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## Statement of Environmental Effects

Animal Breeding Establishment  
(*animal boarding or training establishment*)

251 Rhodes Road, Young

Prepared for: Hammond Cable Family Trust  
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# 1 Introduction

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## 1.1 Commission

DFP Planning Pty Ltd (DFP) has been commissioned by the Hammond Cable Family Trust to prepare a Statement of Environmental Effects (SEE) to accompany a Development Application (DA) for the use of the property known as 251 Rhodes Road, Young (the site) as an animal breeding establishment which is defined under *Young Local Environmental Plan 2012* (YLEP) as an 'animal boarding or training establishment'.

A Building Information Certificate is also being sought concurrently with this DA for a concrete slab and 12 dog pens present on site.

## 1.2 Purpose of this Statement

The purpose of this report is to provide Hilltops Council (Council) and relevant NSW State Government Agencies with all required information to assess the subject development proposal and to determine the DA in accordance with Section 4.16 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (the Regulation).

## 1.3 Material Relied Upon

This SEE has been prepared by DFP based on the information listed below and a site inspection undertaken on 16 October 2020.

- Survey Plans (*prepared by Mr W. J. Chapman, dated 2 December 2020*);
- Architectural Plans, Elevations and Perspective (*prepared by Warrick Morley Drafting Services, dated 11 January 2021*);
- Statutory Declaration of works completed (*prepared by Mr Nigel Cummins, Builder, Dated 1 March 2021*);
- Noise Impact Assessment (*prepared by Rodney Stevens Acoustics, dated 15 December 2020*);
- Operational Management Plan (*prepared by Ms Lucy Hammond*); and
- On Site Waste Management Report (*prepared by Franklin Consulting Australia Pty Limited, dated 13 April 2021*).

## 2 Background

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### 2.1 Background

On 20 August 2020, Council issued a letter to Mr V. Cable and Ms L. Hammond (owners of the site) providing notice of Council's intention to issue a 'Stop Use Order' pursuant to Schedule 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The notice related to what Council described as an alleged 'Animal Boarding Facility'.

DFP was subsequently engaged the Hammond Cable Family Trust (Mr V. Cable and Ms L. Hammond) to make formal representations to Council in relation to the notice. The correspondence confirmed that DFP would be assisting the owners of the site to undertake the 'things required to be completed' as specified in the proposed Order. In this regard, DFP has assisted Mr V. Cable and Ms L. Hammond to prepare development and building information certificate applications for submission to Council in relation to the use of the site as an animal breeding establishment.

### 2.2 Pre-DA Discussions

DFP held discussions with Council's Manager Building and Compliance on 16 October 2020 at the Hilltops Council administration building. Discussions were held around general DA and Building Information Certificate application submission requirements. This statement and accompanying documentation is considered to address the submission requirements discussed.

## 3 Site Context

### 3.1 Site Description

The site is known as 251 Rhodes Road, Young which is located approximately ten (10) kilometres south of the town of Young, 2.4 kilometres off Olympic Highway.

The site is legally described as Lot 12 in Deposited Plan (DP) 1058766 which comprises of two (2) distinct parcels separated by Rhodes Road (see **Figure 1**).

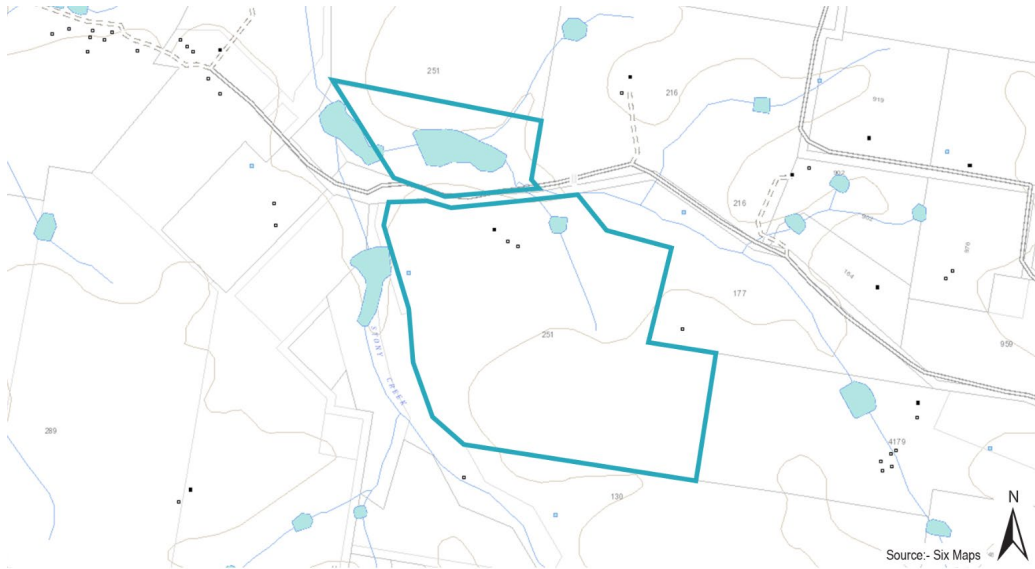


Figure 1 Site Location

The property known as 251 Rhodes Road, Young also comprises of the following additional allotments:

- Lot 160 in DP 754575;
- Lot 1406 in DP 754611; and
- Lot 1732 in DP754611.

For the purposes of this statement, when referring to 'the site', this is a reference to Lot 12 in DP1058766 as seen in **Figure 2** as the development relates only to this allotment, and only to land south of Rhodes Road.

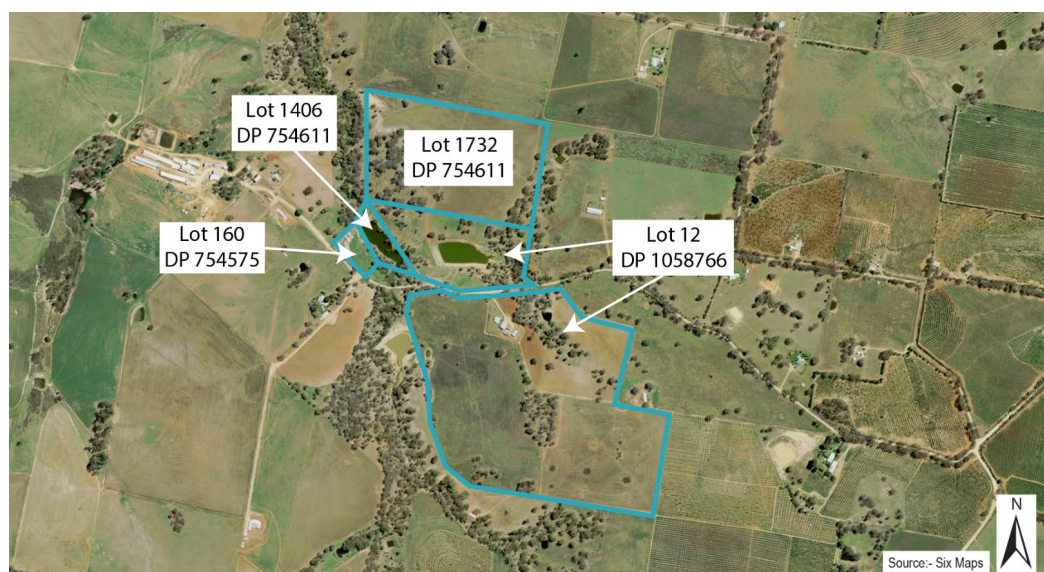


Figure 2 Site Context



### 3 Site Context

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As seen in **Figure 2**, the site is a 'part lot', with Rhodes Road dissecting the site. The majority of the site is located on the southern side of Rhodes Road (approximately 37 hectares) and includes the location of the development. The portion of the site on northern side of Rhodes Road has an area of approximately 8 hectares. This DA does not involve any land on the northern side of Rhodes Road.

The site is relatively clear of vegetation. Two (2) small areas of mature native vegetation are located on the site, along with two (2) small dams (see **Figure 2** previously). Vehicular access to the site is via an existing gravel driveway from Rhodes Road. The following improvements can be found on the site:

- Dwelling house;
- Shed (whelping shed) with attached skillion awning containing dog kennels and cages;
- And open shed; and
- Ancillary agricultural structures (i.e. water tanks, silos etc).

**Figure 3** and **Figure 4** shows existing structures on the site.



*Figure 3 Existing shed (whelping shed) and skillion awning*



### 3 Site Context



Figure 4 Kennel/Pens under skillion awning

#### 3.2 Surrounding Development and Land Uses

The site is located in a rural area, approximately ten (10) kilometres south-west of the Young town centre. Accordingly, surrounding land uses are all agriculturally based, with cropping, orchards and grazing being the predominant surrounding agricultural land uses. Dwelling houses associated with the farming operations of the surrounding land uses are also located within the vicinity of the site.



Figure 5 Surrounding Development

## 4 Development Description

### 4.1 The Development

The DA seeks approval for the use of the site as animal boarding or training establishment.

The development involves the use of existing buildings and structures on the site for the purpose of breeding dogs only. There would be no more than 24 adult dogs on site at one time, housed in 12 kennels/cages. The following subsections provide a more detailed description of the proposal.

### 4.2 Managers Residence

The property known as 251 Rhodes Road, Young is managed by an on-site farm manager/caretaker who is also the manager/caretaker of the proposed animal breeding establishment. The manager lives in the existing dwelling house as seen in **Figure 6** below, adjacent to the whelping shed.



Figure 6 Managers residence, whelping shed to the left of the photograph

### 4.3 Kennels/Pens and Works to Enclose End of Skillion

The site contains a skillion awning attached to an existing whelping shed, discussed below in **Section 4.5**. The skillion area contains 12 pens which comprise a cage area and an insulated kennel. Each kennel/pen will house up to two (2) dogs (24 dogs in total) as shown in **Figure 7** below. Approval for the enclosure of the south-western side of the awning is sought to achieve acoustic attenuation as discussed in **Section 5.2.4**.



Figure 7 Skillion area containing 12 kennels/cages and proposed enclosure

## 4 Development Description

### 4.4 Exercise Area

An exercise area is proposed to be formed/constructed adjacent to the kennels through an existing gate. This will be a fenced 240m<sup>2</sup> area as shown in green in **Figure 8** below. Dogs will be rotated into the exercise area for a two (2) hour period each day (10:30am – 12:30pm).

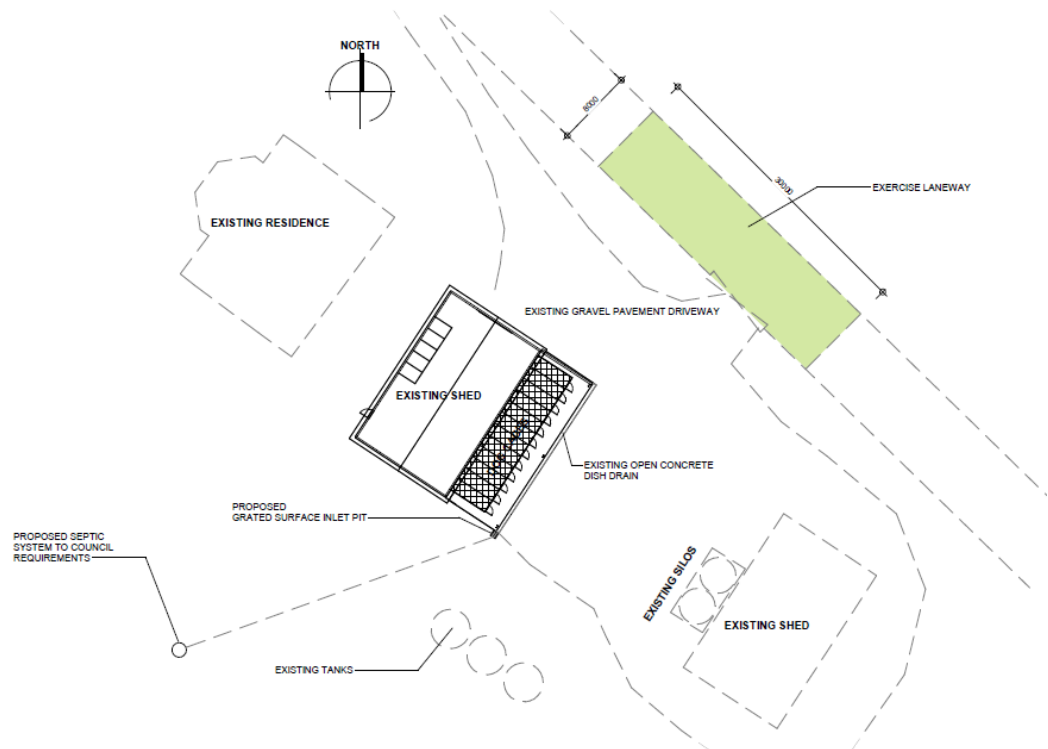


Figure 8 Proposed exercise area. Source: Warrick Morley Drafting Services

### 4.5 Whelping Shed

The whelping shed will contain 12 pens which will provide up to five (5) whelping (birthing) areas. The whelping shed also contains a small cool room for the storage of food and a sink area with potable water. Pups will also be able to be viewed in this area by prospective buyers.

The shed has an internal area of approximately 205m<sup>2</sup> with a 115m<sup>2</sup> awning attached to the south-eastern side of the shed. The awning has a concrete slab floor and accommodates the 12 pens.

The dog cages drain to an existing open concrete dish drain which will then drain to a proposed grated surface inlet pit to a new septic system (discussed in **Section 4.7**).



## 4 Development Description

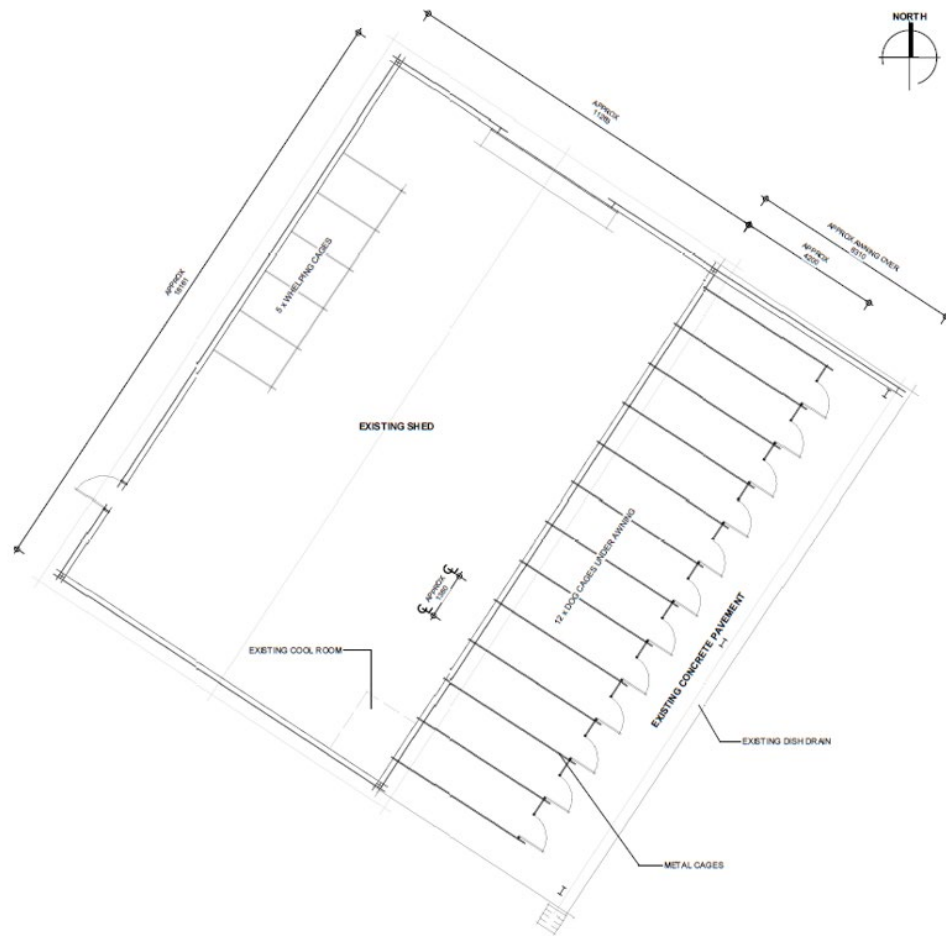


Figure 9 Whelping shed floor plan. Source: Franklin Consulting Australia Pty Limited

### 4.6 Vehicular Access and Car Parking

Visitors to the site will utilise the existing gravel driveway from Rhodes Road and park on an existing gravel hardstand area adjacent to the whelping shed.

### 4.7 On-site Waste Management

The slab which has been constructed under the existing skillion awning contains a spoon drain on its outer edge. The cages will be cleaned out and hosed daily, with water and any solids conveyed via the spoon drain to a grated surface inlet pit at the end of the slab. The pit is able to be readily opened and cleaned out to collect solid material for appropriate disposal. The waste water will then drain from the pit to a 3000 Litre septic system and then to a 20 metre long absorption bed.

The On-Site Sewerage Management Report prepared by Franklin Consulting Australia Pty Limited finds that the site is suitable for on-site disposal of effluent associated with the proposed use as specified.

## 4 Development Description

The site is not floodprone. In order to ensure stormwater run-off and potable tank overflow does not impact the effluent system, a diversion bank will be constructed on the northern side of the absorption bed in accordance with the Sewerage Management Report.



Figure 10 Sewerage management system. Source: Franklin Consulting Australia Pty Limited

## 5 Environmental Planning Assessment

This section provides an environmental assessment of the proposed development in respect of the relevant matters for consideration under Section 4.15(1) of the EP&A Act.

### 5.1 Planning Controls

The following subsections assess the proposal against the relevant provisions of applicable Environmental Planning Instruments (EPIs) and other matters prescribed by Section 4.15(1)(a) of the EP&A Act and the Regulation.

#### 5.1.1 State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)

Clause 7(1) of SEPP 55 requires that a consent authority (i.e. Council) must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

It is understood that the site has been used for agricultural purposes and related rural uses for a significant period of time. Whilst agricultural activities are identified in Table 1 of the *Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land* as an activity that ‘may’ cause contamination, the use of the site for animal breeding is considered to be a land use which is consistent with the primary use of the site being agricultural purposes.

#### 5.1.2 Young Local Environmental Plan 2010 (YLEP)

**Table 1** provides a summary assessment of the proposed development against the relevant provisions of YLEP.

Table 1 Assessment against Relevant Provisions of YLEP		
Provision	Assessment	Consistent
Clause 2.2 & 2.3 – Zoning	<p>The site is zoned part RU1 Primary Production (the RU1 zone) and part RU4 Primary Production Small Lots. As seen in <b>Figure 11</b> below, the portion of the site on the southern side of Rhodes Road (location of proposed establishment) is zoned RU1. The portion of the site to the north of Rhodes Road is zoned RU4 but does not form part of the proposal.</p> <p>An animal breeding establishment is characterised under the YLEP as an ‘<i>animal boarding or training establishment</i>’, which is defined by the YLEP as follows:</p> <p><b>‘animal boarding or training establishment means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.’</b></p> <p>An <i>animal boarding or training establishment</i> is permitted within the RU1 zone with consent. The proposal is also generally consistent with the RU1 zone objectives, in particular the following:</p> <ul style="list-style-type: none"> <li>To encourage diversity in primary industry enterprises and systems appropriate for the area.</li> <li>To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> <li>To maintain areas of high conservation value vegetation.</li> <li>To protect and enhance the water quality of receiving watercourses and groundwater systems and to reduce land degradation.</li> </ul> <p>With regard to the above objectives:</p>	Yes



## 5 Environmental Planning Assessment

Table 1 Assessment against Relevant Provisions of YLEP

Provision	Assessment	Consistent
	<ul style="list-style-type: none"> <li>The use diversifies the existing use of the site for agricultural activities and capabilities of the site;</li> <li>The proposal is not considered to be in conflict with the adjoining RU4 zone to the north of the site or the RU1 zone; and</li> <li>No impacts on areas on the site or within the locality considered to have high conservation values will occur as a result of the use of the site for the purposes of animal breeding facility.</li> </ul>	
6.3 – Land	The site is mapped along its western boundary as being a 'Sensitive Land Area' (see <b>Section 5.2.2</b> ). The use will not impact soil stability, erosion or create degradation (geotechnical impacts) and is therefore considered to be consistent with the clause objectives and provisions.	Yes
6.4 – Water	A mapped riparian corridor is located 250 metres to the west of the site, known as Stony Creek. The separation of the proposal to this corridor and proposed on site water management is considered sufficient in mitigating any potential impacts on water within the locality (see <b>Section 5.2.2</b> ).	Yes
6.5 – Biodiversity	<p>The site is mapped as containing 'Areas of High Biodiversity', namely the areas of native vegetation referred to in <b>Section 5.2.2</b> of this statement.</p> <p>It is considered that the use will not impact upon the mapped areas. The use will only occur within, and utilise existing structures on the site. The exercise yard to be constructed in an already cleared area of the site.</p> <p>Furthermore, the vegetation is not identified on the 'Biodiversity Values' mapping under the <i>Biodiversity Conservation Act 2016</i>.</p> <p>See further discussion under <b>Section 5.2.2</b> of this statement.</p>	Yes



Figure 11 Zoning map

### 5.1.3 Young Development Control Plan 2010 (YDCP)

**Table 2** provides a summary assessment of the development against the relevant provisions of the YDCP.

## 5 Environmental Planning Assessment

**Table 2 Assessment against Relevant Provisions of YDCP**

Provision	Assessment	Consistent
Section 4.1 – 4.3 Car Parking	Please refer to <b>Section 5.2.7</b> of this report. Existing areas on site are considered adequate for the parking associated with the use.	Yes
Section 4.6 Animal Boarding, Breeding or Training Establishments	<p>The objective of this clause is:</p> <p><i>To ensure that these developments are well-located with respect to minimising noise nuisance and visual impact.</i></p> <p>Performance outcomes are:</p> <ul style="list-style-type: none"> <li>• Located use on land of a sufficient size to ensure that good acoustic buffers are available to any existing dwelling, or potential site of a new dwelling;</li> <li>• Do not create a nuisance by way of public health or odour; and</li> <li>• Visually present in a manner so as to avoid long uninterrupted walls or fences.</li> </ul> <p>With regard to the above and the identified 'Acceptable Solutions':</p> <ul style="list-style-type: none"> <li>• Dogs will be kept in excess of 150 metres from the boundary of any adjoining property;</li> <li>• The exercise areas are appropriately placed on the site to avoid conflict with sensitive residential receptors (See <b>Section 5.2.4</b>);</li> <li>• Kennels/pens and exercise area are screened by buildings and vegetation;</li> <li>• The use will comply with relevant codes of practice and standards (See <b>Section 5.2.6</b>); and</li> <li>• The use will not create any visual impact within the rural locality.</li> </ul>	Yes

### 5.1.4 Draft State Environmental Planning Policy (Remediation of Land)

The Department of Planning, Industry and Environment (DPIE) exhibited the Draft SEPP between 31 January 2018 and 13 April 2018.

The Draft SEPP will:

- Provide a state-wide planning framework for the remediation of land;
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well;
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;
- Clearly list the remediation works that require development consent; and
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

As discussed in **Section 5.1.1** of this report, the use is compatible with the existing use of the site for agricultural purposes.

## 5.2 Likely Impacts of the Development

The following subsections assess the likely impacts of the development in accordance with Section 4.15(1)(b) of the EP&A Act.

### 5.2.1 Built Form

No adverse impacts to the built environment within the locality are anticipated as a result of the use. The existing structures on the site are not prominent within the locality (i.e. commensurate with a rural locality). No additional major works are proposed.

## 5 Environmental Planning Assessment

### 5.2.2 Natural Environment

#### Flora and Fauna

No adverse flora and fauna impacts are expected. The use of the site as an animal breeding establishment does not require the removal of any native vegetation and will utilise existing structures and cleared areas of the site. As seen in **Figure 12** below, the area of the proposed use is more than 250 metres from the mapped areas of high biodiversity value to the west of the site.



Figure 12 Biodiversity Values mapping – Biodiversity Conservation Act 2016

\* Purple shows mapped areas considered to be of high biodiversity value.

#### Water Usage

It is estimated that the dog breeding establishment could use up to 500 Litres of water a day for cleaning/hosing out pens, food preparation, and general cleaning. The site is serviced by three (3) large water tanks filled by roof catchment which would service these needs in addition to their existing utilisation.

#### Wastewater Management

Topographic mapping shows a creek line approximately 90 metres to the east of the area (see **Figures 1 and 13**).

## 5 Environmental Planning Assessment



Figure 13 Indicative area of proposed use outlined in red, creek line and small dam shown to the east  
(Source: Six Maps)

As discussed in **Table 1**, Stony Creek (mapped in the YLEP as a riparian corridor), is located over 250 metres to the west of the site.

The dogs are kennelled under a skillion awning attached to the south-eastern side of the whelping shed on a concrete slab. As described in **Section 4**, the slab has been constructed with a spoon drain on its outer edge. When the kennels/cages are cleaned out and hosed, waste water and any solids are conveyed and treated as outlined in **Section 4.7**.

There are no known wells or bores used for potable water or irrigation in the vicinity. The use is not considered to give rise to any impacts on waterways or groundwater within the locality.

Notwithstanding, conditions of any subsequent development consent issued by Council can include the requirement to obtain approved under Section 68 of the *Local Government Act 1993* for drainage works and to install an on-site sewerage management system.

### 5.2.3 Aboriginal Cultural Heritage

The disturbance of relics or any related impacts to Aboriginal Cultural Heritage as a result of the use of the site as an animal breeding establishment is considered unlikely in light of the highly disturbed nature of the site and its long-established use for rural and agricultural purposes.

Notwithstanding, the latest unexpected finds protocol as per the Biodiversity and Conservation Division of the DPIE will be adhered to should any relics, artefacts or the like be discovered and/or disturbed during the use of the site.

### 5.2.4 Acoustic Privacy

A Noise Impact Assessment (NIA) prepared by Rodney Stevens Acoustics accompanies the DA submission. The NIA has been prepared to assess the noise impacts arising on sensitive receptors (i.e. residential uses) within the vicinity of the site as a result of the use of the site as an animal breeding facility. The following conditions are assumed in the preparation of the NIA:

- *Maximum 24 dogs in the existing open kennel area at one time between 7am - 7pm*
- *Maximum 2 dogs being taken for their day time exercise lap around the confines of the site between 9am – 12pm.*



## 5 Environmental Planning Assessment

- All dogs will be in their insulated kennels from 10pm - 7am.
- We have assumed that dogs may bark for up to 5 minutes before being tended to. As advised by the operators of the kennel, the dogs are taken inside as soon as they start barking. The 'barkers' are generally known by the operators and they can manage the barkers to ensure a quieter operation.
- Dog noise source considered to be 1 meter tall.
- No dogs in the outdoor exercise areas during the evening and night time.

The nearest potentially sensitive residential receiver locations in relation to noise emissions from the proposed development are more than 400 meters away (see **Figure 14**).



Figure 14 Sensitive receiver locations. Source: Rodney Stevens Acoustics

The NIA establishes the existing noise environment, the project specific assessment criteria (as per relevant noise policies for industry) and calculates predicted noise impacts from the animal breeding use. The NIA subsequently states:

*'Based on the predicted noise levels it is expected that operational noise from the proposed development will comply with the criteria of all of the sensitive receivers even when under the assumption of the worst-case operational conditions.'*

The NIA makes the following recommendations which are able to be enforced via conditions of any subsequent development consent issued by Council.

*In order to maintain acoustic amenity to nearby sensitive receivers, the following noise control measures are recommended to be incorporated.*

- Rubber perimeter seals must be installed on the doors of the insulated kennels so that no gaps can be found when the doors are closed.
- The western facade of the kennel structure must be enclosed to match the eastern façade - Construction of the facade must be solid and gapless (see **Figure 7** for location of proposed enclosure).

Finally, the NIA concludes that:

*'Noise emissions associated with the development to the surrounding nearest residential receivers have been calculated with the noise criteria as established in accordance with the Noise Policy for Industry. It has been demonstrated that the development will not have an adverse impact on the nearest residential receivers based on the proposed worst case operations.'*

## 5 Environmental Planning Assessment

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Accordingly, the proposal will not result in adverse acoustic impacts on surrounding residential uses within the locality.

### 5.2.5 Building Code of Australia

As requested by Council, the DA submission is accompanied by an application for a Building Information Certificate (BIC) for works which have taken place on the site. The works include:

- The concrete slab on which the kennels and pens are erected; and
- The pens (cages).

Please refer to the accompanying BIC application for details.

### 5.2.6 Plan of Management and Operational Matters

The facility is to operate in accordance with the document '*Animal Welfare Code of Practice, Breeding dogs and cats*', prepared by the NSW Department of Industry and Investment, dated August 2009. Conditions of any subsequent development consent can enforce this requirement.

The applicant has also prepared an Operational Management Plan (OMP) which outlines the general operational matters for the establishment. The OMP (accompanying this statement) outlines:

- Site layout;
- Daily procedures and operations;
- Hours of operation;
- Noise management; and
- Waste management.

### 5.2.7 Access, Traffic and Parking

Access to the site is via the existing gravel driveway to the property from Rhodes Road. There is ample parking available on the site adjacent to the whelping shed. The use will not generate significant volumes of traffic. As the operation will be limited to a maximum of 24 dogs, there are unlikely to be more than a few people visiting the site at any point in time to view and/or purchase puppies.

### 5.2.8 Waste Management

The OMP provides that waste management will be undertaken as follows:

- Waste originating from the main kennel facility will be collected and treated by the on site septic system (see **Section 4.7**).
- Waste originating from the whelping area will be collected on site by the Kennel Operations Manager and deposited in an approved waste disposal depot.

### 5.2.9 Social Impact

Social impacts within the locality are minimal (if any). The use is isolated to the site and will not impact on the locality adversely.

### 5.2.10 Economic Impact

The use of the site as an animal breeding establishment will have a minor economic benefit to the local community with additional visitation to the area in addition to the operation of the animal breeding business itself.

## 5.3 Suitability of the Site for Development

In the assessment of site suitability, there are two (2) key questions to consider:

- Does the proposal fit within the locality?



## 5 Environmental Planning Assessment

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- Are the sites attributes conducive to the proposed development?

These questions are considered and discussed below.

### ***Does the proposal fit within the locality?***

The development is considered to fit well within the locality. Consideration of the compatibility of the development and its surroundings can be undertaken with regard to the Land Environment Court Planning Principle on “compatibility with context” in *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*. In order to test whether a proposal is compatible with its context, the following two questions can be asked:

*Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*

The development will not create any physical impacts on adjoining land or the surrounding residential uses. Acoustic impacts are discussed above in **Section 5.2.5**.

*Is the proposal’s appearance in harmony with the buildings around it and the character of the street?*

Due to the rural character of the locality which comprising of rural and agricultural uses and the isolated nature of the development, the use of the site for an animal breeding establishment is consistent with the character of the locality.

### ***Are the site’s attributes conducive to the proposed development?***

The site can physically cater for the development without significant impact on the natural or built environment. The site is not subject to natural hazards such as flooding and bush fire. Accordingly, the site’s attributes are conducive to accommodating an animal breeding establishment.

### 5.4 Public Interest

In accordance with Section 4.15(1)(e) of the EP&A Act, the consent authority is to consider the public interest. The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. The proposed development is considered to meet the provisions of relevant EPIs and Council’s DCP objectives. Subsequently, as these instruments and plans have been created having regard to the objects of the EP&A Act following community consultation, they are considered to express planning controls that protect the public interest. The use can be undertaken in a manner which will not result in adverse impacts on the natural and built environment. Accordingly, it is considered that the proposal is not prejudicial to the public interest.

## 6 Conclusion

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The use of 251 Rhodes Road, Young for the purpose of an animal breeding establishment has been assessed in accordance with the requirements of the EP&A Act and other relevant legislation.

The development has been assessed against relevant environmental planning instruments and is generally consistent with applicable provisions and their objectives. On balance, the potential and/or adverse environmental planning impacts arising are able to be appropriately mitigated and the development is not considered to be prejudicial to the public interest.

It is considered that there are no features of the development which would preclude a development consent being issued.