

UNCONFIRMED MINUTES

**FOR THE
GREATER SHEPPARTON CITY COUNCIL**

DEVELOPMENT HEARINGS PANEL

Meeting No. 6/2023

HELD ON

Friday 1 September 2023

at 10am

(Boardroom & Via Teams)

CHAIR

Councillor Shane Sali

ACKNOWLEDGEMENT

Welcome everyone to Development Hearings Panel meeting number 6 for 2023.

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

I would like to begin with an acknowledgement of the traditional owners of the land.

We, Greater Shepparton City Council, acknowledge the Yorta Yorta Peoples of the land which now comprises Greater Shepparton, we pay our respect to their tribal elders, we celebrate their continuing culture and we acknowledge the memory of their ancestors.

COMMITTEE MEMBERS PRESENT

Committee members present today are:

- Cr Shane Sali (Chair) – **Boardroom**
- Geraldine Christou – Director, Sustainable Development – **Boardroom**
- Colin Kalms – Manager - Building, Planning & Compliance – Greater Shepparton City Council – **Boardroom**
- Joel Ingham – Planning Co-Ordinator – Benalla Rural City Council – **Teams**
- Braydon Aitken – Manager Planning & Investment – Shire of Strathbogie - **Boardroom**

OFFICERS AND OTHERS PRESENT

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

- Elke Cummins – **Boardroom**

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

APOLOGIES

Nil

DECLARATIONS OF CONFLICTS OF INTEREST

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

ORDER OF PROCEEDINGS

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

- The proceeding is being minuted and recorded.
- Out of courtesy for all other attendees any recording devices should be turned off during the course of the hearing unless the chair has been formally advised that a party wishes to record proceedings.
- The DHP operates under Local Law No 2, with such modifications and adaptations as the DHP deems necessary for the orderly conduct of meetings.
- All DHP panel members have 1 vote at a meeting.
- Decisions of the DHP are by ordinary majority resolution. If a vote is tied the Chair of the DHP has the casting vote.
- The process for submitters to be heard by the Panel shall be:
 - The planning officer to present the planning report recommendation
 - Any objectors or representatives on behalf of the objectors present to make a submission in support of their objection (should they wish to)
 - The applicant or representatives on behalf of the applicant to present in support of the application
- For the purpose of today's hearing the officer, objectors and applicant will be limited to a maximum of 6 minutes per person with no extension.

MATTERS FOR CONSIDERATION

There is 1 item listed for consideration in this session of the DHP:

1. Planning Permit Application - **2023-34 – 1920 Ryan Road, St Germain's** - Use and development of land for dog breeding (10 bitches) and domestic animal boarding (20 dogs) in the Farming Zone and Land Subject to Inundation Overlay.
- 2.

10. LATE REPORTS

None

11. NEXT MEETING

Friday 27th October 2023

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| <u>Application No.</u> | <u>Subject Address:</u> | <u>Proposal:</u> | <u>Page No.</u> |
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| 2023-34 | 1920 Ryan Road St Germain | Use and development of land for dog breeding (10 bitches) and domestic animal boarding (20 dogs) in the Farming Zone and Land Subject to Inundation Overlay | 5 |

Application Details:

| | |
|-------------------------------|---|
| Responsible Officer: | Andrew Dainton |
| Application Number: | 2023-34 |
| Applicant Name: | Niche Architecture |
| Owner Name: | LINA SUN |
| Cost of works: | \$60,000 |
| Correct application fee paid? | Yes \$1185 – Development \$680.40 – Use Total - \$1,865.40 |
| Land/Address: | 1920 Ryan Road ST GERMAINS |
| Date Received: | 2 February 2023 |
| Statutory Days? | 189 |
| Zoning? | FZ1 |
| Overlay(s) | FO LSIO SCO3 |
| What is proposed? | Build and operate breeding kennels |
| Why is a permit required? | Use of land for dog breeding and domestic animal boarding under 35.07-1 Buildings and works in the FZ under 35.07-4 Buildings and works in the LSIO under 44.04-2 |
| Are all plans provided? | Yes |
| MPS Provisions: | 02.03-4 |
| PPF Provisions: | 13.03-1S 13.07-1S 14.01-1S 14.01-1L 14.01-2S 14.01-2L 15.01-2S 15.01-5S |
| Any application history? | Pre Application advice provided 13 January 2023 |
| Date referred/notified: | 14 March 2023 |
| Further Information? | N/A |
| Lapse date? | N/A |
| Notice/Referral? | 14 March 2023 |
| Number of Notice Responses? | 4 – two neighbour objections and two referral authority responses |
| Key Response Considerations? | Objections to the proposal – animal welfare, amenity, safety and waste impacts Referral authorities did not object the proposal subject to conditions |
| Title details – any: | |
| Restrictive Covenant? | No |
| Section 173 agreement? | No |
| Caveat? | No |
| Easement? | Yes – Water Supply |
| Building Envelope? | No |
| Access restrictions? | No |
| Is a CHMP required? | No |
| Garden area provisions? | NA |
| Is the site contaminated? | No |
| Is the site in a BMO or BPA? | Yes BPA |

| | |
|--|---|
| Is Cl. 13.01-2 Bushfire applicable: | Yes. However is not anticipated that the proposal will result in people congregating in large numbers and bushfire risk can be appropriately managed in this context. |
| Cl. 71.02-3 'Integrated Decision Making' assessment: | Amenity of neighbouring properties, animal welfare and waste disposal impacts. |
| Cl. 71.03-2 Acceptable Outcomes: | Officers have undertaken an assessment of the application and found that the proposal achieves acceptable planning outcomes. |
| Conflicts of interest in relation to advice provided in this report | No Council officers or contractors who have provided advice in relation to this report have declared a conflict of interest regarding the matter under consideration. |
| Key Planning Considerations: | Amenity of neighbouring properties, animal welfare and waste disposal impacts. |
| Recommendation: | Approval – Notice of Decision to Grant a Permit to issue |

Proposal

The application seeks permission for a dog breeding and animal boarding facility in the FZ.

Details are summarised below:

Animal husbandry (Dog breeding)

- Maximum of 10 litters at any time
- Two breeding sheds to be 21m x 6m x 3.1m height and comprise 7 breeding boxes and whelping stalls each
- Exercise yards located north and south of the sheds
- Sheds to be setback from the east of the existing dwelling on site (13.5m from house yard)
- Sheds to be constructed from Colorbond external materials and colours.

Domestic animal keeping (boarding kennels)

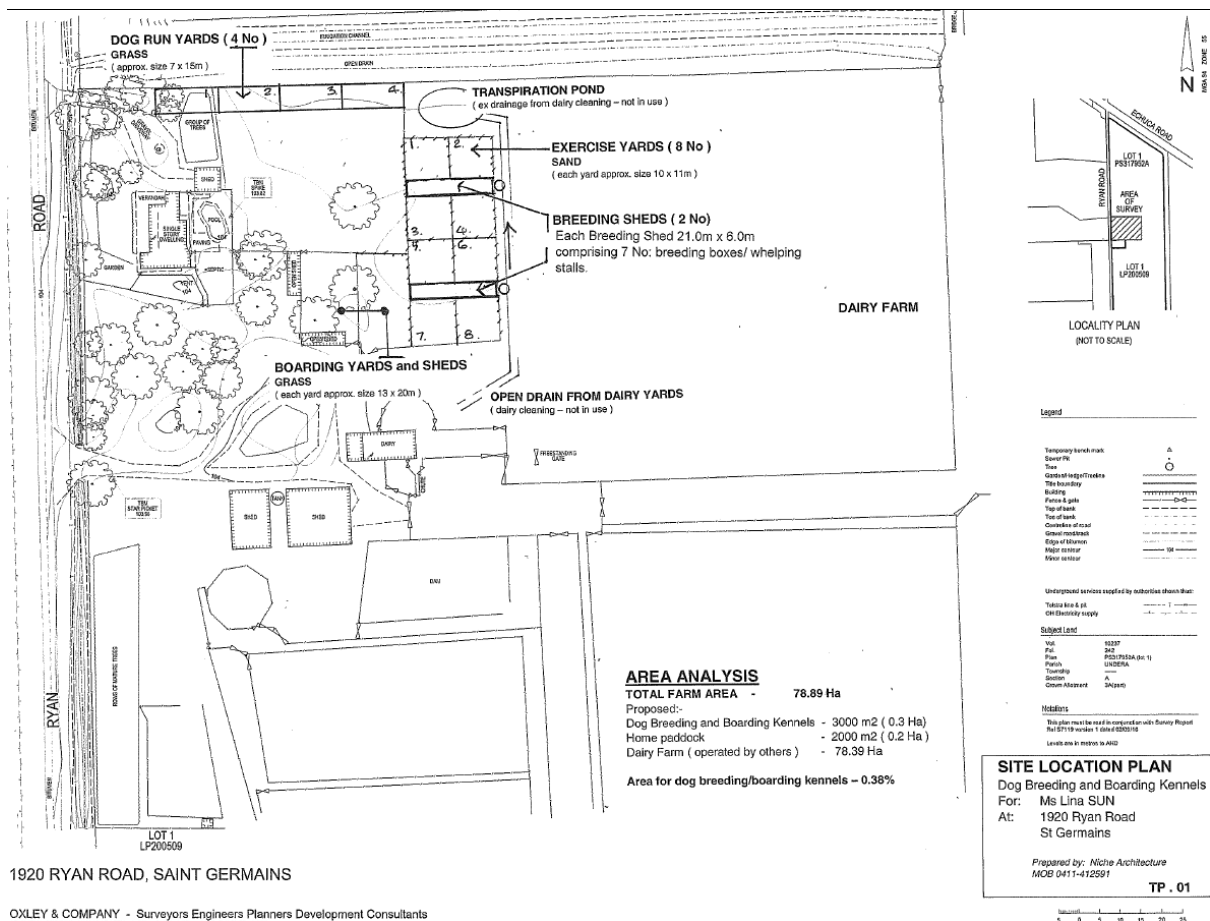
- Maximum of 20 dogs at any time
- Existing sheds central to the site to be upgraded and converted to shed/ boarding yards (approx. 13mx 20m)

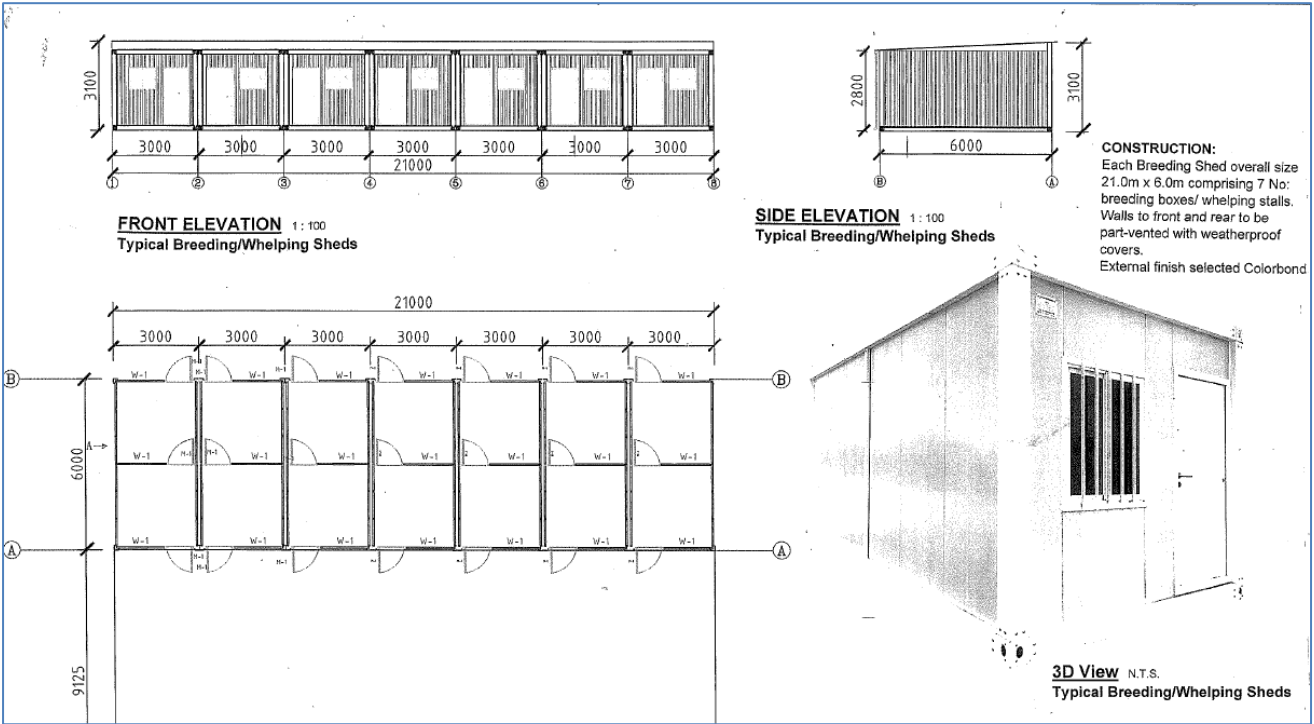
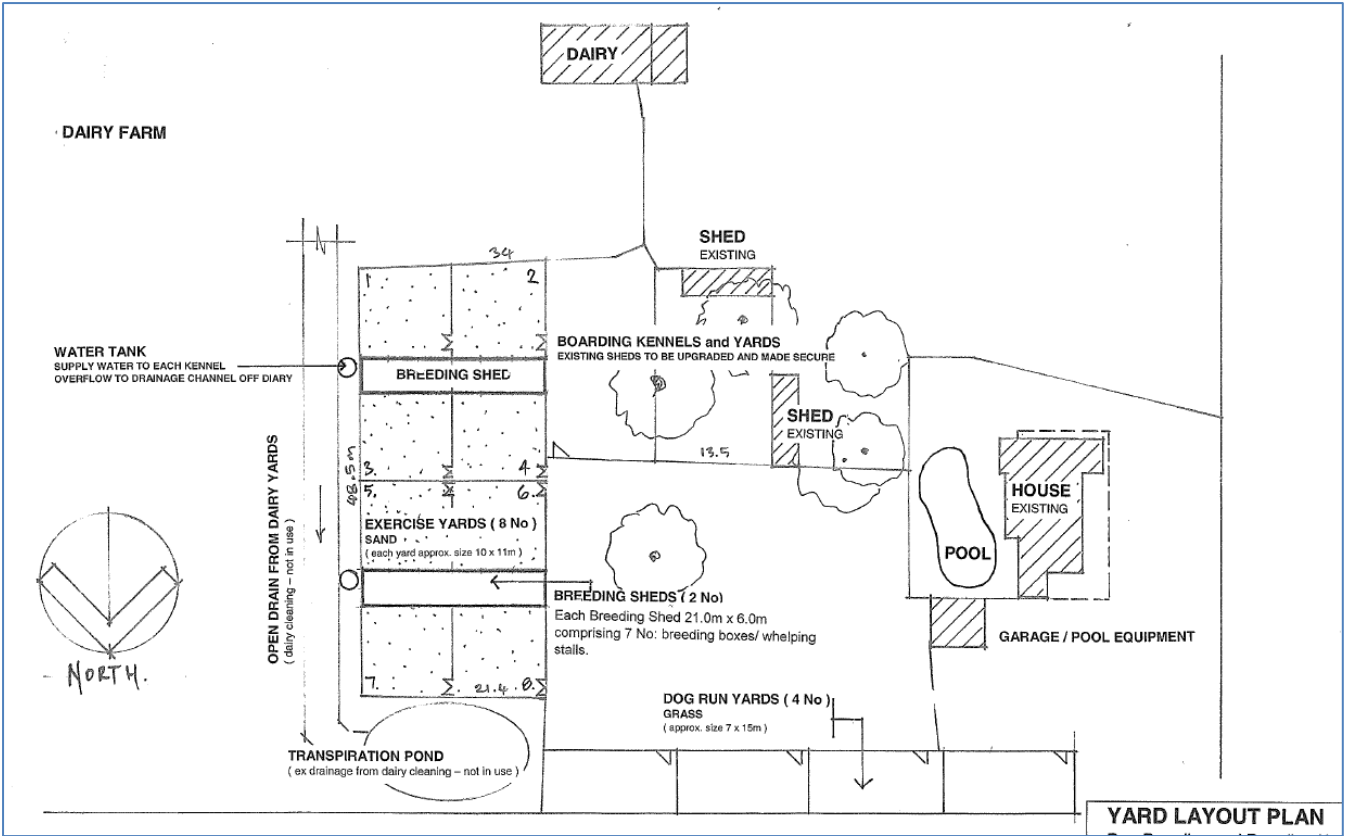
Four dog run yards to be located to the north of the existing infrastructure (7m x 15m) abutting channel drain to the north.

No new access or car parking has been provided as part of the application.

Pursuant to Clause 35.07-1, a planning permit is required for the use of the land for animal husbandry and animal keeping in the Farming Zone. A planning permit is also required at Clause 35.07-4 for buildings and works associated with a Section 2 Use.

A planning permit is also required for buildings and works in the Land Subject to Inundation Overlay.





Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. 2023-34 to be given under Section 52 or having referred the application under Section 55 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of Clauses 35.07-1, 35.07-4 and 44.04-2 of the Greater Shepparton Planning Scheme in respect of the land known and described as 1920 Ryan Road, St Germain's for the use and development of land in the Farming Zone and Land Subject to Inundation Overlay for animal husbandry (dog breeding) and domestic animal boarding in accordance with the Notice of Decision and the submitted plans.

Recommendation

Notice of Decision to Grant a Permit

That Council having caused notice of Planning Application No. 2023-34 to be given under Section 52 or having referred the application under Section 55 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* and having considered the objections to the application, decides to Grant a Notice of Decision to Grant a Permit under the provisions of Clauses 35.07-1, 35.07-4 and 44.04-2 of the Greater Shepparton Planning Scheme in respect of the land known and described as 1920 Ryan Road, St Germain's for the use and development of land in the Farming Zone and Land Subject to Inundation Overlay for animal husbandry (dog breeding) and domestic animal boarding in accordance with the Notice of Decision and the submitted plans.

Moved: Geraldine Christou

Second: Colin Kalms

Joel Ingham spoke to the Motion requesting an amendment to condition 1b

New condition wording:

1 b) – inclusions of acoustic treatments (as supported by an acoustic report prepared by a suitably qualified acoustic engineer) to dog housing, and any other operational matters as suggested by the acoustic report, to limit noise emissions from the land.

CARRIED

Permit/Site History

The history of the site includes:

- Nil

Subject Site & Locality

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

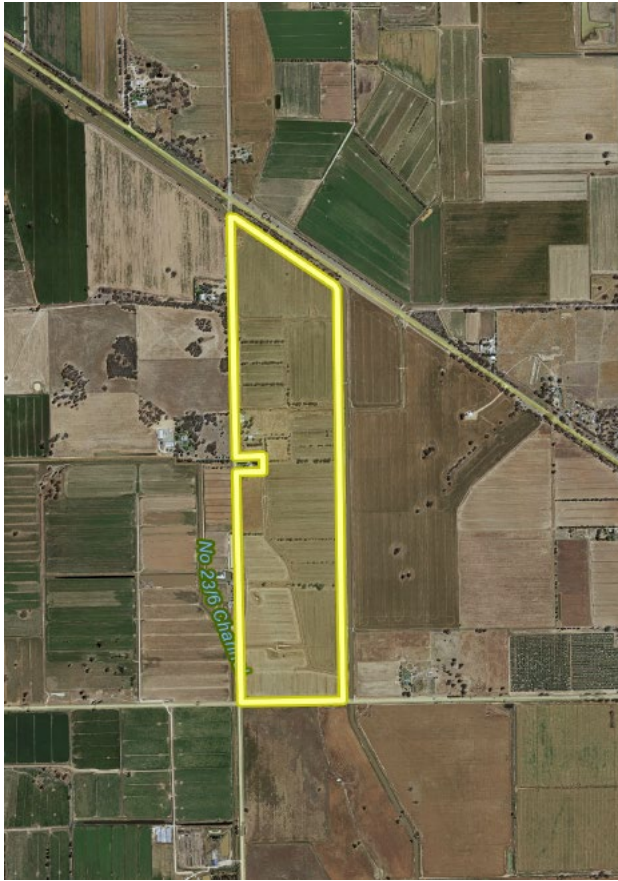
The site has a total area of 78.2 hectares and currently contains:

- Large agricultural site comprising primarily cleared grazing land.
- Dwelling and swimming pool to the centre of the site along the western boundary.
- Existing agricultural infrastructure (old dairy) to the west of the dwelling site.
- Drainage channel bisecting the site east to west north of the dwelling
- Access via an existing crossover and driveway from Ryan Road (western boundary)
- Generally flat with native vegetation planted along some fence lines throughout and scattered along the western and north boundaries/ road reserves
- Abuts Echuca Road (TRZ2) to the north
- Ryan Road abutting the land is a single vehicle width sealed country road

The main site/locality characteristics are:

- The subject site is located within a farming area. Lot sizes around the subject site vary in size, however most are larger than the minimum lot size. Dwellings are located intermittently throughout.
- The land has a small excision lot to the south of the existing dwelling containing a dwelling with a rural lifestyle development while to the west of the subject site the land also contains a dwelling, on a lot of approximately 17.6ha.

The Photos below show the existing site:



Source: Nearmap (7 February 2023)



| | |
|--|--|
|  |  |
| <p>Photo 007: Looking</p> | <p>Photo 008: Looking north</p> |
|  |  |
| <p>Photo 009: Looking west at dwelling</p> | <p>Photo 010: Looking south towards dwelling</p> |
|  | |
| <p>Photo 011: Looking south along water channel</p> | |

| | |
|--|---|
|  |  |
| Photo 001: Looking west towards Shed | Photo 002: Looking north west towards dairy |
|  |  |
| Photo 003: Looking south towards Dairy | Photo 004: Looking west towards dwelling |
|  |  |
| Photo 005: Looking north at pool | Photo 006: Looking north along Ryan Road |

Further Information

Is further information required for the application? No

Public Notification

The application was exempt from being advertised in accordance with Clause 44.04-6 of the planning scheme.

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987* with the following description Use and development of land for dog breeding (10 bitches) and domestic animal boarding (20 dogs) in the Farming Zone by:

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



The applicant provided a signed declaration stating that the sign on site was displayed on the land between 14 March and 29 March 2023.

Objections

The Council has received two (2) objections to date.

The objectors location are shown by the blue dots on the below plan.



The key issues that were raised in the objections are.

- The proposal will impact animal welfare - the application will result in additional animals on site and opportunities for their escape to neighbouring properties (current animals have escaped on occasion).
- The proposal does not provide adequate details about waste disposal in a non sewered area.
- The proposal will result in significant noise emission from barking dogs, on top of what is already experienced.
- The proposal will impact on surrounding livestock – including via disease such as parvo virus.
- The current owners are already operating a breeding operation without appropriate approvals.
- The proposal will impact the amenity and ambience of the rural lifestyle.
- The proposal will devalue surrounding properties.
- The proposal will result in potentially dangerous dogs loose in the area, which is a security concern to dogs and people.
- The site may become a puppy farm.

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

Referrals to Authorities

External Referrals Required by the Planning Scheme:

| Section 55 -Referrals Authority | List Planning clause triggering referral | Determining or Recommending | Advice/Response/Conditions |
|---------------------------------|--|-----------------------------|---|
| CMA | 44.04-7 | Recommending | No objection subject to the following conditions: 1. The finished floor level of the proposed two sheds must be constructed at least 300 millimetres above the highest existing ground level underneath the building footprint, or higher level deemed necessary by the responsible authority. |

Notice to Authorities (including as required by GSPS)

External Notice to Authorities:

| Section 52 - Notice Authority | List Planning clause triggering notice | Advice/Response/Conditions |
|-------------------------------|--|---|
| GMW | NA | No objection subject to the following conditions: (a) All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991). (b) No faecal waste material or wastewater is to be discharged to any waterways or Goulburn Murray Water's Central Goulburn No. 6 Channel. Solid faecal waste material and any wash down water generated as part of the dog breeding and boarding activities must be managed to the satisfaction of council's Environmental Health Department. |

Internal Notice

| Internal Council Notices | Advice/Response/Conditions |
|--------------------------|--|
| Eng | Council's engineering consented to the application subject to standard conditions. |
| EHO | Council's Environmental Health Department can only approve waste water disposal systems that treat less than 5000L/day of human waste only. It is recommended the applicant contact a suitably qualified person to design an appropriate system to treat and dispose of waste water generated from animals/processing etc. No waste water from the kennels/processing facility is to be discharged to any surface water, ground water or offsite. A permit condition will require the submission of a LCA as part of the detailed design phase of the approval. |

Assessment

The zoning of the land

35.07 FARMING ZONE

Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.

- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

35.07-1 Table of uses

Domestic animal husbandry is an as of right use where it is for five or less animals. Given the proposal is for ten bitches a planning permit is required as the condition is not met. Domestic animal boarding is a Section 2 Use and requires a planning permit.

35.074 Buildings and works associated with a Section 2 use

A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 35.07-4.

There are no requirements specified in Schedule 1.

Relevant overlay provisions

44.03 FLOOD OVERLAY

A portion of the site is affected by the Flood Overlay. The proposal is not in this area and no permit is required under this overlay.

44.04 LAND SUBJECT TO INUNDATION OVERLAY

The proposal is located in an area of the site subject to the LSIO.

Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) 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, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.
- To minimise the potential flood risk to life, health and safety associated with development.
- To reflect a declaration under Division 4 of Part 10 of the Water Act, 1989.
- To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.
- To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.

44.04-2 Buildings and works

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

45.12 SPECIFIC CONTROLS OVERLAY

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

Relevant Particular Provisions

52.06 Car parking

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

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

The proposed uses are not included in the Table at Clause 52.06-5 and therefore it is up to the Responsible Authority to be satisfied that sufficient car parking is provided on site.

The application does not include information in relation to current access of parking arrangements on site, however it is considered there is generally enough area on the subject land to provide appropriate access and turning for vehicles. A condition on any planning permit issued will require this to be shown via amended plans.

Does any Incorporated Document apply?

LFDP

The Municipal Planning Strategy (MPS) at Clause 02.

02.03-4 Natural resource management

The strategic direction within the MPS identifies that irrigated primary production and the processing of that product underpin the municipality and the region's economy. The level of production is nationally important and the region is responsible for significant parts of the nation's milk production, deciduous canned fruit production, stone fruit crop and tomato processing production.

Council is committed to: Supporting opportunities for the growth and diversity of primary product in the municipality.

The Planning Policy Framework (PPF)

13.03-1S Floodplain management seeks to assist the protection of:

- Life, property and community infrastructure from flood hazard, including coastal inundation, riverine and overland flows.
- The natural flood carrying capacity of rivers, streams and floodways.
- The flood storage function of floodplains and waterways.

- Floodplain areas of environmental significance or of importance to river, wetland or coastal health.

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

14.01-1S Protection of agricultural land seeks to protect the state's agricultural base by preserving productive farmland.

The following relevant strategies apply:

- Identify areas of productive agricultural land, including land for primary production and intensive agriculture.
- Consider state, regional and local, issues and characteristics when assessing agricultural quality and productivity.
- Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.
- Protect productive farmland that is of strategic significance in the local or regional context.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.
- Prevent inappropriately dispersed urban activities in rural areas.
- Protect strategically important agricultural and primary production land from incompatible uses.
- Limit new housing development in rural areas by:
 - Directing housing growth into existing settlements.
 - Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.
 - Encouraging consolidation of existing isolated small lots in rural zones.
- Identify areas of productive agricultural land by consulting with the Department of Energy, Environment and Climate Action and using available information.
- In considering a proposal to use, subdivide or develop agricultural land, consider the:
 - Desirability and impacts of removing the land from primary production, given its agricultural productivity.
 - Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
 - Compatibility between the proposed or likely development and the existing use of the surrounding land.
 - The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.
- Land capability.
- Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.
- Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.

- Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal.
-

14.01-1L Protection of agricultural land provides additional local policy

- Encourage farm earthworks that minimise the impact on drainage and flooding through Whole Farm Plans.
- Discourage land use and development in the Farming Zone (Schedule 1) that would compromise the future agricultural use of the land, including farm related tourism.
- Discourage industrial use and development (other than rural industry) in rural areas, except where it:
 - Is unable to be accommodated in existing industrial zoned areas.
 - Does not compromise the existing and future agricultural practices of the surrounds.
 - Adds value to the agricultural based of the municipality.
 - Is a rural based enterprise.
 - Provides for the reuse of existing large scale packing sheds and cool stores.

Clause 14.01-2S Sustainable agricultural land use seeks to encourage sustainable agricultural land use.

The policy includes the following relevant strategy:

Ensure that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.

14.01-2L Non agricultural use and development includes additional local policy to:

Maintain agriculture as the major economic driver in the region.

15.01-2S Building design seeks to achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.

15.01-5S Neighbourhood character

Objective

To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

Strategies

- Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.

- Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.
- Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:
 - Pattern of local urban structure and subdivision.
 - Underlying natural landscape character and significant vegetation.
 - Neighbourhood character values and built form that reflect community identity.

Structure Plans/Development Plans

There are no relevant Structure Plans or Development Plans.

Relevant Background documents

There are no relevant background documents.

The decision guidelines of Clause 65.01 and 65.02

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

65.01 Approval of an application or plan

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

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

The application meets the decision guidelines of Clause 65.01.

The decision guidelines of the zone

Clause 35.07-6 Decision guidelines

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

General issues

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

Agricultural issues and the impacts from non-agricultural uses

- Whether the use or development will support and enhance agricultural production.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the agricultural use.
- The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.
- Any integrated land management plan prepared for the site.
- Whether Rural worker accommodation is necessary having regard to:
 - The nature and scale of the agricultural use.
 - The accessibility to residential areas and existing accommodation, and the remoteness of the location.
- The duration of the use of the land for Rural worker accommodation.

Environmental issues

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

Design and siting issues

- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.
- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.

- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.
- Whether the use and development will require traffic management measures.

OFFICER ASSESSMENT

Consideration of objections

The application was advertised and two objections were received which were summarised earlier in this report but included concerns regarding amenity and animal welfare. In response to issues raised the following comments are made.

- **Animal welfare:**
 - The planning scheme does not provide specific controls and guidelines in relation to the operation of boarding kennels and animal keeping. It is expected that these matters are governed and enforced outside of the planning system. The proposal will include the construction of fencing and pens to house all animals safely on site and ensure they do not escape.
- **Amenity issues:**
 - The dog sheds and enclosures are located to the east of the existing dwelling, setback approximately 150m from the nearest dwelling not in the same ownership (to the south). The subject site was previously used as a dairy, which does include machinery and animal noise, particularly concentrated at certain times of the day. There is little in the way of guidance for assessing applications for animal husbandry and animal boarding in the planning scheme, with the emphasis focused on the impacts of any proposal on the surrounding agricultural use and productivity.
 - It is unlikely any noise impact of barking dogs will adversely impact farming of the surrounding properties, particularly given the immediate neighbours to the south and west have limited agricultural activities on their land.
 - Council officers then consider the impact of the proposal on the general amenity of the neighbourhood, including emissions from the site, siting and design. The proposal is sufficiently setback from boundaries and located among the developed area of the site to obscure the built form from surrounding properties and the public realm, if it is visible at all. Landscaping around the site will provide additional shade for the animals and further mitigate the built form within the landscape.
 - The proposal includes the potential for 30 dogs on site at any given time. The applicant provided estimates of dog noise at the boundary of the property, however it is unclear how these figures have been calculated. Officers consider that it is reasonable to require the submission of an acoustic report (via conditions) should dog noise become an operational issue.

The applicant has proposed a number of conditions aimed at reducing the noise emissions of the dogs on the surrounding properties, including limiting hours that pets may be kept outside and ensuring the sheds are appropriately insulated. It is considered these are appropriate in response to concerns of surrounding properties and will be included on any planning permit issued.

- Property value – this is not a valid planning consideration.

Having regard to all of the above, the proposed development is considered to be generally in accordance with the MPS and Planning Policy Framework and zone and overlay purpose and decision guidelines as outlined below.

Policy considerations

- The proposal is supported by the directions, objectives and policy in the MPS and PPF, as the proposal:
 - Manages the constraints of the floodplain.
 - Is sufficiently setback from boundaries and directs built form to an existing disturbed area of the site.
 - Can be managed via conditions on any planning permit issued to minimise any impact on surrounding properties in terms of noise and appearance of animals including hours of operation, siting and design, access and car parking.
 - Will include landscaping around the property to ensure the proposal is obscured from surrounding properties and forms part of the rural landscape.

Use

- The purpose of the FZ is to protect agricultural land. The proposal is to be constructed in the built area of the site, in close proximity to existing buildings and re-purpose some existing buildings for the use. The proposal will not take agricultural land out of production, and allows for a supplementary use of the site in conjunction with agricultural activities.
- Is well located with convenient access off Echuca Road via Ryan Road and sufficient space to provide appropriate access and car parking on site.
- The proposal will not have any adverse impact on the agricultural uses of the surrounding land, which is largely grazing/ broad hectare farming and rural lifestyle development.
- Noise emissions can be controlled via conditions on any planning permit issued limiting hours which dogs are outside overnight. Conditions will also set up a process for a post occupancy acoustic reporting should noise be found to be an issue.
- There is no significant vegetation on site and landscaping can be provided along the site frontage, however a condition of permit will require the submission of a detailed landscape plan and planting schedule.

Flooding

- The site is only partially affected by the LSIO,
- CMA support the proposal subject to conditions.

Car Parking and Access

- The applicant did not submit a Traffic Impact Assessment in support of the proposal however, it is considered that the proposal is appropriate from a traffic and parking context as the expected traffic generation will be generalised and have no adverse impact on the adjacent road network.
- The proposal can provide car parking and appropriate access on the site which will be required as a condition on any planning permit issued.
- Council's traffic engineer undertook an assessment of the proposal and has no objections subject to conditions to be placed on any planning permit issued.

No amenity impacts are foreseen and approval is recommended.

Any other relevant adopted State policies or strategies policies

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

Relevant Planning Scheme amendments

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

Are there any significant environment, social & economic effects?

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

Any other relevant Acts that relate to the application?

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

The Aboriginal Heritage Act 2006

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

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

The land is within an 'Area of Cultural Heritage Sensitivity in Victoria'. The applicant did not provide relevant information in relation to their requirements to provide a CHMP. Council has undertaken a preliminary assessment of the 'triggers' for requiring a CHMP and determined that the proposal is an exempt activity. Further, the proposal is to be located within a number of existing buildings and in an area that has been used for farming practices and buildings, including pens and paddocks for some time. It is considered the proposal complies with the requirements under the *Aboriginal Heritage Act 2006*.



Process List

Project Name: 2023-34

Project Location: 1920 Ryan Road

Date: 23-Aug-2023

| | QUESTION | ANSWER |
|-------------------|--|--------|
| Question 1 | Is the proposed activity , or all the proposed activities, exempt? | No |
| Question 2 | Are you undertaking a High Impact Activity as listed in the Aboriginal Heritage Regulations? | No |
| Answer: | <u>ON THE BASIS OF THE ANSWERS YOU HAVE ENTERED</u> YOU ARE NOT REQUIRED BY THE REGULATIONS TO PREPARE A CULTURAL HERITAGE MANAGEMENT PLAN FOR THIS PROJECT | |
| | This process list is for information purposes only; the result must not be relied upon by a statutory authority in deciding whether a cultural heritage management plan is required for a proposed activity. | |

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

N/A

Charter of Human Rights and Responsibilities

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

Summary of Key Issues

The key issues relate to compliance with policy, amenity and animal welfare concerns. Assessments have found that the application is supported by objectives, strategies, particular requirements and decision guidelines and CMA, GMW and Council's Engineers support the application.

Conclusion

Officers have undertaken an assessment of the application and found that the proposed use and buildings and works for domestic animal husbandry (dog breeding) and domestic animal boarding achieve acceptable planning outcomes. It is recommended that a NOD issue.

Draft Notice Of Decision

APPLICATION NO: 2023-34

PLANNING SCHEME: GREATER SHEPPARTON PLANNING SCHEME

RESPONSIBLE AUTHORITY: GREATER SHEPPARTON CITY COUNCIL

THE RESPONSIBLE AUTHORITY HAS DECIDED TO GRANT A PERMIT.

THE PERMIT HAS NOT BEEN ISSUED.

ADDRESS OF THE LAND: 1920 RYAN ROAD ST GERMAINS VIC 3620

WHAT THE PERMIT WILL ALLOW: USE AND DEVELOPMENT OF LAND FOR DOG BREEDING (10 BITCHES) AND DOMESTIC ANIMAL BOARDING (20 DOGS) IN THE FARMING ZONE AND LAND SUBJECT TO INUNDATION OVERLAY

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

1. **Amended Plans Required**

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

- a) 1.8m high fencing to the development boundary
- b) Inclusion of acoustic treatments to dog housing buildings to limit noise emissions from the land
- c) Location of car parking areas

2. **Layout Not Altered**

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

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

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

4. General Amenity and Noise Control

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

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

to the satisfaction of the responsible authority.

Noise Control

The use hereby permitted must be conducted such that noise levels generated do not exceed permissible noise levels established in accordance with Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (incorporated under the Environment Protection Regulations) or as amended.

If directed by the responsible authority, noise measurements of actual in operation noise levels must be undertaken at the permit holder's expense to determine if the use is achieving compliance with noise standards. If the monitoring finds compliance is not being achieved with the noise standards noise mitigation measures must be implemented immediately to the satisfaction of the responsible authority.

5. Specific Operator Requirements

Hours of operation

All breeding dogs be housed in sound-proofed insulated kennels from at least 7pm to 7am every day of the year.

Number of breeding dogs

No more than 10 breeding dogs are to be kept on the premises at any given time.

Number of boarding dogs

No more than 20 boarding dogs are to board on the premises at any given time.

Code of Practice

The Boarding Kennel and Breeding Kennels be run in strict accordance with the Victorian Government "Code of Practice for the Operation of Boarding Establishments"

and the Victorian Government “Code of Practice for the Operation of a Breeding and Rearing Business 2014 (Revision 2018).

6. Traffic and parking management plan

Before the development starts, a traffic and parking management plan must be approved and endorsed by the responsible authority. The plan must include the following details:

- a) the location of all areas on site to be used for staff and patron parking
- b) specification of staff numbers adequate to enable efficient operation of car parking areas both on site
- c) the means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on site

The responsible authority may consent in writing to vary any of these requirements.

7. Health Requirements

Before the development starts, a land capability assessment and effluent management measures must be submitted and approved and endorsed by the responsible authority. The LCA must:

- a) be prepared to the satisfaction of the responsible authority. It is recommended the applicant contact a suitably qualified person.
- b) design an appropriate system to treat and dispose of waste water generated from animals/processing.

Before the development is occupied, the endorsed LCA must be implemented to the satisfaction of the responsible authority.

8. Rural Drainage

Before the development is occupied all stormwater and surface water drainage from the land, buildings and works must be retained and dispersed on site to the satisfaction of the responsible authority.

Effluent and/or polluted water must not be discharged to Council's stormwater drainage system from the land.

9. Goulburn Broken Catchment Management Authority Requirements

The finished floor level of the proposed two sheds must be constructed at least 300 millimetres above the highest existing ground level underneath the building footprint, or higher level deemed necessary by the responsible authority.

10. Goulburn Murray Water Requirements

- a) All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
- b) No faecal waste material or wastewater is to be discharged to any waterways or Goulburn Murray Water's Central Goulburn No. 6 Channel. Solid faecal waste material and any wash down water generated as part of the dog breeding and boarding activities must be managed to the satisfaction of council's Environmental Health Department.

11. Time for Starting and Completion

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

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