

5th October 2023

Our ref: 4639

Development Services
Logan City Council
Application Number: MCUI/55/2022
Att. Will Hardy

Dear Will,

**RE: INFORMATION REQUEST RESPONSE FOR APPLICATION MCUI/55/2022
PROPOSED DEVELOPMENT: MATERIAL CHANGE OF USE – ANIMAL KEEPING
PROPERTY ADDRESS: 1-21 VIRGINIA WAY, LOGAN VILLAGE QLD 4207
PROPERTY DESCRIPTION: LOT 1 on RP199993**

We refer to Council's information request dated 15th September 2022 regarding a request for information for the above application. In accordance with Part 3, Section 13 of the Development Assessment Rules (as referenced in Section 68 of the Planning Act 2016), we would hereby like to formally respond to the information request items, as outlined in further detail below (our response is shown in blue). For a copy of the Information Request refer to **Attachment 1**.

1. PLANNING

Proposed Plans of Development

- 1.1 Amend the proposed plans of development to include the following:
 - 1.1.1. Clearly identify the area to be dedicated to the animal keeping use. Mark the dimensions and provide the square meterage of each area;
 - 1.1.2. Dimension the distance of proposed "Dog Day-care Area (outside)" to the adjoining western and southern boundaries.

Response:

Refer to the amended site plan in **Attachment 2**.

Land use location & zoning

- 1.2 The proposed use does not comply with assessment benchmark AO1(c) or PO1(c) of the Rural residential zone code. The proposed use is a rural activity not envisaged on the subject site's Rural residential zone Park living precinct area. Provide further information demonstrating how the proposed use complies with the sites Rural residential zone purpose paragraph 1 and paragraph 2(a)(b)(c) and paragraph 3(a)(ii)(iii) (iv) and 3(e).

Further advice:

Animal keeping is not envisaged in the sites Rural residential Park living precinct. Animal keeping, involving particular types and numbers of animals is more generally intended in the separate Rural zone or Rural residential zones Cottage rural precinct.

The proposed Animal keeping, including particular types and numbers of animals must comply with the zone code purpose and benchmarks.

It is further noted that the proposed development site is not located within the employment area identified on SFM-01.00 Strategic Framework Map, therefore, assessment against the Employment Strategic Framework is not relevant.

Response:

Whilst the proposed Animal Keeping use is not identified as a preferred use because it is not listed in the Table of Assessment for the Rural Residential Zone (Table 5.5.13.1), the proposed development satisfies the purpose of the Rural Residential Zone Code by complying with the following Overall Outcomes.

6.2.13.2 Purpose

1. The purpose of the Rural residential zone is to provide for residential uses and activities on large lots, including lots for which the local government has not provided infrastructure and services.

As the planning scheme is without a definition for a 'residential use', the Queensland State Government website under know your zone (refer to **Attachment 4** for more information) identifies that:

The rural residential zone covers land usually located on the edges of cities and towns and often not serviced by infrastructure, such as sewerage or public transport. This zone may include houses on large lots, limited types of farming activities and low-impact activities that fit with the nature of the land, such as garden centres or kennels.

On this basis, the State government indicates that kennels are a suitable use in a rural residential zone.

2. The local government purpose of the Rural residential zone code is to:

- a) predominantly provide for Dwelling houses on larger lots;*
- b) provide for development in a semi-rural, landscaped or bushland setting;*
- c) protect rural residential amenity.*

- a) The proposed development incorporates a dwelling for the onsite caretaker;
- b) Provides for development in a semi-rural and bushland setting, as shown by Figure 1 below; and
- c) Protects the rural residential amenity as shown by the Noise Assessment Report in **Appendix 5**, which concludes that the noise emission standards can be achieved at the subject property boundary. On this basis the Noise Assessment Report demonstrates that the proposed animal keeping use does achieve the Logan City Council planning scheme requirements and therefore can protect the surrounding rural residential amenity.

Figure 1 - The images below show that the development is located within a semi-rural and bushland setting.



3. The purpose of the Rural residential zone code will be achieved through the following overall outcomes:

a) The design of the built form:

- i. ... ;
- ii. produces a built form that is compatible with the semi-rural, landscaped or bushland setting;
- iii. provides that the semi-rural, landscaped or bushland setting predominates over the built form;
- iv. incorporates appropriate boundary clearances to protect and provide privacy for residents;
- v.;

b) development protects amenity consistent with its location in the Rural residential zone or precinct and the surrounding area;

f) in the Park living precinct:

- i. land use comprise Caretaker's accommodation, Dual occupancy (auxiliary unit), Dwelling house, Emergency services, Home-based business or Sales office;
- ii. development has a landscaped or bushland setting;

The proposed development

- a) ii. is compatible with the semi-rural and bushland setting, as shown by above photos;
- a) iii. provides the semi-rural and bushland setting to predominate over the built form, as shown by Figure 1 and the site plan in **Attachment 2**;
- a) iv. has appropriate boundary clearances and protects the privacy of adjoining residents;
- b) protects the amenity of the rural residential zone, as confirmed by the Noise Assessment Report in **Attachment 5**;
- f) i. & ii. comprises a caretaker's accommodation in a bushland setting.

Dwelling House

- 1.3 Amend the plans to remove to remove dog housing from the existing dwelling house. Council officers do not support the commercial housing of dogs (where dogs are not owned or officially fostered by the resident) in a residential dwelling house.

Further Advice:

The development site is not a prescribed premises and the dogs onsite are not prescribed dogs under the Logan Planning Scheme Schedule 1 definitions.

Using the dwelling house to house dogs in a commercial arrangement, also contravenes the intended residential use of a dwelling house.

A dwelling house is defined as follows under the Logan Planning Scheme 2015 Version 8:

*Dwelling house means a residential use of premises involving -
1 dwelling for a single household and any domestic outbuildings associated with the dwelling; or
1 dwelling for a single household, a secondary dwelling and any domestic outbuildings associated with either dwelling.*

Council's City Standards and Animal Care officers have expressed critical concerns regarding the proposed boarding of animals within bedroom 3 living and dining space of the existing dwelling house at the site. The keeping of dogs in the dwelling house would not meet Logan City Council Local Law 9 conditions of a licence (in particular those quoted below), or the Pet Industry Association Australia (PIAA) Standards and Guidelines for best practice.

Local Law 9 Kennel Licence conditions (partial extract)

General

- (a) *All enclosures must be provided and maintained in such a manner so as to*
- (i) *permit regular cleaning of all the internal and external surfaces of the enclosures and regular checking of any animal within the enclosures; and*
 - (ii) *be impervious and able to be effectively clean and sanitised; and*
 - (iii) *ensure the comfort of animals and the prevention of disease.*
 - (iv) *All surfaces of the approved premises such as walls, floors, ceilings fixtures and fittings must be kept clean and sanitised at all times*
- (b) *Floors must-*
- (i) *be able to be easily and effectively cleaned and sanitised; and*
 - (ii) *be unable to absorb grease, food particles or water; and*
 - (iii) *be laid so that there is no ponding of water.*
- (c) *Walls must-*
- (i) *be able to be easily and effectively cleaned and sanitised; and*
 - (ii) *be unable to absorb grease, food particles or water; and*
 - (iii) *be smooth.*
- (d) *A wash tub of sufficient size to clean cages must be installed and fitted with hot and cold running water.*

e) Waste waters from animals from the washing down of floors, surfaces, enclosures and other areas must be collected and drained to an approved pre-treatment device before discharge to the sewerage system.

A complete copy of kennel license condition requirements under Local Law 9 has been attached with this information request advice. In addition, page 28 of the PIAA standards provides additional detailed guides for pen sizes. For additional information specifically on the boarding/kennel aspect of development, which requires separate approval under Councils Local law 9, please contact the Animal Care branch of Council on 3412 3412 via email council@logan.qld.gov.au.

Response:

As shown by Diagram B on the amended Site Plan in **Attachment 2**, the existing dwelling house will be converted to become a Dog Motel. The dog motel will therefore be able to be designed and built to comply with the necessary Council building requirements.

A caretaker will remain on the premises but live in a separate building as shown on the Site Plan in **Attachment 2**.

2. STRATEGIC FRAMEWORK

Strategic Framework – 3.2 – Strategic Intent

2.1 Provide further information demonstrating how the proposed use on the subject site complies with the following strategic land use intent:

Sections 3.2.2 Residential

Section 3.2.9 Design, place making and amenity

Further advice:

Demonstrate the proposed use is compatible with each of the above statements.

The site is in the Rural landscape and rural production area (RLRPA), not the Urban footprint or Rural living area identified in the planning schemes Strategic framework and the State governments Southeast Queensland regional plan.

Animal keeping is not envisaged in the sites Rural residential Park living precinct. Animal keeping, involving particular types and numbers of animals is more generally intended in the separate Rural zone or Rural residential zones Cottage rural precinct.

Response:

Section 3.2.2 (Residential) within the Planning Scheme Strategic Framework states:

Over 70,000 new dwellings are built in Logan between 2009 and 2031. Residential development provides a range of housing sizes, types and tenures. Residential density is provided at an intensity that is compatible with the local context, public transport provision and infrastructure capacity. Specialised residential accommodation is provided to meet the needs of those with special accommodation needs. Rural residential development continues to provide a lifestyle housing choice in Logan.

The last sentence of the above paragraph empathises the importance of providing lifestyle housing. A lifestyle housing property is one that suits the occupants and/or owner's lifestyle and values, and it is assumed that a lifestyle property would also be one that does not impact the lifestyle and values of the surrounding neighbours.

Many people who live on larger properties will have a dog for various reasons because they have more space to do so; and/or for security reasons; and/or for friendship and company, which are just some of the countless reasons. In many cases, dogs are treated as a family member. The provision of a doggy day care centre in the local neighbourhood helps landowners to maintain their lifestyle by enabling them to be able to drop off their valued family member at a day care knowing that it will be cared for, entertained and looked after while they are away from home. This helps the dog owners to have peace of mind and in this manner, having a local doggie day care centre in the neighbourhood continues to provide and help the members of the local community maintain their lifestyle housing choice.

At the same time, it is considered that a doggie day care centre would be best located in a convenient location to make drop offs and pickups easier for the owners. In this case, the proposed doggie day care is located on the corner of Camp Cable Road (which is a State controlled road) and Virginia Way (which is a main road) and therefore easy access is provided to customers. Providing a local doggie day care centre in a convenient location minimises the duration of the time the dogs are in the car and provides less stress for the dogs, offering further peace of mind for the owners. This is another benefit that the proposed dog kennel offers local residents and helps them maintain their desired lifestyle.

Placing dogs in a doggy day care centre also helps reduce the potential noise from dogs barking when left at home. Neighbours are therefore not exposed to the noise created by barking dogs, which consequently helps to protect their lifestyle and values.

The proposed animal keeping facility offers a large outdoor area which is different to small kennels in suburbia. This is another positive attribute that provides further peace of mind for owners who live in rural and rural residential areas.

In order to maintain the lifestyle values of the neighbouring properties adjoining the proposed doggy day care centre, staff are hired specifically for the purpose of entertaining the dogs so as to keep them quiet. I have personally visited the site and can attest that more noise disturbance is created by the dogs on the neighbouring properties than the dogs in the daycare centre.

The Environmental Noise Assessment conducted by Noise Measurement Services in **Attachment 5**, has modelled the potential noise impact from the doggy day care centre and demonstrates that the proposed development complies with the assessment criteria in the Logan City Council Planning Scheme 2015 and the Environmental Protection (Noise) Policy 2008. By adopting certain management practices and constructing an acoustic barrier around the outdoor area, the acoustic report demonstrates that the animal keeping use will not create noise impacts to the neighbouring properties. On this basis, the animal keeping use can comply with the strategic land use intent for residential development in rural residential areas.

Section 3.2.9 (Design, place making and amenity) states:

Logan has a high quality, well designed built environment that provides places for people that are attractive, functional, safe and accessible. The built and natural environment provides people with a high level of amenity, where the qualities of the environment enhance the physical and social wellbeing of people.

The associated Environmental Noise Assessment (in **Attachment 5**) demonstrates that the actual noise emissions from the Animal Keeping facility comply with the Logan City Council Rural Residential Zone Code requirements. Achieving the noise requirements is possible because staff are employed for the purpose of keeping all of the dogs on the site quiet and entertained.

As half of the subject site adjoins the local road network, an automatic distance buffer is created assisting with the separation of the animal keeping use from neighbouring properties and at the same time, the background noise from the traffic helps to mask any potential noise impacts.

Given that the development satisfies the noise requirements and with the aid of the local road network, the proposed Animal Keeping use will have no impact on the local peoples' amenity and thereby satisfies the strategic land use intent of section 3.2.9.

The proposed development provides a local service and a solution to dogs being chained up or locked up barking and creating a noise nuisance to their neighbours. By taking away and minimising that potential noise nuisance, the proposed doggie day care centre is affording people with a high level of amenity, where the qualities of the environment enhances the physical and social well being of people and thereby achieves section 3.2.9 of the Logan City Council Planning Scheme strategic framework.

Strategic Framework – 3.3 – Settlement pattern specific outcomes

2.2 Provide further information demonstrating how the proposed use on the subject site complies with the following Regional landscape and rural production area settlement pattern specific outcomes:

3.3.5 - Regional Landscape and rural production area.

Specific outcome 3.3.5.1 paragraphs 1(b) and 1(c)

Further advice:

Animal keeping is not envisaged in the subject sites Rural residential zone Park living precinct and noise, odour and light emissions from the development may disrupt the surrounding areas rural residential amenity.

Response:

Specific outcome 3.3.5.1 paragraphs 1(b) and 1(c) states:

The Regional landscape and rural production area has non-urban character defined by:

- a.
- b. *the predominance of natural landscape over buildings and structures;*
- c. *limited, dispersed buildings and structures that are integrated with the natural landscape.*

The pictures shown in item 1 of this response demonstrate the:

- b. predominance of the natural landscape over buildings and structures on the subject site; and also show that the
- c. proposed animal keeping use is limited in area and has dispersed buildings and structures that are integrated with the natural landscape.

Strategic Framework – 3.4 – Residential specific outcomes

3.4.5 - Rural residential

- 2.3 Provide further information demonstrating how the proposed use on the subject site complies with the following Rural residential specific outcomes

Specific outcome 3.4.5.1 paragraph 2(a) and 2(b).

Further advice:

Animal keeping is defined as a rural activity in the planning schemes schedule 1 activity groups. Rural activities are envisaged in the Rural residential zones Cottage rural precinct, or the alternative Rural zone, rather than the subject sites Rural residential Park living precinct.

Demonstrate how the proposed use is compatible with the sites Rural residential character and amenity characterised by high levels of resident comfort and quiet in dwelling houses on larger lots in landscaped/bushland settings.

Demonstrate how the proposed use, not being a residential activity, is reasonably able to be accommodated onsite despite the use conflicting with the sites residential zone and precinct intent and why the use is not reasonably able to be located in the alternative Rural residential zone Cottage rural precinct or separate Rural zone.

Response:

Specific outcome 3.4.5.1 paragraph 2(a) and 2(b) states:

2. The character and amenity associated with a rural residential use is compatible with:

- a. Rural activities (other than Aquaculture and Intensive animal industry) in the Cottage rural precinct;*
- b. Residential activities where on land that is not in the Cottage rural precinct.*

The subject site is located within the Park Living precinct and therefore this specific requirement is not relevant to this application.

Strategic Framework - 3.11 Design, place making and amenity specific outcomes

- 2.4 Provide further information demonstrating how the proposed use on the subject site complies with the following Design amenity specific outcomes

3.11.2 – Design and place making

- 2.5 Specific outcomes 3.11.2.1 paragraph 1(a)(b)(c)(e)(g)(j)(k).

3.11.3 - Amenity

- 2.6 Specific outcomes 3.11.3.1 paragraph 1(c) and paragraph 2, paragraph 3(a) and 3(b) and paragraph 4.

Further advice:

Animal keeping is intended in the Rural zone or Rural residential zones Cottage rural precinct rather than the subject sites Rural residential zone Park living precinct

Demonstrate how the proposed Animal keeping use onsite is consistent with the intended character of the area.

In particular demonstrate how the proposed use type, scale, capacity, built form and structures:

- *will protect rural residential amenity*
- *will not generate detrimental noise, odour or light emissions, and*
- *will protect visual amenity*
- *will protect / maintain streetscape amenity.*
- *is compatible with and retains the sites rural landscape and bushland setting.*

Response:

2.5 Specific outcomes 3.11.2.1 paragraph 1(a)(b)(c)(e)(g)(j)(k) state:

1. *Development creates a high quality, attractive and functional built environment that:*
 - a. *provides highly desirable, attractive places that people want to be in;*
 - b. *is responsive and sympathetic to the local topography and is consistent with and reinforces the intended character;*
 - c. *is of an appropriate height, bulk, scale and mass and has an appropriate relationship with the road and surrounding area;*
 - d. *.....;*
 - e. *incorporates detailed design measures that create an attractive visual aesthetic;*
 - f. *.....;*
 - g. *creates or enhances views and vistas;*
 - h. *.....;*
 - i. *.....;*
 - j. *Strengthens the relationship between the built form, landscape and streetscape;*

What is a high quality and attractive environment is very subjective, but we believe Figures 2-5 demonstrate that the development is desirable and attractive.

Figure 2 - The view from the dog outdoor area towards the west.



Figure 3 - The dog outdoor area includes fully established vegetation



Figure 4 - Another view of the vegetation included within the dog outdoor area



Figure 5 - Another view of the vegetation included within the dog outdoor area



Figures 2-5 demonstrate that the development is responsive and sympathetic to the local topography and consistent with and reinforces the intended landscaped and bushland setting;

Figure 6 demonstrates that the development is an appropriate height, bulk, scale and mass and has an appropriate relationship with the road and surrounding area.

Figure 6 - The view of the development site from Virginia Way.



Figures 1-6 demonstrate that the Animal Keeping use:

Incorporates detailed design measures that create an attractive visual aesthetic;

Creates or enhances views and vistas; and

Strengthens the relationship between the built form, landscape and streetscape.

The Animal Keeping use therefore complies with 2.5 Specific outcomes 3.11.2.1 paragraph 1(a)(b)(c)(e)(g)(j)(k).

2.6 Specific outcomes 3.11.3.1 paragraph 1(c) and paragraph 2, paragraph 3(a) and 3(b) and paragraph 4 state:

1. *The level of amenity to be expected varies throughout Logan where:*
 - a.;
 - b.;
 - c. *in rural residential locations, such as in a Rural residential zone, the level of amenity is commensurate with a rural residential environment where:*
 - i. *there are very low density living environments with some low level noise, odour and visual amenity impacts;*
 - ii. *in areas suitable for rural production, such as in the Cottage rural precinct, there are noise, odour and visual amenity impacts associated with rural production;*
 - d.;
2. *People are protected from environmental harm or environmental nuisance caused by air, light, odour, vibration or acoustic emissions.*

3. Residential amenity is protected by:
 - a. ensuring uses that generate emissions are designed and located to avoid environmental harm or environmental nuisance to established or planned land in a residential zone category;
 - b. ensuring Residential activities are not located in areas where they will be subject to environmental harm or environmental nuisance from existing or planned uses that generate emissions;
 - c.:
4. Residential amenity is provided by creating residential environments that:
 - a. protect the privacy of residential living by preventing unacceptable overlooking;
 - b. provide adequate access to sunlight and daylight;
 - c. are not adversely affected by overshadowing;
 - d. provide adequate private and shared outdoor amenity space for residents.

The Environmental Noise Assessment conducted by Noise Measurement Services in **Attachment 5**, has modelled the potential noise impact from the doggy day care centre and demonstrates that the proposed development complies with the assessment criteria in the Logan City Council Planning Scheme 2015 and the Environmental Protection (Noise) Policy 2008. By adopting certain management practices and constructing an acoustic barrier around the outdoor area, the acoustic report demonstrates that the animal keeping use will not create noise impacts to the neighbouring properties. On this basis, the animal keeping use will be able to maintain the level of amenity commensurate with the rural residential environment and can satisfy Specific outcomes 3.11.3.1 paragraph 1(c) and paragraph 2, paragraph 3(a) and 3(b).

As shown by Figure 7, the Animal Keeping use is significantly separated from existing structures located on adjoining properties.

Figure 7 – Neighbouring Properties



Subsequently, the Animal Keeping use:
Protects the privacy of adjoining neighbours by preventing unacceptable overlooking;
Provides adequate access to sunlight and daylight;
Does not create overshadowing;
Provides adequate private and shared outdoor amenity space for residents.

The Animal Keeping use therefore complies with 2.5 Specific outcomes 3.11.3.1 paragraph 1(c) and paragraph 2, paragraph 3(a) and 3(b) and paragraph 4.

3. ENVIRONMENTAL

Acoustic Information

- 3.1 Amend the noise assessment report to assess the noise impact from twenty (20) dogs as per the number of dogs specified in the town planning report.
- 3.2 Confirm that the data used to calculate the background noise levels has not been affected by the rainfall in the acoustic report.

Advisory note:

It is noted that the data on the 9 and 10 December 2021 should have been removed due to the large rainfall events.

- 3.3 Apply an adequate filter to remove seasonal insect/frog noises with corresponding frequencies before calculating the background noise levels as the evening and night time periods have been impacted upon.
- 3.4 Model the noise emissions from the proposed dog water area.
- 3.5 Model the noise from the indoor areas including the patio and veranda during the evening and night-time periods.
- 3.6 State if dogs are intended to occupy outdoor areas in evening and/or night.

Advisory note:

It is mentioned that the hours of operations are Monday to Saturday 7am – 6pm and Sunday by appointment only. Moreover, this assessment has been done based on the noise levels recorded when dogs are outside. It is understood that dogs allowed to stay outside only during the daytime. However, Table 4.4 shows that the noise levels of ten (10) dogs barking comply with day/evening/night time criteria. Therefore, it is required to clearly state if dogs are intended to occupy outdoor areas in evening and/or night.

- 3.7 Change the heading of the 6th column of Table 4.3 from “LAeq,15m (Dog Barking Only)” to “LAeq,15minutes (Dog Barking Only)”.
- 3.8 As Sunday (appointment only) is being proposed, this day needs to be modelled separately as outlined in the PSP 3 noise criteria.

- 3.9 The car parking areas need to be modelled to capture the noise being emitted when the dogs are dropped off and picked up. This modelling is also to include car park conversation noise.

Response:

Refer to the Environmental Noise Assessment undertaken by Noise Measurement Services dated 25 September 2023 (revision 5) in **Attachment 5**.

We believe that we have fully responded to Council's information request and note that the application is now to commence the Public Notification stage.

If you have any questions regarding this matter, please do not hesitate to contact our office.

Yours faithfully,

SOMERVILLE Consultants



SOMERVILLE CONSULTANTS

Town Planners, Surveyors and Project Managers

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Attachments include:

1. Information Request
2. 4639-06-Site Plan dated 19/09/2023 and prepared by Somerville Consultants
3. 4639-06-Aerial dated 19/09/2023 and prepared by Somerville Consultants
4. Know Your Zone Document
5. Noise Assessment Report prepared by Noise Measurement Services dated 25th September 2023