



Environment | Water | Agriculture
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TREWINS ROAD, TALLYGAROPNA - INVESTIGATION OF FRAGMENTED FARMLAND

CITY OF GREATER SHEPPARTON

FINAL REPORT

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1 INTRODUCTION

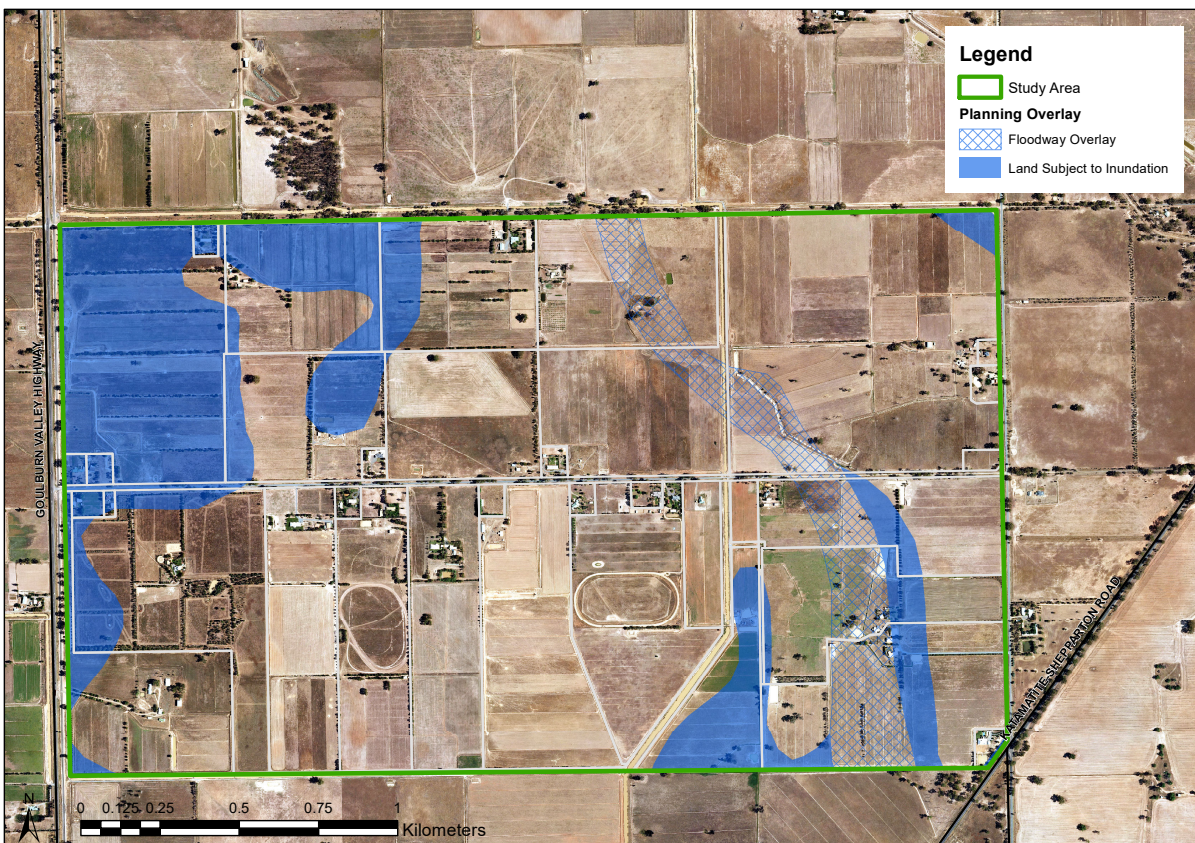
1.1 Background

The *Campaspe, Greater Shepparton and Moira Regional Rural Land Use Strategy, 2008* (RRLUS) was adopted by the Greater Shepparton City Council in 2010. At an Ordinary meeting in July 2010 Council agreed to implement the findings and recommendations of the RRLUS into the Greater Shepparton Planning Scheme. This was completed under Amendment C121 in September 2012. The Planning Panel that reviewed submission to Amendment C121 recommended further investigation of areas such as at Trewins Road, Tallygaroopna due to fragmentation of land.

The Trewins Road study area is located approximately two kilometres south of Tallygaroopna (Figure 1) and covers approximately 500 hectares. Tallygaroopna is a small town with a primary school, service station, post office / newsagency, public hall and population of around 300.

The study area is bounded by the Goulburn Valley highway to the west and Katamatite-Shepparton Main road to the east. The study area is currently zoned Farming Zone Schedule 1 and is partially covered by the Land Subject to Inundation Overlay and Flood Overlay.

Figure 1: Trewins Road Study Area.



1.2 Purpose

The purpose of the study is to review the current subdivision, ownership and land use patterns across the Trewins Road study area, assess the suitability of the land for commercial agriculture and provide recommendations on the most suitable planning tools to manage this area into the future.

1.3 Approach

The review drew on desktop analysis of lot, property and ownership data provided by Council as well as aerial photography. A site visit was also undertaken on 15 December 2016. A brief review of relevant strategies, policy and the planning scheme was also undertaken. The report was provided to all landowners in Trewins Road and time made available for them to meet with the project team.

2 ASSESSMENT FINDINGS

2.1 Land analysis

Property size, ownership and dwellings

The analysis of the lot, property and ownership data found that:

- There are 34 lots held in 30 properties with common ownership (Figure 2).
- 12 properties are under five hectares and all but one has a dwelling. (Figure 3)
- Most of the remaining properties are between 20 to 40 hectares (Figure 4)
- There are 34 dwellings across the 34 lots (Figure 5)
 - Six properties have two dwellings
 - 6 lots are vacant.

The lot size and arrangement suggests a legacy of house lot and dwelling excisions. Dwellings on larger lots are mostly sited in the middle of the lot or setback from the road frontage.

Land use / Site Inspection

Agriculture, mostly fodder crops, is the dominant land use across the study area (Figure 2). Twenty two of the 30 properties have an irrigation entitlement and an irrigation channel runs along the southern boundary and then through the study area (Figure 5). Of the 506 ha within the study area, around 90% is used for agriculture and 2% for rural residential. In addition, there are two horse training tracks (also used for grazing livestock), a dog grooming home business and a recently constructed dwelling also provides truck parking / storage.

Figure 2: Land use

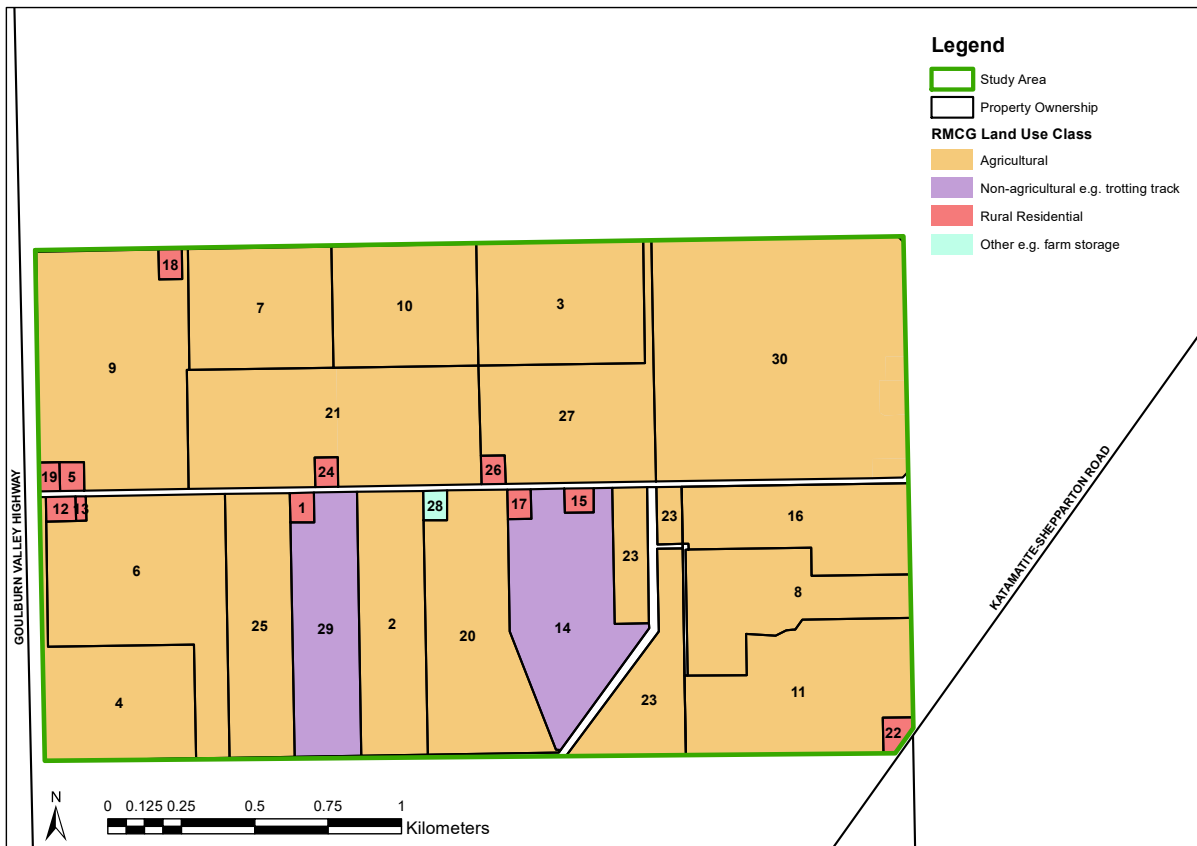


Figure 3: Lots

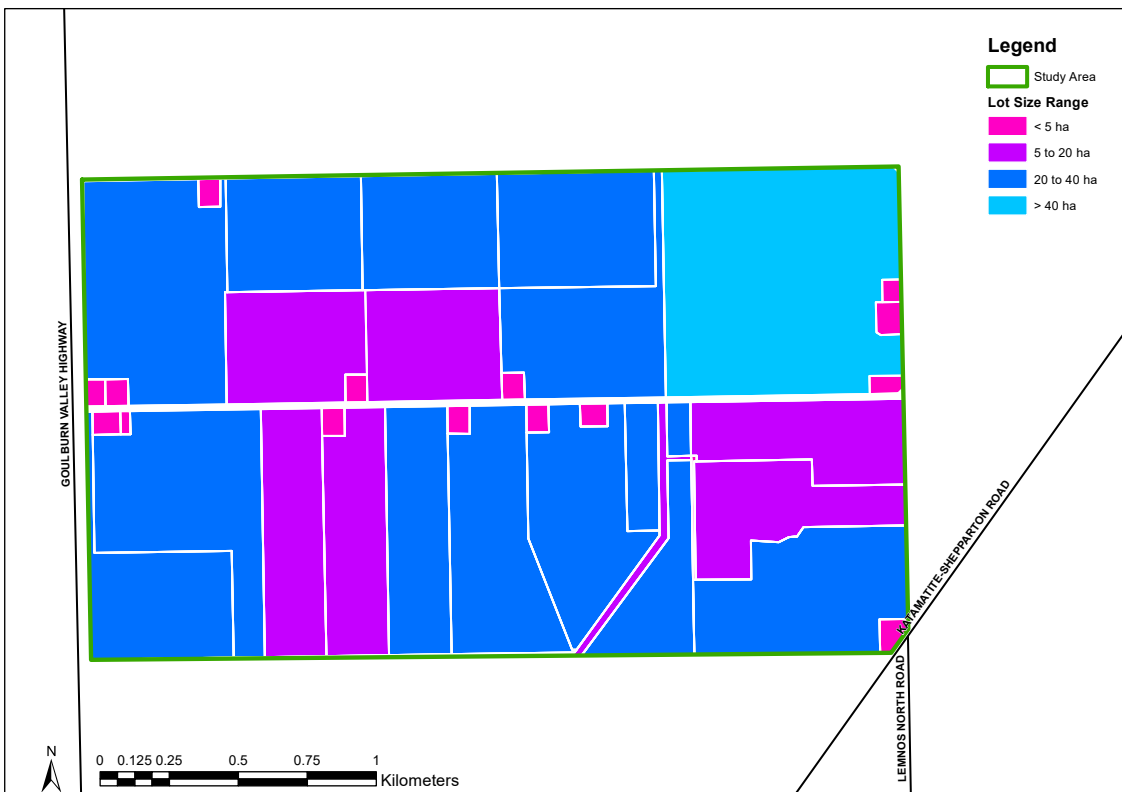


Figure 4: Properties

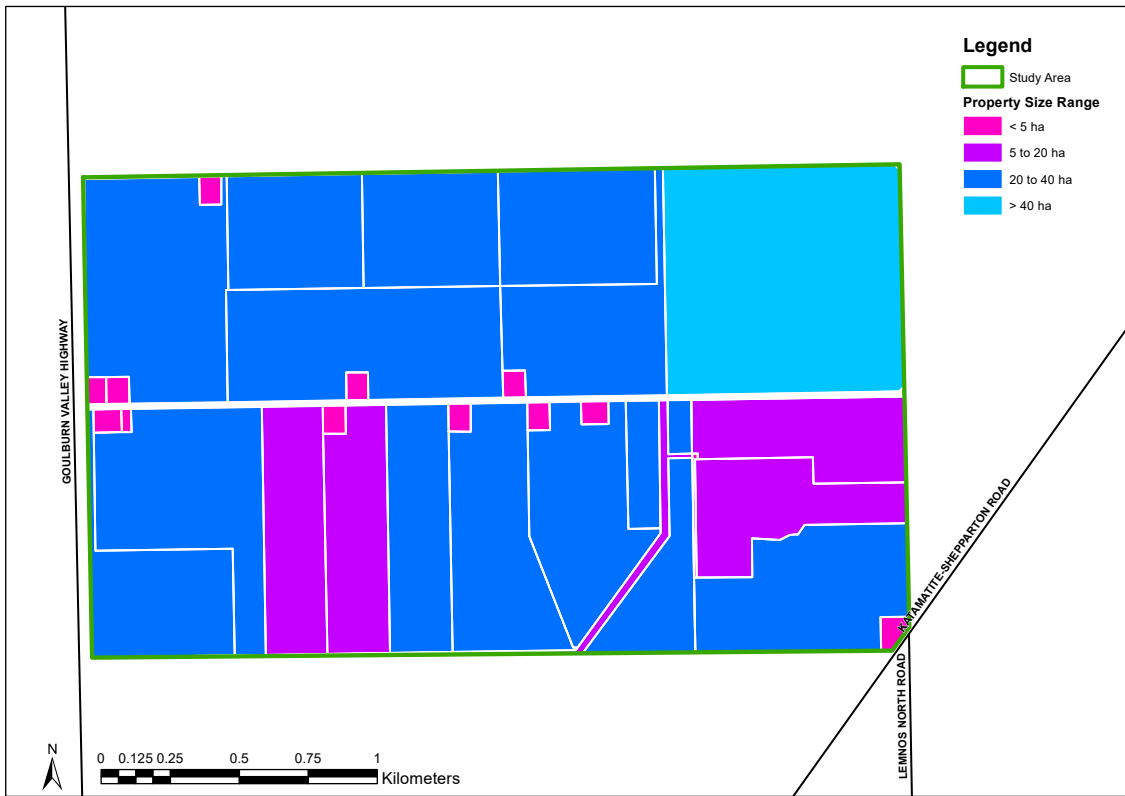


Figure 5: Dwellings and vacant lots



Photos of the Study area



Looking north - west



Trewins Road (eastern end)



Looking south west



Looking south west



Irrigation channel



Rural residential & truck storage



Recent dwelling construction



Home business



Trewins Road (western end)



Looking north-west

2.2 Key findings

Land on the northern side of Trewins Road is less fragmented than the southern side. Land on the northern side is held in larger properties and there is fewer dwellings. Apart from the small house lots, the land is being used predominantly for agriculture.

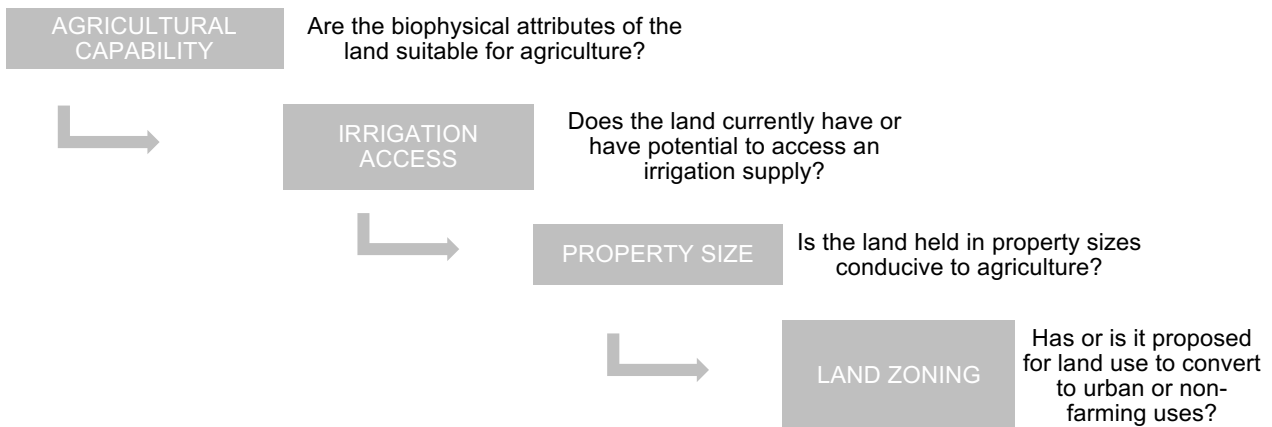
Land on the southern side of Trewins Road is more fragmented with more, small properties and more dwellings than the northern side. In addition to agriculture, land uses include horse training tracks, home business and rural residential.

3 AGRICULTURAL POTENTIAL

The approach to assessing the agricultural potential of the study areas drew on the definition of productive agricultural land in the Planning Practice Note: Applying the Rural Zones. The Practice Note recommends that Councils seek to protect productive agricultural land for agriculture and prevent unplanned loss due to permanent changes in land use. Productive agricultural is defined in the Practice Note as generally having one or more of the following characteristics:

- ☞ Suitable soil type including consideration of soil structure, texture, drainage, topography, fertility
- ☞ Suitable climatic conditions such as rainfall, temperature and evaporation
- ☞ Suitable agricultural infrastructure, in particular irrigation and drainage systems
- ☞ A present pattern of subdivision favourable for sustainable agricultural production.

For this study, a structured process of elimination was followed to establish the productive potential of rural land (Figure 6). Firstly, the agricultural capability of the land was determined. Then land with access or potential to access irrigation water was determined, followed by land held in lots suited to agriculture and finally land that has or is proposed to be converted to non-farming uses was identified.

Figure 6: approach to analysis of productive agricultural land

- Agricultural capability - The irrigation suitability of land in the study area has been mapped¹ as Class 4 (heavy textured soils liable to salinity problems and suitable for irrigation of cereals, summer crops, annual and perennial pastures).
- Irrigation access – the land has access to an irrigation supply
- Property sizes – small properties in the study areas range in size between 0.2 and 6 ha and not conducive to the types of agriculture to which the land is suited. All other properties range in size between 19 and 70ha. These properties are conducive to the types of types of agriculture to which the land is suited. While some of these properties may not be large enough to generate a sufficient income to support a farming family, they are suited to amalgamation with other properties. Fewer dwellings and larger property sizes on the northern side of Trewins Road increases its productive potential compared to the southern side of Trewins Road.
- Land zoning – The zoning and policy context for the study area strongly supports its ongoing use for agriculture.

Based on this assessment:

- The small properties under 6 ha have very low agricultural potential
- Properties on the northern side of Trewins Road have medium to high agricultural potential
- Properties on the southern side of Trewins Road have medium agricultural potential

4 POLICY CONTEXT

The policy context that applies to land within the investigation area is summaries here.

4.1 State Policy

Clause 11.10 Hume regional growth

Objective - To develop a more diverse regional economy while managing and enhancing key regional economic assets.

Strategies relevant to this review include:

¹ Goulburn Murray Water (2006) Shepparton Irrigation Atlas

- Plan for a more diverse and sustainable regional economy by supporting existing economic activity and encouraging appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.
- Facilitate rural tourism activities that support agricultural enterprises such as cellar door and farm gate sales and accommodation in appropriate locations.
- Avoid encroachment from rural residential settlement and other land uses that are non-complementary to agriculture in areas identified as strategic agricultural land and direct proposals for settlement to existing centres and townships.
- Support agricultural production through the protection and enhancement of infrastructure and strategic resources such as water and agricultural land, including areas of strategic agricultural land.

Clause 14 Natural Resources

Objective - Protect productive farmland which is of strategic significance in the local or regional context and encourage sustainable agricultural land use.

Strategies

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

4.2 Local policy

Clause 21.04-1 Settlement

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

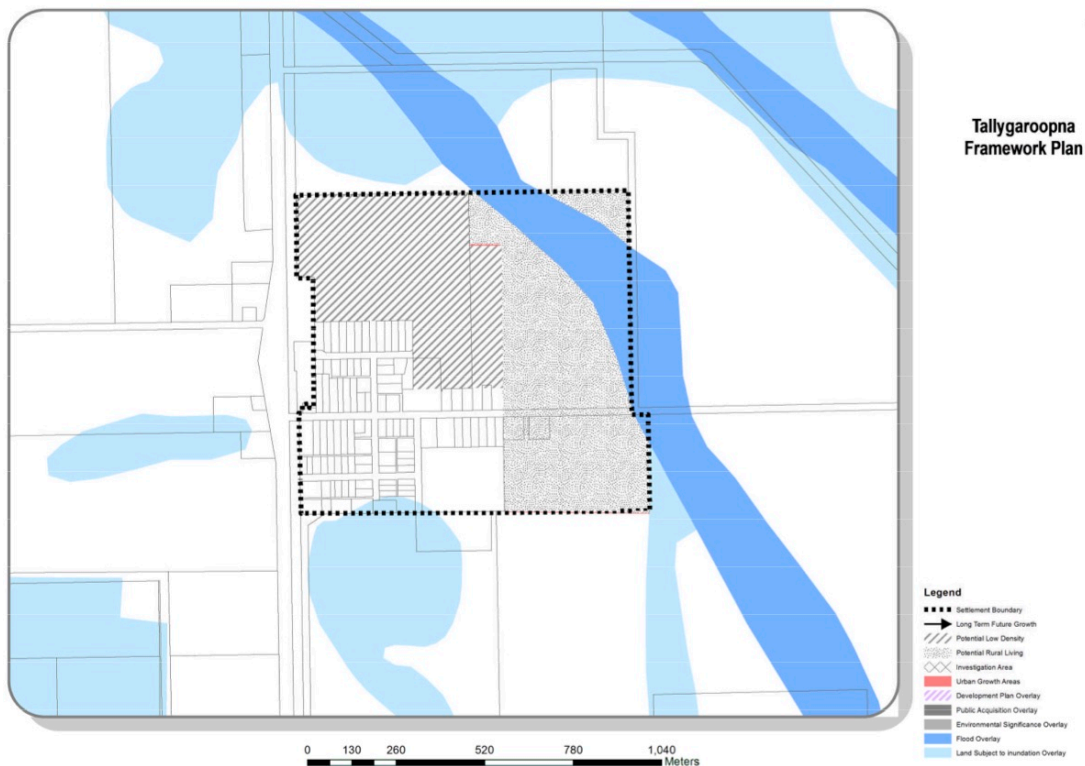
It is expected that the urban areas of Shepparton and Mooroopna along with the four major growth areas will accommodate the majority of new residential development, with remaining growth distributed throughout Tatura, Murchison, Merrigum, Dookie, Congupna, Katandra West, Tallygaroopna, Toolamba, and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

Settlement Boundaries

The Framework Plans include a ‘settlement boundary’ for each urban area and town based on the Growth Management Plans within the GSHS. Residential growth outside the nominated settlement boundaries will generally not be supported.

The Tallygaroopna Framework Plan identifies areas with potential for low density residential and rural living with the settlement boundary.

Figure 7: Tallygaroopna Framework Plan



21.06-1 Agriculture

The MSS states that:

Irrigated primary production and the processing of that product underpin the municipality and the Region's economy and the region's workforce is heavily dependent on the agricultural sector. It is increasingly evident that prospective agricultural investment is jeopardized, deterred, or completely lost by land uses and developments that have the potential to compromise the scale and location of such investment. In particular, agricultural investment is far less likely where land is already fragmented in ownership with housing dispersed throughout.

The RRLUS characterizes the study area as a consolidation area. Clause 21.06-1 provides the following description of consolidation areas: *Consolidation areas being areas that support existing farm businesses to operate and expand. Consolidation areas typically include land with good soils and include many of the former closer settlement areas, but their lot sizes are no longer reflective of current farm sizes. Consolidation areas are considered to provide opportunities for development of growing agricultural enterprises that can, over time, expand and consolidate through a process of property restructure. In this regard 'consolidation' includes the consolidation of land or the consolidation of farming enterprises through acquisition of non-contiguous land to increase farm size. The development of additional dwellings threatens expanding agricultural enterprises and accordingly, new dwellings within these areas are discouraged. The use of re-subdivision and excisions within consolidation areas will be considered in recognition that the excision of a dwelling from a farm can provide businesses an opportunity to consolidate property holdings based on the value of land for agriculture.*

Important principles that have been applied in the rural areas are:

- *The minimum subdivision size is to be less or equal to the minimum dwelling size in order to avoid expectations and perceptions that there will be an automatic entitlement to erect a dwelling on all newly created lots in the Farming Zone.*
- *Small lot subdivisions should not create any additional entitlements for a dwelling nor should they create an opportunity for a dwelling without a planning permit.*

Objectives and strategies relevant to the area include:

Objectives

- To ensure that agriculture is and remains the major economic driver in the region.
- To facilitate growth of existing farm businesses.
- To facilitate growth of new agricultural investment.
- To provide for small scale, specialized agriculture.

Strategies

- Identify 'growth', 'consolidation' and 'niche' areas in the Farming Zone.
- Encourage growth and expansion of existing farm businesses and new investment in 'growth' and 'consolidation' areas.
- Encourage opportunities for smaller scale, specialized agriculture in 'niche' areas.
- Discourage land uses and development in the Farming Zone, Schedule 1 that would compromise the future agricultural use of the land, including farm related tourism.
- Encourage tourism in the Farming Zone, Schedule 2 that is carefully managed to prevent conflict and impact on agricultural operations.
- Encourage value adding and new enterprises for agricultural production.
- Encourage the preparation of Whole Farm Plans for on farm earthworks.

Clause 21.06-2 Subdivision in Rural Areas

This clause provides policy guidance for assessment of planning permits in rural areas

Objectives

- To limit the further fragmentation of rural land by subdivision.
- To ensure that lots resulting from subdivision are of a sufficient size to be of benefit to agricultural production.
- To encourage the consolidation of rural lots.
- To provide for the incremental growth of farming enterprises.
- To discourage “small lot” subdivision unless the balance lot is at least the minimum lot size and is of a size sufficient to support a viable agricultural enterprise.
- To ensure that small lot subdivisions do not prejudice surrounding agricultural activities.
- To ensure that small lots have access to adequate infrastructure including access to all weather roads.
- To prevent small lot subdivision to meet personal and financial circumstances or to create lots for ‘rural lifestyle’ purposes.
- To prevent the creation of irregular shaped lots.
- To prevent “serial” small lot subdivisions from the one lot.

Strategies

- Discourage small lot subdivisions except where:
 - Restructure is an outcome;
 - No new opportunities for additional dwellings below the minimum specified in the schedule to the Farming Zone; and
 - The impact on neighbours and existing or potential agricultural use of nearby land is minimised.
- Discourage small lot subdivision, except where the proposal assists in the use, sale, reduction in number of lots, transfer or preservation of the land for agricultural purposes.

Policy Guidelines - Small Lot Subdivision Criteria

An application for a small lot subdivision of a lot containing a dwelling or the re- subdivision of existing lots should meet the following criteria:

- The lot containing the dwelling is to be no greater than 2ha in area unless there is a need for a larger parcel to take account of natural or public infrastructure features;
- The “balance” lot is of an area that complies with the minimum lot size for the zone;
- The existing dwelling is habitable; and
- The dwelling has existing use rights pursuant to Clause 63.

Exercise of discretion

It is policy to:

- Require the applicant to enter into an agreement under Section 173 of the Act which prevents:
 - The construction of a dwelling on the ‘balance’ lot unless, when combined with other land, the area satisfies the minimum lot size for the construction of a dwelling in the zone; and

- The further subdivision of any lot created other than in accordance with the minimum lot size for subdivision in the zone.
- Discourage applications for a re-subdivision to realign lot boundaries if they:
 - Rely on freehold land which was previously a road reserve, channel, utility lot, crown land or similar; and
 - Create a dwelling opportunity where none previously existed.
- Support applications for a re-subdivision to realign lot boundaries will only be permitted for the purpose of making minor adjustments including to take account of topographical or public infrastructure features.

21.06-3 Dwellings in Rural Areas

This clause provides policy guidance for assessment of planning permits for dwellings in rural areas

Objectives

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

Strategies - Dwellings in Rural Areas

- Discourage the establishment of dwellings not associated with or required for the agricultural use of the land.
- Discourage dwellings on old and inappropriate lots where amenity may be negatively impacted by farming activities, or where dwellings may inhibit rural activities.
- Discourage dwellings which are proposed to meet personal or financial circumstances or to create dwellings for 'rural lifestyle' purposes.
- Discourage the clustering of new dwellings unless they do not limit the productive use and development of surrounding land.

Policy Guidelines - Dwellings in Rural Areas Criteria

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

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

Exercise of discretion

It is policy to:

- Discourage the construction of new dwellings on any land that is not suitable for the on-site disposal of septic tank effluent.
- Discourage the construction of new dwellings on any land with a water table within one metre of the surface when waste water is to be treated and retained on site.

- Require the applicant to enter into an agreement under section 173 of the Act to:
 - Ensure that the dwelling is used in conjunction with agricultural production;
 - Prevent the subdivision of the lot containing the dwelling where the proposed lot size is less than the minimum lot size for subdivision specified in the zone; and
 - Acknowledge the impacts of nearby agricultural activities.
- Discourage a second dwelling unless it is demonstrated that it is necessary to support a viable agricultural enterprise.
- Discourage the occupation of the second dwelling until the agricultural use with which it is associated has commenced.
- Require the applicant to enter into an agreement under Section 173 of the Act for a second dwelling (including a caretaker's house, a manager's house or a dwelling for agricultural workers) to prohibit the further subdivision of the land around the dwelling.

Decision guidelines

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

- The relationship between the proposed dwelling and the agricultural activity on the land.
- Evidence including an Integrated Land Management Plan under Clause 35.07-6 (or similar) addressing the relationship between agricultural activities on the land and the proposed dwelling.
- The agricultural productive capacity or the agricultural potential of the land.
- The nature of the existing agricultural infrastructure and activity on the land and any new proposed agricultural infrastructure and activity at the land.
- The nature of the agricultural activities on the land and whether they require permanent and continuous care, supervision or security.
- The proposed siting of the dwelling and whether it minimises impacts on existing and potential agricultural operations on nearby land.
- The lot size, context and physical characteristics of the land.
- Whether the dwelling will result in a rural living or rural residential outcome in the area.
- The planning history of the land.
- The potential for land to be consolidated with other land to enhance agricultural productivity.
- Whether the planning scheme identifies a 'non-agricultural' future for the land and the implications of development on future development options.

ZONE

The study area is zoned Farming Zone - Schedule 1 and has a minimum subdivision area of 40 hectares and a minimum area for which no permit is required to use land for a dwelling - 60 hectares

OVERLAYS

The Flood and Land Subject to Inundation Overlay apply to some land within the study area (Figure 1).

4.3 Amendment C121

Amendment C121, which came into effect on 19 September 2012, implemented the findings and recommendations of the RRLUS into the Greater Shepparton Planning Scheme and was referred to an Independent Planning Panel for consideration of submissions.

Land within the study area is characterised as a transition area by the RRLUS. Two submissions to the panel specific to the Trewins Road precinct raised the following key points to support the areas rezoning to FZ3 (Niche):

- The landholders within the identified precinct request that their land be included within the FZ3 niche category with the aim of retaining the precinct at its current land tenure pattern and facilitating new investment in innovative and emerging agricultural enterprises.
- Trewins Road better fits the attributes of FZ3 – Niche and does not fit FZ2 – Transition as per the amendment mapping.

The RRLUS defined Niche areas as:

Niche areas being those areas with productive potential based on existing lot configuration and opportunities for smaller scale and specialized agriculture. Niche areas include those rural areas with productive potential due to soil type, property size or water access. The opportunity for properties within these areas to expand in response to general market trends is limited however due to land value and existing development as most lots are smaller with dwellings. Niche areas are productive farming areas and not rural living areas. Niche areas may involve activities such as spraying and frost fans etc. New dwellings within the niche area can be considered where associated with farm business activity. Given the existing size and lot configuration, it is envisaged that subdivision would rarely be required. The minimum subdivision size in these areas has been set at 40ha and a dwelling needs a planning permit on all land less than 40ha in area.

It is considered that the Trewins Road area rather than a niche farming area is better characterised as a ‘legacy area’ i.e. past excisions and dwelling development has resulted in fragmentation. However, the extent of the fragmentation, generally contained to the southern side of Trewins Road does not warrant a change to the zone.

Regarding the Trewins Road, Tallygaroopna area, the Panel provided the following comments

The Tallygaroopna submissions in particular illustrate the effect of past excisions and subdivision for non-agricultural purposes. The fragmentation of the area to the south of Trewins Road appears to have sealed its fate and recognition through the application of the FZ3 is an option. We are less convinced that the ‘horse has bolted’ in relation to land to the north of Trewins Road.

The Panel recognises that designation within an FZ3 may reinforce policy to facilitate boutique agriculture, particularly in areas that are currently fragmented. We consider this can be achieved through policy text. This would extend the principles to areas elsewhere in the FZ that are not delineated on maps where the level of fragmentation and the small size of lots is likely to mean that the promotion of boutique farming (as distinct from consolidation) is likely to be a realistic strategy. The permit process provides the mechanism for judgment about applications in these areas.

The changes to exhibited lot sizes recommended by the Panel mean that inclusion of land referred to in the submission in the FZ3 may have few practical implications.

This assessment report supports Panel’s comments. Under the current policy context, there is be no material difference between FZ1 or FZ2 for land within the Trewins Road precinct as all vacant lots are under the minimum lot size threshold and the same planning permit decision guidelines for dwellings apply in FZ1 and FZ2. No lots meet the subdivision minimum lot size threshold.

5 CONCLUSIONS

The desktop assessment and site inspection found that:

- Land on the northern side of Trewins Road is less fragmented than the southern side. Land on the northern side is held in larger properties and there is fewer dwellings. Apart from the small house lots, the land is being used predominantly for agriculture.
- Land on the southern side of Trewins Road is more fragmented with more, small properties and more dwellings than the northern side. In addition to agriculture, land uses include horse training tracks, home business and rural residential.
- The lot sizes and arrangement suggest a legacy of house lot and dwelling excisions.
- The agricultural potential of land within the precinct ranges from very low to high:
 - Properties under 6 ha have very low agricultural potential
 - Properties on the northern side of Trewins Road have medium to high agricultural potential
 - Properties on the southern side of Trewins Road have medium agricultural potential

Based on this review of the land within the study area and the policy context, the following conclusions are made.

- A change from characterisation of the land from Transition to Niche and subsequent rezoning from FZ1 to FZ2 will not increase opportunities for subdivision or lots for which no permit would be required for a dwelling.
- The types of agricultural activities encouraged by the Niche characterisation do not require a change of zone to be supported in the study area.
- The desire of residents, expressed in submissions, to retain the current land tenure pattern, is achieved by the current policy position.
- While land on the southern side of Trewins Road has been fragmented by past excisions and dwelling development, the extent of this fragmentation does not warrant a change to the zoning.

6 CONSULTATION

This report was sent to all land owners on Trewins Road and on the 7th of June, a drop-in session was held to provide an opportunity for land owners to meet with the Consultant and Council staff and discuss the report findings. Four parties came to the drop-in session:

- F. Fitzpatrick
- G Apted and J Kilmartin
- Mr and Mrs Singh
- Mr and Mrs Lohse.

Ms R Allan also spoke to Grace Docker (GSCC) by phone.

A number of mapping anomalies were raised and these have been addressed in this version of the report. Most participants came to the session to confirm why the report was prepared and the implications for their individual circumstances. A number sought clarification on what would be required in an application for a planning permit for a dwelling. Other comments are summarised here:

- There was general agreement that they would like to see Trewins Road unchanged
- Rezoning to FZ2 was not being sought

The report findings and conclusions are not changed as a result of the consultation.