

1.1.1.1 PLANNING PERMIT APPLICATION PlnApp23/201 - Use and development of the land for an office and accommodation building ancillary to an existing rural store AT 352 Shanley Street WANGARATTA SOUTH VIC 3678.

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**Background**

**Applicant:** North East Survey Design Pty Ltd

**Subject Land:** Lot 2 LP 116269 Vol 9126 Fol 170  
352 Shanley Street WANGARATTA SOUTH VIC 3678

**Zone/s:** Farming Zone

**Overlay/s:** Significant Landscape Overlay – Schedule 1 (partial)

**Recommendation**

It is recommended that Council issue a Notice of Decision to Grant a Planning Permit for the use and development of the land for an office and accommodation building ancillary to an existing rural store at 352 Shanley Street Wangaratta South.

**Site & Context**

The subject site is located on the northern side of Shanley Street, approximately 240m from the intersection of Shanley Street and Warby Range Road. The subject site is a rectangular parcel of land with a land area of approximately 16ha, and currently contains four outbuildings on the land.

Two outbuildings are used for agricultural (land management) purposes, whilst two other existing structures are associated with the rural store (including a 6.1m x 2.4m cool room). The rural store is established on the land and operates to provide a cold storage function associated with a vermin control business that supports farming activities on other land. Currently, carcasses are brought onto the land, already field dressed, and stored in the cool room until such time as a truck comes to collect the carcasses for processing off-site. There is currently no processing being undertaken on the land.

There is an existing vehicle access to Shanley Street, with boundary fencing and a gate. There is also a waterway that traverses the subject site East-West. Existing vegetation on the land is scattered across the paddocks to the north and south of the waterway, with more dense vegetation found along the waterway itself.

The adjoining 29ha lot on the corner of Shanley Street and Warby Range Road is within common ownership but does not form part of this application. Any complaints regarding the private motorcycle track or vegetation removal of that lot are not addressed as part of this assessment.

The subject site is located within the Farming Zone and is immediately surrounding by land in common zoning. Land to the east of Warby Range Road is located within the Rural Living Zone – Schedule 2. The surrounding area is relatively fragmented, with the lot sizes for land within the Farming Zone ranging from 0.4ha to approximately 30ha. There are also a number of smaller lifestyle properties found at the western end of Shanley Street. There are still agricultural activities occurring within the area, with low scale grazing, horse husbandry and orchards the more popular activities. Further east along Shanley Street, the nature of the land uses transitions to heavy industry, with the Van Hessen factory, the saleyards and other factories within that area.



(The subject site in context of the surrounding area)



(Aerial image of the subject site)

### **Proposal**

The application seeks approval for a transportable building to be placed on the site to be used as an office and employee accommodation ancillary to the existing rural store. The purpose of the worker accommodation is for fatigue management to provide the contract employees with somewhere to sleep prior to travelling again for those employees that are not local. There would only be a maximum of 6 persons staying at the accommodation at any one time, although it would be more likely that only one or two persons would use it per day. The proposed maximum length of stay is 12 hours. The office portion of the transportable building is also proposed to be used ancillary to the rural store to provide a location of administrative requirements for the business. The proposed transportable building would be connected to the existing septic system (it is noted that the application initially indicated a new proposed system, although that was stated in error), with no alterations to that system proposed. Access would be maintained via the existing crossover and driveway.

No changes are proposed to the main rural store operations. The existing storage of carcasses is to remain as existing (i.e. no processing). The frequency of vehicle movements to and from the site would remain the same, as the proposal would not result in additional storage capacity for the rural store.

### **Planning Permit Trigger**

- Clause 35.07-1: Use of the land for a rural store with a floor area greater than 100sqm (the proposed development would bring the collective floor area of the existing rural store over 100sqm).
- Clause 35.07-2: Buildings and works for the construction of a building associated with a Section 2 Use and construction of a building within 100m of a waterway.
- A planning permit is not required under the Significant Landscape Overlay – Schedule 1 as the proposed buildings and works are located outside of the part of the site affected by this overlay.

### **Relevant Planning Provisions**

The following policies of the Wangaratta Planning Scheme are relevant to this proposal:

<b>Policy:</b>	<b>Objective/Strategy:</b>
Clause 02.03-4 (Agriculture)	<p>Council seeks to protect the viability of agricultural by:</p> <ul style="list-style-type: none"><li>• Maintaining the productivity and versatility of agricultural land, particularly in higher agricultural ‘versatility’ areas.</li><li>• Protecting the primacy of rural land for agricultural purposes.</li><li>• Minimising potential amenity impacts between agricultural uses and rural lifestyle uses.</li><li>• Ensuring that dwellings and subdivision meet the principle of ‘right to farm’ in rural areas, where existing agricultural and rural uses in the area have a right to legally continue.</li><li>• Ensuring that dwellings and subdivision do not adversely impact on the agricultural activities carried out on the land and the general area.</li><li>• Directing rural lifestyle development to existing Rural Living and Low Density Residential Zones.</li></ul>

<b>Policy:</b>	<b>Objective/Strategy:</b>
<p>Clause 13.07.1S (Land use compatibility)</p>	<p>To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.</p> <p>Strategies include:</p> <ul style="list-style-type: none"> <li>• Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.</li> </ul>
<p>Clause 14.01-1S (Protection of agricultural land)</p>	<p>To protect the state's agricultural base by preserving productive farmland.</p> <p>Strategies include:</p> <ul style="list-style-type: none"> <li>• Prevent inappropriately dispersed urban activities in rural areas.</li> </ul>
<p>Clause 14.02-2S (Water quality)</p>	<p>To protect water quality.</p> <p>Strategies include:</p> <ul style="list-style-type: none"> <li>• Ensure that land use activities potentially discharging contaminated run-off or wastes or waterways are sited and managed to minimise such discharges and to protect the quality of surface water and groundwater resources, rivers, streams, wetlands, estuaries and marine environments.</li> </ul>
<p>Clause 14.02-2L (Water quality)</p>	<p>Improve water quality through the provision of riparian buffers that retain and re-establish riparian vegetation.</p> <p>Protect ground water quality from effluent disposal systems and other urban and agricultural uses.</p>

<b>Policy:</b>	<b>Objective/Strategy:</b>
Clause 17.01-1S (Diversified economy)	To strengthen and diversify the economy.  Strategies include: <ul style="list-style-type: none"> <li>• Support rural economies to grow and diversify.</li> </ul>
Clause 17.01-1R (Diversified economy – Hume)	Encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.

## **Zone**

### *Clause 35.07 – Farming Zone*

The subject site is located within the Farming Zone pursuant to Clause 35.07 of the Scheme. The purpose of the FZ is as follows:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

The decision guidelines of Clause 35.07-6 relevant to this application are as follows:

- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- Whether the use or development will support and enhance agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.

## **General Provision**

### *Clause 65.01 – Approval of an application or plan*

The decision guidelines of this provision relevant to this application are as follows:

- The purpose of the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

### **Internal Departmental Advice**

<b>Department</b>	<b>Response</b>
Environmental Health	No objection to the issue of a permit subject to conditions.

### **Advertising**

The application was advertised to adjoining landowners and occupiers. 21 objections were received.

The issues raised in the representations are summarised below and comments made.

<b>Issue</b>	<b>Comment</b>
Concerns that the proposed accommodation will not continue to be used for worker accommodation.	Any issued permit would include conditions around how the accommodation could be used, including requirements that those accommodated could only be employed in association with the rural store and being accommodated for purposes associated with the activities of the rural store. The Responsible Authority must assume that any requirements imposed as part of a planning permit would be complied with. Any non-compliance would be subject to enforcement action.
Vegetation removal occurring on the site.	This vegetation removal has been in relation to the installation of new boundary fencing and construction of the private motorcycle track on the adjacent title allotment. Council provided written advice to the proponent in 2022 outlining that some of the vegetation removal could occur without planning approval, whilst any other removal was done

Issue	Comment
	in accordance with planning permit PInApp22/215.
Concerns about works associated with the motorcycle track.	This is not located on the subject site and does not form part of this application.
Neighbours moved to the area for a rural lifestyle.	<p>The majority of the noise and dust complaints mentioned in the submissions relate to the motorcycle track and not the proposal herein.</p> <p>In relation to rural lifestyle considerations, the site and immediately adjoining properties are located within the Farming Zone which prioritises agricultural activities above sensitive land uses. The proposal seeks to support an existing rural store that was established as of right under the provisions of the Farming Zone. The proposal herein is not considered to result in any alterations to the character of the surrounding area given that the development consists of a single building that the proponent has indicated that they are happy to provide buffer landscaping around.</p> <p>Further, there is a distinct mixed character along Shanley Street, particularly given that the eastern end contains heavy industry or other land uses that pose amenity impacts.</p>
Proximity of the proposal to a waterway and concerns regarding contamination.	<p>The proposal itself only seeks to construct a building for administrative and employee accommodation to support the existing rural store on the land. This development would be subject to standard drainage conditions and requirements relating to connecting to the existing septic system on the land. Given the nature of the proposed office/accommodation building, it is not considered that there is any risk of waterway contamination that could result from the proposal.</p> <p>The proposed building is sought to be located approximately 50m from the waterway on the subject land, this is similar to other buildings (including dwellings) along Shanley Street.</p>
Rural store (storage associated with vermin control business) is not an	The Farming Zone permits the use of the land for a rural store as of right where the floor area of the use is less than 100sqm. The cold



<b>Issue</b>	<b>Comment</b>
appropriate land use within the Farming Zone.	store and other storage components of the rural store were established as of right and do not form part of the proposal herein. Therefore, the Responsible Authority cannot make consideration as to the 'appropriateness' of the storage of carcasses within the Farming Zone given that a permit was not required.
The development is inconsistent with the natural character of the surrounding area.	Inspections of the site and surrounding area indicated that most dwellings and other buildings are highly visible from the street network. The proponent has indicated that they would be happy to provide buffer landscaping around the proposed building to assist in obscuring the development from the public realm.
Concerns around previous planning permit PInApp22/215 including no notice.	That application was advertised via letters to adjoining and surrounding landowners and occupiers and no objections were received. The application was assessed against the relevant provisions of the Planning Scheme.
Questions around the type of vermin control and where they are collected from.	As discussed previously, the nature of the vermin control business and established rural store are not subject to this assessment. Further, the licensing process for the vermin control business is handled by the State Government and is not a planning consideration.
Concerns that there would be an increase in traffic.	The proposal seeks to provide accommodation for a maximum of 6 employees although it is expected more likely that only two persons would use the accommodation at any one time. The proposal has indicated that the development would not facilitate an increase in employee numbers rather the purpose is to provide a rest area for the existing employees. Therefore, it is considered that an increase in vehicle movements would not be likely as a result of the development.
Concerns that the application was advertised to neighbours over Christmas.	The Responsible Authority took this into consideration and have the applicant the option to advertise over the Christmas break for an extended period of four week rather

Issue	Comment
	<p>than the standard three week or they could wait to commence advertising until late January 2024. The proponent chose the extended advertising period over the Christmas break.</p>
<p>Clarification around land use definition.</p>	<p>The proponent sought planning advice from Council prior to establishing the rural store to determine planning requirements. Following discussions with the proponent regarding the nature of the storage and what was being stored, the most appropriate land use within the Planning Scheme was considered to be a 'Rural Store'. The definition of a Rural Store pursuant to Clause 73.03 is as follows:</p> <p><i>Land used to store unprocessed agricultural produce, or products used in agriculture.</i></p> <p>Given that there was no processing proposed, and the carcasses are collected from farms for the purpose of further off-site processing for dog food, this land use was considered the most suitable.</p>
<p>Lack of detail in the application regarding the vermin control business.</p>	<p>The applicant is not obliged to provide information regarding the business as part of this application as the proposal is only for an administrative and accommodation building to support the established rural store. As discussed previously, the established activities are not subject to assessment under this application.</p>
<p>Environmental impacts resulting from the cold storage.</p>	<p>As discussed above, this is not subject to this application. It should be noted that as the rural store is a commercial enterprise any environmental compliance is handled by the EPA and PrimeSafe.</p>
<p>Concerns around future commercial growth on the site.</p>	<p>Any further expansion of the rural store or a transformation of the land use (i.e. introduction of processing) would require further planning approval which would be subject to public notice and assessment on its merits against the Planning Scheme.</p>
<p>Concerns around planning by stealth (claims that the</p>	<p>As discussed previously, the motorcycle track is not part of this application. Further, any</p>

<b>Issue</b>	<b>Comment</b>
proponent sought planning approval for a motorcycle track in City of Whittlesea which was refused).	previous planning applications potentially made by the proponent in a different municipality has no bearing on the assessment herein.
Concerns around the existing septic system capacity to support the proposed accommodation.	Council's Environmental Health Unit inspected the installed system and confirmed that the system is compliant with the relevant EPA guidelines and has sufficient capacity to support the proposed accommodation.
The proposal diminishes the agricultural viability of the site.	The proposed development is sought to be located in the existing development cluster located on the site. The remainder of the site would be available for low scale grazing, as it is already used for.
Why is the accommodation needed?	The purpose of the accommodation is for fatigue management for employees who do not live locally. Essentially, they would be able to get a couple of hours sleep and then leave. The proposal seeks to avoid having employees driving whilst tired.
A proposed commercial activity is inappropriate for the area and would result in detrimental amenity impacts.	The majority of the rural store activity has been established and is already operating. The proposal does not seek to intensify the storage aspect of the rural store and therefore is not considered to result in any detrimental amenity impacts resulting from increased traffic or operating hours.
Safety concerns around strangers coming to the area.	As discussed previously, the rural store is established and the traffic movements are not proposed to be increased as a result of the proposed development. Further, it is noted that the Salisbury Falls are accessed via Shanley Street which would likely generate more traffic from 'strangers' than the existing rural store.
The proposal would be better suited to a commercially zoned area.	The application herein is permissible under the Farming Zone and the proponent is therefore able to make an application for a planning permit. Any application must be assessed on its merits against the Planning Scheme and the Responsible Authority cannot force a proponent to choose a different site.

Issue	Comment
Confusion arising from the Chronicle article claiming that there would be a shop on the land.	The application does not seek to introduce onsite sales or access by the general public.
Hours of operation.	As discussed previously, the rural store is established and the general operations of the business are as of right and not subject to restrictions imposed by the Responsible Authority. The proposal herein would not result in any changes to the use that would require imposing operating hours conditions.
Concerns that the proposal does not support the local economy if the accommodation is for employees not local to the area.	The proponent verbally indicated that the employed contractors are generally local and from across the state. The availability of contractors and contracts influences where the employees are coming from. This is not a matter that is subject to the assessment herein. The proposal seeks to provide fatigue management for employees of an established rural store.
NECMA and EPA should be involved in assessment.	There are no referral requirements to either NECMA or the EPA under the Planning Scheme for the proposed accommodation/office building. As discussed previously, the proposal does not seek to alter the storage function of the established rural store and the development is sufficiently setback from the waterway that standard drainage conditions can be used to ensure that stormwater is managed appropriately.
Type of fencing being more related to deer farming. Is it related to the business?	The fence did not require a planning permit. Therefore, the type of fencing is not subject to any planning policy nor does it form part of this application.
The proposal will reduce land values.	Land values are not a planning consideration.

### **Planning Assessment**

#### ***Ancillary office and accommodation for a rural store in the Farming Zone***

The proposal seeks to develop an office and accommodation building to provide administrative and fatigue management support to the existing rural store established on the subject land. The proposal seeks to construct a relocatable building close to the existing buildings associated with the rural store and utilise the existing septic system on the land. No vegetation is

required to be removed for the proposal, nor are any earthworks required for the development. The proposed development would be located more than 200m from the closest neighbouring dwellings (west and south of the site). The proponent has indicated that they would be happy to provide buffer planting around the proposed development to obscure the building from the public realm (Shanley Street) and from the neighbouring property to the west.

The use of the building would be in a supportive role to the existing rural store. The office/administrative function would not require a full-time employee but rather provide a designated space for the business owner to undertake administrative tasks when required. Further, the proposed accommodation is not sought to provide long-term accommodation, rather it is only to provide fatigue management (no more than 12-hour stay) for employees that require rest prior to getting back on the road due to the nature of the vermin control business primarily operating at night (note: operating hours are not subject to this assessment).

The Farming Zone seeks to encourage the retention of employment and population to support rural communities and encourage the retention of productive agricultural land. The proposed development is sought to be co-located with existing development on the land, which will ensure that the balance of the subject site remains available for agricultural activities (currently used for grazing). Further, the proposal seeks to provide support for employees of a business that, whilst not directly associated with an agricultural activity on the site itself, supports farming activities elsewhere within the municipality and beyond.

The development is able to be appropriately obscured from the public realm to support rural landscape character objectives for the surrounding area via buffer planting, and the development is sufficiently setback from Shanley Street so as not to dominate the landscape. The development is approximately 50m from the waterway which traverses the subject site, although it is actually setback further away than existing development both on the subject site and neighbouring allotments from the waterway. Further, given that the development's use does not include any carcass storage, there are no considerations required around potential runoff contamination. Standard conditions regarding drainage can be included on any issued permit to ensure that stormwater is appropriately directed to the satisfaction of the drainage authority.

Concerns have been raised around traffic management in relation to the accommodation. The proposal would not result in any increase in traffic movements to and from the site. Providing temporary accommodation for the employees would likely reduce the amount of light spill from vehicles leaving

the site at night, as they would likely be leaving the site in daylight hours instead of leaving the site before daybreak. Further, the provision of buffer planting would assist in baffling any light spill from vehicles turning around within the site.

In terms of seeking to ensure that the accommodation remains ancillary to the rural store, conditions can be included on any issued permit that control how the accommodation is used and impose a maximum length of stay for employees. The Responsible Authority must assume that any permit holder would abide by the requirements of their planning permit, regardless of the type of proposal or any previous compliance matters on a site. Therefore, it is considered that suitable conditions can be imposed that would ensure the accommodation is used only in an ancillary manner to the rural store. If the accommodation were sought to change, then further planning approval would need to be obtained.

### **Conclusion**

The proposal represents an appropriate outcome in relation to the purpose and objectives of the Farming Zone, as it is ancillary to an existing rural store and is not considered to represent any detrimental risks to the environment or surrounding amenity. Therefore, it is considered that the proposal should be supported.

### **Recommendation:**

That Council issue a Notice of Decision to Grant a Planning Permit for Planning Application PlnApp23/201 for the use and development of the land for an office and accommodation building ancillary to an existing rural store at 352 Shanley Street Wangaratta South, subject to conditions.

### **Communication**

That the applicant and objectors be advised of Council's decision.

### **Conditions**

#### **Amended Plans**

1. Before the development starts, plans must be approved and endorsed by the Responsible Authority. The plans must:
  - a. Be prepared to the satisfaction of the Responsible Authority.
  - b. Be drawn to scale with dimensions.
  - c. Submitted in electronic form.
  - d. Be generally in accordance with the plans forming part of the application but amended to show:
    - i. The provision of buffer planting, at a density sufficient to ensure the development is obscured from view from Shanley Street

and the dwelling to the west of the site, along the southern and western sides of the proposed building (species selected must be suitable for screening purposes and appropriate for the climate conditions of the subject site).

### General

2. This permit will operate from the issued date of this permit.
3. At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the Responsible Authority.
4. The layout of the use and development must not be altered from the layout on the approved and endorsed plans without the written consent of the Responsible Authority.
5. The accommodation may only be used by persons employed or contracted as part of the rural store on the land, to the satisfaction of the Responsible Authority.
6. The accommodation may not be used by any employee for a period of more than 12 hours, to the satisfaction of the Responsible Authority.
7. The accommodation may not be occupied by more than 6 employees at any one time, to the satisfaction of the Responsible Authority.
8. Before the use starts, the landscaping as shown on the approved plan(s) must be carried out and completed to the satisfaction of the Responsible Authority. The Responsible Authority may consent in writing to vary this requirement.
9. At all times the landscaping shown on the approved plan(s) must be maintained (including the replacement of any dead, diseased or damaged plants) to the satisfaction of the Responsible Authority.
10. The development must be drained to the satisfaction of the Responsible Authority.
11. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjacent property or streets other than by means of an approved drainage system discharged to an approved outlet in a street or to an underground pipe drain to the satisfaction of the Responsible Authority.
12. All external materials, finishes and paint colours are to be muted, non-reflective tones, to the satisfaction of the Responsible Authority.
13. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

14. All areas of disturbed ground must be restabilised and revegetated at the completion of the development to the satisfaction of the Responsible Authority.

15. This permit will expire if any of the following circumstances applies:

- a. The development is not started within two (2) years of the issued date of this permit; or
- b. The development is not completed within four (4) years of the issued date of this permit; or
- c. The use does not start within four (4) years of the issued date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.