

Application for Planning Permit for a Subdivision

Supplied by	Angela Plazzer			
ubmitted Date 11/01/2024				
Modified by	Angela Plazzer (Ferguson Perry Surveying Pty Ltd)			
Modified Date	06/09/2024	-		
Application Details				
Application Type	Planning Permit for a Subdivision			
	Version 2	Version 2		
Applicant Reference Number	23H0159			
Application name or Estate name	Peter Westley			
Responsible Authority Name	West Wimmera	Shire Council		
Responsible Authority Reference Number(s)	PA1171 S212846C			
SPEAR Reference Number				
Application Status	Lodged with Re	esponsible Authority		
Planning Permit Issue Date	NA			
Planning Permit Expiry Date	NA			
The Land				
Primary Parcel	153 VIVIANS ROAD, KANIVA VIC 3419 Lot 1/Plan TP411476 SPI 1\TP411476 CPN 1017383			
	Zone:	35.07 Farming		
Parcel 2	153 VIVIANS ROAD, KANIVA VIC 3419 Lot 1/Plan TP245133 SPI 1\TP245133 CPN 1017383			
	Zone:	35.07 Farming		
The Proposal				
Plan Number	(Not Supplied)			
Number of lots	2			
Proposal Description	 2-lot subdivision and creation of carriageway easement 			
Estimated cost of the development for which a permit is required	\$ 0			
Existing Conditions				
-	The site is used agricultural enter	d for 2 dwellings and a mixed erprise.		
Existing Conditions Description	agricultural ente The proposal de on title, such as 173 agreement			
Existing Conditions Existing Conditions Description Title Information - Does the proposal breach an encumbrance on Title? Applicant Contact	agricultural ente The proposal de on title, such as 173 agreement	erprise. oes not breach an encumbrance s a restrictive covenant, section or other obligation such as an		

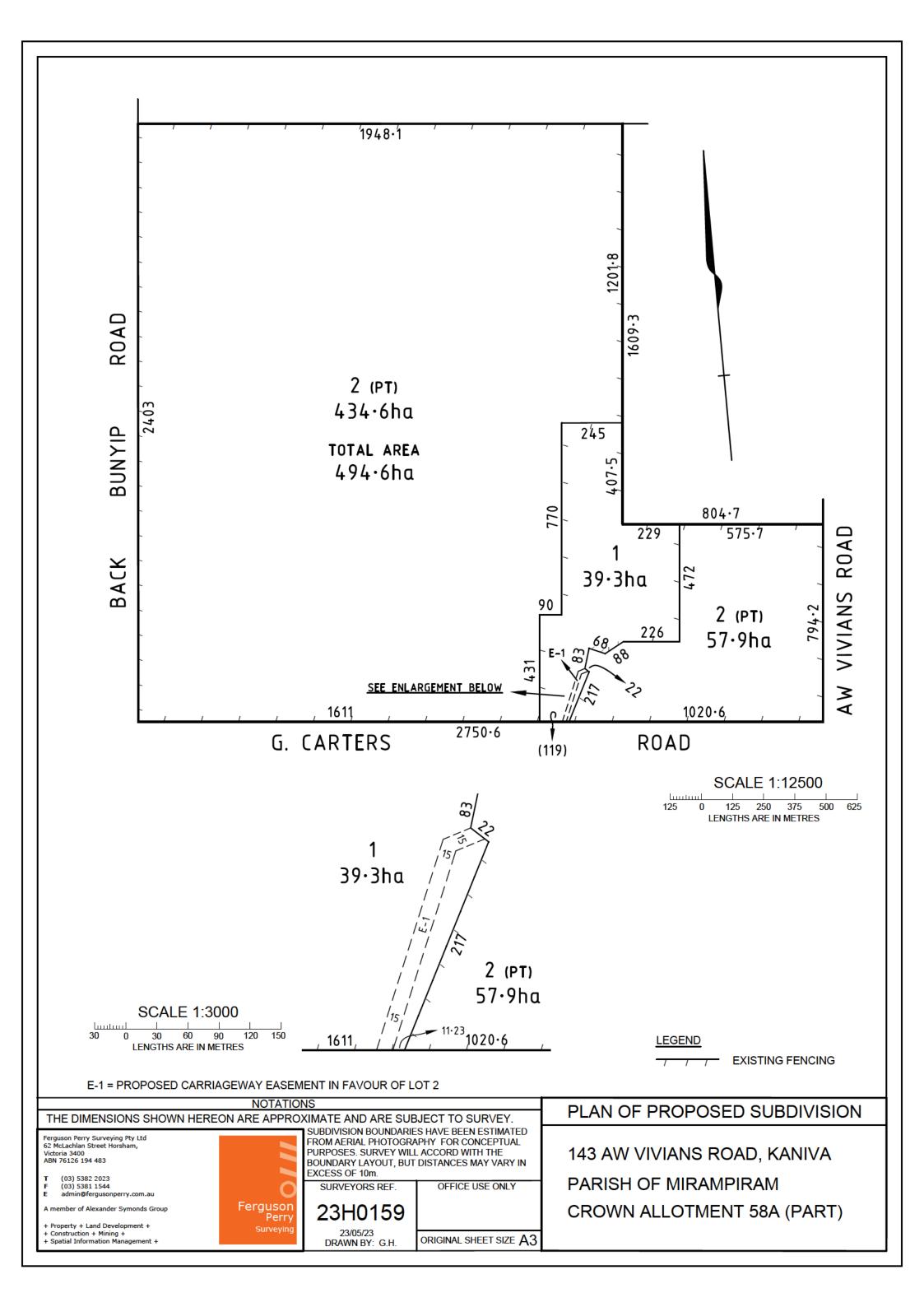
Ferguson Perry Surveying Pty Ltd 62 McLachlan Street, Horsham, VIC, 3400 Business Phone: 53822023 Email: aplazzer@fergusonperry.com.au

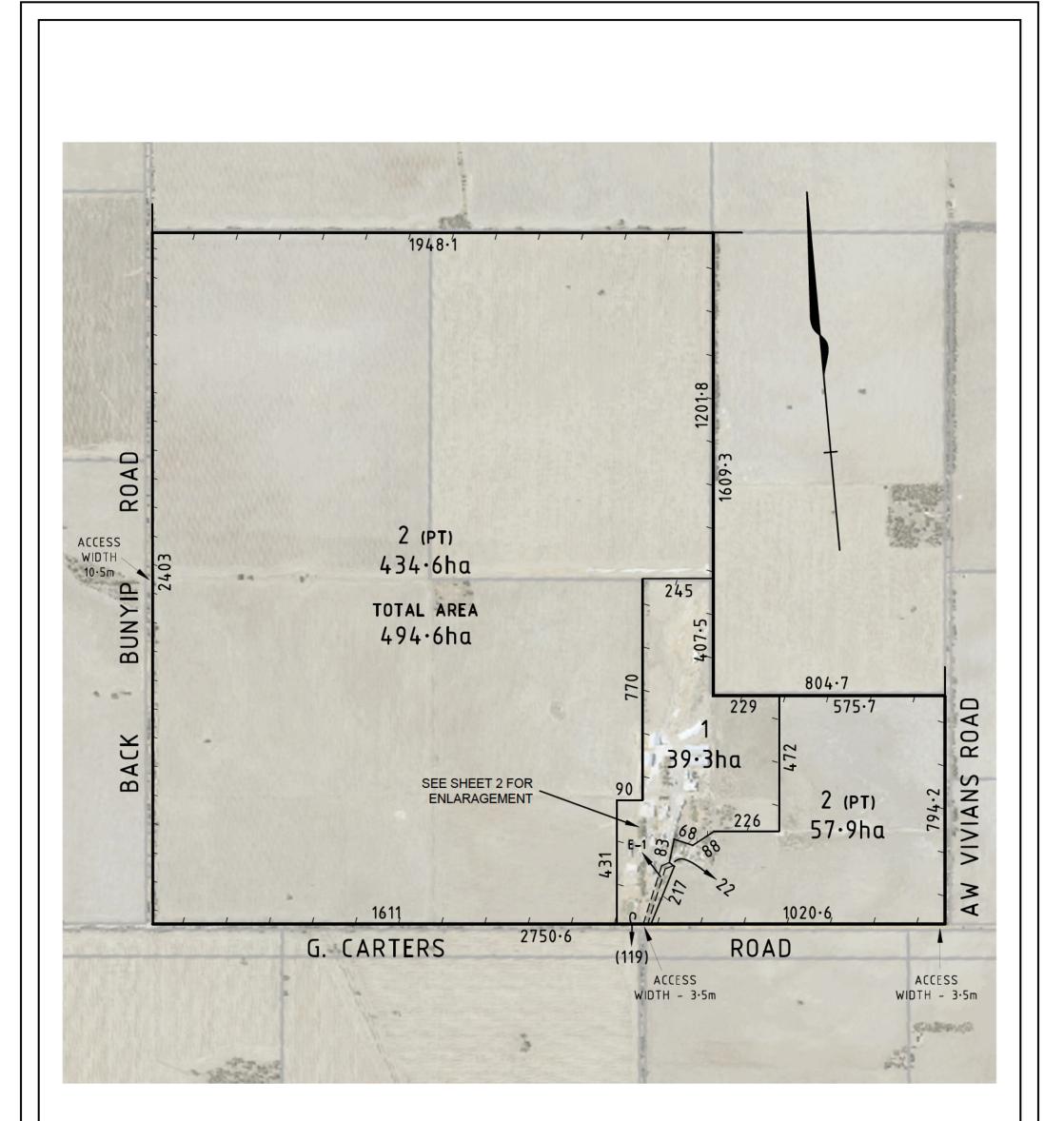
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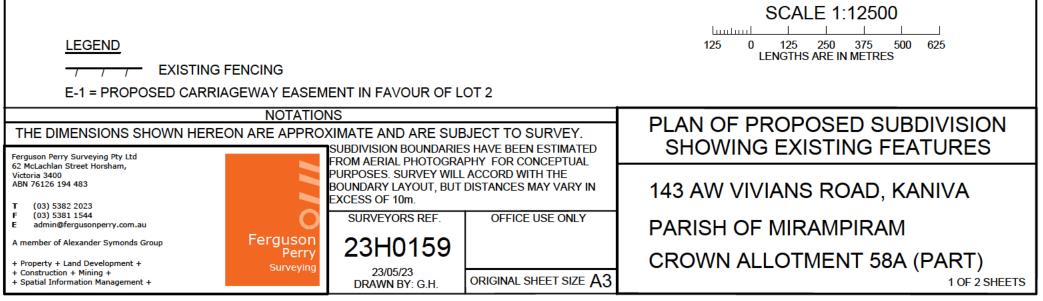
Applicant Applicant	
Owner	
Owner	(Owner details as per Applicant)
Declaration	
	I, Angela Plazzer, declare that the owner (if not myself) has been notified about this application.
	I, Angela Plazzer, declare that all the
	information supplied is true.
Authorised by	Angela Plazzer

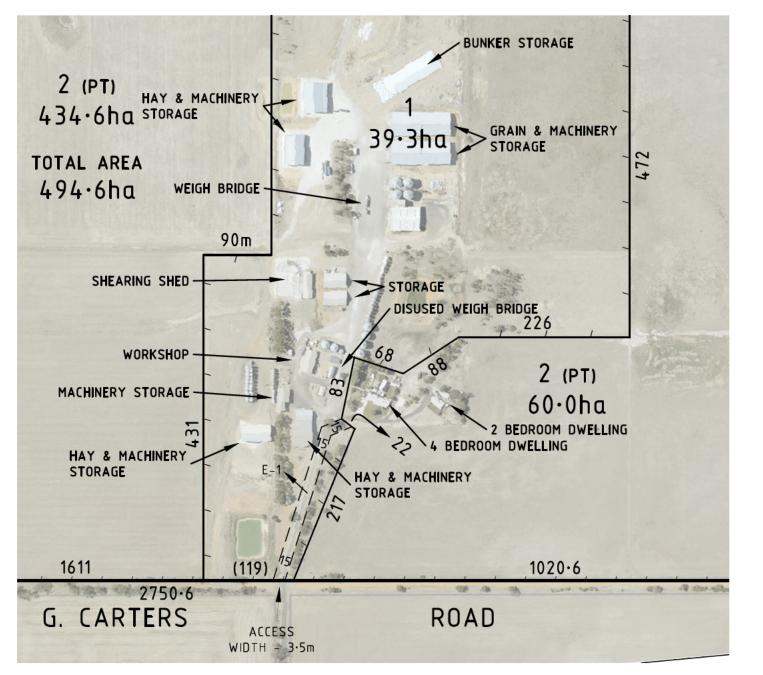
SPEAR S212846C

Organisation







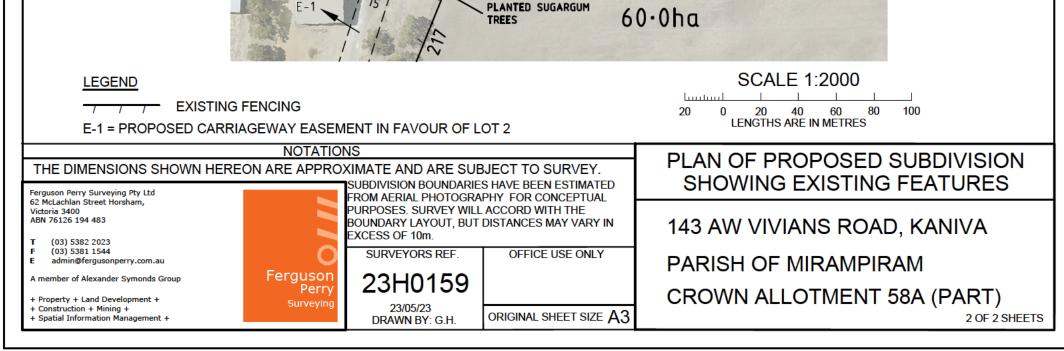


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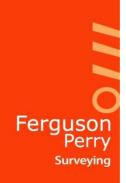
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50 100 150 200 250 LENGTHS ARE IN METRES 226 PLANTED PINE TREES EFFLUENT DISPOSAL AREA 39·3ha EFFLUENT DISPOSAL 10.4m 4 BEDROOM DWELLING AREA NEW FENCE TO BE ERECTED 2 BEDROOM DWELLING SEPTIC TANK 2 (PT)



Ferguson Perry Surveying Pty Ltd ABN 76 126 194 483 + 62 McLachlan Street Horsham VIC 3400 + **T** (03) 5382 2023 + **F** (03) 5381 1544 + **E** admin@fergusonperry.com.au

Our Ref: 23H0159 Your Ref:



PLANNING REPORT

Proposed 2-lot subdivision and creation of carriageway easement at 153 Vivians Road, Kaniva

SUPPORTING DOCUMENTS IN SPEAR

- Plan of Proposed Subdivision
- Plan of Proposed Subdivision Showing Existing Features
- Copy of Title Search
- Planning Property Report

Our reference number	21H0512
Date	06/09/2024
Version	3.0
Prepared by	Angela Plazzer, BUrbRegEnvPlan, MPIA Planning Manager/Office Manager, Ferguson Perry Surveying Pty Ltd

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1. Introduction

This application seeks a planning permit for a 2-lot subdivision and creation of a carriageway easement of Lot 1 on TP245133 and Lot 1 on TP411476 at 153 Vivians Road, Kaniva. The land is described in Certificates of Title Volume 05722 Folio 308.

The land is zoned Farming Zone (FZ) and is not affected by any overlays. This report provides a response to the requirements of the FZ and the Decision Guidelines of Clause 65 as well as relevant policies of the West Wimmera Planning Scheme.

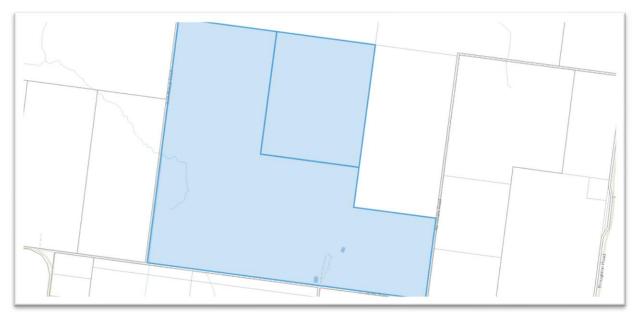


Figure 1 Subject site outlined in blue (DEECA)

2. Application details

Land description	Lot 1 on TP245133
	Lot 1 on TP411476
Address:	153 Vivians Road, Kaniva
Proposal:	2-lot subdivision
Scheme:	West Wimmera Planning Scheme
Zone:	Farming Zone
Overlays:	None

3. Site and surrounds



Figure 2 Aerial photo of site (DEECA)

The subject site comprises Lot 1 on TP245133 and Lot 1 on TP411476 at 153 Vivians Road, Kaniva. The site has a total area of approximately 531.8ha and is irregular in shape. The land on the site is used for two dwellings, which are both in good habitable condition, and a mixed agricultural enterprise comprising the following:

- Large commercial grain storage facility
- Trucking depot for bulk haulage
- Shearing shed and yards
- Workshops and machinery sheds
- Commercial weighbridge

These commercial activities have been carried out on the site for around 45 years. The grain storage facility has capacity for up to 20,000 tonne and is mostly used to store grain grown by the proponents who farm around 20,000 acres of land in total. The truck depot is used for 5 b-double trucks of which 3 are based in Horsham, 1 in Murray Bridge and 1 in Kaniva. The trucks are not active on the site every day or every week. They are most active during harvest periods when there would be typically 1-2 truck movements a day.

There are two access points into the site from G Carters Road in the south and one access point from Back Bunyip Road in the west.

The site is surrounded by farmland and abuts lots containing farmland to the north, G Carters Road to the south, Aw Vivians Road to the east and Back Bunyip Road to the west. The broader area surrounding the site comprises land in the Farming Zone (FZ) mostly used for cropping. Lots vary in shape and size up to around 580ha.

4. Proposal

The application proposes to re-subdivide the two existing lots as the future succession and business planning of the agricultural enterprise requires the large commercial grain storage facility, trucking depot weighbridge and other agricultural infrastructure to be contained on a separate allotment to the farmland.

It is proposed that Lot 1 will have an area of 39.3ha and will contain all of the agricultural infrastructure outlined above as well as some additional area to allow for future expansion. Access to Lot 1 will be taken from existing access points to G. Carters Road in the south.

It is proposed that Lot 2 will have an area of 494.6ha in two pieces of 434.6ha and 57.9ha respectively. Lot 2 will contain both dwellings and all of the farmland used for cropping. The western piece of Lot 2 will take access from Back Bunyip Road and eastern piece will take access from G. Carters Road.

A carriageway easement is also proposed to be created on Lot 1 in favour of Lot 2 to enable access to the dwellings via the existing driveway and crossover to G. Carters Road in the south. By creating a carriageway easement, a new crossover or accessway will not be required and consequential loss of native vegetation and productive agricultural land can be avoided. As there is a large shoulder provided on the sides of the accessway within the carriageway easement and relatively few truck movements on the site, it is not anticipated that there will be any risk of obstruction or inconvenience arising from the shared arrangement.

The application does not propose any new development and no vegetation will be removed to facilitate the proposed subdivision nor will there be any consequential native vegetation loss as the proposed boundaries will follow existing fence lines. Both proposed lots will be serviced by existing infrastructure and utilities. Please see the Plan of Proposed Subdivision attached with this application on SPEAR.

5. Permit triggers

A permit is required under Clause 35.07-3 of the FZ to subdivide land and Clause 52.02 to create an easement.

6. Planning provisions

Zoning

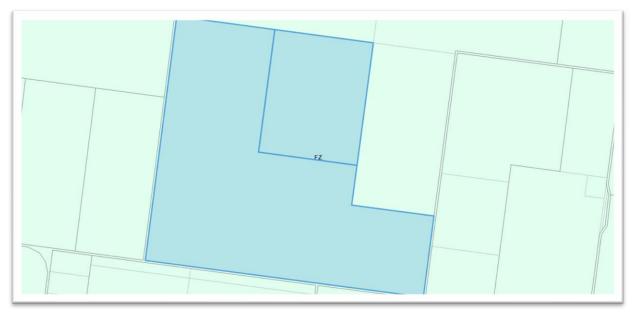


Figure 3 Zoning map (DEECA)

Farming Zone

The purpose of the Farming Zone outlined at Clause 35.07 is:

- 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.

<u>Comment</u>

In keeping with the purpose of the FZ, the proposed subdivision will support the continued long-term use of the land for mixed agricultural uses and will facilitate the future succession of the agricultural enterprise, which in turn will support the retention of employment and population in the area.

Lot 1 does not minimum lot size of 80ha as specified in the schedule to the FZ however a permit may be granted as the subdivision is the re-subdivision of existing lots and the number of lots is not increased. A response to the Decision Guidelines of the FZ is in Table 1.

Table 1 Farming Zone Decision Guidelines

Issue	Comment
General issues	As discussed in the body of this report,
 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 	the proposal is in line with the directions set out in the West Wimmera Planning Scheme, particularly Clause 14.01-1S (Protection of agricultural land), Clause 14.01-2S (Sustainable agricultural land use) and Clause 14.01-2R (Agricultural productivity - Wimmera Southern Mallee). It is understood that there is no strategy or plan associated with the Wimmera Regional Catchment Strategy which is relevant to the consideration of the proposed subdivision. The proposal will not have any adverse impact on adjoining and nearby agricultural land uses and both proposed lots will be serviced by existing
	infrastructure. Two existing septic systems will service the existing dwellings.
 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 proposed subdivision will support the continued use of the land on both lots for mixed agricultural uses alongside the existing dwellings on Lot 2. The proposal will not limit the operation of adjoining and nearby agricultural uses and the capacity of the land to sustain agricultural uses and the agricultural qualities of the land will not be diminished by the proposal. An integrated land management plan has
 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. 	not been prepared for the site however the proposal is in line with the business and succession plan of the agricultural enterprise.
 Dwelling issues Whether the dwelling will result in the loss or fragmentation of productive agricultural land. Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation. 	The site contains two existing dwellings which will be contained on Lot 2 and will not adversely affect or be adversely affected by any agricultural activities on Lot 1, which are relatively low impact in nature and will be separated by approximately 25m. Planted trees and fencing also provide a buffer between the uses. The proposal will not lead to a

 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 	concentration or proliferation of dwellings in the area.	
 for agriculture. Environmental issues The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality. The impact of the use or development on the flora and fauna on the site and its surrounds. The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area. The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation. 	The physical features and resources of the area, including soil and water quality, will not be impacted by the proposed subdivision. The existing native vegetation on the site will be retained and there will be no negative impacts on existing flora and fauna as a result of the proposal.	
 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. 	No new development is proposed, and all existing agricultural buildings will be contained on Lot 1. The proposed subdivision will have minimal impact on the appearance of the area as it will mostly follow existing fence lines. Both lots will make use of existing infrastructure and no traffic management measures will be required.	

7. Planning Policy Framework

The proposed subdivision aligns with the following policies outlined in the Planning Policy Framework of the West Wimmera Planning Scheme:

Clause 02.03-2 (Environmental and Landscape Values) states that the Shire faces significant environmental challenges due to the decline and fragmentation of native vegetation, leading to loss of biodiversity and exacerbating land and water degradation issues. Extensive agricultural clearing has reduced natural vegetation cover, with a risk of further loss if scattered farm trees disappear. The policy prioritizes conserving the Shire's diverse natural environment as a strategic direction. In accordance with this policy, the proposed subdivision has been designed to avoid any impacts on native vegetation.

Clause 02.03-4 (Natural Resource Management) states that agriculture is the dominant land use and key economic driver in the West Wimmera Shire and outlines strategic directions which include ensuring that that dwellings in rural areas do not adversely affect agricultural uses and discouraging fragmentation and the creation of small rural lots. The proposed subdivision does not conflict with the strategic directions outlined in this policy as it will not adversely affect any agricultural uses and will only create a small lot for the existing dwellings which is permissible under the provisions of the FZ.

Clause 12.01 (Biodiversity) includes the following sub-clauses:

- Clause 12.01-1S (Protection of biodiversity)
- Clause 12.01-1R (Protection of biodiversity Wimmera Southern Mallee)
- Clause 12.01-1L (Protection of biodiversity West Wimmera)
- Clause 12.01-2S (Native vegetation management)

The above clause and sub-clauses objectives seek to ensure that there is no net loss to biodiversity because of the removal, destruction or lopping of vegetation from the state and local biodiversity. The main strategy is to avoid the removal, destruction, or lopping of native vegetation where possible.

The proposed subdivision has considered the above sections of the West Wimmera Planning Scheme and submits no native vegetation will be either directly or indirectly removed, destroyed or lopped as a result of this application.

Clause 14.01-1S (Protection of agricultural land) seeks to protect Victoria's agricultural base by preserving productive farmland. The proposed subdivision is consistent with this policy as all productive farmland will be retained on Lot 2 while all of the other agricultural infrastructure will be retained on Lot 1.

Clause 14.01-2S (Sustainable agricultural land use) encourages sustainable agricultural land use through strategies which include ensuring that agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources and assisting genuine farming enterprises to embrace opportunities and adjust flexibly to market changes. In accordance with the policy, the

proposed subdivision will ensure that the long-term agricultural use of the land on both lots will continue in line with the farm succession plan.

Clause 14.01-2R (Agricultural productivity - Wimmera Southern Mallee) seeks to provide support for local industries, activities and infrastructure that complement and enhance agriculture in the region. The proposed subdivision is consistent with this policy as it will support an existing agricultural operation in executing its long-term plans for succession.

8. Clause 65 Decision Guidelines

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. 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 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.

<u>Comment</u>

All relevant clauses of the West Wimmera Planning Scheme have been addressed and the proposal is consistent with the objectives of planning in Victoria as well as the purpose and requirements of the FZ. The proposal will have no impact on the amenity of the area, the natural physical features of the site, native vegetation or the quality of water and stormwater within and exiting the site. The site is located within a Designated Bushfire Prone Area and the land will continue to be managed to mitigate the risk of bushfire to an acceptable level.

Clause 65.02 (Approval of an application to subdivide land)

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

• The suitability of the land for subdivision.

- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of *further lots*.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The area and dimensions of each lot in the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of *fire*.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

<u>Comment</u>

The land is suitable for the proposed subdivision as the proposed lots will be serviced by existing infrastructure and will allow for the continued use of the land for agriculture. The proposed subdivision is required to allow for the successful succession of the agricultural enterprise and will not adversely impact on any existing or future use and development on nearby land. The removal of native vegetation is not required and there will be no increase in the risk of spread of fire or threats to safety as a result of the proposal.

9. Conclusion

The proposal will have no foreseeable negative impacts on the surrounding land or the physical features of the site and will allow for the fair, sustainable and economic use of the land for agriculture into the future. On this basis, the proposed subdivision and creation of easement should be supported by West Wimmera Shire Council subject to fair and reasonable conditions.

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 05722 FOLIO 309 Produced 11/01/2024 11:14 AM

LAND DESCRIPTION

Lot 1 on Title Plan 411476T (formerly known as part of Crown Allotment 58A Parish of Mirampiram). PARENT TITLE Volume 03511 Folio 129 Created by instrument 1476088 20/02/1931

REGISTERED PROPRIETOR

Estate Fee Simple Sole Proprietor

AC938736D 23/06/2004

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AD463065N 23/02/2005 COMMONWEALTH BANK OF AUSTRALIA

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP411476T FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

ADMINISTRATIVE NOTICES

NIL

eCT Control 15940N COMMONWEALTH BANK OF AUSTRALIA Effective from 23/10/2016

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 05722 FOLIO 308 Produced 11/01/2024 11:14 AM

LAND DESCRIPTION

Lot 1 on Title Plan 245133A (formerly known as part of Crown Allotment 58A Parish of Mirampiram). PARENT TITLE Volume 03511 Folio 129 Created by instrument 1476087 20/02/1931

REGISTERED PROPRIETOR

Estate Fee Simple Sole Proprietor

AC938736D 23/06/2004

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AD463065N 23/02/2005 COMMONWEALTH BANK OF AUSTRALIA

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DIAGRAM LOCATION

SEE TP245133A FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

ADMINISTRATIVE NOTICES

NIL

eCT Control 15940N COMMONWEALTH BANK OF AUSTRALIA Effective from 23/10/2016

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TITLE PLAI	N		EDITION 1	TP 411476T
Location of Land				Notations
Township: Section:	RAMPIRAM \ (PT)		IN THE MALLEE COUNTRY F	FOR THE PURPOSES OF THE LAND ACT.
	L 5722 FOL 309 FEET		ANY REFERENCE TO MAP IN THIS TITLE PLAN	THE TEXT MEANS THE DIAGRAM SHOWN ON
	Description o	of Land / Easement Information	en Non normanistic contraction and and and and and and and and and an	THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT COMPILED: 18/04/2000 VERIFIED: GB
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LENGTHS ARE IN LINKS	Metres = 0.3048 x Feet Metres = 0.201168 x Links			Sheet 1 of 1 she

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Location of Land Parish: Township: Section: Crown Allotment:	MIRAMPIRAM 58A (PT)	IN THE	MALLEE COUNTRY FO	Notations R THE PURPOSES OF THE LAND ACT.
Crown Portion: Last Plan Reference Derived From Depth Limitation:			FERENCE TO MAP IN TH	E TEXT MEANS THE DIAGRAM SHOWN ON
j	Description of Land / Eas	ement Information		THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT COMPILED: 13-12-1999 VERIFIED: GB
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	Go	136 W	ROAD	
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LENGTHS ARE I	N Metres = 0.3048 x Feet Metres = 0.201168 x Links			Sheet 1 of 1 sheets