



MPAA
STUDIO

TOWN PLANNING REPORT

TWO-LOT SUBDIVISION (RE-SUBDIVISION), REMOVAL OF
EASEMENT AND CREATION OF ACCESS
227 ILLOWA ROAD, ILLOWA
ISSUED 6 JANUARY 2025

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Overview

Background

Address	227 Illowa Road, Illowa
Lot Description	Lot 2 Plan of Subdivision 614172W (Volume 11210 Folio 634) Lot 3 Plan of Subdivision 614172W (Volume 11210 Folio 635)

Relevant Planning Controls

Municipal Planning Strategy	Clause 02.01 Context Clause 02.02 Vision Clause 02.03 Strategic directions Clause 02.04 Strategic framework plan
Planning Policy Framework	Clause 11 Settlement Clause 12 Environmental and Landscape Values Clause 13 Environmental Risks and Amenity Clause 14 Natural Resource Management Clause 17 Economic Development Clause 19 Infrastructure
Zone	Farming Zone
Overlays	Environmental Significance Overlay Significant Landscape Overlay
Particular Provisions	Clause 52.02: Easements, Restrictions and Reserves Clause 52.29: Land Adjacent to the Principal Road Network
Strategic Planning Documents	None applicable

Permit Application Details

Description of Proposal	Two-lot subdivision (re-subdivision), removal of easement (E4), and creation of access to Transport Zone 2.
Permit requirement	Clause 35.07-3: Farming Zone - Subdivision Clause 42.01-2: Environmental Significance Overlay - Subdivision Clause 52.02: Easements, Restrictions and Reserves - Removal of easement. Clause 52.29-2: Create access to a road in a Transport Zone 2.

Quality assurance

Town Planning Report

227 Illowa Road, Illowa

Project Number

24-1208

Revision

02

Prepared By**Project Lead****Issued**

6 January 2024

Revision	Date	Issue
01	8 October 2024	Lodgement to Council
02	6 January 2025	Re-issue to Council

Acknowledgement of Country



We acknowledge the Traditional Owners of the Country on which this application applies and recognise their continuing connection to the land, water and culture. We pay our respects to their Elders past, present and emerging.

We care about our community



We donate a fixed percentage of our income each year to local organisations that work towards a better world. We also advise and represent a select group of clients on a reduced cost or pro bono basis.

Contents

Overview	2
Quality assurance.....	3
1. Introduction	5
1.1. Purpose.....	5
1.2. Limitations	5
2. Site and surrounds.....	6
2.1. Site description and title particulars.....	6
2.2. Site analysis.....	6
2.3. Site Context	7
3. Proposal.....	9
3.1. Overview	9
3.2. Planning permit triggers.....	9
3.3. Key elements	9
4. Planning policies and controls.....	10
4.1. Municipal Planning Strategy	10
4.2. Planning Policy Framework (PPF).....	11
4.3. Farming Zone.....	12
4.4. Overlays	13
4.5. Particular Provisions	14
4.6. Other planning considerations	15
5. Planning Assessment	16
5.1. Overview	16
5.2. Key considerations	16
6. Conclusion.....	21
Appendices	22

Figures

Figure 1: Aerial Plan	7
Figure 2: Context Plan.....	8
Figure 3: Moyne Strategic Framework Plan	11

1. Introduction

1.1. Purpose

This report has been prepared by MPAA Studio in support of a planning permit application for two-lot subdivision (re-subdivision) and removal of easement (E4) and creation of access to Transport Zone 2, at Lot 2 and Lot 3, 227 Illowa Road, Illowa, (the 'Site').

The Site comprises two existing lots, created as part of a previous boundary realignment of the land in 2010. The previous subdivision created Lot 2 as a small lot (4.9 hectares) which was intended to be used for permaculture purposes.

The use of Lot 2 for permaculture was never commenced, and the lot is too small to be used for any agricultural purpose when considered with the topography of the land. Further, the lot is half the size of the minimum size for the zone.

This application seeks to realign the lot boundaries between Lot 2 and 3, to create a more orderly lot layout which responds to the Farming Zone minimum lot size.

The proposal also seeks to remove the easement for access along the eastern edge of Lot 2 for Lot 3, as this is to be replaced with an access handle.

Accordingly, the proposal triggers the following permit requirements:

- Clause 35.07-3: Farming Zone - Subdivision
- Clause 42.01-2: Environmental Significance Overlay - Subdivision
- Clause 52.02: Easements, Restrictions and Reserves - Removal of easement.
- Clause 52.29-2: Create access to a road in a Transport Zone 2.

Having considered the proposal with respect to the Moyne Planning Scheme, it is the conclusion of this report that the proposal is consistent with both state and local planning policy. As such, this report recommends, and requests Council issues a permit for the proposal.

The following documents should be read in conjunction with this report and are provided as part of the application:

- OneMap Site Report;
- Certificate of Title;
- Town Planning Report;
- Proposed Concept Plan of Subdivision.

1.2. Limitations

This report has considered the following documents:

- Moyne Planning Scheme (Planning scheme last updated by VC273 on Thursday 19 December 2024);
- Certificates of Title (dated October 2024).

2. Site and surrounds

2.1. Site description and title particulars

Site address	227 Illowa Road, Illowa
Title details	Lot 2 on Plan of Subdivision 614172W (Volume 11210 Folio 634) Lot 3 on Plan of Subdivision 614172W (Volume 11210 Folio 635)
Site description	The Site is irregular in shape, and comprises a total area of approximately 47 hectares, with a frontage to Illowa Road of approximately 241 metres.
Easements, restrictions or covenants	<p>The Site is encumbered by the following easements, restrictions and covenants pursuant to Section 173 of the Planning and Environment Act 1987 and the Subdivision Act 1988:</p> <p><u>Easement</u></p> <p>The Site is encumbered by the following easements:</p> <ul style="list-style-type: none">- E3 for electricity supply, benefitting Powercor.- E4 for carriageway, benefitting Lot 3 (227 Illowa Road).- E5 for carriageway, benefitting Lot 1 (237 Illowa Road) and Lot 3.- E6 for electricity supply, benefitting Powercor, and carriageway, benefitting Lot 1 (237 Illowa Road) and Lot 3. <p><u>Covenant AL822859E</u></p> <p>The land south of the government road (the lower lying areas of the Site) is subject to a Trust for Nature Covenant.</p>

Refer to Appendix A - Certificate of Title.

2.2. Site analysis

The Site comprises two titles:

- Lot 2 PS 614172W comprises an area of 4.922 hectares, and is located with direct frontage to Illowa Road at the north edge of the Site. The topography of the land comprises a hill on top of which is a pyramidal structure.
- Lot 3 PS 614172W, known as 227 Illowa Road, comprises a total area of 42.2 hectares in three parts, with each part separated by government roads. 227 Illowa Road does not have direct frontage to Illowa Road and achieves legal and physical access via easements burdening Lot 2. Lot 3 comprises a hilly topography through the northern portion, whilst the lower portions are low lying land adjacent to Kelly Swamp.

Refer to Figure 1 - Aerial Plan.



Figure 1: Aerial Plan

2.3. Site Context

The Site is located approximately 2.2 kilometres west of the urban edge of Warrnambool. The surrounding area is located around Illowa Road (the Old Princes Highway), and comprises a mix of larger farming lots, and small house lots.

Within 1 kilometre of the Site, there are at least 19 small house lots with existing or approved dwellings with areas less than the minimum lot size, and additional dwellings located on some larger farm parcels.

The surrounding subdivision pattern is therefore mixed, and includes farms comprising multiple parcels, larger farm lots, and the small house lots. Houses are typically located close to the road. Farming uses nearby include equine industries, dairy farms, and a pet cremation facility.

The topography of the surrounding area comprises rolling hills, with some properties having views north over the hinterland, and some south towards the dunes and ocean.

The Site's key interfaces are as follows:

North	214 Illowa Road, comprises a dwelling and outbuildings on a lot with an area of approximately 8 hectares.
East	163 Illowa Road, comprising a recently re-subdivided farm, which consolidate the farm land, and created house lots along Illowa Road.
South	Low lying land comprising 'Kelly Swamp', which is located in the Farming Zone.
West	237 Illowa Road, used as a horse training facility known as High View Horse Complex, and comprises a purpose built indoor arena, agistment paddocks, a dwelling and two small accommodation units.

Refer to Figure 2 - Context Plan.

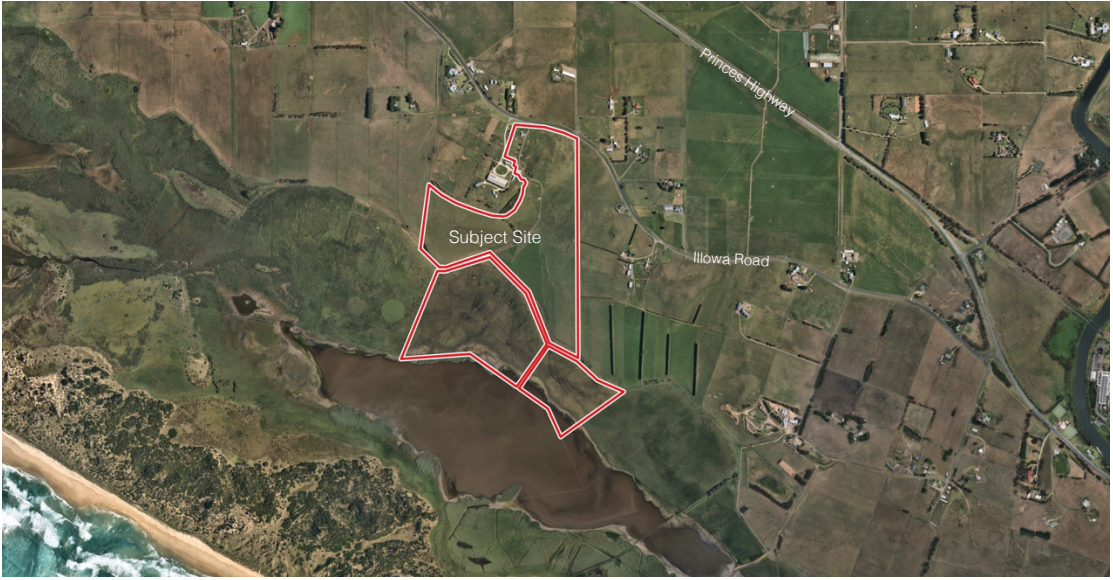


Figure 2: Context Plan

3. Proposal

3.1. Overview

The proposal seeks planning approval for a two-lot subdivision (re-subdivision), removal of easement (E4), and creation of access to Transport Zone 2.

Refer to enclosed town planning drawings for full details of the proposal.

3.2. Planning permit triggers

In accordance with the provisions of the Moyne Planning Scheme, the proposal triggers the following planning permit requirements:

- Clause 35.07-3: Farming Zone - Subdivision.
- Clause 42.01-2: Environmental Significance Overlay - Subdivision
- Clause 52.02: Easements, Restrictions and Reserves - Removal of easement.
- Clause 52.29-2: Create access to a road in a Transport Zone 2.

3.3. Key elements

Proposed subdivision

- Lot 1 will comprise an area of approximately 35.78 hectares, in three parts. Lot 1 will comprise direct frontage to Illowa Road.
- Lot 2 will comprise an area of approximately 10 hectares and comprises an irregular but somewhat rectangular shape, along with an access handle to provide direct road frontage for servicing to Illowa Road.

Refer to Town Planning Drawings for full details of proposal.

Removal of easement E4

- Easement E4 is proposed to be removed. On the current title, E4 provides legal access for Lot 3 over Lot 2 along the eastern edge of Lot 2. The access handle proposed as part of Lot 2 on the proposed plan of subdivision removes the need for this easement, as the lot will have direct frontage to Illowa Road.



4. Planning policies and controls

4.1. Municipal Planning Strategy

The Municipal Planning Strategy (MPS) sets out the municipal context, outlines the Council vision, and provides for strategic directions for planning with a focus on specific areas and issues within Moyne Shire. The most relevant clauses within the MPS are set out below.

Clause 02.01 **Context**: identifies the Moyne Shire is located within south western Victoria with a population of approximately 17,374 in 2021 which is growing modestly, with strong demand for growth along coastal areas. The three main urban centres of Port Fairy, Koroit and Mortlake have populations of approximately 3742, 2184 and 1477 respectively. The rural areas, small townships and rural settlements account for the balance of the Shire's population. The Shire is predominantly rural based with a focus on grazing agriculture, dairy and beef production, wool and prime lamb production, aquaculture and cropping.

Clause 02.02 **Vision**: The adopted 'Vision' for Moyne, as identified within the My Moyne, My Future 2040 Community Plan is:

- The people of Moyne embrace the region's extraordinary cultural and ecological country. Our fertile volcanic plains and pristine coast are the pride of Victoria's southwest. From coast to country, our connected and vibrant communities are active stewards, working meaningfully towards the protection and advancement of environment, history, social and economic vitality for present and future generations.

The priority aspirations for each of the above themes include a commitment to (as relevant):

- o Set the standard for sustainable farming practices.

Clause 02.03 **Strategic directions**:

Clause 02.03-2 **Environmental and landscape values** identifies the natural landscape of the municipality is an important asset that requires protection from inappropriate use and development. The visual and environmental implications of development on the municipality's natural features can destroy the attractiveness and environmental qualities of the area. Most of the land adjacent to watercourses is in private ownership due to the Shire's early settlement. Relevant strategic directions include:

- Protect significant landscapes and natural environments.
- Promote greater revegetation and the management of pest plants and animals to address areas of degraded land.
- Manage land use and development to minimise impacts on coastal and river environments.

Clause 02.03-3 **Environmental risks and amenity** identifies the municipality as facing complex fire risk in agricultural, forested, urban bushland, rural residential and coastal areas. Relevant strategic directions include:

- Ensure land use and development responds to fire risk.

Clause 02.03-4 **Natural resource management** identifies rural land in the municipality as forming part of the highly productive Western District. Intensive dairying and crop production are significant land uses in the coastal hinterland, while extensive cropping and grazing enterprises are major activities in the northern part of the Shire. Agricultural areas along the coast, between settlements or on the edge of townships are under pressure from other forms of development, particularly housing. Relevant strategic directions include:

- Prevent land use conflicts between agricultural uses and sensitive uses.
- Limit the use of productive agricultural land for non-productive agricultural purposes.

Clause 02.03-7 **Economic development** identifies agriculture is the most important sector of the local and regional economy and a major source of local employment. The preservation of agricultural land in large holdings is

necessary to maintain the economy of the Shire, including the service and processing industries that support agriculture. Relevant strategic directions include:

- Promote agriculture as the primary industry of the economy.
- Protect agricultural land from non-productive use and development.
- Encourage consolidation of rural land holdings to increase the viability and sustainability of agriculture.
- Ensure that the use and development of land is not prejudicial to agricultural industries or to the productive capacity of the land.

Clause 02.04 **Strategic Framework Plan:**



Figure 3: Moyne Strategic Framework Plan

See **Section 5.2.1** for an assessment of the proposal against the Municipal Planning Strategy.

4.2. Planning Policy Framework (PPF)

To ensure the overarching objectives of planning in Victoria are met, policies contained within the Planning Policy Framework (PPF) must be considered. The PPF clauses of most relevance the Site and the proposal are set out below.

Clause 11 Settlement

- Clause 11.01-1S **Settlement:** Seeks to facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.
- Clause 11.01-1R **Settlement - Great South Coast:** Seeks to attract more people to the region.
- Clause 11.03-6S **Regional and local places:** Aims to facilitate integrated place-based planning.

Clause 12 Environmental and Landscape Values

- Clause 12.01-1S **Protection of biodiversity:** Seeks to protect and enhance Victoria's biodiversity.
- Clause 12.02-1S **Protection of the marine and coastal environment:** Aims to protect and enhance the marine and coastal environment.
- Clause 12.02-1L-01 **Protection coastal areas - Moyne:** Applies to land adjacent to the coastline and land affected by Environmental Significance Overlay Schedule 1. Relevant strategies include:
 - o Discourage new access roads leading to or running parallel with the coastline.

- o Discourage the development of buildings and structures on sand dunes on free hold properties.
- o Discourage soil removal and excavation close to the boundary of the coastal reserve.
- Clause 12.03-1S **River and riparian corridors, waterways, lakes, wetlands and billabongs**: Aims to protect and enhance waterway systems including river and riparian corridors, waterways, lakes, wetlands and billabongs.

Clause 13 Environmental Risks and Amenity

- Clause 13.02-1S **Bushfire planning**: Seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

Clause 14 Natural Resource Management

- Clause 14.01-1S **Protection of agricultural land**: Aims to protect the state's agricultural base by preserving productive farmland.
- Clause 14.01-1L **Agricultural production**: Seeks to ensure subdivision, including the creation of small lots for existing dwellings, and the use and development of dwellings minimises the loss or fragmentation of productive agricultural land and does not prejudice activities associated with agricultural production.
- Clause 14.02-1S **Catchment planning and management**: Aims to assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment.

Clause 17 Economic Development

- Clause 17.01-1S **Diversified economy**: Aims to strengthen and diversify the economy.
- Clause 17.01-1R **Diversified economy - Great South Coast**: Seeks to support agriculture and rural production.

Clause 19 Infrastructure

- Clause 19.03-3S **Integrated water management**: Seeks to sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach.

An assessment of the proposal against the policies of the PPF is contained within **Section 5.2.2** of this report.

4.3. Farming Zone

The Site is located within the Farming Zone (Clause 35.07). The purposes of the Farming Zone include:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

Pursuant to Clause 35.07-3 a permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to the zone (10 hectares).

There are no specific application requirements for subdivision under the Zone. Decision guidelines are listed at Clause 35.07-6. See **Section 5.2.3** for a response to the relevant decision guidelines.

4.4. Overlays

4.4.1. Environmental Significance Overlay

The southern part of the Site, below the government road, is affected by Schedule 1 to the Environmental Significance Overlay (ESO1). The purposes of the Environmental Significance Overlay include:

- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Clause 42.01-1 Environmental significance and objectives sets out a schedule to the Overlay must contain:

- A statement of environmental significance.
- The environmental objectives to be achieved.

The statement of environment significance contained in Schedule 1 to the Environmental Significance Overlay states:

The Shire's coast is of outstanding environmental significance and is of value as a conservation, scientific and tourism resource. It supports a range of vital commercial, recreational and tourist activities amongst a diverse range of ecosystems of which Childers Cove, the Bay of Islands, The Crags and Lake Yambuk are particularly noteworthy. Although the coastal areas of the Shire contain significant sites of biodiversity much of the adjacent land has been cleared of native vegetation and developed for rural land uses. This has resulted in fragmented patches of remnant vegetation, which have become more important to protect and sustain because of their role as habitat.

Estuaries such as Lake Yambuk, Moyne River and The Cutting (former Merri River entrance) represent unique ecosystems comprising coastal saltmarshes, rushes, sedges and seagrasses which link catchments to the coastal marine environment. They are also under pressure associated with adjoining land management and river mouth openings. These areas are also sites which exhibit hazards related to sea level rise and potential acid sulphate soils and the need to consider these matters when considering development activity on the coast.

Estuaries and their associated wetlands are an important component of the landscape and are biologically productive ecosystems, which provide the following functions:

- o Provide habitat for native flora and fauna such as the Orange-bellied Parrot.
- o Provide nursery and breeding sites for aquatic fauna.
- o Trap sediments and assimilate and recycle nutrients.
- o Provide landscape value and are a valuable recreation resource.
- o Are sites of cultural, scientific, educational and economic significance, particularly with respect to fisheries.

The environment objectives to be achieved include:

To protect and enhance flora and fauna habitat of the coast, estuaries, associated wetlands and indigenous native vegetation from the impacts of development.

To protect and enhance the stability and environmental quality of sand dunes and coastal cliffs from the impacts of development.

To protect the physical, biological and water quality integrity and functioning of estuaries from development within or adjoining an estuary including:

- o Avoiding the interference of environmental flows, natural flooding regimes and tidal flows.
- o The avoidance of interfering with the appropriate management of artificial river mouth openings of estuaries that minimises detrimental effects on the estuarine environment.
- o The avoidance of concentrated stormwater flows and filtering of stormwater, nutrients and other pollutants.
- o The prevention of soil erosion and sedimentation.
- o The prevention of the disturbance of acid sulphate soils associated with estuaries and low-lying coastal areas.
- o The recharge and discharge of ground waters.

To encourage development including infrastructure to locate away from the sea, estuaries and wetlands through the use of buffer zones. Buffer zones can assist in protecting development from sea level rise

hazards, mitigate the impacts of development and permit wetland vegetation to migrate as a result of predicted sea level rise associated with climate change.

Pursuant to Clause 42.01-2, a permit is required to subdivide land.

There are no application requirements listed Clause 42.01-4 or the Schedule. The Schedule notes all applications must be referred in accordance with Clause 66.04.

Decision guidelines are listed at Clause 42.01-5 and in the Schedule to the Overlay.

Refer to **Section 5.2.4** of this report for an assessment against the decision guidelines.

4.4.2. Significance Landscape Overlay

The Site is affected by Schedule 5 to the Significant Landscape Overlay (SLO5). The purposes of the Significant Landscape Overlay include:

- To identify significant landscapes.
- To conserve and enhance the character of significant landscapes.

Clause 42.03-1 Landscape character and objectives sets out a schedule to the Overlay must contain:

- A statement of the nature and key elements of the landscape.
- The landscape character objectives to be achieved.

Pursuant to Clause 42.03-2, there is no permit requirement for subdivision. Accordingly, no further assessment against the SLO is required.

4.5. Particular Provisions

4.5.1. Clause 52.02 Easements, Restrictions and Reserves

Clause 52.02 seeks to enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.

A permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction.

The decision guidelines state that before deciding on an application the responsible authority must consider the interests of affected people.

The easement E4 is proposed to be removed. E4 originates from Plan of Subdivision PS614172W and provides access from Illowa Road over Lot 2 benefitting Lot 3. Both these lots are subject to this application.

The realignment of titles proposed removes the need for easement E4 as an access handle for proposed Lot 2 will be provided instead.

Accordingly, E4 is sought to be removed. The proponent of this application is the benefitting landowner and will not experience detriment as a result of this application.

4.5.2. Clause 52.29 Land Adjacent to the Principal Road Network

The purpose of Clause 52.29 includes:

- To ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.
- To ensure appropriate subdivision of land adjacent to Principal Road Network or land planned to form part of the Principal Road Network.

Clause 52.29 is applicable to the planning application as the land is adjacent to the Transport Zone 2.

Pursuant to Clause 52.29-2 a permit is required to create access to a road in a Transport Zone 2. The comments of the roads authority will be taken into account as part of the application.

4.6. Other planning considerations

4.6.1. Aboriginal Cultural Heritage Sensitivity

The Site is identified as being an 'area of cultural heritage sensitivity' pursuant to the Aboriginal Heritage Regulations 2018. These areas relate to landforms and soil types where Aboriginal places are more likely to be located.

A Cultural Heritage Management Plan (CHMP) is required for an activity if the activity is a 'high impact activity' and falls in whole or part within an area of cultural heritage sensitivity. Division 2 of the Aboriginal Heritage Regulations 2018 set out various exempt activities for which a CHMP is not required.

The proposal does not comprise a high impact activity (Regulation 49) and accordingly, a CHMP is not required.

5. Planning Assessment

5.1. Overview

The following chapter outlines the key planning considerations of the proposal in response to relevant policy and the provisions of the Moyne Planning Scheme. In summary, the following key considerations are relevant to the assessment of the proposal:

- Is the proposal consistent with the Municipal Planning Strategy?
- Is the proposal consistent with the Planning Policy Framework?
- Does the proposal appropriately respond to the Farming Zone?
- Does the proposal appropriately respond to the Environmental Significance Overlay Schedule 5?

5.2. Key considerations

5.2.1. Is the proposal consistent with the Municipal Planning Strategy?

Broadly, the Moyne Planning Scheme seeks to protect the agricultural productivity of the Shire, and discourages developments and subdivisions which are not compatible with, or which may compromise, the use of the land for farming or primary production.

The proposed re-subdivision seeks to realign the boundaries between the two existing lots, to create two lots which can better be used for productive purposes. The existing configuration of the smaller lot poses significant challenges for productive use due to the site's hilly topography. This terrain makes it difficult to engage in substantial agricultural activities, limiting the lot's contribution to the Shire's agricultural output.

By re-subdividing the land, the proposal aims to rationalise the lot boundaries, resulting in a more logical and orderly planning outcome. The new configuration will create two lots that not only meet the minimum lot size requirement, but are also designed to enhance their agricultural capability. This reorganisation of the land parcels aligns with the Planning Scheme's objectives by ensuring that each lot can be used productively, supporting the broader goals of natural resource management and economic development within the Shire as expressed through the Municipal Planning Strategy (Clause 02.03-4 **Natural resource management**, Clause 02.03-7 **Economic development**).

5.2.2. Is the proposal consistent with the Planning Policy Framework?

The proposed subdivision has been considered with regard to the policies outlined in the Planning Policy Framework. The subdivision responds well to Clause 14.01-1S and Clause 14.01-1L **Protection of Agricultural Land**, which seeks to avoid the permanent removal of land from agricultural production, and protect the ongoing viability of the Shire's agricultural base. The proposal does not create any new lots, but instead realigns the boundaries to increase the viability of the existing small lot, whilst also retaining ample land within the larger lot (Proposed Lot 1) which can continue to be used for grazing. The proposal rectifies an unusual subdivision layout, and will restructure the lots to ensure both can meet the minimum lot size of the Zone. This is directly supported by Policy at Clause 14.01-1S which seeks to give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.

Consideration has been to policy at Clause 14.01-1L **Protection of Agricultural Land** which discourages boundary realignments and re-subdivisions between existing lots where the lots proposed to be created:

- Are less than the minimum lot size specified in the schedule to the Farming Zone;
- Create an opportunity for a dwelling where none previously existed; or
- Rely on land which was previously a road reserve, utility lot or Crown land, or was of insufficient size to support a dwelling.

In response to this Policy, the proposal is considered to provide a positive response to this policy as it is noted that:

- All lots are above the minimum lot size,
- The proposal will create an as-of-right dwelling opportunity for Proposed Lot 2. This is considered appropriate in this instance on the basis of the lot size proposed, and the surrounding land uses, which are used for a mix of agricultural and dwelling purposes.
- The realignment does not rely on former road reserves, utility lots, or Crown land. Both lots are of a sufficient size to support a dwelling.

The proposal is consistent with **Clause 12 Environmental and Landscape Values**. The proposal does not change any existing condition or lot boundary in the lower portion of the Site, which comprises the coastal swamp land, and will not provide any additional opportunities for buildings within this area.

The proposal is consistent with Clause 13.02-1S **Bushfire Planning**. The land is within a Bushfire Prone Area, but is not within the Bushfire Management Overlay. The proposed subdivision does not result in any significant increased bushfire risk.

On balance, the proposal is considered to provide an appropriate outcome having regard to the policies of the Planning Policy Framework.

5.2.3. Does the proposal appropriately respond to the Farming Zone?

The proposed subdivision aligns with the purposes of the Farming Zone. The application implements the Municipal Planning Strategy and the Planning Policy Framework as discussed above in **Sections 5.2.1** and **5.2.2** of this report. The proposal facilitates re-subdivision of the land to ensure both lots meet the minimum lot size of the Zone, which is 10 hectares in this area.

A response to relevant decision guidelines is provided below to understand how the proposal can be considered an acceptable outcome under the Farming Zone:

Table 1: Decision Guidelines at Clause 35.07-6

Decision Guideline	Response
General Issues	
The Municipal Planning Strategy and the Planning Policy Framework.	The proposed subdivision complies with the Municipal Planning Strategy and the Planning Policy Framework, as outlined in Sections 5.2.1 and 5.2.2 of this report.
Any Regional Catchment Strategy and associated plan applying to the land.	<p>The Glenelg Hopkins Regional Catchment Strategy 2021-2027 contains general objectives and management measures regarding the role of landowners in caring for and managing the environmental qualities of the land.</p> <p>The RCS identifies the lower Merri River and estuarine environment as a popular fishing destination, and comprising wetlands which supports rare and threatened species. Key challenges and threats include loss of habitat, degradation, weed invasion, coastal development and climate change.</p> <p>Given the proposal does not change the boundaries of the lots in the vicinity of the environmentally sensitive areas, and no further development is proposed, the proposal is considered to be generally in line with the objectives sought by the RCS.</p>
How the use or development relates to sustainable land management.	The subdivision seeks to enhance productive use of both lots by creating lots which are above the minimum lot size, to allow more sustainable land management.
Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.	The site is suitable for the subdivision and is compatible with the surrounding subdivision pattern, and nearby uses.

Decision Guideline	Response
How the use and development makes use of existing infrastructure and services.	The proposal makes efficient use of existing infrastructure and services, including access, service easements, and buildings. Existing conditions will also be improved through the creation of a separate legal access to Lot 2.
Agricultural issues and the impacts from non-agricultural uses	
Whether the use or development will support and enhance agricultural production. Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.	The re-subdivision will support and enhance agricultural production by providing for both lots to be able to be used for productive purposes consistent with the Zone. The re-subdivision is not considered to permanently remove land from agricultural production, rather, this subdivision supports the ongoing use of the land for agriculture.
The capacity of the site to sustain the agricultural use. The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.	The proposal will increase the ability of the land to sustain agricultural uses when compared to the existing lot arrangement. The land is good quality productive agricultural land, and is able to sustain agricultural uses on lot sizes of 10 hectares.
Environmental issues	
The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality. The impact of the use or development on the flora and fauna on the site and its surrounds. The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.	The proposal will not adversely affect soil and water quality, watercourses, flora or fauna, as no change to existing conditions in the southern part of the Site is proposed. This area will still be protected by the environmental obligations in the Trust for Nature Covenant, and the subdivision will not affect their ongoing implementation.

On balance, the proposal is consistent with the Farming Zone.

5.2.4. Does the proposal appropriately respond to the Environmental Significance Overlay Schedule 1?

An assessment against the relevant decision guidelines of the ESO and Schedule 1 to the ESO is provided in Table 2 below.

Table 2: Decision Guidelines at Schedule 1 to the ESO

Decision Guideline	Response
The Municipal Planning Strategy and the Planning Policy Framework.	The proposed subdivision complies with the Municipal Planning Strategy and the Planning Policy Framework, as outlined in Sections 5.2.1 and 5.2.2 of this report.

Decision Guideline	Response
The statement of environmental significance and the environmental objective contained in a schedule to this overlay.	The realignment of titles is not anticipated to have any appreciable impact on the environmental objectives sought by the overlay, given no change in land use is proposed within the Overlay extent.
The impact of the development on neighbouring properties.	The realignment of titles is not likely to have any noticeable impact on neighbouring properties.
Existing use of land and the reason for the development in relation to that use and the degree of dependence of the development on the coastal environment.	Existing uses of the land will be maintained.
The availability of alternative land suitable for the proposed development away from the coast, estuary or wetland area.	Only the southern part of the Site is within the Overlay extent. There is sufficient land outside the Overlay which can be developed and maintain appropriate setbacks from the Overlay area as required.
<p>The soil stability of the land and whether the proposal minimises ground surface disturbance and included adequate measures to prevent and control soil erosion and sedimentation during construction works and/or associated with the proposed use.</p> <p>Whether the proposal minimises the impact of construction (including construction of roads) within prominent areas such as hillsides, promontories, ridgelines and headlands.</p> <p>Whether the proposal avoids the construction (including construction of roads) and works in fragile, unstable areas or hazardous soils, including land subject to inundation and land adjoining coastal or lake foreshore boundaries where acid sulphate soils may occur.</p>	The only works associated with the proposal are limited to a new crossover and services, which are located outside the Overlay extent and near the roadside.
<p>Potential threats to the quality, life cycle processes or functioning of aquatic and terrestrial ecosystems or native plant and animal species.</p> <p>Whether development avoids impacts on an estuary and wetlands from any drainage, excavation, filling and reclamation works or supports the ecology of the wetland.</p> <p>Whether the proposal avoids development with any associated wastewater within 100 metres of a waterway, wetland or coastal foreshore boundary</p>	No construction or works are proposed in the Overlay extent. Furthermore, works within the Overlay area are managed via the Trust for Nature Covenant.
<p>The need for an agreement or a covenant on title to protect significant habitat and whether this should be a condition of any permit.</p> <p>Control of noxious and environmental weeds and pest animals, including the need to minimise the spread of weeds and soil pathogens.</p>	The existing Trust for Nature Covenant is to be retained.
The Siting and Design Guidelines for Structures on the Victorian Coast (Department of Environment, Land, Water and Planning, 2020) and the Landscape Setting Types for the Victorian Coast (Victorian Coastal Council, May 1998).	No buildings are proposed. The siting of future buildings will be managed via the building envelopes as part of the S173 Agreement.



Decision Guideline	Response
<p>For an application to subdivide land, consider the intended development and use of the land and its likely effects on the coastal location, estuary and/or wetland and if acceptable, the need to impose conditions on lot sizes, lot boundaries, road network, open space, building envelopes or effluent disposal sites to ensure better protection of the coastal location, estuary and/or wetland.</p>	<p>The siting of future buildings and works can be managed via the building envelopes as part of the Section 173 Agreement. These areas are outside the Overlay and considered an appropriate outcome.</p>



6. Conclusion

This report has described the proposed re-subdivision of existing titles, and provided a detailed assessment of the proposal against the relevant policy and planning controls of the Moyne Planning Scheme.

It is the conclusion of this report that the application is consistent with the purposes and intent of the planning controls and policy framework of the Moyne Planning Scheme. It follows as the recommendation and request of this report that Council issue a planning permit for the proposal.

We look forward to working with Council during the assessment of the application.

Myers Planning & Associates

October 2024



Appendices

Appendix A	Certificate of Title
Appendix B	OneMap Site Report
Appendix C	Proposed Plan of Subdivision