

HEALTH CARE SERVICE AMENDMENT

SUBMISSION ANALYSIS & RESPONSE REPORT

LOGAN PLANNING SCHEME 2015

JULY 2022



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1 Introduction

This report summarises the feedback Council received on the proposed Health Care Service Amendment (the Amendment) and provides Council's response to the feedback.

The consultation process undertaken for the Amendment is detailed in Section 2. Key issues raised by the community, Council's response to these issues and recommended actions are provided in Sections 3 and 4.

The community's feedback has helped Council to finalise the Amendment. This report is intended to be read in conjunction with the Amendment which can be accessed on Council's website at www.logan.qld.gov.au/planning.

For further information regarding the Amendment, please contact Council on (07) 3412 4247.

2 Consultation on the Amendment

Public consultation on the Amendment was undertaken between 7 February 2022 and 11 March 2022.

2.1 Consultation activities

Council undertook the following community engagement activities:

Date	Community Engagement Activity
7 February 2022 and 9 February 2022	Public notices were published in the following newspapers: <ul style="list-style-type: none">• Courier Mail (7 February 2022)• Jimboomba Times (9 February 2022)
7 February 2022 – 11 March 2022	The Amendment was published on Council's website with hard copies also available at Council's customer service counters. A copy of the notice was also on display at Council's administration centres.
	The "Have Your Say" online engagement portal was active, allowing the community to provide feedback.
	A staffed telephone enquiry line was available.
	Council hosted 12 online 'Talk to a Planner' sessions, allowing for one-on-one discussion with registered community members.
	Council hosted seven online 'Drop-In' sessions, whereby Council officers explained the background to the Amendment and responded to questions.
	Meetings were available to enquirers upon request.
	Council corresponded with peak industry bodies (Urban Development Institute of Australia, Housing Industry Association and Property Council of Australia), inviting feedback on the proposed Amendment.
	Council invited representatives of the Logan Disability Coalition network to provide feedback on the proposed Amendment.
11 March 2022	Consultation period closed.

2.2 Submissions

Council received five submissions on the Amendment, all of which were considered in the refinement of the Amendment.

Council processed and considered submissions in the following way:

- The details of each submission received were entered into a database;
- Submitters were emailed or mailed an acknowledgement to confirm receipt of their submission;
- Submissions were summarised and categorised to identify key matters;
- Each matter in each submission was considered to determine if changes were warranted to the Amendment;
- Responses to each matter were formulated; and
- The proposed responses to submissions and associated revisions to the Amendment were considered by Council's delegates for endorsement.

2.3 Proposed changes

A number of minor changes are proposed in response to the issues raised during public consultation. The changes are not considered to represent a significant change, with alterations predominantly occurring to provide clarity and consistency to the intended application of the amendment provisions, or to rectify typographical/administrative errors which occurred during the drafting process. The Amendment has been refined in the following ways:

- The formerly-proposed requirement for a Health care service in a residential zone to “cater for the needs of local residents” has been refined to require that the use “cater for a demonstrated need”. This refined wording responds to recent court judgements and acknowledges that non-residential uses may cater for users beyond those residing in the immediate area (such as workers, etc.);
- Access requirements for Health care services in residential areas have been revised to ensure consistency with the safety and movement network requirements under the Servicing, access and parking code. In particular, the requirement for these uses to gain access via an urban arterial road has been removed;
- The former requirement for Health care services in residential areas to “maintain the residential streetscape” has been revised to require that development be “consistent with the residential character” as this statement is more pertinent to ensuring that development upholds the character of an area;
- Landscaping requirements along the frontage of a site have been expanded to apply to both the primary frontage of the site and also where adjoining public open space;
- The requirement for pharmacotherapy clinics to be separated from particular uses (such as Childcare centres) has been clarified and strengthened through the code's performance outcomes and overall outcomes;
- Additional guidance has been provided where pharmacotherapy clinics are required to minimise anti-social behaviour through reference to Planning scheme policy 1 – Crime prevention through environmental design;
- Various miscellaneous typographical corrections.

Section 4 of this report provides further detail on these changes.

3 Key matters

The key matters raised during public consultation are categorised under the following headings:

- Economic activity
 - Out of centre development
 - Economic need
- Residential amenity
 - Separation distances
 - Acoustic impacts
- Operational requirements
 - Mechanical surveillance
 - Use of outdoor areas
- Administrative
 - Consistency and clarification
 - Typographical

A summary of the matters raised in the submissions, the responses to the matters raised and recommended changes are provided in Section 4.

4 Summary and Responses to Matters Raised in Submissions

Refer to Appendix 1 overleaf.

Submission	Matter	Council's Response
Administrative		
88	<p>There is a conflict between the proposed requirement for a Health care service to gain vehicular access from an Urban collector or Urban arterial classification road in residential areas, and the planning scheme's traffic requirements for a development to gain vehicular access from the lower order road wherever possible.</p> <p>In particular, the planning scheme intends for there to be no access to arterial roads and discourages access to collector roads. This also creates tension in the instance where development is proposed on a corner lot, fronting one of these higher order roads, as development access from the lower order road is sought under the planning scheme's traffic requirements and a more desirable outcome from a traffic perspective. While the note in AO2 of the code seeks to deal with this, it is suggested this requirement is further reviewed to deal with the conflicting planning scheme requirements.</p> <p>It is suggested the editor's note is reworded into the acceptable outcome and instead the editor's note highlights that access to arterial roads is discouraged under the planning scheme and would only be considered where subject to a satisfactory traffic assessment.</p> <p>OR</p> <p>PO2 is amended so it is similar to proposed new PO11 of the Child care centre code, as this wording is stronger.</p>	<p>AO2 of the proposed Health Care Service Code is to be revised to state that development is to not have direct vehicle access to an urban access street, urban access road or urban neighbourhood access road (rather than explicitly state that development must gain access from arterial or collector roads). To further address the scenario where development is proposed on a site that has frontage to both a higher and lower order road, and access would be preferred via the lower order road, the table of assessment is revised to specify that development is code assessable where <u>having frontage</u> to a higher order road (rather than stipulating that development must <u>gain access</u> from a higher road as was previously proposed).</p>
88	<p>Proposed Section 9.3.2.2(2)(c)(i) Overall outcomes for a pharmacotherapy clinic and PO6 are vague and too subjective. It is difficult to determine what constitutes a "compatible land use" and what is "appropriately located" without further guidance and as such these provisions are too subjective and will be open to interpretation depending on the reader's point of view. As such further guidance and clarification is needed on what these provisions intend.</p>	<p>PO6/AO6 of the Health Care Service Code is to be revised to provide a performance outcome that clearly states what land uses that pharmacotherapy clinics are not adjoin. Further, this notion is proposed to be strengthened in the code's overall outcomes.</p>
88	<p>Subsection b in AO3 refers to a limit on GFA per tenancy. The reference to "per tenancy" is unnecessary as multiple tenancies in a residential area would be undesirable. This should be amended to be consistent with the assessment table, which has a 200sqm GFA limit</p>	<p>AO3(b) of the Health Care Service Code is to be revised to read "has a maximum gross floor area of 200m²". It is considered that the prescribed gross floor area reflects a small-scale community purpose and where developments exceed the maximum GFA it is considered appropriate that</p>

Submission	Matter	Council's Response
	and no reference to tenancy size.	compliance with the Performance Outcome is to be demonstrated.
88	The wording of PO3e. could also be improved as it's unclear if a new Health care services development would be able to "maintain the residential streetscape". It is suggested instead this requirement is amended to require the development to be "consistent with the residential character" of the streetscape.	PO3(e) of the Health Care Services Code is to be revised to read "is consistent with the residential character". It is not considered that a Health Care Service use would be able to demonstrate that it maintains the residential streetscape where establishing a non-residential use.
104	AO3 (c.) 'is not within 800 meters of another Health Care service'. 'Within 800 metres' is not clearly defined within the code. Is the distance as the crow flies or is it a walkable distance? The two can be diametrically opposed as 800 metres as the crow flies could be on the other side of a river and actually many kilometres in real terms away. Hence the term 800 metres needs to be clearly articulated as to the intended distance.	The minimum separation distance is consistent with existing wording within the planning scheme and relates to the direct distance between to facilities (aka 'as the crow flies'). Where walking distance is used within the planning scheme it is stated.
104	AO7 – please provide a definition of 'mechanical surveillance' as in most instances it would nowadays be electronic surveillance.	Mechanical surveillance is as per the definition for "surveillance" within the Administrative Definition of the Logan Planning Scheme 2015. Specific guidance on how mechanical surveillance can be achieved is also provided within Planning Scheme Policy 1 – Crime prevention through environmental design. It is proposed that a note be inserted highlighting this.
108	The Application statement (Part 9.3.2.1 of the Health Care Service Code) is to be amended to remove reference to accepted development. The code does not provide assessment benchmarks for development where identified as "accepted development" within the Tables of Assessment.	No changes are to be made to section 9.3.2.1 of the Health Care Service Code (Application).
108	Part 1 (b) of the Purpose should be revised to read "protect" amenity instead of "protects" amenity. Part 2 (b) (vii) should be amended for clarity.	Various typographical corrections are proposed within the purpose of the code to address the issues identified.
108	Acceptable Outcome AO5(a) of the proposed amendment should be revised wording to ensure "frontage" is more clearly defined. It is recommended that further description is provided for example "road	Acceptable Outcome AO5(a) of the Health Care Services Code is to be revised to state "a minimum 2 metre wide landscape strip for trees, shrubs and groundcovers along the street frontage or frontage to a public open space area". The revised wording is considered to provide improved clarity to

Submission	Matter	Council's Response
	frontage" or "frontage to a public space" (park, pathway, etc.)	residents and address instances where development adjoins open space.
108	Acceptable Outcome AO5 (b) should be revised for clarity. The wording of part "b" currently reads "development provides ... a minimum 1 metre wide landscape strip for buffer planting along side and rear boundaries unless where adjoining non-residential premises" could be revised to read "where adjoining residential premises".	Acceptable Outcome AO5 (b) of the Health Care Services Code is to be revised to state "development provides ... a minimum 1 metre wide landscape strip for buffer planting along side and rear boundaries where adjoining residential premises". The revised wording is considered to provide clarity.
108	The Table of Assessment for a Home Based Business in the Community Facilities zone, Emerging Community zone, and Low Density Residential zone have inconsistent layouts where referencing the Health Care service being a Pharmacotherapy. This should be revised to ensure consistency.	The Table of Assessment for the Community Facilities Zone, Emerging Community Zone and Low Density Residential Zone are considered to use consistent wording with respect to pharmacotherapy clinics.
Separation Distances		
10	Medical centres, namely rehabilitation clinics that deal with drug affected clients and clients currently on parole like PRS in Beenleigh should not be located within close proximity to residential living.	The proposed Health Care Service Amendment introduces benchmarks to ensure development for a pharmacotherapy clinic does not adjoin specific sensitive land uses including residential activities.
104	<p>The concept itself (of creating a distance between similar uses) is one that is intended to enhance viability of existing use, but in fact can lead to the opposite effect for the community. By way of example, a poorly performing medical practice could continue to trade, and a new centre could not be placed in the same area to give it competition. This is surely a worse outcome for the local community and a lack of choice.</p> <p>Planning schemes should not be used to stifle competition by creating arbitrary distances between like uses. Needs analysis requirements are more than capable of ensuring the desired outcome without rewarding potentially underperforming businesses by ensuring competition is excluded.</p>	<p>The proposed locational requirements are applicable to health care services only where within a residential zone category or residential precinct of a local plan.</p> <p>It is considered appropriate that multiple health care services could be established within close proximity where within a non-residential zone that allows for an appropriate level of competition.</p> <p>The establishment of non-residential uses is to be primarily located within the centre zone, due to the co-location of non-residential uses in residential areas potentially conflicting with the character of residential areas.</p> <p>As such the requirements for separation distances between non-residential uses within residential zones it considered appropriate, noting that these uses are to be primarily located within the established non-residential zones.</p>
Consultation Requirements		

Submission	Matter	Council's Response
10	Adjoining businesses should be consulted prior to rehabilitation clinics that deal with drug affected clients and clients currently on parole being established.	<p>The proposed amendment does not seek to diminish the requirement for Health care services to be publicly notified where impact assessable.</p> <p>Further, where an application is subject to impact assessment, the application is subject to public notification in accordance with the <i>Planning Act 2016</i> and adjoining owners will be notified.</p>
Residential Amenity		
98	The proposed changes to health care services and especially pharmacotherapy clinics will ensure minimum disruption to residents while still ensuring quality care and services remain accessible.	Council appreciates your feedback.
Operational Impacts		
108	The proposed amendment seeks to regulate the treatment of patients to ensure amenity of the surrounding area. Proposed Acceptable Outcome AO4.2 of the Health Care Service Code does not allow for treatment of patients outdoors and as such would not allow for outdoor COVID testing sites. This outcome should be revised to ensure the code does not restrict the ability for outdoor testing facilities to operate.	It is proposed that the requirement for Health care services to limit outdoor activities be maintained in order to preserve residential amenity. Where outdoor activities are sought, the development assessment process will facilitate due assessment on a case-by-case basis and allow for appropriate conditioning.
Crime Prevention Through Environmental Design		
108	It is suggested that Acceptable Outcome AO7 be revised to include consideration of CPTED outcomes in addition to mechanical surveillance. This could include an additional reference to the guidelines under Planning Scheme Policy 1 – Crime Prevention Through Environmental Design.	A note is to be provided within PO7 of the Health Care Service Code to reference Planning Scheme Policy and provide guidance on how compliance with the planning scheme policy can be achieved.