




## Amend a Planning Permit Application

If you need help to complete this form, read **MORE INFORMATION** at the end 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 questions, please contact Council's planning department.

 This form cannot be used to:

- amend a permit or part of a permit if the Victorian Civil and Administrative Tribunal (VCAT) has directed under section 85 of the Act that the responsible authority must not amend that permit or that part of the permit (as the case requires); or
- amend a permit issued by the Minister under Division 6 of Part 4 of the Act (these applications must be made to the Minister under section 971 of the Act).

 **Questions marked with an asterisk (\*) must be completed.**

 [Click for further information.](#)


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

#### Street Address \*

Unit No.:	St. No.:	St. Name:
Suburb/Locality:		Postcode:

#### 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 any additional property details.


A	Lot No.:	<input type="radio"/> Lodged Plan	<input type="radio"/> Title Plan	<input type="radio"/> Plan of Subdivision	No.:
<b>OR</b>					
B	Crown Allotment No.:	Section No.:			
Parish/Township Name:					

### Planning Permit Details

#### What permit is being amended?\*

Planning Permit No.:
----------------------


### The Amended Proposal

 You must give full details of the amendment being applied for. Insufficient or unclear information will delay your application.

#### What is the amendment being applied for?\*

- Indicate the type of changes proposed to the permit.
- List details of the proposed changes.

If the space provided is insufficient, attach a separate sheet.

This application seeks to amend:	
<input type="checkbox"/> What the permit allows	<input type="checkbox"/> Plans endorsed under the permit
<input type="checkbox"/> Current conditions of the permit	<input type="checkbox"/> Other documents endorsed under the permit
Details:	
 Provide plans clearly identifying all proposed changes to the endorsed plans, together with: any information required by the planning scheme, requested by Council or outlined in a Council checklist; and if required, include a description of the likely effect of the proposal.	


## Development Cost

### Estimate cost of development\*

If the permit allows **development**, estimate the cost difference between the development allowed by the permit and the development to be allowed by the amended permit.

Cost of proposed amended development:	Cost of the permitted development:	Cost difference (+ or -):
\$ <input type="text"/>	– \$ <input type="text"/>	= \$ <input type="text"/>

Insert 'NA' if no development is proposed by the permit.

 You may be required to verify this estimate.


## Existing Conditions

### Describe how the land is used and developed now \*

For example, vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Have the conditions of the land changed since the time of the original permit application?  Yes  No

If yes, please provide details of the existing conditions.

 Provide a plan of the existing conditions if the conditions have changed since the time of the original permit application. 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.

Name:  Same as applicant

Title:  First Name:  Surname:

Organisation (if applicable):

Postal Address:  If it is a P.O. Box, enter the details here:

Unit No.:  St. No.:  St. Name:

Suburb/Locality:  State:  Postcode:

Please provide at least one contact phone number \*

**Contact information for applicant OR contact person below**

Business phon:

Mobile phone:  Fax:

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

**Contact person's details\***  Same as applicant

Name:  Same as applicant

Title:  First Name:  Surname:

Organisation (if applicable):

Postal Address:  If it is a P.O. Box, enter the details here:

Unit No.:  St. No.:

Suburb/Locality:

## Owner \*

The person or organisation who owns the land

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

Name:  Same as applicant

Title:  First Name:  Surname:

Organisation (if applicable):

Postal Address:  If it is a P.O. Box, enter the details here:

Unit No.:

Suburb/Locality:

Owner's Signature (Optional):  Date:

day / month / year

# 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; that all the information in this application is true and correct; that all changes to the permit and plan have been listed as part of the amended proposal and that the owner (if not myself) has been notified of the permit application.

Signature:  Date:

# Need help with the Application?

If you need help to complete this form, read More Information at the end of this form or contact Council's planning department. General information about the planning process is available at [planning.vic.gov.au](http://planning.vic.gov.au)

Contact Council's planning department to discuss the specific requirements for this application and obtain a checklist. Insufficient or unclear information may delay your application.

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

No  Yes  If 'Yes', with whom?:

Date:



## Checklist

Have you:

- Filled in the form completely?
- Paid or included the application fee?
- Attached all necessary supporting information and documents?
- Completed the relevant council planning permit checklist?
- Signed the declaration above?



Please refer to the planning fee schedule for the appropriate fee.

## Lodgement

**Post:**

Murrindindi Shire Council PO Box 138 Alexandra VIC 3714

**In person:**

Alexandra – 28 Perkins Street

Kinglake – 19 Whittlesea-Kinglake Road

Yea – 15 The Semi Circle

Mobile Library and Customer Service van

Visit <https://www.murrindindi.vic.gov.au/Contact-Us/Contact-Details> - for opening times and van timetable

**Contact information:**

Phone: (03) 5772 0333

email: [customer@murrindindi.vic.gov.au](mailto:customer@murrindindi.vic.gov.au)

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

VOLUME 10978 FOLIO 056

Security no : 124099781081G  
Produced 22/08/2022 10:48 AM

**LAND DESCRIPTION**

Lot 1 on Plan of Subdivision 548220E.

PARENT TITLES :

Volume 09173 Folio 808      Volume 10699 Folio 497

Created by instrument PS548220E 16/11/2006

**REGISTERED PROPRIETOR**

Estate Fee Simple

Sole Proprietor

STRATH CREEK PTY LTD of 106 WOODHOUSE ROAD DONVALE VIC 3111  
AU463695E 17/06/2021

**ENCUMBRANCES, CAVEATS AND NOTICES**

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

AGREEMENT Section 173 Planning and Environment Act 1987  
AH934351D 06/05/2011

**DIAGRAM LOCATION**

SEE PS548220E 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: 26 HANNAS ROAD STRATH CREEK VIC 3658

DOCUMENT END



# Imaged Document Cover Sheet

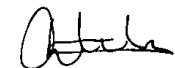
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Document Type	<b>Plan</b>
Document Identification	<b>PS548220E</b>
Number of Pages (excluding this cover sheet)	<b>2</b>
Document Assembled	<b>22/08/2022 10:53</b>

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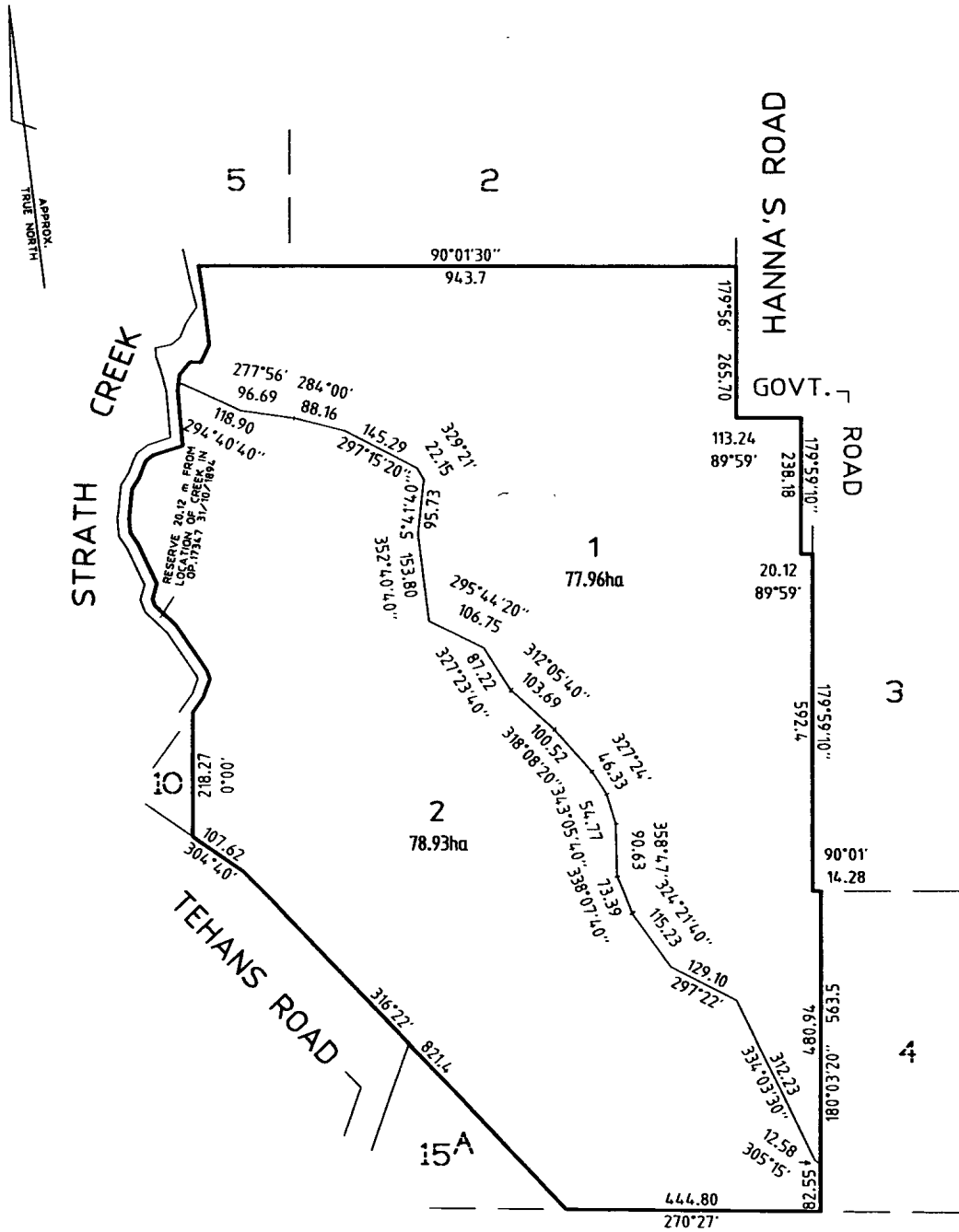
<b>PLAN OF SUBDIVISION</b>		STAGE No. —	LTO USE ONLY <b>EDITION 1</b>	PLAN NUMBER <b>PS 548220 E</b>
<b>LOCATION OF LAND</b>  PARISH: DERRIL TOWNSHIP: — SECTION: B CROWN ALLOTMENT: 6 & 7 CROWN PORTION: — TITLE REFERENCES: C/T Vol.9173 Fol.808 C/T Vol.10699 Fol.497 LAST PLAN REFERENCE/S: TP 276619W TP 821672G POSTAL ADDRESS: HANNA'S ROAD (AT time of subdivision) STRATH CREEK, 3658  MGA Co-ordinates E 342 065      ZONE: 55 (of approx centre of      N 5871 750 land in plan)		<b>COUNCIL CERTIFICATION AND ENDORSEMENT</b>  COUNCIL NAME : MURRINDINDI SHIRE COUNCIL      REF: 3/2006/20 1. This plan is certified under section 6 of the Subdivision Act 2. <del>This plan is certified under section 11(7) of the Subdivision Act 1988.</del> <del>Date of original certification under Section 6. / /</del> 3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988.  OPEN SPACE (i) A requirement for public open space under section 18 of the Subdivision Act 1988 <del>has</del> / has not been made. (ii) <del>The requirement has been satisfied.</del> (iii) <del>The requirement is to be satisfied in Stage....</del>  Council Delegate <del>Council Seal</del> Date 18 / 5 / 06   Re-certified under Section 11(7) of the Subdivision Act 1988. Council Delegate Council Seal Date / /		
<b>VESTING OF ROADS AND/OR RESERVES</b>				
IDENTIFIER		COUNCIL/BODY/PERSON		
NIL		NIL		
<b>NOTATIONS</b>				
DEPTH LIMITATION      15.24 METRES BELOW SURFACE.		STAGING      This is not a staged subdivision Planning permit No.		
		LOT 2 IS NOT THE SUBJECT OF THIS SURVEY BUT HAS BEEN DERIVED FROM TITLE.  WATERWAY NOTATION: LAND IN THIS PLAN MAY ABUT CROWN LAND THAT MAY BE SUBJECT TO A CROWN LICENCE TO USE THE EASEMENT FOR WAY PURPOSES CREATED BY C/E N350603F MERGES UPON REGISTRATION OF THIS PLAN.  SURVEY. THIS PLAN IS BASED ON PARTIAL SURVEY.  THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No.(s) IN PROCLAIMED SURVEY AREA No.		
<b>EASEMENT INFORMATION</b>				LTO USE ONLY
<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
SECTION 12(2) OF THE SUBDIVISION ACT 1988 APPLIES TO THE LOTS ON THIS PLAN				RECEIVED <input checked="" type="checkbox"/>
Subject Land	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
				DATE: 13/10/06
				LTO USE ONLY PLAN REGISTERED TIME 3:56 pm DATE 16/11/06
				 Assistant Registrar of Titles
				SHEET 1 OF 2 SHEETS
<b>RODNEY AUJARD and ASSOCIATES</b> Licensed Land Surveyors 311 BURWOOD ROAD, HAWTHORN, 3122 ph. 9815 1155      fax. 9815 1115 EMAIL      aujard@bigpond.net.au		LICENSED SURVEYOR      GEOFF. P. SUTHERLAND  SIGNATURE      DATE / /  REF 15787      VERSION 1		DATE 18 / 5 / 06 COUNCIL DELEGATE SIGNATURE ORIGINAL SHEET SIZE      A3

PLAN OF SUBDIVISION

STAGE No.

PLAN NUMBER

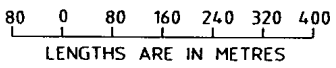
PS 548220 E



**RODNEY AUJARD and ASSOCIATES**

Licensed Land Surveyors  
 311 BURWOOD ROAD, HAWTHORN, 3122.  
 ph. 9815 1155 fax. 9815 1115  
 37 GRANT STREET, ALEXANDRA, 3714. ph.5772 1530  
 EMAIL : aujard@bigpond.net.au

SCALE



LENGTHS ARE IN METRES

ORIGINAL SCALE

SHEET SIZE  
 1:8000  
 A3

LICENSED SURVEYOR

GEOFF. P. SUTHERLAND

SIGNATURE

DATE / /

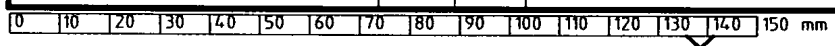
REF 15787

VERSION 1

SHEET 2 OF 2 SHEETS

DATE 18 / 5 / 06

COUNCIL DELEGATE SIGNATURE







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# Application by a responsible authority for the making of a recording of an agreement

Section 181 Planning and Environment Act 1987

**Form 18**



Lodged by:

Name: Russell Kennedy  
Phone: 9609 1555  
Address: Level 12, 469 La Trobe Street, Melbourne 3000  
Ref: MPH: 167219-04253  
Customer Code: 1513M

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

Land: *(insert Volume and Folio reference) (if part only, define the part)*

Certificate of title volume 10978 folio 056

Authority: *(name and address)*

Murrindindi Shire Council, of Perkins Street, Alexandra, Victoria, 3714

Section and Act under which agreement made:

Section 173 of the *Planning and Environment Act 1987*

A copy of the Agreement is attached to this Application:

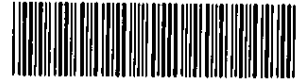
Signed for the Authority: Margaret Abbey

Name of Officer: MARGARET ABBEY  
CHIEF EXECUTIVE OFFICER

Date: 30/3/11

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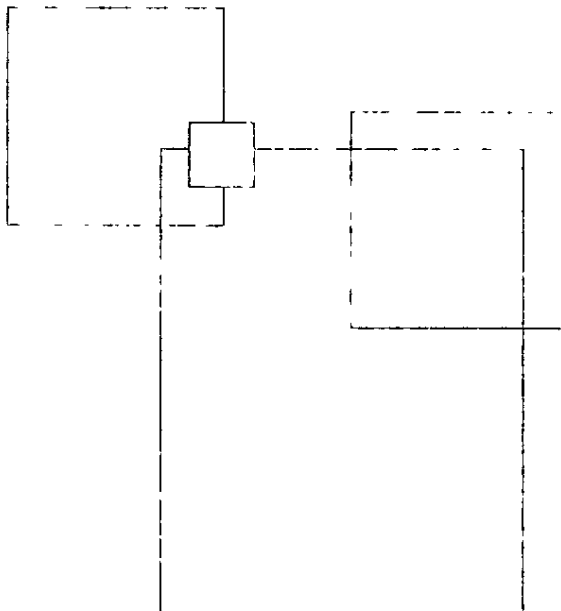
# RUSSELL KENNEDY

MEMBER OF THE KENNEDY STRANG LEGAL GROUP

**MURRINDINDI SHIRE COUNCIL**

and

**BEPTON PTY LTD ACN 009 468 508**



**AGREEMENT MADE PURSUANT TO  
SECTION 173 OF THE PLANNING AND  
ENVIRONMENT ACT 1987**

---

Property: Lot 1 on PS548220E,  
Hannas Road, Strath Creek

Level 12  
469 La Trobe Street  
Melbourne Victoria 3000 Australia

PO Box 5146AA  
Melbourne Victoria 3001  
DX 494 Melbourne

Tel 61 3 9609 1555  
Fax 61 3 9609 1600

[www.rk.com.au](http://www.rk.com.au)

AFFILIATED FIRMS PRACTISING SEPARATELY IN  
SYDNEY · BRISBANE · ADELAIDE · PERTH

Ref IDP 167219-04253

**AH934351D**

06/05/2011 \$105.20 173



**THIS AGREEMENT** is made on **30 March**

2011

**PARTIES**

- 1 **MURRINDINDI SHIRE COUNCIL**  
of Perkins Street, Alexandra Vic 3714  
("Council")
- 2 **BEPTON PTY LTD ACN 009 468 508**  
of c/- Ingrams & Co, level 1, 311 Toorak Road, South Yarra Vic 3141  
("Owner")

**RECITALS**

- A The Council is the responsible authority under the Act for the Scheme.
- B The Owner is registered or is entitled to be registered as proprietor of the Land.
- C Condition 7 of the Permit provides as follows:

*"Prior to the issue of a Statement of Compliance a Section 173 Agreement must be entered into at no cost to Council, which ensures the following:*

- *The land may not be further subdivided so as to create a smaller lot for an existing dwelling.*
- *Building exclusion zones 30 metres from any waterways and major drainage lines on the allotment.*
- *Effluent exclusion zones 60 metres from any waterways and major drainage lines on the allotment.*
- *60-metre wide building exclusion zones on any significant ridgelines on the site.*
- *Appropriately sized building exclusions zones around the stands of remnant vegetation.*

*The Section 173 Agreement must be prepared by Council's solicitors, to the satisfaction of the Responsible Authority and must be registered at the Office of Titles pursuant to Section 181 of the Planning and Environment Act 1987. Council will undertake to have the agreement prepared upon written notification from the applicant. All fees associated with the documentation must be fully paid prior to execution and registration of the document by Council."*

- D The Land is encumbered by mortgage number AE766905V in which Westpac Banking Corporation is named as mortgagee. The Mortgagee has consented to the Owner entering into this Agreement.
- E This Agreement has been entered into in order to:
  - comply with all relevant conditions of the Permit;
  - prohibit, restrict or regulate the use or development of the Land;



- achieve and advance the objectives of planning in Victoria or the objectives of the Scheme in relation to the Land.

F This Agreement is made under Division 2 of Part 9 of the Act.

**THE PARTIES AGREE THAT:**

**1 DEFINITIONS**

In this Agreement:

- 1.1 **"Act"** means the *Planning and Environment Act 1987*.
- 1.2 **"Agreement"** means this Agreement including the recitals and any annexures to this Agreement.
- 1.3 **"Building"** means a building, including (but not limited to) a dwelling, bungalow, studio, shed, garage, carport or outbuilding, but does not include a fence, retaining wall, mast or pole.
- 1.4 **"Building Exclusion Zone"** means any part of the Land:
  - 1.4.1 in the Remnant Vegetation Zone as shown on the Remnant Vegetation Zone Plan; and
  - 1.4.2 within 30 metres of any waterways and major drainage lines on the Land, as shown on the Building Exclusion Zone Plan; and
  - 1.4.3 within 60 metres of any significant ridgeways on the Land, as shown on the Building Exclusion Zone Plan.
- 1.5 **"Building Exclusion Zone Plan"** means sheet 2F of the plan prepared by Rodney Aujard and Associates (ref 15787, version 2), a copy of which is annexed to this Agreement at Annexure A.
- 1.6 **"Business Day"** means Monday to Friday excluding public holidays in Victoria.
- 1.7 **"Dwelling"** has the meaning ascribed by the Scheme.
- 1.8 **"Effluent"** means all wastewater and sewerage used in connection with any existing or future septic tank system or other system on the Land.
- 1.9 **"Effluent Exclusion Zone"** means any part of the Land within 60 metres of any waterways and major drainage lines on the Land, as shown on the Effluent Exclusion Zone Plan.
- 1.10 **"Effluent Exclusion Zone Plan"** means sheet 2G of the plan prepared by Rodney Aujard and Associates (ref 15787, version 2), a copy of which is annexed to this Agreement at Annexure B.
- 1.11 **"Land"** means the land within the Scheme known and described as lot 1 on plan of subdivision 548220E, Hannas Road, Strath Creek being the whole of the land more particularly described in certificate of title volume 10978 folio 056.
- 1.12 **"Mortgagee"** means the person or persons registered or entitled from time to time to be registered by the Registrar of Titles as mortgagee of the Land or any part of it.



- 1.13 **"Permit"** means planning permit 2007/105 issued by Council on 17 October 2007 authorising the use and development of the Land for the purpose of a two lot subdivision.
- 1.14 **"Remnant Vegetation Zone"** means an area identified as 'Remnant Vegetation Zone' on the Remnant Vegetation Zone Plan.
- 1.15 **"Remnant Vegetation Zone Plan"** means sheet 2E of the plan prepared by Rodney Aujard and Associates (ref 15787, version 2), a copy of which is annexed to this Agreement at Annexure C.
- 1.16 **"Scheme"** means the Murrindindi Planning Scheme or any other planning scheme which applies to the Land from time to time.

**2 COMMENCEMENT**

This Agreement comes into force on the date it was made as set out above.

**3 TERMINATION OF AGREEMENT**

**3.1 Termination**

This Agreement may be ended by mutual agreement between the parties.

**3.2 Cancellation of Agreement**

As soon as reasonably practicable after this Agreement has ended as to the whole of the Land or as to part of the Land, the Council must, at the request and at the cost of the Owner, apply to the Registrar of Titles under section 183(2) of the Act to cancel the recording of this Agreement on the Register as to the whole of the Land or as to part of the Land as the case may be.

**4 OWNER'S COVENANTS**

**4.1 No further subdivision**

The Owner covenants and agrees that any lot created pursuant to the Permit must not be further subdivided so as to create a smaller lot for an existing Dwelling.

**4.2 Building Exclusion Zones**

The Owner covenants and agrees that it must not situate, construct or erect, or permit to be situated, constructed or erected, any Building within any part of a Building Exclusion Zone at the Land, to the satisfaction of Council.

**4.3 Effluent Exclusion Zones**

The Owner covenants and agrees that all components of any septic tank system at the Land must be wholly sited and contained outside of the Effluent Exclusion Zones, to the satisfaction of Council.

**4.4 Successors in title**

Until this Agreement is recorded on the folio of the Register which relates to the Land pursuant to section 181 of the Act, the Owner must ensure that the Owner's successors in title give effect to and do all acts and sign all documents which will require those successors to give effect to this Agreement including requiring the

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successors in title to execute a deed agreeing to be bound by the terms of this Agreement. Until that deed is executed, the Owner, being a party to this Agreement, remains liable to perform all of the Owner's obligations contained in this Agreement.

#### **4.5 Further assurance**

The Owner must do all things necessary (including signing any further agreement, acknowledgment or document) to enable the Council to record this Agreement on the folio of the Register which relates to the Land.

#### **4.6 Payment of Council's costs**

The Owner agrees to pay on demand to the Council the Council's costs and expenses (including any legal fees incurred on a solicitor-client basis) of and incidental to the preparation, execution, recording and enforcement of this Agreement.

#### **4.7 Mortgagee to be bound**

The Owner covenants to obtain the consent of any mortgagee to be bound by the covenants in this Agreement if the mortgagee becomes mortgagee in possession of the Land.

#### **4.8 Indemnity**

The Owner covenants to indemnify and keep the Council, its officers, employees, agents, workmen and contractors indemnified from and against all costs, expenses, losses or damages which they or any of them may sustain incur or suffer or be or become liable for or in respect of any suit action proceeding judgement or claim brought by any person arising from or referable to this Agreement or any non-compliance with this Agreement.

#### **4.9 Non-compliance**

If the Owner has not complied with this Agreement within 14 days after the date of service on the Owner by the Council of a notice which specifies the Owner's failure to comply with any provision of this Agreement, the Owner covenants:

- 4.9.1 to allow the Council its officers, employees, contractors or agents to enter the Land and rectify the non-compliance;
- 4.9.2 to pay to the Council on demand, the Council's reasonable costs and expenses ("**Costs**") incurred as a result of the Owner's non-compliance;
- 4.9.3 to pay interest at the rate of 2% above the rate prescribed under section 2 of the *Penalty Interest Rates Act 1983* on all moneys which are due and payable but remain owing under this Agreement until they are paid in full;
- 4.9.4 if requested to do so by the Council, to promptly execute in favour of the Council a mortgage to secure the Owner's obligations under this Agreement,

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and the Owner agrees:

- 4.9.5 to accept a certificate signed by the Chief Executive Officer of the Council (or any nominee of the Chief Executive Officer) as prima facie proof of the Costs incurred by the Council in rectifying the Owner's non-compliance with this Agreement;
- 4.9.6 that any payments made for the purposes of this Agreement shall be appropriated first in payment of any interest and any unpaid Costs of the Council and then applied in repayment of the principal sum;
- 4.9.7 that all Costs or other monies which are due and payable under this Agreement but which remain owing shall be a charge on the Land until they are paid in full; and
- 4.9.8 if the Owner executes a mortgage as required by clause 4.9.4, any breach of this Agreement is deemed to be a default under that mortgage.

**4.10 Council access**

The Owner covenants to allow the Council and its officers, employees, contractors or agents or any of them, to enter the Land (at any reasonable time) to assess compliance with this Agreement.

**4.11 Covenants run with the Land**

The Owner's obligations in this Agreement are intended to take effect as covenants which shall be annexed to and run at law and in equity with the Land and every part of it, and bind the Owner and its successors, assignees and transferees, the registered proprietor or proprietors for the time being of the Land and every part of the Land.

**4.12 Owner's warranty**

The Owner warrants and covenants that:

- 4.12.1 the Owner is the registered proprietor (or is entitled to become the registered proprietor) of the Land and is also the beneficial owner of the Land;
- 4.12.2 there are no mortgages, liens, charges or other encumbrances or leases or any rights inherent in any person other than the Owner affecting the Land which have not been disclosed by the usual searches of the folio of the Register for the Land or notified to the Council;
- 4.12.3 no part of the Land is subject to any rights obtained by adverse possession or subject to any easements or rights described or referred to in section 42 of the *Transfer of Land Act 1958*; and
- 4.12.4 until this Agreement is recorded on the folio of the Register which relates to the Land, the Owner will not sell, transfer, dispose of, assign, mortgage or otherwise part with possession of the Land or any part of the Land without first disclosing to any intended



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purchaser, transferee, assignee or mortgagee the existence and nature of this Agreement.

**5 GENERAL**

**5.1 No fettering of Council's powers**

This Agreement does not fetter or restrict the Council's power or discretion in respect of any of the Council's decision making powers including but not limited to an ability to make decisions under the *Local Government Act 1989*, and the Act or to make or impose requirements or conditions in connection with any use or development of the Land or the granting of any planning permit, the approval or certification of any plans of subdivision or consolidation relating to the Land or the issue of a Statement of Compliance in connection with any such plans.

**5.2 Time of the essence**

Time is of the essence as regards all dates, periods of time and times specified in this Agreement.

**5.3 Governing law and jurisdiction**

This Agreement is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts and tribunals of Victoria and waives any right to object to proceedings being brought in those courts or tribunals.

**6 NOTICES**

**6.1 Service of notice**

A notice or other communication required or permitted, under this Agreement, to be served on a person must be in writing and may be served:

- 6.1.1 personally on the person;
- 6.1.2 by leaving it at the person's address set out in this Agreement;
- 6.1.3 by posting it by prepaid post addressed to that person at the person's current address for service; or
- 6.1.4 by facsimile to the person's current number notified to the other party.

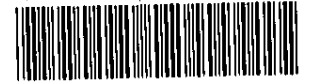
**6.2 Time of service**

A notice or other communication is deemed served:

- 6.2.1 if served personally or left at the person's address, upon service;
- 6.2.2 if posted within Australia to an Australian address, two Business Days after posting;
- 6.2.3 if served by facsimile, subject to the next clause, at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile; and

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6.2.4 if received after 5.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next Business Day.

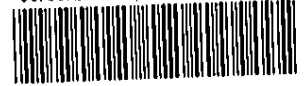
## 7 INTERPRETATION

In this Agreement, unless the contrary intention appears:

- 7.1 the singular includes the plural and vice versa;
- 7.2 a reference to a document or instrument, including this Agreement, includes a reference to that document or instrument as novated, altered or replaced from time to time;
- 7.3 a reference to an individual or person includes a partnership, body corporate, government authority or agency and vice versa;
- 7.4 a reference to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;
- 7.5 words importing one gender include other genders;
- 7.6 other grammatical forms of defined words or expressions have corresponding meanings;
- 7.7 a covenant, undertaking, representation, warranty, indemnity or agreement made or given by:
  - 7.7.1 two or more parties; or
  - 7.7.2 a party comprised of two or more persons,is made or given and binds those parties or persons jointly and severally;
- 7.8 a reference to a statute, code or other law includes regulations and other instruments made under it and includes consolidations, amendments, re-enactments or replacements of any of them;
- 7.9 a recital, schedule, annexure or description of the parties forms part of this Agreement;
- 7.10 if an act must be done on a specified day that is not a Business Day, the act must be done instead on the next Business Day;
- 7.11 if an act required to be done under this Agreement on a specified day is done after 5.00pm on that day in the time zone in which the act is performed, it is taken to be done on the following day;
- 7.12 a party that is a trustee is bound both personally and in its capacity as trustee;
- 7.13 a reference to an authority, institution, association or body ("**original entity**") that has ceased to exist or been reconstituted, renamed or replaced or whose powers or functions have been transferred to another entity, is a reference to the entity that most closely serves the purposes or objects of the original entity;
- 7.14 headings and the provision of a table of contents are for convenience only and do not affect the interpretation of this Agreement.

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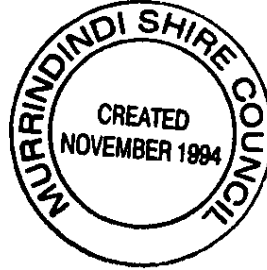


EXECUTED as an agreement under Division 2 of Part 9 of the Act.

THE COMMON SEAL of the MURRINDINDI SHIRE COUNCIL was hereunto affixed in the presence of:

[Signature]
Councillor

Margaret Sibbey
Chief Executive Officer



EXECUTED by BEPTON PTY LTD ACN 009 468 508 in accordance with section 127(1) of the Corporations Act 2001 by being signed by authorised persons:

[Signature]
Director

[Signature]
\*Director/company secretary
\*Delete whichever is inapplicable

JONALD BERRARD McQUEEN
Full Name

ANNE IRENE McQUEEN
Full Name

Hanna's Road
Usual Address

Hanna's Road
Usual Address

Strath Creek

Strath Creek

MORTGAGEE'S CONSENT

Westpac Banking Corporation as Mortgagee under mortgage no. AE766905V which encumbers the Land consents to the Owner entering into this Agreement and agrees to be bound by the terms and conditions of this Agreement if the Mortgagee becomes mortgagee in possession of the Land.

SIGNED, SEALED and DELIVERED by Margaret Hancock who holds the position of Tier Three Attorney for Westpac Banking Corporation under power of attorney dated 17 January 2001, a certified copy of which is filed in the Permanent Order Book, No. 277, Page 16.

[Signature]
Signature
By executing this agreement the attorney states that the attorney has received no notice of the revocation of the power of attorney

[Signature]
Signature of Witness

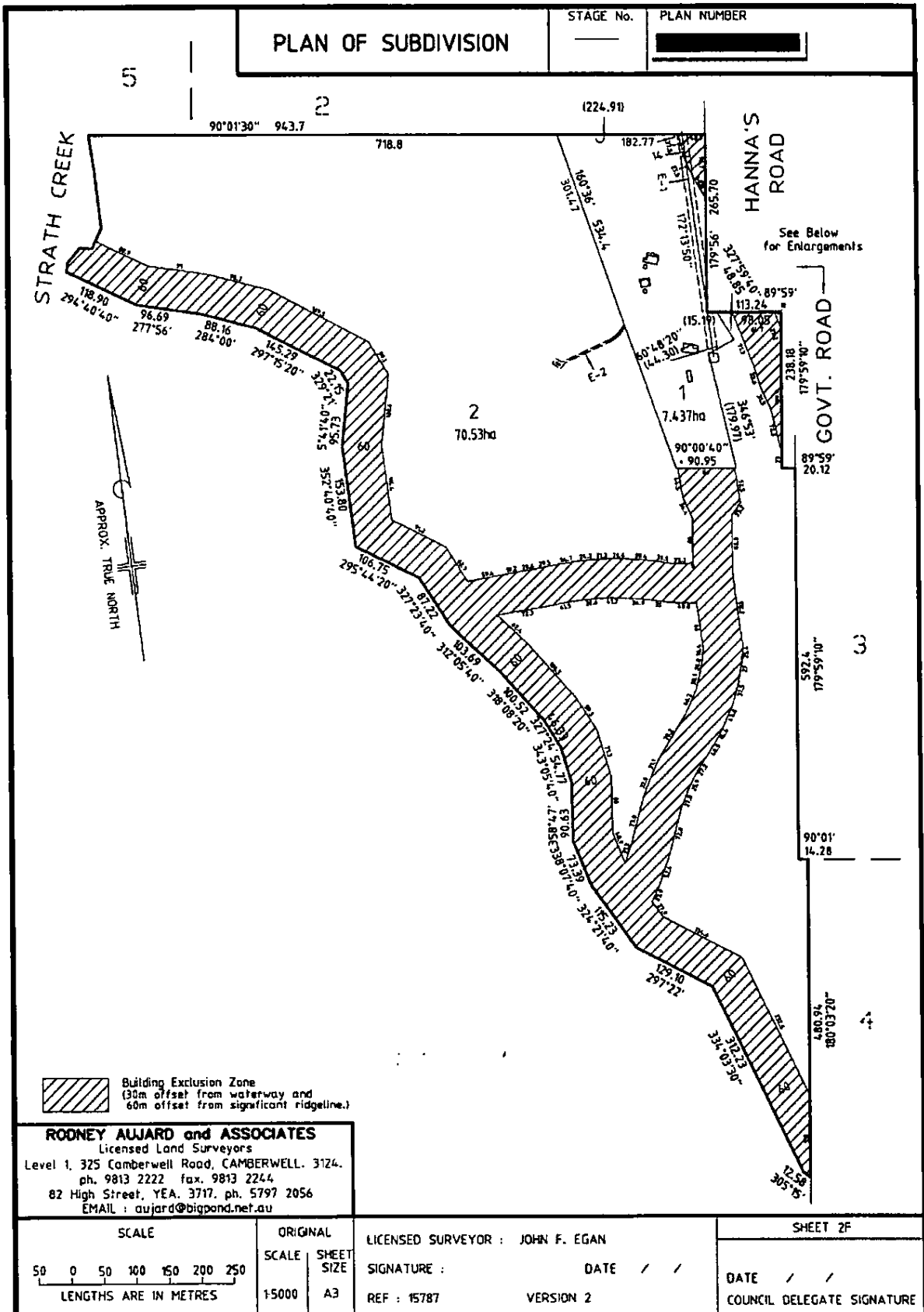
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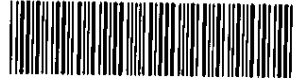
**ANNEXURE A**  
(copy of Building Exclusion Zone Plan)



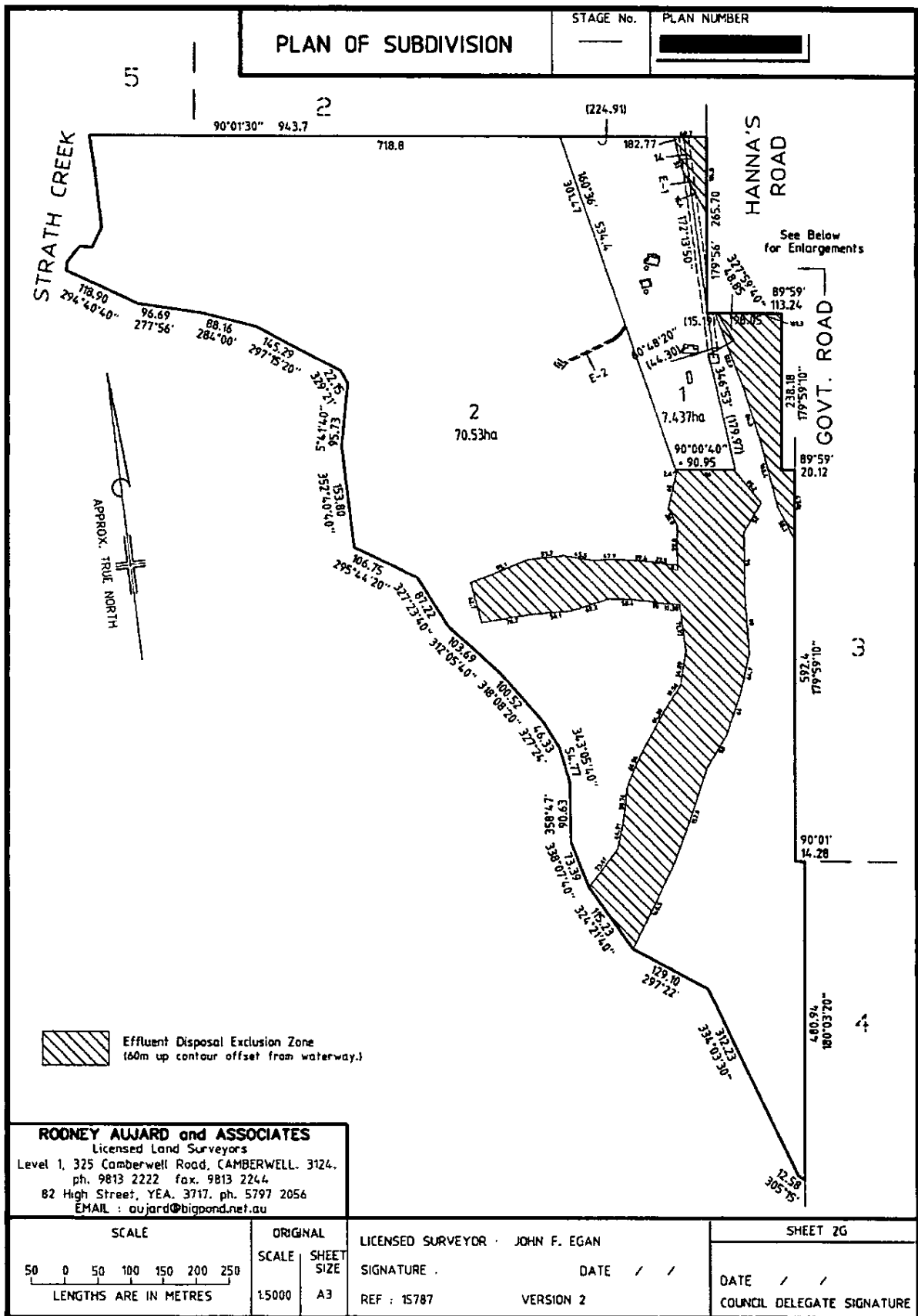
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**ANNEXURE B**  
(copy of Effluent Exclusion Zone Plan)



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**ANNEXURE C**  
**(copy of Remnant Vegetation Zone Plan)**

