

CONFIRMED MINUTES

**FOR THE
GREATER SHEPPARTON CITY COUNCIL**

DEVELOPMENT HEARINGS PANEL

Meeting No. 3/2014

**HELD ON
WEDNESDAY 17 DECEMBER 2014
AT 3.00PM**

**IN THE HUNTER ROOM
90 WELSFORD STREET**

**CHAIR
Councillor Dinny Adem**

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 Chairperson advised the hearing that:

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

3. COMMITTEE MEMBERS PRESENT

Councillor Dinny Adem (Chair), Colin Kalms, Ian Boyle, Jonathan Griffin and Braydon Aitken.

4. OFFICERS PRESENT

Tim Watson – Senior Statutory Planner.

5. APOLOGIES

Johann Rajaratnam.

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Moved by Braydon Aitken, and seconded by Colin Kalms that the minutes of the meeting held on 15 October 2014 be adopted.

Carried

Moved by Ian Boyle, and seconded by Colin Kalms that the minutes of the meeting held on 19 November 2014 be adopted.

Carried

7. DECLARATIONS OF CONFLICTS OF INTEREST

None

8. MATTERS FOR CONSIDERATION

One item listed for consideration. Planning application no. 2014-255, for the installation of a waste compactor at 7940 Goulburn Valley Highway, Kialla.

9. LATE REPORTS

None.

10. NEXT MEETING

7 January 2015.

INDEX

<u>Application No.</u>	<u>Subject Address:</u>	<u>Proposal:</u>	<u>Page No.</u>
2014-255	7940 Goulburn Valley Highway, Kialla	Buildings and works (retrospective) in the Industrial 3 Zone and Design and Development Overlay (Schedule 3) for the installation of a waste compactor.	3

Application Details:

Responsible Officer:	Tim Watson
Application Number:	2014-255
Applicants Name:	Shepparton Newspapers P/L
Date Application Received:	10 September 2014
Statutory Days:	70 (1/2/14)
Land/Address:	7940 Goulburn Valley Highway KIALLA VIC 3631
Zoning and Overlays:	Industrial 3 Zone Airport Environs Overlay Design and Development Overlay (schedule 2) Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	33.03-4 – buildings and works in the Industrial 3 Zone 43.02-2 – buildings and works in the DDO2
Are there any Restrictive Covenants on the title?	no

Executive Summary

The application for a planning permit has been made retrospectively after the installation of a paper waste compactor and auger (the plant) at the rear of the Shepparton News Office and printing factory.

For ease of reading the plant has been addressed within this report as proposed.

The plant has been installed externally to the building and includes an enclosed auger to transport paper from within side the shed to the waste auger facility.

The application was made as a result of complaints from residents within the Kialla Lakes Residential Estate that noise from the plant was resulting in amenity concerns. As part of the planning investigation process, as well as making planning application for the plant the applicant sought the services of an acoustic tester.

The sound assessment report submitted to Council and which has been considered in assessing this application concludes:

- *The situation with the Trim System is clearly not satisfactory for the residents, though the noise logger showed that it does not have excessive use. The proposed solution of an inline silencer is recommended.*
- *Once these changes are implemented we believe that the plant will be compliant with the Noise Limits of the SEPP N-1, with a suitable margin to spare.*

The single objection made to the application, was made by a resident of Green Court within the Kialla Lakes estate and relates to noise and the applicant installing the plant without proper planning permission.

In considering an application retrospectively where works have already been undertaken without the appropriate planning permissions, the approach undertaken by Council's and

VCAT is standard. That approach is that an application should be considered as if the works had not been undertaken already and that the application be assessed as such.

It is acknowledged that the land has an interface between commercial/industrial and residential land uses, which results in neither the residential or commercial land having pristine residential / commercial rights. With the submission of the sound assessment and implementation of those measures it is considered that the plant results in an acceptable amenity outcome, in addition taking into account the zone interface and existing ambient sound generated from surrounding uses and the highway.

The application is considered to achieve acceptable planning outcomes and it is therefore recommended that a notice of decision grant.

Summary of Key Issues

- Application for a planning permit proposes the installation of plant at the rear of the building to be used to transport waste paper to the disposal bin.
- The plant essentially transports shredded paper from inside the building to the waste compactor.
- The application has been made retrospectively, with the plant installed without planning permission.
- The application was made as result planning investigations file, which was opened after two complaints were received from the noise generated from the plant.
- An objection was received from one of the initial complaints to the noise generated from the plant, whom resides in Green Court.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2014-255** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **33.03-4 and 43.02-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **7940 Goulburn Valley Highway KIALLA VIC 3631**, for the **buildings and works (retrospective) in the Industrial 3 Zone and Design and Development Overlay (schedule 2) for the installation of a waste compactor** in accordance with the Notice of Decision and the endorsed plans.

Moved by Braydon Aitken

Seconded by Colin Kalms

That Council having caused notice of Planning Application No. **2014-255** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **33.03-4 and 43.02-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **7940 Goulburn Valley Highway KIALLA VIC 3631**, for the **buildings and works (retrospective) in the Industrial 3 Zone and Design and Development Overlay (schedule 2) for the installation of a waste compactor** in accordance with the amended Notice of decision and the endorsed plans.

Amendments to the Notice of Decision are as follows:

Condition 3. Noise Control

c) Within one month of the date of the Planning Permit or such reasonable further time that may be granted by the responsible authority in writing in the event that one month is impractical, an acoustic report must be submitted to the responsible authority giving details of noise measurements to achieve compliance with the NIRV or later replacement policies, and if necessary, to recommend additional measures (physical construction and/or operation modifications) required to ensure compliance.

CARRIED

Subject Site & Locality

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

Date: **19/9/14**

The site has a total area of **6.067 hectares** and currently contains:

- The site is used by Shepparton News as an office and printing facility. The building and car parks only occupy approximately the western third of the site, with the remainder vacant.

The main site/locality characteristics are:

- The land to the south and north are zoned Commercial 2 and Industrial 3, with the land to the north occupied by Harvey Norman, an indoor sports stadium and smaller home wares shops.
- The land to the south forms parts of a newly created industrial estate, with the majority of the sites yet to be constructed on.
- The land to the east of the land is zoned General Residential and is used as such with allotments backing on to the rear boundary of the site.
- The site abuts the Goulburn Valley Highway and service roads to the west.

The Photos below show the existing site:







Permit/Site History

The history of the site includes:

- EF-512 – was opened due to noise complaints and resulted in this application being made.
- 2013-291 – approved a warehouse at the rear of the existing building, which is yet to be constructed.
- Planning permit 2010-190 approved an extension to the existing building.
- 201080, 2003-312, 2005-282 and 2008-393 all proved works and extension to the existing buildings.

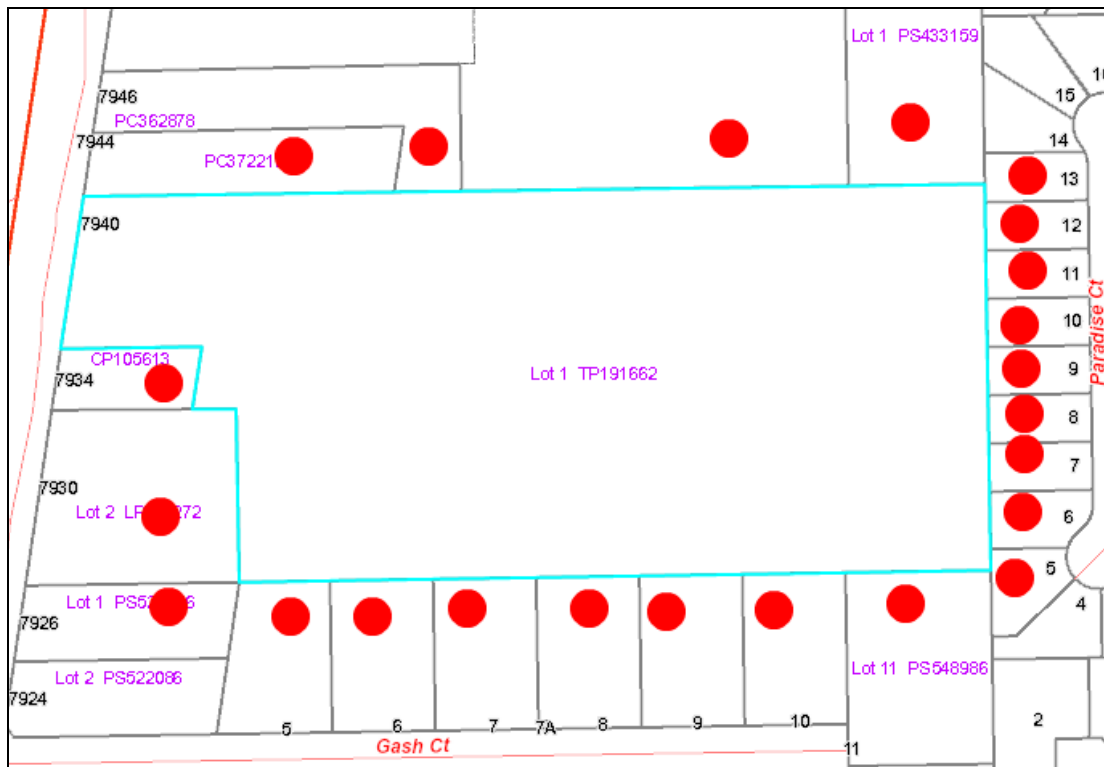
Further Information

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

Public Notification

The application is to be advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **buildings and works (retrospective) in the Industrial 3 Zone for the installation of a waste compactor**, by:

- Sending notices to the owners and occupiers of adjoining land as shown on the plan below.



The DDO component of application was exempt from being advertised in accordance with Clause **43.02-2** of the planning scheme.

Objections

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

- Persistent noise from the plant both in and outside the objector’s dwelling.
- No application was made prior to the plant being installed and operated.

Grounds of objection	Officer’s Response
Noise	The sound assessment report submitted to Council and which has been considered in assessing this application concludes: <ul style="list-style-type: none"> • <i>The situation with the Trim System is clearly not satisfactory for the residents, though the noise logger showed that it does not have excessive use. The proposed solution of an inline silencer is recommended.</i> • <i>Once these changes are</i>

	<i>implemented we believe that the plant will be compliant with the Noise Limits of the SEPP N-1, with a suitable margin to spare.</i>
No planning application made prior to the installation and operation of plant.	In <i>Doug Wade Consultants Pty Ltd v City of Melbourne & Ors (1984)</i> the tribunal held: The fact that the works commenced illegally neither prevented nor ensured the grant of a permit for them. Based on the above the application has been assessed on its merits and the outcome will determine if any enforcement action is required.

Title Details

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

Consultation

Consultation was not undertaken.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	The application for a planning permit was not referred to any authorities.
Section 52 Notices	The application for a planning permit was not notified to any authorities.

Internal Council Notices	Advice/Response/Conditions
N/A	-
N/A	-

Assessment

The zoning of the land

Industrial 3 Zone 33.03

The purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict.

- To provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community.
- To allow limited retail opportunities including convenience shops, small scale supermarkets and associated shops in appropriate locations.
- To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses.

A planning permit was required pursuant to clause 33.03-4 for buildings and works in clause 33.03-4 in the Industrial 3 Zone.

Decision Guidelines

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

- The State and Local Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any natural or cultural values on or near the land.
- Streetscape character.
- Built form.
- Landscape treatment.
- Interface with non-industrial area.
- Parking and site access.
- Loading and service areas.
- Outdoor storage.
- Lighting.
- Stormwater discharge.
- The effect on nearby industries.
- The effect of nearby industries.

Response

The State and Local Planning policies are to be addressed under other sections of this report.

There are no natural or cultural values on or near the land and the plant is unlikely to result in any impact to the streetscape character, with the works located at the rear of the building and not visible from the road frontage. Similarly the location and size of the plant at the rear of the building is unlikely to result in any impacts on the built form of the locality.

The plant does not result in any visual detriment, as it is located at the rear of the building and the front of the site is appropriately landscaped, no additional landscaping is considered to be required as a result of the works.

The nearest residential zoned land abuts the eastern boundary and is zoned Neighbourhood Residential. The residential zoned land is approximately 240 metres from the site of the proposed works. The objection was received from a residential zoned and used property located in Green Court, North east of the site and approximately 400 metres from the site of the proposed plant.

It is acknowledged that the land has an interface between industrial and residential land uses, which results in neither the residential or commercial land having pristine residential / commercial rights. Therefore a balance needs to be found to allow both uses to reasonably operate.

As part of the planning investigation process after the initial complaints regarding noise were received, the applicant had a noise assessment undertaken by Advanced Environmental Systems Pty Ltd. As part of that noise assessment acoustic measurements were taken at the rear of the site abutting the residential properties, on Kialla Lakes Drive opposite 29 Kialla Lakes Drive and in Wyara Court (residential court).

The noise assessment provided the following summary:

- *The situation with the Trim System is clearly not satisfactory for the residents, though the noise logger showed that it does not have excessive use. The proposed solution of an inline silencer is recommended.*
- *Once these changes are implemented we believe that the plant will be compliant with the Noise Limits of the SEPP N-1, with a suitable margin to spare.*

Given the favourable acoustic assessment of the plant and that the recommendations of the report have been followed to ensure compliance with SEPP N-1, any noise experienced by residents of the surrounding residential zones is not considered to be unreasonable given the Industrial 3 Zoning of the land. Furthermore it is noted that the sole objection to the plant came from approximately 400 metres, with no objections received from the residential properties directly abutting the subject land's eastern boundary.

Parking and site access are considered satisfactory for the site, with the proposed plant unlikely to result in an increase in parking demand. The plant does not disrupt the loading and service areas for the site.

The plant is not envisaged to result in any detriment to the surrounding businesses operating the Industrial 3 Zone and vice versa.

Relevant overlay provisions

The subject land is affected by the Airport Environs Overlay, Design and Development Overlay (schedule 2) and the Land Subject to Inundation Overlay and the Design and Development Overlay (schedule 2).

A planning permit was only required under the Design and Development Overlay (schedule 2).

Design and Development Overlay (schedule 2) 43.02 – Airport Environs

Design Objectives

- To facilitate safe aircraft operations at Shepparton Airport.
- To ensure that all buildings and works are constrained within specified height limits and external building materials to avoid creating a hazard a aircraft in the vicinity of the Shepparton Airport.
- To ensure that flights paths associated with the Shepparton Airport are protected from the encroachment of inappropriate obstacles which may affect the safe and effective operation of the airport.

The application was not required to be referred to the Airport Committee, however was notified to the Committee, with no response to date.

The plant does not extend the height of the existing building in which it is attached.

The State Planning Policy Framework (SPPF)

Noise Abatement 13.04-1

Objectives and strategies include

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

Response

Noise abatement and air quality are identified with in the State Planning Policy as key elements when assessing applications, with a number of guidelines outlined as considerations for the assessment of applications. As identified above the applicant has

submitted a sound assessment, with the suggested measures already undertaken to ensure compliance with SEPP-1.

Business 17.01-1

Objectives and strategies include

- 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.
- Locate commercial facilities in existing or planned activity centres.

Response

The plant will facilitate the continuation of an existing commercial operations within the regional centre of Shepparton.

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

Manufacturing and Freight 21.06-4

Relevant Objectives and Strategies include:

- To sustain a growing and diverse industrial base.
- Protect existing industries and facilitate their expansion.
- Support existing industries in established industrial zones, with access to infrastructure and constructed roads.

Response

The plant will allow for the existing industry (newspaper printing) to continue to operate from the subject site zoned Industrial 3.

Relevant Particular Provisions

Car Parking 52.06

The proposed plant will not result in any requirement for additional car parking requirements. Despite this the spaces provided onsite for parking are considered sufficient.

The decision guidelines of Clause 65

Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

The application is for the installation of plant to be used in association with the existing Industrial use of the land for printing, but seeks to respect the abutting residential zone through the implementation of the recommendation from the sound assessment report. The proposal is therefore considered acceptable when considered against the provisions and purpose of the Industrial 3 Zone.

The plant will not impact on the orderly planning of the area, with the plant unlikely to result in any visual amenity impacts given the location. The amenity concerns raised by the objector are considered to be acceptable, with the submission of a favourable sound assessment subject to recommended measures which have been implemented and the zone interface on which the two zones are located.

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 for a planning permit.

Are there any significant social & economic effects?

There are no relevant significant social or economic effects that relate to this application for a planning permit.

Discuss any other relevant Acts that relate to the application?

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

Conclusion

It is acknowledged that the land has an interface between commercial/industrial and residential land uses, which results in neither the residential or commercial land having pristine residential / commercial rights. With the submission of the sound assessment and implementation of those measures it is considered that the plant results in an acceptable amenity outcome, in addition taking into account the zone interface and existing ambient sound generated from surrounding uses and the highway.

The application is considered to achieve acceptable planning outcomes and it is therefore recommended that a notice of decision grant.

Notice Of Decision

APPLICATION NO: 2014-255
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: 7940 GOULBURN VALLEY HIGHWAY KIALLA VIC
3631

WHAT THE PERMIT WILL ALLOW: BUILDINGS AND WORKS (RETROSPECTIVE) IN
THE INDUSTRIAL 3 ZONE AND DESIGN AND
DEVELOPMENT OVERLAY (SCHEDULE 2) FOR
THE INSTALLATION OF A WASTE COMPACTOR

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

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. Noise Control

- a) Prior to the plant approved being used, an in line absorptive silencer must be installed as per the recommendations of the noise assessment report prepared for the plant to the satisfaction of the responsible authority.

- b) Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy Noise from Industry in Regional Victoria (NIRV).

- c) In the event of complaints from a nearby property of disturbance from noise caused by the auger and waste compactor allowed by this permit, then within one month of a request by the responsible authority or such reasonable further time that may be granted by the responsible authority in writing in the event that one month is impractical, an acoustic report must be submitted to the responsible authority giving details of noise measurements to achieve compliance with the NIRV or later replacement policies, and if necessary, to recommend additional measures (physical construction and/or operation modifications) required to ensure compliance.

Such recommended measures that are required by the responsible authority to be undertaken by the permit holder must then be implemented as soon as practical to the satisfaction of the responsible authority.

4. 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.

Meeting closed at 3.40 PM