



Advertised

# Application for a Planning Permit

## Section 1: LAND DETAILS

Unit Number:	Street Number: 1995	Street Name: WESTERNPORT ROAD
Town: RIPPLEBROOK	Postcode: 3818	

## FORMAL LAND DESCRIPTION (Please complete either A or B – this information can be found on the Certificate of Title)

### Option A:

Lot No:	Lot 2 LP212884 & Lot 3 LP135060
Type of Plan: Please tick ✓	Lodge Plan <input checked="" type="checkbox"/> Title Plan <input type="checkbox"/> Plan of Subdivision <input type="checkbox"/>
Plan Number:	

### Option B:

Crown Allotment Number:	
Section Number:	
Parish/Township Name:	

## Section 2: PERMIT APPLICANT

Name:	WENDY KIDD		
Business:	LAND SUBDIVISION SPECIALISTS		
Postal Address:	28 BOOKER AVENUE		Postcode: 3931
	MORNINGTON		
Telephone No. (H)	(W)	(M)	0433598079
Email Address:	Wendy@landsubdivisionspecialists.com.au		

## Section 3: OWNER DETAILS (If different to the Applicant)

Name(s):	SIMON GARVEY		
Postal Address:	1995 WESTERNPORT ROAD		Postcode: 3818
	RIPPLEBROOK		
Telephone No. (H)	(W)	(M)	0409294404
Email Address:			

## Section 4: DEVELOPMENT COST - Estimated Cost of development for which the permit is required

\$35,000.
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**Section 5: PROPOSAL** You must give full details of the proposal being applied for. Insufficient or unclear information will delay your application.

**Advertised**

For what use, development or other matter do you require a permit?

**Development:**

<input type="checkbox"/> Advertising Signage	<input type="checkbox"/> Development of 2 or more dwellings Qty: <input style="width: 50px;" type="text"/>
<input type="checkbox"/> Agricultural Outbuildings	<input type="checkbox"/> Mixed Use Development and Reduction of Carparking
<input type="checkbox"/> Buildings and Works and Reduction in Carparking	<input type="checkbox"/> Residential Outbuildings
<input type="checkbox"/> Commercial or Industrial Buildings and Works	<input type="checkbox"/> Single Dwelling
<input type="checkbox"/> Extension / Alteration to Dwelling	<input type="checkbox"/> Telecommunications

**Use:**

<input type="checkbox"/> Buildings and Works and Change of Use	<input type="checkbox"/> Home Based Business
<input type="checkbox"/> Change of Use	<input type="checkbox"/> Sale and Consumption of Liquor
<input type="checkbox"/> Change of Use and Single Dwelling	

**Subdivision:**

<input checked="" type="checkbox"/> Boundary Realignment	<input type="checkbox"/> 3 or more Lot Subdivision Qty: <input style="width: 50px;" type="text"/>
<input type="checkbox"/> Variation/ Removal of Restriction	<input type="checkbox"/> Create an easement
<input type="checkbox"/> 2 Lot Subdivision	<input type="checkbox"/> 100 or more Lot Subdivision Qty: <input style="width: 50px;" type="text"/>

**Subdivision / Vegetation Removal:**

<input type="checkbox"/> Native Vegetation Removal or Lopping	<input type="checkbox"/> Non Native Vegetation Removal or Lopping (ESO4)
<input type="checkbox"/> Subdivision Qty: <input style="width: 50px;" type="text"/>	<input type="checkbox"/> Alteration of access RDZI

**Other:**


Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, Section 173 agreement or other obligation such as an easement or building envelope?

Yes     No     Not Applicable (no such covenant, section 173 agreement or restriction applies)

If yes, you should contact Council for advice as to how to proceed with the application.

**FURTHER DETAILS OF PROPOSAL** (optional)

<i>Boundary Re-alignment</i>	

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**Section 6: EXISTING CONDITIONS** Describe how the land is used and developed now.

Provide a plan of the existing conditions. Photos are also helpful.

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<p>Handwritten: Dairy Farm &amp; Residence - refer to Planning Report.</p>

**Section 7: PRE-APPLICATION MEETING** Has there been a Pre-Application meeting with a Council Planning Officer?

No <input type="checkbox"/>	
Yes <input checked="" type="checkbox"/>	<p>If yes, with whom? Spoke to Callum in early April 2020.</p>
	<p>Date of this meeting</p>

**Section 8: DECLARATION** This form must be signed. Complete box A or B

<p>A. I declare that I am the Applicant and all information given is true and correct.</p>	<p>Applicant signature: Handwritten: Wandy Kidd</p>	<p>Date: Handwritten: 21/4/2020</p>
<p>B. I/We the Applicant declare that I/We have notified the owner about this application and that all information given is true and correct.</p>	<p>Applicant Signature: Handwritten: Wandy Kidd</p>	<p>Date: Handwritten: 21/4/2020</p>

**CHECK LIST** Please ensure you have included the following items with your application form. Failure to provide all the information above may result in a delay in the processing of the application.

- A fully completed and signed copy of this form.
- The application fee (if not already paid). Most applications require a fee to be paid.
- Contact Council to determine the appropriate fee. - Will call to pay fees once submitted.
- Full and current copy of title and title plan (no older than 60 days) for each individual parcel of land forming the subject site. The title includes: the covering register search statement, the title plan and the associated title documents (known as instruments).
- Provided plans showing the layout and details of the proposal
- Provided any information required by the planning scheme, requested by Council
- Provided a description of the likely effect of the proposal (if required)
- Completed the declaration in Section 8
- Provided a contact phone number and e-mail address

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**Section 5: PROPOSAL** You must give full details of the proposal being applied for. Insufficient or unclear information will delay your application.

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For what use, development or other matter do you require a permit?

**Development:**

<input type="checkbox"/> Advertising Signage	<input type="checkbox"/> Development of 2 or more dwellings Qty: <input style="width: 50px;" type="text"/>
<input type="checkbox"/> Agricultural Outbuildings	<input type="checkbox"/> Mixed Use Development and Reduction of Carparking
<input type="checkbox"/> Buildings and Works and Reduction in Carparking	<input type="checkbox"/> Residential Outbuildings
<input type="checkbox"/> Commercial or Industrial Buildings and Works	<input type="checkbox"/> Single Dwelling
<input type="checkbox"/> Extension / Alteration to Dwelling	<input type="checkbox"/> Telecommunications

**Use:**

<input type="checkbox"/> Buildings and Works and Change of Use	<input type="checkbox"/> Home Based Business
<input type="checkbox"/> Change of Use	<input type="checkbox"/> Sale and Consumption of Liquor
<input type="checkbox"/> Change of Use and Single Dwelling	

**Subdivision:** *Re-Subdivision of the land*

<input type="checkbox"/> Boundary Realignment	<input type="checkbox"/> 3 or more Lot Subdivision Qty: <input style="width: 50px;" type="text"/>
<input type="checkbox"/> Variation/ Removal of Restriction	<input type="checkbox"/> Create an easement
<input type="checkbox"/> 2 Lot Subdivision	<input type="checkbox"/> 100 or more Lot Subdivision Qty: <input style="width: 50px;" type="text"/>

**Subdivision / Vegetation Removal:**

<input type="checkbox"/> Native Vegetation Removal or Lopping	<input type="checkbox"/> Non Native Vegetation Removal or Lopping (ESO4)
<input type="checkbox"/> Subdivision Qty: <input style="width: 50px;" type="text"/>	<input type="checkbox"/> Alteration of access RDZ1

**Other:**

*Re-Subdivision of the Land*

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, Section 173 agreement or other obligation such as an easement or building envelope?

Yes     No     Not Applicable (no such covenant, section 173 agreement or restriction applies)

If yes, you should contact Council for advice as to how to proceed with the application.

**FURTHER DETAILS OF PROPOSAL** (optional)

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# PLAN OF SUBDIVISION

EDITION 1

PS 819843 G

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## LOCATION OF LAND

PARISH: Yannathan

TOWNSHIP:

SECTION:

CROWN ALLOTMENTS: 40 & 41 (Pt)

CROWN PORTION:

TITLE REFERENCE: Vol. Fol.

LAST PLAN REFERENCE: Lot 2 LP 212880Y & Lot 3 LP 135060

POSTAL ADDRESS: 1995 & 1995A Westernport Road,  
(at time of subdivision) RIPPLEBROOK 3818

MGA CO-ORDINATES: E: 390 000 ZONE: 55  
(of approx centre of land in plan) N: 5 768 730 GDA 94

Council Name: Baw Baw Shire Council

### EXPLANATORY NOTE:

WARNING: This plan is unregistered.  
Alterations may be required by Council and the Registrar of Titles prior to Registration, Nobelius Land Surveyors accepts no responsibility whatsoever for any loss or damage suffered.

## VESTING OF ROADS AND/OR RESERVES

## NOTATIONS

IDENTIFIER	COUNCIL/BODY/PERSON
Nil	Nil

### Other Purpose of Plan

Creation of Restriction see sheet 3

## NOTATIONS

DEPTH LIMITATION: DOES NOT APPLY

**SURVEY:**  
This plan is based on survey.

**STAGING:**  
This is not a staged subdivision.  
Planning Permit No.

This survey has been connected to permanent marks No(s).

In Proclaimed Survey Area No.—

## EASEMENT INFORMATION

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

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	Electricity Supply	See Plan	LP 212880 Y	All Lots on LP 212880 Y

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### NOBELIUS LAND SURVEYORS



P.O. BOX 461  
PAKENHAM 3810  
Ph 03 5941 4112  
mail@nobelius.com.au

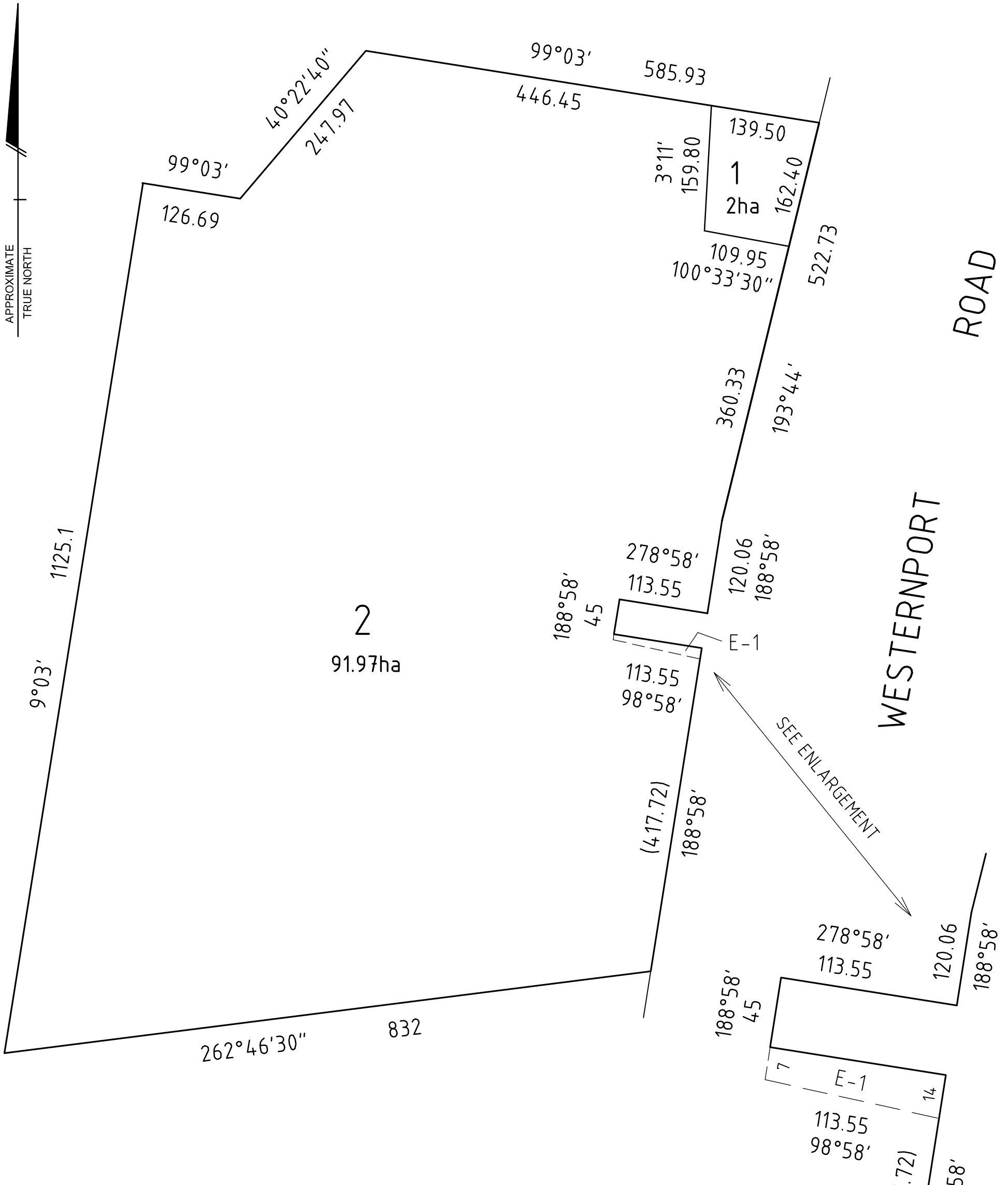
SURVEYORS FILE REF: 16794

LICENSED SURVEYOR: B. S. NOBELIUS  
VERSION 4

ORIGINAL SHEET SIZE: A3 SHEET 1 OF 3

WARNING: This plan is unregistered.  
See Sheet 1 for Explanatory Note

Advertised  
**PS 819843 G**



APPROXIMATE  
TRUE NORTH

2  
91.97ha

ENLARGEMENT  
NOT TO SCALE

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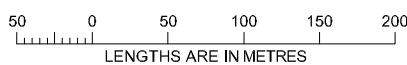
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**NOBELIUS LAND SURVEYORS**



P.O. BOX 461  
PAKENHAM 3810  
Ph 03 5941 4112  
mail@nobelius.com.au

SCALE  
1:5000

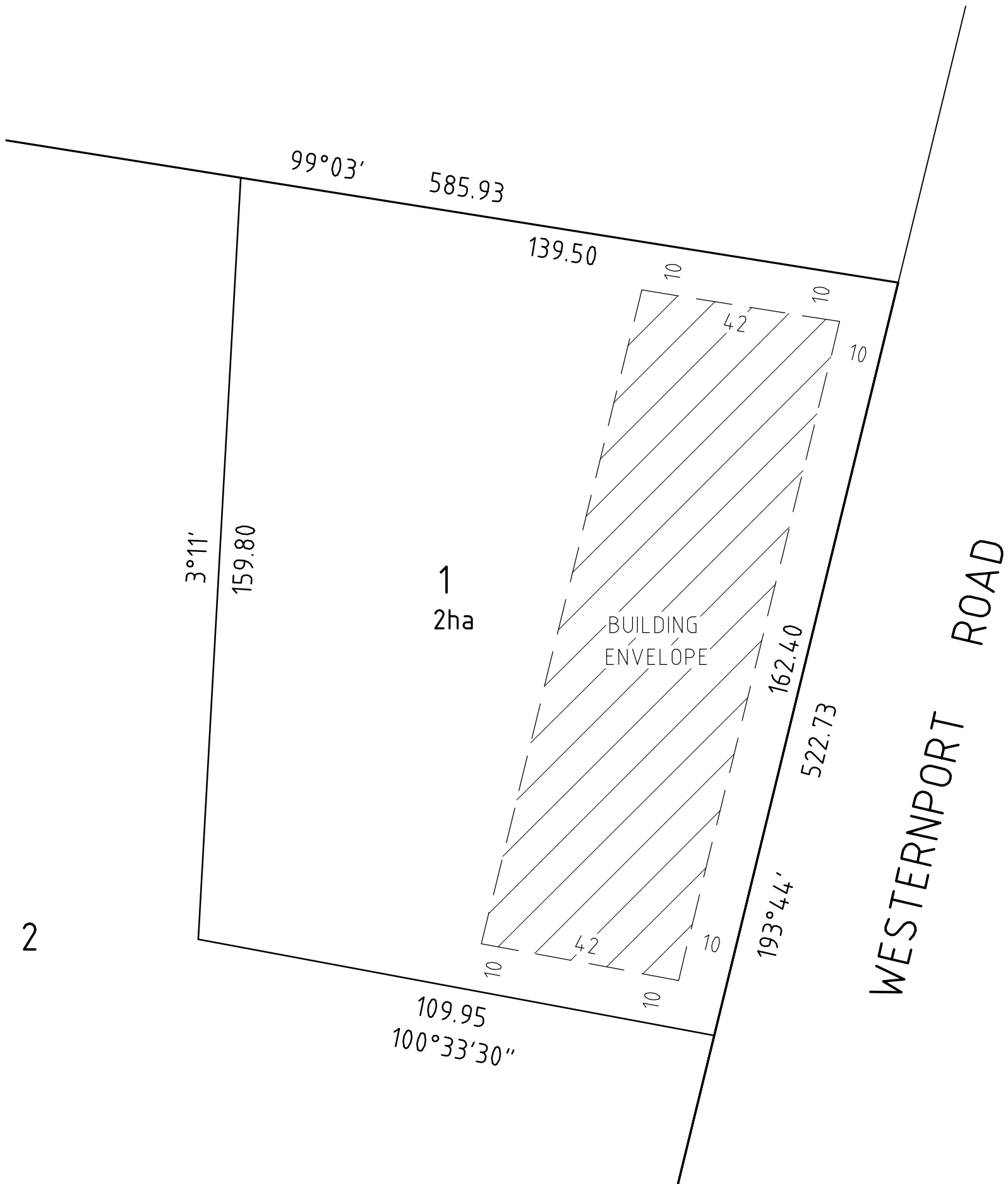


LICENSED SURVEYOR: B. S. NOBELIUS  
VERSION 4

ORIGINAL SIZE: A3

SHEET 2

WARNING: This plan is unregistered.  
See Sheet 1 for Explanatory Note



**CREATION OF RESTRICTION**

On registration of this plan the following is created:  
 LAND TO BENEFIT: Lot 2 on this Plan of Subdivision.  
 LAND TO BE BURDENED: Lot 1 on this Plan of Subdivision.

**DESCRIPTION OF RESTRICTION**

1. The registered proprietor or proprietors for the time being of Lot 1 shall not construct any dwelling outside the area denoted as building envelope without the further consent of the Responsible Authority.

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**NOBELIUS LAND SURVEYORS**  
 P.O. BOX 461  
 PAKENHAM 3810  
 Ph 03 5941 4112  
 mail@nobelius.com.au

SCALE 1:1000

LENGTHS ARE IN METRES

LICENSED SURVEYOR: B. S. NOBELIUS  
VERSION 4

ORIGINAL SIZE: A3  
 SHEET 3

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

VOLUME 09833 FOLIO 886

Security no : 124082681926U  
Produced 21/04/2020 11:04 AM

**LAND DESCRIPTION**

Lot 2 on Plan of Subdivision 212880Y.  
PARENT TITLE Volume 08189 Folio 146  
Created by instrument LP212880Y 19/09/1988

**REGISTERED PROPRIETOR**

Estate Fee Simple  
Sole Proprietor  
SIMON NICHOLAS GARVEY of 1995 WESTERNPORT ROAD RIPPLEBROOK VIC 3818  
AH233419D 19/05/2010

**ENCUMBRANCES, CAVEATS AND NOTICES**

MORTGAGE AH233421S 19/05/2010  
BENDIGO AND ADELAIDE BANK LTD  
TRANSFER OF MORTGAGE AL550210C 09/12/2014

CAVEAT AM055323Q 24/07/2015  
Caveator  
NBN CO LTD  
Grounds of Claim  
LEASE WITH THE FOLLOWING PARTIES AND DATE.  
Parties  
THE REGISTERED PROPRIETOR(S)  
Date  
01/07/2015  
Estate or Interest  
LEASEHOLD ESTATE  
Prohibition  
ANY INSTRUMENT THAT AFFECTS MY/OUR INTEREST  
Lodged by  
CLAYTON UTZ  
Notices to  
CLAYTON UTZ of LEVEL 18 333 COLLINS STREET MELBOURNE VIC 3000

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 or imaged folio set out under DIAGRAM LOCATION below.

**DIAGRAM LOCATION**

SEE LP212880Y 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)

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

Page 2 of 2

**ADMINISTRATIVE NOTICES**

NIL

eCT Control 03500L BENDIGO AND ADELAIDE BANK LTD - SAFE CUSTODY  
Effective from 21/07/2017

DOCUMENT END

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Document Type	<b>Plan</b>
Document Identification	<b>LP212880Y</b>
Number of Pages (excluding this cover sheet)	<b>1</b>
Document Assembled	<b>21/04/2020 11:07</b>

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Advertised

# LP 212880Y

EDITION 1  
PARISH/TOWNSHIP/CHART  
1.

### NOTATIONS

LAND APPROPRIATED OR SET APART  
E-1 ELECTRICITY SUPPLY PURPOSES  
THE AREA OF LOT 2 IS DERIVED FROM  
TITLE  
LOT 2 IS NOT THE SUBJECT OF THIS  
SURVEY

TO BE COMPLETED WHERE APPLICABLE  
THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS  
IN PROCLAIMED SURVEY AREAS  
THE LAND TO BE SUBDIVIDED IS SHOWN ENCLOSED  
BY THICK LINES  
TITLE REF: 9011 8188 FOL 116  
LAST PLAN REF:

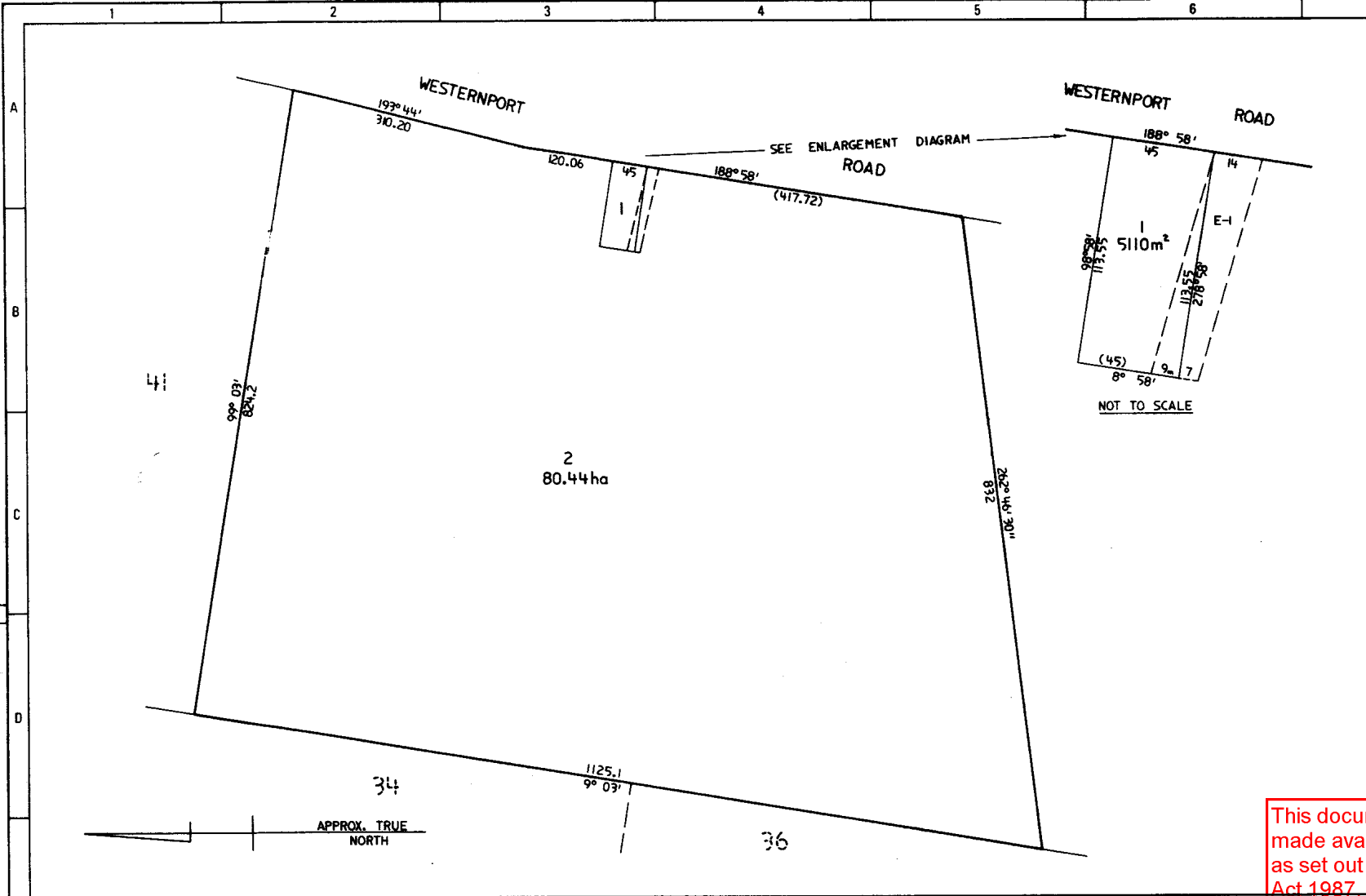
### PLAN OF SUBDIVISION

COUNTY BULN BULN **PARISH 1**  
PARISH YANNATHAN  
CROWN allotment NO (PART)

NUMBER OF SHEETS IN PLAN : 1  
NUMBER OF THIS SHEET : 1

SCALE ORIGINAL SCALE SHEET SIZE  
1:4000 A2  
LENGTHS ARE IN METRES

OFFICE USE ONLY  
VICTORIA **LP 212880Y**



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**CERTIFICATION BY SURVEYOR**  
1. Christopher Charles Morris of 48 Queen Street, Warragul a Surveyor licensed under the Land Surveyor's Act 1958, certify that the survey from which this plan has been prepared was effected by me or under my immediate supervision and marked on the ground in strict accordance with the requirements of and under the Land Surveyor's Act 1958; that this plan correctly represents the title boundaries existing on the 27th day of... 1988  
dated this the 19th day of... 1988  
.....Surveyor.

**AMENDMENTS**  
212880Y

CHRISTOPHER C. MORRIS & ASSOCIATES  
LICENSED SURVEYORS  
48 Queen St., Warragul, 3820. Ph (0561) 23 8526

SURVEYORS REF.  
960

**CERTIFICATE OF MUNICIPAL CLERK**  
MUNICIPALITY BULN BULN COUNCIL REF.  
CERTIFICATE A  
THIS PLAN ACCORDS WITH A PLAN  
▪ SEALED BY THE COUNCIL UNDER SECTION 569B OF THE LOCAL GOVERNMENT ACT 1958 ON  
▪ CONFIRMED BY THE PLANNING APPEALS BOARD ON  
▪ AND A REQUIREMENT/NO REQUIREMENT PURSUANT TO SECTION 569E OF THE LOCAL GOVERNMENT ACT 1958 HAS BEEN MADE  
DATE MUNICIPAL CLERK

CERTIFICATE B  
THIS PLAN ACCORDS WITH A PLAN EXEMPTED FROM SUBDIVISION (3) OF DIVISION (9) OF PART XIX OF THE LOCAL GOVERNMENT ACT 1958 BY  
▪ THE COUNCIL ON  
▪ THE PLANNING APPEALS BOARD ON  
DATE MUNICIPAL CLERK

OFFICE USE ONLY  
PLAN APPROVED  
AT 19.9.88  
ON  
(ASSISTANT) REGISTRAR OF TITLES



10<sup>th</sup> July 2020

Sally Moser  
 Baw Baw Shire Council  
 Planning Department  
 Email: [Sally.Moser@bawbawshire.vic.gov.au](mailto:Sally.Moser@bawbawshire.vic.gov.au)

Dear Sally,

**R.e.** Response to Councils Request for Further Information  
**Address:** 1995 Westernport Road, Ripplebrook  
**Proposal:** Re-Subdivision Application

I refer to your request for further information as received by Land Subdivision Specialists 19<sup>th</sup> May 2020 with relation to the re-subdivision application at the above-mentioned address.

We have reviewed your request and provide response as follows:

1. A detailed assessment of the proposal against the provisions of 'Clause 14.01S- Protection of agricultural land', 'Clause 22.01- Rural Zones Policy' and 'Clause 35.07- Farming Zone' of the Baw Baw Planning Scheme.

*A detailed assessment against the provisions of 'Clause 14.01S- Protection of agricultural land' is attached. Refer "Attachment 1".*

*A detailed assessment against the relevant provisions of 'Clause 22.01- Rural Zones Policy' and 'Clause 35.07- Farming Zone' area attached. Refer "Attachment 2 & 3".*

2. An assessment of likely expectations with regard to the future use of the small lot including consideration of potential conflicts with existing farming activities in the area.

*This application is for re-subdivision only and any future proposed use or development of the land would be required to meet the relevant clauses of the Baw Baw Planning Scheme.*

*We find it worthwhile noting that if any use or development is proposed in the future that requires planning approval, it is noted that an assessment against clause 22.01-1 of the Baw Baw Planning Scheme (Rural Land Policy) would require any proposal for a dwelling in the Farming Zone to be accompanied by a business plan and/or farm plan that justifies that the dwelling is an integral but ancillary part of the use of the land for a commercial farming purpose or for an approved tourism business that is intended to be carried out by any applicant. Any application would also assess any potential conflicts with the existing farming activities in the area.*

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Nonetheless we provide some examples of what the smaller 2-hectare lot could potentially be used for in the future including but not limited to:

- *Commercial Contract Calving / Rearing Business*

*Contract rearing involves the movement of replacement heifers from the owner's farm for rearing on contract by another farmer, in a safe, warm and secure environment.*

*Overtime, milk production demands has increased significantly which in turn has put additional stresses on Dairy farmers and their capacity to manage rearing of calves as well as limitations on the availability of land around milking parlours, farmyard facilities and labour.*

*An increasing number of dairy farmers are looking to engage other farmers to calve and rear their replacement heifers for them. This will release land on the dairy farm for milk production, provide more facilities and labour while ensuring the heifers and their calves are offered the best of care during the calving and rearing phase of life.*

*Contract calving / rearing facilities provide 24 hour, 7 day a week care for calving heifers and their newborn calves in a safe, warm and secure environment. This in turn provides specialised and intensive care of the calving heifers / cows and calves and their welfare is greatly improved from a more conventional operation.*

*Any contract calving / rearing facility would require a dwelling to be constructed on any such property (to house the operators of the business who are required to be on site 24 hours a day 7 days a week) as well as a large shed, to be used when the heifers are calving and a calving pad.*

*In addition to releasing land for milk production, contract calving / rearing:*

- *frees up labour to specialise more on dairying.*
- *suits farms where indoor accommodation for rearing heifers is limited.*
- *provides heifers and their calves with a safe and secure environment when calving and rearing.*

*Ripplebrook and the surrounding rural area is rich with dairy and beef farmers and it is submitted that a contract calving / rearing facility would be an asset to the rural area and its farmers.*

- *Horse Adjustment*

*West Gippsland and its surrounds is rich in equestrian ownership and activities and having suitable accommodation available for horses is an essential as it is not every individual who can afford to have their own home or facility that is appropriate or provide suitable accommodation and other extra services that will be given to the horse such as feeding, washing and training.*

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*Such facility would provide 24 hour, 7 day a week care for horses in a safe and secure environment and the care givers would also ensure that the horses are thoroughly exercised and in case of a medical condition or situation the veterinarian is contacted immediately.*

*Any such facility would require a dwelling (to house the operators of the business) and outbuildings (associated with the adjustment business) to be constructed on any such property as well as individual shelters, in adjustment paddocks.*

*As noted above, West Gippsland and its surrounds is rich in equestrian ownership and activities and having suitable accommodation available for horses is essential and any such use would be an asset to the regional area.*

- *Wholesale Tree Growing*

*Wholesale tree growing is seen as an appropriate use of the site. Several surrounding properties are used for wholesale tree growing businesses, which are commercially viable and successful.*

- *Bed & breakfast*

*The Farming Zone allows for the land to be used as a Bed and Breakfast as an as of right / permit not required use. As mentioned in the submitted planning report, the site is close to the highest point in Ripplebrook and provides spectacular views across the swamp to the northern ranges.*

*As mentioned above, Councils Rural Land Policy would require any proposal for a dwelling in the Farming Zone to be accompanied by a business plan and/or farm plan that justifies that the dwelling is an integral but ancillary part of the use of the land for a commercial farming purpose or for an **approved tourism business** that is intended to be carried out by any applicant.*

*As mentioned above, the above mentioned potential uses are suggestions only and appropriate land uses are not limited to the above mentioned uses.*

*This application is for re-subdivision only and any future proposed use or development of the land would be required to meet the relevant clauses of the Baw Baw Planning Scheme.*

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3. Details on whether any works are proposed aside from boundary fencing, given the overall slope of the land.

*No works aside from boundary fencing and works required to provide essential services to the property are proposed as part of the re-subdivision of the property.*

*As Council will see as part of any inspection of the subject site, there is a large mostly flat area on the eastern side of the block and if any buildings or works are proposal as part of a future proposal it is submitted the slope of the land would not need to be significantly altered.*

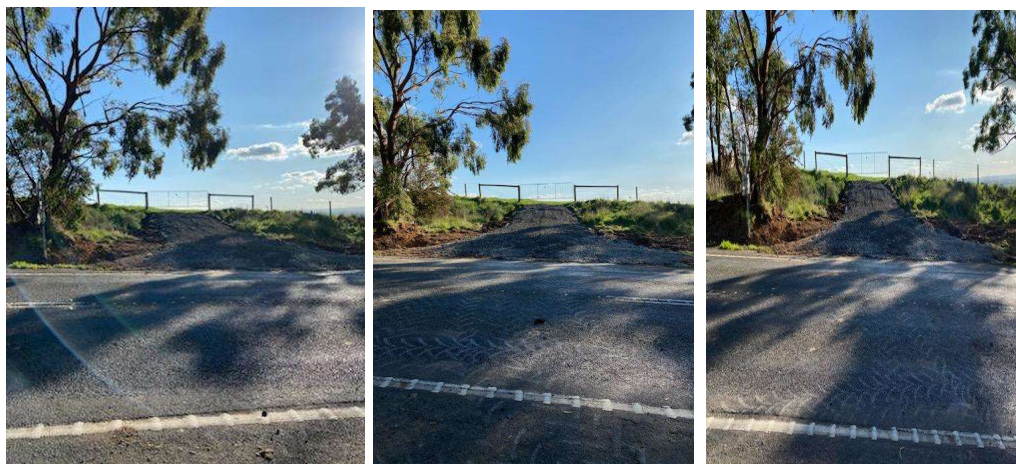
*A Building Envelope Plan as requested by Council is attached to this response.*

4. Details regarding vehicle access to proposed Lot 1. Note that a planning permit is required to create or alter access to a road in a Road Zone, Category 1 and subdivide land adjacent to a road in a Road Zone, Category 1.

*There is an existing crossover from Westernport Road onto the existing lot which will service proposed lot 1. There is also a break in the double line marking where the crossover meets Westernport Road (Refer photos below), signifying existing and VicRoads approved access.*

*This crossover has been used as access into the existing farm for many years, as had the break in the double lines along Westernport Road (also as pictured below).*

*This application is for re-subdivision only (i.e. its already been subdivided) so it is submitted that the requirement to for approval to subdivide land adjacent to a road in a Road Zone, Category 1 is not applicable to this application.*



5. Identify whether any vegetation is proposed to be removed for the crossover to Westernport Road. If the vegetation is Native Vegetation an assessment pursuant to Clause 52.17 may be required and the permissions sought require amendment.

*There is no vegetation proposed to be removed as part of this application. Given the crossover /driveway already exists off Westernport Road, there is no need for any future vegetation removal in the Westernport Road, Road Reserve.*

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Response to Council Preliminary Concerns which read:

1. Additionally, we can advise that a preliminary assessment of the proposal has been undertaken concerns are raised with regards the creation of a small lot and the potential conflicts that may arise including expectations by future purchasers with regards the construction of a dwelling on the land.

*We find Councils comments regarding their concerns that creation of a small lot and the potential conflicts that may arise including expectations by future purchasers with regards the construction of a dwelling on the land are unwarranted and should not be taken into account when deciding on this application.*

*This application is for re-subdivision only and any future proposed use or development of the land, including any application for a dwelling would be required to meet the relevant clauses of the Baw Baw Planning Scheme, including the Rural Land Policy, which **does** allow and support a dwelling in the Farming Zone as long as it's accompanied by a business plan and/or farm plan that justifies that the dwelling is an integral but ancillary part of the use of the land for a commercial farming purpose or for an approved tourism business that is intended to be carried out by any applicant.*

*As requested by Council, we have provided some examples of potential viable uses for the small lot, which we believe work well and support the provisions of the planning scheme, the Farming Zone as well as Councils Protection of agricultural land and Rural Land Use Policies.*

*Furthermore, if the owner of the land decides to on-sell the property as vacant land, potential purchasers would be notified of the planning controls affecting the allotment in the Section 32. Neither the Farming Zone nor the Protection of Agricultural Land or Rural Land Policy prohibits a dwelling from being constructed on the smaller property, in fact the objectives and policies contained with the planning provisions and policies support not only the re-subdivision, which will retain and protect the larger commercially viable dairy farming lot for the forever future, but also encourages a diverse range of agricultural enterprises which can use smaller landholdings.*

*We find it worthwhile highlighting the several of the objectives contained withing the Rural Land Policy and note that these 100% support our application as the proposed re-subdivision has the potential to:*

- *Retain the potential for large scale, broadacre based farming enterprises by encouraging the retention of large lots.*
- *Encourage a diverse range of agricultural enterprises which can use smaller landholdings.*
- *Support tourism use and development that is compatible with agricultural production and/or the environmental attributes of the area.*
- *To ensure that the development of dwellings and the creation of small lots for existing dwellings minimises the loss of productive agricultural land and does not prejudice activities associated with agricultural production.*

*We therefore submit that Councils concerns as detailed above in point 1 are unwarranted and should not be taken into account when deciding on this application.*

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- Note that 'Clause 22.01- Rural Zone Policy' (Re-subdivision) states that 'Where the subdivision involves the re-subdivision of existing lots, it is policy to (among others) ... Discourage re-subdivision proposals, which would result in fragmentation of a large farm holding, or abandonment of primary production on most of the land'.

*The proposed re-subdivision **does not** result in fragmentation of the large farm holding. It actually adds to and protects the large farm holding and the lands existing use for primary production for the foreseeable forever future.*

*The proposed re-subdivision is essential to ensure valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the existing stock levels, which is the minimum area required for a Dairy farm to be viable.*

*If Council are not in support of this application, the owner of the property will have no other option but to sell existing lot 3 in its entirety (13.598ha) which **would** result in fragmentation of the larger farm holding, and abandonment of primary production on what is an existing dairy farm as it would no longer commercially viable to be used for its existing dairy farming purposes as it would not be big enough to support a viable farming business.*

*We acknowledge the need to protect valuable farming land, and strongly believe this application for re-subdivision does just that and we see it of upmost importance that Council support the application to ensure the existing farm is viable and protected for the forever future.*

*We also see it important to note that there are many other policies notes within 'Clause 22.01- Rural Zone Policy', that support this application, which we expand on as part of our response to the Rural Zone Policy as detailed in "Attachment 2".*

We also advise that we consider the permit application description should be amended to read 'Re-subdivision' and not 'Boundary realignment' due to the extent of change proposed.

*The amended permit application form is attached.*

Response to Councils Request for a Building Envelope Plan to be submitted:

*I refer to your email 30/6/2020 requesting a Building Envelope plan for the small lot (proposed lot 1) and hereby attach a plan as requested. The envelope is proposed to be located 10.0 meters from the eastern property boundary (Westernport Road which is the RZ1), and 10.0 meters from the northern and southern property boundaries.*

*We have chosen this location as it is the flattest part of the site and if buildings are proposed in the future, they would be easily accommodated in this area within out the need for any / or minimal earthworks.*

*As you will see on inspection of the property, the site is relatively flat along the eastern portion of the site (where we have nominated the building envelope) however drops of and is quite undulating approximately 60.0 meters (around the centre of the block) from the eastern property boundary, heading towards the western property boundary. You will also notice on entry to the site, that until you get to the top of the crossover and meet the eastern property boundary (with Westernport Road)*

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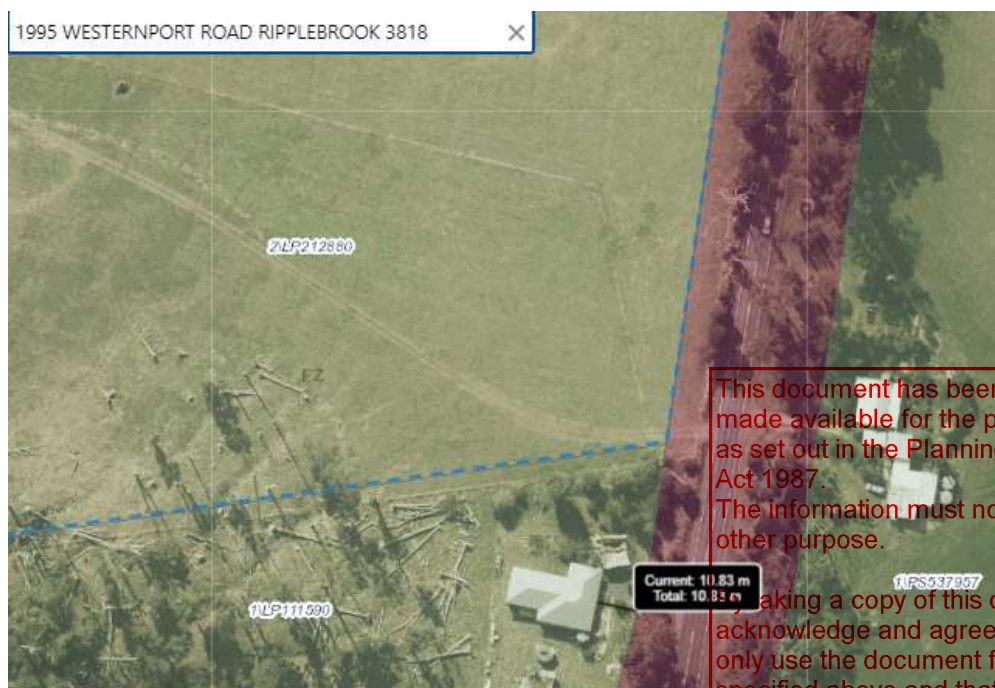
the property is barely visible from the Road due to the slope and current levels of the road, road reserve and the subject site.

Please note that I have amended the permit application form to include reduction in setback from a Road Zone Category 1 (RZ1) as part of this submission.

It is also worthwhile noting and I provide examples below of several buildings including dwellings directly adjoining and opposite the subject site having reduced setbacks, with some being closer than 5.0 meters from the Road Zone and Dwellings some 10.0 meters from the Road Zone. I can also provide further examples of other properties along Westernport Road with similar setbacks where required.



Lot 1 LP111590 1935 Westernport Road (property directly to South of application) – Buildings including dwelling setback between 5.0 & 10m meters from Westernport Road



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Lot 1 LP111590 1935 Westernport Road (property directly to South of application) – Buildings including dwelling setback between 5.0 & 10m meters from Westernport Road



Lot 1 PS537975 1940 Westernport Road (property directly opposite subject site to the west of Westernport Road) – Buildings including dwelling setback between 8.0 & 10m meters from Westernport Road



Lot 1 PS512593 2000 Westernport Road (property directly opposite subject site to the west of Westernport Road) – Buildings including dwelling setback between 25.0 & 34m meters from Westernport Road

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*Lot 1 PS512593 2000 Westernport Road (property directly opposite subject site to the west of Westernport Road) – Buildings including dwelling setback between 25.0 & 34m meters from Westernport Road*

*Therefore, for the above mentioned reasons, we see the proposed building envelope and its location is appropriate as it responds well and is in keeping with the properties in the direct and surrounding area as well as responding well to the sites undulating characteristics, with the envelope being located on the flattest part of the site and if buildings are proposed in the future, they would be easily accommodated in this area within out the need for any / or minimal earthworks and should be supported.*

If there are any questions regarding the submitted information, please do not hesitate to contact me at [wendy@landsubdivisionspecialists.com.au](mailto:wendy@landsubdivisionspecialists.com.au) or call 0433 598 079.

Kind regards,

Wendy Kidd  
Director – Land Subdivision Specialists

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“Attachment 1”

**Response to Clause 14.01-1S - Protection of Agricultural Land**

Protection of agricultural land Objective: To protect the state’s agricultural base by preserving productive farmland.

Strategies Identify areas of productive agricultural land, including land for primary production and intensive agriculture. Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.

*It is submitted that the proposed re-subdivision meets the objectives and strategies of this policy.*

*The subject site is currently used for farming purposes as a successful and commercially viable Dairy Farm, producing in excess of 1 Million litres of milk every year.*

*The farm runs a minimum of 150 milking cattle during the off-peak pasture growing season i.e. winter and up to 190 milking cattle during the optimum growing pasture seasons i.e. spring and autumn, which is the minimum cows required for a Dairy Farm to be viable. As a general rule of thumb for this area, a stock rate of 1 cow per acre, during the off-peak pasture growing periods and 2 cows per acre during the peak pasture growing periods is the maximum stocking density.*

*In addition to this, the owners breed approximately 75 yearlings / calves per year which are bred and raised on site until they are two years old.*

*The purpose of the proposed re-subdivision is to secure valuable farming land into one title (the larger title) to ensure the property is viable as a successful dairy farming property for the foreseeable forever future.*

*It is submitted to Council that the proposed re-subdivision is essential to ensure the valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the above mentioned stock levels, which is the minimum required for a Dairy farm to be viable.*

*We acknowledge the need to protect valuable farming land, and strongly believe this application for re-subdivision does just that and we see it of utmost importance that Council support the owner / farmer who has invested significantly in purchasing, setting up and successfully farming his property.*

*If Council are not in support of this application, the owner of the property will have no other option but to sell existing lot 3 in its entirety (13.598ha) which would result in fragmentation of the larger farm holding, and abandonment of primary production on what is an existing dairy farm as it would no longer commercially viable to be used for its existing dairy farming purposes as it would not be big enough to support a viable farming business.*

Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.

*We acknowledge the importance of avoiding permanent removal of productive agricultural land from the state’s agricultural base and strongly believe this application for re-subdivision does just.*

*The proposed re-subdivision is essential to ensure valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the above mentioned stock levels,*

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*which is the minimum required for a Dairy farm to be viable which in turn ensures the property is viable as a successful dairy farming property for the foreseeable forever future.*

*If Council are not in support of this application, our client will have no other option but to sell existing lot 3 in its entirety (13.598ha) which would result in both the existing farm (lot 2) and the 13ha lot (lot 3) being commercially unviable for agricultural purposes.*

Protect productive farmland that is of strategic significance in the local or regional context. Protect productive agricultural land from unplanned loss due to permanent changes in land use. Prevent inappropriately dispersed urban activities in rural areas.

*The proposal protects farmland and that of the future of the existing dairy farm by incorporating 11.598ha of land into the larger and viable dairy farm. Our client is willing to enter into a 173 agreement to restrict any additional subdivision potential of the larger lot if need be, to satisfy Council that the productive existing dairy farm is protected for the forever future.*

*If Council are not in support of this application, our client will have no other option but to sell existing lot 3 in its entirety (13.598ha) which would result in both the existing farm (lot 2) and the 13ha lot (lot 3) being commercially unviable for agricultural purposes.*

Protect strategically important agricultural and primary production land from incompatible uses.

*The proposal protects farmland and that of the future of the existing dairy farm by incorporating 11.598ha of land into the larger and viable dairy farm.*

Limit new housing development in rural areas by:

Directing housing growth into existing settlements. Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.

*This application is for re-subdivision only and any future proposed use or development of the land would be required to meet the relevant clauses of the Baw Baw Planning Scheme.*

*As mentioned above, there are several uses which proposed lot 2 could be used for which we believe would complement the Farming Zone and Councils Protection of Agricultural Land and Rural Land Policies.*

*If any use or development is proposed in the future that requires planning approval, it is noted that an assessment against clause 22.01-1 of the Baw Baw Planning Scheme (Rural Land Policy) would require any proposal for a dwelling in the Farming Zone to be accompanied by a business plan and/or farm plan that justifies that the dwelling is an integral but ancillary part of the use of the land for a commercial farming purpose or for an approved tourism business that is intended to be carried out by any applicant. Any application would also assess any potential conflicts with the existing farming activities in the area.*

Encouraging consolidation of existing isolated small lots in rural zones.

*The proposal consolidates approximately 85% of the smaller lot into the existing dairy farm to ensure its viability for the forever future.*

Identify areas of productive agricultural land by consulting with the Department of Economic Development, Jobs, Transport and Resources and using available information. In considering a proposal to use, subdivide or develop agricultural land, consider the:

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- Desirability and impacts of removing the land from primary production, given its agricultural productivity. Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production. Compatibility between the proposed or likely development and the existing use of the surrounding land.

*The proposal incorporates and protects 85% of the smaller title (lot 3) into the existing and viable dairy farmland (lot 2) which will very much enhance the land for primary production for the forever future.*

*If Council are not in support of this application, our client will have no other option but to sell existing lot 3 in its entirety (13.598ha) which would result in both the existing farm (lot 2) and the 13ha lot (lot 3) being commercially unviable for agricultural purposes.*

- The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.

*The proposal is for the re-subdivision of the land only and does not propose any use or development and therefore would not risk the spread of any plant or animal pests.*

Land capability:

Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.

*The application is for re-subdivision not a new subdivision however, the proposal incorporates and protects 85% of the smaller title into the existing and viable dairy farmland which will very much enhance the land for primary production for the forever future.*

Give priority to the re- structure of inappropriate subdivisions where they exist on productive agricultural land.

*It is submitted that the proposed re-subdivision corrects a past inappropriate subdivision and should be given priority and support for approval.*

Balance the potential off- site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.

*The proposal is for the re-subdivision of the land only and does not propose any use or development and therefore would not risk degradation of soil, water quality or land salinisation.*

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## "Attachment 2"

**Rural Zones Policy - Relevant Policies & Response:**

For all rural subdivisions, it is policy to:

Require a written submission explaining how the proposal meets the zone purposes and decision guidelines and the objectives of this policy.

*This is our written submission explaining how the proposal meets the zone purposes and decision guidelines and the objectives of the Rural Land Policy.*

Encourage subdivision which creates or retains lots over 40 hectares.

*The proposal protects farmland and that of the future of the existing dairy farm by incorporating 11.598ha of land (from lot 3) into the larger and existing viable dairy farm, taking the existing larger farm holding, (lot 2) up to 91.97ha in area.*

Require a land capability assessment to be provided to substantiate that proposed lots less than 1 hectare can satisfy the requirements of the Environmental Protection Authority's Guidelines for Environmental Management Code of Practice – Onsite Wastewater Management.

*Not applicable as proposed Lot 1 & 2 are greater than 1 hectare in area.*

**For Re-subdivision & Response:**

Where the subdivision involves the re-subdivision of existing lots, it is policy to:

Support a proposal where it involves the realignment of boundaries between two lots and the boundaries are realigned so that less than 10 percent of either lot is involved and the total size of the lots is less than 40 hectares.

*The re-subdivision proposal results in approximately 85% of the smaller Lot 2 being added into the larger title of the land which results in the larger title (lot 3) being increased by an additional 14.34% lot 3 is well in excess of 40 hectares so this policy clause is irrelevant.*

Discourage re-subdivision within a land holding, which comprises of more than one lot, where it would increase the overall development potential of the land, unless a Section 173 agreement is entered into to restrict the additional subdivision potential.

*Our client is willing to enter into a 173 agreement to restrict any additional subdivision potential of the larger lot (lot 2) if need be.*

Discourage the re-subdivision of existing lots where one or both of those lots was originally established for the purpose of a rail, road or other reserve.

*The existing lots were not established for the purpose of rail, road or other reserves.*

Encourage any small lot proposed primarily for rural living purposes to be 2 hectares or less in area.

*The proposed re-subdivision results in the new lot being 2.0 hectares in area.*

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Support re-subdivision of lots which are proposed to contain an established rural business, where the area of the existing lot is excess to the requirements of the business.

*The property is running as an established rural farming business and the addition of approximately 11.598ha of land into the larger farm will ensure that existing business remains viable and successful.*

*The existing farm runs a minimum of 150 milking cattle during the off-peak pasture growing months i.e. winter and up to 190 milking cattle during the optimum growing pasture seasons i.e. spring and autumn, which is the minimum cows required for a Dairy Farm to be viable. As a general rule of thumb for this area, a stock rate of 1 cow per acre, during the off-peak pasture growing periods and 2 cows per acre during the peak pasture growing periods is the maximum stocking density.*

*In addition to this, the owners breed approximately 75 yearlings / calves per year which are bred and raised on site until they are two years old.*

*It is submitted to Council that the proposed boundary re-alignment is essential to ensure the valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the above mentioned stock levels, which is the minimum required for a Dairy farm to be viable.*

*If Council are not in support of this application, our client will have no other option but to sell existing lot 3 in its entirety (13.598ha) which would result in both the existing farm (lot 2) and the 13ha lot (lot 3) being commercially unviable for agricultural purposes.*

Limit to two the number of small lots created through the re-subdivision of a land holding comprising more than two lots, where they are proposed primarily for rural living purposes.

*The re-subdivision involves two lots only so this clause is irrelevant.*

Discourage re-subdivision proposals, which would result in fragmentation of a large farm holding, or abandonment of primary production on most of the land.

*The proposed re-subdivision **does not** result in fragmentation of the large farm holding. It actually adds to and protects the large farm holding and the lands existing use for primary production for the foreseeable forever future.*

*The proposed re-subdivision is essential to ensure valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the existing stock levels, which is the minimum area required for a Dairy farm to be viable.*

*If Council are not in support of this application, the owner of the property will have no other option but to sell existing lot 3 in its entirety (13.598ha) which **would** result in fragmentation of the larger farm holding, and abandonment of primary production on what is an existing dairy farm as it would no longer commercially viable to be used for its existing dairy farming purposes as it would not be big enough to support a viable farming business.*

*We acknowledge the need to protect valuable farming land, and strongly believe this application for re-subdivision does just that and we see it of utmost importance that Council support the application to ensure the existing farm is viable and protected for the forever future.*

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*We also see it important to note that there are many other policies notes within 'Clause 22.01-Rural Zone Policy', that support this application, which we expand on as part of our response to the Rural Zone Policy as detailed in "Attachment 2".*

**Other Objectives within the Rural Land Policy that are relevant to this application:**

Encourage subdivision which creates or retains lots over 40 hectares; and

*Proposed Lot 2 is greater than 40 hectares.*

Require a land capability assessment to be provided to substantiate that proposed lots less than 1 hectare can satisfy the requirements of the Environment Protection Authority's Guidelines for Environmental Management Code of Practice – Onsite Wastewater Management.

*Not applicable as both lots are proposed to be greater than 1 hectare in area.*

It is submitted to Council that the proposed re-subdivision, is in accordance with the Rural Land policy and should be supported.

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“Attachment 3”

**Clause 35.07-6 – Farming Zone Decision guidelines**

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

**General issues**

The Municipal Planning Strategy and the Planning Policy Framework.

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

*We do not believe any Regional Catchment Strategy or associated plan applies to the land*

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

*The proposal is for re-subdivision only, therefore this clause is not applicable to this application.*

- How the use or development relates to sustainable land management.

*The proposal protects farmland and that of the future of the existing dairy farm by incorporating 11.598ha of land into the larger and viable dairy farm, taking the existing larger farm holding, (lot 2) up to 91.97ha in area.*

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

*The proposal is for re-subdivision only, therefore this clause is not applicable to this application.*

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

*The proposal is for re-subdivision only, therefore this clause is not applicable to this application.*

**Agricultural issues and the impacts from non-agricultural uses**

- Whether the use or development will support and enhance agricultural production.

*The proposal protects and enhances farmland and that of the future of the existing dairy farm by incorporating 11.598ha of land into the larger and viable dairy farm, taking the existing larger farm holding, (lot 2) up to 91.97ha in area which is the minimum area required for a dairy farm to operate and be commercially viable.*

*If Council are not in support of this application, the owner of the property will have no other option but to sell existing lot 3 in its entirety (13.598ha) which would result in fragmentation of the larger farm holding, and abandonment of primary production on what is an existing*

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*dairy farm as it would no longer commercially viable to be used for its existing dairy farming purposes as it would not be big enough to support a viable farming business.*

- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.

*The proposal is for re-subdivision only and does not include any earthworks and will therefore not affect soil quality.*

*It is submitted that the re-subdivision protects farmland and that of the future of the existing dairy farm by incorporating 11.598ha of land into the larger and viable dairy farm, taking the existing larger farm holding, (lot 2) up to 91.97ha in area, which in turn will permanently secure land for agricultural production.*

*If Council are not in support of this application, the owner of the property will have no other option but to sell existing lot 3 in its entirety (13.598ha) which **would** result in the permanent removal and fragmentation of the larger farm holding, and abandonment of primary production on what is an existing dairy farm as it would no longer commercially viable to be used for its existing dairy farming purposes as it would not be big enough to support a viable farming business.*

- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.

*The proposal is for re-subdivision only and will not limit the operation and expansion of adjoining and nearby agricultural uses.*

- The capacity of the site to sustain the agricultural use.

*It is submitted that the re-subdivision protects and enhances the capacity of the existing farm and that of the future of the existing dairy farm by incorporating 11.598ha of land into the larger and viable dairy farm, taking the existing larger farm holding, (lot 2) up to 91.97ha in area which will ensure the existing farm is big enough to be used for Agricultural purposes for the forever future.*

*If Council are not in support of this application, the owner of the property will have no other option but to sell existing lot 3 in its entirety (13.598ha) which **would** result in the permanent removal and fragmentation of the larger farm holding, and abandonment of primary production on what is an existing dairy farm as it would no longer commercially viable to be used for its existing dairy farming purposes as it would not be big enough to support a viable farming business.*

- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.

*There is an existing crossover from Westernport Road onto the proposed lot. There is also mains water and electricity within Westernport Road which can easily be connected up to, so both the existing farm and proposed new lot are connected to these essential services.*

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- Any integrated land management plan prepared for the site.

*The proposal is for re-subdivision only and therefore there is no need for a land management plan to be submitted with this application.*

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VOLUME 09442 FOLIO 257

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### LAND DESCRIPTION

Lot 3 on Plan of Subdivision 135060.  
PARENT TITLE Volume 09366 Folio 210  
Created by instrument J417088 10/04/1981

### REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
SIMON NICHOLAS GARVEY of 1995 WESTERNPORT ROAD RIPPLEBROOK VIC 3818  
AH233420U 19/05/2010

### ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AH233421S 19/05/2010  
BENDIGO AND ADELAIDE BANK LTD  
TRANSFER OF MORTGAGE AL550210C 09/12/2014

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

### DIAGRAM LOCATION

SEE LP135060 FOR FURTHER DETAILS AND BOUNDARIES

### ACTIVITY IN THE LAST 125 DAYS

NIL

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

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

### ADMINISTRATIVE NOTICES

NIL

eCT Control 03500L BENDIGO AND ADELAIDE BANK LTD - SAFE CUSTODY  
Effective from 21/07/2017

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Advertised

LP 135060

EDITION 1

APPROVED 17/12/80

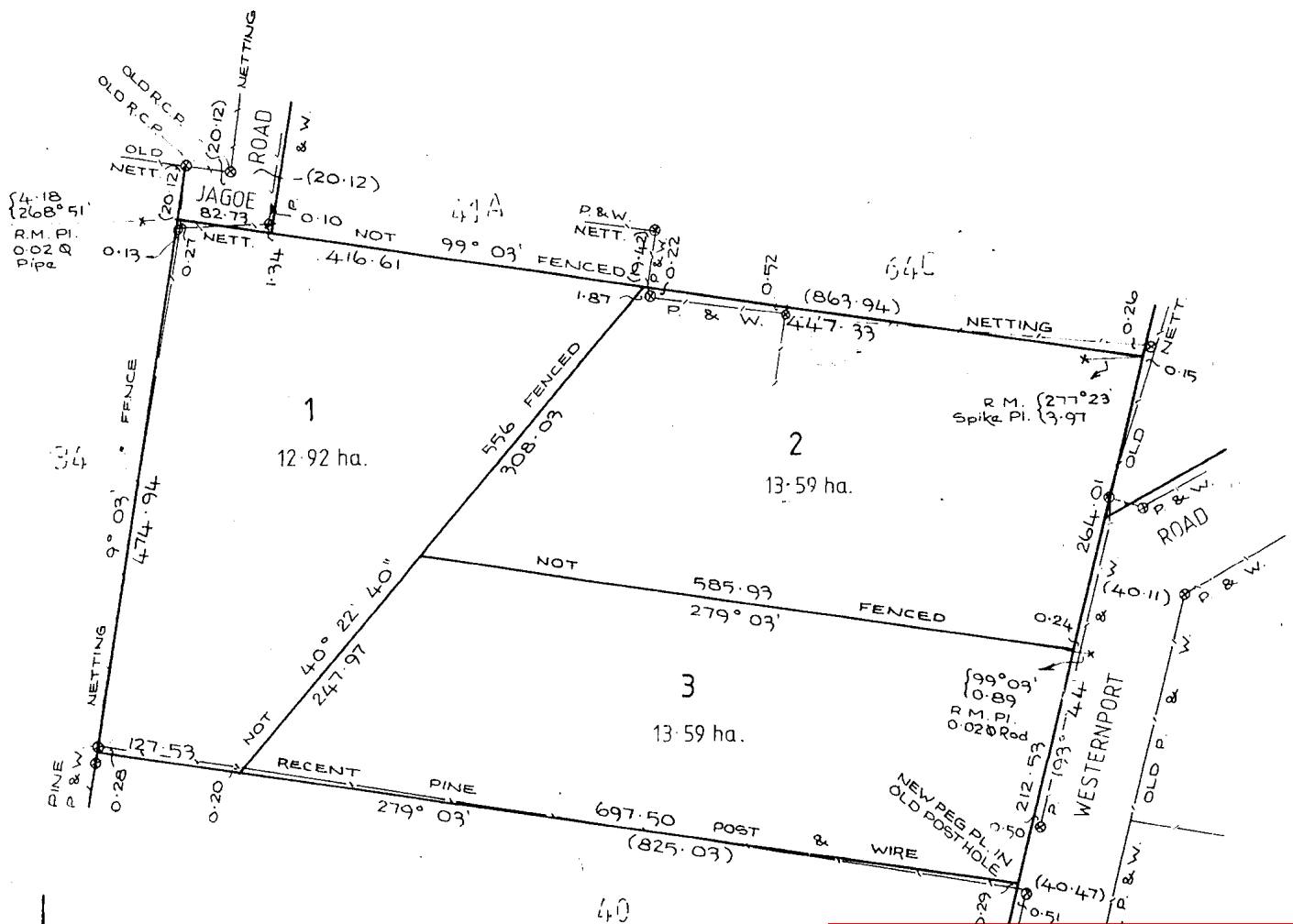
PLAN OF SUBDIVISION OF CROWN ALLOTMENT 41 PARISH OF YANNATHAN COUNTY OF BULN BULN	APPROPRIATIONS	ENCUMBRANCES & OTHER NOTATIONS

80 40 0 80 160 240 320



LENGTHS ARE IN METRES

V 9366 F 210



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## APPLICATION FOR PLANNING PERMIT – Boundary Realignment

Lot 2 LP212880Y and Lot 3 LP 135060, 1995 Westernport Road, Ripplebrook



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9<sup>th</sup> April 2020

Baw Baw Shire Council  
 Planning & Development  
 P.O. Box 304  
 WARRAGUL VIC 3823

Dear Sir/Madam,

**RE: Application for Planning Permit and Certification**  
**Proposal: Boundary realignment**  
**Address: Lot 2 LP212880Y and Lot 3 LP 135060 1995 Westernport Road, Ripplebrook**

Land Subdivision Specialists act on behalf of our client Mr. Simon Garvey, in support of planning application for a boundary re-alignment at the subject site known as Lot 2 LP212880Y and Lot 3 LP 135060 1995 Westernport Road, Ripplebrook.

The subject site is currently used for farming purposes as a successful and commercially viable Dairy Farm, producing in excess of 1 Million litres of milk every year. The farm runs a minimum of 150 milking cattle during the off-peak pasture growing season i.e. winter and up to 190 milking cattle during the optimum growing pasture seasons i.e. spring and autumn, which is the minimum cows required for a Dairy Farm to be viable. As a general rule of thumb for this area, a stock rate of 1 cow per acre, during the off-peak pasture growing periods and 2 cows per acre during the peak pasture growing periods is the maximum stocking density.

In addition to this, the owners breed approximately 75 yearlings / calves per year which are bred and raised on site until they are two years old.

The purpose of the proposed boundary re-alignment is to secure valuable farming land into one title (the larger title) to ensure the property is viable as a successful dairy farming property for the foreseeable future, while providing much needed financial support to the dairy farmer, from the sale of proposed lot 1, which will ensure debt stress and risk associated with purchasing and operating the existing farm are minimised.

It is submitted to Council that the proposed boundary re-alignment is essential to ensure the valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the above mentioned stock levels, which is the minimum required for a Dairy farm to be viable.

If Council are not in support of this application, our client will have no other option but to sell existing lot 3 in its entirety (13.598ha) in order to minimise debt stress and risk associated with purchasing and operating the existing farm, which in turn will have significant impact on the viability of the existing successful and viable farm and its future operations.

The proposed lots of the subdivision / boundary re-alignment are summarised below: -

- Proposed Lot 1 is proposed to be 2.054 hectares / 5 acres of vacant land in area to be located in the north-eastern top corner of the subject site.
- Proposed Lot 2 – balance of the land, 91.92 hectares / 227 acres of valuable farming land housing the entirety of the successful and viable Dairy farming business and all of its assets.

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Preliminary pre-application discussions were held with Cullum, a Planning Officer at Baw Baw Shire Council where it was confirmed that a planning permit would need to be issued to allow for the proposal.

This proposal is appropriate for the locality and warrants Council support.

If any further information is required, or if there are any questions regarding the submitted information, please do not hesitate to contact me at [wendy@landsubdivisionspecialists.com.au](mailto:wendy@landsubdivisionspecialists.com.au) or call 0433 598 079.

Kind regards,

Wendy Kidd  
Director – Land Subdivision Specialists

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# 1 Introduction

This report has been prepared by Land Subdivision Specialists, in support of planning application for a boundary re-alignment at the subject site known as Lot 2 LP212880Y and Lot 3 LP 135060 1995 Westernport Road, Ripplebrook.

The subject site is currently used for farming purposes as a successful Dairy Farm.

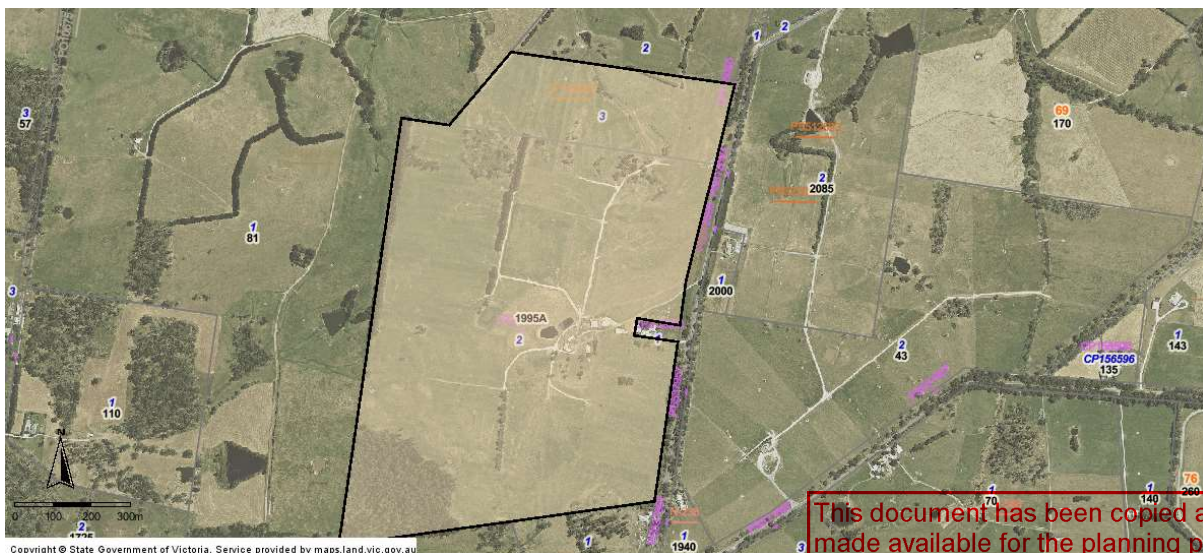
To assist Council with consideration of the application the following documents have been included in the application:

- Current copy of title
- Planning Permit Application Form
- Planning report outlining the proposal including written response to the relevant objectives, policy and strategies as set out in the Baw Baw Planning Scheme.
- Proposed plan of subdivision
- Bushfire Risk Assessment report prepared by XWB consulting

Preliminary pre-application discussions were held with Cullum, a Planning Officer at Baw Baw Shire Council where it was confirmed that a planning permit would need to be issued to allow for the proposal.

The subject site is located in a rural area that is zoned for farming purposes.

Lot sizes within the area are varied, with small lot house excisions as well as larger farming lots. Below is an aerial image that shows the location and context of the subject site.



LASSI image

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## 2 Site and Context Description

### 2.1 Site Context Description

The site is generally rectangular in shape with an area of approximately 93.94 hectares (232 acres), is undulating and offers spectacular 360 degree views across the swamp to the northern ranges and down to Westernport Bay.



The property is made up of two (2) titles known as Lot 2 LP212880Y and Lot 3 LP 135060, 1995 Westernport Road, Ripplebrook. Characteristics of each site include:

#### *Lot 2 LP212880Y:*

The site is approximately 80.44 hectare in area and is located on the west side of Westernport Road. The site currently contains a centrally located single storey weatherboard dwelling, a Dairy and three outbuildings/sheds used for farming purposes. The balance of the site contains informal fencing, access tracks and paddocks used for the grazing of livestock.

This contains informal fencing, and made available for the planning process as set out in the Planning and Environment Act 1987.

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Photos of Lot 2

*Lot 3 LP 135060:*

The site is approximately 13.59 hectares in area and is located on the west side of Westernport Road and to the northern end of the subject site. The site is currently vacant of any buildings but contains informal fencing, access tracks and paddocks used for the grazing of livestock as well as an access point off Westernport Road.

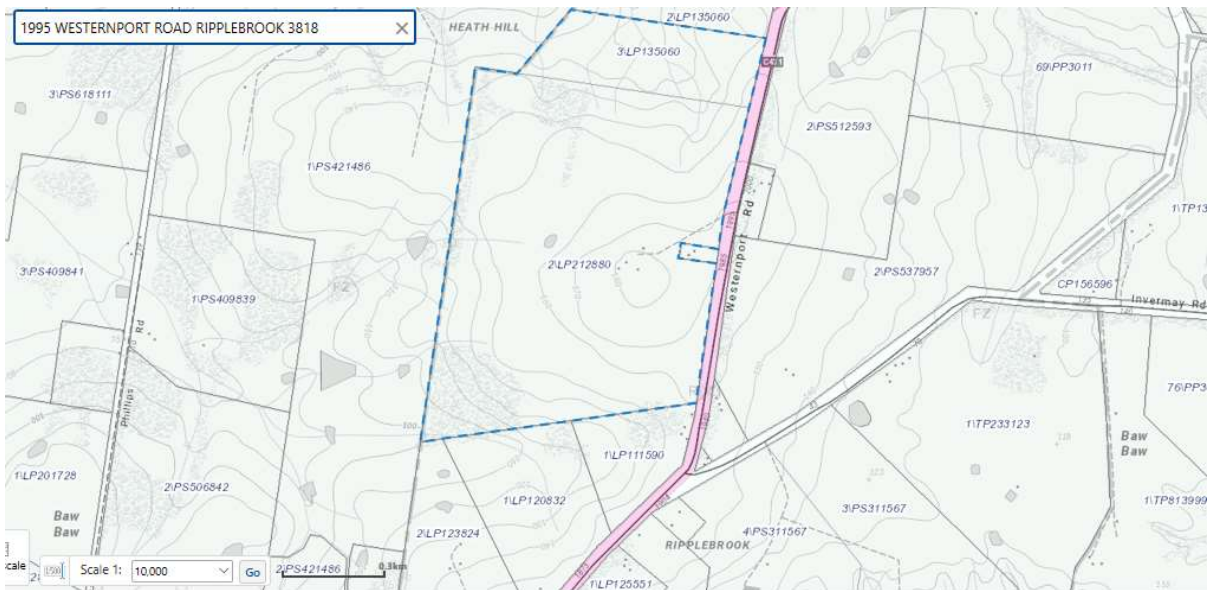
Vegetation within the road reserve (Westernport Road) provides some screening to the site and consists generally of scattered Messmate trees (which will not be removed or affected by this application) with an understory non-native grass / lawn.



Photo of Lot 3 from Westernport Road

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Characteristics of the sites surrounds include:

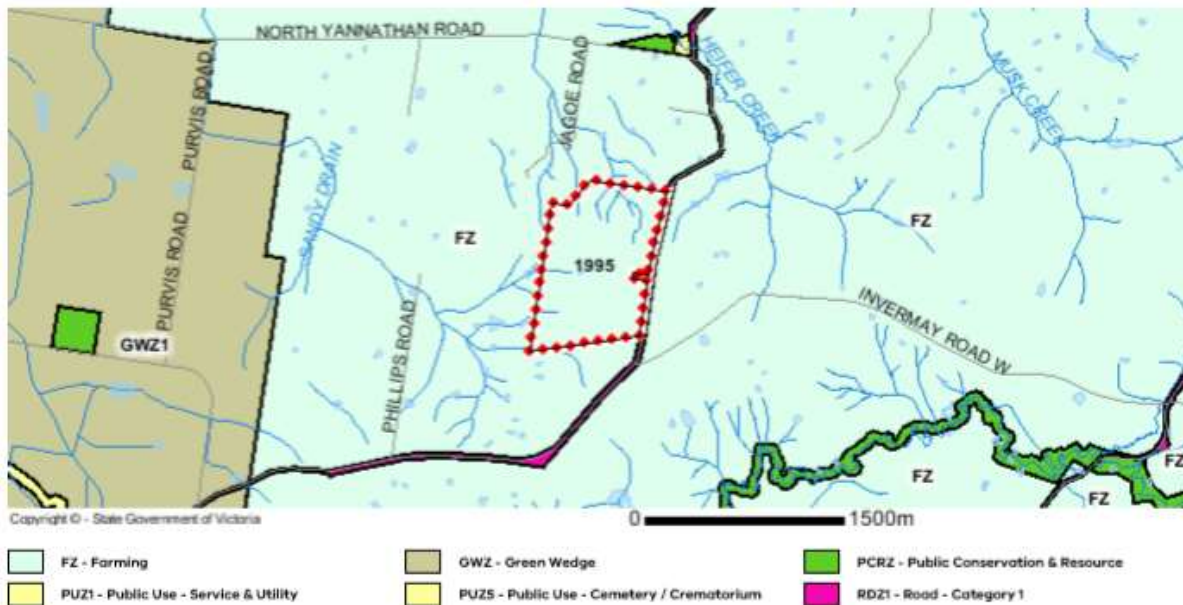
- North: Vacant land currently used for farming purposes.
- South: Three smaller rural/residential properties, each containing dwellings.
- East: Large farming property containing dwellings and outbuilding sheds.
- West: Westernport Road and a small lot used for residential purposes containing a dwelling and associated outbuildings.

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### 3 Zoning & Overlays

The site is zoned Farming Zone (FZ) under the Baw Baw Planning Scheme and is subject to a Bushfire Management overlay (BMO) (In PART only), an Environment Significance Overlay – schedule 4 (ESO4) (In PART only) and a Development Contributions Plan overlay Schedule 1 (DCPO1). The site also abuts a Road Zone – category 1 (RDZ1).

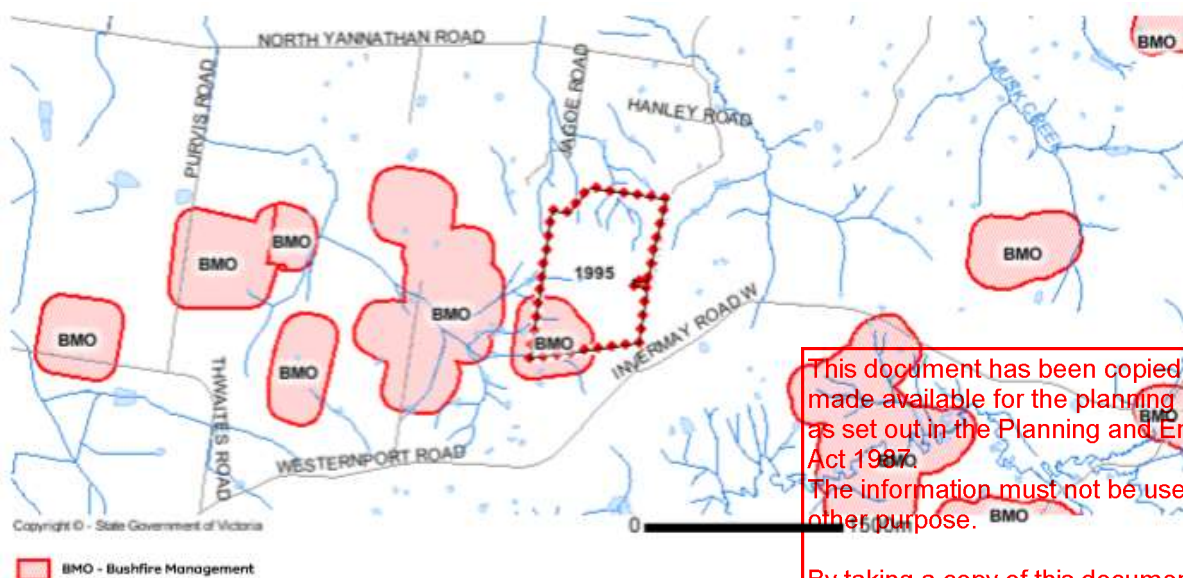


**Zoning Map – FZ & RDZ1**

Pursuant to **Clause 35.07-3** of the Farming Zone a permit is required to subdivide land.

A permit may be granted to create smaller lots if any of the following apply:

- *The subdivision is the re-subdivision of existing lots and the number of lots is not increased.*



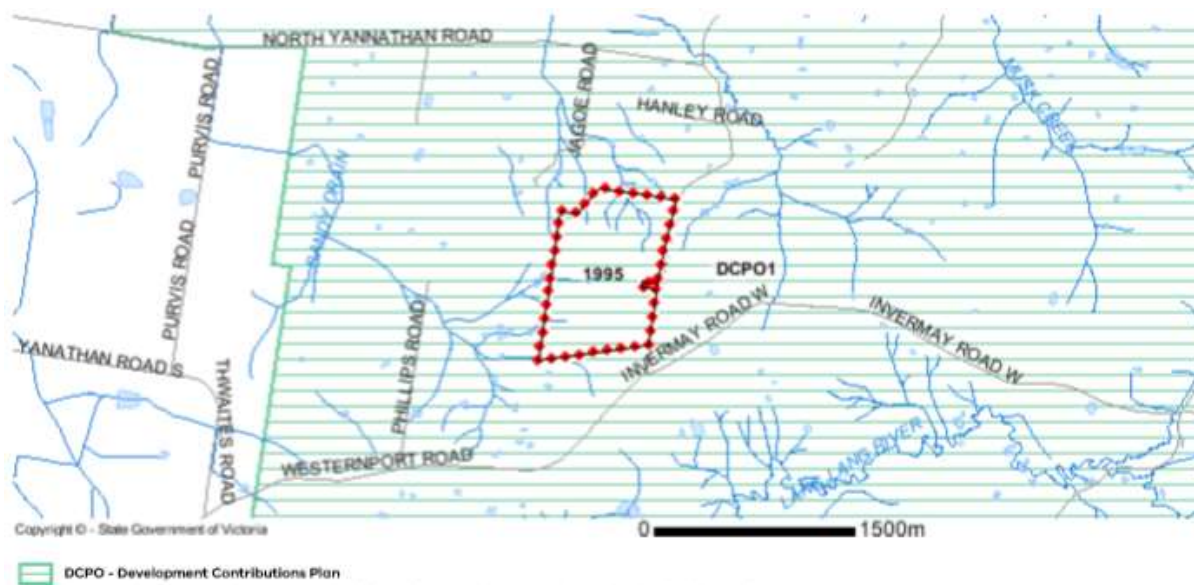
**Bushfire Management Overlay (PART ONLY)**

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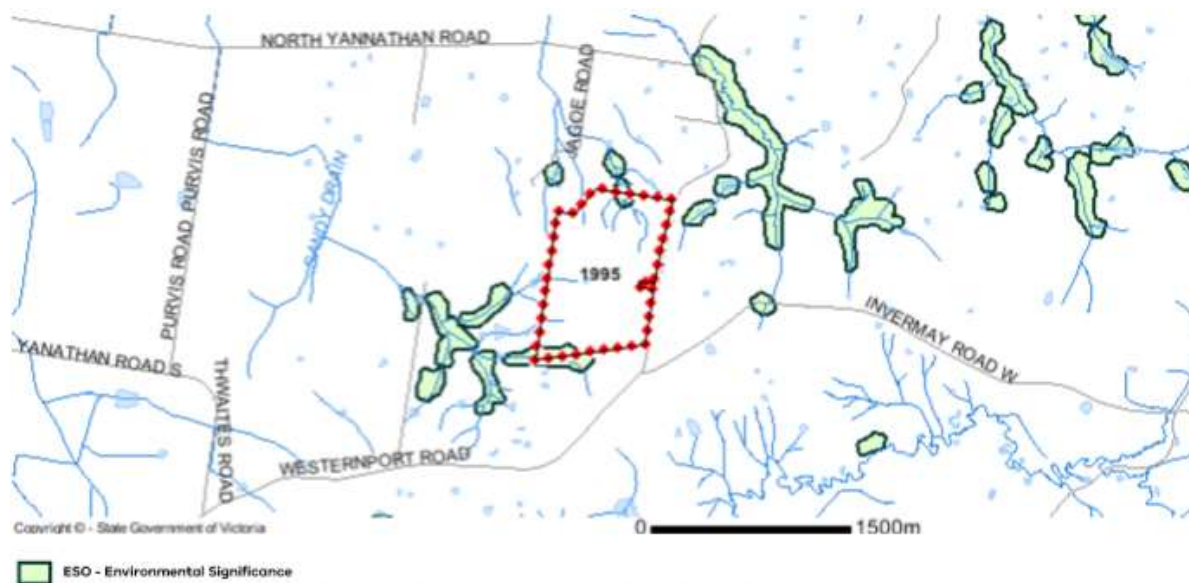
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Pursuant to **Clause 44.06-2** of the BMO a permit is required to subdivide land. It should be noted however that a very small portion of the property is covered by the BMO (to the south west of lot 2), which does not include any of the land contained within the proposed boundary re-alignment of lot 3.



**Development Contributions Plan Overlay – schedule 1**



**Environmental Significance Overlay – schedule 4 (PART ONLY)**

Pursuant to **Clause 42.01-2** of the ESO4 a planning permit is required to Subdivide Land. It should be noted however that a very small portion of the property is covered by the ESO4 (to the north of lot 3), which does not include any of the land contained within the proposed boundary re-alignment of lot 3.

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## 4 Proposed Boundary Re-alignment

As stated above, this proposal is for a boundary realignment of two lots.

The purpose of the proposed boundary re-alignment is to secure valuable farming land into one title (the larger title) to ensure the property is viable as a successful dairy farming property for the foreseeable future, while providing much needed financial support to the dairy farmer, from the sale of proposed lot 1, which will ensure debt stress and risk associated with purchasing and operating the existing farm are minimised.

It is submitted to Council that the proposed boundary re-alignment is essential to ensure the valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the above mentioned stock levels, which is the minimum required for a Dairy farm to be viable.

If Council are not in support of this application, our client will have no other option but to sell existing lot 3 in its entirety (13.598ha) in order to minimise debt stress and risk associated with purchasing and operating the existing farm, which in turn will have significant impact on the viability of the existing successful and viable farm and its future operations.

The proposed lots of the subdivision / boundary re-alignment are summarised below: -

- Proposed Lot 1 is proposed to be 2.054 hectares / 5 acres of vacant land in area to be located in the north-eastern top corner of the subject site.
- Proposed Lot 2 – balance of the land, 91.92 hectares / 227 acres of valuable farming land housing the entirety of the successful and viable Dairy farming business and all of its assets.

An existing Vicroads approved access crossover which serves as access to existing lot 3 will be used to provide access to proposed Lot 1 off Westernport Road. Therefore, there is no need to refer the application to Vicroads.



Existing Vicroads

Approved crossover/  
access point onto  
Westernport Road

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The proposed new lot has the potential to connect to all services from Westernport Road. Connection to these services will be in accordance with the conditions of the relevant service provider. Access to the proposed new Lot 2 (dairy farm) remains unchanged.

# 5 Planning Controls & Requirements

## 5.1 Farming Zone Assessment

The land is zoned Farming Zone. The purposes of the zone that are relevant to this application are: -

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To encourage a diversity of housing growth particularly in locations offering good access to services and transport*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

Pursuant to **Clause 35.07-6 Decision Guidelines** states that before deciding on an application to use or subdivide land, there are General issues, Agricultural issues and the impacts from non-agricultural uses, dwelling issues, environmental issues and design and siting issues must be considered.

**Agricultural issues and the impacts from non-agricultural uses** is the most relevant decision guideline for this proposal. We have repeated below the guideline, as well as our response: -

### ***Agricultural issues and the impacts from non-agricultural uses***

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses; and*
- *The capacity of the site to sustain the agricultural uses.*

The reconfiguration of the two existing lots creates one large lot in excess of 90 hectares that enhances agricultural production of the overall farming enterprise. It retains all the infrastructure i.e. stock yards, dairy shed, and effluent treatment ponds. This parcel is identified as Lot 2. Proposed Lot 1 is more than 500 metres from any of the agricultural pursuits (Dairy and associated outbuildings) on Lot 2.

The subject site is currently used for farming purposes as a successful and commercially viable Dairy Farm, producing in excess of 1 Million litres of milk every year. The farm runs a minimum of 150 milking cattle during the off-peak pasture growing season i.e. winter and up to 190 milking cattle during the optimum growing pasture seasons i.e. spring and autumn, which is the minimum cows required for a Dairy Farm to be viable. As a general rule of thumb for this area, a stock rate of 1 cow per acre, during the off-peak pasture growing periods and 2 cows per acre during the peak pasture growing periods is the maximum stocking density.

In addition to this, the owners breed approximately 75 yearlings / calves per year which are bred and raised on site until they are two years old.

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The purpose of the proposed boundary re-alignment is to secure valuable farming land into one title (the larger title) to ensure the property is viable as a successful dairy farming property for the foreseeable future, while providing much needed financial support to the dairy farmer, from the sale of proposed lot 1, which will ensure debt stress and risk associated with purchasing and operating the existing farm are minimised.

It is submitted to Council that the proposed boundary re-alignment is essential to ensure the valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the above mentioned stock levels, which is the minimum required for a Dairy farm to be viable.

It is therefore submitted that the proposed boundary re-alignment:

- *WILL support and enhance agricultural production.*
- *WILL NOT adversely affect soil quality or permanently remove the bulk of land from agricultural production.*
- *WILL NOT limit the operation and expansion of adjoining and nearby agricultural uses; and*
- *WILL ensure capacity of the site to sustain the agricultural uses.*

If Council are not in support of this application, our client will have no other option but to sell existing lot 3 in its entirety (13.598ha) in order to minimise debt stress and risk associated with purchasing and operating the existing farm, which in turn will have significant impact on the viability of the existing successful and viable farm and its future operations.

## 5.2 Overlays Controls and Assessment

There are three overlays that apply to the subject site. They are Bushfire Management, Environmental Significance and Development Contributions Plan Overlay. Each overlay is commented on below: -

### Clause 42.01 Environmental Significance Overlay

Pursuant to Clause 42.01-2 a permit is required to subdivide land, unless a schedule to the overlay specifically states that a permit is not required.

It is noted that there is no requirement for a permit to be issued for a boundary re-alignment/subdivision under schedule 4 of the ESO therefore no permit is triggered under the ESO4.

### Clause 44.06 Bushfire Management overlay

Pursuant to Clause 44.06-2 a permit is required to subdivide land.

The Bushfire Management overlay affects the south west portion of the land. A statement has been prepared to support this application. In summary the statement states that: -

- *The proposed subdivision does not increase the bushfire risk to the existing dwelling or create a bushfire risk for any future dwelling constructed on proposed Lot 1.*
- *Given that the subdivision has no impact in relation to bushfire risk it is considered that Council should waive the requirement for a bushfire site hazard assessment, bushfire landscape hazard assessment and bushfire management statement as they are not relevant to the assessment of this application.*

We have included a report prepared by xwb consulting. The report recommends that Council waive the requirement for a bushfire site hazard assessment as proposed lot 1 is located well outside the

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BMO and any future buildings and works on the lot would not be affected by the Bushfire Management overlay.

Proposed Lot 2 contains the existing dwelling and the existing dwelling is located well outside the Bushfire Management overlay mapped area.

### 5.3 State Planning Policy Framework (SPPF) Controls

This part of the report accesses and responds to the legislative and policy requirements for the project in accordance with the *Planning and Environment Act 1987*. The relevant clauses of the State Planning Policy Framework for subdivisions of the type presented in this report are largely contained in Clauses 11, 15 and 16.

Clause 11 Settlement and more specifically Clause 11.02-1 supply of Urban land including under its strategies the following: -

- *Planning for urban growth should consider “Opportunities for the consolidation, redevelopment and intensification of existing urban areas”.*

The proposal is consistent with the strategy in that it clearly represents a consolidation and intensification of an existing urban area.

**Clause 11.01-1R Settlement – Gippsland Strategies** Support urban growth in Latrobe City as Gippsland’s regional city, at Bairnsdale, Leongatha, Sale, Warragul/Drouin and Wonthaggi as regional centres, and in sub-regional networks of towns.

The strategies that support this proposal are: -

- *Support new urban growth fronts in regional centres where natural hazards and environmental risks can be avoided or managed.*

### 5.4 Local Planning Policy Framework (LPPF) Controls

#### Clause 21.03 – Settlement

The strategies seek to ensure that urban settlement patterns are consistent with the vision for the municipality are set out at Clause 21.03 which are: -

- *To develop a network of integrated, sustainable and resilient communities where people will want to live, work and play, while providing for compatible growth and development.*

The MSS describes Baw Baw Shire as one of the fastest growing municipalities, driven in part by the fact that: -

- *The Shire has attractive lifestyle choices in urban or rural settings close to Melbourne and the Latrobe Valley.*

Consistent with the directions within Clause 11.02 of the Scheme, the MSS states that priority for urban expansion should be given to a consolidation of development in areas which are currently in an urban zone and provided with the requirement services infrastructure. This proposal adheres closely to this direction being an intensification of the residential development of an existing parcel connected that can connect to all services.

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## 5.5 Clause 22 – Rural zones policy

### Clause 22.01-1 – Farming zone and Rural Activity Zone

For all rural subdivisions, it is policy to: -

- Require a written submission explaining how the proposal meets the zone purposes and decision guidelines and the objectives of this policy.

The following provides a response to the relevant clause objectives and policies contained with clause 22:

#### Rural Zones Policy - Objectives & Response:

To support agriculture as a major contributor to the Shire's economy.

- *The subject site is currently used for farming purposes as a successful and commercially viable Dairy Farm, producing in excess of 1 Million litres of milk every year. The farm runs a minimum of 150 milking cattle during the off-peak pasture growing months i.e. winter and up to 190 milking cattle during the optimum growing pasture seasons i.e. spring and autumn, which is the minimum cows required for a Dairy Farm to be viable.*

*In addition to this, the owners breed approximately 75 yearlings / calves per year which are bred and raised on site until they are two years old.*

To retain the potential for largescale, broadacre based farming enterprises by encouraging the retention of large lots.

- *The purpose of the proposed boundary re-alignment is to secure valuable farming land into one title (the larger title) to ensure the property is viable as a successful dairy farming property for the foreseeable forever future , while providing much needed financial support to the dairy farmer, from the sale of proposed lot 1, which will ensure debt stress and risk associated with purchasing and operating the existing farm are minimised.*

To encourage a diverse range of agricultural enterprises which can use smaller land holdings.

- *Once the boundary re-alignment is complete, the revised lot 1 will have the potential to be used for agricultural purposes suitable for a smaller lot.*

To support tourism use and development that is compatible with agricultural production and/or the environmental attributes of the area.

- *The purpose of the proposed boundary re-alignment is to secure valuable farming land into one title (the larger title) to ensure the property is viable as a successful dairy farming property for the foreseeable forever future.*
- *Any future application for the future development of lot 1 will address any farming or tourism proposal associated with any proposed dwelling on the lot.*

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To ensure that the development of dwellings and the creation of small lots for existing dwellings minimises the loss of productive agricultural land and does not prejudice activities associated with agricultural production.

- *Proposed Lot 1 is more than 500 metres from any of the agricultural pursuits (Dairy and associated outbuildings) on Lot 2 and won't therefore interfere with the current or future operations of the dairy farm.*

To protect the rural character of the Shire by minimising the visual intrusion of new buildings on the natural landscape, particularly hilltop/ridgeline development.

- *The proposal does not include any buildings or works so this clause is not relevant.*

**Rural Zones Policy - Relevant Policies & Response:**

For all rural subdivisions, it is policy to:

Require a written submission explaining how the proposal meets the zone purposes and decision guidelines and the objectives of this policy.

- *Section 5.5 of this planning report provides the written submission explaining how the proposal meets the zone purposes and decision guidelines and the objectives of this (Rural Land) policy*

Encourage subdivision which creates or retains lots over 40 hectares.

- *Proposed Lot 2 is well in excess of 40 hectares*

Require a land capability assessment to be provided to substantiate that proposed lots less than 1 hectare can satisfy the requirements of the Environmental Protection Authority's Guidelines for Environmental Management Code of Practice – Onsite Wastewater Management.

- *Not applicable as proposed Lot 1 & 1 are greater than 1 hectare in area.*

**For Re-subdivision & Response:**

Where the subdivision involves the re-subdivision of existing lots, it is policy to:

Support a proposal where it involves the realignment of boundaries between two lots and the boundaries are realigned so that less than 10 percent of either lot is involved and the total size of the lots is less than 40 hectares.

- *Although the boundary realignment proposal results in approximately 75% of Lot 2 being added into the larger title of the land which results in the larger lot 3 title being increased by an additional 14.34% lot 3 is well in excess of 40 hectares so this policy clause is irrelevant.*

Discourage re-subdivision within a land holding, which comprises of more than one lot, where it would increase the overall development potential of the land, unless a Section 173 agreement is entered into to restrict the additional subdivision potential.

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- *The proposed re-subdivision / boundary re-alignment does not increase the overall development proposal of the land, as the overall land holdings are in 2 titles, with lot 2 currently being vacant and therefore can apply to Council for the use and development of lot 2 for the purpose of a dwelling. Our client is willing to enter into a 173 agreement to restrict any additional subdivision potential not that we think this is necessary as the current zone requirements for further subdivision would not allow it.*

Discourage the re-subdivision of existing lots where one or both of those lots was originally established for the purpose of a rail, road or other reserve.

- *The existing lots were not established for the purpose of rail, road or other reserves.*

Encourage any small lot proposed primarily for rural living purposes to be 2 hectares or less in area.

- *The proposed boundary re-alignment results in the new lot being 2.0 hectares in area.*

Support re-subdivision of lots which are proposed to contain an established rural business, where the area of the existing lot is excess to the requirements of the business.

- *The farm runs a minimum of 150 milking cattle during the off-peak pasture growing months i.e. winter and up to 190 milking cattle during the optimum growing pasture seasons i.e. spring and autumn, which is the minimum cows required for a Dairy Farm to be viable. As a general rule of thumb for this area, a stock rate of 1 cow per acre, during the off-peak pasture growing periods and 2 cows per acre during the peak pasture growing periods is the maximum stocking density.*

*In addition to this, the owners breed approximately 75 yearlings / calves per year which are bred and raised on site until they are two years old.*

*The following table demonstrates that the existing area of the lot to be re-subdivided is in excess of the required amount of land to run the farming business:*

	Existing Lot 2	Existing Lot 3	Proposed Lot 2	Proposed Lot 3
Hectares	13.59	80.35	2.054	91.92
Acres	33.58	198	5.075	227
Milking Cows (Off Peak)	0	150	0	150
Yearlings	27	48	0	75

*It is submitted to Council that the proposed boundary re-alignment is essential to ensure the valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the above mentioned stock levels, which is the minimum required for a Dairy farm to be viable.*

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*If Council are not in support of this application, our client will have no other option but to sell existing lot 3 in its entirety (13.598ha) in order to minimise debt stress and risk associated with purchasing and operating the existing farm, which in turn will have significant impact on the viability of the existing successful and viable farm and its future operations.*

Limit to two the number of small lots created through the re-subdivision of a land holding comprising more than two lots, where they are proposed primarily for rural living purposes.

- *The re-subdivision / boundary re-alignment only involves two lots so this clause is irrelevant.*

Discourage re-subdivision proposals, which would result in fragmentation of a large farm holding, or abandonment of primary production on most of the land.

- *The proposal does not result in fragmentation of the large farm holding. It actually adds to the lands potential of primary production for the foreseeable forever future.*

**Other Objectives within the Farming Policy that are relevant to this application:**

Encourage subdivision which creates or retains lots over 40 hectares; and

- *Proposed Lot 2 is greater than 40 hectares.*

Require a land capability assessment to be provided to substantiate that proposed lots less than 1 hectare can satisfy the requirements of the Environment Protection Authority’s Guidelines for Environmental Management Code of Practice – Onsite Wastewater Management.

- *Not applicable as proposed Lot 1 is greater than 1 hectare.*

In regard to re-subdivisions, our proposal is in accordance with the policy. More specifically the following points support our proposal: -

- *Encourage any small lot proposed primarily for rural living purposes to be 2 hectares or less in area.*

**Clause 52.29 Land adjacent to a Road Zone Category 1.**

An existing Vicroads approved access crossover which serves as access to existing lot 3 will be used to provide access to proposed Lot 1 off Westernport Road. Therefore, there is no need to refer the application to Vicroads.

**5.6 General Provisions**

**Clause 65** states that the Responsible Authority must decide whether the proposal will provide acceptable outcomes in terms of the decision guidelines of this Clause. Specifically, the decision guidelines of Clause 65.02 relating to the approval of an application to subdivide the land are satisfied, and our proposal warrants Council’s support, subject to conditions.

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## 6 Conclusion

The purpose of the proposed boundary re-alignment is to secure valuable farming land into one title (the larger title) to ensure the property is viable as a successful dairy farming property for the foreseeable future, while providing much needed financial support to the dairy farmer, from the sale of proposed lot 1, which will ensure debt stress and risk associated with purchasing and operating the existing farm are minimised.

The reconfiguration of the two existing lots creates one large lot in excess of 90 hectares that enhances agricultural production of the overall farming enterprise. It retains all the infrastructure i.e. stock yards, dairy shed, and effluent treatment ponds. This parcel is identified as Lot 2. Proposed Lot 1 is more than 500 metres from any of the agricultural pursuits (Dairy and associated outbuildings) on Lot 2.

The subject site is currently used for farming purposes as a successful and commercially viable Dairy Farm, producing in excess of 1 Million litres of milk every year.

The farm runs a minimum of 150 milking cattle during the off-peak pasture growing season i.e. winter and up to 190 milking cattle during the optimum growing pasture seasons i.e. spring and autumn, which is the minimum cows required for a Dairy Farm to be viable. As a general rule of thumb for this area, a stock rate of 1 cow per acre, during the off-peak pasture growing periods and 2 cows per acre during the peak pasture growing periods is the maximum stocking density.

In addition to this, the owners breed approximately 75 yearlings / calves per year which are bred and raised on site until they are two years old.

It is submitted to Council that the proposed boundary re-alignment is essential to ensure the valuable farming land is consolidated into the existing farm so the farm operations can continue to run at the above mentioned stock levels, which is the minimum required for a Dairy farm to be viable.

It is therefore submitted that the proposed boundary re-alignment:

- *WILL support and enhance agricultural production.*
- *WILL NOT adversely affect soil quality or permanently remove the bulk of land from agricultural production.*
- *WILL NOT limit the operation and expansion of adjoining and nearby agricultural uses; and*
- *WILL ensure capacity of the site to sustain the agricultural uses.*

If Council are not in support of this application, our client will have no other option but to sell existing lot 3 in its entirety (13.598ha) in order to minimise debt stress and risk associated with purchasing and operating the existing farm, which in turn will have significant impact on the viability of the existing successful and viable farm and its future operations.

Furthermore, it is submitted that the proposal is consistent with the relevant policies and provisions of the Baw Baw Shire Planning Scheme and should receive Council's support for the following reasons: -

- The proposal is consistent with the State and Local Planning Policy Framework and the purposes of the Farming Zone.
- The proposal complies with the decision guidelines of Clause 35.07-6 of the Farming Zone and more specifically the agricultural issues and the impacts from non-agricultural uses.

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- The proposal complies with Clause 22 Rural Zones policy and more specifically complies with the dwelling excisions and re-subdivisions.
- The proposal retains a lot greater than 40 hectares.
- The proposed subdivision compliments the existing surrounding rural / residential land use.

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16 February 2019

Baw Baw Shire Council  
PO Box 304  
WARRAGUL 3820

Dear Sir/Madam

**Re: Subdivision - 1995 Westernport Road Ripplebrook**

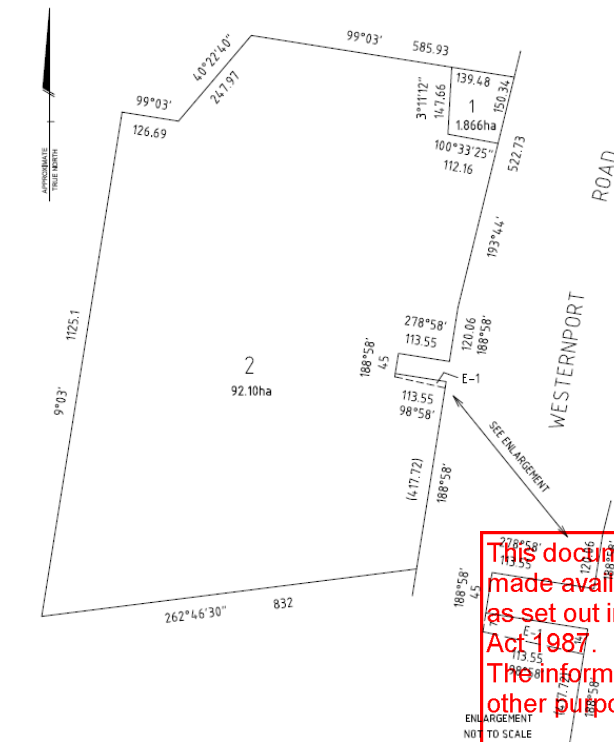
I have been engaged by Nobelius Land Surveyors to provide bushfire advice in relation to an application for subdivision at 1995 Westernport Road Ripplebrook.

In summary, it is recommended that Council waive the requirement for a bushfire site hazard assessment, bushfire landscape hazard assessment and bushfire management statement under Clause 44.06-3 of the Bushfire Management Overlay under the Baw Baw Planning Scheme.

**Land and proposal**

The land is located in the west side of Westernport Road Ripplebrook and has an area of 93.97ha. There is an existing dwelling centrally located within the land and the land mainly comprises open paddocks used for grazing with the exception of a small pocket of bushland in the south west corner of the land.

It is proposed to subdivide the land into 2 lots as shown on the plan below:



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### Bushfire Management Overlay

Part of the land is within a Bushfire Management Overlay as shown on the plan below:



The Bushfire Management Overlay relates to the bushland area in the south west corner of the land.

Under the Bushfire Management Overlay, a planning permit is required to subdivide land. An application is required to be accompanied by bushfire site hazard assessment, bushfire landscape hazard assessment and bushfire management statement. The overlay specifies that if in the opinion of the responsible authority any part of these requirements is not relevant to the assessment of an application, the responsible authority may waive, vary or reduce the requirement.

### Assessment

The subdivision proposes two lots, Lot 1 with an area of 1.866ha in the north east corner of the land and Lot 2 with an area of 92.10ha containing the existing dwelling.

Proposed Lot 1 is located well outside the Bushfire Management Overlay and any future buildings and works on the lot would not be affected by the Bushfire Management Overlay.

Proposed Lot 2 contains the existing dwelling and the area affected by the Bushfire Management Overlay. The existing dwelling is located well outside the Bushfire Management Overlay.

The proposed subdivision does not increase the bushfire risk to the existing dwelling or create a bushfire risk for any future dwelling constructed on proposed Lot 1. Given that the subdivision has no impact in relation to bushfire risk, it is considered that Council should waive the

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requirement for a bushfire site hazard assessment, bushfire landscape hazard assessment and bushfire management statement as they are not relevant to the assessment of the application.

If you have any questions in relation to this matter, please contact me on 0408 517 143.

Yours faithfully



Phil Walton  
XWB Consulting



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