

ATTACHMENT TO AGENDA ITEM

Ordinary Meeting

16 September 2014

Agenda Item 9.6	Amendment to Conditions in Planning Permit 2007-154/A (342-352 Wyndham Street Shepparton - Shepparton Hotel)	
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Delegates Report for Amended Permit Application

Amended Application Details:

Responsible Officer:	Tim Watson		
Amended Permit Number:	2007-154/B		
Applicants Name:	Shepparton Hotel Pty Ltd		
Date Amendment Received:	30-May-2014		
Statutory Days:	37(7/7/14)		
Land/Address:	342-352 Wyndham Street SHEPPARTON VIC 3630		
Zoning and Overlays:	Road Zone (category 1)		
Why was the amendment required?	Amendment proposes to reduce the dwell time of the sign from 30 seconds to 15 seconds		
Why is a permit required (include Permit Triggers):	36.04-4 – display of an electronic promotional sign in the Road Zone Category 1		
Are there any Restrictive Covenants on the title?	no		
Is a CHMP required?	no		
Was the correct application fee paid?	yes		
		Signature	Date
Initial Assessment Approval	Team Leader Statutory Planning	Braydon Aitken	4/6/14
Advertising Approval	Team Leader Statutory Planning	Braydon Aitken	4/6/14

Proposal

The application for a planning permit proposes to amend the existing permit condition specified by Vicroads which specifies that:

- a) Any one display or set of graphics/text must remain static and unchanged for a minimum period of 30 seconds.

The application proposes to reduce the dwell time of the adverts to 15 seconds.

The application has been made as a result of audits undertaken by Council officers on multiple occasions, where it was found that the dwell time of advertisements was on average under 20 seconds.

Subject Site & Locality

An inspection of the site and the surrounding area has been undertaken.

An inspection of the site and the surrounding area has been undertaken.

Date: **3/6/14**

The site currently contains:

- The sign is displayed above the existing road reserve on the verandah of a building previously used for a hotel/pub.
- The building has been disused for a number of years due to extensive fire damage.

The main site/locality characteristics are:

- The sign is located on a major intersection of Wyndham Street and High Street Shepparton.
- The character of the locality is typical of a central business district with a mix of retail and office space, with the adjacent land uses including banks, legal offices, the court house and a second hand retail premise.

The Photos below show the existing site:

Pre-Application Meeting Details

As there been a pre-application meeting ? **yes**

If yes with Whom? **Andrew Dainton**

Date of Meeting? **30/5/14**

Permit/Site History

The history of the site includes:

- Planning permit 2007-154/A was issued on 16 March 2008 following an order by the Victorian Civil and Administrative Tribunal (VCAT) and allowed the erection of an internally illuminated electronic promotion sign (the sign).
- The plans were amended by VCAT Order (13/11/12) to show the size of the internally illuminated electronic promotion sign as 4.8 m wide by 2.4 m high (double the size approved under the initial plans)
- As part of that application to amend plans the applicant sought comment from the Council's Planning Department as to whether the amended plans would be supported by Council. In making an assessment of the proposal, Planning Officers sought a review of the proposed by Traffic Works.
- Traffic Works considered the proposed sign and the intersection and accident statistics and concluded that:
 - *The proposed increase in size of the current sign is unlikely to be an unacceptable planning outcome.*
 - *The display of full animation on the sign involves unacceptable road safety risks and conditions should be inserted in any permit issued in relation to the proposal, based on those reproduced in Attachment A:*

- *The control of levels of veiling luminance to the driver should be specified as part of the proposal: and*
- *A permit may be issued for the proposed sign, subject to conditions that preclude full animation and control the levels of veiling luminance.*
- Through audits undertaken by Council officer's it was found that the dwell time of advertisements on the sign was less than the minimum 30 seconds as required by conditions on the permit.
- The Council also sought the expertise of a luminance engineer on two occasions to undertake tests to determine the compliance with the veiling luminance condition. On both occasions it was determined that the sign was not compliant.
- On the second occasion a council officer contacted the sign operator during the tests to inform when a luminance compliance level had been achieved, with the sign adjusted from a computer.
- The application has been made as a result of a number of compliance letters forwarded to the landowner and sign operator.

Further Information

Is further information required for the application? **no**

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **amendment to planning permit for an internally illuminated electronic promotion sign to reduce the advertisement dwell time to 15 seconds from 30 seconds** , by:

- Sending notices to the owners and occupiers of adjoining land.

The amendment will not be advertised in the paper as it is the duty of the roads authority to determine whether there is any impact on road users.

Objections

The Council has received **no** objections to date.

Title Details

The title does not contain a Restrictive Covenant or Section 173 Agreement

Consultation

Consultation was not undertaken, other than pre-application discussions in which the applicant was informed of the application requirements.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Vicroads	66.03	Determining	<p>The application for a planning permit was referred to VicRoads, who do not object to the issue of an amended permit subject to the following conditions:</p> <ol style="list-style-type: none"> 1. Prior to the installation of the sign the operator must enter into a 'Commercial Licence Agreement' with the Roads Corporation (VicRoads). 2. Prior to the commencement of the construction of the advertising sign a lighting report from a suitably qualified lighting engineer demonstrating how the lighting output that will be achieved must be provided to VicRoads for approval. When approved, the report will form part of the planning permit and the sign must at all times operate in accordance with the report. 3. No advertisement may be displayed for less than 15 seconds. 4. The transition from one advertisement to another must be instantaneous. 5. The sign must not dazzle or distract road users due to its colouring. 6. The luminance of the advertising sign must be such that it does not give a veiling luminance to the driver, of greater than 0.25 cd/m², throughout the driver's approach to the advertising sign. 7. In the event of an attack by a computer hacker or similar resulting in unauthorised display of visual images or any other display malfunction, the electronic sign is to be shut down and cease any form of visual output until the malfunction is repaired. 8. This permit expires 15 years from the date of issue, at which time the sign and all supporting structures must be removed and the site made good to the satisfaction of the Responsible Authority.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
Nil	Nil

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Nil	Nil

Assessment

The zoning of the land

Commercial 1 Zone 34.01

The purpose of the zone is to create a vibrant mixed use commercial centres for retail, office, business, entertainment and community uses and to provide for residential uses at densities complementary to the role and scale of the commercial centre.

Advertising sign requirements are at Clause 52.05. This zone is in category 1.

Relevant overlay provisions

Parking Overlay 45.09

The purpose of the overlay is to facilitate an appropriate provision of car parking spaces in an area, to identify areas and uses where local car parking rates apply and to areas where financial contributions are to be made for the provision of shared car parking.

The parking Overlay is not relevant in this application, with the amendment to the condition of a permit not resulting in an increase to floor area.

The State Planning Policy Framework (SPPF)

Urban Environment and design 15.01-1

The objective of this provision is to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

Relevant strategies and principles of the provision include:

- Promote good urban design to make the environment more liveable and attractive.
- Landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.

Response

The application is not considering whether the sign should be displayed, rather it is assessing whether conditions should be amended to reduce the dwell time of advertisements. It is considered that the assessment provided by VCAT is still relevant with regard to the appropriateness of the sign at this location.

The Local Planning Policy Framework (LPPF)- including the Municipal Strategic Statement (MSS), local planning policies and Structure Plans

Urban Design 21.04-4

Advertising signage is a key and often highly visible component of the physical environment of the municipality and the inappropriate design or placement of advertising signs can have a significant effect on the appearance and visual amenity of an area. Council wants to guide the location and display of signage within the municipality to ensure signage is compatible

with the character and architecture of local streetscapes. The design, form, size and placement of advertising signs should be controlled so as to protect and enhance the appearance of rural and urban areas and to avoid signs that are excessive, confusing or incompatible with the character of the surrounding area.

Objectives and strategies

- To control the number of signs and ensure that the appearance, size, illumination or location of signs does not adversely affect the visual amenity of the natural environment or the built form in the municipality.
- Control the location, size and scale of advertising signage, especially in key precincts of the Shepparton CBD and town centres.
- Ensure that the location, form and size of signs complements the dominate character of any urban or rural landscape, building, site or area on which they are erected.

Policy Guidelines – Advertising Signs

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

- Fewer signs displaying a simple clear message is encouraged
- Advertising signage is encouraged to be primarily for business identification providing basic identification information of the business.
- Above verandah signs should be attached to the upper façade or parapet, parallel/horizontal to the road with minimal projection.
- Sky signs, high wall signs, projecting off-wall signs on upper facades and signs that project above parapets, wall, verandahs, roof lines or building fascias are discouraged in all areas
- Where a building is set back from the street, signs are encouraged to be located within the boundary and should be orientated to be parallel or at right angles to the street.
- Where possible signs should be located on the building.
- Internally illuminated promotional signs are discouraged.
- Major promotional signs are discouraged, but if approved are to be confined to Regional and sub-regional centres attached to a building wall and should not be more than 3 metres above the ground or to be internally or externally illuminated.

Response

The application is not considering whether the sign should be displayed, rather it is assessing whether conditions should be amended to reduce the dwell time of advertisements. It is considered that the assessment provided by VCAT is still relevant with regard to the appropriateness of the sign at this location, as there has been little change to the Local Planning Policies relating to the display of a sign since the decision was released.

Relevant Particular Provisions

Advertising Signs 52.05

The purpose of this provision is to:

- Regulate the display of signs and associated structures;
- Provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character;
- To ensure signs do not contribute to excessive visual clutter or visual disorder;
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

Pursuant to Clause 52.05-5 a planning permit is required to display a major promotional sign.

Response

As identified above it is considered that the assessment provided by VCAT against the relevant guidelines of the Planning Scheme is still relevant. Therefore given that amendment proposes to amend only VicRoads conditions relating to dwell time, the design provisions for the sign and the appropriateness of the location still achieve an acceptable planning outcome.

It regard to traffic safety outcomes, it is considered that the VicRoads response is sufficient to deem that the amendment still achieves a safe traffic environment, with VicRoads being the road safety authority.

Furthermore the Victorian Civil and Administrative Tribunal has on numerous occasions supported the 15 dwelling time, with Member Sibonis concluding in *Asble Pty Ltd v Stonnington CC [2010] VCAT 1780 (8 November 2010)*.

[58] I do not support the Applicant's request that each product being promoted be permitted to be displayed for at least 10 seconds, rather than at least 15 seconds as required by the Tribunal in VicRoads. This figure was arrived at by the Tribunal after careful analysis of the submissions and evidence, and the observation undertaken during its inspection of the sign. The applicant suggested that the critical feature is the 2 second changeover and there is 'no magic' to the 15 second 'dwell time' specified by the Tribunal. I consider that 15 seconds is a reasonable period. It

represents an intermediate point between the 30 seconds which the Tribunal; found to be overly restrictive, and the full animation which it found to cause an unacceptable road safety hazard. I am not persuaded to further reduce this 'dwell time', and I consider it plays an important role in restricting the distracting effect of the sign's animation

The decision guidelines of Clause 65

Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

The relevant Decision Guidelines of Clause 65 have been considered and addressed when assessing this application to amend a planning permit.

The response from VicRoads that it does not object to the amended permit is considered satisfactory for the Council to issue the amended permit with Vicroads being the responsible road authority, which includes traffic safety.

Relevant incorporated or reference documents

There are no relevant incorporated or reference documents that relate to this application to amend a planning permit.

Other relevant adopted State policies or strategies policies

There are no other relevant adopted State or strategic policies that relate to this application to amend a planning permit.

Relevant Planning Scheme amendments

There are no relevant Planning Scheme amendments that relate to this application to amend a planning permit.

Are there any significant social & economic effects?

There are no relevant significant social or economic effects that relate to this application to amend a planning permit.

Discuss any other relevant Acts that relate to the amended application?

There are no other relevant acts that relate to this application to amend a planning permit.

The Aboriginal Heritage Act 2006

The *Aboriginal Heritage Act 2006* provides protection for all Aboriginal places, objects and human remains in Victoria, regardless of their inclusion on the Victorian Aboriginal Heritage Register or land tenure.

The *Aboriginal Heritage Act 2006* introduces a requirement to prepare a Cultural Heritage Management Plan (CHMP) if all or part of the activity is a listed high impact activity, resulting in significant ground disturbance, and all or part of the activity area is an area of cultural heritage sensitivity, which has not been subject to significant ground disturbance.

The 'Area of Cultural Heritage Sensitivity in Victoria' does not include the land within an area of cultural heritage sensitivity; therefore the proposed use does not trigger the need for a CHMP.

Charter of Human Rights and Responsibilities

The Charter of Human Rights and responsibilities and Rights has been considered when assessing this application to amend a planning permit and it is not considered that the application impinges on the Charter.

Summary of Key Issues

- The application to amend a planning permit proposed to amend the VicRoads condition relating to the dwelling time of the advertisements on the sign.
- The application was referred to VicRoads, who do not object to the issue of a permit subject to conditions.
- The application was advertised to opposite and adjacent properties, with no objection received.
- The initial assessment of the sign undertaken by VCAT is still considered relevant, with traffic safety the only relevant consideration for the amendment.
- Given that VicRoads have consented to the amendment and being the road safety authority, it is considered that the amendment achieves a satisfactory road safety outcome.

Conclusion

Given the above and that the application to amend the planning permit achieves an acceptable planning outcome, it is recommended that the application for a planning permit be approved.

PATHWAY DATA ENTRY FORM

Does the Application Type need to be change on Pathway:	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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Has a Pre-Application meeting occurred?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Application Class/Type:			
Boundary Realignment	<input type="checkbox"/>	Telecommunication	<input type="checkbox"/>
Dam/Earthworks	<input type="checkbox"/>	Urban Development Only	<input type="checkbox"/>
Dwelling-Adds & Alterations	<input type="checkbox"/>	Native Vegetation	<input type="checkbox"/>
Single	<input type="checkbox"/>	Procedural Plan	<input type="checkbox"/>
Dwelling - Multi	<input type="checkbox"/>	Public Lands	<input type="checkbox"/>
Dwelling - Rural	<input type="checkbox"/>	Removal, Variation of Easement	<input type="checkbox"/>
Dwelling - Single	<input type="checkbox"/>	Rural Use & Develop	<input type="checkbox"/>
Liquor Licensing	<input type="checkbox"/>	Subdivision	<input type="checkbox"/>
Sub 3 or more lots - Rural	<input type="checkbox"/>	Sub 2 lots - Rural	<input type="checkbox"/>
Sub 2 Lots - Urban	<input type="checkbox"/>	Urban Use & Development	<input type="checkbox"/>
Sub 3 or more lots - Urban	<input type="checkbox"/>	Urban Use Only	<input type="checkbox"/>
Signage - General	<input checked="" type="checkbox"/>	Variation of Restrictive Covenant	<input type="checkbox"/>
Signage - Major Promotion	<input type="checkbox"/>	Public Transport	<input type="checkbox"/>

Major Development Category:			
Business	<input checked="" type="checkbox"/>	Residential	<input type="checkbox"/>
Industrial	<input type="checkbox"/>	Rural	<input type="checkbox"/>
Public Land	<input type="checkbox"/>	PPARS -Code	<input checked="" type="checkbox"/>

PPARS Minor Development Category (can tick more than one):	
Not yet determined	<input type="checkbox"/>
Change or Extension of Use	<input type="checkbox"/>
Alteration to a Building Structure or Dwelling	<input type="checkbox"/>
Ext to Exist'g Dwell'g / Structure Assoc with Dwell	<input type="checkbox"/>
Ext to Exist'g Build'g / Structure other than Dwell	<input type="checkbox"/>
One or more New Building	<input type="checkbox"/>
One New Dwelling	<input type="checkbox"/>
More than One New Dwelling (2-10)	<input type="checkbox"/>
More than Ten New Dwellings	<input type="checkbox"/>
Build & Works (Septic, Dam, Earthworks)	<input type="checkbox"/>
Demolition	<input type="checkbox"/>
Native Vegetation Removal	<input type="checkbox"/>
Other Vegetation Removal	<input type="checkbox"/>
Consolidation	<input type="checkbox"/>
Subdivision of Land 1-9 lots	<input type="checkbox"/>
Subdivision of Land 10 lots or more	<input type="checkbox"/>
Subdivision of Buildings	<input type="checkbox"/>
Subdivision - Change to Easement &/or Restriction	<input type="checkbox"/>
Subdivision - Removal of Covenant	<input type="checkbox"/>
Liquor Licence	<input type="checkbox"/>
Waiving of Parking requirements	<input type="checkbox"/>
Signage	<input checked="" type="checkbox"/>
Telecommunication Facility	<input type="checkbox"/>
Other	<input type="checkbox"/>
Subdivision - Realignment of boundary	<input type="checkbox"/>

What is the Current and Proposed Land Use?	Current	<input type="checkbox"/>	Proposed
0 Not Yet Determined	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1 Agriculture	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Food and Drink Premise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Industry and Warehouse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4 Leisure and Recreation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Place of Assembly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Residence/Accommodation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 Retail Premises	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9 Vacant	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10 Other Land Use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11 Childcare	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12 Education Centre	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13 Mineral Extraction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14 Pleasure Boat Facility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15 Transport Terminal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16 Utility Installation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17 Mixed Use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What is the Estimated Assessment Effort?		
1 Simple - Less than 1 day	<input type="checkbox"/>	<input type="checkbox"/>
2 Average - 2-5 days	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3 Complex - More than 5 days	<input type="checkbox"/>	<input type="checkbox"/>
0 No Yet Determined	<input type="checkbox"/>	<input type="checkbox"/>

Is a Cultural Heritage Management Plan required?		
0 Not Determined	<input type="checkbox"/>	<input type="checkbox"/>
1 No	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2 Yes	<input type="checkbox"/>	<input type="checkbox"/>

What Date was the Cultural Heritage Management Plan Provided?	<input type="text"/>
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What is the Number of New Dwellings (Yield) increase/decrease?	0
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Number of Lots	<input type="text"/>
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