



GOLDEN PLAINS SHIRE

# **ATTACHMENTS**

**Under Separate Cover  
Ordinary Council Meeting**

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**6.00pm Tuesday 24 March 2020**



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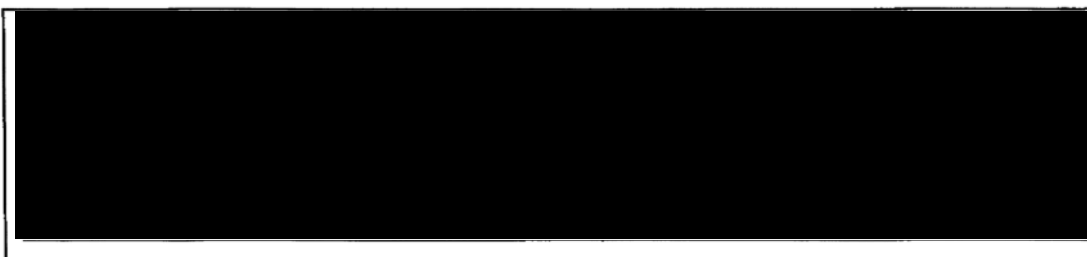
# SUBMISSION / OBJECTION TO GRANTING A PLANNING PERMIT

*Planning and Environment Act 1987*



**GOLDEN PLAINS SHIRE**  
 Golden Plains Shire Council  
 Bannockburn -  
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**Before completing this form, it is recommended you inspect the planning permit application online or at a Customer Service Centre.**



**DETAILS OF THE PERMIT APPLICATION YOU ARE RESPONDING TO:**

Application Number:

Address of Subject Land: P19-240 69 YULLOW DRIVE

Description of Proposal: 2 LOT SUB DIVISION

Name of Applicant: KRNO MADJERIC.

**DETAILS OF SUBMISSION / OBJECTION:**

*(State reasons for objection and how you would be affected by the granting of a planning permit)*

MY OBJECTION IS THAT THE ESTATE CAN NOT SUPPORT THE INCREASED HOUSING.

- THERE IS NO FOOTPATHS ON YULLOW DRIVE

- NO STREET LIGHTS, NO PROPER DRAINAGE

- THE ROAD ITSELF CAN NOT HANDLE AN INCREASE IN VEHICLE TRAFFIC.

- THIS ESTATE IS BOUND ON COUNTRY LIVING - OPEN SPACE, EXISTING COVENANTS.

Continued - see over



**DETAILS OF SUBMISSION / OBJECTION: Continued**

IT CAN NOT SUPPORT AN EXTRA HOUSE ON EVERY BLOCK.

THERE ARE LOTS OF RESIDENTS THAT DO NOT SUPPORT THIS DEVELOPMENT

- ITS JUST A CASH GRAB AND NOT GOOD FOR RESIDENTS.

Attach additional pages if required

**Are there any changes that could be made to the proposal to address your concerns?** Yes  No

*If yes, what changes would you suggest that would meet your concerns:*

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Date: 24/1/2020

**IMPORTANT NOTES ABOUT SUBMISSIONS / OBJECTIONS TO PERMIT APPLICATIONS**

1. This form is to help you make an objection to an application in a way which complies with the *Planning and Environment Act 1987*, and which can be readily understood by the responsible authority. There is no requirement under the Act that you use any particular form.
2. Make sure you clearly understand what is proposed before you make an objection. You should inspect the application at the responsible authority's office.
3. To make an objection you should clearly complete the details on this form and lodge it with the responsible authority as shown on the Public Notice - Application for Planning Permit.
4. An objection must state the reasons for your objection; and state how you would be affected if a permit is granted.
5. The responsible authority may reject an application which it considers has been made primarily to secure or maintain a direct or indirect commercial advantage for the objector. In this case, the Act applies as if the objection had not been made.
6. Please be aware that copies of objections/submissions received may be made available to any person for the purpose of consideration as part of the planning process in accordance with the *Planning & Environment Act 1987*.
7. To ensure the responsible authority considers your objection, make sure that the authority receives it by the date shown in the notice you were sent or which you saw in a newspaper or on the website.
8. If you object before the responsible authority makes a decision, the authority will tell you its decision.
9. If despite your objection the responsible authority decides to grant the permit, you can appeal against the decision. Details of the appeal procedures are set out on the back of the Notice of Decision which you will receive. An appeal must be made on a prescribed form (obtainable from the Victorian Civil and Administrative Tribunal) and accompanied by the prescribed fee. A copy must be given to the responsible authority. The closing date for appeals is 21 days of the responsible authority giving notice of its decision.
10. If the responsible authority refuses the application, the applicant can also appeal. The provisions are set out on the Refusal of Planning Application which will be issued at that time.

**Golden Plains Shire Privacy Statement**

*The Golden Plains Shire considers that the responsible handling of personal information is a key aspect of democratic governance, and is strongly committed to protecting an individual's right to privacy. Council will comply with the Information Privacy Principles as set out in the Privacy and Data Protection Act 2014. Council has in place a standard operating procedure that sets out the requirements for the management and handling of personal information.*

If you have any queries regarding this Privacy Statement, please contact the Privacy Officer on 03 5220 7111.

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Agenda

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**File Number:** P19-240  
**Author:** Peter O'Brien,  
**Authoriser:** Phil Josipovic, Director Infrastructure & Development  
**Applicant:** Kruno Madjeric  
**Owner:** Ivan & Ana Marija Simic  
**Proposal:** 2 lot subdivision  
**Location:** 69 Yverdon Drive, Bannockburn  
**Attachments:** Nil

### RECOMMENDATION

That Council resolves to issue a Notice of Decision to Grant a Planning Permit for a two lot subdivision at 69 Yverdon Drive, Bannockburn subject to the conditions attached to this report.

### EXECUTIVE SUMMARY

This report relates to a planning permit application for the development of land for the purposes of a two lot subdivision at 69 Yverdon Drive, Bannockburn. This report provides a background to the application and a summary of the relevant planning considerations.

### PURPOSE

The application has been referred to the Council Meeting for determination because there is an objection to the application.

### CONFLICT OF INTEREST

In accordance with Section 80B of the *Local Government Act 1989*, the Officers preparing this report declare no conflict of interest in regard to this matter.

### COUNCIL PLAN

Managing natural and built environments.

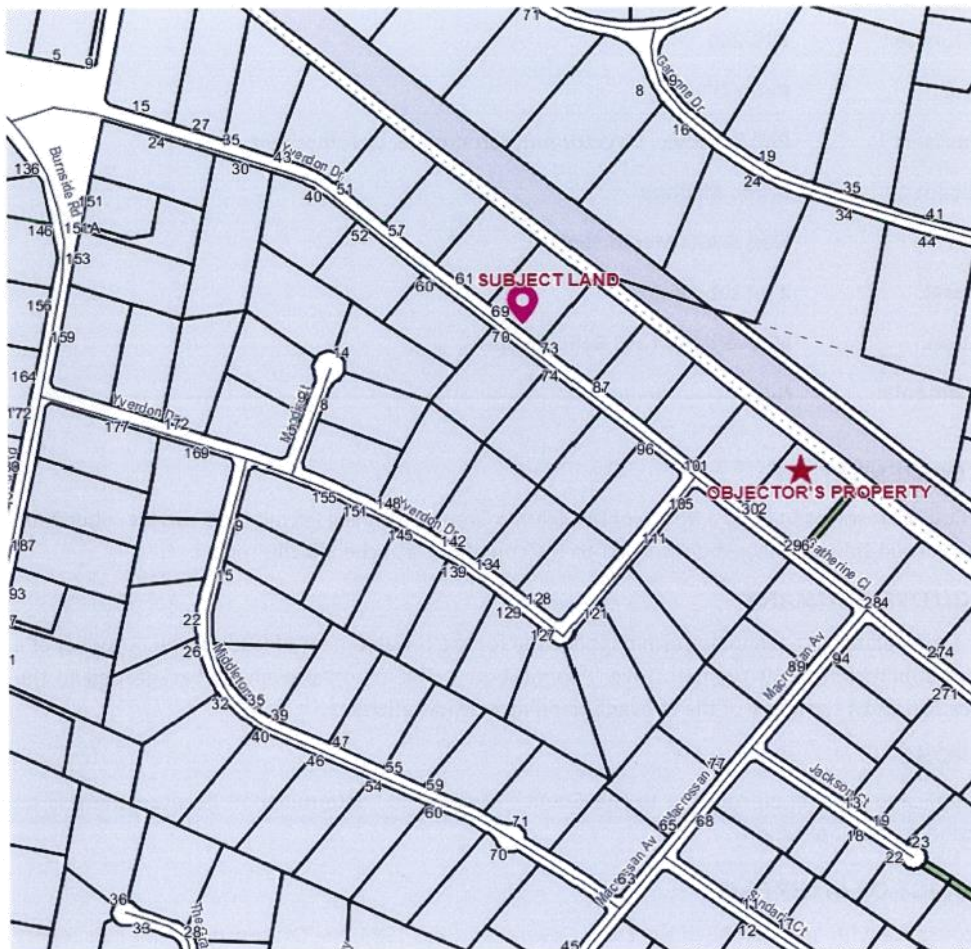
### BACKGROUND INFORMATION

#### Site description

The subject land is situated at 69 Yverdon Drive, Bannockburn and is formally known as Lot 62 on Plan of Subdivision 448124H. The site is located in a low density residential area of Bannockburn. The site contains an existing dwelling and shed and has a total area of 8000m<sup>2</sup>. The land is flat and mostly cleared except for planted vegetation. The site has access from Yverdon Drive which is a sealed road managed by Council. The land is affected by two restrictive covenants however these covenants do not prohibit subdivision or additional dwellings.

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Site map



**The proposal**

The application proposes the development of the land for a two lot subdivision. A copy of the application and plans is attached. The proposed subdivision will create rectangular lots of equal size and proportions. Proposed lot 1 is a vacant lot and proposed lot 2 will contain the existing dwelling and shed. Both lots have an area of 4000m<sup>2</sup> and a 40m wide frontage to Yverdon Drive.

**CONSULTATION**

Notice of the application was given in accordance with Section 52 (1)(a) & (d) of the *Planning and Environment Act 1987*. Notice was provided by mail to 4 adjoining and neighbouring owners and occupiers.

As a result of the public notice, 1 objection was received. A copy of the objection is attached. The objection is not from an adjoining owner. The objector is opposed to further subdivision in the Glen Avon Estate and is concerned that there is not adequate infrastructure to support additional lots.



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## Agenda

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A consultation meeting was not held for this application. The objector has also lodged objections to two other current subdivision applications in the estate and previously declined an invitation to a consultation meeting to one of these applications.

### **ASSESSMENT**

The application was submitted to Council on 23 August 2019 and a preliminary assessment was undertaken. There are no referral authorities specified in the planning scheme for an application of this type. An application for a two lot subdivision is exempt from referral to utility authorities. The application was internally referred to Council's Works and Environmental Health departments. These parties had no objection to the issue of a permit subject to conditions being placed on the permit.

#### **Golden Plains Planning Scheme**

##### **Planning Policy Framework (PPF)**

###### Clause 11.02 Managing Growth

The objective of the policy for the supply of urban land (Clause 11.02-1S) is to ensure a sufficient supply of land is available for residential and other uses. Planning for urban growth should consider:

- Opportunities for the consolidation, redevelopment and intensification of existing urban areas.
- Neighbourhood character and landscape considerations.
- The limits of land capability and natural hazards and environmental quality.
- Service limitations and the costs of providing infrastructure.

###### Clause 15.01 Urban Environment

The objective of the policy for subdivision design (Clause 15.01-3S) is to ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods. In the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by, among other things, providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.

###### Clause 16.01 Residential Development

The objective of the policy for the location of residential development (Clause 16.01-2S) is to locate new housing in designated locations that offer good access to jobs, services and transport. The policy seeks to increase the proportion of new housing in designated locations within established urban areas, ensure an adequate supply of redevelopment opportunities within the established urban area to reduce the pressure for fringe development and to identify opportunities for increased residential densities to help consolidate urban areas.

##### **Local Planning Policy Framework (LPPF)**

###### Clause 21.02 Settlement

The local policy for settlement patterns (Clause 21.02-1) includes objectives to make efficient use of land and encourage the consolidation of existing township areas. The policy seeks to direct residential development to township areas that have reticulated water, sewerage and stormwater drainage and

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community services and facilities. Infill development in towns lacking sewerage treatment will be required to provide onsite effluent treatment.

The policy for rural areas (Clause 21.02-3) applies to the subdivision of land in low density residential areas. The policy seeks to control the density and overall lot sizes of land according to environmental conditions and established character and to avoid indiscriminate subdivision of land. To satisfy this policy new subdivision must recognise and maintain the surrounding lot configurations and lot size, provide appropriate infrastructure, including drainage and roads, and provide for on-site effluent disposal including on-going maintenance of septic systems.

### Clause 21.07 Local areas – Townships

The local policy for Bannockburn (Clause 21.07-1) recognises that the town has experienced strong growth in recent years and that key issues are the continued management of residential growth including land supply and infrastructure provision and the protection and enhancement of the natural and built environment including town character and rural ambience. It is an objective of the policy to promote growth in Bannockburn that is sustainable in accordance with the Overall Principles Plan (Figure 21.07-1A). The Overall Principles Plan shows the subject land located within an area identified as “Existing Low Density Residential”.

### Clause 22.09 Low Density Residential Subdivision Policy

This policy seeks to ensure the elements of land capability and character are addressed when considering subdivision applications. The objectives of the policy are to ensure that new lots are of sufficient size for on-site effluent disposal and to maintain an open and spacious character through:

- Design that provides for open space and landscaping.
- Retention of existing vegetation.
- Avoiding creation of lots with battle-axe access in greenfield development.
- The provision of wide driveways with sufficient areas available for landscaping.
- Lot sizes with sufficient area to accommodate setbacks required by the Design and Development Overlay Schedule 5.

It is policy that support for subdivision in the Low Density Residential Zone will be considered only where rigorous testing of soil capacity has been undertaken by suitably qualified practitioners to demonstrate that the lot can contain on site effluent disposal and that subdivision within established low density residential areas respects and positively contributes to the lot configuration and character elements of the surrounding area.

### Zone and overlay provisions

#### Clause 32.03 Low Density Residential Zone (LDRZ)

The site and surrounding land is in a Low Density Residential Zone (LDRZ). The purpose of the LDRZ is to provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater. A permit is required to subdivide land under the provisions of the LDRZ. The LDRZ sets a minimum lot size of 0.4 hectares. The decision guidelines of the LDRZ require Council to consider, as appropriate:

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- The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- In the absence of reticulated sewerage, the capability of the lot to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.

### Clause 43.02 Design & Development Overlay Schedule 5 (DDO5)

The land is affected by the Design & Development Overlay Schedule 5 (DDO5) which relates to setbacks for the construction of buildings. The DDO5 does not contain any specific requirements related to subdivision.

### General provisions

The decision guidelines contained in Clause 65.01 of the planning scheme require Council to consider the following matters, as appropriate:

- The matters set out in section 60 of the Act.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- 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 adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

In addition, before deciding on an application to subdivide land, the decision guidelines contained in Clause 65.02 must be considered, as appropriate:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.



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- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of any body corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- 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 sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

**DISCUSSION****Planning scheme**

The proposed subdivision is considered to satisfy the relevant provisions of the planning scheme including State and Local planning policies, the Low Density Residential Zone, and Clause 65 of the Victoria Planning Provisions. The Low Density Residential Zone and local policy for Low Density Residential Development (Clause 22.09) supports subdivision of land down to 0.4 hectares where lots are of sufficient size to contain on site effluent disposal and the open and spacious character of low density residential areas is maintained. The proposed subdivision maintains character through design that provides for wide street frontages and avoids battle-axe access and creates lots of sufficient size for landscaping and setbacks in accordance with the DD05. A land capability assessment submitted with the application demonstrates that the proposed lots are capable of accommodating on-site effluent disposal and the proposed subdivision has adequate infrastructure including sealed road access, drainage and utilities.

**Objector's concerns**

The objector is opposed to further subdivision in the Glen Avon Estate and is concerned that there is not adequate infrastructure to support additional lots. As discussed the planning scheme supports subdivision down to 0.4 hectares in Low Density Residential areas where lots are capable of accommodating on-site effluent disposal and maintain the character of the area. The existing road network is of an appropriate standard to accommodate additional traffic from the proposed subdivision and permit conditions will require drainage works to ensure that stormwater runoff does not impact downstream properties. The provision of electricity, water and telecommunications services must meet the requirements of the relevant utility authority and it is normal that the utility authorities will seek to ensure that a new development contributes to the upgrade of existing infrastructure to ensure that existing service levels are maintained and not reduced as a result of further subdivision.

**CULTURAL HERITAGE IMPLICATIONS**

This proposal does not require the preparation of a Cultural Heritage Management Plan under the *Aboriginal Heritage Regulations 2007*.

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**CONCLUSION**

The application satisfies the provisions of the Planning Scheme, including the Local Policy for Low Density Residential Development (Clause 22.09), the provisions of the Low Density Residential Zone, and the decision guidelines of the Planning Scheme (Clause 65). The proposed subdivision has been designed to maintain the character of the area and the proposed lots are considered to be capable of on-site effluent disposal. The application is not considered to cause material detriment to any person.







Planning Enquiries  
 Phone: (03) 5220 7111  
 Email: [enquiries@goldenplains.vic.gov.au](mailto:enquiries@goldenplains.vic.gov.au)  
 Web: [www.goldenplains.vic.gov.au](http://www.goldenplains.vic.gov.au)

**Office Use Only**

VicSmart?  YES  NO

Specify class of VicSmart application:

Application No.: \_\_\_\_\_ Date Lodged: / /

## Application for a Planning Permit

If you need help to complete this form, read MORE INFORMATION at the back of this form.

- Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any concerns, please contact Council's planning department.
- Questions marked with an asterisk (\*) must be completed.
- If the space provided on the form is insufficient, attach a separate sheet.
- Click for further information.

**Application Type**

Is this a VicSmart application?  No  Yes

If yes, please specify which VicSmart class or classes: \_\_\_\_\_

If the application falls into one of the classes listed under Clause 92 or the schedule to Clause 94, it is a VicSmart application.

**Pre-application Meeting**

Has there been a pre-application meeting with a Council planning officer?  No  Yes

If 'Yes', with whom? \_\_\_\_\_

Date: \_\_\_\_\_ day / month / year

**The Land**

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address \*

Unit No.:	St. No.: 69	St. Name: Yverdon Drive
Suburb/Locality: Bannockburn		Postcode: 3331

Formal Land Description \*

Complete either A or B.

This information can be found on the certificate of title.

If this application relates to more than one address, attach a separate sheet setting out additional property details.

A Lot No.: 62  Lodged Plan  Title Plan  Plan of Subdivision No.: 448124H


OR

B Crown Allotment No.: \_\_\_\_\_ Section No.: \_\_\_\_\_


Parish/Township Name: \_\_\_\_\_

### The Proposal

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


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

2 lot subdivision

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

 Estimated cost of any development for which the permit is required \*

Cost \$30,000.00

 You may be required to verify this estimate. Insert '0' if no development is proposed.

If the application is for land within metropolitan Melbourne (as defined in section 3 of the *Planning and Environment Act 1987*) and the estimated cost of the development exceeds \$1 million (adjusted annually by CPI) the Metropolitan Planning Levy must be paid to the State Revenue Office and a current levy certificate must be submitted with the application. Visit [www.sro.vic.gov.au](http://www.sro.vic.gov.au) for information.

### Existing Conditions

 Describe how the land is used and developed now \*

For example, vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 30 seats, grazing.

1 x two storey dwelling and associated outbuildings


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

### Title Information

 Encumbrances on title \*

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

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

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



## Applicant and Owner Details

Provide details of the applicant and the owner of the land.

### Applicant \*

The person who wants the permit.

Please provide at least one contact phone number \*

If this is the preferred contact person for the application is different from the applicant, provide the details of that person.

### Owner \*

The person or organisation who owns the land

If the owner is different from the applicant, provide the details of that person or organisation.

Name:		
Title: Mr	First Name: Kruno	Surname: Madjeric
Organisation (if applicable): mj projects		
Postal Address: <small>If it is a P.O. Box, enter the details here:</small>		
Unit No.:	St. No.: 12	St. Name: Curtin Street
Suburb/Locality: Bell Park	State: VIC	Postcode: 3215
<b>Contact information for applicant OR contact person below</b>		
Business phone:	Email: madjeric@ncable.net.au	
Mobile phone: 0419594981	Fax:	
<b>Contact person's details*</b>		
Name:		Same as applicant <input checked="" type="checkbox"/>
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address: <small>If it is a P.O. Box, enter the details here:</small>		
Unit No.:	St. No.:	St. Name:
Suburb/Locality:	State:	Postcode:
Name: <small>Same as applicant</small> <input type="checkbox"/>		
Title:	First Name: Ivan & Ana Marija	Surname: Simic
Organisation (if applicable):		
Postal Address: <small>If it is a P.O. Box, enter the details here:</small>		
Unit No.:	St. No.: 69	St. Name: Yverdon Drive
Suburb/Locality: Bannockburn	State: VIC	Postcode: 3331
Owner's Signature (Optional):	Date:	
	day / month / year	

## Information requirements

Is the required information provided?

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist.

Yes  No

## Declaration

This form must be signed by the applicant \*

Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

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

Signature:  Date: 05.07.2019  
day / month / year



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

Page 1 of 1

VOLUME 10663 FOLIO 366

Security no : 124076426042T  
Produced 05/03/2019 11:59 AM

**LAND DESCRIPTION**

Lot 62 on Plan of Subdivision 448124H.

PARENT TITLES :

Volume 04252 Folio 227      Volume 10580 Folio 282      Volume 10654 Folio 694

Created by instrument PS448124H 22/07/2002

**REGISTERED PROPRIETOR**

Estate Fee Simple

Joint Proprietors

IVAN SIMIC

ANA MARIJA MAUROVIC both of 27 CURTIN STREET BELL PARK VIC 3215

AE263859E 28/03/2006

**ENCUMBRANCES, CAVEATS AND NOTICES**

MORTGAGE AE263860V 28/03/2006  
COMMONWEALTH BANK OF AUSTRALIA

COVENANT PS448124H 22/07/2002

COVENANT AB473477Y 08/08/2002

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

**DIAGRAM LOCATION**

SEE PS448124H 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: 69 YVERDON DRIVE BANNOCKBURN VIC 3331

**ADMINISTRATIVE NOTICES**

NIL

eCT Control 15940N CBA - COMMONWEALTH BANK OF AUSTRALIA  
Effective from 23/10/2016

DOCUMENT END



## Imaged Document Cover Sheet

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Number of Pages (excluding this cover sheet)	<b>4</b>
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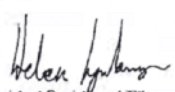
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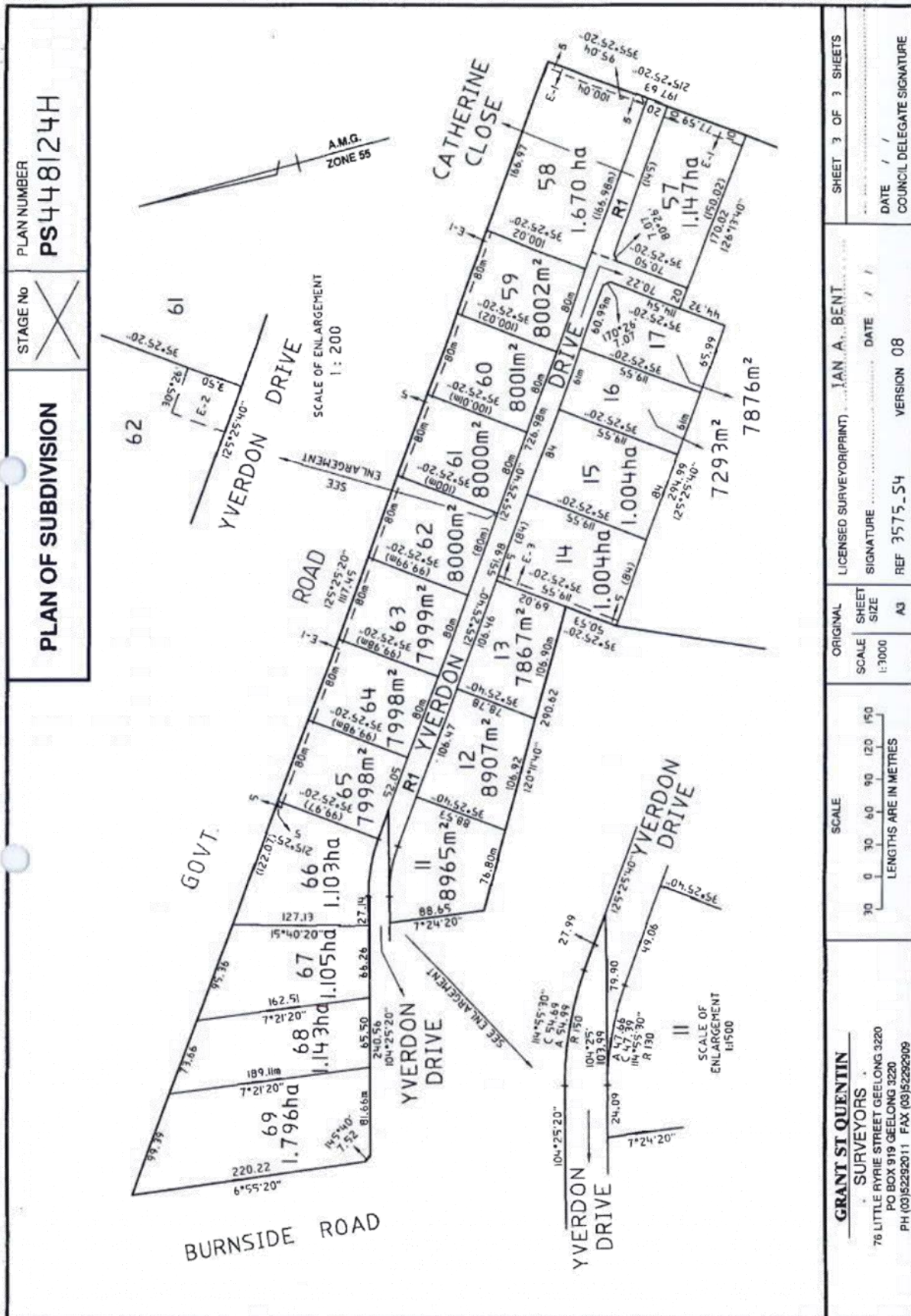
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<b>PLAN OF SUBDIVISION</b>		STAGE No <del>X</del>	LTO USE ONLY EDITION 2	PLAN NUMBER PS448124H
<b>LOCATION OF LAND</b> PARISH: MURGHEBOLUC, WABDALLAH TOWNSHIP: _____ SECTION: 20 ALLOTMENT: 2001 CROWN ALLOTMENT: 16-18 & PARTS OF 10-15 & 19 CROWN PORTION: _____ LTO BASE RECORD: PARISH PLAN TITLE REFERENCES: V.4252 F.227 V.10580 F.282 V.10654 F.694 LAST PLAN REFERENCE/S: PS.440666M (LOT C) POSTAL ADDRESS: BURNSIDE ROAD (At time of subdivision) BANNOCKBURN 3331 AMG Co-ordinates (of approx centre of land in plan) E 253 000 N 5 783 800 ZONE: 55		<b>COUNCIL CERTIFICATION AND ENDORSEMENT</b> COUNCIL NAME: GOLDEN PLAINS SHIRE REF: 508-198 <del>1. This plan is certified under Section 6 of the Subdivision Act 1988</del> 2. This plan is certified under Section 11(7) of the Subdivision Act 1988 Date of original certification under Section 6 14/11/2001 <del>3. This is a statement of compliance issued under Section 24 of the Subdivision Act 1988</del> OPEN SPACE (i) A requirement for public open space under Section 18 of the Subdivision Act 1988 has <del>has not</del> been made (ii) <del>The requirement has been satisfied.</del> (iii) <del>The requirement is to be satisfied in Stage</del> _____ <del>Council Delegate</del> <del>Council Seal</del> Date 1/1 Re-certified under Section 11(7) of the Subdivision Act 1988 Council Delegate Council Seal Date 10/2/02		
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON	STAGING This is/is not a staged subdivision Planning permit No.		
R.1	GOLDEN PLAINS SHIRE	DEPTH LIMITATION 15m affects land in V.10654 F.694		
Creation of Restriction: Upon registration of this plan the following restriction is to be created. Land to benefit : All lots on this plan Land to be burdened : All lots on this plan except lot A Description of Restriction : 1. The owner/s of all lots on this plan except lot A shall not construct a dwelling without first undertaking a site assessment, including soil percolation tests (in accordance with the septic tank code of practice), to determine the suitability of the land for effluent disposal. 2. The owner/s of all lots on this plan except lot A shall not construct a dwelling without the floor level being at least 300mm above the natural surface.		THE LAND BEING SUBDIVIDED IS ENCLOSED WITHIN THICK CONTINUOUS LINES. LOTS 1-10 & 18-56 HAVE BEEN OMITTED FROM THIS PLAN. SURVEY THIS PLAN IS <del>IS NOT</del> BASED ON SURVEY THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No(s) IN PROCLAIMED SURVEY AREA No		
<b>EASEMENT INFORMATION</b>		<b>LTO USE ONLY</b>		
<b>Legend:</b> E - Encumbering Easement, Condition in Crown Grant in the Nature of an Easement or Other Encumbrance A - Appurtenant Easement R - Encumbering Easement (Road)		STATEMENT OF COMPLIANCE EXEMPTION STATEMENT		
Subject Land	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	DRAINAGE	SEE PLAN	THIS PLAN	GOLDEN PLAINS SHIRE
E-2	POWERLINE	3	THIS PLAN- Section 88 of the Electricity Industry Act 2000.	POWERCOR AUSTRALIA LIMITED
E-3	DRAINAGE	5	THIS PLAN	GOLDEN PLAINS SHIRE
E-3	POWERLINE	5	THIS PLAN- Section 88 of the Electricity Industry Act 2000.	POWERCOR AUSTRALIA LIMITED
<b>GRANT ST QUENTIN SURVEYORS</b> 76 LITTLE HYRIE STREET GEELONG 3220 PO BOX 919 GEELONG 3220 PH (03)52292011 FAX (03)52292909		LICENSED SURVEYOR (PRINT) IAN A. BENT SIGNATURE _____ DATE 1/2/02 REF 3575_54 VERSION 08		RECEIVED <input checked="" type="checkbox"/> DATE 16/7/2002 LTO USE ONLY PLAN REGISTERED TIME 8:47 am DATE 20/7/02  Assistant Registrar of Titles SHEET 1 OF 3 SHEETS
		COUNCIL DELEGATE SIGNATURE _____ ORIGINAL SHEET SIZE A3		



PLAN NUMBER  
**PS448124H**

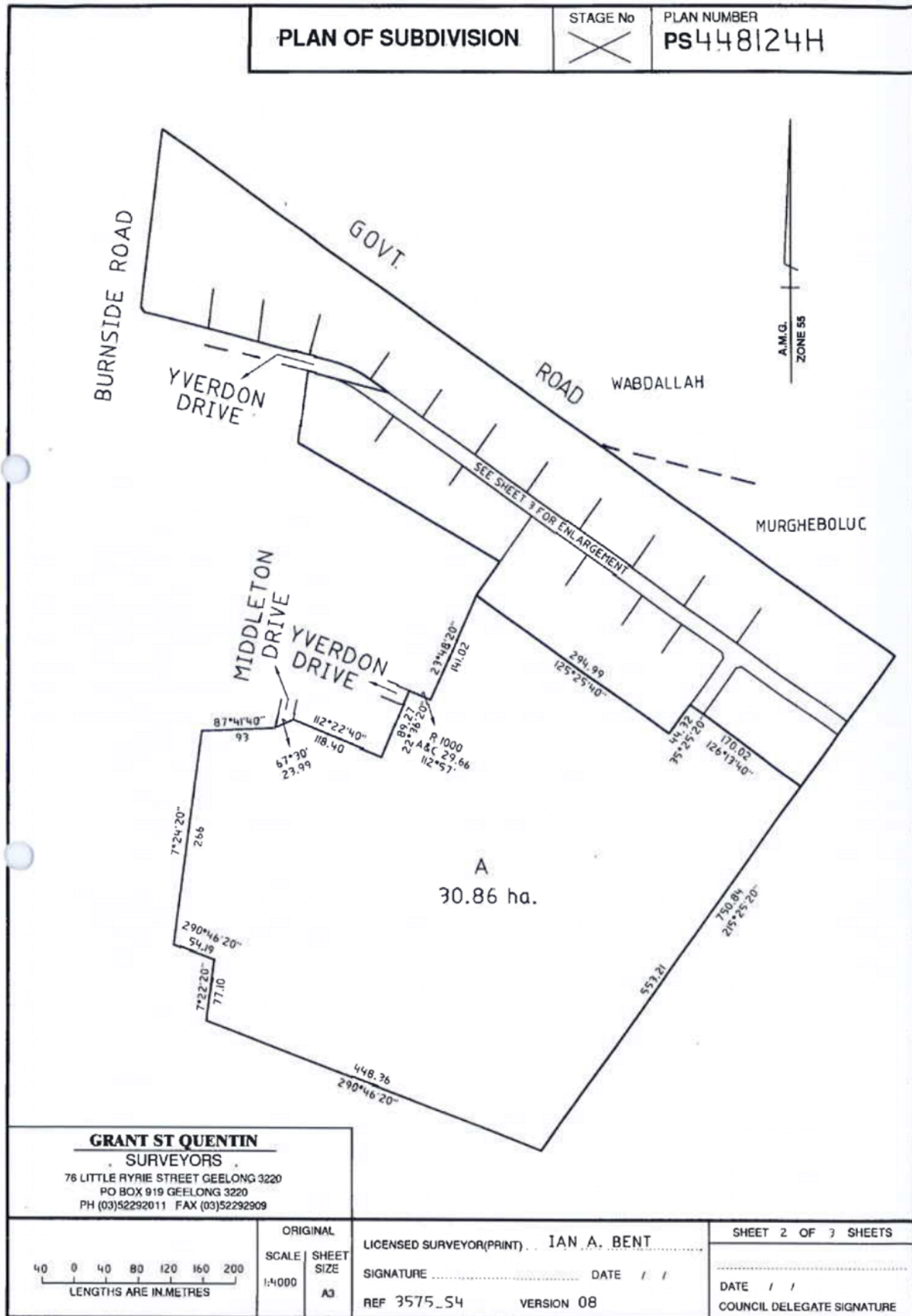
STAGE No  
**X**

PLAN OF SUBDIVISION

<p>LICENSED SURVEYOR(PRINT) <b>IAN A. BENT</b></p> <p>SIGNATURE ..... DATE / /</p>		<p>SHEET 3 OF 3 SHEETS</p> <p>DATE / /</p> <p>COUNCIL DELEGATE SIGNATURE</p>	
ORIGINAL	SHEET SIZE	REF	VERSION
	1:3000	3575_54	08
<p>SCALE</p> <p>30 0 30 60 90 120 150</p> <p>LENGTHS ARE IN METRES</p>			
<p><b>GRANT ST QUENTIN</b></p> <p><b>SURVEYORS</b></p> <p>76 LITTLE RYRIE STREET GEELONG 3220</p> <p>PO BOX 919 GEELONG 3220</p> <p>PH (03)52292011 FAX (03)52292009</p>			



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# TRANSFER OF LAND

Section 45 Transfer of Land Act 1958



## AB473477Y

08/08/2002 \$248 45



Lodged by:

Name: WNYTE TONY O MOORE

Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Ref: \_\_\_\_\_

Customer Code: 1737 N

MADE AVAILABLE/CHANGE CONTROL  
Land Titles Office Use Only

The transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed-

- together with any easements created by this transfer;
- subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer; and
- subject to any easement reserved by this transfer or restrictive covenant contained or covenant created pursuant to statute and included in this transfer.

Land: (volume and folio reference)  
Certificate of Title Volume 10663 Folio 366 f.

Estate and Interest: (e.g. "all my estate in fee simple")  
All my estate in fee simple

Consideration:  
\$64,000.00



DAB473477Y-1-6

Transferor: (full name)  
BRIAN JOSEPH O'SHANNASSY

Transferee: (full name and address including postcode)  
TROY ALEXANDER ALFORD and MELANIE JANE O'TOOLE of 3 Laverton Court Corio 3214 as joint proprietors

Directing Party: (full name)

Creation and/or Reservation and/or Covenant:

The Transferees, with the intention that the benefit of this covenant will be annexed to and run at law and in equity with each of the lots comprised in Plan of Subdivision No. PS448124H and the land hereby transferred and that the burden of this covenant will be annexed to and run at law and in equity with the land hereby transferred and every part or parts thereof, do hereby for themselves their successors and transferees COVENANT with the transferor its successors and assigns the registered proprietor or proprietors for the time being of each of the lots comprised in Plan of Subdivision No. PS448124H (or any part or parts thereof) other than the land hereby transferred that there will not be brought onto the land nor allowed to remain on the land any transportable or relocatable dwelling or any dwelling other than the one which was constructed on the land.

Continued on T2 Page 2.

C.B. Approval No. 4040110A ORDER TO REGISTER  
Please register and issue title to

# T2



KLO 8/8/02

Signed

Cust. Code:

STAMP DUTY USE ONLY Land

Stamped with: \$1,336.00  
Trn: 1328428 08-AUG-2002  
SRD Victoria Duts, SJK1

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AND IT IS AGREED that this covenant will be noted and appear on every future certificate of title to the land hereby transferred or any part thereof.

Dated: 7 / 8 / 2002

Execution and attestation:

SIGNED by the Transferor in the

presence of:

*[Handwritten signature]*

*[Handwritten signature]*

SIGNED by the Transferees in the

presence of:

*Elizabeth M. Hood*

*T. Hood  
Melanie Cole*



DAB473477Y-2-4

C.B. Approval No. 4040110A ORDER TO REGISTER  
Please register and issue title to

T2



Signed

Cust. Code:

AB473477Y

08/08/2002 \$248 45



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Our Ref: DRK:2019031

4 November 2019

Mr Ivan Simic  
69 Yverdon Drive  
BANNOCKBURN VIC 3331  
By Email: [isimic17@gmail.com](mailto:isimic17@gmail.com)

Dear Ivan

**Re: Amended Covenant Advice 69 Yverdon Drive Bannockburn**

We refer to our letter dated 9 August 2019 in which we provided an opinion on the effects of the restrictive covenant registered under instrument AB 473477Y and affecting the property at 69 Yverdon Drive Bannockburn.

This opinion was provided to Golden Plains Shire who on 16 October 2019 responded requesting further information and highlighting that the words of the covenant quoted in the opinion did not exactly reflect those registered on the title. We apologise for this oversight. Below is our amended and revised opinion.

Restriction 1 is contained in plan of subdivision PS 448124H and is as follows;

1. *the owners of all lots on this plan except lot A shall not construct the dwelling without first undertaking a site assessment, including soil percolation tests (in accordance with the septic tank code of practice), to determine the suitability of the land for effluent disposal.*
2. *the owner/s of all lots on this plan except lot A shall not construct a dwelling without the floor level being at least 300 mm above the natural surface.*

Restriction 1 is uncontentious, we have been asked only to advise on Restriction 2

Restriction 2 is a restrictive covenant registered via instrument AB473477Y as part of a transfer of land pursuant to section 40 of the *Transfer of Land Act 1958*. The covenant contains the usual preamble annexing the covenant to each lot in the plan of subdivision and stating that it runs at law and in equity applying to the registered proprietor, successors and transferees.

The relevant part that we have been asked to advise on states as follows;

*... that there will not be brought onto the land nor allowed to remain on the land any transportable or relocatable dwelling or any dwelling other than the one which was constructed on the land.*

#### Opinion

It is our opinion that the underlined words above do not restrict the numbers of dwellings to be constructed but rather the type of dwelling. When considered in the context and in conjunction with the words "transportable" or "relocatable" we believe the underlined words provide a coverall to prevent other types of transportable or relocatable dwellings such as prefabricated, unregistered movable dwellings, dependent persons units and other similar types.

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### **Background**

A draft application for planning permit to subdivide the Land into 2 lots of equal size of 4000 m<sup>2</sup> has been provided to Golden Plains Shire.

Golden Plains Shire planning officers have indicated that their preliminary view is that Restriction 2 where it refers to other than the one restricts the number of dwellings on the land. If that were the case the restriction needs to be varied otherwise section 61(4) of the *Planning and Environment Act 1987* requires the permit to be refused.

The interpretation which best reflects the intentions of the covenantor is that it seeks to restrict dwellings only to new dwellings that are constructed on the land. It is clear that transportable or relocatable are not allowable, however where the words other than the one is used this is referring to any transportable or relocatable that already exists on the land.

### **Interpretation of covenants**

A key principle in interpreting restrictive covenants is to consider the words as they are actually used. Further, the words need to be interpreted and given their meaning in common vernacular use and interpreted in their colloquial or ordinary sense, not in any technical or legal sense.<sup>1</sup>

The words need to be considered in the context and interpreted in a fashion that best meets the intentions of the covenant at the time the covenant was entered into. Bongiorno J<sup>2</sup> reasoned that the interpretation of the covenant 'was purely a question of construction, approached against the background of the facts that existed at the time the contract was entered into'.

Applying this to the words of Restriction 2 where they state *other than the one* should not be read alone as a restriction on the number of dwellings. If it was the intention of the covenantor at the time it was registered on the title to restrict the number of dwellings this could easily have been stated by including the words '*not more than one dwelling can be constructed*'. These words do not exist in this covenant.

The words '*other than the one*' in this covenant are prefaced by qualifying words referring to *relocatable* and *transportable*, these describe the type or genus of dwelling which cannot be allowed on the Land.

The words '*which was constructed on the land*' that follow the words '*other than one*' are in our view a catchall that extends and qualifies the type of construction methodology rather than the empirical number.

### **Other interpretations**

The use of the word 'the' in this phrase introduces a degree of uncertainty. We think it can be interpreted in three ways. The first is that it is a typing error when the transfer of land was prepared. Support for this proposition is found in the fact that when you search other lots on the same plan of subdivision 'the' is missing from the phrase. In this instance it is simple and clear that the words mean the only houses allowed on the land are ones that are constructed there. Attached is a copy of a recent title and transfer for 15 Yverdon Drive Bannockburn (redacted for privacy reasons).

The second interpretation based on a literal meaning of the words would be that if there was an existing dwelling on the property at the time the transfer of land was executed and it was a relocatable or transportable it could remain. We are instructed that our clients purchased this land and it was vacant, as such it is not applicable to this situation

<sup>1</sup> *Prowse v Johnstone* [2012] VSC 4 at para 52

<sup>2</sup> *Tonks v Tonks* [2003] VSC 195





The third interpretation is that suggested by Council and that is the words "the one which was constructed" amounts to a restriction not allowing any more than one dwelling to be constructed. We disagree with this interpretation for two reasons. Firstly the word 'one' is not being used as a number, rather it is being used as a pronoun to describe a person or thing of a specified category. In this instance that specified category would be relocatable or transportable dwellings.

Secondly the phrase is referring to the past tense, 'was' constructed rather than 'to be' constructed. This envisages that it applies to something that was already there rather than something that is to be constructed. This interpretation is more consistent with interpretation two above. Again, we note our clients purchased this land when it was vacant.

#### **Conclusion**

Overall we think the most appropriate interpretation of the language of the restriction is that that its intent was to restrict the type of dwelling rather than the number of dwellings. There is absolutely nothing in the restriction to suggest that it was trying to limit the number of dwellings on the land. It takes a very twisted and contorted interpretation of the phrase 'the one' to interpret it to be a restriction on numbers, clearly it is describing a type.

Even if you apply the literal interpretation two above that it was meant to apply to any existing relocatable or transportable dwelling this does not amount to a restriction on the number of dwellings.

Provided any as of right dwelling is not relocatable or transportable there would be no breach of the restriction if a new dwelling was constructed on either of the new lots. As such the subdivision of the Land and construction of a new dwelling in our view will not amount to a breach of the restrictive covenants affecting the land.

Yours faithfully

A handwritten signature in black ink that reads "David King".

David King  
**Kings Lawyers**

contact no: (03) 5221 7077

email: david@kingslawyers.com.au



69 Yverdon Drive Bannockburn

# 69 Yverdon Drive, Bannockburn

## Planning Report - Proposed 2 Lot Subdivision

Client: mi projects  
20 June 2019

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**Katica Kurtov**

PROJECT AND PLANNING SERVICES

20 June 2019 Version 1

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# 1 Introduction

## Overview

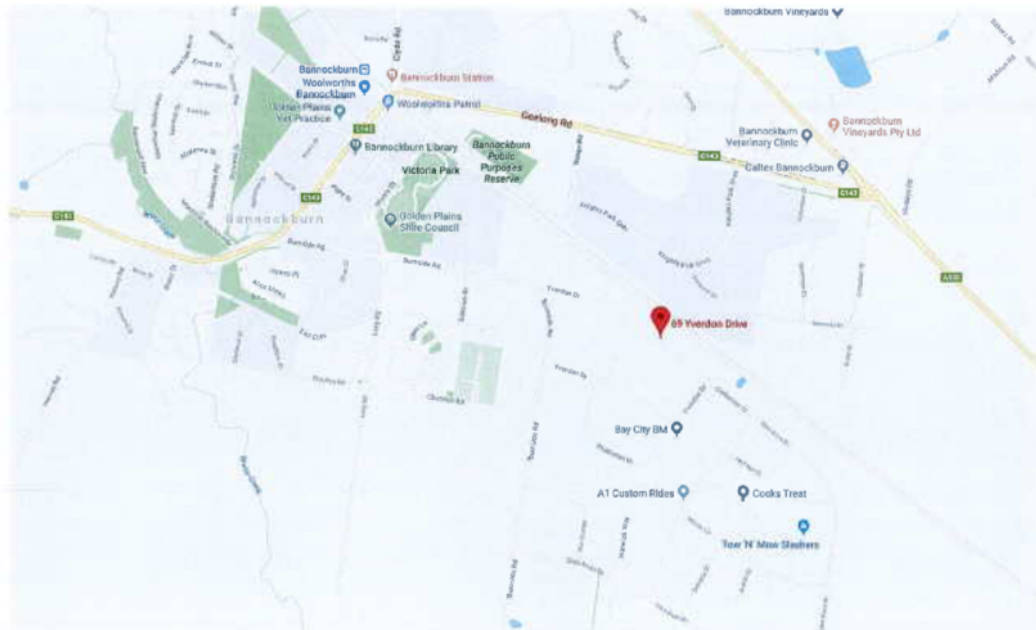
This report has been prepared by Katica Kurtov Planning and Project Services on behalf of mi projects to support a planning permit application for the proposed subdivision of the land at 69 Yverdon Drive Bannockburn (the Site). The proposal seeks planning approval for the subdivision of the Site into 2 lots. The planning application is supported by site plans, proposed plan of subdivision and Land Capability Assessments.

# 2 Site & Surrounds

## The Site

The Site is located at 69 Yverdon Drive, Bannockburn and is known as Lot 62 PS448124, approximately 1.5 km from Bannockburn township.

IMAGE 1: LOCATION -SOURCE GOOGLE MAPS



The Site is a regular shape with a total area of 8000m<sup>2</sup> (0.8ha). Access to the site is via a gravel driveway from Yverdon Drive. The site contains an existing 2 bedroom dwelling which also includes an existing shed and outbuildings. The buildings are located on the east side of the lot,

69 Yverdon Drive Bannockburn

while the western side is vacant grassland. There is no sewer available on the site, and domestic water supply is also available.

## Site Analysis

The following information has been sourced from the *Land Capability Assessment for On-Site Management of Domestic Wastewater Lot 1 and 2*, prepared by South East Soil and Water, Environmental and Agricultural Science.

- The land is quaternary, volcanic and gently undulating.
- Trees were observed on all boundaries with some trees planted within the allotment. The site has moderate exposure.
- The site has a slope of approximately 1:20 sloping to the north-east.
- No dams or surface water was observed on or near the site.
- No waterways, watercourses or drainage lines were observed on or near the site.

IMAGE 2: SUBJECT SITE - SOURCE NEARMAPS



## Surrounds

The Site is located in a low density residential area with adjoining lot sizes generally of 8000m<sup>2</sup>. Most of the dwellings are significant sized dwellings. There are examples of lots which have been subdivided to 4000m<sup>2</sup> along Yverdon Drive which have dwellings that have smaller footprints.

The Site's immediate surrounds are summarised as follows:

- North - The northern most boundary (the Site's rear) abuts railway land which contains the Ballarat railway line.

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- South - The southern boundary of the Site abuts Yverdon Drive. Immediately opposite the Site is a dwelling.
- East - The eastern boundary of the Site abuts a land with a dwelling.
- West - The western portion of the Site abuts land which also contains a dwelling.

IMAGE 3: SITE LOCATION AND SURROUNDS - SOURCE NEARMAP



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### 3 Proposal

#### Subdivision

The proposal seeks planning approval for the subdivision of the site into 2 lots. The proposed lots include:

- Lot 1 - Vacant allotment of 4000m<sup>2</sup> (0.4ha)
- Lot 2 - 4000m<sup>2</sup> (0.4ha) with existing dwelling and outbuildings.

#### Access

- Access to Lot 1 is via an existing crossover at Yverdon Drive and access to Lot 2 is to be achieved via a new crossover from Yverdon Drive.

#### Wastewater

The *Land Capability Assessment for On-Site Management of Domestic Wastewater for Lot 1 and 2* (the LCA) prepared by South East Soil and Water, Environmental and Agricultural Science, demonstrates that both Lot 1 and Lot 2 are "suitable for the disposal of on-site domestic wastewater in accordance with the Code<sup>1</sup>". Image 4 and 5 are the proposed wastewater field areas suitable for on-site wastewater disposal as determined in the LCA.



IMAGE 4: LOT 1 - WASTEWATER FIELDS

IMAGE 5: LOT 2 - WASTEWATER FIELDS

<sup>1</sup> EPA Victorian Publication 891.4 "Code of Practice Onsite Wastewater Management  
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## 4 Zone and Overlays

This section identifies the zone and overlay provisions of the Golden Plains Planning Scheme applicable to the proposed subdivision.

### Zone

The Site is located within the Low Density Residential zone. The purpose of the Clause 32.03 (LDRZ) is to:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.*

Pursuant to Clause 32.03-3 a **permit is required to subdivide the land**. Each lot must be at least the area specified for the land in a schedule to this zone. Any area specified must be at least:

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

Pursuant to Clause 32.03-5 an application must be accompanied by a site analysis, documenting the site in terms of land form, vegetation coverage and the relationship with surrounding land, and a report explaining how the proposed subdivision has responded to the site analysis.

The report must in the absence of reticulated sewerage, include a land assessment which demonstrates that each lot is capable of treating and retaining all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.

Pursuant to Clause 32.03-6 the following decision guidelines will be considered as appropriate:

- The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- In the absence of reticulated sewerage the capability of the lot to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- The relevant standards of Clauses 56.07-1 to 56.07-4.



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## Overlays

### Design and Development Overlay (Schedule 5)

The Site is subject to a Design and Development Overlay. The purpose of Clause 43.02 is to identify areas which are affected by specific requirements relating to the design and built form of new development.

Pursuant to Clause 43.02-3 a permit is required to subdivide land. DDO Schedule 5 relates to the siting and design requirements of buildings and stipulates required setbacks for buildings and works. This proposal is for subdivision only and therefore the application is not affected by this Schedule albeit the permit requirement for subdivision.

### Particular Provisions

Pursuant to **Clause 56.07 Integrated Water Management** must be considered on applications to subdivide land. These standards relate to drinking water supply, re-used and recycled water, wastewater management and stormwater management.

Pursuant to **Clause 65.02 Decision Guidelines** that the Responsible Authority must consider on applications to subdivide land, as appropriate are set out. These include:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The area and dimensions of each lot in the subdivision.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- 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.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

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## 5 Planing Policy Framework

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### Clause 11 - Settlement

Clause 11.01-1S seeks to *"promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements"*.

Relevant strategies to consider as part of the proposed subdivision include:

- *Ensure regions and their settlements are planned in accordance with their relevant regional growth plan.*
- *Plan for development and investment opportunities along existing and planned transport infrastructure.*
- *Providing for appropriately located supplies of residential, commercial, and industrial land across a region, sufficient to meet community needs in accordance with the relevant regional growth plan. Develop compact urban areas that are based around existing or planned activity centres to maximise accessibility to facilities and services.*

Clause 11.01-1R seeks to:

- *Support the growth of Bannockburn as district towns by building on existing and planned infrastructure and focusing growth along key road and rail networks.*

Clause 11.02-1S, seeks to *"ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses"*.

A relevant strategy identified is the need to consider:

- *Opportunities for the consolidation, redevelopment and intensification of existing urban areas.*
- *Neighbourhood character and landscape considerations.*
- *The limits of land capability and natural hazards and environmental quality.*
- *Service limitations and the costs of providing infrastructure.*

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### Clause 15 Built Environment

Clause 15 directs the need for planning to *"ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context"*.

Of relevance is Clause 15.01-3S, subdivision design. This clause directs that subdivisions are to be designed to *"achieve attractive, safe, accessible, diverse and sustainable neighbourhoods"*.

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### Clause 19.03 Development Infrastructure

Clause 19.03-3S directs the need to sustainably manage water supply, water resources, wastewater, drainage and stormwater through an integrated water management approach.

Relevant strategies include:

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- *Facilitate use of alternative water sources such as rainwater, stormwater, recycled water and run-off from irrigated farmland.*
- *Manage stormwater quality and quantity through a mix of on-site measures and developer contributions at a scale that will provide greatest net community benefit.*
- *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. Minimise the potential impacts of water, sewerage and drainage assets on the environment.*
- *Protect significant water, sewerage and drainage assets from encroaching sensitive and incompatible uses.*

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## 6 Local Planning Policy

### 21.02 - Settlement

The Site is located in Bannockburn which is the largest town of the Golden Plains Shire and in recent years has experienced steady population growth. Relevant objectives identified in Clause 21.02-1 include making efficient use of land and encouraging consolidation of existing townships. Clause 21.02-2 identifies Bannockburn as a sub-regional commercial and retail centre.

Clause 21.02-3 Rural areas - recognises the Low Density Residential zones in areas on the periphery of urban type residential areas. The Site is an example of such an area, where subdivision of lots from 1ha to 4 ha could be subdivided down to 0.4ha which would "substantially increase the overall lot yield and infrastructure servicing requirements within these area".

A relevant objective of Clause 21.02-3 is to "control the density and overall lot sizes of land in the north west area and Low Density Residential Zone according to environmental conditions and established character" by:

- Requiring new subdivision to recognise and maintain the surrounding lot configurations and lot size.
- Avoiding subdivision within water supply catchment areas in order to protect water quantity and quality.

In addition there is a need to avoid indiscriminate subdivision of land in the north west area and Low Density Residential Zones. Strategies to manage this include:

- Limit the subdivision of land that will be incompatible with the utilisation of the land for sustainable resource use.
- Require any new subdivision of land to provide appropriate infrastructure, including drainage and roads and integrated transport plans.
- Require lots to provide for on site effluent disposal including on-going maintenance of septic systems.

### 21.07 - Local Areas - Townships

Clause 21.07-1 outlines the objectives and strategies for the township of Bannockburn. Specifically the desire to promote growth in Bannockburn that is sustainable and in accordance with the Overall Principles Plan and Land Use Precinct Plan. The subject site falls outside of the town centre and is identified as an existing low density residential area.

### Clause 22.09 Low Density Residential Subdivision Policy

This policy applies to all properties in the Low Density Residential Zone. The objectives of this policy requires that:

- New lots created in the Low Density Residential Zone are of sufficient size to treat and retain wastewater within their property boundaries.

69 Yverdon Drive Bannockburn

- *Open and spacious character for low density residential areas across the Shire is maintained through:*
  - *Design that provides for open space and landscaping*
  - *Retention of existing vegetation*
  - *Avoiding creation of lots with battle axe access in greenfield development.*
  - *The provision of wide driveways/ access ways with sufficient areas available for landscaping.*
  - *Lot sizes with sufficient area to accommodate setbacks required by the Design and Development Overlay Schedule 5.*

It is policy that:

- *Support for subdivision in the Low Density Residential Zone will be considered only where rigorous testing of soil capacity has been undertaken by suitably qualified practitioners and demonstrated that the lot can contain on site effluent disposal and the surrounding area will not be adversely affected or impacted by the additional development.*
- *Subdivision within established low density residential areas respects and positively contributes to the lot configuration and character elements of the surrounding area.*

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## 7 Planning Assessment

### 7.1 Planning Policy Framework

The proposed subdivision is consistent with the Planning Policy Framework.

The subdivision meets the settlement objectives and strategies of Clause 11 and the built environment objectives of Clause 15 in providing for an increase in land supply available for residential development. The proposal also contributes to urban consolidation objectives within the existing township consistent with the Bannockburn township structure plan. The proposed density at 0.4 ha for each lot is consistent with the residential character of the existing low density residential area. It has been demonstrated that the land is capable of servicing the wastewater requirements of both lots without impacting on environmental quality of the area.

The proposal is also consistent with the directives of Clause 19.03-3S as demonstrated in the LCAs. The subdivision of two lots will allow and provide for the on-site wastewater treatment for the existing 2 bedroom dwelling and any future development of a dwelling on the newly created lot.

The proposed subdivision is consistent also with the settlement directives of Clause 21.02 in that an additional lot in the low density residential zone will contribute to the overall lot yield and the proposed lot size of 0.4 ha could meet the infrastructure servicing requirements, in particular wastewater treatment.

The proposed lot configuration is consistent with other lots in the Bannockburn low density area that is located in and around Yverdon Drive. There are no drainage, watercourses or dams observed on or near the site, negating impact on water quality.

The proposed subdivision is consistent with the policy direction of Clause 22.09 in that the size of the two lots is sufficient to treat and retain wastewater within the property boundaries. The proposal does not alter the open space character of the low density area, with trees and vegetation retained and the size of allotments providing enough area to meet development setback requirements for future development on the vacant allotment. The LCAs submitted as part of this application demonstrate a rigorous investigation into the soil capacity to contain and treat on site effluent.

### 7.2 Other Planning Considerations

#### **Lots serviced by utilities and infrastructure**

The proposed lots have access to telecommunications, electricity, on-site rooftop domestic supply and reticulated water (access to pipeline) and will have the capacity to treat wastewater on site without any detrimental impact to the environment.

#### **Protection of natural environment**

The proposed subdivision will not result in the removal of existing boundary vegetation. The majority of the site is grass which is maintained by the owners.

#### **Land Capability to treat and retain all wastewater.**

The Land Capability Assessment for On-Site Management of Domestic Wastewater for Lot 1 and 2 (the LCA) prepared by South East Soil and Water, Environmental and Agricultural Science



69 Yverdon Drive Bannockburn

conclude that both Lot 1 and Lot 2 are *"suitable for the disposal of on-site domestic wastewater in accordance with the Code 2"*. The reports detail the preferred wastewater treatment options available for the site.

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

The existing lot has a water supply pipeline at the boundary. The existing lot uses on-site rooftop water collection and this is proposed for the future lots.

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

Not applicable

**Clause 56.07-3 Wastewater management objective**

The LCAs prepared by South East Soil and Water, Environmental and Agricultural Science provide a detailed response and provision of on-site wastewater management.

**Clause 56.07-4 Stormwater management objectives**

The LCAs prepared by South East Soil and Water, Environmental and Agricultural Science detail the need to prevent stormwater from *"higher elevations entering the wastewater field or impacting the dwelling"* and recommends the installation of drainage to be installed around wastewater fields and dwellings to protect from overland flow.

## Conclusion

The planning report and LCAs have demonstrated that the Site is suitable for subdivision and is able to accommodate on-site wastewater treatment.

The subdivision in a low density residential zone is consistent with the settlement directions of the Shire as the newly created 0.4 ha lots still achieve a low density character while providing for an increase in lot yields. The Site is suited to a two lot subdivision based on the location of existing buildings, minimum vegetation within the lot and the capability of the soil to absorb and contain wastewater.

The proposed subdivision demonstrates a high consistency with the objectives and strategies of the Planning Policy Framework and the Municipal Planning Strategy.

For the reasons outlined in this planning report, the proposal for the subdivision of the Site into 2 lots is considered sound and warrants Council's support.

**DRAFT REPORT FOR LOCAL COUNCIL.**

# LAND CAPABILITY ASSESSMENT FOR ON-SITE DOMESTIC WASTEWATER MANAGEMENT.

Prepared for: Soil Industries on behalf of  
MI Projects.  
Lot 1, 69 Yverdon Drive,  
Bannockburn, VIC. 3331.

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Land Capability Assessment for On-Site Management of Domestic Wastewater.  
Lot 1, 69 Yverdon Drive, Bannockburn. Victoria. 3331.

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**Photograph overlooking part of the site for subdivision.**

**DISCLAIMER:**

This report is intended to serve as a guide only. Because soil mapping, soil chemical, physical and biological properties, and any other factors relating to soil and water may be influenced by factors beyond the author's control, South East Soil and Water, their staff & contractors hereby disclaim any liability for commercial loss or damage to any person, property or thing in respect to the information and recommendations contained in this document. Every effort has been made to ensure that field information, laboratory results, maps and recommendations are as correct as possible from the information collected and provided at the date of printing of this document.

Land Capability Assessment for On-Site Management of Domestic Wastewater.  
 Lot 1, 69 Yverdon Drive, Bannockburn. Victoria. 3331.



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