE <u>Bruce Bowden</u> DATE <u>2/02/06</u> REF <u>04430</u> VERSION <u>0</u>		DATE <u>2/02/06</u> COUNCIL DELEGATE SIGNATURE <u> </u>	
ORIGINAL SHEET SIZE <u>A3</u> SCALE <u>1:1000</u>		SCALE 10 0 10 20 30 40 1 FNGTHS ARE IN METRES	
AUSIEC GROUP AUSIEC SURVEYING CONSULTANTS PTY LTD ACN 00647100 OFFICE: 438 Nicholson Street P.O. Box 947 HAIRNSDALE, 3875. Telephone (0351) 521197 Fax (0351) 522501		1 2 3 4 5 6 7 8	



PLAN OF SUBDIVISION

Stage No.

Plan Number **PS 535111H**

SHEET 3 OF 4 SHEETS

DATE

COMPILED BY

LICENSED SURVEYOR **BRUCE BOWDEN**

SIGNATURE DATE 02/02/05

VERSION 0

REF 04430

SCALE

Initial 20 0 20 40 60 80

LENGTHS ARE IN METRES

ORIGINAL

SHEET 3 OF 4

SCALE 1:2000

A3

Endorsed Plan

Planning and Environment Act 1987

East Gippsland Planning Scheme

Permit No. 103/2005/P

Signed:

East Gippsland Shire

Date: 01/07/2005 Page 2 of 3

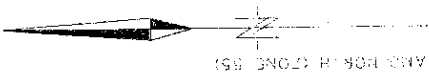
AUSTEC SURVEYING CONSULTANTS PTY LTD

REGISTERED SURVEYORS AND DEVELOPMENT CONSULTANTS

Office: 43R Nicholson Street

P.O. Box 947 BARRISDALE, 3875.

Telephone (0359) 52107 Fax (0359) 57250



PLAN OF SUBDIVISION

Stage V

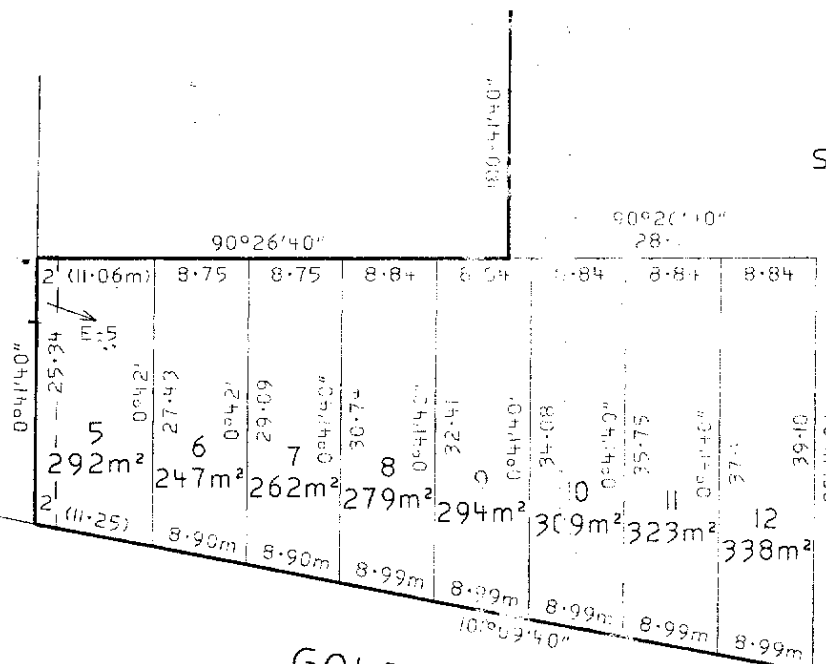
Plan Number

PS 535111H

AMG NORTH (ZONE 55)

A
2.301ha

SEE SHEET 3



GOLF LINKS ROAD

(65.51)

Endorsed Plan
Planning and Environment Act 1987
East Gippsland Planning Scheme

Permit No.: 103/2005/P

Signed: *[Signature]*
East Gippsland Shire

Date: 01/07/2005 Page 3 of 3



AUSTEC SURVEYING CONSULTANTS
TITLE & ENGINEERING SURVEYORS, LAND DEVELOPMENT CONSULTANTS
Office: 433 NICHOLSON ST P.O.Box 947 BAIRNSDALE, 3875.
Telephone 5152 1197 Fax 5152 2501

PTY LTD
ABN 5800634700

ORIGINAL

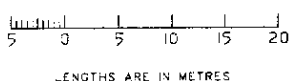
SCALE

LICENSED SURVEYOR

BRUCE ROWDEN

SHEET
SIZE
A3

SCALE
1:500



LENGTHS ARE IN METRES

SIGNATURE

DATE 01/07/2005

REF 04430

VERSION 0

SHEET 4 OF 4 SHEETS

DATE

COUNCIL DELEGATE SIGNATURE

Contact: John Traa
Our Reference: JT/243/2004/P
Telephone No: (03) 5153 9500
Email: feedback@egipps.vic.gov.au

23 July 2004

JJC Drafting Building Design Consultants
43 Ellavale Drive
TRARALGON VIC 3884

Dear Sir or Madam,

Re: Planning Application Number: JT/243/2004/P
Proposal: Development of 35 Dwellings & 3 lot Subdivison
Location: 17-37 Golf Links Road LAKES ENTRANCE

We advise that your application for a Planning Permit has been approved and the permit is enclosed.

Your attention is drawn to the conditions of the permit. Please read these conditions carefully, and check whether there are any actions you need to take prior to acting on the permit.

Included with the permit is advice of your appeal rights should you be dissatisfied with any of the permit conditions.

Please note that this permit is not a building permit. If the proposal involves the construction or alteration of a building you may need to obtain a separate building permit.

Yours sincerely



JOHN TRAA
Statutory Planner

PLANNING PERMIT

Permit No: 243/2004/P
Planning Scheme: East Gippsland
Responsible Authority: East Gippsland Shire

ADDRESS OF THE LAND

17-37 Golf Links Road LAKES ENTRANCE
Lot C LP 508288

BN: 82231 2

THE PERMIT ALLOWS

Development of 35 attached dwellings and three lot subdivision.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the use and or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) a minimum floor level for all new habitable buildings of at least 1.8 metres AHD;
 - b) a landscape plan in accordance with the requirements of condition 39 of this permit;
 - c) the south-western dwellings (particularly units 5 and 6) redesigned to minimise impact on existing rainforest; and
 - d) a landscape management plan setting out the maintenance regime for the existing rainforest and new plantings on the site.
2. Direct access to the Princes Highway from Lots 1, 2 & 3 will not be permitted.
3. Before the use or development starts (Before the issue of a Statement of Compliance), the owner of the land shall enter into an agreement with the Responsible Authority in accordance with Section 173 of the Planning and Environment Act, 1987 which will covenant that the rainforest areas shown to be retained and planted in the approved landscaping plans shall be maintained in accordance with the approved landscaping maintenance plan and that the owners of the land will contribute to any future special rates and charges scheme for the upgrade of Golf Links Road when required by the Responsible Authority.

The agreement will bind the applicant as the owner and shall run with the land so that all successors in title are bound by the agreement. This agreement will be prepared at the applicant's cost and to the satisfaction of the Responsible Authority, and shall be registered on the title in accordance with Section 181 of the Planning and Environment Act, 1987.
4. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
5. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.



6. Prior to the issue of a Statement of Compliance, the applicant or owner shall pay to the Council an amount equal to five per cent of the site value of all the land in the subdivision, pursuant to Section 18 of the Subdivision Act 1988. This amount may be adjusted in accordance with Section 19 of the Subdivision Act.
7. The applicant must enter into an agreement with TXU Electricity Ltd for the supply of electricity to each lot on the endorsed plan.
8. The applicant must enter into an agreement with TXU Electricity Ltd for the rearrangement of the existing electricity supply system.
9. The applicant must enter into an agreement with TXU Electricity Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by TXU Electricity Ltd.
10. The applicant must provide easements satisfactory to TXU Electricity Ltd for the purpose of 'Power Line' in favour of 'Electricity Corporation' pursuant to Section 44 and Schedule 2 of the Electricity Industry Act, 1993, where easements have not been otherwise provided, for all existing TXU Electricity Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
11. The applicant must obtain for the use of TXU any other easement required to service the lots.
12. The applicant must adjust the position of any easements for power lines to accord with the position of the lines as determined by survey.
13. The applicant must set aside on the plan of subdivision reserves for the use of TXU Electricity Ltd, for electric substations.
14. The applicant must provide survey plans for any electric substation required by TXU Electricity Ltd and for associated power lines and cables and execute leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. TXU Electricity Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
15. Each of the proposed units in the subdivision must be individually serviced for water supply and sewerage services.
16. The applicant must enter into an agreement under the Water Act for the provision of water supply works.
17. The applicant must meet the cost of the necessary water mains extension.
18. The applicant must pay East Gippsland Water a headworks and distribution charge at a level determined by the Authority at the time of payment. As a guide the level applicable on 22/07/04 is \$52,500 on a multi-tenement basis.
19. The applicant must modify existing water service piping (if necessary).
20. The applicant must enter into an agreement under the Water Act for the provision of sewerage works.



21. The applicant must meet the cost of the necessary sewer mains extension.
22. The applicant must pay East Gippsland Water an outfall and disposal charge at a level determined by the Authority at the time of payment. As a guide the level applicable at 22/07/04 is \$70,000 on a multi-tenement basis.
23. The applicant must modify existing sewerage service piping (if necessary).
24. The applicant must provide easements on the plan of subdivision as necessary.
25. The applicant must connect development to East Gippsland Water's water and sewerage services to the satisfaction of the Authority.
26. A copy of the final design plans of the development along with the proposed onsite property service connection plans for water supply and sewerage services must be submitted to East Gippsland Water prior to finalising any building contracts or works commencing.
27. Prior to the issue of a Statement of Compliance Golf Links Road must be fully constructed from the entry to the site to the intersection with Princes Highway, to the satisfaction of the Responsible Authority. Detailed plans for the construction of Golf Links Road must be provided to and approved by the Responsible Authority prior to commencement of construction.
28. Provision shall be made on site for at least seven visitor car parking spaces. All car parking areas, driveways and vehicle manoeuvring areas shall be designed, set out and marked in accordance with the requirements of AS 2890.1 Parking facilities Part 1: Off-street car parking. Particular emphasis shall be paid to ensuring car parking spaces are of appropriate size allowing for overhang.
29. Road pavements must be sealed and drained in accordance with sound engineering practice. Detailed construction drawings and documentation shall be submitted to and approved by Council prior to commencement of construction.
30. A stormwater drainage system shall be designed and constructed to the satisfaction of Council prior to the issue of a statement of compliance. Detailed construction drawings and documentation for an ARI of 1 in 20 years shall be submitted to and approved by Council prior to the commencement of construction. The plans are also to show an overflow path for a 1 in 100 year rainfall event.
31. The applicant shall develop a stormwater management plan in conjunction with drainage design to control stormwater runoff from the site. Stormwater shall be discharged to the satisfaction of Council.
32. The stormwater drainage system for the development shall be designed in accordance with standard engineering practice to provide for the collection, control and disposal of all stormwater runoff concentrated by development of buildings, pavements, and/or siteworks to avoid damage or inundation to any property. The stormwater drainage system shall limit the rate of discharge of stormwater to existing levels. This may require incorporating detention devices in the proposed drainage system. Full and detailed calculations shall be provided and approved by Council prior to development commencing.



33. The stormwater drainage system shall incorporate measures to ensure the quality of stormwater discharging from the development is maintained. The drainage system shall provide such water quality measures as considered necessary which may include, but not be limited to the provision of sediment traps and litter baskets and retarding basins.
34. All new services to the development shall be placed underground in accordance with the requirements of the relevant authorities.
35. The applicant shall be required to provide for an upgrade in public lighting, in accordance with AS 1158.1-1986, Part 1 for the illumination of minor streets.
36. All earthworks associated with the development shall be stabilised in accordance with standard engineering design and practices against erosion and failure. No earthworks may encroach across neighbouring property boundaries.
37. Any portion of Council's existing infrastructure damaged as a result of work undertaken on the site or associated with the development shall be repaired/reinstated to Council's satisfaction at the developer's expense.
38. Temporary debris and sediment control measures shall be installed to prevent debris and sediment from entering Council's drainage system during all construction stages of both the land division and future development on the proposed allotments. Pollution prevention measures, shall be in accordance with the Environmental Protection Authority's Publication Number 275 "Construction Techniques for Sediment Pollution Control".
39. No building or works shall be commenced (and no trees or vegetation shall be removed) until a landscape plan prepared by a suitably qualified and experienced person or firm has been submitted to and endorsed by the Responsible Authority. This plan when endorsed shall form part of this permit. This plan shall show -
- a survey of all existing vegetation, abutting street trees, natural features and vegetation;
 - buildings, outbuildings and trees in neighbouring lots that would affect the landscape design;
 - planting within and around the perimeter of the site comprising trees and shrubs capable of:
 - providing a complete garden scheme;
 - softening the building bulk;
 - providing some upper canopy for landscape perspective; and
 - minimising the potential of any overlooking between habitable rooms of adjacent dwellings;
 - a schedule of the botanical name of all trees and shrubs proposed to be retained and those to be removed incorporating any relevant requirements of condition No. 1;
 - the proposed design features such as paths, paving, lawn and mulch; and
 - a planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.
- Landscaping in accordance with this approved plan and schedule shall be completed before the building is occupied.
40. During construction and maintenance activities, adequate steps shall be taken to stop soil erosion and the movement of sediment off site. Adequate steps include:
- control of onsite drainage by intercepting and redirecting run-off in a controlled manner to stable vegetated areas on the site;



- installation of sediment control structures such as sediment basins, sediment fences and sediment traps when construction commences and maintenance of these structures until the site is stabilised; and
 - revegetation of all disturbed areas as quickly as possible or within 14 days after construction works are completed.
41. Topsoil shall be stripped from any roads, driveways and building sites requiring excavation, prior to excavation and forming and stockpiled for re spreading over the disturbed sites.
42. Cut batter shall be no steeper than 1 in 1.5 and fill batters no steeper than 1 in 2 unless retained by structural means (gentler batters will be more stable and easier to revegetate).
43. When completed all batters will have a layer of topsoil 50mm minimum thickness spread over them and sown with a suitable grass and clover mixture, or mulched and planted with ground cover plants.
44. Roads and driveways on a gradient steeper than 5 % shall be surfaced with a non-erodible surface such as asphalt or concrete to the satisfaction of the Responsible Authority.
45. This permit will expire if:
- the subdivision is not certified within two years of the date this permit was issued, or
 - if certified within two years, is not registered within five years of the date of Certification; or
 - the development is not started within two years of the issue of this permit; or
 - the development is not completed within four years of the date this permit was issued.

The Responsible Authority may consider extending the periods referred to above if a request is made in writing before the permit expires or within three months afterwards.


Note

All works associated with the development must be in a manner consistent with the provisions of the Archaeological and Aboriginal Relics Preservation Act 1992 and Part 11A of the Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act, 1984. Aboriginal Affairs Victoria is the authority for administration of those Acts and the proponent is advised to contact Mr Gerry Laughton, PO Box 1240 Sale 3850 of phone 4143 1644 in relation to the above.

The land subject to this application has been identified as highly erodible. All earthworks undertaken on the land should be carefully monitored and any signs of active erosion stabilised as quickly as possible. Advice on the most practical and cost effective methods of erosion control can be obtained from the Department of Sustainability and Environment's Bairnsdale office (5152 0600).

Date Issued: 23 July 2004

Page 5 of 5


**Signature for the
Responsible Authority**

1/2

plan-permits
-A/N



gamcorp

Innovation in design and construction

Consulting Engineers

PLAN A		E.G.S.C.
PLAN B		
PLAN C	67	7 MAY 2004
PLAN D		
PLAN E		

239a Main Street (PO Box 529)
Bairnsdale
Vic 3875

Tel: +61 3 51530477
Fax: +61 3 51525115

<http://www.gamcorp.com.au>

ref 19611

25 May 2004

Mr John Traa
Planning Department
East Gippsland Shire Council
Bairnsdale

Dear John

**Re: Planning Application No: JT/243/2004/P
Development of 35 Dwellings and 3 Lot Subdivision
17 – 37 Golf Links Road, Lakes Entrance**

In response to your request for more information, please find attached two copies of a revised preliminary layout and drainage plan for the abovementioned proposal. This drawing supersedes that provided with the original application, and includes approximate dimensions and area for the proposed lake.

This exact dimensions will be determined during detailed design, as this lake will be needed to provide retention capacity for runoff from the surrounding land.

Regards

Robert Supplitt
Gamcorp Pty Ltd.
(mobile 0407 504 257)

cc: James Couper JJC Design

From: Crowther & Sadler [contact@crowthersadler.com.au]
Sent: Friday, 21 August 2020 3:05:24 PM
To: Planning Unit Administration
Subject: 18830 - Planning Application 1/2020/AGR - Golf Links Road, Lakes Entrance

Attention: Mr. Robert Pringle

Dear Robert ,

**Re: Planning Application 1/2020/AGR
Amend Legal Agreement AD851558A
19A & B, 21, 23A & B Golf Links Road, Lakes Entrance**

Further to your letter dated 5 August 2020, notice of the Application has been undertaken and completed in accordance with Council's instructions.

Please find enclosed herewith copies of the stamped addressed envelopes and the completed statutory declaration form.

Notices were sent to the listed owners and occupiers as instructed by Council which commenced 5 August 2020 with parties advised that the responsible Authority would not decide on the Application before 20 August 2020.

We would appreciate notification and copies of any objections or submissions received in relation to the proposal at your earliest convenience.

Regards,

Katie Garth



152 Macleod Street, Bairnsdale
PO Box 722, Bairnsdale, Vic, 3875
P: 5152 5011 **F:** 5152 5705

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STATUTORY DECLARATION

I Katie Garth

(full name)

of c/ Crowther & Sadler, 152 Macleod Street, Bairnsdale

(address)

do solemnly and sincerely declare that I have given notice as directed by the East Gippsland Shire Council in respect of Planning Permit Application No.

1/2020/AGR

for

**Amend Legal Agreement AD851558A at 19A & B, 21, 23A & B Golf Links Road
LAKES ENTRANCE
Lot 5, 6, 9 & 10 PS 535111 & PC 369358**

Please insert date given in the Form 2 as sent to adjoining owners, displayed on site and/or published in the newspaper, in box below.

The Responsible Authority, East Gippsland Shire Council, will not decide on the application before:

20 AUGUST 2020

I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.

Declared at Bairnsdale in the State of Victoria,

this 20 day of August 2020

Signed:

Katie Garth
Signature of person making this declaration
[to be signed in front of an authorized witness]

Before me:

James Andrew Roughley
Signature of authorised witness

JAMES ANDREW ROUGHLEY
109 Main Street, Bairnsdale
An Australian legal practitioner within the meaning
of the Legal Profession Uniform Law (Victoria)

The authorised witness must print or stamp his or her name, address, and title under section 107A of the Evidence Act (Miscellaneous Provisions) 1958 [Vic.] (eg. Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist)