



Clear Form

Office Use Only

VicSmart? ☐ YES ☐ NO

Specify class of VicSmart application:

Application No.: Date Lodged: / /

Application for a **Planning Permit**

If you need help to complete this form, read MORE INFORMATION at the back of this form.

Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any concerns, please contact Council's planning department.

Questions marked with an asterisk (*) must be completed.

If the space provided on the form is insufficient, attach a separate sheet.

Click for further information.

Application Type

Is this a VicSmart application?*

☒ No ☐ Yes

If yes, please specify which VicSmart class or classes:.....

Classes of VicSmart application are listed in zones, overlays , particular provisions and the schedule to Clause 59.15

Pre-application Meeting

Has there been a pre-application meeting with a Council planning officer?

☐ No ☒ Yes If 'Yes', with whom?: Emma Leech/Vincent Zhou

Date: June 2026 day / month / year

The Land

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address *

Unit No.: St. No.: St. Name: Ross lane/Sharkeys Road

Suburb/Locality: Rosebrook Postcode: 3285

Formal Land Description *

Complete either A or B.

This information can be found on the certificate of title.

If this application relates to more than one address, attach a separate sheet setting out any additional property details.

A Lot No.: 1,2,3 -2 ☐ Lodged Plan ☒ Title Plan ☐ Plan of Subdivision No.: 834704L/ PS849794C

OR

B Crown Allotment No.: Section No.:

Parish/Township Name:

The Proposal



You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.



For what use, development or other matter do you require a permit? *

Use and Development of a dwelling. Refer planning report



Provide additional information about the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.



Estimated cost of any development for which the permit is required *

Cost \$ 650,000



You may be required to verify this estimate. Insert '0' if no development is proposed.

If the application is for land within **metropolitan Melbourne** (as defined in section 3 of the *Planning and Environment Act 1987*) and the estimated cost of the development exceeds \$1 million (adjusted annually by CPI) the Metropolitan Planning Levy **must** be paid to the State Revenue Office and a current levy certificate **must** be submitted with the application. Visit www.sro.vic.gov.au for information.

Existing Conditions

Describe how the land is used and developed now *

For example, vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Vacant farmland



Provide a plan of the existing conditions. Photos are also helpful.

Title Information

Encumbrances on title *

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- ☐ Yes (If 'yes' contact Council for advice on how to proceed before continuing with this application.)
- ☒ No
- ☐ Not applicable (no such encumbrance applies).



Provide a full, current copy of the title for each individual parcel of land forming the subject site. The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments', for example, restrictive covenants.

Applicant and Owner Details

Provide details of the applicant and the owner of the land.

Applicant *

The person who wants the permit.

Please provide at least one contact phone number *

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

Owner *

The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organisation.

Name:		
Title:	First Name:	Surname:
Organisation (if applicable): Lifestyle Town Planning		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name:
Suburb/Locality:	State:	Postcode:

Contact information for applicant OR contact person below	
Business phone:	Email: u
Mobile phone:	Fax:

Contact person's details*		Same as applicant ☒
Name:		
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name:
Suburb/Locality:	State:	Postcode:

Name:		Same as applicant ☐
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name:
Suburb/Locality:	State:	Postcode:
Owner's Signature (Optional):		Date:
		day / month / year

Information requirements

Is the required information provided?

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist.

☒ Yes ☐ No

Declaration

This form must be signed by the applicant *

 Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.

Signature:

Date: 07/07/26

day / month / year

Lifestyle



Town Planning & Services

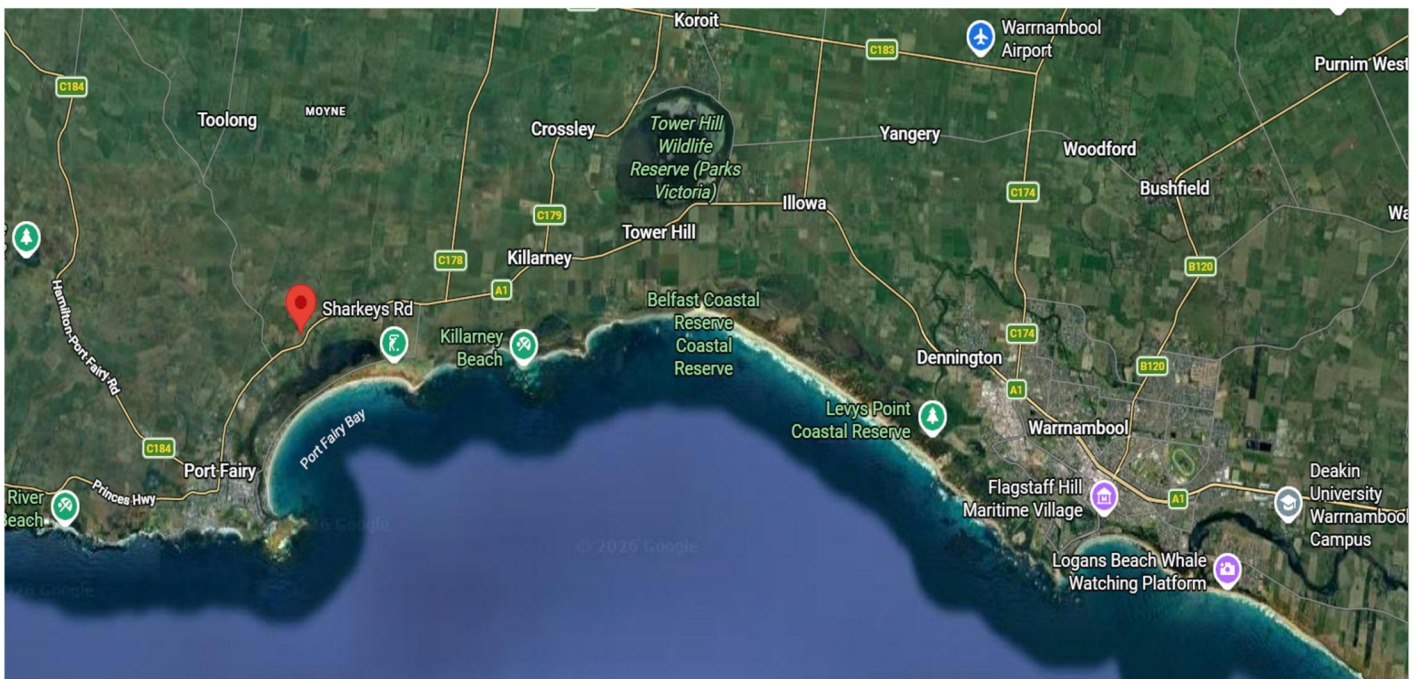
Land Management Plan

Sharkeys Road Rosebrook, Vic
3285.

Section 2 use and associated
buildings and works (dwelling).

Date 06/07/26

1. Location



The site is situated approximately 4km from Port Fairy in the hamlet of Rosebrook on the eastern outskirts with frontage to Sharkeys Road, just off the Princes Highway. The land does however have frontage to Princes Highway to the south. The site has a combined area of approximately 13.56ha which will be with the consolidation of 4 titles and is within a cluster of similar sized allotments with dwellings used as lifestyle properties. The site is generally flat with a raised section in the middle as the proposed dwelling site having attractive views of surrounding farmland and open countryside.

There is a narrow section of the Moyne River opposite to the north with land extending to the Princes Highway to the south. There is no significant vegetation for removal in order to construct the dwelling and outbuilding as the land has been grazed for many years. The site is enclosed by post and wire farm fencing.

2. Purpose

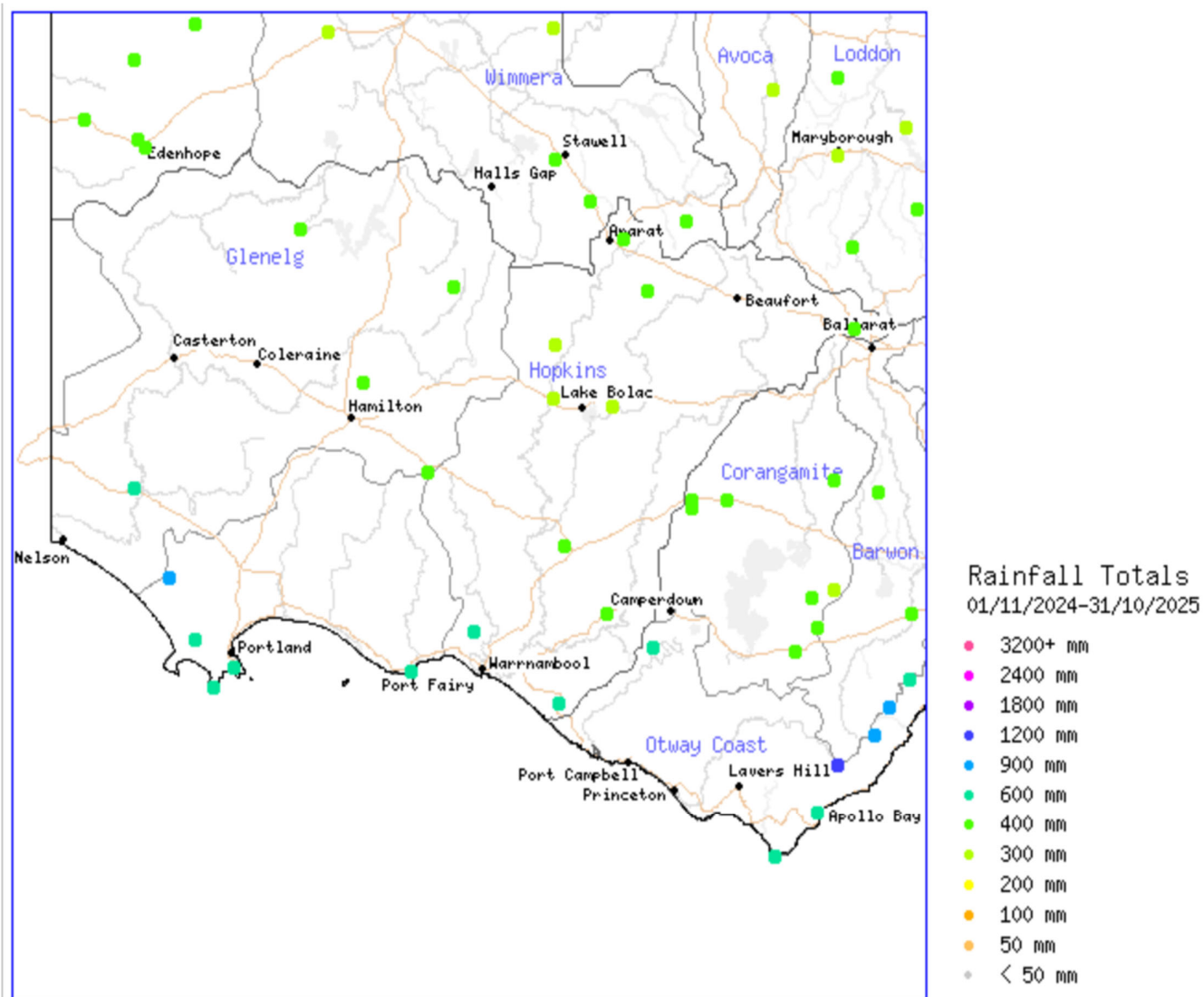
This Land Management Plan is intended to detail the history of the site, current agricultural activities on the subject land and to outline opportunities for future agricultural uses and agricultural production that can be further enhanced by the approval of a dwelling on the site.

3. Climate

The climate in Rosebrook and Port Fairy is very favourable for agriculture although there is potential for wet periods which need to be managed. The area is typically grazing of cattle mostly for dairy produce however there are vegetables, and wine grown nearby. The soil is particularly fertile by virtue of the volcanic soils associated with nearby Tower Hill.

Rainfall data from the Bureau of Meteorology is as follows overleaf:





4. Topography

The site has an area of 13.56 ha is generally flat with scattered gentle undulations and the raised section in the middle with a stand of cypress trees. The land is vegetated with paddock grasses and has no significant trees having been used for grazing for many years. The current owners have undertaken tree planting along the roadside and in the northern section of the land for shelter. There are no easements shown on title.

Site frontage looking southwest towards Port Fairy and the proposed dwelling site



Looking southeast along Sharkeys Road



Looking west



Proposed access point from Sharkeys Road



5. Water supply

The existing and likely farming enterprises such as cattle grazing or equestrian are not expected to be overly demanding of water, and being soil-based, the pasture should receive adequate water from the average rainfall supported by a windmill which feeds a drinking trough. According to analysis of nearby land, the groundwater quality here is good and should be suitable for most uses according to research.

6. Pest plant and animal management

The property itself is well maintained with no major environmental weed issues. It is subject to agricultural weeds like thistles, flatweed and capeweed, and these will be managed as part of farming routines. There were no noted periwinkle and blackberry establishment, or boxthorn established. Should infestations occur this will be better controlled through living and working on the land.

There are no noted pest animals on any part of the site, but foxes and rabbits will be in the area, and ongoing monitoring will be necessary.

7. Soils

The property land class is typical of the region, productive well-structured loams over deeper clay classed as duplex soil. The soils may be prone to waterlogging during wet periods and drying and cracking during dry periods but generally retain productivity.

The soil is most suitable for grazing and with management for arable farming such as vegetable production, growing fruit, wine production or hay production as evidenced by nearby agricultural practices in the immediate area.

Agronomists recommend that soil cultivation and fertilisation in these scenarios would be beneficial before attempting any plant establishment over and above grazing (by rock removal, discing, ploughing or ripping), to address grass root matter.

8. Livestock and arable farming

The subject land is currently used for cattle grow out and horses and has capacity for approximately 50 head of cattle or slightly more depending upon the weather and rainfall conditions.

The land has some potential for high return farming such as lucerne, olives or wine production or Wagu beef breeding or production.

9. Fire management

The land is in a designated bushfire prone area but is not seen to be of greater risk than any normal, cleared farmland. The land use does not contribute to fire risk, and the pastured areas could be expected to act as firebreaks.

The usual fire precautions will apply; no petrol-powered vehicles in long grass, limited mechanical activity on high-risk fire days, reduced fire load before summer, adequate firefighting water in tanks. A firewater supply will be available from the house and shed tanks and shared bore as required.

10. Farming activities supporting the need for a dwelling

Given the excellent climate and fertility conditions of the site, the site area of 4.69 ha has the potential for a wide range of agricultural uses suited to a small landholding in conjunction with a dwelling.

The justification for a dwelling on a small lot farm are the same for any farm, but specifically for this area consist of the following:

Livestock

- Cattle grow out, calf rearing and fattening. Typically 4.6 ha is suitable for 25-50 head of cattle or sheep.
- Equestrian.
- Animal training.
- Biosecurity: New nationally mandated requirements mean all visitors, vehicles and new stock to the property should be screened and, if necessary, disinfected. This needs to be monitored constantly.
- Stock safety and management: Cattle require monitoring, care, and protection from predators. They need to be fed, and the water supply checked daily. Animal welfare must be monitored animal welfare (daily routine).
- As with any stock rearing, even on a small scale, the requirement for someone to be nearby to monitor audible and visual signs of animal distress for animal health and welfare is very important.
- Road safety: stock escape, monitoring stock and identifying and addressing stock at large.
- Daily land management routine: check water, fences, feed stock, check pasture availability.

Arable farming

- There is potential for high return market gardens, potato growing, and niche farming such as olives, lucerne and so on.
- Fruit growing due to the flat terrain, availability of water. Research shows that typically a well-established fruit tree should produce 20-30 kilograms of fruit per season with the site having an estimated capacity for 400 trees per ha.
- Hay production.
- Wine production.
- Berries.

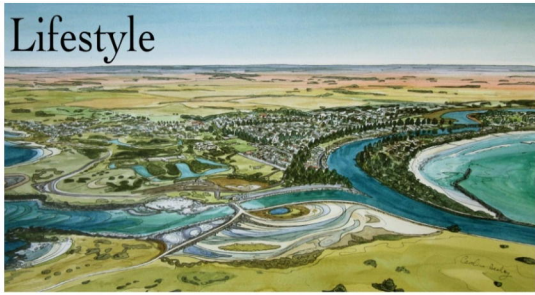
Generally

- Security and prevention of theft of produce and equipment.
- Occupational Health and Safety: The property will have visitors who may not be familiar with small farms and associated risks, and extended care and supervision will be required.
- Fire risk prevention and response: In the advent of wildfire, residents in a dwelling will be more responsive, animals can be monitored and relocated if required, fire mitigation procedures implemented, and potentially fires fought.

11. Conclusion

Given the flat terrain, soil composition, history of reliable rainfall, and access to ground water, the site is suited to a variety of small scale agricultural activities as demonstrated in this plan which are enhanced by living on the site.

Lifestyle



Town Planning & Services

Planning Report

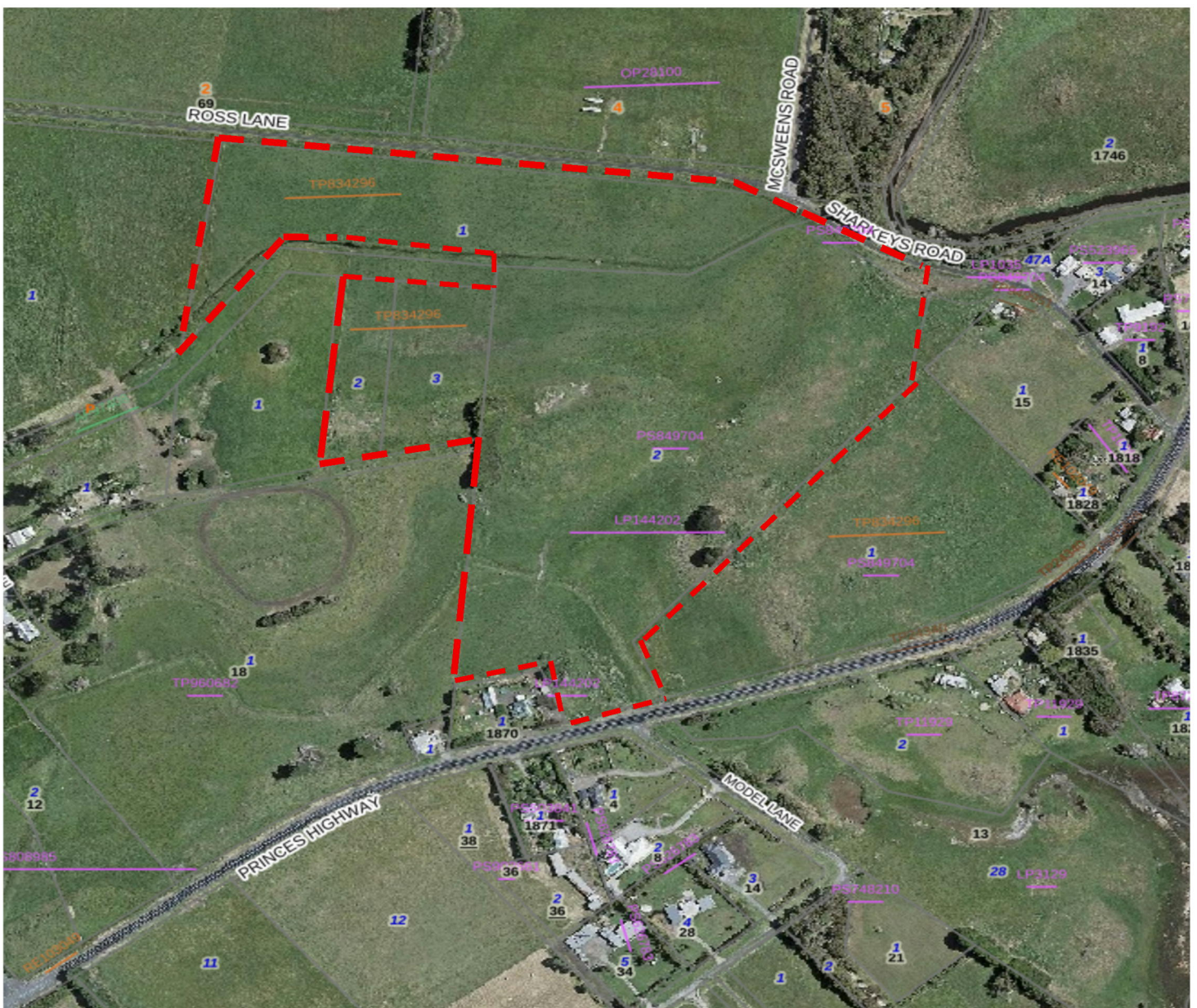
Use and development of a dwelling.

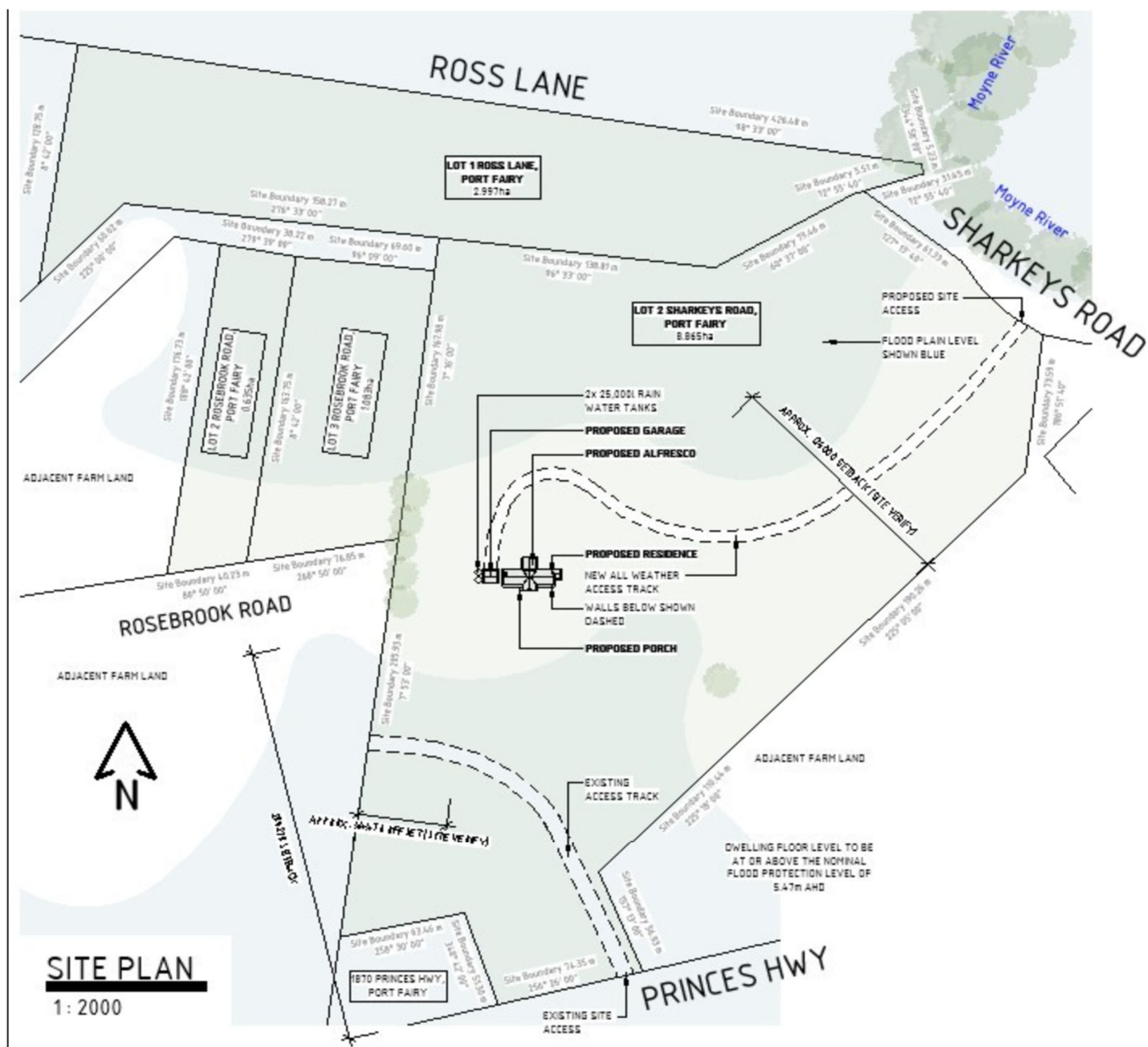
Lots 1,2,3 TP834296L.

Lot 2 PS 849704C.

Ross Lane and Sharkeys Road
Rosebrook Vic. 3285.

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ACKNOWLEDGEMENTS

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DISCLAIMER

Although Lifestyle Town Planning and Services has taken all the necessary steps to ensure that an accurate document has been prepared, the company accepts no liability for any damages or loss incurred as a result of reliance placed upon the report and its contents.

1. PROPOSAL

Planning approval is sought to construct and use a 4 bedroom single storey dwelling on a 13.56ha site in Rosebrook on the eastern outskirts of Port Fairy. The site is made up of 4 smaller titles which will be consolidated to form a more usable parcel of agricultural land.

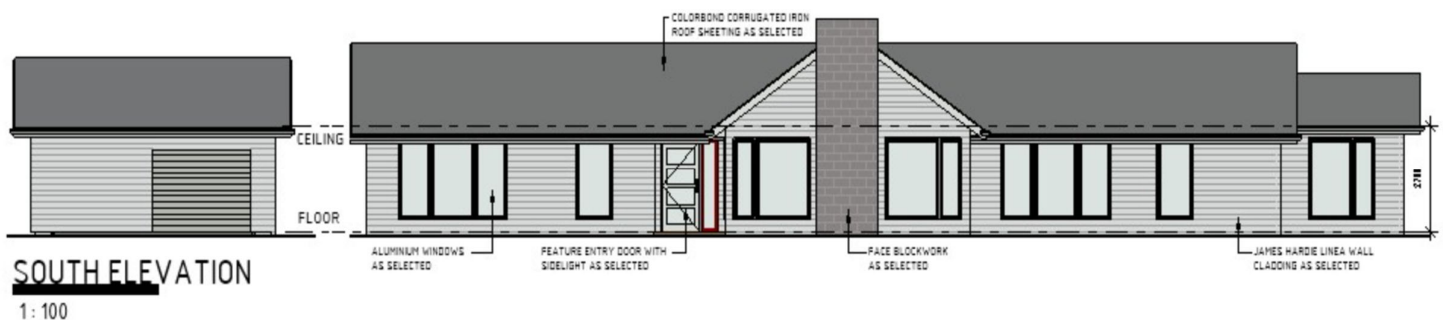
A land management plan has been prepared and submitted with the application to demonstrate the need for a dwelling on the site and how this links to agriculture together with the benefits of consolidating the titles to enhance its agricultural capacity.

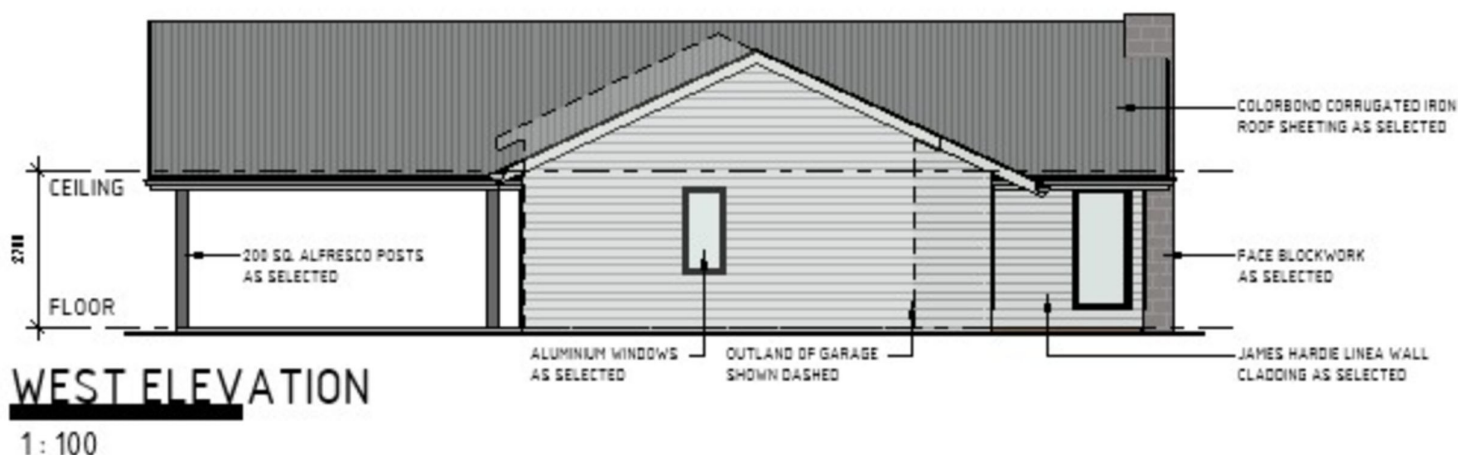
The proposed dwelling and its access will be accessed via a new all-weather access from Sharkeys Road on higher ground to be free of flooding which has been supported by a preapplication referral to the CMA.

The dwelling will have a floor area of 347.75 sqm including garage, alfresco area and porch which is an overall site coverage of just 0.2% of the overall site area leaving the vast majority of the site for agriculture. The dwelling will be finished externally in James Hardie Linea wall cladding with a painted finish in "Shale Grey" with aluminium windows in "Windspray" under Colorbond roof covering also in "Windspray". Services will include a septic tank waste water system installed to Council and EPA standards, with mains electricity and 2 x 25,000l rainwater tanks for potable water supply. A Land Capability Assessment has been not provided but can be provided in response to a permit condition.

The accommodation will comprise entrance porch with entrance hall, an open plan kitchen/living/dining area, adjoining alfresco outdoor living area, 4 bedrooms (1 ensuite), study, snug, bathroom, separate W/C, laundry and a double garage. An application for a storage shed/implement store will follow in due course.

The dwelling will set back approximately 124m from the eastern boundary and approx. 44m from the western boundary to the garage wall. The setbacks are intended to provide reasonable amenity and buffer distances from agricultural activities and from nearby dwellings.





2. SITE ANALYSIS

The site is situated approximately 4km east of Port Fairy in the small hamlet of Rosebrook with frontage to and access from Sharkeys Road, Ross Lane and the Princes Highway. The site has an area of approximately 13.56 ha made up of 4 titles being consolidated as shown below. The land is within a cluster of similar sized allotments some with dwellings used as lifestyle properties. The site is mostly flat although has a raised section in the centre which is the proposed dwelling site having attractive views of surrounding farmland and open countryside.

There is a narrow section of the Moyne River opposite the Sharkeys Road frontage to the north. The land is irregularly shaped and is currently used for grazing with is no significant vegetation for removal in order to construct the proposed dwelling. The site is enclosed by post and wire farm fencing and has a stand of cypress trees on the western side near to the proposed dwelling site which has been marked with a red x. There is a drainage reserve shown on titles together with a triangular shaped section of road reserve adjoining Sharkeys Road.

Aerial image - proposed dwelling site shown red x



Looking southwest from Sharkeys Road towards the raised proposed dwelling area



Looking east from Sharkeys Road



Looking northwest along Sharkeys Road



Looking east along Sharkeys Road



Looking west towards the dwelling site from Sharkeys Road



Proposed access point from Sharkeys Road



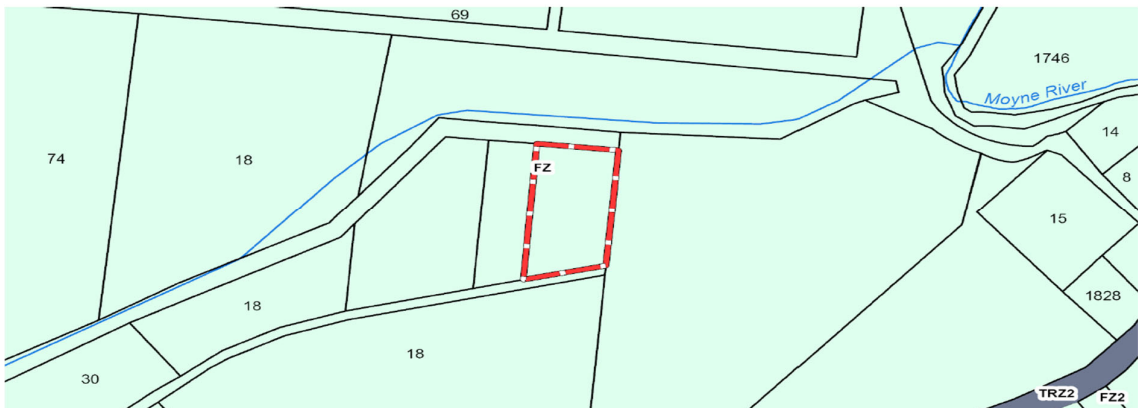
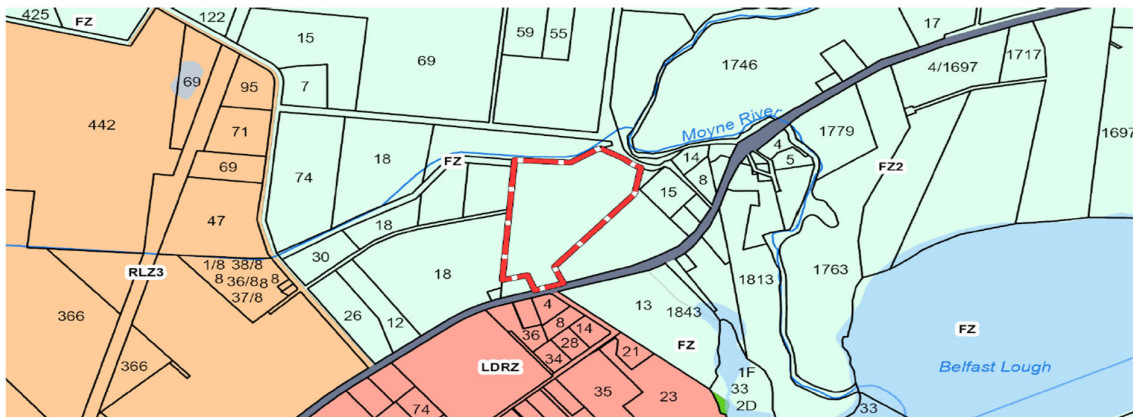
3. RESTRICTIONS ON TITLE

Agreement AV082998Y. Restricts further subdivision and has potential nuisance acknowledgement provisions. The agreement is not breached by the proposal.

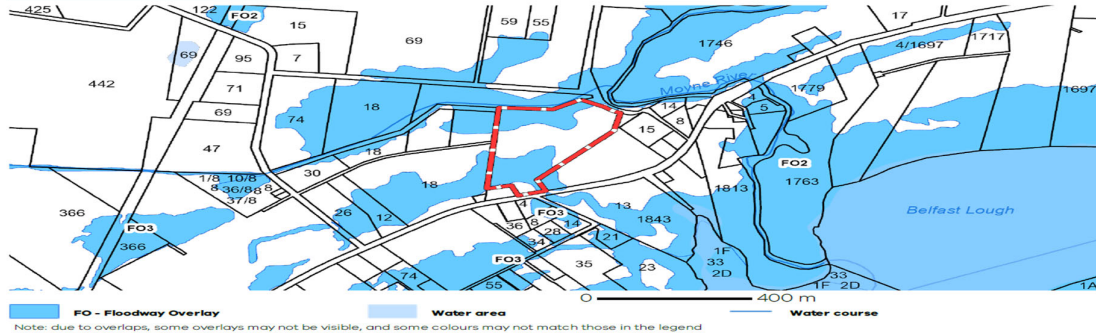
4. PLANNING CONTROLS

Zone

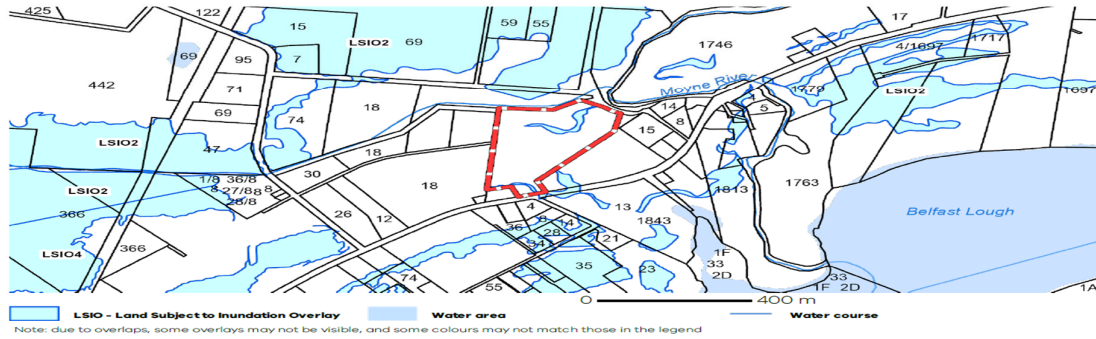
Farming Zone (FZ) (4 parcels).



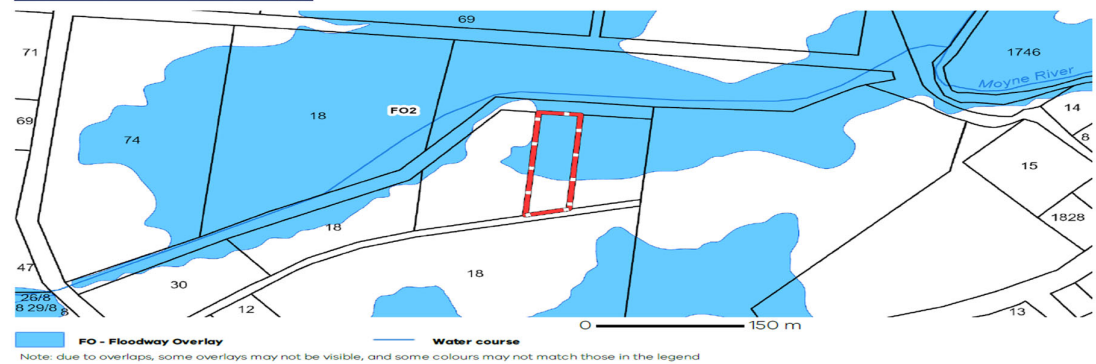
FLOODWAY OVERLAY (FO)
FLOODWAY OVERLAY - SCHEDULE 2 (FO2)



LAND SUBJECT TO INUNDATION OVERLAY (LSIO)
LAND SUBJECT TO INUNDATION OVERLAY - SCHEDULE 2 (LSIO2)



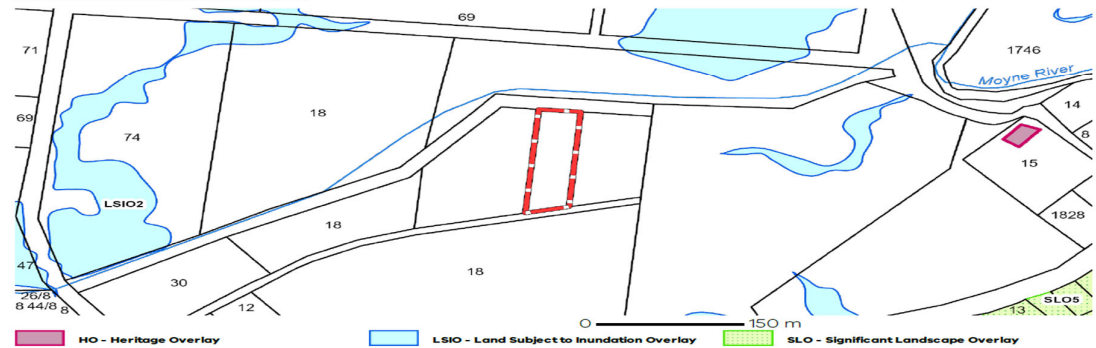
FLOODWAY OVERLAY (FO)
FLOODWAY OVERLAY - SCHEDULE 2 (FO2)



OTHER OVERLAYS

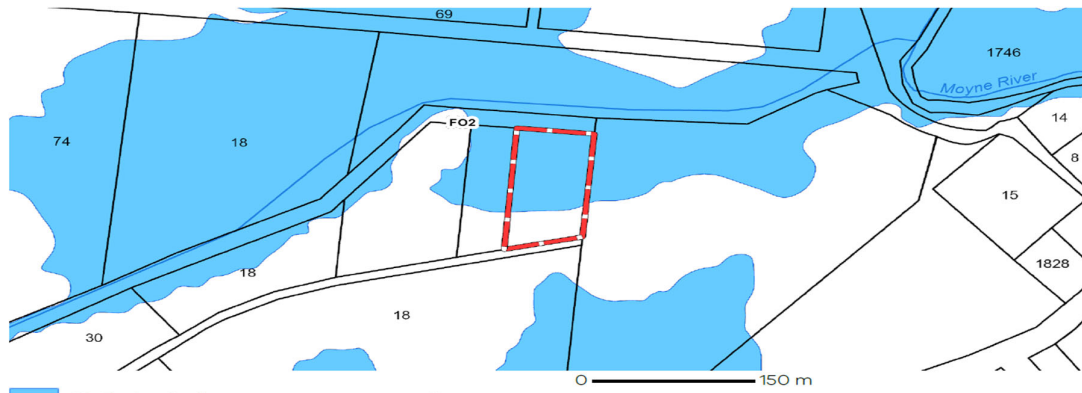
Other overlays in the vicinity not directly affecting this land

HERITAGE OVERLAY (HO)
LAND SUBJECT TO INUNDATION OVERLAY (LSIO)
SIGNIFICANT LANDSCAPE OVERLAY (SLO)



FLOODWAY OVERLAY (FO)

FLOODWAY OVERLAY - SCHEDULE 2 (FO2)



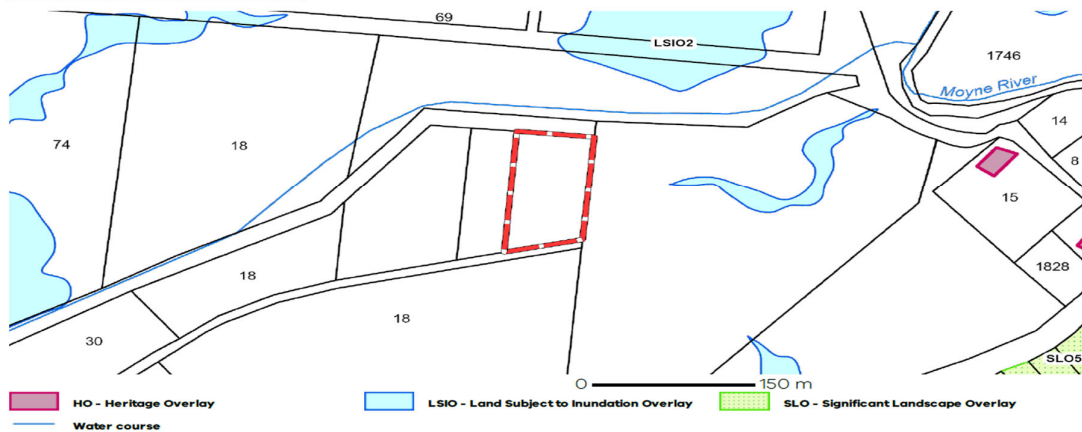
OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

HERITAGE OVERLAY (HO)

LAND SUBJECT TO INUNDATION OVERLAY (LSIO)

SIGNIFICANT LANDSCAPE OVERLAY (SLO)



Other

The site is situated within a Designated Bushfire Prone Area and an area designated as being of Aboriginal Cultural Heritage Significance

Permit requirements

- A permit is required under the **Farming Zone** at **Clause 35.07-2** for the use of land for a dwelling and outbuilding as the lot is less than 40 ha.
- A permit is required under the **Farming Zone** for buildings and works in conjunction with a section 2 use (dwelling) at **Clause 35.07-4**.
- A permit is not required for buildings and works under the FO2 at **Clause 44.03-2** as the proposed dwelling site is outside the curtilage of the mapped flood area.
- A permit is not required for buildings and works under the LSIO2 at **Clause 44.04-2** as the proposed dwelling site is also outside the curtilage of the mapped flood area.

A Cultural Heritage Management Plan is not required as a single dwelling is an exempt activity under the Aboriginal Heritage regulations 2018.

5. PLANNING ASSESSMENT

Clause 35.07 Farming Zone

Purpose

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.

Clause 35.07-2

Use of land for a dwelling, small second dwelling or rural worker accommodation

A lot used for a dwelling, small second dwelling or rural worker accommodation must meet the following requirements:

- Access to the dwelling, small second dwelling or rural worker accommodation must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.*
- Each dwelling, small second dwelling or rural worker accommodation must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the Environment Protection Act 2017 for an on-site wastewater management system.*
- The dwelling, small second dwelling or rural worker accommodation must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.*
- The dwelling, small second dwelling or rural worker accommodation must be connected to a reticulated electricity supply or have an alternative energy source.*

ASSESSMENT

The proposed new dwelling and outbuilding meets the use requirements as it will have access via a new all-weather access to be constructed leading from Sharkeys Road. A new septic tank will be installed to Council and EPA requirements, minimum 50,000l rainwater tanks will be installed for potable water and firefighting and a mains electricity supply. A Land Capability Assessment can be provided to confirm the site is suitable for a domestic waste water system.

Clause 35.07-6

Decision guidelines

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 Municipal Planning Strategy and the Planning Policy Framework.

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.

ASSESSMENT

An assessment against the relevant clauses of the MPS and PPF has been undertaken and found to be generally consistent with the policy content. Please refer to the relevant assessments later in this report.

There are no flooding issues associated with the proposed house site or the access from Sharkeys Road as confirmed by the CMA as they are on higher ground.

The land has sufficient capacity to accommodate a Council and EPA compliant waste water system.

The proposed dwelling is sited to minimise any disruption to farming activity, but also sufficiently distanced to be buffered for amenity purposes and to allow for the planting of screening if required.

The site is within a cluster of lifestyle properties which will not further impede agriculture.

The site has road frontage and a mains electricity supply nearby.

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.

Whether Rural worker accommodation is necessary having regard to:

The nature and scale of the agricultural use.

The accessibility to residential areas and existing accommodation, and the remoteness of the location. The duration of the use of the land for Rural worker accommodation.

ASSESSMENT

The land is realistically too small to sustain traditional broad acre agriculture. There are however a number of agricultural uses as discussed in the Land Management Plan submitted with the application. The land is size is ideal for niche farming such as egg production, equestrian, arable farming and has road frontage, access to water etc, for which the dwelling is required for 24 hour animal husbandry and security of animals.

The approval of a dwelling does not remove the farmland from agricultural production. On the contrary it allows for a diversification of uses allied to farming as outlined in the Land Management Plan. The proposed dwelling has been sited to allow the majority of the land to be used for small scale agriculture and equestrian purposes. The consolidation of titles increases the potential for agriculture and removes potential home sites and reduces fragmentation.

The abutting land is not further compromised as it is currently used for lifestyle farming on a smaller scale to the subject land.

Accommodation 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 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 Environment Effects Act 1978.

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 Mineral Resources (Sustainable Development) Act 1990.

ASSESSMENT

The siting of the dwelling is intended to provide a closer and more practical link between agriculture and living on the site. The site selected for the proposed dwelling and its access has been chosen to be free of flooding. On balance this location is considered to have a neutral impact on agriculture particularly given the consolidation of titles which enhances the agricultural capacity of the site. The influence of a dwelling on agricultural land barring screening as recommended by Agriculture Victoria is between 100 - 300m which has already compromised area for agriculture due to the existence of the abutting dwelling.

There are no known or planned wind energy facilities in the immediate vicinity or any known mineral resources work authority.

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.

ASSESSMENT

The proposed dwelling is single storied and unobtrusive and not anticipated to impact soil or water quality. On site water treatment and stormwater management will be in accordance with Council standards.

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 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:

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 Environment Effects Act 1978.

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 Mineral Resources (Sustainable Development) Act 1990.

ASSESSMENT

The influence of the abutting dwellings on agricultural land as recommended by Agriculture Victoria is between 100 - 300m which has already somewhat compromised the area for agriculture.

In relation to potential adverse impacts caused by the proposed dwelling, this is not further increased by the proposed dwelling over and above the impacts of surrounding dwellings when applying a 300m radius.

Small scale agriculture would be possible on site with for example fresh produce production with 13ha potentially capable of growing vegetables or a market garden with produce sold nearby or roadside in conjunction with the dwelling. The point is made to highlight that whilst the site does not lend itself to large scale agriculture, the land size and rural nature of the site does not exclude small scale agricultural uses or equestrian in this instance in accordance with the purposes of the zone.

The proposed dwelling may provide additional accommodation potentially for the rural community or for farm worker or key worker accommodation which are acknowledged as being in short supply.

Clause 44.03

FLOODWAY OVERLAY

Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.

To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.

To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989 if a declaration has been made.

To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.

To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

ASSESSMENT

As the proposed dwelling site and access are technically outside of the extent of inundation, the application was referred to the CMA who supported the application subject to the following advice:



These maps also show a significant portion of the property is outside the estimated extent of the 'planned for' 1% AEP event. Any dwellings/buildings should be sited within this 'flood free' area outside the extent of the flood risk overlays.

The CMA will be able to support development of the property provided plans show all proposed buildings (dwelling and any associated outbuildings) and the accessway (driveway) to them located on land outside the LSIO and FO.

If a dwelling is to be located on the site indicated in your application, then the plans should show a floor level at or above the nominal flood protection level of 5.47 metres AHD. The CMAs ground level information indicates the proposed dwelling site is currently elevated at approximately 9.5m AHD. This indicates a dwelling floor no lower than 5.47m AHD will be achievable.

Safe access/egress to/from a dwelling during the 'planned for' 1% AEP event is also required. According to the CMAs information this should be achievable at this location via a cross over located in the north-eastern corner of the property, at the boundary with Sharkeys Road. The green 'A' in Figure 1 below shows the approximate location for a cross over according to the CMAs information.

It must be noted that Ross Lane and part of Sharkeys Road will be cut by floodwater ranging in depths over 1 metre during the 'planned for' 1% AEP flood. Attempting to use these roads would pose an extreme level of hazard to anyone trying to gain access to or escape from the property during such a flood.

In closing, it should be noted that if the siting of proposed development changes to one that intersects with the FO and/or LSIO then the development plans will need to meet the flood risk minimisation criteria of Port Fairy Local Floodplain Development Plan. This plan can be downloaded from the CMAs website using the following link: <https://www.ghcma.vic.gov.au/wp-content/uploads/2025/07/Port-Fairy-Local-Floodplain-Development-Plan-Moyne-Shire-Council-November-2023.pdf>

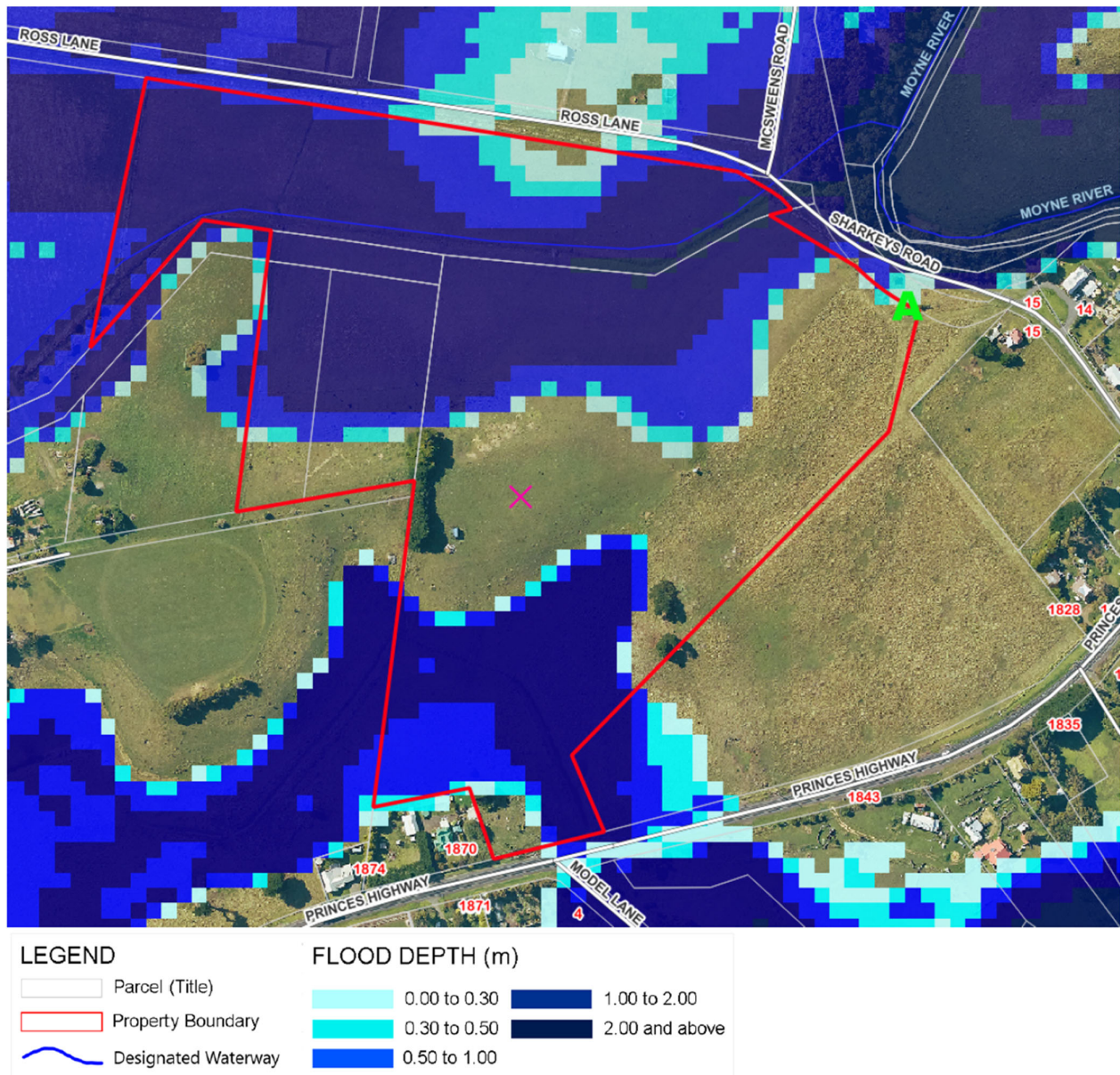
Please also note that a Designated Waterway passes through the northern portion of the property. Any future works in, on or around this waterway require a licence from the CMA. An application form is available on our website at www.ghcma.vic.gov.au.

Contact us at planning@ghcma.vic.gov.au or on 03 5571 2526 should you have any queries. Please quote **GHcMA-F-2026-00189** to assist the CMA in handling your enquiry.

Yours sincerely,

[Redacted signature block]

Figure 1: Location of property with 1% AEP flood depths, 2021 Moyne Planning Scheme Amendment C69 Flood Risk Mapping. (Green 'A' symbol = access location, pink cross = applicants proposed dwelling location.)



Clause 53.02

BUSHFIRE PLANNING

Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.

To ensure that the location, design and construction of development appropriately responds to the bushfire hazard.

To ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.

To specify location, design and construction measures for a single dwelling that reduces the bushfire risk to life and property to an acceptable level.

Clause 53.02-6

16/06/2026

Bushfire prone area decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The impact of any State, regional or local bushfire management and prevention actions occurring around the site and in the wider area on the bushfire hazard and the level of risk to the proposed development.*
- *The risk of bushfire to people, property and community infrastructure.*
- *Whether the risk arising from the broader landscape can be mitigated to an acceptable level.*
- *Whether bushfire protection measures to address the identified bushfire risk are required and can be practically implemented, including any measure set out in clause 53.02-4.*
- *Whether bushfire protection measures can be implemented without unacceptable biodiversity impacts.*

Proposed vegetation

- *If vegetation is proposed, whether it will cause or contribute to the bushfire hazard or increase the risk to life, property, or community infrastructure.*

Dwellings and Small Second Dwellings

- *Whether a static water supply for bushfire firefighting is required having regard to the size of the lot, proximity to a hydrant and connection to reticulated water.*
- *If a vehicle accessway is greater than 30 metres in length or the relevant fire authority requires access to the static water supply on the land, whether the access design and construction requirements set out in Table 3 to clause 53.02-5 should be met.*

ASSESSMENT

The fire risk associated with the proposed dwelling is grass fire with the slope around the dwelling between 0 -5 degrees. The site has constructed and sealed road access via Sharkeys Road. A new all-weather access will be created from Sharkeys Road to the requisite standards.

The dwelling will have 50,000l of tank water capacity available and defensible distance in excess of 40m.

MPS ASSESSMENT

Clause 02.03-4

Natural resource management

Agriculture

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 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.

The Belfast Rural area (also known as the Killarney Area) between Rosebrook and the Tower Hill State Game Reserve comprises high quality fertile volcanic soils that have traditionally been the focus for potato farming. The area is characterised by a large number of small land holdings that are predominantly managed as conglomerations.

Sustainable timber production and the development of timber industries to process product are supported where they are undertaken with minimal adverse impacts.

ASSESSMENT

As acknowledged in the above clause, the land is suitable for small scale agriculture or animal husbandry due to the fertile nature of the volcanic soils. The Land Management Plan introduces potential agricultural land uses which are more niche but nonetheless accepted as fitting within the land use definition of agriculture.

Clause 02.03-7

Economic development

The economy of the Shire is based on agriculture, manufacturing, tourism and commerce.

Agriculture

Agriculture is the most important sector of the local and regional economy and a major source of local employment. The Shire is within Australia's largest dairy production region that contributes around a quarter of the nation's milk production.

The Western Victoria Livestock Exchange at Mortlake has a key role in supporting the regional agricultural sector.

There are opportunities for economic diversification through the development of aquaculture, horticulture and intensive agricultural enterprises, and agriculturally linked value adding industries. Value adding onsite or closer to the source of the product provide opportunities to expand the local economy.

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.

ASSESSMENT

The clause acknowledges the importance of agriculture to the economy of the Shire which is not adversely affected by the proposal. The proposal does provide opportunity for economic benefit derived from additional development which has potential for a cottage style farm business on the 13.5ha.

PPF ASSESSMENT

Clause 13.02

BUSHFIRE

13.02-15

Bushfire planning

This policy must be applied to all planning and decision making under the Planning and Environment Act 1987 relating to land that is:

- *Within a designated bushfire prone area;*
- *Subject to a Bushfire Management Overlay; or*
- *Proposed to be used or developed in a way that may create a bushfire hazard.*

Objective

To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

ASSESSMENT

There is no Bushfire Management Overlay on the subject land however the site is within an area designated as “Bushfire Prone” which is considered a lesser risk. The proposed dwelling has road frontage, good visibility and accessibility and will have water supply in 50,000l rain water tanks for firefighting, with the Moyne river opposite the site and fire hydrants in nearby Port Fairy.

Clause 14.01-1L

Agricultural production

Policy application

This policy applies to land in the Farming Zone and Rural Living Zone.

Strategies

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

Consider as relevant:

- *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).*

ASSESSMENT

The proposed dwelling will be situated on a lot 13.5ha. The land has limited agricultural production capacity however given the consolidation of titles this increases the agricultural capacity and reduces fragmentation as supported by the Clause.

It is acknowledged that the policy discourages construction of a dwelling on land between 2 ha and 40 ha as is the case in this instance.

Council is respectfully asked to consider the individual merits of this application such as:

- The site has access to ground water to support a small scale primary produce enterprise.
- The land has limited agricultural potential due to its size but is ideal for grazing and animal husbandry, or equestrian.
- The nature of niche or small scale agriculture is such that a dwelling is required for 24/7 hands on supervision/security.
- There are 4 titles being consolidated to improve agricultural capacity.
- The proposed dwelling is collocated with nearby dwellings so as to not disrupt farming activities on the subject land or nearby land.

14.01-15

Protection of agricultural land

Objective

To protect the state's agricultural base by preserving productive farmland.

Strategies

Identify areas of productive agricultural land, including land for primary production and intensive agriculture.

Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.

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.

Prevent inappropriately dispersed urban activities in rural areas.

Protect strategically important agricultural and primary production land from incompatible uses.

Limit new housing development in rural areas by:

- *Directing housing growth into existing settlements.*
- *Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.*
- *Encouraging consolidation of existing isolated small lots in rural zones.*

Identify areas of productive agricultural land by consulting with the Department of Energy, Environment and Climate Action and using available information.

In considering a proposal to use, subdivide or develop agricultural land, consider the:

- *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
- *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
- *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
- *The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*
- *Land capability.*

Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.

Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.

Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.

ASSESSMENT

As discussed, the site already has limited capacity for agriculture with the proposed dwelling collocated in a cluster of small rural residential allotments to minimise land use conflicts.

The site can be considered an “existing settlement” consistent with the policy.

The proposal does not create an isolated rural lot, on the contrary it collocates development into a cluster of similar rural lifestyle properties.

14.01-2S

Sustainable agricultural land use

Objective

To encourage sustainable agricultural land use.

Strategies

Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.

Support the development of innovative and sustainable approaches to agricultural and associated rural land use practices.

Support adaptation of the agricultural sector to respond to the potential risks arising from climate change.

Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing.

Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.

Support agricultural investment through the protection and enhancement of appropriate infrastructure.

Facilitate ongoing productivity and investment in high value agriculture.

Facilitate the establishment and expansion of cattle feedlots, pig farms, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.

Ensure that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.

ASSESSMENT

The proposal provides the potential for an innovative use of an undersized farming zone allotment which represents and adaptive use of the site.

The capital value of the site is prohibitive for traditional farming and therefore requires a land use that potentially enables a small scale farmlet, or cottage style industry allied to agriculture such as a equestrian, market garden, local produce sales etc.

14.02-15

Catchment planning and management

Objective

To assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment.

Strategies

Ensure the continued availability of clean, high-quality drinking water by protecting water catchments and water supply facilities.

Consider the impacts of catchment management on downstream water quality and freshwater, coastal and marine environments.

Retain natural drainage corridors with vegetated buffer zones at least 30 metres wide along each side of a waterway to:

- Maintain the natural drainage function, stream habitat and wildlife corridors and landscape values,*
- Minimise erosion of stream banks and verges, and*
- Reduce polluted surface runoff from adjacent land uses.*

Undertake measures to minimise the quantity and retard the flow of stormwater from developed areas.

Require appropriate measures to filter sediment and wastes from stormwater prior to its discharge into waterways, including the preservation of floodplain or other land for wetlands and retention basins.

Ensure that development at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses.

Ensure land use and development minimises nutrient contributions to water bodies and the potential for the development of algal blooms.

Require appropriate measures to restrict sediment discharges from construction sites.

Ensure planning is coordinated with the activities of catchment management authorities.

Ensure that water quality infrastructure is designed to minimise risk of harm to surface waters and groundwater.

ASSESSMENT

The proposed dwelling is sited away from the low points of the land does not pose a risk to property from flooding.

Clause 65.01

APPROVAL OF AN APPLICATION OR PLAN

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- *The matters set out in section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the environment, human health and amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

This clause does not apply to a VicSmart application.

ASSESSMENT

The proposed dwelling is sited next to a lifestyle allotments many containing a dwelling therefore the proposal is considered to represent orderly planning. Fire and other environmental factors are mitigated by virtue of the location, its accessibility and proximity to Port Fairy. Stormwater will be managed to Councils satisfaction ideally via permit conditions.

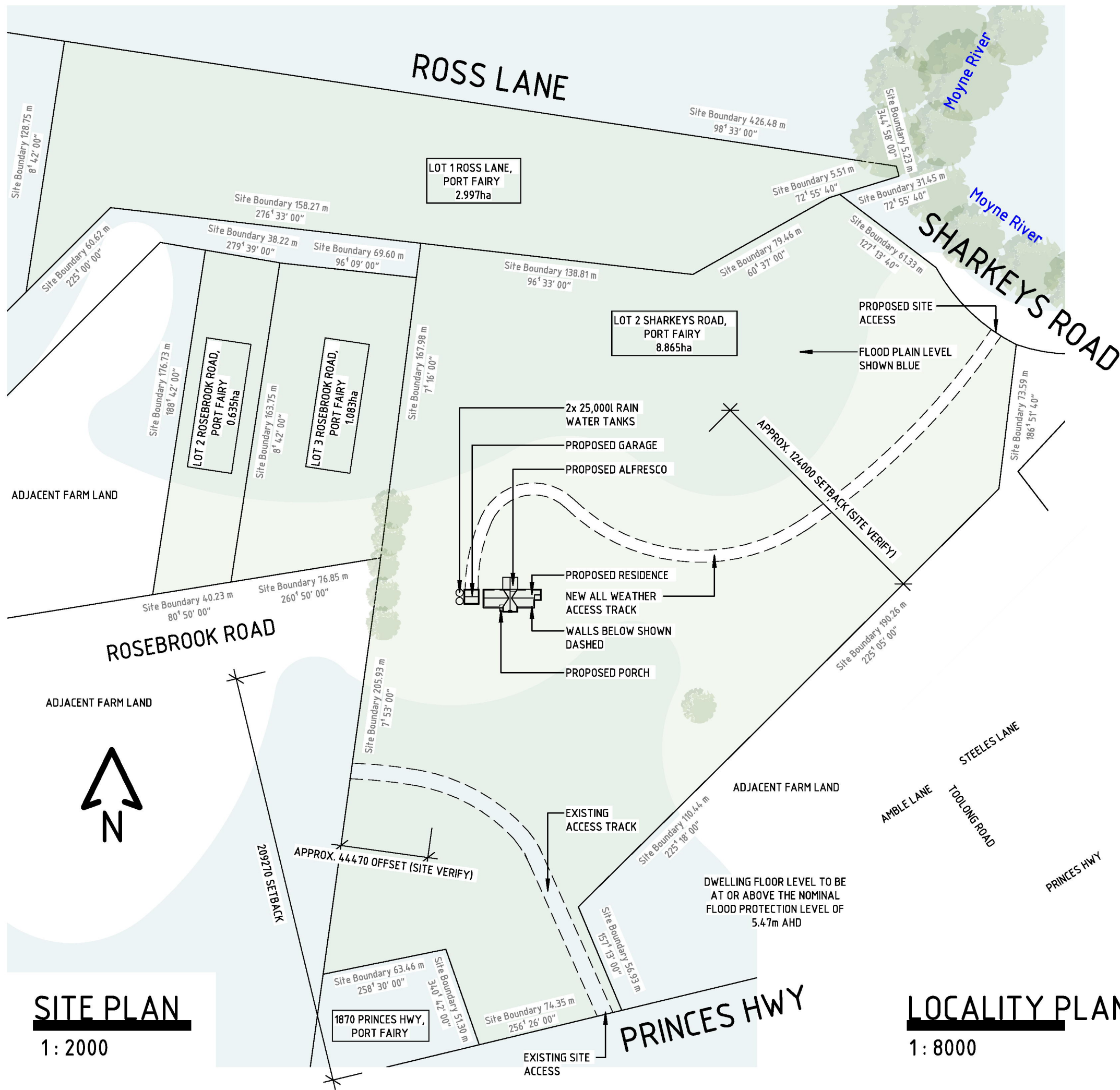
The dwelling is not anticipated to adversely impact the transport system.

6. CONCLUSION

The proposed dwelling site has been selected to be free of flooding constraints and is supported by the CMA. The consolidation of titles is supported in a planning policy sense as it increases the potential and productivity of land for agriculture, reduces fragmentation and allows for small scale niche farming which requires living on the site.

The proposed dwelling is single storied and unobtrusive and fits with the semi-rural character of the area where farmland is interspersed with modest farmhouses on small farming zone allotments.

The land management plan provided with the application provides additional justification for a dwelling by linking the need for a dwelling to the agricultural capacity of the site and the requirement to be living on site to effectively manage the land.

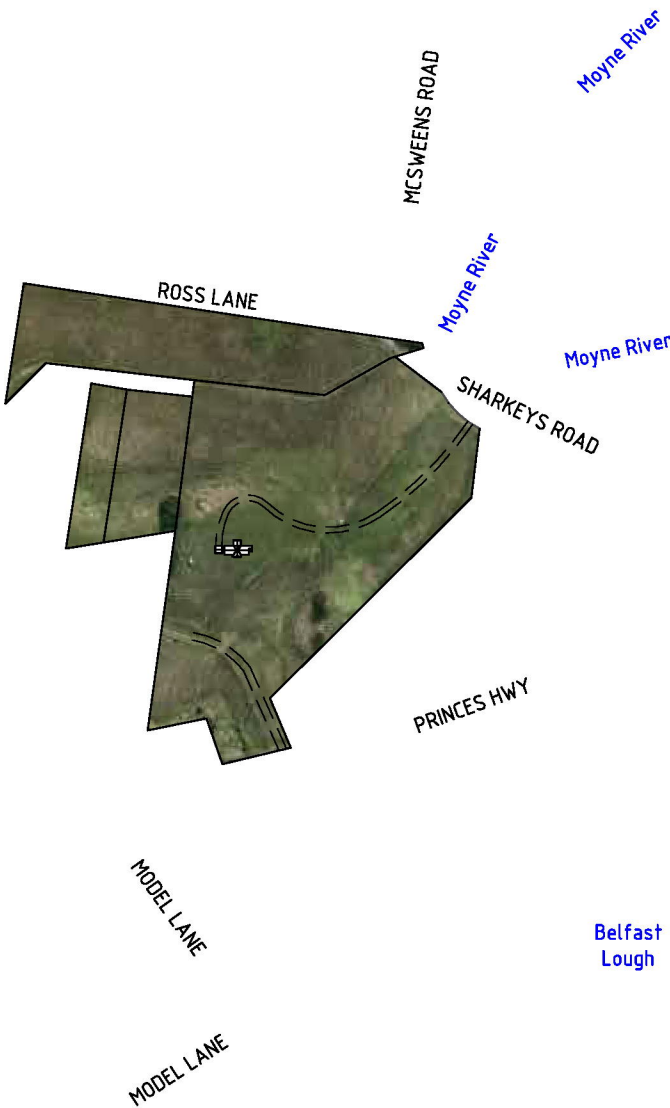


SITE PLAN
1 : 2000

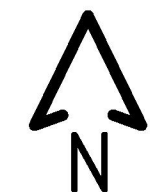
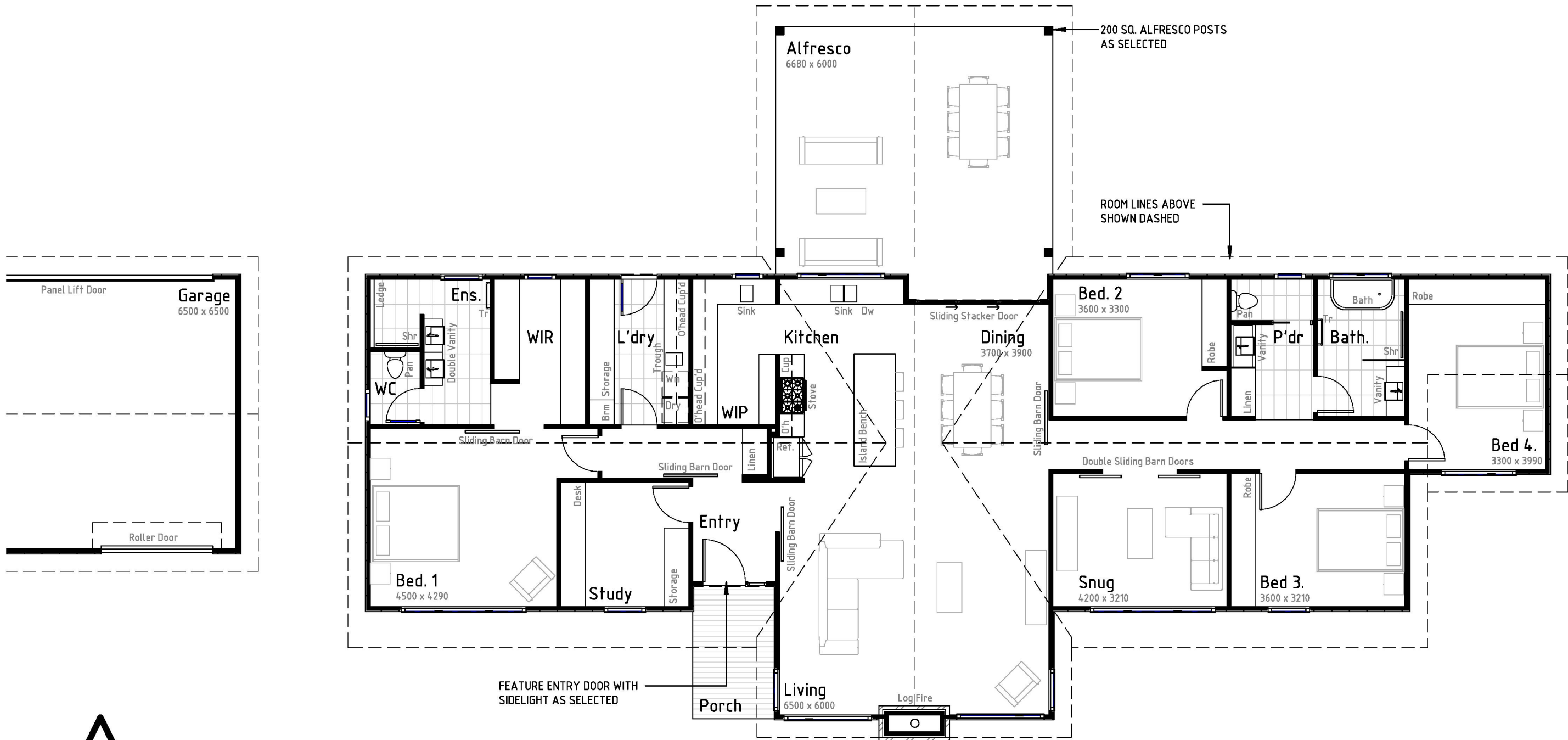
LOCALITY PLAN
1 : 8000

AREA ANALYSIS		
Name	Area	SQ'S
PROPOSED RESIDENCE	231.38 m ²	24.90
PROPOSED GARAGE	67.42 m ²	7.25
PROPOSED ALFRESCO	42.36 m ²	4.56
PROPOSED PORCH	6.59 m ²	0.71
TOTAL	347.75 m ²	

NOTE: ALL TITLE
BOUNDARIES TO
BE CONFIRMED



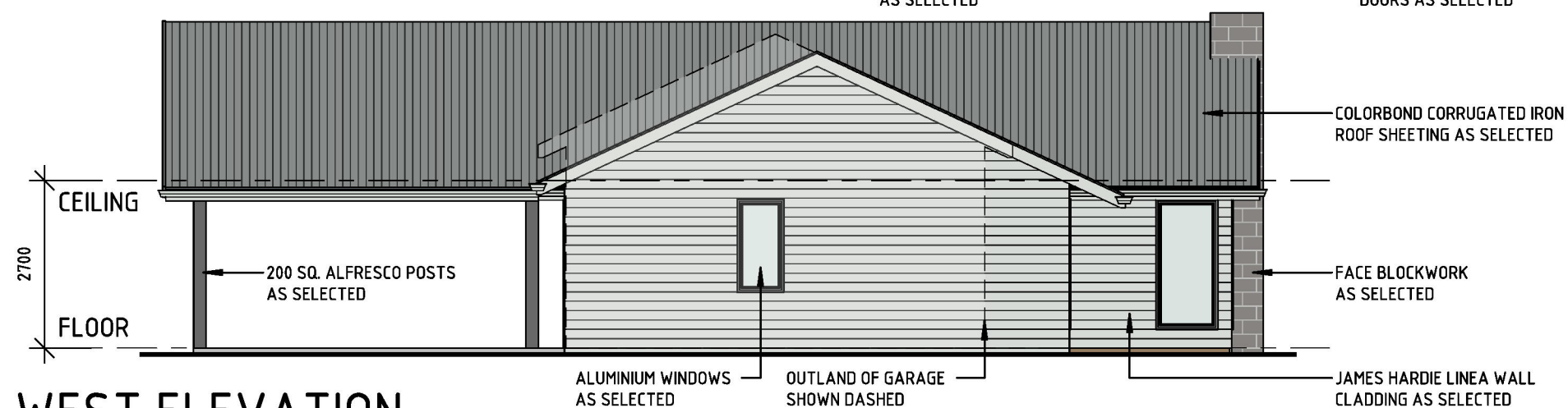
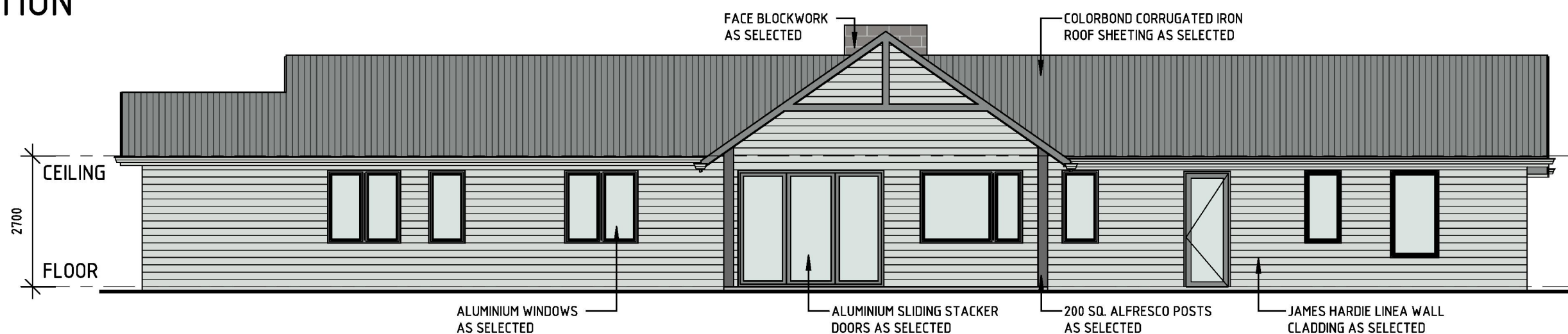
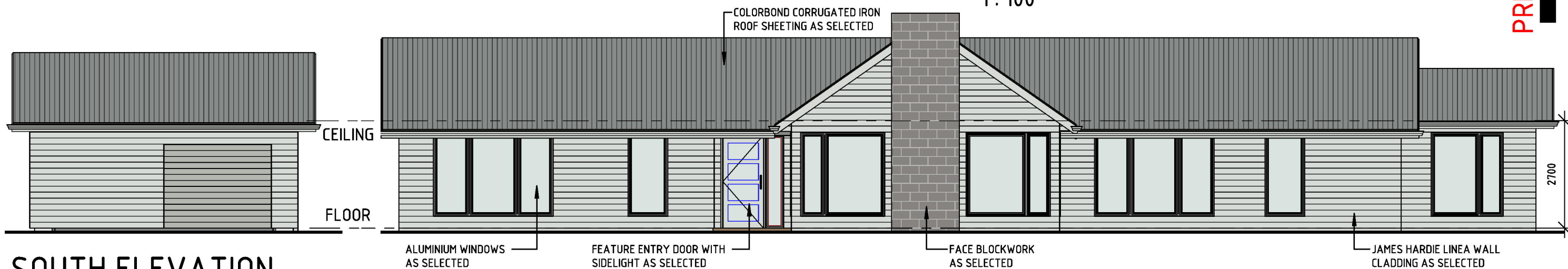
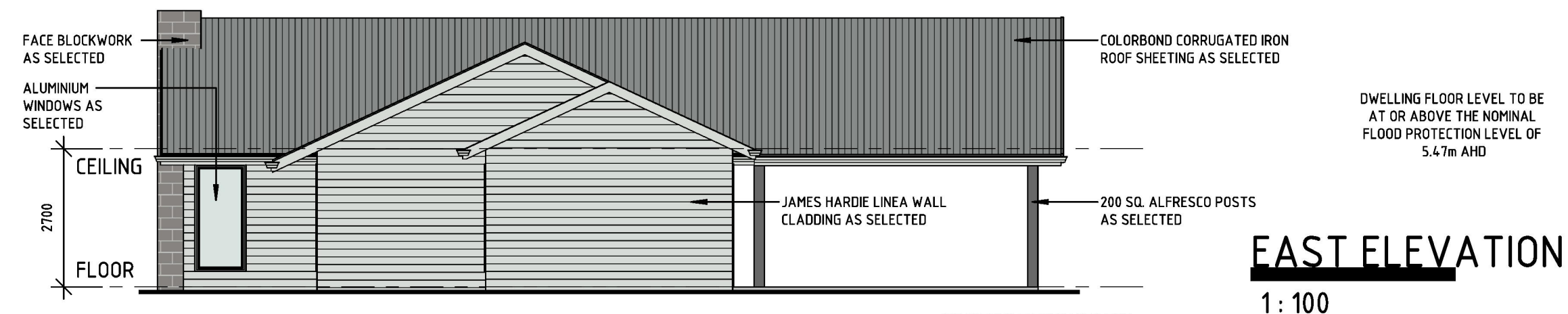
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PROPOSED PORCH	6.59 m ²	0.71
TOTAL	347.75 m ²	



FLOOR PLAN
1 : 100

- LEGEND
- 240MM BRICK VENEER WALLS
 - 90MM STUD WALLS
 - EXTERNAL CLADDING ON 90MM STUD WALLS





MATERIALS SCHEDULE			
	COLORBOND 'WIND SPRAY' - Roof sheeting - Aluminium windows - Roller door		CONCRETE BLOCKWORK - Chimney
	DULUX 'SHALE GREY' - Linea weatherboards	NOTE: Colours shown are based on RGB reference (where applicable), however are shown as indicative colour pallets due to varying light conditions and limitations of the printing process that may affect colour tones. Refer to manufacturers specifications /samples for exact colour match.	

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CMA Reference: GHCMA-F-2026-00189
Property Address: Sharkeys Road Port Fairy 3284
Cadastral: Lot 2 PS849704, Parish of Belfast
Zone(s): Farming Zone
Overlay(s): Land Subject to Inundation Overlay - Schedule 2
Floodway Overlay - Schedule 2

Thank you for your application which we received on 6 May 2026. We understand you seek pre-planning advice for construction of a dwelling.

Please note that information in this report must be read in conjunction with the information provided in the Definitions and Disclaimers section on the final page.

The following table summarises the flood information relevant to the application. Unless stated otherwise, the 1% AEP flood level, depth and hazard information accounts for the effects of climate change according to the best available information, consistent with local and state planning policy.

Flood Information Summary

Item	Best Available Information
1% AEP flood level	3.35 (sth side) to 5.47 (nth side) m AHD
Nominal Flood Protection Level (minimum floor level)	5.77 m AHD (for proposed site)
Ground level estimate – proposed building site	9.54m AHD
Minimum depth of flooding on site - 1% AEP	0.00m
Maximum depth of flooding on site - 1% AEP	1.65m
Property Hazard category - 1% AEP	Low to High

This location is within the floodplain of Moyne River. Most of the property would be subject to inundation by the Moyne River during 1% AEP floods as indicated by the blue shading in Figure 1. below.

The applicable 1% AEP flood level estimate ranges between approximately 3.35m AHD on the Princes Highway (south) side up to approximately 5.47m AHD on the Ross Lane (north) side. These levels come from the 2021 Moyne Planning Scheme Amendment C69 Flood Risk Mapping and 2008 Port Fairy Regional Flood Study respectively.

The property is mostly within the Land Subject to Inundation (LSIO) and Flood (FO) Overlays as shown in the VicPlan Planning Property Report and Figure 2 below.



These maps also show a significant portion of the property is outside the estimated extent of the 'planned for' 1% AEP event. Any dwellings/buildings should be sited within this 'flood free' area outside the extent of the flood risk overlays.

The CMA will be able to support development of the property provided plans show all proposed buildings (dwelling and any associated outbuildings) and the accessway (driveway) to them located on land outside the LSIO and FO.

If a dwelling is to be located on the site indicated in your application, then the plans should show a floor level at or above the nominal flood protection level of 5.47 metres AHD. The CMAs ground level information indicates the proposed dwelling site is currently elevated at approximately 9.5m AHD. This indicates a dwelling floor no lower than 5.47m AHD will be achievable.

Safe access/egress to/from a dwelling during the 'planned for' 1% AEP event is also required. According to the CMAs information this should be achievable at this location via a cross over located in the north-eastern corner of the property, at the boundary with Sharkeys Road. The green 'A' in Figure 1 below shows the approximate location for a cross over according to the CMAs information.

It must be noted that Ross Lane and part of Sharkeys Road will be cut by floodwater ranging in depths over 1 metre during the 'planned for' 1% AEP flood. Attempting to use these roads would pose an extreme level of hazard to anyone trying to gain access to or escape from the property during such a flood.

In closing, it should be noted that if the siting of proposed development changes to one that intersects with the FO and/or LSIO then the development plans will need to meet the flood risk minimisation criteria of Port Fairy Local Floodplain Development Plan. This plan can be downloaded from the CMAs website using the following link: <https://www.ghcma.vic.gov.au/wp-content/uploads/2025/07/Port-Fairy-Local-Floodplain-Development-Plan-Moyne-Shire-Council-November-2023.pdf>

Please also note that a Designated Waterway passes through the northern portion of the property. Any future works in, on or around this waterway require a licence from the CMA. An application form is available on our website at www.ghcma.vic.gov.au.

Contact us at planning@ghcma.vic.gov.au or on 03 5571 2526 should you have any queries. Please quote **GHCMA-F-2026-00189** to assist the CMA in handling your enquiry.

Yours sincerely,

[Redacted signature]

[Redacted name]

[Redacted title]

Figure 1: Location of property with 1% AEP flood depths, 2021 Moyne Planning Scheme Amendment C69 Flood Risk Mapping. (Green 'A' symbol = access location, pink cross = applicants proposed dwelling location.)

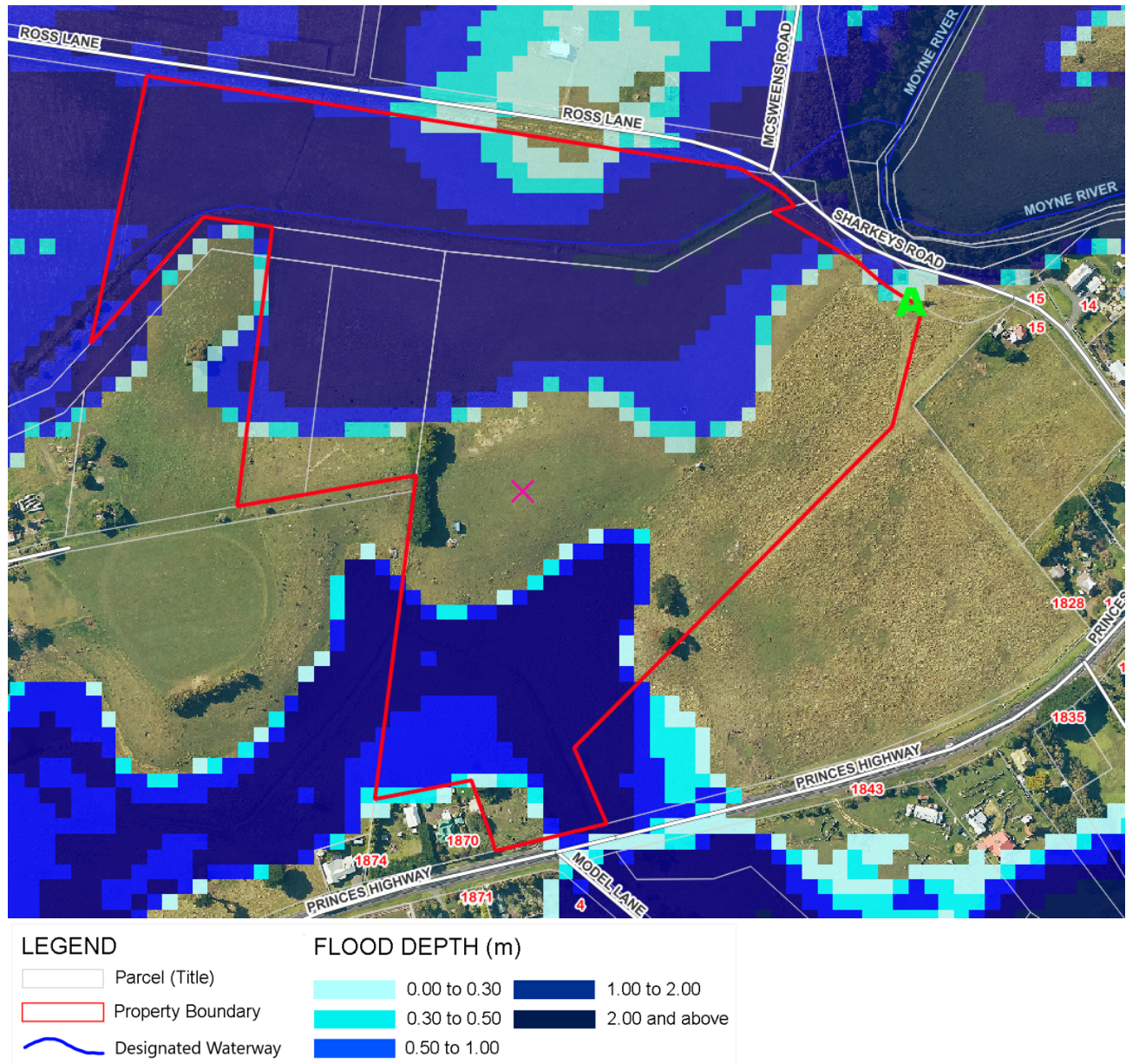
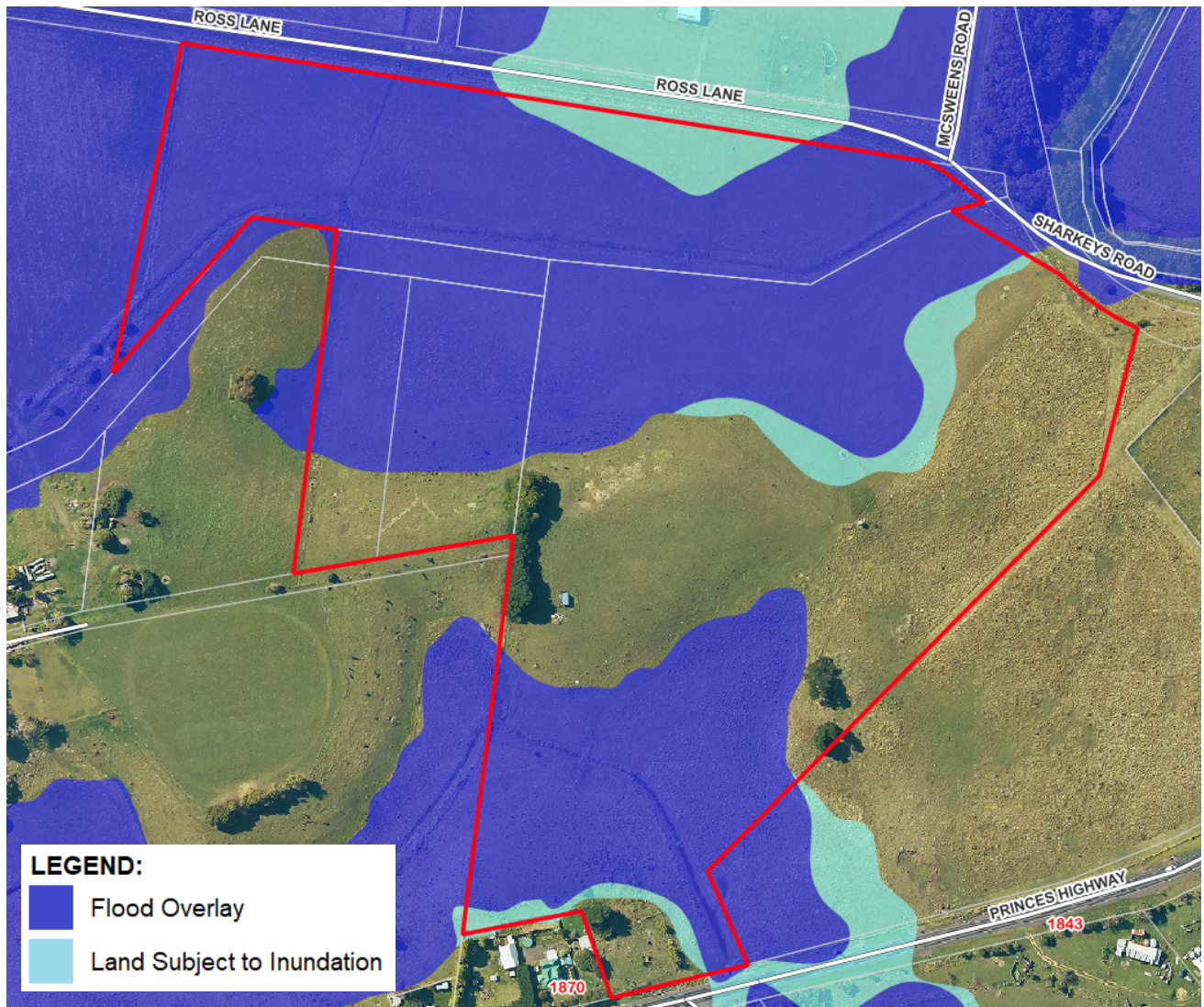


Figure 2: Location of property with Flood and Land Subject to Inundation Overlays.





Definitions and Disclaimers

1. The area referred to in this letter as the 'property' is the land parcel(s) that, according to the CMA's assessment, most closely represent(s) the location identified by the applicant. The identification of the 'property' on the CMA's Geographic Information System (GIS) has been done in good faith and in accordance with the information given to the CMA by the applicant(s) and/or relevant local government authority.
2. While every endeavour has been made by the CMA to identify the proposed development location on its GIS using VicMap Parcel and Address data, the CMA accepts no responsibility for or makes no warranty regarding the accuracy or naming of this proposed development location according to its official land title description.
3. No warranty is made as to the accuracy or liability of any studies, estimates, calculations, opinions, conclusions, recommendations (which may change without notice) or other information contained in this letter and, to the maximum extent permitted by the law, the CMA disclaims all liability and responsibility for any direct or indirect loss or damage which may be suffered by any recipient or other person through relying on anything contained in or omitted from this letter.
4. This letter has been prepared for the sole purpose by the party to whom it is addressed, and no responsibility is accepted by the CMA regarding any third-party use of the whole or of any part of its contents. Neither the whole nor any part of this letter or any reference thereto may be included in any document, circular or statement without the CMA's written approval of the form and context in which it would appear.
5. The flood information provided represents the best estimates based on current available information at the date of issue. This information is subject to change as latest information becomes available, further studies are carried out, flood events occur, or due to changes in State or Federal Policy.
6. The information contained in this letter is valid for three (3) months from date of issue and should not be relied upon for planning purposes beyond this time.
7. **AEP** refers to the Annual Exceedance Probability, which is a measure of the likelihood of a certain event happening in any given year expressed as a percentage (%) risk.
8. **1% AEP Flood** - A flood of this magnitude has a 1% chance of occurring in any given year. The 1% AEP flood is the minimum standard for land use and development planning decisions in Victoria. The best available information shows that the magnitude of 1% AEP floods is increasing due to climate change.
9. **Planned for flood event** - The flood event to be accounted for in land use and development planning decisions. The planned for flood event accounts for plausible effects of the current trajectory of climate change on flood risk which may include, but is not limited to, changes in rainfall intensity and coastal influences (sea level rise & storm surge) where applicable. The planned for flood event usually accounts for the 1% AEP including increase in flood extent, depth and velocity by the year 2100.
10. **PMF** refers to Probable Maximum Flood, which is the largest flood theoretically possible for a location.
11. **AHD** - Australian Height Datum is the adopted national height datum that relates to height above mean sea level. Elevation is in metres.
12. **Freeboard** - if applied, is a height allowance above a flood level to provide additional protection from flood impacts. In the context of planning for development of flood-prone land, freeboard is applied to ensure floors are finished at a level that provides a margin of safety. Freeboard is applied to account for uncertainties in the planned for flood level. Uncertainties include factors such as the effect of waves caused by wind or the effect of vehicles moving through a flooded area, or the impact of rising mean sea level.
13. **Nominal Flood Protection Level (NFPL)** - is the minimum level (elevation) requirement for building floors and services (e.g., sewer openings & electrical fittings) and is measured in metres AHD. The NFPL affects the height of floors and building services above the ground surface, and accounts for the effects of climate change according to the best available information. It is subject to change according to the latest state of knowledge concerning the effects of climate change on flood risk.

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AV082998Y

**Application by a responsible authority for the
making of a recording of an agreement
Section 181 Planning and Environment Act 1987**

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Lodged by

Name: SOUTH WEST CONVEYANCING
Phone: 0355617223
Address: DX 28008 WARRNAMBOOL VIC
Reference: TJ:211172
Customer code: 15070S

The responsible authority having made an agreement referred to in section 181(1) of the Planning and Environment Act 1987 requires a recording to be made in the Register.

Land:(volume and folio)

VOLUME 9534 FOLIO 715 AND VOLUME 10779 FOLIO 897

Responsible authority:(full name and address, including postcode)

MOYNE SHIRE COUNCIL OF PRINCES STREET PORT FAIRY VIC 3284

Section and act under which agreement is made:

SECTION 173 PLANNING AND ENVIRONMENT ACT

A copy of the agreement is attached to this application:

Signing:

35271702A

181PEA

Page 1 of 2

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registers and indexes.

Executed on behalf of
Signer Name

Mayne Shire Council

Signature

Execution Date

Full Name of Witness

Witness Signature

35271702A

181PEA

Page 2 of 2

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MOYNE SHIRE COUNCIL

**PLANNING & ENVIRONMENT ACT
AGREEMENT PURSUANT TO SECTION 173**

-and-

[REDACTED]

AFFECTED LAND:

Lot 2 on LP144202 Volume 9534 Folio 715

Lot 4 on TP834296L Volume 10779 Folio 897

THIS AGREEMENT made the *ninth* day of *November* 2021

BETWEEN:

The Responsible Authority: **MOYNE SHIRE COUNCIL** ("the Council")

The Owner: [REDACTED]

WHEREAS:

1. The owner is registered proprietor of all that piece of lands described in Certificates of Title Volume **9534** Folio **715** and Volume **10779** Folio **897**.
2. The land is affected by the provisions of the Moyne Planning Scheme ("the scheme")
3. The Council is the responsible authority under the Planning & Environment Act 1987 ("the Act") for the purposes of the Scheme
4. Pursuant to Planning Permit No **PL21/081** the Council has allowed the owner to subdivide the land into **two (2)** lots.
5. Conditions of the Planning Permit are that:
 - a. the owner must not further subdivide the land so as to increase the number of lots.
The owner/s of any future dwelling on Lots 1 and 2 acknowledge and accept the possibility of nuisance from adjoining agricultural operation including animal production, spray drift, agricultural machinery use, pumps and associated hours of operation necessary for agricultural production.
6. The owner has agreed to the conditions set out in the Planning Permit.

7. Condition 2 of the Planning Permit requires the Owner of the land shall enter into an agreement with Council pursuant to Section 173 of the Act and for this agreement to be registered at the Titles Office pursuant to Section 181 of the Act.

BY THIS AGREEMENT IT IS AGREED AND COVENANTED:

1. OPERATION

- 1.1 This agreement is made pursuant to Section 173 of the Act.
1.2 This agreement shall come into force on execution by both parties
1.3 The covenants of this agreement shall run with the land.

2. INTERPRETATION

2.1 LOT

In this agreement "lot" means any and each lot shown on the subdivision plan.

2.2 OWNER

In this agreement the word "Owner" unless the contrary intention appears, shall be deemed to include its successors assigns and transferees and the obligations imposed on and assumed by [REDACTED] shall be binding on the successors transferees purchasers mortgagees assigns of [REDACTED] and any other person obtaining possession of the whole or part of the land as if each of those successors separately executed this agreement; and

If the Owner holds the land in a trust capacity, "Owner" shall include the beneficiaries of the trust in relation to which it holds such as land. Where such trust relationship exists the Owner in executing this agreement does so intending to assume not only personal liability, but also to bind the trust for which it acts as trustee.

If the Owner is constituted by more than one person any obligation imposed by this agreement on the Owner shall be imposed on those persons jointly and severally.

2.3 COUNCIL

In this agreement the word "Council" shall include the Shire's successors and its successors as responsible authority for town planning control in the area in which the land is situate.

2.4 In this agreement, unless the context otherwise requires:

- 2.4.1 Words denoting the singular number shall include the plural and vice versa.
2.4.2 Words denoting any gender shall include all genders
2.4.3 Where a word or phrase is defined, other parts of speech and grammatical forms of that words or phrase shall have corresponding meanings.

- 2.4.4 Words denoting natural persons shall include corporations and vice versa.
- 2.4.5 References to clauses and schedules are to clauses of and schedules to this agreement.
- 2.4.6 Headings are for convenience only and do not effect interpretation.
- 2.4.7 References to any party to this agreement or instrument shall include the party's successors and permitted assigns.
- 2.4.8 Reference to any agreement or instrument shall be also to such agreement or instrument as amended, novated, supplemented, varied or replaced from time to time.
- 2.4.9 References to any legislation or to any provision of any legislation shall include any modification or re-enactment of that legislation and any legislation provision substituted for, and all regulations and statutory instruments issued under such legislation or provision.
- 2.4.10 As the case may be, a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, jointly and severally.

3. AGREEMENT

- 3.1 The owner agrees that:
 - 3.1.1 The land must not be further subdivided so as to increase the number of lots.
 - 3.1.2 The owner/s of any future dwelling on Lots 1 and 2 acknowledge and accept the possibility of nuisance from adjoining agricultural operation including animal production, spray drift, agricultural machinery use, pumps and associated hours of operation necessary for agricultural production.

4. REGISTRATION

The parties shall do all things necessary to enable the Council to register this agreement pursuant to Section 181 of the Act.

5. DISCLOSURE

The Owner shall not sell mortgage or part with possession of the land or any part of it without first disclosing to its successors the existence and nature of this agreement.

6. COSTS OF AGREEMENT

The Owner forthwith on demand shall pay to the Council the Council's costs and expenses (as between the solicitor and own client) of and incidental to this agreement and of anything consequent on it or in furtherance of it.

7. DEFAULT

If the Owner fails to comply with this agreement the Council may serve on the Owner or on the owner of that part of the land in respect of which there has been a failure of compliance a notice in writing specifying the works, matters and things ("the Remedial Works") in respect of which the relevant owner is in default. If such default continues for thirty days after the service of such notice the Council by its employees or contractors may enter upon the land and cause the Remedial Works to be done.

A notice served on the Owner pursuant to this clause may set out the costs (as estimated by the Council) of carrying out the Remedial Works. If the Owner does not comply with the notice within thirty days the Council may serve on the Owner a demand in writing for the amount of the estimated costs. The amount then shall become a debt due and payable by the relevant owner to the Council.

As soon as practicable after the completion of the Remedial Works the Council shall certify the actual costs of the Remedial Works. The difference between a sum paid to the Council as the estimated costs, and the actual costs, shall be paid by the relevant owner to the Council or if there is excess, repaid by the Council to the relevant owner.

8. COUNCIL AS ATTORNEY FOR OWNER

The Owner hereby appoints the Council as its attorney to do all things the Owner is capable of doing for the purposes of giving effect to this agreement or necessary to give effect to any of the duties or obligations imposed on the Owner pursuant to this agreement and hereby authorises the Council to do and will ratify whatever the Council lawfully shall do or cause to be done under this power of attorney.

9. NOTICES

Any notice required under this agreement may be served by delivering it to the Owner at its last known address within the rating records of the Council. Any notice posted shall be deemed to have been served at the expiration of twenty-four hours from the time of posting.

10. SUCCESSORS BOUND

Without limiting the operation or effect which this agreement has apart from this sub-clause, the Owner shall ensure that its successors:

- 10.1 Words denoting the singular number shall include the plural and vice versa.
- 10.2 Execute under the seal a deed agreeing to be bound by the terms of this agreement.

The obligation imposed on the Owner by Clause 5 of this Agreement cease for such time as there appears in the register book at the office of the Registrar of Titles a memorandum of this agreement.

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11. RELEASE

On a person ceasing to own any part of the land that person shall be released from the obligations of that person as an owner under this agreement, save to the extent that any right has arisen against such owner prior to such cessation.

12. FURTHER DOCUMENTATION AND ACTION

Each of the parties shall sign and execute all such further documents and deeds and do all acts and things as the other party reasonably shall require for giving effect to this agreement.

13. DISPUTE

Should any dispute or difference arise between the parties with respect to the interpretation of this agreement, its application, such dispute or difference shall be determined by a person appointed by the parties by agreement, or failing agreement, by a person qualified in the area of the dispute or difference and appointed by the Secretary as defined in the Act.

EXECUTED AS A DEED

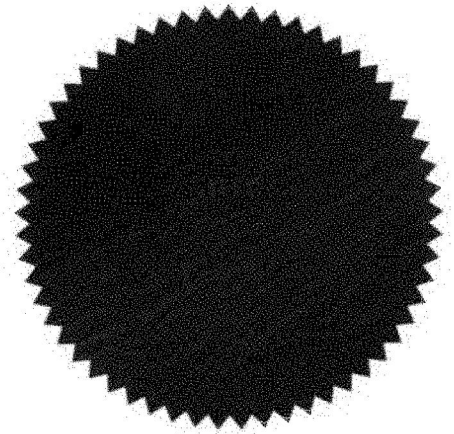
The COMMON SEAL of the MOYNE)
SHIRE COUNCIL was hereunto affixed)
in the presence of:)

[Redacted signature]

Chief Executive Officer

[Redacted signature]

Councillor



SIGNED BY:

[Redacted signature]

in the presence of:

)
)

[Redacted signature]

(owner)

[Redacted signature]

(witness)

92C Liebig Street, Warrnambool 3280
A person holding a current licence
under the Conveyancers Act 2006 (Vic)
Licence No 000753L