

*Planning and Environment Act 1987*

**Panel Report**

**Greater Shepparton Planning Scheme Amendment C199**  
**Investigation Area 1: Feasibility Study and Master Plan**

Front page

**1 September 2017**

*Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the Act

Greater Shepparton Planning Scheme Amendment C199

Investigation Area 1: Feasibility Study and Master Plan

1 September 2017



Brett Davis, Chair



John Hartigan, Member

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## List of Abbreviations

2016 Flood Report	2016 Water Technology Report
DELWP	Department of Environment, Land, Water and Planning
FO	Floodway Overlay
FZ	Farming Zone
GBMCMA	Goulburn Broken Murray Catchment Management Authority
GRZ	General Residential Zone
GVHGRC	Goulburn Valley Harness and Greyhound Racing Club
IA1	Investigation Area 1
LAC	Land Acquisition and Compensation Act 1986
LPPF	Local Planning Policy Framework
LSIO	Land Subject to Inundation Overlay
Master Plan	Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan
MSS	Municipal Strategic Statement
SPPF	State Planning Policy Framework
SUZ4	Special Use Zone Schedule 4
the Act	<i>Planning and Environment Act 1987</i>
UFZ	Urban Floodway Zone
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions

## Overview

### Amendment Summary

<b>The Amendment</b>	Greater Shepparton Planning Scheme Amendment C199
<b>Common name</b>	Investigation Area 1: Feasibility Study and Master Plan
<b>Brief description</b>	Implements the findings of the <i>Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan</i>
<b>Subject land</b>	Bounded by River Road to the north, Archer Road to the east, Mitchell Road to the south, and Goulburn Valley Highway to the west
<b>Planning Authority</b>	Greater Shepparton City Council
<b>Authorisation</b>	A03538 on 21 March 2017
<b>Exhibition</b>	27 April to 19 May 2017
<b>Submissions</b>	Number of Submissions: 21   Opposed: 14

### Panel Process

<b>The Panel</b>	Brett Davis, Chair and John Hartigan, Member
<b>Directions Hearing</b>	Greater Shepparton Council Offices, 9 June 2017
<b>Panel Hearing</b>	Parklake Hotel, Shepparton, 28 June to 30 June 2017
<b>Site Inspections</b>	Unaccompanied 28 June 2017
<b>Appearances</b>	<ul style="list-style-type: none"> <li>Greater Shepparton City Council represented by Andrew Sherman, Russell Kennedy solicitors, who called the following expert witnesses:               <ul style="list-style-type: none"> <li>John Keaney on drafting the SUZ4</li> <li>Mike Ruzzene of Urban Enterprise on planning and economics</li> <li>Neville Goddard of Watson Moss Growcott on acoustics</li> <li>Warwick Bishop of Water Technology on flooding</li> </ul> </li> <li>Guy Tierney, Goulburn Broken Murray Catchment Management Authority</li> <li>Basic Property Holdings represented by Lachlan Watts, Barrister, who called the following expert witness:               <ul style="list-style-type: none"> <li>Andrew Proud of Engeny Water Management on flooding</li> </ul> </li> <li>Lorenzini Family, represented by Rocky Lorenzini</li> <li>Michael Toll</li> <li>Gordon Hamilton</li> <li>Chris Hazelman, Shepparton Harness Racing Club</li> </ul>
<b>Date of this Report</b>	1 September 2017

## Executive summary

### (i) Summary

Greater Shepparton Planning Scheme Amendment C199 (the Amendment) seeks to vary Schedule 4 to the Special Use Zone (SUZ4) to better facilitate and safeguard the ongoing use and development of the land for the purpose of greyhound and harness racing, retain the existing zonings in the Investigation Area 1 (IA1) and make subsequent changes to local policy:

- amend Clauses 21.04 (Settlement), 21.05 (Environment), 21.08 (General Implementation) and Clause 21.09 (Reference Documents) and
- include the Master plan as a Reference Document.

Key issues raised in submissions included:

- the scope of the Goulburn Valley Harness and Greyhound Master Plan (the Master Plan) and how it applies to the broader Investigation Area 1 (IA1)
- the statutory weight afforded to the Master Plan as a reference document and its wording
- APA Gas pipeline
- the Special Use Zone Schedule 4
- acoustics
- compulsory acquisition
- flooding.

Council and Basic Property Holdings (BPH) called expert evidence on flooding, and the Goulburn Broken Murray Catchment Management Authority (GBMCMA) also appeared. All agreed, as does the Panel that there is no doubt that the land within IA1 has flooded in the past and will do so again during significant flood events in the Shepparton Mooroopna region.

Council and the GBMCMA outlined they were in the process of finalising detailed and updated flood modelling. Some of this informed the Master Plan, however no changes to flooding controls are proposed. Further planning for IA1 may well be assisted when the final flood studies are completed later this year. There was general agreement that the updated flood studies would not significantly change the situation with regard to any future overlays. The Panel concludes that the extent of flood overlays and flood zone covering the IA1 reflect the reality that the area is low lying and flood prone and that it is not premature to consider the Master Plan now.

The Panel was not taken to any evidence to suggest that the Amendment should not proceed. It notes the comments of Council that suggest that if any of the landowners in IA1 wish to develop their land, they do so by running the process of a planning application, and in some cases a further Planning Scheme Amendment is required.

The Panel rejects the submission of BPH and others that the Amendment applies public acquisition by a “back door” and was based on poor, or incorrect flooding information.

The landowners generally did not support the Amendment, however this appeared to be on the grounds that the amendment was "locking them in" to outcomes that have yet to be tested. The Panel notes while there was engagement and consultation of some of the Master Plan iterations, there seemed to be a departure from what the community expected and the final plan put before the Panel. This was illustrated by the fact that the Master Plan title was specific to the Goulburn Valley Harness and Greyhound Racing Club (GVHGRC) and not the broader IA1.

It is apparent to the Panel that the Master Plan relating to the broader IA1 and its implementation has not been clearly communicated. Having said this, the Panel is aware that Master Plans by their very nature are open to interpretation, provide useful background and as a reference document they are not afforded the same weight as an Incorporated Document.

The Panel concludes that future applications for land outside the SUZ4 area are only broadly guided by the Master Plan, and these landowners are not be "locked in" by it.

The post-exhibition changes tabled regarding SUZ4 at the beginning of the hearing appear substantive. Council submitted that the substantive changes were in response to the new Direction the Form and Content of Planning Schemes. The Panel concludes that the changes do not transform the Amendment and are consistent with the new requirements.

Council outlined a strong submission as to how the Master Plan has informed the SUZ4. The Panel concludes that this Amendment process has clearly signalled to surrounding owners the intentions of the GVHGRC. It is a long standing and existing use, and the Master Plan has outlined its growth aspirations. The Panel supports the notice exemptions in SUZ4, as they relate to the table of uses and Precinct Plan. The Panel has removed references to the specific Master Plan in within the SUZ4, as it is only a Reference Document and should not appear in zone controls. This is generally consistent with other SUZ schedules that have been applied for similar facilities elsewhere.

On the basis of the acoustic evidence presented and impacts on surrounding residents, the Panel has recommended a maximum level of 45dB(A) Leq be specified for areas in the investigation area which were outside the SUZ4 Precinct.

Detailed comments related to the APA Gas Pipeline were not supported for inclusion in the Master Plan. The Panel concluded the advice contained within the exhibited Master Plan is sufficient. The Panel has inserted in the reference to the Gas Pipeline in the 'Decision Guidelines' to the SUZ4 to give it necessary status.

The Panel concludes that It is common for the SUZ to apply to similar racing and training venues around Victoria and the SUZ4, subject to changes contained in Appendix C and should be supported.

A number of specific wording changes to the Master Plan were put forward in a series of post-exhibition tables. Other than changing the title, annotations to the actual Master Plan and minor matters discussed in Appendix E, and the removal of the straight training track (adjacent an existing residence), the Panel have not recommended that the Master Plan, as a reference document be substantially altered.



Contrary to its arguments at the Hearing, the Panel found that Council does rely on the Master Plan in some places of its local policy and the SUZ4. The Panel concludes if the Council intended that the Master Plan was to have a statutory function, then it should have proposed that relevant parts of the document be included as an Incorporated Document.

By inserting explicit “hooks” in Clause 21.04 (and direct reference in the SUZ4) the Panel concludes that Council have, unintentionally, given greater statutory effect to the Master Plan than it perhaps thought.

Overall, the Panel concludes that Reference Documents generally provide background only, compared to the actual VPP. They should not appear in strategies or requirements. This view has been upheld regularly by Panels and VCAT, and the relevant Planning Practice Note.

If Council wishes to progress similar plans in the future, the Panel recommends for it consider a standard approach to defining those elements of Master Plans and other strategic documents that are intended to fulfil a statutory role and to ensure that they are implemented through appropriate VPP tools, such as Incorporated Plans. The Panel acknowledges the great amount of Council has undertaken a great deal of work to get to this point to secure the future of the GVHGRC and outlining a broad vision for IA1.

Subject to modifications, the Panel supports the Amendment.

## **(ii) Recommendations**

Based on the reasons set out in this Report, the Panel recommends that Greater Shepparton Planning Scheme Amendment C199 be adopted as exhibited subject to the following:

- 1. Adopt the Master Plan as a Reference Document subject to the following modifications:**
  - **Delete the ‘Straight Training Track’ from its current location on the Master Plan and rename this Version 11**
  - **Rename the document to Investigation Area 1: Feasibility and Master Plan (date to be inserted)**
  - **Update wording as required in the Feasibility Study and Master Plan as set out in Items 7,8,9,10 and 12 in the Table of Recommended Changes found at Appendix E of this report.**
- 2. Adopt Clause 21.04 subject to the changes contained in Appendix D of this report.**
- 3. Adopt the Special Use Zone Schedule 4 subject to the changes contained in Appendix C of this report.**

## **Further recommendation**

The Panel makes the following further recommendations:

- **Council develop and implement a standard approach to defining those elements of Master Plans and other strategic documents that are intended to fulfil a statutory role and to ensure that they are implemented through appropriate VPP tools, such as Incorporated Plans.**

# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

The Amendment seeks to revise the Special Use Zone – Schedule 4 (Goulburn Valley Harness and Greyhound Racing Precinct), make updates to local policy and include the *Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan* (July 2016) (the Master Plan) as a reference document in the Greater Shepparton Planning Scheme.

Specifically, the Amendment proposes to:

- Amend Clause 37.01 Schedule 4 to the Special Use Zone
- Amend Clause 21.04 – *Settlement* to update the relevant Framework Plan and Municipal Strategic Statement
- Amend Clause 21.05 – *Environment* to ensure that growth provides for biodiversity protection
- Amend Clause 21.08 – *General Implementation* to provide direction for the application of the Special Use Zone – Schedule 4 to the subject land, and
- Amend Clause 21.09 – *Reference Documents* to include the *Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016*.

### (ii) Purpose of the Amendment

The Amendment seeks to revise the SUZ4 in accordance with the recommendations of the Master Plan and provides a framework for rural residential equine-related uses in the immediate vicinity of the Goulburn Valley Harness and Greyhound Racing Facility.

### (iii) The subject land

The Amendment applies to land shown in Figure 1. Within this, the Master Plan and Explanatory Report highlight the 'Precincts' shown in Figure 2 which relate to the updated SUZ4. Land zoned SUZ4 is predominately used for the Goulburn Valley Harness and Greyhound Racing Facility. The facility is operated by the Goulburn Valley Harness and Greyhound Racing Club (GVHGRC).

The subject site is bounded by land within the Farming Zone Schedule 2 (FZ2) to the north, east and south. To the west, the subject land immediately abuts the Goulburn Valley Highway, a Road Zone Category 1. The site is accessed by the Goulburn Valley Highway.



Figure 1 Investigation Area 1 (Amendment area)

Source: Master Plan pg. 13

As shown in Figure 2, the GVHGRC is located in the SUZ4 land and occupies the western portion of the site (Precinct A) which includes a greyhound racing track and associated buildings. The central and eastern portion of the land is generally utilised by the Harness Racing Club and Shepparton Pony Club (Precinct B).

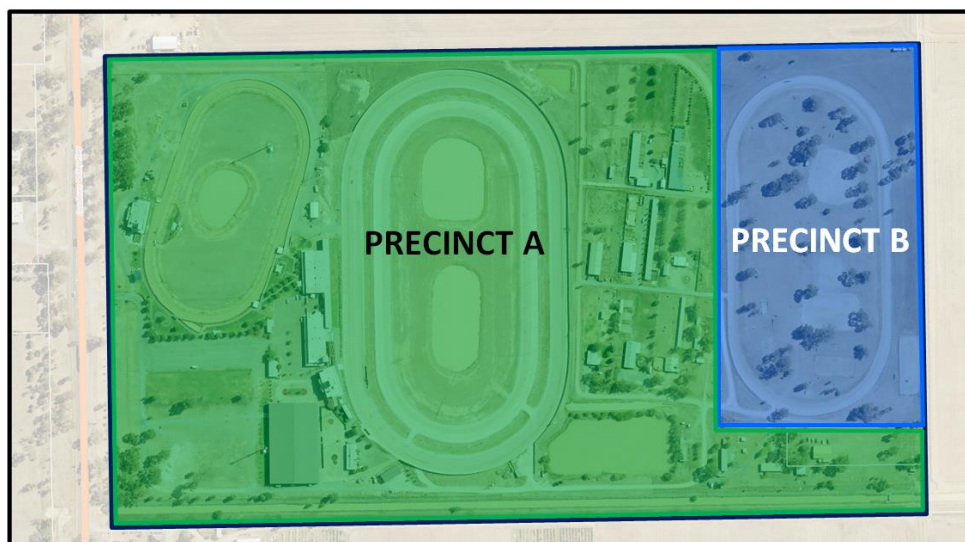


Figure 2 The Precinct

Source Explanatory Report

## 1.2 Procedural issues

Prior to the Directions Hearing, Council wrote to Planning Panels Victoria (PPV) requesting another Panel Member with specific engineering expertise. As a result, Mr John Hartigan was added to the Panel on 2 June 2017.

On 27 June 2017, APA Group informed PPV that following discussions with Council it was satisfied that it has resolved its outstanding concerns with regard to the Amendment and withdrew its request to be heard.<sup>1</sup>

At the conclusion of the Hearing on day 3, the Panel issued a number of directions to Council and Basic Property Group Pty Ltd that included:

- *Council to prepare a table highlighting areas of its agreed changes to the Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan including suggested annotations to the exhibited Master Plan (version 10), the Local Planning Policy Framework and SUZ4. These should be clearly 'highlighted' in green with the accompanying tracked changes in word from exhibited documents. This is to avoid confusion with the final set of post-exhibition changes.*

Council were offered a short right of reply on these matters and others contained within the Direction, by 20 July 2017. On this date Council's right of reply was received along with a 'Table of Recommended Changes.' This table, along with the Panel's comments, can be found at Appendix E.

Several submitters claimed they did not receive notification of the preparation of the Master Plan or had the opportunity to provide any tangible inputs into it. Council refuted this claim and outlined its detailed consultation methods, including copies of letters and attendance lists.<sup>2</sup>

A number of submitters argued at the hearing that they were not made aware of Version 10 until it was placed on exhibition. Council's expert, Mr Ruzzene, could not clarify to the Panel what version of the plan was last shared with the community prior to exhibition. The Panel does not see the need for further notice.

## 1.3 Background

Council submitted the following background to the Amendment:

The *Shepparton Mooroopna Floodplain Management Study* (2002 Flood Study) was completed in October 2002. Amendment C23 was proposed by Council to introduce new flood mapping following the completion of the 2002 Flood Study.

On 10 June 2004, the consequence of the approval of amendment C23-Part 1 to the Scheme was, relevantly, to:

- apply the Urban Floodway Zone (UFZ) to parts of the Investigation Area; and
- amend the LSIO, delete the Rural Flood Overlay (RFO) and apply the Floodway Overlay (FO) to parts of the Investigation Area.

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<sup>1</sup> Document 3.

<sup>2</sup> Document 18.

The Greater Shepparton Housing Strategy (GSHS) was undertaken from 2007 to 2009. Council adopted the GSHS in 2009 and it was updated in May 2011 following consideration of the GSHS as part of Amendment C93. The GSHS and Panel to C93 contemplates a number of “investigation areas” for further strategic assessment, planning (including infrastructure planning) and consideration for future amendment as appropriate.

On 21 June 2012 Amendment C93 was approved and, among other things, the following statement was included in cl 21.04-1 in respect of the Investigation Area:

*Investigation Area 1 – Kialla Paceway and Shepparton Greyhound Racing environs. This area surrounds and includes the greyhound and trotting facilities and is directly adjacent to the Shepparton South Growth Corridor. There is potential to extend services to this land. However, future residential development within this area will be dependent on amenity issues such as lighting, noise, odour and dust being addressed to ensure that the long term interests of the racing facilities are protected.*

Assisted by State Government funding, in December 2013, Urban Enterprise Pty Ltd was commissioned to assess and plan for the Investigation Area.

On 21 July 2015, the Draft Goulburn Valley Equine and Greyhound Precinct – Feasibility Study and Master Plan (Draft Master Plan) was presented to Council. In late 2015, as a consequence of the submissions received by Council on the Draft Master Plan, Council commissioned:

- acoustic assessment to be undertaken by Watson Moss Growcott Acoustics
- model of flood behaviour to be undertaken by Water Technology.

On 14 September 2016, the final Master Plan was endorsed by Council and Council resolved to prepare and exhibit the Amendment.

## **1.4 Issues dealt with in this report**

The Panel considered all written submissions made in response to the exhibition of the Amendment; as well as further submissions, evidence and other material presented to it during the Hearing, and observations from site visits.

The Panel has reviewed a large volume of material. The Panel has had to be selective in referring to the more relevant or determinative material in the report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the report.

This report deals with the issues under the following headings:

- Planning context
- The Master Plan and Investigation Area 1
- Flooding.

## 2 Planning context

Council provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed Council's response and the policy context of the Amendment, and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

### 2.1 Policy framework

#### (i) State Planning Policy Framework

Council submitted that the Amendment is supported by the following clauses in the State Planning Policy Framework<sup>3</sup>:

Clause 11 (Settlement) – the proposed Amendment supports the sufficient supply of available land for housing, employment, open space, commercial and community facilities by facilitating the continued growth and development of the existing Goulburn Valley Harness and Greyhound Racing Facility, by providing a framework for rural residential development that complements this use.

Clause 11.12 (Hume Regional Growth Plan) – Consistent with the *Hume Regional Growth Plan* (2014), the Master Plan facilitates the growth and development of the existing Goulburn Valley Harness and Greyhound Racing Facility and provide a framework for rural residential development that complements this use.

Clause 17.03 (Tourism) –The Master Plan seeks to safeguard the ongoing use and development of the land as a recreational asset and facilitate rural residential development that complements this use.

Clause 19.03-6 (Pipeline Infrastructure) – The Master Plan identifies an APA gas pipeline that traverses Investigation Area 1 from east to west, directly south of the subject site. The proposed SUZ – Schedule 4 prohibits development within the designated buffers of this pipeline.

#### (ii) Local Planning Policy Framework

Council submitted that the Amendment supports the following local planning objectives:

Clause 21.04-1 (Urban consolidation and growth) – the *Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016* addresses amenity issues raised in the Kialla and Shepparton South Framework Plan, Investigation Area 1. The SUZ – Schedule 4 safeguards the ongoing use and development of the Goulburn Valley Harness and Greyhound Racing Facility. The SUZ – Schedule 4 provides the appropriate planning framework to facilitate rural residential equine-related uses in the immediate area.

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<sup>3</sup> Amendment VC134 to the Victoria Planning Provisions (VPP) and all planning schemes in Victoria was introduced on 31 March 2017. It also restructures Clause 11, includes policy-neutral updates and administrative changes and introduces new and updated incorporated and reference documents.



Clause 21.06-6 (Tourism) – the Amendment supports the use and development of the Goulburn Valley Harness and Greyhound Racing Facility for events and tourism.

**(iii) Other planning strategies or policies used in formulating the Amendment**

**Greater Shepparton Housing Strategy (2011)**

The Greater Shepparton Housing Strategy seeks to guide housing delivery and growth, following the adoption of the Greater Shepparton 2030 Strategy Plan. It sets objectives, strategies and actions and establishes a development framework to guide future residential development in Greater Shepparton.

The implementation of the Housing Strategy has resulted in the development of framework plans and the identification of settlement boundaries and investigation areas. Six investigation areas were identified on the Framework Plans. These areas included of issues or constraints, such as environmental, flooding, infrastructure and/or land use conflicts. Investigation areas were identified with the intention that relevant issues be resolved on a site-by-site basis through more detailed analysis.

The potential for investigation areas to accommodate residential development is acknowledged (clause 21.04-1):

*Residential growth outside the nominated settlement boundaries will generally not be supported. As a result the Framework Plans do not indicate any future growth outside the nominated settlement boundary. The exception to this is the land contained within Investigation Areas which upon further investigation may support additional land for residential development.*

The objectives for urban consolidation and growth (clause 21.04-1) include:

*To coordinate the assessment, planning, development and servicing of identified investigation areas in an integrated manner.*

The strategies for urban consolidation and growth (clause 21.04-1) include:

*Avoid incremental approvals and development in identified investigation areas until an integrated investigation has been completed to assess and resolve future land opportunities and constraints, land use, development opportunities, subdivisional layout and servicing for the area.*

The Investigation Area is identified as ‘Investigation Area 1’, described (clause 21.04-1) as follows:

*Investigation Area 1 – Kialla Paceway and Shepparton Greyhound Racing environs. This area surrounds and includes the greyhound and trotting facilities and is directly adjacent to the Shepparton South Growth Corridor. There is potential to extend services to this land. However, future residential development within this area will be dependent on amenity issues such as lighting, noise, odour and dust being addressed to ensure that the long term interests of the racing facilities are protected.*

## **Greater Shepparton Planning Scheme – Clauses 21.04 and 21.09**

Clauses 21.04 and 21.09 of the Municipal Strategic Statement were amended through Amendment C93 in June 2012 to implement the recommendations of the *Greater Shepparton Housing Strategy 2011*.

## **2.2 Planning scheme provisions**

### **(i) Zones**

The Amendment seeks to vary the Schedule 4 to the SUZ. The purposes of this zone are:

*To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

*To recognise or provide for the use and development of land for specific purposes as identified in a schedule in this zone.*

No other zones and overlays are proposed as part of this Amendment.

## **2.3 Ministerial Directions and Practice Notes**

### **(i) Ministerial Directions**

Council submitted that the Amendment meets the relevant requirements of the following Ministerial Directions:

#### **Ministerial Direction No 11 – Strategic Assessment of Amendments**

The Amendment is consistent with Ministerial Direction 11 (Strategic Assessment of Amendments) and Planning Practice Note 46 (Strategic Assessment Guidelines).

#### **The Form and Content of Planning Schemes (s7(5))**

The Amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.<sup>4</sup>

### **(ii) Planning Practice Notes**

#### **PPN03 – Applying the Special Use Zone**

The Amendment is consistent with PPN03 which states that a SUZ Schedule should provide adequate flexibility to cater for a wide variety of land uses. The proposed SUZ Schedule 4 – identifies two precincts where differing but complementary land uses can be considered.

#### **PPN12 – Applying the Flood Provisions in Planning Schemes**

PPN12 provides guidance about applying flood provisions and identifying land affected by flooding. The Amendment does not propose changes to the current flood zones and overlays that apply to the land.

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<sup>4</sup> Significant re-drafting of the SUZ4 in accordance with VC133 on the Form and Content was undertaken post-exhibition and the Panel was taken through this on Day 1 of the Hearing.



### **PPN13 – Incorporated and Reference Documents**

The Amendment is generally consistent with PPN13 which states that Planning Schemes should be transparent and complete in terms of policies and provisions that are relied upon to make decisions about planning matters. The Panel discusses some issues related to the translation of this in Chapter 3.

## **2.4 Discussion and conclusion**

The Amendment is consistent with and seeks to implement the *Greater Shepparton Housing Strategy*, 2011. The Housing Strategy identifies the Investigation Area as an area for potential future urban growth, subject to further planning and investigation to resolve issues and land use conflicts.

The Panel concludes that the Amendment is generally supported by, and implements, the relevant sections of the State and Local Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes.

The Amendment is strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

### 3 The Master Plan and Investigation Area 1

#### 3.1 The issues

The issues are:

- the scope of the Goulburn Valley Harness and Greyhound Master Plan (the Master Plan) and how it applies to the broader Investigation Area 1 (IA1)
- the use of the Master Plan as a reference document, de-facto planning tool and its wording
- APA Gas pipeline
- the Special Use Zone Schedule 4
- acoustics
- compulsory acquisition.

#### 3.2 Evidence and submissions

Elements of the Master Plan, IA1, Clause 21.04, SUZ4 and other matters are discussed in this Chapter.

#### 3.3 The Master Plan and Investigation Area 1

Mr Andrew Sherman, of Russell Kennedy Lawyers for Council submitted that in general terms, the Amendment replaces Schedule 4 to the Special Use Zone (Goulburn Valley Harness and Greyhound Racing Precinct), applies to the broader IA1, makes various amendments to Clause 21 and seeks to include the *Goulburn Valley Harness and Greyhound Racing Precinct – Feasibility Study and Master Plan* (Master Plan) as a reference document in the Scheme. The Master Plan before the Panel (Version 10) is shown in Figure 3.

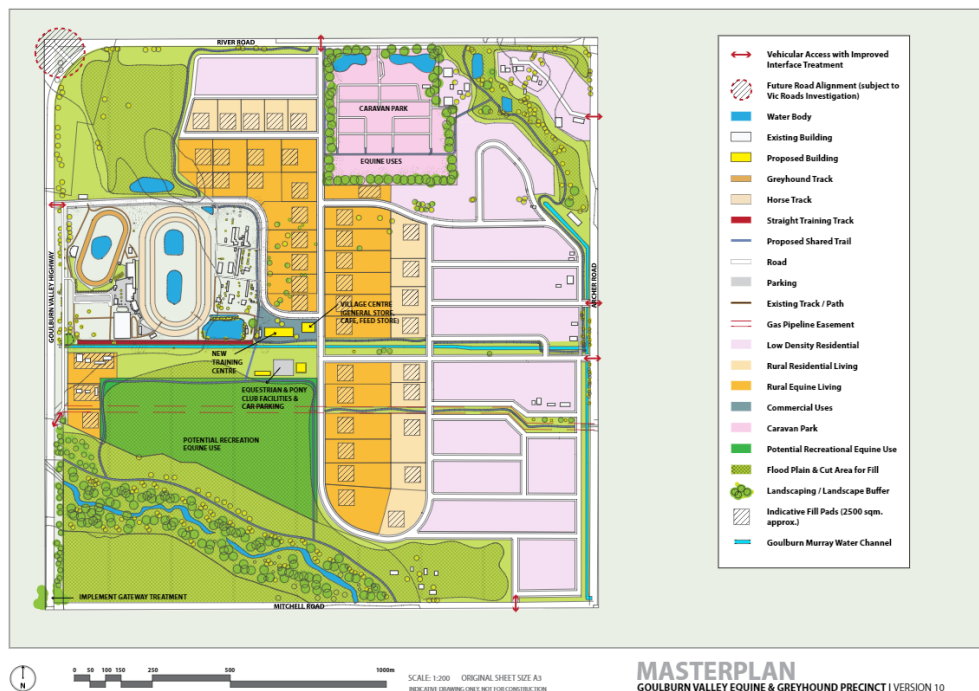


Figure 3 Master Plan Version 10  
Source: 2016 Master Plan

As shown in Figure 1 of this report, IA1 is bounded by River Road to the north, Archer Road to the east, Mitchell Road to the South, and Goulburn Valley Highway to the west. This Investigation Area is one of a number in the municipality and the Scheme.

It is approximately 306 ha in area, situated approximately 6.5 km to 8.2 km south of Shepparton's central business district and is partly subject to the Farming Zone (FZ), partly subject to the Urban Floodway Zone (UFZ) and partly subject to the Special Use Zone, Schedule 4 (SUZ4).

Mr Lachlan Watts, representing Basic Property Holdings (BPH) (submitter 12) submitted that the SUZ4 land is owned by Council and leased to the Goulburn Valley Harness and Greyhound Racing Club (GVHGRC). BPH opposed the Amendment in its entirety and sought for it to be abandoned.

Council submitted:

*It should be observed that the land of submitter 12 is the largest parcel and would obtain substantial advantage from the implementation of the Master Plan with an ability to develop low density residential land over its eastern portion, an ability that does not currently exist.*

A number of submitters, Gordon Hamilton, Tony Gagliardi, Louise Gagliardi, Rocco Lorenzini, Maria Lorenzini, Giuseppina Lorenzini, Alfredo Lorenzini, Antonina Gagliardi and Giulio Gagliardi (submitters 5, 9, 11, 13, 14, 15, 16, 18 and 19) variously asserted the Amendment to be inconsistent with 'the previous master plan', 'the strategy documentation, policies and procedures', 'other Strategies Policies and documentation', 'other studies strategies, policies and documents' and 'findings, studies and strategies,'. Many of these submitters raised issues of a lack consultation, and questioned how the Master Plan related to the broader IA1, and whether or not they were constrained by it.

BPH submitted that the Master Plan required "major surgery" and whilst it may be the start of a good document, its implementation would be "messy". It outlined its concerns with flooding (discussed in Chapter 4), acoustics and changes to the Master Plan and amendments to the SUZ4 (discussed below).

Mr Toll (submitter 7) on behalf of the "Landowner Members of the Kialla Investigation Area 1 Association" argued that the Amendment was contrary to Council's resolution and provided a competitive advantage to the GVHGRC and Council. He argued that the Master Plan sought to control future rezoning of neighbouring properties, contrary to the State's Competitive Neutrality Policy adopted in 2012.

Mr Toll, amongst others submitted that the Amendment should include the entire investigation area for rezoning, as opposed to only dealing with the SUZ4 land. They submitted that:

- *the Amendment is premature until a formal flood study is undertaken and approved by the Minister for Planning;*
- *the Amendment should not rely upon the Goulburn-Murray Water channel, which may be removed or piped in the future;*

- *intensive animal husbandry has been prohibited under the existing SUZ4, yet the exhibited SUZ4 seeks to allow horse stables, which amounts to 'double standards' given the content of the Master Plan;*
- *proposed SUZ4 allows inappropriate concessions, including housing for trainers and employees, subdivision of 0.4 ha lots, horse stables and veterinary centres;*
- *there appears to be an intent through the Master Plan to devalue land in the Investigation Area to assist future land acquisition.*

In response, Council submitted:

- *The Amendment is consistent with strategic planning undertaken by Council to date, including all relevant strategies and policies.*
- *The Amendment has appropriate regard to all relevant economic, environmental and social considerations and has been formulated based on expert empirical assessment of acoustic and flooding matters.*
- *The submissions are not substantiated and there is no need to change the Amendment.*

Council submitted that the Amendment does not seek rezoning of any land and reiterated its purpose was to include the Master Plan as a reference document to provide a basis for potential future rezoning within IA1.

Council called the independent evidence of Mr Ruzzene of Urban Enterprise in relation to strategic planning and economics. Mr Ruzzene identified the substantial contribution that the GVHGRC and the industry made to the local and state economy, approximately 145 full time equivalent jobs and \$14 million in total value add to the Goulburn Valley economy.<sup>5</sup>

It was his evidence that:

*There are adequate stocks of General Residential Zone land as identified in the Greater Shepparton Housing Strategy ... Opportunity for a different residential offer from other growth areas in Shepparton (exists), specifically focussed towards harness trainers and recreational equine residents.*

Mr Hazelman, represented the GVHGRC and outlined its history. He noted that the club purchased the land in 1964 and commenced racing in 1969. In 2002, it received a \$3 million grant to redevelopment of showgrounds and greyhounds moving to their Kialla complex. He explained that "significant investment has occurred predominately since 2002 – in the order of \$13 million."

He stated that the GVHGRC was one of the busiest for Harness and Greyhound Racing in the country, holding up to 104 events per year plus trials. He estimated that harness racing events occurred on average once every 9 days plus trials. He concluded by reinforcing support for the Council's Master Plan submitting "there are strong indicators for growth and development on the site."

Mr Lorenzini (submitter 13) spoke on behalf of his family and outlined that they had been adjacent the racecourse site since 1962 and were not informed about a floodway overlay

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<sup>5</sup> Document 7

until the initial Master Plan was released. He argued that the use of land at the racecourse must not affect the amenity of adjoining landowners and the Amendment was taking away their rights to object. He questioned the Council vision and cited frustrations in obtaining necessary information, while he and his family were always abiding by the law.

A number of submitters argued that the Master Plan effectively “locked in” their future development options, including detailed aspects of cut and fill, public acquisition and future use. BPH argued that the Master Plan was a ‘de facto’ rezoning.

Council submitted that significant parts of the IA1 are subject to the Land Subject to Inundation Overlay (LSIO) and subject to the Floodway Overlay (FO). It explained that:

*This Amendment contains no rezoning of any kind and makes no change to the current flood zone or overlay controls affecting Investigation Area 1 ... A key aspect of a potential development of Investigation Area 1 is that it should not have adverse impact upon land outside of the Investigation Area.*

Council outlined that the Master Plan contemplates the potential development of IA1 “more broadly.” It explained that a number of additional steps would be required before any potential Public Acquisition Overlay (PAO) or Development Contribution Plan Overlay (DCPO) was contemplated. It was submitted that the Master Plan provided appropriate protections and guidance to the development of the SUZ4 land, and “protection and guidance to decision makers in relation to any current or future planning permit applications in the Investigation Area.”

BPH requested that the Explanatory Report be amended to better reflect the contents of the Amendment. Council submitted that there was “no value or purpose in subsequently and retrospectively amending an explanatory report after a Panel Hearing has occurred”, noting that there could be a variety of arguments why that would be inappropriate in seeking to effectively “change” the facts retrospectively.

## **(i) Discussion and conclusions**

The Panel agrees with the submissions of Council that the Master Plan provides appropriate protections and guidance to the development of the SUZ4 land and guidance to decision makers in relation to any current or future planning permit applications in IA1.

There was some confusion at the Hearing on what version of the Master Plan was being discussed. Council’s expert, Mr Ruzzene, could not clarify to the Panel what version of the plan was last shared with the community prior to exhibition and why Version 10 (before the Panel) was ultimately chosen over previous versions. Mr Toll maintained that it was Version 8A that Council had endorsed, not the current Version 10 before the Panel.

Having said this, the Panel notes a plan prepared by Mr Toll in 2012 and tabled by Mr Hazelman<sup>6</sup>, bore remarkable resemblance to the Master Plan Version 10. This suggests to the Panel that there has at least been a working knowledge amongst landowners of what was being proposed. The major change relates to two of the submitters’ properties on the corner of River Road and the Goulburn Valley Highway, (Toll) and in the south-west corner

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<sup>6</sup> Document 20.

(Hamilton) previously earmarked for commercial and residential (resort eco-housing) now both shown as flood plains.

The landowners within IA1 have felt disenfranchised and disengaged, and both Council and GVHGRC need to now work hard and effectively to gain back the trust and support of its local community. This was illustrated in some point by the fact that the Master Plan was even labelled specifically to the GVHGRC and not the broader IA1 area. This was reinforced by the impassioned presentation of Mr Lorenzini. With regard to not knowing about the flood overlays, Mr Lorenzini was informed that these controls were not coming in as part of this Amendment, but had been introduced some years earlier.

The Panel is concerned about the amenity impacts on the Lorenzini property in particular. A step toward this would be the deletion of the straight training track that was proposed to be located directly next to the Lorenzini property. The Panel was not taken to any compelling reason or need for this track to be located where it was has. The Panel has recommended that this be removed from the final Master Plan, due to its proximity to an existing residential property. The Panel has made recommendations with regard to acoustics to assist with amenity issues.

In reading the Master Plan, it is clear to the Panel that there is a broad plan for the future of IA1. As with all master plans, these are subject to change with future applications. No PAOs, or Flood Overlays are proposed as part of this Amendment.

It is apparent to the Panel that that the Master Plan relating to the broader IA1 and its implementation has not been clearly communicated. It is implicit in its Explanatory Report (not referencing the broader IA1) and the title of the Master Plan (missing the IA1).

The Panel agrees with the submission of BPH that the heading of the Master Plan should be amended to reflect the area impacted by it. Council subsequently agreed with this view as well, and this is reflected in Appendix E by proposing that the Master Plan title should read "Investigation Area 1: Feasibility Study and Master Plan." The appropriate date can be added once other changes are applied, prior to Gazettal. This title change is necessary as it assists all parties into the future.

### **3.4 Reference document and Clause 21.04**

During the course of the Hearing various submissions raised issues associated with the use of the Master Plan as a Reference Document its content. In a broader sense, these submissions raised issues about the statutory role that these documents have.

BPH submitted if the Master Plan was to be a reference document, then consistent with PPN13 requiring transparency, the heading should be amended to reflect the total area affected by the Master Plan. It argued that this and the Explanatory Report were misleading. BPH also submitted that the Explanatory Report conveyed the Amendment affecting 40 hectares (the SUZ4 land), and not the whole 310 hectares of IA1.

Mr Keaney, speaking to the drafting of the SUZ4 on behalf of Council submitted:

*There is no question that this reference document has informed SUZ4 – look to the first purpose. There is a link in Clause 21.04, therefore if its (sic) linked*

*under proper construction it needs identification in the MSS as a Reference Document.*

BPH submitted that the inclusion of the Master Plan as a Reference Document in the Planning Scheme elevated its status and was a ‘de facto’ rezoning of the land. It argued that the Master Plan and the weight afforded to it was a “hybrid” between a Reference Document and an Incorporated Document, but unlike an Incorporated Document a Reference Document could be amended at any time.

When asked what status should be afforded to the Master Plan, Mr Keaney replied:

*The Greater Shepparton planning scheme arising from its Housing Strategy went so far as identifying Investigation Areas. These provide a chance for further work to identify capacity. That further work has been done – it will assist in future requests for land outside SUZ4.*

*There’s no question there’s been extensive consultation and Council now has a document that will assist it in time to answer the orderly and proper planning test. My reading of the Practice Note – is that it provides guidance for the future. The Explanatory Report makes it clear this Master Plan is opening up opportunities for rural living but it is well short of finalisation of how that might appear and how landowners might respond. It’s a good start.*

Mr Keaney raised an example in Warrnambool C93 where Council used the Amendment to implement the *Warrnambool Strategy Plan*. He proffered:

*It identified opportunities and left it for land owners to come forward and implement. This is a similar case. It is a higher level concept plan for the way this area might evolve. In the case of this Amendment, the Council had control over the SUZ4 land only and were satisfied the Master Plan gave them ammunition to refine the SUZ4.*

The wording of Clause 21.04 was the subject of several submissions, particularly by submitters Hamilton and BPH. They submitted that the “concept of cross referencing clause 21.04 to a Reference Document is a misuse of the concept of a Reference Document” and not in accordance with *Planning Practice Note 13 – Incorporated and Reference Documents, June 2015*.

BPH argued that the interplay of the proposed amendments to Clause 21.04 and its cross-referencing at Clause 21.09 created a “mandatory requirement” for the future development of IA1, and that any future use and development applications lodged in the ‘non-precinct’ land will have to be determined by giving weight to the Master Plan.

Council submitted:

*The Amendment is consistent with Planning Practice Note 13 – Incorporated and Reference Documents, June 2015. The Master Plan is proposed to be included as a reference document to inform the Scheme and to guide further strategic steps for the parts of Investigation Area No. 1 outside the Precinct. Such further work may include rezoning and further overlays, all of which is*



*consistent with the Housing Strategy as commented in Amendment C93. This is entirely appropriate.*

As part of its Table of proposed changes (Appendix E) Council proposed the following wording at Clause 21.04 to state:

- *Ensure that amendments and development in an Investigation Area, where the Investigation Area Study has been completed, are informed by and has regard to an approved Master Plan (included as a reference document at Clause 21.09 Reference Documents).*

BPH submitted that revisions to Clause 21.04 proffered by Council by the additional of the words “are informed by and has regard to” would not be interpreted meaning that the Master Plan is cross referenced merely to provide useful background information. BPH raised concerns that this had wider implications for the other investigation areas contained within the Planning Scheme.

BPH argued that the Master Plan had sufficient weight to be relied upon and that the Tribunal had considered the status of a masterplan that was a reference document but was not incorporated into the planning scheme as having effect:

*The masterplan is a reference document referred to in the planning scheme, but it is not, of itself, an incorporated document. Nevertheless, it is clearly of importance in relation to the future use and development of the CUB site and the review site in relation to the present case.<sup>7</sup>*

BPH submitted various case law examples to illustrate why the proposed amendments to clause 21.04 (with the revision) will result in any future use and development applications to non-precinct land having to be determined by giving weight to the Master Plan as the fundamental element by which applications must be determined. It argued that there was a long line of case law that established that these words, used in any statutory instrument, had the effect of creating a mandatory obligation on a decision maker.

Council submitted that the BPH submission was legally incorrect. It explained:

*It would be inappropriate to establish the Master Plan as an Incorporated Document in respect of the non-Precinct areas of Investigation Area 1 unless or until that land is actually rezoned ... At the present time that is not appropriate given the tasks associated with appropriate Development Contributions, potential PAO's and final development form.*

Council tabled a VCAT decision relevant to IA1 to illustrate this point. In this decision, VCAT explained:

*Reference documents provide background information and have only a limited role in decision-making as they are not part of the planning scheme. They should not be relied upon as a de facto planning control that sits outside the planning scheme<sup>8</sup>*

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<sup>7</sup> *Queensberry Hotel Pty Ltd v Minister for Planning and Community Development.*

<sup>8</sup> Document 17: *Hamilton v Greater Shepparton VCAT 1613/2014* para. 42.



It concluded by stating that the BPH submission:

*Re-states the inaccurate and wrong propositions that the adoption of the Master Plan as a Reference Document reflecting a potential development scenario for the broader land constitutes a de-facto rezoning or de-facto compulsory acquisition.*

**(i) Discussion and conclusions**

The use of reference documents comes up regularly at Panels. The Panel adopts the views held by the Greater Geelong C129 Panel that:

*While it was entirely appropriate that the veracity of the background work be rigorously tested, it seemed to us that Council and many submitters have an unwarranted expectation about the statutory role that these documents have. In some cases this expectation is based on the fact that the strategies in the MSS refer explicitly to implementing a particular plan or strategy.*

*It is clear to us that Reference Documents should only be relied upon to provide background or explanatory material in support of the planning scheme. They should not be relied upon as a de facto planning control that sits outside the planning scheme. If Council intended that these documents have a statutory function then it should have proposed that they be included as Incorporated Documents.<sup>9</sup>*

The Master Plan is clearly a background document, providing a vast array of explanatory material in setting out a vision for the IA1, most notably the GVHGRC and its facility. It provides background and context primarily to the updated SUZ4 (discussed at section 3.3). Importantly, the SUZ4 only relates to the land shown in Figure 2 (the precincts).

The *Table of Recommended Changes* with Panel comments contained at Appendix E outlines a discussion between BPH and Council and their response to the need for changes to wording to the Reference Document. The Panel does not believe that it is necessary or appropriate to recommend that they be substantially modified so that they are consistent with the planning scheme provisions. In addition the Panel does not believe that a detailed review or form conclusions about all of the material in the Master Plan is required except where they have an explicit link to the Amendment.

The Panel have considered these documents in so far as they are relevant to the exhibited Amendment provisions and where appropriate have recommended various changes to those provisions. The Panel does not see merit in reflecting the majority of suggested changes in Appendix E in a revised version of the Reference Document given that it is a background document. The Panel is satisfied that should any confusion arise between what is in the reference documents and what is in the final form of this Amendment, then this Panel Report is one means of resolving that confusion.

The Panel is cognisant of the fact that that revising reference documents to reflect the final content of the Amendment can, on occasion ignore the practical difficulties associated with

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<sup>9</sup> Greater Geelong Planning Scheme Amendment C129 Panel Report: pg. 20-21.

the precedent that this would set. It was taken by Mr Keaney to the Greater Shepparton C112 Panel Report that dealt with the introduction of an Integrated Design Manual (IDM) and a critical issue was whether or not the document became a reference or an incorporated document.

That Panel determined that it should be a reference document because it is a guide and it embodies the discretion in the planning scheme. This Panel adopts the same view of the Master Plan. Where applicable, it guides the exercise of discretion but not to a point where it rules out other options. This is something lost on some of the objectors to this Amendment.

The Panel does not support an approach whereby reference documents are relied upon as a de facto statutory tool. This is discussed continually throughout this report. The Panel adopts the views of Greater Geelong C129 Panel that:

*Where elements of those documents are intended to have statutory weight, then they should be implemented through appropriate VPP tools. Where they provide broad strategies at an MSS level these strategies need to be an explicit part of the MSS.<sup>10</sup>*

The Panel agrees with submissions that Council has afforded a greater weight to the Master Plan through its cross-referencing in Clause 21.04 and SUZ4. Contrary to its arguments at the Hearing, Council does rely on the Master Plan in some places of its local policy and the SUZ4. The Panel concludes if the Council intended that the Master Plan was to have a statutory function, then it should have proposed that relevant parts of the document be included as an Incorporated Document. This is not the case.

By inserting explicit “hooks” in Clause 21.04 (and direct reference in the SUZ4) the Panel concludes that Council have, unintentionally, given greater statutory effect to the Master Plan than it perhaps thought. The Panel would not go so far as to agree with BPH that this has the effect of creating a mandatory obligation on a decision maker, however it certainly has elevated the status of the Master Plan beyond that of a reference document. The Panel concludes that such references be removed from Clause 21.04. This is expressed in the Panel’s preferred Clause 21.04 found at Appendix D of this report.

The Panel notes that when Council prepares or commissions planning studies in the future, it should give greater thought to how those studies will be implemented through the planning scheme. The Panel concludes that future applications for land outside the SUZ4 area are only broadly guided by the Master Plan, and not bound by anything. If Council is serious about applying future use and guidance outside of the SUZ4, it needs to consider applying other tools within the Victorian Planning Provisions (VPP) to achieve that function. For these reasons the Panel has amended some of the language and removed references to the Master Plan in the SUZ4 and Clause 21.04 to reflect the background role that the reference document plays.

The Panel is satisfied that the Council has undertaken necessary consultation in the preparation of the Master Plan and this Amendment. It questions at what point the

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<sup>10</sup> Greater Geelong C129: pg.22.

consultation stopped, as Mr Ruzzene was not clear in his evidence to the Panel what iteration of the Master Plan was last made available to the community prior to this Amendment process. Regardless of the versions before it, the Panel concludes that Master Plans by their very nature are open to interpretation, and as a reference document they are not afforded the same weight as an Incorporated Document.

The Panel notes that all Council's must be cognisant of their consultation methods and these are often dictated by project budgets. Ultimately, the final "version 10" has been put to the Panel and many stakeholders were able to provide comments to the Panel. Nevertheless, moving forward Council should be clear in what version Master Plan it is seeking comment on and clearly articulate changes between iterations so stakeholders are fully informed.

Ultimately, the Panel concurs with the statement of Mr Keaney and concludes that the Master Plan identifies opportunities for land owners to come forward and implement, and should they wish to go another way that is for them to justify through a separate amendment process.

Other than for inconsistencies discussed in Appendix E, the Panel have not recommended that the Master Plan, as a reference document be substantially changed.

### **3.5 APA gas pipeline**

APA Operations (submission 17) sought changes to the Amendment. These related to detailed conditions concerning the high pressure APA gas pipeline (the Pipeline) that traverses IA1. In general terms, Council agreed to change the Master Plan to accommodate APA's request. These changes are contained in Appendix E.

BPH did not support the current or proposed wording change. Council suggested that if the Panel did not recommend the inclusion of the modified words in the Master Plan, then words related to the Pipeline would need to be reinserted into the SUZ4 to ensure APA were consulted.

#### **(i) Discussion and conclusions**

The Panel does not support constant updating of a reference document and as such does not support the Pipeline changes in such detail. It notes that the Master Plan clearly denotes the Pipeline easement and requirements such as the APA guidance should relate to future planning permit conditions rather than be contained in such detail within the Master Plan.

The Panel does not support the inclusion in such detail and believes the advice contained within the exhibited Master Plan is sufficient. Being cognisant of Council's suggestion, the Panel has inserted in the 'Decision Guidelines' to the SUZ4 (Appendix C) the following:

*For applications within 160m of the high pressure gas pipeline, the views of the relevant operator*

The Panel concludes this provides the necessary link for the relevant gas pipeline operator to make appropriate comments with future applications.

### 3.6 The Special Use Zone Schedule 4

A number of changes to the SUZ4 were tabled in response to the Ministerial Direction. Council submitted that “subject to some re-wording, the existing zone ‘purposes’ have been retained in the exhibited SUZ4. New purposes have also been introduced.”

Council and Mr Keaney explained that the other major input underlying the preparation of the exhibited SUZ4 is experience drawn from a number of recent amendments which have addressed very similar issues to those found at Kialla being:

- *Pakenham Racecourse (Cardinia Amendment C141)*
- *Dowling Forest Racecourse (Ballarat Amendment C149)*
- *Wangaratta Racecourse (Wangaratta Amendment C86)*
- *Cranbourne Racecourse (Casey Amendment C166).*

It was explained that each of these Amendments have sought either to:

- protect existing facilities near a racecourse; or
- encourage the growth of horse training facilities next to the course.

Mr Keaney outlined that the SUZ4 before the Panel was a combination of the existing schedule, rebranded to include best practice from other Councils with similar controls and the Master Plan vision. With regard to the Ministerial Direction, Mr Keaney proffered that “nearly all the red is ministerial direction related. We are caught in the middle of this – the modified version accords with this new Ministerial Direction.”

He explained that Council changed ‘equine or horse’ references to ‘harness’ and linked it to those registered under the relevant harness legislation. This was illustrated by the condition in Section 1 relating to ‘Animal Training’. Council, as explained throughout the Master Plan, was keen to ensure that a specific type of user, registered under the relevant Harness legislation was referenced.

Mr Keaney explained that the Ballarat C149 Panel concluded there was good reason for the SUZ because it was seeking a limited objective in a limited area – horse owners next to a track facility, not rural residential owners.

Mr Keaney submitted the same scenario applied to this Amendment for Harness Racing owners as the GVGRC saw this as a potential magnet for trainers to establish their operations at this track. This in turn lead to the proposition of residential lots being proposed within the IA1, that may be subject to lower amenity standards (noise and light) but on the understanding that they were effectively industry specific owners living and working in their surrounds.

Council submitted that the Master Plan distinguishes between the existing racing facilities (Precinct A) and an associated area of land which is identified as a potential equine related residential area (Precinct B). It noted that “the exhibited SUZ4 adopts this distinction.”

Council took the Panel through its detailed changes to the SUZ4. These are contained in Appendix C of this report. In particular, the Council noted:

*The exhibited SUZ4 includes new requirements in respect of use of land for the purpose of a dwelling. The purpose of these new requirements is to limit the*

*circumstances in which a dwelling can be permitted, to require new dwellings to be, in general terms, in conjunction with the harness industry.*

Council submitted that the exhibited SUZ4 includes the need for a section 173 agreement to be entered into to require that the land on which the dwelling is located must be used for the purposes of horse training or horse stables. It proffered:

*This is an important feature of the Amendment, which seeks to better safeguard the greyhound and harness racing facility from the establishment of incompatible dwellings. The inappropriate establishment of dwellings without nexus to harness racing within the vicinity of the racing facility would be problematic, with the potential to compromise the amenity of the dwellings and the operation of the racing facility. The outcomes which have been allowed to eventuate at the Cranbourne and Ballarat racecourses are sought to be avoided by the Amendment.*

Council submitted that the required 'nexus' for a dwelling to the harness industry was a very important aspect of the Amendment. It was Council's view that:

*The recent examples of amendment C141 to the Cardinia Planning Scheme (which approved the new Pakenham Racecourse and training facility) and amendment C149 to the Ballarat Planning Scheme (at and adjoining the Dowling Forest Racecourse) has provided the 'model' that is sought for this facility at Kialla.*

BPH submitted that the Amendment results in a number of proposed uses in the SUZ4 being exempt from notification requirements of the Act. It argued that given the scale of potential developments that would benefit from these exemptions, it was inappropriate. BPH cited case law<sup>11</sup> to reinforce their argument. Council submitted that modifications to limit those exemptions have been advanced in the version of SUZ4 provided immediately prior to the Panel Hearing for consideration of the Panel. It argued that the SUZ4 was, in its revised form to incorporate the latest practice direction, appropriate for adoption.

Mr Keaney submitted that:

*Without question the existing schedule has been carried forward. The Master Plan is the key to the purpose of the SUZ4, and as such it has an elevated position.*

Council submitted that they had tightened the SUZ4 exemptions from notice and review in response to submissions. The Master Plan shows "indicative fill pads" of approximately 2500 square metres for low density and rural residential living, within the SUZ4 precinct and extending into the IA1.

Mr Keaney explained:

*You will see the schedule adopts a figure of 0.4 hectares – this has not been dragged from the master plan. It is based on interpretation and other*

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<sup>11</sup> Von Hartel V Macedon Ranges Shire Council (2014) 48 VR 632.

*experience. I cannot take you to a point in the master plan where this is specified – it is the absolute minimum.*

*In doing final edits we have prohibited warehouses but in the text – Rural Industry and Store are discretionary. In the exhibited draft the SUZ said ‘rural industry, store and warehouse’ and we deleted warehouse because you can’t have it. The other driver for the minimum lot size are septic requirements.*

Mr Keaney reiterated that there are no changes in relation to any controls outside the SUZ4, and that the Master Plan was a guide. In response to questions regarding issues that impacted on drainage outside the SUZ and notice exemptions, Mr Keaney replied that any application needs to be assessed on its merits and how it relates to the broader IA1. He added that this it would be subject to a separate application process, and including the GBMCMA.

Mr Toll and Webb Surveyors (submitters 7 and 8) objected on the basis that the SUZ4 was drafted to remedy a serious planning issue of intensive animal husbandry, and cover up for unapproved uses and development in the precinct. Council submitted that the Amendment did not retrospectively “remedy” any planning issues. During the Hearing Council produced relevant permits for the buildings Mr Toll had questioned (Document 16).

#### **(i) Discussion and conclusions**

Council produced the necessary documentation regarding previous approvals for certain structures questioned by Mr Toll. It was not for the Panel to interrogate these, only to comment that the documentation appeared tenuous at best. It notes that it is a somewhat unorthodox practice to endorse aerial photos for buildings and works as an endorsed plan.

The Panel concludes that the Amendment does not retrospectively remedy any planning issues. For the reasons explained, the Panel does not support explicitly referencing the Master Plan in the SUZ as it is a reference document.

The Panel notes Council’s submission that this is a refinement of the current zone that applies to the Precinct. The Council provided numerous examples of where the SUZ has been applied in similar circumstances. With the exception of Ballarat C149 and Casey C166, other examples tabled by Council did not refer to a specific Master Plan, or exempt notification rights within its SUZ schedules. In Casey C166, the Amendment incorporated *The Cranbourne Racing Complex and Surrounds Investment and Development Plan* which thereby allowed it to insert exemptions from notice. Ballarat C149 contained a blanket exemption “within the total boundary of the property.”

The Panel understands that the changes to the SUZ4 appear substantive, and could be viewed as transformative. The SUZ4 provides tailored guidance to the GVHGRC and its facility. When reviewing the changes, the Panel concludes it is not transformative, but a redistribution of material that already existed within the schedule, save for some specific outcomes of the Master Plan process.

The mechanism of the SUZ in itself is appropriate. The Panel adopts the views held by the Ballarat C149 Panel that stated:

*The principle of applying a SUZ to achieve a particular outcome is an appropriate use of the VPPs ... The Panel observes other examples of key infrastructure and sometimes surrounding land being included in a SUZ. Examples are associated with racecourses, airports and major tourist facilities.<sup>12</sup>*

The Panel concludes that it is common for the SUZ to apply to similar racing and training venues around Victoria and the SUZ4, subject to changes contained in Appendix C and should be supported.

Council outlined a strong submission as to how the Master Plan has informed the SUZ4. The Panel concludes that this Amendment process has clearly signalled to surrounding owners the intentions of the GVHGRC. It is a long standing and existing use, and the Master Plan has outlined its growth aspirations tied to that use. The Panel supports the notice exemptions in SUZ4, as they relate to the table of uses and Precinct Plan. It has removed references to the specific Master Plan in within the SUZ4, as it is only a Reference Document and should not appear in zone controls.

### **3.7 Acoustics**

The issue is whether the controls as set out at clause 2.0 of the exhibited SUZ4 Schedule are appropriate with respect to noise emanating from uses within the SUZ4.

The proposed clause 2.0 in the exhibited SUZ4 Schedule requires that noise emission levels when measured in Precinct B must not exceed the following levels:

- Public Address Systems – 55 db. (A) LEQ
- Music or concerts – 65 db. (A) LEQ measured outside any residential property.

Council submitted that the proposed requirements in respect of acoustics are appropriate as they are consistent with the existing controls in the current SUZ4 and the acoustics report prepared by Watson Moss Growcott dated 16 May 2016.

Council submitted that:

*Under the option for potential development contemplated in the Master Plan ... the areas most affected by the flooding impacts associated with Sevens Creek ... are the least likely areas to be used for residential development. Whether further acoustic assessment and additional ameliorative measures are required at a future date, is yet to be established and need not be resolved at this stage.*

BPH quoted part of an email sent on 8 February 2016 by Mr Goddard of Watson Moss Growcott to the Council. In this email, Mr Goddard stated inter alia that due to the weather conditions prevailing on the night of attendance at the harness racing, it was necessary to use the results of the noise measurements relatively closely to the speakers where the wind did not influence the measured levels and to set up a noise model.

BPH asserted that this was *an entirely unsatisfactory basis on which the acoustic characteristics which underpinned the Amendment have been assessed.*

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<sup>12</sup> Ballarat C149 Panel Report: pg.45



BPH added:

*Council's acoustic expert, Mr Goddard, conceded that the acoustic study was mainly directed at studying the acoustic impacts in areas designed for housing in the Master Plan. He conceded that more work would be required to properly assess the impact on properties to the south and the southeast of Precinct A. Such work should be carried out and examined prior to C199 going any further.*

BPH asserted that the failure to properly consider the impact on properties to the south and southeast of Precinct A “arguably constitutes a contravention of the *Charter of Human Rights and Responsibilities Act 2006 (Vic)*.” He did not advance any further arguments on this point.

In his Expert Witness Statement, Mr Goddard noted that direct noise measurement of noise levels at affected receptor locations can be a valid means of identifying the resultant noise levels at receptor locations from a noise source (in this case, the public address system at the harness racing facility) but that direct measurement is subject to a number of limitations. He added that direct measurement is not the only way to assess noise emissions and that the science of acoustics is well established and noise modelling packages have been developed. He stated that:

*Noise modelling has therefore been used to provide a much more useful outcome in relation to both off-site noise effects and the functionality within the harness racing precinct than would have been possible by means of only direct noise measurements conducted in the investigation area.*

Mr Goddard noted that while 55dB(A) Leq was a reasonable target for events occurring 20-25 times per year during the evening, this was a prominent level and its acceptability to residents would depend on their expectations. He posited that:

*Residents in the vicinity of a racing venue who have an expectation of some noise impacts from that venue may well find up to 55dB(A) Leq occurring for a cumulative total of up to an hour and a half per evening on approximately 20-25 evenings per year acceptable.*

*However, residents with a more purely ‘residential amenity’ expectation may not be satisfied by such levels. Therefore further consideration has been given to lower levels based on the EPA approach to general commercial, industrial and trade noise.*

He considered that based on the assessment framework for general noise emission to residential premises in regional Victoria (Noise from Industry in Regional Victoria – NIRV), a level of 45dB(A) Leq be consistent with a purely ‘residential’ expectation of amenity as distinct from residents who chose to occupy land in an Equine Related Rural Living zone where up to 55dB(A) Leq is considered reasonable.

Mr Goddard proposed that a reasonable framework for considering the development of residential uses within the investigation area would be as follows:

- <45dB(A) Leq during use of Public Address system – Rural Living or Low Density Living
- 45dB(A) to 55dB(A) Leq during use of Public Address system – Equine Related Rural Living



- >55dB(A) Leq during use of Public Address system – Non-sensitive land uses.

He suggested that to align expectations with reality, there could be some benefit in including a notice on titles to the effect that Rural Equine Living Land will at times be subject to audible noise emission from the racing facilities.

He concluded that with the existing Public Address system at the harness racing facility, there could be adverse noise impacts at locations within the investigation area being considered for residential development under some weather conditions.

At the hearing, BPH referred to Figures 7 to 9 in Mr Goddard's Expert Witness Statement which showed noise level contours for various weather conditions. Mr Goddard agreed that these contours showed levels greater than 45 dB(A) Leq for areas immediately south of the Precinct depending on wind directions and that there was scope for further changes to the Public Address system to reduce noise impacts on existing residences. He stated that further modelling would be required to refine the design of the Public Address system to reduce source emissions should a maximum level of 45dB(A) Leq be specified for areas in the investigation area which were outside the SUZ4 Precinct.

#### **(i) Discussion and conclusions**

The Panel is satisfied that the noise impact assessment carried out by Mr Goddard provides a sound basis for assessing the impact of the acoustic controls proposed in the Amendment. In his written statement and in oral evidence at the hearing, Mr Goddard provided a thorough explanation as to why an assessment based on noise modelling rather than direct measurement was appropriate in these circumstances.

The proposed controls specify that noise emission levels from the Public Address system when measured in Precinct B must not exceed 55 dB(A) Leq. Mr Goddard suggested that the 55dB(A) Leq maximum may be acceptable to residents within the SUZ precinct as they would have some expectation of noise emanating from the horse racing facilities. He added, however, that this level may not be acceptable to those living outside the Equine Related Rural Living zone and that outside the Precinct, a maximum level of 45 dB(A) Leq would be appropriate.

The Panel agrees with Mr Goddard's assessment. A control at the lower level of less than 45 dB(A) Leq should be included in any future amendment with respect to development in the investigation area outside of the Precinct.

The difficulty remains, however, that the noise impact assessment done by Mr Goddard clearly shows that the existing residences south and southeast of the Precinct are subject now to noise levels above 45 dB(A) Leq during some weather conditions. The Panel understands that some adjustments to the horse racing Public Address system have been made to reduce noise emissions but, as explained by Mr Goddard, further modelling would need to be done to identify further refinements to reduce noise levels outside the Precinct to meet maximum levels of 45 dB(A) Leq at sensitive receptors (i.e. houses).

The Panel sees this evidence is integral to ensure ongoing amenity for existing surrounding residences, in line with industry standards. The Panel concludes that the acoustic evidence and further refinement of the PA system should be done now in advance of any future

amendment to lessen noise impacts on existing residences just outside the Precinct. It concludes that an additional consideration be added to the 'Amenity' section of the schedule that states:

*Noise emission levels when measured in the investigation area outside of the SUZ4 Precinct must not exceed a maximum level of 45dB(A) LEQ*

### **3.8 Compulsory acquisition**

BPH submitted that the Amendment was a “de facto form of compulsory acquisition.” BPH argued that the cross-referencing of the Master Plan in local policy at Clause 21.04 and previous decisions of VCAT meant that land in other areas of IA1 was undevelopable or “being cut off from other development options.”

BPH raised a number of legal issues and that the Panel and Council needed to be aware of what the *Charter of Human Rights and Responsibilities Act 2006* set out with regard to these matters. It was BPH’s submission that:

*The combination of the Master Plan and the findings from the flood mapping (i.e. the Water Technology Model of Flood Behaviour Report) reflected in the Master Plan and detailed in section 7 of the ‘Precinct Study and Master Plan’ is, in effect, a de facto Public Acquisition Overlay of part of Basic Property’s land for a public purpose, but done in such a way as to not trigger the compensation provisions in Part 5 of the P&E Act.*

Council submitted that the BPH submission “misinterprets the proper application of the planning scheme provisions, the provisions of the Act and the provisions of the *Land Acquisition and Compensation Act 1986* (LAC Act) as they relate to acquisition of land. Council set out the responsibilities of acquisition under the Act and argued:

*Section 98 of the Act establishes when compensation can be sought before a relevant acquiring authority can compulsorily acquire land. That an acquiring authority can only do that (with some limited exceptions), after the land has been “reserved” through a planning scheme amendment to establish a Public Acquisition Overlay (“PAO”).*

Council argued that s98(2) of the Act:

*... relates to the refusal to grant a permit due to the future need of land for a public purpose. Again, not advanced by C199. Theoretically, a future application by a land owner, if refused by the Council, because of an asserted future public purpose, triggers compensation. Note, however:*

- *the presence of a conceptual option in a Master Plan does not provide the basis for an asserted public purpose;*
- *no Council is going to be foolish enough to invite the compensation claim (which the Council then must pay) in these circumstances, where the infrastructure provision (including drainage) is to be provided by the land owners.*

Council argued that the BPH submission asserted that the designation of an equine recreational use on a Master Plan (a Reference Document only) effectively “rezones” the land to a public use. They stated that “this comment is legally and practically incorrect.”

BPH submitted that the Amendment, through the Master Plan and its changes to local policy particularly at Clause 21.04 and 21.09 conveys the message that the “Reference Document is intended to be part of the Planning Scheme ... there is an advanced and complex degree of strategic planning found in these interlocked documents.”

Council argued that BPH misconstrued the Master Plan and its weight given its Reference Document. It argued that reflecting a potential development scenario did not constitute a “de-facto rezoning” or “de-facto compulsory acquisition”.

#### **(i) Discussion and conclusion**

A number of legal arguments were put to the Panel about whether or not the Master Plan was a “de facto” form of public acquisition overlay, effecting clamping future development rights of landowners outside of the SUZ4, but within the IA1. Put simply, s98(1) of the Act deals with situations where a PAO is proposed or access to land is restricted. None of this is proposed within this Amendment.

The Panel has constantly established throughout this report that Master Plans are background documents and by their very nature are subject to change once more detailed design, consultation and concepts are developed. The Master Plan in this case sets out a ‘possible future’, but does not lock in any acquisition by any means. No rezoning accompanies this Amendment.

The Panel concludes that changes it has proposed to the existing SUZ4 do not impact on the surrounding properties and any changes of use or development would be subject to future review and possibly a further amendment.

### **3.9 Overall conclusions**

The Panel concludes:

- The Master Plan should be renamed to include the IA1. The Panel agrees with Council’s suggestion of *Investigation Area 1: Feasibility and Master Plan*
- The straight training track, located directly adjacent the Lorenzini property, should be removed from the Master Plan and it be renamed ‘Version 11’
- Other than for inconsistencies discussed in Appendix E, the Panel have not recommended that the Master Plan, as a reference document be substantially changed
- The Master Plan identified opportunities for land owners to come forward and implement, and should they wish to go another way that is for them to justify through a separate amendment process
- Council should be clearer in its consultation methodologies with similar processes to ensure that stakeholders are on the same page
- The SUZ4 provides tailored guidance to the GVHGRC and its facility. Outside the SUZ4 area, the Master Plan provides only very broad guidance and should not be solely relied upon

- the noise impact assessment based on modelling rather than direct measurement is an appropriate methodology in the circumstances and provides a sound basis for assessing the controls proposed in the Amendment
- the controls as set out at clause 2.0 of the exhibited SUZ4 are appropriate with respect to noise emanating from uses within the SUZ4 in so far as they relate to development within the Precinct
- a lower maximum level of 45 dB(A) Leq for development outside the Precinct should be considered appropriate to include now in the SUZ4 to protect the amenity of existing and future residences
- The Panel does not agree with the submissions put forward by BPH that the designation of an equine recreational use on a Master Plan (a Reference Document only) effectively “rezones” the land to a public use, nor does it force acquisition on any landowner. It agrees with Council that this comment is legally and practically incorrect
- The Panel does agree (in part) with BPH’s submission that the reference document, by way of links throughout Clause 21.04 and SUZ4, afford it more weight than what PPN13 specifies. For transparency, Panel has recommended changes to the SUZ4 and Clause 21.04 to reflect its status, as exhibited in the Amendment, as a Reference Document.

### **3.10 Recommendations**

Based on the reasons set out in this Report, the Panel recommends that Greater Shepparton Planning Scheme Amendment C199 be adopted as exhibited subject to the following:

- 1. Adopt the Master Plan as a Reference Document subject to the following modifications:**
  - Delete the ‘Straight Training Track’ from its current location on the Master Plan and rename this Version 11
  - Rename the document to Investigation Area 1: Feasibility and Master Plan (date to be inserted)
- 2. Adopt Clause 21.04 subject to the changes contained in Appendix D of this report.**
- 3. Adopt the Special Use Zone Schedule 4 subject to the changes contained in Appendix C of this report.**

#### **Further recommendation**

The Panel makes the following further recommendations:

- Council develop and implement a standard approach to defining those elements of Master Plans and other strategic documents that are intended to fulfil a statutory role and to ensure that they are implemented through appropriate VPP tools, such as Incorporated Plans.

## 4 Flooding

### 4.1 The issue

A number of submissions raise the issue the potential for flooding in the area, and how that is treated under the Amendment. The issues with respect to flooding can be considered in three parts:

- the existing conditions in the IA1 and the current zones and overlays
- the veracity of flood studies and their relevance to the Amendment
- the Shepparton Mooroopna Flood Mapping and Intelligence Study (ongoing).

### 4.2 Evidence and submissions

#### (i) Existing conditions

Almost the entire area of IA1 has been previously identified as flood prone. Approximately 209 hectares of the area's 301 hectares are covered by a Land Subject to Inundation Overlay (LSIO), 49 hectares by a Flood Overlay (FO) and 29 hectares is within the Urban Floodway Zone (UFZ). The current flood related zones and overlays as shown in Figure 4 are based on modelling done as part of the *Shepparton Mooroopna Floodplain Management Study* in 2002 and were introduced into the Planning Scheme on 1 April 2003.

In his expert statement prepared for Council, Mr Bishop of Water Technology described the existing conditions as follows:

*Sevens Creeks flows across the south-west corner of Investigation Area 1, crossing Mitchell Road on the southern boundary and the Goulburn Valley Highway on the western boundary. A smaller anabranch of Seven Creeks runs through the north-west corner of the site. This anabranch has been significantly modified into a straighter drainage channel through the site.*

*The site slopes to the north-west on a very flat gradient (approximately 1 in 1600) ... Several GMW channels traverse the site which form part of the 'backbone' and 'non-backbone' network of irrigation supply channels, including the No.6 Main Channel which runs east-west through the middle of the site, immediately south of the Kialla Paceway.*

There is no doubt that IA1 including the SUZ4 area is flood prone and subject to periodic flooding. The most recent significant flood event occurred in October 1993 when much of IA1 and the surrounding area were inundated.

Wednesday, June 21, 2017

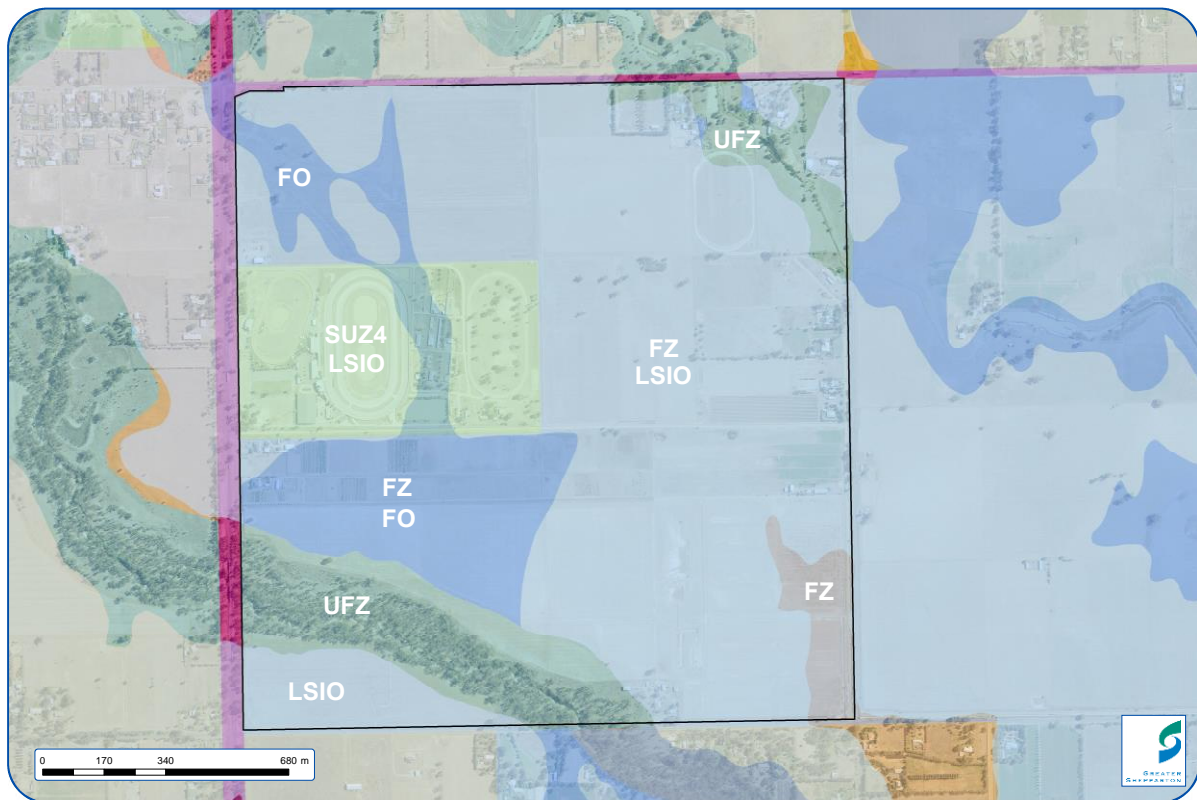


Figure 4 Current flood zones and overlays

## (ii) 2016 Water Technology Flood Behaviour Report (2016 Flood Report)

Water Technology Pty Ltd was engaged by the Council in 2015 to undertake a model of flood behaviour in IA1. In its Part A Submission, Council stated that the objective of this work was to:

- review relevant information on flood behaviour
- develop an estimate of flood behaviour (levels, extents, velocities) for the 100 year ARI design flood event
- liaise with Urban Enterprise Pty Ltd to develop a plan of possible development within the Investigation Area
- assess change in flood behaviour (levels, extents, velocities) for the 100 year ARI design flood event due to the proposed Master Plan; and
- determine a suitable layout of major roads and residential areas together with any cut and fill requirements that will have acceptable level of change in floodplain characteristics.

Council submitted:

*It is significant that Goulburn-Murray Rural Water Corporation (G-MW) and Goulburn Broken Catchment Management Authority (GBCMA) and the Department of Environment, Land, Water and Planning (DELWP) all the key departments in relation to waterways, land inundation, catchment*



*management and like matter do not object to and effectively support the Amendment.*

*Council's submissions highlight that this Amendment contains no rezoning of any kind and makes no change to the current flood zone or overlay controls affecting Investigation Area 1. The 2016 Flood Report arose in particular out of consultation with landowners who raised concerns that a more detailed, site specific, investigation of potential flooding impacts needed to be undertaken. This was then used to inform a number of iterations of the Master Plan and establish what was considered to be a most appropriate outcome having regard to those flood impacts.*

Several submitters argued that the Amendment was premature until a formal flood study was undertaken or that the Amendment was inconsistent with the *Shepparton Floodplain Management Plan*.

The original submission (Submission 12) on behalf of BPH asserted that the Master Plan relied upon the 2016 Flood Report which had no legal status and used a model which did not match observed flood behaviours and therefore did not accurately reflect historical hydrological data. It was submitted that the effect of adopting the Amendment would be to designate most of the submitter's land as subject to flooding and unable to be developed.

A supplementary submission on behalf of BPH submitted that:

- *the 2016 Flood Report was not prepared in accordance with the Floodplain Management Strategy April 2016 nor the relevant Planning Practice Note*
- *there were errors in the Water Technology modelling; and*
- *the Amendment was a "backdoor" attempt to amend the planning scheme in relation to the identification of flood affected land.*

Mr Bishop explained that 2016 Flood Report although based on the model developed for the broader *Shepparton Mooroopna Flood Mapping and Intelligence Study*, was a reduced model to make it more workable. Its purpose was to model the impacts of the initial Master Plan and subsequent iterations of the Master Plan to find an acceptable floodplain outcome.

He stated that the results of the 2016 reduced model when compared with results from the Intelligence Study model showed some differences, generally less than 100mm, but were acceptable for the purposes of the 2016 Flood Study.

Council stated that modelling of the initial Master Plan showed unacceptable impacts in terms of off-site flood impacts and no compensation for loss of floodplain storage. A further three iterations of the Master Plan were modelled to determine one that met the criteria put forth by Goulburn Broken CMA and Council officers that the proposed Master Plan ... *did not adversely impact properties outside of the Investigation Area 1 by changing the course of flow, raising flood levels or increasing flood risk.* The modelling confirmed a Master Plan version that had acceptable floodplain outcomes and this version was the basis of the final Master Plan exhibited as part of the Amendment. Mr Bishop acknowledged that the modelling was done in response to the various Master Plan versions provided to Water Technologies by Urban Enterprise and Council officers.

In response to other submissions, Council stated that the 2016 Flood Report was consistent with other studies and it was not necessary for a formal flood study to be completed to inform the development of the Master Plan or assessment of other development proposals.

Mr Prout was commissioned on behalf of BPH to review the 2016 Flood Report. He stated in his expert witness report that in his view:

*... for flood studies to be accurate and credible that they should be based on models that represent what really happens when floods occur. My view in this matter is that there are some aspects of the Water Technology report that do not sufficiently meet this requirement.*

Mr Prout explained that he identified potential additional areas of development (shown as Areas X and Y at Figure 5) in the southern part of Investigation Area 1 using the adjusted flood model.

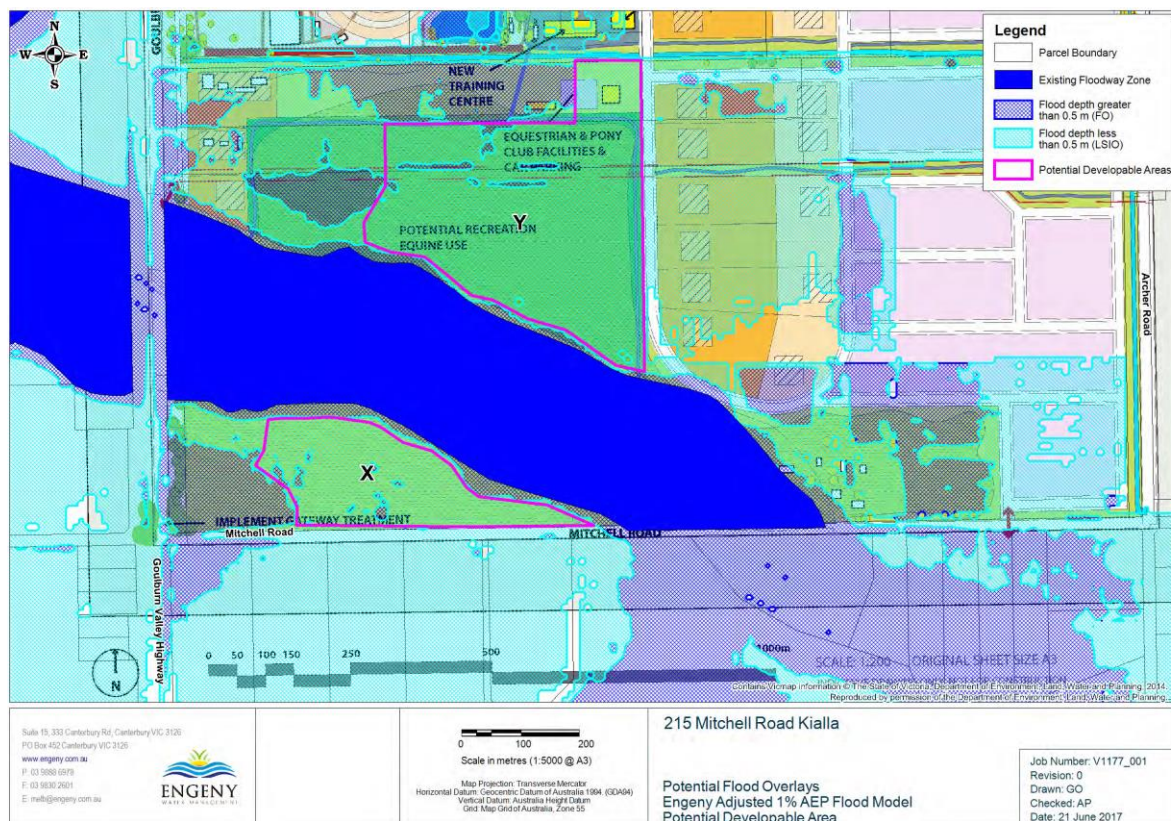


Figure 5 Engeny adjusted Flood Overlays  
Source: Appendix O: Expert Evidence of Mr Prout

He concluded, amongst other things that:

- Water Technology made adjustments to the flood hydrology for flows into the Seven Creeks system which are not explained in the Water Technology report
- the Water Technology flood model for the 1993 flood overestimates the extent and depth of flooding in the southern part of Investigation Area 1
- Engeny has used adjusted roughness factors to get the flood model to better match the actual gauged flooding in 1993



- the Water Technology modelling significantly underestimated the flooding in the northern part of Investigation Area 1
- the differences between the Water Technology modelling and the actual flooding in 1993 of the northern part of Investigation Area 1 are so different that the Water Technology modelling cannot be relied upon to make flood management decisions in the northern part
- Engeny has identified areas in the northern part proposed for urban development incorrectly shown by Water Technology as being flooded to depths less than 300mm but expected to be subject to flood depths of up to 650 mm based on the current designated flood levels.

Mr Bishop subsequently prepared a *Supplementary Expert Report* (Document 4) in response to the Expert Statement submitted by Mr Prout. Mr Bishop refuted the conclusions of Mr Prout and in particular noted that:

*The Prout report adjusts the Water Technology model to lower flood levels at a single location for a single event. This selective adjustment of the model ignores the presence of the many readily available peak surveyed flood level across the site.*

*The (Water Technology) model does not set development flood heights for the area, nor will it be used to develop planning overlays for the area. For the purpose of evaluating development impact, the absolute flood levels are not as critical as the differences in flood depths, flow patterns and velocities between a before and after scenario. This is why some small differences in predicted flood levels between the broader floodplain model and the Investigation area 1 model are not of concern.*

Mr Bishop noted that variants with development in Mr Prout's Areas X and Y (Figure 5) were tested in the iterations modelled by Water Technology which showed that development with fill in Area X would cause detrimental impacts on adjacent properties. He added that Area Y was an obvious place to maintain flood plain storage and to compensate for fill to facilitate development in other locations within Investigation Area 1.

At the request of the Panel, a conclave of the two flood experts was held. They reached agreement on many points (see Document 2) including that:

- the purpose of the Investigation Area 1 model and report was not to update the LSIO or FO within the Planning Scheme
- the 1993 flood imagery shows flooding in the north area that is not associated with riverine flooding and is therefore not represented by the Shepparton Mooroopna Flood mapping and Intelligence Study flood model nor the Investigation Area 1 flood model
- the north and south areas of Investigation Area 1 operate as two largely separate floodplains except for very large floods
- from a hydraulics and safe access point of view in a 1% AEP flood there are likely to be constraints in developing Area X
- there may be alternative development layouts which could meet flood management requirements to allow for development in Area Y.

At the hearing, Mr Tierney of the Goulburn Broken CMA gave a presentation on the CMA's review of the calibration of the flood model prepared by Water Technology for the Shepparton Mooroopna Flood Mapping and Intelligence Study. Mr Tierney stated he had a fundamental issue with Mr Prout's report in that any hydraulic model based on a single flood height is by definition an uncalibrated model. He considered that:

- *the Water Technology model reflected well riverine flooding for the Intelligence Flood Study*
- *Mr Prout's reliance on a single flood height for model calibration was inappropriate*
- *generally development in the south-west portion of Investigation Area 1 was not supported by the CMA and should remain rural in nature.*

In response to the critique by Mr Bishop of his initial expert report, Mr Prout tabled at the hearing a Supplementary Expert Report (Document 13). Mr Prout explained that it was not his role to undertake his own fully independent calibrated regional flood study. His role was limited to reviewing all of available information relied on for the Amendment; seek and review other information; and independently advise his client and the Panel regarding the flooding issues. Mr Prout informed the Panel that he sought all information relied on by Water Technology. He was given the Water Technology Local Investigation Area 1 models and despite further requests regarding the origin and completeness of the hydrologic inputs to the model and model calibration, no additional information was provided to him.

Mr Prout stated that:

*We therefore only had the flood model and the statements above from the Water Technology Investigation Area 1 report to test and that is what I did.*

He acknowledged that Engeny's adjusted model is not appropriate for changing the flood overlays in the Planning Scheme. Mr Prout reiterated that his review identified areas X and Y in the south west of Investigation Area 1 which could be developed to meet the floodplain management requirements of the GBMCMA.

Mr Prout stated that as confirmed by Mr Bishop, some flows in the northern part of Investigation Area 1 had not been included in the flood model.

Mr Prout concluded that in order to reliably manage floodplain storage across IA1:

- the north area flood modelling needs to be updated to be accurately calibrated to historical flooding
- flood modelling for the south part may require updating
- the updated modelling could then be used to determine the amount of flood storage on each property for a 1% AEP flood which would form the basis for assessing changes in flood storage proposed by developments
- each property owner should be allowed to develop if they can demonstrate that they can fill and build above the 1% flood levels and offset any loss of flood storage on their property and that their development will not have an adverse impact on other properties.

Mr Watts stated that his client remained opposed to the Amendment as exhibited but that if the Amendment were to proceed, there should be notations added to the Master Plan to

indicate that the layout was indicative only and that additional development could occur on his client's land (Area Y identified by Mr Prout) subject to meeting the floodplain management requirements of the GBMCMA.

At the request of the Panel, subsequent to the hearing Council submitted a Table of Potential Recommended Changes which included at item 11 the proposal to insert a new dot point on page 63 of the Feasibility Study and Master Plan as follows:

- *The nature and extent of potential uses and development contemplated may vary dependent upon detailed assessment at any development approval stage provided the Master Plan objectives continue to be achieved.*

Council also suggested that an identical notation could be included on the actual Master Plan.

In response to the Potential Table Recommended Changes, BPH indicated that his client did not agree with the proposed wording of the additional dot point and submitted that the notation should clearly specify that:

- *No landowner is required to agree to cut being taken from his, her its land (sic) for the purposes of offsetting fill on another land owner's land.*

Council responded that the suggestion by BPH made no sense as no land owner can be required to agree to cut on their land through any mechanism and ... *certainly not through a Master Plan which is a reference document.*

Mr Toll (on behalf of the Landowner Members of the Kialla Investigation Area 1 Association Inc.) submitted that the Feasibility Study and Master Plan adopted by Council in September 2016 was based on a questionable flood study. He submitted that the model of flood behaviour differed substantially to the flood modelling done by Sinclair Knight Mertz in 2002.

### **(iii) Shepparton Mooroopna Flood Mapping and Intelligence Study**

*The Shepparton Mooroopna Flood Mapping and Intelligence Study* (the Intelligence Study) was initiated following the major flooding at Shepparton in September 2010 and other significant flood events throughout Victoria from 2010 to 2012. It is ongoing with an expected completion date later in 2017.

Mr Bishop explained that the Intelligence Study has three main components:

- hydrology – boundary conditions for hydraulic model
- calibration of hydrologic and hydraulic model; and
- design flood modelling with calibrated model to produce flood intelligence information including maps.

He noted that a key outcome of the study is to produce outputs that can be used in the future to update existing planning controls across the Shepparton Mooroopna area including Investigation Area 1.

Mr Bishop stated that to maintain consistency, the modelling being undertaken for the Intelligence Study was utilised to develop the model of flood behaviour in Investigation Area 1.

Mr Tierney confirmed that the Intelligence Study was intended to provide the basis for a future planning scheme amendment for flood zone and overlay controls to the Greater Shepparton Planning Scheme. He commented during the hearing that Goulburn Murray Water (GMW) infrastructure has changed riverine flood patterns and that flood overlays in the wider Shepparton Mooroopna region may well be out of date. In his view, the results of the Intelligence Study may lead to some minor changes to the LSIO and FO in Investigation Area 1 as part of a future planning scheme amendment.

During the hearing, Mr Hamilton and others made reference to statements in the adopted Feasibility Study and Master Plan (at pages 15, 18 and 49) that the existing flood overlays and flood zone in the Planning Scheme were “superseded” by the more recent flood mapping investigations, that is, the flood modelling of Investigation Area 1 by Water Technologies to assess the impacts of development as shown on the Master Plan. In cross-examination, Mr Ruzzene stated that the flood mapping in the Feasibility Study and Master Plan does not replace the existing overlays in the planning scheme. In closing, Council submitted that “supersede” was a poor choice of words and was incorrect. He invited the Panel to consider “tweaking the words” in the Feasibility Study and Master Plan.

Included in the Table of Potential Recommended Changes submitted by Council at items 7, 8, 9 and 10 were potential changes to the flooding references in the Feasibility Study and Master Plan.

### **4.3 Discussion**

There is no doubt that the land within IA1 has flooded in the past and will do so again during significant flood events in the Shepparton Mooroopna region. The extent of flood overlays and flood zone covering the IA1 reflect the reality that the area is low lying and flood prone. The Panel also notes that the existing GMW No.6 Main Channel which runs east-west through the middle of IA1 affectively splits the area into two flood management parts. The Panel heard no evidence that GMW has plans to remove or pipe the channel in the foreseeable future.

The Master Plan sets out a guide for future development and the flood investigation work undertaken by Water Technology was intended to demonstrate that development in accordance with the adopted version of the Master Plan could in general terms meet flood management requirements. Some aspects of the Water Technology modelling were called into question by Mr Prout although the report of the conclave of the two flood modelling experts indicates to the Panel that the Water Technology modelling was generally sound for the purpose for which it was intended, that is to test the impacts on the floodplain of the various versions of the Master Plan.

The work of Mr Prout was refuted at some length by Mr Bishop and was considered to be flawed by Mr Tierney. The Panel has some sympathy, however, for Mr Prout. He was only engaged to do work with limited scope and as he noted, he was somewhat constrained by not having access to the full set of data and modelling done by Water Technology.

Mr Prout was able to show some deficiencies in the Water Technology model in the north part of IA1 in that the model did not take into account localised flooding. Mr Bishop agreed

that including local catchment flows would improve the model for the purposes of assessing development proposals.

Perhaps of more significance with respect to the Master Plan is that the review by Mr Prout raised the prospect of alternative development layouts on the Basic Property Holdings land (designated Areas X and Y by Mr Prout) that could meet flood management requirements. Developing Area X was considered to be problematic by Mr Bishop and Mr Tierney for hydraulics and safe access reasons due to likely speed of floodwater flows during a 1% AEP event. It was agreed, however, that development in Area Y could be considered subject to flood model testing of the effects of fill within Area Y and off-setting cut within other parts of the Investigation Area.

The 2016 Flood Report did not assess and nor was it designed to test specific development proposals. It may well be that development proposals which vary from the exhibited Master Plan could meet flood management requirements. It will be up to development proponents to demonstrate to the satisfaction of the GBCMA that their development will meet requirements. Indeed, that will be the case even for developments which accord with the exhibited Master Plan.

As discussed in Chapter 3, the Panel concludes that the Master Plan is intended as a guide for future development. To assist parties into the future, the Panel supports the suggestion by BPH that appropriate notations be added to the Master Plan to allow for alternative development proposals to be put forward for detailed assessment against flood management requirements. It goes without saying that the nature of planning requires alternative scenarios to be considered, particularly if they only exist in the form of a reference document.

The Panel agrees with Council that any notations should be general and should not, for example, be prescriptive in terms of the location cut and fill requirements on the Basis Property Holdings land or other land holdings. For this reason, and to assist all parties into the future, the Panel prefers the words suggested by Council at item 11 in the Table of Potential Recommended Changes with Panel comments at Appendix E and supports their inclusion as *a notation to the actual Master Plan*.

Notwithstanding the poor choice of wording in the Master Plan suggesting that the planning scheme flood overlays and flood zone have been “superseded”, it was made very clear by Mr Tierney that any future changes to the flood controls will flow from the Intelligence Study. Until that study is finalised and any subsequent planning scheme amendment approved, the current LSIO, FO and Flood Zone remain in place and will continue to be applied in assessing development applications.

The Panel does agree, however, that the wording in the Feasibility Study is misleading and could give rise to concerns for landowners. The words pertaining to flooding in the Feasibility Study at pages 4, 15, 18 and 49 should be amended as set out in items 7, 8, 9 and 10 in the Table of Potential Recommended Changes.

## 4.4 Conclusions

The Panel concludes:

- land within IA1 is flood prone and will in all likelihood be inundated during future flood events
- the 2016 Flood Report modelling was generally sound and suitable for its intended purpose of assessing the Master Plan layout iterations
- the Water Technology flood model could be improved if it is to be used for assessing future development applications
- there may be development proposals at variance with the exhibited Master Plan which could meet floodplain management requirements and they should be assessed on merit
- the Master Plan should be annotated to make it clear that development proposals at variance with the exhibited Master Plan will be assessed in accordance with the planning scheme flood management requirements
- the Amendment does not change the current LSIO, FO and Flood Zone boundaries
- the Intelligence Report may identify the need for changes to the current LSIO, FO and Flood Zone and any such changes will be the subject of a future amendment
- the wording in the Master Plan referring to the current flood controls in the planning scheme being superseded is incorrect and should be amended as set out in items 7, 8, 9 and 10 in the Table of Potential Recommended Changes.

## 4.5 Recommendations

- **Update wording as required in the Feasibility Study and Master Plan as set out in Items 7, 8, 9, 10 and 12 in the Table of Recommended Changes with Panel comments found at Appendix E of this report.**

## Appendix A Submitters to the Amendment

No.	Submitter
1	Goulburn-Murray Water
2	GBCMA
3	Department of Environment, Land, Water and Planning
4	EPA
5	Gordon Hamilton
6	Goulburn Valley Water
7	Kialla Investigations Area 1 Inc.
8	M & S Toll, and Webb and Toll Surveyors P/L
9	Tony Gagliardi
10	V & J Page
11	Louise Gagliardi
12	Stanton Grant Legal on behalf of Basic Property Holdings P/L
13	Rocco Lorenzini
14	Maria Lorenzini
15	Giuseppina Lorenzini
16	Alfredo Lorenzini
17	Michael Mielczarek of APA
18	Antonina Gagliardi
19	Giulio Gagliardi
20	Department of Economic Development, Jobs, Transport and Resources
21	S M & A Scaffidi



## Appendix B Document list

No.	Date	Description	Tabled by
1	20/06/2017	Council's Part A Submissions	A. Sherman
2	28/06/2017	Memorandum – Conclave of Experts	“
3	28/06/2017	Letters – APA (27 June 2017) and RK Lawyers (27 June 2017)	“
4	28/06/2017	Memorandum – Supplementary Expert Report	“
5	28/06/2017	PowerPoint – Expert Report – Amendment to C199	W. Bishop
6##	28/06/2017	Various emails tabled by L Watts	L. Watts
7	29/07/2017	Expert Evidence Statement PowerPoint	M. Ruzzene
8	29/07/2017	Feasibility Study & Master Plan – Draft Report – May 2015	L. Watts
9	29/06/2017	Council Part B submission	A. Sherman
10	29/06/2017	Proposal – Mitchell Road site	“
11	29/06/2017	PowerPoint – Submission – Goulburn Broken – CMA	G. Tierney
12	29/06/2017	Submission – Lorenzini Family	R. Lorenzini
13	29/06/2017	Memorandum – Supplementary Expert Report	A. Prout
14	29/06/2017	Court of Appeal Decision – Hoskin v Greater Bendigo CC	L. Watts
15	29/06/2017	Extract – Von Hartel v Macedon Ranges Shire Council	“
16	30/06/2017	Planning Permit – 2010-240	A. Sherman
17	30/06/2017	VCAT Decision – Hamilton v Greater Shepparton CC	“
18	30/06/2017	Bundle of letters – Greater Shepparton CC – 22 Sept 2015	“
19	30/06/2017	Submission – Landowner Members of Kialla IA1 Association	M. Toll
20	30/06/2017	Proposed Precinct Plan Kialla Investigation Area	C. Hazelman
21	30/06/2017	Folder – Minutes of Council Meetings	L. Watts
22	30/06/2017	Proposed Caravan Park Development Plan	A. Sherman
23*	10/07/2017	Council Table of Recommended Changes	A. Sherman
24*	10/07/2017	Modified Clause 21.04-1 with exhibited insertions remaining marked blue and potential changes highlighted green	“
25*	10/07/2017	Modified SUZ4 with minor change highlighted green	“
26*	14/07/2017	BPH Closing submission and table recommended changes	L. Watts
27*	20/07/2017	Council right of reply,	A Sherman
28*	20/07/2017	Table of recommended changes, Council response	“

## Document 6 was a series of emails tabled, then retracted as they required clear labelling. This document was not re-tendered.

\* Post-hearing documents as per the Panel's directions, and tabled electronically.

## Appendix C Panel preferred version of Special Use Zone Schedule 4

Tracked Added

~~Tracked Deleted~~

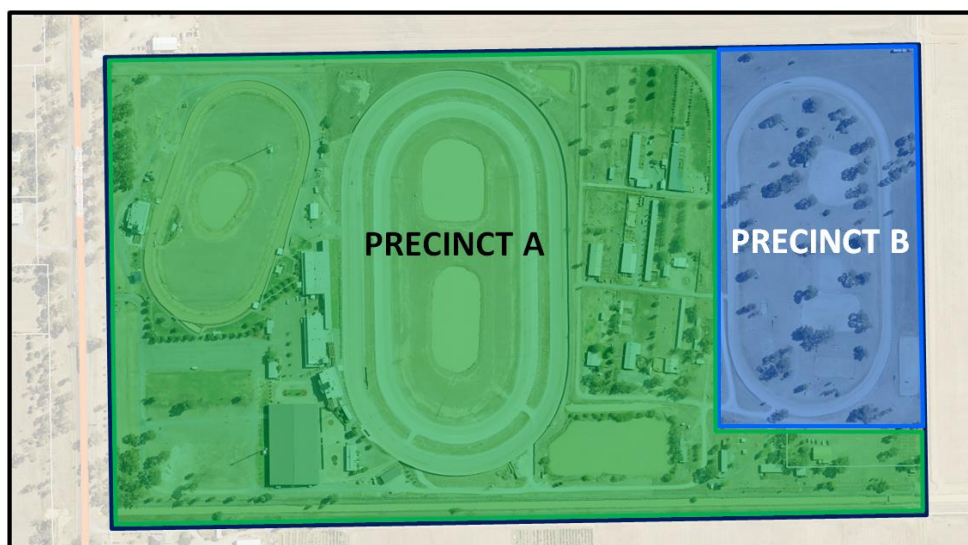
Adopted from Table of recommended changes

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Proposed C199

### SCHEDULE 4 TO CLAUSE 37.01 ~~THE~~ SPECIAL USE ZONE

Shown on the planning scheme map as **SUZ4**.

#### GOULBURN VALLEY HARNESS AND GREYHOUND RACING PRECINCT



#### Purpose – General

- ~~▪ To facilitate use, development and subdivision in Precinct A and in Precinct B generally in accordance with the Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016.~~
- To provide for the use and development of the land for harness and greyhound related purposes and a range of uses as set out in Precincts A and B.

#### Purpose – Precinct A – Harness and Greyhound Racing Facility

- To provide for use and development for harness and greyhound racing and a range of entertainment, recreational, commercial and community activities in Precinct A in a planned and orderly manner.
- To encourage the multiple use of land and buildings in Precinct A ~~within the precinct~~ in order to facilitate its usage throughout the year.
- ~~▪ To ensure that the future use and development of the precinct occurs in a planned and orderly manner.~~

**Purpose – Precinct B – Harness Racing ~~Equine~~ Related Services Precinct**

- To encourage use and development in Precinct B ~~activities~~ that ~~is are~~ compatible in use, density, scale and character with Precinct A and that benefits from the close proximity of the harness and greyhound racing facility in Precinct A.
- To ensure that use and development in Precinct B does not negatively impact on the ongoing operations of harness and greyhound racing facility in Precinct A and occurs in an orderly manner, subject to the provision of appropriate infrastructure.
- ~~▪ To ensure that permanent accommodation within the Precinct B is limited to persons registered by Harness Racing Victoria under part II of the Racing Act 1958. equine trainers (or their employees).~~
- ~~▪ To encourage the use and development of harness racing equine related services that benefit from the close proximity of the Harness and Greyhound Racing Facility.~~
- ~~▪ To provide for the subdivision of land for harness equine related used, subject to the provision of appropriate infrastructure.~~

**1.0****Table of uses****Precinct A – Harness and Greyhound Racing Facility****Section 1 - Permit not required**

Use	Condition
Exhibition Centre	Must not operate for more than 3 consecutive days.
Mining	Must meet the requirements of Clause 52.08-2.
Minor utility installation	
Natural systems	
Place of assembly	Must be directly associated with the <u>harness racing</u> <del>equine</del> or greyhound <u>racing</u> industry.
Race course	
Stone exploration	Must not be costeaning or bulk sampling
Veterinary centre	Must be directly associated with the <u>harness racing</u> <del>equine</del> or greyhound <u>racing</u> industry.
Any use listed in Clause 62.01	Must meet the requirements of Clause 62.01

**Section 2 - Permit required**

Use	Condition
Accommodation <u>(other than Corrective institution)</u>	Must be directly associated with the <u>harness racing</u> <del>equine</del> or greyhound <u>racing</u> industry.
<del>Convenience shop</del>	
<del>Equestrian supplies</del>	
<del>Leisure and recreation (other than Race course)</del>	
<del>Market</del>	
<del>Place of assembly (other than Carnival, Circus and Exhibition centre)</del>	

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Proposed C199

Use	Condition
Retail premises (other than <a href="#">Adult sex bookshop</a> , Convenience shop or Equestrian supplies)	Must be directly associated with the <a href="#">harness racing</a> <del>equine</del> or greyhound <a href="#">racing</a> industry.
Rural Industry	Must be directly associated with the <a href="#">harness racing</a> <del>equine</del> or greyhound <a href="#">racing</a> industry.
Store (other than Freezing and cool storage)	Must not be a purpose listed in the table to Clause 52.10
<del>Utility installation (other than telecommunications facility and Minor utility installation)</del>	
Any use not listed in Section 1 or 3	

## Section 3 - Prohibited

Use
Adult sex bookshop
Brothel
<del>Broiler farm</del>
<del>Cattle feedlot</del>
Child care centre
Cemetery
Corrective institution
<del>Fuel depot</del>
Freezing and cool storage
Industry (other than Rural Industry)
Intensive animal husbandry
Transport terminal
Warehouse (other than store)

Precinct B – [Harness Racing](#) ~~Equine~~ Related Services Precinct

## Section 1 - Permit not required

Use	Condition
Agriculture (other than Animal husbandry, <a href="#">Aquaculture</a> , <del>Apiculture</del> , <del>Intensive animal husbandry</del> , Rice growing and Timber production)	
<del>Animal Keeping (other than Animal boarding)</del>	<del>Must be no more than 5 animals.</del>
Animal training	<a href="#">Must be directly associated with the harness racing industry.</a> Must be conducted by a person registered <a href="#">in respect of harness racing under Part II of the Racing Act 1958</a> <del>under the relevant harness legislation.</del>

<b>Dependent Persons Unit</b>	Must be the only dependent person's unit on the lot.
<b>Horse stables</b>	<u>Must be directly associated with the harness racing industry.</u> Must be conducted by a person registered <u>in respect of harness racing under Part II of the Racing Act 1958.</u> <del>under the relevant harness legislation.</del>
<b>Home occupation</b>	
<b>Informal outdoor recreation</b>	
<b>Minor utility installation</b>	
<b>Railway</b>	
<b>Tramway</b>	
<b>Any use listed in Clause 62.01</b>	Must meet the requirements of Clause 62.01.

## Section 2 - Permit required

Use	Condition
<del>Animal Keeping (other than Animal boarding)</del>	<del>Must be no more than 5 animals.</del>
<del>Animal boarding</del> <del>Animal husbandry (other than Animal training, Animal keeping, Intensive animal husbandry and Horse stables)</del>	<del>Must be directly associated with the harness racing equine industry.</del>
<b>Bed and breakfast</b>	No more than 10 persons may be accommodated away from their normal place of residence. At least 1 car parking space must be provided for each 2 persons able to be accommodated away from their normal place of residence.
<b>Convenience shop</b>	The site must not have direct access to a rural freeway.
<b>Dwelling (other than Bed and breakfast)</b>	Must be <u>used</u> in conjunction with <u>horse</u> <del>Horse</del> stables or <u>harness racing</u> <del>Animal</del> training facilities conducted on the lot. <u>Must be occupied by a person registered in respect of harness racing under Part II of the Racing Act 1958.</u>
<del>Equestrian supplies</del> <del>Leisure and recreation</del>	
<del>Market</del>	
<b>Place of assembly</b>	Must not be used for more than 10 days in a calendar year.
<b>Primary produce sales</b>	Must not be within 100m of a dwelling in separate ownership. The area used for the display and sale of primary produce must not exceed 50 square metres.

Use	Condition
Rural Industry	Must be directly associated with the <a href="#">harness racing</a> <del>equine or greyhound</del> industry.
Store (other than Freezing and cool storage)	Must not be a purpose listed in the table to Clause 52.10
<del>Utility installation (other than telecommunications facility and Minor utility installation)</del>	
Any use not listed in Section 1 or 3	<a href="#">Must be directly associated with the harness racing industry.</a>

### Section 3 - Prohibited

Use
Adult sex bookshop
<a href="#">Animal keeping</a>
Brothel
<del>Broiler farm</del>
<del>Cattle feedlot</del>
Child care centre
Cemetery
Corrective institution
<del>Fuel depot</del>
Freezing and cool storage
Industry (other than Rural Industry)
Intensive animal husbandry
Retail premises (other than Convenience shop and Equestrian supplies)
Transport terminal
Warehouse (other than store)

## 2.0

### Use of land

#### Amenity of the neighbourhood

A use must not detrimentally affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.
- Appearance of any building, works or materials.
- Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
- [Noise emission levels when measured in the investigation area outside of the SUZ4 Precinct must not exceed a maximum level of 45dB\(A\) LEQ](#)
- Noise emission levels when measured in Precinct B must not exceed the following levels:
  - Public Address Systems 55db(A) LEQ.
  - Music or Concerts ~~—~~ 65db(A) LEQ measured outside any residential property.

## Use of land for a dwelling

A permit may only be granted to use land for the purposes of a dwelling ~~‘Dwelling’~~ if:

- The dwelling use is in conjunction with horse stables or harness racing training facilities conducted on the lot, ~~the business of horse training.~~
- The occupier of the land is a ~~registered~~ person registered in respect of harness racing under Part II of the Racing Act 1958. For the avoidance of doubt, a dwelling may only be occupied by a person registered in respect of harness racing under Part II of the Racing Act 1958, together with their domestic partner and any dependants. ~~under the relevant harness legislation.~~
- There is only one dwelling on the lot.
- The permit ~~it~~ includes a condition requiring the owner of the land to enter into an agreement with the responsible authority under section 173 of the ~~Planning and Environment Act 1973.~~ The agreement must be recorded on the certificate of title to the land prior to the commencement of the use of the dwelling and the agreement must require that:
  - ~~that provides that the land on which~~ the use of the dwelling must be in conjunction with ~~is located must be used for the purposes of horse~~ harness racing training facilities or horse stables on the lot; and
  - the occupier of the land must be a person registered in respect of harness racing under Part II of the Racing Act 1958.

A lot used for a dwelling must meet the following requirements:

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

These requirements also apply to a dependent person’s unit.

## Car parking

The number of car spaces to be provided on the land for any use in Precinct A must be to the satisfaction of the responsible authority, having regard to an assessment of the anticipated car parking demand.

## Application requirements

The following application requirements apply to an application for a permit under Clause 37.01, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority.

- The purpose of the use and the types of activities that will be carried out.
- The likely effects, if any, on the amenity of the neighbourhood, including noise levels, traffic, the hours of delivery and dispatch of goods and materials, hours of operation and light spill.
- A Traffic Impact Assessment having regard to the Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016.
- For a Rural Industry or Store:
  - The type and quantity of goods to be stored, processed or produced.



- The likely effects on adjoining land, including air-borne emissions and emissions to land and water.

### Exemption from notice and review

~~An application for the use of land in Precinct A that is generally in accordance with the Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016. Investigation Area 1: Feasibility and Master Plan (date to be inserted) is exempt from the notice requirements of Section 52(1)(a), and (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review appeal rights of Section 82(1) of the Act.~~

Any application that is within Precinct A is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

### Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.01, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- How the use relates to the purposes of this schedule.
- The capability of the land to accommodate the use, including the disposal of effluent.
- How the use relates to sustainable land management.
- Whether the site is suitable for the use and whether the proposal is compatible with adjoining and nearby land uses.
- For land in Precinct B:
  - Whether the use will support and enhance harness racing training facilities or horse stables.
  - Whether the use will permanently remove land from harness racing training facilities or horse stables.
- The potential for the use to limit the operation and expansion of adjoining and nearby agricultural uses.
- For an application to use land for a dwelling:
  - Whether the dwelling is reasonably required for the operation of the activity conducted on the land.
  - Whether the dwelling is to be occupied by a person registered in respect of harness racing under Part II of the Racing Act 1958.
  - Whether the dwelling will adversely affect the operation or expansion of the Harness and Greyhound Racing Facility.
- Whether the use will require any traffic management measures having regard to the Goulburn Valley Harness and Greyhound Racing Precinct ~~Feasibility Study and Master Plan, July 2016.~~

## 3.0

### Subdivision

#### Permit requirement

A permit is required to subdivide land.

~~A permit is required to subdivide land.~~

~~An application for subdivision should be generally in accordance with the Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016. Investigation Area 1: Feasibility and Master Plan (date to be inserted).~~

~~An application for subdivision that is not generally in accordance with the Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016.~~

~~Investigation Area 1: Feasibility and Master Plan (date to be inserted) must be accompanied by an assessment of the likely flooding impacts.~~

A permit may only be granted to subdivide land in Precinct B if:

- Each lot to be created is at least 4,000m<sup>2</sup>.
- The permit ~~includes is issued subject to~~ a condition requiring the owner of the land to enter into an agreement with the responsible authority under section 173 of the ~~Planning and Environment Act 1973~~. The agreement must be recorded on the certificate of title to the land prior to the issue of a statement of compliance for the subdivision and the agreement must:
  - ~~that provides that the land to be subdivided~~ require that each lot created by the subdivision must be used for the purposes of harness racing, horse training or horse stables; and
  - inform future land owners that the land is located in proximity to the Goulburn Valley Harness and Greyhound Racing Precinct and the land may be adversely affected by air emissions and noise.

This requirement does not apply to an application to subdivide land in Precinct B. A permit may only be granted to create smaller lots if the subdivision is by a public authority or utility service provider to create a lot for a utility installation.

#### Application requirements

The following application requirements apply to an application for a permit to subdivide land in Precinct B under Clause 37.01, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- Details of how the proposed subdivision will facilitate the future use of the land for harness racing related services.
- An Infrastructure Provision Plan that must be prepared to the satisfaction of the responsible authority and be generally in accordance with the 'Infrastructure Design Manual' of the responsible authority. The Infrastructure Provision Plan must address, or include, the following matters, as appropriate:
  - The provision, staging and timing of stormwater drainage works, both internal and external to the precinct.
  - The provision, staging and timing of any road works.
  - Any other infrastructure or related matters reasonably required by the responsible authority in association with the development of the land.
  - The location and nature of infrastructure services to be associated with the development.
  - Environmentally sustainable design principles for all infrastructure to ensure efficient and sustainable use of water.
  - How the stormwater management system and the sewerage system interrelates and responds to the principles of water sensitive design and establishes a mechanism to improve water quality for re-use or when exiting from the development site.
  - A stormwater management plan for the whole of the Precinct that demonstrates there are no off-site flooding impacts.
  - Details of any sewerage treatment plant for the development, including:
    - treatment technology;
    - construction standards;
    - operational procedures;
    - maintenance program; and
    - a risk assessment of possible plant upset conditions and malfunctions and how these can be responded to including the potential for odours to be generated from sludge drying bays.

- The landscaping of any land.
- The provision of public open space and land for any community facilities.
- How it is proposed to provide for a reticulated recycled water supply system to all residential and other uses.
- The location and method of operation of the sewerage treatment plant and the identification of appropriate buffers based on the type of treatment system to be used.
- How the provision, design and operation of the stormwater management system, the sewerage treatment system and reticulated water system responds to the State Environment Protection Policy (Waters of Victoria) 2003, Gazette 4/6/2003.
- The appropriate staging of infrastructure and establishes a management system for co-ordination of infrastructure provision.

The Infrastructure Provision Plan must state that the provision of all infrastructure reasonably required for the development of the land, whether within or outside the developable area, is at no cost to the responsible authority.

### Exemption from notice and review

~~An application for subdivision in Precinct A that is generally in accordance with the *Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016. Investigation Area 1: Feasibility and Master Plan (date to be inserted)* is exempt from the notice requirements of Section 52(1)(a), and (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review/appeal rights of Section 82(1) of the Act.~~

Any application that is within Precinct A is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

### Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 37.01, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- How the subdivision relates to the purposes of this schedule.
- The layout of the subdivision.
- Access arrangements.
- The location and design of existing and proposed infrastructure services including gas, water, drainage, telecommunications and sewerage facilities.
- The capability of the land to accommodate necessary infrastructure, including the disposal of effluent.
- Whether the subdivision will require any traffic management measures having regard to the *Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016.*

## 4.0

### Buildings and works

A permit is not required for building or works:

- Used for crop raising, extensive animal husbandry or informal outdoor recreation.
- A rainwater tank with a capacity of more than 4500 litres.

~~A permit is required for buildings and/or works within any of the following setbacks:~~

- ~~1. The setback from a Road Zone Category 1 of 50 metres.~~
- ~~2. The setback from any other road of 20 metres.~~
- ~~3. The setback from any boundary of 5 metres.~~

- ~~4. The setback from a dwelling not in the same ownership of 5 metres.~~  
~~5. 100 metres from a waterway, wetlands or designated flood plain.~~

### **Application requirements**

The following application requirements apply to an application for a permit under Clause 37.01, in addition to those specified in Clause 37.01 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A plan drawn to scale that shows:
  - The boundaries and dimensions of the site and of each lot.
  - Adjoining roads.
  - The location, height and purpose of buildings and works.
  - Relevant ground levels.
  - The layout of existing and proposed buildings and works.
  - All driveway, car parking and loading areas.
  - Proposed landscape areas.
  - All external storage areas.
- Elevation drawings to scale showing the colour and materials of all buildings and works.
- Construction details of all drainage works, driveways, vehicle parking and loading areas.

### **Exemption from notice and review**

~~An application for subdivision in Precinct A that is generally in accordance with the *Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016. Investigation Area 1: Feasibility and Master Plan (date to be inserted)* is exempt from the notice requirements of Section 52(1)(a), and (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review/appeal rights of Section 82(1) of the Act.~~

Any application that is within Precinct A is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

An application to construct a building or construct or carry out works ~~for buildings and/or works~~ in Precinct B associated with a Section 1 use is exempt from the notice requirements of Section 52(1)(a), ~~and~~ (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review ~~appeal~~ rights of Section 82(1) of the Act.

### **Decision guidelines**

The following decision guidelines apply to an application for a permit under Clause 37.01, in addition to those specified in Clause 37.01 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- How the development relates to the purposes of this schedule.
- For land in Precinct B:
  - Whether the development will support and enhance harness racing training facilities or horse stables.
  - Whether the development will permanently remove land from harness racing training facilities or horse stables.
- The need to locate buildings in one area to avoid any adverse impacts on surrounding uses.
- 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 including the visual impact on the landscape.

- 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.
- The impact of the proposal on the natural physical features and resources of the area.
- 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 views of the Goulburn Broken Catchment Management Authority.
- For applications within 160m of the high pressure gas pipeline, the views of the relevant operator
- Whether the subdivision will require any traffic management measures having regard to the Goulburn Valley Harness and Greyhound Racing Precinct ~~Feasibility Study and Master Plan, July 2016.~~

## 5.0 Advertising signs

None specified.

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Proposed C199

~~Application requirements~~

~~An application to use, develop or subdivide land must be accompanied by the following information (as appropriate):~~

~~A plan drawn to scale that shows:~~

~~The boundaries and dimensions of the site and of each lot.~~

~~Adjoining roads.~~

~~The location, height and purpose of buildings and works.~~

~~Relevant ground levels.~~

~~The layout of existing and proposed buildings and works.~~

~~All driveway, car parking and loading areas.~~

~~Proposed landscape areas.~~

~~All external storage areas.~~

~~Elevation drawings to scale showing the colour and materials of all buildings and works.~~

~~Construction details of all drainage works, driveways, vehicle parking and loading areas.~~

~~The purpose of the use and the types of activities that will be carried out.~~

~~The likely effects, if any, on the amenity of the neighbourhood, including noise levels, traffic, the hours of delivery and dispatch of goods and materials, hours of operation and light spill.~~

~~A Traffic Impact Assessment having regard to the Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016.~~

~~If a Rural Industry or Store or Warehouse:~~

~~The type and quantity of goods to be stored, processed or produced.~~

~~The likely effects on adjoining land, including air borne emissions and emissions to land and water.~~

~~In addition to the above, an application to subdivide land in Precinct B must be accompanied by:~~

- ~~▪ Details of how the proposed subdivision will facilitate the future use of the land for harness equine related services.~~
- ~~▪ An Infrastructure Provision Plan as detailed below in accordance with Clause 6.~~

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## ~~Infrastructure Provision Plan~~

~~An Infrastructure Provision Plan for the land identified in Precinct B must be prepared to the satisfaction of the responsible authority.~~

~~The Infrastructure Provision Plan must be generally in accordance with the 'Infrastructure Design Manual' of the responsible authority and should address (or include) the following matters:~~

~~The provision, staging and timing of stormwater drainage works, both internal and external to the precinct.~~

~~The provision, staging and timing of any road works.~~

~~Any other infrastructure or related matters reasonably required by the responsible authority in association with the development of the land.~~

~~The location and nature of infrastructure services to be associated with the development.~~

~~Environmentally sustainable design principles for all infrastructure to ensure efficient and sustainable use of water.~~

~~How the stormwater management system and the sewerage system interrelates and responds to the principles of water sensitive design and establishes a mechanism to improve water quality for re-use or when exiting from the development site.~~

~~A stormwater management plan for the whole of the Precinct that demonstrates there are no off-site flooding impacts.~~

~~Details of any sewerage treatment plant for the development, including:~~

~~treatment technology;~~

~~construction standards;~~

~~operational procedures;~~

~~maintenance program; and~~

~~a risk assessment of possible plant upset conditions and malfunctions and how these can be responded to including the potential for odours to be generated from sludge drying bays.~~

~~The landscaping of any land.~~

~~The provision of public open space and land for any community facilities.~~

~~How it is proposed to provide for a reticulated recycled water supply system to all residential and other uses.~~

~~The location and method of operation of the sewerage treatment plant and the identification of appropriate buffers based on the type of treatment system to be used.~~

~~How the provision, design and operation of the stormwater management system, the sewerage treatment system and reticulated water system responds to the State Environment Protection Policy (Waters of Victoria) 2003, Gazette 4/6/2003.~~

~~The appropriate staging of infrastructure and establishes a management system for co-ordination of infrastructure provision.~~

~~The Infrastructure Provision Plan must state that the provision of all infrastructure reasonably required for the development of the land, whether within or outside the developable area, is at no cost to the responsible authority.~~

### ~~Proximity to Pipelines~~

~~Applications for use or subdivision within a distance of 15m to the north and 5m to the south of the high pressure gas pipeline must notify APA Group.~~

~~Development is not permitted within a distance of 15m to the north and 5m to the south of the high pressure gas pipeline.~~

### ~~Acoustic Design Requirements for lots in Precinct B~~

~~Any permit for subdivision where land is located within Precinct B must include the following condition:~~

~~The permit is issued subject to a condition requiring the owner to enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1973 that provides information to future land owners that the site is located in proximity to the Goulburn Valley Harness and Greyhound Racing Precinct and may be affected by associated noise.~~

~~———— Car parking in Precinct A~~

~~The number of car spaces to be provided on the land for any use in Precinct A must be to the satisfaction of the responsible authority, having regard to an assessment of the anticipated car parking demand.~~

~~———— Decision guidelines~~

~~General issues~~

~~How the use or development relates to the purposes of the zone.~~

~~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.~~

~~The layout of the subdivision;~~

~~The suitability of the location of the training facilities on the site;~~

~~Access arrangements;~~

~~The location and design of existing and proposed infrastructure services including gas, water, drainage, telecommunications and sewerage facilities.~~

~~Agricultural issues~~

~~Whether the use or development will support and enhance horse training facilities.~~

~~Whether the use or development will permanently remove land from horse training facilities.~~

~~The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.~~

~~Dwelling issues~~

~~Whether the dwelling is reasonably required for the operation of the activity conducted on the land.~~

~~Whether the dwelling is to be occupied by a registered horse trainer or employee.~~

~~Whether the dwelling will adversely affect the operation and expansion of the Harness and Greyhound Racing Facility.~~

~~Environmental issues~~

~~The impact of the proposal on the natural physical features and resources of the area.~~

~~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 views of the Goulburn Broken Catchment Management Authority.~~

~~Design and siting issues~~

~~The need to locate buildings in one area to avoid any adverse impacts on surrounding uses.~~

~~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 including the visual impact on the landscape.~~

~~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.~~

~~Traffic issues~~

~~Whether the use and development will require any traffic management measures having regard to the Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016.~~

## Appendix D Panel preferred version of Clause 21.04

The following is a modified Clause 21.04-1 marked with exhibited insertions remaining (marked blue for additions and red for deletions). Post-hearing changes suggested by Council are highlighted in green, and the Panel's additions or deletions have a yellow highlight.

### 21.04 SETTLEMENT

#### 21.04-1 Urban Consolidation and Growth

31/08/2017

Proposed C199

Population forecasts predict that the population of the City of Greater Shepparton will grow from 59,202 persons in 2006 to 71,509 by 2026. It is expected that to accommodate this additional population, there will need to be a corresponding growth in the number of dwellings (a separate estimate suggests a further 9,100 dwellings will be required by 2031). At the same time, changing demographic trends such as an increase of persons aged 65 and over, smaller household sizes and an increase in non-Australian born persons will create demand for a broad range of housing types within the municipality.

In facilitating the future growth and development of the municipality's towns, the Council is concerned to achieve urban consolidation thereby promoting walking, the use of bicycles and reducing the dependence on car use. In proximity to the Shepparton CBD and other key activity centres, people will be encouraged to live at higher densities in environments that offer individual, lifestyle and community benefits. The *Shepparton CBD Strategy October 2008* establishes key priorities including creating residential opportunities and expanding housing choice within the CBD. The strategy encourages the provision of additional medium density and apartment style accommodation including shop-top housing.

The *Greater Shepparton Housing Strategy 2011* (GSHS) outlines Council's approach to housing delivery and growth in the municipality and provides the basis for the objectives, strategies and policy guidelines outlined below. It provides for sufficient land supply to accommodate housing demand within a consolidated and sustainable development framework. In doing so, it defines settlement boundaries for the extent of urban expansion to ensure the sustainability of the urban community and the well-being of productive agricultural land.

A significant portion of residential growth in the short-medium term will be met by the four main growth corridors identified in the *Greater Shepparton 2030 Strategy*:

- The southern corridor to the south of the Broken River at Kialla.
- The south eastern corridor, along Poplar Avenue, Shepparton.
- The northern corridor, between Verney Road and the Goulburn Valley Highway, Shepparton.
- The western corridor, to the west of Mooroopna.

It is expected that the urban areas of Shepparton and Mooroopna along with the four major growth areas will accommodate the majority of new residential development, with remaining growth distributed throughout Tatura, Murchison, Merrigum, Dookie, Congupna, Katandra West, Tallygaroopna, Toolamba, and Undera. The location and timing of new development will be reviewed annually in accordance with the monitoring and evaluation framework contained in the GSHS.

The Council recognises that Toolamba is in a unique position as it is the only small town in the municipality which will have a dedicated freeway interchange as part of the proposed Goulburn Valley Highway Bypass. This, together with the development of the Goulburn Valley Freight Logistics Centre at Mooroopna, will present a very attractive opportunity for future residential development of the town. Connection to a reticulated sewerage system will enable Toolamba to develop at a higher residential density. However, Development Plan Overlays should be used in conjunction with any future township expansion. In the absence of sewer, all future residential development in Toolamba will be subject to a Land Capability Assessment.

It is important that growth is maintained on a number of fronts, providing choice and variety in the housing market and accommodating projected population growth over at least a 15 year period.

Future growth corridors are vital to ensure that residential development can continue once other estates and corridors are completed. The growth plans identify a number of longer term residential growth corridors in Shepparton North and Kialla to the east of Kialla Lakes once existing areas are nearing full development.

#### *Framework Plans*

The GSHS supports the growth of Greater Shepparton in a consolidated and sustainable fashion. This includes providing land for living opportunities in a variety of residential settings and locations. To provide guidance as to how and where Greater Shepparton will grow, a series of Growth Management Plans was developed.

Key elements of the Growth Management Plans from the ~~GSHS~~ have been incorporated into a series of *Framework Plans* which form part of the Municipal Strategic Statement (MSS). The *Framework Plans* specify the settlement boundary for each area, the direction for future growth, the types of potential zoning for each area and where applicable indicate Investigation Areas.

The Growth Management Plans within the GSHS indicate a sequencing of development over a 15-year period. While development will be encouraged in accordance with these plans, this detail has not been included in the *Framework Plans* to allow some flexibility following the ongoing monitoring of supply and demand.

#### *Settlement Boundaries*

The *Framework Plans* include a 'settlement boundary' for each urban area and town based on the Growth Management Plans within the GSHS. The settlement boundaries provide guidance to the potential type, location and amount of residential land required. The plans project the outward limit of growth to the year 2031 as well as in some instances providing the broad direction of longer-term growth of Greater Shepparton beyond 2031 as indicated by arrows on the *Framework Plans*.

Residential growth outside the nominated settlement boundaries will generally not be supported. As a result the *Framework Plans* do not indicate any future growth outside the nominated settlement boundary. The exception to this is the land contained within Investigation Areas which upon further investigation may support additional land for residential development.

#### *Investigation Areas*

Several Investigation Areas have been identified within the *Framework Plans*. These areas represent land which has potential to be rezoned to a higher density residential use due to the proximity to services and/or growth areas. The areas however presently have significant issues or constraints such as environmental, flooding, infrastructure and/or land use conflicts. The relevant issues will need to be resolved on a site-by-site basis through a more detailed analysis to determine the potential for higher density development and any subsequent changes to the *Framework Plans*.

These areas (which are nominated with the corresponding number on the *Framework Plans*) are:

- Investigation Area 1 – Kialla Paceway and Shepparton Greyhound Racing environs. This area surrounds and includes the greyhound and trotting facilities and is directly adjacent to the Shepparton South Growth Corridor. There is potential to extend services to this land. However, future residential development within this area will be dependent on amenity issues such as lighting, noise, odour and dust being addressed to ensure that the long term interests of the racing facilities are protected.
- Investigation Area 2 – Raftery Road, Kialla. The land is adjacent to the Shepparton South Growth Corridor and is situated between the Seven Creeks and Goulburn River corridors. Development is currently restricted by the 8ha minimum lot size under the Rural Living Zone. Higher density development is dependent on issues relating to servicing, flooding and the environmental assets of the two river corridors being resolved.
- Investigation Area 3 – Adams Road area, Kialla. This area is directly adjacent to the Kialla Lakes Estate though is significantly impacted by flooding. The potential to develop this land to a more intensive residential use is dependent on this issue being resolved.
- Investigation Area 4 – (Investigation Area 10 in Clause 21.06-4 Industry) east of Doyles Road, Grahamvale. There are a number of land use interface issues to be addressed in this

area. There is a mix of agriculture, residential estates such as Dobsons Estate and the Shepparton East and Lemnos industrial areas. Further investigation is required in this area following finalisation of the Industrial Strategy. Investigations will include issues associated with present industry, potential for expansion of industrial and / or residential uses and developments, future servicing requirements and agricultural impacts.

- Investigation Area 5 – Dhurringile Road, Tatura. The land is opposite the Tatura Milk Industries. The future role of this land is dependent on the identification of measures to ensure possible conflicts between the potential residential uses on this land and industry in the immediate area are effectively managed.
- Investigation Area 6 – Toolamba. The area is located to the south west of the existing township. The density of residential development will be dependent on the outcome of current investigations into the provision of sewerage to the land. In the absence of sewerage, the density of future residential development will be dependent on Land Capability Assessment.

#### Investigation Area Studies Completed

Referred to on the Framework Plans as ‘Investigation Area Study Complete’.

- Investigation Area 1 – Kialla Paceway and Shepparton Greyhound Racing Environs. The Study of this Investigation Area is now complete. ~~The Goulburn Valley Harness and Greyhound Racing Precinct Feasibility Study and Master Plan, July 2016~~ Investigation Area 1: Feasibility and Master Plan (date to be inserted) (included as a reference document at Clause 21.09 Reference Documents) has been prepared to generally consider and address the amenity issues in this area.
- Schedule 4 to the Special Use Zone has been revised to support the ongoing use and development of the Goulburn Valley Harness and Greyhound Racing Facility. The approved Master Plan provides broad guidance and supports rezoning of the remaining land within Investigation Area 1.

#### **Objectives - Urban Consolidation and Growth**

To contain urban growth to identified growth areas in order to protect higher quality and intact agricultural areas and achieve a more compact built up area.

To encourage a variety of housing types, particularly in terms of tenure and price, to contribute to housing diversity and affordability.

To provide a greater range of housing choices to attract more people to live in the Shepparton CBD which will support the vibrancy and economy of the CBD.

To make better use of available land by allowing higher scale built form in appropriate locations within the CBD.

To minimise the impacts of housing on the natural environment.

To release land efficiently in terms of location, supply of services and infrastructure and in accordance with land capability.

To support increased residential densities, such as 15 dwellings per hectare, in established areas and the conventional living growth areas.

To increase the supply of medium density housing in appropriate locations.

To provide land for small township expansion, subject to a supply and demand analysis.

To coordinate the assessment, planning, development and servicing of identified investigation areas in an integrated manner.

To ensure any small township expansion occurs without impacting on the long-term growth potential of urban centres or productive agricultural land.

To ensure any small township expansion is dependent on land capability where no reticulated sewer is available.

To balance the need to achieve urban consolidation with the need to respect and retain the valued characteristics of existing neighbourhoods.

To ensure that land proposed for residential purposes is not contaminated.

To ensure protection of ground water and natural systems.

To ensure that provision is made for community infrastructure.

To provide for the appropriate development of Investigation Areas **only** generally where the Investigation Area Study has been completed.

### **Strategies - Urban Consolidation and Growth**

- Maintain residential development targets outlined in the GSHS based on the type, amount and proportion of existing residential zones; the existing average lot sizes in each residential zone type; a qualitative assessment of dwelling demand and housing market conditions; sustainable development principles and the need to conserve land and energy; and the need to achieve the strategic directions and objectives of the GSHS. These targets are:
  - *Infill Development* – accommodate at least 10 percent of the 9,100 dwellings (910 dwellings) in existing areas through infill and redevelopment at higher densities. New dwelling construction in these areas is highly encouraged by the GSHS and this target should be exceeded where possible.
  - *Greenfield Development* – accommodate the remaining 8,190 dwellings in Greenfield locations with:
    - 60% as conventional living (450 – 800 square metres).
    - 20% as medium density housing (less than 450 square metres).
    - 15% as low density living (2,000 – 8,000 square metres).
    - 5% as rural living (2 – 8 hectares).
- Promote development in accordance with the attached Framework Plans.
- Maintain a supply of land to accommodate projected population growth over at least a 15 year period.
- Encourage the consolidation of existing residential areas in the municipality in accordance with the change areas identified in the Housing Change Area plans.
- Ensure the rezoning of future residential land is informed by the ‘Growth Management Plans’ and development principles identified in the Greater Shepparton Housing Strategy 2011.
- Ensure that township growth is determined by infrastructure provision (including water supply) and a supply and demand analysis, with developers funding the extension of water and sewerage services.
- Support applications to rezone land for residential purposes where the land has previously been used for orchard or other agricultural uses only where the application is accompanied by a soil report which confirms that the land is suitable for residential use (as required by Ministerial Direction No. 1).
- Support increased densities, such as 15 dwellings per hectare, where reticulated sewer and urban services are provided in the existing residential areas, while maintaining and protecting existing sewerage reticulation assets.
- Encourage medium density housing in preferred locations including within existing residential areas; near public transport; within major redevelopment sites; and adjacent to activity centres and open space areas.
- Encourage medium density, apartment style and shop-top housing, and including student accommodation, as part of the redevelopment of Shepparton CBD commercial sites.
- Encourage the provision of smaller lots to meet the changing demographics structure.
- Discourage multi dwelling developments within areas affected by the Floodway Overlay.
- Provide a settlement boundary beyond which additional urban growth and rezoning should not be supported.

- Encourage new subdivision and developments to promote walking and cycling between homes and schools, open spaces and shops.
- Ensure appropriate design, location and density for expanding residential areas in Shepparton North to maintain amenity protection between residential and other uses such as industry, agriculture and the Goulburn Valley Freeway.
- Link the parks, open spaces and bicycle paths to create connectivity between the three urban areas of Shepparton, Mooroopna and Kialla, with the floodplain becoming a recreation asset.
- Avoid incremental approvals and development in identified investigation areas until an integrated investigation has been completed to assess and resolve future land opportunities and constraints, land use, development opportunities, subdivisional layout and servicing for the area.
- Apply the Development Plan Overlay (DPO) to the growth areas to ensure coordinated development.
- Require development plans to be accompanied by an approved Development Contributions Plan (DCP) or an alternative such as a negotiated Pre-Development Agreement.
- ~~Ensure that amendments and development in an Investigation Area, where the Investigation Area Study has been completed, are informed by and has regard to an approved Master Plan (included as a reference document at Clause 21.09 Reference Documents);~~
- Consider the effect that use or development in an Investigation Area may have on nearby existing or proposed development.

### Policy Guidelines - Urban Growth and Consolidation

When considering an application, the Council will be guided by the following provisions:

- Whether new development leap-frogs existing non-residential development.
- The protection of strategic riparian areas and the provision of public access.
- Flexibility in lot sizes based on, diversity of lot sizes, the proximity of services and the character of the area.
- Provision for community services (DCP or Pre-Development Agreement).
- Residential development should generally be in accordance with the sequencing indicated on the Growth Management Plans in the GSHS. Growth occurring out of sequence may be considered provided that a development proposal satisfies the following conditions:
  - It can be demonstrated that the land supply for the proposed type of development is being constricted elsewhere and that it is unlikely to become available within the designated sequencing.
  - The proposed development does not impact on the achievement of the objectives and strategies of the GSHS.
  - The development can be serviced and connected to sewer and drainage infrastructure in a timely and efficient manner to the satisfaction of the relevant service provider.
  - The full cost of extending infrastructure out of sequence is paid for by the developer.
  - The proposed development represents an exemplary development incorporating best practice standard and satisfying the objectives and strategies of the GSHS to a high degree.
- When assessing applications for use or development in an Investigation Area, where the Investigation Area Study has been completed, it is policy to:
  - ~~Ensure that applications in Schedule 4 to Clause 37.01 of the Special Use Zone, Goulburn Valley Harness and Greyhound Racing Precinct are generally in accordance with an approved Master Plan (included as a reference document at Clause 21.09 Reference Documents); and~~
  - ~~Ensure use or development in an Investigation Area has regard to the future development potential of the land identified in an approved Master Plan (including as a reference document at Clause 21.09 Reference Documents).~~

- Minimise any detrimental impacts on:
  - existing and future road networks, including the comments of the relevant authorities;
  - amenity of future residential development; and
  - sequencing of future residential development.

**21.04-2      Housing Change Areas**

**No other changes proposed from the existing Clause 21.04-2 onwards.**

**INVESTIGATION AREA MAPS NOT INCLUDED**



## Appendix E Table of Recommended Changes with Panel comments

ITEM	Document	Proposed Change	Comments from Basic Council Response to Property Holdings (BPH) BPH (20 July)	Panel Comments
1	SUZ(4) The version submitted by the Council immediately prior to the Panel Hearing (post exhibition).	Under proposed clause 1.0 <i>Table of uses</i> and under <i>Precinct A</i> the second table for <i>Section 2 – Permit required</i> reinsert in the Use column: “Any use not listed in Section 1 or 3”	Agreed.	Supported – contained in Appendix D.
2	SUZ(4) The version submitted by the Council immediately prior to the Panel Hearing (post exhibition).	If the name of the Master Plan is changed make that consequential name change where referred to in the SUZ4.	Agreed.	As it is a Reference Document, the Panel does not support explicit referencing of the Master Plan in the SUZ4.
3	Clause 21.04 Strategy – Urban Consolidation and Growth (second last dot point, page 5 of	“● Ensure that <b>amendments and</b> development in an Investigation Area, where the Investigation Area Study has been completed, <b>are informed by and has regard to</b> an approved Master Plan	Both the proposed amendment and the revision are opposed. A problem with this amendment both in its original format, is that it was a one size fits all, in that its application would not be limited to the Area 1 Master	If any other Master Plan for any other Investigation Area is proposed to be a reference document then it must, itself, be the subject of a Council’s proposed change is not supported. See discussion in Chapter 3 and the Panel’s preferred Clause 21.04 (Appendix D.)

ITEM	Document	Proposed Change	Comments from Basic Property Holdings (BPH)	Council Response to BPH (20 July)	Panel Comments
33)		(including as a reference document at Clause 21.09 Reference Documents). Consider the effect that use or development in an Investigation Area may have on nearby existing or proposed development.”	Plan, but would have general application to all Master Plans in all Investigation Areas. Having regard to the problems identified with the present Master Plan, this does not bode well for the application of future Master Plans by reference to the proposed the amendment. Undoubtedly, residents in other areas of Shepparton might be surprised that this amendment is of general application and not just limited to IA1. The revised amendment proffered by Council, does not alleviate this problem. The principal objection to problem with this amendment in its original form relates to its impact on the non-Harness Racing Precinct of IA1. This will be addressed in the submissions.	planning scheme amendment allowing exhibition and response.	
4	Clause 21.04 Objectives – Urban Consolidation and Growth.	“When assessing applications for use or development in an Investigation Area, where the Investigation Area Study has been completed, it is policy to:	As with the preceding amendment to clause 21.04, it is a one size fits all, in that its application would not be limited to the Area 1 Master Plan, but would have general application	Adopting the BPH numbers: 1. As with Item 3, the reference to “one size fits all”	Council’s proposed change is not supported. See discussion in Chapter 3 and the Panel’s preferred Clause 21.04 (Appendix D.)

ITEM	Document	Proposed Change	Comments from Basic Property Holdings (BPH)	Council Response to BPH (20 July)	Panel Comments
	Last paragraph and last 2 major dot points.	<p>Ensure that applications in <b>Schedule 4 to Clause 37.01 of the Special Use Zone, Goulburn Valley Harness and Greyhound Racing Precinct</b>, are generally in accordance with an approved Master Plan (including as a reference document at Clause 21.09 Reference Documents);</p> <p>Ensure use or development in an Investigation Area has regard to the future development potential of the land identified in an approved Master Plan (included as a reference document at Clause 21.09 Reference Documents); and</p> <p>Minimise any detrimental impacts on:</p> <ul style="list-style-type: none"> <li>existing and future road networks, including the comments of the relevant authorities;</li> <li>amenity of future residential development;</li> <li>and</li> </ul>	<p>to all Master Plans in all Investigation Areas.</p> <p>Where an Investigation Area study has been completed it is appropriate, indeed necessary, that any mandatory changes to the Planning Scheme should not be introduced by way of referring to a "Reference Document".</p> <p>Subject to the above objections, BPH does not specifically object to the revised first bullet point:</p> <p>‘Ensure that applications in <b>Schedule 4 to Clause 37.01 of the Special Use Zone, Goulburn Valley Harness and Greyhound Racing Precinct</b>, are generally in accordance with an approved Master Plan (including as a reference document at Clause 21.09 Reference Documents);’</p>	<p>represents a misunderstanding of how the provision and future amendments would operate.</p> <p>2. No mandatory change is introduced into the planning scheme by way of this reference document.</p> <p>3. Noted, however Council prefers the full suggested inclusion.</p>	

ITEM	Document	Proposed Change	Comments from Basic Council Response to Property Holdings (BPH) BPH (20 July)	Panel Comments
		sequencing of future residential development.”		
5	Master Plan Title	Amend title potentially as follows: Investigation Area 1: Feasibility Study and Master Plan-Greater Shepparton City Council [insert month] 2017.	Agreed.	Agreed. See comments in item 2, 4.
6	Master Plan APA Gas Pipeline – page 51	Delete existing 2 paragraphs under heading “ <b>APA GAS PIPELINE</b> ” and insert the following: “APA GAS PIPELINE A high pressure gas pipeline runs through the investigation area from east to west, generally to the south of the Harness and Greyhound racing precinct. The high pressure gas pipeline is potentially hazardous and it is important that future planning, land use and development within the investigation area	Not agreed as originally presented or as revised.	Accept APA requested inclusion.  As discussed in Chapter 3, Other than for inconsistencies discussed in Appendix E, the Panel have not recommended that the Master Plan, as a reference document be substantially changed.  The Panel does not support an approach whereby Reference Documents are relied upon as a de facto statutory tool.  The Master Plan clearly denotes the Gas Pipeline easement and requirements such as the

ITEM	Document	Proposed Change	Comments from Basic Council Response to Property Holdings (BPH) BPH (20 July)	Panel Comments
		<p>appropriately responds to the location of the high pressure gas pipeline and the associated potential risk.</p> <p>It will be necessary for future land use and development to appropriately respond to the risk associated with the Pipeline. At the time of the preparation of this document, the 'heat radiation zone' for the Pipeline is understood to be 160 m either side of the Pipeline, which may preclude particular uses, but will not preclude low density residential, rural equine living or rural residential living.</p> <p>A safety management study should be required to be undertaken before a change of land use or before development commences within the 'heat radiation zone' either side of the</p>		<p>APA guidance should relate to planning permit conditions rather than be contained in such detail within the Master Plan.</p> <p>The Panel does not support the inclusion in such detail and believes the advice contained within the exhibited Master Plan is sufficient.</p> <p>The Panel has recommended that the following be inserted into the Decision Guidelines of SUZ4:</p> <p><i>For applications within 160m of the high pressure gas pipeline, the views of the relevant operator</i></p>

ITEM	Document	Proposed Change	Comments from Basic Property Holdings (BPH)	Council Response to BPH (20 July)	Panel Comments
		Pipeline. Whether a safety management study will be required for a particular land use or development will need to be determined in consultation with the operator of the Pipeline at the relevant time."			
7	Master Plan – flooding issue Executive Summary – Strategic Context – page 4	"A Flood Overlay (FO) and Land Subject to Inundation Overlay (LSIO) exists over the south and North West corners of the <b>investigation area</b> , as well as the north east corner. Specialist consultants, Water Technology, have prepared a flood <b>behaviour study (report dated August 2016)</b> , the <b>findings of which are reflected in the Master Plan outcomes detailed in Section 9.</b> "	Not agreed. Suggested replacement wording: "A Flood Overlay (FO) and Land Subject to Inundation Overlay (LSIO) exists over the south and North West corners of the investigation area, as well as the north east corner.  The 2012 Shepparton Mooroopna Flood Mapping and Flood Intelligence Project (as completed) and any subsequent flood studies that may in the future replace it, may result in future planning scheme amendments to the UFZ, FO and LSIO in the Municipality including Investigation Area	Noted. Council version preferred. Note: flood behaviour study is reflected in the Master Plan; and the 2012 date refers to the start date of that project and is not the appropriate reference (See Item 8).	As discussed in Chapter 4, this is an inconsistency as such the Panel agrees with the wording suggested by BPH, as it provides flexibility beyond the current flood studies should future work reveal that other changes are warranted.  The only recommended change to the BPH suggestion would be to apply the correct reference to the Mooroopna Flood Mapping and Flood Intelligence Project as discussed by Council in item 8.

ITEM	Document	Proposed Change	Comments from Basic Property Holdings (BPH)	Council Response to BPH (20 July)	Panel Comments
			1.”		
8	Master Plan – flooding references Section 2.3 Planning Zones – page 15 – third paragraph	Either: delete paragraph 3 on page 15; or delete paragraph 3 on page 15 and insert:  “The Shepparton Mooroopna Flood Mapping and Flood Intelligence Project (Report dated April 2017) may result in future planning scheme amendment which changes the UFZ in Investigation Area 1 together with other areas of the Municipality.”	Not agreed. The reference to the Intelligence Project Report dated April 2017 is not understood; we understand this report is still to be completed. Suggested replacement wording: “A Flood Overlay (FO) and Land Subject to Inundation Overlay (LSIO) exists over the south and North West corners of the investigation area, as well as the north east corner. The 2012 Shepparton Mooroopna Flood Mapping and Flood Intelligence Project (as completed) and any subsequent flood studies that may in the future replace it, may result in future planning scheme amendments to the UFZ, FO and LSIO in the Municipality including Investigation Area 1.”	The reference to April 2017 was a date of the report for the project, its full title being: ‘Shepparton Mooroopna Flood Mapping and Flood Intelligence – Data Review, Hydrology and Hydraulic Model Calibration – April 2017’.  The 2012 reference is not appropriate, 2012 is when the project started.	See comments in Item 7.
9	Master Plan – flooding issue Section 2.4 Planning	Either: delete the second and third sentences of paragraph 2 on			Adopt the approach taken and applied to items 7 and 8. The Panel suggests the following replacement



ITEM	Document	Proposed Change	Comments from Basic Council Response to Property Holdings (BPH) BPH (20 July)	Panel Comments
	Overlays Second and third sentences of second paragraph	page 18; or delete and insert: “The <a href="#">2012</a> Shepparton Mooroopna Flood Mapping and Flood Intelligence Project <del>(Report dated April 2017)</del> may result in future planning scheme amendment which changes the FO and LSIO in Investigation Area 1 together with other areas of the Municipality.”		text: <i>A Flood Overlay (FO) and Land Subject to Inundation Overlay (LSIO) exists over the south and North West corners of the investigation area, as well as the north east corner.</i> <i>The Shepparton Mooroopna Flood Mapping and Flood Intelligence Project (Report dated April 2017) (as completed) and any subsequent flood studies that may in the future replace it, may result in future planning scheme amendments to the UFZ, FO and LSIO in the Municipality including Investigation Area 1.</i>
10	Master Plan – flooding issue Section 7.3 – Investigation Area – Flooding (last paragraph page 49 and	“The initial Master Plan concepts for the investigation area were prepared on the basis of existing flood overlays and flood zones, incorporated into the Greater Shepparton Planning Scheme.	Not agreed as originally presented or as revised, save for the words: “The initial Master Plan concepts for the investigation area were prepared on the basis of	Noted – Council suggested version preferred, deletion of the balance does not reflect what occurred.  Noting the Panels comments in Chapter 3, references to the word “superseded” should be deleted for reasons already expanded upon in Chapter 3 and 4.

ITEM	Document	Proposed Change	Comments from Basic Council Response to Property Holdings (BPH) BPH (20 July)	Panel Comments
	page 50)	<p>A flood behaviour study has been prepared for the investigation area and the surrounding land areas by specialist consultants Water Technology (Water Technology Investigation Area 1 – August 2016). Figure 11 shows the predicated flood impact of a 1 in 100 year flood event and predicts a large portion of the investigation area, affected by potentially high flood levels.</p> <p>The flood behaviour study impacts the potential for development in the investigation area due to the restriction on development in flood prone areas. To maximise developable land, there is an opportunity to provide flood mitigation infrastructure within the investigation area. Cut and fill areas would be required to facilitate development. The extent of land for development, together with the precise location, extent and quantities of cut and fill will be</p>	existing flood overlays and flood zones, incorporated into the Greater Shepparton Planning Scheme.	<p>The Panel suggests the following replacement text:</p> <p><i>The Master Plan concepts for the investigation area were prepared on the basis of existing flood overlays and flood zones, incorporated into the Greater Shepparton Planning Scheme.</i></p> <p><i>Figure 11 shows the predicated flood impact of a 1 in 100 year flood event and predicts a large portion of the investigation area, affected by potentially high flood levels.</i></p> <p><i>The flood behaviour study (reference) impacts the potential for development in the investigation area due to the restriction on development in flood prone areas. To maximise developable</i></p>

ITEM	Document	Proposed Change	Comments from Basic Council Response to Property Holdings (BPH) BPH (20 July)	Panel Comments
		<p>subject to detailed assessment at any development approval stage.</p> <p>There is opportunity to use overland flood and flood storage areas for open space/recreation trails/horse tracks.</p> <p>The findings from the flood behaviour study are reflected in the Master Plan detailed in Section 9.”</p>		<p><i>land, there is an opportunity to provide flood mitigation infrastructure within the investigation area. Cut and fill areas would be required to facilitate development. The extent of land for development, together with the precise location, extent and quantities of cut and fill will be subject to detailed assessment at any development approval stage.</i></p>
11	Master Plan Boundaries of Development Section 9.1 Overview – page 63	<p>Insert new dot point on page 63.</p> <p>“● The nature and extent of potential uses and development contemplated may vary dependent upon detailed assessment at any development approval stage provided the Master Plan objectives continue to be achieved.”</p>	Not agreed as originally presented or as revised.	The Panel generally agrees with the comment, however feels the dot point addition is unnecessary and is best covered as a notation on plan (discussed in Item 12).

ITEM	Document	Proposed Change	Comments from Basic Property Holdings (BPH)	Council Response to BPH (20 July)	Panel Comments
12	Master Plan Boundaries of Development Master Plan – page 64	<p>A notation identical to that suggested for the new potential dot point on page 63 could be considered for inclusion on the actual Master Plan.</p> <p>At the Panel the potential for a notation specifically (and only) along the interface of the east side of the potential “Recreation Equine” use and the west side of the “Rural Equine Living” use was discussed. However, it is suggested the flexibility suggested by the proposed new dot point at page 63 (and potential notation on the actual Master Plan) should not be limited to just that interface.</p>	<p>Not agreed. The notation should clearly specify that:</p> <p>No landowner is required to agree to cut being taken from his, her its land for the purposes of offsetting fill on another land owner’s land.</p>	<p>The suggestion (of BPH) makes no sense, no land owner can be required to do this through any mechanism and certainly not through a Master Plan which is a Reference Document.</p>	<p>The Panel agrees to the notation being inserted on Master Plan at page 64.</p> <p>The straight training track should be deleted from the Master Plan as discussed in Chapter 3.</p> <p>The Master Plan should be updated to version number 11</p> <p>The notation should read:</p> <p><i>The nature and extent of potential uses and development contemplated may vary dependent upon detailed assessment at any development approval stage provided the Master Plan objectives continue to be achieved</i></p> <p>The Panel agrees with Council regarding the BPH comments.</p>
13	Master Plan Executive summary p.4		<p>After the paragraph:</p> <p>The Goulburn Valley Harness and Greyhound Precinct will continue to grow as an equine</p>	<p>Not appropriate for inclusion as Master Plan contemplates an adequate and broad</p>	<p>As discussed in Chapter 3, Other than for inconsistencies discussed in Appendix E, the Panel</p>

ITEM	Document	Proposed Change	Comments from Basic Property Holdings (BPH)	Council Response to BPH (20 July)	Panel Comments
			and greyhound event hub through the development of additional equine recreation areas, equine focused residential areas, expanded training facilities and quality tourist accommodation.	range of opportunities.	have not recommended that the Master Plan, as a reference document be substantially changed.
			INSERT Land in Investigation Area 1 outside the Goulburn Valley Harness and Greyhound Precinct will be able to develop opportunities to develop accommodation and other tourist facilities as well as a providing a range of residential land.		
14	Master Plan – Explanatory Report		<b>Delete:</b> “the proposed Amendment C199 affects, in particular, the approximately 40 ha of land being the Precinct land.” <b>Insert:</b> “the proposed Amendment C199 affects the whole of Investigation Area 1, being an area of approximately 310 hectares including approximately 40 ha of land being the Harness Racing	An unnecessary inclusion.	As discussed in Chapter 3, Other than for inconsistencies discussed in Appendix E, the Panel have not recommended that the Master Plan, as a reference document be substantially changed.

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			Precinct land."		
15	Master Plan – p.6		Due to the Goulburn Valley Harness and Greyhound Racing Precincts' distance from water and sewerage treatment plants, it is Goulburn Valley Water's preference that conventional development Precinct area be minimised otherwise large and costly infrastructure improvements will be required.	Note reference to "Goulburn Valley Harness and Greyhound Racing Precinct" should be changed to "Investigation Area 1".	As discussed in Chapter 3, Other than for inconsistencies discussed in Appendix E, the Panel have not recommended that the Master Plan, as a reference document be substantially changed.
16	Master Plan – p.7		There is strategic support for low density residential and rural living residential uses in the Goulburn Valley Harness and Greyhound Racing Precinct, however it will be important that these do not adversely impact the existing <del>Harness and Greyhound Racing</del> Precinct.  There is also strategic support for low density residential and rural living residential uses in Investigation Area 1 outside the Goulburn Valley Harness and Greyhound Racing Precinct.  It is important that developments in both areas do	Disagree - unnecessary.	As discussed in Chapter 3, Other than for inconsistencies discussed in Appendix E, the Panel have not recommended that the Master Plan, as a reference document be substantially changed.

ITEM	Document	Proposed Change	Comments from Basic Council Response to Property Holdings (BPH) BPH (20 July)	Panel Comments
			<p>not adversely impact on one another.</p> <p>If this were themed for equine, it would build on the synergies with the current Greyhound and Harness Racing functions in the precinct. Initial discussions with representatives of the equine recreation sector suggest a size range of 1-25 hectares for equine/greyhound lifestyle allotments. Further strategic support shows that the optimum lot sizes for low density residential is between 2,000 and 8,000 sqm.</p> <p>Strengthening the equine role of the Goulburn Valley Harness and Greyhound Racing precinct through land provided for equine recreational uses and commercial equine uses will provide greater market demand for equine themed rural living uses. This will also assist in growing the precinct as the home of the equine industry.</p> <p><del>Discussions with the equine recreational sector highlight a</del></p>	



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			<p><del>lack of facilities to accommodate the growing needs of clubs in the region. In particular, the pony club has use conflicts with the training undertaken at the rear of the site.</del> The precinct provides the opportunity to collocate a number of the Goulburn Valley's equine recreational clubs into one precinct.</p> <p>There is market support for visitor accommodation within the investigation area, notably to leverage off visitation to the racing precinct and equine recreation uses, but also to provide accommodation more broadly to Shepparton and the surrounding region.</p> <p>The Goulburn Valley Harness and Greyhound Racing precinct is best developed with a mix of the complementary uses listed above. A key outcome for the investigation is to spatially organise these uses in an effective and complementary manner.</p>		

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17	Master Plan p.9		The feasibility study and Master Plan will guide provide the future development of the Goulburn Valley Harness and Greyhound Precinct and provide useful background information for the surrounding investigation area.	Disagree – unnecessary and inaccurate.	As discussed in Chapter 3, Other than for inconsistencies discussed in Appendix E, the Panel have not recommended that the Master Plan, as a reference document be substantially changed.
18	Master Plan p.12		Landowners have subsequently been provided with opportunity to provide comment on the Background Discussion Paper and the Draft Report after which many of the Landowners have continued to object to the Background Discussion Paper and the Draft Report and to the Final Report.	Disagree – unnecessary and inappropriate.	As discussed in Chapter 3, Other than for inconsistencies discussed in Appendix E, the Panel have not recommended that the Master Plan, as a reference document be substantially changed.
19	Master Plan p.15		Delete: Recent flood mapping for the Investigation Area and surrounding land areas has been prepared, which supersedes the Urban Floodway Zones identified in Figure 2. The findings from the flood mapping are reflected in the Master Plan	Dealt with at Item 8.	See comments relating to items 7 and 8.

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			and are detailed in Section 7.		
20	Master Plan p.18		<p>Partial deletion</p> <p>A Flood Overlay (FO) affects a portion of the investigation area. A Land Subject to Inundation Overlay (LSIO) affects a large portion of the land. <del>However, recent flood mapping for the Investigation Area and surrounding land areas has been prepared, which supersedes the FO and LSIO identified in Figure 3. The findings from the flood mapping are reflected in the Master Plan and are detailed further in Section 7.</del></p>	Unnecessary – dealt with at Item 9.	See Panel comments for item 9.
21	Master Plan p.48		<p>The physical considerations for the Goulburn Valley Harness and Greyhound Racing Precinct have been recently updated to reflect new studies into <del>the flood impact and</del> noise considerations for the investigation area.</p> <p>Specialist independent consultants, Water Technology, were engaged to investigate the flooding potential of the</p>	<p>Reference to “Goulburn Valley Harness and Greyhound Racing Precinct” should be changed to “Investigation Area 1”.</p> <p>Otherwise, disagree, in particular the suggested change to reflect potential modifications in</p>	<p>Name change has been supported.</p> <p>No other change for reasons explained in Chapter 3 and throughout this table.</p> <p>The Panel notes it has recommended in its preferred Clause 21.04 at Appendix D a broadening of the policy guidance</p>

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			<p>investigation area. This included the preparation of flood mapping for the precinct, conducted in May 2016.</p> <p>An acoustics report was also prepared by specialist independent consultant Watson Moss Growcott in May 2016, which considers the noise emissions for the Greyhound and Harness activities to propose future residential areas.</p> <p>These updated physical constraints are reflected in the spatial issues map on page 54. (subject to further investigations being extended to potential residential developments to the south and south east and implementation of any recommendations following such further investigations)</p>	<p>development contemplated under the Master Plan has already been suggested (see Items 11 and 12).</p> <p>BPH seeks a modification, solely for the benefit of BPH.</p>	<p>under “Investigation Areas – Studies Completed.”</p>
22	Master Plan p.49		<p>SEVEN CREEKS</p> <p>A 60 metre setback is required for development adjoining/surrounding Seven Creeks. There is potential to utilise the Seven Creek buffer area for recreation purposes</p>	<p>The reference to prohibition under the relevant legislation is an inaccurate description of the processes associated with obtaining any</p>	<p>The Panel agrees with Council’s response.</p>

ITEM	Document	Proposed Change	Comments from Basic Property Holdings (BPH)	Council Response to BPH (20 July)	Panel Comments
			<p>such as an equine cross country course or other equine friendly uses</p> <p>Note: the above activity is proposed to take place in a protected area and would be prohibited under the Aboriginal Heritage Act 2006 (Vic) and the Aboriginal Heritage Regulations 2007</p> <p>FLOODING</p> <p>The initial Master Plan concepts for the investigation area were prepared on the basis of existing flood overlays and flood zones, incorporated into the Greater Shepparton Planning Scheme.</p> <p><del>However, this information has been superseded by more recent flood mapping investigations, which further constrain the development potential of the investigation precinct.</del></p>	<p>relevant approval.</p> <p>There is no known automatic prohibition.</p> <p>Otherwise dealt with at Item 10.</p>	
23	Master Plan p.50		Flood mapping has been prepared for the investigation area and the surrounding land areas by specialist consultants Water Technology in May 2016.	Dealt with at Item 10.	See the Panel's comments for Item 10.

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			<p>The flood mapping identifies significant flood impacts on particular sections of the investigation area as a result of the nearby Seven Creeks.</p> <p>Figure 11 shows the flood impacts of a 1 in 100-year flood event. The mapping shows a large proportion of the investigation area, notably in the south west corner and western and southern boundaries significantly affected by potentially high flood levels.</p> <p>The flood mapping will adversely impact the potential for development in the precinct due to the restriction on development in flood prone areas. To maximise developable land, there is an opportunity to provide flood mitigation infrastructure within the investigation area. Cut and fill areas would be required to facilitate development. There is</p>		

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			<p>opportunity to use overland flood areas<sup>13</sup> for open space/recreation trails/horse tracks.</p> <p>The findings from the recent flood mapping are reflected in the Master Plan detailed in Section 9.</p>		
24	Master Plan p.53		The Master Plan detailed in Section 9 reflects the restriction on development due to noise pollution from the racing precinct.	Disagree.	Unnecessary. The SUZ4 contains relevant guidance and is the appropriate mechanism. Additional wording has been added to the SUZ4 as discussed in Chapter 3.
25	Master Plan p.11		<p>After:</p> <p>PROJECT STEERING COMMITTEE</p> <p>The project steering committee consists of representatives from:</p> <p>Greater Shepparton City Council;</p> <p>The Shepparton Harness Racing Club; and</p>	Disagree. Unnecessary and inappropriate.	No change for reasons explained in Chapter 3 and throughout this table.

<sup>13</sup> This appears to extend to prohibited areas under the Aboriginal Heritage Act 2006 (Vic) and the Aboriginal Heritage Regulations 2007.



ITEM	Document	Proposed Change	Comments from Basic Council Response to Property Holdings (BPH) BPH (20 July)	Panel Comments
			<p>The Shepparton Greyhound Racing Club.</p> <p>Insert</p> <p>But did not include any community representatives.</p>	