

11 February 2021

Form 2

NOTICE OF AN APPLICATION FOR PLANNING PERMIT

<p>The land affected by the application is located at:</p>	<p>75 Mount Lookout Road ELLASWOOD Lot 2 PS 542270</p>
<p>The application is for a permit to:</p>	<p>Three lot subdivision</p>
<p>The applicant for the permit is:</p>	<p>Crowther & Sadler Pty Ltd</p>
<p>The application reference number is:</p>	<p>24/2021/P</p>
<p>You may look at the application and any documents that support the application on the website of the responsible authority.</p>	<p>(Intentionally blank)</p>

This can be done anytime by visiting the following website:
www.eastgippsland.vic.gov.au/PlanningApps

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

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

<p>The Responsible Authority will not decide on the application before:</p>	<p>Subject to applicant carrying out notice</p>
--	--

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

Please note submissions received will be made available for inspection and may be made available to other parties in accordance with the Planning & Environment Act 1987. If you have concerns about this, please contact the East Gippsland Shire Council's Planning Office.

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

VOLUME 10997 FOLIO 805

Security no : 124087260752K
Produced 21/12/2020 03:17 PM

LAND DESCRIPTION

Lot 2 on Plan of Subdivision 542270V.
PARENT TITLE Volume 05272 Folio 278
Created by instrument PS542270V 13/03/2007

REGISTERED PROPRIETOR

Estate Fee Simple
Joint Proprietors
TREVOR KEITH CRONEY
LUCY HAUSSEGGER both of 75 MOUNT LOOKOUT DRIVE ELLASWOOD VIC 3875
AR237668W 12/07/2018

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AR237669U 12/07/2018
COMMONWEALTH BANK OF AUSTRALIA

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
AE938147G 07/03/2007

DIAGRAM LOCATION

SEE PS542270V 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: 75 MOUNT LOOKOUT ROAD ELLASWOOD VIC 3875

ADMINISTRATIVE NOTICES

NIL

eCT Control 15771K COMMONWEALTH BANK OF AUSTRALIA - CONSUMER
Effective from 12/07/2018

DOCUMENT END

Delivered from the LANDATA System by GlobalX Terrain Pty Ltd

PLAN OF SUBDIVISION

STAGE No.

LTO USE ONLY

ADVERTISED PLAN NUMBER

EDITION 1 PS 542270V
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LOCATION OF LAND

PARISH: WY YUNG
 TOWNSHIP: _____
 SECTION: _____
 CROWN ALLOTMENT: 72 (PART)
 CROWN PORTION: _____

TITLE REFERENCES: VOL 5272 FOL 278

LAST PLAN REFERENCE:

POSTAL ADDRESS: 65 MT LOOKOUT ROAD,
 (At time of subdivision) WY YUNG, 3875

MGA84 CO-ORDINATES: E 551 790
 (Of approx. centre of land in plan) N 5818 780 ZONE: 55

COUNCIL CERTIFICATION AND ENDORSEMENT

COUNCIL NAME: EAST GIPPSLAND SHIRE COUNCIL REF 122/2005/PST
 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 seat
 Date 08/08/2005
 Re-certified under Section 11(7) of the Subdivision Act 1988
 Council Delegate
 Council seat
 Date / /~~

VESTING OF ROADS AND/OR RESERVES

IDENTIFIER	COUNCIL/BODY/PERSON
NIL	NIL

NOTATIONS

STAGING This is / is not a staged subdivision
 Planning Permit No 733/2004/P

DEPTH LIMITATION 15.24 METERS BELOW THE SURFACE

SURVEY: THIS PLAN IS / IS NOT BASED ON SURVEY
 THIS SURVEY IS CONNECTED TO PERMANENT MARK No(s)

EASEMENT INFORMATION

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

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of

LTO USE ONLY
 STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT

RECEIVED
 DATE 07/03/2007

LTO USE ONLY
 PLAN REGISTERED
 TIME 3:18 pm
 DATE 17/03/2007
[Signature]
 Assistant Registrar of Titles

SHEET 1 OF 2 SHEETS

Crowthier & Sadler Pty Ltd
 LICENSED SURVEYORS & TOWN PLANNERS
 162 MACLEOD STREET, BAIRNSDALE, VIC., 3875
 TELEPHONE (033) 6182 8011

LICENSED SURVEYOR PAUL ANTHONY DWYER
 SIGNATURE DATE 15/06/2005
 REF 1116 VERSION 1

DATE 08/08/2005
 COUNCIL DELEGATE SIGNATURE
 ORIGINAL SHEET SIZE A3

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Section 181

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

Planning & Environment Act 1987

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.

Lodged by:

Name: Warren Graham & Murphy
Phone: (03) 5152-2661
Address: 119 Main Street, Bairnsdale
Ref: RMH:bjw:4289/05 (Cooper)
Customer Code: 1716W

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: Certificate of Title Volume 5272 Folio 278.

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

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

A copy of the Agreement is attached to this Application.

Signature for the Authority: *[Handwritten Signature]*

Name of Officer: AARON HOLLOW, MANAGER DEVELOPMENT
(full name)

Date: 28/02/2007

ADVERTISED

AE938147G

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PLANNING AND ENVIRONMENT ACT 1987 SECTION 173 AGREEMENT

THIS AGREEMENT is made the *2nd* day of *January* 200*8*

BETWEEN

EAST GIPPSLAND SHIRE COUNCIL

273 Main Street, Bairnsdale

("Council")

- and -

NOEL JOHN COOPER

and BARBARA AILEEN COOPER

65 Mount Lookout Road, Yy Yung, 3875

("the Owner")

WHEREAS

- A. The Owner is the registered proprietor of all that piece of land being the whole of the land described in Certificate(s) of Title Volume 05272 Folio 278.
- B. The Owner has made application to the Council for a Planning Permit.
- C. The Council has issued Planning Permit Number 733/2004/P subject to certain conditions, one of which is that the parties enter into an agreement pursuant to Section 173 of the *Planning and Environment Act*.

NOW THIS AGREEMENT WITNESSETH:

- 1. The parties confirm the recitals to this agreement.
- 2. This agreement is made pursuant to Section 173 of the *Planning & Environment Act*.
- 3. The Owner covenants that:-

ADVERTISED AE938147G

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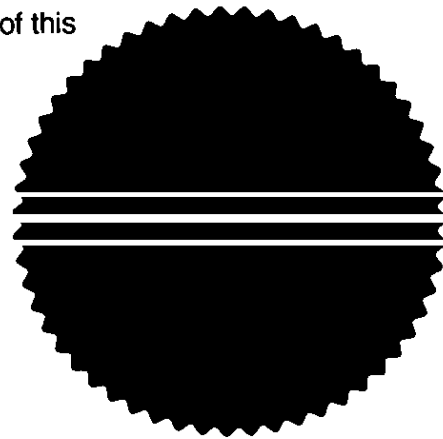


- (a) Lot 2 as indicated on the endorsed plans of Planning Permit 733/2004/P issued by the East Gippsland Shire Council must not be further subdivided into more than three (3) allotments.
- (b) This agreement will expire and may be removed from title upon an alternate agreement being imposed by the Responsible Authority and registered on title when further subdivision occurs, and/or as approved in writing by the Responsible Authority.

- 4. The Owner must not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the land or any part of it without first disclosing to its successors the existence and nature of this agreement.
- 5. The parties acknowledge and agree that the covenants and agreements entered into by the Owner in this agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the land and which shall bind the Owner, his successors, assignees and transferees, the registered proprietors for the time being of the land and every part thereof.

EXECUTED by the parties on the date set out at the commencement of this Agreement.

The COMMON SEAL of EAST GIPPSLAND)
 SHIRE COUNCIL was affixed on behalf of)
 Council by authority of the Chief Executive)
 Officer on the 2nd day of January)
 2007 in exercise of the power delegated)
 under Administrative Procedures (Use of)
 Common Seal) Local Law in the presence of)



ACTING CHIEF EXECUTIVE OFFICER

WITNESS

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SIGNED by the said NOEL JOHN COOPER

in the presence of

x *Emily Hogan* (witness)

) *Noel John Cooper*

SIGNED by the said BARBARA AILEEN COOPER)

In the presence of

x *Emily Hogan* (witness)

) *Barbara A. Cooper*

AE938147G
07/03/2007 \$94.60 173


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AE938147G



MORTGAGEE'S CONSENT

WESTPAC BANKING CORPORATION as Mortgagee of Registered Mortgage No. U329027M consents to the Owner entering into this Agreement and in the event that the Mortgagee becomes Mortgagee-in-possession, agrees to be bound by the covenants and conditions of this Agreement.

.....

For and on behalf of the Mortgagee

SIGNED, SEALED AND DELIVERED on behalf of WESTPAC BANKING CORPORATION ABN 33 007 457 141 by its attorney under power of attorney dated 17 January 2001, a certified copy of which is filed in the Permanent Order Book, No. 277, Page 16 in the presence of:

[Handwritten Signature]
Witness (signature)

RAIANI KOIA
Witness (print name)

) By executing this document the attorney states that
) they have received no notice of revocation of the
) power of attorney.
)
)
)

[Handwritten Signature]
Attorney (signature)

Adam Davis
Name of Attorney (print)
TIER THREE ATTORNEY

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AE938147G



EAST GIPPSLAND SHIRE COUNCIL

- and -

NOEL JOHN COOPER
and BARBARA AILEEN COOPER

**AGREEMENT UNDER SECTION 173
OF THE PLANNING AND ENVIRONMENT
ACT 1987**

WARREN GRAHAM & MURPHY,
Solicitors,
119 Main Street,
BAIRNSDALE VIC 3875

REF: RMH:bw:4289/05

TEL: (03) 51522 661

D.X.: 82201, Bairnsdale

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AR237668W

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Transfer of Land

Section 45 Transfer of Land Act 1958

1. Land/s

Land Title

Volume 10997 Folio 805

2. Estate and Interest

FEE SIMPLE

3. Transferor/s

Transferor 1

Given Name/s NOEL JOHN

Family Name COOPER

Transferor 2

Given Name/s BARBARA AILEEN

Family Name COOPER

4. Transferee/s

Transferee 1

Given Name/s TREVOR KEITH

Family Name CRONEY

Transferee 2

Given Name/s LUCY

Family Name HAUSSEGGER

5. Manner of Holding

JOINT PROPRIETORS

6. Address/es of Transferee/s

Address of Transferee 1

Unit Street No 75

Street Name MOUNT LOOKOUT

Street Type DRIVE

Locality ELLASWOOD

State VIC Postcode 3875

Address of Transferee 2

Same as Transferee 1

7. Consideration

\$330,000

8. Covenants

NONE

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Transfer of Land

Section 45 Transfer of Land Act 1958


9. Signing

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

Transferor 1

Certifications


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

Executed on behalf of NOEL JOHN COOPER
 Signer Name BEVAN GORDON CLARKE
 Signer Organisation WARREN GRAHAM & MURPHY
 Signer Role AUSTRALIAN LEGAL PRACTITIONER
 Signature 
 Execution Date 19/6/18

Transferor 2

Certifications

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

Executed on behalf of BARBARA AILEEN COOPER
 Signer Name BEVAN GORDON CLARKE
 Signer Organisation WARREN GRAHAM & MURPHY
 Signer Role AUSTRALIAN LEGAL PRACTITIONER
 Signature 
 Execution Date 19/6/18

ADVERTISED
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Transfer of Land

Section 45 Transfer of Land Act 1958

Transferee 1

Certifications

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

Executed on behalf of TREVOR KEITH CRONEY
 Signer Name BEVAN GORDON CLARKE
 Signer Organisation WARREN GRAHAM & MURPHY
 Signer Role AUSTRALIAN LEGAL PRACTITIONER

Signature



19/6/18

Execution Date

Transferee 2

Certifications

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

Executed on behalf of LUCY HAUSSEGGER
 Signer Name BEVAN GORDON CLARKE
 Signer Organisation WARREN GRAHAM & MURPHY
 Signer Role AUSTRALIAN LEGAL PRACTITIONER

Signature



19/6/18

Execution Date

10. Lodging Party

Customer Code

Reference

CBA-MS
15771K

Planning Report

Three Lot Subdivision
75 Mount Lookout Road, Ellaswood
Lots 2 on PS542270V

Our Reference – 19104

December 2020



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Note: Planning Application fee of \$1,318.10 paid by cheque

1. Introduction

This Planning Report is prepared in support of a three lot subdivision at the property 75 Mount Lookout Road, Ellaswood.

The Report addresses the provisions of the Rural Living Zone, Bushfire Management Overlay, Vegetation Protection Overlay (Schedule 1), Environmental Significance Overlay (Schedule 1-39), and Erosion Management Overlay as contained within the *East Gippsland Planning Scheme*.



Aerial image with subject land outlined in surrounding context (Source: GeoVic)



Aerial image with subject land outlined (Source: GeoVic)

2. Subject Land & Surrounding Context

The site is a single parcel of land formally described as Lot 2 on Plan of Subdivision 542270V. The subject land is located on the south-western side of Mount Lookout Road and comprises a total area of 35.224ha.



Aerial image of subject land (Source: GeoVic)

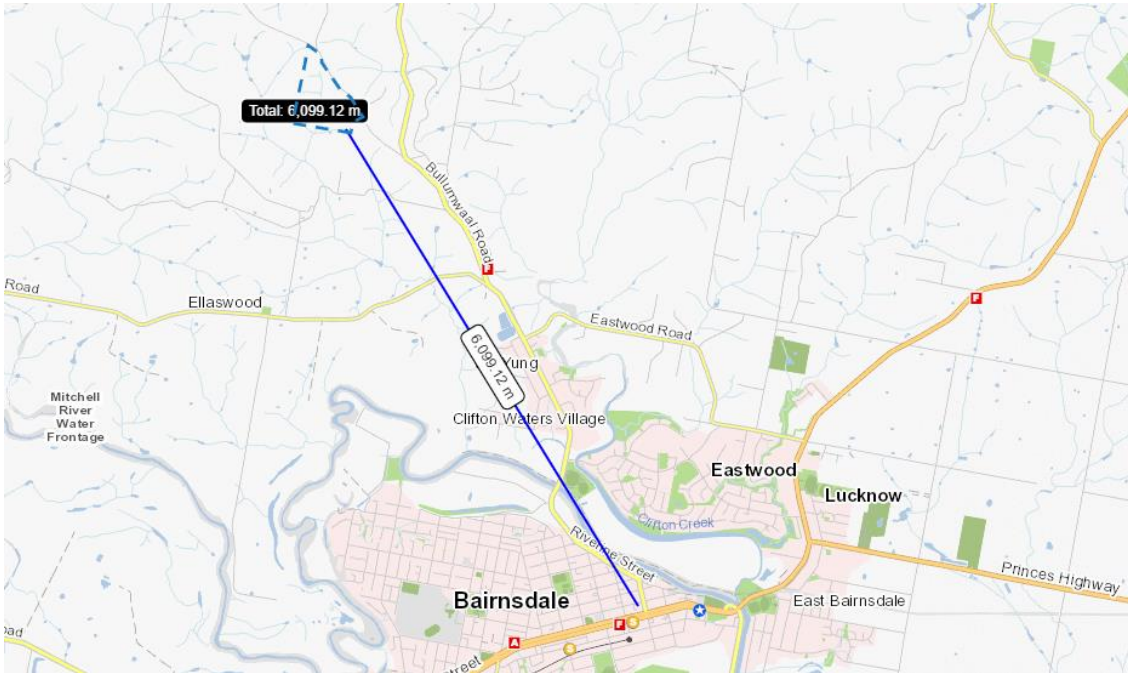
The property is adjoined on the eastern boundary by Mount Lookout Road, with rural standard access points in the northern and southern portions of the site along the eastern boundary.



Aerial image of existing access points to the property (Source: GeoVic)

The central and southern portions of the site are predominantly cleared from vegetation, and the northern portion containing a contiguous patch of trees which also extends south along the western boundary. The patch of vegetation on the site can be clearly observed from aerial imagery.

The subject land is situated approximately 6km north-west of the Bairnsdale activity centre.



Approximate distance of site to Bairnsdale CBD (Source: VicPlan)

Surrounding properties to the north-west present similar characteristics to the subject land with predominantly a combination of cleared land with contiguous patches of classifiable vegetation varying in size. Properties to the south and east are contained within the Low Density Residential Zone, which has experienced substantial development over the past decade to accommodate the popular “rural lifestyle” that the housing market desires.

The subject land is encumbered by Section 173 Legal Agreement AE938147G, entered into as part of Planning Permit 733/2004/P. The Agreement stipulates that lot 2 on the endorsed plan (land subject to this Application) must not be further subdivided into more than three (3) allotments.

The subject land is contained entirely within the Rural Living Zone in accordance with the *East Gippsland Planning Scheme*. The Bushfire Management Overlay, Vegetation Protection Overlay (Schedule 1), Environmental Significance Overlay (Schedule 1-39), and Erosion Management Overlay also apply to the site.

3. The Application & Proposal

This Application seeks to subdivide the subject land to create two smaller allotments in the southern portion of the site, with the balance of the land contained within a single parcel comprising the central and northern portions of the site.

The Application will create proposed Lot 1 with an area of 1.815ha, proposed Lot 2 with an area of 1.671ha, and proposed Lot 3 with an area of 32.79ha.



Extract from Proposed Subdivision Plan

Proposed Lot 1 will utilise the existing access point in the south of the eastern boundary. This proposed lot will comprise a relatively modest portion of the land and contain cleared land with some scattered trees nearest the eastern boundary.

Proposed Lot 2 will comprise predominantly cleared land adjoining the northern side of proposed Lot 1, with some scattered trees in the eastern portion of the lot. In order to avoid the creation of access points along Mount Lookout Road, this lot will share the access point with Lot 1 by way of a proposed carriageway easement extending 20m into the property from the access point.

Proposed Lot 3 will retain the balance of the land, including the central vacant portion of the property, and the large patch of vegetation in the northern and western portions of the site. This lot will also retain the existing access from Mount Lookout Road at the northern end of the property.

The Application has sought to activate a modest portion of this underutilised parcel of land within the Rural Living Zone in order to provide two additional lots suitable for residential purposes within the precinct, whilst retaining the balance in a single parcel. Proposed Lot 3 substantially exceeds the minimum allotment area of 8ha prescribed in the Rural Living Zone (Schedule 3), retaining the vegetated northern portion of the site in one single parcel.

This Application is made in accordance with the provisions of the Rural Living Zone within the *East Gippsland Planning Scheme*, whereby lots less than 8ha are able to be created if the subdivision results in no more than the number of lots that could be created in accordance with the schedule to the zone.

The Application does not propose the construction of any buildings nor propose any changes that would directly impact on traffic volumes from that which currently exists.

It is considered the proposed subdivision will result in a positive outcome by optimising the vegetated portion of the site in a single parcel. Providing the opportunity for two additional lots in the precinct to contain future residential development.

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

- **Clause 35.03-3** of the *Rural Living Zone* for subdivision;
- **Clause 44.06-2** of the *Bushfire Management Overlay* for subdivision of land;
- **Clause 42.01-2 dot point 4** of the *Environmental Significance Overlay* for the subdivision of land; and
- **Clause 44.01-5** of the *Erosion Management Overlay* for subdivision of land.

Although the eastern boundary of the site, adjoining Mount Lookout Road, is affected by the Vegetation Protection Overlay, the overlay does not contain any specific Application Requirements for subdivision. Through utilising existing access points for each proposed lot, the proposal ensures that there is no roadside vegetation impacted by the proposed subdivision.

4. Cultural Heritage

The proposal does not trigger the need for a Cultural Heritage Management Plan ('CHMP') under the *Aboriginal Heritage Act 2006*.

Pursuant to Regulation 6 of the *Aboriginal Heritage Regulations 2018*, a CHMP is required for an activity if:

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



Cultural Heritage Sensitivity Mapping (Source: VicPlan)

The site is not identified as being contained within an area of cultural sensitivity in accordance with the *Aboriginal Heritage Regulations 2018*. Therefore, the proposal does not require a CHMP.

5. Planning Policy

5.1 Planning Policy Framework

The proposed subdivision responds positively to Clause 11 relating to *Settlement* as it will result in opportunities for future residential development to occur on suitably zoned land which is able to be serviced appropriately. Market intelligence demonstrates the increasingly valuable role rural residential development plays in supporting the region's main settlement of Bairnsdale.

The proposed subdivision is consistent with the objective and strategies of Clause 12 relating to *Environmental & Landscape Values* which aims to protect the health of ecological systems and biodiversity they support and conserve areas with identified environmental and landscape values. The subdivision layout responds to the natural features of the subject land, with each of the proposed lots providing sufficient area for future dwellings and wastewater disposal appropriately setback from waterways, and minimises the need for any further removal of native vegetation.

Having regard for Clause 13 relating to *Environmental Risks* it is acknowledged that the property is contained within the Erosion Management Overlay. Notwithstanding this, the subject land does not display any signs of instability or degradation.

Clause 13.02-1S relating to *Bushfire Planning* is supported by the proposal with the proposed subdivision not considered to result in a significant threat due to the smaller proposed lot being separated by over 700m from the nearest area contained within the Bushfire Management Overlay, being the far western portion of the site. Although the land is identified as being within a Bushfire Prone Area, there are no buildings proposed herein.

Additionally, Clause 16 pertaining to *Housing* calls for the need to provide appropriate housing within suitable locations with regards to affordability and housing diversity, including rural residential style living.

5.2 Local Planning Policy

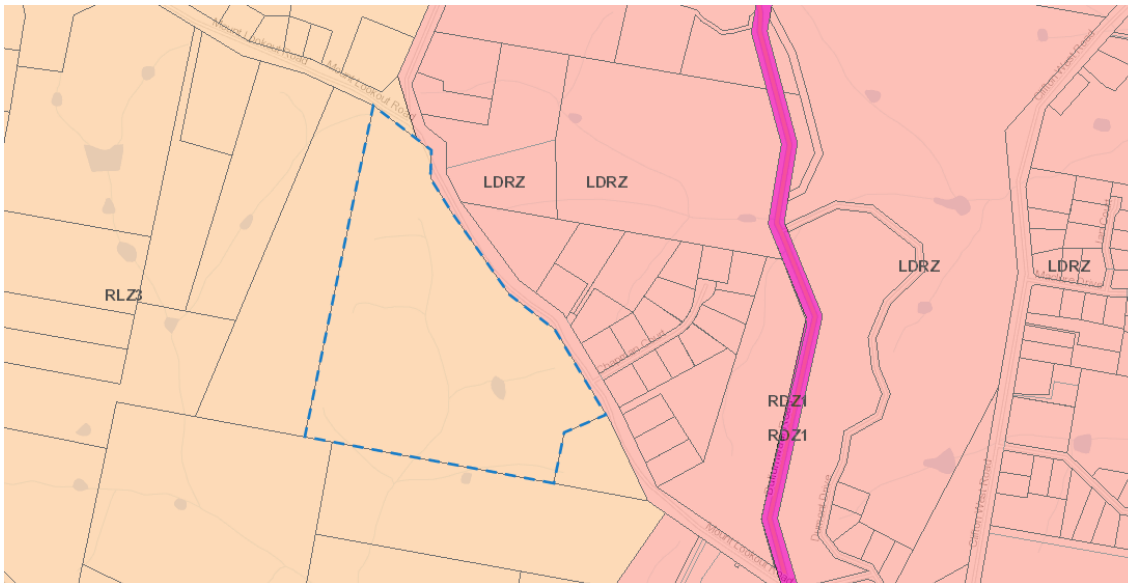
The subject land forms part of the Ellaswood locality which is situated between Mount Taylor and Bairnsdale. Whilst there is no specific Local Policy for Ellaswood, the subdivision accords with the purpose of the Rural Living Zone and does not conflict with any of the local policies.

Clause 21.05 *Environmental Risks* acknowledges the risks of flood, bushfire and erosion that exist throughout East Gippsland. The subject land is contained within the Erosion Management Overlay however the risk to the development on the land likely to be low. The land does not display any obvious physical signs of instability that would increase an erosion hazard.

6. Planning Elements

6.1 Rural Living Zone

The proposed subdivision is considered to respond positively to the purpose of the Rural Living Zone as it will result in the creation of allotments which can accommodate residential development in a rural environment, whilst protecting the natural resources, biodiversity and landscape values of the area.



Zone Mapping (Source: VicPlan)

Planning approval for subdivision in the Rural Living Zone is able to be sought if the proposal is in accordance with the scheduled lot size. Schedule 3 to the Rural Living Zone stipulates that the minimum subdivision area for this precinct is 8ha.

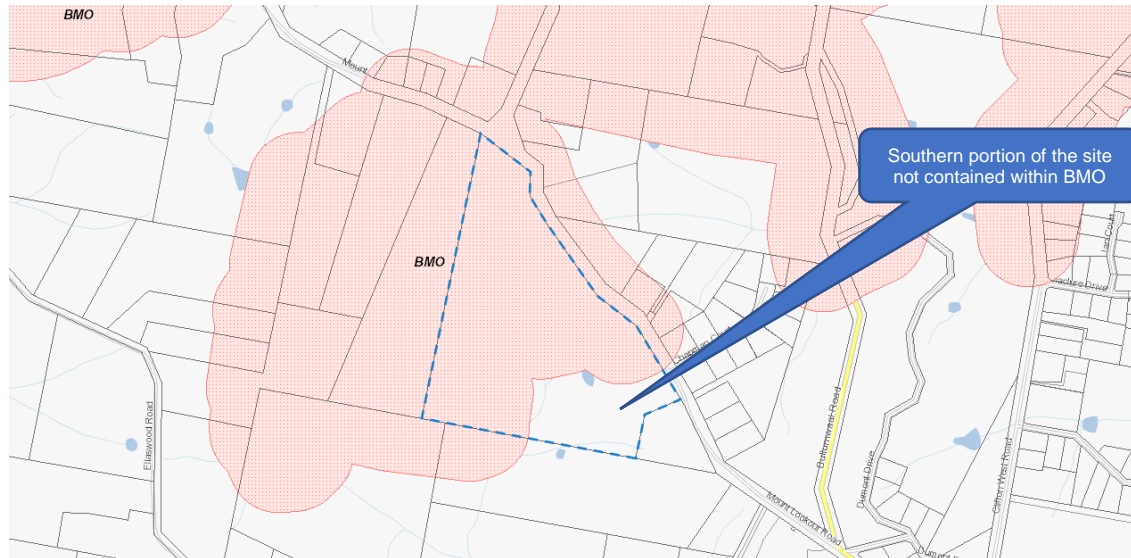
Clause 35.03-3 of the Rural Living Zone provides the opportunity for the creation of lots smaller than that specified in the Schedule if the number of lots is no more than the number the land could be subdivided into in accordance with the schedule to the zone.

Lots 1 and 2 are considered to be an appropriate size in the context of lot sizes the precinct which includes recently subdivided lots within the Low density Residential Zone on the north east side of Mount Lookout Road. The area of Lots 1 and 2 with areas are considered more than capable of accommodating onsite waste water disposal, due to the land not being serviced by reticulated sewer. Future dwellings on proposed Lots 1 & 2 will require further Council approval in accordance with the Rural Living Zone provisions.

The land contains an ephemeral waterway. The proposed subdivision will provide generous lot sizes that provide opportunity for future dwellings to be appropriately setback from the waterways within proposed Lots 1 & 3.

6.2 Bushfire Management Overlay

The property is partially affected by the Bushfire Management Overlay (BMO), and therefore triggers planning approval in accordance with Clause 44.06-2 relating to the subdivision of land.



Bushfire Management Overlay mapping (Source: VicPlan)

The threat from bushfire identified by the site's inclusion in the BMO is identified as the contiguous classifiable vegetation within the northern portion of the property.

The BMO mapping also includes a buffer distance extending beyond areas of classifiable vegetation, extending into some of the open area within the southern portion of the site.

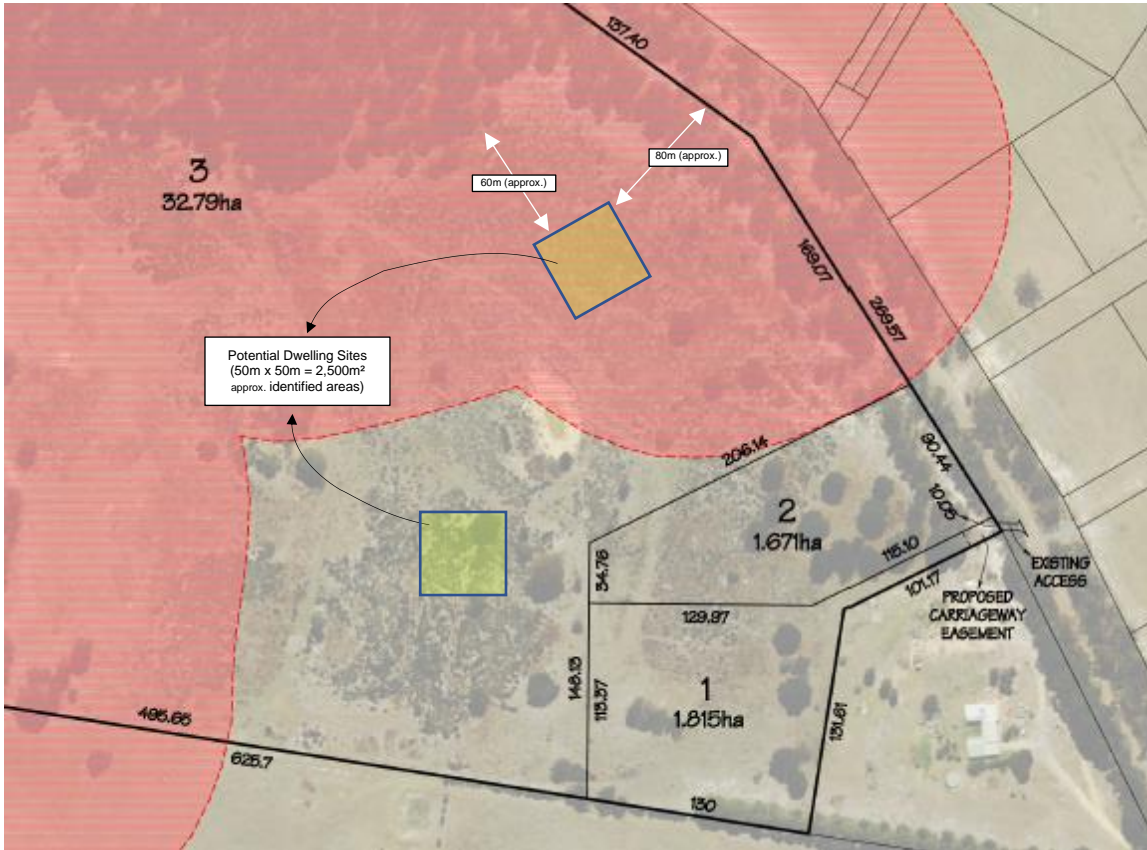
This Application does not propose the construction of any buildings, with the proposal being simply for the subdivision of land only.

The proposed subdivision seeks to provide an opportunity for rural residential development of the two smaller proposed lots within the southern portion of the subject land, and a continued agricultural opportunity for the balance of the site.

The subdivision layout has considered the Bushfire Management Overlay and ensures that both proposed Lots 1 & 2 are located outside the area contained within the BMO. Both of these lots are still contained within a designated Bushfire Prone Area, and therefore will still require future dwellings to be built to a minimum BAL12.5.

The proposal also identifies that proposed Lot 3 contains cleared area available outside of the BMO effected portion of the site that is suitable for containing future residential development. In addition, should future landowners wish to construct a dwelling within an area of proposed Lot 3 within the BMO there is area sufficient for such development to occur with appropriate separation from the bushfire hazard.

The construction of a dwelling within the BMO will be subject to further Council approval, in accordance with the BMO provisions.



Proposed Subdivision Layout in relation to the BMO mapping

Whilst not a requirement for the purposes of this Application for subdivision, there are possible locations for Lot 3 to create an additional access point without impacting on roadside vegetation along Mount Lookout Road.

Furthermore, the wider landscape does not represent an excessively hazardous environment. Although there are areas nearby within the BMO, the wider landscape generally presents with Bushfire Prone Areas comprising recently developed residential properties.

On this basis, the Application seeks a waiver of the Bushfire Management Overlay requirements for Proposed Lot 3. These include the waiving of the Bushfire Hazard Landscape Assessment, Bushfire Hazard Site Assessment, Bushfire Management Statement, and Bushfire Management Plan.

This request is made with the understanding that should future residential development wish to be established within an area affected by the overlay, that Application would require further Council approval on its merits.

In addition, the Application seeks that the mandatory requirement included within Clause 44.06-5 not be imposed. Wherein a planning permit for subdivision would usually require the CFA to impose a condition stating that:

“Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987.

The agreement must:

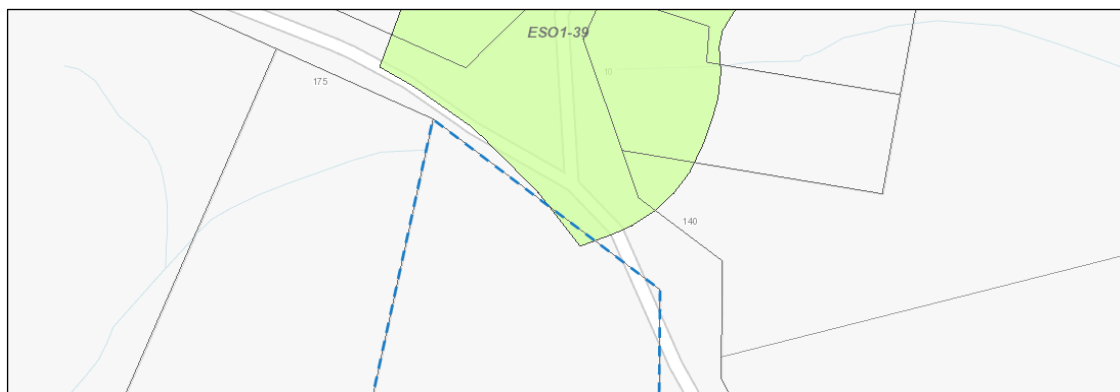
- *State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the [*insert name of applicable planning scheme] Planning Scheme.*
- *Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.*
- *State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.*

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.”

The proposed subdivision allows for potential future development to not be subject to the identified hazard to human life or property, particularly with adequate land provided outside the BMO.

6.3 Environmental Significance Overlay

The subject land is partially affected by the Environmental Significance Overlay, with planning approval triggered for the subdivision of land in accordance with Clause 42.01-2.



Environmental Significance Overlay mapping (Source: VicPlan)

The Schedule 1-39 relates to the *Holes Road Wildlife Corridor*, with the statement of environmental significance in this location being the wildlife corridor itself.

The 163m² (approx.) portion of land affected by the ESO already contains an existing access point. This established access point allow for the existing internal driveways to lead south into the property from the road frontage adjoining the site's northern boundary.

No construction of buildings nor removal of vegetation is proposed within this Application, simply the subdivision of the property resulting in two modest allotments located in the southern portion of the subject land.

Whilst the ESO triggers planning approval for the subdivision of land, the Application does not present any alteration to the land that is affected by the overlay. Changes to the subject land proposed herein are to occur on land substantially separated from land within the ESO.

6.4 Erosion Management Overlay

The proposal triggers approval at Clause 44.01-5, with a permit required to subdivide land within the Erosion Management Overlay.



Erosion Management Overlay mapping (Source: VicPlan)

Due to the proposal being a three lot subdivision in a rural zone, the Application is required to provide a Geotechnical Risk Assessment (GRA) or letter of waiver to be prepared by a suitably qualified professional, pursuant to Clause 4.0 in the Schedule to the EMO.

There is no vegetation to be removed and there are no significant earthworks proposed as a result of the proposed subdivision. It is therefore considered that the proposal will not negatively impact on, or contribute to, erosion and other land degradation processes.

A GRA has been sought, however due to the observed timeframes to obtain the completed report, the assessment will be submitted to Council as soon as it is available.

7. Conclusion

The proposed subdivision is considered to accord with all objectives and relevant provisions of the Rural Living Zone, Bushfire Management Overlay, Environmental Significance Overlay, and Erosion Management Overlay of the *East Gippsland Planning Scheme*. The proposal is consistent with Planning Policy Framework and Local Policy and has been designed to complement the adjoining properties.

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

MICHAEL SADLER
Managing Director

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NOTATIONS	
AREAS ARE APPROXIMATE ONLY DIMENSIONS ARE SUBJECT TO SURVEY	
SCALE (SHEET SIZE A2)	SURVEYORS REF.
1 : 2500	19104
VERSION 4 - DRAWN 26/11/2020	

PROPOSED SUBDIVISION

PARISH OF WY YUNG
 CROWN ALLOTMENT 72 (PART)
 LOT 2 ON PS542270V