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DEVELOPMENT APPLICATION

**OBJECTION RE:
JERRARA DOG BREEDING
AND SALES DEVELOPMENT
APPLICATION 10.2021.253.1**

AN ANIMAL LIBERATION SUBMISSION


KIAMA MUNICIPAL COUNCIL

We acknowledge the
Traditional Owners of
country throughout
Australia and recognise
their continuing
connection to land, waters
and culture.

We acknowledge that this
document was written on
land stolen from and never
ceded by the Gadigal
People.

We pay our respects to
their Elders past, present
and emerging.





We don't have a duty to **speak** for the animals;
we have an obligation to be **heard** for the animals.

Matt Ball (2006)

DOCUMENT DETAILS

Animal Liberation. 2022. Objection re: Jerrara dog breeding and sales development application, reference no. 10.2021.253. Prepared by Alex Vince, Nadia Kiteras and Lisa Ryan.

ABOUT ANIMAL LIBERATION

Animal Liberation has worked to permanently improve the lives of all animals for over four decades. We are proud to be Australia's longest serving animal rights organisation. During this time, we have accumulated considerable experience and knowledge relating to issues of animal welfare and animal protection in this country. We have witnessed the growing popular sentiment towards the welfare of animals, combined with a diminishing level of public confidence in current attempts, legislative or otherwise, to protect animals from egregious, undue, or unnecessary harm. Our mission is to permanently improve the lives of all animals through education, action, and outreach.

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11 January 2022

Mr. Brendan Leo and Mr. Brett Elliott
c/o Kiama Municipal Council
Via email: council@kiama.nsw.gov.au.



Dear Mr. Leo and Mr. Elliott,

We present this submission on behalf of Animal Liberation.

Animal Liberation is grateful to Kiama Municipal Council ('KMC') for the opportunity to lodge a submission in response to the Development Application ('DA') No. 10.2021.253.1 and associated Statement of Environmental Effects ('SEE') and plans, lodged by Ms. Annette Gibson for an Animal Training or Boarding Establishment (for Dog Breeding and Sales) in the Kiama Local Government Area ('LGA').

We request that it be noted from the outset that the following submission is not intended to provide an exhaustive commentary or assessment in response to the issues contained within the scope of the DA, and/or, the corresponding SEE and plans.

Rather, our submission is intended to provide a general examination and responses to select areas of key concern. As such, the absence of discussion, consideration or analyses of any particular aspect or component must not be read as or considered to be indicative of consent or acceptance. For the purposes of this submission, Animal Liberation's focus covers aspects that we believe warrant critical attention and response.

We also confirm our awareness of the ongoing issues, including valid local community concerns surrounding a similar DA with the Kiama Municipal Council involving another Dogs NSW member and breeder, known as Klabauter Standard Schnauzers.

In short, Animal Liberation strongly opposes DA No. 10.2021.253.1 lodged by Ms. Annette Gibson for an Animal Training or Boarding Establishment (for Dog Breeding and Sales) in the Kiama LGA. Our points of objection are outlined in the following objection submission

Kind regards,

Alex Vince
Campaign director

Lisa J Ryan
Regional campaign manager

Nadia Kiteras
Social media strategist

DISCLOSURE & CONSENT

In line with s. 147(4) of the *Environmental Planning and Assessment Act 1979* ('the EP&A Act'), Animal Liberation confirms its understanding and acceptance that any submissions made in respect of the proposed development are available for public inspection under the provisions of the *Government Information (Public Access) Act 2009* ('the GIPA Act').

In line with Amendments to Local Government and Planning Legislation requiring the public disclosure of donations or gifts when lodging or commenting on development proposals, Animal Liberation discloses and confirms that it has not made any political donations and/or of gifts in the two (2) years preceding the application.

— BACKGROUND & INTRODUCTION

- 1.1 Animal Liberation understands that Kiama Municipal Council’s assessing staff and decision-makers have an onerous responsibility with all planning proposals and that the assessment review must remain independent, objective and informed during the entire process. We acknowledge and appreciate that many planning proposals include risks and impacts, including strong public interest which can extend beyond the Kiama Local Government Area (‘LGA’). Accordingly, the current DA carries an additional burden of responsibility that we trust Kiama Municipal Council (‘KMC’) will adequately and transparently consider.
- 1.1.1 KMC, as a primary consent authority, is required to thoroughly assess the adequacy of information provided and the measures proposed by the Applicant to mitigate any potential risks and impacts (including cumulative impacts). This is clearly outlined in the Environmental Planning and Assessment Act 1979 (‘EP&A Act’) which requires Council to give due consideration to social impacts and public interest relating to any proposed development.
- 1.1.2 All of these considerations are therefore an important and integral part of any comprehensive, objective and meaningful development assessment in line with the applicable planning instruments. Decision-makers must accordingly consider current strong public perceptions, expectations, and the overwhelming public opposition towards the commercial and intensive breeding, housing and selling of companion animals.
- 1.2 Animal Liberation understands that DA 10.2021.253.1 has been submitted by the Applicant, Ms. Annette Gibson, because the consent given in DA 10.2018.274.1 has expired. In the current Statement of Environmental Effects (‘SEE’), the Applicant notes that the original DA (i.e., ‘10.2018.274.1’) imposed a trial operational period of 6 (six) months (Gibson 2021a). The SEE maintains that this trial period did not commence until after the specified date (not provided) because the requisite infrastructure remained incomplete. Despite this, the SEE states that “once they [the facilities] were [complete], a 6-month trial was conducted” (ibid).
- 1.2.1 DA 10.2021.253.1 seeks consent for the breeding of up to nine (9) fertile female dogs and one (1) fertile male at the proposed site (70 Long Brush Road, Jerrara). The SEE states that such breeding is proposed to occur “from the proponent’s pet dogs” (Gibson 2021a) to produce “teacup toy poodles” and Cavalier King Charles Spaniels for subsequent sale. We note there is no such Australian

- 1.2.1 National Kennel Council ('ANKC') registered breed described as "teacup toy poodles" and that the Applicant claims to be a Dogs NSW member. The selection of these breeds is particularly problematic. Our related concerns will be briefly outlined in the corresponding section on animal welfare below.
- 1.2.2 We further note that the Applicant fails to include any reference to her possible breeding (by association with a neighbour) and marketing/selling of cross bred "cavoodle" puppies (a hybrid of a Cavalier King Charles Spaniels and a toy or miniature poodle) that appear to be in breach of DogsNSW codes of ethics (DogsNSW 2021). The Applicant's website for their commercial dog breeding is www.chickenhatching2u.com. Associated social media, including a Facebook page (@Mahoganypoodles), provides some details of this cross breeding.
- 1.2.3 In the below screenshots from Facebook (@Mahoganypoodles), reference is made to "Cate" and "...Piper and Tumbleweed's litter [who] is owned by my neighbour". As such, it is our understanding that Ms. Cate Menzies is the Applicant's neighbour. It is also our understanding that the dogs described (i.e., 'Piper' and 'Poppy') are both are Cavalier King Charles Spaniels owned by Ms. Menzies, but that the dog 'Tumbleweed' is owned by the Applicant, Ms. Annette Gibson.

Fig. 1: Screenshot of @Mahoganypoodles Facebook page

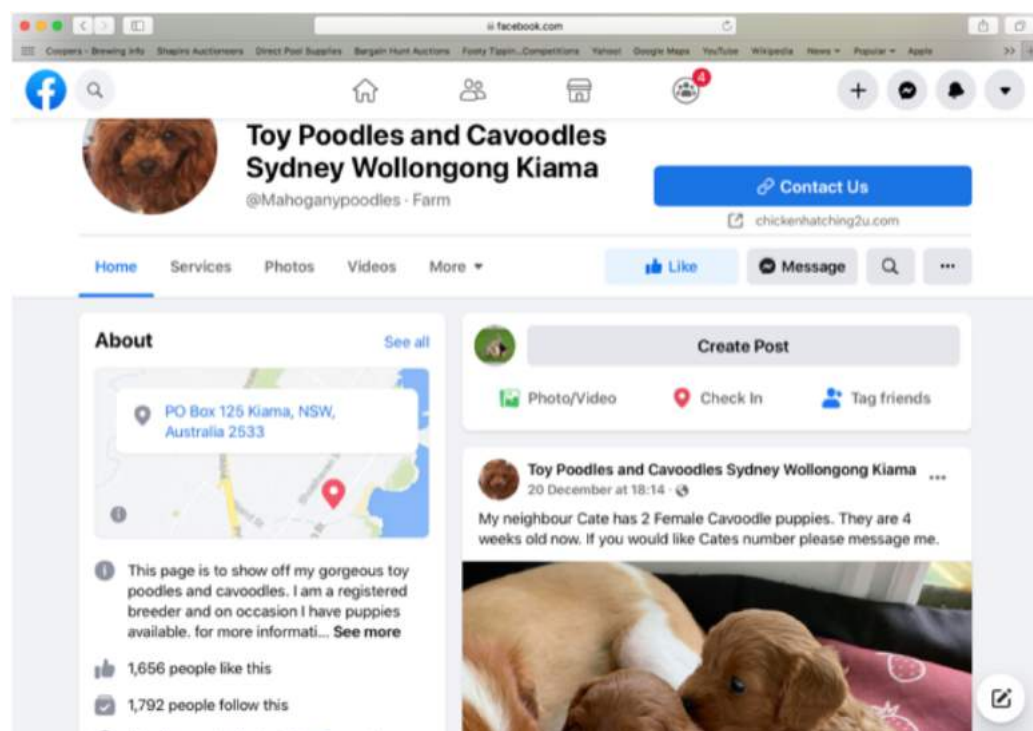


Fig. 2: Screenshot of @MahoganyPoodles Facebook page detailing a female "cavoodle" produced by 'Piper' and 'Tumbleweed'

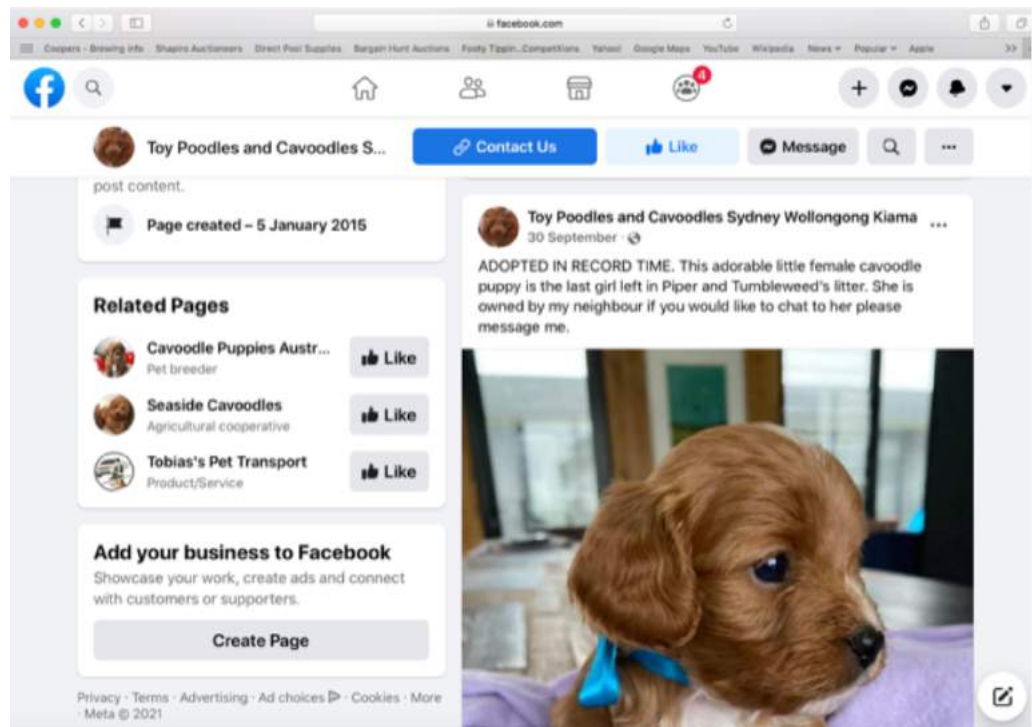
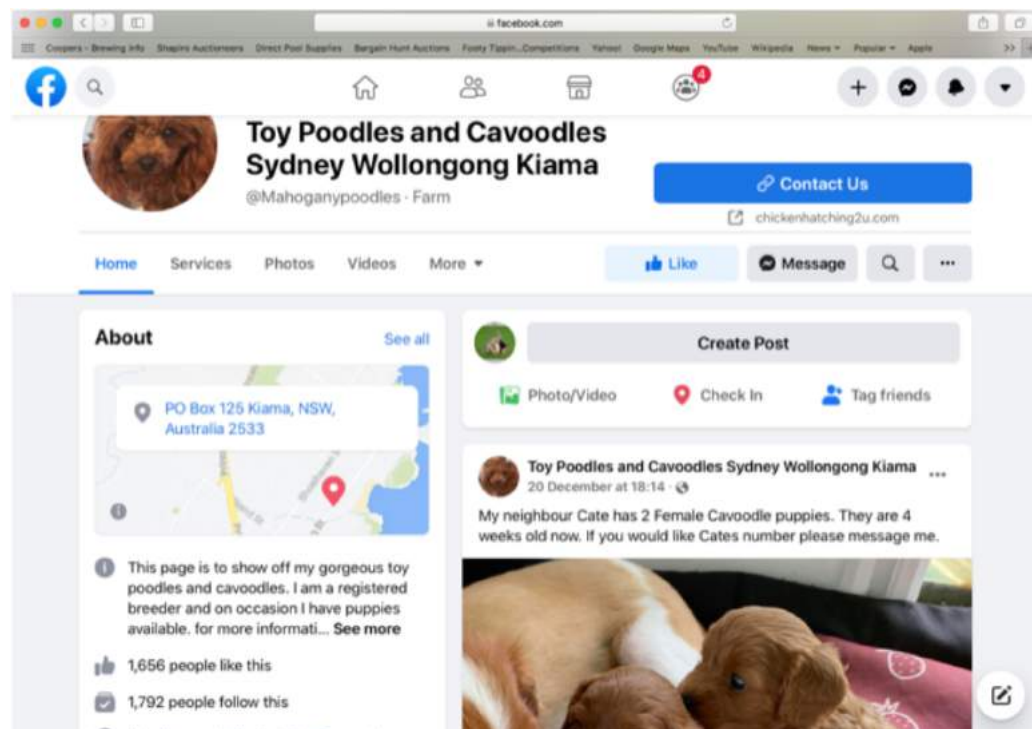


Fig. 3: Screenshot of @MahoganyPoodles Facebook page advising that seven (7) "cavoodle" puppies produced by the Applicant's neighbour



- 1.3 The onus is on the Applicant to provide sufficient and accurate information and detail in their application to enable a comprehensive, objective and meaningful development assessment by the consent authority. It is Animal Liberation's informed and experienced view that the Applicant has failed to do so, as is required in line with the applicable planning instruments.
- 1.3.1 Animal Liberation has reviewed the application documents and plans prepared by the Applicant (Ms. Annette Gibson) and consultants (e.g., Acoustic Dynamics). Similarly, we have reviewed and considered the relevant planning framework and instruments at Council and State Government levels.
- 1.3.2 In general, our review found the Applicant's DA, SEE and plans to be confusing and void of critical information. In some respects, their contents are potentially misleading. Each of these concerns will be thoroughly outlined in the following objection submission for Council's consideration.
- 1.4 Animal Liberation is strongly opposed to DA No. 10.2021.253.1 lodged by Ms. Annette Gibson for an Animal Training or Boarding Establishment (for Dog Breeding and Sales) in the Kiama LGA. Our points of objection are outlined in the following objection submission.



SUBMISSION

EXECUTIVE SUMMARY

- 2.1 The documents lodged by the Applicant fail, in all instances, to meet the requirements which outline the provision of sufficient information about the proposed development, how it will operate, and how the proposed development has considered and/or addressed all the relevant and applicable planning instruments, including animal welfare requirements and related risks or impacts.
- 2.2 The Applicant has relied on numerous assumptions and the SEE is generally void of adequate justification or evidence to support many non-evidenced conclusions.
- 2.3 The Applicant has failed to consider other relevant and applicable State Environmental Planning Policies ('SEPPs'), and other relevant planning instruments as contained in the Kiama Council Local Environment Plan ('LEP') and the Kiama Council Development Control Plan ('DCP').
- 2.4 The Applicant has failed to consider or address "public interest". Animal Liberation holds that the proposed development provides no benefit to the local community or the public at large, and is not in the "public interest".
- 2.5 The Applicant's EIS SEE has failed to demonstrate any consultation with relevant agencies to obtain expert technical guidance or input including the NSW Royal Society for the Prevention of Cruelty to Animals ('RSPCA'), the NSW Environment Protection Agency ('EPA') or the NSW Office of Environment and Heritage ('OEH').
- 2.6 The lack or omission of detail provided in the Applicant's DA, SEE and accompanying plans will greatly restrict Council's ability to undertake a comprehensive, objective and meaningful development assessment in line with the mandatory and applicable planning instruments, and public expectations.
- 2.7 In Animal Liberation's informed view, some sections of the Applicant's DA, SEE and plans, either by inclusion or omission, are potentially misleading. As Council would be aware in July 2015, changes were introduced to the offences, penalties and enforcement provisions under the *Environmental Planning and Assessment Amendment Act 2014* and the Environmental Planning and Assessment Amendment (Offences and Enforcement) Regulation 2015. Critically, these changes included a delayed offence (September 2015) which directly relates to "the offence of providing false or misleading information in connection with a planning matter".



SUBMISSION POINTS OF OBJECTION

A: INCONSISTENCIES WITH EXISTING REQUIREMENTS OR REGULATIONS

- 3.1 The Applicant maintains that the proposed development falls within the definition of “hobby breeder” provided for in the KMC Development Control Plan 2020 (‘DCP’) (KMC 2020).¹ Per the Applicant’s SEE, DA no. 10.2021.253.1 “seeks Council’s consent for the breeding of up to 9 fertile female dogs and one fertile male dog at the subject site from the proponent’s pet dogs” (Gibson 2021). Elsewhere in the SEE, the Applicant reaffirmed that the proposal “seeks approval for keeping up to 10 dogs for the purpose of breeding 9 litters per year” (ibid).
- 3.1.1 In contrast, Topic 8.5 of the DCP defines a “hobby breeder” as “a person who keeps and/or trains two (2) and not more than four (4) dogs”, is “eligible to register with the Dogs NSW and complies with the Animal Welfare Code of Conduct”. Similarly, Section 8.5.3 stipulates that the maximum number of dogs kept by “hobby breeders” does not exceed four (4) dogs and one (1) litter on the premises at any time (KMC 2020). For “professional breeders”, this limit rises to “five (5) or more” on the conditions that the operator “can demonstrate compliance with the relevant animal welfare codes and the amenity of the neighbourhood is not adversely affected” (ibid).
- 3.1.2 As such, the proposal does not meet the conditions under which the operator may be considered a “hobby breeder”. Per Topic 8.5 of the KMC DCP, a “professional breeder” is “a person who keeps, breeds and/or trains 5 or more dogs” (KMC 2020). The Applicant’s SEE explains that “the maximum puppies ever possible at the site at one time will be 27 for a maximum of 8 weeks” (Gibson 2021). Nowhere in the SEE does that Applicant particularise the number of “pet dogs” that will be residing on the property at any time
- 3.2 Given the above, we have demonstrated that the Applicant’s proposal falls under the conditions of a “professional breeder” defined within the current DCP. Importantly, this corresponds with other objective definitions of commercial breeding (Blackman et al. 2020).² Though many breeders of small dogs regard their activities as a hobby and few (~2%) describe their breeding as a commercial

1 We note that the accompanying Noise Assessment prepared by Acoustic Dynamics on behalf of the Applicant in 2018 incorrectly cites an outdated 2012 DCP rather than the current 2020 version (Acoustic Dynamics 2018). This outdated document is again cited by the Applicant in the Planning Report and SEE provided (Gibson 2021a).

2 The Applicant’s current website (www.chickenhatching2u.com) provides a sample of recent sales that average approximately \$6,640.



- 3.3 Animal Liberation understands that a noise management plan has been developed for the proposed site. According to this plan, all dogs are to be kept indoors during the night with doors and windows closed. During the day, all dogs are to be supervised in order to “ensure an appropriate response during a barking event”. When dogs are unsupervised, however, they are to be placed within the outdoor run enclosed by an acoustic barrier of sufficient height to minimise visual or auditory stimulation when dogs are left in the area. The management plan states that in the event of barking, the Applicant should adhere to “additional noise management measures”.
- 3.3.1 According to KMC, barking dogs constitute “one of the most common complaints made to Council” (KMC 2022). This corresponds with other Australian studies which have found that of people whose neighbours’ had dogs, 43% said these dogs exhibited behavioural problems and 81% identified “excessive barking” as the main problem (Kobelt et al. 2003). While owners are less likely to identify barking as a problem (Adams and Clark 1989), this is likely due to the fact that barking is most likely to occur when the owner is absent (Kobelt et al. 2003).
- 3.3.2 The EPA explains that while barking can “signify anything from playfulness to danger”, there are a range of conditions under which dogs may bark “excessively”. These may include conditions wherein they are physically limited to fixed location without adequate space, when they are deliberately or unintentionally provoked, when they are under-exercised, untrained, lonely, bored, sick, hungry, thirsty, on the wrong diet, neglected, kept in circumstances unsuitable for their breed or are victims of abuse (EPA 2021).
- 3.4 The Occupation Certificate (‘OC’) / Noise Emission Compliance Assessment produced by Acoustic Dynamics and provided by the Applicant, the site management plan should include a mechanism via which “the puppies are conditioned very quickly to learn that poor behaviour will result in discipline” (Brooker 2021).
- 3.4.1 Though the OC / Noise Emission Compliance Assessment produced by Acoustic Dynamics maintains that the construction of the acoustic barrier described above is suitable for reducing noise during barking when dogs are housed, it explains that the granny flat detailed in various site plans was “constructed to house overly noisy dogs”. As such, it is unclear whether this was the original purpose of its construction and/or any council planning consent. No confirmation has been provided on this matter by the Applicant. This building, however, is described as “acoustically isolated” by its design, which includes double bricks, a lined roof and “acoustically rated windows” (i.e.,

- 3.4.1 those designed to block the transmission of noise from within) (Brooker 2021).
- 3.4.2 The "additional noise management measures" referred to above are cited within the noise management plan developed by the Applicant's consultants (Acoustic Dynamics 2018; Brooker 2021) as follows:
 - A the selection of breeding dogs based on behaviour;
 - B if a puppy barks "excessively", they are first given verbal instructions to stop and if they continue they are "isolated from the other dogs" and placed in the granny flat;
 - C measure B (above) is intended to "condition" puppies so that they learn that "poor behaviour will result in discipline";
 - D in the event of external stimulation, the puppy is placed in the granny flat.

3.5 The SEE prepared and submitted by the Applicant claims that the assessment carried out by Acoustic Dynamics "demonstrates that the proposed activity will achieve compliance with the relevant noise criteria for between 6-12 canines" (Gibson 2021a). However, the document referred to in this instance and provided by the Applicant as Appendix A was produced in 2018 and contains the following sentence: "the noise source associated with the development is a kennel and outdoor run for between six to ten canines" (emphasis added) (Acoustic Dynamics 2018). The figure of "6 to 10 canines housed in the facility" is again cited in the consultants assessment of noise emission to nearby receivers (emphasis added) (ibid).

- 3.5.1 Given that the proposal is to use up to nine (9) females and one (1) male to breed up to twenty-seven (27) puppies per year, the limit of twelve (12) canines on the property at any time would necessarily be reached if one female fell pregnant and produced the two (2) additional puppies the Applicant expects each female to produce. For instance, the SEE self-produced by the Applicant states that "a teacup toy poodle only has a litter of between 1-3 puppies (average 2 puppies per litter)" (Gibson 2021a).
- 3.5.2 Animal Liberation maintains that the discrepancy between the figures cited by the Applicant and those utilised by their consultant ('Acoustic Dynamics') reveal considerable inconsistencies that constitute a structural contradiction. As a result, the emission levels cited in the 2018 report significantly underestimate the true figures and should not be relied upon by Council. Critically, the recent Occupation Certificate ('OC') produced by Acoustic Dynamics stipulates that "any changes made to the proposal (including maximum numbers of canines) that would alter the outcome will require further assessment" (Brooker 2021).

- 3.5.3** At no stage in the OC document can Council confirm the number of canines under consideration because this figure is not explicitly articulated. Reference to canines is simply articulated as referring to “all canines” (Brooker 2021). Given the notable inconsistencies between the Applicant’s provision of facts and those contained within externally produced documents, it is not possible for Council to be confident in the accuracy of the figures provided by the Applicant. It is notable that this appears to be an ongoing source of information requiring clarification as the number of dogs at the premises constituted a query at the KMC ordinary meeting held on April 16, 2019 (KMC 2019).
- 3.5.3** Animal Liberation strongly recommends that Council request updated and precise figures in order to allow an independent, objective and informed review of the current application. Failing to do so risks impinging upon the amenity of nearby receivers and Section 4.15 of the EP&A Act.
- 3.6** Similarly, the SEE prepared and submitted by the Applicant does not contain the same site specifics as the OC or Operational Noise Emission Assessment produced by Acoustic Dynamics.
- 3.6.1** The Assessment cites the granny flat shown on the site plan as being infrastructure “used to minimise noise transfer to neighbouring properties” so that the proposal “does not significantly impact on the amenity of adjoining residents” (Brooker 2021). The SEE, however, does not identify the granny flat as being used for this purpose. Rather, it states that the granny flat may be used for “whelping and as an isolation facility if required” (Gibson 2021a).
- 3.6.2** This is in significant contrast to both the 2018 and 2021 assessments produced by Acoustic Dynamics which specifically identify the granny flat as a core component of the noise management plan (Acoustic Dynamics 2018; Brooker 2021). Similarly, it is not aligned with the corresponding definition of “isolation facility” provided for in the Animal Welfare Code of Practice for the Breeding of Dogs and Cats. While the latter includes reference to “isolation facilities”, it is clear from the content and context of the COP that this primarily refers to infrastructure used to prevent the spread of infectious disease elsewhere on the property or therapeutic isolation due to severe injury (DPI 2021b).
- 3.7** Given the above, it is Animal Liberation’s informed conclusion that the details provided by the Applicant in the SEE are significantly incompatible with the recommendations made by the consultant tasked with providing a professional and independent guide to noise control. As such, we caution Council to consider the inconsistencies, contradictions and omissions outlined in this section of our objection.



- 3.8 There is no current stand-alone definition for companion animal breeding within NSW Planning legislation. The Act and Regulations which apply to the production of animals fail to acknowledge companion animals. As such, current animal welfare or protection legislation in NSW is inadequate and fails to meet the behavioural, social and emotional needs of dogs. Accordingly, facilities operating to the current minimum standards do not provide dogs with an acceptable quality of life. Nor do they adequately prepare puppies for life as companions. The commercial production of companion animals is a major animal welfare issue across Australia. It is increasingly so in NSW and council would be aware of the current NSW Legislative Council's Select Committee Inquiry into puppy farming in New South Wales.
- 3.8.1 As such, we acknowledge that KMC is somewhat constrained by current NSW planning legislation that permit the commercial production of companion animals. Similarly, current NSW animal welfare legislation, regulations and the Animal Welfare Code of Practice (Breeding Dogs and Cats) are seriously outdated, inadequate and provide minimal protection for animals. However, we wish to respectfully remind Council that Clause 1(e) contained within section 4.15 of the Environmental Planning and Assessment Act 1979 requires and compels Council, as the consent authority, to consider "the public interest".
- 3.9 The submitted DA and SEE neither acknowledge or reflect the widespread views and expectations held by the public about how we treat and interact with companion animals, which many consider family members (Franklin 2007). The commercial breeding of dogs currently faces significant public scrutiny (Croney 2019).
- 3.9.1 For example, the recent Consultation Paper provided by the Department of Primary Industries ('DPI') for the licensing and regulating of cat and dog breeders identified and acknowledged a series of instances it considers indicative of "recent community concerns" relating to the commercial breeding of puppies in NSW (DPI 2021a). It states that in 2020 there were "some community concerns" regarding increased activity in relation to higher demands for companion animals during the COVID-19 pandemic (ibid). Animal Liberation strongly contends that these concerns about the commercial breeding and intensive housing of companion animals, have been prevalent for many years and are in increasing.
- 3.9 The Applicant has failed to demonstrate that they will adequately address the critical animal welfare issues inherent in the operation of a dog breeding facility. For example, animal welfare is insufficiently referred to and discussed within the Applicants self-prepared SEE. The scant references to animal welfare within this SEE simply recite the inadequate compliance or regulatory

3.9 measures undertaken by the Australian Association of Pet Dog Breeders ('AAPDB') (i.e., once-yearly audits carried out in order to ensure members adhere to the Department of Primary Industries Animal Welfare Code). Importantly, the RSPCA maintains that "voluntary registration or accreditation programs are not sufficient to ensure the identification and traceability of breeders" (RSPCA 2010). We maintain that a similar conclusion can be reliably reached regarding the validity of annual audits and their success in ensuring positive animal welfare outcomes. Animal Liberation also submits our strongly held, informed and experienced view that self-regulation is always a conflicted way of managing animal welfare, and especially when personal commercial interests and profits are involved.

3.9.1 In addition, the Applicant has failed to demonstrate how they will care for the breeding dogs when they have reared the maximum number of litters. Similarly, there is no clarification on how this will be enforced by KMC. As such, Animal Liberation has significant concerns regarding the welfare of both pups and breeding dogs. This translates into an informed conclusion that KMC cannot be confident that animal welfare will be a priority nor that nominal animal welfare expectations will be met.

3.10 Finally, we strongly maintain that there is no sound basis for the development of additional puppy breeding facilities. Hundreds of healthy, loving homeless dogs and puppies in pounds, shelters and rescue and rehoming organisations, continue to wait for loving homes, while commercial breeders, like this Applicant, continue to exploit dogs and puppies for personal financial gain. As a compassionate society, we have a moral and ethical obligation to promote adoption rather than supporting personal commercial greed.

3.10.1 It is important to note that breeders of some dogs, particularly industry-termed "toy breeds" like teacup poodles, produce fewer puppies and therefore have less choice when inserting animals in their breeding cycle (ACA 2021). Note, for example, the Applicant's admission that "due to the tiny litters produced by teacup poodles (1-3 puppies), I may produce up to 9 litters per year" (Gibson 2021a).

3.10.2 Elsewhere, the Applicant has explained the cost differences between puppies sold via their enterprise: 1) "generally, the smaller the puppy, the more it is going to cost [to buy]"; 2) "females are more expensive than males"; 3) "more 'in demand' colors [sic] also have higher price tags" and; 4) "prices are based on size, colour, gender, etc." (Gibson n.d.-a)

3.10.3 Importantly, though the Applicant has cited this figure as a potential limit, it is notable insofar as it significantly exceeds the average of fewer than four (4) litters per year produced by over 90% of Australian National Kennel Council

3.10.3 ('ANKC') registered breeders (AKNC 2017; Blackman et al. 2020). Currently, the Applicant has a total of eleven (11) names on its website's "priority waiting list" (Gibson n.d.-b)

3.11 Though the Applicant states that they "usually rest dogs in between litters" (Gibson 2021a), this is an unacceptably ambiguous statement and does not accommodate consideration of or reference to the mandatory requirements under the NSW Animal Welfare Code of Practice - Breeding Dogs and Cats ('COP'), including restrictions around back-to-back litters (DPI 2021b).

C: ANIMAL WELFARE

C1: BREED SELECTION

3.12 Animal Liberation is significantly concerned about commercial, profit driven breeding as it focuses on commercial returns as a 'business'. The cross breeding of dogs by in-experienced and profit driven breeders also potentially risks not only the health and wellbeing of dogs and their progeny, but also potentially misleads consumers. Most purebred dogs have some level of hereditary conditions. When such dogs of different breeds remain untested for any hereditary conditions and are cross bred, the very real potential exists to double up and compound such hereditary conditions.

3.12.1 The Applicant states they intend to breed "teacup toy poodles" and King Charles cavalier spaniels (Gibson 2021a). Research shows that teacup dogs are more likely to suffer from severe health issues ranging from allergies, collapsed trachea, diabetes, epilepsy, hypothyroidism, patella luxation, and heart defects/disease (Princess Animal Hospital n.d.; HSVMA 2011; Maeda et al. 2019). Due to their small stature and thin bones, toy dogs are also more likely to sustain injuries that can be difficult to treat (Animal Health Centre n.d.). King Charles Cavaliers are also predisposed to have certain diseases and illnesses (Sandøe et al. 2017), such as mitral valve disease (CAWC 2008; UFAW 2011), exercise-induced collapse (Gill et al. 2012), femoral artery weakness (Buchanan et al. 1997) and hanging tongue (HSVMA 2011).

C: ANIMAL WELFARE

C1: SOCIALISATION

3.13 A puppy experiences three (3) key periods of social development: the primary period, the socialisation period and the enrichment or juvenile period (Serpell and Jagoe 1995). During the primary period, which lasts from birth until approximately 3 weeks of age, a puppies sensory capabilities are not developed and they are entirely dependent on their mother (Howell et al. 2015). As such, there is evidence to suggest that their treatment and handling during this stage influences their behaviour at later life stages

3.13 (Gazzano et al. 2008; 10). After 3 weeks of age, the mother begins to stop providing constant care and puppies concentrate on developing social relationships with littermates (Scott and Fuller 1965). This marks the onset of the “critical socialisation period” which lasts between 3-17 weeks of age (RSPCA Australia 2019).

3.13.1 *Socialisation* refers to a process of desensitisation wherein they are gradually exposed to experiences, animals and objects that they are likely to encounter during their lifetimes (Howell et al. 2015). This process should also include exposure to sounds and textures, other species, and humans of varying demographics (Battaglia 2009). It must be appropriately provided for because this period plays a critical role in the development of adult dogs (Freedman et al. 1961; Howell et al. 2015).

3.13.2 Failing to provide appropriate and adequate socialisation during the sensitive periods described above plays a significant role in determining whether or not the dog develops behavioural problems later in life (Serpell and Jagoe 1995; Miklosi 2008; Donaldson 2008). A lack of appropriate socialisation with a range of people, animals and environments can produce adult dogs who exhibit problematic behaviours, such as aggression or fearfulness (Appleby et al. 2002; Battaglia 2009). A lack of exposure to animals that form their social group as an adult, such as other dogs or species, can result in dogs who are unable to form social bonds (Scott and Fuller 1965). This has been shown in studies wherein social and environmental exposure was proven to be positively correlated with sociability and negatively correlated with fear and aggression (Ward 2003). Each of these strongly indicate that early experiences play an important role in shaping subsequent behaviour (Howell et al. 2015).

3.13.3 Though the long-term effects of early life experiences remain poorly understood for many species, there is considerable evidence suggesting that early exposure to stressful experiences have lasting effects on individual physiology (Bray et al. 2017). In canines, the level of maternal care provided in early life affects temperament in adulthood (Tiira and Lohi 2015; Foyer et al. 2016; Guardini et al. 2017).

3.14 Despite a widespread awareness of these important periods and corresponding needs, the proposed operation intends to punish puppies who should otherwise be experiencing a range of safe interactions with others and the environment during the critical socialisation period through social isolation. Such an approach potentially damages their development and temperament as adults, thereby placing unacceptable and avoidable risks on rehoming services at a later date. It is notable, however, that it is unlikely that the Applicant will be in a position to provide any meaningful supportive services and this responsibility will fall upon volunteer rehoming organisations whose capacity is already strained and overwhelmed.



- 3.15 It is important to note that while the “additional noise management measures” outlined in the previous subsection of this objection submission are ostensibly designed to minimise potential harms to the amenities of neighbouring properties, they also comprise commercial and biological considerations.
- 3.15.1 For example, measure ‘A’ outlined in subsection B1 above (see subsections 3.4.2) is a measure based on the belief that “customers are more inclined to purchase a dog if they are not overly excited or barking excessively”. Measures ‘B’ and ‘D’ are based on an exploitative understanding of the biological needs of puppies as social animals (i.e., because they are social, measure ‘B’ will ensure that they learn that appropriate behaviour corresponds with an allowance to remain within the social group). As such, it represents punishment as a form of negative reinforcement. It also corresponds with a concept known as “positive punishment”.
- 3.16 *Punishment* refers to an action that reduces the likelihood of a behaviour reoccurring so that the undesired behaviour lowers in frequency. “*Positive*” *punishment* means adding something to the cycle after the dog performed an action that reduces the frequency of the unwanted behaviour. For example, if a dog jumps on your lap and this behaviour is met with immediate removal and verbal instructions not to do so, the next time the dog may not jump. In this example, the unpleasant stimuli (i.e., removal and verbal derogation) may have reduced the frequency of the unwanted behaviour (i.e., jumping). “*Negative*” *punishment*, in contrast, means taking something away to increase or maintain the frequency of a desired behaviour. An example of negative punishment is the use of electronic training collars until the dog fulfils the desired behaviour. In this example, a shock may be removed when the dog fulfils the desired behaviour (e.g., “sit”).
- 3.16.1 The proposed management technique contained within the Occupation Certificate (‘OC’) / Noise Emission Compliance Assessment (Brooker 2021) represents a form of “time out” insofar as it forces social isolation. It also represents a form of negative punishment because something that the dog desires (social contact) has been removed in order to reduce an unwanted behaviour (QLD RSPCA n.d.). It is also unclear whether this form of punishment will be applied to more than one dog at a time and, as such, whether it refers to solitary confinement.
- 3.16.2 The recently updated Animal Welfare Code of Practice (‘COP’) for the breeding of dogs and cats in NSW provides a range of measures that may be used to mitigate noise from barking dogs. Critically, none of the measures cited in section 6.2.2.4 of the COP advocate social isolation as a means to reduce barking (DPI 2021b). In fact, Standard 10.1.1.14 of the COP stipulates that puppies “must not be separated from their litter or their lactating mother until

- 3.16.2 they are more than seven weeks of age to facilitate socialisation". The only exception to this Standard is if doing so is "in the best interests of the puppy [...] or their mother" (DPI 2021b). As such, this exception certainly does not apply as a means to minimise noise.
- 3.16.3 The proposed use of social isolation to control the behaviour of puppies is particularly troubling given the rise in dog ownership during the COVID-19 pandemic expressly to ameliorate these feelings in humans (Morgan et al. 2020; Carr et al. 2021; Hughes et al. 2021).
- 3.17 There are a range of significant concerns associated with the forms of punishment proposed by the Applicant. For example, a recent study found that such methods may result in outcomes that put the welfare of the dog at risk (Ziv 2017). International societies for the prevention of cruelty to animals ('SPCAs') have identified social isolation as "one of the most prevalent form[s] of cruelty against dogs" (SPCANL 2016).
- 3.17.1 Separation anxiety in dogs generates a fear of isolation that often produces undesirable behaviours. It is one of the most common causes of such problems in canines (Sherman 2008). This can trigger a range of outcomes, including destructive behaviours and serious welfare impacts such as self-trauma (McCrave 1991; Serpell and Jagoe 1996; Voith and Borchelt 1996; Lund and Jorgensen 1999).
- 3.18 The recently updated Animal Welfare Code of Practice ('COP') for the breeding of dogs and cats in NSW contains a number of relevant considerations. For example, an "enclosure" includes any infrastructure "used to contain a dog or cat" and "environmental enrichment needs" refers to the "provision of stimuli that promote appropriate physical and mental activities, resulting in healthier animals able to express natural behaviours" (DPI 2021b).
- 3.18.1 The Applicant has failed to provide any information on measures they intend to take to ensure that dogs in their care have their environmental enrichment needs adequately addressed. This omission represents a significant failure to adequately consider and appropriately address animal welfare.
- 3.18 Finally, the following concerns remain insufficiently addressed by the Applicant. While each generates significant concern for the welfare of any animals produced or housed on the property, when combined these concerns represent an indictment of the present DA. Animal Liberation recommends that they be considered as such by Council. The following concerns are aligned with Standards contained within the recently updated Animal Welfare Code of Practice ('COP') for the breeding of dogs and cats in NSW (DPI 2021b). Importantly, these Standards describe mandatory and specific actions required to achieve acceptable animal welfare standards and represent a minimum that must be met under law (ibid). As the person in charge of the premises (i.e., the Applicant) is responsible under Standard 4.1.1 of the Code to ensure that the

3.18 facility complies with all Standards, Animal Liberation considers the absence of any reference to these indicative. The corresponding Standard for each identified concern is provided below.

- 3.18.1 The Applicant has failed to consider or address measures to prevent the transmission of infectious disease agents via the chicken coop on site (see Standard 6.1.1.3 of the COP). It is notable that there is no discussion of measures taken to ensure that young puppies do not access this coop. In the absence of any details, Animal Liberation has significant concerns associated with the concurrent business involving the production of chickens for school hatching programs underway at the proposed site. It is known, for example, that dogs and other animals can be vectors of poultry disease (DJPR 2022). In 2021, the peak Australian egg body issued a series of steps that all backyard poultry owners should practice to reduce biosecurity risks, including keeping other domestic animals “well away” (Australian Eggs Limited 2021).
- 3.18.2 The Applicant has failed to adequately demonstrate that they have established a relationship with a veterinary practitioner who is able to attend to dogs and advise on disease prevention measures (see Standard 8.2.1.1 of the COP).
- 3.18.3 The Applicant has failed to provide adequate information detailing or demonstrating that dogs and puppies will be administered appropriate vaccinations. Similarly, the Applicant has failed to provide such details regarding vaccinations from 6 to 8 weeks of age as per the COP (see Standards 8.2.1.6 and 8.2.1.8 of the COP).
- 3.18.4 The Applicant has failed to provide details of proposed measures regarding humane destruction. For instance, the Applicant has failed to provide any information on steps that will be taken if a dog’s physical or mental health is unable to be restored in situ (see Standard 8.3.1 of the COP). It is important to note that this Standard applies regardless of whether the dog is identified by the Applicant as a companion animal.
- 3.18.5 The Applicant has failed to provide details on mandatory microchipping in the breeder’s name prior to their sale (see Standard 9.1.1.4 of the COP).
- 3.18.6 The Applicant has failed to demonstrate adequate understanding of the requirement to provide a 50% refund on the purchase price of any animal sold and returned within three (3) days for any reason (see Standard 9.1.1.7 of the COP).
- 3.18.7 The Applicant has failed to provide sufficient information or evidence relating to the age at which females will begin breeding (see section 10.1.1.2 of the COP). Similarly, the

- 3.18.7 Applicant has failed to demonstrate measures that will be taken to ensure that any dogs used for breeding are physically and mentally fit, health and free of disease” prior to mating (see Standard 10.1.1.3 of the COP).
- 3.18.8 The Applicant has failed to provide adequate details relating to measures that will be taken to ensure that animals that are isolated will be provided additional attention and socialisation (see Standard 10.1.1.9 of the COP). This is particularly important as it applies to the proposed social isolation measures provided for in the Applicant’s DA and discussed above.
- 3.18.9 The Applicant has failed to demonstrate an understanding of the limit included in the COP that mandates that no animal will produce more than two (2) litters in any two (2) year period (see Standard 10.1.1.10 of the COP).

C: ANIMAL WELFARE

C5: CONCLUSION

- 3.19 Though dogs have played an important role in human society for thousands of years and have developed a unique ability to communicate effectively with humans (Reid 2009), our ability to interpret their behaviour remains limited and influenced by a range of factors (Tami and Gallagher 2009; Sarrgisson 2014). One of the behaviours identified as most problematic by people is vocalisation or barking.
 - 3.19.1 Vocalisation (barking) in dogs undergoes considerable alteration during lifecycle development (Tembrock 1976; Hecht and Horowitz 2015). Importantly, studies have found that if isolated, puppies display “distress vocalisations” that are indicative of care-soliciting behaviour (Fredericson 1950; Ross et al. 1960; Elliot and Scott 1961). Care-soliciting behaviours are those carried out in order to solicit attention or assistance from others. These are often made as puppies attempt to call their mother or regain social contact (Guardini et al. 2017).
 - 3.19.2 Given that a majority of reported behavioural problems in dogs are associated with separation or fear (Tod et al. 2005; Sargisson 2014; Lenkei et al. 2021), the proposal to isolate dogs engaging in natural behaviour (i.e., vocalisation) raises a range of associated concerns regarding the stability of their later lives.
 - 3.19.3 It is also possible that punishment of the kind proposed by the Applicant may trigger these problems and generate ongoing issues that either result in abandonment or increased pressures on scarce rehoming services. This is particularly relevant given the evidence suggesting that early life experiences are associated with the prevalence of anxiety later in life (Tiira and Lohi 2015).

3.20 Finally, a common definition of “animal welfare” is the state of an individual as they attempt to cope with their environment (Broom1986; Broom 1995). It is Animal Liberation’s informed conclusion that any dogs produced on this property as a result of Council approval will have their capacity to cope with their environment significantly undermined by the management techniques contained with the DA documents.

My Pet
Name: _____
Address: _____
Phone: _____



- 3.21 Under the DCP, all development applications must include “a detailed Management Plan” that includes written statements that demonstrate how the operation of the facility will comply with all relevant standards, such as the Animal Welfare Code of Practice (‘COP’) (KMC 2020).
- 3.21.1 The Plan of Management (‘PoM’) provided by the Applicant as Appendix D is four (4) pages in length, with only three (3) of these pages containing descriptive text (Gibson 2021b). Furthermore, over two (2) of the pages that do contain descriptive text is comprised of sections that are reiterated in a range of other documents provided by the Applicant (i.e., Section 1, 2 and 3 of the PoM contain text describing the proposed activity, the site and its facilities) (ibid). Though the DCP does not specify how detailed a management plan should be, it is Animal Liberation’s opinion that the plan provided by the Applicant does not constitute the spirit of the DCP.
- 3.21.2 The sections of the PoM that provide additional information refer to operational standards, animal care and animal management (Gibson 2021b). The first section, detailing operational standards, states that the Applicant is a member of the Australian Association of Pet Dog Breeders (‘AAPDB’) and DogsNSW, adheres to the AAPDBs Code of Ethics and is subject to annual audits (ibid). As expressed elsewhere in this objection, the RSPCA maintains that “voluntary registration or accreditation programs are not sufficient to ensure the identification and traceability of breeders” (RSPCA 2010). We maintain that a similar conclusion can be reliably reached regarding the validity of annual audits and their success in ensuring positive animal welfare outcomes.
- 3.21.3 Critically, the PoM also claims that the proposed activity will be “conducted in compliance with the NSW Department of Primary Industries guide to ‘Breeding Dogs and Cats’ 2009” (Gibson 2021b). As earlier subsections of this objection have shown, the Applicant has failed to address many of the Standards contained within this document. In addition, the Applicant has cited an outdated version of this document and has thereby further illustrated an unacceptable lack of awareness of a core regulatory document.
- 3.21.4 The remainder of the PoM refers to animal management. Specifically, this section refers to steps that the Applicant intends to take in order to “minimise environmental impact on the amenity” (Gibson 2021b). This characterisation is inaccurate, however, as the section refers to measures to minimise social impacts caused primarily by noise. It is difficult, therefore, not to provide the same conclusions as those outlined in the corresponding section to impacts on amenities as above. As such, we refer Council to subsection B1 of the present objection.



CONCLUSION

- 4.1 Kiama Municipal Council is compelled to act impartially and ensure the correct and consistent application of local, state and federal legislation, including the objective and transparent assessment of planning proposals. Councillors are elected to represent everyone in the community, including balanced consideration of matters which hold strong public interest. It is imperative that decision makers don't ignore public interest, or place the unsustainable, short-term, economic benefits of a privately owned commercial business ahead of the welfare of animals, the environment or the long-term best interests of the broad community.
- 4.2 The lack of detail or omission of details in the Applicant's DA and SEE will greatly restrict Council's ability to undertake a comprehensive, objective and meaningful development assessment in line with the mandatory and applicable planning instruments and public expectations.
- 4.2.1 The commercial production of companion animals is a major animal welfare issue across Australia and increasingly so in NSW. It is Animal Liberation's position that Council has a duty and a responsibility to consult a recognised and authorised animal welfare agency, such as RSPCA NSW through their Senior Inspector. Animal Liberation contends RSPCA NSW or RSPCA Australia guidance and input is essential.
- 4.2.2 Similarly, on the basis that the Applicant has failed to include any reference to consultation with the Office of Environment and Heritage ('OEH') or the Environment Protection Authority ('EPA') regarding an adequate assessment of noise, odour, biosecurity and disease management risks, including mitigation measures or consideration of environmental matters such as topography, weather patterns, soil, water and general heritage and biodiversity implications, Animal Liberation contends EPA and OEH guidance and input is essential. Alternatively, Council also has the option to establish an Independent Hearing and Assessment Panel ('IHAP') to harness specialist and expert technical guidance and oversight, to ensure all specialist criteria is adequately assessed by qualified experts in their given fields of knowledge and experience.
- 4.3 Animal Liberation wishes to thank Council for reading and considering our objection. For the reasons and rationales outlined above, we request Council refuse DA 10.2021.253.1.

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