

CONFIRMED MINUTES

**FOR THE
GREATER SHEPPARTON CITY COUNCIL**

DEVELOPMENT HEARINGS PANEL

Meeting No. 3/2012

**HELD ON
THURSDAY 24 MAY 2012
AT 10.00AM**

**AT THE COUNCIL BOARD ROOM
90 WELSFORD STREET**

**CHAIR
DEAN ROCHFORT**

COMMITTEE MEMBERS PRESENT: Dean Rochfort, Patricia Garraway, Claire Tarelli ,

**OFFICERS: Andrew Dainton – Senior Statutory Planner
Janine Saxon – Timer and Minute Taker**

1. ACKNOWLEDGEMENT

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

2. APOLOGIES

Colin Kalms, Jonathan Griffin, Braydon Aitken

3. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Moved by Claire Tarelli and seconded by Patricia Garraway that the minutes of previous meeting held on 26 April 2012 be adopted.

Carried.

4. DECLARATIONS OF CONFLICTS OF INTEREST

None

5. MATTERS FOR CONSIDERATION

One item listed for consideration.

6. LATE REPORTS

None

7. NEXT MEETING

14 June 2012.

I N D E X

| <u>Application No.</u> | <u>Subject Address:</u> | <u>Proposal:</u> | <u>Page No.</u> |
|-------------------------------|--|--|------------------------|
| 2011-284 | 121-135 Old Dookie Road, Shepparton | Materials Recycling and Concrete Products | 3 |

Application Details:

| | |
|---|---|
| Responsible Officer: | Andrew Dainton |
| Application Number: | 2011-284 |
| Applicants Name: | B O'Keeffe |
| Date Application Received: | 16 September 2011 |
| Statutory Days: | 224 |
| Land/Address: | 121-135 Old Dookie Road Shepparton |
| Zoning and Overlays: | Industrial 1 Zone No overlays |
| Why is a permit required (include Permit Triggers): | Use of land for materials recycling under clause 33.01-1 Buildings and works in the IN1Z under clause 33.01-4 (office) |
| Are there any Restrictive Covenants on the title? | No |

Proposal

The application proposes to use the land for materials recycling incorporating the collection of construction waste and sorting into recyclable products. Concrete and bricks will be crushed on site and sold for reuse in applications such as rural road base and farm tracks.

The application proposes to accept waste from demolition and building contractors within the area, including concrete, bricks, timber and soil. The materials will then be sorted by machine to separate the soil from other products such as bricks. Individual materials will then be manually placed into bins that will be taken offsite for recycling such as plastic. Metal products will be transferred to the adjoining metal recycling operation which currently operates from the land.

The proposed use will operate Monday to Friday 8am to 4pm and on Saturday's 8am to 4pm.

The applicant has stated that it is expected that the land will receive ten truck loads of demolition materials per week. The applicant has informed that a standard tip truck generally when fully loaded has a capacity of about 11 tonnes, therefore based on 10 truck loads a week fully laden with 11 tonnes of construction and demolition waste the site will receive 5720 tonnes of waste.

Concrete and brick crushing will occur on site when stockpiles are sufficient in size to undertake the activity. Concrete and brick crushing will be limited in operation to week days and in normal business hours.

The applicant has submitted an environmental management plan (EMP) which seeks to limit the offsite amenity impacts of the proposed use. The EMP includes measures to monitor noise emissions from the land, minimise dust emissions and prevent sediment pollution from entering the drainage system.

Summary of Key Issues

- The land is within the IN1Z, which includes materials recycling as a section 2 use.
- The land is located about 735 metres from the nearest residential zone being Dobsons Estate.
- The proposed use seeks to co-locate on the land with an existing metal recycling operation.
- The planning scheme encourages appropriately located materials recycling uses to divert materials from land fill and move towards a zero waste state.
- The closest dwellings not in the same ownership are located about 200m to the east of the land. The NSW regulations state that a concrete crusher should be setback 250m from the nearest dwelling. It is considered that a 200m setback is acceptable given that the dwellings are located in a non residential zone (FZ) and should not expect the same level of residential amenity as enjoyed in a residential zoned land.
- Appropriate permit conditions will be included to manage off site amenity impacts such as noise and dust

Recommendation

Moved by Patricia Garraway and Seconded by Claire Tarelli

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. 2011-284 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of 33.01-1 and 33.01-4 of the Greater Shepparton Planning Scheme in respect of the land known and described as 121-135 Old Dookie Road Shepparton, for the Materials recycling (sorting and crushing of dry waste) in accordance with the Notice of Decision and the endorsed plans.

CARRIED

Subject Site & Locality

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

Date: 26 September 2011 Time: 9.30am

The site has a total area of 2838 square metres and currently contains:

- The proposed site is currently used as part of a scrap metal recycling use on the land. The land is currently used to store various materials including scrap metal. During the

site inspection a large stockpiled area of concrete rubble was on the land. The applicant informed that this concrete rubble had been accumulated over time by the scrap metal recycler

- The land incorporates a scrap metal recycler, public weigh bridge and bio diesel fuel pump
- The land is accessed from Old Dookie Road. Existing access is by gravel surface. Traffic circulation on the land is by designated entry and exit points, which are well setback from Old Dookie Road.
- Old Dookie Road abutting the land is within an 80kmh zone.

The main site/locality characteristics are:

- To the north, south and west of the land is land within the IN1Z. The industrial uses vary and include transport based uses, warehouses, generally engineering and motor repairs.
- The land abuts to the east Doyles Road (RDZ1). Doyles Road forms part of the heavy vehicle bypass of Shepparton and carries a significant amount of heavy transports.
- Further to the east of Doyles Road is land within the FZ, which is traditional within a horticulture area. Land uses include orchards, rural industries associated with orchards and rural dwellings.
- The nearest residential zoned land (LDRZ) to the site is within Dobsons Estate which is located about 735 metres to the east of the land. Within the buffer between the use is Doyles Road and about 500 metres of agricultural land. The nearest R1Z land is to the south west and north west of the land and is located about 1500 metres from the land.

The Photos below show the existing site:



View of the land looking south, towards Old Dookie Road



View of the land looking east, towards Grahamvale Road



Rear of sheds to the west



Rear or sheds to the west



Gravel entry to the land from Old Dookie Road



Gravel frontage to the land, which includes weighbridge and fuel pump

Permit/Site History

The history of the site includes:

- Planning permit 2007-399 was granted on 14 February 2008 and buildings and works associated with the existing scrap metal recycler and staged multi lot subdivision of the land.
- Stage one of the subdivision has received SOC, which created three lots and a road reserve

Further Information

Was further information requested for this application? Yes.

The application has been subject to several further information requests as outlined below.

25 October 2011, the applicant was required to provide the following as requested by the EPA, including:

- Details of the types of wastes / materials proposed to be stored at, or transported from, the premises for disposal and / or recycling
- Information regarding existing and potential nearby land uses and separation distances from the proposed transfer station and these uses
- Whether or not the following activities are proposed to be carried out at the premises:
 - Brick cleaning (including information about process / chemicals to be used, storage / containment of chemicals, environmental management measures)
- Proposed sediment control measures to be implemented, both during the site establishment and ongoing operation stages of the proposed development

The RFI required that the information be provided to the Council by 28 November 2011.

On 28 October 2011, the applicant provided a response to the RFI, which was forwarded to the EPA on 31 October 2011.

On 9 December 2011, the application was required to submit the following:

Submit a properly prepared site and location plan of the proposed development providing the following information:

- Details of the site and surrounding uses including distance to nearest residential area (i.e. Dobsons Estate)
- Location of buildings and their height, access to the land, landscape screens, car parking areas, areas of stockpiling, height of stockpiles, location of concrete crusher and drainage of the land

On 20 December 2011, EPA responded to the submitted information as informed the information did not provide EPA with a clearer picture of the proposal.

On 14 February 2012, the applicant submitted an environmental management plan in response to the EPA request. The environmental management plan was forwarded to the EPA on 15 February 2012.

The EPA responded on 14 March 2012 and informed that the management plan did not address the key risks to an acceptable level particularly noise. The EPA recommended that the Council include specific noise control conditions in any permit that issues.

On 3 May 2012, the applicant submitted two site plans detailing the proposed use in response to the Council's RFI on 9 December 2011.

Public Notification

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

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

Objections

The Council has received one objection to the application on 16 November 2011. The objection is lodged on behalf of seven interested parties. The Council acknowledged receipt of the objection in writing on 17 November 2011.

| Party | Address | Comments |
|-----------------------|---|---|
| Voskop Enterprises | 65 Doyles Road | Land in the FZ located on the eastern side of Doyles Road. The land is located about 500m from the land |
| S R Shaholli & Co P/L | 358 Wyndham Street and 3 – 5 Vaughan Street, Shepparton | The land is within central Shepparton and is remote from the proposed use |
| T & U Zurcas P/L | 25 Doyles Road | The land is within the FZ and is located on the eastern side of Doyles Road. The land is currently used for a large cool store and associated orchards. The land is located about 1km from the land |
| N & W Bewies | Unknown | |
| LJT & V Sfetcopoulos | 50 Grahamvale Road | The land is within the FZ and is located to the north of New Dookie Road and is about 1.7km from the land. |

| | | |
|---------------|---------------------|---|
| B & I Sulejam | 220 New Dookie Road | The land is located on New Dookie Road and is within the FZ and is currently used for horticulture. The land is located about 900m to the east of the land. |
| Rosa Emin | 175 Old Dookie Road | The land is located to the east of the land and is within the FZ. The land is located about 500m to the east of the land. |

The key issues that were raised in the objections are.

- Insufficient information contained within the application
- Inappropriate location given the land is nestled within a factory complex
- Concerned about the establishment of the use adjacent to an investigation area which is intended for future residential development
- Inappropriate for the Council to support a use that has adverse amenity impacts that would result in conflict between the future residential uses on the eastern side of Doyles Road
- Lack of detail relating to drainage of the land

The applicant provided a written response to the objection on 29 November 2011, which was forwarded to the objector on 1 December 2011.

Following additional information being provided by the applicant, the Council provided the information to the objector.

The planning officer response to the objection is as follows:

- Whilst the information was not prepared by a consultant, the submitted information has described the proposed use to a level that allows an informed decision to be made
- The land is within the IN1Z and is remote from the nearest residential zone. The land is currently used for materials recycling (steel products) and has good access to high order roads.
- The eastern side of Doyles Road is proposed to be within an investigation area of the Greater Shepparton Housing Strategy. The land is also been identified for short to medium term industrial zoning in the Council's industrial land review. This conflict between strategic documents creates uncertainty for the future use of the land on the eastern side of Doyles Road and will not be resolved until further detailed strategic studies are undertaken.

- The Council's development engineers have reviewed the proposal and recommended that permit conditions be included to require the submission of a detailed drainage plan before the use commencing

It is the officer's view that the objection should not prevent the permit from issuing given the current zoning of the land and the uncertainty of the future land uses to the east of Doyles Road. The application introduces a new type of construction and demolition recycling to the site which has been long established as a steel recycler.

The objector has assisted in securing the provision of improved documents from the applicant, to a point where an informed decision can be made on the application.

Title Details

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

Consultation

Consultation was not undertaken.

Referrals

External Referrals/Notices Required by the Planning Scheme:

| Referrals/Notice | Advice/Response/Conditions |
|----------------------|--|
| Section 55 Referrals | The application was not referred to any authorities. |
| Section 52 Notices | Following advice from the EPA, that they were not a statutory referral authority to the application, notice of the application was provided to the EPA. The EPA made information requests that were responded to. The EPA recommended conditions relating to amenity issues be included in the permit. |

| Internal Council Notices | Advice/Response/Conditions |
|--------------------------|--|
| Development Engineers | The application was referred to the Council's development engineers, who consented to the issue of a permit subject to conditions relating to access and drainage. A copy of the engineer's response is on the file. |

Assessment

The zoning of the land

The land is within the IN1Z.

A purpose of the zone is to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

Materials' recycling is a section 2 use in the IN1Z subject to the following condition:

The land must be at least 30 metres from land (not a road) which is in a residential zone or Business 5 Zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

The land is located significantly more than 30 metres from the listed uses, therefore the use is a section 2 use in the IN1Z.

Clause 33.01-2 includes the following decision guidelines:

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

Relevant overlay provisions

The land is not within any overlays.

The State Planning Policy Framework (SPPF)

11.05-1 Regional settlement networks

A strategy of this clause is to support sustainable development of the regional cities and centres of Ararat, Bairnsdale, Benalla, Colac, Echuca, Hamilton, Horsham, Mildura, Portland, Sale, Shepparton, Swan Hill, Wangaratta, Warrnambool and Wodonga.

13.04-1 Noise abatement

Objective

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

Strategy

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

13.04-2 Air quality

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

17.02-1 Industrial land development

Protect industrial activity in industrial zones from the encroachment of unplanned commercial, residential and other sensitive uses which would adversely affect industry viability.

17.02-2 Design of industrial development

Objective

To facilitate the sustainable development and operation of industry and research and development activity.

Strategies

- Ensure that industrial activities requiring substantial threshold distances are located in the core of industrial areas.
- Encourage activities with minimal threshold requirements to locate towards the perimeter of the industrial area.
- Minimise inter-industry conflict and encourage like industries to locate within the same area.
- Provide adequate separation and buffer areas between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effects, nuisance or exposure to hazards.
- Encourage manufacturing and storage industries that generate significant volumes of freight to locate close to air, rail and road freight terminals.

19.03-5 Waste and resource recovery

Objective

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

Strategies

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

Policy guidelines

Planning must consider as relevant:

- *Victoria's Towards Zero Waste Strategy* (Department of Sustainability and Environment, 2005).
- *Waste Management Policy (Siting, Design and Management of Landfills)* (Environmental Protection Authority, 2004).
- *Environment Protection (Industrial Waste Resource) Regulations 2009*.
- *Best Practice Environmental Management Guideline (Siting, Design Operation and Rehabilitation of Landfills)* (Environmental Protection Authority, 2001).
- Any relevant regional waste management plans.
- *Metropolitan Waste and Resource Recovery Strategic Plan* (Sustainability Victoria, 2009).
- *Creating Cleaner, Safer Places: Working together to remove litter from Victoria's environment* (Sustainability Victoria, 2009).
- *Environmental Guidelines for Composting and other Organic Recycling Facilities* (Environmental Protection Authority, 1996).

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

21.06-3 Manufacturing And Freight

Objectives - Manufacturing and Freight

- To sustain a growing and diverse industrial base.
- To protect the existing industrial base in the urban areas of Shepparton, Mooroopna and Tatura.

Strategies - Manufacturing and freight

- Consolidate existing major industrial zones within the new urban growth boundaries.
- Identify industrial areas in logical areas adjacent to major transport routes, and separated from areas of environmental significance or high residential amenity.
- Support the expansion of the industrial base in appropriate locations, such as land to the north of Wanganui Road, bounded by the proposed Goulburn Valley Highway Bypass; and land north of Gemini Crescent as shown on the Industrial Framework Plan; and land in Lemnos.
- Promote and develop the Goulburn Valley Freight Logistic Centre (inland port).
- Protect existing industries and facilitate their expansion.
- Support new industries in established industrial zones, with access to infrastructure and constructed roads.
- Support food related industries and value adding opportunities.
- Encourage new value adding industries to locate in existing serviced industrial areas.
- Protect the supply of future industrial land from encroachment of non industrial uses.
- Allow limited light industry in the townships if it relates to local agricultural production and subject to servicing and environmental constraints.
- Encourage industrial developments that incorporate high quality architectural design elements, create visual interest and incorporate landscaping and/or urban art.
- Ensure that land within 10 metres of the frontage of an industrial site (other than land required for car parking and access) is developed for landscaping.

The industrial framework plan identifies the land as being an infill area.

Relevant Particular Provisions

Clause 52.06 Car parking

Clause 52.06-5 requires that a material recycler set aside 10% of the site area for car spaces and access lanes, but not driveways.

The submitted plan shows the provision of five car spaces next to the proposed office building.

This car parking allows for the three employees and two visitors to park within a formal car parking on the land.

Permit conditions will require the preparation of a car park plan for the site as required by 52.06-2 to show access lanes and car parking on the land in accordance with 52.06-5.

Clause 52.10 Uses with adverse amenity potential

The purpose of this clause is to define those types of industries and warehouses which if not appropriately designed and located may cause offence or unacceptable risk to the neighbourhood.

Definition

The threshold distance referred to in the table to this clause is the minimum distance from any part of the land of the proposed use or buildings and works to land (not a road) in a residential zone, Business 5 Zone, Capital City Zone or Docklands Zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

NOTE 1 of the table: The threshold distance is variable, dependent on the processes to be used and the materials to be processed or stored.

NOTE 2 of the table: An assessment of risk to the safety of people located off the land may be required.

Construction and demolition materials recycling has no specified threshold distance and is within a note 1.

The EPA publication, 'Recommended buffer distances for industrial residual air emissions' also does not include a threshold distance for the proposed use.

Clause 52.45 – Resource Recovery

The purpose of this clause is to facilitate the establishment and expansion of a Transfer station and/or a Materials recycling facility in appropriate locations with minimal impact on the environment and amenity of the area.

52.45 -1 Scope

This clause applies to all land used and developed or proposed to be used and developed for:

- A Transfer station; and/or
- A Materials recycling facility.

52.45 -2 Application requirements

An application must be accompanied by the following information:

- A location plan showing the site and surrounding uses including distances to nearby sensitive uses such as residential, hospital or education uses.
- A detailed site plan showing the layout and height of buildings and works, materials, reflectivity, colour, lighting, landscaping, access roads and parking areas.
- Plans or other media showing anticipated views of the facility from sensitive use locations.

A written report(s) including:

- Identification of the purpose of the use.
- A description of the proposal including the materials to be processed, the types of processes to be used and any materials to be stored and handled.
- Proposed hours of operation.
- Likely traffic generation including heavy vehicles.
- Consideration of whether a works approval or licence is required from the Environment Protection Authority.

An assessment of:

- Potential amenity impacts such as noise, odour, emissions to air, land or water, vibration, dust, light spill, visual impact.
- The impact of traffic generation on local roads.

Is the submitted information adequate?

The application has been subject to several further information requests, to require the submission of adequate information.

The following information has been provided:

- Description of the proposed use
- Description of the materials to be received at the land
- Location plan of the land and closest residential area
- Properly prepared plan of the proposed sorting and crushing machine
- Proposed hours of operation
- Number of anticipated truck movements to the land
- Information from the EPA that a works approval or licence is not required
- Environmental Management Plan that seeks to respond to potential amenity impacts
- Site plan of the proposed use

The information submitted in conjunction with the understanding gained from meeting with the applicant has allowed the officer to gain an understanding of the proposed use to a level that an informed recommendation can be made to the DHP. Should the DHP decide to issue a NOD to grant a permit, additional plans will need to be prepared that can be endorsed to form part of the permit.

52.45 -3 Decision Guidelines

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

- The contribution of the proposal to achieving resource recovery targets established by the Victorian Government.

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

Officer's response to zone, policies and 52.45

The proposed application for materials recycling of demolished buildings including a concrete crusher is a section 2 use in the IN1Z.

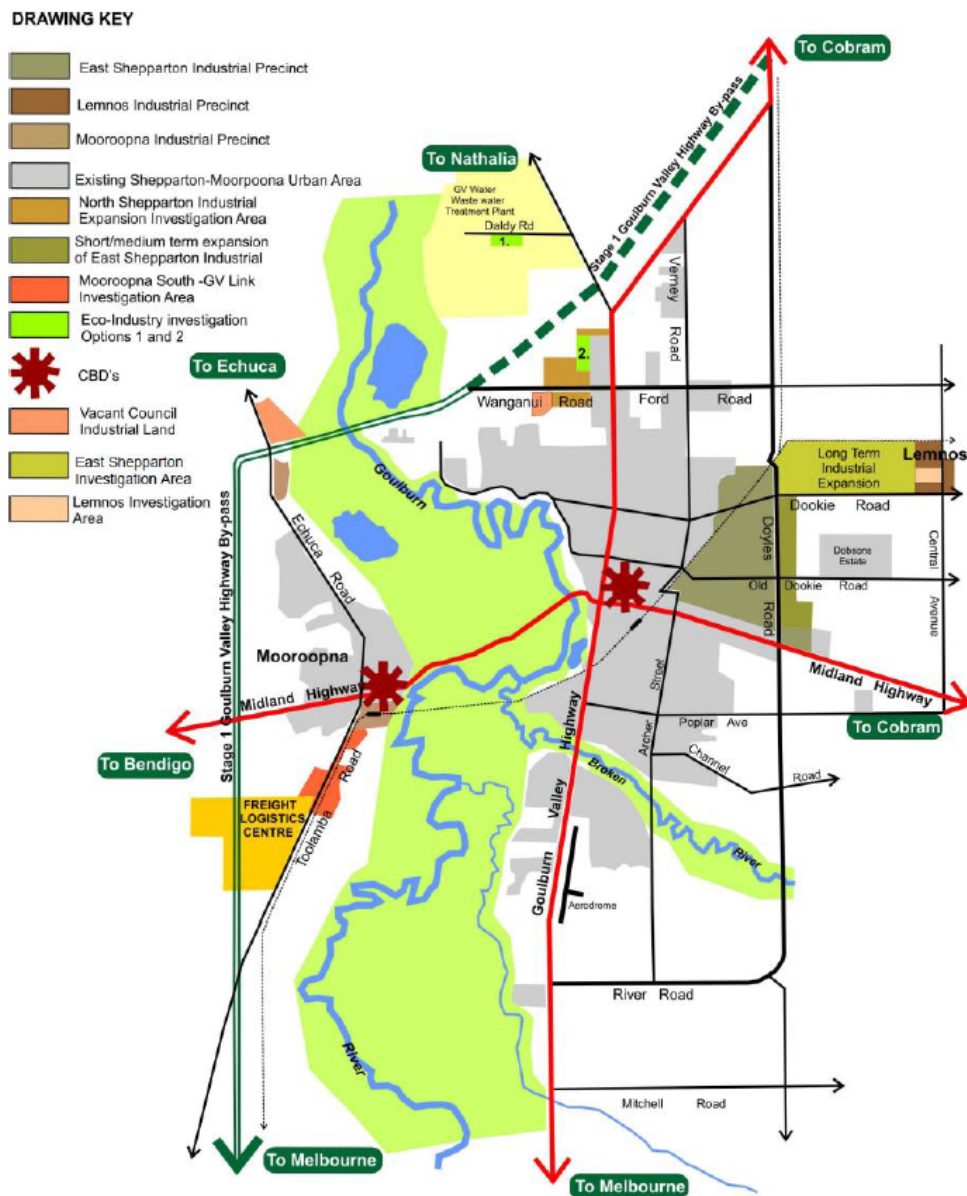
Clause 31.02 states:

Because a use is in Section 2 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 State Planning Policy Framework, the Local Planning Policy Framework, the purpose and decision guidelines of the zone and any of the other decision guidelines in Clause 65.

The land is located on the eastern edge of Shepparton's industrial area. The main industrial area in Shepparton is generally to the east of the rail line and to the north of Benalla Road. The industrial area is about 1.5km in width and 2.6km in length. To the west of the industrial area is land within the R1Z.

The Council has undertaken an industrial land review which was adopted by the Council at the July 2011 Council Meeting. This industrial land review identified land to the east of Doyles Road as short / medium term expansion of the East Shepparton industrial area. Within the Council resolution, it was decided to prepare an amendment to the planning scheme to implement the industrial land review into the scheme.

A plan of the proposed revised Shepparton Industrial Framework plan as adopted by the Council is below, which shows the future industrial land on the eastern side of Doyles Road.



**Shepparton Industrial Framework Plan
 Industrial Background Report August 2010**

The proposed future provision of this additional industrial land on the eastern side of Doyles Road provides an additional buffer between the materials recycler and sensitive uses in Dobsons Estate.

To complicate this adopted Greater Shepparton Housing Strategy includes the same land on the eastern side of Doyles Road within investigation area four.

The investigation area is described as:

Investigation area 4 – east of Doyles Road, Grahamvale. There are a number of land use interface issues to be addressed in this area. There is a mix of agriculture,

residential estates such as Dobsons Estate and the Shepparton East and Lemnos industrial areas. Further investigation is required in this area following finalisation of the industrial strategy. Investigations will include issues associated with present industry, potential for expansion of industrial and / or residential uses and developments, future servicing requirements and agricultural impacts.

The Council's strategic planners have informed that the future use of the land on the eastern side of Doyles Road is unlikely to be resolved until detailed land use investigations are undertaken.

Therefore given the uncertainty around the future use on the eastern side of Doyles Road, the application is considered under the current scheme, which includes the land in the IN1Z and the land to the east of Doyles Road in the Farming Zone.

The nearest dwellings not in the same ownership are located about 205 metres to the east of the land at 107 and 109 Doyles Road. 85 Doyles Road is located about 250 metres to the east of the land.

Section 16 of the Environmental Planning and Assessment Regulation 2000 – Schedule 3 (NSW) provides specific setbacks for this type of use and states the following:

Crushing, grinding or separating works, being works that process materials (such as sand, gravel, rock or minerals) or materials for recycling or reuse (such as slag, road base, concrete, bricks, tiles, bituminous material, metal or timber) by crushing, grinding or separating into different sizes:

- (a) that have an intended processing capacity of more than 150 tonnes per day or 30,000 tonnes per year, or*
- (b) that are located:*
 - within 40 metres of a natural water body or wetland, or*
 - within 250 metres of a residential zone or dwelling not associated with the development.*

Butler Excavations Pty Ltd v Ballarat CC (2010) VCAT 57 considered an application for materials recycling, concrete crushing. A significant matter was the sites proximity to a significant wetland, although the relevant part of the proposal to this application is setback to residential areas.

The tribunal heard from Mr Pollock who also referenced a report on the site by Dr Bellair of Environmental Science Associates. In summary both consultants advised that provided appropriate dust suppression measures were in place the EPA guidelines^[3] buffer of 200 m would be appropriate for the proposed development from the residential area. We noted that the nearest Residents are approximately 250 m from the resale area and 400m from the crushing area.

The proposed crusher is located about 205m from the nearest dwellings which does not meet the requirement as set out in the NSW regulations. Despite this, the setback is considered acceptable for the following reasons:

- The dwellings are in the FZ, which is not within the suite of residential zones. Therefore the dwellings cannot expect the same level of residential amenity as would be enjoyed in a residential zone*

- Within the land between the use and the dwellings is Doyles Road which is within a RDZ1 and forms part of the heavy vehicle route around Shepparton and carried 7684 vehicles per day (April 2008).
- The land is currently used for a materials recycling use being scrap metal, therefore the introduction of another materials recycler (concrete crusher) is an extension to the materials recycling use already being conducted from the land
- Permit conditions will be incorporated into the permit to require compliance with the relevant noise guideline. The condition will also allow for specific noise testing should neighbours make complaint to determine if the use is complying with the noise guideline and require amendments to the operation if compliance is not being achieved. Permit conditions will also require the submission of a management plan to detail dust control measures from the land.
- Permit conditions will require the planting of a landscape screen along the eastern and western boundaries of the land, to incorporate two rows of native plants including an species of an under and over storey.

It is also noted that the nearest person named in the objection is setback about 500 metres from the land, which is double the distance referred to in the NSW regulations.

The Towards Zero Waste document vision is 'for Victoria to be well advanced along the pathway of becoming a low waste society by 2014'.

This report identifies that one of the most significant land filled waste is concrete / brick / asphalt. Construction waste in 2002-3 recovery rate by weight is 59% with a target to increase this recovery rate to 80% by 2014.

The report states that the construction and demolition section accounted for about 40% of all solid waste in Victoria; about half of this was recycled including 900,000 tonnes into concrete.

Currently within Shepparton the only commercial concrete crushing facility is operated by the Greater Shepparton City Council. The proposed recycler for construction waste, which is co-located with an existing scrap metal recycler, provides an alternative recycler for the construction industry within Shepparton. This creates an opportunity to increase the amount construction and demolition waste to be diverted from landfill and recycled which is encouraged by the Towards Zero Waste document.

Guide to Best Practice at Resource Recovery Centres

Construction and demolition waste

Where stockpiling of construction and demolition waste is planned, provision should be made for a hardstand area with adequate drainage to divert and manage run-off. Measures to control dust, such as sprinkler systems, may be needed, as well as potential noise buffers when crushing.

The report recommends category 2 facilities (1001 – 30,000 tonnes per annum) provide a gatehouse for inspection of loads and access to a weighbridge. The land has the ability to provide both of these infrastructure items.

Category 2 facilities should prepare an environmental improvement plan in accordance with the EPA guidelines.

The guide recommends that asbestos controls be in place and indefinite stock piling not be permitted.

The proposed use is co-located with an existing scrap metal recycler and therefore can share existing infrastructure such as the weigh bridge. The proposed construction and demolition waste recycler will include relevant conditions as recommended by the guide to best practice regarding inspection of material, asbestos controls and drainage.

The applicant is proposing to stock pile materials on the land and crush materials on a need basis, the applicant has estimated that crushing may occur once a fortnight. EPA South Australia has produced a guideline for stock pile management which includes the following:

EPA generally requires that maximum stockpile heights for material management or resource recovery activities be in the range of 3–5 metres. These stockpile height limits are largely based on stockpile manageability, dust impacts, stability, potential impact to underlying infrastructure and fire risk. The height of stockpiles should generally be lower than surrounding structures.

Given the EPA recommendations permit conditions will not allow stockpiling to exceed four metres in height and be a minimum of three metres between stockpiles.

It is considered the proposed use of land for construction and demolition waste recycling is acceptable for the following reasons:

- The scheme encourages the development of resource recovery to move Victoria towards zero waste
- The IN1Z is the most appropriate zone within Greater Shepparton to locate the use
- The land is remote from the nearest residential zone
- The use is setback more than 200 metres to the nearest dwelling not in the same ownership. Additionally these dwellings are not in a residential zone and therefore cannot expect the level of residential amenity enjoyed in a residential zone
- The land has direct access to high order roads being Old Dookie and Doyles Road, both of which are designed to cater for heavy vehicle movements
- The land is currently used for materials recycler (metals) and the co-location of construction and demolition recycler including crusher provides for the grouping of like uses
- Appropriate permit conditions can adequately deal with offsite amenity impacts

The decision guidelines of Clause 65

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

- The matters set out in Section 60 of the Act have been considered.

The proposed development does not conflict with the objectives of planning in Victoria.

- The proposed use is an appropriate use in the IN1Z
- The use is co-located with an existing metal recycler and is remote from the nearest residential area

- The proposed use of land for concrete crushing can cause off site amenity impacts particular noise and dust, permit conditions will be included to manage these potential amenity impacts
- The Council engineers have considered the proposal and recommended permit conditions relating to the drainage of the site
- The application does not propose the removal or destruction of native vegetation.

Therefore it is considered that the use achieves acceptable outcomes in terms of clause 65.01.

Relevant incorporated or reference documents

There are no relevant incorporated or reference documents to this proposal.

Other relevant adopted State policies or strategies policies

Victoria's Towards Zero Waste Strategy

Guide to Best Practice at Resource Recovery Centres

Relevant Planning Scheme amendments

C93 – Greater Shepparton Housing Strategy.

This amendment is currently with the Minister awaiting final sign off before being incorporated into the scheme. The amendment seeks to apply an investigation area to the land to the east of Doyles Road, which is the same land the industrial land review has identified for short to medium term industrial expansion.

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the application?

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

Conclusion

The application to use and develop the land for material recycling (construction and demolition waste) including a concrete crusher us recommended for approval by planning officers as use is an appropriate use in the IN1Z and is remote from residential zoned land.

Draft Notice Of Decision

APPLICATION NO: 2011-284

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

THE RESPONSIBLE AUTHORITY HAS DECIDED TO GRANT A PERMIT.

THE PERMIT HAS NOT BEEN ISSUED.

ADDRESS OF THE LAND: 121-135 OLD DOOKIE ROAD
SHEPPARTON VIC 3630

WHAT THE PERMIT WILL ALLOW: TO USE AND DEVELOP THE LAND FOR MATERIALS RECYCLING CONSTRUCTION AND DEMOLITION WASTE INCLUDING CONCRETE CRUSHING

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Plans Required

Before the use starts, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and a minimum of two copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to include any necessary information listed in the Council's Infrastructure Design Manual.

- a) A site plan of the use showing areas of stockpiling for concrete / bricks, crushed materials, bins for other materials, location of crushing machine, car parking and truck turning, landscaping along the eastern and western boundary of the land
- b) Preparation of car park plan as required by clause 52.06-2 of the Greater Shepparton Planning Scheme
- c) Floor and elevation plans of the office
- d) An vehicle access plan to the land through the existing scrap metal yard
- e) Stockpiling of materials limited to four metres in height and have a separation of at least three metres between each stockpile
- f) Location of water storage on the land used for dust suppressant

2. Dust Management

Before the commencement of the use a dust management plan must be prepared to the satisfaction of the responsible authority. The plan must include measures to ensure any dust from the operation does not cause unreasonable impact upon the

amenity of the area. The dust management plan must include the following:

- a) the provision of an adequate supply of water being available at all times for the purpose of dust suppression
- b) internal roads should be clearly defined to ensure that vehicles do not randomly drive on the hardstand areas which are not watered
- c) stockpiles must be wetted down before loaders move materials
- d) Portable sprinkler systems should be provided to prevent dust emissions at all times from stockpiles.
- e) All material must be wetted down before being placed in the crushing machine
- f) The operations of the site must have regard to predicted climatic conditions and the operations at site must be adjusted or where reasonably necessary halted during extreme climatic conditions which have a propensity to lead to any significant increase in the levels of visible raised dust. Dust mitigation measures must continue on days when the site is not in operation.
- g) The operator must at all times designate a person who is responsible for the implementation of the Dust Management Plan, to ensure that dust does not have any unreasonable impact on the amenity of the area.

The use of the land must be conducted in accordance with the Dust Management Plan approved by the responsible authority. The Dust Management Plan may be amended with the consent of the responsible authority.

3. Drainage Discharge Plan

Before the use or development starts, a drainage plan with computations prepared by a suitably qualified person to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and a minimum of three copies (or as specified) must be provided. The plans must be in accordance with council's Infrastructure Design Manual and include:

- a) how the land will be drained;
- b) underground pipe drains conveying stormwater to the legal point of discharge;
- c) measures to enhance stormwater discharge quality from the site and protect downstream waterways;
- d) a maximum discharge rate from the site of (30) l/sec/ha;
- e) documentation demonstrating approval from the relevant authority for the legal point of discharge; and
- f) the provision of gross pollutant and/or litter traps installed at the drainage outfall of the development to ensure that no effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system
- g) Incorporation of water sensitive urban design in accordance with the "Urban Stormwater Best Practice Environmental Management Guidelines" 1999 or as otherwise approved in writing by the Responsible Authority;
- h) Provision of an electronic copy of the MUSIC model (or equivalent) demonstrating the achievement of the required reduction of pollutant removal;

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

4. Landscape Plan

Before the use starts a landscape plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided show:

- a) a schedule of all proposed trees, shrubs and ground cover, including the location, number and size at maturity of all plants, the botanical names and the location of areas to be covered by grass, lawn or other surface materials as specified;
- b) a landscape buffer along the eastern and western boundaries of the land consisting of an under and over storey made up of native species
- c) all landscaped areas to be used for stormwater retardation;

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

5. Air Assessments

The operator must submit to the responsible authority a report prepared by an industrial facilities environmental auditor appointed pursuant to the provisions of the *Environment Protection Act 1970*, within one year of the use commencing and subsequently if requested in writing by the responsible authority. The reports must be in a suitable format to ensure convenient assessment and identify (at minimum), to the satisfaction of the responsible authority and/or the EPA:

- a) whether airborne emissions from the premises are being adequately controlled so as to prevent the use from causing a nuisance or environmental hazard;
- b) that the operations of the site are in accordance with all requirements of the approved EMP, SEPPs and relevant EPA guidelines;
- c) where any of the measures in the EMP have not been implemented, any recommended works or infrastructure; and
- d) timeframes for implementing recommendations.

The permit holder must implement the recommendations provided by the auditor as soon as practicable to the satisfaction of the responsible authority.

6. Noise Control

Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1 and Noise levels emanating from the land must comply with the requirements of the Environment Protection Authority's Information Bulletin No. N3/89 Interim Guidelines for the Control of Noise in Country Victoria; as applicable.

In the event of complaints of noise from nearby property or request by the responsible authority, within one month of a request by the responsible authority, an acoustic report must be submitted to the responsible authority giving details of noise measurements to achieve compliance with the SEPP No. N-1 and N3/89 or later replacement policies, and if necessary, to recommend additional measures (physical construction and/or operation modifications) required to ensure compliance. Such measures must then be implemented as soon as practical to the satisfaction of the Responsible Authority.

7. Materials to be Crushed or Recycled

Items other than construction and demolition wastes (concrete, bricks, rock and timber) must not be crushed or recycled at the premises except with the consent of the responsible authority.

8. Prohibited Materials

Prescribed industrial wastes including asbestos, as defined by the *Environment Protection (Prescribed Waste) Regulations 1998*, should not be permitted to be accepted on site.

Where such wastes are detected, the operator must direct the carrier to the appropriate facility, or if found within the depositing or processing areas, immediately place such waste in an appropriate container and remove the waste to the appropriate facility. All such material must be removed within twenty-four (24) hours of detection.

The operator must provide and maintain a sign at the front entry of the site indicating the type of waste materials that must not be deposited at the site and provide advice as to the location of the nearest approved waste facility for the various wastes.

9. Covered Loads

All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the responsible authority.

10. Stockpiling

The stockpiles on the site must not exceed four metres in height and there must be a separation of not less than three metres between each stockpile to the satisfaction of the responsible authority.

11. Hours of Operation

The use may only operate between the hours of:

- Monday to Friday 8.00am to 4.00pm
- Saturday 8.00am to 4.00pm

Concrete crushing can only be undertaken on the land between 8.00am to 4.00pm Monday to Friday.

12. Council Assets

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

13. Goulburn Valley Region Water Corporation Requirements

- a) Payment of a new customer contribution for water supply to the development, such amount being determined by the Corporation at the time of payment;
- b) Any existing water service that crosses any of the proposed allotment boundaries within the proposed development must be disconnected and re-located at the developer's expense, to be wholly within one allotment only and to the satisfaction of the Goulburn Valley Region Water Corporation;
- c) Payment of a new customer contribution for sewerage services to the development, such amount being determined by the Corporation at the time of payment;
- d) Provision of easements in favour of the Goulburn Valley Region Water Corporation over all existing and proposed sewer mains located within private property;
- e) The operator under this permit shall be obliged to enter into an agreement with Goulburn Valley Region Water Corporation relating to the design and construction of any sewerage or water works required. The form of such Agreement shall be to the satisfaction of Goulburn Valley water. A copy of the format of the Agreement will be provided on request;

14. Time for Starting and Completion

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

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

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within three (3) months afterwards.