



Port Augusta
CITY COUNCIL



Port Pirie
Regional Council



UNEARTH
WHYALLA

AGENDA

UPPER SPENCER GULF REGIONAL ASSESSMENT PANEL

**Tuesday 1 November 2022, Port Pirie Council
Chamber, 115 Ellen Street, Port Pirie,
commencing at 4pm.**



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AGENDA

UPPER SPENCER GULF REGIONAL ASSESSMENT PANEL

Notice is hereby given that a meeting of the Upper Spencer Gulf Regional Assessment Panel will be held in the Port Pirie Council Chamber, 115 Ellen Street, Port Pirie, on Tuesday 1 November 2022, commencing at 4pm.

David Altmann
ASSESSMENT MANAGER
20 October 2022

1. **Welcome – Stewart Payne, Presiding Member**

2. **Present**

3. **Apologies**

4. **Confirmation of Minutes**

That the minutes of meeting held on 5 July 2022 be received and adopted.

5. **Business Arising from the Previous Minutes**

6. **Conflict of Interest Declarations**

7. **Hearing of Representations – Planning, Development and Infrastructure Act applications**

Refer Item 8.1 – one representor – does not wish to be heard.

8. **Officer Reports**

8.1 Development application 22003076 - change of use to include dog breeding

DEVELOPMENT NO.:	22003076
APPLICANT:	Louise Corfe
ADDRESS:	111 BLIGHT RD NELSHABY SA 5540
NATURE OF DEVELOPMENT:	Change of use to include dog breeding
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Rural Living <p>Overlays:</p> <ul style="list-style-type: none"> • Hazards (Bushfire – General) • Hazards (Flooding - Evidence Required) • Native Vegetation <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Site Area (1 ha)
LODGEMENT DATE:	19 July 2022
RELEVANT AUTHORITY:	Upper Spencer Gulf Regional Assessment Panel
PLANNING & DESIGN CODE VERSION:	2022.12
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes – 1 Representation Received (Opposed)
RECOMMENDING OFFICER:	Joshua Skinner Consultant Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 2:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 3:	Response to Representations

DETAILED DESCRIPTION OF PROPOSAL

The application is for a change of use to include dog breeding, in association with an existing 'rural residential' dwelling, at 111 Blight Road Nelshaby.

The proposed land use has the following key characteristics:

- It will comprise the keeping of 9 Miniature Schnauzers (plus any pups they produce).
- The applicant states there will be a maximum of 10 pups at any one time (i.e., 2 litters).
- The pups will generally be kept at the site for at least 8 weeks, before being transferred to customers.

- The application does not include the keeping or boarding of dogs not owned by the applicant.
- The applicant's acoustic consultant states "the dogs will spend the majority of the time indoors, and when outdoors will be within dedicated exercise areas." The applicant states "The dogs use a doggie door to go in and out of the home to toilet and play. They spend 70% inside and 30% outside".
- The applicant states that the dogs will wake up at around 6:30am to 7am and be put to bed at 9:15pm.
- The dogs will sleep in an existing insulated room which is 6m long and 3m wide, in a shed. The room will also contain an air-conditioner, grooming table and individual sleeping crates for each adult dog.
- Customers can either visit the property to view the dogs in person, or view them via video call technology.
- The applicant states, "Dogs barking can be a problem no matter the number to [be] kept, it is the management of the dogs and conditions in which they are kept that determines their behaviour" and "They will bark when someone comes to the door but we calm them down and control the situation and then they are fine".
- Food will be stored within the proposed insulated room contained within the existing outbuilding.
- Dog waste is collected daily, placed into double lined bin bags, and disposed into the site's general waste bin which is collected weekly by Council (140L red lid bin).
- The applicant advises that they are a registered breeder with 4 years of experience at another site. They are also the owner and resident of this site.

The application does not involve any meaningful building work, but the yard and existing verandahs around the dwelling will be configured to suit the proposed land use. Portions of the yard to the rear of the dwelling will be sectioned off with fencing to create 4 separate play areas and toileting areas. A small wash bay will be provided under the back verandah.

The proposed land use is considered to be a form of "animal keeping", which is defined by Section 7 of the Planning and Design Code (Code) as "the boarding (short or long term), keeping, breeding or training of animals, except horses and/or commercially kept livestock".

The proposed documentation is contained within **Attachment 1**.

BACKGROUND

The applicant previously operated a dog breeding facility when they lived in Quorn.

This application was initially submitted in February 2022. Following a Council request, the applicant submitted a more detailed description of the proposed land use and an environmental noise assessment.

The application was subsequently notified, where 1 representation was received. The representation is opposed to the development due to concerns relating to land use and noise concerns. Access Planning provided a response to the representation on behalf of the applicant.

SUBJECT LAND & LOCALITY

Site Address

Location reference: 111 BLIGHT RD NELSHABY SA 5540

Title ref.: CT
5867/171

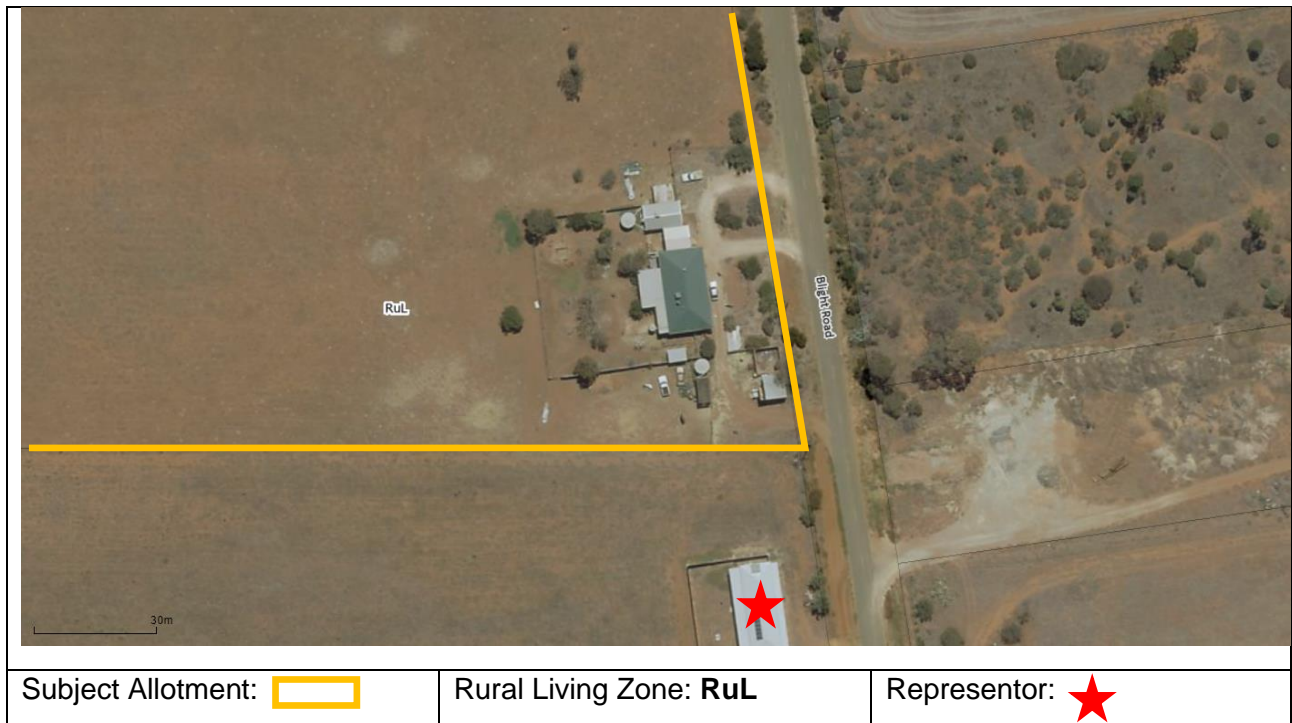
Plan Parcel: D58459
AL611

Council: PORT PIRIE REGIONAL
COUNCIL

Site Description

The subject allotment has a frontage to Blight Road of approximately 170m, a depth of approximately 235m, and a total land area of about 40,000m² (4ha). The allotment is relatively flat, generally undeveloped and open in character. There is a single storey dwelling with ancillary structures located in the south-eastern corner, where the 'site' of the development is situated.

Figure 1: Subject Site

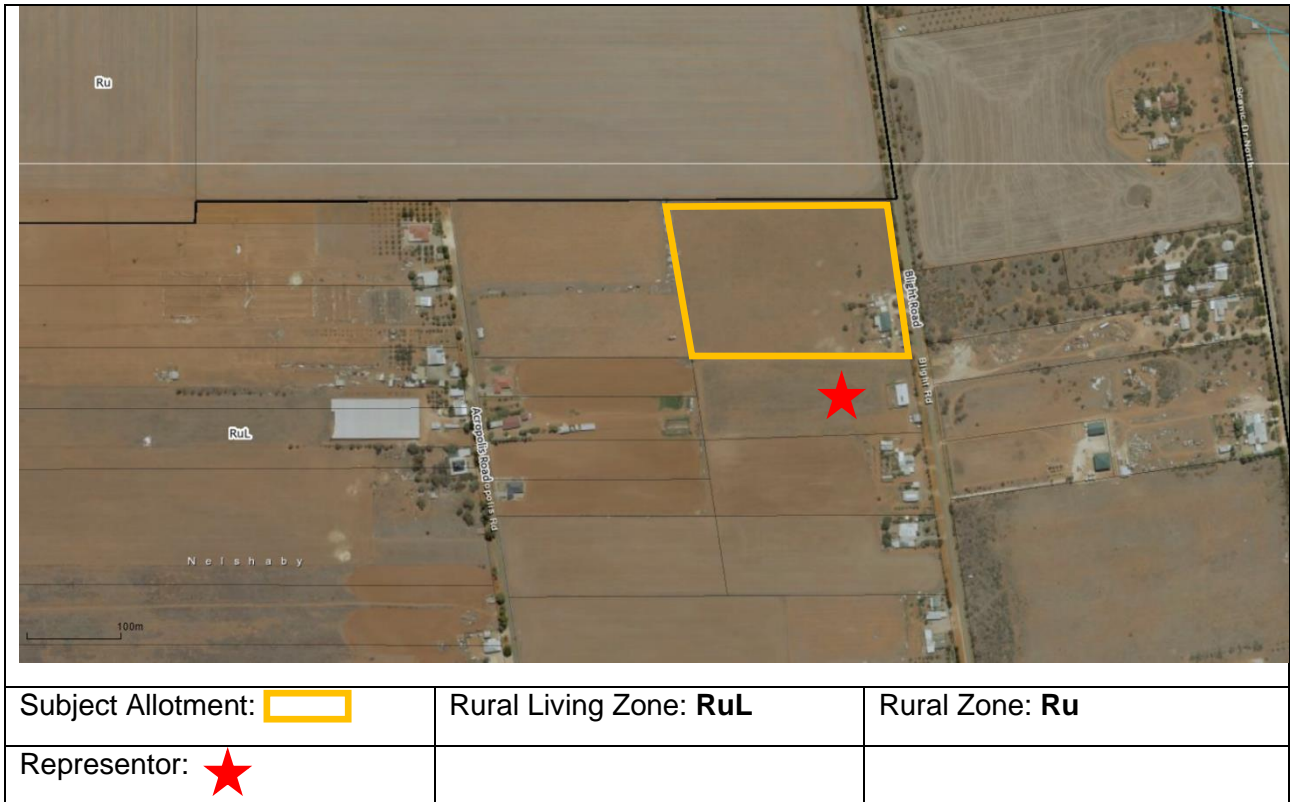


Locality Description

The subject allotment and most of the locality is located in the Rural Living Zone, but the abutting land to the north is located in the Rural Zone. The character of the locality typically comprises of low-rise dwellings and ancillary structures on large rural land holdings. Buildings are typically located close to the adjoining public roads, however there is generally some separation between dwellings.

Council understands that the representor owns the abutting property to the south (99 Blight Road).

Figure 2: Subject allotment and surrounding land



CONSENT TYPE REQUIRED

Planning Consent

CATEGORY OF DEVELOPMENT

PER ELEMENT:

Change of use (Animal Keeping): Code Assessed - Performance Assessed

OVERALL APPLICATION CATEGORY:

Code Assessed - Performance Assessed

REASON

Per the provisions of the Planning & Design Code. The development is not an accepted, deemed-to-satisfy, or restricted form of development and is therefore performance assessed on its merits against the Code.

PUBLIC NOTIFICATION

The proposed land use is not excluded from public notification by Table 5 of the Rural Living Zone.

The application was subsequently notified in accordance with section 107 of the *Planning, Development and Infrastructure Act 2016*.

REPRESENTATIONS

One representation was received during the public notification period in opposition to the proposed development. The representor does not wish to be heard in respect of their representation. A summary of their concerns is provided below:

- Dog barking and noise
- Dog behavioural concerns
- A business is not suitable for a Rural Living Zone
- Health concerns

The representation and the applicant's response are contained within **Attachments 2 and 3** respectively.

AGENCY REFERRALS

Not required.

INTERNAL REFERRALS

Not required.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

The proposal is a form of development identified by Table 3 of the Rural Living Zone as 'all other code assessed development'. In accordance with Part 1 (Rules of Interpretation) of the Code, this assessment has regard to all the relevant Zone, General Development and Overlay policies which are spatially applicable to the location of this development. The relevant provisions have been discussed below.

The key planning considerations are considered to be:

- Land use.
- Interface with adjacent uses (noise and animal management).
- Built form.
- Traffic and car parking.

LAND USE

The proposal is for a change of use to 'animal keeping' in the form of dog breeding. The proposal involves the keeping and breeding of 9 Miniature Schnauzers, resulting in up to 10 puppies (being 2 litters) on-site at any one time. Therefore, the use may accommodate a maximum of 19 dogs. No dogs which are not under the ownership of the owner will be kept or boarded on-site.

Desired Outcome (DO1) of the Zone seeks:

DO 1 A spacious and secluded residential lifestyle within semi-rural or semi-natural environments, providing opportunities for a range of low-intensity rural activities and home-based business activities that complement that lifestyle choice.

Performance Outcome (PO) 1.1 of the Rural Living Zone (the Zone) seeks:

PO 1.1 Residential development with complementary ancillary non-residential uses that do not place additional demands on services and infrastructure, and compatible with a secluded semi-rural or semi-natural residential character.

The associated Designated Performance Feature (DPF) 1.1 lists 'animal keeping' as an envisaged form of development.

The proposed use is therefore an anticipated form of development which will not materially increase the demand on infrastructure in accordance with Zone DPF and PO 1.1, subject to its scale/intensity and its compatibility with the desired semi-rural residential character.

Zone PO 1.2 and DPF 1.2 then provides guidance in terms of the intensity and scale of animal keeping:

PO 1.2 Animal keeping and horse keeping is of a scale that is ancillary to and in association with the residential use of the land.

DPF 1.2 The keeping of animals:
a) is ancillary to a dwelling located on the same allotment
b) takes place on an allotment with an area of at least 1ha
c) for horse keeping, is limited to not more than 2 horses per allotment.

The subject allotment contains an existing dwelling and is considerably larger than 1ha (4ha), satisfying Zone DPF and PO 1.2.

In essence, the site and its zoning are suitable for the intended land use in principle.

NOISE

The assessment primarily turns on the aspect of noise and animal management.

An Environmental Noise Assessment has been prepared by Sonus on behalf of the applicant to consider the potential noise impact resulting from the proposed development.

In conducting the assessment, Sonus noted the following:

- *All adult dogs will be kept inside the existing lined shed structure at the property at night (between the hours of 9:15pm and 6:30am to 7:00am the following day).*
- *Adult dogs will spend 70% of the day inside, and the remaining 30% outside in one of the exercise yards.*
- *The puppies will spend all their time inside up to 3 weeks of age, after which they will go outside for supervised play and return inside.*
- *Commensurate with their small size (adults typically weigh in the range of 5 to 9kg), Miniature Schnauzers only have the capacity to generate a comparatively low noise level.*
- *It is understood that puppies under eight weeks of age do not generally bark and do not possess a bark of sufficient sound power to be a significant off-site source of noise*
- *In contrast to a boarding kennel or other similar facility, the dogs will effectively be kept as family pets. As such, the dogs will be familiar with one another, the owner and their surroundings and will therefore be less inclined to bark regularly*
- *The applicants reside on the property and are therefore able to proactively manage any extraordinary circumstances should they arise.*
- *The closest dwelling is sited 60 metres to the south.*

The Environmental Noise Assessment prepared concluded noise from the proposed dog breeding land use will achieve the goal noise levels that apply under the *Environment Protection (Noise) Policy 2007* provided three management measures are implemented. These measures include:

- Dogs should only be allowed outside when a resident is home; and
- Adult dogs should remain either inside the house or within the existing lined shed structure (identified in Appendix A of the Sonus report) between the hours of 10:00pm and 7:00am; and
- All external doors, windows and other openings to the shed should remain closed between the hours of 10:00pm and 7:00am.

Based on implementation of the above measures and as the proposed use is a form of development contemplated by the Zone, the proposed development is not considered to unreasonably impact the amenity of adjacent dwellings (sensitive receivers). The proposal satisfies Animal Keeping and Horse Keeping PO 3.2 and Interface Between Land Uses PO 1.2, 2.1 and 4.1.

The implementation of the management measures outlined in the Environment Noise Assessment have been included as a condition of consent within the provided recommendation.

In addition, it is recommended that the number and size of dogs be conditioned, as this influenced the noise assessment.

ANIMAL MANAGEMENT

The Code seeks to ensure that animal keeping does not exceed the carrying capacity of the land and to minimise any adverse effects on the environment, local amenity and surrounding development (Animal Keeping and Horse Keeping Desired Outcome 1).

An assessment against the relevant Performance Outcomes of the Animal Keeping and Horse Keeping section has been undertaken below:

Performance Outcome	Assessment Comment
Siting and Design	
<p><i>PO 1.1</i></p> <p><i>Animal keeping, horse keeping and associated activities do not create adverse impacts on the environment or the amenity of the locality.</i></p>	<p>The proposal is limited to the keeping of 9 Adult Miniature Schnauzers and two (2) associated litters. The proposal is not considered to result in adverse environment or amenity impacts noting:</p> <ul style="list-style-type: none"> • The animals are kept within an enclosed building and an enclosed yard area which is setback from and separated from adjoining properties. • The dogs are a small breed and weigh no more than 9 kilograms once mature. • Pups are kept for approximately 8 weeks and produce limited impacts during this time. • The dogs are contained inside during night-time hours and produce negligible impact at this time. • The use is in association with an existing dwelling and will be managed by the occupants of the dwelling. The ongoing maintenance and monitoring of the dogs will reduce the potential for nuisance behaviour. It is in the owner-occupiers best interest to manage the behaviour of the dogs. • Feed associated with the dogs is kept indoors to reduce the risk of vermin. • Four exercise yards are provided of various sizes to enable the owner to rotate and separate the dogs. The rotation of dogs will reduce the potential for soil erosion and dust. • Dog waste is collected daily, placed into double lined bin bags, and disposed into the site's general waste bin which is collected weekly by Council (140L red lid bin). • Dogs are groomed and washed within a controlled environment inside the lined outbuilding and within the designated washdown area under the verandah. The potential for soil erosion from this is limited.

<p><i>PO 1.2</i></p> <p><i>Animal keeping and horse keeping is located and managed to minimise the potential transmission of disease to other operations where animals are kept.</i></p>	<p>The proposal is limited to a single breed of dog. The animals are typical of a domestic environment and are predominately inside (70% inside, 30% outside). The dogs are contained to enclosed buildings and exercise yards, which will limit their interaction with other animals. The proposal is not considered to exacerbate or result in the potential transmission of disease amongst animals.</p>
<p>Waste</p>	
<p><i>PO 4.1</i></p> <p><i>Storage of manure, used litter and other wastes (other than wastewater lagoons) is designed, constructed and managed to minimise attracting and harbouring vermin.</i></p>	<p>Dog food is kept indoors (enclosed room within a shed) to minimise vermin.</p> <p>Fenced yards will be provided for exercise and toileting. These yards are about 27m from the southern side boundary and 112m from the northern side boundary. Dog waste will be collected daily, placed into double lined bin bags, and disposed into the site's general waste bin which is collected weekly by Council (140L red lid bin). This management routine, and the separation distances described, are considered appropriate.</p>
<p><i>PO 4.2</i></p> <p><i>Facilities for the storage of manure, used litter and other wastes (other than wastewater lagoons) are located to minimise the potential for polluting water resources.</i></p>	<p>Dog waste is stored within general waste bins (collected weekly). The land does not contain any water courses or water bodies.</p>

The proposal does not seek for the “kennelling” of dogs and therefore PO 3.1 to 3.3 are not considered relevant to the proposal. In any event, the proposal satisfies the intent of these provisions, noting:

- The dogs are kept within the dwelling and an outbuilding containing an impervious surface, to facilitate on-going and regular cleaning.
- The outbuilding is setback 85 metres from the closest dwelling to the south.
- The exercise yards will only be used under supervision and during daytime hours, setback 27 metres from the boundary shared with another dwelling.
- The dogs are kept in association with an existing dwelling and will be managed by the occupants of that dwelling.

The proposal incorporates appropriate siting, design and animal control practices which will limit the potential adverse impacts on the environment and the amenity of the locality. The relevant Animal Keeping and Horse Keeping General Development Policies are satisfied by the proposal.

BUILT FORM

The application does not include the construction of any new buildings, with the use limited to the existing buildings and immediately surrounding area. Some outdoor fencing and a minor 'fit out' of the existing outbuilding are required to accommodate the proposed land use however.

Dogs will have access to the following parts of the subject land:

- Dwelling – limited to the kitchen, lounge and hallway;
- Outbuilding (shed) – limited to a 6 by 3 metre room, at the western end of the structure;
- Verandah – providing shelter and a wash bay;
- Four outdoor fenced areas (It is noted that the applicant's dimensions for the outdoor areas do not appear accurate, so the assessment has been based on scaling from aerial photography.)

Performance Outcome 2.3 of the Zone states:

PO 2.3 Buildings, structures and associated facilities for the keeping of animals are sited, designed and of a scale and appearance that reinforces the semi-rural or semi-natural character and amenity

The proposal satisfies PO 2.3 as:

- The land use is contained to existing structures which have an internal floor area of less than 100m², satisfying the associated DPF 2.3(c).
- The relevant outdoor areas are sited behind the existing dwelling, causing little or no visual impact
- All structures and yards are setback at least 25 metres from allotment boundaries, satisfying the associated DPF 2.3(a);
- Proposed fencing is internalised within the land and will have negligible visual impact.
- The proposal will utilise much less than 10% of the allotment, satisfying the associated DPF 2.3(d).

The proposal does not detract from the existing semi-rural character of the area due to the limited scale of the proposed use, its containment to existing structures and close association with the existing dwelling on the land

TRAFFIC, ACCESS AND PARKING

The land is serviced by three existing vehicle access crossovers to Blight Road. These crossovers together with the internal driveway provide access to the existing dwelling located on the site. No alterations to vehicle access or internal driveways are proposed to occur because of the proposal.

The Transport, Access and Parking section of the Code seeks to ensure development is provided with sufficient car parking with safe and convenient vehicle access.

Although the proposal does not provide any formal on-site car parking, it satisfies the relevant provisions of this section, noting:

- The existing access/egress conditions will be maintained.
- Vehicles can enter and exit the site in a forward direction.
- Blight Road has a wide verge without any significant vegetation along the road edged, ensuring adequate sight lines are achieved.
- The existing access points are setback from neighbouring allotments access points.
- The proposed land use is considered to result in low levels of traffic generation.
- There is ample space on site for informal visitor parking on-site, although low levels of visitation are expected.
- The movement of vehicles will not conflict with the flow of traffic on the adjoining road.
- The proposal will result in an inconsequential increase in daily vehicle movements. Such movements will be limited to particular stages in the breeding period (i.e. at dog selection or 8 week collection).

The proposal will not create or result in traffic or parking conditions which will exceed the capacity of the subject site or adjoining road.

BUSHFIRE RISK

The proposal does not seek to alter the nature of vehicle access or for the construction of any additional buildings.

Access to the land is provided from an all-weather public road through the three existing vehicle crossovers that service the land. The access arrangements together with the modest topography of the site and clearance of substantive vegetation, ensures that access is maintained for fire-fighting vehicles.

The small nature of the animals proposed to be kept and bred on site ensures that during a bushfire event, the owners and occupants of the land can readily relocate the animals. No specialist equipment or machinery will be required.

The proposal does not exacerbate or result in an unacceptable bushfire risk. The proposal satisfies PO 1.1, 2.1, 5.1, 5.2 and 5.3 of the Hazards (Bushfire – General Risk) Overlay.

FLOODING

The land is situated within the Hazards (Flooding – Evidence Required) Overlay. The overlay seeks to minimise the risk of entry of potential floodwaters where such entry is likely to result in undue damage to or comprise the ongoing activities within buildings.

The proposal is limited to the change in use and internal fit out associated with existing buildings. Due to the size and permeable nature of the land, it is not considered that the proposal would exacerbate the extent or risk of flooding associated with the land or buildings.

No hazardous materials are proposed in conjunction with the proposed use.

Overlay PO 1.1 and 2.1 are satisfied by the proposal.

NATIVE VEGETATION

The applicant has completed a Native Vegetation Declaration upon lodgement of the proposed application which identifies no native vegetation is to be cleared in association with the proposed development.

It is further noted that the proposal is contained to existing buildings and areas of private open space associated with the existing dwelling on the land.

Native Vegetation Overlay PO 1.1 is satisfied by the Proposal.

CONCLUSION

The proposal seeks to establish a small-scale animal keeping use (dog breeding) in association with the existing rural residential use of the land. The proposed development is considered appropriate, noting:

- The proposed land use represents an anticipated form of development within the Rural Living Zone.
- Dogs kept on-site are limited to those owned by the occupier of the dwelling and the associated puppies bred for sale.
- The use is contained to existing buildings and exercise yards which are setback from allotment boundaries.
- All activities are situated behind the building line of the dwelling.
- The scale and intensity of the use is limited to a very small portion of the total allotment.
- The proposal includes the implementation of animal management practices which will limit any adverse amenity and environmental impacts.
- The existing vehicle access and egress arrangements are maintained.
- An Environment Noise Assessment has been prepared which provides for three management measures to ensure compliance with the *Environment Protection (Noise) Policy 2007*.
- The proposal does not result in the clearance of any native vegetation nor exacerbate the risk associated with flooding or bushfire.

The proposed development is considered to represent an appropriate form of development when considered within the context of the locality and against the relevant provisions of the Code. The granting of Planning Consent is subsequently warranted.

RECOMMENDATION

It is recommended that the Regional Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22003076, by Louise Corfe, for a change of use to include dog breeding, at 111 Blight Road, Nelshaby, is granted Planning Consent subject to the following conditions:
 - 1) Except as may be required or provided by the conditions imposed by this consent, the development in Development Application Number 22003076 must be undertaken and thereafter maintained in accordance with the plans, documents and details comprising the relevant development application.
 - 2) The animal keeping hereby approved must be limited to a maximum of 9 Adult Miniature Schnauzers and a maximum of two litters of puppies at any one time.
 - 3) The toilet and exercise yards associated with the hereby approved use must be kept in a sanitary condition at all times to the reasonable satisfaction of the Council.
 - 4) All fencing associated with the use hereby approved must be maintained to the reasonable satisfaction of the Council.
 - 5) All dog waste must be collected daily and stored in a fly proof container and be removed from the premises at least once a week.
 - 6) The following noise attenuation and animal management measures identified within Section 5 (Conclusion) of the Environmental Noise Assessment prepared by Sonus (S7258C2, dated May 2022) must be adhered to and implemented at all times to the reasonable satisfaction of the Council, including:
 - a. Dogs should only be allowed outside when a resident is home.
 - b. Adult dogs should remain either inside the house or within the existing lined shed structure between the hours of 10:00pm and 7:00am.
 - c. All external doors, windows and other openings to the shed should remain closed between the hours of 10:00pm and 7:00am

9. Other business

- Term of Members
- Level 2 accreditations
- Ordinary Returns

10. Close