



Application for Planning Permit for a Subdivision

Supplied by

Submitted Date

26/03/2025

Application Details

Application Type

Planning Permit for a Subdivision

Version 1

Applicant Reference Number

2403246

Responsible Authority Name

Baw Baw Shire Council

Responsible Authority Reference Number(s)

(Not Supplied)

SPEAR Reference Number

S246469B

Application Status

Submitted

Planning Permit Issue Date

NA

Planning Permit Expiry Date

NA

The Land

Primary Parcel

12 SHEEHAN ROAD, YARRAGON VIC 3823

Lot 1/Plan TP125180

SPI 1\TP125180

CPN 7938

Zone: 35.07 Farming

Overlay: 44.06 Bushfire
Management

45.06 Development
Plan Contributions

Parcel 2

445 YARRAGON-SHADY CREEK ROAD,

YARRAGON VIC 3823

Lot 1/Plan PS718788

SPI 1\PS718788

CPN 8267

Zone: 35.07 Farming

Overlay: 44.06 Bushfire
Management

45.06 Development
Plan Contributions

The Proposal

Plan Number

(Not Supplied)

Number of lots

2

Proposal Description

Two lot resubdivision

Estimated cost of the development for which a permit is required \$ 0

Existing Conditions

Existing Conditions Description

Two parcels of agricultural land each containing a dwelling and shedding

Title Information - Does the proposal breach an encumbrance on Title?

The proposal does not breach an encumbrance on title, such as a restrictive covenant, section 173 agreement or other obligation such as an

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Applicant Contact

Applicant Contact

Beveridge Williams & Co Pty Ltd - Warragul

Applicant

Applicant 1

Applicant 2

Owner

Owner 1

(Owner details as per Applicant 1)

Owner 2

(Owner details as per Applicant 2)

Declaration

I, _____ declare that the owner (if not myself) has been notified about this application.

I, _____, declare that all the information supplied is true.

Authorised by

Organisation

Beveridge Williams & Co Pty Ltd - Warragul

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

Page 1 of 1

VOLUME 11485 FOLIO 924

Security no : 124122246765K
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LAND DESCRIPTION

Lot 1 on Plan of Subdivision 718788A.

PARENT TITLES :

Volume 06724 Folio 783 Volume 10567 Folio 326

Created by instrument PS718788A 07/04/2014

REGISTERED PROPRIETOR

Estate Fee Simple

ENCUMBRANCES, CAVEATS AND NOTICES

DIAGRAM LOCATION

SEE PS718788A 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: 445 YARRAGON-SHADY CREEK ROAD YARRAGON VIC 3823

ADMINISTRATIVE NOTICES

NIL

eCT Control 16165A AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
Effective from 20/12/2023

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Department of Environment, Land, Water & Planning

Advertised

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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

Produced 21/02/2025 03:04:20 PM

Status	Registered	Dealing Number	AV159627L
Date and Time Lodged	20/12/2021 09:11:51 AM		

Lodger Details

Lodger Code	19510T
Name	SJD LAW
Address	
Lodger Box	
Phone	
Email	
Reference	C5896 Sec 173 Chase

APPLICATION TO RECORD AN INSTRUMENT

Jurisdiction	VICTORIA
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Privacy Collection Statement

The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Estate and/or Interest

FEE SIMPLE

Land Title Reference

11485/924
11485/925

Instrument and/or legislation

RECORD - AGREEMENT - SECTION 173
Planning & Environment Act - section 173

Applicant(s)

Name	BAW BAW SHIRE COUNCIL
Address	
Street Number	1
Street Name	CIVIC
Street Type	PLACE
Locality	WARRAGUL
State	VIC
Postcode	3820

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Department of Environment, Land, Water & Planning

Advertised

Electronic Instrument Statement

Additional Details

Refer Image Instrument

The applicant requests the recording of this Instrument in the Register.

Execution

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

Executed on behalf of	BAW BAW SHIRE COUNCIL
Signer Name	
Signer Organisation	SJD LAW PTY. LTD.
Signer Role	LAW PRACTICE
Execution Date	20 DECEMBER 2021

File Notes:

NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

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AV159627L Page 2 of 2

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Document Identification	AV159627L
Number of Pages (excluding this cover sheet)	12
Document Assembled	21/02/2025 15:04

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PLANNING AND ENVIRONMENT ACT 1987

SECTION 173 AGREEMENT

Between

BAW BAW SHIRE COUNCIL

and

in relation to

**Land at 445 AND 542 YARRAGON-SHADY CREEK ROAD,
YARRAGON VIC 3823**

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THIS AGREEMENT is made the 17th day of December 2021

BETWEEN

1. **BAW BAW SHIRE COUNCIL** of 1 Civic Place, Warragul VIC 3820 (hereinafter called "the Responsible Authority") and
2. (hereinafter called "the Owner");

WHEREAS:

- A. The Owner is the owner and registered by the Registrar of Titles as the proprietor of an estate in fee simple in the land at 455 and 542 Yarragon Shady Creek Road, Warragul VIC 3820 being Lot 1 & 2 on Plan of Subdivision 718788A and more particularly described in Certificate of Title Volume 11485 Folio 924 and in Certificate of Title Volume 11485 Folio 925 (hereinafter called "the subject land").
- B. The Responsible Authority is responsible for the administration and enforcement of the Baw Baw Planning Scheme (hereinafter called "the Planning Scheme") pursuant to the provisions of the Planning and Environment Act 1987 (hereinafter called "the Act").
- C. On 26th March 2021 the Responsible Authority issued Planning Permit Number **PLA10001/21** allowing the Buildings and works to construct a cattle underpass (hereinafter called "the Planning Permit").

- D. Condition 7 of the Planning Permit requires the Owner to enter into this Agreement to provide for the matters set out in that Condition.
- E. The Responsible Authority and the Owner have agreed that, without restricting or limiting their respective powers to enter into this Agreement, and insofar as it can be so treated, this Agreement is an agreement entered into pursuant to Section 173 of the Act.

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- F. The Responsible Authority and the Owner have entered into this Agreement in order to achieve or advance the objectives of planning in Victoria or the objectives of the Planning Scheme.

IT IS AGREED AS FOLLOWS:

Definitions

1. In this Agreement unless inconsistent with the context or subject matter:
 - 1.1 "Act" means the Planning and Environment Act 1987;
 - 1.2 "Agreement" means this Agreement and any agreement executed by the parties varying or expressed to be supplemental to this Agreement;
 - 1.3 "Subject land" means the land described in Recital A;
 - 1.4 "Owner" means the owner for the time being of the land and the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor of an estate in fee simple in the land or any part thereof, and includes a Mortgagee in possession;
 - 1.5 "Planning Permit" mean the planning permit referred to in Recital C, including any plans endorsed under the planning permit;
 - 1.6 "Planning Scheme" means the Baw Baw Planning Scheme and any successor instrument or other planning scheme which applies to the subject land;
 - 1.7 "Responsible Authority" means Baw Baw Shire Council or its successors as the authority responsible for administering and enforcing the Planning Scheme and includes its agents, officers, employees, servants, workers and contractors; and

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- 1.8 "Tribunal" means the Victorian Civil and Administrative Tribunal or any successor tribunal, court, institution or body.

Interpretation

2. In this Agreement unless inconsistent with the context or subject matter:
- 2.1 The singular includes the plural and the plural includes the singular;
- 2.2 A reference to a gender includes a reference to each other gender;
- 2.3 A reference to a person includes a reference to a firm, corporation, association or other entity and their successors in law;
- 2.4 If a party consists of more than one person this Agreement binds them jointly and each of them severally;
- 2.5 A reference to a statute includes any statute amending, consolidating or replacing that statute and includes any subordinate instruments made under that statute;
- 2.6 The Recitals to this Agreement are and will be deemed to form part of this Agreement including any terms defined within the Recitals.

Specific Obligations of the Owner

3. The Owner covenants with the Responsible Authority that:
- 3.1 The Owner shall obtain all relevant approvals and/or permits and ensure the Underpass, including fenced approaches and walkways is constructed in accordance with the Plans and to the satisfaction of Council using only the Contractor or such other contractor as Council may approve in writing.
- 3.2 In the event of structural failure or evidence of structural weakness of the underpass, the Owner shall be responsible for rectifying the faults.
- 3.3 The Owner remains responsible for the cleaning, maintenance, repair and drainage of the Underpass including its approaches at the Owner's own expense during the term of this Agreement.

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- 3.4 Notwithstanding any other provision of this Agreement, in the event that the Underpass falls into disrepair, is damaged or otherwise causes the Road to be unsafe, Council may, without the need to serve a notice on the Owner, undertake or arrange to have undertaken such works (including barricades and signage) as is necessary to render the Road safe and seek reimbursement of the cost from the Owner's.
- 3.5 The Owner covenants that the Underpass shall only be used for the passage of stock and by persons authorised by the Owner to assist with the passage of stock for which sole purpose this permission is granted; and, not to be used for the housing of animals, vehicles or farm machinery, or for the storage of produce or any other materials at any time.
- 3.6 The Owner agrees that the Owner will not make any claim for damages or loss of any kind against Council or Council's employees, agents or contractors for any damage or injury caused to the Underpass or the Subject Land by reason of any works undertaken by Council in connection with the maintenance and safe use of the Road in accordance with Council's statutory obligations as the road authority for the Road under the RMA.
- 3.7 The Owner must indemnify, keep indemnified and hold harmless Council, Council employees, agents and contractors and its Councillors and staff from and against all actions, claims, losses, damages, penalties, demands or costs (including, a without limitation, all indirect losses, consequential losses and legal costs on a full indemnity basis) in connection with the performance or non-performance of the Owner's obligations under this Agreement or the existence, maintenance, repair, removal or use of the Underpass.
- 3.8 The Owner must at all times during the term of this Agreement hold a current public liability policy of insurance (Public Liability Policy) in the amount of \$20 million or such other amount as reasonably directed by Council for loss, injury or damage to any person or property caused by or arising out of any act or omission of the Owner in relation to the Underpass and/or the Road.
- 3.9 The Owner must ensure that the Underpass is cleaned, maintained, fenced, repaired, removed and used without risk to and with minimum

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inconvenience to members of the public using the Road and only interfering with such public use at times approved by Council in writing.

Further Obligations of the Owner

4. The Owner further covenants that:

4.1 The Owner will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the subject land or any part of it without first disclosing to its successors the existence and nature of this Agreement.

4.2 The Owner will do all that is necessary to enable the Responsible Authority to make an application to the Registrar of Titles to make a recording of this Agreement on the Certificate of Title to the subject land in accordance with Section 181 of the Act, including the signing of any further agreement, acknowledgment or other document.

4.3 The Owner shall immediately on demand pay the reasonable legal costs and fees incurred and incidental to the preparation and execution of this Agreement and the registration hereof pursuant to Section 181 of the Act, together with all costs of enforcing this Agreement if deemed necessary by the Responsible Authority. The Owner hereby agrees that any such costs are and remain a charge on the subject land until paid, and consents to the Responsible Authority registering a caveat on the Certificate of Title to the subject land in respect of any such costs and acknowledges that any such costs shall be capable of being recovered by the Responsible Authority in any court of competent jurisdiction as a civil debt recoverable.

4.4 That until such time as this Agreement is registered on the title to the subject land, the Owner shall ensure that successors in title will give effect to this Agreement, and do all acts and sign all documents which will require those successors to give effect to this Agreement, including executing a deed agreeing to be bound by the terms of this Agreement.

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- 4.5 The Owner agrees to indemnify and keep indemnified the Responsible Authority from and against all costs, expenses, losses or damages that it may sustain, incur, suffer or be or become liable for or in respect of any suit, action, proceeding, judgment or claim brought by any person arising from or referable to this Agreement and/or any non-compliance with this Agreement.
- 4.6 The Owner agrees to allow the Responsible Authority to enter the subject land at any reasonable time to assess compliance with this Agreement.

Owner's Warranties and Acknowledgements

5. The Owner warrants that:
- 5.1 It is the registered proprietor (or entitled to be so) of the subject land;
- 5.2 There are no mortgages, liens, charges or other encumbrances affecting the subject land which are not disclosed by the usual searches;
- 5.3 If the subject land is affected by a mortgage, the Mortgagee of the subject land consents to the Owner entering into this Agreement and the Agreement being registered on the title to the subject land.
6. The Owner acknowledges that any obligations imposed on the Owner under this Agreement take effect as separate and several covenants which are annexed to the subject land and run at law and in equity with the land and every part thereof and bind the Owner, its successors, assigns and transferees, and the registered proprietor for the time being of the whole or any part of the subject land.

Further assurance

7. The parties to this Agreement must do or cause to be done all things that are reasonably necessary to give effect to this Agreement.

Default

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8. If the Owner defaults or fails to perform any of its obligations under this Agreement the Responsible Authority may, without prejudice to any other remedies, rectify and remedy such default and the cost of doing so shall be borne by the Owner. The Owner hereby consents to the Responsible Authority registering a caveat on the Certificate of Title to the subject land in respect of any such costs, and acknowledges that any such costs shall be capable of being recovered by the Responsible Authority in any court of competent jurisdiction as a civil debt recoverable.

No waiver

9. Any time or other indulgence granted by the Responsible Authority to the Owner or any variation of the terms and conditions of this Agreement or any judgment or order obtained by the Responsible Authority against the Owner will not in any way amount to a waiver of any of the rights or remedies of the Responsible Authority in relation to the terms of this Agreement.

No Fettering of Powers of Responsible Authority

10. The Owner expressly acknowledges and agrees that nothing in this Agreement nor the performance by the Owner of any of its obligations under this Agreement does or will restrain, limit or otherwise fetter the exercise by the Responsible Authority of the powers, duties and discretions that the Responsible Authority has or may have (as planning authority, responsible authority or otherwise) under the Act or under the Planning Scheme to consider, approve, amend or to make any decision or impose any requirements or conditions in connection with the granting of any planning approval or certification relating to any use or development, or in relation to the commencement or initiation of any enforcement action or proceeding whatsoever.

Entire Agreement

11. This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supercedes all previous Agreements or understandings between the parties in connection with its subject matter.

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By applying to this document, you acknowledge and agree that you will only use this document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited.

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

**SIGNED, SEALED AND)
DELIVERED** by and on behalf of **Baw
Baw Shire Council** by)
Chief Executive Officer, pursuant to the)
Instrument of Delegation dated 26)
August 2020 in the presence of:)

Witness Signature

Witness Name

SIGNED by) in the)
presence of:)

Signature

Signature of witness

Print name of witness

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Severability

12. If a court, arbitrator, tribunal or other competent authority determines that a word, phrase, sentence, paragraph or clause of this Agreement is unenforceable, illegal or void then it shall be severed and the other provisions of this Agreement shall remain operative and be of full force and effect.

Disputes

13. If there is a dispute between the parties concerning the interpretation or implementation of this Agreement, that dispute must be referred to the Tribunal for resolution to the extent permitted by the Act.
14. If there is a dispute concerning any matter which is not referable to the Tribunal under the Act, that dispute must be referred for arbitration by an Arbitrator agreed upon in writing by the parties, or, in the absence of such agreement the Chair of the Victorian Chapter of the Institute of Arbitrators Australia or his or her nominee, for arbitration.
15. The parties shall each be entitled to legal representation for the purposes of any proceedings or arbitration referred to clause 13 or 14 of this Agreement unless the Tribunal or arbitrator otherwise directs, and each party must bear its own costs.

Commencement of Agreement

16. Unless otherwise provided in this Agreement, this Agreement shall commence on the date of this Agreement.

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Advertised

Executed as a deed

SIGNED, SEALED AND DELIVERED by)
and on behalf of **Baw Baw Shire Council** by)
 , Chief Executive Officer,)
pursuant to the Instrument of Delegation)
dated 22 September 2021 in the presence)
of:)

Witness Signature

Witness Name

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AV1596271

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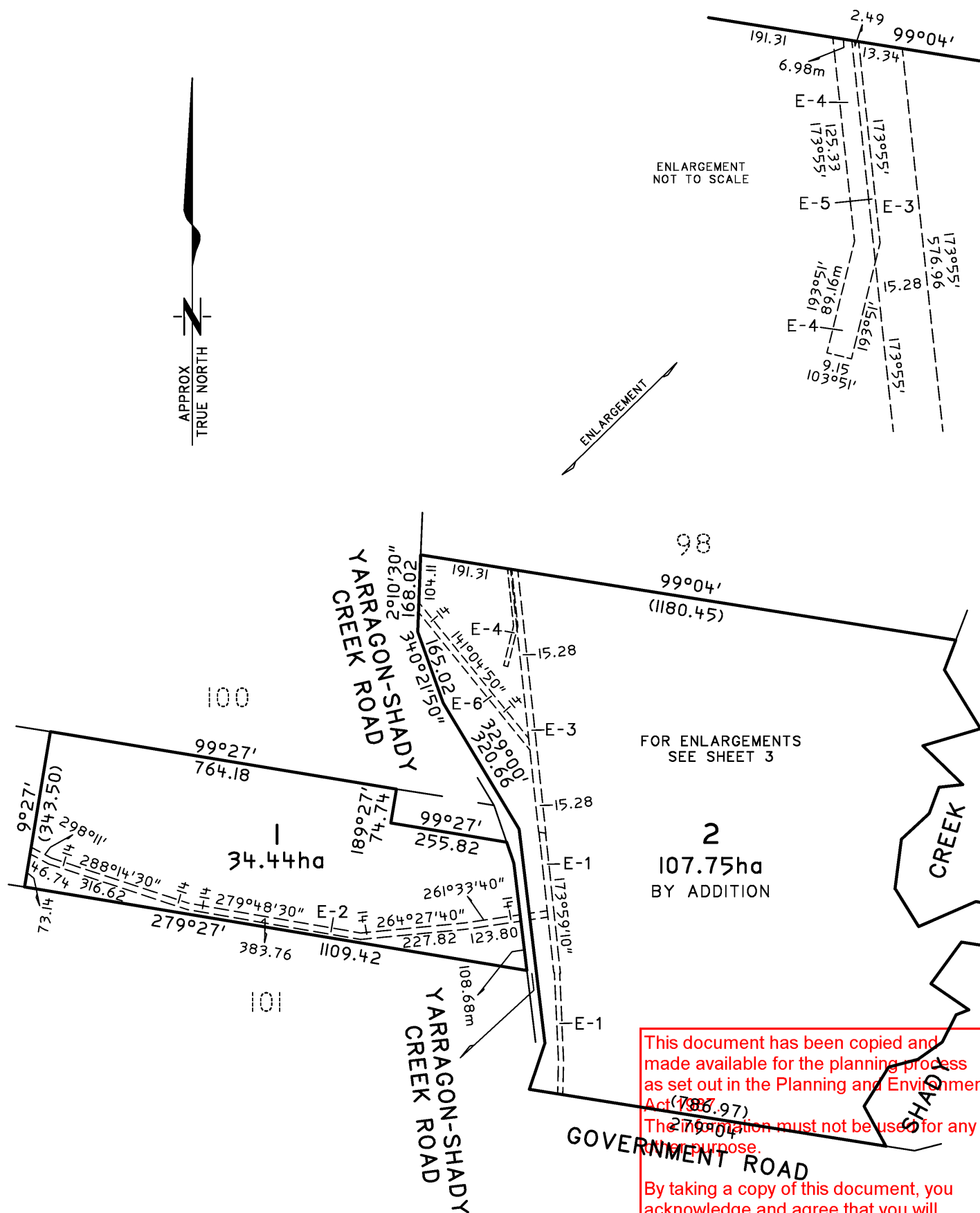
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Signed by: Peter Julian Marx (Ross and Worth Pty Ltd - Trafalgar) Surveyor's Plan Version (02) SPEAR Ref: S039112E 25/09/2013

PLAN OF SUBDIVISION

Plan Number **PS 718788A**

Advertised



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

SCALE
80 0 80 160 240 320
LENGTHS ARE IN METRES

DIGITALLY SIGNED BY LICENSED
PETER JULIAN MARX

REF 5501

DRG No. 5501ps.lcd

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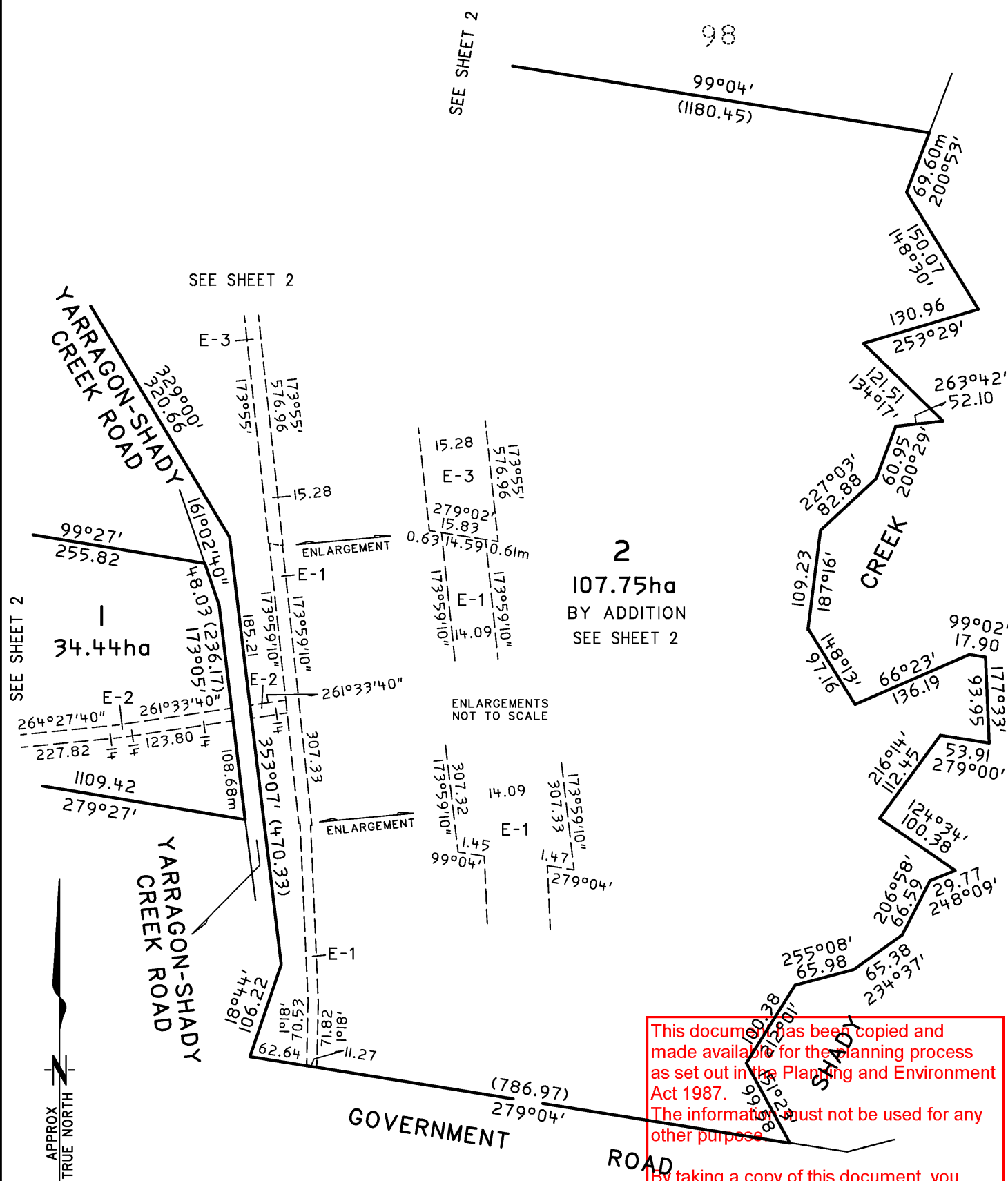
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~~VERSION 02~~

PLAN OF SUBDIVISION

Plan Number **PS 718788A**

Advertised



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~~VERSION 02~~

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

SCALE
40 0 40 80 120 160
LENGTHS ARE IN METRES

DIGITALLY SIGNED BY LICENSED
PETER JULIAN MARX

REF 5501 DRG No. 5501psA.lcd



Plan of Subdivision PS718788A
Certification of plan by Council (Form 2)

SUBDIVISION (PROCEDURES) REGULATIONS 2011

SPEAR Reference Number: S039112E
Plan Number: PS718788A
Responsible Authority Name: Baw Baw Shire Council
Responsible Authority Reference Number 1: PSB0066/13
Surveyor's Plan Version: 02

Certification

This plan is certified under section 6 of the Subdivision Act 1988

Public Open Space

A requirement for public open space under section 18 of the Subdivision Act 1988

Has not been made at Certification

Digitally signed by Council Delegate: _____
Organisation: Baw Baw Shire Council
Date: 06/12/2013

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Plan of Subdivision PS718788A

Statement of Compliance (Form 15)



Regulation 32(6) Subdivision (Procedures) Regulations 2011

Section 21

Subdivision Act 1988

To

Statement of Compliance

SPEAR Reference Number: S039112E
Council Ref. No. PSB0066/13
Office of Titles Plan No.: PS718788A
Surveyor's Plan Version: 02
Original Date certified by Council 06/12/2013 05:06:29 pm

This is a Statement of Compliance issued under section 21 of the **Subdivision Act 1988** for the whole of the above plan.

Requirements under Parts 2 and 3 of the **Subdivision Act 1988** have now been satisfied.

You should now lodge the certified plan for registration together with this statement at the Office of Titles in accordance with section 5 (3)(e) of the **Subdivision Act 1988**.

This document issued by Bimal Narayan of Baw Baw Shire Council and signed on 06/12/2013 at 05:07 pm

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

Page 1 of 1

VOLUME 09451 FOLIO 454

Security no : 124122246733U
Produced 21/02/2025 03:04 PM

LAND DESCRIPTION

Lot 1 on Title Plan 125180L.
PARENT TITLE Volume 07085 Folio 961
Created by instrument J618507 03/09/1981

REGISTERED PROPRIETOR

Estate Fee Simple

ENCUMBRANCES, CAVEATS AND NOTICES

DIAGRAM LOCATION

SEE TP125180L 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: 12 SHEEHAN ROAD YARRAGON VIC 3823

ADMINISTRATIVE NOTICES

NIL

eCT Control 17888B WAKEFIELD LAWYERS
Effective from 18/06/2024

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TITLE PLAN		EDITION 1		TP 125180L
Location of Land			Notations	
Parish: DARNUM				
Township:				
Section:				
Crown Allotment: 101 (PT)				
Crown Portion:				
Last Plan Reference: LP69048				
Derived From: VOL 9451 FOL 454			ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN	
Depth Limitation: 15.24 m				
Description of Land / Easement Information			THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT COMPILED: 27/08/1999 VERIFIED: AA	
TABLE OF PARCEL IDENTIFIERS			This document has been copied and made available for the planning process as set out in the Planning and Environment Act 1987. The information must not be used for any other purpose.	
WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 86 of the Sale of Land Act 1993			By taking a copy of this document, you acknowledge and agree that you will only use the document for the purpose specified above and that any dissemination, distribution or copying of this document is strictly prohibited.	
PARCEL 1 = LOT 2 ON LP69048				
LENGTHS ARE IN METRES	Metres = 0.3048 x Feet Metres = 0.201168 x Links		Page 25 of 44	Sheet 1 of 1 sheets



Advertised

SECTION 181

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

Planning and Environment Act 1987

AG093409R



Lodged by:
Wakefield & Vogrig Lawyers
(03) 5623 5166
38 Queen Street, Warragul
Customer Ref No. 2881A

The Authority having made an agreement referred to in Section 181(1) of the **Planning and Environment Act 1987** requires a recording to be made in the Register for the land.

Land: Certificate of Title Volume 9451 Folio 454

Section and Act under which
Agreement made: Section 173 Agreement
Planning and Environment Act 1987

A copy of the Agreement is
Attached to this Application:

Signature for the Authority:

Name of Officer:

Date: 10 / 09 / 2008

Authority:
Baw Baw Shire Council
of Civic Place, Warragul Vic 3820

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Page 26 of 44

Advertised

THIS AGREEMENT is made on the date set out in the Schedule between **BAW BAW SHIRE COUNCIL** of Civic Place Warragul (hereinafter referred to as "the Shire") of the one part and the party named in the Schedule as the Owner (hereinafter referred to as "the Owner") of the other part.

WHEREAS:

- A. The Owner is the registered proprietor of the land described in the Schedule ("the land").
- B. The Owner has made an application to the Shire for a planning permit (ref. PLA05394) to allow the subdivision of the land into three allotments and the Shire has resolved to issue a permit on certain terms and conditions ("the Permit").
- C. That it is a condition of the permit that the Owner will enter into an agreement pursuant to Section 173 of the Planning and Environment Act (1987).
- D. The Shire is the Responsible Authority within the meaning of Section 173 of the Planning and Environment Act (1987).

NOW THIS AGREEMENT WITNESSES:

- 1. The parties confirm the recitals to this agreement.
- 2. In this agreement the terms and words set out in this clause shall have the following meanings unless otherwise indicated by the context:
 - 2.1. "Owner" shall mean the person or persons entitled from time to time to be registered by the Registrar of Titles as proprietor or proprietors of an estate in fee simple of the subject land; and
 - 2.2. "Shire" shall mean Baw Baw Shire Council.

- 3. This agreement is made pursuant to Section 173 of the Planning and Environment Act, 1987.

- 4. The land owner agrees that:-

(a) No further dwellings shall be erected on the land;

(b) The land shall not be subdivided so as to create any additional lots.

AG093409R



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Page 27 of 44

5. Once this Agreement has been executed by both parties the Owner will make application for the registration of the Agreement at the Land Titles Office pursuant to Section 181 of the Act and consequently enter a memorandum of this Agreement on the Certificate of Title to the subject land and shall take all necessary steps to sign all documents reasonably required to enable such entry to take place and pay any duty or fees in connection with this.
6. The owner shall forthwith pay (on request) the Council's costs and expenses incidental to this Agreement and any amendment of this Agreement and anything done in connection with this Agreement including anything done in anticipation of this Agreement and the enforcement of any obligations imposed on the Owners excepting the cost of any unsuccessful enforcement action by Council.
7. Without limiting the operation or effect that this Agreement has, the Owner must ensure that until such time as a memorandum of this Agreement is registered on the title to the subject land, successors in title shall be required to:-
 - (a) give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement; and
 - (b) execute a deed agreeing to be bound by the terms of this Agreement.

AG093409R

19/09/2008 \$99.90 173



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Advertised

AG093409R



SCHEDULE

Owner:

Land: Lot 1 on Title Plan No. 125180L and being the land described in Certificate of Title Volume 9451 Folio 454.

Permit: PLA05394

IN WITNESS WHEREOF the parties hereto have placed their hands and seals on
the
day of 10 September 2008.

SIGNED SEALED AND DELIVERED by)
in the presence of:)
...

.....Witness

SIGNED SEALED AND DELIVERED by)
in the presence of:)
...

.....Witness

THE COMMON SEAL of the Mayor, Councillors)
and Citizens of the Baw Baw Shire Council was)
affixed in the presence of:)



Officer

Councillor

Councillor

Chief Executive Officer/Authorised

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Town Planning Report

2 Lot Re-Subdivision

12 Sheehan Road and 445 Yarragon Shady Creek Road, Yarragon

Client

Issued

24-03-2025



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BW
Beveridge Williams

Introduction

A planning permit is sought to re-subdivide the land at 12 Sheehan Road and 445 Yarragon Shady Creek Road, into two lots.

The report provides details of the site and environs, the proposal, planning controls and an assessment against the provisions of the Baw Baw Planning Scheme.

Subject land

Address	12 Sheehan Road Yarragon				
Title Particulars	Lot 1 on Title Plan 125180L Certificate of Title Volume 9451 Folio 454				
Title Encumbrances	Section 173 Agreement preventing further dwellings being constructed on the land and preventing subdivision of the land to create additional lots				
Zone	Farming Zone (Schedule 1)				
Overlays	Bushfire Management Development Contributions Plan				
Aboriginal Cultural Heritage	None				
Soil Mapping	Darnum				
Permit Triggers	Clause 35.07 – Subdivide land Clause 44.06 – Subdivide land				
Owner					

Address	445 Yarragon Shady Creek Road, Yarragon				
Title Particulars	Lot 1 on Plan of Subdivision 718788A Certificate of Title Volume 11485 Folio 924				
Title Encumbrances	Section 173 Agreement that sets out conditions for use, responsibilities and maintenance of a cattle underpass				
Zone	Farming Zone (Schedule 1)				
Overlays	Bushfire Management Development Contributions Plan				
Aboriginal Cultural Heritage	None				
Soil Mapping	Darnum				
Permit Triggers	Clause 35.07 – Subdivide land Clause 44.06 – Subdivide land				
Owner					

Site Features

Advertised

The site is located in the rural area of Yarragon between Yarragon and Shady Creek.

The subject land is made up of two separate parcels in two separate ownerships:

a) Lot 1 TP125180L, 12 Sheehan Road, Yarragon; and,

b) Lot 1 PS 718788A, 445 Yarragon Shady Creek Road, Yarragon.

Lot 1 TP125180IL – 12 Sheehan Road Yarragon

This land is 38.02 hectares in area accessed from Sheehan's Road. It is developed with a dwelling which gains access from Sheehan Road. The balance of the land is used for cattle grazing as part of a larger farm.

Lot 1 PS718788A – 445 Yarragon Shady Creek Road Yarragon

This land is 34.44 hectare in area acceseed from Yarragon Shady Creek Road to the east. It is developed with a brick dwelling and a number of larger agricultural buildings used in the operation of the farm.

Sheehan's Road is a partially bitumen sealed (including at the frontage to the subject land) and partially gravel road with grassy verges and open earth drains. It is a no-through road commencing at its intersection with Yarragon Shady Creek Road to the west and terminating after doglegging behind the land at 198 Sheehan Road.

Yarragon Shady Creek Road is a bitumen sealed road connecting the Yarragon Township to the Shady Creek settlement north-west of the land. The road is a two-way road with grassy verges and vegetated reserves.



Figure 1: Locality Plan (Site identified in yellow) source: dsv.vic.gov.au

Site Context

Advertised

The site has the following abutments:

- 1
- '333 Yarragon Shady Creek Road' to the south. The land is more formally known as Lot 2 LP220318 and is an irregular shaped lot with a small area splayed in the north-western corner. The land is approximately 23 hectares in area and contains two sheds accessed from Yarragon Shay Creek Road, but is otherwise vacant pasture;
- 2
- '67 Sheehan Road' to the south. The land is more formally known as Crown Allotments 110 and 109 Parish of Darnum. Together they have an area of roughly 48 hectares and contain a dwelling and multiple sheds. The balance of the land is improved pasture;
- 3
- 'Lot 11 LP69048 Sheehan Road' to the west. The land comprises mostly of pasture and has been improved with a shed and two small shelters. The land has a patch of native bush in the south-western corner and thinner copses of vegetation centrally on the land and along the northern boundary;
- 4
- '198 Sheehans Road' on the western boundary of 445 Yarragon Shady Creek Road. This is a smaller parcel with an area of roughly 20 hectares containing a dwelling and shedding. The property appears to be used for small scale grazing;
- 5
- 'CA100 Darnum Parish' to the north of 445 Yarragon Shay Creek Road. The land is a large parcel with an area of 55 hectare that that contains shedding but is otherwise made up only of improved pasture; and
- 6
- '483 Yarragon Shady Creek Road' which abuts the north-eastern corner of 445 Yarragon Shady Creek Road. It has a small area of roughly 1.7 hectares and is developed with a dwelling sited to the rear of the lot.

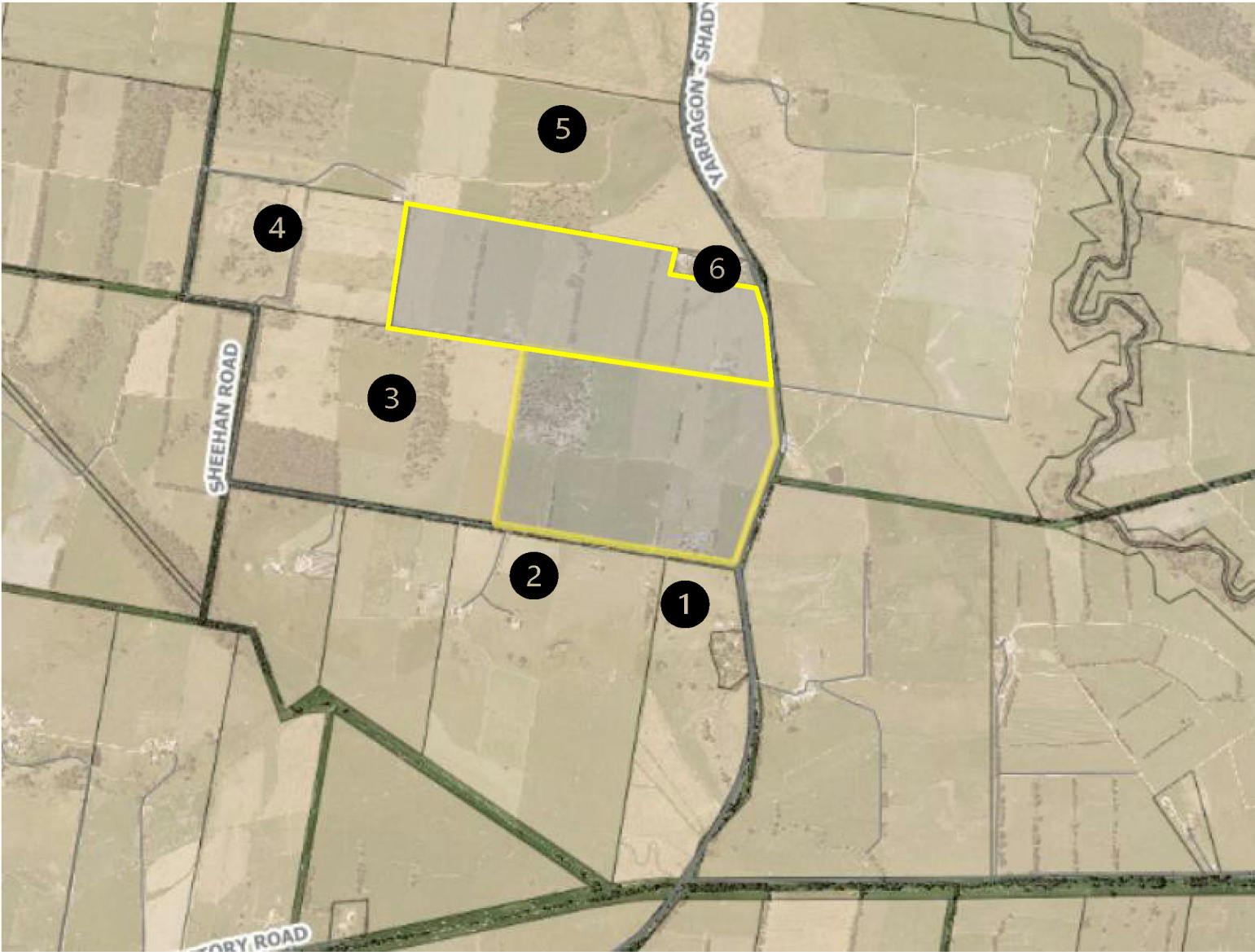


Figure 4: Site Context Plan source: gsv.vic.gov.au

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Shed adjacent to dwelling on 12 Sheehan Road



Dwelling driveway on 12 Sheehan Road



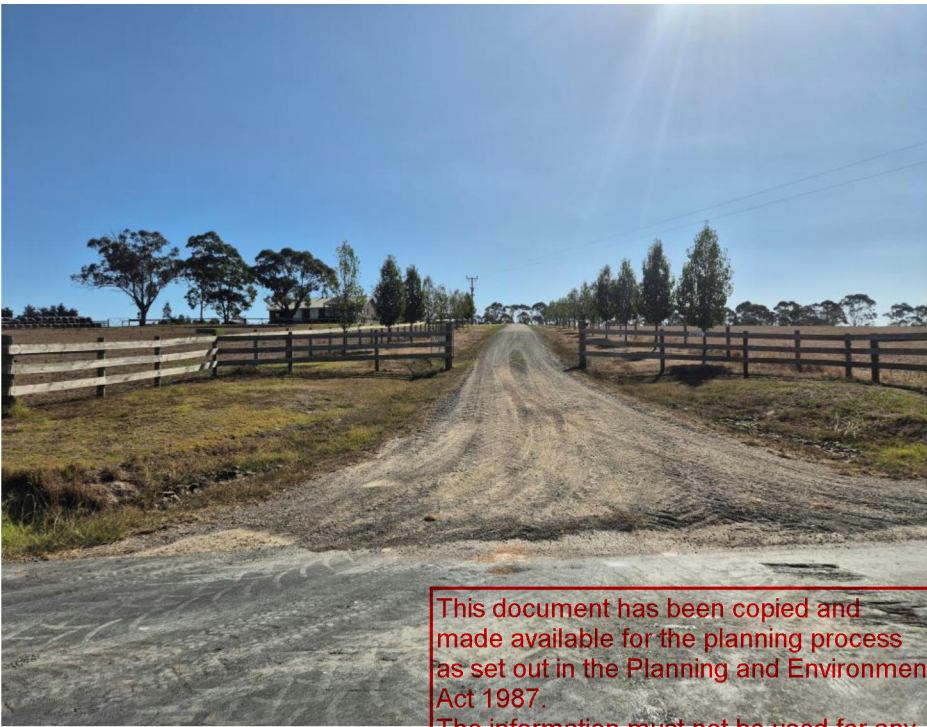
Dwelling on 445 Yarragon Shady Creek Road



Access to Sheehan Road



Shedding on 445 Yarragon Shady Creek Road



Access to 445 Yarragon Shady Creek Road

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Proposal

It is proposed to subdivide the land into two lots, as follows:

Lot 1

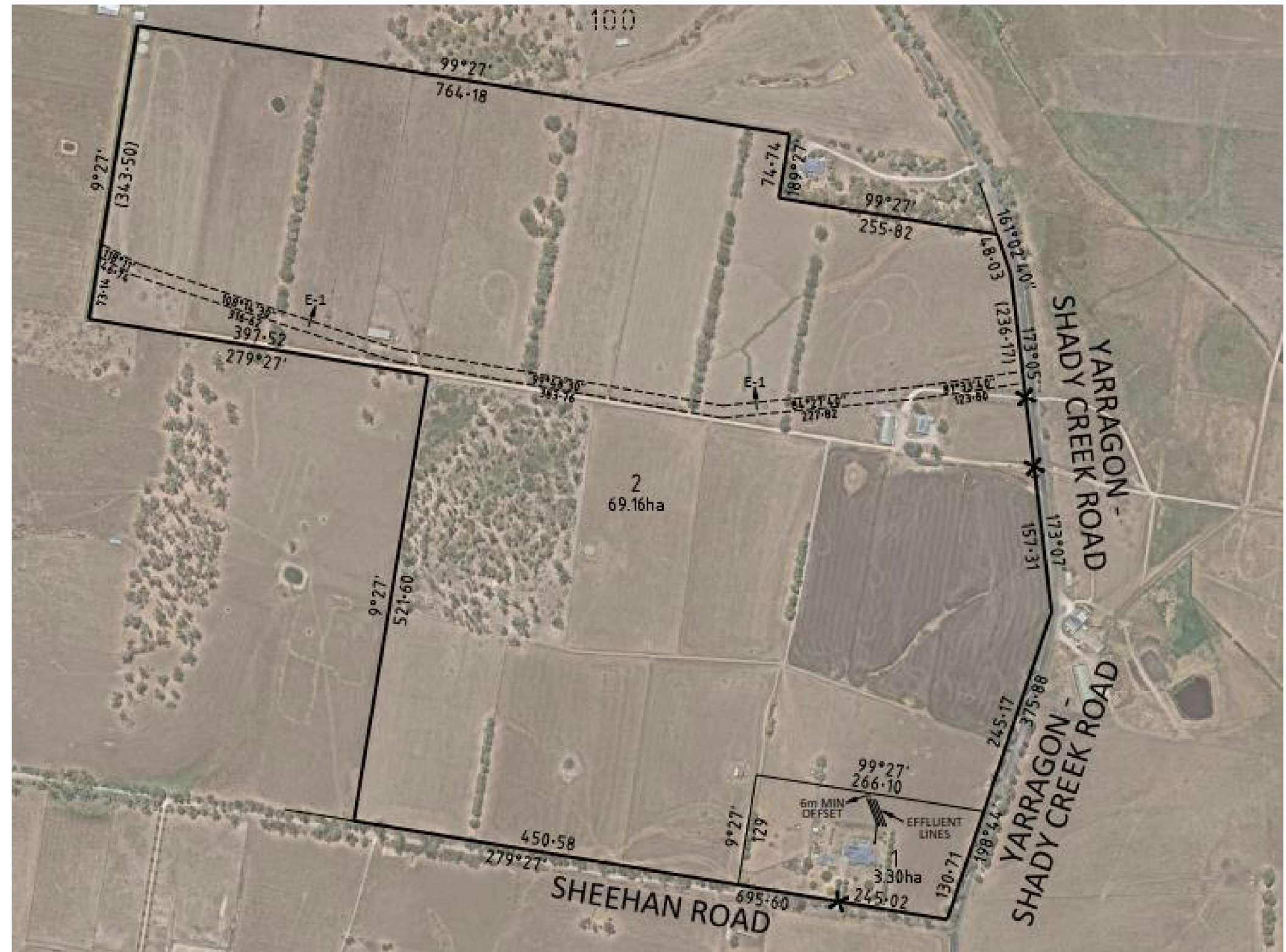
Being a 3.30 hectare parcel of land with a depth of between 129 – 130.71 metres from Sheehan Road to the northern boundary.

The lot will contain the existing dwelling and outbuildings. The lot has been designed to take in the existing effluent system, which conforms to current standards and for which a 'plumbers checklist' has been provided and submitted with the application.

Lot 2

Being a balance 69.16 hectare parcel containing a dwelling, agricultural shedding several small dams.

Both lots will utilise their existing access and servicing arrangements.



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Planning Context

Farming Zone

The site is located in the Farming Zone. The purpose of the Farming Zone is:

- 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 ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities. 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.

Clause 35.07-3 requires that a permit is required to subdivide land. Each lot must be at least the area specified for the land in a schedule to this zone (40 hectares).

A permit is allowed to be granted in this instance as **Clause 35.07-3** allows for the creation of lots less than 40 hectares where the subdivision is to excise an existing dwelling.

Bushfire Management Overlay

The site is partly impacted by the Bushfire Management Overlay.

- To implement the Municipal Planning Strategy and the Planning Policy Framework
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

A planning permit is required under **Clause 44.06-2** to subdivide land.

Development Contributions Plan Overlay

The site is affected by the Development Contributions Plan Overlay. The purpose of the Overlay is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- 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.

No permit is required under the Overlay. No development levy is required as no additional lots are created and no development is proposed.



Figure 6: Zoning Map Source: mapshare.vic.gov.au



Figure 7: BMO Overlay Map Source: mapshare.vic.gov.au

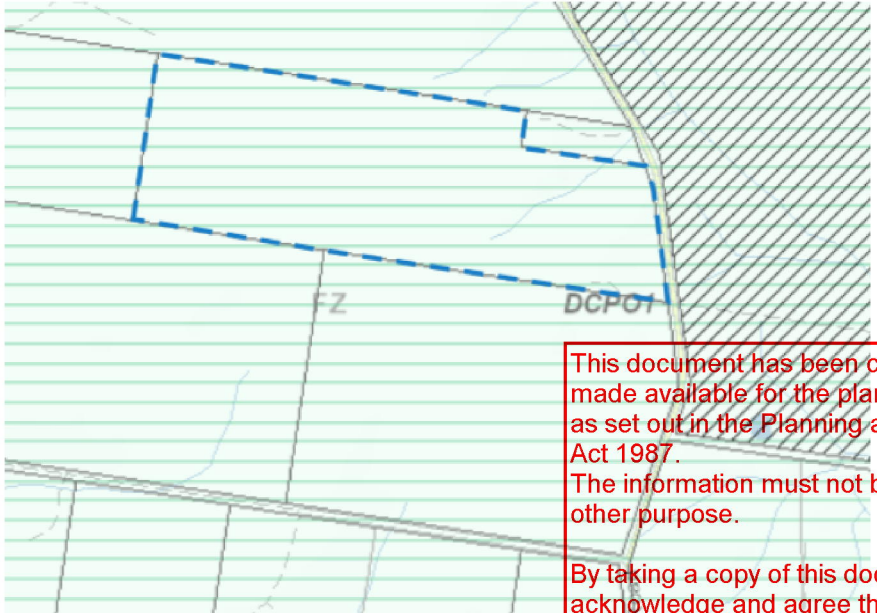


Figure 8: DCPO Overlay Map Source: mapshare.vic.gov.au

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Planning Policy Framework

The proposed re-subdivision has been designed to satisfy the Planning Policy Framework of the Baw Baw Planning Scheme by:

- Realigning the common boundary between two parcels, each which contain a dwelling and both which are each already less than 40 hectares in area. The re-subdivision will increase one lot to close to 70 hectares, being a size that supports the sustainability of the parcel as a single farming unit in accordance with **Clause 14.01-1S**;
- Allowing for the continued primary production on land considered to have high value agricultural soils in accordance with the strategies at **Clause 14.01-1S** for agricultural land;
- Not increasing the number of lots as a result of the re-subdivision and therefore not fragmenting the farming land in accordance with **Clause 14.01-1R**;
- Ensuring that the design of the re-subdivision does not include valuable agricultural land within the smaller lot in accordance with **Clauses 14.01-1R and 14.01-1L**, ensuring that it is created with no net loss of agricultural productivity of the land and designed to take in the dwelling, land used and developed for residential purposes and a buffer on the western and eastern side of the dwelling; and,
- Providing the following benefits with respect to the strategies set out at **Clause 14.01-1L**:
 - Increasing the size of the farming parcel to over 70 hectares, therefore increasing its profitability and viability and ensuring conformance with the 40 hectare minimum lot size preferred in the balance parcel under the policy;
 - Not changing the dwelling entitlement on either lot, as each lot is already developed with a dwelling and cannot be further developed with additional dwellings without planning approval;
 - Ensuring that the small lot is designed and sited to minimise the risk that the lot will impact the ongoing operation of abutting farming land through land use conflicts by creating a suitable land buffer around the dwelling;
 - Ensuring that the small lot created is not significantly over the 2 hectares set apart in the Policy and ensuring this lot design is based on site context;
 - Not creating any additional lots and consenting to the use of a Section 173 Agreement that will prohibit the further subdivision of the larger balance lot so as to create additional lots, noting that the smaller existing lot already contains the restriction; and,
 - Providing all of the required information in regard to the use of buildings on the subject site and within 100 metres of it on the proposed plan of subdivision submitted with the application and through the site context analysis.

Zone and Overlays

It is proposed to realign the boundary between two lots to enable an existing farm to expand significantly.

The proposed development has been designed to satisfy the purpose of the Farming Zone by:

- Allowing for a lot to be created in the Farming Zone that has area close to 70 hectares, which is considered to be a size with better farming opportunity than the current layout;
- Retaining key infrastructure including the major shedding and dams required for the operation of the farm within the larger parcel to maintain agricultural productivity, in accordance with **Clause 35.07**;
- Adopting the existing residential boundary defined by existing fencing and landscape planting for the proposed smaller lot to limit removal of land from production and projecting the eastern boundary to the Yarragon Shady

Creek Road, so as to provide a suitable buffer for the small lot; and,

- Not increasing the number of small parcels within proximity to one another so as to avoid a proliferation of dwellings not associated with agriculture, in accordance with **Clause 35.07**.

The proposal is consistent with the requirements of **Clause 44.06** in that;

- The overlay has limited extents across the subject land and is not within proximity of either dwelling. On top of this, the re-subdivision does not create a right for a new dwelling on either parcel. Therefore, there is no change to bushfire risk to either dwelling and no rational basis for a bushfire risk assessment to be provided; and
- No new boundary is created within an area impacted by the Bushfire Management Overlay, again limiting the need for assessment against the Overlay in both practical and academic terms.



Any other matters required to be considered under the zone, overlays or other provisions

The proposal is designed to respond to the decision guidelines at **Clause 35.07** by:

- Ensuring that all land currently used in a productive capacity remains within the proposed larger lot, therefore ensuring that no land is lost to production as a result of the re-subdivision. This is achieved by adopting the current domestic zone of the dwelling of the small lot as defined by existing fence lines; and,
- Ensuring that natural and environmentally sensitive features of the land, such as vegetation and waterways, remain unimpacted by the proposed new subdivision boundaries and boundary fencing. This will ensure that there is minimal impact to the environmental sustainability of the landholding.

Orderly Planning

The proposal is consistent with similar approvals for boundary realignment and re-subdivision in the Farming Zone in Baw Baw and is therefore considered to be consistent with orderly planning principles.

The proposal provides for a large lot that conforms with the minimum farming unit area under the Schedule to the Farming Zone in Baw Baw and constitutes a net benefit to primary production.

The effect on the amenity of the area

The proposal is unlikely to result in impacts to the amenity of the area. No development is proposed and no changes to traffic generation or access locations are proposed.

Factors likely to cause or contribute to land degradation, salinity or reduce water quality

The proposal does not include significant works or removal of vegetation and therefore it is unlikely the proposal will result in land degradation, salinity or impacts to water quality.

Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site

Both proposed lots will continue to be drained as per the current arrangements.

The extent and character of native vegetation and the likelihood of its destruction

No native vegetation will be impacted by the proposal.

Whether native vegetation is to be or can be protected, planted or allowed to regenerate

No native vegetation will be impacted by the proposal.

Flood, erosion or bushfire risk

The site is not recognised as being susceptible to flooding or erosion. The land is in a Bushfire Management Overlay. However, as demonstrated earlier, the bushfire overlay does not impact the new boundary or existing dwellings. So, the fire risk to both dwellings is unchanged as a result of the proposal.

The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts

Both proposed lots retain ample space for loading and unloading of vehicles in line with their land usage.

In relation to the matters raised at **Clause 65.02**, it is submitted that:

- The proposal will match the present land use patterns on the site;
- The proposal does not impact the native vegetation on the land;
- The density and layout of the re-subdivision is demonstrated above; and,
- Each lot will retain its existing articulated services connections and on-site waste disposal system.

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12 SHEEHAN ROAD & 445 YARRAGON-SHADY CREEK ROAD YARRAGON 3823 -



Planning Checklist On-Site Wastewater Disposal

Please note that this form MUST be completed by a licensed plumber or drainer and returned to Council within 30 days of receipt. If the Plumber/Drainer identifies any issues that may impact on the operation of the system, Council's Health Department will investigate the issue and may require the owner to carry out works.

Section 1. Property Details	
Property Address	12 SHEEHANS RD TARRAGON
Property Owner	
System Permit No.	HSE 0120/08
If the system does not have a permit, fill in the below details	
Year of installation (if unknown, year of house construction)	
Tank Size	(L)
No. of bedrooms	Spa Yes <input type="checkbox"/> No <input type="checkbox"/> (L)
System details (Name, type of treatment and distribution method)	
Section 2. On-Site Wastewater System Details.	
Septic Tank	
Has the tank been desludged within the last three years	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Date Desludged	20/11/20 Attach receipt of desludge
If tank has not been desludged, please note current usage conditions and estimate of when a desludge may be required. (ie. Occupied by two people, last desludged 5 years ago, expect desludge needed within two years)	
OCCUPIED BY 2 PEOPLE ESTIMATE ANOTHER 2 YEAR BEFORE DESLUDGING	
Tank appears to be watertight and in good condition	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Septic tank lids are intact and sufficiently sealed	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
If an effluent filter is present it is clear of debris	Yes <input type="checkbox"/> No <input type="checkbox"/>
Aerated Wastewater Treatment Systems	
The system is functioning as designed	Yes <input type="checkbox"/> No <input type="checkbox"/>
Maintenance contract and record of last maintenance check	Yes <input type="checkbox"/> No <input type="checkbox"/>
Sand Filters	
The system is functioning as designed	Yes <input type="checkbox"/> No <input type="checkbox"/>
Has the surface of the sandfilter been built over or damaged	Yes <input type="checkbox"/> No <input type="checkbox"/>
Sand filter area is free from surface water runoff	Yes <input type="checkbox"/> No <input type="checkbox"/>
Pump System and Alarms	
The pump is working as designed	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
The alarm is working as designed	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Electrical components are sufficiently protected from moisture	Yes <input type="checkbox"/> No <input type="checkbox"/>
Effluent Distribution System	
All effluent is contained within the property boundary	Yes <input type="checkbox"/> No <input type="checkbox"/>
Has the area been built over or damaged	Yes <input type="checkbox"/> No <input type="checkbox"/>
Area is free from surface water runoff	Yes <input type="checkbox"/> No <input type="checkbox"/>
System is functioning as designed	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Distribution pits adequately sealed, not damaged and working effectively	Yes <input type="checkbox"/> No <input type="checkbox"/>

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Planning Checklist On-Site Wastewater Disposal

Water Quality	
Biological Oxygen Demand is $\leq 20\text{mg/L}$ and Suspended Solid is $\leq 30\text{mg/L}$	Yes <input type="checkbox"/> No <input type="checkbox"/>
Please attach results of last water quality test.	

N/A

Provide detail for any of the above questions answered "NO"
N/A

Recommended actions required to meet the current EPA Code of Practice and Australian / New Zealand Standard for on-site wastewater management

Site Plan. Please complete a drawing of the site plan using the template on page 3.

Inspection Particulars.	
Date of Inspection	18/3/25
Plumber / Drainer Name	Company Name
40416	
Licence Number	Mobile Phone Number
Signature	Date
	18/3/25

<p>The information requested on this form is being collected by Council to ensure the on-site treatment system complies with</p> <ol style="list-style-type: none"> 1. Environment Protection Act 1970 2. State Environment Protection Policy - Waters of Victoria 2003 3. Baw Baw Shire Council Septic Permit to Use Conditions <p>If this information is not collected and conditions of the permit are not complied with, an Infringement Notice can be issued under the Environment Protection Act 1987.</p> <p>You can gain access to your information by contacting Council's Freedom of Information Officer.</p>
--

Please complete and return this form to:
Baw Baw Shire or
Health Office
PO Box 304 Warragul 3820

Email to
health@bawba

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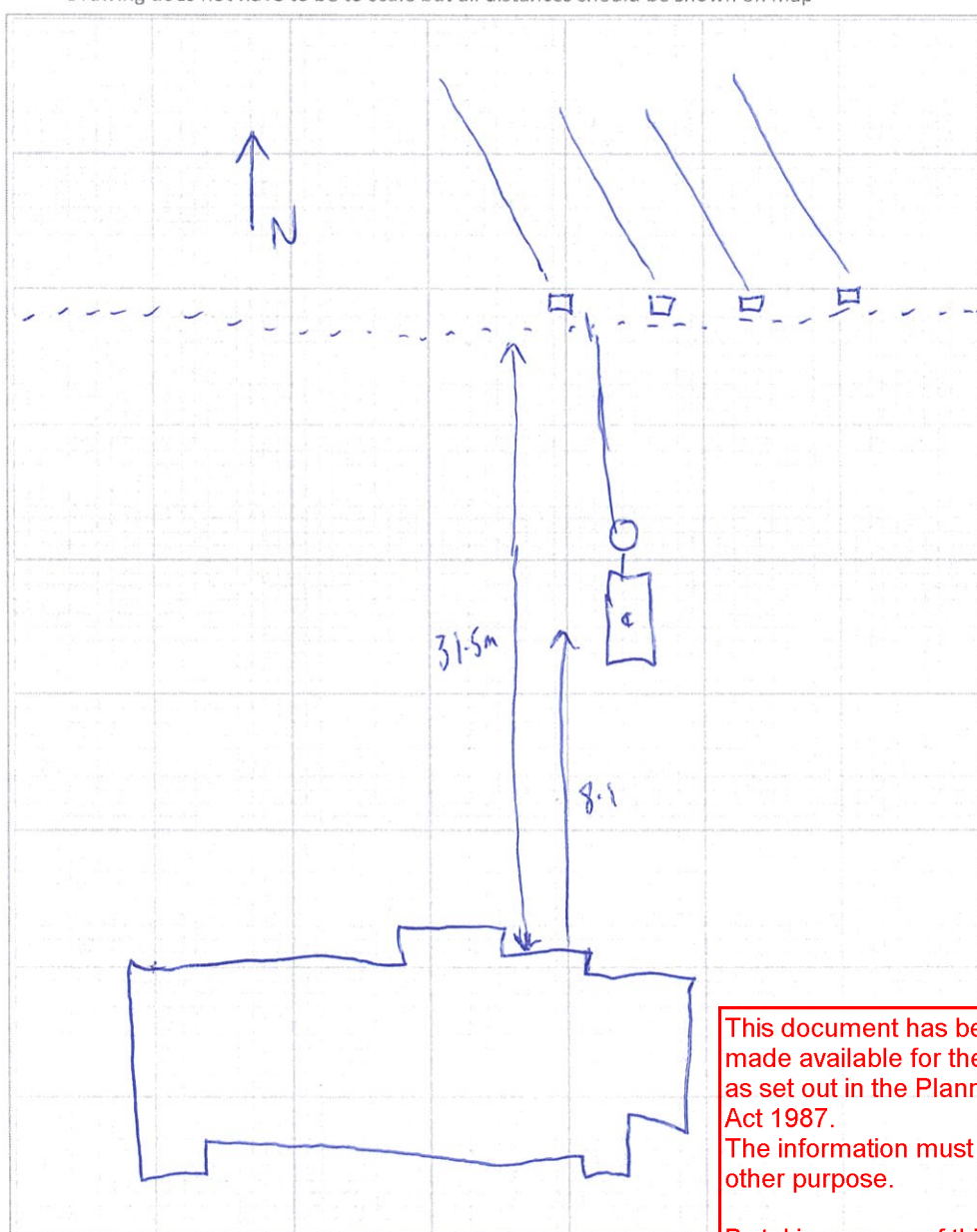


Planning Checklist On-Site Wastewater Disposal

Section 3: Plan Drawing

Include where present,

- ☐ All parts of wastewater treatment system including; tanks, treatment systems, distribution pits, inspections points, land application area and dimensions of lines
- ☐ House / dwelling
- ☐ Setback distances to; buildings, boundaries, side cuts, waterways, bores
- ☐ Driveways and roads
- ☐ Drainage and stormwater infrastructure
- ☐ Fall of land
- ☐ Position of North
- ☐ Drawing does not have to be to scale but all distances should be shown on map



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17/07/18

Page 40 of 44



Advertised
Valley Septics
54 Settlement Road
TRAFALGAR Victoria 3824
03 5633 2306
info@valleyseptics.com.au
ABN: 56 639 814 190

TAX INVOICE
Invoice No: 685
Date: 2nd February 2024

JOB ADDRESS 12 Sheehan Road, YARRAGON, 3823

DESCRIPTION	TOTAL
Tradesman - Travel to site and assess septic fault. Replaced required items. Check operation okay.	\$220.00
Supply DAB Nova 300A Submersible Pump (2 year Warranty)	\$440.00
SUBTOTAL	\$600.00
GST	\$60.00
TOTAL	\$660.00

BANK INFO

DUE BY
2nd February
2024

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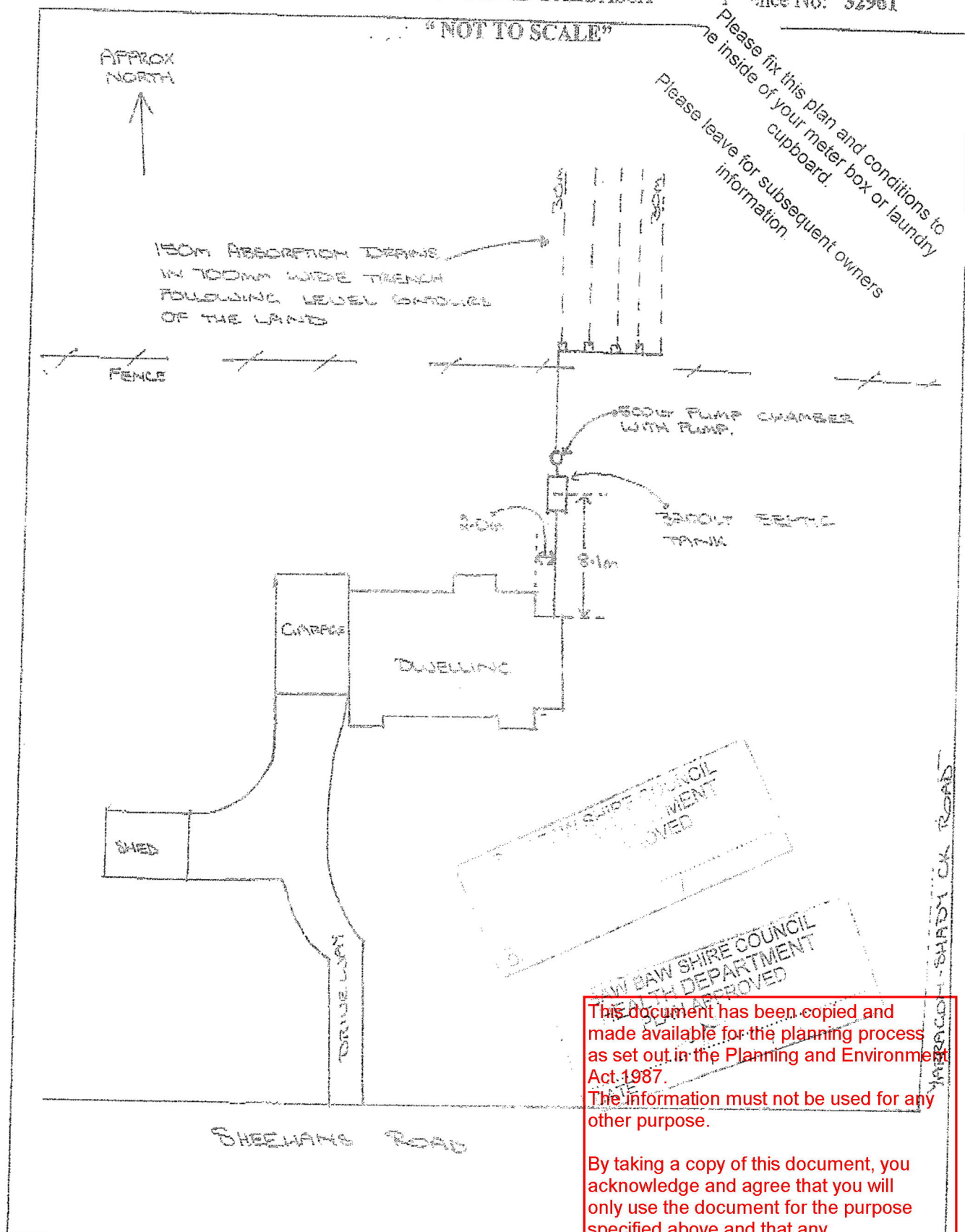
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TOTAL DUE \$660.00
\$60.00 GST

NOTE: All goods remain the property of Valley Septics Vic Pty Ltd until the amount of the invoice is paid in full.

1 "AS INSTALLED" 3/2/09 SEPTIC SYSTEM PLAN
 Permit No: HSE 0120/08
 Job Location: LOT 1 SHEEHANS ROAD, YARRAGON 3823
 Owners:
 Contractor: VALLEY SEPTICS - DAVID BALDASSA

Reference No: 32961



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BAW BAW SHIRE COUNCIL

PERMIT TO USE SEPTIC TANK SYSTEM

Permit Number: HSE0120/08

Council Property No: 7938

Owner:

Owners Address:

Plumber/Drainer: Valley Septics PO Box 325 TRAFALGAR VIC 3824

This is to certify that the septic tank system installed/alterd on the property at:

Address of Property: 12 Sheehan Road YARRAGON VIC 3823

Has been inspected and approved for use as being in accordance with the Permit granted by Council on the date shown below, subject to the conditions specified below.

Conditions

1. The septic tank must be desludged at least once every three (3) years, by 19/02/2012.
2. No modifications or variations to the system may be made unless approved by the Responsible Authority.
3. The system must be constructed, installed and maintained in accordance with:
 - EPA Certificate of Approval CA 1.1/03 and CA 1.2/03.
 - Ensure the system complies with the setback distances as per table 4.2 Buffer Distances, Code of Practice Onsite Waste Water Management, September 2008.
 - AS 1547 On-site domestic wastewater management and AS 3500 National plumbing and drainage code.
 - Council's Specifications and Guidelines.
4. Effluent from the system must not be discharged beyond the boundaries of the allotment.
5. The system is approved for wastewater flows not exceeding 900 per day.
6. Extending the buildings served by the system may cause the above limits to be exceeded. A Permit to Alter a Septic Tank System must be obtained from Council before altering the system to cope with the increased flows.
7. The effluent area must be maintained as a permanent, dedicated area.
8. Buildings, driveways, concrete, tennis courts, swimming pools, fruit trees, garden beds, vegetable gardens, large trees and the like must not be placed in or on the effluent disposal area.
9. A copy of the maintenance reports and permit compliance assessment report must be submitted to Council within 14 days of each assessment being made.
10. Council must approve any alterations to an approved plan.
11. Stormwater must be diverted around the effluent absorption area to a Council approved point of discharge.
12. The system must be assessed for permit compliance by an accredited person or person acceptable to the Council every 3 years.

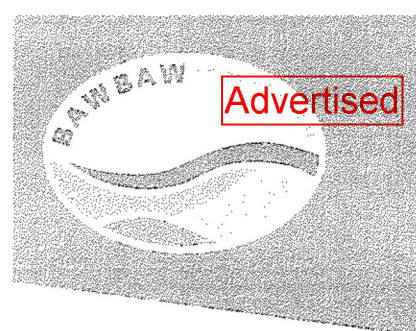
Site specific conditions:

- 1 Vehicles and livestock must be excluded from the effluent absorption field.
- 2 Suitable plants should be established within the effluent absorption area and maintained over the life of the system.
- 3 Water saving devices and appliances should be fitted to all water fixtures.

RESPONSIBLE AUTHORITY: BAW BAW SHIRE COUNCIL

Signature of Responsible Officer: _____

Date: 19 February 2009



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