

Future Nillumbik Committee

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 10 December 2019 commencing at 7:00pm.

Agenda

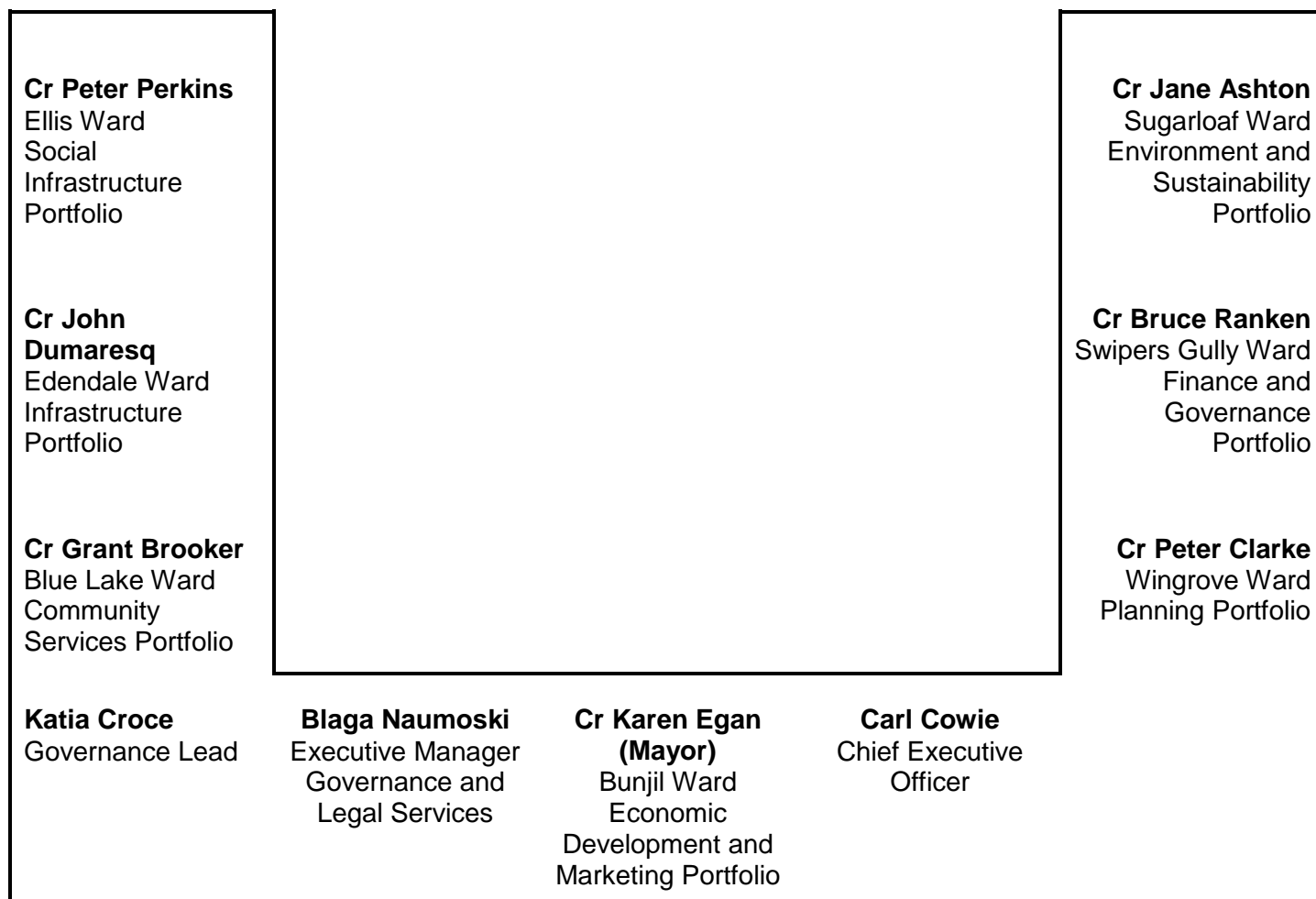
Carl Cowie
Chief Executive Officer

Friday 6 December 2019

Distribution: Public

Civic Drive, Greensborough
PO Box 476, Greensborough 3088
Telephone 9433 3111
Facsimile 9433 3777
Website www.nillumbik.vic.gov.au
Email nillumbik@nillumbik.vic.gov.au

Future Nillumbik Committee seating plan



Visitors in the gallery at Committee meetings are:

- Welcome to copies of the various reports which will be considered by this Committee at the meeting. These are on the table in the foyer.
- Welcome to tea, coffee and water. These are on the table in the foyer near the Council Chamber entry.
- Requested to observe deliberations quietly in order for Committee meetings to run smoothly.
- Advised that the meeting will be recorded and an audio recording of the meeting will be made publicly available on Council's website.

Nillumbik Shire Council

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Nillumbik Shire Council

**Agenda of the Future Nillumbik Committee Meeting to be held
Tuesday 10 December 2019 commencing at 7:00pm.**

1. Welcome by the Chair

Members of the public are advised the meeting will be recorded and an audio recording of the meeting will be made publicly available on Council's website.

2. Reconciliation statement

The reconciliation statement to be read by the Chairperson

Nillumbik Shire Council acknowledges the Wurundjeri people who are the Traditional Custodians of this Land. We would also like to pay respect to the Elders both past and present and extend that respect to other Indigenous Australians present.

3. Apologies

Recommendation

That the apologies be noted.

4. Confirmation of minutes

Confirmation of minutes of the Future Nillumbik Committee meeting held on Tuesday 12 November 2019.

Recommendation

That the minutes of the Future Nillumbik Committee meeting held on Tuesday 12 November 2019 be confirmed.

5. Disclosure of conflicts of interest

Committee members should note that any conflicts of interest should also be disclosed immediately before the relevant item.

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6. Officers' reports

FN.027/19 Use and development of a dog boarding facility and signage at 790 Ridge Road, Christmas Hills

Portfolio: Planning

Distribution: Public

Manager: Amanda Cuxson, Acting Manager Planning Services

Author: Tyson McAdie, Principal Planner

Application summary

Address of the land	790 Ridge Road, Christmas Hills
Site area	32 hectares
Proposal	Use and development of the land for a dog boarding facility and signage
Application number	517/2018/02P
Date lodged	23-Oct-2018
Applicant	Millar & Merrigan Pty Ltd
Zoning	RCZ4
Overlay(s)	BMO, ESO1, PAO2
Reason for being reported	Called in by Councillor
Number of objections	Fifteen (15)
Key issues	<ul style="list-style-type: none"> • Appropriateness of use • Amenity impacts / noise abatement • Siting and design • Car parking • Signage • Public Acquisition Overlay (PAO)

6. Officers' reports

FN.027/19 Use and development of a dog boarding facility and signage at 790 Ridge Road, Christmas Hills

Location map



6. Officers' reports**FN.027/19 Use and development of a dog boarding facility and signage at 790 Ridge Road, Christmas Hills****Recommendation**

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 790 Ridge Road, Christmas Hills, for the Use and development of the land for a dog boarding facility and signage, in accordance with the submitted plans and subject to the following conditions

1. Before the development and use commences, three copies of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the plans received on 26 July 2019 and prepared by Millar Merrigan but modified to show:
 - a) Gradient of batter slope on the eastern elevation shown to be no steeper than 1:2;
 - b) Landscaping in accordance with condition 3;
 - c) An amended car parking layout to demonstrate compliance with Australian Standard 2890.1:2004;
 - d) The proposed wall colour of the shed amended to be 'Windspray' or darker; and
 - e) All noise mitigation measures (as detailed in Accoustic Engineering Report dated 25 July 2019 prepared by Cagnet Accoustics) added as notations on the plans;
 - f) A Construction Management Plan in accordance with Condition 12.
2. The development and use, including the layout of the use, as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. Before the development commences, three copies of a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:
 - a) A survey of all existing vegetation and natural features;
 - b) The area or areas set aside for landscaping;
 - c) A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include a mixture of exotic plants and plants selected from the Council document 'Live Local Plant Local' showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;
 - d) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material;
 - e) The location of screen and canopy planting shown to the area between the proposed car park and Ridge Road to reduce the visual impact of the building when viewed from Ridge Road;

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- f) Screening planting provided to the batter slope along the eastern side of the building, and (if required to provide an effective visual screen) the area beyond the batter slope. The planting should comprise a mixture of indigenous canopy trees and shrubs, planted at an appropriate density so the vegetation at semi-maturity will reduce the visual impact of the building when viewed from the east.
 - g) Ground covers provided at a ratio of 3 to 4 plants per square metre on the battered embankment, so as to provide a complete coverage within two years from the date of construction, to the satisfaction of the Responsible Authority. The plants must be indigenous and of local provenance.
 - h) Paving, retaining walls, fence design details and other landscape works including areas of cut and fill;
 - i) Appropriate irrigation systems;
 - j) All planting on the site must be provided in accordance with the defensible space requirements outlined in Table 6 of Clause 53.02-5 of the Nillumbik Planning Scheme.
4. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied and/or the use starts or at such later date as is approved by the Responsible Authority in writing.
 5. Disturbed surfaces on the land resulting from the buildings and works hereby permitted must be revegetated with indigenous species and stabilised within three months of the completion of the development, to the satisfaction of the Responsible Authority.
 6. The landscaping as shown on the endorsed Landscape Plan must be maintained, and any dead, diseased or damaged plant replaced in accordance with the endorsed Landscape Plan as soon as possible or as directed by the Responsible Authority. All replanting is to be undertaken to the satisfaction of the Responsible Authority.
 7. The nature and colour of building materials employed in the construction of the buildings and works hereby permitted shall be harmonious with the environment, to the satisfaction of the Responsible Authority.
 8. The materials to be used in the construction of the buildings and works hereby permitted shall be of non-reflective type, to the satisfaction of the Responsible Authority.
 9. The development must be constructed in accordance with the requirements/recommendations of the approved Acoustic Assessment to the satisfaction of the Responsible Authority.
 10. Before the use approved by this permit starts, an Acoustic Assessment and report of the as-constructed development must be submitted to the Responsible Authority for approval. The assessment, prepared by a suitably qualified and professional acoustic engineer, must review the function and operation of the as-constructed development and any operational process or procedure manuals. The assessment must confirm that that the development and associated processes and procedures

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provides the necessary acoustic treatments, and has operational processes and procedures in place to ensure that:

- a) The noise emissions from the operation of the development do not impact adversely on the reasonable amenity of any nearby property.
 - b) The noise emissions from the operation of the development comply with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1;
 - c) All noise emanating from any mechanical plant (air conditioners, refrigeration plant, etc.) complies with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1;
11. Any recommendations or requirements of the Acoustic Assessment required by Condition 10 must be implemented prior to the commencement of the use and thereafter maintained in accordance with the approved Acoustic Assessment to the satisfaction of the Responsible Authority.
12. Before the development commences, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The management plan must show:
- a) Measures to control erosion and sediment and sediment laden water runoff including the design details of structures;
 - b) Where any construction wastes, equipment, machinery and/or earth is to be stored/stockpiled during construction;
 - c) Hours of construction;
 - d) Where access to the site for construction vehicle traffic will occur;
 - e) Tree protection zones;
 - f) The location and details of a sign to be erected at the entrance(s) of the site advising contractors that they are entering a 'sensitive site' with prescribed tree protection zones and fences;
 - g) The location of trenching works, boring, and pits associated with the provision of services; and
 - h) The location of any temporary buildings or yards.
- Development works on the land must be undertaken in accordance with the endorsed Construction Management Plan to the satisfaction of the Responsible Authority.
13. The development and/or use hereby permitted must be managed so that the amenity of the area is not detrimentally affected, through the:
- a) Transport of materials, goods or commodities to or from the land;
 - b) Appearance of any building, works or materials;

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c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;

d) Presence of vermin;

All to the satisfaction of the Responsible Authority.

14. All noise emanating from the development must comply with the State Environment Protection Policy N-1 and in the event of the Responsible Authority receiving justifiable complaints regarding noise from such sources, the onus will be on the owner of the development site to prove compliance with the relevant policy to the satisfaction of the Responsible Authority.
15. All security alarms or similar devices installed on the land must be of a silent type approved by the Standards Association of Australia and be connected to a registered security service.
16. All external lighting must be designed, baffled and located so as to prevent adverse effect on adjoining or nearby land, to the satisfaction of the Responsible Authority.
17. Air-conditioning and other plant and equipment installed on the subject building(s) shall be so positioned and baffled so that noise disturbance is minimised, to the satisfaction of the Responsible Authority.
18. Mechanical ventilation systems must be positioned so as not to cause a noise or environmental nuisance to adjoining or nearby properties, to the satisfaction of the Responsible Authority.
19. Unless with the prior written consent from the Responsible Authority, the pick and drop off of dogs may only occur between the following hours:
 - Monday to Friday: 7am to 7pm;
 - Saturday & Sunday: 8.30am to 5pm;
 - Public Holidays: 8.30 am to 5pm
20. Unless with the prior written consent from the Responsible Authority, the number of dogs present on the property at any one time must not exceed 50 to the satisfaction of the Responsible Authority.
21. Unless with the prior written consent of the Responsible Authority, at all times when there are animals being boarded, housed or kept in the permitted use, an appropriately trained person responsible for the operation of the use must be on site 24 hours a day.
22. Unless with the prior written consent of the Responsible Authority, the exercise yard may only be used between 9am to 5pm to the satisfaction of the Responsible Authority.
23. Unless with the prior written consent of the Responsible Authority, deliveries to the site must not occur outside the following hours:
 - Between 7am – 6pm Monday to Saturday and
 - Between 9am – 6pm Sundays and public holidays

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24. The loading and unloading of goods or deliveries from vehicles must only be carried out on the subject land.
25. Prior to the commencement of the use, vehicular access and egress to the development site from the roadway must be by way of a vehicle crossing upgraded to the requirements of the Nillumbik Shire Council, to suit the proposed driveway and the vehicles that will use the crossing. The Responsible Authority must approve the location, design and construction of the crossing. Any existing unused crossing must be removed and the disturbed area reinstated to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under a Minor Works within the Municipal Road Reserves permit.
26. Before the use commences, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a) Constructed;
 - b) Properly formed to such levels that they can be used in accordance with the plans;
 - c) Surfaced with an all-weather sealcoat or treated to the satisfaction of the Responsible Authority to prevent dust and gravel being emitted from the site;
 - d) Drained and maintained;
 - e) Line marked to indicate each car space and all access lanes;
 - f) Clearly marked to show the direction of traffic along access lanes and driveways; to the satisfaction of the Responsible Authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times, to the satisfaction of the Responsible Authority.
27. All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property, to the satisfaction of the Responsible Authority.
28. A minimum of thirteen car spaces must be provided on the land for the use and/or development hereby permitted, and must remain available and not be used for any other purpose to the satisfaction of the Responsible Authority.
29. The development hereby permitted must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of stormwater to the satisfaction of the Responsible Authority.
30. Prior to commencement of the use, stormwater from the roof of the development hereby approved is to be directed to a holding tank with sufficient storage capacity in relation to the roof area. The holding tank must have a minimum storage capacity of 2000 litres. The overflow from the tank shall be directed to absorption trenches terminating in a one cubic metre (1m³) absorption pit. The length of the absorption trenches must be calculated in relation to the roof area of the development. Water in the holding tank may be used for one or more of the following purposes: toilet flushing; property irrigation; vehicle washing and any other purpose approved by the Responsible Authority.

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31. Stormwater is to be absorbed on-site in accordance with the Shire of Nillumbik's "Drainage to Unserviced Allotments" document, and all works are to be carried out to the satisfaction of the Responsible Authority.
32. No polluted, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property. In this regard, pollution or litter traps must be installed on-site and serviced accordingly, all to the satisfaction of the Responsible Authority.
33. All sewage and sullage waters shall be treated in accordance with the requirements of the *Environment Protection Act 1970*. All wastewater shall be disposed of within the curtilage of the land and sufficient area shall be kept available for the purpose of wastewater disposal to the satisfaction of the Responsible Authority. No wastewater shall drain directly or indirectly onto an adjoining property, street or any watercourse or drain to the satisfaction of the Responsible Authority.
34. Approval of wastewater disposal must be obtained from Council (Environmental Health) prior to a Building Permit being issued.
35. The septic system must be upgraded in accordance with the requirements of the *Environment Protection Act 1970* and Council (Environmental Health).
36. The method of effluent disposal must be upgraded in accordance with the requirements of the *Environment Protection Act 1970* and Council (Environmental Health).
37. Unless with the prior written consent of the Responsible Authority, the commercial waste collection must not occur outside the following hours to the satisfaction of the Responsible Authority:
 - a) For one collection per week:
 - Between 6.30am – 6pm Monday to Saturday and
 - Between 9am – 6pm Sundays and public holidays
 - b) For two or more collections per week,
 - Between 7am – 6pm Monday to Saturday and
 - Between 9am – 6pm Sundays and public holidays
38. The premises must provide and maintain a suitable area for the storage and cleaning of rubbish receptacles, as shown on the endorsed plans. The waste storage area must be appropriately located and of sufficient size to contain all refuse bins used on the premises, to the satisfaction of the Responsible Authority.
39. All bins and receptacles must be maintained in a clean and tidy condition and free from offensive odour to the satisfaction of the Responsible Authority.
40. All bins and receptacles used for the storage and collection of garbage, bottles and other solid wastes must be kept in a storage area screened from view from beyond the property boundaries to the satisfaction of the Responsible Authority.

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41. The location, size, supporting structure and details of the signs as shown on the endorsed plans, must not be altered unless with the prior written consent of the Responsible Authority.
42. The sign(s) must not contain any flashing or moving light, to the satisfaction of the Responsible Authority.
43. The sign(s) must not be illuminated by external or internal light unless with the prior written consent of the Responsible Authority.
44. The sign(s) must be constructed and maintained to the satisfaction of the Responsible Authority.
45. This permit will expire if one of the following circumstances applies:
 - a) The development is not commenced within 2 years of the date of this permit;
 - b) The development is not completed within 4 years of the date of this permit;
 - c) The approved use is not commenced within 2 years of the completion of the development;
 - d) The use ceases for more than two years;
 - e) The permission for the signage expires 15 years after the permit issue date.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

Attachments

1. Site and Surrounds
2. Aerial Map
3. Plans
4. Acoustic Engineering Report

Subject site and surrounds

1. The key features of the subject land is as follows:
 - The subject site is described as CA 16 PSH Sutton, CT-6398/552.
 - The subject site is located to the eastern side of Ridge Road, Christmas Hills south of its intersection with Eltham-Yarra Glen Road to the north of the site. The site is occupied by an existing dwelling which is setback 22 metres from the site frontage, outbuildings are located to the north and south of the dwelling and a pool located to the east.
 - The site slopes down from Ridge Road to the east to a waterway, the site displays rolling topography and is sparsely populated with native vegetation.

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- The site is generally rectangular in shape and has a northern boundary comprising 887 metres, an east boundary comprising 375 and a south boundary comprising 791 metres. The frontage to Ridge Road to the western side of the site forms an arrowhead shape and has an overall length of 408 metres giving the site an overall area of 32 hectares
2. The key features of the surrounds are as follows:
- The sites to the north of the subject site vary in overall size and contain frontage to Eltham-Yarra Glen Road. The properties immediately adjacent to the road have sparse levels of vegetation cover with dwellings located within proximity to Eltham-Yarra Glen Road; and
 - Properties to the south and east of the site are large rural lots with varying levels of vegetation cover.

Details of proposal

3. Refer to the attached plans (**Attachment 3**).
4. It is proposed to use and develop the site for a dog boarding facility, the proposal is summarised as follows:

Use

Proposed boarding kennel and associated services proposes the following hours of availability for drop off / pick up of dogs:

- Monday to Friday: 7am to 7pm;
- Saturday & Sunday: 8.30am to 5pm;
- Public holidays: Limited hours

Proposed boarding kennel will offer the following services:

- Day, overnight, mid and long term accommodation and care for up to 50 dogs;
- Grooming;
- Dogs to be surrounded by people all day;
- VIP pens;
- Daily walk;
- Pet taxi;
- Training and animal behaviour classes; and
- Fenced in back yard to explore.

Buildings and works:

The following buildings and works are proposed:

- Proposed shed to house the dog kennels is to be located to the south of the existing dwelling (and associated outbuildings). The proposed building is to be setback 17.4 metres from the Ridge Road frontage.

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- The proposed building will be rectangular in shape and orientated north-south. The proposed shed will have a width of 47 metres as viewed from Ridge Road, a depth of 12.85 metres with an external yard comprising 3.24 metres in depth to the east.
- Proposed internal layout will comprise internal exercise yard, training area, pet kitchen, reception, collection pens, 3 x VIP dog pens, 7 x suits & 31 single dog pens.
- 2 x water tanks are proposed to the south of the proposed shed.
- Proposed shed will have a maximum height of 5.35 metres above Natural Ground Level and will be constructed with corrugated iron, proposed colours are to be 'Paperbark' for the proposed walls and 'Woodland Grey' for the proposed roof.
- A car parking area is proposed to the western side of the proposed shed which will comprise 14 car parking spaces and a bin store area. A gravel track will be constructed at grade which will loop around to the south side of the proposed shed. Proposed car parking area is to be accessed via the entrance to the existing dwelling, ingress and egress is provided either side of the existing shed to the north west of the proposed shed.
- The site slopes significantly from Ridge Road to the east. A batter with a maximum height of 3 metres will be located to the east of the proposed shed, retaining walls are proposed between the shed and the proposed car parking area and also between Ridge Road and the car parking area.

Signage

It is proposed to construct a business identification sign to the front of the property. The proposed sign is to be located on the fence adjacent to the existing dwelling, the sign will be 2 metres in width and 1 metre in height.

Note:

- A 2.5 meter in height bessa block wall has been added to the east side of the kennel yards;
- Solid screening installed in between each kennel bay to prevent dogs having direct views to each other;
- Kennels are to be constructed with insulation panels to be 2.4 metres in height with insulation panels for the ceiling;
- Solid screening to be installed between each VIP bay and will be no higher than 1.2 metres in height;
- Removal of proposed exercise area to the east of the proposed kennels;

Planning history

5. Planning Permit 481/2006/05P for development of the site for a dwelling and alterations to change the existing dwelling to an outbuilding (storage shed) was issued on 6 February 2007.

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Planning controls

Zoning

6. Under the Rural Conservation Zone - Schedule 4 a planning permit is required for the following uses under Section 2 of the Zone (as the condition of Section 1 has not been met):

- Domestic animal boarding;
- Animal training;

Both of the above uses are nested under 'Animal husbandry'

Under the Rural Conservation Zone – Schedule 4, the following buildings and works require permission:

- Buildings and works associated with a Section 2 use;
- Buildings and works within 100 metres of a waterway

Overlays

7. Under the Bushfire Management Overlay (BMO) a planning permit is not required for building's and works associated with agriculture.

Under the Public Acquisition Overlay (PAO2) a planning permit is required for the use of the land for any section 2 use and also to construct or carry out works.

The site is partially affected by the Environmental Significance Overlay (ES01), the area of the proposed works is located outside of this overlay and does not require a planning permit.

Particular provisions

8. Clause 52.06 - Car Parking

Under Clause 52.05-14 – Advertising Signs a permit is required for a business identification sign

General provisions

9. Clause 65 (Decision Guidelines) outlines general decision guidelines that must be considered when assessing an application. These guidelines include the purpose of the zone or other provision, the orderly planning of the area, and the effect on the amenity of the area.

Relevant planning policies

10. Planning Policy Framework relevant to this application include:

- Clause 12.03-1S – River corridors, waterways, lakes and wetlands;
- 12.05-2S – Landscapes;
- Clause 13.02 – Bushfire;
- Clause 13.05 – Noise;
- Clause 13.05-1S – Noise abatement;

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- Clause 14.01-1R – Protection of agricultural Land – Metropolitan Melbourne;
- Clause 15.01-6S – Design for rural areas;
- Clause 17.01 – Employment; and
- Clause 17.02-1S – Business

11. The Municipal Strategic Statement (MSS) clauses and Local Planning Policies which are relevant to this application include:

- 22.04 – Siting and design policy for buildings and works in non-urban areas; and
- Clause 22.09 – Signage policy;

Policy context

12. The Rural Conservation Zone, State Planning Policies and Council's Siting and Design Policy for Buildings and Works in Non-Urban Areas seeks to ensure that the development and use of land is consistent with sustainable land management and land capability practices, and takes into account the conservation values and environmental sensitivity of the locality. This needs to be balanced against the strong focus of both State and Local Policies for economic development, which includes strengthening existing enterprises which respect the Shire's environmental, social and economic development priorities.

Public consultation

Advertising

13. The application has been advertised by way of the posting of notices to the owners and occupiers of neighbouring properties and the erection of an on-site notice.

Objections

14. As a result of advertising, a total of fifteen written objections have been received. These objections can be summarised as follows:

- The noise of 50 dogs will make a peaceful area very noisy and will leave a strong smell in the air.
- The noise from the proposed facility will be funnelled down the gully directly towards our residence;
- Increased traffic on local roads;
- It is aesthetically out of character with the rural area;
- The community hall across the road will be affected by noise and odours from such a large structure;
- A boarding kennel of this size will cause congestion in a quiet street;
- The proposed kennel is within 500 metres of my property (713 Ridge Road);
- Property was purchased in good faith that this was a rural area;
- The proposal breaches current zoning regulations;

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- Proposal will impact re-sale value of adjoining properties;
- The proposed kennels will impact on events held at the Mechanics Institute across the road, many of these activities require lack of interfering noise such as poetry readings and orchestral performances;
- The proposal will be an overdevelopment of the site;
- The acoustic assessment does not take into account the impacts on the activities on the hall;
- The proposed dog kennels will impact the financial viability of the Mechanics Institute;
- There is not a need for boarding kennels in this location;
- The proposal was inadequately advertised;
- There will be excessive barking.

Planning application conference

15. A Planning Application Conference (PAC) was not held as it was considered that the issues identified in the objections to the application are unlikely to be resolved in a mediated outcome.

Referrals

Internal

16. The application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

Council Unit:	Comments:
Infrastructure Development	No objection subject to alterations to the size of the car parking spaces proposed.
Environmental Health	No objection. Waste generated by the washing down of dog kennels should be disposed of in accordance with stormwater disposal. Waste generate by staff (toilets / kitchen) needs to be disposed of via a waste water treatment system.
Building	No objection

External

17. The application was referred to the following statutory referral authority for advice on particular matters. The following is a summary of the relevant advice:

Authority:	Comments:
Melbourne Water	No objection

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Planning assessment

Introduction

18. The proposal requires assessment against the Rural Conservation Zone – Schedule 4, Clause 13.05-1S – Noise abatement, Clause 22.04 – Siting and design policy for buildings and works in non-urban areas, Clause 22.09 – Signage, Clause 52.05 - Signage Clause 52.06 – Car parking.

The following have been identified as the key planning issues in relation to the assessment of this planning application:

- Appropriateness of use;
 - Amenity impacts / noise abatement;
 - Siting and design;
 - Car parking;
 - Signage;
 - Public Acquisition Overlay (PAO)
 - Bushfire
19. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

Appropriateness of use

20. The proposal for the use of the site for domestic animal boarding and animal training must be assessed against the objectives and decision guidelines of the Rural Conservation Zone – Schedule 4.

The Rural Conservation Zone seeks to provide for agricultural uses consistent with the conservation of environmental and landscape values of the area, protect and enhance natural resources and the biodiversity of the area and encourage development and use of land which is consistent with sustainable land practices.

The Rural Conservation Zone – Schedule 4 specifically seeks to conserve and permanently maintain the existing rural character by encouraging protection of the environmental landscape.

To assess the appropriateness of the proposed use on the site, the Responsible Authority must consider (amongst other items) the capability of the land to accommodate the proposed use or development, whether the use or development protects and enhances the environmental, agricultural and landscape qualities of the site and surrounds and whether the proposed use will have an adverse impact on surrounding land uses.

The proposed use is considered appropriate in light of the surrounding land uses, in that the proposed appearance of the shed will be consistent with other agricultural shed in the area and the proposed use has been assessed as having acceptable amenity impacts. The overarching purpose of the zone is to preserve the existing rural character through the preservation of existing environmental and landscape qualities.

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The subject site has an overall area of 32 hectares, the use and development as proposed would occupy less than 2% of the overall subject area. The proposed use and development is also consolidated on the site close to the existing dwelling and its associated outbuildings. As a result a large majority of the site to the east of the waterway will remain available for agricultural pursuits.

There may be a level of noise associated with the proposed dog boarding facility (which is discussed in a later section), aside from this impact it not expected that adjoining properties or adjoining property uses would be impacted by the proposed facility.

Whilst a majority of the site remains available for agricultural pursuits should the landowner wish, there is broader support within the planning scheme for a use which will bring employment and economic benefit, the proposal is able to achieve this whilst also meeting the objectives of the Rural Conservation Zone. The application has demonstrated all waste can be treated on the site, the proposed buildings and works will occupy a relatively small portion of the overall site area and there will be limited amenity impacts to adjoining properties resulting from the proposed use.

Amenity impacts / noise abatement

21. Many objections received in relation to the application have stated concern in relation to the potential noise created by the proposed use.

Noise emanating from dog kennels is controlled by the EPA publication Noise Control Guidelines. In relation to dog kennels, the guidelines require:

- The kennels should be located at least 500 metres from residential areas;
- Some fully enclosed or acoustically baffled kennels should be available to house particularly noisy animals at a ratio of 1:15;
- Electronic masking noise devices should be provided to reduce audible stimuli to the dogs;
- Kennels should be constructed to visually screen stimuli such as other dogs, animals, traffic or passers-by;
- Access to kennels should be restricted solely to staff;
- Feeding of dogs should be restricted to the daytime hours of 7am – 6pm;
- Exercise of the dogs should only be performed between the hours of 9am to 5pm;
- A responsible person must be on site 24 hours a day;
- Kennels should be constructed of such materials so as to provide appropriate reduction in the emission of noise. Materials such as masonry and cement sheeting would provide suitable structural basis;
- The kennels should be positioned so as to utilize the ability of the topography to reduce noise.

It is also noted that noise originating from the kennels may be addressed using State *Environment Protection Policy (control of noise from commerce, industry and trade)* No.N-1.

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The acoustic report submitted with the application (prepared by Cogent Acoustics) underwent a 'peer review' during the assessment process. This review was undertaken by Marshall Day and identified that while the submitted acoustic report has broadly adopted the appropriate legislation and guidelines, it does not satisfactorily address them as:

- The submitted report has not considered any mechanical ventilation associated with the dog kennel. Noise from any mechanical noise should be assessed and included in any noise modelling;
- The measured noise levels of the dog kennels referenced in Appendix D are consistent with measures used in the past, however the scaling of dogs that has been assumed in the report is not consistent with observations of noise from dog kennels;
- A ground factor of 1.0 has been referenced in the report. Considering the terrain surrounding the proposed kennels, a ground factor of 0.5. Given there is little to no margin between the predicted noise levels and the Recommended Noise Levels it is predicted that a harder ground factor may result in exceedances predicted in noise sensitive areas.
- The submitted report provides two alternatives for the management of noise from the proposed dog kennels to achieve compliance during the evening period, a noise barrier and limiting the number of dogs present.
- Previous noise surveys undertaken by Marshall Day and levels reported by other consultants has found that measured noise levels appear to be largely independent of the number of dogs present at any one time. The intensity of barking from dogs varies considerably depending primarily on the external auditory, visual stimulant and the temperament of individual dogs;
- Given the uncertainty and variable nature of noise associated with dogs playing outdoors, Marshall Day is not confident that noise emissions would scale with the number of dogs in the outdoor area as assumed in the report. The use of a noise barrier will be a more effective and practical noise mitigation measure.

Following receipt of this advice, an amended acoustic report and development plans have been submitted in relation to noise mitigation from the proposed kennels, the changes are summarised as follows:

- A 2.5 meter in height masonry block wall has been added to the east side of the kennel yards;
- Solid screening installed in between each kennel bay to prevent dogs having direct views to each other;
- Kennels are to be constructed with insulation panels to be 2.4 metres in height with insulation panels for the ceiling;
- All gaps will be sealed with silicone;
- Solid screening to be installed between each VIP bay and will be no higher than 1.2 metres in height;

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- Removal of proposed exercise area to the east of the proposed kennels, as a result there will not be a need to limit the number of dogs outdoors at any one time;

The above alterations to the proposed kennel area are considered appropriate and will appropriately mitigate potential noise sources from the proposed kennels and also provide compliance with the Noise Control Guidelines (and *State Environment Protection Policy (control of noise from commerce, industry and trade) No.N-1*) for Dog Kennels as:

- The submitted acoustic report has identified that the properties located at 610 One Tree Hill Road, 1524 Eltham Yarra Glen Road & 734 Ridge Road, Christmas Hills are located within 500 metres of the proposed kennels.
- The amended acoustic report identifies that noise emanating from the kennels is likely to travel in an easterly direction. The installation of the noise barrier to the eastern side of the kennels greatly reduces noise impacts.
- The noise modelling indicates that the effective level of noise db (a) to the above properties within 500 metres of the kennels will be 32-39 during day time operating hours and 32-35 during non-operating hours, without noise mitigation measures being provided.
- The glossary in the submitted acoustic report identifies a noise level of 30 db(a) to be comparable to a quiet library or quiet location in the country and a level of 45 db(a) to be comparable to a typical office space.
- The proposed kennels are to be provided with insulation panels which will further reduce any noise associated with the kennels, these are to be provided to all kennels which exceeds the recommended ratio in the guidelines.
- Given the remote location of the subject site, there is unlikely to be an excessive amount of foot traffic past the site.
- The proposed kennels have made appropriate use of the topography of the noise, potential noise sources will be directed generally to the east of the proposed kennel location which mostly comprises the subject site.
- The installation of insulated panels to the kennel will result in the identified noise levels being lower than those identified in the acoustic report.

There will be no amenity impacts to adjoining properties as a result of waste water generated by the proposal or waste generated by dogs / staff. Waste water generated from the washing down of dogs – dog kennels will be disposed of through the storm water system on the site.

Waste generated by the staff / kitchen / dogs will be treated via the existing septic system on the site. Council's Environmental Health Unit has advised this system is capable of treating the additional waste in accordance with the *Environment Protection Act 1970*.

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Siting and Design

22. With regard to the policies and objectives outlined at Clause 22.04 – Siting and Design Policy for Buildings and Works in non-Urban Areas & the siting and design objectives contained within the Rural Conservation Zone (Schedule 4), the proposed works are considered appropriate as:

- The proposed kennels are appropriately sited in relation to the existing dwelling and its associated outbuildings on the site. The existing dwelling is located on the western boundary of the site and is setback 50 metres from the Ridge Road frontage. It is proposed to construct the kennels to the south of the existing dwelling and to utilize the existing vehicle access. This outcome is supported by Clause 22.04 and will reduce the overall visual impact of the proposed kennels.
- The proposed building is not located on a hill top or ridgeline. The site slopes from Ridge Road to the east. As viewed from Ridge Road, due to the slope of the site, the proposed building to house the kennels will not adopt a prominent position in the landscape.
- The existing roadside vegetation located on Ridge Road provides a further visual buffer from this elevation. The area between Ridge Road and the proposed car park can be further landscaped to assist in the screening of the works when viewed from Ridge Road
- The proposed kennel will be visible when viewed from properties to the east of the site, the proposed works will be completed at a significant setback from the adjoining property abutting the site to the east.
- The adjoining dwelling to the south at 734 Ridge Road is located at 400 metres from the proposed works, due to the siting of the dwelling on this lot and the location of Ridge Road, the proposed kennels are unlikely to adopt a high level of visibility from this lot.
- The proposed building to accommodate the proposed boarding kennel is of an appearance similar to other agricultural sheds located in rural areas in the shire in terms of size and scale. From this perspective the proposed building to accommodate the kennels is appropriate within the landscape. The proposed shed is also located within a reasonable distance of the existing dwelling as encouraged by Clause 22.04.
- The proposal will require earthworks to provide a suitable location for the proposed building and also the proposed car park. Given the slope of the site, these works are an unavoidable consequence of the proposed development and are generally being undertaken to the minimum level required. It is appropriate the proposed batter to the east of the proposal is sufficiently landscaped to mitigate any impact to the landscape. Landscaping will also be required to the east of the batter.
- The proposed kennels are to be constructed colourbond sheets with the walls to be 'Paperbark' and the proposed roof & window frames to be 'Woodland Grey'. The proposed roof colour is appropriate within the landscape.

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- 'Paperbark' is a light colour and is likely to adopt a reasonable level of visibility in the landscape as it is not considered a 'muted' tone as sought by the policy. It is appropriate that an amended colour is sought which will be more compatible with the landscape.
- It is noted that the amended plans have resulted in a 2.5 meter in height bessa block wall has been added to the application to assist in noise mitigation to the east of the site. This is an acceptable outcome from a visual perspective as the scale of the proposed wall in in keeping with the proposed building on the site.

Car Parking

23. In accordance with Clause 52.06 – Car Parking, before a new use commences, the number of car parking spaces required in Clause 52.06-5 must be provided to the satisfaction of the Responsible Authority.

The table at Clause 52.06-5 does not nominate a specific amount of car parking spaces required for agriculture, animal husbandry or animal boarding. The level of car parking must therefore be provided to the satisfaction of the Responsible Authority.

A total of 13 car parking spaces are to be provided for the proposed use. This is considered an appropriate amount to cater for staff and the general operation of the kennels.

Council's Infrastructure Development Unit has commented that the proposed level of car parking is sufficient for the intended use on the site. There are also some minor modifications required to the proposed layout of the carpark to achieve compliance with S 2890.1:2004. These will be required as planning permit conditions. There is sufficient space available on the site to enable these modifications to occur without compromising any other elements of the proposal.

Signage

24. It is proposed to construct a 2 meter x 1 meter in height sign at the entrance to the existing dwelling. The sign is to be placed on the existing front fence to the dwelling and will not require a supporting structure.

Council's Signage Policy at Clause 22.09 seeks to ensure signs are compatible with the amenity and streetscape / landscape character of the area and with the building or site on which they are to be displayed.

With regard to Clause 52.05 – Advertising Signs, the site is located within Category 4 – Sensitive Areas which seeks to provide for unobtrusive signs in areas which require strong amenity control. In this location, a 'Business Identification Sign' requires a planning permit and can't be more than 3 square metres in area, the proposed sign is 3 square metres in area.

With regard to this objective the proposed sign is considered appropriate. The proposed sign is to be affixed to the existing fence which is setback 30 metres from Ridge Road itself. The size and scale of the proposed sign is appropriate. The sign does not contain any flashing lights or colours which may confuse motorists and will not be illuminated.

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The sign as proposed will not have a detrimental impact to the existing character of the area.

Public Acquisition Overlay

25. The site is located within a Public Acquisition Overlay (PAO). The acquiring authority in this instance is Melbourne Water for the proposed Watsons Creek Reservoir and Pipe Track.

It is noted that in its Community Bulletin dated September 2017, Melbourne Water has identified that the subject site is not identified as being suitable to provide a suitable water supply for the city and the overlay will be removed from the site in the future.

In accordance with Clause 66.03, the application was referred to Melbourne Water who have stated no objection to the proposal.

Bushfire

26. The site is located within a Bushfire Management Overlay (BMO). Whilst a planning permit is not required for the proposed use and development works under the overlay, Clause 13.02 seeks to strengthen the resilience of settlements and communities to bushfire through risk based planning the prioritises the protection of human life.
27. The proposed area to accommodate the works is generally clear of vegetation and is located in proximity to the existing dwelling. The proposed use on the site will not result in any unreasonable bushfire risk.

Response to objections received

28. In response to objector concerns not already raised in this report, the following officer comments (in italic) are noted:

Noise / amenity impacts:

- *The noise of 50 dogs will make a peaceful area very noisy and will leave a strong smell in the air.*
- *The noise from the proposed facility will be funnelled down the gully directly towards our residence;*
- *There will be excessive barking;*
- *The community hall across the road will be affected by noise and odours from such a large structure;*
- *Noise problems caused by perpetual barking of dogs;*

The submitted acoustic report in support of the application indicated that the noise generated by the proposed kennels is acceptable when considered in relation to the relevant legislation. The Noise Control Guidelines (and State Environment Protection Policy (control of noise from commerce, industry and trade) No.N-1) for Dog Kennels require that noise sources from dog kennels to be mitigated to an acceptable level 45 db(a) during the day and maximum 37 db(a) during the evening), the guidelines do not require noises from a facility of this nature to not exist, but ensure they are managed to an acceptable level.

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The documentation submitted with the application and the acoustic report indicates that the proposal has sufficiently mitigated noise sources by including insulation to the proposed boarding area, the inclusion of a 2.5 meter high noise barrier and including visual barriers to the external areas so the dogs cannot easily see each other will result in proposal being compliant with the guidelines.

Impact on Mechanics Institute:

- *The proposed kennels will impact on events held at the Mechanics Institute across the road, many of these activities require lack of interfering noise such as poetry readings, orchestral performances;*
- *The proposed dog kennels will impact the financial viability of the Mechanics Institute; AND*
- *The community hall across the road will be affected by noise and odours from such a large structure.*

Almost all of the objections received in relation to this proposal have made comment in relation to potential impacts to the operation and viability of the Mechanics Institute which is located opposite the subject site.

The noise modelling submitted with application indicates that the level of db(a) at the Mechanics Institute will be around 39 with the noise mitigation measure in place. The glossary of the submitted acoustic report indicates that the noise of a passing car generates a noise level of 70 db(a).

It is noted that noise sources from the proposed kennels may indeed be audible from the hall opposite the site, however the noise level is expected to be more akin to the sound of an office which is considered not to be an unreasonable impact as opposed to a noise level which would be disruptive to any activities taking place in the hall.

The planning scheme does not allow the consideration of the financial impacts of a proposed use in relation to existing uses.

Traffic Impacts:

- *A boarding kennel of this size will cause congestion in a quiet street;*
- *Increased traffic on local roads;*

It is not expected that the proposed operation of a dog boarding facility will place an unreasonable burden on the local road network. It is proposed to utilise the existing entrance to the dwelling on the site. Council Infrastructure Development Unit have indicated that there is no objection to the proposed use and have commented that the proposed level of car parking provided on the site is appropriate.

Siting / Compliance with zone:

- *It is aesthetically out of character with the rural area;*
- *The proposal breaches current zoning regulations;*
- *The proposal will be an overdevelopment of the site;*

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The proposed works will adopt a level of visibility in the locality, because something is visible does not mean it cannot be considered as appropriate. As discussed in the report, the proposed works are considered appropriate in to the siting and design in relation to Clause 22.04 – Siting and Design policy for Works in Non-Urban Area.

The proposed use of the site is considered appropriate. The zone and policy considerations outlined at Clause 22.04 seeks to ensure the location of buildings and works is appropriate. The proposed buildings on the site are consolidated with the existing dwelling on the site.

The proposed use of the site is also considered appropriate in this location. The proposed use is a Section 2 use in the zone and is permissible subject to appropriate assessment. It is not expected that the proposed use will alter the existing rural character of the area and will not be detrimental to the environmental and landscape values of the area. The subject site has an overall area of 32 hectares, the use and development as proposed would occupy less than 2% of the overall subject area. The proposed use and development is also consolidated on the site close to the existing dwelling and its associated outbuildings. As a result a large majority of the site to the east of the waterway will remain available for agricultural pursuits, should the landowner wish.

Other:

- *The proposed kennel is within 500 metres of my property (713 Ridge Road);*
- *Property was purchased in good faith that this was a rural area;*
- *Proposal will impact re-sale value of adjoining properties;*
- *There is not a need for boarding kennels in this location;*
- *The proposal was inadequately advertised;*

The proposed kennels are in excess of 500 metres from the property located at 713 Ridge Road.

The conditions in which a property was purchased does not prohibit adjoining landowners from applying for any permission which may be sought under the planning scheme

Section 60 of the *Planning and Environment Act 1987* sets out the matters which the Responsible Authority can consider in assessing an application. The potential re-sale of adjoining properties is not a relevant consideration listed under the Act.

The application was advertised in accordance with the requirements of section 52 of the *Planning and Environment Act 1987*. A sign was erected on the site and adjoining property owners were notified by mail.

Conclusion

29. The application seeks to use and develop the land for a dog boarding facility and signage. The application was advertised and fifteen written objections were received. The key planning issues relate to Appropriateness of use, Amenity impacts / noise abatement, Siting and design, Car parking, Signage and the Public Acquisition Overlay.

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30. The application has demonstrated that the proposed use on the site will not result in unreasonable amenity impacts to adjoining properties and has also demonstrated that the proposed works on the site will not result in unreasonable visual impact to the landscape.
31. In light of the above planning assessment, the application warrants support, as reflected in the officer recommendation.

- 7. Supplementary and urgent business**
- 8. Confidential reports**