

ADDENDUM**SY064-07/22 APPLICATION FOR SIX (6) DOGS – 263 BAYLY ROAD, YORK****Additional Information**

At the Agenda Briefing held on Tuesday 19 July 2022, the number of letters sent to adjoining neighbours was raised. It can be confirmed that, in total, seventeen (17) letters were sent.

Further to the agenda report, the following additional information is provided.

Planning & Development Act 2005 / Shire of York Local Planning Scheme No. 3 (the Scheme):

Schedule 8 of the Scheme expressly states that dog kennels (i.e. use class 'animal establishment') is a prohibited use within Rural Residential Zone 1 (RR1) where the subject land is located, meaning Council does not have the legal authority to grant development approval for kennels. The Scheme defines 'animal establishment' as "*premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry — intensive or veterinary centre*".

If more than six (6) dogs are kept on this or any other property in RR1, it would constitute a breach of the Scheme and be classed as illegal development. This includes if puppies (i.e. dogs under three (3) months) were kept at the property.

There are significant fines applicable for offences under the *Planning & Development Act 2005* if prosecution for any offence is successful (i.e. a fine of \$200,000 and a daily penalty of \$25,000 for every day during which the offence continues).

Any approved application to keep six (6) dogs would need to meet the requirements set out in Schedule 8 of the Scheme, in particular relating to breeding or training.

Dog Act 1976:

As defined in Section 26(3) of the *Dog Act 1976*, the local government in approving the keeping of more than two (2) and less than six (6) dogs can apply conditions which "*applies only to dogs specified therein*." Any requests to change the dogs listed on a 3-6 Dog Application would therefore require a new application to be submitted each time to the Shire of York. Following the submission and payment of the application, the same process would be undertaken, including a site inspection and community consultation (i.e. issuing of letters to neighbouring properties).

It should be noted that multiple 3-6 Dog Applications for a single property may require additional resourcing support as a Workforce Implication.

Approval of Multiple 3-6 Dog Applications

Delegation DE6-13 – *Dog Act 1976* – Approval to Keep More Than Two Dogs provides delegated authority from Council to the Chief Executive Officer to grant exemptions for particular premises for the keeping of more dogs than is allowed under the Shire's Dogs Local Law pursuant to Section 26(3) of the *Dog Act 1976*.

DE6-13 also sub-delegates the decision-making authority from the CEO to the Executive Manager Infrastructure & Development Services and the Shire Ranger, meaning Officers in both latter positions are able to make determinations on whether, or not, to approve an application for the keeping of more than two (2) dogs as allowed in the Shire's Dogs Local Law. A condition on the use of delegated authority is that the Ranger must inspect the premises to ensure means exist to effectively confine the dogs within the premises.