

Officer Report

Application Details:

Application is for:	Use and Development for a Cellar Door; and Liquor License
Applicant's/Owner's Name:	Planography
Date Received:	20 December 2021
Statutory Days:	19/4/2022 satisfactory FI received and clock starts from zero. 18/6/2022 is 60 statutory days
Application Number:	P2021-231
Planner: Name, title & department	Gillian Williamson Principal Planner Planning and Investment Department
Land/Address:	Lot 1 PS528796 V10839 F446 Parish of Longwood 54 Longwood-Mansfield Road, Longwood East VIC 3666
Zoning:	Farming Zone
Overlays:	Erosion Management Overlay
Is a CHMP required?	No
Is it within an Open Potable Catchment Area?	No
Under what clause(s) is a permit required? (include description)	<p><u>Farming Zone</u> Pursuant to Clause 35.07-1 and 35.07-2 a permit is required to Use and Develop the land for a Cellar Door.</p> <p><u>Erosion Management Overlay</u> No permit trigger as no buildings and works within it.</p> <p><u>Liquor License</u> Pursuant to Clause 52.27 a permit is required to use land to sell or consume liquor if a license is required under the Liquor Control Reform Act 1998.</p> <p><u>Car Parking</u> Clause 52.06 requires 0.4 spaces per patron and council has set a maximum number of patrons at 20 which equates to 8 car parking spaces provided on the land. No permit is triggered.</p> <p><u>Signage</u> Clause 52.05 – Requirement is that it can only be a Business Identification Sign and must not be larger than 3 sqm otherwise prohibited. It can be floodlit. A direction sign does not require a planning permit. No permit is triggered.</p>

Restrictive covenants on the title?	No Covenants
Current use and development:	Agriculture - vineyard
Adjacent to Road Zone Cat 1 or 2	No
Status of Road on Road Register	Local government - sealed
Adjacent to Public Land	No
Current use and development:	Vineyard

Application Checklist:

Application form	<input checked="" type="checkbox"/>	Title enclosed	<input checked="" type="checkbox"/>	Fee paid	<input checked="" type="checkbox"/>
Site Plan	<input type="checkbox"/>	Plans of Proposal	<input type="checkbox"/>	Planning Report	<input checked="" type="checkbox"/>
Supporting Information	<input type="checkbox"/>	Effluent Disposal	<input type="checkbox"/>	Other	<input type="checkbox"/>

Disclosure of Conflicts of Interest in relation to advice provided in this report

After reading the definitions of a general or material conflict of interest as defined by the *Local Government Act 2020*, do you have a conflict of interest?

Yes

(if YES, please complete a Conflict of Interest and Declaration Making Declaration form)

No

Recommendation

That Council

- having caused notice of Planning Application No. P2021-231 to be given under Section 52 of the *Planning and Environment Act 1987* and or the planning scheme; and
- having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to issue a **Notice of Decision to Grant a Permit** under the provisions of Clauses 35.07 and 52.27 of the Strathbogie Planning Scheme in respect of the land known as (L1 PS528796 V10839 F446 Parish of Longwood), **54 Longwood-Mansfield Road, Longwood East VIC 3666**, for the **Use and Development for a Cellar Door; and the Sale and Consumption of Liquor**, in accordance with endorsed plans, subject to the following conditions:

Conditions:

Endorsed Plans

1. The use and development must be carried out in accordance with the permit conditions and endorsed plans and must not be altered without the prior written consent of the Responsible Authority.

General Amenity:

2. The use and development must be managed so that the amenity of the area or locality, in the opinion of the Responsible Authority, is not detrimentally affected, 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, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d) presence of vermin; and

e) others as appropriate.

Operating Hours:

3. Except with the written consent of the Responsible Authority, the serving of liquor permitted by this permit may only occur between the following times –

Friday	11am to 5pm
Saturday	11am to 4pm
Sunday	11am to 4pm
Public Holidays	11am to 5pm

Signage:

4. Any signage must fit the description for a Business Identification Sign and must not be greater than 3 square metres in area otherwise it is prohibited. It can be floodlit but not so that it is a hazard for road users or interferes with adjoining residences.

Management/Supervision of Premises:

5. At all times the premises is used for the purpose permitted by this permit, there must be present on the premises a person responsible for the good conduct of persons using the premises and a contact number is to be made available for any member of the public to easily access.

Limit on Number of Persons:

6. Not more than 20 patrons may be present on the premises at any one time without the prior written consent of the Responsible Authority.

Minimising Glare:

7. The external cladding of the proposed buildings, including the roof, must be constructed of materials in good order and condition and be of muted colours to enhance the aesthetic amenity of the area. Materials having a highly reflective surface must not be used.

Control of light spill

8. 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.

Engineering:

Rural Vehicle Crossing

9. Prior to the commencement of works on site, any new, relocated, alteration or replacement of required vehicular entrances to the subject land from the road shall be constructed at a location and of a size and standard in accordance with the requirements of the relevant Authority and shall be at the applicant's expense. The final location of the crossing is to be approved by the Responsible Authority via a Vehicle Crossing Permit. Reference should be made to Clause 12.9.2 "Rural Vehicle Crossings" of the Infrastructure Design Manual. Refer to standard drawing SD255 for small vehicles or SD265 for large vehicles.

10. The vehicular crossing shall have satisfactory clearance to any power or Telecommunications pole, manhole cover or marker, or street tree and have a minimum of 50mm of gravel from the shoulder to the property boundary.

Stormwater Management:

11. Prior to the commencement of the use, all roof water from buildings and surface water from hard paved areas must be collected and conveyed to a drainage easement or to the legal point of discharge so as to prevent stormwater nuisance to adjoining land.

Car Parking

12. No less than 8 car parking spaces must be always provided and set aside for carparking on site.

Permit Expiry:

13. This permit will expire if one of the following circumstances applies:

- a) The use and development is not started within two (2) years of the date of this Permit;
- b) The development is not completed within four (4) years of the date of this Permit.
- c) The use ceases for two or more years.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before the permit expires; or
- within six months afterwards if the use or development has not yet started; or
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

Planning Notes

- A building permit may be required for the structure. Please contact Council's Building Department for further information.
- A septic application will be required should amenities be required for the cellar door. If food is to be served this may also require registration. Please contact Council's Environmental Health Officer for further information.

Proposal

The proposal is to use and develop land for a Cellar Door with an associated liquor licence. Longwood Mansfield Road is a sealed, council managed road.

This proposal is a temporary set up until such time as they are able to apply to have a larger enterprise established on the land.

The number of patrons is limited (and reflects the number of car parking spaces provided) given the temporary nature at this time and there is no requirement for bus parking given that it is a small, start up enterprise, temporary in nature at this time.

The cellar door building is a simple structure measuring approximately 15m x 4m with a door and window located along the driveway with access from Longwood Mansfield Road.

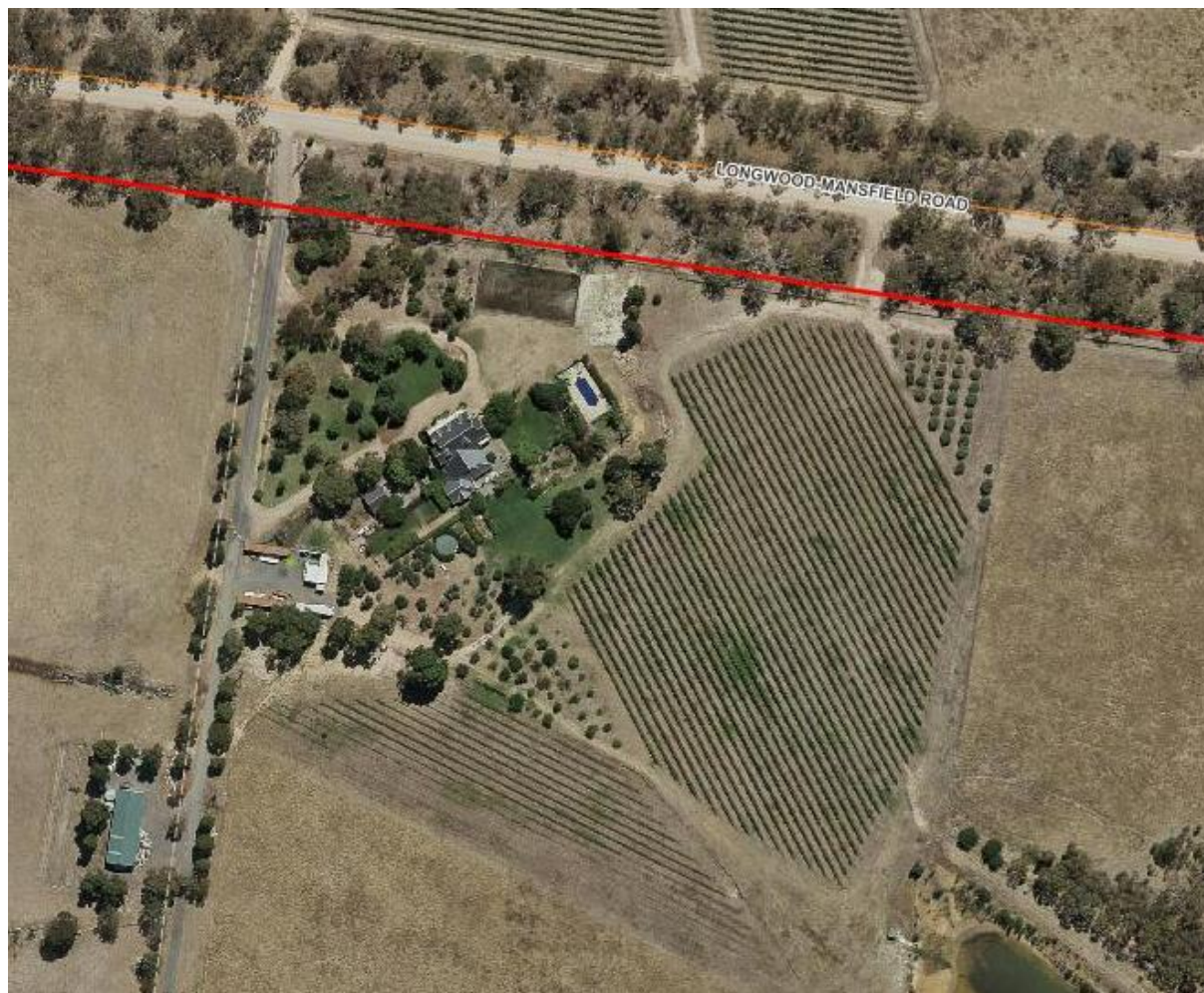
Car parking is set aside on the site plan and conditioned on permit to be retained and available and reflects accommodating up to 20 patrons.

Signage is restricted to 3 square metres in area.



Subject site & locality

Inspection date/s: Early May 2022	Officer: G Williamson	Comments: Nil
--	------------------------------	----------------------



The subject site is located to the north east of Longwood.

This is an established winery under new ownership recently.

The subject site measures approximately 32ha and is flat in topography and has established vines, a dwelling and outbuildings. There is a large dam on site that is fed by a branch from the Nine Mile Creek.

Permit/Site History

A search of Council's planning electronic records results in the following planning permits being issued for the site: -

P2009/021 Use and Development for a Winery - Granted

Further Information

Further Information Required: What was requested? Red line plan Type of license Hours/days operation for the cellar door	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
FI Requested: 10/1/2022 till 11/3	FI Received: 19/4/2022 satisfactory	

Advertising/Public Notification

Is notification/advertisement required under section 52? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Exempt Please provide comment				
Advertised by:	<input checked="" type="checkbox"/> Council	<input type="checkbox"/> Applicant		
Site plan selected:	<input checked="" type="checkbox"/> Plans	780063 780064 780066 29/04/2022 Combined watermark documents sent to website Doc 781899		
	<input checked="" type="checkbox"/> Advertising List	780070		
Add Instructions on Spear	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		
Letters: Yes	Signs: No	Paper: No Council website Yes	Sent: 2/05/2022	Advertising completed: yes

Objections received?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	The objection received was considered to be based on two grounds commercial disadvantage which is not a planning consideration and cumulative impact of licence premises which has been considered in the assessment section of this report.. Objection is retained
-----------------------------	---	--

Consultation

No consultation has been required to be undertaken.

Referrals

External Referrals/Notices required by the Planning Scheme:

REFERRALS					
Add instructions on SPEAR:				<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Referrals Authority	Type of Referral	Referral Clause and Description	Additional Instructions	Date sent	Date received including Advice/Response/Condition

Environmental Health	Internal				Notes only
ENGINEER	Internal				Standard conditions
Local Laws	Internal			29/04/2022 Doc 745221	No response
Local Police	Section 52			29/04/2022 Doc 781914	No response

Assessment

The zoning of the land and any relevant overlay provisions

Farming Zone

Pursuant to Clause 35.07-1 and 35.07-2 a permit is required to Use and Develop the land for a Cellar Door.

The purpose is for the use of the land for agriculture and encourage retention of productive agricultural land. Planning is to ensure that non agricultural uses do not adversely impact the use of land for farming. The purpose is also to encourage the retention of employment and population to the community.

Appropriate decision guidelines are considered to be –

- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.

Officer Response

The proposal is for a temporary cellar door until such time as a larger establishment might be considered. This site is established as a winery with a cellar door under the previous ownership. Agriculture will be continued on site under the new management. The land is capable of accommodating this use at this time and should amenities be required then the applicant will have to consult with Council's Environmental Health Officer to ensure that all legislative requirements are met. Obviously it is of benefit to the owners to sustainably manage the enterprise and land into the future if they wish to have an ongoing viable business.

The MPS and PPF

The MPS informs that the Shire is well serviced by a number of national road and road networks making it easily accessible.

The Council Plan provides a framework for improving the social, physical, environmental and economic wellbeing of the community.

Longwood is identified as a small, rural settlement.

There is continuing demand for small farming lots for rural lifestyle development and Council's strategic direction for agriculture is to retain areas of high quality rural land for farming purposes, encouraging consolidation of small lots in the Farming Zone, prioritising farming development over residential development, encouraging value adding rural industries, protecting and maintaining environmental intensive agriculture.

The shires economy is centred on agriculture and tourism is to be encouraged that supports employment and recreation, natural environment and heritage.

Clause 14.01 Agriculture – The objective is to protect the state's agricultural base by preserving productive farmland.

Clause 14.01-2S Sustainable Agricultural Land Use – the objective is to encourage sustainable agricultural land use and this includes encouraging diversification and value adding of agricultural uses through effective agricultural production and processing, rural industry and farm related retailing.

Clause 17.04 Tourism – the objective is to encourage tourism to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination. Planning is to promote the shire as a tourist destination. This can be achieved by facilitating rural tourism activities that support agricultural enterprises such as cellar door in appropriate locations.

Officer Response

The proposal is set on an established vineyard which held a prior permit for winery and cellar door so there would be an expectation of the kind of activity around this site, given its history. The vineyards are being retained and a new cellar door is being opened in a temporary manner until such time as a larger enterprise can be established. This retains agricultural activity on the land and diversifies the farming enterprise with wine tastings and sales. This in turn supports tourism into the area.

Relevant Particular Provisions

Liquor License

Pursuant to Clause 52.27 a permit is required to use land to sell or consume liquor if a license is required under the Liquor Control Reform Act 1998.

The purpose is to ensure that licensed premises are situated in appropriate locations and that the impact on the amenity is considered.

The proposal was advertised to adjacent and nearby properties and referred to local laws and the local police.

Appropriate decision guidelines are considered to be –

- The Municipal Planning Strategy and the Planning Policy Framework.
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

Officer Response

The impact on the amenity of the surrounding area has been assessed by advertising to adjacent and nearby owners and occupiers, none of whom have objected (the one objection came from a person who does not live in this area). Local Laws and the local police have not responded and given this, it is considered that it has never had issues that have been raised at a local laws or police level.

The cellar door is located within an established winery and is approximately 230m from the nearest dwelling which is also located on a site that has an established vineyard (with no records of cellar door). The site is within farming land and has large buffers between it and neighbouring properties.

There is another liquor license being operated at 115 Longwood Mansfield Road however this area is not considered to be 'saturated' and it is considered that there will be no negative impact on the surrounding area if this particular proposal is supported. This is a wine growing and producing area and there is an expectation that there will be a number of establishments in the vicinity. In assessing if a proposal is likely to contribute to a cumulative impact within an area, Planning Practice Note 61 Guidelines can be applied. In this instance it can be said that the proposal will not operate after 11pm and it is not in a cluster (three or more licensed premises within a 100m radius or 15 or more within a 500m radius) and therefore does not create a cluster.

Car Parking

The proposal does not apply for car parking, given that there is the required car parking set aside reflecting the number of patrons at this time.

Clause 52.06 requires 0.4 spaces per patron and council has set a maximum number of patrons at 20 which equates to 8 car parking spaces provided on the land.

The purpose is to provide for car parking that is appropriate having regard to the demand generated.

No planning permit is triggered at this time.

Officer Response

Conditions on permit require the number of car parking spaces, based on the maximum number of patrons, to be provided and kept clear for that purpose at all times. This is also reflected on the endorsed plan.

Signage

There is no application for signage in the proposal.

Signage in the Farming Zone is limited as to what can be displayed. In this case the only signage allowed without a permit, is a Business Identification Sign not larger than 3 square metres in area. It can be floodlit. A direction sign does not require a planning permit either.

The purpose is to regulate the development of land for signs and associated structures, ensuring that signage is compatible with amenity and visual appearance of the area and do not contribute to excessive visual clutter or disorder.

Officer Response

Conditions have been placed on permit to control these matters.

The decision guidelines of Clause 65

Before deciding on an application the Responsible Authority must consider as appropriate -

The matters set out in section 60 of the Act.	These have been considered.
Any significant effects the environment, including the contamination of land, may have on the use or development.	This is an established vineyard with no known history of contamination. This is not a sensitive use that is being introduced, rather part of the ongoing activities on site.
The Municipal Planning Strategy and the Planning Policy Framework.	This has been considered in full.
The purpose of the zone, overlay or other provision.	Considered in full.
Any matter required to be considered in the zone, overlay or other provision.	Considered as relevant.
The orderly planning of the area.	It is considered that the outcome will attribute to orderly planning of the area, particularly given that this is an established winery.
The effect on the environment, human health and amenity of the area.	The effect on the environment is considered to be minimal given this proposal is for the construction of a small, temporary cellar door. Human health is unknown. The proposal was

	put to advertising to see if there any concerns and no neighbouring properties have objected. The site is relatively remote and large enough to create space between the activities and surrounding uses and activities and it is considered this assists in mitigating any detrimental amenity impacts.
The proximity of the land to any public land.	The site is located approximately 550m from the Hume Freeway.
Factors likely to cause or contribute to land degradation, salinity or reduce water quality.	Unknown.
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.	Stormwater will be managed as per the conditions.
The extent and character of native vegetation and the likelihood of its destruction.	No native vegetation is proposed to be impacted.
Whether native vegetation is to be or can be protected, planted or allowed to regenerate.	Not applicable.
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 building will not be within the EMO.
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.	There is adequate room on site to move around.
The impact the use or development will have on the current and future development and operation of the transport system.	Unknown.

Other relevant adopted State policies/strategies – (e.g. Melbourne 2030.)

Hume Regional Growth Plan 2014 – *tourism has become an important adjunct to many agricultural enterprises, providing additional income through activities such as cellar doors and farm gate sales.*

Relevant incorporated, reference or adopted documents

Shire of Strathbogie Sustainable Land Use Strategy

Relevant Planning Scheme amendments

There are no relevant planning scheme amendments.

Risk Management

The author of this report considers that there are no significant Risk Management factors relating to the report and recommendation.

Strategic Links – policy implications and relevance to Council Plan

The author of this report considers that the report is consistent with Council Policies, key strategic documents and the Council Plan.

Summary

The proposal supports the ongoing agricultural activity which is a winery. This adds value to the business and provides a tourist destination.

The liquor licence is required to enable the sale of the wine and having been notified to the surrounding and adjacent land owners and occupiers has received no concerns from them.

Signage and carparking will be conditioned on permit.

The proposal when assessed against the relevant policy throughout the planning scheme is considered to weight in favour of support.

Conclusion

After due assessment of all the relevant factors, it is considered appropriate to grant a planning permit, subject to conditions.

Decision:

Delegate Report <input type="checkbox"/>	Council Report Yes July 2022 meeting
Determination: Choose an item.	Determination Date:

Endorsed Plans:

Date:	Plan Numbers:

Declaration:

In making this decision as a delegated Officer, I declare that I have had regard to the decision-making requirements of the Strathbogie Shire Council's Governance Rules 2020 outlined by Rule 6 and have:

- Made a fair, balanced, ethical and impartial decision - Sub Rule 6(c)(i)
- Made a decision based on merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations. Sub Rule 6 (c)(ii)
- Applied the principles of natural justice to my decision, ensuring any person whose rights will be directly affected by the decision has been entitled to communicate their views and have their interests considered - Sub Rule 6(d) N/A
- Identified the person or persons whose rights will be directly affected Sub Rule 6(e)(i)
- Given notice of the decision Council must make under Sub Rule G(e)(i) N/A
- Ensured that such person(s) have had an opportunity to communicate their views and have their interests considered before I made the decision - Sub Rule 6(e)(i) N/A
- Included information about how I've met these Sub Rules in my delegate report- Sub Rule 6(e)(iv)

Attachments

Plans for endorsement

Assessing Officer: G Williamson Principal Planner Reviewing Officer:

Signature: G Williamson

Date: 17 June 2022

Signature: B. AD

Date: 23 June 2022

Copy of permit to:

Nil

Date sent:..... Initials:.....