



MPAA
STUDIO

TOWN PLANNING REPORT

Use and development of land for a dwelling
Hickeys Road, Kirkstall

ISSUED 9 APRIL 2025

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1 Dispensary Lane, Warrnambool
Level 1, CoLab (above Allee Espresso)

OVERVIEW

Background

Address	Hickeys Road, Kirkstall
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Lot Description	Lot 1 on Title Plan 005391S
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Relevant Planning Controls

Municipal Planning Strategy	Clause 02.01 Context
	Clause 02.02 Vision
	Clause 02.03 Strategic directions.

Planning Policy Framework	Clause 13.02-1S Bushfire planning
	Clause 14.01-1S Protection of Agricultural Land
	Clause 14.01-1L Agricultural Production
	Clause 14.02-2S Water quality

Zone	Farming Zone
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Overlays	None applicable
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Permit Application Details

Description of Proposal	Use and development of land for a dwelling
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Permit requirement	Clause 35.07-1 – Use of land for a dwelling
	Clause 35.07-4 Building and works for a dwelling



QUALITY ASSURANCE

Town Planning Report	Project Number
Use and development of land for a dwelling	24-1464
Hickeys Road, Kirkstall	
	Revision
	01
	Prepared By
	CM
	Project Lead
	CM
	Issued
	9 April 2025

Revision	Date	Issue
01	9 April 2025	Issue for Lodgement

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1. INTRODUCTION

This report has been prepared by MPAA Studio to support a planning permit application at Hickeys Road, Kirkstall (the "Site").

The proposal seeks approval for the use and development of land for a dwelling with an associated orchard. The single-storey dwelling will have vehicle access from Hickeys Road and be set back 80 metres from Scotts North Road. It will include three bedrooms (one with ensuite and walk-in robe), an office, theatre, lounge, open-plan family and dining area, kitchen, separate bathroom, toilet and laundry, as well as a wraparound verandah and courtyard. A Colorbond-clad shed is proposed 6 metres west of the dwelling, measuring 27.4 metres in length and 3.3 metres in height, with multiple roller and pedestrian access doors. Additional structures include water tanks, an aviary, and a fowl house.

The proposal triggers permit requirements under the following clauses:

- Clause 35.07-1: Farming Zone – Use of land for a dwelling
- Clause 35.07-1: Farming Zone – Buildings and Works.

1.1. Limitations

This report has considered the following documents:

- Certificate of title (dated 31 March 2025).
- Moyne Planning Scheme (Planning scheme 9 April 2025).



2. SITE AND SURROUNDS

2.1. Site description and title particulars

Site address	Hickeys Road, Kirkstall
Title details	Lot 1 on Title Plan 005391S
Site description	The site is rectangular in shape and is approximately 4.209 hectares. The lot has a frontage 160.93 metres to Hickeys Road, and a length of 261.52 metres to Scotts North Road.
Easements, restrictions or covenants	There are no easements on the title plan. The copy of the title does not comprise any restrictions or agreements.

Refer to **Appendix A** - Certificate of Title.

2.2. Site context

The subject site is situated on the eastern fringe of the Kirkstall township, to the north of the Penshurst-Warrnambool Road, and lies just west of the Koroit township. This location places the site within a predominantly rural setting, characterised by a mix of broadacre farming and scattered rural residential development.

To the west of the site, the Murray Brook creek traverses the adjoining property, providing a notable natural feature within close proximity to the land. While the immediate area contains a number of isolated dwellings, the broader landscape is primarily used for agricultural purposes, including both beef and dairy grazing enterprises. A small cluster of rural lifestyle properties is located to the south of the site, west of Scotts North Road, contributing to a semi-rural character in this area.

Both Hickeys Road and Scotts North Road are sealed to a rural standard and provide practical vehicular access to the site. The subject land is enclosed by post-and-wire fencing and is largely devoid of significant native vegetation. However, established shelterbelt plantings are evident along the boundary lines, serving as windbreaks and visual buffers.

Existing farming infrastructure is present on the land, including paddocks, water tanks, animal troughs, and holding pens, indicating the land's ongoing use for primary production. An unmade government road reserve runs along the southern boundary of the site, though it does not currently provide formed access.

Overhead power infrastructure is present in the area, with powerlines extending along the northern alignment of Hickeys Road and the western edge of Scotts North Road. Several established vehicle access points are located along both frontages, ensuring efficient and flexible access to the site from the surrounding road network.

Surrounding land parcel sizes are varied. While the general area consists of large farming properties, some smaller rural lots are evident, particularly to the south and west. The property immediately to the north is approximately 25 hectares in area, while the adjoining property to the east comprises approximately 89 hectares.



Figure 1: Subject site

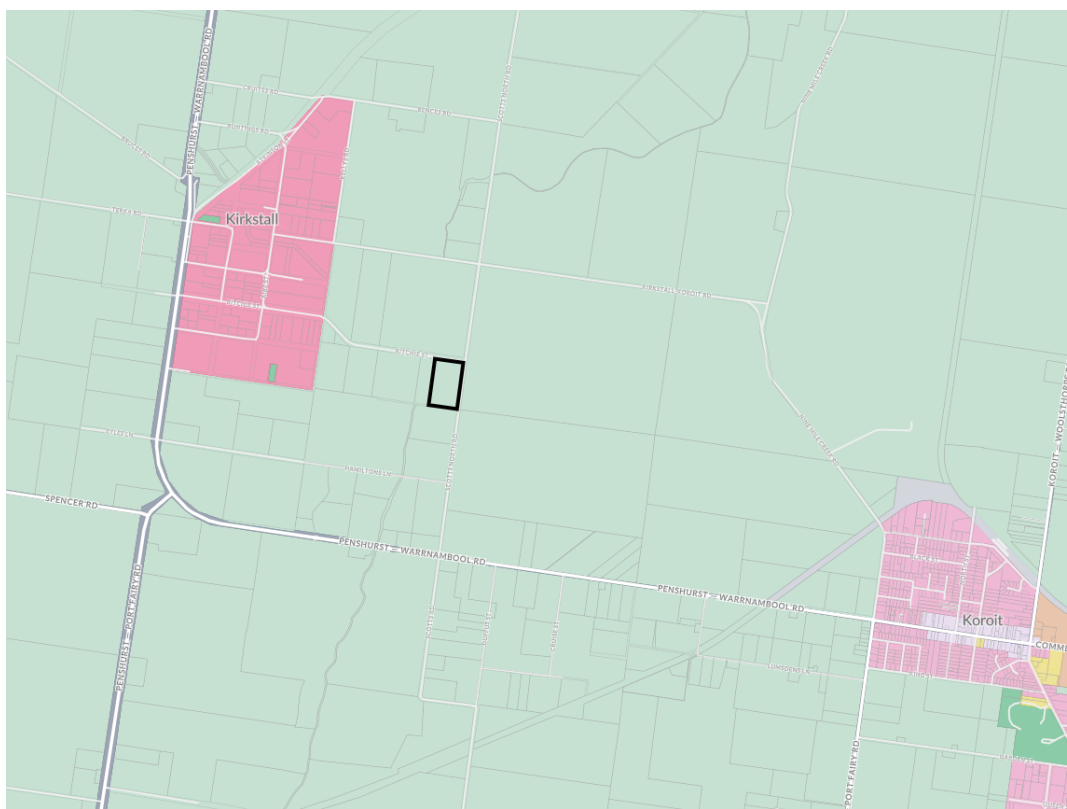


Figure 2: Subject site locality

3. PROPOSAL

3.1. Overview

Use

The use of land is proposed to be for a dwelling.

An orchard is also to be planted in association with the dwelling, as nominated on the submitted plan set.

Development

Dwelling

The dwelling is to have driveway access from Hickeys Road. The dwelling is to be setback 80 metres from Scotts North Road.

The dwelling is to be approximately 4.56 metres in height and contains a pitched roof.

Floor plan includes the following:

- Three bedrooms, one with access to ensuite and walk-in robe.
- Office room
- Theatre and lounge area
- Family and dining area
- Kitchen area
- Separate bathroom, toilet and laundry.
- Wrap around verandah and external courtyard towards the shed.

Outbuildings

The main outbuilding/shed is setback 20 meters from Hickeys Road. It is to be located 6 metres to the west of the dwelling. It is to be 27.4 metres in length and comprises several roller doors and pedestrian access doors. The shed is to be clad in Colorbond. The height of the shed is to be approximately 3.3 metres.

Water tanks and other smaller structures such as an aviary and fowl house has been nominated on the plans.

3.2. Planning permit triggers

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

- Clause 35.07-1: Farming Zone – Use for a dwelling
- Clause 35.07-4: Farming Zone – Buildings and works.

4. PLANNING POLICIES AND CONTROLS

4.1. Municipal Planning Strategy

[Clause 02.01 – Context](#)

The Moyne Shire spans about 5,600 square kilometres and features over 90 kilometres of coastline from Curdies Inlet to near the Fitzroy River. The Moyne and Hopkins Rivers traverse the municipality, with the Hamilton and Princes Highways as key transport routes. It surrounds the City of Warrnambool and borders Corangamite, Glenelg, Southern Grampians Shires, and the Rural City of Ararat.

With a population of approximately 17,374 in 2021, the Shire is experiencing modest growth. 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, cropping, and extractive industries.

[Clause 02.02 – Vision](#)

The Moyne Shire Council Plan (2021-2025) focuses on key areas: Place, Environment, People, and Economy. The vision emphasises the community's role as stewards of the region's cultural and ecological assets, with aspirations to:

- Protect cultural heritage and maintain rural lifestyles in well-planned areas.
- Support affordable housing and transportation options for all residents.
- Promote renewable energy and sustainable practices.
- Lead in sustainable farming and carbon reduction, while fostering innovation and digital advancements in agriculture and local industries.

These priorities directly support rural areas and extractive industries by ensuring environmental stewardship and encouraging technological innovation while preserving the community's cultural and economic vitality.

Clause 02.03 Strategic Directions

[Clause 02.03-4 - Natural resource management](#)

Moyne Shire's natural resource management strategies focus heavily on preserving its highly productive agricultural land. The Shire benefits from a mild climate, well-distributed rainfall, diverse soil types, and proximity to markets, making it a significant area for intensive agriculture. Key agricultural activities include dairying and crop production in the coastal hinterland, and extensive cropping and grazing, including beef cattle and sheep farming for wool and meat, in the northern parts of the Shire.

In addition to agriculture, the Shire supports the sustainable development of its timber and earth resources industries. Sustainable timber production is encouraged where it can be undertaken with minimal adverse environmental or social impacts. Moyne Shire also supports the extraction of earth resources such as basalt, limestone, sand, and red scoria in appropriate locations. These materials are vital for construction and industrial uses, contributing to the local economy.

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.

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.

Natural resource management

[Clause 14.01-1S - Protection of Agricultural Land](#) aims to avoid permanent removal of productive agricultural land. Relevant strategies outlined under Clause 14.01-1S are:

- Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.
- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.
- In considering a proposal to use, subdivide or develop agricultural land, consider the:
 - o Desirability and impacts of removing the land from primary production, given its agricultural productivity.
 - o Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
 - o Compatibility between the proposed or likely development and the existing use of the surrounding land.
 - o The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
 - o Land capability.

[Clause 14.01-1L Agricultural Production](#)

Seeks to ensure that 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 14.02-2S - Water quality](#) aims to protect water quality. Relevant strategies outlined under Clause 14.02-2S are:

- Ensure that land use activities potentially discharging contaminated runoff or wastes to waterways are sited and managed to minimise such discharges and to protect the quality of surface water and groundwater resources, rivers, streams, wetlands, estuaries and marine environments.
- Use the mapped information available from the Department of Energy, Environment and Climate Action to identify the beneficial uses of groundwater resources and have regard to potential impacts on these resources from proposed land use or development.

See **Section 5.2.2** for an assessment of the application against the Planning Policy Framework.



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.

A planning permit is required to use land for a dwelling under Clause 35.07-1.

A permit is required for building and works under Clause 35.07-4.

Decision guidelines are listed at Clause 35.07-6. See **Section 5.2.3** for a detailed response to the relevant decision guidelines.

4.4. Overlays

The Site is not located within any Overlays.

4.5. Other planning considerations

4.5.1. [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. The proposal constitutes a single dwelling and is therefore exempt from a CHMP.

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 and 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 proposed development has been assessed against the relevant provisions of the Planning Policy Framework (PPF) and the Municipal Planning Strategy (MPS), with specific regard to the protection and management of natural resources, agricultural land, and environmental values in the Moyne Shire.

Clause 02.03-4 and Clause 14.01-1S reinforce the strategic importance of protecting Moyne's highly productive agricultural land. The subject land is a small 4-hectare allotment and forms part of an existing fragmented rural area. The dwelling will be located within the northern portion of the site, ensuring minimal loss of productive land while maintaining the potential for small-scale rural activities such as hobby farming or low-impact grazing. Currently the proposal includes the plantation of an orchard, which will provide for fruits, contributing to the agricultural capacity of the land. The proposal does not further fragment agricultural land, and the development footprint is modest. It is compatible with the surrounding land uses, which include grazing and an adjoining dwelling to the west, and will not adversely affect the continuation or viability of existing agricultural practices in the area.

The proposal includes a Land Capability Assessment, confirming the site's suitability for onsite effluent treatment. An EPA-approved system will be installed, with the final location and approval to be confirmed in collaboration with Moyne Shire's Environmental Health Officer. Clause 14.02-2S regarding water quality has been addressed through appropriate wastewater management, and the dwelling is sited over 100 metres from the nearby Murray Brook creek, reducing any risk of adverse environmental impacts. The land is largely cleared of native vegetation and features only exotic pasture grasses and planted shelterbelts, thus the development does not negatively impact flora, fauna, or biodiversity.

In accordance with Clause 14.01-1L, the dwelling will not prejudice agricultural production or introduce land use conflict. The siting and scale of the building ensure that rural amenity expectations are respected, and the dwelling is not anticipated to generate complaints about typical farming activities. The broader rural character and the continuation of agricultural operations in the area will not be compromised. Importantly, the dwelling reflects existing development patterns and aligns with a previous planning permit issued for a dwelling on this land, now expired, which further supports its appropriateness in this location.

The dwelling, considering its context and site history represents a logical and low-impact use of the land that will not compromise the strategic agricultural function of the region, while being sensitively sited and serviced to protect environmental values and rural character.

Further, in accordance with Clause 13.01-2S, the dwelling will be built to meet the necessary BAL rating. While the risk is not excessive, there is still a potential grassfire risk in the area. This can be adequately addressed during the building permit stage. The dwelling will ensure suitable access and water supply to aid firefighting efforts. Water tanks are intended to be installed on site.

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

The proposed replacement dwelling provides for an appropriate response to the purpose of the zone having regard to the existing context of the site.

A response to the relevant decision guidelines is provided below to demonstrate how the proposal meets the objectives and can be considered an appropriate and acceptable outcome under the Farming Zone.

Decision Guideline	Response
General Issues	
The Municipal Planning Strategy and the Planning Policy Framework.	This has been considered above.
Any Regional Catchment Strategy and associated plan applying to the land.	The site is within the GHCMa region. The RCS applicable to the region has been considered, and whilst there are not specific strategies to this specific area, generally development should respond to any associated flood plain and associated water catchment. The Murray Brook creek has limited flood data available; however, the dwelling is located approximately over 100-metres to the east.
The capability of the land to accommodate the proposed use or development, including the disposal of effluent.	The proposal is accompanied by a Land Capability Assessment which demonstrates that the site is capable of accommodating onsite waste water. An EPA approved onsite wastewater management system will be installed by a licensed person, and will require final location to be determined and approved in collaboration with Moyne Shires's Environmental Health Officer.
Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses	The adjoining use to the west is a dwelling. The adjoining use to the north, east and south is for grazing. The land to the north and east is separated by the road. The land to the south is on the other side of the internal shelterbelt. The land use and development can be considered compatible given the existing context of the area.
How the use and development makes use of existing infrastructure and services.	The proposed dwelling will have driveway access from a gate through to Hickeys Road. The dwelling will then be logically connected to the relevant services, which is a requirement for the land use.
Agricultural issues and the impacts from non-agricultural uses	
Whether the use or development will support and enhance agricultural production.	The land will not be further fragmented due to its use and development. The site encompasses an area of 4 hectares, and the footprint of the dwelling is comparatively modest. A small-scale hobby farm or similar activities may be conducted on the remaining portion of the land. At present, it is intended to also use the land for an orchard, indicated on the submitted plans. Low-impact grazing practices are currently taking place in the vicinity. The dwelling is not expected to experience significant adverse effects; however, there will be an inherent level of amenity expectation associated with residing in a rural environment. Thus, it can be inferred that the occupant or landowner will not raise objections to rural activities in the area.
Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production	The establishment of the dwelling reinforces the precedent established by the adjacent area to the south, as well as by the neighbouring property. The surrounding land uses may continue to operate as per existing conditions without suffering any detrimental effects from the dwelling.
The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses	
The capacity of the site to sustain the agricultural use.	The proposed use is not primarily for agriculture, however there will be an orchard associated with the dwelling which is agriculture of a kind.
Any integrated land management plan prepared for the site.	There is no integrated land management plan for the site.
Accommodation issues	

Whether the dwelling will result in the loss or fragmentation of productive agricultural land.	Land will not be further fragmented on account of the use and development. The site is 4ha in size, and the dwelling footprint is relatively small. A small scale hobby farm or similar activities could be carried out on the balance of the land.
Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.	Low impact grazing uses are occurring in the surrounding area. The dwelling is not anticipated to be adversely impacted, albeit there will be a certain level of amenity expectation that comes with living in a rural area. That is to say that the occupier/landowner will not complain about rural activities occurring.
Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.	The establishment of the dwelling continues the precedent set by the area to the south as well as the immediate property next door. The surrounding land uses could operate as usual as per existing conditions without being adversely impacted by the dwelling.
The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.	Whilst there are quite a few small allotments in the area, the agricultural areas around Kirkstall and Koroit are well established. The subject property is a small allotment that is located on a corner and in very close proximity to an existing dwelling to the west. Each planning application should still be considered on a case-by-case basis, and in this instance, a planning application has advanced also due to the owner wanting to pursue an older permit for a dwelling on the land that had expired. This is a refreshed application for a dwelling that was previously considered acceptable.
The potential for accommodation to be adversely affected by noise and shadow flicker impacts if it is located within one kilometre from the nearest title boundary of land subject to: A permit for a wind energy facility; or An application for a permit for a wind energy facility; or An incorporated document approving a wind energy facility; or A proposed wind energy facility for which an action has been taken under section 8(1), 8(2), 8(3) or 8(4) of the <i>Environment Effects Act 1978</i> .	There are no wind energy facilities located nearby.
The potential for accommodation to be adversely affected by vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the <i>Mineral Resources (Sustainable Development) Act 1990</i> .	There are no extractive industries located nearby.
Environmental issues	
The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality	There are no outstanding features of the site environmentally; however, the site is within close proximity to the Murray Brooke, which passes through the adjoining property to the west. The existing dwelling on that land is very close to the creek edge. The proposal is accompanied by a Land Capability Assessment which demonstrates that the site is capable of accommodating onsite waste water. The dwelling footprint will not result in the loss of soil quality for the remainder of the site, nor will it impact upon flora or fauna. The land is largely cleared of vegetation, with the exception of exotic pastoral grasses, as well as planted shelterbelts along fence lines.
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.	
The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.	
Design and siting issues	
The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.	The dwelling and shed is located relatively centrally to the site, but within the northern portion. What this achieves is less impact to the surrounding area and reduces the risk of amenity impacts and land use conflict.
The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features, and the measures to be undertaken to minimise any adverse impacts.	The dwelling is to be built to the needs of the occupier, and is relatively small in scale, being single storey. The bulk of the dwelling is therefore not excessive and minimises visual impact.

	Final colours and materials are yet to be determined; however, they can be selected in a way that ensures that the overall design scheme is muted and non reflective.
The impact on the character and appearance of the area or features of archaeological, historic or scientific significance or of natural scenic beauty or importance.	There are no areas of European cultural significance. The area is mapped as an area of aboriginal cultural heritage sensitivity however a single dwelling is exempt from needing to prepare a CHMP. The Murray Brook creek is located to the west, but the siting of the dwelling is far enough to the east of the creek to not cause an impact, and is separated by a planted tree line along the boundary of the neighbouring property.
The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.	The property has the opportunity for appropriate services for the dwelling. Good road access, availability for power, and rainwater tank options ensure that the dwelling can be well serviced. An EPA approved onsite wastewater management system will be installed by a licensed person, and will require final location to be determined and approved in collaboration with Moyne Shires's Environmental Health Officer.
Whether the use and development will require traffic management measures.	Surrounding roads will not require further traffic management. They are lower order roads with minimal traffic movements per day.
<p>The need to locate and design buildings used for accommodation to avoid or reduce noise and shadow flicker impacts from the operation of a wind energy facility if it is located within one kilometre from the nearest title boundary of land subject to:</p> <p>A permit for a wind energy facility; or</p> <p>An application for a permit for a wind energy facility; or</p> <p>An incorporated document approving a wind energy facility; or</p> <p>A proposed wind energy facility for which an action has been taken under section 8(1), 8(2), 8(3) or 8(4) of the <i>Environment Effects Act 1978</i>.</p> <p>The need to locate and design buildings used for accommodation to avoid or reduce the impact from vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the <i>Mineral Resources (Sustainable Development) Act 1990</i>.</p>	<p>There are no wind energy facilities located nearby.</p> <p>There are no extractive industries located nearby.</p>

6. Conclusion

The proposal aligns with the goals of the Municipal Planning Strategy (MPS) and the Planning Policy Framework (PPF). It offers a contextual response to the area's character and considers prior approval for the land. This allotment does not contribute to the State's agricultural base and is unsuitable for primary production. Consequently, similar to the neighbouring allotment to the west, constructing a dwelling will not have any significant negative impact on surrounding agricultural operations.

We look forward to working with Council on this application.

MPAA Studio

9 April 2025

