

Technical Report			
TRIM Number:	PA20/1036	Synergy Number:	PA20/1036
Lodgement Date:	30 October 2020	DAU Date:	
Address:	Lot 2, 302 Leipold Road, Oldbury		
Proposal:	Dog Kennel		
Land Use:	Dog Kennel	Permissibility:	SA
Owner:			
Applicant:	Planning Horizons		
Zoning:	Rural	Density Code:	R2
Delegation Type:	12.1.1	Officer:	Haydn Ruse
Site Inspection:		No	
Advertising:		Yes	
Outstanding Internal Referrals:		No	
External Referrals:		No	
Within a Bushfire Prone Area:		Yes	

Introduction:

A planning application dated 30 October 2020 has been received for proposed Dog Kennel at Lot 2, 302 Leipold Road, Oldbury.

The subject lot is zoned Rural in accordance with the Shire's Town Planning Scheme No. 2 (TPS 2). A Dog Kennel is a 'SA' use within the Rural zone in accordance with the Shire's TPS 2.

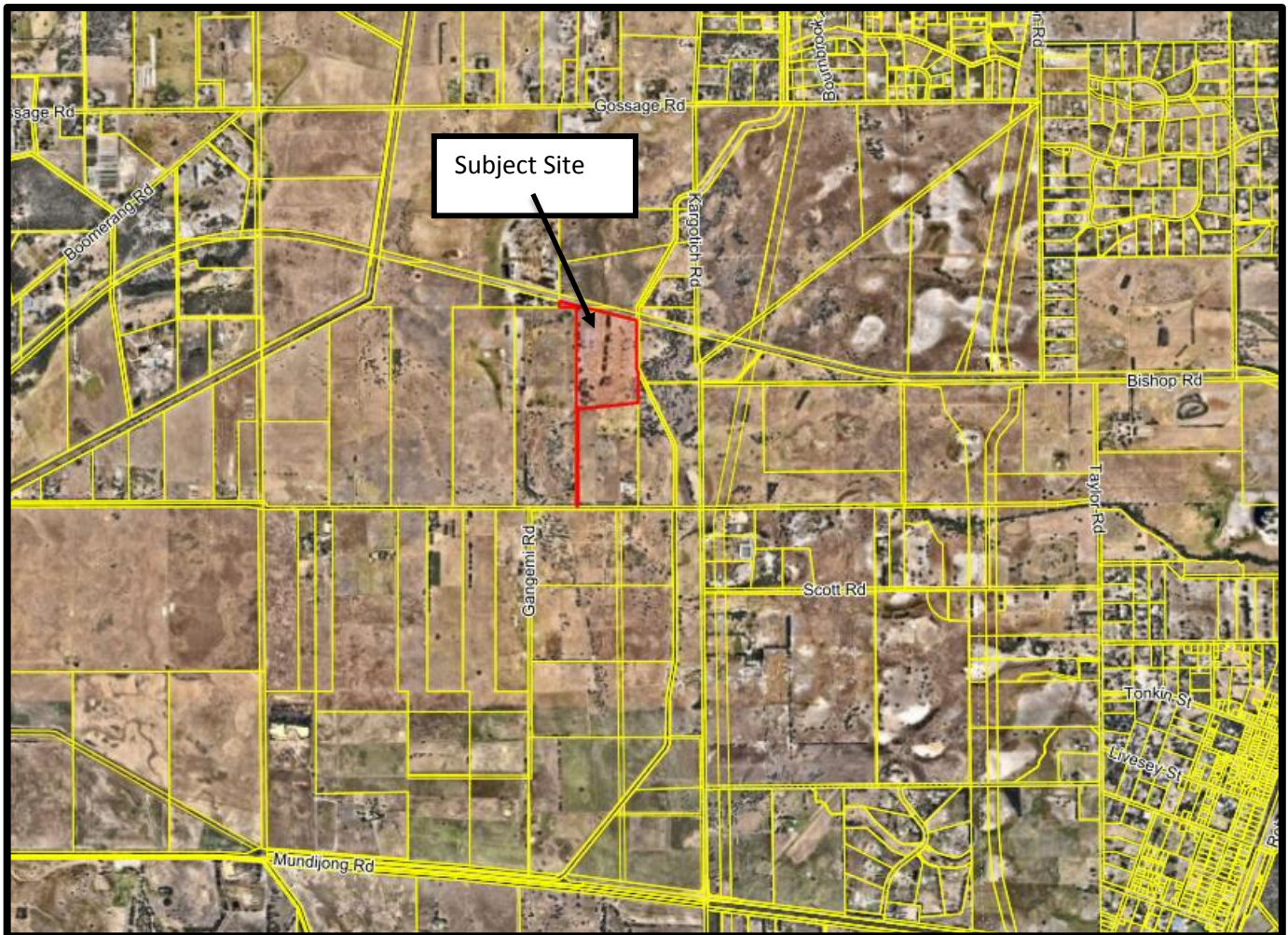
The proposal is reported to Council for determination as Officers do not have delegation to approve applications that have received objections that cannot be addressed through amendments or conditions in accordance with delegated authority 12.1.1.

This report recommends that the Dog Kennel as proposed be approved subject to appropriate conditions.

Background:

Existing Development:

The subject site has been developed for residential and equestrian uses, featuring two dwellings, several outbuildings, paddocks, horse shelters and a trotting track. The aerial image below shows the context of the site, which is a battle axe lot surrounded by rural land. Notably the freight rail runs along the northern boundary of the land, and the land itself is proximate to the West Mundijong Industrial Area which is within close proximity to the east. The western edge of the industrial area is approximately 350m from the eastern edge of the subject land.



Proposed Development

The application seeks approval for the operation of a Dog Kennel, which would provide day care and overnight boarding services. The operations have been designed to facilitate a maximum of 15 dogs per day for day care services and a maximum of six dogs for overnight boarding services.

The proposed day care operations would make use of three fenced exercise yards, providing supervised activities for the dogs including treibball, lure coursing and agility. The dogs would be kept within the smaller yard for the majority of the day and taken into one of the two larger yards for an hour of exercising in the morning and afternoon. Across the wetter months, the dogs would be kept in an existing shed with a horse yard, located at the south western corner of the lot. The operations would entail the employment of up to two external staff.

The overnight boarding service is proposed as an extension to the day care service and only offered to patrons of the day care service. The dogs are proposed to be kept within the dwelling overnight.

The development is proposed to operate Monday to Sunday; however, the day care services would be limited to Monday to Friday between 7am and 6pm.

Full details of the application area contained within **attachment 1**.



Site Plan

Community / Stakeholder Consultation:

The application was advertised to surrounding residents within a 500m radius for a period of 21 days in accordance with Local Planning Policy 1.4 - Public Consultation for Planning Matters Policy (LPP1.4). During the consultation period a total of eight submissions were received, seven of which raised objections to the proposal. The objections raised a number of concerns including:

1. Traffic impacts generated by the development;
2. Dust generated by the development;
3. Noise from the dogs;
4. Property devaluation;
5. Impact on livestock;
6. Impact on native fauna; and
7. Fire management issues.

A summary of the submissions can be viewed in **attachment 2** to this report. A detailed assessment against each area of objection has been undertaken further in this report, with the exception of impacts on property devaluation, which is not a relevant planning matter.

Statutory Environment:

Legislation

- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Environmental Protection (Noise) Regulations 1997*

State Government Policies

- Environmental Protection Authority Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses
- State Planning Policy 2.5 - Rural Planning
- State Planning Policy 3.7 - Planning in Bushfire Prone Areas

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Rural Strategy Review 2013
- Draft Local Planning Scheme No.3
- Draft Local Planning Strategy
- Local Planning Policy 1.4 - Public Consultation for Planning Matters Policy
- Local Planning Policy 4.11 - Advertising Policy

Planning Assessment:

Clause 67 of the Deemed Provisions lists matters to be considered in the determination of development applications.

Land Use:

The proposed development is considered to be a 'Dog Kennels' land use under Town Planning Scheme No. 2 (TPS2), which is defined as:

'Dog Kennels - means any land and buildings used for the boarding and breeding of dogs where such premises are registered or required to be registered by the Council, and may include the sale of dogs.'

The subject site is zoned Rural under TPS2, within the 'Rural' zone a 'Dog Kennels' land use 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.

Under the draft Local Planning Scheme No.3 (LPS3) the proposed development is considered to be an 'Animal Establishment' land use, which is defined under LPS3 as:

'Animal Establishment - means premises used for the breeding, boarding, agistment, training or caring of animals for commercial purposes but does not include animal husbandry - intensive or veterinary Centre.'

The subject site would be zoned 'Rural' under LPS3, within the Rural zone an 'Animal Establishment' land use would be a 'D' use, meaning the use is not

permitted unless the local government has exercised its discretion by granting development approval. Under LPS3, the requirement for public advertising is removed.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas:

The subject site is located within a designated bushfire prone area and subject to the provisions of State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7). An objection received during the consultation period raised concerns about safety at the site in the event of a fire.

A Bushfire Management Plan (BMP) was submitted with the application which addresses the proposal under the assessment criteria and demonstrates compliance with SPP3.7. The BMP includes a Bushfire Attack Level (BAL) rating of BAL12.5, consistent with SPP3.7. The BMP also includes an assessment against the *Guidelines for Planning in Bushfire Prone Areas* demonstrating compliance with the acceptable solutions.

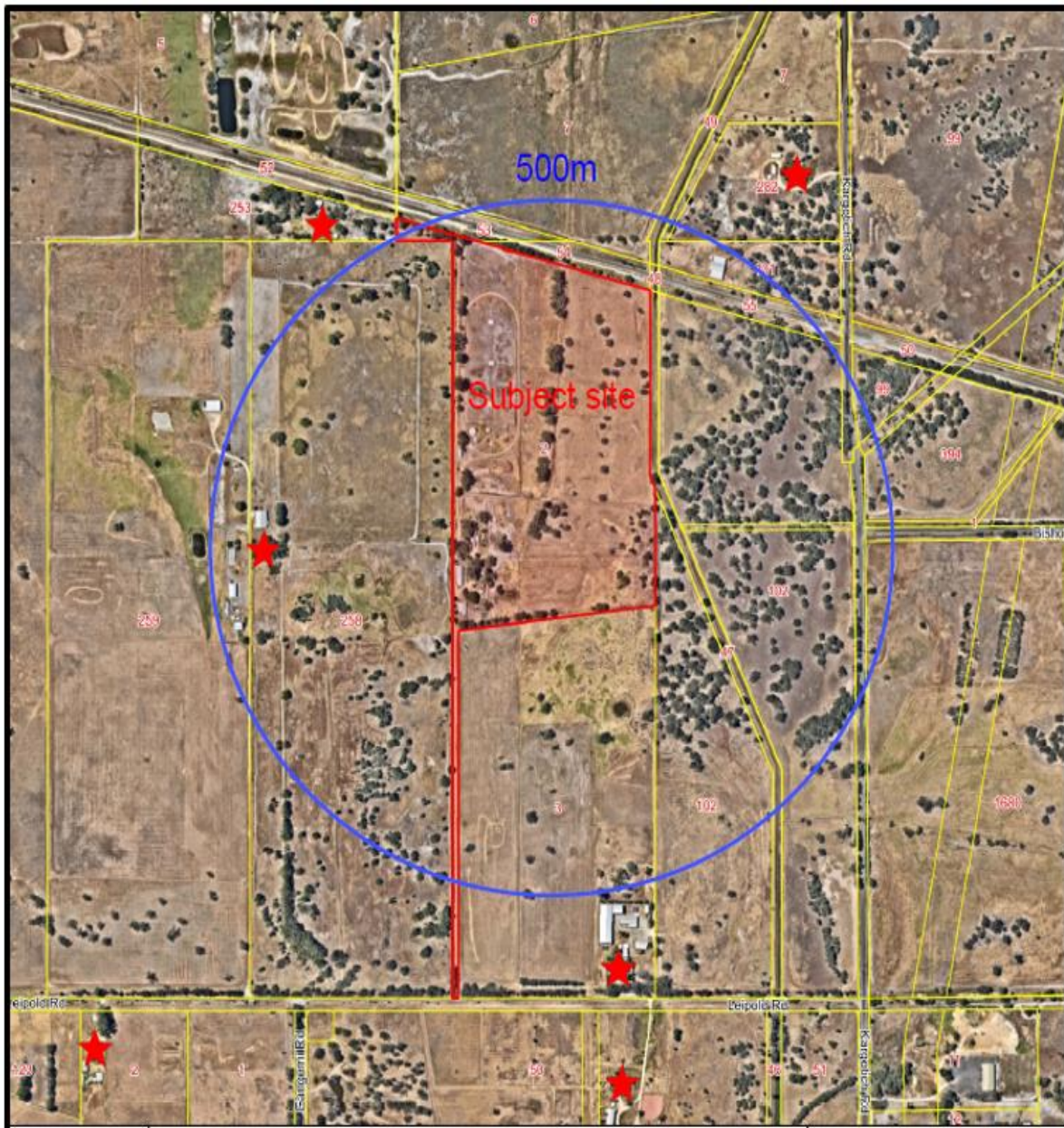
The BMP goes further to set out bushfire management strategies to reduce bushfire risk such as the maintenance of an Asset Protection Zone and installing driveway access including passenger lanes and turn around areas.

Officers are satisfied the proposal meets the requirements for planning in bushfire prone areas and have recommended a condition of approval to ensure the recommendations of the BMP are implemented.

Amenity:

Dog Kennels are developments listed under the Environmental Protection Authority's Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses (Guidance Statement) as a development that may result in noise and odour impacts.

The Guidance Statement recommends a minimum separation distance of 500m between Dog Kennels and noise sensitive receptors (dwellings). There is one sensitive receptor within 500m of the proposed development footprint (shown below), which is located approximately 360m west of the shed intended to be used in poor weather conditions and approximately 375m west of the dwelling intended to be used for overnight boarding. Notably, no submission was received from this property.



Separation Distance Map

As a matter of consideration in respect of the planning framework, rural zones are, generally, the repositories for dog kennels and similar associated operations. Such operations are not that far removed from ordinary rural operations and activities that are expected to constitute the intent of the zone and which shape the expected amenity outcomes.

As mentioned, the EPA's Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses No 3 (June 2005) recommends that dog kennels in rural areas should be located a minimum of 500 m from sensitive land uses, due to potential noise and odour impacts. This increases to one kilometre adjoining urban areas.

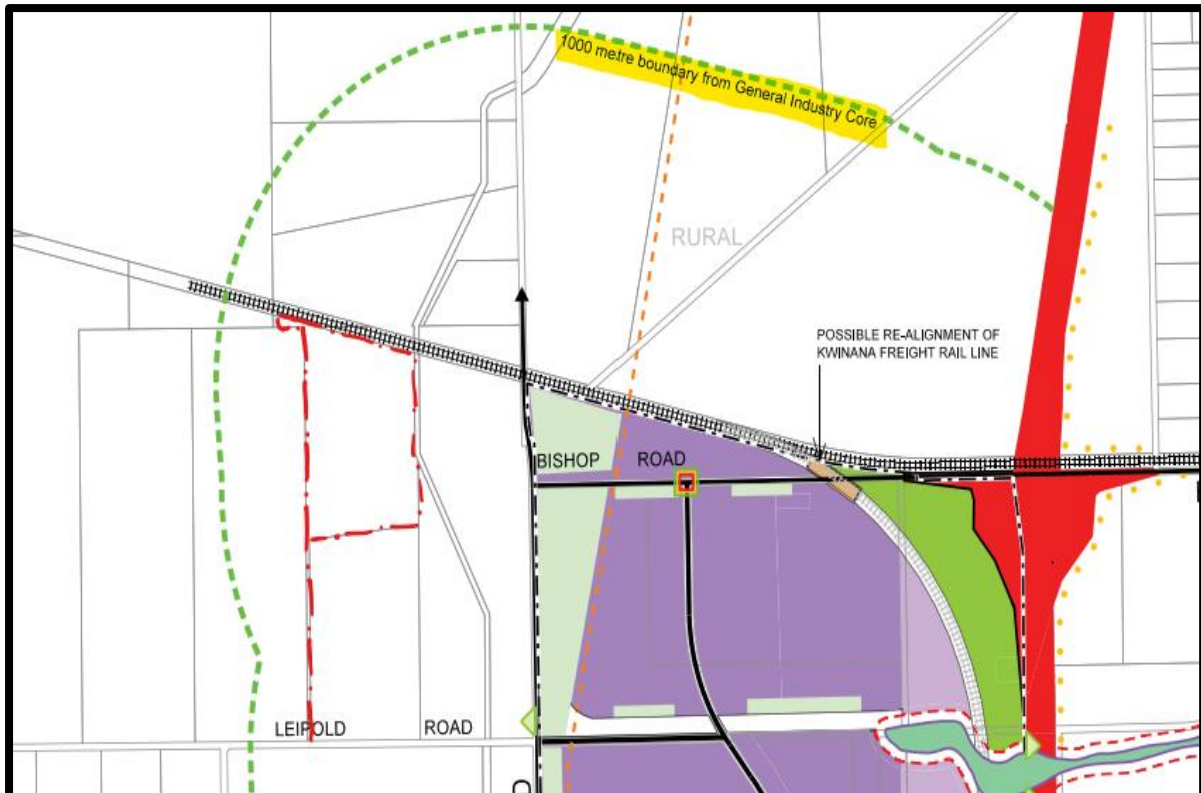
While the EPA recommended buffer is always considered to be guidance only, it still requires appropriate consideration in respect of this application. In considering this proposal, officers note that:

- The subject land exists within the 1000m buffer to the West Mundijong Industrial Area, which does guide future land use and development considerations. In this regard, further subdivision and development within the buffer to introduce sensitive land use is not contemplated or promoted;
- The subject land is influenced by proximity to the freight rail line;
- The existing dwelling and vegetation on the subject application site provides shielding to help moderate potential noise impacts travelling to the west;
- The dogs are identified and marked by appropriate fence-like barriers so as to not make use of whole property, with night time use conducted within house.

Balancing these considerations, given the scale of the development and the distance between the development footprint and the nearest sensitive receptor, Officers consider noise generated by the development unlikely to impact on the amenity of the area. Two conditions however are recommended to help secure the amenity expectations. These being:

1. A Noise Management Plan to address mitigation measures in more detail, with this to set out requirements that the operator will implement and maintain to ensure noise levels do not adversely impact on amenity;
2. Annual reporting in respect of noise impacts, and such annual reporting to document any noted exceedances and how such exceedances were responded/managed to avoid further repeat.

Also, while planning approvals are generally non-personal in nature, a condition may be imposed which makes the permit personal to the applicant where management expertise and experience of the applicant are likely to be significant in reducing the amenity impacts of proposed uses. This is a further condition to help ensure amenity considerations.



In relation to odour impacts from the development, as the proposal is primarily outdoors and dogs would only be kept indoors overnight and during poor weather conditions, the development is considered unlikely to result in odour impacts that may affect surrounding properties. The application includes proposed waste management measures that are considered to be adequate to address odour. A condition has been recommended to ensure the waste management measures proposed are implemented.

It is noted that surrounding land uses include grazing of cattle, and that this activity often includes manure smells that are more or less a characteristic of a rural productive farming area. Odour issues are further considered to be addressed in this regard.

Dust impacts from the development were also raised as a concern by submissions through the consultation period, specifically in relation to the use of the battle-axe driveway to gain access to the site. Officers note that the nearest premises that may be affected by dust is a dwelling located approximately 270m to the east of the start of the battle-axe leg of the subject site and approximately 592m from the end of the battle-axe leg. The applicant in response to submissions has proposed to make use of an existing water cart on the site to irrigate the driveway prior to the morning and afternoon peak periods to address dust. Officer consider this approach adequate to address the potential for dust impacts on surrounding properties and have recommended a condition of approval to ensure this measure is implemented.

Traffic:

The proposed development is predicted to result in a maximum of 15 light vehicles attending the premises in the morning and again in the afternoon for drop-off and pick-up and two light vehicles attending the premises in the morning and departing in the afternoon for staff. It is also noted that the boarding service provided for day care users may reduce the frequency of vehicles attending the premises. The estimated vehicle numbers are considered to be low and Officers consider unlikely to have an impact on the broader road network.

Impact on Livestock and Native Fauna:

During the consultation period a number of submissions raised concerns about the potential for dogs to escape enclosures and attack livestock and native fauna. In the applicant's response to the submission it is noted that the subject site is also used for grazing cattle and horses and the enclosures are intended to be fenced with 1.8m mesh fencing and 200mm sub-surface fencing (to prevent digging under the fence) to prevent dogs from escaping the enclosure and native fauna from entering the enclosures. The applicant also notes that the dogs would be supervised at all times. Officers are satisfied that the risk of dogs escaping the enclosures could be adequately managed through supervision and fencing and have recommended a condition of approval to ensure adequate fencing is installed and maintained around the enclosure areas.

Options and Implications:

Option 1

That Council APPROVES the development application subject to conditions.

Option 2

That Council APPROVES the development application subject to the same conditions as Option 1, EXCEPT that the maximum number of dogs permitted during the day is 10 (instead of 15) and during the night is 3 (instead of 6).

Option 3

That Council APPROVES the development application subject to the same conditions as Option 1, EXCEPT with a further condition that requires the construction of a suitable colorbond fence of minimum height 1.8m surrounding the primary dog yard area to the satisfaction of the Shire of Serpentine Jarrahdale..

Option 4

That Council REFUSES the application due to concerns regarding amenity impacts associated with the proposed development.

Option 1 is recommended.

Conclusion:

The application has been presented to Council to consider an application that has received a number of objections during the consultation process. Officers consider the proposed development aligns with the current and expected planning framework and is unlikely to result in any undue impacts on the traffic network or amenity of the locality. Officers support the proposed development and recommend the application be approved, subject to a number of conditions to address the concerns raised through submissions.

Attachments:

- CL67 Table

Deemed Provisions – Cl 67 Matters to be considered by Local Government

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"/>
Comment: The proposed development is considered to comply with the aims and provisions of TPS2.			
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"/>
Comment: The proposed development is considered to align with LPS3 and the LPS.			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: State Planning Policy 3.7 – Planning in Bushfire Prone Areas (assessment within report)			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d)	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
f) any policy of the State	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
g) any local planning policy for the Scheme area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Local Planning Policy 4.11 – Advertising Policy			
h) any structure plan, activity centre plan or local development	YES	NO	N/A

plan that relates to the development	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			
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>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
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	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The proposed development is considered unlikely to impact on the amenity of the locality. Conditions have been recommended to further mitigate the potential for any such impacts to occur.			
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	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
r) the suitability of the land for the development taking into account the possible risk to human health or safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

Comment:			
s) the adequacy of –	YES	NO	N/A
I. The proposed means of access to and egress from the site; and	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles			
Comment: The access arrangements are considered to be adequate based on the scale of the proposal.			
t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	YES	NO	N/A
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comment: The predicted traffic volumes are considered to acceptable. Further assessment can be viewed in the traffic section of the report.			
u) the availability and adequacy for the development of the following –	YES	NO	N/A
I. Public transport services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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			
Comment:			
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	YES	NO	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			
w) the history of the site where the development is to be located	YES	NO	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			
x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	YES	NO	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			
y) any submissions received on the application	YES	NO	N/A
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comment: Submissions have been considered in detail within the report.			
Za) the comments or submissions received from any authority consulted under clause 66	YES	NO	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			
Zb) any other planning consideration the local government considers appropriate	YES	NO	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			