

CONFIRMED MINUTES

**FOR THE
GREATER SHEPPARTON CITY COUNCIL**

DEVELOPMENT HEARINGS PANEL

Meeting No. 3/2015

**HELD ON
WEDNESDAY 11 MARCH 2015
AT 10.04AM**

**IN THE COUNCIL BOARDROOM
90 WELSFORD STREET**

**CHAIR
Councillor Michael Polan**

1. ACKNOWLEDGEMENT

“We the Greater Shepparton City Council, begin today’s meeting by acknowledging the traditional owners of the land which now comprises Greater Shepparton. We pay respect to their tribal elders, we celebrate their continuing culture, and we acknowledge the memory of their ancestors”.

2. RECORDING OF PROCEEDINGS

The Chairperson advised the hearing that:

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

3. COMMITTEE MEMBERS PRESENT

Councillor Michael Polan (Chair), Johann Rajaratnam – Director Sustainable Development , Colin Kalms-Manager planning, Jonathan Griffin – Team Leader Development and Ian Boyle – Team Leader Strategic Planning.

4. OFFICERS PRESENT

Andrew Dainton – Principal Statutory Planner.
Tim Watson – Senior Statutory Planner.

5. APOLOGIES

Nil

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

None

7. DECLARATIONS OF CONFLICTS OF INTEREST

None

8. MATTERS FOR CONSIDERATION

Two items listed for consideration.

- planning permit application 2014-219 for a two lot subdivision in the Farming Zone, adjacent to a Road Zone Category 1 and creation of access to the Road Zone Category 1 at 630 New Dookie Road, Shepparton East.
- planning permit application 2014-196 for a six lot subdivision in the Low Density Residential Zone, Urban Floodway Zone and the land Subject to Inundation Overlay at 36-46 Hampton Road, Tatura.

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 objectors to present their concerns about the application
 - the applicant/applicant representative to present in support of the application
- The officer, objectors and applicant will be limited to three minutes per person unless granted a further 3 minute extension by the Chair (following a moved and seconded motion from the panel).

9. LATE REPORTS

None.

10. NEXT MEETING

26 March 2015.

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2014-196	36-46 Hampton Road, Tatura	Six lot subdivision in the Low Density Residential Zone, Urban Floodway Zone and the Land Subject to Inundation Overlay	21

Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2014-219
Applicants Name:	R Adem
Date Application Received:	1 August 2014
Statutory Days:	144
Land/Address:	630 New Dookie Road SHEPPARTON EAST VIC 3631
Zoning and Overlays:	Farming Zone 1 Abuts Road Zone Category 1 The land is not within any overlays
Why is a permit required (include Permit Triggers):	Subdivision in the Farming Zone under 35.07-3 Creation of an access to a Road Zone Category 1 under 52.29 Subdivision of land adjacent to a Road Zone Category 1 under 52.29
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No
Was the correct application fee paid	Yes

Proposal

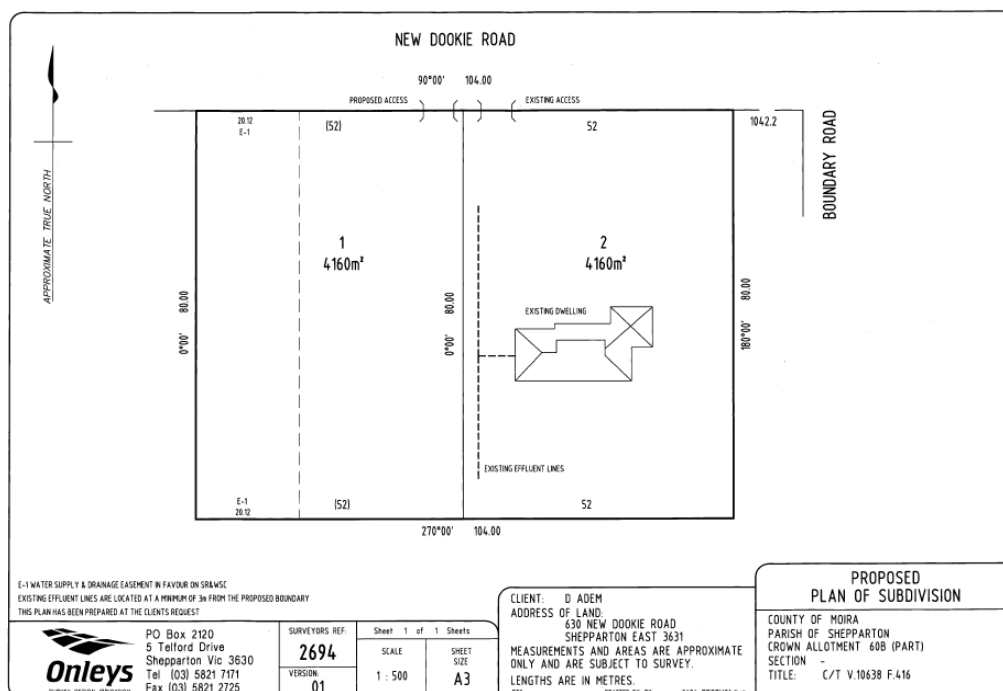
The application proposes the subdivision of the land to create two separate house lots. The proposal would also necessitate the creation of an access onto a Road Zone Category 1

The land is within the Farming Zone (Schedule 1) and is adjacent to a Road Zone Category 1. The minimum lot size for subdivision in the FZ1 is 40 hectares.

A Planning Permit is required pursuant to the following provisions;

- 35.07-3 for a subdivision in the Farming Zone;
- 52.29 Creation of an access to a Road Zone Category 1
- 52.29 Subdivision of land adjacent to a Road Zone Category 1.

The proposal would have the following layout:



With regard to small lot subdivisions in the Farming Zone the Planning Scheme notes that the only circumstance in which Council will contemplate a small lot subdivision is if it leads to the consolidation of rural landholdings so as to promote the viability of agriculture.

Council's Planning Scheme clearly articulates that small lot subdivisions in the Farming Zone are not encouraged, in this regard policy seeks to limit further fragmentation of farming land by inappropriate subdivisions that would create lots which do not benefit agricultural production.

The policy also discourages small lot subdivision of land to meet personal circumstances or to create rural lifestyle purposes.

In assessing this proposal, Planning Officers have considered Council's Rural Strategy which identifies the land as being within the consolidation area. The consolidation area seeks to ensure that smaller and non-viable lots are consolidated into other larger agricultural lots to ensure the viability of agriculture within the municipality. The proposal to subdivide a small dwelling lot into two smaller lots to provide for additional dwelling opportunities does not comply with the Rural Strategy.

The Planning Scheme clearly articulates that the protection of agriculture is paramount and small lot subdivisions which are unrelated to agriculture are an unacceptable planning outcome and therefore it is recommended that no permit should issue.

Council officers have requested that the applicant submit a Land Capability Assessment (LCA). The applicant has decided not to submit an LCA and as a result officers cannot be

satisfied that the proposed lot is capable of treating and retaining on site waste water disposal.

Summary of Key Issues

- The application seeks planning permission for a two lot subdivision in the Farming Zone 1. The application was advertised to neighbours and no objections were lodged.
- The application was referred to the Vic Roads and notified to Goulburn Murray Water, both authorities consented to the grant of a planning permit subject to conditions.
- State and Local Planning Policy is clear that the fragmentation of land in the Farming Zone by allowing small lot subdivision should not occur, given the potential for conflict between agricultural and potential residential land uses, loss of agricultural land and the setting of an undesirable precedent of permitting small lot subdivision in the Farming Zone.
- Council's Rural Strategy specifically discourages the approval of applications such as this by stating. *Subdivision of rural land at a density greater than these minimums, especially for personal and financial reasons; or to create lots for "rural lifestyle" purposes, could jeopardise the economic future of the region.* As this proposal would provide a small lot of residential size in the Farming Zone unrelated to any form of agriculture, officers recommend that the application be refused.
- The applicant has not submitted an LCA in support of the proposed subdivision. As a result officers cannot be satisfied that the proposed lot is capable of treating and retaining all domestic waste water on the land.

Recommendation

Refusal

That the Council having caused notice of Planning Application No. 2014-219 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 the Greater Shepparton Planning Scheme in respect of the land known and described as 630 New Dookie Road Shepparton East, for a 2 lot subdivision in the Farming Zone adjacent to a Road Zone Category 1 and creation of access to the Road Zone Category 1.

For the following reasons:

- a) The proposed subdivision would 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
- is likely to impact on the continuation of primary production now or into the future on nearby land, with particular regard to land values;
 - has the potential to limit the use of nearby agricultural land;
 - could cause conflict between the ongoing farming activities in the area and the rural living use;
 - sets a precedent in the area for nearby small lots to be converted to rural living use
 - would create a small house lot that is not related to an agricultural land use
- b) The application does not comply with the Rural Regional Land Use Strategy (C121) which seeks to limit the inappropriate fragmentation of land in the Farming Zone for the purposes of providing rural lifestyle lots.
- c) The applicant has not demonstrated that the proposed lot created by this subdivision is capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot in accordance with the Code of Practice Onsite Wastewater Management Publication No. 891.3 February 2013.

Moved by Colin Kalms

Seconded by Johann Rajaratnam

That the Council having caused notice of Planning Application No. 2014-219 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 the Greater Shepparton Planning Scheme in respect of the land known and described as 630 New Dookie Road Shepparton East, for a 2 lot subdivision in the Farming Zone adjacent to a Road Zone Category 1 and creation of access to the Road Zone Category 1.

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CARRIED

Subject Site & Locality

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

Date: 12 November 2014 and 24 February 2015

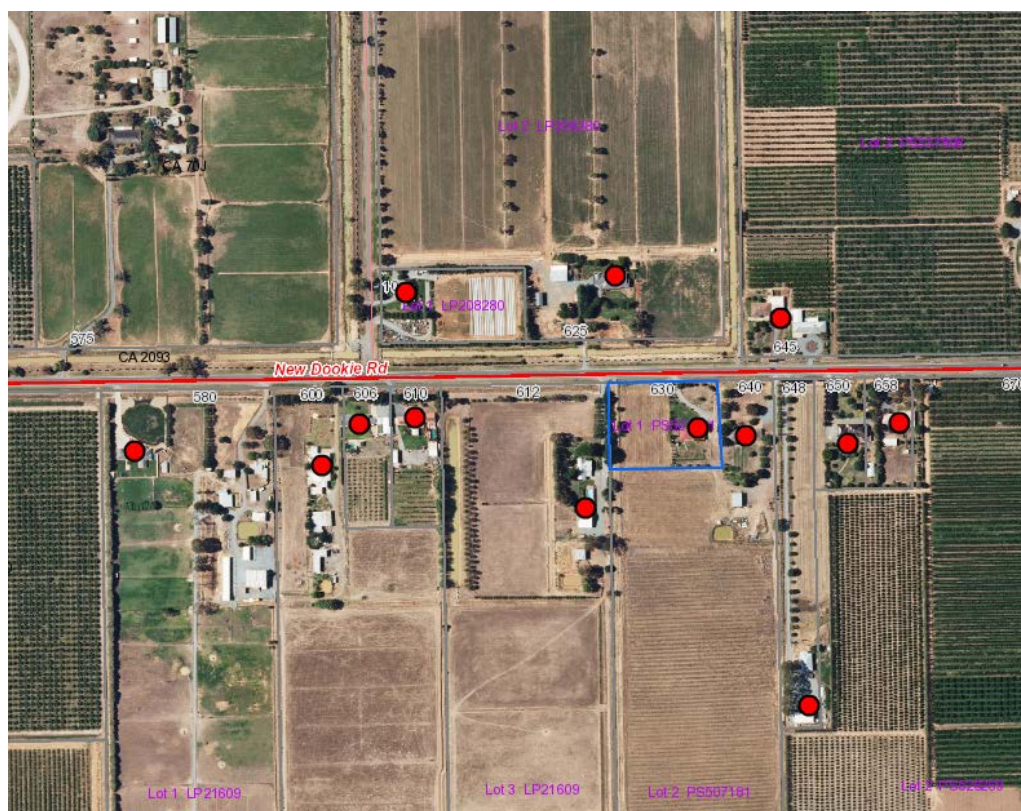
The site has a total area of 8,320 square metres and currently contains:

- A single dwelling and associated shedding.

The main site/locality characteristics are:

- The land is an agricultural area that has over time been subdivided to create six small house lots fronting New Dookie Road. The balance of these lots is generally not within intensive agricultural uses. On the northern side of New Dookie Road is an additional three dwellings, two of which are on small lots

Dwelling Plan



- Further to the west and east of the land is within an intensive orchard areas
- To the east of the land is land within a Special Use Zone that is developed with a school

The Photos below show the existing site:



View of the proposed lot



View of the proposed lot and farming land to the rear



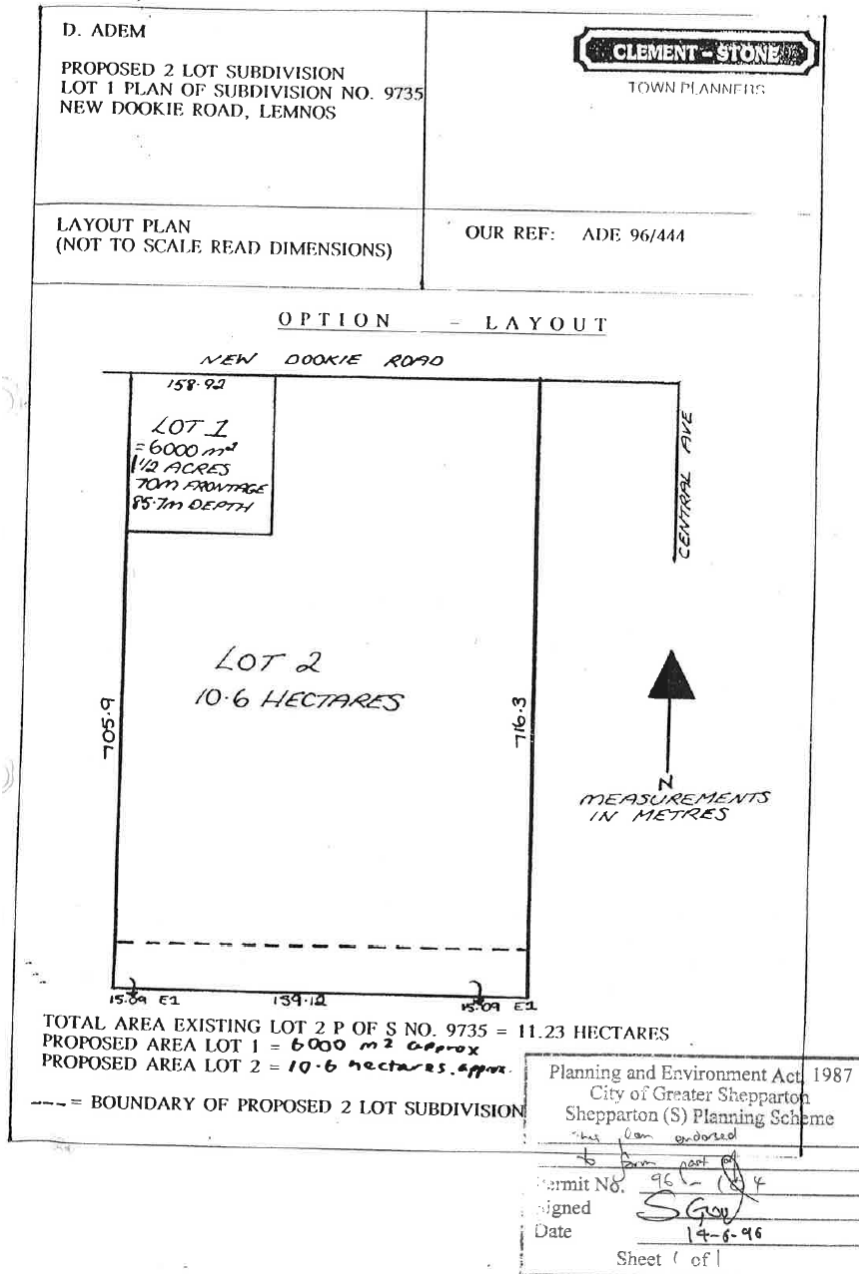
Existing dwelling on the land and vehicle access to the land

Permit/Site History

The history of the site includes:

- 1) Planning permit 1996-104 allowed a two lot subdivision of the land to create a small house lot and a balance lot of 10.6ha
- 2) SOC was issued for the subdivision in January 2002

The endorsed plan of the 1996 subdivision is below.



Planning and Environment Act, 1987
 City of Greater Shepparton
 Shepparton (S) Planning Scheme

This plan endorsed
 to form part of

Permit No. 96-104

Signed S. Gray

Date 14-6-96

Sheet 1 of 1

- 3) An onsite meeting was held on 14 August 2014 which was attended by Dinny Adem, Dylan King and planning officers Braydon Aitken and Andrew Dainton. During this site meeting the applicants were informed officers would recommend refusal of the application as the application was not in keeping with the Farming Zone and associated policies.

- 4) On 14 August 2014 a RFI letter was provided to the applicant. Within this letter the applicant was informed that the application was highly unlikely to receive planning approval for the proposed subdivision.

Further Information

Was further information requested for this application? Yes on 14 August 2014 seeking the following:

- Plan of proposed subdivision including vehicle access point to the new lot
- Site plan showing the existing dwelling and associated septic tank and lines servicing the dwelling to demonstrate these lines will be entirely contained within one lot

The RFI included a lapse date of 15 September 2014.

A satisfactory response to the RFI was provided on 15 September 2014.

Public Notification

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

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

The applicant provided a signed declaration stating that the sign on site was displayed on the land between 26/9/14 to 10/10/14.

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

Consultation was not undertaken.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Vic Roads: No objection subject to the following condition: <i>Prior to Statement of Compliance the access to Lot 1 must be constructed to the satisfaction of and at no cost to the Roads Corporation in accordance with SD2066 Typical Rural Driveway. This access must be located at the existing access on the western boundary.</i>
Section 52 Notices	Goulburn Murray Water: No objection subject to the following conditions: <i>1. Any Plan of Subdivision lodged for certification must be referred to</i>

	<p><i>Goulburn-Murray Rural Water Corporation pursuant to Section 8(1) (a) of the Subdivision Act.</i></p> <ol style="list-style-type: none"> 2. <i>Any G-MW existing easements/reserves pertaining to G-MW assets affected by the subdivision must remain and be shown on any Plan of Subdivision submitted for Certification.</i> 3. <i>The Plan of Subdivision must show either building envelopes or building exclusion zones located at least 30 metres from any GMW open channels and drains.</i> 4. <i>The Plan of Subdivision must show either wastewater disposal envelopes or exclusion zones on newly created lot 1 located at least 30 metres from any GMW open channels and drains for secondary treatment of wastewater.</i> 5. <i>The existing on-site wastewater treatment and disposal system must be wholly contained within the boundaries of the proposed lot 2. All wastewater must be disposed of via connection to the existing wastewater system and, if necessary, the system must be upgraded to the satisfaction of Council's Environmental Health System.</i> 6. <i>GMW also advises that for subdivision of property holding delivery shares the applicant must either:</i> <ol style="list-style-type: none"> a. <i>make application to G-MW pursuant to sections 224 and 229 of the Water Act 1989 to: terminate the delivery shares in relation to the property; make a declaration that the property cease to be a serviced property (to effect excision from the district); and trade or transfer any Water Share in relation to the property; or alternatively</i> b. <i>demonstrate to G-MW's reasonable satisfaction the means by which a G-MW water supply will be metered and delivered to the lots created by the subdivision, bearing in mind requirements for water use licences and annual use limits.</i> 7. <i>Should water supply be required to the new lots created by subdivision, the Plan of Subdivision submitted for Certification must show appropriate water supply easements a minimum of 5 metres wide.</i>
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Internal Council Notices	Advice/Response/Conditions
Engineering	<p>No objection subject to the following conditions:</p> <p><u>Rural Drainage Plan</u></p> <p><i>Before a Statement of Compliance is issued all stormwater and surface water drainage from the land, buildings and works must be 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><u>Independent Drainage</u></p> <p><i>Before the plan of subdivision is certified under the Subdivision Act 1988, plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit. The plans must be drawn by a suitably qualified person or organisation to scale with dimensions. The plans must include</i></p> <ol style="list-style-type: none"> a) <i>direction of stormwater run off.</i> b) <i>a point of discharge for each lot. and</i>

	<p>c) <i>independent drainage for each lot.</i></p> <p>d) <i>documentation demonstrating approval from the relevant authority for the point of discharge.</i></p> <ul style="list-style-type: none"> • <i>Incorporation of water sensitive urban design in accordance with the "Urban Stormwater Best Practice Environmental Management Guidelines" 1999.</i> <p><u>Construction of Works</u></p> <p><i>Before the Statement of Compliance is issued under the Subdivision Act 1988, the owner must construct and complete road works, drainage and other civil works, in accordance with endorsed plans and specifications approved by the Responsible Authority and in accordance with the Infrastructure Design Manual. Road works, drainage and other civil works to be constructed must include:-</i></p> <p>a) <i>drainage works shown on the endorsed Drainage Discharge Plan(s) have been constructed to the satisfaction of the responsible authority;</i></p> <p>b) <i>vehicular access to all lots must have been approved by Vic Roads</i></p>
Health	<p><i>Council's Health Department requires that prior to the issue of a Planning Permit the applicant arrange for a suitably qualified person to carry out a Land Capability Assessment in accordance with the Environment Protection Authority publication 746.1 of March 2003. As part of the Land Capability Assessment the applicant is requested to also provide a description and plan of the existing septic tank system for the existing dwelling and verification that this septic tank system is contained within the proposed new allotment boundaries.</i></p> <p>Planning officers requested that the applicant submit a LCA, however no LCA has been submitted.</p>

Assessment

A Planning Permit is required pursuant to the provisions of the following clauses:

- 35.07-3 for a subdivision in the Farming Zone;
- 52.29 Creation of an access to a Road Zone Category 1
- 52.29 Subdivision of land adjacent to a Road Zone Category 1.

The land is not within any overlays.

The Planning Scheme provides clear direction in terms of the need to protect farming land from inappropriate piece meal small lot subdivisions.

Policy references includes:

Clause	Strategy	Officer's Comment
<p><u>State Policy</u></p> <p>11.05-3</p>	<p>Prevent inappropriately dispersed urban activities in rural areas</p> <p>Directing housing growth into existing settlements.</p> <p>Encouraging consolidation of existing isolated small lots in rural zones.</p> <p>Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.</p> <p>Restructure old and inappropriate subdivisions</p>	<p>The proposal seeks to subdivide a small lot in the Farming Zone, into two lots, to provide a dwelling opportunity on the new lot.</p> <p>The land is inappropriate for a small lot subdivision for residential purposes given its location and the need to avoid potential conflict with existing or future agricultural uses.</p> <p>The proposed application is seeking to create a house lot in the Farming Zone that is entirely unrelated to agriculture, residential development such as this should be located in living zones not a Farming Zone.</p>
<p>11.10 – Hume Growth Plan</p>	<p>The plan states the land is 'strategic agricultural land'</p>	<p>Strategic agricultural land needs to be maintained for farming uses and not be permanently removed from agriculture by allowing non farming uses such as a potential dwelling on a small lot.</p> <p>It is important to not allow the creation of additional rural residential opportunities (small lots) to ensure potential conflict between agricultural uses and dwelling lots is minimised.</p>
<p>11.10-1</p>	<p>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.</p>	<p>As the land is within an important agricultural area which forms part of a significant food bowl, existing agricultural land should be protected and retained for agricultural production.</p> <p>Additionally agricultural production should not be put at risk by introducing the potential for another dwelling on a small lot that is unrelated to farming.</p>
<p>14.01-1</p>	<p>To protect productive farmland</p>	<p>Within the locality, land is used for</p>

	<p>which is of strategic significance in the local or regional context.</p>	<p>productive agricultural uses including orchards.</p> <p>Whilst it is acknowledged that there are a number of small dwelling lots in the area, it is considered that the creation of another small lot would detract from the protection of agricultural land.</p> <p>The Planning Scheme seeks to ensure that subdivisions do not detract from the long term agricultural viability, the proposal to subdivide a small lot to provide a potential dwelling lot would not comply with the objective of Clause 14.01-1.</p>
<p><u>Local Policy</u> 21.06-1</p>	<p>To ensure that agriculture is and remains the major economic driver in the region.</p>	<p>Agricultural production is estimated to be worth \$1.2 billion annually (RRLUS p.3) for the region.</p> <p>One pressure facing agricultural development is conflicting land uses such as small dwelling lots.</p> <p>Therefore it is important that this application is refused to ensure agriculture is not limited as a result of piecemeal subdivision applications.</p>
<p>21.06-2</p>	<p>To limit the further fragmentation of rural land by subdivision.</p> <p>To ensure that lots resulting from subdivision are of a sufficient size to be of benefit to agricultural production.</p> <p>To encourage the consolidation of rural lots.</p> <p>To provide for the incremental growth of farming enterprises.</p> <p>To discourage “small lot subdivision unless the balance lot is at least the minimum lot</p>	<p>Council’s local policy seeks to discourage the fragmentation of the rural land by subdivision and to ensure that subdivided lots are large enough to support agriculture.</p> <p>This application seeks to subdivide an existing small dwelling lot into two, to provide for a second dwelling lot in the Farming Zone.</p> <p>An impact of the proposed subdivision and subsequent dwelling being allowed on the land would result in conflict between existing or future agricultural uses and a dwelling lot. Such a conflict</p>

	<p>size and is of a size sufficient to support a viable agricultural enterprise.</p> <p>To ensure that small lot subdivisions do not prejudice surrounding agricultural activities.</p> <p>To ensure that small lots have access to adequate infrastructure including access to all weather roads.</p> <p>To prevent small lot subdivision to meet personal and financial circumstances or to create lots for 'rural lifestyle' purposes.</p> <p>To prevent the creation of irregular shaped lots.</p> <p>To prevent "serial" small lot subdivisions from the one lot.</p> <p>Discourage small lot subdivisions except where:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Restructure is an outcome; <input type="checkbox"/> No new opportunities for additional dwellings below the minimum specified in the schedule to the Farming Zone; and <input type="checkbox"/> The impact on neighbours and existing or potential agricultural use of nearby land is minimised. <p>Discourage small lot subdivision, except where the proposal assists in the use, sale, reduction in number of lots, transfer or preservation of the land for agricultural purposes.</p>	<p>could detrimentally impact on agriculture production which is an unacceptable outcome.</p> <p>The proposed subdivision is the second subdivision of the land to create a small dwelling lot. The subdivision is unrelated to farming and is to provide the applicant's daughter a lot to build a dwelling on.</p> <p>The outcome sought by the permit applicant is expressly discouraged by Council's local policy.</p>
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<u>Farming Zone</u>		
35.07	<p>To provide for the use of land for agriculture.</p> <p>To encourage the retention of productive agricultural land.</p> <p>To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.</p> <p>To encourage the retention of employment and population to support rural communities.</p> <p>To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.</p>	<p>The thrust of the Farming Zone is to allow for the retention and development of agricultural areas for food production and other associated uses.</p> <p>The Farming Zone generally seeks to prevent development approvals that would detrimentally impact on agricultural activities such as is proposed.</p> <p>Therefore officers recommend that no permit issue for the proposed subdivision.</p>
35.07-6	<p><u>Agricultural issues and the impacts from non-agricultural uses</u></p> <p>Whether the use or development will support and enhance agricultural production.</p> <p>Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.</p> <p>The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.</p> <p>The capacity of the site to sustain the agricultural use.</p> <p>The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.</p>	<p>The Greater Shepparton Planning Scheme requires that the cumulative effects of rural subdivisions be considered.</p> <p>Allowing all small Farming Zone lots in the municipality to be further subdivided would negatively impact on agricultural uses.</p> <p>Officers are aware that there are a number of small lots within the Shepparton East area which are becoming increasingly attractive to further subdivide for additional dwelling opportunities.</p> <p>Notwithstanding this, it is not considered that allowing the fragmentation of agricultural land into smaller dwellings lots is in the sustainable interest of the future agricultural economy.</p> <p>Additionally it is undesirable to increase non-agricultural dwellings in the FZ as this outcome leads to potential points of</p>

	<p>Any integrated land management plan prepared for the site.</p> <p><u>Environmental Issues</u></p> <p>The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.</p>	<p>conflict between agricultural and non-agricultural uses.</p> <p>The applicant has decided to not submit a LCA in support of the application. Given the size of the lot 4160sqm, proximity to GMW infrastructure and the unknown location of existing effluent lines, officers are not satisfied that the land is able to be serviced by an onsite effluent disposal system. Therefore it is recommended that the application be refused including a ground relating to effluent disposal.</p>
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Relevant Particular Provisions

52.29 – Land Adjacent to a Road Zone Category 1

Purpose

To ensure appropriate access to identified roads.

To ensure appropriate subdivision of land adjacent to identified roads.

The permit applicant triggers the need for permission under 52.29 for the creation of a vehicle access to New Dookie Road and for subdivision adjacent to New Dookie Road. The application was referred to Vic Roads. Vic Roads consented to the grant of a permit subject to the installation of typical rural driveway before the issue of statement of compliance.

Other relevant adopted State policies or strategies policies

There is no other relevant adopted state or strategic policies that relate to the application.

Relevant Planning Scheme amendments

There are no relevant PSA's that relate to the application.

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the application?

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

The Aboriginal Heritage Act 2006

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

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

The land is not within an area of cultural heritage sensitivity therefore the application does not trigger the need for a cultural heritage management plan.

Conclusion

Officers have assessed the application against the planning scheme and Council's policies and found that the application achieves unacceptable planning outcomes. It is also concluded that the net community benefit lies in protecting agricultural land from conflicting land uses such as is proposed. Therefore officers recommend that no permit issue.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2014-219

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 630 New Dookie Road SHEPPARTON EAST VIC 3631

WHAT HAS BEEN REFUSED: 2 lot subdivision in the Farming Zone adjacent to a Road Zone Category 1 and creation of access to the Road Zone Category 1

WHAT ARE THE REASONS FOR THE REFUSAL?

- a) The proposed subdivision would 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
- is likely to impact on the continuation of primary production now or into the future on nearby land, with particular regard to land values;
 - has the potential to limit the use of nearby agricultural land;
 - could cause conflict between the ongoing farming activities in the area and the rural living use;
 - sets a precedent in the area for nearby small lots to be converted to rural living use
 - would create a small house lot that is not related to an agricultural land use
- b) The application does not comply with the Rural Regional Land Use Strategy (C121) which seeks to limit the inappropriate fragmentation of land in the Farming Zone for the purposes of providing rural lifestyle lots.
- c) The applicant has not demonstrated that the proposed lot created by this subdivision is capable of adequately treating and retaining all domestic wastewater within the boundaries of each lot in accordance with the Code of Practice Onsite Wastewater Management Publication No. 891.3 February 2013.

Application Details:

Responsible Officer:	Tim Watson
Application Number:	2014-196
Applicants Name:	B J A Geerling
Date Application Received:	25 July 2014
Statutory Days:	137(16/2/15)
Land/Address:	36-46 Hampton Road TATURA VIC 3616
Zoning and Overlays:	Pt. Low Density Residential Zone Pt. Urban Floodway Zone Pt. Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	32.03-3 – Subdivision in the Low Density Residential Zone 37.03-3 – Subdivision of land in the Urban Floodway Zone 44.04-2 – Subdivision in the Land Subject to Inundation Overlay
Are there any Restrictive Covenants on the title?	No

Proposal

The application for a planning permit proposes the six lot subdivision of the land for residential purposes in the Low Density Residential Zone.

A request for further information was made with a Land Capability Assessment required to be submitted. Furthermore, as part of this request the applicant was notified that lot 2 on the proposed plan would create an allotment with its only vehicle access through the Urban Floodway Zone, thus creating an undesirable situation where a dwelling would not be able to be constructed on the allotment.

In submitting the further information, the applicant has also applied to amend the application under section 50 of the Act. The amendment shows the proposed lot 2 with an access via Murton Road and not Hampton Road, thus resolving the issue.

The application received one objection which raised concerns about the effluent disposal fields, the purpose of the building envelopes, fencing and stormwater drainage.

The purpose of the zone is for low density residential development. The proposed subdivision will allow for the creation of multiple allotments within an area of Tatura where larger allotments are supported to allow for alternate residential opportunities. The Land Capability Assessment shows that effluent from each lot can be treated appropriately. The proposed development is considered acceptable for the zone with all of the allotments meeting the minimum allotment size and drainage to be addressed through the submission of plans.

It is therefore recommended that a Notice of Decision to approve the application be issued..

Summary of Key Issues

- The application for a planning permit proposes an six lot subdivision in the Low Density Residential Zone, Urban Floodway Zone and Land Subject to Inundation Overlay.
- The application was amended under section 50 to relocate the access for lot 2 to Mutron Road.
- The objection received related to the building envelopes, septic disposal fields, fencing and drainage.
- A condition will be included on the permit to require the erection of a ring lock type fence to discourage domestic pets from moving outside of property boundaries, in response to the objection.
- Drainage plans will be required to be submitted and approved to the satisfaction of Council's Development Engineers.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2014-196** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **32.03-3, 37.03-3 and 44.04-2** of the Greater Shepparton Planning Scheme in respect of the land known and described as **36-46 Hampton Road TATURA VIC 3616**, for the **six lot subdivision in the Low Density Residential Zone, Urban Floodway Zone and the Land Subject to Inundation Overlay** in accordance with the Notice of Decision and the endorsed plans.

Moved by Colin Kalms

Seconded by Ian Boyle

Notice of Decision to Grant a Permit

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Amendments to the Notice of Decision are as follows:

Condition 2. **Amended Plans Required**

This condition is to be deleted.

Condition 4. **Section 173 Agreement**

This becomes Condition 3, (with the deletion of Condition 2), and has the addition of the following conditions:

Drainage

- a) **An area is to be set aside on a plan attached to this agreement that shows drainage areas.**
- b) **No buildings or works are to be constructed or carried out on the areas shown for drainage on the attached plan.**
- c) **The drainage areas shown on the attached plan must be maintained to the satisfaction of the responsible authority.**

Existing Vegetation

- a) **The existing vegetation screen along the western boundaries of lots 2 and 3 must be identified on a plan attached to this agreement.**
- b) **The existing vegetation screen shown on the attached plan must be retained to the satisfaction of the responsible authority.**
- c) **Any diseased or dead trees shown to be retained on the attached plan must be replaced to the satisfaction of the responsible authority.**

CARRIED

Subject Site & Locality

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

Date: **31/7/14**

The site has a total area of approximately 4.1 hectares and currently contains:

- Four existing parcels of approximately equal size.
- An existing dwelling and associated sheds.
- The remainder of the land is used for the keeping of horses and is divided onto a number of paddocks.

The main site/locality characteristics are:

- Land divided into Low Density Residential allotments, most of which are small than the existing allotments which make up the subject land.
- The majority of the surrounding allotments have existing dwellings

The Photos below show the existing site:



















Permit/Site History

The history of the site includes:

- There is no previous planning permit history on record for this site.

Further Information

Is further information required for the application? **Yes**

What additional information is required? **A Land Capability Assessment**

What date was the information requested?: **1 August 2014**

What is the lapsed date? **1 October 2014**

What date was the information received?: **19 September 2014**

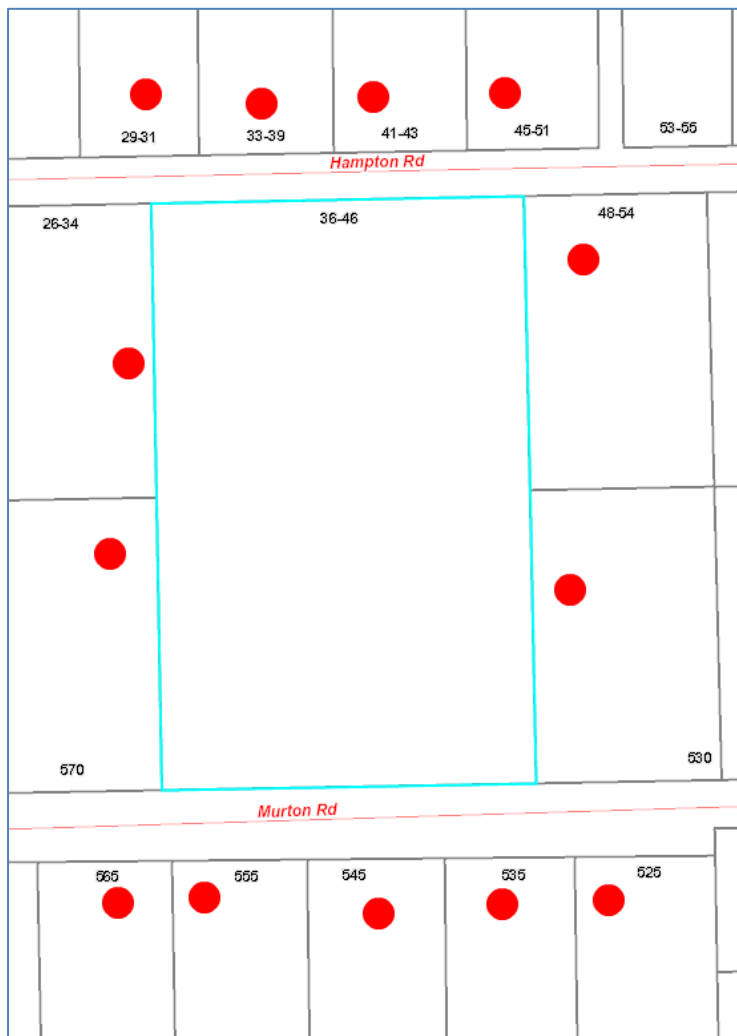
Public Notification

The application is to be advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **6 lot subdivision in the Low Density Residential Zone and Urban Floodway Zone**, by:

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

- Placing a sign on site.

The plan below shows to the properties notified by letter:



The applicant provided a signed declaration stating that the sign on site was displayed on the land between 4/10/14 and 20/10/14.

Then LSIO component of the application was exempt from being advertised in accordance with Clause **44.04-4** of the planning scheme.

Objections

The Council has received 1 objection to date. The key issues that were raised in the objection have been addressed in the table below:

Ground of objection	Officer's Response
The disposal field area for proposed lot 2	The area which can be developed on proposed lot 2 is more constrained than the

being smaller than the others	other allotment due to existing native vegetation and the location of the Urban Floodway Zone. The applicant has therefore agreed to a section 173 agreement, should a permit grant restricting the number of bedrooms a dwelling on the lot. This agreement was reached between the Council's Health Department and the applicant.
Fencing along boundaries for privacy and to ensure dogs do not escape.	A condition will be included on the permit requiring a level of fencing so as to prevent domestic pets exiting property boundaries. Council will not require colour-bond fencing, given the locality of the site in a low density residential area and the flooding impacts.
Drainage	The applicant will be required to appropriately service the land including sewer to the satisfaction of the relevant authorities requirements.

Title Details

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

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- A number of discussions were undertaken between the applicants and objectors regarding a various matters.

Applicant

Discussions were undertaken between the applicant, planning officer and council health officer. These discussions result in the submission of an LCA, amendments to the plans and the applicant agreeing that should a permit grant they would enter into a section 173 agreement addressing the septic systems and the size of a dwelling on one of the allotments.

Objectors

- The planning officer met with Mr Schroen during the notification period in which he highlighted his concerns regarding the application which included the loss of privacy, how would the additional drainage from the land be addressed, the use of the

allotments for uses other than residential purposes and the size of the effluent disposal areas shown on the plan advertised.

- Following this discussion in which the officer advised he would call Mr Schroen back with details. During a telephone call Mr Schroen informed that he would put his concerns in writing.
- The planning officer arranged to meet with the objectors after the notification period had finished and a response from the Council's Health Department had been received regarding the LCA and the proposed septic solution.
- During this meeting the planning officer informed of the septic solutions proposed by the applicant and that confirmation had been given by the Health Department regarding this including the requirement that the dwelling on the lot abutting the objectors land. They were also informed that a drainage plan with computation would be required to be submitted as per a condition on the permit, should one grant showing that post development flows did not exceed pre-development flows from the land. The officer explained that the planning permit, should one issue was unable to address the existing drainage concerns for the locality, given that this was a wider matter that extended beyond the land. The officer informed that Council would not require colour-bond fencing, given the locality of the site in a low density residential area and the flooding impacts. The officer informed that a type of ring lock fencing would be required to ensure that dogs were unable to walk between properties.
- Objector wished for objection to be retained following meeting.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
GBCMA	37.03 & 44.04-5	Recommending	The application was referred to the GBCMA, who do not object to the issue of a permit, subject to the following conditions: a) Fencing within the Urban Floodway Zone must be post and wire or post and rail farm type fencing only.
Goulburn Valley Water	66.01	Determining	The authority does not object to the issue of a permit subject to the following conditions: a) Payment of a new customer contribution for water supply to the development, such amount being determined by the Corporation at the time of payment; b) Any existing water service that crosses any of the proposed allotment boundaries within the proposed development must be disconnected and re-located at the developer's expense, to be wholly within one allotment only and to the satisfaction of the Goulburn Valley Region Water Corporation; c) The plan of subdivision lodged for

			certification is to be referred to the Goulburn Valley Region Water Corporation pursuant to Section 8(1) of the Subdivision Act, 1988.
Powercor	66.01	Determining	<p>The authority does not object to the issue of a permit subject to the following conditions:</p> <p>a) The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.</p> <p>b) The applicant shall</p> <ul style="list-style-type: none"> • Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (a payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed. • Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity supply Industry. You shall arrange compliance through a Registered Electrical Contractor. • Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations. • Any construction works must comply with Energy Safe Victoria's "No Go Zone" rules. • Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new power lines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "powercor Australia Ltd" for "Powerline Purposes" pursuant to Section 88 of the Electricity Industry Act 2000. • Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendment which have been required.
APA	66.01	Determining	The authority does not object to the issue of a permit, nor does it wish for any conditions to be included should a permit grant.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
Goulburn Murray Water	<p>The application was notified to Goulburn Murray Water who do not object to the issue of a permit subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The existing on-site wastewater treatment and disposal systems must be wholly contained within the boundaries of the new lot 1 created by subdivision. All wastewater must be disposed of via connection to the existing septic tank system. If necessary, the system must be upgraded to the satisfaction of council's Environmental Health Department. 2. The Plan of Subdivision must show building exclusions zones on proposed lots 3, 4 & 5 to prevent future buildings from being located within 30 metres of GMW's channel, measured from the inside top edge of the channel bank. 3. The Plan of Subdivision must show a building envelope on proposed Lot 2 to ensure future buildings are located above the 1 in 100 year flood level and outside the Urban Floodway Zone. 4. Prior to Statement of Compliance being issued, the owner shall enter into an Agreement with the Responsible Authority and GMW under Section 173 of the Planning and Environment Act ensuring any future development adheres to the wastewater management requirements outlined within the Land Capability Assessment prepared by Geotechnical Testing Services (Report no. 14C/697) dated 15 September 2014. This includes the design, installation and maintenance of the wastewater management system, and the size and location of the wastewater disposal field. 5. Should water supply be required to the new lot(s) created by subdivision, the Plan of Subdivision submitted for Certification must show appropriate water supply easement(s). 6. For subdivision of property holding delivery shares the applicant must either: <ol style="list-style-type: none"> a. make application to GMW pursuant to sections 224 and 229 of the Water Act 1989 to: terminate the delivery shares in relation to the property; make a declaration that the property cease to be a serviced property (to effect excision from the district); and trade or transfer any Water Share in relation to the property; or alternatively b. demonstrate to G-MW's reasonable satisfaction the means by which a GMW water supply will be metered and delivered to the lots created by the subdivision, bearing in mind requirements for water use licences and annual use limits. 7. Any Plan of Subdivision lodged for certification must be referred to GMW pursuant to Section 8(1)(a) of the Subdivision Act. 8. Any works carried out for access to the new lots created by subdivision, via an upgrade to an existing crossing or the construction of new crossing(s), over GMW's channel no. 2/3/5A, will require a 'Construction and Use of Private Works Licence' prior to commencement of works.

Internal Notice:

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

Assessment

The zoning of the land

Low Density Residential Zone 32.03

The purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

Subdivision 32.03-3

A permit is required to subdivide land.

Each lot must be at least the area specified for the land in a schedule to this zone. Any area specified must be at least:

- 0.4 hectare for each allotment where reticulated sewerage is not connected. If no area is specified each lot must be at least 0.4 hectare.
- 0.2 hectare for each lot with connected reticulated sewerage. If no area is specified each lot must be at least 0.2 hectare.

Decision Guidelines 32.03-6

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

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and Local Planning Policies.
- The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- In the absence of reticulated sewerage:
 - The capability of the lot to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the *Environment Protection Act 1970*.

- The benefits of restricting the size of lots to the minimum required to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria).
 - The benefits of restricting the size of lots to generally no more than 2 hectares to enable lots to be efficiently maintained without the need for agricultural techniques and equipment.
- The relevant standards of clauses 56.07-1 to 56.07-4

Response

The purpose of the zone is for low density residential development. The proposed subdivision will allow for the creation of multiple allotments on the edge of the Tatura township where larger allotments are supported to allow for alternate residential opportunities. The proposed development is considered acceptable for the zone with all of the allotments meeting the minimum allotment size of 0.4 hectares.

The State and Local Planning Policy are addressed under other sections of this report.

The applicant is not proposing to remove any native vegetation.

All proposed allotments exceed 4000sqm thus any future removal of native vegetation will require planning permission.

The applicant has submitted

Clause 56.07-1 to 56.07-4

	Standard	Officer's response
Drinking Water Supply Objective 56.07-1	<p>The supply of drinking water must be:</p> <ul style="list-style-type: none"> ● Designed and constructed in accordance with the requirements and to the satisfaction of the relevant water authority. 	Drinking water will be required to be provided as per the service authority's requirements (GV Water)
Reused and recycled water objective 56.07-2	<p>Reused and recycled water supply systems must be:</p> <ul style="list-style-type: none"> ● Designed, constructed and managed in accordance with the requirements and to the satisfaction of the relevant water authority, Environment Protection Authority and Department of Human Services. ● Provided to the boundary of all lots in the subdivision where required by the relevant water authority. 	Conditions to be included on permit, should one issue, requiring that the applicant comply with the service authority requirements.

<p>Waste water management objective 56.07-3</p>	<p>Waste water systems must be:</p> <ul style="list-style-type: none"> • Designed, constructed and managed in accordance with the requirements and to the satisfaction of the relevant water authority and the Environment Protection Authority. • Consistent with any relevant approved domestic waste water management plan. 	<p>Septic systems to be provided to each allotment as per the requirements of the Council's Health Department, which are to be specified in a Section 173 Agreement.</p>
<p>Urban run-off management objectives 56.07-4</p>	<p>The urban stormwater management system must be:</p> <ul style="list-style-type: none"> • Designed and managed in accordance with the requirements and to the satisfaction of the relevant drainage authority. • Designed and managed in accordance with the requirements and to the satisfaction of the water authority where reuse of urban run-off is proposed. • Design to meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater – Best Practice Environmental Management Guidelines (Victorian Stormwater Committee 1999) as amended. • Designed to ensure that flows downstream of the subdivision site are restricted to pre-development levels unless increased flows are approved by the relevant drainage authority and there are no detrimental downstream impacts. 	<p>Drainage plans to submitted to Council as a requirement of the permit, which will need to show Water Sensitive Urban Design Measures.</p>

Urban Floodway Zone 37.03

The purpose of the zone is to:

- Identify waterways, major floodpaths, drainage depressions and high hazard areas within urban areas which have the greatest risk and frequency of being affected by flooding.
- To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.
- To reflect any declarations under Division 4 of part 10 of the Water Act, 1989.

- To protect water Quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

A permit is required to subdivide land. A permit may only be granted to subdivide land if the following apply:

- The subdivision does not create any new lots, which are entirely within this zone. this does not apply if the subdivision creates a lot, which by agreement between the owner and the relevant floodplain management authority, is to be transferred to an authority for a public purpose.
- The subdivision is the re-subdivision of existing lots and the number of lots is not increased, unless a local floodplain development plan incorporated into this scheme specifically provides otherwise.

Response

The application does not propose any allotment to be entirely within the Urban Floodway Zone and therefore the proposed subdivision can be considered. The application was amended after initial discussions with the applicant in which they were informed that the additional access through the Urban Floodway Zone to proposed lot 2 would not be supported. The amended application showed no new access ways through the Urban Floodway Zone.

The application has been referred to the Goulburn Broken Catchment Management Authority pursuant to clause 37.03-5. The authority responded with no objection to the proposal, subject to conditions.

Relevant overlay provisions

Land Subject to Inundation Overlay 44.04

The purpose of the Overlay is to:

- Identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.
- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water Quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in

accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).

- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

Response

The application has been referred to the Goulburn Broken Catchment Management Authority pursuant to clause 44.04-5. The authority responded with no objection to the proposal, subject to conditions. Given that the GBCMA are the relevant flood authority and experts in the matter of flood hazard, with their consent it is considered that the application achieves an acceptable planning outcome under the planning flood controls which affect the land.

The State Planning Policy Framework (SPPF)

Supply of Urban Land 11.02-1

Planning for urban growth should consider opportunities for the consolidation, redevelopment and intensification of existing urban areas and the neighbourhood character.

Housing 16

Planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure. New housing should have access to services and be planned for long term sustainability, including walkability to activity centres, public transport, schools and open space.

Increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.

Housing Diversity 16.01-4

To provide for a range of housing types to meet increasing diverse needs and to ensure housing stock matches changing demand by widening housing choice, particularly in the middle and outer suburbs.

Encourage the development of well-designed medium-density housing which:

- Respects the neighbourhood character.
- Improves housing choice.
- Makes better use of existing infrastructure

Response

The proposed six lot subdivision will provide for additional housing opportunities in Tatura on land zoned appropriately for the proposed allotment sizes. The existing character of the locality will be respected with the size of allotments ensuring that a semi-rural character is maintained for the locality.

Drainage requirements of the development are to be addressed through conditions.

Stormwater 19.03-3

To reduce the impact of stormwater on bays and catchments and support integrated planning of stormwater quality through a mix of on-site measures and developer contributions.

Response

Water Sensitive Urban Design Principles will be addressed through either on site treatment or an agreed contribution to be paid to Council should a permit grant to provide end of pipe treatment.

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

Urban Consolidation and growth 21.04-1

It is expected that the urban areas of Shepparton and Mooroopna along with the four Major growth areas will accommodate the majority of new residential development, with remaining growth distributed throughout Tatura, Murchison, Merrigum, Dookie, Congupna, Katandra West, Tallygaroopna, Toolamba and Undera.

Relevant Objectives include:

- To encourage a variety of housing types, particularly in terms of tenure and price, to contribute to housing diversity and affordability.
- To ensure that small township expansion occurs without impacting on the long-term growth potential or urban centres or productive agricultural land.
- To ensure any small township expansion.

Response

The proposed subdivision will create additional allotments within the Low Density Residential Zone from a large allotment. The lots to be created are all in accordance with the minimum lot sizes for the zone and are not considered at variance with the locality.

Relevant Particular Provisions

Public Open Space Contribution and Subdivision 52.01

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the subdivision act 1988.

The schedule sets the rate at 3% for Low Density Residential and a condition will be included on the permit to reflect this.

The decision guidelines of Clause 65

65.02 Approval of an application to subdivide land

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

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of any body corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

Response

The areas of the land to be developed for a dwelling are flood free and within the LDRZ that allows subdivision of land. Hampton and Murton Roads are capable of accommodating the additional traffic from the development, with two additional allotments created from the current four. There is envisaged that there will be an increase in traffic once allotments are constructed on. The additional traffic is not envisaged to result in a significant stain on the existing road network.

The subdivision of the land is not envisaged to create land use conflict, with all surrounding land zoned and used for Low Density purposes.

The proposed development is to be serviced by septic with an LCA supporting the septic proposal and conditions will require preparation of detailed drainage plans to ensure off site drainage impacts do not result as a consequence of the development.

Access to the proposed lots is to be provided by access to Taylor Road, conditions on a permit should one issue will require that these be constructed to the appropriate standard.

The proposed development does not provide any public open space, however a permit condition will require a public open space contribution under 52.01.

A condition will be included on the permit should one issue requiring that a soil contamination assessment be undertaken prior to SOC.

The subdivision is not proposed to be in stages.

Relevant incorporated or reference documents

Infrastructure Design Manual

Other relevant adopted State policies or strategies policies

There is no other State or Strategic Policies that relate to this application for a planning permit.

Relevant Planning Scheme amendments

There are no relevant Planning Scheme Amendments that relate to this application for a planning permit.

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the application?

Subdivision Act 1988

Conclusion

The purpose of the zone is for low density residential development. The proposed subdivision will allow for the creation of multiple allotments on the edge of the Tatura township where larger allotments are supported to allow for alternate residential opportunities. The proposed development is considered acceptable for the zone with all of the allotments meeting the minimum allotment size. Given that the application achieves an acceptable planning outcome, it is recommended that the Notice of Decision to issue a planning permit be approved.

Draft Notice Of Decision

APPLICATION NO: 2014-196

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: 36-46 HAMPTON ROAD TATURA VIC 3616

WHAT THE PERMIT WILL ALLOW: SIX LOT SUBDIVISION IN THE LOW DENSITY RESIDENTIAL ZONE, URBAN FLOODWAY ZONE AND THE LAND SUBJECT TO INUNDATION OVERLAY

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Layout Not Altered

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

2. Amended Plans Required

Before certification of the plan of subdivision, 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 (or as specified) must be provided to show:

- a) The provision of ring lock fencing on all boundaries other than those in the Urban Floodway Zone which must be shown in accordance with the Goulburn Broken Catchment Management Authority requirements to the satisfaction of the responsible authority;

3. Soil Assessment

Before the commencement of any works or certification being issued, a soil assessment must be undertaken by a suitably qualified person to determine the extent of any contaminated soils that may exist on the subject land or determine that the land is suitable for residential development.

If contaminants are detected, a more detailed assessment outlining the location of contaminated soil, the type of contaminants detected and the strategies required to be

undertaken to decontaminate the affected areas must be prepared and submitted to the responsible authority and works carried out to decontaminate the land to the satisfaction of the responsible authority.

4. Section 173 Agreement

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

Health

- a) **The effluent disposal areas on lots 3, 4 and 5 must be setback a minimum of 30 metres from the channel on Murton Road Tatura.**
- b) **The number of bedrooms on Lots 3-6, for any single dwelling shall be restricted to 5 bedrooms. In accordance with the Environment Protection Authority's Code of Practice Onsite Wastewater Management, Publication 891.3 February 2013, a bedroom may include any additional room shown on the house plan such as a study, library and sunroom.**
- c) **The number of bedrooms on Lot 2 for any single dwelling shall be restricted to 3 bedrooms as defined above.**
- d) **All wastewater from any single dwelling on Lots 2-6 must be treated to a minimum of 20mg/L Biological Oxygen Demand and 30mg/l Suspended Solids using an EPA approved wastewater treatment plant or equivalent. The system must be installed, operated and maintained in accordance with the relevant EPA Code of Practice, Australian Standard, Certificate of Approval and manufacturer's specifications.**
- e) **The effluent disposal method for lots 2-6 must be pressurised subsurface irrigation and installed in accordance with the Australian Standard AS1547.**
- f) **The owner of lots 3-6 must allocate and maintain an effluent disposal area of at least 390m².**
- g) **The location of the effluent disposal areas on lots 3-6 will generally be in accordance with attached plan, Plan number CS8714/1, dated 18 December 2014. No building, works, paths or any other structures are permitted in this area. Any variation to the effluent disposal areas must be to the satisfaction of the Councils Environmental Health Officer and the responsible authority.**
- h) **The owner on lot 2 must allocate and maintain an effluent disposal area of 447m² and the location of the effluent area as shown on the attached plan, plan number CS8714/1, dated the 18 December 2014.**
- i) **Prior to any building works or any other development on lots 2-6 the owner must have a Permit to Install a Septic Tank System, as approved by Council's Environmental Health Department.**

Goulburn Murray Water

- a) **Any future development must adhere to the wastewater management requirements outlined within the Land Capability Assessment prepared by Geotechnical Testing Services (Report no. 14C/697) dated 15 September 2014. This includes the design, installation and maintenance of the wastewater management system, and the size and location of the wastewater disposal field.**

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

5. Drainage Discharge Plan

Before the certification of the Plan of Subdivision, a drainage plan with computations prepared by a suitably qualified person or organisation, to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and submitted in an electronic format.

The plans must be in accordance with council's Infrastructure Design Manual and include:

- a) how the land will be drained;
- b) underground pipe drains conveying stormwater to the legal point of discharge;
- c) measures to enhance stormwater discharge quality from the site and protect downstream waterways;
- d) maximum discharge rate shall not be more than **(1.2)** lit/sec/ha (or as agreed in writing by the responsible authority).;
- e) Incorporation of water sensitive urban design in accordance with Clause 20 of the Infrastructure Design Manual or as otherwise approved in writing by the Responsible Authority; and
- f) Provision of an electronic copy of the MUSIC model (or equivalent) demonstrating the achievement of the required reduction of pollutant removal;

to the satisfaction of the Responsible Authority.

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

6. Urban Vehicle Crossing Requirements

Before the Statement of Compliance 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.

The vehicle crossing for lots 1 & 2 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 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.

For Lots 3-6, any structure over the GMW channel will require their approval.

7. General Provision of Services

Before the issue of Statement of Compliance for each stage, all reticulated services including telecommunications infrastructure shall be under grounded. Where possible all services are to be provided within common trenches.

8. Payment in Lieu of Open Space

Before the statement of compliance is issued under the *Subdivision Act 1988*, the owner must pay to the responsible authority a sum equivalent to three per cent of the site value of all land in the subdivision.

The owner must advise the Council, in writing, to undertake the property valuation and must pay the Council's reasonable costs and expenses to provide such a valuation for payment in lieu of the public open space contribution.

9. Construction of Works

Before the Statement of Compliance is issued under the Subdivision Act 1988, the owner must construct and complete road works, drainage and other civil works, in accordance with endorsed plans and specifications approved by the Responsible Authority and in accordance with the Infrastructure Design Manual. Road works, drainage and other civil works to be constructed must include:-

- a) drainage works shown on the endorsed Drainage Discharge Plan(s) have been constructed to the satisfaction of the responsible authority;
- b) stormwater treatment measures have been constructed or as otherwise agreed to in writing by the Responsible Authority;
- c) vehicular access to all lots must have been constructed to Councils' IDM standard drawing SD255; and
- d) Fencing in accordance with the endorsed plans.

10. Form 13

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

11. Goulburn Broken Catchment Management Authority Requirements

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

12. Goulburn Murray Water Requirements

1. The existing on-site wastewater treatment and disposal systems must be wholly contained within the boundaries of the new lot 1 created by subdivision. All wastewater must be disposed of via connection to the existing septic tank system. If necessary, the system must be upgraded to the satisfaction of council's Environmental Health Department.
2. The Plan of Subdivision must show building exclusions zones on proposed lots 3, 4 & 5 to prevent future buildings from being located within 30 metres of GMW's channel, measured from the inside top edge of the channel bank.

3. The Plan of Subdivision must show a building envelope on proposed Lot 2 to ensure future buildings are located above the 1 in 100 year flood level and outside the Urban Floodway Zone.
4. Should water supply be required to the new lot(s) created by subdivision, the Plan of Subdivision submitted for Certification must show appropriate water supply easement(s).
5. For subdivision of property holding delivery shares the applicant must either:
 - a. make application to GMW pursuant to sections 224 and 229 of the Water Act 1989 to: terminate the delivery shares in relation to the property; make a declaration that the property cease to be a serviced property (to effect excision from the district); and trade or transfer any Water Share in relation to the property; or alternatively
 - b. demonstrate to G-MW's reasonable satisfaction the means by which a GMW water supply will be metered and delivered to the lots created by the subdivision, bearing in mind requirements for water use licences and annual use limits.
6. Any Plan of Subdivision lodged for certification must be referred to GMW pursuant to Section 8(1)(a) of the Subdivision Act.
7. Any works carried out for access to the new lots created by subdivision, via an upgrade to an existing crossing or the construction of new crossing(s), over GMW's channel no. 2/3/5A, will require a 'Construction and Use of Private Works Licence' prior to commencement of works.

13. Goulburn Valley Region Water Corporation Requirements

- a) Payment of a new customer contribution for water supply to the development, such amount being determined by the Corporation at the time of payment;
- b) Any existing water service that crosses any of the proposed allotment boundaries within the proposed development must be disconnected and re-located at the developer's expense, to be wholly within one allotment only and to the satisfaction of the Goulburn Valley Region Water Corporation;
- c) The plan of subdivision lodged for certification is to be referred to the Goulburn Valley Region Water Corporation pursuant to Section 8(1) of the Subdivision Act, 1988.

14. Powercor Requirements

- a) The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- b) The applicant shall
 - Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (a payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.

- Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity supply Industry. You shall arrange compliance through a Registered Electrical Contractor.
- Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- Any construction works must comply with Energy Safe Victoria's "No Go Zone" rules.
- Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new power lines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "powercor Australia Ltd" for "Powerline Purposes" pursuant to Section 88 of the Electricity Industry Act 2000.
- Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendment which have been required.

15. Standard Referral Authority Requirements

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

16. Telecommunications Referral Condition

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

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

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

confirmation from:

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

17. Time for Starting and Completing a Subdivision

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

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

Meeting closed at 11.18 AM