

**Item No:** 3.1  
**Title:** Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding  
604 Ourimbah Creek Road, PALM GROVE

**Department:** Environment and Planning

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1 October 2020 Local Planning Panel Meeting

Reference: DA/97/2020 - D14116497  
Author: Amanda Hill, Town Planner  
Manager: Salli Pendergast, Principal Development Planner North  
Executive: Andrew Roach, Unit Manager, Development Assessment

### Summary

An application has been received for the use of existing premises for the purposes of an Animal Boarding & Training Facility - Dog Breeding at 604 Ourimbah Creek Road, Palm Grove.

The proposal is for the use of the existing shed known as the Evening House and 10 outdoor dog kennels for the purposes of an animal boarding and training establishment where dog breeding of French Bulldogs will occur.

The application has been examined having regard to the matters for consideration detailed in section 4.15 of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application has been referred to the Local Planning Panel as a result of the number of written objections received during the public exhibition period. A total of 45 submissions in objection have been received. The application is recommended for refusal.

<b>Applicant</b>	SJH Planning & Design
<b>Owner</b>	Mr K Lewis
<b>Application No</b>	DA/97/2020
<b>Description of Land</b>	Lot 45 DP 2244 604 Ourimbah Creek Road, PALM GROVE NSW 2258
<b>Proposed Development</b>	Use of Existing Premises for the purposes of an Animal Boarding & Training Facility - Dog Breeding
<b>Site Area</b>	68,800.00m <sup>2</sup> (6.88 ha)
<b>Zoning</b>	RU1 Primary Production
<b>Existing Use</b>	Dwelling House
<b>Employment Generation</b>	Yes
<b>Estimated Value</b>	\$10,000.00

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding  
604 Ourimbah Creek Road, PALM GROVE (contd)**

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**Recommendation**

- 1 That the Local Planning Panel refuse the application subject to reasons for refusal detailed in Attachment 1 to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act.**
  
- 2 That Council advise those who made written submissions of the Panel's decision.**

**Key Issues**

- Whether the proposal is considered unsatisfactory with regard to *Wyang Local Environmental Plan 2013*, particularly with regard to the objectives of the zone;
- The potential impacts of the proposal to the residents of the surrounding rural area (including noise, health and amenity) and whether there is sufficient information submitted in support of the application to determine the extent of likely significant impacts;
- Whether the existing shed (evening house) and 10 outdoor dog runs that are to be used for the animal boarding and training facility – dog breeding are appropriately designed and located to demonstrate the proposed use will have a minimal impact on the locality;
- Whether the proposal is suitable for the site; and
- Whether the proposal is in the public interest, having regard for the matters raised in submissions received in relation to the proposal.

**Precis:**

<b>Proposed Development</b>	Use of Existing Premises for the purposes of an Animal Boarding & Training Facility - Dog Breeding.
<b>Permissibility and Zoning</b>	The subject site is zoned RU1 Primary Production under the provisions of <i>Wyang Local Environmental Plan 2013</i> . The proposed development is defined as <i>animal boarding or training establishment</i> which is permissible in the zone with consent of Council.
<b>Relevant Legislation</b>	<ul style="list-style-type: none"> <li>• <i>Environmental Planning and Assessment Act 1979</i></li> <li>• <i>Draft Central Coast Local Environmental Plan 2018</i></li> <li>• <i>Wyang Local Environmental Plan 2013</i></li> <li>• <i>Wyang Development Control Plan 2013</i></li> </ul>
<b>Current Use</b>	Dwelling House

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

Integrated Development	No
<b>Submissions</b>	<p>The development application was notified (in accordance with the provisions of the <i>Wyang Development Control Plan 2013</i>) from 26 February 2020 to 11 March 2020.</p> <p>45 written submissions were received.</p> <p>(An evaluation of matters raised in these submissions is included later in this report).</p>

**Background**

In July 2019, Central Coast Council (Council) received a complaint regarding an unlawful use at the subject site for the purpose of an animal boarding and training establishment. Council conducted an investigation into the complaint and commenced compliance action on 28 August 2019 in accordance with Council Policy for Compliance and Enforcement.

On 10 October 2019, a Notice of Intent (NOTICE/167/2019) was issued by Council, requiring the unlawful use to cease. A subsequent non-compliance led to the Order being issued 28 November 2019.

On 24 January 2020, Council issued a 'Show Cause' letter regarding an intent to issue a Penalty Infringement Notice (PIN) for non-compliance with Council's Order. Representations received outlined that a Development Application was imminent and requested an extension of two weeks in which to lodge the application.

The development application was lodged with Council on 13 February 2020 seeking approval to regularise the animal boarding and training establishment operating at the subject site. The development application included the adaptive re-use of the existing shed as a dog breeding facility and outdoor dog runs which are open to the air.

During a site inspection on 4 March 2020 it was found that 10 outdoor dog kennels had been constructed that were not proposed as part of the original development application and these were in place of the outdoor dog runs which were small fenced off areas within the existing paddock. The site inspection also confirmed that the premises was operating as an animal boarding and training establishment without development consent and the existing shed known as the Evening House was being used to accommodate the dogs. Works had been undertaken to the shed with regard to installation of internal wall linings, solid core doors and air conditioning. Refer to figures 1 to 3 below.

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding  
604 Ourimbah Creek Road, PALM GROVE (contd)**

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*Figure 1 – Photo of existing shed currently being used to accommodate the dogs.*



*Figure 2 – Constructed outdoor dog kennels*

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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***Figure 3 – Constructed outdoor dog kennels and evening house in the background***

On 9 March 2020, a request for further information was sent to the applicant in relation to a number of matters which included amended plans for the evening house (shed) and outdoor dog kennels and for the application to include the use of the outdoor dog kennels.

The current development application which forms part of this assessment includes:

- the proposed use as an animal boarding and training facility; and
- proposed improvements to the Evening House; and
- 10 outdoor dog kennels

On 12 March 2020, Council's Compliance officer issued a Notice of Intent requiring the demolition of the unlawfully constructed 10 outdoor dog kennels.

A Building Information Certificate Application (BIC) was subsequently lodged with Council. This application relates to the buildings and structures on the subject site, namely the works undertaken within the existing shed (evening house) and the constructed 10 outdoor dog kennels. The BIC is under assessment by Council's Building Certification Unit and will only be approved if development consent is granted.

During the assessment of the development application on-going complaints about noise (barking dogs) have been received by Council – the contention being that the premises continues to operate as an animal boarding and training establishment without development consent. Having regard to the noise complaints received, Council requested a Noise Impact Assessment Report and Plan of Management be provided in relation to the proposal under the development application.

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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The assessing officer met and spoke with some of the objectors about their concerns with the proposed development during the development application assessment process.

A final site inspection was carried out on 18 August 2020 where it was noted that no further works had been carried out.

**The Site**

The subject site is commonly known as No. 604 Ourimbah Creek Road, Palm Grove and is legally described as Lot 45 DP 2244. The subject site is located within an established rural area. The site is oriented north-south, irregularly shaped as a consequence of its northern boundary with Ourimbah Creek and the body of the lot being dissected by the alignment of Ourimbah Creek Road.

The land contains an existing dwelling house; swimming pool; shed; 10 outdoor dog kennels; septic tank and water tanks; and paddocks.

The site is zoned *RU1 primary Production* under the provisions of *Wyang Local Environmental Plan 2013* (WLEP 2013).

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding  
604 Ourimbah Creek Road, PALM GROVE (contd)**

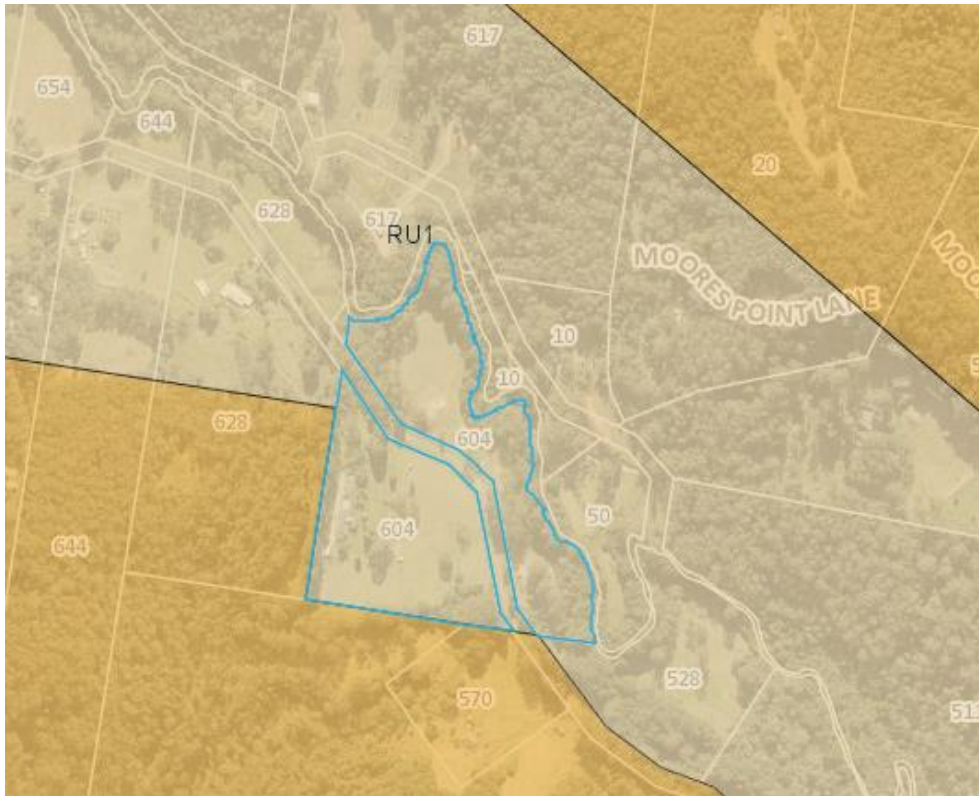
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*Figure 4 – Aerial photograph of subject site and adjoining properties (site outlined in blue)*

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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*Figure 5 – WLEP 2013 Zoning Map*

**Surrounding Development**

Surrounding the subject site are other rural properties used for primary production and hobby farming including *E3 Environmental Conservation* zoned land to the western and southern boundaries.

**History of Applications**

Council's records show that the following applications were previously lodged on this site:

- Development Application No. DA/327/1988 for a dwelling house approved on 11 May 1988.
- Development Application No. DA/1142/2004 for an in-ground pool approved on 22 June 2004.
- Development Application No. DA/993/2011 for a deck approved on 25 November 2011.
- Building Information Certificate No. BC/48/2020 that relates to the existing shed (evening house) and 10 outdoor dog kennels is currently under assessment.



**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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**The Proposed Development**

Development Application No. 97/2020 seeks approval for the use of the existing shed (known as the 'Evening House') which is currently being used to accommodate French Bulldogs and the existing 10 outdoor dog kennels for the purposes of dog breeding (animal boarding and training establishment).

The proposed development will consist of:

- Improvements to the existing 10 outdoor dog kennels that includes installation of fibre cement sheets to the full length of the dog kennels; installation of rainwater tanks; installation of a *Gatic* drain with hair arrestor; and installation of concrete and synthetic flooring to the dog kennels.
- Improvements to the existing shed that is currently accommodating the dogs and known as the Evening House that includes a *Gatic* drain with hair arrestor; vinyl flooring; and plinth under cages to allow occasional hose/clean out.
- Installation of an on-site sewer management system (OSSM) for the evening house and outdoor dog kennels.

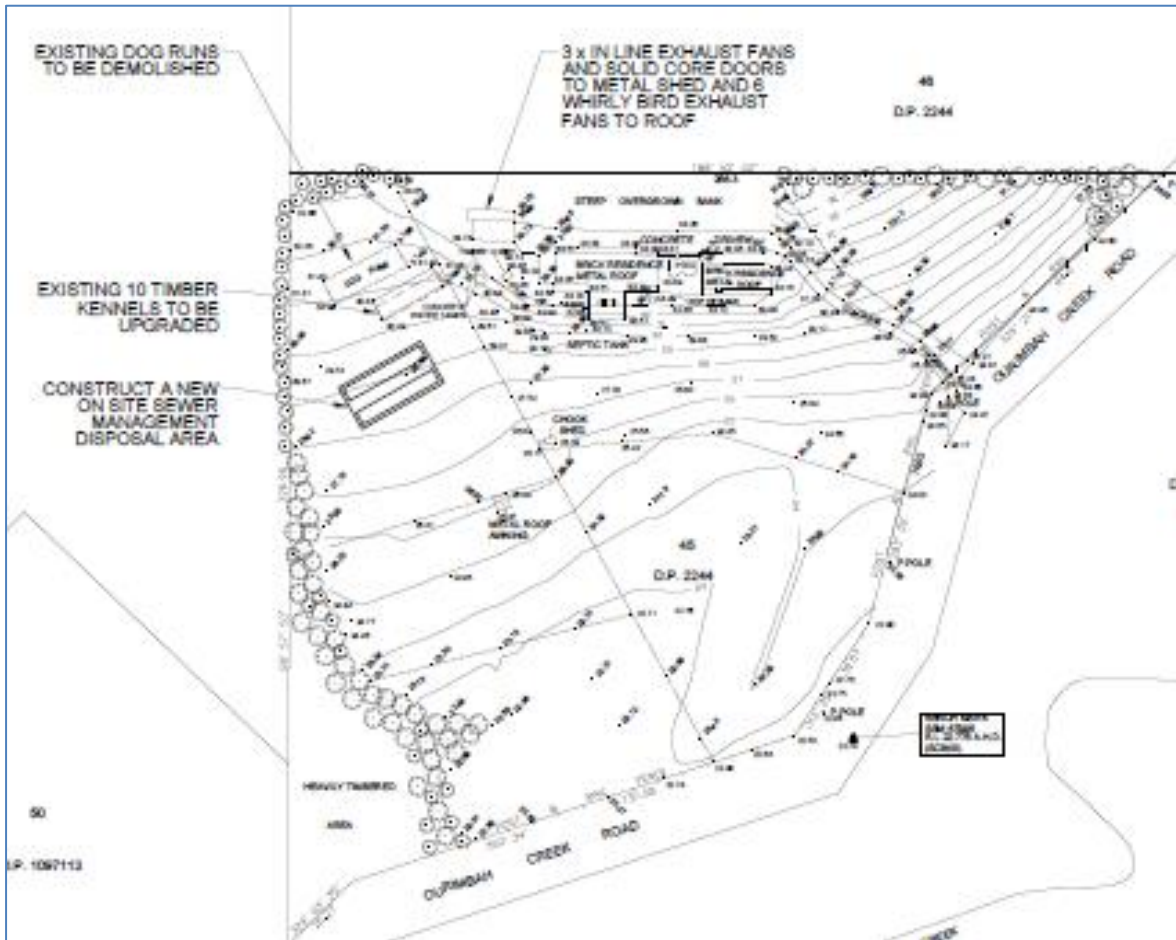
The proposed operation of the animal boarding and training facility – dog breeding will consist of:

- Dog breeding for a maximum number of 30 French Bulldogs accommodated on the site.
- The Evening House will accommodate the dogs in the evening from 5.15pm to 10am.
- The 10 outdoor dog kennels will be used during the day from 10.00am to 5.15pm.
- The use does not include buyers onto the site. All dogs purchased will be transported off the site and delivered to the buyers.

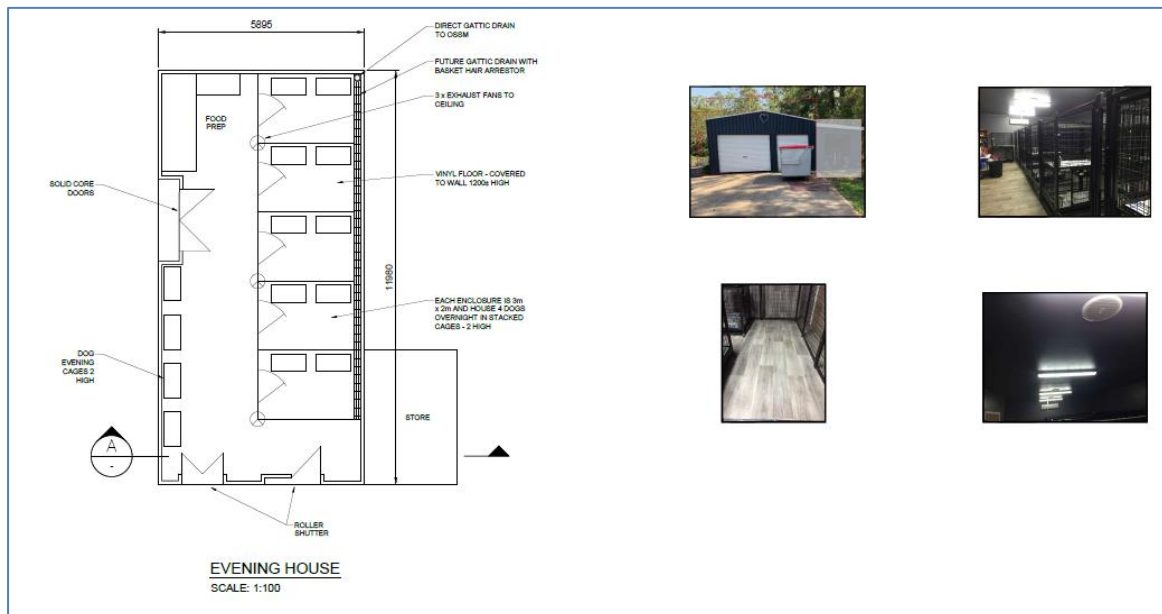
The works previously undertaken within the existing shed (evening house) and the constructed outdoor dog kennels were carried out without development consent and a construction certificate being obtained. These structures are being assessed under a separate Building Information Certificate application (BIC).

Figures 6 to 8 show the submitted plans.

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

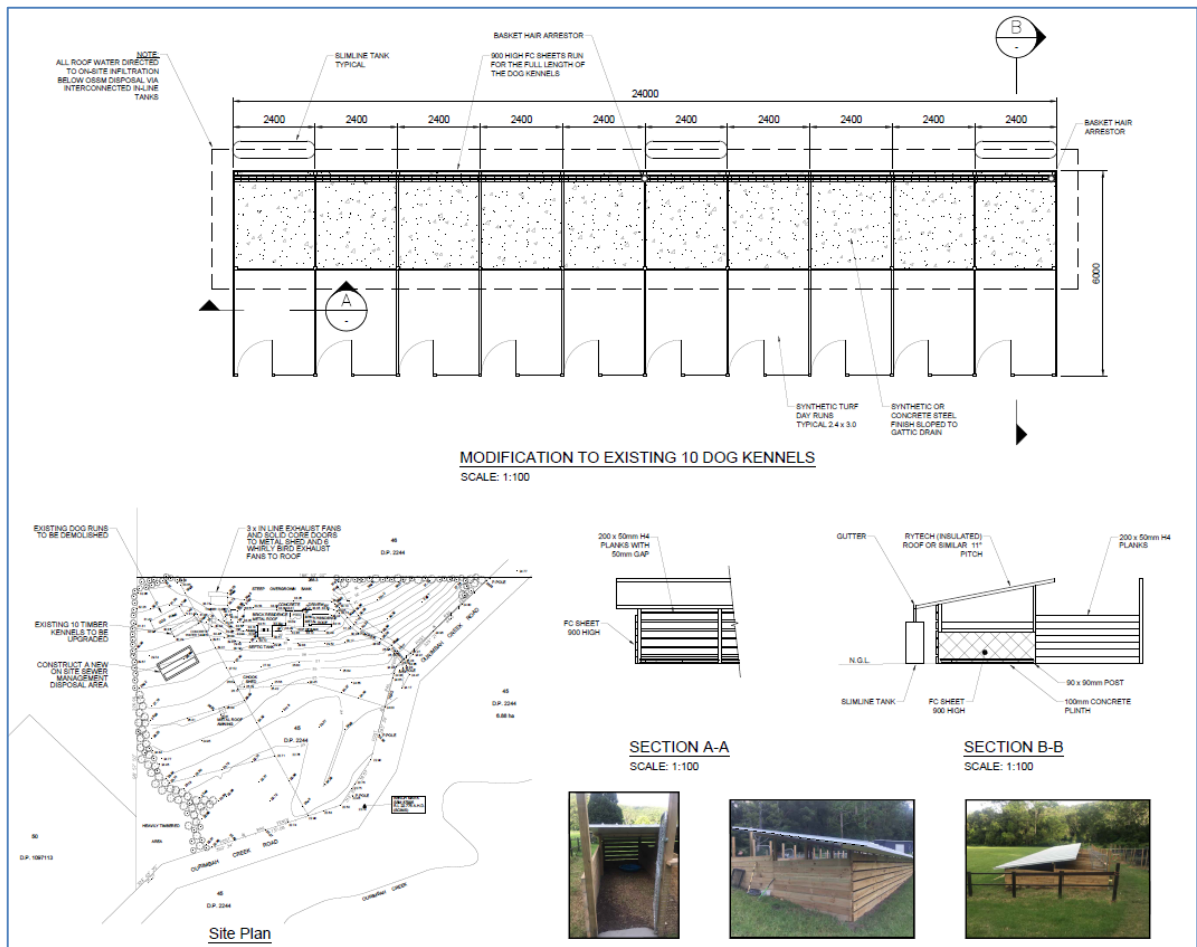


**Figure 6 – Site Plan**



**Figure 7 – Evening House Plan**

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**



**Figure 8 – Dog Kennels Plan**

**ASSESSMENT:**

Having regard for the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979 and other statutory requirements, the assessment has identified the following key issues, which are elaborated upon for information of the Local Planning Panel.

**Section 4.14 Environmental Planning and Assessment Act 1979 - Bushfire**

The site is identified as "bushfire prone land" on Council's bushfire maps.

Clause 4.14 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* requires that before granting of consent, the consent authority is to be satisfied that the development conforms to the aims and objectives under *Planning for Bush Fire Protection 2019 (PBP)*. The Aims and Objectives of PBP apply to matters such as access, water and services, emergency planning and landscaping/vegetation management.

### 3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)

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The bushfire assessment report prepared by Australian Bushfire Consulting Services submitted with the development application confirms that the evening house (shed) and outdoor dog kennels are non-habitable ancillary buildings that are located greater than 6m from the existing dwelling on the subject site. A bushfire attack level (BAL) is not required for the proposed development. The report has reviewed and addressed matters relating to access, water and services and emergency planning and landscaping/vegetation management and provides recommendations to ensure that the bushfire protection measures will be made adequate and maintained for the life of the development.

It is considered that the proposed development satisfies Clause 4.14 of the EP&A Act.

#### **Wyong Local Environmental Plan 2013 - Zoning and Permissibility**

The subject site is zoned RU1 Primary Production under the provisions of *Wyong Local Environmental Plan 2013* (WLEP 2013). The proposed development is defined as *Animal boarding or training establishments* which is permissible in the zone with consent of Council.

The definition of *Animal boarding or training establishments* under WLEP 2013 is as follows:

***animal boarding or training establishment*** means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital

#### **Wyong Local Environmental Plan 2013 – Objectives of the Zone**

The objectives of the RU1 Primary Production Zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide for non-agricultural land uses, including tourism, which support the primary production purposes of the zone.*
- *To allow other appropriate land uses that are not suited to urban zones while maintaining the rural character of the land.*

The proposed use is a non-agricultural use of land that does not directly support the primary production purposes of the zone. The proposal presents on-going acoustic impacts to

### **3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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adjoining lands which has created conflicts between land uses within the zone and within the adjoining E3 zone.

It is specifically noted that the '*minimise conflict between land uses within this zone and land uses within adjoining zones*' and also to permit uses '*...while maintaining the rural character of the land*'. There is a key focus within the zone objectives to maintain rural character and avoid land use conflicts. The application does not set out that the proposed use can be undertaken without undue impact on the amenity of the locality. There are specific comments in relation to noise/acoustic impacts later in the report.

#### **Wyong Local Environmental Plan 2013 - Flood Planning**

Clause 7.2 applies to the subject site as it is identified as flood planning land under Council's maps. Consent must not be granted to land identified by this clause unless the consent authority is satisfied that the development:

- Is compatible with the flood hazard of the land, and
- Is not likely to significantly adversely affect flood behaviour resulting in worsened flood hazard to other development or properties, and
- Incorporates appropriate measures to manage risk to life from flood and
- Is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of riverbanks or watercourses, and
- Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The subject site is located within the Ourimbah Creek Catchment and Council's records indicate that the site is affected by flooding and/or minimum floor level requirements. The proposed development is located outside the 1% AEP flood extent and does not propose habitable buildings.

It is considered that the proposed use of existing premises for the purposes of an animal boarding and training facility - dog breeding will not impact on flood planning for the subject site and Clause 7.2 of WLEP 2013 is satisfied.

#### **Wyong Local Environmental Plan 2013 - Essential Services**

Under the provisions of Clause 7.9, development consent must not be granted to development unless the consent authority is satisfied that any of the services that are essential for the development are available or that adequate arrangements have been made to make them available when required. The applicant has demonstrated that all required services are available to the site or will be provided to suit the development.

#### **Draft Central Coast Local Environmental Plan 2018**

### **3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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*Draft Central Coast Local Environmental Plan 2018 (CCLEP)* was exhibited from 2 December 2018 to 28 February 2019 and will replace the planning instruments relating to the former local government areas. Under Draft CCLEP, the site retains its RU1 Primary Production zoning and development for the purpose of animal boarding and training establishments remains a permissible use within the zone.

#### **Wyong Development Control Plan 2013**

##### Chapter 2.11 – Parking and Access

The Plan of Management states that there will be no buyers or additional visitors to the site to conduct business. The proposed use is operated by two permanent/full-time residents of the subject site with 2 additional employees. Traffic generation by the proposed use is unlikely. Therefore, additional car parking on the site is not required to accommodate the proposed use.

The subject site is currently serviced via a sealed driveway crossing fronting Ourimbah Creek Road. Access to the proposed use will be via the existing sealed driveway. The existing driveway permits sufficient vehicle maneuverability and parking.

There is no further consideration required to be made under the above DCP chapter with regards to car parking and vehicle access to the site.

##### Chapter 3.1 – Site Waste Management

A suitable Waste Management Plan was submitted with the application in accordance with the DCP.

Waste generated by the proposed use will be collected by a private commercial waste contractor and would be subject to conditions of development consent were the application recommended for approval.

##### Chapter 3.8 – On Site Effluent Disposal in Non Sewered Areas

The above DCP chapter aims to protect the health of people the Central Coast Council area through proper on-site effluent disposal and to minimise the impacts from on-site effluent disposal on the natural environment.

The subject site is not connected to the town's sewer. The submitted Wastewater Management Plan (OSSM) report satisfactorily demonstrates that the site can accommodate the required land application areas as well as allocated reserve application areas for the existing and proposed septic systems on the site.

### **3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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It is considered the use and the installation of an OSSM system for the evening house; outdoor dog kennels; and dog bathing satisfies the requirements of the above DCP chapter and would be subject to conditions of consent were the application to be recommended for approval.

#### **Built Environment**

The existing shed (evening house) and 10 outdoor dog runs that are to be used for the animal boarding and training facility – dog breeding could be better designed and located to minimize noise impacts. The submitted acoustic report does not verify that the proposed fibre cement sheets to the full length of the dog kennels will mitigate noise generated by barking dogs. The evening house and outdoor dog kennels are currently being used and noise generated from the barking dogs within these buildings/structures continues to be a nuisance to neighbouring residential properties.

There is insufficient information to demonstrate the proposed use will have a minimal impact on the built environment.

#### **Natural Environment**

The proposal does not remove any vegetation from the subject site.

The proposal is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations.

#### **Economic Impacts**

The proposed development is considered satisfactory from an economic perspective.

#### **Acoustic Impacts**

Due to the on-going noise complaints from barking dogs, Council requested the applicant to prepare and submit a Noise Impact Assessment report. The submitted acoustic report dated 20 July 2020 does not provide an accurate representation of the current quiet environment of the area. The data used to determine the level of impact upon the surrounding properties is unreliable. The acoustic assessment has not addressed nor satisfied the main submission of concern relating to the use of the property and the impact it is having on the amenity of neighbouring residents.

Whilst the Noise Policy for Industry is used as a guiding document for assessing acoustic reports, the noise guide for Local Government should also be considered in the acoustic assessment. The submissions and noise complaints received including noise recordings of

### 3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)

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barking dogs from the neighbouring residents hold concerns regarding the acoustic impacts from the site.

Council's Environmental Protection Officer undertook noise assessment inspections. In particular an inspection was undertaken on 11 June 2020 at 10am. During the 20-minute period Council officers were on a neighbouring property where the barking dogs could be heard almost continuously over the length of the inspection. This was at a volume not excessively loud but could be heard over quiet conversation. The offensive noise test from NSW EPA Noise guide for Local Government was used to assess the acoustic impact.

The offensive noise test questions are:

- 1) ***Is the noise loud in an absolute sense? Is it loud relative to other noise in the area?*** *The noise is not excessively loud in comparison to the background noise (measurements were not taken). Bird noises in the area were loud but this type of noise was enjoyed by the residents.*
- 2) ***Does the noise include characteristics that make it particularly irritating?*** *The noise from dogs barking is an impulsive noise and is considered irritating by residents.*
- 3) ***Does the noise occur at times when people expect to enjoy peace and quiet?*** *From review of diary and discussion with residents the noise can occur for a large proportion of the day. Due to the continuous and unpredictable nature of the noise it does disturb the resident's peace and quiet, which they would usually experience during the day.*
- 4) ***Is the noise atypical for the area?*** *The noise is unusual for the area, which previously was predominately pleasant nature sounds, with occasional rural machinery sounds*
- 5) ***Does the noise occur often?*** *The noise occurs 7 days a week, in summer from 7.30am to 6pm, and in winter from 10am to 5pm.*
- 6) ***Are a number of people affected by the noise?*** *4 to 6 properties are directly affected by the noise with 2 of these properties severely affected (10 Moores Point Rd – 300m away and 570 Ourimbah Creek Road – 200m away).*

Council's noise assessment inspection confirms the barking dog noise is occurring at the subject site.

The submitted acoustic report prepared concludes that the operation of the dog breeding facility, with a maximum of 30 dogs is compliant with the guidelines and no further noise controls are required.

The operation of the business is currently unreasonably impacting upon the amenity of the local residents with regards to offensive noise. The acoustic report does not recommend any



### **3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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additional attenuation measures nor does the Plan of Management adequately address mitigation measures for barking dogs. The acoustic report has failed to adequately address the community concerns and Council does not support the report's conclusion that the dog breeding facility is compliant with the guidelines.

Based on the above assessment of the acoustic report; undertaken noise assessment inspection by Council officers and the insufficient information received to address acoustic impacts, it is considered that the continued operation of the dog breeding facility will create significant and unreasonable amenity impacts to the residents of the surrounding rural area and on this basis is not supported.

#### **Submissions**

The application was notified in accordance with *Chapter 1.2 (Notification of Development Proposals) of Wyong Development Control Plan 2013 (WDCP 2013)* from 26 February 2020 to 11 March 2020. A total of 45 written submissions in objection were received.

The issues raised during the notification period are detailed below:

- The dog breeding business is operating without development consent.

*Comment:* The dog breeding business has continued to operate during the assessment of the development application despite an Order being issued by Council's Compliance Unit and Council's written advice to the applicant to cease the use being ignored.

- How will waste from the dogs be managed?

*Comment:* Animal waste is to be double bagged and sealed and will be removed off-site by a private contractor.

- What are the cleaning methods of the dog runs? Faeces and urine will run off and eventually wash into Ourimbah Creek.

*Comment:* The dog runs are now located within the existing outdoor dog kennels. Proposed improvements to the outdoor dog kennels to allow cleaning include a concrete and synthetic flooring and installation of a *Gatic* drain with hair arrestor which is connected to the proposed on-site sewer management system. The proposed method of cleaning is outlined in the submitted Plan of Management and Wastewater Management Plan report.

- Noise impact from dogs and puppies barking, howling and whimpering.

*Comment:* The assessment of this application concludes that the continued operation of the dog breeding facility will create amenity impacts to the surrounding area and this is a reason for refusal.

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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- Dog breeding farm does not fit with the character of the area.

*Comment:* The character of the area would be described as a quiet rural area consisting of undersized smaller rural lots and a more intensive rural dwelling pattern than is typical of other RU1 areas. Small scaled farming and hobby farming practices occur in the area. The area has low background noise levels due to the nature of the farming practices, and the proposed use which does not satisfactorily minimise noise and amenity impacts will not fit with the quiet character of the area.

- Concerns for animal welfare. The proposal does not comply with the Animal Welfare Code of Practice - Breeding dogs and cats as published by NSW Department of Primary Industries.

*Comment:* The welfare of the animals within the animal boarding and training facility – dog breeding is under the jurisdiction of NSW Department of Primary Industries. *The Animal Welfare Code of Practice – Breeding Dogs and Cats*, originally published by Industry & Investment NSW 2009, sets standards for the care and management of dogs and cats for breeding.

The submitted Plan of Management (POM) includes the management and care of the dogs within the breeding facility. The POM also states that a senior veterinarian from Somersby Animal Hospital looks after the dogs and provides general dog check-ups.

- How are deceased animals disposed of from the site?

*Comment:* The submitted Plan of Management (POM) details that deceased animals will be taken to the vet and not buried on the site.

- The noise and smell from a large number of dogs will drive wildlife away.

*Comment:* The impacts from noise will affect the amenity of residents in the surrounding rural area as addressed within this assessment report and a stated reason for refusal.

- No confidence that a set number of dogs will be abided by.

*Comment:* Should the application be approved, conditions of development consent can enforce the maximum number of dogs and ensure the management of dog numbers are consistent with the approval.

- The proposed evening house is insufficient and will not provide the minimum required air temperature control for brachycephalic breeds, especially against heat.

### **3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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*Comment:* The evening house is insulated, ventilated and air conditioned and the applicant has confirmed the evening house when proposed improvements are complete will be a suitable environment for the French Bulldog breed.

- A detailed management plan should be required as a condition of development consent if the DA is approved.

*Comment:* A Plan of Management (POM) has been submitted with the application, however, the POM has not addressed mitigations measures for barking dogs.

- What is the number of staff employed?

*Comment:* The dog breeding facility is to be operated by 4 employees which include 2 permanent/full-time residents of the subject site providing 24-hour, 7 day per week management.

#### **Submissions from Public Authorities**

There were no submissions received from public authorities in relation to this application.

#### **Internal Consultation**

The development application was referred to the following internal officers for comment:

##### Development Engineer

The development application has been assessed by Council's Development Engineer where no objection was raised to the proposed development.

##### Environmental Health Officer

The development application has been assessed by Council's Environmental Health Officer with regards to noise impacts and the on-site sewer management system (OSSM). The proposal is not supported due to insufficient information received to address acoustic impacts and it is considered that the continued operation of the dog breeding facility will create adverse and unreasonable amenity impacts to the residents of the surrounding rural area.

##### Waste Services Officer

The development application has been assessed by Council's Waste Services Officer where no objection was raised to the proposed development subject to compliance with conditions were the application recommended for approval.

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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**Ecologically Sustainable Principles:**

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage, and the retention of vegetation and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

**Climate Change**

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This assessment has included consideration of such matters as potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood; as well as how the proposed development may cope/combat/withstand these potential impacts. The proposed development is considered satisfactory in relation to climate change.

**Other Matters for Consideration:**

*Building Information Certificate*

The Building Information Certificate (BIC) application BC/48/2020 that relates to the existing shed (evening house) and 10 outdoor dog kennels that are to be used as part of the animal boarding and training facility - dog breeding, is under assessment by Council's Building Certification Unit.

The BIC application will assess the existing structures as referenced above under the provisions of Division of 6.7 of the EP&A Act. The assessment criteria for a building information certificate is clearly defined by the EP&A Act and provides that Council must issue the building information certificate where no discernible reason exists to issue an order for demolition, alteration, addition or rebuilding.

The BIC will only be approved if development consent is granted.

*Section 7.11 Contributions*

The site is not subject to the provisions of any section 7.11 development contribution plan. Therefore, no contributions are applicable.

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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**Suitability of the Site for the Development:**

The rural area of Palm Grove has low background noise levels which consist of nature sounds and occasional rural machinery sounds. The nature of the dog breeding business presents continuous and unpredictable noise from barking dogs that continues to disturb the peace and quiet of neighbouring residents in the rural area.

With the number of dogs to be bred on the site; the sites size and location and close proximity to neighbouring properties, it is considered the proposed use is not suitable for the site.

**The Public Interest:**

The application has failed to address the concerns raised by the surrounding community and provide confidence that the proposal will not unreasonably impact upon the health and amenity of the local residents. Due to strong community objection; the continued operation of the facility without development consent; and on-going complaints about unauthorized use and offensive noise from barking dogs it is considered that the proposal is not in the public interest.

**Conclusion and Recommendation:**

Based on the assessment under the heads of consideration in Section 4.15 of the *Environmental Planning and Assessment Act 1979*, the proposal is recommended for refusal for the reasons outlined in Attachment 1.

**Reasons for decision**

The reasons for the decision as recommended under the assessment of this application are as follows:

- The proposal is considered unsatisfactory under the heads of consideration set out in Section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- The proposal is considered unsatisfactory with regard to *Wyang Local Environmental Plan 2013* RU1 Primary Production zone objectives.
- There is insufficient information provided to determine all likely significant impacts.
- The proposal is not suitable for the site.
- The proposal is not in the public interest, having regard for the matters raised in submissions received in relation to the proposal.

**3.1 Development Application DA/97/2020 - Use of Existing Premises for the purposes of an Animal Boarding and Training Facility - Dog Breeding 604 Ourimbah Creek Road, PALM GROVE (contd)**

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**Attachments**

- 1** Reasons for Refusal      D14146496
- 2** Development Plans      D14116742