

CONFIRMED MINUTES

FOR THE

GREATER SHEPPARTON CITY COUNCIL

DEVELOPMENT HEARINGS PANEL

Meeting No. 07/2016

HELD ON

MONDAY 12 DECEMBER 2016

AT 10.00AM

IN THE COUNCIL BOARDROOM
90 WELSFORD STREET

CHAIR

Councillor Dinny Adem

1. ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 7 for 2016.

I would like to begin with an acknowledgement of the traditional owners of the land.

“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. RECORDING OF PROCEEDINGS

I would like to advise all present today that:

- the proceeding is being minuted but not recorded.
- and that out of courtesy for all other attendees any recording devices should be turned off during the course of the hearing unless the chair has been formally advised that a party wishes to record proceedings.

3. COMMITTEE MEMBERS PRESENT

Committee members present today are:

- Cr Dinny Adem (Chair),
- Johann Rajaratnam – Director Sustainable Development – Greater Shepparton City Council
- Michael MacDonagh – Team Leader Strategic Planning – Greater Shepparton City Council
- Jorine Bothma – Manager Town Planning and Building – Moira Shire Council; and
- Cameron Fraser – Principal Planner – Strathbogie Shire Council

4. OFFICERS AND OTHERS PRESENT

The Planning Officer presenting today is:

- Andrew Dainton – Principal Statutory Planner
- Sarah Van Meurs – Statutory Planner
- Ronan Murphy – Senior Planner

5. APOLOGIES

- None

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

None

7. DECLARATIONS OF CONFLICTS OF INTEREST

None

8. ORDER OF PROCEEDINGS

For those of you who are attending the DHP for the first time the process is as follows

- The DHP operates under Local Law No 2, with such modifications and adaptations as the DHP deems necessary for the orderly conduct of meetings.
- All DHP panel members have 1 vote at a meeting.
- Decisions of the DHP are by ordinary majority resolution. If a vote is tied the Chair of the DHP has the casting vote.
- The process for submitters to be heard by the Panel today shall be:
 - The planning officer to present the planning report recommendation
 - Any objector/s or representatives on behalf of the objectors present to make a submissions in support of their objection (should they wish to)
 - The applicant/applicant representative to present in support of the application
- The officer, objectors/submitters and applicant will be limited to three minutes per person unless granted a further 3 minute extension by the Chair (following a moved and seconded motion from the panel).

9. MATTERS FOR CONSIDERATION

There is six items formally listed for consideration today:

- Planning permit application 2015-333/C for the use and development of land for a child care centre, buildings and works in the Floodway Overlay and Land Subject to Inundation Overlay, creation of access to a Road Zone Category 1, a two lot subdivision and creation of carriageway easement.
- Planning permit application 2016-194 for the use of Land in the Farming Zone for a Free Range Piggery.

- Planning permit application 2016-141 for Buildings and works for the construction of a loading bay in the industrial 1 zone, use of the land for motor vehicle sales in the commercial 2 zone, buildings and works in the commercial 2 zone and land subject to inundation overlay, display of business identification signage in the commercial 2 zone, reduction of car parking, variation to clause 52.14 (motor vehicle, boat and caravan sales) and removal of two native trees.
- Planning permit application 2015-458/A to use and develop the land for a commercial development including a chemist in the Commercial 2 Zone and Land Subject to Inundation Overlay.
- Planning permit application 2016-241 for the use and development of the land for a dwelling in the Farming Zone and Land Subject to Inundation Overlay.
- Planning permit application to Erect and display an above verandah electronic promotional sign in the Activity Centre Zone 1 and Heritage Overlay – Schedule 160.

10. LATE REPORTS

None

11. NEXT MEETING

15 December 2016

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Amended Application Details:

Responsible Officer:	Andrew Dainton
Amended Permit Number:	2015-333/C
Applicants Name:	SAB Holdings Pty Ltd
Date Amendment Received:	14 September 2016
Statutory Days:	48
Land/Address:	615-619 Wyndham Street SHEPPARTON VIC 3630
Zoning and Overlays:	Neighbourhood Residential Zone Floodway Overlay Land Subject to Inundation Overlay
Why was the amendment required?	To defer road works as required by condition 14 of the permit
Why is a permit required (include Permit Triggers):	Use of land for a child care centre under 32.09-1 Subdivision of land in the NRZ under 32.09-2 Buildings and works associated with a section 2 use under 32.09-7 Buildings and works in the FO under 44.03-1 Subdivision in the FO under 44.03-2 Buildings and works in the LSIO under 44.04-1 Subdivision in the LSIO under 44.04-2 Creation of a carriageway easement under 52.02 Creation of access to a RDZ1 under 52.29 Subdivision of land adjacent to a RDZ1 under 52.29
Are there any Restrictive Covenants on the title?	No

Proposal

Planning permit 2015-333/B was issued on 10 November 2015 and allowed the following:

use and develop land for a child care centre, buildings and works in the Floodway Overlay and Land Subject to Inundation Overlay, creation of access to a Road Zone Category 1, a two lot subdivision and creation of a carriageway easement

Condition 14 of the permit was included at the request of Vic Roads who are a determining referral authority. Vic Roads required, before the occupation of the child care centre, road works be undertaken which included the relocation of the service road exit to Wyndham Street.

This amended application seeks permission to defer the construction of these roads works to allow the occupation of the child care centre before the completion of the road works. The application documents state that the road works will be completed by the end of December 2016.

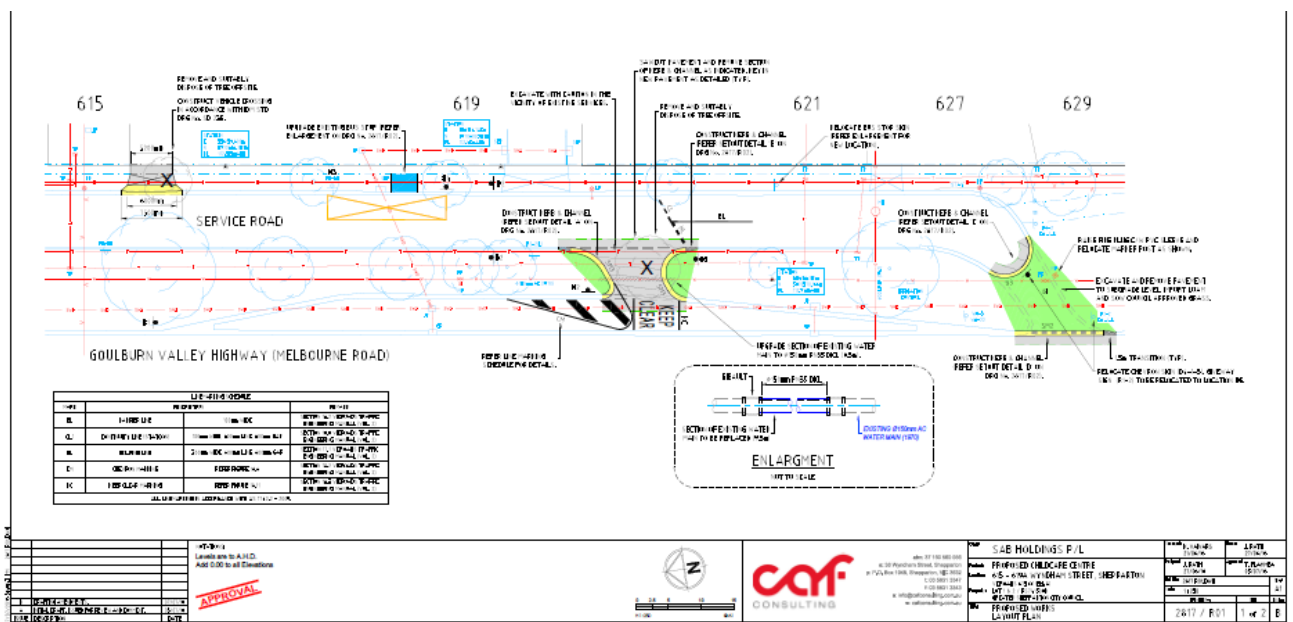
Vic Roads having considered the amended application decided to object to the grant of an amended permit for the following reason:

- *The proposed use of the site is premature and the current access is incompatible with the safe operation of Goulburn Valley Highway and public safety.*

As Vic Roads are a determining referral authority, the amended application must be refused.

Given that the child care centre has been occupied without completing the required road works, planning officers have commenced enforcement proceedings against the permit holder.

Road Works Plans



Recommendation

Refusal

That the Council having not caused notice of Amended Planning Application No. 2015-333/C 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 the Greater Shepparton Planning Scheme in respect of the land known and described as 615-619 Wyndham Street SHEPPARTON VIC 3630, for the to defer the road works under condition 14.

For the following reason:

Vic Roads

The proposed use of the site is premature and the current access is incompatible with the safe operation of Goulburn Valley Highway and public safety.

Permit/Site History

The history of the site includes:

- Planning permit 2015-333 was initially issued on 10 November 2015 with the following Vic Roads condition:
Prior to commencement of use of the access to the Goulburn Valley Highway service lane:
 - *A Road Safety Audit (RSA) is to be conducted and submitted to VicRoads, the Audit may be endorsed by the Roads Corporation and will then form part of the permit.*
 - *All recommendations of the Road Safety Audit must be completed to the satisfaction of and at no cost to the Roads Corporation*
- On 15 December 2015 a safety review of the proposed access was submitted. On 12 January 2016 Vic Roads informed the permit holder by letter that the road safety audit was not approved for the following reasons:
 - *Trafficworks highlighted a significant underestimation in the original traffic report of the proposed developments traffic generation demand attempting to perform a U-Turn at the median opening opposite Kennedy Road and the Goulburn Valley Highway (Wyndham St). Paffrath identified a 5% demand on U-Turn northbound volumes whilst Trafficworks re-assessed to a 45% demand attempting this manoeuvre. This variation significantly increases the potential for a conflict between north and southbound traffic, development proposal traffic and through traffic attempting to access the commercial properties to the west of the subject site.*
 - *The Risk Assessment, Section 2.3.4, has identified the overall risk rating of extreme. Measures suggested by Trafficworks to minimise this risk included a U-Turn ban, signage installation at the median opening and an inclusion in the Childcare Centre operational policy an agreement for all parents not to attempt a U-Turn movement. Implementing a U-Turn ban and signage could possibly disadvantage access to the surrounding commercial business and is considered inappropriate whilst signing an internal policy is not enforceable.*
 - *The Road Safety Audit has not included the Applicant/Owners comments to the conclusion of the report, to date VicRoads have not received this submission.*
- On 14 January 2016 the permit is amended to allow the creation of a carriageway easement
- On 27 January 2016 the permit is amended to alter Vic Roads conditions to require road works to the service road before the building is occupied
- On 12 July 2016 the permit holder submits road works plans as required by Vic Roads. Council forwarded the plans to Vic Roads on the same day.
- On 14 September 2016 the permit holder files an application to defer road works under condition 14 to allow the child care centre to open before the completion of road works

Further Information

Was further information requested for this application? Yes. Vic Roads requested the following information on 22 September 2016.

The measures proposed by the applicant which will mitigate the risk resulting on the Goulburn Valley Highway from the traffic generated by this development until such time that the proposed mitigation works recommended in Trafficworks Functional Layout Plan 153630-FLT-01 (Issue P2) are completed? The applicant must advise then the mitigating works identified in the Trafficworks Functional Layout Plan will be completed noting that VicRoads require this work to be completed within a reasonable timeframe.

On 26 September 2016 the permit holder provided a response to the request directly to Vic Roads. The response provided a template undertaking for users of the child care centre to sign in relation to traffic movements from the land. The provision of this additional information satisfied the request for information and allowed Vic Roads to provide their referral response.

Public Notification

The application was not advertised pursuant to Section 52 of the *Planning and Environment Act 1987* as it is believed that no material detriment will be caused to any person for the following reasons:

- The initial permit provided permission for alteration to access to a RDZ1 which was advertised and no objections were lodged in relation to access. This amended application sought permission to defer the approved road works, it is considered that Vic Roads acting as the expert government agency would determine if the delay of works was likely to result in an unsafe road environment.
-

Objections

The Council has received no objections from neighbours.

Title Details

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

Consultation

Consultation was not undertaken.

Referrals

The application was referred to Vic Roads under 52.29 as a determining referral authority.

Vic Roads acting a determining referral authority objected to the amended application, therefore Council must refuse to grant the amended permit.

Conclusion

The application to delay the road works has been referred to Vic Roads who have objected to the grant of an amended permit. As Vic Roads are a determining referral authority officers must recommended that no amended permit grant.

Furthermore as the child care centre has been occupied before the completion of the road works enforcement proceedings have been commenced to ensure compliance with the permit is obtained.

REFUSAL TO GRANT AN AMENDMENT TO A PERMIT

PERMIT NO: 2015-333/C

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 615-619 Wyndham Street SHEPPARTON VIC
3630

PERMIT FOR WHICH AMENDMENT WAS SOUGHT: Permit No: 2015-333/B

WHAT HAS BEEN REFUSED?

The changes to the permit that have been refused are as follows:

Amend condition 14 to allow deferral of the road works until December 2016

WHAT ARE THE REASONS FOR REFUSAL?

Vic Roads

The proposed use of the site is premature and the current access is incompatible with safe operation of Goulburn Valley Highway and public safety.

Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2016-194
Applicants Name:	D R Young
Date Application Received:	11 May 2016
Statutory Days:	167
Land/Address:	680 Harston Road HARSTON VIC 3616
Zoning and Overlays:	Farming Zone 1 Floodway Overlay Part area of Aboriginal Cultural Heritage Sensitivity
Why is a permit required (include Permit Triggers):	Use of land for intensive animal husbandry under 35.07-1
Are there any Restrictive Covenants on the title?	No

Proposal

The application seeks planning permission to use the land for intensive animal husbandry being a free range piggery. The piggery application was originally for a maximum capacity of 565 pigs with 70 breeding sows, further information submitted has reduced to 500 pigs with 65 sows.

The planning definition of 'intensive animal husbandry' refers to a farm used to keep or breed farm animals where most food is imported from outside the enclosures. The application describes its proposal as 'free range' because rather than being aggregated together in a large shed and yard, the pigs will be distributed in paddocks with movable hutches across about half of the property at any time. On about a two year basis the pigs are rotated to fresh paddocks, from paddocks which will then be renovated and cropped.

Paddocks housing the pigs will have hutches, feeders and watering points, located in a manner that controls pig traffic areas and ensures the even spread of manure throughout the entire paddock to make the best use of this by-product during the cropping phase. Pig wallows are rehabilitated and restored to a normal paddock surface during the spelling stage.

Across the property there will be about 16 huts for farrowing sows, dry sows and boars will share group accommodation with two mobile structures. Weaner pigs will have about 5 hutches, and grower and finisher pigs will be accommodated in approximately 17 hutches. Further shade is provided in the paddock by mobile shade structures and wallows are provided for the free range pigs to cool themselves in hot weather and coat themselves with a protective layer of dried dirt.

The industry terms 'grower', 'finisher' or 'heavy finisher' define pigs at certain weight ranges that suit different end products, eg. Pork or bacon. They also apply to more main stream products and not the niche markets that this operation intends to target. The pigs produced would be better described as light porkers, best suited to boutique butchers, farmers markets

and restaurants. This means that pigs will be slaughtered at lower weights than industry norms, and no pigs will be grown to 'heavy finishers'.

The plan shows no pig areas within the 30m buffer to the Floodway Overlay at the north-east corner of the property, and a vegetative filter strip to further protect this area. The plan also proposes a 180m exclusion zone to protect the amenity of three nearby dwellings with arguments centred around the houses being treated as farmhouses not isolated rural residences and a variation to the required buffer based on treating the extensive pig enclosure areas as 'land disposal areas' for dry manure.

It is considered for reasons further explained in this report that the most appropriate buffer to apply is 250m. Such a buffer would still allow the piggery to operate, with some modifications, but would provide better protection to neighbouring houses of the objectors.



Summary of Key Issues

- Objections from all the closest neighbouring properties, concerned with adverse impact from manure, smell, noise, escape of animals, disease and pests, inexperience of operators, possible non-compliance with Code or permit conditions on an ongoing basis, close proximity of pigs now and in future, immediate drop in value of surrounding property, loss of lifestyle.
- The lack of up to date and clear guidelines particularly in respect of required buffer distances to deal with this type of piggery described as 'free range' or 'rotational'. The Code of Practice Piggeries 1992 (hereafter Code) is an Incorporated Document of the planning scheme and must continue to be given some weight but is generally accepted as out dated to deal with rotational piggeries, is under review, and not originally intended to deal with this type of piggery. The Australian Pork Industry – National Environmental Guidelines for Rotational Outdoor Piggeries 2003 (hereafter NEGROP) is more up to date and applicable to this type of piggery but is not presently endorsed by the planning scheme or relevant authorities.

- Policy for agriculture at the State and local level clearly supports the proposed enterprise and the use of farm land for food production.
- The purpose of the Farming Zone supports the application for a piggery and seeks to protect farming uses from non-agricultural uses including dwellings. The purpose also encourages uses including farming to be based on comprehensive and sustainable land management practices. The requirement for a permit in the zone is because of the intensive nature of the use, and the decision guidelines provide both support for the application, detailed consideration of the sustainability and environmental impact of the use and the requirement to consider compatibility with adjoining and nearby land uses.
- While the expectations of residents for lifestyle and tranquil amenity in the Farming Zone is not supported by policy of the planning scheme and reduction in value is not a valid consideration, all Codes of Practice for intensive animal husbandry do support having appropriate buffer distances to minimise effect on amenity for sensitive uses and decision guidelines require consideration of amenity. Council planners' recommend a minimum exclusion distance of 250m as the most appropriate buffer to nearby residences based on measures of the Code, NEGROP, relevant VCAT decision and detailed consideration of the proposed method of farming and the location.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. 2016-194 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 Clause 35.07 of the Greater Shepparton Planning Scheme in respect of the land known and described as 680 Harston Road Harston, for the use of land in the Farming Zone for a free range piggery in accordance with the Notice of Decision and the endorsed plans.

Discuss key Conditions (including Referral Authorities):

1) Amended Plans Required

Before the use commences, amended plans are required to be submitted and endorsed under this permit. Such plans must include:

- a) A site plan generally in accordance with the plans submitted with the application but showing exclusion buffer distance of 250m to nearby dwellings not on the property, buffer and vegetated protection zone to the floodway, proposed use of areas of the property within the buffer area to dwellings both within and external to the property, screen planting of trees, extent and system of rotational paddocks for pig enclosures and protection fencing for native trees all as required by permit conditions.
- b) A Farm Environmental Management Plan generally covering all the information submitted in the 'Environmental Management Plan submitted with the application

and dated 04/05/2016 as modified by the further information submitted on 24/08/2016 and as required by the conditions of this permit and including a Nutrient Management Plan.

- c) The plan must state the maximum limit of pigs permitted on the property at any one time in both pig numbers (R-value) and standard pig units (SPU).

2) Layout Not Altered

The use and development of the piggery as shown on the endorsed plans and the Farm Management Plan including pig numbers must not be altered without the written consent of the responsible authority.

3) Amenity

- a) Offensive odours and/or nuisance dust must not be discharged beyond the boundaries of the site.
- b) Noise emitted from the site must not exceed the recommended levels as set out in "Noise from Industry in Regional Victoria" (NIRV; EPA Publication 1411, 2011) or as amended.

4) Stormwater and wastes

- a) No waste or stormwater contaminated with waste (including effluent and sediment) shall be discharged beyond the boundary of the site. Precautions shall be taken during periods of wet weather to prevent runoff being carried off site
- b) Storage area/pad for manure, spent litter & dead animal must be appropriately compacted and bunded to prevent stormwater access.
- c) Deposit of animal or organic wastes to land must not adversely affect the land and/or groundwater.
- d) Any contaminated bedding material removed from animal shelters must be stockpiled on an impervious surface and appropriately bunded to ensure runoff is contained within the stockpile.
- e) Management of waste at the premises should be in accordance with EPA Publication IWRG641 Farm Waste Management June 2009 or as amended.

5) Fencing

- a) Fencing for all native trees must be identified on the site plan to be endorsed. Fencing will consist of double strand electric fencing to the drip line of trees indicated on this plan
- b) A pig proof fence must be constructed to protect the GMW supply channel 1/8A which traverses the property and all external boundaries of pig enclosures to prevent pigs reaching adjacent properties, the road reserve or the exclusion buffer areas. The fences will consist of hinge joint mesh 8/30/90 with an offset hot wire.

6) Wallows

Wallow bases should have a reasonable clay level to reduce the risk of nutrient leaching and will be relocated within the paddock on a regular basis to avoid any build up of pathogens and to assist with the distribution of manure nutrients over the paddock. At the end of the pig phase wallows will be rehabilitated during the cropping phase.

7) Operation of the Piggery

- a) The piggery must be established and operated generally in accordance with the National Environmental Guidelines for Rotational Outdoor Piggeries (2013)
- b) A Nutrient Management Plan must be prepared for the site which details the operation of the piggery, including a nutrient budget, evaluating how nutrients are spread through the paddocks through soil testing and an action plan for managing the nutrients.
- c) Animal stocking rates and resultant waste generation must be managed to optimise the uptake of water, nutrients and other pollutants such that they do not leach to groundwater or runoff to surface waters. The rate of waste generation and application must be consistent with the capability of the land and appropriate for the type of plant grown, the soil type and topography. Appropriate rotation and harvesting/mowing must be undertaken to ensure nutrient removal.

8) Dead Animal Disposal

Stock mortalities must be disposed offsite through an EPA registered rendering works.

9) Time for Starting and Completion

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

- a) the use is not started within **two (2) years** of the date of this permit;
- b) the use for the free range piggery is not started within **four (4) years** of the date of this permit.

Moved by Johann Rajaratnam

Seconded by Michael MacDonagh

That Council having caused notice of Planning Application No. 2016-194 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 Clause 35.07 of the Greater Shepparton Planning Scheme in respect of the land known and described as 680 Harston Road Harston, for the use of land in the Farming Zone for a free range piggery in accordance with the Notice of Decision and the endorsed plans.

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A Farm Environmental Management Plan generally covering all the information submitted in the 'Environmental Management Plan submitted with the application

- b) and dated 04/05/2016 as modified by the further information submitted on 24/08/2016 and as required by the conditions of this permit and including a Nutrient Management Plan.
- c) The plan must state the maximum limit of pigs permitted on the property at any one time in both pig numbers (R-value) and standard pig units (SPU).

2) Layout Not Altered

The use and development of the piggery as shown on the endorsed plans and the Farm Management Plan including pig numbers must not be altered without the written consent of the responsible authority.

3) Amenity

- a) Offensive odours and/or nuisance dust must not be discharged beyond the boundaries of the site.
- b) Noise emitted from the site must not exceed the recommended levels as set out in “Noise from Industry in Regional Victoria” (NIRV; EPA Publication 1411, 2011) or as amended.

4) Stormwater and wastes

- a) No waste or stormwater contaminated with waste (including effluent and sediment) shall be discharged beyond the boundary of the site. Precautions shall be taken during periods of wet weather to prevent runoff being carried off site
- b) Storage area/pad for manure, spent litter & dead animal must be appropriately compacted and bunded to prevent stormwater access.
- c) Deposit of animal or organic wastes to land must not adversely affect the land and/or groundwater.
- d) Any contaminated bedding material removed from animal shelters must be stockpiled on an impervious surface and appropriately bunded to ensure runoff is contained within the stockpile.
- e) Management of waste at the premises should be in accordance with EPA Publication IWRG641 Farm Waste Management June 2009 or as amended.

5) Fencing

- a) Fencing for all native trees must be identified on the site plan to be endorsed. Fencing will consist of double strand electric fencing to the drip line of trees indicated on this plan
- b) A pig proof fence must be constructed to protect the GMW supply channel 1/8A which traverses the property and all external boundaries of pig enclosures to prevent pigs reaching adjacent properties, the road reserve or the exclusion buffer areas. The fences will consist of hinge joint mesh 8/30/90 with an offset hot wire.

6) Wallows

Wallow bases should have a reasonable clay level to reduce the risk of nutrient leaching and will be relocated within the paddock on a regular basis to avoid any build up of pathogens and to assist with the distribution of manure nutrients over the paddock. At the end of the pig phase wallows will be rehabilitated during the cropping phase.

7) Operation of the Piggery

- a) The piggery must be established and operated generally in accordance with the National Environmental Guidelines for Rotational Outdoor Piggeries (2013)
- b) A Nutrient Management Plan must be prepared for the site which details the operation of the piggery, including a nutrient budget, evaluating how nutrients are spread through the paddocks through soil testing and an action plan for managing the nutrients.
- c) Animal stocking rates and resultant waste generation must be managed to optimise the uptake of water, nutrients and other pollutants such that they do not leach to groundwater or runoff to surface waters. The rate of waste generation and application must be consistent with the capability of the land and appropriate for the type of plant grown, the soil type and topography. Appropriate rotation and harvesting/mowing must be undertaken to ensure nutrient removal.

8) Dead Animal Disposal

Stock mortalities must be disposed offsite through an EPA registered rendering works.

9) Time for Starting and Completion

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

- a) the use is not started within **two (2) years** of the date of this permit;
- b) the use for the free range piggery is not started within **four (4) years** of the date of this permit.

CARRIED

Subject Site & Locality

An inspection of the site and the surrounding area has been undertaken on 15 July 2016 by two planning officers.

The site has a total area of 56ha and currently contains:

- An existing dwelling and sheds within close proximity to the dwelling all with vehicle access to Harston Road
- The land is split by a water supply channel although a bridge allows access to both sides of the farm
- There is about 20 indigenous trees located centrally within the farm

The main site/locality characteristics are:

- Surrounding land is within the Farming Zone and uses are either agricultural or lifestyle dwelling lots. There are five small dwelling lots within close proximity to the land all of which have the potential to create conflict between legitimate agricultural uses and rural dwelling amenity expectations.

The Photo below show the existing site:



Permit/Site History

The history of the site includes:

- A pre-application meeting was held on 2 November 2015 between Tim Watson and the applicant. During this meeting the applicant enquired about using the land for a free range pig farm. The applicant was informed that a permit was required and was provided a copy of the Piggery Code of Practice. The file note from the meeting is in the file.

Further Information

Is further information required for the application? Yes on 26 July 2016. The following was sought:

1. Clarify the range of ages and numbers at which pigs would be leaving the property for slaughtering, for market or finishing.

In this regard the tables provided by your application indicate pigs leaving the property at the end of the 'grower' age, and no pigs retained to leave for slaughter during the 'finisher' or 'heavy finisher' stages of growth. How long the pigs are grown at the farm makes a large difference in the numbers of pigs at the premises at any one time and the SPU or 'R' value.

On the basis of information supplied in the application, supplementary information, discussions with the applicant and research of industry standards it seems likely that pigs will be retained at the property to 'finisher' or heavy finisher' age. If this is not the case then the applicant needs to state why the growth and duration of growing would be restricted from industry norms and whether permit conditions limiting the farm in this manner would be accepted and adhered to.

2. Clarify the maximum numbers of pigs to be at the premises, both in actual pig number and SPU or 'R' value.
3. Refer to the plan provided with this letter which shows exclusion distances of 250m and 400m from each isolated rural residence, and 100m from the Floodway Overlay at the north-east corner of the property. Please state the justification, backed by expert opinion if necessary, to show how the buffer distances you adopt should apply to the various areas and phases of pig production and effluent and bedding dispersal on the property.
4. Show an amended site plan which takes account of the exclusion constraints mentioned above and on the aerial photo supplied with this letter, and show the usage of each area of the property, including the rotational usage based on full production at the maximum number of sows and pigs.
5. State the proposed minimum level of grass cover to be maintained at all times in paddocks housing the pigs, and at which rotations out of those areas will occur, then allowing renovation and alternative cropping to reduce nutrient loads.
6. State what measures will be employed to ensure no runoff from paddocks where pigs are housed will enter the area of the property in the Floodway Overlay.

7. Show areas of the property proposed to be planted with screening or other vegetation.
8. State numbers of hutches/igloos and what type and number of additional shade shelters if any will be provided to protect pigs
9. Show on the site plan and describe the fencing to be provided to prevent pigs having access under the drip line of native trees which must be protected within the site.
10. State and describe what methods of cooling is supplied to the pigs including wallows and water sprays, what effect this will have on land form and contamination of run-off and how these areas will be renovated.

A detailed response was provided to Council on 24 August 2016. The information in the response from the applicant Darren Young and industry consultant Lee McCosker of Free Range Farm Management, was satisfactory to allow the application to proceed to decision. The responses are set out below in the same number order, and are summarised where the information is accepted by the planning officer, but reproduced in full in respect to the applicant's arguments for varying the buffer distances and related amenity matters, because the officer's recommendation is to require a different standard.

1. All pigs grown for pork will leave the property to be slaughtered, and no pigs will be grown to 'heavy finishers'. The breeds of pigs used will vary from mainstream piggeries, and this alters the size they are best sold at, with the niche market targeted being boutique butchers, farmers markets and restaurants.
2. Total pigs at any time will be 500 pigs, SPU (Standard Pig Units) will be 454 as the average weight is below the standard due to the answer to question 1.
3. (Answer about exclusion buffer distances and arguments is reproduced in full below)

We refer to the following definitions set out in the Code¹:

"Isolated rural residence means any residence that is situated on land not defined as a rural residential zone, residential area, or within a township boundary and not carrying out any agricultural activity involving stock."

"Farmhouse (not on the reference piggery property) means a residence on a property where stock are kept."

"Stock means any bull, cow, ox, calf, stallion, mare, gelding, foal, ass, mule, camel, ram, ewe, wether, lamb, pig, goat, **dog** or other animal or bird (other than a cat, dog or bird kept solely as a domestic pet)."

Given that the neighbouring properties all keep stock of varying species, including greyhound dogs, these properties would be classified as Farmhouses and not isolated rural residences therefore the buffer zones proposed on the plan provided by council should be reduced to reflect the appropriate classification.

The Code provides a set of guidelines but strict adherence to this Code is not mandatory.² The Code predates this relatively new free range farming system and can be difficult to apply to a farm that does not fit within its parameters or industry norms. In both VCAT matters referenced, buffer zones were also reduced for both farms that were the subject of proceedings.

In regard to exclusion distances indicated on council's plan, the Code refers to 'variable' buffer zones that may be applied to neighbouring farmhouses. Section 4.2 of the Code describes the conditions under which variable buffer zones may be reduced. Section 4.6 states that such a reduction shall not exceed 40% of the applicable variable buffer. The responsible authority may decide not to permit a buffer zone reduction if the pig feed includes, or may include, any liquid dairy by-products (e.g. whey) and/or the cooking of animal residues (e.g. abattoir or poultry "inedible offal"/trimmings). No such feed will be supplied to the pigs in this operation.

The reduction factors for variable buffers are set out in Section 4.61. Given that there will be minimal odour₃ from a free range piggery with such low stocking rates, that no effluent collection systems will be necessary, no effluent lagoons needing treatment will exist, noise will be minimal because there will be not intensive sheds or high stocking rates, power operated ventilation and effluent pumping will not be necessary and that management live onsite, it is reasonable to request that the full 40% reduction in the variable buffers be applied to this application.

The Code assumes that all pig manure will be in a liquid form (effluent) and that it will be collected in effluent ponds or lagoons for later application to other areas of the farm. For this reason the Code provides in Section 4.7 Buffer Distances Surrounding Effluent Treatment Systems for Land Disposal Areas. The buffer zones for Land Disposal Areas to neighbouring farmhouses are significantly lower than those required for a 'piggery' perimeter. This is because the Code assumes that pigs will be housed quite intensively in one area that collects and stores effluent thereby creating the greatest nuisance potential. This is not the case on a free range piggery where stocking rates are much lower and dispersed in open paddocks without the need for the collection and mixing of manures in effluent facilities.

It would be reasonable to therefore class the pig grazing paddocks as Land Disposal Areas. The Code defines such areas as 'land used for the application of treated or untreated wastes which may or may not be owned by the piggery operator'.⁴

Effluent is defined as liquid waste or sewage and originated from the Latin word *effluent* 'flowing out'. There will be no effluent treatment ponds or lagoons and no effluent flowing out from the piggery, instead all manure will be deposited directly onto the ground by the pigs as for other grazing animals.

The manure produced by pigs on this farm will be treated as a valuable resource that will replace synthetic fertilizers to grow crops. The use of animal manures in conjunction with cropping is a cost effective and environmentally responsible alternative to the addition of synthetic NPK fertilizers, which is practiced so widely on surrounding cropping lands in this farming zone. An organic farming operation may be able to import animal manures, instead of synthetic fertilizer, and apply it at rates that comply with NPK limits within the Code, 100 metres from a farmhouse.

The Code states that:

"Effluents from agricultural operations are valuable resources, which become 'wastes' if the operator or community fails to utilize such assets. In the future these resources may become as much a part of the overall economic system as the actual production of animal protein for human consumption."

A reduction to the variable buffer zone to a farmhouse is sought on the above grounds, but also to enable the sensible use of existing fencing and infrastructure and to enable the productive use of this farming land. A 180 metre buffer has been applied to the perimeter of

the pig grazing paddocks. In addition, no pig housing will be placed within 250 metres of a neighbouring farmhouse.

The Code refers to buffer zones for 'other watercourses' with the following notation:

Note 3: *Other watercourses shall exclude those watercourses which, in the opinion of the responsible authority, are at an elevated level or protected by banks or levees such that under flood conditions effluent or piggery contaminated waters will not enter the watercourse.*

Industry guidelines require a 30 metre buffer zone to a watercourse and include the following notation:⁵

The buffer should be a vegetative filter strip (VFS) covered with runner-developing, non-clumping grasses with no depressions where flow concentrates before entering. Where these conditions can not be met, or the site is vulnerable (e.g. sloping land, erodible soil or low groundcover), a wider VFS may be needed. A narrower VFS may be acceptable where the erosion and runoff risk is low.

A 30 metre buffer zone from pig grazing paddocks has been applied to the Flood Overlay. Any spent bedding that is collected will be applied to cropping areas that are not designated for pig production or areas that require nutrient input for cropping purposes. Bedding removal will be minimal as the majority of it will breakdown into the soil in situ.

The piggery will operate as a very mobile unit. All infrastructure within the pig paddocks will be moved to cover the entire area during the time of occupation in the pig phase. Moving the hutches, feeders and watering points controls the pig traffic areas and ensures the even spread of manure throughout the entire paddock to make the best use of this by-product during the cropping phase.

Notations referred to above:

¹ See Code of Practice Piggeries 1992 | Section 3.0 Definitions used in buffer zone terminology

² *John Lewis and Co v Baw Baw SC (2011) VCAT 562, Witcombe & Ors v Surf Coast SC (2000) VCAT 1673*

³ See Banhazi, T. (2013). Data Collection to Underpin the Quantative Assessment of Odour, Dust and Noise

Emissions from Free Range Piggeries. APL. Toowoomba: University of Southern Queensland.

⁴ See Code of Practice Piggeries 1992,| 3.0 Definitions used in Buffer Zone Terminology

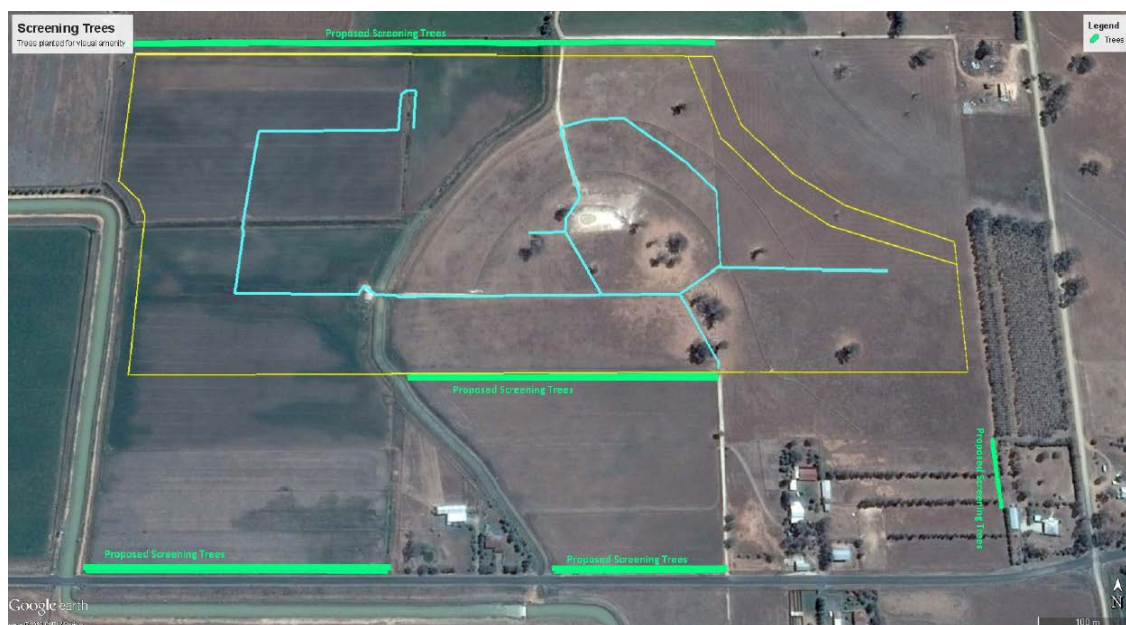
⁵ See National Environmental Guidelines Rotational Outdoor Piggeries Table 8.1

Planner's comment: The arguments for a variation of the buffer distance to 180m are not accepted as valid or the distance adequate to minimise impact on amenity, and further details is provided under the 'Objections' and 'Assessment' sections of this report.

4. An amended site plan (see under Proposal heading) was provided with buffers shown to houses (both for 180m proposed) and 250m Guidelines standard) and to the Floodway.
5. Summary – Groundcover levels will be maintained in line with industry best practice and greater than 40% in the grazed paddocks. The vacated production zone will be cropped for a period of two years under a rotational plan. This period is to primarily remove the nutrients added in the pig phase. To minimise soil erosion piggeries need to maintain groundcover over the paddock area as much as practical, with groundcover and soil

testing, along with appropriate timing for cropping in the region being key triggers for paddock rotations.

6. Summary - 30 metre buffer with a well designed and planted vegetative filter strip to remove up to 60 – 70% of suspended solids load and 70 – 80% of nitrogen, phosphorus and chemical oxygen demand.in line with industry standards.
7. Proposed screening for visual amenity is provided on a separate site plan.

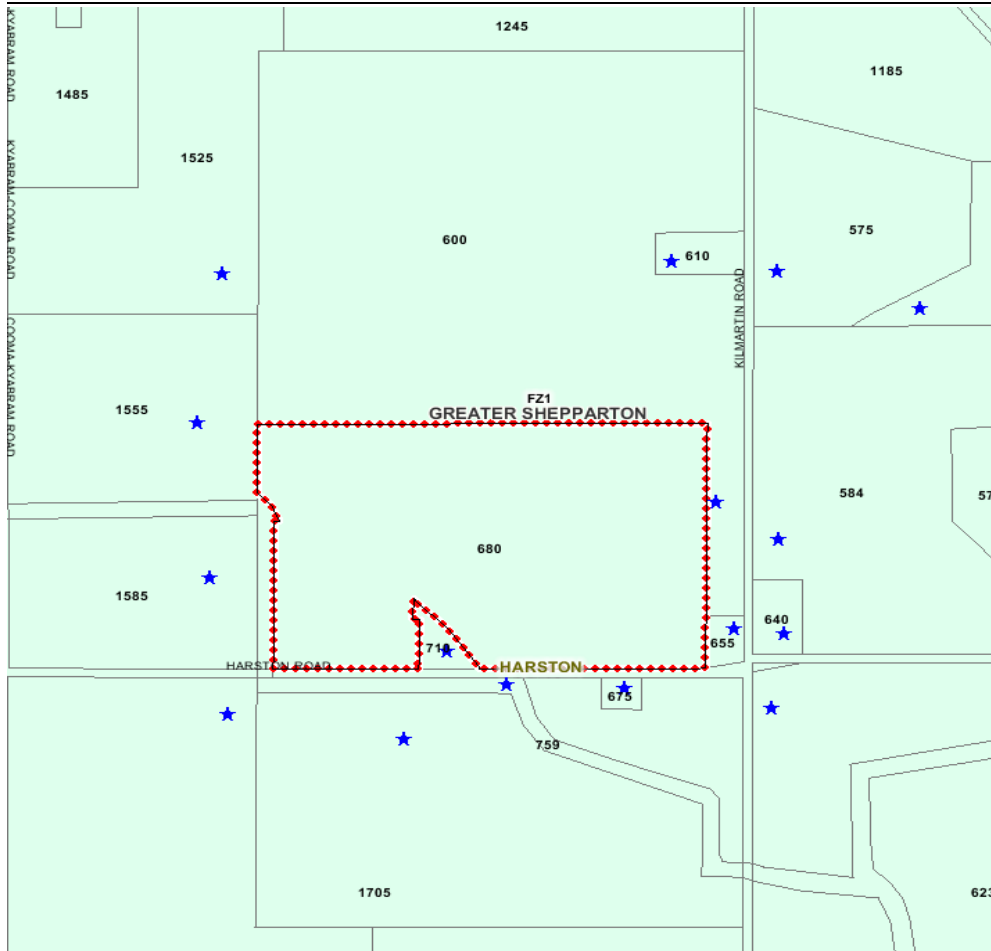


8. Summary – the number of hutches and shelters is provided in the ‘Proposal’ section above.
9. Fencing for all native trees has been identified on the attached site plan. Fencing will consist of double strand electric fencing to the drip line of trees indicated on this plan. Fencing has been positioned so the trees are on the outside of the paddocks or in the lane ways where ever possible to exclude pigs.
10. Wallows should be provided for free range pigs to enable to cool themselves in hot weather and to coat themselves with a protective layer of dried dirt. Wallow bases should have a reasonable clay level to reduce the risk of nutrient leaching and will be relocated within the paddock on a regular basis to avoid any build up of pathogens and to assist with the distribution of manure nutrients over the paddock. At the end of the pig phase wallows will be rehabilitated during the cropping phase.

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description use of land for a free range piggery, by:

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



The applicant provided a signed declaration stating that the sign on site was displayed on the land between 9 June to 24 June 2016.

Objections

The Council has received five objections to date.

Location of Objectors (shown by symbol):



Objector	Symbol	Comment
Ryan Family	Green diamond	97ha property which abuts the subject site on two sides.
Connell Family	Red dot	1.2ha property which is developed with a dwelling.

Ronald Colliver and Hazel Sandstrom	Blue square	1ha property which is developed with a dwelling.
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The key issues that were raised in the objections are.

1. Concern that the quantity of manure produced per rotation and annually is greater than any other farming activity which will lead to ongoing odour and a breeding ground for an intense fly infestation. The applicant's plan to address the issue of flies/pests control is extremely poor and shows no sign of previous experience to manage such an issue.
2. Increased application of manure to the land which is already elevated will lead to increased runoff.
3. Increase in pests and parasites causing a health hazard to our domestic animals, chickens and sheep, dairy cows/milk. Birds and pests such as foxes spread disease when passing through adjoining properties.
4. Increased stench from wallows.
5. Serious concern that there is no clear or up to date guidelines (Code of Practice) for this type of farming. This has been demonstrated in the buffer distances being changed by interpreting the 1992 Code.
6. What qualifications have the applicants got beyond working on a farm, vast difference having 500 pigs compared to present experience having just 6 pigs.
7. Considering the temperatures experienced in this area of 45 – 47 degrees the piglets would be subject to sunburn, insects, flies will be at maximum with sun-baked manure.
8. Who is going to be checking compliance with guidelines if permit is granted, how close will these pigs be to our boundary? Stricter guidelines and monitoring (quarterly) need to be put in place to make sure this is a viable, secure and safe enterprise for surrounding properties.
9. Although the distance for the pigs was stated as 180m the pigs are already right on the fenceline (48 metres from boundary to the Colliver and Sandstorm dwelling), with the threat of pigs breaking into the land. The destructive nature of pigs causes concern.
10. Present valuation and estimate of valuation post piggery in operation by Real Estate agent indicates an immediate 14% reduction in value of land prices.

The applicant did provide a detailed response to the objections. Relevant details additional to the information originally supplied was:

Once we are operating as a piggery the buffer zones will be adhered to. We purposely put the pigs close to Hazel & Ron because in our opinion they would most likely be the ones more concerned. We have spoken to Ron and pigs didn't seem to be a nuisance. We would honestly would want to know if they thought there was an issue with noise, smell or any other issues.

We do have the appropriate training and experience that is recognised by our industry. Tatura vets are familiar with our pigs and have been here on 3 occasions, they have also allowed us to medicate the pigs ourselves. We have working experience on a

similar farm in Ebenezer NSW. We have also completed courses recognised by our industry

All of our pigs will be in manageable sized groups, Whilst our farm is just beginning to grow we will not go from 6 to 500 pigs overnight. We need to grow our stock with consideration to customers' demands and quality of our stock.

The pig farm will produce flies, possibly as many as a dairy paddock, but not as many as a dairy yard with effluent pits etc. We do have a plan to minimise this as much as possible.

No Pigs have escaped from our farm, only cows and sheep have pushed through fences. Pigs are not as noisy as a dairy. Pigs have a distinctive smell but it is not offensive if not overcrowded.

Planner's Comment on the objections

The two properties occupied by the objectors located to the south of the subject land are 1 hectare and 1.2 hectares in size. Whether either of these properties has one or more animals that can be defined as farm animals does not change the primary purpose of each property which is for use as a rural dwelling not related to farming of the property. The correct category under the Code is considered to be *isolated rural residence*.

While the planning scheme does not support the establishment of dwellings in the Farming Zone, as existing uses these properties require some consideration of their amenity under both zone and general decision guidelines. Both the Code and NGROP specify that a protective buffer needs to be applied.

The application of exclusion buffers specified in the Code and NGROP are complex, must be considered but are not mandatory, are considered to be minimums not absolute standards, some can be varied under circumstances relating to pig numbers, prevailing winds etc. with NGROP being more current in relation to this proposal than the Code.

There are also relevant VCAT cases that help with best application of exclusion buffers. Overall the provisions of the planning scheme require careful consideration of amenity under the decision guidelines of the Farming Zone and Clause 65 along with policy that supports agriculture.

Council planners have examined all these factors and the arguments put by the applicant's but consider that 250m is an appropriate minimum exclusion buffer from animal enclosures to abutting dwellings that should be required for this proposal.

Once the protective buffer is applied as an exclusion zone, then the balance of policy must weigh towards the use of agricultural land for productive farming provided that is sustainable

to the environment. Other aspects of the Code and NGROP that are concerned with animal welfare and standards of 'free range' and food security are important issues administered by other bodies, and beyond the scope of a decision of land use planning.

The measures in the Code and NGROP designed to achieve satisfactory site management and operating requirements in respect to protection of land by rotation and renovation, reduction of nutrient load, minimise contaminated runoff, control of pests, odour, noise, and dust will also reduce any adverse effect on other properties, particularly when combined with the 250m exclusion buffer.

This is not to say there will not be any reduction in the amenity that may currently be enjoyed by the objectors, but in a farming area, relevant planning and property law requires some acknowledgement that farming uses may have an impact, and the same level of amenity cannot be expected as might be found by locating in a Rural Residential or Low Density Residential Zone.

Any effects on the value of an adjacent property, or the special needs of an adjacent resident, are not valid matters to be considered in the granting of a permit under the planning scheme.

The following provisions are extracted from NEGROP as relevant statements on the main amenity issues and illustrate how the Industry Guidelines consider that rotational piggeries differ from the previous intensive and concentrated piggeries that house a large number of pigs in a confined area on which the Code was based.

3.1 Amenity Issues

Amenity refers to the comfortable enjoyment of life and property. People expect to be able to enjoy their homes, work and the use of community areas. Amenity impacts that can sometimes arise from piggeries include offensive odours, dust, noise, vermin and flies, visual impacts, and road safety and maintenance issues. Amenity issues are avoided by selecting a suitable site and layout, integrating best practice environmental management into the everyday operation of the piggery and providing adequate separation distances between the piggery complex and nearby sensitive land uses.

Rotational outdoor piggeries may pose different amenity risks to those of indoor piggeries (conventional piggeries and deep litter piggeries). APL-funded research has shown very low levels of odour, dust and noise from rotational outdoor piggeries, and the implementation of odour, dust and noise reduction strategies on outdoor piggeries appears unnecessary at this stage. To date, APL is not aware of amenity complaints about these types of systems.

3.1.1 Odour

FR and OB piggeries generally produce very little odour compared with intensive systems because manure is much less concentrated. It is also very low compared to mean emissions from similar sources such as feedlots. Nevertheless, it is important to understand the factors affecting odour generation and nuisance.

Factors affecting odour generation include:

- *scale and nature of operation*
- *stocking density*
- *site design and drainage*
- *manure distribution and management*
- *management of manure, wallows, depressions in dunging areas and terminal ponds.*

Whether odour becomes a nuisance for nearby sensitive land uses also depends on:

- *separation distance between the piggery complex and the sensitive land use*
- *local meteorological conditions, particularly prevailing wind direction and strength*
- *surface roughness features that affect transport and dispersion of odorous air e.g. topography and height and density of vegetative cover*
- *type of sensitive land use.*

Generally, the greater the frequency, intensity, duration and offensiveness of an odour, the greater the likelihood of annoyance and complaints. Hence, good siting and ongoing management are important.

3.1.2 Dust

Dust can be a physical irritant that poses a respiratory or allergenic risk for some. Bare paddocks in a rotational outdoor piggery can be a source of dust, but no worse than that from nearby cultivated paddocks. Traffic movements may also create dust.

3.1.3 Noise

Most activities at rotational outdoor piggeries are not particularly noisy. Recent research showed noise levels from pigs in outdoor systems to be very low with most noise recorded from wind, birds and insects. Decibel readings were similar to a quiet suburban street and lower than in a typical household. However, piggery-related traffic movements can cause problems. Whether noise becomes a nuisance depends on the level and frequency of noisy activities, the distance between the noise source and sensitive receptors and the time of day the noise occurs. Nearby sensitive uses are generally more susceptible to noise during the early morning or night when they are trying to sleep.

3.1.4 Vermin

Rotational outdoor piggeries may attract flies, rodents and predators. There is a need to manage vermin to not only prevent amenity impacts, but also to control disease within the piggery and minimise piglet losses.

3.1.5 Visual Impacts

The establishment of a rotational outdoor piggery may significantly alter the landscape character, depending on its size, siting, design and management. The impact is minimised if the site is well separated from the property boundary and concealed by topographic or vegetative screening or landscaping.

Title Details

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

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- All objectors were invited to attend an onsite meeting on 13 July 2016 to receive a briefing of the proposal from the applicant. Two of the five objectors attended and were given a detailed explanation of the proposal and tour of the existing piggery operation.
- On 23 September 2016 all objectors were provided with a full copy of the applicants provision of additional information. The objectors were also informed that the number of pigs forming part of the proposal had been reduced from 565 to 500 pigs.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
CMA	44.03-5	Recommending	CMA consented to the application without requiring any conditions.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
EPA	<p>EPA within their response raised concerns about the adequacy of separation distances between the site and nearby adjacent residences 'sensitive uses'. EPA recommended Council should consider the following comments and conditions prior to deciding the application.</p> <p>EPA Publication 1518-"Recommended separation distances for residual air emissions (2013), defers to the Code of Practice – Piggeries (1992) to establish buffer distances for piggeries. As Council has determined that this use is 'intensive', this Code applies.</p> <p>EPA's assessment of the Code suggests that 400 metres separation is required between this site (565 pigs) and an isolated rural residence. (Note: this distance has been determined as per the Code).</p> <p>As submitted, the application does not meet the recommended separation distance and therefore EPA has concerns about the risk of odour to sensitive uses. Council may request the applicant alter the site plans to increase separation distances from sensitive uses resulting in a more acceptable environmental outcome.</p> <p>EPA consented to the application subject to seven conditions If Council determine to support this application, EPA would recommend the following permit conditions be included:</p> <ol style="list-style-type: none"> 1. Offensive odours must not be discharged beyond the boundaries of the site. 2. Nuisance dust must not be discharged beyond the boundaries of the site. 3. Noise emitted from the site must not exceed the recommended levels as set out in "Noise from Industry in Regional Victoria" (NIRV; EPA

	<p>Publication 1411, 2011) or as amended.</p> <ol style="list-style-type: none"> 4. Stormwater contaminated with waste (including effluent and sediment) must not be discharged beyond the boundary of the site. 5. Deposit of animal or organic wastes to land must not adversely affect the land and/or groundwater. 6. Storage area/pad for manure, spent litter & dead animal must be appropriately compacted and bunded to prevent stormwater access. 7. Management of waste at the premises should be in accordance with EPA Publication IWRG641 Farm Waste Management June 2009 or as amended.
<p>GMW</p>	<p>GMW responded to the application providing comments and consenting to the grant of a permit subject to seven conditions.</p> <p><u>Comments Provided</u></p> <p>GMW commented that of particular importance is the traversing of the subject land by supply channel 1/8A which will require secure fencing to prevent the pigs furrowing the channel banks and causing potential breaches. GMW confines its concerns to water quality and potential impacts on GMW infrastructure and not on odour or buffer distances.</p> <p>GMW reviewed the application and considered the calculation for Standard Pig Units (SPU) should be 840 for 70 sows rather than the 565 specified in the application.</p> <p>This is based on the farrow to finish calculations in section 6 of the guidelines.</p> <p><u>Conditions from GMW</u></p> <p>Based on the information provided and in accordance with Section 56 (b) of <i>the Planning and Environment Act 1987</i>, GMW has no objection to this planning permit being granted subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The piggery must be established and operated generally in accordance with the National Environmental Guidelines for Rotational Outdoor Piggeries (2013) 2. A pig proof fence must be constructed to protect the GMW supply channel 1/8A which traverses the property. The fences will consist of hinge joint mesh 8/30/90 with an offset hot wire. 3. A Nutrient Management Plan must be prepared for the site which details the operation of the piggery, including a nutrient budget, evaluating how nutrients are spread through the paddocks through soil testing and an action plan for managing the nutrients. 4. No waste or contaminated stormwater shall run-off from the property. Precautions shall be taken during periods of wet weather to prevent runoff being carried off site. 5. Animal stocking rates and resultant waste generation must be managed to optimize the uptake of water, nutrients and other pollutants such that they don't leach to groundwater or runoff to surface waters. The rate of waste generation and application must be consistent with the capability of the land and appropriate for the type of plant grown, the soil type and topography. Appropriate rotation and harvesting/mowing must be

	<p>undertaken to ensure nutrient removal.</p> <p>6. Any contaminated bedding material removed from animal shelters must be stockpiled on an impervious surface and appropriately banded to ensure runoff is contained within the stockpile.</p> <p>7. Stock mortalities must be disposed offsite through an EPA registered rendering works.</p>
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Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	Council's engineers consented to the application subject to two conditions relating to drainage and vehicle access to the land.

Assessment

The zoning of the land

Farming Zone

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for 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.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

35.07-1 The use of land for intensive animal husbandry (Outdoor Rotational Piggery) requires a permit in the Farming Zone.

35.07-6 Decision guidelines

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 to the land.*
- *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.*

Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or 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.*

Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of 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.*
- *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 use and development will require traffic management measures.*

Planner's comment: The zone purpose strongly supports the proposed agricultural use with appropriate comprehensive and sustainable land management practices. Planning policy both State and local also support this proposal in the zone.

The proposed farm management plan adequately addresses the requirements for sustainable land management including the capability of the land for the disposal of effluent, addressing any adverse effect on soil and water quality, and protection of the floodway area.

The surrounding dwellings do limit the operation and any expansion to some extent by the need to achieve compatibility with adjoining and nearby land uses by the need to maintain an adequate exclusion buffer to the pig enclosures.

The impact of structures to appearance of the area is considered to be satisfactorily controlled by both the limited size of the structures and distribution around the site, the buffer distance and the proposed additional screen planting.

Overall the proposal meets the requirements and is satisfactory in the Farming Zone at this location provided that a minimum buffer distance of 250m is applied. This will require a reduction of pig enclosures in two areas primarily most of paddock 2A, and about 40% of paddocks 2B and 3B. The significance of this reduction of roughly 2.2ha on overall pig numbers is lessened when the matching rotation paddock is factored in, and the available unused farmland in the south-west part of the property if suitable for use may compensate. The farm management plan including site plan will need to be modified to comply with the buffers required in permit conditions.

Relevant overlay provisions

Floodway Overlay

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.*
- *To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.*
- *To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989 if a declaration has been made.*
- *To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

Planner's Comment: 4.4ha of the land is within the FO as shown on the below plan.



As indicated in the State Policy section on Floodplains, the pig enclosures will be kept clear of the floodplain, with a vegetated buffer area to filter contaminants from runoff. The application was referred to GBCMA which had no objection. GMW has provided a set of conditions appropriate to the protection of this floodplain and associated downstream watercourses. The most effective filters are applied as close as possible to the source and before runoff becomes concentrated.

The State Planning Policy Framework (SPPF)

13.02-1 Floodplain Management

A strategy of this clause is:

Locate developments and uses which involve the storage or disposal of environmentally hazardous industrial and agricultural chemicals or wastes and other dangerous goods (including intensive animal industries and sewage treatment plants) must not be located on floodplains unless site design and management is such that potential contact between such substances and floodwaters is prevented, without affecting the flood carrying and flood storage functions of the floodplain.

In this case the use does produce agricultural waste which while intended to be used as a fertiliser on the property in the renovation/cropping cycle, must be kept clear of the floodplain and with a vegetated protective buffer to filter any contaminated runoff from animal enclosures. GMW has recommended appropriate conditions to be applied to any permit to ensure management measures are required to protect the floodway area and control nutrients and pig waste from contaminating stormwater runoff.

14.01-1 Protection of agricultural land

Objective

To protect productive farmland which is of strategic significance in the local or regional context.

Strategies

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

Objective

- *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.*

Policy guidelines

Planning must consider as relevant:

- *Code of Practice: Piggeries* (Health Commission of Victoria and Department of Food and Agriculture, 1992), in considering proposals for use and development of piggeries.

14.02-1 Catchment Planning and Management

Objective

To assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.

Strategies (where relevant)

- *Retain natural drainage corridors with vegetated buffer zones at least 30m wide along each side of a waterway to maintain the natural drainage function, stream habitat and wildlife corridors and landscape values, to minimise erosion of stream banks and verges and to reduce polluted surface runoff from adjacent land uses.*
- *Encourage measures to filter sediment and wastes from stormwater prior to its discharge into waterways, including the preservation of floodplain or other land for wetlands and retention basins.*
- *Ensure land use and development proposals minimise nutrient contributions to waterways and water bodies and the potential for the development of algal blooms.*

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

21.06-1 Agriculture

The region's workforce is heavily dependent on the agricultural sector with many people directly involved in agricultural production on farms, and an estimated similar number involved directly and indirectly in the processing and transport of that product. In both irrigation and dryland production the drivers of future successful agribusinesses, regardless of the scale of enterprise, are likely to be:

- *Continuing current trends for significantly increased scale of production which is achieved by expanding the land area of production and/or by increasing the intensity of the production system.*

Objectives – Agriculture

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

Strategies – Agriculture (included as relevant)

- *Identify 'growth', 'consolidation' and 'niche' areas in the Farming Zone.*
- *Encourage growth and expansion of existing farm businesses and new investment in 'growth' and 'consolidation' areas.*
- *Encourage value adding and new enterprises for agricultural production.*
- *Discourage non-agricultural uses on rural land other than rural based industry.*
- *Discourage non-agricultural development in rural areas except where development is dependent on a rural location, and cannot be accommodated within existing industrial or business zoned land.*
- *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.*

21.06-3 Dwellings in Rural Areas

Isolated dwellings in the rural areas have the potential to disrupt agricultural activities and should not impinge on the appropriate use of farming land.

Officers Response:

Clause 10.04 Integrated decision-making is an important clause in assessment of this proposal and balancing support for agriculture with the need for sustainable farming practices and to minimise impact on the environment and amenity for nearby dwellings. The clause provides

That society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

Land zoned for farming is a resource that must be protected for productive and sustainable agriculture as provided by State and local planning policy. Small lots used primarily for lifestyle housing in the Farming Zone do address a social need in society. But once the policies for protection of the environment are satisfied, and relevant Codes are complied with, then efficient and economic use of farm land for productive agriculture must win the balance against the conflicting desire for residential amenity of residents of dwellings in the Farming Zone.

Greater Shepparton Planning Scheme does identify the large economic contribution that farming makes to production of food and to the economic well-being of the region.

The State policy for agriculture seeks to manage the resource of farm land as a natural resource in a long-term sustainable way, encourages innovative approaches and the flexibility to adjust to market changes. The policy specifically supports the establishment and expansion of piggeries among other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.

Clause 14.01-2 requires that planning must consider as relevant, the *Code of Practice: Piggeries* (Health Commission of Victoria and Department of Food and Agriculture, 1992), in considering proposals for use and development of piggeries.

The proposed pig density in the application is greater than prescribed for a dispersed/extensive piggery under the Code and is classified as semi-extensive. The measurement for required buffer can be from pig enclosures but requires 400m.

It is acknowledged and generally accepted that NEGROP is a more modern Guideline than the Code and designed to cater for rotational piggeries. While the Code is still an incorporated document, the requirement of the scheme is to have regard to the Code as relevant in decision making but the planning scheme does not require adherence to every part of the Code where there may be good reason to consider variations.

NEGROP has a lesser minimum separation distance (buffer) from a rural dwelling of 250m. While there are also variable separation distances in NEGROP under some circumstances, the greater distance must always be applied, so 250m is the absolute minimum.

The aerial photo below shows the land outlined in blue, with the 250 metre exclusion buffer from NEGROP applied as red circles. The red circle in the centre was not shown on the plan supplied by the applicant but is required as a buffer to the dwelling on the south side of Harston Road which is also on a small title. Such circle also covers the 100m area around the applicants own house which is not allowed to be used for pig enclosures.



The proposal as amended by further information is considered to be supported by policy on agriculture and proposes through farm management measures a sustainable proposal that meets the need to protect the environment.

It is considered that 250m is the appropriate minimum exclusion buffer to be applied between pig enclosure paddocks and neighbouring residences which are essentially lifestyle dwellings and not farmhouses for agriculture based on the keeping of livestock.

A search through the most relevant VCAT decisions supports this conclusion.

VCAT in *Quelch v Benalla Rural CC* (2106) VCAT 1192 in respect of a rotational piggery for 408 pigs has considered both the question "Must the piggery comply with the *Code of Practice for Piggeries 1992 (The Code)*? And also the matter raised by Ms McCoster of treating surrounding dwellings as farmhouses with a reduced buffer distance based on a literal interpretation of the Code.

The Tribunal was not persuaded that nearby dwellings should be treated as farmhouses on the basis that some stock was kept on the land, rather that based on observation of properties and submission of landowners they were persuaded that these are rural lifestyle properties.

The Tribunal had also considered that assessment under the Code was likely to result in a minimum buffer of 300m for land receiving fresh effluents for the pig paddocks or 400m by considering the dwellings as isolated rural residences.

At paragraph 57 after much supporting material the Tribunal finds that:

In summary, our answer to the question of whether the piggery must comply with the Code is that such compliance is not essential. Compliance with the NEGROP is likely to be persuasive. Yet, if either of these guidelines is to be varied, than the onus is on the Applicant and their experts to provide alternative tests of equal or similar validity that persuade us that the amenity and environmental impacts are acceptable.

At paragraph 74 the Tribunal concluded that it favoured the 250m buffer recommended in the NEGROP over the submission by McCosker that a reduced 180m buffer was adequate.

Relevant Particular Provisions

While Cattle Feedlot and Broiler Farm both have particular provisions that require compliance with Codes of Practice, piggeries currently do not have a particular provision clause and rely on the 1992 Code being an incorporated document and required to be considered by State Planning Policy.

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 this clause.

65.01 Approval of an application or plan

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.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*

- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

The decision guidelines of clause 65 have been considered under policy, zones, overlays and particular provisions. The approval process for this rotational piggery satisfies the test of orderly planning having considered all relevant scheme provisions and Code of Practice and Industry Guidelines and requiring the appropriate buffer setback within the property from surrounding dwellings. The buffer is designed to limit any adverse impact but may not ensure no disturbance will occur. Any loss of amenity to the area has therefore been considered in weighing this decision as required.

The possible environmental effect on the adjacent floodplain has been considered with requirements for an adequate buffer and management of any contaminated runoff.

In relation to removal of trees, there are a number of mature remnant native trees on the property. NEGROP addresses the likely affect of pigs on trees as follows:

3.5 Flora and Fauna

Sites with significant native vegetation need to be excluded from the piggery area. Pigs can physically destroy trees, shrubs and ground-level vegetation. Since native plants are not always tolerant of elevated soil nutrient levels a buffer should be maintained between pig paddocks and vulnerable vegetation. Nutrients need to be managed to minimise the risk of elevated soil levels beyond the buffer.

Accordingly a permit condition should require adequate fencing to exclude pigs from access to the trees and the root zone.

On balance, the rotational piggery as an intensive animal husbandry use is supported by policy for agricultural land and will achieve an acceptable outcome with adherence to a detailed farm management plan and proposed permit conditions.

Relevant incorporated or reference documents

Code of Practice Piggeries Revised 1992

Other relevant adopted State policies or strategies policies

Australian Pork Limited – National Environmental Guidelines for Rotational Outdoor Piggeries (Revised) 2013

Relevant Planning Scheme amendments

No relevant planning scheme amendments.

Are there any significant social & economic effects?

No significant social or economic effects.

Discuss any other relevant Acts that relate to the application?

Aboriginal Heritage Act

As shown on the below plan the land is partly within an area of aboriginal cultural heritage sensitivity.

Areas of Aboriginal Cultural Heritage Sensitivity

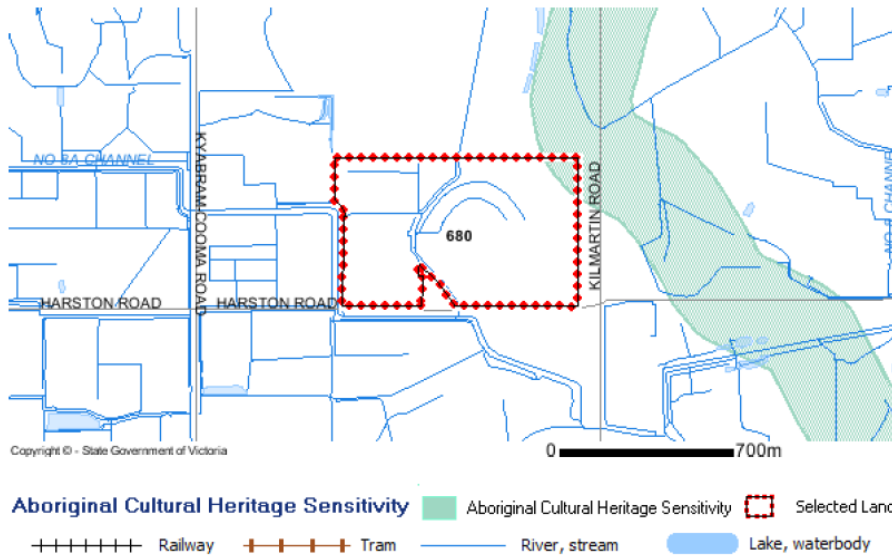
This property is within, or is affected by, one or more areas of cultural heritage sensitivity as described in the Aboriginal Heritage Regulations 2007.

The data provides indicative information about the location and extent of areas of Aboriginal cultural heritage sensitivity and is provided to assist with the decisions about the potential need to prepare a Cultural Heritage Management Plan in relation to proposed activities on this property.

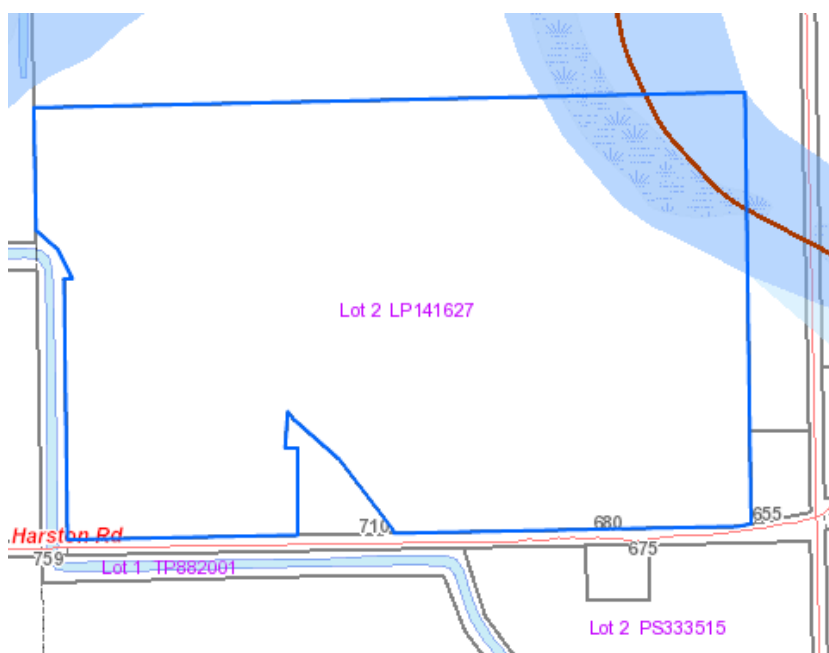
For further information about whether a Cultural Heritage Management Plan is required go to [Aboriginal Heritage Planning Tool](#)

To find out if your property has any recorded Aboriginal cultural heritage places, such as scarred trees, occupation sites or places of burial, you can request information from the Victorian Aboriginal Heritage Register.

Find out more about the [Victorian Aboriginal Heritage Register](#)



The below plan shows the area of FO in blue and the edge of the ACHS in by the brown line.



The submitted plans show with clear detail the extent of the proposed activity which excludes all land within the FO due to environmental concerns. As the proposed piggery activity area is not within the ACHS no CHMP is triggered by the proposed use.

Conclusion

That the granting of a permit for this application will produce an acceptable outcome in terms of the relevant decision guidelines of Greater Shepparton Planning Scheme.

Draft Notice Of Decision

APPLICATION NO: 2016-194

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: 680 HARSTON ROAD HARSTON VIC 3616

WHAT THE PERMIT WILL ALLOW: USE OF LAND IN THE FARMING ZONE FOR A FREE RANGE PIGGERY

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Amended Plans Required

Before the use commences, amended plans are required to be submitted and endorsed under this permit. Such plans must include:

- a) A site plan generally in accordance with the plans submitted with the application but showing exclusion buffer distance of 250m to nearby dwellings not on the property, buffer and vegetated protection zone to the floodway, proposed use of areas of the property within the buffer area to dwellings both within and external to the property, screen planting of trees, extent and system of rotational paddocks for pig enclosures and protection fencing for native trees all as required by permit conditions.
- b) A Farm Environmental Management Plan generally covering all the information submitted in the 'Environmental Management Plan submitted with the application and dated 04/05/2016 as modified by the further information submitted on 24/08/2016 and as required by the conditions of this permit and including a Nutrient Management Plan.
- c) The plan must state the maximum limit of pigs permitted on the property at any one time in both pig numbers (R-value) and standard pig units (SPU).

2. Layout Not Altered

The use and development of the piggery as shown on the endorsed plans and the Farm Management Plan including pig numbers must not be altered without the written consent of the responsible authority.

3. Amenity

- a) Offensive odours and/or nuisance dust must not be discharged beyond the boundaries of the site.
- b) Noise emitted from the site must not exceed the recommended levels as set out in "Noise from Industry in Regional Victoria" (NIRV; EPA Publication 1411, 2011) or as amended.

4. Stormwater and wastes

- a) No waste or stormwater contaminated with waste (including effluent and sediment) shall be discharged beyond the boundary of the site. Precautions shall be taken during periods of wet weather to prevent runoff being carried off site
- b) Storage area/pad for manure, spent litter & dead animal must be appropriately compacted and bunded to prevent stormwater access.
- c) Deposit of animal or organic wastes to land must not adversely affect the land and/or groundwater.
- d) Any contaminated bedding material removed from animal shelters must be stockpiled on an impervious surface and appropriately bunded to ensure runoff is contained within the stockpile.
- e) Management of waste at the premises should be in accordance with EPA Publication IWRG641 Farm Waste Management June 2009 or as amended.

5. Fencing

- a) Fencing for all native trees must be identified on the site plan to be endorsed. Fencing will consist of double strand electric fencing to the drip line of trees indicated on this plan
- b) A pig proof fence must be constructed to protect the GMW supply channel 1/8A which traverses the property and all external boundaries of pig enclosures to prevent pigs reaching adjacent properties, the road reserve or the exclusion buffer areas. The fences will consist of hinge joint mesh 8/30/90 with an offset hot wire.

6. Wallows

Wallow bases should have a reasonable clay level to reduce the risk of nutrient leaching and will be relocated within the paddock on a regular basis to avoid any build up of pathogens and to assist with the distribution of manure nutrients over the paddock. At the end of the pig phase wallows will be rehabilitated during the cropping phase.

7. Operation of the Piggery

- a) The piggery must be established and operated generally in accordance with the National Environmental Guidelines for Rotational Outdoor Piggeries (2013)
- b) A Nutrient Management Plan must be prepared for the site which details the operation of the piggery, including a nutrient budget, evaluating how nutrients are spread through the paddocks through soil testing and an action plan for managing the nutrients.
- c) Animal stocking rates and resultant waste generation must be managed to optimise the uptake of water, nutrients and other pollutants such that they do not leach to groundwater or runoff to surface waters. The rate of waste generation and application must be consistent with the capability of the land and appropriate for the type of plant grown, the soil type and topography. Appropriate rotation and harvesting/mowing must be undertaken to ensure nutrient removal.

8. Dead Animal Disposal

Stock mortalities must be disposed offsite through an EPA registered rendering works.

9. Time for Starting and Completion

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

- a) the use is not started within **two (2) years** of the date of this permit;
- b) the use for the free range piggery is not started within **four (4) years** of the date of this permit.

Application Details:

Responsible Officer:	Sarah Van Meurs		
Application Number:	2016-141		
Applicants Name:	Goulburn Motor Group P/L		
Date Application Received:	7 April 2016		
Statutory Days:	127 (on 23/11/2016)		
Land/Address:	2-8 Carroll Road SHEPPARTON EAST VIC 3631 and CA112E Sec C (Part 325 Midland Highway SHEPPARTON EAST VIC 3631)		
Zoning & Overlays	Commercial 2 Zone Industrial 1 Zone Land Subject to Inundation Overlay Adjacent to Road Zone Category 1		
Why is a permit required (include Permit Triggers):	33.01-4 Building and works for a loading bay in the Industrial 1 Zone 34.02-1 use of the land for motor vehicle sales in the Commercial 2 Zone 34.02-4 Buildings and works for in the Commercial 2 Zone 44.04-1 Buildings and works in the Land Subject to Inundation Overlay 52.05 – 7 Display of business identification signage in the Commercial 2 Zone 52.06 –3 reduction of car parking 52.14 Variation to requirements Motor vehicle sales particular provision 52.17-2 Removal of two scattered trees		
Are there any Restrictive Covenants on the title?	No		
Is a CHMP required?	No		
Was the correct application fee paid?	Yes \$2,141.25 paid (application and advertising fees)		
		Signature	Date
Initial Assessment Approval	Team Leader Statutory Planning	Braydon Aitken	29/7/2016
Advertising Approval	Team Leader Statutory Planning	Braydon Aitken	29/7/2016

Proposal

The application proposes the use and development of the land for a motor vehicles sales for Jaguar, Land Rover and Honda at 2-8 Carroll Road, Shepparton East. A loading bay to unload new vehicles is proposed to the rear of 325 Midland Highway, Shepparton East (CA 112E Sec C) and is to be used in association with the proposed motor vehicles sales.

The development comprises of showrooms, associated offices, workshop, service centre (motor repairs) and business identification signage. Two native trees are also proposed to be removed from the Vicroads road reserve of which are in close proximity to the southern boundary of the site.

CA 112E Sec C is in the Industrial 1 Zone (IN1Z) and is affected by the Land Subject to Inundation Overlay (LSIO).

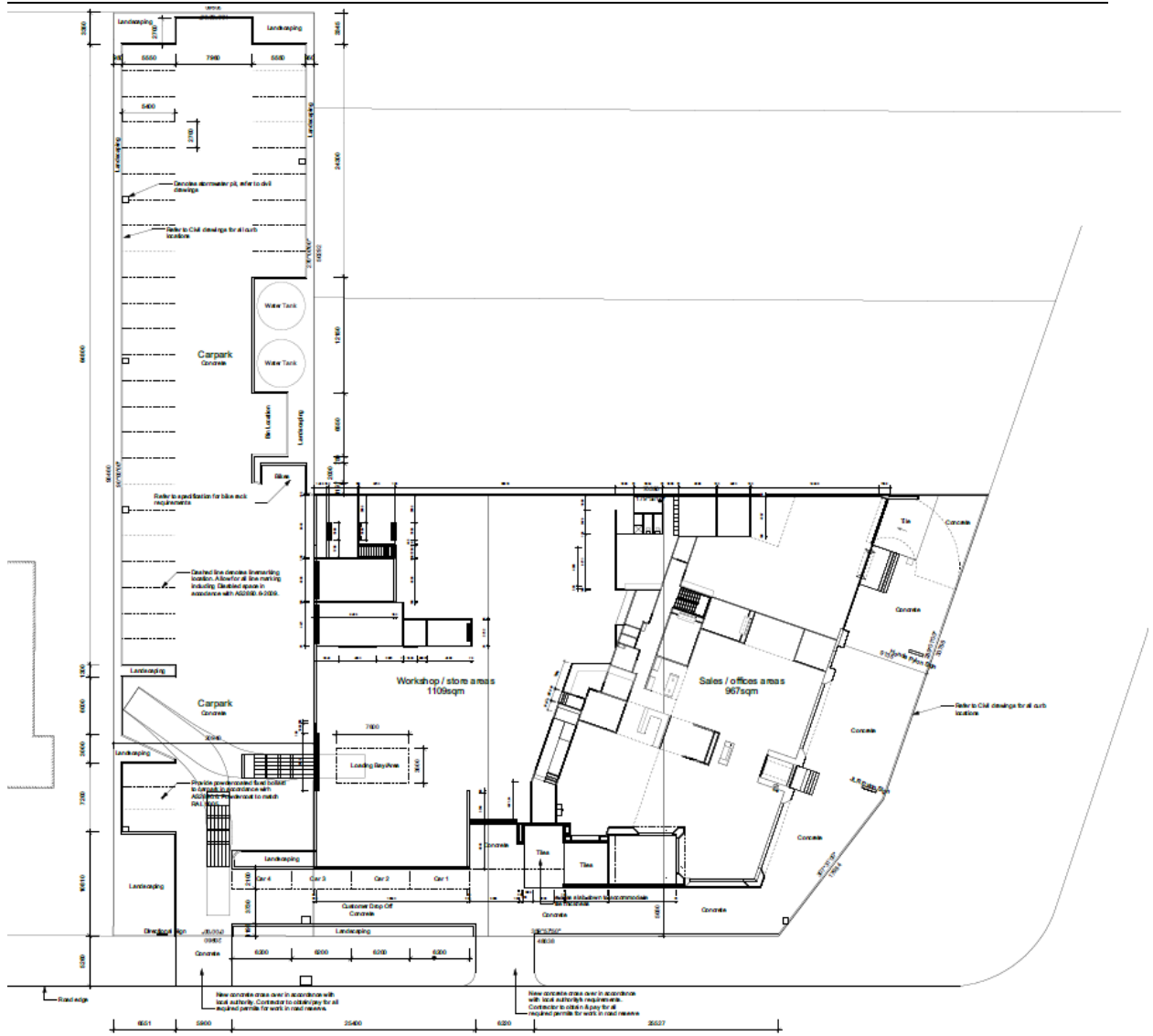
2-8 Carrol Road is in the Commercial 2 Zone (C2Z) and is affected by the LSIO. The subject land is adjacent to a road in Road Zone Category 1 Zone (RDZ1) to the south 2-8 Carrol Road.

A planning permit is required for the following:

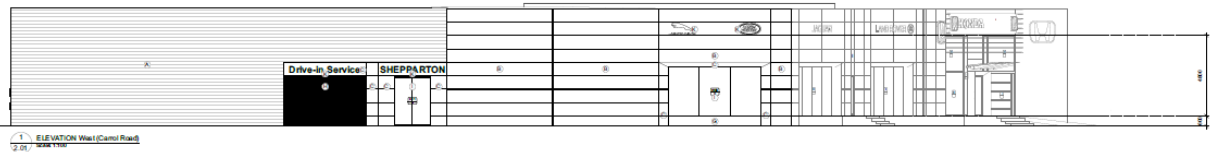
- 33.01-4 Buildings and works in the IN1Z for a loading bay;
- 34.02-1 Use of the land for motor vehicle sales in the C2Z;
- 34.02-4 buildings and works in the C2Z;
- 44.04-1 buildings and works in the LSIO;
- 52.05-7 Display and erect business identification signage in the C2Z;
- 52.06-3 Reduction of car parking;
- 52.14 Variation to Motor Vehicle Sales Particular Provision; and
- 52.17-2 Removal of native vegetation (two scattered trees).

It is noted that the application was amended under Section 57A of the *Planning and Environment Act 1987* to include a loading bay to the rear of 325 Midland Highway and to remove access and proposed car parking in the RDZ1.

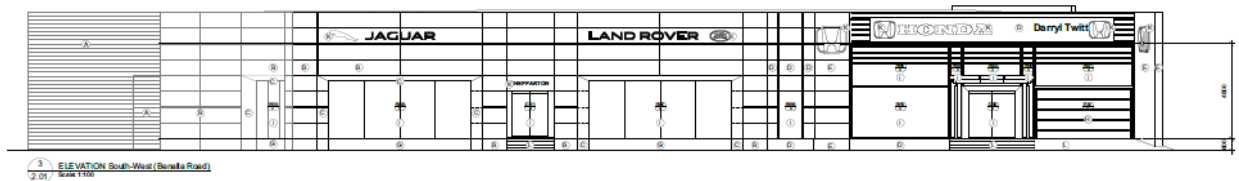
The use of the land for motor repairs is a Section 1 use in the C2Z and therefore no planning permit is required for the use.



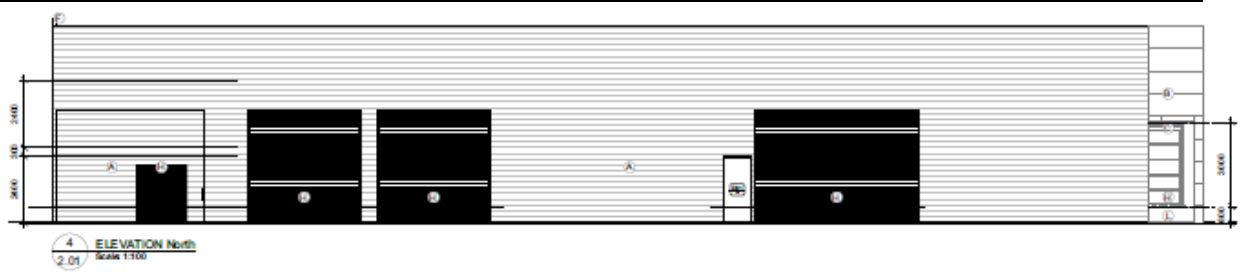
Carroll Road Elevation



Midland Highway Elevation



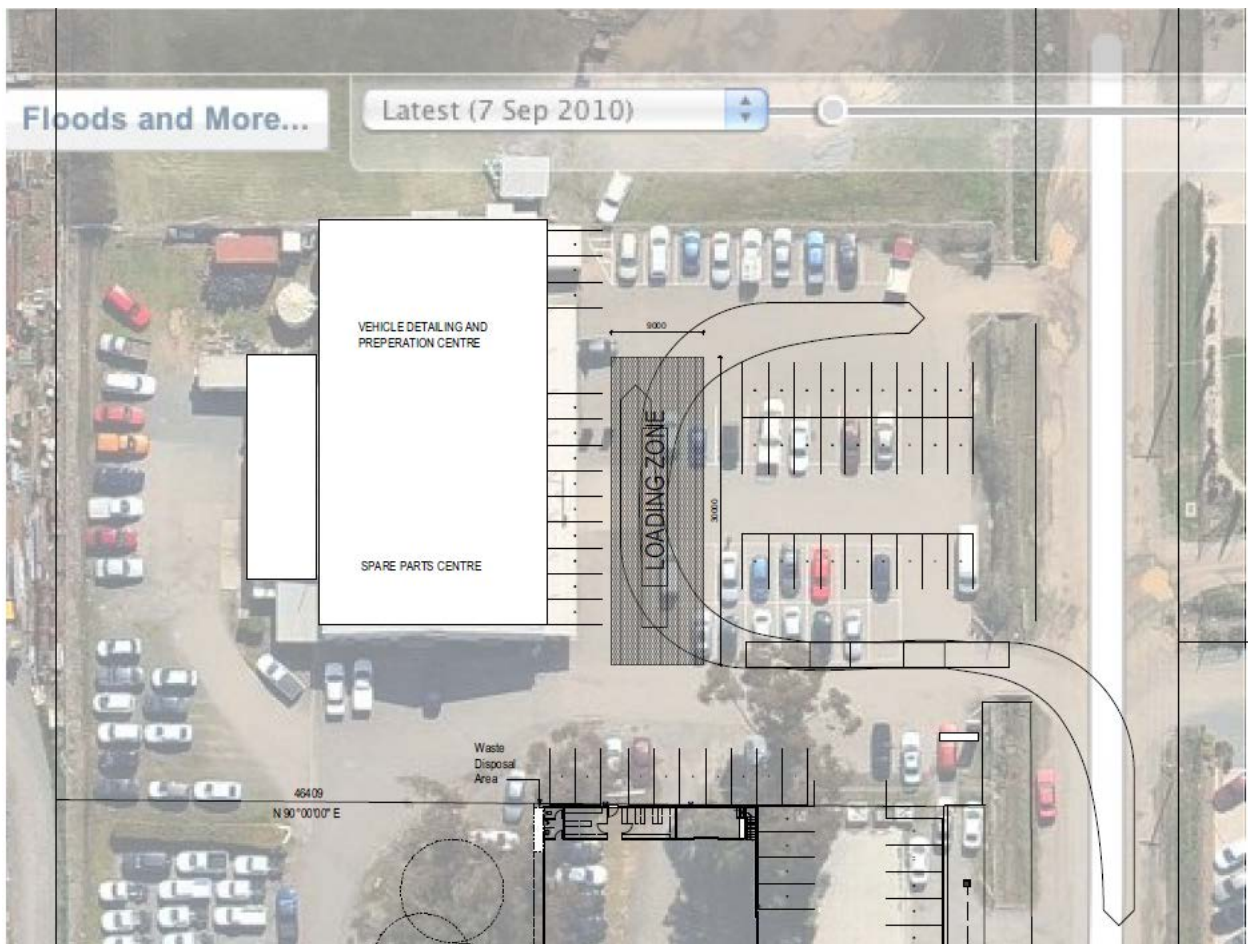
Rear of the building (facing north):



Eastern side of the building



Proposed loading area on CA 112E Sec C.



Summary of Key Issues

The application proposes the following:

- Buildings and works for a vehicle loading bay in the IN1Z on a neighbouring site (CA 112E Sec C). As a result a reconfiguration of car parking on this site is also required.
- Use of the land for motor vehicle sales in the C2Z.
- Buildings and works for motor repairs, motor vehicle sales and associated car parking in the C2Z.
- Buildings and works in the LSIO
- 1 car space reduction.
- Business identification signage in the C2Z.
- Removal of two low risk based pathway trees.
- Variation to the Motor Vehicle Sales Particular Provision to allow:
 - Motor vehicle repairs on the land;
 - Buildings on the land exceed 19 square metres (sqm);
 - Car parking reduction by one space; and
 - Land to be in multiple titles (to be tied together by Section 173 Agreement)

The application was referred to the Goulburn Broken Catchment Management Authority (GBCMA) who did not object subject to the inclusion of conditions regarding floor level heights.

The application was originally referred to VicRoads as it proposed car parking and access onto a RDZ1. After discussions being carried out between the applicant and VicRoads, the applicant lodged a amended application to remove the car parking and access onto the RDZ1. The amended application was then notified to VicRoads who did not object to the application subject to a note being placed on the permit regarding the removal of trees from the road reserve.

The application was also notified to Goulburn Valley Water (GVW) who did not object subject to the inclusion of conditions.

The application was internally referred to the Council's Engineering Department and Sustainability Department who did not object subject to the inclusion of conditions on the permit.

The applicant has entered into a pre-development agreement with Council regarding the construction of stormwater drainage connection to the site.

The application was notified via a sign on site and by letters to the surrounding neighbouring properties. Two objections were received. One objection was withdrawn based on the applicant amending the design.

One objection remains lodged. The objection relates to the building setback and loading and unloading.

The objection is considered to be adequately addressed in the report, whereby the setback of the building is comparable to others in the area and a loading bay that satisfies the provisions of the scheme will be located on site. It is noted that an additional larger loading bay to load and unload vehicles is proposed on an adjacent site.

The application is considered to achieve an acceptable outcome when assessed against the relevant policies of the Greater Shepparton Planning Scheme and it is therefore recommended that a notice of decision for the application for a planning permit be approved subject to conditions..

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2016-141** 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 **33.01-4, 34.02-1, 34.02-4, 44.04-1, 52.05-7, 52.06, 52.14 and 52.17-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **2-8 Carroll Road SHEPPARTON EAST VIC 3631 and CA112E Sec C (Part 325 Midland Highway SHEPPARTON EAST VIC 3631)**, for the **Works in the Industrial 1 Zone for the construction of a loading bay, use and development of motor vehicle sales in the Commercial 2 Zone, buildings and works in the Land Subject to Inundation Overlay, display of business identification signage, variation to Clause 52.14 (motor vehicle, boat and caravan sales), reduction of car parking associated with motor repairs and motor vehicle sales and removal of two native trees** in accordance with the Draft Notice of Decision and the endorsed plans.

Moved by Michael MacDonagh

Seconded by Jorine Bothma

That Council having caused notice of Planning Application No. **2016-141** 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 **33.01-4, 34.02-1, 34.02-4, 44.04-1, 52.05-7, 52.06, 52.14 and 52.17-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **2-8 Carroll Road SHEPPARTON EAST VIC 3631 and CA112E Sec C (Part 325 Midland Highway SHEPPARTON EAST VIC 3631)**, for the **Works in the Industrial 1 Zone for the construction of a loading bay, use and development of motor vehicle sales in the Commercial 2 Zone, buildings and works in the Land Subject to Inundation Overlay, display of business identification signage, variation to Clause 52.14 (motor vehicle, boat and caravan sales), reduction of car parking associated with motor repairs and motor vehicle sales and removal of two native trees** in accordance with the Draft Notice of Decision and the endorsed plans.

CARRIED

Subject Site & Locality

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

Date: **8 April 2016** Time: **3:16** pm

The site is made up of five titles as follows:

- 2, 4 and 6 Carrol Road (of which are proposed to be consolidated)
 - 8 Carrol Road. The applicant requested that the land be tied to 2, 4 and 6 Carrol Road via Section 173 Agreement as 8 Carroll Road is within a different company ownership and cannot be easily consolidated, and
 - CA112E Section C (to the north of 325 Midland Highway) of which will contain the loading bay. The subject sites have a total area of **13051** with the main site being **4922** square metres
- Three disused dwellings (since been demolished) on 4, 6 and 8 Carroll Road.

- Shedding located at 2 Carroll Road (to the south of the subject land) used for car sales, (since been demolished)
- Motor repairs service centre established on CA 112E Sec C associated with car sales to the south of the land.

The main site/locality characteristics are:

- Land to the north of 8 Carroll Road is in the IN1Z and is used for materials recycling (Foott Waste and Recycling). Further to the north of the site are Loscam and Pallets (packing companies) and all farm gates manufacturing.
- 2 Carrol Road bounded by a Midland Highway to the south,
- To the south of Midland Highway are other car sales centres (Nissan, Kia and Holden), truck sales centre, and a car storage site.
- To the east of 2-8 Carroll Road is a disused dwelling. Beyond this land additional car storage site.
- To the west 2-8 Carroll Road land used for car sales (Ford, Audi and Honda) operated by the proposed developer.
- To the north CA 112E Sec C vacant undeveloped IN1Z land.



The photos below show the existing site:



Looking north-east at the from Midland Highway road reserve.



Looking north at the land from the proposed service road, (two native trees proposed to be removed).



Looking north-west at the subject land from Midland Highway road reserve, (two native trees proposed to be removed).



Looking east along the road reserve along Midland Highway to the south of the site.



Looking east at the front of the site from Carroll Road.



Looking north-east at 2-4 Carroll Road from Midland Highway service road.



View east of the dwelling (demolished) at 6 Carroll Road.



Looking north east at the existing crossover to the north of the site and adjacent land to the north (Foott Waste).



Looking west at the Carroll Road and Midland Highway intersection from the south of the site. Similar signage theme demonstrated in the area.



Looking south at the intersection from Carroll Road.



Looking north along Carroll Road.



Looking south along Carroll Road.



Looking north-east along Carrol Road at the location of the proposed entry to the loading bay at CA112 Sec C.



Looking at southern crossover to CA112 Sec C.



Looking into CA112 Sec C.



Looking at the northern crossover into CA112 Sec C



Looking south along Carrol Road to the front of CA112 Sec C.



Looking to the south east of Midland Highway from Carroll Road at existing car dealership and signage theme for the area.



Looking west from Carroll Road – demonstrating similar signage theme in the area.

Permit/Site History

The history of the site includes:

- 2004-331 Adult sex book shop (permit issued)
- 2006-266 Adult sex book shop (filed closed – no permit issued)

Further Information

Was further information required for the application? **Yes**

What additional information was required?

- **Certificate of title for Lot 3 on LP40597;**
- **Signed application form;**
- **Amended planning permit application form include permission for the access to a Road Zone Category 1**
- **Revised written assessment against each requirement of Clause 52.14. Please note car parking requirements are as per Clause 52.14. Please provide a revised car parking assessment as per requirements of Clause 52.14;**

- **Details of any native vegetation located on the site or within the road reserve that is proposed to be removed. If trees are to be removed, please provide a biodiversity assessment report, and letter from VicRoads consenting to the removal of native vegetation if within the road reserve and an amended application to include in permit permission.**
- **Revised plans showing;**
 - **Text within the proposed Service Road to the south of the land as it cannot be read due to hatching**
 - **Floor areas of the building**
 - **Clearly marked loading bay to meet the requirements of Clause 52.07. If these requirements are to be waived, please provide written justification and submit amended application to include in permit permission.**
 - **Area set aside for waste disposal**

What date was the information requested?: **14 April 2016**

What was the lapsed date? **16 May 2016**

What date was the information received? **Various dates, prior to the lapse date.**

Public Notification

The application was notified twice due to the application being amended.

The application was originally pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description

Use of the land for motor vehicle sales in the Commercial 2 Zone, display of business identification signage, variation to Clause 52.14, removal of two native trees and alteration to access in a Road Zone Category 1.

The application was advertised by:

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

It was noted that a planning permission was missed from the original advertising, so a subsequent letter was sent adding the following permission:

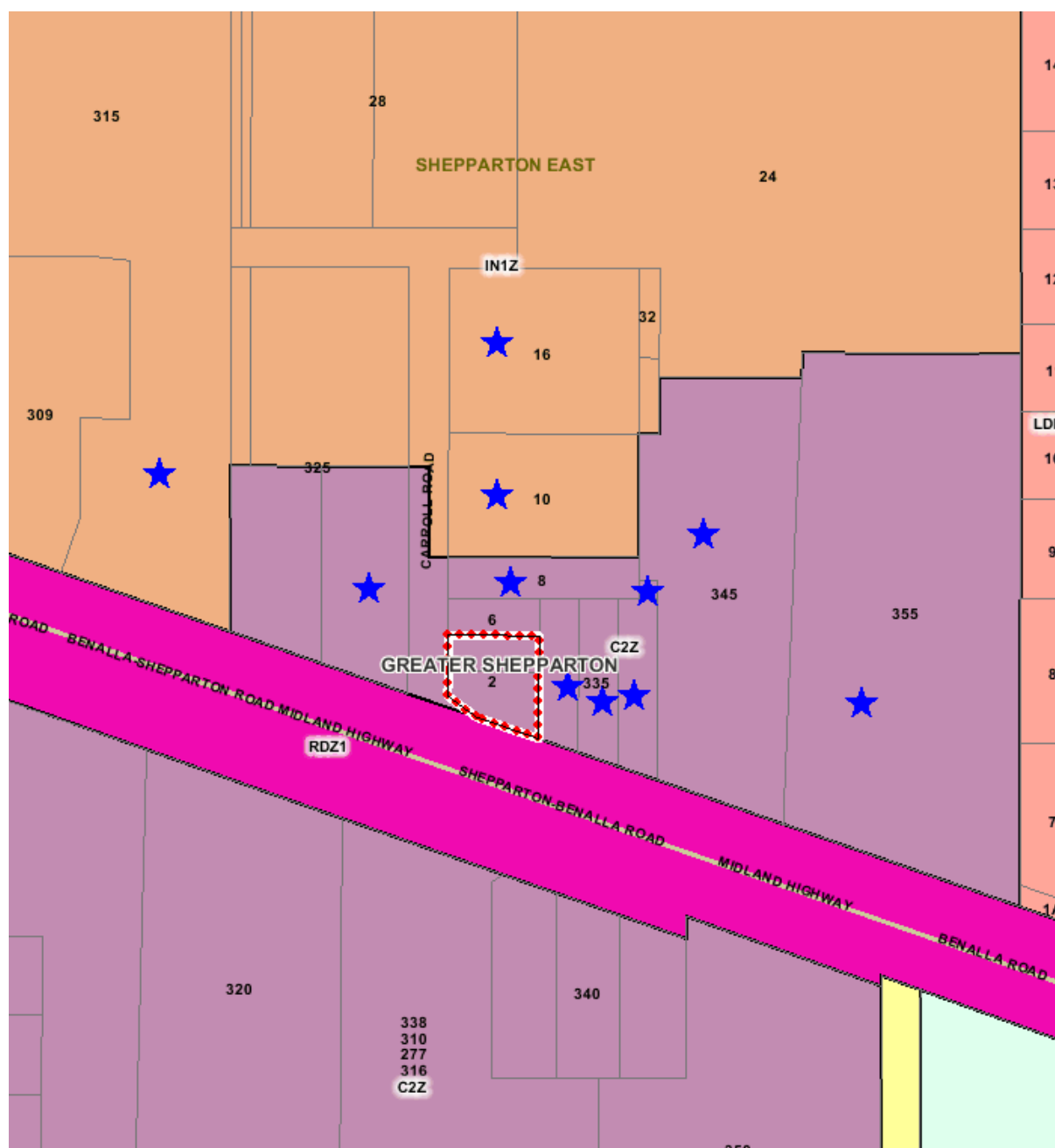
Use and development of the land for motor vehicle sales in the Road Zone Category 1.

The applicant provided a signed declaration stating that the sign on site was displayed on the land from 5 May 2016 to 19 May 2016.

The application was then amended and therefore required re-advertising as per the following description:

Use of the land for motor vehicle sales in the Commercial 2 Zone, display of business identification signage, variation to Clause 52.14, removal of two native trees and reduction of car parking associated with motor repairs and motor vehicle sales, by:

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



The components of the application that are exempt from being advertised in accordance with **Clauses 33.01-4 (buildings and works in the Industrial 1 Zone), 34.02-6 (buildings and works in the Commercial 2 Zone), 44.04-4 (buildings and work in the Land Subject to Inundation Overlay)** of the planning scheme.

The applicant provided a second signed declaration stating that the sign on site was displayed on the land from 4 August 2016 to 18 August 2016.

It is noted that the applicant submitted a revised car parking plan after the application was advertised showing an additional 10 car spaces within the designated car parking area to the rear of the land. The additional car spaces were able to be provided due to reducing car parking width to 2.6m in accordance with standard design of car park outlined in Clause 52.06-8 of the Scheme. It is noted that the revised car parking layout will not impact on the overall design and layout of the proposal and therefore was not required to be re-advertised.

Objections

The Council has received **two** objections of which one was later withdrawn. The key issues that were raised in the objection that remains are:

Objectors concerns	Officers Response
<p>The current setbacks do not comply with the Responsible Authorities Policy.</p>	<p>The proposed building setback from property boundary to the south adjoining Midland Highway is approximately 9.135 metres.</p> <p>It is noted that setbacks in the area are varied.</p> <ul style="list-style-type: none"> • Buildings located at 325 and 315 Midland Highway to the west of the land are setback is approximately 20 metres; • 340 Midland Highway (Nissan car sales to the south of Midland Highway) has a minimum setback of 12 metres; • 320 Mildland Highway (Hartwigs truck sales) has a building setback of 9.4 metres; and • 277 Midland Highway (truck depot) setback approximately 10 metres from Midland Highway. <p>The application was sent to VicRoads as a Section 52 notice. It is noted that VicRoads did not provide any comment in relation to the setback of the building from the Midland Highway.</p> <p>The building is located approximately 30 metres back from the outside shoulder of the Midland Highway. It is considered that the setback on the corner site enables adequate sight lines for vehicular traffic.</p>

	<p>In assessing the setback, it is considered that the proposed 9 metres provides an acceptable outcome, as there is a mixed theme of setbacks in the area. Consideration has also been given to the building design which provides expanses of windows fronting onto Midland Highway and a large window fronting onto Carroll Road which assist in activating the corner of Midland Highway and Carroll Road.</p> <p>In this instance, the reduced setback also allows for the building to integrate with the street, as a larger building setback would result in larger expanse of parked vehicles (for sale and customer parking) to the front of the site. On the balance it is considered more appropriate to reduce the building setback and allow for customer car parking to be located to the rear of the site.</p> <p>Notwithstanding the above, it is considered that landscaping should be incorporated within the site frontage to lessen amenity impacts of the building and reduced setback. A condition on permit will require this.</p> <p>It also noted that this component (buildings and works in the C2Z) is exempt from notification in accordance with 34.02-6 and appeal rights do not extend to buildings and works in the C2Z.</p>
<p>No unloading or loading facilities for large trucks, semi-trailers, including B doubles has been provided within lots 2-8 Carroll Road the site for this proposed development is also contrary to Council Policy.</p>	<p>A loading bay in accordance with loading bay provisions of Clause 52.07 has been located at 2-8 Carroll Road.</p> <p>A vehicle loading bay has been proposed to be located to the rear of 325 Carroll Road to allow the loading and unloading of vehicles. The applicant has agreed to enter into a Section 173 Agreement with Council to ensure that the loading bay is used in association with the car sales on 2-8 Carrol Road.</p>

The objection that was withdrawn raised concerns with customer car parking overspilling into Midland Highway, access onto Midland Highway, concerns regarding drainage, loading and unloading of vehicles, and concerns regarding the wall height and length along east boundary to the front of the site.

The above concerns have been addressed in the amended application, whereby a loading bay has been provided to the rear of 325 Midland Highway, access and parking has been removed from the Midland Highway road reserve, drainage has been addressed through a

pre development agreement, the wall along the eastern boundary to the front of the site has been reduced from 7 metres in length to 3 metres in length and has a height of 7.01 metres in height, of which has satisfied the objectors concerns.

Title Details

The titles do not contain a Restrictive Covenant or Section 173 Agreement.

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Pre-application meeting;
- Telephone discussion regarding further information to be provided; and
- Meeting regarding pre-development agreement regarding drainage.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 -Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Goulburn Broken Catchment Management Authority	44.04-5	Recommending	<p>The application was referred to GBCMA who provided the following response:</p> <ol style="list-style-type: none"> 1. The finished floor level of the proposed show room must be constructed at least 300 millimetres above the 1% AEP flood level of 114.95 metres AHD, i.e. 115.25metres AHD, or higher level deemed necessary by the responsible authority. 2. The finished floor height of the proposed workshop must be constructed at least 300 millimetres above the general natural surface elevation, or higher deemed necessary by the responsible authority. 3. The offices contained in the workshop must be constructed at least 300 millimetres above the 1% AEP flood level of 114.95 metres AHD, i.e. 115.25metres AHD, or higher level deemed necessary by the responsible authority. This may be achieved by constructing a "false" floor.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
Goulburn Valley Water	<p>The application was notified to GVW who provided the following response:</p> <ol style="list-style-type: none"> a) Discharge of trade waste from the development shall be subject to a Trade Waste Consent Agreement. The Owner and or occupier is required to submit a completed Trade Waste Application, and install the required pre-treatment facility to the satisfaction of Goulburn Valley Water's Trade Waste Section, before approval to discharge trade waste from the development into the Corporation's sewer is granted;

	b) Please note any structures must have minimum 1 metre clearance from the edge of any Corporation assets.
Vic Roads	The application was referred to Vic Roads. The application originally proposed car parking and access via the Vic Roads road reserve. VicRoads did not provide consent for the proposed car parking and access and therefore the application was amended to remove the access and car parking. The amended application was sent to VicRoads as a Section 52 Notice who did not object to the proposal subject to the following planning note being included on the permit: a) Separate consent for works within the road reserve for the removal of trees within the Midland Highway reserve will be required under the Road Management Act.

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	The application was referred to the Council's Engineering Department who did not object to the application subject to conditions.
Sustainability Department	The application was internally referred to the Sustainability Department who did not object to the removal of the two scattered trees subject to complying with offset conditions.

Assessment

The zoning of the land

33.01 Industrial 1 Zone

Purpose

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

Pursuant to Clause 33.01-4 a planning permit is required for buildings and works in the IN1Z for the proposed vehicle loading bay. Buildings and works are exempt in the IN1Z from notification, however for completeness all plans were advertised.

The loading bay located in IN1Z land provides for the loading and unloading of new vehicles for the proposed motor sales on 2-8 Carroll Road. New vehicles will be unloaded on the site and then transferred over to 2-8 Carroll Road for display and sale. The loading bay site has been developed for a spare parts centre and vehicle detailing and preparation centre associated with land to the south also used for the sale of vehicles. As the loading bay is associated with an existing use, this application only requires consideration for the proposed works for the development of the loading bay and re-configuration of car parking and upgrading of access as required. No other changes are proposed on the site.

34.02-7 Decision guidelines

General

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The interface with adjoining zones, especially the relationship with residential areas.*

Building and works

- *The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.*
- *The provision of car parking.*
- *The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and landscaping of land adjoining a road.*
- *Defining the responsibility for the maintenance of buildings, landscaping and paved areas.*
- *The availability of and connection to services.*
- *Any natural or cultural values on or nearby the land.*
- *Outdoor storage, lighting, and storm water discharge.*
- *The design of buildings to provide for solar access.*

Response:

The proposed loading area is located within an existing car parking area. To allow the loading bay to work the car parking arrangement on the site is required to be re-configured.

The current number of spaces provided on site is 40 spaces. It is noted the re-configuration of car parking provided in the plan submitted shows spaces located in front of entrances to the vehicle detailing and preparation and spare parts centre.

It is considered that there is sufficient space on site to provide 40 spaces and therefore no reduction in car parking is required in association with the development of the loading bay. An amended car parking plan will be required to be submitted by the applicant to show revised car parking layout.

The applicant will also be required to provide revised plans showing truck turning movements into the site. The applicant will be required to upgrade access and egress of the site and portion of Carroll Road, should the turning circle extend beyond the existing road. A condition will be placed on the planning permit.

Currently the existing car sales at 325 Midland Highway does not have an onsite loading area designated for vehicle delivery trucks and therefore cars are required to be unloaded within the road reserve. The proposed loading bay will provide an area that may be utilised by both car sales operations, (existing and proposed). It is considered that the proposed loading bay provides an acceptable planning outcome for the area, by providing a loading solution for an existing use as well as for the proposed car sales.

Should the application be approved, a Section 173 Agreement will be required to be registered to the title to ensure the loading and unloading of vehicles associated with the motor sales on 2-8 Carroll Road will take place on this lot (CA 112E Sec C).

34.02 Commercial 2 Zone

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.*
- *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.*

Pursuant to Clause 34.02-1 a planning permit is required for the use of the land for motor vehicle sales in the C2Z. It is noted that motor repairs is a Section 1 use in the C2Z and therefore no planning permit is required for this part of the use.

Pursuant to clause 34.02-4 a planning permit is required for buildings and works.

34.02-2 Use of land

A use must not detrimentally affect the amenity of the neighbourhood, including through the:

- *Transport of materials, goods or commodities to or from the land.*
- *Appearance of any building, works or materials.*
- *Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.*

34.02-7 Decision guidelines

General

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The interface with adjoining zones, especially the relationship with residential areas.*

Use

- *The effect that existing uses 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.*
- *If an industry or warehouse, 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.*

Building and works

- *The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.*
- *The provision of car parking.*
- *The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and landscaping of land adjoining a road.*
- *Defining the responsibility for the maintenance of buildings, landscaping and paved areas.*
- *The availability of and connection to services.*
- *Any natural or cultural values on or nearby the land.*
- *Outdoor storage, lighting, and storm water discharge.*
- *The design of buildings to provide for solar access.*

34.02-8 Advertising signs

Advertising sign requirements are at Clause 52.05. This zone is in Category 1. Signage is discussed in the particular provisions section of the report.

Response:

A series of car and truck dealerships are existing in the area. The application proposes to co-locate a similar use to others already existing in the area and therefore is considered to be consistent with the development theme of the area.

The proposed use and development is generally in accordance with the purpose of the zone which encourages commercial areas for bulky goods retailing, other retail uses and associates business and commercial services that do not affect the safety or amenity of adjacent, more sensitive uses. The subject land does not adjoin residential land. Low density residential land is located approximately 243 m from the eastern boundary of the subject land and therefore the proposed use is not expected to impact on sensitive residential uses.

To the north land has been developed for industrial style uses (recycling and manufacturing uses). To the east of the land is vacant land, and land used for car storage purposes. To the south the land is bounded by Midland Highway and to the west the land has been developed for car sales, and therefore it is not expected that the proposal will impact on surrounding land uses.

Overhead power is located on the east side of Carroll Road. A condition on permit will require the new building to be connect via undergrounded power.

Reticulated water and sewerage is existing in the area. The application has been notified to GVW who has not objected to the permit, subject to conditions being placed on the permit.

The applicant has entered into a pre-development agreement regarding drainage requirements. Subject to compliance with the agreement the proposal is not expected to impact on the drainage in the area.

The proposed motor vehicle sales showroom and display space is oriented to Midland Highway and will create an active frontage. A landscape plan will be required to be submitted and approved should a permit issue for the land.

The proposal includes a screened waste disposal area, provision for bicycle parking spaces and loading and unloading areas. Car parking is located to the rear of the site. There is availability to provide for safe pedestrian access from the carpark to the sales display area. A condition on permit will require revised plans to show the construction of an internal pedestrian access along the western side of the site.

Loading and unloading on the site is carried out in specified loading bays. As previously mentioned, unloading of new vehicles will occur on CA 112E Sec C. Loading and unloading of parts serving the motor repairs on 2-8 Carroll Road will occur within the specified loading bay in the building of which complies with the loading requirements of Clause 52.07.

There are no natural or cultural values that have been identified on or nearby land.

Security lighting will be required as appropriate and a condition on permit will require the submission of a lighting plan.

There is no outdoor storage areas proposed. All storage will be contained within the building.

Relevant overlay provisions

44.04 Land Subject to Inundation Overlay

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify 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.*
- *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.*
- *To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.*
- *To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

Pursuant to Clause 44.04-1 a planning permit is required for buildings and works in the Land Subject to Inundation Overlay.

44.04-6 Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *Any local floodplain development plan.*
- *Any comments from the relevant floodplain management authority.*
- *The existing use and development of the land.*
- *Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.*
- *The susceptibility of the development to flooding and flood damage.*
- *The potential flood risk to life, health and safety associated with the development.*
- *Flood risk factors to consider include:*
 - *The frequency, duration, extent, depth and velocity of flooding of the site and accessway.*
 - *The flood warning time available.*
 - *The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.*
- *The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.*
- *The effect of the development on river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance.*

Response:

The entire site is affected by the Land Subject to Inundation Overlay and therefore cannot be located on flood free land.

The application was referred the GBCMA who did not object to the proposal subject to the floor level of the proposed showroom and office within the workshop being constructed 300mm above the 100 year ARI flood level. A condition on permit will require the submission of amended plans to show compliance with the GBCMA condition. Subject to compliance with the condition the proposal is considered to be consistent with the local floodplain of Precinct of Goulburn River.

The elevated floor height will assist in limiting damage caused by floodwaters in the area. Given the GBCMA did not object it is considered that the development will not cause significant impact on floodwaters in the area.

The State Planning Policy Framework (SPPF)

11.05-1 Regional settlement networks

Objective

To promote the sustainable growth and development of regional Victoria through a network of settlements identified in the Regional Victoria Settlement Framework plan.

Strategies

Direct urban growth into the major regional cities of Ballarat, Bendigo, Geelong, Horsham, Latrobe City, Mildura. Shepparton, Wangaratta, Warrnambool and Wodonga.

11.10-3 Planning for growth

To focus growth and development to maximise the strengths of existing settlements.

Strategies

Facilitate growth and development specifically in the regional cities of Shepparton, Wangaratta and Wodonga, and in Benalla.

The Hume Regional Growth Plan identifies Shepparton as a major growth location. The proposed development supports Commercial growth in Shepparton.

12.01-1 Protection of biodiversity

Objective

- *To assist the protection and conservation of Victoria's biodiversity, including important habitat for Victoria's flora and fauna and other strategically valuable biodiversity sites.*

Strategies

Use statewide biodiversity information to identify high value biodiversity and consider the impact of land use and development on these values.

Ensure strategic planning:

- *Avoids and minimises significant impacts, including cumulative impacts, of land use and development on Victoria's biodiversity.*
- *Considers impacts of any change in land-use or development that may affect the biodiversity value of adjoining national parks and conservation reserves or nationally and internationally significant sites including wetlands and wetland wildlife habitat designated under the Convention on Wetlands of International Importance (the Ramsar Convention), and sites utilised by species designated under the Japan-Australia Migratory Birds Agreement (JAMBA) or the China-Australia Migratory Birds Agreement (CAMBA).*
- *Assists in the protection and management of sites containing high value biodiversity.*
- *Assists in the re-establishment of links between isolated habitat remnants that contain high value biodiversity.*

Ensure that decision making takes into account the impacts of land use and development on Victoria's high value biodiversity.

12.01-2 Native vegetation management

Objective

To ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.

Strategies

Apply the risk-based approach to managing native vegetation as set out in Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013). These are:

- *Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.*
- *Minimise impacts on Victoria's biodiversity.*
- *Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.*

Policy guidelines

Planning must consider as relevant:

- *Permitted clearing of native vegetation – Biodiversity assessment guidelines, (Department of Environment and Primary Industries, 2013).*
- *The Native Vegetation Information Management System maintained by the Department of Environment and Primary Industries.*

Response:

The removal of two scattered trees on the road reserve of Midland highway is required to allow for the development of the car sales site. The biodiversity report identified the two trees as being low risk based pathways to Victoria biodiversity and therefore their removal can be considered favourably. It is noted that the applicant will require to secure appropriate offsets prior to their removal. A condition on permit will also require the contribution be made to plant of six street trees to the satisfaction of the responsible authority. This will assist in supporting biodiversity into the future on the land.

13.02-1 Floodplain management

Objective

To assist the protection of:

- *Life, property and community infrastructure from flood hazard.*
- *The natural flood carrying capacity of rivers, streams and floodways.*
- *The flood storage function of floodplains and waterways.*
- *Floodplain areas of environmental significance or of importance to river health.*

Response:

GBCMA provided a positive response to the application, stating that they had no objection to subject to floor levels of the showroom and office being raised to 300mm above the 100 year ARI flood level. Subject to compliance with the condition the application is not expected to impact on life, property, or impact on floodwaters and river health in the area.

17.01-1 Business

Objective

To encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to

accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Response:

The application proposes a new commercial development in a commercial zoned area, which is co-located with similar types of commercial uses. The development will make use of existing infrastructure, and as result will require upgrading of infrastructure as appropriate. Through the upgrading of the infrastructure in the area, the proposal would support the potential for other developments to make efficient use of relevant upgrades proposed as part of this application (such as the upgrade to the existing drainage network connections).

19.03-2 Water supply, sewerage and drainage

Objective

To plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.

Strategies

Ensure water quality in water supply catchments is protected from possible contamination by urban, industrial and agricultural land uses.

Provide for sewerage at the time of subdivision, or ensure lots created by the subdivision are capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot.

Plan urban stormwater drainage systems to:

- *Coordinate with adjacent municipalities and take into account the catchment context.*
 - *Include measures to reduce peak flows and assist screening, filtering and treatment of stormwater, to enhance flood protection and minimise impacts on water quality in receiving waters.*
 - *Prevent, where practicable, the intrusion of litter.*
 - *Encourage the re-use of wastewater including urban run-off, treated sewage effluent and run-off from irrigated farmland where appropriate.*
-

19.03-3 Stormwater

Objective

To reduce the impact of stormwater on bays and catchments.

Strategies

Support integrated planning of stormwater quality through a mix of on-site measures and developer contributions.

Mitigate stormwater pollution from construction sites.

Ensure stormwater and groundwater entering wetlands do not have a detrimental effect on wetlands and estuaries.

Incorporate water-sensitive urban design techniques into developments to:

- *Protect and enhance natural water systems.*
- *Integrate stormwater treatment into the landscape.*
- *Protect quality of water.*
- *Reduce run-off and peak flows.*
- *Minimise drainage and infrastructure costs.*

Response:

The application was referred to GVW who did not object to the application subject to the inclusion of conditions requiring the submission of a Trade Waste Agreement. The applicant has entered into a pre-development agreement with council regarding the construction of drainage for the proposal. It is noted that no treatment of stormwater is required to be carried out on site, as the proposed drainage has end of pipe treatment.

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

21.04-4 Urban Design

Objectives - Urban design

- *To achieve a high standard of sustainability in the design and development of new buildings and subdivision.*
- *To promote a high standard of architectural, landscaping and urban design for built form and public spaces throughout the municipality.*
- *To control the number of signs and ensure that the appearance, size, illumination or location of signs does not adversely affect the visual amenity of the natural environment or the built form in the municipality.*

It is considered that the design of the development appropriately responds to the corner site by emphasising the commercial character at the beginning and end of the street at the intersection. The building is designed to active the street frontage on both Midland Highway and Carroll Road. The applicant has addressed the environmentally sustainable design standards via the use of use of recyclable materials, insulated materials to reduce heating and cooling demand of the building, energy efficient lighting, water efficiency fixtures and use of natural ventilation and natural lighting.

Proposed signage is considered to be consistent with the existing signage theme in the area of which similar uses (motor vehicle sales) have been developed.

Strategies - Urban Design

- *Ensure the design of new development contributes to local character and enhances the public realm while minimising impacts on neighbouring properties.*
- *Promote energy efficient and sustainable designs for subdivision, new development and redevelopment of existing buildings and spaces.*
- *On larger sites, avoid expanses of blank walls. Provide visual interest through a range of colours or textures, installing displays or through variations in the form of the building.*
- *Ensure the scale, mass and height of new commercial developments respects the prevailing neighbourhood character.*
- *Ensure building frontages avoid long expanses of solid walls and incorporate design elements and a variety of materials that create articulation and visual interest.*
- *Ensure the design of new development contributes to the safety of its surroundings.*
- *Encourage the use of indigenous and low maintenance plant species.*
- *Ensure that the location, form and size of signs complement the dominant character of any urban or rural landscape, building, site or area on which they are erected.*
- *Control the location, size and scale of advertising signage, especially in key precincts of the Shepparton CBD and town centres.*

Policy Guidelines - Advertising Signs

When considering an application for an advertising sign, Council will be guided by the following provisions:

- *Fewer signs displaying a simple clear message are encouraged.*
- *Advertising signage is encouraged to be primarily for business identification providing basic identification information of the business.*
- *Suspended under-verandah signs should be limited to one per shopfront, except on large premises where the limit should be one per ten metres of shop front.*
- *Above-verandah signs should be attached to the upper facade or parapet, parallel/horizontal to the road with minimal projection.*
- *Sky signs, high wall signs, projecting off-wall signs on upper facades and signs that project above parapets, wall, verandahs, roof lines or building fascias are discouraged in all areas.*
- *Freestanding signs should be limited to one sign per premises with multiple occupancies encouraged to share sign space.*
- *'V' board signs are discouraged in all areas.*
- *Where a building is set back from the street, signs are encouraged to be located within the boundary and should be orientated to be parallel or at right angles to the street.*
- *Where possible signs should be located on the building.*
- *Pole signs should be limited to one per frontage and should be no higher than the surrounding buildings.*
- *Permanent bunting, streamers, banner, balloons, animated, reflective signs or similar devices, are strongly discouraged in all zones due to the detriment to the amenity of the area and the high level of visual clutter and dominance. These signs may be considered for temporary (3 month maximum) promotions only.*

Response:

All signage on the site is for the purposes of business identification. Signage is generally attached to the building with the exception of two free standing signs located perpendicular to Midland Highway at the front of the site. The freestanding signs display business identification signage, with two businesses sharing sign space on one of the free standing signs. It is not uncommon for free standing signs to be associated with car sales business and further to this free standing signs are common along Benalla Road, and more specifically on Midland Highway for other car dealerships (for example Nissan, Holden, Mercedes, Mitsubishi, Volkswagon, Ford, Audi and Honda).

21.05-2 Floodplain and Drainage Management

Objectives - Floodplain and Drainage Management

- *To recognise the constraints of the floodplain on the use and development of land.*

Strategies - Floodplain Management

- *Discourage development and subdivision on land subject to flooding.*
- *Ensure that all new development maintains the free passage and temporary storage of floodwater, minimises flood damage is compatible with flood hazard and local drainage conditions, and minimises soil erosion, sedimentation and silting.*
- *Prevent tree removal to minimise loss of riparian vegetation as a result of development on the floodplain.*

21.06-5 Commercial/Activity Centres

The Activity Centre Hierarchy identified in the report can be described as:

Benalla Road, Goulburn Valley Highway and Numurkah Road have concentrations of Bulky Goods retailing.

Objectives (Relevant)

- *To have a hierarchy of viable activity centres.*
- *To create a movement network that is convenient, connects key destinations and precincts,*
- *and prioritises walkability, cycling and public transport use.*

21.05-1 Natural Environment and Biodiversity

Clause 21.05 of the Planning Scheme notes that the natural landscape of the municipality and wider region has been modified significantly as a result of pastoral activities and more recently through extensive irrigation activities.

Objectives

- *To maintain and enhance biodiversity of native flora and fauna communities*
- *To protect and manage the natural resources of water, air and land.*
- *To identify natural landscape features which are to be protected and managed.*

Strategies

- *Protect remnant areas of native vegetation, streamlines, wetlands and other environmentally sensitive features.*
- *Ensure appropriate identification of native vegetation on land to be developed or subdivided.*

Response

The new proposed building provides a vehicle showroom and display space to the front and side of the site as the site is located on a corner allotment (Midland Highway and Carroll Road). The workshop component of the development is located to the rear of the site.

The design of the building is modern and will provide visual interest through a range of material and colours selected based on the general corporate style of the Jaguar, Land Rover and Honda brands. Proposed signage is also considered to fit in with the existing signage theme in the area, whereby there is a cluster of vehicle sales sites.

The applicant has addressed environmentally sustainable design initiatives in their application by designing the building and selecting appropriate materials and fittings which will lessen environmental impacts. (for example, use of recyclable materials, insulated materials to reduce heating and cooling demand of the building, energy efficient lighting, water efficiency fixtures and use of natural ventilation and natural lighting).

The front facades of the building will be fitted with alcabond, colours to suit particular corporate brands (champagne silver, grey and red) and will assist in creating visual interest.

The application proposes a blank wall to be constructed along the eastern boundary of the site. It is considered acceptable for this wall to be blank as it a boundary fire wall. A condition on permit will require that the concrete wall be painted to assist in protecting the amenity the adjoining allotment and surrounding area.

The scale of the building is proportional to other developments in the area which are a mix of industrial style shedding, motor vehicle sales showrooms and bulky commercial.

No landscaping along the front of the site (Midland Highway) has been shown on the proposed plan. A condition on permit will require landscaped areas to be provided along the front of the site around the proposed signage.

The land is in the C2Z and is setback approximately 243m from the closest residential area, therefore it is not anticipated that any unreasonable amenity impact will arise as a result of the workshop. It is also noted that the proposed car park separates the proposed workshop and neighbouring land to the north of the site.

The application was referred to the CMA as the land is within the LSIO. The CMA as a recommending referral authority consented to the grant of a permit subject to the inclusion of a floor level requirement. Based on the consent of the CMA it is deemed that the development produces an acceptable outcome in the LSIO and that the associated flooding policy is complied with.

The proposal results in undeveloped land being developed with hard stand surfaces of either roof or sealed bitumen/concrete. Due to this additional stormwater runoff will be generated from the site of which is required to be treated and discharged. Council's Engineers and the applicant have agreed to a drainage solution whereby upgrades to existing drainage infrastructure will be required to support the development. The drainage solution would require the installation of drainage pipes under Carroll Road to connect in within the Council's existing drainage system. A pre-development agreement has been prepared to ensure that a satisfactory drainage solution is provided for the development.

The proposed tree removal is listed in the biodiversity assessment report as 'low risk based pathway'. Due to the location of the trees in close proximity to the front boundary of the site, the applicant has proposed to remove them to enable construction of the development. The application was referred internally to the Sustainability Department who did not object to the removal of the trees subject to the inclusion of conditions on the permit which require appropriate offsetting of the vegetation prior to its removal.

Relevant Particular Provisions

52.05 Advertising Signage

Purpose

- *To regulate the display of signs and associated structures.*
- *To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*

- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

Clause 34.02-8 state C2Z signage requirements are as per Category 1 in Clause 52.05.

52.05-7 Category 1 - Commercial areas

Minimum limitation

Purpose

To provide for identification and promotion signs and signs that add vitality and colour to commercial areas.

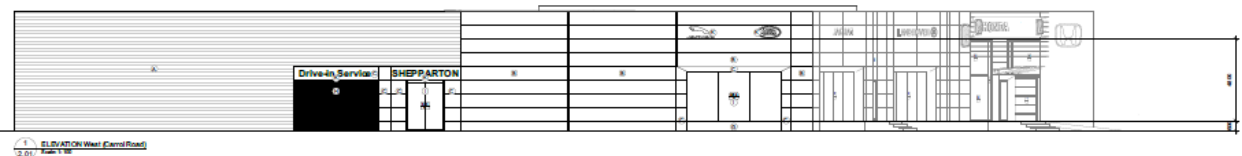
A planning permit is required for the following:

- business identification signage exceeding 8 square metres;
- internally illuminated signage exceeding 1.5 square metres;

The application proposes the following signs:

Signage attached to the building:

West façade:



Signage from left to right on the west façade

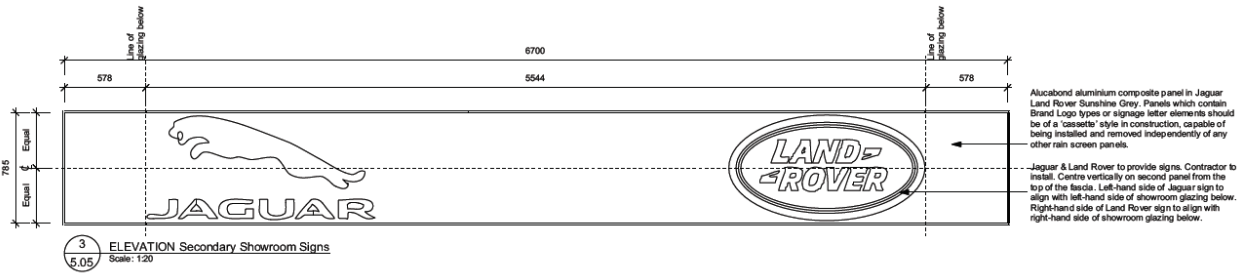
LED halo illuminated sign



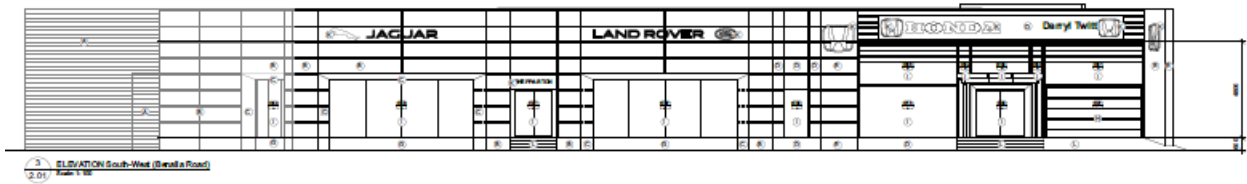
LED halo illuminated sign



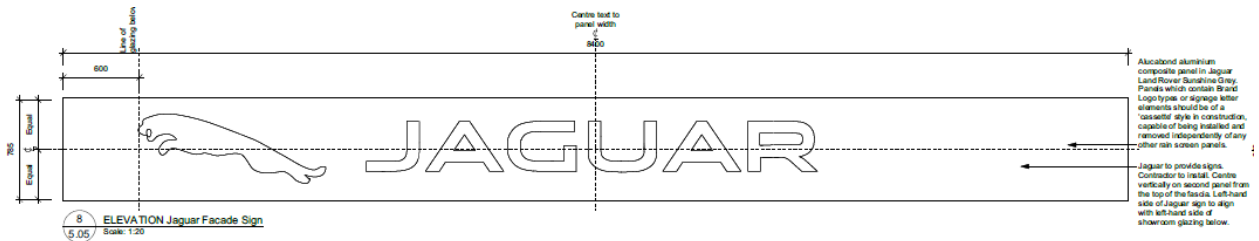
Logo Sign



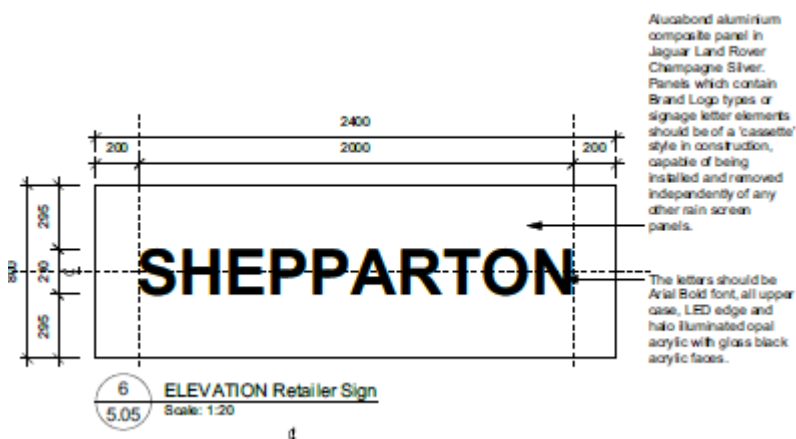
South Façade

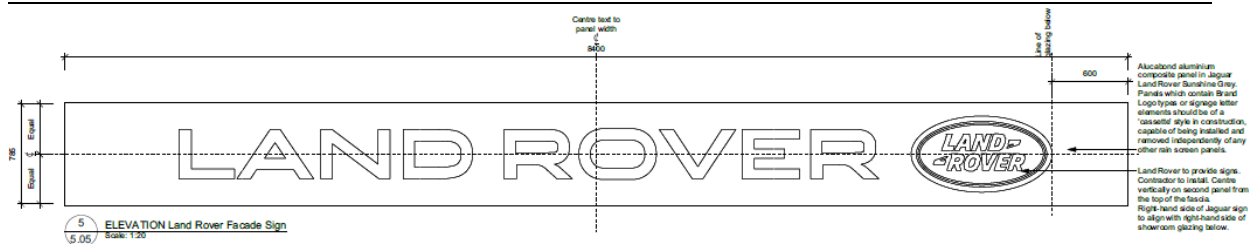


Signage from left to right on the south façade

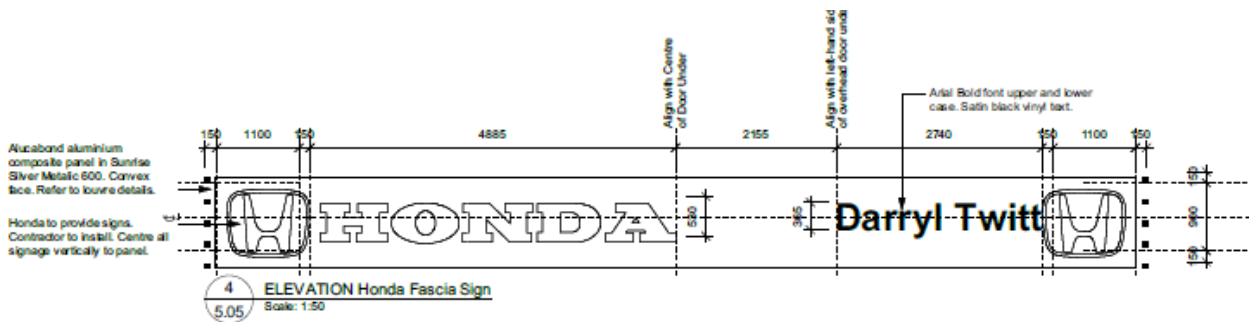
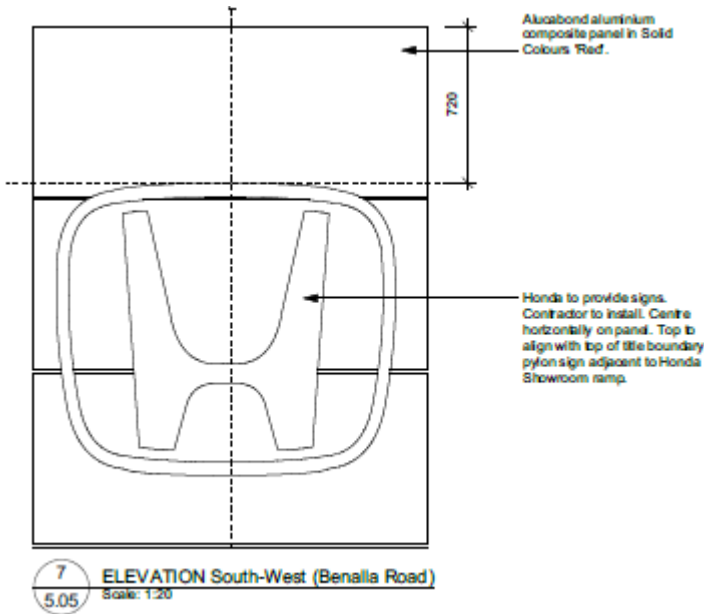


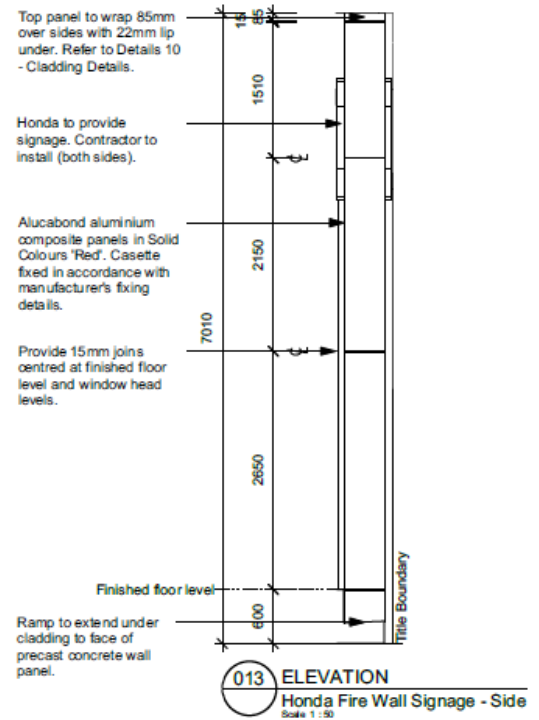
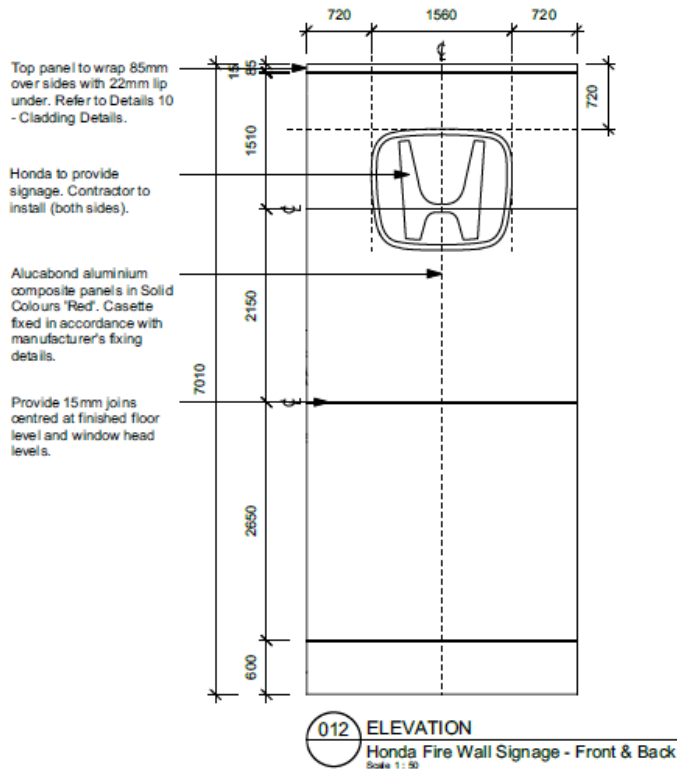
LED halo illuminated sign



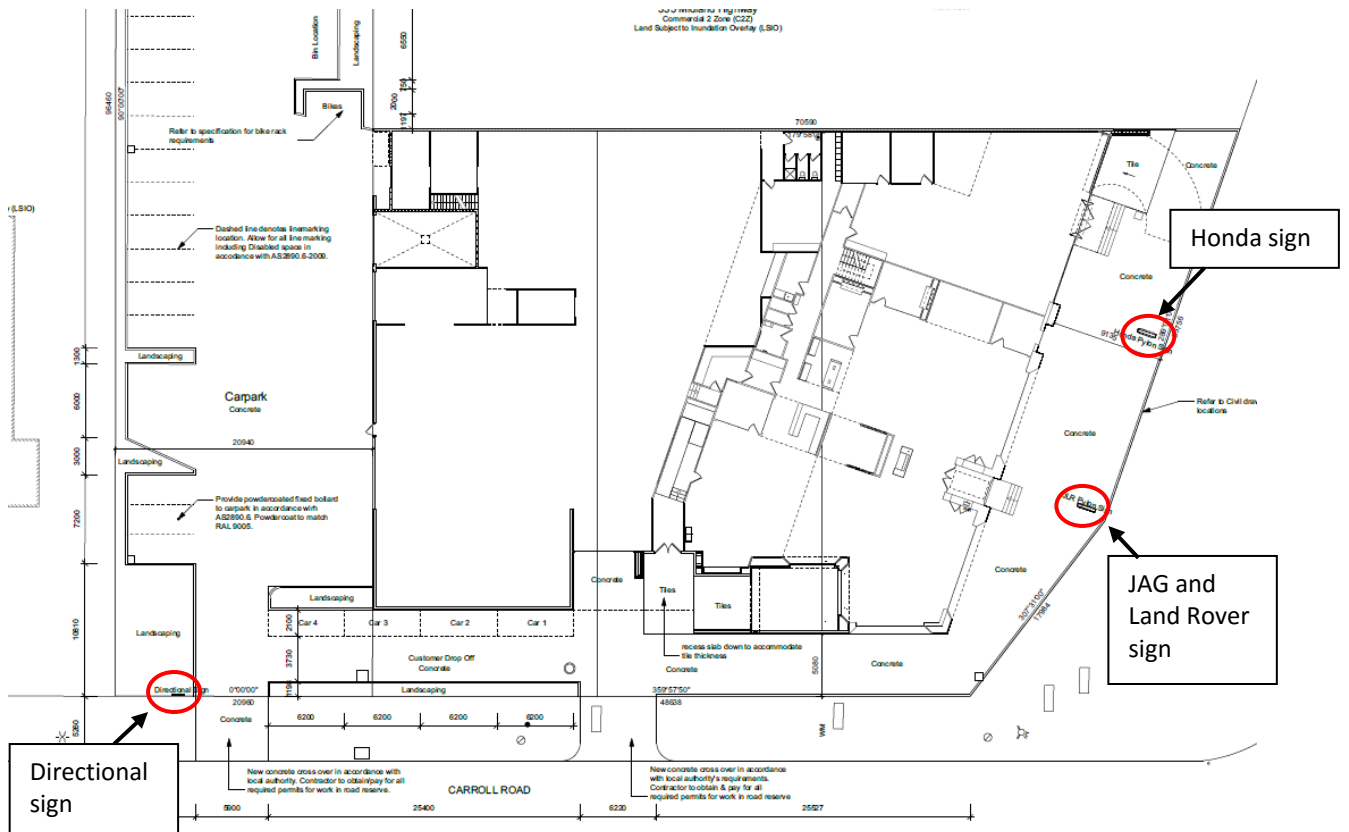


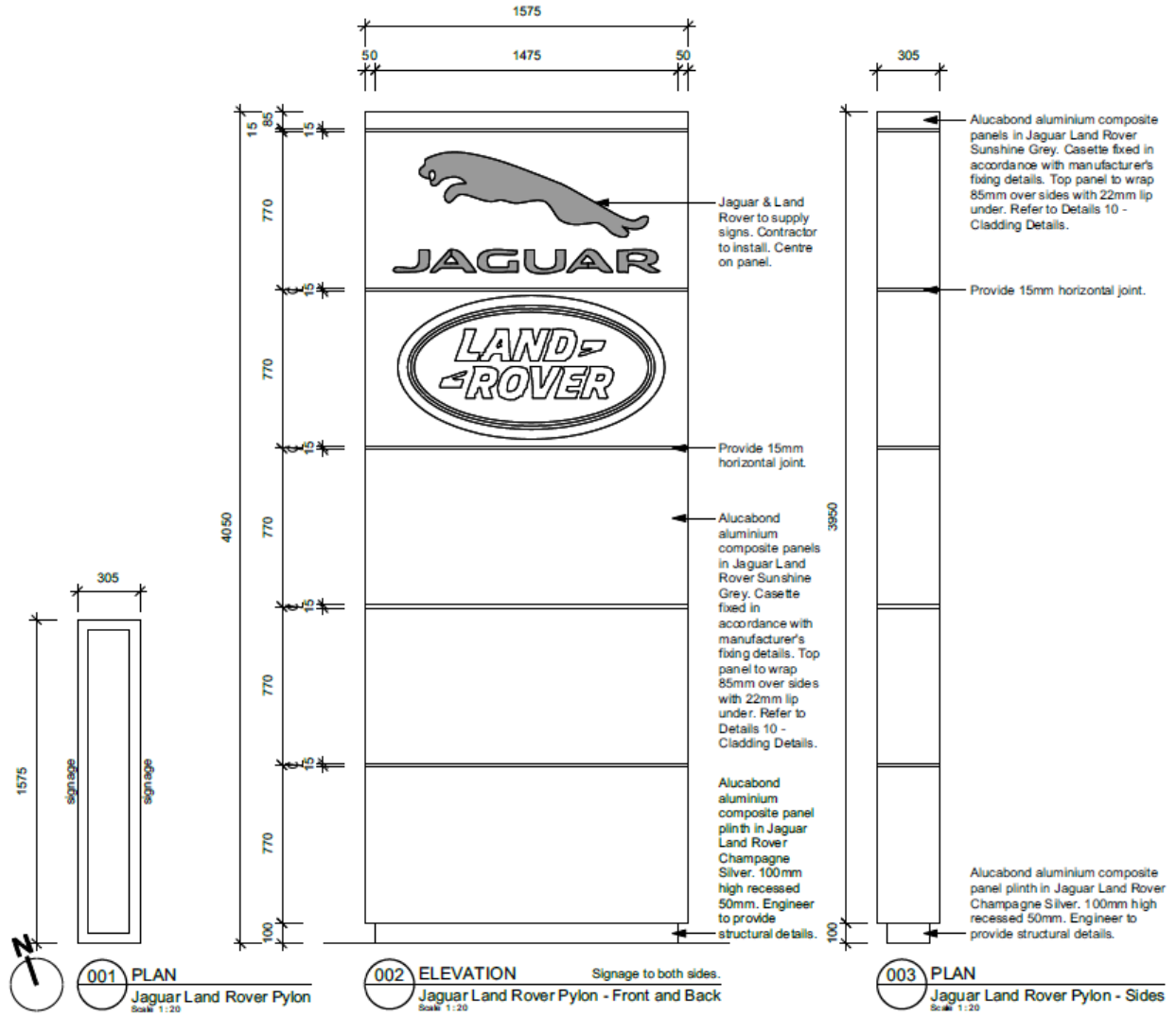
Logo sign

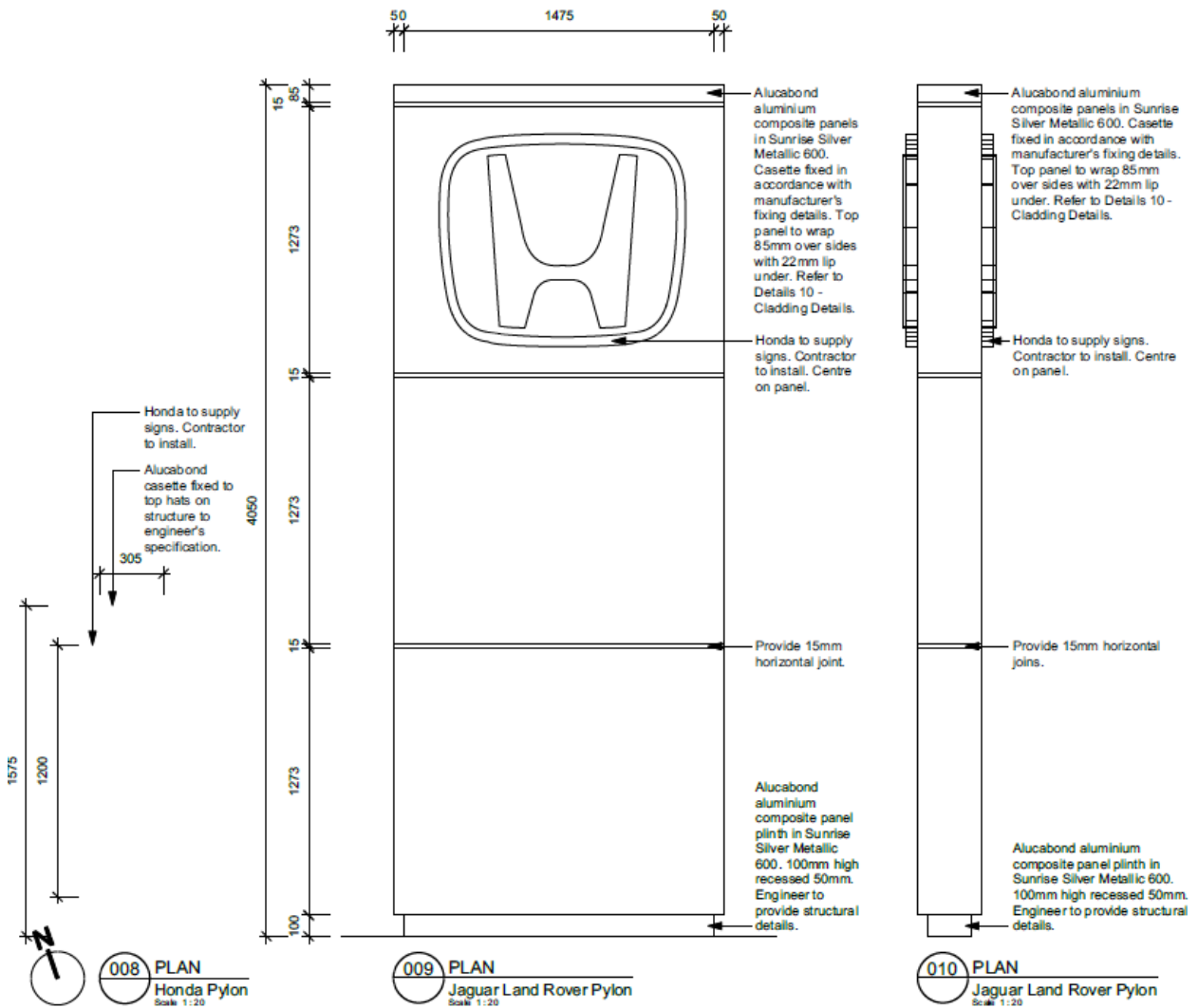




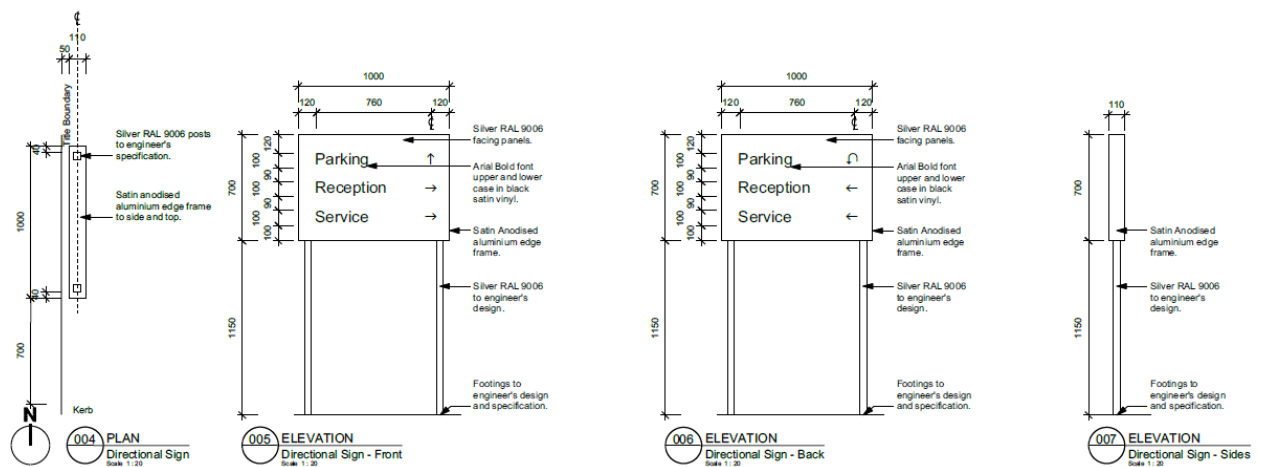
Free Standing Signs







Directional way finding sign (does not require planning permission).



52.05-3 Decision guidelines

Before deciding on an application to display a sign, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The character of the area including:*
 - *The sensitivity of the area in terms of the natural environment, heritage values, waterways and open space, rural landscape or residential character.*
 - *The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.*
 - *The cumulative impact of signs on the character of an area or route, including the need to avoid visual disorder or clutter of signs.*
 - *The consistency with any identifiable outdoor advertising theme in the area.*

Response:

The area has been developed for bulky commercial and industrial type uses. It is considered that the area is not sensitive in terms of natural environment, heritage values, waterways and open space, rural landscape or residential character.

The proposed signage is consistent with the existing signage theme in the area whereby there are a cluster of vehicle sales uses with similar signage formats.

- *Impacts on views and vistas:*
 - *The potential to obscure or compromise important views from the public realm.*
 - *The potential to dominate the skyline.*
 - *The potential to impact on the quality of significant public views.*
 - *The potential to impede views to existing signs.*

Response:

The signage is setback within the property boundary and will not impact or obscure any views to other businesses or other signage and is also not considered to dominate the skyline.

- *The relationship to the streetscape, setting or landscape:*
 - *The proportion, scale and form of the proposed sign relative to the streetscape, setting or landscape.*
 - *The position of the sign, including the extent to which it protrudes above existing buildings or landscape and natural elements.*
 - *The ability to screen unsightly built or other elements.*
 - *The ability to reduce the number of signs by rationalising or simplifying signs.*
 - *The ability to include landscaping to reduce the visual impact of parts of the sign structure.*

Response:

The signage is positioned within the site boundaries and is considered to be appropriately setback from Midland Highway. The site is vacant and there are no existing natural or build elements that signage will impact upon. The land adjoining the site to the east is unused (contains a disused dwelling). Signage is not expected to impact on neighbouring businesses to the north as majority of signage faces onto Midland Highway and signage facing onto Carroll Road is attached to the building with the exception of a small directional sign.

- *The relationship to the site and building:*
 - *The scale and form of the sign relative to the scale, proportion and any other significant characteristics of the host site and host building.*

- *The extent to which the sign displays innovation relative to the host site and host building.*
- *The extent to which the sign requires the removal of vegetation or includes new landscaping.*

Response:

The signage is proportional to the proposed built form on the site. Signage generally attached to the building and does not protrude above the roofline. The two free standing signs are also a smaller scale than the proposed building whereby signage is 4.05m in height, and the building is approximately 6.7m in height.

New landscaping will be incorporated in the overall development.

- *The impact of structures associated with the sign:*
 - *The extent to which associated structures integrate with the sign.*
 - *The potential of associated structures to impact any important or significant features of the building, site, streetscape, setting or landscape, views and vistas or area.*

Response:

The free standing signs are integrated with the existing signage. It is not considered that the structures will impact on any views, streetscape setting or landscape views or vistas.

- *The impact of any illumination:*
 - *The impact of glare and illumination on the safety of pedestrians and vehicles.*
 - *The impact of illumination on the amenity of nearby residents and the amenity of the area.*
 - *The potential to control illumination temporally or in terms of intensity.*

Response:

The only signs proposed to be illuminated are the two 'Shepparton' signs and 'drive in service' signs of which have a halo led background around Arial font text only. The illumination is simple and is not expected to impact on the amenity of the area or dazzle drivers.

- *The impact of any logo box associated with the sign:*
 - *The extent to which the logo box forms an integral part of the sign through its position, lighting and any structures used to attach the logo box to the sign.*
 - *The suitability of the size of the logo box in relation to its identification purpose and the size of the sign.*
 - *The need for identification and the opportunities for adequate identification on the site or locality.*

Response:

No lighting is proposed as part of the logo signage. Logos are used on the panel signs and attached to the building. The logos are integral part of signage and they are easily identifiable.

- *The impact on road safety. A sign is a safety hazard if the sign:*
 - *Obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property.*

- *Obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background which might reduce the clarity or effectiveness of a traffic control device.*
- *Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.*
- *Is at a location where particular concentration is required, such as a high pedestrian volume intersection.*
- *Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.*
- *Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.*
- *Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.*
- *Is within 100 metres of a rural railway crossing.*
- *Has insufficient clearance from vehicles on the carriageway.*
- *Could mislead drivers or be mistaken as an instruction to drivers.*

Response

The signage is appropriately setback within the site boundaries and will not impact on the line of site at the Midland Highway and Carrol Road intersection. There are no traffic control devices located in the area and therefore the proposed signage will not cause any impact. The signage is clear and simple and is unlikely to be mistaken for traffic control devices.

The signage displays a clear message which will be easily identifiable to motorists.

52.06 Car parking

Purpose

- *To ensure that car parking is provided in accordance with the State Planning Policy Framework and Local Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

52.06-3 Permit requirement

A permit is required to:

- *Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.*

It is noted that the land is not affected by a Parking Overlay.

Clause 52.06-4 provides the required car parking rate for motor repairs.

Use	Rate	Car Parking Measure
Motor repairs	3 1	To each 100sqm of net floor area For each vehicle being serviced repaired or fitted with accessories, including vehicles waiting to be serviced, repaired, fitted with accessories or collected by owners.

The total floor area of the works shop is 1109sqm and the proposal includes 16 service bays. Therefore the total amount of car parks required for the motor repairs use is 49 spaces.

Car parking for the use of the land for motor vehicle sales is specified in Clause 52.14 of the Greater Shepparton Planning Scheme. One space is required per 10 vehicles for sale. The plans show the display of 28 cars to be sold from the land, therefore two spaces are required to be provided in association with motor vehicle sales use.

The total number of car parks required to be provided associated with the new use is 51 spaces. The application originally proposed 40 car spaces; however the applicant has since submitted a revised car parking plan showing 50 car spaces provided on the land. Therefore a reduction of 1 car spaces is required.

The construction of the loading bay on CA112 Sec C requires the reconfiguration of car parking on the land. Currently there is 40 line marked car spaces on CA112 Sec C. It is considered that there is sufficient space onsite to reconfigure car parking accordingly. The applicant has submitted a plan of the loading bay with revised parking arrangement, however it is noted that some parks are in front of entrances to the existing vehicle detailing and spare parts centre. A revised plan will be required to be submitted to show the provision of no fewer than 40 spaces on the land and therefore no reduction of spaces will be required for this component of the application.

Before granting a permit to reduce the number of spaces, the responsible authority must consider the following, as appropriate:

- *The Car Parking Demand Assessment.*
- *Any relevant local planning policy or incorporated plan.*
- *The availability of alternative car parking in the locality of the land, including:*
- *Efficiencies gained from the consolidation of shared car parking spaces.*
- *Public car parks intended to serve the land.*
- *On street parking in non residential zones.*
- *Streets in residential zones specifically managed for non-residential parking.*
- *On street parking in residential zones in the locality of the land that is intended to be for residential use.*
- *The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.*
- *Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.*
- *The future growth and development of any nearby activity centre.*
- *Any car parking deficiency associated with the existing use of the land.*
- *Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.*

- *Local traffic management in the locality of the land.*
- *The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.*
- *The need to create safe, functional and attractive parking areas.*
- *Access to or provision of alternative transport modes to and from the land.*
- *The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.*
- *The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.*
- *Any other matter specified in a schedule to the Parking Overlay.*
- *Any other relevant consideration.*

Response:

The application requires a reduction in one car space for the proposed uses. It is considered acceptable to allow the reduction for the following reasons:

- The applicant has stated that it is likely that staff will work across the existing car sales and workshop site at 325 Midland Highway and the proposed new site. It is therefore considered that existing car parking will be utilised on 325 Midland Highway as well as on the new proposed site.
- As the motor vehicle sales proposes only three specific car brands for sale and will only comprise of new cars, it is considered that the target audience (customers) visiting the site will be limited in comparison to motor sales which offer a broad range of vehicles for sale. As such it is thought that there would be a lesser demand for car spaces associated with the proposed use.
- It is also noted that customers looking at vehicle sales will park and walk to car sales sites in close proximity. As there is an existing car sales use on the opposite side of Carroll Road, customers may opt to park at one of the sites and walk to the other, reducing the number of car parks required for the proposed use.
- For the motor vehicle repairs component of the site, generally cars are dropped off at allocated time of which they are required to be serviced/repared and are then collected upon their completion. Therefore it is not considered that 49 car spaces will be required for the motor repairs component of the use.

52.06-8 Design standards for car parking

Plans prepared in accordance with Clause 52.06-7 must meet the design standards of Clause 52.06-8, unless the responsible authority agrees otherwise.

Design standards 1, 3, 6 and 7 do not apply to an application to construct one dwelling on a lot.

Design standard 1 – Accessways

Accessways must:	Officers response:
Be at least 3 metres wide.	Complies. The northern access 2-8 Carrol Road is 5.9m and the southern access is 6.2m. The access to and from CA112 Sec will required to be upgraded accordingly to allow for truck movements into and out of the site, and therefore will comply with the 3m minimum.
Have an internal radius of at least 4 metres at changes of direction or intersection or be at least 4.2 metres wide.	Complies. At the dead end (to the east) the width of the accessway is 8.255m and therefore complies with radius of 4m to allow change of direction. The internal intersection from the car park to the customer drop off area has a width of 5.9m and therefore exceeds 4.2m requirement.
Allow vehicles parked in the last space of a dead-end accessway in public car parks to exit in a forward direction with one manoeuvre. Provide at least 2.1 metres headroom beneath overhead obstructions, calculated for a vehicle with a wheel base of 2.8 metres.	The width of the accessway at the dead end is 8.255m and also provides an additional 1m width to allow for turning movement for car to enter and exit in forward direction. No overhead obstructions.
If the accessway serves four or more car spaces or connects to a road in a Road Zone, the accessway must be designed so that cars can exit the site in a forward direction.	Complies. Turning movements can be accommodated as addressed above.
Provide a passing area at the entrance at least 5 metres wide and 7 metres long if the accessway serves ten or more car parking spaces and is either more than 50 metres long or connects to a road in a Road Zone.	Complies. The entrance to the site is 5.9m and is approximately 8m long.
Have a corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the	Complies. Buildings are set back 5.08m from the boundary. No footpath is proposed or required along Carroll Road.

landscaping in those areas is less than 900mm in height.	
If an accessway to four or more car parking spaces is from land in a Road Zone, the access to the car spaces must be at least 6 metres from the road carriageway.	N/A No access from a road in a Road Zone.
If entry to the car space is from a road, the width of the accessway may include the road.	N/A Entry to the space is not from the road. Car spaces are via internal accessways.

Design standard 2 – Car parking spaces

Car parking spaces and accessways must have the minimum dimensions as outlined in Table 2.

The car parking spaces are 2.6m in width and 5.4m in length, with the access way width of 8.255m. The proposed dimensions comply with the Australian Standards car parking, and design standards in the Planning Scheme.

Design standard 3: Gradients

No gradients, the site is relatively flat.

Design standard 4: Mechanical parking

No Mechanical car parking proposed.

Design standard 5: Urban design

Landscaping and a directional sign is located at the entrance to the carpark to create lessen amenity impact of the vast car parking space, and to provide information to the driver entering the site.

Design standard 6: Safety

Car parking is appropriately lit, and a condition on permit will ensure that appropriate lighting is constructed. Directional signage is located at the entrance of the car park. Pedestrian access will be required to be provided via a condition on permit from the car park to the building.

Design standard 7: Landscaping

Landscaping has been incorporated in the car park design. Tree and plant species will be subject to approval once a detailed plan is submitted as per a condition on the permit.

Table 2: Minimum dimensions of car parking spaces and accessways

52.06-9 Decision guidelines

Before deciding that a plan prepared under Clause 52.06-7 is satisfactory the responsible authority must consider, as appropriate:

- *The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.*
- *The ease and safety with which vehicles access and circulate within the parking area.*
- *The provision for pedestrian movement within and around the parking area.*
- *The provision of parking facilities for cyclists and disabled people.*
- *The protection and enhancement of the streetscape.*
- *The provisions of landscaping for screening and shade.*

- *The measures proposed to enhance the security of people using the parking area particularly at night.*
- *The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.*
- *The workability and allocation of spaces of any mechanical parking arrangement.*
- *The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.*
- *The type and size of vehicle likely to use the parking area.*
- *Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.*
- *Whether the layout of car spaces and accessways are consistent with Australian Standards AS2890.1-2004 (off street) and AS2890.6-2009 (disabled).*

Response:

As outlined above, the proposed car park complies with the design standards and therefore has been demonstrated that it will function in a safe manner and cater for a range of vehicle types.

As noted above, as the standards have been complied with, it is considered that the car park will cater for a range of vehicle types.

A condition on permit will ensure the car parking is constructed, lit, line marked and appropriately signed in accordance with the requirements. New crossovers will be required to be constructed in accordance with conditions on the permit. As discussed previously in the report, an internal footpath will be required to be constructed to allow for safe pedestrian access from the rear of the site to the building.

Bicycle spaces and disability spaces have been provided for within the car parking plan.

The site is on a corner allotment with the car park located to the rear with access of a local road. The placement of the car park to the rear of the site will limit impact on the amenity of the area. Landscaping is also proposed throughout the car park which will also limit the amenity impacts.

52.07 Loading and Unloading of Vehicles

Purpose

To set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety.

Requirements to be met

No building or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless:

- *Space is provided on the land for loading and unloading vehicles as specified in the table below.*

- *The driveway to the loading bay is at least 3.6 metres wide. If a driveway changes direction or intersects another driveway, the internal radius at the change of direction or intersection must be at least 6 metres.*
- *The road that provides access to the loading bay is at least 3.6 metres wide.*

FLOOR AREA OF BUILDING	MINIMUM LOADING BAY DIMENSIONS	
2,600 sq m or less in single occupation	Area	27.4 sq m
	Length	7.6 m
	Width	3.6 m
	Height clearance	4.0 m
For every additional 1,800 sq m or part	Additional 18 sq m	

Response:

The application proposes two loading bays. One loading bay is located at 2-8 Carrol Road of which complies with the above requirements. A condition on permit will ensure that the loading bay is constructed as per the above requirements.

A second loading bay to service the delivery of new vehicles to the site is proposed on CA 112E Sec C.

52.14 Motor Vehicle, Boat or Caravan Sales

Purpose

- *To ensure that amenity, site layout and design are considered when land is to be used for motor vehicle, boat or caravan sales, especially if the site adjoins a residential zone.*
- *To ensure that use of land for motor vehicle, boat or caravan sales does not impair traffic flow or road safety.*

Requirements to be met

Land may be used for motor vehicle, boat or caravan sales only if the following requirements are met. A permit may be granted to vary the requirements.

Requirements to be met	Officers Comment
No more than 2 vehicle crossovers may service the site from a road and at the road alignment a crossover must be no wider than 9.2 metres.	Complies – the land is serviced by two crossovers onto Carroll Road.
Except at crossovers, a kerb or barrier must be built along the road alignment to prevent the passage of vehicles and to prevent vehicles protruding beyond the site boundary.	Complies – Kerb is proposed around the site.
Except where a kerb or barrier is installed, the area within 6 metres of the road must be sealed to the satisfaction of the responsible	Complies – all areas to be sealed to be required on a condition.

authority.	
No building other than an office with a floor area not exceeding 19 square metres and toilet facilities may be built on the site.	Variation required. Floor area exceeds 19sqm as contains show room and motor repairs workshop. It is considered normal for car sales to be inside and a service centre to be provided with car sales.
The site must contain a concrete bay for washing vehicles and waste from the bay must drain into a public sewer or a settlement and oil separation system. The system must comply with the Environment Protection Act 1970 and be installed to the satisfaction of the responsible authority.	Complies – the application proposes a wash bay for vehicles. Conditions will require it to be concreted and drain to sewer.
Vehicles may be washed only in the washing bay	Complies – condition will require vehicles to be washed in wash bay.
Water from the site must be discharged by an underground pipe to an approved outlet to the satisfaction of the responsible authority.	Complies – Conditions will require that the development is drained by underground pipe to the legal point of discharge as per the pre development agreement.
No vehicle for sale or hire may be displayed on an adjacent road.	Complies – the application does not show the display of vehicles for sale outside the property boundaries. A condition on permit will ensure compliance.
No vehicle may be repaired on the site.	Variation required – Vehicles are proposed to be repaired on site. It is noted that as the land is in the C2Z no planning permit is required for the use of a motor repairs on the subject land. It is considered normal for a service centre to be provided with car sales.
An area of at least 1 space to each 10 spaces or part must be set aside on the site for customer and employee car parking and for valuing vehicles. The area must be clearly marked by a sign reading 'customer parking' with the letters at least 50 millimetres high.	Variation required – 28 cars are proposed to be displayed. Therefore two car spaces are required to be provided on site. The application provides 40 spaces on site. A reduction of car parking is required in association with the two proposed uses occurring on site (car sales and motor vehicle repairs). The reduction of car parking has been considered in the previous section of this report.
On a car sales or hire site, the number of cars for sale or hire must not exceed 1 to each 30 square metres of site area.	Complies - The total site area is 4922sqm, with total number of cars to be for sale on the site is 28 cars. A minimum of 840sqm is required to sell 28 cars and therefore the application complies.
If the site is more than one lot it must be consolidated into one title.	Variation required – 2-6 Carrol Road (made up of three allotments, Lots 1, 2 and 3 on LP40597) will be required to be consolidated as a condition on the permit. 8 Carroll Road

	<p>(Lot 2 on LP127402) of which is to be developed for the car park and access to the site will be required to be tied to the land to the south (2-6 Carroll Road) through a Section 173 Agreement.</p> <p>CA 112E Sec C will also require a Section 173 Agreement to be entered as this part of the land will be used for the unloading of new vehicles associated with vehicle sales on 2-8 Carroll Road.</p>
<p>If the site adjoins a residential zone:</p> <ul style="list-style-type: none"> o A landscape buffer strip at least 3 metres wide must be provided on the site along the common boundary and planted and maintained to the satisfaction of the responsible authority. o Except for the landscape buffer strip, all of the site not occupied by buildings must be sealed to prevent dust. o External lights must be directed away from the residential zone to prevent light spill and glare.' 	<p>Complies – the land does not adjoin a residential zone.</p>

52.17 Native Vegetation

Purpose

- *To ensure permitted clearing of native vegetation results in no net loss in the contribution*
- *made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:*
 - o *Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.*
 - o *Minimise impacts on Victoria's biodiversity from the removal of native vegetation.*
 - o *Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.*
- *To manage native vegetation to minimise land and water degradation.*
- *To manage native vegetation near buildings to reduce the threat to life and property from bushfire.*

Pursuant to Clause 52.17-2 a planning permit is required for the removal of two native scattered trees. The removal of the two trees is a low risk based pathway.

52.17-3 Application requirements

The submitted application is considered a properly made application and satisfies the 52.17-3.

52.17 – 5 Decision guidelines

For all applications

- *The contribution that native vegetation to be removed makes to Victoria's biodiversity. This is determined by:*
 - *The extent and condition of the native vegetation.*
 - *The biodiversity value of the native vegetation, including whether the native vegetation is important habitat for rare or threatened species.*
- *Whether the removal of native vegetation is defined as being in the low, moderate or high risk-based pathway, as defined in the Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013) and apply the decision guidelines accordingly.*

Other matters

The responsible authority must also consider the following issues, as appropriate:

- *The need to remove, destroy or lop native vegetation to create defensible space to reduce the risk of bushfire to life and property, having regard to the other available bushfire risk mitigation measures.*
- *The role of native vegetation in:*
 - *Protecting water quality and waterway and riparian ecosystems, particularly within 30 metres of a wetland or waterway and in special water supply catchment areas listed in the Catchment and Land Protection Act 1994.*
 - *Preventing land degradation, including soil erosion, salination, acidity, instability, and water logging, particularly:*
 - *Where ground slopes are more than 20 per cent.*
 - *On land which is subject to soil erosion or slippage.*
 - *In harsh environments, such as coastal or alpine area.*
 - *Preventing adverse effects on groundwater quality on land:*
 - *Where groundwater recharge to saline waterbodies occurs.*
 - *That is in proximity to a discharge area.*
 - *Which is a known recharge area.*
- *In the case of timber production, the benefits of including a condition requiring operations to be carried out in accordance with any relevant code of practice under Part 5 of the Conservation, Forests and Land Act 1987.*

- *Managing native vegetation to preserve identified landscape values.*
- *The conservation of native vegetation protected under the Aboriginal Heritage Act 2006.*

Response:

The application is for the removal of two native trees. The patch of vegetation has been deemed a low risk based pathway as per the Biodiversity Assessment Report.

- The location of the trees is in close proximity to southern boundary of the site. The trees are required to be removed to allow for the development of the site.
- The vegetation is located on flat ground, which is not within a Salinity Management Overlay.
The applicant will be required to offset the removal of native vegetation prior to its removal.
- The proposed works are not required as part of a bushfire prevention measure.

52.17 - 6 Offset requirements

The biodiversity impacts of the removal of native vegetation are required to be offset.

The applicant is must provide a general offset as follows:

The offset must:

- contribute gain of at least **0.006 general biodiversity equivalence units**
- be located within the Goulburn Broken Catchment Management Authority boundary or Greater Shepparton City Council Municipal district
- have a **strategic biodiversity score of at least 0.111**

Prior to the removal of the native vegetation the applicant must provide evidence that the offset specified above has been secured.

52.34 Bicycle Facilities

Purpose

To encourage cycling as a mode of transport.

To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

USE	EMPLOYEE/RESIDENT	VISITOR
Retail other than specified in this table	1 to each 300sqm leasable floor area	1 to each 500sqm of leasable floor area

A new use must not commence or the floor area of an existing use must be increased until required bicycle facilities and associated signage has been provided on the land.

The total floor area of the sales and office component of the building is 967sqm. Therefore four bicycle spaces are required as part of the development. The applicant has provided a

designated area for bicycle parking on the site. A condition on permit will require a minimum of three bicycle spaces are provided on site.

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 this clause.

65.01 Approval of an application or plan

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.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

Response:

The application is acceptable with Clause 65.01 in the following ways:

The proposed use is located on commercial land of which fronts onto a highway. The site is accessed from a local road (Carroll Road). The site is located within a cluster of similar type uses and therefore is considered to be appropriate for the area.

The proposed use and development responds appropriately to the zone and overlay.

The land is not in close proximity to residential zones and therefore is not expected to detrimentally impact on residential amenity.

The drainage is proposed to be discharged into Council's drainage system as per the pre-development agreement. The Council's drainage system has end of pipe stormwater treatment.

Two native trees are proposed to be removed as part of the application. The removal of the trees is considered to be a low risk based pathway. The applicant will be required to be offset the trees to be removed prior to their removal.

The CMA has consented to the proposed development within the LSIO, subject to compliance with a minimum floor level.

Relevant incorporated or reference documents

Local Floodplain Development Plan – Precinct of Goulburn River**8.0 Particular Development Requirements for Residential, Industrial, Township and Business Zone areas****8.2 Industrial, Retail or Office Buildings within LSIO**

- *The floor level of a new industrial, retail or office building (including a replacement building), must be set at least 300 mm above the 100-year ARI flood level (nominal flood protection level) unless the applicant can demonstrate to the responsible authority and the floodplain management authority that this requirement cannot be practically achieved. A written design response statement must accompany the application to justify a proposed floor level below the nominal flood protection level. Where relevant, the design response statement must include:*
 - *Relationship of the proposed building floor level to the floor levels of adjoining buildings, access-ways (vehicle and pedestrian) and street footpaths levels, which demonstrate transport and pedestrian access into the proposed building as impractical. Submitted survey levels must be to Australian Height Datum, by a licensed surveyor.*
 - *Plans and elevation drawings of the building and surrounding areas showing maximum allowable ramping grades to meet relevant Australian Standards and Building Regulation and Codes, which achieve the highest possible floor level.*
 - *Plans showing and specifying flood proofing arrangements up to the nominal flood protection level for retail or office buildings.*
 - *Plans showing and specifying electrical fitting located at least to the nominal flood protection level.*
 - *Plans showing adequate storage areas and shelving above the nominal flood protection level for the storage of valuable goods and hazardous materials.*
 - *Plans showing placement of flood markers inside and outside of the building showing the 100-year ARI flood and other historical flood levels.*
 - *A flood response action plan which sets out procedures and actions to minimise flood damage, risk to occupants, and demands on emergency services.*

The Catchment Management Authority provided a condition to require the building to be constructed 300mm above the 100 year ARI flood level and therefore is consistent with the flood plain development plan.

Other relevant adopted State policies or strategies policies

There are no other relevant adopted State policies or Strategies that relate to the application.

Relevant Planning Scheme amendments

VC123 introduced the Commercial 2 Zone to the Greater Shepparton Planning Scheme on 13 November 2014 which replaces the previous Business 3 and 4 Zone.

Are there any significant social & economic effects?

There are no significant social and economic effects that relate to the application.

Discuss any other relevant Acts that relate to the application?

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

The Aboriginal Heritage Act 2006

The *Aboriginal Heritage Act 2006* provides protection for all Aboriginal places, objects and human remains in Victoria, regardless of their inclusion on the Victorian Aboriginal Heritage Register or land tenure.

The *Aboriginal Heritage Act 2006* introduces a requirement to prepare a Cultural Heritage Management Plan (CHMP) if all or part of the activity is a listed high impact activity, resulting in significant ground disturbance, and all or part of the activity area is an area of cultural heritage sensitivity, which has not been subject to significant ground disturbance.

The 'Area of Cultural Heritage Sensitivity in Victoria' does not include the land within an area of cultural heritage sensitivity; therefore the proposed use does not trigger the need for a CHMP.

Charter of Human Rights and Responsibilities

The application is not considered to impinge on the Charter of Human Rights and Responsibilities.

Conclusion

The application is considered to provide an acceptable planning outcome for the area. The application complies with the purpose of the zones and appropriately addressed LSIO impacts through the design of the building. It is therefore recommended that the planning permit be approved subject to conditions.

Draft Notice Of Decision

APPLICATION NO: 2016-141

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: 2-8 CARROLL ROAD SHEPPARTON EAST VIC 3631
AND CA112E SEC C (PART 325 MIDLAND
HIGHWAY SHEPPARTON EAST VIC 3631)

WHAT THE PERMIT WILL ALLOW: BUILDINGS AND WORKS FOR THE
CONSTRUCTION OF A LOADING BAY IN THE
INDUSTRIAL 1 ZONE, USE OF THE LAND FOR
MOTOR VEHICLE SALES IN THE COMMERCIAL 2
ZONE, BUILDINGS AND WORKS IN THE
COMMERCIAL 2 ZONE AND LAND SUBJECT TO
INUNDATION OVERLAY, DISPLAY OF BUSINESS
IDENTIFICATION SIGNAGE IN THE COMMERCIAL
2 ZONE, REDUCTION OF CAR PARKING,
VARIATION TO CLAUSE 52.14 (MOTOR VEHICLE,
BOAT AND CARAVAN SALES) AND REMOVAL OF
TWO NATIVE TREES

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Amended Plans Required

Before the use or development starts, amended 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 must be generally in accordance with the plan submitted with the application but modified to show:

- a) The showroom and office area to be constructed at least 300mm above 100 year ARI flood level (ie. 115.39 metres AHD or higher) as per Goulburn Broken Catchment Authorities condition.
- b) Truck turning movements showing the ability to enter and exit CA 112E Sec C for the purpose unloading and loading of vehicles.
- c) Car parking arrangement on CA 112E Sec C to show a minimum of 40 car spaces which do not block entrance ways to existing buildings or as

otherwise agreed to in writing by the responsible authority.

- d) Pedestrian access from the rear car park to the front of site where cars are to be displayed to the satisfaction of the responsible authority.
- e) Security lighting designed in accordance with the lighting condition on this permit.

2. **Layout Not Altered**

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

3. **Section 173 Agreement**

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

- a) **The vehicle loading bay approved by this permit located on CA112E Sec C must be used to unload and load vehicles associated with the use of the land at 2-8 Carroll Road for a motor vehicle sales.**
- b) **The car park on Lot 2 on LP127402 must be used for the purpose of access and staff and customer parking associated with the use of the land for motor vehicle sales and motor repairs as approved by this permit.**

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

4. **Consolidation**

Before the buildings approved by this permit are occupied, lots 1, 2 and 3 on LP40597 must be consolidated into one lot.

5. **Landscape Plan**

Before the development 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 three copies must be provided. The landscaping plan must be generally in accordance with the plans submitted, except that the plan must show:

- a) Landscaping to be located to the front of the building fronting onto Midland Highway around proposed signage;
- b) building envelopes and vehicular access points for each lot in the subdivision.
- c) 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;
- d) the method of preparing, draining, watering and maintaining the landscaped area;
- e) details of surface finishes of pathways and driveways;
- f) landscaping and planting within all open areas of the site
- g) garden bed heights above car-park surface;
- h) all areas where vehicle overhang will occur;
- i) all landscaped areas to be used for stormwater retardation;
- j) the provision of six street trees or otherwise agreed to in writing by the responsible authority;

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

The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.

Before the occupation 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.

6. Drainage Discharge Plan

Before any of the development starts a properly prepared drainage discharge plan (by a suitably qualified person or organisation) with computations 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.

The information and plan must include:

- a) details of how the works on the land are to be drained/retarded;
- b) computations **including total energy line and hydraulic grade line** for the existing and proposed drainage as directed by Responsible Authority;
- c) underground pipe drains conveying stormwater to the legal point of discharge;
- d) **Subject to an agreement for the construction of Part Shepparton East Drainage Scheme** measures to enhance stormwater discharge quality from the site and protect downstream waterways Including the expected discharge quality emanating from the development (output from MUSIC or similar) and design calculation summaries of the treatment elements;
- e) **Subject to an agreement for the construction of Part Shepparton East Drainage Scheme** maximum discharge rate from the site shall not exceed the existing (pre-development) discharge rates (or as agreed in

- writing by the responsible authority);
- f) ***Subject to an agreement for the construction of Part Shepparton East Drainage Scheme*** the details of the incorporation of water sensitive urban design, designed in accordance with the “Urban Stormwater Best Practice Environmental Management Guidelines” 1999; and
 - g) ***Subject to an agreement for the construction of Part Shepparton East Drainage Scheme*** maintenance schedules for treatment elements.

Before the buildings are occupied all works must be constructed or carried out in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

7. Car Spaces Required

Before the buildings are occupied no fewer than **50** car spaces must be provided at 2-8 Carroll Road for the use and development including a minimum of **one** space clearly marked for use by people with disabilities or otherwise agreed to in writing by the responsible authority. The disabled space and must be clearly marked with a sign to indicate that the space must only be utilized by persons with disabilities.

8. Car Park Construction Requirements

Before construction works start associated with the provision of car parking, detailed layout plans demonstrating compliance with AustRoads Publication ‘Guide to Traffic Engineering Practice : Part 11 Parking’ or ***Australian Standard AS2890.1-2004 (Off Street Parking) & AS2890.6 (Off Street Parking for People with Disabilities)*** and to the satisfaction of the relevant authority must be submitted to and approved by the responsible authority. The plans must be drawn to scale with dimensions.

Before the use or occupation of the development starts, the area set aside for parking of vehicles and access lanes on 2-8 Carrol Road and CA 112E Sec C as shown on the endorsed plans must be:

- a) surfaced with ***an all-weather seal to the satisfaction of the Responsible Authority to prevent dust,***
- b) constructed and completed to the satisfaction of the Responsible Authority;
- c) drained in accordance with an approved drainage plan;
- d) line-marked to indicate each car space and all access lanes;
- e) properly illuminated with lighting designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land;
- f) measures taken to prevent damage to fences or landscaped areas of adjoining properties and to prevent direct vehicle access to an adjoining road other than by a vehicle crossing;
- g) Provision of traffic control signage and or structures as required;
- h) Provision of signage directing drivers to the area set aside for car parking. Such signs are to be located and maintained to the satisfaction of the Responsible Authority. This sign must not exceed 0.3 square

metres.

to the satisfaction of the responsibility authority.

The areas must be constructed, and drained to prevent diversion of flood or drainage waters, and maintained in a continuously useable condition to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and exiting the property.

9. Urban Vehicle Crossing Requirements

Before the occupation of the building, vehicular crossings shall be constructed in accordance with the endorsed plan(s) and constructed to Councils IDM standard drawing (*SD250*), and must:

- a) be constructed at right angles to the road, and any redundant crossing shall be removed and replaced with kerb and channel.
- b) be setback a minimum of 1.5 metres from any side-entry pit, power or telecommunications pole, manhole cover or marker, or 3 metres from any street tree;
- c) any services pits within the vehicle crossing must be modified and the covers are to be replaced with heavy duty trafficable covers
- d) unless otherwise agreed in writing by the Responsible Authority entry and exit to Part 325 Midland Highway must be widened to allow adequate truck movements. A truck movement turning circle diagram must be submitted for the approval of Responsible Authority.

10. Barrier kerb

Prior to the occupation of the motor vehicle sales and motor repairs buildings, a barrier kerb must be installed along all boundaries that abut public roads, except where crossovers are provided to prevent the parking of vehicles outside the site to the satisfaction of the responsible authority.

11. Bicycle Racks

Prior to the commencement of the use, provision must be made for bicycle racks to accommodate **four** bicycles. Bicycle racks must be designed, constructed and located to the satisfaction of the responsible authority.

12. Vehicle Wash Area

Before the buildings are occupied, a concrete paved area is to be constructed for the washing of vehicles on the land. All water associated with the washing bay must be drained to an outlet point in the concrete area (with appropriate oil

interceptor traps) and discharged to an approved sewer to the satisfaction of the responsible authority. All vehicles washed on the land must be washed in the washing bay.

13. No Sale of Vehicles in Street

Vehicles offered for sale by or under the control of the proprietor are to be parked wholly within the boundary of the subject site. No parking on the road reserve will be permitted.

14. Lighting

Security lighting must be provided on site. All lighting used to externally illuminate buildings, works, uses and car parks shall be designed, baffled and located, so as to prevent the emission of light onto adjoining roadways and land.

15. 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 development or use.

16. Concrete Buildings

Before the building is are occupied all tilt slab or pre-cast concrete buildings must be painted, treated, textured and maintained thereafter to the satisfaction of the responsible authority.

17. Waste / Recycling Collection Area

An area on the subject land must be set aside for the purpose of a waste disposal/collection bin. Such area must have minimum dimensions of 2.4 metres wide by 1.8 metres deep and where located outside a building it must be screen-fenced so as not to be visible from any public road or thoroughfare. The waste bin area must be provided prior to the commencement of the use permitted by this permit, maintained and used to the satisfaction of the Responsible Authority and must not be used for any other purpose.

18. Electrical layout plan

Before any works commence on site the developer must supply the electrical layout plan that includes any transformer sub-station (if required to the site). The layout plan must be drawn to scale and show the dimension, location, and appropriate screening to the transformer sub-station to the satisfaction of the responsible authority. The location and screening of the transformer sub-station must be approved by the responsible authority. The electrical connection to the

development must be underground connection to the satisfaction of the responsible authority.

19. Roof Plant

Before the occupation of the building plant equipment, vents and other mechanical equipment on the roof must be screened so that it is not visible from outside the premise to the satisfaction of the responsible authority.

20. Concealing of Pipes

Before the building is occupied, all pipes, fittings and vents servicing any building on the land (apart from roof downpipes) must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.

21. Delivery of Goods

The loading and unloading of vehicles from trucks must only be carried out on the land identified as part 325 Midland Highway, CA 112E Sec C in this permit.

The loading / unloading of vehicles must not take place in Carroll Road / obstruct the traffic on Carroll Road at any time.

The loading and unloading of goods from vehicles in association with the motor repairs use on the land, must only be carried out at 2-8 Carroll Road within the designated loading bay and must not disrupt the circulation and parking of vehicles on the land.

22. 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.

23. Signs Not Altered

The signs to be erected must be in accordance with the endorsed plans and must not be altered or modified without the prior written approval of the

Responsible Authority.

24. Sign maintenance

All signs must be constructed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority.

25. Sign illumination

Signs must not be illuminated by external lights except with the written consent of the Responsible Authority. Any illumination of the **signs** is such that **they** do not cause glare, dazzle or otherwise distract road users or affect the amenity of the area. External sign lighting must be baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

26. No additional signs

No additional signs, including flags, banners, bunting, streamers, sandwich-boards, windvanes or other devices considered to be used as advertising media shall be erected on the site without the prior written approval of the Responsible Authority.

27. Sign Permit Expiry

This permit will expire if the signs permitted by this permit are not erected within (1) year from the date hereof. This permit will lapse after 15 years from the date this permit is issued subject to the written consent of the Responsible Authority

28. Native Vegetation Offsets

Native vegetation offsets are required to offset the removal of native vegetation (2 scattered trees) approved as part of this permit. The applicant must provide a native vegetation offset that meets the following requirements, and is in accordance with the *Permitted clearing of native vegetation – Biodiversity assessment guidelines and the Native vegetation gain scoring manual (Department of Environment, Land, Water and Planning)*:

The offset must:

- contribute gain of at least 0.006 general biodiversity equivalence units
- be located within the Goulburn Broken Catchment Management Authority boundary or Greater Shepparton City Council Municipal district
- have a strategic biodiversity score of at least 0.111

29. Native Vegetation Offset evidence

Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of and approved by the Responsible Authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of the *Permitted clearing of native vegetation – Biodiversity assessment guidelines and the Native vegetation gain scoring manual (Department of Environment and Primary Industries)*.

Offset evidence can be either:

- a. An allocated native vegetation credit register extract from the Native Vegetation Credit Register; or
- b. A security agreement to the required standard for the offset site or sites, including a 10-year Offset Management Plan to the satisfaction and approval of the Responsible Authority.

Every year, for ten years from the date of approval of the Offset Management Plan, the applicant must provide to the Responsible Authority, notification of actions undertaken towards implementation of the Offset Management Plan, an offset site condition statement and site monitoring photographs.

The Offset Management Plan must be in accordance with *Permitted clearing of native vegetation; First party general offset kit (Department of Environment and Primary Industries)* and include:

- i. The gain in biodiversity equivalence units and strategic biodiversity score to be achieved by the offset actions.
- ii. Location of where offsets are to be provided and size of area (to be drawn to scale).
- iii. Type of offsets to be provided.
- iv. If applicable, revegetation details including the method(s), number of trees, shrubs and other plants, species, mix and density.
- v. Activities that will be forgone within the offset area, such as grazing, removal of fallen timber and standing trees and other development/uses.
- vi. Management actions that will be undertaken to ensure long term sustainability of offset(s) such as permanent fencing, weed control, revegetation maintenance, retention of timber/branches and other habitat management actions.
- vii. Method of permanent protection for offset(s) such as a formal agreement.
- viii. Person(s) responsible for implementing and monitoring the Offset Management Plan.
- ix. Time frame for implementing the Offset Management Plan.
- x. Other actions (to be specified)

30. No alteration to Offset requirement

The requirements noted in an approved and endorsed Offset Plan must not be altered without the written consent of the Responsible Authority.

31. Notification of Permit Conditions

Before the works start, the permit holder must advise all persons undertaking the vegetation removal/works on site of all relevant conditions of this permit.

32. Goulburn Broken Catchment Management Authority Requirements

- a) The finished floor level of the proposed show room must be constructed at least 300 millimetres above the 1% AEP flood level of 114.95 metres AHD, i.e. 115.25metres AHD, or higher level deemed necessary by the responsible authority.
- b) The finished floor height of the proposed workshop must be constructed at least 300 millimetres above the general natural surface elevation, or higher deemed necessary by the responsible authority.
- c) The offices contained in the workshop must be constructed at least 300 millimetres above the 1% AEP flood level of 114.95 metres AHD, i.e. 115.25metres AHD, or higher level deemed necessary by the responsible authority. This may be achieved by constructing a "false" floor.

33. Goulburn Valley Region Water Corporation Requirements

- a) Discharge of trade waste from the development shall be subject to a Trade Waste Consent Agreement.

The Owner and or occupier is required to submit a completed Trade Waste Application, and install the required pre-treatment facility to the satisfaction of Goulburn Valley Water's Trade Waste Section, before approval to discharge trade waste from the development into the Corporation's sewer is granted;

- b) Please note any structures must have minimum 1 metre clearance from the edge of any Corporation assets.

34. 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.

NOTATIONS

VicRoads Note

Separate consent for works within the road reserve for the removal of trees within the Midland Highway reserve will be required under the Road Management Act.

Amended Application Details:

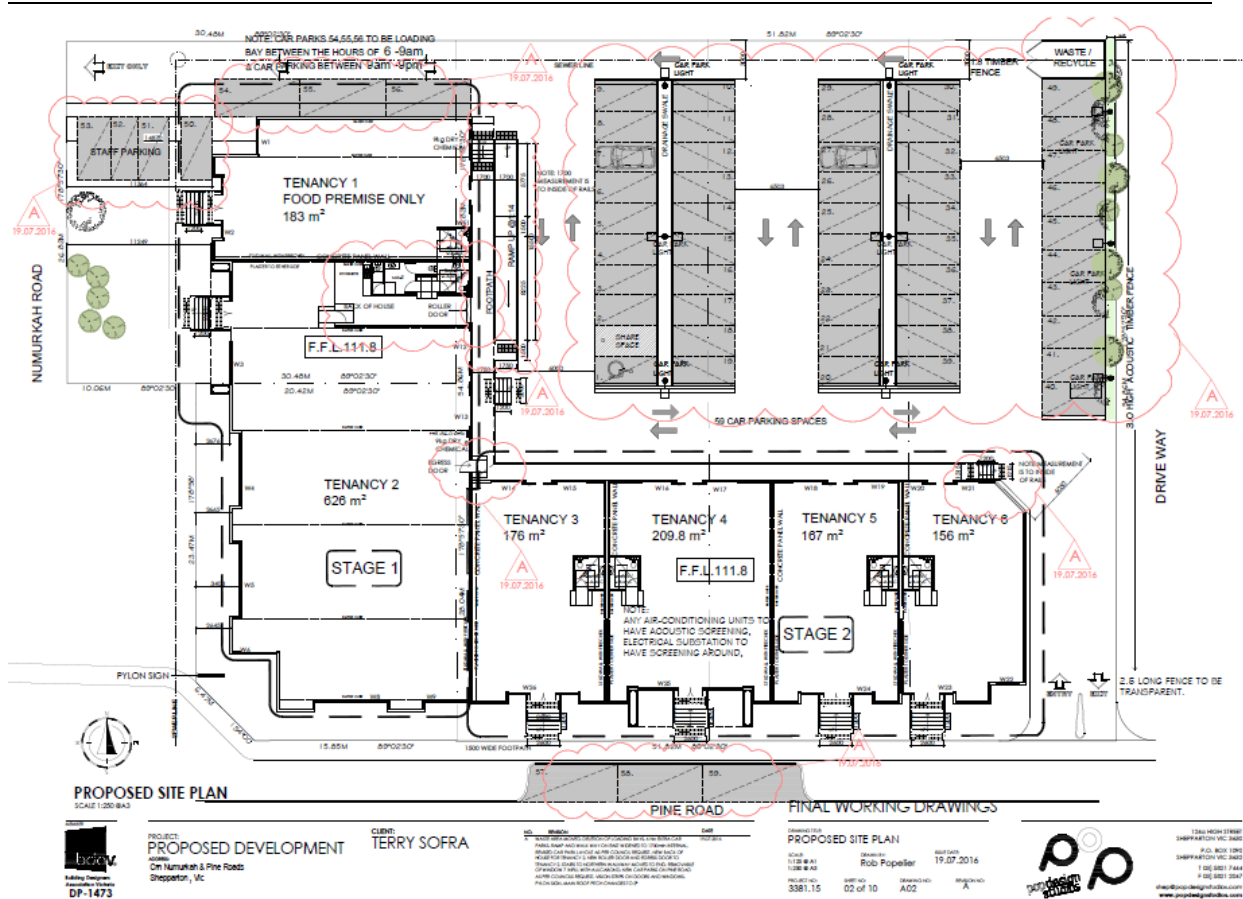
Responsible Officer:	Andrew Dainton
Amended Permit Number:	2015-458/A
Applicants Name:	Pop Design Studios
Date Amendment Received:	20 April 2016
Statutory Days:	123
Land/Address:	127-137 Numurkah Road SHEPPARTON VIC 3630
Zoning and Overlays:	Commercial 2 Zone Land Subject to Inundation Overlay Abuts Road Zone Category 1
Why was the amendment required?	To include stage two of the development
Why is a permit required (include Permit Triggers):	Buildings and works in the C2Z under 34.02-4 Buildings and works in the LSIO under 44.04-1
Are there any Restrictive Covenants on the title?	No

Proposal

Planning permit 2015-458 was issued on 4 April 2016 and allowed the land to be used and developed for a commercial development including a chemist. Stage one of this development has commenced construction with the frame of the two tenancies erected. Additionally Chemist Warehouse has been confirmed as the tenant for the 626sqm tenancy.

This amendment application seeks permission for what is known as stage two of the development. Stage two consists of an additional four retail tenancies fronting Pine Road which a total floor area of 708sqm.

A plan of the proposed amended development is below.



Submitted plans provide for a total of 59 car parking spaces (three of which are newly constructed on street spaces). The provision of 59 spaces satisfies the parking requirement under clause 52.06. Therefore no permission for a reduction in car parking is required as part of this amended application. The dimensions of parking spaces and access aisles comply with the design standards for car parking under 52.06-8.

The parking layout provides four designated staff parking spaces on the western side of the building for Chemist Warehouse employees and a shared loading and parking area on the northern side of tenancy one.

This amended application initially sought approval for an exit only vehicle access to the land to Numurkah Road which is within a Road Zone Category 1. This element of the application was referred to Vic Roads who as a determining referral authority objected to the application. As a result of this objection, the application was amended to remove the proposed access to Numurkah Road. The application has informed if an access outcome cannot be negotiated with Vic Roads a VCAT review will be sought in relation to vehicle access.

The amended application was advertised to neighbours and one objection was lodged from Apco. Apco's grounds of objection relate to the provision and design of car parking spaces, on site loading and bin stores.

At the time of the Apco objection first being lodged the amended application sought permission for a reduction in car spaces of 18 spaces (42 spaces were being provided on the land). Following the lodgement of the objection design reviews were undertaken by Spiire, Traffic Works and Council officers which resulted in a revised layout which increased the parking provision from 42 spaces to 59 spaces.

The revised layout was provided to Apco, however the objection to the application was maintained.

Officers have formed the view that the objection does not warrant refusal of the amended application for the following reasons:

- The 59 car parking spaces are appropriately dimensioned and designed car parking spaces which satisfy clause 52.06 of the scheme
- An onsite screened bin store is proposed
- A shared on site loading area is provided to allow deliveries to the tenancies particularly Chemist Warehouse

In addition to the objection to the development officers have also considered conflict land uses between the C2Z and residential zoned land to the east. Permit conditions are proposed to protect the amenity of these neighbours by:

- Construction of a three metre high acoustic fence on the eastern boundary of the land
- Baffled security lighting and car parking lighting
- A standard noise testing requirement if neighbours raise legitimate noise concerns from the proposed development

Therefore officers are satisfied that it is appropriate to issue a NOD to amend the permit to allow stage two of the development.

Summary of Key Issues

- This application seeks permission to amend an existing permit for stage two of a commercial development. The amendment consists of an addition four tenancies fronting Pine Road totalling 708sqm.
- The amended application increases the provision of car parking from 42 spaces to 59 spaces, which ensures compliance with clause 52.06 is achieved.
- The amended application was advertised and one objection received from Apco. The objection largely relates to the car parking matters. Following the lodgement of the

objection the design has been reviewed to increase the provision of parking spaces from 42 to 59 and to provide an onsite bin store.

- Planning and Engineering officer assessment of the objection is that the objection should not result in the refusal of the amended application. Officers are satisfied that the parking provision and design of the car park is in accordance with the scheme and IDM.
- Officers have considered the conflict between the commercial development and residential neighbours and are satisfied that acoustic fencing and standard amenity conditions can maintain a reasonable level of amenity to the residential neighbours.

Recommendation

Notice of Decision to Grant an Amended Permit

That Council having caused notice of Amended Planning Application No. 2015-458/A 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 objection to the application, decides to Grant a Notice of Decision to Grant an amended Permit under the provisions of the Greater Shepparton Planning Scheme in respect of the land known and described as 127-137 Numurkah Road Shepparton, for the use and development of the land for a commercial development including a chemist in the Commercial 2 Zone and Land Subject to Inundation Overlay in accordance with the Notice of Decision to Amend the permit.

Moved by Johann Rajaratnam

Seconded by Jorine Bothma

That Council having caused notice of Amended Planning Application No. 2015-458/A 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 objection to the application, decides to Grant a Notice of Decision to Grant an amended Permit under the provisions of the Greater Shepparton Planning Scheme in respect of the land known and described as 127-137 Numurkah Road Shepparton, for the use and development of the land for a commercial development including a chemist in the Commercial 2 Zone and Land Subject to Inundation Overlay in accordance with the Notice of Decision to Amend the permit.

CARRIED

Subject Site & Locality

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

The site has a total area of 4238 square metres and currently contains:

- undeveloped commercial land without any constructed vehicle crossings

The main site/locality characteristics are:

- abutting the land is Pine Road which provides no on street car parking abutting the land.
A bicycle lane is provided on Pine Road
- On the Pine Road nature strip is various drainage and telecom infrastructure

The Photos below show the existing site:



View of the land looking west



View of rear laneway accessing the existing church



Area of proposed stage two development



Existing unused vehicle access to Apco from Pine Road



View of Pine Road reserve looking west abutting stage two of the development

Permit/Site History

The history of the site includes:

- 2015-458 was approved on 4 April 2016 to allow stage one of the development. Stage 1 has subsequently commenced.

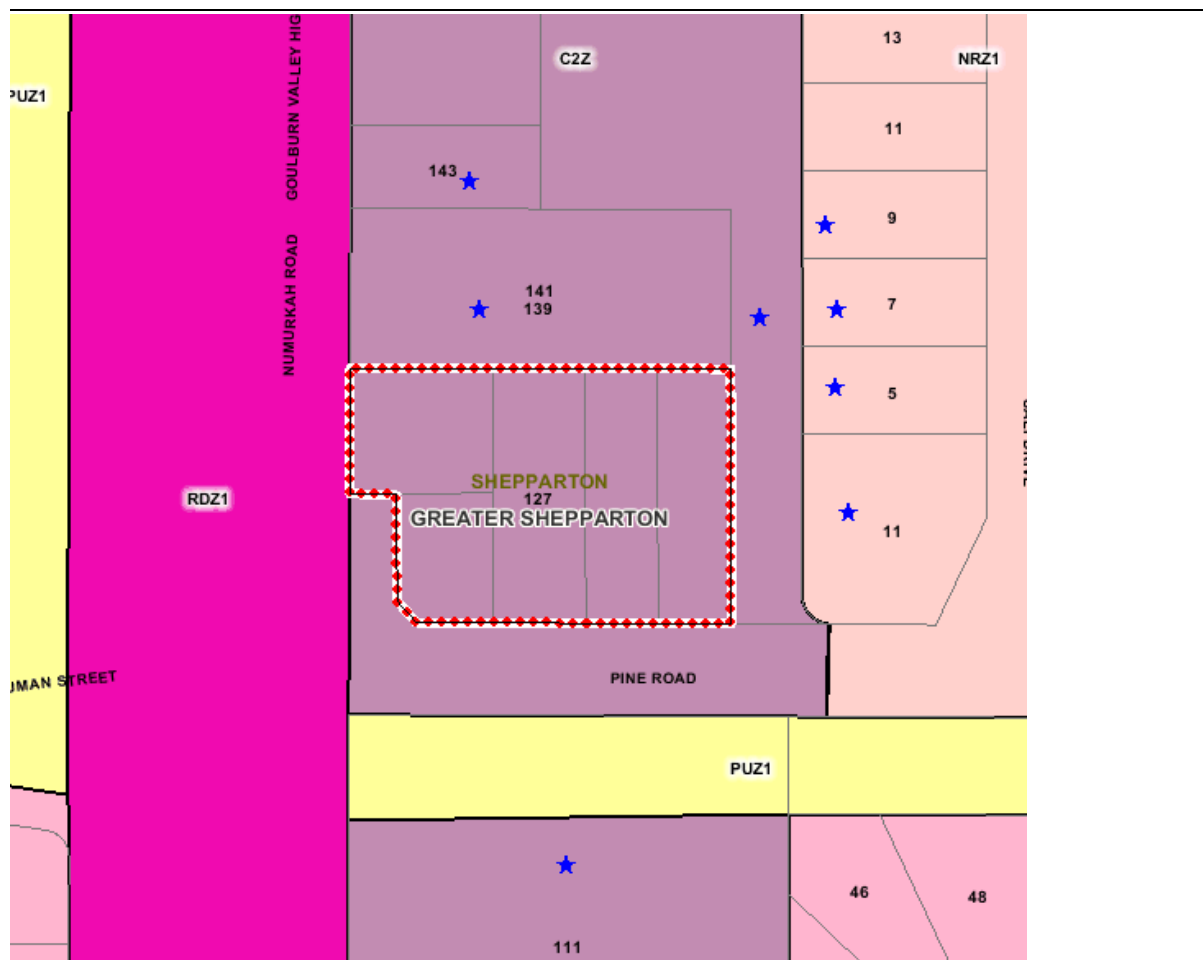
Further Information

Was further information requested for this application? No

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description buildings and works associated with stage two of the development, creation of vehicle access to Numurkah Road and reduction in car parking requirements, by:

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



Objections

The Council has received one objection to date from 111 Numurkah Road.

Ground of Objection	Officers Response
Under provision of onsite car parking	<p>Officers acknowledge that at the time of the objection being lodged the parking shortfall of 18 spaces was too high and would of lead to an unacceptable parking outcome.</p> <p>The design review has resulted in the amount of car parking increasing from 42 spaces to 59 spaces, which allows the development to comply with its parking requirements under 52.06. As a result this amended application does not require permission for a reduction in car parking.</p> <p>Like other recent developments on Numurkah Road this application complies</p>

	<p>with clause 52.06</p> <ul style="list-style-type: none"> • 161-167 Numurkah Road provides about 800sqm with 40 on site spaces • McDonalds is about 360sqm in size (127 total seats) and requires 45 on site spaces and provides 51 on site spaces • Apco at the full development will provide about 1500sqm of retail space and be serviced by 63 parking spaces
Location of car parking	<p>Officers acknowledge that generally highway commercial development will locate car parking in such a way that it is visible to passing motorists. However this design will provide for interesting buildings fronting two main roads as opposed to car parking. Officers understand the ground of objection however do not view the ground as substantial reason to refuse (or approve) the proposed stage two development.</p>
Provision of bin store	<p>The submitted plan provides a screened bin store within the car parking.</p>
Provision of onsite loading	<p>An area of loading has been shown on the plans on the northern side of tenancy 1 which is designated for loading activities between 6am to 9am. Additionally smaller courier type deliveries by nature are kiss and go type stops and will utilise car parking bays outside of the morning delivery cycle.</p>

Title Details

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

Consultation

Consultation was undertaken with the objector however these discussions and sharing of information did not result in the removal of the objection.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 -Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
CMA	44.04-5	Recommending	The CMA consented to the amended application subject to the floor level of the stage two building be set at 111.8 metres AHD.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
GVW	GVW consented to the amended application without requiring revisions to their conditions.
GMW	GMW consented to the amended application with slight revisions to their conditions.
Powercor	Powercor consented to the amended application without revisions to their conditions.

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	Council's engineers consented to the amended application without requiring revisions to their conditions.

Assessment

The zoning of the land

Commercial 2 Zone

Purpose

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.
- To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.

Decision guidelines are at 34.02-7 and include.

General

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The interface with adjoining zones, especially the relationship with residential areas.

Use

- The effect that existing uses 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.
- If an industry or warehouse, 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.

Building and works

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and landscaping of land adjoining a road.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.
- The availability of and connection to services.
- Any natural or cultural values on or nearby the land.
- Outdoor storage, lighting, and storm water discharge.
- The design of buildings to provide for solar access.

Relevant overlay provisions

Land Subject to Inundation Overlay

Purpose

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify 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.
- 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.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

The State Planning Policy Framework (SPPF)

17.01-1 Business

Business

Objective

To encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Strategies

- Locate commercial facilities in existing or planned activity centres.
- Provide new convenience shopping facilities to provide for the needs of the local population in new residential areas and within, or immediately adjacent to, existing commercial centres.
- Provide small scale shopping opportunities that meet the needs of local residents and workers in convenient locations.
- Provide outlets of trade-related goods or services directly serving or ancillary to industry and which have adequate on-site car parking.
- Locate cinema based entertainment facilities within or on the periphery of existing or planned activity centres. Such facilities should not require a permit for use within activity centres and are not encouraged on freestanding sites.
- A five year time limit for commencement should be attached to the planning approval for all shopping centres or expansions of over 1,000 square metres in floorspace.

19.03-2 Water supply, sewerage and drainage

Objective

To plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.

Strategies

- Plan urban stormwater drainage systems to:
 - Coordinate with adjacent municipalities and take into account the catchment context.
 - Include measures to reduce peak flows and assist screening, filtering and treatment of stormwater, to enhance flood protection and minimise impacts on water quality in receiving waters.
- Prevent, where practicable, the intrusion of litter.

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

21.06-5 Commercial / Activity Centres

The city's commercial and retailing centres fulfil both local shopping and discretionary shopping needs, and provide services at the regional level. The Greater Shepparton 2030 Economic Development Report identified that based on the requirement for the average

provision of 2.1 sqm per capita, there will be demand for 20,660 sqm of additional retail floor space by 2011, with another 40,570 sqm supported by the forecast population growth from 2011 to 2030. The report notes that no foreseeable demand exists in the long term for new major freestanding centres, other than in the north and south growth corridors, and for suitably accommodating bulky goods activities. The Activity Centre Hierarchy identified in the report can be described as:

- The Shepparton CBD is nominated as the Regional Centre. The *Shepparton CBD Strategy October 2008* also identified the Shepparton CBD and surrounding area as the principal retail centre in the region.
- Shepparton Marketplace, Mooroopna CBD and Shepparton Plaza are designated Sub-Regional Centres.
- Shepparton south, Fairley's (Numurkah Rd), Tatura, BiLo Echuca Road (Mooroopna) are Neighbourhood / Townships Centres.
- Murchison, Merrigum, Dookie and local shops in Shepparton are Local / Town Centres.
- Benalla Road, Melbourne Road and Numurkah Rd have concentrations of Bulky Goods retailing.

Objectives - Commercial/Activity Centres

- To have a hierarchy of viable activity centres.
- To reinforce the Shepparton CBD as the principal retail centre in the region, in accordance with the provisions of Schedule 1 to the Activity Centre Zone and the *Shepparton CBD Strategy October 2008*.
- To strengthen the Shepparton CBD's role as an office and commercial location.
- To consolidate the traditional retail core including a continued focus of providing specialty retailing and entertainment.
- To strengthen the image of Shepparton CBD as a regional community and cultural hub, and as a 'university city'.
- To attract more people to live in the Shepparton CBD as a means of providing a greater range of housing choices and supporting the vibrancy and economy of the CBD.
- To create a movement network that is convenient, connects key destinations and precincts, and prioritises walkability, cycling and public transport use.
- To enhance the role of the Shepparton CBD as a 'university city' by creating an attractive CBD in which to study and live.

Strategies - Commercial/Activity Centres

- Support a hierarchy of retail centres that promotes the primacy of the Shepparton CBD as a multi-function centre complemented by local centres for convenience shopping.
- Provide for the continued growth of the Shepparton CBD as a multi-purpose retail, business, commercial, community, entertainment and tourism centre, as identified in the *Shepparton CBD Strategy October 2008*.
- Encourage national brand retailers and specialty retail to locate in the CBD core area.
- Encourage boutique and specialty retailing, and the range and mix of retail offer, including fresh food stores, specialty and convenience food, in the CBD.

- Focus attractions that generate pedestrian movement (such as shops, cafes, banks and other financial institutions, travel agents and take-away food outlets) and create active street frontages in the retail core.
- Encourage the redevelopment of peripheral areas of the Shepparton CBD including expansion to Sobraon Street.
- Encourage cafes, restaurants and alfresco dining in a dining and entertainment precinct in Fryers St.
- Provide for quality commercial development within the CBD, particularly properties with river frontage along Welsford Street.
- Allow higher scale buildings in appropriate locations and encourage site consolidation where necessary to support large-scale commercial development.
- Encourage smaller offices to locate in the office precincts and at upper levels of retail uses in the CBD.
- Identify lower order neighbourhood retail and community centres to serve convenience needs of north Shepparton, Mooroopna and Kialla.
- Facilitate the expansion of the neighbourhood centre in the north at the Fairley's supermarket site subject to an Economic Impact Assessment.
- Establish a new neighbourhood centre at the former Drive-in site to service the southern growth corridor subject to an Economic Impact Assessment.
- Provide neighbourhood commercial and retail centres that are accessible to the local community, especially by public transport and bicycle, and that also have adequate car parking provisions.
- Encourage and promote the location of peripheral sales, bulky goods and restricted retail as shown on the Framework Plan
- Encourage shops to front the road, be built in line with other buildings, and have regard to the location of car parking, landscaping and pedestrian areas.

Officers Response to Retail Policy

State and local policy encourage retail space to meet the communities needs. Local policy has identified that as Shepparton's population continues to grow there is a need to expand retail floor space to keep pace with the demand. The northern growth areas of Shepparton have been expanding over the last decade to the point where the Boulevard estate and north growth corridor are largely complete.

This established residential population which continues to grow should be serviced by appropriately located retail floor space. This proposed development is located on Numurkah Road and Pine Road both of which are main roads which are serviced by an existing signalised intersection. Furthermore the land is within an existing commercial centre which extends from Apco to the IGA supermarket site to the north.

The Shepparton Business Framework Plan in 21.06 identifies the land as 'Highway business – consolidate and redevelopment'. Officers note that this development brings together five titles of land and consolidates the land into a single self-contained commercial development. Officers consider that the proposed development is implementing the aspiration of this framework plan contained within local policy.

Assessment of decision guidelines under the C2Z

The land is serviced with existing public footpaths and the development will provide pedestrian connection from Pine Road and Numurkah and footpaths abutting the tenancies within the car park. Within the car parking aisle widths allow for delivery vehicles and waste removal and dedicated loading and bin store is provided.

Car parking is the main assessment concern associated with this amended application. Officers are satisfied that the proposed 59 car parking spaces are appropriately located and designed and allow the development to comply with clause 52.06.

The proposed design of the development will enhance the Pine Road streetscape by providing transparent facades with access directly from Pine Road to the retail tenancies. Additionally the design provides for a variety of materials, treatments and articulation within the Pine Road façade.

As the proposed development is infill in nature, the site is serviced by urban infrastructure including well-made roads and signalised intersections.

The drainage of the site is challenging given the site is not located within any clear drainage catchment. Engineering officers have decided that the site should drain to an existing Council retention basin in Pine Road which is about 260m from the land. Permit conditions require all the normal drainage requirements including water sensitive urban design.

Based on this assessment officers are satisfied that the proposed design of stage two achieves acceptable planning outcomes against the decision guidelines of the C2Z.

Relevant Particular Provisions

52.06 Parking

Purpose

- To ensure that car parking is provided in accordance with the State Planning Policy Framework and Local Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Parking Assessment of Full Development

Stage 1	Use	Parking Requirement
Tenancy 1 – 183sqm	Take away food	7
Tenancy 2 – 626sqm	Chemist – 4 spaces per 100 sqm	25
Stage 2		
Tenancy 3 – 176sqm	Assume shop	7

Tenancy 4 – 210sqm	Assume shop	8
Tenancy 5 – 167sqm	Assume shop	6
Tenancy 6 – 156sqm	Assume shop	6
Stage 1 Requirement		32
Stage 2 Requirement		27
Total Requirement		59
Parking Provision Provided		59
Parking Shortfall at full development		0

Based on this assessment officers are satisfied that stage two of the development complies with clause 52.06.

Under 52.34 (bicycle facilities) stage two of the development requires two on site bicycle spaces. Amended plans will require that two on site bicycle spaces be required to encourage the local community to cycle to the site.

52.07 Loading and Unloading of Vehicles

Purpose

To set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety.

FLOOR AREA OF BUILDING	MINIMUM LOADING BAY DIMENSIONS	
2,600 sq m or less in single occupation	Area	27.4 sq m
	Length	7.6 m
	Width	3.6 m
	Height clearance	4.0 m

An area of loading is proposed on the northern side of tenancy 1 which is to primarily cater for Chemist Warehouse which is the main tenant and will receive the most deliveries. The loading area is about 20m in length and up to 4m in width. The loading is restricted to the off peak morning period between 6am to 9am to ensure unloading vehicles do not impact on the vehicle flows within the car park.

Officers consider that this loading outcome whilst not perfect does achieve acceptable planning outcomes.

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 this clause.

65.01 Approval of an application or plan

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.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

The proposed application results in an orderly planning outcome by locating commercial development on Numurkah Road whilst limiting amenity impacts on neighbouring residential properties through the use of an acoustic wall.

Permit conditions will be included on the permit to deal with drainage and flood levels.

Detailed construction plans will be required by permit conditions which will include the submission of car park construction details.

Relevant incorporated or reference documents

IDM

Other relevant adopted State policies or strategies policies

There is no other relevant adopted state or strategic policies.

Relevant Planning Scheme amendments

There are no relevant PSA's to the application.

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?

A permit condition requires the consolidation of land which will be undertaken under the Subdivision Act

The Aboriginal Heritage Act 2006

The *Aboriginal Heritage Act 2006* provides protection for all Aboriginal places, objects and human remains in Victoria, regardless of their inclusion on the Victorian Aboriginal Heritage Register or land tenure.

The *Aboriginal Heritage Act 2006* introduces a requirement to prepare a Cultural Heritage Management Plan (CHMP) if all or part of the activity is a listed high impact activity, resulting in significant ground disturbance, and all or part of the activity area is an area of cultural heritage sensitivity, which has not been subject to significant ground disturbance.

The 'Area of Cultural Heritage Sensitivity in Victoria' does not include the land within an area of cultural heritage sensitivity; therefore the proposed use does not trigger the need for a CHMP.

Charter of Human Rights and Responsibilities

The application has been considered in accordance with the Act including the giving of notice, therefore the charter has been complied with.

Conclusion

Officers having undertaken a detailed assessment of the amended application to allow stage two of the development are satisfied that the proposal provides adequate car parking and protection to the residential neighbours. Therefore it is recommended that a NOD to amend the permit be issued.

Draft Notice Of Decision to Amend a Permit

APPLICATION NO: 2015-458/A
PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL
THE RESPONSIBLE AUTHORITY HAS DECIDED TO AMEND A PERMIT.

THE AMENDED PERMIT HAS NOT BEEN ISSUED.

ADDRESS OF THE LAND: 127-137 NUMURKAH ROAD SHEPPARTON
VIC 3630

**PERMIT FOR WHICH
AMENDMENT WAS SOUGHT:** 2015-458

WHAT AMENDMENT IS BEING MADE TO THE PERMIT ?:

The inclusion of stage two which comprises of four tenancies fronting Pine Road with a total floor area of 707sqm and to revise the car parking design to increase car parking from 37 spaces to 59 spaces

TO WHAT CONDITIONS IS THE AMENDMENT SUBJECT ?:

- Delete conditions 1b to 1e
- Delete second paragraph of condition 2
- Amend condition 4 to require the submission of a drainage plan in response to stage two of the development. The technical requirements within the drainage condition remain unchanged
- Amend condition 6 to require the submission of a landscape plan including the stage two development
- Amend condition 7a to require the provision of 59 car parking spaces
- Include new condition Noise Control

The uses hereby permitted must be conducted such that noise levels generated do not exceed permissible noise levels established in accordance with State Environment Protection Policy N-1 (Control of Noise from Commerce Industry and Trade) under the *Environment Protection Act, 1970* or as amended.

In the event of unreasonable noise being generated by activities conducted on from the subject land and being established by Council planning officers as likely to be causing a disturbance to nearby property, then noise testing by a suitably qualified acoustic consultant must be undertaken to assess whether activities on the site are breaching the

EPA permissible noise levels and to advise what additional measures must be implemented to minimise the problem to the satisfaction of the responsible authority.

- Amend condition 10 to require that all lots comprising the land be consolidated before the occupation of stage one of the development
- Amended condition 15 to include the new Goulburn Murray Water conditions
- Conditions re-numbered accordingly

Amended Application Details:

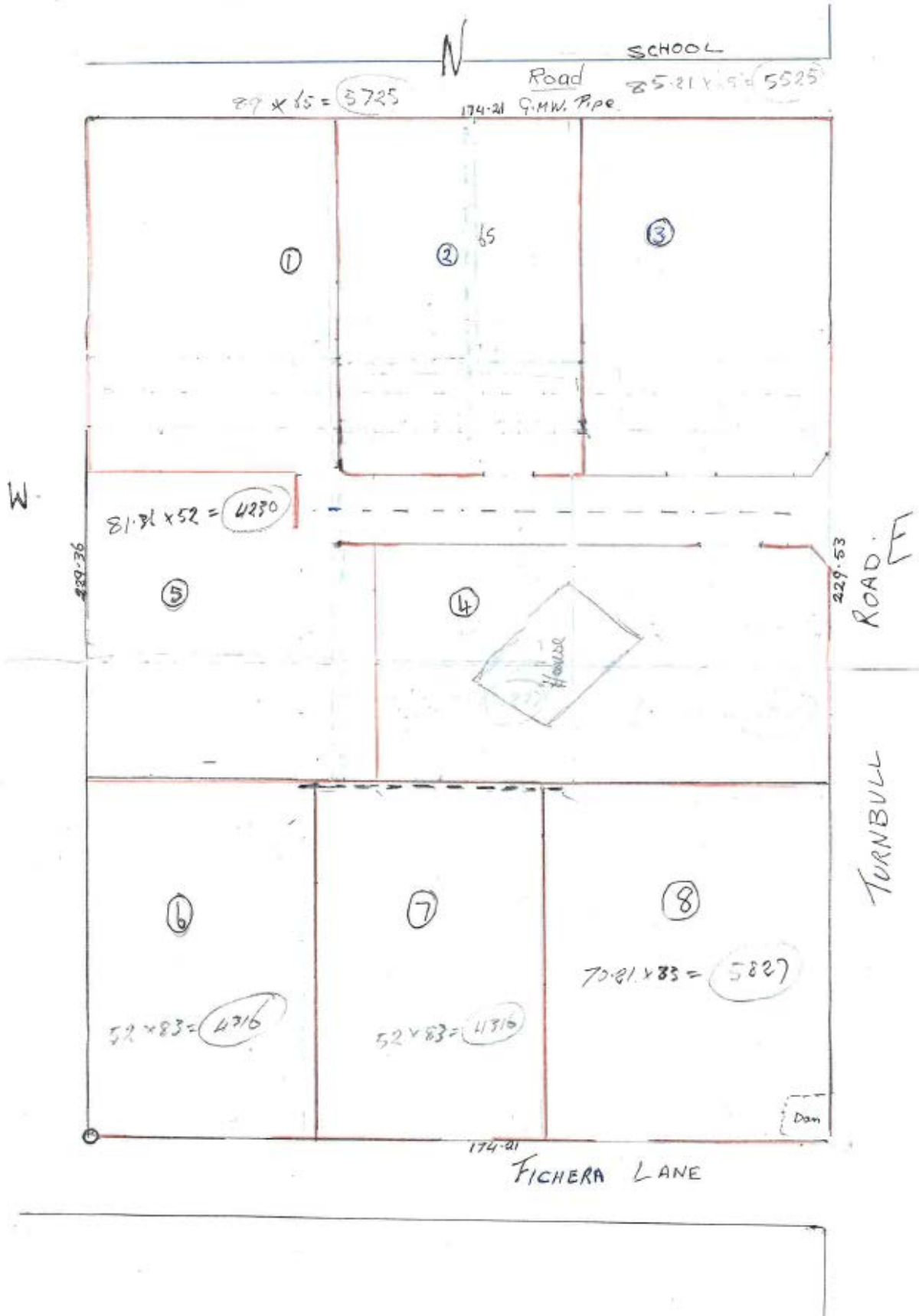
Responsible Officer:	Ronan Murphy		
Amended Permit Number:	2016-241		
Applicants Name:	A Sibio		
Date Amendment Received:	8 June 2016		
Statutory Days:	18		
Land/Address:	600 Turnbull Road ARDMONA VIC 3629		
Zoning and Overlays:	Farming Zone Land Subject to Inundation Overlay		
Why was the amendment required?	The applicant removed the subdivision from the application		
Why is a permit required (include Permit Triggers):	35.07-1 Use of the land for a dwelling 35.07-4 Buildings and works for a dwelling in the Farming Zone 44.04-1 Buildings and works in the Land Subject to Inundation Overlay		
Are there any Restrictive Covenants on the title?	Nil		
		Signature	Date
Initial Assessment Approval	Team Leader Statutory Planning	Braydon Aitken	24/8/16
Advertising Approval	Team Leader Statutory Planning	Braydon Aitken	24/8/16

Proposal

The proposal comprises of the use and development of the land for a dwelling in the Farming Zone and Land Subject to Inundation Overlay.

An application was made on 8 June 2016 for the use and the development of the land for dwelling in the Farming Zone and an 8 lot subdivision of the land at 600 Turnbull Road.

The original application had the following layout:



This proposal has been the subject of a pre application meeting in May 2015 with Colin Kalms and Andrew Dainton.

At this meeting the applicant was informed:

Dwelling.

The Planning Department would not support an application for a dwelling on the land on the basis that it would be difficult to provide an agricultural justification for the need for a dwelling on the land.

It is considered that a dwelling on the land would not comply with the objectives of Clause 21.06-3 of the Planning Scheme which states:

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

In response it is considered that:

- An agricultural justification for the need for a dwelling has not been provided with the application.
- The proposed dwelling would not support any rural activities or production.
- The dwelling is proposed to meet a lifestyle objective and would have the potential to conflict with existing agricultural uses in the area, including cropping to the east and orchards to the west and south.

Subdivision

The applicant was informed that the proposal would be prohibited in the Farming Zone and that a planning permit would not issue.

In this regard it is noted Clause 35.07-3 of the Planning Scheme states:

- *A permit is required to subdivide land.*
- *Each lot must be at least the area specified for the land in a schedule to this zone. If no area is specified, each lot must be at least 40 hectares.*

A permit may be granted to create smaller lots if any of the following apply:

- *The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.*
- *The subdivision is the re-subdivision of existing lots and the number of lots is not increased.*

- *The subdivision is by a public authority or utility service provider to create a lot for a utility installation.*

Further to this, the applicant had a meeting with Colin Kalms in June 2016 and as a result the application was amended to comprise of the use and development of the land for a dwelling.

It is considered that the proposal for the use and development of the land for a dwelling would not comply with State and Local policy as set out in the Planning Scheme and it is recommended that a Planning Permit should not issue.

Summary of Key Issues

An initial application was made for an 8 lot subdivision and a single dwelling on the land at 600 Turnbull Road.

The application was subsequently amended to apply for the use and development of the land for a dwelling.

The land is within the Farming Zone and is partially affected by the Land Subject to Inundation Overlay.

The application was referred to the Goulburn Broken Catchment Management Authority who did not object to the proposal, subject to a condition.

The application was notified to Goulburn Murray Water, who did not object to the proposal subject to conditions.

The application was referred to the Councils Environmental Health Department who did not object to the proposal.

The application was notified to surrounding properties and two objections were received.

The objections generally state that the proposal would provide for a conflict between on going agricultural operations adjoining the land and any proposed residential use of the land.

In terms of the dwelling component of the application, the applicant has been informed on a number of occasions by a number of planning officers that the Planning Department would not support an application for a dwelling on the land, given its size (approx. 4ha) as no agricultural justification could be made for a dwelling on the land.

Recommendation

Refusal

That the Council having caused notice of Planning Application No. **2016-241** 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 **21.06-3, 35.07-1 and 35.07-4** of the Greater Shepparton Planning Scheme in respect of the land known and described as **600 Turnbull**

Road ARDMONA VIC 3629, for the Use and Development of the Land for a Dwelling in the Farming Zone.

- 1. *The proposed use and development for a dwelling on the subject land of 4 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. Has the potential to impact on the continuation of primary production on nearby land;***
 - b. Has the potential to limit the expansion of agriculture on adjacent land;***
 - c. Has potential for conflict between the ongoing farming activities and the proposed rural living use;***
 - d. Will result in the construction of a dwelling on a small and inappropriate lot.***
- 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 provisions of Clause 21.06-3 of the Planning Scheme which seeks to limit dwellings in the Farming Zone 1 which are not associated with or required for the agricultural use of the land.***
- 4. *The application does not comply with the Rural and Regional Land Use Strategy (C-121) and the Hume Regional Growth Plan, which identifies the land as strategic agricultural land.***

Moved by Johann Rajaratnam

Seconded by Jorine Bothma

That the Council having caused notice of Planning Application No. **2016-241** 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 **21.06-3, 35.07-1 and 35.07-4** of the Greater Shepparton Planning Scheme in respect of the land known and described as **600 Turnbull Road ARDMONA VIC 3629**, for the **Use and Development of the Land for a Dwelling in the Farming Zone**.

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 - a. Has the potential to impact on the continuation of primary production on nearby land;***
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- 4. *The application does not comply with the Rural and Regional Land Use Strategy (C-121) and the Hume Regional Growth Plan, which identifies the land as strategic agricultural land.***

CARRIED

Subject Site & Locality

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

Date: **15/6/16**

Time: **11.14** am

The site has a total area of **approximately 4 hectares** and currently contains:

- The land is currently vacant.

The main site/locality characteristics are:

- The land is within a predominantly agricultural area.

The Photos below show the existing site:





Permit/Site History

There is no planning permit history of the site.

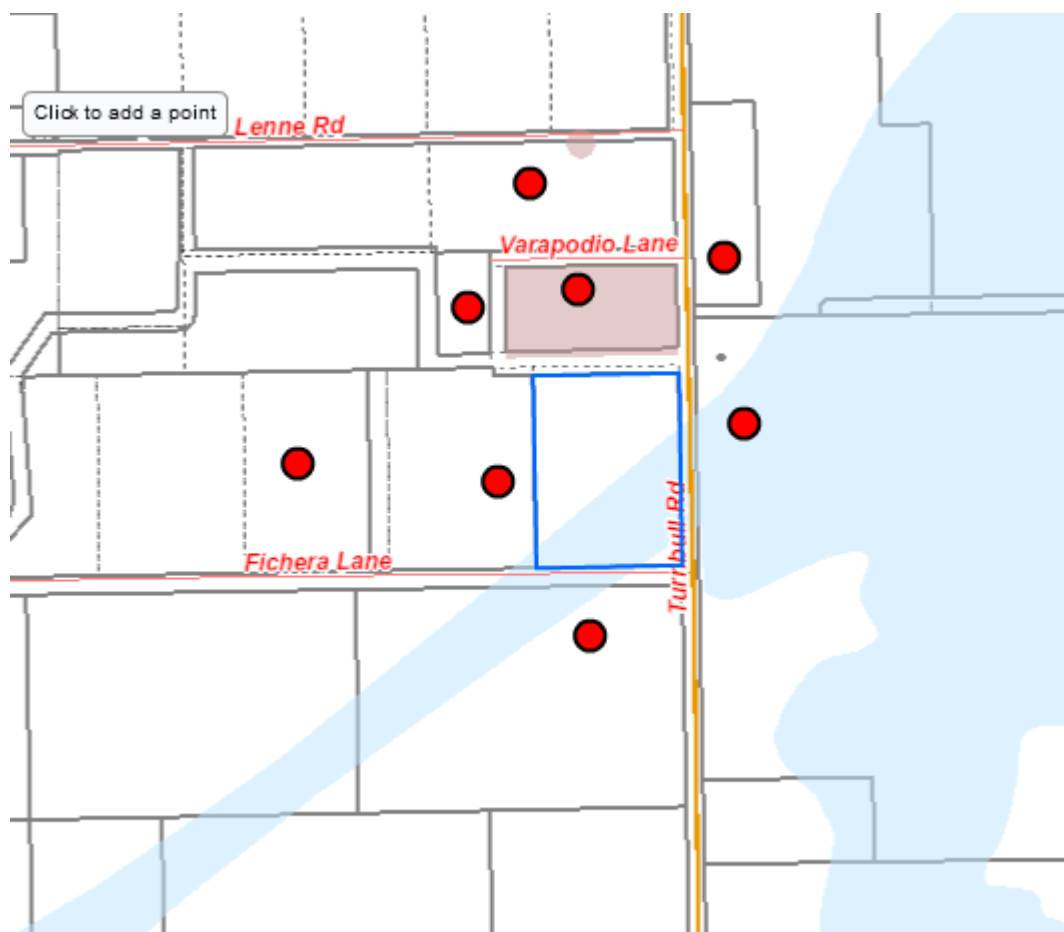
Further Information

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

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **Use and Development of the land for a dwelling in the Farming Zone** by:

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



- *Buildings and works in the LSIO exempt from notification.*

Objections

The application has received 2 objections to date.

Objection No.1

The objectors are concerned that the proposal would create conflict issues between on going agricultural activities and the proposed residential use.

The objectors note that on going farming activities which could cause conflict could include the following:

- Noise;
- Dust;
- Odour;
- Chemical use (sprays)
- Hours of operation.

Objection No. 2

The objectors are concerned that the proposal would have the possibility to cause conflict between on going orchard activities and a potential new dwelling, especially from the following:

- Spray drift from orchard spraying;
- Noise from gas operated scare gun which operate for 7 days a week and intervals of three minutes;
- Potential detriment on agricultural business.

Title Details

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

Consultation

Consultation by way of a pre planning meeting was undertaken on two occasions.

21 May 2015

The applicant met with Officers Colin Kalms, Braydon Aitken and Andrew Dainton.

The applicant was informed that no planning permit would issue for a dwelling on the land as there would be no agricultural justification for the need for a dwelling.

The applicant was also informed that a multi lot residential subdivision would be prohibited.

8 June 2016

The applicant was informed that the proposed subdivision would be prohibited in the Farming Zone and the use and development of the land for a dwelling would not be supported by the Planning Department.

July 2016

The applicant met with the Manager of Planning who reiterated that the proposed subdivision would be prohibited in the Farming Zone.

The application was amended after this discussion to remove the subdivision element of the proposal.

As a result the proposal now comprises of the use and development of the land for a dwelling in the Farming Zone.

Referrals

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Goulburn Broken Catchment Management Authority	44.04-5	Recommending	<i>The finished floor level of the proposed dwelling must be constructed at least 450 millimetres above surrounding natural surface elevation, or higher level deemed necessary by the responsible authority.</i>

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
Goulburn Murray Water	<i>No buildings or works may be erected or carried out within 30 metres of any Goulburn Murray Water surface infrastructure (including open irrigation channels and drains), 10 metres from any other structure (such as culverts, drainage inlets, subways, syphons), or 5 metres from any below surface infrastructure (including pipelines), located on any Goulburn Murray Water freehold, easements or reserves.</i>

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	No response within the prescribed period, consent is deemed.
Health	<i>The Council's Health Department has no objections to the Planning Permit being issued.</i>

Assessment

The zoning of the land

The land is within the Farming Zone. The purpose of the Farming Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for 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.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

A Planning permit is required pursuant to Clause 35.07-01 for the use of the land for a dwelling and Clause 35.07-4 for buildings and works associated with a Section 2 Use.

In terms of the proposed dwelling, it is noted that Clause 35.07-6 of the Planning Scheme sets out decision guidelines as set out below:

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 to the land.*
- *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.*

The proposal would not comply in the following ways:

- The use and development of the land for a dwelling would not comply with the provisions of the Farming Zone or local planning policy with regard to dwellings in the Farming Zone.

Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or 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 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 impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of 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.*
- *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 use and development will require traffic management measures.*

It is considered that in light of the above decision guidelines that the proposed dwelling would not comply for the following reasons:

- The proposed dwelling would not support agricultural production;
- The land is not of a sufficient size to accommodate an agricultural pursuit;
- The dwelling would remove land from potential agricultural production;
- The dwelling could lead to conflict issues between agriculture and non agricultural uses.

Relevant overlay provisions

Land Subject to Inundation Overlay

The purpose of the Land Subject to Inundation Overlay is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify 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.*
- *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.*
- *To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.*

- *To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

A Planning Permit is required pursuant to the provisions of 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 did not object to the proposal, subject to condition.

The State Planning Policy Framework (SPPF)

11.10 Hume Regional Growth

11.10-1 A diversified economy

The objective of Clause 11.10-1 is:

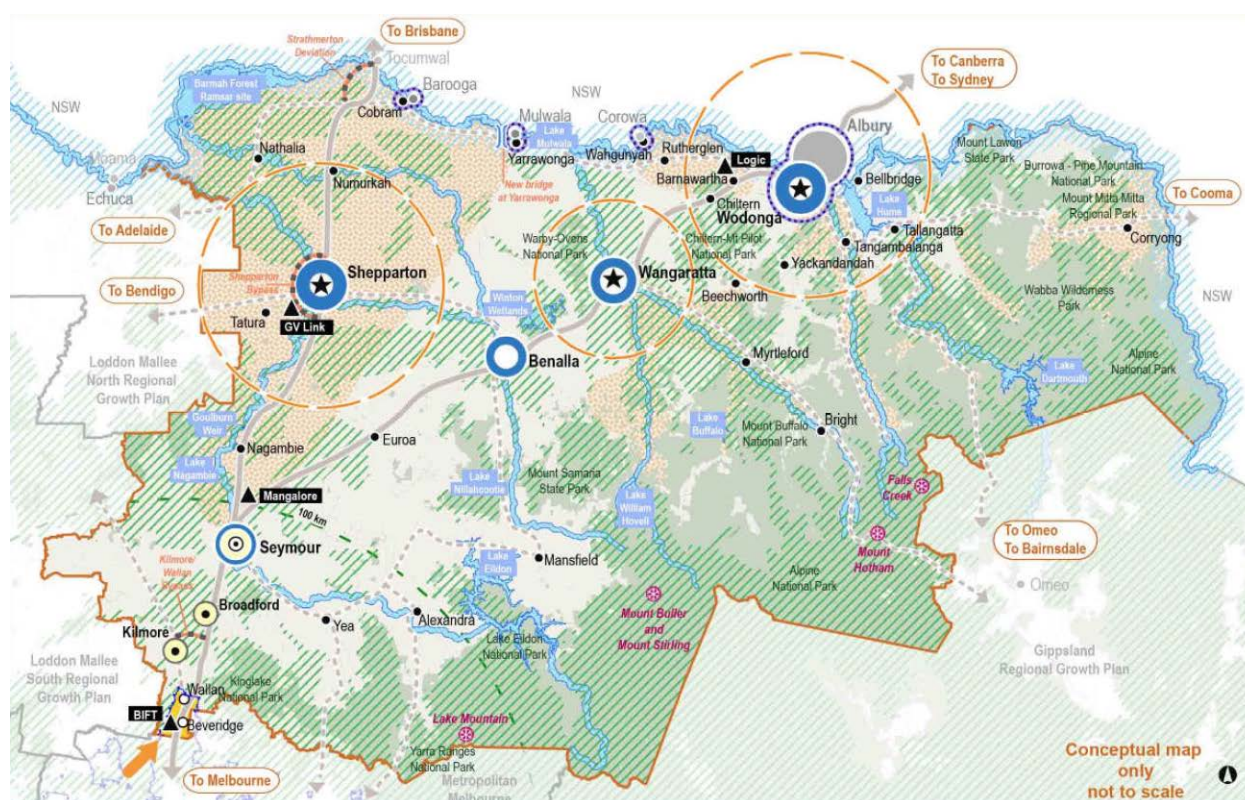
To develop a more diverse regional economy while managing and enhancing key regional economic assets.

The following strategies are set out:

- *Plan for a more diverse and sustainable regional economy by supporting existing economic activity and encouraging appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.*
- *Support tourism activities, including nature-based tourism, that take advantage of environmental and cultural heritage assets and the rural environment without compromising their future.*
- *Support opportunities for nature-based tourism throughout the region, including those arising from the restoration of the Winton Wetlands and other wetlands of national and regional value such as the Barmah Forest and the lower Ovens River.*
- *Support large commercial tourism uses in urban locations or rural areas of lower agricultural value and away from areas identified as strategic agricultural land.*
- *Facilitate rural tourism activities that support agricultural enterprises such as cellar door and farm gate sales and accommodation in appropriate locations.*
- *Avoid encroachment from rural residential settlement and other land uses that are noncomplementary to agriculture in areas identified as strategic agricultural land and direct proposals for settlement to existing centres and townships.*
- *Support agricultural production through the protection and enhancement of infrastructure and strategic resources such as water and agricultural land, including areas of strategic agricultural land.*
- *Support clustering of intensive rural industries and agricultural production to take advantage of locational opportunities, including access to key infrastructure such as transport, power, water, information and communications technology, and separation from sensitive land uses.*
- *Create renewable energy hubs that support co-location of industries to maximise resource use efficiency and minimise waste generation.*
- *Plan for rural areas by considering the location of earth resources, the potential for their future extraction and how to minimise impacts on sensitive uses and the environment.*

- *Support the availability of construction materials locally and consider measures to facilitate and manage their extraction.*
- *Maintain and develop buffers around mining and quarrying activities to manage potential land use conflicts.*

It is considered that the proposed dwelling would not comply with the strategies of the Hume Regional Plan which seeks to avoid encroachment from rural residential settlement and other uses which are non complimentary to agriculture in areas identified as strategic agricultural land and to direct proposals for settlement to existing centres and townships.



The above map shows the land is within the area identified as Strategic Agricultural Land and as a result a dwelling which would remove the land from agricultural production is discouraged and should be directed to existing settlements.

14.01-1 Protection of Agricultural Land

The objective of Clause 14.01-1 of the Planning Scheme is:

- *To protect productive farmland which is of strategic significance in the local or regional context.*

The following strategies are set out:

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

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

It is considered that the proposal would not comply for the following reasons:

- The proposal would lead to the permanent loss of productive agricultural land and could create potential conflict issues with surrounding agricultural uses.

14.02-2 Protection of agricultural land

The objective of Clause 14.02-2 of the Planning Scheme is:

- To encourage sustainable agricultural land use.

The following strategies are set out:

- *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 proposal would not comply for the following reasons:

- The proposed dwelling would cause conflict issues between existing agricultural production on adjoining lots and would not support long-term sustainable agriculture.
- The proposal would remove the land from agricultural production and would not support any agricultural production.

The Local Planning Policy Framework (LPPF)- including the Municipal Strategic Statement (MSS), local planning policies and Structure Plans
21.06-1 Agriculture

The objectives of Clause 21.06-1 of the Planning Scheme are:

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

The following strategies are set out:

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

The proposal would not comply for the following reasons:

- The proposal would permanently remove productive agricultural land from any form of production.
- The proposal would not comprise of a non agricultural use which is discouraged.

21.06-3 Dwellings in rural areas

The following objectives are set out:

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

The following strategies are set out:

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

The proposal would not comply in the following ways:

- The proposed dwelling would not be required for the agricultural use of the land and would not support any rural activities.
- The proposed dwelling is considered to meet lifestyle objectives and would create conflict with existing rural uses.
- The proposed dwelling is considered to meet personal circumstances and would provide for a rural lifestyle unrelated to agricultural production.

Policy Guidelines – Dwellings in Rural Areas

An application for a dwelling in the Farming Zone, Schedule 1 (FZ1) and Farming Zone,

Schedule 2 (FZ2) should meet the following criteria:

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

The proposal would not comply for the following reasons:

- The proposed dwelling would not be required for the operation of a rural use on the land.
- There is not agricultural use on the land at present.
- The land has an area of approximately 4 hectares.

Exercise of discretion

It is policy to:

Discourage the construction of new dwellings on any land that is not suitable for the on-site disposal of septic tank effluent.

Discourage the construction of new dwellings on any land with a water table within one metre of the surface when waste water is to be treated and retained on site.

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

It is noted that the proposal would require a Land Capability Assessment to determine if the land is suitable for the disposal of septic tank effluent.

While a Section 173 Agreement could be used, it is considered that a Section 173 Agreement is not appropriate in this case for the following reasons:

- A Section 173 Agreement is a mechanism to manage conflict and not prevent conflict. In this case it is considered that the proposal would have long term negative impacts on farming operations on surrounding blocks and the imposition of a Section 173 Agreement would not change this outcome.
- A Section 173 Agreement should not be used to attempt to make an unacceptable outcome in planning terms acceptable. In this case it is considered that the proposal

would not comply with the provisions of the Farming Zone, state and local policies and thus issuing a planning permit would result in an unacceptable outcome having regard to the provisions of the Planning Scheme. A Section 173 Agreement would not alter this.

Relevant Particular Provisions

There are no Particular Provisions that relate to the proposal.

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 this clause.

65.01 Approval of an application or plan

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.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

The proposal would not comply with the provisions of Clause 65 of the Planning Scheme for the following reasons:

- The proposal would not comply with the provisions of the Farming Zone.
- The proposal has the potential to create conflict with existing agricultural uses on surrounding lots and would have a detrimental impact on the amenity of the area.
- The proposal would not comply with the orderly planning of the area as it would result in the permanent loss of productive agricultural land and would create a conflict between on going agricultural operations on surrounding land and potential residential development.

In light of the above, it is considered that the proposal would not comply with the provisions of Clause 65.01 of the Planning Scheme

Relevant incorporated or reference documents

There are no incorporated or reference documents that relate to the proposal.

Other relevant adopted State policies or strategies policies

There are no adopted State policies or strategies that relate to the proposal.

Relevant Planning Scheme amendments

There are no Planning Scheme amendments that relate to the proposal.

Are there any significant social & economic effects?

There are no significant social or economic effects that relate to the proposal.

Discuss any other relevant Acts that relate to the application?

There are no other Acts that relate to the application.

Conclusion

The proposal comprises of the use and development of the land for a dwelling in the Farming Zone and Land Subject to Inundation Overlay.

The land is with the Farming Zone and is partially affected by the Land Subject to Inundation Overlay.

The application was notified to surrounding properties and 2 objections were received. The objections related to potential conflict between agricultural activities and residential uses.

The proposal to use and develop the land for the purpose of a dwelling unrelated to agriculture would not comply with the provisions of the Farming Zone, Clauses 11.10-1, 14.01-1, 14.02-2, 21.06-1, 21.06-3 and 65.01 and of the Planning Scheme.

The applicant has been informed on a number of occasions by a number of planning officers that the Planning Department would not support an application for a dwelling on the land, given its size (approx. 4ha) as no agricultural justification could be made for a dwelling on the land.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2016-241

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 600 Turnbull Road ARDMONA VIC 3629

WHAT HAS BEEN REFUSED: Use and Development of the land for a Dwelling in in the Farming Zone and Land Subject to Inundation Overlay

WHAT ARE THE REASONS FOR THE REFUSAL?

- 1. *The proposed use and development for a dwelling on the subject land of 4 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. Has the potential to impact on the continuation of primary production on nearby land;***
 - b. Has the potential to limit the expansion of agriculture on adjacent land;***
 - c. Has potential for conflict between the ongoing farming activities and the proposed rural living use;***
 - d. Will result in the construction of a dwelling on a small and inappropriate lot.***
- 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 provisions of Clause 21.06-3 of the Planning Scheme which seeks to limit dwellings in the Farming Zone 1 which are not associated with or required for the agricultural use of the land.***
- 4. *The application does not comply with the Rural and Regional Land Use Strategy (C-121) and the Hume Regional Growth Plan, which identifies the land as strategic agricultural land.***

Application Details:

Responsible Officer:	Ronan Murphy
Application Number:	2016-143
Applicants Name:	Five Girls Pty Ltd
Date Application Received:	7 April 2016
Statutory Days:	75
Land/Address:	Aussie Hotel 73-83 Fryers Street, Shepparton VIC 3630
Zoning and Overlays:	Activity Centre Zone 1 – Precinct 1 Heritage Overlay – (HO160) Parking Overlay - Precinct 1 Schedule
Why is a permit required (include Permit Triggers):	43.01-1 Erect and display a sign in the Heritage Overlay (HO160) 52.05-7 erect and display an above verandah electronic promotional sign in the Activity Centre Zone 1.
Are there any Restrictive Covenants on the title?	Nil

Proposal

The application proposes an above verandah electronic promotional sign at 73-83 Fryers Street Shepparton.

An application was made on 7 April 2016 and was amended on 2 September 2016. The amended application did not amend what was proposed in the initial application, the amended application provided additional heritage response on behalf of the applicant.

In assessing the amended application, the Planning Department sought updated expert evidence from the Council's Heritage Advisor and from expert traffic consultants.

The Councils Heritage Advisor maintained their original position that the proposal would introduce a sign of unprecedented scale onto a historic façade, which is disproportionate and would occupy a large proportion of the primary façade of the building.

The expert traffic response obtained by the Planning Department noted that the proposal would not present a road safety risk.

The subject land is in the Activity Centre Zone 1 and affected by the Heritage Overlay – (HO160) and Parking Overlay – Schedule 1.

It is noted that the proposed signage is located within the road reserve and will require separate approval from Councils Property Department.

Clause 73 provides the following outdoor advertising terms:

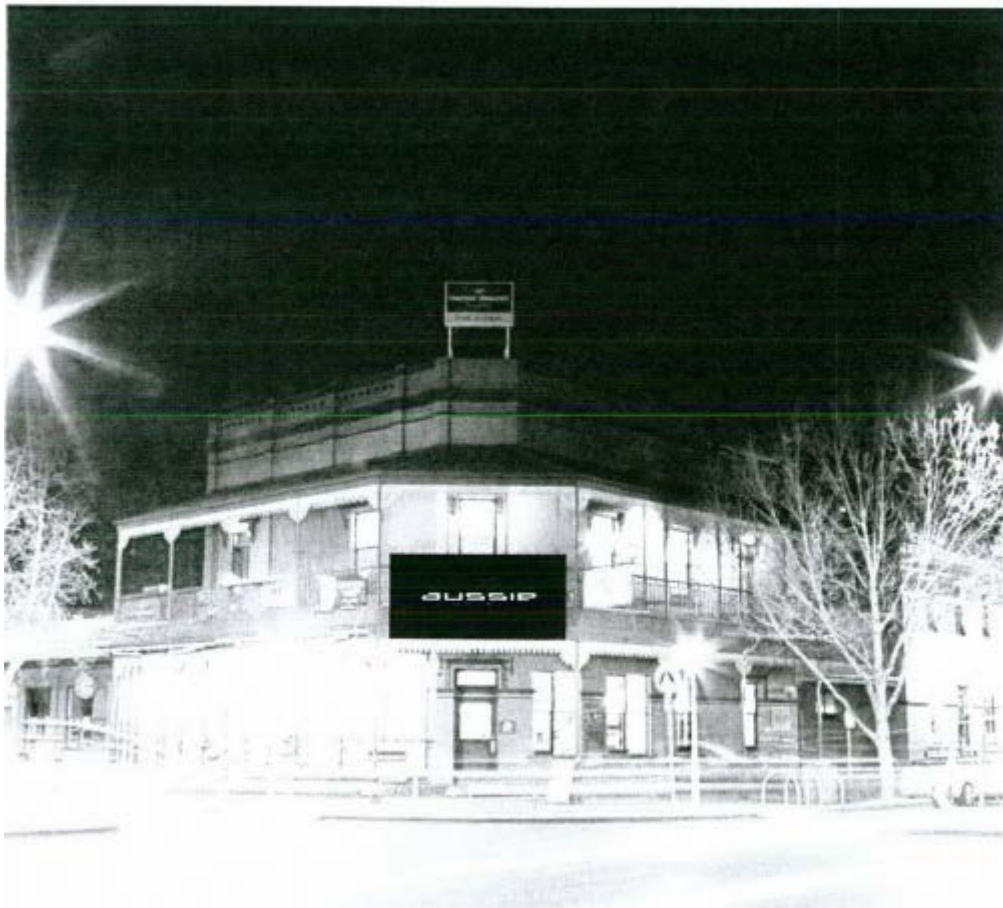
Above verandah sign – A sign above a verandah or, if no verandah, that is more than 3.7 metres above pavement level, and which projects more than 0.3 metre outside the site.

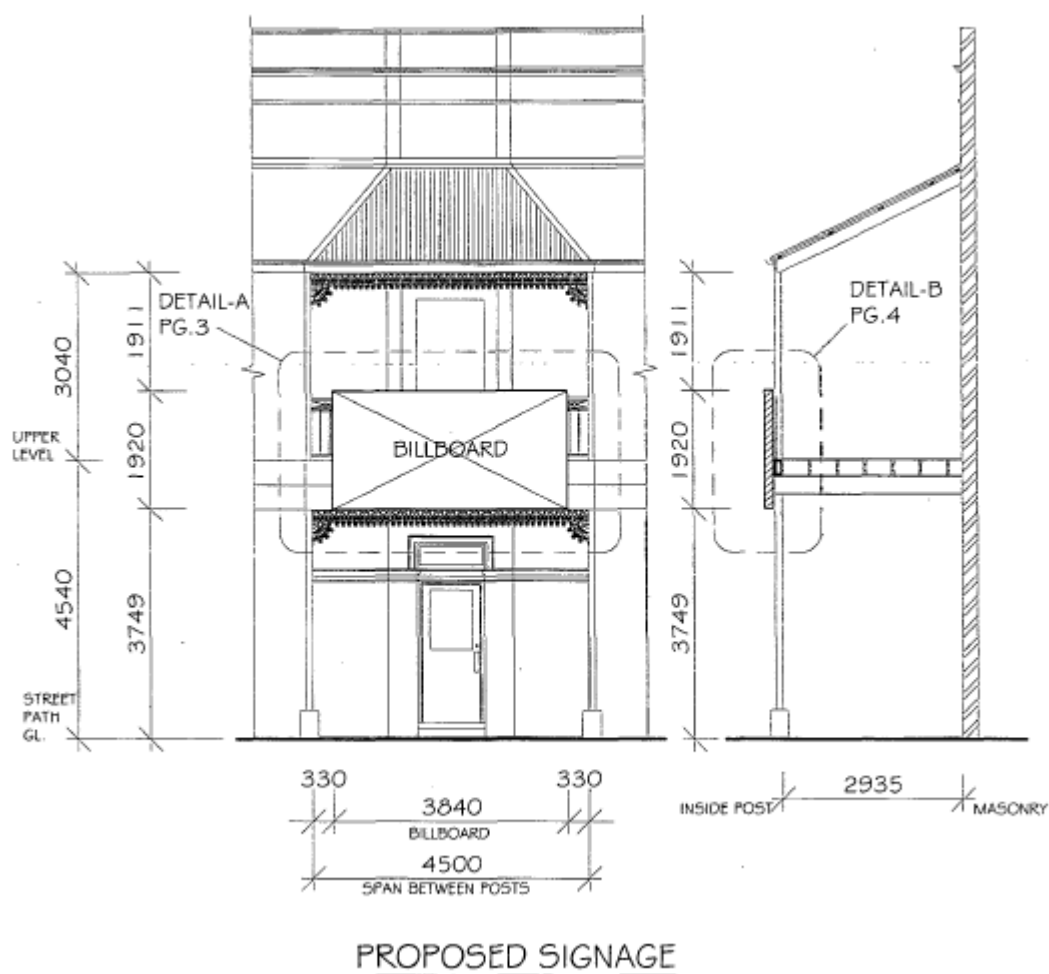
Electronic sign – a sign that can be updated electronically. It includes screens broadcasting still or moving images.

Promotional Sign – a sign of less than 18 square metres that promotes goods, services, an event or any other matter, whether or not provided, undertaken or sold or for hire on the land or in the building on which the sign is sited.

The sign is 3.84 in length and 1.92 in width with an area of 7.37square metres. The sign consists of 8 panels and will display still images for 15 seconds at a time.

The proposed sign is shown below:





Summary of Key Issues

The application proposes an above verandah electronic promotional sign at 73-83 Fryers Street Shepparton.

The application was internally referred to the Councils Heritage Advisor, Engineering Department and Property Department.

The Heritage advisor recommended that the application be refused due to impacts the sign would have on the heritage building and precinct.

The Engineering Department recommended that the application be refused due to the potential impacts the sign could cause on pedestrian and vehicular safety.

However a subsequent review by an independent review by a traffic expert has shown that the proposal would not have a detrimental impact on traffic safety.

Based on the above objections and assessment of the application in accordance with the Greater Shepparton Planning Scheme the Planning Department are recommending that the application be refused.

Recommendation

Refusal

That the Council having caused notice of Planning Application No. **2016-143** 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 **43.01-1 and 52.05-7** of the Greater Shepparton Planning Scheme in respect of the land known and described as **73-83 Fryers Street SHEPPARTON VIC 3630, to erect and display an above verandah electronic promotional sign in the Activity Centre Zone 1 and Heritage Overlay (HO160)** for the following reasons:

1. The proposal fails to comply with Clause 15.01-1 of the Planning Scheme as it would have a detrimental impact on the sense of place and cultural identity of the area and would have a detrimental impact on the heritage building.
2. The application is contrary to Clause 15.03-1 of the State planning policy as the signage does not respect a building with identified heritage values.
3. The proposed sign is contrary to Council's local planning policy on advertising signs as expressed in Clause 21.04 (Urban Design) which encourages signage to be primarily for business identification and discourages internally illuminated promotional signs. The nature and location of the sign proposal would detract from the desired streetscape and built form character of this area.
4. The application does not produce a satisfactory outcome when assessed against the Local planning policy framework set out in Clause 21.05-4 as the proposal would adversely affect a place of cultural heritage significance and would become the visually dominant element within the precinct.
5. The proposal does not comply with the signage policy set out in Clause 21.05-04 as the proposed signage would not be located in a traditional location on a commercial building, is not of complementary proportions, and would dominate the place and should complement the character of the precinct.
6. The proposed sign does not satisfy the objectives or decision guidelines of Clause 43.01 Heritage Overlay as the location, scale and design will not enhance the significance of the building or precinct.
7. The proposal does not comply with the adopted Shepparton CBD Strategy which seeks to avoid all kinds of above-verandah signs within the CBD and seeks to ensure signs do not dominate, are of high quality and minimise the visual impact of advertising signage on streetscapes.
8. The proposed sign does not produce a satisfactory outcome as required, having regard to the Decision Guidelines of Clause 65.

Moved by Michael MacDonagh

Seconded by Johann Rajaratnam

That the Council having caused notice of Planning Application No. **2016-143** 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 **43.01-1 and 52.05-7** of the Greater Shepparton Planning Scheme in respect of the land known and described as **73-83 Fryers Street SHEPPARTON VIC 3630, to erect and display an above verandah electronic promotional sign in the Activity Centre Zone 1 and Heritage Overlay (HO160)** for the following reasons:

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3. The proposed sign is contrary to Council's local planning policy on advertising signs as expressed in Clause 21.04 (Urban Design) which encourages signage to be primarily for business identification and discourages internally illuminated promotional signs. The nature and location of the sign proposal would detract from the desired streetscape and built form character of this area.
4. The application does not produce a satisfactory outcome when assessed against the Local planning policy framework set out in Clause 21.05-4 as the proposal would adversely affect a place of cultural heritage significance and would become the visually dominant element within the precinct.
5. The proposal does not comply with the signage policy set out in Clause 21.05-04 as the proposed signage would not be located in a traditional location on a commercial building, is not of complementary proportions, and would dominate the place and should complement the character of the precinct.
6. The proposed sign does not satisfy the objectives or decision guidelines of Clause 43.01 Heritage Overlay as the location, scale and design will not enhance the significance of the building or precinct.
7. The proposal does not comply with the adopted Shepparton CBD Strategy which seeks to avoid all kinds of above-verandah signs within the CBD and seeks to ensure signs do not dominate, are of high quality and minimise the visual impact of advertising signage on streetscapes.
8. The proposed sign does not produce a satisfactory outcome as required, having regard to the Decision Guidelines of Clause 65.

CARRIED

Subject Site & Locality

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

Date: **14 April 2016** Time: **11:24** am

The site has a total area of **1620** square metres and currently contains:

- Double storey pub.

The main site/locality characteristics are:

- Within the CBD of Shepparton;
- Located on the corner of Fryers and Maude Street;
- To the south of the site is Maude Street Mall.
- Surrounded by retail uses.

The photos below show the existing site:



Looking at the subject land from south west corner of the Maude and Fryers Street intersection.



Looking east at the subject land from the north-west corner of the Maude and Fryers Street intersection.



Looking east from the north-west corner of the Maude and Fryers Street intersection.



Looking north at the subject land from the south-east corner of the intersection.



Looking south from the north-west corner of the Maude and Fryers Street intersection.



Looking north-west from the south-east corner of the Maude and Fryers Street intersection.

Permit/Site History

The history of the site includes:

- 1998-629 to use the land for a kerbside dining area and screening;
- 2001-204 outdoor eating area; and
- 2004-479 variation of liquor licence.

Further Information

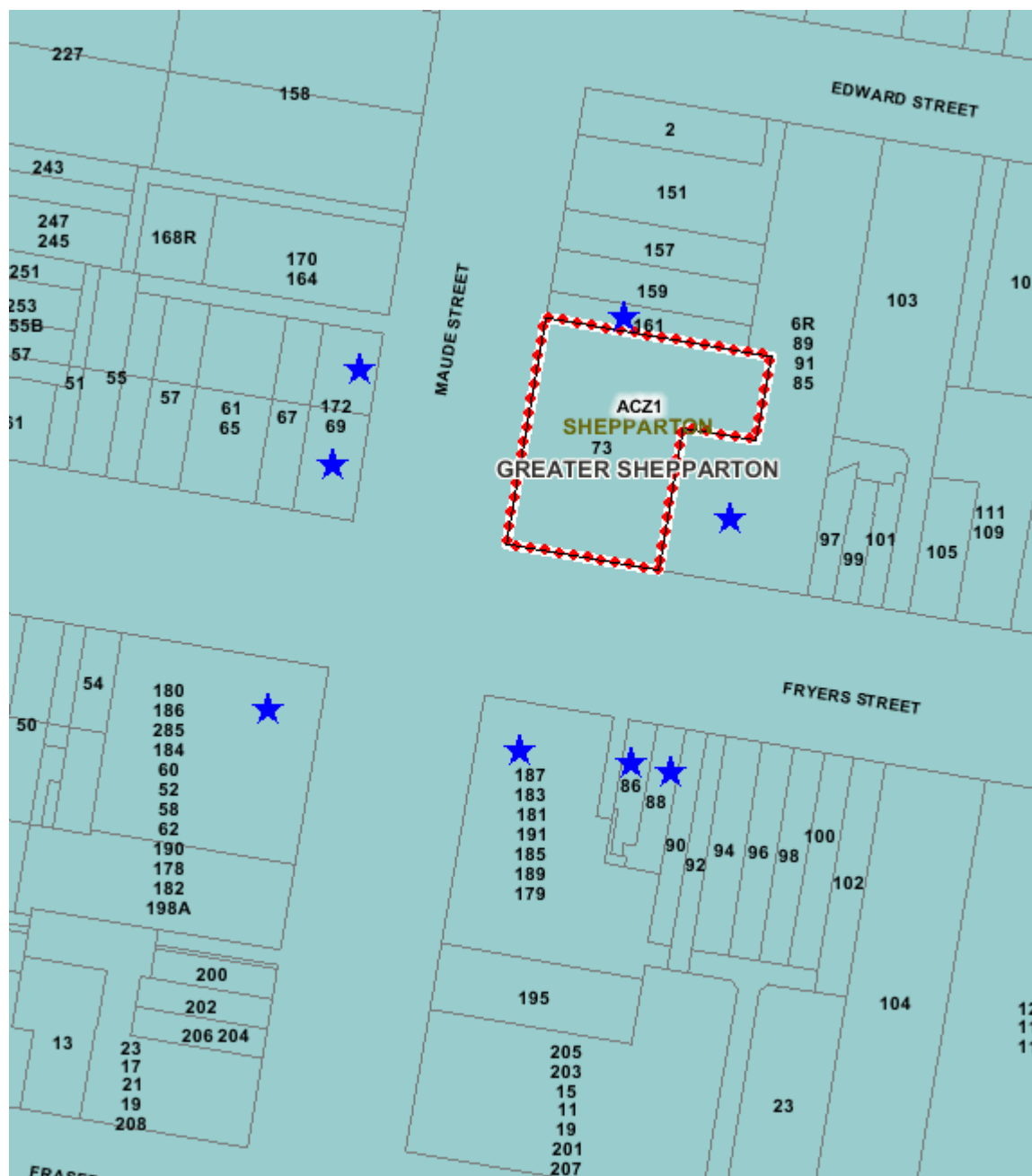
Was further information requested for this application? **No**

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **erect and display above verandah electronic promotional sign in the Activity Centre Zone 1 and Heritage Overlay – Schedule 160**, by:

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

The applicant provided a signed declaration stating that the sign on site was displayed on the land between **21 April 2016** to **17 May 2016**.



It is noted that an application to construct or display a sign is exempt from notice in the Activity Centre Zone in accordance with Clause 37.08-8 and also in the Heritage Overlay in accordance with Clause 43.01-1. This was overlooked when the application was advertised.

As no objections were received by the Planning Department, it is considered that the incorrect advertising has not impacted on the application.

Objections

The Council has not received any objections to date.

Title Details

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

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Pre-application meeting, including a letter sent to the applicant with pre-application advice
- Telephone conversation and email on 14 April 2016 requesting the submission of a Title Plan.
- Letter sent to the applicant on 20 April 2016 regarding the Planning Departments intention to refuse the application based on heritage grounds.
- Various phone calls to applicants agent in November 2016.
- E-mail sent to applicant with updated Heritage Response 22/11/16
- E-mail sent to applicants agent on 28/11/16 informing that the Planning Department were proceeding to the Development Hearings Panel.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Section 55 –Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Clause 66 of the Scheme did not require referral of the application	N/A	N/A	N/A

Section 52 – Notice Authority	Advice/Response/Conditions
No Section 52 Notices required	N/A

Internal Council Notices	Advice/Response/Conditions
Development Engineers	<p>The application was internally referred to the Council's Engineering Department who objected to the application. The Engineering Department provided the following reasons for their objection:</p> <ul style="list-style-type: none">• The proposal does not conform to the guidelines published in Austroads publication '<i>Impact of Roadside Advertising on Road Safety</i>' (2013);• A driver that is distracted may fail to give way to a pedestrian using the zebra crossing;• Pedestrians are particularly vulnerable road users as serious injury or death may

	<p>occur either via contact with a vehicle failing to give way or as a result of being knocked over and hitting the ground and so the risk to road users would be unacceptably increased.</p> <p>Upon receipt of the amended application, the Planning Department sought the advises of an independent traffic expert.</p> <p>The independent traffic expert stated that the proposed sign would not have a detrimental impact on traffic safety in the area. In light of these advises, the concerns of the Development Engineering Department are noted, but are not considered to be justified.</p>
Heritage Advisor	<p>The application was internally referred to the Council's Heritage Advisor who objected to the application. The following reasons for the objection were provided:</p> <ul style="list-style-type: none"> • The proposed electronic signage does not contribute positively to the local urban character and sense of place. • The proposed signage will diminish the local urban heritage character of this intersection. • The location, scale and design of the sign will diminish the aesthetic significance of the historic hotel and it will compromise the historic character of the place. • The proposed sign is not a traditional sign and not sympathetic to the qualities of the hotel • The proposed location is not a traditional location for a sign. • The proposed sign is to be a dominant feature on the hotel and to be the primary visual feature. It is also designed to be the dominant feature of the historic intersection. • The proposed sign will affect the character and the appearance of the heritage place and diminish the cultural heritage significance or the historic hotel as well as the significance of the precinct. <p>Upon receipt of the amended application, the Heritage Advisor was requested to respond to the applicants heritage consultant.</p> <p>The Councils Heritage Advisor has stated:</p> <p><i>In summary this hotel is one of the most significant buildings in Shepparton and one of the better (both in styling and integrity) late Victorian hotels in the municipality. This intersection has been identified as the premier intersection in Shepparton because of the quality (and diversity) of built fabric on each corner. It is important to ensure that any works do not reduce the presentation of the hotel and its contribution to the precinct and that it continues to maintain its presence. If the sign was constructed as proposed it will reduce the significance of the building and diminish an appropriate appreciation and interpretation of the cultural values. Signage that essentially obscures a large proportion of primary architectural features through its location and scale is not good heritage management.</i></p> <p><i>This will affect both the building and the precinct. It is not a sympathetic addition as it does not respect the aesthetic values.</i></p> <p>The concerns of the Heritage Advisor are considered to be appropriate.</p>
Council's Property Department	<p>The application was internally referred to the Council's Property Department who notified that if a permit was to grant, the owner would be required to enter into a lease agreement with Council for the occupation of the space of which is within Council road reserve.</p>

Assessment

The zoning of the land

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To encourage a mixture of uses and the intensive development of the activity centre:*
 - *As a focus for business, shopping, working, housing, leisure, transport and community facilities.*
 - *To support sustainable urban outcomes that maximise the use of infrastructure and public transport.*
 - *To deliver a diversity of housing at higher densities to make optimum use of the facilities and services.*
 - *To create through good urban design an attractive, pleasant, walkable, safe and stimulating environment.*
 - *To facilitate use and development of land in accordance with the Development Framework for the activity centre.*

37.08-10 Advertising signs

Advertising sign requirements are at Clause 52.05. This zone is in Category 1 unless a schedule to this zone specifies a different category.

Advertising signage is discussed in the Particular Provisions section of this report.

Relevant overlay provisions

43.01 Heritage Overlay

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

Pursuant to Clause 43.01-1 a planning permit is required to construct and display signage in the Heritage Overlay Schedule 160 Central Business Area Precinct, Shepparton.

43.01-4 Decision guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance, heritage study and any applicable conservation policy.*

- *Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.*

The State and local policy are discussed in subsequent sections of this report.

73-83 Fryers Street is contributory place to Central Business Area Precinct (HO160). It is one of a group of places that assist in demonstrating the historic pattern of the commercial development of Shepparton during the 1870s-1970s. Its particular values, (historic, aesthetic, architectural and social) are representative of the establishment and consolidation of the township between c1870s - c1970s).

It is identified in the statement of significance as being representative of the establishment and consolidation of Shepparton during the [c1870s - c1910]. The Aussie Hotel has a statement of significance demonstrating its specific cultural heritage significance.

Statement of Significance

The Hotel Australia, 73 Fryers Street, Shepparton, is of local historical, social and aesthetic significance. Constructed in 1881, the hotel has served as a meeting and lodging place for over 110 years. Aesthetically, the hotel is a largely intact example of a large Victorian-era hotel, of which there are few remaining examples in the municipality.

It is also noted that the whole of this intersection is included in the precinct HO160.

The Greater Shepparton City Council Heritage Study Stage IIB lists the hotel as having both contributory and individual significance.

The Greater Shepparton City Council Heritage Study Stage IIB - Datasheet for individual significant places July 2013 provides the following guidelines regarding signage.

Signage

- *Any signage should complement the character of the precinct and should not dominate the place. Signage that is incorporated into the external colour scheme of the building should be avoided.*
- *Encourage signage to be placed in traditional locations, according to the age of the building, and to be of complementary proportions, designs, fonts and colours.*
- *Any signage should not dominate the place.*
- *Any external applied finish to signage should not compromise the historical character of the place.*

The proposal fails to comply in the following ways:

- The Council's Heritage advisor has undertaken an assessment of the application and has made a recommendation that the application be refused as it does not comply with the State and Local Planning Policy and Heritage Overlay in relation to heritage conservation.
- It is considered that the proposed electronic signage through its location, scale and design will not enhance the significance of the building or the precinct. The signage will affect the character and the appearance of the heritage place and diminish the

cultural heritage significance or the historic hotel as well as the significance of the precinct.

- The sign is not located in a traditional location, and it is considered that the sign will dominate the building, precinct and intersection of which is considered important.

Further to this, the Council's Heritage Advisor has also responded to the applicants Heritage Consultant (in the amended application) with the following:

In summary this hotel is one of the most significant buildings in Shepparton and one of the better (both in styling and integrity) late Victorian hotels in the municipality. This intersection has been identified as the premier intersection in Shepparton because of the quality (and diversity) of built fabric on each corner. It is important to ensure that any works do not reduce the presentation of the hotel and its contribution to the precinct and that it continues to maintain its presence. If the sign was constructed as proposed it will reduce the significance of the building and diminish an appropriate appreciation and interpretation of the cultural values. Signage that essentially obscures a large proportion of primary architectural features through its location and scale is not good heritage management.

This will affect both the building and the precinct. It is not a sympathetic addition as it does not respect the aesthetic values.

In light of the above advises of the Council's Heritage Advisor, it is considered that the proposal would not comply with the provisions of the Heritage Overlay.

45.09 Parking Overlay – Schedule 1

The purpose of the overlay is to facilitate an appropriate provision of car parking spaces in an area, to identify areas and uses where local car parking rates apply and to areas where financial contributions are to be made for the provision of shared car parking. No permit is required to display or erect signage under this overlay.

The State Planning Policy Framework (SPPF)

10 Operation of the State Planning Policy Framework

10.02 Goal

(d) To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.

The proposed signage is not considered to enhance the architecture of the building. It will obscure what is a primary façade and will compromise the architectural intent of this building.

15 Built Environment and Heritage

Planning should achieve high quality urban design and architecture that:

- *Contributes positively to local urban character and sense of place.*

15.01-1 Urban Environment and Design

Objective

To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

Strategies

- *Promote good urban design to make the environment more liveable and attractive.*
- *Ensure new development or redevelopment contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.*
- *Require development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate.*
- *Require development to include a site analysis and descriptive statement explaining how the proposed development responds to the site and its context.*

The proposal fails to comply with Clause 15.01-1 of the Planning Scheme in the following ways:

- The proposed sign would have a detrimental impact on the sense of place and cultural identity of the area by inserting an advertising structure that would have a detrimental impact on the a building within the Heritage Overlay. It is considered that this which impact on the sense of place of the area.
- The proposed advertising structure wold not respond to the context of the building as it would have a detrimental impact on the heritage building on which it is proposed to be located.

15.01-2 Urban design principles

Objective

To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

Relevant strategies include:

Landmarks, views and vistas

Landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.

Pedestrian spaces

Design of interfaces between buildings and public spaces, including the arrangement of adjoining activities, entrances, windows, and architectural detailing, should enhance the visual and social experience of the user.

Heritage

New development should respect, but not simply copy, historic precedents and create a worthy legacy for future generations.

The proposal fails to comply with the provisions of Clause 15.01-2 of the Planning Scheme in the following ways:

- The proposal would not respect the heritage building on which it is proposed to be located.

15.03-1 Heritage conservation

Objective

To ensure the conservation of places of heritage significance.

Strategies

- *Encourage appropriate development that respects places with identified heritage values and creates a worthy legacy for future generations.*
- *Encourage the conservation and restoration of contributory elements.*
- *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*

The proposal fails to comply in the following ways:

- The proposed sign would be located on the primary façade of the building, the proposal would distort and obscure the architecture of the primary façade and would therefore diminish the architectural and historic

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

Urban Design 21.04-4

Advertising signage is a key and often highly visible component of the physical environment of the municipality and the inappropriate design or placement of advertising signs can have a significant effect on the appearance and visual amenity of an area. Council wants to guide the location and display of signage within the municipality to ensure signage is compatible with the character and architecture of local streetscapes. The design, form, size and placement of advertising signs should be controlled so as to protect and enhance the appearance of rural and urban areas and to avoid signs that are excessive, confusing or incompatible with the character of the surrounding area.

Objectives and strategies

- *To control the number of signs and ensure that the appearance, size, illumination or location of signs does not adversely affect the visual amenity of the natural environment or the built form in the municipality.*
- *Control the location, size and scale of advertising signage, especially in key precincts of the Shepparton CBD and town centres.*
- *Ensure that the location, form and size of signs complements the dominate character of any urban or rural landscape, building, site or area on which they are erected.*

Policy Guidelines – Advertising Signs

When considering an application for an advertising sign such as this one, Council will be guided by the following relevant provisions:

- *Fewer signs displaying a simple clear message is encouraged;*
- *Advertising signage is encouraged to be primarily for business identification providing basic identification information of the business;*
- *Above verandah signs should be attached to the upper façade or parapet, parallel/horizontal to the road with minimal projection;*
- *Sky signs, high wall signs, projecting off-wall signs on upper facades and signs that project above parapets, wall, verandahs, roof lines or building fascias are discouraged in all areas;*
- *Where a building is set back from the street, signs are encouraged to be located within the boundary and should be orientated to be parallel or at right angles to the street;*
- *Where possible signs should be located on the building.*

It is considered that the sign currently being considered would not comply for the following reasons:

- The sign does not compliment the character of this area of Fryers Street, it is noted that there are no other signs of this type along the area of Fryers Street in which the subject land is located.

In light of the above and while it is acknowledged that advertising signage is often a typical function of the landscape within the Central Business District it is considered that the sign would detract from the established heritage character of the area.

It is clear that Council does not oppose appropriately sized and located business identification signage, this is clearly articulated throughout the Shepparton CBD.

The sign which is currently being considered, would detract from the heritage value of the building. Council's Planning Officers have made it clear in discussions with the applicant that the Department would not oppose a sign if it was a narrow band of signage to the extent of the fascia between verandah and the ground floor.

The location and size of the sign above the front door to the building has become a more dominant feature than the character of the building itself and as such become a disproportionately oversized feature of the urban landscape contributing to visual clutter. This is seen as a key component and reasoning for the policy which supports such signage to be sized and located appropriately to the buildings on which they are displayed.

21.05-4 Cultural Heritage

The Council aims to ensure that places of pre settlement and post settlement cultural heritage significance within the municipality are preserved for future generations.

These places of natural and cultural heritage significance include buildings, collections, streetscapes, remnants of settlements, places of Aboriginal cultural heritage significance, significant landscapes and natural features.

Objectives - Cultural Heritage

- *To ensure that places of cultural heritage significance are conserved or restored.*
- *To ensure that development does not adversely affect places of cultural heritage significance.*
- *To ensure that new development does not become the visually dominant element in any precinct. This includes external additions and alterations.*
- *To conserve and enhance significant views and settings in any heritage precinct.*

Signage

- *Any external applied finish to signage should not compromise the historic character of the place.*
- *Encourage signage on commercial buildings to be placed in traditional locations, according to the age of the building, and to be of complementary proportions, designs, fonts and colours.*
- *Any signage should not dominate the place.*
- *Any signage within a precinct should complement the character of the precinct and should not dominate the place.*
- *Any external paint scheme which constitutes signage or corporate branding, and deemed to be inappropriate, should be avoided.*
- *Pre-manufactured signage will not be encouraged.*

It is considered that the proposal fails to comply in the following ways:

- The proposed sign would become the visually dominant element of the building.
- The proposed sign would not be located in a traditional location. It is considered that traditional signage in this context would constitute fascia between the verandah and the ground floor.
- The proposed sign would become the dominant element of the façade.

In light of the above, it is considered the proposal would not comply with the provisions of Clause 21.05-4 of the Planning Scheme.

Relevant Particular Provisions

Advertising Signs 52.05

The purpose of this provision is to:

- *Regulate the display of signs and associated structures;*
- *Provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character;*

- *To ensure signs do not contribute to excessive visual clutter or visual disorder;*
- *To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.*

The subject land is identified as being within a category 1 area. The purpose of the category 1 area is:

To provide for identification and promotion signs and signs that add vitality and colour to commercial areas.

Pursuant to Clause 52.05-5 a planning permit is required to display an above verandah sign.

Decision Guidelines 52.05-3

Before deciding on an application to display a sign, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

The character of the area including:

- *The sensitivity of the area in terms of the natural environment, heritage values, waterways and open space, rural landscape or residential character.*
- *The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.*
- *The cumulative impact of signs on the character of an area or route, including the need to avoid visual disorder or clutter of signs.*
- *The consistency with any identifiable outdoor advertising theme in the area.*

It is considered that the sign would not comply for the following reasons:

- It is considered that the sign does not comply with the amenity and visual character of the area.
- The sign does not respect the heritage value of the building and would detract from cultural heritage values.
- The sign is at variance to the character of the area as it would be the only sign of its type in this area of Fryers Street.

As identified previously, the character of the locality can be best as described as a key heritage precinct within the CBD and as such this is a cogent consideration for the design of the sign and its impact on the building.

The application was referred to Councils Heritage Advisor, who objected to the issue of a Planning Permit as the sign would have a detrimental impact on the character of the heritage building.

A broad assessment of the general area in which the site is located demonstrates that Policy response the signage in the locality is predominately business identification displayed on the walls and front of verandahs of the existing buildings. It clearly discernable that electronic promotional signs displayed above the verandahs are not common within the locality.

Taking this into account it can be seen that, by the discouraging of these types of signs, Council has clearly achieved through the policy a desired theme, which should be retained. It is considered that allowing a sign of the type currently being considered would not achieve the desired advertisement theme of the area.

Impacts on views and vistas:

- *The potential to obscure or compromise important views from the public realm.*
- *The potential to dominate the skyline.*
- *The potential to impact on the quality of significant public views.*
- *The potential to impede views to existing signs.*

The sign would not comply for the following reasons:

- The sign detracts from the setting of the heritage building by its prominence and would detract from the cultural heritage values.
- The sign would have a detrimental impact on the quality of views in the area.

By locating the sign above the verandah the proposed sign will potentially become a feature of the upper façade within the locality and would be visually dominant and would become a major impact of the streetscape.

The relationship to the streetscape, setting or landscape:

- *The proportion, scale and form of the proposed sign relative to the streetscape, setting or landscape.*
- *The position of the sign, including the extent to which it protrudes above existing buildings or landscape and natural elements.*
- *The ability to screen unsightly built or other elements.*
- *The ability to reduce the number of signs by rationalising or simplifying signs.*
- *The ability to include landscaping to reduce the visual impact of parts of the sign structure.*

The sign would not comply for the following reasons:

- The sign does not conform with the scale or character of the area and has the potential to dominate the visual amenity of the area.
- The sign is located above the entrance parapet of the building and does not comply with the Council signage policy.

As identified above the sign could become a dominate feature of the building and furthermore it could be considered that a precedent could be set for similar signage within the CBD. This would not achieve an acceptable outcome for the character of the CBD as such signs could have a cumulative impact on the urban landscape.

The relationship to the site and building:

- The scale and form of the sign relative to the scale, proportion and any other significant characteristics of the host site and host building.
- The extent to which the sign displays innovation relative to the host site and host building.
- The extent to which the sign requires the removal of vegetation or includes new landscaping.

The sign would not comply for the following reasons:

- The site is within the Heritage Overlay and Council's Heritage Advisor has stated that the sign is too prominent and would detract from cultural heritage values.

The impact of structures associated with the sign:

- *The extent to which associated structures integrate with the sign.*
- *The potential of associated structures to impact any important or significant features of the building, site, streetscape, setting or landscape, views and vistas or area.*

The display of the sign will require just the frame in which the sign is to be mounted and no other structures are required.

The impact of any illumination:

- *The impact of glare and illumination on the safety of pedestrians and vehicles.*
- *The impact of illumination on the amenity of nearby residents and the amenity of the area.*
- *The potential to control illumination temporally or in terms of intensity.*

The proposed sign would be electronic

The impact of any logo box associated with the sign:

- *The extent to which the logo box forms an integral part of the sign through its position, lighting and any structures used to attach the logo box to the sign*
- *The suitability of the size of the logo box in relation to its identification purpose and size of the sign.*

A logo box is not proposed to be displayed.

- *The need for identification and the opportunities for adequate identification on the site or locality.*
- It is considered that there is ample opportunity on the building to provide appropriate advertising structures. In this regard the applicant was advised that, if the sign was attached to a traditional location (in this context would a traditional location would constitute facia between the veandah and the ground floor) the Planning Department could support an application.

The impact on road safety. A sign is a hazard if the sign:

- *Obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property.*
- *Obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background which might reduce the clarity or effectiveness of a traffic control device.*
- *Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.*
- *Is at a location where particular concentration is required, such as a high pedestrian volume intersection.*
- *Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.*
- *Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.*
- *Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.*
- *Is within 100 metres of a rural railway crossing.*
- *Has insufficient clearance from vehicles on the carriageway.*
- *Could mislead drivers or be mistaken as an instruction to drivers.*

In response to the above, the application was reviewed by an independent traffic expert who stated that the proposal would not have a detrimental impact on the traffic environment of the area.

The proposed sign is not considered to be distracting to road users, it is not envisaged to result in any traffic issues as identified in the decision guidelines above.

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 this clause.

- *The following decision guidelines are relevant to this application:*
- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*

The proposal would not comply with the provisions of Clause 65 of the Planning Scheme in the following ways:

- The proposed signage would not comply with the provisions of the Heritage Overlay, would have a detrimental impact on the amenity of the area and would not constitute the orderly planning of the area.

Relevant incorporated or reference documents

Heritage Study Stage IIB

73-83 Fryers Street, Shepparton was recommended for inclusion in the Heritage Overlay within the *Greater Shepparton Heritage Study Stage IIB*. The place was subsequently included in the Heritage Overlay as a contributory place within the Shepparton Central Business Area Precinct (HO160) by Amendment C110 to the Greater Shepparton Planning Scheme.

The *Greater Shepparton Heritage Study Stage IIB* addressed a number of particular historic themes that had not been fully identified in the *Greater Shepparton Heritage Study Stage I* and *Greater Shepparton Heritage Study Stage II*. This included the identification of a number of places in the Central Business Area that contributed to an appreciation of significant periods of development. This included the identification of a number of places in the Central Business District that contributed to an appreciation of significant periods of development. This included:

- The establishment of Shepparton at the turn of the 20th century. It was during this period that a number of the earlier timber buildings were replaced by more substantial masonry buildings.
- The Interwar Period. This was a period of rapid growth and economic prosperity linked to the development of irrigation and Closer Settlement Policies. A number of commercial buildings were constructed during this period and the identification of these buildings is important as they assist in demonstrating the impact that changes to agricultural practices, the development of associated industries and the service sector had on the built fabric of Shepparton.
- Immediate post war growth. Post war growth and post war migration combined with favourable agricultural seasons contributed to changes in the built fabric of the Central Business Area. There is a defined style of modernist commercial architecture found within the Central Business Area that is associated with this period of development.
- The 1970s and the promoted modernisation of the Central Business Area. A number of significant 19th century buildings were replaced and this includes the demolition of the Shepparton Post Office and the construction of new bank buildings.

The *Greater Shepparton Heritage Study Stage IIB* determined that the central business district of Shepparton is of aesthetic or architectural, social and historic significance. The study recommended that the Shepparton Central Business Area Precinct be included in the Heritage Overlay to continue to conserve the cultural heritage significance of this place.

Amendment C110 to the Greater Shepparton Planning Scheme included the findings and recommendations of this study in the planning scheme on 03 October 2013.

CBD Strategy

The following guidelines are set out with regard to signage:

- *Develop a consistent and coordinated suite of signage for the CBD that is designed to serve a range of purposes, such as way finding, marking historical locations or announcing entry points.*
- *Provide for business identification but discourage cluster of business identification signs within the CBD.*
- *Ensure signs do not dominate, are of high quality and minimise the visual impact of advertising signage on streetscapes.*
- *Encourage multiple business occupancies to share space on the sign.*
- *Limit the size of freestanding business identification signs to an envelope that is a maximum height of 1.5m and a maximum width of 1m. (This envelope includes the height of any supporting structure).*
- *Limit the size of signs attached to a building.*
- *Avoid promotional signs.*
- *Avoid all kinds of V-board signs, above-verandah signs and advertising elements such as banners, flags, major promotional signs and inflatable signs within the CBD.*
- *Avoid A-frame signs within the CBD.*
- *Avoid colours and materials that interfere with the safety or efficiency of traffic circulation.*

The proposal would not comply in the following ways:

- The sign would dominate the building and would have a detrimental impact on the character of the area.
- The proposal would constitute a promotional sign which the CBD strategy seeks to avoid.
- The sign is above the parapet of the building which is discouraged.

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 for a planning permit.

Discuss any other relevant Acts that relate to the application?

There are no other relevant Acts that relate to this application

Conclusion

The application for the display of an above verandah promotion sign is considered to be at variance with the Local Planning Policies and characteristics of the locality as identified in the Greater Shepparton Planning Scheme.

It is considered that the sign at its current location, on the verandah of the main façade of the building would become a feature of the locality in its own right.

The application was referred to Council's Heritage Advisor, who objected to the issuing of a Planning Permit, as the sign detracts from the cultural heritage of the place. It is considered therefore that the sign would not comply with the provisions of the Heritage Overlay.

The recommendation that the proposed sign be refused is considered reasonable as the proposed sign is specifically discouraged by the Local Planning Policy, Heritage policies and the CBD Strategy.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO:	2016-143
PLANNING SCHEME:	GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY:	GREATER SHEPPARTON CITY COUNCIL
ADDRESS OF THE LAND:	Aussie Hotel 73-83 Fryers Street, Shepparton VIC 3630
WHAT HAS BEEN REFUSED:	Erect and display an above verandah electronic promotional sign in the Activity Centre Zone 1 and Heritage Overlay - Schedule 160

WHAT ARE THE REASONS FOR THE REFUSAL?

1. The proposal fails to comply with Clause 15.01-1 of the Planning Scheme as it would have a detrimental impact on the sense of place and cultural identity of the area and would have a detrimental impact on the heritage building.
2. The application is contrary to Clause 15.03-1 of the State planning policy as the signage does not respect a building with identified heritage values.
3. The proposed sign is contrary to Council's local planning policy on advertising signs as expressed in Clause 21.04 (Urban Design) which encourages signage to be primarily for business identification and discourages internally illuminated promotional signs. The nature and location of the sign proposal would detract from the desired streetscape and built form character of this area.
4. The application does not produce a satisfactory outcome when assessed against the Local planning policy framework set out in Clause 21.05-4 as the proposal would adversely affect a place of cultural heritage significance and would become the visually dominant element within the precinct.
5. The proposal does not comply with the signage policy set out in Clause 21.05-04 as the proposed signage would not be located in a traditional location on a commercial building, is not of complementary proportions, and would dominate the place and should complement the character of the precinct.
6. The proposed sign does not satisfy the objectives or decision guidelines of Clause 43.01 Heritage Overlay as the location, scale and design will not enhance the significance of the building or precinct.
7. The proposal does not comply with the adopted Shepparton CBD Strategy which seeks to avoid all kinds of above-verandah signs within the CBD and seeks to ensure signs do not dominate, are of high quality and minimise the visual impact of advertising signage on streetscapes.
8. The proposed sign does not produce a satisfactory outcome as required, having regard to the Decision Guidelines of Clause 65.

Meeting concluded at 2.50pm