PLANNING AND ENVIRONMENT REGULATIONS 2015 - FORM 18

NOTICE OF PROPOSAL TO END AN AGREEMENT

Responsible authority: Moyne Shire Council

Section 178C

DESCRIPTION OF THE LAND AFFECTED BY THE AGREEMENT:	Gladmans Road Warrong Lot 2 PS614169K (Vol 9433 Folio 023)
DESCRIPTION OF THE PROPOSAL:	End Section 173 Agreement - Instrument AF485478
WHO INITIATED THE PROPOSAL?	The proposal was initiated by Lifestyle Town Planning, who applied to the responsible authority for agreement to the proposal under section 178A of the **Planning and Environment Act 1987**. In accordance with section 178A(3) of the **Planning and Environment Act 1987**, the responsible authority has notified the applicant that it agrees in principle to the proposal.
The application reference number is:	S173-26-004
You may look at the proposal and any documents that support the proposal at the office of the responsible authority:	Moyne Shire Council – Port Fairy Office Planning Department, Princes Street, PORT FAIRY, 3284. OR – View proposed plans here www.moyne.vic.gov.au/planningnotices

This can be done during office hours and is free of charge.

Any person who is given notice of the proposal, or who ought to have been given notice of the proposal under section 178C of the **Planning and Environment Act 1987**, may object to, or make any other submission in relation to, the proposal.

The responsible authority will not make a decision on the proposal under section 178E of the **Planning and Environment Act 1987** before:	**Wednesday 18 November 2026**

If the responsible authority decides to End the agreement, or refuses to End the agreement, the responsible authority will give notice of its decision to any person who made an objection.

In most cases, the responsible authority will give notice of its decision to any person who made a submission.

If the responsible authority proposes to End the agreement in a manner that is substantively different from the proposal, the responsible authority will give notice of the new proposal to all parties to the agreement and any other persons to whom the responsible authority considers the decision to End the agreement may cause material detriment

Application Form for Amending or Ending a Section 173 Agreement

For the purposes of section 178A(2) of the Act, an application for agreement to a proposal to amend or end an agreement must be in writing and must -

(a) state the applicant's name, address and phone number; and
(b) clearly identify the agreement proposed to be amended, ended or ended in part; and
(c) in the case of a proposal to amend an agreement, clearly describe -
  (i) the proposed amendment; and
  (ii) the purpose of the proposed amendment; and
  (iii) any change in circumstances that necessitates the proposed amendment; and
(d) in the case of a proposal to end an agreement, clearly describe -
  (i) if the proposal is to end the agreement in part, the part of the agreement to be ended; and
  (ii) if the proposal is to end the agreement as to any part of the land, the part of the land to be removed from the application of the agreement; and
  (iii) why the agreement or that part of it is no longer required.

Applicant Details

Name of applicant [redacted]

Name of applicant's agent [redacted] **Lifestyle Town Planning**

Postal address [redacted]

Email address [redacted]

Contact phone [redacted]

Have you discussed the agreement with a Council Officer? Yes (Emma Leech)

Section 173 Agreement Details

Reference and Date of Section 173 Agreement **AF485478U 16/11/2007**

Planning Permit Number that required the Section 173 Agreement **PL07/357**

Address of Subject Land **Gladmans Road Warrong Vic 3283**

Current Title details for all Land (incl. Volume and Folio) **Lot 2 PS614169K VOL 11060 FOL 390**

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Please Detail

Detail the nature of the change sought to the Section 173 Agreement: (e.g. Amend or End)

Refer to planning report

Reason for the proposed change to the Section 173 Agreement

Resubdivsion of land

Has written consent to the proposed change been obtained from parties to the Section 173 Agreement?

Yes

Declaration

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 application.

Signature [redacted] Date 07/09/2

Return completed form to:

Moyne Shire Council
Po Box 51
Port Fairy VIC 3284

Fee $768.50*

* 2026/2027 fees and charges, subject to change with new financial year.

The information requested on this form will be used solely by the Moyne Shire Council. We will not use your personal information for any other purpose without first seeking your consent, unless authorized or required by law. The Council may not be able to process your request unless sufficient information is given. You may apply to the Moyne Shire Council for access to and/or amendment of the information on 03 5568 0555

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Application by Responsible Authority, Relevant Authority, Referral Authority or Council for the making of a recording of an agreement

Section 181(1) Planning & Environment Act 1987

OFFICE OF TITLES C.D. VICTORIA

AF485478U
22/11/2007 $97 173

Lodged by:
Name: DWYER ROBINSON PTY LTD
Phone: 03 5562 1044
Address: 95 Kepler Street, Warrnambool 3280
Ref: ATB/70821
Customer Code: 0761W

The authority or council having made an agreement requires a recording to be made in the Register for the land.

Land:

Certificate of Title Volume 9433 Folio 023

Authority or council:

Moyne Shire Council
Princes Street, Port Fairy 3284

Section and Act under which agreement made:

Section 173 of the Planning and Environment Act 1987

A copy of the agreement is attached to this application

Dated: 16th November 2007

Signed:
(official of authority or council – specify office held)

Signature for the Responsible Authority:

Name of Officer:

Office Held:

[redacted]

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AGREEMENT PURSUANT TO SECTION 173 OF THE PLANNING & ENVIRONMENT ACT 1987

THIS AGREEMENT is made the 16th day of November 2007

BETWEEN: -

THE RESPONSIBLE AUTHORITY: **MOYNE SHIRE COUNCIL**
of Princess Street, Port Fairy 3284
("the Council")

THE OWNERS: [redacted]
both of 999 Centre Road, Cooriemungle 3268
("the Owners")

AFFECTED LAND: Certificate of Title Volume 9433 Folio 023
("the Land")

WHEREAS: -

1. The said [redacted] and [redacted] are the Registered Proprietors of the Land described in Certificate of Title Volume 9433 Folio 023 which land is situated at 101 Gladmans Road WARRONG ("the affected land") which is being subdivided in Plan of Subdivision No. 614169K ("the Plan").

2. The provisions of the Moyne Planning Scheme ("the Scheme") affect the Land.

3. The Council is the responsible authority under the Planning & Environment Act 1987 ("the Act") for the purposes of the Scheme.

4. On 5th October 2007 Planning Permit No. PL07/357 was issued by the responsible authority permitting a two (2) lot subdivision subject to the conditions required by the responsible authority.

5. For the purpose of complying with Condition 2, which is required by the responsible authority, the Owners seek to enter into a Section 173 Agreement with the Council. The Section 173 Agreement shall be registered on the Titles to the affected land.

6. The Council and the Owners have agreed that without limiting or restricting their respective powers to enter into this Agreement in so far as it can be so treated, this Agreement is made pursuant to Section 173 of the Act.

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NOW THIS AGREEMENT WITNESSETH as follows: -

1. This Agreement is made pursuant to Section 173 of the Act.

2. This Agreement shall come into force upon execution by both parties and registration of the Plan of Subdivision.

3. **INTERPRETATION**

In this Agreement unless inconsistent with the subject matter:

3.1 "**The Owners**" shall mean the person or persons entitled from time to time to be Registered by the Registrar of Titles as Proprietor or Proprietors of an Estate in fee simple of the affected land and shall also be deemed to include their successors, assigns and transferees and the obligations imposed on and assumed by the Owners shall also be binding on their successors, assigns, transferees, mortgagees and any person obtaining possession of the whole or part of the affected land (hereinafter called "the successors") as if each of those successors had separately executed this Agreement.

3.2 "**Permit**" shall mean and include Planning Permit No. PL07/357 issued by the Moyne Shire on 5th October 2007.

3.3 "**Planning Approval**" shall mean and include any planning permit issued in accordance with the Act.

4. **SUCCESSORS IN TITLE**

Without limiting the operation or effect which this Agreement has, the Owners shall, until such time as the memorandum of this Agreement is Registered on the Titles to the affected land, ensure that their successors in Title: -

4.1 Give effect to and do all acts and sign all documents as to require them to give effect to this Agreement

4.2 Execute under seal a Deed agreeing to be bound by the terms of this Agreement and thereupon this Agreement shall continue as if executed by such successors as well as by the parties hereto as if the successors name appeared in each clause in which the names of the Owners appear and in addition to the names of the Owners

5. **GENERAL**

5.1 Any notice hereunder may be served by delivering the same to the Owners at their address as aforesaid or by putting same into the post in a prepaid and certified envelope addressed to the Owners at that address and any notice so posted shall be conclusively deemed to have been served at the expiration of forty-eight (48) hours from the time of posting

5.2 Each of the parties hereto shall respectively sign and execute all such further documents and deeds and do all acts and things as the other parties shall reasonably require for completely effecting this Agreement

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5.3 Any time or other indulgence granted by the Council to the Owners or any variation of the terms and conditions of this Agreement or any judgement or order obtained by the Council against the Owners will not in any way amount to a waiver of the rights or remedies of the Council in relation to the terms of the Agreement

5.4 If any provision of this Agreement is not valid it will not affect the validity of the other provisions of this Agreement but shall be read down or severed so as to leave the other provisions of this Agreement in effect

6. OWNERS' COVENANTS

The Owners agree and covenant that: -

(a) That the land will not be further subdivided (other than the subdivision approved by Planning Permit PL07/357), except where all lots in the subdivision are equal to or greater than the minimum lot size, specified in the Moyne Planning Scheme.

(b) That any dwelling proposed to be constructed on Lot 2 of the subdivision shall only be permitted where it is required for the ongoing management and operation of a viable and legitimate farming or agricultural activity to be carried out on the said lot.

7. REGISTRATION

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

8. DISCLOSURE

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

9. COSTS OF AGREEMENT

The Owners 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 of it or in furtherance of it.

10. NOTICES

Any notice required under this Agreement may be served by delivering it to the Owners at their 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.

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.

dwyerROBINSON PTY LTD
Lawyers
95 Kepler Street, Warrnambool Vic 3280

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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 dete[redacted] person appointed by the parties by agreement, or failing agreement, by a [redacted] the area of the dispute or difference and appointed by the Secretary as [redacted]

IN WITNESS WHEREOF the parties hereto have set their hands and se[redacted] hereinbefore written

THE COMMON SEAL of the **MOYNE SHIRE COUNCIL** was hereunto affixed this 16 day of November 2007 in the presence of:)

[redacted]

Councillor

Print Name: [redacted]

[redacted]

Chief Executive Officer

Print Name: [redacted]

SIGNED SEALED & DELIVERED by the said **WILLIAM EVERARD JOSEPH KAMPSCHOER** in the presence of:

[redacted]

Witness [redacted]

[redacted]

SIGNED SEALED & DELIVERED by the said **CHRISTINE LEANNE BELL** in the presence of [redacted]

Witness .....

[redacted]

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