

UNCONFIRMED MINUTES

FOR THE

GREATER SHEPPARTON CITY COUNCIL

DEVELOPMENT HEARINGS PANEL

Meeting No. 7/2023

HELD ON

Friday 27 October 2023

at 10am

(Boardroom & Via Teams)

CHAIR

Councillor Shane Sali

ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 7 for 2023.

Any technical issues that may result in the Teams 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, Greater Shepparton City Council, acknowledge the Yorta Yorta Peoples of the land which now comprises Greater Shepparton, we pay our respect to their tribal elders, we celebrate their continuing culture and we acknowledge the memory of their ancestors.

COMMITTEE MEMBERS PRESENT

Committee members present today are:

- Cr Shane Sali (Chair) – **Boardroom**
- Colin Kalms – Manager - Building, Planning & Compliance – Greater Shepparton City Council – **Boardroom**
- Nilesh Singh — Manager Development - Benalla Rural City Council – **Teams**
- Braydon Aitken – Manager Planning & Investment – Shire of Strathbogie - **Boardroom**

OFFICERS AND OTHERS PRESENT

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

- Elke Cummins – **Boardroom**
- Michelle Edwards – **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

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

- Minutes of DHP meeting No.4/2023 held on 9 June 2023. Minutes have been circulated.

Moved by Braydon Aitken **seconded** by Colin Kalms that the minutes of the meeting held on 9 June 2023 be adopted.

Carried

- Minutes of DHP meeting No.5/2023 held on 28 July 2023. Minutes have been circulated.

Moved by Colin Kalms **seconded** by Braydon Aitken that the minutes of the meeting held on 28 July 2023 be adopted.

Carried

DECLARATIONS OF CONFLICTS OF INTEREST

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

ORDER OF PROCEEDINGS

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

- The proceeding is being minuted and recorded.
- 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.
- 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 submission 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 extension.

MATTERS FOR CONSIDERATION

There are 2 items listed for consideration in this session of the DHP:

- 1 Planning Permit Application – **2022-436 – 23 Industrial Road, Shepparton** - Use and development of the land for a vehicle store (bus depot) in the Industrial 1 Zone
- 2 Planning Permit Application – **2023-102 – 12-28 Apollo Drive, Shepparton** - Use and development of land for offices, workshops, laydown areas and shedding associated with the asphalt batching plan on adjoining land

10. LATE REPORTS

None

11. NEXT MEETING

TBC

Thank you - That now concludes today's DHP.

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Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2022-436
Applicant Name:	Human Habitats
Owner Name:	324 GEN INVESTMENT PTY LTD
Cost of works:	\$9M
Correct application fee paid?	Yes \$8,982.90 – Development \$680.40 – Use Total - \$9,663.30
Land/Address:	23 Industrial Road SHEPPARTON
Date Received:	19 December 2022
Statutory Days?	288
Zoning?	IN1Z
Overlay(s)	SCO3
What is proposed?	Use and development of the land as a vehicle store (bus depot)
Why is a permit required?	Use of land for a vehicle store (bus depot) in the IN1Z under 33.01-1 Buildings and works in the IN1Z under 33.01-4
Are all plans provided?	Yes
MPS Provisions:	N/A
PPF Provisions:	13.05-1S Noise management 13.07-1S Land use compatibility 15.01-1L-02 Industrial urban design 17.03-2S Sustainable industry
Any application history?	N/A
Date referred/notified:	5 January 2023
Further Information?	Yes – Acoustic Report requested by EPA 23/02/2023
Lapse date?	N/A
Notice/Referral?	Yes
Number of Notice Responses?	Six - Two referral authority responses - Four objections
Key Response Considerations?	Traffic impact of additional heavy vehicles and amenity impacts such as noise, fumes and light, location of use.
Title details – any:	
• Restrictive Covenant?	No
• Section 173 agreement?	No
• Caveat?	No
• Easement?	Yes – E10 – GVW, E17, E18 and E19 – Drainage
• Building Envelope?	No
• Access restrictions?	No
Is a CHMP required?	No
Garden area provisions?	NA
Is the site contaminated?	NA
Is the site in a BMO or BPA?	No
Is Cl. 13.01-2 Bushfire applicable:	No
Cl. 71.02-3 'Integrated Decision Making' assessment:	Traffic impact and amenity impacts such as noise, fumes and light, location of use
Cl. 71.03-2 Acceptable Outcomes:	Officers have undertaken an assessment of the application and found that the proposal achieves acceptable planning outcomes.
Conflicts of interest in relation to advice provided in this report	No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.

Key Planning Considerations:	Traffic impact and amenity impacts such as noise, fumes and light, location of use
Recommendation:	Approval – Notice of Decision to Grant a Permit to issue

Proposal

The application seeks permission to use and develop the land for a vehicle store (bus depot).

In *Defenders of the South East Green Wedge Inc v Kingston CC [2009] VCAT 526* (30 March 2009), VCAT considered a bus depot for 60 buses including refuelling facilities, 761sqm maintenance workshop and 90 employee car parking spaces. In considering the matter, the Member determined that the land use was a vehicle store (bus depot). Council has accepted this determination in defining this proposal.

The application is summarised as:

- 2 stage development to house 120 buses
- Stage 1 is for 88 buses (32 EV)
- Stage 2 is for 32 buses (22EV)
- 2826sqm, two storey building, for office and bus work shop
- Bus wash bays
- Bus detailing bays
- Refuelling stations
- 94 staff car parking spaces, being sealed spaces
- 38 additional staff car parking spaces in stage 2
- Main access via Industrial Drive
- Access to Gemini Crescent for use in emergency only
- This bus depot will operate Monday to Saturday 6:00am-10:00pm and Sunday 7:00am to 10:00pm.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. 2022-436 to be given under Section 52 or having referred the application under Section 55 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 Clauses 33.01-1 and 33.01-4 of the Greater Shepparton Planning Scheme in respect of the land known and described as 23 Industrial Road, Shepparton for the use and development of land for a vehicle store (bus depot) in the Industrial 1 Zone in accordance with the Notice of Decision and the submitted plans.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. 2022-436 to be given under Section 52 or having referred the application under Section 55 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 Clauses 33.01-1 and 33.01-4 of the Greater Shepparton Planning Scheme in respect of the land known and described as 23 Industrial Road, Shepparton for the use and development of land for a vehicle store (bus depot) in the Industrial 1 Zone in accordance with the Notice of Decision and the submitted plans.

Motion: Colin Kalms

Second: Braydon Aitken

CARRIED

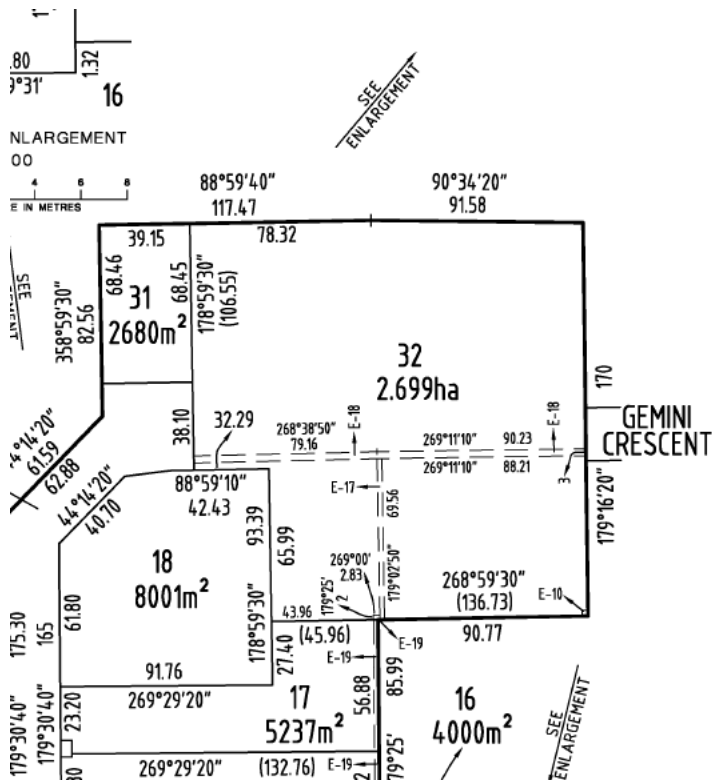
Title Details

The title identifies that the site has legal access to a road.

The title does not contain a Restrictive Covenant

The title does not contain a Section 173 Agreement

The title contains four easements, E10 – GVW, E17, E18 and E19 – Drainage



Pre-Application Meeting Details

Has there been a pre-application meeting?

No.

What is the application for?

The permit triggers in the planning scheme are.

- Use of land for a vehicle store (bus depot) in the IN1Z under 33.01-1
- Buildings and works in the IN1Z under 33.01-4

Based on the permit triggers, specify the precise nature of the application which is to be used for all notices, referral, correspondence and decision making.

- Use and development of the land as a vehicle store (bus depot)

Permit/Site History

The history of the site includes:

- Nil

Subject Site & Locality

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

The site has a total area of **2.699ha** and is currently vacant grassland.

The site is part of a larger industrial subdivision and is an irregular shaped lot to the north of the development. The subject land is flat.

The main site/locality characteristics are:

- The subject site is at the very northern end of Industrial Road, with existing industrial premises to the east, future industry to the south and south-west, green zone buffer to the west and north-west (with residential beyond) and orchard to the north-east.
- The orchard to the north-west is zoned Urban Growth Zone, with the intended use to be residential.
- There is an existing single storey dwelling on land approximately 84m north of the subject land, while land within the UGZ is approximately 45m north of the site.
- The railway line is located further east of the site east of Apollo Drive.
- New Dookie Road is directly south of the site.

The aerial below shows the existing site:



Photos from Gemini Crescent



Photos from Industrial Drive





Further Information

Is further information required for the application? No

Public Notification

Pursuant to Clause 33.01-4 an application to develop the land is exempt from notice requirements unless it is located within 30m metres of land (not a road) which is in a residential zone or land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

As the land is more than 30m from land is a residential zone, the buildings and works element are exempt from notice and review.

An application to use the land is not exempt from notification in the IN1Z.

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description use of land for a bus depot, by:

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

The applicant provided a signed declaration stating that the sign on site was displayed on the land between 9 January 2023 and 23 January 2023.

Objections

The Council has received **four (4)** objections to date. The key issues that were raised in the objections are.

- The proposal includes access from Gemini Crescent – the road is not designed to accommodate vehicles and increased vehicle movement as proposed.

- The proposal creates a dead end to Gemini Crescent that was designed as a through road and has implications for traffic movement in the surround street, particularly given the large nature of vehicles associated with industrial uses.
- The proposal will cause amenity impact to the residential properties within close proximity to the use, including through:
 - Car parking and bus park lighting
 - Noise from vehicle movements and use of the site
 - Hours of operation
 - Fumes from fuel and was station

Responses to objections are provided in the Officer Assessment section of this report.

Referrals to Authorities

External Referrals Required by the Planning Scheme:

Section 55 -Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
EPA	66.02-7	Recommending	No objection subject to conditions relating to: Operating hours and activities Noise management Additional assessment and measures required in relation to Stage 2 (where relevant)

Notice to Authorities (including as required by GSPS)

External Notice to Authorities:

Section 52 - Notice Authority	List Planning clause triggering notice	Advice/Response/Conditions
GVW	NA	No objection subject to the following conditions: <ul style="list-style-type: none"> - Connection of all sanitary fixtures within the development to reticulated sewerage, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation. All works required are to be carried out in accordance with AS – 3500.2 - 'Sanitary plumbing and drainage', and to the satisfaction of the Corporation's Property Services Section; - Discharge of trade waste from the development shall be subject to a Trade Waste Consent Agreement. The Owner and or occupier is required to submit a completed Trade Waste Application, and install the required pre-treatment facility to the satisfaction of Goulburn Valley Water's Trade Waste Section, before approval to discharge trade waste from the development into the Corporation's sewer is granted;

Consultation

The objections were forwarded to the applicant for a response. The applicant provided a written response to the objections on 23 June 2023. No objections have been withdrawn as a result of this process.

Copies of the objections were forwarded to the applicant.

No objections have been withdrawn to date.

Assessment

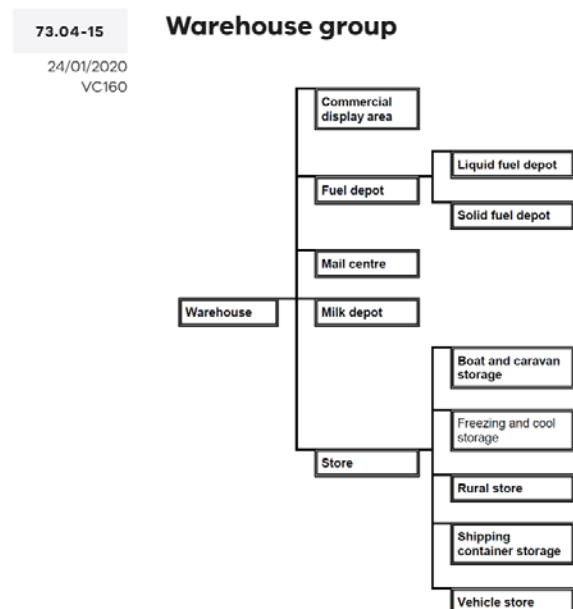
The zoning of the land

33.01 Industrial 1 Zone

The purpose of the IN1Z is to:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.*

The proposed use is for a vehicle store (bus depot). In terms of land uses, this is nested within the Warehouse Group in the Greater Shepparton Planning Scheme, found at Clause 73.04-15



Clause 33.01-1 Table of uses lists warehouse as an as of right use, expected where the following applies:

The land must be at least the following distances from land (not a road) which is in an Activity Centre Zone, Capital City Zone, Commercial 1 Zone, Docklands Zone, residential

zone or Rural Living Zone, land used for a hospital, an education centre or a corrective institution or land in a Public Acquisition Overlay to be acquired for a hospital, an education centre or a corrective institution:

- The threshold distance, for a purpose listed in the table to Clause 53.10.
- 30 metres, for a purpose not listed in the table to Clause 53.10.

The land is located within the threshold distance for a bus depot at Clause 53.10 and therefore requires a planning permit for the use.

Pursuant to Clause 33.01-4 a planning permit is also required for buildings and works.

Relevant overlay provisions

45.12 SPECIFIC CONTROLS OVERLAY

A permit is not required under SCO3 as it does not relate to an application on behalf of Goulburn-Murray Water: Connections Project and Water Efficiency Project Incorporated Document, November 2021.

Relevant Particular Provisions

52.06 Car parking

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

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

Car parking required in the Table at Clause 52.06-5 for a warehouse is:

- 2 to each premises plus
- 1.5 to each 100 sqm of net floor area

Total ground floor area is 2432sqm which requires 37 car parking spaces. The proposed structure comprises of a single building relating to one organisation. To allow for a more accurate estimate of car parking per premise, the building is separated into the workshop and office, which requires an additional four spaces.

Stage 1 of the proposal provides 94 staff car parking spaces and Stage 2 includes an additional 38, significantly above that which is required by the planning scheme.

No explanation is provided for the increased car parking, however it is likely that the operation of the business includes shift work and staff movements at various times that are not easily regulated. Additional car parking will ensure all spaces can be provided within the subject site.

Clause 53.10 Use and activities with potential adverse impacts

The purpose of the Clause is to identify those types of uses and activities, which if not appropriately designed and located, may cause offence or unacceptable risk to the neighbourhood.

Clause 53.10-1 includes a Table displaying Threshold distance for relevant land uses.

The threshold distance referred to in the table to this clause is the shortest distance from any part of the land to:

- land (not a road) in an Activity Centre Zone, Capital City Zone, Commercial 1 Zone, Docklands Zone, residential zone or Rural Living Zone; or
- land used for a hospital, an education centre or a corrective institution; or
- land in a Public Acquisition Overlay to be acquired for a hospital, an education centre or a corrective institution.

An application to use land for an industry, utility installation or warehouse for a purpose listed in the table to this clause must be referred to the Environment Protection Authority under section 55 of the Act if the threshold distance is not to be met or no threshold distance is specified.

Bus depot is included in the Table with a threshold distance of 200m. Given the site is within 85m of an existing Residential Zone, the application must be referred to the EPA.

Does any Incorporated Document apply?

There is not an Incorporated Document which applies to this application.

The Planning Policy Framework

Clause 15.05-1S Noise Management seeks to assist the management of noise effects on sensitive land uses.

13.07-1S Land use compatibility seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

Clause 15.01-1L-02 Industrial urban design provides specific guidance for industrial development to facilitate high quality design outcomes that contribute positively to the streetscape. The following strategies apply to the proposal:

- *Encourage industrial developments that incorporate high quality architectural design elements, create visual interest and incorporate landscaping and/or urban art.*
- *Facilitate improvements to access, parking, site layout, landscaping and building design in the municipality's existing industrial areas.*
- *Discourage the use of cul-de-sac within industrial zoned land to improve lot efficiency and to limit on-street parking problems in court bowls.*

- *Ensure high quality design in industrial areas by requiring all future industrial development and subdivisions to comply with the requirements of the Infrastructure Design Manual (Local Government Infrastructure Design Association).*

The policy includes a guideline to consider landscaping within 10 metres of the frontage of an industrial site (other than land required for car parking and access).

Clause 17.03-2S Sustainable industry seeks to facilitate the sustainable operation of industry.

Structure Plans/Development Plans

There are no relevant Structure Plans or Development Plans.

Relevant Background documents

There are no relevant background documents.

The decision guidelines of Clause 65.01 and 65.02

Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

The application meets the decision guidelines of Clause 65.01.

The decision guidelines of the zone

Clause 33.01 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:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.
- The effect that nearby industries may have on the proposed use.
- The drainage of the land.
- The availability of and connection to services.
- The effect of traffic to be generated on roads.
- The interim use of those parts of the land not required for the proposed use.
- Any natural or cultural values on or near the land.
- Streetscape character.
- Built form.
- Landscape treatment.
- Interface with non-industrial areas.
- Parking and site access.
- Loading and service areas.
- Outdoor storage.
- Lighting.
- Stormwater discharge.

OFFICER ASSESSMENT

Consideration of objections

The application was advertised and four (4) objections were received which were summarised earlier in this report but included concerns regarding amenity, access to the site and noise. In response to issues raised the following comments are made.

- Access and traffic:
 - The proposal includes the established of a bus depot at the land, which abuts Gemini Crescent to the east and Industrial Road to the west. It is anticipated that Stage 1 will include most of the infrastructure and up to 88 diesel buses. Stage 2 will allow for an additional 32 buses on site.

In response to concerns about access and the impact on existing business along Gemini Crescent, the applicant confirms that the main access to the site is to be via Industrial Road. Gemini Crescent will be constructed as a secondary access, to be utilised in the event Industrial Drive is closed.

Industrial Road is a newly constructed access street in an industrial subdivision with standard road width of 12.5m, sufficient to support larger vehicles.
- Noise impact:

- The primary source of potential noise impact is engine noise from bus vehicles. The applicant provided an acoustic assessment (Environmental Noise Level Study for Proposed Dyson Bus Depot, 32 Industrial Road, Shepparton', Report No: R22067.docx/D3682/Rev.2/22.06.23, Revision 2, prepared by David Moore & Associates Pty Ltd) in support of the application.
 - This was initially referred to Environment Protection Authority as the determining authority in January 2023. The applicant has since worked with the EPA to provide additional information and respond to concerns with the assessment undertaken and a final response to the referral was provided in July 2023. The EPA advises that the based on the submitted documents to date relating to the application, EPA is satisfied that the risk of noise has been now addressed satisfactorily and has adequately demonstrated the obligations under the Environment Protection Act 2017. The EPA has recommended conditions to be placed on any planning permit issued to ensure any impact on external receptor meets relevant regulations and the applicant will be required to adopt measures as identified in the Acoustic Report.
- Light spillage and impact of fumes
 - The application includes limited detail in relation to proposed lighting. Hours of operation are between 6am and 10pm, and it is anticipated lighting outside of these hours will be reduced in recognition of operation of the site. A planning permit condition will be placed on any planning permit issued requesting that light within the site both under roof areas and in open areas of the site must be designed, baffled and located in such positions so as to effectively illuminate all pertinent public areas, without spilling onto the road reserve or adjoining land, and must be connected to a time clock switch or other approved system to the satisfaction of the responsible authority.
 - The workshop and fuelling bays are well setback from the property boundary and surrounding residential uses and any emissions will be further limited by the built form and treatments such as bunds around the areas. The buses are located 85m from the nearest residential boundary, which is sufficient to ensure fumes from vehicles on Industrial Road do not adversely impact these properties. While currently vacant, industrial lots to the north and west of the subject site are anticipated to be developed in the future, further mitigating any impact from the proposal. The EPA did not raise concerns about fumes emitting from the site.

Policy considerations

- The proposal is supported by the directions, objectives and policy in the PPF, as the proposal:
 - Locates an industrial use in an appropriate location, with convenient access to a major road.
 - Built form and mechanical components of the proposal are appropriately setback from property boundaries and measures can be implemented to mitigate noise impacts.

- Can be managed via conditions on any planning permit issued to minimise any impact on surrounding properties in terms of hours of operation, siting and design, access and car parking.
- Landscaping conditions can be included on any planning permit issued to comply with local policy in relation to industrial designs.

Use

- The purpose of the INZ1 is to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities. The bus depot is defined as a 'Warehouse' group, and is deemed appropriate for location within Industrial Areas.
- The proposal is well located with access from New Dookie Road and is surrounded by industrial land to the west, south and east, forming a buffer to any residential properties. The land to the north, in the UGZ, has not yet been developed and it is anticipated any development plans for the area will consider the existing uses and appropriate interface treatment with the industrial area.
- The proposal has been referred to the EPA who advised the site can be managed to ensure any noise impacts are within appropriate levels, including through hours of operation, acoustic treatments and management plans.
- The site is in a flat area with appropriate access to services and a stormwater management plan will be required as part of any planning permit issued to ensure adequate drainage is achieved.
- The proposal can provide car parking and appropriate access on the site which will be required as a condition on any planning permit issued.

Development

- The land is within a newly industrial development with no distinguishing cultural or natural features.
- The subject land is in an industrial area and the prevailing character is typical to this use, with built form typically comprising large shed type buildings setback from the frontage and significant areas of hard paving for car parking.
- The proposal includes ample car parking and access designed to IDM standards.
- The plans submitted with the application include an entry sign which is appropriate for the site.
- The development is for a bus depot and associated infrastructure in a large area which will likely require illumination throughout the day. It is recommended that a condition will be placed on any planning permit issued clarifying the extent of lighting on the site to limit impacts to surrounding uses.

Court Bowl requirement in Gemini Crescent

Gemini Crescent currently ends a dead end road without a constructed court bowl or turnaround area.

Officers preference is for Dyson's to work with Council to make land available for a court bowl, generally as shown on the below aerial plan.



The applicant is unprepared to make land available for a court bowl.

Officers have undertaken an independent traffic assessment of the proposal to determine if the proposed development creates the need for a court bowl.

Stantec provided the following recommendation to Council:

*As the properties that provide on Gemini Crescent are currently occupied and a vehicle turn around is not provided, as well as the understanding that the bus depot will be for emergency vehicles only, it is my view that a turnaround or court bowl at the end of Gemini Crescent **is not** required.*

Further to the above technical recommendation, Council lawyers provided the following legal advice on the inclusion of a court bowl permit condition:

Legally, in broad terms to justify a court bowl condition there needs to be some form of nexus between the development and the permit condition. I have set out some principles around this at Annexure A of this letter. Given the applicant has now proposed to not use Gemini Crescent at all (save for emergencies), any nexus between the upgrade of Gemini Crescent and the development, is severed.

On the merits, we attach Reece Humphreys of Stantec's report which concludes a court bowl is not required.

For these legal and merits based reasons, if the Council were to impose a condition in regard to the construction of a court bowl, and if the applicant were to seek review of

that condition at the Tribunal, the Tribunal would overturn the condition almost certainly.

Officers accept that based on the Stantec and legal advice that a court bowl cannot be reasonably required as part of this development proposal. Despite this, officers will continue to work with others to attempt to achieve a court bowl in Gemini Crescent.

Permit conditions will require:

- Installation of no through road signage in Gemini Crescent

Any other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

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

Are there any significant environment, social & economic effects?

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

Any other relevant Acts that relate to the application?

There are no other relevant Acts that relate 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 land is not located within an 'Area of Cultural Heritage Sensitivity in Victoria' and does not require a CHMP.

The relevant provisions of the GSPS including Clause 13.02 (Bushfire)

N/A

Charter of Human Rights and Responsibilities

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

Summary of Key Issues

The key issues relate to compliance with policy, amenity and traffic. Assessments have found that the application is supported by objectives, strategies, particular requirements and decision guidelines and EPA and GVW support the application.

Conclusion

Officers have undertaken an assessment of the application and found that the proposed use and development achieve acceptable planning outcomes. It is recommended that a NOD issue.

Draft Notice Of Decision

APPLICATION NO: 2022-436
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: 23 INDUSTRIAL ROAD SHEPPARTON VIC
3630

WHAT THE PERMIT WILL ALLOW: USE AND DEVELOPMENT OF THE LAND
FOR A VEHICLE STORE (BUS DEPOT) IN
THE INDUSTRIAL 1 ZONE

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

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 on endorsed plans to be completed prior to occupation**

Before the buildings are occupied, all buildings and works including landscaping on the endorsed plans must be completed to the satisfaction of the responsible authority unless otherwise agreed in writing by the responsible authority.

3. **Landscape Plan**

Before the development starts a landscape plan prepared by a suitably qualified landscape designer must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided to show:

- a) a schedule of all proposed trees, shrubs and ground cover, including the location, number and size at maturity of all plants, the botanical names and the location of areas to be covered by grass, lawn or other surface materials as specified;
- b) street trees abutting the land.

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

All trees planted as part of the landscape works must be a minimum height of 1.2 metres at the time of planting.

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

Once planted the landscaping including the replacement of any dead plants must be maintained to the satisfaction of the responsible authority.

4. Civil Construction Requirements

Before any of the development 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 of how the development is to be drained
- b) computations including total energy line and hydraulic grade line for the proposed drainage as directed by responsible authority
- c) underground pipe drains conveying stormwater to the legal point of discharge
- d) unless agreed in writing by the responsible authority, measures to enhance stormwater discharge quality from the site and protect downstream waterways Including the expected discharge quality emanating from the development (output from MUSIC or similar) and design calculation summaries of the treatment elements;
- e) installation of no through road signage in Gemini Crescent;
- f) electricity connection to the building is to be undergrounded;
- g) car parking areas, circulation lanes and access shall be designed and constructed in accordance with the IDM and Clause 52.06.

Before the building is occupied all buildings and works must be completed as shown on the endorsed civil plans to the satisfaction of the responsible authority.

5. 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.

Prior to the use commencing any security alarm installed on the premises must be 'silently wired' to a security firm or the Victoria Police.

6. Control of Lightspill

Before the occupation of the development any lighting within the site both under roof areas and in open areas of the site must be designed, baffled and located in such positions so as to effectively illuminate all pertinent public areas, without spilling onto the road reserve or adjoining land, and must be connected to a time clock switch or other approved system to the satisfaction of the responsible authority.

Only lighting essential for the security of the site may operate when the facility is not operating, to the satisfaction of the responsible authority.

7. Environment Protection Authority

Operations

- a) The use (bus depot) must only operate between the following hours:
- 06:00am and 10:00pm Monday to Friday
 - 06:00am and 10:00pm Saturday
 - 07:00am and 10:00pm Sunday or public holiday
 - 10:00pm and 07:00am Sunday or public holiday with one (1) bus and one (1) employee car movement in any 30-minute period only
- b) Normal activities must not be undertaken between 06:00am and 07:00am Monday to Saturday except for the following:
- fourteen (14) buses departing, including use of air brakes
 - mechanical workshop start up including compressor, radio, impact wrench, body bays and spray booth
 - employee vehicles arriving and departing from the site.

Management plans

- c) Before the commencement of the use, a noise management plan must be approved and endorsed by the responsible authority. The plan must:
- be prepared to the satisfaction of the responsible authority
 - be prepared by a suitably qualified and experienced acoustic consultant
 - set out how the noise from the bus depot operation will be managed on an ongoing basis
 - consolidate any controls required including:

- controls and installation to minimise the risks from low frequency noise emissions
 - any additional controls following the outcome of the post-commissioning noise report
 - a monitoring and review process.
- d) Within three (3) months of the use commencing for Stage 1, a post-commissioning noise report must be approved and endorsed by the responsible authority. The report must:
- be prepared to the satisfaction of the responsible authority
 - be prepared by a suitably qualified and experienced acoustic consultant
 - demonstrate whether the noise controls have been implemented correctly
 - assess whether the premises meets the noise targets including low frequency noise and cumulative noise from other commercial, industrial and trade premises
 - outline whether any additional controls are necessary.

Stage 2

Before the commencement of Stage 2, the type of buses (diesel, electric or otherwise) to be used and stored in the additional parking bays must be confirmed to the responsible authority. The confirmation must also detail:

- whether further noise controls are required
 - if further controls are required, the relevant reports (Acoustic report, noise management plan and post-commissioning noise report) must be updated where relevant to the satisfaction of the responsible authority.
- The updated post-commissioning report must include validation of the modelling results that were presented in the Acoustic report.

EPA Notes

The *Environment Protection Act 2017* came into effect on 1 July 2021 and impose new duties on individuals and/ or businesses undertaking the activity permitted by this permit. If your business engages in activities that may give rise to a risk to human health or the environment from pollution or waste, you must understand those risks and take action to minimise them as far as reasonably practicable.

For further information on what the new laws will mean for Victorian businesses go to <https://www.epa.vic.gov.au/for-business/new-laws-and-your-business> .

For further information on what the new laws will mean for individuals and the community go to <https://www.epa.vic.gov.au/about-epa/laws/new-laws/the-new-act-for-the-community>

8. Goulburn Valley Region Water Corporation Requirements

- a) Connection of all sanitary fixtures within the development to reticulated sewerage, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation. All works required are to be carried out in accordance with AS 3500.2 - 'Sanitary plumbing and drainage', and to the satisfaction of the Corporation's Property Services Section;
- b) Discharge of trade waste from the development shall be subject to a Trade Waste Consent Agreement.

The Owner and or occupier is required to submit a completed Trade Waste Application, and install the required pre-treatment facility to the satisfaction of Goulburn Valley Water's Trade Waste Section, before approval to discharge trade waste from the development into the Corporation's sewer is granted.

9. 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.

Application Details:

Responsible Officer:	Andrew Dainton
Application Number:	2023-102
Applicant Name:	Downer Group
Owner Name:	DOWNER EDI WORKS PTY LTD
Cost of works:	\$250,000
Correct application fee paid?	Yes \$1597.80 – Development \$680.40 – Use Total - \$ 2,278.20
Land/Address:	12-18 and 20-28 Apollo Drive, Shepparton
Date Received:	18 April 2023
Statutory Days?	169
Zoning?	IN1Z
Overlay(s)	SCO3
What is proposed?	Use and development of land for offices, workshops, laydown areas and shedding associated with the asphalt batching plan on adjoining land
Why is a permit required?	Use of land for an asphalt batching plan in the IN1Z under 33.01-1 Buildings and works in the IN1Z under 33.01-4
Are all plans provided?	Yes
MPS Provisions:	02.03-6 Economic development
PPF Provisions:	13.05-1S Noise management 13.06-1S Air quality management 13.07-1S Land use compatibility 15.01-1L-02 Industrial urban design 17.03-1L Economic development 17.03-2S Sustainable industry
Any application history?	Yes
Date referred/notified:	1/06/2023
Further Information?	No
Lapse date?	NA
Notice/Referral?	Yes
Number of Notice Responses?	Four - 2 x objection 3 x referral authority response Consents from GVW, EPA and Vic Track
Title details – any:	
o Restrictive Covenant?	No
o Section 173 agreement?	No
o Caveat?	No
o Easement?	Yes – GVW
o Building Envelope?	No
o Access restrictions?	No
Is a CHMP required?	No
Garden area provisions?	NA

Is the site contaminated?	NA
Is the site in a BMO or BPA?	No
Is Cl. 13.01-2 Bushfire applicable:	NA
Cl. 71.02-3 'Integrated Decision Making' assessment:	Amenity impacts such as noise, fumes and light, location of use, suitable infrastructure
Cl. 71.03-2 Acceptable Outcomes:	Officers have undertaken an assessment of the application and found that the proposal achieves appropriate planning outcomes.
Conflicts of interest in relation to advice provided in this report	No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration.
Key Planning Considerations:	Amenity issues such as noise, odour, dust emissions, location of use and conflict with surrounding uses, infrastructure
Recommendation:	Approval – Notice of Decision to Grant a Permit issue.

Proposal

The application seeks approval for use and development of land for buildings and works associated with the manufacturing of asphalt at 12-28 Apollo Drive, Shepparton.

The asphalt plant is currently operating at 30-42 Apollo Drive, Shepparton and this application seeks to expand the operation to incorporate 12-28 Apollo Drive.

It is not proposed to undertake asphalt batching on the subject site however, the proposal seeks approval for the use and development of land to support the manufacturing of asphalt, given it will form part of the overall asphalt manufacturing business.

The proposal includes the following detail:

- Existing offices, workshops, storage shelters and car parks will remain across the site.
- The existing car park south of the main office building will be extended to comprise 18 parking spaces. The small shed to the immediate south of the car park will be removed.
- Relocation of wash bay from its current location in the north western corner of 30-42 Apollo Drive to south eastern corner of 12-18 Apollo Drive. This will comprise a roofed facility of 8 x15m with two 50kl roof runoff water tanks to the rear of the structure. The wash bay will grade to a central sump, prior to pre-treatment through a triple interceptor and then discharging into a newly defined trade waste point
- Landscaping is proposed for the site
- Access will be via a separate crossover to Apollo Drive to avoid potential conflict between heavy and light vehicles.
- Reclaimed Asphalt Pavement (RAP) processing activities to be undertaken at 20-28 Apollo Drive. Unprocessed RAP material will be transported to a central location on the site (shown on plans submitted with the application) and stockpiled, tested and screened/graded. A mobile crushing/screening unit will be assembled on site 2-3 times per year to process the unprocessed RAP material. Graded/screened RAP materials will be transferred via loader or truck combination to the adjoining 30-42 Apollo Drive site and contained within roofed material bays for use within the asphalt manufacturing process.
- Three new petro industrial 30,000 litre self-bunded above ground tanks will be constructed for storage of hi-flash cutter liquid, emulsion and bitu-prime.
- Light vehicles accessing the office and administrative buildings will use an existing dedicated crossover from Apollo Drive, providing direct access to and egress from a new light vehicle car parking area adjacent to the office buildings.
- Heavy vehicle access and egress from the site via other existing crossover. This provides access to the workshops, fuel tanks, vehicle storage areas and the RAP processing area.

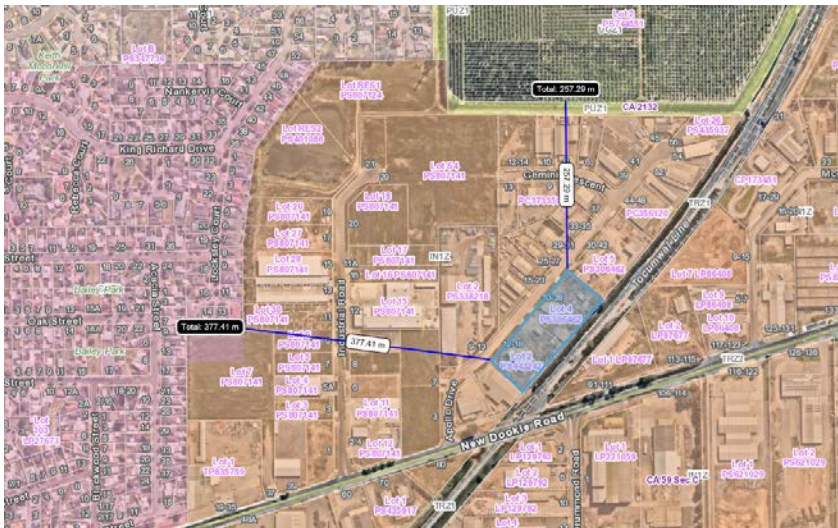
The proposal includes approximately 18 staff over the two additional sites.

It is proposed that the business will operate within the current hours of operation for the batching plant site, however the application seeks the ability to operate additional shifts/hours, including 24 hours per day, 7 days a week if required in order for Downer to provide asphalt in a timely manner, including the delivery of asphalt for night time road works which is necessary to minimise disruption to critical highway and other arterial road routes.

Site location plan



Zoning Plan



Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. 2023-102 to be given under Section 52 or having referred the application under Section 55 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 the Greater Shepparton Planning Scheme in respect of the land known and described as 12-18 & 20-28 Apollo Drive, Shepparton in accordance with the Notice of Decision and the submitted plans.

Motion: Braydon Aitken Second: Colin Kalms

CARRIED

Title Details

The title identifies that the site has legal access to a road.

The title does contain an Easement

The title does not contain a Restrictive Covenant

The title does not contain a Section 173 Agreement

The title does not contain a Caveat or Building Envelope

Pre-Application Meeting Details

Has there been a pre-application meeting? Yes

If yes with Whom? Andrew Dainton

Date of Meeting? 8 February 2023

What information was given by the Council Officer? Planning permit required

What is the application for?

The permit triggers in the planning scheme are.

- Use of land for an asphalt batching plan in the IN1Z under 33.01-1
- Buildings and works in the IN1Z under 33.01-4

Based on the permit triggers, specify the precise nature of the application which is to be used for all notices, referral, correspondence and decision making.

- Use and development of land in the Industrial 1 Zone for an asphalt batching plant

Permit/Site History

The history of the site includes

Planning Permit 2022-446 issued for the asphalt batching plant at 30-42 Apollo Drive Shepparton.

Planning Permit 2022-446, issued on 10/05/2023 by Andrew Dainton (Greater Shepparton City Council).
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PLANNING PERMIT

PERMIT NO:	2022-446
PLANNING SCHEME:	GREATER SHEPPARTON PLANNING SCHEME
RESPONSIBLE AUTHORITY:	GREATER SHEPPARTON CITY COUNCIL
ADDRESS OF THE LAND:	30-42 Apollo Drive SHEPPARTON VIC 3630
THE PERMIT ALLOWS:	Development of land for an asphalt batching plant in the Industrial 1 Zone in accordance with the endorsed Plans forming part of this Permit.

Subject Site & Locality

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

Date: 17 October 2023

The site comprises of two separate sites, 12-18 and 20-28 Apollo Drive, Shepparton. The sites abut 30-42 Apollo Drive to the northeast, which is the existing Downer asphalt batching site. The proposal will extend the business into 12-28 Apollo Drive. The subject site was previously used as a construction depot for Mawson's.

The land is approximately 1.3ha and is rectangular in shape. The land fronts Apollo Drive to the north and the train track to the south. Land to the southwest of the subject site contains an irrigation business.

The land currently contains industrial buildings, with access via a separate crossover and driveway per site from Apollo Drive.

The surrounding area comprises predominantly industrial uses, with many containing large industrial style buildings with large hard standing and cleared areas.

Further out, the land approximately 490m west of the subject site is zoned and developed for residential use, while the land to the north (approximately 260m) is located within an Urban Growth Zone, with the underlying zoning residential. This is not yet developed.



Existing batching plant (not part of this application)



Office space for Downer



Existing large building on the subject site



Further Information

Is further information required for the application? No

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description use and development of land for offices, workshops, laydown areas and shedding associated with the asphalt batching plan on adjoining land, by:

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

Notice was provided to all properties within 1100m of the land.

Objections

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

- The Asphalt Batching Plant is inappropriate in this location
- The proposal will cause health impacts as a result of the asphalt batching plant
- The proposal will cause environmental impacts as a result of the asphalt batching plant
- The proposal will lead to unacceptable noise impacts via the operation of the plant 24/7

- The proposal will lead to amenity impacts from excessive light spill

Responses to objections are provided in the Officer Assessment section of this report.

Referrals to Authorities

External Referrals Required by the Planning Scheme:

Section 55 - Referrals Authority	List Planning clause triggering referral	Determining or Recommending	Advice/Response/Conditions
EPA	66.02-7	Determining	No objection subject to notes to be included on any planning permit issued.

Notice to Authorities (including as required by GSPS)

External Notice to Authorities:

Section 52 - Notice Authority	List Planning clause triggering notice	Advice/Response/Conditions
GVW	NA	No objection and recommended permit conditions.

Internal Notice

Internal Council Notices	Advice/Response/Conditions
Eng	No objection subject to conditions

Assessment

The zoning of the land

33.01 Industrial 1 Zone

The purpose of the IN1Z is to:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.*

Clause 33.01-1 Table of uses lists industry as an as of right use, except where the following applies:

The land must be at least the following distances from land (not a road) which is in an Activity Centre Zone, Capital City Zone, Commercial 1 Zone, Docklands Zone, residential zone or Rural Living Zone, land used for a hospital, an education centre or a corrective

institution or land in a Public Acquisition Overlay to be acquired for a hospital, an education centre or a corrective institution:

- *The threshold distance, for a purpose listed in the table to Clause 53.10.*
- *30 metres, for a purpose not listed in the table to Clause 53.10.*

The land requires a 1000m threshold at Clause 53.10 (bitumen batching plant). The closest land in a General Residential Zone is approximately 380m and therefore a planning permit is required for the use.

Pursuant to Clause 33.01-4 a planning permit is also required for buildings and works.

Relevant overlay provisions

45.12 SPECIFIC CONTROLS OVERLAY

A permit is not required under SCO3 as it does not relate to an application on behalf of Goulburn-Murray Water: Connections Project and Water Efficiency Project Incorporated Document, November 2021.

Relevant Particular Provisions

52.06 Car parking

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

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

Car parking required in the Table at Clause 52.06-5 for industry is:

- 2.9 to each 100sqm of net floor area

It is noted that much of the site is to be occupied with offices and operational aspects of the asphalt batching business located to the north.

18 dedicated car parking spaces are provided to service the offices and visitors to the site. These will be separate from the identified larger and operational vehicle parking to service the Workshop and the south of the subject site, and in 30-42 Downer.

The total office floor area is not provided as part of the proposal however additional car parking spaces are provided. It is considered there is sufficient car parking to service the office aspect of the proposal on site. Additional car parking is provided outside of this area and is satisfactory.

Clause 53.10 Use and activities with potential adverse impacts

The purpose of the Clause is to identify those types of uses and activities, which if not appropriately designed and located, may cause offence or unacceptable risk to the neighbourhood.

Clause 53.10-1 includes a Table displaying Threshold distance for relevant land uses.

The threshold distance referred to in the table to this clause is the shortest distance from any part of the land to:

- land (not a road) in an Activity Centre Zone, Capital City Zone, Commercial 1 Zone, Docklands Zone, residential zone or Rural Living Zone; or
- land used for a hospital, an education centre or a corrective institution; or
- land in a Public Acquisition Overlay to be acquired for a hospital, an education centre or a corrective institution.

An application to use land for an industry, utility installation or warehouse for a purpose listed in the table to this clause must be referred to the Environment Protection Authority under section 55 of the Act if the threshold distance is not to be met or no threshold distance is specified.

A Bitumen Plant is included in the Table with a threshold distance of 1000m. Given the site is within 500m of an existing Residential Zone and 260m of land in the Urban Growth Zone with an applied Zone of General Residential Zone, the application must be referred to the EPA.

The EPA advised the primary concerns associated with the proposal are dust and noise. It is expected that a Construction Management Plan will be provided to manage any potential emissions and pollutions from all operations within the site. This will be included on any planning permit issued.

Does any Incorporated Document apply?

No

02.03 STRATEGIC DIRECTIONS

02.03-6 Economic development

Greater Shepparton services a significantly wider region than that located within the municipal boundaries and continues to experience strong economic growth. The local economy is diverse and includes agriculture, food processing, manufacturing, retail, education, health/community services, transport and warehousing.

Shepparton has developed a 'critical mass' of manufacturing-based employment that is an important component of the local economy. Owing to the presence of a number of significant

national and international food processing and packaging companies, the agricultural, food processing and manufacturing sectors are all closely interlinked.

Greater Shepparton has a dispersed pattern of industrial areas with the main concentration of industrial activity occurring within the urban centres of Shepparton, Mooroopna and Tatura. The activities in these industrial areas vary from small-scale uses with a more localised focus to larger manufacturing and warehousing facilities operated by large national and international companies. The expansion of Shepparton has resulted in many of these industrial areas now being encumbered by surrounding sensitive land uses. Industrial land is a limited resource in the municipality and there is an ongoing need to ensure that existing industrial zoned lands are protected for industrial and related land uses.

In addition, there are significant challenges in accommodating material recycling facilities, eco industries and other such land uses that require extensive storage areas or buffer requirements from adjacent sensitive land uses.

The commercial and retailing centres fulfil both local shopping and discretionary shopping needs, with Shepparton CBD positioned as the principal retail centre in the region. The primary issue confronting the CBD's retail sector is competition from sub-regional centres outside the traditional retail core.

Tourism is mainly focused on shopping for locally produced and manufactured products, corporate tourism and people visiting family and friends.

Council is committed to:

- Reinforcing the Shepparton CBD as the principal retail centre in the region.
- Facilitating subregional retail facilities to serve local communities.
- Sustaining a growing and diverse industrial base, while protecting the existing industrial base in the urban areas of Shepparton, Mooroopna and Tatura.
- Providing for the continued growth of the Shepparton CBD as a multi-purpose retail, business, commercial, community, entertainment and tourism centre.

Clause 15.05-1S Noise Management seeks to assist the management of noise effects on sensitive land uses.

13.07-1S Land use compatibility seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

Clause 15.01-1L-02 Industrial urban design provides specific guidance for industrial development to facilitate high quality design outcomes that contribute positively to the streetscape. The following strategies apply to the proposal:

- *Encourage industrial developments that incorporate high quality architectural design elements, create visual interest and incorporate landscaping and/or urban art.*
- *Facilitate improvements to access, parking, site layout, landscaping and building design in the municipality's existing industrial areas.*

- *Discourage the use of cul-de-sac within industrial zoned land to improve lot efficiency and to limit on-street parking problems in court bowls.*
- *Ensure high quality design in industrial areas by requiring all future industrial development and subdivisions to comply with the requirements of the Infrastructure Design Manual (Local Government Infrastructure Design Association).*

The policy includes a guideline to consider landscaping within 10 metres of the frontage of an industrial site (other than land required for car parking and access).

Clause 17.01-1S Industrial land supply seeks to ensure availability of land for industry.

Clause 17.01-1L Industry provides additional guidance, week to protect the integrity and viability of existing and future industrial areas within Shepparton, Mooroopna and Tatura from competing and non-compatible land uses

Clause 17.03-2S Sustainable industry seeks to facilitate the sustainable operation of industry.

Structure Plans/Development Plans

There are no relevant Structure Plans or Development Plans.

Relevant Background documents

There are no relevant background documents.

The decision guidelines of Clause 65.01

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.

- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

The application meets the decision guidelines of Clause 65.01.

The decision guidelines of the zone

Clause 33.01 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:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.
- The effect that nearby industries may have on the proposed use.
- The drainage of the land.
- The availability of and connection to services.
- The effect of traffic to be generated on roads.
- The interim use of those parts of the land not required for the proposed use.
- Any natural or cultural values on or near the land.
- Streetscape character.
- Built form.
- Landscape treatment.
- Interface with non-industrial areas.
- Parking and site access.
- Loading and service areas.
- Outdoor storage.
- Lighting.
- Stormwater discharge.

Policy considerations

The Greater Shepparton Planning Scheme provides considerable policy support for consolidating and locating a significant industrial uses in the industrial zone. The proposal is supported by the directions, objectives and policy in the PPF, as the proposal:

- Locates an industrial use in an appropriate location, with convenient access to a major road.
- Built form and mechanical components of the proposal are appropriately setback from property boundaries and measures can be implemented to mitigate noise impacts.

- Can be managed via conditions on any planning permit issued to minimise any impact on surrounding properties in terms of noise and dust emissions.
- Provides operational support to expand an existing business within the Greater Shepparton economy.
- Landscaping conditions can be included on any planning permit issued to comply with local policy in relation to industrial designs.

Use

The application does not revisit the operation of the existing asphalt batching plant at 30-42 Apollo Drive. This plant currently has planning approval, is operating under these parameters, and has operated at its current location for decades.

The bulk of concern from objectors is about the operation of an asphalt batching plant, which is not being considered as part of this application.

The purpose of the IN1Z is to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner that does not affect the safety and amenity of local communities. The proposal is to support an existing asphalt batching plant, utilising structures and infrastructure already in place. This is deemed appropriate for location within an industrial area.

The proposal is well located with access from Apollo Drive within an established industrial precinct. Existing industrial land to the north, west and east forms a buffer to any residential properties. The land to the north, in the UGZ, has not yet been developed and it is anticipated any development plans for the area will consider the existing uses and appropriate interface treatment with the industrial area.

The proposal has been referred to the EPA who advised the site can be managed to ensure any noise and dust impacts are appropriate, including through hours of operation and construction management plans.

Officers consider that permit conditions should limit the operation of the RAP to the hours of 7am to 4pm on weekdays, to ensure that this activity does not cause disturbance to neighbours.

Development

The land is within an industrial estate with no distinguishing cultural or natural features.

The subject land is in an industrial area and the prevailing character is typical to this use, with built form typically comprising large shed type buildings setback from the frontage and significant areas of hard paving for car parking. The proposal will utilise existing buildings, with the exception of a new wheel wash, car parking and RAP (storage and mobile processing plant). The new components will be designed and located to reflect the surrounding built form.

The proposal includes car parking and access to be designed to IDM standards.

The site is in a flat area with appropriate access to services and a stormwater management plan will be required as part of any planning permit issued to ensure adequate drainage is achieved.

There is no significant vegetation on site and landscaping can be provided along the site frontage, however a condition of permit will require the submission of a detailed landscape plan and planting schedule.

It is recommended that a condition will be placed on any planning permit issued clarifying the extent of lighting on the site to limit impacts to surrounding uses.

Access

The proposal will utilise existing access to the sites to distinguish between large and light vehicle movements on site and allow for safe movement of vehicles in and out of the land. This will also be ensured via a condition on any planning permit issued.

The proposal is located in an established industrial area and will provide supporting infrastructure and associated uses to the existing asphalt batching plant. The proposed use is in keeping with the industrial nature of the area and is setback and separated from surrounding residential uses via other industrial land. It is acknowledged that the proposal includes the storage and processing of recycled pavement on site, as well as some aspects of the asphalt batching business including the wheel wash and workshop that will attract heavier vehicles and greater noise impact to the site, however these can be appropriately managed in keeping with industrial uses in the estate.

Any other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

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

Are there any significant environment, social & economic effects?

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

Any other relevant Acts that relate to the application?

Any application will likely require approval/ permission under the Environment Protection Act 2017. This is separate approval that must be sought via the Environment Protection Authority. The application was referred to the EPA as part of the assessment process and no objections were raised with the granting of a planning permit.

The Aboriginal Heritage Act 2006

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

The *Aboriginal Heritage Act 2006* introduces a requirement to prepare a Cultural Heritage Management Plan (CHMP) if all or part of the activity is a listed high impact activity, resulting

in significant ground disturbance, and all or part of the activity area is an area of cultural heritage sensitivity, which has not been subject to significant ground disturbance.

The land is not located within an 'Area of Cultural Heritage Sensitivity in Victoria' and does not require a CHMP.

The relevant provisions of the GSPS including Clause 13.02 (Bushfire)

N/A

Charter of Human Rights and Responsibilities

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

Summary of Key Issues

The key issues relate to compliance with policy and amenity. The proposal is supported by objectives, strategies, particular requirements and decision guidelines and EPA, GVW and Council's Engineers support the application. The objector's concerns relate primary to the asphalt batching plant which already has a planning permit and will not be physically located on these sites.

Conclusion

Officers have undertaken an assessment of the application and found that the proposed use and development achieve acceptable planning outcomes. It is recommended that a NOD issue.

Draft Notice Of Decision

APPLICATION NO: 2023-102

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: 12-28 APOLLO DRIVE SHEPPARTON VIC 3630

WHAT THE PERMIT WILL ALLOW: USE AND DEVELOPMENT OF LAND FOR OFFICES, WORKSHOPS, LAYDOWN AREAS AND SHEDDING ASSOCIATED WITH THE ASPHALT BATCHING PLAN ON ADJOINING LAND

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. **Amended Plans Required**

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

- a) Setbacks, dimensions and elevations of the new buildings / plant
- b) Note any additional structures or measures to ensure RAP stockpiles are covered when unattended.

2. **Layout Not Altered**

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

3. **Buildings and works on endorsed plans to be completed prior to occupation**

Before the buildings are occupied, all buildings and works including landscaping on the endorsed plans must be completed to the satisfaction of the responsible authority unless otherwise agreed in writing by the responsible authority.

4. Drainage Plan

Before any of the development 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) underground pipe drains conveying stormwater to the legal point of discharge
- b) unless agreed in writing by the responsible authority, measures to enhance stormwater discharge quality from the site and protect downstream waterways including the expected discharge quality emanating from the development (output from MUSIC or similar) and design calculation summaries of the treatment elements
- c) the details of the incorporation of water sensitive urban design, designed in accordance with the "Urban Stormwater Best Practice Environmental Management Guidelines" 1999
- d) site levels shall be provided to show that the site is graded to ensure nil uncontrolled runoff from the site for the 10% rain event
- e) triple interceptor (or equivalent – oil/water separator) pit(s) shall be installed and located in the drainage system prior to entry of any stormwater to the council drainage system.

Before the use commences all drainage works must be completed as shown on the endorsed plans to the satisfaction of the responsible authority.

5. Landscape Plan

Before the development starts a landscape plan prepared by a suitably qualified landscape designer must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided to show:

- a) a schedule of all proposed trees, shrubs and ground cover, including the location, number and size at maturity of all plants, the botanical names and the location of areas to be covered by grass, lawn or other surface materials as specified;
- b) street trees abutting the land.

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

All trees planted as part of the landscape works must be a minimum height of 1.2 metres at the time of planting.

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

Once planted the landscaping including the replacement of any dead plants must be maintained to the satisfaction of the responsible authority.

6. General Amenity

The 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.

Control of Lightspill

Before the occupation of the development any lighting within the site both under roof areas and in open areas of the site must be designed, baffled and located in such positions so as to effectively illuminate all pertinent public areas, without spilling onto the road reserve or adjoining land, and must be connected to a time clock switch or other approved system to the satisfaction of the responsible authority.

Only lighting essential for the security of the site may operate when the facility is not operating, to the satisfaction of the responsible authority.

7. Operation Management Plan - RAP

Before the commencement of the use of the RAP, an operation management plan must be approved and endorsed by the responsible authority. The plan must:

- a) be prepared to the satisfaction of the responsible authority
- b) be prepared by a suitably qualified and experienced consultant
- c) set out how the construction and stockpiles of RAP will be managed to mitigate dust, including the coverage of stockpiles when unattended
- d) set out how noise generated from construction will be managed, including limited hours of operation of 7am to 4pm on weekdays
- e) set a noise testing plan for the operation of the RAP

Once this operation management plan is endorsed by the responsible authority the plan must be implemented to the satisfaction of the responsible authority.

8. Vic Track

- a) At all times the common boundary with the railway land must be fenced with a 1.8m paling or black chain mesh fence and must be repaired and maintained, all at no cost to Vic Track to prohibit unauthorised access to the rail corridor.

- b) Any replacement, repair or reconstruction of any fence on the boundary to railway land must be in accordance with Vic Track's requirements.
- c) No drainage, effluent, waste, soil or other materials must enter, be stored or be directed to the railway land.

9. Goulburn Valley Region Water Corporation Requirements

- a) Connection of all sanitary fixtures within the development to reticulated sewerage, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Corporation.

All works required are to be carried out in accordance with AS 3500.2 - 'Sanitary plumbing and drainage', and to the satisfaction of the Corporation's Property Services Section;

- b) Discharge of Trade Waste from the development will be subject to a Trade Waste Discharge Consent. Application to determine the specific requirements for your development may be required. Please contact the Business Customer Service Team on 5832 4800 or via email mail@gvwater.vic.gov.au to discuss your business' needs.

10. 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.

NOTATIONS

EPA

The *Environment Protection Act 2017* came into effect on 1 July 2021 and impose new duties on individuals and/ or businesses undertaking the activity permitted by this permit. If your business engages in activities that may give rise to a risk to human health or the environment from pollution or waste, you must understand those risks and take action to minimise them as far as reasonably practicable.

For further information on what the new laws will mean for Victorian businesses go to <https://www.epa.vic.gov.au/for-business/new-laws-and-your-business> .

For further information on what the new laws will mean for individuals and the community go to <https://www.epa.vic.gov.au/about-epa/laws/new-laws/the-new-act-for-the-community>