

5 Ordinary Business

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

Responsible GM: Peter Benazic
Author: Evangeline McGauley-Kennedy

Recommendation(s)

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

Attachments

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

Executive Summary

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

	Use of agricultural and green wedge land Protection of areas of environmental significance
RECOMMENDATION:	That a Notice of Decision to Grant an amended permit be issued.

Background

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

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

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

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

The dogs currently kept at the subject site include:

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

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

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

Current operations (Adult dogs):

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

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

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

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

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

practitioner prior to first mating to assess whether she is physically mature enough to be bred with. Veterinary practitioners must provide a certificate to state that, at the time of examination, the female is suitable to breed.

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

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

Current operations (Puppies):

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

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

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

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

Existing kennels

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

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

Planning Permit History

The planning permit history of the site includes:

- Planning permit No T980221 was issued for the construction of machinery shed on the 8 May 1998.
- Planning permit No T980220 was issued for the breeding and keeping of ten (10) schnauzer dogs on the 11 May 1998.
 - Planning permit T980220 was extended for two (2) years on 17 March 2000.
 - Planning permit T980220 was extended for a further two (2) years on 14 May 2002.
 - Planning permit T980220 was extended for a further two (2) years on 7 January 2004.
 - Planning permit T980220 was extended for a further two (2) years on 30 March 2006.
- Planning Permit T980220 issued for the use and development of the land for the purposes of breeding ten (10) Schnauzer dogs, was amended on 20 February 2009.
 - A previous delegates report confirms that the buildings and works associated with T980220 were undertaken, however it is unclear if the use (dog breeding)

associated with this permit was ever undertaken. Without further confirmation being provided with this application, it is therefore assumed that the use aspect of this permit has since expired.

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

Subject Site



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

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

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

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

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

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

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

Relevance to Council Plan

Nil.

Proposal

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

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

Condition 2 of the permit currently reads:

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

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

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

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

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

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

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

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

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

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

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

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

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

Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

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

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

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

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

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

Zone

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

Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay – Schedule 1

Planning Permit Triggers

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

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

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

Public Notification

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

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

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

The key issues raised by the majority of objections are:

- Animal rights and animal welfare concerns
- Compliance with current legislation around animal (dog) breeding

In addition, a total of 13 objections raised concerns regarding the following planning considerations:

- Traffic
- Land use not compatible with Green Wedge Zone

- Environmental protection
- Amenity of neighbours

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

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

Referrals

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

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

Discussion

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

Scope of the assessment under the Cardinia Planning Scheme

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

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

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

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

any reasonable belief that the proprietor has failed to comply with their obligations under the relevant regulations.

According to Agriculture Victoria, for a breeder to become an approved *commercial* dog breeder, businesses must first apply and be registered as a breeding *domestic* animal business with local council. All domestic and approved commercial breeders must comply with the Code of Practice for the Operation of Breeding and Rearing Businesses 2018.

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

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

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

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

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

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

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

Clause 13.05-1S (Noise abatement) seeks to assist the control of noise effects on sensitive land uses by ensuring that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

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

Clauses 14.01-1s (Protection of agricultural land) and 14.01-2s (Sustainable agricultural land use) seeks to encourage sustainable agricultural land use by ensuring that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.

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

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

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

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

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

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

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

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

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

Green Wedge Zone:

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

General issues:

- The Municipal Planning Strategy and the Planning Policy Framework.

- The capability of the land to accommodate the proposed use or development.
- How the use or development relates to rural land use, rural diversification, natural resource management, natural or cultural heritage management, recreation, or tourism.
- Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses.
- Whether the use or development is essential to the health, safety or well-being of the State or area but is not appropriate to locate in an urban area because of the effect it may have on existing or proposed urban areas or the effect that existing or proposed urban areas may have on the proposed use or development.

Rural issues:

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

Environmental issues:

- The impact of the use or development on the flora and fauna on the site and its surrounds.
- The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- How the use or development relates to sustainable land management and the need to prepare an integrated land management plan.

Design and siting issues:

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

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

Given that one of the main purposes of the Green Wedge Zone is to provide for land for a range of agricultural pursuits, the current land use is considered a suitable land use in this location. Given the size of the site, it is unlikely it can be utilised for an agricultural pursuit with

larger livestock or animals, or crop raising on a commercial scale, therefore, the proposed increase to dog numbers to facilitate a commercial scale operation on the site is considered suitable.

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

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

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

Environmental Significance Overlay – Schedule 1

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

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

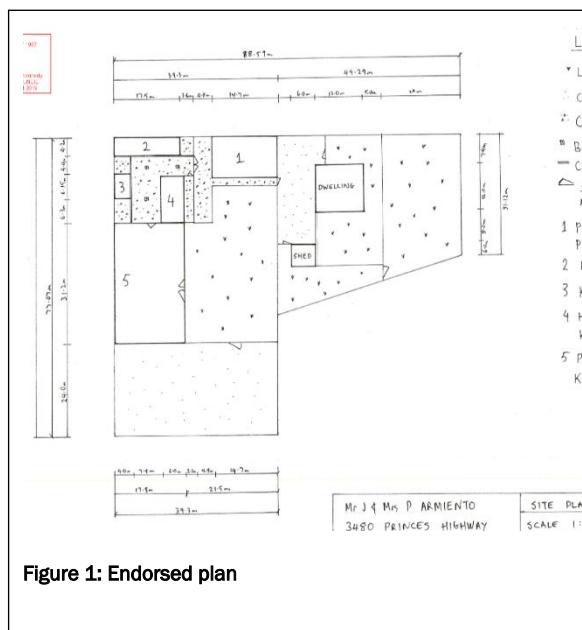


Figure 1: Endorsed plan

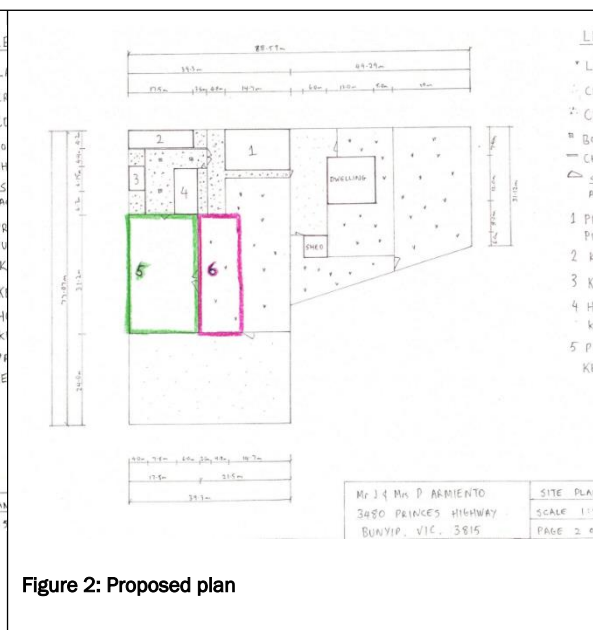
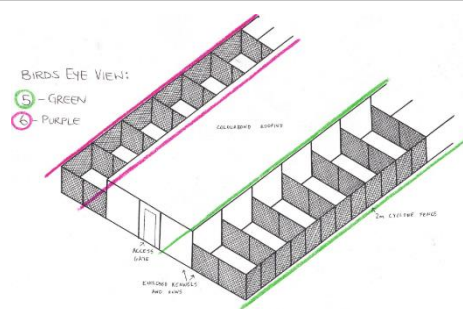
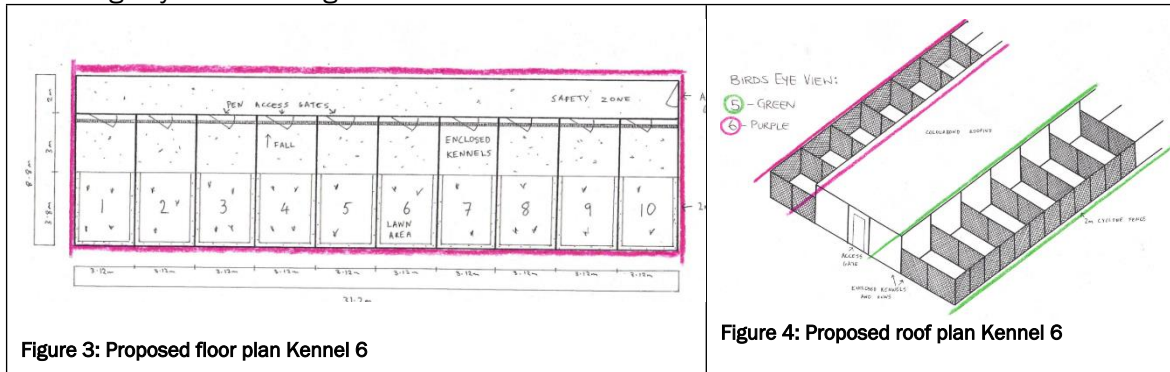


Figure 2: Proposed plan

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



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

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

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

Changes in policy

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

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

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

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

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

73.04-2 **Agriculture group**
08/08/2019
VC159

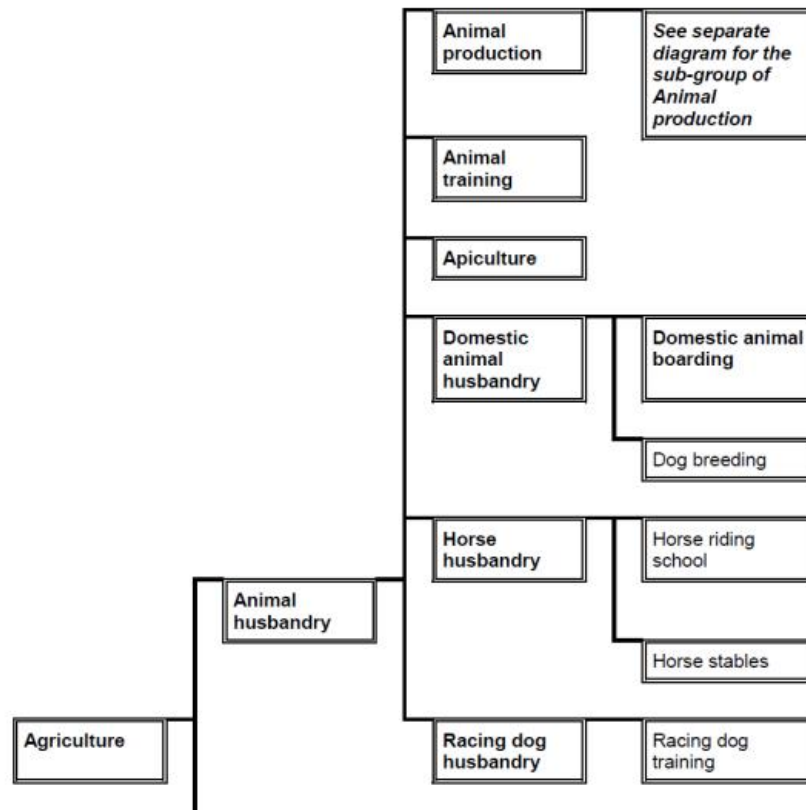


Figure 5: Clause 73.04-2 Nesting diagrams for Agriculture group

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

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

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

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

Advertising and response to objections

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

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

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

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

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

In response to these concerns the following can be said:

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

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

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

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

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

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

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

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

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

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

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

Planning policy-based concerns:

- Traffic (safety given the proximity to Princes Highway)

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

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

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

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

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

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

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

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

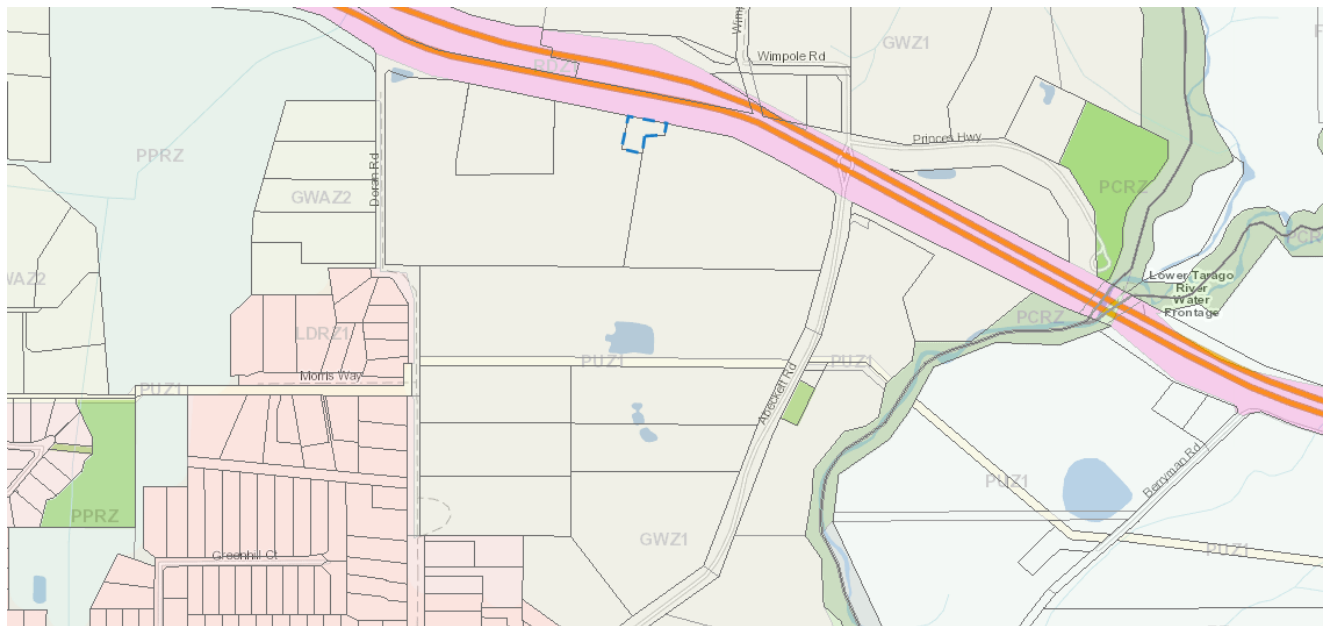


Figure 6: Planning maps showing proximity to residential Zones (Source: VicPlan 2020)

- Environmental protection (concerns about protected and threatened species)

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

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

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

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

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

- Amenity of neighbours (noise)

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

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

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

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

Advice from referral authorities

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

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

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

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

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

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

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

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

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

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

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

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

Increase in detriment to any persons

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

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

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

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

Social and economic impacts

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

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

Other strategic plans or works

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

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

Section 173 Agreements

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

Other relevant matters

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

Are the changes to the Planning Permit considered appropriate?

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

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

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

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

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

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

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

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

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

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

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

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

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

Clause 65 Decision Guidelines

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

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

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

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

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

Conclusion

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

Conditions

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

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

Plans required:

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

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

Use conditions:

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

Compliance:

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

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

Amenity:

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

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

Development Conditions:

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

Expiry:

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

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

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

Notes:

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

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

AN INTERNATIONAL ORGANISATION DEDICATED TO PROTECTING THE RIGHTS OF ALL ANIMALS

PETAPEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS

Evangeline McGauley-Kennedy
Senior Statutory Planner
Cardinia Shire Council
mail@cardinia.vic.gov.au

Australia
PO Box 20308
World Square
Sydney NSW 2002

6 November 2020

08 8556 5828
PETA.org.au

Re: Objection to Planning Permit Application T190304-1

Dear Ms McGauley-Kennedy,

I am writing on behalf of People for the Ethical Treatment of Animals (PETA) to object to planning permit application T190304-1, which seeks permission to expand a commercial dog-breeding facility at 3480 Princes Highway, Bunyip, Victoria.

Please accept the attached submission on behalf of PETA and our 8,196 supporting signatories.

Thank you in advance for reading the submission. We look forward to hearing from you regarding this issue.

Yours faithfully,

Laura Weyman-Jones
PETA Australia
laurawj@peta.org.au

Affiliates

- PETA US
- PETA Asia
- PETA India
- PETA France
- PETA Germany
- PETA Netherlands
- PETA Foundation (UK)

PETA Australia Pty Ltd
ACN - 128209923

Objection to Planning Permit Application T190304-1

Dear Cardinia Shire Council,

I'm writing to object to planning permit application T190304-1, which seeks permission to expand a commercial dog-breeding facility at 3480 Princes Highway, Bunyip, Victoria 3815.

The development proposed by ALLBLUESTAFF is unquestionably a puppy farm – a facility that breeds and sells dogs for financial gain. The plans submitted to the council describe the use of 30 breeding females, who could give birth to litters of five or six puppies twice a year. Around 300 puppies would be bred and sold by the farm annually.

Meanwhile, a staggering 400,000 abandoned animals enter shelters and council pounds across Australia every year. The unending flood of homeless animals leaves open-admission shelters with no option but to euthanise animals in order to be able to continue accepting more cats and dogs who are surrendered by their guardians or picked up from the streets. Allowing dogs to be bred by the hundreds for profit at this puppy farm while countless other dogs die in shelters would be grossly irresponsible.

Even worse, Staffordshire bull terriers – the breed of dog sold by ALLBLUESTAFF – are the most commonly abandoned dogs.

Please take into account our objections along with comments made by local residents when making a decision on this application.

Yours sincerely,

PETA Australia and signatories (listed below).

PO BOX 20308
World Square
Sydney NSW 2002