


# Delegate's Report

## Consideration of Submissions:

Responsible Officer:	Alex Smith
Amendment Number:	C233gshe
Exhibition Period:	16 June to 18 July 2022
Land affected:	<p>The Amendment applies to 480 Raftery Road, Kialla. The land is located to the south of Raftery Road between the Seven Creeks and Goulburn River corridors. The land comprises 12.68 hectares of land within the Rural Living Zone and Urban Floodway Zone. Part of the land is affected by the Bushfire Management Overlay, the Land Subject to Inundation Overlay and the Specific Controls Overlay (Schedule 3). The land immediately abuts State forest to the south, which is entirely within the Urban Floodway Zone, and the Public Conservation and Resource Zone.</p> 
Proposal:	<p>The Amendment is a combined planning scheme amendment and planning permit application (2021-208) under section 96A of the <i>Planning and Environment Act 1987</i>.</p> <p>The Amendment seeks to amend the Schedule to Clause 35.03 Rural Living Zone to facilitate the subdivision of the land into six lots.</p> <p>Specifically, the Amendment seeks to amend the Schedule to Clause 35.05 Rural Living Zone of the Greater Shepparton Planning Scheme to include a minimum subdivision area of two hectares for 480 Raftery Road, Kialla.</p> <p>The planning permit application is for:</p>

	<ul style="list-style-type: none"> <li>• a six lot subdivision of land in the Rural Living Zone;</li> <li>• subdivision in the Floodway Overlay;</li> <li>• subdivision in the Land Subject to Inundation Overlay; and</li> <li>• subdivision in the Bushfire Management Overlay.</li> </ul>
Number of Submissions:	12
Number of Objections:	2
Exhibited Panel Dates:	Directions hearing: 23 August 2022 Panel hearing: week commencing 19 September 2022

## **Background**

### **Planning Scheme Amendment**

This Amendment has been prepared by Greater Shepparton City Council, which is the planning authority for this Amendment.

The combined Amendment and Planning Permit Application has been made at the request of Chris Smith and Associates Pty Ltd, on behalf of the landowners.

### **Strategic Justification**

The Amendment is required to facilitate the expansion of rural residential development in Kialla in accordance with the findings and recommendations of the *Greater Shepparton Housing Strategy 2011*. The land is located within the settlement boundary of Investigation Area 2, which has been identified in the Kialla and Shepparton South Framework Plan in Clause 02.04 of the Planning Scheme for possible future residential development.

The Housing Strategy states:

*rural and low density residential land will contribute to future housing diversity in Greater Shepparton and the Council is committed to providing for this form of housing in location that rural living is appropriate, that is locations that will not further impact on productive agricultural land.*

Clause 02.03-1 of the planning scheme supports Council accommodating rural living developments in greenfield locations.

The land is considered to be physically separate from the Kialla West Growth Corridor owing to the presence of Raftery Road itself and the Goulburn-Murray Water irrigation channel that runs parallel to Raftery Road. This allows the land to be investigated and developed independently without compromising the strategic residential development potential of the remainder of Investigation Area 2.

As a consequence, the investigation for the land at 480 Raftery Road was considered separately from the Growth Corridor. Bushfire, cultural heritage, ecological, flood, land capability and soil contamination and studies determined that the land is suitable for a six lot subdivision to facilitate a rural residential development.

The proposed Amendment is required to implement the findings of this investigation.

The Amendment seeks to implement objectives a, c, f and g of planning in Victoria, in accordance with Section 4(1) of the *Planning and Environment Act 1987*. The proposed Amendment implements the objectives of planning by facilitating orderly, coordinated development in an area designated for rural living development and balances the interests of

the community through the provision of rural living residential land to meet the needs of a growing municipality.

The Amendment will result in positive environmental effects as it will seek to protect native vegetation. A flora and fauna assessment was undertaken to understand the ecological considerations. The south-west section of the site contains significant remnant Riverine Grassy Woodland associated with the Goulburn River biodiversity corridor, which supports many species of flora and fauna, and providing habitat of native vegetation. The Riverine Grassy Woodland is within the Urban Floodway Zone and will not be developed for residential purposes. The site is otherwise largely devoid of native vegetation and has been subject to a history of intensive cropping.

The Amendment will result in positive social effects by providing for a wider variety of housing diversity in the Kialla and Shepparton area. In particular, it will provide rural residential housing lots that are well located to facilities and amenities. The provision of serviced lots for future housing provides a positive outcome in contributing to Kialla's population growth.

The Amendment will result in positive economic impacts by providing for new rural residential lots within Greater Shepparton. The *City of Greater Shepparton Residential Land Supply & Demand Assessment 2022* found that there has been a considerable increase in rural residential activity since 2019.

The development of the land for residential purposes creates employment opportunities during the planning and construction phases, as well as attracting new resident opportunities that will make a positive contribution to the local economy.

The site is located within the Bushfire Management Overlay. A Bushfire Management Assessment and a Bushfire Management Plan was undertaken on the land, in accordance with the requirements of the Overlay to meet the requirements of Clause 13.02-1S.

The Bushfire Management Plan was developed with input from the Country Fire Authority to include strengthened bushfire mitigation measures to respond to the specific constraints of the site. This includes an increase in defendable space to achieve residential building standard for bushfire protection to BAL-12.5 requirements and imposing a construction standard requirement of BAL-29.

The Amendment supports the Planning Policy Framework and Municipal Planning Strategy by facilitating the orderly development of urban and rural areas, and allowing a rural residential subdivision in close proximity to the Shepparton and Kialla urban areas, and providing additional housing choice on a site that has not been identified as prime agricultural land. The proposal seeks to protect Riverine Grassy Woodland through the use of appropriate building envelopes.

All submissions received regarding the Amendment have been considered by Council officers and an independent planning panel is required.

### **Exhibition**

The Amendment was exhibited in accordance with the *Planning and Environment Act 1987* from Thursday, 16 June 2022 to Monday, 18 July 2022 and the following notice was provided:

- letters sent to land owners and occupiers on 13 June 2022;
- letters sent to relevant referral authorities on 14 June 2022;
- letters sent to prescribed ministers on 14 June 2022;

- notice in the Shepparton News on 17 June 2022;
- notice in the Victoria Government Gazette on 16 June 2022;
- notice on Greater Shepparton City Council website;
- notice on Department of Environment, Land, Water and Planning website; and
- a copy of the exhibition documentation was placed in the foyer of the Council offices at 90 Welsford Street, Shepparton, and on Greater Shepparton City Council website.

### Submissions

11 submissions were received by Council during the exhibition period. A late submission was received from the Department of Environment, Land, Water and Planning.

### Submissions received that supported or did not object

Seven of the submissions were received from referral authorities and nearby landowners, which either supported or did not object to or request changes to the proposed Amendment. These are:

- Submission 1 – Goulburn Valley Water
- Submission 3
- Submission 4
- Submission 5
- Submission 7
- Submission 8
- Submission 9 – Goulburn Broken Catchment Management Authority

### Submissions received that did not object subject to conditions

Three submissions were received from referral authorities that did not object to the proposed Amendment, subject to conditions being placed on the draft permit. These are:

- Submission 10 – Goulburn Murray Water
- Submission 11 – Country Fire Authority
- Submission 12 – Department of Environment, Land, Water and Planning

### Submissions received that objected and/or requested changes

Two submissions (Submissions 2 and 6) were received that objected to and/or requested changes to the proposed Amendment.

### **Concerns Raised in Submissions and Council Officers' Position**

Concerns raised in submissions and Council officers' position relating to the concerns raised in submissions are outlined in this section. Council officers met or held teleconferences with a number of the submitters; the details of these meetings or calls are also detailed in this section.

<b>Submission numbers</b>	<b>Comments made in submission</b>	<b>Council officers' response</b>
2	<p>Concerns that the Amendment and permit contribute to urban sprawl and are located far away from services in urban areas.</p> <p>Urban development adjacent to the Goulburn River risks ecological and biodiversity values situated on crown land.</p>	<p>The development of the land is supported by the <i>Greater Shepparton Housing Strategy 2011</i>, which supports rural-living development in appropriate areas that are situated away from prime agricultural land.</p> <p>The land is located within the settlement boundary of</p>

	<p>Recommends a 50 metre buffer between building positioning and crown land, and restrictions on pet ownership management.</p>	<p>Investigation Area 2, which has been identified in the Kialla and Shepparton South Framework Plan in Clause 02.04 of the Planning Scheme for possible future residential development. Clause 02.03-1 of the Planning Scheme supports Council accommodating rural living developments in greenfield locations.</p> <p>A flora and fauna assessment was undertaken on the site to understand the ecological considerations. The south-west section of the site contains significant remnant Riverine Grassy Woodland associated with the Goulburn River biodiversity corridor, which supports many species of flora and fauna, and providing habitat of native vegetation. The Riverine Grassy Woodland is zoned Urban Floodway Zone and will not be developed for residential purposes.</p> <p>Clause 52.17 of the Planning Scheme provides protection for existing native vegetation across Victoria, requiring a planning permit to remove, lop or destroy any native vegetation on land that is greater than 0.4 hectares in size.</p> <p>Council officers are proposing a post-exhibition change to the draft planning permit to include an additional sub-bullet point in the condition relating to the preparation of a future section 173 agreement to require landowners to protect and retain native vegetation on site in accordance with the requirements of the Planning Scheme. This will inform future landowners of their obligations to protect native vegetation on the site.</p> <p>Restrictions on pet ownership and management of domestic animals are not material planning considerations that can be</p>
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		considered as part of this Amendment; however, future landowners will need to comply with relevant local laws regarding pet ownership.
6	<p>Concerns regarding the impacts that the Amendment will have on an existing equestrian business within the Growth Corridor, including:</p> <ul style="list-style-type: none"> <li>• disruption to irrigation and S&amp;D water;</li> <li>• increased inundation from flooding;</li> <li>• increased traffic on Mitchell Road;</li> <li>• increased noise, airborne debris and pollution;</li> <li>• ability to evacuate animals in the ability of natural disaster;</li> <li>• safe access into the property onto Mitchell Road; and</li> <li>• impacts from unsupervised pets and trespassing.</li> </ul>	<p>The development of the land is supported by the <i>Greater Shepparton Housing Strategy 2011</i>, which supports rural-living development in appropriate areas that are situated away from prime agricultural land.</p> <p>The land is located within the settlement boundary of Investigation Area 2, which has been identified in the Kialla and Shepparton South Framework Plan in Clause 02.04 of the planning scheme for possible future residential development. Clause 02.03-1 of the Planning Scheme supports accommodating rural living developments in greenfield locations.</p> <p>The Amendment was referred to Goulburn Murray Water as the manager of irrigation infrastructure, which did not object to the Amendment subject to conditions being applied on the permit.</p> <p>The Amendment was referred to the Goulburn Broken Catchment Management Authority as the floodplain manager, which did not object to the Amendment.</p> <p>Due to the rural-living nature of the development, it is expected that the planning permit application will have negligible impact on traffic, noise, and pollution, due to the rural-living nature of the development that is similar to existing rural living lots in the immediate area.</p> <p>Other matters raised are not considered to be material planning considerations, are considered to be local laws issues, or can be considered following the</p>



		<p>preparation of the future precinct structure plan and development contributions plan for the Kialla West Growth Corridor.</p> <p>No further changes are proposed on the exhibited Amendment documentation.</p>
10	<p>Did not object to the Amendment subject to conditions being included on the permit that were set out in the response to planning permit application 2021-208.</p>	<p>Council officers can confirm that the requested conditions have been included on the draft planning permit.</p> <p>No further changes are needed on the exhibited Amendment documentation.</p>
11	<p>Requested clarification that the exhibited Amendment documentation ensured radiant heat benchmarks of 12.5kW/m<sup>2</sup> and a BAL 29 were included. Recommends that condition 3 and 7 of the draft permit be amended to include these radiant heat benchmarks and BAL construction standards.</p>	<p>Council officers can confirm that the requested conditions have been included on the exhibited draft planning permit. The exception is the requirements for a passing lane on driveways every 200 metres as this is not applicable to this development.</p> <p>No further changes are needed on the exhibited Amendment documentation.</p>
12	<p>Parks Victoria has requested 30 metre setbacks from land within the Shepparton Regional Park, and conditions be included on the permit for the boundary with the Shepparton Regional Park to be fenced.</p> <p>DELWP recommends that further information be provided to consider the application requirements of Clause 52.17 Native Vegetation. This includes mapping of native vegetation and information about native vegetation to be removed.</p>	<p>The draft subdivision plans and the bushfire management plan establishes a building envelope with setbacks of 41 metres from woodland class vegetation, including the boundary with the Shepparton Regional Park. No changes to setbacks are required.</p> <p>Council officers are proposing post-exhibition changes to the permit to include fencing requirements on the boundary with the Shepparton Regional Park.</p> <p>The planning permit application is not proposing to remove any native vegetation, thus a permit under Clause 52.17 is not required.</p> <p>Council officers are proposing a post-exhibition change to the draft planning permit to include an</p>

		<p>additional sub-bullet point in the condition relating to the preparation of the future section 173 agreement to require landowners to protect and retain native vegetation on site in accordance with the requirements of the Planning Scheme. This will inform future landowners of their obligations to protect native vegetation on the site.</p>
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The following meetings were held with submitters.

- 9:30am on 27 July 2022 at Council offices. Submitter No. 2, Team Leader Strategic Planning and Senior Strategic Planner were in attendance.
- 1:15pm on 29 July 2022 at Council offices. Submitter No. 6, Team Leader Strategic Planning and Senior Strategic Planner were in attendance.
- 3:15pm on 5 August 2022 online via Microsoft Teams. Submitter No. 12 Country Fire Authority, Senior Strategic Planner were in attendance.
- 9:30pm on 11 August 2022 online via Microsoft Teams. Submitter No. 12 Country Fire Authority, Manager Building Planning and Compliance, and Senior Strategic Planner were in attendance.

### Conclusion

The Amendment seeks to amend the Schedule to Clause 35.03 Rural Living Zone to include a minimum subdivision area of two hectares for 480 Raftery Road, Kialla. This will facilitate planning permit 2021-208 by allowing for the subdivision of the land into six rural residential lots.

The Amendment was exhibited in accordance with the *Planning and Environment Act 1987* from 16 June 2022 to 18 July 2022.

12 submissions were received by Council. Of these, two submissions are unresolved and must now be considered by an independent planning panel. Council officers have considered all submissions to the Amendment and engaged with all submitters in an attempt to resolve these concerns. Council officers will continue to engage with submitters; however, it is evident that a number of submissions will remain outstanding.

An independent planning panel is required to consider all submissions.

### Recommendation

Council officers request that an independent planning panel be appointed to consider all submissions received for proposed Amendment C233gshe to the Planning Scheme.

### Panel hearing dates

The following panel hearing dates have been set for this proposed Amendment:

- Directions hearing: 23 August 2022.
- Panel hearing: week commencing 19 September 2022.



# Planning Panels Victoria

## Greater Shepparton Planning Scheme Amendment C233gshe and Planning Permit Application 2021/208 480 Raftery Road, Kialla

### Panel Report

*Planning and Environment Act 1987*

**7 November 2022**

**How will this report be used?**

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority may also recommend to the Minister that a permit that applies to the adopted Amendment be granted. The Minister may grant or refuse the permit subject to certain restrictions. [sections 96G and 96I of the PE Act]

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

*Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

Greater Shepparton Planning Scheme Amendment C233gshe and Planning Permit Application 2021/208

480 Raftery Road, Kialla

**7 November 2022**



Alison McFarlane, Chair

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## Glossary and abbreviations

the Amendment	Greater Shepparton Planning Scheme Amendment C233gshe
CFA	Country Fire Authority
Council	Greater Shepparton City Council
DELWP	Department of Environment, Land, Water and Planning
EPA	Environment Protection Authority Victoria
the permit application	Greater Shepparton Planning Permit Application 2021-208
RLZ1	Rural Living Zone Schedule 1
UFZ	Urban Floodway Zone

## Overview

### Amendment summary

The Amendment	Greater Shepparton Planning Scheme Amendment C233gshe and Planning Permit Application 2021/208
Common name	480 Raftery Road, Kialla
Brief description	Amend the schedule to the Rural Living Zone for land at 480 Raftery Road, Kialla to specify a minimum lot size of 2 hectares. Planning Permit Application proposing subdivision of land into six lots.
Subject land	480 Raftery Road, Kialla
The Proponent	Ian and Kerry Tunea
Planning Authority	Greater Shepparton City Council
Authorisation	24 May 2022
Exhibition	16 June to 18 July 2022
Submissions	Number of Submissions: 12 Requested changes or conditions: 5 Refer Appendix A

### Panel process

The Panel	Alison McFarlane, Chair
Directions Hearing	Video conference, 23 August 2022
Panel Hearing	A Hearing was not conducted. The matter was considered by the exchange of written material at the agreement of parties and the Panel.
Site inspections	Unaccompanied, 29 August 2022
Parties to the Hearing	Greater Shepparton City Council represented by Michael MacDonagh, Team Leader, Strategic Planning and Alex Smith, Senior Strategic Planner Ian and Kerry Tunea represented by Chris Smith and Associates
Citation	Greater Shepparton PSA C233gshe [2022] PPV
Date of this report	7 November 2022

## Executive summary

Greater Shepparton Planning Scheme Amendment C233gshe (the Amendment) proposes to set a new minimum lot size for land at 480 Raftery Road, Kialla. The Amendment proposes to do this by amending Schedule 1 to the Rural Living Zone to specify a lot size of 2 hectares. The current minimum lot size applying to the land is 8 hectares.

The Amendment is accompanied by Planning Permit Application 2021-208 which proposes to subdivide land at 480 Raftery Road into six lots.

The land is in 'Investigation Area 2' identified on the Kialla and Shepparton South Framework Plan. Investigation Area 2 is one of four areas identified for residential growth subject to the resolution of environmental, flooding and infrastructure servicing constraints.

Most of Investigation Area 2 is proposed to be rezoned from Rural Living Zone to Urban Growth Zone by way of Greater Shepparton Planning Scheme Amendment C239gshe. The Amendment site is separated from this larger area by Raftery Road and the Goulburn-Murray Water irrigation channel (running parallel to Raftery Road).

Greater Shepparton City Council's (Council) strategies for housing provide that five per cent of greenfield development will be rural living lots of between two and eight hectares. The Amendment and associated permit application support this strategy by providing housing choice in proximity to the Shepparton urban area on land that is not identified as prime agricultural land.

Twelve submissions were received following exhibition of the Amendment. Seven submissions supported the Amendment and permit application, including submissions from Goulburn Valley Water and Goulburn Broken Catchment Management Authority.

Of the remaining five submissions, three submissions were received from government agencies (Department of Environment, Land, Water and Planning, Goulburn-Murray Water and Country Fire Authority). These submissions either requested further information or sought the inclusion of conditions on the planning permit.

A submission from the Goulburn Valley Environmental Group Incorporated opposed the subdivision because of its potential to impact on the environmental values of the area. Submitter 6 objected to the Amendment because of its potential to impact on an established equestrian centre.

Council has taken a proactive approach to working with submitters to address their concerns. As a result, all opposing submissions were resolved to the submitters' satisfaction after the Panel was established. The Panel has not undertaken detailed enquiries into the matters raised by these submitters. The Panel's recommendations are focussed on giving effect to the agreements between Council and the submitters.

The Panel concludes:

- it is appropriate to grant a planning permit for the proposed subdivision
- conditions included on the exhibited draft planning permit, with additions proposed by Council to respond to submissions, are appropriate.



## Recommendations

Based on the reasons set out in this Report, the Panel recommends:

1. Amendment C233gshe to the Greater Shepparton Planning Scheme be adopted as exhibited.
2. Amend draft Planning Permit 2021-208 to include the following conditions for protection of native vegetation and fencing and as shown in Appendix E:

### Section 173 Agreement – Protection of Native Vegetation

Property owners are required to retain and protect significant native vegetation in accordance with the provisions of the Greater Shepparton Planning Scheme and the *Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017)*.

### Section 173 Agreement – Fencing

No fences may be constructed on the side boundaries between any of the Lots within the designated "Woodland" area as shown on the endorsed Fencing Plan being Drawing No. 21056/04 prepared by Chris Smith and Associates, unless otherwise agreed in writing by the Responsible Authority, which will only give permission to construct a fence on those boundaries if the owner/s pay the appropriate offset amount for any vegetation loss associated with the construction of that fence.

### Parks Victoria Requirements

Before the issue of a statement of compliance, the shared boundary with Shepparton Regional Park must be fenced to the satisfaction of the responsible authority at the applicant's expense. The fencing must:

- be erected on the boundaries of the land;
  - be stock and dog proof; and
  - contain only one pedestrian gate per freehold parcel.
3. Planning Permit 2021-208 be granted to allow subdivision of the land at 480 Raftery Road, Kialla into six lots subject to conditions, as shown in Appendix E.

# 1 Introduction

## 1.1 The Amendment and planning permit application

### (i) The subject land and surrounds

Greater Shepparton Planning Scheme Amendment C233gshe (the Amendment) applies to the land at 480 Raftery Road, Kialla as shown in Figure 1 (blue boundary). The land has an area of 12.7 hectares and is developed with a single dwelling and ancillary outbuildings. An escarpment divides the eastern, cleared part of the land from the low lying, western vegetated area.

The land is zoned part Rural Living Zone Schedule 1 (RLZ1) and part Urban Floodway Zone (UFZ) (Figure 2). The Bushfire Management Overlay and Specific Controls Overlay Schedule 3 apply to the land. The Land Subject to Inundation Overlay applies to part of the land.

**Figure 1** 480 Raftery Road, Kialla



**Figure 2** Existing zoning



The land is located at the south-western edge of the Kialla West Growth Corridor. Surrounding land comprises a mix of low-scale agricultural use and lifestyle farming. Adjoining land to the west is proposed to be rezoned from RLZ1 to Urban Growth Zone by Greater Shepparton Planning Scheme Amendment C239gshe.

The land is approximately eight kilometres south of Shepparton's central business area. Heavily vegetated land forming part of the Goulburn River floodplain is located to the south.

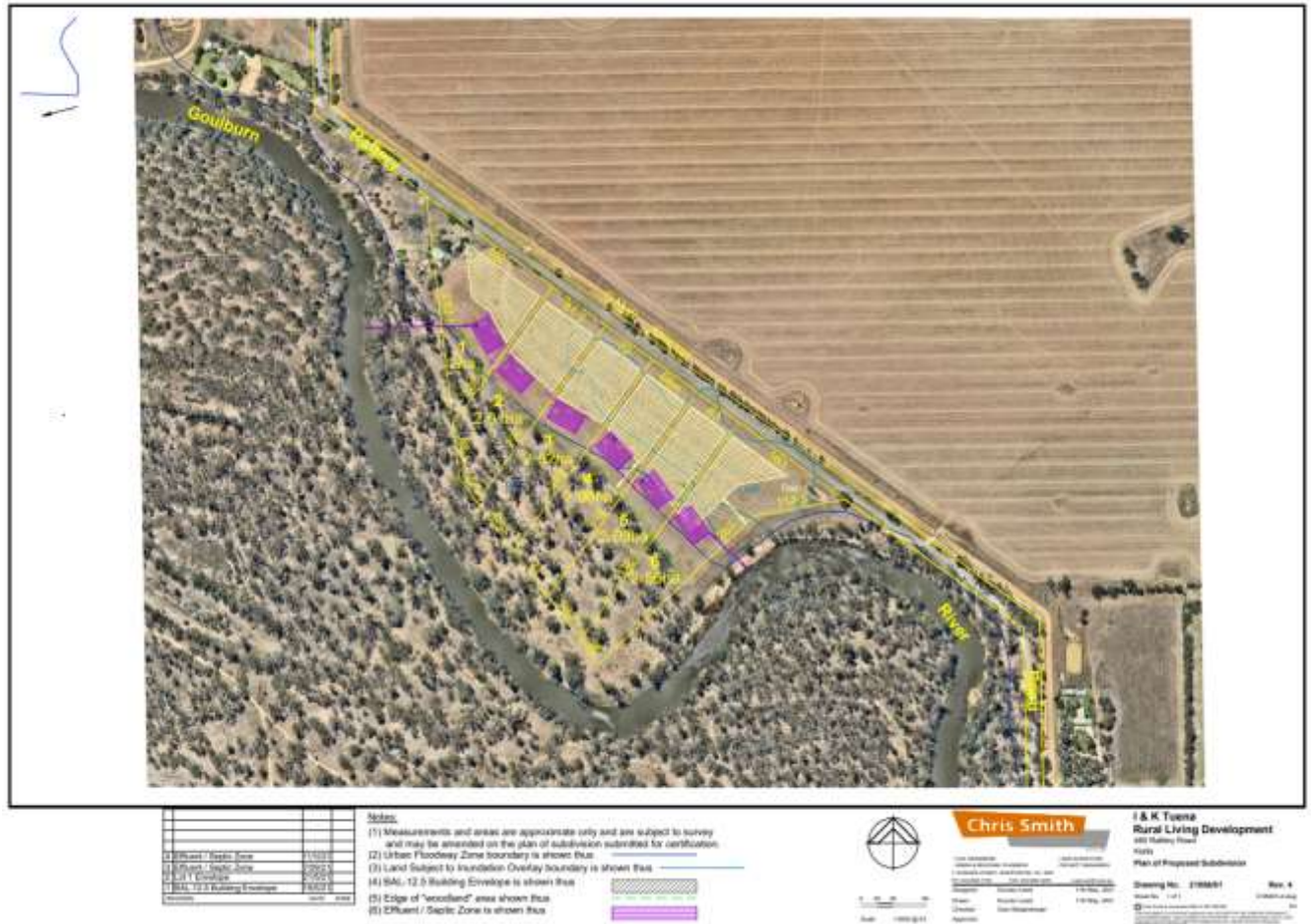
### (ii) The Amendment and Planning Permit Application

The purpose of the Amendment is to set a new minimum lot size for land at 480 Raftery Road, Kialla. The Amendment proposes to do this by amending Schedule 1 to the Rural Living Zone to specify a lot size of 2 hectares. The current minimum lot size applying to the land is 8 hectares.

The Amendment is accompanied by a Planning Permit Application which proposes to subdivide land at 480 Raftery Road into six lots (Figure 3).

The six proposed lots vary in size from 2 hectares to 2.56 hectares. Each lot will have direct access to Raftery Road. The proposed plan of subdivision identifies a building envelope and an effluent/septic zone for each lot, which are all located outside that part of the land in the UFZ.

Figure 3 Proposed plan of subdivision



## 1.2 Background

Council provided a detailed background to the Amendment and chronology of events in its submission. The Panel has summarised this in Appendix B.

## 1.3 Procedural issues

At the Directions Hearing, the Panel noted the parties requesting to be heard (Council and Ian and Kerry Tanea) supported the Amendment. The Panel sought the views of the parties on whether it may be suitable to conduct the Panel process without a Public Hearing. All agreed the matter proceeding by exchange of written material ('on the papers').

The Panel reserved the right to convene a Hearing should it be unclear on any critical matters raised in submissions. Upon its review of submissions, the Panel decided convening the Hearing was unnecessary and advised parties of its decision.

## 1.4 Summary of issues raised in submissions

Twelve submissions were received following exhibition of the Amendment. Seven submissions supported the Amendment and permit application, including submissions from Goulburn Valley Water and Goulburn Broken Catchment Management Authority.

Of the remaining five submissions, three submissions were received from government agencies (Department of Environment, Land, Water and Planning (DELWP), Goulburn-Murray Water and Country Fire Authority). These submissions either requested further information or sought the inclusion of conditions on the planning permit.

A submission from the Goulburn Valley Environmental Group Incorporated opposed the subdivision because of its potential to impact on the environmental values of the area.

Submitter 6 objected to the Amendment because of its potential to impact on an established equestrian centre.

## 1.5 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from a site visit, submissions and other material presented to it regardless of whether they are specifically mentioned in the Report.

Council has taken a proactive approach to working with submitters to address their concerns. As a result, all opposing submissions were resolved to the submitters' satisfaction after the Panel was established. The Panel has not undertaken detailed enquiries into the matters raised by these submitters and instead focussed on giving effect to the agreements between Council and the submitters in its recommendations.

This Report deals with the issues under the following headings:

- Strategic issues
- Resolution of submissions
- The planning permit.

## 2 Strategic issues

### 2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix B provides further details regarding relevant provisions and policies.

Table 1 Planning context

Source	Relevant references
<b>Victorian planning objectives</b>	- section 4 of the <i>Planning and Environment Act 1987</i> (PE Act)
<b>Planning Policy Framework</b>	- Clauses 11.02-1S (Settlement), 12.01-1S (Protection of Biodiversity), 12.01-1L (Biodiversity), 13.02-1S (Bushfire Planning), 13.03-1S (Floodplain management), 13.04-1S (Contaminated and Potentially Contaminated Land), 14.02-2S (Water quality), 15.01-3S (Subdivision design), 15.03-2S (Aboriginal cultural heritage), 16.01-3S (Rural and Residential Development)
<b>Municipal Planning Strategy</b>	- Clauses 02.03-1 (Settlement), 02.03-2 (Environmental and landscape values), 02.03-3 (Environmental risks and amenity), 02.04 (Strategic Framework Plans)
<b>Other planning strategies and policies</b>	- Hume Regional Growth Plan
<b>Planning scheme provisions</b>	- Rural Living Zone - Urban Floodway Zone - Land Subject to Inundation Overlay - Bushfire Management Overlay - Specific Controls Overlay Schedule 3 - Clause 52.17 Native vegetation - Clause 53.02 Bushfire planning - Clause 65 Decision guidelines
<b>Ministerial directions</b>	- <i>Ministerial Direction on the Form and Content of Planning Schemes</i> under section 7(5) of the <i>Planning and Environment Act 1987</i> - <i>Ministerial Direction 1 (Potentially Contaminated Land)</i> - <i>Ministerial Direction 11 (Strategic Assessment of Amendments)</i>
<b>Planning practice notes</b>	- <i>Planning Practice Note 37: Rural Residential Development, June 2015</i> - <i>Planning Practice Note 46: Strategic Assessment Guidelines, August 2018</i>

### 2.2 Discussion and conclusion

For the reasons set out in this Report, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and

strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.



## 3 Resolution of submissions

### 3.1 Department of Environment, Land, Water and Planning

#### (i) The issues

The issues are whether:

- loss of native vegetation has been accounted for and is appropriate
- adjoining Crown land should be used as defensible space for fire protection
- development should be allowed on land within 30 metres of the Shepparton Regional Park.

#### (ii) Submissions

DELWP's submission to Council advised the future subdivision will benefit from an exemption under Clause 52.17-7 (Native vegetation) allowing removal of native vegetation along fence lines without a planning permit. It recommended the permit application be amended to account for this loss.

DELWP confirmed it opposes use of Crown land for the provision of fire protection.

Finally, DELWP requested a 30 metre buffer be provided to the adjoining Shepparton Regional Park managed by Parks Victoria in which no built form/infrastructure is allowed.

Council submitted:

- The permit application does not propose removal of native vegetation.
- Council proposes a post-exhibition change to the draft planning permit to include an additional sub-bullet point in the condition relating to the preparation of the future section 173 agreement to require landowners to protect and retain native vegetation on site in accordance with the requirements of the Planning Scheme. This will inform future landowners of their obligations to protect native vegetation on the site. The proposed condition provides:

Protection of Native Vegetation

Property owners are required to retain and protect significant native vegetation in accordance with the provisions of the Greater Shepparton Planning Scheme and the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning 2017).

- The draft subdivision plan and the Bushfire Management Plan establish a building envelope with setbacks of 41 metres from woodland class vegetation, including the boundary with the Shepparton Regional Park. No changes to setbacks are required.
- Council proposed a post-exhibition change to the permit to include fencing requirements on the boundary with the Shepparton Regional Park. The proposed condition provides:

Parks Victoria Requirements

Before the issue of a statement of compliance, the shared boundary with Shepparton Regional Park must be fenced to the satisfaction of the responsible authority at the applicant's expense. The fencing must:

- be erected on the boundaries of the land;
- be stock and dog proof; and
- contain only one pedestrian gate per freehold parcel.

In further correspondence to DELWP, Council outlined an additional change to the proposed section 173 agreement condition that would prevent construction of fences on side boundaries between proposed lots within the woodland area identified in a plan prepared by Chris Smith and Associates on behalf of the proponent (Figure 4). The proposed condition provides:

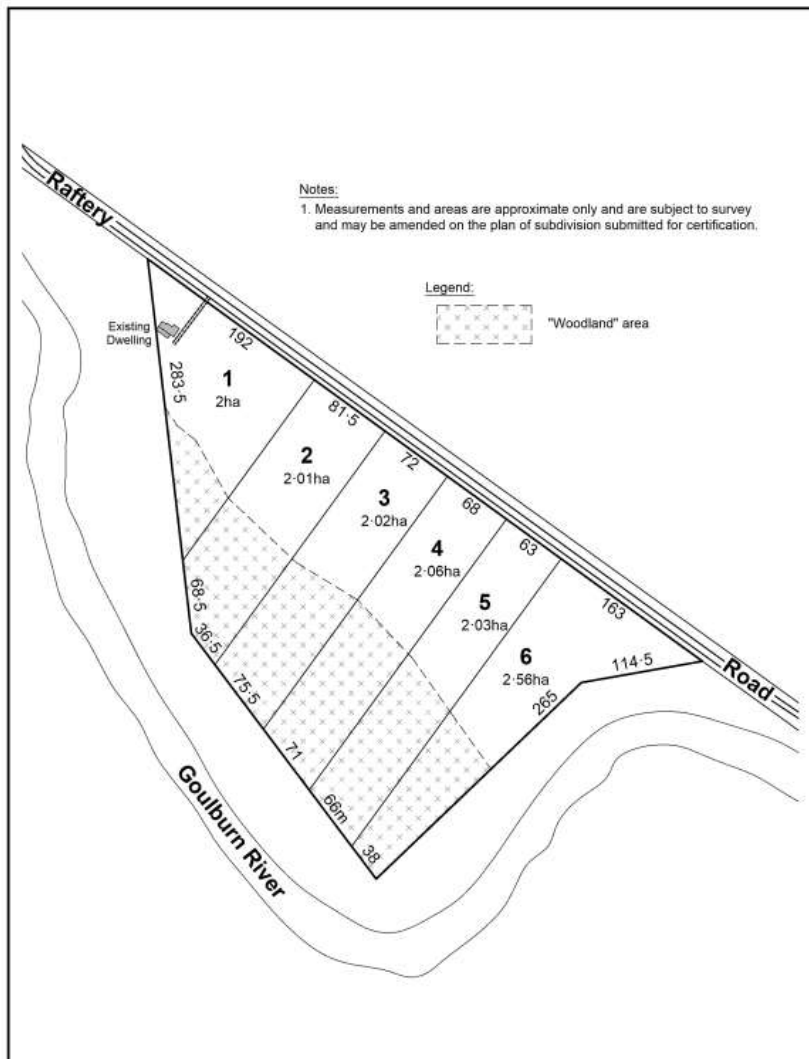
#### Fencing

No fences may be constructed on the side boundaries between any of the Lots within the designated "Woodland" area as shown on the endorsed Fencing Plan being Drawing No. 21056/04 prepared by Chris Smith and Associates, unless otherwise agreed in writing by the Responsible Authority, which will only give permission to construct a fence on those boundaries if the owner/s pay the appropriate offset amount for any vegetation loss associated with the construction of that fence.

DELWP subsequently confirmed its issued had been resolved.<sup>1</sup>

The proponents of the subdivision, Ian and Kerry Tunea, supported all conditions proposed by Council and agreed to by DELWP. They submitted the conditions would support their vision for the land to retain the woodland area in its current state and preserve its biodiversity values.

**Figure 4** Woodland area



<sup>1</sup> Document 24

**(iii) Discussion**

The Panel acknowledges concerns raised by DELWP have been addressed by Council and the proponent to DELWP's satisfaction. On this basis, the Panel has not undertaken detailed enquiries into the matters raised by this submitter.

The additions to the section 173 condition are an appropriate method to alert future landowners of protections afforded to native vegetation through the Planning Scheme. Limitations on fencing in the woodland area will serve to maintain the values of this area.

Native vegetation removal is not proposed as part of the application and an assessment against Clause 52.17 is not required. Proposed additions to the section 173 condition will ensure the policy objectives of Clause 12.01-2S (Native vegetation) are satisfied.

**(iv) Conclusion and recommendation**

The Panel concludes:

- Planning Permit 2021-208 should include permit conditions requiring the management of native vegetation and boundary fencing, as agreed with DELWP.

The Panel recommends:

**Amend draft Planning Permit 2021-208 to include the below conditions as shown in Appendix E:**

**Section 173 Agreement – Protection of Native Vegetation**

**Property owners are required to retain and protect significant native vegetation in accordance with the provisions of the Greater Shepparton Planning Scheme and the *Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017)*.**

**Section 173 Agreement – Fencing**

**No fences may be constructed on the side boundaries between any of the Lots within the designated "Woodland" area as shown on the endorsed Fencing Plan being Drawing No. 21056/04 prepared by Chris Smith and Associates, unless otherwise agreed in writing by the Responsible Authority, which will only give permission to construct a fence on those boundaries if the owner/s pay the appropriate offset amount for any vegetation loss associated with the construction of that fence.**

**Parks Victoria Requirements**

**Before the issue of a statement of compliance, the shared boundary with Shepparton Regional Park must be fenced to the satisfaction of the responsible authority at the applicant's expense. The fencing must:**

- be erected on the boundaries of the land;
- be stock and dog proof; and
- contain only one pedestrian gate per freehold parcel.

**3.2 Goulburn-Murray Water****(i) The issue**

The issue is whether Goulburn-Murray Water's draft planning permit conditions have been met.

**(ii) Submissions**

Goulburn-Murray Water did not object to the Amendment and planning permit application, subject to the inclusion of conditions for:

- management of wastewater
- management of wastewater disposal areas
- setback of development from the Goulburn River and Goulburn-Murray Water Channel Number 2
- supply of water.

Council confirmed the requested conditions were included on the draft planning permit and no further changes to the exhibited Amendment documentation were required.

**(iii) Discussion**

The Panel acknowledges conditions requested by Goulburn-Murray Water were included in the exhibited draft planning permit at Condition 7<sup>2</sup>.

The conditions are standard requirements for new development to ensure wastewater disposal and water supply meet policy objectives for managing environment risks and amenity (Clause 13) and infrastructure provision (Clause 19).

**(iv) Conclusion**

The Panel concludes:

- The exhibited draft planning permit includes conditions for wastewater management, setbacks from water assets and supply of water as agreed with Goulburn-Murray Water, and no further changes are required.

### 3.3 Country Fire Authority

**(i) The issue**

The issue is whether bushfire policy considerations have been addressed.

**(ii) Submissions**

In its Council submission, Country Fire Authority (CFA) recommended Condition 7 of the proposed planning permit require the preparation of a Bushfire Management Plan generally in accordance with the document titled *Yarra Valley BAL Assessments, Version A dated 21 May 2021*, with detailed requirements for:

- defensible space
- construction standard
- water supply
- access, including a requirement to incorporate passing bays at least every 200 metres.

CFA also recommended Condition 3 of the proposed planning permit be amended to capture the updated Bushfire Management Plan.

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<sup>2</sup> Draft Planning Permit Condition 7 is renumbered to Condition 8 in the Panel recommended version of Planning Permit 2021/208 at Appendix E.

Council provided a copy of a letter it sent to CFA dated 15 August 2022.<sup>3</sup> This advises the requested conditions were included on the exhibited draft planning permit, except for the requirement to provide a passing bay every 200 metres, which it considered to be not applicable to the proposed development.

Following further consultation and discussion with Council, CFA advised bushfire policy considerations had been addressed by the Amendment. CFA also confirmed it no longer required the passing bay condition be included on the proposed planning permit.<sup>4</sup>

### **(iii) Discussion**

The Panel acknowledges CFA's advice that bushfire policy considerations have been addressed and a permit condition for the provision of passing bays is not required. On this basis, the Panel has not undertaken detailed enquiries into the matters raised by this submitter.

Conditions requested by CFA are consistent with policy for bushfire planning at Clause 13.02-15 and the provisions of the Bushfire Management Overlay and Clause 53.02.

Vehicle access, design and construction requirements are provided in Table 5 of Clause 53.02. Passing bays must be provided at least every 200 metres where the length of access is greater than 200 metres (measured from a public road to either the building or the water supply outlet, whichever is the lesser). This requirement does not apply to permit application.

### **(iv) Conclusion**

The Panel concludes:

- Exhibited Planning Permit 2021-208 included permit conditions requiring the preparation of a Bushfire Management Plan, as required by CFA and no further changes are required.

## **3.4 Goulburn Valley Environmental Group Incorporated**

### **(i) The issue**

The issue is whether rural living development is an appropriate use of the land with environmental values.

### **(ii) Submissions**

Goulburn Valley Environmental Group Incorporated did not support the Amendment. Its submission to Council stated subdivision of the land was not suitable for the area and that development along rivers puts ecological and biodiversity values at risk. If the subdivision was approved, the group suggested a 50 metre buffer be provided to Crown land boundaries.

Council provided a copy of a letter it sent to the Goulburn Valley Environmental Group Incorporated dated 16 August 2022.<sup>5</sup> This advises:

- An ecological assessment was undertaken for the site, which determined that the site is largely devoid of native vegetation due to an extensive history of intensive cropping.

<sup>3</sup> Document 7

<sup>4</sup> Document 8

<sup>5</sup> Document 1

- The draft planning permit and accompanying Bushfire Management Plan provides for building envelopes that are situated in areas that are free of significant native vegetation and provide a setback of 41 metres from the significant Riverine Grassy Woodland to the south-western boundary of the site along the Goulburn River.
- This significant woodland is zoned UFZ and is subject to the Bushfire Management Overlay. This portion of the land cannot be developed for residential purposes as part of the proposed planning permit, and due to these planning controls, any further development, if it is ever proposed, is unlikely to be supported by Council, the Goulburn Broken Catchment Management Authority or CFA.
- Clause 52.17 of the Planning Scheme provides protections for existing native vegetation across Victoria requiring a planning permit to remove, lop or destroy any native vegetation on land that is greater than 0.4 hectares in size.
- In response to the Group's submission, Council proposes a post exhibition change to the section 173 condition on the draft planning permit requiring landowners to protect and retain native vegetation on site in accordance with the Planning Scheme.

In response, Goulburn Valley Environmental Group Incorporated advised Council its concerns about the Amendment had been addressed '*to the extent currently possible*' and no further changes to the Amendment were required.<sup>6</sup>

### (iii) Discussion

The Panel acknowledges Council's explanation of the Amendment and proposed condition to address native vegetation protection is acceptable to the Goulburn Valley Environmental Group Incorporated. On this basis, the Panel has not undertaken detailed enquiries into the matters raised by this submitter.

As discussed in Chapter 3.1, the additions to the section 173 condition are an appropriate method to alert future landowners of protections afforded to native vegetation through the Planning Scheme.

### (iv) Conclusion

The Panel concludes:

- Planning Permit 2021-208 should include permit conditions requiring the management of native vegetation, as agreed with the Goulburn Valley Environmental Group Incorporated. The conditions recommended for inclusion in Chapter 3.1 address this issue.

## 3.5 Submission 6

### (i) The issue

The issue is whether the proposed development will negatively impact an established equestrian centre through reducing access to stock and domestic water, increasing risk of inundation, noise, traffic and air pollution.

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<sup>6</sup> Document 2



**(ii) Submissions**

Council provided a copy of a letter it sent to Submitter 6 dated 16 August 2022.<sup>7</sup> This advises the proposed six lot subdivision is anticipated to have a negligible impact on traffic, noise and pollution due to the rural living nature of the proposed development, which is similar to existing rural living lots in the immediate area.

In reply, Submitter 6 confirmed their concerns had been addressed.<sup>8</sup>

**(iii) Discussion**

The Panel acknowledges Council's explanation of the Amendment is acceptable to Submitter 6. On this basis, the Panel has not undertaken detailed enquiries into the matters raised by the submitter.

Broadly, the Panel agrees with Council's assessment that the proposed low scale, rural residential development of the land will have negligible impact on traffic, noise and pollution.

**(iv) Conclusion**

The Panel concludes:

- Rural living development of the land will have a negligible impact on environment amenity and no further changes to the Amendment or Planning Permit are required.

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<sup>7</sup> Document 3

<sup>8</sup> Document 4

## 4 The planning permit

### (i) Relevant considerations

Clause 71.02-3 of the Planning Scheme requires a responsible authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 of the Planning Scheme states:

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.

Clause 65.01 requires the Responsible Authority to consider, as appropriate:

- the Planning Policy Framework
- the purpose of the zone, overlay or other provision
- the orderly planning of the area
- the effect on the amenity of the area
- factors likely to cause or contribute to land degradation, salinity or reduce water quality
- the extent and character of native vegetation, the likelihood of its destruction, and whether it 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 RLZ1 require the Responsible Authority to consider (amongst other things):

- The capability of the land to accommodate the proposed use or development.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agricultural and other land uses.
- The need to protect and enhance the biodiversity of the area, including the need to retain 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 onsite effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

Other matters to be taken into account include:

- objections
- comments and decisions of referral authorities
- other matters a Responsible Authority must and may take into account under section 60 of the PE Act, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- adopted government policy.

**(ii) Discussion**

Council provided a helpful summary of the permit triggers, application requirements and referral requirements for the subdivision under the Planning Scheme. It also provided a summary of referral authority comments and responses, and a chronology of the permit application. The Panel has been assisted by these in its deliberations.

The Panel finds it is appropriate to grant a permit for the subdivision because:

- Rural living development of the land is consistent with the Municipal Planning Strategy, Planning Policy Framework and the applicable zone.
- A Bushfire Management Statement has demonstrated the risk to human life, property and community infrastructure from bushfire will be reduced to an acceptable level.
- The only remnant native vegetation on the site is within the undevelopable UFZ land to the southwest of the site. No vegetation is proposed to be removed by the application. Proposed additions to the section 173 condition as discussed in Chapters 3.1 and 3.4 will ensure the policy objectives of Clause 12.01-2S (Native vegetation) are satisfied.
- An Environmental Site Assessment/Contamination report has concluded the site is not considered 'potentially contaminated land'.
- A Cultural Heritage Management Plan has been prepared and approved.

The Panel is satisfied that conditions proposed by Council and recommended by relevant authorities (as discussed in Chapter 3) are fit for purpose and meet drafting requirements.

On balance, the Panel considers a permit should be granted with conditions. The proposal is consistent with the requirements of the Planning Scheme and will result in sustainable development delivering a net community benefit.

**(iii) Conclusions and recommendation**

The Panel concludes:

- It is appropriate to grant a planning permit for the proposed subdivision.
- Conditions included on the exhibited draft planning permit, with additions proposed by Council to respond to submissions, are appropriate.

The Panel recommends:

**Grant Planning Permit 2021-208 allowing the subdivision of land at 480 Raftery Road, Kialla into six lots subject to the permit conditions contained in Appendix E.**

## Appendix A Submitters to the Amendment

No.	Submitter
1	Goulburn Valley Water
2	Goulburn Valley Environmental Group Inc
3	Rex and Dianne Piastri
4	Denis and Gaby Verwilghen van Galen
5	Therese and Stuart Nicholson and Lady Price
6	Amanda Hocking
7	Rodney and Jane Wild
8	Joy Thompson
9	Goulburn Broken Catchment Management Authority
10	Goulburn-Murray Water
11	Country Fire Authority
12	Department of Environment, Land, Water and Planning (Environment portfolio)

## Appendix B Background and chronology

Date	Event
December 2008	Submission received from Coomes Consulting Pty Ltd to the <i>Draft Greater Shepparton Housing Strategy, 2009</i> requesting the strategy identify 480 Raftery Road, Kialla for rural residential development.
August 2009	Council resolved to adopt the <i>Greater Shepparton Housing Strategy, 2009</i> . This identified land in Kialla West as an investigation area, including 480 Raftery Road, Kialla.
March 2010	Request for Authorisation of Amendment C93, which sought to implement the <i>Greater Shepparton Housing Strategy, 2009</i> into the Planning Scheme.
16 September - 15 November 2010	Amendment C93 was exhibited and received 54 submissions.
March 2011	The Amendment C93 Panel recommended that Investigation Area 2 and the settlement boundary be extended to include all land to the north that is currently zoned Rural Living Zone. Council agreed with this recommendation.
June 2011	Council resolved to adopt an updated <i>Greater Shepparton Housing Strategy, 2011</i> as part of the adoption of Amendment C93.
June 2012	Amendment C93 was approved by the Minister for Planning, implementing the <i>Greater Shepparton Housing Strategy, 2011</i> into the Planning Scheme.
September and December 2016	Council received a request from Chris Smith & Associates Pty Ltd to consider an application for a planning scheme amendment for land at 480 Raftery Road, Kialla to allow the land to be subdivided into two (2) hectare allotments. Council officers indicated that they could not proceed with ad hoc proposals in any residential Investigation Area until the investigation has been completed but would consider a stand-alone planning scheme amendment once the investigation was complete.
July 2019	Council began the investigation for Investigation Area 2 by commissioning a model of flood behaviour.
September 2019	Council released the <i>Draft Shepparton and Mooroopna 2050: Regional City Growth Plan</i> for public consultation. The Growth Plan designated land within Investigation Area 2 to the east side of Raftery Road as the Kialla West Growth Corridor and noted that the area is appropriate for medium-term residential development.
April 2020	The model of flood behaviour for Investigation Area 2 was finalised and it determined the developable area of Investigation Area using the hydraulic model calibration data within the <i>Shepparton and Mooroopna Flood Mapping and Flood Intelligence Project 2019</i> . Council committed 2020/2021 budget to commission all background reports needed to complete the investigation of the Investigation Area to inform the future Kialla West Growth Corridor.
30 March 2021	Council resolved to adopt the <i>Shepparton and Mooroopna 2050: Regional City Growth Plan</i> . The Growth Plan continues to identify land within Investigation Area 2 to the east side of Raftery Road as the Kialla West Growth Corridor but provides additional commentary that land west of Raftery Road may realise some

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	rural residential development in the short – medium term without the preparation of a precinct structure plan.
28 May 2021	Council received a request from Chris Smith & Associates Pty Ltd for a combined planning scheme amendment and planning permit application 2021-208 to facilitate a rural living development on land at 480 Raftery Road, Kialla. This request sought to amend Schedule 1 to the Rural Living Zone to allow a minimum subdivision area of 2 hectares on the site, in order to facilitate a six (6) lot subdivision of the land.
July 2021	Council provided additional strategic planning funding in the 2021-2022 financial year budget to begin preparing additional background reports for the Kialla West Growth Corridor.
24 May 2022	Authorisation for Amendments C233gshe and C239gshe received from the Department of Environment, Land, Water and Planning.
16 June – 18 July 2022	Exhibition of Amendments C233gshe and C239gshe, which received a total of 31 submissions.
29 July 2022	Council officers, under delegation, requested an independent Planning Panel for the Amendments to consider all submissions to the Amendments.

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## Appendix C Planning context

### C1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

#### Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the PE Act by facilitating orderly, coordinated development in an area designated for rural living development, and balancing the interests of the community through the provision of rural living residential land to meet the needs of a growing municipality.

#### Clause 11 (Settlement)

The objective of Clause 11.02-1S (Supply of urban land) is to “ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses”. The Amendment supports Clause 11 by facilitating an increase in rural residential lots in an area close to Shepparton.

#### Clause 12 (Biodiversity)

The objective of Clause 12.01-1S (Protection of biodiversity) is to “protect and enhance Victoria’s biodiversity”. The Amendment (and accompanying permit) will protect significant patches of Riverine Grassy Woodland through the use of building envelopes and other conditions requiring the protection of native vegetation.

#### Clause 13 (Environmental risks and amenity)

The objective of Clause 13.02-1S (Bushfire planning) is to “strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life”. The Amendment is supported by the Bushfire Management Assessment and Bushfire Management Strategy which establish requirements to protect life and property from the impacts of bushfire.

The objective of Clause 13.03-1S (Floodplain management) is 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.

The objective of Clause 13.04-1S (Contaminated and potentially contaminated land) is to “ensure that contaminated and potentially contaminated land is used and developed safely”. The Amendment is supported by an environmental site assessment that has concluded the risk of land contamination is low and the site is suitable for rural residential development.

#### Clause 14 (Water)

The objective of Clause 14.02-2S (Water quality) is to “protect water quality”.

**Clause 15 (Built environment)**

The objective of Clause 15.03-2S is to “ensure the protection and conservation of places of Aboriginal cultural heritage significance”. The objective of Clause 15.01-3S (Subdivision design), is “ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods”.

**Clause 16 (Residential development)**

The objective of Clause 16.01-3S (Rural Residential Development) is to “identify land for rural residential development”. The *City of Greater Shepparton Residential Land Supply and Demand Assessment, 2022* states there is a low supply of rural residential lots in the municipality. The Amendment provides for the development of land that has been identified within Shepparton’s settlement boundary in Investigation Area 2 and will facilitate additional housing opportunities at a density that is not readily available near the Shepparton urban area.

**C2 Municipal Planning Strategy**

Clause 02.03-1 (Settlement) sets out the forecast growth for Greater Shepparton between 2006 and 2016 (12,307 persons) based on *Victoria in Future, 2016* projections. Shepparton, Mooroopna and Kialla are expected to accommodate the majority of this growth.

Four ‘investigation areas’ are identified as land with potential to be rezoned to a higher density residential use due to their proximity to services or growth areas. Further assessment of these areas is required to determine their capacity to overcome environmental, flooding and infrastructure servicing constraints.

Council proposes to meet a residential growth target of 9,100 dwellings across the municipality through infill (10 per cent) and greenfield development (90 per cent), where greenfield development will comprise:

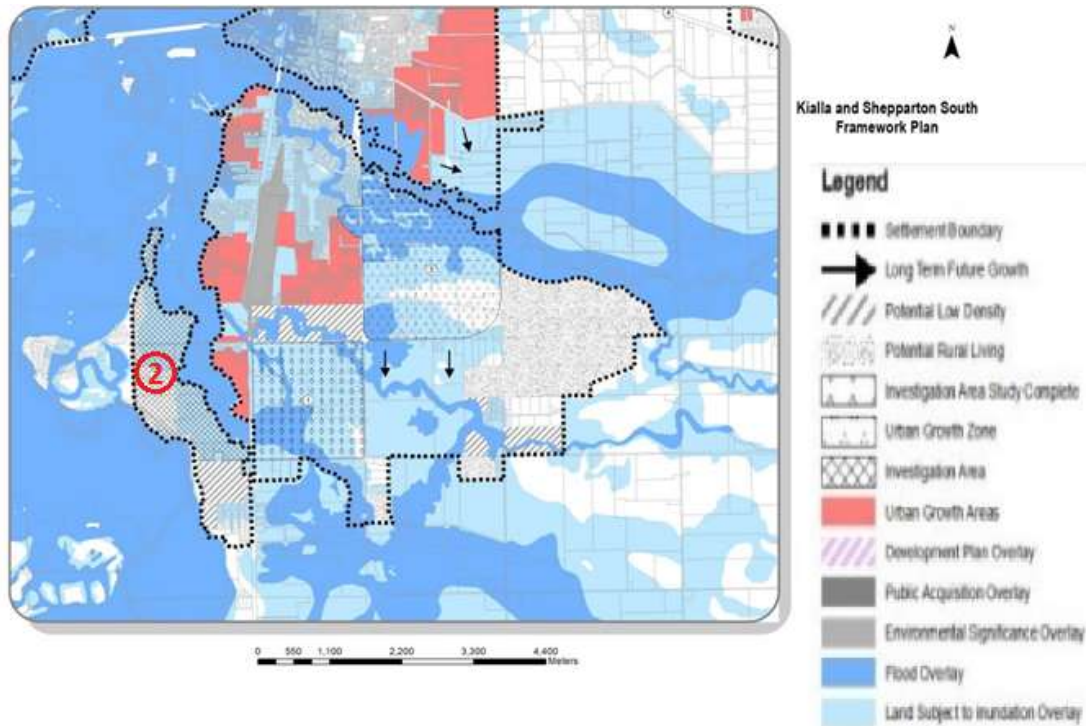
- 60 per cent conventional living (450-800 square metre lots)
- 20 per cent medium density housing (450 square metre lots)
- 15 per cent low density living (2,000-8,000 square metre lots)
- 5 per cent rural living (2-8 hectare lots).

Council submitted the Amendment (and associated permit) supports this Clause by allowing for rural residential subdivision close to the Shepparton urban area and providing additional housing choice on a site that has not been identified as prime agricultural land.

Clause 02.04 (Strategic framework plans) includes the framework plan for the Kialla and Shepparton South area (Figure 5). The Amendment land is identified as ‘Investigation Area 2’ on this Framework Plan.

The Amendment site is separated from most of Investigation Area 2 by Raftery Road and the Goulburn-Murray Water irrigation channel (running parallel to Raftery Road). Council submitted development of the land for rural living purposes will not compromise the development potential of the broader investigation area.

Figure 5 Kialla and Shepparton South Framework Plan



### C3 Other relevant planning strategies and policies

#### (iv) Hume Regional Growth Plan

The Hume Regional Growth Plan provides broad direction for land use and development across the Hume region, as well as more detailed planning frameworks for the key regional centres of Shepparton, Wangaratta, Wodonga and Benalla. Shepparton is a major regional city and major growth location in this plan.

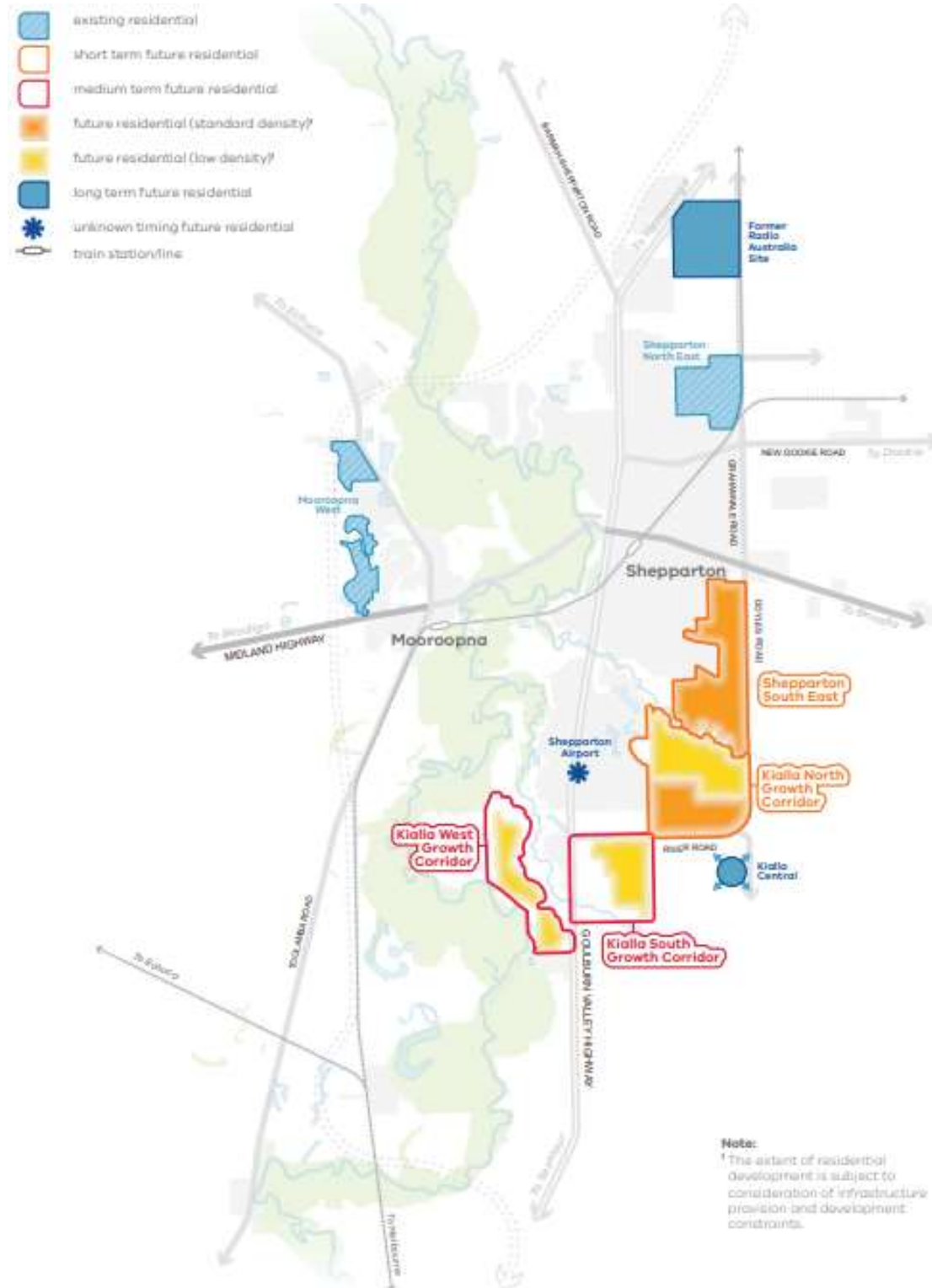
#### (v) Shepparton Mooroopna Growth Plan

The *Shepparton and Mooroopna 2050: Regional City Growth Plan* (the Growth Plan) was prepared by the Victorian Planning Authority in collaboration with Council. The Growth Plan is a high-level and broad strategy that:

- sets out the future vision for Shepparton and Mooroopna
- guides sustainable future growth and development over 30 years
- identifies the steps needed to manage growth
- defines projects and infrastructure required to support growth.

The Growth Plan formally changes the designation of Investigation Area 2 to the Kialla West Growth Corridor (Figure 6). The Growth Corridor is nominated as a low-density residential area. Standard density residential development will be considered if flooding, access, bushfire and servicing constraints can be resolved. It notes the preparation of the model of flood behaviour to show the extent of developable land.

Figure 6 Shepparton and Mooroopna Residential Growth Corridors



Action 3.1.4 of the Growth Plan notes land west of Raftery Road within the RLZ and Farming Zone may realise some rural residential potential in the short to medium term. Rural residential development of this land will not require the preparation of a precinct structure plan or development contributions plan.

The Growth Plan was adopted by Council in March 2021. An amendment to implement the Growth Plan into the Planning Scheme will be pursued in 2023.

## C4 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

### (vi) Zones

The land is in the RLZ. The purposes of the Zone are:

- To provide for residential use in a rural environment.
- To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.
- To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

### (vii) Overlays

The land is subject to the Bushfire Management Overlay. The purposes of the Overlay are:

- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

The land is subject to the Land Subject to Inundation Overlay. The purposes of the Overlay are:

- 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 a declaration under Division 4 of Part 10 of the Water Act, 1989.
- 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.

The land is subject to the Specific Controls Overlay Schedule 3 (Goulburn-Murray Water: Connections Project and Water Efficiency Project) (SCO3). The purposes of the Overlay are:

- To apply specific controls designed to achieve a particular land use and development outcome in extraordinary circumstances.

SCO3 applies to most of the Kialla West Growth Corridor and is close to the Goulburn-Murray Water Number 2 irrigation channel. Goulburn-Murray Water requires a building setback of 30 metres from any open channels or drains. Council submitted the Amendment will not have any impact on SCO3 or on the Goulburn-Murray Water Number 2 irrigation channel.

### (viii) Other provisions

Relevant particular provisions include:



- Clause 52.17 Native vegetation
- Clause 53.02 Bushfire planning
- Clause 65 Decision guidelines.

## C5 Ministerial Directions and Practice Notes

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

### Planning Practice Note 37 Rural Residential Development

*Planning Practice Note 37 Rural Residential Development*, June 2015 (PPN37) establishes that reasonable opportunities should be found for rural residential development as part of providing for housing diversity and choice. It also notes rural residential development “*can have environmental, social and economic costs that are significantly higher than those of standard residential development*”. For these reasons, it identifies four strategic considerations for rural residential development to be taken into account when considering a proposed amendment.

These are:

- Strategy – how does proposal fit into the overall strategic directions and planning of the municipality?
- Housing need – what is the projected population for the next 10 years, how many new households will be required and how many of these additional dwellings will be in the form of rural residential?
- Location – how does proposed rural residential land integrate with existing and proposed residential development and how is the location responsive to landscaping, environmental and heritage values, and servicing and infrastructure requirements?
- Subdivision and design – how are subdivision and the location of buildings responsive to the features and constraints of the land?

Council submitted the Amendment provides for rural living development of the land, consistent with its existing zoning and the demand for rural living development established through the *Greater Shepparton Housing Strategy, 2011* and the Growth Plan.

## Appendix D Document list

No.	Date	Description	Provided by
1	26/8/22	Council letter of response to Submitter 2	Council
2	26/8/22	Submitter 2 reply to Council	Council
3	26/8/22	Council letter of response to Submitter 6	Council
4	26/8/22	Submitter 6 reply to Council	Council
5	26/8/22	Council letter of response to Submitter 10	Council
6	26/8/22	Submitter 10 reply to Council	Council
7	26/8/22	Council letter of response to Submitter 11	Council
8	26/8/22	Submitter 11 reply to Council	Council
9	26/8/22	Council letter of response to Submitter 12	Council
10	31/8/22	Panel Directions and Timetable	Planning Panels Victoria (PPV)
11	9/9/22	Distribution List Version 2	PPV
12	16/9/22	Greater Shepparton Housing Strategy, updated May 2011	PPV
13	16/9/22	Amendment C233gshe Delegates Report, Consideration of Submissions, August 2022	Council
14	16/9/22	Greater Shepparton City Council Minutes of Meeting 30 March 2021	Council
15	16/9/22	Delegate Report Planning Permit Application 2021-208	Council
16	16/9/22	Greater Shepparton C195 Panel Report	Council
17	16/9/22	Greater Shepparton C93 Panel Report	Council
18	16/9/22	Greater Shepparton City Council Minutes of Meeting 17 May 2011	Council
19	16/9/22	Draft Planning Permit 2021-208 Amended	Council
20	16/9/22	Shepparton and Mooroopna 2050 Regional Growth Plan, March 2021	Council
21	16/9/22	Council Submission to Panel	Council
22	26/9/22	Submitter 12 email reply to Council	Council
23	26/9/22	Ian and Kerry Tunea submission to Panel	Ian and Kerry Tunea
24	26/9/22	Council and DELWP email exchange with attachments: <ul style="list-style-type: none"> <li>- Letter of response to DELWP additional post exhibition changes</li> <li>- Planning Permit 2021-208 with additional post exhibition changes</li> <li>- Fencing plan</li> </ul>	Council

No.	Date	Description	Provided by
25	28/9/22	Council confirmation no further submissions	Council
26	5/10/22	Panel correspondence to parties confirming Public Hearing not required	PPV

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## Appendix E Panel recommended version of Planning Permit 2021/208

[Tracked Added](#)

~~Tracked Deleted~~

*Panel note: tracked changes show recommended changes to the exhibited draft permit. Revisions to exhibited permit condition numbering are not shown.*

**Planning Permit No: 2021-208**

**Planning Scheme: Greater Shepparton**

**Responsible Authority: Greater Shepparton City Council**

**Address of the Land: 480 Raftery Road, Kialla**

**The permit allows: 6 lot subdivision in the Urban Living Zone, Urban Floodway Zone, Land Subject to Inundation Overlay and Bushfire Management Overlay**

The following conditions apply to this permit:

1. Layout not altered

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

2. Septic requirements

- a) Prior to the Statement of Compliance being issued, the existing septic tank system situated on Lot 1 must be upgraded in order to comply with the requirements of the Environment Protection Act 2017, Environment Protection Regulations 2017 and the requirements of the Code of Practice – Onsite Wastewater Management 89.4 July 2016.

The owner for Lot 1 shall lodge with Council an Application to Alter a Septic Tank System in accordance with the Code of Practice – Onsite Wastewater Management, Publication 891.4, July 2016.

The application to Alter a Septic Tank System shall include:

- The application form provided by the Council completed, signed and dated by the owner.
  - A floor plan of the dwelling.
  - A site plan indicating the location of the new effluent disposal area / reserve area.
  - The design of the effluent disposal system including instructions for installation and working drawings, in accordance with the relevant Land Capability Assessment.
  - The application fee.
- b) Prior to the commencement of works for the proposed dwelling on Lots 2-6 the owner shall lodge with the Council an application to Install a Septic Tank System in accordance with the Code of Practice – Onsite Wastewater Management, Publication 891.4, July 2016.

The application to Install a Septic Tank System shall include:

- The application form provided by the Council completed, signed and dated by the owner.
- A floor plan of the proposed dwelling.
- A site plan indicating the location of the effluent disposal area / reserve area.
- The design of the effluent disposal system including instructions for installation and working drawings, in accordance with the relevant Land Capability Assessment.
- The current application fee.

### 3. Section 173 agreement

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

#### *Environmental Health Effluent Disposal*

All wastewater from any single dwelling must be:

- Treated to a minimum of 20mg/L Biological Oxygen Demand and 30mg/L Suspended Solids using an approved aerated wastewater treatment plant or equivalent, and disposed of via sub-surface irrigation in accordance with the Land Capability Assessment E3024.1AB dated 24 June 2021, prepared by Ground Science; or Be subject to a site specific system design, based on a Land Capability Assessment for that allotment, prepared by a suitably qualified soil science professional.
- The minimum 1,000m<sup>2</sup> effluent disposal envelope for lots 2-6 are to be located generally in accordance with Drawing 21056/01 Rev 4 – Plan of Proposed Subdivision. Any variation is to be approved in writing by the responsible authority.
- Connect to Goulburn Valley Water’s reticulated sewer system if or when sewer becomes available.

#### *Goulburn-Murray Water*

All wastewater generated from any future development on the new lots 2 to 6 created by subdivision must be:

- Treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Approval.
- Applied to the land of via pressure compensated sub-surface irrigation installed along the contour. The wastewater disposal area associated with any future development of the new lots 2 to 6 must be:
  - kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.
  - must be appropriately sized to manage the potential volume of wastewater generated under full occupancy (based on a minimum

number of bedrooms), based on a full water balance specific to the proposal and subject land in accordance with the EPA Code of Practice – Onsite Wastewater Management.

- located at least 50m from the Goulburn River, 30m from Goulburn Murray Water channel no. 2 (measure from the inside top edge of the channel bank), 0m from any waterways (including surrounding depression land) and 30m from any dams.

No buildings are to be constructed within 50m of the Goulburn River, 30m of Goulburn-Murray Water channel no. 2 (measure from the inside top edge of the channel bank) or 30m from any waterways (including surrounding depression land).

#### *Bushfire Management Overlay*

- This agreement has been prepared for the purpose of an exemption from a planning permit under 44.06-2 of the Greater Shepparton Planning Scheme
- The Bushfire Management Plan (prepared by Yarra Valley BAL Assessments (Version B, 12 March 2022) must not be altered unless otherwise agreed in writing by the Country Fire Authority and the responsible authority.
- The endorsed Bushfire Management Plan is included as an annexure to the Section 173 agreement to give effect to Clause 44.06-5 of the Greater Shepparton Planning Scheme.
- A dwelling constructed on the land without a planning permit must implement the bushfire mitigation measures set out in the plan incorporated into the agreement and be maintained to the satisfaction of the responsible authority on a continuing basis.

#### *Protection of Native Vegetation*

Property owners are required to retain and protect significant native vegetation in accordance with the provisions of the Greater Shepparton Planning Scheme and the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning 2017).

#### *Fencing*

No fences may be constructed on the side boundaries between any of the Lots within the designated "Woodland" area as shown on the endorsed Fencing Plan being Drawing No. 21056/04 prepared by Chris Smith and Associates, unless otherwise agreed in writing by the Responsible Authority, which will only give permission to construct a fence on those boundaries if the owner/s pay the appropriate offset amount for any vegetation loss associated with the construction of that fence.

The said agreement is to be prepared by Council. Council will undertake to have the agreement prepared upon written notification from the applicant. All costs associated with the preparation and registration of the agreement shall be borne by the applicant including Council's administration fee. All fees associated with the documentation must be fully paid prior to execution and registration of the document by Council.

#### 4. Payment in Lieu of Open Space

Before the statement of compliance is issued under the Subdivision Act 1988, the owner must pay to the responsible authority a sum equivalent to 3 per cent of the site value of all land in the subdivision.

The owner must advise Council, in writing, to undertake the property valuation and must pay the Council's reasonable costs and expenses to provide such a valuation for payment in lieu of the public open space contribution.

#### 5. Rural Drainage Plan

Before the plan of subdivision is certified under the Subdivision Act 1988, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit. The plans must be drawn by a suitably qualified person or organisation to scale with dimensions. The plans must include:

- a) direction of stormwater run off, demonstrated by contours or levels
- b) independent drainage for each lot to the legal point of discharge
- c) demonstrate how the discharge rate from the new properties has no detrimental effect on the adjacent properties
- d) property connections discharging to the table drain must do so to the side of the endwall (driveway) and not directly to the table drain
- e) documentation demonstrating approval from the relevant authority for the point of discharge.

Before the issue of a statement of compliance, the works shown on the endorsed drainage plan must be completed to the satisfaction of the responsible authority.

#### 6. Vehicle Crossings

Before the development of the crossovers starts a crossover design must be submitted to the responsible authority to show:

- a) a design generally in accordance with the IDM standard drawing SD 255;
- b) sealed crossover no less than 5 metres in length from the existing edge of road to the new lot;
- c) a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm);
- d) culverts located in the clear zone shall be installed with trafficable end walls (refer IDM standard drawing SD 255).

Before the issue of a Statement of Compliance the vehicle crossings providing access to the land must be constructed at a location and of dimensions and standard to the satisfaction of the responsible authority. Vehicle crossings must be constructed at the owner's expense.

The final location of the crossing is to be approved by the responsible authority via a 'Works within the Roads Reserve' (Road Opening)' permit.

#### 7. Country Fire Authority requirements

##### *Bushfire Management Plan*

The Bushfire Management Plan prepared by Yarra Valley BAL Assessments (Version B, 12 March 2022) must be endorsed to form part of the permit and be included as an annexure to the section 173 agreement prepared to give effect to Clause 44.06-5 of the Shepparton Planning Scheme. The plan must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.

### *Defendable space*

Show an area of defendable space:

- 19 metres from the grassland vegetation to the north east
- 41 metres from the woodland vegetation to the south east, south west and north west.

Where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:

- Grass must be short cropped and maintained during the declared Fire Danger Period
- All leaves and vegetation debris must be removed at regular intervals during the declared Fire Danger Period
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building
- Plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building
- Shrubs must not be located under canopy trees
- Individual and clumps of shrubs must not exceed 5 square metres in area and must be separated by at least 5 metres
- Trees must not overhang or touch any elements of the building
- The canopy of trees must be separated by at least 5 metres
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

### *Construction standard*

The dwellings must be located within the designated building envelopes and designed and constructed to a minimum Bushfire Attack Level of BAL 29.

### *Water supply*

A water supply with an effective capacity of 10,000 litres must be established on the site for firefighting purposes which meets the following requirements:

- Be stored in an above ground tank constructed of concrete or metal
- Have all fixed above ground water pipes and fittings required for firefighting purposes made of corrosive resistant metal
- Include a separate outlet for occupant use
- Be readily identifiable from the building or appropriate identification signage to the satisfaction of the relevant fire authority
- Be located within 60 metres of the outer edge of the approved building
- The outlet/s of the water tank must be within 4 metres of the accessway and unobstructed. Incorporate a separate ball or gate valve (65 millimetre BSP (British Standard Pipe)) and coupling (64mm CFA 3 threads per inch male fitting)
- Any pipework and fittings must be a minimum of 65 millimetres (excluding CFA coupling).

### *Access*

Access to the dwelling and CFA water supply outlet must meet the following requirements:

- All-weather construction
- A load limit of at least 15 tonnes
- Provide a minimum trafficable width of 3.5 metres

- Be clear of encroachments for at least 0.5 metres on each side and at least 4 metres vertically
- Curves must have a minimum inner radius of 10 metres
- The average grade must be no more than 1 in 7 (14.4 percent) (8.1°) with a maximum of no more than 1 in 5 (20 percent) (11.3°) for no more than 50 metres
- Dips must have no more than a 1 in 8 (12.5 percent) (7.1°) entry and exit angle.

Where length of access is greater than 100m, a turning area for fire fighting vehicles must be provided close to the building by one of the following:

- A turning circle with a minimum radius of eight metres
- A driveway encircling the dwelling.

The provision of other vehicle turning heads – such as a T or Y head – which meets the specification of Austroad Design for an 8.8 metre Service Vehicle.

#### *Maintenance of Defendable Space*

Before the Statement of Compliance is issued under the *Subdivision Act* 1988, the defendable space on every lot in the subdivision must be implemented and maintained as specified on the endorsed Bushfire Management Plan, unless otherwise agreed in writing by the CFA and the Responsible Authority.

#### 8. Goulburn-Murray Water Requirements

- a) All works within the subdivision must be done in accordance with EPA Publication 960 Doing It Right on Subdivisions, Temporary Environmental Protection Measures for Subdivision Construction Sites, September 2004.
- b) Any Plan of Subdivision lodged for certification must be referred to Goulburn Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
- c) Prior to Statement of Compliance being issued, the owner shall enter into an Agreement with the Responsible Authority and Goulburn-Murray Water under Section 173 of the Planning and Environment Act 1987 ensuring that:

All wastewater generated from any future development on the new lots 2 to 6 created by subdivision must be:

- treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Approval.
- applied to the land of via pressure compensated sub-surface irrigation installed along the contour.

The wastewater disposal area associated with any future development of the new lots 2 to 6 must be:

- kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.
- must be appropriately sized to manage the potential volume of wastewater generated under full occupancy (based on a minimum number of bedrooms), based on a full water balance specific to the proposal and subject land in accordance with the EPA Code of Practice – Onsite Wastewater Management.



- located at least 50m from the Goulburn River, 30m from Goulburn-Murray Water channel no. 2 (measure from the inside top edge of the channel bank), 30m from any waterways (including surrounding depression land) and 30m from any dams. No buildings are to be constructed within 50 metres of the Goulburn River, 30 metres of Goulburn-Murray Water Channel Number 2 (measure from the inside top edge of the channel bank) or 30 metres from any waterways (including surrounding depression land).  
The owner shall meet the cost of the registration of the agreement on the title.  
This agreement must be registered on title.
- d) Prior to the certification being issued evidence must be provided to Goulburn-Murray Water that the existing onsite wastewater management system on proposed Lot 1 meets the requirements of the current EPA Code of Practice – Onsite Wastewater Management. The evidence will need to demonstrate that:
  - The existing wastewater management system is performing in a satisfactory manner. The wastewater disposal area is adequately sized and located in accordance with the current EPA Code of Practice – Onsite Wastewater Management.
  - If the system is found not to comply with the current EPA Code of Practice – Onsite Wastewater Management. The system will need to be upgraded accordingly and evidence provided to Goulburn-Murray Water outlining how this has occurred.
- e) For subdivision of property holding delivery shares the applicant must either:
  - make application to Goulburn-Murray Water pursuant to sections 224 and 229 of the Water Act 1989 to: terminate or transfer the delivery shares in relation to the property; make a declaration that the property cease to be a serviced property (to effect excision from the district); or alternatively
  - demonstrate to Goulburn-Murray Water reasonable satisfaction the means by which a Goulburn-Murray Water supply will be metered and delivered to the lots created by the subdivision, bearing in mind requirements for water use licences and annual use limits.

#### 9. Powercor Requirements

- a) This letter shall be supplied to the applicant in its entirety.
- b) The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.
- c) The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.  
Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.
- d) The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).  
Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.
- e) The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.



## Notes:

- Existing easements may need to be amended to meet the Distributor's requirements
- Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited / In Favour Of
	Power Line		Section 88 - Electricity Industry Act 2000	Powercor Australia Ltd

10. Parks Victoria Requirements

Before the issue of a statement of compliance, the shared boundary with Shepparton Regional Park must be fenced to the satisfaction of the responsible authority at the applicant's expense. The fencing must:

- be erected on the boundaries of the land;
- be stock and dog proof; and
- contain only one pedestrian gate per freehold parcel.

11. Form 13

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

12. Telecommunications Referral Condition

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

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

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

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

### 13. Time for Starting and Completing a Subdivision

This permit will expire if one of the following circumstances applies: a) the subdivision is not started (certification) within two (2) years of the date of this permit; b) the subdivision is not completed (statement of compliance) within five (5) years of the date of certification.

*Planning and Environment Act 1987*

## GREATER SHEPPARTON PLANNING SCHEME

### AMENDMENT C233GSHE PLANNING PERMIT APPLICATION 2021-208

#### EXPLANATORY REPORT

#### Who is the planning authority?

This Amendment has been prepared by Greater Shepparton City Council, which is the planning authority for this Amendment.

The combined Amendment and Planning Permit Application has been made at the request of Chris Smith & Associates Pty Ltd, on behalf of the landowners.

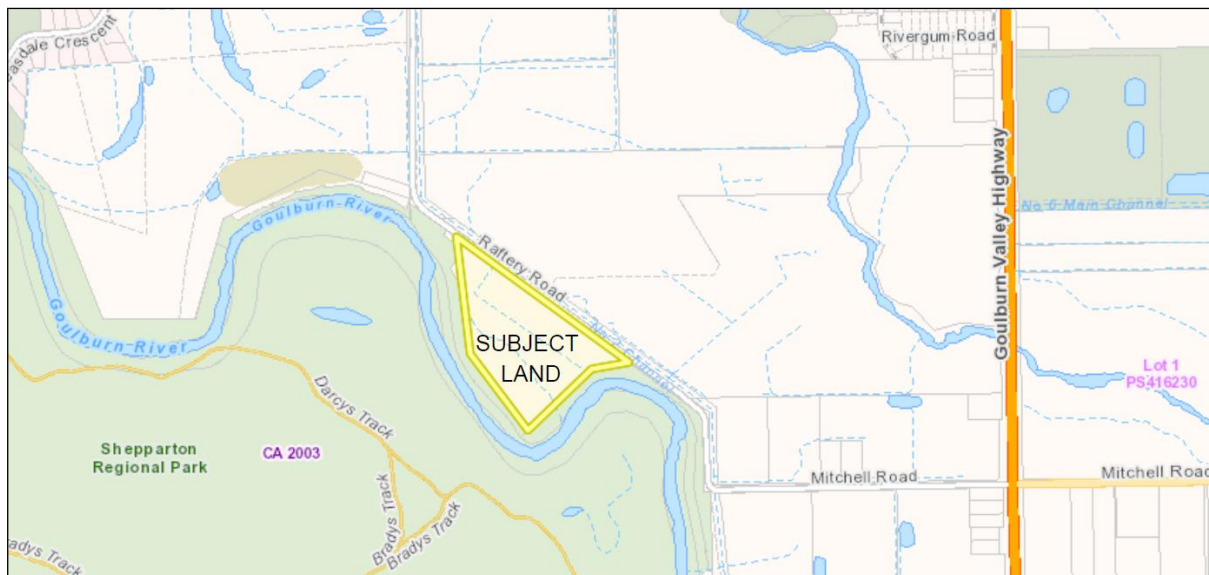
#### Land affected by the amendment

The Amendment applies to 480 Raftery Road, Kialla.

The land is located to the south of Raftery Road between the Seven Creeks and Goulburn River corridors, refer Figure One. The land comprises 12.68 hectares of land within the Rural Living Zone and Urban Floodway Zone. Part of the land is affected by the Bushfire Management Overlay, the Land Subject to Inundation Overlay and the Specific Controls Overlay (Schedule 3).

The land immediately abuts State forest to the south, which is entirely within the Urban Floodway Zone, and the Public Conservation and Resource Zone.

Figure One: Locality Map.

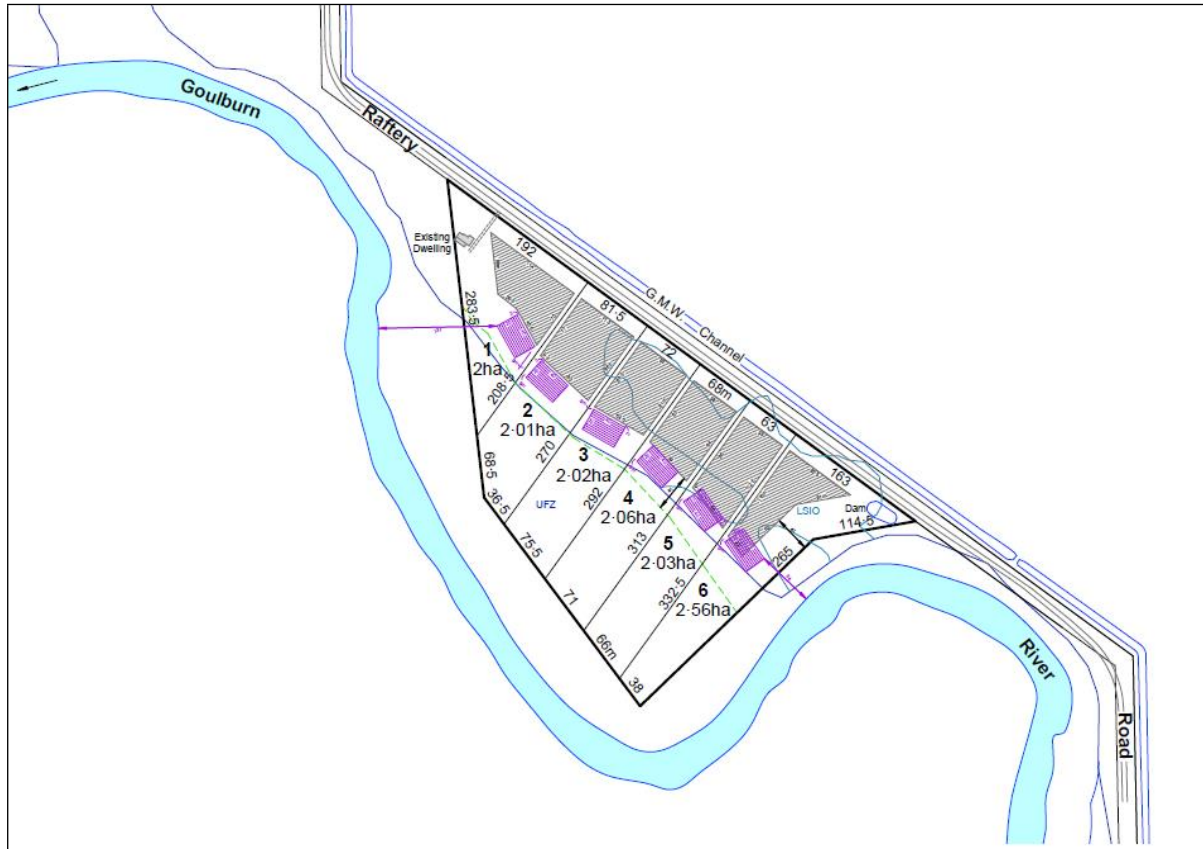


The Amendment is a combined planning permit application and planning scheme amendment under section 96A of the *Planning and Environment Act 1987*. The planning permit application applies to the same land as the Amendment.

## What the amendment does

The Amendment seeks to amend the Schedule to Clause 35.03 Rural Living Zone to facilitate the subdivision of the land into six lots.

Figure Two: Proposed subdivision of the land.



Specifically, the Amendment seeks to amend the Schedule to Clause 35.05 Rural Living Zone to include a minimum subdivision area of two hectares for 480 Raftery Road, Kialla.

The planning permit application is for:

- a six lot subdivision of land in the Rural Living Zone;
- subdivision in the Floodway Overlay;
- subdivision in the Land Subject to Inundation Overlay; and
- subdivision in the Bushfire Management Overlay.

The draft planning permit is attached as a separate document to this Explanatory Report.

## Strategic assessment of the amendment

### Why is the amendment required?

The Amendment is required to facilitate the expansion of rural residential development in Kialla in accordance with the findings and recommendations of the *Greater Shepparton Housing Strategy 2011*. The land is located within the settlement boundary of Investigation

Area 2, which has been identified in the Kialla and Shepparton South Framework Plan in Clause 02.04 of the planning scheme for possible future residential development.

Clause 02.03-1 of the planning scheme supports Council accommodating rural living developments in greenfield locations.

The rezoning has strategic support in the Housing Strategy, which states:

*rural and low density residential land will contribute to future housing diversity in Greater Shepparton and the Council is committed to providing for this form of housing in location that rural living is appropriate, that is locations that will not further impact on productive agricultural land.*

The land is physically separate from the Kialla West Growth Corridor due to Raftery Road itself and the Goulburn-Murray Water irrigation channel that runs parallel to Raftery Road. This allows the land to be developed independently without compromising the strategic residential growth corridor development potential of the remainder of Investigation Area 2.

As a consequence, the investigation for the land at 480 Raftery Road was considered separately from the Growth Corridor. Bushfire, cultural heritage, ecological, soil contamination, land capability and flood studies determined that the land is suitable for a six lot subdivision to facilitate a rural residential development.

The Amendment is required to implement the findings of this investigation.

### **How does the amendment implement the objectives of planning in Victoria?**

The Amendment seeks to implement objectives a, c, f and g of planning in Victoria, in accordance with Section 4(1) of the *Planning and Environment Act 1987*. The Amendment implements the objectives of planning by facilitating orderly, coordinated development in an area designated for rural living development and balances the interests of the community through the provision of rural living residential land to meet the needs of a growing municipality.

### **How does the amendment address any environmental, social and economic effects?**

#### *Environmental*

The Amendment will result in positive environmental effects as it will seek to protect native vegetation. A flora and fauna assessment was undertaken to understand the ecological considerations. The south-west section of the site contains significant remnant Riverine Grassy Woodland associated with the Goulburn River biodiversity corridor, which supports many species of flora and fauna, and providing habitat of native vegetation. The Riverine Grassy Woodland is within the Urban Floodway Zone and will not be developed for residential purposes. The site is otherwise largely devoid of native vegetation and has been subject to a history of intensive cropping.

As the site does not have reticulated services, a land capability assessment was undertaken to ensure that wastewater can be suitably managed. The assessment recommended the secondary treatment of wastewater and effluent disposal via sub-surface irrigation as the most suitable option for wastewater management on site, posing a low cumulative risk to human health and the environment.

The site is located within an area of Aboriginal Cultural Heritage Sensitivity along the Goulburn River corridor. A Cultural Heritage Management Plan has been prepared for the site which has been approved by the relevant Registered Aboriginal Party.

#### *Social*

The Amendment will result in positive social effects by providing for a wider variety of housing diversity in the Kialla and Shepparton area. In particular, it will provide rural residential housing lots that are well located to facilities and amenities. The provision of serviced lots for future housing provides a positive outcome in contributing to Kialla's population growth.

#### *Economic*

The Amendment will result in positive economic impacts by providing for new rural residential lots within Greater Shepparton. The *City of Greater Shepparton Residential Land Supply & Demand Assessment 2022* found that there has been a considerable increase in rural residential activity since 2019.

The development of the land for residential purposes creates employment opportunities during the planning and construction phases, as well as attracting new resident opportunities that will make a positive contribution to the local economy.

### **Does the amendment address relevant bushfire risk?**

The key overarching strategy at Clause 13.02-1S – *Bushfire* is to '*strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life*'. Strategic planning for settlement must assist with strengthening community resilience to bushfire and new development should only proceed if risk to life and property can be reduced.

The site is located within the Bushfire Management Overlay. A Bushfire Management Assessment and a Bushfire Management Plan was undertaken on the land, in accordance with the requirements of the Overlay to meet the requirements of Clause 13.02-1S.

The Bushfire Management Plan was developed with input from the Country Fire Authority to include strengthened bushfire mitigation measures to respond to the specific constraints of the site. This includes an increase in defensible space to achieve residential building standard for bushfire protection to BAL-12.5 requirements and imposing a construction standard requirement of BAL-29.

### **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The Amendment was prepared in accordance with the *Ministerial Direction No. 11 - Strategic Assessment of Amendments* to ensure a comprehensive strategic evaluation of the planning scheme Amendment and the outcomes it will produce.

#### *Ministerial Direction No. 1 – Potentially Contaminated Land*

An Environmental Site Assessment was carried out that investigated the potential for past or present activities to have impacted on the environmental condition of the site and to ensure that the protection of human health associated with the proposed use of the land. The site has historically been used for cropping and related uses and no existing areas or sources for potential contamination were observed on the land.

The site history does not include any land uses or activities that may present a high potential for land contamination. The land is not considered to be potentially contaminated land under this Ministerial Direction.

The site assessment concluded that it is unlikely that gross contamination exists at the site.

### **How does the amendment support or implement the Planning Policy Framework and any adopted State policy?**



The Amendment supports the Planning Policy Framework (PPF) by facilitating the orderly development of urban and rural areas. The following addresses the relevant State policies.

#### **Clause 11.01-1S Settlement**

The objective of this clause is to promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements. A policy of this clause is to consider the *Hume Regional Growth Plan 2014*

The Amendment is consistent with this objective as it provides rural residential lots that are not readily available within Greater Shepparton, increasing housing choice in areas close to existing settlements. It also supports residential growth in close proximity to Shepparton, which is identified as a major growth location.

#### **Clause 12.01-1S Protection of Biodiversity**

The objective of this clause is to assist the protection and conservation of Victoria's biodiversity.

The Amendment and Planning Permit supports this objective by protecting significant remnant patches of Riverine Grassy Woodland, which provide habitat for rare fauna species.

#### **Clause 13.02-1S Bushfire Planning**

The objective of this clause is to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life

A Bushfire Management Assessment and a Bushfire Management Plan was undertaken to ensure that bushfire risk mitigation measures are implemented, reducing the risk to residents and property from the impacts of bushfire.

#### **13.04-1S Contaminated and Potentially Contaminated Land**

The objective of this clause is to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely. An environmental site assessment was undertaken and concluded that the risk of land contamination on the site is low and that the site is suitable for rural residential development.

#### **Clause 16.01-3S – Rural Residential Development**

The objective of this clause is to identify land suitable for rural residential development.

*The City of Greater Shepparton Residential Land Supply & Demand Assessment 2022* has indicated that there is a low supply of rural residential lots in the municipality. The Amendment provides for the development of land that has been identified within Shepparton's settlement boundary in Investigation Area 2 and will facilitate additional housing opportunities at a density that is not readily available in close proximity to the Shepparton urban area.

### **How does the amendment support or implement the Municipal Planning Strategy?**

The Amendment supports the implementation of the Municipal Planning Strategy (MPS). Specifically, the Amendment conforms to the following policies.

02.03-1 Settlement seeks to:

- provide for the expansion of the Shepparton, Mooroopna and Kialla urban areas and the outlying townships without negatively impacting on productive agricultural land.
- meet a residential development growth target of 9,100 dwellings across the municipality apportioned as follows:



- 5 per cent as rural living (2 – 8 hectare lots).

02.03-2 Environmental and Landscape Values seeks to:

- protect and enhance biodiversity values through native vegetation.

The Amendment and Planning Permit support these policies by allowing for a rural residential subdivision in close proximity to the Shepparton urban area; providing additional housing choice on a site that has not been identified as prime agricultural land. The proposal seeks to protect Riverine Grassy Woodland through the use of appropriate building envelopes.

### **Does the amendment make proper use of the Victoria Planning Provisions?**

The Amendment provides for a rural residential land use outcome on the site. The site is already situated in the Rural Living Zone, which is the appropriate zone to allow for large size residential lots in a rural environment, and to allow for rural land uses to occur on site.

Amending the Schedule to the Rural Living Zone to reduce the minimum lot size for subdivision on the land to 2 hectares is the appropriate planning mechanism to provide for a six-lot subdivision of the land.

This Amendment makes proper use of the Victoria Planning Provisions.

### **How does the amendment address the views of any relevant agency?**

The planning permit addresses the views of the Goulburn Broken Catchment Management Authority, Goulburn Murray Water and Powercor, who have applied appropriate planning permit conditions. This relates to servicing, wastewater treatment, and building positioning requirements. The Amendment has addressed the views of the Country Fire Authority by implementing a Bushfire Management Plan.

The public exhibition phase of this Amendment will ensure that all referral authorities, groups or individuals affected by the Amendment are appropriately notified and submissions considered.

### **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The *Transport Integration Act 2010* creates a new framework for the provision of an integrated and sustainable transport system in Victoria. The vision statement recognises the aspirations of Victorians for an integrated and sustainable transport system that contributes to an inclusive, prosperous and environmentally responsible State.

The objectives of the *Transport Integration Act 2010* relate to social and economic inclusion, economic prosperity, environmental sustainability, integration of transport and land use, efficiency, coordination and reliability, and safety and health and wellbeing.

Given the rural residential outcomes intended by this development, the impact of any future development regarding traffic on the surrounding road network is negligible. The development will not have any impact on the transport system, as defined by Section 3 of the *Transport Integration Act 2010*.

The Minister has not prepared any statements of policy principles under Section 22 of the *Transport Integration Act 2010*; therefore, no such statements are applicable to this Amendment.

### **Resource and administrative costs**

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

As the rezoning will facilitate a fully serviced subdivision there will be no resource or administrative costs carried by the responsible authority.

### **Where you may inspect this amendment**

The Amendment is available for public inspection, free of charge, during office hours at the following places:

- during office hours at the Greater Shepparton City Council offices, 90 Welsford Street, Shepparton;
- at the Greater Shepparton City Council website at [www.greatershepparton.com.au](http://www.greatershepparton.com.au); and
- at the Department of Environment, Land, Water and Planning website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).

# DRAFT PLANNING PERMIT

GRANTED UNDER DIVISION 5 OF PART 4 OF  
THE PLANNING AND ENVIRONMENT ACT  
1987

Permit No.: 2021-208

Planning Scheme: Greater Shepparton

Responsible Authority: Greater Shepparton  
City Council

ADDRESS OF THE LAND:

480 Raftery Road KIALLA VIC 3631

THE PERMIT ALLOWS:

6 lot subdivision in the Rural Living Zone, Urban  
Floodway Zone, Land Subject to Inundation  
Overlay and Bushfire Management Overlay

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. **Layout Not Altered**

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

2. **Septic Requirements**

- a) Prior to the Statement of Compliance being issued, the existing septic tank system situated on Lot 1 must be upgraded in order to comply with the requirements of the Environment Protection Act 2017, Environment Protection Regulations 2017 and the requirements of the Code of Practice – Onsite Wastewater Management 89.4 July 2016.

The owner for Lot 1 shall lodge with Council an Application to Alter a Septic Tank System in accordance with the Code of Practice – Onsite Wastewater Management, Publication 891.4, July 2016.

The application to Alter a Septic Tank System shall include:

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Signature for the  
Responsible Authority

- The application form provided by the Council completed, signed and dated by the owner.
  - A floor plan of the dwelling.
  - A site plan indicating the location of the new effluent disposal area / reserve area.
  - The design of the effluent disposal system including instructions for installation and working drawings, in accordance with the relevant Land Capability Assessment.
  - The application fee.
- b) Prior to the commencement of works for the proposed dwelling on Lots 2-6 the owner shall lodge with the Council an application to Install a Septic Tank System in accordance with the Code of Practice – Onsite Wastewater Management, Publication 891.4, July 2016.

The application to Install a Septic Tank System shall include:

- The application form provided by the Council completed, signed and dated by the owner.
- A floor plan of the proposed dwelling.
- A site plan indicating the location of the effluent disposal area / reserve area.
- The design of the effluent disposal system including instructions for installation and working drawings, in accordance with the relevant Land Capability Assessment.
- The current application fee.

**3. Section 173 Agreement**

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

Environmental Health

Effluent Disposal

All wastewater from any single dwelling must be;

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- Treated to a minimum of 20mg/L Biological Oxygen Demand and 30mg/L Suspended Solids using an approved aerated wastewater treatment plant or equivalent, and disposed of via sub-surface irrigation in accordance with the Land Capability Assessment E3024.1AB dated 24 June 2021, prepared by Ground Science; or  
Be subject to a site specific system design, based on a Land Capability Assessment for that allotment, prepared by a suitably qualified soil science professional.
- The minimum 1000m<sup>2</sup> effluent disposal envelope for lots 2-6 are to be located generally in accordance with Drawing 21056/01 Rev 4 – Plan of Proposed Subdivision. Any variation is to be approved in writing by the responsible authority.
- Connect to Goulburn Valley Water's reticulated sewer system if or when sewer becomes available.

#### Goulburn Murray Water

All wastewater generated from any future development on the new lots 2 to 6 created by subdivision must be:

- treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Approval.
- Applied to the land of via pressure compensated sub-surface irrigation installed along the contour.

The wastewater disposal area associated with any future development of the new lots 2 to 6 must be:

- kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.
- must be appropriately sized to manage the potential volume of wastewater generated under full occupancy (based on a minimum number of bedrooms), based on a full water balance specific to the proposal and subject land in accordance with the EPA Code of Practice – Onsite Wastewater Management.
- Located at least 50m from the Goulburn River, 30m from Goulburn Murray Water channel no. 2 (measure from the inside top edge of the channel bank), 30m from any waterways (including surrounding depression land) and 30m from any dams.

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No buildings are to be constructed within 50m of the Goulburn River, 30m of Goulburn Murray Water channel no. 2 (measure from the inside top edge of the channel bank) or 30m from any waterways (including surrounding depression land).

#### Bushfire Management Overlay

- This agreement has been prepared for the purpose of an exemption from a planning permit under 44.06-2 of the Greater Shepparton Planning Scheme
- The Bushfire Management Plan (prepared by Yarra Valley BAL Assessments (Version B, 12 March 2022) must not be altered unless otherwise agreed in writing by the Country Fire Authority and the responsible authority.
- The endorsed Bushfire Management Plan is included as an annexure to the Section 173 agreement to give effect to Clause 44.06-5 of the Greater Shepparton Planning Scheme.
- A dwelling constructed on the land without a planning permit must implement the bushfire mitigation measures set out in the plan incorporated into the agreement and be maintained to the satisfaction of the responsible authority on a continuing basis

#### Protection of Native Vegetation

Property owners are required to retain and protect significant native vegetation in accordance with the provisions of the Greater Shepparton Planning Scheme and the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning 2017).

#### Fencing

No fences may be constructed on the side boundaries between any of the Lots within the designated "Woodland" area as shown on the endorsed Fencing Plan being Drawing No. 21056/04 prepared by Chris Smith and Associates, unless otherwise agreed in writing by the Responsible Authority, which will only give permission to construct a fence on those boundaries if the owner/s pay the appropriate offset amount for any vegetation loss associated with the construction of that fence.

The said agreement is to be prepared by Council. Council will undertake to have the agreement prepared upon written notification from the applicant. All costs associated with the preparation and registration of the agreement shall be borne by the applicant including Council's administration fee. All fees associated with the documentation must be fully paid prior to execution and registration of the document by Council.

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**4. Payment in Lieu of Open Space**

Before the statement of compliance is issued under the *Subdivision Act 1988*, the owner must pay to the responsible authority a sum equivalent to 3 per cent of the site value of all land in the subdivision.

The owner must advise Council, in writing, to undertake the property valuation and must pay the Council's reasonable costs and expenses to provide such a valuation for payment in lieu of the public open space contribution.

**5. Rural Drainage Plan**

Before the plan of subdivision is certified under the *Subdivision Act 1988*, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit. The plans must be drawn by a suitably qualified person or organisation to scale with dimensions. The plans must include

- a) direction of stormwater run off, demonstrated by contours or levels
- b) independent drainage for each lot to the legal point of discharge
- c) demonstrate how the discharge rate from the new properties has no detrimental effect on the adjacent properties
- d) property connections discharging to the table drain must do so to the side of the endwall (*driveway*) and not directly to the table drain
- e) documentation demonstrating approval from the relevant authority for the point of discharge

Before the issue of a statement of compliance, the works shown on the endorsed drainage plan must be completed to the satisfaction of the responsible authority.

**6. Vehicle Crossings**

Before the development of the crossovers starts a crossover design must be submitted to the responsible authority to show:

- a) a design generally in accordance with the IDM SD 255
- b) sealed crossover no less than 5 metres in length from the existing edge of road to the new lot;

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**Signature for the Responsible Authority**


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- c) a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm);
- d) culverts located in the clear zone shall be installed with trafficable end walls (refer IDM standard drawing SD 255).

Before the issue of a Statement of Compliance the vehicle crossings providing access to the land must be constructed at a location and of dimensions and standard to the satisfaction of the responsible authority.

Vehicle crossings must be constructed at the owner's expense.

The final location of the crossing is to be approved by the responsible authority via a 'Works within the Roads Reserve' (Road Opening) permit.

## 7. Country Fire Authority Requirements

### **Bushfire Management Plan**

The Bushfire Management Plan prepared by Yarra Valley BAL Assessments (Version B, 12 March 2022) must be endorsed to form part of the permit and be included as an annexure to the section 173 agreement prepared to give effect to Clause 44.06-5 of the Shepparton Planning Scheme. The plan must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.

### **Defendable space**

Show an area of defendable space:

- 19 metres from the grassland vegetation to the north east
- 41 metres from the woodland vegetation to the south east, south west and north west

Where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:

- Grass must be short cropped and maintained during the declared Fire Danger Period
- All leaves and vegetation debris must be removed at regular intervals during the declared Fire Danger Period
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building

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- Plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building.
- Shrubs must not be located under canopy trees.
- Individual and clumps of shrubs must not exceed 5 square metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 5 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

### Construction standard

The dwellings must be located within the designated building envelopes and designed and constructed to a minimum Bushfire Attack Level of BAL 29

### Water supply

A water supply with an effective capacity of 10,000 litres must be established on the site for firefighting purposes which meets the following requirements:

- Be stored in an above ground tank constructed of concrete or metal
- Have all fixed above ground water pipes and fittings required for firefighting purposes made of corrosive resistant metal.
- Include a separate outlet for occupant use
- Be readily identifiable from the building or appropriate identification signage to the satisfaction of the relevant fire authority.
- Be located within 60 metres of the outer edge of the approved building
- The outlet/s of the water tank must be within 4 metres of the accessway and unobstructed.
- Incorporate a separate ball or gate valve (65 millimetre BSP) and coupling (64mm CFA 3 threads per inch male fitting)
- Any pipework and fittings must be a minimum of 65 millimetres (excluding CFA coupling)

### Access

Access to the dwelling and CFA water supply outlet must meet the following requirements:

- All-weather construction
- A load limit of at least 15 tonnes
- Provide a minimum trafficable width of 3.5 metres
- Be clear of encroachments for at least 0.5 metres on each side and at least 4 metres vertically

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- Curves must have a minimum inner radius of 10 metres.
- The average grade must be no more than 1 in 7 (14.4 percent) (8.1°) with a maximum of no more than 1 in 5 (20 percent) (11.3°) for no more than 50 metres
- Dips must have no more than a 1 in 8 (12.5 percent) (7.1°) entry and exit angle.
- Where length of access is greater than 100m, a turning area for fire fighting vehicles must be provided close to the building by one of the following:
  - A turning circle with a minimum radius of eight metres.
  - A driveway encircling the dwelling.
  - The provision of other vehicle turning heads – such as a T or Y head – which meets the specification of Austroad Design for an 8.8 metre Service Vehicle

### **Maintenance of Defendable Space**

Before the Statement of Compliance is issued under the *Subdivision Act 1988*, the defendable space on every lot in the subdivision must be implemented and maintained as specified on the endorsed Bushfire Management Plan, unless otherwise agreed in writing by the CFA and the Responsible Authority.

### **8. Goulburn Murray Water Requirements**

- a) All works within the subdivision must be done in accordance with EPA Publication 960 "Doing It Right on Subdivisions, Temporary Environmental Protection Measures for Subdivision Construction Sites", September 2004.
- b) Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
- c) Prior to Statement of Compliance being issued, the owner shall enter into an Agreement with the Responsible Authority and Goulburn Murray Water under Section 173 of the Planning and Environment Act ensuring that:

All wastewater generated from any future development on the new lots 2 to 6 created by subdivision must be:

- treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Approval.

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- Applied to the land of via pressure compensated sub-surface irrigation installed along the contour.

The wastewater disposal area associated with any future development of the new lots 2 to 6 must be:

- kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.
- must be appropriately sized to manage the potential volume of wastewater generated under full occupancy (based on a minimum number of bedrooms), based on a full water balance specific to the proposal and subject land in accordance with the EPA Code of Practice – Onsite Wastewater Management.
- Located at least 50m from the Goulburn River, 30m from Goulburn Murray Water channel no. 2 (measure from the inside top edge of the channel bank), 30m from any waterways (including surrounding depression land) and 30m from any dams.

No buildings are to be constructed within 50m of the Goulburn River, 30m of Goulburn Murray Water channel no. 2 (measure from the inside top edge of the channel bank) or 30m from any waterways (including surrounding depression land).

The owner shall meet the cost of the registration of the agreement on the title.

This agreement must be registered on title.

- d) Prior to the Certification being issued evidence must be provided to Goulburn Murray Water that the existing onsite wastewater management system on proposed Lot 1 meets the requirements of the current EPA Code of Practice – Onsite Wastewater Management. The evidence will need to demonstrate that:
- The existing wastewater management system is performing in a satisfactory manner.
  - The wastewater disposal area is adequately sized and located in accordance with the current EPA Code of Practice – Onsite Wastewater Management.
  - If the system is found not to comply with the current EPA Code of Practice – Onsite Wastewater Management. The system will need to be upgraded accordingly and evidence provided to GMW outlining how this has occurred.

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- e) For subdivision of property holding delivery shares the applicant must either:
- make application to Goulburn Murray Water pursuant to sections 224 and 229 of the Water Act 1989 to: terminate or transfer the delivery shares in relation to the property; make a declaration that the property cease to be a serviced property (to effect excision from the district); or alternatively
  - demonstrate to Goulburn Murray Water reasonable satisfaction the means by which a Goulburn Murray Water water supply will be metered and delivered to the lots created by the subdivision, bearing in mind requirements for water use licences and annual use limits.

## 9. Powercor Requirements

- a) This letter shall be supplied to the applicant in its entirety.
- b) The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.
- c) The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.

**Notes:** Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.

- d) The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).

**Notes:** Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.

- e) The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.

**Notes:**

- Existing easements may need to be amended to meet the Distributor's requirements
- Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:

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**Signature for the Responsible Authority**

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited / In Favour Of
	Power Line		Section 88 - Electricity Industry Act 2000	Powercor Australia Ltd

#### 10. Parks Victoria Requirements

Before the issue of a statement of compliance, the shared boundary with Shepparton Regional Park must be fenced to the satisfaction of the responsible authority at the applicant's expense. The fencing must:

- be erected on the boundaries of the land;
- be stock and dog proof; and
- contain only one pedestrian gate per freehold parcel.

#### 11. Form 13

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

#### 12. Telecommunications Referral Condition

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

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

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

- A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and

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- A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**13. Time for Starting and Completing a Subdivision**

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

- the subdivision is not started (certification) within **two (2)** years of the date of this permit;
- the subdivision is not completed (statement of compliance) within **five (5)** years of the date of certification.

**NOTATIONS**

DRAFT

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## IMPORTANT INFORMATION ABOUT THIS PERMIT

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### WHAT HAS BEEN DECIDED?

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The Responsible Authority has issued a permit. The permit was granted by the Minister administering the **Planning and Environment Act 1987** under section 96I of that Act.

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### WHEN DOES THE PERMIT BEGIN?

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The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

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### WHEN DOES A PERMIT EXPIRE?

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1. A permit for the development of land expires if -
    - \* the development or any stage of it does not start within the time specified in the permit; or
    - \* the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
    - \* the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
  2. A permit for the use of land expires if -
    - \* the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
    - \* the use is discontinued for a period of two years.
  3. A permit for the development and use of land expires if -
    - \* the development or any stage of it does not start within the time specified in the permit; or
    - \* the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
    - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
    - the use is discontinued for a period of two years.
  4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision-
    - \* the use or development of any stage is to be taken to have started when the plan is certified; and
    - \* the permit expires if the plan is not certified within two years of the issue of the permit.
  5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.
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### WHAT ABOUT APPEALS?

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- \* Any person affected may apply for a review of -
    - a decision of the responsible authority refusing to extend the time within which any development or use is to be started or any development completed; or
    - a decision of the responsible authority refusing to extend the time within which a plan under the **Subdivision Act 1988** is to be certified, in the case of a permit relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**; or
    - the failure of the responsible authority to extend the time within one month after the request for extension is made.
  - \* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
  - \* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
  - \* An application for review must state the grounds upon which it is based.
  - \* An application for review must also be served on the Responsible Authority.
  - \* Details about applications for review and the fees payable can be obtained from Victorian Civil and Administrative Tribunal.
-