

DEVELOPMENT ASSESSMENT REPORT – ANIMAL BOARDING & TRAINING ESTABLISHMENT – 1173 LOWES MOUNT ROAD, OBERON

PROPOSAL

Council is in receipt of DA 10.2012.6.1 and Construction Certificate 11.2012.6.1 being the application for a dog boarding facility on land described as Lot A DP 385582, being known as 1173 Lowes Mount Road, Oberon.

The application seeks approval for a commercial dog boarding business to be provided as an income to the existing residence on the property. The primary need for the consent is the applicant proposes to commercially board dogs and the requirements for development consent are primarily related to commercial breeding boarding and training.

As such the proposal seeks to establish a commercial boarding facility on the land to accommodate up to 18 boarding dogs.

The development is proposed to operate 24 hours 7 days a week however the establishment is proposed to be open to the public between 8.30am and 10.00am for pick up and drop off and also between 2.30pm and 4.30pm for the same.

SUMMARY

To assess and recommend determination of DA 10.2012.6.1 and CC 11.2012.6.1
Recommendation will be for approval subject to conditions.

LOCATION OF THE PROPOSAL

Legal Description :	Lot A DP 385582
Property Address :	1173 Lowes Mount Road, Oberon

ZONING: The land is zoned General Rural 1(a) in accordance with Oberon Local Environmental Plan 1998.

PERMISSIBILITY:

The development is defined as an animal boarding and training establishment which is defined as a place for the commercial boarding, breeding, keeping or training of animals, and includes a riding school and a veterinary clinic.

The development is permissible in the zone subject to development consent

POLICY IMPLICATIONS (OTHER THAN DCP's)

Nil.

FINANCIAL IMPLICATIONS (eg Section 94)

Nil.

LEGAL IMPLICATIONS

Any Environmental Planning Instrument

Consider SEPPs, REPs & LEPs. RELEVANT Provisions of LEP (eg permissibility, development standards, heritage listing, advertising requirements of another authority who administers a SEPP or REP). Is a SEPP1 objection required?

Local Environmental Plan

Zone No 1 (a) (Rural 'A' Zone)

1 Objectives of Zone

The objectives of this zone are to promote the proper management and utilisation of resources by:

- (a) protecting, enhancing and conserving:
 - (i) agricultural land in a manner which sustains its efficient and effective agricultural production potential, and
 - (ii) soil stability, by controlling and locating development in accordance with land capability, and
 - (iii) forests of existing and potential commercial value for timber production, and
 - (iv) valuable deposits of minerals, coal, petroleum and extractive materials, by controlling the location of development in order to ensure the efficient extraction of those deposits, and
 - (v) trees and other vegetation in environmentally sensitive areas where the conservation of the vegetation is likely to control land degradation or is significant to scenic amenity or the natural wildlife habitat, and
 - (vi) water resources, including groundwater, for use in the public interest, preventing the pollution of water supply catchments and water storage, and
 - (vii) areas of significance for nature conservation, including areas with rare plants, wetlands and significant habitats, and
 - (viii) items of archaeological or heritage significance, including Aboriginal relics and places, and
- (b) preventing the unjustified development of prime crop and pasture land for purposes other than agriculture, and
- (c) facilitating farm adjustments, and
- (d) minimising the cost to the community of:
 - (i) fragmented and isolated development of rural land, and
 - (ii) providing, extending and maintaining public amenities and services, and

(e) providing land for rural small holdings development and for other non-agricultural uses in accordance with demand for that development and in a manner which has the least adverse impact on prime crop and pasture land, and

(f) controlling and locating dwelling-house development to provide buffers from adjoining agricultural land in order to provide adequate environmental safeguards to the inhabitants and not prejudice future agricultural activity in the near vicinity.

It is considered that the proposed development complies with the objectives of the zone.

2 Without Development Consent

Development for the purpose of:
agriculture (other than building work and intensive livestock keeping establishments);
forestry.

3 Only with Development Consent

Development not included in item 2 or 4.

4 Prohibited

Development for the purpose of:
bulk stores; commercial premises; motor showrooms; residential flat buildings; sales rooms or showrooms; shops (other than general stores).

The proposal is considered to be consistent with the aims and objectives of the 1(a) zone and complies with the provisions of Clause 9 of councils current LEP

Regional Environmental Plan

Nil.

State Environmental Planning Policy

SEPP 44 – No proposed impacts are perceived as no additional construction work is proposed as part of this development.

Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

If applicable, is the development consistent with the objectives of the draft instrument?

Nil.

Any Development Control Plan

Is the proposal consistent with the DCP? If not, is a variance warranted and has it been justified?

Councils DCP 2001 applies to the land. It is considered that the proposal complies with the provisions of the DCP.

Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?

Nil.

Any matters prescribed by the regulations that apply to the land

Construction Certificate Assessment - Senior Development Control Officer

Date: 14/3/2012

Application: 11.2012.6.1

Property: Lot A in DP: 385582

Applicant: M Youman

Use: Boarding Kennels – to house 18 dogs (detailed on DA form – not in SOEE)

Building Code of Australia Version: BCA 2011

Building Classification: Class 10a. The Building has been determined as a class 10 a as it is essentially a private shed to be used as a shelter for the dog Kennels. Whilst the development is of a commercial nature the shed construction and assessment does not warrant a 7b Classification.

Summary: - Ok to issue DA and CC subject to conditions of consent attached.

BCA Assessment:

Part 3.1 Site Preparation

Earthworks – Class M Site. Minimal cut and fill provided to the site – no impact to adjoining buildings or developments.

Drainage – No Problems envisaged

Termite Risk Management – not applicable – structural steel members.

Part 3.2 Footings and Slabs

Footings and Slabs – Engineered design provided for a class m site - no problems envisaged

Part 3.3 Masonry – Not Applicable

Part 3.4 Framing

Steel Framing – Engineers Details Provided for N3 Site. Snow loading of 1.5 kPa required. Shed achieves 3.5 kPa. No problems envisaged.

Structural Steel Members – Engineers detail provided.

Part 3.5 Roof and Wall Cladding

Roof Cladding - complies

Gutters and Downpipes - complies

Wall Cladding - complies

Part 3.6 Glazing

Glazing - complies

Part 3.7 Fire Safety – not applicable

Bushfire Areas – Not applicable as Class 10a building is not associated to class 1a dwelling

Alpine Areas – Not Applicable

Part 3.8 Health and Amenity – Not Applicable

Part 3.9 Safe Movement and Access – Not Applicable

Part 3.10 Additional Construction Requirements – Not Applicable

Part 3.12 Energy Efficiency – Not Applicable

Issues:

1. Floor plan? No detailed floor plan has been provided – are any improvements/services to be provided to the shed? To confirm with applicant. *Applicant Advises that no other additions will be provided to the floor plan of the shed - only the kennels themselves.*

Proposed Conditions of Development Consent:

1. PRESCRIBED CONDITIONS OF CONSENT

The following conditions are known as “Prescribed Conditions” and are required by the Environmental Planning and Assessment Regulation 2000 to be imposed as part of any development consent whether or not they are relevant to the development approved under this consent. Please do not hesitate to contact staff in Council’s Development Department who will be happy to advise you as to whether or not the conditions are relevant to your consent.

1. All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

Reason:- So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulation 2000.

2. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Reason:- So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulation 2000.

3. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of the Act,
- in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Reason:- So that the development complies with the requirements imposed under Clause 98B of the Environmental Planning and Assessment Regulation 2000.

4. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- showing the name, address and telephone number of the principal certifying authority for the work, and
- showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work is being carried out and must be removed when the work has been completed.

NOTE: This condition does not apply to building work that is carried out inside an existing building that does not affect the external walls of the building.

Reason:-So that the development complies with the requirements imposed under Clause 98A of the Environmental Planning and Assessment Regulation 2000.

5. Any development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i. protect and support the adjoining premises from possible damage from the excavation, and
 - ii. where necessary, underpin the adjoining premises to prevent any such damage.

NOTE: The condition referred to in sub clause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Reason:-So that the development complies with the requirements imposed under Clause 98E of the Environmental Planning and Assessment Regulation 2000.

2. Copy of Approval On Site

A copy of the development consent and approved plans and specifications shall be kept on site at all times.

Reason:- To ensure a copy of the approval is available for builders/tradespersons on site.

3. Building not to be adapted for another use

The building is not to be altered or adapted for another use without the prior consent of Council.

Reason:- the building has only been approved for a shed associated to the boarding kennels and other uses require a separate approval of Council.

4. Builders Toilets

Prior to the commencement of works, temporary toilet facilities shall be provided on site for the use of builders or tradespersons during the construction works.

Reason:- To ensure adequate standard of amenities are available to workers on site.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Amenity – the applicant has indicated that the development will have minimal affect on amenity as there is no proposed additional development associated with the application. Further the applicant has indicated that additional landscaping is being implemented on the land to minimise the developments impact on adjoining properties.

Noise – With this type of operation additional noise impacts are a perceived concern. The land is zoned to accommodate this type of use, and the nearest neighbour is approximately 500-1000m away from the development. To minimise perceived noise concerns the applicant.

Effluent Disposal – The general breeding area is grassed and well maintained. There is no ability to capture liquid effluent made by the dogs. The applicant has indicated that all solid waste is collected, bagged and disposed of at a licenced landfill. As such, conditions of consent to require the solid waste to be disposed of at a licenced facility and all waste is to be contained within the parameters of the land.

Advertising – the development has not outlined specific signage for the proposal and as such any proposed signage will be required to comply with the exempt development

provisions of Councils DCP of Codes SEPP. Should signage (outside these provisions) be proposed it will need to be dealt with under a separate application.

Boarding & Training – The development is defined as animal boarding and training, and includes breeding as part of the definition. However, this application simply seeks to board dogs.

The Suitability of the site for the development

Does the proposal suit the site? Bulk/Scale/Sensitivity? Are there any natural or man made hazards?

The site is considered to be suitable for the development. The development is permissible in the zone and is consistent with the aims and objectives of the 1(a) General rural zone. There are no human or natural hazards that would consider the proposal to not be considered. As such the applicant is considered to be suitable for the site.

Any submissions made in accordance with this Act or the Regulations

If relevant, consider public and authority submissions. Do submissions relate to valid Planning issues?

The application was notified to the adjoining neighbours for a period of 14 days with notification closing on 29 February 2012. Through the submission period Council received 1 submission relating to the proposal. The submission was received by Forests NSW who indicated that they do not object to the proposal subject to the inclusion of the following condition:

Any new buildings within 150m of the boundary of state forest are not to be classed as habitable (Class 1,2,3 or 4) under the Building Code of Australia.

As the development is not considered to be classed as such it is considered that the development complies with the request and as such can be approved. Given the nature of the development it is considered that the shed is a Class 10a building and as such the condition does not need to be included in the conditions of consent.

Although no public submissions were received relating to the proposal an anonymous pamphlet was delivered to Council officers indicating objection to the application. It would seem that the flyer was distributed to landowners along the Lowes Mount Road and as a result Council Officers received calls relating to the application but prior to the time of writing no submissions were received. The flyer is attached for Council consideration. It must be stated that given the nature of the 'submission' in a planning context it has no merit as the submission is anonymous, however, to avoid potential community concern and in an attempt to be open and transparent the application will be forwarded to its ordinary meeting for determination.

The public interest

Have any genuine Planning issues been raised in by the wider public? Is there genuine irrefutable concerns relating to public health & safety?

Other than what has been previously discussed above it is considered that no additional public interest is perceived.

DISCUSSION AND CONCLUSIONS

The application is permissible in the zone and is consistent with the aims and objectives of that zone. Any perceived impacts can be minimised by onsite techniques in place or through conditions of consent. As such it is considered that the application can be supported in this instance.

ATTACHMENTS

1. Nil.

RECOMMENDATION

THAT the information is received and Council approve the application subject to the following conditions:

Administrative Conditions

1. The development is to be carried out in accordance with the approved stamped plans prepared by Mr M Youman, and additional plans prepared by Garageworld dated February 2012 except as otherwise provided by the conditions of this determination (Note:- modifications to the approved plans will require the lodgment and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act).

Reason:- to confirm and clarify the terms of Council's approval.

Building Code of Australia Compliance

2. That all development is carried out in accordance with the Building Code of Australia.

Reason – To comply with relevant statutory requirements

Prescribed Conditions

The following conditions are known as "Prescribed Conditions" and are required by the Environmental Planning and Assessment Regulation 2000 to be imposed as part of any development consent whether or not they are relevant to the development approved under this consent. Please do not hesitate to contact staff in Council's Development Department who will be happy to advise you as to whether or not the conditions are relevant to your consent.

3. All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

Reason:- So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulation 2000.

4. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of the Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

Reason:- So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulation 2000.

5. Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of the Act,
- in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Reason:- So that the development complies with the requirements imposed under Clause 98B of the Environmental Planning and Assessment Regulation 2000.

6. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- showing the name, address and telephone number of the principal certifying authority for the work, and
 - showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work is being carried out and must be removed when the work has been completed.

NOTE: This condition does not apply to building work that is carried out inside an existing building that does not affect the external walls of the building.

Reason:-So that the development complies with the requirements imposed under Clause 98A of the Environmental Planning and Assessment Regulation 2000.

7. Any development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i. protect and support the adjoining premises from possible damage from the excavation, and
 - ii. where necessary, underpin the adjoining premises to prevent any such damage.

NOTE: The condition referred to in sub clause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Reason:-So that the development complies with the requirements imposed under Clause 98E of the Environmental Planning and Assessment Regulation 2000.

Copy of Approval On Site

8. A copy of the development consent and approved plans and specifications shall be kept on site at all times.

Reason:- To ensure a copy of the approval is available for builders/tradespersons on site.

Building not to be adapted for another use

9. The building is not to be altered or adapted for another use without the prior consent of Council.

Reason:- the building has only been approved for a shed associated to the boarding kennels and other uses require a separate approval of Council.

Builders Toilets

10. Prior to the commencement of works, temporary toilet facilities shall be provided on site for the use of builders or tradespersons during the construction works.

Reason:- To ensure adequate standard of amenities are available to workers on site.

Landscaping

11. The development is to prepare a landscaping plan for Council approval. The landscaping is to be implemented within three (3) months of the approval and is to be maintained by the landowner for the life of the consent.

Reason:- so that the development does not reduce the amenity of the area.

Amenity

12. Advertising structures or signs shall not be erected, affixed, painted or displayed on any land without prior Council consent.

Reason:- to prevent the proliferation of signs which will result in a degradation of the visual quality of the area.

13. The premises are to be maintained in a clean and tidy condition at all times.

Reason:- so that the development does not reduce the amenity of the area.

Noise

14. All effort is to be made to minimize noise from the site. The applicant is to provide adjoining landowners with notification of a contact number (complaints line) in times of excess noise emanating from the development. The landowner is to respond to all relevant concerns received on the line.

Reason:- so that the development does not reduce the amenity of the area.

15. The landowner is to keep a log of all complaints received as part of the development. This log is to be available to Council at any time should it be requested. The log is to outline the time of the complaint the reason for the complaint and the action undertaken to eliminate the concern.

Reason:- so that the development does not reduce the amenity of the area.

Waste Management

16. All solid waste, associated with the development is to be bagged and removed off-site to a licensed waste facility. No solid waste is to be buried on-site associated with the development.

Reason:- to comply with Local Government (General) Regulation 2005 and to satisfy Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended.

17. All liquid waste is to be kept within the confined of the land. Council can at anytime require the landowner to justify this requirement should it believe effluent is not being kept within the confinements of the land. This will need to be justified by way of Geotechnical investigation outlining where effluent is run running and mechanisms proposed to contain such waste

Reason:- to comply with Local Government (General) Regulation 2005 and to satisfy Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979, as amended.

Hours of operation

18. The hours of operation of the development are limited to the following:

Operation Hours	24 hrs a day 7 days
Openable Public Hours	8.30am – 10.30am and 2.30 – 4.30pm

Reason:- to limit the operating hours of the development so as to reduce the likely nuisance on adjoining development.

Operation Limits

19. The operation is to be limited to a maximum of 18 boarded dogs at any one time. No additional boarded animals are to be kept onsite as part of this approval

Reason:- to confirm and clarify the terms of Council’s approval.

Acoustic Requirements

20. The applicant is to provide evidence, for Councils approval, indicating that the proposed acoustic lining of the structure will be of acceptable standard to minimise the potential noise impacts of development. This evidence is to be approved by Council prior to the final occupation certificate being issued by Council.

Reason:- to reduce the likely nuisance on adjoining development.

Report prepared by:..... Supervisor:.....

Dated:..... Dated:.....