

## Deemed Provisions – CI 67 Matters to be considered by local Government

## Land Use:

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p><b>Comment: The subject site is zoned Rural under TPS2, within the 'Rural' zone the land use 'Dog Kennels' is an 'SA' use, meaning that the use is not permitted unless the Local Government has exercised its discretion by granting development approval after the application has been advertised.</b></p> <p><b>Section 5.10.2 Kennels of the Shire's Town Planning Scheme No. 2 specifically states the following with regards to Dog Kennels:</b></p> <p><b>Where the Council grants approval to a Kennels use, the following provisions shall apply:</b></p> <p><b>(a) the approval shall be personal to the applicant and shall not be transferred to or assigned to any other person;</b></p> <p><b>(b) the approval shall not run with the land in respect of which it was granted;</b></p> <p><b>(c) the person to whom approval is given by the Council to carry on a Kennels use shall not carry on that use at any premises other than the land in respect of which the Council's approval is granted; and</b></p> <p><b>(d) if a Kennel use has been carried on with the approval of the Council and if in the opinion of the Council such use is causing a nuisance or annoyance to owners or occupiers of land in the neighbourhood, the Council may withdraw its approval and after such withdrawal, no person shall upon the subject land carry on a Kennel use unless a further approval to do so is granted by the Council.</b></p> <p><b>Provisions of sub-clauses (a), (b) and (c) are included as conditions, which makes an approval personal to the applicant where management expertise and experience of the applicant is associated. Based on the current Scheme also, Council has the ability to withdraw its approval if Council determined such was causing a nuisance or annoyance to owners or occupiers of land in the neighbourhood. It should be noted, however, that this provision does not exist within proposed Local Planning Scheme No. 3.</b></p>			
b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p><b>Comment: As discussed in the report, without an assessment demonstrating the existing noise levels, there is insufficient information to assess the impacts of noise and the appropriateness of the development. Making a decision purely on meeting the assigned levels of the Regulations does not reflect proper and orderly planning. For this reason, the application is recommended for refusal.</b></p>			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>

**Comment: State Planning Policy 2.5 Rural Planning (SPP2.5). As discussed, the report Officers are not able to consider if the proposed development is consistent with the principles of SPP2.5, due to the difficulty in determining whether the proposed development maintains an acceptable level of rural amenity by virtue of noise impact.**

d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d)	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

e) any policy of the Commission	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

f) any policy of the State	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

g) any local planning policy for the Scheme area	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

h) any structure plan, activity centre plan or local development plan that relates to the development	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
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**Comment: The subject site is designated 'Rural' under the Local Planning Strategy (LPS). The LPS provide two broad aims for the Rural areas of the Shire, which are to protect agricultural land and protect the rural landscape.**

**The development occupies only a small portion of the area of the lot, with the balance being available for agricultural use. The applicant has proposed measures to ensure nutrient export from the proposed development is managed and minimised.**

i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

## Development:

k) the built heritage conservation of any place that is of cultural significance	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
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**Comment: Officers consider the proposed development is not consistent with orderly and proper planning, by virtue of not having sufficient information to be able to determine the extent of noise impact and the lack of a 500m separation distance to surrounding properties.**

n) the amenity of the locality including the following – I. Environmental impacts of the development II. The character of the locality III. Social impacts of the development	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
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**Comment: As discussed in the Officers note that the Acoustic Report has not established existing noise levels in the rural area. As such, without an assessment demonstrating the existing noise levels, there is insufficient information to assess the impacts of noise and the appropriateness of the development. Making a decision purely on meeting the assigned levels of the Regulations does not reflect proper and orderly planning. For this reason, the application is recommended for refusal.**

**A noise management plan would need to be submitted if the application were to be approved.**

o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
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**Comment:**

p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
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**Comment:**

r) the suitability of the land for the development taking into account the possible risk to human health or safety	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

u) the availability and adequacy for the development of the following – I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

w) the history of the site where the development is to be located	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: The site is approximately 16.19ha in area and is bound by Karnup Road along the northern boundary. The subject site has been developed for residential and equestrian uses, featuring a dwelling, outbuildings, horse shelters and water tanks.</b>			

x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: Officers consider there to be insufficient information in order to conclude on the amenity impact associated with potential noise from the use. Having regard to the planning framework, the application is recommended for refusal.</b>			

y) any submissions received on the application	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
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**Comment:** Overall four objections were received. The concerns raised in the additional objections have been summarised below:

- Potential noise from barking dogs;
- Potential odour from dog excreta and urine;
- Suitability of the land use in the rural zone;
- Potential danger from escaping dogs to and fauna (rabbits, bandicoots and lambs);
- Potential property devaluation;
- Setting a precedence that attracts dog kennels operators in the Shire.

Za) the comments or submissions received from any authority consulted under clause 66

**YES**



**NO**



**N/A**



**Comment:** The application was referred to Water Corporation who expressed no concerns or objections to the proposal as the subject site is remote from water and wastewater services.

Zb) any other planning consideration the local government considers appropriate

**YES**



**NO**



**N/A**



**Comment:**