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August 2025.



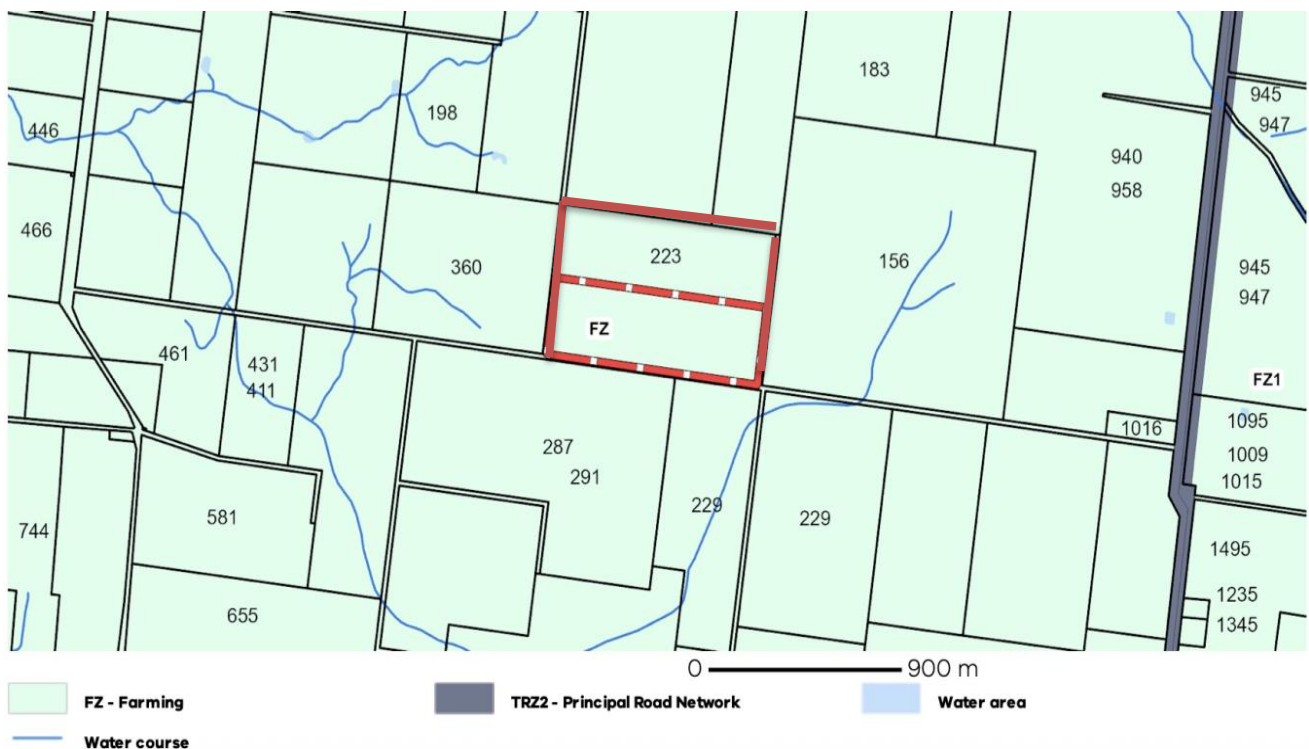
**223 ELDRIDGES ROAD, GARVOC.**

## 1: Introduction

Power Land Surveys has been engaged to undertake a two-lot boundary realignment of the land at 223 Eldridges Road in Garvoc.

The property currently comprises Crown Allotments 130 & 130A in the Parish of Laang. These lots are generally rectangular in shape, have an east west orientation and comprise an area of 61.26 hectares. The proposed realignment will result in two new lots with a more north south orientation and areas of 30.48 hectares for proposed Lot 1 and 30.78 hectares for proposed Lot 2.

The proposed re-subdivision will require a planning permit under the provisions of the Farming Zone (FZ) and the Bushfire Management Overlay, which apply to the land.



This report addresses the relevant permit application requirements and assesses the proposal against the relevant provisions of the Moyne Planning Scheme.

## 2: Existing Site & Surrounding Area

The subject land is located on the northeast side of the intersection of Eldridges Road and McConnell Road in Garvoc and is currently used to farm beef cattle. It is developed with an existing dwelling and outbuildings associated with the established agricultural use and has been substantially cleared to pasture, with scattered shelter plantings and is well fenced.

Properties within the wider area are most commonly used for the extensive grazing of livestock, predominantly beef and dairy.

The closest Dwellings held in separate ownership are located:

- Adjacent the southern boundary at 287 – 291 McConnells Road, and 229 McConnells Road
- Adjacent the Western Boundary at 156 McConnells Road.

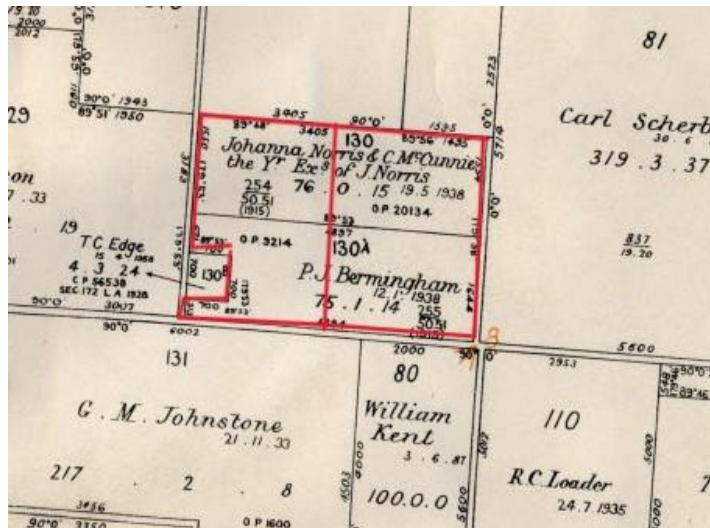


### 3: Proposal

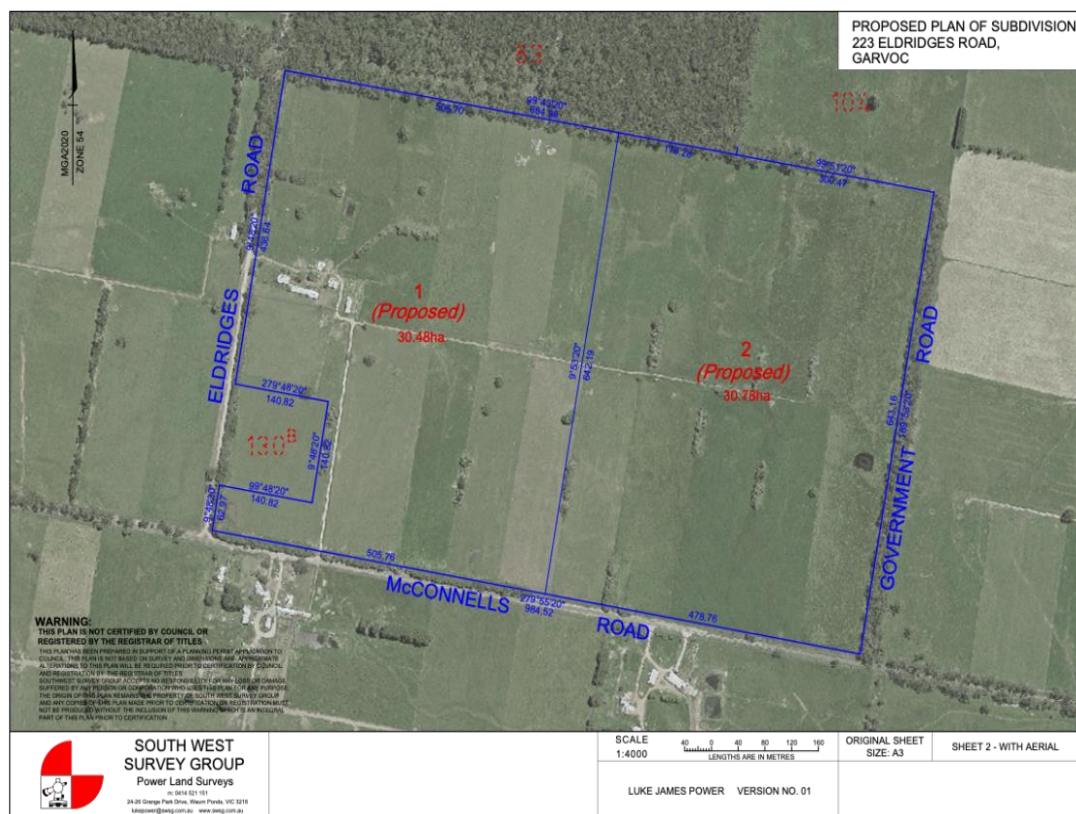
The subject land comprises 61.26 hectares and is currently held in two rectangular parcels, that have an east-west orientation. The proposal will realign the existing parcels into two new lots as follows:

- Lot 1 will have an area of 30.48 hectares and will contain the existing dwelling and its immediate surrounds. This lot will retain the existing access from Eldridges Road, which adjoins the western property boundary.
- Lot 2 will comprise an area of 30.78 hectares, it comprises vacant land that has been cleared to pasture and is accessible from McConnells Road, which runs adjacent the southern boundary.

The proposed realignment will ensure both new lots have access to a sealed carriageway provided by McConnells Road and present a more attractive option for adjoining landowners in the event that they may wish to purchase all or part of the property in the future.



The above image shows the existing lot layout in black with the proposed layout overlaid in red.



The above image shows the proposed new boundary alignment in blue.

## 4: Restrictions on Title

Under Section 61(4) of the *Planning & Environment Act 1987* the Responsible Authority must not issue a planning permit that would result in a breach of a registered restriction.

The subject land is described as Crown Allotments 130 & 130A in the Parish of Laang and the Title Certificates do not identify any registered restrictions affecting the land.

## 5: Aboriginal Cultural Heritage:

Pursuant to Section 52(1) of the Aboriginal Heritage Act 2006, if a Cultural Heritage Management Plan (CHMP) is required, a planning permit cannot be granted until a copy of the approved CHMP is provided and cannot grant a permit for an activity that is inconsistent with the approved CHMP [s. 52(3)].

The subject land is not located within an area mapped for cultural heritage sensitivity and a CHMP is therefore not required.

## 6: State & Local Planning Provisions

Generally, the State and Local Planning Frameworks seek to protect agricultural land for farming purposes and to ensure that non-agricultural uses, including dwellings, do not have a detrimental impact on agricultural activities being undertaken in the area.

The proposed re-subdivision is consistent with the relevant provisions of the Farming Zone and with the strategic intent of the planning scheme overall. It is therefore not considered necessary to undertake a detailed analysis of the State Planning Policy Framework, however 'for completeness' it has been identified that the following strategies are relevant and supportive of the proposal.

- Clause 11.01-1S – Settlement
- Clause 11.01-1R – Settlement – Great South Coast
- Clause 11.03-5S – Distinctive areas and landscapes
- Clause 11.03-5R – The Great Ocean Road region
- Clause 11.03-6S – Regional and local places
- Clause 12.03-1S - River and riparian corridors, waterways, lakes, wetlands and billabongs
- Clause 12.05-2S - Landscapes
- Clause 13.02-1S – Bushfire Planning
- Clause 14.01-1S – Protection of agricultural land
- Clause 14.01-2S – Sustainable agricultural land use
- Clause 15.01-3S – Subdivision Design

While the State Planning Provisions provide guidance at an over-arching strategic level, more specific guidance relevant to this application is provided through the local strategies and policies as follows:

Clause 11.01-1L-01 – '*Settlement Moyne*' seeks to:

- *Maintain coastal settlements with little or no existing infrastructure at their present development density.*
- *Discourage residential subdivision or development in sensitive or dynamic areas such as primary or secondary sand dunes, wetlands or where views to and from scenic landscapes such as The Bay of Islands Coastal Park, The Craggs, Lake Yambuk and Tower Hill may be impacted.*
- *Avoid residential and rural residential development on small rural lots or re-subdivision of existing lots that may form isolated developments that are unrelated to existing townships.*
- *Avoid ribbon development along the coastal edge and along main roads such as the Great Ocean Road and Princes Highway and key tourist routes.*
- *Maintain the rural character and natural landscape beyond townships and settlements.*

The subject land is not located within any of the protected view-sheds identified in the policy and the proposed boundary realignment will not result in additional dwellings on the property. It will therefore not result in increased development density and will have no impact on the character of the area, as required.

Clause 14.01-1L 'Agricultural production' applies to all land in the Farming Zone and seeks to:

*Establish buffers around uses that may conflict with agricultural land use to limit land use conflicts.*

*Limit the construction of dwellings on productive agricultural land.*

Policy guidelines to be considered in delivering these strategies include:

- *Ensuring lots subdivided to excise an existing dwelling have a maximum size of 2 hectares.*
- *Discouraging the construction of dwellings on lots greater than 2 hectares and less than the minimum lot size specified in the schedule to the Farming Zone.*
- *Assessing the suitability of existing lots of less than 2 hectares in area for a single dwelling.*
- *Ensuring dwellings are constructed close to a road frontage or property boundary.*
- *Ensuring dwellings excised under the provisions of Clause 35.07-3 are in a habitable condition and comply with the Building Code of Australia.*
- *Creating the smaller lot in a manner that potential or existing dwellings will not restrict surrounding agricultural activities.*
- *Discouraging the excision of dwellings that did not exist at the date of approval of this scheme (6 January 2000).*

The proposal will realign the boundary between the two existing parcels only and will have no other impact on the subject land, the adjoining properties or the wider area.

For these reasons it is submitted that the proposed re-subdivision will deliver a planning outcome that is entirely consistent with the Strategies and Policy Guidelines provided at Clause 14.01-1L.

## 7: Permit triggers

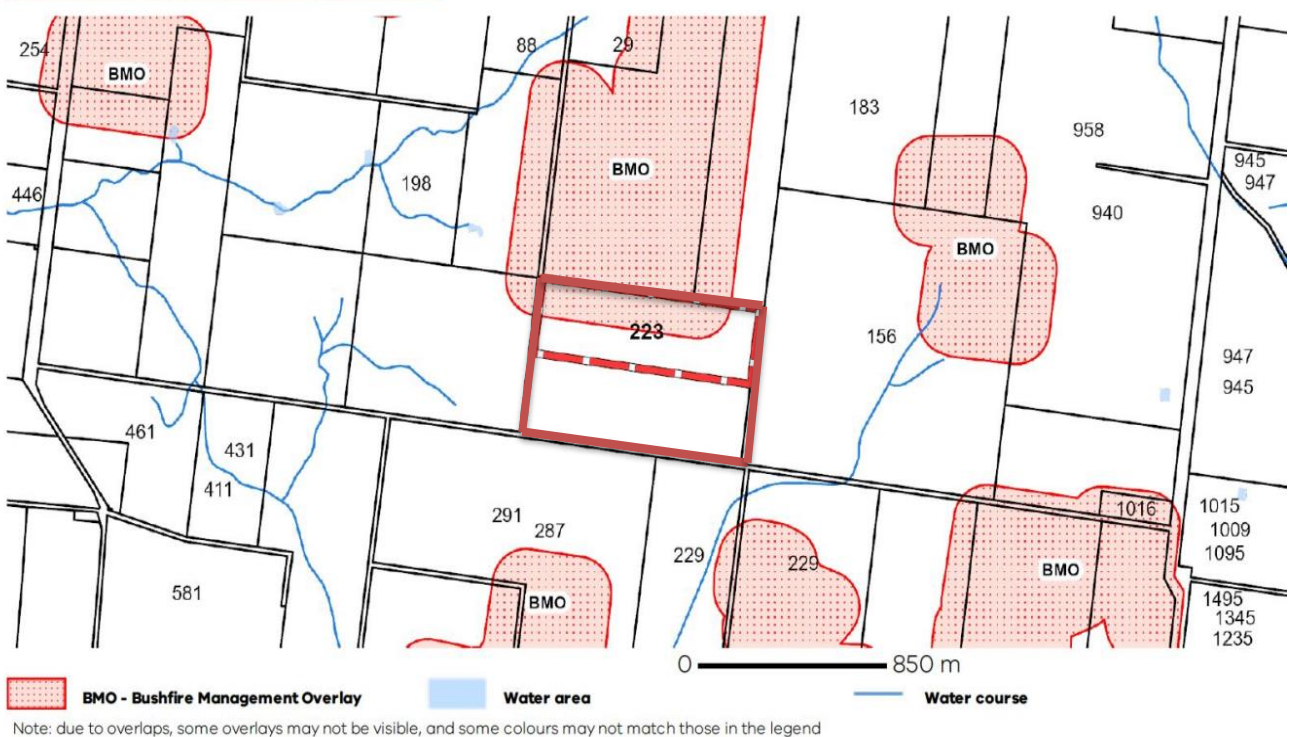
### Farm Zone:

The subject land is included in the Farming Zone (FZ) under the provisions of the Moyne Planning Scheme and a planning permit is required to subdivide land at Clause 35.07-3.

### Bushfire Management Overlay:

Part of existing C/A:130, adjacent the northern boundary, is covered by the Bushfire Management Overlay (see below) and any subdivision involving land within the Overlay area (including boundary realignment) will require a planning permit pursuant to Clause 44.06-2.

BUSHFIRE MANAGEMENT OVERLAY (BMO) (MOYNE)



## 8: Assessment

### FARMING ZONE

The proposed boundary realignment requires a planning permit pursuant to Clause 35.07-3 of the Farming Zone, which specifies that:

*Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.*

*A permit may be granted to create smaller lots if any of the following apply:*

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.*
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.*
- The subdivision is by a public authority or utility service provider to create a lot for a utility installation.*

Schedule 1 to the Farming Zone does not vary the minimum (40 hectare) lot size requirements of the 'head clause'.

In this case the application seeks approval for a re-subdivision (boundary realignment) and the number of existing lots will not be increased. This complies with the second dot point and therefore a permit can be granted to create lots that are smaller than the preferred 40 hectares.

It is a well-established principle in land-use planning that 'just because a permit can be granted doesn't mean it must be' and subdivision proposals should be assessed on merit against the relevant purpose and decision guidelines provided in the planning controls that apply to the land.

The decision guidelines provided at Clause 35.07-6 provide a useful framework to test the planning merits of a proposal, and require that:

*Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:*

#### **General issues**

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- Any Regional Catchment Strategy and associated plan applying to the land.*
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- How the use or development relates to 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.*
- How the use and development makes use of existing infrastructure and services.*

The proposal has been shown to comply with the State and Local Planning Policy Frameworks and maintains lots of a suitable size to ensure the disposal of wastewater and effluent can be appropriately accommodated.

The re-subdivision will ensure both new lots have access to a sealed carriageway provided by McConnells Road and present a more attractive option for adjoining landowners in the event that they may wish to purchase all or part of the property in the future.

The proposal will not alter the physical characteristics of the subject property in relation to the issues addressed in the decision guidelines above.

**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 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 agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *Any integrated land management plan prepared for the site.*

The proposal will not alter the physical characteristics of the subject land in relation to agriculture and the issues addressed in the decision guidelines above.

**Dwelling issues**

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural 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.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *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.*

The proposal does not include additional dwellings and will not alter the physical characteristics of the subject land in relation to the issues addressed in the decision guidelines above.

**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 location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

The subject land has been historically cleared to pasture and extensively grazed over a long period of time. The proposal does not include further buildings and works and will therefore have no additional impact on the environmental qualities of the land.

### **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 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 impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*
- *Whether the use and development will require traffic management measures.*

The proposed re-subdivision will not alter the physical characteristics of the subject properties in relation to the issues addressed in the decision guidelines above.

For the reasons discussed above the proposal is considered to be entirely consistent with the purpose and decision guidelines of the Farming Zone.

### **Bushfire Management Overlay:**

While only a small section of the property adjacent the northern boundary is covered by the Bushfire Management Overlay, any subdivision involving land within the Overlay area (including boundary realignment) will require a planning permit pursuant to Clause 44.06-2.

Clause 44.06-3 provides the opportunity for Council to waive the requirement for an application to be supported by a Bushfire Management Statement and Bushfire Management Plan, where it is considered that these requirements are not relevant to the assessment of an application.

In this instance it is submitted that only a small, undeveloped portion of the property is covered by the BMO and no new buildings and works are being proposed. The proposed boundary realignment will not alter the existing circumstances of the property in relation to bushfire and therefore Council and the CFA can make a full assessment of the planning merits of the proposal without the need for a BMS or BMP.

In addition to the application of the BMO in the planning scheme, the entire property is identified as being bushfire prone and therefore subject to the Use and Development controls provided at Clause 13.02-1S.

As relevant to this proposal, Clause 13.02-1S provides that

*In a bushfire prone area designated in accordance with regulations made under the Building Act 1993, bushfire risk should be considered when assessing planning applications for the following uses and development:*

- *Subdivisions of more than 10 lots.*

*When assessing a planning permit application for the above uses and development:*

- *Consider the risk of bushfire to people, property and community infrastructure.*
- *Require the implementation of appropriate bushfire protection measures to address the identified bushfire risk.*
- *Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.*

The current proposal does not propose a subdivision of more than 10 lots and therefore Clause 13.02-1S does not apply. This outcome further supports the position the proposal can be appropriately assessed without the need for a BMS or BMP.

For the reasons discussed above the proposal is considered to be entirely consistent with the purpose and decision guidelines of the Bushfire Management Overlay.

## 9: Conclusion

The re-subdivision of the subject land as proposed is consistent with the purpose and decision guidelines of the relevant planning controls and with the strategic policy context for this area.

The re-subdivision will maintain the existing interface with adjoining properties and will therefore have no additional impact on the amenity of nearby dwellings or the capacity of the land to be used for agriculture.