

# **CONFIRMED MINUTES**

**FOR THE  
GREATER SHEPPARTON CITY COUNCIL**

## **DEVELOPMENT HEARINGS PANEL**

**Meeting No. 7/2012**

**HELD ON  
THURSDAY 9 AUGUST 2012  
AT 10.00AM**

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

**CHAIR  
DEAN ROCHFORD**

**COMMITTEE MEMBERS PRESENT: Dean Rochfort, Colin Kalms, Braydon Aitken,  
Jonathan Griffin**

**OFFICERS: Ronan Murphy – Senior Statutory Planner  
Andrew Dainton – Senior Statutory Planner  
Malcolm France – Development Officer  
Steve Bugoss – Timer and Minute Taker**

## **1. ACKNOWLEDGEMENT**

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

## **2. APOLOGIES**

Claire Tarelli

Moved by Colin Kalms and seconded by Braydon Aitken that the apology be accepted.

Carried

## **3. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

Moved by Braydon Aitken and seconded by Jonathan Griffin that the minutes of previous meeting held on 26 July 2012 be adopted.

Carried.

## **4. DECLARATIONS OF CONFLICTS OF INTEREST**

None

## **5. MATTERS FOR CONSIDERATION**

One item listed for consideration.

## **6. LATE REPORTS**

None

## **7. NEXT MEETING**

23 August 2012.

## INDEX

<u>Application No.</u>	<u>Subject Address:</u>	<u>Proposal:</u>	<u>Page No.</u>
2012-68	12-22 McLennan St, Mooroopna	Convenience Restaurant (McDonalds)	3

## Application Details:

Responsible Officer:	Ronan Murphy
Application Number:	2012-68
Applicants Name:	McDonald's Australia Limited and C.P.G Australia Pty Ltd
Date Application Received:	9 August 2012
Statutory Days:	151
Land/Address:	12-22 McLennan Street, Mooroopna
Zoning and Overlays:	Business 1 Zone (B1Z) Land Subject to Inundation Overlay Heritage Overlay Floodway Overlay Road Zone Category 1 (Adjacent)
Why is a permit required (include Permit Triggers):	34.01-4 Buildings and Works in the Business 1 Zone 43.01-1 Buildings and Works in the Heritage Overlay 44.03-1 Buildings and Works in the Floodway Overlay 44.04-1 Buildings and Works in the Land Subject to Inundation Overlay 52.29 Creation of an access onto a Road Zone Category 1 52.34-2 Dispensation in end of trip bicycle facilities
Are there any Restrictive Covenants on the title?	Nil

## Proposal

The proposed development comprises of:

- A convenience restaurant with the capacity to seat a maximum of 71 patrons internally and 38 patrons externally. It is proposed that the restaurant would have a 24 hour use including a 24 hour drive thru element.
- The restaurant would be located to the north western corner of the site. It is noted that the drive thru facilities would circulate in a clock-wise direction along the western and northern boundaries of the site.
- The dining service area (including the Mc Cafe element) would be orientated to the McLennan Street/ Elisabeth Street intersections.
- The proposed building would have a height of 5.5 metres and would be set back approximately 35 metres from the Elisabeth Street boundary (Eastern boundary) and 25 metres from the McLennan Street (Southern boundary).
- The proposed development includes the provision of 50 car parking spaces.
- The proposed development also includes 30 signs, 28 of the signs are internal to the site and are general traffic and informative/ safety signs. However there is also a large promotional signs (pylon sign) on the eastern corner of the site.

Pursuant to Clause 34.01-4 a Planning Permit is required for buildings and works in the Business 1 Zone. It is noted that a Planning Permit is not required for the use of the land for a Convenience Restaurant.

A Planning Permit is also required pursuant to Clause 43.01-1 of the Planning Scheme for Buildings and Works in the Heritage Overlay and 44.03-1 of the Planning Scheme for Buildings and Works in the Floodway Overlay.

Clause 44.04-1 triggers a Planning Permit for buildings and works in the Land Subject to Inundation Overlay.

Finally the requirement for a Planning Permit is triggered by Clause 52.29 for the creation of an access onto a Road Zone Category 1 and Clause 52.34-1 for the dispensation in end of trip bicycle facilities.

It is considered that the proposed development is appropriate having regard to

- The design of the proposed development is considered contemporary and addresses the McLennan Street/ Elisabeth Streets in an appropriate manner. It is considered that the design of the building would enhance the streetscape within Mooroopna;
- The application was referred to VicRoads who after significant consultation have not objected to the proposed development, subject to Conditions being placed on the Permit. In light of this it is considered that the proposed development would not have a detrimental impact on traffic safety in the area.
- The proposed development provides appropriate landscaping which would enhance the appearance of the site and make a positive contribution to the streetscape in this area of Mooroopna.

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## Summary of Key Issues

- A Planning Permit is required for buildings and works for the proposed development pursuant to Clause 34.01-4, 43.01-1, 44.03-1, 44.04-1, 52.05, 52.06 and 52.29, 52.34-2 of the Planning Scheme.
  - The application was notified to the public and initially received 8 letters of objection.
  - In response to the above objections Council's Planning Department conducted a mediation session to allow the objectors and applicants to firstly fully inform the objectors of the application and secondly to determine if there is any common ground between the applicants and the objectors.
  - The session was held on 19 April 2012 and was chaired by Jon Griffin, Team Leader Development Engineering. It is noted that all of the objectors and applicants attended the mediation session.
  - 4 of the objections have been withdrawn.
  - The proposal was referred to the appropriate authorities being: Goulburn Broken Catchment Management Authority, Goulburn Valley Water and VicRoads.
  - Both Goulburn Broken Catchment Management Authority and Goulburn Valley Water did not object to the proposed development, subject to the inclusion of conditions to be attached to the Permit.
  - The application was subject to extensive consultation with VicRoads who have not objected to the proposed development subject to conditions.
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## Moved by Colin Kalms and Seconded by Braydon Aitken

That Council having caused notice of Planning Application No. **2012-68** 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 34.01-4 , 43.01-1, 44.03-1 44.04-1 52.29, 52.34-2 of the Greater Shepparton Planning Scheme in respect of the land known and described as **12-22 McLennan Street, Mooroopna**, for the **Buildings and works in the Business 1 Zone for a convenience restaurant (McDonalds) with associated car parking, signage and landscaping in the Heritage Overlay, Land Subject to Inundation Overlay and Floodway Overlay** and variation of bicycle provisions in accordance with the Notice of Decision and the endorsed plans and the inclusion and removal of the following conditions.

1. Removal of condition 1. b) From the Notice of Decision.
2. Additional condition that the applicant installs directional signage prior to commencement of use to the satisfaction of the Responsible Authority and VicRoads.
3. Additional condition that a litter maintenance plan be provided prior to commencement to the satisfaction of the Responsible Authority.
4. Additional condition regarding roof plant being screened from public view.

## CARRIED

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### Subject Site & Locality

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

Date: 24/1/12

Time: 12.24 pm

The site has a total area of approximately 3,701 square metres and currently contains:

The main site/locality characteristics are:

The subject site is located on the eastern end of Mooroopna CBD at what could be described as the entrance to Mooroopna.

The site is bounded by lands within the Residential 1 Zone to the north (Elizabeth Street), to the east (on the eastern side of Elizabeth Street) by the former Mooroopna Hospital and vet, to the west by an existing dwelling, which is immediately proximate to the subject lands. Further to the west are Freers Panel Works and an Opportunity Shop. The southern boundary is made up by McLennan Street. On the opposite of McLennan Street is Park and service road.

The Photos below show the existing site:



## Permit/Site History

The applicants and Councils Planning Department had two pre planning meetings regarding the proposed development.

The first meeting took place on 1 December 2011.

This was an initial meeting regarding the design of the proposed development. Council requested the following amendments to the initial design:

- The building should front onto McLennan Street and the drive thru element should be to the rear of the building;
- Appropriate landscape screening should be provided to the front of the site.

A second meeting to review the layout took place on 15 December 2011.

- An amended plan was provided showing the building fronting onto McLennan Street with the drive thru element to the rear of the building was tabled.
- Appropriate landscaping was shown

The applicants were advised that this was the preferred design of the proposal. The application as lodged reflected this.

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## Further Information

Was further information requested for this application? **Yes**. The applicant was requested to provide an updated Traffic Impact Assessment. The lapse date given was 4 June 2012.

What date was the further information requested?: **3/5/12**

What date was the further information received?: **4/6/12**

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## Public Notification

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

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

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## Objections

The Council has received seven objections to date. However, it is noted that on negotiation four objections were withdrawn, leaving four objections.



The key issues that were raised in the objections are.

<b>Ground of objection</b>	<b>Officers response</b>
<p>Traffic movement including junctions at McLennan Street/ Elizabeth Street</p>	<p>It is considered that an acceptable traffic outcome has been reached through negotiations between the applicants VicRoads and Council staff. It is also noted that VicRoads have accepted that the proposed development would not have a detrimental impact on traffic on surrounding streets. It is therefore considered that the proposed development has satisfied any traffic related concerns. It is considered that a desirable outcome has been achieved.</p>
<p>Set aback to and effect on the war memorial</p>	<p>It is considered that the set back from the war memorial is appropriate. The distance from the memorial to the front of the restaurant would be approximately 90 metres to the west of the restaurant. It is further considered that the proposed landscaping would soften the impact of the building from the street.</p>
<p>Mc Donald's as a bad neighbour and increase in anti-social behaviour</p>	<p>It is noted that the applicants have committed to maintain their site to a high standard and have committed to a litter patrol and maintenance schedule. A Condition will be attached to the Permit to ensure that both the litter patrol and maintenance schedule are adhered to.</p> <p>It is also noted that mechanical equipment will be screened by fencing to minimize visibility.</p> <p>It is noted that the proposed development includes a 24 hour use, which included the drive thru element. In this regard it is noted that the applicants are proposing to provide an acoustic wall which would reduce any noise related elements associated with the development to residential area to the north of the site. It is considered that this provision would appropriately alleviate noise related</p>

	impacts.
Unsafe pedestrian across the site.	The proposed pedestrian access is considered to be appropriately located and would not have any safety issues. The applicant has proposed to provide a new 1200 millimetre wide access path from the southern boundary (McLennan Street) to the entrance to the Restaurant. This is considered to be appropriate.

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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:

In response to the above objections the Council's Planning Department conducted a mediation session to allow the objectors and applicants to firstly fully inform the objectors of the application and secondly to determine if there is any common ground between the applicants and the objectors.

The session was held on 19 April 2012 and was chaired by Jon Griffin, Team Leader Development Engineering. It is noted that all of the objectors and applicants attended the mediation session.

It is considered that all of the objectors have been fully informed of the application and have had ample opportunity to voice their concerns.

Further to the above, it is noted that 4 of the objections have been withdrawn.

The application was also the subject of extensive negotiations with VicRoads to ensure that the proposed development would not have a detrimental impact on traffic movements in the area.

In this regard it is noted that the main areas for negotiation for negotiation were based on a Further Information request made by VicRoads (dated 26 April 2012) as outlined below:

- 1) *Revised Traffic Impact Assessment Report (TIAR) in accordance with VicRoads' Guidelines for Transport Impact Assessment Report (attached) to the satisfaction of VicRoads.*
- 2) *The Traffic Impact Assessment Report (TIAR) prepared by GTA Consultants dated 5 March 2012 is not adequate and needs to be amended to include:*
  - a. *Details of the proposed treatments in accordance with the Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings, November 2007 Edition and Austroads Guide to Road Design - Part 4A Unsignalised and Signalised Intersections, August 2009.*

- b. Scaled plans showing the existing and proposed Arterial Road features including pavement, shoulders, through and turn lanes, pavement marking, and how existing or proposed access intersection operate and interact with the Arterial Road network. The functional layout plans must show that all vehicles of a type that could reasonably be expected to access the subject land can turn in and out of local roads from the Arterial Road network.*

*It was further noted by VicRoads that:*

- 1) The report fails to acknowledge the AUSTROADS guidelines in relation to the proposed traffic impact and any mitigating works that may be required. VicRoads need the TIAR to be reviewed in accordance with VicRoads TIAR guidelines (attached).*
- 2) A raised centre median will be required along Midland Highway from O'Brien Street signalised intersection through to the Elizabeth Street intersection; to prevent right turn movements in and out of the subject land from Midland Highway.*
- 3) Traffic movements at the intersection of Elizabeth Street are of concern and needs to be addressed in the revised TIAR in accordance with the AUSTROADS guidelines. In particular, the number of queuing traffic lanes in Elizabeth Street and their movement out on the Midland Highway. The report does not indicate how many lanes are proposed on Elizabeth Street, on approach to the intersection and does not address potential sight line issues associated with right and left turning movements from Elizabeth Street, if two vehicles are queued parallel to each other at the intersection.*
- 4) The TIAR shall also demonstrate that the existing arterial road infrastructure can cater for the increase in traffic generated by the development. In particular, the storage capacity for the right turn movements into Elizabeth Street from the Midland Highway will operate satisfactorily after full development. It is noted that there is discussion within the report regarding queue lengths at the Elizabeth Street intersection but the conclusion does not include any details regarding the results of the SIDRA Analysis and in particular queue lengths at this intersection.*

Further to the above VicRoads provided a response to the further information lodged by letter dated 25 May 2012 as set out below:

1. VicRoads indicated that it has concerns with vehicles potentially performing right hand turns in and out of the proposed development on the Midland Highway. To address this concern a raised median was suggested as being required between Elizabeth Street and O'Brien Street Intersections. The concept layout for the median in the revised Transport Impact Assessment Report (TIAR) only provided a short median opposite the proposed access. VicRoads is concerned that this will not provide an adequate deterrent for motorists wanting to turn right to enter and exit the proposed Midland Highway access.

Therefore, VicRoads requests that the report address these concerns by extending the proposed median in a westerly direction to at least the western boundary of the property or preferably to connect with the nose of the existing median at O'Brien Street intersection. The proposed median is also required to be extended in an easterly direction approximately an additional five metres providing that traffic analysis indicates that it will not result in insufficient storage capacity in the right turn lane into the service road on the south side of the Midland Highway. The TIAR is required to be updated to address the above comments.

2. VicRoads requested that the TIAR provide further details regarding the number of approach lanes used to undertake the SIDRA traffic modelling for the Elizabeth Street northern approach to Midland Highway. It is noted that the revised TIAR indicates that left and right lanes have been modelled on this approach and that the right turn movement (ID 9) indicates a Level of Service (LOS) F which is very poor. Further, the post development traffic analysis indicates that delays for this movement will double. This may result in driver frustration and drivers choosing inappropriate gaps in traffic increasing the risk of crashes occurring at this intersection.

The conclusion of the TIAR indicates that “there is adequate capacity in the surrounding road network to cater for the traffic generated by the development (including at the Midland Highway/Elizabeth Street intersection)”. This statement is not supported by the results of the SIDRA analysis which indicate a very poor level of service and doubling of delays for the post development right turn movement from the northern Elizabeth Street approach to this intersection. VicRoads requests that the TIAR address the very poor level of service and delays for the right turn movement (ID 9) and recommend treatments to address this capacity issue at this intersection.

It is noted that the predicted traffic distribution from the development appears to assume that all vehicles exiting the proposed Midland Highway access will travel to Shepparton.

However, it is likely that some traffic exiting this access may want to perform a u-turn at Elizabeth Street intersection to enable them to travel into Mooroopna. To assist VicRoads review of the TIAR it is requested that the report provide further details regarding the assumptions used to determine the traffic distribution for the development and in particular traffic that may wish to travel towards Mooroopna when exiting the Midland Highway access.

3. The revised TIAR did not address the item in VicRoads previous further information letter raising concerns regarding sight lines from the northern approach to Elizabeth Street intersection to oncoming traffic on the Midland Highway. Sight lines may be adversely impacted by vehicles queuing side by side when turning left and right on this approach to the intersection. It is requested that comments be provided by the applicant's consultant in response to this item (No. 2).

To respond to the concerns of VicRoads as outlined above a meeting was held between VicRoads, the applicants and Council's Planning Department on June 7 2012.

At this meeting a number of options to mitigate the concerns of VicRoads were discussed.

Two options emerged as potential mitigations to the concerns of the VicRoads from these discussions as outlined below:

1. The provision of traffic signals at the intersection of McLennan Street and Elizabeth Street. It was noted by Mc Donalds that if traffic lights were included as part of Permit conditions, that they would pull out of the proposed development. It was also noted by VicRoads that funding was not available to contribute to the cost of the traffic lights.

2. A second option whereby the following measures would be taken was also discussed:

- Right turns onto Elizabeth Street would be prohibited;
- Right turns onto Midland Highway would be prohibited
- The effect of this would be that all traffic exiting from the Elizabeth Street exit would have to travel along Elizabeth Street, Park Street and O' Brien Street to return to the highway. This would utilise local Council Road network.
- The provision of a median strip on Midland Highway to prevent right turns from McLennan Street into the proposed development;
- The provision of a U-turn lane on McLennan Street to allow customers to turn from the westbound lane to the eastbound lane.

Having regard to the above options, the Council's Planning Department engaged Traffic Works to undertake a peer review of the Traffic Impact Assessment and the options outlined above.

The response of Traffic Works noted that:

*“Although signalisation would assist in improving highway access to and from Elizabeth Street, it is not essential for the satisfactory provision of access to the proposed development.*

*The introduction of an island treatment and regulatory signing to prohibit right turn and through movements at the intersection of Elizabeth Street with Midland Highway is expected to support the present self regulating left only turn only operation at the exit from Elizabeth Street with avoid unnecessary right turn queues at peak times. The installation of this treatment is supported as a requirement to be placed on the developer”*

Further to this, with regard to the provision of a U-turn on Elizabeth Street, the Traffic Works report notes:

*The Concept Access Layout plan attached to the GTA report Issue C includes a modification to the Elizabeth Street access for the development that discourages right turn exit movements and includes signing for departing drivers that prohibits this movement. It is expected that departing customers with easterly destinations will largely ignore this control or conduct a U turn in Elizabeth Street immediately north of the development. As such the effectiveness of this layout refinement is questioned.*

*The Shepparton City engineering response includes a similar control on the highway entry from Elizabeth Street. This proposed prohibition on through and right turn movements*

*formalises the self regulation that currently occurs at peak times as a result of the difficulty drivers experience in selecting suitable gaps in highway flow. This proposal is considered to constitute a viable improvement that should be considered as part of the traffic management treatments to accompany the development.*

*The volumes of highway traffic and the presence of central barrier lines make it unlikely that the eastbound left turn departures from Elizabeth Street will be used to gain westbound access through the conduct of a U turn in the highway some distance east of the intersection. It is considered more likely that customers departing the drive-through facility will filter through the development car park to enter the highway direct and execute a U turn in the west approach to Elizabeth Street, or opt to depart the site to the north along Elizabeth Street.*

A final meeting was held between VicRoads, the applicants and Council staff on 30 July 2012. The final traffic layout as set out below was agreed between all parties:

- Right turn movements from the Elizabeth Street access from the proposed development would be restricted;
- Right turns from Elizabeth Street onto McLennan Street would be restricted;
- U-turns on McLennan Street would be restricted;
- The existing bicycle lane would be relocated from McLennan Street to the service lane;
- A median strip on McLennan Street for the entire length of the proposed development would be provided to restrict right turns from McLennan Street into the proposed development.

It is noted that the Council were supportive of the inclusion of a U-turn facility on Elizabeth Street as outlined in the report of Traffic Works. It further noted that Council's Transport Engineers were opposed to the relocation of the bicycle lane.

However, VicRoads as the referral authority have included that the u-turn on Elizabeth be prohibited and the relocation of the bicycle lane to the service lane as conditions to the Permit.

In light of this and the fact that VicRoads as a referral authority have imposed these conditions, the Planning Department are required to attach the referral conditions to the Notice of Decision to grant a Planning Permit.

It is considered that the proposed traffic treatments provide an acceptable outcome for traffic safety in the area and VicRoads consented to the proposed development in light of the above arrangements.

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## Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Referred under Goulburn Broken Catchment Management Authority were referred to pursuant to the provisions of Clauses 44.03-5 and 44.04-5 of the

	Planning Scheme. No Objection subject to conditions VicRoads were referred to under the provisions of Clause 52.29 of the Planning Scheme. No objection subject to conditions
Section 52 Notices	Goulburn Valley Water. No objections subject to conditions

Internal Council Notices	Advice/Response/Conditions
Engineering	No objection subject to conditions
Health	No objection, subject to conditions

## Assessment

### The zoning of the land

The subject site is located within the Business 1 Zone. The purpose of the Business 1 Zone is to encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

A Planning Permit is not required for the use of the land for a convenience restaurant pursuant to the provisions of the Business 1 Zone; however, pursuant to Clause 34.04-1 of the Planning Scheme, a Planning Permit is required for buildings and works in the Business 1 Zone.

Clause 34.01-4 of the Planning Scheme sets out a number of guidelines which must be considered before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

It is considered that the proposed development complies with the Decision Guidelines set out on Clause 34.01-4 of the Planning Scheme in the following ways:

- It is noted that the proposed use is as of right and that the location of the proposed development complies with Clause 21.06-4 of the Planning Scheme by providing appropriate commercial development within a Sub-Regional Centre.
- The subject site abuts a Residential 1 Zone. In this regard it is considered that appropriate acoustic abatement has been provided by the applicants to lessen any impacts on the Residential zone.
- The proposed development is appropriately design to allow for an active street frontage. The proposed development is appropriately designed and would have a positive impact on the streetscape of this area of Mooroopna.
- It is considered that the site is appropriately laid out to provide for pedestrian safety and cyclist safety. It is further considered that the delivery area is appropriately sized and sited. Further there is ample room for emergency services to operate.
- The proposed car park provides ample parking for the proposed development and complies with Clause 52.06 of the Planning Scheme.
- The proposed development provides appropriate storage areas which are located to the southwest of the building envelope.
- The applicants have stated that they will institute a litter patrol and a maintenance schedule. This is considered appropriate.
- The site is fully reticulated.
- The building is orientated to the north to provide for solar access.

### Relevant overlay provisions

The subject site is affected by the Land Subject to Inundation Overlay. The purpose of the Land Subject to Inundation Overlay is

- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

With regard to the above the application was referred to the Goulburn Broken Catchment Management Authority, who stated:

***The Goulburn Broken CMA does not object to the proposal subject to the following condition:***

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

With regard to the above the application was referred to the Goulburn Broken Catchment Management Authority. It is considered that the condition supplied by Goulburn Broken Catchment Management Authority is appropriate to satisfy the provisions of the Floodway Overlay.

The subject lands are also affected by the Heritage Overlay, specifically HO149. The purpose of the Heritage Overlay is:

- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

With regard to the above it is noted that the Overlay refers to a dwelling on the site which has been demolished. The Planning Permit for the demolition (2011-167) was issued on 11 August 2011.



It is considered that the proposed development would not have an impact on the Heritage Overlay applying to the site as HO149 referred specifically to the dwelling which was demolished.

It is further noted that HO149 is proposed to be removed as part of the amendment C110.

**The State Planning Policy Framework (SPPF)**  
**Clause 13.02 Floodplain Management**

The objective of Clause 13.02-1 of the Planning Scheme is

To assist the protection of:

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

To achieve this the following strategies are outlined:

- Identify land affected by flooding, including floodway areas, as verified by the relevant floodplain management authority, in planning scheme maps. Land affected by flooding is land inundated by the 1 in 100 year flood event or as determined by the floodplain management authority.
- Avoid intensifying the impacts of flooding through inappropriately located uses and developments.
- Locate emergency and community facilities (including hospitals, ambulance stations, police stations, fire stations, residential aged care facilities, communication facilities, transport facilities, community shelters and schools) outside the 1 in 100 year floodplain and, where possible, at levels above the height of the probable maximum flood.
- Locate developments and uses which involve the storage or disposal of environmentally hazardous industrial and agricultural chemicals or wastes and other dangerous goods (including intensive animal industries and sewage treatment plants) must not be located on floodplains unless site design and management is such that potential contact between such substances and floodwaters is prevented, without affecting the flood carrying and flood storage functions of the floodplain.

It is considered that the subject lands the proposed development would not have an impact on the Floodplain subject to compliance with the condition set out by Goulburn Broken Catchment Management Authority.

**Clause 13.04 Noise and air**

The objective of Clause 13.04 is to assist the control of noise effects on sensitive land uses.

The following strategy is outlined:

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

The subject lands have two residential interfaces, to the north and west of the site.

It is considered that the proposed development complies with the provisions of Clause 13.04 by the provision of acoustic fences to northern and western boundaries of the site to ameliorate the noise related effects of the proposed development

Further to the above, a Condition relating to ongoing compliance with noise standards will be attached to the Planning Permit.

### **15.01 Urban Environment**

The objective of Clause 15.01 is to create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

To achieve this, the following strategies are outlined:

- Promote good urban design to make the environment more liveable and attractive.
- Ensure new development or redevelopment contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.
- Require development to respond to its context in terms of urban character, cultural heritage, natural features, surrounding landscape and climate.
- Require development to include a site analysis and descriptive statement explaining how the proposed development responds to the site and its context.
- Ensure sensitive landscape areas such as the bays and coastlines are protected and that new development does not detract from their natural quality.
- Ensure transport corridors integrate land use planning, urban design and transport planning and are developed and managed with particular attention to urban design aspects.
- Encourage retention of existing vegetation or revegetation as part of subdivision and development proposals.

It is considered that the proposed development complies with the above in the following ways:

- The proposed development is appropriately designed and articulates to McLennan and Elisabeth Street,
- It is considered that the proposed development responds to the context of the area by providing an appropriately designed commercial development in a Business 1 Zone, which respects the residential character of the interface areas to the north.

### **15.01-2 Urban Design Principles**

The objective of Clause 15.01-2 of the Planning Scheme is to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

To achieve this, the following principles are set out:

#### **Context**

- Development must take into account the natural, cultural and strategic context of its location.
- Planning authorities should emphasise urban design policies and frameworks for key locations or precincts.
- A comprehensive site analysis should be the starting point of the design process and form the basis for consideration of height, scale and massing of new development.

### **The public realm**

- The public realm, which includes main pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.

### **Safety**

- New development should create urban environments that enhance personal safety and property security and where people feel safe to live, work and move in at any time.

### **Landmarks, views and vistas**

- Landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.

### **Pedestrian spaces**

- Design of interfaces between buildings and public spaces, including the arrangement of adjoining activities, entrances, windows, and architectural detailing, should enhance the visual and social experience of the user.

### **Heritage**

- New development should respect, but not simply copy, historic precedents and create a worthy legacy for future generations.

### **Consolidation of sites and empty sites**

- New development should contribute to the complexity and diversity of the built environment.
- Site consolidation should not result in street frontages that are out of keeping with the complexity and rhythm of existing streetscapes.
- The development process should be managed so that sites are not in an unattractive, neglected state for excessive periods and the impacts from vacant sites are minimised.

### **Light and shade**

- Enjoyment of the public realm should be enhanced by a desirable balance of sunlight and shade.
- This balance should not be compromised by undesirable overshadowing or exposure to the sun.

### **Energy and resource efficiency**

- All building, subdivision and engineering works should include efficient use of resources and energy efficiency.

### **Architectural quality**

- New development should achieve high standards in architecture and urban design.
- Any rooftop plant, lift over-runs, service entries, communication devices, and other technical attachment should be treated as part of the overall design.

### **Landscape architecture**

- Recognition should be given to the setting in which buildings are designed and the integrating role of landscape architecture.

It is considered that the proposed development complies with the provisions of Clause 15.01-2 of the Planning Scheme in the following ways:

- The proposed development has been designed to appropriately address the public realm of the area by addressing both McLennan and Elisabeth Street, which creates an enhanced streetscape in proximity to the Mooroopna CBD.
- The proposed development would not impact on any pedestrian streets, parks or walkways.
- The proposed development address the McLennan and Elisabeth Streets, which will enhance passive supervision in the area and would enhance perceived safety in the area.
- The proposed development would not have an impact on any cultural heritage in the area.
- The consolidation of the lot and the subsequent development would have a positive impact on the street frontage of the area.
- The proposed development would not have an impact on light levels in the public realm.
- It is considered that the proposed development achieves a high standard in design which will enhance the building stock in Mooroopna.
- All roof top plant will be obscured from public view.

Having regard to the above, it is considered that the proposed development complies with the provisions of Clause 15.01-2 of the Planning Scheme.

### **Clause 15.02 Sustainable Development**

The objective of Clause 15.02 of the Planning Scheme is to encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.

The following strategies are set out to achieve this objective:

- Ensure that buildings and subdivision design improves efficiency in energy use.
- Promote consolidation of urban development and integration of land use and transport.
- Improve efficiency in energy use through greater use of renewable energy.
- Support low energy forms of transport such as walking and cycling.

The proposed development complies in the following ways:

- The proposed development is appropriately designed for energy efficiency.
- The proposed development includes bicycle racks which will encourage cycling to the proposed development.

It is therefore considered that the proposed development complies with the provisions of Clause 15.02 of the Planning Scheme.

### **Clause 15.03 Heritage.**

The objective of Clause 15.03 of the Planning Scheme is to ensure the conservation of places of heritage significance.

#### **Strategies**

- Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.
- Provide for the protection of natural heritage sites and man-made resources and the

- maintenance of ecological processes and biological diversity.
- Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance, or otherwise of special cultural value.
- Encourage appropriate development that respects places with identified heritage values and creates a worthy legacy for future generations.
- Retain those elements that contribute to the importance of the heritage place.
- Encourage the conservation and restoration of contributory elements.
- Ensure an appropriate setting and context for heritage places is maintained or enhanced.
- Support adaptive reuse of heritage buildings whose use has become redundant.

The subject lands are affected by HO149, however HO149 refers to a dwelling which has been demolished. It is further noted that the HO149 is proposed to be removed as part of C110.

It is considered that the proposed development would not have any impact on any heritage in the area, and as such would comply with the provisions of Clause 15.03 of the Planning Scheme.

#### **Clause 18.02 Movement Networks**

The objective of Clause 18.02 is to promote the use of sustainable personal transport.

The following strategies to achieve the above strategy are outlined below:

- Encourage the use of walking and cycling by creating environments that are safe and attractive.
- Develop high quality pedestrian environments that are accessible to footpath-bound vehicles such as wheelchairs, prams and scooters.
- Ensure development provides opportunities to create more sustainable transport options such as walking, cycling and public transport.
- Ensure cycling routes and infrastructure are constructed early in new developments.

It is considered that the proposed development complies in the following ways:

- The proposed development provides bicycle rack which encourages the use of cycling;
- Appropriate walking route is provided within the car park which encourages pedestrian patronage.

Having regard to the above it is considered that the proposed development complies with the provisions of Clause 18.02 of the Planning Scheme.

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

##### **Clause 21.03 Vision**

In support of its Vision, Council has adopted themes and principles.

Theme 4 is of relevance to the proposed development and is outlined below:

#### **4. ECONOMIC DEVELOPMENT**

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

It is considered that the proposed development would promote economic growth, business development and diversification of business' in Mooroopna; it is further considered that the proposed development would facilitate job creation in the community, which would enhance the economy of the area.

### **Clause 21.06 Economic Development**

Clause 21.06 of the Planning Scheme notes that the city's commercial and retailing centres fulfil both local shopping and discretionary shopping needs, and provide services at the regional level. The Greater Shepparton 2030 Economic Development Report identified that based on the requirement for the average provision of 2.1 sqm per capita, there will be demand for 20,660 sqm of additional retail floor space by 2011, with another 40,570 sqm supported by the forecast population growth from 2011 to 2030. The report notes that no foreseeable demand exists in the long term for new major freestanding centres, other than in the north and south growth corridors, and for suitably accommodating bulky goods activities. The Activity Centre Hierarchy identified in the report can be described as:

- The Shepparton CBD is nominated as the Regional Centre.
- Shepparton Marketplace, Mooroopna CBD and Shepparton Plaza are designated Sub- Regional Centres.
- Shepparton south, Fairley's (Numurkah Rd), Tatura, BiLo Echuca Road (Mooroopna) are Neighbourhood / Townships Centres.
- Murchison, Merrigum, Dookie and local shops in Shepparton are Local / Town Centres.

Having regard to the above, it is noted that Mooroopna CBD is a designated Sub-Regional Centre, it is therefore considered that the proposed development is located within an appropriately area.

### **Relevant Particular Provisions**

#### **52.05 Advertising**

The purpose of Clause 52.05 is:

- To regulate the display of signs and associated structures.
- To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

Clauses 52.05-7 to 52.05-10 specify categories of advertising control. The zone provisions specify which category of advertising control applies to the zone.

The subject lands are within a Business 1 Zone and is within Category 1 of the Advertisement Controls.

The proposed development includes the provision of 30 signs, 29 of the signs are internal to the site and are general traffic and informative/ safety signs. However there is also a large promotional signs (pylon sign) on the eastern corner of the site. This pylon sign would be a normal Mc Donald's sign and would have a height of 10 metres and a width of 3.6 metres.

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

The character of the area including:

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

Impacts on views and vistas:

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

The relationship to the streetscape, setting or landscape:

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

The relationship to the site and building:

- The scale and form of the sign relative to the scale, proportion and any other significant characteristics of the host site and host building.
- The extent to which the sign displays innovation relative to the host site and host building.
- The extent to which the sign requires the removal of vegetation or includes new landscaping.

The impact of structures associated with the sign:

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

The impact of any illumination:

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

The impact on road safety. A sign is a safety hazard if the sign:

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

It is considered that the signage associated with the proposed development complies with the provisions of Clause 52.05 of the Planning Scheme in the following ways:

- The proposed signage is appropriate for a Business 1 Zone and has limited business identification mounted on the walls of the proposed structure. It is considered that the proposed signage would not lead to the visual clutter of the area.
- It is not considered that the proposed advertisements would dominate the sky line, would not impede views of existing signs and would not have a detrimental impact on any views and vistas in the area.
- It is considered that the proposed signage, including the major promotional signage are appropriately located to face the major roads, while other signage, limited to internal directional signage are located at the access/ egress to the site.
- The promotional signs on the walls of the building are modern and are in line with the design of the building.
- The structures which are associated with the signs (those which are not wall mounted) would not have an impact on any significant structures or views/ vistas in the area.
- The proposed signage would not lead to any glare which would have a detrimental impact on the safety of pedestrians or vehicular traffic and would not have an impact on the amenity of the area.
- The proposed signage would not have a detrimental impact on the safety of drivers. The pole sign is considered to be appropriate to the site and the need to give motorists advance notice of the site. It is considered that the proposed pole sign would not confuse drivers, or dazzle or distract drivers.

Having regard to the above, it is considered that the proposed development would comply with the provisions of Clause 52.05 of the Planning Scheme.

### **Clause 52.06 Car Parking**

The purpose of Clause 52.06 of the Planning Scheme is

- To ensure that car parking is provided in accordance with the State Planning Policy Framework and Local Planning Policy Framework.



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

Table 1 of Clause 52.06 sets out the number of car parking spaces required for a use. In the case of the proposed development 0.3 spaces are required per customer. It is noted that the capacity of the proposed development is 109. Therefore 32.7 car parking spaces are required for the proposed development. It is noted that 50 spaces are provided. This complies with the provisions of Clause 52.06 of the Planning Scheme.

### **52.07 Loading and Unloading of Vehicles**

The purpose of Clause 52.07 of the Planning Scheme is to

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

Pursuant to Clause 52.07 of the Planning Scheme the proposed development must provide a loading area of 27.4 m<sup>2</sup>

The proposed development provides a loading bay of approximately 40m<sup>2</sup>. The proposed development therefore complies with the provisions of Clause 52.07 of the Planning Scheme.

The Planning Permit will include a condition which restricts the hours at which deliveries can be undertaken to off peak hours to avoid any conflicts with the operation of the car park.

### **Clause 52.20 Convenience Restaurant and Fast Food Premises.**

While it is noted that these requirements only apply to residential zones, it is considered pertinent to have regard to Clause 52.20 as the proposed development abuts residential areas.

The following decision guidelines are set out:

- Any policy in this scheme relating to convenience restaurants or take-away food premises.

Whether the location is appropriate for a convenience restaurant or take-away food premises having regard to:

- Amenity of the neighbourhood.
- Proximity of the land to non residential uses and zones.
- Effect of the use on heritage and environment features.
- Capacity of the land to contain significant off-site effects.
- Access to land in a Road Zone.
- The suitability of the land for a residential use.

The effect on the amenity or character of the street or neighbourhood having regard to:

- Massing and proportions of any building.
- Ground floor height above ground level.
- Ceiling heights.
- Roof form and pitch.
- Facade articulation.
- Window and door proportions.
- Building features including verandahs, towers, eaves, parapets and decorative elements.
- Building materials, patterns textures and colours.
- Whether the site layout and the design of buildings, noise attenuation measures, landscaping, car parking, vehicle access lanes, loading bays, rubbish bins, plant and equipment, lights, advertising signs, drive through facilities and playgrounds are designed to prevent significant loss of amenity to adjoining land due to noise, emission of noise, emission of light or glare, loss of privacy, litter or odour.
- Whether any special measure may be necessary to protect the amenity of adjoining land in residential use, including buffer planting, noise attenuation measures and litter collection arrangements.

The adequacy of traffic measures to:

- Provide safe pedestrian movement.
- Achieve safe, efficient vehicle movement on site and access to and egress from the land.
- Avoid disruption to traffic flow on land in a Road Zone.
- Prevent inappropriate use of local residential streets.
- The adequacy of car parking, loading and drive through queuing spacing to accommodate customers at peak periods and employee requirements on the land.

It is considered that the proposed development would comply with the provisions of Clause 52.20 in the following ways:

- The proposed development would not have an impact on the amenity of the area;
- The subject lands are zoned Business 1 Zone, which is an appropriate zoning for the proposed development;
- The proposed development would not have an impact on any heritage or environmental features;
- Conditions attached to the Planning Permit would ameliorate any off site affects;
- The proposed development includes an access onto McLennan Street (approved by VicRoads);
- The subject site abuts residential development, however the site is within the Business 1 Zone and the proposed development is appropriate for the zone.
- The building is appropriately designed and has regard to the abutting residential development;
- The building would not have a detrimental impact on the amenity of the residential buildings due to height, overshadowing or overlooking. It is considered that the design of the proposed development will protect the amenity of the area;
- The facade of the building addresses McLennan Street, which is a commercial based street. This is considered appropriate;
- The building would be constructed of modern materials which are considered appropriate for the area;
- It is considered that the acoustic walls to the west and north of the site would appropriately reduce any noise impact on the neighbouring properties. Further to this

the landscaping proposed to the south and east of the site would soften the effect of the building to these streets;

- The applicants have noted that a Litter Patrol and Maintenance Schedule can be provided upon request. This is considered appropriate.

Having regard to the above, it is considered that the proposed development would comply with the provisions of Clause 52.20 of the Planning Scheme.

### **Clause 52.29 Land adjacent to a road zone category 1 or a public acquisition overlay for a category 1 road.**

The purpose of Clause 52.29 of the Planning Scheme is:

To ensure appropriate access to identified roads.

To ensure appropriate subdivision of land adjacent to identified roads.

McLennan Street is a Road Zone Category 1.

In light of the above, the application was referred to VicRoads, who did not object to the creation of the new access to McLennan Street.

VicRoads have included a Condition on the Permit which permits the proposed access onto McLennan Street. It is noted that this access will be a left in, left out access. It is considered that this configuration would allow for safe access/egress onto McLennan Street and would not have a detrimental impact on traffic flows on McLennan Street.

It is therefore considered that the access from the site onto McLennan Street is appropriate.

### **Clause 52.34 Bicycle Facilities**

The purpose of Clause 52.34-1 of the Planning Scheme is

- To encourage cycling as a mode of transport.
- To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

Clause 52.34-3 sets out the standard requirement for the provision of bicycle parking spaces. In this regard the statutory requirement is for 2 customer spaces. The proposed development provides 2 spaces. It is therefore considered that the proposed development complies with the provisions of Clause 52.34-3 of the Planning Scheme.

The applicant is also required to provide 4 spaces for employees; the applicant has stated that this would be provided in the corral area of the building. It is therefore considered that the proposed development complies with the provisions of Clause 52.34.

Further to the above, the applicant has applied to waive the requirement to provide shower and change facilities.

It is considered that shower facilities should be provided within the proposed buildings, a Condition will be included in the Planning Permit.

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

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

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

It is considered that the proposed development complies with the provisions of Clause 65 of the Planning Scheme in the following ways:

- The proposed development complies with the provisions of the Business 1 Zone, the Land Subject to Inundation Overlay, Floodway Overlay. It is considered that the Heritage Overlay no longer functionally applies to the subject lands as it specifically referred to a dwelling which was permitted to be demolished.
- It is considered that the proposed development complies with all matters which are required to be considered in the zone, overlays and applicable provisions.
- The proposed development complies with the orderly development of the area.
- It is considered that the proposed development would not have a detrimental impact on the amenity of the area. The proposal includes acoustic barriers to the north and west of the site. The proposal also includes landscaping to south and east to soften the impact of the building.
- The subject site is not in proximity to any public land.
- The proposed development would not lead to any land degradation salinity issues or reduce water quality.
- A drainage discharge plan will be required
- The proposed development will not impact on any native vegetation.

- The proposed development will not increase the degree of flood or fire hazard.

**Relevant incorporated or reference documents**

There are no relevant incorporated or reference documents associated with the proposed development.

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

There are no other relevant adopted State policies or strategies associated with the proposed development.

**Relevant Planning Scheme amendments**

There are no Planning Scheme amendments associated with the proposed development.

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

The proposed development would contribute approximately 100 jobs into the local economy.

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

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

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## **Conclusion**

- The use of the site for a Convenience Restaurant is an as of use right in the Business 1 Zone;
- The design of the proposed development is considered contemporary and addresses the McLennan Street/ Elisabeth Streets in an appropriate manner. It is considered that the design of the building would enhance the streetscape within Mooroopna;
- The application was referred to VicRoads who after significant consultation have not objected to the proposed development, subject to Conditions being placed on the Permit. In light of this it is considered that the proposed development would not have a detrimental impact on traffic safety in the area.
- The proposed development provides appropriate landscaping which would enhance the appearance of the site and make a positive contribution to the streetscape in this area of Mooroopna.
- The proposed development would contribute 100 direct jobs to the local community and economy, which would consist of 25 full time jobs, consisting of managers, crew, and maintenance and marketing staff. It is considered that this would have a beneficial impact on the financial wellbeing of the community.
- The proposed development complies with Clause 21.06-4 of the Planning Scheme by providing appropriate commercial development within a Sub-Regional Centre.

# Draft Notice Of Decision

**APPLICATION NO:** 2012-68

**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:** 12-22 MCLENNAN STREET, MOOROOPNA

**WHAT THE PERMIT WILL ALLOW:** BUILDINGS AND WORKS IN THE BUSINESS 1 ZONE FOR A CONVENIENCE RESTAURANT (MCDONALDS) WITH ASSOCIATED CAR PARKING, SIGNAGE AND LANDSCAPING IN THE HERITAGE OVERLAY, LAND SUBJECT TO INUNDATION OVERLAY AND FLOODWAY OVERLAY AND CREATION OF AN ACCESS TO A ROAD ZONE CATEGORY 1

## WHAT WILL THE CONDITIONS OF THE PERMIT BE?

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### 1. Amended Plans Required

Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and a minimum of two copies must be provided. Such plan must be generally in accordance with the plan submitted with the application but modified to show:

- a) Detailed acoustic fence design prepared by suitably qualified person, details are to include construction materials and height of the fence
- b) Provision of a floor plan to include shower facility for staff
- c) Bicycle land on the southern side of McLennan Street to be relocated to the service lane.

### 2. Layout Not Altered

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

### **3. Drainage Discharge Plan**

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

- a) how the land will be drained;
- b) underground pipe drains conveying stormwater to the legal point of discharge;
- c) measures to enhance stormwater discharge quality from the site and protect downstream waterways;
- d) a maximum discharge rate from the site of 64l/sec/ha
- e) documentation demonstrating approval from the relevant authority for the legal point of discharge;
- f) Incorporation of water sensitive urban design in accordance with the "Urban Stormwater Best Practice Environmental Management Guidelines" 1999;
- g) Provision of an electronic copy of the MUSIC model (or equivalent) demonstrating the expected discharge quality emanating from the development;

Before the building is occupied all drainage works required by the endorsed drainage plan must be completed to the satisfaction of the responsible authority.

### **4. 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 two copies must be provided to show:

- a) a schedule of all proposed trees, shrubs and ground cover, including the location, number and size at maturity of all plants, the botanical names and the location of areas to be covered by grass, lawn or other surface materials as specified;
- b) the method of preparing, draining, watering and maintaining the landscaped area;
- c) the sewer and water supply connection points;
- d) garden bed heights above car-park surface;
- e) all areas where vehicle overhang will occur;
- f) street trees in Elizabeth Street and the McLennan Street
- g) tree bays to allow the planting of canopy trees within the car parking areas

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

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

All trees planted as part of the landscape works must be a minimum height of 1.2 metres at the time of planting.

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

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority. Any dead, diseased or damaged plants and/or trees must be replaced to the satisfaction of the responsible authority.

#### **5. Construction Phase**

Before the development starts, a construction management plan shall be submitted to and approved by the responsible authority. The plan must detail measures to be employed for the effective management of matters including, mud on roads, dust generation and erosion and sediment control on the land, during the construction phase. When approved the plan will be endorsed and form part of the permit. The construction management plan must provide contact details of the site manager.

During the construction of buildings and/or works approved by this permit, measures must be employed to minimise mud, crushed rock or other debris being carried onto public roads and/or footpaths from the land, to the satisfaction of the responsible authority.

Dust suppression must be undertaken to ensure that dust caused on the land does not cause a nuisance to neighbouring land to the satisfaction of the responsible authority.

#### **6. General Exterior Treatment**

Before the development starts, a schedule of materials, external finishes and colours to the satisfaction of the responsible authority, must be submitted to and approved by the responsible authority. When approved, the schedule will be endorsed and will then form part of the permit.

The exterior treatment of the building must be maintained to the satisfaction of the responsible authority.

#### **7. Waste Collection**

Waste Collection must only be carried out in the allocated waste collection area and



waste collection must only be made:

- 7.00am to 10.00pm on Monday to Sunday

**8. Noise Control**

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

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

**9. Works Prior to the Occupation of the Development**

The occupation of the development must not start until:

- a) All buildings and works are completed as shown on the endorsed plans
- b) Erection of cigarette disposal bins at the entry to the building
- c) Erection of no standing signage in the Elizabeth Street frontage of the land
- d) Replacement of existing no standing signage in the McLennan Street frontage of the land
- e) Line marking and construction of associated signage for the relocated on street bicycle lane.

**10. Council Assets**

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

**11. Consolidation**

Before the building is occupied all lots comprising the land must be consolidated into one lot.

**12. Relocation of Overhead Telstra Line**

Before the occupation of the building, the existing overhead Telstra connection to 3 Elizabeth Street be relocated so that it does not cross over the development site to the satisfaction of the responsible authority.

**13. PA System**

A public address system must not be used on the land that is audible from adjoining land.

**14. Delivery of Goods**

The loading and unloading of goods from vehicles in association with the use on the land, must only be carried out on the land within the designated loading bay.

Vehicles larger than 14 metres in length can not undertake loading or unloading activities on the land or from road reserves.

- a) Before the occupation of the development, the loading bay shown on the endorsed plan must be to the satisfaction of the responsible authority.
- b) Loading and unloading of vehicles, delivery goods and merchandise from the premises must be carried out within the land as it is shown on the endorsed plan and be conducted during off peak times so as to cause minimum interference with other vehicular and pedestrian traffic
- c) The loading bay must be kept unobstructed when not in use
- d) Loading vehicles must exit the site in a forwards direction as shown on the endorsed loading plans

**15. Underground Connection**

Before the occupation of the building, the electricity connection to the site must be undergrounded to the satisfaction of the responsible authority.

**16. Car Park Construction Requirements**

Before the building is occupied no fewer than 50 car spaces must be provided on the land for the use and development including one space clearly marked for use by people with disabilities.

Before the occupation of the development starts, the area set aside for parking of vehicles and access lanes as shown on the endorsed plans must be:

- a) surfaced with an all-weather seal coat
- b) drained in accordance with an approved drainage plan;
- c) line-marked to indicate each car space and all access lanes;
- d) properly illuminated with lighting designed, baffled and located to prevent any adverse effect on adjoining land;

- e) treated with measures to prevent damage to fences or landscaped areas on adjoining land and prevent direct vehicle access to adjoining road/s other than by a vehicle crossing;
- f) treated with traffic control signage and or structures as required;
- g) signed to direct drivers to the area set aside for car parking. Such signs are to be located and maintained to the satisfaction of the responsible authority. Signs must not exceed 0.3 square metres;

to the satisfaction of the responsibility authority.

Car parking areas must be constructed, and drained to prevent diversion of flood or drainage waters and maintained in a continuously useable condition to the satisfaction of the responsible authority.

Car spaces, access lanes and driveways must not be used for any other use, to the satisfaction of the responsible authority.

**17. Bicycle Facilities**

Before the occupation of the building, provision must be made for bicycle racks to accommodate eight bicycles. Bicycle racks must be designed, constructed and located to the satisfaction of the responsible authority.

**18. Control of Lightspill**

Before the occupation of building, external lighting must be designed, baffled and located so as to prevent any unreasonable adverse effect on adjoining land to the satisfaction of the responsible authority.

**19. Urban Vehicle Crossing Requirements**

Before the occupation of the building, the vehicular crossing to Elizabeth Street must be constructed in accordance with the endorsed plans to the satisfaction of the responsible authority, and must:

- a) be constructed at right angles to the road, and any redundant crossing shall be removed and replaced with concrete (kerb and channel);
- b) be setback a minimum of 1.5 metres from any side-entry pit, power or telecommunications pole, manhole cover or marker, or street tree

**20. Signs Not Altered**

The sign to be erected must be in accordance with the endorsed plan and must not be altered or modified without the prior written approval of the responsible authority.

**21. Sign maintenance**

All signs must be constructed to the satisfaction of the responsible authority and maintained to the satisfaction of the responsible authority.

**22. Health Requirements**

- a) The applicant shall lodge with Council's Environmental Health Department detail plans demonstrating that the area of the building proposed to be used for storage, preparation and sale of food are adequate for the type of food to be sold at the premises and that the structure and fittings installed complies with the requirements of Food Standards Australia and New Zealand Food Safety Standards 3.2.3 – Food Premises and Equipment.
- b) Prior to commencing construction of any food preparation area, the owner must seek the advice of the Council's Environmental Health Officer.
- c) Prior to commencing the business the applicant shall make application to the Council Environmental Health Department for the registration of the premises under the Food Act 1984.
- d) At the time of making application for registration under the Food Act 1984, the applicant shall lodge a copy of their food safety program as required by the Act and the name and accreditation details of their nominated Food Safety Supervisor.

**23. Goulburn Broken Catchment Management Authority Requirements**

The finished floor level of the proposed restaurant must be constructed at least 300 millimetres above the 100-year ARI flood level of 112.9 metres AHD, i.e. 113.2 metres AHD, or higher level deemed necessary by the responsible authority.

**24. VicRoads Requirements**

- 1) Only one direct access shall be permitted from the subject land to the Midland Highway. The access shall be left-in and left out, and at a location shown on the Concept Access Layout plan, (Drawing no. JM17100-01, dated May 2012 prepared by GTA Consultants), appended to the application.
- 2) The crossover and driveway are to be constructed to the satisfaction of the Roads Corporation and the Responsible Authority (Greater Shepparton City Council) prior to the commencement of the use of the works hereby approved.
- 3) Prior to the commencement of the use hereby approved, the access lanes, driveways, crossovers and associated works must be provided and available for use and be:
  - a) Formed to such levels and drained so that they can be used in accordance with the plan.
  - b) Treated with an all-weather seal or some other durable surface.
- 4) Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (eg. by spilling gravel onto the roadway).
- 5) All disused or redundant vehicle crossings must be removed and the area reinstated to match the adjacent road environment, to the satisfaction of and at no cost to VicRoads and Responsible Authority (Greater Shepparton City

Council) prior to the commencement of the use hereby approved.

- 6) Before the use approved by this permit commences, the following roadworks on Midland Highway & Elizabeth Street as shown on the Concept Access Layout prepared by GTA consultants (Drawing No. JM17100-01, issue P5, dated May 2012), must be completed at no cost to and to the satisfaction of the VicRoads and the Responsible Authority (Greater Shepparton City Council):
  - a) Construct a raised central island on Midland Highway fronting the subject land;
  - b) Install a One-Way sign in the central median opposite the proposed access to the subject land from Midland Highway;
  - c) Install a No U-turn sign in the central median prior to the Elizabeth Street intersection;
  - d) Construct a traffic island on Elizabeth Street at Midland Highway intersection to accommodate 'left only' movements from Elizabeth Street on to the Midland Highway;
  - e) Relocate the existing bicycle lane from the Midland Highway to the service road located on the south eastern side of Midland Highway, to the satisfaction of the Responsible Authority (Greater Shepparton City Council).
- 7) Before the development starts, amended plans must be submitted to and approved by VicRoads. When approved by VicRoads, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be generally in accordance with the concept access layout plan but modified to show:
  - a) Left-in and Left-out treatment for the access on Midland Highway;
  - b) Central raised median on Midland Highway fronting the subject land. The lane widths on the Midland Highway must be retained by relocating the bicycle lane in to the service road;
  - c) One-Way sign installed in the central median opposite the proposed access to the subject land from Midland Highway;
  - d) No U-turn sign installed in the central median prior to the Elizabeth Street intersection;
  - e) Traffic island on Elizabeth Street at the Midland Highway intersection
- 8) Prior to the commencement of works within the arterial road reserve the applicant shall submit:
  - a) Application for consent in accordance with the Road Management Act (Works and Infrastructure) Regulations 2004, including payment of the prescribed fee (telephone (03) 5761 1888 or visit [www.vicroads.vic.gov.au](http://www.vicroads.vic.gov.au) for further information).
  - b) Detailed design plans and specifications for the proposed road works, including revised plans showing the left-in and left out treatment for the access on Midland Highway, plan showing the lane widths, central raised median on Midland Highway, traffic island at Elizabeth Street, including signage and line marking plan, and obtain VicRoads written approval of the plans and specifications.

**25. Goulburn Valley Region Water Corporation Requirements**

- a) Provision of reticulated sewerage and associated construction works to the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation (*relocation of existing sewer*);
- b) Provision of easements in favour of the Goulburn Valley Region Water Corporation over all existing and proposed sewer mains located within private property;
- c) Discharge of trade waste from the development shall be subject to a Trade Waste Consent Agreement.

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

- d) The operator under this permit shall be obliged to enter into an Agreement with Goulburn Valley Region Water Corporation relating to the design and construction of any sewerage or water works required. The form of such Agreement shall be to the satisfaction of Goulburn Valley Water. A copy of the format of the Agreement will be provided on request;

Note: The Corporation expects that any excess water services be banded off at the main.

**26. Time for Starting and Completion**

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

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

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

Meeting closed at 10.46 am