

ATTACHMENT TO AGENDA ITEM

Ordinary Meeting

17 December 2013

Agenda Item 6.2	Shepparton East Drainage Special Charges Scheme Investigations	
Attachment 1	Council report 15 November 2011	177
Attachment 2	Plan of Shepparton East Drainage Scheme area.....	186
Attachment 3	Planning Scheme Land Zonings.....	187
Attachment 4	Drainage Design Plan.....	188
Attachment 5	Flowchart of Special Charges Scheme Process.....	189

Attachment 1: Council report 15 November 2011

**Greater Shepparton City Council
Ordinary Report**

Report to: Ordinary Council Meeting
Date of meeting: 15 November 2011
From: Doug Smith
Subject: Shepparton East Drainage Scheme Investigations

Disclosures of conflicts of interest in relation to advice provided in this report

No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Purpose

The purpose of this report is to outline the investigations into a Special Charge Scheme to construct an urban drainage system to service the properties along the Midland Highway, to the east of Doyles Road, Shepparton. Further, to recommend Council not proceed with the scheme due to lack of support by the potentially affected landowners.

RECOMMENDATION

That Council abandon investigating the adoption of a Special Charge Scheme to fund the Shepparton East Drainage Scheme.

Drainage Scheme Background

Council directed in June 2010 that investigations be carried out for the potential development of a special charge scheme to fund the installation of an urban drainage system to service the area of East Shepparton adjacent to the Midland Highway and east of Doyles Road.

The scheme investigation area is consistent with the area that is subject to an agreement made in August 2008 between Council and Goulburn-Murray Water (G-MW) which transferred management of the drainage of the area to Council (refer attachment 1).

There are seventy-eight (78) separate and privately owned lots, land owned by Council and sections of three road reserves within the scheme investigation area that would contribute drainage to the proposed new system. The scheme investigation area includes large lots available for business or industrial development, larger residential lots rural lands and road reserves. The planning zones over the area include (refer attachment 2):

- Low Density Residential (LDRZ)
- Business 4 (B4Z)
- Industrial 1 (IN1Z)
- Farming (FZ)
- Public Use 6 – Local Government (PUZ6), Works depot
- Public Use – Service and Utility (PUZ1)
- Road (RD1).

CPG Australia prepared an integrated pipeline drainage system feeding to a retention/treatment basin adjacent to the Council Depot. From this basin the treated water would be pumped into the G-MW rural drainage system.

It was determined on initial assessment that of the lots contributing drainage into the new system, 39 lots would be liable to contribute to the cost of the works. The balance of lots have already installed the retention and treatment processes required, hence would not contribute further. The investigation assessed the support or otherwise of the owners of these 39 identified lots.

The area was previously serviced by G-MW as part of the rural drainage system but was transferred out of that system due to the predominant land use now being business, industrial or large lot residential.

The agreement provides that the drainage from the transferred area may still ultimately discharge into the G-MW managed rural drainage system, but must comply with the provisions of the G-MW policy in that:

- the rate of discharge into the rural drain shall be restricted to 1.2l/ha/sec
- the water quality shall meet the requirements of the policy.

Council cannot approve any additional drainage entering the rural drain as a result of subdivision, development or redevelopment of the lands, unless the additional drainage complies with the G-MW policy.

The existing pipelines and open drains do not have the capacity to carry increased flows as properties develop to business or industrial uses. There is temporary flooding already experienced by some properties during heavy rainfall.

As a consequence, to meet the G-MW requirements, drainage retardation and treatment will be required on all future development of the properties in the area. On-site retardation is already required on development of land in the area through planning permit conditions.

A number of the properties within the Business or Industrial zoning are already developed to business or industrial uses while others are vacant and have development potential. There are others that are residential with the owners having no apparent intention to sell or develop away from the current residential use.

Consequently there are varying development ambitions within the landowners, creating differing attitudes to the need for the drainage upgrade.

An information meeting and two surveys were conducted with potentially affected landowners to gain input to the proposed scheme works and area. An Advisory Panel was formed from interested landowners potentially liable to contribute to the potential scheme. Three meetings were held with the panel on the scheme concept and apportionment of costs.

The process so far has been an informal one in that it is a prelude to the legislated process. If Council wished to proceed further with a special charge scheme a report to Council would be required in accord with the Local Government Act to give formal notice to all contributors, commencing the formal submission/objection process.

Summary

An urban drainage system is proposed within the subject area to support the development of the properties as provided by the planning scheme land-use zonings. A combined system serving the entire area would:

- provide a system capacity to allow further development of the properties,
- enable retardation and treatment of the drainage prior to discharge into the rural drainage system as required by the agreement with G-MW
- negate the need to install on-site retention and treatment works as each property is developed
- avoid localised flooding.

The drainage system would directly benefit the properties that discharge drainage waters into it. As such Council may implement a special charge scheme under the provisions of section 163 of the *Local Government Act 1989* to require those property owners to contribute to the cost of construction of the drainage system.

Section 163B of the Local Government Act allows for proposed contributors to make submissions to Council regarding the scheme, once a notice of intention to proceed with the development of the scheme is given by Council.

Council cannot declare a special charge scheme if the majority of contributing properties object to the scheme. This means that if the landowners of more than 50% of the properties involved in the scheme object in writing, Council will be required to abandon the scheme and the improved drainage works will not proceed under this funding mechanism.

While these investigations precede any legislated processes relating to special charge schemes, the potential response by contributors if the formal scheme process is commenced is taken into account.

The poor response to the two surveys, the predominantly negative response received and the informal feedback obtained from those that did not respond, indicates there is a high likelihood that there would be a majority of negative responses if the scheme did progress to the legislated process and notice of intention to develop the scheme was given to the landowners.

Risk Management

Council is responsible for the management of the drainage from the area, and is the party accountable to ensure the discharge and quality of the water discharged into the GMW drain.

The development of a system to control the discharge of the drainage from the area into the GMW drain enables Council to more easily monitor the operation of the system to ensure compliance of the water quality and discharge rate as required by the G-MW policy and agreement.

The investigations indicate there is likely to be substantial objection if Council proceeds to give notice to fund the required works through a special charge scheme.

Council will need to develop an alternative strategy to carry out the works or to cause them to be carried out. Otherwise separate on-site treatment works will be required on each lot as it is developed. Council will need to monitor on an ongoing basis the operation of each of the on-site drainage systems of each development.

Policy Implications

The investigation was carried out in accordance with the Greater Shepparton City Council's *Special Charge and Special Rate Policy*, adopted 4 July 2006. The initial assessment of benefit and potential contribution by the affected landowners was carried out in accord with the *Ministerial Guidelines 2004*.

Best Value Implications

The investigation was carried out on a potential scheme that would be undertaken in the context of over-arching principles of best value service delivery, which include quality and cost standards, responsiveness to community needs, accessibility and continuous improvement.

Financial Implications

The estimate of cost of the drainage system works when first discussed with Council and potential contributors in 2009 was approximately \$2.77million including 15% contingency on costs. As all administration and management costs and the purchase of the land for the pipeline easement and retention basin are legitimate scheme costs, the proposed cost of the scheme was \$3.23million.

The cost was reviewed to \$3.7million in 2011 to account for increased costs. As this an estimate only, the scheme discussed with the potential contributors was in the range of \$3.5million to \$4.2million.

The collective contribution by the benefitting landowners would be \$2.7m to \$3.2m. Council would contribute as a landowner and also on behalf of the community for the drainage from the road reserves within the scheme area (excluding VicRoads arterial road).

The cost to the landowners varies depending on the size and potential use of the site. Some discount was offered to those properties that already had installed stormwater retardation or re-use systems.

Indicative contributions were;

Business or Industrial land (large development lots)	\$9 - \$11/m ²
Business or Industrial land (small development lots)	\$7 - \$9/m ²
Rural or large residential land	\$0.4 - \$0.5/m ²

Some of the developable lots are in excess of 3ha in area. They could potentially contribute more than \$250,000 to a future scheme. By comparison a residential size lot could contribute in the order of \$15,000.

There are two residential estates within the catchment. Each has installed on-site outflow retention and treatment works. These properties would likely pay little or nothing to the scheme.

The *Local Government Act 1989* provides that where infrastructure is being developed under a special charge scheme, a payment plan shall be made available to the contributors to the scheme. The payment plan shall provide for repayments over a minimum period of four years. Should the scheme progress Council is likely to need to initially fund most of the cost of works, with recoupment of those costs owed by the contributors over at least a four year period.

Charter of Human Rights and Responsibilities Act (2006) Implications

This proposal does not limit any of the human rights provided for under the Victorian *Charter of Human Rights and Responsibilities Act 2006*.

Other Legal/Statutory Implications

If the scheme was developed it would be processed in accord with section 163 of *Local Government Act 1989*.

Consultation

There was an initial information meeting held in September 2010 to which all potential contributing landowners were invited. Landowners representing 15 properties were present.

A survey was subsequently sent out to all landowners of the 39 identified lots, seeking their comments and support or otherwise for the further investigation of a scheme and their interest in being part of the Advisory Committee. There were returns received representing twenty-one (21) of the lots, with the result below;

Total responses		Portion in Favour		Portion Against	
No Lots	% Total Lots	No Lots	% Total Lots	No Lots	% Total Lots
21	54%	13	33%	8	20.5%

Having regard to the majority positive survey result, the scheme was further investigated. An Advisory Committee was formed of the five landowners that registered that interest.

The panel met twice to discuss the intended structure of the scheme and the cost components that determined the likely contribution by each property.

After the two meetings the panel indicated they were generally comfortable with the scheme concepts and method of apportionment of costs. They believed the response to the scheme by landowners would be determined principally by the cost to each, having regard to whether they have any intention to further develop their properties.

The opportunity was provided for landowners to meet individually with Council officers to discuss their potential contribution. Only three landowners took up this opportunity.

One of these was opposed to the scheme on the basis of the cost, given their view of lack of benefit in not wishing to develop their land.

Another disputed the validity of the agreement with G-MW and the ability of Council to assume management of the drainage system and to undertake a scheme to upgrade it.

The other landowner supported the scheme and sought clarification on the likely timeframe of the project.

A second survey was distributed in May 2011 (refer attachments 3 and 4). This time an indicative cost was provided to each landowner and the response sought was whether Council should now proceed to formally develop the scheme.

There were only six (6) responses to the survey representing nine (9) lots as outlined below;

Total responses		Portion in Favour		Portion Against	
No Lots	% Total Lots	No Lots	% Total Lots	No Lots	% Total Lots
9	23%	3	7.7%	6	15.4%

The principal objection registered to the scheme was the high cost compared to the perceived benefit to the landowner. It was apparent the response was influenced by whether the landowner has any current intention to develop their land. While the positive respondents generally hold large areas of land they hold only a minority of the overall lots (one lot is one vote).

If the scheme was to proceed to the formal notice to develop the scheme, the responses would be based on the number of lots represented, rather than just the number of landowner responses or the area held by each.

Given the low survey return rate, informal enquiries were made of four landowners that had not responded but had previously been involved in discussions on the scheme. These landowners represented thirteen (13) of the lots within the scheme area and own many of the lots that may become available for future development.

Again there were varying responses, but the theme continued, that the potential cost was seen as too high, particularly if there was no imminent intention to further develop the property. It is acknowledged one of these landowners is currently developing proposals to develop their land and is in favour of the scheme. While that landowner has significant land area to develop, he represents only three (3) lots and hence has minimal influence on the survey result.

If the responses to these additional informal enquiries were factored in, the overall response to the scheme is as follows;

Total responses		Portion in Favour		Portion Against	
No Lots	% Total Lots	No Lots	% Total Lots	No Lots	% Total Lots
22	56%	6	15%	16	41%

Strategic Links

The proposal investigated is consistent with Section 30 of the Council Plan regarding the development of "user pays" systems.

Attachments

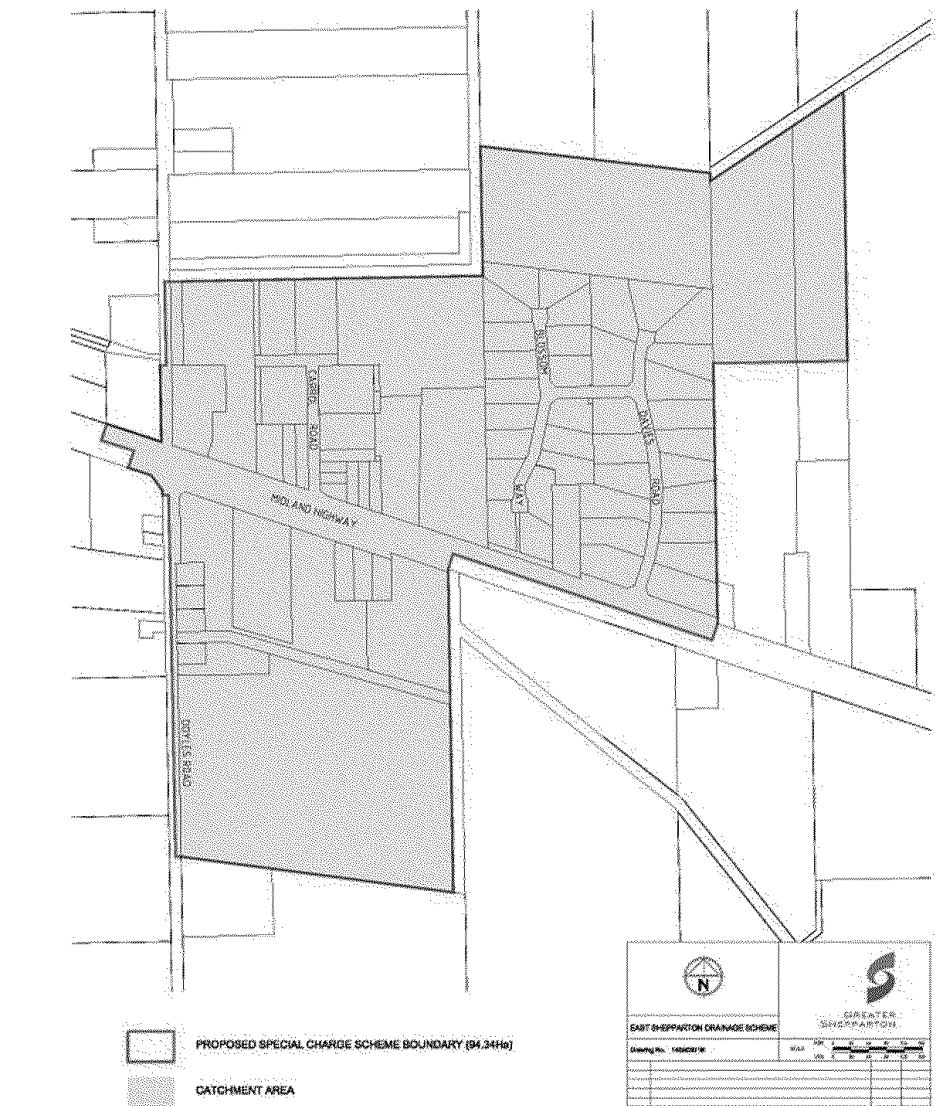
1. Plan of Shepparton East Drainage Scheme area
2. Planning Scheme Land Zonings
3. Letter to affected landowners.
4. Landowner Survey form

Attachment 2: Locality plan of site



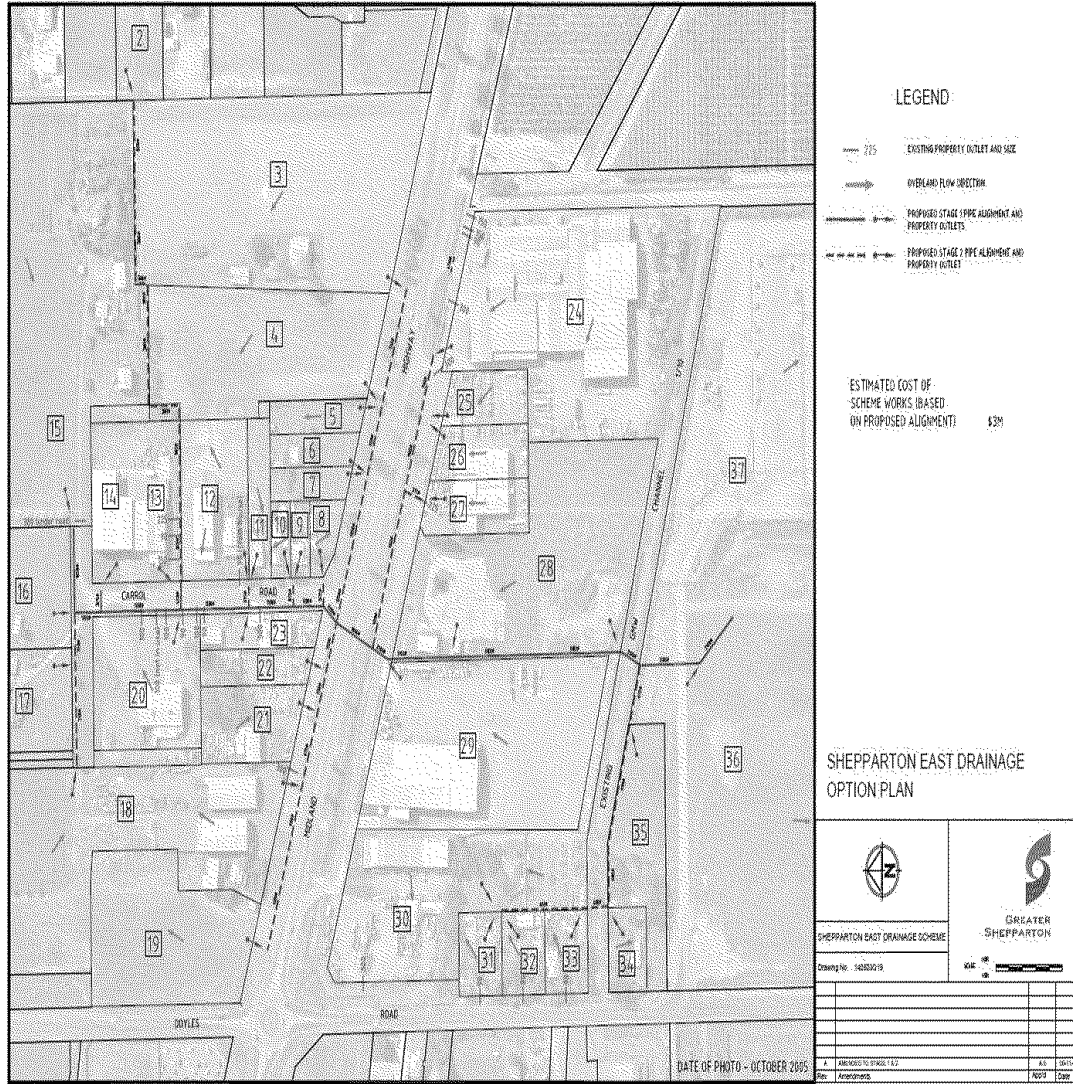
Attachment 3: Plan of scheme area

EAST SHEPPARTON DRAINAGE SCHEME



Attachment 4: Scheme pipe system layout

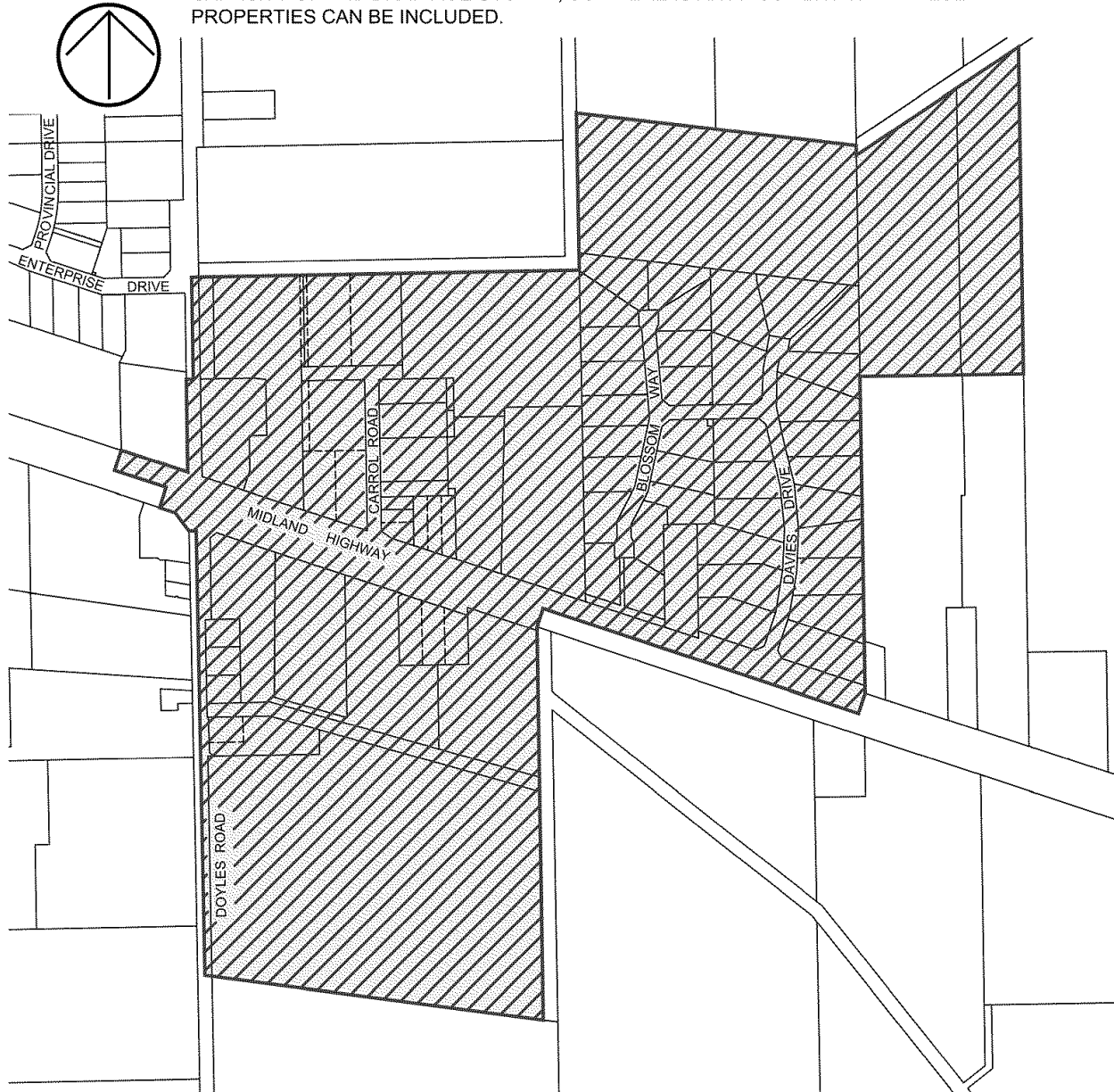
SHEPPARTON EAST DRAINAGE SCHEME






SHEPPARTON EAST DRAINAGE SCHEME RECOMMENDED OPTION

RETAIN EXISTING SCHEME WORKS SCOPE, BUT REDUCE THE OVERALL SCHEME COST BY REMOVING THOSE COSTS ALREADY PAID BY COUNCIL, BUT INCORPORATE ALL POSSIBLE BENEFICIARIES.

POTENTIAL INCLUSION OF THE BLOSSOM WAY AND DAVIES DRIVE PROPERTIES (APPROX 40 ADDITIONAL LOTS). WHILE THE RESIDENTIAL SUBDIVISIONS INCORPORATE WATER WISE ELEMENTS, THE DISCHARGE FROM THE SITE IS CONTRIBUTING TO THE DESIGN CAPACITY OF THE DRAINAGE SYSTEM, SO THERE IS AN ARGUMENT THAT THESE PROPERTIES CAN BE INCLUDED.



-  PROPOSED SPECIAL CHARGE SCHEME BOUNDARY (94.3Ha)
-  CATCHMENT AREA
-  RECOMMENDED OPTION

Greater Shepparton City Council
 90 Welsford St, Shepparton VIC 3630
 Locked Bag 1000, Shepparton VIC 3632
 T: (03) 5832 9700 F: (03) 5831 1987
 E: council@shepparton.vic.gov.au
 W: www.greatershepparton.com.au

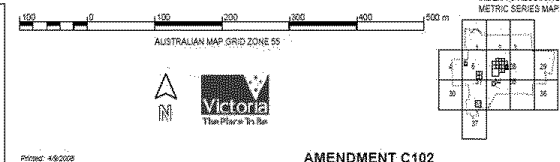


GREATER SHEPPARTON PLANNING SCHEME - LOCAL PROVISION



This publication is copyright. No part may be reproduced by any person except by permission with the publishers of the Copyright Act. © State of Victoria.
 This map should be read in conjunction with additional Planning Overlay Maps if applicable, as indicated on the INDEX TO MAPS.

Business	Residential
B1Z Business 1 Zone	LR1 Low Density Residential Zone
B4Z Business 4 Zone	LR2 Residential 1 Zone
Industrial	Rural
IN1Z Industrial 1 Zone	R1 Farming Zone
Public Land	
PUZ1 Public Use Zone - Local Government	
PUZ2 Public Use Zone - Service Area	
Road Zone - Category 1	
Road Zone - Category 2	

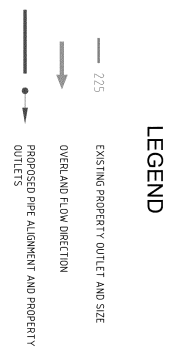


Printed: 4/6/2008


AMENDMENT C102

ZONES **MAP No 24**


SHEPPARTON EAST DRAINAGE SCHEME



SHEPPARTON EAST DRAINAGE OPTION PLAN



DATE OF PHOTO – OCTOBER 2005



GREATER SHEPPARTON

SHEPPARTON EAST DRAINAGE SCHEME

Drawing No. 14050920

SCALE 1:1000

Rev	Amendment	App'd	Date

Special Charge Scheme Process:

