

CONFIRMED MINUTES

**FOR THE
GREATER SHEPPARTON CITY COUNCIL**

DEVELOPMENT HEARINGS PANEL

Meeting No. 05/2017

**HELD ON
FRIDAY 8 DECEMBER 2017
AT 10.04AM**

**IN THE HUNTER ROOM
90 WELSFORD STREET**

**CHAIR
Councillor Chris Hazelman**

ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 5 for 2017.

I would like to begin with an acknowledgement of the traditional owners of the land.

“We the Greater Shepparton City Council, begin today’s meeting by acknowledging the traditional owners of the land which now comprises Greater Shepparton. We pay respect to their tribal elders, we celebrate their continuing culture, and we acknowledge the memory of their ancestors”.

RECORDING OF PROCEEDINGS

I would like to advise all present today that:

- the proceeding is being minuted but not recorded.
- and that out of courtesy for all other attendees any recording devices should be turned off during the course of the hearing unless the chair has been formally advised that a party wishes to record proceedings.
-

COMMITTEE MEMBERS PRESENT

Committee members present today are:

- Cr Chris Hazelman (Chair),
- Jon Griffin – Team Leader Development Greater Shepparton City Council
- Patricia Garraway – Acting Manager Building and Planning Greater Shepparton City Council
- Andrew Fletcher – Planning and Building Manager Campaspe Shire
- Emma Kubeil – Manager Planning and Investment Strathbogie Shire

OFFICERS AND OTHERS PRESENT

The Planning Officers that will be in attendance for today’s hearing are:

- Tim Watson – Senior Statutory Planner
- Sarah Van Meurs – Acting Senior Statutory Planner
- Rob Duncan – Acting Statutory Planner

APOLOGIES

Nil

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Nil

DECLARATIONS OF CONFLICTS OF INTEREST

Are there any panel members who wish to declare a conflict of interest?

ORDER OF PROCEEDINGS

For those of you who are attending the DHP for the first time the process is as follows

- The DHP operates under Local Law No 2, with such modifications and adaptations as the DHP deems necessary for the orderly conduct of meetings.
- All DHP panel members have 1 vote at a meeting.
- Decisions of the DHP are by ordinary majority resolution. If a vote is tied the Chair of the DHP has the casting vote.
- The process for submitters to be heard by the Panel shall be:
 - The planning officer to present the planning report recommendation
 - Any objectors or representatives on behalf of the objectors present to make a submissions in support of their objection (should they wish to)
 - The applicant or representatives on behalf of the applicant to present in support of the application
- For the purpose of today's hearing the officer, objectors and applicant will be limited to a maximum of 6 minutes per person with no extensions.

MATTERS FOR CONSIDERATION

There are seven items listed for consideration in this session of the DHP:

- Planning permit application 2016-300/A seeking permission to amend the location of a permitted advertising sign at 127-137 Numurkah Road, Shepparton.
- Planning permit application 2017-61 seeking permission for a shop, dwelling and waiver of car parking at 84 St Georges Road, Shepparton.
- Planning permit application 2017-236 seeking permission for a sky sign at 7900 Goulburn Valley Highway, Kialla.
- Planning permit application 2017-232 seeking permission for a market garden at 50 Taylor Road, Tatura.
- Planning permit application 2017-221 seeking permission for a fuel cell at 907 Goulburn Valley Highway, Congupna.
- Planning permit application 2017-328 seeking permission to use land to hire motor vehicles at 103-109 Numurkah Road, Shepparton.
- Planning permit application 2017-272 seeking permission for a colourbond fence in the Urban Floodway Zone.

10. LATE REPORTS

None

11. NEXT MEETING

TBC

Meeting concluded at 12.30 pm

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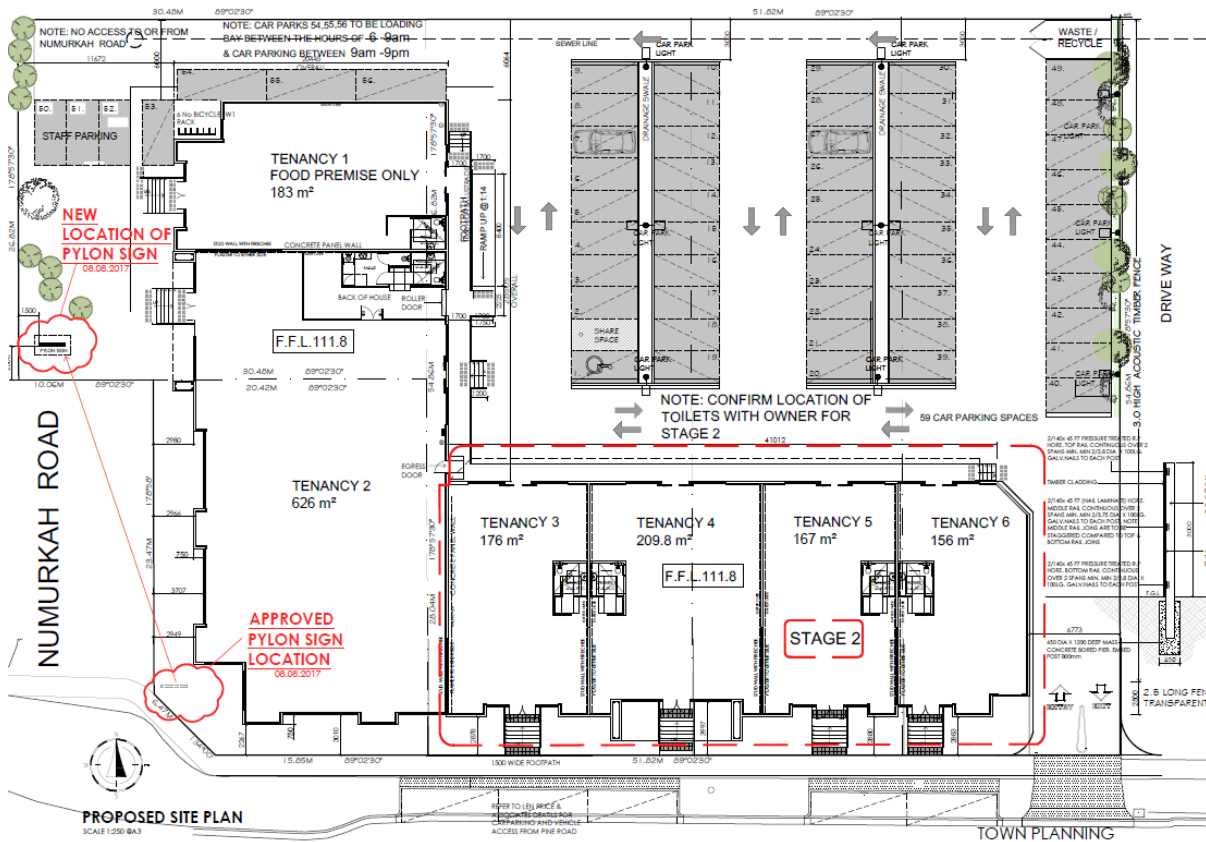
<u>Application No.</u>	<u>Subject Address:</u>	<u>Proposal:</u>	<u>Page No.</u>
2016-300/A	127-137 Numurkah Road, Shepparton	Seeking permission to amend the location of a permitted advertising sign	3
2017-61	84 St Georges Road, Shepparton	Seeking permission for a shop, dwelling and waiver of car parking	23
2017-236	7900 Goulburn Valley Highway, Kialla	Seeking permission for a sky sign	53
2017-232	50 Taylor Road, Tatura	Seeking permission for a market garden	67
2017-221	907 Goulburn Valley Highway, Congupna	Buildings and works for a Fuel Cell	95
2017-328	103-109 Numurkah Road, Shepparton	Use of the land to hire motor vehicles	115
2017-272	138-140 O'Reilly Road, Tatura	Seeking permission for a Colourbond fence in the Urban Floodway Zone	121

Application Details:

Responsible Officer:	Ronan Murphy
Application Number:	2016-300/A
Applicants Name:	Pop Design Studios
Date Application Received:	8 August 2017
Statutory Days:	45
Land/Address:	127-137 Numurkah Road SHEPPARTON VIC 3630
Zoning and Overlays:	Commercial 2 Zone Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	Erection and display of signage under Clause 52.05-7
Are there any Restrictive Covenants on the title?	No

Proposal

The application seeks to amend the location of a permitted sign from a location close to the intersection of Numurkah Road and Pine Road, to a location further north on Numurkah Road, as show below:



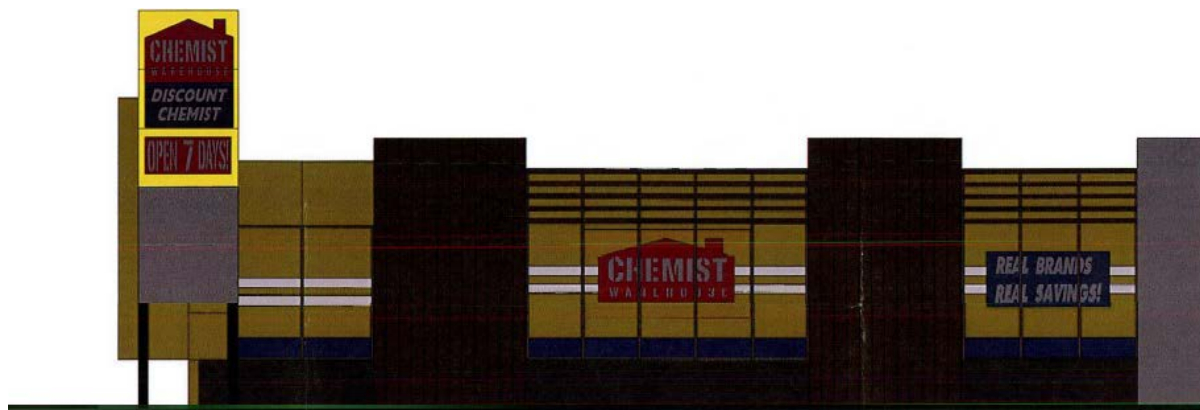
The permitted sign (the location of which is sought to be amended) would be a multi tenancy panel sky sign with a height of 8m.

A sky sign has the following definition:

A sign:

- a) on or above the roof of a building, but not a verandah;
- b) fixed to the wall of a building and which projects above the wall; or
- c) fixed to a structure (not a building) so that part of it is more than 7 metres above the ground.

The sign would have the following appearance (note that this is previously permitted sign)



levation - View From Pine Road

Summary of Key Issues

The application seeks permission for the relocation of a permitted 8 m high multi tenancy sign.

The application was not required to be referred to any external authorities.

The application was notified to Vic Roads and no objections were received.

The application was notified to Goulburn Valley Water and no objections were received.

The application was notified to surrounding properties and one objection was received.

The objection related to the impact that the proposed signage would have on existing signage on the land adjacent to the north of the site.

The objection also road traffic safety having regard to the bright colour scheme if the sign having the possibility of causing distraction to drivers travelling south on Numurkah Road:

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2016-300/A** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **52.05-7** of the Greater Shepparton Planning Scheme in respect of the land known and described as **127-137 Numurkah Road SHEPPARTON VIC 3630**, for the **erection and display of business identification signage (a panel sky sign)** in accordance with the Notice of Decision and the endorsed plans.

Moved by Andrew Fletcher

Seconded by Emma Kubeil

That Council having caused notice of Planning Application No. **2016-300/A** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **52.05-7** of the Greater Shepparton Planning Scheme in respect of the land known and described as **127-137 Numurkah Road SHEPPARTON VIC 3630**, for the **erection and display of business identification signage (a panel sky sign)** in accordance with the Notice of Decision and the endorsed plans.

CARRIED

Subject Site & Locality

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

Date: **30/10/17** Time: **9.38** pm

The site has a total area of **4,293.96** square metres and currently contains:

An existing multi tenancy commercial development anchored by Chemist Warehouse.

The main site/locality characteristics are:

The subject land is within a commercial area to the north of Shepparton.

The Photos below show the existing site:



View of the location of the relocated sign from the existing sign to the north of the land



View of the existing sign of the north from the area of the relocated sign.



View of Caltex Signage to the north of the land (145-155 Numurkah Road)



View of similar tenant signage to the north of the land (161 Numurkah Road)



View of signage on 161 Numurkah Road



Mc Donalds signage 169-175 Numurkah Road



Signage to the south of the land (111-125 Numurkah Road)



Signage looking south down Numurkah Road, objectors signage is in the background.

Permit/Site History

The history of the site includes:

2016-300

Planning permit granted for the erection and display of business identification signage (wall mounted and panel sky sign).

This application currently considered seeks to amend the location of the permitted panel sky sign from its permitted location in proximity to the intersection of Numurkah Road and Pine Road to a location further north on the site to the front of the building.

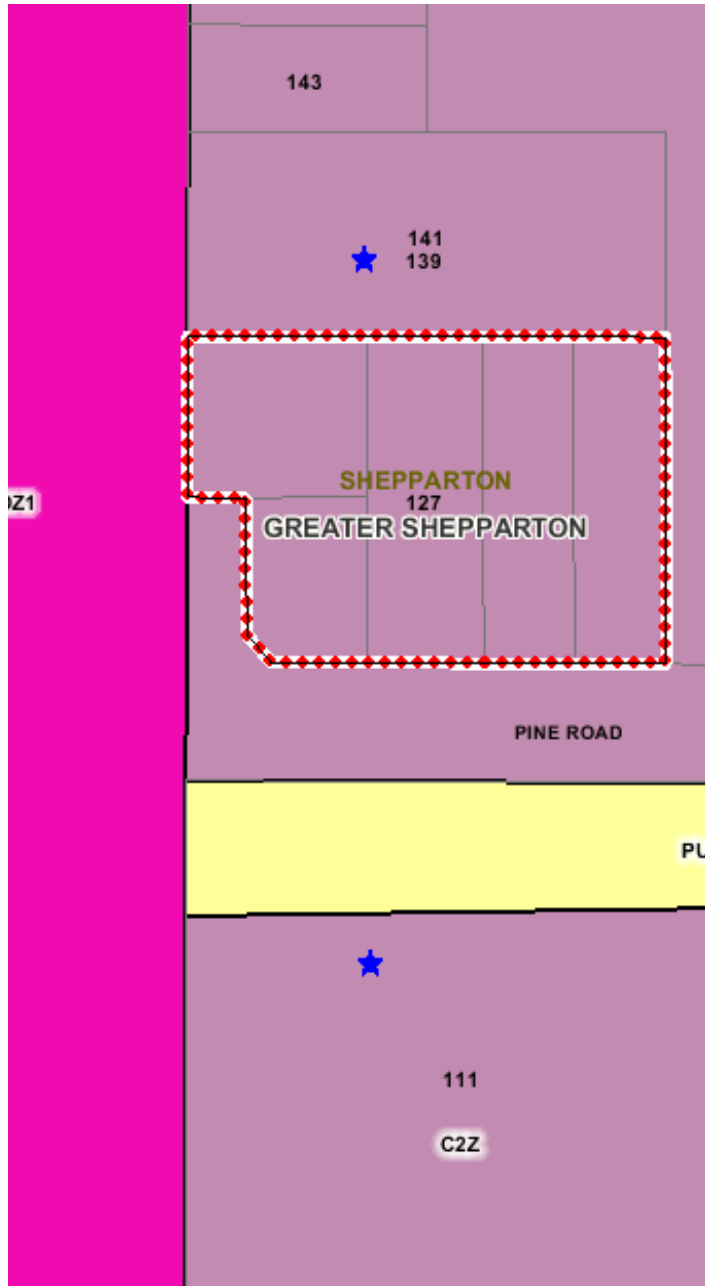
Further Information

Was further information requested for this application? **No**

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **Alteration of the location of permitted business identification signage (pylon sign)**, by:

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



Objections

The Council has received 1 objection to date.

Objector Concerns	Officer Response
The re located sign would have a detrimental impact on the existing sign on the land adjacent to the north	It is considered that the proposal would not have a detrimental impact on the existing signage

	<p>The proposed sign would be located approximately 25m to the south of the existing sign and would be set back 1.5 meters from the western boundary of the land.</p> <p>It is considered that the proposal would not impact on the views of the existing sign from traffic travelling from the south along Numurkah Road, including from important vantage points such as the intersection of Numurkah Road and Pine Road.</p> <p>It is considered that the only location where the existing sign on 139 Numurkah Road would be affected would be if a person was standing behind the proposed sign at street level on the subject land.</p> <p>Further to the above, it is noted that the position of the relocated sign would be consistent with the advertisement character of the area, similar signage is located on 145 Numurkah Road, 161 Numurkah Road (to the north) and 111 Numurkah Road (to the south)</p>
<p>The objection also road traffic safety having regard to the bright colour scheme if the sign having the possibility of causing distraction to drivers travelling south on Numurkah Road:</p>	<p>The application was notified to Vic Roads. Vic Roads responded with no objection to the proposed relocation of the sign.</p> <p>As Vic Roads are the road safety authority and there was no objection to the proposal, it is considered that the proposal would not have a detrimental impact on road safety.</p>

Title Details

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

Consultation

Consultation has been undertaken. Relevant aspects of consultation, included:

- Phone call with objector who outlined their reason for objection.
- Phone call with applicant in which responses to the objections were made.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Nil
Section 52 Notices	<p>Vic Roads</p> <p><i>VicRoads has considered the 'amend planning permit' application and has no objection to the proposal</i></p> <p>Goulburn Valley Water</p> <p><i>The Corporation has investigated the Planning Permit application forwarded under Section 52 of the Planning and Environment Act, 1987, and does not object to Council granting the permit.</i></p>

Assessment

The zoning of the land

Commercial 2 Zone

The purpose of the Commercial 2 Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
- *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.*

A planning permit is not required pursuant to the provisions of the Commercial 2 Zone.

Relevant overlay provisions

Land Subject to Inundation Overlay

The purpose of the Land Subject to Inundation Overlay is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.*
- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local*

drainage conditions and will not cause any significant rise in flood level or flow velocity.

- *To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.*
- *To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

The schedule to the Land Subject to Inundation Overlay exempts the need for a planning permit for outdoor advertising sign / structure.

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.

It is considered that the proposed relocated sign would provide an appropriately located signage structure in a commercial area to the north of Shepparton. The proposed location of the sign would be similar to other freestanding advertising signage in the area which is located within the front set back of building on a number of commercial properties along Numurkah Road, including 145 Numurkah Road, 161 Numurkah Road (to the north) and 111 Numurkah Road (to the south).

Further to this, it is considered that the relocation of the sign would not impact on the existing sign to the north of the land (139 Numurkah Road). The relocated sign would be set back approximately 25 metres from the existing sign and would be set back 1.5 metres from the western boundary of the land. It is noted that the proposed relocated sign would not be in line with the existing sign and would not fully obscure the visibility of the existing sign.

It is considered that the relocated sign would not impact on the visibility of the sign on 139 Numurkah Road from car travelling from the south or north of the land. The existing sign would be fully visible from important vantage points such as the intersection of Numurkah Road and Pine Road.

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

Urban Design 21.04-4

It is noted that this application is only considering the relocation of the sign as the type and design of the sign has already deemed to be appropriate. Notwithstanding this it is considered pertinent to assess the relocation of the sign against the provisions of signage policy.

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.*

The proposal would comply in the following ways:

- The sign would provide business identification signage for all of the units within the development and would not adversely affect the visual amenity of the area. The land is within a commercial area of Shepparton North. It is considered that having all of the tenants signage on the one structure would provide for an appropriate visual outcome for the area and would ensure there would be no visual clutter as a result of signage on the land.
- The proposed sign would not dominate the character of the area, it is noted that there are similar signs in the area including 145 Numurkah Road, 151 Numurkah Road and 159 Numurkah Road. It is considered that the proposed relocated sign would provide for an appropriate outcome in light of the prevailing signage type in the area.

Policy Guidelines – Advertising Signs

It is noted that this application is only considering the relocation of the sign as the type and design of the sign has already deemed to be appropriate. Notwithstanding this it is considered pertinent to 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.*

It is considered that the relocated signage would comply in the following ways:

- The relocated sign would provide a signage area for all of the retail units on the land, ensuring that all of the signage on the land would be centralised and would provide for less signage and would provide a clear advertising message.
- The sign would be a free standing panel sky sign and would not be internally illuminated.
- The relocated sign would be at a right angle to the street.

In light of the above, it is considered that the proposal would comply with the provisions of Clause 21.04-4 of the planning scheme.

Relevant Particular Provisions

52.05 Advertising Signage

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.

A planning permit is required for:

- business identification signage exceeding 8sqm; and
- Panel (advertising area exceeding 10sqm) sky sign (exceeding 7m above ground).

No illumination has been proposed as part of the amended application.

52.05-3 Decision guidelines

Before deciding on an application to display a sign, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The character of the area including:*
 - *The sensitivity of the area in terms of the natural environment, heritage values, waterways and open space, rural landscape or residential character.*
 - *The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.*
 - *The cumulative impact of signs on the character of an area or route, including the need to avoid visual disorder or clutter of signs.*
 - *The consistency with any identifiable outdoor advertising theme in the area.*

The proposal would comply in the following ways:

- The land is within a commercial area in Shepparton North. This type of signage is common with the Shepparton North area with numerous examples in proximity to the subject land.
- The land is within a commercial area and it is noted that this is the desired future character of the area.
- The sign would allow for all of the tenants within the development to be displayed in the same area of the land, this would reduce any visual clutter associated with the land.
- In July 2017 the Council adopted an addendum to the Urban Design Framework which included Shepparton North. The location and design of the proposed relocated sign is encouraged in this document. It is considered that this addendum would provide for an emerging outdoor advertising theme for the area.

The decision guidelines of Clause 65

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- *The matters set out in Section 60 of the Act.*

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

The proposal would comply in the following ways:

- A planning permit would not be required pursuant to the provisions of the Commercial 2 Zone and the Land Subject to Inundation Overlay.
- The proposal would not have a detrimental impact on the amenity of the area and would comply with the orderly planning of the area. It is considered that the proposed relocation of the permitted sign would not impact on the visibility of the existing sign to the north of the land. It is considered that the exiting sign on the land to north would still be visible from the public realm for cars travelling from the south and north.
- The relocation of the sign would not have any impact on land degradation, salinity or water quality.
- The proposal would not have any impact on the quality of stormwater within or exiting the site.
- No native vegetation is required to be removed to facilitate the proposal.

In light of the above, it is considered that the proposal would comply with the provisions of Clause 65 of the planning scheme.

Relevant incorporated or reference documents

There are no incorporated or reference documents associated with the proposal.

Other relevant adopted State policies or strategies policies

There are no adopted State policies or strategies associated with the proposal.

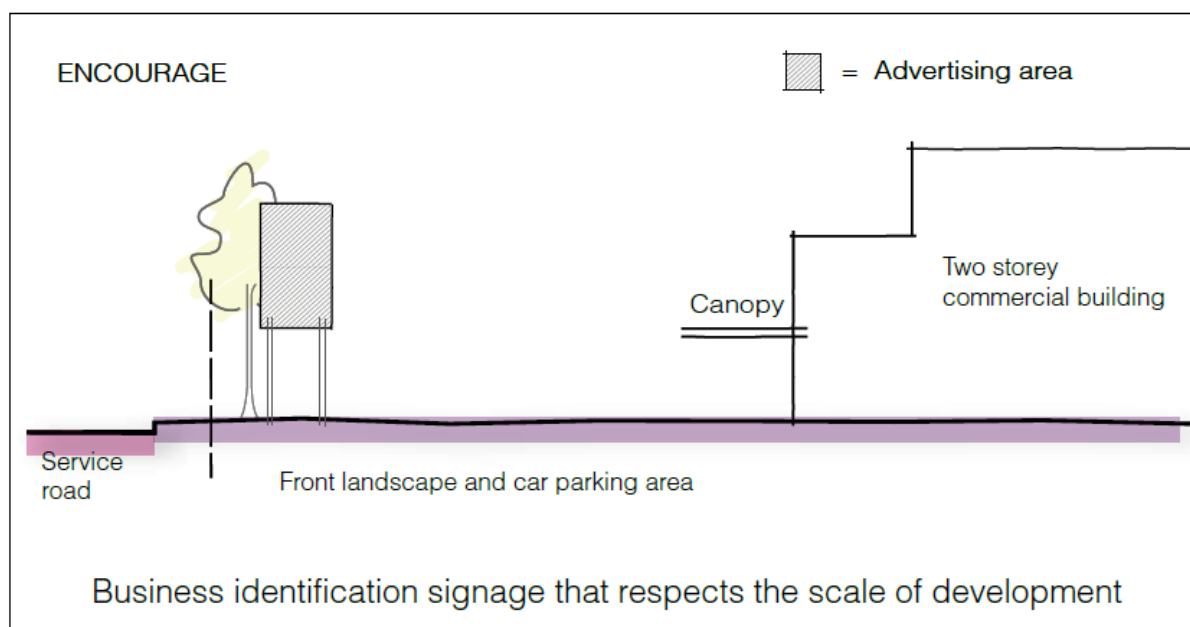
Relevant Planning Scheme amendments

Addendum to the Urban Design Framework (Shepparton North and South Business Areas) July 2017

This document seeks to include two additional areas to the existing Urban Design Framework, being Shepparton North and South Business Areas. This document was adopted by Council at the July 2017 Ordinary Council Meeting.

- To ensure signage respects the preferred character of the area.
- To encourage business identification signage that is coordinated and effective.
- To ensure signage does not dominate the site, building on which it is located, streetscape, surrounding landscape and other signage.
- To ensure all way-finding and directional signage is clearly visible and the safe operation of the Highway is prioritised.
- To avoid visual clutter on sites and in the public realm when viewed from the Highway.
- To discourage promotion and major promotion signs.
- To discourage animated and visually distracting signage.

The following type of signage is encouraged:



It is considered that the proposed relocated sign would comply with the encouraged signage type in the adopted Addendum to the Urban Design Framework.

Are there any significant social & economic effects?

There are no significant social and economic effects associated with the proposal.

Discuss any other relevant Acts that relate to the application?

There are no other Acts that relate to the application.

Conclusion

The proposal to relocate the permitted signage would not have a detrimental impact on the existing signage on the land to the north, is in a form and location consistent with similar signage along Numurkah Road and it is recommended that a Notice of Decision to amend the planning permit should be granted.

Draft Notice Of Decision to Amend a Permit

APPLICATION NO: 2016-300/A

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

THE RESPONSIBLE AUTHORITY HAS DECIDED TO AMEND A PERMIT.

THE AMENDED PERMIT HAS NOT BEEN ISSUED.

ADDRESS OF THE LAND: 127-137 NUMURKAH ROAD SHEPPARTON
VIC 3630

PERMIT FOR WHICH AMENDMENT WAS SOUGHT: 2016-300

WHAT AMENDMENT IS BEING MADE TO THE PERMIT ?:

The location of the permitted sign has been amended to an area to the west of the building

TO WHAT CONDITIONS IS THE AMENDMENT SUBJECT ?:

1. **Signs Not Altered**

The signs to be erected must be in accordance with the endorsed plan and must not be altered or modified without the prior written approval of the Responsible Authority.

2. **Sign maintenance**

All signs must be constructed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority.

3. **No additional signs**

No additional signs, including flags, banners, bunting, streamers, sandwich-boards, windvanes or other devices considered to be used as advertising media shall be erected on the site without the prior written approval of the Responsible Authority.

4. **Sign Permit Expiry**

This permit will expire if the signs permitted by this permit are not erected within (1) year from the date hereof. This permit will lapse after 15 years from the date this permit is issued subject to the written consent of the Responsible Authority.

Application Details:

Responsible Officer:	Andrew Dainton (report written by Tim Watson)
Application Number:	2017-61
Applicant Name:	A Al Hashoush
Date Received:	21-Feb-2017
Land/Address:	84 St Georges Road SHEPPARTON VIC 3630
Zoning & Overlays:	Commercial 1 Zone Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	Use of land for a dwelling in the C1Z under 34.01-1 Buildings and works in the C1Z under 34.01-4 Buildings and works in the LSIO under 44.04-1 Waiver of onsite car parking under 52.06-3 Waiver of loading bay requirements under 52.07
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No

Proposal

The application seeks planning permission for the following:

- New shop tenancy of 46.5sqm and associated verandah
- Single garage associated with the existing dwelling on the land
- New two bedroom dwelling with a double garage. Use permission is required as the frontage at ground floor level (vehicle access) exceeds 2 metres
- Waiver of the one parking space associated with the new shop tenancy

Summary of Key Issues

- The application for a planning permit proposes the use and development of the land for an additional dwelling, extension to the existing shop and reduction in car parking spaces and loading bay requirements.
- The application was referred or notified to the relevant authorities who do not object to the issue of a permit subject to conditions.
- The application was publicly notified to the surrounding properties, with one objection received from the tenant of the land raising concerns of disruptions to business during the construction phase.
- The objector's concerns relate more to construction of the development than the ongoing use as a result of the proposal which is considered to be a dispute that should be addressed with the landlord and not a valid planning concern.

- The proposed development is considered an acceptable development in the Commercial 1 Zone which promotes retail growth and higher residential densities.
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Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2017-61** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **34.01-1, 34.01-4, 44.04-1, 52.06-3 and 52.07** of the Greater Shepparton Planning Scheme in respect of the land known and described as **84 St Georges Road SHEPPARTON VIC 3630**, for the **use of land for a dwelling, buildings and works for a dwelling and shop tenancy and associated reduction in one car parking space** in accordance with the Notice of Decision and the endorsed plans.

Moved by Andrew Fletcher

Seconded by Emma Kubeil

That Council having caused notice of Planning Application No. **2017-61** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **34.01-1, 34.01-4, 44.04-1, 52.06-3 and 52.07** of the Greater Shepparton Planning Scheme in respect of the land known and described as **84 St Georges Road SHEPPARTON VIC 3630**, for the **use of land for a dwelling, buildings and works for a dwelling and shop tenancy and associated reduction in one car parking space** in accordance with the Notice of Decision and amendments listed below, and the endorsed plans.

Amendment to the Notice of Decision is as follows:

Amend condition 1 b) and c) to read:

- b) The provision of a corner splay or area on the southern side of the access way at least 50 per cent clear of visual obstructions extending at least 2 metres along the St George Road frontage from the edge of the access and 2.5 metres along the access from the frontage, to provide a clear view of pedestrians on the footpath of St Georges Road. The area clear of visual obstructions may include an adjacent entry of exit land where more than one lane is provide, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height.
- c) The removal of the door on the St Georges Road frontage for the proposed extended shop.

Amend Condition 12 in line with the revised response from Goulburn Broken Catchment Management Authority dated 21 March 2017 to read:

The finished floor level of the proposed dwelling must be constructed at least 300 millimetres above the 100-year ARI flood level of 113.25 metres AHD, i.e. 113.55 metres AHD, or higher level deemed necessary by the responsible authority.

CARRIED

Subject Site & Locality

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

The site has a total area of **approximately 688** square metres and currently contains:

- An existing building which has a zero setback to the St Georges Road boundary.
- The eastern part of the building which abuts St Georges Road is used for a shop front with pedestrian access directly from the St Georges Road footpath.
- The rear of the building which is provided with vehicle access from St Georges Road along the northern boundary of the site is used for a dwelling.
- The remainder of the site is landscaped or occupied by outbuildings associated with the dwelling which are located in the south western corner of the land.
- An awning attached to the building provides cover over the Council's footpath.

The main site/locality characteristics are:

- The site is located within a small Commercial 1 Zoned neighbourhood centre, with a number of small shop front fronting St Georges Road.
- All of the shop fronts in this locality have a zero setback to the footpath, with a few comprising a dwelling to the rear.
- The wider locality is one of a residential character except for the state school (St Georges Road Primary) located to the south of the land.

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? **Correspondence provided by email on 18 November 2016**

What advice was given by the Council Officer? **Planning permit required**

Permit/Site History

The history of the site includes:

- There is no previous planning permit history on record for this site.

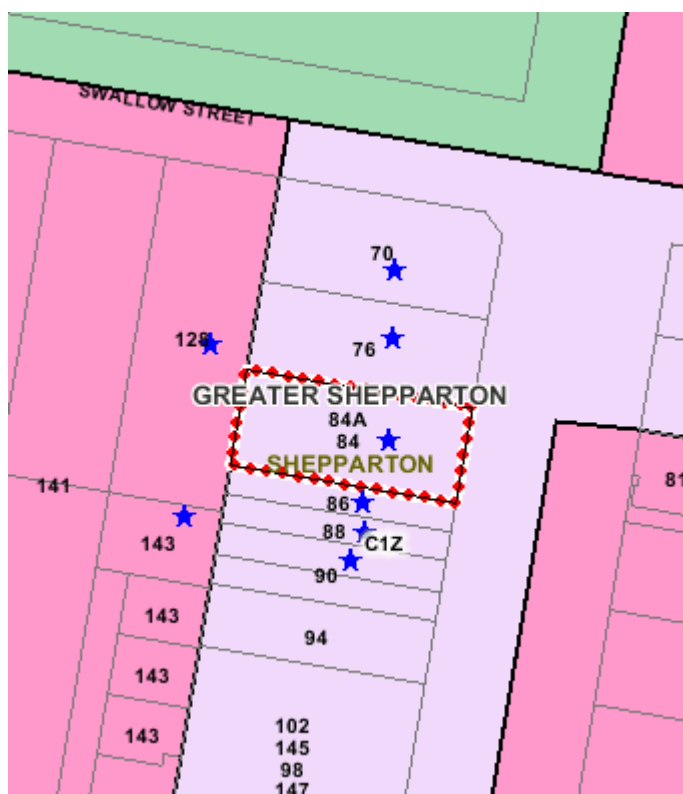
Further Information

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

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description use and development for a dwelling, development of a new shop tenancy and associated reduction of one car parking space, by:

- Sending notices to the owners and occupiers of adjoining land.
- Placing a sign on site.



The applicant provided a signed declaration stating that the sign on site was displayed on the land between

The application was exempt from being advertised in accordance with Clause 44.04-4 of the planning scheme.

Objections

The Council has received **one** objection to date. The key issues that were raised in the objection are.

- The objector is the current tenant of the retail premise and has identified that their business will through the extension of the retail tenancy be materially impacted upon.

Officers Response

The grounds of objection relate solely to the detriment which would be caused by the shop extension to their business as they currently operate from the land. It is acknowledged that the proposed development will likely result in material detriment to their business during the construction phase. The development however is considered acceptable under the zone and is supported by a number of policies which support commercial growth.

The objector has not identified how the development once completed will impact on them materially other than it will impact on their lease which is not a planning consideration and should be addressed with the land owner.

Title Details

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

Consultation

Consultation was not undertaken.

Referrals to Authorities

External Referrals Required by the Planning Scheme:

Section 55 -Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
CMA	44.04-5	Recommending	The application for a planning permit was referred to the GBCMA, who do not object to the issue of a permit subject to the following condition: a) The finished floor levels of the proposed shop and second dwelling must be constructed at least 300 millimetres above the 100 year ARI flood level of 113.25 metres AHD, i.e. 113.55 metres AHD, or higher level deemed necessary by the

			responsible authority.
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Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
GVW	The application for a planning permit was notified to Goulburn Valley Water, who do not object to the issue of a permit subject to conditions.

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	The application for a planning permit was referred internally to the Council's Development Engineers who do not object to the issue of a permit subject to the standard civil construction and drainage conditions.
EHO	The application was referred internally to the Council's Health Department, who do not object to the issue of a permit subject to the standard conditions regarding the preparation and sale of food for the proposed retail tenancy extension area.

Assessment

The zoning of the land

Commercial 1 Zone

The purpose of the zone is:

- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

Decision guidelines 34.01-8

General

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The interface with adjoining zones, especially the relationship with residential areas.

Building and works

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the

treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.

- The storage of rubbish and materials for recycling.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.
- Consideration of the overlooking and overshadowing as a result of building or works affecting adjoining land in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.
- The availability of and connection to services.
- The design of buildings to provide for solar access.
- The objectives, standards and decision guidelines of Clause 54 and Clause 55. This does not apply to a development of five or more storeys, excluding a basement.

Relevant overlay provisions

Land Subject to Inundation Overlay

The purpose of the Overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

The State Planning Policy Framework (SPPF)

Regional Settlement Networks - 11.05-1

The objective of the clause is to promote the sustainable growth and development of regional Victoria through a network of settlements identified in the Regional Victorian Settlement Framework plan.

Business – 17.01-1

The objective of this clause is to encourage development which meets the community's needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

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

Urban Consolidation and growth 21.04-1

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 dependence on car use. Relevant objectives and strategies include:

- To encourage a variety of housing types, particularly in terms of tenure and price, to contribute to housing diversity and affordability;
- To support the supply of medium density housing in appropriate locations;
- To balance the need to achieve urban consolidation with the need to respect and retain the valued characteristics of existing neighbourhoods
- Maintain residential development targets outlined in the GSHS based on the types, amount and proportion of existing residential zones; the existing average lot sizes in each residential zone types; 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 include:
 - *Infill Development* – accommodate at least 10 per cent of the 9,100 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.
- Encourage the provision of smaller lots to meet the changing demographics structure.

Housing Change Areas 21.04-2

The Council's Housing Strategy adopted 21 June 2011 identifies the subject land in the Substantial Change Area. The Local Planning Policy notes that the general character of substantial change areas are locations that have significant capacity to accommodate substantial residential development. Key strategies and policy guidelines for the area include:

- Support a diversity of housing types, sizes, styles and designs; support (re)development at higher overall densities to maximise development opportunities.
- Encourage mixed-use developments which incorporate residential uses above commercial or retail uses.

Relevant Particular Provisions

Car Parking – 52.06

Before a new use commences the number of car parks required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the Responsible Authority.

Loading and Unloading 52.07

The purpose of this provision is to ensure that land is set aside for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety.

No buildings or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless:

- Space is provided on the land for loading and unloading vehicles as specified in the table below.
- The driveway to the loading bay is at least 3.6 metres wide. If a driveway changes direction or intersects another driveway, the internal radius at the change of direction or intersection must be at least 6 metres.
- The road that provides access to the loading bay is at least 3.6 metres wide.

FLOOR AREA OF BUILDING	MINIMUM LOADING BAY DIMENSIONS	
2,600 sq m or less in single occupation	Area	27.4 sq m
	Length	7.6 m
	Width	3.6 m
	Height clearance	4.0 m
For every additional 1,800 sq m or part	Additional 18 sq m	

Clause 55 – Two or more dwellings on a lot

Objectives	Standards	Compliance
<p>Clause 55.02-1 Neighbourhood Character Objectives To ensure that the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character; To ensure the development responds to the features of the site and surrounding area.</p>	<p>Standard B1 (Cannot be varied) The design response must be appropriate to the neighbourhood and the site. The proposed design must respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	<p>Complies The proposed construction of an additional dwelling on the allotment is consistent with the desired character of the area where the location of residential properties either on top of or to the rear of commercial sites is encouraged.</p>
<p>Clause 55.02-2 Residential Policy Objectives To ensure that residential development is provided in accordance with any policy for housing in the SPPF</p>	<p>Standard B2 (Cannot be varied) An application must be accompanied by a written statement that describes how the development is consistent with any</p>	<p>Complies The application proposes to provide additional housing variety within the municipality. The subject land is within an identified substantial change area.</p>

Objectives	Standards	Compliance
<p>and the LPPF including the MSS and local planning polices; To support medium densities in areas where development can take advantage of public transport and community infrastructure and services.</p>	<p>relevant policy for housing in:</p> <ul style="list-style-type: none"> • the SPPF; and • the LPPF including the MSS; and Local Planning Policies 	
<p>Clause 55.02-3 Dwelling Diversity Objective To encourage a range of dwelling sizes and types in development of ten or more dwellings</p>	<p>Standard B3 (Can be varied) Developments of 10 or more dwellings should provide a range of dwelling sizes and types including:</p> <ul style="list-style-type: none"> • dwellings with a different number of bedrooms; and • at least one dwelling with a kitchen, bath or shower, and toilet and wash basin at ground floor level. 	<p>N/A</p>
<p>Clause 55.02-4 Infrastructure Objectives To ensure development is provided with appropriate utility services and infrastructure; To ensure development does not unreasonably overload the capacity of utility services and infrastructure</p>	<p>Standard B4 (Can be varied) Development should be connected to reticulated services including reticulated sewerage, drainage, electricity and gas if available. Developments should not unreasonably exceed the capacity of utility services and infrastructure, including reticulated services and roads. In areas where utility services or infrastructure have little or no space capacity, developments should provide for the upgrading or mitigation of the impact on services or infrastructure.</p>	<p>Complies The application proposes an additional dwelling which proposes to use the existing access point already servicing the existing dwelling. All other infrastructure is existing in the area. Connection requirements will be required as per the relevant authorities.</p>
<p>Clause 55.02-5 Integration with the Street Objective</p>	<p>Standard B5 (Can be varied) Developments should provide</p>	<p>Complies The proposed dwelling will be located to the rear of the</p>

Objectives	Standards	Compliance
To integrate the layout of development with the street	adequate vehicle and pedestrian links that maintain or enhance local accessibility. Dwellings should be orientated to front existing and proposed streets High fencing in front of dwellings should be avoided if practicable. Development next to existing public open space should be laid out to complement the open space.	existing shop and dwelling. this proposal is consider to generally comply with the character of the locality which is zoned for Commercial 1 purposes and where residential uses should not for the dominate feature of this small shopping stip.
<p>Clause 55.03-1 Street Setback Objective To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	<p>Standard B6 (Can be varied) Walls of buildings should be setback from streets the distance specified in Table B1</p>	<p>Varied Setback not relevant given commercial 1 zoning of land.</p>
<p>Clause 55.03-2 Building Height Objective To ensure that the height of buildings respects the existing or preferred neighbourhood character.</p>	<p>Standard B7 (Can be varied) The max building height should not exceed 9m, unless the slope of the natural ground level at any cross section wider than 8m of the site of the building is 2.5 degrees or more, in which case the max building height should not exceed 10m. Change of building height between existing buildings and new buildings should be graduated.</p>	<p>Complies Buildings will not exceed 9 metres as both are single storey.</p>
<p>Clause 55.03-3 Site</p>	<p>Standard B8 (Can be</p>	<p>Complies</p>

Objectives	Standards	Compliance
<p>Coverage Objective To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site</p>	<p>varied) The site area covered by buildings should not exceed 60%.</p>	<p>Site Area 649.71sq/m. Existing Shop is 81.15sq/m and dwelling is 102.18sq/m. The shop Addition is 46.12sq/m New Dwelling 75.97sq/m Garages etc 80.98sq/m Total building coverage 386.40sq/m or 59.47% of site.</p>
<p>Clause 55.03-4 Permeability Objectives To reduce the impact of increased stormwater run-off on the drainage system; To facilitate on-site stormwater infiltration.</p>	<p>Standard B9 (Can be varied) At least 20% of the site should not be covered by impervious surfaces.</p>	<p>Complies Site area of 649.71 square metres. Buildings 386.40sq/m and driveway's 130.45sq/m coverage equals 516.85sq/m leaving 132.86sq/m of permeable area or 20.45 % of allotment.</p>
<p>Clause 55.03-5 Energy Efficiency Objectives To achieve and protect energy efficient dwellings and residential buildings; To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy</p>	<p>Standard B10 (Can be varied) Buildings should be:</p> <ul style="list-style-type: none"> • Orientated to make appropriate use of solar energy. • Sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced. • Living areas and private open space should be located on the north side of the dwelling, if practicable. <p>Developments should be designed so that solar access to north-facing windows is maximised.</p>	<p>Complies The Living area and SPOS of the existing dwelling are orientated to the north. The living are of the proposed dwelling is provided with a northern orientation. The SPOS of the proposed dwelling is Screened from the north by the proposed garage however will receive solar expose in the late afternoon with a western orientation.</p>
<p>Clause 55.03-6 Open Space Objective To integrate the layout of the development with any public or communal open space provided in or adjacent to the development</p>	<p>Standard B11 (Can be varied) Any public or communal open space should:</p> <ul style="list-style-type: none"> • be substantially fronted by dwellings, where appropriate; • provide outlook for as many dwellings as • practicable 	<p>N/A There is to be no communal open space as part of this development. Public space is located throughout Shepparton.</p>

Objectives	Standards	Compliance
	<ul style="list-style-type: none"> • be designed to protect any natural features on the site; and • be accessible and useable. 	
<p>Clause 55.03-7 Safety Objective To ensure the layout of development provides for the safety and security of residents and property</p>	<p>Standard B12 (Can be varied) Entrances to dwellings and residential buildings should not be obscured or isolated from the street and internal accessways. Planting which creates unsafe spaces along streets and accessways should be avoided. Developments should be designed to provide good lighting, visibility and surveillance of car parks and internal accessways. Private spaces within developments should be protected from inappropriate use as public thoroughfares.</p>	<p>Complies Entrances to both dwellings are partially visible from street. Private space is well protected.</p>
<p>Clause 55.03-8 Landscaping Objectives To encourage development that respects the landscape character of the neighbourhood; To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance; To provide appropriate landscaping; To encourage the retention of mature vegetation on the site</p>	<p>Standard B13 (Can be varied) Landscape layout and design.</p>	<p>Does not Comply The provided plan shows limited landscaping on the subject site. A landscape plan is required.</p>
<p>Clause 55.03-9 Access Objectives To ensure vehicle access to and from a development is safe, manageable and convenient;</p>	<p>Standard B14 (Can be varied) Accessways should: 1. Be designed to allow convenient, safe and efficient vehicle movements and</p>	<p>Varied Driveways width provided is 2.91 metres which is considered appropriate with a small amount of traffic movements envisaged from</p>

Objectives	Standards	Compliance
<p>To ensure the number and design of vehicle crossovers respects the neighbourhood character</p>	<p>connections within the development and to the street network.</p> <p>2. Be designed to ensure vehicles can exit a development in a forwards direction if the accessway serves 5 or more car spaces, 3 or more dwellings, or connects to a road in a Road Zone.</p> <p>3. Be at least 3m wide.</p> <p>4. Have an internal radius of at least 4m at changes of direction.</p> <p>5. Provide a passing area at the entrance that is at least 5m wide and 7m long if the accessway serves 10 or more spaces and connects to a road in a road zone.</p> <p>6. The width of accessways or car spaces should not exceed:</p> <ul style="list-style-type: none"> • 33% of the street frontage if the width of the street frontage is more than 20m; or • 40% of the street frontage if the width of the street frontage is less than 20m. 	<p>the driveway.</p>
<p>Clause 55.03-10 Parking Location Objectives</p> <p>To provide for convenient parking for residents and visitor vehicles;</p> <p>To avoid parking and traffic difficulties in the development and the neighbourhood;</p> <p>To protect residents from vehicular noise within developments</p>	<p>Summary of Standard B15 (Can be varied)</p> <p>Car parking facilities should:</p> <p>Be reasonably close and convenient to dwellings and residential buildings;</p> <ul style="list-style-type: none"> • Be secure; • Be designed to allow safe and efficient movements within the development. • Be well ventilated if enclosed. • Large parking areas should be broken up with trees, buildings or 	<p>Complies</p> <p>Both dwellings contain a garage which is appropriate for two bedroom dwellings.</p>

Objectives	Standards	Compliance
	<p>different surface treatments.</p> <ul style="list-style-type: none"> Shared accessways or car parks of other dwellings and residential buildings should be located at least 1.5m from habitable room windows. This setback may be reduced to 1m where there is a fence at least 1.5m high or where window sills are at least 1.4m above the accessway. 	
<p>Clause 55.04-1 Side and Rear Setbacks Objective To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</p>	<p>Summary of Standard B17 (variable) New building not on, or within 150 mm of boundary should be setback from side or rear boundaries:</p> <ul style="list-style-type: none"> 1m, plus 0.3m for every metre height over 3.6m up to 6.9m, plus 1m for every metre height over 6.9m. Sunblinds, verandahs, porches, eaves, gutters etc may encroach not more than 0.5m into the setbacks of this standard. 	<p>Complies Buildings do not exceed 3 metres at eaves closest to property boundaries</p>
<p>Clause 55.04-2 Walls on Boundaries Objective To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</p>	<p>Standard B18 (Can be varied) New wall on or within 200mm of a side or rear boundary of a lot, or a carport on or within 1m of a side or rear boundary should not abut the boundary for a length of more than:</p> <ul style="list-style-type: none"> 10m plus 25% of the remaining length of the boundary of an adjoining lot; or the length of an existing or simultaneously constructed wall or carport whichever is the greater. A new wall or carport 	<p>Varied The garage walls on the northern and western boundaries do not exceed 10 metres.</p> <p>The proposed and existing wall lengths on the southern boundary will be a combined 22.285 metres. The length of the boundary is 40.25.</p> <p>The walls on the boundary once the 10 metres has been subtracted would be 40.56%, thus exceeding 25%.</p>

Objectives	Standards	Compliance
	<p>may fully abut a side or rear boundary where the slope and retaining walls would result in the effective height of the wall or carport being less than 2m on the abutting property boundary.</p> <ul style="list-style-type: none"> • A building on a boundary includes a building up to 150mm from a boundary. • New walls on or within 150mm of a side or rear boundary of a lot, or a carport on or within 1m • of a side or rear boundary should not exceed an average of 3m height, with no part higher than 3.6m, unless abutting a higher existing or simultaneously constructed wall. 	<p>This is considered acceptable given the Commercial 1 Zoning.</p>
<p>Clause 55.04-3 Daylight to existing windows objective To allow adequate daylight into existing habitable room windows.</p>	<p>Standard B19 (Can be varied) Buildings opposite an existing habitable room window should provide for a light court to the existing window, of at least 3m² and 1m clear to the sky. The area may include land on the abutting lot. Walls or carports more than 3m high opposite an existing habitable room window should be setback from the window at least 50% of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the existing window. Note: Where the existing window is above ground level, the wall height is</p>	<p>Complies There are no existing habitable room windows within 3 metres of the proposed buildings, with the abutting property to the south used for a bakery.</p>

Objectives	Standards	Compliance
	<p>measured from the floor level</p> <p>of the room containing the window.</p>	
<p>Clause 55.04-4 North-facing windows objective To allow adequate solar access to existing north-facing habitable room windows.</p>	<p>Standard B20 (Can be varied) If a north-facing habitable room window of an existing dwelling is within 3m of a boundary of an abutting lot, a building should be setback from the boundary:</p> <ul style="list-style-type: none"> • 1m, plus 0.6m for every metre height over 3.6m up to 6.9m, plus 1m for every metre height over 6.9m, for a distance of 3m from the edge of each side of the window. 	<p>N/A No existing north facing habitable room windows within 3m of a boundary with the abutting property to the south used for a bakery.</p>
<p>Clause 55.04-5 Overshadowing open space objective To ensure buildings do not significantly overshadow existing secluded private open space.</p>	<p>Standard B21 (Can be varied) Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75%, or 40m² with a minimum dimension of 3m, whichever is the lesser area, of the secluded open space should receive a minimum of 5 hours sunlight between 9am and 3pm at 22 September. If existing sunlight to the secluded private open space of a dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.</p>	<p>N/A Abutting property to the south used for bakery.</p>
<p>Clause 55.04-6 Overlooking objective To limit views into existing secluded private open space and habitable room windows.</p>	<p>Standard B22 (Can be varied) Habitable room windows, balconies, terraces etc should be located and designed to avoid direct view to secluded private open space and habitable room windows of an</p>	<p>Complies Proposed dwelling is single storey.</p>

Objectives	Standards	Compliance
	existing dwelling within 9m distance, and a 45 degree arc from the window, balcony etc.	
<p>Clause 55.04-7 Internal Views Objective To limit views into the secluded private open space and habitable room windows of dwellings and residential buildings with a development</p>	<p>Standard B23 (Can be varied) Windows and balconies should be designed to prevent overlooking of more than 50% of the secluded private open space of a lower-level dwelling or residential building directly below and in the same development.</p>	<p>Complies Proposed dwelling is single storey.</p>
<p>Clause 55.06-3 Common Property Objectives To ensure that communal open space, car parking, access areas and site facilities are practical, attractive and easily maintained; To avoid future management difficulties in areas of common ownership</p>	<p>Standard B33 (Can be varied) Developments should clearly delineate public, communal and private areas. Common property where provided, should be functional and capable of efficient management.</p>	<p>N/A No common property areas proposed.</p>
<p>Clause 55.06-4 Site Services Objectives To ensure that site services can be installed and easily maintained; To ensure that site facilities are accessible, adequate and attractive</p>	<p>Standard B34 (Can be varied) The design and layout of dwellings and residential buildings should provide sufficient space (including easements where required) and facilities for services to be installed and maintained efficiently and economically. Bin and recycling enclosures, mailboxes and other site facilities should be adequate in size, durable, waterproof and blend in with the development. Bin and recycling enclosures should be located for convenient access by</p>	<p>Complies The proposed dwelling is appropriately located to allow for the provision of connection to services and the location of mailboxes.</p>

Objectives	Standards	Compliance
	residents. Mailboxes should be provided and located for convenient access as required by Australia Post	

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.

65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

Officers Response

1. The application for a planning permit proposes buildings and works on the site for the extension to the existing retail tenancy and the construction of a second dwelling at the rear of the land which will be accessed by the existing crossover from St Georges Road.
2. The existing dwelling on the land which is located to the rear of the shop will undergo alterations to allow for the extension to the retail tenancy fronting St Georges road and to allow for the construction of the additional dwelling to the rear.

3. The proposed development does not seek to provide any additional car spaces for the proposed shop extension and therefore a reduction in car parking requirements has been sought under the application.
4. The Commercial 1 Zone which applies to the land provides under Section 1 Uses that accommodation (including dwelling) is a section 1 use provided any frontage at ground floor level must not exceed 2 metres (other than a bed and breakfast and caretaker's house). Given the uncertainty on whether this includes the width of access (driveway) which solely serves the residential properties, the permission for use has also been included in this assessment.
5. The subject land is zoned Commercial 1 and located within a small neighbourhood shopping area where a number of buildings have been established as shop fronts and are used as small milk bars, grocery stores or food and drink take away shops. The land is also entirely affected by the Land Subject to Inundation Overlay.
6. The proposed development which will provide for additional retail floor space and a second dwelling to the rear is supported in the Commercial 1 Zone and by the suite of State and Local Planning Policies with the following key objectives and guidelines:
 - a. The Commercial 1 Zone purpose includes to provide for a vibrant mix of commercial centres for retail and residential uses at densities complementary to the role and scale of the commercial centre.
 - b. The State Planning Policy supports the provision of additional retail/commercial floor area in appropriate locations and the diversification of the housing stock.
 - c. The Shepparton Housing Strategy which has been incorporated into the Greater Shepparton Planning Scheme identifies the subject land within the Substantial Change area for Housing Growth where higher overall housing densities are supported.
7. With regard to the specifics of the proposal and decision guidelines of the Commercial 1 Zone the proposal is considered acceptable as outlined below:
 - a. The development respects the interface with the only boundary which abuts a non Commercial 1 Zone, with the western (rear boundary) area to be developed for the second dwelling, thus allowing for an appropriate transition to the Residential Growth Zone.
 - b. The development will not impact on the movement of pedestrians and will continue the covered area over the St Georges footpath which is important in providing a protected area for pedestrians.
 - c. The design of the proposed retail tenancy to front St George Road is in keeping with the character of the other shops with a similar parapet treatment. Furthermore the use of a large glazed frontage provides transparency and allows for an acceptable planning outcome.

8. The proposed additional dwelling and modification to the existing dwelling is considered acceptable when assessed against the guidelines of clause 55. Despite an assessment against these guidelines not being mandatory they are included within the decision guidelines for the Commercial 1 Zone and a basic assessment has been undertaken as part of this report in the table above.
9. The assessment has found that the onsite amenity and facilities for the existing and proposed dwellings are acceptable which include open space and appropriate solar orientation.
10. A small number of the standards required variations which included walls on boundaries, however this is considered acceptable given the Commercial 1 Zoning and the abutting land being zoned the same.
11. The proposed development provides an undercover car space for each of the two bedroom dwellings which complies with the requirements under clause 52.06. The proposal has requested for a reduction in car parking requirements of 1 space as a result of the extension (46.12 sqm) to the retail tenancy.
12. The proposed reduction in 1 car parking space is considered acceptable for the following reasons:
 - a. The reduction is for one car space only;
 - b. There are multiple on street parking spaces provided on St Georges road opposite the site;
 - c. The shop and surrounding shops are established as a neighbourhood centre where a number of customers will walk from home;
 - d. The site is located on a number of public transport routes;
13. The proposed car parking and access area provided for the two dwellings is considered acceptable in providing the correct number of spaces and what appears to be enough space for a car to undertake a turning movement so as to exit the site in a forward direction (a condition on a permit should one issue will require turning movements to be submitted).
14. The width of the access to the land being 2.91 metres is considered acceptable given the small variation from the 3 metre standard and that the access way will only service two two bedroom dwellings.
15. Of concern from the proposal is that the new shop extension will reduce the visibility of vehicles exiting the site to see pedestrians. Under design standard 1 of clause 52.06-9 accessways must have a corner splay or area at the least 50 percent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit land and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. A condition will be included on the planning permit should one issue that amended plans be submitted to show this.
16. The site does not currently provide a loading bay for the retail tenancy, nor does the development propose one as part of the extension to the shop. A reduction in loading

bay requirements therefore needs to be approved as part of the application under clause 52.07. The reduction is considered acceptable given the small sale of the retail tenancy which is unlikely to attract the use of large delivery vehicles or frequent deliveries and that there is sufficient on street space available for deliveries which would operate in a similar fashion to the abutting businesses and how the current business operates.

17. The works proposed by the application also triggered a permit under Land Subject to Inundation Overlay. The application was referred to the GBCMA, who do not object to the proposed development subject to floor level conditions being included. The condition will be included on the permit and require amended plans be submitted showing the correct floor levels requested by the GBCMA. Given the consent of the Government's expert flood management authority, the proposal is considered to achieve an acceptable planning outcome under the provisions of the Land Subject to Inundation Overlay.
18. The proposed use and development of the land along with the reduction in car parking is considered an appropriate development within the Commercial 1 Zone. The development provides for increased retail floor space whilst also seeking to increase densities and diversify the options of the housing stock.

Relevant incorporated or reference documents

- Infrastructure Design Manual
- Greater Shepparton Local Floodplain Development Plan - Precinct of Goulburn River (2003)

Other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

There are no relevant Planning Scheme Amendments that relate to this application for a planning permit.

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the application?

There are no other relevant Acts that relate to this application for 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 has been considered when assessing this application and it is not considered that the application impinges on the Charter.

Conclusion

The proposed use and development of the land along with the reduction in car parking is considered an appropriate development within the Commercial 1 Zone. The development provides for increased retail floor space whilst also seeking to increase densities and diversify the options of the housing stock.

Draft Notice Of Decision

APPLICATION NO: 2017-61

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

THE RESPONSIBLE AUTHORITY HAS DECIDED TO GRANT A PERMIT.

THE PERMIT HAS NOT BEEN ISSUED.

ADDRESS OF THE LAND: 84 ST GEORGES ROAD SHEPPARTON
VIC 3630

WHAT THE PERMIT WILL ALLOW: USE OF LAND FOR A DWELLING,
BUILDINGS AND WORKS FOR A
DWELLING AND SHOP TENANCY IN THE
COMMERCIAL 1 ZONE AND LAND
SUBJECT TO INUNDATION OVERLAY
AND ASSOCIATED REDUCTION IN ONE
CAR PARKING SPACE AND LOADING
BAY REQUIREMENTS

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Amended Plans Required

Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. Such plan must be generally in accordance with the plan submitted with the application but modified to show:

- a) Vehicle turning templates to illustrate that all car parking spaces and accessways are designed to allow vehicles to enter and exit the land in a forward direction;
- b) Correct floor heights of the building to reflect the requirements of the Goulburn Broken Catchment Management Authority;
- c) The provision of a corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the St George Road frontage from the edge of the access and 2.5 metres along the access from the frontage, to provide a clear view of pedestrians on the footpath of St Georges Road. The area clear of visual obstructions may include an adjacent entry of exit land where more than one lane is provide, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height.

2. Layout Not Altered

The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

3. Drainage Discharge Plan

Before any of the development starts, a drainage plan with computations prepared by a suitably qualified person or organisation, to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and submitted in an electronic format. The plans must be in accordance with council's Infrastructure Design Manual and include:

- a) how the land will be drained;
- b) underground pipe drains conveying stormwater to the legal point of discharge which is the underground pipe in St Georges Road. A pit will be constructed at the point of connection to the property and the Council pipe;
- c) measures to enhance stormwater discharge quality from the site and protect downstream waterways;
- d) maximum discharge rate shall be retained to the pre-development flows;
- e) Incorporation of water sensitive urban design in accordance with Clause 20 of the Infrastructure Design Manual or as otherwise approved in writing by the Responsible Authority; and
- f) Provision of an electronic copy of the MUSIC model (or equivalent) demonstrating the achievement of the required reduction of pollutant removal; to the satisfaction of the Responsible Authority.
- g) Access lanes surfaced with concrete.

Before occupancy all drainage works required by the drainage plan must be completed to the satisfaction of the responsible authority.

4. Landscape Plan

Before the development starts a landscape plan prepared by qualified landscape architect must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and must show:

- a) building envelopes and vehicular access points for each lot in the development.
- b) a schedule of all proposed trees, shrubs and ground cover, including the location, number and size at maturity of all plants, the botanical names and the location of areas to be covered by grass, lawn or other surface materials as specified;
- c) the method of preparing, draining, watering and maintaining the landscaped area;
- d) details of surface finishes of pathways and driveways;
- e) landscaping and planting within all open areas of the site, including along the

- north boundary of the site abutting the accessway;
- f) all landscaped areas to be used for stormwater retardation;
- g) landscaping along the northern boundary of the site abutting the access way;

All species selected must be to the satisfaction of the responsible authority.

The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.

All trees planted as part of the landscape works must be a minimum height of 2 metres at the time of planting.

Before the occupation of the new dwelling or by such a later date as is approved by the responsible authority in writing, landscaping works shown on the endorsed plan must be carried out and completed to the satisfaction of the responsible authority.

5. Construction of Works

Before the dwellings are occupied/prior to occupation is issued under the Subdivision Act 1988, the owner must construct and complete road works, drainage and other civil works, in accordance with endorsed plans and specifications approved by the Responsible Authority and in accordance with the Infrastructure Design Manual. Road works, drainage and other civil works to be constructed must include:-

- a) drainage works shown on the endorsed Drainage Discharge Plan(s) have been constructed to the satisfaction of the responsible authority;
- b) stormwater treatment measures have been constructed or as otherwise agreed to in writing by the Responsible Authority; and
- c) garden and landscape area(s) shown on the endorsed plan(s) have been planted to the satisfaction of the Responsible Authority.

as specified

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority. Any dead, diseased or damaged plants and/or trees must be replaced to the satisfaction of the responsible authority.

6. Construction Phase

All activities associated with the construction of the development permitted by this permit must be carried out to the satisfaction of the Responsible Authority and all care must be taken to minimise the effect of such activities on the amenity of the locality, including:

- a) Avoiding the transport of mud onto roads;
- b) Minimising the generation of dust during earthworks or vehicles accessing site;
- c) The retention of all silt and sediment on the site during the construction phase, in accordance with the sediment control principles outlined in Construction Techniques for Sediment Pollution Control (EPA, 1991)'; and
- d) Maintaining a neat and tidy site.

7. Council Assets

Unless identified in written report, any damage to public infrastructure adjacent to the land at the conclusion of construction on the land will be attributed to the land. The owner/operator of the land must pay for any damage to the Council's assets/Public infrastructure by way of the development or use.

8. Boundary fencing

Before the new dwelling is occupied side, rear and internal boundary fencing (not frontage) must be constructed to a height of 1.8m (from finished ground level) consisting of a 1.8 m high colourbond fence and be constructed to enhance the character of the development and to ensure the privacy of adjoining properties. The height, material, type and extent of fencing is to be mutually agreed by all parties and must be erected prior to occupation of the development. The cost of such fencing shall be borne by the developer unless otherwise agreed by the parties to the satisfaction of the responsible authority.

9. Electrical Connection Undergrounded

The electrical connection to the development must be undergrounded to the satisfaction of the responsible authority.

10. Siting of Air Conditioning

Prior to the occupation of the development, all roof top utilities, air conditioning, plant, refrigeration, services and equipment must be designed and sited in accordance with the endorsed plans to ensure that they are integrated into the overall design and not visible from other parts of centre, streets and neighbouring properties to the satisfaction of the Responsible Authority.

11. Concrete Buildings

Before the buildings are occupied all tilt slab or pre-cast concrete buildings must be painted, treated, textured and maintained thereafter to the satisfaction of the responsible authority.

12. Goulburn Broken Catchment Management Authority Requirements

The finished floor levels of the proposed shop and second dwelling must be constructed at least 300 millimetres above the 100-year ARI flood level of 113.25metres AHD, i.e. 113.55 metres AHD, or higher level deemed necessary by the responsible authority.

13. Goulburn Valley Region Water Corporation Requirements

- a) Payment of new customer contribution charges for water supply to the development, such amount being determined by the Corporation at the time of payment;
- b) Provision of individual water supply meters to each occupancy within the development;

- c) Payment of new customer contributions charges for sewerage services to the development, such amount being determined by the Corporation at the time of payment;
- d) Connection of all sanitary fixtures within the development to reticulated sewerage, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation.

All works required are to be carried out in accordance with AS 3500.2 - 'Sanitary plumbing and drainage', and to the satisfaction of the Corporation's Property Services Section;

- e) Discharge of trade waste from the development shall be subject to a Trade Waste Consent Agreement.

The Owner and or occupier is required to submit a completed Trade Waste Application, and install the required pre-treatment facility to the satisfaction of Goulburn Valley Water's Trade Waste Section, before approval to discharge trade waste from the development into the Corporation's sewer is granted;

- f) **Please note**, should the applicant wish to subdivide each tenement onto separate titles in the future, provision of appropriate servicing arrangements to facilitate a future subdivision proposal should be investigated as part of this development.

The applicant should contact the Corporation to discuss current and future proposals for this development.

Where the land is to be developed in stages, the above conditions will, in general, apply to any subsequent stage of the estate development. However as any future stages of the development will be connected to the Corporation's water supply and sewerage systems independently of this stage, the Corporation reserves the right to revise any conditions applicable to any subsequent stages lodged.

14. Time for Starting and Completion

This permit will expire if one of the following circumstances applies:

- a) the development and use are not started within **two (2) years** of the date of this permit;
- b) the development is not completed within **four (4) years** of the date of this permit.

Application Details:

Responsible Officer:	Ronan Murphy
Application Number:	2017-236
Applicants Name:	Signmanager (Australia) Pty Ltd
Date Application Received:	14 August 2017
Statutory Days:	78
Land/Address:	7900 Goulburn Valley Highway KIALLA VIC 3631
Zoning and Overlays:	Commercial 2 Zone Airport Environs Overlay Design and Development Overlay 2 Design and Development Overlay 7 Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	52.05-7 internally illuminated promotional sky sign
Are there any Restrictive Covenants on the title?	Nil

Proposal

The application seeks permission for an internally illuminated promotional sky sign for the promotion of the existing business at 7900 Goulburn Valley Highway, Kialla (Peppermill Inn).

The land is within the Commercial 2 Zone and is affected by the Airport Environs Overlay, the Design and Development Overlay (Schedules 2 and 7) and the Land Subject to Inundation Overlay.

A planning permit is required pursuant to the provisions of Clause 52.05-7 for the erection and display for a internally illuminated sky sign.

In this regard, it is noted that the definition of a sky sign is:

A sign:

- a) on or above the roof of a building, but not a verandah;*
- b) fixed to the wall of a building and which projects above the wall; or*
- c) fixed to a structure (not a building) so that part of it is more than 7 metres above the ground.*

In this case it is noted that the sign is proposed to be located on the roof of the building and therefore considered to be a sky sign.

The proposed sign would advertise Carlton Draught Beer and is a relatively standard sign for a hotel as shown below:



However it is noted that there is an existing Carlton Draught sign located with a panel of the free standing sign to the west of the building.

An assessment of the application has been undertaken by planning officers and it is considered that the proposal fails to achieve compliance with the provisions of Clause 21.04-4 of the planning scheme which seeks to discourage internally illuminated signs in all locations.

Further to this, it is considered that the policy set out in Clause 21.04-4 discourages sky signs in all areas of the municipalities.

The Design and Development Overlay (Schedule 7) states that promotional signage should be avoided.

In light of the above, it is considered that the proposal would fail to achieve compliance with the provisions of Clause 21.04 of the planning scheme and the provisions of the design and development overlay (schedule 7) and it is therefore recommended that the application be refused.

Summary of Key Issues

The application seeks permission to erect and display an internally illuminated sky sign at 1900 Goulburn Valley Highway.

The application was not required to be referred or notified to any external authorities and was not required to be referred to any internal authorities.

The application was not notified to surrounding properties as it was considered that the proposal would not achieve compliance with the planning scheme and would be recommended for refusal.

Recommendation

Refusal

That the Council having not caused notice of Planning Application No. **2017-236** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of **21.04-4 and 52.05** of the Greater Shepparton Planning Scheme in respect of the land known and described as **7900 Goulburn Valley Highway KIALLA VIC 3631**, for the **Internally illuminated sky sign**.

For the following reasons:

1. The proposed internally illuminated sky sign does not produce acceptable planning outcomes under Council's Local Planning Policy 21.04 of the Planning Scheme for the following reasons:
 - a) The sign is a sky sign which is discouraged;
 - b) The sign is for internally illuminated promotion sign which is discouraged.

2. The proposed internally illuminated sky sign would not comply with the provisions of the Design and Development Overlay (Schedule 7) which seeks to avoid promotional signage, and signage located above a verandah.

Moved by Patricia Garraway

Seconded by Jonathan Griffin

That the Council having not caused notice of Planning Application No. **2017-236** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of **21.04-4 and 52.05** of the Greater Shepparton Planning Scheme in respect of the land known and described as **7900 Goulburn Valley Highway KIALLA VIC 3631**, for the **Internally illuminated sky sign**.

CARRIED

Subject Site & Locality

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

Date: **17/11/2017** Time: **8.37** am

The site has a total area of **0.6 ha** and currently contains:

- An existing motel and public bar / function centre/

The main site/locality characteristics are:

- The land is within an existing commercial area to the south of Shepparton.

The Photos below show the existing site:







Permit/Site History

The history of the site includes:

2015-82

Planning Permit granted for the development of the land for a 107m² function centre.

2015-82/A

Amended permit to alter the external cladding of the function centre.

2013-175

Planning permit granted for an extension to an existing outdoor area.

2012-4

Planning permit granted for buildings and works for the redevelopment of an existing hotel and use of 20 electronic gaming machines.

Further Information

Was further information requested for this application? **No**

Public Notification

The application was not advertised as it was considered that the proposal would not achieve compliance with the planning scheme and should be refused. **Objections**

The application was not notified.

Title Details

The title contains a Section 173 Agreement, which addresses floor levels of the building on the land and therefore does not prohibit the proposed sign.

Consultation

The applicants were informed by way of e-mail dated 7 September 2017 that the application failed to comply with the provisions of the planning scheme and that the most likely outcome of the application would be that the planning department would recommend refusal.

In this e-mail the applicants were given the option to withdraw the application or proceed with the application.

No formal response was received from the applicant.

Referrals

External Referrals/Notices Required by the Planning Scheme:

There are no external referrals required by the Planning Scheme:

In this regard it is noted that:

An application to display an animated or electronic sign within 60 metres of a freeway or arterial road declared under the Road Management Act 2004 must be referred in accordance with Section 55 of the Planning and Environment Act 1987 to the referral authority specified in Clause 66.03 or a schedule to that clause.

The proposed sign is not animated or electronic sign, therefore a referral to Vic Roads was not required.

There were no notices to authorities required.

There are no internal referrals required.

Assessment

The zoning of the land

Commercial 2 Zone

The purpose of the Commercial 2 Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
- *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.*

A Planning Permit was not triggered by the Commercial 2 Zone Advertising requirements are set out in Clause 52.05 of the planning scheme. The Commercial 2 Zone is in Category 1.

Relevant overlay provisions

Design and Development Overlay (Schedules 2 and 7)

The area where the sign is proposed is not within the area affected by the Design and Development Overlay (Schedule 2) therefore no planning permit triggers.

Design and Development Overlay (Schedule 7)

Schedule 7 of the Design and Development Overlay relates to Kialla Park Boulevard Precinct.

Section 6 of the Schedule sets out the following requirements for advertising signs:

- *One business identification sign is permitted per development.*
- *Multiple business occupancies are to share space on the sign.*
- *Freestanding business identification signs are to fit in an envelope that is a maximum height of 2 metres, and a maximum width of 1.5 metres. This envelope includes the height of any supporting structure.*

- *Signs attached to a building are encouraged and should be a maximum height of 1.0 metre, and a maximum width of 3.0 metres. Exemptions may be made for signs composed of individual letters that form an integral part of the building façade.*
- *Promotional signs should be avoided.*
- *Above verandah signs including V-boards signs and advertising elements such as banners, flags and inflatable should be avoided.*
- *Colours and materials that interfere with the safety or efficiency of traffic circulation should be avoided.*

In response to the requirements, it is noted that:

- The proposal comprises of an internally illuminated sky sign for the promotion of a specific beer brand (Carlton Draught)
- Above verandah signs and promotional signs are discouraged in the Design and Development Overlay
- It is noted that the proposed internally illuminated sky sign is promotional and is therefore discouraged in the Design and Development Overlay (Schedule 7).

LSIO

The schedule to the Land Subject to Inundation Overlay includes an exemption outdoor advertising / structures for signs and signage structures.

Airport Environs Overlay

There is no trigger for a planning permit for a sign in the Airport Environs Overlay.

The State Planning Policy Framework (SPPF)

There are no State Planning Policies that relate to the proposal.

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

21.04-4 Policy Guidelines – Advertising Signs

Clause 21.04-4

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

- 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.
- 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.
- 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.

The proposal would not comply with the provisions of Clause 21.04-4 of the planning scheme for the following reasons:

- Sky signs are discouraged in all areas of the municipality;
- Internally illuminated promotional signs are discouraged within the municipality.

In light of the above, it is considered that the proposal would not comply with the provisions of Clause 21.04-4 of the planning scheme.

Relevant Particular Provisions

52.05 Advertising Signs

The purpose of Clause 52.05 of the Planning Scheme is:

- *To regulate the display of signs and associated structures.*

- *To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*

Planning officers have undertaken an assessment against the provisions of Clause 52.05 of the planning scheme and it is considered that the proposal would achieve compliance when considered against the particular provision.

The decision guidelines of Clause 65

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

It is considered that the proposal fails to achieve compliance with the Local Planning Policy Framework, specifically clause 21.04 of the Planning Scheme as internally illuminated sky sign both of which are discouraged.

The proposal would not comply with the provisions of the Design and Development Overlay (Schedule 7) which seeks to avoid promotional signage.

In light of the above, it is considered that the proposal would not comply with the provisions of Clause 65 of the Planning Scheme.

Relevant incorporated or reference documents

There are no incorporated or reference documents that relate to the proposal.

Other relevant adopted State policies or strategies policies

There are no other adopted State policies or strategies that relate to the proposal.

Relevant Planning Scheme amendments

C-196 Addendum

The addendum relates to North Shepparton and to Kialla Lakes Drive.

Are there any significant social & economic effects?

There are no significant social and economic effects that relate to the proposal.

Discuss any other relevant Acts that relate to the application?

There are no other Acts that relate to the application.

Conclusion

The application seeks permission for an internally illuminated sky sign for the promotion of the existing business at 7900 Goulburn Valley Highway, Kialla (Peppermill Inn).

The application fails to achieve compliance with Clause 21.04 of the Planning Scheme for as the proposed sign is a sky sign which is discouraged and the proposed sign is internally illuminated which is discouraged

The proposed internally illuminated sky sign would not comply with the provisions of the Design and Development Overlay (Schedule 7) which seeks to avoid promotional signage.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2017-236

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 7900 Goulburn Valley Highway KIALLA VIC 3631

WHAT HAS BEEN REFUSED: Internally illuminated promotional sky sign

WHAT ARE THE REASONS FOR THE REFUSAL?

1. The proposed internally illuminated sky sign does not produce acceptable planning outcomes under Council's Local Planning Policy 21.04 of the Planning Scheme for the following reasons:
 - a) The sign is a sky sign which is discouraged;
 - b) The sign is for internally illuminated promotion sign which is discouraged.

2. The proposed internally illuminated sky sign would not comply with the provisions of the Design and Development Overlay (Schedule 7) which seeks to avoid promotional signage, and signage located above a verandah.

Development Hearing Panel - Delegates Report

Application Details:

Responsible Officer:	Sarah van Meurs
Application Number:	2017-232
Applicant Name:	A S Randhawa and K K Randhawa
Date Received:	11-Aug-2017
Statutory Days:	65
Land/Address:	50 Taylor Road TATURA VIC 3616
Zoning & Overlays:	Pt. Low Density Residential Zone Pt. Urban Floodway Zone Pt. Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	32.03-1 – use of land for a market garden in the LDRZ 32.03-4 – works associated with a market garden (section 2 use) in the LDRZ 37.03-1 – use of land for a market garden in the UFZ 37.03-2 – works associated with a market garden in the UFZ 44.04-1 – earthworks in Land Subject to Inundation Overlay
Are there any Restrictive Covenants on the title?	A Crown Grant addressing minerals and mining
Is a CHMP required?	No
Was the correct application fee paid?	Paid for use

Proposal

The application for a planning permit proposes the use and development of market garden (seasonal vegetables) to the rear of an existing dwelling. The total area to be used for the market garden is approximately 5,000 sqm in area. The proposal includes a crop protection structure and earthworks for garden beds/mounding for the plants which run north-south. The garden bed are proposed to be set back three metres from the property boundary.

A planning permit is required as follows:

- Use and development in the Low Density Residential Zone (LDRZ),
- Use and development in the Urban Floodway Zone (UFZ)
- and buildings and works in the Land Subject to Inundation Overlay (LSIO).

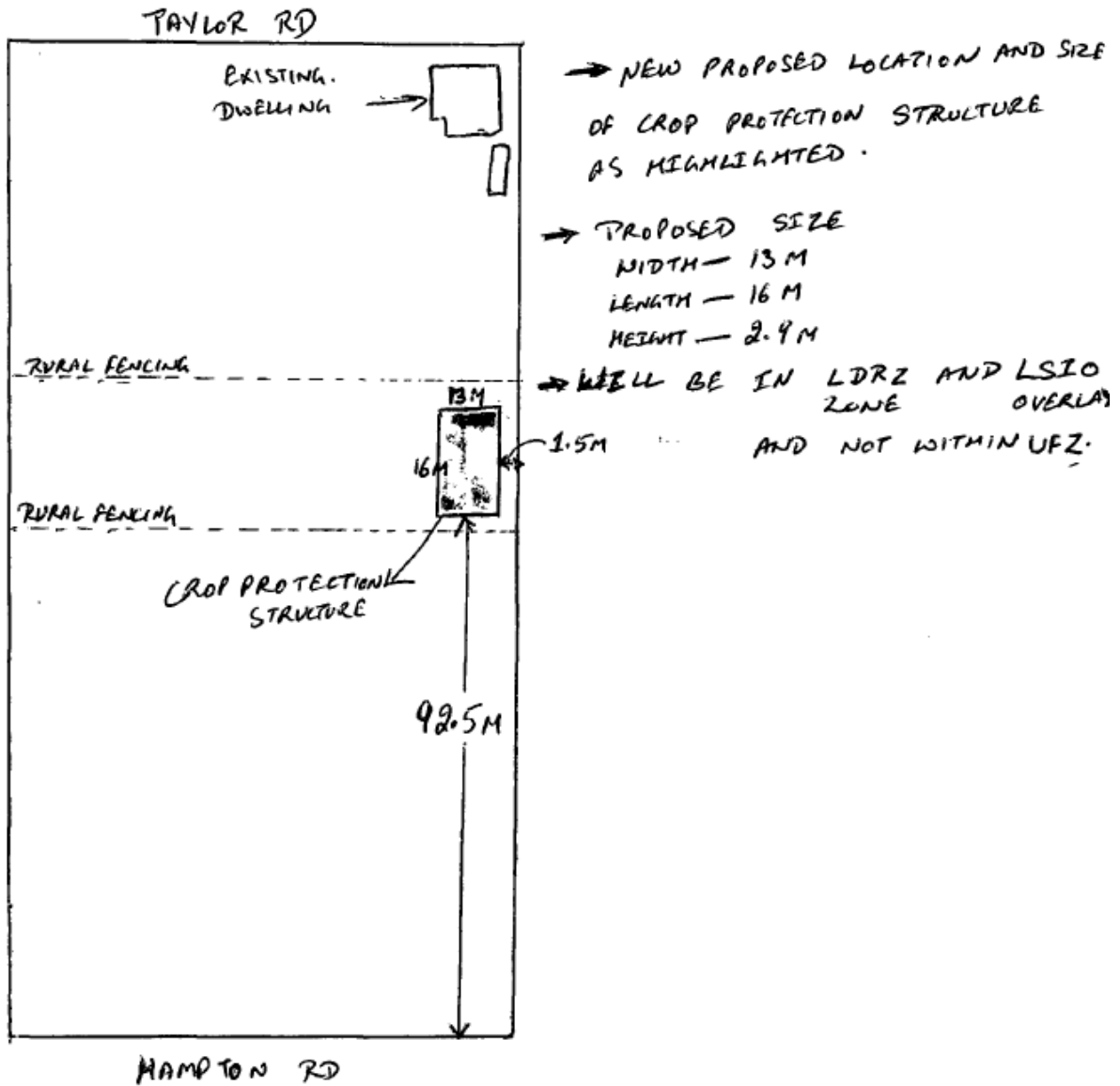
The application was amended under Section 50 of the *Planning and Environment Act 1987* to alter the size and the location of the proposed crop protection structure out of the UFZ and into LDRZ.

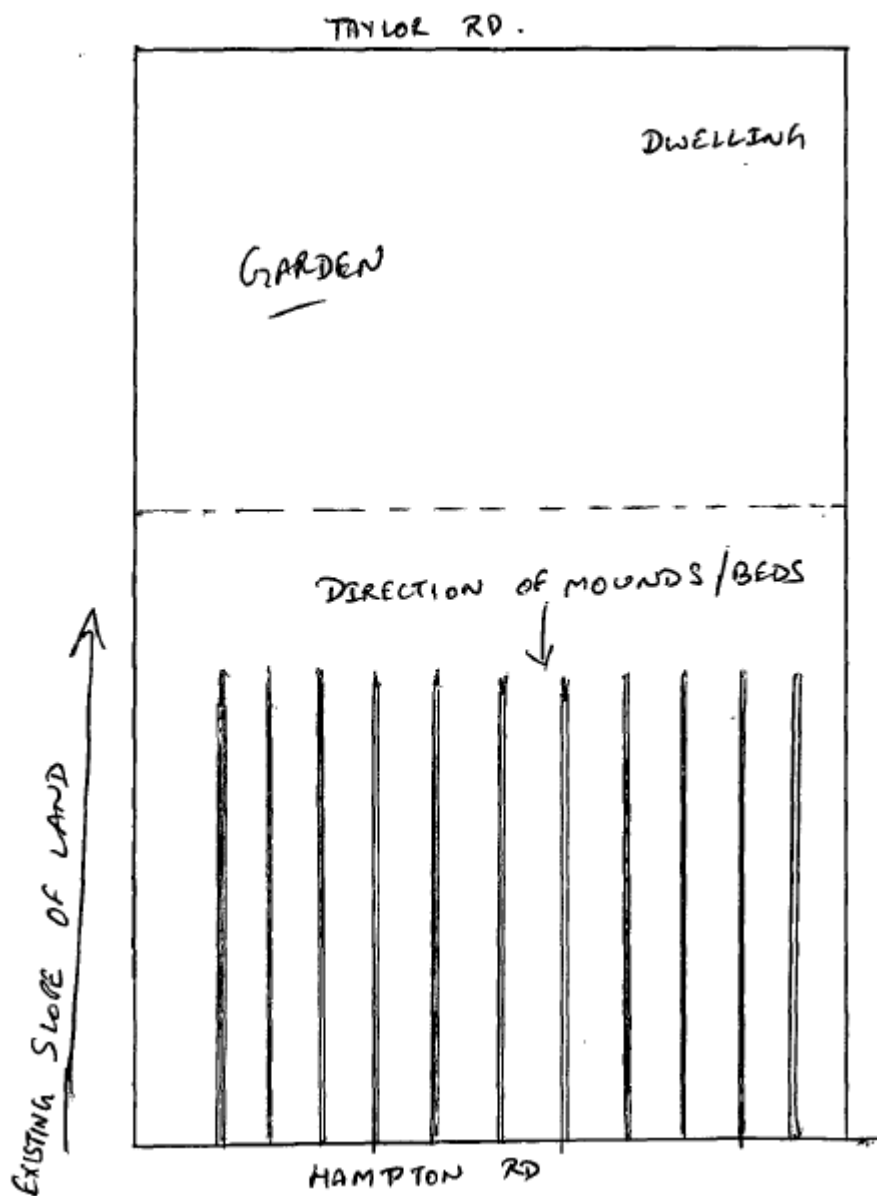
The crop protection structure is as follows:

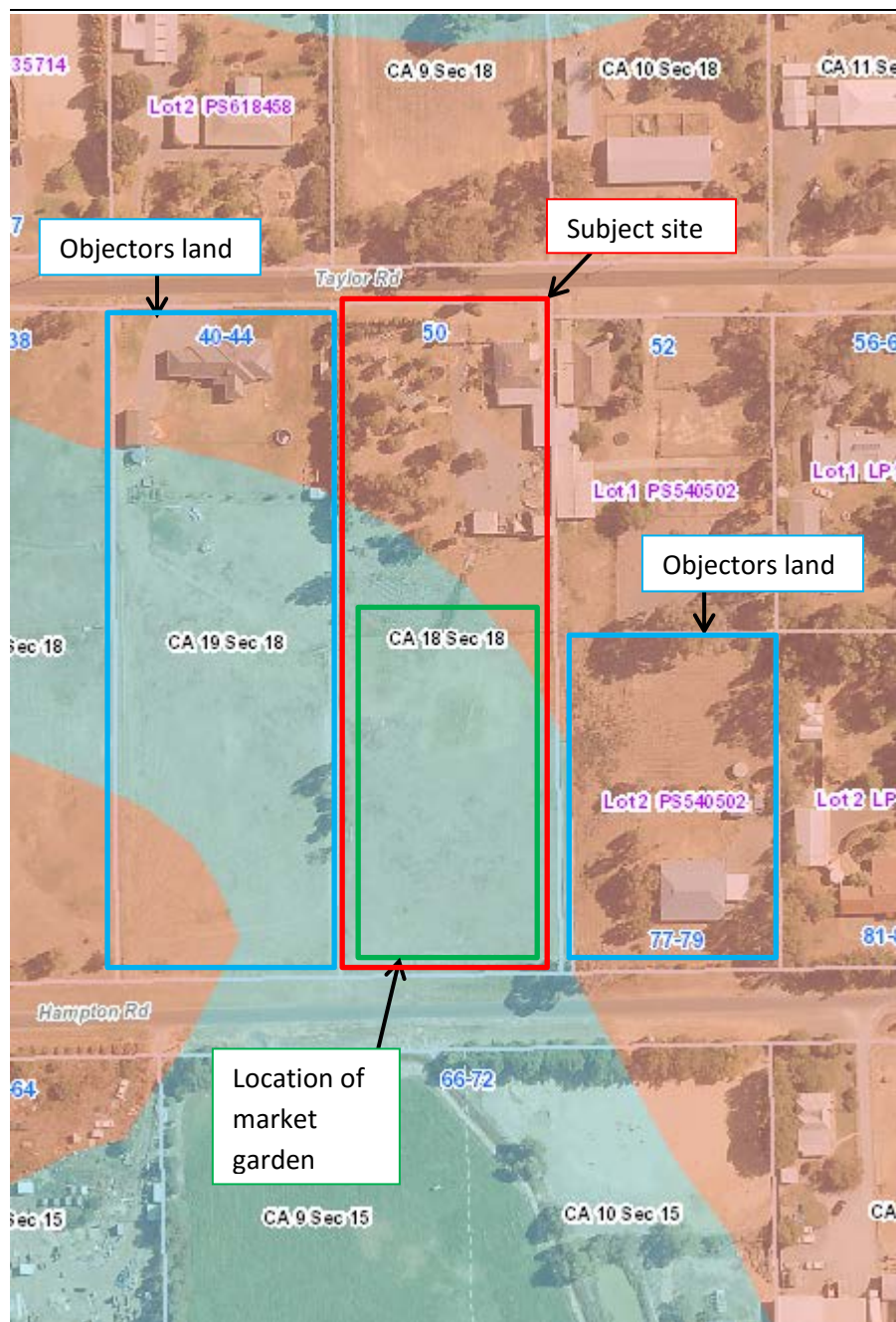
- clear film plastic wrap UV stabiliser affixed to framework with a thickness of 0.18mm

- The bottom 300mm of plastic will not be fixed to allow it to be rolled up for ventilation purposes.

Based on the description above, and given the protection structure is not considered to be solid, it is considered that the crop protection structure is exempt in accordance with Clause 62.02-1.







Blue area is land within the Urban Floodway Zone and pink area is land within the Low Density Residential Zone.

Summary of Key Issues

The application proposes the use and development of a market garden in the Low Density Residential Zone 1 and Urban Floodway Zone.

The application was amended under Section 50 of the *Planning and Environment Act 1987* to alter size and location of crop protection structure.

The application was advertised to surrounding properties.

Two objections and one letter of support was received by the planning department.

The applicant provided a response to the objectors concerns. Despite the response, the objectors concerns remain and the objections were not withdrawn.

The application was referred to the GBCMA who did not object to the use and development of the market garden in the UFZ or development in the LSIO.

The application was internally referred to the Council's Engineering Department and Environmental Health Department who did not object subject to conditions.

The land is within the settlement boundary of Tatura, and precedence should be given to the residential amenity of the area.

The proposed market garden beds are located approximately 30m from the closest dwelling in the LDRZ. The proposal is considered contrary to the purpose of the LDRZ and therefore should be recommended for refusal.

The proposal is contrary to the character of the area which is generally low density residential/rural living.

Recommendation

Refusal

That the Council having caused notice of Planning Application No. **2017-232** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of **32.03-1, 32.03-4, 37.03-1, 37.03-2 and 44.04-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **50 Taylor Road TATURA VIC 3616**, for the **use and development of land for a market garden in the Low Density Residential Zone, Urban Floodway Zone and earthworks in the Land Subject to Inundation Overlay.**

For the following reasons:

- The application is contrary to the State Planning Policy Framework
 - 13.04 Noise and air
 - To assist the control of noise effects on sensitive land uses.
 - To assist the protection and improvement of air quality.
- The application is contrary to Local Planning Policy Framework
 - 21.04 Tatura Framework Plan
 - The land is located within the Settlement boundary of Tatura
 - 22.04-6 Non-residential uses
 - To ensure that the appearance and scale of non residential development in residential zones is consistent with nearby housing; and
 - Ensure non residential uses are located in areas that are appropriate to the intensity and scale of the proposed use and that will have minimal impact on the amenity of nearby residential properties

- The application is contrary to the purpose of the Low Density Residential Zone 32.03.
 - to provide for low density residential development on lots, in the absence of reticulated sewerage, can treat and retain all wastewater.

- The application is contrary to the decision guidelines of Clause 65.01
 - The proposed use not considered orderly given the zoning and existing character of the area.
 - The application is likely to cause a detrimental amenity impacts on surrounding residential uses in the area.

Moved by Andrew Fletcher

Seconded by Jonathan Griffin

That the Council having caused notice of Planning Application No. **2017-232** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of **32.03-1, 32.03-4, 37.03-1, 37.03-2 and 44.04-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **50 Taylor Road TATURA VIC 3616**, for the **use and development of land for a market garden in the Low Density Residential Zone, Urban Floodway Zone and earthworks in the Land Subject to Inundation Overlay.**

Amendment/addition to condition 1 to the grounds for refusal to read as follows:

- 1) The application is contrary to the State Planning Policy Framework
 - The proposal is at variance Clause 13.02 as it may cause potential impacts on flooding.
 - 13.04 Noise and air
 - To assist the control of noise effects on sensitive land uses.
 - To assist the protection and improvement of air quality.

CARRIED

Subject Site & Locality

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

Date: **25/8/2017** Time: **10:58** am/pm

The site has a total area of **10,091** square metres and currently contains:

- Single storey dwelling and associated outbuildings,
- Garden associated with the dwelling.
- Vacant paddock

The main site/locality characteristics are:

- Low Density Residential use, land constrained by the Urban Floodway Zone, some animal grazing (horse keeping).
- To the south east of Tatura township.

The Photos below show the existing site:





Looking north from Hampton Road.



Looking northwest from Hampton Road.



Looking east along Hampton Road along the front of the property.

Permit/Site History

There is no planning permit history for the site.

Further Information

Was further information requested for this application? **Yes**

What additional information is required?

- **Details on the management of the Market Garden including but not limited to:**
 - **What if any machinery will be used;**
 - **Types of spray to be used and mechanisms for applying;**
 - **Whether raised garden beds will be used;**
 - **Whether a drainage system will be established and if so the submission of a drainage plan.**
- **Details of the proposed type of plastic to be used on the crop protection structure.**

What date was the further information requested?: **28/8/2017**

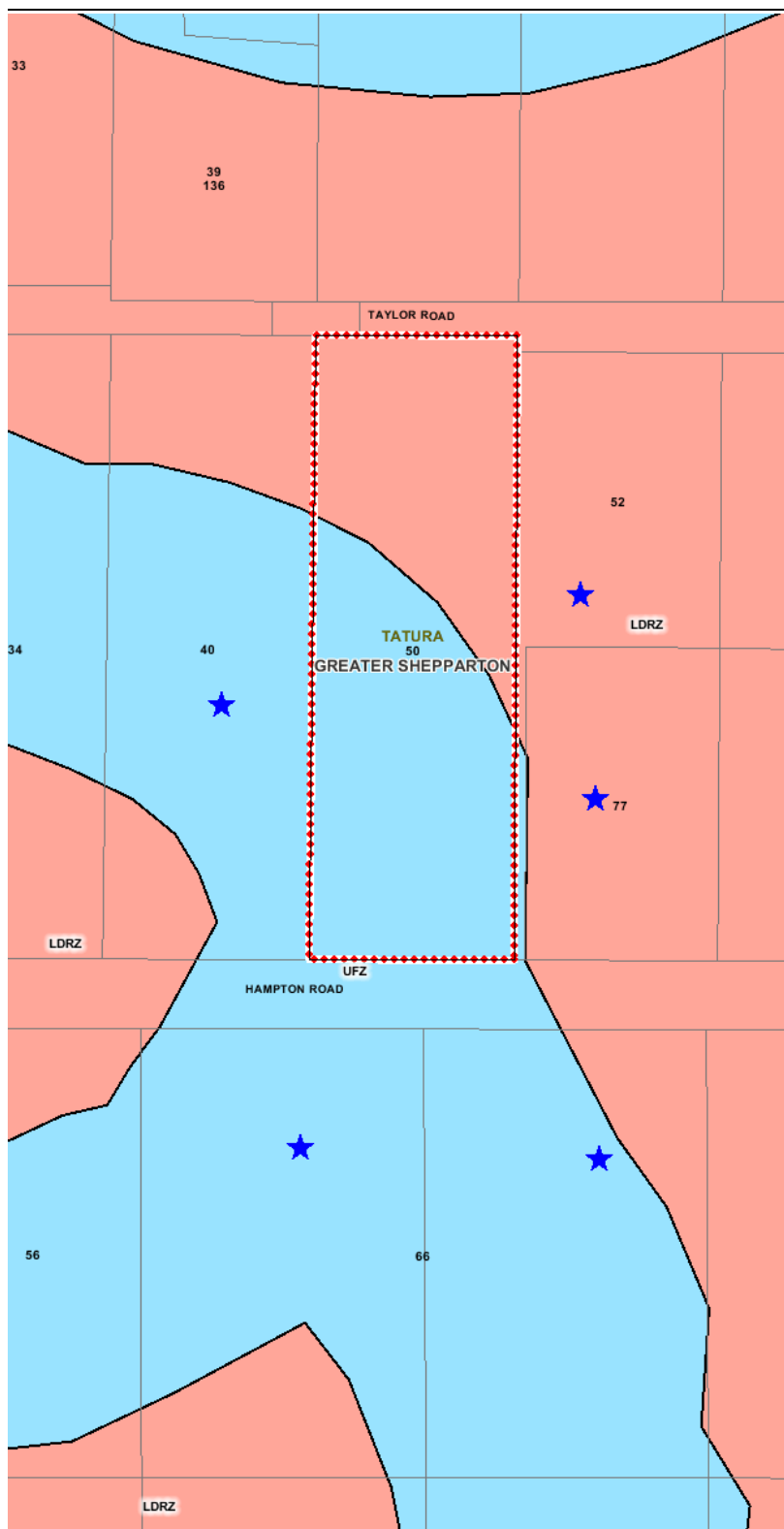
What is the lapsed date? **28/9/2017**

What date was the further information received?: **7/9/2017**

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **Use and development of the land for market garden in the Low Density Residential Zone and Urban Floodway Zone**, by:

- Sending notices to the owners and occupiers of adjoining land.
- Placing a sign on site.



The applicant provided a signed declaration stating that the sign on site was displayed on the land between **27/9/2017** to **10/10/2017**.

The application was exempt from being advertised in accordance with Clause **44.04-4 (LSIO)** of the planning scheme.

Objections

The Council has received **two** objections to date. A letter of support was also submitted. The applicant provided a response to the concerns raised which was circulated to the objectors. Despite this the objectors concerns remained the same.

The key issues that were raised in the objections are.

Objection	Applicant Response	Planning Response
Dust impacts	Moisture to be added when cultivating and can cultivate in suitable weather conditions.	The land is within the settlement boundary of Tatura and residentially zoned area and residential amenity should be maintained. Clause 13.04-2 specifically relates to air quality and states that wherever possible, suitable separation should be provided between land uses that reduce amenity and sensitive land uses.
Use of chemical sprays and impacts on <ul style="list-style-type: none"> • Health and safety (people and animals) • environment 	Not proposing to use chemicals/sprays.	Residential amenity for surrounding properties should be maintained. If a planning permit was to issue, it would be difficult to condition to enforce without undertaking regular surveillance and soil assessments.
Potential for animals such as horses and dogs to be impacted on by toxins in fruit and vegetables (including garlic)	Recognises garlic can be harmful to animals in large doses. Has stated that roots approx. 100mm deep, and unlikely to be washed away onto adjacent properties.	Whilst the crop will contained to the subject land, residential amenity should be protected, including the health and safety of pets associated with a dwelling.
Movement of soils in flood event and drainage runoff	GBCMA assessed and approved subject to conditions.	Both the GBCMA and Council's Engineering Department did not object to application. The Engineering Department required conditions relating to a

		drainage plan to be submitted and approved prior to works being undertaken.
Noise	Limit the size of machinery to be used (max 50HP Tractor)	Residential use is considered to be a sensitive land use and should be protected from uses that generate noise impacts, other than what is considered acceptable in the zone (ie, the occasional lawn mower, and other domestic uses)
Smell of rotting/unpicked fruit and vegetables if not picked	Applicant has stated that the crop would be harvested all at once. Have offered for Council Health officer to inspect once harvest has occurred.	It is noted that this is not covered by the <i>Public Health and Wellbeing Act 2008</i> and therefore not within the Council's Environmental Health responsibility.
Rubbish as a result of use (ie. plastic beds)	Applicant has stated all plastic would be removed and disposed of at end of harvest. Have offered a Council officer to inspect once occurred.	It is noted that this is not covered by the <i>Public Health and Wellbeing Act 2008</i> and therefore not within the Council's Environmental Health responsibility.
Valuation of property	If all issues are appropriately addressed, there won't be any adverse effect on value or rentability. People interested in large blocks generally appreciate rural living.	The valuation of land is not a Planning consideration.
Lack of privacy	Garlic is harvested all at once and there is no ongoing labour, except for the family looking after irrigation and occasional weeding	As the land is zoned residential, consideration is required to be given to personal privacy. The application would be likely to cause some privacy impact neighbouring properties (specifically to the east).
Commercial venture in a Low Density Residential Zone and Urban	No response provided	The land is within settlement boundary of Tatura which also has residential zoning.

<p>Floodway Zone.</p> <p>Agricultural use should be carried out within a Farming area not within Tatura Settlement</p>		<p>Significant weight should be given to residential amenity of the area.</p> <p>The use would be better suited to a Farming Zone where no permit would be required for the proposal (Section 1 Use)</p>
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The letter of support commended the applicant for using the land for food production.

Title Details

The title contains a Section 173 Agreement and a Crown Grant. The application does not breach the Section 173 Agreement or Crown Grant for the following reasons:

Crown Grant

- Crown grant addresses minerals and mining.

Section 173 Agreement

- Relates to the construction of a pipeline under Hampton Road to the property.

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Pre –application meeting;
- Correspondence with the applicant regarding objections;
- Meeting with objectors (Winters on 21/11/2017);
- Telephone correspondence with objector (Pena 21/11/2017 and 22/11/2017)

Referrals

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Goulburn Broken Catchment Management Authority	37.03-5	Recommending	<p>The application was referred to the GBCMA who provided the following response:</p> <p>In the light of the above information and pursuant to <i>Section 56 of the Planning and Environment Act 1987</i>, the Goulburn Broken CMA does not object to the granting of a permit, subject to the following condition:</p> <ol style="list-style-type: none"> 1. No additional soil is to be imported.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
No Section 52 Notices required	

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	<p>The application was internally referred to the Council's Engineering Department who provided the following conditions:</p> <p><u>Rural Vehicle Crossing</u></p> <p>Before the use begins the vehicle crossings providing access to the land must be constructed at a location and of dimensions and standard to the satisfaction of the responsible authority. Vehicle crossing(s) must be constructed at the owner's expense.</p> <p>The vehicle crossing must be</p> <ul style="list-style-type: none"> • no less than 5 metres in length and the pavement is to be sealed where it abuts an existing sealed road and not block the flow of water from the table drain; • The final location of the crossing is to be approved by the responsible authority via a 'Works within the Roads Reserve' (Road Opening) permit. <p><u>Rural Drainage – Works</u></p> <p>Before the use begins and/or the building(s) is/are occupied all stormwater and surface water drainage from the land, buildings and works must be retained on-site and/or connected to the legal point of discharge to the satisfaction of the Responsible Authority/Goulburn Murray Water. Effluent and/or polluted water must not be discharged to Council's stormwater drainage system from the land.</p> <p><u>Construction of Works</u></p> <p>Before the use begins, the owner must construct and complete road works, drainage and other civil works, in accordance with endorsed plans and specifications approved by the Responsible Authority and in accordance with the Infrastructure Design Manual. Road works, drainage and other civil works to be constructed must include:-</p> <ol style="list-style-type: none"> a) The western vehicular access to the lot off Taylor Rd must have been constructed to Councils' IDM standard drawing SD255.
Environmental Health Department	<p>The application was internally referred to the Council's Environmental Health Department who did not object subject to the following:</p> <ol style="list-style-type: none"> 1. The operation of a market garden must be operated in a way the does not allow a nuisance to occur. Under the Public Health and Wellbeing Act a person must not cause a nuisance, or knowingly allow or suffer a nuisance to exist on or emanate from, any land owned or occupied by that person. Nuisance can arise from noise or emission, dust, odour, spray drift, and any other activity that is, or is liable to be dangerous to health or offensive. 2. All agricultural runoff must be kept within the property boundaries.

Assessment

The zoning of the land

Low Density Residential Zone

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.*

32.03-6 Decision guidelines

General

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

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

Urban Floodway Zone

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify waterways, major floodpaths, drainage depressions and high hazard areas within urban areas which have the greatest risk and frequency of being affected by flooding.*
- *To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.*
- *To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989.*
- *To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*

37.03-6 Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The local floodplain development plan or flood risk report.*
- *Any comments of the relevant floodplain management authority.*

Relevant overlay provisions

Land Subject to Inundation Overlay

Purpose

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

- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

The State Planning Policy Framework (SPPF)

10.04 Integrated decision making

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

13.02 Floodplains

13.02-1 Floodplain management

Objective

To assist the protection of:

- Life, property and community infrastructure from flood hazard.
- The natural flood carrying capacity of rivers, streams and floodways.
- The flood storage function of floodplains and waterways.
- Floodplain areas of environmental significance or of importance to river health.

Strategies

- Identify land affected by flooding, including floodway areas, as verified by the relevant floodplain management authority, in planning scheme maps. Land affected by flooding is land inundated by the 1 in 100 year flood event or as determined by the floodplain management authority.
- Avoid intensifying the impacts of flooding through inappropriately located uses and developments. Locate emergency and community facilities (including hospitals, ambulance stations, police stations, fire stations, residential aged care facilities, communication facilities, transport facilities, community shelters and schools) outside *the 1 in 100 year* floodplain and, where possible, at levels above the height of the probable maximum flood.
- Locate developments and uses which involve the storage or disposal of environmentally hazardous industrial and agricultural chemicals or wastes and other dangerous goods (including intensive animal industries and sewage treatment plants) must not be located on floodplains unless site design and management is such that

potential contact between such substances and floodwaters is prevented, without affecting the flood carrying and flood storage functions of the floodplain.

13.04 Noise and air

13.04-1 Noise abatement

Objective

To assist the control of noise effects on sensitive land uses.

Strategy

Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Policy guidelines

Planning must consider as relevant:

- *Interim Guidelines for Control of Noise from Industry in Country Victoria (Environment Protection Authority, 1989).*

13.04-2 Air quality

Objective

To assist the protection and improvement of air quality.

Strategies

Ensure that land-use planning and transport infrastructure provision contribute to improved air quality by:

- Ensure, wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses.

Policy guidelines

Planning must consider as relevant:

- *State Environment Protection Policy (Air Quality Management).*
- *Recommended Buffer Distances for Industrial Residual Air Emissions (Environmental Protection Authority, 1990)* in assessing the separation between land uses that reduce amenity and sensitive land uses.

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

21.04-6 Non Residential Uses

Council acknowledges that there is a need to protect the amenity of existing and future residential areas. While a range of non-residential uses in residential areas provide services to the local community, (including places of worship, schools, medical centres, display homes, child care centres, cafes, restaurants, and the like), it is important to ensure that these uses do not have a negative impact on residential amenity through inappropriate location, unsympathetic design, and traffic impacts. Petrol stations and car washes in particular are discouraged in residential zones.

Objectives – Non-Residential Uses (relevant)

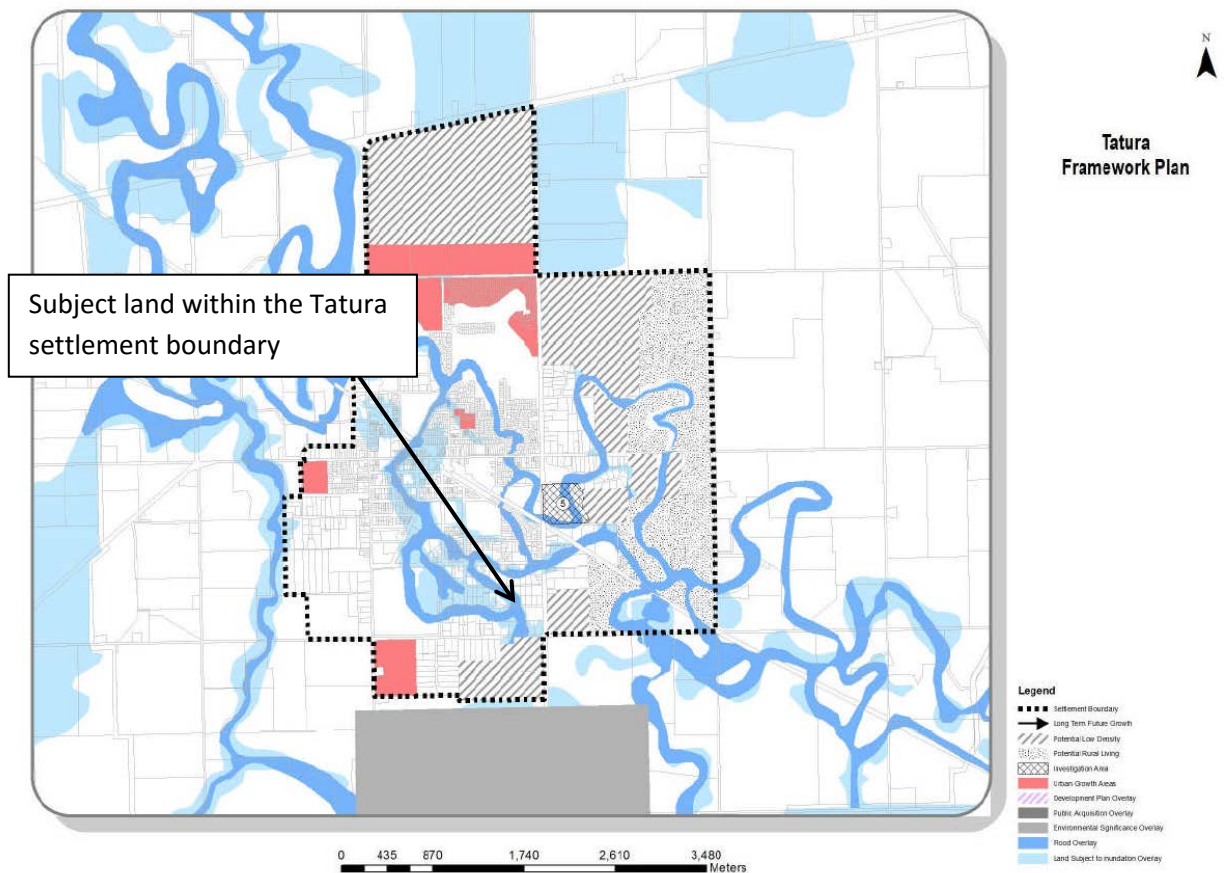
- To ensure that non residential uses are appropriately located.
- To ensure that non residential uses are appropriately located having regard to:
 - The intensity and hours of operation of the proposed activity.

- To ensure that the appearance and scale of non residential development in residential zones is consistent with nearby housing.

Strategies – Non-Residential Uses

- Ensure non residential uses are located in areas that are appropriate to the intensity and scale of the proposed use and that will have minimal impact on the amenity of nearby residential properties.
- Ensure the siting and design of buildings and works (including car parking areas) responds to the surrounding housing and streetscape and includes features to reduce the noise, loss of privacy and to enhance the appearance of the development, including landscaping, screening, acoustic fencing.

The Tatura Framework Plan



21.05-2 Floodplain and Drainage Management

The catchments of the various rivers and streams within the municipality include areas of flood prone land, where flooding has historically caused substantial damage to the natural and built environment. Floods are naturally occurring events and the inherent functions of the floodplains to convey and store floodwater should be recognised and preserved to minimise the deterioration of environmental values, the long term flood risk to floodplain production, assets and communities.

Flooding imposes substantial costs on individuals and the community. While significant costs are incurred by direct damage to public and private property, indirect costs to the community such as loss of productivity, displacement of residents, closure of roads, trauma and ill health are also significant. Notwithstanding these significant impacts, natural flooding of

floodplains and their associated wetlands provide essential breeding habitats for bird and aquatic species, and promotes the health of rivers and floodplains.

Sound floodplain management is the means by which the economic, social and environmental risks associated with floodplain use and development can be minimised. This level of management is provided by six "local floodplain development plans (LFDP)" incorporated into the scheme at Clause 81.

Objectives - Floodplain and Drainage Management

- *To recognise the constraints of the floodplain on the use and development of land.*

Strategies - Floodplain Management

- *Discourage development and subdivision on land subject to flooding.*
- *Ensure that all new development maintains the free passage and temporary storage of floodwater, minimises flood damage is compatible with flood hazard and local drainage conditions, and minimises soil erosion, sedimentation and silting.*
- *Prevent tree removal to minimise loss of riparian vegetation as a result of development on the floodplain.*

Relevant Particular Provisions

There are no relevant Particular Provisions that relate to the application.

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.

65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

Officers Response:

In considering the application the determining factors are:

- The use and development of a market garden in the UFZ and LSIO and any potential impacts to the designated floodplain;
- The use and development of a market garden in a Low Density Residential Zone, and impacts on residential amenity of the area.
- Whether the proposed use and development of the market garden is appropriate given the existing character of the area.

Urban Floodway and Land Subject to Inundation Overlay

The proposed market garden is predominately located within the UFZ with a small portion to the north west of the land being within the LDRZ (which is also affected by the LSIO).

The application is found to be an appropriate use and Development in the UFZ and appropriate development in the LSIO as follows:

- The purpose of the UFZ is to protect the function of the floodplain and to ensure use and development maintains a free passage and allows for storage of floodwaters to flow as well as protect the quality of waterways.
- The application was referred to the GBCMA who are considered to be the governments expert flood authority. The GBCMA responded with no objection subject to a condition prohibiting the importing of additional soil. This would ensure the level of the land is not raised to divert flow of floodwaters onto surrounding lands.
- Given the GBCMA did not object to the proposal, it is considered that the proposal generally complies with the relevant flooding policies and floodplain development plan, and is not expected to cause significant impact on the function of the floodplain and river health.

LRDZ

The purpose of the LDRZ which *is to provide for low density residential development on lots which, in the absence of reticulated sewerage, can treat and retain wastewater.*

The proposed market garden is not considered appropriate in the zone as follows:

- The application is inconsistent with the purpose of the zone, as it proposes an agricultural use and is not considered to be ancillary to the existing dwelling on the land.

- The application is inconsistent with the settlement strategy whereby it is proposed to locate an agricultural use within an identified settlement boundary of Tatura.
- The Scheme recognises residential use as a sensitive use. The proposal is considered to be at variance Clause 13.04-1 and 13.04-2 (noise and air) as it proposes an agricultural use 30 metres from an existing dwelling. Despite the objector proposing on site farm management practises to limit amenity impacts, the proposal has the potential to cause a detrimental impact on the amenity of surrounding residential properties with relation to noise (farm machinery, pickers), dust and odour (for example fertilisers/blood and bone etc.) and health impacts from spray drift.
- It is noted that the Scheme specifically deals with residential/farming land use conflicts and as a result limits housing opportunities in farming zones to ensure farming practices take precedence over residential use of land. In this instance, given the residential zoning, precedence should be given to the residential amenity of the LDRZ.

Character of the area

The surrounding site context is as follows:

- The subject land is located to the south of Tatura.
- The character is reflective of the significant affect the UFZ has on the area. Lots are generally characterised in two ways:
 - Where lots are not affected by the UFZ, the pattern of development generally provides for low density residential use with lots generally meeting the minimum size requirements of the LDRZ where sewer connection is not available (lots generally 4000 sqm in size). This demonstrates that surrounding land is developed directly in accordance with the purpose of the LDRZ which *is to provide for low density residential development on lots which, in the absence of reticulated sewerage, can treat and retain wastewater.*
 - where lots are affected by the UFZ, lots sizes are generally greater than 4000sqm and are developed for residential use (within the LDRZ areas) and have ancillary small scale horse keeping, hobby farming and keeping of pets due to the restrictive nature of the UFZ.
- The proposed use of the land for a market garden would result in an agricultural use being carried out in a low density residential area. Whilst it is acknowledged the character of the area does in some instances allow for ancillary uses to a dwelling, such as the keeping of pets and small scale hobby farming, the market garden has

the potential to cause significant amenity impacts, and therefore would be at variance to the established character. This is further supported by the lodgement of two objections from surrounding property owners.

In balancing the conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations, precedence must be given to residential amenity given the land is within the designated settlement boundary of Tatura and also within the LDRZ.

In this instance despite the application producing an acceptable outcome in the UFZ and LSIO, the application is considered to negatively impact on the amenity of residential properties, and therefore produces an unacceptable planning outcome when assessed against the Scheme.

Relevant incorporated or reference documents

Local Floodplain Development Plan – Precinct of Mosquito Depression (2006)

7.0 Development Requirements for UFZ

7.2 Works

- new earthworks must not obstruct the natural flow paths or drainage lines.

The GBCMA have responded with no objection. It is therefore considered that the application will not impact on natural flow paths or drainage lines in the area.

Other relevant adopted State policies or strategies policies

There are no other relevant State policies or strategies that relate to the application.

Relevant Planning Scheme amendments

There are no relevant Planning Scheme amendments that relate to the application.

Are there any significant social & economic effects?

There are no significant social and economic effects that relate to the application.

Discuss any other relevant Acts that relate to the application?

There are no other relevant Acts that relate to the application.

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 application is not considered to impinge on the Charter of Human Rights and Responsibilities.

Conclusion

The planning permit application has been considered in accordance with the Greater Shepparton Planning Scheme and is not considered to achieve an acceptable planning outcome in a residential area, despite being found appropriate in an area affected by a floodplain. It is therefore recommended that the Development Hearings Panel refuse the application for the use and development of a market garden in the LDRZ, UFZ and works in the LSIO.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2017-232

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 50 Taylor Road TATURA VIC 3616

WHAT HAS BEEN REFUSED: use and development of land for a market garden in the Low Density Residential Zone, Urban Floodway Zone and Land Subject to Inundation Overlay

WHAT ARE THE REASONS FOR THE REFUSAL?

- 1) The application is contrary to the State Planning Policy Framework
 - a. 13.04 Noise and air
 - i. To assist the control of noise effects on sensitive land uses.
 - ii. To assist the protection and improvement of air quality.
- 2) The application is contrary to Local Planning Policy Framework
 - a. 21.04 Tatura Framework Plan
 - i. The land is located within the Settlement boundary of Tatura
 - b. 22.04-6 Non-residential uses
 - i. To ensure that the appearance and scale of non residential development in residential zones is consistent with nearby housing; and
 - ii. Ensure non residential uses are located in areas that are appropriate to the intensity and scale of the proposed use and that will have minimal impact on the amenity of nearby residential properties
- 3) The application is contrary to the purpose of the Low Density Residential Zone 32.03.
 - a. to provide for low density residential development on lots, in the absence of reticulated sewerage, can treat and retain all wastewater.
- 4) The application is contrary to the decision guidelines of Clause 65.01
 - a. The proposed use not considered orderly given the zoning and existing character of the area.
 - b. The application is likely to cause a detrimental amenity impacts on surrounding residential uses in the area.

Development Hearings Panel

Delegate Report

Application Details:

Responsible Officer:	Robert Duncan
Application Number:	2017-221
Applicants Name:	Apex Earthworths Pty Ltd T/A Pearse Earthmoving
Date Application Received:	31 July 2017
Statutory Days:	58
Land/Address:	907 Goulburn Valley Highway CONGUPNA VIC 3633
Zoning and Overlays:	Farming Zone 1 Land Subject to Inundation Overlay Adjoins Road Zone Category 1
Why is a permit required (include Permit Triggers):	35.07-4 buildings and works associated with a Section 2 use (earthmoving business) 63.05 Sections 2 and 3 uses <i>No building or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other building or works requirement in this scheme.</i> 44.04-1 buildings and works
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No

Proposal

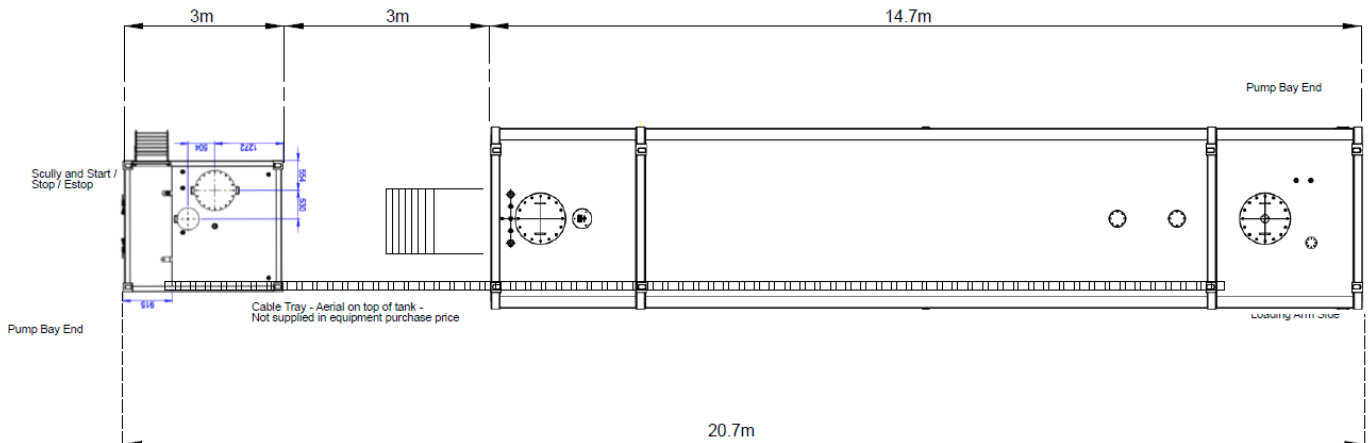
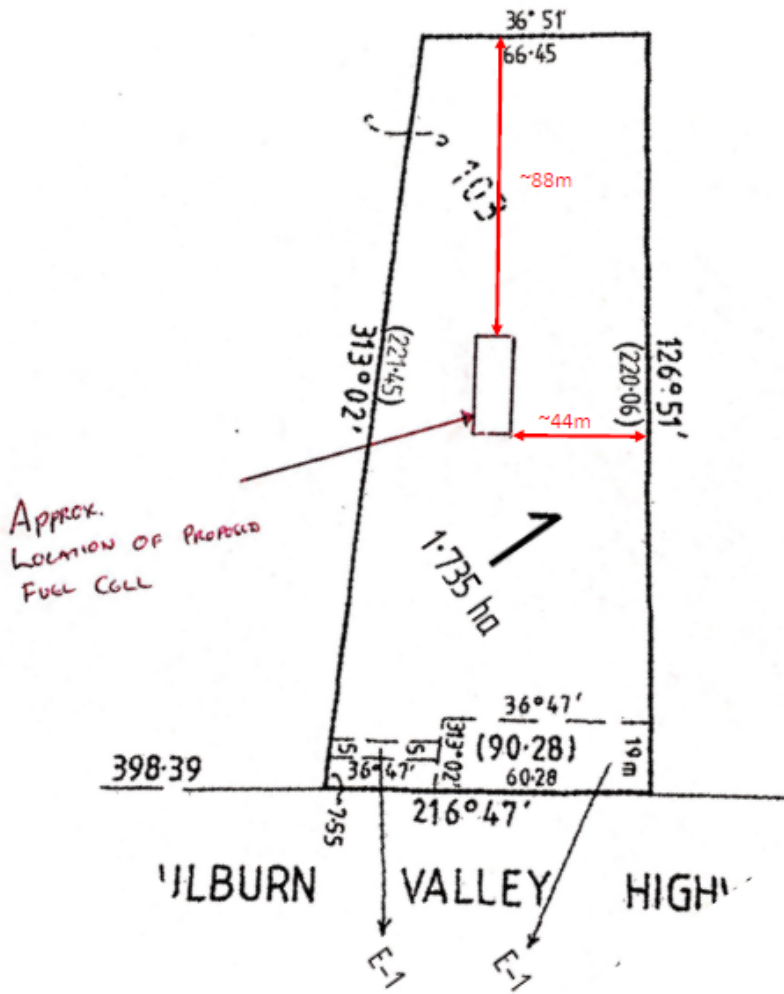
The proposal is for an above ground fuel cell at 907 Goulburn Valley Highway, Congupna. The application is retrospective.

The fuel cell is used by the existing earthmoving business only. Existing use rights exist for an earthmoving business to operate from the land as identified in Planning Permit 2014-269 – issued for earthworks. Normally an earthmoving business would be a Section 2 use in the Farming Zone.

A planning permit is required for buildings and works associated with a Section 2 use in the Farming Zone (35.07-4) and buildings and works in the Land Subject to Inundation Overlay (44.04-1)

A permit is not required for use as the fuel cell is deemed ancillary to the existing use.

The proposal will have the following layout



Summary of Key Issues

The use has existing use rights, the addition of a transportable fuel cell will not further entrench an inappropriate non-agricultural use in the Farming Zone. The subject land is small (1.8ha) in farming terms and has limited to no future agricultural production value.

Earthmoving businesses have operated from the land for many years, significant remediation works would be required to return the land to a standard appropriate for farming.

The proposal does not present a significant risk to the agricultural production value of surrounding agricultural land for the following reasons:

- The fuel cell addition is appropriately setback from (minimum 40+ metres) neighbouring properties and public infrastructure to ensure adverse impacts are low.
- The fuel cell is a brand new self bunded / double walled tank. They are fitted with overfill protection systems .The system is designed so that all pipe work is above the ground, and so easily accessible for regular inspections or is within the bund.
- Planning permit conditions regarding drainage and spillage will ensure surrounding land holders to do not experience any adverse effects from the proposal.

The floodplain management authority, have no objection to the works in the Land Subject to Inundation Overlay.

The proposed fuel cell (retrospective) is an appropriate addition to the existing use of the land, earthmoving contractor's depot.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2017-221** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-4, 44.04-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **907 Goulburn Valley Highway CONGUPNA VIC 3633**, for the **Buildings and works for a fuel cell in the Farming Zone 1 and Land Subject to Inundation Overlay** in accordance with the Notice of Decision and the endorsed plans.

Responsible Officer advised that the objector had withdrawn the objection.

Moved by Emma Kubeil

Seconded by Andrew Fletcher

The matter was remitted back to the responsible officer to issue a **planning permit**.

That Council having caused notice of Planning Application No. **2017-221** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-4, 44.04-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **907 Goulburn Valley Highway CONGUPNA VIC 3633**, for the **Buildings and works for a fuel cell in the Farming Zone 1 and Land Subject to Inundation Overlay** in accordance with the Notice of Decision, additional condition and the endorsed plans.

Addition of condition 2 to read:

2) No public access

The fuel cell approved by this permit must only be utilised by the owner/occupant of the land or owner of the fuel cell.

Existing condition 2) to become condition 3)

CARRIED

Subject Site & Locality

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

The site has a total area of **18317** square metres and currently contains:

- 1) An existing dwelling in the southern corner of the property adjacent the Goulburn Valley Highway.
- 2) A shed located on the north east boundary used in association with the main use of the land for a earth moving company.
- 3) The remainder of the land is covered with a crushed rock and used for the storage of earth moving equipment.

The main site/locality characteristics are:

- 4) The land abuts the Goulburn Valley Highway, a Road Zone, Category 1 on the south eastern boundary.
- 5) The surrounding land is zoned farming with the land on the north east and north west boundaries in one ownership and used for equine purposes.
- 6) The land to south west also zoned Farming, is used as part of the Goulburn Valley equine hospital, with a number of facilities including housing for vets and stables and sheds used for the storage and operation of medical equipment.

The Photos below show the existing site:





Permit/Site History

The history of the site includes:

- Planning permit 1997-207
- Planning permit 2012-368 was issued for the use and development of the land for a telecommunications tower.
- Enforcement File EF-426 resulted in this planning permit application being made as detailed in the proposal section of this report.
- Enforcement File EF-480 was opened as a result of conditions for planning permit 2012-368 not being complied with.
- EF-2017-73 – fuel cell without planning permission

Further Information

Was further information requested for this application? **Yes**

What date was the further information requested?: **17 August 2017**

What date was the further information received?: **13 September 2017**

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

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

The application was exempt from notice under the Land Subject to Inundation Overlay (44.04-4)

Objections

The Council has received **one** objection to date. The objection is as follows:

How will you be affected if a permit is granted?

The landowners will be affected by the approval of this application.

Multiple commercial activities are undertaken from this property evidenced by signage, equipment located on site and now further supported by the installation of a commercial sized refuelling facility. As a result the adjoining farming property (25 Congupna West Road) will be adversely impacted in particular environmentally.

Major concerns are the lack of protection infrastructure on the property to mitigate the risk of contamination to adjoining farming land.

Inadequate drainage provides significant risk of contamination seepage around the 1.7ha site.

Residual run off from activities with large commercial machinery washing being undertaken, refilling a large fuel storage facility and multiple refuelling of commercial equipment are of a high risk nature. This is particularly increased after rain events. (noting; the photo in the application form already shows contamination on the ground surrounding new fuel storage)

Reason for objection

Major concerns around the potential of environmental impacts to the adjoining farming property.

Impacts of increased commercial activity on this property with the refuelling station (including after hours – floodlighting)

The applicants lack of following proper permits and within regulations. (evidenced by retrospective application) raises concerns of future use and activity.

What changes would you like to see to the application to satisfy your concerns;

1. Who is actually installing the refuelling facility? According to the Refuelling Solution's own website they install refuelling facilities ("due to demand of fuel in the more remote areas of NSW, Vic and SA, Refuelling Solutions has installed above ground tanks in the following locations") The application form is submitted by Apex earthworks.
2. Clarification and confirmation of Farming Zone 1 for this property?
3. The application form refers to the fuel tank as a replacement? (is this a replacement – which infers a like for like – previously there not a fuel tank of this commercial size)
4. Can the application include the capacity of the fuel storage facility?
5. And temporary structure reference (what does this mean and what is the term of this application?)
6. Can the application include what property and infrastructure safeguards will be put in place to mitigate any associated risks?
7. Can the application process confirm what compliance obligations are required to be met by all relevant authorities.

Response to Objection to grant planning permit from Applicant

The fuel tanks installed referred to in the objection are brand new, self bunded temporary fuel tanks and have been constructed to highest construction and environmental standards. Apex Earthworks Pty Ltd has engaged Refuelling Solutions to manage our fuel supply as they are professionals in fuel management.

Issue / Objection	Response
<p>Major concerns around potential environmental impacts to adjoining farming property.</p>	<p>The highest safety and environmental standards are in place. The refuelling tanks are brand new self bunded / double walled tanks. They are fitted with overfill protection and approved to AS 1940, AS 1692, AS 1657, UL142 and ULC-S601. The system is designed so that all pipe work is above the ground, and so easily accessible for regular inspections or is within the bund.</p> <p>The tanks are temporary structures, have been situated in the center of the property and are located ~ 40m+ from the property boundary.</p> <p>Refuelling Solutions maintain world standards of ISO accreditation for Environmental Management and Quality Management System.</p> <p>Refuelling Solutions has a zero fuel to ground policy, and their goal is to assure safe, clean, reliable, quality fuel supply.</p>
<p>Impacts of increased commercial activity on the property with refuelling station (including afterhours flood lighting).</p>	<p>There will be a minimal increase in activity on the property resulting from the installation of the temporary tanks. The tanks will only be accessed by Refuelling Solutions and Apex Earthworks Pty Ltd (Pearse Earthmoving).</p> <p>The tanks are located more than 40+ meters from the property boundary and 250m+ from the O'Brien house.</p> <p>The flood light faces towards GV Highway only and has been installed as such to minimize any impact.</p>
<p>Applicants lack of following proper process to ensure the site is operating with proper permits and within regulations</p>	<p>Our understanding is that a permit was not required for the installation as the tanks are not a fixed or permanent structure in any way, and are treated the same as a shipping container. Refuelling Solutions have installed a number of tanks around the state and permits have not been required.</p>
<p>Who is actually installing the refuelling facility?</p>	<p>The fuel tanks are owned, installed, operated and maintained by Refuelling Solutions. The tanks are for the exclusive use of Refuelling Solutions and Apex Earthworks Pty Ltd only and are not open to the public.</p> <p>The Apex Earthworks Pty Ltd agreement with Refuelling Solutions is that they will</p>

	provide fuel for our business operations and fuel delivery.
Clarification and conformation of farming Zone 1 of the property.	<p>Apex Earthworks Pty Ltd purchased the 'Pearse Earthmoving' business on the 01/07/2016 and are leasing the property at 907 Goulburn Valley Highway from the previous business owner and now landlord Clayton Pearse. We have continued to operate the business from the property as per the previous owners use.</p> <p>Apex Earthworks Pty Ltd notes the comment made about 'multiple commercial operations' however we would like to clarify that the nature of the business operating out of the property has not changed. The plant and equipment stored at the property has decreased within the past 12 months, and the additional signage referred to is only advertising for our related company Apex Rail Pty Ltd.</p>
Capacity of the fuel storage Facility.	105,000 litres Diesel 10,000 litres Petrol
The application form refers to the fuel tank as a replacement.	Previously the self-bunded tank at rear of the property was used to store fuel. We are no longer using this tank as it was not sufficient to support our business needs, and the new tank replaces it. Apex Earthworks Pty Ltd acknowledges that the tanks are not like-for-like, however, the new tank was selected based on safety, usage and frequency of deliveries to the area.
Temporary Structure Reference	The tanks installed are classified as temporary structures. They do not require any footings, they are self-contained and designed to be carried by trucks from location to location.
What property and infrastructure safeguards will be put in place to mitigate any associated risks	Refuelling Solutions operate / maintain the tanks in the same way they run all their other facilities. They install the highest quality tanks with all the safeguarding already inbuilt. They are self bunded / double walled tanks, fitted with overfill protection and approved to AS 1940, AS 1692, AS 1657, UL142 and ULC-S601. Personnel are explicitly trained in how to follow the operating procedures for the system and audits are conducted to ensure all the requirements are achieved. Refuelling Solutions' certified, professional refuelling operators are trained in spill prevention and abatement, and make site safety their number one priority. Along with

	the implementation of Occupational Health and Safety Management Systems, Refuelling Solutions ensures all compliance obligations are met.
Compliance obligations are required to be met by all relevant authorities.	Refuelling Solutions pride themselves with compliance to all relative State and National Legislation. Refuelling Solutions own and operate a large fleet of portable tanks and vehicles, each of which safely deliver fuel and lubricants throughout Australia. Refuelling Solutions own and operate 22 sites across Australia which are built to Australian Standard AS1940, and all operated by trained staff and expertly maintained vehicles.

Title Details

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

Consultation

- Assessing officer has spoken with the applicant and objector on numerous occasions regarding the application.
- The response to objection was provided to the objector on 16 November 2017.
- The objector did not wish for the objection to be withdrawn.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Goulburn Broken Catchment Management Authority	44.04-5	Recommending	the Goulburn Broken CMA does not object to the granting of a permit.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
No Section 52 Notices required	

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
<p>Council's Development Engineers</p>	<p><u>Construction Phase</u> Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Responsible Authority.</p> <p>Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Responsible Authority.</p> <p><u>Council's Assets</u> Before the development starts or subdivision works commences, the owner or developer must submit to the Responsible Authority a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb & channel, footpath, seal, street lights, signs and other public infrastructure fronting the property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to the Councils assets/Public infrastructure caused as a result of the development or use permitted by this permit.</p> <p>NOTATIONS</p> <p><u>Building Approval Required</u> This permit does not authorize the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.</p> <p><u>Works within Road Reserves Permit Required</u> A Works within Road Reserves permit must be obtained from the Responsible Authority prior to carrying out of any vehicle crossing works.</p> <p>*Planner's response, application is retrospective. Above conditions not applicable</p>

Assessment

The zoning of the land

Farming Zone 1

Purpose

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

To provide for the use of land for agriculture.

To encourage the retention of productive agricultural land.

To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

To encourage the retention of employment and population to support rural communities.

To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

Buildings and works

A permit is required to construct or carry out any of the following:

- A building or works associated with a use in Section 2 of Clause 35.07-1.

Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General issues

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.

Agricultural issues and the impacts from non-agricultural uses

- Whether the use or development will support and enhance agricultural production.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the agricultural use.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- Any integrated land management plan prepared for the site.

Environmental issues

- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.
- The impact of the use or development on the flora and fauna on the site and its surrounds.

- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

Design and siting issues

- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.
- Whether the use and development will require traffic management measures.

Relevant overlay provisions

Land Subject to Inundation Overlay

Purpose

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

To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.

To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.

To protect water quality in accordance with the provisions of relevant State Environment

Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

Buildings and works

A permit is required to construct a building or to construct or carry out works

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any local floodplain development plan.
- Any comments from the relevant floodplain management authority.
- The existing use and development of the land.
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.
- The susceptibility of the development to flooding and flood damage.
- The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include:
 - The frequency, duration, extent, depth and velocity of flooding of the site and accessway.
 - The flood warning time available.
 - The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.
- The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.
- The effect of the development on river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance.

The State Planning Policy Framework (SPPF)

Floodplain Management 13.02-1

Relevant objectives include to assist the protection of:

- Life, property and community infrastructure from flood hazard.
- The natural flood carrying capacity of rivers, streams and floodways.

- The flood storage function of floodplains and waterways.
- Floodplain areas of environmental significance or of importance.

The Local Planning Policy Framework (LPPF)- including the Municipal Strategic Statement (MSS), local planning policies and Structure Plans
21.05-2 Floodplain and Drainage Management

Relevant objectives and Strategies include:

- To recognise the constraints of the floodplain on the use and development of the land.
- Discourage development and subdivision on land subject to flooding
- Ensure that all new development maintains the free passage and temporary storage of floodwater, minimises flood damage, is compatible with flood hazard and local drainage conditions, and minimises soil erosion, sedimentation and silting.
- Prevent tree removal to minimise loss of riparian vegetation as a result of development on the floodplain.

Relevant Particular Provisions

Sections 2 and 3 – 63.05

A use in section 2 or 3 of a zone for which an existing use right is established may continue provided:

- No building or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other building or works requirement in this scheme.
- Any condition or restriction to which the use was subject continues to be met. This includes any implied restriction on the extent of the land subject to the existing use right or the extent of activities within the use.
- The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.

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.

65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.

- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

Officer's assessment

The application for the transportable, above ground, self bunded fuel cell consists of a 105,000 litre diesel tank and a 10,000 litre petrol tank. The fuel is not for external sale and is only used to serve the earthmoving business operating from the land.

The land is zoned Farming Zone, the use of the land would normally require planning permission (Section 2 use), however, in this instance existing use rights has been established through a previous planning permit assessment (2014-269). A permit is only required for buildings and works.

The works undertaken are considered acceptable in the Farming Zone in that they will allow for the existing use to continue to operate. The key concerns raised in the objection concern environmental impacts and increased activity on the land.

The perceived environmental risks associated with the self bunded fuel cell are considered to be minimal, however, issues regarding drainage across property boundaries and seepage issues will be addressed through planning permit conditions.

A drainage plan will be required to ensure that the property is discharging to the right point.

A planning permit condition will also be included requiring information on how the contamination from fuel spills will be contained within the fuel delivery area to avoid any contamination entering into the stormwater system and other properties.

With regard to the increased activity on the land, the fuel cell addition is not expected to create any extra activity, apart from when the fuel cell is refuelled, however due to its size the fuel cell will not require regular filling.

The assessing officer notes a Goulburn Murray Water (GMW) channel runs along the Northern Boundary of 905 Goulburn Valley Hwy, as per GMW requirements no buildings or works are to be located within 30 metres of open irrigation or drainage channels, the proposal is more than 40 metres from the channel.

As identified above, the land has existing use rights and given its size was unlikely to be used for agriculture and therefore the works will not remove any land from agricultural production. Application of appropriate drainage and spillage measures will ensure surrounding land holders and the agricultural production value of surrounding land is not adversely affected.

The land is partially affected by the Land Subject to Inundation Overlay and a permit was triggered for works pursuant to Clause 44.04-1. The application was referred to the Goulburn Broken Catchment Management Authority, who do not object to the issue of a permit.

Relevant incorporated or reference documents

Greater Shepparton Floodplain Development Management Plan - Precinct of Broken Creek, October 2006

Other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

There are no relevant planning scheme amendments that relate to the applications.

Are there any significant social & economic effects?

There are no significant social and economic effects that relate to the application.

Discuss any other relevant Acts that relate to the application?

There are no other relevant acts that relate to the application.

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 process of consideration and decision-making in respect of the application has given proper consideration to and is compatible with the requirements of the Charter of Human Rights and Responsibilities.

Conclusion

Given the above and that the application for a planning permit achieves acceptable planning outcomes subject to planning permit conditions and therefore it is recommended that the application be approved.

Draft Notice Of Decision

APPLICATION NO: 2017-221

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

THE RESPONSIBLE AUTHORITY HAS DECIDED TO GRANT A PERMIT.

THE PERMIT HAS NOT BEEN ISSUED.

ADDRESS OF THE LAND: 907 GOULBURN VALLEY HIGHWAY
CONGUPNA VIC 3633

WHAT THE PERMIT WILL ALLOW: BUILDINGS AND WORKS FOR A FUEL CELL IN THE FARMING ZONE 1 AND LAND SUBJECT TO INUNDATION OVERLAY

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. **Layout Not Altered**

The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

2. **Drainage**

Within 2 months of the issue of this permit a drainage plan with computations prepared by a suitably qualified person to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale and include:

- a) How the contamination from fuel spills will be contained within the fuel delivery area to avoid any contamination entering into stormwater drainage systems or other properties. (the drawing must as a minimum but not limited to, include the construction details of the spill area and levels to show how the proposed solution works)
- b) All stormwater and surface water drainage from the land must be connected to the legal point of discharge or retained on-site to the satisfaction of the Responsible Authority.
- c) Stormwater contaminated with waste, oil, chemicals must not be discharged beyond the boundary of the land to the satisfaction of the Responsible Authority.

All drainage works required by the drainage plan must be completed to the satisfaction of the responsible authority within 4 months of the issue of this planning permit.

Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2017-328
Applicants Name:	Pine Investments P/L
Date Application Received:	25 October 2017
Statutory Days:	30
Land/Address:	103-109 Numurkah Road SHEPPARTON VIC 3630
Zoning and Overlays:	General Residential Zone Development Plan Overlay - Schedule 1 Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	Use of land to hire motor vehicles (prohibited in the GRZ)
Are there any Restrictive Covenants on the title?	No

Proposal & Discussion

The application proposes to use the land for hire rental cars. The land is currently used as a motel. The hire of vehicles has commenced from the land without permission.

The application form describes the proposal as:

To develop the land as a car park associated with the existing accommodation use and park the rental vehicles that are available to the patrons staying at the accommodation facility

Install an additional sign 1.2m x 1.8m indicative

Vehicles for Rent in addition of the room incorporated with our existing signs

The car rental agency is Budget Australia and Avis.

Officers have attended the site and observed that cars, vans and trucks are available for hire. Internet ads for the business describes the vehicle hire as 'Budget Car and Truck Rental Shepparton' and 'Avis Shepparton Airport Car and Truck Hire'.

Officers understand that the hire of vehicles is completed by an internet process including payment and the vehicles are collected from motel reception.

The land is within the GRZ.

Clause 74 includes the following definition for motor vehicle, boat or caravan sales.

Land used to sell or hire motor vehicles, boats, or caravans. It may include the minor repair or servicing of motor vehicles, boats, or caravans, and the sale or fitting of accessories.

Officers consider that the proposed use to hire motor vehicles fits this definition.

Motor vehicle, boat or caravan sales is included within retail premises which is a prohibited use in the GRZ. As a result officers do not have the ability to permit the proposed use.

Prior to this application being lodged officers met with the applicant on site on 8 September 2017 and informed that the hire of motor vehicles from the site was prohibited and no permit could issue. On the same day a Strategic Planner informed Budget by email that a rezone of the site to facilitate the motor vehicle hire would not be supported.

An inspection of the site was undertaken on 23 November 2017. The following was observed:

- 2 Budget trucks
- 1 Avis truck
- A people mover van
- A number of sedan vehicles
- A sign advertising cars, trucks, bus and 4WD



Officers have considered if the motor vehicle hire could be ancillary to the motel. Officers also note that it is not unusual for hire of vehicles to be a service provided at motels. Officers consider that the use is not ancillary as trucks and vans are also available for hire and visitors to Shepparton would not normally hire a truck or van to sight see.

Another possible land use definition for the use is a store. A store is a section 2 use in the GRZ subject to the following condition:

Must be in a building, not a dwelling, and used to store equipment, goods, or motor vehicles used in conjunction with the occupation of a resident of a dwelling on the lot.

The proposed storage of the vehicles is not within a building and is not in conjunction with the occupation (being a motel manager) of the dwelling on the land. It is therefore considered that even if the use is a store, the use of land for a store is prohibited.

It is therefore concluded that the application is prohibited. As an application has been made, officers recommend that DHP refuse to grant a planning permit.

As the use is operating without permission officers also inform DHP that if a refusal is issued enforcement action will need to be commenced to ensure the use of the land ceases.

Recommendation

Refusal

That the Council having not caused notice of Planning Application No. 2017-328 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of the Greater Shepparton Planning Scheme in respect of the land known and described as 103-109 Numurkah Road SHEPPARTON VIC 3630, for the hire of motor vehicles.

For the following reasons:

- The use of land for motor vehicle, boat or caravan sales which includes the hire of motor vehicles is a prohibited land use under the General Residential Zone.

Moved by Emma Kubeil

Seconded by Patricia Garraway

That the Council having not caused notice of Planning Application No. 2017-328 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of the Greater Shepparton Planning Scheme in respect of the land known and described as 103-109 Numurkah Road SHEPPARTON VIC 3630, for the hire of motor vehicles.

CARRIED

Public Notification

The application was not advertised pursuant to Section 52 of the *Planning and Environment Act 1987* as it is believed that no material detriment will be caused to any person for the following reasons:

- The proposed use of land is prohibited as a result it is recommended that no permit grant

Title Details

The title does not contain a Restrictive Covenant.

Conclusion

Officers have considered the proposed land use and conclude that the hire of motor vehicles is prohibited in the GRZ.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2017-328

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 103-109 Numurkah Road SHEPPARTON VIC 3630

WHAT HAS BEEN REFUSED: Use of the land to hire motor vehicles in the General Residential Zone

WHAT ARE THE REASONS FOR THE REFUSAL?

1. The use of land for a motor vehicle, boat or caravan sales which includes the hire of motor vehicles is a prohibited land use under the General Residential Zone.

Development Hearings Panel

Delegates Report

Application Details:

Responsible Officer:	Robert Duncan
Application Number:	2017-272
Applicants Name:	R Singh
Date Application Received:	13 September 2017
Statutory Days:	57
Land/Address:	138-140 O'Reilly Road TATURA VIC 3616
Zoning and Overlays:	Urban Floodway Zone Low Density Residential Zone Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	37.03-2 Buildings and works; A fence.
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No

Proposal

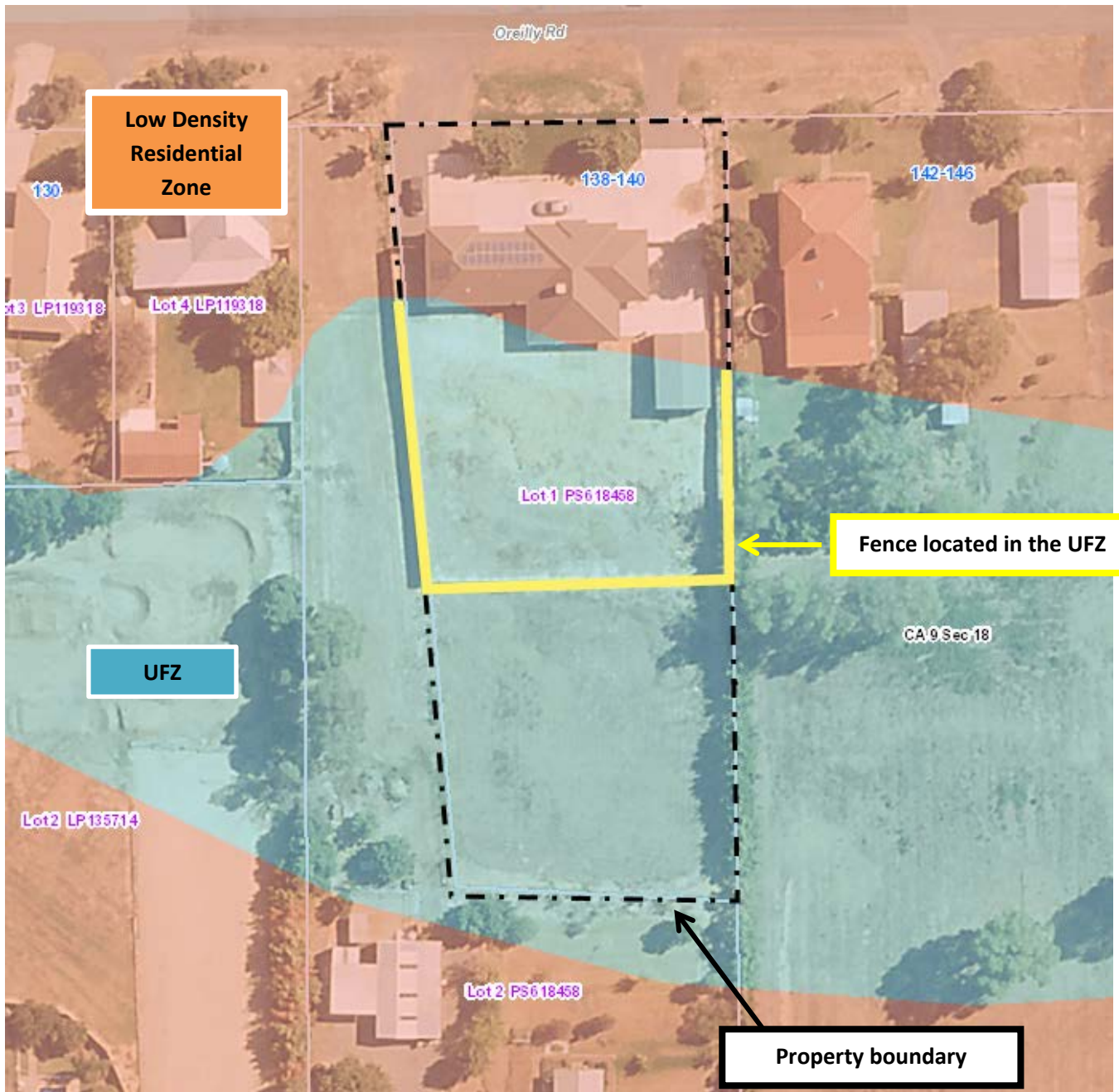
The application is retrospective for a Colorbond solid fence in the Urban Floodway Zone (UFZ) at 138-140 O'Reilly Road, Tatura.

The fence acts as a boundary fence between the Southern, East and Western neighbouring properties. The Southern portion of the fence is located approximately 40 metres from the land's Southern boundary.

The majority of the fence is located within the Urban Floodway Zone, as shown below (blue shading). The sections of fence located outside of the UFZ do not require planning permission.

As per Clause 37.03-2 of the Urban Floodway Zone, a permit is required to construct a building or construct or carry out works, including: A fence.

The application came via an enforcement process, as the current fence is in contravention of Endorsed plans forming part of the original dwelling planning permit (2014-264) which approved a post and wire fence.



Summary of Key Issues

The fence is in breach of endorsed plans for Planning Permit 2014-264, which approved a post and wire fence boundary fence. Enforcement action was undertaken.

A fence requires planning permission under the Urban Floodway Zone.

The applicant sought to gain the approval by applying for a planning permit rather than seeking to amend planning permit 2014-264.

Under Clause 66 of the Greater Shepparton Planning Scheme the application required referral to the Goulburn Broken Catchment Management Authority (GBCMA), the floodplain management authority in the region.

The GBCMA objected to the proposal.

The GBCMA are of the opinion that the proposed fence (retrospective) will result in adverse flooding impacts to neighbouring properties.

The GBCMA recommended that Council use its statutory powers to have the fence removed and, if required, to be replaced by a post and wire or post and rail fence, which is acceptable within this Urban Floodway Zone.

The proposal is in contradiction with the Zone, State and Local Policies with regards to allowing free passage of flood waters.

Recommendation

Refusal

That the Council having caused notice of Planning Application No. **2017-272** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of **37.03-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **138-140 O'Reilly Road TATURA VIC 3616**, for the **Buildings and works for a solid Colorbond fence in the Urban Floodway Zone**.

For the following reasons:

The Goulburn Broken Catchment Management Authority object to the proposal for the following reason.

1. The proposed fence will raise flood levels and/or flow velocities to the detriment of other properties.

The proposal is in contradiction with the Zone, State and Local Policies with regards to allowing free passage of flood waters.

Moved by Patricia Garraway

Seconded by Andrew Fletcher

That the Council having caused notice of Planning Application No. **2017-272** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of **37.03-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **138-140 O'Reilly Road TATURA VIC 3616**, for the **Buildings and works for a solid Colorbond fence in the Urban Floodway Zone**

CARRIED

Subject Site & Locality

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

Date: **23 October 2017**

Time: **10.14** am

The site has a total area of **4277** square metres and currently contains:

- An existing single storey dwelling.
- A domestic shed is located to the south east of the dwelling which was recently constructed. It appears that at least part of this shed is located in the UFZ.

The main site/locality characteristics are:

- Dwelling located on similar sized allotments.
- The allotments on the southern side of O'Reilly Road are dissected by the Urban Floodway Zone.

The Photos below show the existing site:





Permit/Site History

The history of the site includes:

- 2017-257 Alfresco application (approved)
- 2016-334 alfresco (application lapsed)
- EF-2016-12 Fence in UFZ
- 2015-377 Dwelling extension (refused)
- 2014-264 Construction of a dwelling in LSIO (approved)

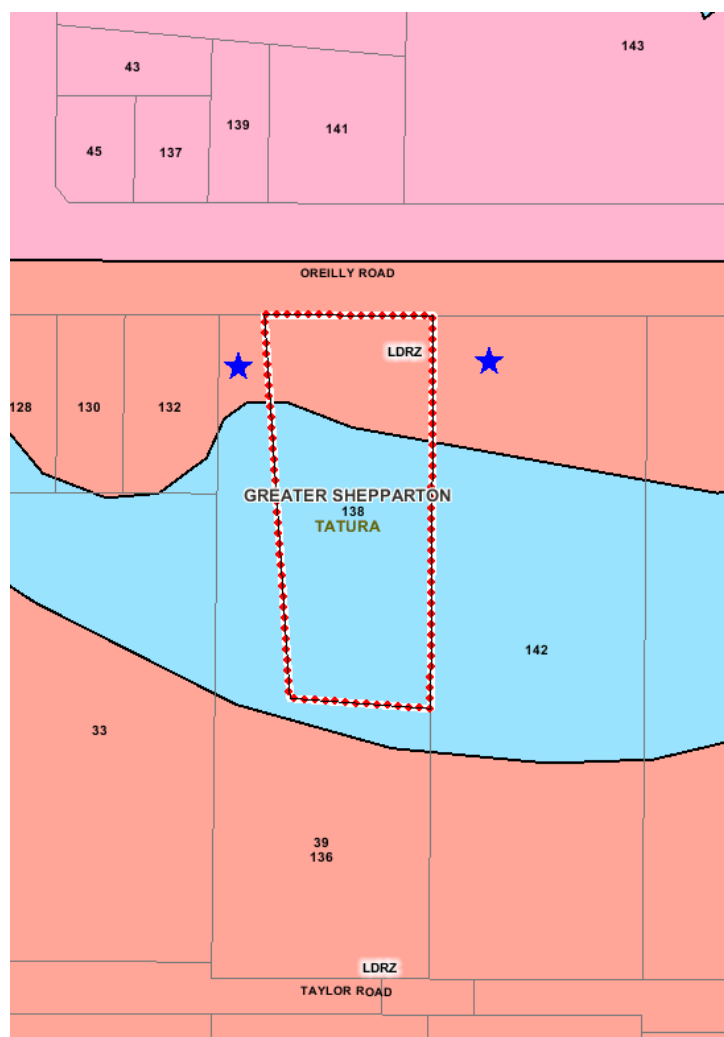
Further Information

Was further information requested for this application? **No**

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

Sending notices to the owners and occupiers of adjoining land.



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 undertaken. Relevant aspects of consultation, included:

Provide a summary of the consultation undertaken including:

- GBCMA objection was received on 19 September 2017, Planning Officers spoke with the applicant shortly thereafter and advised; the application will not be supported whilst the GBCMA objection remains.
- Planning Officers informed the applicant they would need to negotiate an appropriate recourse with the GBCMA in order for the fence to remain, a deadline of 21 November 2017 was provided for an outcome to those negotiations.
- No course of action was received by the deadline.

Referrals

External Referral Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Goulburn Broken Catchment Management Authority	37.03-5	Recommending	<p>The Authority's aerial photography indicates that this fence is has already been erected and forms a major impediment across the Urban Floodway Zone. This will result in adverse flooding impacts to neighbouring properties and should not be permitted to remain.</p> <p>The Goulburn Broken CMA objects to the granting of a permit on the following grounds:</p> <ol style="list-style-type: none"> 1. The proposed fence will raise flood levels and/or flow velocities to the detriment of other properties. <p>The Goulburn Broken CMA strongly recommends that Council use its statutory powers to have the fence removed and, if required, to be replaced by a post and wire</p>

			or post and rail fence, which is acceptable within this Urban Floodway Zone.
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Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
No Section 52 Notices required	

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
No internal notices required	

Assessment

The zoning of the land

Urban Floodway Zone 37.03

The purpose of the zone is:

- To implement the State Planning Policy Framework and Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify waterways, major floodpaths, drainage depressions and high hazard areas within urban areas which have the greatest risk and frequency of being affected by flooding.
- To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and minimisation of soil erosion, sedimentation and silting.
- To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989.
- To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The local floodplain development plan or flood risk report.
- Any comments of the relevant floodplain management authority.

Relevant overlay provisions

Land Subject to Inundation Overlay 44.04

The purpose of the overlay is:

- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

A permit is not required under the Overlay.

The State Planning Policy Framework (SPPF)

Floodplain Management 13.02-1

Relevant objectives include to assist the protection of:

- Life, property and community infrastructure from flood hazard.
- The natural flood carrying capacity of rivers, streams and floodways.
- The flood storage function of floodplains and waterways.
- Floodplain areas of environmental significance or of importance.

The Local Planning Policy Framework (LPPF)- including the Municipal Strategic Statement (MSS), local planning policies and Structure Plans
21.05-2 Floodplain and Drainage Management

Relevant objectives and Strategies include:

- To recognise the constraints of the floodplain on the use and development of the land.
- Discourage development and subdivision on land subject to flooding
- Ensure that all new development maintains the free passage and temporary storage of floodwater, minimises flood damage, is compatible with flood hazard and local drainage conditions, and minimises soil erosion, sedimentation and silting.
- Prevent tree removal to minimise loss of riparian vegetation as a result of development on the floodplain.

Relevant Particular Provisions

There are no relevant Particular Provisions that apply to this application

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.

65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

Officer's Assessment

The retrospective proposal for fence requires planning permission under the Urban Floodway Zone as per Clause 37.03-2.

The purpose of the Urban Floodway Zone is to identify waterways, major floodpaths, drainage depressions and high hazard areas within urban areas which have the greatest risk and frequency of being affected by flooding.

The purpose of the zone is to also ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.

The application required public notification, notice was provided to adjoining land owners by way of sending notices, no objections were received.

The application required referral to the relevant Floodplain Management Authority (Goulburn Broken Catchment Management Authority), as a recommending authority as per Clause 66 of the Planning Scheme. The GBCMA objected to the proposal on the basis that 'The proposed fence will raise flood levels and/or flow velocities to the detriment of other properties'

Council's Local Floodplain and Drainage Management policy (21.05-2) guides that all new development should maintain the free passage and temporary storage of floodwater, minimises flood damage, is compatible with flood hazard and local drainage conditions. The proposed fence is built within in the Urban Floodway Zone. Its presence within the Floodway has the potential to inhibit the free passage of floodwater, resulting in the application being in contravention of the local policy.

State Floodplain Management policy also guides that planning outcomes that avoid intensifying the impacts of flooding through inappropriately located uses and developments should be sought.

The application is deemed to be inconsistent with the Zone, State and Local policies, The Planning Department have received advice from the floodplain experts in the region that the application should be refused, the Planning Department would be fatuous to support a proposal contrary to this advice.

Relevant incorporated or reference documents

Greater Shepparton Floodplain Development Management Plan – Precinct of Mosquito Depression, October 2006.

Other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

There are no relevant planning scheme amendments that relate to the applications.

Are there any significant social & economic effects?

There are no significant social and economic effects that relate to the application.

Discuss any other relevant Acts that relate to the application?

There are no other relevant acts that relate to the application.

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 process of consideration and decision-making in respect of the application has given proper consideration to and is compatible with the requirements of the Charter of Human Rights and Responsibilities.

Conclusion

It is considered the application for a solid fence will produce an unacceptable Planning outcome with regard to Local, State Policies and the decision guidelines of the Urban Floodway Zone. As a result this report recommends that a Refusal to grant a permit should be issued.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2017-272

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 138-140 O'Reilly Road TATURA VIC 3616

WHAT HAS BEEN REFUSED: Buildings and works for a solid Colorbond fence in the Urban Floodway Zone

WHAT ARE THE REASONS FOR THE REFUSAL?

Goulburn Broken Catchment Management Authority

1. The proposed fence will raise flood levels and/or flow velocities to the detriment of other properties.

Greater Shepparton City Council

1. The proposal is in contradiction with the Urban Floodway Zone, State and Local Policies with regards to allowing free passage of flood waters.