

**DIRECTOR - ENVIRONMENTAL SERVICES REPORT TO THE
ORDINARY COUNCIL MEETING TO BE HELD ON TUESDAY
26 APRIL 2016**

Author: Director – Environmental Services

Item No: 2.

Subject: Amendment to Cowra Local Environmental Plan 2012

Precis: Council has received a Planning Proposal seeking to amend the Cowra Local Environmental Plan 2012 to include an Additional Permitted Use for an animal boarding or training establishment on Lot 5 and Lot 6 Section 10 DP 759112, Rankin Street Woodstock.

Budget: Nil

Recommendation:

- 1. That Council supports the submission of the Planning Proposal to the NSW Department of Planning & Environment seeking a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act 1979 for the inclusion of an additional permitted use on Lot 5 and 6 Section 10 DP 759112, Rankin Street Woodstock.**
 - 2. That Council Officers proceed to request any additional information from the Applicant that may be requested by the NSW Department of Planning and Environment.**
 - 3. That Council proceeds to publicly exhibit the Planning Proposal should a Gateway Determination be received.**
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2. Amendments to Cowra Local Environmental Plan 2012

Introduction

This report was considered at the Committee Meeting on 11 April 2016 and some minor amendments have been made to this report and it has been resubmitted for clarity and consideration.

Council has received a Planning Proposal prepared by Saunders and Staniforth Property and Planning Consultants for the land owners' of Lot 5 and Lot 6 Section 10 DP 759112, Rankin Street Woodstock. A copy of the Planning Proposal is included in Attachment 'A' to this report. A map displaying the subject land and surrounding land uses is included in Attachment 'B' to this report.

The Planning Proposal seeks to include an additional permitted use in the Cowra Local Environmental Plan 2012 to permit an animal boarding or training establishment to operate on Lot 5 and Lot 6 Section 10 DP 759112. The Planning Proposal has been prepared in accordance with the *Guide to Preparing Planning Proposals* published by the NSW Department of Planning and Environment. The

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Planning Proposal is prepared seeking Council support for a submission for a Gateway Determination.

An animal boarding and training establishment presently operates on the subject land. The land owners operate a business breeding and training Labradors and English Springer Spaniels, currently without development consent. The animal boarding and training establishment includes 1 male dog and 8 female dogs producing 3 litters per year.

The use of the land as an animal boarding and training establishment was brought to the attention of Council Officers as a result of a complaint regarding the land-use. Subsequently, the land owner submitted a development application to Cowra Council seeking approval to continue to operate the animal boarding and training establishment on the subject land. However, the use of the land to operate an animal boarding and training establishment is prohibited in the RU5 Village zone. Subsequently, Council is not able to issue development consent for the continued operation of the animal boarding and training establishment on the land under the Cowra Local Environmental Plan 2012. The development application was withdrawn by the applicant.

The applicant is seeking Council's recommendation that the NSW Department of Planning and Environment support an amendment to the Cowra Local Environmental Plan 2012 to include an additional permitted use on the subject allotments only.

Should the NSW Department of Planning and Environment agree to support the amendment to the Cowra Local Environmental Plan 2012, the land owners would then be required to re-submit a development application seeking approval for the continued use of the site as an animal boarding and training establishment.

Background

The land owners operate a business breeding and training Labradors and English Springer Spaniels. Operation of an animal boarding and training establishment commenced on the land in 2000 by a previous owner and in 2007 was continued by the current owner. The operation commenced without prior development consent from Council and is a prohibited use in the zone.

The use is conducted on two allotments which are under the same ownership and have a combined area of 4,050m² located on the southern side of Rankin Street and the corner of East Street. The allotments are located on the eastern fringe of the Woodstock Township. The allotments adjoin land also zoned RU5 Village on the north, south and western sides and is adjacent to land zoned RUI Primary Production on the east.

There is an existing approved dwelling-house and garage on the land. The current uses of the land are:

- 3 dog enclosures and kennels
- 1 dog exercise areas

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- existing vegetation screening

Review of Council's records dating from 2004 to present confirmed there has been one complaint received relating to a barking dog at the site, and a separate complaint notifying Council of the operation of an animal boarding and training establishment on the land. Council subsequently informed the land owners of the need to prepare a Planning Proposal should they wish to continue the use of the land.

Proposal

The Planning Proposal prepared by Saunders and Staniforth Property and Planning Consultants includes the sections required to be incorporated in a Planning Proposal in accordance with the *Guide to Preparing Planning Proposals* published by the NSW Department of Planning and Environment. The applicant is seeking to include an Additional Permitted Use for the land in the Cowra Local environmental Plan 2012 for an animal boarding and training establishment.

Operation

Information has been submitted with the Planning Proposal seeking to demonstrate that the development can operate on the land without negative environmental impact, including:

- Storm water drainage to Rankin Street and installation of sediment control barriers will prevent any waste washing from the land.
- Daily collection and weekly removal of animal waste from the site to a licensed waste management facility by the facility operators.
- Methods for minimising any barking dogs including reducing visual stimulus through vegetative screening, keeping dogs inside enclosures at night, positioning enclosures at the rear of the allotment and exercise schedules.

A site plan showing the layout of the animal boarding and training establishment is included at the back of the Planning Proposal in Attachment 'A'.

The applicant has submitted that the current animal boarding and training establishment has operated at this site since 2007 with only two complaints received by Council regarding the facility in this time. Council has no other records of any negative environmental impacts occurring as a result of the development.

Process

The process for preparing a Planning Proposal is summarised below:

1. Council submits the Planning Proposal to the NSW Department of Planning & Environment (the Department) seeking a Gateway Determination.
2. A Gateway Determination is issued by the Department, specifying whether the Planning Proposal is to proceed and if so, in what circumstances. The purpose

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- of a Gateway Determination is to ensure there is sufficient justification early in the process to proceed with a Planning Proposal.
3. If the Department specifies in the Gateway Determination that the Planning Proposal can proceed, the Applicant must then address any specified conditions before Council proceeds to place the Planning Proposal on public exhibition in accordance with Section 57 of the Environmental Planning & Assessment Act 1979.
 4. After considering any submissions received as a result of public exhibition and making any necessary alterations, Council must submit the Planning Proposal to the NSW Department of Planning and Environment. The Director-General will make arrangements for drafting of the amendment to Cowra Local Environmental Plan 2012, and subsequent making of the plan.
 5. Once the Amended Cowra Local Environmental Plan 2012 is gazetted the applicant can then lodge a development application seeking approval for the continued use of the subject land to operate an animal boarding and training establishment.

Conclusion

Given the history of the operation of an animal breeding and boarding establishment at the site, and that the design and operational methods associated with the facility can potentially mitigate any potential negative impacts from the development, the submission of a Planning Proposal seeking a Gateway Determination is considered justified.

As detailed in the process for amending the Cowra Local Environmental Plan 2012, should the additional permitted use be included in the Cowra Local Environmental Plan 2012, the applicant would be required to submit a Development Application to which Council could apply conditions of any Consent designed to ensure that the development continues to operate without adverse impact.

This report therefore seeks endorsement to submit the Planning Proposal submitted by the Applicant and included in Attachment 'A' and Council's resolution to the NSW Department of Planning and Environment seeking a Gateway Determination for the Planning Proposal.

Attachments

Attachment A	Planning Proposal
Attachment B	Map displaying surrounding land uses

Kate Alberry
Director – Environmental Services
19 April 2016