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DROUIN CUSTOMER SERVICE CENTRE  
33 YOUNG STREET  
DROUIN  
8.30AM TO 5.00PM WEEKDAYS

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# Application for Planning Permit

Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any concerns, please contact Council's planning department on 5624 2411.

The personal information requested on this form is being collected to enable council to consider the application. Council will use this information for this purpose or one directly related and may disclose this information as required by law in accordance with the *Privacy and Data Protection Act 2014*. The applicant may apply to Council for access and/or amendment of the information by contacting council's freedom of information/privacy officer on 5624 2411

## Section 1: The Land

Unit Number  Street Number  Street Name   
 Town  Postcode

**Formal Land Description**  
Complete either Section A or B

### Section A

Lot Number  Type of Plan  Lodged plan  Title Plan  Plan of Subdivision Number

### Section B

Crown Allotment Number  Section Number  Parish/Township Name

## Section 2: The Proposal

You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.

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

Variation to restriction and two lot subdivision of land

Advertised Plans 19/10/2018

Provide additional information on the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

Estimated cost of development for which the permit is required

N/A

### Section 3: Existing Conditions

Describe how the land is used and developed now

Residential

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

### Section 4: Title Information

#### Encumbrances on title

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 (if 'yes' contact Council for advice on how to proceed before continuing with this application).
- No
- Not applicable (no such encumbrance applies).

Provide a full, current copy of the title for each individual parcel of land forming the subject site. The title includes: the covering register search statement, the title diagram and the associated title documents (known as instruments).

### Section 5: Applicant and Owner Details

#### Applicant

The person who wants the permit.

Title  First Name  Last Name

Organisation (if applicable)

#### Postal Address

Unit Number  Street or Post Box Number

Street Name  Town  Postcode

**Contact Person's Details**

Please provide details of the preferred contact person if this is different from the applicant.

Same as applicant

Title  First Name  Last Name

Organisation (if applicable)

**Postal Address**

Unit Number  Street or Post Box Number

Street Name  Town  Postcode

**Contact Information**

Best Contact Phone Number  E-mail

Fax Number

**Owner**

The person or organisation who owns the land.

Same as applicant

Title  First Name  Last Name

Organisation (if applicable)

**Postal Address**

Unit Number  Street or Post Box Number

Street Name  Town  Postcode

I declare that I am the owner of the above stated property; and that the details above are true and correct.

Signature:

**Section 6: Declaration**

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.

Signature:

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## Section 7: Pre-Application Meeting

Has there been a pre-application meeting with a Council planning officer?

- Yes  
 No

If 'Yes' with whom?

Robin Beggs

What date was the meeting held?

---

## Section 8: Checklist

Have you:

- Filled in the form completely  
 Paid or included the application fee  
 Provided a full, current copy of the title information for each individual parcel of land, forming the subject site  
 Provided a plan of the existing conditions  
 Provided plans showing the layout and details of the proposal  
 Provided any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist  
 Provided a description of the likely effect of the proposal (if required)  
 Completed the relevant Council planning permit checklist  
 Completed the declaration in Section 7  
 Provided a contact phone number and e-mail address

---

## Section 9: Lodgement

Lodge the completed and signed form, the fee payment and all documents:

### By Post:

Planning Department  
Baw Baw Shire Council  
PO Box 304  
Warragul, VIC, 3820

### In Person:

Customer Service Centres  
90 Smith Street Warragul  
33 Young Street Drouin

### Contact information:

Telephone: 5624 2411  
Fax: 5622 2287



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

Page 1 of 1

VOLUME 11070 FOLIO 377

Security no : 124071439801V  
Produced 24/04/2018 08:17 am

**LAND DESCRIPTION**

Lot 2 on Plan of Subdivision 601949E.  
PARENT TITLE Volume 10862 Folio 991  
Created by instrument PS601949E 26/05/2008

**REGISTERED PROPRIETOR**

Estate Fee Simple  
Joint Proprietors  
DENNIS BRIAN HALL  
PAULINA ANTIONETTE KRUIJER both of 92 LAMPARDS ROAD DROUIN VIC 3818  
AG016419Y 08/08/2008

**ENCUMBRANCES, CAVEATS AND NOTICES**

MORTGAGE AL144830K 12/06/2014  
MEMBERS EQUITY BANK PTY LTD

COVENANT AE931006P 02/03/2007

COVENANT PS601949E 26/05/2008

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

AGREEMENT Section 173 Planning and Environment Act 1987  
AD196767Q 22/10/2004

**DIAGRAM LOCATION**

SEE PS601949E FOR FURTHER DETAILS AND BOUNDARIES

**ACTIVITY IN THE LAST 125 DAYS**

NIL

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

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

Street Address: 20 KAMANARI COURT DROUIN VIC 3818

DOCUMENT END



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| Number of Pages<br>(excluding this cover sheet) | <b>1</b>                |
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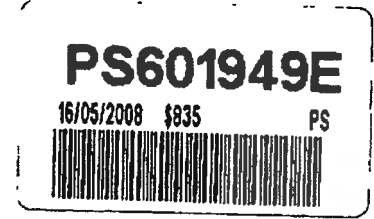
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VICTORIAN LAND TITLES OFFICE



Lodged at the Titles Office by:

Name: GRAY FRIEND & LONG  
Phone: (03) 56 231511  
Ref: IRB:JD:70289  
Customer code: 893 D

APPLICATION FOR REGISTRATION OF PLAN OF SUBDIVISION

To: The Registrar  
Plan No: PS601949E

This is an application by the registered proprietor of the land in Plan No. PS601949E

1. Applicant: PETER ANTHONY O'DEA of 30 Banksia Street, Warragul, 3820
2. Land: Certificate of Title Volume 10862 Folio 991
3. Municipal district in which Land is located: Baw Baw Shire

DATED this 8th day of April 2008

*Gray Friend & Long*

Gray Friend & Long  
Current Practitioners under the Legal Profession Act 2004

The Registrar of Titles;  
Please register this dealing and on completion  
and Certificate of Title to issue  
to Westpac Banking Corporation.  
At the instance of Susanna Tan 023 L.  
For Westpac Banking Corporation

Advertised Plans 19/07/2018



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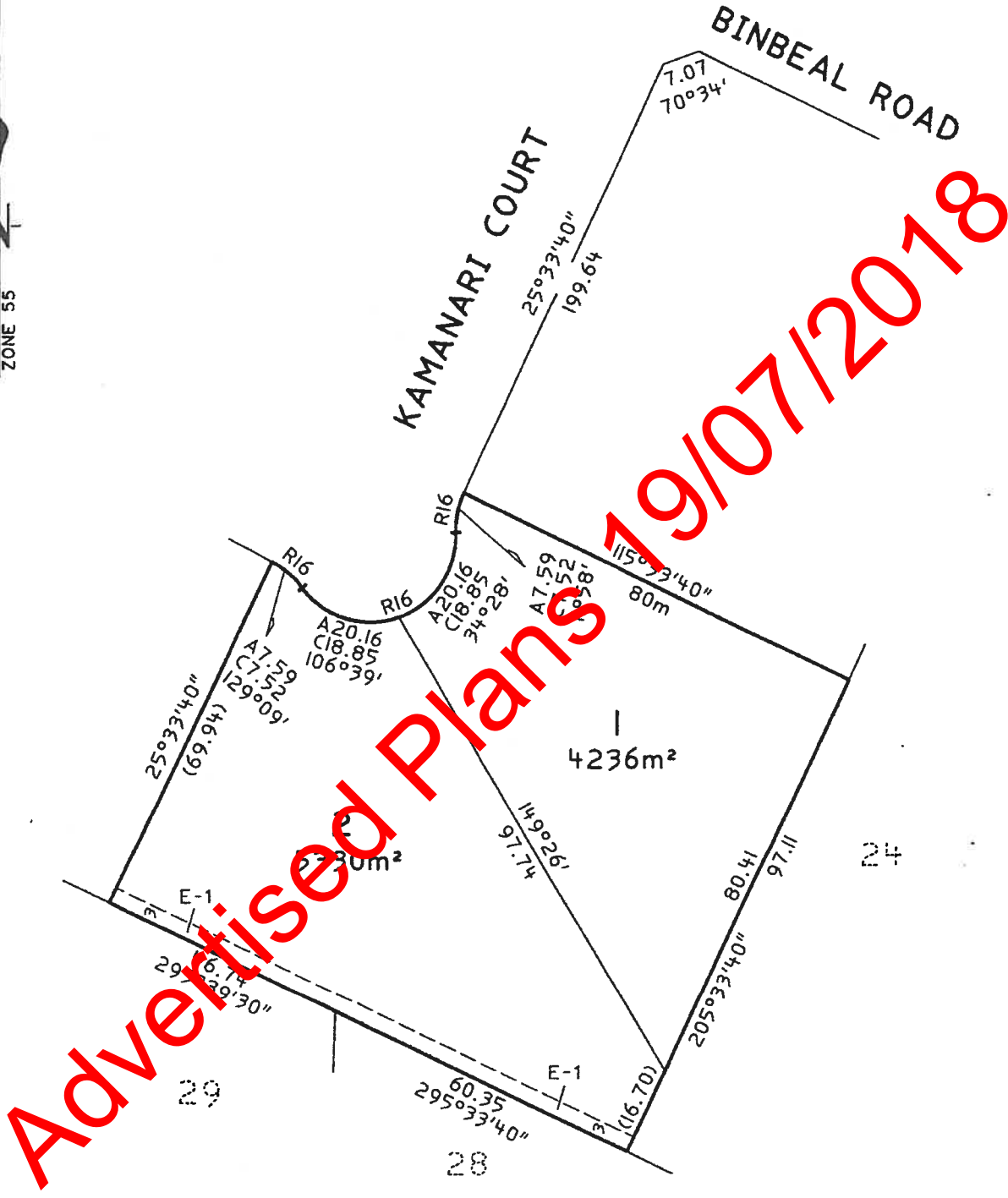
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**Advertised Plans 1910712018**

|   |                     |   |                              |  |
|---|---------------------|---|------------------------------|--|
| <b>PLAN OF SUBDIVISION</b>  |                     | Stage No.<br><hr/>  | LR use only<br><br>EDITION 1 | <b>PS 601949E</b>  |
| <b>Location of Land</b><br>Parish: DROUIN WEST<br>Township: DROUIN<br>Section: B<br>Crown Allotments: 23 (PART)<br>Crown Portion: _____<br><br>Title References: VOL 10862 FOL 991<br><br>Last Plan Reference: PS 524733H (LOT 5)<br>Postal Address: 20 KAMANARI COURT<br>DROUIN, 3818<br><br>AMG Co-ordinates: E 398190 Zone 55<br>(Of approx. centre of plan) N 5778940 |                     | <b>Council Certification and Endorsement.</b><br>Council Name: BAW BAW SHIRE COUNCIL Ref:<br>1. This plan is certified under section 6 of the Subdivision Act 1988.<br><del>2. This plan is certified under section 11(7) of the Subdivision Act 1988.</del><br><del>Date of original certification under section 6. / /</del><br>3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988.<br><br>Open Space<br>(i) A requirement for public open space under section 18 of the Subdivision Act 1988 <del>has</del> / has not been made.<br><del>(ii) The requirement has been satisfied.</del><br><del>(iii) The requirement is to be satisfied in Stage</del><br>Council Delegate<br><del>Council seal</del><br>Date 31 / 3 / 2008<br><br><del>Re-certified under section 11(7) of the Subdivision Act 1988</del><br><br><del>Council Delegate</del><br><del>Council seal</del><br><del>Date / /</del> |                              |  |
| <b>Vesting of Roads or Reserves</b>   |                     |   |                              |  |
| Identifier  | Council/Body/Person |   |                              |  |
| Nil   | Nil                 |   |                              |  |
| <b>Notations</b>  |                     |   |                              |  |
| Depth Limitation: Does not apply  |                     | Staging This is not a staged subdivision.<br>Permit No.   |                              |  |
| THE LAND BEING SUBDIVIDED IS SHOWN ENCLOSED BY CONTINUOUS THICK LINES.  |                     | Survey: This plan is based on survey.<br>to be completed where applicable.<br>This survey has been connected to permanent marks no(s).<br>In proclaimed Survey Area no.   |                              |  |
| <b>Easement Information</b>   |                     |   |                              | LR use only  |
| <b>Legend:</b> A- Appurtenant Easement E- Encumbering Easement R- Encumbering Easement (Road)   |                     |   |                              | Statement of Compliance / Exemption Statement<br><br>Received <input checked="" type="checkbox"/><br>Date 16 / 5 / 08  |
| Easement Reference  | Purpose             | Width (metres)  | Origin                       | Land Benefited/In Favour Of  |
| E-1   | DRAINAGE            | 3   | PS 524733H                   | BAW BAW SHIRE COUNCIL  |
|   |                     |   |                              | LR use only<br>PLAN REGISTERED<br>TIME 2:52<br>DATE 26 / 5 / 2008<br><br>Assistant Registrar of Titles<br>Sheet 1 of 3 Sheets |
| <b>ROSS &amp; WORTH PTY. LTD.</b><br>LAND & ENGINEERING SURVEYORS<br>* 5/61 SMITH STREET WARRAGUL 56232257<br>26 CONTINGENT ST. TRAFALGAR 56331577<br>213B PRINCES HIGHWAY MORWELL 51341368   |                     | LICENSED SURVEYOR GEOFFREY S FEDDERSEN<br><br>SIGNATURE _____ DATE 21 / 2 / 08<br>REF 11498 DRG No. 11498APS.lcd VERSION 02   |                              | _____<br>DATE 31 / 3 / 08<br>COUNCIL DELEGATE SIGNATURE<br>Original sheet size A3  |

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|                            |           |                   |
|----------------------------|-----------|-------------------|
| <b>PLAN OF SUBDIVISION</b> | Stage No. | Plan Number       |
|                            | /         | <b>PS 601949E</b> |



Advertised Plans 19/07/2018

**ROSS & WORTH PTY. LTD.**  
**LAND & ENGINEERING SURVEYORS**  
 \* 5/61 SMITH STREET WARRAGUL 56232257  
 26 CONTINGENT ST. TRAFALGAR 56331577  
 213B PRINCES HIGHWAY MORWELL 51341368

SHEET 2 OF 3 SHEETS

|                       |       |
|-----------------------|-------|
| ORIGINAL SHEET SIZE   | SCALE |
| A3                    | 1:800 |
| LENGTHS ARE IN METRES |       |

LICENSED SURVEYOR **GEOFFREY S FEDDERSEN**  
 SIGNATURE \_\_\_\_\_ DATE 21 / 2 / 08  
 REF 11498 DRG No. 11498APS.lcd VERSION 02

DATE 31 / 3 / 08  
 COUNCIL DELEGATE SIGNATURE \_\_\_\_\_

**PLAN OF SUBDIVISION**

Stage No. /

Plan Number

**PS 601949E**



**BUILDING ENVELOPE**

Building Envelopes are located 5m from title boundaries & 20m from Kamanari Court except where otherwise shown

**CREATION OF RESTRICTION**

Under Regulation 15 Subdivision (Procedures) Regulations 2000.

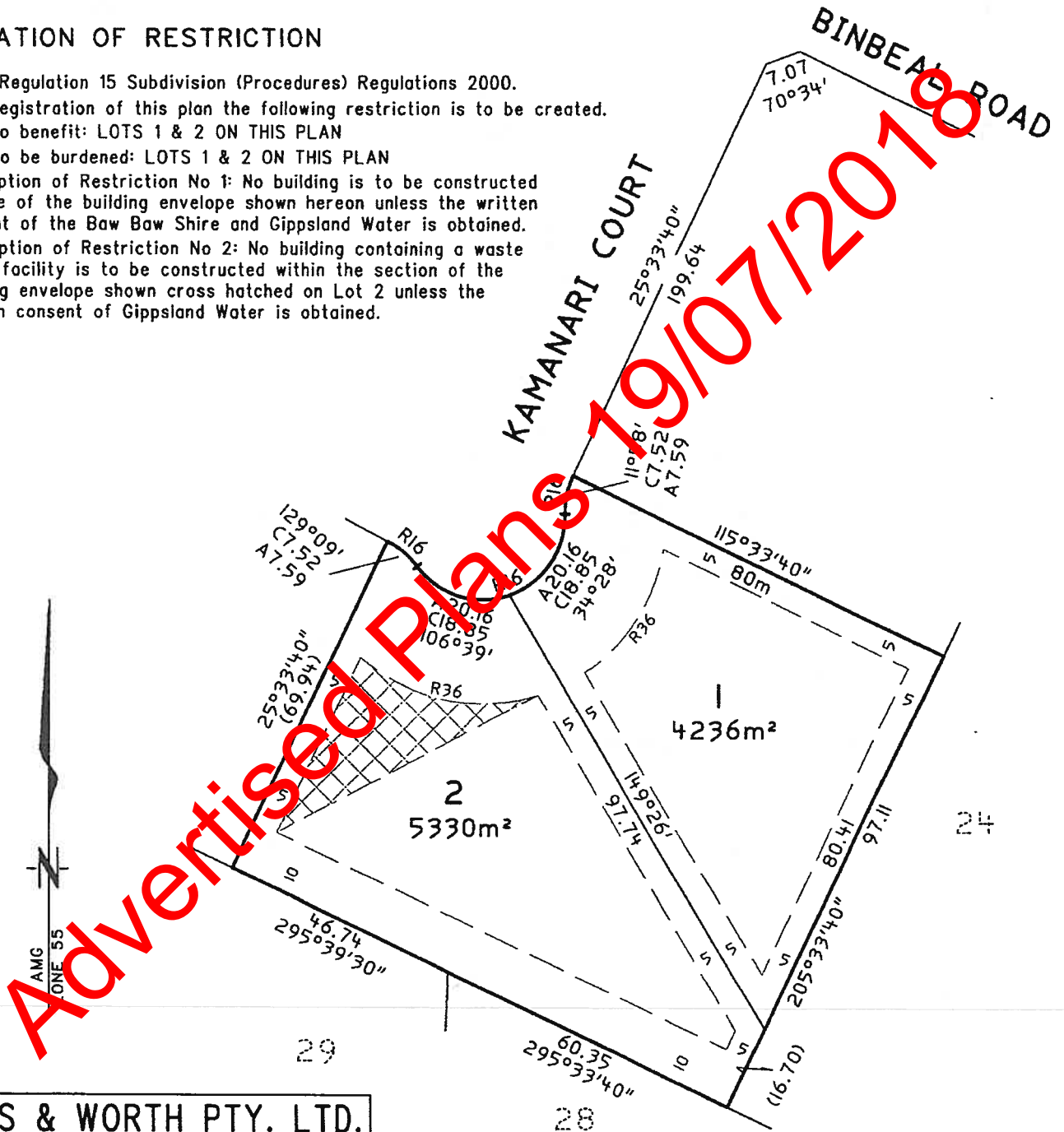
Upon registration of this plan the following restriction is to be created.

Land to benefit: LOTS 1 & 2 ON THIS PLAN

Land to be burdened: LOTS 1 & 2 ON THIS PLAN

Description of Restriction No 1: No building is to be constructed outside of the building envelope shown hereon unless the written consent of the Baw Baw Shire and Gippsland Water is obtained.

Description of Restriction No 2: No building containing a waste water facility is to be constructed within the section of the building envelope shown cross hatched on Lot 2 unless the written consent of Gippsland Water is obtained.



Advertised Plans 19/07/2018

**ROSS & WORTH PTY. LTD.  
LAND & ENGINEERING SURVEYORS**

\* 5/61 SMITH STREET WARRAGUL 56232257  
26 CONTINGENT ST. TRAFALGAR 56331577  
213B PRINCES HIGHWAY MORWELL 51341368

SHEET 3 OF 3 SHEETS

|                           |                |  |
|---------------------------|----------------|--|
| ORIGINAL SHEET SIZE<br>A3 | SCALE<br>1:800 | SCALE<br>8 0 8 16 24 32<br>LENGTHS ARE IN METRES |
|---------------------------|----------------|--|

LICENSED SURVEYOR **GEOFFREY S FEDDERSEN**  
SIGNATURE \_\_\_\_\_ DATE **21 / 2 / 08**  
REF 11498 DRG No. 11498APS.lcd VERSION 02

DATE **31 / 3 / 08**  
COUNCIL DELEGATE SIGNATURE \_\_\_\_\_



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Advertised Plans 1910712018



AD196767Q

22/10/2004 \$95 173



Application by  
Responsible Authority,  
for the making of a record of an  
agreement  
Section 181(1) Planning and Environment Act 1987

Lodged by:  
Name: GRAY FRIEND & LONG  
Phone: (03) 5623 1511  
Address: 70 QUEEN STREET, WARRAGUL  
Ref: IRB:AF:30227  
Customer Code: 0893D

The authority or council having made an agreement requires a recording to be made in the Register for the land.

Land: Certificates of Title Volume 8402 Folio 888 and Volume 9148 Folio 677.

Authority or council: Baw Baw Shire Council, Civic Place, Warragul, 3820

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

A copy of the agreement is attached to this application.

Date: 9 June 2004

Signed: *Peter Mangan*  
Baw Baw Shire Council

Full Name: Peter Mangan  
Director Corporate & Community Services  
Baw Baw Shire Council  
Signed pursuant to  
Delegation dated 2 August 2002

Advertised Plans 1910712018

*2-8/10/04*



DAD1967670-1-2



DAD1967670-3-9

03153 as issued by the Baw Baw Shire Council.

4. The Owner covenants that Access to lots 1, 12, 13 and 20 must be from the internal road and not Binbeal Road.
5. The Shire and the owner acknowledge and agree that the covenants entered by the owner in this agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the land specified and shall bind the owners, the owners successors, assignees and transferees, the registered proprietor or proprietors for the time of that land and every part thereof.
6. That the owner shall pay the Shire's costs of and incidental to the negotiation, preparation and lodgement of this agreement at the Titles Office on a solicitor/client basis.

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

THE COMMON SEAL OF THE MAYOR  
COUNCILLORS AND CITIZENS OF THE  
BAW BAW SHIRE COUNCIL was  
hereunto affixed in the presence of:-



*[Signature]* ..... Councillor  
*David Belfrage* ..... Councillor

*Peter Morgan* ..... Chief Executive Officer/Authorised Officer

THE COMMON SEAL MOONEY MEATS  
PTY LTD was affixed in the presence of the  
authorised person



*Ernest A. Mathovich* .....  
 Sole Director and Sole Company Secretary

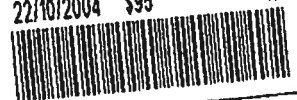
Full name ERNEST ANDREW MATHOVICH

Usual address 290 BRANDY CREEK ROAD,  
 WARRAGUL VIC

Approved Plans 1910712018

AD196767Q

22/10/2004 \$95 173





# BAW BAW SHIRE COUNCIL PLANNING PERMIT

Application No: 03153  
Planning Scheme: Baw Baw  
Responsible Authority: Baw Baw Shire Council



- 12 Sewage, sullage and other liquid wastes to arise from the development shall be treated and retained on site by a septic tank system in accordance with the requirements of the Environment Protection Act 1970, the current edition of EPA's Septic Tanks Code of Practice and the Baw Baw Shire Council.
- 13 The septic tank system used on Lots 5, 6 and 7 shall be capable of treating all effluent to a standard of 20 mg/l Biochemical Oxygen Demand and 30 mg/l Suspended Solids unless otherwise approved by Council.
- 14 Prior to the issue of the Statement of Compliance cut off drains, a minimum of 800mm deep, are to be installed above the subdivision as recommended in the Land Capability Assessment Report dated August 2003.
- 15 Appropriate measures shall be taken to ensure that all stormwater from the Binbeal Road roadside drain is to be diverted away from the Septic Tank effluent disposal fields.
- 16 Prior to the Statement of Compliance the existing dam on the site is to be effectively drained and filled, and left in a condition satisfactory to engineering standards.
- 17 The permit holder shall make a 5 percent public open space contribution to the satisfaction of the Responsible Authority.
- 18 Any prospective purchaser of lots 5, 6 and 7 must prior to a contract to purchase that lot being entered into, be provided with a copy of the Land Capability Assessment undertaken for the land indicating any higher level of treatment required for waste water disposal that may be necessary in association with a dwelling on the land.

### GIPPSLAND WATER

- 19 Prior to the statement of compliance the landowner must pay to the Central Gippsland Region Water Authority contributions for Headwork charges for the change in development of the land. These charges are based on the Authority's current rates and reflect the additional loading placed on the water reticulation system in this development.
- 20 Prior to the statement of compliance the landowner must apply to the Central Gippsland Region Water Authority for details of the conditions required for the provision of water services to the development.
- 21 Ensure that the owner of the land enters into a formal agreement with the central Gippsland Region Water Authority, under the Authority's Land Development system, for the complete construction of works necessary for the provision of water supply to all lots in the subdivision.
- 22 Prior to the statement of compliance the landowner must pay to the Central Gippsland Region Water Authority any fees and contributions and satisfy all conditions pertaining to the aforementioned agreement.
- 23 Prior to the statement of compliance the landowner must install separate water services to the satisfaction of the Central Gippsland Region Water Authority.

Advertised Plans 1910712018



Date Issued 16/12/03  
Planning and Environment Regulations 1987 Form 4.4

*W. B. ...*  
Authorised Officer



# BAW BAW SHIRE COUNCIL

## PLANNING PERMIT

Application No: 03153  
 Planning Scheme: Baw Baw  
 Responsible Authority: Baw Baw Shire Council



- 24 Prior to the statement of compliance, as constructed details showing the location of the installed services are required to be submitted to the Authority.
- 25 Prior to the statement of compliance the landowner must carry out works necessary to ensure all existing water services supplying the land are contained within the boundary of the individual lots, to the satisfaction of the Central Gippsland Region Water Authority.
- 26 Any plan of subdivision of the subject land lodged for certification shall be referred to the Central Gippsland Region Water Authority under Section 8(1) of the Subdivision Act 1988.

Please note: Reticulated sewer may be made available at the owner's cost and therefore the owner will need to contact a Gippsland Water Accredited Design Consultant.

### MELBOURNE WATER

- 27 Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation under Section 269A of the Melbourne and Metropolitan Board of Works Act 1958, for the provisions of drainage works and the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage system.
- 28 Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or water courses.
- 29 Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

NOTE: If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Tania Wallace-Smith on telephone 9235 2210, quoting Melbourne Water's reference 91974.

### TELSTRA

- 30 That the applicant enter into an agreement with the Telstra or licensed telecommunications carrier for the satisfactory provision of telephone cable reticulation one (1) metre into each allotment created
- 31 The plan of subdivision submitted for certification be referred to Telstra or other licensed telecommunications carrier, whichever is appropriate, in accordance with Section 8 of the Subdivision Act 1988.

NOTE: If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Tania Wallace-Smith on telephone 9235 2210, quoting Melbourne Water's reference 91974.

- 32 Set aside on the plan on subdivision, reserve/s satisfactory to Telstra, for Telecommunications substation/s if required.

TXU

Advised Plans 1910712018



*(Signature)*  
 Authorised Officer

# BAW BAW SHIRE COUNCIL

## PLANNING PERMIT

Application No: 03153  
 Planning Scheme: Baw Baw  
 Responsible Authority: Baw Baw Shire Council

- 33 The applicant must-
- a) Enter into an agreement with TXU Electricity Ltd for supply of electricity to each lot of the endorsed plan.
  - b) Enter into an agreement with TXU Electricity Ltd for the rearrangement of the existing electricity supply system.
  - c) Provide easements satisfactorily to TXU Electricity Ltd for the purpose of "Power Line" in the favour of "Electricity Corporation" pursuant to Section 44 and schedule 2 of the Electricity Industry Act 1993, where easements have not been otherwise provided, for all existing TXU Electricity Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
  - d) Adjust the position of any existing TXU Electricity Ltd easement to accord with the position of the electricity line(s) as determined by survey.
  - e) Provide to TXU Electricity Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
- 34 The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to TXU in accordance with Section 8 of that Act.

### COUNTRY FIRE AUTHORITY

- 35 Access
- a) The minimum width of the trafficable road must be six metres.
  - b) height clearance of four metres must be provided above all roads.
  - c) The design of all cul de sacs must allow for the safe turning of emergency vehicles, as approved by the CFA during the Certification of the Plan of Subdivision.
  - d) The road structures must be designed and constructed to a minimum load limit of 15 tonnes
  - e) The average grade should be no greater than 1 in 7 [14.1%], however a maximum of 1 in 5 [20%] may be allowed for a maximum of 50 metres.
  - f) Dips should have no more than 1 in 8 entry and exit angle.
  - g) Curves must allow for the safe movement of emergency vehicles.
- 36 A plan must be provided, identifying the above, with the request for Certification of the Plan of Subdivision (Note: this can be done in all stages.)
- 37 Water supply
- a) The water reticulation plans must be approved by the CFA
  - b) There must be a hydrant within 120 metres from the outer edge of all building envelopes and fire hydrants must be separated by no more than 200 metres apart to CFA's satisfaction.
  - c) Fire hydrants must be clearly identified in accordance with the Fire Service Guideline- "Identification of Street Hydrants for Fire Fighting Purposes." ISBN A17:99/00 published by CFA in 1999.

### ENVIRONMENT PROTECTION AUTHORITY

Advertised Plans 191012018



Date Issued 16/2/03  
 Planning and Environment Regulations 1987 Form 1.4

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*W. Bayart*  
 Authorised Officer

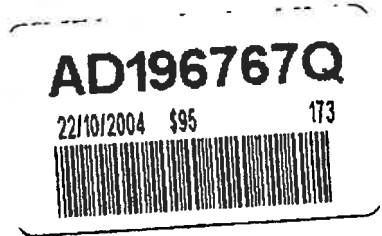
# BAW BAW SHIRE COUNCIL

## PLANNING PERMIT

Application No: 03153  
 Planning Scheme: Baw Baw  
 Responsible Authority: Baw Baw Shire Council

- 38 Construction and post construction works should be carried out in accordance with the following EPA Publications: Construction techniques for sediment pollution control (EPA Publication 275) Environmental Guidelines for Major Construction Sites (EPA publication 480).
- 39 Prior to the issue of a Statement of Compliance the developer must pay a bond of \$500 to Council for the forwarding to Council any certificate of title issued for any road or reserve in favour of the Council. Upon the issue of titles for the subdivision the developer must forward to the Council such certificates and on receipt of the relevant certificates the bond will be released.
- 40 Prior to the submission of a Plan of Subdivision for certification names for all new roads must be submitted to and approved in writing by the responsible authority with the approved names to be then applied on the Plan of Subdivision. Names must be in accordance with the Guidelines for Geographic Names to the satisfaction of the responsible authority.

Advertised Plans 1910/2018



Date Issued 16/12/03

Planning and Environment Regulations 1987 Form 4.4

Page 6 of 6

*[Signature]*  
 Authorized Officer

DATED

8<sup>th</sup> June

2004

BAW BAW SHIRE COUNCIL

AND

MOONEY MEATS PTY LTD

SECTION 173 AGREEMENT



Advertised Plans 1910712018

GRAY, FRIEND & LONG  
SOLICITORS  
70 QUEEN STREET  
WARRAGUL 3820

PHONE (03) 5623 1511  
FAX (03) 5623 4871

REF : IRB:JS:AF:30227



# Imaged Document Cover Sheet

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**Advertised Plans 1910712018**



AD196767Q

22/10/2004 \$95 173



Application by  
Responsible Authority,  
for the making of a record of an  
agreement  
Section 181(1) Planning and Environment Act 1987

Lodged by:  
Name: GRAY FRIEND & LONG  
Phone: (03) 5623 1511  
Address: 70 QUEEN STREET, WARRAGUL  
Ref: IRB:AF:30227  
Customer Code: 0893D

The authority or council having made an agreement requires a recording to be made in the Register for the land.

Land: Certificates of Title Volume 8402 Folio 838 and Volume 9148 Folio 677.

Authority or council: Baw Baw Shire Council, Civic Place, Warragul, 3820

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

A copy of the agreement is attached to this application.

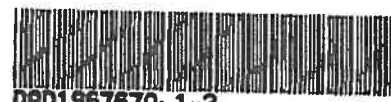
Date: 9 June 2004

Signed: *Peter Mangan*  
Baw Baw Shire Council

Full Name: **Peter Mangan**  
Director Corporate & Community Services  
Baw Baw Shire Council  
Signed pursuant to  
Delegation dated 2 August 2002

Advertised Plans 1910712018

*6-10-04*



DAD196767Q-1-2



THIS AGREEMENT made the 8<sup>th</sup> day of June 2004

BETWEEN: **BAW BAW SHIRE COUNCIL** of Civic Place, Warragul in the State of Victoria (hereinafter called "the Shire") and **MOONEY MEATS PTY LTD** of 48 Victoria Street, Warragul in the State of Victoria (hereinafter called "the Owner") pursuant to Section 173 of the Planning and Environment Act 1987.

WHEREAS:

- A. The owner is registered proprietor of all that piece of land situate 65 Binbeal Road, Drouin being more particularly described in Certificate of Title Volume 8402 Folio 838 and Volume 9148 Folio 677.
- B. The subject land is within the area to which the Baw Baw Planning Scheme now applies and for which the Shire is the responsible authority.
- C. The owner has applied for a Planning Permit to subdivide the land in accordance with PS524733H.
- D. The Shire has issued a Planning Permit No. 03153 a copy of which is annexed hereto which permits the subdivision on certain terms and conditions.
- E. Condition 4 of the Planning Permit provides that prior to the issue of the Statement of Compliance, the owner of the land must enter into an Agreement with the responsible authority pursuant to Section 173 of the Planning and Environment Act 1987. The cost of the preparation, lodgement and registration and any subsequent removal of the Agreement shall be borne totally by the owner of the land. Evidence of the registration of the agreement must be provided prior to the issue of the Statement of Compliance. The Agreement shall include the following details:-
  - (a) Without the further written consent of the Responsible Authority, no buildings shall be erected outside of the building envelopes on all lots within the plan of subdivision as depicted on the plans endorsed pursuant to Planning Permit 03153 as issued by the Baw Baw Shire Council.
  - (b) Access to lots 1, 12, 13 and 20 must be from the internal road and not Binbeal Road.

NOW IT IS AGREED :

- 1. The parties confirm the recitals to this agreement.
- 2. This agreement is made pursuant to Section 173 of the Planning and Environment Act 1987.
- 3. The Owner covenants that without the further written consent of the Responsible Authority, no buildings shall be erected outside of the building envelopes on all lots within the plan of subdivision as depicted on the plans endorsed pursuant to Planning Permit



Advertised Plans 1910712018

# BAW BAW SHIRE COUNCIL PLANNING PERMIT



Application No: 03153  
Planning Scheme: Baw Baw  
Responsible Authority: Baw Baw Shire Council

- 4 Prior to the issue of the Statement of Compliance, the owner of the land must enter into an Agreement with the responsible authority pursuant to Section 173 of the Planning and Environment Act 1987. The cost of the preparation, lodgement and registration and any subsequent removal of the Agreement shall be borne totally by the owner of the land. The Agreement must be registered on the certificate of the title for the land. Evidence of the registration of the agreement must be provided prior to the issue of the Statement of Compliance.

The Agreement shall include the following details:-

- a) Without the further written consent of the Responsible Authority, no buildings shall be erected outside of the building envelopes on all lots within the plan of subdivision as depicted on the plans endorsed pursuant to Planning Permit 03153 as issued by the Baw Baw Shire Council.
- b) Access to lots 1, 12, 13 and 20 must be from the internal road and not Binbeal Road.

- 5 Prior to the issue of the Statement of Compliance all sheetrock located on the land shall be removed to the satisfaction to the Responsible Authority. If the presence of asbestos is ascertained the material must be removed by a licenced Asbestos Removalist (as per the Dangerous Goods Asbestos Regulations 2003). Such waste must be transported for disposal via an EPA permitted vehicle using transport certificates, to an EPA licensed disposal facility.

- 6 Drainage easements to the approval of the responsible authority shall be created over all existing and proposed stormwater drains located within the subdivision prior to the certificate of compliance being issued.

- 7 Each lot created under the plan of subdivision shall be capable of discharging stormwater to a drainage system constructed in accordance with plans and specifications approved by the responsible authority.

- 8 All roads shall be constructed in accordance with plans and specifications approved by the responsible authority and shall include:
  - a) A sealed all-weather pavement;
  - b) Roll-over kerb and channel, and;
  - c) Underground drainage.
  - d) 1.2 metre wide concrete footpath along one side of the road on the same side as the street lighting

- 9 Street trees shall be provided within the nature strip of the road reserve at the developer's cost with the works to be undertaken by Councils on the basis of the payment of \$3 per lineal metre of road reserve created by the subdivision.

- 10 The developer shall arrange for the supply and installation of an 80 watt street light at the intersection of the subdivisional road and Binbeal Road, and at spacings not exceeding 100 meters along the subdivisional road.

- 11 The developer shall obtain a drainage easement over the abutting property to the south and construct an open earth drain or a higher standard drain with written permission of the responsible authority in the easement to enable stormwater runoff from the development to the discharged to a legal point of discharge identified by the Responsible Authority.

Advised Plans 10/12/2018



Date Issued 16/12/03

Planning and Environment Regulations 1987 Form 4.4

*[Signature]*  
Authorised Officer





DAD196767Q-3-9

03153 as issued by the Baw Baw Shire Council.

4. The Owner covenants that Access to lots 1, 12, 13 and 20 must be from the internal road and not Binbeal Road.
5. The Shire and the owner acknowledge and agree that the covenants entered by the owner in this agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the land specified and shall bind the owners, the owners successors, assignees and transferees, the registered proprietor or proprietors for the time of that land and every part thereof.
6. That the owner shall pay the Shire's costs of and incidental to the negotiation, preparation and lodgement of this agreement at the Titles Office on a solicitor/client basis.

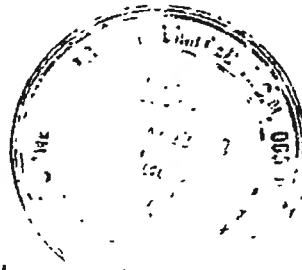
IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

THE COMMON SEAL OF THE MAYOR  
COUNCILLORS AND CITIZENS OF THE  
BAW BAW SHIRE COUNCIL was  
hereunto affixed in the presence of:-



..... Councillor  
*David Balfour*  
 ..... Councillor  
*Peter Morgan*  
 ..... Chief Executive Officer/Authorised Officer

THE COMMON SEAL MOONEY MEATS  
PTY LTD was affixed in the presence of the  
authorised person:-



.....  
 Sole Director and Sole Company Secretary  
 Full name ERNEST ANDREW MATKOVICH  
 Usual address 290 BRANDY CREEK ROAD,  
 WARRAGUL VIC

Approved Plans 1910712018

AD196767Q

22/10/2004 \$95 173



# BAW BAW SHIRE COUNCIL

## PLANNING PERMIT

Application No: 03153  
 Planning Scheme: Baw Baw  
 Responsible Authority: Baw Baw Shire Council

### APPLICANT

Mooney Meats  
 C/- Ross & Worth  
 P.O. Box 58  
 Warragul 3820



### ADDRESS OF THE LAND

CA 21, 22 & PT CA 23 & 23B Parish of Drouin West  
 65 Binbeal Road  
 Drouin 3818

### THE PERMIT ALLOWS:

23 Lot subdivision

### THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

- 1 The permit will expire if one of the following circumstances applies.
  - (a) The subdivision is not certified within two years of the date of this permit;
  - (b) Certificates of Title are not released by the Titles Office for the lots and reserves in the subdivision within five years of the date of certification.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.
- 2 The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.
- 3 Prior to the Plan of Subdivision being certified amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with those submitted with the application but modified to show:-
  - a) Proposed building envelopes for Lots 1, 12, 13 and 20 to be set back 10 metres from the Binbeal Road boundary and 5 metres from any other boundary.
  - b) Proposed building envelopes for all lots in the subdivision excluding Lots 1, 12, 13 and 20 to be amended to be setback 20 metres from the internal road and 5 metres from any other boundary

Advertised Plans 1910712018

**AD196767Q**

22/10/2004 \$95 173



Date Issued 16/12/03

Planning and Environment Regulations 1987 Form 4 4

*(Signature)*

Authorised Officer

# BAW BAW SHIRE COUNCIL

## PLANNING PERMIT

Application No: 03153  
 Planning Scheme: Baw Baw  
 Responsible Authority: Baw Baw Shire Council



- 4 Prior to the issue of the Statement of Compliance, the owner of the land must enter into an Agreement with the responsible authority pursuant to Section 173 of the Planning and Environment Act 1987. The cost of the preparation, lodgement and registration and any subsequent removal of the Agreement shall be borne totally by the owner of the land. The Agreement must be registered on the certificate of the title for the land. Evidence of the registration of the agreement must be provided prior to the issue of the Statement of Compliance.

The Agreement shall include the following details:-

- a) Without the further written consent of the Responsible Authority, no buildings shall be erected outside of the building envelopes on all lots within the plan of subdivision as depicted on the plans endorsed pursuant to Planning Permit 03153 as issued by the Baw Baw Shire Council.
  - b) Access to lots 1, 12, 13 and 20 must be from the internal road and not Binbeal Road.
- 5 Prior to the issue of the Statement of Compliance all shedding located on the land shall be removed to the satisfaction to the Responsible Authority. If the presence of asbestos is ascertained the material must be removed by a licenced Asbestos Removalist (as per the Dangerous Goods Asbestos Regulations 2003). Such waste must be transported for disposal via an EPA permitted vehicle using transport certificates, to an EPA licenced disposal facility.
- 6 Drainage easements to the approval of the responsible authority shall be created over all existing and proposed stormwater drains located within the subdivision prior to the certificate of compliance being issued.
- 7 Each lot created under the plan of subdivision shall be capable of discharging stormwater to a drainage system constructed in accordance with plans and specifications approved by the responsible authority.
- 8 All roads shall be constructed in accordance with plans and specifications approved by the responsible authority and shall include:
- a) A sealed all-weather pavement;
  - b) Roll-over kerb and channel, and;
  - c) Underground drainage.
  - d) 1.2 metre wide concrete footpath along one side of the road on the same side as the street lighting
- 9 Street trees shall be provided within the nature strip of the road reserve at the developer's cost with the works to be undertaken by Councils on the basis of the payment of \$3 per lineal metre of road reserve created by the subdivision.
- 10 The developer shall arrange for the supply and installation of an 80 watt street light at the intersection of the subdivisional road and Binbeal Road, and at spacings not exceeding 100 meters along the subdivisional road.
- 11 The developer shall obtain a drainage easement over the abutting property to the south and construct an open earth drain or a higher standard drain with written permission of the responsible authority in the easement to enable stormwater runoff from the development to be discharged to a legal point of discharge identified by the Responsible Authority.

Advised Plans 191012018



Date Issued 16/12/03  
 Planning and Environment Regulations 1987 Form 4.4

*[Signature]*  
 Authorised Officer

# BAW BAW SHIRE COUNCIL PLANNING PERMIT



Application No: 03153  
Planning Scheme: Baw Baw  
Responsible Authority: Baw Baw Shire Council

DAD1967670-6-3

- 12 Sewage, sullage and other liquid wastes to arise from the development shall be treated and retained on site by a septic tank system in accordance with the requirements of the Environment Protection Act 1970, the current edition of EPA's Septic Tanks Code of Practice and the Baw Baw Shire Council.
  - 13 The septic tank system used on Lots 5, 6 and 7 shall be capable of treating all effluent to a standard of 20 mg/l Biochemical Oxygen Demand and 30 mg/l Suspended Solids unless otherwise approved by Council.
  - 14 Prior to the issue of the Statement of Compliance cut off drains, a minimum of 800mm deep, are to be installed above the subdivision as recommended in the Land Capability Assessment Report dated August 2003.
  - 15 Appropriate measures shall be taken to ensure that all stormwater from the Binbeal Road roadside drain is to be diverted away from the Septic Tank effluent disposal fields.
  - 16 Prior to the Statement of Compliance the existing dam on the site is to be effectively drained and filled, and left in a condition satisfactory to engineering standards.
  - 17 The permit holder shall make a 5 percent public open space contribution to the satisfaction of the Responsible Authority.
  - 18 Any prospective purchaser of lots 5, 6 and 7 must, prior to a contract to purchase that lot being entered into, be provided with a copy of the Land Capability Assessment undertaken for the land indicating any higher level of treatment required for waste water disposal that may be necessary in association with a dwelling on the land.
- GIPPSLAND WATER**
- 19 Prior to the statement of compliance the landowner must pay to the Central Gippsland Region Water Authority contributions for Headwork charges for the change in development of the land. These charges are based on the Authority's current rates and reflect the additional loading placed on the water reticulation system in this development.
  - 20 Prior to the statement of compliance the landowner must apply to the Central Gippsland Region Water Authority for details of the conditions required for the provision of water services to the development.
  - 21 Ensure that the owner of the land enters into a formal agreement with the central Gippsland Region Water Authority, under the Authority's Land Development system, for the complete construction of works necessary for the provision of water supply to all lots in the subdivision.
  - 22 Prior to the statement of compliance the landowner must pay to the Central Gippsland Region Water Authority any fees and contributions and satisfy all conditions pertaining to the aforementioned agreement.
  - 23 Prior to the statement of compliance the landowner must install separate water services to the satisfaction of the Central Gippsland Region Water Authority.

ADVERTISED PLANS 1910712018



Date Issued

16/12/03

*[Signature]*  
Authorised Officer



# BAW BAW SHIRE COUNCIL

## PLANNING PERMIT

Application No: 03153  
Planning Scheme: Baw Baw  
Responsible Authority: Baw Baw Shire Council



- 24 Prior to the statement of compliance, as constructed details showing the location of the installed services are required to be submitted to the Authority.
- 25 Prior to the statement of compliance the landowner must carry out works necessary to ensure all existing water services supplying the land are contained within the boundary of the individual lots, to the satisfaction of the Central Gippsland Region Water Authority.
- 26 Any plan of subdivision of the subject land lodged for certification shall be referred to the Central Gippsland Region Water Authority under Section 8(1) of the Subdivision Act 1988.

Please note: Reticulated sewer may be made available at the owners cost and therefore the owner will need to contact a Gippsland Water Accredited Design Consultant.

### MELBOURNE WATER

- 27 Prior to the issue of a Statement of Compliance, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation under Section 269A of the Melbourne and Metropolitan Board of Works Act 1958, for the provisions of drainage works and the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage system.
- 28 Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or water courses.
- 29 Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

NOTE: If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Tania Wallace-Smith on telephone 9235 2210, quoting Melbourne Water's reference 91974.

### TELSTRA

- 30 That the applicant enter into an agreement with the Telstra or licensed telecommunication carrier for the satisfactory provision of telephone cable reticulation one (1) metre into each allotment created
- 31 The plan of subdivision submitted for certification be referred to Telstra or other licensed telecommunications carrier, whichever is appropriate, in accordance with Section 8 of the Subdivision Act 1988.

NOTE: If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Tania Wallace-Smith on telephone 9235 2210, quoting Melbourne Water's reference 91974.

- 32 Set aside on the plan on subdivision, reserve/s satisfactory to Telstra, for Telecommunications substation/s if required.

TXU

Advertised Plans 1910712018



Date Issued 16/12/03

*(Signature)*  
Authorised Officer

# BAW BAW SHIRE COUNCIL

## PLANNING

## PERMIT

Application No: 03153  
 Planning Scheme: Baw Baw  
 Responsible Authority: Baw Baw Shire Council

- 33 The applicant must-
- a) Enter into an agreement with TXU Electricity Ltd for supply of electricity to each lot of the endorsed plan.
  - b) Enter into an agreement with TXU Electricity Ltd for the rearrangement of the existing electricity supply system.
  - c) Provide easements satisfactorily to TXU Electricity Ltd for the purpose of "Power Line" in the favour of "Electricity Corporation" pursuant to Section 44 and schedule 2 of the Electricity Industry Act 1993, where easements have not been otherwise provided, for all existing TXU Electricity Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
  - d) Adjust the position of any existing TXU Electricity Ltd easement to accord with the position of the electricity line(s) as determined by survey.
  - e) Provide to TXU Electricity Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
- 34 The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to TXU in accordance with Section 8 of that Act.

### COUNTRY FIRE AUTHORITY

- 35 Access
- a) The minimum width of the trafficable road must be six metres.
  - b) height clearance of four metres must be provided above all roads.
  - c) The design of all cul de sacs must allow for the safe turning of emergency vehicles, as approved by the CFA during the Certification of the Plan of Subdivision.
  - d) The road structures must be designed and constructed to a minimum load limit of 15 tonnes
  - e) The average grade should be no greater than 1 in 7 [14.1%], however a maximum of 1 in 5 [20%] may be allowed for a maximum of 50 metres.
  - f) Dips should have no more than 1 in 8 entry and exit angle.
  - g) Curves must allow for the safe movement of emergency vehicles.
- 36 A plan must be provided, identifying the above, with the request for Certification of the Plan of Subdivision (Note: this can be done in all stages.)
- 37 Water supply
- a) The water reticulation plans must be approved by the CFA
  - b) There must be a hydrant within 120 metres from the outer edge of all building envelopes and fire hydrants must be separated by no more than 200 metres apart to CFA's satisfaction.
  - c) Fire hydrants must be clearly identified in accordance with the Fire Service Guideline- "Identification of Street Hydrants for Fire Fighting Purposes." ISBN A17:99/00 published by CFA in 1999.

### ENVIRONMENT PROTECTION AUTHORITY



Date Issued 16/2/03

Planning and Environment Regulations 1987 Form 4.4

Page 5 of 6

*W. Bryant*  
 Authorised Officer

Advertised Plans 19/01/2018

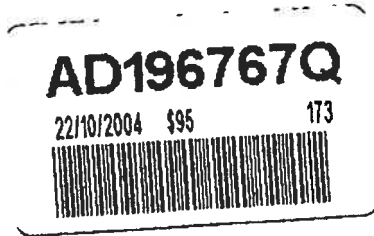
# BAW BAW SHIRE COUNCIL

## PLANNING PERMIT

Application No: 03153  
 Planning Scheme: Baw Baw  
 Responsible Authority: Baw Baw Shire Council

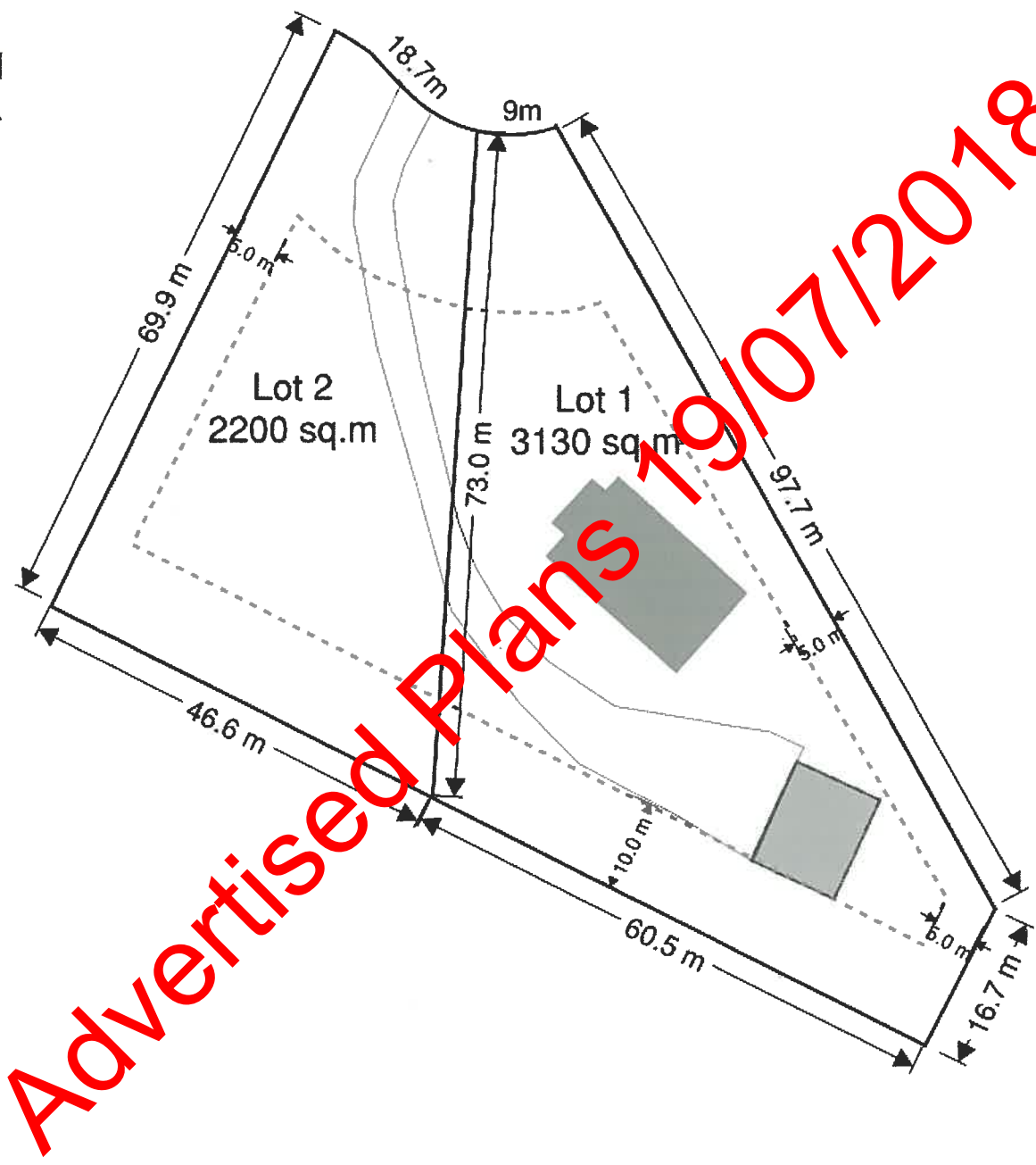
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Advertised Plans 19/01/2018



Date Issued 16/12/03.  
 Planning and Environment Regulations 1987 Form 4.4

*[Signature]*  
 Authorized Officer



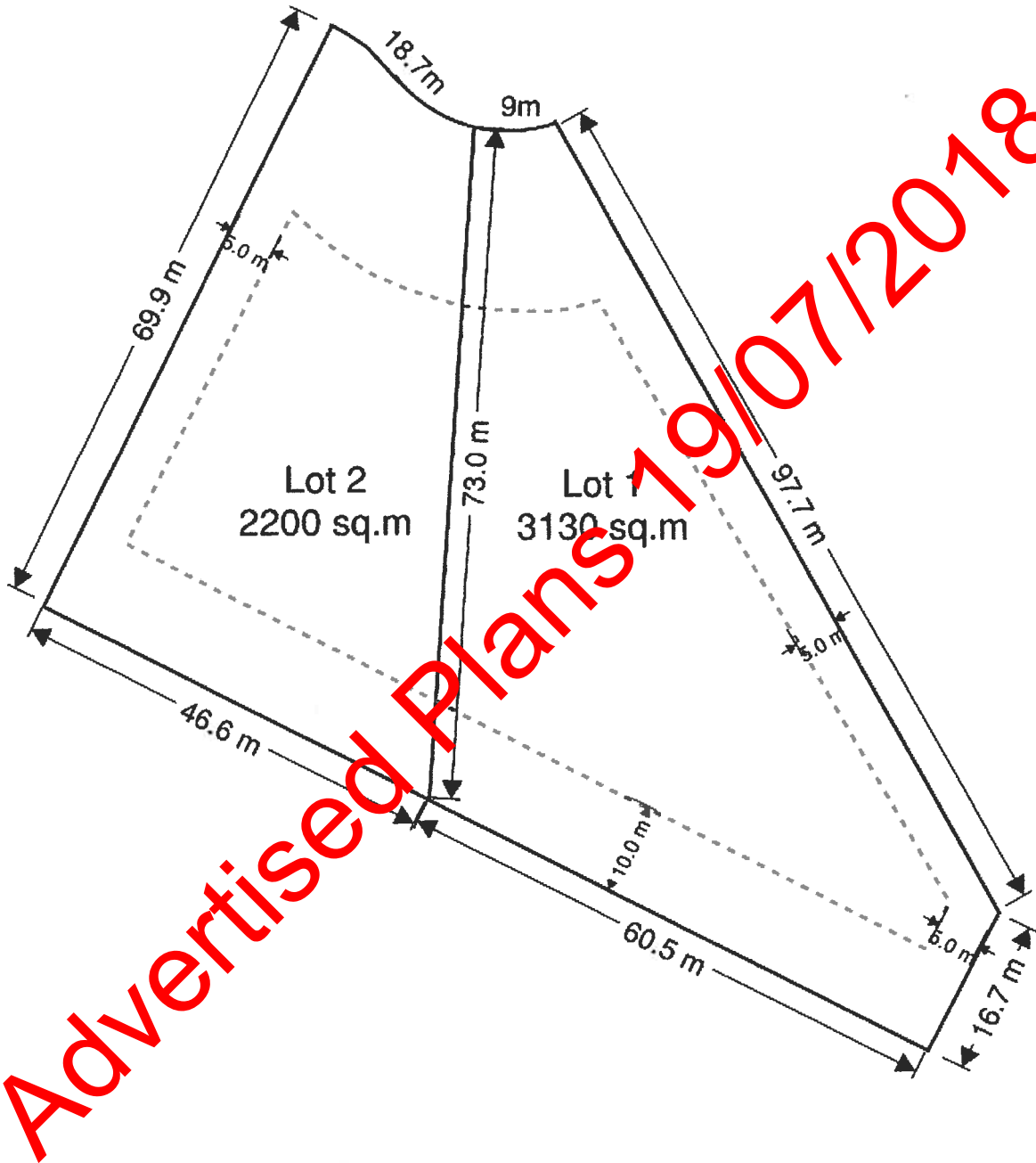
**Drawing Title:** Proposed Subdivision with Features

**Scale:** As shown

**Address:** 20 Kamanari Court, Drouin

**Date:** 26 / 4 / 18





**Drawing Title:** Proposed Subdivision  
**Address:** 20 Kamanari Court, Drouin

**Scale:** As shown  
**Date:** 26 / 4 / 18

# BAW BAW SHIRE COUNCIL

## PLANNING PERMIT

Application No: 03153  
 Planning Scheme: Baw Baw  
 Responsible Authority: Baw Baw Shire Council

### APPLICANT

Mooney Meats  
 C/- Ross & Worth  
 P.O. Box 58  
 Warragul 3820



### ADDRESS OF THE LAND

CA 21, 22 & PT CA 23 & 23B Parish of Drouin West  
 65 Binbeal Road  
 Drouin 3818

### THE PERMIT ALLOWS:

23 Lot subdivision

### THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

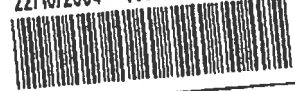
- 1 The permit will expire if one of the following circumstances applies.
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  - (b) Certificates of Title are not released by the Titles Office for the lots and reserves in the subdivision within five years of the date of certification.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.
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  - a) Proposed building envelopes for Lots 1, 12, 13 and 20 to be set back 10 metres from the Binbeal Road boundary and 5 metres from any other boundary.
  - b) Proposed building envelopes for all lots in the subdivision excluding Lots 1, 12, 13 and 20 to be amended to be setback 20 metres from the internal road and 5 metres from any other boundary

Advertised Plans 19/07/2018

**AD196767Q**

22/10/2004 \$95 173



Date Issued 16/2/03

Planning and Environment Regulations 1987 Form 4.4

*W. Boyer*

Authorised Officer

THIS AGREEMENT made the 8<sup>th</sup> day of June 2004  
BETWEEN: **BAW BAW SHIRE COUNCIL** of Civic Place, Warragul in the State of Victoria  
(hereinafter called "the Shire") and **MOONEY MEATS PTY LTD** of 48 Victoria Street, Warragul  
in the State of Victoria (hereinafter called "the Owner") pursuant to Section 173 of the Planning  
and Environment Act 1987.

WHEREAS:

- A. The owner is registered proprietor of all that piece of land situate 65 Binbeal Road, Drouin being more particularly described in Certificate of Title Volume 8402 Folio 838 and Volume 9148 Folio 677.
- B. The subject land is within the area to which the Baw Baw Planning Scheme now applies and for which the Shire is the responsible authority.
- C. The owner has applied for a Planning Permit to subdivide the land in accordance with PS524733H.
- D. The Shire has issued a Planning Permit No. 03153 a copy of which is annexed hereto which permits the subdivision on certain terms and conditions.
- E. Condition 4 of the Planning Permit provides that prior to the issue of the Statement of Compliance, the owner of the land must enter into an Agreement with the responsible authority pursuant to Section 173 of the Planning and Environment Act 1987. The cost of the preparation, lodgement and registration and any subsequent removal of the Agreement shall be borne totally by the owner of the land. Evidence of the registration of the agreement must be provided prior to the issue of the Statement of Compliance. The Agreement shall include the following details:-
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- (b) Access to lots 1, 12, 13 and 20 must be from the internal road and not Binbeal Road.

NOW IT IS AGREED:

1. The parties confirm the recitals to this agreement.
2. This agreement is made pursuant to Section 173 of the Planning and Environment Act 1987.
3. The Owner covenants that without the further written consent of the Responsible Authority, no buildings shall be erected outside of the building envelopes on all lots within the plan of subdivision as depicted on the plans endorsed pursuant to Planning Permit



DAD1967670-2-1



## Planning Application Report

**Advertised Plans 19/07/2018**

**Address:** 20 Kamanari Court, Drouin  
**Title Details** Lot 2, PS601949E  
**Proposal:** Variation to Covenant and Two Lot Subdivision of Land  
**Responsible Authority** Baw Baw Shire Council

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## 1. Introduction

Planning Logic has been engaged by Ms Paula Kruijer to obtain planning approval for a variation of covenant in instrument PS601949E and AE931006P; and the subdivision of land into two lots. The land is described as 20 Kamanari Court, Drouin being Lot 2 on PS601949E.

A review of the Baw Baw Planning Scheme provisions and a detailed inspection of the application site and surrounding area have been conducted in order to prepare the following report.

Our written assessment demonstrates that:

- The proposal meets the objectives of the State and Local Planning Policy, including the Municipal Strategic Statement;
- The proposal meets the purpose and decision guidelines for the Low Density Residential Zone and Development Contribution Plan Overlay;
- The subdivision and variation to the covenant will provide additional choice and diversity in lot size in an established area within close proximity to Drouin township;
- The variation of the covenant is unlikely to cause detriment to adjoining owners to the north who are deemed to benefit from the restriction; and
- The subdivision is considerate of the site being in a transitional area between Low Density Residential and General Residential Zonings.

It is submitted that the proposal appropriately responds to the constraints and opportunities of the site and the surrounding residential context and on this basis should be supported.

## 2. Land and Locality

The subject land is irregular in shape with a frontage of 20.6 metres to Kamanari Court and a depth which ranges from approximately 70 metres to 98 metres. The land features a gentle slope from the north down towards the south.

Improvements to the lot include a single storey brick veneer dwelling, a Colorbond barn as well as fencing. Access to the site exists via a curved gravel driveway from Kamanari Court which is a sealed road with kerb and channelling.



Photo 1 – Subject site view from Kamanari Court



Photo 2 – View east across site to dwelling and barn



Photo 3 – View towards undeveloped area to south



Photo 4 – View towards recreation reserve and adjoining properties to west.



Photo 5 - View of adjoining property to north



Photo 6 View of residential area to south west

Affecting the land is a restrictive covenant PS601949E. This covenant benefits two land owners as identified as Lot 1 and Lot 2 PS601949E. The Covenant requires that the registered proprietor or proprietors:

- "No building is to be constructed outside the building envelope shown hereon unless the written consent of the Baw Baw Shire and Gippsland Water is obtained.
- No building containing a waste water facility is to be constructed within the section of building envelope shown crossed hatched on Lot 2 unless the written consent of Gippsland Water is obtained.

The surrounding land is used primarily for residential purposes. To the north, south west and west the properties contain dwellings on large allotments ranging between 0.4 and 0.7 hectare in area.

The area to the east contains a higher density of residential development with new dwellings being constructed on lots of approximately between 500 and 950 square metres in area.

The land to the south east is currently vacant and low-lying. This is also zoned General Residential and as such will be developed to a similar density to the land to the east of the subject lot.

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The subject land is also located only 2 kilometres from the Drouin township which features retail services, education facilities and public parks and the Drouin Train Station. The Princes Freeway is also easily accessible from this area and provides a direct link to Melbourne and Gippsland.

### 3. Proposal

The proposal involves the subdivision of land into two allotments.

It is proposed that Lot 1 will be approximately 3130 square metres in area, with boundary lengths consisting of a:

- Width of 4 metres along the northern boundary and property frontage;
- Depth of 97.7 metres along the eastern boundary;
- Depth of 73 metres along the western boundary; and
- Width of 60.5 metres along the southern (rear) boundary.

It is intended that Lot 1 will retain the existing dwelling and barn. Access to the allotment will be via a new access way from Kamanari Court.

The proposed Lot 2 will be approximately 2200 square metres in area, with boundary lengths consisting of a:

- Width of 18.7 metre along the northern boundary and frontage to Kamanari Court;
- Depth along western boundary of 69.9 metres;
- Width of 46.6 metres along southern boundary; and
- Depth along eastern boundary of 73 metres.



Access will be via the existing accessway from Kamanari Court.

The proposal involves the variation of Restrictive Covenant PS601949E to increase the area available for a dwelling to be constructed on the proposed Lot 2 though the removal of the cross hatched section which prevents a building containing a waste water facility from being constructed over this section. This restriction requires removal in order for a dwelling to be constructed on the proposed Lot 2 if the subdivision is approved. A variation is sought as opposed to the removal, as the owner has no concerns with the requirement regarding the principle of the building envelope being retained.

#### 4. **Planning Scheme Provisions**

An assessment of the proposed subdivision has been undertaken against the following sections of the Baw Baw Planning Scheme and associated policies, which are relevant to the consideration of this proposal.

##### 4.1 **State Planning Policy Framework**

Clause 11 in relation to 'Settlement' is relevant to this application as it sets the framework for new urban development to be considered stating that 'Planning is to recognise the need for, and as far as practicable contribute towards:

- Diversity of choice;
- A high standard of urban design and amenity;
- Energy efficiency;
- Protection of environmentally sensitive areas and natural resources;
- Accessibility; and
- Land use and transport integration.'

It also recognises that "Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities'.

The proposed subdivision is considered to be consistent with Clause 11 of the State Planning Policy Framework as it is creating an additional urban allotment in an established area within close proximity of the township of Drouin and ancillary services. The allotment is of a size where future development will be able to achieve an orientation of living areas to the north and can be sited without compromising the orientation of the existing dwelling.

Clause 15.01-3 in relation to Neighbourhood and subdivision design seeks 'To ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods'.

Strategies listed to achieve this include:

- 'Contributing to an urban structure where networks of neighbourhoods are clustered to support larger activity centres on the regional public transport network;
- Creating compact neighbourhoods that have walkable distances between activities and where neighbourhood centres provide access to service and facilities to meet day to day needs;

- *Providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people; and*
- *Creating a strong sense of place because neighbourhood development emphasises existing cultural heritage values, well designed and attractive built form, and landscape character.'*

The proposed Lot 2 is of a size which can lend itself to diverse architectural styles and built form, consistent with other developments within the area. The proposed Lot 2 will have frontage to Kamanari Court which will allow the allotment to have a sense of identity through an 18.7 metre frontage to the road.

The proposed subdivision is planned for an area which is only approximately 1.5 kilometres from the Drouin Township. As such both allotments are within close proximity to shops, commercial services, education facilities, medical facilities, public transport and road infrastructure.

These features are also consistent with Clause 16 which pertains to 'Housing' and advocates for planning to provide for diversity in housing and provide for opportunities for new housing within close proximity to activity centres, infrastructure and services. Within Clause 16.01, it also identifies as a strategy that housing supply should be increased in existing urban areas in existing urban areas by facilitating increased housing yield 'in appropriate locations, including under-utilised urban land'. Further to this Clause 16.04-1 identifies the following strategies to facilitate in achieving housing diversity.

- *'Ensure housing stock matches changing demand by widening housing choice, particularly in the middle and outer suburbs; and*
- *Support opportunities for a wide range of income groups to choose housing in well serviced locations'.*

#### 4.2 Local Planning Policy Framework

The Shire of Baw Baw is demographically defined by an aging population. The majority of the 42,864 population reside across the six the largest towns, of which Drouin is one. The municipality is identified as having strong links to both Melbourne and Gippsland being 'well positioned to regional transport and infrastructure links'. (Clause 21.01)

Clause 21.02 outlines the Municipal Vision which seeks to create 'thriving villages' and 'vibrant community living'.

The vision also identifies a number of directions which the Shire will be taking to achieve its vision. One of these is managing growth which seeks to ensure that the integrity of the land is not undermined through unplanned urban and residential encroachment.

The proposed subdivision is located within an existing residential area which is within close proximity to existing services and facilities. The proposal provides a considered infill opportunity to cater for the Shire's growing population and will contribute to the protection of land not suitable for residential development though providing for a higher lot yield.

This is consistent with these Clauses.

Clause 21.03 in relation to Settlement recognises that Municipality features a range of environment types. It also notes that settlement is predominantly centred on the

largest towns being Warragul and Drouin and that population increases will be largely accommodated within these areas.

It recognises that by supporting residential development within areas such as Drouin, the following should be achieved:

- *'Maximise use of infrastructure;*
- *Lessen conflict in agricultural areas between agricultural and non agricultural land uses;*
- *Maximise the efficient use of community services and facilities; and*
- *Ensure the viability of local business and shopping areas'.*

It also states that *'priority for urban expansion should be given to consolidation of development in areas which are currently in an urban zone and provided with the required service infrastructure'.*

Clause 21.03-3 identifies Drouin as a being able to *'develop as [a] sustainable high growth settlement'.*

There are a number of objectives and strategies which have been identified to guide settlement growth. Those relevant to this application are as follows:

*'Objective 1 – Build a close-knit community which appreciates the unique country town character of the settlements in the Shire.'*

#### Strategies

- 1.1 *Guide population and development to settlements where land has already been zoned or committed (i.e. within a planning framework) for residential purposes and has ready access to existing infrastructure and services.*
- 1.2 *Achieve population growth and development in a manner that respects the distinctive character-defining attributes of the respective settlements.*
- 1.3 *Encourage housing design solutions that provide a diversity of dwelling types that is responsive to emerging demographic trends and associated lifestyle needs.*
- 1.4 *Respect the existing rural village character of smaller towns while providing for infill development.'*

Clause 21.04-1 in relation to *'Main Towns'* provides direction in relation to the development of the municipalities six largest towns. Clause 21.04-4 in relation to Drouin recognises that the township is *'sub-regional centre providing for residential, commercial and industrial development, and provides educational, recreational and cultural facilities'.* It also notes that the town provides for long term supply of land in a secondary role to Warragul.

In relation to residential land use, the Clause states *'Any further residential rezoning of land within the growth areas will be subject to Precinct Structure Plans providing integrated neighbourhoods and clarity on infrastructure provision.'*

The subject land is situated to the east of the area which has been identified as being potentially developed for residential purposes. As such the site is considered to be an infill site which is not limited by the absence of a PSP. The property also meets the objectives associated with utilising existing infrastructure and making efficient use of community services and facilities.

## 5. Planning Controls

### 5.1 Planning and Environment Act 1987

Pursuant to Section 60(5) of the Planning and Environment Act 1987, a planning permit is required for the variation or removal of a restrictive covenant created prior to 25 June 1991.

### 5.2 Zoning Provisions

The subject property is zoned Low Density Residential under the Baw Baw Planning Scheme.

The purpose of the Low Density Residential Zone is:

- *'To implement the State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies; and*
- *To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.'*

Pursuant to Clause 32.03-3, a planning permit is required to subdivide land. In addition, this clause specifies that:

*'Each lot must be at least the area specified in a schedule to this zone. Any area specified area must be at least:*

- *0.4 hectare for each lot where reticulated sewerage is not connected. If no area is specified, each lot must be at least 0.4 hectare.*
- *0.2 hectare for each lot with connected reticulated sewerage. If no area is specified, each lot must be at least 0.4 hectare.'*

The subject lot is serviced by reticulated sewerage and thus 0.2 hectare allotments can be considered.

### 5.3 Overlay Provisions

The land is also covered by a Development Contribution Plan Overlay.

The purpose of the Development Contributions Plan Overlay is:

- *'To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies; and*
- *To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.'*

Clause 45.06-1 states that *'A permit must not be granted to subdivide land, construct a building or construct or carry out works until a development contributions plan has been incorporated into this scheme. This does not apply to the construction of a*

*building, the construction or carrying out of works or a subdivision specifically excluded by a schedule to this overlay. A permit granted must:*

- *Be consistent with the provisions of the relevant development contributions plan.*
- *Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay.'*

#### **5.4 Particular Provisions**

##### **Clause 52.02 - Easements, Restrictions and Reserves**

The purpose of Clause 52.20 is *'To enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.'*

A planning permit is required Under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction

#### **6. Cultural Heritage Assessment**

The proposed subdivision has been assessed to determine whether a cultural heritage management plan is required. Pursuant to the Cultural Heritage Act 2006 and the Cultural Heritage Regulations 2007 the proposed subdivision does not warrant the need for a plan.

#### **7. Planning Considerations**

##### **7.1 State and Local Planning Policy Framework**

Both the State Planning Policy Framework and Local Planning Policy Framework stress the importance of creating a variety of housing opportunities within areas which are appropriately serviced by the required infrastructure and which are in close proximity of activity centres. The subject land is currently a very large allotment for that which is typically found within a Low Density Residential Zone being more than double the minimum land size. It is considered that the proposed subdivision is consistent with the State Planning Policy Framework and Local Planning Policy Framework as it facilitates the achievement of planning objectives as the land is located within a desirable and well established area of Drouin which has the benefit of being within close proximity of:

- Retail services of Drouin village;
- Education facilities, including childcare centres, primary and secondary schools;
- Medical services;
- Public Open Space;
- Public transport; and
- Access to the Princes Freeway.

Clauses 16 and 21.05 also identify the opportunity to consider a higher level of infill development within established residential areas including rural residential areas in appropriate locations. The abovementioned services highlight that this area is one which the Responsible Authority could reasonably consider obtaining a greater housing yield.

The configuration of the subdivision will also allow adequate area for a well designed dwelling to be constructed on the vacant allotment consistent with the existing character of the area. The deliberate intent to provide adequate frontage for both allotments to Kamanari Court widen will give the new allotment a sense of identity, while ensuring that the existing dwelling does not become detached from the streetscape. This approach is consistent with Clause 15.01-3 of the Baw Baw Planning Scheme.

## **7.2 Purpose of Low Density Residential Zone**

In addition to contributing to the implementation of the State Planning Policy Framework and Local Planning Policy Framework which have previously been discussed, the Low Density Residential Zone seeks to provide for larger allotments which have the capacity to treat and retain all wastewater in the absence of reticulated sewerage.

The proposed subdivision does not compromise this intent as it creates two allotments which have the ability to access the reticulated waste water system.

## **7.3 Low Density Residential Zone Decision Guidelines**

Clause 32.03-3 of the Low Density Residential Zone outlines a number of decision guidelines which need to be considered when assessing a proposal for subdivision within this zone. An assessment of the proposed subdivision has been made in accordance to each of the respective guidelines.

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

The proposed subdivision is consistent with the State Planning Policy Framework and Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies. This has been discussed in Sections 4.1, 4.2 and 7.1.

### ***The protection and enhancement of the natural environment and character of the area including retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.***

There is not native vegetation on the lot. The subject property features a combination of ornamental gardens and linear plantings. The proposed subdivision will not significantly alter the retention of these features.

### ***The availability and provision of utility services, including sewage, water, drainage, electricity, gas and telecommunications.***

The subject site is located within an area which has existing access to water, drainage, electricity, telecommunications and reticulated waste water.

### ***In the absence of reticulated sewage:***



- ***The capability of the lot to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.***

Both allotments have the ability to connect to reticulated waste water system.

- ***The benefits of restricting the size of lots to the minimum required to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria).***

Both allotments have the ability to connect to reticulated waste water system as such a minimum lot size of 2000 square metres can be considered.

- ***The benefits of restricting the size of lots to generally no more than 2 hectares to enable lots to be efficiently maintained without the need for agricultural techniques and equipment.***

The proposed subdivision will provide for the creation of two allotments which exceed the minimum size for the Low Density Residential Zone, however are considered small enough to enable them to be maintained with a standard lawn mower or ride on mower.

***The relevant standards of Clauses 56.07-1 to 56.07-4***

- ***Clause 56.07-1 - Drinking water supply objectives***

The subject land is serviced by reticulated water. The land is large enough to incorporate water tanks on the site to collect and store rainwater for other uses.

- ***Clause 56.07-2 - Reused and recycled water objective***

Due to the land size there is the opportunity available for a future land owner of Lot 2 to establish systems which enable water reuse.

- ***Clause 56.07-3 - Waste water management objective***

Both lots are of a size whereby waste water subject to the appropriate system will be able to be contained and treated within the site or disposed of via existing infrastructure.

- ***56.07-3 - Urban run-off management objectives***

Urban runoff will be disposed of in accordance with Council requirements.

**4 Variation to Restrictive Covenant**

The original purpose of the Low Density Residential Zone was to seek to provide sufficient area for dwellings to be constructed on lots which are not serviced by reticulated sewage and allows for a minimum subdivision area of 0.4 hectare.

The application of a restrictive covenant to the land potentially sought to govern the desired character for the area though the application of the building envelope and managed waste water area.

The ability to access and connect to reticulated sewerage provides scope for the Low Density Residential area to be further consolidated. While it is recognised that the restriction has had a role in ensuring that certain principles were achieved and maintained in the development of the allotment, the circumstances have changed and as such, it is appropriate to consider the variation.

The application seeks the removal of the area which restricts the development of a building which contains a waste water facility on the basis that waste water can now be disposed of via the reticulated system. The application also seeks a slight modification to the area covered by the building envelope to allow for the construction of an additional dwelling. Hence the integrity of the covenant is, to some extent maintained.

#### 7.5 **Clause 65.02 – Decision Guidelines**

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

##### ***The suitability of the land for subdivision.***

The subject land is considered suitable for subdivision. It is located within an established area which is serviced by power, water, telephone, sewerage and has accessed via a sealed road. The allotment can also accommodate the creation of two lots which meet the minimum size as specified under clause 32.03.

##### ***The existing use and possible future development of the land and nearby land.***

The subject land and that which is adjoining is utilised for residential purposes. It is anticipated that this use and associated development will continue in the future.

##### ***The availability of subdivided land in the locality, and the need for the creation of further lots.***

The subject land is positioned within an established area of Drouin. As such, vacant land of this size is not readily available for development. This area is also highly sought after due to its close proximity to the township and ancillary services, schools, public transport and Princes Freeway.

##### ***The effect of development on the use or development of other land which has a common means of drainage.***

The proposed subdivision is unlikely to compromise drainage in the area as it does not seek to vary any existing open drains or overland flow courses.

##### ***The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.***

The subdivision pattern in the area is quite diverse due to the interface with of the land with both the Low Density Residential Zone and General Residential Zone. As such there are larger allotments of between approximately 4000 square metre and 7000 square metres as well as smaller allotments of 500 to 950 square metres. The proposed subdivision will provide another level of diversity with land size which is positioned between the two sizes typically found in this area. The layout is also consideration of the natural attributes of the site such as vegetation and topography as has been discussed previously.



***The density of the proposed development.***

The proposed subdivision will increase the density of development in the area but not at the expense of the spacious character of the area or the intent of the Low Density Residential Zone. The pattern of subdivision in the area shows an emerging trend towards a mix of rectangular style allotments.

***The area and dimensions of each lot in the subdivision.***

The area and configuration of the allotments within the subdivision is reflective of others in the area. There has been a trend to reduce the size of the allotments to a size which is manageable while still providing a sense of spaciousness.

***The layout of roads having regard to their function and relationship to existing roads.***

The proposed subdivision does not create an additional road.

***The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.***

The configuration of the proposed allotments will provide for easy access to Kamanari Court by both vehicles and pedestrians.

**8 Conclusion**

The proposed subdivision of land into two lots is consistent with the State Planning Policy Framework, Local Planning Policy Framework, provisions of the Low Density Residential Zone and Development Contributions Plan Overlay and Decision Guidelines as contained within Clause 65 of the Baw Baw Planning Scheme.

The proposed subdivision does not compromise the intent of restrictive covenant by virtue that each title will retain a large sense of space and will only accommodate a single dwelling without further approval.

In summary, the proposal supports the continued and appropriate increase in lot yield within an established and well serviced area of the municipality. It is on this basis, that it is submitted that the application merits Council support and planning approval.

Advertised Plans 1910712018

Planning Application for the two lot subdivision of land and variation to covenant at 20 Kamanari Court, Drouin.

April 2018

Report prepared by Planning Logic on behalf of Paula Kruijer

#### Version Control

| Version | Date          | Comments     |
|---------|---------------|--------------|
| 1       | 8 April 2018  | Draft Report |
| 2       | 28 April 2018 | Final Report |

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For more information please contact:

**Planning Logic Vic Pty Ltd**  
ABN: 83103809257  
PO Box 324  
Beaconsfield VIC 3807  
Phone: 0455 888 151 [www.planninglogic.com.au](http://www.planninglogic.com.au)