

CONFIRMED MINUTES

**FOR THE
GREATER SHEPPARTON CITY COUNCIL**

DEVELOPMENT HEARINGS PANEL

Meeting No. 5/2012

**HELD ON
THURSDAY 12 JULY 2012
AT 10.00AM**

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

**CHAIR
DEAN ROCHFORD**

**COMMITTEE MEMBERS PRESENT: Dean Rochfort, Colin Kalms, Braydon Aitken,
Jeremy Addison, Malcolm France**

**OFFICERS: Andrew Dainton – Senior Statutory Planner
Warwick Smith – Consultant Town Planner
Janine Saxon – 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

Jonathan Griffin, Claire Tarelli

3. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Confirmation of the minutes of the meeting held on 14 June 2012 have been held over to the next meeting, as there were not two committee members that attended that meeting present at today’s meeting.

4. DECLARATIONS OF CONFLICTS OF INTEREST

None

5. MATTERS FOR CONSIDERATION

Two items listed for consideration.

6. LATE REPORTS

None

7. NEXT MEETING

26 July 2012.

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Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2010-59
Applicants Name:	Capricorn Properties Pty Ltd
Date Application Received:	7 May 2012
Statutory Days:	
Land/Address:	91-95 Benalla Road and 77 Mitchell Street, SHEPPARTON VIC 3630
Zoning and Overlays:	Business 4 Zone and abuts Road Zone Category 1, No overlays
Why is a permit required (include Permit Triggers):	Clause 34.04-1: Use of land for a 'Market' in the Business 4 Zone and ancillary food and drink premises (cafe) Clause 34.04-4: Buildings and Works in the Business 4 Zone Clause 52.05-5: Replacement of advertisement in existing internally illuminated pole sign (2.5m by 3m) Clause 52.05-7: Display of new Business Identification Signage on facade exceeding 8 square metres and including floodlit sign and internally illuminated signs Clause 52.6-3: Reduction in the required number of car parking spaces
Are there any Restrictive Covenants on the title?	No

Proposal

The application proposes the use and development of land for a produce market' at 91-95 Benalla Road, Shepparton. The proposed 'market' will be operated from within the two existing buildings.

The proposed use which is relying on the planning scheme definition of a 'market' to be permitted in a Business 4 Zone will sell fresh produce (mainly fruit and vegetables) from the local area but this may also include perishable goods such as cheese, meat and fish. The proposed market will include 60 stalls, a manager's office, a cool room, a food preparation area and a café within two existing buildings.

The proposed hours of opening are Monday to Sunday: 8am to 5pm although stall holders will access the building for stocking stalls outside these times.

There are 127 car parking spaces existing on site which will be used for the produce market and Beaumont Tiles, and a further 16 spaces are available in the road reserve. The application requests permission for a reduction in car parking requirements for a 'market' which in the planning scheme is a very high 8 spaces per 100m² floor area.

Proposed works include a screen around 3 sides of the existing roof mounted air-conditioning plant, two arched features above the Benalla Road entrances with ramp access for disabled persons, internal partitioning of food handling stalls to comply with Health Department requirements.

The application also includes permission for new business identification advertising signage. The advertisement would be replaced in the internally illuminated pole sign adjacent to the

Benalla Road frontage. Two new entrance features along the Benalla Road facade with internally illuminated signs, floodlighting of facade advertising and one west facing business identification sign measuring 7m by 2m.

Part of the existing building fronting Benalla Road will continue to be occupied by 'Beaumont Tiles' (trades supplies business).

Copies of the plans and elevations are provided as an attachment to this report.

Summary of Key Issues

- The application proposes the use and development of land for a 'market' occupying two vacant premises within an existing vacant building.
- That the produce market will operate under the definition of 'market' which can be permitted in the Business 4 Zone, and will not change into being 'shops' which are prohibited in the zone. The essential difference is that the goods including foodstuffs must be sold 'from stalls'.
- That adequate parking is available within the site and along the frontage to ensure that operation of the market does not adversely affect nearby businesses or the operation of Benalla Road.
- The proposed 'fresh produce market' focussing on local produce aims to provide a facility that is not currently available in Shepparton and should compliment the 'food bowl' image for Greater Shepparton and the Goulburn Valley.
- The subject site is opposite Shepparton Marketplace which is designated as a Sub-Regional Centre within the Activity Centre Hierarchy described in the *Greater Shepparton 2030 Economic Development Report* and is within an established concentration of bulky goods retailing. The Business Framework Plan in clause 21.06 shows the location as Highway Business – consolidate and redevelopment.
- An objection has been lodged on behalf of Shepparton Marketplace Shopping Centre, which is located on the south side of Benalla Road generally opposite the site. The objector advised they have no objection to the concept of a 'fresh local produce market' as a means to promote and support local primary producers however they are concerned that a number of aspects of the proposal appear to be more like a 'shop' use rather than the more limited 'market' definition allowed in the zone. These aspects include the proposed long hours 7 days a week being more akin to a shop, that some stalls will be constructed more like shops, some goods remaining stored on site from day to day.

The objector is also concerned about compatibility of fresh food with past uses that may have included storage and sale of agricultural chemicals.

The objector is concerned that the parking may be inadequate and lead to overflow parking impacting the street network and onto nearby private parking areas.

Moved: Braydon Aitken

Seconded: Jeremy Addison

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2010-59** 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 permit and issue a Notice of Decision to Grant a Permit under the provisions of Clause 34.04-1, 34.04-4, 52.05-5, 52.05-7, and 52.6-3 of the Greater Shepparton Planning Scheme in respect of the land known and described as **91-95 Benalla Road and 77 Mitchell Street, SHEPPARTON VIC 3630**, for the **Use and development of land for a Market including sale of local fresh produce and ancillary Food and drink premises in the Business 4 Zone, replacement of an existing internally illuminated advertisement, display of business identification signage exceeding 8 square metres and including internally illuminated and floodlit business identification signs, and reduction in car parking requirements** in accordance with the Notice of Decision and the endorsed plans.

Discuss key Conditions (including Referral Authorities):

1) Permitted Use of Land

In order to ensure that the use will continue to operate as a fresh produce Market as proposed and not change to become Shops, a condition requiring that the definition of market is complied with and further requiring that the use:

- a) Must include but is not limited to the sale of fresh produce from stalls;
- b) The sale of goods must only take place from stalls as a market; and other than (c) below, the stalls must be marked out on the floor in a large open area and using tables, benches, stands and the like. Installations of benches and sinks etc. required to comply with health requirements for food handling are acceptable.
- c) A maximum floor area of 150m² of semi-enclosed stalls (light-weight booth structures) in a linear configuration, not a two-sided arcade, for stall holders operating as food handlers within the booth and whereby the customer is excluded from the booth, is permitted unless further permission of the responsible authority is obtained in writing to change this requirement;
- d) Any food and drink premises for the sale of food for immediate consumption on the premises (café) must only be operated in conjunction with the market also operating.
- e) A maximum of 60 stall operators are permitted at any one time, although each individual operator may occupy more than one marked stall at a time.

2) Car Parking Requirement

- a) The number of car parking spaces provided on the land for the 'market' use must be at all times be not less than 107 car parking spaces based on a maximum of 60 stalls being provided within a building floor area of 2397m² as shown on the endorsed plans.

This permit is granted on the basis of 20 on-site spaces also being available for the restricted retail usage of the eastern building (currently Beaumont Tiles), and a reduction in required parking for the market from 8 spaces per 100 square metres due to 16 on-street parking spaces being generally available across the frontage of the subject land and the adjoining hotel during normal business hours, and empirical assessment of likely demand for parking for this market.

- b) Before the use of the market commences all car parking areas, aisles, driveways, line-marking and signage must be provided and must meet the design requirements of Clauses 52.06-8 and 52.06-10 of the Greater Shepparton Planning Scheme to the satisfaction of the responsible authority.
- c) After the use commences and at all times during its operation the required car spaces, access lanes and driveways must be maintained in a continuously useable condition, available for use and must not be used for any other purpose to the satisfaction of the responsible authority.

3) Health Requirements

- a) Prior to the commencement of work to fit out any area to be used for the sale of food the occupier must lodge with Council's Health Department details and 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 in the area and that the structure and fittings when installed will comply with the requirements of Food Standards Australia and New Zealand Food Safety Standards 3.2.3 – Food Premises and Equipment.
- b) Prior to commencing any business for the sale of food the individual occupier of any area where food is sold must make application to the Council Health Department for the registration of the premises under the Food Act 1984.

Other usual conditions including;

- for amending plans reflecting the permitted use condition above,
- delivery of goods,
- general amenity,
- exposed storage,
- waste storage and recycling,
- advertising signage including more detail for any floodlit signage,
- VicRoads conditions and
- two years allowed to commence use.

(see Draft Notice of Decision to Grant a Permit document attached to this report.

Carried

Subject Site & Locality

An inspection of the site and the surrounding area has been undertaken on a number of occasions by Julie Mikkelson, Andrew Dainton and Warwick Smith including in April 2010 and Jan 2012 and March 2012.

The site at 91-95 Benalla Road, Shepparton/Lot 3 on CS1525K has a total area of approximately 5250 square metres and currently contains:

- Existing buildings (two large buildings)
- Existing car park along the Benalla Road frontage of the building.

Common property on Registered Cluster Plan 001525K has a total area of approximately 3757 square metres and currently contains:

- Existing car parking area (sealed but not line-marked) which serves 91-95 Benalla Road (Lot 2 on CS1525K) site and the Overlander Hotel at 97-107 Benalla Road, Shepparton (Lot 3 on CS1525K).

The main site/locality characteristics are:

- The land abuts Benalla Road/Midland Highway which is classified as a Road Zone Category 1. This road carries two lanes of traffic in each direction, has a parking land on the north side, a service road on the south side, and contains a vegetated median strip.
- The area is largely commercial in character with mixed uses including restricted retail, light industrial/commercial, accommodation and trades supplies businesses.
- Repco abuts the land on the west side. Overland Hotel/motel abuts on the east side. Undeveloped industrial land abuts the rear of the land to the north.
- Directly opposite on the south side of Midland highway is an industrial premises used for precast concrete fabrication and dealing in scrap metal, and a group of trade supplies premises including for specialty coffee roasters, plaster supplies, trade paint and Spanline steel products. Shepparton Marketplace Shopping Centre is located southeast of the subject land on the south side of Midland highway.

The Photos below show the existing site:

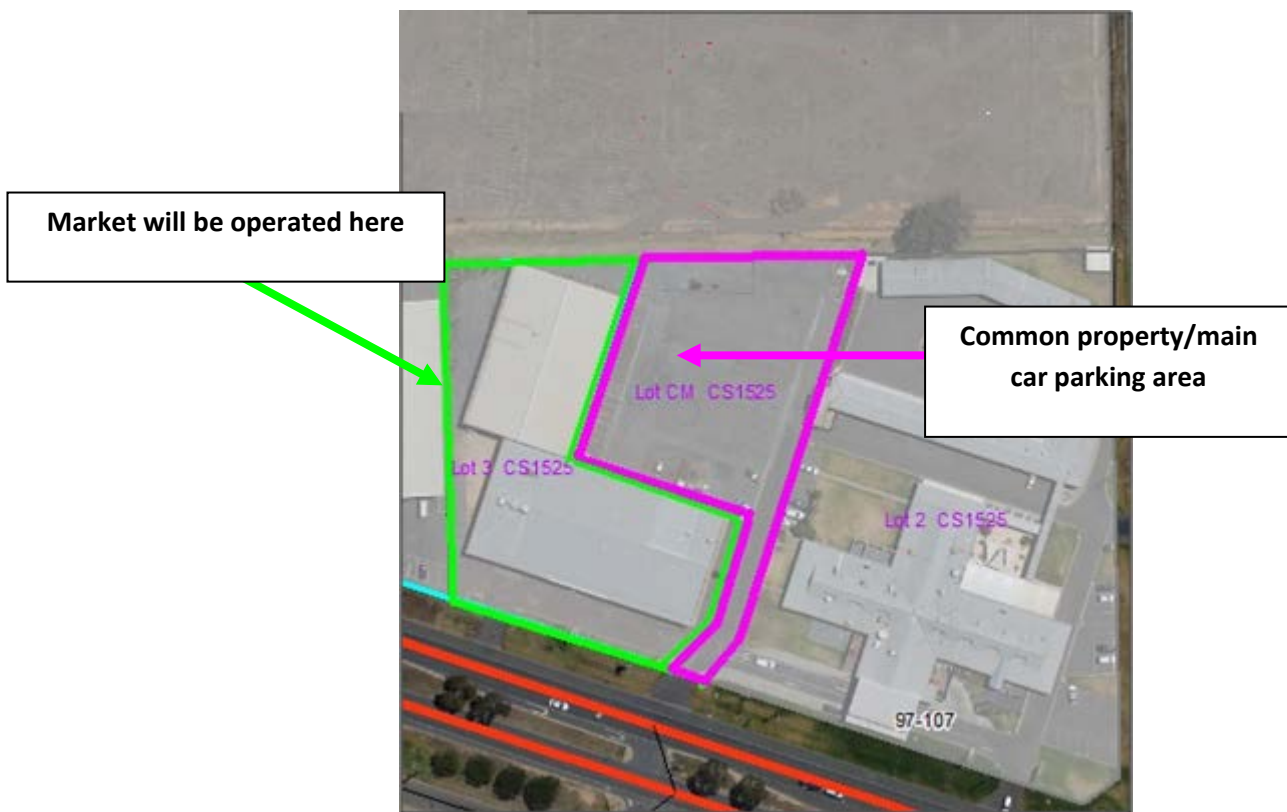


Figure 1:
The subject land (91-95 Benalla Road, Shepparton) consists of the main market site (in green).
The rear car park proposed on 77 Mitchell Street, Shepparton is generally within the area circled in red.

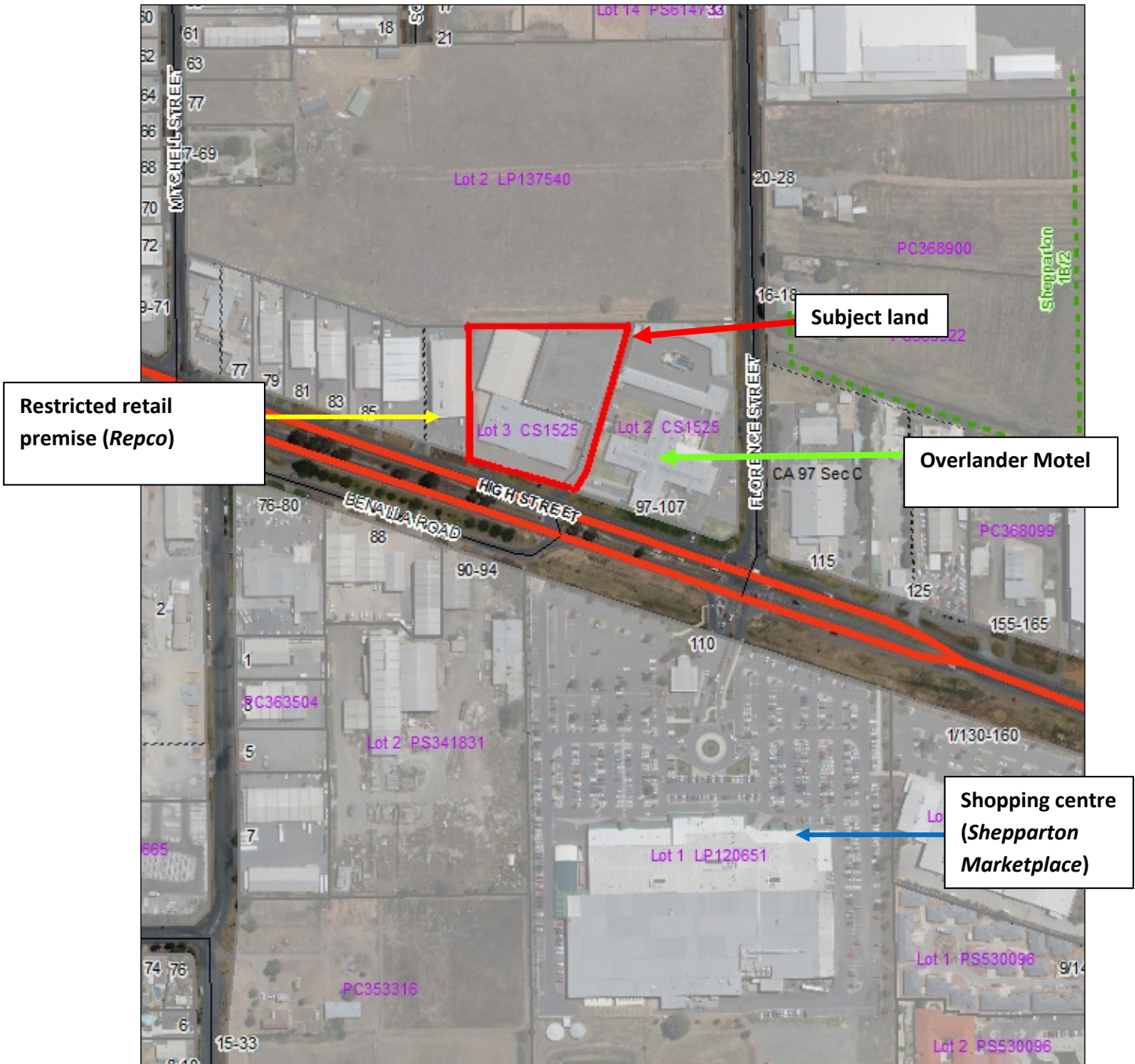


Figure 2: Aerial photo of the subject land and surrounds.



Figure 3: Benalla Road frontage of the existing building.



Figure 4: View along the western elevation of the existing buildings.



Figure 5: View to east. Note the existing 'ikc' sign is an internally illuminated pole sign.



Figure6: View to Beaumont Tiles loading area and the common property.



Figure 7: View to the northern and eastern elevations of the existing buildings.

Permit/Site History

The history of the site includes:

- The two buildings on the land and the associated car park appear to have been constructed some time during the 1970s or 1980s
- The buildings were occupied by 'I.K.C Caldwell' which was an agricultural supplies business which has since relocated.
- Beaumont Tiles currently occupies part of the building located at the Benalla Road frontage.
- The existing car park behind the buildings is an area of Common Property with a lot entitlement & liability of 50/50 which is shared with the Overlander Motel site.
- Planning permit application 2010-59 received on 23 February 2010.
- Various requests for further information, onsite meeting and discussion with applicant leading to an amended application in August 2010.
- Section 50 Application to Amend an Application (Prior to Notice) received on 27 August 2010. This was required in order to include the rear car park (on 77 Mitchell Street, Shepparton) as part of the permit application so that the parking requirements under Clause 52.06 were met.
- Request for further information on 14 September 2010.
- Review of plans resulted in a number of minor changes required. This was communicated to the applicant via correspondence dated 14 September 2010.
- Referral to authorities and public notification on 11 October 2010.
- Original Goulburn Murray Water response received on 20 October 2010. Objection to the construction of any structure over the GMW drain along the northern boundary of the subject land – this would have prevented access to the rear car park from the subject land.
- Objection received from Woolshp Nominees P/L (owners of 'Shepparton Marketplace' shopping centre) on 5 November 2010.
- Applicant's response to objection received on 11 November 2010.
- Request for GMW to review condition on 12 November 2010.
- Withdrawal of objection received on 30 November 2010 based on amended application.
- Amended GMW response received on 8 December 2010.
- Further meetings between applicant and Council planners regarding the scale of the market and required parking resulted in another amended application being received by Council on 7 May 2012. This application removed the additional car parking proposal previously shown on industrial land to the north of the site that was to be leased by the applicant. The number of stalls was reduced to 60 and the permitted operating days extended to seven days per week.
- The amended proposal was sent to the former objector (Shepparton Marketplace) with the result of the objection being re-confirmed with a two page objection. See below for details.

Further Information

Was further information requested for this application? Yes.

1st request: correct copy of title, signage plan, landscape plan, confirm extent of works required, location of waste disposal, hours of operation etc.

2nd request: Confirm whether pole sign will be replaced, car parking assessment report required, written consent from landowner of Lot 2 (Overlander Hotel and Motel) to allow for the use and redevelopment of car park within the common property, confirm whether lockable bike compound will be provided.

3rd request: Copy of title for 77 Mitchell Street, Shepparton.

What date was the information requested?

1st request: 2 March 2010

2nd request: 9 April 2010

3rd request: 14 September 2010

What date was the information received?

1st request: 31 March 2010

2nd request (after extension of time): 2 July 2010

3rd request: 18 September 2010

Meetings with the applicant about requested information and planning scheme requirements finally resulted in the current amended application being received on 7 May 2012.

Public Notification

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

- Sending notices of original application to the owners and occupiers of abutting, opposite and nearby land.
- Placing a sign on site.

As the current amended application is for a reduced proposal compared to the originally advertised proposal, only the former objector was notified. This was because the objector had withdrawn the objection when the applicant agreed to restrict opening days to 3 days per week and provide additional parking on land to be leased on the north side of the site, and the current application reinstates a proposal to operate for seven days per week.

Objections

The Council has received one objection from Woolshp Nominees P/L owner of Marketplace Shopping Centre. The key issues that were raised in the objection are.

- The proposed hours of operation of 8am to 5 pm, seven days a week was considered to be akin to a 'shop' which is a prohibited use in the Business 4 Zone rather than a fresh produce market.
- Concern about the type of foodstuffs to be sold (particularly regarding processed foods and foods that are not locally produced) and whether this would also become a defacto 'shop' or group of shops.
- Concerned about the fitting out of stalls allocated for food handling and provision of coolrooms allowing food goods to be stored overnight being more akin to a 'shop'.
- Argued that the market is proposed in an unsuitable location contrary to the purpose of the Business 4 Zone and also expressing concern that the land and surrounding area would have had agricultural chemical supplies stored in the past.
- Use has the potential for overflow parking to impact on the surrounding street network and the use of nearby private parking areas. Much of the parking is likely to be taken up by stall holders which may number more than one per stall in some instances, thus leaving less parking for customers.
- The objector stated no objection to the notion of a 'fresh local produce market' as a means to promote and support local primary producers, but objections were to particular aspects as outlined above.

The objector's concerns of 'Market' use versus 'Shop' use and location suitability, adequacy of parking, proposed opening hours are all discussed in the Assessment and Conclusion Sections of this report.

Applicant's Response to the Grounds of the Objection

- The applicant's response regarding the sale of foodstuffs and food handling stalls was that the land use definition of a 'market' includes the sale of foodstuffs, the food handling stalls are required to meet requirements under the Food Act 1984.
- The applicant's response regarding the suitability of the site for a 'market' was that the Business 4 Zone does not prohibit the use of land for a 'market' and that a precedent has been set for 'out of centre' retail development through the establishment of the 'Shepparton Marketplace' shopping centre. [Planner's note: Shepparton Marketplace, Mooroopna CBD and Shepparton Plaza are designated Sub-Regional Centres in the Greater Shepparton Planning Scheme].
- The response to the objection relating to car parking was that some stall holders were likely to occupy more than one stall which reduces need for parking.

Title Details

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

Consultation

Consultation was undertaken as detailed elsewhere in this report. Relevant aspects of consultation, included:

- On site meeting with the applicant's consultant (F Dawson) on 6 April 2010

- Notice and referral to authorities
- Public notification
- Meeting with the applicant/landowner (F Shaholi) and applicant's consultant at Council offices on 30 November 2010 and February and March 2012.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
<u>Section 55 Referrals</u>	Nil.
<u>Section 52 Notices</u> Vicroads	The application was referred to VicRoads when the expanded car park was proposed, however no referral of the current application is required as there is no proposal for new or altered access. A number of VicRoads conditions regarding access arrangements and traffic control signage are reasonable and have been included in permit conditions.
Goulburn Murray Water	Responded to original application that proposed a driveway across a GMW drain to an extended car park. No notice required for current amended application that does not affect GMW assets. No conditions.
Goulburn Valley Water	No objection. Condition relates to compliance with GVW's policy for 'Structures Over Corporation Works' and requirements of Section 148 of the Water Act 1989.
Internal Council Notices	Advice/Response/Conditions
Development Engineers	No objection. Conditions relevant to amended proposal relate to car parking requirements, drainage discharge plan required, construction phase and landscaping plan.
Environmental Health	No objection. Conditions relate to requirements under the Food Act 1984.

Assessment

The zoning of the land

Clause 34.04: Business 4 Zone

Use of Market

The use of land for 'Retail premises (other than Shop and Trades supplies)' requires a planning permit in the Business 4 Zone as per Clause 34.04-1 of the Greater Shepparton Planning Scheme. A 'Market' falls within the broader land use definition of a 'Retail premises' and therefore a planning permit is required.

The land use definition for a 'Market' is as follows: *"Land used to sell goods, including foodstuffs, from stalls"*.

The proposed market will include 60 stalls, a manager's office, a cool room, a food preparation area and a café. Refer to plans and elevations provided by the applicant and attached to this report.

Building A will include 14 stalls with a net leasable floor area of 1140 m². Eight of the stalls are designated as 'food handling stalls' and are 31m² to 35m². Food handling stalls will include impervious floor covering and covered skirting, a sink and hand basin and a gas supply. The remaining six stalls are line-marked on the floor and range from 39m² to 110m².

The manager's office and a cool room will also be located within Building A.

Building B will include a further 46 line-marked stalls with a net leasable floor area of 1320 m² half of these stalls will have access to an electricity supply. This building will also include a food preparation area, a café of 31m² as well as toilets and a shower room.

The proposed use of the land for a 'market' falls within 'Retail premises' which is a permit required use in the Business 4 Zone. Basically bulky goods retailing (other than food) and Trade supplies are permitted in the zone without a permit. Retail premises including a market but not including a shop is a permit required use. Shop is a prohibited use.

The locality is characterised by restricted retail premises, trades supplies, motor vehicle sales and light industrial uses within the Business 4 Zone. The Shepparton Marketplace is within a Business 1 Zone and has special controls limiting retail floor space to what presently exists.

Purpose of the Zone

The purpose of this zone is to encourage the development of a mix of bulky goods retailing and manufacturing industry and their associated business services.

The purpose of the Business 4 Zone is to encourage the development of a mix of bulky goods retailing and manufacturing industry and their associated business services. It is unclear whether the proposed use of the land for a market could be supported by the purpose of the Business 4 Zone. The market is a form of retailing for which a permit can be issued and it requires a larger floor area than generally available in individual premises in most Business 1 Zones. While Restricted retail premises definition excludes food retailing, the purpose of Business 4 Zone does not use that definition but rather a non-defined term of 'bulky goods retailing'. The market is considered to be an appropriate use of the land given its highway location, its proximity to both surrounding large floor area retailing, and to an existing shopping centre ('*Shepparton Marketplace*') south of the subject land.

The '*Shepparton Marketplace*' has been identified as a 'sub-regional centre' in the Greater Shepparton 2030 Business Framework Plan. The surrounding area contains a cluster of retail premises including homemaker centres and therefore the location of the 'market' within this area is considered to be appropriate use of the land.

Council's *Greater Shepparton 2030 Strategy Plan* adopted on 3 October 2006 in Section 5.1 Strategic Framework Plan allows for *Provision for peripheral sales and highway related retailing in a number of precincts with frontage to arterial roads.*

The Strategy Plan recognises the importance of the agriculture and integrated food industries resulting in Greater Shepparton being designated the 'Food Bowl of Australia' and an increasingly important contribution to regional wealth being tourism, which is mainly focussed on shopping for locally manufactured products and visitation to the area. Shepparton is the fourth largest regional centre in Victoria and is a key commercial centre in

the region. A new outlet for fresh local produce would seem to support agriculture, tourism and provision of regional shopping.

Buildings and works

A planning permit is also required for Buildings and Works within the Business 4 Zone as per Clause 34.04-4 of the Greater Shepparton Planning Scheme. The works relate to minor items of construction on the outside of the building at the entrances, features and ramps and on the roof to screen existing air-conditioning plant. These items are supported as they will upgrade the drab existing facade of the building and improve legibility of the entrances.

Relevant overlay provisions

Nil

The State Planning Policy Framework (SPPF)

Clause 17.01-1: Economic Development: 'Business'

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

Relevant strategic policy aims to locate commercial facilities in existing or planned activity centres. The proposed 'market' is located in locality designated as a 'major activity centre' in the Greater Shepparton 2030 Business Framework Plan for Shepparton (see Figure 17). This area has been designated as a major activity centre as a result of the 'Shepparton Marketplace' shopping centre at 110-120 Benalla Road, Shepparton which is a sub-regional shopping centre and is immediately south of the subject land.

Other large retail businesses have been located in this area including the 'Shepparton Homemaker's Centre' on the corner of Doyles and Benalla Roads. The location of the proposed market in this area is therefore considered to be orderly planning through clustering retail activities within a major activity centre.

The subject land and surrounds have the advantage of larger sites which can accommodate car parking spaces on the land as opposed to businesses within Shepparton's Central Business District.

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

Clause 21.06-4: Economic Development: 'Commercial/Activity Centres'

Council is committed to limiting the development of free standing centres to specified locations in the municipality's urban growth corridors and in a number of limited locations which also meet the requirements of the dynamic retail sector (such as bulky goods

retailing). Peripheral sales (bulky goods) uses are directed to existing highway locations. When the future population reaches critical mass, these peripheral sales outlets are likely to form thematic clusters, for example a homemakers centre, or trades supplies centre.

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.
- Benalla Road, Melbourne Road and Numurkah Rd have concentrations of Bulky Goods retailing.

The policy includes strategies to consider the expansion of the Shepparton Marketplace (now complete) on the proviso that this does not adversely impact Shepparton's Central Business District, to encourage and promote peripheral sales, bulky goods and restricted retail along highway frontages and to provide neighbourhood commercial and retail centres that are accessible to the local community, especially by public transport and bicycle, and that also have adequate car parking provisions.

The subject site is located within a sub-regional activity centre designated for Shepparton Marketplace shopping centre. The shopping centre is located south of the subject land and is along a bus route that links this activity centre to Shepparton's Central Business District.

The proposed market can accommodate for a total of 107 car parking spaces on site and an additional 16 spaces on street. Parking considerations are further considered under 'Particular Provisions' Section.

The market site is also conveniently located near the urban-rural fringe and therefore is easily accessible to local food producers and urban consumers. The proposed market will not compete with Shepparton's Central Business District as there are no existing fresh produce markets of this size in Shepparton. Size constraints and parking issues are major 'push' factors from locating the market within the Central Business District.

Relevant Particular Provisions

Clause 52.05: Advertising Signage

The purpose of this provision 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 and 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.

A planning permit is required to display business identification signage over eight square metres per premise under Clause 52.05-7, to display new internally illuminated or floodlit business identification signs and under Clause 52.05-5 for the replacement of an advertisement in an existing internally illuminated sign.

New Panel Business Identification Sign on building

The application proposes the display of a new business identification sign of 7m by 2m at the south west corner of the building. This sign is not illuminated and will be a panel sign attached to the western wall of the building to be viewed by vehicles travelling east on Benalla Road and is considered reasonable for business identification.

Replace advertisement in existing Internally illuminated pole business sign

The replacement of the advertising panel in the existing internally illuminated pole sign is also requested. The sign to be replaced ('ikc' sign) is located within the front car parking area of the land. The pole sign is approximately 7.7 metres overall with a sign of 3m by 2.5m. The replacement of the message is considered reasonable as there is only the one pole sign at the frontage of this premises.

Internally illuminated signs identifying pedestrian entrances to building

Two additional business identification signs will be displayed on the southern elevation/Benalla Road frontage over two existing entrances. This signage will consist of two arched fascia signs that will include illuminated transparent backlighting behind individual letters. These signs are an entrance feature that will add interest to the existing bland and drab facade and add 'legibility' to highlight where the entrances to the building are located.

Floodlit fascia

Floodlighting is shown of the existing fascia of the building. If it is intended that this lighting is for additional advertising boards, then additional detail is required and permission could be considered in future under secondary consent allowed by usual permit conditions controlling advertising signage.

Decision Guidelines for signage

In respect of decision guidelines for display of signs under clause 52.05-3 the proposed signs or advertisement replacement are considered to be appropriate. The amount of signage for which detail has been provided is not excessive given the size of the existing building and of the market site as a whole, and given the highway location of the site. Signage needs to be displayed clearly on the building as this is shared with Beaumont Tiles. The existing internally illuminated pole sign and building signage is characteristic of similar signage throughout this stretch of Benalla Road and appropriate to the streetscape of a business area. The signage would not be considered to be a hazard to road users and adequate and legible signage does enable easy and early identification of a site by motorists.

Clause 52.06: Car Parking

This provision aims to ensure the provision of an appropriate number of car spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality. The purpose also includes supporting sustainable transport alternatives to the car, promote efficient use of spaces, and covers amenity and design considerations.

Scheme requirement for parking can be altered with a permit

The provisions apply to the new use of a premises for a 'market' and require the provision of 8 car spaces to each 100 square metres of site area unless a permit is granted for a reduction under clause 52.06-3.

Amendment VC90 introduced by the State Government on 5 June 2012 altered clause 52.06 for car parking. The parking requirement for market previously related to 'leasable floor area' rather than 'site area'. It is presumed that the change was made to include 'open air' markets and the site area measurement is limited to that part 'used' for selling from stalls rather than include all the site area which would greatly add to the required number of spaces. This is consistent with the amended clause purpose now specifically mentioning 'generation of demand'.

The area for the 'market' could be taken to be based on the floor area of the building which is approximately 2460 square metres and therefore 196 car parking spaces are required under Clause 52.06 of the Greater Shepparton Planning Scheme. It is possible that the demand should be based on stall area of 1190m² plus 111m² of area for cafe, office, cool storage and stall holder food preparation area. Using 1301m² site area to calculate car parking for the market would give a requirement of 104 car spaces.

The application proposes the provision of a total of 107 car parking spaces on the site for the proposed market. This is in addition to 20 car parking spaces having been allocated to 'Beaumont Tiles' based on Beaumont Tiles floor area being 683m² and using 3 spaces per 100m² for Restricted retail premises. There are 16 spaces along the site frontage in Benalla Road which can reasonably be available to customers to the market.

It has been noted that the parking areas for the market, and for Beaumont Tiles and for the Overland Hotel are partly within common property for these properties. The common property car parking area is equally shared by Lots 2 and 3 on Cluster Plan 001525K. Lot 2 contains the 'Overlander Motel and Hotel' and is located east of the common property area. Lot 3 contains Beaumont Tiles and the proposed market.

The peak hours of operation for the hotel/motel and the market do not coincide which is an advantage to the proposed market and it appears that the sharing of this area will not pose a problem for either land uses. Written consent from the landowner of Lot 2 has been obtained to the market proposal.

Two steps to consider a reduction for parking requirement

There are two steps to considering a reduction of car parking required on the land under clause 52.06-6. The first step is to assess the car parking demand likely to be generated by the use. Of relevance to this would be that supermarket is required to provide 5 spaces per 100m² of leasable floor area in either a CBD or freestanding location. Market is 8 spaces per 100m² of site area (see previous discussion) for freestanding and 3.5 spaces per 100m² in a CBD location. CBD locations allow for more efficient sharing of spaces by many premises based on different peak usages, multi-purpose trips and use of public transport and cycling and pedestrians.

Using the whole building floor area and the rate for supermarket would require 123 spaces.

On a different empirical basis, considering 60 stalls would likely generate a need for 60 spaces for stall holders (ignoring whether stalls are amalgamated or some stalls have more than one operator) then allowing for one customer vehicle per stall in addition would suggest a need for 120 spaces.

The second step to consider whether allowing fewer spaces to be provided than the number likely to be generated by the use. Relevant considerations include the availability of on-street parking (in this case 16 spaces could be considered), efficiencies from the consolidation of shared parking (the 20 spaces allowed for Beaumont Tiles business), alternative transport modes (cycling is possible but not to any major degree, however public transport is viable as bus routes throughout Shepparton include Marketplace Shopping Centre). Also the spread of hours is relevant and with the market proposed to open 7 days per week this lessens the peak demands considerably compared to some markets that might only open one or a few days per week.

Applicant's Traffic Impact Assessment Report

The applicant has provided a Traffic Impact Assessment Report prepared by O'Brien Traffic and including an empirical assessment of likely car parking demand. Similar market uses were examined including in St Albans, Geelong and of the former SPC site in Mooroopna. It was difficult to replicate a fresh produce market in a non-CBD location, however the consultant concluded that a provision of about 5.1 spaces per 100m² of leasable floor area was an appropriate provision that would reasonably cater for peak demand. The report also indicated that basing parking demand generation on area of market stalls and not total building area (or site area) was appropriate. The report concluded that the proposed on site provision was appropriate considering additional on street parking was available.

Conclusion regarding parking provision

Considering all of the above it is reasonable to conclude that likely demand would be much less than 196 spaces, and is more likely to be around 104 to 123 spaces. It is also reasonable to conclude that the proposed provision of 107 spaces on site for the market is an appropriate number, considering that a further 16 spaces are available in the street, and some possible sharing of spaces with Beaumont Tiles depending on time of day and demand.

A permit to allow reduction in car parking requirement should require some signage and operator control to ensure that spaces behind the building on the west side are used by stall operators, and spaces close to the rear doors of the market on the east side may be used for loading before and after market hours but otherwise be available for customer parking. It is also appropriate to require the operator under the permit to pay for line-marking of the on-street parking across the frontage of the market and hotel sites to maximise efficiency from this area.

Clause 52.34: Bicycle Facilities

The purpose of this provision is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

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

The bicycle requirements for the use of land for a 'market' are as follows:

Employee	Customer/Visitor
1 to each 50 stalls	1 to each 10 stalls

The proposed market will include 60 stalls and therefore requires a total of 7 bicycle parking spaces. Bicycle parking spaces in the form of flat top rail bike racks has been provided adjacent to the front (Benalla Road) entrance to the market, showing 5 in number but available space really only allows for 4. There is adequate room at the rear of the building to accommodate additional bike parking.

A shower room has been provided in Building B but no lockable compounds have been provided for secure bicycle storage. It is probable that staff would accommodate their bikes in the back of their individual stall.

The decision guidelines of Clause 65

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

- The matters set out in Section 60 of the Act have been considered. The application accords with the relevant provisions in the Greater Shepparton Planning Scheme, complies with the objectives of planning in Victoria and does not cause and will not be significantly affected by environmental impacts. The conditions from Vicroads have been included on the permit.
- The proposed development is considered to be in accordance with the purpose of the Business 4 Zone.

- The proposed use and development complies with the relevant provisions within the State Planning Policy Framework, the Local Planning Policy Framework, the Municipal Strategic Statement and Particular Provisions.
- The application satisfies orderly planning of the area by being located on the highway and in a location including a sub-regional shopping centre and trade supplies and restricted retailing.
- The proposed use and development will not have a detrimental effect on the amenity of the area but will improve a site that has been vacant for some time and consequent poor appearance.

Relevant incorporated or reference documents

Greater Shepparton 2030 Strategic Report Strategy Plan 2005

Other relevant adopted State policies or strategies policies

Nil.

Relevant Planning Scheme amendments

None proposed.

Are there any significant social & economic effects?

Nil.

Discuss any other relevant Acts that relate to the application?

Food Act 1984.

Conclusion

Approval is recommended as the proposed market will reuse existing vacant buildings located in a prominent location near the eastern entrance to Shepparton within a 'major activity centre'. The proposed use is not expected to pose a conflict with adjoining businesses as available parking has been assessed as adequate and all loading and unloading will also be provided on the land.

The proposed days and hours of operation will contribute to availability of local produce direct to regional residents and tourists and limit the possibility of high demand for parking which might occur with very limited opening times.

The market may provide some competition with Shepparton's Central Business District and Shepparton Marketplace Shopping Centre but there are no fresh food markets of this size in Shepparton at present. The location of the market outside the Central Business District makes sense in terms of the availability of a large site which can accommodate the use and all parking required on site.

The use of land for a market can be considered within the Business 4 Zone, and does not appear to conflict with the zone purpose particularly when considering the requirement for a

larger floor area than would generally be available in a Business 1 Zone. Competition with other businesses is not a valid planning consideration in itself, unless the scale of conflict and likely result could be of a magnitude to be considered contrary to the 'orderly planning of the area' under clause 65, or should be considered by the responsible authority as a 'significant economic effect of the use' under Section 60 of the Planning And Environment Act 1987.

The objection made on behalf of the owner of Shepparton Marketplace Shopping Centre has been considered as required under the Act. The concerns expressed regarding whether the use will comply with the definition of 'Market' was shared by Council officers but the proposed condition 3 is considered to effectively control those aspects of the use which are important to maintain the distinction between retailing from stalls and being an arcade of shops, and 'Market' is a use allowed to be considered in the Business 4 Zone.

The objector's concern regarding parking has been considered to be unwarranted with adequate parking being available.

The objector's concern regarding opening hours being the same as a shop is not a relevant consideration in the definitions of 'shop' and 'market' or in decision guidelines. If the objector is concerned about competition with premises within Marketplace Shopping Centre then this aspect of the objection must be rejected under Section 57(2A) of the Act as having been made to maintain a direct or indirect commercial advantage for the objector. Provided that the responsible authority is satisfied that the proposal is consistent with being a 'market' and that the market is a reasonable land use for the locality, then it is considered that the greater spread of days and hours of opening should have the desirable effect of reducing peak demand for parking.

The objector's concern regarding any contamination of fresh food is a matter that the Health Department will address through its stringent requirements for food handling.

Overall having considered all the relevant decision guidelines including of clause 65 it is considered that the proposed market together with the recommended conditions will produce an acceptable outcome. It is considered that the proposal is consistent with any relevant State and local policies, and although not required to be within an activity centre, is reasonably located in terms of policy for activity centres and granting permission would on balance produce a net community benefit and sustainable development as required for integrated decision making under State clause 10.04.

DRAFT NOTICE OF DECISION TO GRANT A PLANNING PERMIT

DRAFT DATE:	3 July 2012
PERMIT NO:	2010-59
ADDRESS OF THE LAND:	91-95 Benalla Road, SHEPPARTON VIC 3630
THE PERMIT ALLOWS:	Use and development of land for a Market including sale of local fresh produce and ancillary Food and drink premises in the Business 4 Zone, replacement of an existing internally illuminated sign, display of business identification signage exceeding 8 square metres and including internally illuminated and floodlit business identification signs, and reduction of car parking requirements in accordance with the endorsed Plans forming part of this Permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

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) The internal layout of the market with:
 - i. A maximum floor area of 150m² of semi-enclosed stalls (light-weight booth structures) in a linear configuration, not a two-sided arcade, for stall holders operating as food handlers within the booth and whereby the customer is excluded from the booth;
 - ii. The remainder of stalls being marked out on the floor in a large open area and using tables, benches, stands and the like. Installations of benches and sinks etc. required to comply with health requirements for food handling are acceptable.
- b) Car parking layout plan as per condition 5.
- c) Details of any new or altered signage as per condition 10 and details of any floodlit signs to be displayed on the building including sign size and specifications of illumination.

2. Layout Not Altered

The market and car parking layout and signage as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

3. Permitted Use of Land

The use must comply with the definition of 'Market' in the Greater Shepparton Planning Scheme. The use must continue to operate as a fresh produce Market as proposed and not change to become Shops, and must comply with the following requirements;

- a) Must include but is not limited to the sale of fresh produce from stalls;
- b) The sale of goods must only take place from stalls as a market; and other than (c) below, the stalls must be marked out on the floor in a large open area and using tables, benches, stands and the like. Installations of benches and sinks etc. required to comply with health requirements for food handling are acceptable;
- c) A maximum floor area of 150m² of semi-enclosed stalls (light-weight booth structures) in a linear configuration, not a two-sided arcade, for stall holders operating as food handlers within the booth and whereby the customer is excluded from the booth, is permitted;
- d) Any food and drink premises for the sale of food for immediate consumption on the premises (café) must only be operated in conjunction with the market also operating;
- e) A maximum of 60 stall operators are permitted at any one time, although each individual operator may occupy more than one marked stall at a time;

unless further permission of the responsible authority is obtained in writing to change these requirements.

4. Car Parking Requirement

- a) The number of car parking spaces provided on the land for the 'market' use must be at all times be not less than 107 car parking spaces based on a maximum of 60 stalls being provided within a building floor area of 2397m² as shown on the endorsed plans.

This permit is granted on the basis of 20 on-site spaces also being available for the restricted retail usage of the eastern building (currently Beaumont Tiles), and a reduction in required parking for the market from 8 spaces per 100 square metres due to 16 on-street parking spaces being generally available across the frontage of the subject land and the adjoining hotel during normal business hours, and empirical assessment of likely demand for parking for this market.

- b) Before the use of the market commences all car parking areas, aisles, driveways, line-marking and signage must be provided and must meet the design requirements of Clauses 52.06-8 and 52.06-10 of the Greater Shepparton Planning Scheme to the satisfaction of the responsible authority.
- c) After the use commences and at all times during its operation the required car spaces, access lanes and driveways must be maintained in a continuously useable condition, available for use and must not be used for any other purpose to the satisfaction of the responsible authority.

5. Delivery of Goods

The loading and unloading of goods from vehicles in association with the market must take place within the site and must not disrupt the circulation and parking of customers vehicles.

6. General Amenity

The use and development of the land must not adversely affect the amenity of the area, by way of:

- a) Processes carried on the land;
- b) The transportation of materials, goods or commodities to or from the land;
- c) The appearance of any buildings, works or materials;
- d) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil;
- e) The presence of vermin

to the satisfaction of the responsible authority.

7. Exposed Storage

No goods, equipment or machinery associated with the use of the land permitted are to be stored outside a building so as to be visible from any public road or thoroughfare.

8. Waste / Recycling Collection Area

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

9. Health Requirements

- a) Prior to the commencement of work to fit out any area to be used for the sale of food the occupier must lodge with Council's Health Department details and 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 in the area and that the structure and fittings when installed will comply with the requirements of Food Standards Australia and New Zealand Food Safety Standards 3.2.3 – Food Premises and Equipment.
- b) Prior to commencing any business for the sale of food the individual occupier of any area where food is sold must make application to the Council Health Department for the registration of the premises under the Food Act 1984.

10. Advertising Signage

- a) Signs Not Altered
The signs to be displayed must be in accordance with the endorsed plan and must not be altered or modified without the prior written approval of the responsible authority.
- b) No Additional Signs

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

c) Sign Maintenance

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

d) Sign Illumination

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

11. VicRoads Requirements

a) Only two direct vehicular accesses shall be permitted from the subject land to the Midland Highway. The accesses shall be located at the existing accesses as shown on the plans appended to the application (Drawing No. GMR 09022/10 prepared by GMR Engineering Services):

i. Western access (Ingress only) from the Midland Highway to subject land via the existing access located near the western boundary.

ii. Eastern access (left in and left out) from the Midland Highway to the subject land via the existing access located near the eastern boundary (adjacent to Overlander Hotel).

iii. The accesses shall be constructed and sealed to the satisfaction of the responsible authority (Greater Shepparton City Council).

iv. The maintenance of the access is the responsibility of the property owner.

b) 'No-Entry' (R2-4) signs shall be installed (facing north-east) at the exit end of the Western access to prevent motorists from exiting the subject land onto Midland Highway via this access.

c) Prior to the installation of any traffic management devices on any road or road related area within the subject land that comprises Major Traffic Control Items under the Road Safety (Traffic Management) Regulations 2009, approval shall be obtained from the Greater Shepparton City Council (where such approval is delegated to Council) or from VicRoads (where such approval has not been delegated). Details of these requirements are given in Chapter 2 of the VicRoads Traffic Engineering Manual Volume 1 – Major Traffic Control Items.

In relation to any new business signs or lighting:

d) The signs or supporting hoardings are to be located on private property (i.e. not within the road reservation) unless they are tourist signs approved in writing by VicRoads;

e) The signs shall not be animated and no flashing or intermittent light may be displayed.

f) The intensity of the light in the sign must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity in the surrounding area all

to the satisfaction of the responsible authority.

- g) The luminance of the advertising sign must be such that it does not give a veiling luminance to the driver of greater than 0.25cd/m², throughout the driver's approach to the advertising sign.
- h) The signs must satisfy the VicRoads 10 point road safety checklist for Advertisements and Hoardings (attached).
- i) The sign shall be located outside the relevant 'clear zone', at least 4 metres from the edge of the traffic lane, or shall be frangible or shall be protected by a safety barrier system.
- j) Under the Road Management Act the applicant will be responsible for the ongoing operation, management and maintenance of the sign, which includes any liability arising from injury or damage due to the issuing of the above permit.

12. Time for Starting the Use

This permit will expire if the use is not started within **two (2) years** of the date of this permit. The responsible authority may extend this period if a request is made in writing before the permit expires or within three (3) months afterwards.

NOTATIONS

Access for People with Disabilities

The facilities approved by this permit must be constructed and maintained in accordance with relevant legislation (Federal or State), Australian Standards, and any other design requirements relating to access for people with disabilities.

Building Approval Required

Prior to the commencement of works approved by this permit, building approvals may be required for works and/or change of class of a building and must be obtained if required.

Change of Use

The use of the land for any purpose not specified in this permit may require the further permission of the Responsible Authority, by way of a new planning permit. Any use of the land without such approval may result in enforcement proceedings.

Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2012-76
Applicants Name:	L N Nguyen
Date Application Received:	5 March 2012
Statutory Days:	22 days from the date of the amended plans
Land/Address:	90 McLennan Street MOOROOPNA VIC 3629
Zoning and Overlays:	Business 1 Zone Floodway Overlay Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	Buildings and works in the B1Z under clause 34.01-4 Reduction in on site car parking under clause 52.06-3
Are there any Restrictive Covenants on the title?	No

Proposal

The application proposes to extend an existing building which is used for a pharmacy, to incorporate a medical centre for two health service providers. The application proposes to extend the existing building from 210sqm to 377sqm, which is 167sqm extension to the building. The extension consists of an additional 70sqm ground floor space and 97sqm at the first floor.

The ground floor extension provides reception area, two consulting rooms and an accessible treatment room. The first level is used for staff purposes including offices and staff facilities.

The first floor is cantilevered to continue to provide two on site car parking spaces on the land, one of which is set aside for use by patient drop off.

The rear entrance to the building will be maintained, which allows customers to park in the Council car park to the rear of the land and enter the building.

Planning permit 1999-30 was issued under the Rodney Planning Scheme and allowed the land to be used and developed for a shop (pharmacy). Condition seven of 1999-30 required that two on site car parking spaces be provided. Therefore this application generates a parking requirement of 10 spaces (two for the shop and eight for a health service provider), as the development proposes two on site spaces, and reduction of eight spaces is sought.

Summary of Key Issues

- The application proposes to develop the land for a two person medical centre associated with the pharmacy on the land. The submitted plans provide two on site car parking spaces, one of which is set aside for patients
- The development for a medical centre is listed with office and is an as of right use in the B1Z.

- The Mooroopna CBD is within a major activity centre which role is to revitalise and sustain the Mooroopna CBD as an activity centre. A goal Mooroopna Community Plan is to increase access to medical providers within Mooroopna.
- Three objections have been lodged in relation to the application, which largely relate to the proposed reduction in car parking of eight spaces.
- Whilst it is not ideal to reduce the car parking requirements, the availability of public car parking within the area, ensures adequate public car parking within 100m of the land to accommodate the additional car parking generated by the development
- The planning officers assessment is that the application on balance achieves acceptable planning outcomes and provides a net community benefit by increasing the accessibility of medical providers within Mooroopna.

Moved: Colin Kalms

Seconded: Braydon Aitken

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. 2012-76 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 and 52.06-3 of the Greater Shepparton Planning Scheme in respect of the land known and described as 90 McLennan Street Mooroopna, for buildings and works and waiver of car parking associated with a medical centre (two health service providers) in accordance with the Notice of Decision and the endorsed plans.

Carried

Subject Site & Locality

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

Date: 31 May 2012 Time: 3.12pm

The site has a total area of 280 square metres and currently contains:

- an existing building which is used as a pharmacy, with access from McLennan Street and the rear car park

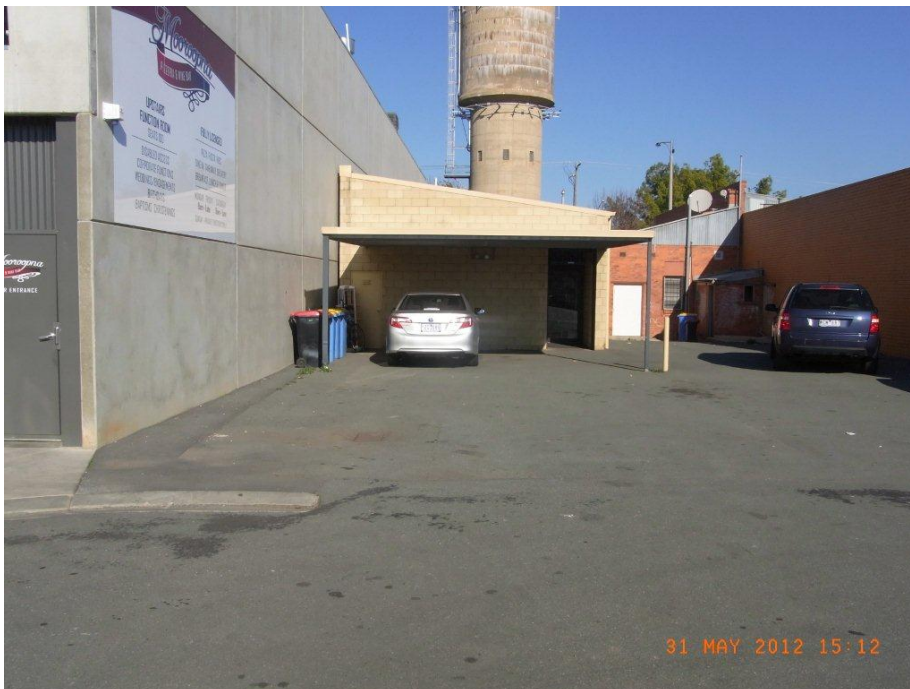
The main site/locality characteristics are:

- McLennan Street is the commercial area for Mooroopna which has the appearance of a strip shopping centre and includes, shops, supermarkets, banks and the like
- To the rear of the land is a Council controlled public car park and a car park which is controlled by the IGA supermarket

The Photos below show the existing site:



Truck unloading to the IGA supermarket



Area of proposed extension



Loading areas to Mitre 10 and the Pizza shop



View of car parking looking north west



View of the car parking looking north



Existing signage and lighting on shared wall on eastern boundary

Permit/Site History

The history of the site includes:

- On 13 June 2012, the applicant submitted amended plans which provided two on site car parking spaces
- The objectors to the application were provided with these amended plans on 15 June 2012

Further Information

Was further information requested for this application? No

Public Notification

The application was exempt from being advertised in accordance with Clause 34.01-4 of the planning scheme.

The application was not exempt from notice under 52.06-4 as the application is not solely for a reduction in car parking requirement.

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

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

The applicant provided a signed declaration stating the sign was displayed on site between 17 April to 7 May 2012.

Objections

The Council has received three objections to date. The key issues that were raised in the objections are.

- Lack of available on site car parking associated with the pharmacy and medical centre
- Potential for conflict between loading activities and waste disposal from the shared car park and rear access to the land from the Council car park

Officer's response to the grounds of objection:

- It is acknowledged that the application seeks to reduce the onsite parking requirement by five spaces.

- The area is well serviced by a series of Council car parks which provide free long and short term parking. This parking infrastructure has been developed to allow Mooroopna's CBD to grow with the provision of ample car parking.
- Historically Mooroopna's commercial area on the north side of McLennan Street has developed without the provision of large scale on site car parking facilities, which has allowed existing and planned businesses to benefit from the Council's parking facilities
- The Mooroopna Community Plan identified the need for additional medical services within Mooroopna. Based on this gap in services within the Mooroopna CBD, the provision of a small medical centre provides a greater benefit to the community as opposed to the dis-benefit of reducing the onsite parking requirements
- The loading and waste disposal activities that are being conducted from the rear car park are occurring on Council land. It has been observed that this loading is undertaken on an ad hoc basis, with trucks double parking in aisles. To improve this situation a permit condition will require that line marking and signage works in the car park be undertaken to create designated loading areas

Title Details

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

- The agreement relates to the owner's acknowledgement that building extensions were constructed below the nominated flood level.

Consultation

Consultation was not undertaken.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Clause 66 of the scheme did not require referral of the application.
Section 52 Notices	The application was notified to GVW, who did not respond to the notice, therefore consent was deemed. The application was notified to the CMA under clause 44.04-5. The CMA consented to the issue of a permit subject to a floor level requirement of 113.15.

Internal Council Notices	Advice/Response/Conditions
Development Engineers	The Council's development engineers reviewed the proposal and consented to the issue of a permit subject to standard conditions relating to car parking and drainage.

Assessment

The zoning of the land

The land is within the B1Z. A purpose of the B1Z is to encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

An office, which includes a medical centre, is a section 1 use in the B1Z subject to the following condition:

The combined leasable floor area for all offices must not exceed any amount specified in the schedule to this zone.

Any frontage at ground floor level must not exceed 2 metres and access must not be shared with a dwelling (other than a caretaker's house), unless the office is a bank, real estate agency, travel agency, or any other office where the floor space adjoining the frontage is a customer service area accessible to the public.

It is considered the proposed use is a section 1 use for the following reasons:

- The land or Mooroopna CBD is not subject to a office floor space cap in the schedule to the B1Z
- The frontage of the building extension to the rear car park at the ground level is 1.53m, which is less than the 2m allowed under the condition, where the adjoining floor space is not for customer service

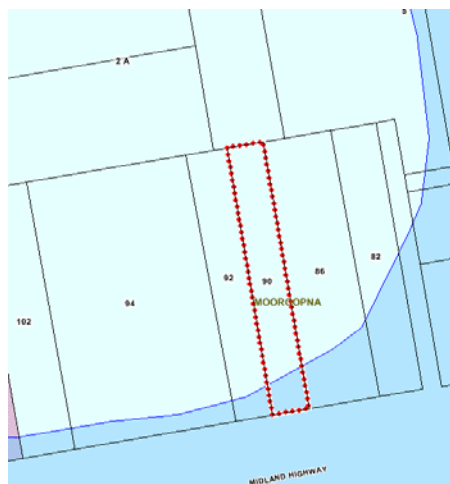
A planning permit is triggered under 34.01-4 for buildings and works in the B1Z.

Clause 34.01-4 includes the following decision guidelines:

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.
- The interface with adjoining zones, especially the relationship with residential areas.
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.
- The storage of rubbish and materials for recycling.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.
- The availability of and connection to services.
- The design of buildings to provide for solar access.
- The objectives, standards and decision guidelines of Clause 54 and Clause 55. This does not apply to a development of four or more storeys, excluding a basement.

Relevant overlay provisions

The land is within the FO and LSIO as shown on the below overlay plan.



The area of the proposed building extensions is limited to the rear 14m of the land, of which is within the LSIO.

The schedule to the LSIO exempts the need for a permit for the following:

an extension to an existing industrial, retail or office building provided that the total ground floor area of the building is less than 130 m²

The proposed application seeks to extend the ground floor area by 70.18sqm; therefore no planning permit is triggered for the proposed office extension in the LSIO.

The State Planning Policy Framework (SPPF)

11.05-1 Regional Settlement Networks

Support sustainable development of the regional cities and centres of Ararat, Bairnsdale, Benalla, Colac, Echuca, Hamilton, Horsham, Mildura, Portland, Sale, Shepparton, Swan Hill, Wangaratta, Warrnambool and Wodonga.

13.02-1 Floodplain Management

This clause seeks to assist in the protection of life, property and community infrastructure from flood hazard.

17.01-1 Business

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

18.02-5 Car Parking

To ensure an adequate supply of car parking that is appropriately designed and located.

19.02-1 Health Facilities

Objective

To assist the integration of health facilities with local and regional communities.

Strategies

- Facilitate the location of health-related facilities (including acute health, aged care, disability services and community care facilities) with consideration given to demographic trends, the existing and future demand requirements and the integration of services into communities.
- Plan public and private developments together, where possible, including some degree of flexibility in use.
- Locate hospitals and other large health service facilities in areas highly accessible to public and private transport.
- Adequate car parking facilities should be provided for staff and visitors.

19.02-4 Distribution of social and cultural infrastructure

Objective

To provide fairer distribution of and access to of social and cultural infrastructure.

Strategies

- Identify and address gaps and deficiencies in social and cultural infrastructure.
- Encourage the location of social and cultural infrastructure in activity centres, especially those identified as Principal Activity Centres.

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

21.06-4 Commercial / Activity Centres

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.
- Benalla Road, Melbourne Road and Numurkah Rd have concentrations of Bulky Goods retailing.

On the 2030 Business Framework Plan Mooroopna CBD is identified as a major activity centre.

21.07-1 Transport

An objective of this clause is to ensure that adequate parking is provided for all new uses and developments.

Officer's response to zone, SPPF and LPPF

The B1Z is the most appropriate zone within Mooroopna for the use of land for a medical centre, if a medical centre is not permitted in the B1Z, the other available zones would be R1Z or industrial zones, which are not as well suited to a medical use.

The Mooroopna CBD is described as a sub regional centre on the Council activity centre hierarchy.

According to the GS2030 the features of the Mooroopna CBD is 'strip shopping centre on the north side of the Midland Highway with supermarket; concentrates on food retailing but has some comparison goods and services'.

The role of a subregional centre is as follows:

Important commercial areas, particularly for a range of convenience shopping and for non food and specialty retailing

Under 6.2 of GS2030 objective six is 'to revitalise and sustain the centres of Mooroopna and Tatura for a range of commercial and business functions'.

Based on the available zones within Mooroopna, the direction in GS2030 and 21.06-4 it is considered the land is a suitable location for a proposed medical centre.

The proposed development for a ground and first floor extension to the existing building consists of face brick and painted concrete panels. The existing McLennan Street elevation remains unchanged as a result of the proposed development.

The floor plans show a waiting area, two consulting rooms, accessible treatment room and on the first floor staff amenities. The applicant has informed that the medical centre will be operated by two full time doctors who will each have their own consulting room.

The land is located within the core of Mooroopna's CBD and is well setback from the nearest residential zoned land.

The building which is constructed on the eastern boundary of the land has signage and a flood light attached to the wall. The proposed development creates the need for the signage and light to be relocated as a second wall is proposed to be constructed on the boundary. A permit condition will require that a flood light be attached to the north elevation to provide lighting into the rear car park. The applicant has been informed to discuss the relocation of the existing sign with the neighbouring pizza shop.

It is considered the proposed buildings and works are acceptable under the zone and policies for the following reasons:

- The B1Z is the most appropriate zone in Mooroopna to locate a medical centre
- The proposed development for the use of a medical centre within the B1Z allows the Mooroopna CBD to continue to develop and offer a range of services as encouraged by GS2030

- The proposed development contributes positively to the Mooroopna CBD by providing increased height and bulk with the use of painted surfaces, whilst maintaining the current on site car parking
- The land is remote from residential zone land

Relevant Particular Provisions

52.06 – Parking

Purposes of this clause include:

- 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.

A permit is required to reduce on site car parking under 52.06-3.

52.06-5 requires that a medical centre provide five spaces to the first person providing health services and three spaces to every other person providing health services.

The application is for a two person full time equivalent health providers, which will likely by multiple doctors. Therefore eight on site car spaces are generated for the proposal, the application seeks to waive the requirement for these eight spaces.

52.06-6 Reducing the requirement for car parking

An assessment of the car parking demand likely to be generated by the use must have regard to the following factors, as appropriate:

- Multi-purpose trips within an area.
- The variation of car parking demand over time.
- The short-stay and long-stay car parking demand.
- The availability of public transport in the locality.
- The convenience of pedestrian and cyclist access to the site.
- The provision of bicycle parking and end of trip facilities for cyclists.
- The anticipated car ownership rates of likely or proposed occupants (residents or employees).

An assessment of the appropriateness of allowing fewer spaces to be provided than the number likely to be generated by the use must have regard to the following, as appropriate:

- Any relevant local planning policy or incorporated plan.
- The availability of car parking including:
 - Efficiencies gained from the consolidation of shared car parking spaces.
 - Public car parks intended to serve the land.
 - On street parking in non residential zones and streets in residential zones specifically managed for non-residential parking.
 - On street parking in residential zones for residential use.

- Any adverse economic impact a shortfall of parking may have on the economic viability of an activity centre.
- The future growth and development of an activity centre.
- Any car parking deficiency associated with the existing use of the land.
- Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge scheme or cash-in-lieu payment.
- Local traffic management.
- The impact of fewer car parking spaces on local amenity including pedestrian amenity and the amenity of nearby residential areas.
- The need to create safe, functional and attractive parking areas.
- Access to or provision of alternative transport modes.
- The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses
- The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.
- Any other relevant consideration.

Clause 52.06-6 requires consideration of two separate matters, firstly the likely parking demand generated by the use and secondly the appropriateness of allowing less spaces than the number likely generated.

Generation

The proposal would result in a medical centre operating within the same building as a pharmacy. The pharmacy received a planning permit under the Rodney Planning Scheme in 1999 and that permit seemingly reduced the onsite car parking requirement to two spaces.

Although the likely generation of a 210sqm pharmacy which offers a full range of services is more likely to be in the order of six spaces.

The pharmacy has received prior planning permission for a reduction in car parking. Under the Rodney Planning Scheme a shop required the provision of three spaces per 100sqm; therefore the pharmacy has historically received a reduction from about six spaces to two spaces.

A medical centre for the first health provider requires the provision of eight on site spaces.

Therefore the total generation for the building, including the pharmacy and medical centre is in the order of 14 spaces, of which the application proposes to provide two spaces on the land.

Appropriateness of fewer spaces

52.06-1 states that these provisions apply to an increase in floor area, or increase in the number of patrons, seats, practitioners, residents or staff of an existing use.

The below plan shows the hatched areas of public car parking which are within 100 metres of the land.



This aerial photo also illustrates that the Mooroopna CBD has developed over time, in a way in which buildings are heavily reliant on Council car parks. For instance the IGA supermarket provides about 18 on site car parking spaces and the Mitre 10 provides about 10 on site spaces. Additionally the aerial photo shows smaller businesses have also developed a significant amount of their site and use the Council car parks for customer and staff parking.

It is also anticipated that by locating a medical centre within an existing pharmacy some dual trips will be created i.e. attending doctor's appointment and filling the prescription within the pharmacy.

The land is within the Mooroopna CBD activity centre, a notable missing function within the activity centre is that of medical services. This was further discovered by the Council during the preparation of the Mooroopna Community Plan. The Mooroopna Community Plan provided the following commentary on medical services in Mooroopna:

Our Goal	The Current Reality	Desired Outcome
More doctors and more doctors who bulk bill	Residents report a shortage of medical services located in Mooroopna	Adequate medical services located in Mooroopna

Practice note 22 Using the Car Parking Provisions includes the following statement:

The land use mix in an activity centre should arise from a combination of strategic planning and economic forces at work in the centre. In an activity centre, car parking

issues have a part to play, but should not dominate when assessing an application for a use or development.

There is a nexus between the level of activity, the car parking supply and access by other modes. It is important that impacts on local residential amenity are taken into account.

Where a change of use or a relatively small extension is consistent with the strategic plan for the centre and car parking cannot easily be provided, it will often be more sensible to reduce the car parking requirement rather than prevent the use or development. Some activity centres will have excellent public transport access, ample car parking or mainly serve local customers who arrive on foot. In such circumstances, an increase in business and activity would increase the overall viability of the centre, and the reduced number of car trips would provide positive impacts.

The benefits to the community through the provision of a medical centre outweigh the disadvantages of an eight car space reduction in car parking requirement, by providing a medical service in Mooroopna which can be reasonably accessed through the use of the Council's extensive free public parking within 100m of the land.

It is considered acceptable to reduce the car parking requirement for the following reasons:

- The land is very well serviced by an extensive amount of free Council car parks within 100m of the land. These car spaces include a 43 car park abutting the land to the rear, on street car parking and three car parks within the central median of McLennan Street
- The businesses on the northern side of McLennan Street in Mooroopna's CBD are heavily dependent on the Council's car parks to provide for customer and staff parking. The purpose of these Council car parks is to allow for current and future businesses to locate in Mooroopna and strengthen the commercial core of Mooroopna
- The Mooroopna Community plan identified the lack of medical services within Mooroopna and sought that additional medical service is provided in Mooroopna. The development which allows additional medical providers in Mooroopna provides a net community benefit by providing improved access to medical services to the residents in Mooroopna.
- The development is a modest change to the commercial landscape in Mooroopna and a reduction in parking of eight spaces, will not detrimentally affect the operation of the Council car parks which service the Mooroopna CBD.

Clause 52.34 Bicycle Facilities

The purpose of this provision is to encourage cycling as a mode of transport and to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

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

The bicycle requirements for the use of land for a 'medical centre' are not triggered until at least four practitioners are operating from the land.

Therefore the application does not trigger the need for any on site bicycle facilities.

The decision guidelines of Clause 65

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

- The matters set out in Section 60 of the Act have been considered. The application accords with the relevant provisions in the Greater Shepparton Planning Scheme, complies with the objectives of planning in Victoria and does not cause and will not be significantly affected by environmental impacts.
- The proposed development is considered to be in accordance with the purpose of the Business 1 Zone.
- The proposed use and development achieves acceptable outcomes with the relevant provisions within the State Planning Policy Framework, the Local Planning Policy Framework, the Municipal Strategic Statement and Particular Provisions.
- The application satisfies orderly planning of the area by being located on the Midland Highway and in a location including a sub-regional shopping centre.
- The proposed development will not have a detrimental effect on the amenity of the area but will improve access to medical services in Mooroopna.

Relevant incorporated or reference documents

Greater Shepparton 2030 Strategic Report Strategy Plan 2005

Other relevant adopted State policies or strategies policies

Nil.

Relevant Planning Scheme amendments

None proposed.

Are there any significant social & economic effects?

Nil.

Discuss any other relevant Acts that relate to the application?

Nil.

Conclusion

Approval is recommended for the proposed buildings and works which facilitate the use of the land for a medical centre. Both the local policy and Mooroopna Community Plan encourage uses such as a medical centre within Mooroopna's CBD to strengthen the role of the activity centre.

The major consideration with this application is regarding the suitability of car parking provided on the land. The application is for a two health service provider medical centre which requires eight on site car spaces of which none are provided. If a car parking reduction were not allowed no permit could issue.

Clause 10.04 states that responsible authorities should balance competing objectives in favour of a net community benefit and sustainable development for the benefit of the community.

Whilst it is not an ideal outcome to reduce the car parking requirement, given the significant Council car parking infrastructure within 100m of the land, it is not considered that the reduction in car parking would lead to such an unacceptable outcome that no permit should issue.

The land is within a major activity centre and the development facilitates a use of land which is sought by the Mooroopna Community, therefore a permit with appropriate conditions should issue.

Draft Notice Of Decision

APPLICATION NO: 2012-76

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: 90 MCLENNAN STREET MOORoopNA VIC 3629

WHAT THE PERMIT WILL ALLOW: BUILDINGS AND WORKS AND REDUCTION OF
CAR PARKING ASSOCIATED WITH A MEDICAL
CENTRE (TWO PRACTITIONERS)

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Layout Not Altered

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

2. 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.

3. 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.

4. Loading Bay

Before the development starts, a properly prepared plan must be submitted to the responsible authority for approval showing the creation of a loading bay within the Council car park to the rear of the land.

Before the occupation of the development, the loading bay must be line marked and signed as shown on the endorsed plans to the satisfaction of the responsible authority.

5. 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 (64) l/sec/ha;
- e) documentation demonstrating approval from the relevant authority for the legal point of discharge; and

Before the building extensions are occupied all drainage works required by the drainage plan must be completed to the satisfaction of the responsible authority

6. Car Parking Requirements

Before the building extensions are occupied no fewer than two car spaces must be provided on the land for the use and development as shown on the endorsed plans.

Before occupation of the building extensions, 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;
- 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) signed to direct drivers to the area(s) 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 must not be used for any other use, to the satisfaction of the responsible authority.

7. External Lighting

Before the occupation of the building extension, a flood light must be attached to the northern elevation of the building to provide lighting to the Council car park to the rear of the building to the satisfaction of the responsible authority.

8. Goulburn Broken Catchment Management Authority Requirements

The finished floor level of the proposed dwelling must be constructed at least 300 millimetres above the 100-year ARI flood level of 112.85 metres AHD, i.e. 113.15 metres AHD, or higher level deemed necessary by the responsible authority.

9. 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.