

# PLANNING PERMIT

GRANTED UNDER SECTION 96I OF THE  
PLANNING AND ENVIRONMENT ACT 1987

Permit No.: 2016/180

Planning scheme: South Gippsland Planning Scheme

Responsible authority: South Gippsland Shire Council

**ADDRESS OF THE LAND:** Lot 1 PS800516 being 143B Inlet View Road Venus Bay; Lot 2 PS648056 and Lot 1 TP172550 being 113A Jupiter Boulevard Venus Bay

**THE PERMIT ALLOWS:** The subdivision of the land into 9 lots and removal of native vegetation in accordance with the endorsed plans

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**

## General Conditions

1. Prior to the endorsement of any plans, amended plans and information to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the permit. These plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application/other specified plans, but modified to show:
  - a) Revised indicative driveway locations and alignment to enable safe and reliable access at an appropriate grade to access the approved building envelopes in accordance with Council's engineering requirements.
  - b) Amended layout plan for Ockenga Court indicating an appropriately sized turning area to safely cater for emergency and waste collection vehicles, without requiring a vehicle to reverse.
2. The layout of the subdivision, as shown on the approved plans, must not be altered or modified without the consent in writing of the Responsible Authority.
3. A 5% cash in lieu contribution for public open space must be lodged with the Responsible Authority in accordance with Section 18 of the *Subdivision Act 1988* prior to the issue of Statement of Compliance.
4. All existing and proposed easements and sites for existing and required utility services and roads must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the *Subdivision Act 1988*.

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5. The name for the proposed road for the subdivision must be in accordance with the Guidelines for Geographic Place Names and to the satisfaction and approved by the Responsible Authority.

### Section 173 Agreement

6. Before the Statement of Compliance is issued under the Subdivision Act 1988, the owner of the land must enter into an agreement with the Responsible Authority in accordance with Section 173 of the Planning and Environment Act 1987 which states that the road access to the land may be detrimentally impacted by coastal climate change and associated inundation, which may impact upon the owner's use and enjoyment of the land and which may cut off access to and egress from the subject land from time to time or permanently should the access road become, in Council's view, uneconomic to repair. Council has no responsibility nor does Council accept any responsibility for providing alternate access to or egress from the subject land.

The Agreement must be registered on title pursuant to Section 181 of the Planning and Environment Act and confirmation of the Dealing number provided to Council. All costs relating to the preparation and registration of the Agreement must be borne by the applicant.

Note: A copy of the Section 173 Agreement and Section 181 Form is available on [www.southgippsland.vic.gov.au](http://www.southgippsland.vic.gov.au) under Planning and Building / Understanding your permit conditions.

7. Before the Statement of Compliance is issued under the Subdivision Act 1988, the owner must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987. The agreement must state:

Prior the issue of a Building Permit in respect to any building constructed on any newly created lot, the owner of the lot must:

- a) construct suitable soakage pits for the onsite disposal of stormwater on the lot,
- b) submit engineering plans, calculations and percolation test results for the proposed soakage pit to be approved by Council's Engineering Department prior to the construction of the soakage pits
- c) ensure plans and calculations for the soakage pits are carried out by a suitably qualified consultant and design of the soakage pits is to take into account the soil structure, percolation rate, level of the water table and the extent of future building(s).

When constructing habitable buildings, the owner of the lot must:

- d) On each lot to be created, habitable buildings may only be constructed within the nominated building envelopes as shown on the endorsed plans of the permit.

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The owner must pay the reasonable costs of the preparation, execution and registration of the section 173 Agreement. The section 173 Agreement must be registered prior to the issue of a Statement of Compliance.

8. Before the Statement of Compliance is issued under the *Subdivision Act 1988*, the owner must enter into an agreement with the Responsible Authority under Section 173 of the *Planning and Environment Act 1987*. The agreement must state:
  - a) Incorporate the Bushfire Management Plan and Vegetation Management Plan approved under this permit.
  - b) Ensure that any vegetation management at the site is undertaken in accordance with the Bushfire Management Plan and Vegetation Management Plan.
  - c) State that it has been prepared for the purpose to give effect to the bushfire mitigation measures set out in the approved Bushfire Management Plan and the requirements of Clause 44.06-3.

The owner must pay the reasonable costs of the preparation, execution and registration of the section 173 Agreement. The section 173 Agreement must be registered prior to the issue of a Statement of Compliance.

#### **Mandatory Clause 66.01-1 Telecommunications – for Township Zone and Low Density Residential lots**

9. The owner of the land must enter into an agreement with:
  - a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
10. Before the issue of Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:
  - a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
  - b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

#### **South Gippsland Shire Council Engineering Department**

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11. Unless stated otherwise, the following conditions must be complied with to Council's satisfaction prior to the issue of Statement of Compliance for the relevant stage of the approved subdivision.

- a) Prior to the issue of Statement of Compliance of the relevant stages of the approved subdivision, engineering plans and computations (based on the Infrastructure Design Manual) are to be submitted to and approved by the South Gippsland Shire Council.  
As minimum, engineering design to address:
  - i) Relevant internal road works in accordance with the I.D.M or as stipulated in conditions above.
  - ii) Required external works in Ockenga Court.
  - iii) Control of stormwater overflow from building envelopes.
- b) Construction works associated with the relevant stage of the approved subdivision must be in accordance with Councils Infrastructure Design Manual (I.D.M.), unless otherwise agreed by Council. Construction work includes, but is not limited to;
  - i) All internal roads constructed and sealed to a rural standard (5m seal with concrete edge strips both sides, wide shoulders and grassed table drains, including court bowl 9m minimum radius sealed with concrete edge strip).
  - ii) Ockenga Court gravel surface re-sheeted to satisfaction of council, including suitable turning area for waste and emergency vehicles.
  - iii) Street lighting at the new intersection, the new court, linemarking and street signs.
- c) Appropriate easements are to be created for existing and future stormwater infrastructure.
- d) Upon approval of construction plans by Council for the relevant stage, pay to Council an amount equivalent to 0.75 % of the estimated cost of construction for checking of engineering plans and computations. A certified cost estimate is to be provided by the applicant.
- e) A Site Management Plan showing the proposed erosion control measures is to be submitted to and approved by council prior to construction works commencing on site.
- f) Number of and timing of inspections of construction work to be as agreed with Council's Engineering Department. A minimum of twenty four hours notice is required for inspections.
- g) Scaled "As Constructed" plans for each stage are to be forwarded to Council in paper, "pdf" and AutoCAD compatible format, to the satisfaction of the Responsible Authority.

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- h) "As Constructed" measurements/survey enhanced details of the drainage component of the approved works shall be provided in accordance with the current version of D Spec.
- i) Upon agreed practical completion of civil works for the relevant stage, pay to Council an amount equivalent to 2.5 % of the actual cost of construction, being for supervision of works. A certified final cost is to be supplied by the applicant.
- j) A twelve months Defects Liability Period shall apply to all civil engineering and landscaping works which will become responsibility of South Gippsland Shire Council.
- k) Upon agreed practical completion of civil works for the relevant stage, pay to Council an amount equivalent to 5 % of the actual cost of construction of infrastructure to be handed to Council (including landscaping), being for Guarantee of Works during Defects Liability Period. The amount to be refunded upon release from Defects Liability Period by Council.
- l) If the subdivision is to be staged, the appropriate conditions must be complied with for each stage before consent to Certification or issue of a Statement of Compliance for that stage.
- m) All work must be carried out to the satisfaction of the South Gippsland Shire Council.

#### Country Fire Authority

12. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

#### Bushfire Management Plan

13. Before Certification and Statement of Compliance is issued under the *Subdivision Act 1988*, the Bushfire Management Plan (BMP) prepared by *Jardine Johnston Environment and Planning* must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority. Plans that must be endorsed and form the BMP for the site are:

- *Bushfire Management Plan Lots 1-6, Date August 2016, latest Revision 3/2/17 and Drawing BMP01*
- *Bushfire Management Plan Lots 7, Date August 2016, latest Revision 31/1/17 and Drawing BMP02*

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- *Bushfire Management Plan Lots 1-6, Date August 2016, latest Revision 31/1/17 and Drawing BMP03*

14. When endorsed the BMP must be included as an annexure to the section 173 agreement prepared to give effect to Clause 44.06-3 of the South Gippsland Planning Scheme.

#### Vegetation Management Plan

15. Before Certification and Statement of Compliance is issued under the *Subdivision Act 1988*, the Vegetation Management Plan (VMP) prepared by Jardine Johnston Environment and Planning (Date August 2016, latest Revision 2/2/17 and Drawing VMP01) must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.
16. When endorsed the VMP must be included as an additional annexure to the section 173 agreement prepared to give effect to Clause 44.06-3 of the South Gippsland Planning Scheme.

#### Plan of Subdivision

17. Before Certification and Statement of Compliance is issued under the *Subdivision Act 1988*, a plan of subdivision must be submitted to the Responsible Authority that shows habitable building envelopes in accordance with the building envelopes shown on the BMP endorsed under Condition 12 of this permit, unless otherwise agreed in writing by CFA and the Responsible Authority.

#### Maintenance of defendable space

18. Before the Statement of Compliance is issued under the *Subdivision Act 1988*, defendable space on every lot in the subdivision must be implemented and maintained as specified on the endorsed Bushfire Management Plan, unless otherwise agreed in writing by the CFA and the Responsible Authority.

#### **Department of Environment, Land, Water and Planning**

19. To offset the removal of 0.947 hectares of native vegetation the permit holder must secure a native vegetation offset, in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI 2013) and Native vegetation gain scoring manual (DEPI 2013) as specified below:

A general offset of 0.357 general biodiversity equivalence units with the following attributes:

- Be located within the West Gippsland Catchment Management Authority boundary or South Gippsland municipal district
- Have a strategic biodiversity score of at least 0.432.

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20. Prior to the issue of Statement of Compliance, evidence that the required offset for the project has been secured must be provided to the satisfaction of the Responsible Authority. The offset evidence can be:
- a secure agreement signed by both parties, to the required standard, for the offset site or sites, including a 10 year offset management plan and/or
  - an allocated credit extract from the Native Vegetation Credit Register.
21. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the Responsible Authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.
22. In the event that a security agreement is entered into as per condition 19, the offset provider must provide the annual offset site condition report to the Responsible Authority by the anniversary date of the execution of the offset security agreement, for a permit of 10 consecutive years. After the tenth year, the offset provider must provide a report at the reasonable request of the statutory authority.

#### AusNet Electricity Services

23. The plan of subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with Section 8 of the *Subdivision Act 1988*. The applicant must:
- Enter in an agreement with AusNet Electricity Services Pty Ltd for supply of electricity to each lot on the endorsed plan.
  - Enter into an agreement with AusNet Electricity Services Pty Ltd for the rearrangement of the existing electricity supply system.
  - Enter into an agreement with AusNet Electricity Services Pty Ltd for the rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AusNet Electricity Services Pty Ltd.
  - Provide easements satisfactory to AusNet Electricity Services Pty Ltd for the purpose of "Power Line" in favour of "AusNet Electricity Services Pty Ltd" pursuant to Section 88 of the *Electricity Industry Act 2000*, where easements have not been otherwise provided, for all existing AusNet Electricity Services Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
  - Obtain for the use of AusNet Electricity Services Pty Ltd any other easement required to service the lots.
  - Adjust the position of any existing AusNet Electricity Services Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey.

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- g) Provide to AusNet Electricity Services Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
- h) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AusNet Electricity Services Pty Ltd. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the *Electricity Safety Act 1998*.
- i) Ensure that all necessary auditing is completed to the satisfaction of AusNet Electricity Services Pty Ltd to allow the new network assets to be safely connected to the distribution network.

### Expiry

This permit will expire if either of the following applies:

- a) The subdivision is not certified within two (2) years of the date of this permit; or
- b) The registration of the subdivision is not completed within five (5) years of the date of certification.

### Notes

1. This permit allows the above land to be used or developed for the purpose specified. It is the permit holder's responsibility to ensure that any other relevant approvals are obtained prior to the commencement of the use or development.
2. The appropriate "Consent to work within the Road Reserve" permit must be obtained from Council for all work carried out in Ockenga Court.
3. The applicant should carry out a "Dial Before You Dig" enquiry to check the location of underground services before any works are commenced on-site.
4. Appropriate design checklist must be forwarded with engineering plans and computations with all relevant items addressed. Failure to address all relevant items or forward appropriate information will lead to delay in the assessment of engineering plans and computations.
5. Pursuant to the provisions of Section 69 of the Planning and Environment Act 1987 the Responsible Authority may extend the time to certify a plan under part (a) of the expiry condition, if the request is made before the permit expires or within 6 months afterwards.
6. The Responsible Authority is not able to extend the time to register the plan under part (b) of the expiry condition from the original date of certification, irrespective of whether

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the plan is re-certified or a new plan is certified under the provisions of the Subdivision Act 1988.

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## IMPORTANT INFORMATION ABOUT THIS PERMIT

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### WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit. The permit was granted by the Minister under section 96I of the **Planning and Environment Act 1987** on approval of Amendment No C109 to the South Gippsland Planning Scheme.

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### WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

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### WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
  - the development or any stage of it does not start within the time specified in the permit; or
  - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
  - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if—
  - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
  - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
  - the development or any stage of it does not start within the time specified in the permit; or
  - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
  - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
  - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
  - the use or development of any stage is to be taken to have started when the plan is certified; and
  - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

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### WHAT ABOUT REVIEWS?

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- In accordance with section 96M of the **Planning and Environment Act 1987**, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.

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