

CONFIRMED MINUTES

**FOR THE
GREATER SHEPPARTON CITY COUNCIL**

DEVELOPMENT HEARINGS PANEL

Meeting No. 10/2013

**HELD ON
THURSDAY 25 JULY 2013
AT 10.00AM**

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

ACTING CHAIR

Colin Kalms

**COMMITTEE MEMBERS PRESENT: Colin Kalms, Robert Frame, Braydon Aitken
and Ian Boyle**

1. RESOLUTION OF THE MEETING

Moved by Braydon Aitken and seconded by Ian Boyle that the Manager – Planning, Colin Kalms be appointed acting Chairperson for the Development Hearings Panel to be heard on 25 July 2013.

Carried

2. COMMITTEE MEMBERS PRESENT

Colin Kalms, Braydon Aitken, Ian Boyle and Robert Frame

3. OFFICERS PRESENT

Ronan Murphy – Senior Planner

Andrew Dainton – Principal Statutory Planner

4. 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”.

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

Jonathan Griffin, Councillor Les Oroszvary and Councillor Michael Polan.

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

- Moved by Braydon Aitken and seconded by Ian Boyle that the minutes of the meeting held on 27 June 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

Three items listed for consideration.

10. LATE REPORTS

None

11. NEXT MEETING

8 August 2013

Johann Rajaratnam
CHAIRMAN
17 July 2013

Distribution:

Committee Membership
Johann Rajaratnam (Chairman)
Colin Kalms
Jon Griffin
Ian Boyle
Braydon Aitken

Councillors
Statutory Planners

I N D E X

<u>Application No.</u>	<u>Subject Address:</u>	<u>Proposal:</u>	<u>Page No.</u>
2013-28 & 2013-83	134 Nixon Street, Shepparton	Alternations to façade of medical centre & Enclosure of Verandah	3
2013-101	135 Hanlon Road, Shepparton East	Use and development of land for a dwelling in the Farming Zone	20

The responsible officer for application no. 2013-28 & 2013-83, 134 Nixon street, Shepparton advised the Panel that the applicant had requested the matter be deferred, as detailed in email dated 24 July at 5.40 pm. TRIM 2013/32541 refers.

It was moved by Braydon Aitken and seconded by Ian Boyle to defer the matter to the next Development Hearings Panel, which is scheduled for Thursday 8 August 2013 at 10.00 am.

Carried.

As a result the Development Hearings Panel did not consider this matter.

Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2013-101
Applicants Name:	P Sfetcopoulos
Date Application Received:	18 April 2013
Statutory Days:	28
Land/Address:	135 Hanlon Road SHEPPARTON EAST VIC 3631
Zoning and Overlays:	Farming Zone
Why is a permit required (include Permit Triggers):	Use of land for a dwelling in the FZ under 35.07-1 Development of a dwelling in the FZ under 35.07-4
Are there any Restrictive Covenants on the title?	No

Proposal

The application proposes a dwelling at 135 Hanlon Road, Shepparton East which is currently developed with an orchard. The land is 9.062ha in size.

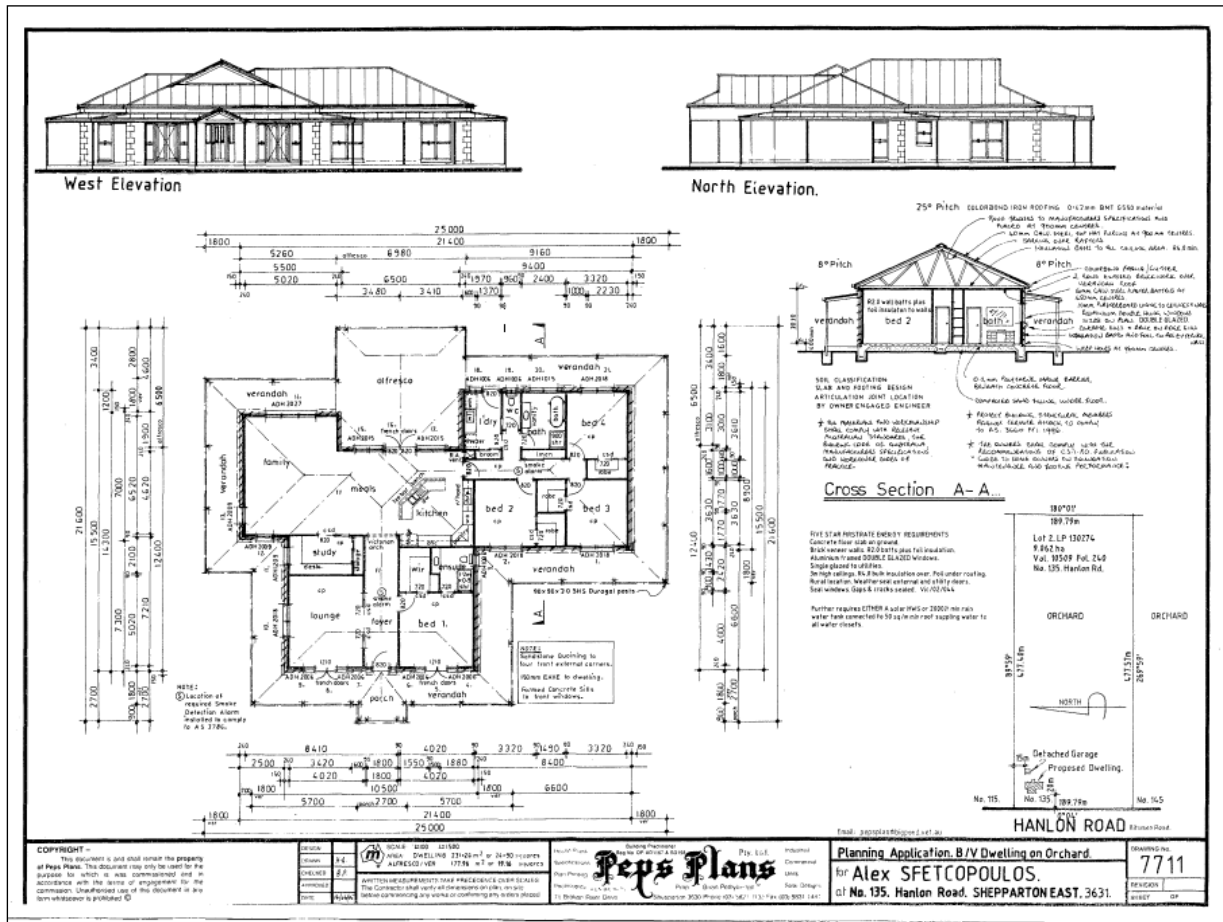
The land is part of a family orchard which includes 135 to 155 Hanlon Road and 125 Beckham Road (in company ownership).

- 135 Hanlon Road is 9.062ha and contains orchard and no dwelling
- 145A Hanlon Road is 2000sqm and contains a dwelling
- 145B Hanlon Road is 9.086ha and contains orchard and a dwelling
- 155 Hanlon Road is 6000sqm and contains a dwelling
- 125 Beckham Road 8.2ha and contains orchard and dwelling (in different ownership in the form of a company)

The families total land holding is 27.14ha and contains two small dwelling lots. In total the family orchard provides four dwellings of which one is used for picker's accommodation.

This applicant describes the application as *'the family wish to construct a new dwelling on one of their current orchards at No. 135 Hanlon Road to provide accommodation for the third generation of the family'*.

A plan of the proposed dwelling is below



The proposal is not supported by the State and local policy relating to agriculture having regard to the following:

- The proposal will result in a dwelling on a small lot in a rural zone, an outcome specifically discouraged in State policy
- A dwelling on the land limits the potential of the land to be used for agricultural production. Whilst acknowledging the review site is small, it is capable of being used for agriculture given the land is currently developed with an orchard.
- The dwelling, whilst proposed for a member of the farming family operating a family orchard, could be sold and occupied for 'rural lifestyle' purposes with resulting amenity conflicts with the rural use of adjoining land.
- There is inadequate justification as to why a dwelling is required to support the operation of the family orchard given there are four dwellings on the family orchard site two of which are on small dwelling lots that have been subdivided from the orchard

Summary of Key Issues

- The application proposes to use and develop a lot of 9.062ha which currently contains an orchard for a dwelling.
- The interim controls under the schedule to the FZ expired on 30 June 2013, which reduces the as of right lot size for a dwelling from 100ha to 10ha as the land is within

an 'intensive agriculture'. As the lot size is less than 10ha a planning permit continues to be required under the FZ to use and develop the land.

- The application has been considered by the planning officer including site inspection, meeting with applicant to discuss compromise positions, request for further information, public notice and referral. Following this detailed assessment, the officer's view is that the application results in unacceptable planning outcomes as its potential to remove productive horticultural land and lead to conflicting land uses.
- It is acknowledged that the land and abutting land is used for the family orchard which comprises 27ha of land, over five titles which are developed with four dwellings. This application states the purpose of the application is to provide a dwelling for a third generation of the family, which indicates the dwelling is for lifestyle purposes as opposed to assisting in the operation of the orchard.
- Despite the number of existing dwellings in the locality, the area remains capable of supporting productive agricultural uses in the form of orchards and vegetable growing. Therefore the net community benefit lies with protecting the land for productive agricultural uses.
- The proposed dwelling creates potential for the land to be either immediately or in the future, on sold or used for non-agricultural purposes which could led to conflict between a residential lot within an intensive agricultural area.
- Policy both state and local discourages the development of dwellings on small lots in the FZ that could lead to future conflicting land uses. The Rural Strategic specifically sets out the importance of the Shepparton East horticultural area to the municipal and the area being at risk of lifestyle dwellings and that additional dwellings are not required to support agricultural growth.
- Compromise positions have been offered in the form of a replacement dwelling application, however have not been accepted by the applicant.
- It is considered the proposed application does not result in a net community benefit as it creates potential for removal of agricultural land from production and conflicting land uses. Therefore it is recommended that the application be refused by DHP.

Moved by Braydon Aitken and Seconded by Robert Frame

That the Council having caused notice of Planning Application No. 2013-101 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of 35.07-1 and 35.07-4 of the Greater

Shepparton Planning Scheme in respect of the land known and described as 135 Hanlon Road Shepparton East, for the use and development of the land for a dwelling in the Farming Zone.

For the following reasons:

1. The proposed use and development for a dwelling on the subject land of 9.062 hectares does not provide an acceptable outcome or a net community benefit in terms of the State and Local Planning Policy Frameworks and the purpose and decision guidelines of the Farming Zone, and
 - a. is likely to impact on the continuation of primary production on adjacent land, with particular regard to land values;
 - b. takes land out of agricultural production, and has the potential to limit the use of adjacent land;
 - c. has considerable potential for conflict between the ongoing farming activities and the rural living use;
 - d. sets a precedent in the area for adjacent small lots to be converted to rural living use;
 - e. could lead to a proliferation of residential uses in the area and impact on the productive capacity of the surrounding good quality agricultural land and the economic base of the Municipality
2. The application does not adequately demonstrate that the proposed dwelling is reasonably required for the operation of agricultural activity on the land.
3. The application does not comply with the Rural Regional Land Use Strategy (C121) which seeks to limit dwellings in the proposed Farming Zone 1 which are not associated or required for the agricultural use of the land.

CARRIED

Subject Site & Locality

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

Date: 21 May 2013 Time: 11.30am

The site has a total area of 9.062ha and currently contains:

- an existing orchard with frontage to Hanlon and Beckham Roads

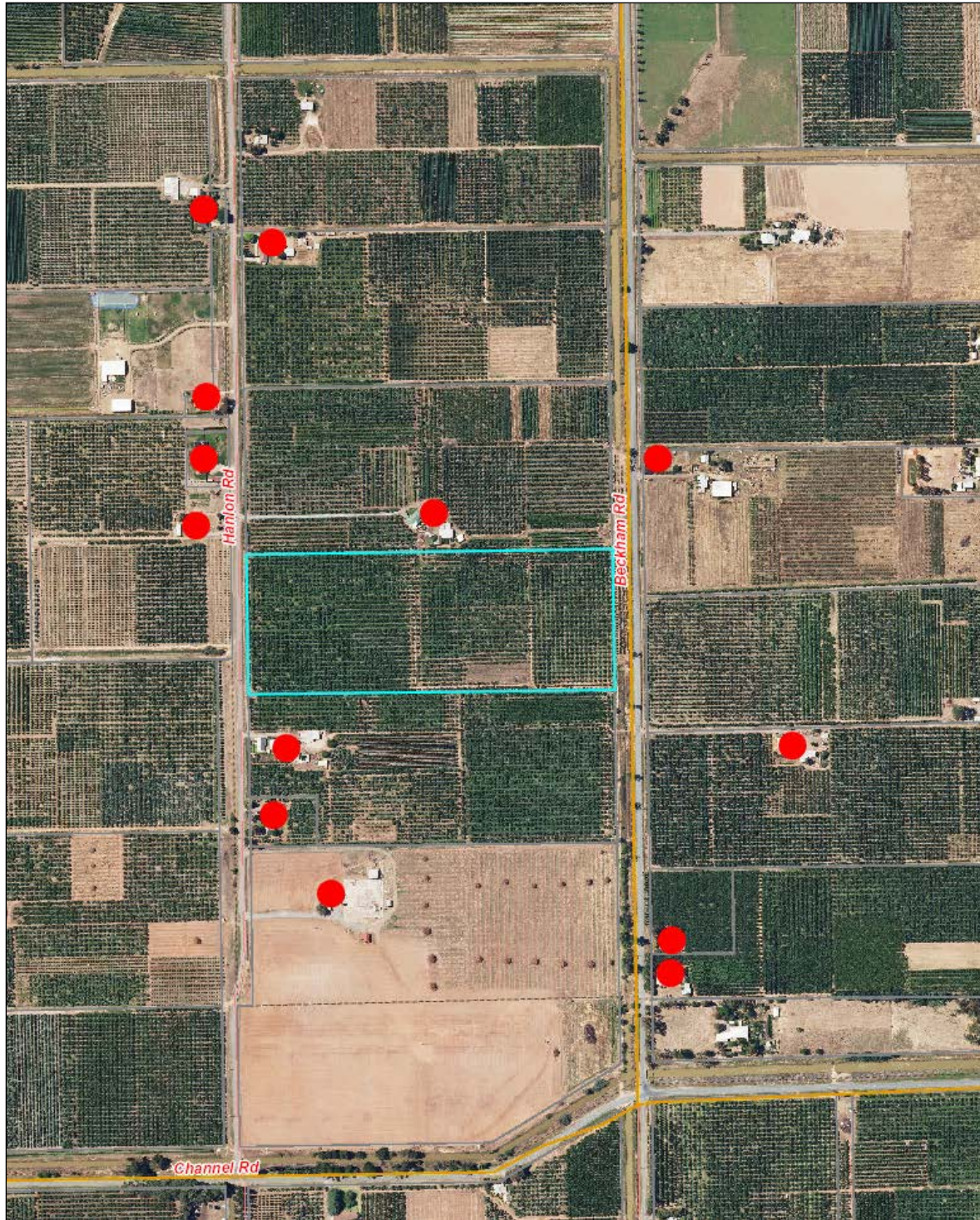
The main site/locality characteristics are:

- the land is within the Shepparton East horticultural area
- lot sizes in the area at the largest are about 10ha with some small lot house excisions undertaken over time
- about 1200m to the north of the land is the township of Shepparton East

- there is a number of dwellings in close proximity to the land as indicated by red dots on the below plan

The Photos below show the existing site:

Aerial plan showing existing dwellings marked by 'dot'





Location of proposed dwelling location



Existing orchard on the land



Existing orchard on the land

Permit/Site History

The history of the site includes:

- 2004-204 was issued on 8 December 2004 and allowed a second dwelling on 145B Hanlon Road
- A site meeting was held on 21 May 2013 attended by the applicants and planning officer. At this meeting the proposed dwelling site was observed. The planning officer queried if the application could be amended to a replacement dwelling application at another of the families orchard lots containing a dwelling. The land owner informed the proposed dwelling is for his granddaughter who seeks their own title. The owner informed that 2ha of trees would be cleared to allow the construction of dwelling and yard. The owner also informed that SPCA had cut quotas of fruit to be taken from his orchards.
- On 21 June 2013, the planning officer informed the applicant in writing that the proposal is unlikely to achieve an acceptable planning outcome. The officer also informed that a compromise application in the form of a replacement dwelling proposal would not be opposed by the planning officer.
- On 9 July 2013, a meeting was held between the applicants and planning officer to discuss potential compromise positions. The owner proposed the consolidation of the orchard lots and creation of a 1ha lot to accommodate the proposed dwelling. The planning officer did not accept this offer as it had the potential to lead to significant future

land use conflict between a residential lot and intensive horticultural use. The officer raised the prospect of a replacement dwelling; however the owner informed would not agree to this. The owner informed that he now sought a decision on the submitted application. The planning officer informed the application would be referred to a DHP, at which the officer would recommend refusal of the application.

- On 11 July 2013, the family member of the applicant informed the Council in writing of their disappointment with the officer's recommendation. On 15 July 2013, the Acting Manager of Citizen experience responded by phone to the author of the letter and informed of the DHP process.

Further Information

Was further information requested for this application? Yes on 9 May 2013. The RFI included a lapse date of 11 June 2013.

The RFI sought the following:

- A written response to clause 35.07-5 of the Farming Zone which explains how the proposed dwelling responds to the decision guidelines in the Farming Zone (a copy of the Farming Zone is enclosed)

On 11 June 2013, the applicant provided a satisfactory response to the RFI.

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.

A sign inspection was undertaken on 1 July 2013 that found the sign was properly displayed on the land as shown in the below photo.



Objections

The Council has received no objections to date.

Title Details

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

Consultation

Consultation was undertaken and is described under Permit / Site history.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Clause 66 of the scheme did not require referral of the application.
Section 52 Notices	GMW was notified of the application. The Rural Water authority consented to the issue of a permit, subject to standard conditions.

Internal Council Notices	Advice/Response/Conditions
Health Department	The Council's Health Department consented to the issue of a permit subject to conditions relating to septic tank systems.

Assessment

The zoning of the land

The land is within the FZ. Purposes of the FZ include:

- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To protect and enhance natural resources and the biodiversity of the area.

A permit is required to use and develop land in the FZ for a dwelling on a lot less than 10ha (as the interim controls have expired).

Clause 35.07-5 requires an application to use a lot for a dwelling must be accompanied by a written statement which explains how the proposed dwelling responds to the decision guidelines for dwellings in the zone.

Clause 35.07-6 includes decision guidelines:

The relevant matters (decision guidelines) that the Farming Zone identifies that must be considered with this type of application are:

General issues

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- 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.

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 capacity of the site to sustain the agricultural use.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- Any integrated land management plan prepared for the site.

Dwelling issues

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling is reasonably required for the operation of the agricultural activity conducted on the land.

- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

Environmental issues

- The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

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.

Relevant overlay provisions

The land is not within any overlays.

The State Planning Policy Framework (SPPF)

11.05-3 Rural productivity

The objective of this clause is to manage land use change and development in rural areas to promote agriculture and rural production.

Prevent inappropriately dispersed urban activities in rural areas.

Limit new housing development in rural areas, including:

- Directing housing growth into existing settlements.
- Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.
- Encouraging consolidation of existing isolated small lots in rural zones.

Restructure old and inappropriate subdivisions.

11.05-4 Regional planning strategies and principles

Environmental health and productivity

Maintain and provide for the enhancement of environmental health and productivity of rural and hinterland landscapes by:

- Managing the impacts of settlement growth and development to deliver positive land use and natural resource management outcomes.
- Avoiding development impacts on land that contains high biodiversity values, landscape amenity, water conservation values, food production and energy production capacity, extractable resources and minerals, cultural heritage and recreation values, assets and recognised uses.

14.01-1 Protection of agricultural land

The objective of this clause is to protect productive farmland which is of strategic significance in the local or regional context.

Strategies

Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.

Consult with the Department of Primary Industries and utilise available information to identify areas of productive agricultural land.

Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity.

Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.

In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:

- The desirability and impacts of removing the land from primary production, given its agricultural productivity.
- The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
- The compatibility between the proposed or likely development and the existing uses of the surrounding land.
- Assessment of the land capability.

In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals.

Planning for rural land use should consider:

- land capability; and
- the potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.

14.01-2 Sustainable agricultural land use

The objective of this clause is to encourage sustainable agricultural land use.

Strategies

Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.

Encourage sustainable agricultural and associated rural land use and support and assist the development of innovative approaches to sustainable practices.

Support effective agricultural production and processing infrastructure, rural industry and farm-related retailing and assist genuine farming enterprises to adjust flexibly to market changes.

Facilitate the establishment and expansion of cattle feedlots, piggeries, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.

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

21.02 Key influences and issues

- There is a high local dependence and reliance upon the agricultural sector as a source of local employment and wealth. This regional strength can also be the region's vulnerability, particularly in the face of climate change and local environmental constraints.
- Land use strategies that provide for growth should be pursued whilst also protecting the quality of agricultural land and encouraging the sustainable use of natural resources such as land, water, air and biodiversity.

21.03 Vision, sustainability principles and strategic directions

Economic development

Promote economic growth, business development and diversification, with a focus on strengthening the agricultural industry.

Clause 21.04-3 Dwellings in Rural Areas

While it is acknowledged that a dwelling will often be needed to properly farm land, these must be limited to those that genuinely relate to agricultural production. The number of dwellings that a farm can economically sustain relates to its rural land capability, the labour needs of the farming practice, the intensity of the farm activity and the volume of rural output. Development of houses at a density greater than is required for the rural use of land can give rise to conflicts with legitimate farming practices. Isolated dwellings in the rural areas have the potential to disrupt agricultural activities and should not impinge on the appropriate use of farming land.

Objectives - Dwellings in rural areas

- To ensure that dwellings in rural areas are required to support the agricultural use of the land.
- To discourage the development of dwellings which are unrelated to farming.
- To ensure that the use of a dwelling on a rural lot does not prejudice surrounding agricultural activities.
- To prevent the construction of dwellings on small and inappropriate lots in rural areas.

Strategies - Dwellings in rural areas

- Discourage dwellings on old and inappropriate lots where amenity may be negatively impacted by farming activities, or where dwellings may inhibit rural activities.
- Encourage consolidation of rural land holdings to increase the viability & sustainability of agriculture.

Clause 21.04-7 Specific Implementation

Policy Guidelines - Dwellings in rural areas

When considering an application for a dwelling in a rural area, Council will be guided by the following provisions:

- the dwelling is required for the operation of the rural use of the land;
- the dwelling lot must be at least 2ha in area;
- the dwelling lot must have been created after 1st January 1960;
- the construction of new dwellings is discouraged on any land that is not suitable for the on-site disposal of septic tank effluent;
- the construction of new dwellings is discouraged on any land with a water table within one metre of the surface when waste water is to be treated and retained on site;
- the applicant be required to enter into an agreement under section 173 of the Act to prevent the subdivision of the lot containing the dwelling where the proposed lot size is less than the minimum specified in the zone;
- the applicant may be required to enter into an agreement under section 173 of the Act acknowledging the possible off-site impacts of adjoining or nearby agricultural activities;
- a second dwelling is discouraged unless it is demonstrated that it is necessary to support a viable agricultural enterprise;
- the second dwelling cannot be occupied until the agricultural use with which it is associated has commenced; and
- any approval for a second dwelling (including a caretaker's house, a manager's house or a dwelling for agricultural workers) will be subject to an agreement under Section 173 of the Act prohibiting the subdivision of the land around the dwelling.

21.06-1 Agriculture

The economic performance of the municipality is largely dependent on the strong rural sector (crops, fruits, milk, livestock) and the associated value adding industries (food processors and livestock feed manufacturers). The farming sector is based on irrigated and dry land farming and comprises dairy, horticultural and mixed farms and food processing businesses with an annual farm gate production value of \$1 billion in 2000 and a processing value of \$1.7 billion in 2000. Therefore the protection of the productive agricultural land resource of the municipality and the securing of water supply are of paramount importance.

Objectives – Agriculture

- To protect the productive agricultural land base.
- To protect the valuable regional resource of irrigated land.
- To minimise conflicts at the urban fringe/agricultural land interface.
- To discourage the fragmentation of rural land into lots of a size not capable of agricultural production.
- To encourage the consolidation of farm lots so as to increase the viability of agriculture.
- To protect rural land for productive agricultural purposes.
- To limit non-agricultural development on high quality agricultural land.

Strategies – Agriculture

- Protect the existing agricultural areas.
- Discourage the fragmentation of productive agricultural land.
- Support the growth and expansion of primary industries in irrigated and dry land farming.
- Provide for new opportunities for emerging farming practices.
- Encourage value adding and new enterprises for agricultural production.
- Encourage the preparation of Whole Farm Plans.
- Prevent inappropriate non-agricultural uses on rural land.
- Prevent the inappropriate use and development of rural land for industry, other than rural based industry.
- Ensure non-agricultural development in rural areas can demonstrate that the development is dependent on a rural location, and cannot be accommodated within existing industrial or business zoned land.
- Discourage non-agricultural development along major roads in rural areas especially at the fringe of existing urban areas when it may contribute to ribbon development.
- Buildings for non-agricultural purposes in rural areas should be set back a minimum of 100 metres from any road, be constructed in muted coloured 'colorbond' materials or similar and screened from any road by dense tree and shrub planting.
- Signs for industrial and commercial development in rural areas will be strictly limited in size and number. 22.08

Officer's responses to FZ, SPPF and LPPF:

The proposal seeks a planning permit to use and develop land for a dwelling on land less than 10ha in size.

The subject site is located in an area of productive irrigated horticultural land where there are a number of orchards. It is acknowledged there are existing small lots with dwellings in the area; however the area is not developed with small lots and dwellings to the extent that intensive agricultural uses are no longer possible.

The intention of the Council's local planning policy is clear on the matter of discouraging dwellings in the FZ which are not reasonably required for the operation of an agricultural activity conducted on the land.

If a dwelling is allowed it would potentially lead to the land being unrelated to agricultural production which does not result in an acceptable outcome or a net community benefit in terms of the State and Local Planning Policy Frameworks and the purpose and decision guidelines of the Farming

The proposed dwelling primary purpose is to provide a lifestyle opportunity for a family member rather than to support the agricultural use potentially creating a rural lifestyle dwelling opportunity that:

- has considerable potential for conflict between the ongoing and future farming activities and the rural living use, particular with orchards;
- takes land out of agricultural production, and has the potential to limit the use of adjacent land;

- sets a precedent in the area for adjacent small lots to be converted to rural living use and discontinue the horticultural uses;
- is likely to impact on the continuation of primary production on adjacent land, with particular regard to land values;
- could lead to a proliferation of residential uses in the area and impact on the productive capacity of the surrounding good quality agricultural land and the economic base of the Municipality

Since the introduction of the FZ, and tightening of policy in relation to the use of agricultural land in the last few years, there are VCAT decisions being made which confirm that, dwellings which are unrelated to agriculture potentially introduce 'rural living' properties within genuine agricultural areas need to be avoided. The main reasons are:

- Conflict between the expectations of persons seeking 'lifestyle' compared to the operation of agriculture which can involve noise, dust, smell, spray drift, 24 hour operation, etc.
- Rural 'lifestyle' dwellings on small lots in agricultural areas introduce problems expectations of amenity and tranquillity, and of services
- Residential use artificially increases land values beyond the reach of farming enterprises, hindering the ability to expand properties.

For a dwelling to be supported the dwelling has to be reasonably required to support agricultural production. This means there must be a direct and meaningful association between the dwelling and the bona fide operation of the land for agricultural activities. A proposed dwelling must genuinely contribute to achieving the purposes of the FZ and associated policies.

It is acknowledged in this application that the land is developed with an operating orchard that forms part of the family orchard. The application that is submitted does not demonstrate the purpose of this dwelling is to strengthen the orchards operation, the application states the purpose is to allow for a third generation family member to live on the land.

For a dwelling permit to be granted there needs to be certainty that the dwelling will genuinely support the existing horticultural operation. This application does not provide sufficient justification to allow the approval of a dwelling on the land.

It is also considered that the overall family orchard consists of 27ha of land over five titles which contain four dwellings. It is not considered that the 27ha orchard holding requires five dwellings to run the orchard.

The creation of an additional dwelling in this area, has the potential to not only remove land from agricultural production, the dwelling could also create conflict between existing and future genuine agricultural uses, such as the orchards which are located in the area.

Even considering that the potential loss of agricultural land is limited to about nine hectares, the longer term cumulative effect must be considered, both through land use conflict with adjacent land, and the increase in land values in this area created through expectations of other land owners due to the precedent created.

The potential for this application alone to impact on the operation and expansion of agricultural uses in the area may be relatively limited; however, the FZ and supporting planning policy intend that the responsible authority consider this issue within a cumulative context.

It is acknowledged that the recommendation to refuse to grant a permit will be unwelcome by the applicant, however the provisions of the FZ must be upheld and existing and possible future agricultural uses are not detrimentally affected by additional dwelling opportunities in the FZ.

The application should be refused for the following reasons:

- The application represents a loss of productive agricultural land which is of strategic significance in the local, regional and state context.
- The application detracts from the long term productive capacity of agricultural land.
- The application is contrary to local planning policy which recognises the importance of agriculture to the economic base of the municipality, and of importance to Victoria.
- The application is contrary to policy that seeks to prevent land use conflicts between agricultural uses and sensitive uses.
- The application does not provide sufficient certainty that the dwelling is reasonable required to support an agricultural land use
- The application is contrary to the purposes of the Farming Zone.

Relevant Particular Provisions

No relevant particular provisions

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 dwelling is contrary to the purposes and decision guidelines of the FZ and associated state and local policies
- The introduction of a dwelling in the FZ does not promote the orderly planning of the area as the dwelling create possible conflict between agricultural and perceived residential amenity
- The land is not within an area of flooding.
- The application does not propose the removal or destruction of native vegetation.

Therefore it is considered that the use and development does not achieve acceptable outcomes with clause 65.01 of the scheme.

Relevant incorporated or reference documents

Rural Regional Land Use Strategy

Other relevant adopted State policies or strategies policies

There is no relevant adopted state or strategic policies.

Relevant Planning Scheme amendments

C-100 increased the minimum lot size for a dwelling from a 10ha to 100ha. This interim control was a Ministerial amendment and expired on 30 June 2013.

C-121 – Rural Regional Land Use Strategy (Rural Strategy)

The land is proposed to be included within the FZ1 (Growth and Consolidation).

The FZ1 is an area for support for existing farm businesses to operate and grow where the following land use outcomes are sought:

- Strongly discourage establishment of dwellings not associated or required for the agricultural use of the land
- Encourage consolidation of lots
- Limit subdivision as new or smaller lots will rarely be required
- Discourage land uses and development that would compromise the future agricultural use of the land, including farm related tourism
- Provide for excisions where restructure is an outcome and designed to minimise neighbour impact

The minimum lot size for subdivision in the FZ1 is:

- 40ha

The minimum lot size for a dwelling in the FZ1 (as of right) is:

- 60ha

According to the Rural Strategy the region grows:

- 90% of the national deciduous canned fruit production
- 85% of the national pear crop
- 45% of the national stone fruit crop
- 14% of the national fresh stone fruit crop
- 16% of the national apple crop
- 90% of the national kiwifruit crop

The average orchard is estimated to be 25ha with a trend towards larger properties. The horticultural industry accounts for 28% of gross annual value of agricultural production, but takes place on less than 5% of the total irrigated area, or 12% of irrigated land in Greater Shepparton.

Within Greater Shepparton, horticulture is the largest agricultural industry worth an estimated \$229 million a year.

The Rural Strategy identifies properties within the Shepparton East area being at risk of lifestyle pressures (page 44).

The Rural Strategy outlines the importance of the horticultural sector to the municipalities economy and need to protect land for production. The Rural Strategy states 'new dwellings are not required to support agricultural growth' (page 108).

As the proposed seeks a dwelling not associated with an operating intensive agricultural use, the proposed dwelling does not comply with the proposed FZ1.

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the application?

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

The land is not within an area of cultural heritage sensitivity therefore the application does not need to be considered under the *Aboriginal Heritage Act*.

Conclusion

It is considered that a need for the dwelling has not been adequately demonstrated and the proposal is unlikely to provide a net community benefit in terms of agricultural production.

It is considered that allowing the proposed dwelling is inconsistent with State and Local Planning Policy and the purpose and decision guidelines of the Farming Zone, and does not provide a net community benefit. The application therefore does not produce an acceptable outcome and should not be supported.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2013-101

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 135 Hanlon Road SHEPPARTON EAST VIC 3631

WHAT HAS BEEN REFUSED: Use and development of the land for a dwelling in the Farming Zone

WHAT ARE THE REASONS FOR THE REFUSAL?

4. The proposed use and development for a dwelling on the subject land of 9.062 hectares does not provide an acceptable outcome or a net community benefit in terms of the State and Local Planning Policy Frameworks and the purpose and decision guidelines of the Farming Zone, and
 - a. is likely to impact on the continuation of primary production on adjacent land, with particular regard to land values;
 - b. takes land out of agricultural production, and has the potential to limit the use of adjacent land;
 - c. has considerable potential for conflict between the ongoing farming activities and the rural living use;
 - d. sets a precedent in the area for adjacent small lots to be converted to rural living use;
 - e. could lead to a proliferation of residential uses in the area and impact on the productive capacity of the surrounding good quality agricultural land and the economic base of the Municipality
 5. The application does not adequately demonstrate that the proposed dwelling is reasonably required for the operation of agricultural activity on the land.
 6. The application does not comply with the Rural Regional Land Use Strategy (C121) which seeks to limit dwellings in the proposed Farming Zone 1 which are not associated or required for the agricultural use of the land.
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Meeting closed at 10.30 AM