

CONFIRMED MINUTES

**FOR THE
GREATER SHEPPARTON CITY COUNCIL**

DEVELOPMENT HEARINGS PANEL

Meeting No. 13/2015

**HELD ON
THURSDAY 10 DECEMBER 2015
AT 10AM**

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

**CHAIR
Councillor Dinny Adem**

1. ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 13 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),
- Johann Rajaratnam – Director Sustainable Development
- Braydon Aitken – Acting Manager Planning
- Jon Griffin –Team Leader Development

4. OFFICERS AND OTHERS PRESENT

The Planning Officers present today are:

- Ronan Murphy – Senior Statutory Planner
- Tim Watson – Senior Statutory Planner

I would also like to acknowledge all other parties present today. Given we have a two items for consideration today we will get you to introduce yourself when your turn comes to present.

5. APOLOGIES

Colin Kalms, Michael MacDonagh

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

None to be confirmed.

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
 - Any objector/s or representatives on behalf of the objectors present to make a submissions in support of their objection (should they wish to)
 - The applicant/applicant representative to present in support of the application
- The officer, objectors/submitters 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 two items formally listed for consideration today:

- The first item for consideration is planning permit application 2015-276 for the use and development of land for a dwelling at 250 Poplar Avenue, Shepparton.
- The second item for consideration is planning permit application 2015-145 for the use and development of land for a landscape supplies business at 8018 Goulburn Valley Highway, Kialla.

10. LATE REPORTS

None

11. NEXT MEETING

To be determined at a future date

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2015-145	8018 Goulburn Valley Highway, Kialla	Use and development of land for landscape supplies business in the Commercial 2 Zone including the storages of soils, mulch, gravel, pebbles and other landscaping materials and the mixing of these products and alteration of an access onto a Road Zone Category 1	27

Application Details:

Responsible Officer:	Ronan Murphy
Application Number:	2015-276
Applicants Name:	S Loverso and R D Loverso
Date Application Received:	22 July 2015
Statutory Days:	98
Land/Address:	250 Poplar Avenue ORRVALE VIC 3631
Zoning and Overlays:	Farming Zone
Why is a permit required (include Permit Triggers):	35.07-1 Use of the land for a dwelling 35.07-4 Buildings and works for a dwelling
Are there any Restrictive Covenants on the title?	Nil

Proposal

The proposal comprises of use and development of the land for a dwelling at 250 Poplar Avenue.

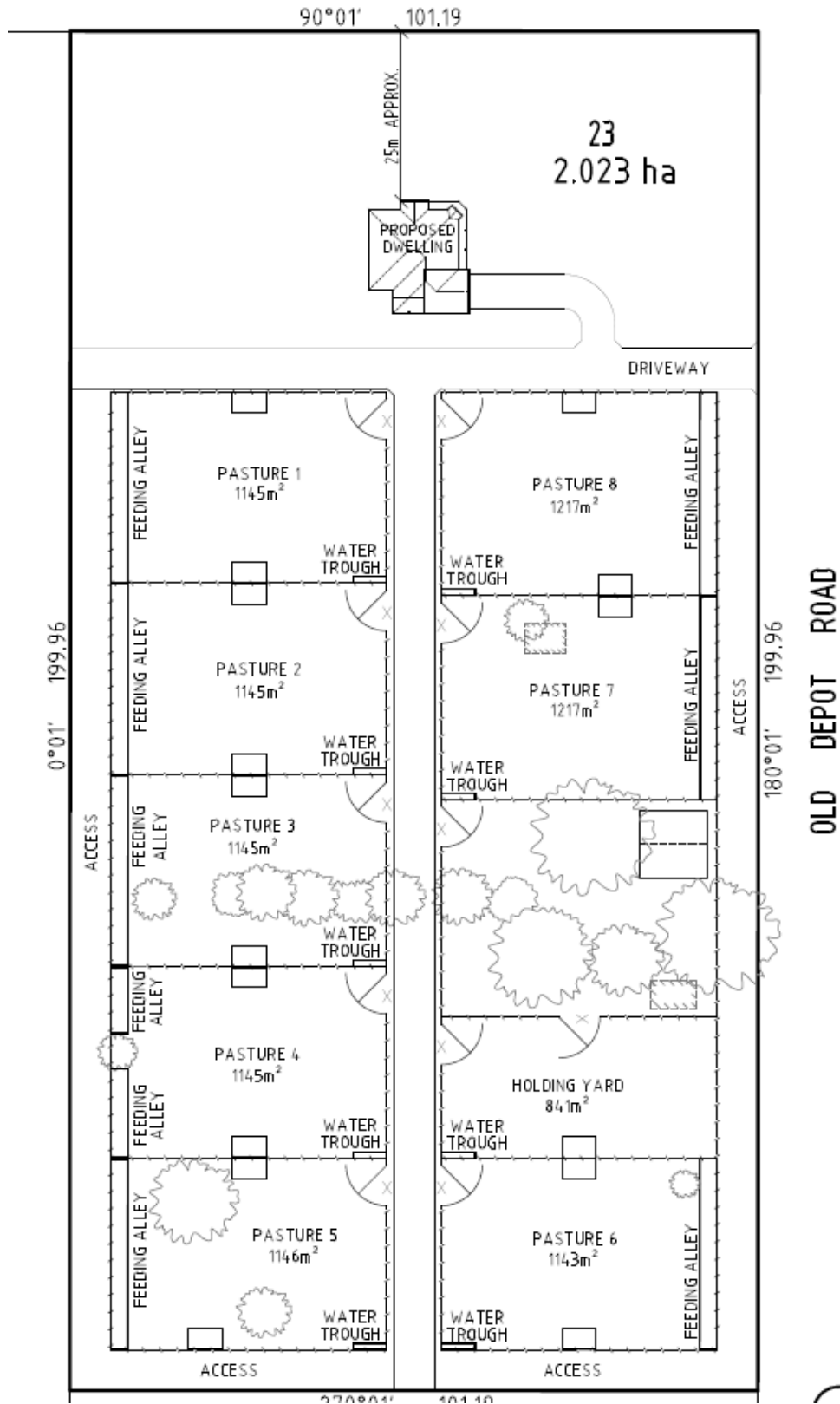
The land is within the Farming Zone and is not affected by any overlays. The land is within an area identified as having Aboriginal Cultural Heritage Sensitivity. However, it is noted that the proposal would be exempt from the requirement to prepare a Cultural Heritage Management Plan, in accordance with regulation 8 of the Aboriginal Heritage Regulations.

A Planning Permit is required pursuant to the provisions of:

- 35.07-1 Use of the land for a dwelling (subject land is approximately 2ha)
- 35.07-4 Buildings and works for a dwelling

The applicant has justified the need for a dwelling on a small lot by stating that a dwelling is required in associated with a miniature goat facility.

The proposal would have the following proposed layout:



It is noted that the applicants have been informed twice by two separate planning officers that the land would not be suitable for a dwelling as there was no agricultural justification for a dwelling (meeting 7/4/14 and 14/8/14).

In making this application the applicants have attempted to justify the need for a dwelling by stating that the land would be used in conjunction with a miniature goat breeding facility.

The applicant has stated that as many as 40 miniature goats could be run on the property and they would be bred and would be run as a cottage industry.

The animals will be bred to be sold for hobby farms and as “companion goats”

The applicant states that the dwelling is required to ensure that goats are safe from any potential predator attack, which they state has been an issue in the past.

Planning officers undertook a site visit and noted that the surrounding area is used for large scale orchard operations.

The applicant was informed by letter dated 3 August 2015 that the proposal would not accord with Clauses 11.10-5, 14.01, 14.02, 21.06-1, 21.06-3 of the Planning Scheme.

It was also noted that the application did not include a Land Capability Assessment. It is noted that while the land is large enough to accommodate an appropriate septic disposal area, it is considered that the septic disposal area would further reduce the area which could be used for agricultural purposes.

It is considered that the applicants have not justified that the land is appropriate for a dwelling.

Summary of Key Issues

The application comprises of the use and development of the land for a dwelling associated with a miniature goat breeding facility.

The application was not required to be referred to any external authorities.

The application was notified to Goulburn Murray Water who did not object to the proposal subject to conditions.

The application was referred internally to Council's Development Engineering Department and the Council's Environmental Health Department. Neither Department objected to the proposal.

The application was notified to surrounding properties and no objections were received.

It is recommended that the application should be refused as it does not comply with state or local policy which seeks to limit dwelling in the Farming Zone unrelated to agriculture, the dwelling has not been demonstrated to be reasonably required for an agricultural reason and the dwelling could have conflict issues with the surrounding agricultural uses.

Recommendation

Refusal

That the Council having caused notice of Planning Application No. **2015-276** 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 **21.03-3, 35.07-1, and 35.07-4** of the Greater Shepparton Planning Scheme in respect of the land known and described as **250 Poplar Avenue ORRVALE VIC 3631**, for the use and development of the land for a dwelling in association with miniature goat breeding.

The proposed use and development for a dwelling on the subject land of 2.023 hectares does not provide an acceptable outcome or a net community benefit in terms of the State and Local Planning Policy Frameworks and the purpose and decision guidelines of the Farming Zone, and

- a. Has the potential to impact on the continuation of primary production on nearby land;*
- b. Has the potential to limit the expansion of agriculture on adjacent land;*
- c. Has potential for conflict between the ongoing farming activities and the proposed rural living use;*
- d. Will result in the construction of a dwelling on a small and inappropriate lot.*

The application does not adequately demonstrate that the proposed dwelling is reasonably required for the operation of agricultural activity on the land.

The application does not comply with the provisions of Clause 21.06-3 of the Planning Scheme which seeks to limit dwellings in the Farming Zone 1 which are not associated or required for the agricultural use of the land.

The application does not comply with the Rural and Regional Land Use Strategy (c-121) and the Hume Regional Growth Plan, which identifies the land as strategic agricultural land.

Moved by Braydon Aitken

Seconded by Johann Rajaratnam

That the Council having caused notice of Planning Application No. **2015-276** 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 **21.03-3, 35.07-1, and 35.07-4** of the Greater Shepparton Planning Scheme in respect of the land known and described as **250 Poplar Avenue ORRVALE VIC 3631**, for the **use and development of the land for a dwelling in association with miniature goat breeding.**

The proposed use and development for a dwelling on the subject land of 2.023 hectares does not provide an acceptable outcome or a net community benefit in terms of the State and Local Planning Policy Frameworks and the purpose and decision guidelines of the Farming Zone, and

- a. Has the potential to impact on the continuation of primary production on nearby land;*
- b. Has the potential to limit the expansion of agriculture on adjacent land;*
- c. Has potential for conflict between the ongoing farming activities and the proposed rural living use;*
- d. Will result in the construction of a dwelling on a small and inappropriate lot.*

The application does not adequately demonstrate that the proposed dwelling is reasonably required for the operation of agricultural activity on the land.

The application does not comply with the provisions of Clause 21.06-3 of the Planning Scheme which seeks to limit dwellings in the Farming Zone 1 which are not associated or required for the agricultural use of the land.

The application does not comply with the Rural and Regional Land Use Strategy (c-121) and the Hume Regional Growth Plan, which identifies the land as strategic agricultural land.

Lost

Moved by Councillor Dinny Adem

Seconded by Jonathan Griffin

That Council having caused notice of Planning Application No. 2015-276 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 Grant a Permit in respect of the land known and described as 250 Poplar Avenue ORRVALE VIC 3631, for the use and development of the land for a dwelling in association with miniature goat breeding.

The permit conditions will be in accordance with the conditions required by any of the internal and external referral and notice authorities and will also require the dwelling to be used in accordance with the use of the land for a miniature goat breeding facility. This will be done via a Section 173 Agreement and will also require all farm infrastructure shown on the endorsed plans to be constructed prior to the commencement of works on the dwelling.

CARRIED

Subject Site & Locality

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

Date: **11/11/15** Time: **9.45** am

The site has a total area of approximately **2.4 hectares** currently contains:

- The land is currently vacant.

The main site/locality characteristics are:

- The land is generally within an agricultural area to the east of Shepparton CBD.

The Photos below show the existing site:



Subject land



Land to the east



Land to the east



Land to the north



Land to the north



Land to the west



Land to the west

Permit/Site History

There is no planning permit history which relates to the land.

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 was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **use and development of the land for a dwelling in association with a miniature goat breeding facility**, by:

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

Objections

The Council has not received any objections to date.

Title Details

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

Consultation

The applicant has been made aware of the position of the Planning Department by letter dated 3 August 2015.

To date the Planning Department has not received a response to this letter.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Nil
Section 52 Notices	<p>Goulburn Murray Water</p> <p><i>Based on the information provided and in accordance with Section 56 (b) of the Planning and Environment Act 1987, GMW has no objection to this planning permit being granted subject to the following conditions:</i></p> <ol style="list-style-type: none"><i>1. No buildings or works may be erected or carried out within 30 metres of any Goulburn-Murray Water surface infrastructure (including open irrigation channels and drains), or 5 metres from any below surface infrastructure (including pipelines), located on any G-MW freehold, easements or reserves.</i><i>2. G-MW will only permit rainfall runoff to enter its drain. No other water or discharge is permitted, including sullage (grey water), sewage or water containing hydrocarbons or non approved detergents.</i><i>3. All wastewater from the proposed dwelling must be treated and disposed of using an EPA approved system, installed, operated and maintained in compliance with the relevant EPA Code of Practice and Certificate of Approval.</i>

Internal Council Notices	Advice/Response/Conditions
Development Engineering	<p><u>Rural Drainage – Works</u></p> <p><i>Before the use begins and/or the building(s) is/are occupied all stormwater and surface water drainage from the land, buildings and works must be retained on-site and/or connected to the legal point of discharge to the satisfaction of the Responsible Authority/Goulburn Murray Water. Effluent and/or polluted water must not be discharged to Council's stormwater drainage system from the land.</i></p> <p><i>Property connections discharging to the road table drain must do so to the side of the end wall of the newly constructed driveway and not directly to the table drain.</i></p> <p><u>Rural Vehicle Crossing Location</u></p> <p><i>Before the use begins and/or the building(s) is/are occupied the vehicle crossings providing access to the land must be constructed at a location and of dimensions and standard to the satisfaction of the responsible authority. Vehicle crossing(s) must be constructed at the owner's expense.</i></p> <p><i>The new vehicle crossing must be no less than 4.9 metres in length and include a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm). Culverts located in the clear zone shall be</i></p>

	<p><i>installed with trafficable end walls (refer IDM standard drawing SD 255). The final location of the crossing is to be approved by the responsible authority via a 'Works within the Roads Reserve' (Road Opening)' permit.</i></p> <p><i>The access track shown around the perimeter of the pasture lots is to be surfaced with crushed rock or gravel and treated to prevent dust.</i></p>
Health Department	<p>Council's Health Department has no objections to the Planning Permit being issued provided the following condition is included in the Permit.</p> <p><i>Prior to the commencement of works for the proposed dwelling the owner shall lodge with the Council an application to Install a Septic Tank System in accordance with the Code of Practice – Onsite Wastewater Management, Publication 891.3, February 2013.</i></p> <p><i>The application to Install a Septic Tank System shall include:</i></p> <ol style="list-style-type: none"><i>1) The application form provided by the Council completed, signed and dated by the owner.</i><i>2) A floor plan of the proposed dwelling.</i><i>3) A site plan indicating the location of the effluent disposal area / reserve area.</i><i>4) The design of the effluent disposal system including instructions for installation and working drawings.</i><i>5) The current application fee.</i>

Assessment

The zoning of the land

The subject land is within the Farming Zone. The purpose of the Farming Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

A Planning Permit is required pursuant to the provisions of Clause 35.07-1 for the use of the land for a dwelling and 35.07-4 of the Planning Scheme for buildings and works for a dwelling.

Clause 35.07-6 of the Planning Scheme sets out the following decision guidelines:

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, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*

- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*

Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *Any integrated land management plan prepared for the site.*

Dwelling issues

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

Environmental issues

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of 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 need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*
- *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 and development will require traffic management measures.*

It is considered that the proposal would not comply with the provisions of the Farming Zone for the following reasons:

- The applicants have not demonstrated that the land could accommodate the proposed dwelling in terms of effluent disposal.
- The use of the land for a dwelling would not comprise of sustainable land use as it would remove land from potential agricultural production. The land is within an area generally used for orchards, the use of the land for a dwelling would conflict with surrounding agricultural uses.
- The use of the land would not be considered to be agricultural production, the use of the land for the purposes of breeding miniature goats for on selling considered to be a lifestyle type occupation which would be more appropriately located within a rural living zone.
- The proposal could limit the expansion of surrounding orchard uses.
- The proposed dwelling would remove agricultural land from any potential agricultural productive possibilities in the future.
- The dwelling could cause conflict issues with surrounding orchard uses. It is noted that this could include spray drift and picking activities.

In light of the above, it is considered that the proposal would not comply with the provisions of the Farming Zone.

Relevant overlay provisions

The land is not affected by any overlays.

The State Planning Policy Framework (SPPF)

11.10 Hume Regional Growth

The objective of Clause 11.10 of the Planning Scheme is:

To develop a more diverse regional economy while managing and enhancing key regional economic assets.

The following strategies are set out:

- *Plan for a more diverse and sustainable regional economy by supporting existing economic activity and encouraging appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.*
- *Support tourism activities, including nature-based tourism, that take advantage of environmental and cultural heritage assets and the rural environment without compromising their future.*
- *Support opportunities for nature-based tourism throughout the region, including those arising from the restoration of the Winton Wetlands and other wetlands of national and regional value such as the Barmah Forest and the lower Ovens River.*
- *Support large commercial tourism uses in urban locations or rural areas of lower agricultural value and away from areas identified as strategic agricultural land.*
- *Facilitate rural tourism activities that support agricultural enterprises such as cellar door and farm gate sales and accommodation in appropriate locations.*
- *Avoid encroachment from rural residential settlement and other land uses that are noncomplementary to agriculture in areas identified as strategic agricultural land and direct proposals for settlement to existing centres and townships.*
- *Support agricultural production through the protection and enhancement of infrastructure and strategic resources such as water and agricultural land, including areas of strategic agricultural land.*
- *Support clustering of intensive rural industries and agricultural production to take advantage of locational opportunities, including access to key infrastructure such as transport, power, water, information and communications technology, and separation from sensitive land uses.*
- *Create renewable energy hubs that support co-location of industries to maximise resource use efficiency and minimise waste generation.*
- *Plan for rural areas by considering the location of earth resources, the potential for their future extraction and how to minimise impacts on sensitive uses and the environment.*
- *Support the availability of construction materials locally and consider measures to facilitate and manage their extraction.*
- *Maintain and develop buffers around mining and quarrying activities to manage potential land use conflicts.*

The land is identified as being within an area of Strategic Agricultural Land. The Hume Regional Growth Plan states the following:

Recent modernisation of irrigation systems in the region provides opportunities for additional investment to increase food production and attract new processing industries. Protecting strategically important agricultural land will maintain options for future changes in production in response to market demands.

The protection of areas identified as Strategic Agricultural Land is a key tenet of the Hume Regional Growth Plan and is included as an objective in Cluse 11.10-1 of the Planning Scheme, which states:

- *Avoid encroachment from rural residential settlement and other land uses that are non-complementary to agriculture in areas identified as strategic agricultural land and direct proposals for settlement to existing centres and townships.*

- *Support agricultural production through the protection and enhancement of infrastructure and strategic resources such as water and agricultural land, including areas of strategic agricultural land.*

It is considered that the proposal would not comply with the objectives set out in Clause 11.10-1 of the Planning Scheme as the proposed dwelling would provide for a non-complimentary use in an area which is identified as being strategic agricultural land. The proposal which would permanently remove land from agricultural production would be at a variance to the stated policy for the area.

Furthermore, the application does not provide for agricultural production commensurate with the sustainable use of strategic agricultural land identified in the Hume Regional Growth Plan. The land is irrigated and has potential to be used for high value agricultural production. It is not considered that the permanent removal of land from agricultural production for a dwelling and associated infrastructure and miniature goat breeding would provide for this outcome.

14.01-1 Protection of Agricultural Land

The objective of Clause 14.01-1 of the Planning Scheme is:

To protect productive farmland which is of strategic significance in the local or regional context.

The following strategies are set out:

- *Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.*
- *Consult with the Department of Primary Industries and utilise available information to identify areas of productive agricultural land.*
- *Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity.*
- *Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.*
- *In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:*
- *The desirability and impacts of removing the land from primary production, given its agricultural productivity.*
- *The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.*
- *The compatibility between the proposed or likely development and the existing uses of the surrounding land.*
- *Assessment of the land capability.*
- *Subdivision of productive agricultural land should not detract from the long-term productive capacity of the land.*
- *Where inappropriate subdivisions exist on productive agricultural land, priority should be given by planning authorities to their re-structure.*
- *In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation*

of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals.

- *Planning for rural land use should consider:*
 - *land capability; and*
 - *the potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*

The proposal would not comply for the following reasons:

- The proposal would lead to the loss of productive agricultural land;
- The dwelling would provide for a conflict between the agricultural uses of the surrounding land (generally orchards) and the proposed residential use. This is not considered to be an appropriate outcome;
- The capability of the land to provide for appropriate septic disposal has not been demonstrated by the applicants. However, it is noted that a septic area, which could be shown on the land would further reduce the area of the land for a goat breeding facility.

14.01-2 Sustainable Agricultural Land Use

The objective of Clause 14.01-2 of the Planning Scheme is:

To encourage sustainable agricultural land use.

The following strategies are set out:

- *Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.*
- *Encourage sustainable agricultural and associated rural land use and support and assist the development of innovative approaches to sustainable practices.*
- *Support effective agricultural production and processing infrastructure, rural industry and farm-related retailing and assist genuine farming enterprises to adjust flexibly to market changes.*
- *Facilitate the establishment and expansion of cattle feedlots, piggeries, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.*

It is considered that the proposal would not comply for the following reasons:

- The proposal would remove land from potential agricultural production which would not comply with long-term sustainable use and management of existing natural resources.
- The proposed dwelling would not support sustainable agriculture. Further to this it is noted that the proposed use of the balance of the land for the breeding of miniature

goats would not be considered to be an agricultural activity, which would require a dwelling to conduct.

It is therefore considered that the proposal would therefore not comply with the provisions of Clause 14.01-2 of the Planning Scheme.

16.02 Rural Residential development

The following strategies are set out:

- Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.
- Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.
- Demonstrate need and identify locations for rural residential development through a housing and settlement strategy.
- 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.
- Ensure land is not zoned for rural living or rural residential development if it will encroach on high quality productive agricultural land or adversely impact on waterways or other natural resources.

The proposal would not comply in the following ways:

- The proposal would permanently remove land from agricultural production and would not comprise of inappropriate rural residential development.
- The proposal would comprise of an isolated small lot which is discouraged.
- The proposal does not provide for an adequate buffer between residential and rural development.

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

21.06-1 Agriculture

The following objectives are set out:

- *To ensure that agriculture is and remains the major economic driver in the region.*
- *To facilitate growth of existing farm businesses.*
- *To facilitate growth of new agricultural investment.*
- *To provide for small scale, specialized agriculture.*

The following strategies are set out:

- *Identify 'growth', 'consolidation' and 'niche' areas in the Farming Zone.*
- *Encourage growth and expansion of existing farm businesses and new investment in 'growth' and 'consolidation' areas.*
- *Encourage opportunities for smaller scale, specialized agriculture in 'niche' areas.*
- *Discourage land uses and development in the Farming Zone, Schedule 1 that would compromise the future agricultural use of the land, including farm related tourism.*
- *Encourage tourism in the Farming Zone, Schedule 2 that is carefully managed to prevent conflict and impact on agricultural operations.*
- *Encourage value adding and new enterprises for agricultural production.*
- *Encourage the preparation of Whole Farm Plans for on farm earthworks.*
- *Discourage non-agricultural uses on rural land other than rural based industry.*
- *Discourage non-agricultural development in rural areas except where development is dependent on a rural location, and cannot be accommodated within existing industrial or business zoned land.*
- *Discourage non-agricultural development along major roads in rural areas especially at the fringe of existing urban areas when it may contribute to ribbon development.*
- *Buildings for non-agricultural purposes in rural areas should be set back a minimum of 100 metres from any road, be constructed in muted coloured 'colorbond' materials or similar and screened from any road by dense tree and shrub planting.*
- *Signs for industrial and commercial development in rural areas will be strictly limited in size and number.*

21.06-3 Dwellings in Rural Areas

The objective of Clause 21.06-3 of the Planning Scheme is:

- *To discourage new dwellings unless it can be demonstrated that it is required for the agricultural use of the land.*
- *To ensure that new dwellings support rural activities and production and are not to meet lifestyle objectives, which may conflict with the rural use of the land.*
- *To avoid potential amenity impacts between rural activities and dwellings in rural areas.*

The following strategies are set out:

- *Discourage the establishment of dwellings not associated with or required for the agricultural use of the land.*
- *Discourage dwellings on old and inappropriate lots where amenity may be negatively impacted by farming activities, or where dwellings may inhibit rural activities.*
- *Discourage dwellings which are proposed to meet personal or financial circumstances or to create dwellings for 'rural lifestyle' purposes.*

- *Discourage the clustering of new dwellings unless they do not limit the productive use and development of surrounding land.*

It is considered that the proposal would not comply for the following reasons:

- The application does not demonstrate the need for a dwelling for agricultural reasons;
- It is considered that the proposed dwelling would create conflict issues between the existing surrounding agricultural uses and the proposed residential uses;
- The proposal does not support agricultural production and is considered that the dwelling would be more accurately be described as being for lifestyle objectives.

The following policy criteria is set out:

An application for a dwelling in the Farming Zone, Schedule 1 (FZ1) and Farming Zone, Schedule 2 (FZ2) should meet the following criteria:

- *The dwelling is required for the operation of the rural use of the land.*
- *The agricultural use is established on the land prior to the construction of a dwelling (or an Integrated Land Management Plan under Clause 35.07-6 in place).*
- *The dwelling is located on a lot of at least 2ha in area.*
- *The dwelling is located on a lot created after 1st January 1960.*

It is policy to:

- *Discourage the construction of new dwellings on any land that is not suitable for the onsite disposal of septic tank effluent.*
- *Discourage the construction of new dwellings on any land with a water table within one metre of the surface when waste water is to be treated and retained on site.*
- *Require the applicant to enter into an agreement under section 173 of the Act to: Ensure that the dwelling is used in conjunction with agricultural production;*
- *Prevent the subdivision of the lot containing the dwelling where the proposed lot size is less than the minimum lot size for subdivision specified in the zone; and*
- *Acknowledge the impacts of nearby agricultural activities.*
- *Discourage a second dwelling unless it is demonstrated that it is necessary to support a viable agricultural enterprise.*
- *Discourage the occupation of the second dwelling until the agricultural use with which it is associated has commenced.*
- *Require the applicant to enter into an agreement under Section 173 of the Act for a second dwelling (including a caretaker's house, a manager's house or a dwelling for agricultural workers) to prohibit the further subdivision of the land around the dwelling.*

Decision guidelines

When deciding an application for a dwelling, and in addition to the decision guidelines in the zone, the responsible authority will consider the following matters:

The relationship between the proposed dwelling and the agricultural activity on the land.

- *Evidence including an Integrated Land Management Plan under Clause 35.07-6 (or similar) addressing the relationship between agricultural activities on the land and the proposed dwelling.*
- *The agricultural productive capacity or the agricultural potential of the land.*

- *The nature of the existing agricultural infrastructure and activity on the land and any new proposed agricultural infrastructure and activity at the land.*
- *The nature of the agricultural activities on the land and whether they require permanent and continuous care, supervision or security.*
- *The proposed siting of the dwelling and whether it minimises impacts on existing and potential agricultural operations on nearby land.*
- *The lot size, context and physical characteristics of the land.*
- *Whether the dwelling will result in a rural living or rural residential outcome in the area.*
- *The planning history of the land.*
- *The potential for land to be consolidated with other land to enhance agricultural productivity.*
- *Whether the planning scheme identifies a ‘non-agricultural’ future for the land and the implications of development on future development options.*

The proposal would not comply for the following reasons:

- The land is not large enough to accommodate a dwelling and associated infrastructure including a septic disposal area and a viable agricultural enterprise.
- The land is irrigated and has agricultural potential. It is considered that the proposal would not be an appropriate use of the land.
- The land proposal would lead to a rural lifestyle living outcome in this area of east Shepparton.

Relevant Particular Provisions

There are no relevant particular provisions that relate to the proposal.

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.

65.01 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 not comply for the following reasons:

- The proposal does not comply with the provisions of the Farming Zone, State or Local Policy.
- The proposed dwelling would cause conflict with adjoining agricultural uses and would not comply with the orderly planning of the area.

In light of the above, it is considered that the proposal would not comply with the provisions of Clause 65 of the Planning Scheme.

Relevant incorporated or reference documents

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

Other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

C-121

This amendment implemented the Regional Rural Land Use Strategy (RRLUS) and amended the following clauses of the Planning Scheme:

21.01, 21.02, 21.04, 21.06 and 21.09 of the Planning Scheme and inserted two new schedules into the Farming Zone.

The background report, the Regional Rural Land Use Strategy (2008) states the following with regard to East Shepparton:

Analysis indicates that in the irrigation areas east of Shepparton and around the towns, properties are generally 8 to 20 ha. This is associated with the horticultural development in Shepparton East. These properties will be at risk of becoming lifestyle properties due to their small size and proximity to the town.

Further to this the strategy notes:

Horticultural production, and to a lesser extent dairy, requires soils with high suitability for irrigation, particularly excellent drainage and low salinity. Greater Shepparton has areas of Class 1 soil and Class 2 soil (highly suitable for irrigation), some of which is in close proximity to urban development around Shepparton, Ardmona and Mooroopna. Land use planning controls need to ensure that these soils are protected from urban expansion and

are available to agriculture in the long term and that urban development is buffered from mechanised 24 hour farm activities.

The importance of horticulture is clearly noted in the Rural Land Use Strategy as is the threat posed from dwellings to its long term sustainability. The proposal is a good example of the type of development, which the RRLUS seeks to protect East Shepparton from.

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 land is within an area identified as having Aboriginal Cultural Heritage Sensitivity, however the development of one dwelling is exempt from the need to prepare a Cultural Heritage Management Plan.

Charter of Human Rights and Responsibilities

The Charter of Human Rights and Responsibilities has been appropriately considered.

Conclusion

The proposal does not achieve an acceptable planning outcome and it is recommended that a Planning Permit be refused.

DRAFT REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2015-276
PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL
ADDRESS OF THE LAND: 250 Poplar Avenue ORRVALE VIC 3631
WHAT HAS BEEN REFUSED: Use and development of the land for a dwelling in association with miniature goat breeding

WHAT ARE THE REASONS FOR THE REFUSAL?

1. The proposed use and development for a dwelling on the subject land of 2.023 hectares does not provide an acceptable outcome or a net community benefit in terms of the State and Local Planning Policy Frameworks and the purpose and decision guidelines of the Farming Zone, and:
 - a. Has the potential to impact on the continuation of primary production on nearby land;
 - b. Has the potential to limit the expansion of agriculture on adjacent land;
 - c. Has potential for conflict between the ongoing farming activities and the proposed rural living use;
 - d. Will result in the construction of a dwelling on a small and inappropriate lot.
2. The application does not adequately demonstrate that the proposed dwelling is reasonably required for the operation of agricultural activity on the land.
3. The application does not comply with the provisions of Clause 21.06-3 of the Planning Scheme which seeks to limit dwellings in the Farming Zone 1 which are not associated or required for the agricultural use of the land.
4. The application does not comply with the Rural and Regional Land Use Strategy (C-121) and the Hume Regional Growth Plan, which identifies the land as strategic agricultural land.

Application Details:

Responsible Officer:	Tim Watson
Application Number:	2015-145
Applicant Name:	K Lee
Date Received:	15-Apr-2015
Statutory Days:	210 (24/11/15)
Land/Address:	8018 Goulburn Valley Highway KIALLA VIC 3631
Zoning & Overlays:	Commercial 2 Zone Urban Floodway Zone Floodway Overlay Design and Development Overlay 7
Why is a permit required (include Permit Triggers):	Use of land in the Commercial 2 Zone under 34.02-1 Works in the C2Z under 34.02-4 Works in the FO under 44.03-1 Works in the DDO7 under 43.02-2 Alteration and works in RDZ1 52.29
Are there any Restrictive Covenants on the title?	yes
Is a CHMP required?	no

Proposal

Application for a planning permit proposes the use and development of the land for garden supplies.

Garden Supplies being defined in the Planning Scheme as:

Land used to sell and distribute garden supplies such as sand, soil, railway sleepers, screenings, rock, and the like.

It is intended that the land will be used to display and sell, soils, mulches, gravel and other like products used for the landscaping of gardens. It is not intended to sell plants. A small bobcat, small tip-truck and water cart will be kept onsite during business hours.

The applicant does not intend to mix or crush concrete onsite, however will mix soils at the request of customers.

After further discussions with Vicroads it was determined that that the likely increase in traffic from the access onto land in a Road Zone Category 1 would trigger the need for referral to Vicroads under alteration to an access.

Summary of Key Issues

- Application for a planning permit proposes to use and develop the land for a garden supplies business.
- The application was notified to surrounding properties, with one objection received.
- The objection raises concerns regarding potential traffic safety issues.
- The application was discussed with the Council's Traffic Engineer, who raises no major concerns and believes the continued use of the existing crossover by the new use is acceptable.
- The application was referred to the GBCMA for buildings in the Land Subject to Inundation Overlay, who do not object subject to Conditions.
- The application was referred to VicRoads, who requested a TIAR. Once submitted VicRoads responded with no objection subject to conditions requiring existing crossover to be upgraded to their standards.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2015-145** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **34.02-1, 34.02-4, 44.03-1, 43.02-2 and 52.29** of the Greater Shepparton Planning Scheme in respect of the land known and described as **8018 Goulburn Valley Highway KIALLA VIC 3631**, for the **use and development of land for Landscape supplies business in the Commercial 2 Zone including the storages of soils, mulch, gravel, pebbles and other landscaping materials and the mixing of these products** in accordance with the Notice of Decision and the endorsed plans.

Moved by Braydon Aitken

Seconded by Johann Rajaratnam

That Council having caused notice of Planning Application No. **2015-145** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **34.02-1, 34.02-4, 44.03-1, 43.02-2 and 52.29** of the Greater Shepparton Planning Scheme in respect of the land known and described as **8018 Goulburn Valley Highway KIALLA VIC 3631**, for the **use and development of land for Landscape supplies business in the Commercial 2 Zone including the storages of soils, mulch, gravel, pebbles and other landscaping materials and the mixing of these products** 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: 15 August 2014

Time: 8.40am

The site has a total area of 8980.8 square metres and currently contains:

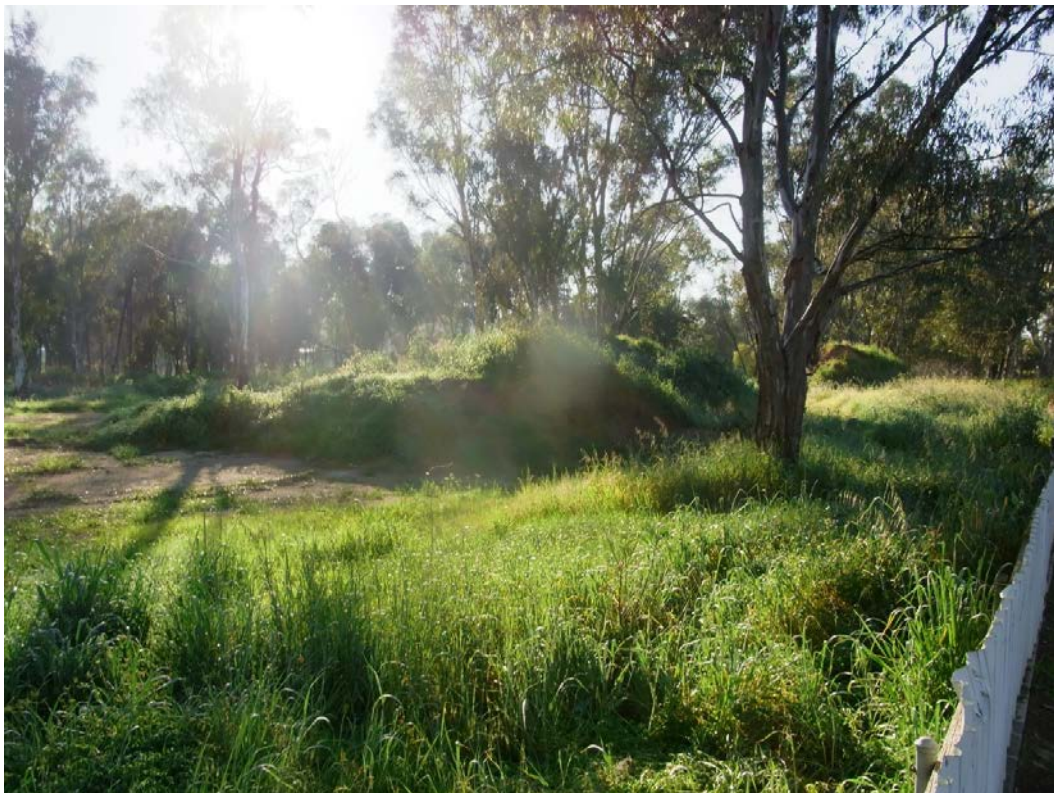
- a significant amount of stockpiled earth and a number of existing River Red Gums
- access to the land exists from the GVH via a service road.

The main site/locality characteristics are:

- the land is within a highway commercial area that is substantially developed
- Abutting the land to the south is an existing service station, about one metre from the southern boundary of the land is a above ground gas tank that services the petrol station

The Photos below show the existing site:







Permit/Site History

The history of the site includes:

- Planning permit 2014-315 and 2014-315/A approved the removal of native vegetation, the filling of the allotment with soil and the construction of a retaining wall.
- Planning permit application 2014-199 proposed the above, however was lapsed with insufficient information provided.
- Planning permit application 2012-57 proposed the removal of native vegetation, however was withdrawn prior to a decision being made.
- Enforcement file EF-348 was opened after it was observed that the land was being used to store landscaping materials and fill. The matter was resolved when the landowner complied with Council's request to remove the materials.

Further Information

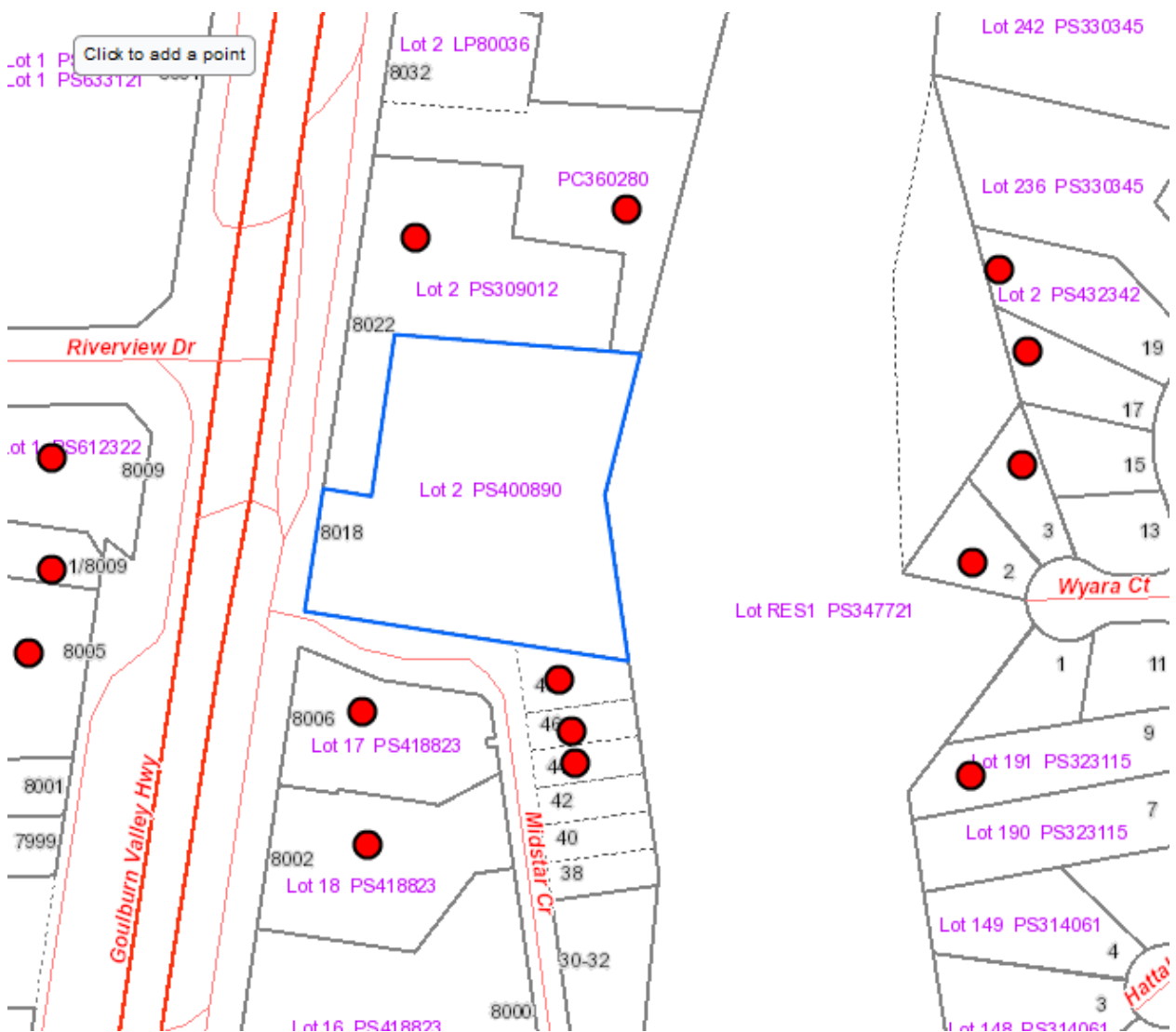
Was further information requested for this application? **No**

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **use and development of land for a garden supplies business in the Commercial 2 Zone including the storages of soils, mulch, gravel, pebbles and other landscaping materials and the mixing of these products** , by:

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

- Placing a sign on site.



The applicant provided a signed declaration stating that the sign on site was displayed on the land between 1/5/15 and 19/5/15.

Objections

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

- Traffic, primarily being the vehicle entrance to the land located near an area which has already significant traffic movements. Concerns were also raised about the proposed use resulting in an increased amount of traffic along the service road and Midstar Crescent.

In response to the objections main concern being traffic, the planning officer sought comment from the Council's Traffic Engineer. The Comments of the Traffic Engineer are provided in the internal notice section of this report.

Furthermore the application was referred to Vicroads, who did not object to the issue of a permit after the submission of a TIAR and subject to conditions.

The objectors concerns can be addressed through conditions of a planning permit should one issue.

Title Details

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

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Pre-application discussion
- Consultant enquired whether a landscaping business could be operated from the subject land;
- Officer informed planning permit required for used and development;
- Officer informed application would need to address use guidelines and full operating details would need to be provided;
- Officer informed this would also need to address how dust was to be managed if soils were to be kept onsite;
- Officer informed the design and landscaping to occur on the site was important given the site was in the DDO
- Officer informed that no works or use could occur within the UFZ zoned land; and
- Officer informed that there was no guarantee of permit issue and application would be subject to public notice.
- Discussion with objector prior to objection being made
- Officer called objector to inform that after her discussions with the Director of Sustainability and Environment in which she informed that she had made an objection, Council's record system showed no indication of an objection being made;
- Objector informed that she was yet to make objection, but intended to make one prior to closing date;
- Objector informed officer that her main objection was commercial and that she knew after discussion with other Council officers that commercial reasons were well established as not being material grounds for the refusal of a planning permit.
- Objector informed that she had other concerns which she would include in her objection.

Referrals to Authorities

External Referrals 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	44.03-5	Recommending	<p>The application for a planning permit was referred to the GBCMA, who do not object to the issue of a permit subject to the following condition :</p> <p>A) The finished floor levels of the office and shed must be constructed at least 300 millimetres above the 100-year ARI flood level of 113.65 metres AHD, i.e. metres AHD, or higher level deemed necessary by the responsible authority.</p>
VicRoads	52.29	Determining	<p>The application for a planning permit was referred to VicRoads, who do not object to the issue of a permit subject to the following conditions:</p> <ol style="list-style-type: none"> 1) Prior to the use of the subject site for the permit here within access design, signage and line-marking plans are to be submitted. When approved by the Roads Corporation, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans will be generally in accordance with the Proposal Plan, Surveyors Ref 5167, Version 3, prepared by Land Management Surveys (Shepparton) P/L appended to the application. But modified to show: <ol style="list-style-type: none"> i) Separate Entry and Exit, with splitter island, that prohibits direct access to the Goulburn Valley Highway for all exiting vehicles. 2) Prior to the use of the subject site for the permit here within access is to be constructed to the satisfaction of the Roads Corporation and /or the Responsible Authority and at no cost to the Roads Corporation. 3) All exiting traffic will be restricted to a left turn only into the Service Road, direct access to the Goulburn Valley Highway is prohibited. 4) All disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of and at no cost to the Roads Corporation prior to the use of the subject site for the permit here within.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
N/A	-

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Council's Traffic Engineer	<p>The application for a planning permit was referred internally with the Council's Traffic Engineer, who provided the following comments:</p> <p>Big vehicles will have to enter and exit via the highway rather than the service road due to limited lane width for turning.</p> <p>There is also the risk of exiting vehicles wanting to turn right, towards Shepparton.</p> <p>They might accidentally (or deliberately) cross through the northbound right turn lane, which is physically possible but not legal.</p> <div style="text-align: center;">  </div> <p>It may be necessary to install a Left Turn Only sign (R2-14L) at the exit from the site to remind drivers.</p> <p>The problem of a left-turning vehicle propping to give way to southbound highway traffic, blocking the service road entry, may be an issue.</p> <p>I'm not sure what can be done about this?</p> <p>COMMENTS ON EACH TRAFFIC MOVEMENT (note numbers are page numbers in attached pdf at end of this report)</p> <p>Traffic entering the site from the north, off the main highway These vehicles shouldn't have any concerns as they will be using a long left turn lane to enter the site, and have priority. A semi can perform this manoeuvre.</p> <p>Traffic entering the site from the north, off the service road These vehicles should be travelling slowly as they are approaching a Give Way sign, but will probably have to give way to more traffic than in the past. It may be wise to add a second Give Way sign on the right side of the service road approach (where there is already a No Right Turn sign). They may have some conflict with northbound vehicles entering from the highway, as they wouldn't know if they were doing a U-turn or entering the site. The left turn into the site may be difficult for larger vehicles, so they should probably enter from the highway. (8.8m service vehicle shown on plan)</p> <p>Traffic entering the site from the south These vehicles can enter safely, after giving way to southbound highway traffic. They have good visibility all round. Larger vehicles can enter from this approach (even a semi can just do it – see plan page 3)</p> <p>Traffic exiting to the south, to the service road There is plenty of visibility for these drivers to see all vehicles that have priority.</p>

	<p>There is also room for mid-size vehicles to exit this way. A 12.5m bus/truck can do it – see plan 4 A semi could only exit into the service road if the driveway crossing was very wide (about 11m). Traffic exiting to the south, to the main highway There is plenty of visibility for these drivers to see all vehicles that have priority. There is also plenty of room for larger vehicles to swing wide if required. (A semi can do it but needs to use both southbound lanes – plan 6) A problem may arise if one of these vehicles pulls out and props to give way to southbound highway traffic, blocking the service road entry.</p> <p>Traffic wanting to exit to the north Traffic will not be allowed to turn right from the site (as shown in plan 7). To get to Shepparton, a vehicle has to travel south 220m to do a U-turn. Overall, I don't think these will be major problems.</p>
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Assessment

The zoning of the land

Commercial 2 Zone – 34.02

The purpose of the Commercial 2 Zone is to:

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

A planning permit was required pursuant to Clauses 34.02-1 and 34.04-4 for the use and development of land in the Commercial 2 Zone.

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

General

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The interface with adjoining zones, especially the relationship with residential areas.

Use

- The effect that the existing uses may have on the proposed use.
- The drainage of the land.

- The availability of and the connection to services.
- The effect of traffic to be generated on roads.
- The interim use of those parts of the land not required for the proposed use.
- If an industry or warehouse, the effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions

Buildings and Works

- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas the treatment of the front and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and landscaping of land adjoining a road.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.
- The availability of and connection to services.
- Any natural or cultural values on or nearby the land.
- Outdoor storage, lighting, and stormwater discharge.
- The design of buildings to provide for solar access.

Response

The use is generally supported by the purpose of the zone, with the use of land for retail uses (i.e. garden supplies) being encouraged.

The State and Local Planning Policies will be addressed under the specific individual sub-sections of this report.

The subject land is zoned both Commercial 2 and Urban Floodway with the activities proposed to occur only in the Commercial 2 Zoned land. The land abutting the rear of the site forms part of a reserve in public ownership and is zoned Urban Floodway. This area is lightly vegetated and is used as an area in which floodwater can be conveyed. Abutting this area to the east is land zoned Neighbourhood Residential and used for dwellings forming part of the Kialla Lakes Housing estate. The proposed activity at its closest will be

approximately 135 metres from the residential zoned land. The application was notified to a number of properties along this reserve in the Neighbourhood Residential Zone with no objections received.

It is considered that there is sufficient enough buffer between the residential uses and the proposed retail use so as to avoid any adverse impacts on the sensitive use. Despite this, should a permit grant controls including dust management and operating hours would be included on a permit.

It is not envisaged that the existing uses will impact on the proposed use, with surrounding uses include a pool business with display area, car dealerships and storage shed used for trade company depots.

The drainage of the land is to be addressed through the submission of a drainage plan.

The land is located within an existing established commercial area, with connections to utilities and services readily available.

As identified by the Council's Traffic Engineer, there are some minor traffic concerns, which can be addressed through the addition of signs. These concerns relate to vehicles trying to cross the highway to turn right out of the site, this however would be an illegal movement. The other concerns relates to large vehicles pulling out to turn left onto the highway and propping to give way to south bound traffic and thus potentially blocking the service road. A condition will be included on the permit that specifies that sign be placed at the site exit directing vehicles turn left onto GV Highway or service road. Furthermore Vicroads have provided consent to the proposal subject to works which will require vehicles to exit to the south.

The rear of the land is the only part of the land not proposed to be used given its zoning as Urban Floodway, the land is likely to remain as remnant vegetation.

The proposed buildings are to be setback from the property boundaries and for the most part hidden behind existing building of the abutting property from the Goulburn Valley Highway. The proposed site office and storage shed therefore will not impact on the movement of pedestrians or vehicles.

Car parking requirements are to be addressed under the Particular Provision section of this report.

Relevant overlay provisions

Design and Development Overlay – DDO7

The purpose of the Overlay is to identify areas which are affected by specific requirements relating to design and built form of new development.

A permit is required to construct a building or carry out works in accordance with clause 43.02-2.

Relevant Buildings and works design requirements

- Buildings setback should be 20 metres from the front boundary.
- Front fences should have a maximum pier / post height of 1.2 metres, and have a transparency ratio of at least 50%, including piers, columns and bases.
- A minimum of 15% of the area to the lot frontage must be landscaped to include a variety of shrubs and at least one significant tree with a mature height of 10 metres.
- Encourage vehicular access points and driveways to be designed to allow convenient, safe and efficient vehicle movements and connections within the development and to the street network. All vehicles including those delivering to or servicing the site should be able to enter and exit in a forward direction.
- A vehicular access point across lot frontage is to be no more than 6.4 metres wide.
- Driveways should be designed to minimise any conflict of vehicle movements with pedestrians including consideration of side fences and / or buildings that will impact on sight lines between pedestrians and vehicular traffic.
- Adequate onsite parking in accordance with the Greater Shepparton Planning Scheme should be provided in a form and manner that will not reduce the amenity of the area.
- Encourage developers to consider planting trees throughout car parking areas.
- Plant species should be suitable to this area and environmental weeds and invasive tree species should be avoided to the satisfaction of the responsible authority.
- The front building setback should be landscaped to include a variety of shrubs and ground covers. Plant species should be suitable to this area and to the satisfaction of the responsible authority.
- Paving materials that provide texture, patterns, subtle colour and permeability to the lot frontage should be used. Large expanses of harsh grey cement or asphalt should be avoided.
- Where space permits, small to medium sized trees should be planted to provide scale, aesthetic relief and shade to front entrances.

Decision Guidelines

Before deciding on an application, the responsible authority must consider, as appropriate:

- Whether the height of the proposed building accords with the scale of the local environment and the type of surrounding buildings.
- The effect of the development of the proposed buildings on the amenity of the abutting buildings.
- Whether the proposed landscape treatment contributes to the character of the Goulburn Valley Highway landscape gateway.
- Whether the design, siting and appearance of buildings improves visual presentation of the frontages at the town entrance.
- The architectural quality and innovative response of the building design.
- Whether the building setbacks provided along the Goulburn Valley Highway demonstrate appropriate consideration of the streetscape and the residential interface.
- Whether the layout allows for safe access and egress from the site.
- The location of any proposed car parking.
- The inclusion of design elements which protect the amenity of abutting residents.
- Whether the design considered energy and resource efficient and sustainable design principles.
- Whether the proposal is in accordance with the Urban Design Framework – Shepparton North and South Business Areas, July 2006.

Response

The proposed development proposes two buildings to be located on site, which for the most part will be hidden by the existing pool and spa display on the abutting land. The building setbacks identified in the Schedule have been met.

The design requirements which are specified within the overlay therefore relate mostly to the appearance of the frontage and the car parking to be located in this area.

No landscape plan has been submitted with the application, however should a permit grant a condition will be included on the permit requiring the submission of a landscape plan to show the provision of landscaping along all boundaries which front a road except where access is provided. It is considered that the provision of a high level landscaping along the frontage will provide for an acceptable design outcome as required by the DDO.

Floodway Overlay 44.03

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

A planning permit was triggered for buildings and works in the Floodway Overlay pursuant to clause 44.03-1 for buildings and works.

The application was referred to the Goulburn Broken Catchment Management Authority pursuant to clause 44.03-5 of the planning scheme. The authority do not object to the issue of a permit, subject to the inclusion of a condition on the permit.

The State Planning Policy Framework (SPPF) Hume Regional Growth, A Diversified Economy 11.10-1

Relevant objectives and strategies include:

- To develop a more diverse regional economy while managing and enhancing key regional economic assets.
- Plan for a more diverse and sustainable regional economy by supporting existing economic activity and encouraging appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.

Planning for Growth 11.10-3

Relevant objectives and strategies include:

- To focus growth and development to maximise the strengths of existing settlements.
- Facilitate growth and development specifically in the regional cities of Shepparton, Wangaratta and Wodonga.

Economic Development 17

Planning is to provide for a strong and innovative economy, where all sectors of the economy are critical to economic prosperity.

Planning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.

Business 17.01-1

Relevant objectives and strategies include:

- To encourage development which meet the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.
- Locate commercial facilities in existing or planned activity centres.
- Provide outlets of trade-related goods or services directly serving or ancillary to industry and which have adequate on-site car parking.

Response

The use and development is supported by the above policy, which promotes a diversified economy and identifies Shepparton as a major regional city, where growth and development should be supported.

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

Commercial/Activity Centres 21.06-5

The Activity Centre Hierarchy identified in the report can be described as:

- The Shepparton CBD is nominated as the Regional Centre.
- Shepparton Marketplace, Mooroopna CBD and Shepparton Plaza are designated Sub- Regional Centres.

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

Response

The proposed use and development will provide for a retail use in the Commercial 2 Zone which given the requirement for larger retail space is difficult to locate in the Commercial 1 Zoned areas of the CBD.

Relevant Particular Provisions

Car Parking – 52.06

Before a new use commences the number of car parks required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the Responsible Authority.

In accordance with the provisions of the table listed in clause 52.06, 10 per cent of the site must be provided for car parking.

The area of the site to be used is approximately 5332 square metres, with 10 per cent of this area being 533 square metres.

The application submitted shows the provision of 6 car spaces which will not meet the required amount under the provision of clause 52.06. Should a permit grant it is considered

acceptable to require that an amended plan be submitted showing the location of additional parking onsite to meet the 10 per cent requirement. It is likely that this will include loading areas for vehicles with trailers given the nature of the business.

Land Adjacent to a Road Zone, Category 1

The purpose of the provision is:

- To ensure appropriate access to identified roads.
- To ensure appropriate subdivision of land adjacent to identified roads.

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

The application was deemed to have been triggered under this clause after a recent tribunal decision which found that an alteration could include an increase in traffic flow. Such increase was deemed after a discussion with Vicroads and hence they required referral.

Decision guidelines

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

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The views of the relevant road authority.
- The effect of the proposal on the operation of the road and on public safety.
- Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.

Response

The application was referred to Vicroads, who made a further information request for a TIAR. This was submitted and Vicroads responded with no objection to the issue of a permit subject to conditions.

Given the consent of the expert road authority, the proposal is considered to achieve an acceptable road safety outcome.

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.

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

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

Response

The application for the use and development of the land for garden supplies has been considered and assessed against the relevant decision guidelines of Clause 65 and is considered to be acceptable.

The application generally accords with the accords with the purpose of the is the provision of land for bulky goods retailing, whilst ensure that there is an appropriate buffer provided to the residential zones.

The use will be required to provide substantive landscaping along the front and side boundaries of the site to ensure that the orderly planning of the area is respected. The DDO which affects the land requires buildings and landscaping to be of a high quality and whilst there are no substantial buildings proposed, it is considered that the landscaping treatment will ensure that the intent of the DDO is respected.

The effects of the proposed use on the amenity of the locality particularly on the residential land to the east will be ensured through site management controls, including dust suppression techniques and controls on hours of operation.

As identified above the

Stormwater drainage will need to be addressed through the submission of drainage plans, a requirement of conditions, should a permit grant.

Relevant incorporated or reference documents

Local Floodplain Development Plan – Precinct of Goulburn River (2009)

Other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

There are no relevant planning scheme amendments that relate to this application for a planning permit.

Are there any significant social & economic effects?

[Detail the effects and how the application does/does not comply]

Discuss any other relevant Acts that relate to the application?

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

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.

Charter of Human Rights and Responsibilities

The Charter of Human Rights and Responsibilities has been considered when assessing this application and it is not considered that the application impinges on the Charter.

Conclusion

The application for a planning permit to use and develop the land for a garden supplies business is considered an acceptable planning outcome in the Commercial 2 Zone.

The proposed use being defined as a retail use is best located in a commercial zoned area, with the design requirement reflected in the DDO to be addressed through an appropriate level of landscaping.

The proposed use of the land with access to be provided via the existing crossover, is not considered to result in an unacceptable traffic outcome, with solutions to any concerns

provided by VicRoads and the Council's Traffic Engineer and incorporated into the Draft Notice of Decision.

It is therefore recommended that the application for a planning permit be approved, subject to conditions.

Draft Notice Of Decision

APPLICATION NO: 2015-145

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: 8018 GOULBURN VALLEY HIGHWAY
KIALLA VIC 3631

WHAT THE PERMIT WILL ALLOW: USE AND DEVELOPMENT OF LAND FOR LANDSCAPE SUPPLIES BUSINESS IN THE COMMERCIAL 2 ZONE INCLUDING THE STORAGES OF SOILS, MULCH, GRAVEL, PEBBLES AND OTHER LANDSCAPING MATERIALS AND THE MIXING OF THESE PRODUCTS AND ALTERATION OF AN ACCESS ONTO A ROAD ZONE CATEGORY 1

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Amended Plans Required

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

- a) Elevations including dimensions of all buildings to be located onsite;
- b) The method of storing the large amounts of soil, rock, mulch, ect contained by way of separated partitions to be constructed of concrete or other agreed material;
- c) The provision of a left turn only sign at the site exit so as to direct traffic exiting the site along the service lane and not directly back onto the highway;
- d) The sealing the at least an area of 10 metres from the front of the site (Goulburn Valley Highway) with an all-weather seal coat;
- e) The provision of additional areas to be provided for car parking or access so as

to achieve a minimum of 10 per cent of the site area;

- f) The sealing of the area to be provided for car parking with an all-weather seal coat;
- g) The provision of one disabled car parking in accordance with Standard AS2890.6-2009;
- h) The provisions of landscaped areas along all frontages which abut a public road, except where access is provided with a minimum width of at least 2 metres.

All works as shown on the endorsed plan must be completed to the satisfaction of the responsible authority prior to the use commencing, unless otherwise agreed to in writing.

2. Layout Not Altered

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

3. Waste / Recycling Collection Area

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

4. Operational requirements

- a) The subject land must be kept clean and tidy at all times and must not adversely affect the amenity of the area, to the satisfaction of the responsible authority.
- b) External lighting must be designed, baffled and located so as to prevent any unreasonable adverse effect on adjoining land to the satisfaction of the responsible authority.
- c) All activities associated with the use of the land permitted by this permit must be carried out to the satisfaction of the Responsible Authority and all care must be taken to minimise the effect of such activities on the amenity of the locality.
- d) Dust suppression must be undertaken to ensure that dust caused by activities on the land does not cause a nuisance to neighbouring land to the satisfaction of the responsible authority.
- e) All access ways, storage areas, external stockpiles or vacant areas must be covered and/or maintained to prevent nuisance to the adjoining properties by way of dust and/or grit to the satisfaction of the responsible authority.
- f) The loading and unloading of goods from vehicles in association with the use on the land, must only be carried out on the land and must not disrupt the circulation and parking of vehicles on the land.
- g) Soil loaded for removal shall be damped down in dry conditions after loading of vehicles.

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

5. Vehicle Turning

All car parking spaces and accessways must be designed to allow vehicles to enter and exit the land in a direction.

6. Drainage Discharge Plan

Prior to the commencement of any works, a drainage plan with computations prepared by a suitably qualified person to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and a minimum of three copies (or as specified) must be provided. 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;
- c) measures to enhance stormwater discharge quality from the site and protect downstream waterways;
- d) a maximum discharge rate from the site of (64) l/sec/ha. (or as specified);
- e) documentation demonstrating approval from the relevant authority for the legal point of discharge; and
- f) the provision of gross pollutant and/or litter traps installed at the drainage outfall of the development to ensure that no effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.

Before the use begins all drainage works required by the drainage plan must be completed to the satisfaction of the responsible authority

7. Landscape Plan

Prior to the commencement of any works, a landscape plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided. The landscaping plan must show:

- a) Landscaped areas along all road frontages of the site, except where access is provided with a minimum width of 2 metres.
- b) building envelopes and vehicular access points for each lot in the subdivision.
- c) a schedule of all proposed trees, shrubs and ground cover, including the location, number and size at maturity of all plants, the botanical names and the location of areas to be covered by grass, lawn or other surface materials as specified;

- d) details of surface finishes of pathways and driveways;
- e) all landscaped areas to be used for stormwater retardation;
- f) the provision of small to medium trees where space permits, with trees to have a mature height of at least 10 metres.

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

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

All trees planted as part of the landscape works must be a minimum height of 2 metres at the time of planting.

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

8. Goulburn Broken Catchment Management Authority Requirements

- a) The finished floor levels of the proposed office and shed must be constructed at least 300 millimetres above the 100-year ARI flood level of 113.65 metres AHD, i.e. 113.95 metres AHD, or higher level deemed necessary by the responsible Authority.

9. VicRoads Requirements

- 1) Prior to the use of the subject site for the permit here within access design, signage and line-marking plans are to be submitted. When approved by the Roads Corporation, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans will be generally in accordance with the Proposal Plan, Surveyors Ref 5167, Version 3, prepared by Land Management Surveys (Shepparton) P/L appended to the application. But modified to show:
 - i) Separate Entry and Exit, with splitter island, that prohibits direct access to the Goulburn Valley Highway for all exiting vehicles.
- 2) Prior to the use of the subject site for the permit here within access is to be constructed to the satisfaction of the Roads Corporation and /or the Responsible Authority and at no cost to the Roads Corporation.
- 3) All exiting traffic will be restricted to a left turn only into the Service Road, direct access to the Goulburn Valley Highway is prohibited.

All disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of and at no cost to the Roads Corporation prior to the use of the subject site for the permit here within.

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.