

**CONFIRMED MINUTES**

**FOR THE  
GREATER SHEPPARTON CITY COUNCIL**

**DEVELOPMENT HEARINGS PANEL**

**Meeting No. 1/2020**

**HELD ON  
FRIDAY 26<sup>TH</sup> MAY 2020  
AT 10.00AM**

**IN THE COUNCIL BOARDROOM (VIA ZOOM)**

**CHAIR**

**Councillor Chris Hazelman**

## ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 1 for 2020

This is the first Development Hearings Panel conducted via Zoom as per the new regulations due to Covid-19.

Please be patient with us as we navigate this new form of meeting practice

Any technical issue that may result in the Zoom connection failing will cause a delay or adjournment to this meeting.

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 and recorded and a recording of the meeting and 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) – **Via Zoom**
- Colin Kalms, Manager, Building, Planning & Compliance, Greater Shepparton City Council – **Via Zoom**
- Jonathan Griffin – Team Leader, Development Engineering, Greater Shepparton City Council – **Via Zoom**
- Joel Ingham – Planning Coordinator – Benalla Rural City Council – **Via Council Boardroom**
- Andrew Fletcher - Planning and Building Manager - Campaspe Shire Council – **Via Zoom**

## OFFICERS AND OTHERS PRESENT

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

- Andrew Dainton – **Via Zoom**
- Sally Edmunds – **In Council Boardroom**
- Braydon Aitken – **In Council Boardroom**

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

No conflicts of interest declared

## ORDER OF PROCEEDINGS

For those of you who are attending the DHP for the first time the process is as follows

- The DHP operates under Local Law No 2, with such modifications and adaptations as the DHP deems necessary for the orderly conduct of meetings.
- All DHP panel members have 1 vote at a meeting.
- Decisions of the DHP are by ordinary majority resolution. If a vote is tied the Chair of the DHP has the casting vote.
- The process for submitters to be heard by the Panel shall be:
  - The planning officer to present the planning report recommendation
  - Any objectors or representatives on behalf of the objectors present to make a submissions in support of their objection (should they wish to)
  - The applicant or representatives on behalf of the applicant to present in support of the application
- For the purpose of today's hearing the officer, objectors and applicant will be limited to a maximum of 6 minutes per person with no extensions.

## **MATTERS FOR CONSIDERATION**

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

1. Planning Permit application 2019-238 – Use of land for Industry (Manufacture of timber pallets and bins) and works for a concrete slab
2. Planning Permit application 2020-37– Earthworks for a Whole Farm Plan and Native Vegetation Removal
3. Planning Permit Application 2020-26 – Demolition of an existing building and the construction of a medical centre building and a reduction in car parking requirements in the Heritage Overlay and the Activity Centre Zone 1

## **10. LATE REPORTS**

None

## **11. NEXT MEETING**

To be determined

Meeting concluded at 12.30pm.

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2020-26	142 Nixon Street Shepparton	Demolition of an existing building and the construction of a medical centre building and a reduction in car parking requirements in the Heritage Overlay and the Activity Centre Zone 1	60

## Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2019-238
Applicants Name:	Clement Stone Town Planners
Date Application Received:	28 August 2019 and amended under section 57A on 13 March 2020
Statutory Days:	47
Land/Address:	410 Old Dookie Road SHEPPARTON EAST VIC 3631
Zoning and Overlays:	FZ Abuts RDZ2 (Central Avenue)
Why is a permit required (include Permit Triggers):	Use of land for an industry (manufacture of timber pallets and bins) under 35.07-1 Works in the Farming Zone under 35.07-4
Are there any Restrictive Covenants on the title?	No
Is a CHMP required	No
Was the correct application fee paid?	Yes - \$1147.80

## Proposal

The application seeks permission to use the land for an industry (manufacture of timber pallets and bins) and to construct a concrete pad of 1747sqm to store timber pallets and bins.

Use permission was applied for by 57A application which was lodged with Council on 13 March 2020. The S57A was readvertised to neighbouring properties.

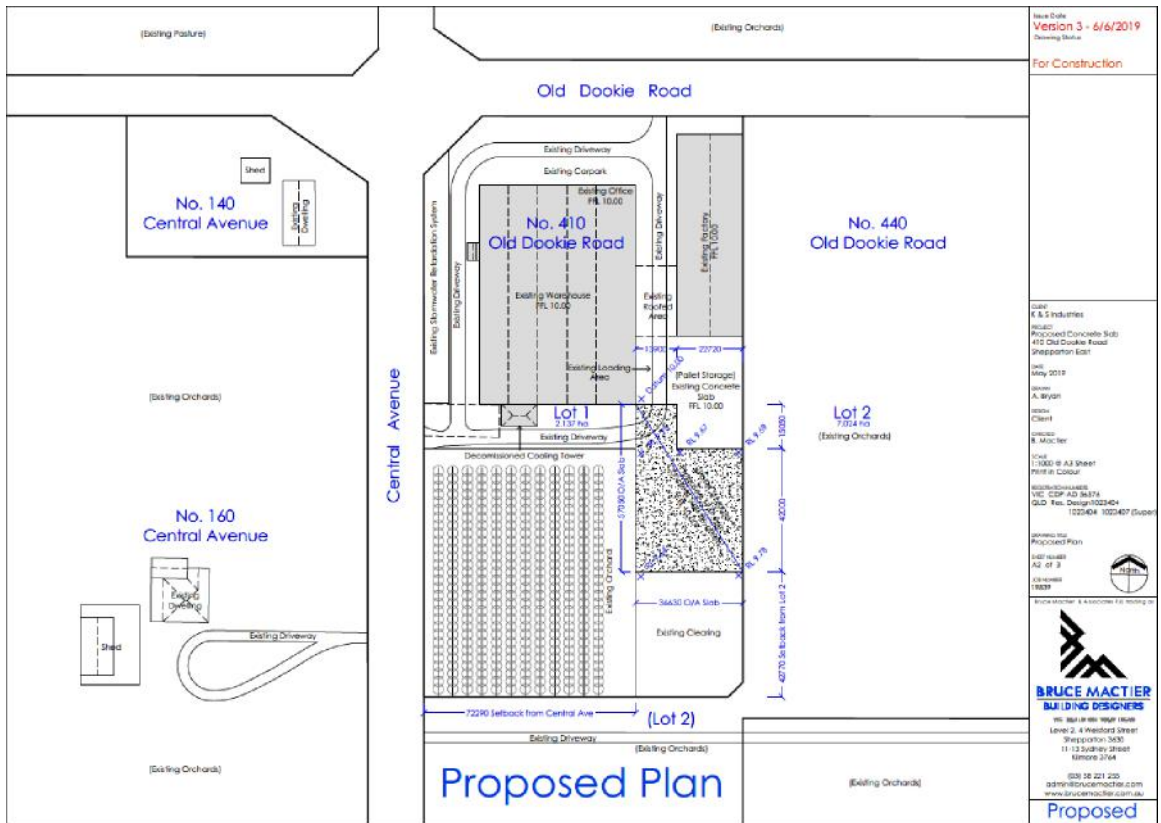
The sites existing operating hours of 7am to 10pm are not proposed to be changed as part of this application.

The below plan shows the location of the proposed concrete pad.



An acoustic assessment has been undertaken which has recommended the construction of a 2.7m high acoustic wall along the west side of the pallet storage area.

A plan of the proposed development is below.



The location of the proposed 2.7m high acoustic wall is shown below.





The application has been advertised and two objections were lodged from nearby neighbours.

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## Summary of Key Issues

- The application seeks permission to use the land for industry (manufacture of timber pallets and bins) and to construct a concrete slab to store materials associated with the use.
- The application was advertised to neighbours and two objections were lodged. The objections raised concern about noise emissions, inappropriate industrial use of land in the Farming Zone and the applicant's failure to comply with permit conditions such as hours of operation.
- The main assessment concern with the application is potential amenity impacts to nearby dwellings particularly noise. The application is accompanied by an acoustic report which has recommended physical (an acoustic wall) and operational measures to manage noise emissions from the land. Permit conditions are proposed to implement the recommendations from the acoustic report including a 2.7m high acoustic wall.

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## Recommendation

### Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. 2019-238 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of 35.07-4 of the Greater Shepparton Planning Scheme in respect of the land known and described as 410 Old Dookie Road SHEPPARTON EAST VIC 3631, for the use of land for industry (manufacture of timber pallets and bins) and Works on land for a concrete slab in accordance with the Notice of Decision and the endorsed plans.

**Moved by Colin Kalms** as set out but with addition of Cond 1: Amended Plans to include an East/West acoustic fence and paragraph 2 in Cond 5 read that the noise levels be undertaken by the Council at the permit holder's expense.

### **Seconded by Jonathan Griffin**

That Council having caused notice of Planning Application No. 2019-238 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of 35.07-4 of the Greater Shepparton Planning Scheme in respect of the land known and described as **410 Old Dookie Road SHEPPARTON EAST VIC 3631**, for the **use of land for industry (manufacture of timber pallets and bins) and Works on land for a concrete slab** 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: 28 April 2020

The site has a total area of 2.137ha and currently contains:

- A series of buildings which are currently used to manufacture timber pallets and bins. Vehicle access to the land is via both Old Dookie Road and Central Avenue.

The main site/locality characteristics are:

- The land is within a farming district that is used for a mix of uses including, orchards, dwellings on small lots, transport terminal and retired farming land.
- Central Avenue is a strategic freight route forming a connection to the Newell Highway route

The Photos below show the existing site:



View of the land looking from Old Dookie Road



View of crossover from Central Avenue to the land

## Permit/Site History

The history of the site includes:

- Planning permit 2004-193 was issued on 27 July 2004 and allowed the land to be developed for a new warehouse (extension to existing building) and the waiver of further car parking requirements. The officers report described the application as: ***'the shed is used for the storage of canned produce for Campbells Soups, and the extension will allow the relocation of the create repair area'***

The endorsed plan included external pallet storage and marking area of 870sqm and 629sqm pallet inspection repair and construction area. These drawings were endorsed on the basis that pallet production and repair is ancillary to the dry and cold storage use of the site.

- Planning permit 2007-391 was issued on 7 August 2009 and allowed the use and development of land for a packing shed and cool store. This approval was not acted on and subsequently expired.

Within the 2007-391 VCAT review Council's submission (prepared by Russell Kennedy), the use of the land (lot 1) was described as a warehouse.

Based on approvals history the pallet manufacture was an ancillary activity to the dry and cool storage (which is nested under warehouse).

The current use of the site has no dry or cool storage, the use of land is for pallet and bin manufacture. Officers consider it is necessary to seek permission to use the land for pallet and bin manufacture which is industry.

Officers do not consider the manufacture of pallets and bins to be a rural industry. *Rural industry is land use to handle, treat, process or pack agricultural produce...*

Agricultural produce is not defined; however agricultural production is defined as *any form of primary production of renewable commodities. It does not include Stone extraction, Mineral extraction, or timber production from native forest.*

The processing of harvested timber is undertaken within a saw mill which is a rural industry. The use of milled timber whether it is for furniture, construction or fruit bins and pallets is no longer a rural industry as the timber has been processed into something that is no longer agricultural produce.

Therefore, officers required an application be made to use the land for industry (manufacture of timber pallets and bins)

This information was discussed with the applicant by phone on 22 January 2020 and a 57A application was lodged on 13 March 2020.

## Further Information

Was further information requested for this application? No

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## Public Notification

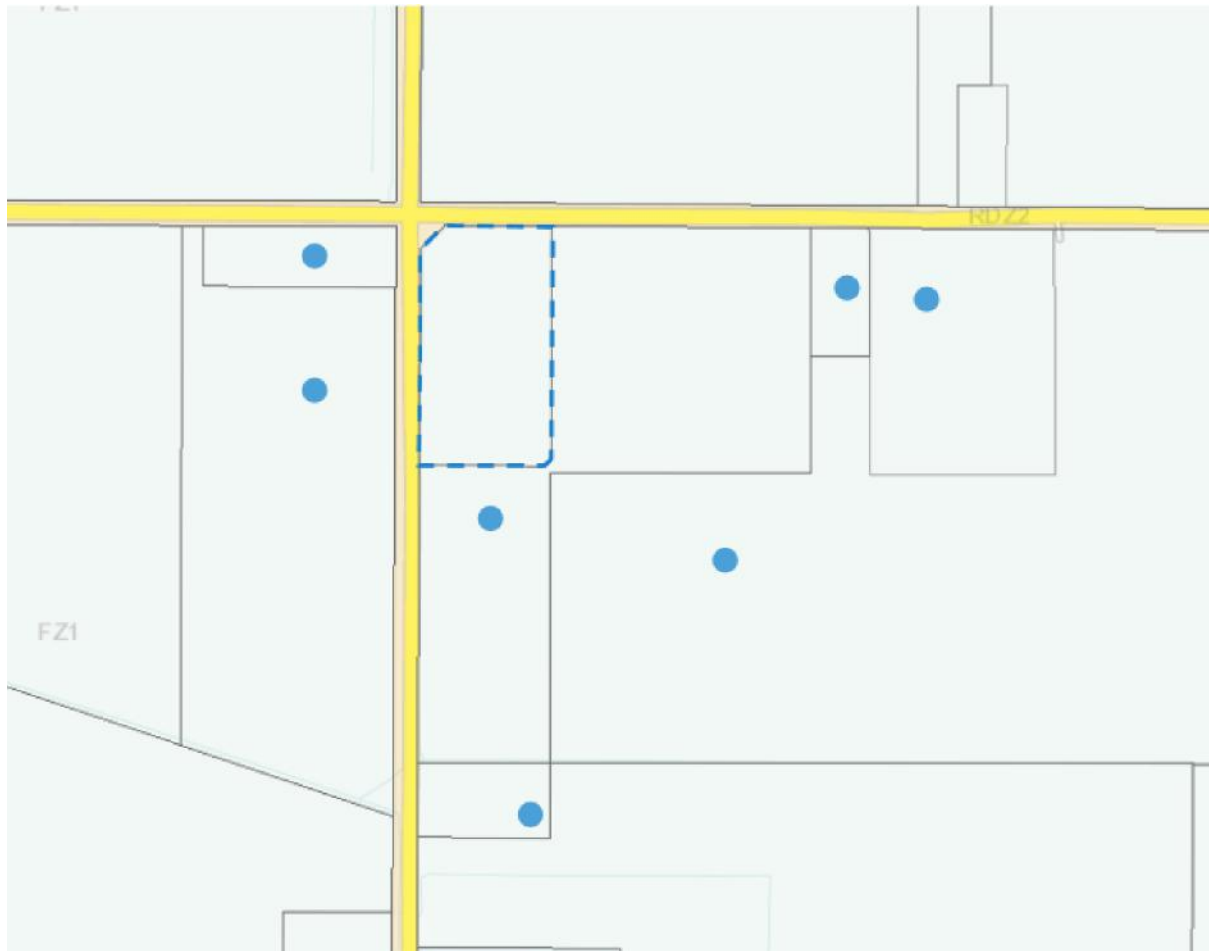
The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description works on land associated with a rural industry for a concrete slab, by:

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



The application was re-advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description use of land for an industry (manufacture of timber pallets and bins) works for a concrete slab, by:

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



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## Objections

The Council has received two objections to date.

The location of the objectors is shown on the below plan.



Ground of objection	Officers Response
Use approval is required	Officers agree with the objectors assessment and have required that the application be amended to include use of land for industry.
Use of land for non-agricultural practice	Officers acknowledge that the proposed concrete slab results in the removal of existing trees to provide for an industrial land use. Industries in the Farming Zone are not prohibited by the planning scheme and can be a necessary component to agricultural production. Such examples around Shepparton include the manufacture of cardboard boxes for fruit and plastic lids for dairy containers.

	Officers do not consider that the loss of about 3100sqm of trees warrants refusal of the application.
No consideration for Fire department access	Permit conditions will require existing access to the land from Central Avenue and Old Dookie Road be improved as part of this application which will in turn assist CFA access to the site in times of emergency.
No consideration for water flows and drainage	Council engineers have reviewed the application and require drainage conditions within the permit. Engineers have also identified an existing choke point in the road side drainage system in Old Dookie Road being a redundant crossing and conditions will require the reinstatement of the drain.
Ongoing non-compliance with hours of operation conditions being 7am to 10pm	Officers are aware of the long history of noise complaints associated with night time hours of operation. Council's enforcement officers are conscious of the site and will continue to monitor compliance with conditions.
If the concrete slab is approved a future application will seek to construct a shed over the slab	Should in the future a shed be proposed, a new application will need to be made to Council for assessment.

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## Title Details

The title does not contain a Restrictive Covenant.

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## Consultation

Consultation was not undertaken.

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## Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	Clause 66 of the scheme did not require referral of the application.
Section 52 Notices	GMW consented to the application subject to standard conditions.



Internal Council Notices	Advice/Response/Conditions
Engineers	Council engineers have undertaken an assessment of the application and recommended that conditions require upgrading of existing vehicle accesses and a drainage network for the concrete pad area.

## Assessment

### The zoning of the land

#### 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.

Decision guidelines are at 35.07-6 and include:

#### General issues

- 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.

#### Environmental issues

- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.
- The impact of the use or development on the flora and fauna on the site and its surrounds.

- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

#### **Design and siting issues**

- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.
- Whether the use and development will require traffic management measures.

#### **Relevant overlay provisions**

The land is not within any overlays.

#### **Planning Policy Framework (PPF)**

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.

#### **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.

#### **17.01-1S** **Diversified economy**

##### **Objective**

To strengthen and diversify the economy.

##### **Strategies**

- Protect and strengthen existing and planned employment areas and plan for new employment areas.
- Facilitate regional, cross-border and inter-regional relationships to harness emerging economic opportunities.
- Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.
- Improve access to jobs closer to where people live.
- Support rural economies to grow and diversify.

#### **17.01-1R** **Diversified economy - Hume** **Strategy**

Encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.

## **Local Planning Policy Framework (LPPF)**

### **21.06-4 – Industry**

#### **Objectives and Strategies - Industry**

##### **General Objectives**

- To sustain a growing and diverse industrial base.
- To protect the existing industrial base in the urban areas of Shepparton, Mooroopna and Tatura.
- To provide an adequate supply of appropriately located industrial land relevant to measured demand that meets the needs of different industries.
- To require all future industrial development and subdivisions to be of a high quality in terms of urban design, environmental standards and amenity.
- To conserve places of industrial cultural heritage significance.
- To minimise land use conflicts.

##### **Economic Development Objectives**

- To provide an adequate supply of appropriately located industrial land that meets the needs of different industry sectors.
- To protect the integrity and viability of existing and future industrial areas within Shepparton, Mooroopna and Tatura from competing and non-compatible land uses.
- To direct different types of industrial development to appropriate locations within the municipality.
- To encourage future industrial land uses to locate on existing vacant industrial zoned lands and, where this is not possible, to examine opportunities to rezone additional lands to facilitate such industrial or related land uses.
- To facilitate the redevelopment of under-utilised industrial sites for more intensive forms of industrial uses to make more efficient use of existing infrastructure.
- To encourage resource recovery uses to establish across the region in locations where impacts on nearby land uses can be minimised.

##### **Amenity Objectives**

- To minimise any impact on the amenity and safety of surrounding land uses from traffic, noise and emissions generated by industrial land and resource recovery uses.
- To ensure appropriate standards of health, safety and amenity are provided by new and existing industries.
- To ensure a high standard of urban design and landscaping is achieved to improve the amenity and appearance of industrial areas.

#### **Policy Guidelines – Industrial Development in Rural Areas**

It is policy to:

- Discourage industrial use and development (other than rural industry) in rural areas, except where:
  - It is unable to be accommodated in existing industrial zoned areas;
  - It does not compromise the surrounding existing and future agricultural practices;
  - It adds value to the agricultural base of the municipality; and
  - It is a rural-based enterprise; or
  - It provides for the reuse of existing large scale packing sheds and cool stores.

### **Relevant Particular Provisions**

There are no relevant particular provisions to this application.

### **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**

The application proposes the removal of about 3100sqm of trees to enable the construction of a 1747sqm concrete slab. The concrete area will be used to store timber pallets and bins associated with the industry use of land to manufacture timber pallets and bins.

The concrete slab is to the south of the existing buildings and is setback about 73 metres to Central Avenue. Between the slab and Central Avenue is existing trees which will provide a visual screen to Central Avenue. On the western side of the concrete slab a 2.7 metre high acoustic fence is proposed to reduce noise emissions to dwellings on the west side of Central Avenue.

Vehicle access to the concrete slab is by existing crossovers to Old Dookie Road and Central Avenue. Both of these crossovers are unsealed.

Old Dookie Road crossover



Central Avenue crossover



Council engineers have undertaken an inspection of both crossovers and have recommended that both crossovers be sealed in accordance with the IDM. It is considered that it is reasonable to require these works to ensure the crossovers form part of a safe road network.

Within the lands frontage to Old Dookie Road is a redundant vehicle crossing which is impacting on water flows in the drain.



To assist in the operation of the drain a permit condition will require the removal of the redundant crossing and reinstatement of the drain.

The main assessment concern associated with the application is noise emissions to nearby neighbours.

The application is accompanied by an acoustic report prepared by Advanced Environmental Systems. The acoustic report makes two recommendations being:

Source	Mitigation Measures
Noise Barrier	A barrier is to be constructed along the western side of the pallet storage area. This barrier could be constructed from a min surface density of 17 kg/m <sup>2</sup> cement compressed sheet at a height no less than 2.7 m. Any gaps are to be sealed including at ground level using a plinth.
Impulse Isolation of Mechanical Plant	Replace hydraulic dampeners for the Flomat pallet repair table.

Furthermore the sites current operating hours of 7am to 10pm will be maintained.



Officers are satisfied that the implementation of the noise barrier and replacement of hydraulic dampers will allow the site to achieve acceptable noise outcomes.

Officers acknowledge that the application results in the removal of about 3100sqm of trees which is a loss to the regions agricultural base. Despite this officers consider the loss of productive agricultural land to be acceptable for the following reasons:

- The use of land to manufacture pallets and bins is directly associated with horticulture and food manufacture
- It is expected and necessary for industries to occur to support agricultural activities whether it is the manufacture of fruit bins or the processing of fruit. Retaining agricultural related industries within Greater Shepparton allows for the maximum economic benefit to the community from agricultural

Officers consider that the proposed concrete slab achieves acceptable planning outcomes for the following reasons:

- The proposed industry contributes to the regions agricultural base by manufacturing timber fruit bins and pallets for food manufacturers
- A combination of physical and operational conditions allow the site to comply with NIRV
- Conditions will require improvements to the sites access to Central Avenue and Old Dookie Road which assist in providing a safe road network to the community
- Drainage of the concrete pad will be managed through detailed design and the localities drainage conditions will be improved by the removal of an existing redundant vehicle crossing in Old Dookie Road

Based on the above assessment officers are satisfied that the proposed use of land and concrete slab achieve acceptable planning outcomes.

**Relevant incorporated or reference documents**

Rural Regional Land Use Strategy

**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 PSA's to the application.

**Are there any significant social & economic effects?**

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

### **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 application?**

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

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## **Conclusion**

Permission is sought to use the land for an industry to manufacture timber pallets and bins and to construct a concrete slab to store materials associated with the use. Officers are satisfied that the application achieves acceptable planning outcomes by managing noise emissions to neighbouring properties and re-using an existing complex for a manufacturer that is related to Shepparton's key economic driver being agriculture.

# Draft Notice Of Decision

APPLICATION NO: 2019-238  
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: 410 OLD DOOKIE ROAD SHEPPARTON EAST VIC 3631

WHAT THE PERMIT WILL ALLOW: USE OF LAND FOR INDUSTRY (MANUFACTURE OF  
TIMBER PALLETS AND BINS) AND WORKS FOR A  
CONCRETE SLAB

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

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**1. Layout Not Altered**

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

**2. Buildings and works required**

Within three months of the endorsement of the relevant plan, all buildings and works on the endorsed plans must be completed to the satisfaction of the responsible authority unless otherwise agreed in writing by the responsible authority.

**3. Civil Construction Requirements**

Before any of the development of the concrete slab starts, detailed plans with 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 will then form part of the permit. The information submitted must show the details listed in the Council's Infrastructure Design Manual (IDM) and be designed in accordance with the requirements of that manual.

- a) details (and computations) of how the works on the land are to be drained to the legal point of discharge;

- b) documentation demonstrating approval from the relevant authority for the legal point of discharge;
- c) details of the 2.7m high acoustic fence including materials and footings
- d) maximum discharge rate shall not be more than 1.2 l/sec/ha;
- e) removal of redundant vehicle crossing to the land from Old Dookie Road and reinstatement of the drain
- f) the existing vehicle crossings to Old Dookie Road and Central Avenue be upgraded in accordance with IDM SD 265.

to the satisfaction of the responsible authority.

Before the development of the concrete slab is occupied all buildings and works as shown on the endorsed plans must be constructed in accordance with the endorsed plans to the satisfaction of the responsible authority.

#### **4. Hours of Operation**

The use of land is limited to operating hours of 7.00am to 10.00pm.

#### **5. Noise Control**

The use hereby permitted must be conducted such that noise levels generated do not exceed permissible noise levels established in accordance with *Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011)* or as amended.

Not more than three months after the date of the planning permit noise measurements of actual in operation noise levels must be undertaken at the permit holder's expense to determine if the use is achieving compliance with NIRV. If the monitoring finds compliance is not be achieved with NIRV additional noise mitigation measures must be implemented without delay to the satisfaction of the responsible authority.

In the event of unreasonable noise being generated by activities conducted from the subject land and being established by Council planning officers as likely to be causing a disturbance to nearby property, then further noise testing by a suitably qualified acoustic consultant must be undertaken to assess whether activities on the site are breaching the EPA permissible noise levels and to advise what measures must be implemented to minimise the problem to the satisfaction of the responsible authority.

#### **6. General Amenity**

The use and development permitted by this permit must not, in the opinion of the responsible authority, adversely affect the amenity of the locality by reason of the processes carried on; the transportation of materials, goods or commodities to or from the subject land; the appearance of any buildings, works or materials; the emission of

noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil; the presence of vermin, or otherwise.

Within two months of the date of the permit the hydraulic dampeners for the Flomat pallet repair table must be replaced.

**7. Goulburn Murray Water Requirements**

- a) All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
- b) No works are to be constructed that may impact drainage flows in Goulburn-Murray Water Murray Water's drain 14/3 without approval.
- c) Goulburn-Murray Water will only permit rainfall runoff to enter its drain. No other water or discharge is permitted, including sullage (grey water), sewage or water containing hydrocarbons or non-approved detergents.
- d) The drain level of service at this location is 1 in 10, therefore the maximum allowable discharge rate from the development is to be 1.2 L/s/ha.

**8. Time for Starting and Completion**

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

- a) the development is 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.

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## Application Details:

Responsible Officer:	Sally Edmunds
Application Number:	2020-37
Applicants Name:	Planright Pty Ltd
Date Application Received:	11 February 2020
Statutory Days:	85
Land/Address:	777 Poole Road GIRGARRE EAST VIC 3616
Zoning and Overlays:	Farming Zone Floodway Overlay Land Subject to Inundation Overlay
Why is a permit required (include Permit Triggers):	35.07-4 Earthworks in the Farming Zone 44.03-2 Earthworks in the Floodway Overlay 44.04-2 Earthworks in the Land Subject to Inundation Overlay 52.17-1 Native vegetation removal
Are there any Restrictive Covenants on the title?	No

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## Proposal

The application proposes a whole farm plan including the removal of native vegetation. A total of 3 grey box trees (*eucalyptus macrocarpa*) are proposed to be removed as part of the earthworks and the applicant has provided an ecological assessment, native vegetation report and NVIM report as part of the application justifying the removal of the trees.

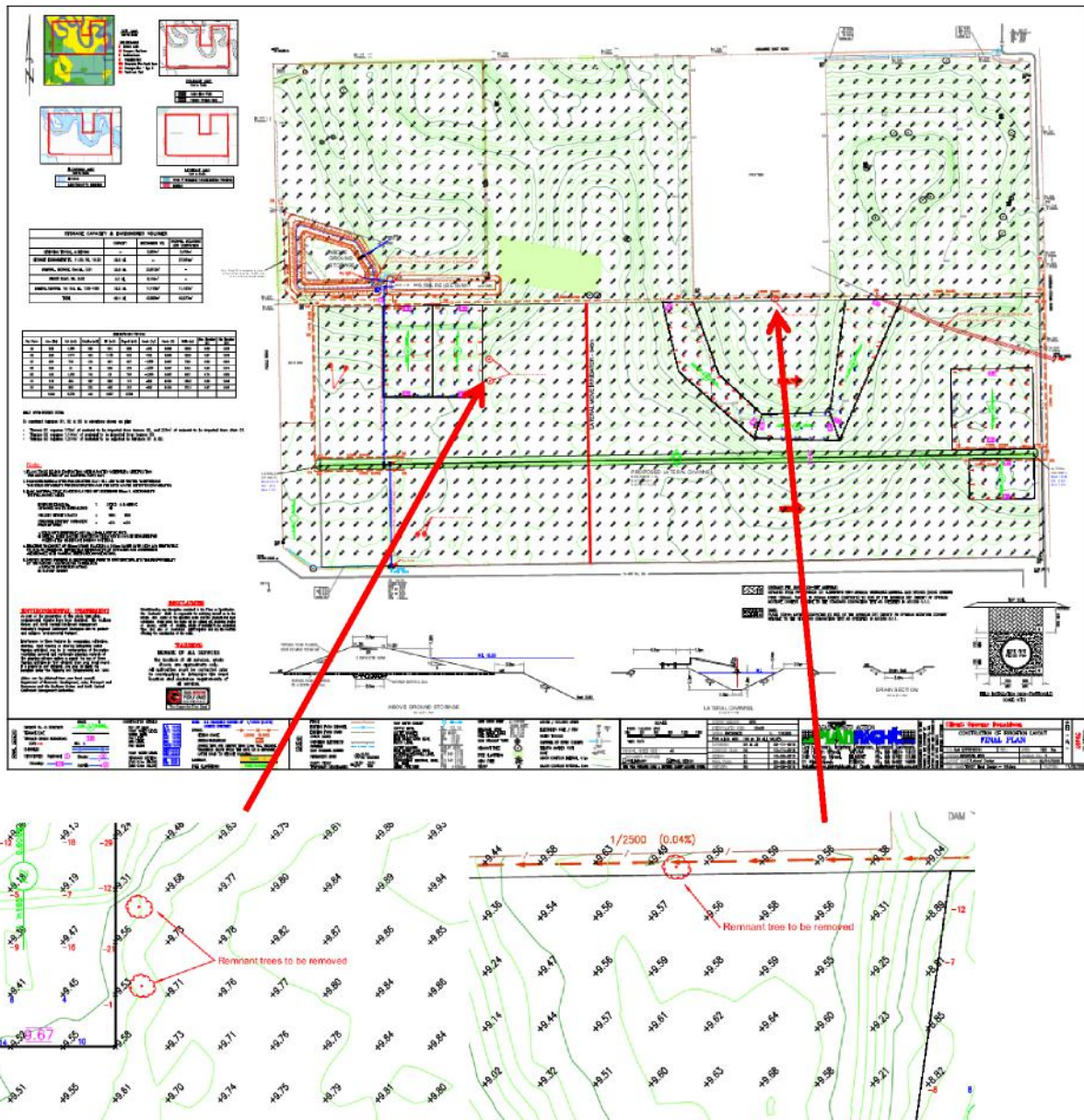
The landowner has entered into an agreement with Goulburn Murray Water to remove some of the metre outlets and channels which supply the farm, with the understanding that he will reconnect the existing irrigation supply from the remaining outlet. The earthworks for the whole farm plan include the irrigation infrastructure for a lateral move irrigator which will move east-west within the southern paddock of the property.

The application is not exempt under the 'Earthworks Controls in the Shire of Campaspe, City of Greater Shepparton and Moira Shire – August 2010' incorporated document as the whole farm plan would change the rate of flow of water across the property boundary and the point of discharge across a property boundary, therefore works permission is required for the earthworks.

Planning permit permission is required for earthworks in the Farming Zone pursuant to Clause 35.07-4, earthworks in the Floodway Overlay pursuant to Clause 44.03-2 and earthworks in the Land Subject to Inundation Overlay pursuant to Clause 44.04-2. The removal of native vegetation requires planning permit permission pursuant to Clause 52.171.

The application proposes to remove 3 trees which are scattered paddock trees. The applicant has provided an assessment of the avoid and minimise approach as well as an offset statement. The native vegetation removal will be assessed under the Intermediate Pathway. The offset statement provided says that the landowner will be setting land aside at another property owned by the applicant at 605 Byrneside-Kyabram Road Merrigum for a first party offset.

Plans of the whole farm plan and native vegetation removal can be found below:



The main assessment concern officers have with this application is whether the loss of the native vegetation is an acceptable planning outcome. In this application, officers are required

to consider the conflicting policies on native vegetation and agricultural development whilst favouring net community benefit and sustainable development for present and future generations.

In considering the objectives in the State and Local planning policies, Farming Zone and Clause 52.17, officers consider that the application achieves acceptable planning outcomes for the following reasons:

- The proposal will support and enhance the use of land for agriculture.
- The proposal has appropriately addressed the application requirements and guidelines for the removal of native vegetation.
- The proposal will result in acceptable biodiversity outcomes, reinforced with the retention of existing vegetation.

On this basis, officers recommend that a notice of decision to grant a permit be issued.

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## Summary of Key Issues

The key considerations for this application are:

- Whether the proposed native vegetation removal is reasonably required to facilitate the lateral irrigation development.
- Whether the proposed native vegetation removal has been avoided and minimised and is able to be appropriately offset.

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## Recommendation

### Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. **2020-37** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-4, 44.03-2, 44.04-2 and 52.17-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **777 Poole Road GIRGARRE EAST VIC 3616**, for the **Earthworks for a Whole Farm Plan and native vegetation removal** in accordance with the Notice of Decision and the endorsed plans.



**Moved by Andrew Fletcher.**

**Seconded by Colin Kalms**

That Council having caused notice of Planning Application No. **2020-37** to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of **35.07-4, 44.03-2, 44.04-2 and 52.17-1** of the Greater Shepparton Planning Scheme in respect of the land known and described as **777 Poole Road GIRGARRE EAST VIC 3616**, for the **Earthworks for a Whole Farm Plan and native vegetation removal** 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: **13 March 2020**

Time: **2:58PM**

The site has a total area of **154ha** and currently contains:

- Vacant farming land
- No dwelling on the land, however, there are adjoining dwellings
- Sections of planted vegetation exist on the property
- Natural floodways exist on the property which are attributed to the old river footprint
- Land is situated between Poole Road and Kyabram-Cooma Road

The main site/locality characteristics are:

- Within Girgarre East near the border of the Greater Shepparton municipality
- Located within a cropping district

The Photos below show the existing site:





**Photo 1: Scattered Tree A**

Looking northwest at Grey Box 132cm DBH.



**Photo 2: Scattered Tree B**

Looking south east at Grey box 101cm DBH.



**Photo 3: Scattered Tree A**

Looking southeast at Grey box 103cm DBH.



The landowner operates a large irrigated cropping business for feed to the dairy industry which includes feed such as maize. The owners are moving from a flood irrigating system to sprinkler system which requires vegetation removal due to the change in infrastructure. The owners are original settlers to the area with landholdings in Byrneside, Kyabram, Merrigum, Girgarre and Cooma. An application (2020-39) was recently granted to install a pivot irrigator and remove 4 trees at 116 Merrigum-Ardmona Road which is also owned by the applicant. The first party offset proposal for both applications are tied to one another. Evidence of the capability to first party offset at 605 Byrneside-Kyabram Road (also owned by the applicant) has been provided by DM Ecological and has been approved and endorsed by officers. The first party offset site at 605 Byrneside-Kyabram Road will protect 18 other grey box trees. The grey boxes on site are the same species of grey box trees proposed to be removed with this application. The *eucalyptus macrcarpa* naturally occurs on the site, which is why officers have approved the property as a first party offset site.

Photos of 605 Byrneside-Kyabram Road the first party offset site for 777 Poole Road and 116 Merrigum-Ardmona Road are below:











## **Permit/Site History**

The history of the site includes:

- There is no permit history.
- 

## **Further Information**

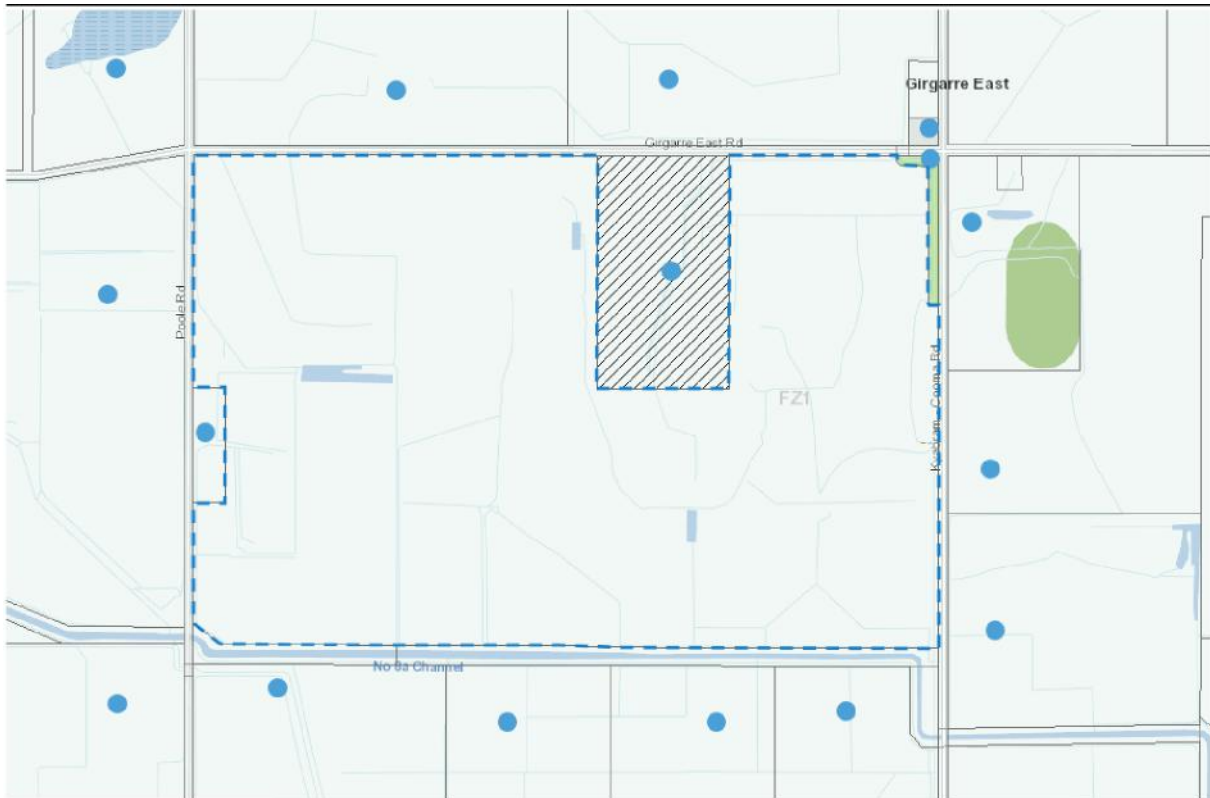
Was further information requested for this application? **No**

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## **Public Notification**

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

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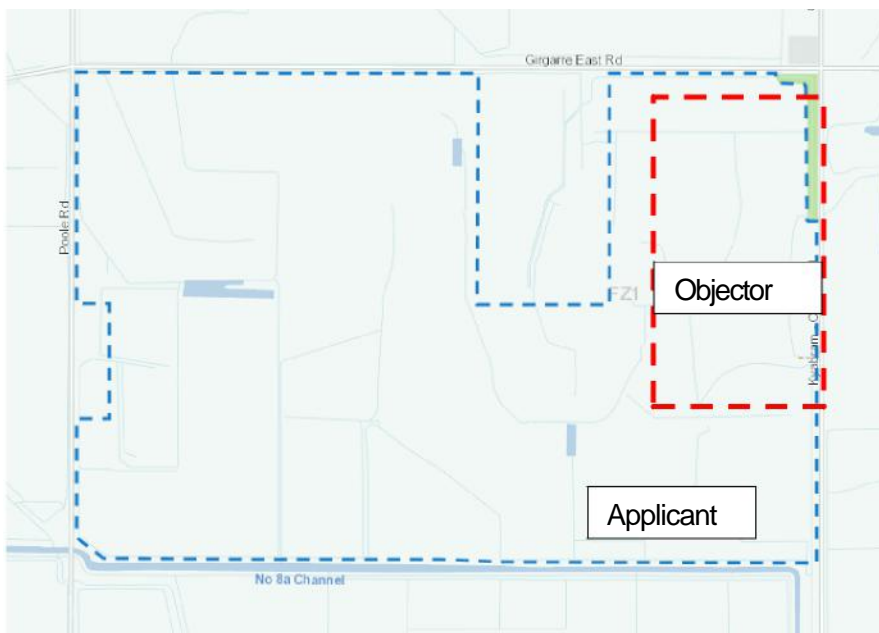


The earthworks were exempt from being advertised in accordance with Clause **the 'Earthworks Controls in the Shire of Campaspe, City of Greater Shepparton and Moira Shire – August 2010'** incorporated document of the planning scheme.

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## Objections

The Council has received **one** objection to date from 1435 Girgarre East Road.



The key issues that were raised in the objections are.

Objection	Response
<p>Power</p> <ul style="list-style-type: none"> <li>• Will the pole on the objectors land be relocated?</li> <li>• Will the objector lose power if the power lines are to be relocated and how long will this be for?</li> </ul>	<p>Officers consider that the concerns regarding power infrastructure have been addressed within the applicants response to the objection dated 5 March 2020. The response stated that the pole on the objectors property will remain, that Powercor will provide 2 weeks' notice to any power outage and will during this time advise on how long the power will be out.</p>
<p>Water</p> <ul style="list-style-type: none"> <li>• How deep will the recycle water channel be on the southern boundary of 1435 Girgarre East Road and what is the setback from the channel to the southern boundary?</li> </ul>	<p>Officers referred the objection to the applicant who responded with the following information:</p> <ul style="list-style-type: none"> <li>• The maximum depth of the drain south of 1435 Girgarre East Road will be 1.33m. The recycle drain depth of water for 99% percent of the time will be zero.</li> <li>• The only time the drain will have water if during a major rain event (5%, 10% and 100% rain events). The depth at adjoining the southern boundary of 1435 Girgarre East Road will be below natural surface and not exceed existing levels that currently occur during rain events.</li> <li>• The drain will have a 2:1 batter and the cut will be a minimum of 1m from the boundary fence.</li> </ul> <p>Officers are therefore satisfied that the response adequately addresses this part of the objection.</p>
<p>Brolga</p> <ul style="list-style-type: none"> <li>• Objector has noticed a brolga on the landowner's farm.</li> </ul>	<p>Officers have consulted with DELWP regarding the presence of brolga's on the property and they have provided advice within their referral response. This advice will be included on the permit as a notation for the applicant.</p>

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## Title Details

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

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## Consultation

Consultation was not undertaken.

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## Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Goulburn Broken Catchment Management Authority	Consented to the application without conditions.
Goulburn Murray Water	<p>Consented to the application with the following conditions:</p> <p>a) Farm works impacted by the future rate or point of irrigation supply should not be undertaken until a Connections Agreement is finalised. The proponent can contact the Modernisation Coordinator to discuss the impact of Modernisation on their property by contacting 1800 013 357.</p> <p>) The design plan shows the backfilling of the Central Goulburn Channel 4/3/8 as outlined in the Connections Agreement CG SCP 14. The channel must not be filled until the Connections Agreement is finalised.</p> <p>b) The Deakin Drain 16 active flow path cross the property and the following conditions apply to works within the active flow path;</p> <ul style="list-style-type: none"><li>• The end of bays within the active flow path must form a continuous grade across each bay through the property to allow for unobstructed natural flows;</li><li>• The end of the bays within the active flow path should be left at natural grade;</li><li>• Bays must be constructed without check banks within the active flow path;</li><li>• Sumps and farm drains must be constructed without banks. Excavated material must not be stockpiled within the active flow path;</li><li>• Tree plantations within the confines of the active flow path must be kept at a stem density of less than 40 trees/ha.</li><li>• Structure 2 on the Lateral Channel must be designed to allow adequate flows to pass unobstructed and provide sufficient waterway for the depression to flow naturally.</li><li>• The Turkey Nest Dam is located within the Deakin Drain 16 natural depression. Adequate capacity for the depression to flow during a 1 in 10 year ARI event must be provided. Alternatively, the dam could be relocated to the south west and away from the centre of the depression allowing it to flow as it naturally does.</li></ul> <p>d) The design plan shows a proposed pump located next to an active flow path waterway. The pump and fuel tank must be sited outside the active flow path waterway and above the 1 in 10 year flood level and be appropriately bunded to contain 100% of the fuel tank capacity to prevent pollution of the soil and water in the event of a leak or spill.</p> <p>e) The design plan shows a new sump (Reuse Sump) to be constructed. Prior to construction a test hole should be dug to ensure that groundwater does not leak in and that the soil is consistent to the depth</p>

	<p>required. The completed reuse sump must not interact with the watertable.</p> <p>f) The design plan shows a turkey nest storage and the following conditions are to apply in relation to this part of the whole farm plan:</p> <ul style="list-style-type: none"> <li>• The bed and banks of the storage must be constructed to minimise accessions to groundwater. It is recommended that a permeability of 10-9m/sec (0.09mm/day) or less is achieved.</li> <li>• The storage is to be located such that the phreatic line does not interfere with any GMW asset.</li> <li>• The batters of the storage must be stabilised to prevent soil erosion, to the satisfaction of the responsible authority.</li> </ul> <p>g) The construction of the Above Ground Storage exceeds the Maximum Water Use Limit (MWUL) (ie. 8.5 ML) allowed for the property, however the excess storage capacity will be supplemented from the existing Groundwater license. The proponent must enter into an agreement for this part of the works and contact the Operations Office for preparation of the agreement.</p> <p>h) The design plan shows a reuse sump connected directly to the Above Ground Storage. The Above Ground Storage may gravitate to the reuse dam, however must not be able to be pumped directly between the two storages.</p> <p>i) The easements associated with the property must not be impeded with any of the works.</p> <p>j) The design plan shows a travelling pivot irrigator adjacent to Central Goulburn Channel 8A. The irrigator must be set up, maintained and operated such that water is not applied to the GMW channel reserve.</p> <p>k) The proposal for the Linear Pivot Irrigator requires the removal of a number of trees.</p> <p>l) A separate Planning Permit must be obtained for the removal of any Native Vegetation.</p>
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<p>DELWP</p>	<p>Consented to the application with the following conditions and comments: <b>Notification of permit conditions:</b></p> <p>a) Before any works start, the permit holder must advise all persons undertaking works on site, which includes native vegetation removal, of all relevant permit conditions and associated statutory requirements or approvals.</p> <p><b>Construction management:</b></p> <p>b) All works constructed or carried out must be in accordance with the endorsed plan.</p> <p><b>Protection of retained vegetation:</b></p> <p>c) The area where works is proposed to be carried out must be clearly marked on ground.</p> <p>d) Except with the written consent of the City of Greater Shepparton and DELWP, within the area of native vegetation to be retained and any native tree and its associated tree protection zone with the permitted use and/or development, the following is prohibited:</p> <ul style="list-style-type: none"> <li>• vehicular or pedestrian access</li> <li>• trenching or soil excavation</li> <li>• storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products</li> <li>• <u>entry and exit pits for the provision of underground services</u></li> </ul>
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- any other actions or activities that may result in adverse impacts to retained native vegetation.

**Native vegetation permitted to be removed, destroyed or lopped**

- e) Only native vegetation identified in the DELWP "Native vegetation removal report", dated 09 December 2019, with report ID: 328-20191209-006 is permitted to be removed as part of this development.
- f) The native vegetation permitted to be removed, destroyed or lopped under this permit is **0.211** hectares of native vegetation, which is comprised of:
  - **3 (three) Large scattered trees.**

**Native vegetation offsets**

- g) To offset the removal of 0.211 hectares of native vegetation, the permit holder must secure the following native vegetation offset in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017):
  - A general offset of 0.041 general habitat units:
    - located within the Goulburn Broken Catchment Management boundary or City of Greater Shepparton municipal area
    - with a minimum strategic biodiversity value of at least **0.198**, and
  - The offset secured must also **protect 3 (three) large trees.**
- h) Before any native vegetation is removed, evidence that the offset required by this development has been secured, must be provided to the satisfaction of the City of Greater Shepparton and DELWP. This evidence must be one or both of the following:
  - an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site; and/or
  - credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
- i) A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning and Approvals at the Department of Environment, Land, Water and Planning Hume regional office via [humeregion.planning@delwp.vic.gov.au](mailto:humeregion.planning@delwp.vic.gov.au)
- j) Where the offset includes a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.
- k) The realignment of the overhead power lines must not:
  - Result in further vegetation losses, and
  - Encroach into the relevant tree protection zones on the roadside vegetation, and
  - Lead to lopping of the canopy of the roadside vegetation.

**ADDITIONAL COMMENTS: THREATENED SPECIES ADVICE – BROLGA:** The purpose of this advice is to identify and flag the occurrence of known habitat for Brolga in the Girgarre East and surrounding districts to support decision making for this planning referral.

The importance of the East Girgarre District and surrounds for Brolga habitat is considered valid. Activity or works which could cause alteration, re-routing or other modification to natural (or modified) hydrological regimes would likely result in deleterious impacts to Brolga and associated wetland habitat. **Any planning proposals should consider impacts on Brolga and seasonally inundated wetland habitat in assessing the overall ecological impact.**

	<p><b>Key Points:</b></p> <ul style="list-style-type: none"> <li>• Brolga are listed as Threatened under the Flora &amp; Fauna Guarantee Act.</li> <li>• The Northern Victorian plains woodland and wetland landscapes are considered important seasonal habitat for Brolga (Brolga utilise the area for foraging and breeding when landscape conditions are wet).</li> <li>• The Girgarre East district is a known location for Brolga with multiple confirmed records including breeding records within 5km of the Poole Rd\Girgarre Road locality (Victorian Biodiversity Atlas (Department of Environment, Land, Water &amp; Planning), Victoria, 2020).</li> <li>• Brolga utilise open, treeless pastures for foraging where they feed on vegetable material, wetland plants, insects and small vertebrates.</li> <li>• Most recorded nest sites are on private land. Pairs can occupy these territories for many breeding seasons as they are long-lived birds (White 1983).</li> <li>• A significant threat to Brolga is the alteration of hydrological regimes which may lead to a reduction in wetland habitat. Drainage works are implicated in the direct loss of over 75% of freshwater marshes and wetlands which are the preferred breeding habitat for Brolga (Corrick, 1982).</li> <li>• Brolga habitat is often geographically permanent but functionally ephemeral, therefore it is unlikely that existing habitat models and occurrence data available on Government databases adequately captures the extent and importance of Brolga habitat in areas such the East Girgarre District.</li> </ul> <p>References:  Victorian Biodiversity Atlas (Department of Environment, Land, Water &amp; Planning), Victoria, 2020  White, D. M. (1987) The Status and Distribution of the Brolga in Victoria, Australia. Proc., 1983  Corrick, A. H. (1982) Wetlands of Victoria III Wetlands and Waterbirds Between Port Phillip Bay and Mount Emu Creek. Proc. Roy. Soc. Victoria 1994</p>
Powercor	<p>Consented to the application with the following conditions:</p> <ol style="list-style-type: none"> <li>Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.</li> <li>Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.</li> <li>Apply for a site visit and permit to work assessment. This can be done via the Powercor website.</li> <li>Keep the easement land clear of any buildings or structures whatsoever.</li> <li>The property owner/builder should contact Dial before you Dig, before any excavation works are undertaken on the property.</li> <li>The applicant shall negotiate with Powercor for the removal, relocation of the existing power lines contained within the property. Notes:  Extension, augmentation or rearrangement of the Distributor's electrical assets may be required, with the cost of such works generally borne by the applicant.</li> </ol>

Internal Council Notices	Advice/Response/Conditions
Development Engineers	Consented to the application with the following conditions: <b>Engineering Conditions</b>
	<ol style="list-style-type: none"> <li>Retention of Drainage and Irrigation Water  The Whole Farm Plan and subsequent works shall ensure that all irrigation and concentrated drainage water is retained within the property to the satisfaction of the responsible authority.</li> <li>Damage to Roads</li> </ol>



	<p><b>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.</b></p> <p>c) No Restriction Flows</p>
	<p>No earthworks shall be permitted to restrict the flow of water entering or leaving the depression and low lying land indicated on the plan.</p> <p>d) No Restriction to Drainage</p>
	<p>The approved works must not cut off natural drainage from adjacent properties.</p> <p>e) Restricted Outflows</p>
	<p>The outflows are to be restricted to natural rainfall run-off only.</p> <p>f) Modification with Future Schemes</p>
	<p>The drainage system must be modified as and when required to accommodate any future drainage scheme implemented for the area.</p> <p>g) Structures</p>
	<p>All structures on the floodway must be at or below the existing natural surface level</p> <p>h) Amended Agreement Required if Change of Ownership</p>
	<p>An amended outfall arrangement and redevelopment of the endorsed plans will need to be approved by the responsible authority in the event that any part of the existing tenement is subdivided and/or changes ownership.</p> <p>i) Native Vegetation Retention</p>
	<p>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.</p> <p>j) Works within Road Reserves Permit Required</p>
	<p>A permit must be obtained from the Responsible Authority prior to carrying out of any work within the road reserve.</p>
Sustainability Officers	Consented to the application without conditions.

## 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.

### **35.07-4 Buildings and works**

A permit is required to construct or carry out any of the following:

- Earthworks specified in a schedule to this zone, if on land specified in a schedule.

### **35.07-6 Decision guidelines**

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

#### **General issues**

- The 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.

#### **Relevant overlay provisions**

### **44.03 FLOODWAY OVERLAY**

#### **Purpose**

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.
- To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.
- To reflect any declarations under Division 4 of Part 10 of the *Water Act, 1989* if a declaration has been made.
- To protect water quality and waterways as natural resources in accordance with the provisions of relevant State Environment Protection Policies, and particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

### **44.03-2 Buildings and works**

A permit is required to construct a building or to construct or carry out works.

#### **44.03-7 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 local floodplain development plan or flood risk report.
- Any comments of the relevant floodplain management authority.
- The Victorian River Health Strategy (2002) and any relevant regional river health strategy and associated wetland plan.
- Any other matters specified in a schedule to this overlay.

#### **44.04 LAND SUBJECT TO INUNDATION OVERLAY**

##### **Purpose**

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

#### **44.04-2 Buildings and works**

A permit is required to construct a building or to construct or carry out works.

#### **44.04-8 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 .
- Any local floodplain development plan.
- Any comments from the relevant floodplain management authority.
- The existing use and development of the land.
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.
- The susceptibility of the development to flooding and flood damage.

- The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include:
  - The frequency, duration, extent, depth and velocity of flooding of the site and accessway.
  - The flood warning time available.
  - The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or accessway is flooded.
- The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.
- The effect of the development on river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance.
- Any other matters specified in a schedule to this overlay.

### **The State Planning Policy Framework (SPPF)** **13.03-1S Floodplain management**

#### **Objective**

To assist the protection of:

- Life, property and community infrastructure from flood hazard.
- The natural flood carrying capacity of rivers, streams and floodways.
- The flood storage function of floodplains and waterways.
- Floodplain areas of environmental significance or of importance to river health.

#### **Strategies**

- Identify land affected by flooding, including land inundated by the 1 in 100 year flood event or as determined by the floodplain management authority in planning schemes.
- Avoid intensifying the impact of flooding through inappropriately located use and development.
- Locate emergency and community facilities (including hospitals, ambulance stations, police stations, fire stations, residential aged care facilities, communication facilities, transport facilities, community shelters and schools) outside the 1 in 100 year floodplain and, where possible, at levels above the height of the probable maximum flood.
- Locate use and development that involve the storage or disposal of environmentally hazardous industrial and agricultural chemicals or wastes and other dangerous goods (including intensive animal industries and sewage treatment plants) outside floodplains unless site design and management is such that potential contact between such substances and floodwaters is prevented, without affecting the flood carrying and flood storage functions of the floodplain.

#### **Policy guidelines**

Consider as relevant:

- Regional catchment strategies and special area plans approved by the Minister for Energy,
- Environment and Climate Change or Minister for Water.
- Any floodplain management manual of policy and practice, or catchment management, river health, wetland or floodplain management strategy adopted by the relevant responsible floodplain management authority.
- Any best practice environmental management guidelines for stormwater adopted by the Environment Protection Authority.

#### **14.01-1 Protection of agricultural land**

##### **Objective**

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

##### **Strategies**

Relevant strategies include:

- Ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use.
- Prevent inappropriately dispersed urban activities in rural areas.
- Limit new housing development in rural areas, including:
- Directing housing growth into existing settlements.
- Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.
- Encouraging consolidation of existing isolated small lots in rural zones.
- Consult with the Department of Economic Development, Jobs, Transport and Resources and utilise available information to identify areas of productive agricultural land.
- Take into consideration regional, state and local, issues and characteristics in the assessment of agricultural quality and productivity.
- Permanent removal of productive agricultural land from the State's agricultural base must not be undertaken without consideration of its economic importance for the agricultural production and processing sectors.
- In assessing rural development proposals, planning and responsible authorities must balance the potential off-site effects of rural land use proposals (such as degradation of soil or water quality and land salinisation) which might affect productive agricultural land against the benefits of the proposals.
- Planning for rural land use should consider:
- land capability; and
- the potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.

#### **14.01-2 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.
- Encourage sustainable agricultural and associated rural land use and support and assist the development of innovative approaches to sustainable practices.

- Support effective agricultural production and processing infrastructure, rural industry and farm-related retailing and assist genuine farming enterprises to adjust flexibly to market changes.
- Facilitate the establishment and expansion of cattle feedlots, piggeries, poultry farms and other intensive animal industries in a manner consistent with orderly and proper planning and protection of the environment.

#### **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.

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

##### **21.06-1 Agriculture**

##### **Objectives**

- 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**

- 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.

## **Relevant Particular Provisions**

### **52.17 NATIVE VEGETATION**

#### **Purpose**

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following 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) (the *Guidelines*):

1. Avoid the removal, destruction or lopping of native vegetation.
2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

#### **52.17-1 Permit requirement**

A permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

#### **Officer Assessment**

##### **Farming Zone**

The use of land for agriculture is a section 1 (permit not required) use in the Farming Zone.

The use of the land and the installation of the irrigation system to support the use, are consistent with the purposes of the Farming Zone which seek to provide for the use of land for agriculture and encourage the retention of productive agricultural land.

The proposed earthworks support the use of land for agriculture and have not been met by opposition from the local catchment management and water authorities, nor have they been the subject of any objections to the application. The proposed earthworks are considered acceptable having regard to the Municipal Planning Strategy and Planning Policy Framework and provisions of the Farming Zone.

##### **Floodway Overlay and Land Subject to Inundation Overlay**

A permit is required under Clause 44.03-2 to carry out (earth)works in the Flood Overlay and (earth)works in the Land Subject to Inundation Overlay pursuant to Clause 44.04-2.

The proposed earthworks effectively level most of the site to allow a linear irrigator to pass across the site. This use of land is compatible with the floodplain and the earthworks are not anticipated to adversely affect the passage and temporary storage capacity of the flood

plain. As detailed previously, the application has been referred to the relevant catchment management and water authority. Their responses did not object to the proposal subject to a number of conditions that will be included in any planning permit to issue.

#### State Planning Policy Framework and Local Planning Policy Framework

Municipal Planning Strategy and the Planning Policy Framework clearly seek to support, strengthen and enhance the productive agricultural use of the region's farming land.

Whilst this needs to be balanced against the other relevant policy objectives of the Planning Scheme, it is considered that the purpose of the proposed clearing of native vegetation to facilitate the enhanced agricultural productivity of the land supports the policy objectives with respect to agriculture.

Clause 21.05-2 (Floodplain and Drainage Management) seeks to recognise the constraints of the floodplain on the use and development of land. With respect to new development, the free passage and temporary storage of floodwater is to be maintained and the risk of flood damage minimised. The proposed earthworks have been considered by the catchment management authority that consented to the proposal. The proposed earthworks effectively level the site for irrigation purposes and are not anticipated to impact on the free passage or temporary storage of floodwater and are not at unacceptable risk of flood damage.

The application identifies that the proposed native vegetation removal is required to facilitate earthworks associated with the use of the land for irrigated agriculture.

Noting that the use of land for irrigated agriculture does not require planning approval under the provisions of the Farming Zone, it is not possible to facilitate the irrigation infrastructure without necessitating native vegetation removal. The irrigated agriculture proposal has been designed to maximise return on water use. Sprinkler irrigation offers significant water efficiency, and the allotment shape lends itself to economically efficient linear irrigation.

The Ecological Assessment submitted with the application identifies that no feasible opportunities exist to further avoid removal or minimise impacts without compromising the proposed development.

The application has appropriately addressed that the proposed vegetation removal will not have a significant impact on Victoria's biodiversity.

The Ecological Assessment submitted with the application identifies that the proposal is appropriate subject to appropriate offsets being secured.

The application was referred to DELWP who as a recommending referral authority consented to the tree removal.

#### Clause 52.17 Native Vegetation



The application material identifies the offset requirements for the vegetation to be removed. The offsets are identified as 0.041 general habitat units with a minimum strategic biodiversity score of 0.198, within the Goulburn Broken Catchment or the Greater Shepparton LGA. The offset strategy is to provide first party offsets.

Officers have assessed the application against the decision guidelines found in the assessor's handbook. As the application is within the Intermediate Pathway, officers have considered the impacts on biodiversity based on the following values of the native vegetation to be removed:

- The proposal is to remove 3 grey box trees; officers consider that the extent of native vegetation is minimal when considering the amount of vegetation on the property.
- The strategic biodiversity score for the trees is fairly low, this is due to their location as they are scattered paddock trees with no surrounding linkage to riparian or highly vegetated areas. All other vegetation on the property is within the smaller paddocks.
- The site is not within any sensitive wetlands and does not contain an Endangered Vegetation Class.

Officers consider in particular that the proposed development is appropriately located to avoid and minimise the impacts on native vegetation and that the offsets meet the offset requirements for the native vegetation to be removed and has been identified and secured in compliance with the Guidelines.

**Relevant incorporated or reference documents**

*Regional Rural Land Use Strategy*

*Earthworks Controls in the Shire of Campaspe, City of Greater Shepparton and Moira Shire – August 2010*

**Other relevant adopted State policies or strategies policies**

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

**Relevant Planning Scheme amendments**

There are no relevant PSA's to the application.

**Are there any significant social & economic effects?**

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

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

There are no other relevant Acts relating 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

### **Charter of Human Rights and Responsibilities**

The application has been considered in accordance with the P&E Act including the giving of notice, therefore the Charter has been complied with.

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## **Conclusion**

It is considered that a Notice of Decision should issue on the basis that:

- The land is appropriately zoned for the use of land for irrigated agriculture, and the proposed native vegetation removal will facilitate the implementation of a lateral irrigator.
- The application appropriately addresses the requirements of Clause 52.17 with respect to native vegetation removal, including demonstrating how the vegetation removal is able to be appropriately offset.
- The Department of Environment, Land, Water and Planning has consented to the amended permit subject to the appropriate permit conditions.
- Goulburn Broken Catchment Management Authority has consented to the application.
- Powercor has consented to the application.
- Goulburn Murray Water has consented to the application subject to the inclusion of their recommended conditions on any notice of decision or planning permit to issue.

# Draft Notice Of Decision

**APPLICATION NO:** 2020-37  
**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:** 777 POOLE ROAD GIRGARRE EAST VIC 3616

**WHAT THE PERMIT WILL ALLOW:** EARTHWORKS FOR A WHOLE FARM PLAN AND NATIVE VEGETATION REMOVAL

## WHAT WILL THE CONDITIONS OF THE PERMIT BE?

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**1. Layout Not Altered**

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

**2. Engineering Conditions**

**a) Retention of Drainage and Irrigation Water**

The Whole Farm Plan and subsequent works shall ensure that all irrigation and concentrated drainage water is retained within the property to the satisfaction of the responsible authority.

**b) 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.

**c) No Restriction Flows**

No earthworks shall be permitted to restrict the flow of water entering or leaving the depression and low lying land indicated on the plan.

**d) No Restriction to Drainage**

The approved works must not cut off natural drainage from adjacent properties.

**e) Restricted Outflows**

The outflows are to be restricted to natural rainfall run-off only.

- f) Modification with Future Schemes  
The drainage system must be modified as and when required to accommodate any future drainage scheme implemented for the area.
- g) Structures  
All structures on the floodway must be at or below the existing natural surface level
- h) Amended Agreement Required if Change of Ownership  
An amended outfall arrangement and redevelopment of the endorsed plans will need to be approved by the responsible authority in the event that any part of the existing tenement is subdivided and/or changes ownership.
- i) Works within Road Reserves Permit Required  
A permit must be obtained from the Responsible Authority prior to carrying out of any work within the road reserve.

### 3. Vegetation Management Plan

Prior to the commencement of any works, a Vegetation Management Plan is to be prepared addressing the following:

- a) Measures taken to protect vegetation not approved for removal under this permit through the appropriate design and siting of all works on site. This includes detailing the offset of any site works from vegetation to be retained.
- b) Protection measures proposed to protect retained vegetation during works on site (such as temporary fencing, vehicle exclusion areas, storage areas etc.)

Once approved the vegetation management plan is to be implemented to the satisfaction of the responsible authority.

### 4. Department of Environment Land Water and Planning

#### ***Notification of permit conditions***

- a) Before any works start, the permit holder must advise all persons undertaking works on site, which includes native vegetation removal, of all relevant permit conditions and associated statutory requirements or approvals.

#### ***Construction management:***

- b) All works constructed or carried out must be in accordance with the endorsed plan.

***Protection of retained vegetation:***

- c) The area where works is proposed to be carried out must be clearly marked on ground.
- d) Except with the written consent of the City of Greater Shepparton and DELWP, within the area of native vegetation to be retained and any native tree and its associated tree protection zone with the permitted use and/or development, the following is prohibited:
  - vehicular or pedestrian access
  - trenching or soil excavation
  - storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
  - entry and exit pits for the provision of underground services
  - any other actions or activities that may result in adverse impacts to retained native vegetation.

***Native vegetation permitted to be removed, destroyed or lopped***

- e) Only native vegetation identified in the DELWP “Native vegetation removal report”, dated 09 December 2019, with report ID: 328-20191209-006 is permitted to be removed as part of this development.
- f) The native vegetation permitted to be removed, destroyed or lopped under this permit is 0.211 hectares of native vegetation, which is comprised of:
  - 3 (three) Large scattered trees.

***Native vegetation offsets***

- g) To offset the removal of 0.211 hectares of native vegetation, the permit holder must secure the following native vegetation offset in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017):
  - A general offset of 0.041 general habitat units:
    - located within the Goulburn Broken Catchment Management boundary or City of Greater Shepparton municipal area
    - with a minimum strategic biodiversity value of at least 0.198, and
    - The offset secured must also protect 3 (three) large trees.
- h) Before any native vegetation is removed, evidence that the offset required by this development has been secured, must be provided to the satisfaction of the City of Greater Shepparton and DELWP. This evidence must be one or both of the following:
  - an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site; and/or
  - credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

- i) A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning and Approvals at the Department of Environment, Land, Water and Planning Hume regional office via [humeregion.planning@delwp.vic.gov.au](mailto:humeregion.planning@delwp.vic.gov.au)
- j) Where the offset includes a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.
- k) The realignment of the overhead power lines must not:
  - Result in further vegetation losses, and
  - Encroach into the relevant tree protection zones on the roadside vegetation, and
  - Lead to lopping of the canopy of the roadside vegetation.

## **5. Goulburn Murray Water Requirements**

- a) Farm works impacted by the future rate or point of irrigation supply should not be undertaken until a Connections Agreement is finalised. The proponent can contact the Modernisation Coordinator to discuss the impact of Modernisation on their property by contacting 1800 013 357.
- b) The design plan shows the backfilling of the Central Goulburn Channel 4/3/8 as outlined in the Connections Agreement CG SCP 14. The channel must not be filled until the Connections Agreement is finalised.
- c) The Deakin Drain 16 active flow path cross the property and the following conditions apply to works within the active flow path;
  - The end of bays within the active flow path must form a continuous grade across each bay through the property to allow for unobstructed natural flows;
  - The end of the bays within the active flow path should be left at natural grade;
  - Bays must be constructed without check banks within the active flow path;
  - Sumps and farm drains must be constructed without banks. Excavated material must not be stockpiled within the active flow path;
  - Tree plantations within the confines of the active flow path must be kept at a stem density of less than 40 trees/ha.
  - Structure 2 on the Lateral Channel must be designed to allow adequate flows to pass unobstructed and provide sufficient waterway for the depression to flow naturally.
  - The Turkey Nest Dam is located within the Deakin Drain 16 natural depression. Adequate capacity for the depression to flow during a 1 in 10 year ARI event must be provided. Alternatively, the dam could be relocated to the south west and away from the centre of the depression allowing it to flow as it naturally does.

- d) The design plan shows a proposed pump located next to an active flow path waterway. The pump and fuel tank must be sited outside the active flow path waterway and above the 1 in 10 year flood level and be appropriately bunded to contain 100% of the fuel tank capacity to prevent pollution of the soil and water in the event of a leak or spill.
- e) The design plan shows a new sump (Reuse Sump) to be constructed. Prior to construction a test hole should be dug to ensure that groundwater does not leak in and that the soil is consistent to the depth required. The completed reuse sump must not interact with the watertable.
- f) The design plan shows a turkey nest storage and the following conditions are to apply in relation to this part of the whole farm plan:
  - The bed and banks of the storage must be constructed to minimise accessions to groundwater. It is recommended that a permeability of 10-9m/sec (0.09mm/day) or less is achieved.
  - The storage is to be located such that the phreatic line does not interfere with any GMW asset.
  - The batters of the storage must be stabilised to prevent soil erosion, to the satisfaction of the responsible authority.
- g) The construction of the Above Ground Storage exceeds the Maximum Water Use Limit (MWUL) (ie. 8.5 ML) allowed for the property, however the excess storage capacity will be supplemented from the existing Groundwater license. The proponent must enter into an agreement for this part of the works and contact the Operations Office for preparation of the agreement.
- h) The design plan shows a reuse sump connected directly to the Above Ground Storage. The Above Ground Storage may gravitate to the reuse dam, however must not be able to be pumped directly between the two storages.
- i) The easements associated with the property must not be impeded with any of the works.
- j) The design plan shows a travelling pivot irrigator adjacent to Central Goulburn Channel 8A. The irrigator must be set up, maintained and operated such that water is not applied to the GMW channel reserve.
- k) The proposal for the Linear Pivot Irrigator requires the removal of a number of trees.
- l) A separate Planning Permit must be obtained for the removal of any Native Vegetation.

## 6. **Powercor Requirements**

- a) Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.

- b) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
- c) Apply for a site visit and permit to work assessment. This can be done via the Powercor website.
- d) Keep the easement land clear of any buildings or structures whatsoever.
- e) The property owner/builder should contact Dial before you Dig, before any excavation works are undertaken on the property.
- f) The applicant shall negotiate with Powercor for the removal, relocation of the existing power lines contained within the property. Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required, with the cost of such works generally borne by the applicant.

#### 7. **Time for Starting and Completion**

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

- a) the development has 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.

#### **NOTATIONS**

##### **ADDITIONAL COMMENTS: THREATENED SPECIES ADVICE – BROLGA:**

The purpose of this advice is to identify and flag the occurrence of known habitat for Brolga in the Girgarre East and surrounding districts to support decision making for this planning referral.

The importance of the East Girgarre District and surrounds for Brolga habitat is considered valid. Activity or works which could cause alteration, re-routing or other modification to natural (or modified) hydrological regimes would likely result in deleterious impacts to Brolga and associated wetland habitat. Any planning proposals should consider impacts on Brolga and seasonally inundated wetland habitat in assessing the overall ecological impact.

##### **Key Points:**

- Brolga are listed as Threatened under the Flora & Fauna Guarantee Act.
- The Northern Victorian plains woodland and wetland landscapes are considered important seasonal habitat for Brolga (Brolga utilise the area for foraging and breeding when landscape conditions are wet).



- The Girgarre East district is a known location for Brolga with multiple confirmed records including breeding records within 5km of the Poole Rd\Girgarre Road locality (Victorian Biodiversity Atlas (Department of Environment, Land, Water & Planning), Victoria, 2020).
- Brolga utilise open, treeless pastures for foraging where they feed on vegetable material, wetland plants, insects and small vertebrates.
- Most recorded nest sites are on private land. Pairs can occupy these territories for many breeding seasons as they are long-lived birds (White 1983).
- A significant threat to Brolga is the alteration of hydrological regimes which may lead to a reduction in wetland habitat. Drainage works are implicated in the direct loss of over 75% of freshwater marshes and wetlands which are the preferred breeding habitat for Brolga (Corrick, 1982).

Brolga habitat is often geographically permanent but functionally ephemeral, therefore it is unlikely that existing habitat models and occurrence data available on Government databases adequately captures the extent and importance of Brolga habitat in areas such the East Girgarre District.

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## Application Details:

Responsible Officer:	Braydon Aitken
Application Number:	2020-26
Applicants Name:	HDN Building Design
Date Application Received:	31 January 2020
Statutory Days:	75 as of 28 April 2020
Land/Address:	142 Nixon Street SHEPPARTON VIC 3630
Zoning and Overlays:	Activity Centre Zone 1 (ACZ1) Heritage Overlay – Schedule HO174 (HO174) Parking Overlay - Precinct 1 (PO1)
Why is a permit required (include Permit Triggers):	37.08-5: Building and works in the ACZ1 43.01-1: Demolition in the HO 43.01-1: Buildings and works in the HO 52.06-3: Reduction in car parking requirements
Are there any Restrictive Covenants on the title?	No

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## Proposal

### Demolition

The application proposes the demolition of the existing heritage listed building (existing medical centre) and its replacement with a two storey building consisting of a medical centre facility and a two bedroom unit (at ground and first floor levels respectively). The existing building is used as a medical centre and is within the Nixon Street Group of heritage properties (HO174) which are of local heritage significance.

The owners have previously lodged submissions under Planning Scheme Amendments C110 & C205 in support of removing the proposed site from heritage listing. Both amendments were considered by an Independent Planning Panels. Both Planning Panels determined that the properties in HO174 are of local heritage significance and that the overlay should remain.

The applicant has submitted that the existing building is structurally unsafe (requiring major repair works) and contains asbestos. They further submit that the repair work needed would compromise the heritage value of the building and that the cost of repairs is not commercially viable.

### New Building and works

The proposed medical centre will consist of three medical consulting rooms, a nurse's room, a treatment room, a reception and foyer area, as well as tearoom and storeroom spaces. The proposed floor area for the medical centre is 207.7m<sup>2</sup> and 125.64m<sup>2</sup> for the first floor unit. Access to the site will be via the existing crossover at the north-western corner of the site which leads to the existing gravel car parking area. Based on the information submitted

with the application there will be no change to the maximum of five medical practitioners that currently practice from the site at any one time.

### **Car parking requirements**

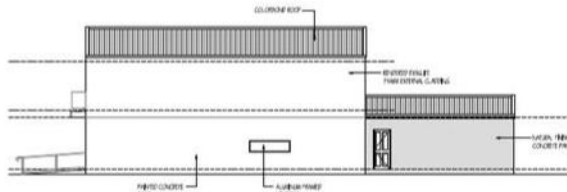
The applicant submits that 5 medical practitioners will practice at the site. As per the requirements of Clause 52.06 and schedule to the Parking Overlay, 26 car parking spaces are required to be provided on site. The plans submitted with the application show the provision of 10 parking spaces. Permission for a reduction in car parking requirements is therefore required.

A photo of the existing building and plans of the proposed development are shown below

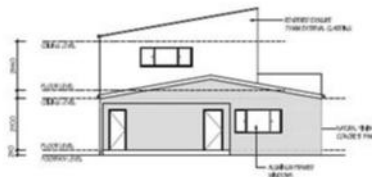




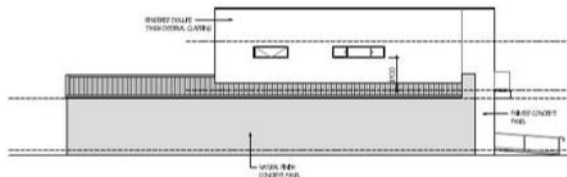
NIXON STREET (NORTH ELEVATION)



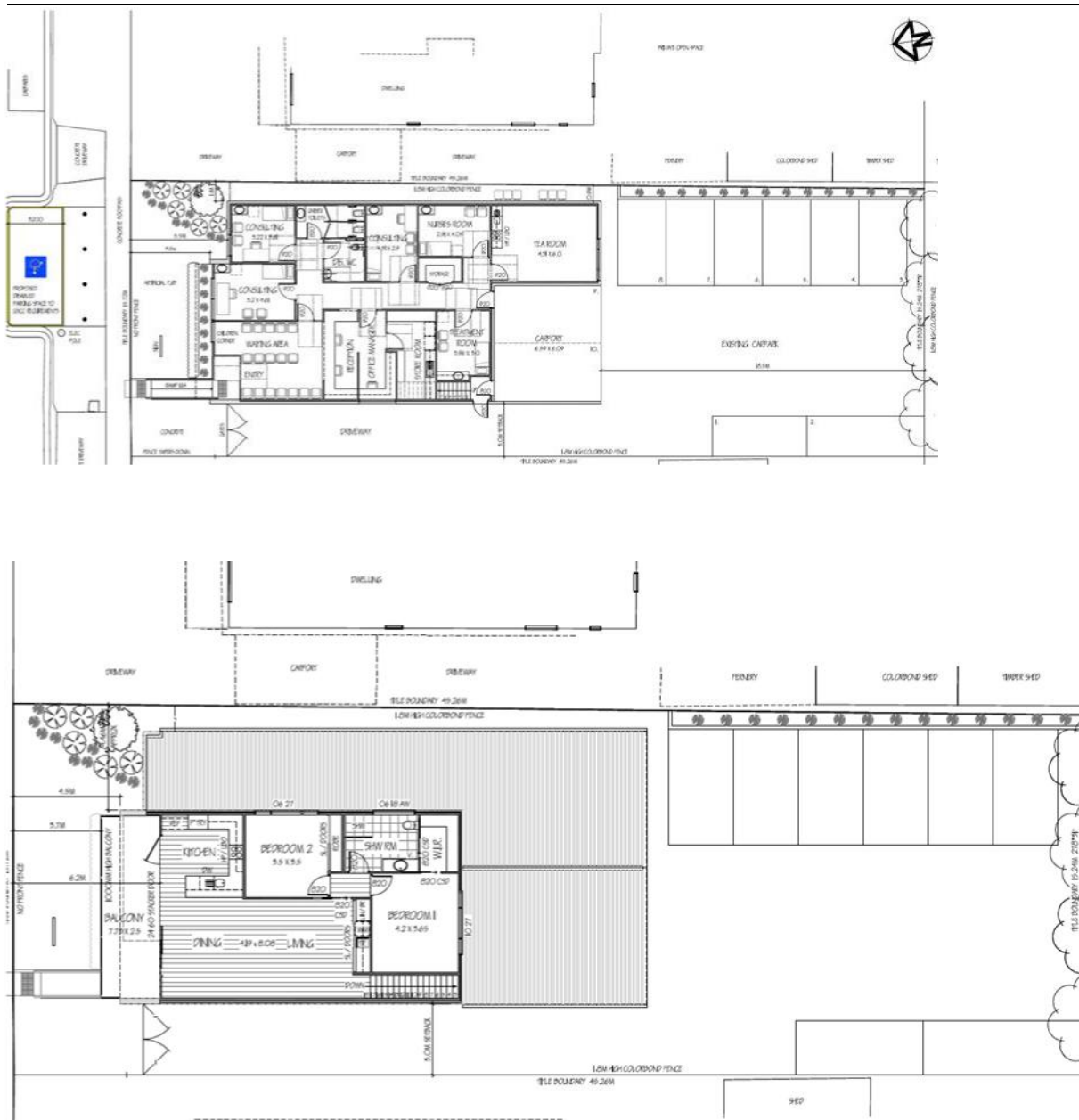
WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



As identified above the land is located in the Activity Centre Zone and areas of Local Planning Policy in relation to urban consolidation support intensified development on the land, in particular the additional housing provision at the first floor level.

Despite the above the proposal to demolish the existing building must be assessed against the relevant heritage controls within the planning scheme, including state and local planning policy and the Heritage Overlay.

There is strong policy support for the retention and conservation of the existing heritage listed building on the land.

Local Planning Policy discourages the demolition of Individually Significant or Contributory buildings, except where it can be demonstrated that:

- the building is structurally unsound (as determined by a suitably qualified Building Surveyor), and
- the cost of repairs is considered to be unreasonable and economically unsustainable, and
- the significant physical fabric is so compromised or in such poor condition that the replacement and/or repair would compromise and reduce the integrity of the building.

The applicant has not been able to satisfy officers that the demolition of the existing building is warranted when assessed against the above requirements.

For the above reasons refusal of the application is recommended.

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## Summary of Key Issues

- The application seeks permission for demolition in the HO, buildings and works in the HO and ACZ and a reduction in car parking requirements.
- The application was advertised and referred in accordance with this report. No objections to the proposal were received from surrounding landowners. The Council's Heritage Advisor reviewed the application and requested further information on the perceived structural issues with the existing building. This information was not provided and the applicant has requested that a decision be made on the application in its current format. Based on the information included with the current application the Council's Heritage Advisor does not support the demolition of the existing building.
- The main assessment concern with this application is the demolition of the existing building against the relevant local planning policy and the purpose and decision guidelines of the Heritage Overlay. Without support for the demolition the re-development proposal cannot proceed.

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## Recommendation

### Refusal

That the Council having caused notice of Planning Application No. **2020-26** 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 **37.08-5, 43.01-1 & 52.06-3** of the Greater Shepparton Planning Scheme in respect of the land known and described as **142 Nixon Street SHEPPARTON VIC 3630**, for the **Demolition of an existing building and the construction of a medical centre building and a reduction in car parking requirements in the Heritage Overlay and the Activity Centre Zone 1.**

## **Moved by Colin Kalms.**

### **Seconded by Joel Ingham**

That the Council having caused notice of Planning Application No. **2020-26** 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 **37.08-5, 43.01-1 & 52.06-3** of the Greater Shepparton Planning Scheme in respect of the land known and described as **142 Nixon Street SHEPPARTON VIC 3630**, for the **Demolition of an existing building and the construction of a medical centre building and a reduction in car parking requirements in the Heritage Overlay and the Activity Centre Zone 1**

### **CARRIED**

#### **For the following reasons:**

- The application is not in accordance with the objective of Clause 15.03-1S – Heritage Conservation which seeks to ensure the conservation of places of heritage significance.
- The application does not meet the objectives of Clause 21.05-4 - Cultural Heritage as the proposal will not lead to the conservation of a place of cultural heritage significance
- The application has not provided sufficient information to justify the demolition of the existing heritage listed building as required by the conservation policy in relation to demolition at Clause 21.05-4.
- The application is not in accordance with the built form objective in the Schedule One to the Activity Centre Zone which aims to protect places of cultural heritage significance.
- The application is not in accordance with the Decision Guideline in relation to design and built form in the Schedule One to the Activity Centre Zone which supports development that complements, where relevant, the form, scale, materials, colour and lighting of a place of cultural heritage significance on the same or adjoining site.
- The application is not in accordance with the purpose and decision guidelines of the Heritage Overlay which seek to conserve and enhance places of natural or cultural significance.

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## **Subject Site & Locality**

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

Date: **5/2/20**                      Time: **4**                      pm

The site has a total area of **711** square metres and currently contains:

- A medical centre as shown on the photos below

The main site/locality characteristics are:

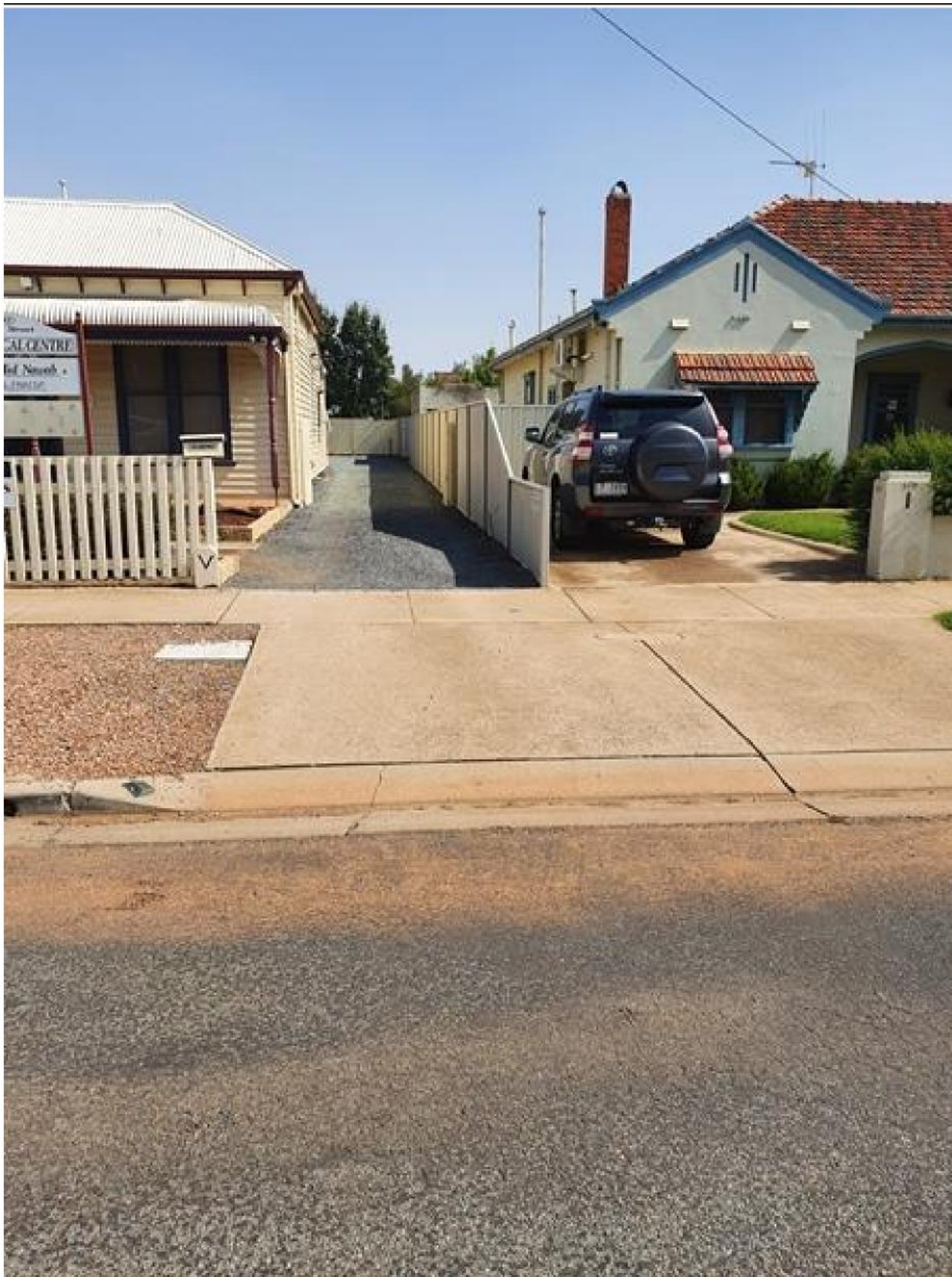
- 
- A mixed use area containing a number of dwellings, unit developments and offices mostly located within former dwellings.
  - The neighbourhood character is one of low front fences and established front gardens.
  - There is existing on street car parking including the availability of centre of the road parking in Nixon Street.
  - Deakin reserve is located to the north Directly across Nixon Street.
  - Heritage listed dwellings are located at 132, 134, 138-140, 142, 144 & 156 Nixon Street.

The Photos below show the existing site and surrounding properties:



A view of the subject site looking south from centre of the road parking in Nixon Street





A view of subject site and 138 Nixon Street which is also heritage listed



A view looking south west along Nixon Street showing 138 Nixon Street and a unit development.



A view looking south east along Nixon Street toward 144 Nixon Street, which is also a heritage listed property.



A view of on street car parking in Nixon Street



A view of centre of the road car parking in Nixon Street

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## Permit/Site History

The history of the site includes:

- Planning Permit 1995-368 allows the use and development of the land for a Health Centre. The planning permit required the provision of 10 car parking spaces on the land and restricted the number of practitioners operating from the site at anyone time to no more than 5.

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## Further Information

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

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## Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description **Demolition of an existing medical centre building, construction of a new medical centre building and dwelling and a reduction in car parking requirements**, by:

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



Photo taken of sign on site—15 February 2020



A signed declaration was provided by the application that the sign was displayed on site from 7/2/20 to 24/2/20.

## Objections

The Council has received **no** objections to date. One submission was made to the application from the neighbour at 144 Nixon Street (also a heritage listed property).

The submission indicates a level of support for the proposal but highlights the following as worthy of consideration by officers:

- *This submission (rather than “objection”) takes the form of suggestions that are objective and could be investigated to get the best outcomes for all concerned. **Note: The submitter does not canvass the issue of demolition within any Heritage Overlay – a matter best deliberated by consultants versed in that domain.***
- *My interest is in getting a more modest, aesthetically attractive external design, with larger front setback, and better landscaping and summer shade outcomes out front, together with maintaining all-day kerb-side parking along the southern, mainly residential, Nixon St frontage, No.144 east to Skene St*
- *Front setback  
Intended plans show 4.5m front setback for the bulk of the building, 3.7m to the balcony.  
Most existing setbacks in the street block appear to be in the order of 8m or so. Wouldn't consistency be worth maintaining for desirable aesthetic outcome and historic uniformity?  
There is also a lot of glass facing north. An increased setback, and a revised landscaping plan showing how they can get some significant shade in there, would greatly assist in addressing this matter environmentally.  
Suggest suitable approved nature-strip tree be planted at 142 Nixon St.*
- *On-street parking  
During Latrobe and TAFE semesters all-day weekday parking is at saturation level Harold to Skene (except for 142 Nixon to Harold southern kerbside – 2 hr limit).  
Any further restrictive 2 hr encroachment should be confined to Deakin Reserve frontage and/or middle-road parking bays'.*

The points highlighted by the submitter are addressed in the assessment section of this report.

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## Title Details

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

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## Consultation

Following receipt of advice from Council's Heritage Advisor, Council officers wrote to the applicant via e-mail and provided the following:

*'Council's Heritage Advisor has reviewed the application and advised that she requires further information to properly consider the demolition of the existing building. Council's Heritage Advisor requires a demolition report from a building practitioner that has experience in dealing with heritage buildings to provide a better understanding of the structural issues. In particular, Council's Heritage Advisor is concerned the report submitted with the application is general in nature and refers to*



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*maintenance and repair issues rather than fundamental structural failures that would require demolition'.*

Council officers also requested a site visit with a Consultant Building Surveyor in order to get a better understanding of the repair and asbestos issues identified in the application material.

A site meeting was conducted on 19 March 2020 at 1pm with a Council planning officer, Consultant Building Surveyor, Lloyd Payne, the applicant and the owner of the land.

Advice from the building surveyor was that repairs could be undertaken without the need to fully demolish the existing building other than the existing chimney which was deemed to be structurally unsound. Council's planning officer advised that they would be supportive of repairs to the building in particular roofing and flooring and a partial demolition to the rear of the existing building if it lead to the majority of the building being retained.

At the conclusion of the meeting the owner of the land advised that they would seek advice from a structural engineer or building surveyor to clarify heritage advisor's concerns. Following the implementation of COVID-19 restrictions the applicant called to inform they were having difficulty engaging anyone to do this work and that their client had requested that a decision be made on the application.

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## Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
There we on Section 55 Referrals required for this application	N/A
Section 52 Notices	GVW consented to the application subject to standard service connection conditions.

Internal Council Notices	Advice/Response/Conditions
Development Engineers	Consented to the application subject to standard car parking and drainage plans and construction conditions.
Heritage Advisor	The Council Heritage Advisor reviewed the application and provided the following recommendation: <i>'It is recommended that demolition be refused on the grounds that the building is not in such poor condition that repair is unfeasible. The costs are typical maintenance costs that are found on most buildings of this age.</i> Further details in relation to the Heritage Advisors response are included in the assessment section of this report.

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## Assessment

### The zoning of the land

## **Activity Centre Zone**

### **Purpose**

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage a mixture of uses and the intensive development of the activity centre:
  - As a focus for business, shopping, working, housing, leisure, transport and community facilities.
  - To support sustainable urban outcomes that maximise the use of infrastructure and public transport.
  - To deliver a diversity of housing at higher densities to make optimum use of the facilities and services.
- To create through good urban design an attractive, pleasant, walkable, safe and stimulating environment.
- To facilitate use and development of land in accordance with the Development Framework for the activity centre.

### **Permit requirement**

- A permit is required to construct a building or construct or carry out works.
- No planning permit is required to use the land for a medical centre or a dwelling in Precinct 5 of the Schedule to the ACZ.

### **37.08-9 Decision Guidelines**

#### **General**

- The Municipal Planning Strategy and the Planning Policy Framework.
- The development framework plan set out in the schedule to this zone.
- The land use and development objectives set out in the schedule to this zone.
- Any requirements set out in the schedule to this zone.
- Any other decision guidelines specified in the schedule to this zone.

#### **Design and built form**

- The design, scale, height, setback, appearance and material of the proposed buildings and works.
- The provision for solar access to the building and on the public realm. The design of the public realm.
- The relationship between the proposed building and the public realm.
- The streetscape, including the conservation of buildings, the design of verandas, access from the street front, provision of active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.
- The interface with adjoining zones, especially the relationship with residential zones. The objectives, standards and decision guidelines of Clause 54 and Clause 55.
- This does not apply to an apartment development. For an apartment development, the objectives, standards and decision guidelines of Clause 58.
- The storage of rubbish and materials for recycling.

### **Schedule 1 to Clause 37.08 Activity Centre Zone**

#### **Land use**

- To reinforce Shepparton as the principal retail centre in the region.
- To maximise the regional service role of Shepparton through provision of a dynamic and efficient activity centre hierarchy.

- To strengthen Shepparton CBD's role as an office and commercial location, a regional community and cultural hub and as a tourist destination.
- To attract more people to live in the Shepparton CBD as a means of providing a greater range of housing choices and supporting the vibrancy and economy of the CBD, including enhancing the role of the CBD as a 'university city, by creating an attractive CBD in which to study and live.
- To strengthen links with the indigenous and cultural communities in Shepparton through expanding cultural-related activity in the CBD and working with the River Connect project.

#### **Built form**

- To encourage innovative and sustainable contemporary design and promote the principles of environmentally sustainable design.
- To promote best practice urban design principles in the layout of activity centres.
- To make better use of available land by allowing higher scale built form in appropriate locations.
- To protect the amenity of residential areas and places of cultural heritage significance.

This area is in Precinct 5 – Office and Higher Density Residential (Sub-precinct 5A) Residential/Redevelopment



### 5.5.2 Precinct Objectives

- To encourage a compatible mix of small offices, higher density residential, service businesses and small peripheral retail uses.
- To support higher built form including office or secondary retail uses at ground floor and residential uses at upper levels.
- To improve pedestrian links across Nixon Street to Deakin Reserve.

### 5.5.3 Precinct requirements

Sub-precinct	Preferred building height	Preferred street wall height	Preferred setbacks
5A	None specified.	11.5m.	Front setbacks of 3-5m.
5B	7m.	None specified.	Setbacks to meet the objectives of Standard A3 and A10 of Clause 54 or Standard B6 and B17 of Clause 55 of the Greater Shepparton Planning Scheme.

### 5.5.4 Precinct guidelines

- New medium density residential development should be located within 400 metres to 600 metres from the CBD.
- Front setback areas should provide areas for landscaping. Existing setbacks should be maintained where possible.
- Some potential for reduced side setbacks may be considered

## 8.0 Decision Guidelines

The following decision guidelines apply to an application for a permit under Clause 37.08, in addition to those specified in Clause 37.08 and Clause 65 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

### Design and built form

Whether the proposal

- Creates a strong visual interest by providing unique building types based on innovative, contemporary architecture, urban design and ecologically sustainable development.
- Provides overhead weather protection adjoining key pedestrian walkways and nodal points.
- Complements, where relevant, the form, scale, materials, colour and lighting of a place of cultural heritage significance on the same or adjoining site.

### Access

Whether the proposal:

- Incorporates provisions for pedestrians, cyclists and people with a disability demonstrating how access needs are accommodated.
- Limits the number of vehicle crossings to each development.

## Relevant overlay provisions

### Heritage Overlay

#### Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

#### Permit requirement

- A permit is required to demolish an existing building and to construct a building or carry out works.

### 43.01-9 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 significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.
- Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.
- Any applicable heritage design guideline specified in the schedule to this overlay.
- Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.
- Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.
- Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.
- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.

## Schedule to Clause 43.01 Heritage Overlay

PS map ref	Heritage place	External paint controls apply?	Internal alteration controls apply?	Tree controls apply?	Outbuildings or fences not exempt under Clause 43.01-4	Included on the Victorian Heritage Register under the Heritage Act 2017?	Prohibited uses permitted?	Aboriginal heritage place?
HO174	Nixon Street Group, Shepparton (132, 134, 138-140, 142, 144, 150 and 156 Nixon Street) Incorporated plan: GSHIP*	No	No	No	No	No	No	No

## Parking Overlay

### Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To facilitate an appropriate provision of car parking spaces in an area.
- To identify areas and uses where local car parking rates apply.
- To identify areas where financial contributions are to be made for the provision of shared car parking.

## Schedule 1 to Parking Overlay

### Car parking objectives to be achieved

- To identify car parking rates to be provided for the use of land in the Shepparton Central Business District (CBD).
- To assist in encouraging appropriate commercial development and redevelopment within the CBD using realistic parking rates.
- To maximise the supply and usage of parking by time of day for customers and employees of the CBD, and capitalise on shared parking opportunities.
- To limit the requirements to provide car parking for new development and redevelopment, whilst minimising any adverse parking and equity consequences of new developments.

### Number of car parking spaces required

Minutes of DHP Hearing – 26<sup>th</sup> May 2020  
 M20/47633

Use	Rate	Measure
Child care centre	1	to each staff member, plus
	1	to each 10 children, plus a drive-through drop-off bay for at least 3 vehicles
Department store	4.5	to each 100 sq m of leasable floor area
Food and drink premises (including Restaurant, Convenience restaurant, Take away food premises)	3	to each 100 sq m of leasable floor area
Hotel	5	to each 100 sq m of bar floor area available to the public, plus
	5	to each 100 sq m lounge floor area available to the public
Industry	2	to each 100 sq m of leasable floor area
Medical centre	5	to each practitioner

### **Financial contribution requirement**

If a permit is granted to reduce the requirement for car parking, the Responsible Authority must include a condition requiring a financial contribution for each reduced space, unless satisfied that such payment is not warranted having regards to the circumstances.

The current contribution rate per car space is approximately \$6,000.

## **Planning Policy Framework**

### **15.03-1S Heritage Conservation**

#### **Objective**

- To ensure the conservation of places of heritage significance.

#### **Strategies**

- Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.
- Encourage appropriate development that respects places with identified heritage values.
- Retain those elements that contribute to the importance of the heritage place.
- Encourage the conservation and restoration of contributory elements of a heritage place.

### **17.02-1S Business**

#### **Objective**

- To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.

#### **Strategies**

- Plan for an adequate supply of commercial land in appropriate locations. Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.
- Locate commercial facilities in existing or planned activity centres.
- Provide outlets of trade-related goods or services directly serving or ancillary to industry that have adequate on-site car parking.

## **The Local Planning Policy Framework (LPPF)**

### **21.04-1 Urban Consolidation and Growth**

#### **Objectives:**

- To provide a greater range of housing choices to attract more people to live in the Shepparton CBD which will support the vibrancy and economy of the CBD.
- To make better use of available land by allowing higher scale built form in appropriate locations within the CBD.

## **21.05-4 Cultural Heritage**

Places of cultural heritage significance are highly valued by the community. The continued conservation, protection and maintenance of these places of cultural heritage significance are important to the Council.

The Greater Shepparton City Council recognises that places of cultural heritage significance exist in a dynamic context. In particular, there is substantial interest to adapt and develop places of cultural heritage significance to suit contemporary uses and lifestyles. This policy therefore seeks to maintain the integrity of places of cultural heritage significance whilst accommodating the needs of current and future inhabitants.

### **Conservation Policy**

In considering an application for a Planning Permit under the Heritage Overlay, it is policy to:

- Conserve and maintain significant places in accordance with the accepted conservation standards of the ICOMOS Burra Charter.
- Conserve the fabric of the place, such as a building(s), structure(s), tree(s), fence(s), settlement pattern(s) etc. where these have been identified as contributing to a significant place or contributory item within any precinct.

### **Objectives – Cultural Heritage**

- To ensure that places of cultural heritage significance are conserved or restored.
- To discourage the demolition of places of cultural heritage significance that are designated as Individually Significant or Contributory in heritage precincts.
- To ensure that development does not adversely affect places of cultural heritage significance.

### **Demolition**

- Discourage the demolition of Individually Significant or Contributory buildings, except where it can be demonstrated that:
  - the building is structurally unsound (as determined by a suitably qualified Building Surveyor), and
  - the cost of repairs is considered to be unreasonable and economically unsustainable, and
  - the significant physical fabric is so compromised or in such poor condition that the replacement and/or repair would compromise and reduce the integrity of the building.
- Demolition of features of Individually Significant or Contributory places may be considered if it will help to reveal the original fabric of the place.
- Demolition of features that are identified as not contributing to the cultural heritage significance of either an Individually Significant or Contributory place can be removed. If the place is Individually Significant, the Statement of Significance for the individual place will be used to inform the assessment of an application.
- Demolition or removal of buildings or features on places identified as Non-Contributory on the relevant precinct map may be considered.
- Demolition approvals should not be granted until replacement buildings or works have been approved.



- New development visible from the street should be designed in a manner sympathetic to the character of the significant fabric or in an understated modern manner in complementary form and materials.

## **21.06-5 Commercial/Activity Centre**

### **Objective**

- To strengthen the Shepparton CBD's role as an office and commercial location, and provide appropriate retail opportunities in supporting locations.

### **Strategy**

- Allow higher scale buildings in appropriate locations.
- Encourage smaller offices to locate in the office precincts.

## **Relevant Particular Provisions**

### **52.06 - Car Parking**

#### **Purpose**

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

#### **Provision**

As mentioned previously the car parking rate for a medical centre is specified by the schedule to the parking overlay. The car parking rate for a dwelling is specified in Clause 52.06-5 as 1 space to each one or two bedroom dwelling.

#### **Permit requirement**

A planning permit is required to reduce the number of car parking spaces required by Clause 52.06-5 and the Schedule to the Parking Overlay.

#### **Decision Guidelines**

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

- 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.
- 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**

### **Activity Centre Zone (ACZ)**

The application is generally in accordance with the purpose of the ACZ as it will provide a mixed use development with a modern urban design.

The application is supported by the land use objectives of the Schedule to the ACZ which encourage intensity of development, a higher built form and opportunities for more people to live within the Shepparton CBD.

Despite this a key built form objective in the schedule is to protect places of cultural heritage significance. The proposal to entirely demolish the existing heritage listed building will not achieve this objective.

The proposal meets a number of the key precinct objectives within the schedule in providing a mix of a small office and residential development and providing a higher built form with an office use at the ground floor level and above ground floor residential development.

There is no preferred building height in Precinct 5A of the schedule, the proposal will be under the preferred street wall height of 11.5m. The proposed front set back of the building falls within the preferred setback range of the precinct of between 3-5m.

The proposal provides for landscaping within the front setback which is encouraged by the precinct guidelines, however it would encroach on the setback of the existing building which is discouraged.

Despite support for the application the submitter raised concerns about the proposed front setback. An inspection of Nixon Street, within precinct 5 of the Schedule to the ACZ, revealed a variety of front setbacks ranging from 15 to 3 metres. Based on this and the objective of the schedule and zone, should the demolition of the existing building be supported, the proposed front setback is deemed acceptable.

The submitter also raised concerns about the level of landscaping within the front setback, in particular the lack of shade trees. If a planning permit was to issue, this is something that could be included as a condition of the planning permit.

The application has addressed the decision guidelines of the zone and schedule in relation to the relevant amenity considerations, providing a development that will not overlook the secluded private open space of any adjoining dwellings. Shadow diagrams have also been provided which show the level of overshadowing on any adjoining dwelling will be minimal.

The proposal addresses Nixon Street providing for active frontage at both the ground and first floor levels. A front landscape treatment is proposed however no front fence has been provided in the design response. Low front fencing is a consistent theme along this section of Nixon Street.

The application does not complement the form, setback and scale of heritage listed dwellings with the precinct. The new building would result in a larger building form being double storey and would be located closer to the street than existing single storey heritage dwellings within the precinct. Without the provision of a low front fence it will have a commercial rather than a residential feel from the public domain.

### **Car Parking Requirements**

Based on the information provided with the application, the number of car parking spaces required by Clause 52.06 and the Schedule to the Parking Overlay for the proposed development is 26 spaces. This is based on a rate of 5 spaces to each practitioner in the Schedule to the Parking Overlay and 1 space for the proposed two bedroom dwelling.

10 Car parking spaces are provided on site and the application has sought approval for a reduction in car parking requirements to cover the shortfall.

Site inspections and historical aerial photography indicate that staff will be likely to use the car park to the rear of the land and clients are more likely to park in the available on street car parking in Nixon Street. Based on this there will be adequate room for residents of the proposed dwelling to park in the rear car parking area on the land.

Site inspections by officers and existing aerial photography show that there is enough capacity within the existing on street parking to provide parking for clients of the proposed medical centre. As the number of medical practitioners is not proposed to change from the current operation, the proposed medical centre should have no greater car parking demand than the current use. It has been demonstrated that car parking for the existing use can be accommodated with the existing level of car parking both on the land and within Nixon Street.

Despite the above, the schedule to the Parking Overlay requires a financial contribution for each reduced car space unless the responsible authority can be satisfied that such payment is not warranted having regards to the circumstances. In addition to this the decision guidelines of Clause 52.06 require consideration of the equity of reducing car parking requirements having regard to any historic contributions by existing businesses.

A recent development for a medical centre and a reduction in car parking was approved at 167 & 169 Nixon Street, a requirement for a payment of a shortfall of 16 car spaces was required. The requirement for this payment was supported by VCAT and the parking contribution went towards the provision of and upkeep of on street parking in Nixon Street. Should a planning permit issue for this proposal, a condition requiring a contribution for the

shortfall of 16 car parking spaces should be required to ensure consistency in decision making.

The submitter to the application raised concerns about the potential to change parking timing restrictions in Nixon Street to accommodate the proposed use. There is no proposal to change any existing time restrictions for the on street parking in Nixon Street.

### **Heritage Overlay**

The application seeks demolition of the existing building on site. The existing building is of local heritage significance. It is of architectural significance as it provides a representative example of a late Victorian/early 20<sup>th</sup> century cottage. As identified earlier in this report 142 Nixon forms part of a group of dwellings that illustrate the diversity and variation of development in Nixon Street during its consolidation as a residential street.

The purpose and decision guidelines of the overlay do not support the demolition of a building of cultural heritage significance.

The applicant has provided two reports with the application from Jim's Building Inspections that identify the following issues as providing support for the demolition:

- Structural defects
- The need for the removal of hazardous materials – asbestos
- DDA requirements and internal alterations
- Fire Separation – the building does not satisfy current Building Regulations
- The need to re-stump the whole of the building

The Council's Heritage Advisor has reviewed the application as does not support the full demolition of the existing building on site. Council's Heritage Advisor has confirmed they would support the following:

- The external repairing of any roofing materials, weatherboards etc. with like for like materials.
- Any internal repairs including the roof frame and flooring
- Re-stumping
- Repair of the chimney
- Removal of asbestos

- Demolition of areas to the rear of the building including the tearoom and rear consulting rooms.

The applicant submits that the cost of these repairs make the exercise unviable. No information detailing the costs associated with these repairs has been submitted.

The Heritage Advisor is of the view that the building is not in such a poor condition that repairs are unfeasible and that the required repairs and costs are common of buildings of this age. As identified earlier in this report, a consultant building surveyor for Council has confirmed these comments.

The Heritage Advisor also indicated that none of the defects identified in the reports appear to be of such a substantial nature that the building requires demolition and that the reports are very general in nature. In an effort to resolve the matter the Heritage Advisor recommended that the applicant engage a building practitioner with experience in working with heritage buildings to provide further information on any structural issues associated with the existing building. The applicant was unable to appoint someone to do this work and has requested that a decision be made on the application.

Based on the level of information submitted with the application the full demolition of the existing building is not supported. Without support for the demolition of the existing building the proposed re-development is unable to proceed.

Council's Heritage Advisor has indicated support for a redevelopment of the site that would include the retention of the majority of the existing building. The applicant has advised that they do not wish to pursue this option.

### **Planning Policy Framework**

There is support for re-development within activity centres in both State and Local Planning Policy. This support needs to be balanced with other relevant planning policy considerations. Crucial to the re-development proposal forming part of this application is the demolition of the existing building on the land.

Clause 15.03-1S – Heritage Conservation does not support the demolition of the existing building on the land. The main objective of this clause is to ensure the conservation of places of heritage significance.

Clause 21.05-4 – Cultural Heritage does not support the demolition of the existing building on the land. The conservation policy in relation to considering applications for demolition discourages the demolition of individually significant or contributory buildings except where:

- the building is structurally unsound (as determined by a suitably qualified Building Surveyor), and
- the cost of repairs is considered to be unreasonable and economically unsustainable, and

- the significant physical fabric is so compromised or in such poor condition that the replacement and/or repair would compromise and reduce the integrity of the building.

The applicant has not provided an adequate level of information to satisfy officers that the above has been met and therefore demolition of the existing building cannot be supported.

With regard to the other relevant decision guidelines at Clause 65, Council's Development Engineers have assessed the re-development proposal and have no objections subject to detailed construction and drainage plans being provided and approved.

### **Relevant incorporated or reference documents**

There are no relevant incorporated documents.

The Greater Shepparton Heritage Study provides a statement of significance for 142 Nixon Street.

### **Other relevant adopted State policies or strategies policies**

There are no other relevant adopted state or strategic policies that apply to this application.

### **Relevant Planning Scheme amendments**

. Amendment C-110

. Amendment C-205

### **Are there any significant social & economic effects?**

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

### **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 application?**

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

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**Conclusion**

While the land is located in the Activity Centre Zone and areas of Local Planning Policy in relation to urban consolidation support intensified development, the land is also located within the Heritage Overlay. There is strong heritage conservation policy support for the retention and conservation of the existing heritage listed building on the land. The level of support within the planning scheme for the retention and conservation of the existing building outweighs the support for the proposed re-development and for that reason planning officers recommend refusal of the application.



# DRAFT REFUSAL TO GRANT A PERMIT

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<b>APPLICATION NO:</b>	2020-26
<b>PLANNING SCHEME:</b>	GREATER SHEPPARTON PLANNING SCHEME
<b>RESPONSIBLE AUTHORITY:</b>	GREATER SHEPPARTON CITY COUNCIL
<b>ADDRESS OF THE LAND:</b>	142 Nixon Street SHEPPARTON VIC 3630
<b>WHAT HAS BEEN REFUSED:</b>	Demolition of an existing building in the Heritage Overlay, buildings and works in the Heritage Overlay and the Activity Centre Zone and a reduction in car parking requirements

## WHAT ARE THE REASONS FOR THE REFUSAL?

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1. The application is not in accordance with the objective of Clause 15.03-1S – Heritage Conservation which seeks to ensure the conservation of places of heritage significance.
2. The application does not meet the objectives of Clause 21.05-4 - Cultural Heritage as the proposal will not lead to the conservation of a place of cultural heritage significance
3. The application has not provided sufficient information to justify the demolition of the existing heritage listed building as required by the conservation policy in relation to demolition at Clause 21.05-4.
4. The application is not in accordance with the built form objective in the Schedule One to the Activity Centre Zone which aims to protect places of cultural heritage significance.
5. The application is not in accordance with the Decision Guideline in relation to design and built form in the Schedule One to the Activity Centre Zone which supports development that complements, where relevant, the form, scale, materials, colour and lighting of a place of cultural heritage significance on the same or adjoining site.
6. The application is not in accordance with the purpose and decision guidelines of the Heritage Overlay which seek to conserve and enhance places of natural or cultural significance.