

Planning Report

Application Details:

Application is for:	Use and Development of the land for domestic animal husbandry and caretakers house (dwelling)
Applicant:	URPS
Lodged Date:	13 November 2023
Statutory Days:	RFI sent – 7/12/2023 RFI response received – 6/2/2024 with amended site plan and LCA 60 days = 6 April 2024 More than 60 days
Application Number:	P2023-121
Assessing Officer:	Jack Francis Senior Planner
Address and Title Details:	222 Faithfull Road, Longwood East VIC 3666 Lots 1 & 2 TP953561 and CA20 Sec B Parish Longwood
Current Use / Development:	Vacant vegetated allotments
Zone/s:	Farming Zone
Overlay/s:	No Overlay
Permit Trigger/s:	<p>Permit Triggers</p> <p><u>Clause 35.07 Farming Zone</u></p> <ul style="list-style-type: none"> Pursuant to Clause 35.07-1 a permit is required to use the land for a dwelling. Pursuant to Clause 35.07-1 a permit is required to use the land for domestic animal husbandry. Pursuant to Clause 35.07-4 a permit is required to construct or carry out works associated with a section 2 use. <p>Other Matters</p> <ul style="list-style-type: none"> Land use conflicts with boarding kennel on neighbouring property.

	<ul style="list-style-type: none"> • Agree with precedence set in Melbourne Hunt Club Inc v Wellington SC [2022] VCAT 1470 classifying rehoming of greyhounds as domestic animal husbandry. • Consideration given to septic/waste disposal requirements for dogs, dwelling septic and outdoor pen area for dogs. • Consolidation will be required. • The subject site is identified in the Rural Residential Strategy 2004 in Area 18. Longwood East is an established rural residential area still zoned Farming Zone.
Any garden area requirements	No
Is a CHMP required: Consider AH Regs 2018 and Tool	<p>Is the activity within an ACHS – no</p> <p>Is the activity a HIA – no</p> <p>Has there been previous SGD – no</p> <p>Has a statement been provided by the applicant – no</p> <p><i>If unsure then RFI as the onus is on the applicant to provide evidence</i></p>
Encumbrances on Title:	Nil.
Open Potable Catchment Area: Consider Clause 66.02-5	No.
Contamination: Consider PPN30	Unknown.
HP Gas Line: Section 52 to APAProtection@apa.com.au	No.
Adjacent to the Principal Road Network: Section 55 to DoT	No
Proximity to any activity that may impact amenity either way:	<p>15 Scobie Street (next door) was issued planning permit P2007/143a for a Boarding Establishment for 100 Dogs & 50 Cats.</p> <p>222 Faithfull Road (this application being proposed on part of the property) has an active permit for greyhound breeding and training.</p> <p>It is considered that a new house in proximity to these significant operations has the potential to cause land use conflict. The new dwelling is proposed to be setback around 40m to southern boundary where there appear to be dog pens/yards directly on the shared boundary.</p> <p>Reference EPA Noise Control Guidelines May 2021 Pages 5-6 – this refers to dog kennels and cites the</p>

	kennels should not be located within 500m from residential areas. This area is Farming Zone but is recognised as rural residential in the RRS2004 so even though FZ, there is a residential amenity to consider. It is likely that when the permit for the kennels was issued there were less houses than now.
Bushfire Prone Area: Consider Clause 13.02	Yes.
Clause 71.02-3 'Integrated Decision Making' assessment:	Considered in report
Clause 71.03-2 'Acceptable Outcomes':	Considered in report

Application Checklist:

Application form <input checked="" type="checkbox"/>	Title <input checked="" type="checkbox"/>	Fee paid <input type="checkbox"/>
Plans of Proposal <input checked="" type="checkbox"/>	Planning Report <input checked="" type="checkbox"/>	LCA <input checked="" type="checkbox"/>
Geotechnical Report <input type="checkbox"/>	Bushfire Reports <input type="checkbox"/>	Biodiversity Report <input type="checkbox"/>
Pre-Application Meeting Document ID <input type="checkbox"/>	Clause 54/55/56 <input type="checkbox"/>	Any other -

Disclosure of Conflicts of Interest in relation to advice provided in this report

After reading the definitions of a general or material conflict of interest as defined by the *Local Government Act 2020*, do you have a conflict of interest?

Yes

(if YES, please complete a Conflict of Interest and Declaration Making Declaration form)

No

Recommendation

That Council -

- having caused notice of Planning Application No. P2023-121 to be given under Section 52 of the *Planning and Environment Act 1987* and or the planning scheme;
- and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to issue a **notice of decision to refuse to grant a permit** under the provisions of the Strathbogie Planning Scheme in respect of the land known as (Lots 1 & 2 TP953561 and CA20 Sec B Parish Longwood), **222 Faithfull Road, Longwood East VIC 3666, for Use and Development of the land for domestic animal husbandry and caretakers house (dwelling)** based on the following grounds -

1. The proposal does not support the Purpose of the Farming Zone and does not weight in favour of support when assessed against the appropriate decision guidelines of the Farming Zone –
 - The proposal has the potential to limit the operation and expansion of adjoining and nearby agricultural uses.
 - The proposed dwelling has the potential to be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
2. The proposal, when assessed against the policy throughout the Strathbogie Planning Scheme, is not weighted in favour of support. The relevant policy that provides direction are –
 - a. Clause 02.03-4 – given the proximity to Melbourne and major regional centres, and the scenic nature of the area, there is a continual demand for rural lifestyle development not associated with farming. This leads to land use conflicts between genuine farming activities occurring on neighbouring properties and existing rural lifestyle properties.
 - b. Clause 13.07-1S – the proposal results in a dwelling being in proximity to neighbouring activities that have the potential to cause off-site amenity impacts.
 - c. Clause 14.01-1S –
 - I. the proposal does not appropriately address the impact it will have on agricultural activities on adjacent land;
 - II. the proposed dwelling is incompatible with the activities occurring on neighbouring properties;
 - d. Clause 14.01-2L - the proposal does not sufficiently outline how noise from the proposed activity will be managed to avoid amenity impacts.

DRAFT Conditions for VCAT if required:

Compliance with documents approved under this permit:

1. At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

Layout not altered:

2. The layout of the development must not be altered from the layout on the approved and endorsed plans without the written consent of the responsible authority.

Consolidation of lots

3. Prior to the commencement of construction, Lots 1 & 2 TP953561 and CA20 Sec B Parish Longwood must be consolidated to the satisfaction of the responsible authority.

Minimising glare:

4. The external cladding of the proposed buildings, including the roof, must be constructed of materials in good order and condition and be of muted colours to enhance the aesthetic amenity of the area. Materials having a highly reflective surface must not be used.

Use of land for a dwelling:

5. The approved dwelling must meet the following requirements:
 - Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.
 - Connection to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.
 - The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
 - The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.

Noise control:

6. At all times noise emanating from the land must comply with the requirements of the *Environment Protection Regulations 2021 (Vic)* (as amended from time to time) as measured in accordance with the Noise Protocol 'Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues' (Publication 1826.4, May 2021) (as amended from time to time) to the satisfaction of the responsible authority.

Number of rehomed dogs allowed on site:

7. No more than 20 rehomed dogs are to be kept on site at any given time.

Engineering:

Rural Vehicle Crossing Requirements

8. Prior to the issue of a certificate of occupancy, the proposed lot must have a vehicular crossing constructed to the council's Infrastructure Design Manual standard drawing SD255 or SD265, and must:
 - a. Be constructed at a right angle to the road or as otherwise approved, any redundant crossing shall be removed and reinstated to the satisfaction of the Responsible Authority
 - b. Be setback a minimum of 1.5 meters from any side-entry pit, power or telecommunication pole, manhole cover, or marker, or 3 meters from any street tree;

- c. residential vehicular crossings shall not be less than 3 meters nor more than 6 meters in width and shall be constructed from concrete or other material as approved in writing by the Responsible Authority; and
- d. A works within Road Reserves permit must be obtained from the Responsible Authority prior to carrying out any vehicle crossing works.

Internal Access Road Requirements

- 9. Prior to the commencement of the use all internal access roads must be constructed, formed and drained to avoid erosion and to minimise disturbance to natural topography of the land to the satisfaction of the Responsible Authority. Internal access, including the turn-around areas for emergency vehicles, must be all weather construction with a minimum trafficable width of 4m.

Drainage Requirements

- 10. Prior to the commencement of use, all stormwater and surface water discharging from the site, buildings, and works must be conveyed to the legal point of discharge drains to the satisfaction of the Responsible Authority/Goulburn Murray Water or dissipated within the site boundaries. No effluent or polluted water of any type may be allowed to enter the stormwater drainage system.
- 11. Prior to the commencement of any works, the design parameters for any defined watercourse crossing(s), both structural and hydraulic design, shall be approved by the Responsible Authority (GBCMA- works on waterways permit)

Miscellaneous

- 12. Prior to the issue of a certificate of occupancy, the nature strip and all disturbed areas are to be topsoiled and seeded to establish grass cover.
- 13. Appropriate steps must be taken to retain all silt and sediment on-site during the construction phase to the satisfaction of the Responsible Authority, in accordance with the sediment control principles outlined in Construction Techniques for Sediment Pollution Control (EPA, 1991) and to the satisfaction of the Responsible Authority.
- 14. No excavated or construction materials may be placed or stored outside the site area or on the adjoining road reserves, except where the materials are required in connection with any road or footpath construction works in such reserves that are required as part of the permit.
- 15. Prior to the commencement of works, the owner or developer must submit to the Responsible Authority a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of the kerb & channel, footpath, seal, streetlights, signs, and other public infrastructure fronting the property

and abutting at least two properties on either side of the development. Unless identified with the written report, any damage to infrastructure post-construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to the Council's assets/Public infrastructure caused as a result of the development or use permitted by this permit.

Wastewater Management:

16. Prior to the commencement of works on the dwelling the owner shall lodge with the Council an Application for a Permit to Install an Onsite Wastewater Management System. The application shall be in accordance with the Environment Protection Regulations 2021, the EPA Code of Practice – Onsite Wastewater Management, Publication 891.4, July 2016 and the Land Capability Assessment prepared by Ground Science, Report No. E3281.1, date 29/01/2024.
17. All wastewater from the dwelling must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be installed, operated and maintained in accordance with the EPA Code of Practice – Onsite Wastewater Management, Publication 891.4, July 2016 and must have a Certificate of Conformity.
18. The wastewater disposal land application area must not be used for any other purpose. No buildings, works, paths, vehicles, driveways, service trenching or domestic facilities eg. water tanks or any other structures are permitted in the wastewater disposal area. The site plan must provide for separate areas for dog exercise yards and the effluent disposal system.

Commencement of permit:

19. This permit will operate from the issued date of this permit.

Expiry – Development and use:

20. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within 2 years of the issued date of this permit.
 - b) The development is not completed within 4 years of the issued date of this permit.
 - c) The use does not start within 2 years of the completion of the development.

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.

EPA Note:

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

Proposal

The proposal has a number of components, the use and development of the land for a greyhound kennel (Domestic Animal Husbandry) and an associated caretaker's residence/ dwelling. The applicant has provided precedent in the form of VCAT decision Melbourne Hunt Club Inc v Wellington SC [2022] VCAT 1470 that classifies the rehoming of greyhounds as domestic animal husbandry.

The proposal has the following characteristics:

Greyhound Kennel

- To be used for the rehabilitation/ training of ex racing greyhounds for domestic rehoming.
- No more than 20 rehomed dogs on site at any one time
- Will include infrequent site visits from patrons, with potentially one visitor on site any given time.
- Single car port provided in associated with the Kennel
- 24.3m x 6.3m Colorbond constructed to the rear of the property to include:
 - Setback 3m from title boundary (rear), 25.318m from eastern title boundary and 28.5m from western title boundary
 - No overall height or colours provided
 - 20 kennels with indoor and outdoor areas
 - 2 whelping kennels
 - 3 isolation kennels
 - Food preparation area and cool room
 - Records room
- Effluent envelope to be located east of the kennels 6m from the eastern and southern boundaries.

Dwelling

- Single storey dwelling to include three bedrooms, rumpus room (shown as fourth bedroom on site plan), bathroom, ensuite, kitchen, lounge/ dining, laundry and separate toilet with alfresco area, verandah and double car garage.
- Angled positioning on site to be setback a minimum 18.876m from the property frontage to Faithfull Road (north) and 7m from eastern title boundary.
- To be constructed from face brickwork in dark to medium colour and Colorbond roof.
- Overall height and other colours not provided
- Effluent area to be located to the west of the dog kennels, setback 3m from the western title boundary.
- 7.5m x 21m Colorbond shed associated with the dwelling located west of the dwelling, 6.9m from the western title boundary.

- Single access to the site via a proposed crossover and gravel driveway from north eastern corner off Faithfull Road.

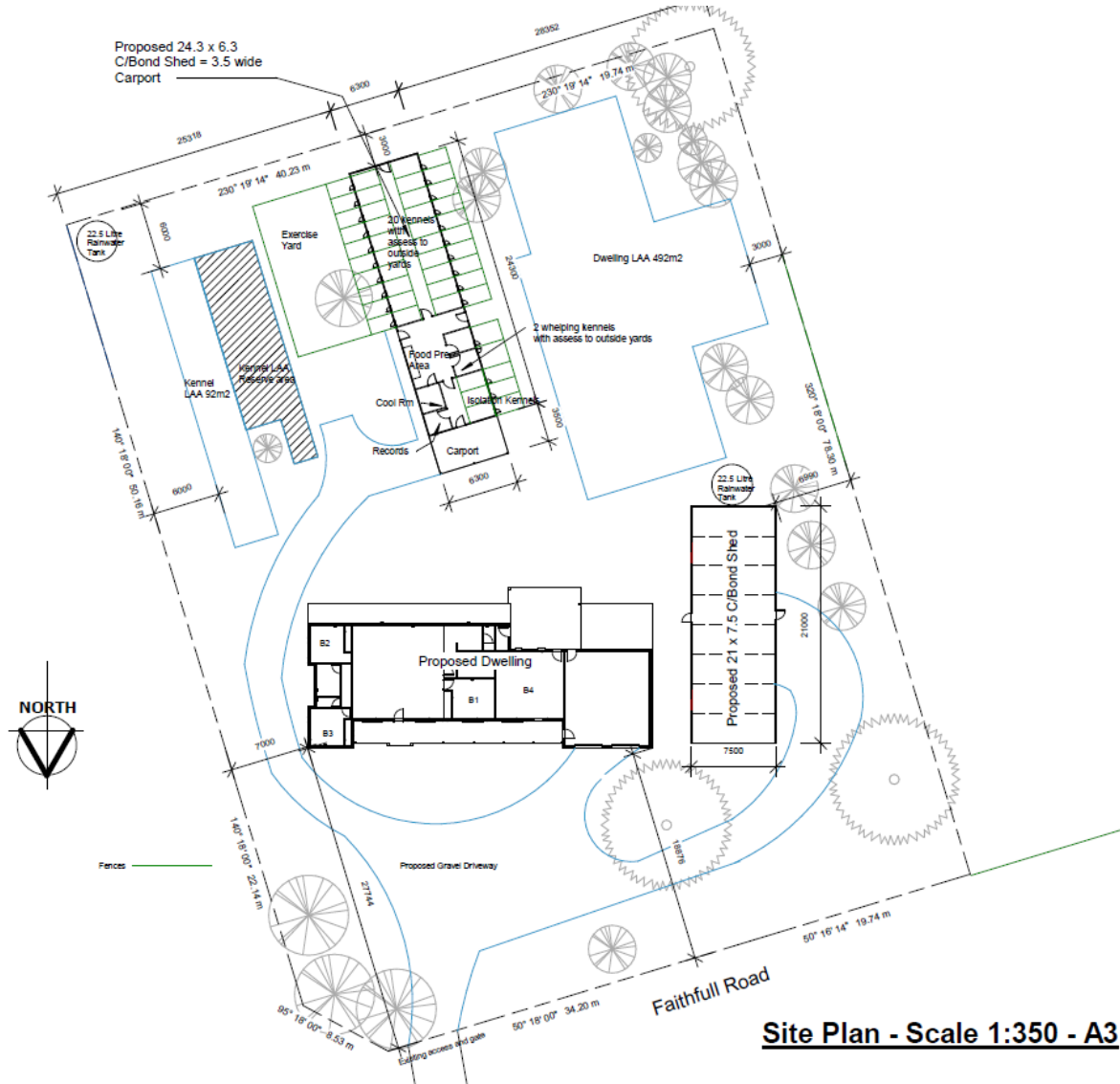


Figure 1: Proposed lot layout.

It is not proposed to remove any vegetation on site.

Site Visit

Inspection date/s: February and March 2024	Officer: Jack Francis
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This site has been visited a number of times, given there was a previous application that was withdrawn due to the recommendation to refuse. The site is easily accessible within the established settlement of Longwood East.

Subject Site and Locality

The subject site is made up of three smaller land parcels to form 222 Faithfull Road, Longwood East, the parcels being Lots 1 & 2 TP953561 and CA20 Sec B Parish Longwood. The property is part of a larger landholding of three separate properties in the immediate vicinity, but not immediately contiguous with the subject site.

The three lots combined are square in shape with an area of approximately 4,679 square metres. The site is relatively flat with a 53.94 metre long frontage to Faithfull Street (north) and a 72.30 metre frontage to the unmade road reserve that the site adjoins to the east. The site is vacant, however there are several scattered trees throughout and within both bordering road reserves. Directly to the east, adjacent the unused road reserve, and within land within the same holding, currently contains a residence and agricultural structures in the southeast corner of the site. This property has and appears to continue to benefit from a 2016 planning permit that allows dog breeding and racing dog keeping (up to 25 greyhounds).

Land directly west of the subject site contains a dwelling and facility with previous planning approval as a dog kennel and cattery for up to 100 dogs and 50 cats, and includes a dog racing track, buildings associated with the kennel and a dwelling. The property is currently not operating as a boarding facility; however, the owners have indicated they undertake breeding, training and animal keeping of their own dogs on the whole site of which this subject site is a part.

The site is located within Longwood East, and the surrounding land is largely vacant lots in the Farming Zone, however south, north, and west of the site the lots are laid out in a formal manner, with relatively small lots, more typical to a township than agricultural properties. The closest dwelling is approximately associated with the dog boarding and cattery and is approximately 113m to the west. Outside of this, the next closest dwelling is 180m west from the boundary of the subject site. The Hume Freeway is located approximately 280m north.

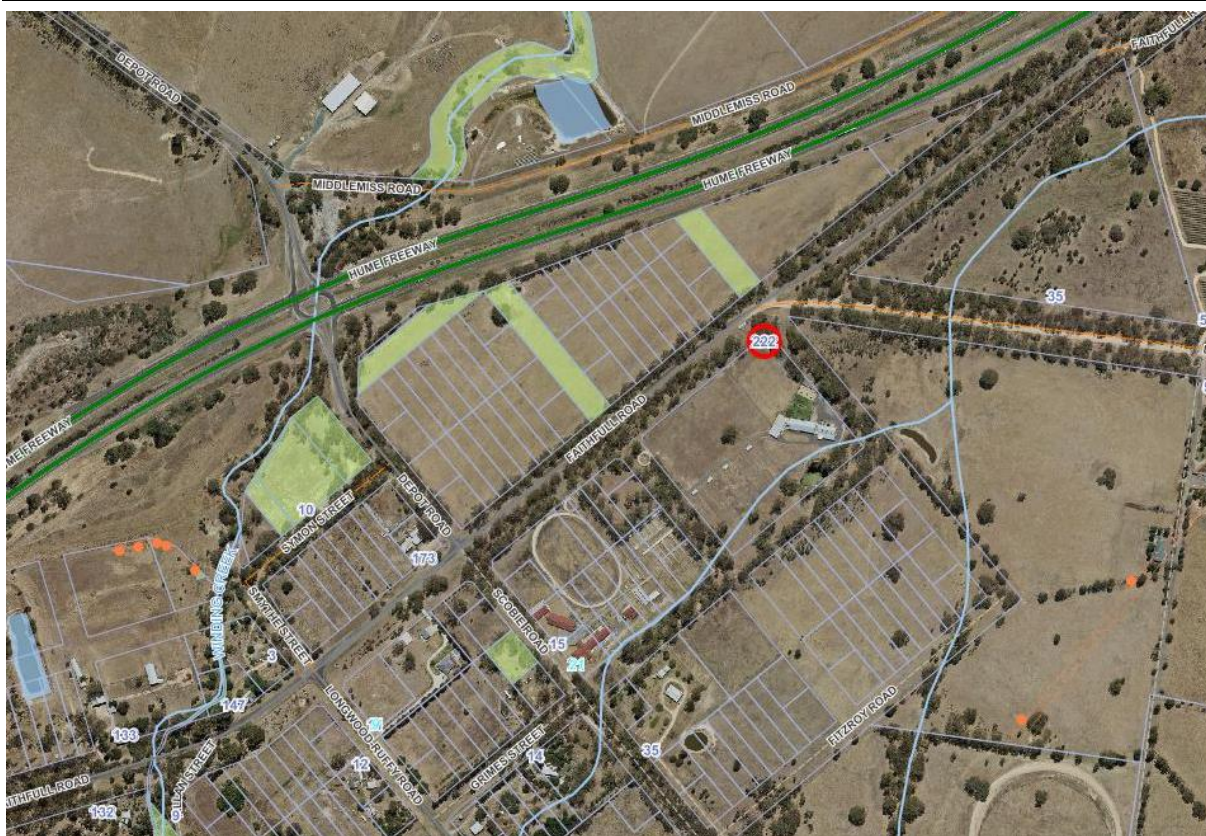


Figure 2: The subject land at 222 Faithful Road, Longwood East.

Permit/Site History

A search of Council's planning electronic records results in the following planning permits being issued for the site:

- Planning Permit P2015-153 was issued on 17 August 2016 for the Use and development of land for dog breeding and racing dog keeping (up to 25 greyhounds). This permit was amended September 2023 by council to delete a superfluous condition. It is noted that this permit relates only to parcel PC376330. The applicant informs that the permit is not currently being acted upon, but it has been until recently.
- Planning Permit P2023-035 was applied for 27 March 2023 for the use and development of a dwelling and shed on the subject site. This application was withdrawn prior to the issue of a decision.

Further Information

Relevant principles in relation to the operation of section 54 are expressed in *Calodoukas v Moreland CC*⁴¹. In *Calodoukas*, the Tribunal outlined:

- the purpose of the power in section 54 is to enable a responsible authority to properly deal with a permit application –e.g. to clarify the application, or to overcome a deficiency in the application that prevents the responsible authority from understanding or resolving a key issue raised by the application that need to be assessed before a decision can be made.
- the further information required must relate to the potential planning impacts of the development or use proposed in the application, and the matters that the responsible authority must consider before making a decision on that application.

- importantly, the further information required must be proportionate to the scale and nature of the proposal, and the issues to be assessed.
- a requirement under s 54 must be a bona fide request for information. It should not be used to delay an application, or to effectively seek changes to the application. Nor should it seek generic information not directly related to the particular application under consideration, or information that would ordinarily be required only after a decision to grant a permit had been made – e.g. by way of a subsequent permit condition.

Further Information Required:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
What was requested?		
Council's Environmental Health Officer has requested the following information:		
<ol style="list-style-type: none"> 1. Provide details on how the effluent and wash-down water from the kennels will be managed/contained on-site, the site plan should provide details of the area allocated for disposal of wash-down water. 2. The site plan indicates the dog exercise/outdoor areas in the same area as that allocated for the wastewater disposal area for the onsite wastewater management system for the dwelling. The area allocated for effluent disposal from the dwelling treatment system must not be used for any other purpose. The site plan will need to be revised to provide separate areas for dog exercise yards and the effluent disposal system. 3. Confirmation that no vegetation removal is required to address any changes to the site from the above two points. 		
FI Requested: 07/12/2023		
FI Due: 06/03/2024		
FI Received: 30/01/2024		

Advertising/Public Notification

Is notification/advertisement required under section 52? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Exempt		
Please provide comment if No		
Advertised by:	<input checked="" type="checkbox"/> Council	<input type="checkbox"/> Applicant
Internal Documents: Advertising list - 897652 Advertising map – 897653	Website Documents: 909957, 909954 Sent to Comms 15/02/2024 Doc ID 911928	Notice Documents: Doc id 909957 Sent to Applicant 15/02/2024 Doc ID 911915
Add Instructions on Spear	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Letters: yes	Signs: Yes facing Faithfull rd	Paper: no	Sent: 15/02/2024 Closes:	Stat Dec Rec: 29/02/2024
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Objections received?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Number: 1
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Objection	Officers Response
<p><u>Objection 1</u></p> <p>Disruption of ongoing activity on objectors land.</p> <p>Should the permit be granted it would immediately disrupt the use of our 100m training runs that we use to train our young dogs. The proximity of the proposed kennels and caretakers' residence to our existing kennels which are immediately adjacent to the property would not only disrupt the elderly dogs in that area creating potential noise issues it would also create a real and serious threat to their health by the potential spreading of airborne virus' such as kennel cough. This threat is potentially devastating to our training practices and purposes for owning our property which is to train and race our own elite sled dogs who are also our dearly loved pets.</p>	<p>The proposal is for a greyhound training and rehoming facility, with a maximum capacity of up to 20 dogs at any given time. There is no evidence that the facility cannot be run to appropriate Codes of Practice, and all dogs will be contained within the site and largely within their pens. It is considered appropriate measures will be undertaken to ensure the health of the dogs on site is protected.</p> <p>The proposal sets both the dwelling and the kennels some 28m distance from the boundary with the objector's property, with activity at the dwelling partly obscured via the proposed shed on the site. Given the proposal is for a caretakers dwelling in associated with the Greyhound facility, it is expected that some reduced amenity will be experienced on site, likely via noise. Any proposal will be required to satisfy EPA noise control guidelines (Publication 1254.2 May 2021), including acoustic measures to reduce barking noise and screening to reduce external stimuli. This can be included on any planning permit issued.</p> <p>While the adjoining property currently has a planning permit for animal boarding, it appears this is currently not being acted upon to the fullest extent of what the permit allows. However, it is still important to note that the permit is being used.</p> <p>In any event, animals coming into contact with foreign animals present a risk of contamination as is contemplated in the objection, and it is likely the objector already takes measures to combat this in</p>

	<p>house, as will be required in any new operation next door.</p> <p>The use of the dwelling will be linked to the facility to ensure ongoing use of the land for agriculture.</p> <p>The proposal is for a greyhound training and rehoming facility, with a maximum capacity of up to 20 dogs at any given time. There is no evidence that the facility cannot be run to appropriate Codes of Practice, and all dogs will be contained within the site and largely within their pens. It is considered appropriate measures will be undertaken to ensure the health of the dogs on site is protected.</p> <p>The application does not satisfactorily address the acoustic impact of the proposal. There is no acoustic report detailing measures to mitigate any potential noise impact to surrounding properties, including proposed fencing to ensure a visual separation from the property next door to limit agitation of their animals.</p> <p>While it is expected that, given the proposal is for a caretakers' dwelling in association with the Greyhound facility, some reduced amenity will be experienced on site, likely via noise, the proposal does not consider the broader impact of the proposal on other properties in the area.</p> <p>The proposal does not achieve overly large setbacks from the adjoining property to the west to enable effective noise and animal management on site.</p>
Devaluing of objector's property	This is not a relevant planning consideration.
The intense nature of the proposal reeks of a commercial purpose and is at odds with both the rural culture and ambience of the area.	<p>Domestic animal husbandry is permissible in the Farming Zone, and is partially commercial in nature, with customers buying animals. The land use is still permissible in the Farming Zone and is nested under 'Agriculture' in the planning scheme.</p> <p>The proposal does have the potential to have offsite amenity impacts, although this can be</p>

	considered to be lessened as two neighbouring properties are keeping dogs onsite in line with approved planning permits.
The proposal is at odds with both the farming zoned planning requirements and future plans for a proposed settlement in the area.	The proposal is permissible in the Farming Zone and is not prohibited.

Consultation

The following consultation was undertaken –
Nil

Referrals

External Referrals/Notices required by the Planning Scheme:

REFERRALS					
Add instructions on SPEAR:				<input type="checkbox"/> Yes	<input type="checkbox"/> No
Referrals Authority	Type of Referral	Referral Clause and Description	Additional Instructions	Date sent	Date received including Advice/Response/Condition
EPA	Section 52	-	Domestic animal husbandry and reverse buffer to neighboring boarding establishment for 100 dogs and 50 cats.	Sent 13/02/2024	Received 8/3. No objection, one permit note provided. Doc ID 917382
Ag Vic	Section 52	-	Domestic animal husbandry and reverse buffer to neighboring boarding establishment for 100 dogs and 50 cats.	13/02/2024	No Response
HEALTH	Internal			13/02/2024	Conditional consent.
ENGINEER	Internal			13/02/2024	Conditions provided
COMPLIANCE	Internal	Send to Jason.		13/02/2024	No response – consent deemed.
OTHER – Please specify					

ASSESSMENT

Permit Triggers including Relevant Particular Provisions

Farming Zone

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

To provide for the use of land for agriculture.

To encourage the retention of productive agricultural land.

To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

To encourage the retention of employment and population to support rural communities.

To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

Permit trigger:

- Pursuant to Clause 35.07-1 a permit is required to use the land for a caretaker house/dwelling.
- Pursuant to Clause 35.07-1 a permit is required to use the land for domestic animal husbandry.
- Pursuant to Clause 35.07-4 a permit is required to construct or carry out a building or works associated with a use in section 2 of Clause 35.07-1.

Appropriate decision guidelines are considered to be -

Decision Guideline	Officer's Response
General issues	
The Municipal Planning Strategy and the Planning Policy Framework.	The proposal is considered to be inconsistent with the relevant MPS and PPF. The proposal will allow a considerable intensification on a small lot in the Farming Zone, within close proximity to existing uses that may be impacted by the proposal. The proposal will increase the proliferation of dwellings along Faithfull Street and does not satisfactorily address potential amenity impacts, particularly noise.
Any Regional Catchment Strategy and associated plan applying to the land.	Considered.
The capability of the land to accommodate the proposed use or development, including the disposal of effluent.	A Land Capability Assessment has been provided showing that effluent can be appropriately managed.

<p>How the use or development relates to sustainable land management.</p>	<p>The application does relate to sustainable land management, where it has identified that regenerative works need to be undertaken on the site</p> <p>The application will generally develop the entire site for the kennels, dwelling and effluent area, resulting in a more formal layout of the land which will likely lead to better management of the site, with residents permanently located on the site to provide upkeep on a daily basis.</p>
<p>Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.</p>	<p>The site is considered to be not suitable for a residence. It is incompatible with most neighbouring properties which are larger and contain more traditional agricultural pursuits.</p> <p>The adjoining land to the west has a planning permit for a dog and cat boarding facility and includes training facilities, such as a racing track. The eastern neighbouring property also benefits from a permit for dog breeding and racing dog keeping (up to 25 greyhounds).</p> <p>The objector indicates they also breed dogs on this property.</p> <p>The proposal is for a facility to house and re-home up to 20 grey hounds. The proposal includes plans for the kennels and outdoor space. It is considered the introduction of this use could impact the surrounding land uses, in particular the use of the land for a dwelling. While it appears the property at 15 Scobie Road does not currently operate as a boarding kennel/ cattery as was originally permitted. It is acknowledged that the property does undertake a more scaled down version of this planning permission.</p> <p>At present, there are a number of dwellings, including at 15 Scobie, within 500m of the proposal.</p> <p>The proposal will result in a concentration of animal husbandry operations being undertaken in a small, flat, quiet rural area, potentially amplifying animal noise to surrounding properties. The proposal does not provide appropriate consideration and amelioration of animal noise to satisfy Council that this noise can be managed to an acceptable level on site.</p>

	<p>The lot is a small lot in the Farming Zone, with little capacity to be used for a productive agricultural use in the traditional sense. It is acknowledged that domestic animal husbandry falls within the agricultural suite of uses in the Planning Scheme, however the proposal, combined with the caretaker's dwelling, present an overdevelopment of the site that is not compatible with adjoining and nearby land uses. The small nature of the site means it does not provide large setbacks to property boundaries or sensitive uses that could further mitigate any noise or odour impacts from the proposal.</p>
How the use and development makes use of existing infrastructure and services.	There are few existing services or infrastructure available on the land.
Agricultural issues and the impacts from non-agricultural uses	
Whether the use or development will support and enhance agricultural production.	<p>The proposal is for the use of the land for greyhound training and re-homing and associated caretaker's dwelling. Given the size of the lot, it is unlikely that it can be utilised for traditional horticulture or cattle style agricultural productivity. The site is part of a larger landholding, the property immediately to the east having been granted a permit for a greyhound training and keeping facility.</p> <p>It is noted that the three land parcels making up the larger landholding are all somewhat separate from each other, further impacting the productivity capacity for the land as a contiguous parcel, however the proposal keeps the agricultural use solely within this lot and further reduces the capacity of any cohesive use of the land for agriculture in the future.</p>
Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.	The proposal is for an agricultural use, with an associated dwelling to ensure the use is appropriately overseen 24/7. The use and development will occupy the majority of the site, permanently removing the land from traditional agricultural production, such as crops or cattle rearing.
The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.	<p>The land to the east is being utilised for dog breeding and racing dog keeping (up to 25 greyhounds), with infrastructure close to the boundary shared with the subject land.</p> <p>The agricultural use may impact the operation of the adjoining agricultural use to the west at 15 Scobie Road, given the location and layout of the kennels and dwelling within close proximity to existing kennels and training runs</p>

	<p>on the neighbouring land. The proposal is likely to intensify movement and noise on the site and disturb the current operation of the facility. The application does not include mitigation measures to address the potential conflict appropriately, such as design or acoustic responses.</p>
<p>The capacity of the site to sustain the agricultural use.</p>	<p>It is anticipated that the proposal will be required to operate in accordance with the Greyhound Code of Practice and other relevant policy. Wastewater can be adequately treated on site to sustain the agricultural use proposed.</p> <p>The site plan submitted as part of the proposal appears to provide for development appropriate for the use. The proposal will, however, result in built form or dog runs covering most of the site, with the remainder of the area being utilised for effluent disposal. The proposal includes a large caretaker's dwelling and private shed, further increasing the impact of the proposal in the agricultural area.</p>
<p>Accommodation issues</p>	
<p>Whether the dwelling will result in the loss or fragmentation of productive agricultural land.</p>	<p>The land is located approximately 1.7km from Longwood Township, in an area described as Old Longwood in Council's Rural Residential Strategy 2004. In relation to this area, the RRS recommended that the land is retained in a rural zone and that Council consider the application of planning controls that would require the consolidation of lots.</p> <p>The proposal will require the consolidation of the three small land parcels that make up this lot. The site is part of a larger landholding, at least one of these lots has a separate planning permit for a similar, independent use. Approval of the proposal will likely lead to further fragmentation of this property and additional built form, including sensitive uses, in an agricultural area that currently has neighbouring uses underway, contrary to policy.</p>
<p>Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.</p>	<p>It is considered that there could be impacts on the proposed dwelling from the activities occurring on the neighbouring properties. Whilst amenity for a caretaker's dwelling is minimised, there is still a level of amenity expectation, particularly, in a settlement made up of small Farming Zoned allotments.</p>

<p>Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.</p>	<p>A response to the objector's concerns is included above. The proposal is for greyhound training and re-homing. In accordance with relevant guidance, a manager is required on site 24/7 to oversee the health and wellbeing of the dogs. It is unclear why the proponent has chosen to locate the proposal on the smallest of three lots in the same larger landholding, the larger, more isolated of which already having a planning permit for a similar use.</p> <p>Council officers accept that should the proposal be approved, the occupant of the associated dwelling would be integral to the operation of the facility and would therefore likely accept reduced amenity on the subject site. However, the dwelling is setback approximately 28m from the adjacent boundary containing dog keeping and training facilities. The proposal does not consider mitigation measures in relation to the operation of the adjoining property, such as acoustic fencing, and cannot achieve significant setbacks to limit impact due to the compact nature of the development on the site.</p>
<p>The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.</p>	<p>The proposal will introduce another dwelling along Faithfull Street. The properties on either side of the subject site have previous planning permits for similar uses, however at present, neither are acted on. Should the permit at the adjacent site to the east be acted upon, there will be three similar facilities, associated built form and additional dwellings in a row. It is considered that the proposal will lead to a poor planning outcome in the Farming Zone, intensifying residential development and built form contrary to policy.</p>
<p>The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.</p>	<p>An LCA has been provided to the satisfaction of Council's EHO, subsequently conditions have been provided.</p>
<p>Design and siting issues</p>	
<p>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.</p>	<p>The subject site is a small lot in the Farming Zone and the proposal will result in most of the land being occupied with either buildings, accessways of effluent disposal areas. The proposal will present a substantial built form in the rural landscape and remove most of the land from agricultural productivity, however planning officer's note the land on its own is</p>

	not of sufficient size to contribute significantly to agricultural uses at present.
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.	Due to the small lot size and amount of development proposed, it is likely the buildings will be visible in the landscape. Should a planning permit be issued, measures may be required in terms of solid acoustic fencing that will also impact the appearance of the property and the open, rural setting.
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 surrounding area is a relatively flat rural landscape, with native vegetation scattered throughout. The surrounding area contains a number of dwellings however the majority of these are on larger lots and therefore the built form does not have such a visible impact in the otherwise rural landscape.
The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.	Very few services are available and will require connection upon development.
Whether the use and development will require traffic management measures.	Access is already on to Faithfull Road.

Municipal Planning Strategy and Planning Policy Framework

In relation to agriculture, Clause 02.03-4 notes that small crown allotments are prominent within the Farming Zone and Council continues to experience demand for development of dwellings on these lots that are not consistent with the primary purpose of the Farming Zone. The clause also states that there are a number of existing intensive agricultural developments throughout the Shire. These businesses provide for economic growth within their regions and Council continues to support the sustainable operation of these existing businesses.

Of importance to the proposal and amongst other things, the clause seeks to:

- retain areas of high-quality rural land for farming and agricultural purposes;
- encourage consolidation of small rural lots within the Farming Zone;
- encourage emerging rural enterprises, such as intensive animal husbandry, horticulture and the equine industry;
- prioritise productive farming development over residential development;
- encourage value adding rural industries; and
- to promote the clustering of co-dependant uses

In relation to Housing, Clause 02.03-6 notes that there has been an increase in demand for rural living development and urban expansion into agricultural areas can result in conflicts at Council's strategic directions for housing are to:

- encourage rural residential development that is located and designed to protect existing agricultural uses, the natural environment and townships; and
- encourage rural residential development that can be efficiently serviced by social and physical infrastructure.

Clause 11 directs planning to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing and other uses.

Planning is to prevent environmental, human health and amenity problems created by siting incompatible land uses close together.

The objective at Clause 11.01-1S sets an objective that planning is to facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements that offer convenient access to jobs, services, infrastructure and community facilities.

Clause 11.01-1L-03 directs planning to protect the local character and encourage low density residential development to the east of the Township Zone.

Clause 13.05-1S directs planning to consider amenity impacts from noise. The proposal is located quite close to neighbouring properties that undertake animal husbandry type land uses and presents a potential risk to the amenity of the future dwelling occupier.

Clause 13.07-1S sets the objective to facilitate appropriate land uses with potential adverse off-site impacts and to ensure that they are compatible with nearby land uses.

Clause 14.01-2S directs planning to ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources; and support adaptation of the agricultural sector to respond to the potential risks arising from climate change.

Clause 14.01-1L sets the objective to discourage proliferation of dwellings on lots less than the minimum lot size in the Farming Zone. It directs planning to discourage dwellings not associated with the agricultural use of the land that will compromise the operation of nearby agricultural enterprises.

Clause 14.01-2L sets the strategy to encourage intensive agricultural development that suitable responds to noise management impacts.

Clause 16.01-3S sets an objective to identify land suitable for rural residential development. Development is to be managed in rural areas to protect agriculture and avoid inappropriate rural residential development.

Officer's response:

The Planning Policy Framework does encourage rural residential development in areas identified in the Strathbogie Shire Rural Residential Strategy 2004, which the subject site is located within (Area 18), but this recommendation was predicated on further investigation being undertaken to show that the land could be suitable for future rural residential development, see Figure 16. This work has not been undertaken.

While the land is identified within the RRS, in this instance there is a potential conflict between incompatible uses (a dog and cat kennels, breeding establishment, and a rural lifestyle dwelling) as there is no buffer distance available between these agricultural uses and the subject site, given they share two boundaries. There is potential for this proposal to create land use conflicts, which is contrary to local and state planning policy.

It is therefore acknowledged that while the subject site has the potential for a rural residential use, that use would be incompatible with the existing use directly neighbouring and therefore the proposal is not supported by the Municipal Planning Strategy and the Planning Policy Framework.

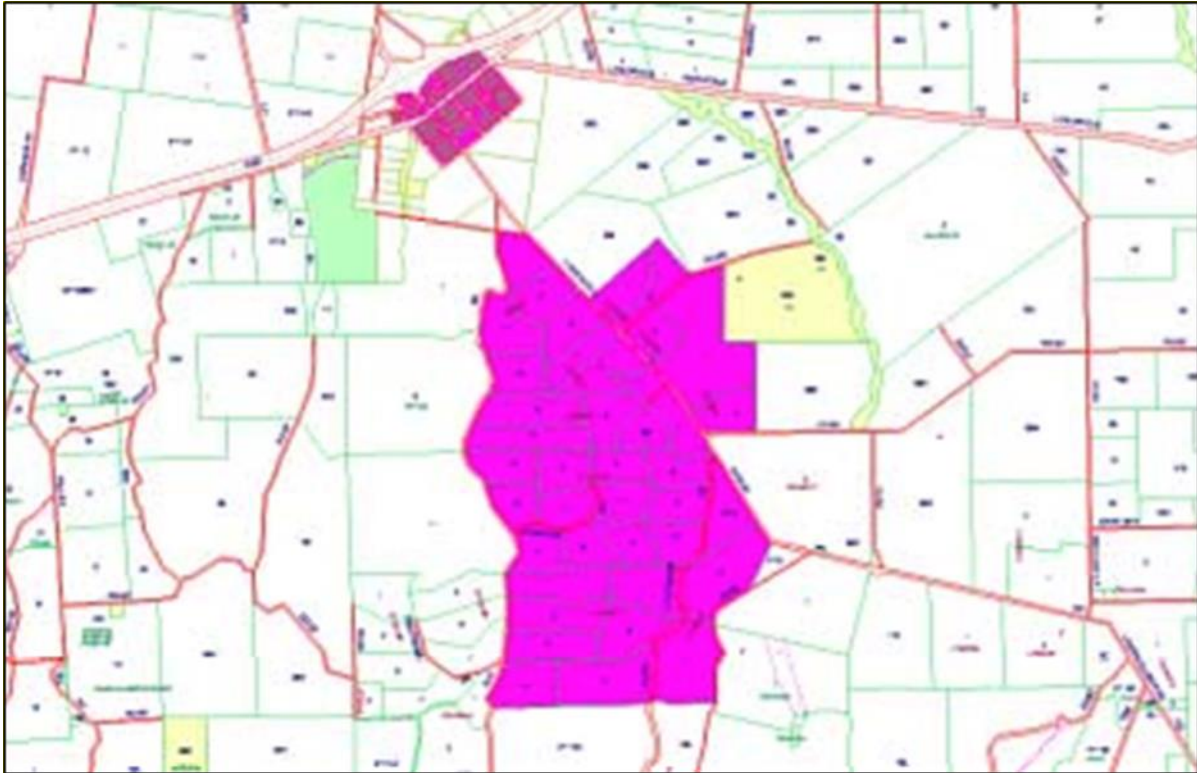


Figure 16: Extract from the Strathbogie Shire Rural Residential Strategy 2004 showing Area 18 (Old Longwood). Note that the land shaded in purple may upon further investigation be suitable for future rural residential development.

Relevant Particular Provisions

Clause 52.06 – Car Parking

Purpose

To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.

To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

To support sustainable transport alternatives to the motor car.

To promote the efficient use of car parking spaces through the consolidation of car parking facilities.

To ensure that car parking does not adversely affect the amenity of the locality.

To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Clause 52.06-5 outlines the required number of car parking spaces for various uses. An extract of the table that is applicable to this application is contained below.

Number of car parking spaces required under Table 1

Use	Rate Column A	Rate Column B	Car Parking Measure Column C
Dwelling	1	1	To each one- or two-bedroom dwelling, plus
	2	2	To each three or more-bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms)

Officer's response:

The dwelling has three bedrooms and, as such, one on site car parking space is required and on site spaces can easily be accommodated. Domestic animal husbandry is not listed and as a result, the proposal is considered to meet the car parking requirements.

The Decision Guidelines at Clause 65

Clause 65.01	
Decision Guideline	Officer Comment
<i>The matters set out in Section 60 of the Act.</i>	The proposal is not appropriate considering the matters set out in Section 60 of the <i>Planning and Environment Act 1987</i> , as the proposal is inconsistent with the relevant provisions of the Strathbogie Planning Scheme. Notification and referrals were undertaken, and one objection was received. The proposal will impact the use of the land and surrounds for agriculture.
<i>Any significant effects the environment, including the contamination of land, may have on the use or development.</i>	The environment is unlikely to have any significant on the proposed dwelling. The site is unlikely to have been exposed to contaminants in the past.
<i>The Municipal Planning Strategy and the Planning Policy Framework.</i>	As discussed above, the proposal is contrary to the Municipal Planning Strategy and the Planning Policy Framework.
<i>The purpose of the zone, overlay or other provision.</i>	For reasons discussed throughout this report, the proposal is inconsistent with the purpose of the Farming Zone.
<i>Any matter required to be considered in the zone, overlay or other provision.</i>	As discussed above, the proposal is inconsistent with the relevant requirements and decision guidelines of the Farming Zone.
<i>The orderly planning of the area.</i>	The proposal allows for the fragmentation of land in the Farming Zone and will introduce rural residential development and use that will impact the surrounding use of the land for agriculture and does not present orderly planning of the area.
<i>The effect on the environment, human health and amenity of the area.</i>	The proposal introduces a greyhound rehab facility onto a small lot in the Farming Zone in close proximity to other dwellings and uses. There is limited information in relation

	to acoustic measures to be utilised to mitigate any potential noise impact on the amenity of the area.
<i>The proximity of the land to any public land.</i>	The site abuts a road serve to the east that is currently not utilised.
<i>Factors likely to cause or contribute to land degradation, salinity or reduce water quality.</i>	The proposal is unlikely to contribute to land degradation, salinity, or reduced water quality. All stormwater and wastewater will be appropriately managed on site and there is no permit trigger for the removal of existing vegetation to be considered.
<i>Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.</i>	The Engineering Department have reviewed the application and recommended a condition relating to on-site stormwater retention. No major issues were raised in relation to stormwater.
<i>The extent and character of native vegetation and the likelihood of its destruction.</i>	N/A – permit not required. The applicant has provided information that no vegetation will be impacted.
<i>Whether native vegetation is to be or can be protected, planted or allowed to regenerate.</i>	As above.
<i>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.</i>	The proposal is located in an area of low bushfire risk.
<i>The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.</i>	Driveways can accommodate domestic vehicles as well as emergency service vehicles.
<i>The impact the use or development will have on the current and future development and operation of the transport system</i>	The proposal is unlikely to have an impact on the current and future operation of the transport system.

Clause 71.02-3 Integrated Decision Making

Victorians have various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure. Planning aims to meet these needs and expectations by addressing aspects of economic, environmental and social wellbeing affected by land use and development.

The Planning Policy Framework operates together with the remainder of the scheme to deliver integrated decision making. Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.

Planning authorities should identify the potential for regional impacts in their decision making and coordinate strategic planning with their neighbours and other public bodies to achieve sustainable development and effective and efficient use of resources.

Clause 71.03-2 Making Decision about Section 2 Uses

Because a use is in Section 2 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 Municipal Planning Strategy, the Planning Policy Framework, the purpose and decision guidelines of the zone and any of the other decision guidelines in Clause 65.

Relevant State Policy

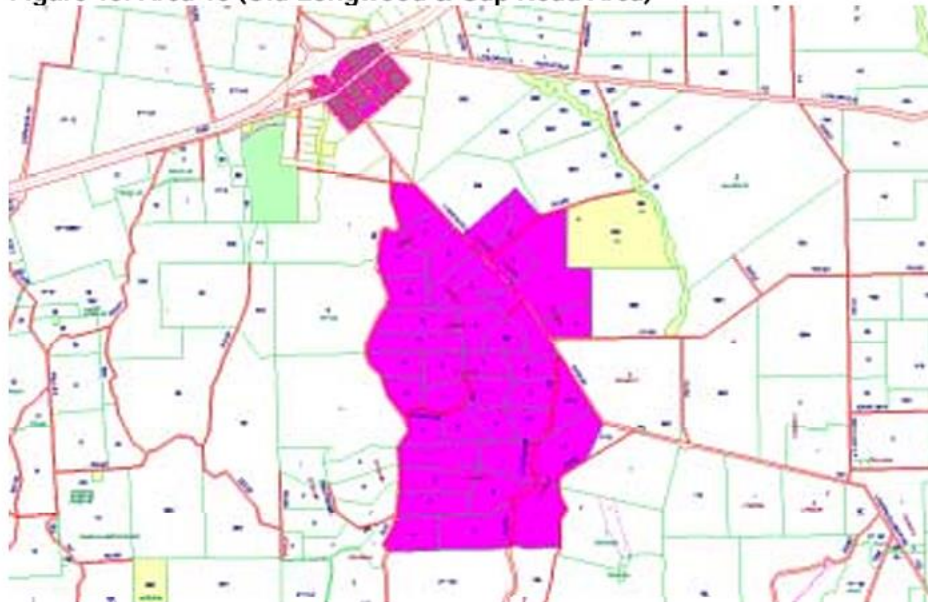
- Melbourne Plan 20230
- Hume Regional Growth Plan 2014

Relevant incorporated, reference or adopted documents

Rural Residential Strategy 2004

- The land is included in the RRS 2004 as land that is currently as being used for rural living and which may upon further investigation be suitable for future rural residential development purposes.
- However, in relation to the land known as Old Longwood, the RSS notes:
 - *Very few of the properties have been developed over the years. While larger and unserviced lots would be preferable in this location, the review should also consider the merits of developing near to the Hume Freeway, from an amenity perspective. In addition the 'safety' issues of creating additional development across the freeway from Longwood should be considered.*
- The RRS 2004 recommends that the area is considered for retention as a rural zone with the inclusion of overlays that would require the consolidation of lots, rather than development and further subdivision.

Figure 18: Area 18 (Old Longwood & Gap Road Area)



Relevant Planning Scheme amendments

- Nil

Risk Management

The author of this report considers that there are no significant Risk Management factors relating to the report and recommendation.

Strategic Links – policy implications and relevance to Council Plan

The author of this report considers that the report is consistent with Council Policies, key strategic documents and the Council Plan.

Summary and Conclusion

- The application is for Domestic Animal Husbandry (Greyhound rehab) and an associated dwelling on a small lot in the Farming Zone
- The keeping of more than five animals is a discretionary use in the Farming Zone, despite Domestic Animal Husbandry being included within the agricultural suite of uses in the Strathbogie Planning Scheme.
- Access and effluent to be provided on site as part of the proposal.
- One objection has been received, in relation to the impact of the proposal on the existing use of the land on a nearby property.

The Planning Policy Framework of the Strathbogie Planning Scheme allows for consideration of the use of the land for agriculture and associated dwellings on small lots where they have been identified in the RRS, or more broadly, where there is surrounding context to support a more lenient approach to rural lifestyle development. The land is located in Area 18 of the RRS, although the strategy identifies that the Old Longwood area should be retained in a rural zone with investigation for overlays that would require consolidation of the lots rather than further intensifying development. The proposal includes the consolidation of three small parcels which is considered to be a positive aspect of the application.

However, it is considered that on balance that application should not be supported, primarily because of the existing agricultural activities occurring on the neighbouring properties to the east and west of the subject land and the potential for amenity impacts that is created.

Whilst the clustering of land uses that have the potential to lead to offsite amenity impacts can be appropriate in other instances, it is considered that this practice is not appropriate in this location, particularly given how close the proposed dwelling is to the neighbouring activities and their potential to adversely impact it.

The application does not include relevant information of consideration of the domestic animal husbandry on surrounding uses, including acoustic impacts and the concentrated presence of animals in a small area.

It is considered the proposal is not consistent with the Planning Policy Framework of the Strathbogie Planning Scheme and should be refused.

Decision:

E Bulletin and Date – Update council that is it coming in the briefing	Council Report and Date – June 2024
Grant <input type="checkbox"/> Refuse <input checked="" type="checkbox"/>	NOD Issued -
	Appeal lodged -

Declaration:

In making this decision as a delegated Officer, I declare that I have had regard to the decision-making requirements of the Strathbogie Shire Council's Governance Rules 2020 outlined by Rule 6 and have:

- Made a fair, balanced, ethical and impartial decision - Sub Rule 6(c)(i)

- Made a decision based on merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations- Sub Rule 6 (c)(ii)

- Applied the principles of natural justice to my decision, ensuring any person whose rights will be directly affected by the decision has been entitled to communicate their views and have their interests considered - Sub Rule 6(d) N/A

- Identified the person or persons whose rights will be directly affected Sub Rule 6(e)(i)
- Given notice of the decision Council must make under Sub Rule G(e)(i) N/A

- Ensured that such person(s) have had an opportunity to communicate their views and have their interests considered before I made the decision - Sub Rule 6(e)(i) N/A

- Included information about how I've met these Sub Rules in my delegate report- Sub Rule 6(e)(iv)

Attachments

Plans for endorsement Doc ID Nil

Assessing Officer:	Jack Francis Senior Planner Gill Williamson Principal Planner External consultant	Reviewing Officer:	Jack Francis Senior Planner
Signature:		Signature:	
Date:	24 April 2024	Date:	13/05/2024

Copy of permit to:

Nil

Date sent:..... Initials:.....