

# **CONFIRMED MINUTES**

**FOR THE  
GREATER SHEPPARTON CITY COUNCIL**

## **DEVELOPMENT HEARINGS PANEL**

**Meeting No. 15/2013**

**HELD ON  
THURSDAY 28 NOVEMBER 2013  
AT 10.04AM**

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

**CHAIR  
Johann Rajaratnam**

## **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. RECORDING OF PROCEEDINGS**

The acting Chairperson advised the Hearing that:

- the proceeding is being recorded.
- that people can arrange to come and listen to the recording at a suitable time.
- that it is Council’s preferred position that we do not provide copies of the recording.
- that all other recording devices be turned off during the course of the hearing.

## **3. COMMITTEE MEMBERS PRESENT**

Johann Rajaratnam, Colin Kalms, Ian Boyle, Jonathan Griffin and Braydon Aitken.

## **4. OFFICERS PRESENT**

Ronan Murphy – Senior Planner.

Tim Watson – Planner.

## **5. APOLOGIES**

Councillor Les Oroszvary and Councillor Michael Polan.

**6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

- Moved by Johann Rajaratnam, and seconded by Colin Kalms that the minutes of the meeting held on 11 July 2013 be adopted.

Carried

- Moved by Ian Boyle and seconded by Jonathan Griffin that the minutes of the meeting held on 14 November 2013 be adopted.

Carried

**7. DECLARATIONS OF CONFLICTS OF INTEREST**

None

**8. MATTERS FOR CONSIDERATION**

Two items listed for consideration.

**9. LATE REPORTS**

None.

**10. NEXT MEETING**

12 December 2013.

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## Application Details:

Responsible Officer:	Ronan Murphy
Application Number:	2013-54
Applicants Name:	R Qemal
Date Application Received:	7 May 2013
Statutory Days:	90
Land/Address:	276 McLenna Street, Mooroopna VIC 3629
Zoning and Overlays:	Commercial 2 Zone (C2Z)
Why is a permit required (include Permit Triggers):	52.05 Promotion Sign
Are there any Restrictive Covenants on the title?	Nil

## Proposal

A Planning Permit application was made on 7 March 2013 for a Major Promotional Sign on the land at 276 McLennan Street, Mooroopna.

The application which was lodged was for a sign with an overall height of 5.3 metres from ground and an advertisement area of 19.32m<sup>2</sup>.

The applicant was advised by email dated 7 March 2013 that the submitted application would not comply with local policy in particular Clause 21.04-4 of the Planning Scheme:

*“Major promotional signs are discouraged, but if approved are to be confined to Regional and Sub-regional Centres attached to a building and should not be more than 3 meters above the ground or be internally or externally illuminated”*

Further to this the applicant was advised that the Planning Department would not support an application for either a free standing promotion or free standing major promotion sign on the land and that the Planning Department would support a promotion sign of 8m<sup>2</sup>.

Having regard to the above the applicants made an amended application for a sign with the following dimensions:

Would have a signage area of 12.5m<sup>2</sup>;

Would have a height of 5m from ground.

Having regard to the size of the amended proposed sign and the definitions set out in Clause 73 of the Planning Scheme, the proposal now being considered is a Promotion Sign.

The applicants were informed by phone that the amended sign would not be acceptable and would not comply with Clause 21.04-4 of the Planning Scheme, which encourages signage which is primarily for business identification providing basic identification information of the business.

The subject lands are within the Commercial 2 Zone and are affected by the Land Subject to Inundation Overlay.

The application was notified and one objection was received.

It is considered that the proposal would not comply with the provisions of the Planning Scheme and a refusal is recommended.

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## Summary of Key Issues

- An application was made on 7 March 2013 for a Major Promotional Sign.
- The Council's Planning Department informed the applicant that would not support an application for either a free standing promotion or free standing major promotion sign on the land and that the Planning Department would support a promotion sign of 8m<sup>2</sup>.
- In response to the above the applicant amended the application to a sign with an advertisement area of 12.5m<sup>2</sup> and a height of 5.5 metres from ground;
- The sign now being considered is defined as a Promotional Sign, having regard to the definitions set out in Clause 73 of the Planning Scheme.
- The amended application was notified and one objection was received;
- The application was referred to VicRoads who did not object to the proposal, subject to conditions;

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## Moved by Colin Kalms and Seconded by Braydon Aitken

That the Council having caused notice of Planning Application No. **2013-54** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse the application under the provisions of Clause 21.04-4 of the Greater Shepparton Planning Scheme in respect of the land known and described as **276 McLennan Street, MOOROOPNA, VIC 3629, for a promotional sign.**

### For the following reasons:

1. The proposed sign does not comply with Clause 21.04-4 (Policy Guidelines for Advertising Signage) of the Planning Scheme as the proposed sign would not identify the activities of a business within the site.
2. The sign does not comply with Clause 21.04-4 (Policy Guidelines for Advertising Signage) of the Planning Scheme for the following reasons:

- The proposed sign is not in an appropriate location to be compatible with the preferred future character of the area;
  - The location and nature of the sign will have an adverse impact on the visual amenity of the area;
  - It will increase the visual complexity and clutter of the site and the area in general;
  - It will not compliment the dominant character of the area, including the number and type of signs.
3. The proposed sign does not comply with the purpose of Clause 52.05 of the Planning Scheme as it would not be compatible with the amenity and visual appearance of the area.
4. The proposed sign does not comply with the Decision Guidelines of Clause 52.05-3 of the Planning Scheme as the sign would not comply with the preferred future character of the area.

## **CARRIED**

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### **Subject Site & Locality**

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

Date: **20/3/13**

Time: **10.19** am

The site has a total area of approximately 6,641 square metres and currently contains a large shed associated with the use of the land (and the adjoining site to the east 264 McLennan Street) for motor repairs, panel beating and materials recycling.

The site has a total area of **2,426** square metres and currently contains:

- The subject land is located within a strip of Commercial 2 zoned land which abuts the Midland Highway. Other commercial uses adjacent to the site include Admoor Plumbing to the east of the land.

The Photos below show the existing site:



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## Permit/Site History

The history of the site includes:

- 2011-122

Application lodged for the use of the land for materials recycling. The application was notified to the public and two objections were received.

In accordance with the Council's delegations, the application was referred to the Council's Development Hearing Panel, who decided to issue a notice of decision to grant a permit.

VCAT set aside the decision of the Planning Department and decided to refuse to grant.

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## Further Information

Was further information requested for this application? **NO**.

What date was the further information requested?: **N/A**



What date was the further information received?: N/A

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## Public Notification

The application was notified on June 13 2013.

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## Objections

One objection was received.

The objection related to the affect the amenity of the area.

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## Title Details

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

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## Consultation

The applicant was advised by letter dated 20 March 2013, that stated the following:

***Major Promotional signs are discouraged, but if approved are to be confined to Regional & Sub-regional Centres attached to a building wall and should not be more than 3 metres above the ground or be internally or externally illuminated.***

***Having regard to the above, it is noted that this area of Mooroopna is not identified as either a Regional or Subregional centre, pursuant to Clause 21.06-4 of the Planning Scheme. Further to this the proposed Major Promotional Sign is free standing, not attached to a building and is greater than 3 metres in height (5.3 metres from the ground).***

***In light of the above it is considered that the proposed sign is unlikely to be supported by the Planning Department. However should you wish to proceed with the application the Planning Department will commence notification and referral of the application as appropriate.***

Following this, the applicants amended the application and reduced the area if the sign to 12.5m<sup>2</sup> the height of the sign would be 5.5 metres from ground level.

The applicant was advised by phone that the amended application did not sufficiently address the provisions of Clause 21.04-7 of the Planning Scheme as outlined in the letter of 20 March 2013 and that the Planning Department would not support the application.

In addition to the above, Council officers Andrew Dainton and Warwick Smith met with the applicant and explained that the application was not likely to be supported

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## Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
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Section 55 Referrals	VicRoads. No objection subject to condition relating to luminance.
Section 52 Notices	Nil

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## Assessment

### The zoning of the land

The subject lands are within the Commercial 2 Zone. The purpose of the Commercial 2 Zone is:

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

A Planning Permit is not required pursuant to provisions of the Commercial 2 Zone.

The Commercial 2 Zone is identified as being within Category 1 of the signage areas set out in Clause 52.05 of the Planning Scheme. This is discussed below.

### Relevant overlay provisions

The subject lands are affected by the Land Subject to Inundation Overlay. The purpose of the Land Subject to Inundation Overlay is:

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

A Planning Permit is not required for the proposed signage pursuant to the provisions of the Land Subject to Inundation Overlay.

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

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

#### Clause 21.04-4

#### Urban Design 21.04-4

Advertising signage is a key and often highly visible component of the physical environment of the municipality and the inappropriate design or placement of advertising signs can have a significant effect on the appearance and visual amenity of an area. Council wants to guide the location and display of signage within the municipality to ensure signage is compatible with the character and architecture of local streetscapes. The design, form, size and placement of advertising signs should be controlled so as to protect and enhance the appearance of rural and urban areas and to avoid signs that are excessive, confusing or incompatible with the character of the surrounding area.

#### Objectives and strategies

- To control the number of signs and ensure that the appearance, size, illumination or location of signs does not adversely affect the visual amenity of the natural environment or the built form in the municipality.
- Control the location, size and scale of advertising signage, especially in key precincts of the Shepparton CBD and town centres.
- Ensure that the location, form and size of signs complements the dominate character of any urban or rural landscape, building, site or area on which they are erected.

#### Specific Implementation 21.04-7

- Fewer signs displaying a simple clear message is encouraged
- Advertising signage is encouraged to be primarily for business identification providing basic identification information of the business.
- Sky signs, high wall signs, projecting off-wall signs on upper facades and signs that project above parapets, wall, verandahs, roof lines or building fascias are discouraged in all areas
- Where a building is set back from the street, signs are encouraged to be located within the boundary and should be orientated to be parallel or at right angles to the street.
- Where possible signs should be located on the building.

- Major promotional signs are discouraged, but if approved are to be confined to Regional and sub-regional centres attached to a building wall and should not be more than 3 metres above the ground or to be internally or externally illuminated.

#### Response to Clause 21.04-4

The proposed sign is to be displayed on a vacant area of the site (on the southern boundary of the site) and would be double sided so as to be viewed by oncoming traffic approaching Mooroopna and also leaving Mooroopna.

The location of the proposed sign is within a Commercial 2 Zone with the current use of the subject property being for panel beating and motor repairs. The site is located away from the town centre, however the site abuts a Road Zone (category 1) which is considered a main transport route with a large number of traffic movements.

Clause 2104-4 of the Planning Scheme seeks to ensure that signage is appropriately located and would not have a detrimental impact on the impact of the area by dominating the visual character of the area.

It is considered that the proposed sign would have a detrimental impact on the amenity of the area as the sign would be have a scale, which is not commensurate with the pattern of development in the area.

It is considered that the proposed sign, given its height and width would dominate the character of the area, which is essentially a mixed use approach to Mooroopna, including small commercial and residential properties, none of which have signage to the extent proposed in this application. It is considered that the proposal would not comply with Clause 21.04-4 of the Planning Scheme.

#### Response to Clause 21.04-7

The proposed sign would not be a business identification sign as encouraged in Clause 21.04-7 and would advertise businesses not associated with the site. This would not comply with Clause 21.04-7 of the Planning Scheme.

Further to this, it is noted that the proposed sign would be freestanding and not attached to the building on this lands, Clause 21.04-7 of the Planning Scheme encourages signs to be attached to buildings. The proposal would not comply with Clause 21.07-7 in this regard.

While it is noted that the site is within a Commercial 2 Zone, it is noted that the lands to the north are intended to be a large residential development, it is noted that locality has an emerging preferred character.

Having regard to the above, it is considered that the proposal would not comply with the provisions of Clause 21.04-7 of the Planning Scheme.

### **Relevant Particular Provisions**

#### Advertising Signs 52.05

The purpose of this provision is to:

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

Pursuant to Clause 52.05-5 a planning permit is required to display a promotional sign.

It is noted that the Commercial 2 Zone has the lowest level of control over signage (category 1 as set out in Clause 52.05-6 of the Planning Scheme). The purpose of Category 1 is:

*“To provide for identification and promotion signs and signs that add vitality and colour to business areas”*

It is noted that category 1 is the minimum limitation in terms of signage.

### **Decision Guidelines 52.05-3**

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

The character of the area including:

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

### Response to the character of the area

Having regard to Clause 52.05-5 of the Planning Scheme, the proposed sign, given its overall height (including support structure) and the area of advertisement would lead to visual clutter and visual disorder, this would not comply with the purpose set out in Clause 52.05-5 of the Planning Scheme.

The sign will not enhance the character of the area nor complement the dominant character of signage in the area. Other signs within the area typically identify the business being

conducted on the land, and are generally attached to the building. The proposal would represent a very discernable departure from the existing pattern of signage in this area.

Further to the above, it is noted that the lands to the north are now being developed as a major residential area, known as Mooroopna West Growth Corridor. The Mooroopna West Growth Corridor is the primary growth corridor in Mooroopna. It is therefore considered that there is an emerging residential character in the area.

With regard to the character of the area, it is noteworthy that the land to the east of the subject land are within the Design and Development Overlay (Schedule 8) which seeks to enhance the western approach to the town. In relation to signage it is noted that the design objectives include:

*“To provide for signage that contributes to the commercial activities along McLennan Street without dominating the streetscape”*

While it is noted that the subject lands are not affected by the Design and Development Overlay (Schedule 8), it is considered that the Design and Development Overlay gives a strong direction of the types and form of development which the Council envisage for the area.

It is not considered that the proposed sign would not be compatible with the emerging residential character of the area and would not comply with the objectives of the DDO8, which abuts the land.

#### **Impacts on views and vistas:**

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

#### Response to Impacts on Views and Vistas

The proposed sign would have a detrimental impact on views from the public realm having regard to its height and location on the property boundary.

It is considered that the height of the sign (including support structure) has the potential to dominate the skyline.

#### **The relationship to the streetscape, setting or landscape:**

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

### Response to the relationship to the streetscape

The proposed sign would be supported by a structure including 2 m high footings and a 3 x 12 metre advertisement area.

The sign will not necessarily relate to any business in the area. The subject land has no existing development or landscaping on site that would soften the effect of the sign. This will add to the visual complexity of the site and surroundings. Freestanding advertising signs on other sites in the area have been generally restricted in number, and the proposal could provide a precedent for both the number and nature of signs in the area.

### **The relationship to the site and building:**

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

### Response to the relationship to the site and building

The proposed sign is proposed to be freestanding and would not have any relationship to the existing building on site. No native vegetation is required to be removed as part of the proposed display of the sign.

### **The impact of any illumination:**

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

### Response to the impact of illumination

The sign is not proposed to be illuminated; this will be controlled with conditions.

### **The impact on road safety:**

A sign is a hazard if the sign:

- Obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property.
- Obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background which might reduce the clarity or effectiveness of a traffic control device. Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.
- Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.

- Is at a location where particular concentration is required, such as a high pedestrian volume intersection.
- Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.
- Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.
- Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.
- Is within 100 metres of a rural railway crossing.
- Has insufficient clearance from vehicles on the carriageway.
- Could mislead drivers or be mistaken as an instruction to drivers.

#### Response to the impact on road safety

The proposed sign would be located directly adjacent to a road zone category 1 (Midland Highway). The application was referred to Vic Roads who did not object to the proposed sign.

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

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

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

#### Response to Clause 65 of the Planning Scheme

It is considered that the proposal would not comply with the provisions of Clause 65 in the following ways;

- The proposal would not comply with the purposes set out in Clause 21.04-7;



- The proposal would not have a detrimental impact on the amenity of the area and would not comply with the orderly planning of the area;

Having regard to the above it is considered that the proposal would not comply with the provisions of Clause 65 of the Planning Scheme.

**Relevant incorporated or reference documents**

There are no relevant incorporated or reference documents.

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

There are no other relevant adopted State policies or strategies which are pertinent to the proposed development.

**Relevant Planning Scheme amendments**

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

There are no significant social and economic effects associated with the proposed development.

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

There are no other Acts that relate to the application.

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## **Conclusion**

It is considered that the proposals would not comply with the provisions of Clause 21.04-7, Clause 52.05 and Clause 65 of the Planning Scheme and it is recommended that a refusal should issue.

# DRAFT

# REFUSAL TO GRANT A PERMIT

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**APPLICATION NO:** 2013-54

**PLANNING SCHEME:** GREATER SHEPPARTON PLANNING SCHEME

**RESPONSIBLE AUTHORITY:** GREATER SHEPPARTON CITY COUNCIL

**ADDRESS OF THE LAND:** 276 McLennan Street MOORoopna VIC 3629

**WHAT HAS BEEN REFUSED:** Promotion Sign

**WHAT ARE THE REASONS FOR THE REFUSAL?**

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1. The proposed sign does not comply with Clause 21.04-4 (Policy Guidelines for Advertising Signage) of the Planning Scheme as the proposed sign would not identify the activities of a business within the site.
2. The sign does not comply with Clause 21.04-4 (Policy Guidelines for Advertising Signage) of the Planning Scheme for the following reasons:
  - The proposed sign is not in an appropriate location to be compatible with the preferred future character of the area;
  - The location and nature of the sign will have an adverse impact on the visual amenity of the area;
  - It will increase the visual complexity and clutter of the site and the area in general;
  - It will not compliment the dominant character of the area, including the number and type of signs.
3. The proposed sign does not comply with the purpose of Clause 52.05 of the Planning Scheme as it would not be compatible with the amenity and visual appearance of the area.
4. The proposed sign does not comply with the Decision Guidelines of Clause 52.05-3 of the Planning Scheme as the sign would not comply with the preferred future character of the area.

## Application Details:

Responsible Officer:	Tim Watson
Application Number:	2013-242
Applicants Name:	Bruce Cook & Associates P/L
Date Application Received:	23 October 2013
Statutory Days:	
Land/Address:	870 Murchison-Tatura Road DHURRINGILE VIC 3610
Zoning and Overlays:	Farming Zone, Heritage Overlay, part Floodway Overlay and part Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	35.07-4 – Buildings and works associated with a Section 3 use 63.05 – buildings and works associated with a section 3 use. 52.29 – works in a Road Zone (category 1)
Are there any Restrictive Covenants on the title?	no

## Proposal

The proposal is in association with the existing use of the land for a corrective institution defined in the Planning Scheme as land used to hold and reform persons committed to it by the courts, such as a prison, remand centre, and other types of detention centre.

The application includes the construction of six individual single story buildings around a central area with a common design, each with a number of individual lodging units within.

The application also includes earthworks for the construction of a dam in the south west corner of the land to be used for a recycle dam. The earth from the dam will be used for building up of the sites for the proposed accommodation units.

The proposal is in association with the existing use of the land for a corrective institution defined in the Planning Scheme as land used to hold and reform persons committed to it by the courts, such as a prison, remand centre, and other types of detention centre.

The application was amended 3 times under section 57a of the *Planning and Environment Act 1987* to:

1. Change the proposed location and design of the accommodation units.
2. Include the construction of a dam in the Farming Zone.
3. Include works within a Road Zone Category 1

## Summary of Key Issues

- Application for a planning permit proposes additional accommodation units and a dam to be associated with the existing use of the land for a prison.
- The application has been amended three times under Section 57A to alter the location and design of the buildings, to include earthworks in the Farming Zone for the construction of an irrigation re-use dam and allow alteration of an access onto a Road Zone, Category 1.
- The application was publicly notified to surrounding properties twice, given the amended application significantly changed the location of the proposed buildings.
- No objections were received during the initial notification period, however three objections were received during the second period, one of which was signed by thirteen objectors from the surrounding properties.
- Objections related to traffic safety and the increased prisoner numbers creating security and safety matters.
- The application was notified and referred to the relevant authorities, none of whom objected, some subject to conditions.
- The application for a planning permit is considered to achieve acceptable planning outcomes when assessed against the relevant policies of the scheme and taking into account concerns raised by objectors.
- The traffic safety issues raised are to be addressed through the upgrades to Murchison-Tatura Road as per Vicroads conditions. Safety concerns raised by objectors relating to the prisoner security is not relevant with existing use rights for the land proven and the level of security provided at the prison not a planning matter for planning consideration.
- The level of security and methods of operation for prisons is for the State Government to decide and cannot be assessed or managed through the planning permit process, with the use of this land for a corrective institution substantiated through existing use rights.

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## Moved by Braydon Aitken and Seconded by Ian Boyle

That Council having caused notice of Planning Application No. **2013-242** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit

under the provisions of **35.07-4, 52.29 and 63.05** of the Greater Shepparton Planning Scheme in respect of the land known and described as **870 Murchison-Tatura Road DHURRINGILE VIC 3610**, for the **Buildings and works in the Farming Zone and Heritage Overlay for the construction of additional accommodation units** in accordance with the Notice of Decision and the endorsed plans.

## **CARRIED**

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### **Subject Site & Locality**

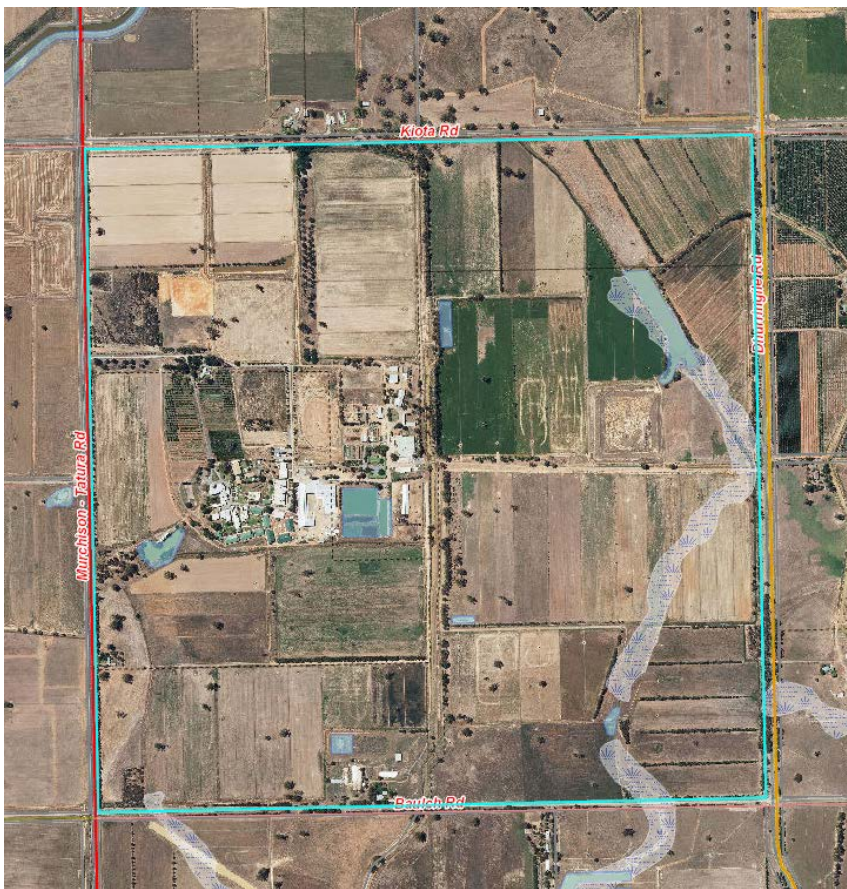
The site has a total area of approximately 46.6 hectares which comprises the main site, with the total area of the site which includes all farm land associated with the prison is approximately 260 hectares currently contains:

- A number of accommodation units, offices and other buildings associated with the existing use of the land as a prison.
- A large two storey building at the western end of the envelope of building used for administrative purposes identified on the state heritage register.
- The remaining is used for agriculture and farmed as part of the processes carried out by the operation of the prison.

The main site/locality characteristics are:

- The subject site abuts a road on all sides with the road (Murchison-Tatura Road) abutting western boundary a Road Zone (category 1).
- The surrounding land is actively farmed with a small number of associated dwellings.
- The closest dwelling to the proposed works being over 700 metres away.

The aerial photos below show the existing site:



## Permit/Site History

The history of the site includes:

- Planning permit 2002-169 was issued for the extensions to an existing factory building.
- Planning permit 2002-196 was issued for restoration works on the heritage listed building.
- Planning permit 2002-203 was issued for the upgrade of the existing wastewater management facility.
- Planning permit 2007-216 was issued for earthworks within the Farming Zone and the removal of native vegetation.
- Planning permit 2009-27 was issued for buildings and works in the Farming Zone for an additional prisoner accommodation unit and a waiver of car parking requirements.
- Planning permit 2009-42 was issued for building and works for a new stores, administration, medical, education programs and kitchen buildings.
- Planning permit 2009-249 was issued for buildings and works in the Farming Zone for the extension to an existing classroom and workshop building, buildings and works in the Floodway Overlay and within 100 metres of a designated floodplain.
- Planning permit 2013-290 was issued for buildings and works for the construction of a replacement hay shed.
- The site has been used for a corrective institute of some sort since World War Two when it was used as a prisoner of war camp.

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## Further Information

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

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## Public Notification

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

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

The Council has received **3** objections to date. The key issues that were raised in the objections are.

### Traffic

The location of the existing entrance to the prison already provides for an unsafe traffic outcome on the Murchison Tatura Road given the number of vehicle movements to and from the land, vehicles turning right into the land are required to wait in the middle of the road for south bound traffic. The risk associated with the speed restriction of 100 kmh, the number of heavy vehicles which use the road and there being no space to pass a vehicle turning right

will only be exacerbated by the increase in vehicle numbers generated by the prison expansion.

### Safety

The objectors raise concern that the existing prison already results in an unsafe environment for their families with a number of escapes identified in the media. There are also a number of illicit substances being deposited around the road side of the land and that a further increase in prisoner numbers through additional accommodation units will exacerbate this.

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## Title Details

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

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## Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Pre-application discussions with the applicant in which they were advised what would be required to be submitted with the application for a planning permit.
- The matter of road safety matters raised by the objectors were discussed with the applicant, in which the applicant agreed to undertake works to mitigate the issue.
- The application was advised that they would need to amend their application to include works in a Road Zone, Category 1.
- No mediation attempts were made with the objectors to this application, given the traffic safety concerns are to be addressed through Vicroads conditions and the security concerns relating to use and the application being for buildings and works.

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## Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	The application was referred to Vicroads, who do not object to the issue of a permit subject to the following conditions: <ol style="list-style-type: none"><li>1. Before the use approved by this permit commences or before or buildings occupied the following road works on Murchison-Tatura Road must be completed at no cost to and to the satisfaction of VicRoads:<ol style="list-style-type: none"><li>a. A basic Right Turn intersection treatment (Type BAR) as shown in Figure 7.5 of Ausroads Guide to Road Design Part 4A at the access to the subject land.</li></ol></li></ol>
Section 52 Notices	The application was notified to Goulburn Murray Water and the Goulburn Valley Regional Water Authority neither of whom objected, with Goulburn Murray Water's consent being subject to conditions: <ul style="list-style-type: none"><li>• All wastewater from the proposed accommodation units must be disposed of via connection to the Goulburn Valley Water sewerage treatment plant.</li></ul>

Internal Council Notices	Advice/Response/Conditions
Development Engineering	The application for a planning permit was referred internally to the Council's Development Engineers who do not object to the issue of a permit, subject to construction phase and rural drainage conditions.
Nil	Nil



## **Assessment**

### **The zoning of the land**

#### Farming Zone 35.07

The purpose of the Farming Zone is to provide for the use of land for agriculture and to ensure that non-agricultural uses, including dwellings do not adversely affect the use of land for agriculture and to encourage the retention of employment and population to support rural communities.

A permit was required pursuant to clause 63.05 for buildings and works associated with a section 3 use of which an existing use right has been established. The clause requires that no buildings or works are constructed or carried out without a permit and that a permit must not be granted unless the building or works complies with any other building or works requirement in the scheme.

### **Relevant overlay provisions**

#### Floodway Overlay 44.03

The overlay identifies waterways, major flood paths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding. The overlays purpose is to ensure that development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard and local drainage conditions.

#### Land Subject to Inundation Overlay 44.04-4

The Overlay identifies land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority. The Overlays purpose is to ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

The subject site is affect by both the Floodway Overlay and the Land Subject to Inundation Overlay, however neither overlay affects the site of the proposed works.

#### Heritage Overlay 43.01

The purpose of the overlay is to conserve and enhance heritage places of natural and cultural significance and to ensure that development does not adversely affect the significance of heritage places.

A planning permit was not required pursuant to Clause 43.01-2 to develop a heritage place which is included on the Victorian Heritage Register.

It should be noted that the subject site is listed on the Victorian Heritage register and a condition on the permit will require that the relevant permits and approvals are sought from

the Heritage Victoria prior to the commencement of any works. Those permits have been issued and therefore consent from Heritage Victoria has been obtained.

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

Heritage Conservation 15.03-1

The purpose of this policy is to ensure the conservation of places of heritage significance.

Response

The proposed works are not within close vicinity of the major building of heritage significance on the site and are therefore not envisaged to cause any detriment to historical significance.

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

Cultural Heritage 21.05-4

Relevant Strategies of the policy include:

- Assess applications within the Heritage Overlay in accordance with State Government heritage policy guidelines.
- Protect heritage buildings and sites so that heritage significance is not diminished or irreversibly damaged through proposed use or development.
- Encourage the retention, adaption and renovation of significant historic buildings and works, gardens and other areas as a viable alternative to demolition.
- Ensure that any alteration or addition to identified heritage buildings and areas, or redevelopment on adjacent land, is in keeping with an identified streetscape or neighbourhood character and appearance.
- Ensure that new development and the construction of external alterations to buildings make a positive contribution to the built form and amenity of the area and are respectful of the architectural or historic character and appearance of the streetscape and the area.

Response

The proposed works are not with close vicinity of the major building of heritage significance on the site and are therefore not envisaged to cause any detriment to historical significance.

**Relevant Particular Provisions**

Car Parking 52.06

The purpose of the provision is to ensure that car parking facilities are provided in accordance with:

- The State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and Local Planning Policies.
- Any parking precinct plan.

To provide the opportunity to use parking precinct plans in appropriate locations.

To promote the efficient use of car spaces through the consolidation of car parking facilities.

Car spaces 52.06-1

A new use must not commence or the floor area of an existing use must not be increased until the required car spaces have been provided on the land.

Decision Guidelines

Before a requirement for car spaces is reduced or waived, the applicant must satisfy the responsible authority that the reduced provision is justified due to:

- Any relevant parking precinct plan.
- The availability of car parking in the locality.
- The availability of public transport in the locality.
- Any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces.
- Any car parking deficiency or surplus associated with the existing use of the land.
- Any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement.
- Local traffic management.
- Local amenity including pedestrian amenity.
- An empirical assessment of car parking demand.
- Any other relevant consideration.

### Response

The existing use of the land is not identified within the table to clause 52.06-5 and therefore the spaces are to be provided to the satisfaction of the responsible authority in accordance with clause 52.06-5A.

Given the nature of the proposed use and the habitants of the proposed additional accommodation, the existing provision of car parking on the land and that required by planning permit 2011-313 is sufficient and has been provided onsite. Should there be an unforeseen demand for parking on the land it is not envisaged that it will result in any detriment to the surrounding properties or traffic on the Murchison-Tatura Road. The site and visitor check-in area is well setback from the road way with sufficient space along the access track to the prison for overflow parking to be provided if needed.

Land Adjacent to a Road Zone, Category 1, or Public Acquisition Overlay for a Category 1 Road 52.29

The purpose of the provision is to ensure appropriate access to identified roads and ensure appropriate subdivision of land adjacent to identified roads.

A permit is required to create or alter access to a road in a Road Zone, Category 1 pursuant to Clause 52.29.

The application was referred to Vicroads under Section 55 of the *Planning and Environment Act 1987* for works within a road reserve which seek to widen the road to allow passing movements, who do not object to the issue of a permit.

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

##### Section 2 and 3 Uses

A use on Section 2 or 3 of a zone for which an existing use right is established may continue provided:

- No buildings or works are constructed or carried out without a permit. A permit must not be granted unless the building or works complies with any other building or works requirements in the scheme.
- Any condition or restriction to which the use was subject continues to be met. This includes any implied restriction on the extent of the land subject to the existing use right or extent of activities within the use.
- The amenity of the area is not damaged or further damaged by a change in the activities beyond the limited purpose of the use preserved by the existing use right.

#### Response

The decision guidelines of this clause have been considered and the relevant zoning and overlay requirements are considered to be met. The proposed works are not envisaged to further damage the amenity of the area given the use of the land for a corrective institute is already established and the significant buffer provided between the works and abutting properties by farmland and roads.

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

There are no relevant incorporated or reference documents that relate to this application for a planning permit.

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

There are no other relevant adopted State or strategic policies that relate to this application for a planning permit.

#### **Relevant Planning Scheme amendments**

There are no relevant Planning Scheme amendments that relate to this application or a planning permit.

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

Before deciding on an application, the responsible authority must consider in accordance with Section 60 (1)(f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

In assessing the application it has been considered whether application for development will result in any significant social or economic effects. The council officer is of the opinion that the proposed development will not result in any significant social effects.

The social concerns raised by the objectors to the application regarding their safety which is likely to be further compromised through an increase in inmate numbers are not considered detrimental to the application. The officer is of the opinion that the social concerns raised are not significant to the application for a planning permit given that the application is for buildings and works and not use, with the matters unable to be addressed with planning permit conditions.

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

There are no other relevant Acts that relate to this application for a planning permit.

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## **Conclusion**

Given consideration to the relevant planning scheme provisions, the proposed buildings and works associated with the existing use are considered appropriate and achieves acceptable outcomes in terms of relevant adopted strategic policies. Consequently it is recommended that the Panel decide to issue Notice of Decision to Grant a Permit.

# **Draft Notice Of Decision**

**APPLICATION NO: 2013-242**

**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: 870 MURCHISON-TATURA ROAD DHURRINGILE  
VIC 3610**

**WHAT THE PERMIT WILL ALLOW: BUILDINGS AND WORKS IN THE FARMING ZONE  
AND HERITAGE OVERLAY FOR THE  
CONSTRUCTION OF ADDITIONAL  
ACCOMMODATION UNITS AND ALTERATION OF  
ACCESS ON TO A ROAD ZONE CATEGORY 1**

## **WHAT WILL THE CONDITIONS OF THE PERMIT BE?**

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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**

All activities associated with the construction of the development permitted by this permit must be carried out to the satisfaction of the Responsible Authority and all care must be taken to minimise the effect of such activities on the amenity of the locality, including:

- a) Avoiding the transport of mud onto roads;
- b) Minimising the generation of dust during earthworks or vehicles accessing site;
- c) The retention of all silt and sediment on the site during the construction phase, in accordance with the sediment control principles outlined in Construction Techniques for Sediment Pollution Control (EPA, 1991) and;
- d) Maintaining a neat and tidy site.

3. **Rural Drainage**

Before the buildings are occupied all stormwater and surface water drainage from the land, buildings and works must be connected to the legal point of discharge or retained on site to the satisfaction of the responsible authority.

4. **Goulburn Murray Water Requirements**

- a) All wastewater from the proposed accommodation units must be disposed of via connection to the Goulburn Valley Water Sewerage treatment plant.

5. **VicRoads Requirements**

Before the use approved by this permit commences or before buildings are occupied the following road works on Murchison-Tatura Road must be completed at no cost to and to the satisfaction of VicRoads:

- a) A basic Right Turn intersection treatment (Type BAR) as shown in Figure 7.5 of Ausroads Guide to Road Design Part 4A at the access to the subject land.

6. **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.

## **NOTATIONS**

### **Heritage Victoria**

Prior to the commencement of works approved by this permit, any necessary approvals must

Development Hearings Panel  
Meeting Number: 15/2013  
Date: 28 November 2013

be obtained from Heritage Victoria.

### **VicRoads**

Separate consent for works within the road reserve and the specifications of these works is required under the Road Management Act.

Meeting closed at 10.36 AM