

CONFIRMED MINUTES

**FOR THE
GREATER SHEPPARTON CITY COUNCIL**

DEVELOPMENT HEARINGS PANEL

Meeting No.09/2015

**HELD ON
THURSDAY, 27 AUGUST 2015
AT 9.00AM**

**IN THE ALEX RIGG MEETING ROOM
90 WELSFORD STREET**

**CHAIR
Councillor Dinny Adem**

1. ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number nine for 2015.

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

“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

I would like to advise all present today that:

- the proceeding is being minuted but not recorded.
- and 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

Committee members present today are:

- Cr Dinny Adem (Chair),
- Geraldine Christou – Acting Director Sustainable Development,
- Colin Kalms – Manager Planning,
- Michael MacDonagh – Principal Strategic Planner
- Braydon Aitken – Team Leader Statutory Planning

4. OFFICERS AND OTHERS PRESENT

The Planning Officers present today are:

- Ronan Murphy – Senior Statutory Planner
- Andrew Dainton – Principal Statutory Planner

I would also like to acknowledge all other parties present today. Given we have a number of items today we will get you to introduce yourself when it is your turn to present.

5. APOLOGIES

Jonathan Griffin and Ian Boyle – Panel Member

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Nil.

7. DECLARATIONS OF CONFLICTS OF INTEREST

None

8. ORDER OF PROCEEDINGS

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

- The DHP operates under Local Law No 2, with such modifications and adaptations as the DHP deems necessary for the orderly conduct of meetings.
- All DHP panel members have 1 vote at a meeting.
- Decisions of the DHP are by ordinary majority resolution. If a vote is tied the Chair of the DHP has the casting vote.
- The process for submitters to be heard by the Panel today shall be:
 - The planning officer to present the planning report recommendation
 - The objector/s or representatives on behalf of the objectors to present in support of their submissions
 - The applicant/applicant representative to present in support of the application
- The officer, objectors and applicant will be limited to three minutes per person unless granted a further 3 minute extension by the Chair (following a moved and seconded motion from the panel).

9. MATTERS FOR CONSIDERATION

There are three items formally listed for consideration today:

- Item 1 – Planning permit application 2015-108 for a two lot residential subdivision at 101-109 O'Reilly Road, Tatura.
- Item 2- Planning permit application 2012-336/A for an amendment to the offsetting requirements for the removal of native vegetation at 535 Bitcon Road, Dhurringile.
- Item 3 – Planning permit application 2014-336 for a two lot rural living subdivision at 115 Raftery Road, Kialla.

10. LATE REPORTS

None

11. NEXT MEETING

To be confirmed

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<u>Application No.</u>	<u>Subject Address:</u>	<u>Proposal:</u>	<u>Page No.</u>
2015-108	101-109 O'Reilly Road, Tatura	2 Lot Subdivision in the General Residential Zone and Urban Floodway Zone and Land Subject to Inundation Overlay	3
2012-336A	535 Bitcon Road, Dhurringile	Removal of Conditions 1, 5, 6 and updated Condition 7	32
2014-336	115 Raftery Road, Kialla	A two Lot Subdivision in the Rural Living Zone, Urban Floodway Zone, Land Subject to Inundation Overlay and the construction of two dwellings in the Land Subject to Inundation Overlay	50

Application Details:

Responsible Officer:	Ronan Murphy
Application Number:	2015-108
Applicants Name:	Drawn To Scale
Date Application Received:	17 March 2015
Statutory Days:	54
Land/Address:	101-109 O'Reilly Road TATURA VIC 3616
Zoning and Overlays:	General Residential Zone Urban Floodway Zone Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	32.08-2 Subdivision in the General Residential Zone 37.03-3 Subdivision in the Urban Floodway Zone 44.04-2 Subdivision in the Land Subject to Inundation Overlay.
Are there any Restrictive Covenants on the title?	Nil

Proposal

The proposal comprises of the two lot subdivision of the land at 101-109 O'Reilly Road, Tatura.

The land is within the General Residential Zone and Urban Floodway Zone.

The land is partially affected by the Land Subject to Inundation Overlay.

A Planning Permit is required pursuant to the provisions of Clause 32.08-2 of the Planning Scheme for a subdivision in the General Residential Zone.

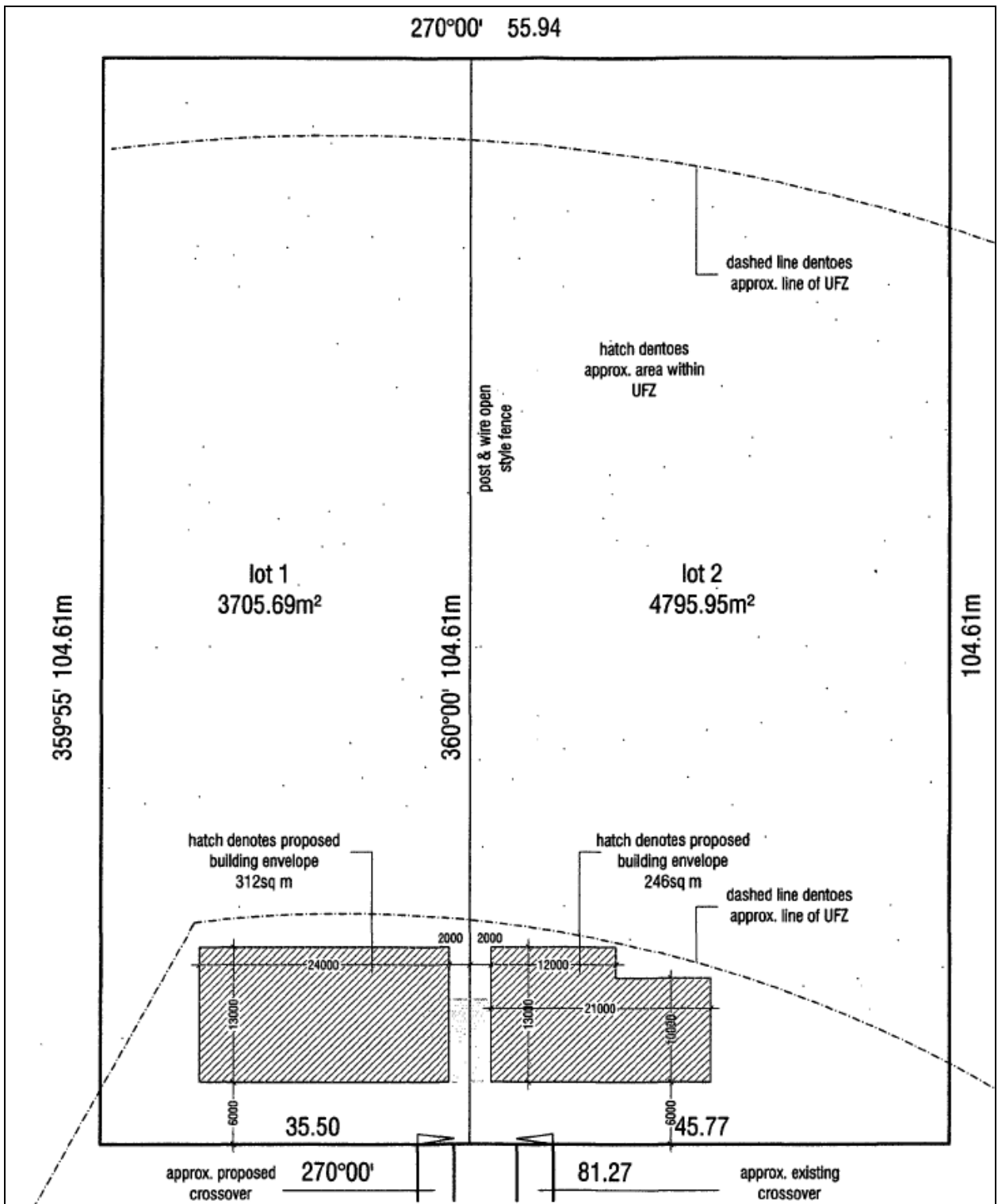
A Planning Permit is also required pursuant to the provisions of Clause 37.03-3 of the Planning Scheme for subdivision on the Urban Floodway Zone

A Planning Permit is also required pursuant to the provisions of Clause 44.04-2 of the Planning Scheme.

The majority of the land is within the Urban Floodway as shown below:



The proposal would have the following layout:



Summary of Key Issues

The application comprises of a two lot subdivision of the land at 101-109 O Reilly Road Tatura.

The application was referred to the Goulburn Broken Catchment Management Authority, who did not object to the proposal, subject to conditions being placed on the permit.

The application was notified to surrounding properties and one objection was received.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2015-108** 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 **32.08-2, 37.03-3 and 44.04-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **101-109 O'Reilly Road TATURA VIC 3616**, for the **2 Lot Subdivision in the General Residential Zone and Urban Floodway Zone** in accordance with the Notice of Decision and the endorsed plans.

Moved by Colin Kalms

Seconded by Braydon Aitken

That Council having caused notice of Planning Application No. **2015-108** 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 **32.08-2, 37.03-3 and 44.04-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **101-109 O'Reilly Road TATURA VIC 3616**, for the **2 Lot Subdivision in the General Residential Zone and Urban Floodway Zone** 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: **20/3/15**

Time: **10.10** am

The site has a total area of approximately 8,000 square metres and currently contains:

The site is predominantly vacant and includes a small shed to the front of the property.

The main site/locality characteristics are:

The land is within an area which is generally residential in character.

The Photos below show the existing site:



Permit/Site History

The history of the site includes:

2008-21

Planning Permit granted for a two lot subdivision

Further Information

Was further information requested for this application? **YES**

What date was the further information requested?:

Soil assessment for the land.

A full current copy of title

Confirmation that no native vegetation is required to be removed.

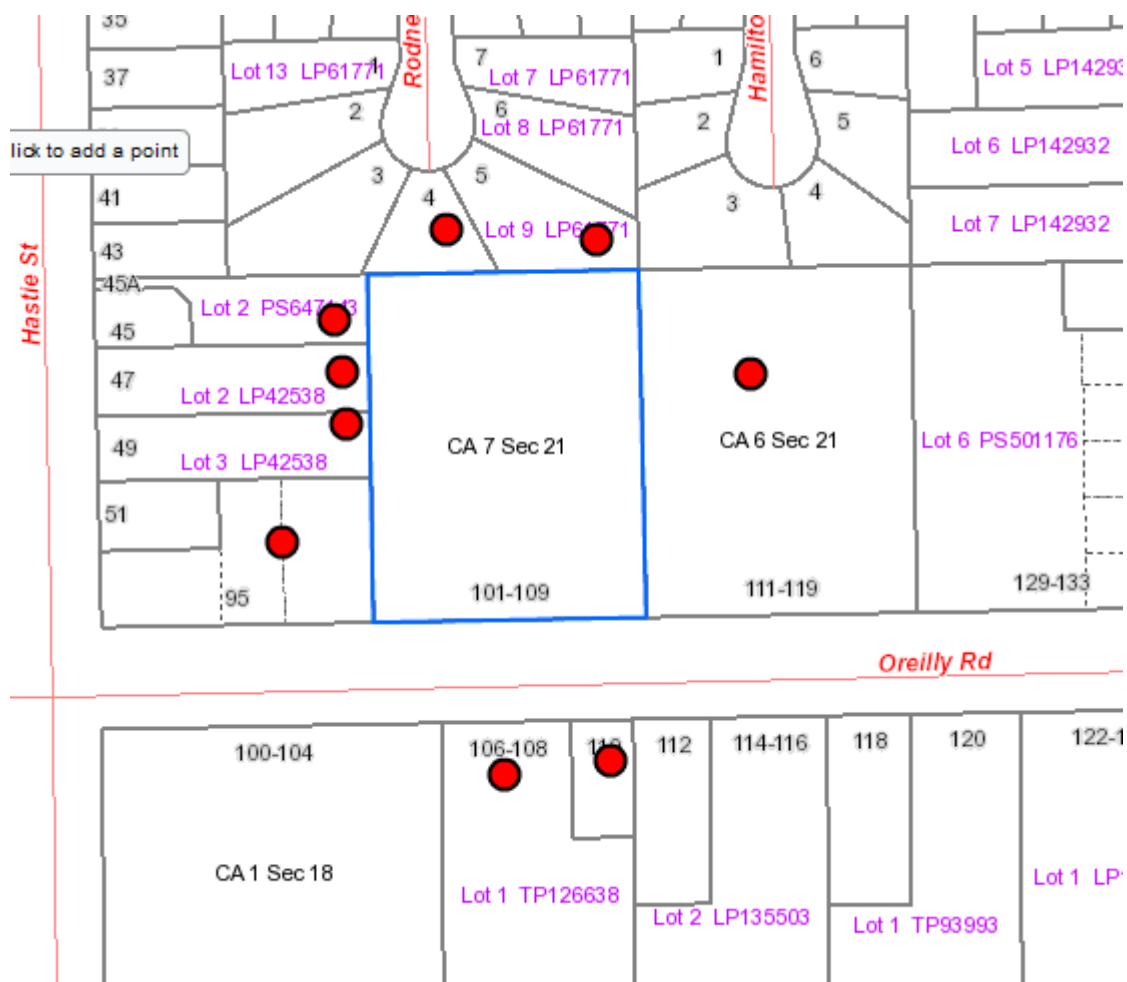
What was the lapse date? **15/7/15**

What date was the further information received?: **15/7/15**

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **Two Lot Subdivision in the General Residential Zone and Urban Floodway Zone**, by:

Sending notices to the owners and occupiers of adjoining land.



The application was exempt from the requirements to notify in the Land Subject to Inundation Overlay pursuant to the provisions of Clause 44.04-4 of the Planning Scheme.

Objections

The Council has received 1 objection to date.

The objection was made by the land owners to the east of the subject land, 111-119 O'Reilly Road.

The objection broadly outlined the following concerns:

- No form of drainage on either lot, all water is directed to land at 111-119 O'Reilly Road.
- Old dwelling (miners cottage) has little water run off but water was not captured by within the land and caused flooding issues for 111-119 O'Reilly Road.
- Neither 101-109 or 111-119 O'Reilly Road are below the level of the road and have no drainage system in place any water from the property ends up on the objectors land.
- The objectors do not want the run off from new houses going onto their property.
- When flood water dries after a flood event it leaves a strong odour.
- Negative impacts on the native trees which the objector has grown.
- Development can not proceed unless pits and pumps are installed by the developer.
- Application is a grab for money
- Application previously refused.

In response, the following is noted:

The developer will be required to provide appropriate drainage, which would ensure that all drainage water from the developed area is directed to the legal point of discharge or retarded on site. In this regard it is noted that council drainage assets (375m pipe) is located on the sites southern boundary as show below:



The developer would be required to direct all drainage from the proposal to this location on the southern boundary of the site. It is considered that this would improve the water run off situation from the land.

This has been included in the conditions recommended by Council's Development Engineers, which specifically require underground piping conveying the stormwater to the legal point of discharge (O'Reilly Road)

The objector has stated that the Council previously refused a similar application, an inspection of Council records has shown that the Planning Department granted a permit for a similar two lot subdivision application in 2008 (2008-21). It is noted that no objections were received for a subdivision at this time.

It is considered that the proposal could provide an improved stormwater drainage outcome as all stormwater from the proposal would be directed to the underground Council assets as shown in the above aerial photograph.

Title Details

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

Consultation

Planning officers spoke to the objector at the time the objection was lodged with the Planning Department, the objector did not want to withdraw the objection.

Planning Officers tried to contact the objector at the time of writing this report, with no success.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Goulburn Broken Catchment Management Authority	44.04-5	Recommending	<p><i>Pursuant to Section 56 of the Planning and Environment Act 1987, the Goulburn Broken CMA does not object to the granting of a permit subject to the following condition:</i></p> <p><i>1. Fencing within the Urban Floodway Zone must be post and wire, or post and rail farm type fencing only.</i></p>

Internal Council Notices	Advice/Response/Conditions
Development Engineers	<p><u>Council Assets</u></p> <p><i>Before the development commences, the owner/operator must submit to the Responsible Authority a written report on and photos of public infrastructure adjacent to the land. The report must detail the condition of Kerb & Channel, Footpath, seal, street lights, signs and other public infrastructure fronting the land and at least two allotments either side of the land. 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 or use.</i></p> <p><u>Drainage Discharge Plan</u></p> <p><i>Before the certification of the Plan of Subdivision, a drainage plan with computations prepared by a suitably qualified person or organisation, 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 submitted in an electronic format. The plans must be in accordance with council's Infrastructure Design Manual and include:</i></p> <ul style="list-style-type: none"> a) <i>how the land will be drained;</i> b) <i>underground pipe drains conveying stormwater to the legal point of discharge which is the underground pipe along O'Reilly Rd;</i> c) <i>measures to enhance stormwater discharge quality from the site and protect downstream waterways;</i> d) <i>maximum discharge rate shall not be more than (37) lit/sec/ha with (9)</i>

	<p>litres of storage for every square meter of Lot area, in accordance with Infrastructure Design Manual Clause 19 Table 13 (or as agreed in writing by the responsible authority).;</p> <p>e) Incorporation of water sensitive urban design in accordance with Clause 20 of the Infrastructure Design Manual or as otherwise approved in writing by the Responsible Authority; and</p> <p>f) Provision of an electronic copy of the MUSIC model (or equivalent) demonstrating the achievement of the required reduction of pollutant removal;</p> <ul style="list-style-type: none">• to the satisfaction of the Responsible Authority. <p>Before the statement of compliance is issued all drainage works required by the drainage plan must be completed to the satisfaction of the responsible authority.</p> <p><u>Urban Vehicle Crossing Requirements</u></p> <p>Before the Statement of Compliance vehicular crossings shall be constructed in accordance with the endorsed plan(s) and constructed to Councils IDM standard drawing SD235, and must:</p> <p>a) be constructed at right angles to the road, and any redundant crossing shall be removed and replaced with concrete (kerb and channel);</p> <p>b) be setback a minimum of 1.5 metres from any side-entry pit, power or telecommunications pole, manhole cover or marker, or 3 metres from any street tree;</p> <p>c) residential vehicular crossings shall not be less than 3 metres nor more than 4.8 metres (9.8 m – double crossing) in width and shall be constructed from concrete or other material as approved in writing by the Responsible Authority; and</p> <p>d) be at least 9 metres apart.</p> <p><u>Urban Drainage - Works</u></p> <p>Effluent and/or polluted water must not be discharged to Council's storm water drainage system from the land.</p> <p><u>Works within Road Reserves Permit Required</u></p> <p>A Works within Road Reserves permit must be obtained from the Responsible Authority prior to carrying out of any vehicle crossing works.</p> <p><u>Construction of Works</u></p> <p>Before the Statement of Compliance is issued under the Subdivision Act 1988, the owner must construct and complete road works, drainage and other civil works, in accordance with endorsed plans and specifications approved by the Responsible Authority and in accordance with the Infrastructure Design Manual. Road works, drainage and other civil works to be constructed must include:-</p> <p>a) drainage works shown on the endorsed Drainage Discharge Plan(s) have been constructed to the satisfaction of the responsible authority;</p> <p>b) stormwater treatment measures have been constructed or as otherwise agreed to in writing by the Responsible Authority; and</p> <p>c) vehicular access to all lots must have been constructed to Councils' IDM standard drawing SD235.</p> <p><u>Street Trees for Residential Allotments</u></p> <p>Prior to the issue of the Statement of Compliance the owner must provide or pay the cost of planting street trees within the subdivision permitted by this permit to the satisfaction of the Responsible Authority. Street trees are to be provided at the ratio of one mature tree with a minimum height of 2.4 metres for every 15 metres of road frontage.</p>
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Assessment

The zoning of the land

The land is within the General Residential Zone. The purpose of the General Residential 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 development that respects the neighbourhood character of the area.*
- *To implement neighbourhood character policy and adopted neighbourhood character guidelines.*
- *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.*

A Planning Permit is required pursuant to the provisions of Clause 32.08-2 of the Planning Scheme.

Clause 32.08-10 of the Planning Scheme sets out the following decision guidelines:

- *The pattern of subdivision and its effect on the spacing of buildings.*
- *For subdivision of land for residential development, the objectives and standards of Clause 56.*

In response to the above, it is considered that the proposed two lot subdivision of the land and subsequent development of the land would not be out of character with the area. In this regard it is noted that land to the north and west is residentially developed. It is further noted that land to the south is also broadly residential in character.

It is considered that the proposed subdivision would be commensurate with the character of the area and would therefore comply with the provisions of Clause 32.08-10 of the Planning Scheme.

The standards of Clause 56 of the Planning Scheme will be considered later in this report.

Urban Floodway Zone.

The land is partially within the Urban Floodway Zone. The purpose of the Urban Floodway 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 identify waterways, major floodpaths, drainage depressions and high hazard areas within urban areas which have the greatest risk and frequency of being affected by flooding.*

- *To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.*
- *To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989.*
- *To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*

A Planning Permit is required pursuant to the provisions of Clause 37.03-3 of the Planning Scheme for subdivision in the Urban Floodway Zone.

It is important to note that no buildings or works are proposed within the area of the land that is within the Urban Floodway Zone, further to this the application does not propose to create new lots fully within the Floodway Overlay.

The application was referred to the Goulburn Broken Catchment Management Authority.

The Catchment Management Authority did not object to the proposal and stated the following:

Pursuant to Section 56 of the Planning and Environment Act 1987, the Goulburn Broken CMA does not object to the granting of a permit subject to the following condition:

Fencing within the Urban Floodway Zone must be post and wire, or post and rail farm type fencing only.

In light of the above, it is considered that the proposal would comply with the provisions of the Urban Floodway Zone.

13.01-1 Use of contaminated and potentially contaminated land

The objective of Clause 13.01-1 is:

To ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

In response the applicant has provided a soil assessment prepared by Geotechnical Testing Services, which concluded that the land would be suitable for residential development.

Relevant overlay provisions

Land Subject to Inundation Overlay

The subject land is 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.*

The application was referred to the Goulburn Broken Catchment Management Authority, who did not object to the proposal, subject to compliance with a condition to be placed on the permit. It is therefore considered that the proposal would comply with the provisions of the Land Subject to Inundation Overlay.

The State Planning Policy Framework (SPPF)

13.02-1 Floodplain Management

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

To assist the protection of:

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

The following strategies are set out:

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

It is noted that the application was referred to the Goulburn Broken Catchment Management Authority, who did not object to the proposal. In light of this it is considered that the proposal would comply with the provisions of Clause 13.02-1 of the Planning Scheme.

15.01-3 Neighbourhood and Subdivision Design

The objective of Clause 15.01-3 of the Planning Scheme is:

- To ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods.

The following strategies are set out:

In the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by:

- *Contributing to an urban structure where networks of neighbourhoods are clustered to support larger activity centres on the regional public transport network.*
- *Creating compact neighbourhoods that have walkable distances between activities and where neighbourhood centres provide access to services and facilities to meet day to day needs.*
- *Creating a range of open spaces to meet a variety of needs with links to open space networks and regional parks where possible.*
- *Providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.*
- *Contributing to reducing car dependence by allowing for:*
 - *Convenient and safe public transport.*
 - *Safe and attractive spaces and networks for walking and cycling.*
 - *Subdivision layouts that allow easy movement within and between neighbourhoods.*
 - *A convenient and safe road network.*
- *Creating a strong sense of place because neighbourhood development emphasises existing cultural heritage values, well designed and attractive built form, and landscape character.*
- *Protecting and enhancing native habitat.*
- *Environmentally friendly development that includes improved energy efficiency, water conservation, local management of stormwater and waste water treatment, less waste and reduced air pollution.*
- *Being accessible to people with disabilities.*
- *Developing activity centres that integrate housing, employment, shopping, recreation and community services, to provide a mix and level of activity that attracts people,*
- *creates a safe environment, stimulates interaction and provides a lively community focus.*

The proposal would comply in the following ways:

- The proposal would provide for an appropriately dimensioned residential subdivision within an established residential area.

- The proposal would provide for housing diversity within an established residential area of Tatura, with a density commensurate with the density of development in the area.

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

21.04-1 Urban Consolidation and growth

It is expected that the urban areas of Shepparton and Mooroopna along with the four major growth areas will accommodate the majority of new residential development, with remaining growth distributed throughout Tatura, Murchison, Merrigum, Dookie, Congupna, Katandra West, Tallygaroopna, Toolamba, and Undera. The location and timing of new development will be reviewed annually in accordance with the monitoring and evaluation framework contained in the GSHS.

The following objectives are set out:

- To contain urban growth to identified growth areas in order to protect higher quality and intact agricultural areas and achieve a more compact built up area.
- To encourage a variety of housing types, particularly in terms of tenure and price, to contribute to housing diversity and affordability.
- To minimise the impacts of housing on the natural environment.
- *To release land efficiently in terms of location, supply of services and infrastructure and in accordance with land capability.*
- To support increased residential densities, such as 15 dwellings per hectare, in established areas and the conventional living growth areas.
- To increase the supply of medium density housing in appropriate locations.
- To provide land for small township expansion, subject to a supply and demand analysis.
- To coordinate the assessment, planning, development and servicing of identified investigation areas in an integrated manner.
- To ensure any small township expansion occurs without impacting on the long-term growth potential of urban centres or productive agricultural land.
- To ensure any small township expansion is dependent on land capability where no reticulated sewer is available.
- To balance the need to achieve urban consolidation with the need to respect and retain the valued characteristics of existing neighbourhoods.
- To ensure that land proposed for residential purposes is not contaminated.
- To ensure protection of ground water and natural systems.
- To ensure that provision is made for community infrastructure.

The proposal would provide for a residential subdivision within an appropriate area of Tatura, which is surrounded by established residential development. This is considered to be an appropriate infill subdivision.

21.04-2 Housing Change Areas

It is noted that the northern portion of the land is within the Incremental Change Area as well as land to the north and west, the area of the land where the proposed development is

proposed (and the only developable area of the land) is not identified as being within any of the residential change area. Land to the south of the subject site is identified as being within the minimal change area.

In light of the above it can be considered that the subject land is within a strategic transitional area between low and medium density residential areas.

The proposal would provide for a two lot subdivision which could be considered to provide an appropriate link between the these two areas.

The proposal provides a low density residential subdivision within an established residential area.

Relevant Particular Provisions

Clause 56 Assessment – 2 Lot Subdivision

Title and objective	Standard	Complies/ Does Not Comply/ Variation Required
<p>C6 Neighbourhood Character objective To design subdivision that respond to neighbourhood character.</p>	<ul style="list-style-type: none"> • Respect the existing neighbourhood character or achieve a preferred neighbourhood character consistent with any relevant neighbourhood character objective, policy or statement set out in this scheme. • Respond to and integrate with the surrounding urban environment. • Protect significant vegetation and site features. 	<p>✓ Complies Comments: The proposal comprises of a low density residential subdivision which is in character with the area, which is residential in nature.</p>
<p>C7 Lot diversity and distribution objectives To achieve housing densities that support compact and walkable neighbourhoods and the efficient provision of public transport services.</p> <p>To provide higher housing densities within walking distance of activity centres.</p> <p>To achieve increased housing densities in designated growth areas.</p> <p>To provide a range of lot sizes to suit a variety of dwelling and household types.</p>	<ul style="list-style-type: none"> • Implement any relevant housing strategy, plan or policy for the area. • Lot sizes and mix should achieve the average net residential density specified by the zone 	<p>✓ Complies Comments: The land is within a transition area between medium and low density residential development as set out in Clause 21.04 of the Planning Scheme.</p> <p>The proposal would provide for an appropriate transition between the two and would comply with the housing strategy for the area,</p>

Title and objective	Standard	Complies/ Does Not Comply/ Variation Required
<p>C8 Lot area and building envelopes objective To provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features.</p>	<p>Lots of between 300 square metres and 500 square metres should:</p> <ul style="list-style-type: none"> - Contain a building envelope that is consistent with a development of the lot approved under this scheme, or <p>If no development of the lot has been approved under this scheme, contain a building envelope and be able to contain a rectangle measuring 10 metres by 15 metres, or 9 metres by 15 metres if a boundary wall is nominated as part of the building envelope.</p> <p>If lots of between 300 square metres and 500 square metres are proposed to contain dwellings that are built to the boundary, the long axis of the lots should be within 30 degrees east and 20 degrees west of north unless there are significant physical constraints that make this difficult to achieve.</p>	<p>✓ Complies Comments: The proposal provides for lots of 3,705m² and 4,795m²</p> <p>Given the strategy for the area to provide for a mixture of low and medium density housing it is considered that the proposed lots can provide for appropriate residential development.</p>
<p>C9 Solar Orientation of lots To provide good solar orientation of lots and solar access for future dwellings.</p>	<ul style="list-style-type: none"> • Unless the site is constrained by topography or other site conditions, at least 70 percent of lots should have appropriate solar orientation. • Lots have appropriate solar orientation when: <ul style="list-style-type: none"> - The long axis of lots are within the range north 20 degrees west to north 30 degrees east, or east 20 degrees north to east 30 degrees south. • Lots between 300 square metres and 500 square metres are proposed to contain dwellings that are built to the boundary, the long axis of the lots should be within 30 degrees east and 20 degrees west of north. <p>Dimensions of lots are adequate to protect solar access to the lot, taking into account likely dwelling size and the relationship of each lot to the street</p>	<p>✓ Complies Comments: All lots are orientated to the north.</p>
<p>C10 Street Orientation Objective To provide a lot layout that contributes to community social interaction, personal safety and property security.</p>	<p>Subdivision should increase visibility and surveillance by:</p> <ul style="list-style-type: none"> • Ensuring lots front all roads and streets and avoid the side or rear of lots being oriented to connector streets and arterial roads. • Providing lots of 300 square metres or less in area and lots for 2 or more dwellings around activity centres and public open space. • Ensuring streets and houses 	<p>- Complies Comments All entrances to dwelling would face O'Reilly Road, ensuring passive surveillance both within the subdivision and onto O'Reilly Road.</p>

Title and objective	Standard	Complies/ Does Not Comply/ Variation Required
	<p>look onto public open space and avoiding sides and rears of lots along public open space boundaries.</p> <ul style="list-style-type: none"> • Providing roads and streets along public open space boundaries. 	
<p>C11 Common Area To identify common areas and the purpose for which the area is commonly held.</p> <p>To ensure the provision of common area is appropriate and that necessary management arrangements are in place.</p> <p>To maintain direct public access throughout the neighbourhood street network.</p>	<ul style="list-style-type: none"> • An application to subdivide land that creates common land must be accompanied by a plan and a report identifying: <ul style="list-style-type: none"> - The common area to be owned by the body corporate, including any streets and open space. - The reasons why the area should be commonly held. - Lots participating in the body corporate. <p>The proposed management arrangements including maintenance standards for streets and open spaces to be commonly held.</p>	<p>N/A There will be no common areas.</p>
<p>C12 Integrated urban landscape objectives To provide attractive and continuous landscaping in streets and public open spaces that contribute to the character and identity of new neighbourhoods and urban places or to existing or preferred neighbourhood character in existing urban areas.</p> <p>To incorporate natural and cultural features in the design of streets and public open space where appropriate.</p> <p>To protect and enhance native habitat and discourage the planting and spread of noxious weeds.</p> <p>To provide for integrated water management systems and contribute to drinking water conservation.</p>	<p>An application for subdivision that creates streets or public open space should be accompanied by a landscape design.</p>	<p>N/A</p>
<p>C13 Walking and cycling network objectives To contribute to community health and well being by encouraging walking and cycling as part of the daily lives of residents, employees and visitors.</p> <p>To provide safe and direct movement through and between neighbourhoods by pedestrians and cyclists.</p> <p>To reduce car use, greenhouse gas emissions and air pollution.</p>	<p>The walking and cycling network should be designed to:</p> <ul style="list-style-type: none"> • Implement any relevant regional and local walking and cycling strategy, plan or policy for the area set out in this scheme. • Link to any existing pedestrian and cycling networks. • Provide safe walkable distances to activity centres, community facilities, public transport stops and public open spaces. • Provide an interconnected and continuous network of safe, 	<p>- N/A</p>

Title and objective	Standard	Complies/ Does Not Comply/ Variation Required
	<p>efficient and convenient footpaths, shared paths, cycle paths and cycle lanes based primarily on the network of arterial roads, neighbourhood streets and regional public open spaces.</p> <ul style="list-style-type: none"> • Provide direct cycling routes for regional journeys to major activity centres, community facilities, public transport and other regional activities and for regional recreational cycling. • Ensure safe street and road crossings including the provision of traffic controls where required. • Provide an appropriate level of priority for pedestrians and cyclists. • Have natural surveillance along streets and from abutting dwellings and be designed for personal safety and security particularly at night. • Be accessible to people with disabilities. 	
<p>C17 Neighbourhood street network objective To provide for direct, safe and easy movement through and between neighbourhoods for pedestrians, cyclists, public transport and other motor vehicles using the neighbourhood street network.</p>	<p>The neighbourhood street network design and safety requirements are listed.</p>	<p>N/A</p>
<p>Standard C18 Walking and cycling network detail objectives To design and construct footpaths, shared path and cycle path networks that are safe, comfortable, well constructed and accessible for people with disabilities. To design footpaths to accommodate wheelchairs, prams, scooters and other footpath bound vehicles.</p>	<p>Footpaths, shared paths, cycle paths and cycle lanes design requirements.</p>	<p>N/A</p>
<p>C20 Neighbourhood street network detail objective To design and construct street carriageways and verges so that the street geometry and traffic speeds provide an accessible and safe neighbourhood street system for all users.</p>	<p>The design of streets and roads requirements.</p>	<p>N/A</p>
<p>C21 Lot Access To provide for safe vehicle access between roads and lots.</p>	<ul style="list-style-type: none"> • Vehicle access to lots abutting arterial roads should be provided from service roads, side or rear access lanes, access places or access streets where appropriate 	<p>✓ Complies Comments: Both lots would be access off</p>

Title and objective	Standard	Complies/ Does Not Comply/ Variation Required
	<p>and in accordance with the access management requirements of the relevant roads authority.</p> <ul style="list-style-type: none"> Vehicle access to lots of 300 square metres or less in area and lots with a frontage of 7.5 metres or less should be provided via rear or side access lanes, places or streets. <p>The design and construction of a crossover should meet the requirements of the relevant road authority.</p>	<p>O'Reilly Road from separate crossovers.</p>
<p>C22 Drink Water supply To reduce the use of drinking water. To provide an adequate, cost-effective supply of drinking water.</p>	<ul style="list-style-type: none"> The supply of drinking water must be: <ul style="list-style-type: none"> Designed and constructed in accordance with the requirements and to the satisfaction of the relevant water authority. Provided to the boundary of all lots in the subdivision to the satisfaction of the relevant water authority. 	<p>✓ Complies Comments: Drinking water would be supplied from town water,</p>
<p>C23 Reused and recycled water To provide for the substitution of drinking water for non-drinking purposes with reused and recycled water.</p>	<ul style="list-style-type: none"> Reused and recycled water supply systems must be: <ul style="list-style-type: none"> Designed, constructed and managed in accordance with the requirements and to the satisfaction of the relevant water authority, Environment Protection Authority and Department of Human Services. <p>Provided to the boundary of all lots in the subdivision where required by the relevant water authority.</p>	<p>✓ Complies Comments: The proposal would not require large amounts of grey water due to the use of drought tolerant species within landscaped area.</p>
<p>C24 Waste Water Management To provide a waste water system that is adequate for the maintenance of public health and the management of effluent in an environmentally friendly manner.</p>	<ul style="list-style-type: none"> Waste water systems must be: <ul style="list-style-type: none"> Designed, constructed and managed in accordance with the requirements and to the satisfaction of the relevant water authority and the Environment Protection Authority. Consistent with any relevant approved domestic waste water management plan. <p>Reticulated waste water systems must be provided to the boundary of all lots in the subdivision where required by the relevant water authority.</p>	<p>✓ Complies Comments: The dwellings will be connected to Goulburn Valley Water sewers.</p>
<p>C25 Urban Run-off Management To minimise damage to properties and inconvenience to residents from urban run-off. To ensure that the street operates adequately during major storm events and provides for public safety.</p>	<p>The urban stormwater management system must be:</p> <ul style="list-style-type: none"> Designed and managed in accordance with the requirements and to the satisfaction of the relevant drainage authority. Designed and managed in accordance with the requirements and to the 	<p>✓ Complies Comments: The applicant will be required to provide and comply with a drainage discharge plan.</p>

Title and objective	Standard	Complies/ Does Not Comply/ Variation Required
<p>To minimise increases in stormwater run-off and protect the environmental values and physical characteristics of receiving waters from degradation by urban run-off.</p>	<p>satisfaction of the water authority where reuse of urban run-off is proposed.</p> <ul style="list-style-type: none"> - Designed to meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater – Best Practice Environmental Management Guidelines (Victorian Stormwater Committee 1999) as amended. - Designed to ensure that flows downstream of the subdivision site are restricted to predevelopment levels unless increased flows are approved by the relevant drainage authority and there are no detrimental downstream impacts. <p>The stormwater management system should be integrated with the overall development plan including the street and public open space networks and landscape design.</p> <ul style="list-style-type: none"> - Ensure every lot is provided with drainage to a standard acceptable to the relevant drainage authority. Wherever possible, run-off should be directed to the front of the lot and discharged into the street drainage system or legal point of discharge. - Include water sensitive urban design features to manage run-off in streets and public open space. Where such features are provided, an application must describe maintenance responsibilities, requirements and costs. 	
<p>C26 Site Management To protect drainage infrastructure and receiving waters from sedimentation and contamination.</p> <p>To protect the site and surrounding area from environmental degradation or nuisance prior to and during construction of subdivision works.</p> <p>To encourage the re-use of materials from the site and recycled materials in the construction of subdivisions where practicable.</p>	<ul style="list-style-type: none"> • A subdivision application must describe how the site will be managed prior to and during the construction period and may set out requirements for managing: <ul style="list-style-type: none"> - Erosion and sediment. - Dust. - Run-off. - Litter, concrete and other construction wastes. - Chemical contamination. - Vegetation and natural features planned for retention. <p>Recycled material should be used for the construction of streets, shared paths and other infrastructure where practicable.</p>	<p>✓ Complies Comments: The applicants will be required to provide a construction management plan, to ensure all works are carried out in an appropriate manner.</p>
<p>C27 Shared Trenching</p>	<ul style="list-style-type: none"> • Reticulated services for water, gas, electricity and 	<p>✓ Complies Comments:</p>

Title and objective	Standard	Complies/ Does Not Comply/ Variation Required
<p>To maximise the opportunities for shared trenching.</p> <p>To minimise constraints on landscaping within street reserves.</p>	<p>telecommunications should be provided in shared trenching to minimise construction costs and land allocation for underground services.</p>	<p>The applicants will be required to provide shared trenching where appropriate.</p>
<p>C28 Electricity, Telecommunications and Gas To provide public utilities to each lot in a timely, efficient and cost effective manner.</p> <p>To reduce greenhouse gas emissions by supporting generation and use of electricity from renewable sources.</p>	<ul style="list-style-type: none"> • The electricity supply system must be designed in accordance with the requirements of the relevant electricity supply agency and be provided to the boundary of all lots in the subdivision to the satisfaction of the relevant electricity authority. • Arrangements that support the generation or use of renewable energy at a lot or neighbourhood level are encouraged. • The telecommunication system must be designed in accordance with the requirements of the relevant telecommunications servicing agency and should be consistent with any approved strategy, policy or plan for the provision of advanced telecommunications infrastructure, including fibre optic technology. The telecommunications system must be provided to the boundary of all lots in the subdivision to the satisfaction of the relevant telecommunications servicing authority. • Where available, the reticulated gas supply system must be designed in accordance with the requirements of the relevant gas supply agency and be provided to the boundary of all lots in the subdivision to the satisfaction of the relevant gas supply agency. 	<p>✓ Complies Comments: As above.</p>
<p>C29 Fire hydrants objective To provide fire hydrants and fire plugs in positions that enable fire fighters to access water safely, effectively and efficiently.</p>	<p>Standard C29 Fire hydrants should be provided:</p> <ul style="list-style-type: none"> • A maximum distance of 120 metres from the rear of the each lot. • No more than 200 metres apart. <p>Hydrants and fire plugs must be compatible with the relevant fire service equipment. Where the provision of fire hydrants and fire plugs does not comply with the requirements of standard C29, fire hydrants must be provided to the satisfaction of the relevant fire</p>	<p>N/A</p>

Title and objective	Standard	Complies/ Does Not Comply/ Variation Required
<p>C30 Public lighting objective To provide public lighting to ensure the safety of pedestrians, cyclists and vehicles.</p> <p>To provide pedestrians with a sense of personal safety at night.</p> <p>To contribute to reducing greenhouse gas emissions and to saving energy.</p>	<p>authority.</p> <p>Public lighting should be provided to streets, footpaths, public telephones, public transport stops and to major pedestrian and cycle paths including public open spaces that are likely to be well used at night to assist in providing safe passage for pedestrians, cyclists and vehicles.</p> <p>Public lighting should be designed in accordance with the relevant Australian Standards.</p> <p>Public lighting should be consistent with any strategy, policy or plan for the use of renewable energy and energy efficient fittings.</p>	<p>N/A</p>

In light of the above, it is considered that the proposal would comply with the provisions of Clause 56 of the Planning Scheme.

The decision guidelines of Clause 65

65.02 Approval of an application to subdivide land

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

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

- *The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.*
- *If the land is not seweraged and no provision has been made for the land to be seweraged, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.*
- *Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.*

The proposal would comply in the following ways:

- The land is suitable for subdivision, the area which is development is proposed is within the General Residential Zone and is not within the Urban Floodway Zone.
- The proposal is within an established residential area, land to the east and west would be difficult to develop, given the location of the Urban Floodway Zone.
- There is no large undeveloped land in the area which would be suitable for subdivision.
- The land would have to be drained to the legal point of discharge, which is normal for the area.
- The proposal, which is considered to be low density would provide for a complimentary outcome considering the pattern of subdivision in the area.
- Both lots would be over 3,000m² and would not require any new roads to access the developable area of the land.
- The proposal would not have any impact on pedestrian movements in the area.
- The proposal would not require any common property or body corporate.
- The applicants have undertaken a soil assessment which has demonstrated that the land is appropriate for residential development.
- The land is fully reticulated.
- No native vegetation would be required to be removed.

In light of the above, it is considered that the proposal would comply with the provisions of Clause 65.02 of the Planning Scheme.

Relevant incorporated or reference documents

Floodplain Development Plan Precinct of Mosquito Depression, 2006

Other relevant adopted State policies or strategies policies

There are no other adopted state policies or strategies associated with the proposal.

Relevant Planning Scheme amendments

There are no Planning Scheme amendments associated with the proposal.

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the application?

There are no other Acts that relate to the application.

The Aboriginal Heritage Act 2006

The *Aboriginal Heritage Act 2006* provides protection for all Aboriginal places, objects and human remains in Victoria, regardless of their inclusion on the Victorian Aboriginal Heritage Register or land tenure.

The *Aboriginal Heritage Act 2006* introduces a requirement to prepare a Cultural Heritage Management Plan (CHMP) if all or part of the activity is a listed high impact activity, resulting in significant ground disturbance, and all or part of the activity area is an area of cultural heritage sensitivity, which has not been subject to significant ground disturbance.

The 'Area of Cultural Heritage Sensitivity in Victoria' does not include the land within an area of cultural heritage sensitivity; therefore the proposed use does not trigger the need for a CHMP.

The land is not identified as having Aboriginal Cultural Heritage.

Charter of Human Rights and Responsibilities

The Charter of Human Rights and Responsibilities has been appropriately considered

Conclusion

The proposal is considered appropriate and would provide for a subdivision which is in keeping with the density of the area. The proposal would also provide for an improved stormwater drainage outcome for the land and abutting properties.

In light of the above the proposal is considered to be appropriate and it is recommended that a Planning Permit should issue.

Draft Notice Of Decision

APPLICATION NO: 2015-108
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: 101-109 O'REILLY ROAD TATURA VIC 3616

WHAT THE PERMIT WILL ALLOW: 2 LOT SUBDIVISION IN THE GENERAL RESIDENTIAL ZONE AND URBAN FLOODWAY ZONE AND LAND SUBJECT TO INUNDATION OVERLAY

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Layout Not Altered

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

2. Drainage Discharge Plan

Before the certification of the Plan of Subdivision, a drainage plan with computations prepared by a suitably qualified person or organisation, 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 submitted in an electronic format. The plans must be in accordance with 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 which is the underground pipe along O'Reilly Rd;
- c) measures to enhance stormwater discharge quality from the site and protect downstream waterways;
- d) maximum discharge rate shall not be more than **(37)** lit/sec/ha with **(9)** litres of storage for every square meter of Lot area, in accordance with Infrastructure Design Manual Clause 19 Table 13 (or as agreed in writing by the responsible

authority).;

- e) Incorporation of water sensitive urban design in accordance with Clause 20 of the Infrastructure Design Manual or as otherwise approved in writing by the Responsible Authority; and
- f) Provision of an electronic copy of the MUSIC model (or equivalent) demonstrating the achievement of the required reduction of pollutant removal; to the satisfaction of the Responsible Authority.

Before the statement of compliance is issued all drainage works required by the drainage plan must be completed to the satisfaction of the responsible authority.

3. Landscape Plan

Prior to the certification of the Plan of Subdivision a landscape plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided.

The plan must show:

- a) Street trees within the southern nature strip of the land. Street trees are to be provided at the ratio of one mature tree with a minimum height of 2.4 metres for every 15 metres of road frontage, survey of all existing vegetation and natural features showing plants (greater than 1200mm diameter) to be removed.

Prior to the issue of the Statement of Compliance trees must be planted to the satisfaction of the Responsible Authority.

4. Urban Vehicle Crossing Requirements

Before the Statement of Compliance vehicular crossings shall be constructed in accordance with the endorsed plan(s) and constructed to Councils IDM standard drawing SD235, and must:

- be constructed at right angles to the road, and any redundant crossing shall be removed and replaced with concrete (kerb and channel);
- be setback a minimum of 1.5 metres from any side-entry pit, power or telecommunications pole, manhole cover or marker, or 3 metres from any street tree;
- residential vehicular crossings shall not be less than 3 metres nor more than 4.8 metres (9.8 m – double crossing) in width and shall be constructed from concrete or other material as approved in writing by the Responsible Authority; and
- be at least 9 meters apart.

5. Section 173 Agreement

Before the issue of a Statement of Compliance, the owner must enter into an agreement with the responsible authority, pursuant to Section 173 of the *Planning and Environment Act 1987*. This agreement must be registered on the title to the land pursuant to Section 181 of the *Planning and Environment Act 1987*. The owner must pay the reasonable costs of the preparation, execution and registration of the section 173 agreement. The agreement must provide that:

- **Fencing within the Urban Floodway Zone must be post and wire, or post and rail farm type fencing only.**

The said agreement is to be prepared by Council. Council will undertake to have the agreement prepared upon written notification from the applicant. All costs associated with the preparation and registration of the agreement shall be borne by the applicant including Council's administration fee. All fees associated with the documentation must be fully paid prior to execution and registration of the document by Council.

6. 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 or use.

7. Subdivision Development

Form 13

Before a Statement of Compliance is issued under the *Subdivision Act 1988* by the Responsible Authority the owner must provide a completed Form 13.

8. Referral Authority Conditions

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

9. Telecommunications Referral Condition

The owner of the land must enter into an agreement with:

- A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and

- A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:

- A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

10. Goulburn Valley Water

Before the certification of the plan of subdivision easements in favour of the Goulburn Valley Region Water Authority over all existing and proposed sewer mains located within private property must be provided.

Prior to the issue of the Statement of Compliance all sewage infrastructure must be constructed and connected to the reticulated sewerage connection.

11. Goulburn Broken Catchment Management Authority Requirements

Fencing within the Urban Floodway Zone must be post and wire, or post and rail farm type fencing only.

12. Time for Starting and Completing a Subdivision

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

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

Application Details:

Responsible Officer:	Ronan Murphy
Application Number:	2012-336/A
Applicants Name:	Herdstown P/L
Date Application Received:	24 April 2015
Statutory Days:	96
Land/Address:	535 Bitcon Road DHURRINGILE VIC 3610
Zoning and Overlays:	Farming Zone Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	52.17 Native Vegetation Removal
Are there any Restrictive Covenants on the title?	Nil

Proposal

The application wishes to remove the permit to amend conditions 1, 5 and 6 of the permit.

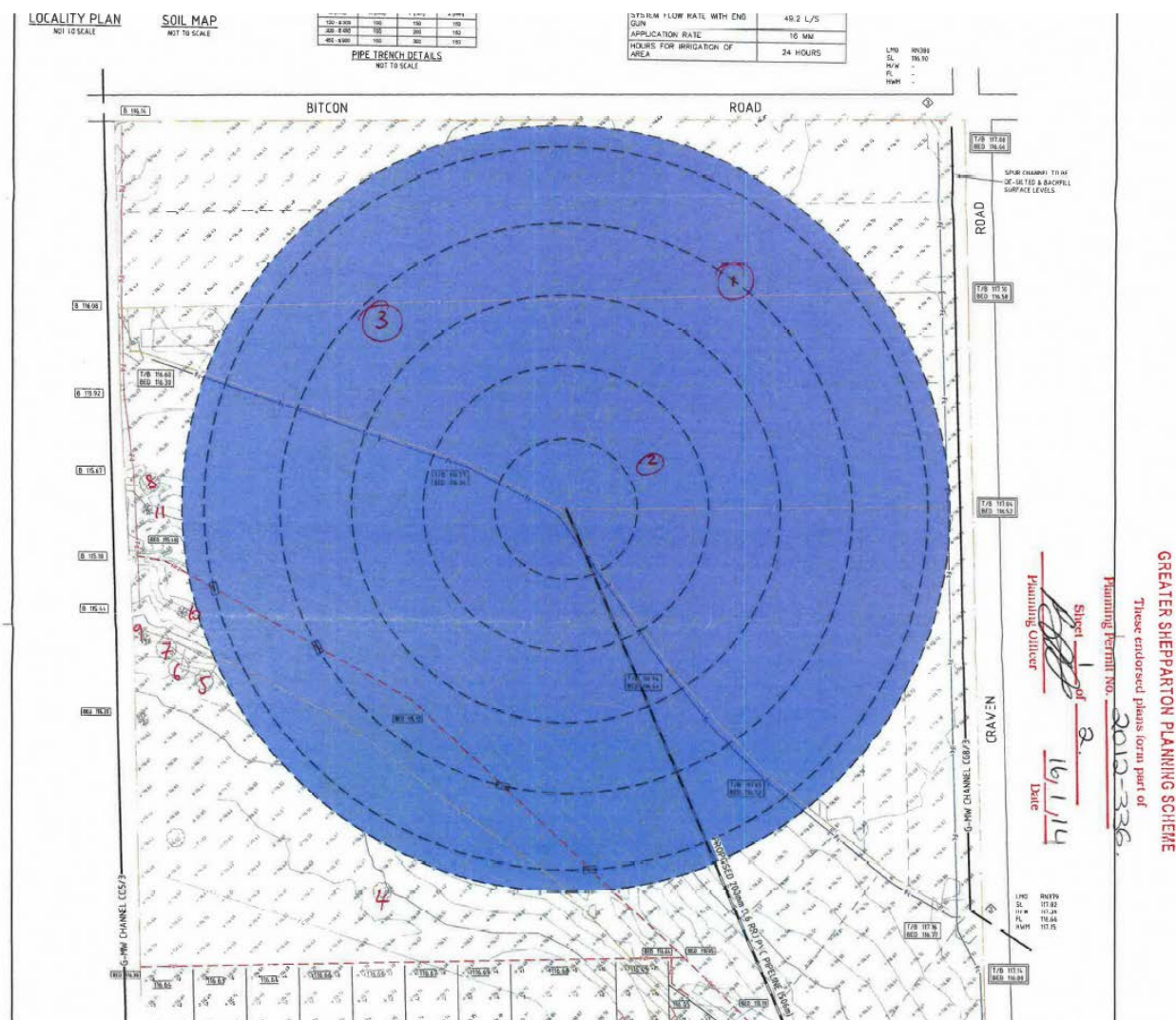
- Condition 1 of the Planning Permit requires the applicant provides an offset management plan.
- Condition 5 of the Planning Permit requires that the applicant lodges a 10 year management plan for the offset area, that the offset area is permanently protected, sets out the number of trees to be offset and that remaining trees not affected be protected.
- Condition 6 of the Planning Permit requires the applicant to enter into a Section 173 Agreement ensure the protection of the offset area and ongoing compliance with the offset management plan.

The applicant is seeking to remove conditions relating to offsetting as these conditions were standard to previous native vegetation provisions and are more onerous than conditions which would be placed on a similar permit pursuant to the provisions of the updated native vegetation provisions.

In essence the applicant has now submitted an amendment to the permit to acquire off site offsets via a third party which therefore negates the requirement for an offset management plan, a Section 173 Agreement and trees to be planted.

The permit will also be required to be amended to include updated conditions with regard to offset requirements from DELWP.

The previously permitted trees and pivot irrigator is shown below:



The previously agreed offsetting (under the old native vegetation requirements) were the following:

- minimum of 8 Grey Box Trees > 105cm diameter;
- 2 Grey Box Trees >80cm diameter
- the revegetation of 50 Plains Woodland 803 EVC under storey plants

The revegetation was agreed to take place in a paddock close to the Goulburn River.

While Planning Officers would not generally be supportive of renegeing on a negotiated outcome that was previously acceptable to all parties, an application such as this is not

prohibited and must be considered under the current provisions of the scheme in relation to native vegetation removal and offsetting.

In light of the above, it is considered that the proposal would be acceptable.

Summary of Key Issues

The application comprises of the amendment to conditions 1, 5 and 6 of the Permit to acquire 3rd party offsets under the new provisions of Clause 52.17 of the Planning Scheme, which would negate the need for an offset management plan, Section 173 Agreement and trees to be planted.

The application was referred to DELWP who did not object to the proposal.

The application was referred to the Councils Sustainability Department, who did not object to the proposal.

The application was notified and one objection was received.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2012-336/A** 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 amend a Permit under the provisions of **52.17** of the Greater Shepparton Planning Scheme in respect of the land known and described as **535 Bitcon Road DHURRINGILE VIC 3610**, for the **Earthworks (Whole Farm Plan) in the Farming Zone, Floodway Overlay and Land Subject to Inundation Overlay and the removal of native vegetation** in accordance with the Notice of Decision and the endorsed plans.

Moved by Braydon Aitken

Seconded by Colin Kalms

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2012-336/A** 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 amend a Permit under the provisions of **52.17** of the Greater Shepparton Planning Scheme in respect of the land known and described as **535 Bitcon Road DHURRINGILE VIC 3610**, for the **Earthworks (Whole Farm Plan) in the Farming Zone, Floodway Overlay and Land Subject to Inundation Overlay and the removal of native vegetation** in accordance with the Notice of Decision and the endorsed plans.

CARRIED

Subject Site & Locality

It was not considered necessary to undertake a further site visit. However, an inspection of the site and the surrounding area has been previously undertaken.

Date: **19/10/12** Time: **9.59** am

The site has a total area of **521,404** square metres and currently contains:

A large cultivated block in use for tomato production.

The main site/locality characteristics are:

The subject lands are located within a predominantly agricultural area, which includes scattered dwellings associated with the agricultural use of the area.

The Photos below show the existing site:



Permit/Site History

2012-336

Planning Permit granted for a whole farm plan and the removal of native vegetation. This is the permit being amended by this permit.

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**

Public Notification

The application is to be advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description *amendment of Planning Permit 2012-336 to amend conditions 1, 5 and 6* by:

- Sending notices to objectors to the original permit
-

Objections

The Council has received 1 objection to date. The key issues that were raised in the objections are.

The objectors are strongly of the view these offsets should be onsite or in some way compensate for the loss of vegetation in this locality and they question the application of current offsets calculation criteria when this application clearly pre-dates the introduction of these criteria.

In response it is noted that the application is not prohibited and the Planning Department has to consider an application against the provisions of the Planning Scheme at the time of the application.

Having regard to Clause 52.17 of the Planning Scheme, the trees being proposed to be removed are within the low risk category.

In this regard Low-risk categories requires fewer substantially decision-making considerations when compared with the previous provisions in Clause 52.17 of the Planning Scheme (when the original application was considered)

Further to this it is noted that low risk application are characterised (in decision terms) by as a reduction in factors and constraints applying to decision-making, such as fewer mandatory matters to take into account.

A third party offsetting arrangement is available to the applicants under the provisions of Clause 52.17 of the Planning Scheme.

It is considered that, in this policy context, that the amendment to the permit to allow the offsets to be determined under the updated provisions of Clause 52.17 is appropriate

Title Details

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

Consultation

Planning Officers spoke with the objectors and it was clear that they did not wish to withdraw their objection.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	DELWP <i>1. Before works start, the permit holder must advise all persons undertaking the vegetation removal and road works of all relevant permit</i>

	<p>conditions of this permit.</p> <p>2. .In order to offset the removal of the 10 scattered trees approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements, and is in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines and the Native vegetation gain scoring manual. 3. The offset must</p> <ul style="list-style-type: none"> • Contribute gain of 0.123 general biodiversity equivalence units. • Be located within the Greater Shepparton City Council or Goulburn Broken Catchment Management Authority area. • Have a strategic biodiversity score of at least 0.264. <p>4. Before any vegetation is removed , evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of Permitted clearing of native vegetation- Biodiversity assessment guidelines and the Native vegetation gain scoring manual. Offset evidence can be either:</p> <ul style="list-style-type: none"> • A security agreement, to the required standard, for the offset site or sites, including a 10 year offset management plan. • A credit register extract from the Native Vegetation Credit Register.
Section 52 Notices	Nil

Internal Council Notices	Advice/Response/Conditions
Sustainability	<p>The Sustainability and Environment Team are therefore supportive of the proposed amendments to conditions 1,5 & 6 of planning permit 2012-336 that are outlined in the amendment form (2015/20434). We do note that the permit holder has confirmed that the number of trees to be removed is three according to the Biodiversity Assessment Report received on 5 June 2015 (M15/36706). We would prefer that the permit holder purchase the offsets under the framework calculations because these were applicable when the permit was granted.</p>

Assessment

The zoning of the land

The subject land is in the Farming Zone. The purpose of the Farming Zone is to:

- 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 the use of land for agriculture..
- To encourage the retention of productive agricultural land.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To protect and enhance natural resources and the biodiversity of the area.

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

Relevant overlay provisions

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

- *To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.*
- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the floodhazard 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 pursuant to the provisions of the Land Subject to Inundation Overlay.

The State Planning Policy Framework (SPPF)

12.01-2 Native Vegetation Management

The objective of Clause 12.01-2 of the Planning Scheme is:

To ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.

The following strategies are set out:

Apply the risk-based approach to managing native vegetation as set out in Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013). These are:

- *Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.*
- *Minimise impacts on Victoria's biodiversity.*
- *Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.*

The trees which are the subject of this amendment have been identified as being within the low risk pathway of Clause 52.17 of the Planning Scheme.

Having regard to Clause 52.17 of the Planning Scheme, the trees being proposed to be removed are within the low risk category. Broadly and without prejudice to any other provisions, it can be considered that the use of "Risk" establishes the manner by which biodiversity will be valued.

In this regard Low-risk categories requires less information and fewer importantly, substantially reduced decision-making considerations.

Further to this it is noted that low risk applications are characterised (in decision terms) by as a reduction in factors and constraints applying to decision-making, such as fewer mandatory matters to take into account.

It is considered that, in this policy context, that the amendment to the permit to allow the offsets to be determined under the updated provisions of Clause 52.17 is appropriate.

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

21.05-1 Natural Environment and Biodiversity

The following objectives are set out:

- *To maintain and enhance biodiversity of native flora and fauna communities*
- *To protect and manage the natural resources of water, air and land.*
- *To identify natural landscape features which are to be protected and managed.*

The following strategies are set out:

- *Protect remnant areas of native vegetation, streamlines, wetlands and other environmentally sensitive features.*
- *Ensure appropriate identification of native vegetation on land to be developed or subdivided.*

The application is within the low risk pathway and having regard to the reduced decision making considerations, the fact that a condition will require appropriate offsetting, it is considered that the proposal would comply with the provisions of Clause 21.02-1 of the Planning Scheme.

Relevant Particular Provisions

52.17 Native Vegetation

The purpose of Clause 52.17 of the Planning Scheme is:

- *To ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:*
 - *Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.*
 - *Minimise impacts on Victoria's biodiversity from the removal of native vegetation.*
 - *Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.*
- *To manage native vegetation to minimise land and water degradation.*

- *To manage native vegetation near buildings to reduce the threat to life and property from bushfire.*

A Planning Permit is required pursuant to the provisions of Clause 52.17-2 of the Planning Scheme.

Clause 52.17-5 of the Planning Scheme sets out the following decision guidelines:

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

Biodiversity considerations

For all applications

- *The contribution that native vegetation to be removed makes to Victoria's biodiversity.*

This is determined by:

- *The extent and condition of the native vegetation.*
- *The biodiversity value of the native vegetation, including whether the native vegetation is important habitat for rare or threatened species.*
- *Whether the removal of native vegetation is defined as being in the low, moderate or high risk-based pathway, as defined in the Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013) and apply the decision guidelines accordingly.*

The application is within the low risk pathway, which requires less information and fewer importantly substantially reduced decision-making considerations.

In essence, it is noted that the amendment to the permit to acquire off site offsets which therefore negates the requirement for an offset management plan, a Section 173 Agreement and trees to be planted.

The application was referred to DELWP, who did not object to the proposal, subject to the following conditions:

1. *Before works start, the permit holder must advise all persons undertaking the vegetation removal and road works of all relevant permit conditions of this permit.*
2. *.In order to offset the removal of the 10 scattered trees approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements, and is in accordance with the Permitted clearing of native vegetation _ Biodiversity assessment guidelines and the Native vegetation gain scoring manual. 3. The offset must*
 - *Contribute gain of 0.123 general biodiversity equivalence units.*
 - *Be located within the Greater Shepparton City Council or Goulburn Broken Catchment Management Authority area.*
 - *Have a strategic biodiversity score of at least 0.264.*

3. *Before any vegetation is removed , evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of Permitted clearing of native vegetation- Biodiversity assessment guidelines and the Native vegetation gain scoring manual. Offset evidence can be either:*

- *A security agreement, to the required standard, for the offset site or sites, including a 10 year offset management plan.*
- *A credit register extract from the Native Vegetation Credit Register.*

It is considered that subject to compliance with the above conditions the proposed amendment to the permit would comply with the provisions of Clause 52.17 of the Planning Scheme.

The decision guidelines of Clause 65

65.01 Approval of an application or plan

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

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

The proposal would comply in the following ways:

- The proposal to allow the removal of native vegetation to facilitate a permitted whole farm plan is considered to be comply with the provisions of the Farming Zone.
- The removal of the vegetation would be appropriately offset.

In light of the above, it is considered that the proposal would comply with the provisions of Clause 65 of the Planning Scheme.

Relevant incorporated or reference documents

There are no relevant incorporated or reference documents that relate to the proposal.

Other relevant adopted State policies or strategies policies

There are no other relevant adopted State policies or strategies that relate to the proposal.

Relevant Planning Scheme amendments

There are no Planning Scheme amendments which relate to the proposal.

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the application?

There are no other Acts that relate to the application.

Conclusion

In light of the amended planning considerations and requirements for low risk pathway native vegetation removal as set out in Clause 52.17 of the Planning Scheme, the proposal to remove conditions 1, 5 and 6 and to amend the current condition 7 of the Planning Permit is appropriate and it is recommended that an amended planning permit should issue.

Draft Notice Of Decision to Amend a Permit

APPLICATION NO: 2012-336/A
PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

THE RESPONSIBLE AUTHORITY HAS DECIDED TO AMEND A PERMIT.

THE AMENDED PERMIT HAS NOT BEEN ISSUED.

ADDRESS OF THE LAND: 535 BITCON ROAD DHURRINGILE VIC 3610

PERMIT FOR WHICH AMENDMENT WAS SOUGHT: 2012-336

WHAT AMENDMENT IS BEING MADE TO THE PERMIT ?:

Planning permit 2012-336 is being amended so that the native vegetation removal is assessed against the current provisions of Clause 52.17 of the Planning Scheme

In response to these amendments various conditions of the permit are removed or revised.

TO WHAT CONDITIONS IS THE AMENDMENT SUBJECT ?:

- Condition 1 is being removed.
- Condition 5 is being removed
- Condition 6 is being removed.
- Updated condition 7
 - 1 Before works start, the permit holder must advise all persons undertaking the vegetation removal and road works of all relevant permit conditions of this permit.
 2. In order to offset the removal of the 10 scattered trees approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements, and is in accordance with the Permitted clearing of native vegetation _ Biodiversity assessment guidelines and the Native vegetation gain scoring manual.

3. The offset must
 - Contribute gain of 0.123 general biodiversity equivalence units.
 - Be located within the Greater Shepparton City Council or Goulburn Broken Catchment Management Authority area.
 - Have a strategic biodiversity score of at least 0.264.

4. Before any vegetation is removed , evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of Permitted clearing of native vegetation- Biodiversity assessment guidelines and the Native vegetation gain scoring manual. Offset evidence can be either:
 - A security agreement, to the required standard, for the offset site or sites, including a 10 year offset management plan.
 - A credit register extract from the Native Vegetation Credit Register.

PLANNING PERMIT

PERMIT NO: 2012-336

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 535 Bitcon Road DHURRINGILE VIC 3610

THE PERMIT ALLOWS: Earthworks (Whole Farm Plan) in the Farming Zone, Floodway Overlay and Land Subject to Inundation Overlay and the removal of native vegetation in accordance with the endorsed Plans forming part of this Permit.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. **Offset Plan Required**
Before the removal of any native vegetation commences, an offset management plan to comply with the requirements of the Department of Sustainability and Environment (Condition 4 of the Permit) 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.
2. **Layout Not Altered**
The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
3. **Engineering Conditions**
 - a) **Retention of Drainage and Irrigation Water**
The Whole Farm Plan and subsequent works shall ensure that all irrigation and concentrated drainage water is retained within the property to the satisfaction of the responsible authority.
 - b) **Damage to Roads**
Any damage to Council or Roads Corporation assets (i.e. roads, table drains etc) shall be repaired at the cost of the applicant to the satisfaction of the responsible authority.
 - c) **No Restriction Flows**
No earthworks shall be permitted to restrict the flow of water entering or leaving the depression and low lying land indicated on the plan.

DATE ISSUED: 16 January 2014

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- d) No restriction to Drainage
The approved works must not cut off natural drainage from adjacent properties.
 - e) Restricted Outflows
The outflows are to be restricted to natural rainfall run-off only.
 - f) Modification with Future Schemes
The drainage system must be modified as and when required to accommodate any future drainage scheme implemented for the area.
 - g) Native Vegetation Retention
No native vegetation shall be removed without prior written approval. A proposal to remove native vegetation must be submitted to the responsible authority as a separate application.
 - h) Structures
All structures on the floodway must be at or below the existing natural surface level
4. **Completion of works**
Within 14 days of the completion of the works as shown on the endorsed whole farm plan, the permit holder must inform the responsible authority in writing that the works have been completed.
- On receipt of this notice, the responsible authority will attend an onsite meeting with the contractor/permit holder/consultant to inspect the works to ensure compliance with the planning permit and endorsed plans to the satisfaction of the responsible authority.
- If it is found that the works have not been undertaken in accordance with the planning permit and endorsed plans, the responsible authority may require additional works to be undertaken to achieve compliance with the planning permit and endorsed plans to the satisfaction of the responsible authority.
5. **Sustainability Department Condition**
- a) The applicant must lodge a 10 year management plan within 12 months of the granting of this permit.
 - b) Within 12 months of the granting of the permit, the applicant must have the endorsed offset site permanently protected.
 - c) The offsets must be a minimum of 8 Grey Box Trees > 105cm diameter; 2 Grey Box Trees >80cm diameter and the revegetation of 50 Plains Woodland 803 EVC understorey plants
 - d) Appropriate offsets as determined above shall be established and placed under on-title agreement within 12 months of the works being completed and are maintained to 85% success rate after 3 years of planting to the satisfaction of council.
 - e) All existing native vegetation that is remaining on site must have a Tree Protection

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PLANNING AND ENVIRONMENT REGULATIONS - FORM 4.4

Zone established at 1.5 times the canopy to ensure they are not affected by the change in water flow over the land.

- f) Prior to the commencement of earthworks, all native vegetation that is retained must be fenced to ensure no vehicles or equipment have access, to a minimum of at least 1.5 times the canopy of the trees.
- g) The timber from the removed native vegetation must be placed in the approved offset site for habitat at a cover of ~10m/.1ha.

6. Section 173 Agreement

Before the commencement of vegetation removal, the owner must enter into an agreement with the responsible authority, pursuant to Section 173 of the *Planning and Environment Act 1987*. This agreement must be registered on the title to the land pursuant to Section 181 of the *Planning and Environment Act 1987*. The owner must pay the reasonable costs of the preparation, execution and registration of the agreement. The agreement must provide for:

- a) The protection of the offset plan area in accordance with the endorsed offset management plan in perpetuity.
- b) Ongoing compliance with the Offset Management Plan

The said agreement is to be prepared by the Council. The Council will undertake to have the agreement prepared upon written notification from the applicant. All costs associated with the preparation and registration of the agreement shall be borne by the applicant.

All fees associated with the documentation must be fully paid prior to execution and registration of the document by the Council.

7. Department of Sustainability and Environment

A Basic Vegetation Offset Management Plan (VOMP) must be produced detailing the proposed offset site, and providing for the protection of 12 Large Old Trees (LOT) and 60 new plantings should the applicant decide to protect and recruit **OR** 600 new plantings in the offset area. The VOMP must be lodged with and endorsed by DSE. The VOMP will then form part of this permit.

8. Goulburn Broken Catchment Management Authority Requirements

All spoil, associated with farm drains, is to be removed or have a 20 metre gap for each 40 metres of drain length.

9. Goulburn Murray Water Requirement

Before the whole farm plan is certified 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 then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:

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- 1 (a) An amendment to the METER OUTLET SCHEDULE, REMARK for MARK 4 as '0200mm DIRECT SUCTION OR sized as per DESIGN'.
 - (b) the incorrectly described outlet number RN343 as a "450 Mann Pit" and deleting the description "LMO". G-MW recommends that the Shire make this amendment by hand correcting the noted outlet description prior to stamping for certification.
 2. (a) The design plan shows a modernisation opportunity for outlet RN379. The final size of the meter will be subject to a Farm Irrigation Assessment which takes into account various factors such as historical use, delivery share entitlements, water use licence and channel capacity. Prior to any farm works impacted by the proposed modernisation the proponent must contact the Modernisation Coordinator for the Central Goulburn 1- 4 Channels project, Jamie Cowan on 58263868, and finalise modernisation arrangements.
 - (b) The proposed volume of reuse storage on the property must meet that allowed under the Water Act (1989). The volume of reuse storage must be no larger than 4.9ML to comply with the capacity formula. (The formula to determine the maximum volume of water that may be stored on a property by means of a reuse dam is 1 ML for every 10 ha of irrigated land that drains to that dam). Alternatively, the proponent must purchase or transfer sufficient surface water entitlement to cover all reuse storage volume in excess of the volume given by the capacity formula.
 - (c) The design plan shows an existing sump to be extended. Prior to construction a test hole should be dug to ensure that groundwater does not leak in and that the soil is consistent to the depth required. The completed reuse sump must not interact with the watertable.
 - (d) The design plan shows works within a passive storage area. Filling may not occupy more than 10% of the natural cross-sectional volume of the passive storage on the property. Any proposed cut and fill for irrigation bays A9 and A10 must meet this requirement.
 - (e) The design plan shows a centre pivot irrigator adjacent to G-MW Central Goulburn 8/3 Channel and G-MW Central Goulburn 5/3 Channel and over the alignment of the proposed Mosquito 3/1/36P CSWMS. The irrigator must be set up, maintained and operated such that water is not applied to the G-MW channel reserve and easement respectively. The proponent must consider how this would apply to the CSWMS and may need to consider a realignment of the CSWMS.
10. **Time for Starting and Completion**
This permit will expire if one of the following circumstances applies:
- a) the development and use are not started within **two (2) years** of the date of this permit;
 - b) the development is not completed within **four (4) years** of the date of this permit.

DATE ISSUED: 16 January 2014

DELEGATED AUTHORITY

SIGNATURE FOR THE RESPONSIBLE AUTHORITY:

PLANNING AND ENVIRONMENT REGULATIONS - FORM 4.4

Delegates Report for Development Plan and Planning Permit

Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	DP2014-3 and 2014-336
Applicant Name:	R Stephens
Date Received:	26-Nov-2014
Statutory Days:	244
Land/Address:	115 Raftery Road KIALLA VIC 3631
Zoning & Overlays:	Rural Living Zone Urban Floodway Zone Development Plan Overlay - Schedule – 1 Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	Subdivision in the RLZ – 35.03-3 Subdivision in the UFZ – 37.03-3 Buildings and works in the LSIO for a dwelling - 44.04-1 Subdivision in the LSIO – 44.04-2
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No

Proposal

The application proposes a two lot subdivision and construction of two dwellings in the Land Subject to Inundation Overlay. As the land is within a Development Plan Overlay, an application has also been made to endorse a development plan to facilitate the proposed subdivision.

The land is currently within two lots which contain areas of Rural Living Zone and Urban Floodway Zone land, the proposal does not increase the number of lots so as to be prohibited in the UFZ.

The land abuts the Seven Creeks to the east.

The land is within investigation area two which sets out that the land may be suitable for higher density residential development subject to a number of issues including flooding,

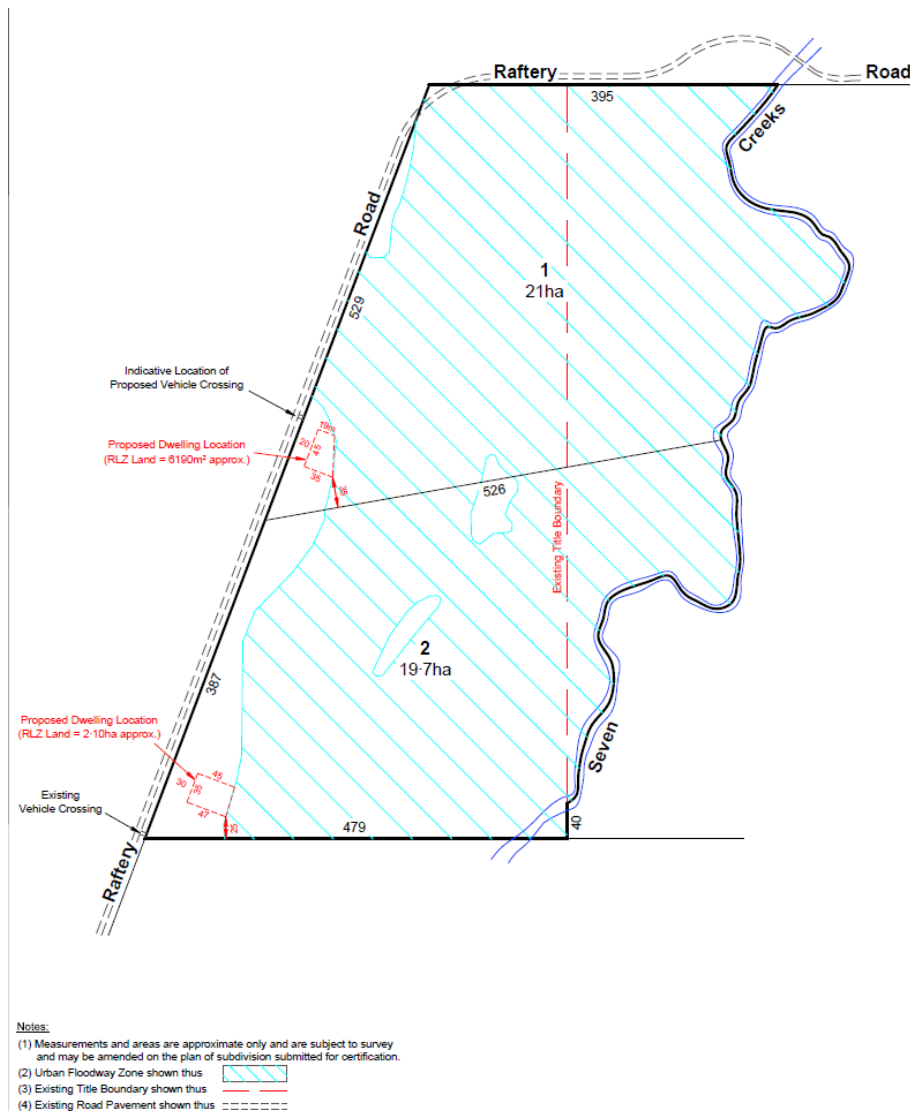
servicing and the environmental values in the Creek environs. In regards to development within investigation areas, Council local policy seeks to avoid incremental development approvals until the investigation is complete.

Council officers are currently considering a mini Precinct Structure Plan for the investigation area and therefore any approval should await the findings of this strategic planning process.

As the land is within flooding controls the application was assessed by the recommending referral authority being the Goulburn Broken Catchment Management Authority (CMA). The CMA has recommended that the application be refused on flooding grounds.

Council officers having assessed the application recommend that the application be refused on the grounds set out by the CMA and that development approvals should await the completion of the strategic investigation into the future of the area.

A development plan and plan of the proposed subdivision is below:



Summary of Key Issues

- The application proposes a two lot subdivision of the land and seeks permission for the construction of a dwelling on each lot. The dwellings are as of right in the RLZ; however permission is required under the LSIO.
- To facilitate the development an application has been made for a development plan as required by the Development Plan Overlay.
- As the land is within an Urban Floodway Zone and Land Subject to Inundation Overlay the application was referred to the CMA. The CMA acting as a recommending referral authority objected to the application on flooding grounds. Officers having considered the objection and rely on the CMA's expertise therefore it is recommended that no permission be granted for the proposals.
- The land is included within investigation area two and Council officers are currently working on a precinct structure plan for the area. Council's local planning policy states that incremental approvals should not be permitted in investigation areas until the investigation is completed. The application should therefore be refused as the application is premature and should await the outcome of the investigation.

Recommendation

Development Plan Refusal

The Council not undertaken informal notice of development plan application DP2014-3 and having considered all matters under the Greater Shepparton Planning Scheme recommend that no development plan be endorsed.

Planning Application Refusal

That Council having not caused notice of Planning Application No. 2014-336 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 to Grant a Permit under the provisions of 35.03-3, 37.03-3, 44.04-1 and 44.04-2 of the Greater Shepparton Planning Scheme in respect of the land known and described as 115 Raftery Road Kialla, for the two lot subdivision in the Rural Living Zone, Urban Floodway Zone, Land Subject to Inundation Overlay and dwellings in the Land Subject to Inundation Overlay.

For the following reasons:

Goulburn Broken Catchment Management Authority

- The proposal is not consistent with the planning scheme's incorporated document Greater Shepparton Floodplain Development Plan, Precinct of Honeysuckle and Seven Creek, October 2006.

- The proposal is not consistent with the Victoria Planning Provisions Practice Note Applying for a Planning Permit under the Flood Provisions (DOI, 2000).
- It would result in danger to life, health and safety of the occupants.
- It would increase demand on the community infrastructure and emergency services, and in community recovery services.
- Long-term cumulative impacts of such proposals.

The application is contrary to 21.04-1 of the Local Planning Policy Framework which specifically discourages the approval of development within investigation areas until such time that the investigation is complete.

Moved by Michael MacDonagh

Seconded by Colin Kalms

Development Plan Refusal

The Council not undertaken informal notice of development plan application DP2014-3 and having considered all matters under the Greater Shepparton Planning Scheme recommend that no development plan be endorsed.

Planning Application Refusal

That Council having not caused notice of Planning Application No. 2014-336 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 to Grant a Permit under the provisions of 35.03-3, 37.03-3, 44.04-1 and 44.04-2 of the Greater Shepparton Planning Scheme in respect of the land known and described as 115 Raftery Road Kialla, for the two lot subdivision in the Rural Living Zone, Urban Floodway Zone, Land Subject to Inundation Overlay and dwellings in the Land Subject to Inundation Overlay.

For the following reasons:

Goulburn Broken Catchment Management Authority

- The proposal is not consistent with the planning scheme's incorporated document Greater Shepparton Floodplain Development Plan, Precinct of Honeysuckle and Seven Creek, October 2006.
- The proposal is not consistent with the Victoria Planning Provisions Practice Note Applying for a Planning Permit under the Flood Provisions (DOI, 2000).
- It would result in danger to life, health and safety of the occupants.
- It would increase demand on the community infrastructure and emergency services, and in community recovery services.
- Long-term cumulative impacts of such proposals.

The application is contrary to 21.04-1 of the Local Planning Policy Framework which specifically discourages the approval of development within investigation areas until such time that the investigation is complete

CARRIED

Subject Site & Locality

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

Date: 12 August 2015 Time: am/pm

The site has a total area of 40.7ha and currently contains:

- vacant land abutting the Seven Creeks environs

The main site/locality characteristics are:

- The land is to the west of the south growth corridor and is used as a rural living zone area.

The Photos below show the existing site:





Further Information

Was further information requested for this application? No

Public Notification

The application was exempt from being advertised in accordance with Clause 43.04-2 and 44.04-4 of the planning scheme.

Objections

The Council has received no objections to date.

Title Details

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

The land is currently in two titles with a north south boundary. The existing title layout is shown below.

			<ol style="list-style-type: none"> 1. The proposal is not consistent with the planning scheme's incorporated document Greater Shepparton Floodplain Development Plan, Precinct of Honeysuckle and Seven Creek, October 2006. 2. The proposal is not consistent with the Victoria Planning Provisions Practice Note Applying for a Planning Permit under the Flood Provisions (DOI, 2000). 3. It would result in danger to life, health and safety of the occupants. 4. It would increase demand on the community infrastructure and emergency services, and in community recovery services. 5. Long-term cumulative impacts of such proposals.
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Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
GVW	GVW reviewed the application and consented to the proposed subdivision and dwellings.
GMW	GMW has no objection to the proposed development subject to conditions relating to building and waste water envelopes being identified on a plan.

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	Council engineers did not oppose the application subject to standard conditions relating to drainage and vehicle access
EHO	<p>Council's EHO's have reviewed the application and provided two options to progress the file.</p> <p>Option 1 is to provide no less than 1000sqm of land for effluent disposal within the area of LSIO</p> <p>Option 2 is to obtain a LCA prior to a decision on the application to determine effluent designs for the proposed lots</p>

Assessment

The zoning of the land
 Rural Living Zone

Purpose

- 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 residential use in a rural environment.
- To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.
- To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

Decision guidelines are under 35.03-5.

General issues

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

Agricultural issues

- The capacity of the site to sustain the agricultural use.
- Any integrated land management plan prepared for the site.
- The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agricultural and other land uses.

Environmental issues

- The impact on the natural physical features and resources of the area and in particular any impact caused by the proposal on soil and water quality and by the emission of noise, dust and odours.
- The impact of the use or development on the flora, fauna and landscape features of the locality.
- The need to protect and enhance the biodiversity of the area, including the need to retain vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

Design and siting issues

- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.
- Whether the use or development will require traffic management measures.

The development of a dwelling in the RLZ is as of right if the lot exceeds 8ha. As each proposed lot is about 20ha in size the construction of dwellings on the proposed lots does not require a permit under the RLZ.

The proposed subdivision seeks to create a revised lot layout which provides a portion of developable land in each lot. The land is within a RLZ is largely removed from agriculture and is used for residential purposes on larger lots.

Urban Floodway Zone

Purpose

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify waterways, major floodpaths, drainage depressions and high hazard areas within urban areas which have the greatest risk and frequency of being affected by flooding.
- To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.
- To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989.
- To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

Decision guidelines are at 37.03-6 and include.

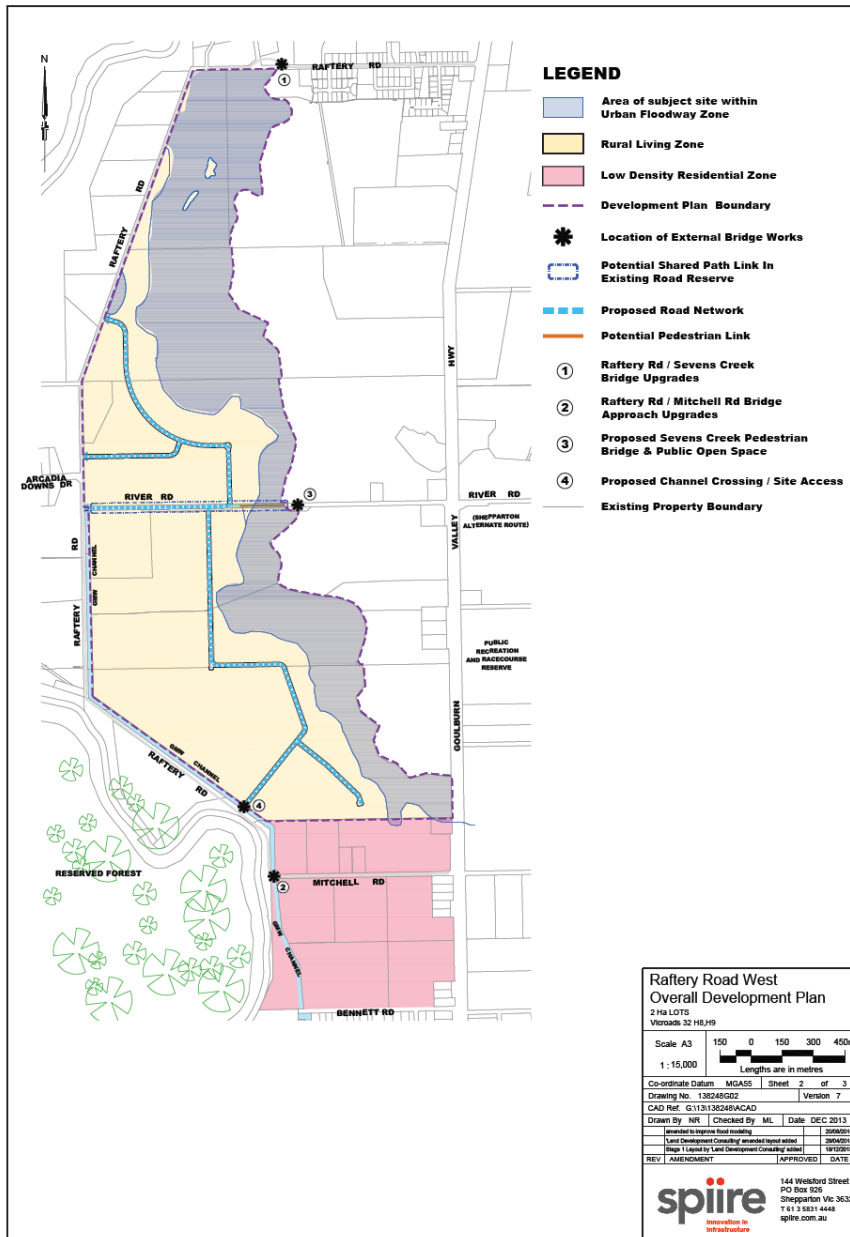
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The local floodplain development plan or flood risk report.
- Any comments of the relevant floodplain management authority.

A permit can only be granted in the UFZ if the subdivision does not create any new lots that are entirely within the UFZ or a subdivision that does not increase lots. As each of the proposed lots includes land within the RLZ and is a subdivision of land the proposed subdivision is not prohibited under the UFZ.

Planning Scheme Amendment

Council is currently considering a PSA to reduce the minimum lot size in the RLZ from 8ha to 2ha and introduce a DCP to fund external infrastructure such as road upgrading.

A plan of the proposed ODP (in relation to the PSA) is below:



The land subject to the proposed 2 lot subdivision is shown as an area largely subject to flooding and no road network is within the subdivision site.

Relevant overlay provisions

The land is within the LSIO.

Purpose

- 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 permit is required under the LSIO for subdivision of land and development of a dwelling on each of the proposed lots.

The application was referred to the CMA who objected to the grant of a planning permit.

The State Planning Policy Framework (SPPF)

13.02-1 Floodplain Management

An objective of this clause is to assist in the protection of life, property and community infrastructure from flood hazard.

16.02-1 Rural residential development

The objective of this clause is to identify land suitable for rural living and rural residential development.

Ensure planning for rural living avoids or significantly reduces adverse economic, social and environmental impacts by:

- Maintaining the long-term sustainable use and management of existing natural resource attributes in activities including agricultural production, water, mineral and energy resources.
- Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.
- Minimising or avoiding property servicing costs carried by local and State governments.
- Discouraging development of isolated small lots in rural zones from use for rural living or other incompatible uses.
- Encouraging consolidation of existing isolated small lots in rural zones.
- Maintaining an adequate buffer distance between rural residential development and intensive animal husbandry.

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

21.04-1 Urban Consolidation and Growth

Planning scheme amendment C93 implemented the strategies of the Housing Strategy into the planning scheme. C93 was subject to an Independent Planning Panel which supported

Council's proposal to include the racing precinct within an investigation area, which is now known as investigation area 1.

Investigation Area 2 is described as:

Rafferty Road, Kialla. The land is adjacent to the Shepparton South Growth Corridor and is situated between the Seven Creeks and Goulburn River corridors. Development is currently restricted by the 8ha minimum lot size under the Rural Living Zone. Higher density development is dependent on issues relating to servicing, flooding and the environmental assets of the two river corridors being resolved.

A strategy of Council's local planning policy at 21.04-1 is to:

Avoid incremental approvals and development in identified investigation areas until an integrated investigation and has been completed to assess and resolve future land opportunities and constraints, land use, development opportunities, subdivisional layout and servicing for the area.

Council is currently assessing a suite of documents that will lead to the preparation of a precinct structure plan within investigation area 2. As the investigation is actively being undertaken and is likely to lead to a planning scheme amendment in the next 12 months, it is considered that development approvals should await the outcome of this strategic investigation.

Relevant Particular Provisions

There are no relevant particular provisions to the application.

The decision guidelines of Clause 65

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

65.02 Approval of an application to subdivide land

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

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

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

This clause does not apply to a VicSmart application.

The land is mostly within the Urban Floodway Zone as is the nearby road network, as a result the CMA has objected to the application on flooding grounds. Based on the extent of flooding it is considered that the land is not suitable for residential type subdivision.

The investigation which is currently being undertaken is considering matters such as servicing, development of nearby land and flooding. Given the investigation is being undertaken development approvals should await the completion of this investigation.

Relevant incorporated or reference documents

Local Floodplain Development Plan – Precinct of Honeysuckle and Seven Creek

Greater Shepparton City Council Housing Strategy

Other relevant adopted State policies or strategies policies

There is no other relevant adopted state or strategic policies.

Relevant Planning Scheme amendments

There is no current relevant PSA's affecting the land.

Are there any significant social & economic effects?

The application does not raise any significant social or economic effects.

Discuss any other relevant Acts that relate to the application?

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

The Aboriginal Heritage Act 2006

The *Aboriginal Heritage Act 2006* provides protection for all Aboriginal places, objects and human remains in Victoria, regardless of their inclusion on the Victorian Aboriginal Heritage Register or land tenure.

The *Aboriginal Heritage Act 2006* introduces a requirement to prepare a Cultural Heritage Management Plan (CHMP) if all or part of the activity is a listed high impact activity, resulting in significant ground disturbance, and all or part of the activity area is an area of cultural heritage sensitivity, which has not been subject to significant ground disturbance.

The 'Area of Cultural Heritage Sensitivity in Victoria' includes the land within an area of cultural heritage sensitivity; however the proposal for a two lot subdivision and two dwellings is not a high impact activity and no CHMP is triggered.

Charter of Human Rights and Responsibilities

The application has been considered in accordance with the scheme therefore the charter has not been breached.

Conclusion

The application for development plan, two lot subdivision and dwellings in the LSIO has been considered to not achieve acceptable flooding or local policy outcomes, therefore it is recommended that no approvals be granted.

DRAFT REFUSAL TO GRANT A PERMIT

APPLICATION NO:	2014-336
PLANNING SCHEME:	GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY:	GREATER SHEPPARTON CITY COUNCIL
ADDRESS OF THE LAND:	115 Raftery Road KIALLA VIC 3631
WHAT HAS BEEN REFUSED:	A two lot subdivision in the Rural Living Zone, Urban Floodway Zone, Land Subject to Inundation Overlay and the construction of two dwellings in the Land Subject to Inundation Overlay

WHAT ARE THE REASONS FOR THE REFUSAL?

Goulburn Broken Catchment Management Authority

- The proposal is not consistent with the planning scheme's incorporated document Greater Shepparton Floodplain Development Plan, Precinct of Honeysuckle and Seven Creek, October 2006.
- The proposal is not consistent with the Victoria Planning Provisions Practice Note Applying for a Planning Permit under the Flood Provisions (DOI, 2000).
- It would result in danger to life, health and safety of the occupants.
- It would increase demand on the community infrastructure and emergency services, and in community recovery services.
- Long-term cumulative impacts of such proposals.

The application is contrary to 21.04-1 of the Local Planning Policy Framework which specifically discourages the approval of development within investigation areas until such time that the investigation is complete