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TWO LOT SUBDIVISION

Planning Permit Submission

3 Cuthbertson Court, Mirboo North

October 2015

DOCUMENT CONTROL DATA

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CONTENTS

1	INTRODUCTION	2
2	SITE AND SURROUNDS.....	3
	2.1 SUBJECT SITE.....	3
	2.2 SURROUNDING LAND	11
3	THE PROPOSAL	14
4	PLANNING MATTERS	15
	4.1 STATE PLANNING POLICY FRAMEWORK.....	15
	4.2 LOCAL PLANNING POLICY FRAMEWORK	18
	4.3 ZONING AND OVERLAY CONTROLS	20
	4.4 PARTICULAR PROVISIONS.....	22
	4.5 GENERAL PROVISIONS.....	22
	4.6 INCORPORATED AND REFERENCE DOCUMENTS.....	22
5	PLANNING ASSESSMENT	24
	5.1 DECISION GUIDELINES OF THE RURAL LIVING ZONE.....	24
	5.2 DECISION GUIDELINES OF THE BUSHFIRE MANAGEMENT OVERLAY.....	28
	5.3 DECISION GUIDELINES OF CLAUSE 65	28
6	CONCLUSION	33

APPENDICES

- APPENDIX A. CERTIFICATE OF TITLE
- APPENDIX B. PROPOSED PLAN OF SUBDIVISION
- APPENDIX C. BUSHFIRE MANAGEMENT STATEMENT

1 INTRODUCTION

This Town Planning Report has been prepared in support of an application for a planning permit to subdivide land at 3 Cuthbertson Court, Mirboo North, into two lots.

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

2 SITE AND SURROUNDS

2.1 Subject site

The site is located at 3 Cuthbertson Court, Mirboo North.

It is more particularly known as Lot 25 on Plan of Subdivision 322582D, being land contained in Certificate of Title Vol. 10106 Fol. 057. A current copy of the Certificate of Title is contained in **Appendix A**. The title is encumbered by a restrictive covenant that prohibits on the land:

- Placement of any residence, garage or outbuilding which has been removed from another property;
- Use of second hand building materials in the construction of buildings;
- Construction of a dwelling having a floor area less than 100m²; and,
- A dwelling that is not constructed with new external materials and has a roof that is not tile or 'colourbond'.

The site is irregular in shape with an area of 4.481 hectares. Its frontage is to Cuthbertson Court for a distance of approximately 70 metres along the eastern section of its southern boundary. It also has an abuttal to Darlimurla Road along the full length of its northern boundary for a distance of approximately 348 metres and Gilfedder Terrace for a distance of approximately 52.47 metres at its north-east corner.

The land is used and developed for rural residential purposes. The permit applicant, Barry Haysom, resides in a single storey brick dwelling that is positioned near the eastern boundary of the site. On the south side of the dwelling is a large shed, a 50 kilolitre above-ground water tank and a wastewater management system. On the north side of the dwelling is a gazebo. Further to the west of the dwelling are several smaller sheds and a large greenhouse.

The dwelling is connected to reticulated electricity and telecommunications services via existing infrastructure. Wastewater is treated and disposed of on-site via a septic tank and trench system located at the south-west corner of the dwelling. A water supply for both potable and fire-fighting purposes is provided via a 50 kilolitre concrete water tank.

The dwelling is accessed from Cuthbertson Court via a gravel sealed driveway and crossover located adjacent to the eastern boundary of the site. A second gravel driveway and crossover positioned approximately 30 metres to its west provides a separate access arrangement to the large shed. There is also a formed access track to the site from Darlimurla Road (approximately 60 metres east of the western boundary of the site) leading to a gate positioned on an internal fence.

The area immediately surrounding the dwelling is landscaped with a variety of predominantly native trees, shrubs and groundcovers. The majority of the balance land is comprised of substantial areas of cleared pasture grass, scattered native trees and regrowth vegetation comprising native shrubs.

An unnamed watercourse, being a tributary of Little Morwell River to the north, flows through the western portion of the site. A small dam is positioned on the watercourse, approximately 40 metres from the northern boundary. The land surrounding the watercourse is more densely vegetated with a range of native species comprising trees, shrubs and groundcovers.

A former quarry, now rehabilitated and predominantly covered in regrowth native vegetation, is located in the northern portion of the site's north-west quadrant. This area is fenced off from the balance land.

The topography of the land is undulating, with a general fall from east to west towards the watercourse.

The external boundaries of the site are fenced with rural post and wire. There is also internal fencing of similar material to delineate the house site and a paddock where two horses are kept.

The land is encumbered by two easements:

- E-1, being for drainage purposes in favour of the former Shire of Mirboo and having a width of 3 metres;
- E-2, being for the supply of electricity in favour of the former S.E.C.V and having a width ranging between 5.03 metres to 19.11 metres.

The following photographs display the site characteristics.

Photograph 1 – View of the existing gravel driveway that provides access to the dwelling on the subject site



Photograph 2 – View of the existing gravel driveway that provides access to the large shed on the subject site



Photograph 3 – View of the existing dwelling on the site, facing north-west from the driveway



Photograph 4 – View of existing above-ground water tank and shed at the rear of the dwelling



Photograph 5 – View of the existing dwelling on the site, facing south from the driveway



Photograph 6 – View of the north-west portion of the site, facing west along an internal fence line



Photograph 7 – View of the north-west portion of the site



Photograph 8 – View across the north-east portion of the site



Photograph 9 – View facing south along an existing fence line on the east side of the watercourse



Photograph 10 – View facing north-west towards the existing internal fence line that delineates the former quarry site from the balance land. The existing gate is located where the new driveway access to the proposed vacant lot will be positioned.



Photograph 11 – View facing east across the fence line displayed in photograph 10



Photograph 12 – View across the north-west quadrant, facing west towards the watercourse



2.2 Surrounding Environment

The site is situated within an established rural residential estate known as the 'Darlimurla Estate', approximately 4 kilometres north-east of Mirboo North's town centre. A locality plan displaying the site and surrounds is contained in **Figure 1**.

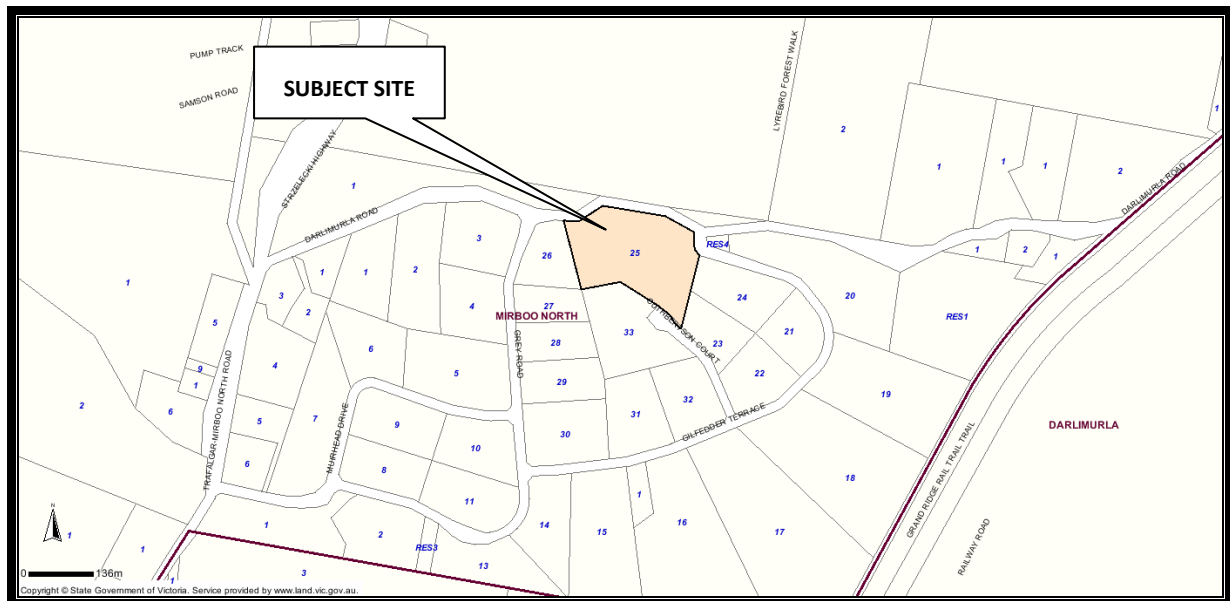


FIGURE 1 Locality Plan Source: www.land.vic.gov.au

The 'Darlimurla Estate' comprises approximately 40 allotments of varying size which are accessed from a meandering network of roads known as Darlimurla Road, Gilfedder Terrace, Grey Road, Muirhead Drive and Cuthbertson Court. The subject site is positioned in the eastern half of the estate in an area surrounded by Grey Road, Darlimurla Road and Gilfedder Terrace. It is the largest allotment in this section of the estate, with other surrounding lots ranging between approximately 1.1 and 2.7 hectares in area and each containing a dwelling and ancillary shedding in a 'bushland' setting comprising predominantly native trees and shrubs. Most of the shrub vegetation is regrowth following the 2009 bushfire that swept through this part of Mirboo North and scorched the landscape.

Dwellings within the estate are generally set back from their respective road abuttal and accessed by lengthy driveways. Most properties have been extensively landscaped with native vegetation, however many also retain large areas of cleared pasture.

The estate is accessed from the Strzelecki Highway via Darlimurla Road and Muirhead Drive. The highway provides a direct vehicular link to the small town of Mirboo North to the south-west and the larger towns in the Latrobe Valley to the north.

The general area is serviced with reticulated electricity and telecommunications. Reticulated sewerage, water and natural gas are not available.

Cuthbertson Court and Darlimurla Road are both bitumen sealed local roads with grassed shoulders, roadside drains and native vegetation on both sides. Cuthbertson Court extends in a north-westerly direction from its intersection with Gilfedder Terrace and ends in a court

bowl adjacent to the subject site. The road currently provides access to five dwellings. Darlimurla Road continues in a north-easterly direction past the site, passing through the locality of Darlimurla and pine plantation before eventually terminating at the town of Boolarra in the municipality of Latrobe City.

A range of commercial and community facilities are available within Mirboo North's town centre. This includes an IGA supermarket, specialty shops, hotel, public hall and library, a public recreation reserve known as 'Baromi Park' comprising expansive areas of lawn and landscaped gardens, barbeque facilities, picnic shelters, public toilets, playground equipment and car parking.

Mirboo North Primary School and Secondary College are also located within the town boundary.

Public transport within the general area is limited, however a bus service travelling between Traralgon and Wonthaggi stops in Mirboo North's commercial precinct three times a day Monday to Friday and two times a day on Saturdays and Sundays.

The topography of the general area is undulating.

Photograph 13 – View of Cuthbertson Court from the court bowl, facing south-east



Photograph 14 – View of the existing rural residential property at 2 Cuthbertson Court to the south of the subject site



3 THE PROPOSAL

This application seeks approval to subdivide the land into two lots.

The subdivision layout is based on a previously approved planning permit (Planning Permit no. 2008/253) issued by South Gippsland Shire Council on 14 October 2008 for the former land owners, J & S Mayfield. This permit was extended once but was not acted upon and subsequently expired.

The permit applicant is seeking to 'downsize' whilst remaining on the property which he has owned for the past six years. He is proposing to subdivide the land into two lots for the purpose of creating a vacant allotment for sale and, subsequently, will be able to enjoy a reduction in the management and maintenance requirements of the land whilst remaining in his existing dwelling and enjoying his rural residential amenity.

A proposed plan of subdivision is contained in **Appendix B** and the layout is summarised as follows:

- Proposed Lot 2 will have a hatchet shape and accommodate the existing dwelling, large shed, greenhouse, various small sheds, driveway, wastewater treatment and disposal area and associated land.

The area of this lot will be approximately 2.74 hectares in area.

The two existing driveway crossovers in Cuthbertson Court will be retained to provide separate access points to the dwelling and large shed.

The lot will be provided with reticulated electricity and telecommunications via existing connections.

- Proposed Lot 1 will comprise vacant land in the north-west corner of the site that is already partially delineated by existing post and wire fencing.

The area of this lot will be approximately 1.74 hectares in area.

The lot will have an abuttal to Darlimurla Road and a new driveway and crossover located where an existing cleared access track exists. The alignment of the driveway is already formed but will need to be constructed with an all-weather surface. The crossover will be designed and constructed to South Gippsland Shire Council's standards to provide safe access and egress for emergency and other vehicles, including a bitumen sealed surface and drainage culvert, as required.

The lot contains a large developable area in which a future dwelling, associated shedding, driveway and wastewater treatment can be accommodated with minimal removal of native vegetation for bushfire mitigation purposes. This is addressed in further detail in the Bushfire Management Statement completed by Effective Thermal Solutions and contained in **Appendix C**.

The lot will be provided with reticulated electricity and telecommunications via new connections.

No other vegetation removal or works is required to facilitate the subdivision, as internal fencing is (for the most part) already in place. As each proposed lot exceeds 0.4 hectare in area, further permits will be required to remove any native vegetation in the future unless other exemptions apply.

4 PLANNING MATTERS

4.1 State planning policy framework

The South Gippsland Planning Scheme contains a series of State policies relevant to this proposal:

- Regional settlement networks (**Clause 11.05-1**)
- Regional planning strategies and principles (**Clause 11.05-4**)
- Gippsland regional growth (**Clause 11.08-3**)
- Erosion and landslip (**Clause 13.03-2**)
- Bushfire planning strategies and principles (**Clause 13.05-1**)
- Rural residential development (**Clause 16.02-1**)
- Water supply, sewerage and drainage (**Clause 19.03-2**)

Clause 11.05-1 provides the following objective and relevant strategies for **Regional settlement networks**.

- *To promote the sustainable growth and development of regional Victoria through a network of settlements identified in the Regional Victoria Settlement Framework plan.*

Relevant strategies identified to achieve this objective include:

- *Ensure regions and their settlements are planned in accordance with any relevant regional growth plan.*
- *Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.*
- *Promote transport and communications and economic linkages between the various settlements through the identification of servicing priorities in regional land use plans.*
- *Provide for growth in population and development of facilities and services across a region or sub-region network.*

Clause 11.05-4 – Regional planning strategies and principles contains the following objective:

- *To develop regions and settlements which have a strong identity, are prosperous and are environmental sustainable*

Relevant strategies to achieve this objective include:

- *Directing growth to locations where utility, transport, commercial and social infrastructure and services are available or can be provided in the most efficient and sustainable manner.*
- *Ensuring there is a sufficient supply of appropriately located residential, commercial and industrial land across a region to meet the needs identified at regional level.*
- *Encouraging reduced energy and water consumption through environmentally sustainable subdivision and building design.*
- *Limiting urban sprawl and directing growth into existing settlements, promoting and capitalising on opportunities for urban renewal and redevelopment.*

- *Encouraging the development of compact urban areas which are based around existing or planned activity centres to maximise accessibility to facilities and services.*

Clause 11.08-3 provides the following objective for **Gippsland regional growth – sustainable communities**:

- *To develop sustainable communities through a settlement framework comprising major urban centres offering residents convenient access to jobs, services, infrastructure, and community facilities.*

Relevant strategies identified to achieve this objective are:

- *Support the continuing role of towns and small settlements in providing services to their districts, recognising their relationships and dependencies with larger towns.*
- *Plan for settlement growth to limit impact on agricultural productivity, natural and earth resources and ecological values.*

Clause 13.03-2 provides the following objective for **Erosion and landslip**:

- *To protect areas prone to erosion, landslip or other land degradation processes.*

Strategies identified to achieve this objective are:

- *Identify areas subject to erosion or instability in planning schemes and when considering the use and development of land.*
- *Prevent inappropriate development in unstable areas or areas prone to erosion.*
- *Promote vegetation retention, planting and rehabilitation in areas prone to erosion and land instability.*

Clause 13.05-1 provides the following objective for **Bushfire planning strategies and principles**:

- *‘To assist to strengthen community resilience to bushfire.’*

Strategies to achieve this objective are:

- *Overarching strategies*
 - Prioritise the protection of human life over other policy considerations in planning and decision-making in areas at risk from bushfire.
 - Where appropriate, apply the precautionary principle to planning and decision-making when assessing the risk to life, property and community infrastructure from bushfire.
- *Bushfire hazard identification and risk assessment strategies*
 - Apply the best available science to identify vegetation, topographic and climatic conditions that create a bushfire hazard.
 - Assess the risk to life, property and community infrastructure from bushfire at a regional, municipal and local scale.
 - Identify in planning schemes areas where the bushfire hazard requires that:

- Consideration needs to be given to the location, design and construction of new development and the implementation of bushfire protection measures.
 - Development should not proceed unless the risk to life and property from bushfire can be reduced to an acceptable level.
- *Strategic and settlement planning strategies*
 - Ensure that strategic and settlement planning assists with strengthening community resilience to bushfire.
 - Consult with the relevant fire authority early in the strategic and settlement plan making process and implement appropriate bushfire protection measures.
 - Ensure that planning to create or expand a settlement in an area at risk from bushfire:
 - Addresses the risk at both the local and broader context.
 - Reduces the risk to future residents, property and community infrastructure from bushfire to an acceptable level.
 - Ensures any biodiversity and environmental objectives specified in the planning scheme are compatible with planned bushfire protection measures.
 - Ensures the risk to existing residents, property and community infrastructure from bushfire will not increase as a result of future land use and development.
 - Ensures future residents can readily implement and manage bushfire protection measures within their own properties.

Clause 16.02-1 provides the following objective and relevant strategy for **Rural residential development**:

Objective:

- *To identify land suitable for rural living and rural residential development.*

Relevant strategies identified to achieve this objective include:

- *Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.*
- *Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.*
- *Ensure planning for rural living avoids or significantly reduces adverse economic, social and environmental impacts by:*
 - *Maintaining the long-term sustainable use and management of existing natural resource attributes in activities including agricultural production, water, mineral and energy resources.*
 - *Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.*
 - *Minimising or avoiding property servicing costs carried by local and State governments.*
 - *Discouraging development of isolated small lots in rural zones from use for rural living or other incompatible uses.*

- *Encouraging consolidation of existing isolated small lots in rural zones.*
- *Maintaining an adequate buffer distance between rural residential development and intensive animal husbandry.*

Clause 19.03-2 provides the following objective and relevant strategy for **Water supply, sewerage and drainage**:

Objective:

- *To plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.*

Strategy:

- *Provide for sewerage at the time of subdivision, or ensure lots created by the subdivision are capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot.*

4.2 Local planning policy framework

4.2.1 The Municipal Strategic Statement (MSS)

The South Gippsland Shire Council Municipal Strategic Statement (MSS) sets out the future strategic direction for the municipality in Clause 21 of the Planning Scheme. The following is an outline of the relevant planning policies contained within the MSS.

Clause 21.04 outlines the Municipal Vision, which is based on the South Gippsland Shire Council Plan. The stated visions for South Gippsland that are relevant to the proposal include:

- *Availability of high quality and diverse lifestyle opportunities.*
- *Development in bushfire prone areas is compatible with the bushfire risk.*
- *Population growth and employment are facilitated through investment and development.*

The South Gippsland Shire Council Framework Plan is contained in **Clause 21.04**. This plan identifies Mirboo North as a major regional service and urban centre in the Shire.

Clause 21.05 identifies the objectives and strategies for **Settlement**. In the **Growth of towns** Overview at **Clause 21.05-1**, it is stated that growth pressures within the municipality will need to be carefully managed to ensure that where growth occurs, it is sustainable and sympathetic to the existing character of the Shire's towns. Mirboo North is noted as being the principal township in the north of the municipality that services the surrounding rural population and agricultural activities.

The objective for **Growth of towns** is:

- *To ensure the growth of towns occurs in accordance with their role and function.*

A relevant strategy identified to achieve this objective is:

- *Promote the residential use and development of land in accordance with the township framework and structure plans at Clause 21.15.*

Clause 21.07 identifies the objectives and strategies for Environmental risks. In the Land and catchment management Overview at **Clause 21.07-2**, it is stated that soil erosion is a real

land and water degradation issue facing the municipality and that it is important to ensure that natural resources are protected and promoted.

An objective for **Land and catchment management** is:

- *To achieve a measurable improvement in the health of the Shire's land and water resources.*

Relevant strategies identified to achieve this objective are:

- *Ensure integrated catchment management principles are applied when managing the Shire's land and water resources.*
- *Reduce sediment and nutrient inputs into the Shire's waterways.*

Clause 21.10 identifies the objectives and strategies for **Housing**. In the **Rural residential development** Overview at **Clause 21.10-3**, it is stated that:

'The rolling hills of the agricultural districts in South Gippsland are attractive locations for those seeking a rural residential lifestyle. However, the Shire contains some of the most productive agricultural areas in Victoria and there is a need to preserve rural land for commercial scale agricultural production. There is also a need to avoid landscape and servicing issues arising from the development of dwellings not reasonably connected to agricultural activities.'

An objective for **Rural residential development** is:

- *Ensure that the resource of agricultural land is protected and retained in primary production.*

There are no stated strategies of direct relevance to the proposal.

4.2.2 Local Planning Policies

The South Gippsland Planning Scheme does not contain any relevant local planning policies.

4.3 Zoning and overlay controls

4.3.1 Zoning

The land is zoned Rural Living (RLZ) under the South Gippsland Planning Scheme. An extract of the zoning map is contained in **Figure 2**.

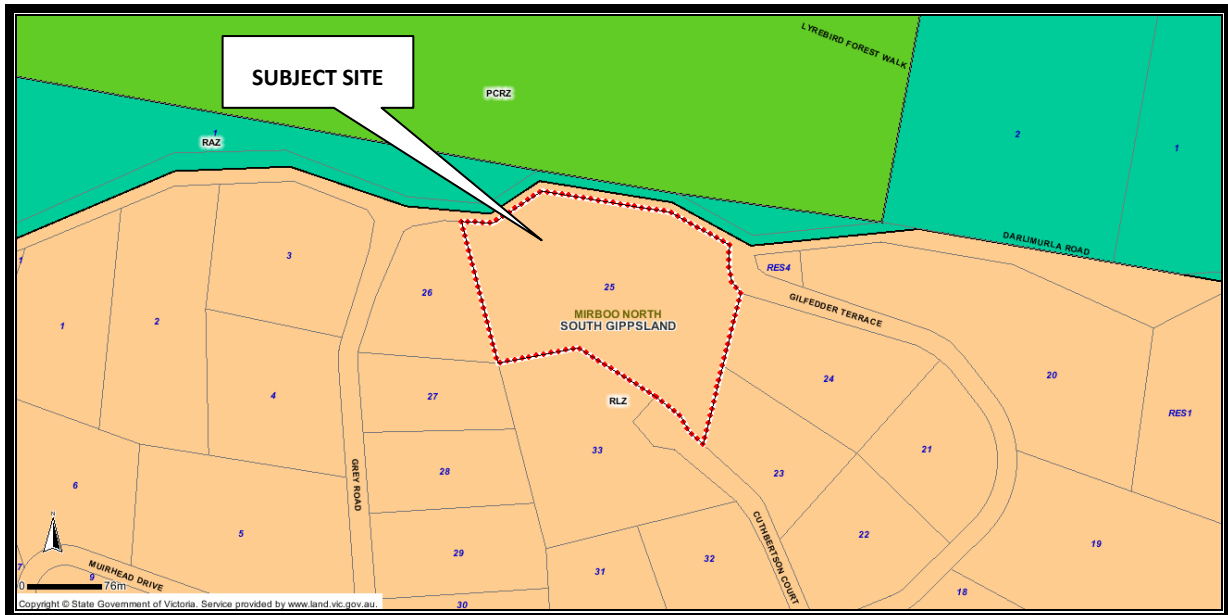


FIGURE 2 Extract of Zoning Map Source; Land Victoria website

The purpose of the Rural Living Zone, as stated in **Clause 35.03** of the Scheme, is:

- *‘To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for residential use in a rural environment.*
- *To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses*
- *To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.’*

Pursuant to **Clause 35.03-3**, a permit is required to subdivide land. Each lot must be at least the area specified for the land in a schedule to the zone, which in this case is 1 hectare.

4.3.2 Overlays

The land is affected by the Environmental Significance Overlay, Schedule 5 (Areas Susceptible to Erosion) (ESO5) and the Bushfire Management Overlay (BMO) under the South Gippsland Planning Scheme. An extract of the overlay map is contained in **Figure 3**.

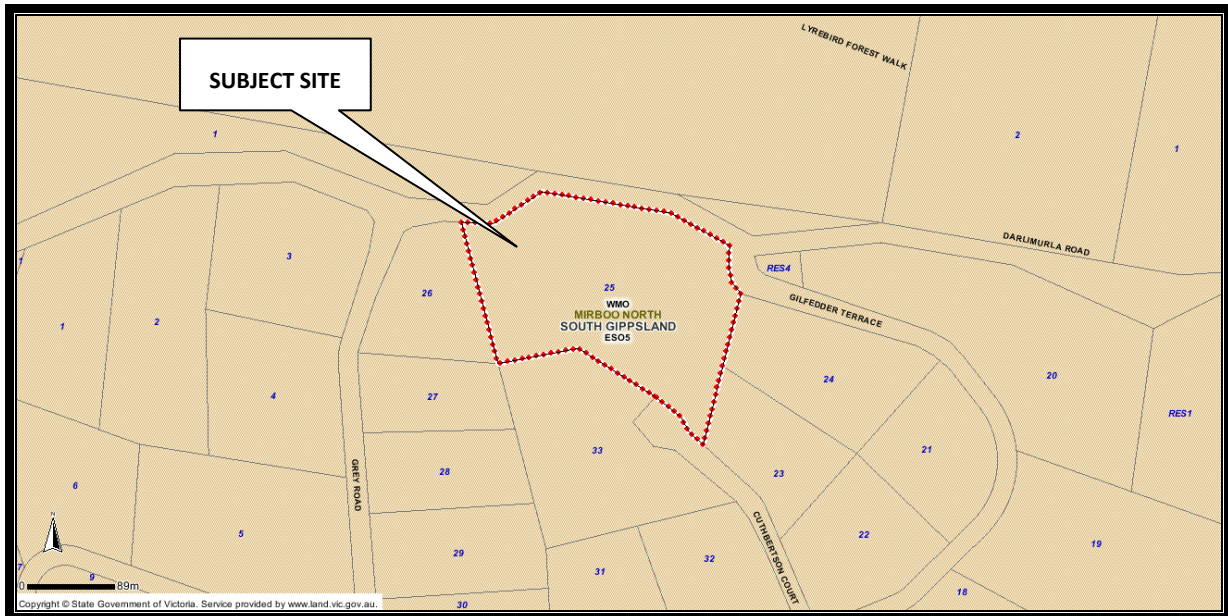


FIGURE 3 Extract of Overlay Map Source; Land Victoria website

The purpose of the Environmental Significance Overlay, as stated in **Clause 42.01** of the Scheme is:

- *'To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values.'*

In accordance with **Clause 42.01-2**, a permit is required to subdivide land and remove, destroy or lop any vegetation within the Environmental Significance Overlay.

Schedule 5 to the Overlay applies to 'Areas Susceptible to Erosion' and contains the following statement of environmental significance:

'Erosion is recognised as a land management concern with diverse causes that may affect any property. Therefore it is important to encourage best practices for farming, building and associated land disturbances and to increase awareness of the issues that may exacerbate the process such as earthworks, control of water run-off and removal of vegetation.

The Department of Natural Resources and Environment has mapped certain areas in the Shire as susceptible to erosion. There are other areas within the Shire which have been specifically identified as prone to land slips. Whereas this overlay is applied to the areas susceptible to erosion as identified by the Department of Natural Resources and Environment, the Erosion Management Overlay is applied to the areas specifically identified as prone to land slips.'

The purpose of the Bushfire Management Overlay, as stated in **Clause 44.06** of the Scheme is:

- *'To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To assist to strengthen community resilience to bushfire.*
- *To identify areas where the bushfire hazard requires specified bushfire protection measures for subdivision and buildings and works to be implemented.*
- *To ensure that the location, design and construction of development considers the need to implement bushfire protection measures.*
- *To ensure development does not proceed unless the risk to life and property from bushfire can be reduced to an acceptable level.'*

In accordance with **Clause 44.06-1**, a permit is required to subdivide land within the Bushfire Management Overlay. There is no stipulated minimum lot size.

4.4 Particular provisions

The provisions of **Clause 52.47 – Planning for Bushfire** are relevant to the proposal.

4.5 General provisions

The requirements of **Clause 65 - Decision Guidelines** and **Clause 66 - Referrals and Notice Provisions** are relevant to the proposal.

4.6 Incorporated and reference documents

The *South Gippsland Housing and Settlement Strategy, 2013* is identified as a reference document in the Municipal Strategic Statement (MSS). This report has been adopted by South Gippsland Shire Council and provides a strategic analysis of the demand and supply of residential land in the municipality. The report has influenced the MSS settlement policies.

4.7 Mirboo North Structure Plan

South Gippsland Shire Council has prepared and adopted the *Mirboo North Structure Plan (2004)*; a strategic framework plan to guide future land use and development to 2019. The Structure Plan contained in this document identifies the subject site within an existing rural living area inside the township growth boundary. The plan states that infill development should be promoted within the growth boundary prior to outward expansion. The plan also suggests that the subject site and surrounding area may be subject to the possible future application of the Environmental Significance Overlay or Vegetation Protection Overlay.

A copy of the Mirboo North Structure Plan is contained in **Figure 4**.

5 PLANNING ASSESSMENT

5.1 The decision guidelines of the Rural Living Zone

The following decision guidelines of the Rural Living Zone set out matters that the responsible authority must consider (as appropriate):

General issues

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

The State Planning Policy Framework (SPPF) requires the sustainable growth and development of regional Victoria through a network of settlements. It encourages consolidation of existing rural residential settlements, to make more efficient usage of infrastructure and minimise the potential impact on agricultural land uses.

The MSS acknowledges that rural residential living is a popular, attractive and legitimate lifestyle choice within the municipality and provides a compatible transition in the land use pattern between urban and rural areas. It seeks to manage growth so that it occurs where it is sustainable and sympathetic to the existing character of the towns.

The proposal is supported by the above-mentioned State and local planning policies as:

- It facilitates the on-going rural residential use and development of the land which will in turn result in more efficient usage of existing infrastructure and limit the pressure to encroach into productive agricultural land surrounding Mirboo North;
 - The land comprised within proposed Lot 1 does not form an integral part of the established use and development of the balance property for rural residential purposes. The proposed subdivision to alienate Lot 1 will not prevent a continuation of the established use on proposed Lot 2, noting that this allotment will still retain adequate car parking, storage facilities and private open space commensurate with a rural residential lifestyle; and,
 - The land is not identified within a designated long-term urban growth corridor on the Mirboo North Structure Plan.
- *Any Regional Catchment Strategy and associated plan applying to the land*

The West Gippsland Catchment Management Strategy is relevant to this area, but does not contain any specific objectives in relation to the site or proposed subdivision.

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

Proposed Lot 1 is of adequate size to accommodate on-site wastewater treatment and disposal in accordance with EPA and Council requirements. A wastewater treatment and disposal system will be designed and installed in accordance with the standards and requirements of the South Gippsland Shire Council. A separate Application to Install a Septic Tank System will be sought at such time that a Building Permit application is made.

The existing wastewater management system servicing the dwelling on proposed Lot 2 will not be altered. No part of this system will cross the proposed subdivision boundary.

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

Most of the land surrounding the site is used and developed for rural residential purposes. The proposed subdivision of the land into two lots is considered entirely appropriate in the context of the rural residential character and existing zoning of the surrounding area.

Agricultural issues

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

This issue is not relevant to the proposal, as the land is not proposed to be used for agricultural purposes.

- *Any integrated land management plan prepared for the site*

This issue is not relevant to the proposal, as the land is not proposed to be used for agricultural purposes.

- *The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agricultural and other land uses.*

None of the land adjacent to the site is used for agricultural purposes, therefore this issue is not considered relevant.

Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality*

The only works required to facilitate the subdivision are associated with the formal construction of the new driveway and crossover to proposed Lot 1. These works are expected to have minimal, if any, impact on soil and water quality or the natural physical features and resources of the area.

- *The impact of the use or development on the flora and fauna on the site and its surrounds*

No vegetation removal is required to facilitate the proposed subdivision, as the internal fencing is (for the most part) already in place and proposed Lot 1 contains a large developable area where minimal vegetation removal will be required to construct a dwelling, ancillary buildings and works, therefore mitigating any potential adverse impacts on flora and fauna.

- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area*

As stated above, it is anticipated that a large proportion of the existing native vegetation on the site will be retained for both screening and aesthetic purposes. The majority of existing vegetation in close proximity to the watercourse will be unaffected by the subdivision.

As each proposed lot exceeds 0.4 hectares in area, further permits will be required to remove any native vegetation in future unless other exemptions apply.

- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation*

Each proposed lot is of adequate size to accommodate on-site wastewater treatment and disposal in accordance with EPA and Council requirements. The location of the existing wastewater management system servicing the dwelling on proposed Lot 2 will maintain adequate setback distances from the subdivision boundaries.

Design and siting issues

- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts*

Approval for the construction of new buildings is not being sought under this application.

- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance*

There are no known features of architectural, cultural or scientific significance either on, or adjacent to, the site. The *Aboriginal Heritage Regulations 2007* expresses that “a cultural heritage management plan is required for an activity if all or part of the activity area is an area of cultural heritage sensitivity and if all or part of the activity is a high impact activity”. In accordance with the Regulations, the site is not within an area of cultural heritage sensitivity and a two lot subdivision is not a high impact activity. Therefore, a mandatory Cultural Heritage Management Plan is not required.

Any future dwelling sited on proposed Lot 1 will be within the existing cleared area and will retain most of the surrounding vegetation for privacy screening and amenity; hence, minimising any visual impact on surrounding land. It is also noted that the site is not affected by a Significant Landscape Overlay or other such planning control that seeks to preserve the visual amenity of the area.

- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities*

Both proposed lots will be connected to reticulated electricity and telecommunications services as required by the relevant servicing authorities. Water tanks will provide a supply for both potable and firefighting purposes on each lot.

Each lot is of adequate size to accommodate on-site wastewater treatment and disposal in accordance with EPA and Council requirements.

No new roads are required to be constructed and the access arrangement to each lot has been previously discussed.

- *Whether the use and development will require traffic management measures*

It is not considered that the proposed subdivision will result in the need to implement traffic management measures in either Cuthbertson Court or Darlimurla Road.

Proposed Lot 1 will only have an abuttal to Darlimurla road. The standard of this road can adequately accommodate the additional vehicular movements generated by a future dwelling on this allotment (estimated at 10 vehicle movements per day) which are expected to be negligible and well within the carrying capacity of the road.

5.2 The decision guidelines of the Environmental Significance Overlay

The following decision guidelines of **Clause 52.17** set out matters that the responsible authority must consider (as appropriate):

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

The SPPF and MSS both seek to protect areas prone to erosion and the proposal achieves this by avoiding the need for works and vegetation removal to facilitate the subdivision.

- *The statement of environmental significance and the environmental objective contained in a schedule to this overlay.*

This has been outlined in section 4.3.2 of this report.

- *The need to remove, destroy or lop vegetation to create defensible space to reduce the risk of bushfire to life and property.*

The Bushfire Management Statement contained in **Appendix C** specifies a building envelope on proposed Lot 1 and an associated area of defensible space for bushfire mitigation purposes. **Clause 52.48-5** contains an exemption from the requirement to obtain a future planning permit to remove any vegetation to provide defensible space for a dwelling approved under the Bushfire Management Overlay.

- *The purpose of the overlay.*

It is considered that the subdivision layout has been designed having regard to the overall intent of the overlay.

- *The following publications:*

- *Environment Guidelines for Major Construction Sites, Environment Protection Authority, February 1996.*
- *Construction Techniques for Sediment Pollution Control, Environment Protection Authority, May 1991.*
- *Control of Erosion on Construction sites, Soil Conservation Authority.*
- *Your Dam, as Asset or a Liability, Department of Conservation and Natural Resources.*

Any minor works associated with construction of the crossover and driveway to proposed Lot 1 will be carried out in accordance with the above publications, as applicable.

- *Any proposed measures to minimise the extent of soil disturbance and runoff.*

The driveway will be designed and constructed in accordance with South Gippsland Shire Council standards to ensure that soil disturbance and runoff is minimised.

- *The need to stabilise disturbed areas by engineering works or vegetation.*

Driveway batters (if needed) will be stabilised as required.

- *Whether the land is capable of providing a building envelope, which is not subject to high or severe erosion problem.*

Proposed Lot 1 contains a large developable area of relatively even grade that is not susceptible to high or severe erosion problems.

- *Whether the proposed buildings or works are likely to cause erosion or landslip.*

No new buildings are proposed at this time.

- *Whether the proposed access and servicing of the site or the building envelope is likely to result in erosion or landslip.*

The proposed driveway to Lot 1 will be located on land with only a minor slope, resulting in minimal earthworks and risk of erosion.

- *Any Land Capability Report Guidelines prepared by the Department of Natural Resources and Environment, Centre for Land Protection Resource.*

There are no known land capability guidelines of relevance to the subject site and proposed works.

- *The views of the Department of Natural Resources and Environment in respect to:*

- *Subdivision applications of greater than four lots or any subdivision application which may have adverse environmental effects.*
- *Applications which immediately abut Crown Land.*
- *Applications, which in the opinion of the responsible authority may cause or otherwise cause erosion, land degradation or affect land stability on either the subject land or on adjoining land.*

It is considered that views of the Department will not be required in this instance, as the proposal seeks to create only one additional lot, the land does not immediately abut Crown Land and the construction of the driveway crossover is unlikely to cause erosion.

5.3 The decision guidelines of the Bushfire Management Overlay

The requirements of the overlay have been addressed in the Bushfire Management Assessment completed by Effective Thermal Solutions and contained in **Appendix C**.

5.4 The decision guidelines of Clause 65

The decision guidelines contained in Clause 65 set out matters that the responsible authority must consider, as appropriate.

Clause 65.01 – Approval of an application or plan

- *The matters set out in Section 60 of the Act;*

These are matters that the responsible authority must take into account before making a decision on an application. These matters cannot be addressed in this report.

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

This has been addressed in sections 5.1 to 5.3 of this report.

- *The purpose of the zone, overlay or other provision;*

The proposal achieves the purpose of the zone and overlays, as it:

- Satisfies the relevant objectives and strategies stipulated in the State & Local Planning Policy Frameworks;

- Will provide for residential use in a rural environment, which is a primary purpose of the zone;
 - Will not increase the risk to life or property from bushfire;
 - Is unlikely to result in erosion or landslip due to the construction of a driveway crossover; and,
 - Will not impact the natural resources, biodiversity, landscape and heritage values of the area.
- *Any matter required to be considered in the zone, overlay or other provision;*

This has been addressed in sections 5.1 to 5.3 of this report.

- *The orderly planning of the area;*

Subdivision of the land is considered entirely appropriate in the context of the site's location within an established rural residential precinct, its abuttal to other properties that are used and developed for the same purpose and the need to utilise this type of land more efficiently. Furthermore, the proposed lot density is far less than permitted by the zone schedule as it has been designed with consideration of the site's physical characteristics. Hence, approval of the proposal will represent an orderly approach to planning.

- *The effect on the amenity of the area;*

Land surrounding the site is primarily used and developed for rural residential purposes. The proposed subdivision of the land is considered entirely appropriate in the context of the rural residential character and existing zoning of the surrounding area. Potential impacts on the residential amenity of adjacent and nearby properties are minimised through the subdivision design and by providing proposed Lot 1 with an abuttal to Darlimurla Road rather than Cuthbertson Court.

- *The proximity of the land to any public land;*

Apart from the adjacent roads, the site does not directly abut any public land. However, the site is in close proximity to Crown Land on the northern side of Darlimurla Road which is covered in native vegetation.

The provision of one additional allotment with an abuttal to Darlimurla Road is unlikely to result in any detrimental impact on the safety and functionality of this road, or the environmental attributes of the adjacent public land.

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

There are no known factors likely to cause or contribute to land degradation, salinity or reduction in water quality. Each proposed allotment is large enough to enable wastewater to be treated and retained on-site with adequate setback distances to the dam, watercourse and subdivision boundaries.

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

Stormwater runoff from each proposed lot will be directed to the legal point of discharge in accordance with South Gippsland Shire Council's requirements. Any runoff from a future dwelling on proposed Lot 1 will be directed to water tanks in the first instance to provide for a potable and fire-fighting water supply, as well as re-use on the surrounding vegetation and domestic garden. Any excess runoff will be directed to the legal point of discharge.

- *The extent and character of native vegetation and the likelihood of its destruction.*

This has been addressed previously in sections 5.1 and 5.2.

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

It is anticipated that a large proportion of the existing native vegetation on the site will be retained for both screening and aesthetic purposes. This will assist to enhance the biodiversity of the area, insofar as it is appropriate given its primary usage for rural residential purposes.

- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

The site is not susceptible to flooding and the potential for erosion has been addressed in section 5.2 of this report. It is, however, within a designated bushfire prone area and the *Building Regulations 2006* will, therefore, apply bushfire protection standards for the construction of a future dwelling on proposed Lot 1 at the building permit stage. It should be noted that the Bushfire Management Statement completed by Effective Thermal Solutions and contained in **Appendix C** includes a Bushfire Attack Level (BAL) rating for this allotment and this information can be utilised by a future owner in the preparation of dwelling plans.

Clause 65.02 – Approval of an application to subdivide land

- *The suitability of the land for subdivision;*

This has been discussed in section 5.1 of this report.

- *The existing use and possible future development of the land and nearby land;*

The subject site and surrounding land is used and developed for rural residential purposes. This is expected to continue for the foreseeable future, as the area has not been included in a future urban growth area for conventional residential lots on Council's adopted structure plan for Mirboo North.

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

This issue is not considered relevant to this proposal. The subdivision is based upon the permit applicant's need to downsize to a smaller and more manageable parcel of land and dwelling. It has not been influenced by supply and/or demand for lots in the locality, although it is noted that vacant lots of the sized proposed are not plentiful in the Darlimurla Estate.

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

Matters relating to stormwater drainage have been addressed previously.

- *The subdivision pattern having regard to the physical characteristics of the land including existing vegetation;*

This has been discussed in section 3 of this report.

- *The density of the proposed development;*

This has been discussed in section 5.1 of this report.

- *The area and dimensions of each lot in the subdivision;*

This has been discussed in section 3 of this report.

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

No new roads are proposed to be constructed.

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

The subdivision has been designed so that the existing access and egress arrangement for proposed Lot 2 remains unaltered.

Proposed Lot 1 will be accessed from Darlimurla Road via a new driveway crossover located where good sight distances in both directions can be achieved. The location of the accessway along the northern boundary of the site will also ensure that vehicular movements to and from each allotment are well separated and do not conflict.

- *The provision and location of reserves for public open space and other community facilities;*

The provision of public open space and community facilities is not warranted for a two lot rural residential subdivision. Furthermore, under the provisions of both the *Subdivision Act 1988* and **Clause 52.01-1** of the South Gippsland Planning Scheme, the Council cannot require a public open space contribution for the proposal.

- *The staging of the subdivision;*

The subdivision is not proposed to be staged.

- *The design and siting of buildings having regard to safety and the risk of spread of fire;*

The proposed subdivision boundary has been located so that required setback distances to existing and future buildings can meet the applicable building regulations relating to fire protection.

- *The provision of off-street parking;*

Each proposed allotment is large enough to adequately accommodate off-street car parking for existing/future dwellings.

- *The provision and location of common property;*

No common property is proposed.

- *The functions of any body corporate;*

This issue is not relevant, as no common property is proposed.

- *The availability and provision of utility services, including water, sewerage, drainage, electricity and gas;*

This has been addressed previously in this report.

- *If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sillage within the boundaries of each lot;*

Proposed Lot 1 is of adequate size to accommodate on-site wastewater treatment and disposal in accordance with EPA and Council requirements.

The existing wastewater management system servicing the dwelling on proposed Lot 2 will not be altered. No part of this system will cross the proposed subdivision boundary.

- *Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.*

The proposed access point to Lot 1 is the only logical location to provide a driveway where adequate sight distances can be achieved along Darlimurla Road. It is also located where an informal driveway has been positioned in the past, therefore avoiding the need for significant works or vegetation removal to formalise this.

The provision of open space areas is not required for a subdivision of this type.

6 CONCLUSION

The proposed application for subdivision, vegetation removal and associated works is appropriate for the site as it:

- Complies with both State and local planning policy objectives;
- Satisfies the purposes and decision guidelines of the zone and overlays;
- Will result in more efficient usage of existing infrastructure;
- Will not increase the risk to life or property from bushfire; and,
- Will not adversely affect the environmental values of the site or surrounding area.

It is considered that the proposal has planning merit and it is therefore requested that South Gippsland Shire Council issue a planning permit for the subdivision of land into two lots at 3 Cuthbertson Court, Mirboo North.

APPENDIX A. Certificate of Title

APPENDIX B. Proposed Plan of Subdivision

APPENDIX C. Bushfire Management Statement