

CONFIRMED MINUTES

FOR THE

GREATER SHEPPARTON CITY COUNCIL

DEVELOPMENT HEARINGS PANEL

Meeting No. 4/2018

HELD ON

FRIDAY 6 MAY 2018

AT 10.00AM

IN THE COUNCIL BOARDROOM
90 WELSFORD STREET

CHAIR

Councillor Chris Hazelman

ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 4 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 all minutes will be published on Council’s website.
- 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
- Jonathan Griffin – Team Leader Development, Greater Shepparton City Council
- Nilesh Singh – Manager Development, Benalla Rural City Council
- Emma Kubeil – Manager Sustainable Development, Strathbogie Shire Council

OFFICERS AND OTHERS PRESENT

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

- Grace Docker
- Sarah van Meurs

APOLOGIES

Nil

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Minutes of DHP meeting No. 05/2017 held on Friday 8 December 2017. Minutes have been circulated.

Moved by Emma Kubeil and seconded by Jonathan Griffin that the minutes of the meeting held on 8 December 2017 be adopted.

Carried

Minutes of DHP meeting No. 03/2018 held on Friday 6 April 2018. Minutes have been circulated.

Moved by Colin Kalms and seconded by Jonathan Griffin that the minutes of the meeting held on 8 December 2017 be adopted.

Carried

DECLARATIONS OF CONFLICTS OF INTEREST

No conflicts of interest declared

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 two items listed for consideration in this session of the DHP:

1. Planning permit application 2017-225 seeking permission for the use of the land for materials recycling at 435 Goulburn Valley Highway, Shepparton North.
 2. Planning permit application 2017-66/A seeking permission to amend Planning Permit 2017/66 and remove condition 3, 4 (a) & (b) and make amendments to the preamble at 600 Turnbull Road, Ardmona.
-

10. LATE REPORTS

None

11. NEXT MEETING

To be advised

Meeting concluded at 11.05 am

INDEX

<u>Application No.</u>	<u>Subject Address:</u>	<u>Proposal:</u>	<u>Page No.</u>
2017-225	435 Goulburn Valley Highway, Shepparton North	Seeking permission for the use of the land for materials recycling	3
2017-66/A	600 Turnbull Road, Ardmona	Seeking permission to amend Planning Permit 2017/66 and remove condition 3, 4 (a) & (b) and make amendments to the preamble	27

Application Details:

Responsible Officer:	Grace Docker
Application Number:	2017-225
Applicant Name:	Rose & Co Services Pty Ltd
Date Received:	3 August 2017
Land/Address:	435 Goulburn Valley Highway, Shepparton North
Zoning & Overlays:	Pt. Commercial 2 Zone Pt. Farming Zone (does not apply to area where use is proposed) Pt. Floodway Overlay Pt. Land Subject to Inundation Overlay Abuts a Road Zone Category 1
Why is a permit required (include Permit Triggers):	34.02-1 use of land for materials recycling 53.24-2 reduction of bicycle facilities
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No

Proposal

The application for a planning permit seeks permission for the use of the land for materials recycling, with the application description stating:

Decommission Gas Bottles and Fire Extinguishers.

After further information was submitted, the processes to occur on the land were explained as being:

- The decommissioning of LPG bottles and fire extinguishers that are delivered from the East side of Australia and then when decommissioned transported to a scrap metal wholesaler in Melbourne.

The process of decommissioning involves the punching of a hole in the cylinder and removal of the valves. Deliveries and collections are made by semi-trailers and gas levels on the land are constantly managed to ensure a level of safety.

Summary of Key Issues

- The application for a planning permit proposes the use of the land for materials recycling, comprising the collection and decommissioning of gas bottles and fire extinguishers.
- A further information request was made for the application requirements listed under the resource recovery particular provision, which was complied with.
- The application was advertised to surrounding properties with one objection received from a business operator from another tenancy on the same land.

- The objection raised concerns regarding the impact of gas emissions on employees of the surrounding businesses, the volatility of gas being released near a business which involves welding and the development of residential uses adjacent the subject use in the future.
- The application was referred to the EPA after it was established a works approval would be required. The EPA responded with no objection to the proposal subject to conditions being included on the permit which would regulate the potential offsite amenity impacts.
- With the inclusion of conditions provided by the EPA, and the setback distance between residential land and the proposed use, it is considered that the proposal is acceptable.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2017-225** 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 34.02-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **435 Goulburn Valley Highway, Shepparton North**, for the **use of land for materials recycling** in accordance with the Notice of Decision and the endorsed plans.

Moved by Colin Kalms

Seconded by Nilesh Singh

That Council having caused notice of Planning Application No. **2017-225** 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 34.02-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **435 Goulburn Valley Highway, Shepparton North**, for the **use of land for materials recycling** in accordance with the Notice of Decision, endorsed plans and amendments as detailed below.

Amendment to the Notice of decision as follows:

Remove condition 5 –

Time for Starting and Completion

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

- a) the use is not started within **two (2) years** of the date of this permit.

Condition 2, 3 and 4 to be moved and become Condition 4, 5 and 6.

Addition of new Condition 2 as follows:

Cessation of Use

The use of land for materials recycling, as approved by the permit, must cease within two years of the date of this permit.

Addition of new condition 3 as follows:

Operational Management Plan

Within three months of the date of this permit, an operational management plan for the use of the land for materials recycling, as approved by this permit, must be submitted to the satisfaction of the responsible authority. The use must, at all times, be conducted in accordance with the operational management plan. The operational management plan must include:

- a) hours of operation;
- b) day to day management requirements for the use;
- c) procedures to ensure that no significant adverse amenity impacts occur as a result of the use;
- d) proposed odour and vapour monitoring systems;
- e) staff safety and training procedures;
- f) identification of possible risks and response measures to be implemented.

The operational management plan must include contact details for the relevant supervisor to be contacted in the event of an emergency.

CARRIED

Subject Site & Locality

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

The site has a total area of **approximately 20 hectares** and currently contains:

- A number of sheds/buildings in the south eastern corner of the land occupied by multiple businesses including:
 - o Shepweld;
 - o A bakery distribution business (Wonderwhite);
 - o A Powder Coating business;
 - o A storage shed to the rear (Geoffrey Thompson Holdings).
- The remainder of the land is planted out to orchard.
- Access to the land is provided by one entry/exit on the Goulburn Valley Highway near the southern boundary and an exit only onto the Goulburn Valley Highway to the north of the site.

The main site/locality characteristics are:

- The site abuts Commercial 2 Zoned land to the south which is used and developed by Intercontinental Spares and include the operation of a large scale warehousing facility with three large sheds;
- The land to the north and west of the site is zoned Farming and used for grazing/orchards.
- The site abuts the Goulburn Valley Highway to the east, with land adjacent mostly vacant residential land, except for the existing business of Adanato Sand and Gravel.

The Photos below show the existing site:









Pre-Application Meeting Details

As there been a pre-application meeting? Yes

If yes with Whom? Council's Planning Investigation Officer informed on 19/07/17 that a planning permit would be required for the use of the land for materials recycling.

Permit/Site History

The history of the site includes:

- Planning permit 2003-229 approved an extension to the existing warehouse.
- Planning permits 2000-347 and 1997-75

Further Information

Is further information required for the application? Yes

What additional information is required?

- A full recent copy of title for the land.
- The following applications requirements of the Resource Recovery particular provision:

- A location plan showing the site and surrounding uses including distances to nearby sensitive uses such as residential, hospital or education uses.
- A detailed site plan, showing the layout and height of buildings and works, materials, reflectivity, colour, lighting, landscaping, access roads and parking areas.
- A written report(s) including:
 - Identification of the purpose of the use.
 - A description of the proposal including the materials to be processed, the types of processes to be used and any materials to be stored and handled.
 - Proposed hours of operation.
 - Number of heavy vehicles and any impact of traffic generation on local roads;
 - An assessment of the potential amenity impacts such as noise, odour, emissions to air, land or water, vibration, dust, light spill and visual impact.

What date was the information requested?: 15 August 2017

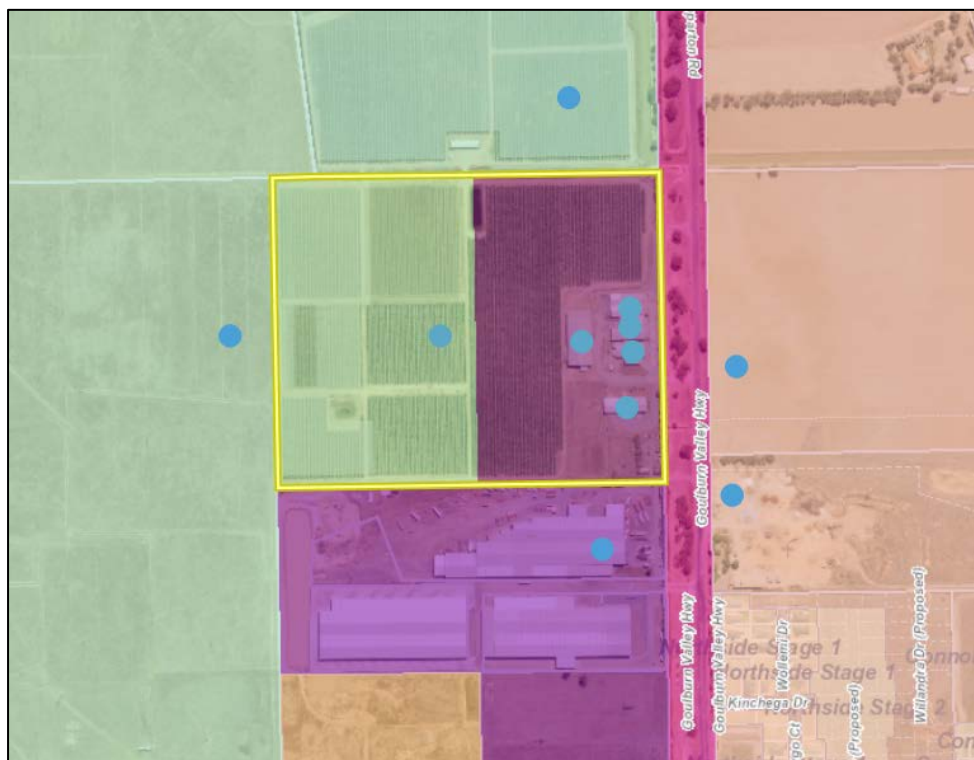
What is the lapsed date? 15 October 2017 (extended)

What date was the information received?: 13 October 2017

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description use of the land for materials recycling (gas canister and fire extinguisher decommissioning), by:

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



Objections

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

- The objector operates a business (structural steel fabricating) to the north of the site where the odour of gas initially caused them to make a complaint to Council as a result of them and their employees experiencing nausea.
- The accumulation of gas in the locality near their business which involves welding creates a dangerous situation.
- The development of residential land adjacent the site should be a concern to council.

Title Details

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

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- Consultation as part of EF-2017-82.
- Telephone conversation with objector on 26 April 2018.
- Meeting with applicant on 26 April 2018.

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
Environmental Protection Authority	66.02-1	Determining	The application was referred to the EPA, who notified Council that a Works Approval Licence was required and thus their response would be a Section 55 authority response. The EPA responded with no objections to the proposal subject to conditions being included on the permit.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
Goulburn Broken Catchment Management Authority	The application was notified to the GBCM, who do not object to the issue of a permit or require any conditions.
Goulburn Murray Water	The application was notified to Goulburn Murray Water, who do not object to the issue of a permit or require any conditions.
Goulburn Valley Water	The application for a planning permit was notified to Goulburn Valley Water who do not object to the proposal, however wish to make the following comments:

	<p><i>All sewerage and sullage emanating from the proposed development shall be adequately treated and managed to prevent transport of nutrients, pathogens and other pollutants to surface waters or impact to groundwater beneficial use and wastewater is retained and disposed of within the boundaries of the allotment in compliance with Clause 32 and 34 of the SEPP - Waters of Victoria and to the satisfaction of the Council's Environmental Health Officer.</i></p> <p><i>Further, in the absence of this reticulated sewerage service, Council must ensure that the treatment and disposal of all wastewater generated by the development can be sustainably treated and disposed of within the site boundaries. The ability of the site to continue to do this and avoid the need for a reticulated sewerage service will partly depend on the nature and extent of future development.</i></p> <p><i>Should the development be deemed by the Responsible Authority to be unsuitable for onsite effluent disposal, the Developer will need to review the proposed arrangements (including configuration, treatment and disposal methods and management practices) to find a suitable development proposal. There is sewer nearby if required. This property benefitted from a neighbouring sewer extension and a benefiting owner's contribution is applicable upon further development of the land.</i></p> <p>The Council's Health Department informed that they would not need to make comment as the works approval would deal with all waste including liquid from the site.</p>
CFA	The application was notified to the CFA who do not object to the issue of a permit subject to conditions.

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
Development Engineers	The application was referred internally to the Council's Development Engineers, who did not object to the issue of a permit subject to conditions. These conditions were related to the development of the site. The application is for use of land as the site has already been developed. Given that there is no development proposed, these engineering conditions have not been included. A conversation was held between the Planning officer and Development Engineering on 26 April 2018 regarding the exclusion of these conditions.

Assessment

The zoning of the land Commercial 2 Zone 34.02

The purpose of the zone is:

- To encourage commercial areas for offices, appropriate manufacturing and industries, bulky goods retailing, other retail uses, and associated business and commercial services.
- To ensure that uses do not affect the safety and amenity of adjacent, more sensitive uses.

Decision Guidelines

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The interface with adjoining zones, especially the relationship with residential areas.
- The effect that existing uses may have on the proposed use.
- The drainage of the land.
- The availability of and connection to services.
- The effect of traffic to be generated on roads.
- The interim use of those parts of the land not required for the proposed use.
- If an industry or warehouse, the effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.

Relevant overlay provisions

Floodway Overlay 44.03

The purpose of the overlay is:

- 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 reflect any declarations under Division 4 of Part 10 of the Water Act, 1989 if a declaration has been made.
- To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

Land Subject to Inundation Overlay 44.04

The purpose of the overlay is:

- To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.

- To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.
- To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

The State Planning Policy Framework (SPPF) Hume Region Growth 11.10

Relevant objectives and strategic include:

- Create renewable energy hubs that support co-location of industries to maximise resource use efficiency and minimise waste generation.
- To focus growth and development to maximise the strengths of existing settlements.
- Support improved access to a range of employment and education opportunities, particularly in key locations such as Shepparton, Wangaratta, Wodonga, Benalla and Seymour.
- Provide for appropriate settlement buffers around sewerage treatment areas, solid waste management and resource recovery facilities and industrial areas to minimise potential impacts on the environment such as noise and odour.
- Support provision of adequate facilities to manage the region's solid waste, including resource recovery facilities.

Noise and Air 13.04

Relevant objectives and strategies include:

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

- Ensure that land-use planning and transport infrastructure provision contribute to improved air quality by:
 - o Integrating transport and land-use planning to improve transport accessibility and connections.
 - o Locating key developments that generate high volumes of trips in the Central Activity District, Principle and Major Activity Centres.
 - o Providing infrastructure for public transport, walking and cycling.
- Ensure, wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses.

Economic Development 17

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

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

Industrial Land Development 17.02-1

Relevant objectives and strategies include:

- Identify land for industrial development in urban growth areas where:
 - o Good access for employees, freight and road transport is available.
 - o Appropriate buffer areas can be provided between the proposed industrial land and nearby sensitive land uses.

Design of Industrial Development 17.02-2

Relevant objectives and strategies include:

- To facilitate the sustainable development and operation of industry and research and development activity.
- Ensure that industrial activities requiring substantial threshold distances are located in the core of industrial areas.
- Minimise inter-industry conflict and encourage like industries to locate within the same area.

- Provide adequate separation and buffer areas between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effect, nuisance or exposure to hazards.

Waste and Resource Recovery 19.03-5

Relevant objectives and strategies include:

- To avoid, minimise and generate less waste to reduce damage to the environment caused by waste, pollution, land degradation and unsustainable waste practices.
- Establish new sites and facilities to safely and sustainably manage all waste and maximise opportunities for resource recovery.
- Encourage facilities for resource recovery to maximise the amount of resources recovered.
- Provide sufficient waste management and resource recovery facilities to promote re-use, recycling, reprocessing and resource recovery and enable technologies that increase recovery and treatment of resources to produce energy and marketable end products.
- Encourage waste generators and resource generators and resource recovery businesses to locate in close proximity to enhance sustainability and economies of scale.
- Ensure buffers for waste and resource recovery facilities are defined, protected and maintained.
- Site and manage waste disposal and resource recovery facilities in accordance with the Waste management policy (Siting, Design and Management of Landfills) (EPA, 2004).

The Local Planning Policy Framework (LPPF)- including the Municipal Strategic Statement (MSS), local planning policies and Structure Plans Industry 21.06-4

Relevant objectives and strategies include:

General

- To sustain a growing and diverse industrial base.
- To protect the existing industrial base in the urban areas of Shepparton, Mooroopna and Tatura.
- To provide an adequate supply of appropriately located industrial land relevant to measured demand that meets the needs of different industries.

- To minimise land use conflicts.

Economic

- To encourage future industrial land uses to locate on existing vacant industrial zoned lands and, where this is not possible, to examine opportunities to rezone additional lands to facilitate such industrial or related land uses.
- Support the development of new industries in established industrial zoned, with access to infrastructure and constructed roads.
- Direct industries which require substantial buffer zones from sensitive land uses to locations that minimise land use conflicts and impacts on the amenity of surrounding areas.

Amenity

- Facilitate good design and landscaping outcomes for industrial developments that enhance the municipality's built form and provide amenable working environments.
- Prevent encroachment of residential development into industrial areas, as well as ensuring that new industrial developments are located an appropriate distance from existing residential areas.
- Ensure that land within 10 metres of the frontage of an industrial site (other than land required for car parking and access) is developed for landscaping.
- Assist old and inappropriate industrial areas in their transition to more appropriate land uses.
- Direct materials recycling industries to locations that minimise land use conflicts and impacts on the amenity of surrounding areas.

Relevant Particular Provisions

Car Parking 52.06

Clause 52.06 applies to a new use of land.

Before a new use commences the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority.

Under the table at clause 52.06-5 the applicant is required to provide 10 percent of the site area for car parking.

Bicycle Facilities 52.34

A new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

Where the floor area occupied by an existing use is increased, the requirement for bicycle facilities only applies to the increased floor area of the use.

A permit may be granted to vary, reduce or waive any requirement of Clause 52.34-3 and Clause 52.34-4.

Decision Guidelines

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

- Whether the proposed number, location and design of bicycle facilities meets the purpose of this clause.
- The location of the proposed land use and the distance a cyclist would need to travel to reach the land.
- The users of the land and their opportunities for bicycle travel.
- Whether showers and change rooms provided on the land for users other than cyclists are available to cyclists.
- The opportunities for sharing of bicycle facilities by multiple uses, either because of variation of bicycle parking demand over time or because of efficiencies gained from the consolidation of shared bicycle facilities.
- Australian Standard AS 2890.3 1993 Parking facilities Part 3: Bicycle parking facilities.
- Any relevant bicycle parking strategy or equivalent.

Resource Recovery 52.45

The purpose of this provision is to facilitate the establishment and expansion of a Transfer station and/or a Materials recycling facility in appropriate locations with minimal impact on the environment and the amenity of the area.

This clause applies to all land used and developed or proposed to be developed for a transfer station and/or a materials recycling facility.

An application must be accompanied by the following information:

- A location plan showing the site and surrounding uses including distances to nearby sensitive uses such as residential or education uses.
- A detailed site plan, showing the layout and height of buildings and works, materials, reflectivity, colour, lighting, landscaping, access roads and parking areas.

- Plans or other media showing anticipated views of the facility from sensitive use locations.
- A written report(s) including:
 - o Identification of the purpose of the use.
 - o A description of the proposal including the materials to be processed, the types of processes to be used and any materials to be stored and handled.
 - o Proposed hours of operation.
 - o Likely traffic generation including heavy vehicles.
 - o Consideration of whether a works approval or licence is required from the Environment Protection Authority.
- An assessment of:
 - o Potential amenity impacts such as noise, odour, emissions to air, land or water, vibration, dust, light spill, visual impact.
 - o The impact of traffic generation on local roads.

Decision Guidelines

Before deciding on an application, in addition to the Decision Guidelines of Clause 65, the responsible authority must consider:

- The contribution of the proposal to achieving resource recovery targets established by the Victorian Government.
- The impacts of the proposal on the amenity of the surrounding area.
- The Towards Zero Waste Strategy (DSE, 2005) and the Metropolitan Waste and Resource Recovery Strategic Plan (Sustainability Victoria, 2009).
- Relevant guidelines applicable to the use including the Environmental Guidelines for Composting and other Organic Recycling Facilities (EPA, 1996), the Guide to Best Practice for Organics Recovery (Sustainability Victoria, 2009) and the Guide to Best Practice at Resource Recovery Centres (Sustainability Victoria, 2009).

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.

Officer's Response

1. The application for a planning permit seeks permission for the use of the land for materials recycling. The proposed purpose of the use is to decommission LPG bottles and fire extinguishers that are delivered to the site. The LPG is decanted and used to fill new or serviceable cylinders for use either supplied to a food service, or used on site for forklift operation. The cylinders are de-valved and decommissioned by punching a hole in their side, and are then sent for scrap metal recycling.
2. The application has been made as a result of a complaint made and a planning investigations file being opened, which found no planning permission had been obtained.
3. A planning permit is required pursuant to clause 34.02-1 under the Commercial 2 Zone for the use of the land for Materials Recycling.
4. A planning permit is also required pursuant to clause 52.34-2 for a reduction in Bicycle Facilities, as not such facilities are provided.
5. The State objectives and strategies are generally supportive of resource recovery uses and identify their importance to the region and State in managing waste. The strategies direct that growth and development that create employment opportunities should be

directed to existing settlements. The need for appropriate buffers around resource recovery facilities to minimise impacts on the environment such as noise and odour are also highlighted.

6. The proposed use will provide for an increase in economic benefit to the municipality through the provision of a materials recycling facility, which will lead to employment creation and provide a service of need to community.
7. The key assessment decision that needs to be made for this application is whether the proposed use will have an adverse amenity impact on the abutting properties in the Commercial 2 Zone and, more importantly, the yet to be developed residential land to the east.
8. The abutting commercial uses, as identified in the site description section of this report, comprise uses such as welding, powder coating and large scale warehousing. These uses are not uses that could be described or considered to be sensitive in nature. The point raised in the objection about the risk to employees of the business is valid. Despite this, subject to compliance with the EPA conditions, officers are satisfied the conflicting land uses can be appropriately managed.
9. The closest existing dwelling is located approximately 225 metres from the site to the south east, however the site is located approximately 60 metres from the closest land within a Residential Zone. This land has not yet been developed, but was rezoned last year for residential development and forms part of the Shepparton North Growth Corridor.
10. The adjacent residential properties, when developed, are likely to be setback a further 25 metres from the Goulburn Valley Highway road boundary and will likely include infrastructure such as a service road and some form of screening or earth bund to lessen impacts from the Goulburn Valley Highway. Such treatments would correspond with the requirements provided for on the development of Grammar Park West to the north and would increase the level of protection to future dwellings from the proposed use.
11. A portion of the residential land adjacent the site is also sterilised from development with the existing high transmission powerlines traversing the site.
12. The application has been referred to the Victorian Environmental Protection Authority, who have not objected to the proposal, subject to a number of conditions, including the restriction of odours beyond the boundary of the premise.
13. Given the consent of the EPA, their requirement for conditions and a works approval to be applied for and the above site characteristics, it is considered that the buffer (being

the Goulburn Valley Highway), with a 60 metre wide road reserve is acceptable in reducing the impacts on future residential uses.

14. The adjacent residential properties, when developed, will be provided an appropriate level of protection from the use both through the separation distance and the EPA conditions.
15. The car parking rate required for materials recycling is 10 per cent of the site. The land is provided with acceptable accessways and car parking locations on the land which exceed 10 per cent and therefore it can be considered that the proposal is acceptable against this provision.
16. The bicycle spaces required for Industry in Table 1 to Clause 52.34-3 is one to each 1,000m² of net floor area. No bicycle spaces are required for visitors. Given the use of the land, it is unlikely that employees will utilise bicycle spaces. The ample shedding on the land offers opportunities for informal secure bicycle parking.
17. Clause 52.45 of the particular provisions seeks to facilitate the establishment and expansion of a transfer station and/or a materials recycling facility in appropriate locations with minimal impact on the environment and amenity of the area. The provision provides a number of application requirements which must be met and decision guidelines which applications are to be assessed against.
18. The applicant responded to a further information request with regard to these application requirements and, though not detailed, did address the requirements.
19. The decision guidelines of the Resource Recovery provision are centred around the facilitation of materials recycling provided the amenity of the surrounding area is not impacted. The proposed use, as outlined in this report, will provide for a materials recycling use, that given the conditions and the setbacks from residential land, can be appropriately managed so as to not result in unacceptable amenity impact on the surrounding land.

Relevant incorporated or reference documents

There are no relevant incorporated or reference documents that relate to this application for a planning permit.

Other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

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

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the application?

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

The Aboriginal Heritage Act 2006

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

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

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

Charter of Human Rights and Responsibilities

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

Conclusion

The proposed use of the land for materials recycling is considered to be an acceptable use of the land in the Commercial 2 Zone subject to conditions. The proposed use, given the requirements of the EPA and the buffer that is provided from the future residential land, is considered setback far enough so as to not result in an unacceptable amenity outcome on the adjacent land and it is therefore recommended that a Notice of Decision be issued.

Draft Notice Of Decision

APPLICATION NO: 2017-225

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: 435 GOULBURN VALLEY HIGHWAY
SHEPPARTON NORTH VIC 3631

WHAT THE PERMIT WILL ALLOW: USE OF THE LAND FOR MATERIALS
RECYCLING (DECOMMISSIONING OF LPG
BOTTLES AND FIRE EXTINGUISHERS)
AND REDUCTION OF BICYCLE
FACILITIES

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. Layout Not Altered

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

2. General Amenity

The use of the land must not adversely affect the amenity of the area, by way of:

- a) processes carried on the land;
- b) the transportation of materials, goods or commodities to or from the land;
- c) the appearance of any buildings, works or materials;
- d) the emission of noise, artificial light, vibration, smell, fumes, smoke, steam, soot, ash, dust, waste water, waste products, grit, or oil;
- e) the presence of vermin.

to the satisfaction of the responsible authority.

3. Environment Protection Authority

- a) Offensive odours must not be discharged beyond the boundaries of the premises.
- b) Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.
- c) The applicant must ensure that litter is not deposited beyond the boundary of

the premises.

- d) Stormwater contaminated with waste must not be discharged beyond the boundary of the premises and be collected and disposed of off-site by an EPA approved contractor or sent to sewer under a Trade Waste Agreement.
- e) A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines 1992 or as amended.
- f) Waste must not be burned at the premises.
- g) Combustible recyclable and waste material, as defined in the guideline Management and Storage of Combustible Recyclable and Waste Materials, EPA publication 1667 or as amended, must only be stored for transfer, sale, sorting, reuse, recycling, reprocessing or energy recovery.
- h) All recyclable and waste material must be managed and stored on site in a manner that minimises risks to human health and environment from fire and in accordance with the guideline Management and Storage of Combustible Recyclable and Waste materials, EPA publication 1667, or as amended.

4. Country Fire Authority Requirements

An application for Fire Services Written Advice (Fire Protection Report) is submitted to firesafetyreferrals@cfa.vic.gov.au to allow CFA to undertake an on-site assessment of the installed fire protection system and emergency plans, as per the Dangerous Goods (Storage and Handling) Regulations 2012 – Regulations 54 and 55. The application form is available at <http://www.cfa.vic.gov.au/plan-prepare/dangerous-goods/>.

5. Time for Starting and Completion

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

- a) the use is not started within **two (2) years** of the date of this permit.

Amended Application Details:

Responsible Officer:	Tim Watson
Amended Permit Number:	2017-66/A
Applicants Name:	F Sibio
Date Amendment Received:	21-Feb-2018
Land/Address:	600 Turnbull Road ARDMONA VIC 3629
Zoning and Overlays:	Farming Zone Pt. Land Subject to Inundation Overlay
Why was the amendment required?	Amendment proposes the removal of planning permit condition 3, 4(a) &(b) and amendment to the preamble
Why is a permit required (include Permit Triggers):	35.07-1 – use of land for a dwelling 35.07-4 – buildings and works associated with a section 2 use (dwelling)
Are there any Restrictive Covenants on the title?	No
Is a CHMP required?	No

Proposal

The permit approves the use and development of the land for a dwelling in the Farming Zone associated with a broodmare farm.

The current land owner who has the property on the market now no longer wishes to carry out this activity and has had interest in the property from a number of different agricultural practices (i.e. orchard or vegetable growing) with the intent of placing a dwelling on the land first.

The conditions of the previous permit restricted the use of the land for a dwelling to be used in association with the broodmare facility only and thus the permit can only be acted upon with this activity. The applicant is therefore seeking to remove all references to the broodmare facility to allow for more flexibility with regard to the future use of the land for a dwelling.

Summary of Key Issues

- Planning permit 2017-66 approved the use and development of the land for a dwelling in association with Thoroughbred Broodmare facility.
- The application proposes to amend the permit preamble and conditions to remove the requirement for the dwelling to be associated with the Thoroughbred Broodmare facility, thus essentially seeking a rural living dwelling situation.
- The application was advertised to surrounding neighbours with one objection received that raised the land being too small and the dwelling likely to result in conflict the objector's and other surrounding agricultural operations.

- The dwelling is already approved on the land and therefore all that is being considered is whether it needs to be associated with the agricultural use, not whether it will impact on surrounding operations.
- Given the site size and specific site constraints, including the abutting land uses the proposed amendment is considered acceptable.

Recommendation

Notice of Decision to Grant an Amended Permit

That Council having caused notice of Amended Planning Application No. **2017-66/A** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-1 and 35.07-4** of the Greater Shepparton Planning Scheme in respect of the land known and described as **600 Turnbull Road ARDMONA VIC 3629**, for the **amendment to planning permit 2017-66 to amend preamble, remove condition 3 and conditions 4 (a) & (b) as illustrated on the marked permit** in accordance with the Notice of Decision and the endorsed plans.

Moved by Colin Kalms

Seconded by Nilesh Singh

That Council having caused notice of Amended Planning Application No. **2017-66/A** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-1 and 35.07-4** of the Greater Shepparton Planning Scheme in respect of the land known and described as **600 Turnbull Road ARDMONA VIC 3629**, for the **amendment to planning permit 2017-66 to amend preamble, remove condition 3 and conditions 4 (a) & (b) as illustrated on the marked permit** in accordance with the Notice of Decision and the endorsed plans and amendments as detailed below.

Amendment to the Notice of decision as follows:

Condition 9 to be moved and to become Condition 10.

A new Condition 9 to be inserted and to read as follows:

9. Land Management Plan

Prior to the construction of the dwelling a land management plan must be submitted and approved by the responsible authority. The plan will be endorsed and form part of the permit. The plan must include the following:

- a) Details regarding onsite management practices to reduce the spread of plant and animal pests into agricultural areas;
- b) A vegetation buffer around the perimeter of the site to assist in protecting the dwelling from off-site agricultural uses; and
- c) An appropriate separation distance between any horticulture operations that may be carried out on the land and the school located to the north of the subject land.

Before the occupation of the dwelling the vegetation buffer must be planted in accordance with the endorsed plans to the satisfaction of the responsible authority.

CARRIED

Subject Site & Locality

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

The site has a total area of **3.997 hectares** and currently contains:

- A vacant paddock with a few scattered trees near the western boundary, with access provided from Turnbull Road on the Eastern boundary.

The main site/locality characteristics are:

- The site abuts a narrow reserve (GMW) on the northern boundary and then an unmade road reserve. Land adjacent to this northern boundary is used and developed for the Ardmona Primary School. The site comprises multiple classrooms, basketball courts and an oval.
- The land abutting the western boundary of the subject land is of similar size to the subject land and contains a dwelling, sheds and associated landscape areas. The remainder of the property is used for grazing and pasture propagation.
- Land abuts Fichera Lane to the south, with land adjacent to this developed for orchard.
- Turnbull Road abuts the eastern boundary with the adjacent land used for cropping/grazing like uses.

The Photos below show the existing site:









Pre-Application Meeting Details

Has there been a pre-application meeting? Yes

If yes with Whom? Tim Watson

What advice was given by the Council Officer?

Land owner (applicant) informed that the person who was proposing to purchase the land and operate the equine business no longer intended to purchase the land and that the owner had been approached by others who did not want to operate a horse business and had different proposals for the land.

Officer informed that if landowner/prospective purchasers no longer wished to operate the horse business either new permit would need to be applied for or existing permit amended to remove equine business references.

Permit/Site History

The history of the site includes:

- Planning permit application 2016-241 proposed the use and development of the land for a dwelling. The application was refused on rural dwelling grounds.
- Planning permit application 2017-66 proposed the use and development of the land for a dwelling associated with an equine breeding business. The permit was approved by Council, with conditions requiring association with the equine business.

Further Information

Is further information required for the application? No

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description amendment to planning permit 2017-66 (was issued to allow use and development of land for a dwelling) to amend preamble, remove condition 3 and conditions 4 (a) & (b) as illustrated on the marked permit, by:

Sending notices to the owners and occupiers of adjoining land.

Placing a sign on site.



Objections

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

- The land is too small for the development; and
- The objector (an orchardist) does not wish to encounter conflict with the proposed new neighbours due to their farming activities that are conducted 24/7 and will include dust, spray and noise.

Title Details

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

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- A pre-application discussion as addressed above.
- A discussion with the objector in which they voiced their concerns and that they had been approached by the applicant and threatened. This conversation was file noted.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 -Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
No section 55 referrals are required	-	-	-

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
No external notices are required	-

Internal Notice:

Internal Council Notices	Advice/Response/Conditions
No internal referrals are required	-

Assessment

The zoning of the land

Farming Zone 35.07 (schedule 1)

The purpose of the zone is:

- To provide for the use of land for agricultural land.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural the need to 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 permit is required for the use of land for a dwelling if the land does not meet the minimum lot size (60 hectares) pursuant to clause 35.07-1. A permit was also required for the buildings and works associated with a section 2 use (dwelling) in the Farming Zone pursuant to clause 35.07-4.

Decision guidelines

General issues

- The State Planning Policy Framework and 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 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 rural infrastructure.
- Any integrated land management plan prepared for the site.

Dwelling issues

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

Environmental issues

- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.
- The impact of the use or development on the flora and fauna on the site and its surrounds.
- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge areas.
- 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

No overlays affect this land.

The State Planning Policy Framework (SPPF)

Hume Regional Growth 11.10

Relevant objectives and strategies include:

- Avoid encroachment from rural residential settlement and other land uses that are non-complementary to agriculture in areas identified as strategic agricultural land and direct proposals for settlement to existing centres and townships.
- Support agricultural production through the protection and enhancement of infrastructure and strategic resources such as water and agricultural land, including areas of strategic agricultural land.



Agriculture 14.01

Relevant objectives and strategies include:

- To protect productive farmland which is of strategic significance in the local or regional context.
- Ensure that the State's Agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.
- In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as soil degradation of soil or water quality and land salinization) which might affect productive agricultural land against the benefits of the proposals.
- To encourage sustainable agricultural land use.

The Local Planning Policy Framework (LPPF)- including the Municipal Strategic Statement (MSS), local planning policies and Structure Plans
Agriculture 21.06-1

The land was identified in a Consolidation area in the Regional Rural Land Use Strategy being a reference document to the Scheme.

Consolidation areas being areas that support existing farming businesses to operate and expand. Consolidation areas typically include land with good soils and include many former closer settlement areas, but their lot sizes are no longer reflective of current farm sizes.

Consolidation areas are considered to provide opportunities for development of growing agricultural enterprises that can, over time, expand and consolidate through a process of property restructure. In this regard 'consolidation' includes the consolidation of land or the consolidation of farming enterprises through acquisition of non-contiguous land to increase farm size. The development of additional dwellings threatens expanding agricultural enterprises and accordingly, new dwellings within these areas are discouraged. The use of re-subdivision and excisions within consolidation areas will be considered in recognition that the excision of a dwelling from a farm can provide businesses an opportunity to consolidate property holdings based on the value of land for agriculture.

Relevant objectives and strategies include:

- To facilitate growth of existing farm businesses.
- To facilitate growth of new agricultural investment.
- Encourage growth and expansion of existing farm businesses and new investment in 'growth' and 'consolidation' areas.
- Discourage land uses and development in the Farming Zone, Schedule 1 that would compromise the future agricultural use of the land, including farm related tourism.

Dwellings in Rural Areas 21.06-3

Relevant objectives and strategies include:

- To discourage new dwellings unless it can be demonstrated that it is required for the agricultural use of the land.
- To ensure that new dwellings support rural activities and production and are not to meet lifestyle objectives, which may conflict with the rural use of the land.
- To avoid potential amenity impacts between rural activities and dwellings in rural areas.
- Discourage the establishment of dwellings not associated with or required for agricultural use of land.
- Discourage dwellings which are proposed to meet personal or financial circumstances or to create dwellings for 'rural lifestyle' purposes.
- Discourage the clustering of new dwellings unless they do not limit the productive use and development of surrounding land.

Policy Guidelines – dwellings in rural areas

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

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

Exercise of discretion

It is policy to:

- Discourage the construction of new dwellings on any land that is not suitable for the on-site disposal of septic tank effluent.
- Discourage the construction of new dwellings on any land with a water table within one metres of the surface when waste water is to be treated and retained on site.
- Require the application to enter into an agreement under section 173 of the Act to:
 - Ensure that the dwelling is used in conjunction with agricultural production;
 - Prevent the subdivision of the lot containing the dwelling where the proposed lot size is less than the minimum lot size for subdivision specified in the zone; and
 - Acknowledge the impacts of nearby agricultural activities.

Decision Guidelines

- The relationship between the proposed dwelling and the agricultural activity on the land.
- Evidence including an integrated land management plan under clause 35.07-6 (or similar) addressing the relationship between agricultural activities on the land and the proposed dwelling.
- The agricultural productive capacity or the agricultural potential of the land.
- The nature of the existing agricultural infrastructure and activity of the land and any new proposed agricultural infrastructure and activity at the land.
- The nature of the agricultural activities on the land and whether they require permanent and continuous care, supervision or security.
- The proposed sitting of the dwelling and whether it minimises impacts on existing and potential agricultural operations on nearby land.
- The lot size, context and physical characteristics of the land.

- Whether the dwelling will result in a rural living or rural residential outcome in the area.
- The planning history of the land.
- The potential for the land to be consolidated with other land to enhance agricultural productivity.
- Whether the planning scheme identifies a 'non-agricultural' future for the land and the implications of development on future development options.

Relevant Particular Provisions

There are no relevant Particular Provisions that relate to this application for a planning 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.

Officer's Response

1. The application proposes to amend the existing planning permit 2017-66 issued by the Council to allow *use and development of land for a dwelling in association with a Thoroughbred Broodmare Farm in accordance with the endorsed plans forming part of the permit.*

2. The amendments proposed are to the conditions and the planning permit preamble and seek to use and develop the land without requirements for it to be in association with a Thoroughbred Broodmare Farm.
3. The amendments propose:
 - a. Removal of reference to Thoroughbred Broodmare farm in the preamble;
 - b. Remove condition 3 which requires that prior to the commencement of works of the dwelling all infrastructure required for the operation Thoroughbred Broodmare Farm must be constructed and completed to the satisfaction of the responsible authority in accordance with the endorsed plans and reports; and
 - c. Amend condition 4 to remove parts 'a' and 'b' which would form part of the section 173 agreement and tie the use of the land for a dwelling to the Thoroughbred Broodmare operation and that the operation of the property must be undertaken generally in accordance with the endorsed plans and report.
4. The key assessment issue for this application is that the applicant already has permission to use and develop the land for a dwelling. This amended application seeks to allow for the use of the land for a dwelling without an associated agricultural use.
5. By way of background the initial application included a proposal for the operation of a Broodmare operation with 6 broodmares, 6 yearlings and 6 foals on site at any given time and identified that a manager would be required onsite at all times to ensure the safety of the horses. This use was to be endorsed as part of the permit and would be an ongoing obligation of the occupier of the dwelling as identified in the Section 173 Agreement, all of which the application proposes to remove.
6. The proposed amendment despite being at variance with a number of the policies of the Planning Scheme is considered acceptable as follows:
 - a. The subject land is in a location where the closest building to its boundary (northern boundary) is the established Ardmona Primary School and therefore any significant agricultural operation on the subject land could possibly impact on students of the school. The use of the subject land for a rural living allotment will assist in providing a transitional buffer between the sensitive school use and the larger agricultural operations;
 - b. The abutting property to the west is a similar size to the subject land and is used and developed for a dwelling and from a site inspection includes the growing Lucerne and keeping sheep. This property does not appear to be the type of large agricultural operation that would seek to expand in the future despite existing low intensity agricultural use.

- c. The properties to the east and the south, the southern one of which is developed for orchard are the two properties which need to be given the most attention as part of the assessment due to their size and either the existing or possible agricultural potential. A dwelling has already been approved on the subject land and therefore it has already been deemed acceptable that a dwelling would not be adversely impacted upon by these operations as raised by the objector. The location of the proposed dwelling on the northern boundary will help to further mitigate these potential impacts. This was a requirement of the initial permit and therefore is still seen as being appropriate.
7. The amendment of the permit though not the ideal outcome is considered acceptable, given the specific site circumstances, particularly to provide a buffer to the existing primary school.

Relevant incorporated or reference documents

The Rural Regional Land Use Strategy which was adopted by Council as a reference document formed a key basis for minimum lot sizes in the Farming Zone and the writing of the Local Planning Policy.

The key provisions of this document have been addressed under the Local Planning Policy assessment with the objectives, strategies and guidelines drawn from this document.

Other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

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

Are there any significant social & economic effects?

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

Discuss any other relevant Acts that relate to the amended application?

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

The Aboriginal Heritage Act 2006

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

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

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

Charter of Human Rights and Responsibilities

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

Conclusion

Officers based on the assessment within this report recommend that DHP amend the permit to remove reference to any agricultural land use.

Draft Notice Of Decision to Amend a Permit

APPLICATION NO: 2017-66/A
PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

THE RESPONSIBLE AUTHORITY HAS DECIDED TO AMEND A PERMIT.

THE AMENDED PERMIT HAS NOT BEEN ISSUED.

ADDRESS OF THE LAND: 600 TURNBULL ROAD ARDMONA VIC 3629

PERMIT FOR WHICH AMENDMENT WAS SOUGHT: 2017-66

WHAT AMENDMENT IS BEING MADE TO THE PERMIT ?:

- Amendment to the permit preamble to remove reference to a Thoroughbred Broodmare Farm;
- Amendment to remove condition 3 and subsequent re-numbering of conditions; and
- Removal of conditions 4(a) and 4(b).

TO WHAT CONDITIONS IS THE AMENDMENT SUBJECT ?:

1. Amended Plans Required

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

- f) The site plan to show the relocation of the dwelling to a position adjacent to the northern boundary of the site.

2. Layout Not Altered

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

3. Section 173 Agreement

Prior to the commencement of works 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) *The dwelling may not be subdivided from the lot in the future, and the lot may not be subdivided to increase the number of lots, by excision or otherwise, unless each lot created complies with the minimum lot size required for the zone at that time.*
- b) *That the owner acknowledges and accepts the possibility of nuisance from adjoining agricultural operations including animal husbandry, spray drift, agricultural machinery use, pumps, trucks and associated hours of operation.*

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

4. Connection to Services

Prior to the occupation of the dwelling:

- b) Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles. All bridges and crossings must be designed and constructed to carry a vehicle weighing a minimum of 15 tonnes and be a minimum of 3 metres in width.
- c) The vehicle crossing must be no less than 5 metres in length and include a pipe of a diameter suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm). Culverts located in the clear zone shall be installed with trafficable end walls (refer IDM standard drawing SD 255). The final location of the crossing is to be approved by the responsible authority via a 'Works within the Roads Reserve' (Road Opening)' permit.
- d) All stormwater and surface water drainage from the land, buildings and works, must be retained on site or directed to the legal point of discharge to the satisfaction of the responsible authority and Goulburn Murray Water. Effluent and/or polluted water must not be discharged to Council's stormwater drainage system from the land.
- e) The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
- f) The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

to the satisfaction of the Responsible Authority.

5. Construction Phase

All activities associated with the construction of the development permitted by this permit must be carried out to the satisfaction of the Responsible Authority and all care must be taken to minimise the effect of such activities on the amenity of the locality, including:

- a) Avoiding the transport of mud onto roads;
- b) Minimising the generation of dust during earthworks or vehicles accessing site;
- c) The retention of all silt and sediment on the site during the construction phase, in accordance with the sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control (EPA, 1991)' and;
- d) Maintaining a neat and tidy site.

6. **Health Requirements**

Prior to the commencement of works for the proposed dwelling the owner must lodge with the Council an application to Install a Septic Tank System in accordance with the Code of Practice – Onsite Wastewater Management, Publication 891.3, February 2013.

The application to Install a Septic Tank System must include:

- a) The application form provided by the Council completed, signed and dated by the owner.
- b) A floor plan of the proposed dwelling.
- c) A site plan indicating the location of the effluent disposal area / reserve area.
- d) The design of the effluent disposal system including instructions for installation and working drawings.
- e) The current application fee.

7. **Goulburn Broken Catchment Management Authority Requirements**

The finished floor level of the proposed dwelling must be constructed at least 450 millimetres above the general ground surface level, or higher level deemed necessary by the responsible authority.

8. **Goulburn Murray Water Requirements**

1. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
2. All wastewater from the proposed dwelling must be treated and disposed of using an EPA approved system, installed, operated and maintained in compliance with the relevant EPA Code of Practice and Certificate of Approval to the satisfaction of council's Environmental Health Department.
3. The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed

9. **Time for Starting and Completion**

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

- a) the development and use are not started within **two (2) years** of the date of this permit;
- b) the development is not completed within **four (4) years** of the date of this permit.

