

28 May 2019

General Manager
Penrith City Council
PO Box 60,
PENRITH NSW 2751

Attention: Mr. Warwick Winn,

Dear Warwick,

Re: DA17/1344 - REVIEW OF DETERMINATION

- Reference:
- A "Penrith City Council Major Assessment Report" dated 1 February 2019
 - B "Owners Letter" dated 2 October 2018
 - C "Day Design Report 6308-3.2L" dated 6 March 2019
 - D "Day Design Report 6308-3.1L" dated 26 September 2019
 - E "Day Design Environmental Noise Impact Assessment 6308-1.1R" dated 1 September 2017

In response to council's recommendation of Refusal in Reference A the owners would like council to undertake a review of determination based on the following reasons:

- Council have not taken into consideration the information presented in Reference B
- Council's interpretation of the measured noise data presented in Reference E being incorrect
- The applicant has not been given the opportunity to address key issues raised in Reference A prior to council making a determination. Noting that all previous issues raised throughout the determination period were addressed.

The key issues raised by council in Reference A which subsequently led to the recommendations of refusal are addressed below:

- Cumulative noise impact of 12 adult dogs and 24 pups barking simultaneously although rare exceeds the night time noise criteria by 1 decibel.

The cumulative noise impact has been addressed in Reference B and Reference D. In Reference D the acoustic report concludes by limiting the number of pups from 24 to 19 will achieve the noise criteria of 38 dBA. In Reference B the owner has reduced the capacity of the facility from 12 adult dogs and 24 pups initially proposed in DA17/1344 to 10 adult dogs and 12 pups. This is nearly a 25% reduction in the numbers initially proposed which addresses councils concerns over the perceived capacity of the facility and ensures the cumulative noise levels generated from the facility are well below the 38 dBA noise criteria to give council assurance of compliance.

- The applicant has not satisfactory explained the noise level recordings that exceed the sleep disturbance criteria at the residential receptor

The sleep disturbance issues council raised in Reference A have been addressed in Reference C. With the acoustic assessment concluding that the increase in noise levels at the residential receptor at the times in question is the result of natural sources most likely bird noise. This has been supported by observation data for sunrise in the Castlereagh region.

In the owner's opinion council's reasons for concluding the development has not satisfactory explained the sleep disturbance criteria due to there being occasions at the residential receptor that exceeds 48dBa is flawed and unreasonable. The proposed development can only control noise generated from the dogs and has no control over other external or natural noises that may occur in the surrounding environment. There could have been numerous events that contributed to the residential receptor exceeding the sleep disturbance criteria over the sample period that were not solely the result of noise generated from the proposed development including:

- The neighbours dogs barking where the residential receptor was located
- Noises generated from animals at the neighbouring properties including roosters, dogs and other farm animals
- External noises such as pumps, air conditioners and cars leaving for work where the residential receptor was located
- Natural noises from native animals such as birds

Furthermore the noise impact assessment in Reference E has shown at times of prolonged increase of noise from inside the dog kennel and outdoor pup yards (worst case) the measured noise level at the residential receiver is no greater than 45dBA which is below the sleep disturbance criteria.

- Submissions from adjacent and adjoining properties received

Although the noise complaints were unsubstantiated and in the owners opinion overstated. They would still like to reduce the facilities potential impact on the surrounding community to be as low as reasonably practicable. As stated in Reference B the owners have committed to make the following modifications to the exiting barn to improve the acoustic performance during the facilities operation including:

- Relocate the main access door from the west to the east, addressing the current weak spot in the barn by installing an internal acoustic barrier across the western side of the barn
- Increase the acoustic performance of the inside kennels by reducing the door opening by 50%
- Reduce the overall dog capacity by 25% to further reduce the potential impacts of the proposed facility on surrounding properties

In summary the reduced capacity, improved acoustic performance of the barn and additional acoustic assessment provided confirms the proposed developments compliance against all noise criteria. Furthermore the key issues raised by council in Reference A have been addressed giving council further confidence of the facilities on going compliance.

Yours faithfully

Mathew Pryce
Property Owner