

Town Planning Committee Meeting

Minutes

Monday 7 December 2020

Commenced at 7:00 PM

Council Chambers
20 Siding Avenue, Officer
Victoria

Members: Cr Brett Owen Mayor
 Cr Jeff Springfield Deputy Mayor
 Cr Ray Brown
 Cr Stephanie Davies
 Cr Jack Kowarzik
 Cr Graeme Moore
 Cr Tammy Radford
 Cr Collin Ross
 Cr Carol Ryan

Officers: Carol Jeffs Chief Executive Officer
 Doug Evans Manager Governance

Order of Business

1 Opening And Prayer	3
2 Acknowledgements	3
3 Apologies	3
4 Declaration Of Interests	3
5 Ordinary Business.....	4
5.1 Amendments To Planning Permit T190304 (Issued For The Use And Development Of The Land For Dog Breeding) To Increase Dog Numbers (For Commercial Dog Breeding) And Include Additional Buildings And Works	4
5.2 33 Henry St, Koo Wee Rup – Development Of The Land For A Rooming House And Associated Works	167
5.3 Use Of The Land For A Place Of Worship And Works Associated With The Construction Of A Car Park At 90 Soldiers Road, Pakenham South	61
5.4 T200500 Army Road – Pakenham - Use And Development Of The Land For A Place Of Worship And Associated Works	87
5.5 Planning Permit Application For The Use And Development Of The Land For Rural Industry And A Caretakers Dwelling Associated With Industrial Hemp At 565 Murray Road, Vervale.	26
5.6 Planning Scheme Amendment Activity Report	53

1 Opening And Prayer

Almighty God we humbly request that you bestow your blessings upon this Council, direct and prosper our deliberations to the advancement of your glory and to the betterment of the peoples of Cardinia Shire. Amen.

2 Acknowledgements

Cardinia Shire Council acknowledges that we are on the traditional land of the Bunurong and Wurundjeri people and pay our respects to their elders past, present and emerging.

3 Apologies

Nil.

4 Declaration Of Interests

Nil.

5 Ordinary Business

5.1 Amendments to Planning Permit T190304 (Issued for the Use and Development of the Land for Dog Breeding) to Increase Dog Numbers (For Commercial Dog Breeding) and Include Additional Buildings and Works

Responsible GM: Peter Benazic
Author: Evangeline McGauley-Kennedy

Recommendation(s)

That Council issue a Notice of Decision to Grant Amended Planning Permit T190304 – 1 for amendments to Planning Permit T190304 (issued for the use and development of the land for dog breeding) to increase dog numbers (for commercial dog breeding) and include additional buildings and works at 3480 Princes Highway, Bunyip VIC 3815 subject to the conditions attached to this report.

Attachments

1. Copy of PETA Petition (Prayer only) [5.1.1 - 2 pages]
2. Copy of Objections - Circulated to Councillors only [5.1.2 - 134 pages]

Executive Summary

APPLICATION NO.:	T190304 - 1
APPLICANT:	Jason & Pamela Armiento
LAND:	3480 Princes Highway, Bunyip VIC 3815
PROPOSAL:	Amendments to Planning Permit T190304 (issued for the use and development of the land for dog breeding) to increase dog numbers for commercial dog breeding and include additional buildings and works.
PLANNING CONTROLS:	Green Wedge Zone - Schedule 1 Land Adjacent to a Road Zone Category 1 Environmental Significance Overlay - Schedule 1
NOTIFICATION & OBJECTIONS:	Pursuant to Section 55 of the <i>Planning and Environment Act 1989</i> , the application was advertised by the placing of one (1) sign on site and notices in the mail to 8 property owners within the vicinity potentially affected by the proposal.
KEY PLANNING CONSIDERATIONS:	Land use compatibility Amenity impacts Use of agricultural and green wedge land

	Protection of areas of environmental significance
RECOMMENDATION:	That a Notice of Decision to Grant an amended permit be issued.

Background

The applicants currently run a dog breeding enterprise at the Subject Site under the business name ALLBLUESTAFF, permission for which was given by Planning Permit T190304 and a Domestic Animal Business Permit in 2019. At the time of making this application, the operators are Dogs Victoria members.

The existing permit was issued for the use of the land for “Animal Keeping (Dog Breeding)” which is now referred to as “Domestic Animal Husbandry (Dog Breeding)” under the Cardinia Planning Scheme.

Under the current approvals, the applicant is allowed to keep no more than twenty (20) adult dogs at the property, which includes:

- No more than ten (10) fertile female dogs (entire female 12 months or older); and
- Any dog sixteen (16) weeks or older.

The dogs currently kept at the subject site include:

- Ten (10) fertile female Staffordshire Bull Terriers;
- Three (3) entire male Staffordshire Bull Terriers;
- Two (2) de-sexed pet German Shepherds;
- Five (5) additional de-sexed dogs (including retiring females, re-homed puppies/dog)

All dogs over the age of 3 months currently kept on site are microchipped and registered with Council.

Currently the business operates from the site with only the two (2) applicants being involved in the day-to-day running of the business.

Current operations (Adult dogs):

The following description of the current operations is provided to help understand the scale of the current and proposed use of the land.

Currently the dogs are kept outside of the dwelling in purpose-built kennels during the night and spend most of the day outside in the exercise yard. Under the current operations dogs are let out into the yard at around 7am and are put away in the evening (generally around 5pm).

The applicant advised that the kennels are installed with heating and cooling to ensure that the dogs are comfortable any time of the year.

During the time that the dogs are outside they are taken on daily walks and are taken to a canine swimming facility in Narre Warren on average of once to twice a week. Dogs are also socialised with other dogs and children whilst outside of the property.

In accordance with Agriculture Victoria and Dogs Victoria guidelines and codes of practice, females are required to be at least 12 months old and in their second season before being mated. Also, in accordance with the regulations, a female dog must not have more than two (2) litters in an 18-month period. A female must have a general health check by a veterinary practitioner prior to first mating to assess whether she is physically mature enough to be bred

with. Veterinary practitioners must provide a certificate to state that, at the time of examination, the female is suitable to breed.

Although it is hard to quantify as currently each dog may or not have a pregnancy within these timeframes, based on the above regulation this usually results approximately to 10 -15 litters from the current dogs at the facility in total each year.

Occasionally the operators will retire a female dog, getting her de-sexed and ready for a new home.

Current operations (Puppies):

Puppies are currently only be kept at the property until they are old enough to go to their new homes, generally around 8 to 10 weeks. During this time puppies are kept with their mother in the purpose-built puppy kennel and have access to their own puppy yard so that they can be outside away from the older dogs.

Currently, the most frequent visits to the property are from a Vet who comes to the property for the puppies first vaccinations, a six (6) week health check and for microchipping.

New owners are able to come to the property to initially view puppies and will then come back to collect the puppy when it is between 8 to 10 weeks of age.

On rare occasions, puppies are returned to the breeders to be rehomed.

Existing kennels

The site already contains a number of kennels and yards, including a separate puppy kennel/yard constructed with Colorbond steel and range in size from 24.6sqm to 88.62sqm in area. The kennels are installed with heating and cooling systems to ensure dogs are comfortable depending on the season.

The existing buildings are enclosed by 2-metre-high cyclone fencing to ensure dogs are kept inside the property at all times.

Planning Permit History

The planning permit history of the site includes:

- Planning permit No T980221 was issued for the construction of machinery shed on the 8 May 1998.
- Planning permit No T980220 was issued for the breeding and keeping of ten (10) schnauzer dogs on the 11 May 1998.
 - Planning permit T980220 was extended for two (2) years on 17 March 2000.
 - Planning permit T980220 was extended for a further two (2) years on 14 May 2002.
 - Planning permit T980220 was extended for a further two (2) years on 7 January 2004.
 - Planning permit T980220 was extended for a further two (2) years on 30 March 2006.
- Planning Permit T980220 issued for the use and development of the land for the purposes of breeding ten (10) Schnauzer dogs, was amended on 20 February 2009.
 - A previous delegates report confirms that the buildings and works associated with T980220 were undertaken, however it is unclear if the use (dog breeding) associated with this permit was ever undertaken. Without further confirmation being provided with this application, it is therefore assumed that the use aspect of this permit has since expired.

- Planning Permit T190304 was issued for the use of the land for Animal keeping (dog breeding) and associated buildings and works on 14 August 2019.

Subject Site



The site is located on the southern side of Princes Highway.

A crossover is located towards the middle of the lot, providing access to Princes Highway. There are no easements within the title boundaries.

The site currently contains a single dwelling, dog kennels and exercise yard and measures 0.5ha in area.

The topography of the land is slightly sloping, with approximately 4 metres of fall across the site.

According to GIS data there are no waterbodies, waterways, wetlands or floodplains within 100 metres of the property.

The site is relatively clear of vegetation, apart from some trees nearby the existing dwelling. The main characteristics of the surrounding area are:

- North: Directly north of the site is Princes Highway. Further north are large agricultural parcels located in Bunyip North.
- South: Directly south of the site is 3430 Princes Highway, which is a large agricultural property containing a single dwelling and various agricultural sheds and buildings. Further south are other large agricultural parcels and residential allotments. Bunyip Town Centre is located approximately 2.7 kilometres to the south-west of the site.
- East: Directly east of the site is 3500 Princes Highway, which is another large agricultural property containing a single dwelling and outbuildings. Further east are other large agricultural properties located in Baw Baw Shire Council.
- West: Directly west of the site is 3430 Princes Highway. Further west is 3450 Princes Highway and other smaller rural properties located on Doran Road. Bunyip Sanctuary is also located to the west.

Relevance to Council Plan

Nil.

Proposal

The applicant is seeking permission to increase the number of adult dogs currently allowed to be kept on the property for the purposes of breeding under Condition 2 of Planning Permit T190304 (“the Permit”).

The increase in dog numbers is requested by the operator (ALLBLUESTAFF) to allow for them to make an application to the Minister for Agriculture (Victoria) to be considered for a Commercial Dog Breeder License.

Condition 2 of the permit currently reads:

- *No more than twenty (20) adult dogs may be kept on the property at any one time without the written consent of the Responsible Authority. This includes:*
 - i. No more than ten (10) fertile female dogs (entire female 12 months or older);*
and
 - ii. Any dog sixteen (16) weeks or older.*

Currently the 20 adult dogs allowed to be kept in accordance with Condition 2 includes:

- Ten (10) fertile (entire) female Staffordshire Bull Terriers;
- Three (3) stud (entire) male Staffordshire Bull Terriers;
- Five (5) additional de-sexed dogs (i.e. retiring females, re-homed puppies/dogs); and
- Two (2) de-sexed pet German Shepherds.

This number does not include puppies under the age of sixteen (16) weeks.

The proposal seeks permission to amend Condition 2 of the permit to allow for the following changes to the number of adult dogs (dogs older than 16 weeks of age) allowed to be kept on the property:

- Fertile (entire) females (Staffordshire Bull Terriers) to be increased from 10 to 30 dogs;
- Stud (entire) males (Staffordshire Bull Terriers) to be increased from 3 to 5 dogs;

The applicant also intends to continue to keep the following dogs at the site:

- Five (5) additional de-sexed dogs (i.e. retiring females, re-homed puppies/dogs); and
- Two (2) de-sexed pet German Shepherds.

In total it is proposed that overall, the number of dogs allowed to be kept on the subject site will increase from 20 dogs (including 10 fertile females) to 42 dogs (including 30 fertile females).

As a result of the above, Condition 2 of the permit is proposed to be amended to read:

2. *No more than forty-two (42) adult dogs may be kept on the property at any one time. This includes:*
 - a) No more than thirty (30) fertile female dogs (entire female 12 months or older);*
and
 - b) Any dog sixteen (16) weeks or older.*

Additional conditions are also required, including new conditions from Council’s Compliance Department which will also be included in the permit. These include:

- Inclusion of Condition 1 to require amended kennel plans and land/ animal management plan as a result of the increase in dog numbers;
- Amendments to Conditions 5 and 6 to strengthen compliance requirements relating to other relevant legislation and the management of the site and animals as a result of the increasing numbers; and
- Conditions 9 and 11 amended to update and fix clerical errors.

Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1R – Green Wedges – Metropolitan Melbourne
-
- Clause 12.01-1S - Protection of biodiversity
-
- Clause 13.05-1S – Noise abatement
-
- Clause 13.07-1S – Land use compatibility
-
- Clause 14.01-1s – Protection of agricultural land
-
- Clause 14.01-2s – Sustainable agricultural land use
-
- Clause 15.01-6S – Design for rural areas

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 – Cardinia Shire key issues and strategic vision
-
- Clause 21.04-2- Agriculture
-
- Clause 22.04 – Highway development
-
- Clause 22.05 - Western Port Green Wedge Policy

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 65 - Decision Guidelines
-
- Clause 66 - Referral and notice provisions.
-
- Cardinia Westernport Green Wedge Management Plan (July 2016)

Zone

The land is subject to the Green Wedge Zone - Schedule 1 and the site is Adjacent to a Road Zone Category 1 (Princes Highway).

Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay – Schedule 1

Planning Permit Triggers

There are no new permit triggers as a result of the proposal. The proposal relates to the amendment of Planning Permit T190304 originally issued for the use of the land for animal keeping (dog breeding) and associated buildings and works to amend conditions relating to the number of dogs allowed to be kept on the site, as well as changes to the endorsed plans as discussed above.

The original application required a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04-1 (GWZ1) a Planning permit is required for Animal keeping (more than 5 animals).
-
- Pursuant to Clause 35.04-5 (GWZ1) a Planning permit is required for buildings and works associated with a Section 2 Use and within 5 metres of any other boundary.

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 and nearby land; and*
-
- *Placing a sign on site.*
-
- *A total of 9 nearby residents within approximately 350 metres of the site received notice of the application by mail.*

■ The notification has been carried out correctly, and Council has received 107 objections and one (1) petition to date.

The key issues raised by the majority of objections are:

- Animal rights and animal welfare concerns
- Compliance with current legislation around animal (dog) breeding
- In addition, a total of 13 objections raised concerns regarding the following planning considerations:
 - Traffic
 - Land use not compatible with Green Wedge Zone
 - Environmental protection
 - Amenity of neighbours

The applicant also provided three (3) letters of support, two (2) of which are from their applicants Vet. The key messages from the letters of support are:

- That the applicants prioritise the welfare of their animals,
- The cleanliness and high-quality of the facilities and kennels
- Commitments to obtaining the correct approvals
- Knowledgeable and ethical breeders
- Experience in the management and handling of the breed

Referrals

Pursuant to Clause 66 (Referral and Notice Provisions) the application did not trigger any referrals and therefore, was not required to be referred to any external authority (including the Minister for Agriculture or the Head, Department of Transport).

However, the application was referred internally to Council's Compliance Department and advice was also sort from Council's Environment Department, who had no objection to the application subject to conditions.

Discussion

The application to amend the permit has been assessed against the decision guidelines of all relevant clauses of the Cardinia Planning Scheme and the proposed changes are determined to be consistent with these requirements.

Scope of the assessment under the Cardinia Planning Scheme

From the outset it is important to note the purposes and scope of this assessment, and the factors to be weighed when considering the application against the Cardinia Planning Scheme provisions.

Firstly, it should be noted that Council's role in the assessment of this application is to administer the Cardinia Planning Scheme (via the assessment of planning permits for certain land uses).

Council officers have noted that the majority of objections received in respect of this application described sincere opposition to commercial animal breeding, and specific concerns regarding the suitability of the applicant as a commercial animal breeder. Council intends to provide all such objections (and the petition) to the Minister for Agriculture for consideration, as and when the applicant makes an application to be an approved commercial dog breeder.

To become an approved commercial dog breeder will require a separate application, pursuant to Division 3AA of the *Domestic Animals Act*. This application is made to, and decided by, the Minister for Agriculture. An application to the Minister must take account of the advice of the chief veterinary officer, and may also take into account any history of relevant offending, and any reasonable belief that the proprietor has failed to comply with their obligations under the relevant regulations.

According to Agriculture Victoria, for a breeder to become an approved *commercial* dog breeder, businesses must first apply and be registered as a breeding *domestic* animal business with local

council. All domestic and approved commercial breeders must comply with the Code of Practice for the Operation of Breeding and Rearing Businesses 2018.

This process is beyond the scope of assessment under the Planning Scheme and is conducted by authorised officers of Animal Welfare Victoria. These officers assess the application's eligibility, as well as the suitability of the applicant against a number of factors, including those relating to animal welfare and past non-compliance with relevant legislation.

Therefore, the remainder of this report will detail the assessment of the application against the relevant planning controls and the suitability of the proposed amendments to the permit in relation to the following planning matters:

- Land use compatibility
- Amenity impacts
- Use of agricultural and green wedge land
- Protection of areas of environmental significance

Planning Policy Framework (PPF) and Municipal Planning Strategy (MPS)

A number of state and local policies are relevant to this application that aim to ensure that land uses such as domestic animal husbandry (dog breeding) are allowable (where located in appropriate locations), as well as ensuring that potential conflicts with sensitive land uses can be appropriately managed and mitigated.

Clause 11.01-1R (Green Wedges – Metropolitan Melbourne) seeks to protect green wedges from inappropriate uses and development.

Clause 12.01-1S (Protection of biodiversity) seeks to assist in the protection and conservation of Victoria's biodiversity by identifying important areas of biodiversity, including key habitat for rare or threatened species and communities by ensuring the use and development avoids impacts to important areas of biodiversity.

Clause 13.05-1S (Noise abatement) seeks to assist the control of noise effects on sensitive land uses by ensuring 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.

Clause 13.07-1S (Land use compatibility) seeks to protect community amenity, human health and safety, while facilitating certain land uses by ensuring that development of land is compatible with adjoining and nearby land uses and avoiding the location of incompatible uses in areas that would be impacted by adverse off-site impacts.

Clauses 14.01-1s (Protection of agricultural land) and 14.01-2s (Sustainable agricultural land use) seeks to encourage sustainable agricultural land use by ensuring 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.

Clause 15.01-6S (Design for rural areas) seeks to ensure development respects valued areas of rural character by ensuring that the siting, scale and appearance of development protects and enhances rural character.

Clause 21.01 (Cardinia Shire key issues and strategic vision) supports the PPF listed above by ensuring the continued protection of agricultural land for compatible land uses and protection of environment through considered planning at a local level.

Clause 21.04-2 (Agriculture) provides local context to Clause 14.01 (Agriculture) to protection of agricultural land for agricultural and other compatible land uses.

Clause 22.04 (Highway development) provides local context to objectives and strategies of the MSS in relation to the road network by ensuring that development protects the rural outlook and visual amenity of highways in rural areas.

Clause 22.05 (Western Port Green Wedge Policy) provides a plan for the management of agricultural land within the southern portion of the Shire and encourages non-soil based agricultural activities within the areas shown as 'Railway Precinct'.

The proposal to amend the permit to increase the number of dogs allowed to be kept and bred on the subject site is considered to align with the policies listed above. Animal keeping (dog breeding) that the permit was originally approved for is now referred to as "Domestic Animal Husbandry" under Clause 73.03 (Land Use Definitions) under the Cardinia Planning Scheme (amended by VC159). Domestic Animal Husbandry (Dog breeding; previously Animal keeping – Dog breeding) is nested under the broader land use definition of "Agriculture" under the Cardinia Planning Scheme and therefore, is inherently considered an 'agricultural' type land use.

The policy listed supports the facilitation of agricultural land uses within the Green Wedge where the off-site amenity impacts can be maintained, and the natural environment protected.

The proposal is compatible with the rural and agricultural character of the area and given its strategic location (away from sensitive residential areas) an increase in dog numbers is considered acceptable. The site has been in operation for a number of years, most recently obtaining a planning permit to keep up to 20 dogs, with no complaints about noise or nuisance being received (to Council's knowledge) from adjoining properties. Therefore, the changes to the number of dogs to be kept is not considered to cause any major disruption to the surrounding agricultural properties and their residents (where applicable).

It is considered that the proposal adequately responds to the above and therefore, it is considered that the proposal is consistent with the PPF and MPS as it appropriately balances the objectives of the policy that will not result in a detrimental impact on the amenity of the surrounding area.

Green Wedge Zone:

Some of the key purposes of the Green Wedge Zone is to implement the MPS and PPF, along with providing for and protecting the use of the land for agriculture. It is also in place to recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities and mineral and stone resources. The decision guidelines of the Zone require the Responsible Authority to consider the following when assessing an application, in particular:

General issues:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The capability of the land to accommodate the proposed use or development.
- How the use or development relates to rural land use, rural diversification, natural resource management, natural or cultural heritage management, recreation, or tourism.

- Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses.
- Whether the use or development is essential to the health, safety or well-being of the State or area but is not appropriate to locate in an urban area because of the effect it may have on existing or proposed urban areas or the effect that existing or proposed urban areas may have on the proposed use or development.

Rural issues:

- The maintenance of agricultural production and the impact on the rural economy.
- The environmental capacity of the site to sustain the rural enterprise.
- The need to prepare an integrated land management plan.
- The impact on the existing and proposed rural infrastructure.
- The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agriculture and other land uses.
- The protection and retention of land for future sustainable agricultural activities.

Environmental issues:

- 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.
- How the use or development relates to sustainable land management and the need to prepare an integrated land management plan.

Design and siting issues:

- The need to minimise any adverse impacts of siting, design, height, bulk, and colours and materials to be used, on landscape features, major roads and vistas.

The current use of the land for Domestic Animal Husbandry (Dog Breeding) is defined under the Planning Scheme as an Agricultural land use, and triggers a permit if the number of animals to be kept exceeds five (5) animals for the purposes of Domestic Animal Husbandry (land used to keep, breed, board or train domestic animals).

Given that one of the main purposes of the Green Wedge Zone is to provide for land for a range of agricultural pursuits, the current land use is considered a suitable land use in this location. Given the size of the site, it is unlikely it can be utilised for an agricultural pursuit with larger livestock or animals, or crop raising on a commercial scale, therefore, the proposed increase to dog numbers to facilitate a commercial scale operation on the site is considered suitable.

The site is well located away from sensitive land uses (residential, commercial) to reduce potential amenity impacts of this type of land uses by way of noise and other amenity concerns.

Furthermore, the proposed kennel is also considered appropriate as it is setback behind the existing buildings (kennels and runs) and is not expected to have adverse impacts on the surrounding properties due to the low-scale, colours and materials chosen and their consolidation within the north-western side of the site. The kennels are well-screened from Princes Highway due to the vegetation within the road reserve in front of the property, as well as the property being setback approximately 40 metres from the road.

Subject to new conditions requiring the submission of amended plans, including a land management/ animal management plan to deal with issues of effluent disposal, run-off, fencing, supervision, noise mitigation and other environmental and amenity protection measures, it is considered that the proposal contemplates sustainable land management for agricultural purposes in a suitable location within the Green Wedge Zone.

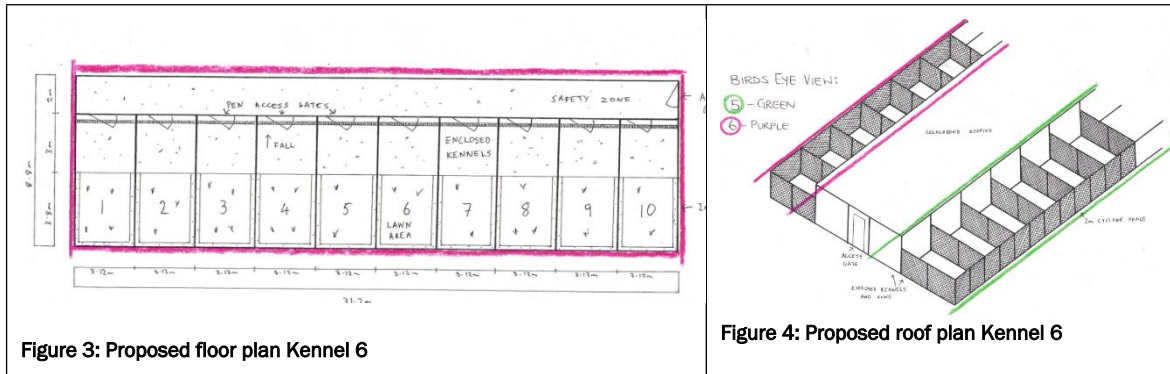
Environmental Significance Overlay – Schedule 1

The Environmental Significance Overlay – Schedule 1 relates to the northern hills area of the municipality and the need to protect and enhance the significant environmental and landscape values of the area. This includes the retention and enhancement of indigenous vegetation, and to ensure that the siting and design of buildings and works do not adversely affect environmental and landscape values through ensuring that environmental hazards and risks are addressed.

Pursuant to Clause 42.01-1 (ES01) a permit is not triggered for the additional kennel (Kennel number 6) as the enclosed (roofed) area of this building measures 5 metres in width and 31.2 metres in length totalling an area of 156sqm (under the 160sqm floor area for an agricultural building in GWZ).



The remainder of the structure involves the construction of ten (10) 3.8 metre in length and 3.12 metre in width lawn runs off each kennel, which will each be individually fenced with 2-metre-high cyclone fencing.



Although the ESO1 is not triggered for buildings and works, the principles of the ESO1 in terms of the protection of environmental values of the site have been considered as they are required to be by the decision guidelines of the Green Wedge Zone as discussed above.

Before deciding on an application to amend a plan or permit, the Responsible Authority must also consider:

- The relevant planning scheme or any changes to the scheme;
- All objections and other submissions which it has received and which have not been withdrawn;
- Any decision and comments of a referral authority which it has received;
- Any significant effects which the Responsible Authority considers the changes may have on the locality / environment / etc; and
- Will not cause an increase in detriment to any person.

Changes in policy

There have been some minor changes to the Cardinia Planning Scheme since the permit was issued in 2019, namely the following Planning Scheme Amendments.

- Planning Scheme Amendment VC159, which was introduced in August 2019.
- Planning Scheme Amendment VC160, which was introduced in January 2020.

Planning Scheme Amendment VC159 saw the introduction of changes to the Victoria Planning Provisions (VPP) arising from the Victorian Government's Smart Planning program. Amendment VC159 amends the VPP and all planning schemes to introduce new land use terms, revise the definition of land use terms and change where land use terms are nested.

As part of this Amendment, the land use definition 'Animal keeping' was removed from the Scheme and included under the existing definition 'Animal production'. 'Animal production' remained under the broader land use definition of 'Animal husbandry'. The new definition of 'Animal production' now included a number of subsidiary land uses, including 'Domestic animal husbandry' and 'Dog breeding' to be nested underneath it.

All of these land use definitions continued to be nested under the 'umbrella' land use term of 'Agriculture':

73.04-2 **Agriculture group**
08/08/2019
 VC155

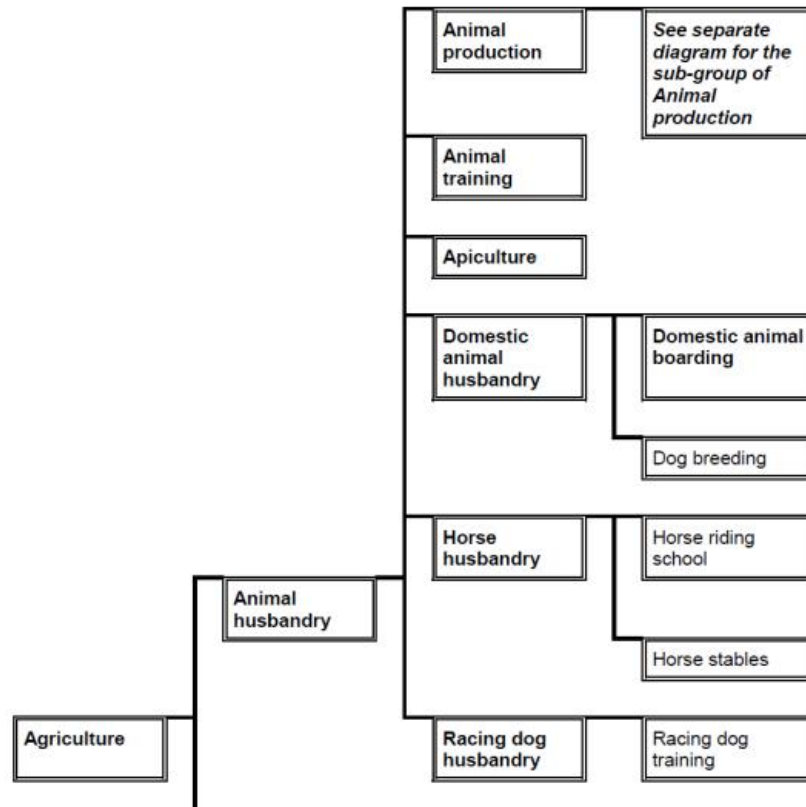


Figure 5: Clause 73.04-2 Nesting diagrams for Agriculture group

As a result, the land uses listed in the table to the Green Wedge Zone were also amended to reflect the new land use terms. The new term 'Animal production' replaced 'Animal keeping' and remained a Section 2 Use (permit required) if the number of animals to be kept exceeded 5 animals.

There were also some minor 'fix-up' amendments between 2019 and 2020, the most recent being VC160 which amends the Victoria Planning Provisions (VPP) and all planning schemes to correct errors and omissions and clarify the operation of certain provisions.

The above amendments to the Planning Scheme in the time since the permit was issued are inconsequential to the application as their main purpose was to consolidate and simplify the Planning Scheme and update land uses to ensure they continue to be relevant.

Given the above, it is considered that the changes in the Planning Scheme since the permits issue, continue to facilitate this agricultural land use in suitable locations, and therefore, do not mitigate against the approval of this amendment or render it unsupportable due to changes in Planning Policy since the permit was issued.

Advertising and response to objections

Council considers that there will not be any significant effects of the proposed amendment on the locality or environment. This is further discussed in response to the concerns raised by objectors below.

The key issues that were raised in the majority of the 107 objections and 1 petition received were animal welfare-based concerns and can be summarised into the following categories:

- Animal welfare
- Past breaches and non-compliance of the applicant
- Legality of the application ('puppy farms' illegal)
- Compliance with relevant legislation relating to animal breeding (Domestic Animals Act, Oscar's Law, Dog's Victoria Code of Practice)

A total of 13 objections were received which addressed planning considerations and these can be summarised into the following categories:

- Traffic
- Land use not compatible with Green Wedge Zone
- Environmental protection
- Amenity of neighbours

In response to these concerns the following can be said:

Animal welfare-based and non-compliance with relevant legislation relating to animal breeding concerns:

As discussed at the beginning of this assessment, the role of Council in this instance is to administer the Cardinia Planning Scheme (via the assessment of planning permits for certain land uses) and issuing Domestic Animal Business Permits.

- Animal welfare (ethics of breeding at a commercial scale, care of the animals)

The majority of the objections received along with the petition relate to concerns about the ethics of breeding dogs at a commercial scale and the potential harm this causes the animal/s involved. Whilst Council considers these to be valid and genuinely held concerns, the scope of the assessment for an application for a planning permit (or to amend a permit) is limited to an assessment against the relevant planning policy included in the MPS, PPF, LPPF and relevant Zone and Overlay controls, as outlined above.

Issues surrounding animal welfare are to be dealt with via the application to become a commercial dog breeder to be made to the Minister for Agriculture, in accordance with the *Domestic Animals Act 1994*.

The permission given by a planning permit (or amended permit) does not constitute permission under any other relevant legislation or Act.

- Past breaches and compliance with dog breeding legislation (legality of the application)

As discussed above, addressing these concerns is a matter for the Minister for Agriculture and beyond the consideration that can be given to these issues via a Planning Permit application.

According to Agriculture Victoria, permission to become a commercial dog breeder is only given if the Minister for Agriculture is satisfied that the applicant meets the relevant eligibility requirements. Approval may be refused if:

- the Minister for Agriculture reasonably believes that the applicant has failed to comply with the Domestic Animals Act 1994 or Domestic Animals Regulations 2015
- the Minister for Agriculture reasonably believes that the applicant has not, or will not be able to, comply with the conditions of being an approved commercial dog breeder.

Along with these considerations, there are also ongoing compliance and monitoring requirements for commercial dog breeders, regulated by separate legislation which are required to be undertaken to ensure that the facility continues to maintain compliance with relevant dog breeding and animal welfare legislation.

Planning policy-based concerns:

- Traffic (safety given the proximity to Princes Highway)

Objections relating to traffic assert that an increase in dog numbers will result in more traffic, due to the staff required and visitors to the property to buy puppies. The application suggests that traffic in and out of property is limited to one (1) Veterinarian visiting the site regularly to conduct six (6) week health checks, vaccinations and microchipping. In the future the permit holder may employ staff to assist with the operations but given the scale of the operations the increase in traffic from a small number of staff members each day is also considered negligible.

Other than regular attendance at the site by the residents, Veterinarian and any future staff members, the only other traffic from the site would result from new owners of the puppies. How this is managed is not expected to differ from what currently occurs on the site with new owners being able to come to the property to initially view puppies (if they wish) and will then come back to collect the puppy when it is between 8 to 10 weeks of age, unless the new owner is interstate in which case puppies can be transported.

Given the scale of the operation and the frequency at which visitors are expected to come and go from the property, any increases to traffic to and from the site is expected to be negligible and not enough to cause any major disruption on the surrounding road network.

- Land use not compatible with Green Wedge Zone (not compatible with agricultural uses)

Objections relating to the land use compatibility of the proposal assert that the land use is commercial and therefore incompatible with the purpose of the Green Wedge Zone for rural and agricultural activities. However, as discussed above, pursuant to Clause 73.04-2 (Nesting diagrams) of the Cardinia Planning Scheme, Domestic Animal Husbandry (Dog Breeding) is defined as an agricultural land use, and therefore aligns with the purpose of the zone. Most meaningful agricultural pursuits are 'commercial scale' operations, and the Green Wedge Zone encourages and supports meaningful agricultural land uses and the 'right to farm' due to their separation from more sensitive residential areas which may be impacted by the activities of agriculture.

A number of these objections also mention that the application is not a suitable location so close to a residential zone where "people have moved for a relaxing tree change and calm rural lifestyle" and that "intensive breeding will have an impact on nearby residents". However,

this statement is contrary to the planning controls that apply. The area immediately surrounding the site is not in a residential zone, rather it is in the Green Wedge Zone and being that the proposal is for an agricultural land use, the site is considered suitable.

The closest residential area to the site is the low-density residential areas of Bunyip along Doran Road to the south-west of the site. This low-density residential area is located over 600 metres from the site, with the more densely populated town centre of Bunyip being located approximately 2 kilometres to the south-west. The remaining area around the site is zoned Green Wedge Zone, and although there are dwellings located in this area, the predominant land use supported by this zone is Agriculture. The objections relating to the potential amenity impacts of the site were not received from property owners in the immediate area, and further, no objections were received from those nearby residents given notice of the application (via mail).

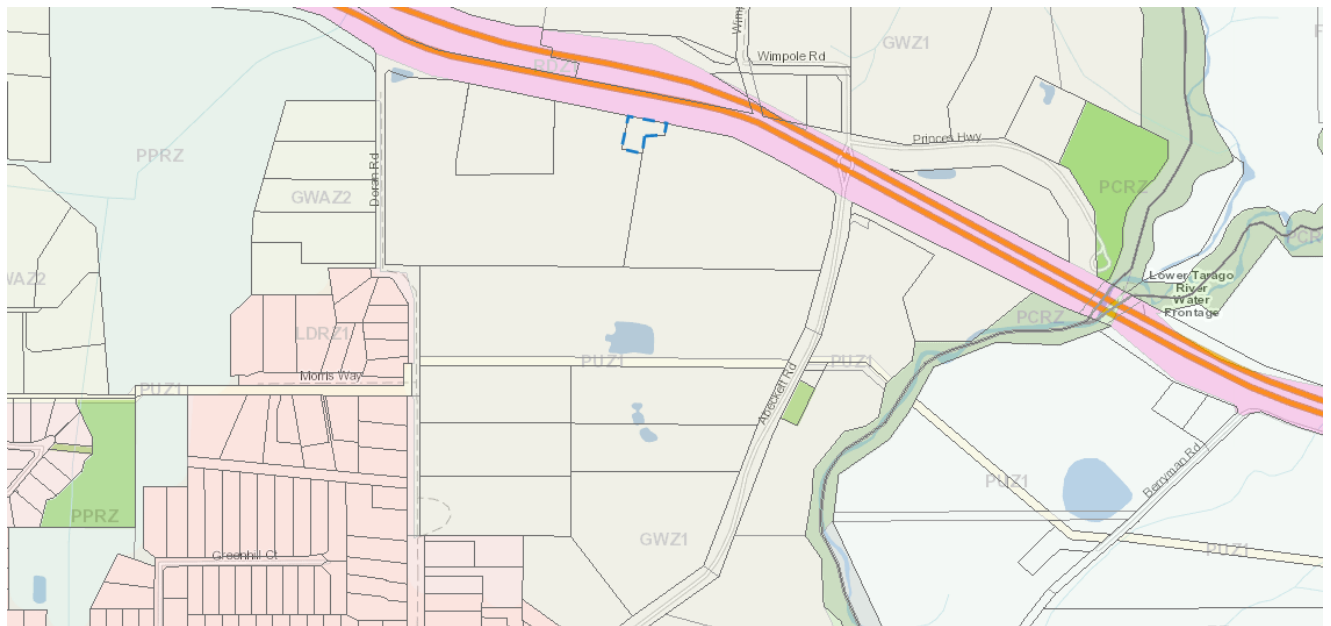


Figure 6: Planning maps showing proximity to residential Zones (Source: VicPlan 2020)

- Environmental protection (concerns about protected and threatened species)

A number of these same objections raised concerns about the potential disruption the proposal may have on endangered species and their habitat (such as the Growling Grass Frog). As discussed above, the Green Wedge Zone and Environmental Significance Overlay, existing and proposed permit conditions require that actions that may have an adverse effect on native flora and fauna be appropriately managed to mitigate these potential effects.

The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) outlines that the principle threat to Growling Grass Frogs is habitat loss, degradation and modification (near waterways, wetlands, dams and drains), fragmentation and isolation of populations (buildings, fencing, roads, industrial estates) and introduced predators and disease (exotic fish species, feral predators such as cats and foxes and waterborne chytridiomycosis disease found in amphibians) .

The proposal is not expected to cause any detriment to the species as the proposed changes to the permit do not result in the removal of habitat vegetation, is not expected to cause total fragmentation via the construction of internal fencing within the north-western portion of the site and will not result in the introduction of feral predators or diseases affecting the Growling Grass Frog as listed in the EPBC Act, 1999.

Further, the site is located over 600 metres from Tea Tree Creek (to the west), over 1 kilometre from Bunyip River (to the east) and according to GIS mapping (provided by both Council and DELWP studies) is not designated as being in an area subject to botanical or zoological significance, not within a habitat corridor for the Southern Brown Bandicoot or a site known to have recorded other threatened flora or fauna species. However, Council understands that these potential environmental effects should still be monitored.

Measures put in place by the permit (and as amended) include requiring that waste from animals be stored and disposed of appropriately to avoid offsite environmental and amenity impacts caused by run-off from entering waterways or habitat areas. Additional measures are to be included in the amended permit to ensure that a land/ animal management plan be prepared to further ensure actions relating to appropriate fencing and animal control, effluent management, stormwater and run-off and noise emissions are taken to mitigate against adverse environmental effects.

- Amenity of neighbours (noise)

The same objections mention noise arising from dogs barking from the site as another amenity impact concern. As discussed above, the site is located in an agricultural area where there are a number of agricultural and farming activities occurring. The objectors state that neighbours to the existing business “report that dog barks and cry morning, noon and evening” and that “this has resulted in a disturbance to surrounding properties”. The objectors also assert that an increase in dog numbers will exacerbate noise pollution from both dogs and vehicles.

A check of the names and addresses of these objectors suggests that they are not immediate neighbours of the site, and according to Council's most recent records, no noise complaints have been received in regards to the operations on the site. Therefore, these claims about nearby neighbours complaining about noise have not been corroborated. This appears to be further supported by the absence of objections to the application from any nearby resident, nor was any objection received from any of the nine (9) property owners and residents given notice (via mail) of the application. The closest objections were received from two (2) residents in Hope Street Bunyip (approximately 11km from the site), however both objections are related to animal welfare concerns and do not make mention of amenity impacts (such as noise).

However, despite the above, Council recognises that a lack of objections from nearby residents does not necessarily indicate that amenity impacts such as noise are not an issue that should be addressed by the permit. The current permit requires that noise emitted from the site must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) and that the use must be managed to ensure that the amenity of the area is not detrimentally effected through the emissions of noise, along with other amenity impacts.

The amended permit will also require that the permit holder include in the land/ animal management plan information on how noise emissions from the land will be kept to an acceptable level by including insulation to all pens, along with other measures to limit noise impacts on adjoining land (i.e. odours, light, vehicles etc).

Advice from referral authorities

Pursuant to Clause 66 (Referral and Notice Provisions) the application did not trigger any referrals and therefore, was not required to be referred to any external authority (including the Minister for Agriculture or the Head, Department of Transport).

The application was not referred to the Minister for Agriculture as there is no referral requirement in Clause 66 to refer such applications for review.

The application was not referred to the Head, Department of Transport for the following reasons:

It is noted that the VCAT decision *Peninsula Blue Developments Pty Ltd v Frankston CC (Revised) (Red Dot) [2015] VCAT 571 (28 April 2015)* states that:

“The phrase “create or alter access to a road in a Road Zone Category 1” means:

- *Any physical change to the opportunity for traffic to approach or enter a road in a Road Zone Category 1. This includes creation of a new access, alteration to an existing access or removal of an existing access. It may involve new buildings and works or alteration to existing works or development, such as creating a new opening or gate in a fence or closing an existing gate or opening.*
- *Any change to the use or development of land that may result in changes to the opportunity for traffic to approach or enter a road in a Road Zone Category 1 in terms of the volume, frequency or type of traffic whether this is more or less than the existing situation.”*

The second point is relevant to this application. It is considered that the amendments to the permit for the use of the land for Domestic Animal Husbandry (Dog breeding) does not meet this definition. The proposed changes to the permit are not considered to change the opportunity for traffic to approach or enter the RDZ1 in terms of the volume, frequency or type of traffic, whether it is more or less than the existing situation.

It is determined that any additional traffic entering or exiting this site as a result of the proposed changes to the permit would be negligible, whereas the decision refers to whether the traffic is ‘more or less’ than the existing situation.

It is considered that this use application is not creating or altering the access to Princes Highway (RDZ1). The site has an existing access that has been in place for a number of years and the changes to the permit to use the land for Domestic Animal Husbandry (Dog Breeding) is not considered an intensification of the site.

The proposed changes are minor in scale, with the only changes to regular visitors being staff (when required) and the continuing visitation of one (1) other regular visitor being a Veterinarian which will only attend the site when each litter is six (6) weeks old. Further, the number of people visiting the site other than the landowners, staff and a Veterinarian from time to time, would be the new owners of puppies, usually once when they are first meeting the puppy (if they choose to do so) or when picking up the puppy (if it is bought locally). This volume of traffic is also considered negligible given the limited frequency at which this will occur.

Therefore, it is considered that the above cannot be applied to this application and the Head, Department of Transport would not be a referral authority for this application.

However, the application was referred internally to Council’s Compliance Department and advice was also sort from Council’s Environment Department, who had no objection to the application subject to conditions.

Increase in detriment to any persons

Based on the supporting documents and above assessment and discussion, if the measures are followed in accordance with the land/animal management plan now required and

undertaken in accordance with the amended permit, there should be no further detriment in the form of noise, pollution, traffic or any other adverse effect arising from the operations to any person living within close proximity to the Dog Breeding facility and its surrounds.

Before deciding on an application to amend a plan or permit, the Responsible Authority, if the circumstances appear to so require, may consider:

- Any significant social and economic effects of the amendment;
- Any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;
- Any amendment to the planning scheme which has been adopted by a planning authority but not, as at the date on which the application is considered, approved by the Minister or a planning authority;
- Any agreement made pursuant to section 173 affecting the land the subject of the application; and
- Any other relevant matter.

Social and economic impacts

It is considered that there will not be any significant detrimental social or economic effects of the proposed amendment to the planning permit. As discussed the operation of the planning scheme in this instance is to administer the provisions of the scheme and assess whether the proposed changes to the permit are suitable in this location given the scope of the planning controls that apply to the site and the amenity of the area.

As previously discussed, the introduction of a condition requiring a land/animal management plan should ensure that the surrounding properties are not adversely affected by the proposal. Any additional effects of the operations in relation to animal rights and welfare will be considered by the Minister for Agriculture at such a time that an application is made. Until such time as an application to the Minister for Agriculture is approved, the amended permit will not be able to be acted on, and the accrued rights of the existing permit will continue to limit the number of dogs allowed on the site, including the number of fertile females allowed to be kept under current legislation.

Other strategic plans or works

There are no strategic plans, policy statements, codes or guidelines which have been adopted by a Minister, Government Department, Public Authority or Municipal Council which would impact on the approval of the proposed amendment, other than those discussed above.

There has also been no amendment to the Planning Scheme, which has been adopted by a Planning Authority but not approved by the Minister or a Planning Authority, which would affect the approval of the proposed amendment, other than those already discussed above.

Section 173 Agreements

There are no Section 173 Agreements or other title restrictions affecting this land, and therefore this section is not required to be considered.

Other relevant matters

It is considered that there are no other relevant matters, other than what has already been discussed in relation to separate approvals from the Minister for Agriculture and objections relating to animal rights and welfare which should be considered in the application to amend the permit.

Are the changes to the Planning Permit considered appropriate?

Based on the above assessment, it has been demonstrated that the concerns arising from the proposed increase in dog numbers have been appropriately discussed and addressed by this assessment.

The proposed increase in dog numbers are considered reasonable given their scope and scale. The site is appropriately located in the Green Wedge Zone, an appropriate location for this type of land use, ensuring that land use conflicts from sensitive uses can be minimised.

Given that there are a number of policies in the Victorian Planning Scheme in place to facilitate and protect all types of agricultural activities (where appropriately located), it is considered appropriate to consider this request based on the justification and evidence provided in the application that it is unlikely that any further detriment will be caused by the amendment.

The Tribunal has established in a number of decisions that matters concerning animal welfare are dealt with outside of the regulation of the Planning Scheme.

Further the Tribunal has on a number of occasions affirmed that the purpose of the Scheme in applications such as this, is to consider the impact of the proposal which may in turn be influenced by, among other things, the nature, form and scale of the proposal, the context of the site, and the management arrangements implemented as a means of controlling off site impacts. See, for example, *Kugel v Moorabool SC [2012] VCAT 313 (22 March 2012)* and *McCull v Hepburn SC [2008] VCAT 2014 (3 October 2008)*.

In *McCull*, a number of parties raised similar concerns as shared with objectors to this application regarding the proposal (greyhound keeping) being incompatible with the surrounding land uses insofar as the commercial operation would result in the loss of high to very high quality farming land. However, the Tribunal in its decision in *McCull* referred to *Lockwood v Macedon Ranges SC [2001] VCAT 2149* and the Member did not accept the submissions suggesting that the use is inconsistent with the purpose of the Zone (Farming Zone):

“Greyhound keeping and training is generally an appropriate use of land within a rural zone. Greyhound keeping, like intensive animal industries are perhaps not earth based like more traditional agricultural activities, but do require quite large site areas for their own purposes, and reasonable buffer distances from other sensitive uses such as dwellings. While for uses such as poultry farms and piggeries buffer distances are primarily required because of the emission of odour, in the case of greyhound keeping it is the emission of noise which leads to the need for a buffer. It is because of these characteristics that rural zones usually have the most suitable sites”.

Similarities to this application can be drawn from this decision in that it is entirely appropriate that these Domestic Animal Husbandry (Dog Breeding) uses be located in the Green Wedge Zone, as one of the primary purposes of the zone is to provide for land for agricultural uses.

In *McCull*, the Tribunal also addressed land/site management, environmental issues and noise impacts, noting that these matters can be addressed via amended plans and permit conditions.

In response to submissions to the particular application regarding animal welfare associated with these types of applications, the Tribunal decided in *Attard v Moorabool SC [2011] VCAT 1324 (13 July 2011)* “if a permit is granted and a facility established, the Breeding Code’s requirements must be met in accordance with the Domestic Animals Act”. The Member went on to explain that the ‘Breeding Code’ (at the time of the decision) “sets husbandry requirements in relation to feeding, vaccination, hygiene, exercise, security, housing and pen sizes. Failure to provide this information to form part of a permit application is not a basis for refusing a planning permit”. Issues such as these, along with general animal welfare are dealt with under relevant legislation and codes of practice separate to the approval under the Planning Scheme. The Tribunal continued with “if a facility is established, this is a matter for the operators and the regulatory and animal welfare bodies”.

As with this application, these issues will be dealt with at the relevant time during the permit holders application to the Minister for Agriculture for a Commercial Dog Breeding license.

Given the above assessment, Council is satisfied that the proposed amendments to the application should not have any detrimental impact to the surrounding properties subject to the additional permit conditions proposed.

Furthermore, the planning permit is only a minor aspect of the control and regulations dog breeders are required to abide by and based on planning policy that seeks to protect and support appropriately located agricultural activities such as this, it is considered reasonable that this application be supported.

Clause 65 Decision Guidelines

The Application has been assessed against the Clause 65 Decision Guidelines, which requires Council to consider additional factors such as:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The effect on the amenity of the area.
- The effect the proposal may have on the orderly planning of the area;
- The amenity of the area, proximity to public land;
- The suitability of the land for subdivision; and
- The existing use and possible future development of the land.
- Traffic and road safety impacts

As discussed the application to amend the dog numbers aligns with Planning Policy Frameworks and the purpose of the Zone to provide for and protect agricultural activities where appropriately located in the Green Wedge.

The dog breeding operation has been in existence allowed via one (1) previous planning permits which identified that this location is a suitable location for this type and scale of land use, which it continues to be. The additional dog numbers are expected to result in compliance with noise levels and are not expected to further reduce the amenity of the surrounding sensitive uses. The potential impacts on road safety and traffic resulting from the additional dog numbers have also been assessed and considered negligible.

Therefore, it is considered that the application is consistent with the decision guidelines of all applicable planning controls.

Conclusion

The proposed amendment is consistent with the requirements of the Cardinia Planning Scheme and based on the assessment above it is not considered that the increase in dog numbers will cause any unreasonable detriment to adjoining properties. It is therefore recommended that a Notice of Decision for amended planning permit T190304-1 be issued for the amendment to Planning Permit T190304 to amend conditions to allow for additional dog numbers at 3480 Princes Highway, Bunyip VIC 3815 subject to the following amended conditions:

Conditions

Pursuant to Section 72-76B of the Planning and Environment Act 1987 the permit has been amended to:

- Permit preamble amended to update land use definition (Domestic Animal Husbandry – Dog breeding)
- Introduction of Condition 1 (amended plans)
- Condition 1 renumbered to Condition 1A
- Condition 2 amended to increase dog numbers
- Conditions 5 and 6 amended to include additional compliance requirements
- Conditions 9 and 11 amended to fix clerical errors
- Amendments to the endorsed plans.
- New permit notes included.

Plans required:

1. Before the use and development starts, 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 an electronic copy must be provided. The plans must show:
 - a) A detailed kennel plan to show:
 - b)
 - i. Provision for visitors and staff to have access to hot and cold hand washing facilities on site.
 - ii. One-third of animal pens to be weatherproof with a raised bed.
 - iii. Pens to be a minimum size of 10sqm with a minimum dimension of 1.8 metres by 1.8 metres.
 - iv. Pens to be separated by solid partitions, galvanised wire or weld mesh.
 - v. All pens constructed with concrete floors.
 - vi. A separate mating area that is physically separate from other animals.
 - vii. An isolation area which must have impervious barriers or 10 metres away from other animals.
 - c) A Land/ Animal Management Plan to show:
 - i. How effluent disposal will be managed, which may include:

- Until the Responsible Authority is satisfied that water supply and waste treatment facilities can operate effectively under full load conditions, all dog faeces must be collected at least once a day, and then be stored in an appropriate compost installation for periodic disposal to the satisfaction of the Responsible Authority.
 - Liquid waste including dog urine and wash down water from the Domestic Animal Husbandry use must be disposed of on the subject land via an EPA approved treatment plant.
- ii. How drainage and stormwater will be managed, including:
- No polluted stormwater must be discharged directly or indirectly into the drainage easement (E-1) which runs perpendicular to the southern boundary to the subject site or otherwise cross the boundaries of the subject site;
- iii. How noise emissions from the subject land will be kept to an acceptable level which must include the insulation of all pens in order to meet Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011 or as amended) and which may include:
- Electronic masking devices to reduce audible stimuli such as animals and traffic.
 - Fully enclosed and acoustically baffled pens.
 - Any other reasonable noise reduction measure.
- iv. Safety measures to be actioned in the event of flood, bushfire or other emergency.
- v. How the animals will be supervised.
- vi. How animals will be prevented from escaping, including construction details for the perimeter fencing that ensures that dogs are not able to dig below that fence or jump a fence and escape.
- d) All plans and drawings (pages 6 to 8) to be amended to include any amendments requested by 1(a) and 1(b) to the satisfaction of the Responsible Authority.

Use conditions:

- 1A. The use as shown on the endorsed plan/s must not be altered without the written consent of the
Responsible Authority.
2. No more than forty-two (42) adult dogs may be kept on the property at any one time.
This includes:
- c) No more than thirty (30) fertile female dogs (entire female 12 months or older);
and
 - d) Any dog sixteen (16) weeks or older.
3. All dogs kept at the property over twelve (12) weeks of age must be registered with Cardinia Shire Council.

Compliance:

4. The permit holder must remain a member of any applicable organisation (required by legislation) as well as remain compliant with all other relevant legislation and codes of practice at all times.

5. Compliance must be maintained at all times (as appropriate to each individual activity) with the following documents/ legislation (and if there is a conflict between any document and the permit or between documents, the more restrictive provision must apply) to the satisfaction of the Responsible Authority:
 - a) The Land/ Animal Management Plan as approved under this permit.
 - b) Code of Practice for Breeding & Rearing Business.
 - c) Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011 or as amended).
 - d) Any other relevant legislation and codes of practice.
6. At all times during the operation of the use hereby approved, the following requirements must be met to the satisfaction of the Responsible Authority:
 - a) A responsible person must be present on the site at all times when dogs are present and reasonably available 24 hours per day.
 - b) The dogs must not leave the subject land unless in the company of an owner, trainer or responsible person and be appropriately restrained by a rope, cord or leash and/or in a vehicle from which they are unable to escape.
 - c) The dogs must not be allowed within the subject land outside the enclosures shown on the endorsed plans unless in the company of an owner, trainer or responsible person and be appropriately restrained by a rope, cord or leash and/or under the effective control of an owner, trainer or responsible person.
 - d) Unless with the prior written consent of the responsible authority, feeding of the dogs must only occur within the day time hours of 6.00 am to 6.00 pm and any exercise of dogs outside the fenced enclosure must only occur between the hours of 7.00am and 5.00pm, or unless in unforeseen circumstances whereby the dogs would otherwise go unfed or exercised to the satisfaction of the responsible authority. The permit holder or nominated responsible person must document any such unforeseen circumstances in writing, with times, dates and reasons.
 - e) All deliveries and collections, including of dogs and waste associated with the Domestic Animal Husbandry (Dog Breeding) Facility must occur between 7.00 am and 6.00 pm unless with the prior written consent of the responsible authority.
 - f) The buildings and works hereby approved must be maintained so that dogs are enclosed at all times and so that buildings and works continues to be visually screen stimuli such as other animals and traffic.

Amenity:

7. Waste products from the proposed animals must be stored and disposed of in a manner that minimises odour and littering issues. Waste products from the animals cannot be disposed of in a domestic septic tank system.
8. Offensive odours must not be discharged beyond the boundaries of the premises.
9. Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011 or as amended).
10. All feed is to be stored in vermin-proof structures to the satisfaction of the Responsible Authority
11. The use must be managed to the satisfaction of the responsible authority so that the amenity of the area is not detrimentally affected, through the:

- a) Transport of materials, goods or commodities to or from the land.
- b) Appearance of any building, works or materials.
- c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash dust, waste water, waste products, grit or oil.
- d) Presence of vermin.
- e) Or in any other way.

Development Conditions:

12. The layout of the site and the size of the proposed buildings and works, as shown on the approved plan/s, must not be altered or modified without the consent in writing of the Responsible Authority
13. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
14. The exterior colour and cladding of the kennels must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the outbuilding must be of a non-reflective nature in accordance with the endorsed plans.
15. All stormwater must be conveyed by means of drains to satisfactory points or areas of discharge approved by the Responsible Authority, so that it will have no detrimental affect on the environment or adjoining property owners.
16. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
17. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.

Expiry:

A permit for the development and use of land expires if—

- a) the development does not start within **two (2) years** after the issue of this amended permit; or
- b) the development is not completed within **four (4) years** after the issue of this amended permit; or
- c) the use does not start within **two (2) years** after the completion of the development; or
- d) the use is discontinued for a period of **two (2) years**.

In accordance with [Section 69](#) of the [Planning and Environment Act 1987](#), an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

Notes:

- A Building Permit may be required for this development. To obtain a building permit you must contact a Registered Building Surveyor.
- Prior to the commencement of the use allowed by this permit, advice should be sought as to if a Domestic Animals Business Permit is required under the Domestic Animals Act 1994.

- The permit holder must comply with Code of Practise for Breeding & rearing business at all times
- The permit holder must hold a current Domestic Animal Business permit for Commercial Dog Breeding with the relevant Council.
- The permit holder must maintain a membership with an applicable organisation.
- Prior to the commencement of the use or development allowed by this amended permit, the permit holder must have been granted the relevant approvals from the Minister for Agriculture for the operations of a Commercial Dog Breeding premises.

Resolution

Moved Cr Graeme Moore, seconded Cr Collin Ross.

That this application be deferred for further consideration at the Town Planning Committee meeting to be held on Monday 1 February 2021.

Carried

5.2 33 Henry St, Koo Wee Rup - Development of the Land for a Rooming House and Associated Works

Responsible GM: Peter Benazic
Author: Melanie Wright

Recommendation(s)

That Council issue Planning Permit T200473 for the development of the land for an accommodation building (rooming house) and associated works at 33 Henry Street, Koo Wee Rup VIC 3981 subject to the conditions attached to this report.

Attachments

1. Locality Map [5.2.1 - 1 page]
2. Development Plan [5.2.2 - 1 page]
3. Copy of Objections - Circulated to Councillors only [5.2.3 - 57 pages]

Executive Summary

APPLICATION NO.:	T200473
APPLICANT:	Mr Joe Rossi, Community Project Foundation
LAND:	33 Henry Street, Koo Wee Rup VIC 3981
PROPOSAL:	Construction of an accommodation building (boarding house) and associated works
PLANNING CONTROLS:	Clause 32.09 Neighbourhood Residential Zone – Schedule 1 ('NRZ') Clause 44.04 Land Subject to Inundation ('LSIO') Clause 52.23 Rooming House
TITLE RESTRICTIONS	Covenant 2028370 – Relates to earthworks
NOTIFICATION & OBJECTIONS:	Exempt from public notification pursuant to Clause 44.04-6 39 objections/submissions received
KEY PLANNING CONSIDERATIONS:	Flood plain management
RECOMMENDATION:	Issue permit

Background

Council has received an application for an accommodation building (rooming house) at the subject site 33 Henry Street Koo Wee Rup.

Planning permit T190714 for a two-lot subdivision is still under consideration by Council, a Notice of Decision is yet to be issued.

Subject Site

The site is located on the south side of Henry Street, Koo Wee Rup.

The subject site is a standard rectangular shape with a site depth of 50.29 metres, a site width of 15.39 metres and total site area of 773.96sqm.

A crossover is located adjacent to the western boundary on the northern boundary.

The site currently contains an existing fibro-cement dwelling and a vacant backyard. There is no vegetation located on the property and there are no easements affecting the site.

The topography of the land is generally flat.

The subject site is located in an established residential precinct. The allotments immediately adjoining the subject site contain single detached dwellings and garages. Unit developments and subdivisions appear to be an emerging theme in the area, with several allotments currently developed with multiple dwellings. The houses are largely single storey and are constructed of a variety of materials including fibro-cement, weatherboard and brick.

The main commercial street of Koo Wee Rup and the Koo Wee Rup Community centre are respectively located 260 metres and 400 metres from the subject site. Within a 3-kilometre radius of the subject site there are pre-schools, primary and secondary schools, childcare centres, public open space and access to medical care.

Relevance to Council Plan

Nil.

Proposal

It is proposed to construct an accommodation building at the subject site. The accommodating building is more specifically defined as a rooming house with nine (9) separate living areas/bedrooms. The rooming house will setback 12.63 metres from the front setback, 2 metres from the eastern boundary, 7.5 metres from the southern boundary and 2.89 metres from the west boundary.

The total floor area of the building is proposing to be 299.49sqm. The building will be single storey-built form with a pitched roof, the floor level of the building will be FFL 5.2 and the building height will be of 5.3 metres from natural ground level.

Five car spaces including a disabled space will provided on site with access via the existing crossover.

Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the LPPF are:

- Clause 13.03-1S – Floodplain Management
- Clause 16.01-1S – Housing Supply

- Clause 21.01 - Cardinia Shire Key Issues and Strategic Vision
- Clause 21.03-1 - Housing

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.23 – Rooming House
- Clause 65.01 – Approval of Application or Plan
- Clause 67.02 – Notice requirements
- Homes for Victorians – Affordability, Access and Choice (Victorian Government 2017)
- Social and Affordable Housing Strategy and Action Plan 2018–25 (Cardinia Shire Council)

Cardinia Shire’s Liveability Plan 2017-2029

This proposal has regard to Cardinia Shire’s Liveability Plan 2017-2029, in particular:

- Increased access to appropriate and affordable housing
- Encourage diversity of housing to meet the needs of the existing and future residents across all stages, including those with specific housing requirements.

Zone

The land is subject to the Neighbourhood Residential Zone – Schedule 1

Overlays

The land is subject to the following overlays:

- Land Subject to Inundation

Planning Permit Triggers

The proposal for development of the land for an accommodation building (rooming house) requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 44.04 (Land Subject to Inundation) a planning permit is required for to construct a building.

The use of the land for a rooming house and the buildings and works associated with the rooming house are exempt from planning permit consideration (can occur “as of right”) in this application, as the proposal meets the exemptions under Clause 52.23-2 & 52.23-2 (Rooming House)

Public Notification

Pursuant to Clause 44.04-6 (LSIO) and Clause 67.02(Notice Requirements) of the Cardinia Planning Scheme the proposal is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987.

Council received 39 submissions(objections) to the application.

Matters raised in submissions:

- Community safety
- Car parking & traffic
- Lack of public services in the township i.e police, public transport, and social services
- Neighbourhood character

Referrals

Melbourne Water

The application was referred to Melbourne Water as a statutory referral. Melbourne Water had no objection to the proposal subject to conditions.

Discussion

The application for the development of the land for an accommodation building (rooming house) is considered to be consistent with the objectives of State and Local Planning Policy Framework, the purpose of the Land Subject to Inundation overlay, Clause 52.23 (Rooming House) and Clause 65 of the Cardinia Planning Scheme.

State and Local Planning Policy Framework

It is considered that the proposal is consistent with the State and Local Planning Policy Framework. The proposal meets the objectives of Clause 16.01-1S (Housing Supply) that encourages an appropriate quantity, quality and type of housing (including rooming houses) are supplied to meet community needs.

This Clause is supported by the Victorian State Government's *Homes for Victorians Policy* that outlines that importance of rooming houses in assisting vulnerable Victorians access accommodation while trying to find secure accommodation or avoid homelessness. The Cardinia Shire's Liveability Plan further encourages a variety of housing options to meet the diverse community needs both State and Local policy encourage diversity of housing in established residential areas.

Clause 13.03-1S (Floor plain management) aims to manage land affected by flooding by ensuring that use and development of the land does not intensify flooding risks. The subject site is located in a flood plain and as such, appropriate consideration of flood risks must be given to the application. All applications under the LSIO require comment by the floodplain management authority, in this instance Melbourne Water.

Overall, the design of the proposal is considered to be consistent with the objective of the relevant planning policies including floodplain management

Clause 32.09 – Neighbourhood Residential Zone 1

The purpose of this Zone is to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies, to encourage development that respects the neighbourhood character of the area and to encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

Use:

Pursuant to Clause 32.09 – 2 and Clause 32.08- 8, a planning permit is not required for the use the land for a Rooming House, provided the requirements of Clause 52.23-2 have been satisfied.

Pursuant to Clause 52.23-2 a permit to use land for a rooming house does not apply if all of the following requirements are met:	
Any condition opposite the use 'rooming house' in the table of uses in the zone or schedule to the zone is met.	Satisfies the below.
The total floor area of all buildings on the land, measured from the outside of external walls or the centre of party walls, does not exceed 300 square metres, excluding outbuildings.	A total floor area of 299.49 sqm is proposed.
No more than 12 persons are accommodated.	No more than 12 persons proposed.
No more than 9 bedrooms are provided.	Nine (9) separate bedrooms provided.
In accordance with Clause 32.09-4, a minimum 35% of the site is allocated for garden area.	The lot area is 773.96sqm 35% of 773.96 is 270.886sqm. It is proposed to provide 272.51sqm of Garden area.

Buildings and works:

A planning permit is not required for buildings and works for a Rooming House provided the requirements of Clause 52.23-3 have been satisfied:	
No more than 9 bedrooms are developed on the land	Only 9 rooms provided.
Bedrooms can only be accessed from within the building.	The bedrooms are all provided a courtyard are all of which will be fenced so no pedestrian access to the rooms is provided from external area. All rooms are accessed internally.
The total floor area of all buildings on the land, measured from the outside of external walls or the centre of party walls, does not exceed 300 square metres, excluding outbuildings.	A total floor area of 299.49 sqm is proposed.
If the development is in the General Residential Zone or Neighbourhood Residential Zone, a garden area is provided in accordance with the minimum garden area requirement specified in the zone.	The lot area is 773.96sqm 35% of 773.96 is 270.886sqm. It is proposed to provide 272.51sqm of Garden area.
Shared entry facilities and common areas, including a kitchen and living area, are provided.	Provided.

Taking the above into consideration the proposed development of the land for an accommodation building (boarding house) and associated works is exempt from planning permit consideration under the Neighbourhood Residential Zone.

Clause 44.04 - Land Subject to Inundation

The purpose of the Land Subject to Inundation (LSIO) among other things is to identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.

Pursuant to Clause 44.04 of the Cardinia Planning Scheme a permit is required to construct a building therefor a permit is required for the development of the land for an accommodation building (boarding house) and associated works.

Pursuant to Clause 66.03 an application under consideration of the LSIO must be referred to the relevant referral authority in this instance Melbourne Water who are deemed to be a Determining Authority. The application was referred to Melbourne Water who did not object to the proposal but did request that conditions were placed on the permit that will require amended plans.

Clause 65 Decision Guidelines

The proposal is consistent with Clause 65 as the development will result in minimal off-site amenity impacts. There is no native vegetation removal required with the required landscape plan to include native species. The development will not impact native vegetation on adjoining land. Storm water will be mitigated via condition.

Submissions and Objections

As discussed above pursuant to Clause 44.04-6 (LSIO) and Clause 67.02(Notice Requirements) of the Cardinia Planning Scheme the proposal is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987. However, Council received 39 submissions/objections which while the application considerations are restricted to the LSIO and flood plain management Section 60 (1) of the Planning and Environment Act 1987 does allow Council to consider social affects of an application as such a discuss regarding the submissions and objections follows.

The 39 submissions/objections received by Council are summaries in the following points:

- Community safety
- Lack of public services in the township i.e police, public transport, and social services
- Car parking & traffic
- Neighbourhood character

The proposed building is to be used for an accommodation use which is consistent with the objectives of the Neighbourhood Residential Zone to facilitate residential uses. The rooming house use is not under consideration in this application. There are other legislative measures in place to ensure the tenants are protected and that are directed at ensuring operators are suitable to run rooming houses and comply with basic hygiene, safety and security standards.

The Victorian State Government's *Homes for Victorians Policy* which encourages dwelling and residential diversity in established areas also lead to the introduction of the *Rooming House Operators Act 2015* that requires all operators of rooming houses to pass a 'fit and proper person' test to obtain a licence. This regulation is supplemented, by the regulation under the *Building Act* and the *Public Health and Wellbeing Act*, which are the primary means of regulating rooming house standards. These standards help to safeguard and ensure that rooming houses are as they are intended and that is to be a safe accommodation for those who need temporary accommodation to avoid homelessness or while securing permanent

accommodation. Victoria Police will be responsible to respond to domestic or residential disputes that cannot be managed by the caretaker of the premises. No evidence of negative community benefit has been provided as part of any of the objections. While the submissions relate to negative impacts, the positive community impacts have been acknowledged in this report.

Car parking has been proposed for the development at 4 car spaces plus a disabled space. The Car parking rate as per Clause 52.06 is 1 car space per each 4 bedrooms and therefore the car parking rate is satisfied. The design of the car park is not entirely satisfactory, and therefore conditions are proposed for the permit to amend car park design.

Neighbourhood character was raised in objections, however the design of the building is modest with sufficient side setbacks. The proposal is a single storey residential building which is consistent with the neighbourhood character. A condition has been placed on the permit to require a landscape plan to ensure that the car parking will be screened by vegetation and appear to be more residential in character.

Conclusion

The proposal is consistent with the State Planning Policy Framework & Local Planning Policy Framework; the purpose of the zone and is consistent with the Land Subject to Inundation Overlay. The development will be consistent with the surrounding built and natural environment and should be supported.

Conditions

1. Before the development starts, 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 three copies must be provided. The plans must show:
 - a. Plans amended to comply with Melbourne Water condition 15
 - b. A schedule of construction materials, external finishes and colours
 - c. Car spaces to be no less than 2.6 metres wide
 - d. The disabled car space to be designed to meet Australian Standard AS2890.6-2009 (disabled)
 - e. Car parking setback 1 metre from the front (north) boundary to allow for a landscaping strip
 - f. a landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority 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 three copies must be provided. The plan must show:
 - i. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii. Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
 - iii. Details of surface finishes of pathways and driveways.
 - iv. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - v. Landscaping and planting within all open areas of the subject land

To the Satisfaction of the Responsible Authority

2. The use or development as shown on the endorsed plan must not be altered without the written consent of the Responsible Authority.
3. The development approved by this permit must not be occupied until the following works have been completed to the satisfaction of the Responsible Authority
4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
5. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
6. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority
7. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
8. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
9. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
10. Before the development starts, drainage plans must be submitted to and approved by the Responsible Authority. The plans must show the provision of a stormwater detention system. The stormwater detention system will become the responsibility of the property owner or body corporate to maintain to the satisfaction of the Responsible Authority.

Note: As the development has an impervious ratio greater than 35%, the developer shall engage the services of a suitably experienced Engineer to design a stormwater detention system that will reduce the intensity of the storm water discharge entering Council's drainage system, i.e.: a detention system. The storm water detention system shall provide for the same five (5) year ARI peak discharge as that for a standard house lot with no storm water detention. A standard house lot is assumed to have a fraction impervious area of 35%. Calculations and a plan shall be submitted to Council for approval prior to construction. The storm water detention system must be constructed prior to the occupation of the proposed development. 74 – Redundant Vehicle Crossing

11. Before the development is occupied or by such later date as is approved by the Responsible Authority in writing:
 - a. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

- b. A residential standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority
 - c. All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
12. No more than 12 occupants may be present on the premises at any one time without the written consent of the Responsible Authority.
 13. The exterior colour and cladding of the building/s must be of a non-reflective nature and/or either painted or have a pre-painted finish in natural, muted toning to the satisfaction of the Responsible Authority.
 14. The works associated with the construction of the development must not detrimentally affect the amenity of the area, through the:
 - a. Transport of materials, goods or commodities to or from the land.
 - b. Appearance of any building, works or materials.
 - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d. Presence of vermin

Melbourne Water

15. The building must be constructed with finished floor levels set no lower than 5.5 metres to Australian Height Datum (AHD), which is 600mm above the applicable flood level of 4.9m to AHD.
16. The private open space and parking spaces must be maintained at natural surface levels to allow for the passages of overland flows.
17. No fill is permitted outside of the building envelope.

Expiry

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

- a) The development is not started within two years of the date of this permit.
- b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

Notes:

- A Building Permit may be required for this development. To obtain a building permit you will need to contact a registered building surveyor.

- A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

Melbourne Water

- For general development enquiries contact our Customer Service Centre on 131722.

Resolution

Moved Cr Ray Brown, seconded Cr Stephanie Davies.

That Council refuse Planning Permit T200473 for the development of the land for an accommodation building (rooming house) and associated works at 33 Henry Street, Koo Wee Rup VIC 3981 on the following grounds:

- The proposal is contrary to section 60(1)(f) of the Planning and Environment Act 1987 and Clause 65 of the Planning Scheme as it will have a significant social effect
- The proposal is contrary to clauses 16.01-1S (Housing supply) and 21.03-1 (Housing) of the Planning Scheme as the design is not integrated with the surrounding area and is poorly located

Carried

5.3 Use of the Land for a Place of Worship and Works Associated With the Construction of a Car Park at 90 Soldiers Road, Pakenham South

Responsible GM: Peter Benazic
Author: Dean Haeusler

Recommendation(s)

That Council issue a Refusal to Grant Planning Permit T200082 for Use of the land for a place of worship and works associated with the construction of a car park at 90 Soldiers Road, Pakenham South VIC 3810 on the grounds detailed in the report.

Attachments

1. Development Plans [5.3.1 - 2 pages]
2. Copy of Objections - Circulated to Councillors only [5.3.2 - 13 pages]

Executive Summary

APPLICATION NO.:	T200082
APPLICANT:	Mr Zlatimir Kostic
LAND:	90 Soldiers Road, Pakenham South VIC 3810
PROPOSAL:	Use of the land for a place of worship and works associated with the construction of a car park
PLANNING CONTROLS:	Green Wedge Zone Schedule 1 Land Subject to Inundation Overlay
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by sending notices to adjoining land owners and occupiers and placing a sign on site. A total of thirteen objections were received
KEY PLANNING CONSIDERATIONS:	Land use compatibility Impact on productive land Traffic generation and parking
RECOMMENDATION:	Refusal

Background

The following planning decisions are relevant to subject site:

Planning Application No.	Proposal	Determination
T120168	Use and development of the land for a rural store and outbuilding generally in accordance with the approved plans	Permit Issued: 9 July 2012
T120119	Use of the land for animal husbandry and development o the land for two outbuildings and retrospective earthworks	Permit Issued: 15 August 2012 Amended: 15 May 2015
T120380	The development of the land for twelve horse shelters, generally in accordance with the approved plans.	Permit Issued: 14 September 2012
T160439	The use and development of a place of worship.	Refused: 27 July 2017

Subject Site



Figure 1: Subject site and locality

The site is located on the north side of Soldiers Road, is rectangular in shape and 8.509 hectares. Two crossovers are located on the site one along the east side of the site's frontage the other on the west side.

The site currently contains an existing dwelling, horse shelters and outbuildings scattered sporadically throughout the subject site and used predominantly for horse agistment.

The topography of the land features some undulation between 500 mm to 1 metre sporadically across the subject site.

The property is located approximately 2.6 kilometres from the Urban Growth Boundary and 3.6 kilometres from Southeast Business Park.

The main characteristics of the surrounding area are:

- Large rural allotments predominantly cleared of vegetation. There are a mixture of rural-residential and agricultural properties generally defined by grazing and equestrian land uses.

Relevance to Council Plan

Nil.

Proposal

Approval is sought to convert an existing shed to a Place of Worship and carry out works for an associated car parking area.

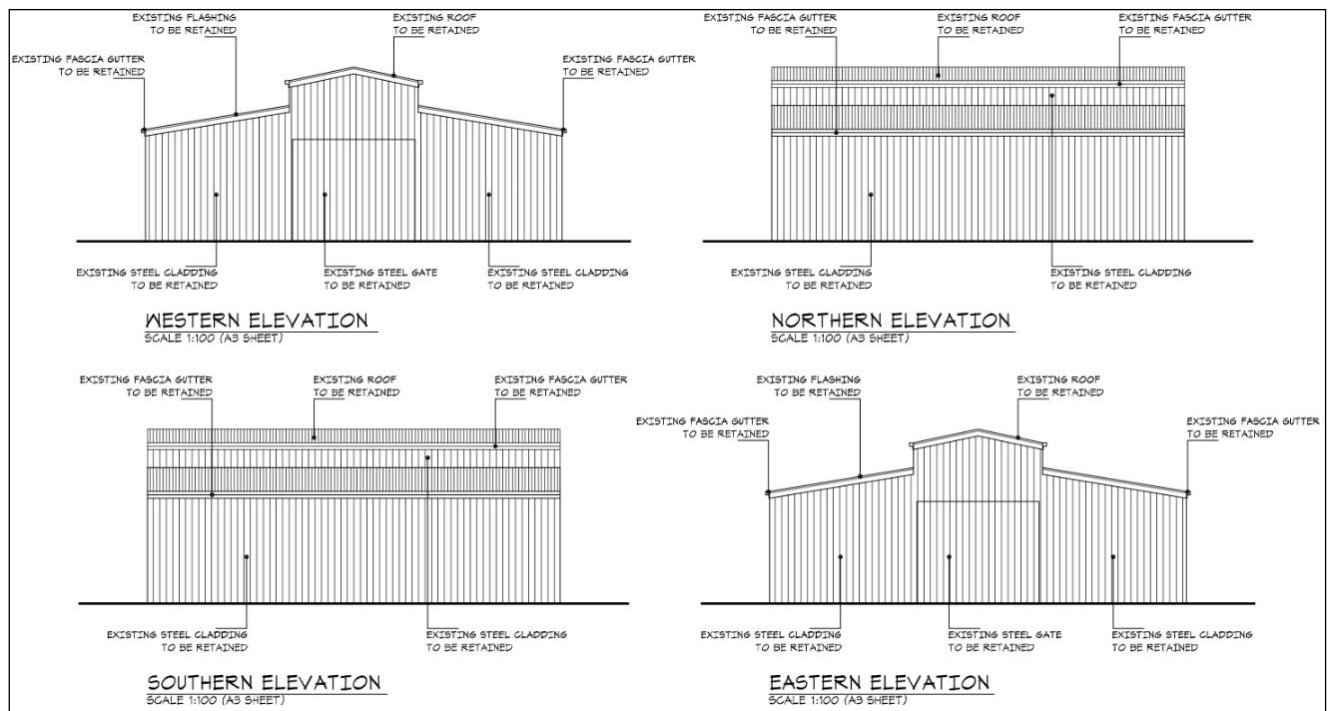


Figure 2: Existing building to be converted

The shed is a 149 square metre structure situated approximately 85 metres from Soldiers Road (South), 165 metres from the eastern boundary and 63 metres from the west. Internal modifications will be required however the details have not been specified. No external modifications are proposed.

LAND USE

The shed has been previously approved by Council for the purpose of a Rural Store but will be converted to accommodate a place of worship open to the public once a week to a maximum of 12 patrons. The building will be used for prayer and other calendar religious activities. Special Events are held four times a year when most attendees are anticipated.

No external amplification or lighting is proposed from the building and waste will be managed through standard Council collection or private waste collection if required.

WORKS

Access will be made using one of the existing driveways that services the building. East of the building, provision will be made for twenty-one car spaces. Access and parking areas are proposed to be surfaced in asphalt.

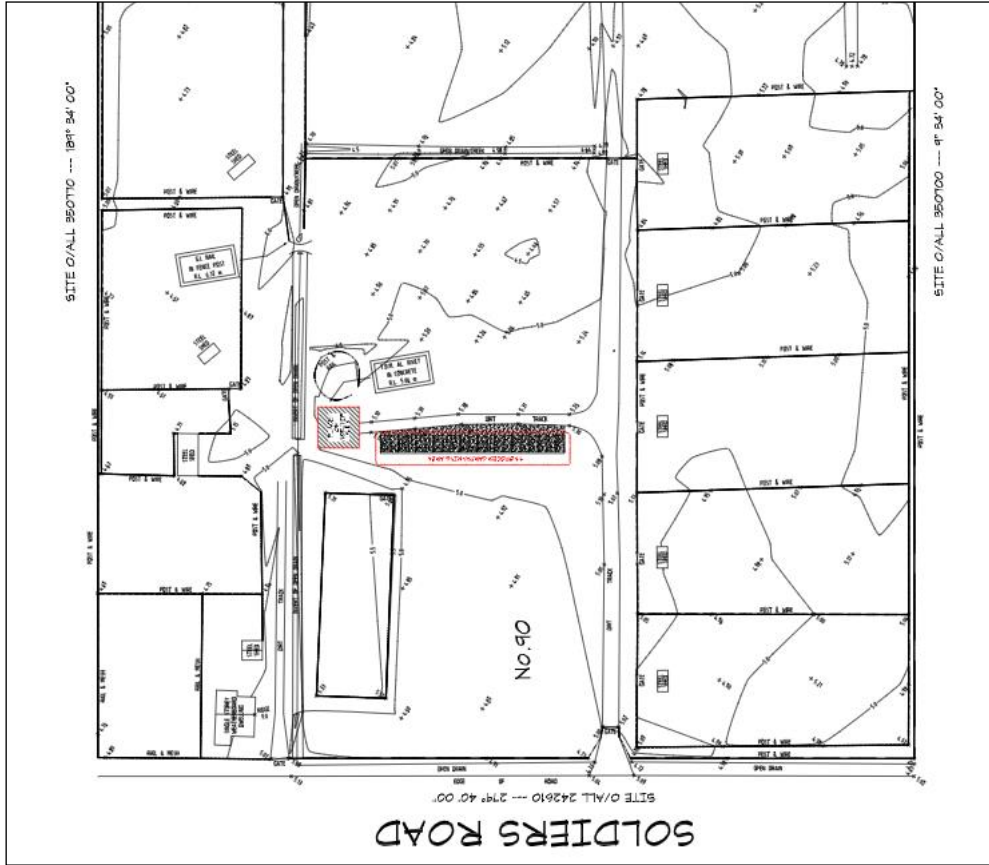


Figure 3: Site Plan

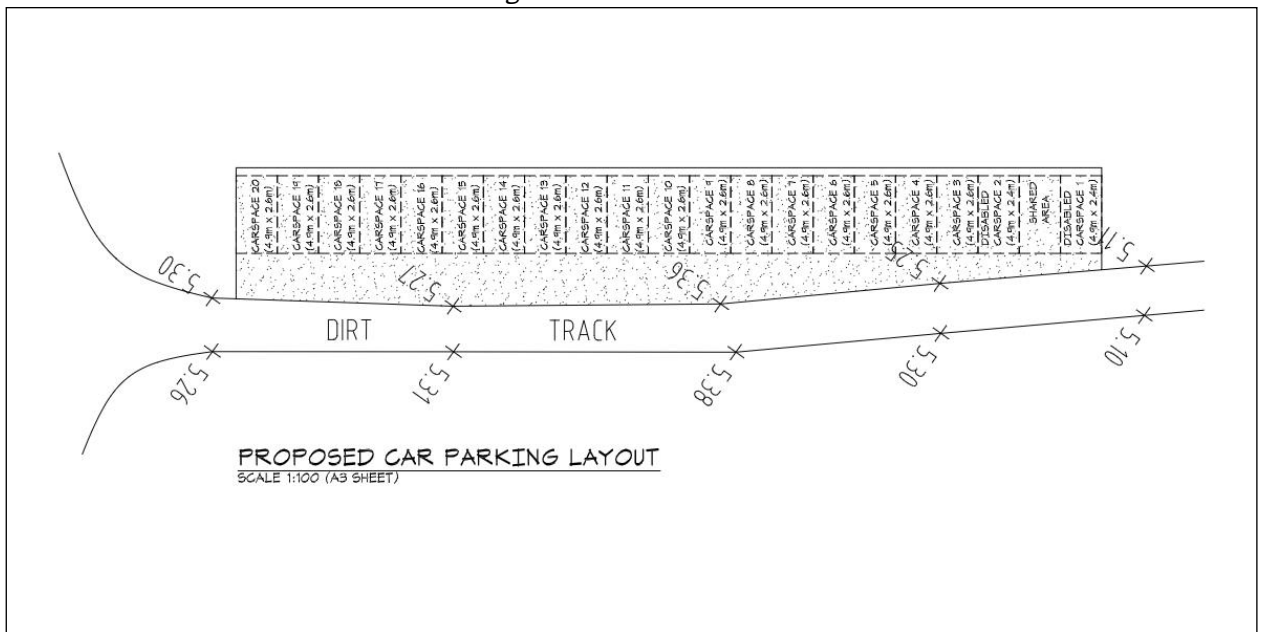


Figure 4: Car parking plan

Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 13.03-1S Floodplain Management
- Clause 13.07-1S Land Use Compatibility
- Clause 14.01-1S Protection of agricultural land
- Clause 14.01-1R Protection of agricultural land – Metropolitan Melbourne
- Clause 15.03-2S Aboriginal cultural heritage
- Clause 18.02-4S Car Parking
- Clause 19.02-3S Cultural Facilities

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.01-2 Key influences
- Clause 21.01-3 Key issues
- Clause 21.02-7 Aboriginal cultural heritage
- Clause 21.03-3 Rural townships
- Clause 21.04-2 Agriculture
- Clause 21.05-3 Local roads
- Clause 21.05-6 Community services and facilities
- Clause 22.05 Green Wedge Management Policy

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 51.02 Metropolitan Green Wedge Land: Core Planning Provisions
- Clause 52.06 Car Parking
- Clause 65 Decision Guidelines
- Clause 66 Referral and Notice Provisions
- Cardinia Western Port Green Wedge Management Plan

Cardinia Shire's Liveability Plan 2017-2029

This proposal has regard to Cardinia Shire's Liveability Plan 2017-2029, in particular:

- Improved social cohesion of a place of worship.

Zone

The land is subject to the Green Wedge Zone Schedule 1

Overlays

The land is subject to the Land Subject to Inundation Overlay.

Planning Permit Triggers

The proposal for use of the land for a place of worship and works associated with the construction of a car park requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04 Schedule 1 of the Green Wedge Zone a planning permit is required for a Section 2 use (Place of Worship).
- Pursuant to Clause 35.04 Schedule 1 of the Green Wedge Zone a planning permit is required to construct or carry out buildings and works associated with a Section 2 use (Place of Worship).
- Pursuant to Clause 44.04 Schedule to the Land Subject to Inundation Overlay a planning permit is required to construct a building or to construct or carry out works.

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.
- Placing one sign on site.

Council has received thirteen (13) objections to date.

The key issues that were raised in the objections are:

- Inconsistency with agriculture and Green Wedge Management Plan
- Impact on agricultural businesses
- Effluent management and access to reticulated water
- Inability of Soldiers Road to accommodate the volume of traffic.
 - Hazardous intersection of Soldiers Road and Koo Wee Rup Road.

Referrals

The application was referred to Melbourne Water as a statutory referral. Melbourne Water had no objection to the proposal subject to conditions.

Discussion

Planning policy framework

A number of state and local policies apply to the assessment of this application. The following is an assessment against the most applicable policies under the Cardinia Planning Scheme.

Clause 14.01-1S Protection of agricultural land highlights the protection of productive farmland by way of preventing inappropriately dispersed urban activities in rural areas, the permanent removal of farmland and the compatibility between the proposed or likely development and the existing use of the surrounding land. Likewise, Clause 21.04-2

Agriculture, advises that productive agricultural land must be protected from incompatible uses and inappropriate development.

The proposed use occupies a central portion of the property that is otherwise used for animal husbandry. Further plans by the applicant suggest grazing and cropping will be introduced. The conversion of an agricultural building and allocation of a large parking area reduce the agricultural productivity of the land and introduce a use that is not complimentary of the current property use or surrounding uses.

Council's Westernport Green Wedge Management Policy, Clause 22.05 and the associated Green Wedge Management Plan acknowledge that there are broader activities and uses encroaching into the GWZ which has increased the amount of urban uses, such as place of worships, being proposed in the zone. If inappropriately located, these uses can detrimentally impact the rural character of these landscapes and fragment agricultural land. Within this plan the subject site is located in 'Precinct 1' which is recognised as an area for agriculture, horticulture and soil-based food production. Within this precinct uses such as places of worship are discouraged and encouraged within townships and closer to the urban growth boundary.

Clause 21.03-3 Rural townships, categorises rural areas of settlement outside the urban growth area into 'large rural townships', 'small rural townships' and 'rural localities'. Pakenham South is identified as a 'rural locality' within this hierarchy. This would be due to Pakenham South compromising of predominantly large rural allotments with no central commercial township hub. This clause acknowledges the need to set clear limits for development of the townships and that the capacity for growth varies depending on the environmental and infrastructure capabilities of each individual town.

As identified in the site assessment, the subject site is currently located approximately 2.6 kilometres from the UGB on the fringe of Pakenham and in excess of 6 kilometres from the UGB around Koo Wee Rup. There are multiple properties between the subject site and the UGB all predominantly open and rural and a large portion of the local road network is unsealed.

Clause 19.02-4S Social and Cultural Infrastructure, encourages the provision of infrastructure within activity centres to ensure accessibility and is built upon by local policy 21.05-6 to establish new facilities and community based organisations in activity centres and residential areas where they can be provided in a manner which minimises any impacts on the amenity of the area. This includes establishing facilities in the most accessible location and to co-locate community activities to encourage joint management.

The proposed place of worship as previously highlighted is located within a rural locality of Pakenham South, with no immediate commercial township hub. The immediate character of the area is open and rural landscapes, comprising of predominantly agricultural activities on large allotments. The road servicing the subject site is not sealed and there is no immediate access to public transport options.

As a consequence of the above, the proposed place of worship is not considered to be appropriately located in accordance with the relevant state, local and Council policy. To locate the proposed use on the subject site would result in the encroachment of urban activities into an area which is sought to be conserved primarily for its agricultural purpose. This is not to say that a place of worship would be inappropriate as it is acknowledged that the use is not explicitly prohibited by the zone. However, in this instance taking into account the relative isolation of the subject site and distance from the Urban Growth Boundary and townships, in conjunction with the strategic protection of agricultural land at a local and state level suggest the proposal is incompatible for this location.

Green Wedge Zone

The Green Wedge Zone (GWZ) primarily provides for agricultural uses and sustainable farming practices while encouraging the protection of environmental, historic, cultural and landscape assets and facilitating recreational and tourism opportunities.

The following assessment provides a review of the proposal against the various considerations of the zone:

DESIGN AND SITING

- *The need to minimise adverse impacts on the character and appearance of the area*

The use of the existing building and location deep within property boundaries ensure impact to landscape character will not be substantially affected.

- *The need to minimise any adverse impacts of siting, design, height, bulk and colours and materials to be used*

No new structures are proposed.

GENERAL ISSUES

- *The capability of the land to accommodate the proposed use or development*

From a perspective of property size, the land is considered capable of accommodating the land use however as mentioned, the use is not considered compatible with the site or surrounds

- *How the use or development relates to rural land use, rural diversification, natural resource management, natural or cultural heritage management, recreation or tourism*

The proposal does not support agricultural land management and reduces the useable agricultural land and introduced a use that may conflict with neighbouring farm operations.

- *Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses*

The site is surrounded by a mixture of medium to large rural property predominantly used for rural uses including grazing, cropping and animal husbandry. The proposed land use is best considered an urban activity that is not complimentary to the existing use of the land. There is no benefits to rural productivity and it is considered incompatible with adjoining rural uses.

- *Whether the use or development is essential to the health, safety or well-being of the State or area, but is not appropriate to locate in an urban area because of the effect it may have on existing or proposed urban areas or the effect that existing or proposed urban areas may have on the proposed use or development*

The proposed use serves an important broader community benefit in providing cultural services yet is most appropriately located within urban areas or on the fringe of these areas to improve accessibility and integration with other services.

RURAL ISSUES

- *The maintenance of agricultural production and the impact on the rural economy*

The importance of rural productivity is recognised as the primary purpose of the Green Wedge Zone. Given the nature of the proposal, it is not expected to make a tangible contribution to the rural economy.

- *The impact on the existing and proposed rural infrastructure*

The impacts to the existing infrastructure are predominantly related to the increase in traffic that will be introduced by the Place of Worship. Due to the low scale and relative infrequency, these increased demands are expected to be met on the existing road network.

- *The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agriculture and other land uses*

Should the use be supported there is a reasonable assumption that the size and capacity of the Place of Worship could increase over time. This would however be regulated by a planning permit and therefore be subject to scrutiny if an application was made that affected operation times or patron numbers.

ENVIRONMENTAL ISSUES

- *The impact of the use or development on the flora and fauna on the site and its surrounds*

The site is clear of vegetation and not located in proximity to any watercourses, wetlands or reserves.

- *How the use or development relates to sustainable land management and the need to prepare an integrated land management plan*

The proposal is not expected to result in environmental pressures on the land and a land management plan is not considered applicable.

Land Subject to Inundation Overlay (LSIO)

The LSIO identifies land in a flood storage or flood fringe area affected by the 1 in 100 year flood and seeks to ensure development maintains the free passage and temporary storage of flood waters and is compatible with the flood hazard.

The land lies on the fringe on the former Koo Wee Rup swamp area and is entirely affected by the LSIO. Under this clause a permit is required to construct or carry out works.

As mentioned, the application has been referred and reviewed by Melbourne Water who provide no objection, subject to conditions relating to minimum floor level height due to the change of use of the building, open area, fencing and access requirements.

The proposal is considered compatible with the LSIO, provided the conditions of Melbourne Water can be achieved. The proposed works are not expected to increase the flood risk to life, health or safety and are not expected to obstruct floodwater or affect flood levels given the minor scale of the car park works,

Clause 52.06 – Car Parking

This clause seeks to ensure the appropriate number of parking spaces are provided for a given land use and having regard for the demand likely to be generated and ensure parking does not adversely affect the amenity of the locality.

Based on the table of uses to this clause, a Place of Worship is categories under the broader definition of Place of Assembly, requiring 0.3 spaces to each patron.

The proposed maximum of 12 patrons translates to a 3.6 required spaces, which is then rounded down to 3. The parking provided exceeds this number by 18 spaces while access and moveability are easily accommodated on the site and design standards able to be met.

Clause 51.02 Metropolitan Green Wedge Land: Core Planning Provisions

The following objectives form the basis of this provision:

- *This clause outlines the protection of the metropolitan green wedge land from uses and development that diminish the agricultural, environmental, cultural heritage, conservation, landscape natural resources or recreation value.*
- *Protection of agricultural land from incompatible uses and development*
- *Ensuring that the scale of use is compatible with the non-urban character of metropolitan green wedge land*

The proposed Place of Worship is not listed in the table to Clause 51.02-2 and is therefore not considered prohibited.

Cultural Heritage

The proposed activity is considered a High Impact Activity under the Aboriginal Heritage Regulations 2018. A Cultural Heritage Management Plan (CHMP) has been submitted with the application however this plan is outdated and has not been approved by Aboriginal Victoria. A new or updated CHMP is required however the applicant has elected to defer the preparation of a management plan. Given Council's position on the application, this has not affected the assessment of the proposal.

Objections

Concerns raised within objections that have not been addressed in the discussion of the application above are responded to below:

- Impact on road network/traffic generation

Based on the proposed numbers of attendees and frequency of events impact to the surrounding road network is not anticipated. If a permit were to be approved, the frequency and patron numbers would form a condition of permit.

- *Effluent management and water supply.*

An increased or new septic system would be a condition of permit should it be approved. Water supply would met using the infrastructure that supplies the existing dwelling.

Conclusion

The proposed place of worship and associated works are considered to be inappropriate for the subject site due to the fragmentation of agricultural land and impact to rural productivity

and location within an established rural area well beyond urban growth or township boundaries. The proposal is inconsistent with the relevant Planning Policy Framework, Local Planning Policy Framework, Zone and Particular Provisions.

It is recommended that a Refusal to Grant Planning Permit T200082 be issued for 'use of the land for a place of worship and works associated with the construction of a carpark' at 90 Soldiers Road, Pakenham South based on the following:

1. The proposal is located well outside of an established township or the urban growth boundary inconsistent with:
 - Clause 19.02-4S Social and Cultural Infrastructure
 - Clause 21.05-6 Community services and facilities
 - Clause 22.05 and Cardinia Westernport Green Wedge Management Plan.

2. The proposal would undermine the agricultural viability of the land sought to be preserved by:
 - Clause 14.01-1S Protection of agriculture land
 - Clause 21.04-2 Agriculture
 - Clause 35.04 Green Wedge Zone
 - Cardinia Westernport Green Wedge Management Plan – Adopted July 2016

Resolution

Moved Cr Stephanie Davies, seconded Cr Carol Ryan.

That Council issue a Refusal to Grant Planning Permit T200082 for Use of the land for a place of worship and works associated with the construction of a car park at 90 Soldiers Road, Pakenham South VIC 3810 on the grounds detailed in the report.

Carried

5.4 T200500 Army Road – Pakenham - Use and Development of the Land for a Place of Worship and Associated Works

Responsible GM: Peter Benazic
Author: Melanie Wright

Recommendation(s)

That Council issue a Notice of Decision to Grant Planning Permit T200500 for the use and development of the land for a place of worship and associated works at Army Road, Pakenham VIC 3810 subject to the conditions attached to this report.

Attachments

1. Locality Map [5.4.1 - 1 page]
2. Development Plans [5.4.2 - 12 pages]
3. Copy of Objections - Circulated to Councillors only [5.4.3 - 11 pages]

Executive Summary

APPLICATION NO.:	T200500
APPLICANT:	Natalie Gray
LAND:	Army Road, Pakenham VIC 3810 (Corner of Murphy Rd)
PROPOSAL:	The use and development of the land for a place of worship and associated works
PLANNING CONTROLS:	General Residential Zone ('GRZ') Development Contributions Plan Overlay - Schedule 1 ('DCPO')
NOTIFICATION & OBJECTIONS:	Pursuant to Section 55 of the Planning and Environment Act 1989 notices were sent to adjoining properties 119 notices were sent and 2 signs were erected on the site. Nine (9) Objections were received.
KEY PLANNING CONSIDERATIONS:	Amenity Appropriateness of location Traffic Social Impacts Lighting
RECOMMENDATION:	Notice of Decision to Grant a Permit

Background

The subject site is vacant and there is no planning permit history for the site.

Subject Site

The site is located on the south-east corner of the Murphy Road and Army Road.

The subject site is 2.695 hectares in size and is currently vacant.

The site has a frontage to Murphy Road of 205.07 (northern boundary), an eastern boundary of 124.97 metres, a jagged southern boundary with three lengths totalling 230.14 metres in length and a western boundary of 123.08 metres. A 9-metre-wide tree reserve runs along the western boundary between the site and Army Road.

There are presently no formal crossovers to the site from Murphy Road. A crossover to the site is located on Army Road adjacent to the southern boundary and there is no easement on title.

The topography of the land is mostly flat with the site sloping slightly to the south-east.

The subject site is located in an established residential precinct of Pakenham, just north of the Pakenham Activity Centre. The immediately adjoining allotments to the subject site contain single dwellings and garages with detached and in unit developments. Unit developments and subdivisions appear to be an emerging theme in the area, with several allotments currently developed with multiple dwellings. The houses are largely single storey and are constructed of a variety of materials including fibro-cement, weatherboard and brick.

To the north-west of the Army Road and Murphy road intersection is Pakenham Hills Primary School.

The main commercial street of Pakenham Activity Centre is located 1000 metres south of the subject site with localised shopping 500 metres to the east. Within a 3-kilometre radius of the subject site there are pre-schools, primary and secondary schools, childcare centres, public open space and access to medical cares.

Relevance to Council Plan

Nil.

Proposal

It is proposed to use and develop the subject site for a place of worship associated with the Jesus Christ of the Latter Day Saints Religious order.

The proposal has been described by the applicant as a 'meeting house' for religious purposes such as education, meetings and other functions such as Sunday worshiping. The building will contain various rooms sizes and a multipurpose room for larger gatherings.

The various rooms proposed for the building will have a total seating capacity for 206 people but it is proposed that a maximum of 170 size gatherings.

The proposed hours of operation are:

- Monday to Thursday: 6am to 9pm
- Friday and Saturday: 7am to 12am(midnight)
- Sunday: 9am to 4pm

The proposed built form includes a single storey building with a total floor area of 630sqm covering just 7.7% of the total land area. The proposed use and development will be located in

the north-west corner of the site and be fenced off leaving the majority of the site vacant. The portion of the site allocated for the place of worship is approximately 128 metres by 70 metres and a total of 8960sqm. This will leave a minimum setback from the internal fence of 44 metres from the south adjoining properties and 81 metre setback from east adjoining properties. There is no current proposal to develop the remaining vacant part of the site.

The building is proposed to be 12.190 metres in width and 51.59 metres in length. The building will be setback 34.556 metres from the west boundary to Army Road, 42.1 metres from northern boundary or Murphy Road frontage, 120 metres from the eastern boundary and a minimum of 59 metres from the south adjoining boundary.

The meeting house will have a pitched Colourbond roof with 5 gable portions, the external finish of the building will be constructed of brick. The overall building height is 7.669 metres from natural ground level.

A 14.5-metre-high metal spire is also proposed to accompany the building, it will be located between the car park and the building.

The building has been designed to present to Murphy Road as such the car park is located to the north of the building to access Murphy Road with two vehicle crossings. The car park will include 64 car spaces, including two disabled spaces. The eastern vehicle access will be two way and allow cars to turn left and right and the western vehicle access will only accommodate existing cars that will be only allowed to turn left.

A 1.2 metres high metal fencing is proposed along all both road frontages. Landscaping is proposed across the site. There are no vegetation impacts as the site is vacant and the built form in setback from the western tree reserve. There are some earthworks are proposed which do not require planning consideration.

Planning Scheme Provisions

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- *Clause 11.03-1s – Activity Centres*
- *Clause 15.01-1s – Urban Design*
- *Clause 15.01-2S – Building design*
- Clause 15.01-5S - Neighbourhood Character
- Clause 15.02-1S - Energy and resource efficiency
- Clause 19.02-4A – Social and Cultural Activities

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01-4 – Strategic Vision
- Clause 21.05-1 – Community Services and Facilities

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Pakenham Development Contribution Plan
- Clause 52.06 – Car parking
- Clause 65 – Decision Guidelines

Cardinia Shire's Liveability Plan 2017-2029

This proposal has regard to Cardinia Shire's Liveability Plan 2017-2029, in particular:

- *Improved Social Cohesion*
- *Improved safety*
- *Reduce obesity*

Zone

The land is subject to the **General Residential Zone**

Overlays

The land is subject to the following overlay:

- *Development Contributions Plan Overlay - Schedule 1*

Planning Permit Triggers

The proposal for the use and development of the land for a place of worship and associated works requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.09 – 2 a planning permit is required for the use of the site for a place of worship as the total gross area of all buildings exceeds 250 sqm.
- Pursuant to Clause 32.09 – 9 a planning permit is required for the buildings and works associated with a section 2 use.

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 and additional properties 119 notices in total.*
- *Placing two signs on the site one to each street frontage*

The notification has been carried out correctly, and Council has received *nine (9)* objections to date.

The key issues that were raised in the objections are:

- Noise
- Traffic
- Use not compatible in residential area
- Hours of operation

- Lighting

Referrals

No External referrals required

Discussion

The application for a permit has been assessed against the decision guidelines of all relevant clauses of the Cardinia Planning Scheme and the proposed use is determined to be consistent with these requirements.

The Planning Scheme encourages religious uses to be located within existing urban areas and residential areas in order to be a service to existing communities. The location of the proposed Place of Worship will be close to the Pakenham Activity Centre, vital infrastructure, and is supported by the Cardinia Planning Scheme.

Planning Policy Framework (PPF) and Municipal Planning Strategy (MPS)

A number of state and local policies are relevant to this application that encourage religious use and development to be located in existing residential areas to provide a fairer distribution of access to communities.

Clause 11.03-1s (Activity Centres) seeks to encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. The proposed location of the use and development is ideal for providing access to a religious in a well-established area in the municipality with access to a Road Zone .

Clause 15.01-1s Urban Design seeks to create urban environments that are safe, healthy, functional, and enjoyable and that contribute to a sense of place and cultural identity. The proposed built form associated with the place of worship is designed to create a safe and functional design. The design will become a landmark of interest as a place of cultural identity with a high-quality built form.

Clause 15.01-2S (Building design) seeks to:

- Achieve building design outcomes that contribute positively to the local context and enhance the public realm.
- Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.
- Ensure development responds and contributes to the strategic and cultural context of its location.

It is considered that the proposal provides an architecturally attractive building for a unique and exposed site in a corner location. The design response is modest in scale on a very large site and designed to protect and enhance views and vistas.

Clause 15.01-5S (Neighbourhood Character) aims to recognise, support and protect neighbourhood character, cultural identity, and sense of place. The modest and well-designed building for the place of worship is considerate of its site and context. The building height and scale is respectful of the existing neighbourhood character of the area. The large setbacks allow the building to be a unique feature of the area without dominating the streetscape.

Clause 15.02-1S (Energy and Resource Efficiency) aims to land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas

emissions. The application includes an environmentally sustainable report that aims to reduce greenhouse emissions associated with the building.

Clause 19.02-4A – (Social and Cultural Activities) aims to provide fairer distribution of and access to, social and cultural infrastructure. The proposal will encourage accessibility and diversity in cultural activities in an established area close to an activity centre.

Cardinia Shire’s Plan describes the following vision for the Municipality: “Cardinia will be developed in a planned manner to enable future generations to enjoy and experience the diverse and distinctive characteristics of our Shire”. It is considered that the proposal adds to the cultural and social diversity that makes the Municipality a unique place to live. The addition of a new place of worship will cater to the growing population of the area. This is further empathised in the Clause 21.05-6 (Community services and facilities) which aim to facilitate community-based organisations (i.e Churches) which serve the needs of the community in activity centres and in residential areas where they can be provided in a manner which minimises any impacts on the amenity of the area. It is considered that the location, siting and scale of the use and development is considerate of the location adjoining residential properties. From a strategic perspective the location of the proposed place of worship is ideal adjoining a Road Zone, within an established residential area and close proximity to an activity centre.

General Residential Zone:

The subject site is zoned General Residential Zone. One of the objectives of the zone is to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Pursuant to Clause 32.09 – 2 a planning permit is required for the use of the site for a place of worship as the total gross area of all buildings exceeds 250 sqm. The gross floor area for the proposal is 630 sqm therefore a permit is required for the use of the site for a place of worship.

Pursuant to Clause 32.09 – 9 a planning permit is required for the buildings and works associated with a section 2 use.

The proposed use for a place of worship, is considered to be compatible with the established residential area, adjacent to a school site and adjoining a road zone. The site is located on the corner of Murphy Road and Army Road which can accommodate the increased traffic generation, subject to appropriate traffic management.

The proposal will service a local community need and adds diversity to worship options in the Municipality. The location will allow local worshipers to travel shorter distances to their preferred place of worship. The proposal is considered to be of a scale and intensity that is appropriate for the area. Large setbacks are proposed from all immediately adjoining properties and both street frontages. The siting and spaciousness of the proposed site layout is appropriate for the site and does not compromise the residential character of the area.

The design and height of the proposed building is acceptable. The location of the structure, setback from Murphy Road and Army Road, minimises its visual prominence and is not expected to detract from the visual amenity this road. A spire has also been proposed which will complement the built form, it is narrow and will not include excessive light and therefore it is considered a suitable addition to the built form.

All the trees that are located in the tree reserve along the western boundary are proposed to be maintained. A landscape plan has been provided but Council’s Landscape Officer has requested additional planting as such a revised landscape plan will be required via condition

of permit. This is in keeping with the development of the adjoining school site which also contains mature vegetation along this interface.

The applicant provided an Acoustic Report that reviewed noise levels in the existing conditions and made assumptions about the proposed noise levels from the place of worship. It is expected that highest noise would be produced from amplified church music 86dB(A) and other activities such as sermons to be around 66dB(A). EPA noise legislation does not specifically include places of worship however best practice uses the SEPP N-2 for guidance. Table 12 of the report presents the results of the music noise assessment based on internal noise levels maximum internal levels of 86dB(A) with the proposed construction and fit-out details. The conclusion of the report is that the use will not create noise omissions that will exceed the required 45dB(A). The use of the car park may generate the greatest noise omissions however this will be consistent with the background noise of the general area after surveying noise measurements of the existing environment at the Subject Site and surrounds. Some conditions will be placed on the permit to ensure that the use complies with EPA N-2 requirements.

Given the occasional proposed gathering until 12 midnight, capacity of the road network to accommodate traffic and the minimal noise omission, it is considered that there will be minimal impact from the hours of use.

Adequate car parking and access have been provided; this will be discussed further below. A waste management plan (permit condition) will ensure appropriate loading and refuse collection.

Development Plan Contributions Overlay – Schedule 1

The Development Contributions Plan Overlay identifies areas that require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.

Pursuant to Clause 45.06-1, a granted permit must:

- Be consistent with the provisions of the relevant development contributions plan; and
- Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay.

This does not apply to non-residential uses therefore no condition is required for this application.

Clause 52.06 Car Parking

The purpose of Clause 52.06 is 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.

Pursuant to Clause 52.06-5 Number of car parking spaces required under Table 1, 0.3 car parking spaces are required to be provided for each patron permitted on the site.

The proposal includes a maximum of 170 patron on site at a given time. A total of 51 spaces are therefore required.

The proposal includes 66 car parking spaces and therefore complies with the car parking rate requirements of Clause 52.06.

The vehicle access to the car park will be provided through two accesses: the eastern crossover will allow for incoming and outgoing traffic while the western crossover will only allow for exiting traffic that will only be able to turn left towards Army Road.

Council's Traffic Department have stated that the applicant has provided enough car spaced for 206 patrons. The layout of the car park including sizes of spaces and isle widths are all satisfactory. They have also requested some conditions that would require pedestrian access through the site, and along the public realm to the site to be provided.

Overall, the proposal meets the objectives and the requirements of Clause 52.06 of the Cardinia Planning Scheme.

Clause 52.34 – Bicycle Facilities

The purpose of Clause 52.34 is to encourage cycling as a mode of transport.

The proposal includes two bicycle parking facilities and toilet amenities. The Bicycle Facilities requirements of a place of assembly is 1 space per 1500sqm plus one for a visitor therefore the requirement has been satisfied.

Clause 65 Decision Guidelines:

The proposed development is consistent with the Planning Policy Framework & Municipal planning Strategy, its zoning, and is consistent with the orderly planning of the area. Further the proposed development will have limited impact on the amenity of surrounding area and will not contribute to land degradation or require native vegetation removal. It is therefore considered appropriate.

Response to Objections

The key issues that were raised in the objections are:

Noise

The applicant has provided an acoustic report that demonstrates that the noise created internally of the building will be consistent with existing noise levels in the area. While there will be amplified music and sermons inside the building there will not be any noise omission to surrounding residences that will exceed what is already experienced in the area. A permit condition will be placed on the permit that there will be no amplified music after 10 pm Monday to Saturday and 9pm on Sunday.

Conditions have been included to the permit to ensure that noise does not cause amenity impact that can be reviewed should neighbours or the public have concerns.

Traffic

The General Residential Zone seeks to encourage places of worship to established residential areas with access to Road Zones. Army Road is a Road Zone and has the capacity to accommodate increased traffic. The proposal meets car parking requirements, has demonstrated a safe internal access way and will require traffic existing closest to Army Road to only turn left.

It is therefore concluded that the subject site will not rely on the public realm for the provision of carparking and therefore it is not anticipated to result in additional pressure on on-street parking nor is this development anticipated to generate an unreasonable amount of traffic for the site or the local street network

Use not compatible in residential area

The General Residential Zone seeks to encourage places of worship to established residential areas, close to existing services and activity centres. The proposed place of worship meets the guidance of the strategic framework in the Cardinia Planning Scheme which aims to encourage diversity and accessibility to social and recreational uses close to residential areas. The use will not operate continuously - the main use of the site is for smaller groups with the larger gatherings on Sundays. Locating social and recreational uses close to residential areas means that the residents of Cardinia from diverse backgrounds do not have to travel for their cultural engagements and may even be able to walk to the facility. The built form and large setbacks are respectful of the neighbourhood character and will not dominate the streetscape.

Overall, the use is well placed to be a complimentary use in the locality and will add vibrancy to a vacant site.

Hours of operation

The hours of operation of main concern are the functions that may operate on a monthly basis to 12am (midnight). The acoustic report presented describes the minimal accumulative impact the noise emissions from the use will produce. Amenity based conditions will be placed on the permit including lighting, noise, and traffic.

Lighting

A condition has been placed on the permit to ensure light is baffled and to reduce light spill.

Conclusion

The proposed use and development of the land for a place of worship is consistent with the purpose and objectives of the General Residential Zone, Development Contribution Plan Overlay – Schedule 1, Clause 52.06 Car Parking and Decisions Guidelines which apply to the subject property. The proposal is considered acceptable and as such should be supported.

Conditions

- 1) Before the development starts, 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 form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The internal pedestrian path to be no less than 1.5 metres in width
 - b) A 1.5 m wide concrete footpath to be provided along the entire site frontage to Murphy Road
 - c) A 1.5 m wide concrete pedestrian path, including pram ramps, to link to the existing pedestrian path on the eastern side of Army Road
 - d) Revised landscape plan generally in accordance with the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture, except that the plan must show:
 - i) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
 - iii) Details of surface finishes for all areas, including pathways and driveways

- iv) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - v) 1200mm organic mulch diameter around any proposed trees to be planted in lawn.
 - vi) Canopy trees capable of reaching a height of 8 metres and a width of 6 metres at maturity (minimum one and a half (1.5) metres tall at the time of planting) generally consistent with the layout and density of plantings shown on the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture in the area between the proposed carpark and Murphy Road, continuing in the following additional areas.
 1. the full extent of the Murphy Road frontage to the eastern property boundary.
 2. the full extent of the Army Road frontage to the southern property boundary.
 - vii) A screening vegetation strip at least two (2) metres wide along the full extent of the existing rear fence lines along the southern and eastern property boundaries. The strip must be planted with screening shrubs capable of growing a minimum of 2m tall and at a density sufficient for them to completely screen the fence line at maturity.
 - viii) All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for, or impede the movement of, vehicles or pedestrians.
- b) Revised Sustainable Management Plan generally in accordance with the “The Church of Jesus Christ Latter-day Saints, Sustainable Management Plan, Job: 10875, Date: August 2020, Revision 02 prepared by BRT Consulting” but amended to show:
- i) a detailed plan is to be provided to the responsible authority showing the details of the 25kW solar energy system. This is to confirm the solar array layout and inclusion. This is required as the 25kW solar energy system is referred to in appendix B of the Sustainable Management Plan,
 - ii) Plans that demonstrate outcomes of the Sustainable Management Plan
- 2) The use and development of land must be generally in accordance with the plans endorsed under this permit and subject to the conditions set out in this permit.
 - 3) The layout of the access, use and development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
 - 4) Once the development starts, it must be continued and completed to the satisfaction of the Responsible Authority.
 - 5) Except with the written consent of the Responsible Authority, the use of the land for a place of worship may only operate:
 - Monday to Thursday: 6am – 10pm.
 - Friday and Saturday: 7am – 12pm.

- Sunday: 8am – 9pm.
- 6) Except with the written consent of the Responsible Authority, a maximum of 170 patrons associated with the use of the land for a place of worship are permitted on the land at any time.
 - 7) All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
 - 8) Noise levels emanating from the subject land must comply with the State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.
 - 9) No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes at any time without the written consent of the Responsible Authority.
 - 10) All waste material not required for further onsite processing must be regularly removed from the subject land. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.
 - 11) All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
 - 12) External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land to the satisfaction of the Responsible Authority.
 - 13) All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
 - 14) No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

Buildings and Works

- 15) Before the development starts by such later date as is approved by the Responsible Authority in writing:
 - a) a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted to and approved by the Responsible Authority. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan.
 - b) a tree protection fence must be erected around the existing street trees to be retained outside the canopy zone of the tree to define a "Tree Protection Area". The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must

remain in place until construction is completed. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Area. Any pruning that is required to be done to the canopy or roots of any tree to be retained is to be done with permission by Council's Arborist by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-2007.

- c) A fee of \$375.00 per tree must be paid to the Responsible Authority for the replacement of the existing street tree/s nominated to be removed for the development. Replacement will be undertaken by Council contractors within the streetscape in the next planting season.

16) Before the development is occupied or by such later date as is approved by the Responsible Authority in writing:

- a) all proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority
- b) a commercial/industrial standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority
- c) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
- d) A report from the author of the Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainable Management Plan and the associated details on the approved plans, have been implemented in accordance with the Sustainable Management Plan and approved plans.

17) The location of any tree protection zones and protection measures including for street trees accurately drawn to scale and labelled and notations referring to any endorsed Arboricultural Assessment prepared by Shane Laszczyk – Arbor Advocacy Dated 30 June 2020.

18) All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for vehicles or pedestrians.

19) The development must be constructed in accordance with the requirements, recommendations and details of the Sustainable Management Plan to the satisfaction of the Responsible Authority, and the associated details shown on the approved plans.

Commencement of Use

20) Before the use commences, as defined by the issue of a Certificate of Occupancy under the Building Act 1993, the following must be satisfied:

- a) All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed in accordance with approved plans, drained and the parking areas delineated to the satisfaction of the Responsible Authority.
 - b) A bin storage area must be provided and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
 - c) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 - d) The outfall drainage for the development must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority.
- 21) The use and development must be managed so that the amenity of the area is not detrimentally affected through the:
- a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d) Presence of vermin.
- To the satisfaction of the Responsible Authority.
- 22) The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.
- 23) The areas shown on the endorsed plans for access and car parking must not be used for any other purpose and must be maintained to the satisfaction of the Responsible Authority. Access ways must be in accordance with Clause 52.06 of the Cardinia Shire Planning Scheme.
- 24) The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
- 25) All wastewater from the proposal must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice – Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.
- 26) Stormwater works must be provided on the subject land so as to prevent overland flows onto adjacent properties.
- 27) The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.

- 28) Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
- 29) Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
- 30) Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.

Expiry:

A permit for the development and use of land expires if—

- a) the development does not start within **two (2) years** after the issue of the permit; or
- b) the final stage development is not completed within **four (4) years** after the issue of the permit; or
- c) the use does not start within **two (2) years** after the completion of the development; or
- d) the use is discontinued for a period of **two (2) years**.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

Notes:

- A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.
- Prior to commencement of the proposed use a Building Permit must be obtained for any retaining wall exceeding 1.0 metres in height.
- Permission given under planning legislation cannot be construed as permission relating to any other legislation under Council jurisdiction, such as Public Health & Wellbeing, Food or Tobacco Acts.
- This planning permit does not allow the change of use of a building contrary to the existing 'occupancy permit', any part of the building that is proposed for change the use/building classification shall only be done in accordance with a building permit OR written direction from the Municipal Building Surveyor.

Resolution

Moved Cr Jack Kowarzik, seconded Cr Carol Ryan.

That Council issue a Notice of Decision to Grant Planning Permit T200500 for the use and development of the land for a place of worship and associated works at Army Road, Pakenham VIC 3810 subject to the conditions attached to this report.

Carried

5.5 Planning Permit Application for the Use and Development of the Land For Rural Industry and a Caretakers Dwelling Associated With Industrial Hemp at 565 Murray Road, Vervale.

Responsible GM: Peter Benazic
Author: Frances Stipkovic

Recommendation(s)

That Council issue a Notice of Decision to Grant Planning Permit T190712 for the use and development of the land for Rural Industry and Caretakers Dwelling at 565 Murray Road, Vervale VIC 3814.

Attachments

1. Development Plans [5.5.1 - 4 pages]
2. Farm Management Plan [5.5.2 - 22 pages]
3. Independent Review [5.5.3 - 25 pages]

Executive Summary

APPLICATION NO.:	T190712
APPLICANT:	Mrs Renee Little
LAND:	565 Murray Road, Vervale VIC 3814
PROPOSAL:	Use and development of the land for Rural Industry and Caretakers Dwelling
PLANNING CONTROLS:	Special Use Zone, Schedule 1 Land Subject to Inundation Overlay
NOTIFICATION & OBJECTIONS:	Yes – Notification was carried out and 6 objections were received
KEY PLANNING CONSIDERATIONS:	Providing a high degree of assurance that the enterprise relied on for the secondary and tertiary land uses is feasible to justify the proposal. Clause 22.05 and the Westernport Green Wedge Management Plan The purpose of the Special Use Zone Schedule 1 which seeks to preserve land for horticultural pursuits. Minimising the risk associated with flooding with respect to the proposed buildings and works.
RECOMMENDATION:	Issue a notice to grant the planning permit

Background

- Planning Application T180116, which sought approval for the use and development of the land for a Host Farm and Caretakers Dwelling, was refused by Council on 24th May 2018. This application did not proceed to VCAT.
- Planning Permit T200241 was issued on 21st July 2020 for the development of a 24ML dam and associated works which is located at the rear of the site.
- With respect to this current application, a Section 57A Amendment was lodged with Council on 21st July 2020 which included an amendment to the proposed land uses to correctly align with the land use definitions under the Cardinia Planning Scheme as well as updated development plans in response to concerns raised by Melbourne Water.

In addition to this, Council sought an external review of this application from 'Plan it Rural' – Rural Planning and Development Consultants. Following their initial review, the applicant submitted information relating to feasibility of the pursuit (Soil Report, Land Management Plan) as well as a Farm Management Plan which formed part of the recirculated documents to the objectors and was further reviewed by Plan It Rural. The findings of this review are discussed in the assessment section of this report.

Subject Site

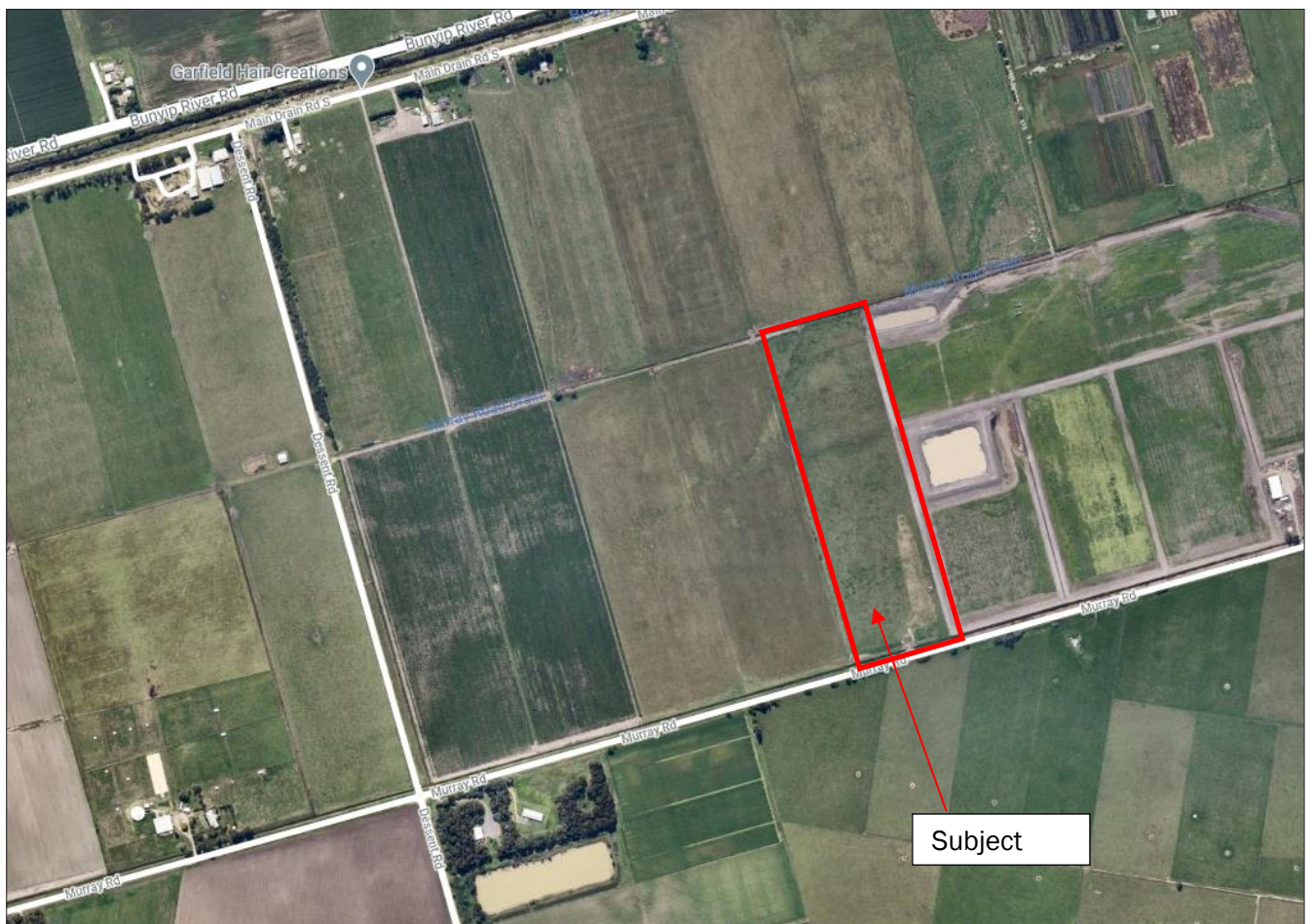


Fig 1: Aerial image of the subject site and surrounding locality – source: Nearmaps

The subject site is located on the northern side of Murray Road, Vervale approximately 4.8 kilometres from Bunyip-Modella Road located east. The site rectangular in shape, has a frontage to Murray Road of 160.9 metres and a total site area of 8.093 hectares.

The subject site is currently undeveloped and is not used for any purpose. Topography of the land is flat.

635 Murray Road (comprising 5 lots) adjoins the land to the east and is currently developed with a dam and is used for agriculture. The lot adjoining the subject site forms part of a broad-acre market garden and whilst there is no current crop, it forms part of a crop rotation which is required to rejuvenate soil and prevent disease (i.e. the site is part of an active horticultural operation).

1710 Main Drain Road (comprising multiple allotments) bounds the site to the north, north-west and west and is currently vacant.

Land in the vicinity is characterised by large rural allotments, many of which are currently used for agriculture (primarily crop raising). In terms of development, there are examples of dwellings and large outbuildings however they are subordinate in the broader vicinity. Many parcels in the area are Crown Allotments however there are examples of multiple parcels in the one ownership. Terrain in the area is flat.

Registered Restrictions

The land is known as Crown Allotment 17, Section N Parish of Koo-wee-rup East.

There are no Covenants or Section 173 Agreements registered on Title.

There are no easements affecting the land.

Relevance to Council Plan

Nil.

Proposal

Approval is sought for the use and development of the land for Rural Industry and a Caretakers Dwelling.

These uses are in association with proposed industrial hemp growing on the subject site. A description of each component is described below:

Associated soil-based enterprise

The applicant has advised that the basis of this enterprise is industrial hemp growing on the subject site. This crop is grown externally and will occupy approximately 77% of the site (6.25 hectares) having regard to the proposed buildings under this application and approved dam under Planning Permit T200241.

The applicant has advised that it is expected that 2-3 crops will be harvested per year. In terms of volume, this equates to 15 tonne of product per hectare ($15 \times 6.3 = 94.5$ tonnes per crop cycle).

Included in the application documents is an Authority for Low THC-Cannabis issued by the Department of Jobs, Precincts and Regions dated 29th February 2019. This approval has a 3 year expiry (the assumption is made there are opportunities for renewal).

In addition to industrial hemp, the applicant is also proposing passionfruit and avocado tree planting however this is considered supplementary and not a primary consideration with respect to the soil-based enterprise.

The applicant has provided details on the feasibility and viability of this enterprise as well as a Farm Management Plan which will be discussed in further detail in the assessment section.

Note: The use of the land for crop raising is as of right pursuant to Clause 37.01-1 (SUZ1). The Cardinia Planning Scheme does not specify the type of crop which can or should be grown therefore the chosen product (industrial hemp) is not a planning consideration.

Rural Industry

The Rural Industry component will be carried out in a proposed building setback 16 metres from the eastern boundary and 70.5 metres from the front title boundary. The building has a ground floor area of 495sqm and has a maximum height of 5.7 metres above natural ground level.

The floor layout comprises a fibre processing area, decorticator zone, hempcrete mixer and dry storage area.

Note: Additional storage areas are also provided and form part of a mezzanine level in this building which whist within the ground floor footprint, this equates to more than 500sqm in total area – a condition of approval will require amended plans to reduce the total floor area to no more than 500sqm.

Once the hemp is harvested, it is to be broken down to 3 main products: hurd, fibre and leaf. This involves a Decorticator which breaks down the primary produce. The building will also be used for the processing of the hemp hurd to form a building material known as Hempcrete Panels which is non-combustible. This involves the mixture of hemp hurd, lime and water and compressing the mixture. The fibre component of the hemp will be on-sold in its raw form which can be utilised for textiles and other products.

Hours of operations are Monday to Saturday: 8:00am – 4:00pm. A maximum of three (3) employees is required.

The applicant has also stated that training associated with the building product will be carried out however Council considers this an ancillary component to the enterprise, and as such does not trigger planning approval in its own right having regard to the scale.

Caretakers Dwelling

A Caretakers Dwelling is proposed to be located 23.8 metres from the eastern boundary and 29.8m from the front title boundary. This building comprises a kitchen/living/dining area, bedrooms, bathrooms and a garage. This building will be constructed using screw piles. A septic area is located at the front of the dwelling.

A new driveway is proposed which leads to the Caretakers Dwelling and Rural Industry building.

The applicant has advised that the Caretakers Dwelling will accommodate his entire family as this is to be a family run enterprise. The Caretakers Dwelling is required to establish the crop on the site and for security purposes and to also run the Rural Industry component.

Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- *Clause 11.01-1R Green wedges – Metropolitan Melbourne*
- *Clause 13.03-1S Floodplain management*
- *Clause 14.01-1S Protection of agricultural land*
- *Clause 14.01-1R Protection of agricultural land – Metropolitan Melbourne*
- *Clause 16.-01-3S Rural residential development*

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- *Clause 21.01 – Cardinia Shire Key Issues and Strategic Vision*
- *Clause 21.03-4 Rural residential and rural living development*
- *Clause 21.04-2 Agriculture*
- *Clause 22.05 – Western Port Green Wedge Policy*

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- *Clause 51.02 – Metropolitan Green Wedge Land*
- *Clause 52.06 – Car Parking*
 - *Clause 65 – Decision Guidelines*
 - *Cardinia Shire’s Westernport Green Wedge Management Plan*

Cardinia Shire’s Liveability Plan 2017-2029

Cardinia Shire’s Liveability Plan has been developed to provide a clear framework for public health planning within the Shire, with a vision for Cardinia Shire to be a liveable, resilient community where the environment flourishes and residents are healthy, included and connected.

The Plan has a number of goals and actions relating to policy domains such as active travel, education, employment and housing.

This proposal has regard to the Plan as it supports investment, innovation and diversification within the local economy and provides additional employment opportunities

Zone

The land is subject to **Clause 37.01 - Special Use Zone Schedule 1**



Fig 2: SUZ1 mapping – source <https://mapshare.vic.gov.au/vicplan/>

1. The Special Use Zone – Schedule 1 ('SUZ1') applies to a large portion of the Cardinia Western Port Green Wedge. Its application recognises that soil is a finite resource and inappropriate use, development or subdivisions will result in the permanent loss of this valuable resource. The location is supported by the *Land Capability Study for the Cardinia Shire (February 1997)*.
2. The purposes of the SUZ1 are:
 - To preserve land of high agricultural quality for horticulture and other farming activities.
 - To discourage non-agricultural and non-soil based uses establishing on soil of high agricultural value.
 - To protect the area from the encroachment of urban and rural residential type development.
 - To minimise the potential for conflict between residents and normal farming practices that are related to the conduct of agricultural activities.
 - To encourage sustainable farming activities based on whole farm and catchment planning principles on an individual and community basis.
3. Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, the Responsible Authority must consider, as appropriate:
 - The Land Capability Study for the Cardinia Shire (February 1997).
 - Whether the land is liable to flooding and any advice received from Melbourne Water.
 - Whether the use, building, works or subdivision will be detrimental to the horticultural significance of the area.
 - Whether the dwelling is reasonably required for the operation of the rural activity being conducted on the land.

- Whether the use utilises the high quality soils for horticultural or agricultural pursuits.
- The impact of the use, building, works or subdivision on the character and appearance of the area.
- Whether the site is suitable for the use, building, works or subdivision and the compatibility of the proposal with adjoining and nearby farming and other land uses

Overlays

The land is subject to **Clause 44.04 - Land Subject to Inundation Overlay**



Fig 3: LSIO mapping – source <https://mapshare.vic.gov.au/vicplan/>

4. The purposes of the Land Subject to Inundation Overlay are:
- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
 - 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.

5.

Planning Permit Triggers

The proposal for the use and development of the land for Rural Industry and a Caretakers Dwelling requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 37.01-1 (SUZ1), a planning permit is required to use the land for Rural Industry and a Caretakers Dwelling.
- Pursuant to Clause 37.01-5 (SUZ1), a planning permit is required for buildings and works associated with a Section 2 use.
- Pursuant to Clause 44.01-2 (LSIO), a planning permit is required for buildings and works.

Note: Use of the land for crop raising is as of right under the SUZ1 and does not require planning approval.

Note: Buildings associated with Rural Industry cannot exceed 500sqm.

Note: There is no minimum lot size for a Caretakers Dwelling pursuant to Table 1 of Schedule 1.

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.*
- *Placing a sign on site*

The notification has been carried and Council has received 6 objections to date.

The key issues that were raised in the objections are:

- Inconsistency with the Special Use Zone Schedule 1
- Viability of the agricultural operation/water access
- No attempt made to commence the crop component
- Enforceability issues associated with the Caretakers Dwelling
- Concerns over the industrial hemp crop and potential contamination
- Security concerns associated with the crop
- Proposed Rural Industry not consistent with the land use definition

Note: The Section 57A amendment documents were recirculated to objectors via email on 20th August 2020. Updated objections were received with the issues raised also listed above.

Referrals

The application was referred to Melbourne Water as a statutory referral as the site is located within the Land Subject to Inundation Overlay.

Originally, Melbourne Water did not object subject to conditions. As this was inconsistent with the response received for Permit Application T180116, clarification was sought from Council's Planning Officer and subsequently Melbourne Water issued a revised response objecting to the proposal.

Consequently, amended plans were resubmitted by the applicant to address their concerns. Melbourne Water has since issued a revised referral response with no objection to the proposal subject to conditions.

Discussion

Planning Policy Framework

A number of state and local planning policies are relevant to this application, particularly those relating to agriculture, such as clauses 14.01-1S (Protection of agricultural land), 14.01-2S (Sustainable agricultural land use) and 21.04-2 (Agriculture). Broadly speaking, these policies identify land of agricultural importance and seek to ensure the continued viability and productivity of agricultural industries.

One of the key themes of these policies are strategies that seek to facilitate ongoing productivity and investment in high value agriculture and to ensure that the use and development of land gives consideration to land capability and can utilise economically and environmentally sustainable farming practices. As discussed in later in this section, information provided by the applicant by way of a Farm Management Plan and feasibility reports substantiate the viability of the enterprise and reasonable nexus between the agricultural activity and the proposed land uses. The Planning Policy Framework seeks to ensure that land is maximised for agricultural pursuits where there is capacity to do so.

The proposal delivers on policies that encourage 'value adding' and diversification of agricultural activities by way of the Rural Industry component which seeks to process the product grown on site and close the processing loop in the same facility. While the resulting hempcrete product is generally not what may be considered the typical output from agricultural activities in the area, it nonetheless represents an appropriate outcome that is aligned with the preference for soil-based activities to be undertaken, which in this case is the growing of hemp.

The fact that the rural industry and caretaker's house represent less than 25 per cent of the site area ensures the remainder of the land is not disturbed. Additionally, it is noted that the planning framework supports other rural activities beyond the core agricultural activities, with Clause 14.01-2S including strategies such as:

- Assist genuine farming enterprises to embrace opportunities and adjust flexibly to market changes.
- Encourage diversification and value-adding of agriculture through effective agricultural production and processing, rural industry and farm-related retailing.

The introduction of the proposed rural industry and caretaker's house is consistent with these strategies while also remaining consistent with the broader policy direction for land uses and development that does not diminish the long-term agricultural capability of the land.

These policies, combined with Clause 13.07-1S (Land use compatibility), also recognise the importance of land use compatibility and the avoidance of impacts on adjacent land. With a proposal that is based around horticulture, the proposal shares some similarity with surrounding land uses such as market gardens and will have similar characteristics in terms of built form (such as shedding and dams) and operational activities (such as plant and machinery). However, it also has fundamental differences through its introduction of a residential use (caretaker's house) and an industrial use (rural industry). Despite this, the proposal does not introduce any significant land use conflicts. While the caretaker's house is a residential use, its sensitivity is lower than typical dwellings due to its relationship and association with the other activities occurring on the site. The industrial use of the land is limited in terms of scale (i.e. it must meet zone requirements for building area) and the nature of the use (i.e. it must be a rural industry only).

The site's location within a green wedge requires consideration of Clause 11.01-1R (Green wedges – Metropolitan Melbourne), which seeks to protect the green wedges of Metropolitan Melbourne from inappropriate development. The green wedge is characterised by its rural landscape and the proposed development is consistent with this character, with built form that is subordinate to the landscape due to its setbacks from boundaries, single-storey height and limited site coverage. This outcome is also responsive to other policies contained at Clause 16.-01-5S 3S (Rural residential development) and Clause 21.03-4 5 Rural residential and rural living development.

Overall, the proposal delivers on the key directions of the state and local policy planning framework.

Clause 22.05 – Western Port Green Wedge Policy

This Policy, which was incorporated into the Cardinia Planning Scheme in August 2017, as well as Cardinia Shire's Western Port Green Wedge Management Plan (Incorporated Document) requires an extra layer of consideration for Planning Permit applications. This policy essentially applies to all Green Wedge Zone and Special Use Zone 1 land south of the Princess Highway as detailed in the mapping below. This Policy provides additional direction for land use and development applications and under this application is to be assessed in conjunction with the SUZ1.

Clause 22.05 identifies three distinct precincts within the Western Port Green Wedge and includes a vision and future direction for each of these precincts. The Subject Site is within Precinct 1, which is designated for 'Agriculture, horticulture and soil-based food production.'

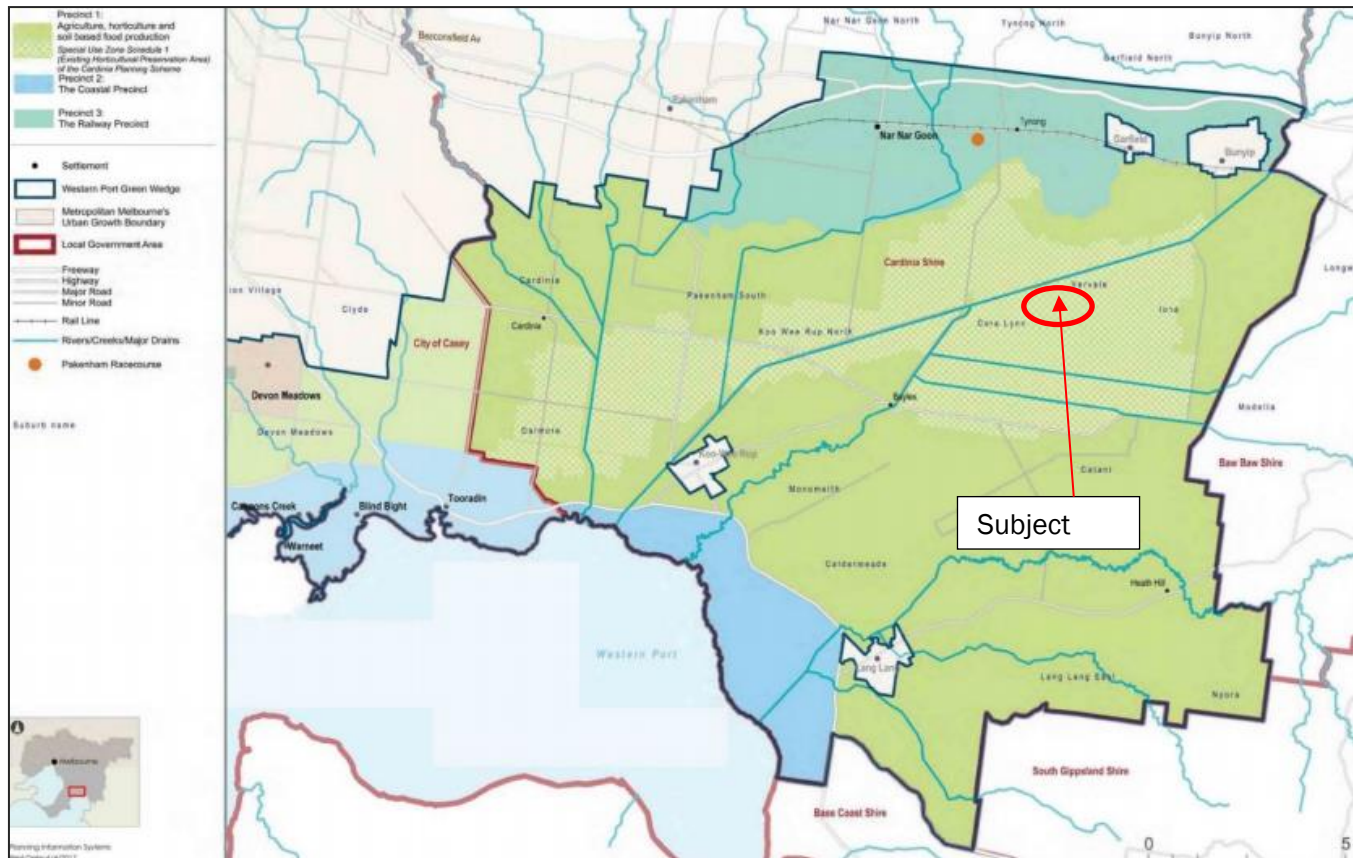


Fig 4: Cardinia Green Wedge Precincts – Clause 22.05 of the Cardinia Planning Scheme

The vision for Precinct 1 is:

Precinct 1 will be the hub of, agriculture, horticulture and soil-based food production within the Cardinia Western Port Green Wedge, taking advantage of its highly versatile soils, vegetable production (in particular asparagus), dairy and beef farming, other agricultural pursuits, potential access to Class A recycled water and the important role this precinct plays in food security. Land within the SUZ1 part of the precinct will be prioritised for soil-based agricultural and horticultural use and soil based food production with a focus on the consolidation of lots to support the economic viability of the agricultural and horticultural industry.

Opportunities for new, innovative or more intensive agriculture and horticulture and soil-based food production will be supported to ensure that the rich agricultural potential of the precinct is realised.

It will integrate biodiversity and agricultural outcomes by recognising ecosystem services which can improve agricultural efficiency.

Opportunities for linking the community with the local agricultural and horticultural industry will be identified and promoted to help establish food-based tourism within the precinct.

The future directions for Precinct 1 include a preference for soil-based agriculture to be the primary activity within the SUZ1 area, with non-rural uses to be discouraged. Other directions

include support for rural industry to allow farmers to value add to their produce and to support and protect the existing vegetable industry.

The application has evolved during the assessment process in response to concerns and comments relating to matters such as the land use characterisation and feasibility of the proposal. This process has included an independent review of the application material by rural consultants, which concluded that the application generally provides a sufficient level of detail to demonstrate the feasibility and viability of the proposal. While the review also found some gaps in the information (particularly in relation to water access and waste management), it recommended that this could be addressed via a condition of any planning permit.

The reviews and subsequent revisions to the application have resulted in a proposal that achieves the objectives and policies of Clause 22.05. An assessment of the application against the land use policy considerations of Clause 22.05-3 is provided below.

Ensure that green wedge soils and their versatility are recognised as a finite resource and are protected accordingly	The uses are to be undertaken in conjunction with the primary horticultural use of the land and
Maintain and protect the highly productive agricultural land from incompatible uses including non-soil based farming.	The rural industry and caretaker's house cover only a small area of the overall site and do not result in any irreversible impacts on the land; they are to be undertaken in conjunction with the primary horticultural use of the land and not incompatible with the surrounding uses.
Provide for the restructuring of lots in agricultural areas to reduce the impact of old and inappropriate subdivisions on the economic agricultural viability of the area.	The proposal does not provide for the restructuring or consolidation of land but it also does not prevent the land from being restructured in the future.
Minimise the risk of flooding which impacts on agricultural activities in the Koo Wee Rup Flood Protection District.	The entirety of the site is affected by flood but the proposal incorporates a fill pad to respond to the risk of flooding. Melbourne Water has not objected to the proposal, subject to conditions that will be imposed on any permit.

Overall, the proposal is an appropriate outcome that is consistent with the policy of Clause 22.05-3 and the broader vision and future directions of Precinct 1. While not consisting exclusively of horticulture, the proposal is nonetheless based on the horticultural activities to be undertaken on the land. The proposal reinforces the agricultural importance of the region and responds to the desire to support new or innovative forms of agriculture.

Clause 37.01 – Special Use Zone, Schedule 1

A primary purpose of the Special Use Zone Schedule 1 is: *To preserve land of high agricultural quality for horticulture and other farming activities.* Having regard to this Zone and the definition of Rural Industry and Caretakers Dwelling, Council must be satisfied that these uses will remain secondary and tertiary and that the soil-based operation proposed remains the primary land use, particularly in highly productive areas such as where the subject site is located.

As detailed above, the application documents (including feasibility/soil reports/land assessment/Farm Management Plan) were independently reviewed by a rural consultant. The main areas of concerns relating to feasibility and viably of the enterprise have been addressed and that soil based agriculture will remain the primary land use.

Whilst Council is not bound by the external review, it has greatly assisted in the decision-making process as the feasibility question is essentially the heart of Council's concerns when considering this application. Council needs to ensure that it does not support a "tailing wagging the dog" situation with such proposals. Council considers that this application has a hierarchy and three sequences with respect to the primary, secondary and tertiary land uses.

First and foremost, Council requires a high degree of confidence that the proposed soil-based operation is feasible based on the lot area, soil profile, also factoring in climate and water requirements as suggested in the review. This aspect is as of right under the Zone and where there is no established crop, understanding this detail is considered more vital. The growing of industrial hemp must be (and remain) the primary land use to which the secondary and tertiary land uses are reliant upon.

Now that this aspect is satisfied, the Rural Industry land use and the processing of the product then comes into consideration which must be directly linked with crop raising on the subject site (i.e. there cannot be a *reliance* of material brought in externally for the Rural Industry use however it's acknowledged that the definition allows for this to occur). In principal, Council has no significant concerns with this land use as it is complimentary and aligns with the Zone providing that crop raising on the subject site remains the dominant land use. The Rural Industry use supports soil-based agriculture with this component closing the processing loop on-site and provides for a more efficient process. As detailed above, a condition of approval will require an amended floor plan to ensure the area of this building does not exceed 500sqm in accordance with Schedule 1.

The applicant has stated in the application documents that a maximum three (3) employees is required for the enterprise and whilst there is no concern from a carparking perspective, a condition of approval will limit employee numbers for the Rural Industry to three (3) to ensure to the enterprise is reliant on occupant/s of the Caretakers Dwelling.

The Caretakers Dwelling is considered a third-tier land use which requires a higher degree of scrutiny considering its accommodation aspect and strong emphasis in the Planning Scheme to ensure land in this Zone does not become used for rural-residential purposes. Council considers that this land use relies on both the crop (at this scale) and Rural Industry to justify its nexus. As the subject site is smaller than many surrounding farms with multiple land holdings, Council considers that the intensity/scale of both the crop raising and Rural Industry combined is required to justify the Caretakers on this site.

Throughout the application process (once amended), Council raised concerns with the notion of a family residing in a Caretakers Dwelling and whether this was inconsistent with the land use definition. The applicant submitted legal advice which concludes that a Caretakers Dwelling does not strictly exclude family members. This was further substantiated by the rural consultant and no known VCAT cases supporting this position.

An applicant is not required to demonstrate there is a *substantial* need for a Caretaker's Dwelling; the threshold for consideration requires a *reasonable* nexus. However, as stated by the Tribunal in *Laukart v Knox City Council* [2011] VCAT 1269, the Planning Scheme "does require some understanding that the business on site is of a scale or form that requires support of an onsite caretaker to distinguish the dwelling as primarily for taking care of the business, rather than primarily to provide general accommodation as a dwelling." The term "reasonable" is also reflected in the Decision Guidelines in Schedule 1:

Whether the dwelling is reasonably required for the operation of the rural activity being conducted on the land.

Having regard to the feasibility assessment and Farm Management Plan provided by the applicant and external review carried out, a *reasonable* nexus between the Caretakers Dwelling and

enterprise (including Rural Industry) has been established via the primary and secondary land uses.

As with any similar proposal, this does carry a degree of risk that if the operation is unsuccessful, Council will be required to enforce the obligations of the Section 173 Agreement as per Part 2.0 of Schedule 1 and require that the Caretakers Dwelling be removed from the land. Nonetheless, whilst this risk would exist regardless, Council must have a high degree of confidence that the land uses assessed under this permit application will conform with the hierarchy detailed above. In light of the information received and having regard to the independent review carried out, Council considers it appropriate to apply a staged approach to any Planning Permit granted which would ultimately require the crop and Rural Industry component be established prior to the construction/use of the Caretakers Dwelling. Whilst the approach may be considered unorthodox, this results in a material outcome on the site which is consistent with Planning Policy and the ultimate purpose of the Special Use Zone 1. This is an appropriate response having regard to the definition of a Caretakers Dwelling which requires a building, operation or plant to be a lawful use of the land noting that a Dwelling is a prohibited land use under the SUZ1 as the site is less than 10 hectares.

With respect to the proposed buildings, works and associated effluent disposal area, they are of minimal concern having regard to the Zone. The buildings are modest in scale relative to the land area and are well setback from buildings on adjoining and nearby land. The buildings are clustered together in close proximity of the frontage ensuring land allocated for crop raising is proportionately higher. The design elements of each building are suitable in a rural setting and consistent with many other buildings in the area. The setback of the Caretakers Dwelling from the eastern boundary exceeds the 20m listed in Schedule 1 however the shed for the Rural Industry use is setback 16.0m. As the adjoining land to the east is used for broad acre cropping, spraying in close proximity of this boundary does occur as stated by operators of this site in their objection. Whilst the shed is not considered 'habitable' it is reasonable to require an increased setback to 20m in line with Schedule 1 in light of the knowledge that spraying currently occurs on adjoining land. The separation of highly occupied buildings from the eastern boundary aims to reduce land use conflicts and ensure the adjoining site can continue to operate as usual.

Clause 44.04 - Land Subject to Inundation Overlay

A planning permit is required for all buildings and works under this provision.

An objective of this provision is 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."

The amended plans submitted to Melbourne Water show the buildings in the same location on the site however a fill pad had now been incorporated to raise the finished floor level of the dwelling to .

As detailed above, this application has been referred to Melbourne Water who do not object to the proposal subject to conditions.

There are no watercourses on the subject site or nearby vicinity which would be impacted by the proposed development.

Having regard to the above, Council does not have concerns with the proposed buildings and works as it relates to this provision.

Clause 51.02 - Metropolitan Green Wedge Land: Core Planning Provisions

This provision lists prohibited land uses in Metropolitan Melbourne Green Wedge land.

Note: Land located in the SUZ1 in Cardinia Shire is classified as a rural zone and is located outside an Urban Growth Boundary therefore this provision applies.

The proposal is consistent with the Table at Clause 51.02-2 which specifically excludes a Dwelling (including Bed and Breakfast and Caretakers Dwelling under the nesting diagram) under the Accommodation section. Further to this, Rural Industry is also specifically excluded where Industry is listed.

Having regard to the above, this provision is satisfied.

6. *Clause 52.06 – Car Parking*

7. Pursuant to the table at Clause 52.06-5, the following car park rate applies for the Rural Industry land use:

Industry other than listed in this table	2.9	1	To each 100 sq m of net floor area
---	------------	----------	---

Based on the total net floor area of the building (which is reduced to no more than 500sqm via condition), 14 car spaces are required on-site (rounded down from 14.5). The applicant has shown 3 formal car spaces adjacent to the shed however there is adequate area within the building zone to accommodate all spaces although it is acknowledged this specific proposal would not warrant 14 spaces. Notwithstanding this, as no car park waiver is being sought under this application these additional spaces will be required via condition.

Response to objections

Inconsistency with the Special Use Zone Schedule 1/Viability of the agricultural operation/access to water

As detailed above, one of the key purposes of the Special Use Zone Schedule 1 is to preserve land of high agricultural quality for horticulture and other farming activities. Other purposes of the zone include to discourage non-agricultural and non-soil based uses and to protect the area from the encroachment of urban and rural residential type development. The proposal is not inconsistent with these purposes.

While the proposal involves uses that are not in themselves horticultural or soil-based, they are nonetheless provided in direct support of the horticultural activities to be undertaken on the land. They do not represent urban or rural-residential types of development and they are not uses that would damage the land in a way that would be contrary to the ‘preservation’ of land for farming activities as the two land uses are directly linked with horticulture occurring on the subject site. It is further noted that whilst there is a general acknowledgment that Cardinia is suitable for food production, this is not a specific requirement when considering agriculture in general or horticulture as this can come in many forms. The overarching purpose is to ensure land in this area is highly productive where there is capacity.

The proposal also responds positively to the decision guidelines of the zone, which require consideration of matters such as the impact on the horticultural significance of the area, the impact on the character or appearance of the area, the suitability of the site for the proposal, and compatibility of the proposal with adjoining and nearby land uses.

As detailed above, the feasibility of the agricultural operation has been substantiated by the applicant by way of a Farm Management Plan and feasibility study which has been independently reviewed.

With respect to secured water rights, this was also highlighted in the latest review of the application documents by Plan it Rural who have recommended this form part of conditions on any permit granted. As water access is a primary aspect of this enterprise, a condition of approval will require evidence of secure water rights, for a minimum 5 years, to service the enterprise as described in the Farm Management Plan prior to the commencement of any development. A minimum 5 year time frame has been specified to provide Council with confidence water rights have been secured for a suitable timeframe to establish the enterprise.

Concerns have been raised that the applicant is seeking circumvent the Planning Scheme to enable accommodation which would otherwise be prohibited which may set a precedence. The SUZ1 does not specify a minimum lot size for a Caretakers Dwelling and by definition this land use requires a building, operation or plant to be lawful therefore each application will be assessed on its merits and agricultural pursuit put forward to Council. Whether or not this application is supported, the opportunity to apply for a Caretakers Dwelling currently exists for lots less than 10 hectares.

The land at 494 Eleven Mile Road, Cora Lynn has also been raised. Planning Permit T160474 was issued for the use and development of the land for a Dwelling and Rural Industry (distillery) on 23 March 2017. This site is greater than 10 hectares therefore a Dwelling could be considered. To date, the dwelling has been constructed however the Rural Industry aspect has not commenced. This Planning Permit has not expired. For clarity, there is no Section 173 Agreement registered on title which prohibits the use of the land for a Dwelling.

No attempt made to commence the crop component

Council acknowledges that an established crop/agricultural operation would assist in the decision-making process as sustained capability would then be demonstrated, however the Planning Scheme provisions do not specify that an agricultural operation *must* be established in order to consider an application acceptable. Notwithstanding this, and as detailed above, Council considers it of high value to apply a staged approach to the approval considering that the definition of a Caretakers Dwelling requires a building, operation or plant to be a lawful use of the land. This approach, whilst may be considered bold, achieves a material outcome on the site consistent with the planning policy and requires a great deal of investment from the permit holder.

Enforceability issues associated with the Caretakers Dwelling

Part 2.0 of Schedule 1 of the Special Use Zone requires that the owner must enter into a Section 173 Agreement which requires that the Caretakers Dwelling must be removed when no longer in use. This is a mandatory requirement and therefore must be imposed on any Planning Permit granted. If the crop raising or Rural Industry components were not successful, by definition this would result in a breach of both the Planning Permit and Cardinia Planning Scheme. Council would then have the legal ability to enforce the Section 173 Agreement. It's acknowledged this could be challenging however this is the only tool available to ensure it is removed when no longer in use. In such an event, this would require involvement from Council's Planning Compliance Department.

Proximity of the buildings to the eastern boundary

As detailed above, the Caretakers Dwelling is setback 23 metres from the eastern boundary which exceeds 20 metres specified in Schedule 1. Whilst the shed is not considered 'habitable'

it is reasonable to require an increased setback to 20m in line with Schedule 1 in light of the knowledge that spaying currently occurs on adjoining land. The separation of highly occupied buildings from the eastern boundary aims to reduce land use conflicts and ensure the adjoining site can continue to operate as usual.

Security concerns

Concerns have been raised with respect to security of the crop (although not THC variety) and potential impacts to adjoining farms. Whilst security should be considered by the landowner, this is not a relevant planning consideration as crop raising is as of right under the SUZ1. The owner must comply with any licensing requirements relating to security and other relevant agricultural legislation as required. The security issue is not relevant planning consideration having regard to this application. **Note:** In the event fencing is required for security purposes, this may trigger planning approval under the LSI0 however this can be assessed under a separate application and is subject to Melbourne Water approval. Such an application is exempt from advertising.

Concerns over the industrial hemp crop and potential contamination

As detailed above, the use of the land for crop raising is as of right under the SUZ1. This can occur without planning approval and the Cardinia Planning Scheme does not specify the type of crops which can or should be planted therefore the selected product (industrial hemp) is not a planning consideration. Whilst not disregarding the possibility of contamination, this is an issue which is not addressed under a Planning Permit application.

Proposed Rural Industry not consistent with the land use definition

Clause 73 of the Cardinia Planning Scheme defines Rural Industry as:

Land used to:

- a) *handle, treat, process, or pack agricultural produce;*
- b) *service or repair plant, or equipment, used in agriculture; or*
- c) *manufacture mud bricks.*

Based on the information submitted by the applicant, Council is satisfied that the manufacturing of hempcrete panels by processing hemp in its primary form aligns with this definition. This is because the proposal seeks to “process” (manufacture) “agricultural produce” (hemp).

Neither “process” nor “agricultural produce” is defined in the Cardinia Planning Scheme or the *Planning and Environment Act 1987*. However, several VCAT decisions provide clarity in the interpretation of these terms.

First, “process” is generally accepted to include a manufacturing component, as the ordinary meaning of the term (as defined by the Macquarie Dictionary) is “To treat or prepare by some particular process, as in manufacturing.” This position is taken by the Tribunal in *Rainsbury v Bass Coast SC* [2009] VCAT 2686. The Macquarie Dictionary further defines “manufacture” in part to include ‘to workup (material) into form for use.’ Council acknowledges that hempcrete production involves manufacturing—the decortication of the raw produce, the mixture of the hurd with lime and water, and the curing/drying of the panels all involve a manufacturing element—however, these are all contemplated within a “process” for the purposes of the definition of Rural Industry.

Next, the definition of Rural Industry requires the processing of “agricultural produce” as opposed to a secondary (pre-processed) product. Here, the Tribunal has analysed the definition of

“agricultural produce” in several decisions. Whilst the decisions reach varying conclusions that are largely factually dependent, what seems apparent from these decisions is:

- A product used in the manufacturing process must be some sort of primary produce. *See Chocolate Vine Pty Ltd v Mornington Peninsula SC* [2019] VCAT 1500.
- That primary produce may be harvested on site or off site to be used in its raw form, but it cannot be pre-processed off site and then used in a secondary manufacturing process on site. *See Shaw v Mornington Peninsula SC* [2019] VCAT 1633; *Garrett v Maroondah CC* [2003] VCAT 1179.
- The substantial purpose of the Rural Industry use must be the processing (or handling, treating, packing) of that primary produce. *See Rainsbury v Bass Coast SC* [2009] VCAT 2686.

In *Chocolate Vine Pty Ltd v Mornington Peninsula SC* [2019] VCAT 1500, Deputy President Bisucci held that the processing of fruit, nuts and flowers on site constituted the processing of “agricultural produce”, and thus concluded that a chocolaterie was a Rural Industry use. The Tribunal reached this conclusion notwithstanding only 8% of the land was dedicated to the planting of fruit and nut trees, processed chocolate pastilles were imported from off site, and the main activity on the site was the manufacture and sale of chocolate.

In *Shaw v Mornington Peninsula SC* [2019] VCAT 1633, the Tribunal found that a microbrewery was appropriately classified as a Rural Industry because primary produce (both hops and unprocessed barley) were utilised in the brewing process. Even though some of the barley was imported from other sources, this fact was less relevant to the Tribunal than the unprocessed state of the imported barley used on site.

Finally, in *Rainsbury v Bass Coast SC* [2009] VCAT 2686, the Tribunal held a microbrewery that imported pre-processed malted barley was *not* a Rural Industry use as the malted barley was a secondary product and therefore not ‘agricultural produce’. Importantly, the decision explained that an ‘approach which . . . respects the ordinary meaning of the words agricultural produce, is that it is the product of agriculture in the state it is found when it leaves the farm gate.’ By importing a secondary product (malted barley) on site for the brewing process, it was determined that the barley was not in ‘the state it is found when it leaves the farm gate’, and therefore the brewing process did not constitute the processing of ‘agricultural produce’.

Rainsbury is also persuasive in instructing that the ‘substantial purpose’ of a Rural Industry must be the processing of agricultural produce. Finding that imported malted barley was a secondary material (i.e. not in the state it was found at the farm gate), it was noted that in this particular proposal, the only agricultural produce involved in the brewing process was hops. In paragraphs 19-20, Senior Member AP Liston stated:

[19] *In my opinion the substantial purpose of a rural industry, of the type contemplated here, is the processing of agricultural produce. Is the substantial purpose of brewing the processing of hops?*

[20] *In beer making the sugars are extracted from the malted barley together with other elements which contribute to the flavour and character of the final product. I do not think it can be concluded that hops are so central to the process of making beer that the substantial purpose of brewing is the processing of hops, an agricultural product.*

[21] *I find that a conventional micro brewery, which imports its malted grains from another processor, cannot be characterised as a rural industry.*

Whilst these cases involve the manufacture of different types of products—namely chocolate and beer—the aforementioned principles relating to the definition of ‘agricultural produce’ are instructive. Applying these principles to the current proposal, Council finds that the processing of raw hemp to manufacture hempcrete in the current proposal is appropriately categorised as Rural Industry for the following reasons:

- Agricultural produce (industrial hemp) is cultivated on the land. It is primary produce in its raw form when it is utilised on site through various processes.
- Hemp is the main component of hempcrete and the ‘substantial purpose’ of the hempcrete production involves the processing of hemp. Council considers this is relevant when comparing the current proposal to the chocolaterie in *Chocolate Vine Pty Ltd v Mornington Peninsula SC*. In that case, the processing of fruits and nuts were secondary ingredients in the final chocolate product. However, because the agricultural produce was a mere component of the manufacturing process, it was considered a Rural Industry use. In the current proposal, the primary component of the final product is agricultural produce, arguably making it even more appropriately classified as Rural Industry.
- The hemp crop is harvested on site or brought to the site in the ‘state it is found when it leaves the farm gate.’ Only when it is on site is the hemp processed, using a decorticator that breaks down the primary product into the leaf, fibre and hurd. It is then further manufactured by mixing the hurd with lime and water, and then pressing and curing the secondary product. The hemp is not imported in a secondary, processed form as all processing occurs on site.
-
- Because of this, the proposal contrasts with the brewery in *Rainsbury v Bass Coast SC*, where the microbrewery at issue was held to not align with a Rural Industry use because the barley used in that operation was pre-processed (malted) off site from other sources and thus was not agricultural produce. Here, there is no doubt that the raw form of hemp processed in the first instance is indeed agricultural produce.
- The fibre component of the hemp will be on-sold in its raw form, which can be utilised for textiles and other products. This requires some form of packing for distribution purposes and is considered a component of Rural Industry.

For these reasons, Council is satisfied that the processing of hemp in its primary form to manufacture hempcrete in this instance aligns with the definition of Rural Industry in the Cardinia Planning Scheme.

Conclusion

The relevant Planning Scheme provisions clearly seek to ensure that agriculture, in particular soil-based agriculture, remains the primary land use for land located in the Special Use Zone 1 where the opportunity is available. In this instance, it is possible the subject site can be primarily utilised for a soil-based enterprise and having regard to the documentation submitted and including an independent review, Council has been provided with a high degree of confidence that the proposal put forward is feasible to warrant the secondary and tertiary land uses as per the hierarchy detailed above.

Having regard to this, it is recommended that the application be approved in a staged approach subject to the following conditions:

Conditions

Additional information

1. 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 must be generally in accordance with the plans submitted with the application but modified to show:

Development Plans

- a. The setback of the building used for Rural Industry increased to a minimum 20 metres from the eastern boundary.
- b. The floor layout of the Rural Industry building reduced to no more than 500sqm (including any mezzanine level).
- c. Deletion of the future fibre processing area
- d. A minimum 14 car parking areas shown in accordance with Clause 52.06 of the Cardinia Planning Scheme.

Farm Management Plan

- e. Details on soil profiling, raised beds and drainage works where required as referenced in the Land Assessment.
2. Prior to the commencement of any development approved under this Permit, it must be demonstrated that a water right has been secured, in accordance with relevant legislation, for a minimum five (5) years to service the agricultural operation as per the Farm Management Plan. This must have regard to the capacity of the dam approved under Planning Permit T200241.
 3. Prior to the commencement of any development approved under this Permit, a Waste Management Plan must be prepared which addresses any by-product or effluent as a result of the hemp processing/hempcrete production.

General

4. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
5. Once the development has commenced it must be continued and completed to the satisfaction of the Responsible Authority.
6. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of all of the buildings, including the roof, must be of a non-reflective nature.
7. All stormwater must be conveyed by means of drains to satisfactory points or areas of discharged approved by the Responsible Authority so that it will have no detrimental effect on the environment or adjoining property owners.
8. Stormwater works must be provided on the subject land to prevent overflows onto adjacent properties.
9. All earthworks must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion to the satisfaction of the Responsible Authority.

Rural Industry

10. The Rural Industry approved under this permit may only operate between the following hours:
 - Monday to Saturday: 8:00am – 4:00pm
11. Any deliveries to and from the subject site, relating to the Rural Industry use must occur within the operating hours specified above.
12. The Rural Industry must utilise industrial hemp grown on the subject site as a primary produce source to the satisfaction of the Responsible Authority.
13. No more than three (3) employees (who do not reside in the Caretakers Dwelling) may be associated with the Rural Industry use.
14. No retail sales may occur from the subject land.
15. Any education element associated with the enterprise must remain an ancillary component to the satisfaction of the Responsible Authority.
16. The use and development must not detrimentally affect the amenity of the area, through the:
 - a. Transport of materials, goods or commodities to or from the land;
 - b. Appearance of any building, works or materials;
 - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d. Presence of vermin.
17. Any waste material not required for further onsite processing must be regularly removed from the subject land in accordance with the endorsed Waste Management Plan. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.
18. Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.

Caretakers Dwelling

19. The use/development of the Caretakers Dwelling cannot commence and a Building Permit must not be granted, until such time that the agricultural operation considered under the permit application (industrial hemp) and Rural Industry approved under this Permit are established to the satisfaction of the Responsible Authority.
20. Prior to the issuing of a Building Permit for the Caretaker's Dwelling, the owner must enter into an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* to provide for the following:
 - a. The Caretakers Dwelling must be removed from the subject land if either the industrial hemp crop generally in accordance with the endorsed Farm Management Plan or the Rural Industry use approved under Planning Permit T190712 ceases.

The Agreement must be registered on title with all costs borne by the Permit holder.

21. Before the Caretakers Dwelling is occupied, the building must:
 - a. have access provided via an all-weather road to the satisfaction of the Responsible Authority.
 - b. be connected to a septic tank system to ensure wastewater is treated and retained on site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
 - c. be connected to a reticulated potable water supply or have an alternative potable water supply, with appropriate storage capacity for domestic use, to the satisfaction of the Responsible Authority.
 - d. be connected to a reticulated electricity supply or have an alternative energy source.
22. All wastewater from the Caretakers Dwelling must be discharged into the reticulated sewerage system, to the satisfaction of the Responsible Authority, within 3 months of the sewerage system becoming available to the property.
23. All wastewater from the Caretakers Dwelling must be treated and contained on site in accordance with the EPA Septic Tank Code of Practice and Council requirements. No part of the septic tank system may be located within the fill pad.

Melbourne Water

24. The dwelling must be constructed with finished floor levels set no lower than 22.60 metres to Australian Height Datum (AHD), which is 600mm above the applicable flood level of 22.0 metres to AHD.
25. The shed must be constructed with finished floor levels set no lower than 22.30 metres to AHD, which is 300mm above the applicable flood level of 22.0 metres to AHD.
26. The dwelling and shed must be constructed on a fill pad set no lower than 22.15 metres to AHD, and must extend a minimum of 5 metres around the building footprints (maximum 10 metres around the shed to enable vehicle access), with the exception of the eastern side of the shed.
27. The driveway is to be filled to finished surface levels at least 200mm below but no more than 300mm below the 1% AEP flood level of 22.0 metres to AHD.
28. No filling or solid structures are to be placed within a minimum offset of 5 metres from the eastern boundary to enable any overland flood flows to enter the property and flow around the northern side of the fill pads.
29. Imported fill must only be placed on the property as shown in the submitted plans to ensure sufficient flood storage capacity is maintained on site.
30. The driveway must be constructed with twin 450mm diameter culverts (or equivalent flow area culverts) placed between Murray Road and the proposed Caretakers Residence to provide additional flood flow conveyance before the driveway is over topped by flood flow.

31. Any new fence must be an open style of construction or timber paling to allow for the passage of flood flow.
32. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels of the buildings, fill pads and driveway (as constructed) reduced to the AHD, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.
33. Prior to the commencement of works, a separate application direct to Melbourne Water must be made for the approval of any new or modified stormwater connections or crossings to Melbourne Water's drains or watercourses. Apply using our online application process.

Expiry

A permit for the development and use of land expires if.

- a) the development does not start within two (2) years after the issue of the permit; or
- b) the development is not completed within four (4) years after the issue of the permit; or
- c) the use does not start within two (2) years after the completion of the development; or
- d) the use is discontinued for a period of two (2) years.

Notes:

- i. A Building Permit will be required for this development. To obtain a building permit you will need to contact a registered building surveyor.
- ii. Prior to installation works commencing on the septic tank system, a Permit to Install must be obtained from Council.

Melbourne Water Notes:

- iii. This property is subject to flooding and is located within the Koo Wee Rup Flood Protection District Zone 2. Melbourne Water has determined that the flood level for a storm event with a 1% chance of occurrence in any given year is 22.0 metres to AHD.

Resolution

Moved Cr Ray Brown, seconded Cr Jack Kowarzik.

That Council issue a Notice of Decision to Refuse Planning Permit T190712 for the use and development of the land for Rural Industry and Caretakers Dwelling at 565 Murray Road, Vervale VIC 3814 on the following grounds:

- The Caretaker's House is not reasonably required for the operation of a rural activity being conducted on the land.
- The proposed manufacture of hemp based building products is an 'Industry' use that is prohibited in the Special Use Zone - Schedule 1 and Clause 51.02-2 of the Cardinia Planning Scheme.
- The proposal is inconsistent with Clause 22.05 of the Cardinia Planning Scheme because it does not support soil-based food production, does not support the existing vegetable industry, and does not have regard to the role of the Westernport Green Wedge in maintaining food security.
- The proposal is inconsistent with the objectives, land use policies, and the Precinct 1 vision and future directions/preferred land uses of Clause 22.05 of the Cardinia Planning Scheme.
- The proposal will have the potential to limit the operation and expansion of adjoining and nearby agricultural uses and is therefore incompatible with adjoining uses.
- The proposal is inconsistent with the purposes and decision guidelines of the Special Use Zone - Schedule 1.
- The proposal is inconsistent with Clause 21.04-2 of the Cardinia Planning Scheme.
- The proposal is inconsistent with Clause 14.01-1S of the Cardinia Planning Scheme.

Carried

5.6 Planning Scheme Amendment Activity Report

Responsible GM: Tracey Parker
Author: Luke Connell

Recommendation(s)

That Council note the report.

Executive Summary

The report provides an update on the status of active planning scheme amendments and planning scheme amendment requests received.

Relevance to Council Plan

Nil.

Status of Active Amendments

The following table provides details relating to planning scheme amendments that are currently being processed.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C222	XWB Consulting	85 McNamara Road, Bunyip	Amendment C222 proposes to: <ul style="list-style-type: none"> - rezone land from Farming Zone Schedule 1 (FZ1) to Low Density Residential Zone Schedule 3 (LDRZ3) (55 & 85 McNamara Road), - apply a Development Plan Overlay Schedule 21 (DPO 21) (85 McNamara Road), - apply a Design and Development Overlay Schedule 1 (DDO1), and - delete the Environmental Significance Overlay Schedule 1 (ESO1). 	Thu 08/08/2019	Fri 06/09/2019	Panel Report finalised on 29/04/2020. Council is awaiting further information from the proponent in relation to some of the issues raised in the Panel Report.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C228	Cardinia Shire Council	Pakenham Activity Centre	<p>The Activity Centre Zone Schedule 1 (ACZ1) has been prepared in response to conditions of approval to Cardinia Planning Scheme Amendment C211 to ensure that the Pakenham Structure Plan 2018 has been implemented via the appropriate planning tool into the Cardinia Planning Scheme.</p> <p>The ACZ1 is a direct translation of the objectives and strategies as set out in the draft Pakenham Structure Plan 2018 and draft Urban Design Framework 2018. The amendment amends Clauses 21.03, 21.04 and 21.06, implements two new reference documents, deletes parts of two Development Plan overlays Schedule 1 and 2 of 43.04, and deletes the Pakenham Activity Centre Incorporated Provisions, 20 March 2017 from Clause 72.04.</p>	Thu 24/10/2019	Fri 06/12/2019	<p>Panel Report finalised on 10/07/2020.</p> <p>The Panel's recommendations are being considered.</p>
C229	Cardinia Shire Council	Tynong, Garfield and Bunyip	Apply Environmental Significance Overlay Schedule 7 (ES07) to all land within the Urban Growth Boundary (UGB) of Garfield and Bunyip and all land zoned for urban purposes	Thu 21/11/2019	Fri 20/12/2019	<p>Re-exhibition completed.</p> <p>A bushfire risk assessment is in progress.</p>

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			within Tynong to facilitate the provision of habitat corridors for the Southern Brown Bandicoot.			
C234	Victorian Planning Authority and Cardinia Shire Council	Pakenham East Precinct	Incorporate the Pakenham East Precinct Structure Plan (PSP) and rezone the majority of land to Urban Growth Zone Schedule 5 (UGZ5) to facilitate the development of the land generally in accordance with the PSP, and make a number of other consequential changes to the Cardinia Planning Scheme to support the implementation of the PSP. Planning Scheme to support the implementation of the PSP.	Thu 18/01/2018	Fri 23/02/2018	<p>Adopted by VPA on 10/10/2018.</p> <p>A subsequent feedback process was initiated by VPA in mid-October for consideration of land north of power line easement.</p> <p>The PSP was amended by VPA in March 2020.</p> <p>The amendment is currently with the Minister for Planning for approval.</p>
C238	Cardinia Shire Council	Beaconsfield Precinct - Glismann Road and Old Princes Highway.	<p>Amendment C238 proposes to:</p> <ul style="list-style-type: none"> - Rezone land to the Neighbourhood Residential Zone (NRZ2) (CI 32.09 Sch 2) - Apply a Development Plan Overlay (DPO19) to the Glismann Road Area (CI 43.04 Sch 19) - Apply Development Contributions Plan Overlay 	Thu 09/07/2020	Mon 14/09/2020	<p>Exhibition completed.</p> <p>Submissions are under consideration.</p>

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			(DCPO5) to the Glismann Road Area (CI 45.06 Sch 5) - Amend Clause 72.04 to incorporate the Glismann Road Development Contributions Plan (GRDCP) into the CPS. - Amend Clause 53.01 to facilitate the provision of local open space through the GRDCP			
C240	Cardinia Shire Council	Koo Wee Rup Township	Implement the objectives of the Koo Wee Rup Township Strategy by applying Development Plan Overlays 23 and 24 and Design and Development Overlays 8 and 9 over various precincts within Koo Wee Rup.	Thu 13/02/2020	Mon 16/03/2020	Panel Hearing held 2/11/20. Awaiting completion of Panel Report.
C249	Cardinia Shire Council	Cardinia Shire municipality	Amend various provisions of the Cardinia Planning Scheme to correct mapping anomalies, delete redundant controls and correct ordinance errors.	Thu 04/06/2020	Thu 02/07/2020	Adopted by Council on 17/08/2020. Submitted to the Minister for Planning for approval.
C250	Cardinia Shire Council	Cardinia Shire	Implement the findings of the Cardinia Planning Scheme Review 2018 and update the Local Planning Policy Framework by introducing a new Municipal Strategic State (MSS) at Clause 21 of the Cardinia Planning Scheme. The MSS has been revised to	Thu 14/11/2019	Mon 16/12/2019	Adopted by Council on 17/08/2020. Approved by the Minister for Planning on 4/11/20. Gazetted 19/11/20.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			reflect the Council's strategic direction for the Cardinia Shire, strategic work that has been completed, and relevant State policy and legislation.			
C257	Cardinia Shire Council	53-65 Woods Street, Beaconsfield	Apply a Development Plan Overlay (DPO) for the Woodland Grove Precinct as shown in the Beaconsfield Structure Plan.			Council resolved to seek authorisation to prepare an amendment on 21/09/2020. Awaiting authorisation from the Minister for Planning.
C264	Cardinia Shire Council	Cardinia Shire municipality	Implement the Advertising Signage Design Guidelines into the Cardinia Planning Scheme.			Authorisation granted on 26/11/20. Preparation for public exhibition being undertaken.
C265	Cardinia Shire Council	Pakenham South Employment Precinct	Incorporate the Pakenham South Employment Precinct Structure Plan.	Thu 15/10/2020	Thu 26/11/2020	On exhibition.

Resolution

Moved Cr Stephanie Davies, seconded Cr Carol Ryan.

That Council note the report.

Carried

6 Meeting Closure

Meeting closed at 07:56 pm.

Minutes confirmed
Chairman