

MINUTES

PLANNING COMMITTEE MEETING No. 238

Thursday 27 February 2025
5:30pm

City Hall, 57 Little Malop Street, Geelong

ALSO LIVE STREAMED ON THE CITY'S WEBSITE:

www.geelongaustralia.com.au/meetings

PANEL:

Cr A Katos (Chair)
Cr T Sullivan (Deputy Chair)
Cr C Burson
Cr R Nelson
Cr M Cadwell
Cr R Story

PRESENT

Present:

Cr A Katos
Cr T Sullivan
Cr C Burson
Cr R Nelson
Cr M Cadwell
Cr R Story

Council Officers:

Julie Lu, Principle Statutory Planner
Rory O'Loughlen, Team Leader Statutory Planning
John Rush, Coordinator Statutory Planning
Joanne Van Slageren, Manager City Development
Jacquilyn Douglas, Manger Council and Corporate Governance

Opening: The Chair declared the meeting open at 5:36pm

1. PROCEDURAL MATTERS

Acknowledgement Of Country

The Committee acknowledges the Wadawurrung People as the Traditional Owners of the Land, Waterways and Skies. We pay our respects to their Elders, past, present and emerging. We Acknowledge all Aboriginal and Torres Strait Islander people who are part of our Greater Geelong community today.

1.2. Introduce the Panel Members

1.3. Apologies

Cr S Kontelj, Cr E Kontelj, Cr Wilkinson, Cr Sinclair, Cr Aitken

1.4. Declarations of Conflicts Of Interest

NIL

1.5. Confirmation of Minutes

That the Minutes of the Planning Committee Meeting held on 26 June 2024 be confirmed.

Moved: Cr Nelson

LAPSED

As the confirmation of the Minutes lapsed, the item will be carried over to the next planning committee meeting.

2. MATTER(S) FOR CONSIDERATION

2.1. PP-1176-2023 – 99 Breakwater Road, BREAKWATER

Application No: PP-1176-2023

Applicant: Geelong Racing Club

Subject Land: 99 Breakwater Road, Breakwater

Zone: Special Use Zone - 4

Overlays: N/A

Existing Use: Major Sports and Recreation Facility (Racecourse)

Proposed Use: Buildings and Works for the Construction of Horse Stables, Horse Walkers and Horse Pool associated with a Major Sports and Recreation Facility (Racecourse)

Summary

- The site is crown land which is located at 99 Breakwater Road, Breakwater. The site is approximately 45.09ha with frontages to Breakwater Road (north-west), St Albans Road (north-east), Fellmongers Road (south) and Cosgrove Street (west). The site contains no easement. There is a gradual slope of the site from west to east.
- The site is used as a racecourse and is home to the Geelong Racing Club (GRC). The main entrance and access to administration building, grandstand and parking area are sited within the western portion of the site. Additional stable facilities exist within the south-west corner of the site. Existing vehicle access is provided from Breakwater Road/Fowler Street and north of Cosgrove Street.
- The surrounding area has a mixture of uses including established residential uses to the east and west, industrial uses to the south across Fellmongers Road and heavier industrial uses further west of Breakwater Road. Directly north is the Geelong Showgrounds and 3.5km north-east is the Geelong CBD.
- The subject site is zoned Special Use Zone - Schedule 4 (Geelong Showgrounds and Racecourse and Beckley Park) and is not affected by any overlays.
- One of the purposes of this zone is to encourage *the use and development of the Geelong Showgrounds, Racecourse and Beckley Park for a range of entertainment, recreational, commercial and community activities.*
- The current application proposes to construct five (5) new detached horse stables, five (5) round horse walkers and one (1) horse pool in the south-west corner of the site.
- A planning permit is required for the proposed construction under the Special Use Zone, thus the assessment of this application solely considers the relevant decision guidelines of the zone and planning policy framework.
- A permit is not required for the use of the site for the racecourse.
- The application was advertised in accordance with the requirements of the Planning Scheme and received six (6) objections.
- A summary of the objections are provided in detail in the report. The concerns predominantly relate to:
 - Significant odour, noise, increased vermin issues and light spill;
 - Compliance history associated with the site;
 - Setbacks, built form and intensification of the proposal to dwellings along Cosgrove Street;
 - Relocation suggestions of the works away from residential dwellings along Cosgrove Street;
 - Unsightly dirt mound facing Cosgrove Street;
 - Trucks using Cosgrove Street and the frequency in the use of the racecourse;
 - Devaluation of properties;
 - Removal of existing vegetation;
 - Noise during construction should a permit be issued;
 - Increased dust emissions from the removal of the vegetation;
 - Consideration purpose of the application; and
 - Compatibility of the intensification of use, adjoining dwellings.

- A consultation meeting was held with the applicant, council officers and objectors. The meeting discussed the issues raised to see if any resolutions were possible. No objections have since been withdrawn; however, an additional acoustic and odour assessment were submitted by the applicant following the consultation meeting. The additional reports were circulated to the relevant parties for consideration.
- Council's Environmental Health Unit, Environment Unit and Parks Department were referred the application and support the application subject to conditions.
- On balance, the application is considered to suitably respond to the policy under the Decision Guidelines of the Special Use Zone. This includes that the proposed new structures are essentially an upgrade of facilities, they are non-habitable and have a use consistent with the purpose of the zone. The structures also maintain a low scale (consistent with the existing built form on site), are cohesive and provide an 'open-feel' design. Based on the assessment against the requirements of the Planning Scheme the proposal will contribute to the improvement and economic viability of the Geelong Racecourse, a major regional sports facility for Greater Geelong which contributes to ongoing development of social and cultural infrastructure in accordance with Clause 19.02-4S the relevant planning policy framework.
- Conditions has been recommended to ensure the ongoing management of amenity-based aspects (i.e noise, odour and dust), with respect to Clause 15.01-2L of the Planning Policy Framework and at the advice of the City's Environmental Health Unit. Where applicable, these conditions now form part of the recommendation.
- Based on the assessment of the proposal it is recommended that the application be supported given the compliance with the relevant permit requirement being the Special Use Zone.

Recommendation:

That the Responsible Authority having considered all matters which the *Planning and Environment Act 1987*, requires it to consider decides to issue a Notice of Decision to Grant a Planning Permit for 'Buildings and Works for the construction of Horse Stables and Horse Pool associated with a Major Sports and Recreation Facility' at 99 Breakwater Road BREAKWATER, generally in accordance with the plans and documentation submitted with the application subject to the following conditions.

Moved: Cr Nelson**Seconded: Cr Sullivan****CARRIED****Amended Plans**

1. Prior to the works commencing, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (July 2023), but modified to show:
 - a) A detailed elevation plan of the of the proposed horse walkers, including maximum height, ground/floor treatment and materials to be used in construction.
 - b) An acoustic treatment consisting of Clear-PVC sheeting equivalent to Flexshield 4mm SonicClear (Rw 19) installed to the west side of the western-most horse walker.

Endorsed Plans

2. The development as shown on the endorsed plan(s) must not be altered without the written consent of the Responsible Authority.

No Removal of Native Vegetation

3. No vegetation shall be removed other than that marked on the endorsed plan, to the satisfaction of the Responsible Authority.

Prior to Works Commencing

4. Prior to works commencing, a landscape plan prepared by a suitably qualified or experienced, person to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The plan(s) must be drawn to scale and show:
 - a) layout of landscaping and planting within the proposed 10m landscape buffer area abutting the western boundary.
 - b) a survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - c) details of surface finishes of pathways and driveways.
 - d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

When approved, the plan will be endorsed and form part of the permit, all to the satisfaction of the Responsible Authority.

5. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
6. Prior to the commencement of the development, a Tree Protection Management Plan must be submitted to and approved by the Responsible Authority. The Tree Protection Management Plan must be prepared by a suitably qualified arborist and must be informed by the Tree Health and Impact Assessment Report dated 2024 and must include all privately owned trees in the works area.

When approved the Tree Protection Management Plan and its recommendations will be endorsed and will then form part of the permit.

The approved Tree Protection Management Plan must not be amended or altered without the consent of the Responsible Authority.

7. Prior to the commencement of any works at the site (including demolition and excavation whether or not a planning permit is required), a letter of engagement must be provided to us (as the Responsible Authority) from the Project Arborist selected to oversee all relevant tree protection works. In accordance with Australian Standard 4970-2009 Protection of trees on developments sites the Project Arborist must be an appropriately experienced and qualified professional (minimum AQF Level 5 Arborist).
8. Prior to the works commencing (including any demolition works), Tree Protection Fencing must be installed and maintained until works are completed to the satisfaction of the Responsible Authority.

All works within the nominated Tree Protection Zones must be:

- a) carried out in accordance with Australian Standard 4373–2007 Pruning of amenity trees and Australian Standard 4970–2009 Protection of trees on development sites.
- b) overseen by a suitably qualified, level-5 arborist.
- c) carried out to the satisfaction of the Responsible Authority by suitably trained and qualified arboricultural staff.

Works encroaching within the nominated Tree Protection Zones must not be undertaken without the written consent of the Responsible Authority.

9. Prior to occupation of the development, a written statement from the Project Arborist must be submitted to the Responsible Authority that certifies that the following items have been addressed as part of the works:
 - a) Installation and correct placement of tree protection fencing 2 weeks prior to works commencing and for the duration of works.
 - b) Attendance during Tree Protection Zone incursions.
 - c) Adherence to Australian Standard 4970–2009 Protection of trees on development sites.

Prior to Occupation of the Development

10. Prior to the occupation of the development the developer must:
- a) Construct the site stormwater system. Any stormwater connection must be in accordance with City of Greater Geelong Standard Drawings.
 - b) Complete all buildings and works including landscaping works in accordance with the endorsed plans.

Amenity

11. The amenity of the area must not be detrimentally affected by the use or development through the:
- a) Transport of materials, goods, or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products including horse excrement and urine, grit or oil.
 - d) Presence of vermin.
- to the satisfaction of the Responsible Authority.
12. All vehicles that access the stable area that are owned or operated by the GRC are to be fitted with broad band reversing sirens (not tonal beepers) to the satisfaction of the Responsible Authority.
13. No amplified music or announcements must be played or piped to the stable area without the further written consent of the Responsible Authority.
14. Any security alarms or similar devices installed within the stable area must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a monitored security service.
15. All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the Responsible Authority.
16. The stables, yards and walkers must be kept clean at all times and must not cause nuisance to any person on any adjoining property by way of offensive odour, to the satisfaction of the Responsible Authority.
17. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining properties.
18. Dust control measures to prevent emissions that may cause nuisance to adjoining properties must be implemented to the satisfaction of the Responsible Authority. Such as but not limited to:
- a) Identifying potential sources of dust and airborne particulates and processes which may generate dust and airborne particulates; and implementing dust and airborne suppression measures, including (but not limited to) covering materials and/or applying a light water spray, applying sprays before or during turning, but also avoiding excessive water- logging of organic materials and runoff.
19. Any feed and related material must be securely stored as to not attract vermin and flies to the satisfaction of the Responsible Authority.

Waste Management Plan

20. Prior to the commencement of the development, a waste management plan must be submitted to and approved by the Responsible Authority. Once approved the waste management plan will be endorsed to form part of the permit. The plan must provide details of the following:
- Frequency of all waste removal from the stable area.
 - The location and method of waste storage prior to collection.
 - Frequency of solid waste disposal that is stored on the site in order not to cause nuisance to any persons on adjoining properties to the satisfaction of the Responsible Authority.
 - Details of waste disposal systems from the stable area and or method of waste disposal.
 - Types and size of trucks accessing the site for waste removal including their access routes within the site.

When approved, the Waste Management Plan will be endorsed and form part of the permit. Thereafter, waste must be managed in accordance with the Waste Management Plan to the satisfaction of the Responsible Authority.

Loading/Unloading

21. The loading/unloading of horses for the new stables must not take place on public roads and must only be undertaken on the site within the car park/accessway shown on the endorsed plans.

Expiry

22. This permit will expire if one of the following circumstances applies:
- The development of the building(s) hereby approved has not commenced within two (2) years of the date of this permit.
 - The development of the building(s) hereby approved is not completed within four (4) years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires; or

- Within six (6) months after the permit expires where the use or development has not yet started; or
- Within twelve (12) months after the permit expires, where the development allowed by the permit has lawfully commenced before the permit expiry.

Notes:

- Ensure compliance with any Commercial Noise regulations, Councils Local Laws and obtain permits where and when required.
- Noise during construction is to be managed and not emit unreasonable noise at any time of the day under the *Environment Protection Act 2017*.
- The Landscape planting must not contain Environmental weeds listed in the City of Greater Geelong environmental weeds list
<https://www.geelongaustralia.com.au/weeds/documents/item/8d164ca100efeda.aspx>

REPORT

PERMIT TRIGGER:

A planning permit is triggered for this application pursuant to the following clauses of the Greater Geelong Planning Scheme:

- Pursuant to Clause 37.01-4 of the Special Use Zone, a permit is required to **“Construct a building or construct or carry out works”**

LAND USE DEFINITIONS

- Pursuant to Clause 73.03 a Racecourse is not specifically defined, however it is included under the definition of a Major Sports and Recreation Facility
- Pursuant to Clause 73.04 a Racecourse is nested within the Leisure and Recreation Group.

RESTRICTIVE COVENANT OR SECTION 173 AGREEMENT:

The subject site is not burdened by a Restrictive Covenant or Section 173 Agreement.

OFFICER DIRECT OR INDIRECT INTEREST:

No officer involved in the preparation of this report declared a general or material conflict of interest.

SITE/LOCALITY:

The site is known and described as Crown Allotment (CA) 14, Section 6A, Parish of Corio, being an irregular shaped site of 45.09ha, with frontages to Breakwater Road to the north-west, St. Albans Road to the north-east, Fellmongers Road to the south and Cosgrove Street to the immediate west. The site is currently used as a racecourse and is home to the Geelong Racing Club (GRC). The main administration, grandstand and parking area is within the western portion of the site near Breakwater Road with the track and storage dams in the central portion and stabling facilities in the south-western portion.

The surrounding area has a mixture of uses including established residential uses to the east and west, industrial uses to the south across Fellmongers Road and heavier industrial uses further west of Breakwater Road. Directly to the north is the Geelong Showgrounds, being part of the same land holding and known as CA12. The site is approx. 3.5km south-west of the Geelong CBD via McKillop Street and Breakwater Road.



Figure 1: Aerial view of the racecourse (subject site). Source: PlacesWeave.

PROPOSAL:

The application seeks a planning permit for the construction of Horse Stables, Horse Walkers and Horse Pool associated with the existing racecourse. The proposal is to effectively replace the existing stables in a more uniform layout and construct a horse pool for training and recovery purposes.

Stables Buildings

The proposal is to replace the existing cluster of stables and several of the associated buildings in the south-western corner of the site. The stables will consist of 5 detached buildings in a row with each building having a floor area of 540m² and containing 20 stables, totalling 100 across the 5 buildings. Each building at its northern end will contain 4 tie up areas, staff amenities, office, wash area and feed and shavings storage sheds.

The stables will be constructed of a mixture of concrete panelling and trimdek Colorbond sheeting. The outer walls of the stable will also include 30mm rubber matting fixed to the walls to further assist with noise mitigation. Floor treatments will be a mix of concrete in the staff amenities and storage areas and compacted sand within the stables.

Setbacks will be 14m from the western boundary to Building 1 with buildings 2-5 to be separated by 4.8m and include a 1.8m high Colorbond fence between each building. All buildings will be setback 18m from the southern boundary. Each building will be connected to the existing stormwater system with the water to be directed to the central storage dams in the middle of the track for re-use.

The application shows an indicative loading and unloading area to the front of the stables, this is how the loading and unloading currently occurs and this is not altered by the proposal.

Horse Walker

At the southern end of each stable it is proposed to construct a 15m diameter horse walker for training and recovery purposes. The horse walker consists of a mechanical central mechanism to assist and walk the horses in a circle for a period. See below for the existing horse walker arrangement.

Horse Pool

On the far eastern side of the stable area is proposed to construct a 47m x 2.8m inground horse pool for training and recovery purposes. The pool is to be constructed of a concrete base with a 1.5m wide path on its western side for trainers.

Associated works not requiring a planning permit include the demolition of the existing buildings and the removal of planted native vegetation along the southern boundary with the vegetation exempt under clause 52.17.

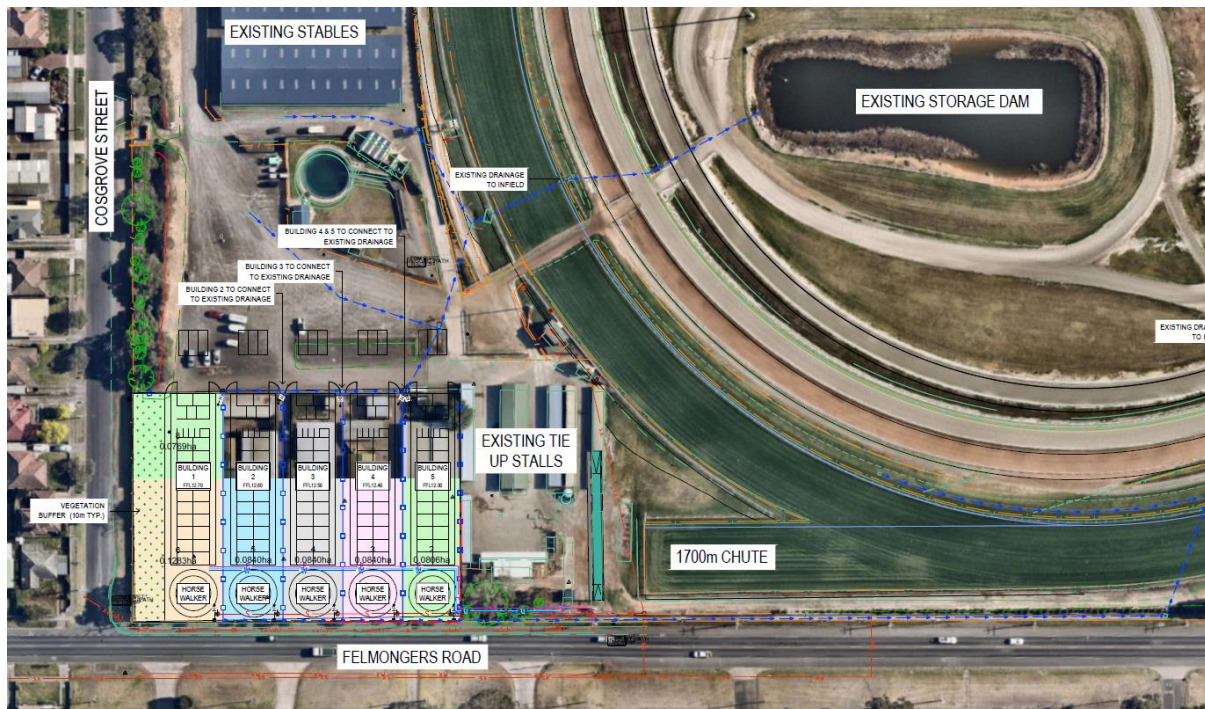


Figure 2: Proposed site context plan. Source: Sports Design Group, 15/12/2023.



Figure 3: Proposed Floor Plan. Source: FCH Consulting, July 2023.



Figure 4: Photo of existing round 'Horse Walker'. Source: AP Site Visit – date taken 15 March 2024.

PERMIT/SITE HISTORY:

The following permits/site history is applicable to this application:

- The site has numerous applications (it had 58 permits issued including s.72 amendments).

REFERRALS:

The following referrals were undertaken:

SECTION 52:

Is s.52 Notice required to Minerals Resources under Clause 52.09 and Cl.66.05 (re. Extractive industry and extractive industry interest areas)? No

INTERNAL

Department:	Environment
Response:	Supportive – subject to conditions
Officer Comment:	
It is noted that vegetation proposed for removal has been planted and are exempt from the permit requirements of clause 52.17 as confirmed in the submitted arborist report. Conditions protecting existing native vegetation will be included on any permit issued. A landscape plan will also be required as a condition of any permit issued.	

Department:	Parks
Response:	Supportive – subject to conditions
Officer Comment:	
The conditions for a Tree Protection Management Plan (TPMP) and Tree Protection Zones (TPZ) will be included on any permit issued.	

Department:	Health
Response:	Supportive – subject to conditions
Officer Comment:	
Several amenity-based conditions have been proposed and these will be included on any permit issued. Health have reviewed the submitted Acoustic and Odour assessments and further feedback from Select Architects.	

AMENDMENT OF THE PROPOSAL PRIOR TO PUBLIC NOTIFICATION:

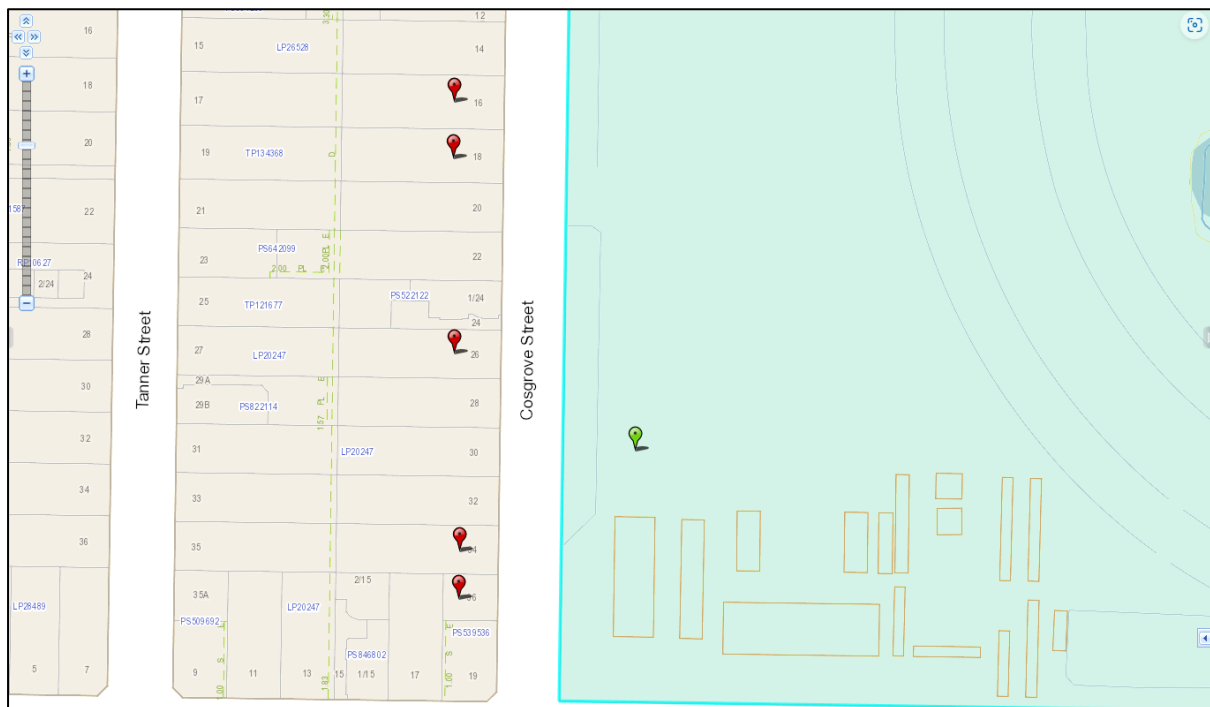
The application was not amended prior to public notification.

PUBLIC NOTIFICATION:

The application **is not** exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of Section 64(1), (2) and (3) and the review rights of Section 82(1) of the Act and pursuant to Section 52 of the Planning and Environment Act 1987 the following forms of advertising were undertaken:

- Notices were sent to owners and occupiers of adjoining land (including opposite).
- A2 sign(s) were placed on the land.
- Application documents were made available on councils' website and in the office for inspection.

Six (6) objections have been lodged with Council.



Regarding the use of the land, the responsible officer explained that the use of the land pre-dates the current planning scheme. Furthermore 58 permits for buildings and works associated with the use have been issued for the site since 1975. It is understood that the first race meet was held at the course, in or around March 1908.

The responsible officer was not prepared to comment on past compliance issues and any ongoing concerns should be lodged with the City's Planning Enforcement Unit.

AMENDMENT OF THE APPLICATION FOLLOWING PUBLIC NOTIFICATION

The applicant made a request to amend the application following public notification pursuant to Section 57A of the Planning and Environment Act 1987 on 28 May 2024. Council has accepted the amendment. The amendment made the following changes to the application:

- Submission of new information in the form of an Acoustic and Odour Assessment.

These are included as reference for the plans currently under assessment.

It was not considered necessary to readvertise the proposal based on the amendment, as the amendment would not result in any additional material detriment compared with the advertised application, for the following reasons:

- The submission of the assessment's was discussed with all objectors at the planning consultation meeting and a copy of the assessments has been provided to all objectors directly.
- The submission of the assessments does not alter the proposal in anyway, rather provides an assessment of potential amenity impacts.

No objections have not been withdrawn.

OBJECTIONS:

Six objections have been received regarding the application. The concerns of objectors are combined as many have raised the same concerns.

These are summarised and commented on below:

1. Significant odour, noise, increased vermin issues, light spill

Response

The buildings and works will be buffered by a 10m wide landscape buffer along the western boundary of the site fronting Cosgrove Street. The landscaping will be secured via permit conditions should a permit be issued; a preliminary layout has been submitted with the application.

Further recommendations from the acoustic assessment by *Renzo Tonin and Associates, May 2024*, include installing Clear-PVC sheeting equivalent to Flexshield 4mm SonicClear (Rw 19) installed to the west side of the west-most horse walker. This will be included as an amended plans condition should a permit be issued. The acoustic assessment also states that the noise generated is within the required thresholds for sleep disturbance.

The odour assessment by *Peter J Ramsay and Associates* states that while odour can never be eliminated completely, several factors will aid the development in reducing impacts including the increased setback of the new structures, regular maintenance and waste disposal in accordance with the principals of General Environmental Duty (GED). A concern was raised regarding the storage of waste. It is noted that the current waste (Manure) storage area is approx. 145m east of the dwellings on Cosgrove Street.

The assessments carried out in relation to odour and noise have been further reviewed by the City's Environmental Health Unit, who have supported the assessments and provided conditional consent to the proposal with several amenity-based conditions to be included on any permit issued relating to regular removal of waste, baffling of lighting, storage of feed and related material as to not attract vermin. It is further noted that the new structures effectively replace what exists on the site with an additional 13 stables to be leased to trainers.

Any ongoing or current issues with non-compliance with previous permit conditions should be raised with the COGG Planning Enforcement Unit or Environmental Health and or the Environment Protection Authority (EPA) for investigation. This has been discussed several times with objectors.



Figure 6: Aerial view of the subject site indicating the waste location. Source: PlacesWeave.



Figure 7: Image of waste storage on site. Source: AP Site Visit, date taken 15 March 2024.

- 2. Previous decision that was appealed to the Victorian Civil and Administrative Tribunal (VCAT) and non-compliance with permit conditions.**

Response

A previous decision to issue a notice of decision to grant a permit on the site was appealed to VCAT, specifically PP-913-2014 for Building and works to construct stables and other works in association with an existing racecourse including the existing stables. A consent order was issued on 22 July 2015 and varied the decision of Council by amending several conditions. If there are ongoing concerns with compliance with conditions of PP-913-2014 or illegal buildings or works, this should be raised with the COGG Planning Enforcement Unit for investigation which has been discussed with objectors on several occasions. Whilst the concern is acknowledged it is also a separate matter to the application before Council.

3. Setbacks of the proposal to dwellings on Cosgrove Street, the built form and intensification of the use.

Response

The use of the land is long established as a racecourse and defined in the planning scheme as a Major Sports and Recreation Facility. The application is for buildings and works associated with that use with horse stabling and exercise facilities being part of how the site operates as a racecourse. The application plans show the following approx. setbacks from the closest dwelling at 36 Cosgrove Street:

- 34m from the outer wall of building 1.
- 35m from the horse walker to the rear of building 1.
- 167m to the proposed horse pool.

The buildings and works will be buffered by a 10m wide landscape buffer along the western boundary of the site fronting Cosgrove Street. The landscaping will be secured via permit conditions should a permit be issued; a preliminary layout has been submitted with the application. Further recommendations from the acoustic assessment by Renzo Tonin and Associates, May 2024, include installing Clear-PVC sheeting equivalent to Flexshield 4mm SonicClear (Rw 19) installed to the west side of the west-most horse walker. This will be included as an amended plans condition should a permit be issued.

The odour assessment by Peter J Ramsay and Associates states that while odour can never be eliminated completely, several factors will aid the development in reducing impacts including the increased setback of the new structures, regular maintenance and waste disposal in accordance with the principals of General Environmental Duty (GED).

Loading and unloading of horse floats is shown on the application plans to the north of the proposed stables but no further sheds are proposed, the loading and unloading area is shown for reference which is generally what occurs on the site currently.

The proposal is for buildings and works to effectively replace what is existing in the south-western corner of the site, albeit going from 87 stables to 100 in the proposed complex. This does not change the use of the land in any way, noting that historical records indicate the site has operated as a Racecourse since in or around March 1908. As set out in *Brooks-McMillian v Cardinia SC [2004] VCAT 2624*, the tribunal held that certain principles need to be considered when establishing an existing use right.

113. A fundamental principle of existing use rights is to interpret them liberally, providing the facts so permit. The following liberal principles have been applied to found existing use rights:

- i. Use of land does not necessarily mean physical use;
- ii. The use of land may serve a purpose of use of other land;
- iii. When land is kept vacant for use as the needs of a business demand, much will depend on the extent of its integration with the land in physical use and on the nature of the business being conducted;
- iv. It is not necessary that land be used ‘as a water cartage and timber felling business’ for it to be used for the purpose of water cartage and tree felling;
- v. **The use to which land may be put and the activity on it may change, increase and decrease so long as the same purpose is served.**

In the same VCAT matter a further comment was made by the tribunal considering case law:

116. *Norman v Gosford SC*, held that once an existing use is established, intensification is not prohibited. Provided there are no changes in activities, the level of intensity can lawfully increase. Intensification did not amount to a change of purpose.

A review of the aerial mapping from the Department of Environment, Energy and Climate Action (DEECA) show aerial images of the land being used as a racecourse in 1947 (below) and it is understood that the first race meet was held in or around March 1908.



Figure 8: Historical map showing the existence of the racecourse in 1947. Source: DEECA <https://spatialapps-prd-mapshare-platform-storage.s3-ap-southeast-2.amazonaws.com/WebmapMedia/HistoricPhotomap/GEELONG/857D2.jpg>



Figure 9: Historical map showing the existence of the racecourse in 1947. Source: DEECA <https://spatialapps-prd-mapshare-platform-storage.s3-ap-southeast-2.amazonaws.com/WebmapMedia/HistoricPhotomap/GEELONG/857D2.jpg>

4. The proposal should be relocated to the other end of the course away from dwellings.

Response

It is confirmed by the Geelong Racing Club that moving the stables to the northern end of the course is not a viable option given the lack of infrastructure and general layout of the course. The northern area is reserved for car parking and would not have access to the crossing needed to access the training facilities, which can only be located past the winning post as per its current position on the track.

5. Unsightly dirt mound facing Cosgrove Street

Response

While not directly linked to this application, it is understood that PP-932-2010 allowed for works associated with the Construction of Earth Mounds. The mounds are a result of numerous complaints regarding traffic noise and odours from the site affecting residents. The purpose of the landscaped mounds is to protect/improve the amenity of residents in Cosgrove Street. The permit included a condition 'The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.' Compliance with previous permit conditions can be raised with COGG's Planning Enforcement Unit.

6. Trucks using Cosgrove Street and the number of times the Racecourse is used.

Response

It is understood that discussion regarding trucks entering Cosgrove Street with COGG and residents took place some years ago, the responsible officer is not aware of the outcome of the discussions, however does note that the intersection of Cosgrove Street and Fellmongers Road does show a street sign prohibiting trucks from using Cosgrove Street (below). Any ongoing compliance in this regard should be raised with COGG.



Figure 10: Street view of Cosgrove Street. Source: Google Street View.

The Greater Geelong Planning Scheme and in particular the SUZ4 do not specify or limit the number of times in a calendar year the Racecourse can be used.

7. Devaluation of properties

Response

As held by VCAT on several occasions' property values are not a valid ground to object to a planning permit application.

8. Removal of existing vegetation

Response

The proposed removal of the vegetation along the southern boundary line is exempt from a planning permit under clause 52.17 as it is planted native vegetation. This is supported by the submitted arborist report and confirmed and supported by COGG's Environment Unit. Should a permit be issued, permit conditions will be included requiring a detailed landscape plan to be endorsed as part of any permit.

9. Noise during construction should a permit be issued.

Response

Any construction work will be required to comply with *Guidelines for Civil construction, building and demolition guide (publication 1834)*. COGG's Environmental Health Unit have recommended a note on any permit around construction noise obligations.

Any permit issued for the proposal will include amenity-based conditions including related to waste management and control of vermin. Further ongoing issues with non-compliance should be raised with the City's Planning Enforcement and Environmental Health Unit's and the EPA.

It is noted that the proposal is to replace the existing stable complex and does not alter the use of the land.

10. Increased dust emissions from the removal of the vegetation.

Response

There is no evidence provided to suggest the proposal, if approved will increase dust emissions. It is noted on the plan set, the floor treatment for the stables consists of compacted sand and a concrete slab for the amenity's areas at the southern ends of the proposed stable buildings.

11. Why are COGG considering this application?

Response

COGG must accept and assess any application for a planning permit that is submitted, that is not prohibited by the Greater Geelong Planning Scheme.

12. Homes on Cosgrove Street have existed long before the racecourse training precinct.

Response

The site of the Geelong Racecourse has been used as a racecourse since in or around 1908, granted the stables in their current location were built at a later date. According to the City's permit register several permits were issued in the late 1970s and early 1980s for the construction of stables and stripping sheds. Dwellings in Cosgrove Street appear to have been constructed throughout the late 1950's to as recently as 2006 (36 Cosgrove Street). It is noted that development throughout the 1950's to mid 1990's predates the current format planning scheme.

13. Past issues with non-compliance and previous permits

Response

While it is important to understand the history of a site, ongoing issues with compliance with past permit conditions including past VCAT decisions, should be raised with the City's Planning Enforcement Unit for investigation. If a permit is issued for the current proposal several amenity-based conditions will be included on any permit issued.

On the 31 July 2024 a further objection was received.

Based on the further concerns/objection (summarised) these also have been reviewed by the Planning Officer and are addressed in numbers 1-9 as follows:

1. In the Greater Geelong Planning Scheme Special Use Zone, Use of Land, it states:

- **The use of land must not adversely affect the amenity of the neighbourhood by:**
- **Traffic and car parking generated by the use.**
- **Noise generated by the use.**

Response

Clause 37.01 of the Greater Geelong Planning Scheme being the SUZ4 is provided over land to provide for specific uses. The purpose of the zone is to implement the Municipal Planning Strategy and the Planning Policy Framework and to recognise or provide for the use and development of land for specific purposes as identified in a schedule to this zone.

Schedule 4 specifies the land for use for the Geelong Showgrounds and Racecourse with the specific purpose specified in Schedule 4 being:

- To encourage the use and development of the Geelong Showgrounds, Racecourse and Beckley Park for a range of entertainment, recreational, commercial and community activities.
- To encourage a variety of uses of the land and buildings within the Geelong Showgrounds and Racecourse facility and Beckley Park in order to enable their usage throughout the year.
- To ensure that the combination of uses, their hours of operation and the form of any development do not prejudice the amenity of surrounding areas.

The schedule contains two sections specifying permit requirements for Use and for Buildings and Works. This is a key point as this application is only for buildings and works and not a new use of the land.

Clause 2.0 in schedule to the zone relates to applications to use land in the SUZ4, of which the above decision guidelines of the clause have been provided and these reference the use of the land..

Clause 4.0 in the schedule relates to applications for *buildings and works* on land in the SUZ4.

The decision guidelines are specifically for buildings and works applications that the responsible authority should give most weight to in determining the application.

2. In Schedule 4 To Clause 37.01 Special Use Zone, it states that Geelong Showgrounds and Racecourse and Beckley Park are:

- **To ensure that the combination of uses, their hours of operation and the form of any development do not prejudice the amenity of surrounding areas.**

Response

The above purpose is relevant to this application in that the proposal must ensure that **development** does not prejudice the amenity of the surrounding area.

In assessing the application limited weight is given to the existing use of the land and mitigation measures in terms of regulating the development through permit conditions, can apply, should a permit be issued.

The application is supported by both an acoustic and odour assessment, of which both have been reviewed and supported subject to conditions by the City's Environmental Health Unit.

It is noted that the construction of the new stables uses more up to date construction techniques that mitigate noise issues with horses kicking walls of the structure given their concrete panel and rubber separation between panels.

- 3. We, your residential neighbours situated as close as 20 metres from your boundary, are simply trying to protect our right to sleep at night uninterrupted by noise generated by your use of the Special Use Zone.**

Response

As discussed above the separation distance from the closest western wall of the proposed new stable is approx. 34m from 36 Cosgrove Street. Noise mitigation measures are considered through the acoustic assessment.

- 4. The Environment Protection Regulations 2021 outline the operating times for commercial, industrial and trade premises, night period 10pm to 7am the following day. Hence the incidences I referred to contravene Special Use Zone Regulations, as does any noise generated between 4:30am - 7:00am.**

Response

The Acoustic assessment carried out by *Renzo Tonin and Associates, May 2024*, assesses the proposal as acceptable in relation to potential noise emitted from the stable area. The assessment includes existing conditions and modelling to gain an understanding of potential impacts. The assessment is also reviewed and supported by COGG Environmental Health Unit.

On the 14 August 2024 a further objection was received.

The further concerns are summarised and commented on below:

- 5. The odour and noise assessment done by GGCC assessed existing odour and noise only. They cannot assess a proposal.**

Response

The permit applicant engaged relevant consultants to assess the proposal and provide the assessment to COGG to support the application. COGG's Environmental Health Unit (who are subject matter experts) then reviewed the assessments and provided feedback to the Statutory Planning Unit.

- 6. The proposed development will house 100 horses and beyond that feature equipment that does not currently exist; including treadmills, loading/off-loading float facilities and a 35 metre exercise pool. All of these new features make a lot of noise and contravene Special Use Zone noise regulations.**

Response

As above the proposal is assessed as generally meeting the purpose of the SUZ4 and where there is potential to give rise to amenity issues, any permit issued will include amenity-based conditions that can regulate onsite activities to achieve acceptable outcomes.

- 7. A treadmill existed for a short time in 2020 and was relocated because it contravened the Special Use Zone noise tolerance.**

Response

The relocation of a treadmill in 2020 is not considered relevant to this application and no further information is provided. The SUZ4 does not specify acoustic tolerances or specify setbacks for buildings and works.

8. The odour and noise assessment done by GGCC is NOT relevant to the proposed, non-existent development.

Response

COGG did not undertake the odour and noise assessment, this was provided by consultants engaged by the applicant.

9. Other matters relating to noise including floats, horses kicking walls, treadmills.

Response

As stated the application is now accompanied by an acoustic assessment that assesses the proposal as acceptable in its context.

The assessment is further reviewed and supported by COGG's Environmental Health Unit.

ASSESSMENT:

ZONE:

Clause 37.01 Special Use Zone, Schedule 4 (SUZ4)

Purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To recognise or provide for the use and development of land for specific purposes as identified in a schedule to this zone.

Schedule 4:

- To encourage the use and development of the Geelong Showgrounds, Racecourse and Beckley Park for a range of entertainment, recreational, commercial and community activities.
- To encourage a variety of uses of the land and buildings within the Geelong Showgrounds and Racecourse facility and Beckley Park in order to enable their usage throughout the year.
- To ensure that the combination of uses, their hours of operation and the form of any development do not prejudice the amenity of surrounding areas.

OVERLAY:

Nil.

Response to zone and overlay(s)

The application is assessed as an acceptable planning outcome in relation to meeting the purpose of the SUZ4 and adequately addressing the decision guidelines of clause 37.01 and more specifically schedule 4 to the SUZ.

In deciding on the application, the responsible authority must consider the decision guidelines of clause 4.0, schedule 4 to the SUZ:

The provision of car parking

The general layout of the site is not changed by the proposal. The main stabling area will remain at the south-western end of the racecourse and vehicle access for training purposes will remain via the main gate to the training complex from Fowler Street at the northern end of Cosgrove Street.

An area of approx. 5000m² exists in front of the existing stables and is used for loading/unloading of floats and other vehicles used for training purposes and is noted on the application plans as an indicative location. This area is not changed by the proposal and will continue to be used as such.

Although not specifically relevant to this application, the racecourse has car parking available at its administration area near the main grandstand and further open areas within the north-western area of the racecourse for patron car parking for race meets. It is considered that the area allows for an acceptable amount of parking, loading and unloading associated with stabling/training activity.

Any increase in traffic generation

The proposal is to replace the existing 87 stables within the south-western area of the site with the addition of 13 stables within the new buildings. The addition of 13 stables is not considered to cause a significant increase to traffic generation associated with the racecourse. This is due largely to nature of stabling activity, varying training times and varying tenancy rates.

The height, siting and form of proposed buildings (including the set back of buildings from lot and street boundaries).

The overall design and siting of the proposed buildings and works is considered acceptable in this instance. The buildings are proposed to be located within the existing operational footprint of the stabling area. The proposed pool is to the eastern side of the proposed stables closer to the track itself. The proposed horse walkers are to be located at the southern end of the proposed stables for ease of access and the walkers will abut the southern boundary fronting Fellmongers Road, albeit behind the existing 2.1m sheet metal fence. The proposed buildings will have a 12m setback from the western boundary and be further buffered by a 10m wide landscaped area.

The stables have a max. height of 3.9m, giving them a lower scale in the landscape and being consistent with the lower scale buildings and sheds that are existing on the site in the general area.

The interface of the site with adjoining zones

The site interfaces with a General Residential Zone to the west in close proximity to the proposed area of the stables and also abuts a General Residential Zone to the east. To the south the site is opposite an Industrial 1 Zone (IN1Z). The general area exhibits a mixture of uses being residential, moderate industrial uses to the south, and further heavier industrial uses west of Tucker Street within the IN1Z and Industrial 2 Zone (IN2Z). At issue with the application is the close proximity of the proposed buildings and works interfacing with a residential zone to the west.

It is important to note that the proposal does not introduce a new use to the land and remains a Major Sports and Recreation Facility (Racecourse) that has been used in the current location since 1908.

The application is accompanied by an acoustic and odour assessment that have been reviewed by COGG's Environmental Health Unit and supported subject to conditions. The proposal will benefit from the recommendations of the assessments noted, implementation of amenity-based permit conditions and the requirements for a landscape buffer.

Whilst it is noted that the use exists and this application relates to 'buildings and works' only, where those buildings and works give rise to potentially adverse amenity outcomes, it is considered reasonable and appropriate to apply conditions that seek to regulate activities associated with the buildings and works so as to achieve reasonable amenity outcomes. On the whole, it is considered that the proposal is acceptable when interfacing with land in another zone.

The provision of land for landscaping

The proposal will allow for a 10m landscape buffer to be included along the western boundary. Any permit issued will include a condition requiring the submission of a detailed landscape plan including the requirements for ongoing maintenance and the protection of retained vegetation.

The storage of rubbish and materials for recycling

Rubbish and other waste material will be stored onsite to the east of the proposed new stable buildings. There is no proposal to alter the position of the waste (manure) that is stored in an open bay to the south of the existing tie up stalls. There is no proposal to alter this position, further noting that it is approx. 167m from the dwellings on Cosgrove Street.

The storage of feed and other material will be within the new buildings and will be secured to limit Vermin and will also be subject to conditions requiring secure storage should a permit be issued.

It is considered that the proposal is an acceptable outcome within the SUZ4.

CULTURAL HERITAGE MANAGEMENT PLAN (CHMP):

The Aboriginal Heritage Regulations 2018 specify the circumstances in which a cultural heritage management plan is required for an activity or class of activity. Division 2 of the Aboriginal Heritage Regulations 2018 specifies exempt activities which do not require a cultural heritage management plan. The proposal **is not** listed as an exempt activity.

Areas of cultural heritage sensitivity are defined within Divisions 3 and 4 of the Aboriginal Heritage Regulations 2018. Division 3 **does not identify** the site or part of the site as within an area of cultural heritage sensitivity. High impact activities are defined within Division 5 of the Aboriginal Heritage Regulations 2018. Division 5 **does not list** the proposal as a high impact activity.

The site **is** considered to have been the subject of significant ground disturbance which is defined as 'disturbance of (a) the topsoil or surface rock layer of the ground or (b) a way - by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping.

In accordance with the above assessment, a cultural heritage management plan **is not** required.

LANDFILL GAS RISK ASSESSMENT:

The subject site is located within 500m (approx. 388m) of the South Geelong former landfill site.

Before deciding on a Planning Permit application, a Responsible Authority is required to consider, amongst other things:

- Any significant effects the responsible authority considers the environment may have on the use or development [S 60(1) of the PEA].
- Clause 13.04-1S of The Planning Policy Framework which aims to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely.

The EPA has adopted the “Best Practice Environmental Management, Siting, Design Operation and Rehabilitation of Landfills” (12 August 2015) or “Landfill BPEM.”.

The Landfill BPEM identifies that:

- Risks associated with landfill gases may occur for at least 30 years post-closure.
- Appropriate buffer distances must be maintained between the landfill and sensitive land uses. The BPEM recommends a 500 metre buffer for landfills that contained putrescible waste and 200 metres for landfills that contained non-putrescible waste.
- Where the recommended buffers are unavailable, it must be demonstrated that risks are suitably mitigated.
- All buildings and structures and associated infrastructure should be considered.

Conditions **are not** recommended on any permit to issue that require a landfill gas risk assessment to be undertaken by the proponent on the basis that:

- In accordance with *South Geelong Landfill, Further Assessment of Landfill Gas Risk in Relation to Buffer and Planning Controls, May 2023*, the site of the proposed works sits within Zone A and as such there are no mitigation measures required.

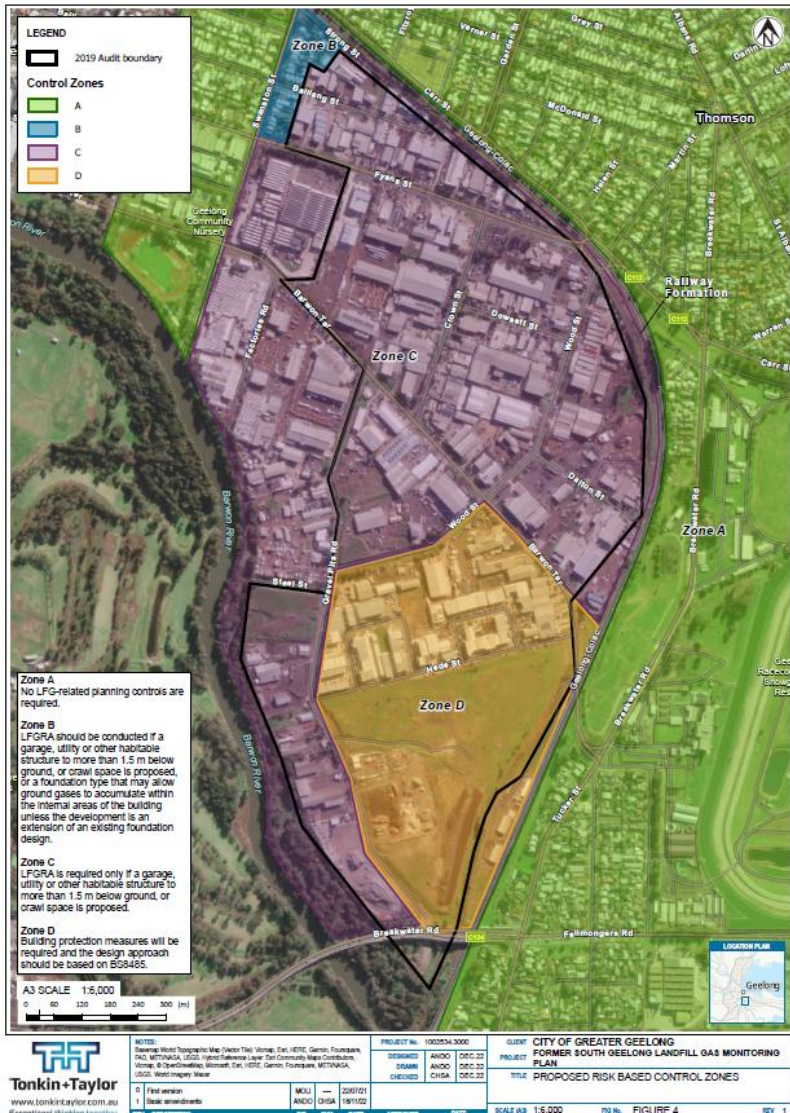


Figure 11: Further Assessment of Landfill Gas Risk in Relation to Buffer and Planning Controls. Source South Geelong Landfill, May 2023.

DEVELOPMENTS IN BUSHFIRE PRONE AREAS:

The site is not located within a designated bushfire prone area.

THE PLANNING POLICY FRAMEWORK (VPPF):

The following Planning Policies are applicable to this application:

13.07-1S Land use compatibility

- Objective: To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

15.01-2S Building design

- Objective: To achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development

17.01-1R Diversified economy - Geelong G21

- Strategies: Build on the region's competitive strengths, including tourism and agricultural land resources and economic, social and natural assets.

17.01-1L-01 Diversified economy – Greater Geelong

- Strategies: Support industry development in the following strategic growth sectors:
 - Tourism.

19.02-4S Social and cultural infrastructure

- Objective: To provide fairer distribution of and access to, social and cultural infrastructure.

MUNICIPAL STRATEGIC STATEMENT

The following policies of the Municipal Planning Strategy (MPS) are applicable to this application:

- 02.03-3 Environmental risks and amenity.
- 02.03-5 Built environment and sustainability.
- 02.03-9 Infrastructure.

Response to Policy

The proposal is considered to respond PPF and MPS in that it will contribute to the improvement and economic viability of the Geelong Racecourse, a major regional sports facility for Greater Geelong which contributes to the ongoing development of social and cultural infrastructure in accordance with clause 19.02-4S. With respect to Clause 13.07-1S amenity-based conditions will be included in any permit issued; in particular implementing recommendations from the City's Environmental Health Unit upon review of the submitted Acoustic and Odour Assessments. With respect to clause 15.01-2L, the application is not accompanied by a sustainable design assessment for the following reasons:

- The structures are non-habitable and have are consistent with the purpose of the facility and overall they have a relatively low intermittent use.
- The structures are not fully enclosed given the existence of a breezeway and open sections of the upper external walls.
- Stormwater runoff is to be connected to the existing system and directed to the existing storage dams in the central area of the site for re-use.
- The stormwater management system is considered to meet the objectives of clause 53.18 given that the runoff is treated, stored and re-used within the site.

RELEVANT PARTICULAR PROVISIONS:

The following Particular Provisions are applicable to this application:

CLAUSE 52.06 – CAR PARKING

Purpose:

- To ensure that car parking is provided in accordance with the State Planning Policy Framework and the Local Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Response

The proposal includes an existing area of approx. 5000m² for the loading and unloading of floats for training purposes. Indicative locations are notated on the proposed plans and are considered adequate for the proposal. It is further noted that car parking exists for race meets and administration at the central and northern end of the racecourse.

CLAUSE 53.18 STORMWATER IN URBAN DEVELOPMENT

Purpose:

- To ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.

Response

The application was accompanied by a stormwater layout and letter addressing Clause 53.18.

The proposal will make use of the existing stormwater layout including connections to the existing storage dams in the centre of the track. The stormwater deposited in the storage dams will also be used in irrigation for the of the track and general re-use within the site. Given the existing layout and storage arrangements, stormwater can be adequately managed, treated and re-used within the site of the racecourse. It is considered that the proposal meets the objective of Clause 53.18.

DECISION GUIDELINES OF CLAUSE 65:

CLAUSE 65.01 – APPROVAL OF AN APPLICATION OR PLAN

Clause 65.01 of the Greater Geelong Planning Scheme outlines the decision guidelines to be considered by the Responsible Authority when making decisions on applications. These decision guidelines include:

- The matters set out in Section 60 of the Act.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

Response

Given the detailed assessment above it is considered that the proposal meets the tests and appropriately addresses the decision guidelines of clause 65, including the purpose of the zone and the relevant particular provisions.

Based on this the application is recommended to be supported and it is noted the acoustic and odour assessment (which is supported by COGG's Environmental Health Unit) have assisted in the assessment.

With the benefit of amenity-based permit conditions and the recommendations of the assessments mentioned, it is considered that the application addresses policy context and is recommend to be supported.

CLOSE OF MEETING

As there was no further business the meeting closed at 6:45pm on 27 February 2025

X

Cr Katos
Chair