

**CONFIRMED MINUTES**

**FOR THE**

**GREATER SHEPPARTON CITY COUNCIL**

**DEVELOPMENT HEARINGS PANEL**

**Meeting No. 1/2021**

**HELD ON**

**FRIDAY 12<sup>th</sup> February 2021**

**AT 10.00AM**

(VIA ZOOM)

**CHAIR**

**Councillor Rob Priestly**

## ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 1 for 2021.

This Development Hearings Panel will be conducted via Zoom as per the new regulations due to Covid-19.

Please be patient with us as we navigate this new form of meeting practice.

Any technical issues that may result in the Zoom connection failing will cause a delay or adjournment to this meeting.

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

We, Greater Shepparton City Council, acknowledge the Yorta Yorta Peoples of the land which now comprises Greater Shepparton, we pay our respect to their tribal elders, we celebrate their continuing culture and we acknowledge the memory of their ancestors.

## COMMITTEE MEMBERS PRESENT

Committee members present today are:

- Cr Rob Priestly (Chair) – **Via Zoom from Council Boardroom**
- Geraldine Christou, Director, Sustainable Development - Greater Shepparton City Council – **Via Zoom**
- Jonathan Griffin – Team Leader, Development Engineering, Greater Shepparton City Council – **Via Zoom**
- Nilesh Singh – Manager Development – Benalla Rural City Council – **Via Zoom**
- Melissa Crane – Principal Planner - Strathbogie Shire Council - **Via Zoom**

## OFFICERS AND OTHERS PRESENT

The Planning Officers that will be in attendance for today's hearing are:

- Braydon Aitken – **Presenting via Zoom**
- Quinn Maguire – **Presenting via Zoom** (apology – Braydon presented on her behalf)

I would also like to acknowledge all other parties present today. We will get you to introduce yourself when your turn comes to present.

## APOLOGIES

Nil

## CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

- Minutes of DHP meeting No.4/2020 held on Friday 18 December 2020. Minutes have been circulated.

***Moved** by Melissa Crane and **seconded** by Jonathan Griffin that the minutes of the meeting held on 18 December 2020 be adopted.*

## DECLARATIONS OF CONFLICTS OF INTEREST

Are there any panel members who wish to declare a conflict of interest?

## ORDER OF PROCEEDINGS

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

- The proceeding is being minuted and recorded and a recording of the meeting and minutes will be published on Council's website.
- and 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.
- 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 shall be:
  - The planning officer to present the planning report recommendation

- Any objectors or representatives on behalf of the objectors present to make a submissions in support of their objection (should they wish to)
- The applicant or representatives on behalf of the applicant to present in support of the application
- For the purpose of today's hearing the officer, objectors and applicant will be limited to a maximum of 3 minutes per person with 1 extension.

## **MATTERS FOR CONSIDERATION**

There are 2 items listed for consideration in this session of the DHP:

1. Planning Permit application 2020-150 – Use and development of the land for intensive animal production - 800 Mitchell Road KIALLA EAST VIC 3631
2. Planning Permit application 2020-365 – 2 Lot Subdivision (Re-Subdivision) - 673 Old Dookie Road & 670 New Dookie Road SHEPPARTON EAST VIC 3631

Meeting Closed 11.14am

## **11. NEXT MEETING**

To be determined

**Thank you - That now concludes today's DHP.**

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## Application Details:

Responsible Officer:	Braydon Aitken
Application Number:	2020-150
Applicant Name:	Z Tricarico
Date Received:	28-May-2020
Land/Address:	800 Mitchell Road KIALLA EAST VIC 3631
Zoning & Overlays:	Farming Zone (FZ1) Part Land Subject to Inundation Overlay (LSIO)
Why is a permit required (include Permit Triggers):	35.07-1 & 35.07-4 - Use and development of land for intensive animal production in FZ
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No

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## Proposal

The application proposes use of part of the land for Intensive Animal Production. No buildings and works are proposed in the LSIO.

The land owner currently operates a lamb fattening operation where they have 4 feed pen areas set aside for the feeding of lambs. There is no free grazing of lambs with all feed brought into the enclosures. The lambs are bought from local farmers, fed for 90 to 120 days, and then on sold to local abattoirs in Tatura and Nathalia. The lambs are kept in enclosed feed pens and are provided with shelter to protects them from the heat, wet and cold.

The proposal is not defined as a cattle feedlot as per Clause 53.08 as cattle refers to beef and milk cattle and not sheep. Agriculture Victoria have informed officers that the land use should operate in accordance with the '*National procedures and guidelines for intensive sheep and lamb feeding systems*' (National Guidelines). Pictures of the exiting operation are shown below:







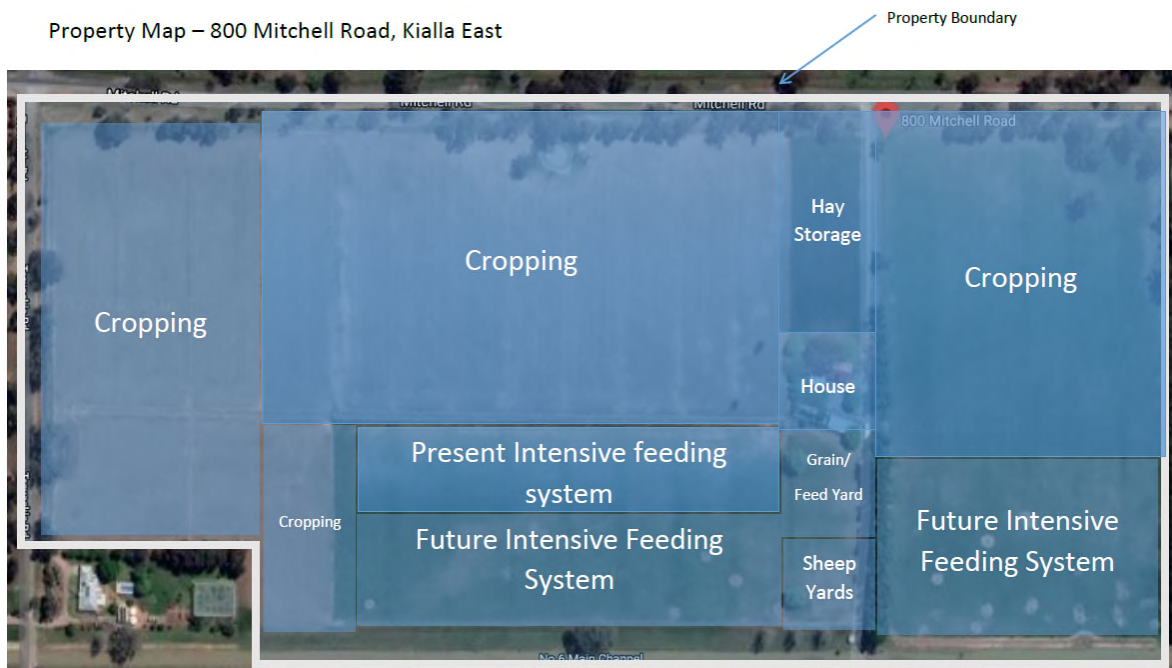






The operation current has capacity for up to 2500 lambs and the operators were initially looking to increase the future capacity of the operation to up to 20,000 lambs as shown below:

Property Map – 800 Mitchell Road, Kialla East

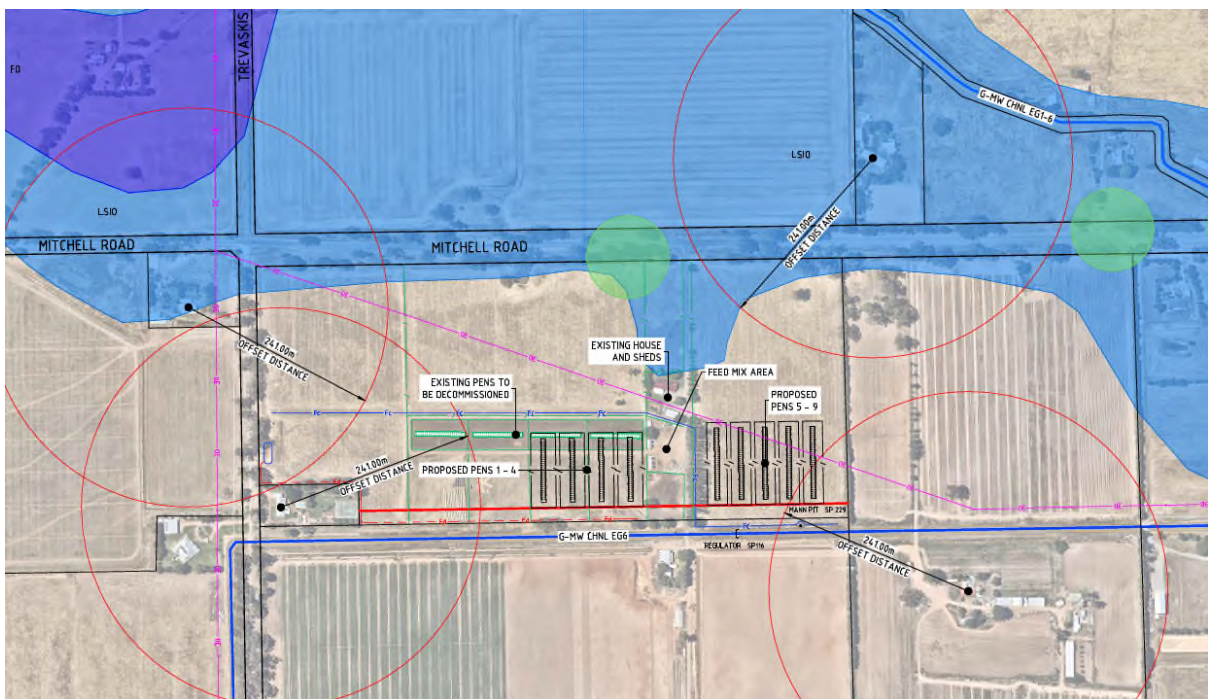




The application was amended on the 9 September 2020 to reduce the total number of proposed lambs to 4800 and to change the location and number of lamb yards or pens as shown on the plan below to comply with the National Guidelines:



Figure 2: Yellow squares show where the new yards are going to be.



The proposed buildings and works remain outside the LSIO.

## Summary of Key Issues

- The application was advertised and there are five objectors to the application. Grounds of objection relate to amenity impacts to neighbouring dwellings including odour, dust and effluent disposal.
- Officers have identified that planning policies support agricultural investments in the FZ.
- The FZ contains a number of decision guidelines which are relevant to the application. Assessments have found that the application positively responds to the decision guidelines and acceptable planning outcomes are achieved.
- Officers have considered the grounds of objection and find that the objections do not warrant refusal of the application.

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## Recommendation

### Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2020-150** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-1 & 35.07-4** of the Greater Shepparton Planning Scheme in respect of the land known and described as **800 Mitchell Road KIALLA EAST VIC 3631**, for the **use and development of the land for intensive animal production** in accordance with the Notice of Decision and the endorsed plans.

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## Recommendation

### Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2020-150** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-1 & 35.07-4** of the Greater Shepparton Planning Scheme in respect of the land known and described as **800 Mitchell Road KIALLA EAST VIC 3631**, for the **use and development of the land for intensive animal production** in accordance with the Notice of Decision and the endorsed plans.

**Moved: Melissa Crane**

**Second: Geraldine Christou**

**CARRIED**

## Subject Site & Locality

Officer have undertaken a number of inspections of the site and the surrounding area.

The site has a total area of **21.63** ha and currently contains:

- A dwelling and farm sheds
- Paddocks used for growing feed
- Enclosures for the lamb fattening operation

The main site/locality characteristics are:

- A mixture of grazing and cropping operations, including vegetable growing
- Animal husbandry
- Rural residential allotments as the result of historical house lot excisions.

Site photos have been provided in the proposal section of this report

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## Pre-Application Meeting Details

As there been a pre-application meeting ? **Yes**

If yes with Whom? **Braydon Aitken and Michelle Edwards**

What advice was given by the Council Officer? **Planning permit required for intensive animal production**

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## Permit/Site History

The history of the site includes:

- Whole Farm Plan D-2008-11
  - 94161 – 3 lot subdivision, including creation of land subject to this permit application and small house lot (265 Trevaskis Road).
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## Further Information

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

What additional information is required?

- **Estimated number of lambs on the land at any one time as part of existing operation and ultimate operation**
- **Odour and dust management measures that form of the farming operation**

What date was the information requested?: **12 June 2020**

What is the lapse date? **13 July 2020**

What date was the information received?: **17 June 2020**

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## Public Notification

The amended application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **amended application to use and develop land for intensive animal production (fattening of lambs for on sale)**, by:

- Sending notices to the owners and occupiers of adjoining land (as shown below).
- Sending a notice of the amended application to all objectors to the original application



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 intensive animal production (fattening of lambs for on sale)**, by:

- Sending notices to the owners and occupiers of adjoining land.





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## Objections

There are five objectors to the application.

The map below shows the location of 4 of the objectors



The remaining objector currently lives outside of the municipality.

The key issues raised in the objections are relevant assessment considerations and are summarised below:

Ground of objection	Officers Response
Number of lambs	The application seeks permission for 4800 lambs. Conditions will limit the size of the operation to 4800 lambs.
Odour & Dust	<p>It is expected that there will be some dust and odour emissions from agricultural uses in the Farming zone and that these emissions will be noticeable by residents of dwellings located with the zone. Despite this, new uses should ensure that measures are undertaken to manage these emissions to acceptable levels to minimise the impact on the amenity on residents of nearby dwellings.</p> <p>Council officers engaged Tonkin &amp; Taylor to undertake an independent odour assessment of the current operation and provide feedback on potential odour impacts of the proposed expansion on nearby dwellings. The report made the following conclusions:</p> <p><i>In summary, it is considered that there is potential risk for odour impacts at nearby downwind receptors (dwellings at 265 Trevaskis Road &amp; 815 Mitchell Road). If the application is approved it is recommended that additional site mitigation measures for odour be considered to reduce the odour risk to as low as reasonably practicable.</i></p> <p>Based on the findings of this report officers do not consider that this ground of objection in relation to odour warrants refusal of the application given the inclusion of odour mitigations conditions in the Draft Notice of Decision.</p> <p>Further detail on the odour assessment is provided in the officer assessment section of this</p>

	<p>report.</p> <p>In order to manage dust the application proposes a light stocking rate of 4sqm's per lamb. In addition, the lamb yards are to be well compacted to assist with minimising dust emissions.</p> <p>Traffic volumes associated with the use are low, with a feed truck attending the site once a month and lambs loaded and unloaded about once a fortnight. A water truck will be used where required to minimise dust generation on internal access ways used to disperse feed from a tractor to the lamb yards.</p> <p>The National Guidelines provides clear guidance for operational dust control such as the use suitable surfaces within pens to minimise dust generation.</p>
<p>Effluent disposal/management and potential for water contamination.</p>	<p>Waste generated from the feeding lambs is a potential cause of water contamination.</p> <p>Officers propose that a Manure Management Plan form part of the permit. The purpose of this condition is to establish a manure management system for the operation that develops processes from capture of manure all the way to reuse.</p> <p>Officers have used this condition on intensive animal production operations in the past and the condition has led to improved amenity outcomes for the community. This condition will align with the requirements of the National Guidelines.</p> <p>Goulburn-Murray Water have required conditions to manage any potential impact on surface and ground water from the operation. Officers propose an amended site plan condition to show compliance with these requirements.</p>
<p>Devaluation of property prices</p>	<p>No evidence has been provided to demonstrate that this proposal will impact on property</p>

	values.
Pest control	Concerns have been raised about the lamb feed attracting birds and flies. The National Guidelines provide guidance on pest management practises, such as the regular cleaning of feeding yards to minimise pest attraction.
Animal welfare	No evidence has been provided to demonstrate that this proposal or the current operation has any animal welfare issues. The National Guidelines provide clear guidelines on the humane treatment of animals
Visual appearance	The current and proposed operations are well setback from Mitchell and Trevaskis Road. Existing vegetation assists in partially screening the operation from view. It is not unexpected that you would see this type of operation in a Farming Zone area.  Officers propose that a Landscape Plan condition form part of the permit to help ensure that the operation is further screened from the view of nearby properties over time.
Bio Security	Officers have sought guidance from the EPA on this matter. Based on the advice from the EPA officers propose that the requirement for the preparation of a Biosecurity Management Plan be included in a Notice of Decision, should one issue.

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## Title Details

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

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## Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Meeting with objectors to understand their concerns 9/10/20

- Meeting with applicant to discuss objectors concerns and outline next steps in the process 9/10/20
- Various phone conversations with Ag Vic about application requirements and considerations
- EPA site visit with odour expert to undertake a preliminary odour assessment.

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## Referrals to Authorities

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
There are no Section 55 Referrals			

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## Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
Goulburn Murray Water	No objections subject to conditions
Powercor	No objection subject to standard conditions
GBCMA	No objection and no conditions
EPA	No objection but require officers to give consideration to various issues which are addressed on the officer assessment section of this report
Ag Vic	No objection subject to condition
DHHS	No response received – consent deemed.

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	No objections subject to standard conditions in relation to vehicle access and drainage
Environmental Health	No objection and no conditions

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## Assessment

**The zoning of the land**  
 Farming Zone

**Purpose**

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- 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.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

Decision guidelines are at 35.07-6 and include:

**General issues**

- The Municipal Planning Strategy and the Planning Policy Framework.
- 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.

#### **Relevant overlay provisions**

There are no relevant overlay controls

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

#### **13.06-1S**

##### **Air Quality Management**

Aims to assist in the protection and improvement of air quality and to ensure where possible that there is suitable separation distances between land uses that reduce air amenity impacts.

#### **14.01-1S**

##### **Protection of agricultural land**

##### **Objective**

To protect the state's agricultural base by preserving productive farmland.

### Strategies

- Identify areas of productive agricultural land, including land for primary production and intensive agriculture.
- Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.
- Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.
- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.
- Prevent inappropriately dispersed urban activities in rural areas.
- Protect strategically important agricultural and primary production land from incompatible uses
- Identify areas of productive agricultural land by consulting with the Department of Economic Development, Jobs, Transport and Resources and using available information.
- In considering a proposal to use, subdivide or develop agricultural land, consider the: Desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
  - Compatibility between the proposed or likely development and the existing use of the surrounding land.
  - The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
  - Land capability.
- Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.

## **14.01-2S**

### **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.
- Support the development of innovative and sustainable approaches to agricultural and associated rural land use practices.
- Support adaptation of the agricultural sector to respond to the potential risks arising from climate change.
- Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing.
- Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.
- Support agricultural investment through the protection and enhancement of appropriate infrastructure.
- Facilitate ongoing productivity and investment in high value agriculture.
- Facilitate the establishment and expansion of cattle feedlots, pig farms, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.
- Ensure that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.

## **14.01-2R**

### **Agricultural productivity – Hume**

#### **Strategy**

Support clustering of intensive rural industries and agricultural production.

Take advantage of locational opportunities, including separation from sensitive land uses and access to transport, power, water and communications infrastructure.

## **17.01-1S**

### **Diversified economy**

#### **Objective**

To strengthen and diversify the economy.

#### **Strategies**

- Protect and strengthen existing and planned employment areas and plan for new employment areas.
- Facilitate regional, cross-border and inter-regional relationships to harness emerging economic opportunities.
- Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.
- Improve access to jobs closer to where people live.
- Support rural economies to grow and diversify.

## **17.01-1R**

### **Diversified economy - Hume**

#### **Strategy**

Encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.

## **Planning Policy Framework (LPPF)**

### **21.06-1 Agriculture**

#### **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**

- 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.

#### **Relevant Particular Provisions**

There are no relevant particular provisions. The proposal is not defined as a cattle feedlot under Clause 53.08 and is not a use or activity listed in Clause 53.10 – 'Uses and Activities with Potential Adverse Impacts'.

#### **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.

## **Officer Assessment**

### Use of Land – Intensive Animal Production

Officers consider that the fattening of lambs within enclosures, where they are intensively feed, falls within the land use of intensive animal production. Intensive animal production is a permit required use in the Farming Zone.

EPA have informed that no Works Approval is required by the proposed operation as the proposed number of lambs is below the 5000 animal number threshold listed in the Environment Protection Regulations.

Officers were initially unable to locate any guiding documentation to assist in the assessment of amenity considerations for this type of operation and decided to contact Agriculture Victoria for assistance.

Agriculture Victoria's Animal Industries Development Specialists recommended that the application be prepared in accordance with the '*National procedures and guidelines for intensive sheep and lamb feeding systems*' (National Guidelines). The National Guidelines provide:

- guidance to applicant on the preparation of an application for an intensive sheep feeding system; and,
- guidance on the running of this type of operation in order to protect animal welfare, human health and to minimise amenity impacts on surrounding landowners.

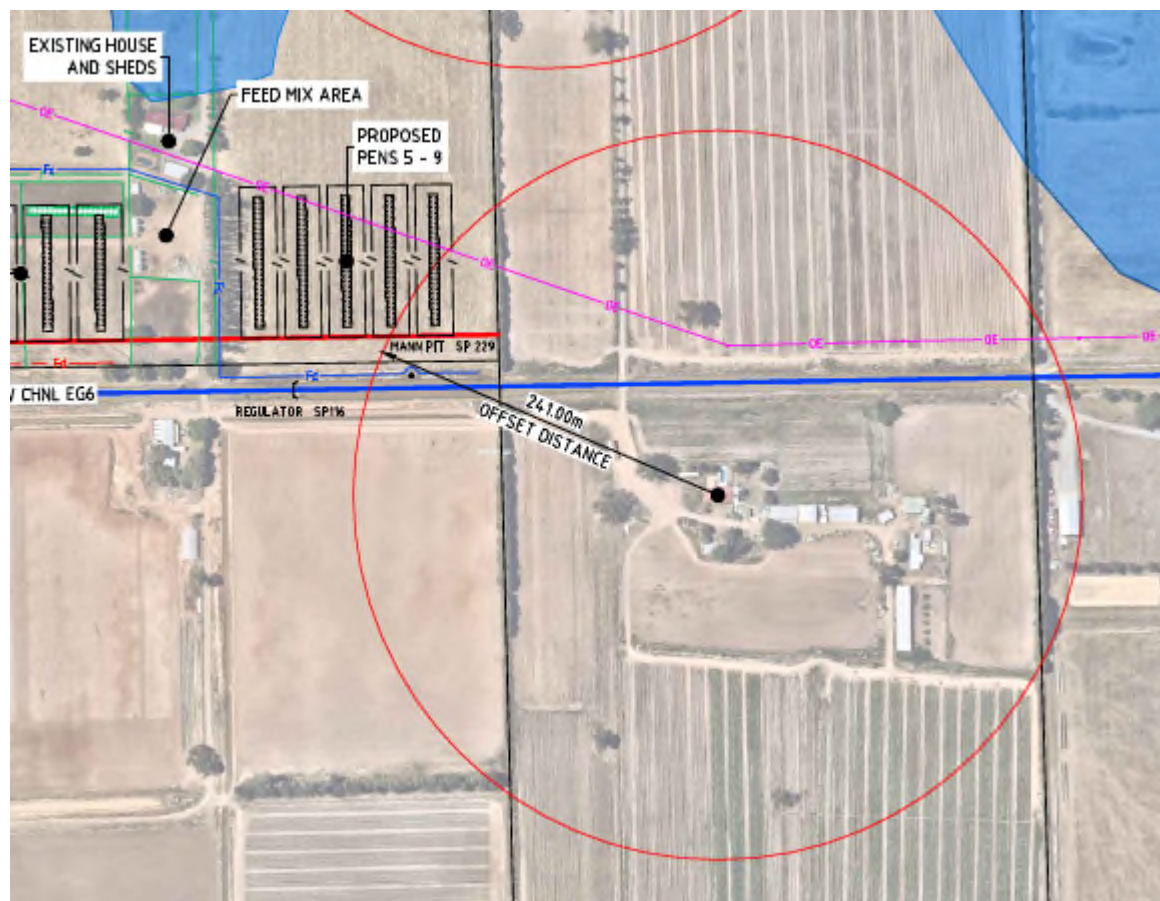
The applicant has prepared an amended application to address the National Guidelines. Both officers and Agriculture Victoria are satisfied that the proposed use can operate in accordance with the National Guidelines. Specifically the National Guidelines provide operational guidance on addressing concerns raised by the objectors such as odour, dust, water contamination, pest control and biosecurity.



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Officers have drafted a Notice of Decision to address these concerns and to ensure compliance with the National Guidelines.

An assessment of the application against the National Guidelines determined a required separation distance of 241 metres from nearby dwellings. The most recent site plan submitted by the applicant appears to show a section of pens 8 and 9 located within this separation distance (see below).



Should a Notice of Decision grant it is recommended that amended plans are required to ensure compliance with the separation distance requirements. Given the size of the land a redesign to address the separation distance is achievable.

#### Planning Policy Assessment

Officers consider that planning policy provides strategic support for the proposed use and development being:

- Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing (14.01-2S)
- To facilitate growth of new agricultural investment (21.06-1)
- Encourage value adding and new enterprise for agricultural production (21.06-1)

- Support food related industries and the development of value-adding opportunities (21.06-4)

#### Conflict between dwellings and the proposal (odour)

The objections to this application raise the issue of the lamb fattening operation affecting the amenity of existing dwellings in the FZ, particularly in relation to odour. Officers acknowledge that this proposal brings more activity than the previous grazing and cropping use of the farm.

Officers consider that the FZ is a working zone where activities undertaken will not always be compatible with rural lifestyle living. Greater Shepparton has encountered the conflict between agriculture and rural lifestyle expectations on many occasions and the associated decision making difficulties.

Officers are of the view that ongoing agricultural investment in the municipality needs to be encouraged and facilitated. Such an outcome is sought by the FZ whose purposes relate to the use of land for agriculture, retention of productive agricultural land, ensure non-agricultural uses including dwellings do not adversely affect agriculture, retention of employment and population and sustainability. Officers need to balance this policy with the need to manage any potential offsite amenity impacts.

Officers contacted the EPA to seek further advice in relation to potential odour impacts on nearby dwellings. Officers arranged for EPA Senior Odour Engineer Mr Bydder to attend the land and provide advice on potential odour impacts. Chris determined that the risk of offensive odours is low, however a full odour assessment should be undertaken to confirm his observations.

#### Odour Assessment

Council officers engaged Tonkin & Taylor (T+T) to undertake an independent odour assessment report of the current operation and provide feedback on potential odour impacts of the proposed use on nearby dwellings.

T+T undertook a week-long independent odour field monitoring campaign (totalling 9 odour monitoring events) on and around 800 Mitchell Road Kialla as shown in the diagram below:



The monitoring was undertaken between 18 January 2021 (Monday) and 22 January 2021 (Friday).

The monitoring established baseline odour nuisance impacts at nearby dwellings and along the boundaries of the property based on upwind and downwind odours at any given time. The monitoring was divided into morning and afternoon events, with 5 morning and 5 afternoon monitoring sessions undertaken. At each location, monitoring was conducted over 5 minutes, with the field member observing and recoding findings every 10 seconds.

The field members detected livestock and manure odours when on the land at 800 Mitchell Road. The dominant winds during the monitoring period were of strong south/south westerly orientation and also a high occurrence of north easterlies.

During the monitoring odours, including manure and livestock were detected at the monitoring sites. The figure below provides a summary of odour intensities and frequencies at the various monitoring sites:





Figure 3.3: Summary of odour intensities/frequencies (based on #23 odour – livestock) at residential dwellings (Note: NM = no monitoring; ND = not detected)

In summary, the monitoring found there is potential risk for odour impacts at nearby downwind receptors being the dwellings at 265 Trevaskis Road & 815 Mitchell Road shown below with a blue dot.



The T+T report recommended that additional site mitigation measures for odour be considered to reduce the odour risk to as low as reasonably practicable. Mitigation measures that can be implemented are listed below:

- Align additional pens east to west to avoid accumulation of odours downwind of the site.
- Construct new pens in such a way so that drainage is not impeded and can be cleaned easily (e.g. avoid mounds, gentle grade which slopes away from covered areas without causing erosion).
- Use stable, well drained soils to reduce accumulation of liquid waste within the pens.
- Regular clean out/ change out of any materials (e.g. straw) used for covering of the ground in the undercover areas.
- Establish a procedure for handling manure from the increased number of livestock in a way that minimises odour generation, such as pen clean out when there are no high winds. As manure spreading on site is typically a source of odour, where possible avoid stockpiling or spreading of manure on site (i.e. transport off site for disposal).
- Consider planting trees in the downwind direction which may to a degree reduce wind speed, which in turn could aid in reducing odour impacts to surrounding sensitive receptors.
- Establish an odour management plan, so that procedures are documented and can be reviewed/revised if the need arises.

Subject to the requirement for these odour mitigation measure to be implemented officers are satisfied that odour emissions form the proposed use can be managed to an acceptable level.

### Farming Zone Decision Guidelines

#### **General Issues**

State and local policy provides strategic direction for investment in agriculture. Planning policy also seeks to manage conflict between land uses.

Officers consider that the site is suitable for the proposed use subject to compliance with the National Guidelines. Information submitted with the application has demonstrated that the proposal is capable of operating in accordance with the guidelines. This will ensure amenity impacts identified by the objectors can be suitable managed.

#### **Agricultural issues and the impacts from non-agricultural uses**

The use of land for intensive animal production supports the purpose of the FZ by ensuring the retention of productive agricultural land and provides additional employment to support rural communities.

While there are a number of nearby dwellings, Agriculture Victoria has confirmed the relatively small scale of the proposed use noting that the proposed number of sheep or lambs (4,800 head) is the equivalent to 506 head of cattle and that cattle feedlots of under 1,000 head do not require planning permit approval.

The provision of the National Guidelines ensure that these type of small scale operations design and run their operations in a manner that gives consideration to surrounding land owners.

### **Environmental Issues**

Officers will require the submission of a manure management plan to ensure that processes are in place to properly manage effluent and protect water quality in the area.

The applicant has identified dust management procedures that will be undertaken in accordance with the National Guidelines.

Officers have discussed potential noise impacts with the objectors and applicant. Both parties have confirmed that noise from the proposed land use is not an area of concern. The operation uses standard farm vehicles such as tractors and motorbikes that are not an unexpected source of noise generation in a rural environment. Noise generated from livestock has not been raised by the objectors as an area of concern.

### **Design and siting issues**

Officers consider that any design issues of the proposed use are largely addressed by the siting of the proposed pens on the land. The proposed pens will be located away from the Mitchell Road frontage and will be mostly screened by existing vegetation. It is recommended that a landscape plan condition be included on any Notice of Decision that issues requiring the provision of additional landscape screening to further reduce views of the operation over time from the roadside and nearby dwellings.

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

Nil

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

Nil

### **Relevant Planning Scheme amendments**

Nil

### **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?**

Nil

### **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 proposed land use activity area 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 assessed under the P&E Act including the giving of public notice which assists in achieving compliance with the Charter.

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## **Conclusion**

Officers having undertaken an assessment of the application have decided that the application achieves acceptable planning outcomes allowing for further investment in the regions farming base. A notice of decision to grant a planning permit should issue with the inclusions of conditions to ensure the relevant amenity considerations can be managed to an acceptable level.

# Draft Notice Of Decision

**APPLICATION NO:** 2020-150  
**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:** 800 MITCHELL ROAD KIALLA EAST VIC 3631

**WHAT THE PERMIT WILL ALLOW:** USE AND DEVELOPMENT OF THE LAND FOR INTENSIVE ANIMAL PRODUCTION (LAMBS)

## WHAT WILL THE CONDITIONS OF THE PERMIT BE?

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### 1. Plans Required

Within 3 months of the date of this planning permit, 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. The plans must be generally in accordance with the CAF Consulting Plans 3476 P02 & 3476 P03 but modified to include any necessary information listed in Council's Infrastructure Design Manual and the following:

- a) Compliance with Goulburn Murray Water setback requirements included in this permit
- b) Compliance with Powercor conditions included in this permit
- c) The location of all pens outside the required offset distance of 241 metres.
- d) Alignment of pens to meet the relevant site mitigation measures as identified in the Tonkin + Taylor Odour Field Monitoring Report Job Number: 1016434 v2 February 2021.

### 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. Buildings and works on endorsed plans to be completed prior to use**

Before the use commences, all buildings and works on the endorsed plans must be completed to the satisfaction of the responsible authority unless otherwise agreed in writing by the responsible authority.

**4. Permitted Number of Lambs**

The capacity (i.e. lamb numbers) of the intensive animal production operation must not exceed 4800 to the satisfaction of the responsible authority.

**5. Environmental Management Plan**

Within 3 months of the date of this planning permit an environmental management plan (EMP) must be submitted to and approved by the responsible authority. The EMP must show an assessment and documented management plan of the following areas to be managed in the day to day operation of the proposed use:

- a) A manure management plan in accordance with the relevant requirements of the National Procedure and Guidelines for Intensive Sheep and Lamb Feeding Systems, revised Jan 2020
- b) An odour management plan in as identified in the Tonkin + Taylor Odour Field Monitoring Report Job Number: 1016434 v2 February 2021.
- c) A biosecurity management plan demonstrating how the biosecurity measures identified in the National Procedure and Guidelines for Intensive Sheep and Lamb Feeding Systems, revised Jan 2020 are to be implemented by the operator.

When approved, the plan will be endorsed and will then form part of the permit and the endorsed plan must be implemented to the satisfaction of the responsible authority.

**6. Drainage Discharge Plan**

Before the development starts, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit. The plans must be completed by a suitably qualified person or organisation to scale with dimensions. The plans must include

- a) direction of stormwater runoff, demonstrated by contours or levels.
- b) independent drainage of the property to the legal point of discharge
- c) how the discharge rate from the property has no detrimental effect on the adjacent properties
- d) the drainage solution for the intensive lamb feeding operation to accord with the relevant requirements of the National Procedure and Guidelines for

Intensive Sheep and Lamb Feeding Systems, revised Jan 2020 ;

Prior to the commencement of use all works shown on the endorsed drainage plan must be completed to the satisfaction of the responsible authority.

**7. 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 show:

- a) a schedule of all proposed trees and shrubs including the location, number and size at maturity of all plants;
- b) landscape screen planting along the western boundary of pens 1-4 and eastern boundary of pens 5-9.

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

Within 6 months of the date of this planning permit or by such a later date as is approved by the responsible authority in writing, landscaping works shown on the endorsed plan must be carried out and completed to the satisfaction of the responsible authority.

Once planted the landscape screens must be maintained to the satisfaction of the responsible authority.

**8. Rural Vehicle Crossing Location**

Before the commencement of use the vehicle crossing providing access to the land from Mitchell Road must be constructed to the satisfaction of the responsible authority. The vehicle crossing must be constructed at the owner's expense and must:

- be sealed no less than 5 metres in length (from the existing edge of road to the lot).;
- include a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm);
- ensure any culverts for the proposed property are located in the clear zone shall be installed with trafficable end walls (refer IDM standard drawing SD 255);
- be in accordance with IDM standard drawing SD 255

A permit must be obtained from the Responsible Authority prior to carrying out of any work within Road Reserve.

**9. Agricultural Victoria Requirements**

The sheep feedlot is to be operated in accordance with the National Procedure and Guidelines for Intensive Sheep and Lamb Feeding Systems, revised Jan 2020

**10. Goulburn Murray Water Requirements**

- a) The lamb-finishing enterprise must be established and operated in accordance with the National procedures and guidelines for intensive sheep and lamb feeding systems – published by Meat & Livestock Australia.
- b) The areas of intensive lamb-management must be located a minimum setback of 30 metres from Goulburn-Murray Water channels.
- c) No solid waste is to be applied to pasture within 100 metres of Goulburn-Murray Water channels.
- d) Dead animals must be disposed of in accordance with Environment Protection Authority publication IWRG641.1 - Farm waste management (June 2019).

**11. Powercor Requirements**

- a) Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- b) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
- c) Keep the easement land clear of any buildings or structures whatsoever.

**12. 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**

**Building Approval Required**

Prior to the commencement of works approved by this permit, building approvals must be obtained.

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## Application Details:

Responsible Officer:	Quinn Maguire
Application Number:	2020-365
Applicants Name:	Onley Consulting P/L
Date Application Received:	13 October 2020
Land/Address:	673 Old Dookie Road & 670 New Dookie Road SHEPPARTON EAST VIC 3631
Zoning and Overlays:	Farming Zone (FZ)  Specific Controls Overlay (SCO)
Why is a permit required (include Permit Triggers):	<b>35.07-3 A permit is required to subdivide land in the FZ</b>
Are there any Restrictive Covenants on the title?	Yes – 173 Agreement AD170246R
<b>Disclosures of conflicts of interest in relation to advice provided in this report</b>	No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

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## Proposal

The proposed development is a re-subdivision of two lots. The development will adjust the location of the shared boundary between the lots, no additional lots will be created. The development will allow for the dwelling at 673 Old Dookie Rd to be excised and agricultural land to be consolidated.

The northern lot is currently 20.34ha, has direct frontage to New Dookie Road and contains an existing dwelling, orchards and agricultural buildings.

The southern lot is currently 9ha, has direct frontage to New Dookie Road and contains an existing dwelling and associated shed/garage.

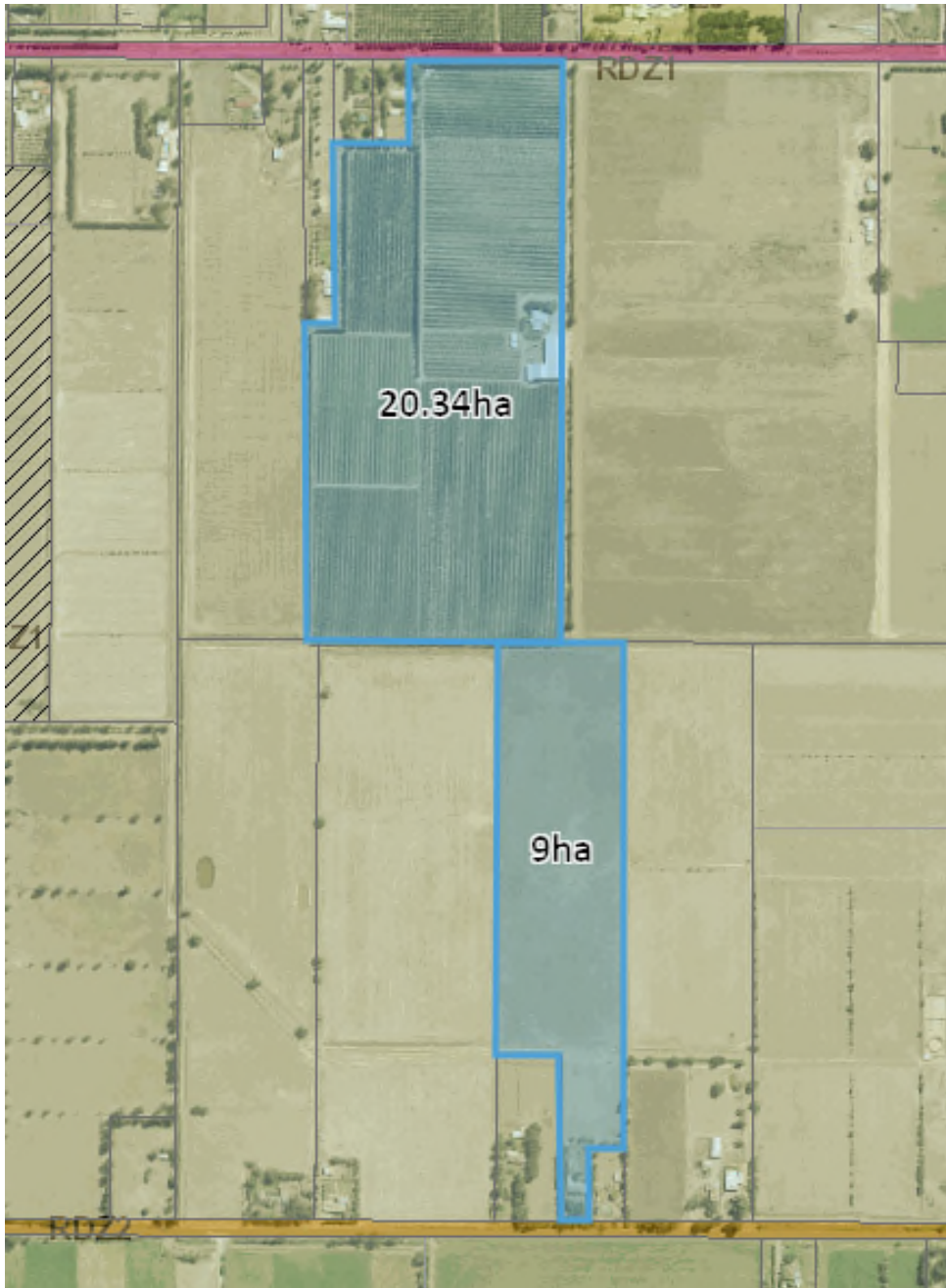
The subdivision will result in the exchange of 7.85ha which will be taken from the southern lot and consolidated into the northern lot with the resultant lots being 28.19ha and 1.15ha respectively. The land being exchanged is a paddock, which appears to be used for small-scale cropping activities.

A permit is required under the provisions of the FZ as the development is a subdivision. The provisions of the FZ allow for lots smaller than 40ha to be created to excise existing dwellings.

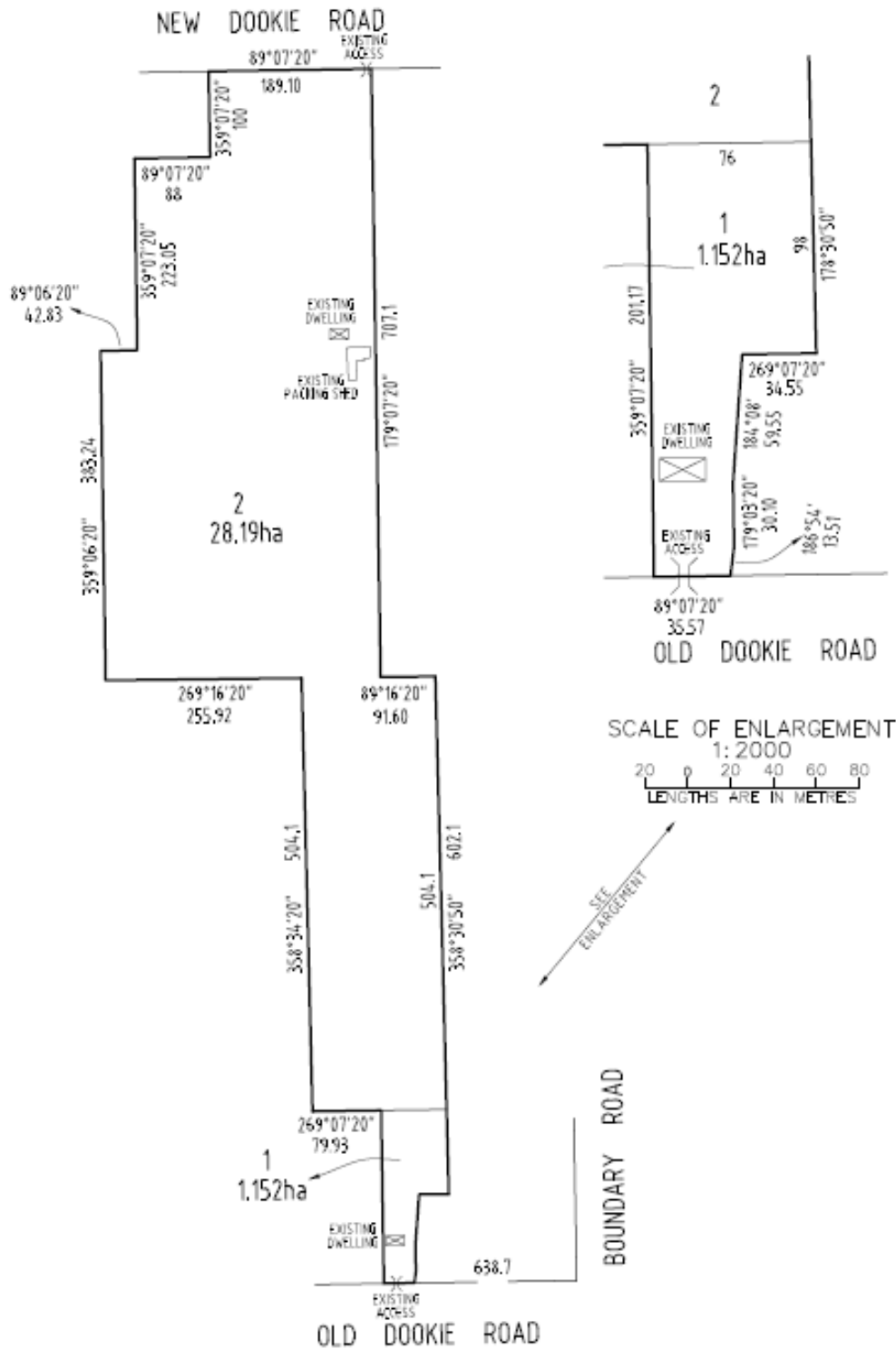
A permit is not required under the provisions of the SCO as they do not relate to this type of development.

This planning permit concerns the subdivision of the site, the application does not include a change of use. If the site is utilised to conduct a Section 1 use (agriculttrue) no planning permit would be required.

Existing lot layout



Proposed lot layout



**Summary of Key Issues**

- The application was advertised and one objection to the application has been received. Grounds of objection relate to impacts resulting from the agricultural use of the northern lot.

- Officers have identified that planning policies support agricultural investments in the FZ.
- The FZ contains a number of decision guidelines which are relevant to the application. Assessments have found that the application positively responds to the decision guidelines and acceptable planning outcomes are achieved.
- Officers have considered the grounds of objection and find that the grounds do not warrant refusal of the application.

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## Recommendation

### Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2020-365** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-3** of the Greater Shepparton Planning Scheme in respect of the land known and described as **673 Old Dookie Road & 670 New Dookie Road SHEPPARTON EAST VIC 3631**, for the **2 Lot Subdivision (re-subdivision)** in accordance with the Notice of Decision and the endorsed plans.

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## Recommendation

### Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2020-365** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-3** of the Greater Shepparton Planning Scheme in respect of the land known and described as **673 Old Dookie Road & 670 New Dookie Road SHEPPARTON EAST VIC 3631**, for the **2 Lot Subdivision (re-subdivision)** in accordance with the Notice of Decision and the endorsed plans.

**Motion: Geraldine Christou**

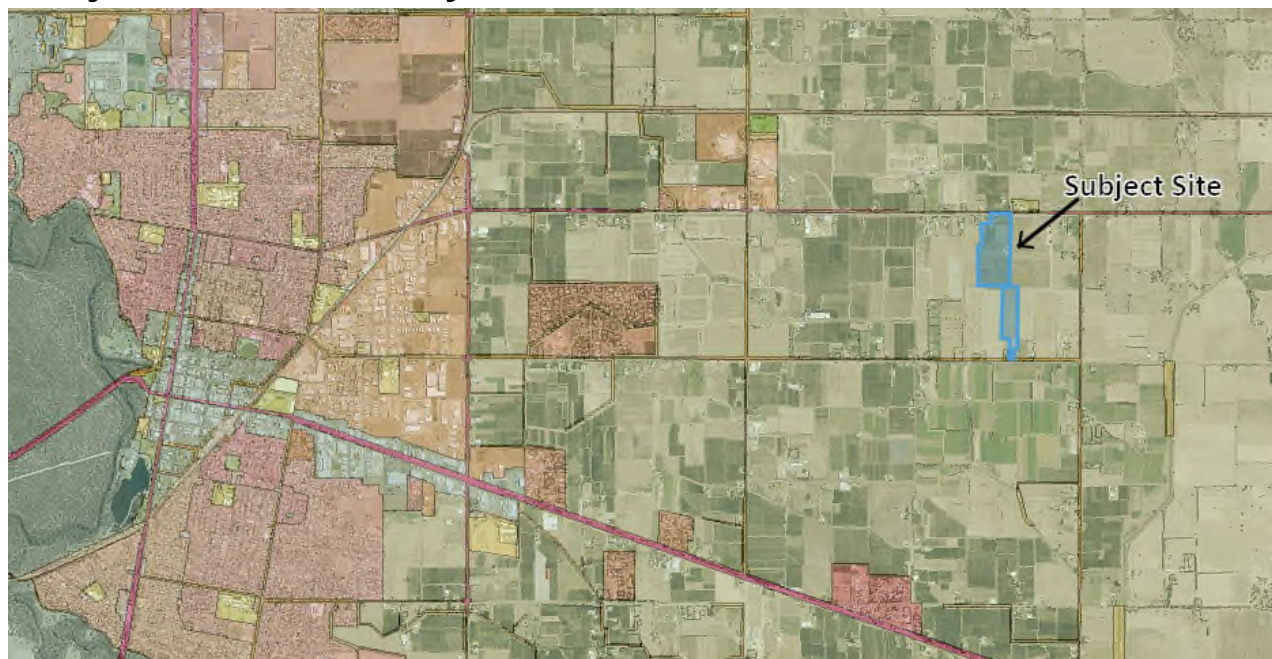
**Second: Nilesh Singh**

**CARRIED**

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## Subject Site & Locality



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

Date: **16/11/2020**                      Time: **4:00** pm

The site has a total area of **293,420** square metres and currently contains:

- Each lot has an existing dwelling
- 670 New Dookie Rd has an existing orchard with a mixture of different fruit trees. The site has an existing dwelling and large agricultural shed both of which are set back a significant distance from the road frontage.
- 673 Old Dookie Rd has an existing dwelling sited close to the front of the lot. To the south of the channel the site has a defined domestic yard area and small paddock, to the north of the channel there is a large vacant paddock.

The main site/locality characteristics are:

- The development is sited within an agricultural area, the agricultural uses on surrounding properties are predominantly related to cropping and orchards
- There are a number of smaller dwelling lots within the vicinity; these are predominantly the result of subdivisions to excise dwellings

The Photos below show the existing site:





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## Permit/Site History

The history of the site includes:

670 New Dookie Rd

- 2003-269 Permit granted in October 2003 for a house lot excision and boundary realignment.
- 2012-69 Permit granted for extension of existing shed

673 Old Dookie Rd

- Nil

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## Further Information

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

What additional information is required? **Covenant/Restriction Details Requested**

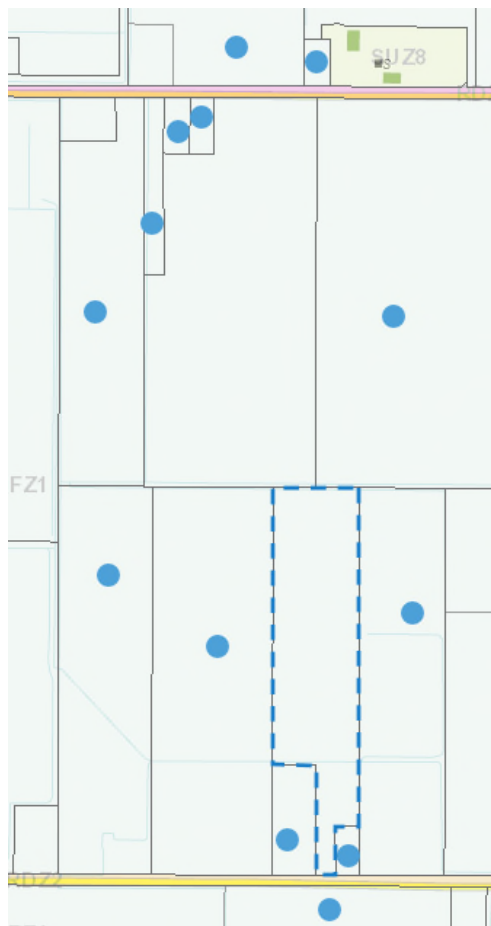
What date was the information requested?: **22/10/2020**

What date was the information received?: **26/10/2020**

## Public Notification

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

- Sending notices to the owners and occupiers of adjoining land.

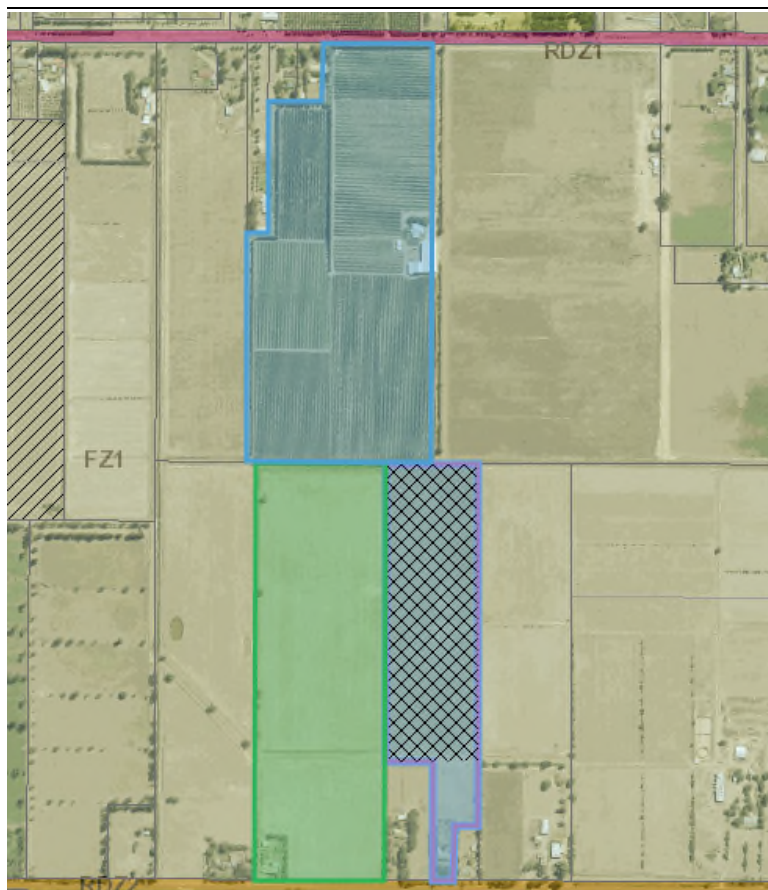


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## Objections

The Council has received 1 objection to date.

The map shows the objectors property in green, 673 Old Dookie Road in purple, 670 New Dookie Road in blue and the area impacted by the subdivision is hatched.



The proposed development is a re-subdivision of two lots to allow for the exchange of a portion of land within the Farming Zone. It is noted that the objectors' concerns mostly related to the potential extension of the existing orchard as a result of the subdivision. These were impacts from both the existing use of the site and potential impacts as the operation encroaches further along their property boundary.

The development is within the Farming Zone, the purpose of this zone is primarily to support and facilitate agricultural uses. As such, use of the land for agriculture including an orchard is a Section 1 use and does not require a planning permit to operate. Because of this Council officers are limited in their scope of what can be considered in this assessment.

The objectors noted they may potentially agree to the subdivision with the following conditions:

- *No installation or use of hail guns, remove hail guns from rear orchard also.*
- *No use of spray*
- *Establish and maintain three rows of native trees to create a buffer zone from any spray drift to protect humans, livestock and bees.*

This information was provided as part of the objection to the applicant for consideration, the applicant did provide a response to the objection but they did not voluntarily agree to the inclusion of these conditions on their permit.

Council officers did not consider the objectors conditions to be reasonable and therefore have decided not included them as part of the permit conditions.

The key issues that were raised in the objections are;

<b>Ground of objection</b>	<b>Officers Response</b>
<p>Extension of orchard will reduce objectors property value</p>	<p>There is no evidence that the proposed subdivision will have any impact on neighbouring property values.</p> <p>All related properties are within the Farming Zone where agricultural uses are permitted without need for a permit under Section 1. It is a reasonable assumption for a potential purchaser of a property in the Farming Zone that that land in this zone may be used for agricultural production even if not currently used for such activities.</p>
<p>Impacts from existing hail gun and potential for additional hail guns</p>	<p>The owners of 670 New Dookie have a hail gun currently installed within their orchard. The applicant has provided a response confirming that Agriculture Victoria, EPA and Greater Shepparton City Council were consulted prior to purchasing and installing the hail cannon.</p> <p>Installation of a hail gun as part of an agricultural use in this area does not require a planning permit. It is noted that there are a number of orchards within the Council area that operate hail cannons. The current permit application is not related to the existing hail gun.</p> <p>The applicant has not provided any plans for additional hail guns or relocation of the existing hail gun.</p>
<p>Impacts from spraying of crops</p>	<p>Spraying of crops is common within the region. The applicant has provided advice that the owner of 670 New Dookie works “with an agronomist from IK Caldwell, in line with his advice and our client’s wish to be as environmentally friendly as possible, our client runs an IPM (Integrated Pest Management) friendly operation. The whole idea of the IPM system is to put nature before chemicals.” It is unable to be determined whether previous sprays have been for pest management or for other purposes (e.g. fertilisation).</p> <p>Assessing Officers engaged with Council’s Environmental Health Department to discuss spray drift concerns and potential impacts.</p> <p>The ‘Agricultural and Veterinary Chemicals (Control of Use) Act’ (1992) and associated regulations imposes controls in relation to the use and application of agricultural chemicals,</p>

	<p>fertilisers and stock foods. Spraying of crops is considered a reasonable activity in the Farming Zone. If the activities are undertaken in compliance with the Act, it is considered that any impacts would be reasonably mitigated including spray drifts.</p> <p>Agriculture Victoria has a number of guides for the use of chemicals available on their website.</p> <p>This application will not affect the use of chemicals on the site. Any non-compliant chemical use would be considered as a matter separate to this application and would need to be investigated by the relevant enforcement body.</p>
<p>General impacts from agricultural use of the site on their property</p>	<p>All related properties are within the Farming Zone where agricultural uses are permitted without need for a permit under Section 1. It is a reasonable assumption for that a property in the Farming Zone may be used for agricultural production.</p> <p>In line with this, Officers also consider that the amenity expected by a dwelling in the FZ should be lower than what a dwelling in a residential zone is afforded.</p> <p>It is acknowledged that there are an additional 13 lots within 1.5km of the objectors property operating as orchards, as well as numerous lot with cropping and grazing activities. While some of these lots are not located as close to the objector as the subject site, it is noted that agricultural uses are prevalent in the area. Because of this it would be reasonable to assume any dwelling in this area would experience some level of amenity impacts from these agricultural uses.</p>
<p>Subdivision may prevent objectors from spraying to manage weeds</p>	<p>As mentioned above, any spraying of weeds would need to be undertaken in accordance with the relevant guidelines. As long as the relevant guidelines are being followed, Council officers are not aware of any additional requirements that would be applicable to spraying of weeds on a property neighbouring an orchard.</p>
<p>Impacts on objectors future plans to farm organic honey from their property</p>	<p>ACO Certification Ltd is Australia's largest certifier for organic and biodynamic produce, their website stated the following about organic bee keeping:</p>

	<p><i>“Apiary locations shall not be located within a 5 kilometer radius of pollution sources which may cause contamination of honey by returning and/or actively foraging bees. Such sources may include conventional orchards and crops, livestock dip sites, urban centres, sanitary landfills, garbage dumps, contaminated water, golf courses and GMO crops.”</i></p> <p>The existing orchard shares a boundary with the objectors property and length of shared boundary will be increased by the proposal. Currently the furthest setback from an orchard that could be achieved on the objectors property is approx. 700m along the south-east boundary of the site (there is second orchard 650m to the west). It is also acknowledged that there are an additional 13 lots within 1.5km of the objectors property currently operating as orchards, and many more within a 5km radius of the site. There are currently significant numbers of established orchards and other potential sources of contamination within any bees’ potential foraging area.</p> <p>Because of this, it is considered highly unlikely that the proposed subdivision will affect the potential use of the objector’s property for organic bee keeping.</p>
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## **Title Details**

The title contains a Section 173 Agreement. The agreement was created as part of planning permit 2003-269 to prevent further subdivision of the lot. On consideration of the development the following was found;

- The development will allow for the excision of a dwelling from a portion of farming land
- The agreement only burdens the northern lot (670 New Dookie Rd)
- The development will increase the size of the burdened lot
- The development will not result in any additional lots
- The development will directly support an existing farming use (orchard)

Because of this, it is considered reasonable to allow for a removal of the existing 173 on the site. However, it will be included in any permit conditions that a new 173 agreement be entered into to prevent any further subdivision of either lot created by this permit.

## Consultation

Consultation was not undertaken.

## Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	No section 55 referrals required
Section 52 Notices	<p><b>Goulburn Murray Water</b></p> <p>GMW understands the application seeks approval for a 2 lot re-subdivision. GMW's No. 15A/4 Channel and No. 2/14 traverse the subject site and are currently covered by sufficient easement. Subdivision of this property will adopt the easement boundary of the No 2/14 Channel as a subdivisional boundary, and create a lot on each side of the channel. If the lot(s) are in different ownership, Goulburn Murray Water's obligation to maintain any channel crossings will cease in accordance with Section 156 (2)(a) of the Water Act 1989 will cease.</p> <p>Based on the information provided and in accordance with Section 56 (b) of <i>the Planning and Environment Act 1987</i>, Goulburn-Murray Water has no objection to this planning permit being granted subject to the following conditions:</p> <ol style="list-style-type: none"> <li>1. Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.</li> <li>2. The existing on-site wastewater treatment and disposal systems must be wholly contained within the boundaries of the new lots created by subdivision.</li> <li>3. Any Goulburn Murray Water existing easement(s)/reserve(s) pertaining to Goulburn Murray Water assets affected by the subdivision must remain and be shown on any Plan of Subdivision submitted for Certification.</li> <li>4. Any water supply easement(s) in favour of other lots affected by the subdivision must remain and be shown on any Plan of Subdivision submitted for Certification. Unless it can be demonstrated to Goulburn Murray Water's reasonable satisfaction the means by which no easement is required.</li> <li>5. For subdivision of property holding delivery shares the applicant must either:                         <ol style="list-style-type: none"> <li>a) make application to Goulburn Murray Water pursuant to sections 224 and 229 of the Water Act 1989 to: terminate or transfer the delivery shares in relation to the property; make a declaration that the property cease to be a serviced property (to effect excision from the district); or alternatively</li> <li>b) demonstrate to Goulburn Murray Water reasonable satisfaction the means by which a Goulburn Murray Water water supply will be metered and delivered to the lots created by the subdivision, bearing in mind requirements for water use licences and annual use limits.</li> </ol> </li> </ol> <p>Planning Notes:</p> <ul style="list-style-type: none"> <li>○ Any enquiries or applications regarding access to water for the proposal should be made to Goulburn-Murray Water by calling 1800 013 357. The procurement of water for the proposal is the responsibility of the applicant and not addressed through the planning permit referrals process.</li> <li>○ Subdivision of this property will adopt the easement boundary of the No. 2/14 Channel as a subdivisional boundary, and create a lot on each side of the channel. If the lot(s) are in</li> </ul>



	different ownership, Goulburn Murray Water's obligation to maintain any channel crossings will cease in accordance with Section 156 (2)(a) of the Water Act 1989 will cease.
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Internal Council Notices	Advice/Response/Conditions
Development Engineers	<p><b><u>ENGINEERING CONDITION:</u></b></p> <p><b><u>Rural Vehicle Crossing</u></b></p> <ul style="list-style-type: none"> <li>• Before the Statement of Compliance the vehicle crossings providing access to the land must be constructed at a location and of dimensions and standard to the satisfaction of the responsible authority. Vehicle crossings must be constructed at the owner's expense.</li> <li>• For the vehicle crossings for both lots must be             <ul style="list-style-type: none"> <li>• where it abuts an existing sealed road, the pavement is to be sealed no less than 5 metres in length (from the existing edge of road to the new lot).;</li> <li>• include a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm);</li> <li>• Culverts located in the clear zone shall be installed with trafficable end walls (refer IDM standard drawing SD 255);</li> <li>• The final location of the crossing is to be approved by the responsible authority via a 'Works within the Roads Reserve' (Road Opening) permit.</li> </ul> </li> </ul> <p>All bridges and crossings must be designed and constructed to carry a vehicle weighing a minimum of 15 tonnes and be a minimum of 3 metres in width.</p> <p><b><u>Rural Drainage Plan</u></b></p> <p>Before the plan of subdivision is certified under the Subdivision Act 1988, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit. The plans must be drawn by a suitably qualified person or organisation to scale with dimensions. The plans must include</p> <ol style="list-style-type: none"> <li>a) direction of stormwater runoff, demonstrated by contours or levels.</li> <li>b) independent drainage for each lot to the legal point of discharge</li> <li>c) how the discharge rate from the new properties has no detrimental effect on the adjacent properties</li> <li>d) how will stormwater retain on property</li> </ol> <p><b><u>Rural Drainage – Works</u></b></p> <p>Before a Statement of Compliance is issued all stormwater and surface water drainage from the land, buildings and works must be retained on-site to the satisfaction of the Responsible Authority/Goulburn Murray Water. Effluent and polluted water must not be discharged to Council's stormwater drainage system from the land.</p> <p><b><u>NOTATIONS</u></b></p> <p><b><u>Works within Road Reserves Permit Required</u></b></p> <p>A permit must be obtained from the Responsible Authority prior to carrying out of any work within Road Reserve.</p> <p><b><u>Building Approval Required</u></b></p> <p>Prior to the commencement of works approved by this permit, building approvals must be obtained</p> <p><b><u>Flooding</u></b></p> <p>The land may be subject to flooding and/or associated minimum floor level requirements for any new construction. The owner and any other interested party, must make their own enquires as to whether the proposed development is affected by flooding requirements.</p>



Environmental Health	No concerns raised, no conditions required
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## Assessment

### The zoning of the land

#### 35.07 FARMING ZONE

##### Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- 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.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

#### 35.07-6 Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

##### General issues

- The Municipal Planning Strategy and the Planning Policy Framework.
- 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.

##### 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.

#### **Relevant overlay provisions**

No relevant overlay provisions

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

##### **Clause 14.01-1S Protection of agricultural land**

In considering a proposal to use, subdivide or develop agricultural land, consider the:

- Desirability and impacts of removing the land from primary production, given its agricultural productivity.
- Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
- Compatibility between the proposed or likely development and the existing use of the surrounding land.
- The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
- Land capability.

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

##### **Clause 21.06-1 Agriculture**

Council's Rural Land Use Strategy encourages farm tenements and property boundaries to consolidate and enlarge in line with the trends in agriculture associated with productivity and viability.

Consolidation areas being areas that support existing farm businesses to operate and expand. Consolidation areas typically include land with good soils and include many of the former closer settlement areas, but their lot sizes are no longer reflective of current farm sizes. Consolidation areas are considered to provide opportunities for development of growing agricultural enterprises that can, over time, expand and consolidate through a process of property restructure. In this regard 'consolidation' includes the consolidation of land or the consolidation of farming enterprises through acquisition of non-contiguous land to increase farm size. The development of additional dwellings threatens expanding agricultural enterprises and accordingly, new dwellings within these areas are discouraged. The use of re-subdivision and excisions within consolidation areas will be considered in recognition that the excision of a dwelling from a farm can provide businesses an opportunity to consolidate property holdings based on the value of land for agriculture.

#### **Clause 21.06-2 – Subdivision in Rural Areas**

The only circumstance in which Council will contemplate a small lot subdivision is if it leads to the consolidation of rural landholdings so as to promote the viability of agriculture. It is acknowledged that in some circumstances, small lot subdivision can assist the process of consolidation as it enables the farming land to be priced at its agricultural value rather than have it distorted by its housing value. While small lot subdivisions are discouraged in the municipality, they will be considered on a case by case basis if the outcome is farm consolidation.

#### **Relevant Particular Provisions**

There are no relevant particular provisions.

#### **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.

#### **65.02 Approval of an application to subdivide land**

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.

- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of any body corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

## **Officers Assessment**

### Subdivision of Land

Officers consider the proposed subdivision to generally comply with the provisions of the Planning Scheme. The development involves a re-subdivision of small lots. The proposed dwelling lot will be smaller than 2ha, which is supported by the LPPF. The proposed balance lot will be smaller than 40ha; however, as the development will allow for the transfer of land for agricultural purposes this is considered reasonable.

### Conflict between dwellings and the proposal

The objections to this application raise the issue of the potential expansion of the orchard affecting the amenity of an existing dwelling in the FZ. Officers acknowledge that this proposal may facilitate more activity than the previous use of the land, it is also acknowledged that this application relates to a subdivision and not a change of use for the site, in this way Council is limited in their assessment of the scope of impacts.

Officers consider that the FZ is a working zone where activities undertaken will not always be compatible with rural lifestyle living. Greater Shepparton has encountered the conflict between agriculture and rural lifestyle expectations on many occasions and the associated decision making difficulties.

Officers are of the view that ongoing agricultural investment in the municipality needs to be encouraged and facilitated.

### Farming Zone Decision Guidelines

The proposed development is considered to be generally in accordance with the Municipal Planning Strategy and the Planning Policy Framework. The development is considered to relate to the sustainable management of agricultural land within the Farming Zone, as it is expected to support and enhance agricultural production in the area through consolidation of usable farming land. The site is within the Farming Zone, while an objection has been received to the proposal it is considered that as the site is within an agricultural area and the proposal of a subdivision is compatible with adjoining and nearby land uses. The development will make use of existing infrastructure and services.

The subdivision is considered to support and enhance agricultural production in the area through consolidation of usable farming land and excision of an existing dwelling from a small farming lot. There are no impacts on the land foreseen, and will aid in reclaiming land which had been removed from agricultural production that would currently not have the capacity to sustain agricultural use. The development is not foreseen to potentially limit the operation and expansion of adjoining and nearby agricultural uses as any use of the affected land as an orchard would currently be permissible on the site without need for a permit. The impacted land is considered to be suitable for agricultural use, the site has existing access to water and will be able to access to rural infrastructure. The land to be exchanged is too small to be independently operated as viable farmland; however, the proposed development will allow it to be utilised as part of a larger operation.

The subdivision is not expected to increase fragmentation of agricultural land, the development will not create any additional housing opportunities (as both lots have existing dwellings) and no new lots will be created. The dwelling lot is proposed to be 1.15ha; this is considered to be in line with Council's policy for dwelling excision. The residential lot is sited between two similarly sized lots with dwellings and will still maintain a large rear yard as a buffer from agricultural activities at the rear of the site. The excision of the dwelling is not foreseen to create any significant land-use conflicts, additionally any permit would include a condition that a 173 Agreement be placed on the title making any owners aware the site is in an agricultural area and may be subject to related nuisance. It is noted that there are a large number similar lots along New Dookie Rd with large farming lots to the rear due to historical dwelling excisions. As the dwelling is existing and no additional dwelling entitlements are to be created as part of this subdivision it is not considered that the development will impact on the concentration or proliferation of dwellings in the area.

There are no environmental issues identified as a result of this application. There is no proposed vegetation clearing and there are existing fences on site. The site has no natural waterways. The development is located within a highly modified and disturbed environment, which has been historically utilised for farming.

The development is not foreseen to result in significant negative impacts and will be generally consistent with the objectives of the zone and the Planning Policy Framework. Conditions such as a 173 agreement to prevent any further subdivision will aid in preventing any un-foreseen impacts in the future.

**Relevant incorporated or reference documents**

There are no other relevant incorporated or reference documents.

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

There are no other relevant adopted state policies or reference documents.

**Relevant Planning Scheme amendments**

There are no relevant planning scheme amendments.

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

There are no significant social and economic effects

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

There are no other relevant acts that relate to the application

## **Conclusion**

Officers having undertaken an assessment of the application have decided that the application achieves acceptable planning outcomes by supporting farm expansion in the Farming Zone. A notice of decision to grant a planning permit should issue.

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# Draft Notice Of Decision

<b>APPLICATION NO:</b>	<b>2020-365</b>
<b>PLANNING SCHEME:</b>	<b>GREATER SHEPPARTON PLANNING SCHEME</b>
<b>RESPONSIBLE AUTHORITY:</b>	<b>GREATER SHEPPARTON CITY COUNCIL</b>
<b>THE RESPONSIBLE AUTHORITY HAS DECIDED TO GRANT A PERMIT.</b>	
<b>THE PERMIT HAS NOT BEEN ISSUED.</b>	
<b>ADDRESS OF THE LAND:</b>	<b>673 OLD DOOKIE ROAD &amp; 670 NEW DOOKIE ROAD SHEPPARTON EAST VIC 3631</b>
<b>WHAT THE PERMIT WILL ALLOW:</b>	<b>2 LOT SUBDIVISION (RE-SUBDIVISION)</b>

## WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. **Layout Not Altered**

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

2. **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:

- e) **The lots created may not be further subdivided so as to increase the number of lots.**
- f) **That the owner of Lot 1 (being the small lot as shown on the Proposed Plan of Subdivision) acknowledges and accepts the possibility of nuisance from nearby agricultural operations including animal husbandry, spray drift, agricultural machinery use, pumps, trucks and associated hours of operation.**

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.

3. **Rural Drainage Plan**

Before the plan of subdivision is certified under the Subdivision Act 1988, plans to the

satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit. The plans must be drawn by a suitably qualified person or organisation to scale with dimensions. The plans must include

- a) direction of stormwater runoff, demonstrated by contours or levels.
- b) independent drainage for each lot to the legal point of discharge
- c) how the discharge rate from the new properties has no detrimental effect on the adjacent properties
- d) how will stormwater retain on property

Before a Statement of Compliance is issued all works required by this plan must be completed to the satisfaction of the Responsible Authority/Goulburn Murray Water. Effluent and polluted water must not be discharged to Council's stormwater drainage system from the land.

#### 4. **Rural Vehicle Crossing**

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

The vehicle crossings for both lots must:

- have a sealed pavement no less than 5 metres in length (from the existing edge of road to the new lot).;
- include a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm);
- ensure any culverts located in the clear zone are be installed with trafficable end walls (refer IDM standard drawing SD 255);

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

All bridges and crossings must be designed and constructed to carry a vehicle weighing a minimum of 15 tonnes and be a minimum of 3 metres in width.

#### 5. **Goulburn Murray Water**

- c) Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
- d) The existing on-site wastewater treatment and disposal systems must be wholly contained within the boundaries of the new lots created by subdivision.
- e) Any Goulburn Murray Water existing easement(s)/reserve(s) pertaining to Goulburn Murray Water assets affected by the subdivision must remain and be shown on any Plan of Subdivision submitted for Certification.
- f) Any water supply easement(s) in favour of other lots affected by the subdivision must remain and be shown on any Plan of Subdivision submitted for Certification. Unless it can be demonstrated to Goulburn Murray Water's reasonable satisfaction the means by which no easement is required.

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

## **6. Standard Referral Authority Requirements**

- a) The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
- b) All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- c) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

## **7. Time for Starting and Completing a Subdivision**

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

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

## **NOTATIONS**

### **Works within Road Reserves Permit Required**

A permit must be obtained from the Responsible Authority prior to carrying out of any work within Road Reserve.

### **Goulburn Murray Water Notations**

1. Any enquiries or applications regarding access to water for the proposal should be made to Goulburn-Murray Water by calling 1800 013 357. The procurement of water for the proposal is the responsibility of the applicant and not addressed through the planning permit referrals process.
2. Subdivision of this property will adopt the easement boundary of the No. 2/14 Channel as a subdivisional boundary, and create a lot on each side of the channel. If the lot(s) are in different ownership, Goulburn Murray Water's obligation to maintain any channel crossings will cease in accordance with Section 156 (2)(a) of the Water Act 1989 will cease.

