

UNCONFIRMED MINUTES

FOR THE

GREATER SHEPPARTON CITY COUNCIL

DEVELOPMENT HEARINGS PANEL

Meeting No. 8/2019

HELD ON

FRIDAY 22 NOVEMBER 2019

AT 10.00AM

IN THE COUNCIL BOARDROOM
90 WELSFORD STREET

CHAIR

Councillor Chris Hazelman

ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 8 for 2019.

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)
- Geraldine Christou – Director, Sustainable Development, Greater Shepparton City Council
- Michael MacDonagh – Team Leader, Strategic Planning, Greater Shepparton City Council
- Melissa Crane – Acting Manager Planning & Investment – Strathbogie Shire Council
- Andrew Fletcher - Planning and Building Manager - Campaspe Shire Council

OFFICERS AND OTHERS PRESENT

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

- Andrew Dainton
- Abdullahi Jama / Braydon Aitken

I would also like to acknowledge all other parties present today. We will get you to introduce yourself when your turn comes to present.

APOLOGIES

Nil

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

1. Planning Permit application 2019-173 – Use and development of land for a dwelling in the Farming Zone 1 and Land Subject to Inundation Overlay
2. Planning Permit application 2019-251 – Use of land for a restricted recreational facility (gym) and the display of business identification signage in the Commercial 1 Zone
3. Planning Permit Application 2012-4/A – Seeking permission to extend the trading hours.

Application Details:

Responsible Officer:	Abdullahi Jama
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Application Number:	2019-173
Applicants Name:	T & C Development Services Pty Ltd
Date Application Received:	8 July 2019
Statutory Days:	115

Land/Address:	245 Kellows Road COSGROVE VIC 3631
Zoning and Overlays:	Farming Zone (FZ) – Schedule 1 (FZ1) Land Subject to Inundation Overlay (LSIO)
Why is a permit required (include Permit Triggers):	35.07-1: Use of land for a dwelling in the FZ1 35.07-4: Building and works associated with a Section 2 Use (Dwelling) in the FZ1
Are there any Restrictive Covenants on the title?	No

Proposal

The application proposes the use and development of land for a single storey dwelling (including ancillary shed) in the Farming Zone – Schedule 1 (FZ1). The application states that the proposed dwelling will be associated with a proposed on-site embryo transfer facility for dairy and beef cattle. A Whole Farm Plan has been provided in support of the application which includes a land management and revegetation program.

The proposed site is comprised of four Crown Allotments (Crown Allotments **41E – 41H**). Each allotment is 1.2 hectares in size and together approximately 5 hectares. The fifth Crown Allotment (Crown Allotment **41J**) under the same address but which is not directly part of the proposal is the Pine Lodge Bushland Reserve.

The site is located in broad acre farming/cropping country, approximately 20km east of Shepparton's CBD. Cosgrove-Canimabo Road is located approximately 800m to the east, offering access to Midland Highway.

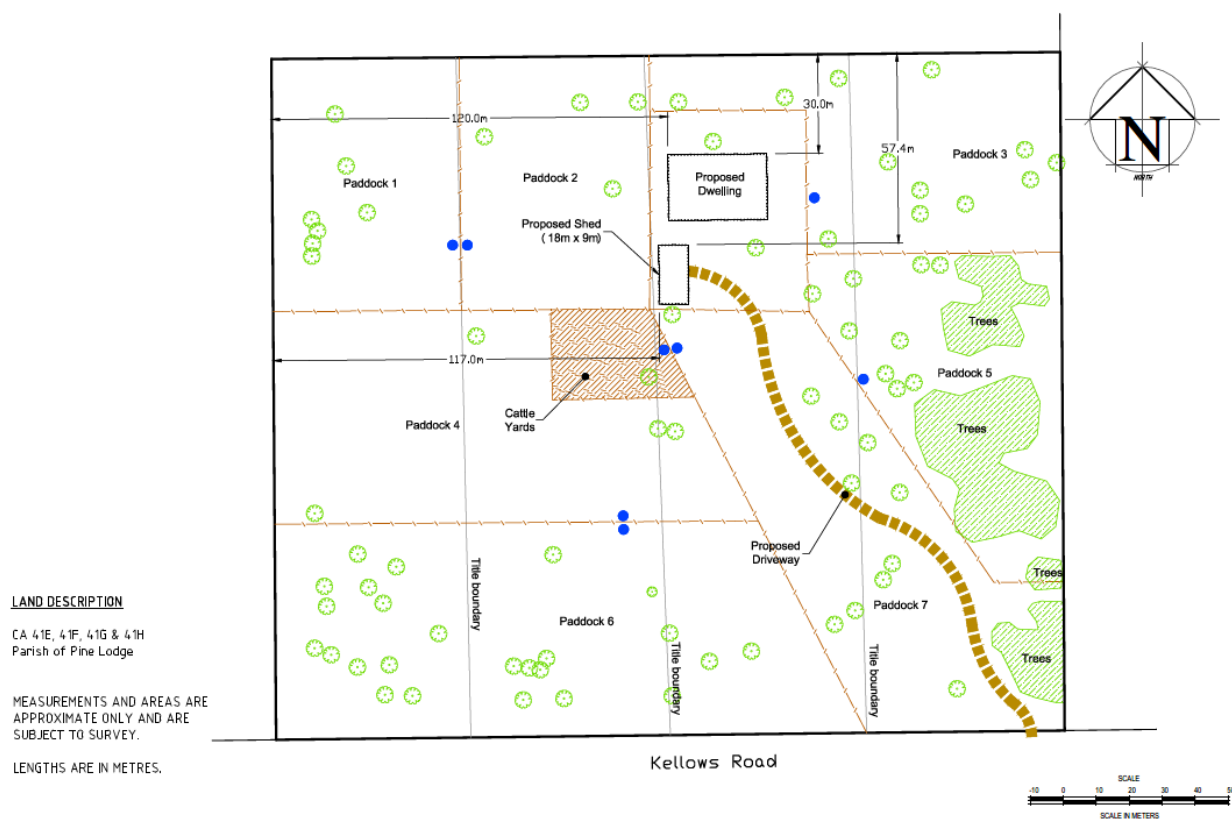
The dwelling is to be constructed on Crown Allotment **41G** (third allotment from west) and setback 30m and 120m from site's northern and western title boundaries respectively and well over 100m from Kellows Road to the south. Access to the dwelling will be via a proposed driveway that cuts through Crown Allotments **41G** and **41H** to Kellows Road. An 18m X 9m (162m²) ancillary shed is also proposed, to be located 27.4m south of the proposed dwelling. The consolidation of Crown Allotments **41G - 41H** is also planned.

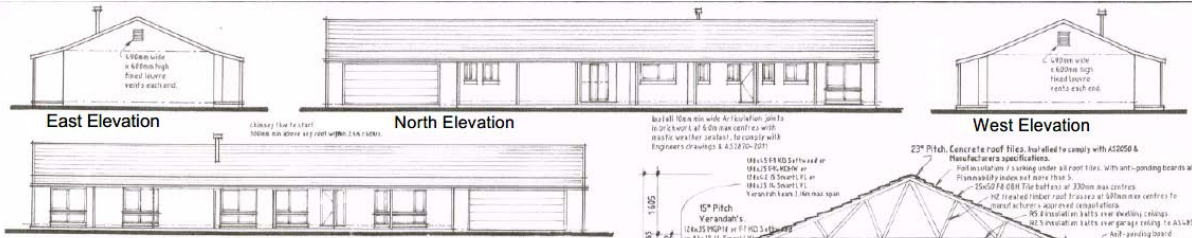
Officers placed the application on public notice. Three objections were received from the owner/occupants of one adjoining (northern adjoining lot) and two neighbouring properties.

The grounds of objections centred on the following:

- The proposed site is too small to support the dwelling and the land management program associated with the planned embryo transfer facility.
- The proposed site's limited size in an area context of broad acre farming-cropping activities on adjoining and nearby properties will likely lead to residential-agricultural land use conflicts.
- Land use conflicts have already emerged:
 - The owners of the proposed site have fenced off the site, preventing the access of agricultural machinery from north of the site to Kellows Road; access which was previously open.
- Allowing rural residential developments such as the one proposed will set a precedent for an increase of inappropriate rural-residential hobby farms in the area.
- The planned embryo transfer facility associated with the proposed dwelling will undermine the biodiversity qualities of Pine Lodge Bushland Reserve.

The plans for the proposal are below:





South Elevation

Bushfire Assessment Level: BAL-12.5 Requirements

Construction of external walls: 150mm brick masonry with 10mm plaster and 10mm render.

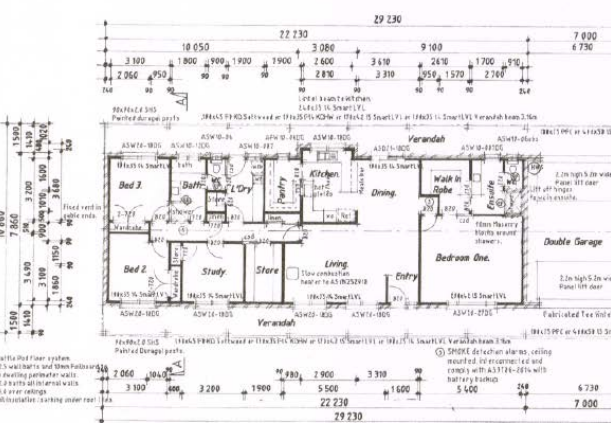
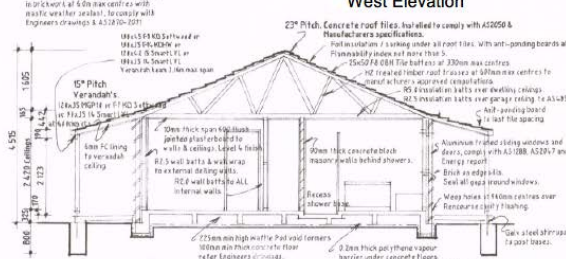
Construction of roof: 22.5mm concrete slab on 100mm concrete joists with 100mm concrete screed and 100mm concrete on top.

Construction of floor: 100mm concrete on 100mm concrete joists with 100mm concrete screed and 100mm concrete on top.

Construction of doors: 45mm fire-rated door with 10mm fire-rated glazing.

Construction of windows: 45mm fire-rated window with 10mm fire-rated glazing.

Construction of verandah: 100mm concrete on 100mm concrete joists with 100mm concrete screed and 100mm concrete on top.



Section A-A

It is the owner's responsibility to maintain the area around the dwelling to comply with Council Recommendations contained within the "FOUNDATION MAINTENANCE AND FOOTING PERFORMANCE" a relevant guide.

All services and workmanship shall comply with Relevant Australian Standards, the Building Code of Australia, NCC and requirements and manufacturer's specifications.

IT IS THE OWNER'S RESPONSIBILITY TO OBTAIN A BUILDING PERMIT FOR ALL WORKS DETAILED ON THIS DRAWING.

WALL FINISHES: 150mm brick masonry with 10mm plaster and 10mm render.

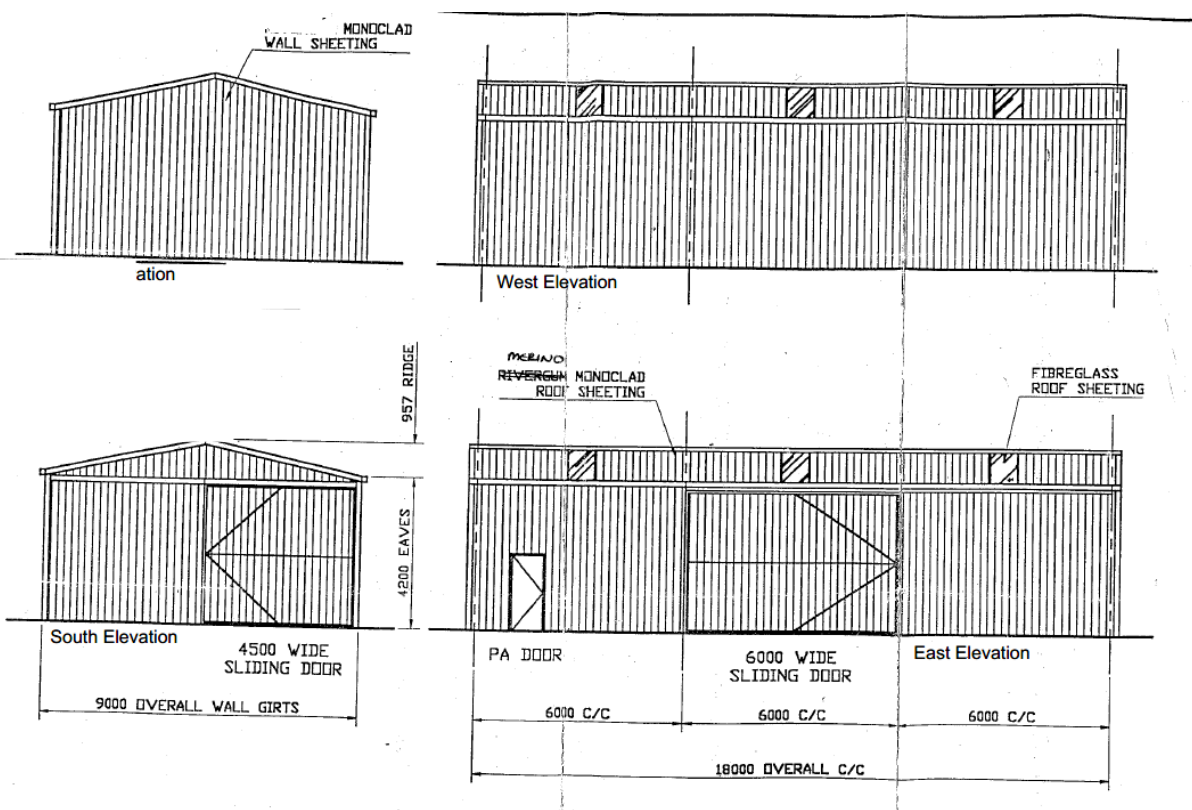
ROOF FINISHES: 22.5mm concrete slab on 100mm concrete joists with 100mm concrete screed and 100mm concrete on top.

FLOOR FINISHES: 100mm concrete on 100mm concrete joists with 100mm concrete screed and 100mm concrete on top.

DOOR FINISHES: 45mm fire-rated door with 10mm fire-rated glazing.

WINDOW FINISHES: 45mm fire-rated window with 10mm fire-rated glazing.

VERANDAH FINISHES: 100mm concrete on 100mm concrete joists with 100mm concrete screed and 100mm concrete on top.



The main considerations for this application are as follows:

1. Is the proposal consistent with the purpose and decision guidelines of the Farming Zone (FZ)
2. Is the proposal consistent with the relevant objectives of the Planning Policy Framework (PPF) and the Local Planning Policy Framework (LPPF)

Officers have considered the application and recommend that a refusal to grant a permit be issued as the proposal is inconsistent with the purpose, and decision guidelines of the FZ, and the relevant provisions of the LPPF & PPF. If approved the proposal would lead to the construction of a dwelling on a small and inappropriate lot in the FZ, which would be surrounded by broad acre farming land creating the potential for land use conflict.

Summary of Key Issues

The proposed site is zoned Farming Zone (FZ) – Schedule 1 (FZ1). It is comprised of four Crown Allotments (Crown Allotments 41E – 41H). Each allotment is 1.2 hectares in size, totalling approximately 5 hectares.

Permission for use and development of the land for a dwelling is required under the zone. The associated proposed embryo transfer facility is exempt from permission under the zone.

The application was placed on referral and public notice. The referral authorities (external and internal) consented to the application subject to conditions. Three objections were received mainly focused on the inappropriateness of the site for a dwelling and current and future land use conflicts.

It is considered that the application is inconsistent with the relevant Scheme provisions for the following reasons:

- a) The application is inconsistent with the FZ purpose of ensuring non-agricultural uses do not adversely impact the use of land for agriculture as the site's limited size and broad acre cropping context has the potential to lead to land use conflicts between the occupiers of the dwelling and surrounding agricultural properties.
- b) The application is inconsistent with the FZ purpose of encouraging the retention of productive agricultural land. The site's limited size along with there being no guarantee that the associated transfer facility will commence operation, or be ongoing, has the potential to result in the loss of the land for productive agricultural use.
- c) The application is on balance inconsistent with the FZ decision guidelines and Clause 14.01-1S (PPF) as it proposes a dwelling on a small and inappropriate lot in

the FZ which has the potential of limiting the operation and expansion of adjoining agricultural uses.

- d) The application is inconsistent with the provisions of Clause 21.06-3 (LPPF). It provides for a dwelling in a site and area context where the amenity of the dwelling may be adversely impacted by surrounding agricultural activities and where the dwelling is a potential threat to the preservation of the land for agricultural use.

Officers acknowledge that the applicant submits the dwelling is required to support the proposed agricultural land use (on-site embryo transfer facility). Despite this the benefits of the proposed agricultural land use are outweighed by the potential for land use conflict by allowing a dwelling on a small allotment in a broad acre farming area.

Recommendation

Refusal

That the Council having caused notice of Planning Application No. **2019-173** 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 **35.07-1 and 35.07-4** of the Greater Shepparton Planning Scheme in respect of the land known and described as **245 Kellows Road COSGROVE VIC 3631**, for the **Use and development of land for a dwelling in the Farming Zone 1**

For the following reasons

The proposed use and development of land for a dwelling does not provide an acceptable and orderly outcome or a net community benefit in terms of the purposes and decision guidelines of the Farming Zone and the relevant provisions of the State and Local Planning Policy Frameworks as it:

- a) Has the potential to lead to land use conflicts between the occupiers of the dwelling and surrounding agricultural properties due to the small lot size and the surrounding broad acre farming operations;
- b) Has the potential to limit the operation and expansion of nearby agricultural uses due land use conflict;
- c) Has the potential to lead to the loss of the land for the use of agriculture due to the potential for the land to become a lifestyle property;
- d) Has the potential to adversely impact the amenity of the proposed dwelling, given surrounding broad acre farming operations.

Motion to move the application back to responsible officer for further consideration of the application.

Moved by Melissa Crane

Seconded by Geraldine Christou

Carried

Subject Site & Locality

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

Dates: **17/7/19 & 26/7/19** Times: **2 pm & 11am**

The site has a total area of **17** hectares and currently contains:

- Grazing land and a bushland reserve with thick vegetation.

The main site characteristics are:

- The site is comprised of 5 lots. 4 of the lots are identical in size and total approximately 5 hectares in size. The fifth lot (bushland reserve: most easterly lot) is approximately 12 hectares in size.
- The proposed dwelling engages the four smaller allotments.
- The owners of the 4 smaller allotments hold a grazing lease for reserve from DELWP.
- There is thick vegetation coverage on the site, limiting its visibility from the road.
- Access to the site currently is via a crossover to Kellows Road

The main locality characteristics are

The proposed site is located in broad acre farming-cropping country (20km east of Shepparton CBD) with large agricultural landholdings adjoining and nearby.

- With the exception of the dwelling at 290 Kellows Road Cosgrove (on the opposite side of the road), there are no dwellings within 800m of the proposed site.
- Cosgrove-Canimabo and New Dookie Roads are located approximately 800m and 2.5km east and west from the site, providing access to Midland Highway and inner Shepparton respectively.

The Photos below show the existing site and surrounding area:







Permit/Site History

The history of the site includes:

- **ENQ-2008-105:** Boundary Realignment and Dwelling Use: Not supported and no application was lodged.

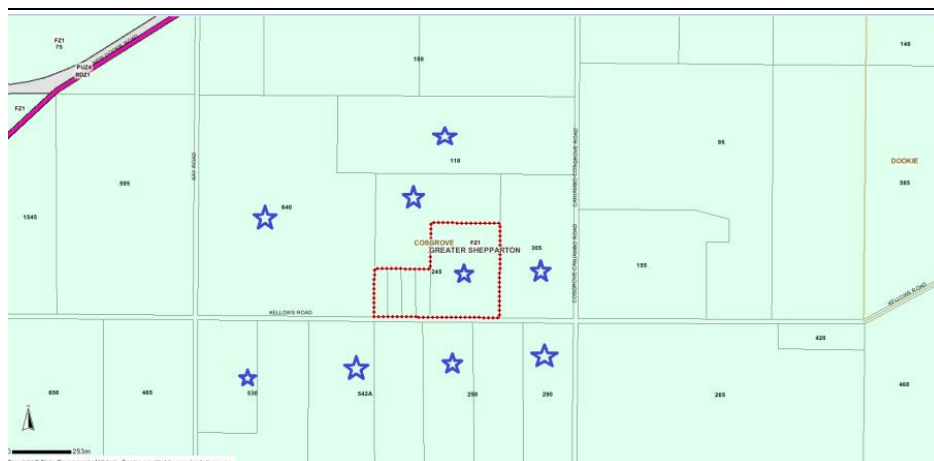
Further Information

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

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **Use and development of a dwelling associated with an embryo transfer facility for dairy and beef cattle**, by:

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



The applicant provided a signed declaration stating that the sign on site was displayed on the land between **25/7/19 to 9/9/19**

Objections

The Council has received **3** objections to date. The key issues that were raised in the objections are as follow:

Objection 1 (Owner & occupant of neighbouring property)

- The objection centres on the inappropriateness of a dwelling on the land given the site and area context.
- The objector points to the proposed site's small size and the land use conflicts that would likely arise between occupants of the dwelling and adjoining agricultural properties (examples of conflicts include chemical spraying, dust, noise and pets) for why a dwelling at this location would be inappropriate.
- A second concern raised is that the proposed site is too small to sustain both a land management program and a dwelling.
- A third concern raised pertains to the likely environmental and biodiversity degradation that would result from use of the reserve for grazing purposes (as part of the transfer facility operation).

Objection 2 (Owner & occupant of northern adjoining lot)

- The objection centred on the closure of access (via padlocked gate) from the northern adjoining lot to Kellows Road via the proposed site.
- The objector states that this access way was always open and that its closure will cause disruption to her cropping enterprise by preventing machinery access.
- The objector concedes that there are other access points available to the site (the objector also owns the western lot adjoining the reserve) but that machinery access at these points would be destructive to crops and increase the financial burden.
- The objector considers the incident as connected to the application and an example of the type of land use conflicts that would likely arise if a permit were to issue. Other

potential future land use conflicts raised by the objector include noise, dust and lighting disturbances from heavy machinery use during grain harvesting season.

Objection 3 (Owner/occupant of neighbouring property)

- The objection focused on the closure of access incident discussed above and the inappropriateness of a dwelling on land 4 hectares size.

Applicant response to objections

The applicant responded to the objections in the following ways:

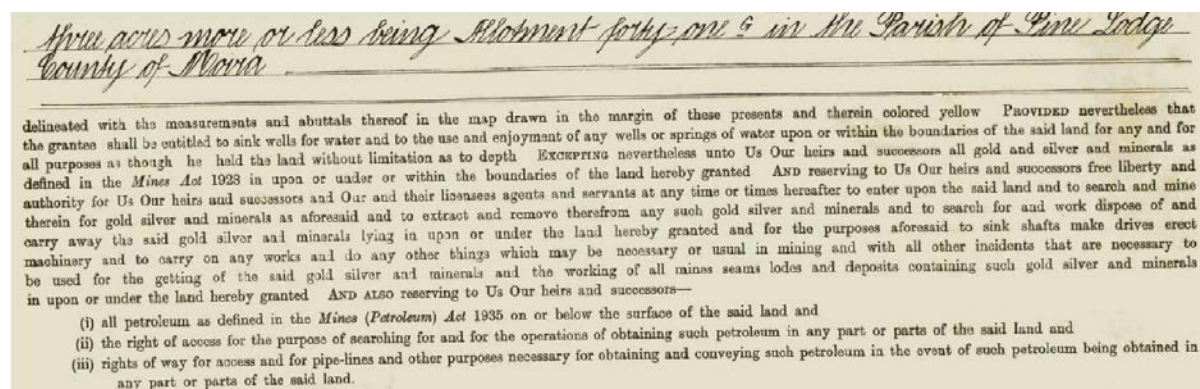
- The proposed embryo transfer facility requires close supervision and convenient highway access to move the “high-end progeny” to major commercial centres. The proposed site meets these requirements.
- The facility will be operated by bona fide and experienced industry operators.
- A Section 173 Agreement can be prepared to ensure that use of the dwelling remains connected to the operation of the embryo transfer facility and that future occupants of the dwelling have forewarning on limited residential amenity.
- The access path to Kellows Road was closed due to the long history of rubbish dumping at the reserve (which the owners have now cleaned up). The owners do not object to allowing access subject to requests being made, their right per the grazing lease for the reserve that they hold.

Officer response to objections

- Officers have considered the objections and conclude that with regards to the closure of access, this is a civil matter that is beyond the scope of the application.
- The other grounds of objection are considered in the assessment section of this report.

Title Details

The title contains the below crown grant which reserves for the beneficiaries, rights of site access to discover and dispose of minerals (e.g. gold & silver) and petroleum and sink wells.



Officers do not consider the application to be in breach of the crown grant as it does not prevent site access to sink wells and discover and dispose of minerals and petroleum.

Consultation

Consultation was undertaken. Relevant aspects of consultation, included:

- 3 meetings at Council offices between Officers and the owners of the land to discuss the application and objections received.
- Several phone and face to face discussions with the other objectors to discuss the application and objection process.
- Forwarding on of the applicant response to the objections to the objectors.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
There are no Section 55 Referral Authorities for this application.	
Goulburn Murray Water (GMW)	GMW consented to the application without stipulating any conditions.

Internal Council Notices	Advice/Response/Conditions
Environmental Health Department	<p><u>Consented subject to the following conditions:</u></p> <p>Prior to the commencement of works for the proposed dwelling the owner shall lodge with the Council an application to Install a Septic Tank System in accordance with the Code of Practice – Onsite Wastewater Management, Publication 891.4, July 2016.</p> <p>The application to Install a Septic Tank System shall include:</p> <ol style="list-style-type: none"> 1) The application form provided by the Council completed, signed and dated by the owner. 2) A floor plan of the proposed dwelling. 3) A site plan indicating the location of the effluent disposal area / reserve area. 4) The design of the effluent disposal system including instructions for installation and working drawings. 5) The current application fee.
Development Engineering	<p><u>Consented subject to the following conditions:</u></p> <p><u>Rural Drainage Plan</u></p> <p>Before any development starts, plans including computations to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and then will form part of the permit. The plans must be drawn by a suitably qualified person or organisation to scale with dimensions. The plans must include</p>

- a) direction of stormwater runoff, demonstrated by contours or levels including a legal point of discharge
- b) how the discharge rate from the new properties has no detrimental effect on the adjacent properties
- c) how stormwater is retained on property;
- d) how effluent water discharged so as not to contaminate Council's stormwater drainage system.
- e) Documentation demonstrating approval from the relevant authority for the point of discharge.

Rural Drainage – Works

Before any development starts, all stormwater and surface water drainage from the land, buildings and works must be retained on-site and/or connected to the legal point of discharge to the satisfaction of the Responsible Authority/Goulburn Murray Water. Effluent and/or polluted water must not be discharged to Council's stormwater drainage system from the land.

Rural Vehicle Crossing

Before any development starts, the existing vehicle crossing and any new vehicle crossings providing access to the land must be upgraded to the satisfaction of the responsible authority in accordance with IDM standard drawings SD 255 and SD 265. Access vehicle crossing(s) must be constructed at the owner's expense.

Vehicle crossing must be

- where abutting an existing sealed road, the pavement is to be sealed for the lot no less than 5 metres in length (from the existing edge of road to the new lot).;
- include a pipe of a diameter for the lot suitable to accommodate the actual volume/flow (having a minimum diameter of (375) mm);
- Culverts for the proposed lot located in the clear zone shall be installed with trafficable end walls (refer IDM standard drawing SD 255);

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.

Road Opening Permit Required

A road opening permit must be obtained from the Responsible Authority prior to the carrying out of any work within Council's Road Reserve.

Damage to Roads

Any damage to the Council's assets (i.e. roads, table drains etc.) shall be repaired at the cost of the applicant to the satisfaction of the responsible authority.

Native Vegetation Retention

No native vegetation shall be removed without prior written approval. A proposal to remove native vegetation must be submitted to the Responsible Authority as a separate application.

Construction Phase

Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Responsible Authority.

	<p>Management measures are to be in accordance with EPA guidelines for Environment Management, "Doing It Right On Subdivisions" Publication 960, September 2004.</p> <p><u>Erosion and Sediment Control</u></p> <p>Appropriate steps must be taken to retain all silt and sediment on the site during the construction phase to the satisfaction of the Responsible Authority, in accordance with the sediment control principles outlined in Construction Techniques for Sediment Pollution Control (EPA, 1991) and to the satisfaction of the Responsible Authority.</p> <p><u>Generation of Dust.</u></p> <p>During the construction phase, the applicant shall ensure that dust suppression is undertaken in the form of constant water spraying or other natural based proprietary dust suppressant to ensure that dust caused by vehicles moving along within the site does not cause a nuisance to surrounding properties to the satisfaction of the Responsible Authority.</p> <p><u>No Mud on Roads</u></p> <p>Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Responsible Authority.</p>
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Assessment

The Zoning of the land

35.07 Farming Zone

Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- 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.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

35.07-1 Table of Uses

- Dwelling a Section 2 Use if land is less than 40 Hectares

35.07-2 Use of land for dwelling

A lot used for a dwelling must meet the following requirements:

- Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
- The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
- 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 firefighting purposes.
- The dwelling must be connected to a reticulated electricity supply or have an alternative energy source

35.07-4 Building and works

- A permit is required to construct or carry out any of the following: A building or works associated with a use in Section 2 of Clause 35.07-1

35.07-5 Application requirements for dwellings

- An application to use a lot for a dwelling must be accompanied by a written statement which explains how the proposed dwelling responds to the decision guidelines for dwellings in the zone.

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

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.

Agricultural issues and the impacts from non-agricultural uses

- Whether the use or development will support and enhance agricultural production.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.

- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the agricultural use.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- Any integrated land management plan prepared for the site.

Dwelling Issues

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

Environmental issues

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

Design and sitting 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.

Relevant Overlay Provisions

There are no relevant overlays for this application.

Planning Policy Framework (PPF)

11.01-1R: Settlement- Hume

- Strategies Facilitate growth and development specifically in the regional cities of Shepparton, Wangaratta, Wodonga and Benalla.
- Facilitate and strengthen the economic role of Seymour, while supporting population growth.

- Support growth and development in other existing urban settlements and foster the sustainability of small rural settlements.
- Support improved access to a range of employment and education opportunities, particularly in key urban locations such as Benalla, Seymour, Shepparton, Wangaratta and Wodonga.

12.01-1S: Protection of Biodiversity

Objective

- To assist the protection and conservation of Victoria's biodiversity.

Strategies

- Use biodiversity information to identify important areas of biodiversity, including key habitat for rare or threatened species and communities, and strategically valuable biodiversity sites.
- Strategically plan for the protection and conservation of Victoria's important areas of biodiversity. Ensure that decision making takes into account the impacts of land use and development on Victoria's biodiversity, including consideration of: Cumulative impacts. Fragmentation of habitat.
- The spread of pest plants, animals and pathogens into natural ecosystems.
- Avoid impacts of land use and development on important areas of biodiversity.
- Consider impacts of any change in land use or development that may affect the biodiversity value of national parks and conservation reserves or nationally and internationally significant sites; including wetlands and wetland wildlife habitat designated under the Convention on Wetlands of International Importance (the Ramsar Convention) and sites utilised by species listed under the Japan-Australia Migratory Birds Agreement (JAMBA), the China-Australia Migratory Birds Agreement (CAMBA), or the Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA). Assist in the identification, protection and management of important areas of biodiversity.
- Assist in the establishment, protection and re-establishment of links between important areas of biodiversity, including through a network of green spaces and large-scale native vegetation corridor projects.

Policy guidelines

- Consider as relevant:
 - State biodiversity information maintained by the Department of Environment, Land, Water and Planning.

12.01-1S: Native vegetation management

Objectives

- To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

Strategies

- Ensure decisions that involve, or will lead to, the removal, destruction or lopping of native vegetation, apply the three-step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017): Avoid the removal, destruction or lopping of native vegetation. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided. Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

Policy guidelines

- Consider as relevant: State biodiversity information maintained by the Department of Environment, Land, Water and Planning.

14.01-1S: Protection of agricultural land

Objective

- To protect the state's agricultural base by preserving productive farmland.

Strategies

- Identify areas of productive agricultural land, including land for primary production and intensive agriculture.
- Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.
- Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.
- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.
- Prevent inappropriately dispersed urban activities in rural areas.
- Protect strategically important agricultural and primary production land from incompatible uses. Limit new housing development in rural areas by: Directing housing growth into existing settlements.
- Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
- Encouraging consolidation of existing isolated small lots in rural zones.
- Identify areas of productive agricultural land by consulting with the Department of Economic Development, Jobs, Transport and Resources and using available information.
- In considering a proposal to use, subdivide or develop agricultural land, consider the: Desirability and impacts of removing the land from primary production, given its agricultural productivity.
 - Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.

- Compatibility between the proposed or likely development and the existing use of the surrounding land.
- The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
- Land capability.
- Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.
- Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.
- Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.

14.01-2S: Sustainable agricultural land use

Objective

- To encourage sustainable agricultural land use.

Strategies

- Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.
- Support the development of innovative and sustainable approaches to agricultural and associated rural land use practices.
- Support adaptation of the agricultural sector to respond to the potential risks arising from climate change.
- Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing.
- Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.
- Support agricultural investment through the protection and enhancement of appropriate infrastructure.
- Facilitate ongoing productivity and investment in high value agriculture.
- Facilitate the establishment and expansion of cattle feedlots, pig farms, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.
- Ensure that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.

14.01-2R: Agricultural productivity- Hume

Strategy

- Support clustering of intensive rural industries and agricultural production.
- Take advantage of locational opportunities, including separation from sensitive land uses and access to transport, power, water and communications infrastructure.

15.01-6S: Design for Rural Areas

Objective

- To ensure development respects valued areas of rural character.

Strategies

- Ensure that the siting, scale and appearance of development protects and enhances rural character.
- Protect the visual amenity of valued rural landscapes and character areas along township approaches and sensitive tourist routes by ensuring new development is sympathetically located.
- Site and design development to minimise visual impacts on surrounding natural scenery and landscape features including ridgelines, hill tops, waterways, lakes and wetlands.

16.01-5S: Rural Residential Development

Objective

- To identify land suitable for rural residential development.

Strategies

- Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development.
- Encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.
- Demonstrate need and identify locations for rural residential development through a housing and settlement strategy.
- Ensure planning for rural residential development avoids or significantly reduces adverse economic, social and environmental impacts by:
- Maintaining the long-term sustainable use and management of existing natural resource attributes in activities including agricultural production, water, mineral and energy resources.
- Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.
- Minimising or avoiding property servicing costs carried by local and state governments.
- Maintaining an adequate buffer distance between rural residential development and animal production.
- Ensure land is not zoned for rural residential development if it will encroach on high quality productive agricultural land or adversely impact on waterways or other natural resources.
- Discourage development of small lots in rural zones for residential use or other incompatible uses.
- Encourage consolidation of existing isolated small lots in rural zones.
- Ensure land is only zoned for rural residential development where it: Is located close to existing towns and urban centres, but not in areas that will be required for fully serviced urban development.
- Can be supplied with electricity, water and good quality road access

Local Planning Policy Framework (LPPF)

21.04-3: Rural Residential

Objectives - Rural Residential

- To provide land for rural residential purposes, without impacting on the long-term growth potential of urban centres or productive agricultural land, subject to a supply and demand analysis.
- To recognise and make provisions for the potential conflicts at the urban/rural interface.

Strategies - Rural Residential

- Investigate the potential to provide for rural residential use at the locations shown on the Framework Plans.
- Prevent rural residential subdivision in areas that would result in a loss of productive agricultural land or create expectation of subdivision of adjoining rural land, or encircle townships so as to prejudice their future urban growth opportunities.
- Approve land for rural residential development or small town expansion only where it is supported by a supply and demand analysis, a Land Capability Assessment and Practice Note No. 37.
- Protect the amenity of rural residential land by discouraging uses with the potential to create a nuisance.
- Discourage rural residential subdivision which is reliant on irrigation water supply.
- Prevent rural residential development in areas suitable for smaller residential lots.
- Protect productive agricultural land from encroachment of urban growth except in designated growth areas.
- Maintain a distinctive urban-rural interface, and a green belt between Shepparton and Mooroopna.
- Ensure that residential developments provide a buffer to existing agricultural uses, particularly orchards.
- Resolve future land use and zoning options for the Raftery Road Corridor through further investigation of servicing capacity, land capability and options for potential rural living or low density residential development and zoning.
- Apply the Development Plan Overlay to the rural residential areas to ensure coordinated development.

Policy guidelines - Rural Residential

- When considering an application for a rural living rezoning or subdivision, Council will be guided by the following provisions:
- Compliance with Ministerial Direction No. 6 (or equivalent).
- An assessment of land capability. Safe access for pedestrians/cyclists between allotments and local infrastructure, such as schools.
- The protection of strategic riparian areas and the provision of public access.
- Water supply for stock and domestic.
- A suitable depth to frontage ratio for allotments created based on the proposed density and intended uses. Flexibility in lot sizes should be provided based on supply

and demand analysis, land capability, walkability and proximity of services and the character of the area.

21.05-2: Floodplain and Drainage Management

Objectives - Floodplain and Drainage Management

- To recognise the constraints of the floodplain on the use and development of land.

Strategies - Floodplain Management

- Discourage development and subdivision on land subject to flooding.
- Ensure that all new development maintains the free passage and temporary storage of floodwater, minimises flood damage is compatible with flood hazard and local drainage conditions, and minimises soil erosion, sedimentation and silting.
- Prevent tree removal to minimise loss of riparian vegetation as a result of development on the floodplain.

21.06-1: Agriculture

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.

Strategies - Agriculture

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

21.06-3: Dwellings in Rural Areas

Objectives - Dwellings in Rural Areas

- 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.

Strategies - Dwellings in Rural Areas

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

Policy Guidelines - Dwellings in Rural Areas Criteria

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

- The dwelling is required for the operation of the rural use of the land.
- The agricultural use is established on the land prior to the construction of a dwelling (or an Integrated Land Management Plan under Clause 35.07-6 in place).
- The dwelling is located on a lot of at least 2 hectares in area.
- 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 metre of the surface when waste water is to be treated and retained on site.
- Require the applicant to enter into an agreement under section 173 of the Act to: – Ensure that the dwelling is used in conjunction with agricultural production; – Prevent the subdivision of the lot containing the dwelling where the proposed lot size is less than the minimum lot size for subdivision specified in the zone; and – Acknowledge the impacts of nearby agricultural activities.
- Discourage a second dwelling unless it is demonstrated that it is necessary to support a viable agricultural enterprise.
- Discourage the occupation of the second dwelling until the agricultural use with which it is associated has commenced.
- Require the applicant to enter into an agreement under Section 173 of the Act for a second dwelling (including a caretaker's house, a manager's house or a dwelling for agricultural workers) to prohibit the further subdivision of the land around the dwelling.

Decision guidelines

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

- The relationship between the proposed dwelling and the agricultural activity on the land.
- Evidence including an Integrated Land Management Plan under Clause 35.07-6 (or similar) addressing the relationship between agricultural activities on the land and the proposed dwelling.
- The agricultural productive capacity or the agricultural potential of the land.
- The nature of the existing agricultural infrastructure and activity on the land and any new proposed agricultural infrastructure and activity at the land.
- The nature of the agricultural activities on the land and whether they require permanent and continuous care, supervision or security.
- The proposed siting of the dwelling and whether it minimises impacts on existing and potential agricultural operations on nearby land.
- The lot size, context and physical characteristics of the land.
- Whether the dwelling will result in a rural living or rural residential outcome in the area. The planning history of the land.
- The potential for land to be consolidated with other land to enhance agricultural productivity.
- Whether the planning scheme identifies a 'non-agricultural' future for the land and the implications of development on future development options.

The 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 Assessment

The application seeks planning permission for the use and development of land for a dwelling (and ancillary shed) in the FZ. The proposed dwelling is associated with a proposed site embryo transfer facility for dairy and beef cattle. The applicant submits that the dwelling is required to operate the embryo transfer facility.

The Scheme requires an assessment against the purposes and decision guidelines of the FZ and other relevant provisions including those contained in the Planning and Local Planning Policy Frameworks (PPF & LPPF).

Officers have assessed the application against these provisions and consider the application inconsistent with the Scheme. The reasons follow.

Farming Zone (FZ) Assessment

The FZ is focused on providing land for the use of agriculture and the protection of land from uses and developments that would threaten its agricultural viability. This viability includes the retention of productive agricultural land and the ability to operate and expand agricultural operations. Dwellings are specified in the zone purpose as an example of a non-agricultural use where adverse impacts on the use of land for agriculture must be guarded against.

The zone decision guidelines provide the criteria to assess these matters. They require consideration on whether the use of a dwelling will be affected by adjacent and nearby agricultural uses due to dust, noise and use of chemicals and whether this use has the potential to limit the operation and expansion of adjoining and nearby agricultural uses. In other words, whether land use conflict that might undermine use of land for agriculture has the potential to surface as a result of a dwelling

Officers consider that the proposed dwelling has the potential to lead to land use conflicts and adverse impacts on agricultural activities for the following reasons:

- The proposed site is small, being approximately 5 hectares in size (post-consolidation).
- The surrounding area is isolated from residential areas and dominated by broad acre cropping activities.
- These activities usually involve the use of heavy machinery during irregular hours of the morning and evening and the chemical spraying of crops.
- Typical effects of these activities include significant noise and dust impacts and the drifting of chemical sprays onto nearby land.
- Officers consider that a dwelling on a small lot and in an area such as this has the potential of being adversely impacted by these activities.

- Potential results include the creation of land use conflicts between occupants of the dwelling and nearby agricultural properties.
- This in turn has the potential of undermining agricultural productivity in the area.

The applicant submits that conflicts of this type can be managed via the preparation of a Section 173 agreement which would provide forewarning to future occupants of the dwelling of limited residential amenity. Officers however do not consider this an appropriate solution due to burdens this places on future land owners. Further, Officers do not consider the use of Section 173 Agreements to transform unacceptable planning outcomes into acceptable outcomes as proper planning practice.

Officers acknowledge that the applicant submits the dwelling is required to support the proposed agricultural land use (on-site embryo transfer facility). Despite this the benefits of the proposed agricultural land use are outweighed by the potential for land use conflict by allowing a dwelling on a small allotment in a broad acre farming area.

The purpose of the FZ also encourages the retention of productive agricultural land and the decision guidelines require consideration on whether a dwelling will result in the loss of productive agricultural land.

Officers consider that the proposed dwelling has the potential to undermine the preservation of land for agricultural use. Officers have formed this view on the basis of the small size of the dwelling lot and there being no guarantee on the commencement or ongoing operation of associated agricultural use. If the dwelling was approved and the facility never commenced or ceased operation the dwelling would likely remain. The potential result of this is a lifestyle property and the loss of the land to agriculture.

The applicant submits that a Section 173 Agreement can be prepared tying use of the dwelling to the use of the site for the proposed embryo transfer facility. However Officers do not consider this proper planning practice for the same reasons discussed earlier.

For the reasons above, Officers consider the application inconsistent with the purposes and decision guidelines of the FZ.

LPPF Assessment

Clause 21.06-1 of the LPPF emphasises the importance of agriculture to the Greater Shepparton area and the threat poses by inappropriate sited dwellings. Clause 21.06-3 discourages dwellings that may be adversely impacted by surrounding agricultural activities and where the dwelling is a potential threat to the preservation of the land for agricultural use.

For the reasons discussed earlier, Officers consider the proposal a potential threat to the preservation of the land for agricultural use. Additionally approval of a dwelling on a small and inappropriate lot in a broad acre agricultural area is likely to result on adverse amenity impacts on future residents of the dwelling.

Officers acknowledge that the applicant submits the dwelling is required to support the proposed agricultural land use. However it is considered that the potential impacts on existing agricultural uses and the amenity of residents of the proposed dwelling outweigh the potential agricultural benefits in this instance.

PPF Assessment

Clause 14.01-1S of the PPF emphasises the importance of supporting and enhancing agriculture and protecting agricultural lands and use from inappropriately site dwellings (among other uses and developments). Clause 14.01-2R highlights the importance of agriculture to the Hume Region.

For the reasons discussed earlier, Officers consider the proposal to be inconsistent with these provisions and the PPF.

Environmental and Biodiversity Assessment

One of the objections received focused on the potential negative impacts on the adjoining Pine Lodge Reserve as a result of farming activities. However as grazing is a Section 1 use in the FZ and the land owners hold a grazing lease for the reserve, Officers do not consider this matter relevant to the assessment of this application.

Conclusion

Officers have assessed the application against the numerous relevant provisions and consider the application to be inconsistent with these provisions.

Having regard to this, Officers recommend that a refusal to grant a permit be issued.

Relevant incorporated or reference documents

Campaspe, Greater Shepparton and Moira Rural Land Use Strategy, 2008

Other relevant adopted State policies or strategies policies

- There are no other relevant adopted state policies

Relevant Planning Scheme amendments

- No relevant planning scheme amendments

Are there any significant social & economic effects?

- There are no significant social & economic effects associated with this application.

Discuss any other relevant Acts that relate to the application?

- No other relevant acts.

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

In assessing the application for a planning permit the Charter of Human Rights and Responsibilities has been considered and the application does not impinge on the charter.

Conclusion

As the application provides for an unacceptable planning outcome it is recommended that a refusal to grant a permit be issued.

DRAFT

REFUSAL TO GRANT A PERMIT

APPLICATION NO: 2019-173

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

ADDRESS OF THE LAND: 245 Kellows Road COSGROVE VIC 3631

WHAT HAS BEEN REFUSED: Use and development of land for a dwelling in the
Farming Zone 1 and the Land Subject to Inundation Overlay

WHAT ARE THE REASONS FOR THE REFUSAL?

The proposed use and development of land for a dwelling does not provide an acceptable and orderly outcome or a net community benefit in terms of the purposes and decision guidelines of the Farming Zone and the relevant provisions of the State and Local Planning Policy Frameworks as it:

- a) Has the potential to lead to land use conflicts between the occupiers of the dwelling and surrounding agricultural properties due to the small lot size and the surrounding broad acre farming operations;
- b) Has the potential to limit the operation and expansion of nearby agricultural uses due to land use conflict;
- c) Has the potential to lead to the loss of the land for the use of agriculture due to the potential for the land to become a lifestyle property;
- d) Has the potential to adversely impact the amenity of the proposed dwelling, given surrounding broad acre farming operations.

Application Details:

Responsible Officer:	Abdullahi Jama
Application Number:	2019-251
Applicants Name:	MFS 247 Pty Ltd
Date Application Received:	6 September 2019
Statutory Days:	44
Land/Address:	155 Hogan Street TATURA VIC 3616
Zoning and Overlays:	Commercial 1 Zone (C1Z) – Schedule 1 Land Subject to Inundation Overlay (LSIO)
Why is a permit required (include Permit Triggers):	34.01-1: Use of land for a restricted recreation facility 52.05-11: Display of business identification signage
Are there any Restrictive Covenants on the title?	Yes: A Section 173 Agreement: Proposal does not breach the agreement

Proposal

The application seeks planning permission for the use of land for a restricted recreation facility (gym) and the associated display of business identification signage. The proposed gym is to operate 24 hours, 7 days a week.

Permission is required for this application under the following Greater Shepparton Planning Scheme ('the Scheme') provisions:

- Clause 34.01-1: Use of land for a restricted recreation facility in the Commercial 1 Zone (C1Z)
- Clause 52.05-11: Display of business identification signage

The proposed site is located on the main commercial strip of Tatura along Hogan Street. The proposed gym is to operate out of a vacant 310m² commercial building. The applicant operates three other gyms in the Greater Shepparton area (Mooroopna, Shepparton and Kialla).

Officers placed the application on public notice. One objection was received.

The grounds of objections centred on the following:

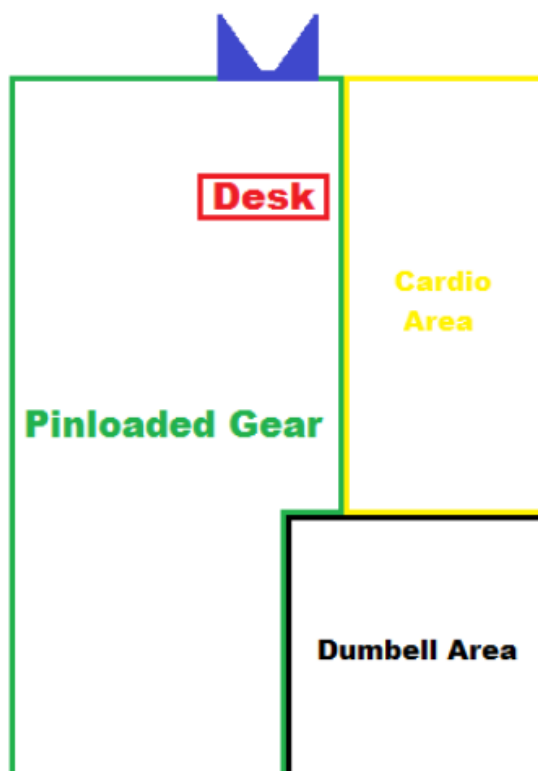
- The proposed gym would further limit car parking available for supermarket/pharmacy/medical centre patrons at and near the intersection of Hogan and Walshe Streets, hurting local businesses and causing difficulties to the elderly residents of Tatura.
- The proposed gym will exceed current noise levels for the area particularly during the evenings and early mornings.

Officers consider the first ground of objection as the main area of concern in this assessment. Officers are satisfied that there is a sufficient provision of on-street parking available along Hogan Street and within the immediate vicinity.

As for the second ground of objection, Officers consider that the following conditions will satisfy the objector's concerns:

- In the event of reasonable complaints of noise from nearby properties, within one month of a request by the responsible authority, an acoustic report must be submitted to the responsible authority giving details of noise measurements to achieve compliance with the SEPP No. N-1 and Noise from industry in regional Victoria (NIRV), and if necessary, to recommend additional measures (physical construction and/or operation modifications) required to ensure compliance. Such measures must then be implemented as soon as practical to the satisfaction of the responsible authority.

Plans of the proposed layout and signage follows:





The main considerations for this application are as follows:

3. Is the proposal consistent with the purpose and decision guidelines of the Commercial 1 Zone (C1Z)
4. Is the proposal consistent with the requirements and provisions of Clause 52.05 (Signs) of the Scheme
5. Is the proposal consistent with the requirements and provisions of Clause 52.06 (Car Parking) of the Scheme
6. Is the proposal consistent with the Local Planning Policy Framework (LPPF) of the Scheme
7. Is the proposal consistent with the Planning Policy Framework (PPF) of the Scheme

Officers have considered the application and recommend that a Notice of Decision ('NOD') to grant a permit be issued for the following reasons:

- The proposal is consistent with the purpose and decision guidelines of the C1Z.
- The proposal is consistent with the requirements and provisions of Clause 52.05.
- The proposal is consistent with the requirements and provisions of Clause 52.06.
- The proposal is consistent with the LPPF.
- The proposal is consistent with the PPF.

Summary of Key Issues

The proposed site is zoned Commercial 1 (C1Z) and covered by the Land Subject to Inundation (LSIO). As no building and works are proposed a planning permit is not triggered by the LSIO.

No referrals were required for this application.

It is considered the proposal reflects an acceptable planning outcome for the following reasons:

- The proposal responds positively to the zone purpose as it provides for a use of land (a gym) that is consistent with the zone purpose of creating vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- The proposal responds positively to the zone decision guidelines as the proposed site has good connection to services as well as being within the main commercial strip of Tatura, minimising amenity impacts that might flow from the use of the gym such as noise and traffic congestion.
- The proposal responds positively to Clause 52.06 (Car Parking) of the Scheme as the proposed site is located in an area of Tatura where sufficient car parking is available for the gym without placing an unreasonable burden on existing car parking conditions.
- The proposal responds positively to the relevant provisions of the LPPF and the PFF as it provides for a supported use and will likely enhance the vibrancy of this commercial hub of Tatura, filling a vacant tenancy, without causing adverse impacts on the amenity of the area.
- The proposal responds positively to the relevant provisions of Clause 52.05, the PFF and the LPPF as the proposed business identification signs are of a size and design appropriate for shop front display along Hogan Street.

Officers consider that the application is consistent with the relevant provisions of the Scheme and therefore reflects an orderly planning outcome.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2019-251** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **34.01-1 and 52.05-11** of the Greater Shepparton Planning Scheme in respect of the land known and described as **155 Hogan Street TATURA VIC 3616**, for the **Use of land for a restricted recreation facility (gym) and the display of business**

identification signage in the Commercial 1 Zone in accordance with the Notice of Decision and the endorsed plans.

Moved by Michael MacDonagh

Seconded by Geraldine Christou

That Council having caused notice of Planning Application No. **2019-251** 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 **34.01-1 and 52.05-11** of the Greater Shepparton Planning Scheme in respect of the land known and described as **155 Hogan Street TATURA VIC 3616**, for the **Use of land for a restricted recreation facility (gym) and the display of business identification signage in the Commercial 1 Zone**, under the Detailed Assessment Pathway 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: **11/11/19** Time: **11** am

The site has a total area of **868** square metres and currently contains:

- A vacant commercial building.

The main site/locality characteristics are:

- The proposed site is located within the main commercial strip of Tatura just west of the Hogan Street-railway line crossing.
- The commercial building that occupies the site is currently vacant.
- The adjoining properties to the east and west are occupied by a hairdresser and retail shop respectively with a bakery and ATM facilities located further to the west.
- On the opposite side of the street are Australia Post and the IGA Supermarket.
- There is on street parking on both sides of Hogan Street and also along Walshe Street.
- Access to the proposed site is via Hogan Street.

The Photos below show the existing site and surrounding area



Images 1-4 (clockwise): Site frontage, site frontage from opposite side of Hogan Street and views to the east and west from the site frontage.





Images 5-10 (clockwise): Snaps along Hogan and Walshe Streets showing car parking areas.

Permit/Site History

The history of the site includes:

- There is no relevant site history for this application.

Further Information

Was further information requested for this application? **Yes: a properly written document explain the proposed use of the gym including the proposed operating hours and peak patron levels, a properly drawn site plan and information on the design of the proposed signage was requested.**

What date was the further information requested? **16 September 2019**

What date was the further information received? **17 September 2019**

Public Notification

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

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



Objections

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

- The proposed gym would further limit car parking available for supermarket/pharmacy/medical centre patrons at and near the intersection of Hogan and Walshe Streets and along Walshe Street, hurting local businesses and particularly causing difficulties to the elderly residents of Tatura.
- The proposed gym due to its operating hours would exceed current noise levels for the area, particularly in the early morning and late evening.

Title Details

The title contains a Section 173 Agreement. The application does not breach the Section 173 Agreement for the following reasons:

- The agreement stipulates that the car parking area and designated car parking spaces to the rear of the site are to be solely used by employer and employee vehicles with customer use specifically prohibited.
- The agreement also requires that maintenance of the site and buildings must be carried out by the owner/occupier to ensure the site is neat and tidy at all times and that excavation on the common boundary with VicTrack is prohibited.
- The proposal does not and will not breach this agreement as no customer parking to the rear or excavation work is proposed.

Consultation

Consultation was undertaken: Relevant aspects of consultation, included:

- A pre-application meeting between Officers and the applicant to discuss the scope of the proposal and the planning scheme requirements related to it.
- Discussion with the applicant on the DHP process following the lodgement of the sole objection against the application.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	There were no Section 55 Referral Authorities for this application.
Section 52 Notices	There were no relevant Section 52 Notice Authorities for this application.

Internal Council Notices	Advice/Response/Conditions
No internal council notices were required.	

Assessment

The zoning of the land

34.01 Commercial 1 Zone (C1Z)

Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

34.01-1 Table of uses

- Leisure and recreation facility: Section 2 use: Permit required

34.01-2 Use of land

A use must not detrimentally affect the amenity of the neighbourhood, including through the:

- Transport of materials, goods or commodities to or from the land.
- Appearance of any building, works or materials.
- Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

34.01-8 Decision guidelines

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

General

- The Municipal Planning Strategy and the Planning Policy Framework.
- The interface with adjoining zones, especially the relationship with residential areas.

Use

- 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.

34.01-9 Signs

Sign requirements are at Clause 52.05. This zone is in Category 1.

Relevant overlay provisions

There are no relevant overlays for this application.

The Planning Policy Framework (PPF)

13.07-1S Land use compatibility

Objective

- Leisure and recreation facility: Section 2 use: Permit required
- To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.

Strategies

- Leisure and recreation facility: Section 2 use: Permit required
- To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.
- Ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by:
- Directing land uses to appropriate locations.
- Using a range of building design, urban design, operational and land use separation measures.

13.05-1S Noise abatement

Objective

- To assist the control of noise effects on sensitive land uses.

Strategy

- 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.

Policy documents Consider as relevant:

- State Environment Protection Policy (Control of Music Noise from Public Premises)
- No. N-2 State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 in metropolitan Melbourne

18.02-4S Car Parking

Objective

- To ensure an adequate supply of car parking that is appropriately designed and located.

Strategies

- Allocate or require land to be set aside for car parking subject to the existing and potential modes of access including public transport, the demand for off-street car parking, road capacity and the potential for demand management of car parking.
- Encourage the efficient provision of car parking by consolidating car parking facilities. Design and locate local car parking to:
- Protect the role and function of nearby roads.
- Enable easy and efficient use.
- Enable the movement and delivery of goods.
- Achieve a high standard of urban design and protect the amenity of the locality, including the amenity of pedestrians and other road users. Create a safe environment, particularly at night.
- Facilitate the use of public transport.
- Protect the amenity of residential precincts from the effects of road congestion created by on-street parking.

- Make adequate provision for taxi ranks as part of activity centres, transport interchanges and major commercial, retail and community facilities.

19.02-4S Social and cultural infrastructure

Objective

- To ensure suitable locations for police, fire, ambulance and other emergency services.
- To provide fairer distribution of and access to, social and cultural infrastructure.

Strategies

- Identify and address gaps and deficiencies in social and cultural infrastructure, including additional regionally significant cultural and sporting facilities.
- Encourage the location of social and cultural infrastructure in activity centres.
- Ensure social infrastructure is designed to be accessible.
- Ensure social infrastructure in growth areas, is delivered early in the development process and in the right locations.
- Plan and design community places and buildings so they can adapt as the population changes and different patterns of work and social life emerge.
- Support innovative ways to maintain equitable service delivery to settlements that have limited or no capacity for further growth, or that experience population decline. Identify and protect land for cemeteries and crematoria.

The Local Planning Policy Framework (LPPF)

21.04-4 Urban Design

- Advertising signage is a key and often highly visible component of the physical environment of the municipality and the inappropriate design or placement of advertising signs can have a significant effect on the appearance and visual amenity of an area.
- Council wants to guide the location and display of signage within the municipality to ensure signage is compatible with the character and architecture of local streetscapes.
- The design, form, size and placement of advertising signs should be controlled so as to protect and enhance the appearance of rural and urban areas and to avoid signs that are excessive, confusing or incompatible with the character of the surrounding area.

Objectives- Urban design

- To promote a high standard of architectural, landscaping and urban design for built form and public spaces throughout the municipality.
- To improve the amenity and image of the Shepparton CBD through the quality of its street scape design, thereby creating an attractive CBD in which to work, study and live.
- To control the number of signs and ensure that the appearance, size, illumination or location of signs does not adversely affect the visual amenity of the natural environment or the built form in the municipality.

Policy Guidelines- Advertising Signs

When considering an application for an advertising sign, Council will be guided by the following provisions:

- Fewer signs displaying a simple clear message are encouraged.
- Advertising signage is encouraged to be primarily for business identification providing basic identification information of the business.
- Suspended under-verandah signs should be limited to one per shopfront, except on large premises where the limit should be one per ten metres of shop front.
- Above-verandah signs should be attached to the upper facade or parapet, parallel/horizontal to the road with minimal projection.
- Sky signs, high wall signs, projecting off-wall signs on upper facades and signs that project above parapets, wall, verandahs, roof lines or building fascias are discouraged in all areas.
- Freestanding signs should be limited to one sign per premises with multiple occupancies encouraged to share sign space.
- 'V' board signs are discouraged in all areas.
- Where a building is set back from the street, signs are encouraged to be located within the boundary and should be orientated to be parallel or at right angles to the street.
- Where possible signs should be located on the building.
- Pole signs should be limited to one per frontage and should be no higher than the surrounding buildings.
- Internally illuminated promotional signs are discouraged.
- Permanent bunting, streamers, banner, balloons, animated, reflective signs or similar devices, are strongly discouraged in all zones due to the detriment to the amenity of the area and the high level of visual clutter and dominance.
- These signs may be considered for temporary (3month maximum) promotions only.

- Major Promotional signs are discouraged, but if approved are to be confined to Regional & Sub-regional Centres attached to a building wall and should not be more than 3 metres above the ground or be internally or externally illuminated.

21.04-5 Community life

Objectives

- To provide an equitable and efficient distribution of community facilities and services.
- To strengthen the image of Shepparton CBD as a regional community and cultural hub.

Strategies- Community Life

- Locate facilities and service centres where they can be accessed by public transport and/or walking/cycle paths

21.06-5 Commercial/Activity Centre

Objective

- To assist the control of noise effects on sensitive land uses.

Strategy

- To support the hierarchy of viable activity centres.

Relevant Particular Provisions

52.05 Signs

Purpose

- To regulate the development of land for signs and associated structures.
- To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

Section 2

- A permit is required to construct or put up for display a sign in Section 2.
- This does not apply to a sign specified in Clause 52.05-10.

- All the conditions opposite the sign must be met. If the conditions are not met, the sign is prohibited.

52.05-11 Category 1- Commercial areas

Purpose

- To provide for identification and promotion signs and signs that add vitality and colour to commercial areas.

Section 2- Permit Required

- Business identification signage that exceed 8m2.

52.05-8 Decision Guidelines

All Signs

The character of the area including

- The sensitivity of the area in terms of the natural environment, heritage values, waterways and open space, rural landscape or residential character.
- The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.
- The cumulative impact of signs on the character of an area or route, including the need to avoid visual disorder or clutter of signs.
- The consistency with any identifiable outdoor advertising theme in the area.

Impacts on views and vistas

- The potential to obscure or compromise important views from the public realm.
- The potential to dominate the skyline.
- The potential to impact on the quality of significant public views.
- The potential to impede views to existing signs.

The relationship to the streetscape, setting or landscape

- The proportion, scale and form of the proposed sign relative to the streetscape, setting or landscape.
- The position of the sign, including the extent to which it protrudes above existing buildings or landscape and natural elements.
- The ability to screen unsightly built or other elements.
- The ability to reduce the number of signs by rationalising or simplifying signs.

- The ability to include landscaping to reduce the visual impact of parts of the sign structure.

The relationship to the site and building

- The scale and form of the sign relative to the scale, proportion and any other significant characteristics of the host site and host building.
- The extent to which the sign displays innovation relative to the host site and host building.
- The extent to which the sign requires the removal of vegetation or includes new landscaping.

The impact of structures associated with the sign

- The extent to which associated structures integrate with the sign.
- The potential of associated structures to impact any important or significant features of the building, site, streetscape, setting or landscape, views and vistas or area.
- The impact of any illumination:
 - The impact of glare and illumination on the safety of pedestrians and vehicles.
 - The impact of illumination on the amenity of nearby residents and the amenity of the area.
- The potential to control illumination temporally or in terms of intensity.

The impact of any logo box associated with the sign

- The extent to which the logo box forms an integral part of the sign through its position, lighting and any structures used to attach the logo box to the sign.
- The suitability of the size of the logo box in relation to its identification purpose and the size of the sign.
- The need for identification and the opportunities for adequate identification on the site or locality.
- The impact on road safety. A sign is a safety hazard if the sign:
 - Obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property.
 - Obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background that may reduce the clarity or effectiveness of a traffic control device.
 - Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.
- Is at a location where particular concentration is required, such as a high pedestrian volume intersection.
- Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.

- Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.
- Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.
- Is within 100 metres of a rural railway crossing.
- Has insufficient clearance from vehicles on the carriageway.
- Could mislead drivers or be mistaken as an instruction to drivers.

52.06 Car Parking

52.06-1 Scope

Clause 52.06 applies to:

- A new use; or
- An increase in the floor area or site area of an existing use; or
- An increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

52.06-2 Provision of Car Parking Spaces

Before:

- A new use commences; or
- the floor area or site area of an existing use is increased; or
- An existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use,

The number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority in one or more of the following ways:

- On the land; or in accordance with a permit issued under Clause 52.06-3; or
- In accordance with a financial contribution requirement specified in a schedule to the Parking Overlay

52.06-3 Permit requirement

A permit is required to:

- **Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.**

- Provide some or all of the car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay on another site.
- Provide more than the maximum parking provision specified in a schedule to the Parking Overlay

52.06-6 Number of car parking spaces required for other uses

- Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority.

Decision Guidelines

Before granting a permit to reduce the number of spaces, the responsible authority must consider the following, as appropriate:

- The Car Parking Demand Assessment.
- Any relevant local planning policy or incorporated plan.
- The availability of alternative car parking in the locality of the land, including:
 - Efficiencies gained from the consolidation of shared car parking spaces.
 - Public car parks intended to serve the land.
 - On street parking in non-residential zones.
 - Streets in residential zones specifically managed for non-residential parking.
- On street parking in residential zones in the locality of the land that is intended to be for residential use.
- The practicality of providing car parking on the site, particularly for lots of less than 300 square metres.
- Any adverse economic impact a shortfall of parking may have on the economic viability of any nearby activity centre.
- The future growth and development of any nearby activity centre.
- Any car parking deficiency associated with the existing use of the land.
- Any credit that should be allowed for car parking spaces provided on common land or by a Special Charge Scheme or cash-in-lieu payment.
- Local traffic management in the locality of the land.
- The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.
- The need to create safe, functional and attractive parking areas.

- Access to or provision of alternative transport modes to and from the land.
- The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.
- The character of the surrounding area and whether reducing the car parking provision would result in a quality/positive urban design outcome.
- Any other matter specified in a schedule to the Parking Overlay.
- Any other relevant consideration.

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 Assessment

The application seeks planning permission for the use of land for a restricted recreation facility (gym) and the display of associated business identification signage in the Commercial 1 Zone (C1Z).

The zone specifies certain requirements for uses of land subject to it and requires an assessment against its decision guidelines. An assessment against the zone provisions and other relevant planning provisions follows.

C1Z Assessment

The primary planning control for this application is the relevant provisions of the C1Z. Officers consider the application consistent with the relevant C1Z provisions for the following reasons:

- The application is consistent with the zone purpose of creating vibrant mixed use commercial centres for among other things, community uses. There is no other gym that operates 24 hours a day, 7 days a week in Tatura with the proposed gym reflecting the introduction of a unique facility to the Tatura commercial area.
- The application responds positively to amenity considerations under Clause 34.01-2 and the zone decision guidelines.
- Officers consider the two main amenity considerations to be car parking and noise level impacts. Car parking considerations are discussed later in this assessment.
- As for noise level considerations, Officers consider the application acceptable for the following reasons:
 - The proposed gym is located within Tatura's main commercial strip with an appreciable buffer from residential zoned properties.
 - Given the buffer along with the fact that the vast majority of nearby businesses operate within normal business hours, Officers do not consider early morning and late evening noise levels to be of specific concern here.
 - Further, Officers consider it doubtful that the likely noise levels associated proposed gym (including expected noise levels associated with patron entry and exit) will be perceived as unreasonable in a commercial strip context with shoppers abound and vehicle travel along Hogan Street.
 - Officers have included as a condition in the Draft Notice of Decision that if any reasonable complaints about noise are received, an acoustic report must be submitted to Council detailing noise levels to ensure compliance with the relevant State guidelines.
 - With the inclusion of these conditions, Officers consider noise concerns resolved.

- With respect to amenity impacts from increased traffic, Officers do not consider the likely effects to be unreasonable given that gym patrons typically attend gyms within their local area. As gyms are not rare in the Greater Shepparton area, Officers do not consider that unreasonable traffic congestion will result from the use of the gym.
- Further, as the proposed gym will operate 24/7, Officers consider it likely that customer attendance will be spread out during the day and night, reducing traffic congestion.
- Finally, the proposed site has good connections to services, responding positively to the relevant decision guideline.

Clause 52.05 (Signs) Assessment

Officers consider the application consistent with the relevant Clause 52.05 provisions for the following reasons:

- Although four signs are proposed, their cumulative size will not visually dominate the building when viewed from Hogan Street.
- The proposed white lettered “MFS” branding against the black backdrop (the pre-dominant design scheme) is compatible with the dark grey-brown building façade.
- Finally, none of the proposed signs are illuminated, mitigating any concerns over amenity and safety.

Clause 52.06 (Car Parking) Assessment

The application proposes the use of a land for a restricted recreation facility. As this reflects a change in use of the proposed site, the Clause 52.06 car parking provisions are engaged.

Officers consider the application consistent with the relevant Clause 52.06 provisions for the following reasons:

- Restricted recreation facilities are not listed in the Clause 52.06-5 table of uses that designate specific car parking rates for an assortment of uses.
- Therefore the applicable standard (not a permit trigger) is Clause 52.06-6.
- This sub-clause requires that car parking spaces must be provided “to the satisfaction of the responsible authority”.
- Having inspected the proposed site, Officers are satisfied that sufficient car parking is available for patrons of the gym for the following reasons:
 - The proposed site has 8 car parking spaces to the rear for staff use.

- There is an ample amount of 2 hour and all day car parking spaces along Hogan and Walshe Streets that future patrons can conveniently park in during their gym sessions.
- Officers noted in their site inspection that a number of the parking spaces along Hogan Street in proximity to the proposed site were vacant and that there were vacant spaces further down Walshe Street.
- However it was observed that the car parking bays nearest to the IGA at the intersection of Walshe and Hogan Streets were fully occupied.
- Nevertheless, Officers consider that due to the operating hours of the proposed gym, patron use will likely be staggered during the day and night, reducing competition with shoppers during the day.
- Further, Officers emphasise that the subject car parking spaces are open to the public and therefore no privileged access exists for any businesses/uses. This is especially true in a context of a main commercial strip.
- Future patrons of the gym will have the same rights to use the spaces as any other patron of a nearby business.
- With regards to the specific objector concern related to the elderly residents of Tatura struggling to find car parking spaces, Officers consider this matter beyond the scope of this application.

PFF and LPPF Assessment

Officers consider that the application is consistent with the relevant PFF & LPPF provisions for the following reasons:

- The application is consistent with Clauses 13.07-1S (Land use compatibility), 13.05-1S (Noise abatement) and 18.02-4S (Car parking) and 19.02-4S (Social and cultural infrastructure) of the PPF for all of the reasons listed above.
- The application is consistent with Clauses 21.04-4 (Urban design), 21.04-5 (Community life) and 21.06-5 (Commercial/Activity Centre) for all of the reasons listed above.

Conclusion

On balance, Officers consider that the application reflects an acceptable and orderly planning outcome.

Having regard to this, Officers recommend that a planning permit issue.

Relevant incorporated or reference documents

There are no relevant incorporated or reference documents.

Other relevant adopted State policies or strategies policies

State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade)

Relevant Planning Scheme amendments

There are no relevant Planning Scheme amendments.

Are there any significant social & economic effects?

There are no significant social and economic effects associated with this application.

Discuss any other relevant Acts that relate to the application?

There are no other relevant acts to the application.

The Aboriginal Heritage Act 2006

The *Aboriginal Heritage Act 2006* provides protection for all Aboriginal places, objects and human remains in Victoria, regardless of their inclusion on the Victorian Aboriginal Heritage Register or land tenure. The *Aboriginal Heritage Act 2006* introduces a requirement to prepare a Cultural Heritage Management Plan (CHMP) if all or part of the activity is a listed high impact activity, resulting in significant ground disturbance, and all or part of the activity area is an area of cultural heritage sensitivity, which has not been subject to significant ground disturbance.

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

Charter of Human Rights and Responsibilities

In assessing the application for a planning permit the Charter of Human Rights and Responsibilities has been considered and the application does not impinge on the charter.

Conclusion

As the application provides for an acceptable planning outcome it is recommended that a planning permit issue.

Draft Notice Of Decision

APPLICATION NO: 2019-251
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: 155 HOGAN STREET TATURA VIC 3616

WHAT THE PERMIT WILL ALLOW: USE OF LAND FOR A RESTRICTED RECREATION FACILITY (GYM) AND THE DISPLAY OF BUSINESS IDENTIFICATION SIGNAGE IN THE COMMERCIAL 1 ZONE

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. **Amended Plans Required**

Before the use commences 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. Such plans must be generally in accordance with the plan submitted with the application but modified to show:

- a) properly prepared floor plan including the location of any amenity and changing areas;

to the satisfaction of the responsible authority.

2. **Layout Not Altered**

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

3. **Noise Control**

In the event of reasonable complaints of noise from nearby properties, within one month of a request by the responsible authority, an acoustic report must be submitted to the responsible authority giving details of noise measurements to achieve compliance with the SEPP No. N-1 and Noise from Industry in Regional Victoria (NIRV), and if necessary, to recommend additional measures (physical construction and/or operation modifications) required to ensure compliance.

Such measures must then be implemented as soon as practical to the satisfaction of the responsible authority.

4. **Signs Not Altered**

The sign to be displayed must be in accordance with the endorsed plan and must not be altered or modified without the prior written approval of the responsible authority.

5. **No additional signs**

No additional signs shall be displayed or erected on the site without the prior written approval of the responsible authority.

6. **Sign maintenance**

All signs must be constructed to the satisfaction of the responsible authority and maintained to the satisfaction of the responsible authority.

7. **Time for Starting and Completion**

This permit will expire if the following circumstance applies:

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

Amended Application Details:

Responsible Officer:	Andrew Dainton
Amended Permit Number:	2012-4/A
Applicants Name:	BSP Lawyers
Date Amendment Received:	8 August 2019
Statutory Days:	75
Land/Address:	7900 Goulburn Valley Highway KIALLA VIC 3631
Zoning and Overlays:	Commercial 2 Zone (C2Z) Industrial 3 Zone (IN3Z) Abuts Road Zone Category 1 Airport Environs Overlay (AEO) Land Subject to Inundation Overlay (LSIO) Design and Development Overlay 2 (DDO2) Design and Development Overlay 7 (DDO7)
Why was the amendment required?	To extend trading hours
Why is a permit required (include Permit Triggers):	Extend trading hours under 52.27
Are there any Restrictive Covenants on the title?	No

Proposal

Planning permit 2012-4 was issued by VCAT order on 14 December 2012 and allowed buildings and works for the redevelopment of an existing hotel and the use of 20 electronic gaming machines (EGM).

Condition 3 of the permit limited the operating hours of the EGM to 10am to 1am Monday to Saturday and 10am to 11pm on Sundays.

This application seeks to amend condition 3 to extend trading hours to:

- Sunday between 10am and 1am the following morning
- Good Friday and ANZAC Day between 12 noon and 3am the following morning
- On any other day between 7am and 3am the following morning

This amendment if permitted would allow the playing of EGM's and drinking of alcohol for an extended period. Permission to amend the hours is required under 52.27 which is a permission relating to the service and consumption of liquor.

The application was advertised and three objections were lodged. The objections largely relate to loud music being played late at night.

In response to the objections the applicant offered the following conditions:

- *Amplified music or entertainment (other than background music or entertainment played at background music levels) must cease by 1am in all outdoor areas to the satisfaction of the Responsible Authority*

- *Any external openable walls, windows, or doors of the premises must be closed at 1am except for an access and egress to the satisfaction of the Responsible Authority.*

Officers consider that these suggested conditions do not go far enough. Officers recommend that conditions should not allow amplified music or entertainment including live bands after 1am which is the current restriction on these activities. This will ensure the existing situation relating to music noise will not be worsened as a result of this approval to extend gaming lounge hours.

Officers recommend that the trading hours of the gaming lounge be extended as applied for.

Summary of Key Issues

- The land has been used as a hotel motel known as the Peppermill since about 1989. Since the development of the motel, Kialla Lakes estate has grown on the east side of the Peppermill.
- In about 2013 the venue was developed to incorporate 20 pokies within a gaming lounge that was previously a drive through bottle shop. Conditions limited the operating hours of the gaming lounge to 10am to 1am Monday to Saturday and 10am to 11pm on Sundays.
- This application seeks to extend operating hours to 1am on Sunday's and 3am on all other days.
- This application was advertised and three objections were lodged. Objectors raised concern about music noise after 1am.
- Officers consider that approval should be granted to extend operating hours as applied for however conditions should limit amplified music or entertainment including live bands (other than background music or entertainment played at background music levels) to 1am.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Amended Planning Application No. 2012-4/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 52.27 of the Greater Shepparton Planning Scheme in respect of the land known and described as 7900 Goulburn Valley Highway KIALLA VIC 3631, for the extension of operating hours in accordance with the Notice of Decision and the endorsed plans.

Moved by Geraldine Christou Seconded by Melissa Crane

That Council having caused notice of Planning Application No. **2012-4/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 Clause **52.27** of the Greater Shepparton Planning Scheme in respect of the land known and described as **7900 Goulburn Valley Highway KIALLA VIC 3631, for the extension of operating hours** under the Detailed Assessment Pathway 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: 4 November 2019

Time: 11.45am

The site has a total area of 1.3ha and currently contains:

- An existing hotel motel and large car park. Motel accommodation is located on the north side of the land. The hotel consists of a bistro, bars, function room, gaming lounge and TAB.

The main site/locality characteristics are:

- The Peppermill is accessed from a service road of the GVH. The land is within close proximity to Kialla Lakes residential estate and residential development on the west side of GVH.

The Photos below show the existing site:





Permit/Site History

The history of the site includes:

- Planning permit 2012-4 was issued by VCAT order on 14 December 2012 and allowed buildings and works for the redevelopment of an existing hotel and the use of 20 EGM's. The permit has been acted on and the EGM's are installed.

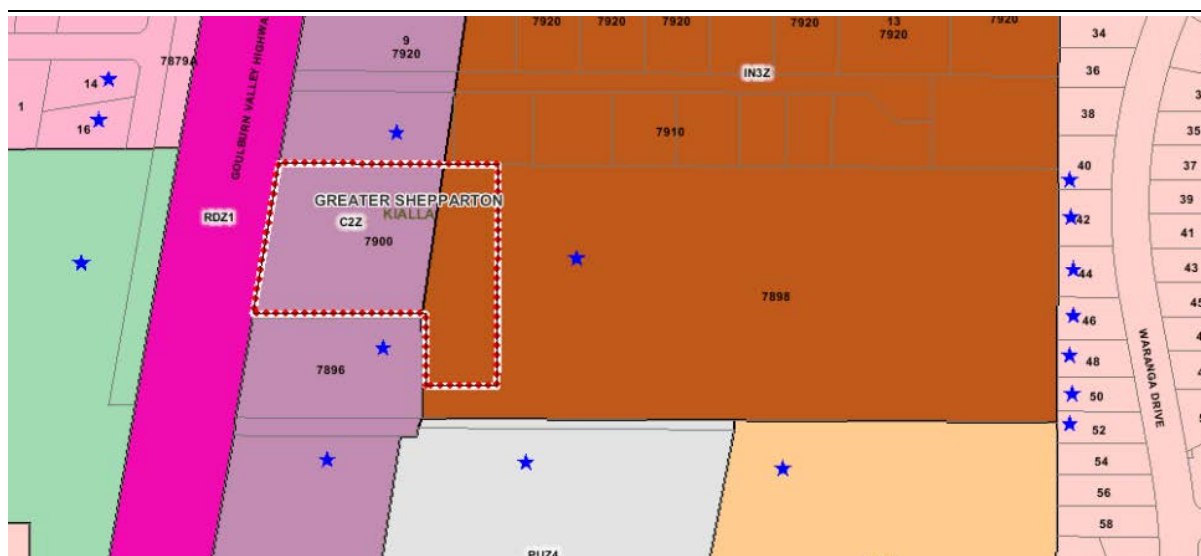
Further Information

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:

- Sunday between 10am and 1am the following morning
- Good Friday and ANZAC Day between 12 noon and 3am the following morning
- On any other day between 7am and 3am the following morning, by:
 - Sending notices to the owners and occupiers of adjoining land.



Objections

The Council has received three objections to date. The location of each of the objectors is shown below.



The key issues that were raised in the objections relate to:

- Live bands playing until 3am
- Night time noise emissions associated with music
- Unruly behaviour of patrons at closing times

Officers agree that the playing of live music or even amplified music until 3am is excessive. Officers consider that conditions should continue the status quo which is music until 1am.

It is acknowledged that one objector seeks a hotel closing time of 1am and a cut off time of 10pm for loud music and bands. The current approved trading hours are generally to 1am, officers do not have the ability as part of this application to reduce the hotels lawful trading

hours, officers have adopted the approach to not extend the main amenity impact which is music noise.

Subject to the inclusion of conditions to implement the above officers consider that the playing of pokie machines to 3am will not result in further amenity impacts to neighbours.

Title Details

The title does not contain a Restrictive Covenant.

The title contains a Section 173 Agreement which relates to part of the building being constructed below the flood protection level.

Consultation

Consultation was not undertaken.

Referrals

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
VCGLR	52.27	Determining	VCGLR responded to the application which offered no comment or submission on the above application.

Notice to Authorities

External Notice to Authorities:

Section 52 - Notice Authority	Advice/Response/Conditions
Victoria Police under 52.27	Victoria Police did not respond to the application.

Assessment

The zoning of the land

The Peppermill is within the C2Z and IN3Z.

The Peppermill itself is within the C2Z. No permission is triggered under the zone to extend operating hours.

Purposes of the C2Z are:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- 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.

Relevant overlay provisions

The land is within a number of overlays including the AEO, LSIO, DDO2 and DDO7.

These overlays are all development overlays and do not impact on the application to extend opening hours.

The State Planning Policy Framework (SPPF)

13.05-1S Noise abatement

Objective

To assist the control of noise effects on sensitive land uses.

Strategy

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.

13.07-1S Land use compatibility

Objective

To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.

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

Council has no local policy relating to entertainment venues and associated hours of operation.

Relevant Particular Provisions

52.27

LICENSED PREMISES

Purpose

- To ensure that licensed premises are situated in appropriate locations.
- To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.

A permit is required to extend opening hours.

Decision guidelines

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

- The Municipal Planning Strategy and the Planning Policy Framework.

- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

53.06 Live music and entertainment noise

Purpose

- To recognise that live music is an important part of the State's culture and economy.
- To protect live music entertainment venues from the encroachment of noise sensitive residential uses.
- To ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.
- To ensure that the primary responsibility for noise attenuation rests with the agent of change.

53.06-5 includes the following decision guidelines:

- the extent to which the siting, layout, design and construction minimise the potential for noise impacts.
- whether existing or proposed noise sensitive residential uses will be satisfactorily protected from unreasonable live music and entertainment noise.
- whether the proposal adversely affects any existing uses.

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.

Officers Assessment

Permission is sought to amend the permit to allow an extension of trading hours under clause 52.27 of the scheme. The current general licence allows the following trading hours:

**FOR CONSUMPTION ON THE LICENSED PREMISES -
Sunday Between 10 a.m. and 11 p.m.
Good Friday & Anzac Day Between 12 noon and 11 p.m.
On any other day Between 7 a.m. and 1 a.m. the following morning.**

The decision guidelines to clause 52.27 require that the amenity impacts on the surrounding area be considered.

Officers consider that the main amenity impact is the extension of liquor service hours until 3am and associated entertainment particularly live music. The Peppermill is located on the Goulburn Valley Highway and is within close proximity to residential neighbourhoods to the east and west.

Neighbours during the public notice phase have raised concerns about noise from live music.

The amended application has not been accompanied by an acoustic report which considers noise impacts to residential neighbours from 1am to 3am.

Officers consider that this approval should not authorise amplified or live music until 3am. Officers recommend the inclusion of the following condition:

- *Amplified music or entertainment including live bands (other than background music or entertainment played at background music levels) must cease by 1am in all areas of the venue to the satisfaction of the Responsible Authority*

The inclusion of this condition will result in the status quo being retained in relation to music noise emissions from the Peppermill.

Pokies are a relatively unobtrusive form of late night entertainment and on this basis officers consider that the extension of the pokies operating hours will not result in unacceptable amenity outcomes to the neighbourhood.

Officers recommend that the permit be amended to allow an extension of the hotel operating hours to:

- Sunday between 10am and 1am the following morning
- Good Friday and ANZAC Day between 12 noon and 3am the following morning
- On any other day between 7am and 3am the following morning

Relevant incorporated or reference documents

There are no relevant incorporated or reference documents to this amended application.

Other relevant adopted State policies or strategies policies

There is no relevant adopted state or strategic policies to this application.

Relevant Planning Scheme amendments

There is no relevant PSA's to this application.

Are there any significant social & economic effects?

The Peppermill has existing approvals for 20 EGM's which make up part of Greater Shepparton's EGM cap. Other EGM venues within Greater Shepparton allow the playing of machines for similar or longer periods being:

- Victoria Hotel 9am – 5am
- Sherbourne Hotel
 - Monday to Saturday 8am – 4am
 - Sunday 10am – 4am

In the VCAT decision that approved the 20 EGM's at the Peppermill, VCAT determined that the net economic and social impact of approval will not be detrimental to the well-being of the community and municipal district.

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.

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

Permissions will be required from the VCGLR to extend operating hours.

Conclusion

Officers having undertaken assessment of the application recommend the following:

- Amplified music or entertainment including live bands cease at 1am
- The hotel operating hours be extended to facilitate longer playing hours for the EGM's.

Draft Notice Of Decision to Amend a Permit

APPLICATION NO: 2012-4/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: 7900 GOULBURN VALLEY HIGHWAY KIALLA
VIC 3631

PERMIT FOR WHICH AMENDMENT WAS SOUGHT: 2012-4

WHAT AMENDMENT IS BEING MADE TO THE PERMIT ?:

The permit is amended to extend trading hours of the hotel in accordance with condition 3 of the permit

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:

- a) No access available from the main entry on the north side of the hotel directly into the gaming lounge. Access to the gaming lounge must be limited so that it is gained from within the venue generally in accordance with the plan titled *Peppermill Goulburn Valley Highway Shepparton Victoria 3630, Proposed Floor Plan, Project No. 3101.11, Sheet 04 of 08, Dated 29.01.13.*
- b) The elimination of direct views into the gaming lounge from the main entry on the north side of the hotel.
- c) The deletion of the area marked "Outdoor Gaming" directly abutting the gaming lounge.

- d) A bicycle rail that accommodates at least two bicycles
- e) Cigarette disposal bin at the entry to the hotel
- f) Screen electrical substation if one is required
- g) Automatic glass sliding doors to all entrances to the gaming room

2. Layout Not Altered

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

3. Trading Hours

The trading hours of the Peppermill Hotel are limited to the following:

- Sunday between 10am and 1am the following morning
- Good Friday and ANZAC Day between 12 noon and 3am the following morning
- On any other day between 7am and 3am the following morning

Amplified music or entertainment including live bands (other than background music or entertainment played at background music levels) must cease by 1am in all areas of the venue to the satisfaction of the responsible authority

4. Electronic Gaming Machines

No more than 20 electronic gaming machines are permitted to be installed or used in the gaming area.

Before the use of the 20 electronic gaming machines commences the hotel redevelopment as shown on the endorsed plans and described in the Urbis planning report (dated December 2011 report number 001) must be completed to the satisfaction of the responsible authority.

5. Drainage Discharge Plan

Before the development starts, 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 two copies must be provided. The plans must be in accordance with council's Infrastructure Design Manual and include:

- a. how the land will be drained;
- b. underground pipe drains conveying stormwater to the legal point of

discharge;

- c. measures to enhance stormwater discharge quality from the site and protect downstream waterways or as otherwise agreed to in writing by the responsible authority
- d. provision of an electronic copy of the MUSIC model (or equivalent) demonstrating achievement of the required reduction of pollutant removal;

Before the occupation of the hotel redevelopment all drainage works required by the drainage plan must be completed to the satisfaction of the responsible authority.

6. Landscape Plan

Before the development starts a landscape plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided. The landscaping plan must be in accordance with the landscape requirements under the Design and Development Overlay 7 and show:

- a) a survey of all existing vegetation and natural features showing plants (greater than 1200mm diameter) to be removed;
- b) 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;
- c) the method of preparing, draining, watering and maintaining the landscaped area;
- d) details of surface finishes of pathways and driveways;
- e) garden bed heights above car-park surface;
- f) all areas where vehicle overhang will occur;
- g) all landscaped areas to be used for stormwater retardation;

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

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

All trees planted as part of the landscape works must be a minimum height of 1.5 metres at the time of planting.

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

7. Car Park Plan

Before the development starts, a car park plan must be submitted to and approved by the responsible authority. When approved, the plan will then form part of the permit. Three copies of the plan must be submitted. The plan must provide but is not limited to the following:

- a) Location of disabled car parking bays
- b) Detailed plan of the car parking with no less than those spaces shown on drawing 02 project no. 3101.11 planned by Pop Design Studios dated 15.11.11
- c) Dimension of the access aisles and car parking spaces

Once approved the Car Park Plan will be endorsed to form part of this permit.

The approved plan can be amended to the satisfaction of the responsible authority. The car park must be managed in accordance with the approved Car Park Plan to the satisfaction of the responsible authority.

Before the occupation of the hotel redevelopment the works set out in this condition must be completed to the satisfaction of the responsible authority, including:

- a) An all-weather seal coat surface.
- b) Drainage in accordance with an approved drainage plan.
- c) Line-marking to indicate each car space and all access lanes.
- d) Proper illumination with lighting designed, baffled and located to prevent any adverse effect on adjoining land.
- e) Measures taken to prevent damage to fences or landscaped areas of adjoining properties and to prevent direct vehicle access to an adjoining road other than by a vehicle crossing.
- f) Provision of traffic control signage and or structures as required.
- g) Signage directing drivers to the area set aside for car parking. Such signs are to be located and maintained to the satisfaction of the responsible authority. This sign must not exceed 0.3 square metres.
- h) All redundant vehicle crossings be removed and replaced with concrete kerb and channel.
- i) Car parking areas must be constructed, and drained to prevent diversion of floor or drainage waters and maintained in a continuously useable condition to the satisfaction of the responsible authority.
- j) Car spaces and access lanes must not be used for any other use, to the satisfaction of the responsible authority.

8. Management Plan

Before the use commences a Management Plan must be provided to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must include:

- a) Measures designed to ensure the orderly arrival and departure of patrons.
- b) Signage to be used to encourage responsible off-site patron behaviour.
- c) The training of staff in the management of patron behaviour.
- d) Details of staffing in the gaming room to ensure two (2) appropriately licensed staff are on duty in the gaming room at all times when the venue is open to the public.
- e) Staff communication arrangements.
- f) The keeping of a complaints register and procedure for dealing with complaints.
- g) Confirmation that all persons engaged for employment in the gaming lounge must undertake Responsible Service of Gaming training by or approved by the Victorian Commission for Gambling and Liquor Regulation.
- h) The contact details of an appropriate person for residents to contact in the event of a complaint arising with respect to the operation of the gaming lounge.
- i) Monitoring to ensure the Hotel's compliance with its Responsible Gambling Policies and Procedures, its Responsible Gambling Code of Conduct and Self-exclusion Program, the Victorian Gambling Regulation Act 2003 and its associated regulations, and requirements as set by the Victorian Commission for Gambling and Liquor Regulation.
- j) Details of management of patrons within the various parts of the venue including management of patrons between the various internal uses.

The Management Plan, including the matters specified herein, may be amended to the satisfaction of the Responsible Authority. \

9. General Exterior Treatment

Before the development starts, a schedule of materials, external finishes and colours to the satisfaction of the responsible authority, must be submitted to and approved by the responsible authority. When approved, the schedule will be endorsed and will then form part of the permit.

The exterior treatment of the buildings must be maintained to the satisfaction of the responsible authority.

10. Construction Phase

Before the development starts, a construction management plan shall be submitted to and approved by the responsible authority. The plan must detail measures to be employed for the effective management of matters including, mud on roads, dust generation and erosion and sediment control on the land, during the construction phase. When approved the plan will be endorsed and form part of the permit. The construction management plan must provide contact details of the site manager.

During the construction of buildings and/or works approved by this permit, measures must be employed to minimise mud, crushed rock or other debris being carried onto public roads and/or footpaths from the land, to the satisfaction of the responsible authority.

Dust suppression must be undertaken to ensure that dust caused on the land does not cause a nuisance to neighbouring land to the satisfaction of the responsible authority.

11. Roof Plant

Before the occupation of the hotel redevelopment, additional plant equipment, vents and other mechanical equipment on the roof must be screened so that it is not visible from Goulburn Valley Highway to the satisfaction of the responsible authority.

12. Patron Numbers

No more than 45 patrons may be permitted in the Gaming Lounge at any one time.

13. 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.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within three (3) months afterwards.