

Ordinary Business**5.2 T210005 Use and development of the land for Domestic Animal Husbandry (Dog Breeding)**

File Reference: 4762300200
Responsible GM: Kristen Jackson
Author: Mary Rush

Recommendation(s)

It is recommended that a Notice of Decision to Grant Planning Permit T210005 be issued for the use and development of the land for domestic animal husbandry at L1 TP310627, 150 Settlement Road, Caldermeade VIC 3984 subject to the following conditions:

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) An amended site plan showing a two (2) metre wide landscaping strip between the boundary and dog exercise yard;
 - b) A landscaping plan of the landscaping strip showing species and planting density to Council's satisfaction;
 - c) Amended elevations of the proposed kennel building showing a maximum height of 4.5 metres;
 - d) Amended fencing design of the dog exercise yard to comply with Melbourne Water's condition 20;
 - e) Detailed construction plans of the proposed kennels showing acoustic materials utilised to ensure compliance with the Environment Protection Regulations 2021 and relevant Environment Reference Standards relating to noise generated by rural industry;
 - f) That the building design has been certified by a qualified member of the Association of Australian Acoustical Consultants or the Australian Acoustics Society which confirms that the buildings design and fenced external exercise yards will comply with the relevant Environment Protection Regulations 2021;
 - g) 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.
- h) 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. Safety measures to be actioned in the event of flood, bushfire or other emergency.
 - iv. How the animals will be supervised.
 - v. 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.

Use:

2. The use as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
3. No more than fifteen (15) dogs may be kept on the property at any one time. This includes:
 - a) No more than nine (9) fertile female dogs (entire female 12 months or older);
 - b) No more than three (3) entire males; and
 - c) Any dog sixteen (16) weeks or older.
4. All dogs kept at the property over twelve (12) weeks of age must be registered with Cardinia Shire Council.

Compliance:

5. 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.
6. 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) *Environment Protection Regulations 2021* and relevant Environment Reference Standards relating to noise generated by rural industry.
 - c) Any other relevant legislation and codes of practice.

7. 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:

8. 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.
9. Offensive odours must not be discharged beyond the boundaries of the premises.
10. Noise emitted from the premises must not exceed the recommended levels as set out in *Environment Protection Regulations 2021* and relevant Environment Reference Standards relating to noise generated by rural industry or as amended).
11. All feed is to be stored in vermin-proof structures to the satisfaction of the Responsible Authority
12. 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:

13. 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
14. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
15. 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.
16. 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 effect on the environment or adjoining property owners.
17. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
18. 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.

Melbourne Water:

19. The Building be constructed with finished floor levels set 900mm above natural surface levels.
20. All open space within the property (including setbacks) must be set at existing natural surface level so as not to obstruct the passage of overland flows.
21. Any new fencing/gates must be of an open style of construction (minimum 50% open) to allow for the passage of overland flows.
22. No fill outside of the proposed building footprint except for minimal ramping into the building kennels.
23. Prior to the commencement of works, a separate application direct to Melbourne Water (Asset Services Team) must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

Expiry:

24. 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 permit; or
 - b) the development is not completed within **four (4) years** after the issue of this 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.
- The permit holder must hold a current Domestic Animal Business permit for Dog Breeding with the relevant Council.

- The permit holder must maintain a membership with an applicable organisation.

Attachments

1. T 210005 P A-plans assessed [5.2.1 - 4 pages]
2. CONFIDENTIAL - Copy of Objections - Circulated to Councillors only [5.2.2 - 58 pages]

Executive Summary

APPLICATION NO.:	T210005
APPLICANT:	Elena Kutukoff
LAND:	L1 TP310627, 150 Settlement Road, Caldermeade VIC 3984
PROPOSAL:	Use and development of the land for domestic animal husbandry (dog breeding)
PLANNING CONTROLS:	Rural Conservation Zone - Schedule 1 Land Subject to Inundation Overlay
NOTIFICATION & OBJECTIONS:	Pursuant to Section 52 of the <i>Planning and Environment Act 1987</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 Proposed use of green wedge land Potential impact of flooding
RECOMMENDATION:	That a Notice of Decision to Grant a Permit be issued.

Background

In November 2020 Council received a written complaint from a nearby landowner that a dog had escaped from the subject site and allegedly killed one of their chickens. The complainant also wanted Council to confirm that the dog breeding activity being carried out on the land was approved. Upon investigation by Council's compliance officers, it was determined that the existing use for animal husbandry did not have planning approval.

Council's compliance officers wrote to the landowner and requested that the activity cease or that they apply for a planning permit. An application was subsequently received by Council on the 6 January 2021 for the use and development of the land for animal husbandry (dog breeding).

There is no other relevant planning history on the land. The applicant purchased the land in January 2020.

Subject Site



The site is located on the southern side of Settlement Road.

A crossover is located towards the middle of the lot. There are no easements within the title boundaries.

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

The topography of the land is flat.

The site is clear of vegetation.

The main characteristics of the surrounding area are:

- North: Cleared rural land used for grazing.
- South: Cleared rural land used for grazing.
- East: Cleared rural land used for grazing.
- West: Cleared rural land used for grazing.

Relevance to Council Plan

Nil

Proposal

The application proposes to keep a maximum of 15 adult dogs consisting of:

- 3 entire males consisting of 1 entire Doberman guard dog and 2 entire males used for breeding,
- 4 entire female American staffordshire terriers,
- 5 entire female staffordshire bull terriers,
- 3 retired dogs.

The applicant has advised that each fertile adult female will have approximately one (1) litter per year on average.

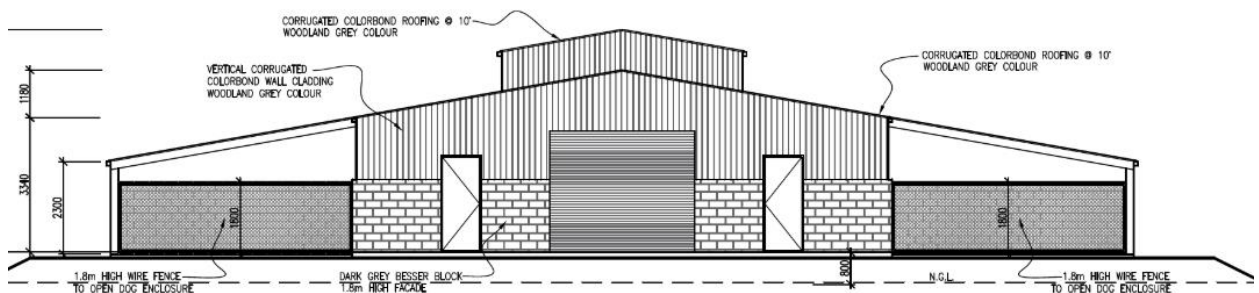
The puppies are advertised for sale online and the owner meets the purchaser either at a nominated veterinary clinic or at an agreed location. On very rare occasions the purchaser will attend the subject site on agreement with the owner.

The application does not constitute commercial dog breeding under Agriculture Victoria legislation as the proposal does not intend to breed from more than 11 fertile females.

The applicant proposes to construct a purpose-built dog kennel to house all animals.



EAST ELEVATION



SOUTH ELEVATION

The proposed building measures 25 metres by 24 metres (600 square metres) and will have a barn style construction with a maximum height of 5.5 metres. The kennel is proposed to be constructed in a mix of brick and steel cladding.

The building will be located 5 metres from the southern and eastern boundaries, 23 metres from the western boundaries and 65 metres to the front boundary.

The internal layout shows 20 individual caged enclosures with an individual area of 14.4 square metres indoor shelters that are 9.36 square metres. Whilst the Code of Practice for the Operation of Breeding and Rearing Businesses is not mandatory, the application should meet

the majority of its requirements. As the Code requires enclosures to be 10 square metres, a condition will be placed on any permit requiring the enclosures to be 10 square metres.

Planning Scheme Provisions

Zone

The land is zoned Rural Conservation Zone - Schedule 1.

Overlays

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

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 13.03-1s – Floodplain management
- 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 22.05 - 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 Western Port Green Wedge Management Plan (May 2017)

Planning Permit Triggers

A planning permit is required under the following provisions of the Cardinia Planning Scheme:

- Pursuant to Clause 35.06-1 of the Rural Conservation Zone, a planning permit is required to use the land for Domestic Animal Husbandry (more than 2 animals).
- Pursuant to Clause 35.06-5 of the Rural Conservation Zone, a planning permit is required for buildings and works associated with a Section 2 Use, and for a building with a setback of less than 100 metres from a dwelling not in the same ownership and exceeding 120 square metres in floor area;
- Pursuant to Clause 44.04-1 of the Land Subject to Inundation Overlay, a planning permit is required for the buildings and works

Referrals

The application was referred to Melbourne Water who raised no objections subject to permit conditions.

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 eight (8) nearby residents received notice of the application by mail.

The notification has been carried out correctly, and Council has received 32 objections.

The key issues raised by the majority of objections are:

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

In addition, a total of three (3) objections raised concerns regarding the following planning considerations. These three objections are the first 3 objections in the

- Loss of property value;
- Loss of view;
- Traffic;
- Impact on agriculture;
- Inappropriate use in a green wedge;
- Amenity of neighbours (noise and visual impacts);
- Environmental protection (impacts on vegetation and flora and fauna waste management); and
- Land use not compatible with Rural Conservation Zone.

Discussion

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) seek 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 provide for the protection of agricultural land for agricultural and other compatible land uses.

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 is considered to align with the policies listed above. 'Domestic Animal Husbandry' 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 policies listed above support 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). The proposal 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.

Rural Conservation Zone

One of the key purposes of the Rural Conservation Zone is to implement the MPS and PPF. It also seeks 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 land is 0.56 Ha in area and is large enough to accommodate the proposed building. The proposal was advertised to nearby residents and no objection was received from the properties adjoining the subject site.

Subject to conditions requiring amended plans, it is considered that the proposal will not have a significant impact on the surrounding neighbours.

- Rural Issues:

The proposal will have no impact on conventional rural activities such as grazing or cropping as the site is not large enough for these activities.

Domestic Animal husbandry falls within the agriculture group of land uses and subject to permit conditions is considered an appropriate use of the site.
- Environmental Issues:

As discussed above the proposal will have no impact on flora and fauna as the site has no habitat or native vegetation on site.

The proposed building is to be located on a level area that requires no excavation, however some fill will be required to meet Melbourne Waters floor level requirements.
- Design and Siting Issues:

The proposed outbuilding complies with the minimum setbacks of 20 metres from the front boundary and 5 metres from the side boundary.

A condition will be placed on the permit requiring that the owner set the fence of the dog exercise yard back 2 metres from the boundary to allow for screen planting to reduce any visual impact.

A condition will also be placed on the permit requiring that the overall height be 1 metre to 4.5 metres.

Subject to 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 Rural Conservation Zone.

Land Subject to Inundation Overlay

The Land Subject to Inundation Overlay (LSIO) identifies areas where a 1 in 100 Year flood or floodplain area determined by a floodplain management authority warrants protection from flood hazards. These measures ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

Given that Melbourne Water had no objection to the proposed use and development, it is considered that the proposal will not increase the potential risk to life, health or safety a 1 in 100 Year flood poses, and will not affect or obstruct floodwater, stormwater or drainage over the property, subject to their conditions being met. Conditions requested by Melbourne Water will be placed on the permit to ensure the building is adequately protected from potential flood risk.

Objections

A response to objections is provided below:

Animal rights and animal welfare concerns

Most of the objections received relate to concerns about the ethics of breeding dogs at a large scale and the potential harm this causes the animal/s involved. Whilst Council considers this to be a valid concern, the scope of the assessment able to be undertaken via an application for a planning permit is limited to an assessment against the relevant planning policy included in the MPS, PPF, LPPF and relevant Zone and Overlay controls.

Compliance with current legislation around animal (dog) breeding

As previously discussed, this proposal does not constitute commercial animal breeding under Agriculture Victoria legislation as less than 11 fertile females will be used for breeding.

Council is responsible for enforcing *Domestic Animals Act 1994*. Other relevant legislation including *Domestic Animals Regulations 2015* and the *Prevention of Cruelty to Animals Act 1986* or regulations made under that Act are enforced by other bodies.

Council carry out annual inspections or on receipt of a complaint, so the use will be scrutinised by Council and external bodies to ensure compliance with current legislation.

Loss of property value

Loss of property value is not a planning consideration.

Loss of view

The planning system does not protect the individuals' right to a view. No objection has been received from either abutting landowner regarding this issue.

Traffic

Objectors nearby to the proposal have raised concerns over the increase in traffic expected.

The applicant has advised that the dogs are sold online, and the purchasers of the puppies will not attend the site, with the animals being collected from an agreed location.

The use has been carried out for the past 18 months and Council have received one complaint over an escaping dog and no resident has complained about the use currently causing any traffic concerns.

Given the above, it is not expected that there will be any noticeable increase in vehicle traffic.

Impact on agriculture

An objector within the vicinity of the subject site has raised concerns over animals escaping and impacting on stock. The proposal includes 1.8 metre high dog proof fencing which the animals will not be able to escape from the site.

The proposal will not negatively impact on any existing agricultural activity.

Inappropriate use in a green wedge

The Green Wedge policy 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.

As previously discussed, Domestic Animal Husbandry (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 and is therefore supported in Green Wedge areas.

The proposal is compatible with the rural and agricultural character of the area, and given its strategic location (away from sensitive residential areas) is considered acceptable. As previously advised the use has been carried out with no complaints about noise from adjoining properties. Subject to appropriate conditions it will not cause any major disruption to the surrounding agricultural properties.

Amenity of neighbours (noise and visual impacts)Noise

The use has been carried out for the past 18 months and no complaint has been raised with Council regarding noise generated by the existing use.

Whilst two objections from residents within the vicinity of the site have raised concerns over potential noise impacts, neither have previously lodged complaints with Council. One objector within the vicinity of the subject site has raised concerns over the noise of dogs barking at night.

With the construction of a purpose built structure that has appropriate acoustic design, it is not anticipated that the proposed use will result in unacceptable noise emissions. The noise emissions will be less than the current situation with the dogs currently being housed outside.

Visual amenity

An objector living within the vicinity of the subject site has raised concerns over the visual impact.

Concerns raised by a nearby resident over visual impact can be ameliorated by the inclusion of a landscape buffer around the exercise yard fence with a condition included on the permit requiring that the fence of the exercise yard be setback 2 metres from the boundary with a requirement for landscape screening to be planted within this 2 metre buffer.

The applicant has also agreed to reduce the height of the building by approximately 1 metre so that the maximum height does not exceed 4.5 metres. The reduction in the height and boundary planting will minimise any potential visual impact to an acceptable level.

A condition will be placed on the planning permit requiring these changes.

Environmental protection

Impacts on vegetation and flora and fauna

An objector has raised concerns about the potential disruption the proposal may have on endangered species and their habitat.

The proposal is not expected to cause any detriment to the species as the proposal does not result in the removal of habitat vegetation.

Waste management

An objector has raised concerns over waste management and soil contamination.

A Land/Animal Management Plan will be required to be submitted to Council's satisfaction to ensure that waste is appropriately managed.

Subject to appropriate conditions it is not expected that the use will result in any environmental impact.

Western Port Green Wedge Policy

The Western Port Green Wedge Policy identifies an area of approximately 746 square kilometres of rural southern part of Cardinia Shire Council and the City of Casey, which are home to important assets to both municipalities.

It is considered that this application responds appropriately to the objectives of the Policy in terms of supporting existing agricultural and horticultural industries. The proposal is not considered to cause detriment to the future direction of soil based agricultural pursuits on the site and surrounding sites that the Policy seeks to encourage in this region and should be supported.

Clause 51.02 Metropolitan Green Wedge Core Planning Provisions

The proposal is consistent with Clause 51.02-2 as this clause permits the proposed use and development

The relevant purposes of these provisions are:

- To protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values.
- To protect productive agricultural land from incompatible uses and development.

As discussed, the proposal will not impact on the surrounding agricultural uses or impact on the natural environment, landscape or natural resource or recreation values.

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;
- The existing use and possible future development of the land; and
- Traffic and road safety impacts.

As discussed the application aligns with Planning Policy Framework 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 carried out albeit without a planning permit with limited amenity impacts in the past 18 months. The proposed permit conditions are expected to result in compliance with noise levels and are not expected to reduce the amenity of the surrounding sensitive uses.

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

Conclusion

The proposed use and development is consistent with the requirements of the Cardinia Planning Scheme and based on the assessment above it is not considered that the proposal will not cause any unreasonable detriment to adjoining properties. It is therefore recommended that a Notice of Decision to Grant Planning Permit T210005 be issued for the use and development of the land for Domestic Animal Husbandry (Dog Breeding) at L1 TP310627, 150 Settlement Road, Caldermeade VIC 3984

subject to the following conditions:

Conditions

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:

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- b) A landscaping plan of the landscaping strip showing species and planting density to Council's satisfaction;
- c) Amended elevations of the proposed kennel building showing a maximum height of 4.5 metres;
- d) Amended fencing design of the dog exercise yard to comply with Melbourne Water's condition 20;
- e) Detailed construction plans of the proposed kennels showing acoustic materials utilised to ensure compliance with the Environment Protection Regulations 2021 and relevant Environment Reference Standards relating to noise generated by rural industry;
- f) That the building design has been certified by a qualified member of the Association of Australian Acoustical Consultants or the Australian Acoustics Society which confirms that the buildings design and fenced external exercise yards will comply with the relevant Environment Protection Regulations 2021;
- g) 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.
- h) 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. Safety measures to be actioned in the event of flood, bushfire or other emergency.
 - iv. How the animals will be supervised.

- v. 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.

Use:

2. The use as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
3. No more than fifteen (15) dogs may be kept on the property at any one time. This includes:
 - a) No more than nine (9) fertile female dogs (entire female 12 months or older);
 - b) No more than three (3) entire males; and
 - c) Any dog sixteen (16) weeks or older.
4. All dogs kept at the property over twelve (12) weeks of age must be registered with Cardinia Shire Council.

Compliance:

5. 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.
6. 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) *Environment Protection Regulations 2021* and relevant Environment Reference Standards relating to noise generated by rural industry.
 - c) Any other relevant legislation and codes of practice.
7. 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:

8. 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.
9. Offensive odours must not be discharged beyond the boundaries of the premises.
10. Noise emitted from the premises must not exceed the recommended levels as set out in *Environment Protection Regulations 2021* and relevant Environment Reference Standards relating to noise generated by rural industry or as amended).
11. All feed is to be stored in vermin-proof structures to the satisfaction of the Responsible Authority
12. 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:

13. 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
14. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
15. 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.
16. 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 effect on the environment or adjoining property owners.
17. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
18. 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.

Melbourne Water:

19. The Building be constructed with finished floor levels set 900mm above natural surface levels.
20. All open space within the property (including setbacks) must be set at existing natural surface level so as not to obstruct the passage of overland flows.

21. Any new fencing/gates must be of an open style of construction (minimum 50% open) to allow for the passage of overland flows.
22. No fill outside of the proposed building footprint except for minimal ramping into the building kennels.
23. Prior to the commencement of works, a separate application direct to Melbourne Water (Asset Services Team) must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

Expiry:

24. 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 permit; or
 - b) the development is not completed within **four (4) years** after the issue of this 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.

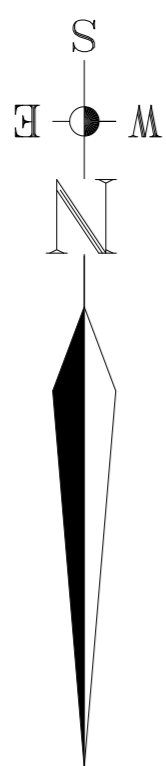
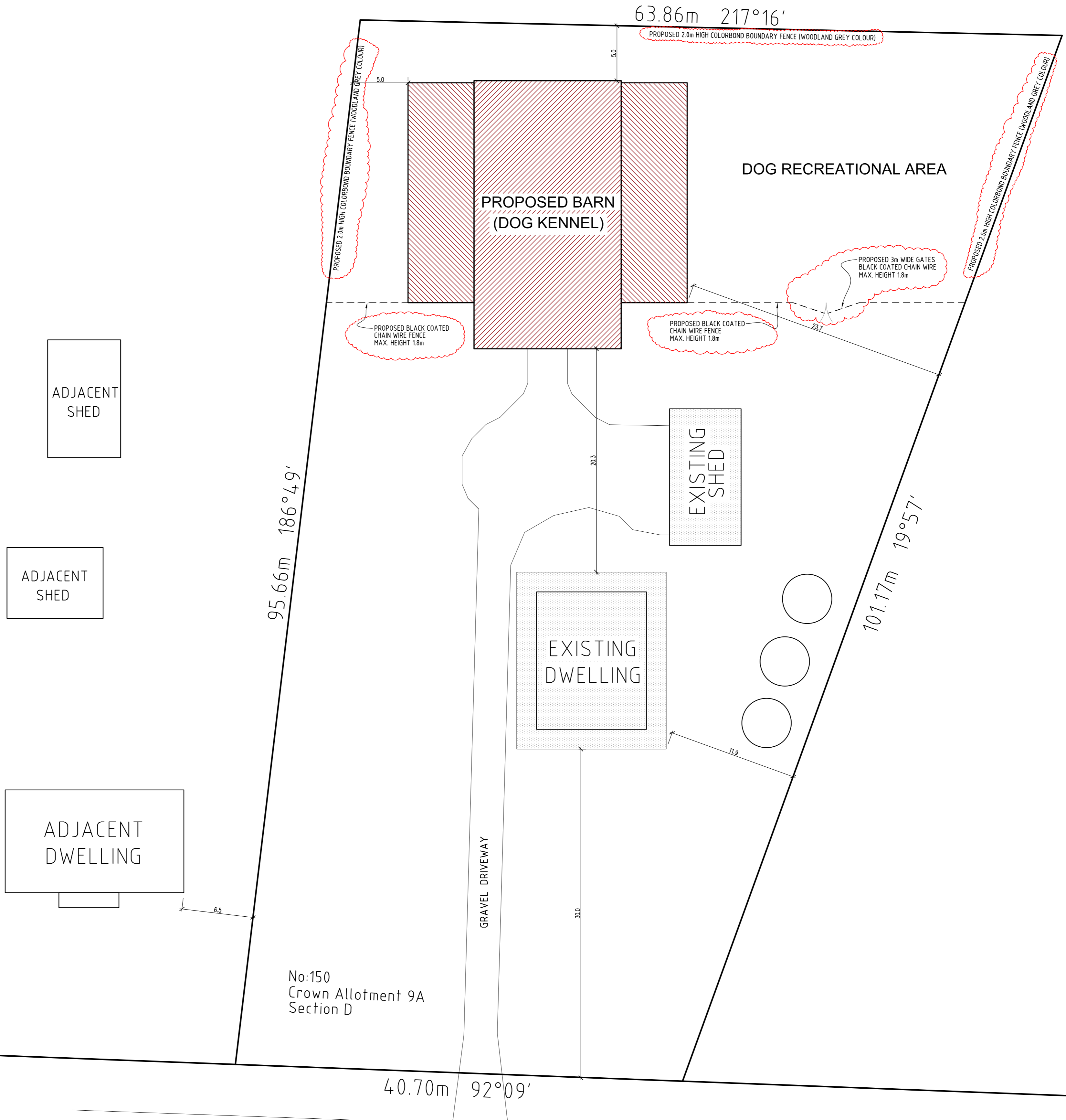
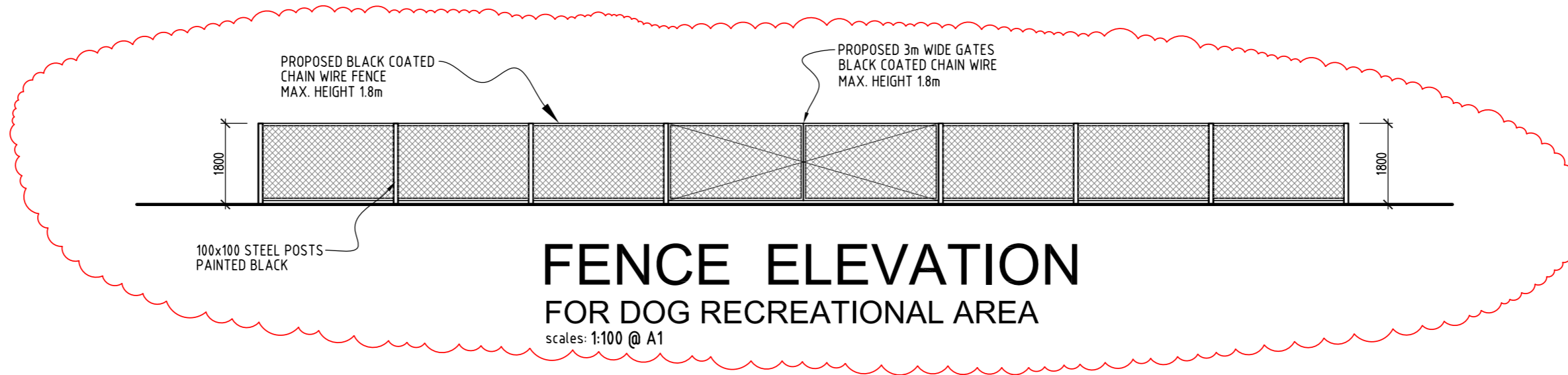
Notes:

- A Building Permit may be required for this development. To obtain a building permit you must contact a Registered Building Surveyor.
- The permit holder must hold a current Domestic Animal Business permit for Dog Breeding with the relevant Council.
- The permit holder must maintain a membership with an applicable organisation.

Advice

To access more information regarding other services or online applications that Melbourne Water offers please visit our website at <http://www.melbournewater.com.au/Planning-and-building/Pages/planning-and-building.aspx>.

MASTERS DESIGN & DRAFTING



SITE PLAN

amended: 6 MAY 2021

MASTERS DESIGN & DRAFTING
BUILDING DESIGN - DRAFTING - HOUSE ENERGY RATING
SUITE 4, 38 ROSS SMITH AVE.
FRANKSTON, VICTORIA 3199
E-MAIL: voykan@mastersdesign.com.au

PH: 03 9781 0510
MOB: 0400 140 966

PROPOSED BREEDING DOG KENNEL AT
150 SETTLEMENT ROAD, CALDERMEADE
FOR MS. ELENA KUTUKOFF

r.b.p.: VOYKAN TODOROVIC DP-AD 20296

date: 12 MARCH 2021

scales: 1:200 @ A1

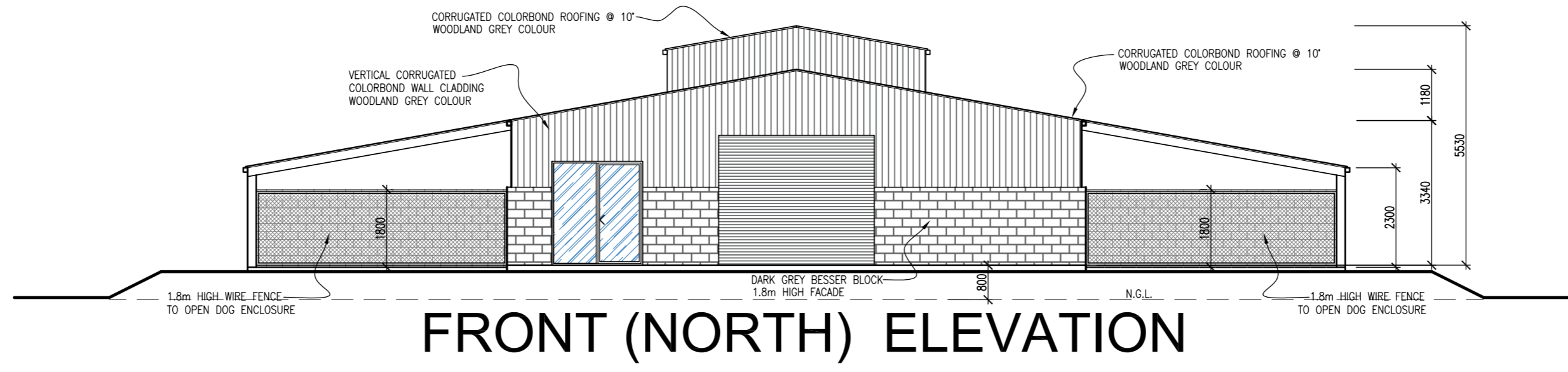
drawn: VOYKAN T.

sheet: 1

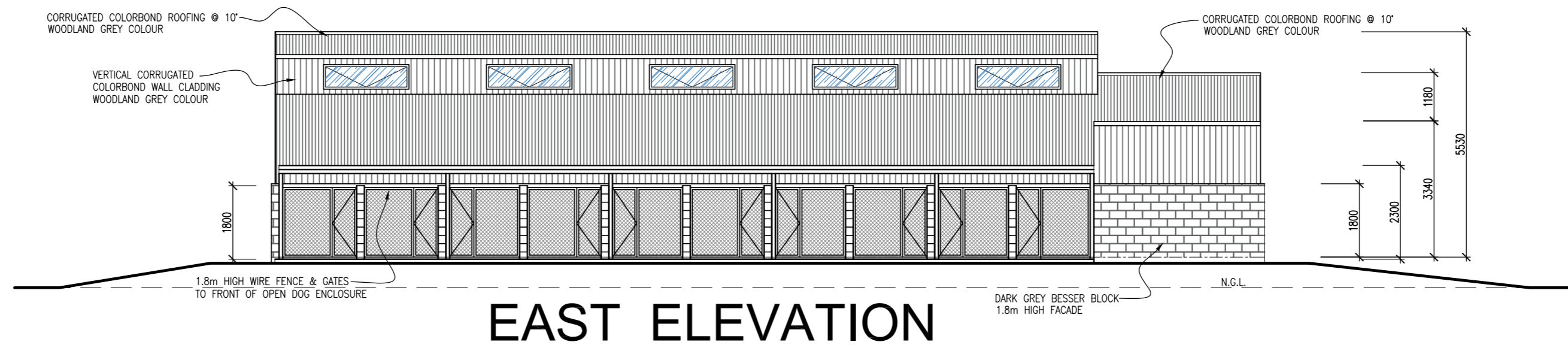
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21/0203

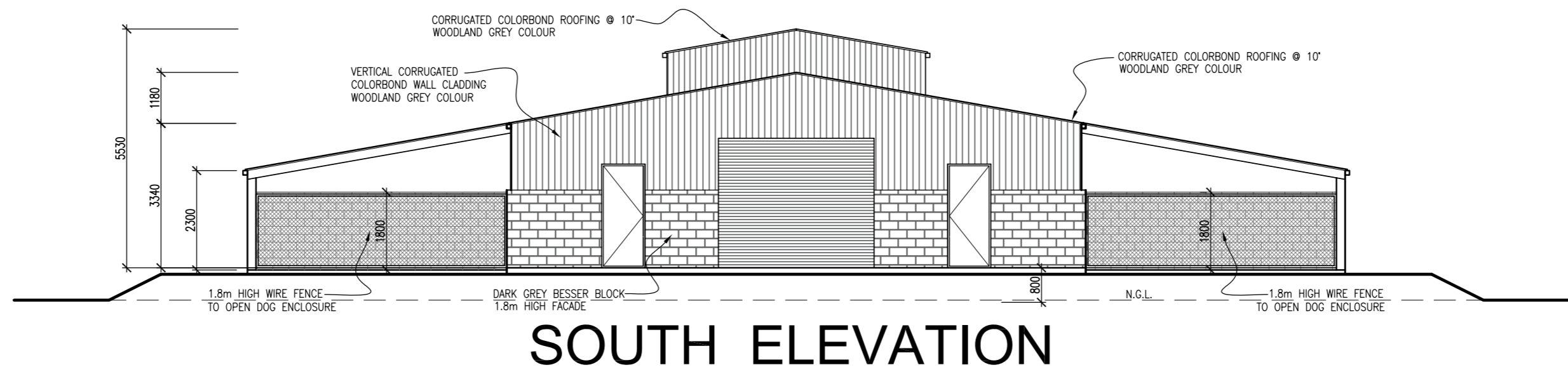
MASTERS DESIGN & DRAFTING



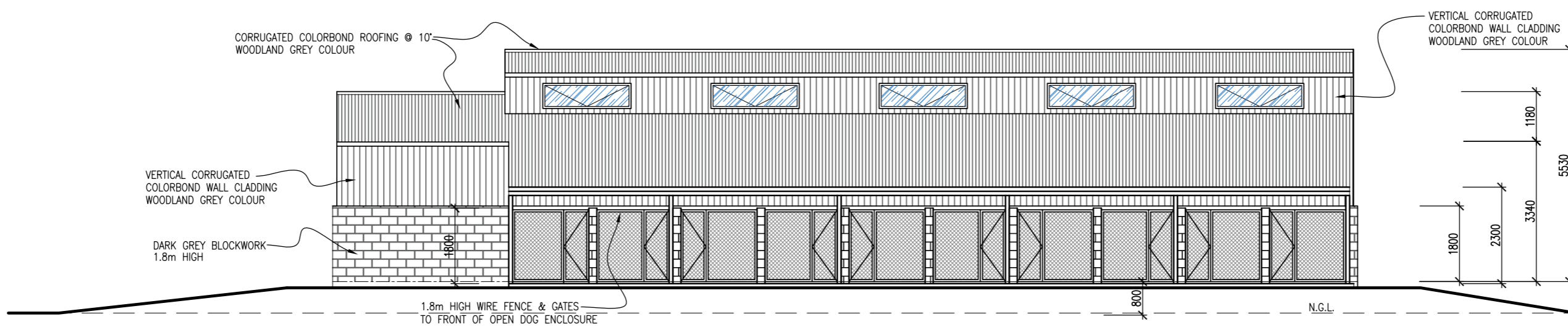
FRONT (NORTH) ELEVATION



EAST ELEVATION



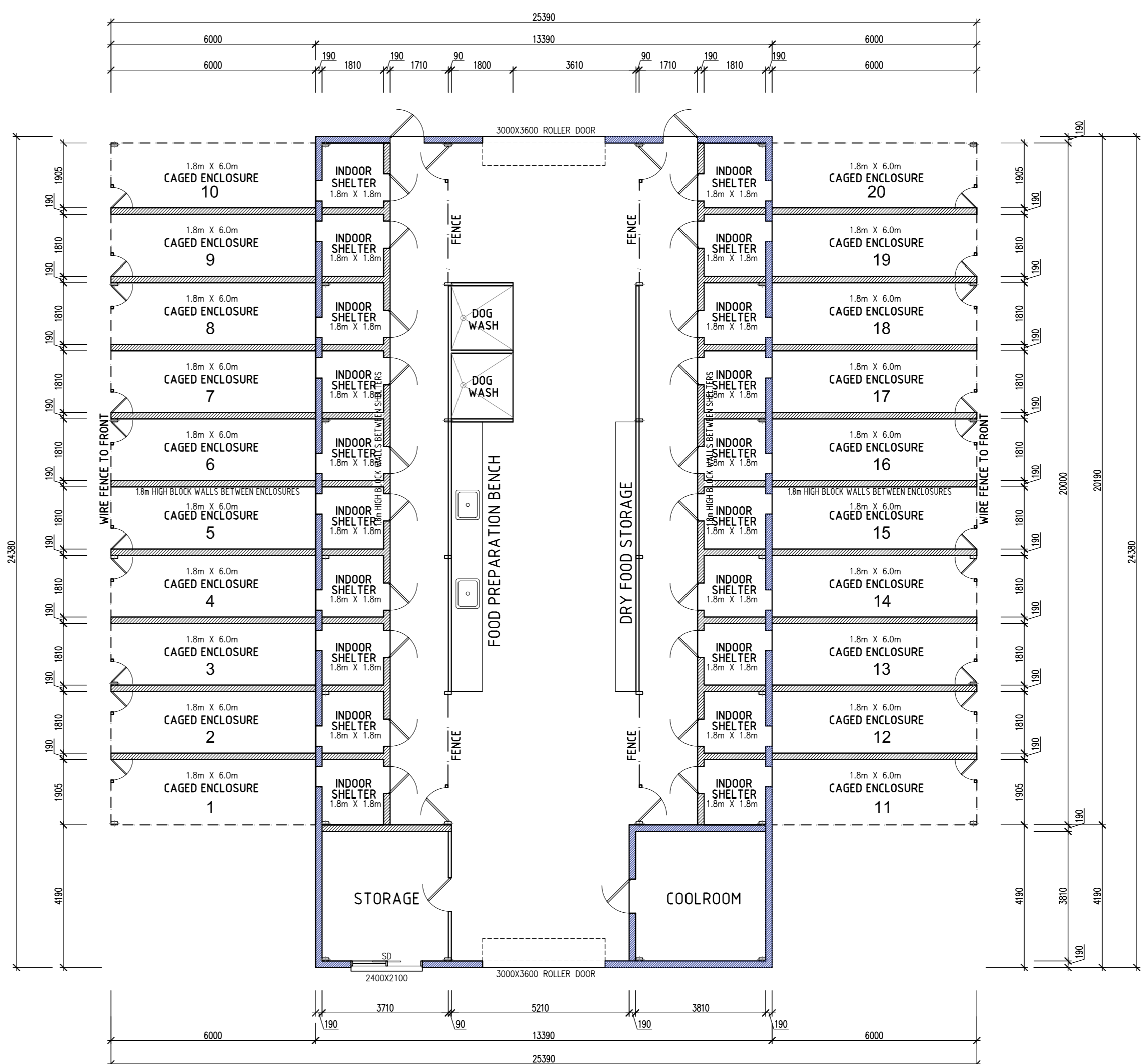
SOUTH ELEVATION



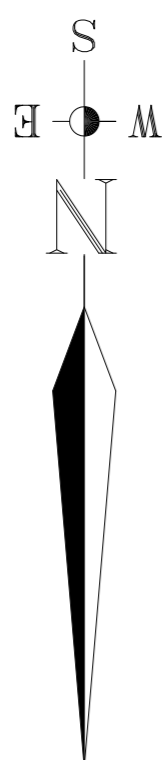
WEST ELEVATION

NOTES:

- Proposed Recreational dog breeding facility will hold maximum of 15 dogs at any point of time, of which maximum number of 9 fertile females and 3 fertile male dogs + 3 retired dogs
- Type of dogs to be bred will be:
Staffordshire Bull Terriers and American Staffordshire Terriers
- Facility will have 20 enclosures of which some will be used for temporary separation of dogs due to special circumstances (i.e. sickness, new litter etc...)
- The proposed kennels will be equipped with appropriate facilities for provision of full care for dogs (i.e. nutrition, water, health care, breeding)
- Areas set aside for exercise and socializing of dogs will comply with requirements set in Table 1 of Code of Practice for the Operation of Breeding and Rearing Businesses 2014 areas will be fully enclosed by min. 1.8m high fence and at times of exercise dogs will be fully monitored
- The floors of the pens to be sealed concrete and must be made impervious to liquids to assist cleaning, disinfection and drainage. No part of the pen floor may be constructed of wire.



FLOOR PLAN



amended: 6 MAY 2021

MASTERS DESIGN & DRAFTING BUILDING DESIGN - DRAFTING - HOUSE ENERGY RATING SUITE 4, 38 ROSS SMITH AVE. FRANKSTON, VICTORIA 3199 E-MAIL: voykan@mastersdesign.com.au	PROPOSED BREEDING DOG KENNEL AT 150 SETTLEMENT ROAD, CALDERMEADE FOR MS. ELENA KUTUKOFF	date: 12 MARCH 2021 scales: 1:100 @ A1	sheet: 2 DWG No: 21/0203
	PH: 03 9781 0510 MOB: 0430 140 966 r.b.p.: VOYKAN TODOROVIC DP-AD 20296	draw: VOYKAN T.	

Information regarding operating my dog breeding facility.

I am, and have been a member of applicable organisation Dogs Victoria, since 2008.

Im the sole carer responsible for operating my kennels.

The breeds I own are -

1 entire male American staffordshire terrier and 4 entire female American staffordshire terriers.
5 entire female staffordshire bull terriers, as well as 1 resident guard dog, which is an entire Doberman male.

I have a signed agreement with 2 of my vets, regarding health management plan, to ensure the best/appropriate care is given to my dogs.

My facility is run in accordance with DAB.

All records will be kept for each dog or pup that is bred and or sold/rehomed. This includes name of new owner, microchip number, vaccinations history/dates, sire & dam of pup, date rehoming took place, flea and worming schedules, health records including any vet visits and so on.

Pens will have dogs names and details attached to each of them, eg name, microchip number, date of birth etc.

Adult Dogs will be fed once per day, puppies will be fed 2-3 times per day, depending on age.

Dogs all have a 3 litre stainless steel bucket securely attached to their pens which contains fresh water, this is emptied, scrubbed and refilled daily.

Feed bowls will all be scrubbed and cleaned daily and kept in cool room.

Fresh meat products are bought twice weekly and consumed by dogs within 3 days of purchase.

Meat is stored in large fridge facility/cool room.
Dry food is stored in secure metal barrels, away from vermin, moisture etc.

Stainless steel food preparation benches and sink cleaned and disinfected after each use.

Each dog is exercised twice daily, at one hour intervals.
Puppies are also exercised/socialised for 30 minutes, twice daily.
Human interaction/training is also given to dogs during these times.

Exercise yard is 1.8m in height, as well as boundary fences, which are made from colour bond iron sheets, to prevent escape, or any other wild animals from getting in.

All dogs have access to sun light, the pens also have shaded areas away from rain etc.
They will have access to an inside section of the shed, away from extreme weather.

Pens will be cleaned and hosed twice daily, or as often as required and Disinfected twice per week.

Dogs are checked daily for any injuries, signs of distress and overall well-being.

They are all vaccinated up to date, flea treated and wormed, records of dates and notes are documented for each dog.

Before a females season she is checked by my vet, this check is usually twice per year, to ensure she is fit and in good health to breed with, as well as breeding males. When a dog is not certified for breeding he/she is desexed, and a good retirement home is found.