

MPAA  
STUDIO

## TOWN PLANNING REPORT


RESUBDIVISION OF TITLES  
258 MORTLAKE-ARARAT ROAD, MORTLAKE  
ISSUED 26 FEBRUARY 2025

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# Overview

## Background

Applicant	
Address	258 Mortlake-Ararat Road, Mortlake
Lot Description	Lot 1 TP 918835 (Volume 11039 Folio 378) Lot 3 TP 918835 (Volume 11831 Folio 444) Lot 1 TP 575877 (volume 07283 Folio 456)

## Relevant Planning Controls

Municipal Planning Strategy	Clause 02.01 Context Clause 02.02 Vision Clause 02.03 Strategic directions.
Planning Policy Framework	Clause 11 Settlement Clause 12 Environment 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	None applicable
Particular Provisions	Clause 52.29 Land Adjacent to the Principal Road Network
Strategic Planning Documents	None applicable

## Permit Application Details

Description of Proposal	Three (3) lot subdivision (re-alignment)
Permit requirement	Clause 35.07-3: Farming Zone - Subdivision

# Quality assurance

<b>Town Planning Report</b> 258 Mortlake-Ararat Road, Mortlake Prepared for ██████████	<b>Project Number</b> 23-1069  <b>Revision</b> 01  <b>Prepared By</b> AP  <b>Project Lead</b> AP  <b>Issued</b> 15 March 2023
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Revision	Date	Issue
00	29 March 2023	Draft issued to client
01	13 April 2023	Issue to Council
02	26 February 2025	Revisions for LCA and C70moyn

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# 1. Introduction

## 1.1. Purpose

This report has been prepared by MPAA Studio (formerly Myers Planning & Associates) in support of a planning permit application for the three (3) lot subdivision (realignment) at 258 Mortlake-Ararat Road, Mortlake (the 'Site').

The proposal provides a site responsive design which directly responds to the provisions of state and local planning policy and complies with the Moyne Planning Scheme.

Accordingly, the proposal triggers the following permit requirements:

- Clause 35.07-3 Subdivision (Farming Zone).

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:

- Certificate of Title
- OneMap Site Report
- Proposed Plan of Subdivision
- Land Capability Assessment prepared by PM Design.

## 1.2. Limitations

This report has considered the following documents:

- Moyne Planning Scheme (Planning scheme last updated by VC257 on Tuesday 25 February 2025);
- Certificate of Titles (dated 1 February and 14 March 2023).

## 2. Site and surrounds

### 2.1. Site description and title particulars

Site address	258 Mortlake-Ararat Road, Mortlake
Title details	Lot 1 TP 918835 (Volume 11039 Folio 378) Lot 3 TP 918835 (Volume 11831 Folio 444) Lot 1 TP 575877 (volume 07283 Folio 456)
Site description	The Site is generally rectangular in shape. The Site has an area of approximately 46.9 hectares , and comprises a frontage of approximately 510 metres to Mortlake-Ararat Road to the west and 800 metres to Campbells Lane to the south.
Easements, restrictions or covenants	The site is not encumbered by any easements, restrictions or covenants pursuant to Section 173 of the Planning and Environment Act 1987 and the Subdivision Act 1988.

Refer to Appendix A - Certificate of Title.

### 2.2. Site analysis

The Site is located on the east side of Mortlake-Ararat Road, and comprises three titles known as Lot 1 TP 918835, Lot 3 TP 918835 and Lot 1 TP 575877.

The existing pattern of development on the land is described below:

- Lot 1 TP 918835 - the largest lot, comprising an area of approximately 300 hectares, and developed with a number of outbuildings located near the Mortlake-Ararat Road frontage, as well as existing access from Mortlake Ararat Road. The balance land is used for grazing.
- Lot 3 TP 918835 - comprises an area of 5,000 square metres, and is currently developed with an existing dwelling known as 248 Mortlake-Ararat Road, with two ancillary outbuildings, and an existing access to Mortlake - Ararat Road.
- Lot 1 TP 575877 - comprises an area of approximately 16 hectares, and is developed with a dwelling known as 258 Mortlake - Ararat Road. Access to the dwelling is via the existing crossover which is located on Lot 1 TP575877. The land also comprises six paddocks used for horse keeping, along with the balance land used for grazing.

The existing buildings across the Site are located on higher ground, with the land falling down towards flatter areas to the east. No substantial native vegetation exists on the land, other than established landscaping around the existing buildings, and shelter belt style plantings.

Refer to Figure 1 – Aerial Plan.



Figure 1: Aerial Plan

## 2.3. Site Context

The Site is located approximately 1.5 kilometres to the north of the settlement of Mortlake, and immediately north of the extent of the Rural Living Zoned land north of Mortlake.

Mount Shadwell is located to the west of Mortlake-Ararat Road, and comprises a scoria cone, which is a significant landscape feature easily visible from the town of Mortlake, and the surrounding rural areas. The Moyne Shire operated Mount Shadwell Quarry is located at the base of Mount Shadwell, and provides scoria product to the Council and direct to the public.

The Site's key interfaces are as follows:

North	Lot 2 TP 918835, comprising an agricultural parcel held in the same ownership.
East	Crown Allotments 5 and 6 Section 10 Parish Mortlake, used for agricultural purposes.
South	202 Mortlake-Ararat Road, located within the Rural Living Zone and developed with a dwelling.
West	Road reserve of Mortlake-Ararat Road, located within the Transport Zone 2. Further west is the Mount Shadwell Quarry and Mount Shadwell, located withing the Farming Zone.

## 3. Proposal

### 3.1. Overview

The proposal seeks planning approval for a three (3) lot subdivision (re-alignment). The intent of the subdivision is to provide a lot for the owner's son, who currently resides in the existing dwelling at 258 Mortlake - Ararat Road, along with the majority of the outbuildings, and the horse paddocks which are to be included in the Proposed Lot 1. The subdivision will also rectify an existing condition where the access for the dwelling at 258 Mortlake - Ararat Road is not within the title boundaries of that lot. The subdivision will locate the access for that dwelling within the title boundaries of Proposed Lot 1. The owner's son is currently employed in the Mount Shadwell Quarry, located opposite the Site, and the proposal will support his ongoing employment and residence nearby. The proposal also supports the consolidation of the balance land into a larger parcel.

To facilitate the creation of the smaller lot for the existing dwelling, it is intended to realign three existing titles, rather than undertake a true 'house lot excision' and create any additional lots. No new lots are proposed as part of this application.

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.

### 3.3. Key elements

Key elements of the proposal include:

#### **Lot 1**

- Lot 1 is to comprise an area of 5.2 hectares in size and is to contain the existing dwelling at 258 Mortlake-Ararat Road, the majority of the existing sheds, and the existing horse paddocks. Existing access via Mortlake-Ararat Road is to be retained.

#### **Lot 2**

- Lot 2 is to comprise an area of 41.09 hectares in size and will have frontage to both Mortlake-Ararat Road and Campbells Lane to the south. Existing access is via farm access to Campbells Lane. This lot will continue to be used for farming purposes.

#### **Lot 3**

- Lot 3 is to comprise an area of approximately 3,733 square metres, and will retain the existing dwelling at 248 Mortlake-Ararat Road. Existing access is an existing crossover to Mortlake-Ararat Road.

A key aspect of the proposal is to locate the existing sheds on proposed Lot 1, to allow these buildings to be transferred to the dwelling at 258 Mortlake-Ararat Road. It is acknowledged the proposed boundary between the existing shed and the existing dwelling at 248 Mortlake-Ararat Road is located close to the existing buildings. Permit conditions on any permit issued requiring a report from a Building Surveyor detailing compliance with the Building Regulations are invited to ensure upgrades to the buildings are undertaken as required.

Refer to Appendix D Proposed Plan of Subdivision for full details of proposed subdivision.

## 4. Planning policies and controls

### 4.1. Municipal Planning Strategy (MPS)

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 02.01 **Context** - The Moyne Shire is located in south western Victoria and occupies an area of approximately 5600 square kilometres. The Moyne and Hopkins Rivers flow through the municipality from north to south. The Hamilton and Princes Highways are the main road links through the municipality.

The Shire has a coastline of over 90 kilometres and a population of approximately 17,374 (in 2021) which is growing modestly, with strong demand for growth along coastal areas.

The main urban centres are Port Fairy, Koroit, and Mortlake. The Shire's economy is largely rural, focusing on dairy and beef farming, wool and lamb production, aquaculture and cropping.

Clause 02.02 **Vision** - The Moyne Shire Council Plan (2021-2025) focuses on key areas: Place, Environment, People, and Economy. The adopted 'Vision' for Moyne 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.*

#### Clause 02.03 **Strategic directions**

Clause 02.03-4 **Natural resource management** - Rural land in the municipality forms part of the highly productive Western District. A mild climate, high and well distributed rainfall, a diverse range of soil types and access to markets have combined to make the Shire a significant agricultural area. Intensive dairying and crop production are significant land uses in the coastal hinterland, while extensive cropping and grazing enterprises, including beef cattle and sheep for wool and meat, are major activities in the northern part of the Shire.

Agricultural areas along the coast, between settlements and on the edge of townships are under pressure from other forms of development, particularly housing. Council's strategic directions include:

- Prevent land use conflicts between agricultural uses and sensitive uses.

An assessment of the proposal against the policies of the MPS is contained within **Section 5.2.1** of this report.

### 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 11.01-1R **Settlement - Great South Coast**: Seeks to attract more people to the region.

#### **Clause 12 Environment and Landscape Values**

- Clause 12.05-2S **Landscapes**: Seeks to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.

#### **Clause 13 Environmental Risks and Amenity**

- Clause 13.02-1S **Bushfire planning**: Aims to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.
- Clause 13.07-1S **Land use compatibility**: Seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

#### Clause 14 Natural Resource Management

- Clause 14.01-1S **Protection of agricultural land:** Seeks to protect the state's agricultural base by preserving productive farmland.
- Clause 14.01-1L **Agricultural production:** Seeks to ensure that subdivision minimises the loss or fragmentation of productive agricultural land and does not prejudice activities associated with agricultural production.
- Clause 14.01-2S **Sustainable agricultural land use:** Aims to encourage sustainable agricultural land use.
- Clause 14.02-1S **Catchment planning and management:** Seeks 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**

#### 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 5.2.1** of this report.

### 4.3. Farming Zone

The Site is located within the Farming Zone (Clause 35.07). The purpose of the Farming Zone includes:

- 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.

Pursuant to Clause 35.07-3, a permit is required subdivide land. Each lot must meet the area specified in the Schedule to the Zone (40 hectares). A permit may be granted to create smaller lots pursuant to dot point two which states:

- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.

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 detailed response to the relevant decision guidelines.

Refer to Appendix B OneMap Site Report.

### 4.4. Overlays

The Site is not subject to any overlays.

### 4.5. Particular Provisions

#### 4.5.1. Clause 52.29 Land Adjacent to the Principal Road Network

Clause 52.29 seeks:

- 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.

Pursuant to Clause 52.29-3 a permit is not required to:

- Realign a boundary.

No new access is proposed, as access to the existing dwellings is via existing crossovers, and access to Proposed Lot 2 is via existing farm access to Campbells Lane. Accordingly, there is no permit required pursuant to Clause 52.29.

## 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.

#### **Subdivision of land**

Regulation 49 sets out that the subdivision of land into 3 or more lots is a high impact activity the planning scheme that applies to the activity area in which the land to be subdivided is located provides that at least 3 of the lots may be used for a dwelling or may be used for a dwelling subject to the grant of a permit; and the area of each of at least 3 of the lots is less than 8 hectares.

The proposed subdivision does not propose three lots which are less than 8 hectares in area. Accordingly, the subdivision is not a high impact activity. On this basis, a CHMP is not required for the proposed subdivision.



# 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?

## 5.2. Key considerations

### 5.2.1. Is the proposal consistent with the Municipal Planning Strategy and the Planning Policy Framework?

The proposal seeks to realign the existing title boundaries to create a small lot for the existing dwelling at 258 Mortlake - Ararat Road, along with the existing outbuildings and horse paddocks which are used by the resident of this dwelling. The subdivision will support the landowner's son to be able to purchase this lot on which his house is located, whilst allowing consolidation of the majority of the farm land. The proposal will rectify the existing title arrangement which has the access for the dwelling at 258 Mortlake-Ararat Road located on a separate title. The subdivision seeks to realign the titles to create a more orderly lot layout.

The protection of the State's agricultural land and preservation of important landscapes are key objectives of the PPF and the MPS. The PPF also emphasises the promotion of population growth in the Great South Coast Region, while directing housing development towards existing settlements and avoiding inappropriate dispersion through rural areas. The proposal will support retention of population in this existing location, where it is noted that Rural Living Areas are proximate to the Site to the south, and to the west along Cairnlea Lane (Clause 11.01-1S **Settlement**, Clause 11.01-1R **Settlement - Great South Coast**). The proposal consolidates the farm land into a larger parcel, which will continue to support agricultural uses of the balance lot.

The proposal does not result in the loss of productive agricultural land, but rather, consolidates the majority of the agricultural land Site within a larger parcel. Proposed Lot 1 has been designed to also consolidate the horse keeping within this lot, to reflect the current management practices of the site. The lot size, and subdivision pattern, reflects the use of the land. The small lot retains sufficient setbacks from the house to the proposed boundaries so as to minimise interface issues. Existing vegetation on the land is to be retained (Clause 13.07-1S **Land use compatibility**, Clause 14.01-1S **Protection of agricultural land**).

In response to Clause 14.01-1L **Agricultural production**, it is noted the proposal does not substantially change the uses currently existing on the land, and does not increase the number of existing lots. It is acknowledged the existing lot for the dwelling at number 258 is located on a lot which is greater than 2 hectares, and this is not changed as a result of the subdivision given the proposed lot size remains greater than 2 hectares. Land capability has been considered through the LCA, where it is noted the lots can accommodate the disposal of effluent within each title. The proposal supports the consolidation of the majority of the farm land and is considered to generally meet the objective of Clause 14.01-1L.

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 proposal does not result in any significant increased bushfire risk, and the dwellings will continue to be provided with appropriate access and water storage for firefighting purposes in accordance with the requirements of the zone.

The dwellings are serviced by an existing wastewater systems, where it is anticipated that any required upgrades can be managed through permit conditions, as required. Refer to the Land Capability Assessment forming part of this application for further details. The proposal is not located near any waterways and will detrimentally affect any waterways or groundwater resources (Clause 14.02-1S **Catchment planning and management**, Clause 19.03-3S **Integrated water management**).



As such, the proposal is generally considered to be consistent with the PPF and LPPF of the Moyne Planning Scheme.

### 5.2.2. Does the proposal appropriately respond to the Farming Zone?

The proposal requires assessment under the Farming Zone, which encourages the retention of productive agricultural land and sustainable land management practices.

The proposal responds to the following purposes of the Farming Zone:

*To provide for the use of land for agriculture. To encourage the retention of productive agricultural land.*

The proposal retains the balance of the land as a productive agricultural unit, which meets the minimum lot size, and provides of the use of this land for agriculture.

*To encourage the retention of employment and population to support rural communities.*

The subdivision will allow the retention of an employer of the quarry opposite the site to invest in the purchase of the house, which will support retention of population in this key location to support the rural community of Mortlake.

The following assessment is provided in response to the relevant decision guidelines listed in Clause 35.07-6. It is noted that the proposal is not for use or development, though consideration has been made to these guidelines, as demonstrated below.

Decision guideline	Response
<b>General issues</b>	
Any Regional Catchment Strategy and associated plan applying to the land.	<p>The Glenelg Hopkins Regional Catchment Strategy 2013-2019 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 strategy does not contain any objectives, nor any associated plan, specifically related to the Site.</p>
How the use or development relates to sustainable land management.	<p>Whilst the proposal is not for use or development, the subdivision seeks to protect the agricultural land, whilst realigning the titles to reflect the existing pattern of use. The proposal therefore supports the sustainable management of the Site.</p>
Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby uses.	<p>The proposal is compatible with nearby land uses, which includes both productive agricultural land and small dwelling allotments.</p>
How the use and development makes use of existing infrastructure and services.	<p>All existing farming infrastructure will remain on the land. The subdivision seeks to locate the access for each dwelling within the lot which it serves.</p>
<b>Agricultural issues and the impacts from non-agricultural uses</b>	
Whether the use or development will support and enhance agricultural production.	<p>The current agricultural uses will not change as part of this application. The balance lot is intended to continued to be used for grazing.</p>
Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.	<p>The proposal will not permanently remove land from agricultural production but rather will maintains the agricultural uses of the land.</p>

Decision guideline	Response
The capacity of the site to sustain the agricultural use.	The current land use is for grazing of cattle and the keeping of horses. The subdivision as proposed would be able to support these agricultural uses into the future.
<b>Environmental issues</b>	
The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.	The subdivision is unlikely to impact on soil and water quality, and is not expected to cause any adverse impacts on the natural features of the site. Refer also to LCA included as part of this application.

On balance, the proposal provides an appropriate response to the provisions of the Farming Zone.

## 6. Conclusion

This report has described the proposal and provided an assessment of the proposal against the relevant policy and planning controls of the Moyne Planning Scheme.

The subdivision does not increase the number of lots and seeks to realign existing boundaries. 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.

MPAA Studio

**February 2025**

# Appendices

Appendix A	Certificate of Title
Appendix B	OneMap Site Report
Appendix C	Site Photos
Appendix D	Proposed Plan of Subdivision
Appendix E	Land Capability Assessment