

**UNCONFIRMED MINUTES**

**FOR THE**

**GREATER SHEPPARTON CITY COUNCIL**

**DEVELOPMENT HEARINGS PANEL**

**Meeting No. 6/2025**

**HELD ON**

**Friday 5 December 2025**

**at 10am**

**(Boardroom & Via Teams)**

**CHAIR**

**Councillor Geoff Akers**

## ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 6 for 2025.

Any technical issues that may result in the Teams connection failing will cause a delay or adjournment to this meeting.

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

We, Greater Shepparton City Council, acknowledge the Yorta Yorta Peoples of the land which now comprises Greater Shepparton, we pay our respect to their tribal elders, we celebrate their continuing culture and we acknowledge the memory of their ancestors.

## COMMITTEE MEMBERS PRESENT

Committee members present today are:

- Cr Geoff Akers (Chair) – **Boardroom**
- Jennifer Brewis – Team Leader – Strategic Planning - Greater Shepparton City Council – **Boardroom**
- Kahlia Reid - Manager - Building and Planning – Campaspe Shire Council – **Teams**
- Awais Sadiq - Planning & Investment – Strathbogie Shire Council – **Teams**
- 

## OFFICERS AND OTHERS PRESENT

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

- Michelle Edwards

I would also like to acknowledge all other parties present today. We will get you to introduce yourself when your turn comes to present.

## APOLOGIES

Cr Shane Sale  
Colin Kalms

## DECLARATIONS OF CONFLICTS OF INTEREST

Are there any panel members who wish to declare a conflict of interest? None

## ORDER OF PROCEEDINGS

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

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

## MATTERS FOR CONSIDERATION

There are 2 items listed for consideration in this session of the DHP:

1. Planning Permit Application – **2025-169**– 1240 Toolamba-Rushworth Road TATURA - Earthworks in the Farming Zone, Floodway Overlay and Land Subject to Inundation Overlay for a pivot irrigator and removal of native vegetation
2. Planning Permit Application - **2024-327** - 145 Verney Road, Shepparton - Variation of Clause 2 and 2.1 to Covenants AA9937, AA010189, AA010429 affecting Lots 1-15, 17-73 on PS849463 and 74-116, 121-128 on PS849466R to include “2. erect or cause or suffer to be erected on the land any building other than a National Construction Code (NCC) class 1A private dwelling house up to two stories with usual outbuildings, and such dwelling house shall: 2.1. Not be a National Construction Code (NCC) class 1B share house, accommodation house or boarding house or hostel or rooming house or guest house”

## 10. LATE REPORTS

None

## 11. NEXT MEETING

TBC

**Thank you - That now concludes today's DHP.**

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| 2025-169               | 1240 Toolamba-Rushworth Road TATURA | Earthworks in the Farming Zone, Floodway Overlay and Land Subject to Inundation Overlay for a pivot irrigator and removal of native vegetation   | 3               |
| 2024-327               | 145 Verney Road, Shepparton         | Variation of Clause 2 and 2.1 to Covenants AA9937, AA010189, AA010429 affecting Lots 1-15, 17-73 on PS849463 and 74-116, 121-128 on PS849466R to include "2. erect or cause or suffer to be erected on the land any building other than a National Construction Code (NCC) class 1A private dwelling house up to two stories with usual outbuildings, and such dwelling house shall: 2.1. Not be a National Construction Code (NCC) class 1B share house, accommodation house or boarding house or hostel or rooming house or guest house" |                 |

## Application Details:

|                               |  |
|-------------------------------|--|
| Responsible Officer:          | Michelle Edwards   |
| Application Number:           | 2025-169   |
| Applicant Name:               | Markus Lang  |
| Owner Name:                   | Markus Lang<br>Phillip Lang  |
| Cost of works:                | \$350,000  |
| Correct application fee paid? | \$1,756.65 – Development<br>\$748.05 – Half fee – Native Vegetation Removal<br>\$2,504.70 Total – Paid   |
| Land/Address:                 | 1240 Toolamba - Rushworth Road Tatura  |
| Date Received:                | 3 July 2025  |
| Statutory Days?               | 126 days as of 19 November 2025  |
| Zoning?                       | Farming Zone – Schedule 1  |
| Overlay(s)                    | Floodway Overlay (FO)<br>Land Subject to Inundation Overlay (LSIO)<br>Public Acquisition Overlay – Schedule 6 (PAO6)<br>Specific Controls Overlay – Schedule 3 (SPC3)  |
| What is proposed?             | Earthworks and Native Vegetation Removal   |
| Why is a permit required?     | Earthworks in the Farming Zone under Clause 35.07-4<br>Earthworks in the Floodway Overlay under Clause – 44.03-2<br>Earthworks in the Land Subject to Inundation Overlay under Clause 44.04-2<br>Removal of native Vegetation under Clause – 52.17-1   |
| Are all plans provided?       | Yes  |
| MPS Provisions:               | 02.03-2 Environmental and landscape values<br>02.03-3 Environmental risks and amenity<br>02.03-4 Natural resource management   |
| PPF Provisions:               | 12.01-1S Protection of biodiversity<br>12.01-1L Biodiversity<br>12.01-2S Native vegetation management<br>13.03-1S Floodplain management<br>14.01-1S Protection of agricultural land<br>14.01-1L Protection of agricultural land<br>14.01-2L Non-agricultural use and development<br>14.01-2S Sustainable agricultural land use |
| Any application history?      | Yes  |
| Date referred/notified:       | 22 July 2025   |
| Further Information?          | No   |
| Lapse date?                   | NA   |
| Notice/Referral?              | Yes - Public notice and referral to CMA, GMW, DELWP, Powercor. Internal referral to ENG and Sustainability   |
| Number of Notice Responses?   | 6 responses - CMA, GMW, DELWP, Powercor, ENG and Sustainability  |
| Key Response Considerations?  | Support subject to conditions.   |
| Title details – any:          |  |
| o Restrictive Covenant?       | No   |
| o Section 173 agreement?      | Yes – AX511586U –  |
| o Caveat?                     | No   |
| o Easement?                   | Yes - E-1 (Powerline), E-3 (supply of water), E-4 (water supply), E-f (water supply)   |
| o Building Envelope?          | No   |
| o Access restrictions?        | No   |

|  |   |
|--|---|
| Is a CHMP required?  | No  |
| Garden area provisions?  | NA  |
| Is the site contaminated?  | No  |
| Is the site in a BMO or BPA?   | Yes, BPA  |
| Is Cl. 13.01-2 Bushfire applicable:  | No  |
| <b>Conflicts of interest in relation to advice provided in this report</b> | No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration. |
| Key Planning Considerations:   | Earthworks and impact on site and adjoining properties, avoid and minimise Clause 52.17 requirements, referral comments and requirements.                             |
| Recommendation:  | Approval with conditions.   |

## Proposal

The application seeks permission to install a centre pivot irrigator and removal of native vegetation (9 trees) at 1240 Toolamba Rushworth Road Tatura. The land also known as Lot 1 PS 917201D.

The applicant has informed the irrigator is required to improve irrigation water use efficiency, as part of a plan to mitigate drought risks in their dairy business. The proposed site is undulating and contains Shepparton fine sandy loam soil, making the current flood irrigation layout inefficient.

The proposed pivot design has a wet area radius of 348m which will provide a 38.04 ha wetted area.

The native vegetation was assessed under the intermediate assessment pathway as determined by the Guidelines.

The total native vegetation proposed for removal is 0.465 hectares, comprising one patch of 0.043 hectares (including one large patch tree) and seven large scattered trees totalling 0.422 hectares. In total, nine trees are proposed for removal: five Grey Box and four stag (dead) trees, with seven of these trees containing hollows

The NVRP report stipulates the offset requirement if approval to remove the vegetation is granted, which is:

- 0.087 General Habitat Units.
- A 0.193 minimum strategic biodiversity value score.
- Including seven large trees; and
- Being within the GBCMA or City of Greater Shepparton areas.

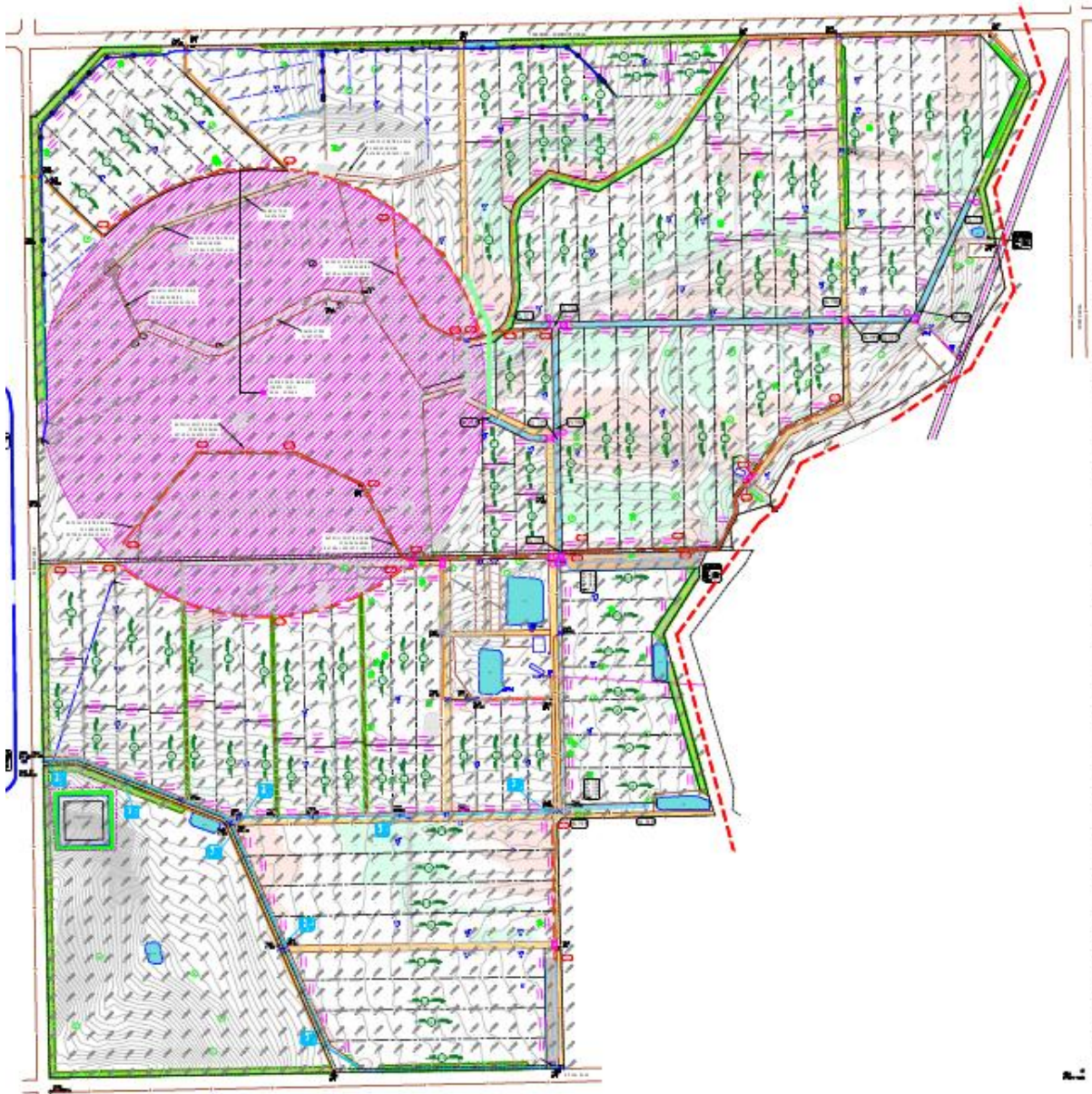
The land is located in the Farming Zone - Schedule 1 Floodway Overlay (FO)

Land Subject to Inundation Overlay (LSIO) and Specific Controls Overlay – Schedule 3 (SPC3).

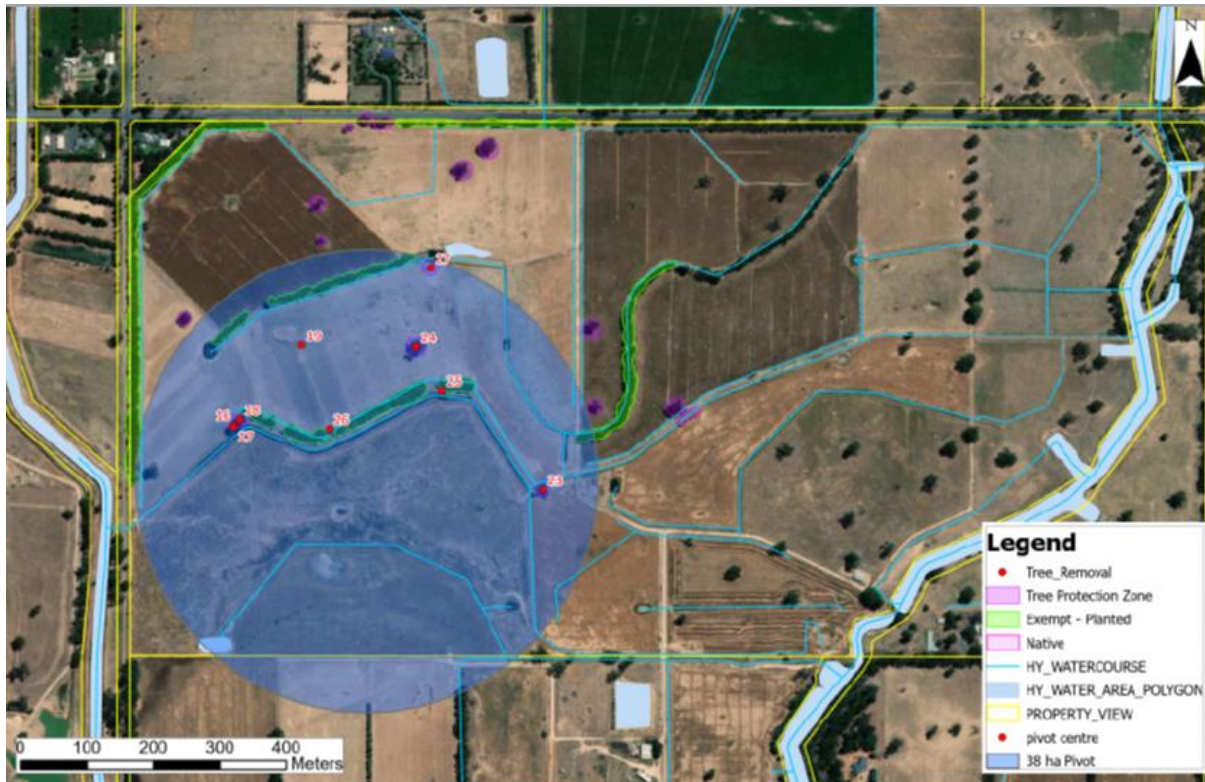
Planning permission is required for earthworks in the Farming Zone under Clause 35.07-4, Earthworks in the Floodway Overlay under Clause 44.03-2, Earthworks in the Land Subject to Inundation Overlay under Clause 44.04-2 and removal of native vegetation under Clause 52.17-1.

The subject site is shown below.





Proposed pivot design and drainage design



Map 2: Native Vegetation Impacts - 38 ha pivot

Maxar  
DMecological

Native vegetation mapped for removal

# Native Vegetation Removal Report

NVRR ID: 328\_20241206\_NFX

This report provides information to support an application to remove, destroy or lop native vegetation in accordance with the [Guidelines for the removal, destruction or lopping of native vegetation](#) (the Guidelines). This report is **not an assessment by DEECA** of the proposed native vegetation removal. Offset requirements have been calculated using modelled condition scores.

## Report details

**Date created:** 06/12/2024

**Local Government Area:** GREATER SHEPPARTON CITY

**Registered Aboriginal Party:** Yorta Yorta

**Coordinates:** 145.18825, -36.48847

**Address:** 1240 TOOLAMBA-RUSHWORTH ROAD TATURA 3616

## Summary of native vegetation to be removed

| Assessment pathway  | Intermediate Assessment Pathway   |  |       |
|---|---|--|-------|
| <b>Location category</b>  | Location 2<br>The native vegetation extent map indicates that this area is typically characterised as supporting native vegetation. Additionally, it is modelled as encompassing an endangered Ecological Vegetation Class, sensitive wetland or sensitive coastal area. The removal of less than 0.5 hectares of native vegetation in this area will not require a Species Offset. |  |       |
| <b>Total extent including past and proposed removal (ha)</b><br><i>Includes endangered EVCs (ha): 0.465</i> | <b>0.465</b>  | <i>Extent of past removal (ha)</i>                       | 0     |
|   |   | <i>Extent of proposed removal - Patches (ha)</i>         | 0.043 |
|   |   | <i>Extent of proposed removal - Scattered Trees (ha)</i> | 0.422 |
| <b>No. Large Trees proposed to be removed</b>   | <b>7</b>  | <i>No. Large Patch Trees</i>                             | 1     |
|   |   | <i>No. Large Scattered Trees</i>                         | 6     |
| <b>No. Small Scattered Trees</b>  | 0   |  |       |

Native vegetation Reval report



## Offset requirements if approval is granted

Any approval granted will include a condition to secure an offset, before the removal of native vegetation, that meets the following requirements:

|   |  |
|---|--|
| <b>General Offset amount <sup>1</sup></b>               | <b>0.087 General Habitat Units</b>                       |
| Minimum strategic biodiversity value score <sup>2</sup> | 0.193  |
| Large Trees   | 7  |
| Vicinity  | Goulburn Broken CMA<br>or<br>GREATER SHEPPARTON CITY LGA |

NB: values within tables in this document may not add to the totals shown above due to rounding

The availability of third-party offset credits can be checked using the Native Vegetation Credit Register (NVCR) Search Tool - <https://nvcr.delwp.vic.gov.au>

### Offset requirements

10 December 2024

Our reference: VLQ-11040

Dylan McWhinney  
DM Ecological  
dylan@dmecological.com.au

Your reference: Lang Dairies

Dear Dylan

**RE: Quotation for the supply of native vegetation credits**

Vegetation Link is an accredited offset provider with the Department of Energy, Environment and Climate Action (DEECA). We offer specialised brokerage services, enabling our clients to identify and secure suitable native vegetation credits to meet their offset requirements.

Based on the information provided; I understand you require the following:

| Offset type | Vicinity                                      | General habitat units (GHU) | Min. strategic biodiversity value score (SBV) | Large Trees (LT) |
|-------------|---|-----------------------------|---|------------------|
| General     | Goulburn Broken CMA or Greater Shepparton LGA | 0.087                       | 0.193   | 7                |

To meet your offset requirements, you can purchase native vegetation credits from a third party as per the options quoted below<sup>1</sup> (listed in order of proximity to the offset site when more than one option is given<sup>2</sup>). Turnaround time for issuing a credit extract/ purchased credit statement is approximately 2-5 weeks from acceptance of a valid quote. This quotation is valid for 14 days, subject to credit availability.

**Credit Trade Option 1: 2 x 3-Party CTA pathway - offset sites located on Ngurrailam Country in the Greater Shepparton LGA** (approx. 15-30 kilometres from the project site)

| Native Vegetation Credit Fees – Invoiced by DEECA |                    |
|---|--------------------|
| Cost of 0.008 GHUs & 3 LTs (ex. GST)              | \$1,620.00         |
| Cost of 0.079 GHUs & 4 LTs (ex. GST)              | \$10,110.00        |
| Broker Fee – Invoiced by Vegetation Link          |                    |
| Cost of broker fees (ex. GST)                     | \$2,640.00         |
| Total Credit Trade Fees                           |                    |
| Subtotal Cost (ex. GST)                           | \$14,370.00        |
| Total GST applicable                              | \$1,437.00         |
| <b>Total Cost (inc. GST)</b>                      | <b>\$15,807.00</b> |

**Credit Trade Option 2: 2 x 3-Party CTA pathway - offset sites located on Ngurrailiam Country in the Greater Shepparton LGA** (approx. 15-30 kilometres from the project site)

| Native Vegetation Credit Fees – Invoiced by DEECA |                    |
|---|--------------------|
| Cost of 0.086 GHUs & 4 LTs (ex. GST)              | \$9,628.20         |
| Cost of 0.001 GHUs & 3 LTs (ex. GST)              | \$2,340.00         |
| Broker Fee – Invoiced by Vegetation Link          |                    |
| Cost of broker fees (ex. GST)                     | \$2,640.00         |
| Total Credit Trade Fees                           |                    |
| Subtotal Cost (ex. GST)                           | \$14,608.20        |
| Total GST applicable                              | \$1,460.82         |
| <b>Total Cost (inc. GST)</b>                      | <b>\$16,069.02</b> |

Vegetation offset quote

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## Summary of Key Issues

The key issues are the protection of agricultural land, native vegetation removal, floodplain issues and referral authority requirements. Assessments have found that the application will have no impact on these issues and it is supported by relevant objectives, strategies and decision guidelines and also GBCMA, DEECA, GMW and Powercor.

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## Recommendation

### Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2025-169** to be given under Section 52 or having referred the application under Section 55 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 Clause **35.07-4, 44.03-2, 44.04-2 and 52.17-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **1240 Toolamba - Rushworth Road TATURA** in accordance with the Notice of Decision and the submitted plans.

## Recommendation

### Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2025-169** to be given under Section 52 or having referred the application under Section 55 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 Clause **35.07-4, 44.03-2, 44.04-2 and 52.17-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **1240 Toolamba - Rushworth Road TATURA** in accordance with the Notice of Decision and the submitted plans.

**Moved: Kalia Reid**

**Second: Awais Sadiq** subject to minor wording changes in conditions 4 & 7C as below

- Condition 4 & 7C – the date of the *Guidelines for the Removal, Destruction or Lopping of Native Vegetation* needs to be changed from 2017 to 2025 and should now read *Guidelines for the Removal, Destruction or Lopping of Native Vegetation (DELWP 2025)*

**CARRIED**

## Title Details

The title identifies that the site has legal access to a road or carriageway easement.

The title does contain a Restrictive Covenant

The title does contain a Section 173 Agreement – AX511586U – No further subdivision

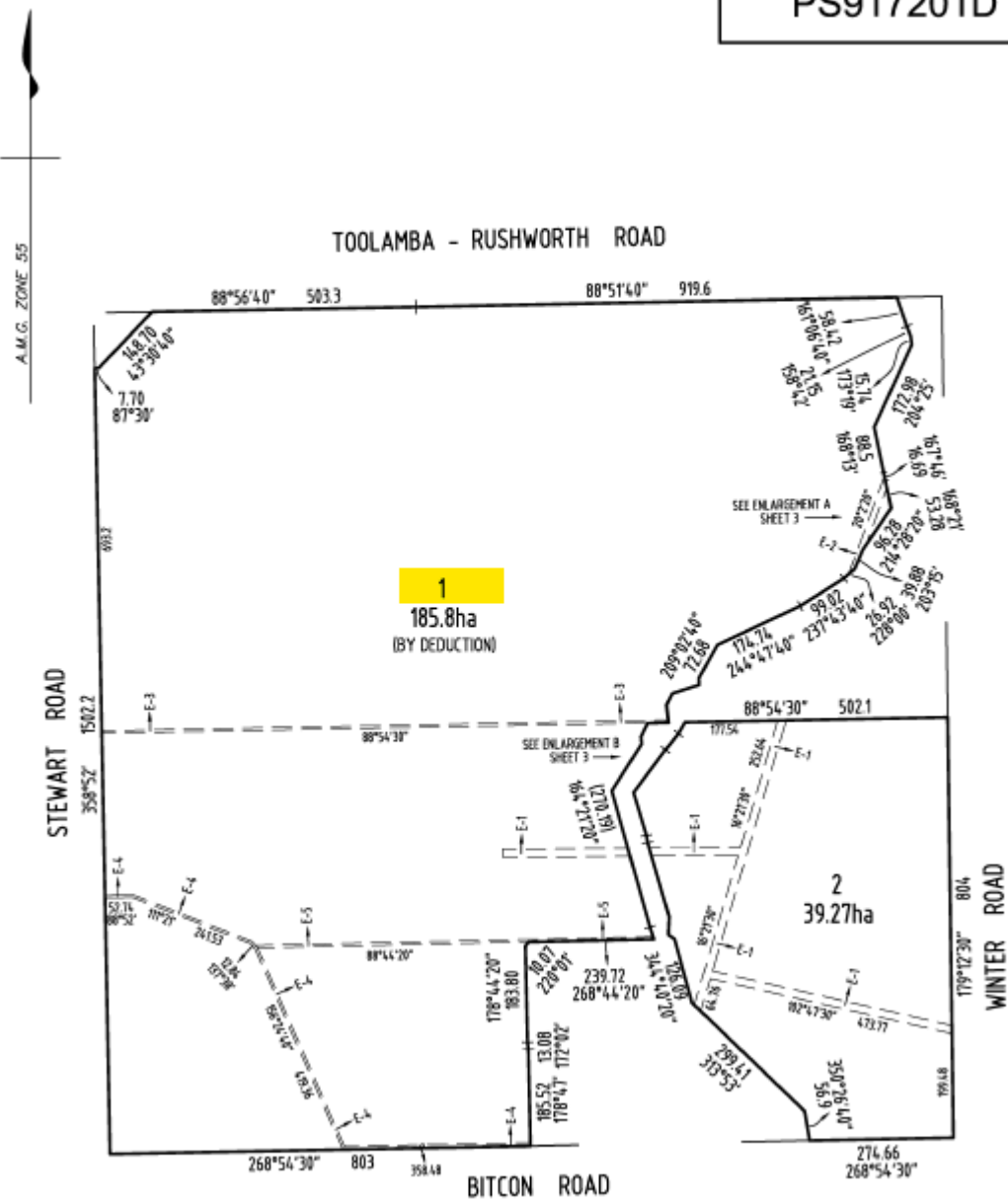
The title does contain an Easement - E-1 (Powerline), E-3 (supply of water), E-4 (water supply), E-5 (water supply)

The title does not contain a Restrictive Covenant

The title does not contain a Caveat or Building Envelope

The application does not breach the Section 173 Agreement or the Easements for the following reasons:

- The application does not propose any change to the easements.
- The section 173 Agreement relates to no further subdivision, which this application is not proposing.



| Easement Reference | Purpose         | Width (Metres) | Origin   | Land Benefited/In Favour Of              |
|--------------------|-----------------|----------------|--|--|
| E-1                | POWERLINE       | 15             | LP149868N<br>SECTION 103B OF THE<br>STATE ELECTRICITY<br>COMMISSION ACT 1958 | STATE ELECTRICITY COMMISSION OF VICTORIA |
| E-2                | POWERLINE       | SEE DIAG       | PS529794J<br>SEC 88 ELECTRICITY<br>INDUSTRY ACT 2000                         | POWERCOR AUSTRALIA LIMITED               |
| E-3                | SUPPLY OF WATER | 5              | PS529794J  | LOT 1 ON PS529794J                       |
| E-4                | WATER SUPPLY    | 5              | PS538264P  | LOT 1 ON PS538264P                       |
| E-5                | WATER SUPPLY *  | 3              | THIS PLAN  | LOT 2 ON THIS PLAN                       |

### **Terms of the Agreement**

2. The Owners agree and acknowledge that neither Lot may be further subdivided so as to increase the number of lots comprising the Land.

Section 173 Agreement AX511586U

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## **What is the application for?**

The permit triggers in the planning scheme are.

- Earthworks in the Farming Zone under Clause 35.07-4
- Earthworks in the Floodway Overlay under Clause 44.03-2
- Earthworks in the Land Subject to Inundation Overlay under Clause 44.04-2
- Removal of native Vegetation under Clause 52.17-1

Based on the permit triggers, specify the precise nature of the application which is to be used for all notices, referral, correspondence and decision making.

- Earthworks in the Farming Zone, Floodway Overlay, Land Subject to Inundation Overlay and for a pivot irrigator and removal of native vegetation

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## **Permit/Site History**

The history of the site includes:

- 2015-17 - earthworks in the Farming Zone 1 and Land Subject to Inundation Overlay- Permit issued
- 2015-463 - Earthworks in the Farming Zone 1, Floodway Overlay and Land Subject to Inundation Overlay – permit issued
- 2023-171- Two lot re-subdivision in the Farming Zone, Floodway Overlay and Land Subject to Inundation Overlay – permit issued
- 2023-171/a - Two lot re-subdivision in the Farming Zone, Floodway Overlay and Land Subject to Inundation Overlay – permit issued

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## **Subject Site & Locality**

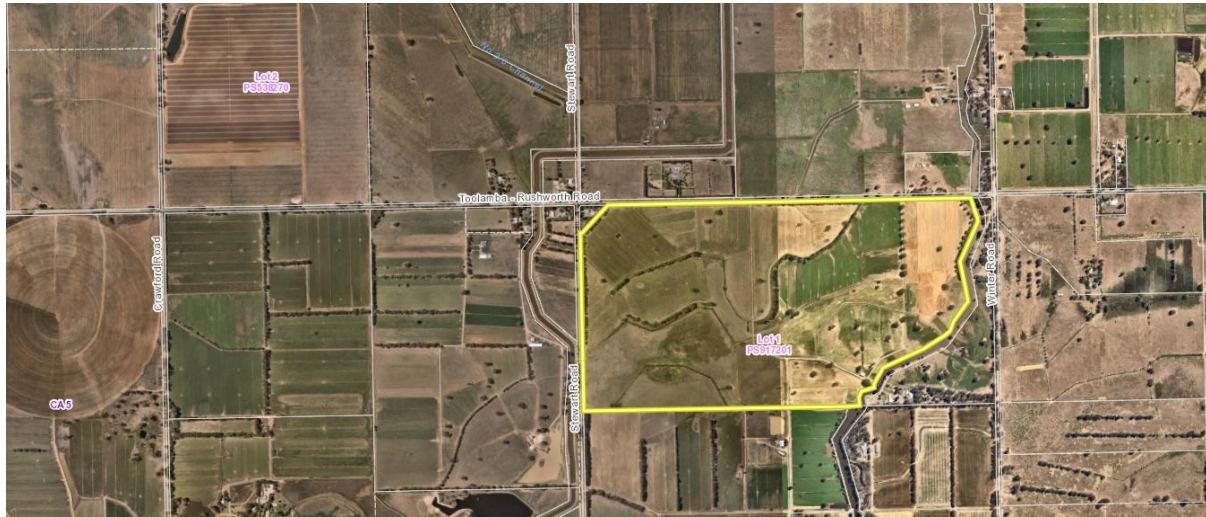
The site has a total area of 112.61 hectares and currently contains:

- Agricultural land
- Divided paddocks including lined trees and scattered trees
- Constructed dams and drains across the property
- Frontage to Toolamba–Rushworth Road (sealed rural road)

The main site/locality characteristics are:

- Naturally flat land with evidence of laser grading for flood irrigation on surrounding properties
- Goulburn Murray Water (GMW) irrigation channel along the eastern boundary.
- Pivot irrigators already installed on property to the west
- Tatura township less than 10kms east of subject site

The Photos below show the existing site:



Aerial image of subject site in yellow outline and surrounding properties.

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## Further Information

Is further information required for the application? No

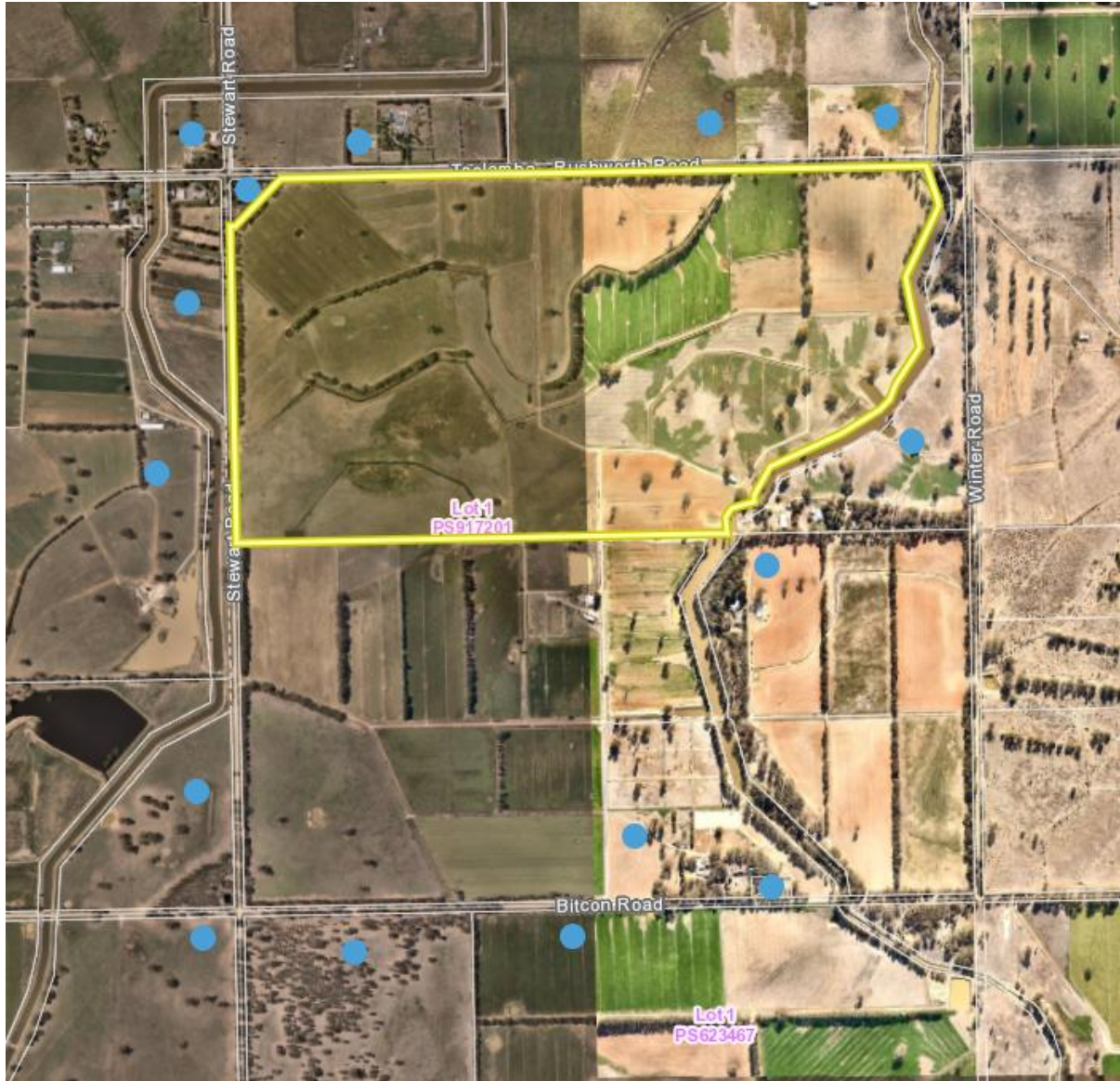
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## Public Notification

The application was exempt from being advertised in accordance with Condition 7 of the Earthworks Controls in the Shire of Campaspe, City of Greater Shepparton and the Moira Shire August 2015 Incorporated Document. An application for 'earthworks' or 'works' is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act.

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **removal of native vegetation**, by:

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



The applicant provided a signed declaration stating that the sign on site was displayed on the land between 26 July 2025 to 12 August 2025.


Planning Officer  
 City of Greater Shepparton  
 Locked Bag 1000  
 SHEPPARTON 3630

Dear Planner

Planning Application No: 2025-169  
 Applicant: M J Lang  
 For: Earthworks in the Farming Zone, Floodway Overlay and Land  
 Subject to Inundation Overlay for a pivot irrigator and removal of  
 native vegetation  
 At: 1240 Toolamba-Rushworth Road TATURA VIC 3616

I refer to your letter in respect to the above application and confirm that the Public Notice form was erected in a position which was clearly visible from the frontage of the site, and maintained in good condition for 14 days from 26<sup>th</sup> July to 12<sup>th</sup> August in accordance with your request.

Yours faithfully,

 Signature

MARKUS LANG Full Name (Please Print)

1215 MURCHISON TATURA ROAD Address  
TATURA VIC 3616

Signed declaration stating that the sign on site was displayed on the land between 26 July 2025 to 12 August 2025

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## Objections

The Council has received **one (1)** objection to date. The key issues that were raised in the objection are as follows. A response to the concerns raised is within the Officers Assessment section of the report.

- No discussion as to whether native vegetation has been removed on this property in recent times
- The assessment is conveniently just below the 0.5 hectare threshold for "Detailed pathway" assessment. The ecological value of these trees for threatened species of parrot and owls is highly significant, especially as all trees are hollow bearing. The landscape around the area already devoid of these significant landscape trees. removing

these trees will create a significant gap and contribute to the ongoing decline of these threatened species. These trees definitely contain actively used hollows.

- The ecological report specifies that it is the "opinion" of the consultant that Exemption 2.22 is applicable for the removal of shelterbelt trees along the drain, based on the trees being "clearly planted". The opinion of the consultant in this instance is irrelevant and baseless. Council should seek further information for this application, requesting CMA advice to confirm if / if not the trees were planted with capital funding.
- The drain that cuts through the pivot footprint drains a significant amount of land west of Stewart Road and south of Toolamba Rushworth Road. I have seen this drain back up and flood the properties on the corner of Toolamba-Rushworth Road and Stewart Road. I want to make sure that the new proposed drain that is built in lieu of the existing backfilled drain is large enough to cope with significant volumes of water that runs of east of Stewart road. I don't believe the existing plans provide enough detail to show this. This needs to be carefully calculated.

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## 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   |
|----------------------------------|--|-----------------------------|--|
| GBCMA                            | 44.03-6<br>44.04-7                       | Recommending                | No objection, subject to the following conditions:<br>Any removal of, or impact to, native vegetation must be undertaken in accordance with the <u>Guidelines for the Removal, Destruction or Lopping of Native Vegetation</u> (DELWP, 2017), and any advice obtained from the Department of Energy, Environment and Climate Action (DEECA).   |
| GMW                              | Incorporated Document<br>45.01-3 (PAO)   | Determining                 | No objection subject to the following conditions: <ul style="list-style-type: none"> <li>a) The design plan shows a turkey nest storage and the following conditions must be adhered to:</li> <li>b) Prior to construction of the turkey nest storage, the proponent must secure a high flow storage agreement volume equal to the combined capacity in Megalitres of the turkey nest and attached recycle dam. The proponent must contact GMW to secure this agreement volume and arrange access to any water made available. A new high-flow diversion point may also be required to be installed and will be at the proponent's expense.</li> <li>c) The bed and banks of the storage must be constructed to minimise accessions to groundwater with a permeability of 10-9m/sec (0.09mm/day) or less.</li> </ul> |

|          |         |             |   |
|----------|---------|-------------|---|
|          |         |             | <p>d) The storage is to be located such that the phreatic line does not interfere with any GMW asset.</p> <p>e) The batters of the storage must be stabilised to prevent soil erosion, to the satisfaction of the responsible authority.</p> <p>f) The design plan shows a new sump (sump2) to be constructed adjacent to Mosquito Drain Ext. Stage 10 and the following conditions are to apply in relation to this part of the whole farm plan:</p> <p>g) Prior to construction a test hole should be dug to ensure that groundwater does not leak in and that the soil is consistent to the depth required. The completed reuse sump must not interact with the water table;</p> <p>h) The sump must be constructed with the top of cut a minimum of 7 m from the top of drain cut and a minimum of 3 m from the drain easement/reserve boundary and located such that the phreatic line does not interfere with any GMW asset;</p> <p>i) Reuse dams must not be directly connected to farm drainage inlets. A sill structure must be provided directly upstream of the inlet to adequately separate water in the reuse sump from the GMW drain. The sill must be set level with the design water level of the sump and above the bed of the GMW drain.</p> <p>j) The proponent must contact GMW and request for obtaining a diversion licence.</p> <p><b>Amendments to be made to the design plan</b><br/>The plans must be modified to show</p> <p>a) Bays M1 to M7 have a farm drain that connects to a sump. The farm drain must be constructed with the top of cut a minimum of 1 m from the Mosquito drain reserve boundary.</p> <p>b) All the setbacks are clearly noted on the map</p> |
| Powercor | 66.02-4 | Determining | <p>No objections, subject to the following conditions:</p> <p>a) Any structures must comply with the clearances required by the Electricity Safety (Installations) Regulations.</p> <p>b) Any construction work must comply with the Energy Safe Victoria's "No Go Zone" rules.</p> <p><b>Notes:</b> To apply for a permit to work go to our website:<br/><a href="https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator">https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator</a> and apply on line through the No Go Zone Assessment.</p>  |

## Notice to Authorities (including as required by GSPS)

External Notice to Authorities:

| Section 52 - Notice Authority | List Planning clause triggering notice | Advice/Response/Conditions  |
|-------------------------------|--|---|
| DEECA                         | NA                                     | <p>No objection, subject to the following conditions:</p> <p><b>Notification of permit conditions:</b></p> <ol style="list-style-type: none"> <li>1. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.</li> </ol> <p><b>Native vegetation permitted to be removed, destroyed or lopped:</b></p> <ol style="list-style-type: none"> <li>2. The native vegetation identified in NVRR ID 328_20241206_NFX (dated: 06/12/2024) and permitted to be removed, destroyed or lopped under this permit is <b>0.465</b> hectares of native vegetation, which is comprised of: <ol style="list-style-type: none"> <li>i. <b>0.043 hectares patches</b> of native vegetation including <b>one (1) large tree</b> within patches</li> <li>ii. <b>Six (6) scattered</b> large trees</li> </ol> </li> </ol> <p><b>Native vegetation offsets:</b></p> <ol style="list-style-type: none"> <li>3. To offset the removal of 0.465 hectares of native vegetation, the permit holder must secure a native vegetation offset in accordance with the <u>Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017)</u>. The permit holder must secure the following offsets: <ol style="list-style-type: none"> <li>a) A general offset of <b>0.087 general</b> habitat units: <ol style="list-style-type: none"> <li>i. located within the Goulburn Broken Catchment Management boundary or Greater Shepparton municipal area</li> <li>ii. with a minimum strategic biodiversity value of at least 0.193</li> </ol> </li> <li>b) The offset(s) secured must provide protection of at least seven (7) large trees.</li> </ol> </li> </ol> <p><b>Offset evidence:</b></p> <ol style="list-style-type: none"> <li>4. Before any native vegetation is removed, evidence that the required offset for the project has been secured must be provided to the satisfaction of the responsible authority. This evidence must be one or both of the following: <ol style="list-style-type: none"> <li>a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site,</li> <li>b) credit extract(s) allocated to the permit from the Native Vegetation Credit Register.</li> </ol> </li> <li>5. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit.</li> <li>6. Before works start, a native vegetation protection fence must be erected around all scattered trees to be retained on site. This fence will protect the tree by demarcating the tree protection zone and must be erected at a radius of 12 x the diameter at a height of 1.3 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the tree. The fence must be constructed of star pickets/ chain mesh/ or similar to the satisfaction of the responsible authority. The fence must remain in place until all works are completed to the satisfaction of the responsible authority.</li> </ol> |

|  |  |  |
|--|--|--|
|  |  | <p>7. Except with the written consent of the responsible authority, within the area of native vegetation to be retained and any tree or vegetation protection zone associated with the permitted use and/or development, the following is prohibited:</p> <ol style="list-style-type: none"> <li>a) vehicular access</li> <li>b) trenching or soil excavation</li> <li>c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products</li> <li>d) entry and exit pits for the provision of underground services</li> <li>e) any other actions or activities that may result in adverse impacts to retained native vegetation.</li> </ol> <p><b>Permit Note:</b><br/>All native wildlife in Victoria is protected under the <i>Wildlife Act 1975</i>, and approval to remove native vegetation does not exempt the development from other statutory obligations under the <i>Wildlife Act 1975</i>. Where works may impact on native fauna, and or habitat used by native fauna, the applicant must ensure that measures are implemented, and to act in a manner that does not harm, injure or kill wildlife. Prior to removal of vegetation, landholders are advised to determine whether a Wildlife Act authorisation is required. For further information please visit <a href="https://www.vic.gov.au/wildlife-licences-and-permits">https://www.vic.gov.au/wildlife-licences-and-permits</a>.</p> |
|--|--|--|

## Internal Notice

| Internal Council Notices | Advice/Response/Conditions   |
|--------------------------|--|
| ENG                      | <p>No objection, subject to the following conditions:</p> <p><b><u>Rural Drainage</u></b></p> <p>Prior to the commencement of any works on site, plans and computations to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans and computations 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</p> <ol style="list-style-type: none"> <li>a) No filling is permitted in the existing low areas/floodway's adjoining the drains proposed to filled and replaced..</li> <li>b) Details including longitudinal and cross sections as surveyed, of the existing drains, proposed to be filled on the northern and southern sides of the proposed centre pivot irrigation system.</li> <li>c) Specific details of the replacement drains including longitudinal sections and cross sections at a maximum interval 25m.</li> </ol> <p>The computations must be undertaken by a suitably qualified person and must include</p> <ol style="list-style-type: none"> <li>d) Hydraulic capacity of the existing drains.</li> <li>e) Hydraulic capacity of the proposed drains, to ensure that the new drains will have a hydraulic capacity equal to or greater than the existing drains proposed to filled.</li> </ol> |
| Sustainable Environment  | No objection   |

## Consultation

Consultation was not undertaken.

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# Assessment

## The zoning of the land

### 35.07 Farming Zone

#### Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- 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.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

#### 35.07-4 Buildings and works

A permit is required to construct or carry out works for Earthworks specified in a schedule to this zone, if on land specified in a schedule. Schedule 1 contains the following requirements and therefore planning approval is required.

| Permit requirement for earthworks   | Land  |
|---|---|
| Earthworks which change the rate of flow or the discharge point of water across a property boundary | <p>All land except for that which an approval or an exemption has been made or granted under the 'Earthworks Controls in the Shire of Campaspe, City of Greater Shepparton and Moira Shire – December 2022' incorporated at Clause 72.04</p> <p>All the land with the exception of Lot 3 PS331755 identified as a component of the Goulburn Valley Freight Logistics Centre at Mooroopna and which is subject to the prior preparation of a Flood Management Plan approved by the relevant Floodplain Management Authority and the responsible authority</p> <p>That required for the construction of the Goulburn Valley Highway – Shepparton Bypass and associated works, subject to prior preparation of a Flood Management Plan which is approved by the relevant</p> |

|   |  |
|---|--|
|   | Floodplain Management Authority and the responsible authority  |
| Earthworks which increase the discharge of saline groundwater | <p>All land except for that which an approval or an exemption has been made or granted under the 'Earthworks Controls in the Shire of Campaspe, City of Greater Shepparton and Moira Shire – December 2022' incorporated at Clause 72.04</p> <p>All the land with the exception of Lot 3 PS331755 identified as a component of the Goulburn Valley Freight Logistics Centre at Mooroopna and which is subject to the prior preparation of a Flood Management Plan approved by the relevant Floodplain Management Authority and the responsible authority</p> <p>That required for the construction of the Goulburn Valley Highway – Shepparton Bypass and associated works, subject to the approval of the responsible authority</p> |

#### Relevant overlay provisions

#### 44.03 Floodway Overlay

##### Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- 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.

#### 44.03-2 Buildings and works

Pursuant to Clause 44.03-2 a planning permit is required for works in the Floodway Overlay.

#### 44.04 Land Subject to Inundation Overlay

##### Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) 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, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To minimise the potential flood risk to life, health and safety associated with development.
- 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 and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.
- To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.

##### 44.04-2 Buildings and works

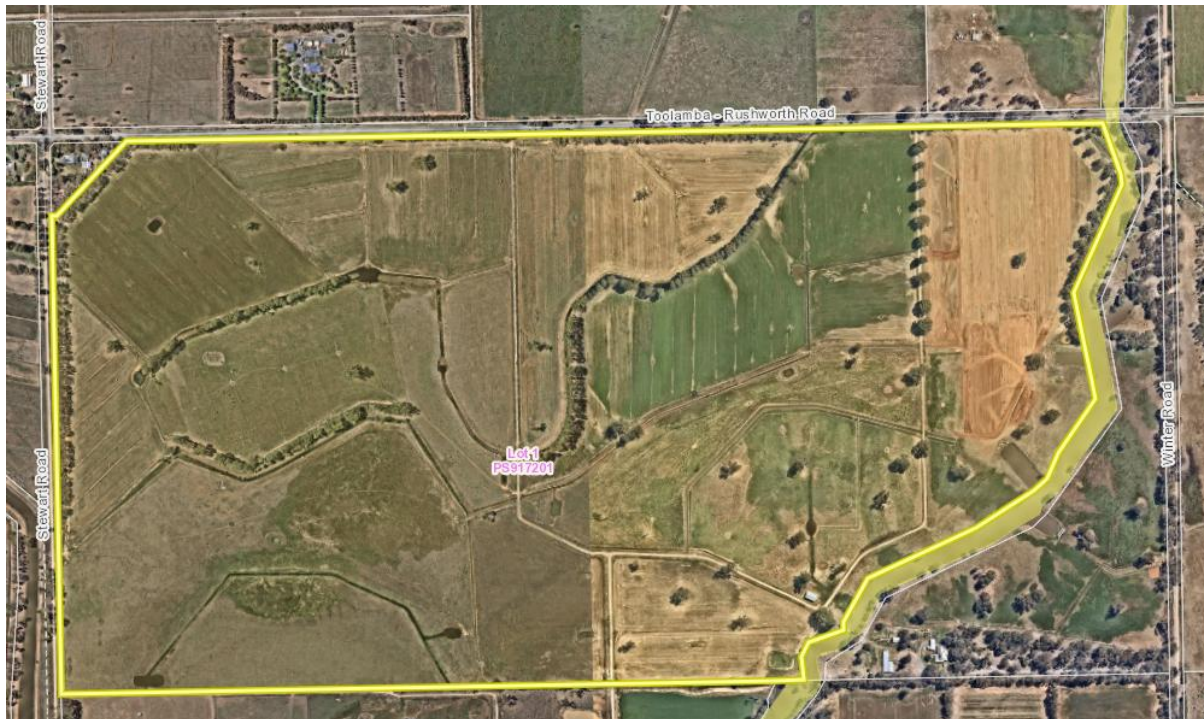
Pursuant to Clause 44.04-2 a planning permit is required for works in the Land Subject to Inundation Overlay.

#### 45.01 PUBLIC ACQUISITION OVERLAY

##### SCHEDULE TO CLAUSE 45.01 PUBLIC ACQUISITION OVERLAY

##### 1.0 Public Acquisition

| PS Map | Acquiring Authority   | Purpose of Acquisition                                   |
|--------|-----------------------|--|
| PAO6   | Goulburn Murray Water | Construction of the Mosquito Depression Drain – Stage 10 |



The aerial image shows the property boundary outlined in yellow and the Public Acquisition Overlay shaded yellow to the east, outside of the property boundary. No planning permission is required under the Public Acquisition Overlay.

#### **45.12 Specific Controls Overlay**

There is no permit trigger under the SCO3.

#### **Relevant Particular Provisions**

#### **52.17 NATIVE VEGETATION**

##### **Purpose**

- To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):
  1. Avoid the removal, destruction or lopping of native vegetation.
  2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
  3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.
- To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

### **52.17-1 Permit requirement**

A permit is required to remove, destroy or lop native vegetation, including dead native vegetation. This does not apply:

- If the table to Clause 52.17-7 specifically states that a permit is not required.
- If a native vegetation precinct plan corresponding to the land is incorporated into this scheme and listed in the schedule to Clause 52.16.
- To the removal, destruction or lopping of native vegetation specified in the schedule to this clause.

None of these circumstances apply, therefore planning approval is required.

### **52.17-3 Property vegetation plans**

A permit granted to remove, destroy or lop native vegetation in accordance with a property vegetation plan must include the following condition:

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

- *The removal, destruction or lopping of native vegetation does not start within two years of the date of this permit.*
- *The removal, destruction or lopping of native vegetation is not completed within ten years of the date of this permit.”*

### **52.17-5 Offset requirements**

If a permit is required to remove, destroy or lop native vegetation, the biodiversity impacts from the removal, destruction or lopping of native vegetation must be offset, in accordance with the Guidelines. The conditions on the permit for the removal, destruction or lopping of native vegetation must specify the offset requirement and the timing to secure the offset.

### **Does any Incorporated Document apply?**

Earthworks Controls in the Shire of Campaspe, City of Greater Shepparton and the Moira Shire – August 2015 – Incorporated Document.

The objectives under this document include the following:

- To manage and provide for long term land sustainability, improved salinity, and a reduction in nutrient levels leaving a property.
- To manage the drainage system for the region in a way that allows the reasonable flow of water through the region.
- To provide a consistent approach to earthworks and drainage management in the catchment regardless of municipal boundaries or whether land is within the irrigation region.

- To allow floodplains to function so as to provide flood conveyance and flood storage.

Guidelines for decisions on planning permit applications are as follows:

- The State Planning Policy Framework and the Local Planning Policy Framework, the Municipal Strategic Statement and local planning policies;
- The objectives of the relevant land and water management plan;
- The objectives and provisions of the Water Act;
- The need to establish and maintain reasonable flow of water through the area
- The written advice of the relevant authorities that it is satisfied that the works proposed are reasonable and will not adversely alter or will improve drainage in the area.

*Guidelines for the removal, destruction or lopping of native vegetation* Department of Environment, Land, Water and Planning, 2017

**The Municipal Planning Strategy (MPS) at Clause 02.**

## **02.03 STRATEGIC DIRECTIONS**

### **02.03-2 Environmental and landscape values**

The natural landscape of the municipality and wider region has been modified significantly as a result of pastoral activities and more recently, through extensive irrigation activities. As a result, areas of remnant native vegetation are now primarily limited to waterways, road reserves and corridors. These corridors (as well as native vegetation stands on private property) provide important habitat links for flora and fauna and for the fostering of biodiversity.

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.

Council is committed to:

- Protecting and enhancing biodiversity values through native vegetation.

### **02.03-3 Environmental risks and amenity**

#### **Environmental risks**

Environmental risks in Greater Shepparton are associated with the river, floodplain and wetland systems. The catchments of the various rivers and streams include areas of flood prone land where flooding has historically caused substantial damage to the natural and built environment.

Decades of open pasture farming and irrigated agriculture has also changed the natural hydrological balance. Drainage management attempts to reduce the direct costs in terms of loss of stock and damage to property and the indirect costs of reduced productivity, road rebuilding and inconvenience. The key issue relating to drainage management is the provision of efficient drainage of land without causing other environmental impacts.

## Amenity

Council acknowledges that a range of non-residential uses in residential areas provide services to the local community including places of worship, schools, medical centres, display homes, child care centres, cafes and restaurants. However, it is important to ensure that these uses do not have a negative impact on residential amenity through inappropriate location, unsympathetic design and traffic impacts.

Council is committed to:

- Managing the constraints of the floodplain on the use and development of land.
- Preserving the inherent functions of the floodplains.
- Reducing impacts on water quality caused by water logging, salinity and the downstream impacts of nutrients.
- Protecting natural ecosystems via management of drainage and use and development in floodplain, river and wetland systems.

### 02.03-4 Natural resource management

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 farming areas of the municipality can generally be grouped into three categories:

- **Farming 'Growth' areas**, being areas for the growth and expansion of existing farm businesses and for new investment. These areas comprise/include larger properties and provide opportunity for large scale, standalone agricultural development as well as consolidation of existing farm properties wishing to grow.
- **Farming 'Consolidation' areas**, being areas that support existing farm businesses to operate and expand. These areas provide opportunities for development of growing agricultural enterprises that can, over time, expand and consolidate through a process of property restructure.
- **Farming 'Niche' areas**, being those areas with opportunities for smaller scale and specialised agriculture. These areas include locations of productive potential due to soil type, property size or water access that are not rural living areas. The opportunity for properties within these areas to expand in response to general market trends is limited due to land value and existing development as most lots are smaller, with dwellings.

Council is committed to: Supporting opportunities for the growth and diversity of primary product in the municipality.

### The Planning Policy Framework (PPF)

## **12.01-1S Protection of biodiversity**

### **Objective**

To protect and enhance Victoria's biodiversity.

### **Strategies**

- Use biodiversity information to identify important areas of biodiversity, including key habitat for rare or threatened species and communities, and strategically valuable biodiversity sites.
- Strategically plan for the protection and conservation of Victoria's important areas of biodiversity.
- Ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity, including consideration of:
  - Cumulative impacts.
  - Fragmentation of habitat.
  - The spread of pest plants, animals and pathogens into natural ecosystems.
- Avoid impacts of land use and development on important areas of biodiversity.
- Consider impacts of any change in land use or development that may affect the biodiversity value of national parks and conservation reserves or nationally and internationally significant sites; including wetlands and wetland wildlife habitat designated under the Convention on Wetlands of International Importance (the Ramsar Convention) and sites utilised by species listed under the Japan-Australia Migratory Birds Agreement (JAMBA), the China-Australia Migratory Birds Agreement (CAMBA), or the Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA).
- Assist in the identification, protection and management of important areas of biodiversity.
- Assist in the establishment, protection and re-establishment of links between important areas of biodiversity, including through a network of green spaces and large-scale native vegetation corridor projects.
- Support land use and development that contributes to protecting and enhancing habitat for indigenous plants and animals in urban areas.

## **12.01-1L Biodiversity**

### **Strategies**

- Avoid tree removal to minimise loss of riparian vegetation especially on floodplains.

- Protect remnant areas of native vegetation, streamlines, wetlands and other environmentally sensitive features.
- Encourage residential and rural residential developments and precinct structure plans to incorporate the following biodiversity protection and enhancement measures:
  - Site and design development, including service infrastructure, roads and subdivision boundaries, in a manner that minimises the need to remove remnant native vegetation.
  - Site and design stormwater disposal and flood mitigation infrastructure to provide for waterway habitat enhancement.
  - Enhance biodiversity values by providing native vegetation in landscape treatments, in particular within floodways and reserves that link to rivers.

### **12.01-2S Native vegetation management**

#### **Objective**

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

#### **Strategies**

Ensure decisions that involve, or will lead to, the removal, destruction or lopping of native vegetation, apply the three-step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017):

- Avoid the removal, destruction or lopping of native vegetation.
- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

#### **Policy guidelines**

Consider as relevant:

- State biodiversity information maintained by the Department of Environment, Land, Water and Planning.

#### **Policy documents**

Consider as relevant:

- *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017)
- *Assessor's handbook – applications to remove, destroy or lop native vegetation* (Department of Environment, Land, Water and Planning, 2017)

### **13.03-1S Floodplain management**

#### **Objective**

To assist the protection of:

- Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows.
- 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, wetland or coastal health.

#### **Strategies**

- Identify land affected by flooding, including land inundated by the 1 in 100 year flood event (1 per cent Annual Exceedance Probability) or as determined by the floodplain management authority in planning schemes.
- Avoid intensifying the impact of flooding through inappropriately located use and development.
- Plan for the cumulative impacts of use and development on flood behaviour.
- Locate emergency and community facilities (including hospitals, ambulance stations, police stations, fire stations, residential aged care facilities, communication facilities, transport facilities, community shelters, child care centres and schools) outside the 1 in 100 year (1 per cent Annual Exceedance Probability) floodplain and, where possible, at levels above the height of the probable maximum flood.
- Locate use and development that 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) outside 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.
- Ensure land use on floodplains minimises the risk of waterway contamination occurring during floods and floodplains are able to function as temporary storage to moderate peak flows and minimise downstream impacts.

## **14.01-1S Protection of agricultural land**

### **Objective**

To protect the state's agricultural base by preserving productive farmland.

### **Strategies**

- Identify areas of productive agricultural land, including land for primary production and intensive agriculture.
- Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.
- Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.
- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.
- Prevent inappropriately dispersed urban activities in rural areas.
- Protect strategically important agricultural and primary production land from incompatible uses.
- Limit new housing development in rural areas by:
  - Directing housing growth into existing settlements.
  - Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
  - Encouraging consolidation of existing isolated small lots in rural zones.
- Identify areas of productive agricultural land by consulting with the Department of Economic Development, Jobs, Transport and Resources and using available information.
- In considering a proposal to use, subdivide or develop agricultural land, consider the:
  - Desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
  - Compatibility between the proposed or likely development and the existing use of the surrounding land.

- The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
- Land capability.
- Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.
- Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.
- Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.

#### **14.01-1L Protection of agricultural land**

##### **Strategies - General**

- Encourage farm earthworks that minimise the impact on drainage and flooding through Whole Farm Plans.
- Discourage land use and development in the Farming Zone (Schedule 1) that would compromise the future agricultural use of the land, including farm related tourism.
- 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.
  - Does not compromise the existing and future agricultural practices of the surrounds.
  - Adds value to the agricultural based of the municipality.
  - Is a rural based enterprise.
  - Provides for the reuse of existing large scale packing sheds and cool stores.

#### **14.01-2L Non-agricultural use and development**

##### **Strategies**

- Maintain agriculture as the major economic driver in the region.
- Encourage tourism in the Farming Zone (Schedule 2) that is managed to prevent conflict and impact on agricultural operations.
- 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.

#### **14.01-2S Sustainable agricultural land use**

## **Objective**

To encourage sustainable agricultural land use.

## **Strategies**

- Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.
- Support the development of innovative and sustainable approaches to agricultural and associated rural land use practices.
- Support adaptation of the agricultural sector to respond to the potential risks arising from climate change.
- Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing.
- Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.
- Support agricultural investment through the protection and enhancement of appropriate infrastructure.
- Facilitate ongoing productivity and investment in high value agriculture.
- Facilitate the establishment and expansion of cattle feedlots, pig farms, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.
- Ensure that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.

## **Structure Plans/Development Plans**

There are no relevant Structure or Development Plans.

## **Relevant Background documents**

- *Any applicable biodiversity strategies, including the relevant Regional Catchment Strategy (prepared under Part 4 of the Catchment and Land Protection Act 1994)*
- *Biodiversity Conservation Strategy for Melbourne's Growth Corridors* (Department of Environment and Primary Industries, 2013)
- *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017)
- *Protecting Victoria's Environment – Biodiversity 2037* (Department of Environment, Land, Water and Planning, 2017)

- *Victorian Waterway Management Strategy* (Department of Environment and Primary Industries, 2013)
- *Greater Shepparton Environmental Sustainability Strategy 2014-2030* (Greater Shepparton Environmental Sustainability Strategy Stakeholder Reference Committee, Adopted July 2014)
- *Shepparton Floodplain Management Plan* (Greater Shepparton City Council, 2002)

### **The decision guidelines of Clause 65.01 and 65.02**

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.

### **The decision guidelines of the zone**

### **FZ1 – Clause 35.07-6 Decision Guidelines (as relevant)**

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 Municipal Planning Strategy and the Planning Policy Framework
- 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.
- Whether Rural worker accommodation is necessary having regard to:
  - The nature and scale of the agricultural use.
  - The accessibility to residential areas and existing accommodation, and the remoteness of the location.
- The duration of the use of the land for Rural worker accommodation.
- 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.

**The decision guidelines of the overlay(s) (and schedule to the overlays)**

**FO - 44.03-7 – Decision guidelines**

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

- The Municipal Planning Strategy and the Planning Policy Framework.
- 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.
- Any other matters specified in a schedule to this overlay.

**LSIO - 44.04-8 – Decision guidelines**

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

- The Municipal Planning Strategy and the Planning Policy Framework.
- 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.
- Alternative design or flood proofing responses.
- 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.
  - Tidal patterns.
  - Coastal inundation and erosion.

- 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, marine and coastal health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality, estuaries and sites of scientific significance.
- Any other matters specified in a schedule to this overlay.

**Native vegetation - 52.17-4 Decision guidelines**

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

| Number | Decision guidelines to be considered   |
|--------|--|
| 1      | <p>Efforts to avoid the removal of, and minimise the impacts on, native vegetation should be commensurate with the biodiversity and other values of the native vegetation, and should focus on areas of native vegetation that have the most value. Taking this into account consider whether:</p> <ul style="list-style-type: none"> <li>• the site has been subject to a regional or landscape scale strategic planning process that appropriately avoided and minimised impacts on native vegetation</li> <li>• the proposed use or development has been appropriately sited or designed to avoid and minimise impacts on native vegetation</li> <li>• feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal.</li> </ul> |

| Number | Decision guidelines to be considered  |
|--------|---|
| 2      | <p>The role of native vegetation to be removed in:</p> <ul style="list-style-type: none"> <li>Protecting water quality and waterway and riparian ecosystems, particularly within 30 metres of a wetland or waterway in a special water supply catchment area listed in the <i>Catchment and Land Protection Act 1994</i>.</li> <li>Preventing land degradation, including soil erosion, salination, acidity, instability and water logging particularly: <ul style="list-style-type: none"> <li>where ground slopes are more than 20 per cent</li> <li>on land which is subject to soil erosion or slippage</li> <li>in harsh environments, such as coastal or alpine areas.</li> </ul> </li> <li>Preventing adverse effects on groundwater quality, particularly on land: <ul style="list-style-type: none"> <li>where groundwater recharge to saline water tables occurs</li> <li>that is in proximity to a discharge area</li> <li>that is a known recharge area.</li> </ul> </li> </ul> |
| 3      | The need to manage native vegetation to preserve identified landscape values.   |
| 4      | Whether any part of the native vegetation to be removed, destroyed or lopped is protected under the <i>Aboriginal Heritage Act 2006</i> .   |
| 5      | The need to remove, destroy or lop native vegetation to create defensible space to reduce the risk of bushfire to life and property, having regard to other available bushfire risk mitigation measures.  |
| 6      | Whether the native vegetation to be removed is in accordance with any Property Vegetation Plan that applies to the site.  |
| 7      | Whether an offset that meets the offset requirements for the native vegetation to be removed has been identified and can be secured in accordance with the Guidelines.  |
| 9      | <p>For applications in both the <b>Intermediate and Detailed Assessment Pathway only</b> – consider the impacts on biodiversity based on the following values of the native vegetation to be removed:</p> <ul style="list-style-type: none"> <li>The extent.</li> <li>The condition score.</li> <li>The strategic biodiversity value score.</li> <li>The number and circumference of any large trees.</li> <li>Whether it includes an endangered Ecological Vegetation Class.</li> <li>Whether it includes sensitive wetlands or coastal areas.</li> </ul>  |

## OFFICER ASSESSMENT

- The application was submitted with material to address the relevant requirements of Clause 52.17 and the Guidelines. This information was provided in the form of a Native Vegetation Assessment (NVA) report which was assessed under the “Intermediate” risk-based pathway assessment process.
- The vegetation removal comprises 0.465 hectares of native vegetation, comprising of 9 trees in total (one patch, including one large patch tree and 7 large scattered trees).
- The NVA determined nearly all the large, scattered trees assessed on the property were hollow bearing and provided habitat opportunities. The assessment identified due to the fragmented nature of the trees across the highly modified and fragmented landscape, the hollow bearing trees are unlikely to provide habitat for non -avian opportunities.

- The application material identifies the offset requirements for the vegetation to be removed. The offsets are identified as 0.087 general habitat units with a minimum strategic biodiversity score of 0.193, within the Goulburn Broken Catchment or the Greater Shepparton LGA.
- The Native Vegetation Assessment (NVA) submitted with the application confirms that avoidance and minimisation of native vegetation removal have been key considerations in the project's design and construction methodology. The strategies demonstrate the initial design iteration and the final design, with justifications for why further removals could not be avoided. The original proposal included a larger pivot and the removal of 27 trees; however, the application has focused on reducing the pivot size, thereby minimising vegetation removal to a total of nine trees.
- The application has appropriately addressed that the proposed vegetation removal will not have a significant impact on Victoria's biodiversity.
- GMW acting as a determining referral authority have consented to the application subject to a number of standard conditions.
- GBCMA have consented to the application subject to standard conditions.
- Powercor have consented to the application subject to standard conditions.
- DEECA acting as a recommending referral authority have consented to the application subject to a number of standard conditions.
- Council's engineering department has no objection subject to the submission of a drainage plan
- Council's Sustainability and Environment Department has no objection subject to conditions.
- All conditions required by internal and external referral authorities will be included as conditions in the NOD to Grant a Permit.
- Municipal Planning Strategy and the Planning Policy Framework clearly seek to support, strengthen and enhance the productive agricultural use of the region's farming land. Whilst this needs to be balanced against the other relevant policy objectives of the planning scheme, it is considered that the purpose of the proposed clearing of native vegetation for Lang Dairies Pty Ltd supports the policy objectives with respect to agriculture.
- The proposed development is considered to be generally in accordance with the MPS and Planning Policy Framework and zone and overlay purpose and decision guidelines.
- The application was advertised and one objection was received. The objectors concerns primarily relate to:

- No discussion on whether native vegetation has been removed recently; needs verification.
- Removal footprint conveniently just below 0.5 ha threshold for Detailed Pathway Assessment.
- All trees are hollow-bearing and critical for threatened species; no pre-clearance checks mentioned.
- Consultant's opinion on exemption for shelterbelt trees is "irrelevant"; CMA advice needed to confirm funding source.
- Drain backs up and floods properties; new drain may not handle volumes.
- Response to concerns raised by the objector are as follows:
  - The ecological report confirms no past removal attributable to the current owner. Aerial imagery shows one tree on western boundary missing prior to purchase, but this was not removed by the applicant. Additionally, a review of past planning applications indicates that no permits were sought for native vegetation removal.
  - Initial design for larger pivot (55 ha) would have removed approximately 30 trees; redesign reduced removal by 66% to 9 trees (7 large), now 0.465 ha, meeting intermediate pathway per Guidelines.
  - Hollow-bearing trees acknowledged; report recommends clearing between February and April to avoid breeding season, reducing fauna impact.
  - Offset requirements (0.087 habitat units, 7 large trees) will be met via accredited broker.
  - Exemption 2.22 only applies where trees were not planted using public funding. The Goulburn Broken Catchment Management Authority has confirmed that some areas within the proposed pivot footprint previously received funding for plantings. However, based on aerial imagery and funding application documents from Agriculture Victoria, these funded plantings are not located where the centre pivot is proposed, as they no longer appear to be present
  - A Whole Farm Plan has been submitted as part of the application. Drainage requirements will be included in the conditions of permit.

**Any 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 environment, social & economic effects?**

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

**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 site of the proposed works is outside the 'Area of Cultural Heritage Sensitivity', therefore, the proposed use does not trigger the need for a CHMP.

**The relevant provisions of the GSPS including Clause 13.02 (Bushfire)**

NA

**Charter of Human Rights and Responsibilities**

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

---

**Conclusion**

Officers have undertaken an assessment of the application and found that the proposal achieves acceptable planning outcomes. It is recommended that a Notice Of Decision to Grant a Permit should issue.

# Draft Notice Of Decision

|                               |  |
|-------------------------------|--|
| <b>APPLICATION NO:</b>        | <b>2025-169</b>  |
| <b>PLANNING SCHEME:</b>       | GREATER SHEPPARTON PLANNING SCHEME                             |
| <b>RESPONSIBLE AUTHORITY:</b> | GREATER SHEPPARTON CITY COUNCIL                                |
| <b>ADDRESS OF THE LAND:</b>   | 1240 Toolamba-Rushworth Road TATURA VIC 3616 (Lot 1 PS 917201) |

**THE RESPONSIBLE AUTHORITY HAS DECIDED TO GRANT A PERMIT.  
THE PERMIT HAS NOT BEEN ISSUED**

| <b>Planning Scheme Clause No.</b> | <b>Description of what is allowed</b>                |
|-----------------------------------|--|
| 35.07-4                           | Earthworks in the Farming Zone Schedule 1            |
| 44.03-2                           | Earthworks in the Floodway Overlay                   |
| 44.04-2                           | Earthworks in the Land Subject to Inundation Overlay |
| 52.17-1                           | Removal of native vegetation                         |

## **WHAT WILL THE CONDITIONS OF THE PERMIT BE?**

### **1. Amended Plans Required**

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

- a) Details including longitudinal and cross sections as surveyed, of the existing drains, proposed to be filled on the northern and southern sides of the proposed centre pivot irrigation system in accordance with Condition 3 (Rural Drainage).
- b) Specific details of the replacement drains including longitudinal sections and cross sections at a maximum interval 25m in accordance with Condition 3 (Rural Drainage).
- c) Bays M1 to M7 have a farm drain that connects to a sump. The farm drain must be constructed with the top of cut a minimum of 1 m from the Mosquito drain reserve boundary in accordance with Condition 5 (Goulburn Murray Water requirement).
- d) All the setbacks are clearly noted on the map in accordance with Condition 5 (Goulburn Murray Water requirements).

### **2. Layout Not Altered**

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

### 3. **Rural Drainage**

Before the development starts, plans and computations to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans and computations 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) No filling is permitted in the existing low areas/floodway's adjoining the drains proposed to be filled and replaced.
- b) Details including longitudinal and cross sections as surveyed, of the existing drains, proposed to be filled on the northern and southern sides of the proposed centre pivot irrigation system.
- c) Specific details of the replacement drains including longitudinal sections and cross sections at a maximum interval 25m.
- d) The computations must be undertaken by a suitably qualified person and must include
  - i. Hydraulic capacity of the existing drains.
  - ii. Hydraulic capacity of the proposed drains, to ensure that the new drains will have a hydraulic capacity equal to or greater than the existing drains proposed to be filled.

### 4. **Goulburn Broken Catchment Management Authority Requirements**

- a) Any removal of, or impact to, native vegetation must be undertaken in accordance with the Guidelines for the Removal, Destruction or Lopping of Native Vegetation (DELWP, 2017), and any advice obtained from the Department of Energy, Environment and Climate Action (DEECA).

### 5. **Goulburn Murray Water Requirements**

- a) The design plan shows a turkey nest storage and the following conditions must be adhered to:
- b) Prior to construction of the turkey nest storage, the proponent must secure a high flow storage agreement volume equal to the combined capacity in Megalitres of the turkey nest and attached recycle dam. The proponent must contact GMW to secure this agreement volume and arrange access to any water made available. A new high-flow diversion point may also be required to be installed and will be at the proponent's expense.
- c) The bed and banks of the storage must be constructed to minimise accessions to groundwater with a permeability of 10-9m/sec (0.09mm/day) or less.
- d) The storage is to be located such that the phreatic line does not interfere with any GMW asset.

- e) The batters of the storage must be stabilised to prevent soil erosion, to the satisfaction of the responsible authority.
- f) The design plan shows a new sump (sump2) to be constructed adjacent to Mosquito Drain Ext. Stage 10 and the following conditions are to apply in relation to this part of the whole farm plan:
- g) Prior to construction a test hole should be dug to ensure that groundwater does not leak in and that the soil is consistent to the depth required. The completed reuse sump must not interact with the water table;
- h) The sump must be constructed with the top of cut a minimum of 7 m from the top of drain cut and a minimum of 3 m from the drain easement/reserve boundary and located such that the phreatic line does not interfere with any GMW asset;
- i) Reuse dams must not be directly connected to farm drainage inlets. A sill structure must be provided directly upstream of the inlet to adequately separate water in the reuse sump from the GMW drain. The sill must be set level with the design water level of the sump and above the bed of the GMW drain.
- j) The proponent must contact GMW and request for obtaining a diversion licence.

***Amendments to be made to the design plan***

The plans must be modified to show

- k) Bays M1 to M7 have a farm drain that connects to a sump. The farm drain must be constructed with the top of cut a minimum of 1 m from the Mosquito drain reserve boundary.
- l) All the setbacks are clearly noted on the map.

**6. Powercor Requirements**

- a) Any structures must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- b) Any construction work must comply with the Energy Safe Victoria's "No Go Zone" rules.

**Notes:** To apply for a permit to work go to our website:  
<https://customer.portal.powercor.com.au/mysupply/CIAWQuickCalculator> and apply on line through the No Go Zone Assessment.

**7. Department of Energy, Environment and Climate Action**

***Notification of permit conditions:***

- a) Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.

***Native vegetation permitted to be removed, destroyed or lopped:***

- b) The native vegetation identified in NVRID 328\_20241206\_NFX (dated: 06/12/2024) and permitted to be removed, destroyed or lopped under this permit is **0.465** hectares of native vegetation, which is comprised of:

- a) **0.043 hectares patches** of native vegetation including **one (1) large tree** within patches
- b) **Six (6) scattered** large trees

***Native vegetation offsets:***

- c) To offset the removal of 0.465 hectares of native vegetation, the permit holder must secure a native vegetation offset in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017). The permit holder must secure the following offsets:
  - a) A general offset of **0.087general** habitat units:
  - b) located within the Goulburn Broken Catchment Management boundary or Greater Shepparton municipal area
  - c) with a minimum strategic biodiversity value of at least 0.193
  - d) The offset(s) secured must provide protection of at least seven (7) large trees.

***Offset evidence:***

- d) Before any native vegetation is removed, evidence that the required offset for the project has been secured must be provided to the satisfaction of the responsible authority. This evidence must be one or both of the following:
  - a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site,
  - b) credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
- e) A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit.
- f) Before works start, a native vegetation protection fence must be erected around all scattered trees to be retained on site. This fence will protect the tree by demarcating the tree protection zone and must be erected at a radius of 12 x the diameter at a height of 1.3 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the tree. The fence must be constructed of star pickets/ chain mesh/ or similar to the satisfaction of the responsible authority. The fence must remain in place until all works are completed to the satisfaction of the responsible authority.
- g) Except with the written consent of the responsible authority, within the area of native vegetation to be retained and any tree or vegetation protection zone associated with the permitted use and/or development, the following is prohibited:
  - a) vehicular access
  - b) trenching or soil excavation
  - c) storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
  - d) entry and exit pits for the provision of underground services
  - e) any other actions or activities that may result in adverse impacts to retained native vegetation.

***Permit Note:***

All native wildlife in Victoria is protected under the *Wildlife Act 1975*, and approval to remove native vegetation does not exempt the development from other statutory

obligations under the *Wildlife Act 1975*. Where works may impact on native fauna, and or habitat used by native fauna, the applicant must ensure that measures are implemented, and to act in a manner that does not harm, injure or kill wildlife. Prior to removal of vegetation, landholders are advised to determine whether a Wildlife Act authorisation is required. For further information please visit <https://www.vic.gov.au/wildlife-licences-and-permits>.

#### 8. **Time for Starting and Completion**

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

- the development is not started within **three (3) years** of the date of this permit;
- the development is not completed within **five (5) years** of the date of this permit.

## Application Details:

|  |   |
|--|---|
| Responsible Officer:   | Ally Cook   |
| Application Number:  | 2024-327  |
| Applicant Name:  | The North Quarter Shepparton Pty Ltd C/- Spiire   |
| Owner Name:  | Various owners  |
| Cost of works:   | \$0   |
| Correct application fee paid?  | \$1,453.40  |
| Land/Address:  | North Quarter Estate Stages 1 & 2<br>Stage 1 (Lots 1 -15, 17 -73) and Stage 2 (Lots 74-116 and 121-128) on PS849463X  |
| Date Received:   | 18 November 2024  |
| Statutory Days?  | 253 Statutory Days as of 19 November 2025   |
| Zoning?  | Urban Growth Zone Schedule 1  |
| Overlay(s)   | Development Contributions Overlay Schedule 4<br>Specific Controls Overlay Schedule 3  |
| What is proposed?  | To vary the existing covenants to define the type of dwelling house to be constructed on each lot as a Class 1A dwelling as per the National Construction Code.       |
| Why is a permit required?  | Variation of a covenant Clause 52.02  |
| Are all plans provided?  | Yes   |
| MPS Provisions:  | 02.02 Vision  |
| PPF Provisions:  | 11 Settlement   |
| Any application history?   | Yes   |
| Date referred/notified:  | 5 February 2025   |
| Notice/Referral?   | Yes   |
| Number of Notice Responses?  | Four (4) objections   |
| Key Response Considerations?   | Clause 52.02 and Section 60(2) of the Planning and Environment Act 1987   |
| Title details – any:   | See below information referenced in the instruments:  |
| o Restrictive Covenant?  | AA9937 – lots 1 to 73   |
| o Section 173 agreement?   | Stage 2 – original lots 74-116 and 120-128 – AA010189   |
| o Caveat?  | Stage 2 – lot 74-77 and 97-95 – AA010429  |
| o Easement?  | No  |
| o Building Envelope?   | No  |
| o Access restrictions?   |   |
| Is a CHMP required?  | N/A   |
| Garden area provisions?  | N/A   |
| Is the site contaminated?  | N/A   |
| Is the site in a BMO or BPA?   | N/A   |
| Is Cl. 13.01-2 Bushfire applicable:  | N/A   |
| <b>Conflicts of interest in relation to advice provided in this report</b> | No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration. |
| Key Planning Considerations:   | Clause 52.02 and Section 60(2) of the Planning and Environment Act 1987   |
| Recommendation:  | Refuse  |

## Proposal

It is proposed to vary the following covenants;

Stage 1 Covenant Instrument AA9937 – lots 1-15, 17-73 &

Stage 2 – original lots 74-100, 102-116 and 121-128 – Covenant Instrument AA010189,

Stage 2 – lot 74-77 and 97-95 –Covenant Instrument AA010429;

The covenants are proposed to be varied for the following reasons;

- To vary the existing covenants to define the type of dwelling house to be constructed on each lot as a Class 1A dwelling as per the National Construction Code.
- Prevent the construction of a Class 1B share house, accommodation house or boarding house or hostel or rooming house or guest house.

**Covenants:**

**Definitions (if any):**

**Covenants:**

The Lot owners shall not:

1. erect or cause or suffer to be erected or re-erected on the land any building or part of a building which has been previously erected in another location nor use any second hand building material in the construction of any building on the land.
2. erect or cause or suffer to be erected on the land any building other than private dwelling house up to two stories with usual outbuildings and such dwelling house shall:
  - 2.1. not have a floor area of less than 170 square metres within the outer walls thereof, calculated by excluding the area of all eaves, carports, pergolas, verandahs and garages;

Example of wording of the covenants currently

**Covenants:**

*The Lot owners shall not:*

1. *erect or cause or suffer to be erected or re-erected on the land any building or part of a building which has been previously erected in another location nor use any second hand building material in the construction of any building on the land.*
2. *erect or cause or suffer to be erected on the land any building other than a National Construction Code (NCC) class 1A private dwelling house up to two stories with usual outbuildings, and such dwelling house shall:*
  - 2.1. *Not be a National Construction Code (NCC) class 1B share house, accommodation house or boarding house or hostel or rooming house or guest house;*
  - 2.2. ....

Proposed variation to the covenants (applicants material)

The application has been made by North Quarter Shepparton Pty Ltd (the developer) not by the owners that are subject to the covenants.

Since notice of the application was given the application was amended (Section 57A of the Planning and Environment Act 1987) to remove Lot 101 on PS849466 from the variation to Covenant AA010198.

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## Summary of Key Issues;

- The proposal is for a variation of covenants AA9937, AA010189 and AA010429 to ensure only a Class 1A dwelling can be constructed not a Class 1B dwelling (i.e. share house, accommodation house or boarding house or hostel or rooming house or guest house)
- The application has not been submitted by landowners affected by the covenant instead it has been made by The North Quarter Shepparton Pty Ltd (the developer)
- Notice of the application was carried out in accordance with Section 52(1) (cb) and Section 52 (1AA (a & b) of the *Planning and Environment Act 1987*. Three (3) objections from beneficiaries were received.
- As part of the assessment of the application consideration to Clause 52.02 and the interests of affected people and Clause 65, and Section 60 (2) of the *Planning and Environment Act 1987* have been considered.
- Based on the above, it is the officers recommendation that the proposed variation of the covenants are likely to suffer from financial loss and material detriment as outlined in Section 60(2) of the *Planning and Environment Act 1987* and therefore is recommended for refusal.

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## Recommendation

### Refusal

That the Council having caused notice of Planning Application No. **2024-327** 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 **Clause 52.02** the Greater Shepparton Planning Scheme in respect of the land known and described as **North Quarter Estate Stage 1 (Lots 1 -15, 17 -73 on PS849463) and Stage 2 (Lots 74-116 and 121-128 on PS849466)**, for the **Variation of Clause 2 and 2.1 to Covenants AA9937, AA010189, AA010429 affecting Lots 1-15, 17-73 on PS849463 and 74-116, 121-128 on PS849466R to include “2. erect or cause or suffer to be erected on the land any building other than a National Construction Code (NCC) class 1A private dwelling house up to two stories with usual outbuildings, and such dwelling house shall: 2.1. Not be a National Construction Code (NCC) class 1B share house, accommodation house or boarding house or hostel or rooming house or guest house”**.

For the following reasons:

1. **The proposal fails to meet the requirements of Section 60(2) of the *Planning and Environment Act 1987*, as the Responsible Authority is not satisfied that the owner of**

any land benefitted by the restriction will be unlikely to suffer financial loss or any other material detriment as a consequence of variation to the covenants.

---

## Recommendation

### Refusal

That the Council having caused notice of Planning Application No. **2024-327** 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 **Clause 52.02** the Greater Shepparton Planning Scheme in respect of the land known and described as **North Quarter Estate Stage 1 (Lots 1 -15, 17 -73 on PS849463) and Stage 2 (Lots 74-116 and 121-128 on PS849466)**, for the **Variation of Clause 2 and 2.1 to Covenants AA9937, AA010189, AA010429** affecting Lots 1-15, 17-73 on PS849463 and 74-116, 121-128 on PS849466R to include “**2. erect or cause or suffer to be erected on the land any building other than a National Construction Code (NCC) class 1A private dwelling house up to two stories with usual outbuildings, and such dwelling house shall: 2.1. Not be a National Construction Code (NCC) class 1B share house, accommodation house or boarding house or hostel or rooming house or guest house**”.

**Moved: Awais Sadiq**

**Second: Jennifer Brewis**

**CARRIED**

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## Title Details

The following Restrictive Covenants apply as part of the application and are proposed to be varied as follows;

**Memorandum of common provisions  
Restrictive covenants in a transfer  
Section 91A Transfer of Land Act 1958**

AA9937

**Privacy Collection Statement**

The information in this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes.

Lodged by:  
Name: DAWES & VARY RIORDAN PTY LTD, Solicitors  
Phone: 03 5820 0200  
Address: 159 Welsford Street  
Shepparton VIC 3630  
Reference: PK:NW:20211537  
Customer Code: 18333U

This memorandum contains provisions which are intended for inclusion in transfers of land under the Transfer of Land Act 1958 to be subsequently lodged for registration.

**Operative words including words to bind the burdened land and words of annexation must not be included.**

Provisions to apply to the transfer:

**Burdened land:** THE LAND  
*The land being transferred*

**Benefited land:** Lots 1 to 73 inclusive on Plan of Subdivision PS849463X.  
The benefited land does not include the land being transferred. *Set out the specific folios, range of folios or some or all the lots in the registered plan(s) or plan(s) to be lodged for registration that take the benefit of the covenants.*

**Covenants:** **Definitions (if any):**

**Covenants:**

The Lot owners shall not:

1. erect or cause or suffer to be erected or re-erected on the land any building or part of a building which has been previously erected in another location nor use any second hand building material in the construction of any building on the land.
2. erect or cause or suffer to be erected on the land any building other than private dwelling house up to two stories with usual outbuildings and such dwelling house shall:
  - 2.1. not have a floor area of less than 170 square metres within the outer walls thereof, calculated by excluding the area of all eaves, carports, pergolas, verandahs and garages;

35392012A

V4

1. The provisions are to be numbered consecutively from number 1.
2. Further pages may be added but each page should be consecutively numbered.
3. To be used for the inclusion of provisions in instruments and plans.

91ATLA

Page 1 of 3

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**Memorandum of common provisions  
Restrictive covenants in a transfer  
Section 91A Transfer of Land Act 1958**

AA010189

**Privacy Collection Statement**

The information in this form is collected under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes.

Lodged by:  
Name: DAWES & VARY RIORDAN PTY LTD, Solicitors  
Phone: 03 5820 0200  
Address: 159 Welsford Street  
Shepparton VIC 3630  
Reference: PK:NW:20222638  
Customer Code: 18333U

This memorandum contains provisions which are intended for inclusion in transfers of land under the Transfer of Land Act 1958 to be subsequently lodged for registration.

**Operative words including words to bind the burdened land and words of annexation must not be included.**

Provisions to apply to the transfer:

**Burdened land:** THE LAND  
*The land being transferred*

**Benefited land:** Lots 74 – 116 and 120 - 128 inclusive on Plan of Subdivision PS849466R.  
The benefited land does not include the land being transferred. *Set out the specific folios, range of folios or some or all the lots in the registered plan(s) or plan(s) to be lodged for registration that take the benefit of the covenants.*

**Covenants:** **Definitions (if any):**

**Covenants:**

The Lot owners shall not:

1. erect or cause or suffer to be erected or re-erected on the land any building or part of a building which has been previously erected in another location nor use any second hand building material in the construction of any building on the land.
2. erect or cause or suffer to be erected on the land any building other than private dwelling house up to two stories with usual outbuildings and such dwelling house shall:
  - 2.1. not have a floor area of less than 170 square metres within the outer walls thereof, calculated by excluding the area of all eaves, carports, pergolas, verandahs and garages;

35392012A

V3

1. The provisions are to be numbered consecutively from number 1.
2. Further pages may be added but each page should be consecutively numbered.
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**Memorandum of common provisions  
Restrictive covenants in a transfer  
Section 91A Transfer of Land Act 1958**

AA010429

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This memorandum contains provisions which are intended for inclusion in transfers of land under the Transfer of Land Act 1958 to be subsequently lodged for registration.

**Operative words including words to bind the burdened land and words of annexation must not be included.**

Provisions to apply to the transfer:

**Burdened land:** THE LAND  
*The land being transferred*

**Benefited land:** Lots 74 – 77 and 95 - 97 inclusive on Plan of Subdivision PS849466R.  
The benefited land does not include the land being transferred. *Set out the specific folios, range of folios or some or all the lots in the registered plan(s) or plan(s) to be lodged for registration that take the benefit of the covenants.*

**Covenants:** **Definitions (if any):**

**Covenants:**

The Lot owners shall not:

1. erect or cause or suffer to be erected or re-erected on the land any building or part of a building which has been previously erected in another location nor use any second hand building material in the construction of any building on the land.
2. erect or cause or suffer to be erected on the land any building other than private dwelling house up to two stories with usual outbuildings and such dwelling house shall:
  - 2.1. have a floor area of less than 120 square metres within the outer walls thereof, calculated by excluding the area of all eaves, carports, pergolas, verandahs and garages;

35392012A

V3

1. The provisions are to be numbered consecutively from number 1.
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As part of the assessment of the application, the covenants have been considered as having been created after 25 June 1991.

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## What is the application for?

The permit triggers in the planning scheme are.

- Variation of restrictive covenant Clause 52.02

Based on the permit triggers, specify the precise nature of the application which is to be used for all notices, referral, correspondence and decision making.

*Variation of Clause 2 and 2.1 to Covenants AA9937, AA010189, AA010429 affecting Lots 1-15, 17-73 on PS849463X and 74-116, 121-128 on PS849466R to include “2. erect or cause or suffer to be erected on the land any building other than a National Construction Code (NCC) class 1A private dwelling house up to two stories with usual outbuildings, and such dwelling house shall: 2.1. Not be a National Construction Code (NCC) class 1B share house, accommodation house or boarding house or hostel or rooming house or guest house”;*

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## Permit/Site History

The history of the site includes:

- Planning Permit 2021-40 was issued for a multi lot staged residential subdivision in the Urba Growth Zone dated 30 August 2021. The subdivision created the allotments that are affected by the covenants forming part of the application.

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## Subject Site & Locality

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

The site forms part of the North Quarter Estate approved as part of Planning Permit 2021-40. Stages 1, 2 and 3 have been issued with certificates of title. The covenants subject to this application apply to Stages 1 & 2 as shown in the below endorsed plan of proposed subdivision.

The site forms part of the Shepparton North-East Precinct Structure Plan (The PSP) that will generate in excess of 1,500 dwellings within the Shepparton North area. The area is bound by Ford Road further to the north, Grahamvale Road to the east and Verney Road to the west. This area is expected to have a significant amount of growth within the next couple of years.

The main site/locality characteristics are:

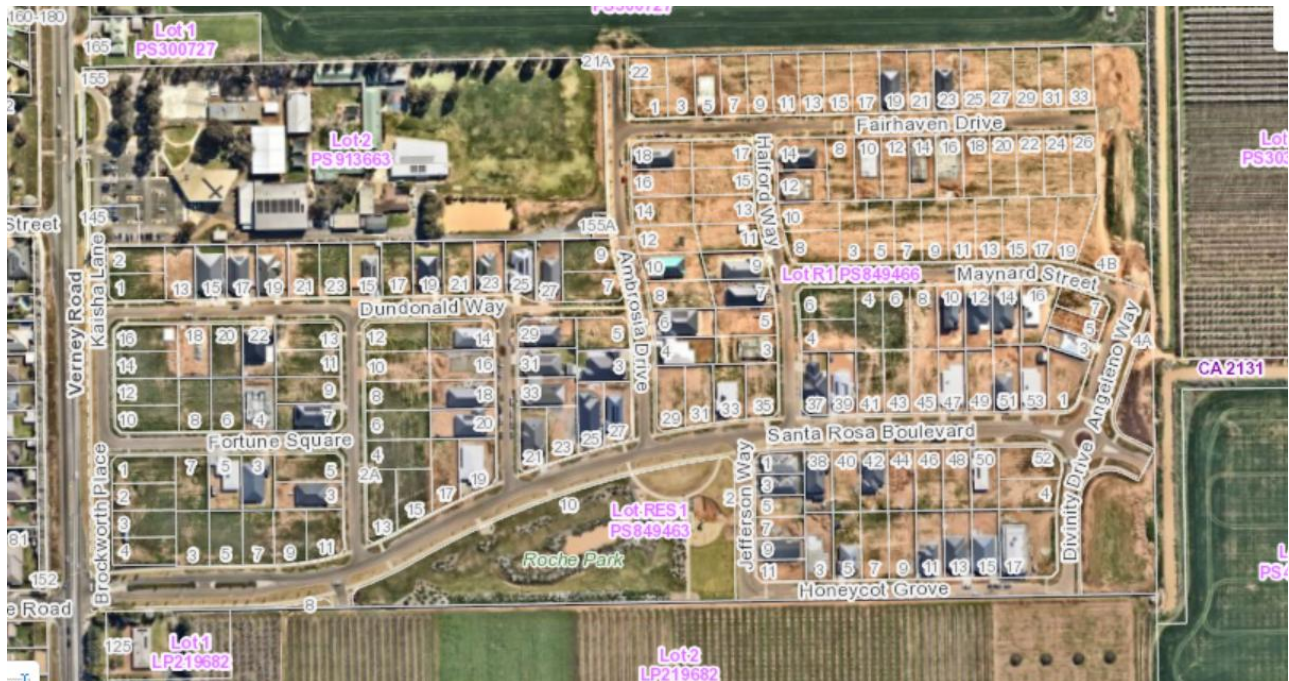
- To the north of the subject site is the Shepparton Christian School and beyond is land that has been approved as part of a multi lot subdivision 2025-34;
- To the east is land awaiting further development and a multi lot subdivision approved as part of planning permit 2025-20 associated with North Quarter Estate;

- To the south is land within the Urban Growth Zone forming part of the Shepparton North-East PSP awaiting future development;
- To the west is Verney Road a Council road and beyond is a developed estate.

The aerial below show the existing site:



The proposal applies to stages 1 & 2 only of the subdivision



Council GIS (September 2025)

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## Public Notification

The application was advertised pursuant to Section 52(1) (cb) and Section 52 (1AA (a & b) of the Planning and Environment Act 1987 with the following description

*Variation of Clause 2 and 2.1 to Covenants AA9937, AA010189, AA010429 affecting Lots 1-15, 17-73 on PS849463X and 74-116, 121-128 on PS849466R to include "2. erect or cause or suffer to be erected on the land any building other than a National Construction Code (NCC) class 1A private dwelling house up to two stories with usual outbuildings, and such dwelling house shall: 2.1. Not be a National Construction Code (NCC) class 1B share house, accommodation house or boarding house or hostel or rooming house or guest house";*by:

- Sending notices to the owners and occupiers of adjoining land and beneficiaries; and
- Placing a sign on site; and
- Notice in Newspaper.

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

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## Objections

The Council has received **three (3)** objections to date. The key issues that were raised in the objections are.

- Contrary to state planning policy objectives to provide diverse housing options;
- The variation limits housing to Class 1A dwellings contrary to the purpose of the Urban Growth Zone and decision guidelines under Clause 65.01;
- Financial loss and material detriment;
- Unclear whether Lot 16 is intended to be included as part of the proposal given that some of the permit application material refers to Stage 1 which Lot 16 is part of;
- The changes proposed are unnecessarily restrictive and set an unhelpful precedent for further limitations on property owners rights. There has also been insufficient consultation and no substantial evidence to support the need for the change;

All objections are considered beneficiaries to the covenants.

### Lot 16 clarification

Lot 16 was not included as part of the proposal as the application specifically excluded this allotment. The objector was contacted and this was highlighted, however, the objection was not withdrawn.

## Lot 101 objection withdrawn

It is important to note that originally the application included an objection from a beneficiary referred to as Lot 101.

The objection raised concerns regarding the unfairness of post-sale amendment, legal requirements for enforceability of a covenant, impact on housing diversity and affordability, inconsistencies with urban planning and growth objectives, potential discriminatory impact and effect on land value and investment.

The applicant submitted a Section 57A amendment to remove Lot 101 on PS849466 from Covenant AA010198 and the objection was subsequently withdrawn.

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## 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 |
|----------------------------------|--|-----------------------------|----------------------------|
| N/A                              |  |                             |                            |

---

## Notice to Authorities (including as required by GSPS)

External Notice to Authorities:

| Section 52 - Notice Authority | List Planning clause triggering notice | Advice/Response/Conditions |
|-------------------------------|--|----------------------------|
| N/A                           |  |                            |

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## Internal Notice

| Internal Council Notices | Advice/Response/Conditions |
|--------------------------|----------------------------|
| N/A                      |                            |

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## Authority responses

The Council has received **0** submissions from authorities.

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## Consultation

Consultation was not undertaken.

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## Assessment

The zoning of the land

### Clause 37.07 Urban Growth Zone

#### Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To manage the transition of non-urban land into urban land in accordance with a precinct structure plan.
- To provide for a range of uses and the development of land generally in accordance with a precinct structure plan.
- To contain urban use and development to areas identified for urban development in a precinct structure plan.
- To provide for the continued non-urban use of the land until urban development in accordance with a precinct structure plan occurs.
- To ensure that, before a precinct structure plan is applied, the use and development of land does not prejudice the future urban use and development of the land.

Part B applies to the subject site as Schedule 1 Shepperton North-East Precinct Structure Plan applies.



Shepparton North-East Future Urban Structure

A planning permit is not required for the variation of a covenant under the zone.

**Relevant overlay provisions**

**Development Contributions Overlay Schedule 4 (Shepparton North-East Development Contributions Plan)** applies to the site. A planning permit is not triggered under this overlay.

**Specific Controls Overlay Schedule 3 (Goulburn Murray Water Connections Project)** applies to the site. A planning permit is not triggered under this overlay.

**Relevant Particular Provisions**

**Clause 52.02 Easements, Restrictions and Reserves**

**Purpose**

- To enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.

A permit is required before a person proceeds under Section 24A of the Subdivision Act 1988 to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown Grant.

## **Decision Guidelines;**

Before deciding on an application, in addition to the decision guidelines in clause 65, the responsible authority must consider the interests of affected people.

### **Does any Incorporated Document apply?**

*Shepparton North East Precinct Structure Plan (February 2019)*

## **The Municipal Planning Strategy (MPS) at Clause 02.**

### **02.02 Vision**

The 2017-2021 *Council Plan* contains the following vision:

*Greater Shepparton, Greater Future.*

*A thriving economy in the food bowl of Victoria with excellent lifestyles, innovative agriculture, a diverse community and abundant opportunities.*

The 2017-2021 Council Plan includes the following themes to support its vision:

### **Social**

Develop resilient, inclusive, healthy communities that make Greater Shepparton a safe and harmonious place to live, work, learn and play.

### **Economic**

Build a thriving, resilient economy where Greater Shepparton is recognised as a competitive place to invest and grow business.

### **Built**

Provide and support appealing relevant infrastructure that makes Greater Shepparton an attractive, liveable regional city.

### **Environment**

Enhance and protect the clean, green environment that makes Greater Shepparton the unique place it is.

## **The Planning Policy Framework (PPF)**

### **Clause 11 Settlement**

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Planning is to contribute towards:

- Housing for all Victorians.
- Accessible jobs and services.
- Great places, suburbs and towns.
- Sustainable environments.
- Self-determination and caring for Country.

Planning is to recognise the need for, and as far as practicable contribute towards:

- Health, wellbeing and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of environmental sustainability, urban design and amenity.
- Climate change adaptation and mitigation.
- Prevention of land, water, air and noise pollution.
- Protecting, conserving and improving biodiversity, waterways and other natural resources.
- Accessibility.
- Land use and transport integration.
- Waste minimisation and resource recovery.

Planning is to prevent environmental, human health and amenity problems created by siting incompatible land uses close together.

Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.

### Officer's Assessment

There is limited decision guidelines provided in Clause 52.02 of the Greater Shepparton Planning Scheme. The provision refers to considering the 'interests of affected people' and Clause 65 are to be considered as part of the officers assessment.

Clause 65 'Decision Guidelines' require the Responsible Authority, among other things, to consider:

- Section 60 of the Act (Planning and Environment Act 1987) see below.
- 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.

When considering the above, the subject site forms part of the Shepparton North-East Precinct Structure Plan within the Urban Growth Zone. It is envisaged that this area will be able to accommodate up to 4,000 residents (when completed) and in excess of 1,500 dwellings. The PSP area has been guided by a set of key objectives including promoting a diversity of dwellings to meet the needs of the future resident population.

Whilst the PSP contributes to providing a range of lot sizes, once the allotments are created, further housing options are generally dependent on the market and that of the landowner. The zone (state-wide), in recent times, to address housing shortages, has allowed rooming houses and small second dwellings to be as of right (no planning permit required). The proposal ultimately seeks to prevent such accommodation within the estate.

In addition Section 60(2) of the *Planning and Environment Act 1987* (referred to herein as the Act) also sets out matters that the responsible authority must (emphasis added) consider when assessing an application that proposes to remove or vary a restrictive covenant. Section 60 (2) is outlined below;

(2) The responsible authority must not grant a [permit](#) which allows the removal or variation of a restriction (within the meaning of the [Subdivision Act 1988](#) ) unless it is satisfied that the [owner](#) of any [land](#) benefited by the restriction (other than an [owner](#) who, before or after the making of the application for the [permit](#) but not more than three months before its making, has consented in writing to the grant of the [permit](#)) will be unlikely to suffer—

- (a) financial loss; or
- (b) loss of amenity; or
- (c) loss arising from change to the character of the neighbourhood; or
- (d) any other material detriment—

as a consequence of the removal or variation of the restriction.

#### Section 60(2) of the Planning and Environment Act 1988

The following is an assessment against the criteria provided in Section 60(2) of the Act;

Financial Loss: An objector has raised financial loss as a specific ground of objection, however, the loss in the diversity of housing options that the land afforded when purchased could be considered a financial loss to any benefitting owners. It is considered that there is an impact to the beneficiaries under this criteria.

Loss of Amenity: The objectors have not specifically identified amenity as their main issue with the proposal. Council cannot consider on the balance of probabilities that the proposal variation of the covenants is likely or unlikely to cause loss of amenity. It is considered that there is no impact to the beneficiaries raised under this criteria.

Loss arising from change of character of the neighbourhood: The objectors have not identified a loss arising from change of character of the neighbourhood. Council cannot consider on the balance of probabilities that the proposed variation of the covenants is likely or unlikely to cause loss of amenity. It is considered that there is no impact to the beneficiaries raised under this criteria.

Any other Material Detriment: It is acknowledged that the allotments and other surrounding allotments within North Quarter Estate were purchased with the covenant in place that did not prevent an alternative class of dwelling. It is recognised that covenants provide a level of certainty for purchases in the estate in regards to development expectations and a certain level of standards to housing developments.

Whilst the objections raised did not specifically identify how the proposal will result in material detriment, (i.e. loss, damage or injury) a number of objections raised the matter of unfairness and the proposal being unnecessarily restrictive which results in an unhelpful precedent for further limitations on property owners rights. It is considered that beneficiaries could be impacted by this criteria.

Based on the reasons above, it is the officer's opinion that it cannot be determined that there will be no financial and/or other material detriment loss for the beneficiaries as a result of the variation of the covenants. Therefore, it is the officer's opinion that under Section 60 (2) the Act the proposed variation to the covenants should not be supported.

### **Structure Plans/Development Plans**

The Shepparton North-East Precinct Structure Plan applies to the subject site

### **Relevant Background documents**

*Greater Shepparton 2030 Strategic Report Strategy Plan* (City of Greater Shepparton & Department of Sustainability and Environment, 2005)

### **The decision guidelines of Clause 65.01**

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.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- 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 environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

This clause does not apply to a VicSmart application.

**Any other relevant adopted State policies or strategies policies**

There are no other relevant adopted state policies or strategies that apply to the application.

**Relevant Planning Scheme amendments**

There are no other relevant planning scheme amendments that apply to the application.

**Any other relevant Acts that relate to the application?**

*Subdivision Act 19878*

**The Aboriginal Heritage Act 2006**

N/A

**The relevant provisions of the GSPS including Clause 13.02 (Bushfire)**

N/A

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## **Conclusion**

As a result of receiving objections to the proposal from beneficiaries, Council cannot determine that a beneficiary is unlikely to suffer under some of the criteria's set out in Section 60 (2) of the *Planning and Environment Act 1987* as a consequence of the variation of the covenants. It is the officer's recommendation that a refusal to grant planning permit for 2024-327 be issued.

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# DRAFT

## REFUSAL TO GRANT A PERMIT

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**APPLICATION NO:** 2024-327  
**PLANNING SCHEME:** GREATER SHEPPARTON PLANNING SCHEME  
**RESPONSIBLE AUTHORITY:** GREATER SHEPPARTON CITY COUNCIL  
**ADDRESS OF THE LAND:** North Quarter Estate  
Stage 1 (Lots 1 -15, 17 -73 on PS849463) and Stage 2 (Lots 74-116 and 121-128 on PS849466)  
**WHAT HAS BEEN REFUSED:** Variation of Clause 2 and 2.1 to Covenants AA9937, AA010189, AA010429 affecting Lots 1-15, 17-73 on PS849463 and 74-116, 121-128 on PS849466R to include “2. erect or cause or suffer to be erected on the land any building other than a National Construction Code (NCC) class 1A private dwelling house up to two stories with usual outbuildings, and such dwelling house shall: 2.1. Not be a National Construction Code (NCC) class 1B share house, accommodation house or boarding house or hostel or rooming house or guest house”

### WHAT ARE THE REASONS FOR THE REFUSAL?

- 
1. The proposal fails to meet the requirements of Section 60(2) of the Planning and Environment Act 1987, as the Responsible Authority is not satisfied that the owner of any land benefitted by the restriction will be unlikely to suffer financial loss or any other material detriment as a consequence of variation to the covenants.