

UNCONFIRMED MINUTES

FOR THE

GREATER SHEPPARTON CITY COUNCIL

DEVELOPMENT HEARINGS PANEL

Meeting No. 03/2017

HELD ON

WEDNESDAY 28 JUNE 2017

AT 9.29 AM

IN THE ALEX RIGG ROOM

70 WELSFORD STREET

CHAIR

Councillor Chris Hazelman

ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 3 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),
- Elke Cummins – Acting Team Leader Strategic Planning – Greater Shepparton City Council
- Carl Byrne – Acting Development Team Leader – Greater Shepparton City Council
- Peter Stenhouse – Planning Co-Ordinator – Moira Shire Council; and
- Cameron Fraser – Principal Planner – Strathbogie Shire Council

OFFICERS AND OTHERS PRESENT

The Planning Officers present for today’s hearing are:

- Andrew Dainton – Principal Statutory Planner
- Robert Duncan – Planning Investigations Officer
- Tim Watson – Senior Statutory Planner
- Sarah Van Meurs - Statutory Planner

I would also like to acknowledge all other parties present today. Given we have a number of items for consideration today we will get you to introduce yourself when your turn comes to present.

APOLOGIES

Jon Griffin

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

- Moved by Elke Cummins, and seconded by Cameron Fraser that the minutes of the meeting held on 30 March 2017 be adopted.

Carried

DECLARATIONS OF CONFLICTS OF INTEREST

No conflicts of Interest were declared.

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
 - Referral authorities to present their submission as required
 - 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, referral authorities, objectors and applicant will be limited to a maximum of 6 minutes per person with no extensions.

MATTERS FOR CONSIDERATION

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

- The first item for consideration is planning permit application 2015-458/B to create a vehicle access to a Road Zone Category 1 at 127-137 Numurkah Road.
- The second item for consideration is planning permit application 2016-428 for the use of the land for materials recycling at 63 Mitchell Street, Shepparton.
- The third item for consideration is planning permit application 2017-22 for a building extension at 3090 Midland Highway, Nalinga.
- The fourth item for consideration is planning permit application 2016-376 for a two lot subdivision at 50 Gowrie Park Road, Tatura.
- The fifth item for consideration is planning permit application 2017-83 for a telecommunications facility at 230 Kyabram-Cooma Road, Kyabram.
- The sixth item for consideration is planning permit application 2017-62 for a dwelling and associated bridge access at 340 Orrvale Road, Orrvale.

10. LATE REPORTS

None

11. NEXT MEETING

TBC

Meeting concluded at 12.06 pm

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2017-83	230 Kyabram-Cooma Road Kyabram	Buildings and works for a telecommunications facility in the Farming Zone 1, comprising a 30 high monopole, antenna and associated equipment	83
2017-62	340 Orrvale Road Orrvale	Use and development of a dwelling and associated access bridge in the Farming Zone 1 and buildings and works in the Floodway Overlay and Land Subject to Inundation Overlay	101

Amended Application Details:

Responsible Officer:	Andrew Dainton
Amended Permit Number:	2015-458/B
Applicants Name:	Pop Design Studios
Date Amendment Received:	6 April 2017
Statutory Days:	36
Land/Address:	127-137 Numurkah Road SHEPPARTON VIC 3630
Zoning and Overlays:	Commercial 2 Zone Land Subject to Inundation Overlay Abuts Road Zone Category 1
Why was the amendment required?	To create vehicle access to a RDZ1 being Numurkah Road
Why is a permit required (include Permit Triggers):	Buildings and works in the C2Z under 34.02-4 Buildings and works in the LSIO under 44.04-1 Creation of access to a RDZ1 under 52.29
Are there any Restrictive Covenants on the title?	No

Proposal & Discussion

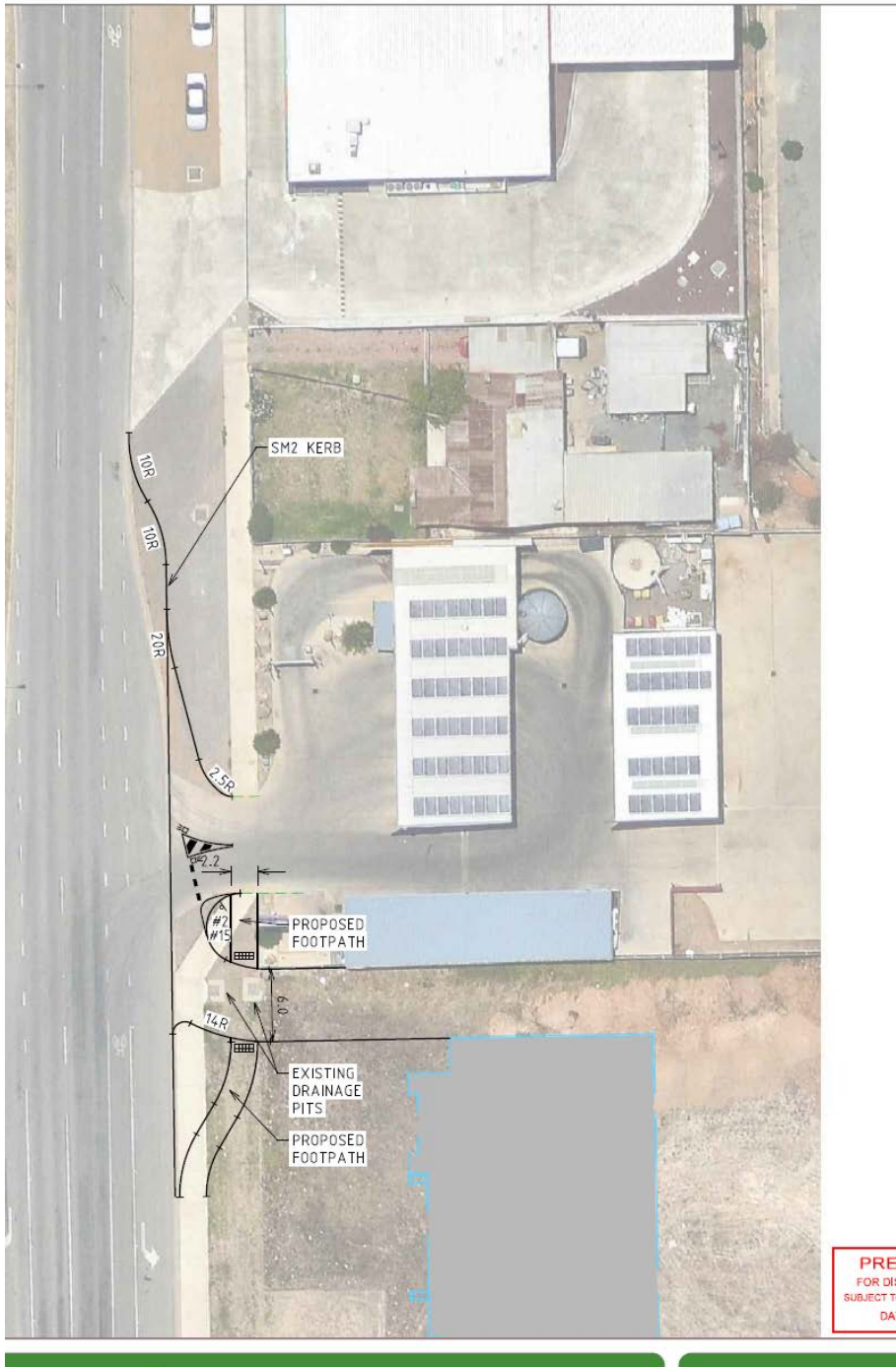
Planning permit 2015-458 was issued on 4 April 2016 and allowed the land to be used and developed for a commercial development including a chemist. Stage one of this development has commenced construction with the frame of the two tenancies erected. Additionally Chemist Warehouse has been confirmed as the tenant for the 626sqm tenancy.

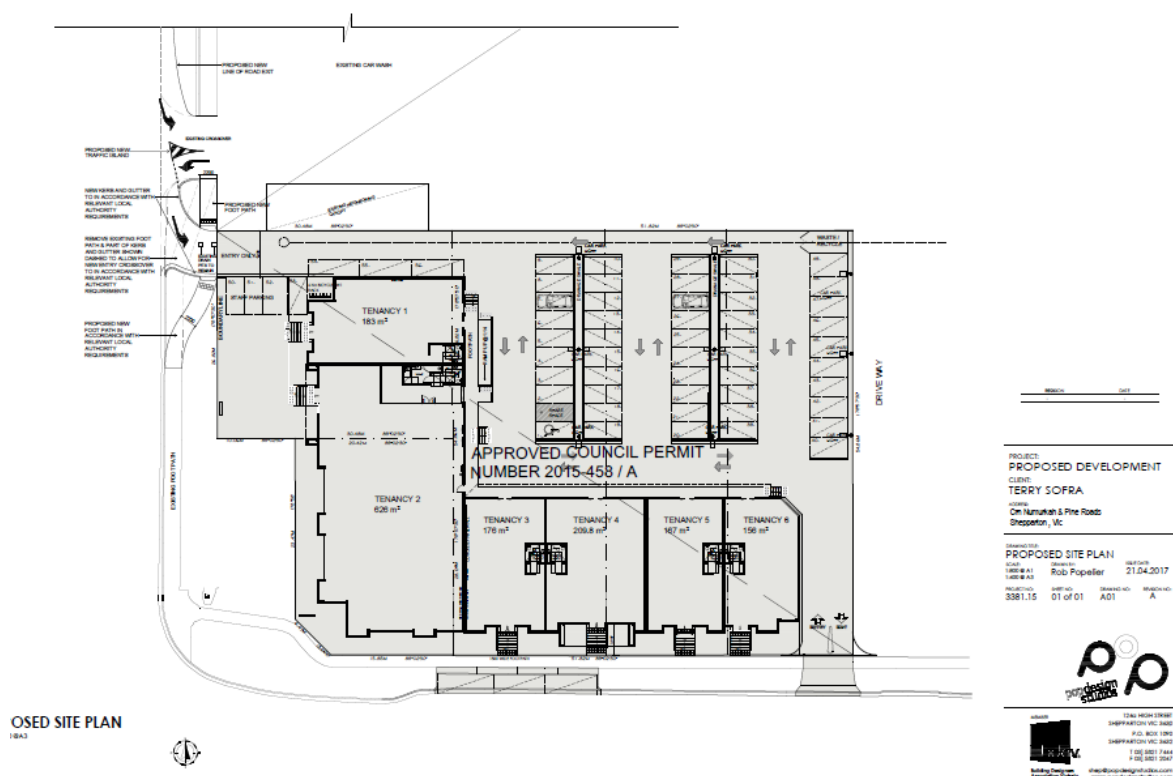
The permit was amended on 10 January 2017 which allowed stage two of the development. Stage two consists of an additional four tenancies fronting Pine Road. Both stages of the development are currently under construction.

This new amended application has sought permission to create a vehicle access from Numurkah Road to the land. The application is for entry only to the land and involves the following road works:

- Lengthening of the existing left turn lane
- Revised access arrangements to the land to the north including a new traffic island
- Realignment of the existing footpath
- Two existing drainage pits to either to relocated or made to a trafficable standard
- 6 metre wide entry to 127-137 Numurkah Road

The proposed design layout is shown below.





The application was advertised and one objection was lodged from the neighbour to the north. The objection contained five grounds which are below:

- *Causing impact on my carwash / Ulock Self Storage vehicle customer existing/ entry to my driveway due to proposed driveway being so close.*
- *Reduced vision and access to vehicle existing my driveway due to proposed driveway having first access to Numurkah Rd*
- *Reducing width / limiting access to my driveway with middle concrete island for larger vehicle*
- *Causing drive off customer due to middle concrete island when there is a line up*
- *Loss of income while under construction*

Vic Roads acting a determining referral authority responded to the application on 17 May 2017. Vic Roads objected to the application for the following reasons:

The Road Safety Audit which has been provided in response to VicRoads' further information request identified the risk of a rear end collision and while the risk rating has been identified as low, the response to the audit does not adequately address this risk and alternative access is available via Pine Road and therefore the creation of this access which increases the risk on the Goulburn Valley Highway is considered unnecessary and does not provide justification for the creation of this access point.

Therefore, it is recommended that this application to amend the permit be refused.

Section 61(2) of the *Planning and Environment Act, 1987* states the following:

The responsible authority must decide to refuse to grant the permit if a relevant determining referral authority objects to the grant of the permit.

As Vic Roads in their capacity of a determining referral authority have objected to the application, Council must refuse to grant the amended permit. Therefore officers recommend that DHP refuse the amended application on the grounds set out by Vic Roads.

Recommendation

Refusal

That the Council having caused notice of Amended Planning Application No. 2015-458/B 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 an amended permit under the provisions of the Greater Shepparton Planning Scheme in respect of the land known and described as 127-137 Numurkah Road Shepparton, to create a vehicle access to a Road Zone Category 1.

For the following reason:

Vic Roads

The Road Safety Audit which has been provided in response to VicRoads' further information request identified the risk of a rear end collision and while the risk rating has been identified as low, the response to the audit does not adequately address this risk and alternative access is available via Pine Road and therefore the creation of this access which increases the risk on the Goulburn Valley Highway is considered unnecessary and does not provide justification for the creation of this access point.

Moved by Elke Cummins

Seconded by Cameron Fraser

Refusal

That the Council having caused notice of Amended Planning Application No. 2015-458/B 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 an amended permit under the provisions of the Greater Shepparton Planning Scheme in respect of the land known and described as 127-137 Numurkah Road Shepparton, to create a vehicle access to a Road Zone Category 1.

For the following reason:

Vic Roads

The Road Safety Audit which has been provided in response to VicRoads' further information request identified the risk of a rear end collision and while the risk rating has been identified as low, the response to the audit does not adequately address this risk and alternative access is available via Pine Road and therefore the creation of this access which increases the risk on the Goulburn Valley Highway is considered unnecessary and does not provide justification for the creation of this access point.

CARRIED

Subject Site & Locality

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

Date: 31 May 2017

The site has a total area of 4330 square metres and currently contains:

- A partially constructed commercial development fronting Numurkah Road and Pine Road

The Photos below show the existing site:



View of Numurkah Road looking south



View of the nature strip looking south





Two existing pits that need to be incorporated into any vehicle access



Existing street tree that requires removal for access



View of proposed access location looking north

Further Information

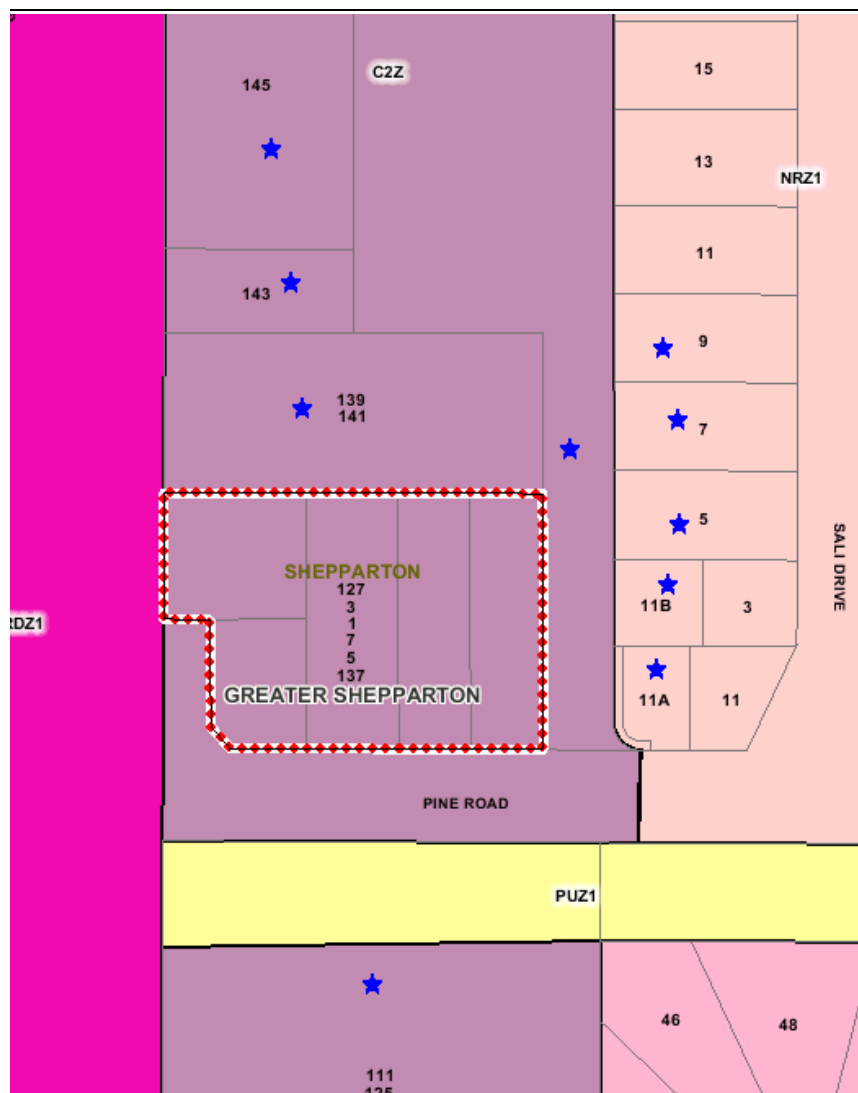
Was further information requested for this application? No

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description creation of vehicle access to Numurkah Road (entry only), by:

Sending notices to the owners and occupiers of adjoining land.

Placing a sign on site.



Objections

The Council has received one objection to date, which was discussed earlier within this report.

Council's Position

As set out earlier within this report, Council must refuse the application as Vic Roads have objected to the application.

If following the refusal, the matter proceeds to VCAT, Council's position of the application is generally as follows.

1. Road safety is the primary concern and for any proposal to be acceptable it needs to be demonstrated that the entry will not result in an unsafe road environment

2. If Vic Roads can be satisfied the proposal is safe, conditions would require that the two existing drainage pits and associated infrastructure be incorporated the access design to comply with Council's engineering standards
3. The access will result in the removal a newly planted street tree. A condition will need to require either the planting of two new street trees or a payment to Council to compensate for the loss of the street tree
4. Officers have been made aware by the applicant's traffic engineer that the access would result in the loss of the four on site car parking spaces in the sites frontage. If this eventuates a revised landscaping plan should be required to include planting out of this area. The loss in parking would reduce the onsite parking from 59 spaces to 55 spaces. Officers would require that the applicants traffic engineer justify the loss of car parking spaces and demonstrate that 55 spaces will satisfy the sites parking demand

Conclusion

Vic Roads acting as a determining referral authority have objected to the amended application which seeks permission for access to the land from Numurkah Road. The Act requires that Council refuse to grant a permit when a determining referral authority objects. It is therefore recommended that DHP refuse the amended application.

DRAFT REFUSAL TO GRANT AN AMENDMENT TO A PERMIT

PERMIT NO: 2015-458/B(AMENDED)
PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL
ADDRESS OF THE LAND: 127-137 Numurkah Road SHEPPARTON VIC
3630

PERMIT FOR WHICH AMENDMENT WAS SOUGHT: Permit No: 2015-458/A

WHAT HAS BEEN REFUSED?

The changes to the permit that have been refused are as follows:

The amended application seeks permission to create vehicle access to the land from Numurkah Road which is within a Road Zone Category 1.

WHAT ARE THE REASONS FOR REFUSAL?

Vic Roads

The Road Safety Audit which has been provided in response to VicRoads' further information request identified the risk of a rear end collision and while the risk rating has been identified as low, the response to the audit does not adequately address this risk and alternative access is available via Pine Road and therefore the creation of this access which increases the risk on the Goulburn Valley Highway is considered unnecessary and does not provide justification for the creation of this access point.

Development Hearings Panel Delegates Report

Application Details:

Responsible Officer:	Robert Duncan
Application Number:	2016-428
Applicant Name:	RPM 4x4 Automotive
Date Received:	12-Oct-2016
Statutory Days:	
Land/Address:	63 Mitchell Street SHEPPARTON VIC 3630
Zoning & Overlays:	Industrial 1 Zone Aboriginal Cultural Heritage Sensitivity
Why is a permit required (include Permit Triggers):	33.01-1 – Section 2 Use – Materials recycling
Are there any Restrictive Covenants on the title?	Yes – Section 173 – AK044584P
Is a CHMP required?	No

Proposal

The application proposes the use of the land for materials recycling, specifically car wrecking/storage. The application does not propose any building works.

The land is in the Industrial 1 Zone and is partially located in an area of Aboriginal Cultural Heritage Sensitivity. The proposed used is not located in this area therefore an Aboriginal Cultural Heritage Plan is not required.

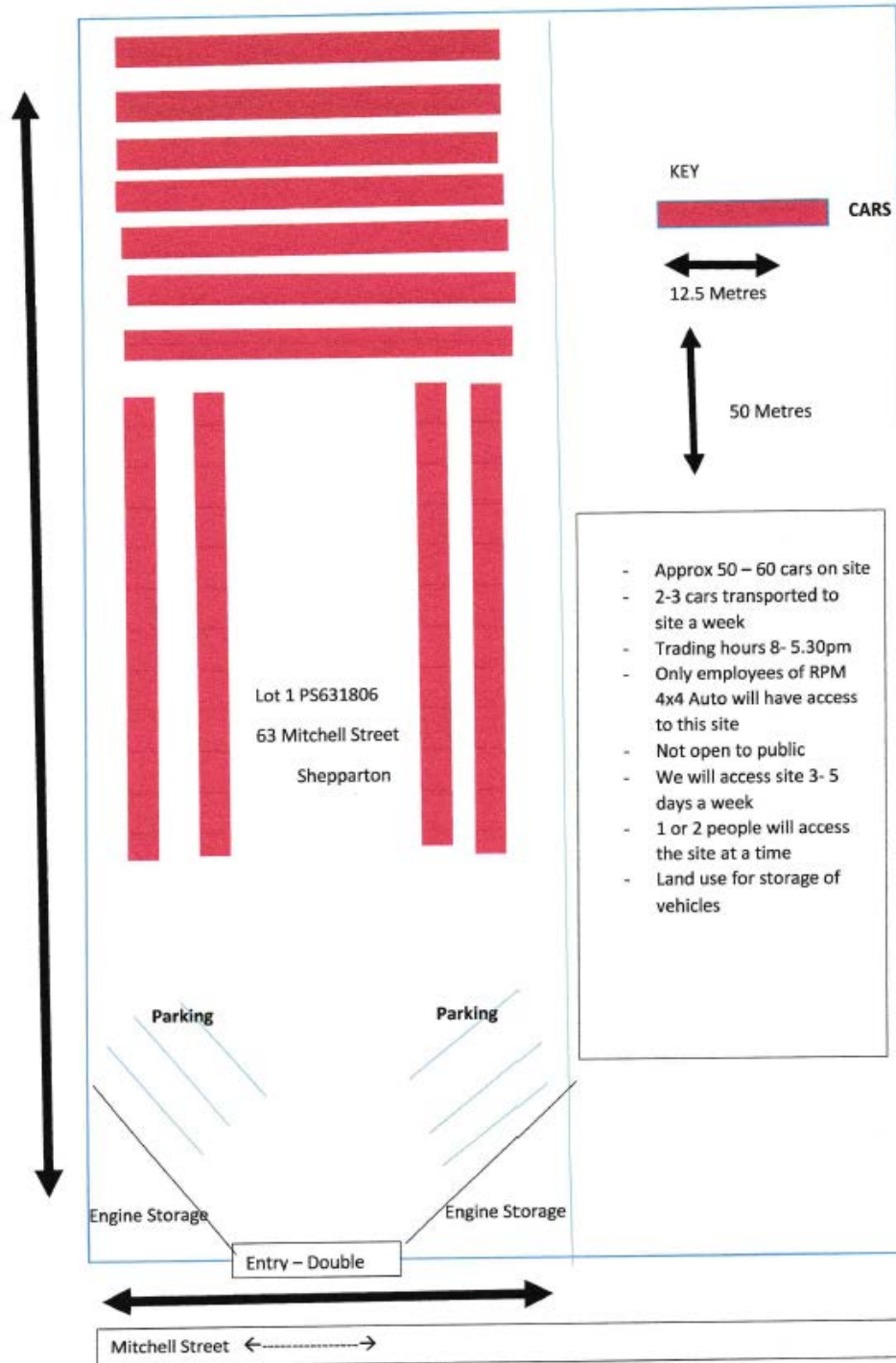
The application triggers the requirement for a planning permit under 33.01-1 Section 2 Use – Materials Recycling.

The land is currently operating as a car wrecking/storage yard without a permit, a citizen complaint led to an investigation into the use of the land and subsequent application being submitted by the applicant.

The hatching on the aerial below shows the approximate location of the proposal.



The proposal will have the following layout.



Summary of Key Issues

The proposed use is appropriate to the purpose of the zone and compatible with surrounding uses.

That the proposal is a satisfactory response to the particular provision requirements for materials recycling at Clause 52.45 of the Planning Scheme.

That the proposal can provide sufficient provision for on-site car parking to satisfy clause 52.06 and also the concern expressed by the objector from the abutting premises.

That the amenity of the neighbourhood is not adversely impacted by the operation of the use.

The conditions of the EPA and Development Engineers have been included on the Draft Notice of Decision.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2016-428** 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 **33.01-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **63 Mitchell Street SHEPPARTON VIC 3630**, for the **use of land for materials recycling (storage and dismantling of car bodies and parts)** in accordance with the Notice of Decision and the endorsed plans.

Moved by Carl Byrne

Seconded by Elke Cummins

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2016-428** 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 **33.01-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **63 Mitchell Street SHEPPARTON VIC 3630**, for the **use of land for materials recycling (storage and dismantling of car bodies and parts)** 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: **22 October 2016**

The site has a total area of **1855** square metres and currently contains

- The land is currently being used to dismantle and store cars

The main site/locality characteristics are:

- Industrial location. The block to the South is vacant, surrounded by industrial sites to all other boundaries. Two houses to the South exists a residential property.

The Photos below show the existing site as at 1 April 2017 – 5.05pm.



Permit/Site History

The history of the site includes:

- 2008-444/a – five lot subdivision

Further Information

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

What additional information is required?

- The following applications requirements of the Resource Recovery particular provision:
 - A location plan showing the site and surrounding uses including distances to nearby sensitive uses such as residential, hospital or education uses.
 - A detailed site plan, showing the layout and height of buildings and works, materials, reflectivity, colour, lighting, landscaping, access roads and parking areas.
 - A written report(s) including:
 - Identification of the purpose of the use.
 - A description of the proposal including the materials to be processed, the types of processes to be used and any materials to be stored and handled.
 - Proposed hours of operation.
 - Likely traffic generation including heavy vehicles.
 - Consideration of whether a works approval or licence is required from the Environment Protection Authority.
 - An assessment of:
 - Potential amenity impacts such as noise, odour, emissions to air, land or water, vibration, dust, light spill, visual impact.
 - The impact of traffic generation on local roads.
- A Traffic Impact Assessment that considers traffic impacts, loading and car parking as a result on the proposed use.

What date was the information requested?: **26 October 2016**

What date was the information received?: **8 December 2016**

The following information was provided:

Identification of the purpose of the use.

- Land is used to store motor vehicles for parts. The applicant runs a motor mechanic RPM 4x4 Automotive at Campbell Street, Shepparton.
- Excess cars will be scrapped off site.
- Approximately 50-60 cars are held on site. 2-3 cars are transported to the site per week.

A description of the proposal including the materials to be processed, the types of processes to be used and any materials to be stored and handled.

- Staff from RPM remove parts from the vehicles and fit to cars in the workshop on Campbell Street, the land at 63 Mitchell Street is not open to the general public.
- Parts are transported from Mitchell Street to Campbell Street using staff cars/light trucks.

Proposed hours of operation.

- The site will be only be accessed by staff from RPM 4x4 Automotive between the hours of 8.00am – 5.30pm.
- The site will be accessed approximately 3-5 times a week.
- Approximately 1-2 staff will access the site at any given time.

Likely traffic generation including heavy vehicles.

- Staff collect parts using light vehicles, 3-5 times a week.
- Larger mid-size trucks will attend site to deliver and remove car chassis, 2-3 times per week.

Potential amenity impacts such as noise, odour, emissions to air, land or water, vibration, dust, light spill, visual impact.

- Perimeter of the site is wrapped in thick black shade cloth, the visual impact of the site is limited.
- Parts are removed by hand, heavy machinery is not used on site, any crushing is done off site.

The impact of traffic generation on local roads.

- Site is accessed between 3-5 times are week, there will not be a significant increase in traffic on local roads.

A Traffic Impact Assessment that considers traffic impacts, loading and car parking as a result on the proposed use.

- There is limited access to site, car parts will be collected using light vehicles. The site will be accessed only by staff of RPM 4x4 Automotive, for short periods at a time. The use of the land will not impact significantly on traffic or car parking.

This information was deemed to meet the further information requests.

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.
- Placing a sign on site.

A statutory declaration was provided by the applicant confirming the sign was placed on site for 14 days.

Objections

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

- The wrecking yard, junkyard is unsightly and damaging to property valuations.
- The unsightly conditions impinge on our client's rights to enjoy her property.
- The junkyard will have an environmental impact on the area causing noise pollution, air pollution and most likely contamination of soil (through spillage of oils and petrol) which affects our client property.
- Our client believes that an environmental impact survey and report should be conducted for this proposed business, to determine the impact both in noise, air pollution and soil contamination.
- In the demolition of vehicles, our client is concerned that hazardous wastes will be disposed and seep through to her adjoining property.
- The junkyard will undoubtedly attract snakes (due to the adjoining cattle farms) which is extremely dangerous for our client's grandchildren who often play at the property.
- Our client has built a fence around her boundary without any contribution from the neighbouring owners. In the short period of time this business has operated in the adjoining block fences have been pushed up against and destroyed.
- Our client is elderly and often sleeps through the day. The current noise in demolishing vehicles often wakes our client which is an impingement on her rights as a property owner and rate payer.

Title Details

The title contains a Section 173 Agreement

Terms of agreement are as follows:

The Owner agrees and acknowledges that:

(a) the on-site detention and treatment for stormwater for the Specified Lots must be designed by a qualified drainage engineer and must be approved by Council prior to construction, and a copy of each of the approved plans will be held by Council for future reference, and

(b) each on-site detention and stormwater treatment system must be constructed either prior to, or concurrently with, the construction of any development on the Specified Lots, and

(c) each on-site detention and stormwater treatment system on the Specified Lots must be completed prior to connection to Council's drainage system, and Council is to be

notified when these works commence on the Specified Lots and requested to inspect the system at the completion of the works, and

(d) each on-site detention and stormwater treatment system is to be maintained by the owner of the relevant lot for the time being, and each system may be inspected by a duly appointed officer of the Council at mutually agreed times, and

(e) the on-site detention and stormwater treatment system is not to be modified without the prior written consent of the Council, and

(f) the owner of each lot for the time being is responsible for payment of all the costs associated with the construction and maintenance of each on-site detention and stormwater treatment system, and

(g) a vehicle crossing to each of the Specified Lots shall be constructed in accordance with the requirements and standards of the day to the satisfaction of the Council prior to the occupation of any development on that specified lot.

The Section 173 was required as per Condition 2 of permit 2008-444/a.

The owners of the land were unable to show a drainage contribution was paid to use the underground drainage to Williams Road Basin, therefore it was agreed via a Section 173 that stormwater would need to be retained and treated on-site.

Condition (a) to (f) of the Section 173 discusses the installation and maintenance of an on-site stormwater detention and treatment system. The installation of the system is required '*prior to, or concurrently with, the construction of any development on the Specified Lots*' as per Condition (b) of the Section 173.

As the proposal is for use only and does not require '*the construction of any development on the Specified Lots*' the Section 173 does not apply in this instance.

Condition (g) discusses the requirement for a vehicle crossing to all lots covered by the Section 173, this will be addressed via a permit condition on any issuing permit.

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- An investigation into the use of the land was conducted by the PIO, and subsequent application being submitted by the applicant.
- The objection was discussed with objector on 22 May 2017, the objector advised they wished to maintain their objection as outlined in their written submission
- The objection was discussed with the applicant, the applicant wished to proceed with the application

Referrals

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Clause 66 of scheme did not require referral of the application			

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
EPA	<p>EPA has no objections to Council issuing a planning permit for the above application, subject to the following conditions being included:</p> <ul style="list-style-type: none"> • Offensive odours must not be discharged beyond the boundaries of the premises. • Nuisance dust must not be discharged beyond the boundaries of the premises. • Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended. • Stormwater contaminated with waste oil, grease, chemicals or sediments must not be discharged beyond the boundary of the premises and be collected and disposed of off-site by an EPA approved contractor or sent to sewer under a Trade Waste Agreement. • A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines 1992 or as amended. • The applicant must ensure that litter is not deposited beyond the boundary of the premises. • The design and operation of the premises should be in accordance with Sustainability Victoria's Guide to Best Practice at Resource Recovery Centres (September 2009).

Internal Notice:

Internal Council Notices	Advice/Response/Conditions

Development Engineers	<p><u>Construction Phase</u></p> <p>Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Responsible Authority.</p> <p>Environmental Management measures are to be in accordance with EPA guidelines for Environment Management, "Doing It Right On Subdivisions" Publication 960, September 2004.</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>Car Spaces Required (planner)</u></p> <p>Before the use begins and/or the building(s) is/are occupied no fewer than (insert number) car space(s) must be provided on the land for the use and development including (insert number) spaces clearly marked for use by persons with disabilities.</p> <p><u>Disabled Car Spaces Required (planner)</u></p> <p>(insert number) car spaces(s) must be provided for the exclusive use of persons with disabilities. The car space(s) must be provided as close as practicable to (a) suitable area adjacent to the building and must be clearly marked with a sign to indicate that the space(s) is/are utilized by persons with disabilities.</p> <p><u>Car Park Construction Requirements</u></p> <p>Before construction works start associated with the provision of carparking, detailed layout plans demonstrating compliance with AustRoads Publication 'Guide to Traffic Engineering Practice : Part 11 Parking' or Australian Standard AS2890.1-2004 (Off Street Parking) & AS2890.6 (Off Street Parking for People with Disabilities) and to the satisfaction of the relevant authority must be submitted to and approved by the responsible authority. The plans must be drawn to scale with dimensions.</p> <p>Before the use or occupation of the development starts, the area(s) set aside for parking of vehicles and access lanes as shown on the endorsed plans must be:</p> <ul style="list-style-type: none">a) surfaced with an all-weather seal coat;b) to the satisfaction of the Responsible Authority;c) drained in accordance with an approved drainage plan;d) line-marked to indicate each car space and all access lanes;e) properly illuminated with lighting designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land;f) measures taken to prevent damage to fences or landscaped areas of adjoining properties and to prevent direct vehicle access to an adjoining road other than by a vehicle crossing;g) Provision of traffic control signage and or structures as required;h) Provision of signage directing drivers to the area(s) set aside for car parking. Such signs are to be located and maintained to the satisfaction of the Responsible Authority. This sign must not exceed 0.3 square metres. <p>to the satisfaction of the responsibility authority.</p> <p>The areas must be constructed, and drained to prevent diversion of flood or drainage waters, and maintained in a continuously useable condition to the satisfaction of the Responsible Authority.</p> <p>Car spaces, access lanes and driveways must be kept available for these</p>
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purposes at all times.

Vehicle Turning

All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property

Delivery of Goods

The loading and unloading of goods from vehicles must only be carried out on the land subject to this permit.

Urban Vehicle Crossing Requirements *(Industrial)*

Prior to use of the proposed development vehicular crossings shall be constructed in accordance with the endorsed plan(s) and constructed to Councils IDM standard drawing (**SD250**), and must:

- a) be constructed at right angles to the road, and any redundant crossing shall be removed and replaced with concrete (kerb and channel) and the nature strip reinstated;
- b) be setback a minimum of 1.5 metres from any side-entry pit, power or telecommunications pole, manhole cover or marker, or 3 metres from any street tree;
- c) any services pits within the vehicle crossing must be modified and the covers are to be replaced with heavy duty trafficable covers
- d) The concrete shall extend from the property boundary to at least 3m inside the property;
- e) industrial vehicular crossings shall not be less than (**6 metres nor more than 9.8 m (double crossing)**) in width and shall be constructed from concrete or other material as approved in writing by the Responsible Authority; and
- f) be at least 9 meters apart.

Redundant Crossing Removal

All disused or redundant vehicle crossings must be removed and reinstated (kerb and channel) to the satisfaction of the Responsible Authority.

Urban Drainage - Works

Before the use begins / the building(s) occupied all stormwater and surface water discharging from the site, buildings and works must be retarded and treated on site and conveyed to the legal point of discharge by underground pipe drains to the satisfaction of the responsible Authority. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.

Drainage Discharge Plan

Before any of the development starts a properly prepared drainage discharge plan (by a suitably qualified person or organisation) with computations 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. ***The information submitted must show the details listed in the council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual.***

The information and plan must include:

- a) details of how the works on the land are to be drained / retarded.

- b) computations ***including total energy line and hydraulic grade line*** for the existing and proposed drainage as directed by Responsible Authority
- c) underground pipe drains conveying stormwater to the legal point of discharge
- d) measures to enhance stormwater discharge quality from the site and protect downstream waterways including the expected discharge quality emanating from the development (output from MUSIC or similar) and design calculation summaries of the treatment elements;
- e) maximum discharge rate shall not be more than 37 lit/sec/ha with 15 litres (Tank/Basin) or (18) litres (Pipe) of storage for every square metre of Lot area, in accordance with Infrastructure Design Manual Clause 19 Table 13 (or as agreed in writing by the responsible authority).;
- f) the provision of litter traps installed at the drainage outfall within the property of the development.
- g) the details of the incorporation of water sensitive urban design, designed in accordance with the "Urban Stormwater Best Practice Environmental Management Guidelines" 1999.
- h) maintenance schedules for treatment elements.
- i) Legal point of discharge is to the side entry pit in front of the property.

Before the use begins / the building(s) occupied all works constructed or carried out must be in accordance with those plans to the satisfaction of the Responsible Authority

Works Prior to Occupation of Development

The occupation of the development must not start until:

- a) drainage has been constructed in accordance with the endorsed Drainage Discharge plan;
- b) the parking area(s) shown on the endorsed plan(s) have been constructed to the requirements and satisfaction of the Responsible Authority; and
- c) the parking and roadway area(s) has been line-marked to the satisfaction of the Responsible Authority, and
- d) garden and landscape area(s) shown on the endorsed plan(s) have been planted to the requirements and satisfaction of the Responsible Authority

as specified;

Before the use/occupation of the development starts or by such a later date as is approved by the responsible authority in writing, landscaping works including provision of street trees shown on the endorsed plan must be carried out and completed to the satisfaction of the responsible authority.

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.

Council's Assets

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

	<p>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><u>Exit Sight Distance</u> <i>Adjacent to the exit, landscaping/fencing within two and a half (2.5) metres of the front boundary must not exceed one (1) metre in height.</i></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><u>Access for People with Disabilities</u> The facilities approved by this permit shall be constructed and maintained to accord with all relevant legislation (Federal or State), Australian Standards, or any other design requirements relating to access or other issues affecting people with disabilities to the satisfaction to the Responsible Authority.</p>
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The Planning Department met with the Engineering Department to discuss the requirement for a number of the above conditions. As the proposal is for use only it was agreed to remove a number of permit conditions.

Assessment

The zoning of the land INDUSTRIAL 1 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 manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

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 effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.

- The effect that nearby industries may have on the proposed use.
- The drainage of the land.
- The availability of and connection to services.
- The effect of traffic to be generated on roads.
- The interim use of those parts of the land not required for the proposed use.

33.01-2 Use of land

Application requirements

An application to use land for an industry or warehouse must be accompanied by the following information, as appropriate:

- The purpose of the use and the types of processes to be utilised.
- The type and quantity of goods to be stored, processed or produced.
- How land not required for immediate use is to be maintained.
- Whether a Works Approval or Waste Discharge Licence is required from the Environment Protection Authority.
- Whether a notification under the Occupational Health and Safety (Major Hazard Facilities) Regulations 2000 is required, a licence under the Dangerous Goods Act 1985 is required, or a fire protection quantity under the Dangerous Goods (Storage and Handling) Regulations 2000 is exceeded.
- The likely effects, if any, on the neighbourhood, including:
 - Noise levels.
 - Air-borne emissions.
 - Emissions to land or water.
 - Traffic, including the hours of delivery and despatch.
 - Light spill or glare.

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 effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.
- The effect that nearby industries may have on the proposed use.
- The drainage of the land.
- The availability of and connection to services.
- The effect of traffic to be generated on roads.
- The interim use of those parts of the land not required for the proposed use.

Response:

The materials recycling use is appropriate to the purpose of the zone. The requirement that the use must not affect the amenity of the neighbourhood can be complied with by having appropriate conditions on any permit and satisfactory operation by the permit holder.

The loading and unloading of vehicles from trailers and tow trucks should only need to occur within the premises. It is unlikely there will be excessive noise involved with removing parts

from vehicles, the operator has advised all engines are removed offsite and no vehicles will be crushed on site. Parts are removed by hand, no machinery is used on site.

The site will only be accessed by staff between the hours of 8.00am – 5.30pm. The operator has advised 1-2 staff will access site at any given time, staff will attend site 3-5 times a week, customers will not attend the site, it is believed there will not be a significant increase in traffic on local roads.

Appearance of stored goods can be a problem as partially dismantled vehicles can be considered unsightly, appropriate screening and requirements over the height of stacked parts/car bodies will be required as a permit condition.

The EPA has supplied a list of permit conditions that will be included on any permit to properly deal with all amenity concerns.

Relevant overlay provisions

The land is not affected by any overlays.

The State Planning Policy Framework (SPPF)

19.03-5 Waste and resource recovery

Objective

- To avoid, minimise and generate less waste to reduce damage to the environment caused by waste, pollution, land degradation and unsustainable waste practices.

Strategies

- Establish new sites and facilities to safely and sustainably manage all waste and maximise opportunities for resource recovery.
- Encourage facilities for resource recovery to maximise the amount of resources recovered.
- Provide sufficient waste management and resource recovery facilities to promote re-use, recycling, reprocessing and resource recovery and enable technologies that increase recovery and treatment of resources to produce energy and marketable end products.
- Encourage waste generators and resource generators and resource recovery businesses to locate in close proximity to enhance sustainability and economies of scale.
- Ensure buffers for waste and resource recovery facilities are defined, protected and maintained.
- Site and manage waste disposal and resource recovery facilities in accordance with the Waste Management Policy (Siting, Design and Management of Landfills) (EPA, 2004).

Application requirements

An application must be accompanied by the following information:

- A location plan showing the site and surrounding uses including distances to nearby sensitive uses such as residential, hospital or education uses.
- A detailed site plan showing the layout and height of buildings and works, materials, reflectivity, colour, lighting, landscaping, access roads and parking areas.
- Plans or other media showing anticipated views of the facility from sensitive use locations.
- A written report(s) including:
 - Identification of the purpose of the use.
 - A description of the proposal including the materials to be processed, the types of processes to be used and any materials to be stored and handled.
 - Proposed hours of operation.
 - Likely traffic generation including heavy vehicles.
 - Consideration of whether a works approval or licence is required from the Environment Protection Authority.
- An assessment of:
 - Potential amenity impacts such as noise, odour, emissions to air, land or water, vibration, dust, light spill, visual impact.
 - The impact of traffic generation on local roads.

Decision Guidelines

Before deciding on an application, in addition to the Decision Guidelines of Clause 65, the responsible authority must consider:

- The contribution of the proposal to achieving resource recovery targets established by the Victorian Government.
- The impact of the proposal on the amenity of the surrounding area.
- The Towards Zero Waste Strategy (DSE, 2005) and the Metropolitan Waste and Resource Recovery Strategic Plan (Sustainability Victoria, 2009).
- Relevant guidelines applicable to the use including the Environmental Guidelines for Composting and Other Organic Recycling Facilities (EPA, 1996), the Guide to Best Practice for Organics Recovery (Sustainability Victoria, 2009) and the Guide to Best Practice at Resource Recovery Centres (Sustainability Victoria, 2009).

This policy supports the activity as it proposes to recover vehicle parts for re-use in car repairs either by selling to private or business repairers or fitting to vehicles within the business premises operated by the permit applicant. The use of second hand parts saves materials and energy used in manufacturing new replacement parts and reduces waste to landfill. Unused metal car bodies are resold to scrap metal merchants.

The processes used on site are discussed in more detail under the zone and particular provisions sections of this report.

The information submitted with the application which addresses the State Policy and also the requirements of Clause 52.45 was as follows:

- *Land is used to store motor vehicles for parts. The applicant runs a motor mechanic RPM 4x4 Automotive at 8 Campbell Street, Shepparton.*
- *Excess cars will be scrapped off site.*
- *Approximately 50-60 cars are held on site. 2-3 cars are transported to the site per week.*
- *Staff from RPM remove parts from the vehicles and fit to cars in the workshop on Campbell Street, the land at 63 Mitchell Street is not open to the general public.*
- *Parts are transported from Mitchell Street to Campbell Street using staff cars/light trucks.*
- *The site will be only be accessed by staff from RPM 4x4 Automotive between the hours of 8.00am – 5.30pm.*
- *The site will be accessed approximately 3-5 times a week.*
- *Approximately 1-2 staff will access the site at any given time.*
- *Staff collect parts using light vehicles, 3-5 times a week.*
- *Larger mid-size trucks will attend site to deliver and remove car chassis, 2-3 times per week.*
- *Perimeter of the site is wrapped in thick black shade cloth, the visual impact of the site is limited.*
- *Parts are removed by hand, heavy machinery is not used on site, any crushing is done off site.*
- *Site is accessed between 3-5 times are week, there will not be a significant increase in traffic on local roads.*
- *There is limited access to site, car parts will be collected using light vehicles. The site will be accessed only by staff of RPM 4x4 Automotive, for short periods at a time. The use of the land will not impact significantly on traffic or car parking.*

The information supplied about the business, together with conditions required by the EPA on any permit, and conditions proposed by Council planners, indicate that the application can satisfy the requirements of Clause 52.45.

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

21.06-4 Industry

General Objectives

- *To sustain a growing and diverse industrial base.*
- *To protect the existing industrial base in the urban areas of Shepparton, Mooroopna and Tatura.*
- *To provide an adequate supply of appropriately located industrial land relevant to measured demand that meets the needs of different industries.*
- *To require all future industrial development and subdivisions to be of a high quality in terms of urban design, environmental standards and amenity.*
- *To conserve places of industrial cultural heritage significance.*
- *To minimise land use conflicts.*

Amenity Strategies

-
-
- *Direct materials recycling industries to locations that minimise land use conflicts and impacts on the amenity of surrounding area*

Relevant Particular Provisions

52.06 Car parking Relevant Purposes include:

- *To ensure that car parking is provided in accordance with the State Planning Policy Framework and Local Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Clause 52.06-2 Provision of car parking spaces:

- Before a new use commences;
-
-

the number of car parking spaces required under Clause 52.06-5 or in a schedule to the

Parking Overlay must be provided to the satisfaction of the responsible authority in one or more of the following ways:

- on the land; or
-
-

The car parking rate for materials recycling is:

- 10 per cent of site area

Response:

The site is 1855 square meters, therefore 10% of this would equate to 185.50 square meters of parking. Any permit issued will require the applicant to submit plans for endorsement which show an area of 185.50 square meters reserved for staff/customer parking.

52.45 - Resource Recovery

Purpose

- *To facilitate the establishment and expansion of a Transfer station and/or a Materials recycling facility in appropriate locations with minimal impact on the environment and amenity of the area.*

An application must be accompanied by the following information:

- A location plan showing the site and surrounding uses including distances to nearby sensitive uses such as residential, hospital or education uses.
- A detailed site plan showing the layout and height of buildings and works, materials, reflectivity, colour, lighting, landscaping, access roads and parking areas.
- Plans or other media showing anticipated views of the facility from sensitive use locations.
- A written report(s) including:
 - Identification of the purpose of the use.
 - A description of the proposal including the materials to be processed, the types of processes to be used and any materials to be stored and handled.
 - Proposed hours of operation.
 - Likely traffic generation including heavy vehicles.
 - Consideration of whether a works approval or licence is required from the Environment Protection Authority.
- An assessment of:
 - Potential amenity impacts such as noise, odour, emissions to air, land or water, vibration, dust, light spill, visual impact.
 - The impact of traffic generation on local roads.

Decision guidelines are at Clause 52.45-3 and include:

Before deciding on an application, in addition to the Decision Guidelines of Clause 65, the responsible authority must consider:

- The contribution of the proposal to achieving resource recovery targets established by the Victorian Government.
- The impact of the proposal on the amenity of the surrounding area.
- The Towards Zero Waste Strategy (DSE, 2005) and the Metropolitan Waste and Resource Recovery Strategic Plan (Sustainability Victoria, 2009).
- Relevant guidelines applicable to the use including the Environmental Guidelines for Composting and Other Organic Recycling Facilities (EPA, 1996), the Guide to Best Practice for Organics Recovery (Sustainability Victoria, 2009) and the Guide to Best Practice at Resource Recovery Centres (Sustainability Victoria, 2009).

Response:

The applicant provided the required information provided under Clause 52.45 to make an informed decision on the application. The information is set out in the Section on State Policy on Resource Recovery above.

The proposal for materials is in an appropriate use in industrial area. Vehicles will be brought to the site on a trailer or flat top truck or tow truck. The vehicle bodies only remain on site for dismantling 'in demand' components. The car bodies are not crushed on site they are taken away crushing for sale to scrap metal merchants, generally in batches at periods of reasonable metal price.

There should not be emissions that are detrimental to the amenity of the industrial area.

Hours of operation are normal business hours. It is important that sufficient space is maintained on site for parking of operators vehicles and trailer, and for customers although there are few direct customers, and the business operates in association with RPM Auto at 8 Campbell Street where the majority of repairs and fitting of parts takes place.

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.

Response:

Most of the above considerations have been discussed in the appropriate sections of this report it is considered that this use is appropriate to the IN1Z and location in Mitchell Street when measured against relevant planning scheme considerations represents orderly planning.

Provided that the business operates in accordance with proposed conditions whereby dismantling activities, storage and parking occur within the site then amenity of the neighbourhood should not be adversely affected.

The frequent turnover of car bodies should also ensure that the site does not deteriorate in appearance.

A permit condition for maintaining site appearance would be included on any permit issued and stacking of car bodies would not be permitted.

There is no vegetation removal, or flood, erosion or fire hazard associated with the location of the land.

Relevant incorporated or reference documents

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

Other relevant adopted State policies or strategies policies

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

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 that the proposal for use for materials recycling (car dismantling) will produce an acceptable planning outcome having regard to policy and decision guidelines of Industrial

1 Zone, and particular provisions and that a Notice of Decision to grant a permit should be issued subject to the conditions in the recommendation of this report.

Draft Notice Of Decision

APPLICATION NO: 2016-428

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: 63 MITCHELL STREET SHEPPARTON VIC 3630

WHAT THE PERMIT WILL ALLOW: USE (RETROSPECTIVE) OF LAND FOR MATERIALS RECYCLING FOR THE STORAGE AND DISMANTLING OF CAR BODIES AND PARTS

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Amended Plans Required

Within 1 month of the date of this permit, 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 and a minimum of three copies must be provided. Such plan must be generally in accordance with the plan submitted with the application but modified to show:

- a) 10% of site set aside for car parking
- b) A designated area for loading and unloading
- c) A designated area for the storage of car bodies and other car parts
- d) A 2 metre high timber fence along the Mitchell Street frontage, or other material (not Colorbond) to the satisfaction of the responsible authority.
- e) A 2 metre Colorbond screen fence along the Northern side boundary to the existing neighbouring building line.
- f) Plan showing compliance with EPA conditions in relation to containment of contaminated stormwater on site.

Within 3 months of the date of this permit all works shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority.

2. **Layout Not Altered**

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

3. **Delivery of Goods**

The loading and unloading of goods from vehicles in association with the use on the land, must only be carried out on the land and must not disrupt the circulation and parking of vehicles on the land.

4. **Hours of Operation**

The materials recycling (vehicle dismantling) business activity may only occur between the hours of 8:00 AM to 6:00 PM, Monday to Saturday; and is not permitted on Sunday.

5. **Storage of Car Bodies**

Car bodies and other vehicle parts must be stored in the specially designated area in accordance with the endorsed site plan and to the satisfaction of the Responsible Authority. Prior to car bodies being stored in this area, the area must be surfaced with gravel and then maintained thereafter to the satisfaction of the Responsible Authority.

Cars must be stacked to a height lower than the height of the screening fence, so not visible from Mitchell Street.

6. **Vehicle repairs**

No vehicles are to be serviced or repaired on the land, the land is to be used solely for the purposes of storage and dismantling of vehicles.

7. **Urban Vehicle Crossing Requirements**

Within 3 months of the date of the planning permit, vehicular crossings shall be constructed in accordance with the endorsed plan(s) and constructed to Councils IDM standard drawing (**SD250**), and must:

- be constructed at right angles to the road, and any redundant crossing shall be removed and replaced with concrete (kerb and channel) and the nature strip reinstated;
- be setback a minimum of 1.5 metres from any side-entry pit, power or telecommunications pole, manhole cover or marker, or 3 metres from any street tree;
- any services pits within the vehicle crossing must be modified and the covers are to be replaced with heavy duty trafficable covers
- The concrete shall extend from the property boundary to at least 3m inside the property;
- industrial vehicular crossings shall not be less than (**6 metres nor more than 9.8 m (double crossing)**) in width and shall be constructed from concrete or other material as approved in writing by the Responsible Authority; and

- be at least 9 meters apart.

8. Council Assets

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.

9. Environment Protection Authority

- a) Offensive odours must not be discharged beyond the boundaries of the premises.
- b) Nuisance dust must not be discharged beyond the boundaries of the premises.
- c) Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.
- d) Stormwater contaminated with waste oil, grease, chemicals or sediments must not be discharged beyond the boundary of the premises and be collected and disposed of off-site by an EPA approved contractor or sent to sewer under a Trade Waste Agreement.
- e) A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines 1992 or as amended.
- f) The applicant must ensure that litter is not deposited beyond the boundary of the premises.
- g) The design and operation of the premises should be in accordance with Sustainability Victoria's Guide to Best Practice at Resource Recovery Centres (September 2009).

NOTATIONS

Works on Road Reserves

A Works within Road Reserves permit must be obtained from the Responsible Authority prior to carrying out of any vehicle crossing works.

Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2017-22
Applicants Name:	Nalinga Steel
Date Application Received:	24 January 2017
Statutory Days:	130
Land/Address:	3090 Midland Highway NALINGA VIC 3631
Zoning and Overlays:	Farming Zone Floodway Overlay Abuts RDZ1
Why is a permit required (include Permit Triggers):	Buildings and works in the FZ under 35.07-4 Buildings and works in the FO under 44.03-1
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No

The Responsible Officer – Andrew Dainton requested that this item (for Application Number: 2017-22) be withdrawn from the Development Hearings Panel

Moved by Elke Cummins

Seconded by Carl Byrne

That the request for the matter to be withdrawn be approved

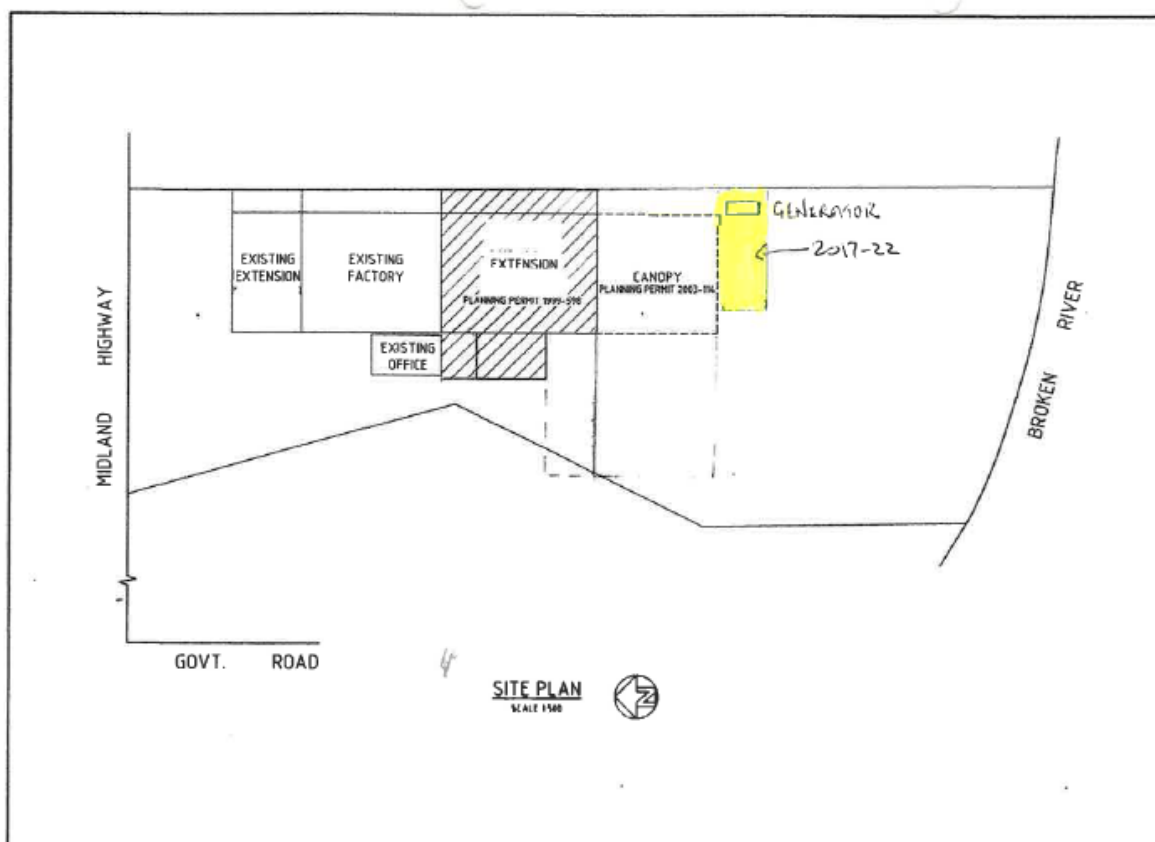
CARRIED

Proposal

This application seeks planning permission for the following:

- A shed extension of 160sqm to the south of the building to provide weather protection for generators (this development commenced without permission and enforcement action lead to the application being made)

A plan of the proposed generator room extension is below.



The main assessment concern associated with this application relates to flooding. The CMA has informed that a survey indicates that the site would flood to a depth of about 900mm in a 100 year flood.

The CMA acting a recommending referral authority objected to the generator room for the following reasons:

1. *The proposal would increase resistance to flood flows and would create adverse flooding impacts to neighbouring properties.*
2. *The proposal is discouraged within the State Planning Policy Framework and Local Planning Policy Framework of the Council's Planning Scheme.*
3. *The proposal is not consistent with the planning scheme's incorporated document Greater Shepparton Floodplain Development Plan – Precinct of Broken River, October 2006.*
4. *The proposal is not consistent with the Victoria Planning Provisions Practice Note 11 Applying for a Planning Permit under the Flood Provisions (DEWLP, 2015).*
5. *Long-term cumulative impacts of such proposals.*

Following this response, planning officers provided additional information to the CMA to confirm that a Section 173 agreement relating to flooding matters had been registered on the

land and that the proposal was limited to the generator room only. The CMA responded by email which maintained the CMA's opposition to the development.

The applicant has explained that the proposed extension will have minimal impacts on flooding when compared to the approach roads to the bridge which substantially narrow the width of the floodplain.

Officers acknowledge that discretion exists for DHP to issue a NOD to grant a permit as the CMA is a recommending not determining authority.

Officers are recommending that no permit grant for the following reasons:

- The CMA is the Governments expert flood authority and no contrary expert flood report has been provided by the applicant to justify a departure from the CMA's view
- The proposed development if allowed would reduce the buildings setback to the Broken River
- The development is likely to cause an unacceptable increase in flood risk in the following situations:
 - it is likely to increase the burden on emergency services and the risk to emergency personnel
 - it is likely to increase the burden on emergency services and the risk to emergency personnel
 - it is likely to raise flood levels or flow velocities to the detriment of other properties

Summary of Key Issues

- Officers undertook enforcement action to require that an application be lodged for the construction of a building extension to the rear of a large industrial site which is occupied by Nalinga Steel
- An application was made to develop the site for a 160sqm generator room. Permission is required under the FZ and FO
- The applicant has informed that the purpose of the extension is to provide weather protection to a new generator which provides for reliable power supply to the building. Activities such as a plasma cutting are large power users.
- The proposed extension is an acceptable development under the FZ given the existing use of the land and location of the proposed extension which is largely not visible from the Midland Highway
- The application was referred to the GBCMA who are a recommending referral authority. The CMA objected to the application for five flooding reasons

- As the applicant has submitted no expert flood evidence to counter the CMA position, officers are not prepared to depart from expert opinion of the CMA. Therefore it is recommended that DHP refuse to grant the permit
-

Recommendation

Refusal

That Council having not caused notice of Planning Application No. 2017-22 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 35.07-4 and 44.03-1 of the Greater Shepparton Planning Scheme in respect of the land known and described as 3090 Midland Highway, Nalinga, for the buildings and works in the Farming Zone and Floodway Overlay for a building extension.

For the following reasons:

Goulburn Broken Catchment Management Authority

1. The proposal would increase resistance to flood flows and would create adverse flooding impacts to neighbouring properties.
2. The proposal is discouraged within the State Planning Policy Framework and Local Planning Policy Framework of the Council's Planning Scheme.
3. The proposal is not consistent with the planning scheme's incorporated document Greater Shepparton Floodplain Development Plan – Precinct of Broken River, October 2006.
4. The proposal is not consistent with the Victoria Planning Provisions Practice Note 11 Applying for a Planning Permit under the Flood Provisions (DEWLP, 2015).
5. Long-term cumulative impacts of such proposals.

Subject Site & Locality

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

Date: 5 June 2017

The site has a total area of 6278 square metres and currently contains:

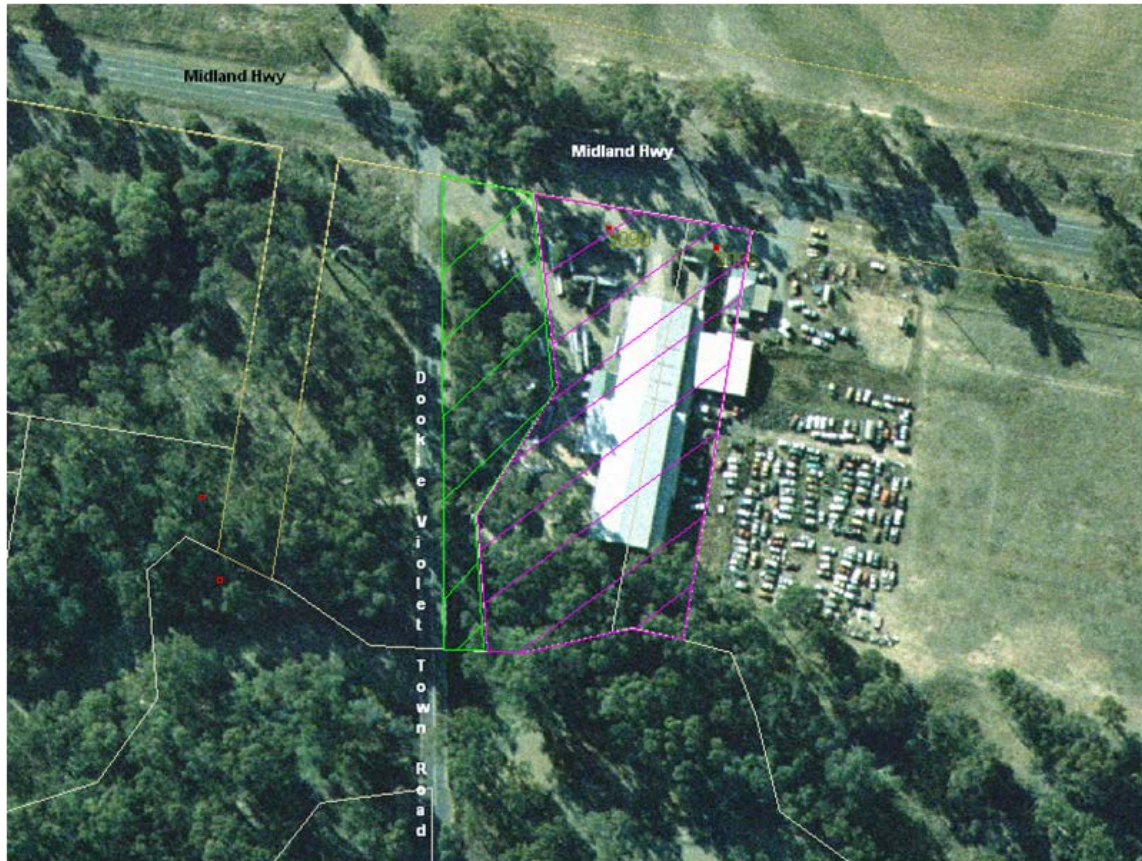
- An existing industrial use being Nalinga Steel which consists of a large shed and substantial outdoor storage of materials
- Vehicle access to the land is from Midland Highway

The main site/locality characteristics are:

- Abutting the land to the east is a motor repair use which includes the storage of numerous vehicles
- To the rear of the land is the Broken River which flows from Benalla to Shepparton. A bridge is also to the rear of the land which provides access to Violent Town. The

approach to the bridge is raised which provides a barrier to flood flows towards Shepparton.

The Photos below show the existing site:



Green - Council Land
Pink - Nalinga Steel Land





Permit/Site History

The history of the site includes:

Planning permit 2003-114 was issued on 30 May 2003 and allowed a canopy and loading bay.

Further Information

Was further information requested for this application? No

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 extension is to the rear of an existing building and views of the extension from Midland Highway are limited
- The nearest dwelling to the extension is on the southern side of the Broken River which provides a visual screen between the two uses
- The use of land to the west is an industrial use which does not conflict with the Nalinga Steel operation

The application was exempt from being advertised in accordance with Clause 44.03-4 of the planning scheme.

Objections

As the application was not advertised no objections were lodged.

Title Details

The title does not contain a Restrictive Covenant.

The title contains a Section 173 Agreement. The S173 relates to 2003-114 which allowed the construction of a canopy and loading bay. The agreement states the following:

The owners agree and acknowledge that no perimeter walls, or any type of internal walls, are to be constructed in the section of the extension that is further than 27 metres from the existing building

The purpose of this agreement is to maintain the extension as allowed by 2003-114 as an open type building to allow for the movement of flood flows through the land.

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Andrew Dainton called Kevin MacGibbon on 1 February 2017 to inform that Karen Dexter was open to selling the Council land to allow the expansion of the business. I informed that this was a separate matter to the current application and that the

generator building would be considered under this application and a second application could be made for the larger extension if and when the land is purchased from Council.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 -Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
CMA	44.03-5	Recommending	CMA as set out earlier within this report have objected to the application on five grounds.

Assessment

The zoning of the land

Farming 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 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.

Decision guidelines are at 35.07-6 and include:

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.

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

The entire site is within the FO

Floodway 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 waterways, major floodpaths, drainage depressions and high hazard 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 if a declaration has been made.
- 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).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

Decision guidelines are at 44.03-6.

The State Planning Policy Framework (SPPF)

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.

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

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.

21.06-4 – Industry

Policy Guidelines – Industrial Development in Rural Areas

It is policy to:

Discourage industrial use and development (other than rural industry) in rural areas, except where:

- It is unable to be accommodated in existing industrial zoned areas;
- It does not compromise the surrounding existing and future agricultural practices;
- It adds value to the agricultural base of the municipality; and
- It is a rural-based enterprise; or
- It provides for the reuse of existing large scale packing sheds and cool stores.

Relevant Particular Provisions

There are no relevant particular provisions 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 Assessment

Permission is required for buildings and works in the FZ and FO.

Officers are satisfied that the proposed generator room is an acceptable development under the FZ. The extension is located to the rear of the building and provides for weather protection of the generator which is an important element of the business. Additionally the extension results in no amenity impacts on neighbouring properties.

The main assessment concern with the application relates to flooding. The CMA acting as a recommending referral authority has objected to the proposed development on five flooding grounds.

Officers have not been provided with any justification from the applicant to depart from the CMA's position. As a result officers consider that no permit should issue on the five grounds as set out by the CMA.

Relevant incorporated document

Local Floodplain Development Plan – Precinct of Broken River

9.0 Particular Development Requirements for FO or LSIO within rural areas

9.2 Buildings (other than dwelling, industrial, shop and retail buildings)

- The construction of any new non habitable building must be sited on the highest available ground unless the applicant can demonstrate to the satisfaction of the responsible authority and floodplain management authority that an alternative site is more suitable
- Any non-habitable building must be aligned so that their longitudinal axis is parallel to the predicted direction of flood flow

Other relevant adopted State policies or strategies policies

There is no other relevant adopted state or strategic policies to this application.

Relevant Planning Scheme amendments

There are no relevant PSA's to this application.

Are there any significant social & economic effects?

The application does not raise any significant social or economic effects.

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' includes the land within an area of cultural heritage sensitivity. The proposed extension does not trigger a CHMP as the land use was lawfully established on the land well before 2007.

Discuss any other relevant Acts that relate to the application?

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

Conclusion

Officers having considered the application, recommend that no permit issue based on the grounds as set out by the CMA.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2017-22

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 3090 Midland Highway NALINGA VIC 3631

WHAT HAS BEEN REFUSED: Buildings and works in the Farming Zone and Floodway Overlay for a building extension.

WHAT ARE THE REASONS FOR THE REFUSAL?

Goulburn Broken Catchment Management Authority

1. The proposal would increase resistance to flood flows and would create adverse flooding impacts to neighbouring properties.
2. The proposal is discouraged within the State Planning Policy Framework and Local Planning Policy Framework of the Council's Planning Scheme.
3. The proposal is not consistent with the planning scheme's incorporated document Greater Shepparton Floodplain Development Plan – Precinct of Broken River, October 2006.
4. The proposal is not consistent with the Victoria Planning Provisions Practice Note 11 Applying for a Planning Permit under the Flood Provisions (DEWLP, 2015).
5. Long-term cumulative impacts of such proposals.

Application Details:

Responsible Officer:	Tim Watson
Application Number:	2016-376
Applicant Name:	Planright Australasia Pty Ltd
Date Received:	09-Sep-2016
Statutory Days:	
Land/Address:	50 Gowrie Park 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):	32.03-3 – subdivision in the Low Density Residential Zone 37.03-3 – subdivision in the Urban Floodway Zone 44.04-2 – subdivision in the Land Subject to Inundation Overlay
Are there any Restrictive Covenants on the title?	Yes - covenant
Is a CHMP required?	No

Proposal

The application for a planning permit proposed a three lot subdivision in the Low Density Residential and Urban Floodway Zones. The application was subsequently amended under Section 57A after notice as a result of an objection and being informed by Council officer's that a three lot subdivision would not be supported.

The application was amended to a two lot subdivision.

The subdivision will create two lots from the existing lot with each lot to have frontage onto Gowrie Park Road.

The lots have been designed to ensure that no lot created is entirely within the Urban Floodway Zone and that there is enough space on each lot to ensure that a dwelling and septic envelope can be contained on the lots.

Summary of Key Issues

- The application for a planning permit was made for a three lot subdivision in the Low Density Residential Zone, Urban Floodway Zone and Land Subject to Inundation Overlay.
- The application was publically notified, with one objection, which raised the character of the area, devaluation of property values and the small frontages of lots proposed.

- The applicant was informed of the objection and that the proposal would not be supported in its current form, given the charter of the locality, decision guidelines of the LDRZ and the lot frontages
- An application was made under section 57 A to amend the application to reduce the number of lots by one, so as to propose a two lot subdivision.
- No referral or notified authorities objected to the proposal. All provided conditions which can be complied with.
- The Council's Planning Department have informed that it is possible for both proposed allotments to contain a suitable septic disposal system.
- The proposed subdivision is considered to provide for an acceptable balance in allowing for subdivision of a large allotment in the Low Density Residential Zone, whilst still providing for large areas of the site which will be undevelopable to ensure that a semi-rural outlook is maintained.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2016-376** 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 **32.03-3, 37.03-3 and 44.04-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **50 Gowrie Park Road TATURA VIC 3616**, for the **three lot subdivision in the Low Density Residential Zone, Urban Floodway Zone and Land Subject to Inundation Overlay** in accordance with the Notice of Decision and the endorsed plans.

Moved by Carl Byrne

Seconded by Peter Stenhouse

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2016-376** 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 **32.03-3, 37.03-3 and 44.04-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **50 Gowrie Park Road TATURA VIC 3616**, for the **three lot subdivision in the Low Density Residential Zone, Urban Floodway Zone and Land Subject to Inundation Overlay** in accordance with the amended Notice of Decision and the endorsed plans.

Amendment to the Notice of Decision is as follows:

Addition to condition 6. of clause d) and e) as follows:

- d) No buildings must be constructed or placed within 15 metres of the western boundary of Lot 2.**

- e) The sheds on lot 2 must not be used and remain vacant until the construction of a dwelling on the land commences to the satisfaction of 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 **2.516 hectares** and currently contains:

- An existing single dwelling, associated shed and landscaped areas;
- A hay shed and storage shed is located to the west of the dwelling;
- The remainder of the land is used for the keeping and grazing of horses, which includes a horse ring.

The main site/locality characteristics are:

- The subject site abuts a railway line to the south (zoned Public Use Zone), with land further to the south zoned Low Density and Farming.
- The land to the east and west is zoned Low Density Residential, however in a similar situation to the subject site is partially zoned Urban Floodway Zone. The allotments to either side of the subject land both contain a single dwelling.
- The land to the north is zoned and used for farming purposes and comprises a channel along the southern boundary

The Photos below show the existing site:



Subject site viewed from Gowrie Park Road



Subject site viewed from Gowrie Park Road



Gowrie Park Road looking west





One of the existing entrances to subject site



Subject site

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? **yes**

What additional information is required?

- A Cultural Heritage Management Plan or evidence that an exemption under the regulations can be applied as part of the activity area is identified within an Area of Aboriginal Cultural Heritage Sensitivity; and
- A copy of covenant 1284490 registered to title.

What date was the information requested?: **14 September 2016**

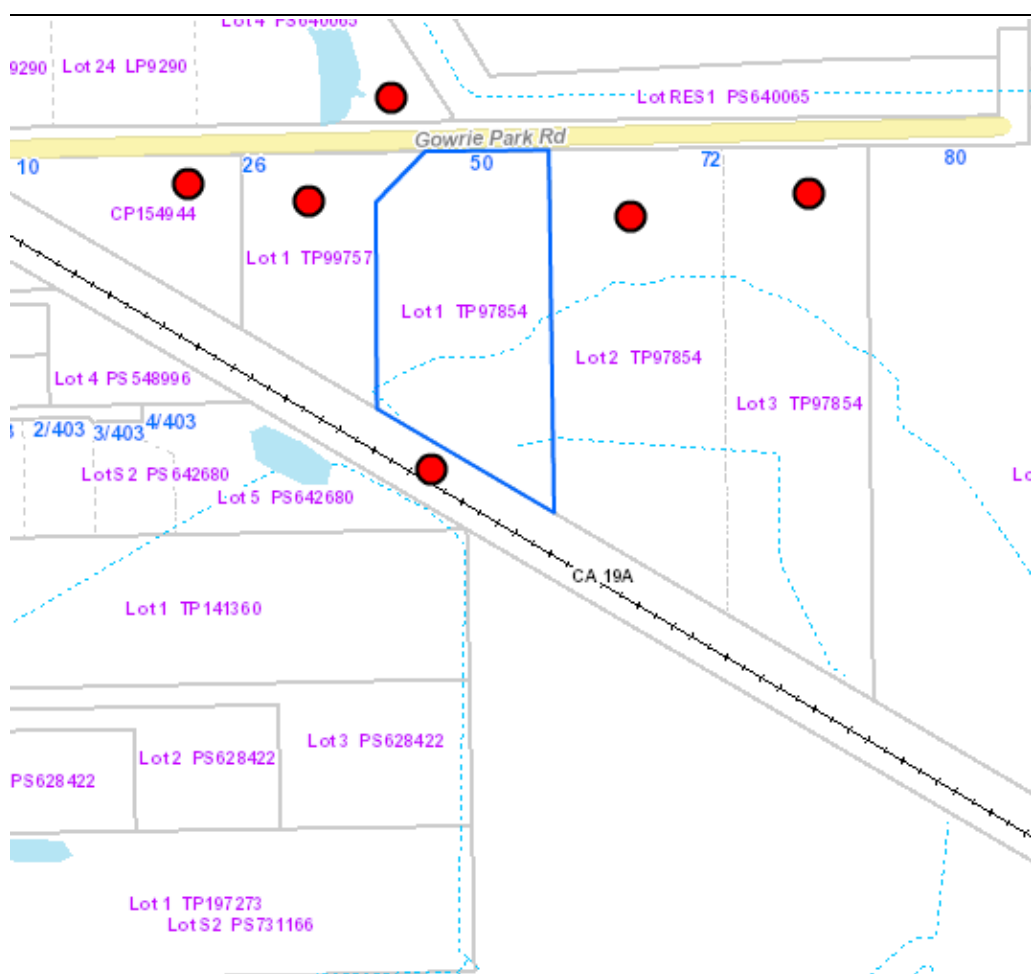
What is the lapsed date? **14 December 2016**

What date was the information received?: **28 November 2016**

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **three lot subdivision 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 [type here]

The LSIO component of 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 were:

- Gowrie Park Road is a street with a rural outlook which provides for a level of quiet amenity.
- The construction of a dwelling on the proposed allotments will destroy the ambience of the area.
- The proposal will impact on the resale value of their land.
- The three small street frontage lots will impact on their way of life.

Title Details

The title contains a restrictive covenant. The application does not breach the restrictive covenant for the following reasons:

-
- The covenant prevents the following:
 - ... not at any time hereafter establish or carry on or allow to be established or carried on Boiling down works, Chinese gardens, or the trade or business of the slaughtering of animals or any noxious trade, on the land ...
 - None of the restricted items are proposed.

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Discussions with both the objector and applicant about the three lot and subsequently two lot subdivision of the land.
- After an assessment of the application and the grounds of objection, the applicant was informed that a three lot subdivision of the land would not be supported.
- The applicant as identified within this report amended the application for a two lot subdivision and submitted a revised plan showing indicative building and effluent envelopes.
- A copy of this plan was forwarded to the objector, who informed that they would be willing to withdraw their objection if the indicative envelopes as shown on the submitted plan were locked in so as to prevent a dwelling being constructed close to their boundary.
- The planning officer informed that this was possible through a section 173 agreement and would ascertain if the applicant would agree to this.
- In conversations between the landowner and the planning officer, the land owner informed that they would not willing agree to this requirement as it would place too many constraints on the site and make it difficult to sell.
- The objector was informed of this and that the application would be referred to the Council's Development Hearings Panel for a decision.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Section 55 -Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
GBCMA	44.04-5 and 37.03-5	Recommending	The application for a planning permit was referred to the GBCMA, who do not object to a issue of a permit, subject to the following condition: a) Fencing within the Urban Floodway Zone must be post and wire or post and rail type fencing only.
Powercor	66	Determining	The application for a planning permit was referred to Powercor, who do not object to the issue of a permit subject to the standard conditions.
GV Water	66	Determining	The application for a planning permit was referred to GVW, who do not object to the issue

			of a permit subject to the standard conditions.
APA	66	Determining	The application for a planning permit was referred to APA, who do not object to the issue of a permit.
GMW	66	Determining	The application was referred to GMW, who do not object to the issue of a permit subject to conditions.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
No external notices were given	-

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	The application was referred to the Development Engineers, with a set of conditions agreed upon.
Health Department	The application was referred to the Council's Health Department and various discussions were undertaken with the applicant and Council's Health Officers with a design eventually agreed upon.

Assessment

The zoning of the land

Low Density Residential Zone 32.03

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

A permit is required to subdivide land pursuant to clause 32.03-3.

Each lot must be at least the area specified for the land in a schedule to this zone. Any area specified must be at least 0.4 hectare for each lot where reticulated sewerage is not connected. If no area is specified each lot must be at least 0.4 hectare.

Decision guidelines

- The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.

- In the absence of reticulated sewerage:
- The capability of the lot to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
 - The benefits of restricting the size of lots to the minimum required to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria).
 - The benefits of restricting the size of lots to generally no more than 2 hectares to enable lots to be efficiently maintained without the need for agricultural techniques and equipment.
- The relevant standards of Clauses 56.07-1 to 56.07-4.

Urban Floodway Zone 37.03

The purpose of the zone is to:

- 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).

A permit is required to subdivide land pursuant to clause 37.03-3. A permit may only be granted to subdivide land if the following apply:

- The subdivision does not create any new lots, which are entirely within this zone. This does not apply if the subdivision creates a lot, which by agreement between the owner and the relevant floodplain management authority, is to be transferred to an authority for a public purpose.
- The subdivision is the resubdivision of existing lots and the number of lots is not increased, unless a local floodplain development plan incorporated into this scheme specifically provides otherwise.

Decision Guidelines

- 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:

- 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).

A permit is required to subdivide land pursuant to clause 44.04-2.

Decision guidelines

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

The State Planning Policy Framework (SPPF)

Supply of Urban Land 11.02-1

Relevant objectives and strategies include:

- To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.
- Ensure the ongoing provision of land and supporting infrastructure to support sustainable urban development.
- Ensure that sufficient land is available to meet forecast demand.
- Planning for urban growth should consider:
 - Opportunities for the consolidation, redevelopment and intensification of existing urban areas.
 - Neighbourhood character and landscape considerations.
 - The limits of land capability and natural hazards and environmental quality.
 - Service limitations and the costs of providing infrastructure.
- Restrict low-density rural residential development that would compromise future development at higher densities.

Planning for Growth 11.10-3

Relevant objectives and strategies include:

- To focus growth and development to maximise the strengths of existing settlements.
- Support growth and development in other existing urban settlements and foster the sustainability of small rural settlements.
- Maintain and enhance the distinctive and valued characteristics of settlements in the region, including townships associated with early settlement and the gold rush.

Floodplain Management 13.02-1

Relevant objectives and strategies 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 to river health.
- 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.

Neighbourhood and Subdivision Design 15.01-3

Relevant objectives and strategies include:

- To ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods.
- In the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by:
 - Providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.

Cultural Identity and Neighbourhood Character 15.01-5

Relevant objectives and strategies include:

- To recognise and protect cultural identity, neighbourhood character and sense of place.
- Ensure development responds and contributes to existing sense of place and cultural identity.
- Ensure development recognises distinctive urban forms and layout and their relationship to landscape and vegetation.
- Ensure development responds to its context and reinforces special characteristics of local environment and place by emphasising:
 - The underlying natural landscape character.
 - The heritage values and built form that reflect community identity.
 - The values, needs and aspirations of the community.

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

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

Investigation Areas

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

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

- Investigation Area 5 – Dhurringile Road, Tatura. The land is opposite the Tatura Milk Industries. The future role of this land is dependent on the identification of measures

to ensure possible conflicts between the potential residential uses on this land and industry in the immediate area are effectively managed.

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 ensure any small township expansion occurs without impacting on the long-term growth potential of urban centres or productive agricultural land.
- To ensure any small township expansion is dependent on land capability where no reticulated sewer is available.
- To balance the need to achieve urban consolidation with the need to respect and retain the valued characteristics of existing neighbourhoods.
- Promote development in accordance with the attached Framework Plans.
- Encourage the consolidation of existing residential areas in the municipality in accordance with the change areas identified in the Housing Change Area plans.

Housing Change Areas 21.04-2

Relevant objectives and strategies include:

To manage the impacts of change in the established neighbourhoods and ensure that residential development contributes to the character of residential areas rather than undermining them.

The residential areas have been divided into three areas indicated in the attached Framework Plans:

Minimal Change Areas are established residential areas that for a number of reasons have limited capacity to accommodate future residential development. Minimal Change Areas do not prohibit all residential development, but seek to allow limited residential development that is generally consistent with the type, scale and character of the area.

Minimal Change Areas are generally in locations that:

- Have a strong neighbourhood character, largely evidenced by a significant presence of historical buildings and places.
- Are affected by environmental factors such as flooding which limit development capacity.
- Have a low density or rural living character.

- Are in close proximity to uses which cause significant off-site impacts.
- Have a widespread application of restrictive covenants which limit housing diversity.
- Have valued landscape features and / or views and vistas.

The Council may also consider smaller Minimal Change Areas in locations immediately adjacent to a sensitive use or affected by a particular environmental factor that has the potential to create significant risk to development or a valued feature of the landscape or detrimentally affect character that is desirable to retain.

- Ensure development respects existing scale and character.
- Ensure development does not considerably impact on significant natural features or views and vistas.

Floodplain and Drainage Management 21.05-2

Relevant objectives and strategies include:

- To recognise the constraints of the floodplain on the use and development of 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

Public Open Space Contribution and Subdivision 52.01

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988.

The proposal is for a two lot subdivision only and it is unlikely that a further subdivision will be allowed given flood controls, therefore no contribution is required.

The decision guidelines of Clause 65

Before deciding on an application to subdivide land, the responsible authority must also

consider, as appropriate:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of any body corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

Relevant incorporated or reference documents

Greater Shepparton Housing Strategy – updated May 2011

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?

Subdivision Act 1988

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 include the land within an area of cultural heritage sensitivity; however the proposed subdivision does not trigger the need for a CHMP with a two lot subdivision being an exempt activity.

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.

Officers Response to Planning Controls

1. The application was made for a three lot subdivision in the Low Density Residential Zone, Urban Floodway Zone and Land Subject to Inundation Overlay.
2. The application was subsequently amended after notification under section 57A of the Act as a result of an objection and the applicant being informed that the Council's Planning Department would not support a three lot subdivision of the land.
3. The proposed subdivision will create two allotments with areas of 1.2110 and 1.3045 hectares with no lot proposed to be created entirely within the Urban Floodway Zone.
4. The lots proposed are mostly rectangular in shape and have been designed to ensure that each allotment is capable of having a proposed or existing dwelling and room for septic facilities, so that no building or associated services will be located within the Urban Floodway Zone.
5. The design provides for frontages of 18.61 and 56.38 metres. The typical frontage for a Low Density Residential subdivision of a green-field site being approximately 30 metres. The small frontage on the one of the allotments is considered acceptable given the size of the proposed allotment and the site constraints. The design does not create a situation whereby the proposed allotment will significantly impact on the character of the area.
6. The subject land is located on the edge of Tatura and comprises a large section to the rear of the land in the Urban Floodway Zone which is undevelopable.

7. The site and the surrounding locality has what could be considered a rural living character with a limited number of dwellings in the immediate vicinity and the land adjacent the site zoned for farming purposes. The surrounding allotments are developed for single dwellings with either significant landscaping or used for horses/light grazing.
8. What essentially needs to be decided with this proposal is a balance between the continuing growth of Tatura and the locality which has been zoned for Low Density Residential purposes against the existing/desired future character of the immediate locality.
9. The State Planning Policy provides general support for urban growth where opportunities for the consolidation, redevelopment and intensification of existing urban areas should be encouraged whilst considering the neighbourhood character and landscape values.
10. The policy at clause 11.10-3 which is sourced from the Hume Regional Strategy focuses on the growth and development of existing settlements and that rural towns should be supported. The proposed subdivision will provide additional allotments within the Tatura township boundary as defined by the Shepparton Housing Strategy and incorporated within the Planning Scheme.
11. The proposed subdivision of the land will create a new allotment for an additional dwelling, with the existing allotment already comprising a single dwelling. The provision of land for a new dwelling on over a hectare in size allotment is not envisaged to significantly impact on the rural outlook of the locality.
12. The purpose of the Low Density Residential Zone is limited in its scope in supporting the provision of low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater, which the proposal will achieve.
13. The proposal achieves an acceptable planning outcome against the decision guidelines of the LDRZ in being able to provide services to the proposed lots. The protection of the natural environmental and character of the area has been ensured through only a two lot subdivision of the land. This allows for a respectful development of the land whilst still realising the development potential of the site.
14. The two lot subdivision is considered to be an acceptable outcome which balances the desired future growth of housing opportunities and townships, whilst still retaining to an extent the rural character of the locality with larger open areas.
15. The land has been identified as being adjacent to investigation area 5 which is currently zoned Industrial 1, but pending an investigation could serve a residential purpose with a zone change. This investigation area is not considered detrimental to the proposal, with the adjacent land targeted for a future residential zone and use.
16. The Greater Shepparton Housing Strategy has included the subject land in a minimal change area. The policy informs that these areas are generally in locations that have

a strong neighbourhood character, have a low density or rural living character and/or have valued landscape features and/or views or vistas.

17. The minimal change identification of the land is not considered detrimental to the proposed two lot subdivision of the land. The proposal will provide for two lots in excess of 1.2 hectares in area, a significant size for the LDRZ where a minimum of .4 of a hectare is allowed without sewer services. In additional large areas of the allotment will remain vacant and undeveloped given the presence of the Urban Floodway Zone assisting in preserving a rural character.
18. The proposed subdivision has been considered against potential flooding implications, with the land zoned partially Urban Floodway and affected by the Land Subject to Inundation Overlay.
19. The applicant has shown that it is possible to locate buildings and services outside and setback from the Urban Floodway Zone.
20. The application has been referred to the Goulburn Broken Catchment Management Authority, the Government's expert on flood safety and development. The Authority has not objected to the application subject to conditions. With this consent it is considered that the proposal is acceptable under these controls and the general objectives relating to flood safety in the SPPF and LPPF.

Conclusion

The proposed two lot subdivision of land in the Low Density Residential Zone and Urban Floodway Zone is considered an acceptable planning outcome. The subdivision will provide for an additional allotment in the Low Density Zone at a size far greater than the allowable minimum. The size of both of the proposed allotments being a result flooding restrictions caused by the Urban Floodway Zone has assisted in provided a better outcome for the ensuring that a level of neighbourhood character is retained.

The allotments have been design to ensure that there is appropriate areas for buildings and services onsite and which are setback from the Urban Floodway Zone. The proposed subdivision is acceptable against the purpose of the Low Density Residential Zone which to provide for low density residential development and therefore it is recommended that a notice of decision issue.

Draft Notice Of Decision

APPLICATION NO: 2016-376

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: 50 GOWRIE PARK ROAD TATURA VIC 3616

WHAT THE PERMIT WILL ALLOW: A TWO LOT SUBDIVISION IN THE LOW DENSITY RESIDENTIAL ZONE, URBAN FLOODWAY ZONE AND LAND SUBJECT TO INUNDATION OVERLAY

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Layout Not Altered

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

2. Drainage Discharge Plan

Before the plan of subdivision is certified under the Subdivision Act 1988, 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 then will form part of the permit. The plans must be drawn by a suitably qualified person or organisation to scale with dimensions. The plans must include

- a) direction of stormwater run off;
- b) a point of discharge for each lot;
- c) independent drainage for each lot;
- d) documentation demonstrating approval from the relevant authority for the point of discharge.

Incorporation of water sensitive urban design in accordance with the "Urban

Stormwater Best Practice Environmental Management Guidelines" 1999.

Before Statement of Compliance is issued drainage works shown on the endorsed Drainage Discharge Plans have been constructed to the satisfaction of the responsible authority.

3. Landscape Plan

Before certification of a plan of subdivision, a landscape plan 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 three copies must be provided. The landscaping plan must be must show:

- a) a permanent screen of trees and shrubs with a minimum of two rows using a mixture of local trees and understorey species along the western boundary of the land for the extent of the Low Density Residential Zoned land;
- b) the provision of street trees along Gowrie Park Road.

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

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

Before the issue of Statement of Compliance 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.

4. Urban Vehicle Crossing Requirements

Before the Statement of Compliance is issued 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.

The vehicle crossing for **(Lot 1 & 2)** must be

- a) no less than 5 metres in length and the pavement is to be sealed where it abuts an existing sealed road;
- b) include a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm);
 - a. Culverts located in the clear zone shall be installed with trafficable end walls (refer IDM standard drawing SD 255);
- c) The final location of the crossing is to be approved by the responsible authority via a 'Works within the Roads Reserve' (Road Opening)' permit.
- d) All bridges and crossings must be designed and constructed to carry a vehicle weighing a minimum of 15 tonnes and be a minimum of 3 metres in width.

5. **Health Requirements**

Prior to the commencement of works on Lot 1 and 2 the owner shall lodge with the Council an application to Install/Alter a Septic Tank System in accordance with the Code of Practice – Onsite Wastewater Management, Publication 891.3, February 2013.

The application to Install/Alter a Septic Tank System shall include:

1. The application form provided by the Council completed, signed and dated by the owner.
2. A floor plan of the proposed dwelling.
3. A site plan indicating the location of the effluent disposal area.
4. The design of the effluent disposal system including instructions for installation and working drawings.
5. The current application fee.

6. **Section 173 Agreement**

Before the issue of a Statement of Compliance, the owner must enter into an agreement with the responsible authority, pursuant to Section 173 of the *Planning and Environment Act 1987*. This agreement must be registered on the title to the land pursuant to Section 181 of the *Planning and Environment Act 1987*. The owner must pay the reasonable costs of the preparation, execution and registration of the section 173 agreement. The agreement must provide that:

- a) **Only one dwelling is permitted to be constructed on Lots 1 and 2 and the number of bedrooms for each dwelling shall be restricted to a maximum of four. Please note that a bedroom can include any additional room shown on a house plan such as a study, library or sunroom that could be closed off with a door- this will be at the discretion of the Environmental Health Officer.**
- b) **The owner must allocate and maintain an area of not less than 1080m² (that includes setback distances) solely for the purposes of effluent disposal on Lot 2. The location of this area must comply with the EPA Code of Practice- Onsite Wastewater management Publication number 891.4, released 1 July 2016. The minimum effluent disposal area can only be varied with the written consent of the Council's Environmental Health Officer.**
- c) **The owner must allocate and maintain an area of not less than 468m² solely for the purposes of effluent disposal reserve area on Lot 1 based on the current 3 bedroom house. The location of this area must comply with the EPA Code of Practice- Onsite Wastewater management Publication number 891.4, released 1 July 2016. The minimum effluent disposal area can only be varied with the written consent of the Council's Environmental Health Officer.**

The said agreement is to be prepared by Council. Council will undertake to have the agreement prepared upon written notification from the applicant. All costs associated

with the preparation and registration of the agreement shall be borne by the applicant including Council's administration fee. All fees associated with the documentation must be fully paid prior to execution and registration of the document by Council.

7. Form 13

Before a Statement of Compliance is issued under the *Subdivision Act 1988* by the Responsible Authority the owner must provide a completed Form 13.

8. Standard Referral Authority Requirements

- a) The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
- b) All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- c) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

9. Goulburn Broken Catchment Management Authority Requirements

Fencing within the Urban Floodway Zone must be post and wire or post and rail type fencing only.

10. Powercor Requirements

- a) 1. The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- b) The applicant shall:
 - a. Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.
 - b. Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
 - c. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
 - d. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.

- e. Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision.
Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.
- f. Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.
- g. Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
- h. Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.
- i. Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.
- j. Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

11. 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 a reticulated water supply and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation;
- c) The operator under this permit shall be obliged to enter into an Agreement with Goulburn Valley Region Water Corporation relating to the design and construction of any water works required. The form of such Agreement shall be to the satisfaction of Goulburn Valley Water. A copy of the format of the Agreement will be provided on request;
- d) The plan of subdivision lodged for certification is to be referred to the Goulburn Valley Region Water Corporation pursuant to Section 8(1) of the Subdivision Act, 1988.

12. Goulburn Murray Water Requirements

- a) The existing on-site wastewater treatment and disposal systems for proposed new lot 1 must be wholly contained within the boundaries of the new lot created by subdivision.
- b) Any Plan of Subdivision lodged for certification must be referred to Goulburn-

Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.

- c) A Plan of Subdivision must be provided for Certification showing building and effluent exclusion zones prohibiting development and wastewater disposal fields from being located within the Urban Floodway Zone and Land Subject to Inundation Overlay.
- d) Any Goulburn Murray Water existing easement(s)/reserve(s) pertaining to Goulburn Murray Water assets affected by the subdivision must remain and be shown on any Plan of Subdivision submitted for Certification.
- e) For subdivision of property holding delivery shares the applicant must either:
 - a. a. make application to Goulburn Murray Water pursuant to sections 224 and 229 of the Water Act 1989 to: terminate the delivery shares in relation to the property; make a declaration that the property cease to be a serviced property (to effect excision from the district); and trade or transfer any Water Share in relation to the property; or alternatively
 - b. demonstrate to Goulburn Murray Water reasonable satisfaction the means by which a Goulburn Murray Water water supply will be metered and delivered to the lots created by the subdivision, bearing in mind requirements for water use licences and annual use limits.

13. Telecommunications Referral Condition

The owner of the land must enter into an agreement with:

- A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

14. Time for Starting and Completing a Subdivision

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

- a) the subdivision is not started (certification) within **two (2)** years of the date of this permit;

- b) the subdivision is not completed (statement of compliance) within **five (5)** years of the date of certification.
-

Application Details:

Responsible Officer:	Tim Watson
Application Number:	2017-83
Applicant Name:	Metasite Pty Ltd
Date Received:	17-Mar-2017
Land/Address:	230 Kyabram-Cooma Road KYABRAM VIC 3620
Zoning & Overlays:	Farming Zone Pt. Floodway and Land Subject to Inundation Overlays (neither impacts site)
Why is a permit required (include Permit Triggers):	35.07-4 – Buildings and works in the Farming Zone; and 52.19 – installation of a telecommunications facility.
Are there any Restrictive Covenants on the title?	no
Is a CHMP required?	No, not a high impact activity as outlined in section 43

Proposal

The application for a planning permit proposes the installation of a Telecommunications facility in the Farming Zone at the subject address. An application was required for buildings and works in the Farming Zone and pursuant to the particular provision for the installation of telecommunications facilities.

The facility is to comprise of the following:

- Installation of a new 30 metre high monopole;
- With 3 sectors, each with two panel antennas per sector;

Ancillary equipment associated with operation of facility, including remote radio units, canister, cable trays, cabling, safe access methods, bird proofing, earthing, electrical works and air-conditioning equipment.

Summary of Key Issues

- The application for a planning permit proposes the construction of a telecommunications facility.
- The proposed telecommunications facility comprises a 30 metre high monopole to have a configuration of three sectors with two panel antennas per sector, six panel antennas in total (each 2.7 metres tall max) mounted on the headframe above the monopole at 31 metres at centreline height and installation of an associated equipment shelter at the base of the tower.

- The application was advertised with letters to surrounding land owners, sign on site and notices in the Shepparton News and Kyabram newspaper.
 - One objection was received from the notice period from the owners of the land abutting the western boundary.
 - The objection raises health concerns from Electromagnetic energy (EME's) emissions from the proposed tower, with the objector informing that they intend to construct a dwelling on the abutting land.
 - The permit for the objectors dwelling issued in 2012 has expired and they have been informed of this (further detail for this is provided in the officer's assessment)
 - The proposed facility is found to have an acceptable outcome against the four assessment criteria of the 'A Code of Practice for Telecommunications Facilities in Victoria', being visual, co-location, health standards and construction management.
-

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2017-83** 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 and 52.19** of the Greater Shepparton Planning Scheme in respect of the land known and described as **230 Kyabram-Cooma Road KYABRAM VIC 3620**, for the **buildings and works for a telecommunications facility in the Farming Zone 1, comprising a 30 high monopole, antenna and associated equipment** in accordance with the Notice of Decision and the endorsed plans.

Moved by Peter Stenhouse

Seconded by Cameron Fraser

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2017-83** 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 and 52.19** of the Greater Shepparton Planning Scheme in respect of the land known and described as **230 Kyabram-Cooma Road KYABRAM VIC 3620**, for the **buildings and works for a telecommunications facility in the Farming Zone 1, comprising a 30 high monopole, antenna and associated equipment** 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.

The site has a total area of **73.45 hectares** and currently comprises:

An existing dairy farm with the direct land surrounding the proposed tower site used for irrigated pasture.

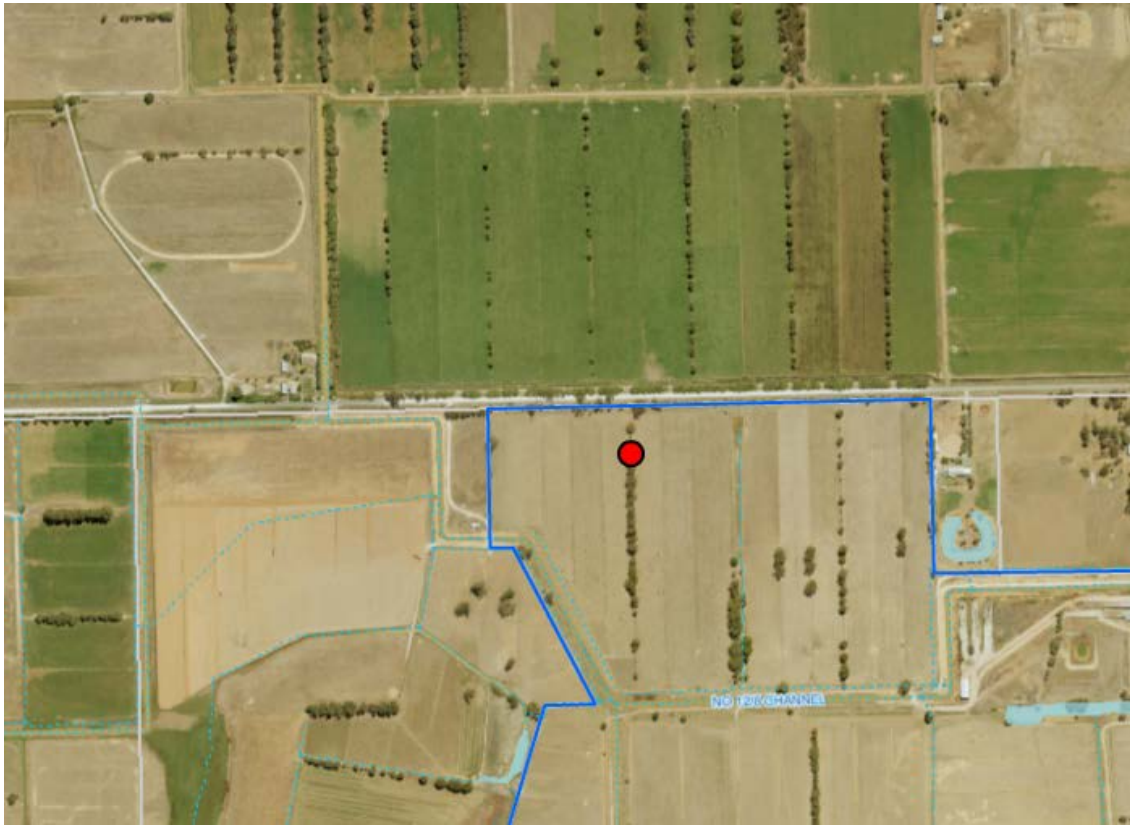
The dairy shed, dwelling and associated buildings are located on the eastern boundary of the site with access provided from Kyabram-Cooma Road.

The site is dissected by a number of channels, the closest to the proposed tower site being 175 square metres.

The main site/locality characteristics are:

The wider locality is used for agricultural purposes, primarily dairy

The Photos below show the existing site, with red dot on aerial showing approximate proposed location of tower.





Pre-Application Meeting Details

As there been a pre-application meeting ? **no**

Permit/Site History

The history of the site includes:

Planning permit 1996-528

Further Information

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

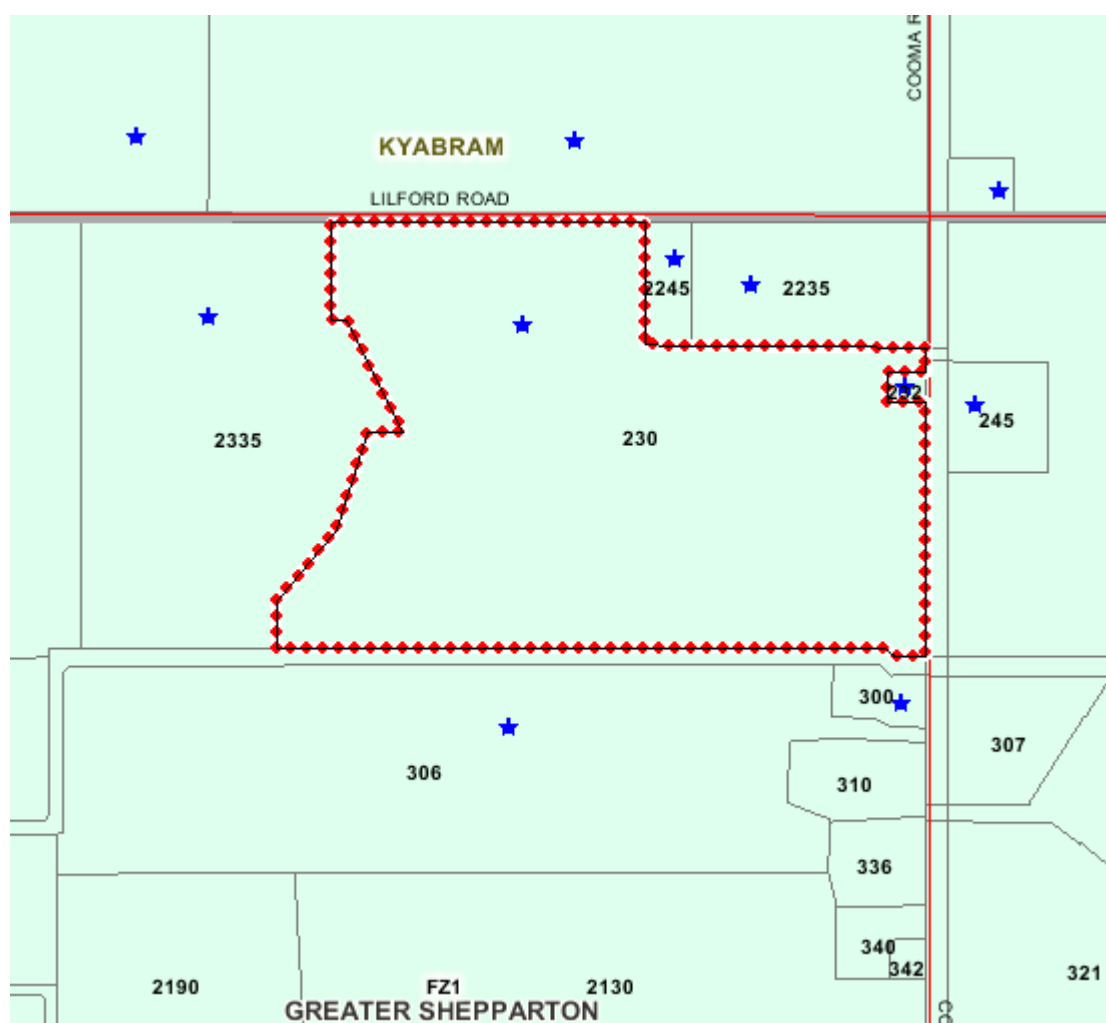
Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **telecommunications facility in the Farming Zone 1 comprising a 30 metre high monopole, antenna and associated equipment**, by:

Sending notices to the owners and occupiers of adjoining land.

Placing a sign on site.

Notice in Newspaper (**Shepparton News and Kyabram Newspaper**)



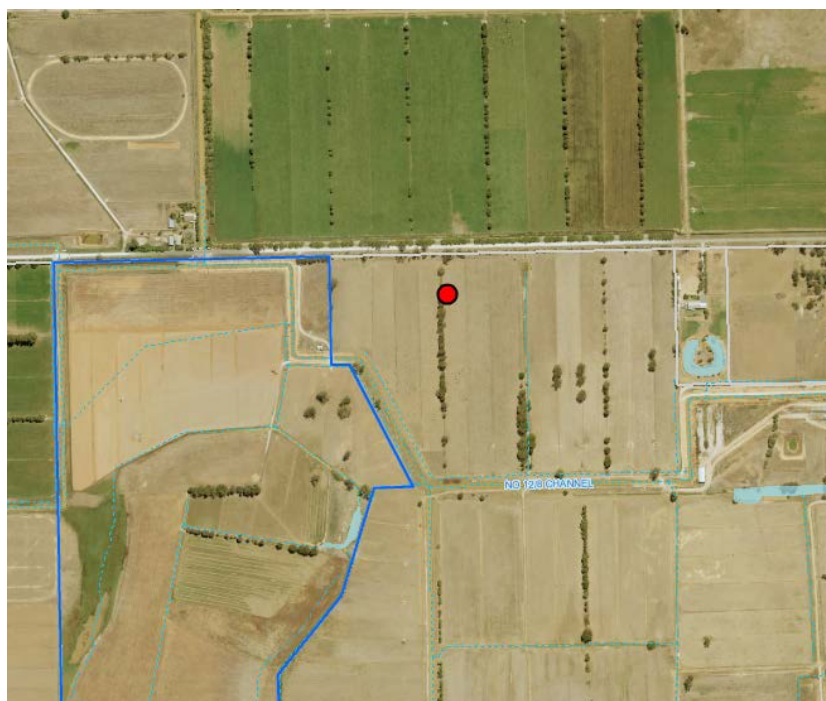
The applicant provided a signed declaration stating that the sign on site was displayed on the land between 2/5/17 and 22/5/17.

Objections

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

Health concerns from the location of the tower which will emit electromagnetic radiation in close proximity to where they plan to construct a dwelling on the allotment to the west of the site.

Image below shows location of objector's land, with red dot indicating approximate location of proposed telecommunication facility.



Title Details

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

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- A discussion with the objector in which they were informed that the applicant has provided a written response to their objection would be forwarded onto them.
- The objector was also informed that the dwelling permit for their land at 2335 Lilford Road had expired and any new proposed dwelling would require future planning permission.
- The objector informed that they were aware of this.

-
- The objector was informed of the DHP process and that they would be notified in the mail of the date.

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
No section 55 referrals required	-	-	-

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
No external notices required	-

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
No internal referrals required	-

Assessment

The zoning of the land
Farming Zone 35.07

The purpose of the 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 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.

A permit was required for the development of the land for Buildings and works in the Farming Zone pursuant to clause 35.07-4.

Relevant overlay provisions

The land is partially affected by the Floodway Overlay and Land Subject to Inundation Overlay. Neither overlay affects the site of the proposed tower and therefore have not been considered.

The State Planning Policy Framework (SPPF)

Telecommunications 19.03-4

Objectives and strategies:

- To facilitate the orderly development, extension and maintenance of telecommunication infrastructure.
- Facilitate the upgrading and maintenance of telecommunications facilities.
- Ensure that modern telecommunications facilities are widely accessible to business, industry and the community.
- Ensure the communications technology need of business, domestic, entertainment and community services are met.
- Do not prohibit the use of land for a telecommunications facility in any zone.
- Encourage the continued deployment of broadband telecommunications services that are easily accessible by:
 - Increasing and improving access for all sectors of the community to the broadband telecommunication trunk network.
 - Supporting access to transport and other public corridors for the deployment of broadband networks in order to encourage infrastructure investment and reduce investor risk
- In consideration of proposals for telecommunication services, seek a balance between the provision of important telecommunications services and the need to protect the environment from adverse impacts arising from telecommunications infrastructure.
- Planning should have regard to national implications of a telecommunications network and the need for consistency in infrastructure design and placement.

Planning must consider as relevant:

A Code of Practice for Telecommunications Facilities in Victoria (Department of Sustainability and Environment, 2004).

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

Urban and Rural Services 21.07-2

An objective of the Clause is to provide telecommunications facilities available to all areas of the municipality.

Relevant Particular Provisions

Telecommunications Facility 52.19

The purpose of the provision is to:

- Ensure that telecommunications infrastructure and services are provided in an efficient and cost effective manner to meet community needs.
- Ensure the application of consistent provisions for telecommunications facilities.
- Encourage an effective state-wide telecommunications network in a manner consistent with the economic, environmental and social objectives of planning in Victoria as set out in Section 4 of the Planning and Environment Act 1987.
- Encourage the provision of telecommunications facilities with minimal impact of the amenity of the area.

Application 52.19-1

These provisions apply to the construction of a building or the construction or carrying out of works associated with the use of the land for a telecommunications facility. They apply to the extent permitted under the Telecommunications Act 1997 (Cwth) and determinations made under that Act by the relevant Commonwealth Minister for Telecommunications, including the Telecommunications (Low-impact Facilities) Determination 1997.

Pursuant to Clause 52.19-2 a planning permit is required to construct a building or carry out works for a Telecommunications facility.

Decision Guidelines

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

- The principle for design, siting, construction and operation of a Telecommunications facility set out in A Code of Practice for Telecommunications Facilities in Victoria.
- The effect of the proposal on adjacent land.
- If the Telecommunications facility is located in an Environmental Significance Overlay, a Vegetation Protection Overlay, a Significant Landscape Overlay, a Heritage Overlay, a Design and Development Overlay or an Erosion Management Overlay, the decision guidelines in those overlays and the schedules to those overlays.

The following four principles must be applied where relevant to the design, siting, construction and operation of any telecommunications facility which is not exempt under Commonwealth legislation.

Principle
<p>A telecommunications facility should be sited to minimise visual impact.</p> <p>Application of principle</p> <ul style="list-style-type: none">• On, or in the vicinity of a heritage place, a telecommunications facility should be sited and designed with external colours, finishes and scale sympathetic to those of the heritage place. A heritage place is a heritage place listed in the schedule to the Heritage Overlay in the planning scheme.• A telecommunications facility mounted on a building should be integrated with the design and appearance of the building.• Equipment associated with the telecommunications facility should be screened or housed to reduce its visibility.• The relevant officer of the responsible authority should be consulted before any street tree is pruned, lopped, destroyed or removed.• A telecommunications facility should be located so as to minimise any interruption to a significant view of a heritage place, a landmark, a streetscape, vista or a panorama, whether viewed from public or private land.
<p>Telecommunications facilities should be co-located wherever practical.</p> <p>Application of principle</p> <ul style="list-style-type: none">• Wherever practical, telecommunications lines should be located within an existing underground conduit or duct.• Overhead lines and antennae should be attached to existing utility poles, towers or other radio communications equipment to minimise unnecessary clutter.
<p>Health standards for exposure to radio emissions will be met.</p> <p>Application of principle</p> <ul style="list-style-type: none">• A telecommunications facility must be designed and installed so that the maximum human exposure levels to radio frequency emissions comply with <i>Radiation Protection Standard – Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300 GHz</i>, Arpana, May 2002.
<p>Disturbance and risk relating to siting and construction should be minimised.</p> <p>Construction activity and site location should comply with State Environment protection policies and best practice environmental management guidelines.</p> <p>Application of principles</p> <ul style="list-style-type: none">• Soil erosion during construction and soil instability during operation should be minimised in accordance with any relevant policy or guideline issued by the Environment Protection Authority.• Construction should be carried out in a safe and effective manner in accordance with relevant requirements of the <i>Occupational Health and Safety Act 1985</i>.• Obstruction or danger to pedestrians or vehicles caused by the location of the facility,

-
- construction activity or materials used in construction should be minimised.
- Where practical, construction should be carried out during times that cause minimum disruption to adjoining properties and public access.
 - Traffic control measures should be taken during construction in accordance with *Australian Standard AS1742.3 – 2002 Manual of uniform traffic control devices – Traffic control devices on roads*.
 - Open trenching should be guarded in accordance with *Australian Standard Section 93.080 – Road Engineering AS 1165 – 1982 – Traffic hazard warning lamps*.
 - Disturbance to flora and fauna should be minimised during construction and vegetation replaced to the satisfaction of the land owner or responsible authority at the conclusion of work.
 - Street furniture, paving or other existing facilities removed or damaged during construction should be reinstated (at the telecommunication carrier's expense) to at least the same condition as that which existed prior to the telecommunications facility being installed.

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 Response

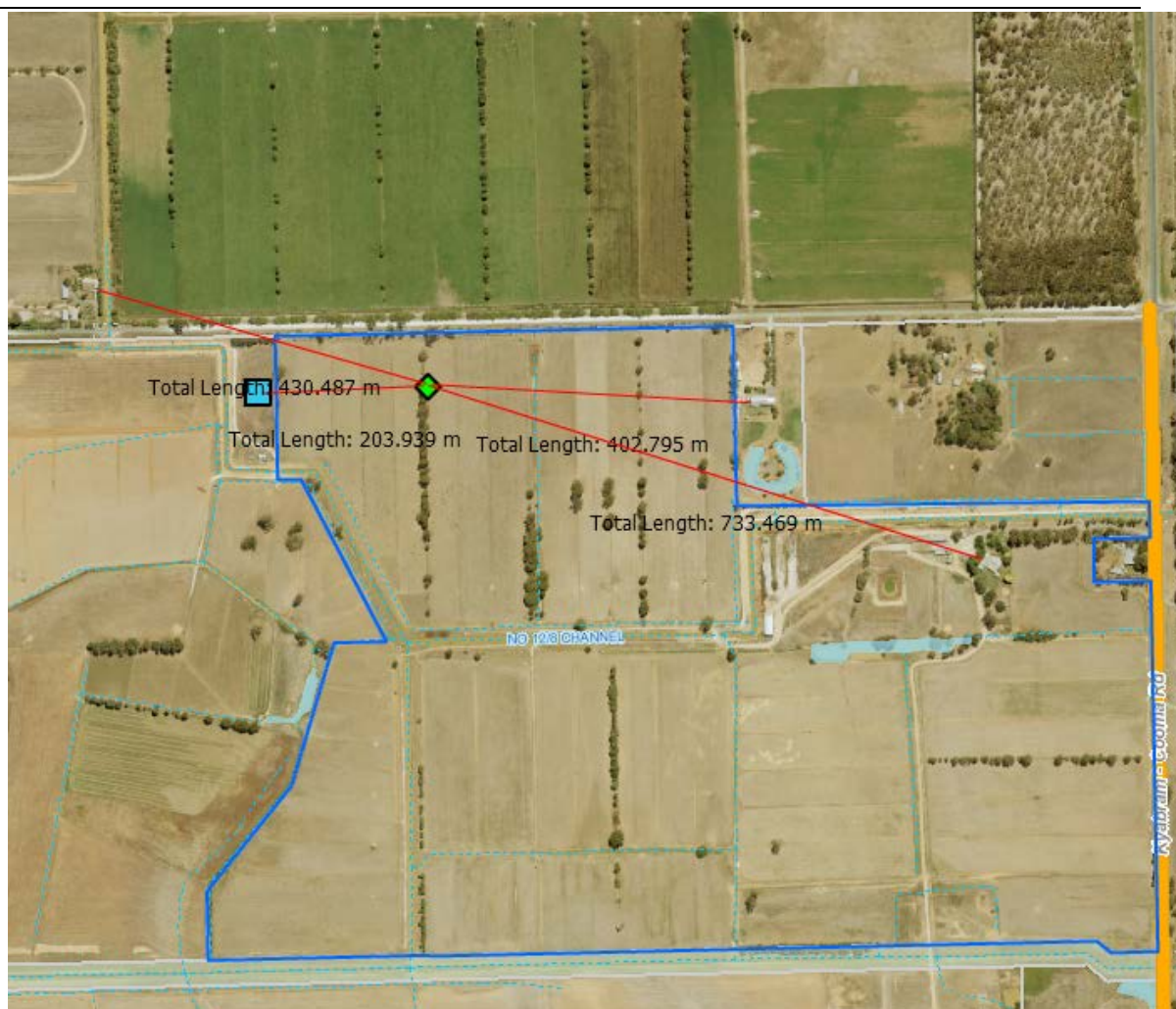
1. The application for a planning permit proposes the construction of a 30 metre high telecommunication tower in the Farming Zone. The proposed telecommunication facility compromises the construction of a 30 metre high monopole to have a configuration of

three sectors with two panel antennas per sector, six panel antennas in total (each 2.7 metres tall max) mounted on the headframe above the monopole at 31 metres at centreline height and installation of an associated equipment shelter at the base of the tower.

2. State Planning Policy at 19.03-4 seeks to facilitate telecommunications infrastructure and identifies the need to protect the environment from adverse impacts. Officers are satisfied that both the natural and built environments are not adversely impacted on by this tower.
3. Council's local planning policy at 21.07-2 includes an objective to provide telecommunications facilities available to all areas of the municipality.
4. Clause 52.19 of the planning scheme includes a particular provision for Telecommunication Facilities. The provision encourages the development of towers with minimal impact on the amenity of the area.
5. Officers have assessed that application against the four principles of the Code of Practice for Telecommunication Facilities in Victoria being siting, co-location, health standards and construction management as follows

Visual

6. The proposed tower indicated by the green diamond below is to be located within an existing paddock in close proximity to an existing line of established trees. The tower will be set in from the road to reduce the impact of the tower on the surrounding landscape from road ways.
7. The image below shows the approximate distance of the proposed tower from the closest dwellings with the blue square representing the proposed location of the dwelling identified by the objector. The objector identifying significant health concerns likely to result from the tower being within close proximity of their proposed dwelling site.
8. An investigation into this proposed dwelling at 2335 Lilford Road, Kyabram found that a planning permit (2010-293) was issued for the use and development of the land for a dwelling in the Farming Zone on 25 January 2012 and extended to require commencement of the use and development by 25 January 2015. To date no works or use has commenced and therefore the permit has expired. A new permit would therefore need to be applied for.
9. The next closest dwelling to the land is located to the east approximately 400 metres away from the tower site and has been orientated to face the road (north) and the rear of the land (south). An existing tree buffer is provided along the western boundary of the dwelling allotment assisting in obstructing any views to the west of the proposed tower.
10. The next closest dwelling, approximately 430 metres to the north-west is orientated to face the road to the south, with views to the tower obstructed by the vegetation on the same land abutting the dwelling and on the land which the tower is to be located.
11. The facility is to be located over 1500 metres from the nearest residential zone (GRZ), which forms part of the Kyabram township.



12. Additionally the site and surrounding area has not been identified under any heritage or significant landscape overlays.
13. In *Hutchinson 3G Australia v Casey City Council* (2002) VCAT 247 the members remarked:

We preface our findings by commenting that minimising an adverse impact on visual amenity does not mean that a telecommunications pole must be sited so that it cannot be seen by most or many people. Visibility cannot be equated to adverse visual impact.

14. As set out above, in this circumstance, there is no doubt that the tower will be visible from neighbouring properties and the wider locality. However as the Tribunal noted, just because the tower is visible it does not automatically follow that the application should be refused.
15. The tower is located in the Farming Zone and is not located in or near any site which have been identified as historically or visually significant with the appropriate planning controls. It is considered by officers that the visual impact is acceptable given the use of existing mature tree screening on and in abutting lands.

Co-location

16. The applicant has identified that there are no co-location opportunities within close proximity of the site. The closest possible site is approximately 3.5 km to the south east, being a 30 metre NBN. This NBN tower and another Telstra tower to the south east do not provide coverage of the area targeted by Optus, therefore a new tower is proposed.

Health Standards

17. The applicant has provided a report which was prepared for the site to predict the maximum level of electromagnetic energy surrounding the proposed tower.
18. The report concluded the emissions will be 0.69% of the public exposure limit, established by the Australian Government Agency in the Health and Aging Portfolio.
19. VCAT in *Mason v Geelong (Red Dot)* (VCAT 2057 2013) considered EME radiation from telecommunication towers. VCAT made the following comments:

The amount of electromagnetic radiation emitted by a telecommunications facility may well be a legitimate issue of public concern. However, VCAT is not a forum for addressing all issues of social or community concern, nor is it an investigative body.

It cannot give great weight to unsupported assertions about public health concerns in the context of an individual planning application, particularly in relation to matters outside its own expertise or beyond the limited ambit of its statutory role or discretion in relation to that application. Accordingly, VCAT is not the appropriate forum where generalised opposition to telecommunications facilities based on public health concerns can or should be raised. It is a waste of the parties' and the Tribunal's resources as, ultimately, VCAT is essentially bound to apply the ARPANSA standard.

Allowing objectors to continue to air their concerns about electromagnetic radiation at a VCAT hearing creates false expectations about the role of VCAT and the ambit of its discretion, and the extent to which it can realistically deal with such issues.

20. Given the findings of the Environmental EME Report and the commentary of the Tribunal, the proposal is considered to achieve an acceptable outcome with regard to potential health impacts based on the limit of the Council's assessment.

Construction Management

21. To address this principle of disturbance and risk to siting and construction should be minimised, officers recommend that a permit condition be included relating to the construction phase of the tower which seeks to manage off site impacts during construction activities.

Relevant incorporated or reference documents

A Code of Practice for Telecommunications Facilities in Victoria.

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 subject location of the proposed facility is not shown as an area of cultural heritage sensitivity, however other sections of the land are. Despite this the proposed facility is exempt as shown below by the process list.



Project Name: Telecommunications Facility

Project Location: 230 Kyabram-Cooma Rd, Kyabram

Date: 29-May-2017

	QUESTION	ANSWER
Question 1	Is the proposed activity , or all the proposed activities, exempt?	No
Question 2	Are you undertaking a High Impact Activity as listed in the Aboriginal Heritage Regulations?	No
Answer:	<u>ON THE BASIS OF THE ANSWERS YOU HAVE ENTERED</u> YOU ARE NOT REQUIRED BY THE REGULATIONS TO PREPARE A CULTURAL HERITAGE MANAGEMENT PLAN <u>FOR THIS PROJECT</u>	

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 application for telecommunication facility compromises the construction of a 30 metre high monopole and associated equipment in the Farming Zone.

The application has been submitted with information that the Tower will be below the recommended EME levels provided by the Federal Government of Australia and that appropriate co-locational opportunities have been investigated.

The proposed facility has been located so that it is distanced from the surrounding dwellings and inset from the road so as to reduce the visual impact.

The proposal when assessed against the key criteria of the Code of Practice is considered to achieve an acceptable planning outcome. It is therefore considered appropriate to recommend that a Notice of Decision be approved.

Draft Notice Of Decision

APPLICATION NO: 2017-83

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: 230 KYABRAM-COOMA ROAD KYABRAM VIC 3620

WHAT THE PERMIT WILL ALLOW: BUILDINGS AND WORKS FOR A TELECOMMUNICATIONS FACILITY IN THE FARMING ZONE 1, COMPRISING A 30 HIGH MONOPOLE, ANTENNA AND ASSOCIATED EQUIPMENT

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. 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.

3. Rural Vehicle Crossing

Before the use of the telecommunications facility, the vehicle crossing providing access to the site from Lilford Road 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/developer's expense.

The vehicle crossing must be

- no less than 5 metres in length and the pavement is to be sealed where it

abuts an existing sealed road;

- include a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm);
- Culverts located in the clear zone shall be installed with trafficable end walls (refer IDM standard drawing SD 255);
- The final location of the crossing is to be approved by the responsible authority via a 'Works within the Roads Reserve' (Road Opening)' permit.

4. Rural Drainage

Before the use of the telecommunication facility, all stormwater and surface water drainage from the land, buildings and works must be connected to the legal point of discharge or retained on site to the satisfaction of the responsible authority.

5. Cessation of use

Should the use of the land for a telecommunication facility cease the tower and all associated infrastructure must be removed and the site area reinstated to its original state within three months of the use ceasing to the satisfaction of the responsible authority.

6. Time for Starting and Completion

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

- a) the development is 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.

Development Hearings Delegates Report

Application Details:

Responsible Officer:	Sarah van Meurs
Application Number:	2017-62
Applicant Name:	N Patone and L R Patone
Date Received:	21-Feb-2017
Statutory Days:	51 on 19/5/2017
Land/Address:	340 Orrvale Road ORRVALE VIC 3631
Zoning & Overlays:	Farming Zone 1 Floodway Overlay Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	35.07-2 Use of land for a dwelling in the FZ1 35.07-4 Buildings and works for the construction of a dwelling and access bridge in the FZ1 44.03-1 Buildings and works for the construction of a dwelling and access bridge in the FO 44.04-1 Buildings and works for the construction of a dwelling in the LSIO
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No

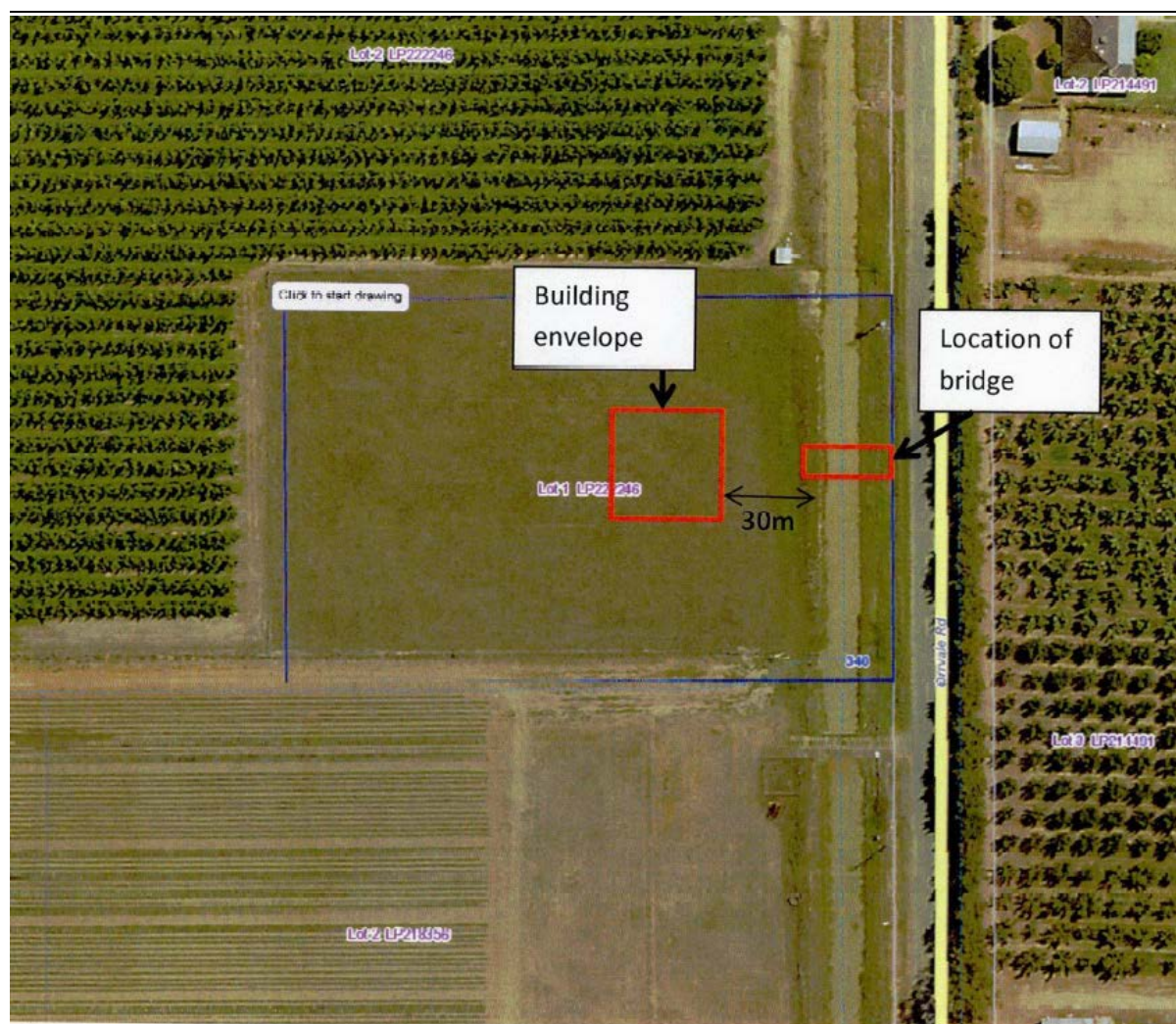
Chairman Councillor Chris Hazelman asked that it be recorded in the minutes that prior to the Development Hearings Panel he had contact with applicant Lyn Patone on two occasions. Lyn Patone had contacted Councillor Hazelman by phone and Councillor Hazelman had returned the call to Lyn Patone.

Proposal

The application proposes the use and development of a dwelling in the Farming Zone 1 and buildings and works in the Floodway Overlay and Land Subject to Inundation Overlay. As part of the application, an access bridge over the Goulburn Murray Water (GMW) channel is also required to be constructed.

The applicant has stated that the dwelling is proposed to be occupied by the farm manager of the orchards located on the opposite side of the Orrvale Road (lot 3 on LP214491). It is noted that the farm manager currently resides in an existing dwelling on the orchard land which is not within their ownership. Therefore the orchard manager would like to construct a dwelling on the vacant lot which is within their ownership.

The applicant has also stated that assorted nut and fruit trees will be planted on the subject land located behind and to the west of the proposed dwelling.



Summary of Key Issues

The application proposes the use and development of a dwelling and access bridge on a one hectare allotment in the Farming Zone 1 and in the Floodway Overlay and Land Subject to Inundation Overlay.

The application was referred to the Goulburn Broken Catchment Management Authority (GBCMA) who did not object subject to a condition requiring the floor level of the dwelling to be constructed to 450mm above the ground level.

The application was notified to GMW who did not object subject to the inclusion of conditions.

The application was internally referred to the Engineering Department and Environmental Health Department who did not object subject to the inclusion of the conditions.

The application was notified to surrounding properties and no objections were received by the Planning Department.

The two key assessment criteria for use in the Farming Zone are if the dwelling is required for the agricultural use being carried out on land and whether the dwelling will impact on surrounding agricultural activities.

Given the land is one hectare in size, it is extremely difficult to provide justification of why a dwelling is required for the operation of an agricultural use given the building envelope for the dwelling, domestic outbuildings, bridge and septic envelope would remove a substantial part of the land from agricultural production.

As evident from aerial photograph and site photographs, the subject land abuts an operating orchard and therefore any sensitive use such as a dwelling on small allotment is likely to be impacted upon negatively.

Given the surrounding agricultural uses, the site is not considered lost to agricultural production. The site appropriately lends itself to being consolidated into an adjoining farm use at an agricultural land value.

The applicant has stated the purpose of the dwelling is for the farm manager of a neighbouring orchard. The applicant has also stated that the farm manager currently resides in a dwelling on the orchard land however does not own the orchard land and would like to construct a dwelling on the vacant lot of which is within their ownership.

Despite the above purpose, there is no guarantee that dwelling will be used by the farm manager of the neighbouring property and there is also potential for the land to be on sold.

The Greater Shepparton Planning Scheme is clear and unambiguous about discouraging dwellings which are not supported by an agricultural use, therefore the use of the land for a dwelling cannot be supported.

Recommendation

Refusal

That the Council having caused notice of Planning Application No. **2017-62** 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 **35.07-2, 35.07-4, 44.03-1 and 44.04-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **340 Orrvale Road ORRVALE VIC 3631**, for the **Use and development of a dwelling and associated access bridge in the Farming Zone 1 and buildings and works in the Floodway Overlay and Land Subject to Inundation Overlay.**

For the following reasons:

The proposed use of the land for a dwelling does not provide an acceptable outcome or net community benefit in terms of the relevant State and Local Planning Policy and Decision Guidelines of the Farming Zone; and

- a) Has the potential to impact on the continuation of primary production on nearby land;

- b) Has the potential to limit the expansion of agricultural use on adjacent land
- c) Has the potential to create conflict between the ongoing farming activities and the proposed rural living use
- d) Will remove the land from future agricultural use
- e) Will result in the construction of a dwelling on a small and inappropriate lot
- f) The application for a dwelling does not adequately address or demonstrate that the proposed dwelling is reasonably required for the operation of agricultural activity on the land as required by the Farming Zone.
- g) The application does not comply with the Rural Land Use Strategy (C121) which seeks to limit dwelling in the proposed Farming Zone which are not associated or required for the agricultural use of the land.

Moved by Elke Cummins

Seconded by Peter Stenhouse

Refusal

That the Council having caused notice of Planning Application No. **2017-62** 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 **35.07-2, 35.07-4, 44.03-1 and 44.04-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **340 Orrvale Road ORRVALE VIC 3631**, for the **Use and development of a dwelling and associated access bridge in the Farming Zone 1 and buildings and works in the Floodway Overlay and Land Subject to Inundation Overlay.**

For the following reasons:

The proposed use of the land for a dwelling does not provide an acceptable outcome or net community benefit in terms of the relevant State and Local Planning Policy and Decision Guidelines of the Farming Zone; and

- a) Has the potential to impact on the continuation of primary production on nearby land;
- b) Has the potential to limit the expansion of agricultural use on adjacent land
- c) Has the potential to create conflict between the ongoing farming activities and the proposed rural living use
- d) Will remove the land from future agricultural use
- e) Will result in the construction of a dwelling on a small and inappropriate lot
- f) The application for a dwelling does not adequately address or demonstrate that the proposed dwelling is reasonably required for the operation of agricultural activity on the land as required by the Farming Zone.
- g) The application does not comply with the Rural Land Use Strategy (C121) which seeks to limit dwelling in the proposed Farming Zone which are not associated or required for the agricultural use of the land.

CARRIED

Subject Site & Locality

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

Date: **15/3/2017** Time: **2:42 pm**

The site has a total area of **1 hectare** and currently contains:

- Vacant land, channel to the east of the site running north south along the road boundary.

The main site/locality characteristics are:

- Orchard to the north and west of the land, orchard to the north and south of the land.
Orchard on the opposite side of Orrvale Road.

The Photos below show the existing site:



Looking north west at the subject land from Orrvale Road.



Looking west at the subject land and land to the south of the proposal.



Looking along the southern boundary of the site.



Looking along the northern boundary of the site.

Pre-Application Meeting Details

Has there been a pre-application meeting? **Yes**

Permit/Site History

The history of the site includes:

- 2017-21 For the same application (dwelling and bridge) application withdrawn by applicant.
- ENQ-2011-165 Enquiry regarding proposed dwelling, officer's response stated would not support dwelling on the lot.

Further Information

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

What additional information is required?

A written statement which explains how the proposed dwelling responds to the decision guidelines for dwellings in the zone.

What date was the further information requested?: **27 February 2017**

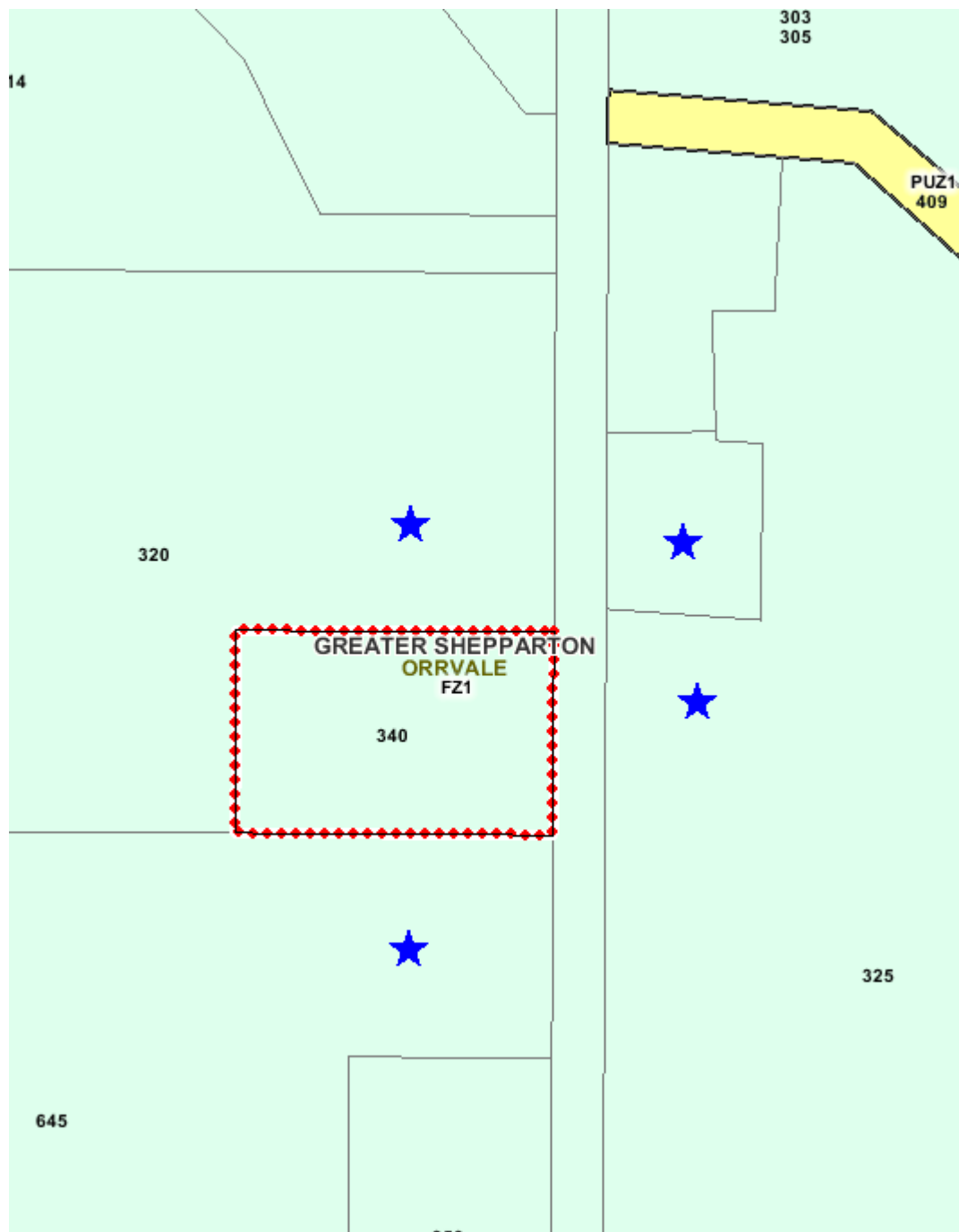
What is the lapsed date? **29 March 2017**

What date was the further information received?: **6 March 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 a dwelling and an access bridge in the Farming Zone 1**, by:

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



The application was exempt from being advertised in accordance with Clause **44.03-4 and 44.04-4 (buildings and works in the Floodway Overlay and Land Subject to Inundation Overlay)** of the planning scheme.

Objections

The Council has received **no** objections to date. The application was advertised as above.

Title Details

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

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Pre application meeting
- Telephone conversation regarding further information request.
- Letter to applicant to notify Planning Department's intention to recommend that the application be refused 19 May 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	44.03-5 and 44.04-5	Recommending	The application was referred to the GBCMA who did not object subject to the following conditions: <ol style="list-style-type: none">1. The finished floor level of the proposed dwelling must be constructed at least 450 millimetres above the general ground surface level, or higher level deemed necessary by the responsible authority.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
Goulburn Murray Water	The application was referred to GMW who did not object to the application subject to the following: <ol style="list-style-type: none">a) A site Construction Management Plan following the sediment control principles outlined in Construction Techniques for Sediment Pollution Control (EPA, 1991) should be submitted to the Responsible Authority for approval prior to the commencement of any works.b) No works are to be constructed that may impact Goulburn-Murray Water's Shepparton Channel 2/13/10 without approval. Prior to commencement of works, the applicant must obtain a 'Construction and Use of Private Works Licence' from GMW for the construction of the crossing over Goulburn-Murray Water's Shepparton Channel 2/13/10 and/or should any works be carried out on GMW freehold land, easement or reserves.c) All residential, commercial and industrial buildings must be located more than:<ol style="list-style-type: none">i. 30 metres from any G-MW channel, measured from the inside top of the channel bank, and,ii. 10 metres from any other structure, such as culverts, drainage inlets,

	<p>subways and syphons.</p> <p>d) All wastewater from the dwelling must be treated and disposed of using an EPA approved system, installed, operated and maintained in compliance with the relevant EPA Code of Practice and Certificate of Approval, and to the satisfaction of council's Environmental Health Department.</p> <p>e) The wastewater disposal field must be located in accordance with the requirements of Table 5 of the EPA Code of Practice – Onsite Wastewater Management, 891.4, July 2016 from any waterways, drainage lines, dams or bores.</p> <p>f) The wastewater disposal field must be wholly located outside of the Floodway Overlay.</p> <p>g) The wastewater disposal area must be kept free of all infrastructure including buildings, driveways tanks and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away.</p> <p><u>Planning Notes:</u> Applications for a 'Construction and Use of Private Works Licence' can be made by contacting Goulburn Murray Water on 1800 013 357 or by following the link the http://www.g-mwater.com.au/customer-services/forms</p>
<p>Goulburn Valley Water</p>	<p>The application was notified to GVW who did not object subject to the following:</p> <p>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. This is payable upon connection.</p> <p>b) The bridge to be built must be one metre laterally clear of the edge of the Corporation water main located within the road reserve and located by survey to prior to commencement of the works.</p> <p>Due to the size of the proposed allotments the Corporation wishes the following comment to be noted during the consideration of the planning permit:</p> <p>All sewerage and sillage emanating from the proposed development shall be adequately treated and managed to prevent transport of nutrients, pathogens and other pollutants to surface waters or impact to groundwater beneficial use and wastewater is retained and disposed of within the boundaries of the allotment in compliance with Clause 32 and 34 of the SEPP - Waters of Victoria and to the satisfaction of the Council's Environmental Health Officer.</p> <p>Further, in the absence of this reticulated sewerage service, Council must ensure that the treatment and disposal of all wastewater generated by the development can be sustainably treated and disposed of within the site boundaries. The ability of the site to continue to do this and avoid the need for a reticulated sewerage service will partly depend on the nature and extent of future development.</p> <p>Should any of the proposed allotments be deemed by the Responsible Authority to be unsuitable for onsite effluent disposal, the Developer will need to review the proposed arrangements (including lot size, configuration, treatment and disposal methods and management practices) to find a suitable development proposal.</p>

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
<p>Environmental Health Department</p>	<p>The Council's Environmental Health Department did not object to the application subject to the following conditions being included on the permit:</p> <p><i>Prior to the commencement of works the applicant must arrange for a suitably qualified</i></p>

	<p><i>person to carry out a Land Capability Assessment in accordance with the Environment Protection Authority publication 746.1 of March 2003.</i></p> <p><i>Note:</i></p> <p><i>The investigation and report/design must be carried out and compiled by a suitably qualified person as described in point 1.8.3 – Land capability assessors – of the EPA publication No 891.4 February 2016.</i></p> <p><i>The dwelling design and location must be in accordance with any restrictions arising from the Land Capability Assessment, taking into account the proximity of surface waters and Flood Overlay.</i></p> <p><i>On completion of the Land Capability Assessment for the proposed dwelling the owner shall lodge with the Council an application to Install a Septic Tank System in accordance with the Code of Practice – Onsite Wastewater Management, Publication 891.4, February 2016.</i></p> <p><i>The application to Install a Septic Tank System shall include:</i></p> <ol style="list-style-type: none"> <i>1) The application form provided by the Council completed, signed and dated by the owner.</i> <i>2) A floor plan of the proposed dwelling.</i> <i>3) A site plan indicating the location of the effluent disposal area / reserve area.</i> <i>4) The design of the effluent disposal system including instructions for installation and working drawings.</i> <i>5) The current application fee.</i>
<p>Development Engineers</p>	<p>The application was internally referred to the Council's Engineering Department who did not object subject to the following conditions:</p> <p>Rural Vehicle Crossing</p> <p>Before the Statement of Compliance / (occupation of the dwelling) 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 for (Lot 1) 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; • include a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm); • Culverts located in the clear zone shall be installed with trafficable end walls (refer IDM standard drawing SD 255); • 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>All bridges and crossings must be designed and constructed to carry a vehicle weighing a minimum of 15 tonnes and be a minimum of 3 metres in width.</p> <p>Rural Drainage – Works</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</p>

	Council's stormwater drainage system from the land. Property connections discharging to the road table drain must do so to the side of the endwall of the newly constructed driveway and not directly to the table drain.
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Assessment

The zoning of the land

Farming 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 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.*

35.07-2 Use of land for a dwelling

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

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

35.07-6 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.*

Dwelling issues

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

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

Floodway Overlay and Land Subject to Inundation Overlay

Floodway 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 waterways, major floodpaths, drainage depressions and high hazard 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 if a declaration has been made.*
- *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).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

Land Subject to Inundation Overlay

Purpose

- *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.*

44.03-6 Decision guidelines of the Floodway

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.*
- *The Victorian River Health Strategy (2002) and any relevant regional river health strategy and associated wetland plan.*

44.04-6 Decision guidelines of Land Subject to Inundation Overlay

- *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)

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.*

14.01-1 Protection of agricultural land

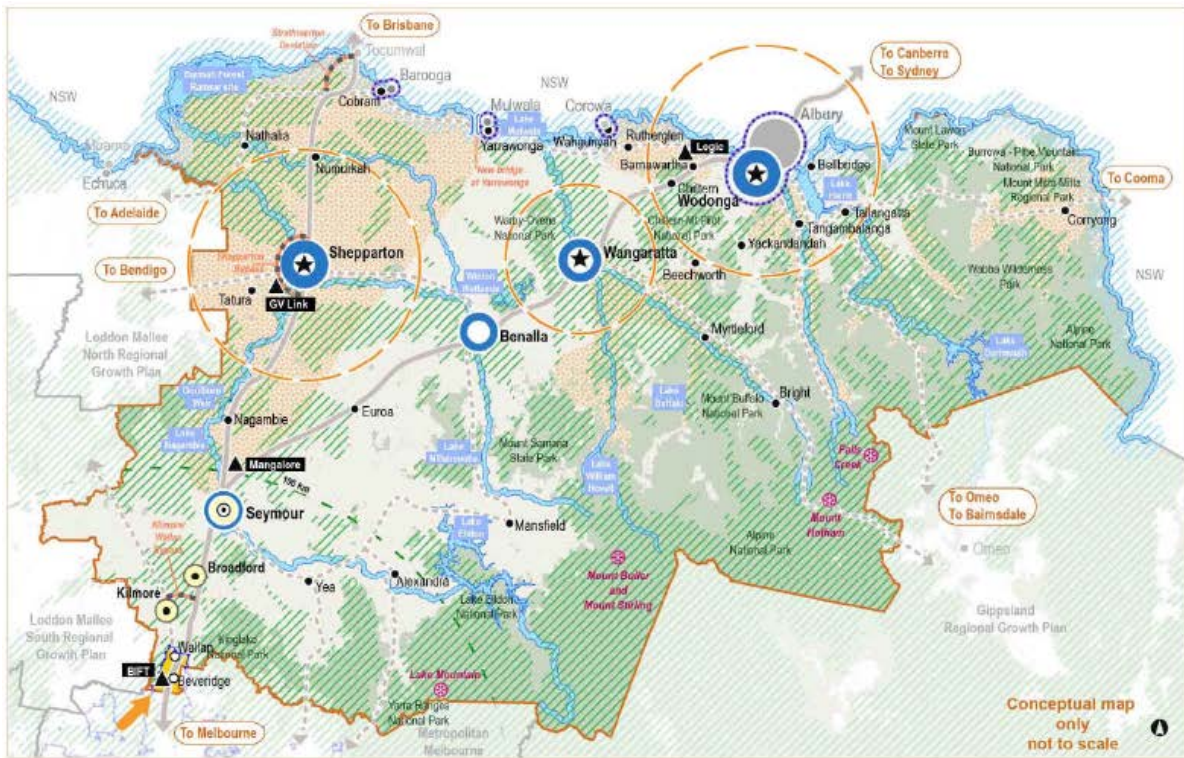
Objective

To protect productive farmland which is of strategic significance in the local or regional context.

Relevant Strategies

- *Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.*
- *Prevent inappropriately dispersed urban activities in rural areas.*
- *Limit new housing development in rural areas, including:*
 - *Directing housing growth into existing settlements.*
 - *Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.*
- *Encouraging consolidation of existing isolated small lots in rural zones.*
- *Consult with the Department of Economic Development, Jobs, Transport and Resources and utilise available information to identify areas of productive agricultural land.*
- *Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity.*
- *Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.*
- *In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:*
 - *The desirability and impacts of removing the land from primary production, given its agricultural productivity.*
 - *The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.*
 - *The compatibility between the proposed or likely development and the existing uses of the surrounding land.*
 - *Assessment of the land capability.*
- *Where inappropriate subdivisions exist on productive agricultural land, priority should be given by planning authorities to their re-structure.*
- *In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals.*
- *Planning for rural land use should consider:*
 - *land capability; and*
 - *the potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*

The Hume Regional Growth Plan as per below identifies the land within the Strategic Agricultural land and therefore uses non-complementary to the agricultural area such as a dwelling and accommodation unrelated to agriculture should not be supported within this area.



SETTLEMENT NETWORK

- Major growth location
- Medium to high growth location
- Significant change location
- Designated identified growth centre in Plan Melbourne⁽¹⁾
- Locations identified as 'Regional Cities' in a statewide context

OTHER KEY URBAN SETTLEMENTS

⁽¹⁾Plan Melbourne (Chapter 6 – State of Cities) identifies Broadford, Kilmore and Seymour as peri-urban towns with potential to attract housing and population growth out of Melbourne.

- Cross-border settlements
- Support growth in these urban locations, and lifestyle opportunities
- Towns and areas in the Hume Region within Melbourne's Urban Growth Boundary
- Settlements external to the region

URBAN GROWTH AND HINTERLAND INFLUENCE

- Hinterland influence
- Areas within 100 km of central Melbourne

CONNECTIVITY

- National transport corridor (road and rail)
- Other major transport link
- Improved future transport link
- Freight and logistics precinct
- Melbourne metropolitan growth into the Hume Region

ECONOMIC DEVELOPMENT

- Strategic agricultural land

ENVIRONMENT

- Alpine resort
- Areas containing high value terrestrial habitat
- Public land
- Key water and tourism assets
- Murray River corridor

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

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.*

21.06-1 Agriculture

Irrigated primary production and the processing of that product underpin the municipality and the Region's economy. The level of production is nationally important and the region is responsible for significant parts of the nation's milk production, deciduous canned fruit production, stone fruit crop and tomato processing production.

The region's workforce is heavily dependent on the agricultural sector with many people directly involved in agricultural production on farms, and an estimated similar number involved directly and indirectly in the processing and transport of that product. In both irrigation and dryland production the drivers of future successful agribusinesses, regardless of the scale of enterprise, are likely to be:

- *Continuing current trends for significantly increased scale of production which is achieved by expanding the land area of production and/or by increasing the intensity of the production system.*
- *A shift to individual management of their own business risks such as consolidation into contiguous properties to manage all their own water supply.*
- *Agribusinesses that seek to minimize the number of neighbours.*
- *Agribusinesses that expand into land that is priced competitively because it is used for agriculture rather than having inflated land values because it has been subdivided for hobby farms.*

It is increasingly evident that prospective agricultural investment is jeopardized, deterred, or completely lost by land uses and developments that have the potential to compromise the scale and location of such investment. In particular, agricultural investment is far less likely where land is already fragmented in ownership with housing dispersed throughout.

Consolidation areas *being areas that support existing farm businesses to operate and expand. Consolidation areas typically include land with good soils and include many of the former closer settlement areas, but their lot sizes are no longer reflective of current farm sizes. Consolidation areas are considered to provide opportunities for development of growing agricultural enterprises that can, over time, expand and consolidate through a process of property restructure. In this regard 'consolidation' includes the consolidation of land or the consolidation of farming enterprises through acquisition of non-contiguous land to increase farm size. The development of additional dwellings threatens expanding agricultural enterprises and accordingly, new dwellings within these areas are discouraged.*

Objectives - Agriculture

- *To ensure that agriculture is and remains the major economic driver in the region.*

- *To facilitate growth of existing farm businesses.*
- *To facilitate growth of new agricultural investment.*
- *To provide for small scale, specialized agriculture.*

Strategies - Agriculture

- *Identify 'growth', 'consolidation' and 'niche' areas in the Farming Zone.*
- *Encourage growth and expansion of existing farm businesses and new investment in 'growth' and 'consolidation' areas.*
- *Encourage opportunities for smaller scale, specialized agriculture in 'niche' areas.*
- *Discourage land uses and development in the Farming Zone, Schedule 1 that would compromise the future agricultural use of the land, including farm related tourism.*
- *Encourage tourism in the Farming Zone, Schedule 2 that is carefully managed to prevent conflict and impact on agricultural operations.*
- *Encourage value adding and new enterprises for agricultural production.*
- *Encourage the preparation of Whole Farm Plans for on farm earthworks.*
- *Discourage non-agricultural uses on rural land other than rural based industry.*
- *Discourage non-agricultural development in rural areas except where development is dependent on a rural location, and cannot be accommodated within existing industrial or business zoned land.*
- *Discourage non-agricultural development along major roads in rural areas especially at the fringe of existing urban areas when it may contribute to ribbon development.*
- *Buildings for non-agricultural purposes in rural areas should be set back a minimum of 100 metres from any road, be constructed in muted coloured 'colorbond' materials or similar and screened from any road by dense tree and shrub planting.*
- *Signs for industrial and commercial development in rural areas will be strictly limited in size and number.*

21.06-3 Dwellings in Rural Areas

While it is acknowledged that a dwelling will often be needed to properly farm land, these must be limited to those that genuinely relate to agricultural production. The number of dwellings that a farm can economically sustain relates to its rural land capability, the labour needs of the farming practice, the intensity of the farm activity and the volume of rural output.

Development of dwellings at a density greater than is required for the rural use of land can give rise to conflicts with legitimate farming practices. Isolated dwellings in the rural areas have the potential to disrupt agricultural activities and should not impinge on the appropriate use of farming land.

The RRLUS identified new categories of Farming Zone and has included objectives and policies for each with respect to rural dwellings.

Objectives - Dwellings in Rural Areas

- *To discourage new dwellings unless it can be demonstrated that it is required for the agricultural use of the land.*
- *To ensure that new dwellings support rural activities and production and are not to meet lifestyle objectives, which may conflict with the rural use of the land.*
- *To avoid potential amenity impacts between rural activities and dwellings in rural areas.*

Strategies - Dwellings in Rural Areas

- *Discourage the establishment of dwellings not associated with or required for the agricultural use of the land.*
- *Discourage dwellings on old and inappropriate lots where amenity may be negatively impacted by farming activities, or where dwellings may inhibit rural activities.*

- *Discourage dwellings which are proposed to meet personal or financial circumstances or to create dwellings for 'rural lifestyle' purposes.*
- *Discourage the clustering of new dwellings unless they do not limit the productive use and development of surrounding land.*

Policy Guidelines - Dwellings in Rural Areas

Criteria

An application for a dwelling in the Farming Zone, Schedule 1 (FZ1) and Farming Zone, Schedule 2 (FZ2) should meet the following criteria:

- *The dwelling is required for the operation of the rural use of the land.*
- *The agricultural use is established on the land prior to the construction of a dwelling (or an Integrated Land Management Plan under Clause 35.07-6 in place).*
- *The dwelling is located on a lot of at least 2ha in area.*
- *The dwelling is located on a lot created after 1st January 1960.*

The proposal does not generally meet the above criteria as follows:

- The applicant has not demonstrated that the dwelling is required for the operation of the rural use of the land. Some fruit and nut trees proposed, however would be on a hobby farm scale.
- The site is vacant and is currently not being used for any agricultural use.
- The lot does not meet the lot area of at least 2 hectares.
- The lot was created in 1991.

Exercise of discretion

It is policy to:

- *Discourage the construction of new dwellings on any land that is not suitable for the on-site disposal of septic tank effluent.*
- *Discourage the construction of new dwellings on any land with a water table within one metre of the surface when waste water is to be treated and retained on site.*
- *Require the applicant to enter into an agreement under section 173 of the Act to:*
 - *Ensure that the dwelling is used in conjunction with agricultural production;*
 - *Prevent the subdivision of the lot containing the dwelling where the proposed lot size is less than the minimum lot size for subdivision specified in the zone; and*
 - *Acknowledge the impacts of nearby agricultural activities.*

It is recommended that the application be refused. If the Development Panel is of the view that the application be approved the permit should contain the above Section 173 Agreement condition.

Decision guidelines

When deciding an application for a dwelling, and in addition to the decision guidelines in the zone, the responsible authority will consider the following matters:

- *The relationship between the proposed dwelling and the agricultural activity on the land.*
- *Evidence including an Integrated Land Management Plan under Clause 35.07-6 (or similar) addressing the relationship between agricultural activities on the land and the proposed dwelling.*
- *The agricultural productive capacity or the agricultural potential of the land.*
- *The nature of the existing agricultural infrastructure and activity on the land and any new proposed agricultural infrastructure and activity at the land.*
- *The nature of the agricultural activities on the land and whether they require permanent and continuous care, supervision or security.*

- *The proposed siting of the dwelling and whether it minimises impacts on existing and potential agricultural operations on nearby land.*
- *The lot size, context and physical characteristics of the land.*
- *Whether the dwelling will result in a rural living or rural residential outcome in the area.*
- *The planning history of the land.*
- *The potential for land to be consolidated with other land to enhance agricultural productivity.*
- *Whether the planning scheme identifies a 'non-agricultural' future for the land and the implications of development on future development options.*

Relevant Particular Provisions

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

The decision guidelines of Clause 65

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 Response:

Farming Zone, State and Local Planning Policies

In general, the proposal for the use and development of a dwelling on a one hectare lot in the Farming Zone is at variance to the Farming Zone, relevant State and Local Planning policies.

The applicant has stated that the purpose of the proposed dwelling is for housing the farm manager of a neighbouring orchard. The farm manager currently resides on the neighbouring farm land on which they work. The proposal will allow the farmer to construct a dwelling on land of which is already within their ownership.

Whilst the intent of the dwelling is for the neighbouring farm managing to reside in, and is likely to be genuine, personal circumstances will change and the loss of agricultural land will

be permanent. Policy therefore specifically discourages the use and development of dwellings to meet personal or financial circumstances or to create dwellings for 'rural lifestyle' purposes.

Further to the above, the applicant has stated that the fruit and nut trees will be grown on the balance unused 1 hectare property. However, once the dwelling, associated outbuildings and area set aside for effluent disposal is accommodated, limited space will be available for the plantation. Given the size of the land, the proposed fruit and nut trees would be considered for hobby purposes only, and therefore does not provide acceptable justification of why the dwelling would be reasonably required for the agricultural use.

The purpose of the Farming Zone is to protect and allow for the expansion of existing farm uses. This is further supported by the State policy whereby the Hume Region Strategy identifies the strategic importance of agricultural land within the Shepparton and Goulburn Valley Region's economy.

Given the lot is small in size, the development will create a rural living situation whereby the opportunity for land to become productive will permanently be removed. The proposed dwelling is considered not to be compatible with the surrounding land uses such as horticulture (orchards and vegetables), associated packing sheds and animal grazing.

Dwellings are considered to be a sensitive use, of which a higher level of amenity is generally expected than what can be provided in the Farming Zone. Expected amenity impacts as a result of farming activities can include spraying, operation of noisy machinery, refrigerated trucks, generation of dust and odour. It is also noted that such farming activities are not limited and can operate 24 hours a day. Whilst the current applicant works in farming and may understand farming operations in the area, the proposed dwelling will eventually be on sold whereby future inhabitants could have expectations of a rural lifestyle allotment given the size of the land.

Further support for land to remain unburdened by inappropriate dwelling uses is provided in the Local Policy whereby the land is identified in a consolidation area of the Farming Zone. Consolidation areas specifically discourage new dwellings and encourage consolidation of farm land to enable the expansion of growing agricultural enterprises.

Consolidation areas being areas that support existing farm businesses to operate and expand. Consolidation areas typically include land with good soils and include many of the former closer settlement areas, but their lot sizes are no longer reflective of current farm sizes. Consolidation areas are considered to provide opportunities for development of growing agricultural enterprises that can, over time, expand and consolidate through a process of property restructure. In this regard 'consolidation' includes the consolidation of and or the consolidation of farming enterprises through acquisition of non-contiguous land to increase farm size. The development of additional dwellings threatens expanding agricultural enterprises and accordingly, new dwellings within these areas are discouraged.

The above policy provides further justification for refusal of the application as the land in its current state (unburdened by a dwelling) lends itself to being consolidated into surrounding lots used for agricultural production.

Policy specifically discourages the development of dwellings on old inappropriate small lots in the Farming Zone. If the development was to be supported, the application will fragment existing agricultural land and could lead to proliferation of dwellings which is not supported

by zone. The development is also likely to create a precedent whereby smaller lots currently priced at agricultural value will be distorted by housing value, and limit opportunity for agricultural expansion throughout the municipality.

In Victorian Civil Administrative Tribunal case *Polvere v Greater Shepparton City Council [2009]* the member affirmed Council's decision to refuse the use and development of a dwelling on a one hectare lot in the Farming Zone. In the reasons the member held that development on small lots has a cumulative impact on the going use of agricultural led and set out the following:

The small lot size and the existence of many small lots in the area does not in itself justify converting the land for rural residential or rural living purposes. If that were the case then thousands upon thousands of small Crown Allotments and other small lots (such as the ones on this property created in 1988 and 1993) in the Farming Zone across Victoria (and many hundreds around Shepparton) could potentially accommodate dwellings without any regard to strategic planning considerations that seek to direct dwellings into specified areas. The existence across Victoria of thousands upon thousands of small, often poorly sited crown allotments and small lots is a major planning issue in terms of preventing inappropriate incremental development in rural areas, remote from services and often with significant land management problems. The irrigation areas around Shepparton are no exception and Council has attempted through local policies to limit the widespread use of such lots for hobby farm and rural living purposes. Local policy set out above provides clear directions about the use of small rural lots and it is for these broad strategic land use reasons that I have rejected a dwelling on this lot.

For the above reasons, the above planning policies clearly protect farmland from inappropriate development, specifically discouraging development of isolated small lots in rural zones from use for single dwellings and such type of development should be directed into existing settlement areas.

Flooding

The subject land is within the Floodway Overlay and Land Subject to Inundation Overlay. There are no Regional Catchment Strategies that are relevant for the application, however the land is within a designated floodplain development plan – Precinct of Broken River.

The application was referred to the GBCMA who are considered the State Government's expert flood authority. The GBCMA stated that the recent flood mapping indicated shallow residual type flooding in 100 year ARI flood event however, did not object to the application subject to the floor level of the dwelling being constructed at least 450 mm above the general ground surface, or higher level deemed necessary by the responsible authority.

Given that the GBCMA did not object to the proposal, subject to compliance with the minimum floor height, the proposed dwelling is not considered to cause significant flood impacts on the dwelling or the flow or function of floodwaters in the area.

Other matters:

The application was internally referred to the Environmental Health Department who did not object to the issue of a permit, subject to a Land Capability Assessment (LCA) being undertaken. The dwelling design and location must be in accordance with any restrictions arising from the LCA. Should a permit issue, the applicant will be required to demonstrate through the submission of the LCA that the land is capable of effluent disposal for the proposed dwelling.

No vegetation is proposed to be removed as part of the proposal.

The proposed dwelling is not considered to be orderly, given the established agricultural land uses surrounding the site. The proposal is likely to be impacted by agricultural land uses, whereby the use of the land for a dwelling is considered to be a sensitive use which generally comes with an expected higher level of amenity than rural activities in the Farming Zone.

Relevant incorporated or reference documents
Regional Rural Land Use Strategy (RRLUS), 2010

The RRLUS was developed for the Campaspe Shire, Greater Shepparton City Council and Moria Shire to assess and provide strategic direction for development within rural areas.

The RRLUS was adopted by Greater Shepparton City Council in November 2010 and formed the basis of Amendment C121 brought into the Scheme in 2013. The amendment introduced three different agricultural areas within the Farming Zone - Growth, Consolidation and Niche Areas. As previously discussed the subject land is within the Consolidation area, which supports the growth and expansion of existing farming enterprises.

Floodplain Development Plan – Precinct of Broken River

6.0 General Development requirements for the LSIO and FO

6.1 Dwellings

- *new buildings must not obstruct natural flow paths or drainage lines.*
- *the construction of a dwelling, including a replacement dwelling, must not be located closer than 50 metres to an existing river levee, unless the purpose of the levee is to protect a dwelling, or the levee is less than 1 metre in height.*
- *the floor level of any dwelling, is set at least 300 mm above the 100-year ARI flood level or a higher level set by the responsible authority.*

9.0 Particular Development Requirements for FO or LSIO within rural areas

9.1 Dwellings

- *the construction of a dwelling must be sited on land where the 100-year ARI flood depth is less than 0.5 metres above the natural surface level, and is less than 0.8 metres above the natural surface level along the defined access route to the dwelling site, unless a lot is greater than 80 hectares.*
- *the construction of any new dwelling, including a replacement dwelling must be sited on the highest available ground unless the applicant can demonstrate to the satisfaction of the responsible authority and floodplain management authority that an alternative site is more suitable.*

Other relevant adopted State policies or strategies policies

There are no other relevant adopted 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 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 proposal for a dwelling on a one hectare allotment does not provide an acceptable outcome when assessed against the State and Local Planning Policies and the purpose and decision guidelines of the Farming Zone. The policies are clear and unambiguous in the directions they provide when assessing applications for the dwellings unrelated to agriculture in the Farming Zone.

Uses unrelated to agriculture, or that could potentially impact on surrounding agricultural uses are strongly discouraged. For this reason the application for the use and development of the land for a dwelling in the Farming Zone 1 is not considered to be supported by the strongly weighted and specific agricultural policies of the Greater Shepparton Planning Scheme and it is therefore recommended that it be refused.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO:	2017-62
PLANNING SCHEME:	GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY:	GREATER SHEPPARTON CITY COUNCIL
ADDRESS OF THE LAND:	340 Orrvale Road ORRVALE VIC 3631
WHAT HAS BEEN REFUSED:	Use and development of a dwelling and associated access bridge in the Farming Zone 1 and buildings and works in the Floodway Overlay and Land Subject to Inundation Overlay

WHAT ARE THE REASONS FOR THE REFUSAL?

The proposed use of the land for a dwelling does not provide an acceptable outcome or net community benefit in terms of the relevant State and Local Planning Policy and Decision Guidelines of the Farming Zone; and

- a) Has the potential to impact on the continuation of primary production on nearby land;
- b) Has the potential to limit the expansion of agricultural use on adjacent land;
- c) Has the potential to create conflict between the ongoing farming activities and the proposed rural living use;
- d) Will remove the land from future agricultural use;
- e) Will result in the construction of a dwelling on a small and inappropriate lot;
- f) The application for a dwelling does not adequately address or demonstrate that the proposed dwelling is reasonably required for the operation of agricultural activity on the land as required by the Farming Zone.

The application does not comply with the Rural Land Use Strategy (C121) which seeks to limit dwelling in the proposed Farming Zone which are not associated or required for the agricultural use of the land.