

CONFIRMED MINUTES

FOR THE

GREATER SHEPPARTON CITY COUNCIL

DEVELOPMENT HEARINGS PANEL

Meeting No. 2/2018

HELD ON

FRIDAY 9 MARCH 2018

AT 10.00AM

IN THE COUNCIL BOARDROOM
90 WELSFORD STREET

CHAIR

Councillor Chris Hazelman

ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 2 for 2018.

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”.

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.

COMMITTEE MEMBERS PRESENT

Committee members present today are:

- Cr Chris Hazelman (Chair),
- Colin Kalms – Manager Building and Planning, Greater Shepparton City Council
- Michael MacDonagh – Team Leader Strategic Planning, Greater Shepparton City Council
- Veronica Schilling –General Manager Development and Environment, Benalla Rural City Council
- Cameron Fraser –Principal Planner, Strathbogie Shire Council

OFFICERS AND OTHERS PRESENT

The Planning Officers that will be in attendance for today’s hearing are:

- Sarah Van Meurs
- Andrew Dainton

APOLOGIES

Nil

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Minutes of DHP meeting No. 04/2017 held on Monday 18 September 2017. Minutes have been circulated.

Moved by Colin Kalms and seconded by Cameron Fraser that the minutes of the meeting held on 18 September 2017 be adopted.

Carried

Minutes of DHP meeting No. 01/2018 held on Friday 16 February 2018. Minutes have been circulated.

Moved by Colin Kalms and seconded by Michael MacDonagh that the minutes of the meeting held on 16 February 2018 be adopted.

Carried

DECLARATIONS OF CONFLICTS OF INTEREST

Are there any panel members who wish to declare a conflict of interest?

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 shall be:
 - The planning officer to present the planning report recommendation
 - Any objectors or representatives on behalf of the objectors present to make a submissions in support of their objection (should they wish to)
 - The applicant or representatives on behalf of the applicant to present in support of the application

- For the purpose of today's hearing the officer, objectors and applicant will be limited to a maximum of 6 minutes per person with no extensions.

MATTERS FOR CONSIDERATION

There are four items listed for consideration in this session of the DHP:

1. Planning permit application 2017-137 seeking permission for an advertising sign at 231-237 Numurkah Road, Shepparton.
2. Planning permit application 2017-138 seeking permission for an advertising sign at 7967 Goulburn Valley Highway, Kialla.
3. Planning permit application 2017-283 seeking permission for a dwelling at 117 Zeerust School Road, Zeerust.
4. Planning permit application 2017-365 seeking permission for a sign at 228-234 High Street, Shepparton.

10. LATE REPORTS

None

11. NEXT MEETING

6 April 2018

Meeting concluded at 10.44 am

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<u>Application No.</u>	<u>Subject Address:</u>	<u>Proposal:</u>	<u>Page No.</u>
2017-235	84 Trotter Road and 260 Meaklim Road, Mooroopna North 3629	Seeking permission for a three (3) lot re-subdivision of rural land	3
2017-355	16 Maude Street, Shepparton 3630	Seeking permission for buildings and works for three (3) dwellings and a three (3) lot subdivision in the Residential Growth Zone	35

Development Hearing Delegates Report

Application Details:

Responsible Officer:	Sarah van Meurs
Application Number:	2017-235
Applicants Name:	C & M Candoo P/L
Date Application Received:	14 August 2017
Land/Address:	84 Trotter Road and 260 Meaklim Road MOOROPNA NORTH VIC 3629
Zoning and Overlays:	Farming Zone 1 Environmental Significance Overlay - Schedule 3 Floodway Overlay Land Subject to Inundation Overlay Adjacent to a Road Zone Category 1
Why is a permit required (include Permit Triggers):	35.07-3 Three lot re-subdivision in the FZ1 42.01-2 subdivision in the ESO3 44.03-2 Subdivision in the FO 44.04-2 Subdivision in the LSIO 52.29 Subdivide land adjacent to a RDZ1
Are there any Restrictive Covenants on the title?	Section 173 Agreement, prohibits proposal
Is a CHMP required?	No
Was the correct application fee paid?	Yes - \$1265.58

Proposal

The application for planning permit proposes a three lot re-subdivision of land.

The current lot layout consists of a 158.3 hectare lot containing an existing dwelling, 109.5 hectare lot containing a dwelling and a 19.8 hectare land lot which is currently land locked.

The land currently operates as one large agricultural property which has been developed with a large pivot irrigator, stock grazing, with a number of agricultural sheds.

The application seeks to re-subdivide the land as follows:

	Lot 1	Lot 2	Lot 3
Size	68.7 hectares, creates an irregular shape. The northern boundary follows the pivot irrigator. The western	6 hectares, creates a lot with eastern boundary following the pivot irrigator.	212.9 hectares, creates an irregular shape lot whereby the south-western boundary follows an existing pivot irrigator.

	boundary follows a dwelling lot which has been previously excised.		
Features	Agricultural land, includes some irrigated land and shedding. Currently used for dairy stock grazing. No dwelling on the site.	Creates a rural lifestyle allotment, contains existing dwelling along the western frontage	Contains a dwelling and large pivot irrigator, Access from Meaklim Road
Proposal is to separate the three uses.	Proposed stock grazing	Intention for the dwelling to remain as farm managers residence	Intention for the son to purchase land and continue to use for agricultural production – irrigated cropping

Plan below shows existing lot configuration in dashed red line and proposed subdivision.

Whilst the overall proposal does not create any additional lots (ie. re-subdivision of lots 3 into 3) the proposal will create one additional lot within the area known as lot 2 on PS705992Y and therefore is not compliant with the Section 173 Agreement.

Summary of Key Issues

- The application is in breach of the Section 173 Agreement.

The Planning Department originally provided in principal support for the removal of the Section 173 Agreement subject to both affected properties providing written consent by 20 November 2017, to align with the ending of the public notice period. No written consent was provided.

After further consideration of the proposal as a whole, (ie Section 173 Agreement, subdivision in Farming Zone and overlay controls) it identified that the subdivision would not result in an orderly planning outcome when assessed against the planning scheme.

As a result of this assessment the Planning Department withdrew the in principal support for the removal of the Section 173 Agreement.

- The application was referred to GVW who objected to the proposal. GVW are a determining authority under the ESO which provides control over the areas surrounding the sewerage treatment facility.
- The application is permissible under the scheme as the subdivision is a re-subdivision of land and the number of lots is not increased in the Farming Zone. The subdivision is also permissible in the Floodway Overlay as the proposal does not create any new lots entirely within the Floodway Overlay.
- Despite being allowable in the zone, the proposal is not considered to provide an acceptable planning outcome when assessed against State and Local policy the purpose and decision guidelines of Farming Zone 1 and Rural Land Use Strategy.
- The application was referred to GBCMA, Powercor, Goulburn Murray Water and VicRoads who did not object to the proposal or provide any conditions to be included on the permit.
- The application was referred to APA who did not provide a response to the application within the required timeframe and therefore consent has been deemed.
- The application was internally referred to Council Engineers who did not object subject to conditions.
- The application was internally referred to the Councils Environmental Health Officers who did not object or provide conditions to be included on the permit.

Recommendation

Refusal

That the Council having caused notice of Planning Application No. **2017-235** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to refuse to Grant a Permit under the provisions of **35.07-3, 42.01-2, 44.03-2, 44.04-2 and 52.29** of the Greater Shepparton Planning Scheme in respect of the land known and described as **84 Trotter Road and 260 Meaklim Road MOOROOPNA NORTH VIC 3629**, for the **three (3) lot re-subdivision of rural land**.

For the following reasons:

1. Breach of Section 173 Agreement
The application is in breach of the Section 173 Agreement AK028029L registered to the Certificate of Title Vol 11414 Fol. 831 as it creates an additional lot within the land known as Lot 2 on PS705992Y.
2. Goulburn Valley Water
Clause 42.01 (Environmental Significance Overlay) – Schedule 3 (Mooroopna Waste Water Treatment Complex Environmental Significance Area) identifies, recognises and protects the wastewater management facility owned and operated by GVW for the provision of essential services (sewage) to Mooroopna and the surrounding region.

The proposed three lot subdivision reconfigures the existing lots allowing an additional dwelling or other building allowing sensitive land use on proposed lot 1 within ESO3.

The existing lot configuration allows construction of a dwelling or other building on each lot outside ESO3. For example the northern portion of lot 2 on plan of subdivision 705992Y

While ESO3 applies a control requiring a planning permit for development of a dwelling or other building associated with a sensitive land use within the ESO3 area, the decision of the responsible authority and any objection by GVW as the determining referral authority is revealable in the Victorian Civil and Administrative Tribunal. The proposed lot configuration does not facilitate an outcome of a dwelling for each lot outside the ESO3. This is restricts the decision maker.

3. Agriculture
 - a) The application is inconsistent with the purpose and decision guidelines of Clause 35.07 (Farming Zone) as follows:
 - i. Has the potential to adversely affect or limit the operation and expansion of adjoining and nearby agricultural uses through land use conflict and effect on land values;
 - ii. May 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; and

- iii. Create expectations of amenity that is not compatible with surrounding agricultural activity both now and in the future and can lead to land use conflict.
- b) The application is at variance to Clause 14.01 (Protection of agricultural land)
 - i. The application permanently removes land from primary production;
 - ii. A small lot unrelated to agriculture is not considered compatible with the existing or future uses of the surrounding land; and
 - iii. The small lot subdivision has the potential to detract from the long term productive capacity of the land.
- c) The re-subdivision is inconsistent with the Clauses 21.06-1 (Agriculture) and 21.06-2 (Subdivision in Rural Areas) for the following reasons:
 - i. The small lot subdivision is not justified by consolidation of other rural landholdings;
 - ii. Will create a lot used for a lifestyle dwelling not associated with agriculture;
 - iii. Is a permanent change in land use that fragments and removes land from agricultural production and does not represent sustainable land management create a small lot to meet personal and financial circumstances or to create lots for 'rural lifestyle' purposes;
 - iv. Creates irregular shaped lots;
 - v. Creates serial small lot subdivisions from the one lot;
 - vi. The lot containing the dwelling is greater than 2 hectares;
 - vii. Create a dwelling opportunity where none previously existed; and
 - viii. Excision of a dwelling lot to meet personal circumstances is not supported by planning scheme provisions.
- d) The re-subdivision is inconsistent with the Regional Rural Land Use Strategy as the proposal does not consolidate any lots, and creates a rural lifestyle allotment.

Moved by Veronica Schilling

Seconded by Michael MacDonagh

That consideration of Planning Application 2017-235, 84 Trotter Road and 260 Meaklim Road MOORoopNA NORTH VIC 3629, for the three (3) lot re-subdivision of rural land, be deferred until a later date

CARRIED

Subject Site & Locality

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

Date: **24/8/2017** Time: **1:21** pm

The site has a total area of approximately **288.46 hectares** and comprises of three separate titles two addresses as follows:

84 Trotter Road, Mooroopna North	260 Meaklim Road, Mooroopna North
Contains two titles under the address <u>PS705992Y</u> Contains a dwelling and a portion of a pivot irrigator; agricultural land used for stock grazing on a 158.3 hectares. <u>Lot 2 on LP144217</u> 19.8 hectares currently developed for a portion of the pivot irrigator and associated dam infrastructure.	<u>Lot 1 on LP144217</u> Contains dwelling and agricultural shedding. Contains part of the pivot irrigator. Contains irrigated paddocks.

The below aerial shows existing lot configuration:



The main site/locality characteristics are:

- Adjoins GVW land (Mooroopna Waste Water Treatment Plant to the east,
- Generally surrounded by agricultural properties.

- Located to the north of a road zone category 1 Zone (Echuca Road).

The Photos below show the existing site:



Dwelling at 84 Trotter Road.



Looking at the Dwelling at 84 Trotter Road.



Looking at the pivot irrigator on the land (looking east from Trotter Road).



Looking south into the subject land from Meaklim Road.



Dwelling at 260 Meaklim Road.



Existing crossover to dwelling on Meaklim Road.

Permit/Site History

The history of the site includes:

- 2014-30 development of a rural dwelling in the Environmental Significance Schedule 3 and Land Subject to Inundation Overlay at 84 Trotter Road, Mooroopna North
- D-2009-51 Whole farm plan for the for 260 Meaklim Road, Mooroopna North
- 2012-99 2 Lot subdivision which required the applicant to enter into the Section 173 Agreement (AK028029L)

Further Information

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

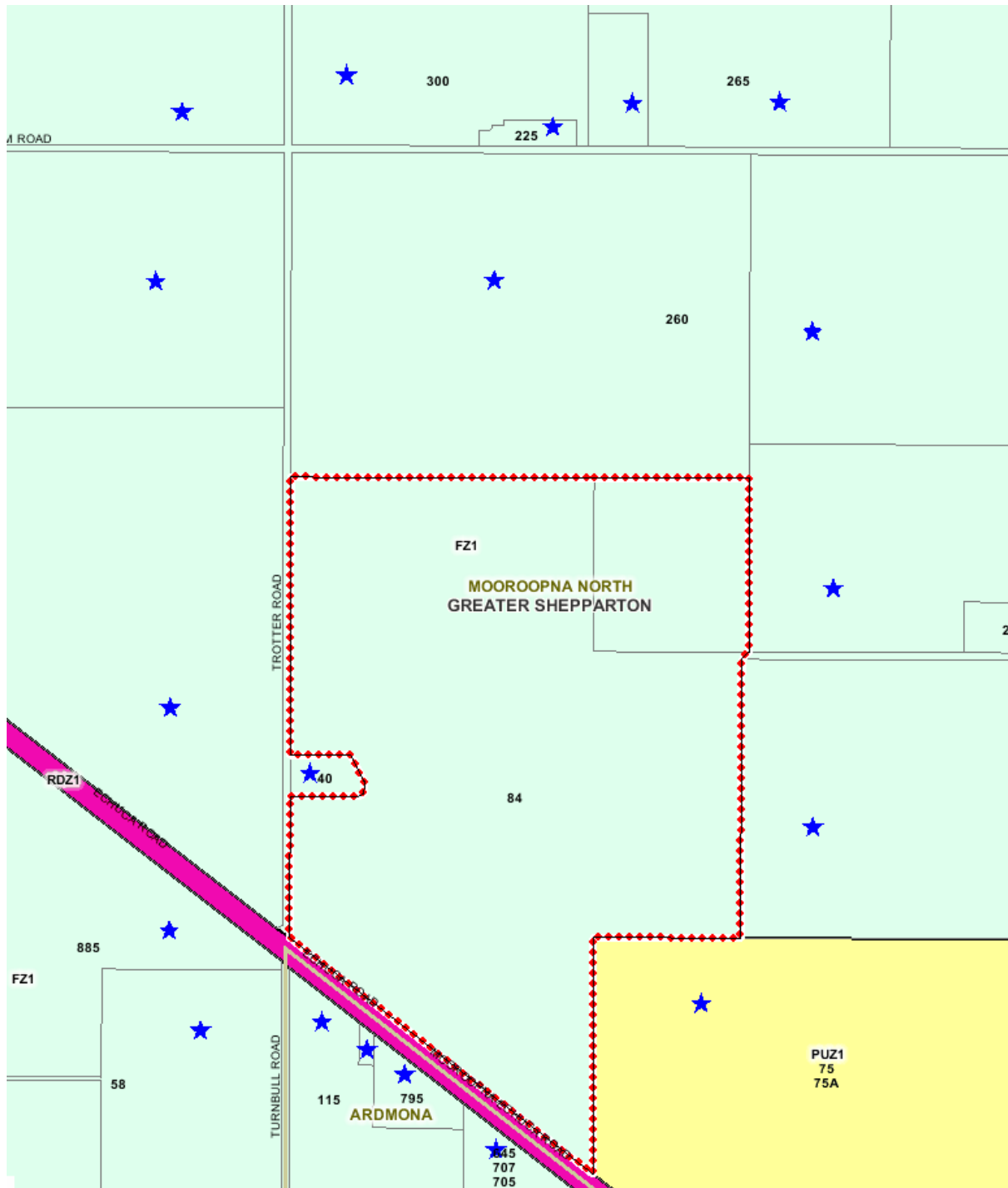
Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **three (3) lot subdivision in the Farming Zone 1**, by:

Sending notices to the owners and occupiers of adjoining land as per plan below.

The FO and LSIO components of the application were exempt from being advertised in accordance with Clause **44.03-4** and **44.04-4** of the planning scheme.

It is noted that subdivision in the ESO3 is not exempt from advertising and was missed in the advertising description. Despite the above, it is considered that the application was not required to be re-advertised as the subdivision layout was clear. The decision guidelines in the ESO3 only relate to the Mooroopna Waste Water Treatment Complex, and therefore it is not envisaged that material detriment would be caused to surrounding properties for the permission sought under the ESO.



Objections

The Council has received **no** objections to date. The application was advertised as above.

Title Details

The title contains a Section 173 Agreement. The application is in breach of the Section 173 Agreement for the following reasons:

- AK028029L is registered to Lot 2 on PS705992Y (84 Trotter Road, Mooroopna North).
2(a) neither lot on the Plan may be further subdivided by house lot excision or otherwise, so as to increase the number of lots comprising the Land from two;

Legal advice was sought in regards to the above matter, where it was confirmed that the Section 173 Agreement prohibited the proposed subdivision. The reason being the proposal would essentially increase the number of lots comprising "Land" as defined within the agreement.

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Meeting with applicant on 8/9/2017 with Planning Officers. Planning officers advised planning application would not be supported. Planning officers stated would only support a two lot subdivision if future land would be consolidated.
- Legal advice provided on 19/10/2017 stating application was prohibited.
- Planning Officers met with land owners on 25/10/2017 to understand the existing business, and entering new Section 173 Agreement limiting further subdivision of proposed lots 1 and 3.
- Written correspondence with applicant on 30/10/2017 notifying Section 173 agreement prohibited application. Confirmation Council would support removal of Agreement subject to consent from all parties (including land owners 40 Trotter Road, Mooroopna North). Request for this to be provided by 20 November 2017.
- Email from applicant showing draft letter for neighbouring applicants to sign to agree to the removal of Section 173 Agreement provided on 14/11/2017. Planning officer telephoned applicant and discussed alteration to wording provided. No revised draft provided to Planning Department to date.
- Correspondence from applicant 21/11/2017 stating neighbour was away and could not get written consent. To date no consent has been provided.
- Letter from applicant 19/12/2017 responding to GVW objection.

- Correspondence from applicant to Planning officer on 16/1/2018 notifying of their attempt to resolve GVW objection.
- Letter to applicant on 22/2/2018 withdrawing in principle support for removal of Section 173 Agreement. Notification the application will be referred to Development Hearings Panel on 9 March 2017 for decision. Planning Officers recommendation will be to refuse the permit.
- Planning officer met with owners on 28/2/2018 to discuss Development Hearing Process and agricultural policy concerns. Owners re-instated reasoning for proposed subdivision to allow succession planning and for son to buy into the agricultural enterprise.
- Letter provided from Russell Kennedy, on behalf of GVW stating that GVW did not object to the proposal provided there is no net gain in allotments without an existing dwelling. The letter also confirmed that GVW maintained their objection unless and until the advertised plans are varied to achieve the above outcome.

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 Valley Water	Schedule 3.0 of Schedule 3 to 42.01 (ESO) Clause 66.04	Determining	<p>The application was referred to GVW who objected as follows:</p> <p>GVW objects to the grant of a planning permit for application 2017-235.</p> <p>Clause 42.01 (Environmental Significance Overlay) – Schedule 3 (Mooroopna Waste Water Treatment Complex Environmental Significance Area) identifies, recognises and protects the wastewater management facility owned and operated by GVW for the provision of essential services (sewage) to Mooroopna and the surrounding region.</p> <p>The proposed three lot subdivision reconfigures the existing lots allowing an additional dwelling or other building allowing sensitive land use on proposed lot 1 within ESO3.</p> <p>The existing lot configuration allows construction of a dwelling or other building on each lot outside ESO3. For example the northern portion of lot 2 on plan of subdivision 705992Y.</p> <p>While ESO3 applies a control requiring a planning permit for development of a dwelling or other building associated with a sensitive land use within the ESO3 area, the decision of the responsible authority and any objection by GVW as the determining referral authority is revealable in the Victorian Civil and Administrative Tribunal. The proposed lot configuration does not facilitate an outcome of a dwelling for each lot outside the ESO3. This is restricts the decision maker.</p> <p>For the avoidance of any doubt, GVW does not oppose a</p>

			<p>three lot subdivision of the land where the lot configuration allows a dwelling per lot outside the ESO3.</p> <p>This may be achieved allowing a further dwelling fronting Trotter Road or Meaklim Road to the north outside the extent of ESO3.</p>
Goulburn Murray Water	66.01	Determining	<p>The application was referred to GMW who did not object subject to the following conditions:</p> <ul style="list-style-type: none"> a) Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act. b) The existing on-site wastewater treatment and disposal systems for the proposed new lots 2 and 3 must be wholly contained within the boundaries of the lots created by subdivision. c) Any water supply easement(s) in favour of other lots affected by the subdivision must remain and be shown on any Plan of Subdivision submitted for Certification. d) 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). Unless it can be demonstrated to Goulburn Murray Water's reasonable satisfaction the means by which the new lot(s) have access to water or in which an easement is not required.
Powercor	66.01	Determining	<p>The application was referred to Powercor who did not object subject to the following conditions:</p> <ul style="list-style-type: none"> 1. 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. 2. The applicant shall:- <ul style="list-style-type: none"> a. 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. b. 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. c. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations. d. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules. e. Provide easements satisfactory to Powercor Australia

			<p>Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines 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 "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.</p> <p>f. Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.</p> <p>g. Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.</p>
APA	66.01	Determining	The application was referred to APA who did not object to the application or require the application to be referred under Section 8 of the Subdivision Act. APA consented to the issue of Statement of Compliance at the appropriate time.
VicRoads	52.29	Determining	<p>The application was referred to VicRoads who did not object to the proposal subject to the following condition.</p> <ul style="list-style-type: none"> Any possible future access to the property from the adjacent Echuca Road (arterial road) will need to meet the applicable standards and be approved by VicRoads. Prior to Certification, the Plan of Subdivision must be referred to VicRoads, in accordance with Section 8 of the <i>Subdivision Act 1988</i>.
GBCMA	44.03-5 and 44.04-5	Recommending	The application was referred to the GBCMA who did not object or provide any conditions to be included on the permit.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
No Section 52 Notices required	N/A

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	The application was internally referred to the Council's Engineering Department who did not object subject to the inclusion of conditions on the permit.
Environmental Health Department	The application was internally referred to the Environmental Health Department who did not object and provided the following response:

	<p>Council's Environmental Health department is satisfied that</p> <ul style="list-style-type: none">• A septic tank permit ST14/027 has been issued for the dwelling and that a Certificate to Use has been granted.• The effluent disposal area for the dwelling (proposed lot 2) will be contained within the proposed property boundary.• There is land available for a reserve area of equal size should the current effluent disposal area fail. It is noted that the effluent disposal area may be located in a LSIO area. The proposal to subdivide the land to excise the house, will not no comments to make about the above application.
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Assessment

The zoning of the land Farming Zone 1

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for 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 for subdivision in the Farming Zone 1.

35.07-6 Decision guidelines

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

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.*

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.*

Relevant overlay provisions

Land subject to Inundation Overlay and Floodway Overlay

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

A permit is required for subdivision in the FO and LSIO.

The proposal does not seek to create a lot entirely within the Floodway Overlay and therefore is permissible subject to planning permission.

Environmental Significance Overlay – Schedule 3

Mooroopna Waste Water Treatment Complex Environmental Significance Area

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values.*

1.0 Statement of environmental significance

The Mooroopna waste water treatment complex provides sewerage treatment and waste water disposal for the Mooroopna urban area including the major food processing industry of Ardmona Foods.

The complex's operation and expansion, particularly for additional land disposal of secondary treated effluent in lieu of discharge to the Goulburn River, is critical to the continued economic and environmental prosperity of Greater Shepparton.

Land within this overlay should not be developed for any purpose that might compromise the complex's continued operation or expansion for sewerage and waste water treatment and disposal.

2.0 Environmental objective to be achieved

A buffer needs to be maintained around the complex to restrict the intensity of housing development in its proximity and to direct residential development at an urban scale away from the complex. This will safeguard the complex's operations and avoid any future conflict with any residential expansion of Mooroopna. A buffer will also protect existing and future landowners from the consequences of effects of the complex.

4.0 Decision guidelines

Land within this overlay should not be developed for any purpose that would:

- *Increase the number of dwellings on the land, other than for a dwelling required for farming purposes.*
- *Be impaired in its normal operation by odour emission from the waste water treatment complex.*

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

- *Any comments from Goulburn Valley Water.*
- *The effect of seasonal or peak loadings of effluent treated at the complex on the amenity of the area.*
- *The effect of climatic conditions, including temperature, wind speeds and directions, on the amenity of the area.*
- *The need to protect the continued operation and expansion of the Shepparton waste water treatment complex.*

The State Planning Policy Framework (SPPF)

14.01-1 Protection of agricultural land

Objective

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

Strategies (relevant)

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.

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

21.06 Agriculture

***Growth areas** being areas for growth and expansion of existing farm businesses and for new investment. Growth areas include those areas that have been retained in larger properties and provide the opportunity for large scale, stand alone new agricultural development as well as for consolidation of existing farm properties wishing to grow. The RRLUS seeks to discourage the establishment of new dwellings and where possible encourage farm tenements and property boundaries to consolidate and enlarge in line with the trends in agriculture associated with productivity and viability. The minimum subdivision size in these areas has been set at 40ha and a dwelling needs a planning permit on all land less than 60ha in area.*

Objectives - Agriculture

- *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.*

21.06-2 Subdivision in Rural Areas

The planning scheme provides for a range of subdivision sizes based on the outcomes of the RRLUS. 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.

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. This is an increasingly important issue in the municipality since the deregulation of the dairy industry. Council wishes to facilitate farm consolidation so as to assist with (among other things) the rationalisation of a sustainable dairy industry. It is acknowledged that in some circumstances, small lot subdivision can assist the process of consolidation as it enables the

farming land to be priced at its agricultural value rather than have it distorted by its housing value. While small lot subdivisions are discouraged in the municipality, they will be considered on a case by case basis if the outcome is farm consolidation. The RRLUS identified new categories of Farming Zone and has included objectives and policies for each with respect to rural subdivision.

Objectives - Subdivision in Rural Areas

- *To limit the further fragmentation of rural land by subdivision.*
- *To ensure that lots resulting from subdivision are of a sufficient size to be of benefit to agricultural production.*
- *To encourage the consolidation of rural lots.*
- *To provide for the incremental growth of farming enterprises.*
- *To discourage “small lot” subdivision unless the balance lot is at least the minimum lot size and is of a size sufficient to support a viable agricultural enterprise.*
- *To ensure that small lot subdivisions do not prejudice surrounding agricultural activities.*
- *To ensure that small lots have access to adequate infrastructure including access to all weather roads.*
- *To prevent small lot subdivision to meet personal and financial circumstances or to create lots for ‘rural lifestyle’ purposes.*
- *To prevent the creation of irregular shaped lots.*
- *To prevent “serial” small lot subdivisions from the one lot.*

Strategies - Subdivision in Rural Areas

- *Discourage small lot subdivisions except where:*
 - *Restructure is an outcome;*
 - *No new opportunities for additional dwellings below the minimum specified in the schedule to the Farming Zone; and*
 - *The impact on neighbours and existing or potential agricultural use of nearby land is minimised.*
- *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.*

Policy Guidelines - Small Lot Subdivision

Criteria

An application for a small lot subdivision of a lot containing a dwelling or the resubdivision of existing lots should meet the following criteria:

- *The lot containing the dwelling is to be no greater than 2ha in area unless there is a need for a larger parcel to take account of natural or public infrastructure features;*
- *The “balance” lot is of an area that complies with the minimum lot size for the zone;*
- *The existing dwelling is habitable; and*
- *The dwelling has existing use rights pursuant to Clause 63.*

Exercise of discretion

- *Discourage applications for a **re-subdivision** to realign lot boundaries if they:*
 - *Create a dwelling opportunity where none previously existed.*

Relevant Particular Provisions

52.29 Land Adjacent to a Road Zone, Category 1

Pursuant to Clause 52.29 a planning permit is required to subdivide land adjacent to a road in a Road Zone Category 1.

The application was required to be referred to the Roads Corporation. It is noted no new access to the Road Zone Category 1 (Echuca Road) are proposed.

Decision guidelines

Before deciding on an application, in addition to the 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.*

No new access onto Echuca-Mooroopna Road is proposed as a result of the proposal. The application was referred to VicRoads who did not object to the application subject to conditions being included on the permit.

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.

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.

Officers Response:

Agricultural

The applicant has stated the purpose of the re-subdivision is for succession planning. It is proposed that the son will purchase proposed lot 3 (212.9 hectares) and continue to farm the land. The smaller six hectare lot is proposed to be continued to be used as the managers residence for farming operations.

It is noted that despite the intentions for this lot to be used as a managers residence, there is no guarantee that this will be the case. The proposal will permanently remove the dwelling along with some surrounding agricultural land from being part of a productive farming operation.

The proposed six hectare dwelling lot does not comply with the policy for small lot subdivision criteria whereby the lot containing the dwelling is to be no greater than 2ha in area unless there is a need for a larger parcel to take account of natural or public infrastructure features. Whilst it is recognised that the dwelling is set back from the road, and the boundary follows existing paddock/fencing making a 2 hectare lot difficult to achieve, the proposal will remove existing agricultural land from a larger farming enterprise.

The subdivision of the dwelling from the balance agricultural lot will contribute to the fragmentation of rural land by subdivision, given a dwelling has already been excised from the balance lot.

The dwelling lot is likely to create an expectation for lifestyle use and has the potential to limit the operation and expansion of adjoining and nearby agricultural uses if on sold in the future, through land use conflicts and raising land value beyond what is viable for agricultural use.

It is also possible a dwelling may be needed in the future on the balance lot. The existing lot layout poses no threat of additional dwellings as the two large agricultural lots already contain dwellings and the vacant lot of 19.8 hectares and is land locked.

The proposed subdivision will create an as of right rural dwelling opportunity on the balance lot where none previously existed which is discouraged by local policy.

The subject land is within a 'Growth Area' as identified by the Regional and Rural Land Use Strategy (RRLUS) which are areas that have been retained in larger properties and provide the opportunity for large scale, stand alone new agricultural development as well as for consolidation of existing farm properties wishing to grow. No consolidation or reduction of the overall number of lots is proposed as part of the application.

The important issue to consider is whether the application will result in a real or practical net benefit to agricultural production within Greater Shepparton.

Despite the intended benefit of restructuring farm to allow for succession of the farming enterprise, the planning system cannot ensure these outcomes.

On the balance, the dis-benefit of the creation of a rural lifestyle allotment not associated with agriculture which also removes land from agriculture, coupled with the creation of a new as of right dwelling allotment, (which did not previously exist) does not outweigh the benefits of the land owners succession plan.

Floodway Overlay and Land Subject to Inundation Overlay

The application was referred to the GBCMA who are the government's expert flooding authority. The GBCMA are a recommending authority. The GBCMA did not object to the proposal or provide any conditions to be included on the permit. Based on the GBCMA response, it is considered that the proposed subdivision will not cause any significant impact on the flow or function of flood waters in the area.

Environmental Significance Overlay – Schedule 3

The purpose of the ESO is for the protection of the existing and any future expansion of the Mooroopna Waste Water Treatment Complex Environmental Significance Area

The application was referred to GVW in accordance with Clause 66 of the Greater Shepparton Planning Scheme. GVW is a determining referral authority. GVW objected to the application. The reasons outlined in GVW objection related to the creation of a lot which would allow an additional dwelling/sensitive use on proposed lot 1 within the ESO3.

Relevant incorporated or reference documents

Regional Rural Land Use Strategy 2008 (RRLUS) is a reference document in the Greater Shepparton Planning Scheme.

The objective of the RRLUS is to secure and promote the future of agriculture across the region through modifications to the Greater Shepparton Planning Scheme, the Campaspe Planning Scheme and the Moira Planning Scheme.

Amendment C121 to the Greater Shepparton Planning Scheme implemented the key recommendations of the RRLUS.

The Rural land use strategy provides the following direction with regard to subdivision in Growth areas:

Table 10-2: Planning response for key rural activities within the regions Farming Zone

PLANNING RESPONSES	Subdivision*	Resubdivision – Boundary realignments*	Excision*	Dwellings (all dwellings need a permit)	Ancillary tourism
Farming 1 Zone Growth Minimum lots size Irrigated: 100 ha Dryland: 250 ha	Performance based. New/smaller lots rarely required.	Yes - For restructure / consolidation purposes only	No – lack of neighbours is a key driver of growth	No – new dwellings are not required to support agriculture growth.	No – potential for conflict

Whilst the proposed subdivision allows for farm re-structure, the restructure is not considered to outweigh the creation of an additional rural lifestyle allotment, as well as the creation of a lot which allows for an additional dwelling opportunity, where none previously existed. The proposal is also at variance with the RRLUS direction which does not support dwelling excision as the lack of neighbours is a key driver of agricultural growth.

Other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

There are no relevant Planning Scheme amendments that relate to the application.

Are there any significant social & economic effects?

There are no significant social and economic effects that relate to the application.

Discuss any other relevant Acts that relate to the application?

The Subdivision Act 1988.

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 application is not considered to impinge on the Charter of Human Rights and Responsibilities.

Conclusion

The application proposes a re-subdivision that is in breach of a Section 173 Agreement registered to title.

GVW have objected to the application for subdivision in the ESO3. GVW are a determining referral authority pursuant to Clause 66 of the Greater Shepparton Planning Scheme, and therefore the Planning department do not have the discretion to approve the application.

Despite the applicants intention to subdivide to allow for succession planning and farm re-structure, it is considered that benefits are not outweighed by overwhelming policy against creating lifestyle lots in productive agricultural areas as well as the creation of an additional as of right dwelling opportunity in the Farming Zone 1.

It is therefore recommended that a Refusal to grant a permit should be issued for the reasons set out in the recommendation above.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO:	2017-235
PLANNING SCHEME:	GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY:	GREATER SHEPPARTON CITY COUNCIL
ADDRESS OF THE LAND:	84 Trotter Road and 260 Meaklim Road MOORoopNA NORTH VIC 3629
WHAT HAS BEEN REFUSED:	Three (3) lot re-subdivision in the Farming Zone 1, Environmental Significance Overlay Schedule 3, Floodway Overlay, Land Subject to Inundation Overlay and adjacent to a Road Zone Category 1

WHAT ARE THE REASONS FOR THE REFUSAL?

1. **Breach of Section 173 Agreement**

The application is in breach of the Section 173 Agreement AK028029L registered to the Certificate of Title Vol 11414 Fol. 831 as it creates an additional lot within the land known as Lot 2 on PS705992Y.

2. **Goulburn Valley Water**

Clause 42.01 (Environmental Significance Overlay) – Schedule 3 (Mooroopna Waste Water Treatment Complex Environmental Significance Area) identifies, recognises and protects the wastewater management facility owned and operated by GVW for the provision of essential services (sewage) to Mooroopna and the surrounding region.

The proposed three lot subdivision reconfigures the existing lots allowing an additional dwelling or other building allowing sensitive land use on proposed lot 1 within ESO3.

The existing lot configuration allows construction of a dwelling or other building on each lot outside ESO3. For example the northern portion of lot 2 on plan of subdivision 705992Y

While ESO3 applies a control requiring a planning permit for development of a dwelling or other building associated with a sensitive land use within the ESO3 area, the decision of the responsible authority and any objection by GVW as the determining referral authority is revealable in the Victorian Civil and Administrative Tribunal. The proposed lot configuration does not facilitate an outcome of a dwelling for each lot outside the ESO3. This restricts the decision maker.

3. **Agriculture**

- a) The application is inconsistent with the purpose and decision guidelines of Clause 35.07 (Farming Zone) as follows:

- i. Has the potential to adversely affect or limit the operation and expansion of adjoining and nearby agricultural uses through land use conflict and effect on land values;
 - ii. May 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; and
 - iii. Create expectations of amenity that is not compatible with surrounding agricultural activity both now and in the future and can lead to land use conflict.
- b) The application is at variance to Clause 14.01 (Protection of agricultural land)
- a) The application permanently removes land from primary production;
 - b) A small lot unrelated to agriculture is not considered compatible with the existing or future uses of the surrounding land; and
 - c) The small lot subdivision has the potential to detract from the long term productive capacity of the land.
- c) The re-subdivision is inconsistent with the Clauses 21.06-1 (Agriculture) and 21.06-2 (Subdivision in Rural Areas) for the following reasons:
- a) The small lot subdivision is not justified by consolidation of other rural landholdings;
 - b) Will create a lot used for a lifestyle dwelling not associated with agriculture;
 - c) Is a permanent change in land use that fragments and removes land from agricultural production and does not represent sustainable land management create a small lot to meet personal and financial circumstances or to create lots for 'rural lifestyle' purposes;
 - d) Creates irregular shaped lots;
 - e) Creates serial small lot subdivisions from the one lot;
 - f) The lot containing the dwelling is greater than 2 hectares;
 - g) Create a dwelling opportunity where none previously existed; and
 - h) Excision of a dwelling lot to meet personal circumstances is not supported by planning scheme provisions.
- d) The re-subdivision is inconsistent with the Regional Rural Land Use Strategy as the proposal does not consolidate any lots, and creates a rural lifestyle allotment.

Delegates Report

Application Details:

Responsible Officer:	Sarah van Meurs (report prepared by Alex Winfield)
Application Number:	2017-355
Applicant Name:	HDN Building Design
Date Received:	15-Nov-2017
Land/Address:	16 Maude Street SHEPPARTON VIC 3630
Zoning & Overlays:	Residential Growth Zone No Overlays
Why is a permit required (include Permit Triggers):	32.07-3 – subdivision in the Residential Growth Zone 32.07-5 – construction of two or more dwellings on a lot
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No
Was the correct application fee paid?	No paid \$1044.80 1,265.60 owing

Proposal

The application for a planning permit proposes the construction of three dwellings and a three lot subdivision.

Dwelling one will be single storey and will be sited at the Maude Street frontage and be provided with its own vehicle access to the street. This dwelling will contain three bedrooms and be provided with an attached double garage. North facing kitchen, living and alfresco areas are provided with a northern orientation. The dwelling will be provided with a rendered brick façade and a pitched, hipped colorbond roof.

Dwellings two and three will be to the rear of dwelling one sited along the length of the lot, with dwelling three at the rear of the site. Both of these dwellings will present to and be provided with vehicle access to the proposed common property driveway along the southern boundary of the site.

Dwelling two will be a single storey dwelling and will also contain three bedrooms and an attached double garage. The kitchen, living and dining areas along with the alfresco area are north facing. The dwelling will be rendered brickwork on its front elevation and line boards to the other elevations. The roof will be a pitched, hipped form.

Dwelling three is at the rear of the site and is a two storey dwelling. This dwelling has a single bedroom downstairs along with open plan living areas and north oriented alfresco / open space, and an attached double garage. Two additional bedrooms are provided at first floor level (three bedroom dwelling in total). This dwelling will have rendered brickwork to the common property areas with line boards for the balance and the upper floors. The roof form will also be pitched and hipped.

An amendment to the plans was made after notice was given under section 57A to include additional wall on the northern boundary to the alfresco area of dwelling one.

Summary of Key Issues

The application proposes the development of three dwellings and a three lot subdivision at 16 Maude Street, Shepparton.

The site is located within an area zoned Residential Growth and identified in the GSHS as being within an identified "Substantial Change Area", with significant capacity to accommodate substantial residential development that will support increased housing diversity.

The key considerations for this application are:

- Whether the proposal is consistent with the purposes of the Residential Growth Zone.
- Whether the proposal is consistent with the relevant objectives of Clause 55 (ResCode – Two or more dwellings on a lot) and Clause 56 (ResCode – Residential subdivision) of the Greater Shepparton Planning Scheme.
- Whether the proposal will result in any adverse amenity outcomes for the adjoining properties, particularly with respect to overshadowing and daylight to existing north facing windows.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2017-355** 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 **Clause 32.07-3 and Clause 32.07-5** of the Greater Shepparton Planning Scheme in respect of the land known and described as **16 Maude Street SHEPPARTON VIC 3630**, for the **Construction of three Townhouses and three lot subdivision** in accordance with the Notice of Decision and the endorsed plans.

Moved by Colin Kalms

Seconded by Veronica Schilling

That Council having caused notice of Planning Application No. **2017-355** 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 **Clause 32.07-3 and Clause 32.07-5** of the Greater Shepparton Planning Scheme in respect of the land known and described as **16 Maude Street SHEPPARTON VIC 3630**, for the **Construction of three Townhouses and three lot sub-division** 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: 22 January 2018

Time: 10 am

The site has a frontage to Maude Street of approximately 19 metres and a depth of approximately 59 metres, giving the site a total area of approximately 1,000 square metres and is currently vacant land.

The land is oriented generally east-west along its longest axis. The land is generally flat.

A sewer line is shown on the application plans as running along the rear boundary of the site.

Drainage infrastructure is located in Maude Street in front of the site.

The street and rear boundaries of the site are unfenced. Colorbond fencing 1800 mm high is present on both side property boundaries.

As the site is vacant, no vehicle access to the property exists. A concrete footpath is located across the Maude Street frontage of the property. A single street tree is located on the nature strip generally centrally along the frontage of the site.

The main characteristics of the surrounding area are:

- The land adjoining the site to the north at 14 Maude Street is similar in size and orientation to the application site and is developed with three dwellings. The dwellings have a generally similar siting / layout to this proposed under this application, with one dwelling presenting to the street and two additional dwellings to the rear presenting to / accessed via common property that runs along the southern boundary of the site. The dwellings are all single storey brick homes and have pitched, hipped roof forms.
- The adjoining land to the south at 18 Maude Street is also similar in size and orientation to the application site and is developed with three dwellings. One dwelling presents to the street at the site frontage and the two rear dwellings present to common property driveway running along the northern property boundary. These dwellings are single storey and are rendered brick with pitched, hipped roofs.
- Other properties in the immediate vicinity of the site on this western side of Maude Street are summarised as:
 - Three dwelling development at 20 Maude Street
 - Country Home Motor is sited to the north (extending through to Wyndham Street)
 - Additional unit developments at 4, 26, 28 and 32 Maude Street.
 - Single dwellings on those lots not occupied by multi dwelling developments.
 - Mix of single dwelling and multi dwelling developments on the opposite side of Maude Street, including multi dwelling developments in the immediate vicinity of the site at 13, 17, 19 and 21 Maude Street.
- Properties to the west of the site (presenting to Wyndham Street) fall within the Commercial 1 Zone.
- The land adjoining the site to the west at 15 Wyndham Street is vacant land.

The Photos below show the existing site:



View to the site from Maude Street.



View south west along the southern boundary of the site, towards the objector's property.



View north west along the northern boundary of the site.



View along the driveway of 18 Maude Street to the objectors property at the rear (3/18 Maude Street)

Objections

As a result of the advertising process, one objection to the proposal was received.

The key issues that were raised in the objection are as follows:

Ground of Objection	Officer's Response
<p>Second storey element will impact amenity of garden area of Unit 3/18 Maude Street.</p>	<p>The application was accompanied by Overshadowing diagrams that illustrate the impact of the proposed dwelling on adjoining open space areas.</p> <p>The 9am and 3pm shadow diagrams indicate that the shadow extents from the proposed dwelling will be equal to or less than the shadow cast by the existing boundary fencing.</p> <p>The 12pm shadow plans were incorrectly scaled and as a result were greater than what would actually occur. Corrected shadow diagrams were provided by the applicant and given to the objector. Revised plans suggest less shadow for dwelling and fence, and dwelling not exceeding fence shadow.</p> <p>As the extent of shadow created by the proposed development is no greater than that cast by the existing boundary fences, the proposal will also comply with the Overshadowing existing open space objective of ResCode.</p>
<p>Impact on amenity of living area of Unit 3/18 Maude Street through loss of sunlight into existing living areas.</p>	<p>The objector has north facing habitable room windows presenting towards the proposed development.</p> <p>The North facing windows objective of ResCode deals with this situation, and seeks to allow adequate solar access to existing north facing habitable room windows.</p> <p>The objector has a habitable room window within 3 metres of the boundary. The proposed wall adjacent the window has a height of less than 3 metres.</p> <p>The ResCode standard requires that where a north-facing habitable room window of an existing dwelling is within 3 metres of a boundary of an abutting lot, a building should be setback from the boundary by 1 metre, plus 0.6 metre for every metre height over 3.6 metres, for a distance of 3 metres from the edge of each side of the window.</p> <p>Under the ResCode formula, the proposed dwelling requires a setback from the boundary of 1 metre.</p> <p>The dwelling is setback from the boundary by a minimum of 1.2 metres.</p> <p>As the proposal satisfies the North facing windows objective of</p>

	ResCode, it is considered that the proposal will achieve a satisfactory outcome with respect to any potential impact of loss of sunlight to existing living areas.
Impact on energy costs.	As the proposal complies with the relevant amenity considerations of ResCode, it is not considered that the proposal could be refused on the basis of any potential impact on energy costs arising from the need for the objector to heat their home.

Title Details

The land is described as Lot 40 on Plan of Subdivision 003035.

The title does not contain a Restrictive Covenant or Section 173 Agreement. There are no easements or other restrictions shown on the Title Plan to the land.

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Email on 12/12/2017 from applicant providing revised plan to include fire rated wall along the northern property boundary for townhouse one to comply with building code.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
Powercor	66	Determining	<p>No objections to the proposal subject to standard servicing conditions:</p> <ol style="list-style-type: none"> 1. 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. 2. The applicant shall:- <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. - The applicant shall provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required. - Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations. - Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
GVW	66	Determining	<p>No objections to the proposal were received from GVW subject to generally standards permit conditions:</p>

			<p>(a) Payment of new customer contribution charges for water supply to the development, such amount being determined by the Corporation at the time of payment;</p> <p>(b) Provision of separate water services and individual water supply meters to each allotment within the development;</p> <p>(c) 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;</p> <p>(d) Payment of new customer contributions charges for sewerage services to the development, such amount being determined by the Corporation at the time of payment;</p> <p>(e) Provision of reticulated sewerage and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation.</p> <p>In the case of multi-tenement development, the works required are to be carried out in accordance with AS 3500.2 - 'Sanitary plumbing and drainage', and include disconnection of any existing house connection drain to the satisfaction of the Corporation's Property Services Section;</p> <p>(f) Disconnection of any existing house connection drain, and each allotment to be independently and directly connected to a sewer main of the Goulburn Valley Region Water Corporation;</p> <p>(g) Provision of easements in favour of the Goulburn Valley Region Water Corporation over all existing and proposed sewer mains located within private property;</p> <p>(h) A notation is to be placed on the plan of subdivision to note that pursuant to Section 12(2) of the Subdivision Act 1988, there exists "implied easements" over all of the allotments and the common property within the development; Alternatively, the developer is to provide a two metre wide sewerage easement over the common portion of the house connection drain, in favour of the benefiting land, to the satisfaction of the Goulburn Valley Region Water Corporation;</p>
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			(i) 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.
APA Group	66	Determining	The application was referred to the APA who did not respond within the required time frame and therefore consent has been deemed.

Section 52 - Notice Authority	Advice/Response/Conditions
No section 52 notices are required	Not applicable.

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	No objections to the proposal were received from Council's Development Engineers. Generally standard conditions on the permit have been required by Engineers. Standard conditions have been slightly amended and included on the notice of decision.

Assessment

The zoning of the land

The land is located in the Residential Growth Zone 1 (RGZ1 – Residential Growth Areas).

The purposes of the zone includes to provide housing at increased densities in buildings up to and including four storey buildings, to encourage a diversity in housing types in locations offering good access to services and transport including activity centres and town centres, and to encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.

Clause 32.07-3 of the Residential Growth Zone identifies that a permit is required to subdivide land. An application must meet the requirements of Clause 56 (ResCode – Residential subdivision).

An application for subdivision is exempt from Notice and Review under Clause 32.07-11 of the Zone.

Clause 32.07-5 of the Zone identifies that a permit is required to construct two or more dwellings on a lot. A development must meet the requirements of Clause 55 (ResCode – Two or more dwellings on a lot).

Schedule 1 to the Residential Growth Zone does not specify any variations to the requirements of Clause 55.

The Zone identifies a number of Decision Guidelines, identified and responded to as follows:

General

- *The State and Local Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*

The relevant provisions of the Scheme are addressed later in this report. The proposal is considered to be consistent with the relevant State and Local Planning Policy frameworks.

▪ *The purposes of this zone.*

The proposed development of three dwellings is consistent with the purposes of the zone that seek to encourage diversity of housing types in appropriate locations.

▪ *The objectives set out in a schedule to this zone.*

Not applicable as no objectives are specified in Schedule 1 to the Residential Growth Zone.

▪ *Any other decision guideline set out in a schedule to the zone.*

Not applicable as no decision guidelines are set out in Schedule 1 to the Residential Growth Zone.

Subdivision

▪ *The pattern of subdivision and its effect on the spacing of buildings.*

The subdivision application is accompanied by a development application showing the development of three new dwellings. Officers are satisfied that the proposed development will result in an appropriate built form outcome having regard to the zoning of the land and the site and its context (i.e. the development is a satisfactory design response for the land).

▪ *For subdivision of land for residential development, the objectives and standards of Clause 56.*

The application has been considered against the relevant objectives, standards and decision guidelines of Clause 56 of the Scheme (see later discussion for details). The proposal is considered to comply with Clause 56 of ResCode.

Dwellings and residential buildings

▪ *For the construction of one dwelling on a lot, whether the development is an under-utilisation of the lot.*

Not applicable as the proposal is for three dwellings on the land.

▪ *For the construction and extension of one dwelling on a lot, the objectives, standards and decision guidelines of Clause 54.*

Not applicable as the proposal is not for a single dwelling.

▪ *For the construction and extension of two or more dwellings on a lot, dwellings on common property and residential buildings, the objectives, standards and decision guidelines of Clause 55. This does not apply to an apartment development of five or more storeys, excluding a basement.*

The application has been considered against the relevant objectives, standards and decision guidelines of Clause 55 of the Scheme (see later discussion for details). The proposal is considered to comply with Clause 55 of ResCode.

▪ *For the construction and extension of an apartment development of five or more storeys, excluding a basement, the objectives, standards and decisions guidelines of Clause 58.*

Not applicable as the proposal is not for an apartment development of five or more storeys.

Non-residential use and development

As the proposal is for residential development only, these considerations are not applicable to this development.

Relevant overlay provisions

The land is not affected by any Overlay controls under the provisions of the Greater Shepparton Planning Scheme

The State Planning Policy Framework (SPPF)

Clause 11.01-1 aims to promote the sustainable growth of Victoria. The major regional areas, including Shepparton, are to be the focus of investment and growth as it is a place of State significance.

Clause 16 – Housing seeks to provide for housing diversity, and ensure the efficient provision of supporting infrastructure.

Clause 16.01-2 seeks to locate new housing in or close to activity centres and in urban renewal precincts and sites that offer good access to jobs, services and transport. The proportion of new dwellings in designated locations within established urban areas should be increased, along with encouraging higher density housing development on sites that are well located in relation to jobs, services and public transport.

Clause 16.01-4 aims to provide for a range of housing types to meet increasingly diverse needs. Well-designed medium density housing which respected neighbourhood character, improves housing choice, makes better use of existing infrastructure and improves energy efficient housing is expressly encouraged.

The proposal is consistent with the State Planning Policy objectives to encourage increased housing density in identified locations that are fully serviced with both physical and social infrastructure (i.e. urban consolidation).

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

Clause 21.04-1 – Urban Consolidation and Growth identifies that population forecasts predict that the population of the City will grow from 59,502 persons in 2006 to 71,509 by 2026. It is expected that to accommodate this additional population, there will need to be a corresponding growth in the number of dwellings.

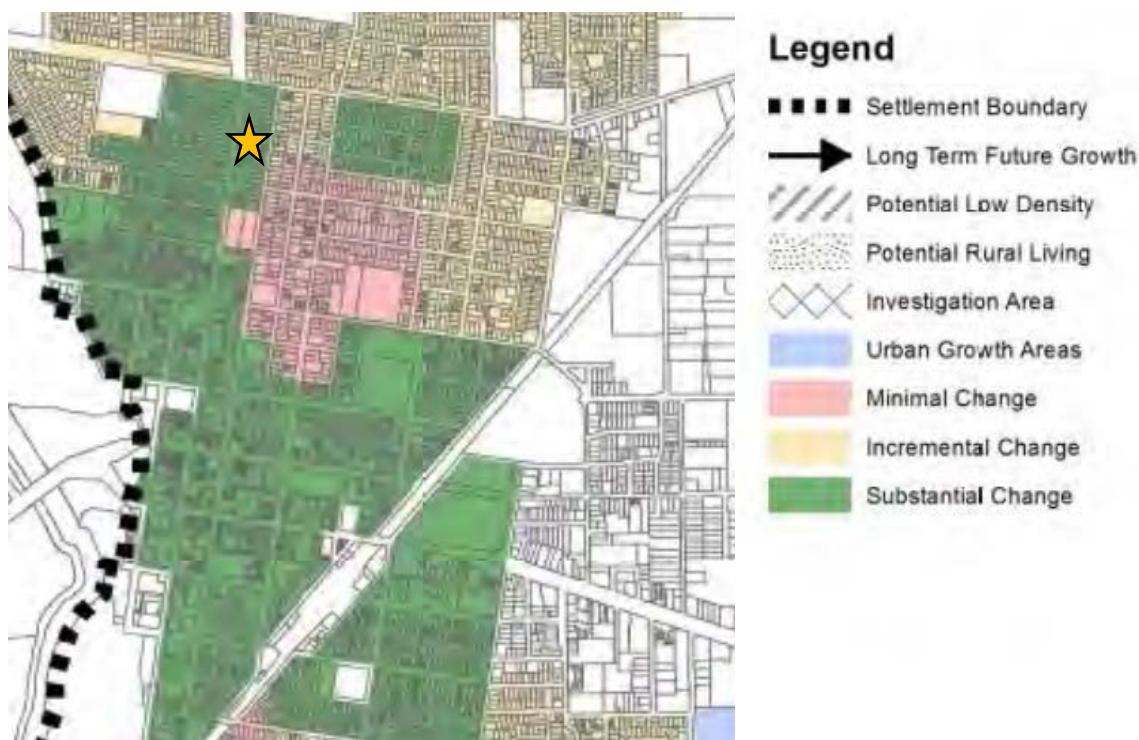
The *Greater Shepparton Housing Strategy 2011* (GSHS) outlines Council's approach to housing delivery and growth in the municipality. A significant portion of the residential growth in the short-medium term will be met by the identified growth corridors, along with the urban areas of Shepparton and Mooroopna.

The proposed development of three dwellings on vacant land within the Residential Growth Zone will contribute to achieving the aim of the Urban Consolidation and Growth Policy, and in particular is consistent with the following identified:

- *To encourage a variety of housing types, particularly in terms of tenure and price, to contribute to housing diversity and affordability.*
- *To provide a greater range of housing choices to attract more people to live in the Shepparton CBD which will support the vibrancy and economy of the CBD.*
- *To make better use of available land by allowing higher scale built form in appropriate locations within the CBD.*
- *To increase the supply of medium density housing in appropriate locations.*
- *To balance the need to achieve urban consolidation with the need to respect and retain the valued characteristics of existing neighbourhoods*

The *Greater Shepparton Housing Strategy 2011* (GSHS) is a reference document listed at Clause 21.10 of the Scheme. The GSHS identifies the site is within an identified “Substantial Change Area” (as shown on the map on the following page). These areas are established residential areas with significant capacity to accommodate substantial residential development, that will support increased housing diversity by encouraging a variety of housing types, styles and configurations in areas close to activity centres, public transport, employment opportunities and open space.

The proposal is consistent with the objectives of the GSHS as it will result in development at a higher density that will maximise development opportunity of the site.



Clause 21.07 – Infrastructure seeks to provide for the appropriate design, management and delivery of infrastructure in the Shire. The *Infrastructure Design Manual* prepared by the Local Government Infrastructure Design Association is a Reference document in the

Planning Scheme. The proposed development, along with standard planning permit conditions, will be consistent with the requirements of the IDM.

Relevant Particular Provisions

Clause 55 (ResCode – Two or More Dwellings on a Lot) applies to the development. An assessment of the proposal against the relevant objectives and standards of Clause 55 is provided as follows.

Objectives	Standards	Compliance
<p>Clause 55.02-1 Neighbourhood Character Objectives To ensure that the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character; To ensure the development responds to the features of the site and surrounding area.</p>	<p>Standard B1 (Cannot be varied) The design response must be appropriate to the neighbourhood and the site. The proposed design must respect the existing or preferred neighbourhood character and respond to the features of the site.</p>	<p>Complies The proposed construction of three additional dwellings on the allotment is consistent with the desired character of the area where an increased density is encouraged and where the surrounding allotments have already been residentially developed, including other similar developments of three dwellings.</p>
<p>Clause 55.02-2 Residential Policy Objectives To ensure that residential development is provided in accordance with any policy for housing in the SPPF and the LPPF including the MSS and local planning policies; To support medium densities in areas where development can take advantage of public transport and community infrastructure and services.</p>	<p>Standard B2 (Cannot be varied) An application must be accompanied by a written statement that describes how the development is consistent with any relevant policy for housing in:</p> <ul style="list-style-type: none"> • the SPPF; and • the LPPF including the MSS; and Local Planning Policies 	<p>Complies The application proposes to provide additional housing variety within the municipality. The subject land is within an identified substantial change area.</p>
<p>Clause 55.02-3 Dwelling Diversity Objective To encourage a range of dwelling sizes and types in development of ten or more dwellings</p>	<p>Standard B3 (Can be varied) Developments of 10 or more dwellings should provide a range of dwelling sizes and types including:</p> <ul style="list-style-type: none"> • dwellings with a different number of bedrooms; and • at least one dwelling with a kitchen, bath or 	<p>N/A Not applicable as the development is for less than 10 dwellings.</p>

Objectives	Standards	Compliance
	<p>shower, and toilet and wash basin at ground floor level.</p>	
<p>Clause 55.02-4 Infrastructure Objectives To ensure development is provided with appropriate utility services and infrastructure; To ensure development does not unreasonably overload the capacity of utility services and infrastructure</p>	<p>Standard B4 (Can be varied) Development should be connected to reticulated services including reticulated sewerage, drainage, electricity and gas if available. Developments should not unreasonably exceed the capacity of utility services and infrastructure, including reticulated services and roads. In areas where utility services or infrastructure have little or no space capacity, developments should provide for the upgrading or mitigation of the impact on services or infrastructure.</p>	<p>Complies The application proposes three dwellings on the lot. The development will provide two new access points to provide vehicle access to the new dwellings. All other infrastructure is existing in the area. Connection to services will be to the requirements and standards of the relevant servicing providers. No objections from the servicing authorities have been received.</p>
<p>Clause 55.02-5 Integration with the Street Objective To integrate the layout of development with the street</p>	<p>Standard B5 (Can be varied) Developments should provide adequate vehicle and pedestrian links that maintain or enhance local accessibility. Dwellings should be orientated to front existing and proposed streets. High fencing in front of dwellings should be avoided if practicable.</p>	<p>Complies Dwelling one at the frontage of the site has been designed and oriented to present to Maude Street. No front fence is proposed.</p>

Objectives	Standards	Compliance
	Development next to existing public open space should be laid out to complement the open space.	
<p>Clause 55.03-1 Street Setback Objective To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</p>	<p>Standard B6 (Can be varied) Walls of buildings should be setback from streets the distance specified in Table B1</p>	<p>Varied A reduced setback is proposed for the unit fronting Maude Street which is proposed to be setback 4 metres instead of 4.5m. This setback is acceptable as the land is within the Substantial Change Area, which encourages increased density housing.</p>
<p>Clause 55.03-2 Building Height Objective To ensure that the height of buildings respects the existing or preferred neighbourhood character.</p>	<p>Standard B7 (Can be varied) The max building height should not exceed 9m, unless the slope of the natural ground level at any cross section wider than 8m of the site of the building is 2.5 degrees or more, in which case the max building height should not exceed 10m. Change of building height between existing buildings and new buildings should be graduated.</p>	<p>Complies Buildings will not exceed 9 metres, satisfying Standard B7. The Schedule to the Residential Growth Zone does not vary the ResCode requirements for Building height. Clause 32.07-8 of the Residential Growth Zone also identifies that the maximum building height is 13.5 metres. All proposed dwellings will also be below this height.</p>
<p>Clause 55.03-3 Site Coverage Objective To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site</p>	<p>Standard B8 (Can be varied) The site area covered by buildings should not exceed 60%.</p>	<p>Complies The overall site area is 1,010 square metres. The buildings will cover 547 square metres being 54% of the site.</p>
<p>Clause 55.03-4 Permeability Objectives To reduce the impact of increased stormwater run-off</p>	<p>Standard B9 (Can be varied) At least 20% of the site should not be covered by</p>	<p>Complies The total impermeable site area is 764 square metres, which equates to</p>

Objectives	Standards	Compliance
<p>on the drainage system; To facilitate on-site stormwater infiltration.</p>	<p>impervious surfaces.</p>	<p>approximately 76% of the site. Over 20% of the site will be permeable in accordance with Standard B9.</p>
<p>Clause 55.03-5 Energy Efficiency Objectives To achieve and protect energy efficient dwellings and residential buildings; To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy</p>	<p>Standard B10 (Can be varied) Buildings should be:</p> <ul style="list-style-type: none"> • Orientated to make appropriate use of solar energy. • Sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced. • Living areas and private open space should be located on the north side of the dwelling, if practicable. <p>Developments should be designed so that solar access to north-facing windows is maximised.</p>	<p>Complies The proposed development responds well to the orientation of the site. Living areas and SPOS areas of all dwellings are located on northern side of the buildings. The common property driveway will be located along the southern boundary of the site.</p>
<p>Clause 55.03-6 Open Space Objective To integrate the layout of the development with any public or communal open space provided in or adjacent to the development</p>	<p>Standard B11 (Can be varied) Any public or communal open space should:</p> <ul style="list-style-type: none"> • be substantially fronted by dwellings, where appropriate; • provide outlook for as many dwellings as practicable • be designed to protect any natural features on the site; and • be accessible and useable. 	<p>N/A There is to be no communal open space as part of this development. Public space is located throughout Shepparton.</p>
<p>Clause 55.03-7 Safety Objective To ensure the layout of development provides for the safety and security of residents and property</p>	<p>Standard B12 (Can be varied) Entrances to dwellings and residential buildings should not be obscured or isolated from the street and internal accessways. Planting which creates</p>	<p>Complies The entrance from the front dwelling is visible from the street. The entrance to the second and third dwellings is not visible to from the street,</p>

Objectives	Standards	Compliance
	<p>unsafe spaces along streets and accessways should be avoided.</p> <p>Developments should be designed to provide good lighting, visibility and</p> <p>surveillance of car parks and internal accessways.</p> <p>Private spaces within developments should be protected from inappropriate use as public thoroughfares.</p>	<p>however views are available from the windows of both dwellings over the accessway to provide a level of surveillance.</p>
<p>Clause 55.03-8 Landscaping Objectives</p> <p>To encourage development that respects the landscape character of the neighbourhood;</p> <p>To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance;</p> <p>To provide appropriate landscaping;</p> <p>To encourage the retention of mature vegetation on the site</p>	<p>Standard B13 (Can be varied)</p> <p>Landscape layout and design.</p>	<p>Able to Comply through permit conditions</p> <p>The provided plan shows limited landscaping on the subject site.</p> <p>It is recommended that a condition be imposed on any permit to issue requiring a landscape plan to be prepared.</p>
<p>Clause 55.03-9 Access Objectives</p> <p>To ensure vehicle access to and from a development is safe, manageable and convenient;</p> <p>To ensure the number and design of vehicle crossovers respects the neighbourhood character</p>	<p>Standard B14 (Can be varied)</p> <p>Accessways should:</p> <ol style="list-style-type: none"> 1. Be designed to allow convenient, safe and efficient vehicle movements and connections within the development and to the street network. 2. Be designed to ensure vehicles can exit a development in a forwards direction if the accessway serves 5 or more car spaces, 3 or more dwellings, or connects to a road in a Road Zone. 3. Be at least 3m wide. 4. Have an internal radius 	<p>Complies</p> <p>Council's Development Engineers have reviewed the proposal and are satisfied with the access arrangements.</p> <p>Driveways widths provided appropriate.</p> <p>Turning movements provided on plans.</p> <p>Vehicle crossing permits will be required to create the new access to the development.</p>

Objectives	Standards	Compliance
	<p>of at least 4m at changes of direction.</p> <p>5. Provide a passing area at the entrance that is at least 5m wide and 7m long if the accessway serves 10 or more spaces and connects to a road in a road zone.</p> <p>6. The width of accessways or car spaces should not exceed:</p> <ul style="list-style-type: none"> • 33% of the street frontage if the width of the street frontage is more than 20m; or • 40% of the street frontage if the width of the street frontage is less than 20m. 	
<p>Clause 55.03-10 Parking Location Objectives</p> <p>To provide for convenient parking for residents and visitor vehicles;</p> <p>To avoid parking and traffic difficulties in the development and the neighbourhood;</p> <p>To protect residents from vehicular noise within developments</p>	<p>Summary of Standard B15 (Can be varied)</p> <p>Car parking facilities should: Be reasonably close and convenient to dwellings and residential buildings;</p> <ul style="list-style-type: none"> • Be secure; • Be designed to allow safe and efficient movements within the development. • Be well ventilated if enclosed. • Large parking areas should be broken up with trees, buildings or different surface treatments. • Shared accessways or car parks of other dwellings and residential buildings should be located at least 1.5m from habitable room windows. This setback may be reduced to 1m where there is a fence at least 1.5m high or where window sills are at least 	<p>Complies</p> <p>All proposed dwellings are provided with attached garages providing parking for two dwellings. Provision and location of car parking is convenient for three bedroom dwellings.</p> <p>Windows of dwelling one sited within 1.5 metres of the access are provided with a fence separating them from the accessway.</p> <p>Windows of dwellings two and three have been provided with sill heights of 1.4 metres above ground level in accordance with the standard to protect residents from vehicular noise.</p>

Objectives	Standards	Compliance
	1.4m above the accessway.	
<p>Clause 55.04-1 Side and Rear Setbacks Objective To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</p>	<p>Summary of Standard B17 (variable) New building not on, or within 150 mm of boundary should be setback from side or rear boundaries:</p> <ul style="list-style-type: none"> • 1m, plus 0.3m for every metre height over 3.6m up to 6.9m, plus 1m for every metre height over 6.9m. • Sunblinds, verandahs, porches, eaves, gutters etc may encroach not more than 0.5m into the setbacks of this standard. 	<p>Complies Units 1 and 2 are setback at least 2 metres from the boundary and are single storey (except where the unit 1 garage abuts the boundary).</p> <p>The two storey component of unit 3 is setback from the western boundary by 2.5 metres with the eave height under 6.9 metres.</p> <p>Setback diagrams have been included on the elevation plans.</p>
<p>Clause 55.04-2 Walls on Boundaries Objective To ensure that the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</p>	<p>Standard B18 (Can be varied) New wall on or within 200mm of a side or rear boundary of a lot, or a carport on or within 1m of a side or rear boundary should not abut the boundary for a length of more than:</p> <ul style="list-style-type: none"> • 10m plus 25% of the remaining length of the boundary of an adjoining lot; or the length of an existing or simultaneously constructed wall or carport whichever is the greater. • A new wall or carport may fully abut a side or rear boundary where the slope and retaining walls would result in the effective height of the wall or carport being less than 2m on the abutting property boundary. • A building on a boundary includes a building up to 150mm from a boundary. 	<p>Complies Total length of wall on northern boundary for unit 1 is less than 10 metres. There are no other walls on existing boundaries.</p> <p>An adjoining wall will be placed on the new boundary between units 2 and 3 which will be less than 10 metres.</p>

Objectives	Standards	Compliance
	<ul style="list-style-type: none"> • New walls on or within 150mm of a side or rear boundary of a lot, or a carport on or within 1m • of a side or rear boundary should not exceed an average of 3m height, with no part higher than 3.6m, unless abutting a higher existing or simultaneously constructed wall. 	
<p>Clause 55.04-3 Daylight to existing windows objective To allow adequate daylight into existing habitable room windows.</p>	<p>Standard B19 (Can be varied) Buildings opposite an existing habitable room window should provide for a light court to the existing window, of at least 3m² and 1m clear to the sky. The area may include land on the abutting lot. Walls or carports more than 3m high opposite an existing habitable room window should be setback from the window at least 50% of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the existing window. Note: Where the existing window is above ground level, the wall height is measured from the floor level of the room containing the window.</p>	<p>Complies There are no existing habitable room windows within 3 metres of the proposed buildings. The nearest habitable room to the development is located to the south, being unit 3/18 Maude Street. This window is offset 1.9 m from the common boundary. The dwelling three is proposed to be 1.2 m off the common boundary, providing a separation of 3.1 m separation between the new building and the existing habitable room window.</p>
<p>Clause 55.04-4 North-facing windows objective To allow adequate solar access to existing north-</p>	<p>Standard B20 (Can be varied) If a north-facing habitable room window of an existing dwelling is within 3m of a</p>	<p>Complies The existing dwelling to the south of unit three has a habitable room window within 3 metres of the boundary.</p>

Objectives	Standards	Compliance
facing habitable room windows.	boundary of an abutting lot, a building should be setback from the boundary: <ul style="list-style-type: none"> 1m, plus 0.6m for every metre height over 3.6m up to 6.9m, plus 1m for every metre height over 6.9m, for a distance of 3m from the edge of each side of the window. 	Unit 3 will be setback from this boundary by a minimum of 1.2 metres. The part of unit three closest to this boundary is single storey with an eave height of under 3 metres.
<p>Clause 55.04-5 Overshadowing open space objective To ensure buildings do not significantly overshadow existing secluded private open space.</p>	<p>Standard B21 (Can be varied) Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75%, or 40m² with a minimum dimension of 3m, whichever is the lesser area, of the secluded open space should receive a minimum of 5 hours sunlight between 9am and 3pm at 22 September. If existing sunlight to the secluded private open space of a dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.</p>	<p>Complies Overshadowing diagrams submitted which identify that the two front units of southern land will not be impacted.</p> <p>Overshadowing diagrams show that part of the SPOS of the third unit will be impacted. However this unit is provided with an unaffected area along the western boundary of the unit.</p> <p>The original overshadowing plans provided and advertised were incorrectly scaled and as a result showed overshadowing of a north facing window to a greater extent than will occur. As a result the applicant submitted revised overshadowing diagrams. In all instances (9am, 12pm and 3pm) the shadowing created by the proposed dwelling (including the second storey component where the overall height dwelling is 7.687m) is less than the shadowing created by the boundary fence. It is also noted the existing fence in this location is 2.1 metres in height. This portion of fence is proposed to be retained and the</p>

Objectives	Standards	Compliance
		<p>remainder of the boundary fencing will be 1.8m in height.</p> <p>The area to the rear of the objector's property is less than 3m and therefore cannot be used to satisfy the standard.</p> <p>On the basis that the proposed development would then be no worse than the fence shadows at 9am, 12pm and 3pm, the proposal would comply with ResCode as irrespective of the amount of open space the adjoining dwelling has, the daylight to the open space would not be reduced by the development.</p>
<p>Clause 55.04-6 Overlooking objective To limit views into existing secluded private open space and habitable room windows.</p>	<p>Standard B22 (Can be varied) Habitable room windows, balconies, terraces etc should be located and designed to avoid direct view to secluded private open space and habitable room windows of an existing dwelling within 9m distance, and a 45 degree arc from the window, balcony etc.</p>	<p>Complies Units 1 and 2 are single storey and overlooking cones for unit 3 only show overlooking as a concern within the development that is addressed through internal fencing.</p>
<p>Clause 55.04-7 Internal Views Objective To limit views into the secluded private open space and habitable room windows of dwellings and residential buildings with a development</p>	<p>Standard B23 (Can be varied) Windows and balconies should be designed to prevent overlooking of more than 50% of the secluded private open space of a lower-level dwelling or residential building directly below and in the same development.</p>	<p>Complies Units 1 and 2 are single storey. Unit 3's view into the SPOS of unit 2 will be screened by a 1.8 metre high fence.</p>
<p>Clause 55.06-3 Common Property Objectives To ensure that communal open space, car parking,</p>	<p>Standard B33 (Can be varied) Developments should clearly delineate public, communal and private areas.</p>	<p>Common Property Common property area to be managed with owner corporation through plan of subdivision.</p>

Objectives	Standards	Compliance
<p>access areas and site facilities are practical, attractive and easily maintained; To avoid future management difficulties in areas of common ownership</p>	<p>Common property where provided, should be functional and capable of efficient management.</p>	
<p>Clause 55.06-4 Site Services Objectives To ensure that site services can be installed and easily maintained; To ensure that site facilities are accessible, adequate and attractive</p>	<p>Standard B34 (Can be varied) The design and layout of dwellings and residential buildings should provide sufficient space (including easements where required) and facilities for services to be installed and maintained efficiently and economically. Bin and recycling enclosures, mailboxes and other site facilities should be adequate in size, durable, waterproof and blend in with the development. Bin and recycling enclosures should be located for convenient access by residents. Mailboxes should be provided and located for convenient access as required by Australia Post</p>	<p>Complies The proposed dwellings are appropriately located to allow for the provision of connection to services and the location of mailboxes.</p>

Clause 56 (ResCode – Residential Subdivision) also applies to the development.

Title and objective	Standard	Complies/ Does Not Comply/ Variation Required
<p>C6</p> <p>Neighbourhood Character Objective</p> <p>To design subdivision that respond to neighbourhood character.</p>	<ul style="list-style-type: none"> Respect the existing neighbourhood character or achieve a preferred neighbourhood character consistent with any relevant neighbourhood character objective, policy or statement set out in this scheme. Respond to and integrate with the surrounding urban environment. Protect significant vegetation and site features. 	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>The subject land is identified within the substantial change area of the housing strategy which seeks to allow for increased densities.</p>
<p>C8</p> <p>Lot area and building envelopes objective</p> <p>To provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features.</p>	<p>Lots of between 300 square metres and 500 square metres should:</p> <ul style="list-style-type: none"> Contain a building envelope that is consistent with a development of the lot approved under this scheme, or <p>If no development of the lot has been approved under this scheme, contain a building envelope and be able to contain a rectangle measuring 10 metres by 15 metres, or 9 metres by 15 metres if a boundary wall is nominated as part of the building envelope.</p> <p>If lots of between 300 square metres and 500 square metres are proposed to contain dwellings that are built to the boundary, the long axis of the lots should be within 30 degrees east and 20 degrees west of north unless there are significant physical constraints that make this difficult to achieve.</p>	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>The proposal creates allotments with appropriate areas and orientation to enable the appropriate siting and construction of dwellings.</p> <p>This is demonstrated through the plans that seek approval for the development of three dwellings.</p>
<p>C9</p> <p>Solar Orientation of lots</p> <p>To provide good solar orientation of lots and solar access for future dwellings.</p>	<ul style="list-style-type: none"> Unless the site is constrained by topography or other site conditions, at least 70 percent of lots should have appropriate solar orientation. Lots have appropriate solar orientation when: 	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>Allotments orientated with north south orientation similar to all</p>

	<ul style="list-style-type: none"> - The long axis of lots are within the range north 20 degrees west to north 30 degrees east, or east 20 degrees north to east 30 degrees south. • Lots between 300 square metres and 500 square metres are proposed to contain dwellings that are built to the boundary, the long axis of the lots should be within 30 degrees east and 20 degrees west of north. <p>Dimensions of lots are adequate to protect solar access to the lot, taking into account likely dwelling size and the relationship of each lot to the street</p>	surrounding allotments.
<p>C11</p> <p>Common Area</p> <p>To identify common areas and the purpose for which the area is commonly held.</p> <p>To ensure the provision of common area is appropriate and that necessary management arrangements are in place.</p> <p>To maintain direct public access throughout the neighbourhood street network.</p>	<ul style="list-style-type: none"> • An application to subdivide land that creates common land must be accompanied by a plan and a report identifying: <ul style="list-style-type: none"> - The common area to be owned by the body corporate, including any streets and open space. - The reasons why the area should be commonly held. - Lots participating in the body corporate. <p>The proposed management arrangements including maintenance standards for streets and open spaces to be commonly held.</p>	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>Plan submitted which shows a small area of common property to be used for access purposes only.</p> <p>Common property is able to be managed through standard body corporate arrangements.</p>
<p>C21</p> <p>Lot Access</p> <p>To provide for safe vehicle access between roads and lots.</p>	<ul style="list-style-type: none"> • Vehicle access to lots abutting arterial roads should be provided from service roads, side or rear access lanes, access places or access streets where appropriate and in accordance with the access management requirements of the relevant roads authority. • Vehicle access to lots of 300 square metres or less in area and lots with a frontage of 7.5 metres or less should be provided via rear or side access lanes, places or streets. <p>The design and construction of a crossover should meet the requirements of the relevant road authority.</p>	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>Unit 1 will be provided with its own crossover, whilst units 2 and 3 will share a crossover all of which will be required to be constructed to Council standards.</p> <p>Council's Development Engineers have consented to the application with standard conditions requiring vehicle crossing permits.</p>
<p>C22</p>	<ul style="list-style-type: none"> • The supply of drinking water must be: <ul style="list-style-type: none"> - Designed and constructed in 	<p><input type="checkbox"/> Complies</p>

<p>Drink Water supply</p> <p>To reduce the use of drinking water.</p> <p>To provide an adequate, cost-effective supply of drinking water.</p>	<p>accordance with the requirements and to the satisfaction of the relevant water authority.</p> <ul style="list-style-type: none"> - Provided to the boundary of all lots in the subdivision to the satisfaction of the relevant water authority. 	<p>Comments:</p> <p>The proposed lots will have independent connections to reticulated town water to the satisfaction of Goulburn Valley Regional Water Corporation.</p>
<p>C23</p> <p>Reused and recycled water</p> <p>To provide for the substitution of drinking water for non-drinking purposes with reused and recycled water.</p>	<ul style="list-style-type: none"> • Reused and recycled water supply systems must be: <ul style="list-style-type: none"> - Designed, constructed and managed in accordance with the requirements and to the satisfaction of the relevant water authority, Environment Protection Authority and Department of Human Services. Provided to the boundary of all lots in the subdivision where required by the relevant water authority. 	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>The proposed lots will be connected to the reticulated water and sewer systems so as to make efficient use of existing infrastructure to the satisfaction of the Goulburn Valley Regional Water Corporation.</p>
<p>C24</p> <p>Waste Water Management</p> <p>To provide a waste water system that is adequate for the maintenance of public health and the management of effluent in an environmentally friendly manner.</p>	<ul style="list-style-type: none"> • Waste water systems must be: <ul style="list-style-type: none"> - Designed, constructed and managed in accordance with the requirements and to the satisfaction of the relevant water authority and the Environment Protection Authority. - Consistent with any relevant approved domestic waste water management plan. <p>Reticulated waste water systems must be provided to the boundary of all lots in the subdivision where required by the relevant water authority.</p>	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>Reticulated Sewage is provided to the land and each proposed lot can easily be connected to the satisfaction of the Goulburn Valley Regional Water Corporation.</p>
<p>C25</p> <p>Urban Run-off Management</p> <p>To minimise damage to properties and inconvenience to residents from urban run-off.</p> <p>To ensure that the street operates adequately during major storm events and provides for public safety.</p> <p>To minimise increases in stormwater run-off and protect the environmental values and physical characteristics of receiving waters from degradation by urban run-off.</p>	<ul style="list-style-type: none"> • The urban stormwater management system must be: <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. - Designed to meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater – Best Practice Environmental Management Guidelines (Victorian Stormwater Committee 1999) as amended. - Designed to ensure that flows downstream of the subdivision site are restricted to 	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>Council's Development Engineers have responded to the development application and consented to the application subject to generally standard conditions.</p> <p>Drainage plans will need to be submitted show incorporation of WSUD.</p>

	<p>predevelopment levels unless increased flows are approved by the relevant drainage authority and there are no detrimental downstream impacts.</p> <ul style="list-style-type: none"> • The stormwater management system should be integrated with the overall development plan including the street and public open space networks and landscape design. <ul style="list-style-type: none"> - Ensure every lot is provided with drainage to a standard acceptable to the relevant drainage authority. Wherever possible, run-off should be directed to the front of the lot and discharged into the street drainage system or legal point of discharge. - Include water sensitive urban design features to manage run-off in streets and public open space. Where such features are provided, an application must describe maintenance responsibilities, requirements and costs. 	
<p>C26</p> <p>Site Management</p> <p>To protect drainage infrastructure and receiving waters from sedimentation and contamination.</p> <p>To protect the site and surrounding area from environmental degradation or nuisance prior to and during construction of subdivision works.</p> <p>To encourage the re-use of materials from the site and recycled materials in the construction of subdivisions where practicable.</p>	<ul style="list-style-type: none"> • A subdivision application must describe how the site will be managed prior to and during the construction period and may set out requirements for managing: <ul style="list-style-type: none"> - Erosion and sediment. - Dust. - Run-off. - Litter, concrete and other construction wastes. - Chemical contamination. - Vegetation and natural features planned for retention. <p>Recycled material should be used for the construction of streets, shared paths and other infrastructure where practicable.</p>	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>The proposed subdivision will require the construction of minor works only. Submission of a construction management plan is not considered necessary; however a permit condition will require site management to the Council's satisfaction (eg dust, mud, erosion and sediment control).</p>
<p>C27</p> <p>Shared Trenching</p> <p>To maximise the opportunities for shared trenching.</p>	<ul style="list-style-type: none"> • Reticulated services for water, gas, electricity and telecommunications should be provided in shared trenching to minimise construction costs and land allocation for underground services. 	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>Services should be connected to the site and undergrounded using shared trenching as required by</p>

To minimise constraints on landscaping within street reserves.		condition.
<p>C28</p> <p>Electricity, Telecommunications and Gas</p> <p>To provide public utilities to each lot in a timely, efficient and cost effective manner.</p> <p>To reduce greenhouse gas emissions by supporting generation and use of electricity from renewable sources.</p>	<ul style="list-style-type: none"> • The electricity supply system must be designed in accordance with the requirements of the relevant electricity supply agency and be provided to the boundary of all lots in the subdivision to the satisfaction of the relevant electricity authority. • Arrangements that support the generation or use of renewable energy at a lot or neighbourhood level are encouraged. • The telecommunication system must be designed in accordance with the requirements of the relevant telecommunications servicing agency and should be consistent with any approved strategy, policy or plan for the provision of advanced telecommunications infrastructure, including fibre optic technology. The telecommunications system must be provided to the boundary of all lots in the subdivision to the satisfaction of the relevant telecommunications servicing authority. • Where available, the reticulated gas supply system must be designed in accordance with the requirements of the relevant gas supply agency and be provided to the boundary of all lots in the subdivision to the satisfaction of the relevant gas supply agency. 	<p><input type="checkbox"/> Complies</p> <p>Comments:</p> <p>Service to be connection to the satisfaction of the relevant authorities.</p>

Clause 52.06 – Car parking applies to the development. Before a new use or development is approved, the required level of car parking must be provided on the land. For a dwelling, each dwelling of three or more dwellings must be provided with at least two car parking spaces per dwelling.

For each of the dwellings, an attached double garage has been provided, satisfying the car parking provisions of the Scheme.

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 adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

Response – As identified in this report, the proposal is consistent with the objectives of the Residential Growth Zone. The proposal will also implement the objectives of the relevant state and local planning policy frameworks that seek to promote urban consolidation and the development of medium density housing in locations well serviced by physical and social infrastructure.

The proposed development is consistent with the relevant objectives of ResCode that seeks to protect residential amenity.

In addition, there is no native vegetation on the site and there are no identified hazards on the site being located in an established urban setting.

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 proposed subdivision responds to the proposed development plans that have demonstrated how the land will be developed and how the amenity of the area is able to be appropriately protected. The development is able to be appropriately serviced with all services, and has provided for appropriate on site car parking. The land is suitable for subdivision and the proposal will result in an appropriate planning outcome.

Relevant incorporated or reference documents

The *Greater Shepparton Housing Strategy 2011* (GSHS) is a Reference Document in the Greater Shepparton Planning Scheme. As previously discussed, the GSHS identifies the site is within an identified “Substantial Change Area” where there is significant capacity to accommodate substantial residential development. The proposal is consistent with the GSHS.

Other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

There are no relevant adopted State or strategic policies that relate to this application

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the application?

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

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

It is considered that:

- The land is appropriately zoned for infill residential development.
- State and Local Planning Policies support residential infill development in this location.
- The proposal complies with the relevant objectives and standards of Clause 55 (ResCode – Two or more dwellings on a lot) or Clause 56 (ResCode – Residential subdivision) of the Greater Shepparton Planning Scheme.
- The proposal will not result in any adverse amenity impacts to the adjoining properties, reinforced through the proposal's compliance with the Overshadowing open space and Daylight to existing north facing habitable room windows objectives of ResCode.

Draft Notice Of Decision

APPLICATION NO: 2017-355

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: 16 MAUDE STREET SHEPPARTON VIC 3630

WHAT THE PERMIT WILL ALLOW: BUILDINGS AND WORKS FOR THREE DWELLINGS AND A THREE LOT SUBDIVISION IN THE RESIDENTIAL GROWTH ZONE

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Layout Not Altered

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

2. Drainage Discharge Plan

Before the development of the plan of subdivision commences, 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 which is the stormwater pit in Maude St;
- c) measures to enhance stormwater discharge quality from the site and protect downstream waterways;
- d) maximum discharge rate shall not be more than (37) lit/sec/ha with (12) litres (Tank/Basin) or (14) litres (Pipe) of storage for every square metre of Lot area, in accordance with Infrastructure Design Manual Clause 19 Table 13 (or as agreed in writing by the responsible authority).;
- e) Incorporation of water sensitive urban design in accordance with Clause 20 of

the Infrastructure Design Manual or as otherwise approved in writing by the Responsible Authority; and

- f) Provision of an electronic copy of the MUSIC model (or equivalent) demonstrating the achievement of the required reduction of pollutant removal; to the satisfaction of the Responsible Authority.

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

3. Landscape Plan

Before the development starts a landscape plan prepared by a suitably qualified landscape designer 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 and must be generally in accordance with the landscape concept plan dated **October 2017** prepared by **HDN Building Design**, except that the plan must show:

- a) Additional landscaping to be provided to the front of townhouse one;
- 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) the method of preparing, draining, watering and maintaining the landscaped area;
- e) details of surface finishes of pathways and driveways;
- f) landscaping and planting within all open areas of the site
- g) all areas where vehicle overhang will occur;
- h) all landscaped areas to be used for stormwater retardation;
- i) All species selected must be to the satisfaction of the responsible authority.

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

Before the occupation of the developments 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.

4. Urban Vehicle Crossing Requirements

Before statement of compliance is issued vehicular crossings shall be constructed in accordance with the endorsed plans to the satisfaction of the responsible authority, and must:

- a) be constructed at right angles to the road, and any redundant crossing shall be removed and replaced with concrete (kerb and channel);
- b) be setback a minimum of (insert number) metres from any side-entry pit, power or telecommunications pole, manhole cover or marker, or street tree; and/or

- c) be at least 9 metres apart.

5. Boundary fencing

Before the dwellings are occupied side and rear boundary fencing must be constructed to a height of 1.8m (from finished ground level) consisting of a 1.8 m high colorbond fence and be constructed to enhance the character of the development and to ensure the privacy of adjoining properties. The height, material, type and extent of fencing is to be mutually agreed by all parties and must be erected prior to occupation of the development. The cost of such fencing shall be borne by the developer unless otherwise agreed by the parties to the satisfaction of the responsible authority.

6. Compliance to Development Permit

Before a Statement of Compliance is issued under the *Subdivision Act 1988*,

- a) the works listed in Planning Permit number 2017-355 and shown on the endorsed plans must be completed to the satisfaction of the relevant authority; or
- b) A section 173 agreement entered into in accordance with condition 7 of this permit.

7. Section 173 Agreement

If the owner does not wish to construct the buildings and works as required in the endorsed plans and vehicle crossover prior to 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:

- a) **All subsequent development of the land must accord with the plans and conditions endorsed to planning permit 2017-355.**
- b) **Prior to the occupation of any development on lots 1, 2 or 3, the works (including drainage and vehicle crossovers) approved for that lot, by planning permit 2017-355 must be completed, in accordance with the endorsed plans;**

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.

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 of equivalent to 5 per cent of the site value of all land in the subdivision.

The owner must advise 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. Council Assets

Unless identified in written report, any damage to public infrastructure adjacent to the land at the conclusion of construction on the land will be attributed to the land. The owner/operator of the land must pay for any damage to the Council's assets/Public infrastructure by way of the development or use.

10. Underground Connection

Before the occupation of any of the dwellings, the electricity connection to that dwelling must be undergrounded to the satisfaction of the responsible authority.

11. 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.

12. 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:-
 - i. 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.
 - ii. The applicant shall provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.
 - iii. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
 - iv. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.

13. Goulburn Valley Region Water Corporation Requirements

- a) Payment of new customer contribution charges for water supply to the development, such amount being determined by the Corporation at the time of payment;
- b) Provision of separate water services and individual water supply meters to each allotment within the development;
- c) 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;
- d) Payment of new customer contributions charges for sewerage services to the development, such amount being determined by the Corporation at the time of payment;
- e) Provision of reticulated sewerage and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn

Valley Region Water Corporation.

In the case of multi-tenement development, the works required are to be carried out in accordance with AS 3500.2 - 'Sanitary plumbing and drainage', and include disconnection of any existing house connection drain to the satisfaction of the Corporation's Property Services Section;

- f) Disconnection of any existing house connection drain, and each allotment to be independently and directly connected to a sewer main of the Goulburn Valley Region Water Corporation;
- g) Provision of easements in favour of the Goulburn Valley Region Water Corporation over all existing and proposed sewer mains located within private property;
- h) A notation is to be placed on the plan of subdivision to note that pursuant to Section 12(2) of the Subdivision Act 1988, there exists "implied easements" over all of the allotments and the common property within the development;

Alternatively, the developer is to provide a two metre wide sewerage easement over the common portion of the house connection drain, in favour of the benefiting land, to the satisfaction of the Goulburn Valley Region Water Corporation;
- i) 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. 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 easements 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.

15. 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.

16. Time for Starting and Completion

This permit expires if the development does not start (which includes the certification of the plan of subdivision under the *Subdivision Act, 1988*) within two years of the date of the permit or the development is not completed which includes Statement of Compliance within five years of the date of certification.