

# **CONFIRMED MINUTES**

**FOR THE  
GREATER SHEPPARTON CITY COUNCIL**

## **DEVELOPMENT HEARINGS PANEL**

**Meeting No. 14/2013**

**HELD ON  
THURSDAY 14 NOVEMBER 2013  
AT 10.00AM**

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

**ACTING CHAIR**

**Colin Kalms**

**1. RESOLUTION OF THE MEETING**

Moved by Jonathan Griffin and seconded by Ian Boyle that the Manager – Planning, Colin Kalms be appointed acting Chairperson for the Development Hearings Panel to be heard on 14 November 2013.

Carried

**2. 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”.

**3. COMMITTEE MEMBERS PRESENT**

Councillor Michael Polan, Colin Kalms, Braydon Aitken, Ian Boyle, and Jonathan Griffin

**4. OFFICERS PRESENT**

Tim Watson – Planner

**5. RECORDING OF PROCEEDINGS**

The acting Chairperson advised the Hearing that:

- the proceeding is being recorded.
- that people can arrange to come and listen to the recording at a suitable time.
- that it is Council’s preferred position that we do not provide copies of the recording.
- that all other recording devices be turned off during the course of the hearing.

**6. APOLOGIES**

Councillor Les Oroszvary and Johann Rajaratnam.

**7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

- Moved by Braydon Aitken and seconded by Ian Boyle that the minutes of the meeting held on 24 October 2013 be adopted.

Carried.

- The unconfirmed minutes of the meeting held on 11 July 2013 could not be confirmed.

**8. DECLARATIONS OF CONFLICTS OF INTEREST**

None

**9. MATTERS FOR CONSIDERATION**

One item listed for consideration.

**10. LATE REPORTS**

None

**11. NEXT MEETING**

28 November 2013

## INDEX

<b><u>Application No.</u></b>	<b><u>Subject Address:</u></b>	<b><u>Proposal:</u></b>	<b><u>Page No.</u></b>
2013-132	180 Central Kialla Road, Kialla	Buildings and Works (retrospective) in the Farming Zone for the installation of 3 x 22,500 litre water tanks	3

## Application Details:

Responsible Officer:	Tim Watson
Application Number:	2013-132
Applicants Name:	R Webster and M Downie
Date Application Received:	13 May 2013
Statutory Days:	156 (1/11/13)
Land/Address:	180 Central Kialla Road KIALLA VIC 3631
Zoning and Overlays:	Farming Zone, abuts a Road Zone (Category 1) and Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	35.07-4 – Buildings within the setback in the Farming Zone; and 44.04-1 – Buildings and works in the Land Subject to Inundation Overlay.
Are there any Restrictive Covenants on the title?	yes

## Proposal

The application for a planning permit is the result of a complaint made to the Council's Planning Department that rain water tanks had been constructed without a permit.

The land owner was required to make application retrospectively for a planning permit which proposes buildings and works in the Farming Zone for the placement of 3 water tanks (22,500 litre each) associated with the existing dwelling on the land.

The rainwater tanks required a planning permit for buildings and works in the Farming Zone for the following reasons:

- Within 5 metres of a boundary;
- Within 100 metres of a dwelling not in the same ownership;
- Within 100 metres of a road designated Road Zone (category 1)
- Within 20 metres of a road; and
- Within 100 metres of a designated flood plain.

A permit was also required for buildings and works in the Land Subject to Inundation Overlay. The GBCMA did not object to the grant of a permit.

The application was advertised and one objection received. The objection largely related to detrimental amenity impacts including visual dominance.

Planning officers have assessed the application inclusive of the grounds of objection and form the view that the application achieves acceptable outcomes for the following reasons:

- It is not unreasonable or unexpected to have or see rainwater tanks in a rural environment;
- Appropriate vegetative screening required by conditions will provide an acceptable visual screen; and
- The GBCMA do not expect any adverse flooding impacts from the placement of the rainwater tanks.

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## Summary of Key Issues

- The initial application for a planning permit was made for the placement (retrospective) of a water tank on the land.
- After the initial advertising period it was identified by the objector that the other two tanks on the boundary did not have planning permission.
- The application was amended by the application under section 57a of the *Planning and Environment Act* to include the two additional water tanks.
- The amended application was advertised with the objector lodging a new objection, relating to the visual impacts of the rainwater tanks from their land.
- Both the initial and amended applications were referred to the Goulburn broken Catchment Management Authority, who do not object to the issue of a permit.
- The application for retrospective planning permit is considered to achieve acceptable planning outcomes through the provision of a landscaping screen and what can be reasonably expected in the Farming Zone.

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## Moved by Braydon Aitken and Seconded by Ian Boyle to amend the Notice of Decision as follows:

Condition 2. To be amended to read:

### 2. Landscape Plan

Within 30 days of the date of this permit a landscape plan must be submitted to and approved by the Responsible Authority, unless otherwise agreed to in writing. 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 permanent vegetation screen between the water tanks and the western property boundary using a mixture of screen shrubs.
- b) a schedule of all proposed trees, shrubs and ground cover, including the location, number and size at maturity of all plants and the botanical names

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

All trees planted as part of the landscape works must be a minimum height of 1 metres at the time of planting.

Within 90 days of the date of this permit, landscaping works shown on the endorsed plan must be carried out and completed to the satisfaction of the responsible authority, unless otherwise agreed to in writing.

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That Council having caused notice of Planning Application No. **2013-132** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-4 and 44.04-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **180 Central Kialla Road KIALLA VIC 3631**, for the **Buildings and works (retrospective) in the Farming Zone for the installation of 3 x 22,500 litre water tanks** in accordance with the amended Notice of Decision and the endorsed plans.

## **CARRIED**

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### **Subject Site & Locality**

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

Date: **24/5/13**

The site has a total area of **approximately 6146** square metres and currently contains:

- An existing dwelling with associated domestic sheds, access ways and landscaping which consists of a large portion of native vegetation.

The main site/locality characteristics are:

- The land is abutted by Central Kialla Road (Road Zone Category 1) to the east;
- Mitchell Road abuts the land to the north;
- The land to the south and west are both used for rural living allotments and are similar size to the subject allotment.
- The locality has a rural living character being on the fringe of the Kialla Central township.

The aerial photos below shows the existing site:



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## Permit/Site History

The history of the site includes:

- Planning permit 2008-94 issued for the use and development of the land for a dwelling in the Farming Zone. The permit did not approve water tanks, however condition 5 did require that a potable water supply be provided for domestic and fire fighting purposes.

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## Further Information

Was further information requested for this application? **no**

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## 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.

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## Objections

The Council has received 1 objection to date. The key issues that were raised in the objection which was lodged to the initial application and the amended application by the same objector are:

Initial application



- The location of the water tank so close to the property boundary which is in clear view from the front rooms of their dwelling.
- It was also raised that the application should include the other two tanks located on the land further to the south on the same boundary.
- The objection identifies that the tanks should be moved at least 5 metres from the boundary.

The application was amended to include the two additional tanks and was re-advertised to the only objector with the following factors raised:

- The three tanks impact on the visual amenity from their property and on entering their land are dominate features.
- The objector also raises the construction of an old structure on their boundary made with old sleepers. After discussing the matter with the applicant they advised that it had been there prior to them purchasing the land. The Council's Building Surveyor also advised that when constructed it would not have required a planning permit given the size.
- The construction of a chicken shed was raised however as the objector had been made previously aware this did not require a planning permit under clause 62 of the planning scheme.

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## **Title Details**

The title contains a Section 173 Agreement. The application does not breach the Section 173 Agreement for the following reasons:

- The agreement prevents the further subdivision of the land and requires that the inhabitant acknowledges the off-site agricultural impacts.
- The application does not propose any subdivision.

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## **Consultation**

Consultation was undertaken. Relevant aspects of consultation, included:

- Discussions with both applicant and objector regarding the planning permit requirements and processes.
- Meet with applicant onsite on two occasions to discuss location of tanks and the possibility of providing a vegetative screen should a permit grant, which they were agreeable to.
- The applicant was informed after the first objection that they would need to amend their application or make a new one to include the two additional tanks which had been raised by the objector.

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## **Referrals**

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	The application was referred to the Goulburn Broken Catchment Management Authority , who do not object to the issue of a permit
Section 52 Notices	Nil

Internal Council Notices	Advice/Response/Conditions
Nil	Nil
Nil	Nil

## Assessment

### The zoning of the land

Farming Zone 35.07-4

The purpose of the zone is to provide of the use of land for agriculture, to encourage the retention of productive agricultural land, to ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture, to encourage the retention of employment and population to support rural communities and to encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

A permit was required pursuant to Clause 35.07-5 for buildings and works within:

- 5 metres of a boundary;
- 100 metres of a dwelling not in the same ownership;
- 20 metres of a road; and
- 100 metres of a designated floodplain.

### Decision Guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines the responsible authority must considered as appropriate the guidelines of clause 35.07-6.

### General issues

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.

- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.

#### Response

The state and local policy framework are addressed under other sections within this report.

The disposal of effluent is not relevant for this application with the tanks not located on the existing septic lines and no upgrade required. The proposed development is suitable for the land in enabling the habitant of the dwelling to have static water supply for domestic needs. Abutting properties are used for rural lifestyle and therefore the placement of the tanks for domestic purposes is considered compatible with the surrounding land uses.

#### **Agricultural issues**

- Whether the use or development will support and enhance agricultural production.
- Whether the use or development will permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- Any integrated land management plan prepared for the site.

#### Response

Given that the land is not used for agriculture and unlikely to ever be used given the surrounding land uses, the proposed domestic water tanks are not considered to be removing land from agricultural production.

#### **Design and siting issues**

- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.
- Whether the development will require traffic management measures.

#### Response

The tanks are located near the existing shed and as discussed will not result in any impacts to the surrounding agricultural activities given the use of the abutting properties for rural lifestyle.

The tanks are to be located within 5 metres of the boundary of the objectors land and are not clearly visible from Central Kialla Road. The northern tank can be partially viewed from Mitchell Road, however is not clearly visible with vegetative screening provided.

It is established that the only clear view of the tanks is from the objectors land. The provision of a vegetation screen in front of these tanks would help to provide a visual screen that would be considered an acceptable outcome. Given the distance between the boundary and the tanks the provision of shrubs and not trees would be more practical.

In *Vegh v Yarra Ranges SC* the member noted that being able to partly see a water tank and rural outbuildings in a rural living area are also acceptable visual features in such landscape.

#### **Relevant overlay provisions**

Land Subject to Inundation Overlay 44.04-4

The Overlay identifies land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority. The Overlay's purpose is to ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

A planning permit was required pursuant to Clause 44.04-1 for buildings and works in the Land Subject to Inundation Overlay. The application was referred to the Goulburn Broken Catchment Management Authority who do not object to the issued of a permit.

#### **The State Planning Policy Framework (SPPF)**

Water Conservation 14.02-3

Objective and Strategies of this clause include:

- To ensure that water resources are managed in a sustainable way.
- Encourage the use of alternative water sources such as rainwater tanks, stormwater and recycled water by governments, developers and households.
- Ensure the development of new urban areas and green spaces takes advantage of any opportunities for effluent recycling.
- Protect areas with potential to recycle water for forestry, agriculture or other uses that can use treated effluent of an appropriate quality.

#### Response

The proposed application for the rainwater tanks will provide for a sustainable alternate water source for domestic purposes.

Water Supply, sewerage and drainage 19.03-2

- Encourage the re-use of wastewater including urban run-off, treated sewerage effluent and run-off from irrigated farmland where appropriate.

#### Response

The installation of rainwater tanks will allow for the re-use of rainwater run-off for domestic purposes.

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

Urban and Rural Services 21.07-2

The following has been identified as a key objective for infrastructure which is relevant to this application:

- Ensure that a continued supply of high quality water for urban and rural use.

#### Response

The proposed rainwater tanks will allow for a quality source of water for the existing dwelling on the land.

#### **Relevant Particular Provisions**

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

#### **The decision guidelines of Clause 65**

Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of clause 65.

The matters set out in the State and local policies have been addressed under the appropriate sections of this report.

Though the land is zoned Farming the use of the land and surrounding land through the approval of dwellings has become a rural living situation. The location of water tanks for domestic purposes is not considered to be at variance with the zone or the rural living characteristics of the locality. The proposed tanks are not considered to result in a significant unreasonable impact on the amenity of adjoining properties.

#### **Relevant incorporated or reference documents**

Precinct of Honeysuckle creek and Seven Creeks Local Floodplain Development Management Plan (2003)

#### **Other relevant adopted State policies or strategies policies**

There are no other relevant adopted State or strategic policies that relate to this application for a planning permit

**Relevant Planning Scheme amendments**

There are no relevant Planning Scheme amendments that relate to this application for a planning permit.

**Are there any significant social & economic effects?**

There are no relevant significant social or economic effects that relate to this application.

**Discuss any other relevant Acts that relate to the application?**

There are no other relevant Acts that relate to this application for a planning permit.

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**Conclusion**

The retrospective application made for the placement of three rainwater tanks is considered to achieve acceptable planning outcomes.

It is not unreasonable to expect the location of water tanks on land in the Farming Zone so as to support the domestic needs of a dwelling without other water supply options. Despite this, it is envisaged that through the provision of a vegetation screen that the visual impact of the tanks on the abutting property will be negated.

# Draft Notice Of Decision

**APPLICATION NO:** 2013-132  
**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:** 180 CENTRAL KIALLA ROAD KIALLA VIC 3631

**WHAT THE PERMIT WILL ALLOW:** BUILDINGS AND WORKS (RETROSPECTIVE) IN THE FARMING ZONE FOR THE INSTALLATION OF 3 X 22,500 LITRE WATER TANKS

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

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**1. Layout Not Altered**

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

**2. Landscape Plan**

Within 30 days of the date of this permit 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:

- c) A permanent vegetation screen between the water tanks and the western property boundary using a mixture of screen shrubs.
- d) a schedule of all proposed trees, shrubs and ground cover, including the location, number and size at maturity of all plants and the botanical names

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

All trees planted as part of the landscape works must be a minimum height of 1 metres at the time of planting.

Within 90 days of the date of this permit 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.

**3. Construction Phase**

All activities associated with the construction of the development permitted by this

permit must be carried out to the satisfaction of the Responsible Authority and all care must be taken to minimise the effect of such activities on the amenity of the locality, including:

- a) Avoiding the transport of mud onto roads;
- b) Minimising the generation of dust during earthworks or vehicles accessing site;
- c) The retention of all silt and sediment on the site during the construction phase, in accordance with the sediment control principles outlined in Construction Techniques for Sediment Pollution Control (EPA, 1991) and;
- d) Maintaining a neat and tidy site.

**4. Time for Starting and Completion**

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

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

Meeting closed at 10.17 AM