

# Assessment Report – PInApp19/212

## Application Details:

<i>Application Details</i>	
<b>Planning Application Number:</b>	PInApp19/212
<b>Proposal</b>	Boundary realignment.
<b>Application lodged</b>	08/11/2019.
<b>Notice and submissions</b>	Yes, letter to five neighbours. No objections were received.
<i>Property Details</i>	
<b>Property Address</b>	1350 Allans Lane, Meadow Creek.
<b>Land Description</b>	Lots 1 & 2 TP 377609M MOYHU.
<b>Restrictive Covenants</b>	None.
<b>Existing Use</b>	Single dwelling and existing agricultural enterprise.
<b>Land Area</b>	Lot 1 & Lot 2 total=57.57 hectares.
<i>Planning Provisions</i>	
<b>Planning Policy Framework</b>	Clause 11.01-1R Settlement – Hume Clause 12.03-1S River corridors, waterways, lakes and wetlands Clause 13.07-1S Land use compatibility Clause 14.01-1S Protection of agricultural land Clause 14.01-2R Agricultural productivity - Hume Clause 14.02-1S Catchment planning and management Clause 17.01-1R Diversified economy - Hume
<b>Local Planning Policy Framework</b>	Clause 21.01-2 Key influences and issues Clause 21.02-1 Settlement network Clause 21.03-3 Rivers Clause 21.05-1 Rural land use and agriculture Clause 21.05-2 Water Clause 21.12 Reference documents Clause 22.01-2 Subdivision in rural areas
<b>Zone</b>	Clause 35.07 Farming Zone
<b>Overlays</b>	Nil.
<b>Particular Provisions</b>	Not applicable.
<b>General Provisions</b>	Clause 65.02 Decision Guidelines
<i>Permit Triggers</i>	
<b>Farming Zone</b>	Clause 35.07-3 a permit is required to subdivide land.
<i>Other</i>	

<b>Area of Aboriginal Cultural Heritage Sensitivity</b>	Yes, application for boundary realignment exempt.
<b>Special Water Supply Catchment</b>	Yes.
<b>Agricultural Versatility</b>	High.

## Subject site & locality map

The subject site is located at 1350 Allans Lane, Meadow Creek. The property is made up of two allotments; Lot 1 TP377609M being 47.3 hectares and Lot 2 TP377609M being 10.2 hectares. Lot 1 currently contains all agricultural associated shedding and the dwelling that is located in the south-east of the site where access is provided on to Meadow Creek Road. A mixture of non-native and native trees is scattered around the dwelling and along Sheep Station Creek that flows through from the north-west of the site to the south-east of the site. The site is currently used for animal grazing with a dwelling located in the south-east. The Vegetation Protection Overlay has been applied along the eastern and western property boundaries to protect significant roadside and boundary vegetation.

The surrounding area is comprised of large agricultural allotments where on a site visit activities such as animal grazing and cattle feedlots were observed. There are very few dwellings along Meadow Creek Road and Box Forest Road. The site is located approximately 8 kilometres to the north-east of the township of Moyhu, across the King River. To the east and south-east is a significant sized area of state forest.

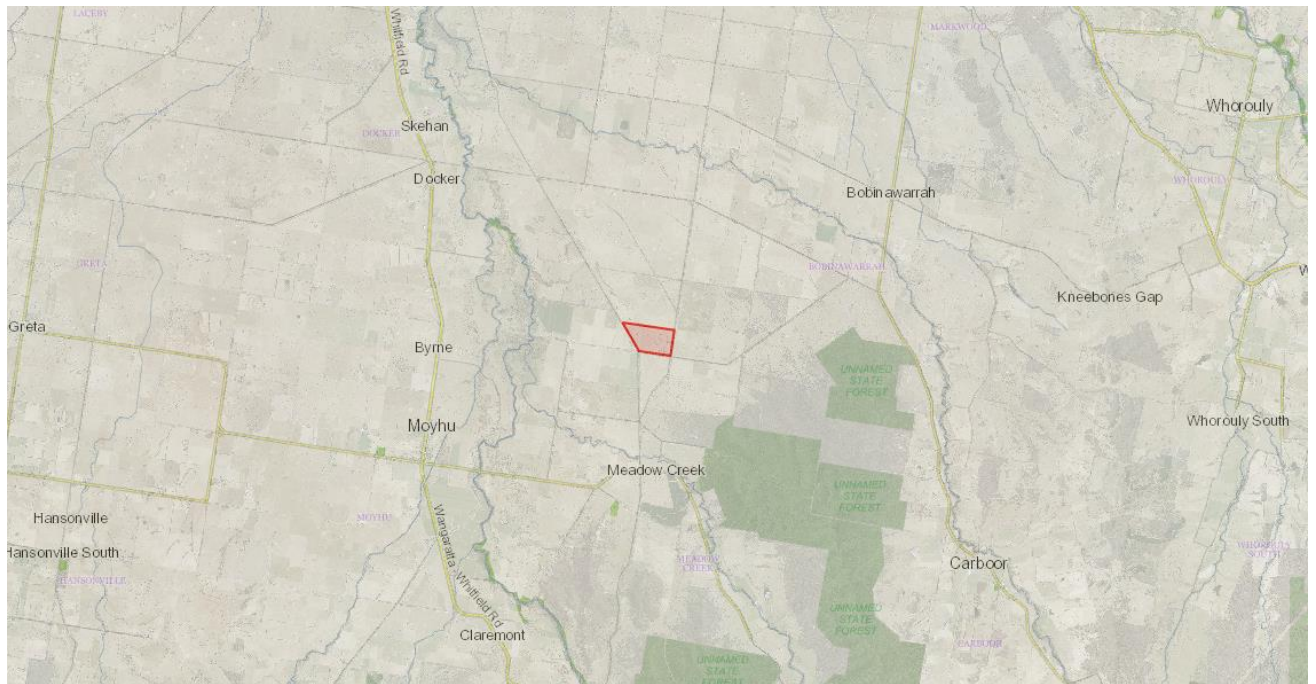


Photo 1: The subject site at 1350 Allans Lane, Meadow Creek (highlighted).

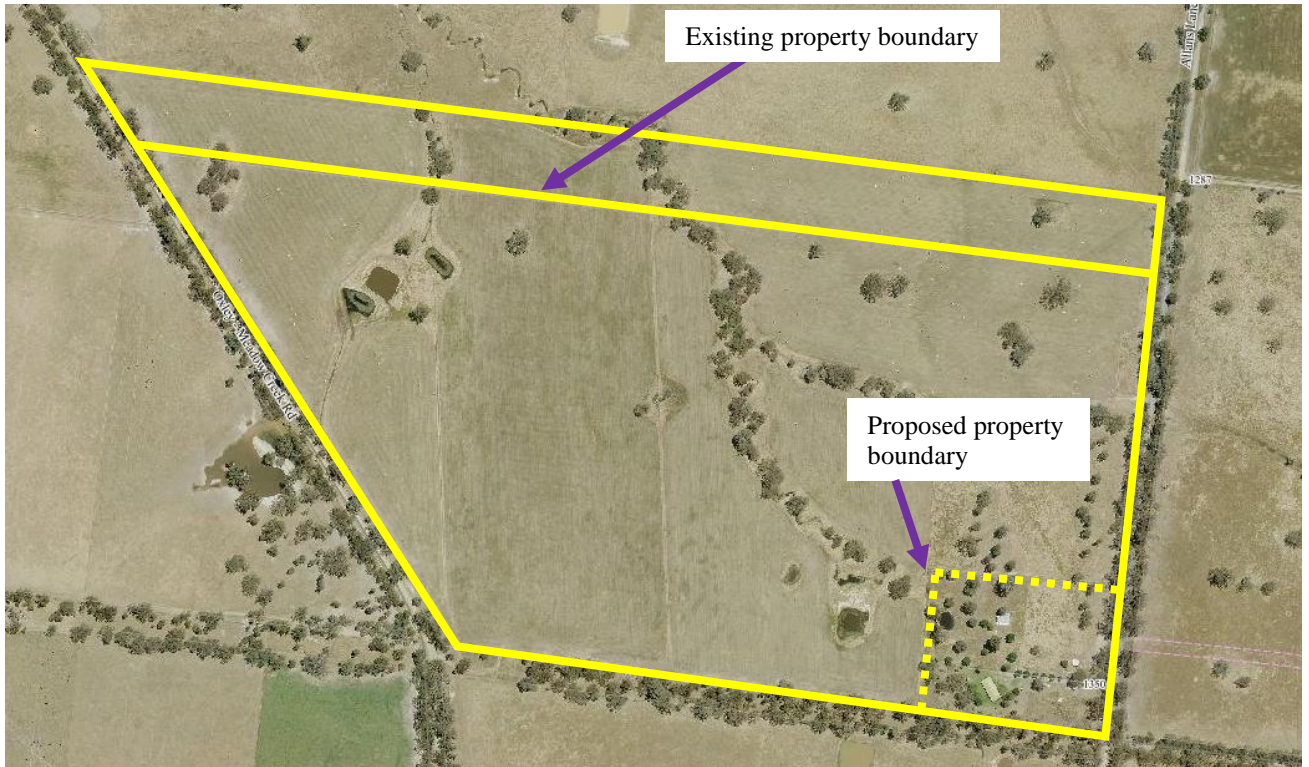


Photo 2: proposed subdivision layout at 1350 Allans Lane, Meadow Creek (highlighted).

## Proposal

It is proposed to realign the common boundary between Lot 1 and Lot 2 TP 377609M MOYHU, as per Photo 2. Lot 1 currently contains the existing dwelling and has an area of 47.3 hectares, and Lot 2 an area of 10.2 hectares.

The resubdivision proposes to modify the boundary to create a 3.1 hectare allotment containing the existing dwelling and agricultural shedding. The boundary proposed is the existing fence line.

## Permit/Site History

Council records show no history of planning applications for the subject site.

There are no restrictions registered on title.

Lot 1 & Lot 2 were created by instrument 1597756 on 03/12/1935.

### **Wangaratta Planning Scheme**

#### **Planning Policy Framework**

#### **Clause 11.01 Victoria**

#### **Clause 11.01-1S Settlement**

## **Objective**

*To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.*

## **Policy documents**

Consider as relevant:

- Hume Regional Growth Plan (Victorian Government, 2014)

## **Clause 11.01-1R Settlement - Hume**

### **Strategies**

Facilitate growth and development specifically in the regional cities of Shepparton, Wangaratta, Wodonga and Benalla.

Facilitate and strengthen the economic role of Seymour, while supporting population growth.

Support growth and development in other existing urban settlements and foster the sustainability of small rural settlements.

Support improved access to a range of employment and education opportunities, particularly in key urban locations such as Benalla, Seymour, Shepparton, Wangaratta and Wodonga

## **Clause 12.03 Water bodies and wetlands**

### **Clause 12.03-1S River corridors, waterways, lakes and wetlands**

#### **Objective**

*To protect and enhance river corridors, waterways, lakes and wetlands*

### **Clause 13.07 Amenity and Safety**

#### **Clause 13.07-1S Land use compatibility**

#### **Objective**

*To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.*

#### **Strategies**

Ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by:

- Directing land uses to appropriate locations.

- Using a range of building design, urban design, operational and land use separation measures.

## **Clause 14.01 Agriculture**

### **Clause 14.01-1S 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 Economic Development, Jobs, Transport and Resources 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.

#### **Clause 14.01-2R Agricultural productivity - Hume**

##### **Strategy**

Support clustering of intensive rural industries and agricultural production.

Take advantage of locational opportunities, including separation from sensitive land uses and access to transport, power, water and communications infrastructure.

#### **Clause 14.02 Water**

##### **Clause 14.02-1S Catchment planning and management**

##### **Objective**

*To assist the protection and restoration of catchments, water bodies, groundwater, and the marine environment.*

##### **Clause 14.02-2S Water Quality**

##### **Objective**

*To protect water quality.*

#### **Clause 17.01 Employment**

##### **Clause 17.01-1R Diversified economy - Hume**

##### **Strategy**

*Encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.*

## **Local Planning Policy Framework**

### **Clause 21.01 Introduction**

#### **Clause 21.01-2 Key influences and issues**

Key land use and planning influences relate to:

- Managing residential growth in existing areas and growth areas.
- Strengthening commercial development in designated locations.
- Protecting and enhancing the natural environment, particularly biodiversity, significant landscapes and the Ovens and King River systems.
- Managing environmental risks including flooding and bushfire.
- Protecting heritage assets.
- Maintaining and encouraging viable agricultural industries.
- Protecting agricultural areas from inappropriate fragmentation.
- Facilitating economic growth and tourism.
- Upgrading the transport network to better deal with regional freight.
- Providing services to a dispersed population sustainably

### **Clause 21.02 Settlement**

#### **Clause 21.02-1 Settlement network**

This clause should be read in conjunction with local area policies at Clause 21.11 Local Areas.

#### **Context and issues**

- Wangaratta is a vibrant and strategically located regional centre that has been identified in the Hume Regional Growth Plan as a Regional City with opportunity for significant residential growth.
- The Rural City of Wangaratta's population will increase by approximately 6,500 people by 2031 based on 2011 projections.
- Over 90% of this growth is planned to occur in Wangaratta Regional City.
- Most of this growth will be accommodated in the North-West Residential Growth Area and South Residential Growth Area.
- The balance of residential growth in Wangaratta Regional City will occur through intensification of residential development in the Central Activities Area (CAA) and infill development.

- Some residential development is projected to occur in Townships and Rural Townships where sewerage infrastructure and water supply is available.
- A small amount of residential development will occur incrementally in rural areas and settlements.
- There is demand for low density residential type lots in Wangaratta (lots in the 0.4 to 2 hectare size range), with market preference to the north (Waldara area), south-east (Wangaratta-Whitfield Road) and generally south-west (west of Reith Road). Potential lot sizes vary depending on whether reticulated sewer is available.
- The municipality has a number of established Townships and Rural Townships which form an attractive lifestyle setting and have capacity to accommodate a share of the municipality's residential growth.
- Townships and Rural Townships are in demand for residential developments at various densities.
- Lack of infrastructure is a limiting factor for further development, particularly water supply, drainage and reticulated sewer in Rural Townships.
- Upgrades to infrastructure in Townships and Rural Townships provide an opportunity for residential growth and sustainable economic growth.
- Rural settlements are not suitable locations for residential development that is not associated with an agricultural use.

#### **Clause 21.05 natural resource management**

##### **Clause 21.05-1 rural land use and agriculture**

- Subdivision and housing: Although subdivision may potentially impact on the productive performance of rural land, the construction and use of housing in some areas has led to the loss of agricultural use and generated conflict between rural and lifestyle uses. Both subdivision and rural housing must provide for and retain the agricultural use of the land. Any subdivision and rural housing proposals in higher agricultural productivity and versatility areas need to be directly linked to an agricultural use, retain productive agricultural use of the land and area, protect the economic potential of the land and area for agriculture, and not be used for rural lifestyle purposes.
- Subdivision and housing in rural areas can lead to difficulty in funding, provision and maintenance of services such as roads, electricity and water supply. Infrastructure may be required or be supplemented through contributions for rural subdivision and housing. Any rural subdivision and housing proposals must assess and provide infrastructure as required, including practical and legal access for service providers if needed.
- The subdivision of land for 'house lot excision' needs to protect and be closely linked with the continuing productive agricultural use of land, particularly in higher agricultural productivity and versatility areas. Any excision of land needs to maintain the agricultural land resource through minimising the parcel size of an existing house



that is to be excised and maintaining a large vacant balance of land for agricultural purposes.

**Strategic directions:**

**Subdivision and housing:**

- Ensure that rural subdivision and housing is provided with a level of infrastructure that is required for that use or development
- Ensure that any subdivision of land for 'house lot excision' maintains the agricultural land resource by minimising the parcel size of an existing house that is to be excised and maintaining a large vacant balance of land for agricultural purposes

**Clause 21.05-2 Water**

**Context and issues**

- Protection of water quality is a major issue for waterways and water storages, particularly when used for human consumption.
- Water quality can be compromised through inappropriate works or location of buildings and effluent disposal systems.
- Groundwater is an important environment and economic resource. The resource can be compromised through overuse, effluent disposal systems and other urban and agricultural drainage and effluent.
- Rural development and rural living proposals are usually supplied with some form of rural water supply. There can be a large cumulative effect on the overall catchment yield from rural and rural living developments.
- Coordination is required with water authorities to provide the integrated assessment of rural water supply through sources such as dams, bores and aquifers.

**Clause 21.12 reference documents**

- An Assessment of the Versatility of Agricultural Land in the Rural City of Wangaratta, Department of Natural Resources and Environment, April 2000

**Clause 22.01 rural land use and agriculture**

**Clause 22.01-2 subdivision in rural areas**

**Objectives**

- Ensure that land subdivision does not diminish the productive agricultural capacity of the land or general area, particularly in 'high' or 'very high' agricultural versatility areas.
- Ensure that any subdivision of land is for the rural or agricultural use and development of land, rather than for rural lifestyle lots or development.
- Ensure an adequate standard of infrastructure for rural land subdivision.

## Assessment against Planning Policy Framework and Local Planning Policy Framework

In general, the application is considered to be inconsistent with the aforementioned Planning Policy Framework (PPF) and the Local Planning Policy Framework (LPPF). The PPF and LPPF contain policy that directly discourages the type of subdivision that is proposed. The application has identified that the subdivision will have no relation to the agricultural use being undertaken on the current site and will effectively be a rural lifestyle lot, in contradiction to the policy at Clause 13.07-1S, Clause 21.05-1 and Clause 22.01-2, as this creates a land use conflict between agriculture and residential that has the potential to limit the operation and expansion of surrounding agricultural properties. Furthermore, the existing agricultural shedding and cattle yards are proposed to remain on the dwelling lot and not on the balance lot.

The surrounding area is genuine agricultural land where there is no access to the services required for residential land uses. The resubdivision proposed will allow an additional dwelling to be constructed as of right on the balance lot which will result in the further loss of productive agricultural land and potential for the clustering of dwellings in the area. Clause 14.01-1S identifies there being increased pressure on the development of rural land for residential practices and discourages the inappropriate fragmentation of agricultural land for residential purposes. The clause encourages the protection of farmland that is of strategic significance in the local or regional context.

The Hume Regional Growth Plan, identified in Clause 72.08 Background documents, at Clause 11.01-1R specifies the subject site and surrounding land throughout the king valley as being strategic agricultural land of strategic importance. The plan identifies the Hume Region as being one of Australia's major food producing areas and relies on the findings of the Hume Region Rural Land Use Study (2012). The plan discourages the fragmentation of agricultural land to avoid conflicting land uses. The surrounding area is further documented in 'An Assessment of the Versatility of Agricultural Land in the Rural City of Wangaratta', Department of Natural Resources and Environment, April 2000. The reference document at Clause 21.12 of the Wangaratta Planning Scheme identifies the subject site as 'high' versatility and the land along the King River to the west as being 'very high' agricultural versatility. Clause 21.05 and Clause 22.01 discourage the fragmentation of land within 'high' or 'very high' agricultural versatility areas.

It is therefore considered that the application is inconsistent with the relevant Planning Policy Framework and Local Planning Policy Framework.

### **Zoning**

#### **Clause 35.07 Farming Zone**

The purpose 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.*

Permit trigger:

- Clause 35.07-3 a permit is required to subdivide land.

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

- The subdivision is the re-subdivision of existing lots and the number of lots is not increased.

Decision Guidelines

<b>Decision Guidelines</b>	<b>Officer's Response</b>
<b>General issues</b>	
The Municipal Planning Strategy and the Planning Policy Framework.	The application is inconsistent with the relevant Planning Policy Framework and the Local Planning Policy Framework.
Any Regional Catchment Strategy and associated plan applying to the land.	Not applicable.
The capability of the land to accommodate the proposed use or development, including the disposal of effluent.	The proposal is for a resubdivision that will create a dwelling allotment approximately 3 hectares in size. A septic report was provided that shows the existing effluent disposal is functioning and that the proposed allotment size is suitable for the existing dwelling.
How the use or development relates to sustainable land management.	The proposed resubdivision does not relate 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.	The proposed subdivision is not suitable in comparison to the surrounding land uses and lot sizes of adjoining properties. The resultant allotment will be a rural lifestyle lot surrounding by larger agricultural properties.
How the use and development makes use of existing infrastructure and services.	The proposal is for a resubdivision, the dwelling is already existing with driveway access, power and an effluent disposal field.
<b>Agricultural issues and the impacts from non-agricultural uses</b>	
Whether the use or development will support and enhance agricultural production.	The application states that once subdivided, the land will not be used in association with the agriculture being undertaken on the larger allotment.

Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.	The proposal will permanently remove the dwelling lot from agricultural production and will also contain the existing agricultural shedding and cattle yards.
The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.	The subdivision will result in an allotment that is in excess of 40 hectares that will create an as of right use for another dwelling. Depending on future positioning, this has the potential to limit larger agricultural land uses such as broiler farms or cattle feed lots.
The capacity of the site to sustain the agricultural use.	The two allotments are a combined 57 hectares in area, the existing activities can continue on the balance lot.
The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.	The balance lot contains access to several dams, however it is shown to not contain the existing agricultural shedding or the cattle yards.
Any integrated land management plan prepared for the site.	An integrated land management plan was not prepared for this application.
<b>Dwelling issues</b>	
Whether the dwelling will result in the loss or fragmentation of productive agricultural land.	The proposal is not for a dwelling.
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.	
<b>Environmental issues</b>	
The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.	There is no development proposed as part of this application. The applicant has provided a septic report that shows that the existing effluent disposal field is functioning with the new boundary proposed.
The impact of the use or development on the flora and fauna on the site and its surrounds.	There is no use or development proposed.
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.	There is no development proposed as part of this application.  Sheep Station Creek appears to have been fenced off in certain areas of the site, so as to protect the creek and surrounding vegetation.

The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.	A septic report has been provided that states that the existing system is functioning. As part of this application there has been no further proposal to alter the system. It appears from the septic report that the system is properly functioning.
<b>Design and siting issues</b>	
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.	No new buildings are proposed. The proposal is for a resubdivision.
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 character of the area is genuine agricultural activities. The proposal creates a small rural lifestyle property, of which the application has stated will have no relation to the agricultural activities being undertaken on the site.
The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.	The proposal is a resubdivision where there is existing access on to Meadow Creek Road for both allotments. There is ample room on site for the provision of services. Should a planning permit be issued, standard conditions will be applied requiring the owner to enter into agreements with the relevant authorities for the provision of services.
Whether the use and development will require traffic management measures.	Not applicable as existing access is not proposed to be altered. There is existing access to both proposed allotments from Meadow Creek Road.

### Overlays

No overlays apply to the subject site.

### Particular Provisions

### General Provisions

The decision guidelines at clause 65.02 have been considered.

<b>Decision Guidelines</b>	<b>Officer's Response</b>
The suitability of the land for subdivision.	The site is not considered to be suitable for subdivision as it will create a rural lifestyle allotment in a genuine agricultural area with no access to infrastructure or services. The subdivision will allow another dwelling as of right, not requiring planning approval that in

	the future could limit certain activities of neighbouring properties.
The existing use and possible future development of the land and nearby land	The future development potential of neighbouring land is agricultural in nature, and certain agricultural activities will be limited if there were to be a dwelling constructed on the larger allotment proposed by this subdivision. This is due to certain agricultural land uses being limited by buffer distances to residential development, such as cattle feed lots, broiler farms and rural industries.
The availability of subdivided land in the locality, and the need for the creation of further lots.	There is no need to create new allotments in the surrounding area. This is because the surrounding area is utilised for agriculture and residential development is not encouraged in this area as it is a genuine farming area. Provision has not been made for the services or infrastructure required for smaller residential allotments.
The effect of development on the use or development of other land which has a common means of drainage.	It is considered that there will be no impact on drainage on site, and the two proposed allotments can manage drainage on site.  Council's Technical Services Department provided no comment on this application.
The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.	The proposed new boundary is along an existing fence line. There is vegetation in the vicinity of the fence line, however the application has not proposed vegetation removal.
The density of the proposed development.	The proposal creates an allotment where a dwelling is as of right. Dwelling density will be an issue if neighbouring properties look to undertake certain land uses that require buffer distances to sensitive land uses.
The area and dimensions of each lot in the subdivision.	The dwelling lot is shown to have an area of 3.1 hectares in the south-eastern corner of the property. The balance lot is shown to have an area of 54 hectares
The layout of roads having regard to their function and relationship to existing roads.	There are no proposed internal roads. The resubdivision layout allows the two lots to maintain the existing access on to Meadow Creek Road.
The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.	Both allotments are proposed to have access to Meadow Creek Road.
The provision and location of reserves for public open space and other community facilities.	There are no reserves or public open space in the surrounding area.
The staging of the subdivision.	Staging is not proposed.
The design and siting of buildings having regard to safety and the risk of spread of fire.	This is not considered to be relevant due to the proposed lot sizes. There is

	approximately 67 metres from the dwelling to the closest proposed boundary.
The provision of off-street parking.	The smallest allotment proposed is 3.1 hectares and can accommodate requirements for off-street parking.
The provision and location of common property.	Not applicable as common property is not proposed.
The functions of any body corporate.	No body corporate is proposed.
The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.	Water, sewerage, drainage and gas are not available to the site. The dwelling contains an existing effluent disposal field.
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.	The dwelling on site contains an effluent disposal field, which the septic report provided shows to be working properly.  The balance lot exceeds 40 hectares, where there appears to be ample room for the positioning of an effluent disposal field that can meet the EPA code of practice requirements. Any future dwelling will have to provide an effluent disposal field proposal that is to the satisfaction of Council's Environmental Health Officer.
Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.	No native vegetation is proposed to be remove, the proposed new boundary is along an existing fence line where certain exemptions are provided for native vegetation removal.

## Public Notification

The planning application was advertised to five neighbours by letter. No objections were received.

## Referrals

Referral Authority	Response
<b>Internal</b>	
Environmental Health Department	No objection and no conditions.
Environment	No objection, subject to conditions.
Environmental Health	No objection.
<b>External</b>	
Goulburn Murray Water ( <i>Section 55</i> )	No objection and no conditions.

## Assessment

The application is considered to be inconsistent with the relevant Planning Policy Framework and Local Planning Policy Framework clauses and the Farming Zone identified in the Wangaratta Planning Scheme.

The proposal for resubdivision of the two existing titles is essentially a house lot excision, as it will place the existing dwelling on the small rural lifestyle 3.1 hectares lot and create a 54.4 hectare balance lot that a dwelling can be constructed on as of right. The application states that the family wishes to sell off the existing dwelling and that there will be no relation to the agricultural activity being undertaken on the balance lot. The proposal is in contradiction of agricultural themed PPF and LPPF as the dwelling will be positioned on a small lot and there will be no relation to the agricultural activity on the balance lot. The application states that the dwelling is surplus to requirements and is proposed to be sold off. *Liprino v Wangaratta Rural CC [2006] VCAT 841* identifies that personal and financial reasons do not outweigh planning policy provisions.

The surrounding area is genuine agricultural land with very few dwellings and infrastructure for dwellings and has been identified in the regional and local context as being of strategic importance and the fragmentation of the land is specifically discouraged in the Planning Policy Framework and Local Planning Policy Framework, as identified in the Hume Regional Growth Plan (Victorian Government, 2014) and An Assessment of the Versatility of Agricultural Land in the Rural City of Wangaratta, Department of Natural Resources and Environment, April 2000.

The *Liprino v Wangaratta Rural CC [2006] VCAT 841* decision references *Parkworth Pty Ltd & Anor v Casey CC [2002] VCAT 1594* stating that the fragmenting of farm land into small lots makes the land unable to utilise genuine farming practices. The decision goes on to further state that land prices are transformed from agricultural to residential and per hectare prices are inflated causing issues for neighbouring farmers if they wish to expand in the future. Furthermore, there is no guarantee that the balance lot will be used for agriculture in the future, as a dwelling can be constructed on the site without the need for a planning permit which will further fragment the Farming Zone and cause further land use conflict between residential and agricultural land uses.

*Parker v Wangaratta Rural CC [2016] VCAT 59* is a decision on a dwelling excision that is located approximately 8 kilometres from the subject site further north and in proximity to the township of Oxley. VCAT's decision was to refuse the application as it did not meet Planning Policy Framework, Local Planning Policy Framework and the purpose of the Farming Zone. This decision was based on Local Planning Policy Framework similar to the policy that is currently in the Wangaratta Planning Scheme in regard to agriculture.

It is recommended that the planning application be refused on the basis that it is inconsistent with the agricultural provisions of the relevant Planning Policy Framework and Local Planning Policy Framework and the Farming Zone provision of the Wangaratta Planning Scheme.

## Conclusion

In conclusion it is considered that the proposal is inconsistent with the requirements of the Wangaratta Planning Scheme and it is recommended that a decision to refuse be issued.

## Recommendation

That council having given notice of Planning Application PlnApp19/212 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Refuse to Grant a Permit under the provisions of Clause 35.07 of the Wangaratta Planning Scheme in respect of the land known and described as 1350 Allans



Lane, Meadow Creek, for the 'Two Lot Subdivision' in accordance with the endorsed plans, with the application dated 08/11/2019, based on the following:

**Grounds of Refusal:**

1. The proposal does not support the Purpose of the Farming Zone and does not accord with the decision guidelines at Clause 35.07.
2. The proposal when assessed against the relevant state, regional and local planning policies is not considered to be supported. The relevant planning policies being:
  - Clause 11
  - Clause 14
  - Clause 17
  - Clause 21.02
  - Clause 21.05
  - Clause 22.01
3. The proposal is not supported by local and state strategic documents being:
  - An Assessment of the Versatility of Agricultural Land in the Rural City of Wangaratta April 2000.
  - Hume Regional Growth Plan 2014.