

**PLANNING PROPOSAL TO AMEND
Cowra LEP 2012**

**To Permit a
Dog Breeding & Training Facility**

**31 Rankin Street
WOODSTOCK NSW 2793**

Our Ref: Planning/2015/15-0457

1.0 OVERVIEW

We have been engaged to present a Planning Proposal to Cowra Shire Council for NSW Planning to investigate the merit of establishing a dog breeding and training facility upon a 4,046 square metre holding situated on the eastern fringe of the Village of Woodstock. Woodstock is situated off the Mid Western Highway approx. 22 kilometres north east of Cowra.

The property is identified as lots 5 and 6, Section 10 in DP 759112 known as 31 Rankin Street. The property is located on the south west corner of Rankin and East Streets.

We have undertaken preliminary discussions with Cowra Shire Council's planning staff and NSW Planning in Dubbo regarding the proposal.

It has been indicated that an additional use may be considered rather than a change to an alternative zone.

2.0 APPLICANT

The applicant is: Ms Pauline Gill & Mr Peter Levett
31 Rankin Street
WOODSTOCK NSW 2794

3.0 OWNER

The owner is: Ms Pauline Gill & Mr Peter Levett
31 Rankin Street
WOODSTOCK NSW 2794

4.0 SUBJECT LAND

4.1 Location and Land Description

The subject property is located on the south western corner of Rankin and East Streets on the eastern fridge of the village of Woodstock.

Woodstock is situated 22 kilometres north east of Cowra off the Mid Western Highway. Woodstock comprises a mix of village activity including a hotel, police station and public school. The principal land use is medium sized allotments for residential use. The village is surrounded by general grazing and rural residential holdings.

The site is slight slope from the eastern side boundary then falling to the front northern corner facing Rankin Street.

The property is identified as lots 5 and 6, Section 10 in DP 759112 known as 31 Rankin Street.



5.0 PROPOSAL

The proposal incorporates a specialist dog breeding facility as an owner operated business for the breeding and development of Labradors and English Springer Spaniels for use in the security, customs, military and state and federal police.

The operation involves two owner operators (husband and wife) who reside on the property.

The operation has 1 stud dogs and approx 8 bitches that produce three litters per year.

The following is an extract from the owner with a detailed description of the business.

In support of our application, I wish to provide further information regarding our work with the dogs for the eyes of the Cowra Council who need to see this document only.

Please understand that due to security issues this is restricted information and not to be passed onto any member of the public or media. I will in broad terms explain what I am doing in the letter which will circulate to the neighbours however the details below are strictly confidential.

Our Labs and Springers are specifically being bred and trained in preparation for the Australian Army's Explosive Detection Unit and the SAS Dog Unit at this point in time.

The NSW Police Dog Squad at the Army's recommendation are looking into purchasing our dogs since the NSW Gov't closed down their breeding program. The NSW Police are looking at the dogs as drug detection, and SAR dogs.

The Air Force are also keen to see how this program pans out.

The breeding/training program which we have developed and the training we have received by the Army to meet their needs is essential to the success of this program. The breeding stock on our property are the progeny of ADF breeding stock and they are quite concerned that this program will be compromised or stopped.

To prohibit this work due to the change in the RU5 Village Zoning will severely compromise our business and the program. In the current political environment the demand for a reliable source of dogs that meet their military and civilian forces exacting requirements are high. Given the current climate it is anticipated that the demand will continue for many years to come.

Due to the recent demands for dogs in our increasingly unsettled local, regional & international situations the need for dogs to be trained, replace or be rotated within the various dog units in the ADF has increased.

This scenario is also being experienced in civilian units and they do not anticipate coming off 'high' alert any time soon. The Army visit our property regularly and the NSW Police Dog Unit from Dubbo and Sydney have also earmarked specific litters for future purchases. Either sire by our fully assessed stud dog or one of their proven working Springers or Labs.

We established here as a registered business in 2007/8 and we are a legal partnership trading as originally under the name Mimbil Kennels and now trading as Tapua Labrador Retriever. Our business name registration is now with ASIC since 6 March 2014 after the Dept of Fair Trade transferred business names to ASIC.

We have proof of sales from this business since 2007 and we have fully audited business accounts if required. Copies of original ABN and Business Name registration, plus sale receipts are with the council currently. Our ABN # 11775421439

This is not a boarding/training facility establishment open to the general public. While I have trained people with their dogs on my premises for security and bio-security reasons I can no longer allow any of the general public to come here with their dogs.

Any member of council is welcome to visit the premises and we will happily demonstrate the skills of our dogs.

*Pauline Gill & Peter Levett
Tapua Labrador Retriever
31 Rankin St Woodstock NSW 2793*

With regard to retailing of stock, members of the ADF or police will visit the site once or twice a year to discuss training requirements and then make an order by phone or email. Such visits are within normal daylight hours.

It has been identified that the proposed land use is not permissible in the RU5 Village zone and therefore planning options and the merits associated with the proposal have been investigated.

Council have indicated that the amenity and management of the business has been well regarded with only one complaint since operation commenced on 2000 and 2007 by the current owners.

The village location presents a good opportunity for a range of compatible land uses from residential, recreation and semi commercial activity that promote and protect the diversity and village urban fabric whilst allowing for significant employment opportunities.

6.0 PLANNING REQUIREMENTS

In determining the application, Council is required to consider the relevant matters identified under section 79C(1) of the Environmental Planning and Assessment Act, 1979. This section forms the basis of our assessment below.

6.1 Provisions of Environmental Planning Instruments

The subject land is currently zoned RU5 Village as follows:

Zone RU5 Village

1 Objectives of zone

- To provide for a range of land uses, services and facilities that are associated with a rural village.

2 Permitted without consent

Environmental protection works; Home occupations

3 Permitted with consent

Child care centres; Community facilities; Dwelling houses; Liquid fuel depots; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Schools; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Cellar door premises; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Heavy industrial storage establishments; Heavy industries; Livestock processing industries; Marinas; Mooring pens; Moorings; Open cut mining; Rural workers' dwellings; Sawmill or log processing works; Waste disposal facilities; Wharf or boating facilities

Under the current zoning an 'animal boarding and training' is a prohibited use.

An animal boarding or training establishment is defined by Cowra LEP 2012 as:

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.

6.2 Provisions of Draft Environmental Planning Instruments

There are no known draft regional, state or local environmental planning instruments that affect the subject property.

6.3 LEP Options

Three main options have been discussed with Council staff regarding an appropriate planning strategy to enable consideration of an amendment to Cowra LEP 2012 to provide the opportunity for an animal boarding and training establishment upon the subject land.

- Option 1: Spot rezoning may be a consideration where the RU5 Village Zone is changed to a RU1 Primary Production or E3 Environmental Management zoning consistent with land located on the opposite side of East Street further east of the subject property. This option is not considered reflective of the overall use of the land or suitable with surrounding zoning.
- Option 2: Would relate to an alteration to the existing list of permitted uses within the existing RU5 Village Zone to remove animal boarding or training establishment as a prohibited use within the existing zoning.
- Option 3: Provide the opportunity for an APU (Additional Permitted Use) whereby the proposed uses maybe considered as a site specific use amendment. An additional use amendment would allow the proposed breeding establishment use without affecting the overall integrity of the existing zoning. and with the opportunity for a sunset clause up on the proposed amendment of approximately two (2) years should the proposal not be fulfilled on the subject property.

We consider that the most appropriate option for the proposed use would be a specific amendment as an APU upon the subject property without affecting the overall objectives of the Village or alternative zonings to the Local Environment Plan as a whole.

This approach addresses the specific issues and the locational advantage in amending the additional use for this specific site without undermining the overall principles of the Local Environment Plan in terms of zoning strategies and long term strategy for the Shire as a whole.

6.4 Part 1 – Objectives or Intended Outcomes

To enable a site specific dog breeding and training establishment upon the subject land within the village of Woodstock.

The intended outcome is to allow an APU land use within the village zone to allow for an additional specific use upon the subject land utilising Schedule 1 of the Cowra LEP 2012.

6.5 Part 2 – Explanation of Provisions

The proposed outcome will be achieved by means of allowing the additional use within the zone under Schedule 1 allowing for an additional use in the zone being an animal boarding and training establishment.

6.6 Part 3 – Justification

The proposal may be justified in terms of the need for a specific training and breeding facility for the ADF, police and customs services. The location in a small village where minimal impact is likely is reasonable and practical from an economic, social and environmental perspective.

Section A – Need for the Planning Proposal

Question 1: Is the planning proposal a result of any strategy study or report?

The scale of the proposal does not warrant a detailed planning Strategy rather a full description of the existing village environment and the proposed description of the proposed use and associated impacts.

Question 2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that the specific nature of the proposed use for an owner occupied breeding and training facility is a planning challenge in a range of residential and commercial/industrial zones. In this instance it is more appropriate to consider the merits of the location, the nature of the proposal and its likely impacts by means of an APU that suits the specific nature of the proposed use.

Section B – Relationship to Strategic Planning Framework

Question 3: Is the planning proposal and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

In June 2014, the NSW Government released new draft regional boundaries for NSW. Once the boundaries are finalised for each region, they will provide the basis for a new generation of strategic plans called Regional Growth Plans.

The Department of Planning and Environment will prepare a Regional Growth Plan for Central West and Orana. The first step is to prepare a Discussion Paper to start the conversation on how the Region will grow over the next 20 years. The Regional Growth Plan will identify areas suitable for housing and employment expansion in the region. However, not all parts of the region are projected to experience growth equally and as such the plan will identify strategies to ensure population sustainability and to manage population decline.

Question 4: Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

The proposal is consistent with the Cowra Shire Land Use Strategy 2009, specifically the Planning Principles and Actions under Part 5.2 relating to Woodstock. The APU will be consistent with the recommendations to allow for infill development, promote an extension for rural residential development on the fringe of Woodstock and promote the historic appeal of the village overall.

Question 5: Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

117 Directions by the Minister

(1) The Minister may direct a public authority or person having functions under this Act or an environmental planning instrument to exercise those functions at or within such times as are specified in the direction.

(2) In addition to any direction which may be given under subsection (1), the Minister may direct a council:

- (a) to exercise its functions under Division 4 or 5 of Part 3 in relation to the preparation of a local environmental plan in accordance with such principles, not inconsistent with this Act, as are specified in the direction, and*

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- (b) without limiting paragraph (a), to include in a planning proposal prepared by the council provisions which will achieve or give effect to such principles or such aims, objectives or policies, not inconsistent with this Act, as are specified in the direction, and*
 - (c) to provide the Minister, in the manner and at the times specified in the direction, with reports, containing such information as the Minister may direct, on the council's performance in relation to planning and development matters.*

(2A) A direction under subsection (2):

- (a) may be given to a particular council or to councils generally, and*
- (b) may require the inclusion in planning proposals of provisions to achieve or give effect to particular principles, aims, objectives or policies, and*
- (c) may require planning proposals to be strictly consistent or substantially consistent with the terms of the direction (or provide for the circumstances in which an inconsistency can be justified).*

Any such direction may be given to councils generally by its publication in the Gazette or on a website maintained by the Department (or both).

(2B) A reference to a council in subsections (2) and (2A) includes a reference to a relevant planning authority under Division 4 of Part 3 that is not a council.

(3) A public authority or person to whom a direction is given under subsection (1) or (2) shall comply, and is hereby empowered to comply, with the direction in accordance with the terms of the direction.

(4) Before giving a direction under subsection (1) or (2), the Minister shall consult with the responsible Minister concerned.

(4A) Before giving a direction under subsection (2) (c), the Minister is to consult with the Local Government and Shires Association of New South Wales and any other industry organisation the Minister considers to be relevant, in relation to the information that the Minister is proposing to seek. This requirement is in addition to the requirement under subsection (4).

(5) A local environmental plan (or any planning proposal or purported plan) cannot in any court proceedings be challenged, reviewed, called into question, prevented from being made or otherwise affected on the basis of anything in a direction under subsection (1) or (2).

There are no significant planning issues regarding consistency with current s.117 Directions. Please refer to the attached SEPP and 117 Directions tables.

Section C – Relationship to Strategic Planning Framework

Question 6: Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There are no adverse planning issues that relate to critical habitat, populations or ecological communities upon the subject land.

Question 7: Are there any other likely environmental effects as result of the planning proposal and how are they proposed to be managed?

Any likely environmental effects are discussed in further detail though in summary relate to occasional noise impact only. Other matters such as traffic generation, effluent disposal or occasional noise generation are considered negligible.

Question 8: Has the planning proposal adequately addressed any social and economic effects?

The current framework of the village allows for very little economic and unplanned commercial activity.

The proposed resident based commercial activity is considered to be of a low key, low economic and minimal social impact on the immediate locality or broader scale of the Woodstock village environment.

Section D – State and Commonwealth Interests

Question 9: Is there adequate public infrastructure for the planning proposal?

The proposed development has little reliance on public infrastructure with local use of water, power and sewer facilities.

The local road infrastructure could easily cater for the additional **annual** parking movements of only 20-50 traffic movements generated by the business.

Question 10: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

The proposal has nominal effect on government policy or immediate public authorities.

The proposal assists in providing a valuable breeding and training resource for a range of public authorities that rely upon dogs for policing, drug control, customs activity and defence activity.

No adverse comments have been identified in the planning process to date from NSW Water, EPA or RMS departments.

6.7 Mapping

No specific mapping has been identified as the requested LEP APU amendment relates to amending the LEP document only to allow for an additional use under Schedule 1 of the Cowra LEP.

6.8 Community Consultation

As part of the Gateway assessment appropriate public exhibition of the proposal will be applied for the prescribed period.

The operation has been operating for over 10 years with little complaint.

It is envisaged that the proposal will be advertised in the prescribed manner under the Gateway procedures.

6.9 Project Timeline

It is envisaged that the gateway process will take approx. 6-9 months for a project of this scale.

6.10 Environmental Compatibility

It is considered based on the proposed use being compatible with both residential, rural residential and mixed village use activities that the dog breeding and training proposal would act as a transitional land use that provides integration between difference types of land use such as residential versus mixed use given the nature of the proposed business being of a family based business activity.

Similarly, the hours of operation of the proposed use are essentially daylight hours managing and controlling litters, breeding management and various training techniques.

During observation of the business it would appear that dogs are well trained and controlled with minimal barking due to boredom, mismanagement or breeding separation problems. In essence the current operators know how to manage the dogs in a suitable manner to ensure noise and effluent are minimised.

It is considered given the village fringe location and the large land area that this site is compatible with the overall village precinct being compatible in terms of residential amenity in the locality.

6.11 Control of Stormwater Runoff from Site

The lay of the land angles towards Rankin Street and stormwater naturally flows into the existing guttering in Rankin Street. Natural easements have been retained where water filters into the rear laneway at the rear of the premises. Numerous revetments direct water on the residential block towards the front of the block which drains into Rankin Street.

The adjoining property on the western boundary is lower than the subject block and the owners have elected to place an agricultural pipe in an effort to prevent damage from an extreme storm event which drains towards Rankin Street.

All roof areas on the dwelling and kennels plus overflow from rainwater tanks are channelled to existing and planted trees.

6.12 Management of Waste

All solid waste is collected twice a day in biodegradable bags and deposited in the general house rubbish bin which is removed from the premises weekly and taken to the tip.

All kennels and pathways have a combination of decomposing granite and green grass. The decomposing granite in particular has anti-bacterial properties eliminating the smell of residual urine.

6.13 Mitigation of Noise

Noise is mitigated in the following ways:

A minimum of one person is on premises both day and night to attend to isolated incidents of barking.

Stimulation by visual stimuli:

- Visual stimuli by movement outside the property are controlled with enclosures located at the rear of the property.
- Said enclosure and kennels housed within are surrounded by brush fencing on the southern wall, solid fencing offset from the western wall erected by our neighbour. At the recommendation of a consultant architect John Seligman the brush fencing attached to the existing 2 metre security mesh on the southern wall is a more effective sound barrier since it absorbs sound. Colorbond though offering a solid barrier also increases sound because noise bounces off metal.
- Said enclosure is at the rear of property has a lockable kennels where the dogs are contained at night.
- Trees and shrubs are used as screens further reducing visual stimuli around Lot 5 and between Lot 5 and 6 property.

6.14 Containment within Property

We do not anticipate any traffic from the public on a regular basis requiring specific parking of interfering with general traffic in the area.

We do anticipate ADF or Police visiting the premises 3-4 times a year.

6.15 Landscaping

No specific landscaping other than already described is anticipated now or in the future.

6.16 Contamination

The property does not to the best of our knowledge have any toxic soils issues and no toxic products are produced on the property. Any chemicals are contained in a locked cupboard in a locked room. The removal of waste has been detailed in this document.

6.17 Dog Breeding & Training Facility as a Commercial Development

This existing business complies with all relevant Government Codes of Practice as stipulated by the Companions Animal Amendment Act 2013 and the Animal Welfare Code of Practice – Breeding Dogs & Cats.

Documentation citing the relevant standard is lodged with Council. We consider, we exceed minimum standard in the care, health and welfare of our dogs. Detailed proofs of practices are lodged with Cowra Council. We have cited and documented evidence of our practice covering the following areas:

- Competency and Qualifications of Staff
- Quality Management and Recording Practices
- Animal Housing
- Animal Management
- Health and Veterinary Practices
- Transfer of Ownership of Dogs
- Breeding and Rearing Practices

6.18 Other Studies

Other studies relating to minimal noise data collection are not considered justified given the low levels and low frequency of barking events. It is considered that it is likely a detailed traffic study would be undertaken as part of any Local Environment Plan amendment or development application assessment.

Any other additional studies would be as required by Council or NSW Planning.

6.19 Application Management

We have been advised to submit this document as a Planning Proposal to undertake some commitment from Council and provide some direction as to the most appropriate move forward in terms of the type and approach of Local Environment Plan amendment that may be considered as part of the proposal.

Based on preliminary discussions it would appear that the most appropriate strategy would be to implement an APU amendment to the existing Local Environment Plan for the specific dog breeding use upon the subject land only.

It is understood that a staggered application fee basis would be agreed with Council staff to ensure that appropriate funds are forwarded for the assessment of the proposed amendment.

6.20 Merit of Proposal

One of the objectives of the existing zoning is to provide for a range of land uses, services and facilities associated with a rural village.

The nature and characteristics of the proposal are well suited to a village environment where owner occupied small business on larger than average lots sizes allow for suitable development in a mixture of residential and mixed uses.

The proposal has merit from an environmental perspective in providing suitable distances from adjoining property and compatibility with surrounding development without adverse traffic or noise impact in a small settlement.

6.21 Utility Services

The site is surrounded by a mix of residential and rural residential land use and has good access to a range of utility services including water and septic reticulation, LPG gas and communication infrastructure.

6.22 The Suitability of the Site for Development

It is submitted that the proposed use is well suited to a large lot village environment with a mix of land uses.

The site presents no physical impediments to development of the site as a slightly sloping residential site with the supporting dog breeding and training facility.

Access opportunities are easily available from both Rankin and East Streets, with entry and exit available from a logical access point similar to other property in the village.

6.23 The Public Interest

The proposed facility is considered a specific though necessary operation that largely relates to the experience of the owners to train and breed dogs for a specific security purpose. The dogs are not 'attack dogs'. The training relates to distraction removal with background noise and scent training the greater focus to enable the dogs to continue their role in a noisy or riot situation with accuracy.

In this sense it is submitted that the broader role of the facility to provide a high quality dog with a specific type of training is in the interests of the broader community. The facility has a strong emphasis on producing high quality and controlled breeds that can be relied upon for their intended use or task by various defence and security departments.

It is submitted that it is in the public interest socially and environmentally for the proposal to be considered on the subject land for the benefit of the broader community.

7.0 LIKELIHOOD OF SOIL CONTAMINATION

Historically the land has been used for residential purposes as part of the village precinct. There is no history of contamination relating to fuel storage or farm pesticide usage.

8.0 CONSEQUENCES OF NOT PROCEEDING

Should the proposed development not proceed, the alternative demand for a suitable mix of rural and rural residential sites in the locality would need to be catered for elsewhere. The proposal enables a good standard of management practices in conjunction with owner occupation upon the property.

ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The Precautionary Principle

An assessment of all potential environmental interactions indicates no threat of serious or irreversible environmental damage. Suitable measures could be adopted to prevent environmental degradation if apparent and in particular, to ensure the protection of the local environment. Accordingly, the development would comply with the precautionary principle.

Inter-Generational Equity

The proposed development will not compromise the health, diversity or productivity of the environment for future generations and it does not require the use of resources that are, or are likely to be in short supply.

Conservation of Biological Diversity and Ecological Integrity

The development will cause no significant reduction in habitat for threatened species of flora and fauna and has the ability to enhance the locality. Further design features and operational construction procedures will incorporate measures to specifically preserve biophysical assets, including air and water quality. Accordingly, biological diversity will not be jeopardised nor would ecological integrity be threatened.

Improved Valuation and Pricing of Environmental Resources

The ability to utilise the land with minimal impact on the general environment will result in an economic benefit to the locality. The resultant development upon completion will allow the area to be better utilised with enhanced suitability.

9.0 SUMMARY

The proposal could be supported by Council on the following grounds:

- The proposal presents social, environmental and employment opportunities for the village.
- Allows for transport efficiency in serving NSW, Canberra and other regions for a specific need.
- The proposal is supported under the items of consideration specified under Section 79(c) of the Environmental Planning and Assessment Act, 1979.
- Minor environmental impact.
- Council's ability to impose relevant conditions of consent relating to management, staff levels or visiting hours where appropriate.

We trust the above information satisfies Council's requirements at this preliminary level.

We request that Council make a recommendation to proceed with an appropriate APU (Additional Proposed Use) within the existing zone for the subject site.

Yours faithfully

SAUNDERS & STANIFORTH



ANDREW SAUNDERS

AAPI Certified Practising Valuer
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