

SWCPP Ref. No.:	2018SWT010
DA No.:	DA17/0763
PROPOSED DEVELOPMENT:	Community Facility for Assistance Dogs Australia National Training Facility including Ancillary Office Space, Conference Rooms, Cafe, Guest Accommodation, Caretaker's Dwelling, Car Parking & Associated Works - Lot 23 DP 239091, Lot 6 DP 869116, 8 Austin Place, ORCHARD HILLS NSW 2748 7 Austin Place, ORCHARD HILLS NSW 2748
APPLICANT:	Assistance Dogs Australia Limited
REPORT BY:	Paul Anzellotti, Senior Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a Development Application from Assistance Dogs Australia proposing a community facility for an Assistance Dogs Australia National Training Facility including Ancillary Office Space, Conference Rooms, Cafe, Guest Accommodation, Caretaker's Dwelling, Car Parking & Associated Works at No. 8 Austin Place, Orchard Hills. Upgrading work to an existing right of carriageway on land adjoining at No. 7 Austin Place, Orchard Hills to accommodate two-way vehicular movement from the subject site to Austin Place is also proposed with the current application. It is noted that owners consent for works on this adjacent site has also accompanied the application.

The subject site is zoned RU4 Primary Production Small Lots under Penrith Local Environmental Plan 2010. It is noted that the application was originally received by Council for an animal boarding or training establishment however, as this definition under the standard instrument is for a commercial purpose which is contrary to the proponent (Assistance Dogs Australia Limited) being a not for profit organisation, the proposed use on the site was subsequently modified to a 'community facility' (while in principle maintaining the original use). This use is a permissible land use under the subject sites RU4 - Primary Production Small Lots. In this regard, the operation of an assistance dogs training facility by Assistance Dogs Australia Limited is considered consistent with the definition of a community facility.

In accordance with Schedule 7 (*Regionally Significant Development*) under the State Environmental Planning Policy (State and Regional Development) 2011, a community facility with a capital investment value of more than \$5 million is required to be determined by a Regional Panel. In this regard, the Sydney Western City Planning Panel (SWCPP) is the determining authority as the proposal's capital investment value is \$10,000,000.00.

The application is an Integrated Development Application In accordance with Section 100B of the Rural Fires Act 1997 and was subsequently referred to the NSW Rural Fire Service. Correspondence received from the NSW Rural Fire Service dated 22 September, 2017 has advised that no objection was raised with the proposal subject to appropriate conditions being included with any determination granted.

The development application had been originally advertised in local newspapers and notified to all adjoining and adjacent property owners and placed on public exhibition from 8 to 22 September, 2017. During this period four (4) submissions were received.

Following the receipt of amended plans and documentation, the application was re-notified from 13 to 27 March, 2018. During this re-notification period, fifteen (15) submissions were received.

During the assessment process, it was noted that as the land use was amended to now be one of a community facility and is therefore required to be determined by a regional panel, in this instance being the Sydney Western City Planning Panel. In addition, the application was provided with amended plans and documentation in response to a number of concerns raised by Council. In this regard, the application was therefore re-notified from the 24 September, 2018 to 8 October, 2018. During this re-notification period, fourteen (14) submissions were received. All submissions received were opposed to the development.

Key issues identified for the proposed development include:

Permissibility

The application has been accompanied with evidence that the applicant being *Assistance Dogs Australia Limited* is registered with the Australian Charities and Not-for-profits Commission. This is considered necessary noting the proposed land use was modified to be now one of a '*Community Facility*'. In this regard, the provision of a facility to teach assistance dogs specialised tasks due to their handlers maintaining a disability is considered to maintain a definition of a community facility as provided by the standard Instrument as it is considered that the use will be for the general welfare of the community.

Context and Setting

The subject site is located to the end of a cul-de-sac (Austin Place) which is then serviced via an existing right of way to allow for access. The topography of this region of Orchard Hills is of a nature that the subject site is not visible from public areas, at best providing only a transient view noting existing vegetation to be maintained to the northern end of the subject site from motorists using the adjoining M4 heading in a westerly direction. In this regard, use of the subject site for the proposal is not considered to create a significant impact upon the overall scenic character of Orchard Hills with visual impacts confined specifically to adjoining properties.

Visual Impact to adjoining properties

The proposal will be visually prominent from adjoining lots either directly to the east or west of the subject site. The provision of landscaped earth mounds and in part the location of a 1.5m high acoustic fence on top along with perimeter fencing adjoining either the western, eastern or southern boundary of the subject site is considered to alter the immediate relationship between the subject site and neighbouring properties. While so, taking into consideration the agricultural nature of its surrounds and the location of adjoining dwelling houses, the impact is considered satisfactory in this instance and will not modify or alter the current uses for properties adjoining the subject site. In addition, it is noted that the accompanying landscape plans have provided for the screening of both the acoustic fencing and perimeter fencing which will assist in minimising the overall visual impact of such fencing to its immediate surrounds.

The application will also provide for the retention of a number of existing buildings (to be refurbished for the proposed use) and the provision of a number of new buildings including two (2) dog kennels to accommodate a maximum of 60 dogs. The application as amended is considered to have provided for an acceptable design which will not create an inappropriate bulk and scale on the subject site when viewed from adjoining properties. The new buildings will provide primarily for single storey presentations with the location and cut into the existing topography especially for the new dog kennels minimising the visual impact of new structures to adjoining rural lots.

Amenity Impacts to adjoining properties

The application has been accompanied with documentation in relation to the potential impact that noise or odour generated from the proposal will have on adjoining properties. In this regard, this documentation was reviewed by Council's Environmental Management Team who have advised that suitable measures have been provided with the application to mitigate potential adverse impacts. In this regard, subject to appropriate conditions being provided should Development Consent be forthcoming and maintained throughout the life of the proposed use, it is considered that the development is capable of achieving the relevant noise and odour criteria's applicable in regard to adjoining neighbours.

Non compliance with Dog Boarding, Training or Breeding Establishments requirements under the Penrith Development Control Plan 2014

Section D1 *Rural Land Uses* of the Penrith Development Control Plan 2014 provides for minimum setback distances which are to be provided for kennels associated with Dog Boarding, Training or Breeding Establishments. An assessment of the application has indicated that the proposal is in part non compliant with these minimum separation requirements. While so, it is considered that the accompanying Acoustic Assessment Report and Odour Impact Assessment Report have appropriately outlined recommended management conditions to ensure that the amenity of surrounding residents will be maintained.

Access and parking

The application will provide for a new hardstand parking area on the subject site associated with the proposed use as well as the upgrading of the existing right of carriageway on No. 7 Austin Place serving the proposal to allow for two way traffic. The application was accompanied by a Traffic Impact Assessment Report which was provided to Council's Senior Traffic Officer for consideration. Comments returned have advised that while no direct car parking rate is provided for the proposed use by Council's controls, the number of proposed spaces was considered adequate to cater for the number of identified staff. The number of trips generated by the proposal was also considered an amount which could be appropriately mitigated by the existing road network in the vicinity of the subject site while the upgrading of the existing right of carriageway to allow for two way vehicle movement was also considered appropriate.

Servicing and Infrastructure

Consideration has been given to the proposed effluent management associated with the proposed use which will entail the decommissioning of the existing on site sewage management system and installation of a new on-site composting facility. It is noted that Council's Environmental Management Team provided the accompanying amended Waste Waster Report externally to be peer reviewed by Whitehead and Associates who are considered to be renowned technical experts within the waste water field. In this regard, the waste water component was considered satisfactory subject to the provision of appropriate conditions should the Development Application be approved. In addition, Council's Development Engineering and Water Management Sections have considered the proposed stormwater system to be provided on the subject site and have raised no objection subject to the provision of appropriate conditions should Development Consent be forthcoming.

An assessment under Section 2.12, 2.15, 4.15 and 4.46 of the Environmental planning and Assessment Act 1979 (as amended) have been undertaken and the application is recommended for approval subject to appropriate conditions.

Site & Surrounds

The application consists of two allotments, one to be utilised for access to the proposed facility and one maintaining the proposed training centre as follows;

- Lot 6, DP 869116 (7 Austin Place, Orchard Hills); To be utilised for access along Austin Place via an existing right of carriageway, and
- Lot 23, DP 239091 (8 Austin Place, Orchard Hills); Facility site.

No. 8 Austin Place currently maintains 4 single level buildings to the southern end of the subject site and is primarily rural in nature. The site maintains generally a rectangular shape with a southern boundary dimension of 91.53m, northern boundary dimension of 94.835m and eastern and western boundary dimensions respectively of 250.925m and 228.545m. The total site area for No. 8 Austin Place is 2.192 hectares (22,192m²). The site is generally provided with an irregular fall from the southern to the northern boundary of between 17m and 19m with the northern end of No. 8 Austin Place provided with mature tree vegetation in the form of Shale Plains Woodland, identified as a Critically Endangered Ecological Community under the NSW *Biodiversity Conservation Act 2016* and Critically Endangered under the Commonwealth *Environment Protection Biodiversity Conservation Act 1999*.

Claverts Road, which intersects with Austin Place (to the east of the subject site) is provided with an unformed driveway at its northern end which then serves as the northern boundary of the subject site alongside the M4 Western Motorway. Directly adjoining No. 8 Austin Place to its north is the M4 Western Motorway. To the east, west and south of No. 8 Austin Place are rural zoned lands primarily comprising of small lots with grass paddocks. Directly adjoining No. 8 Austin Place to its east are 3 lots (No's. 19-29, 31-37 and 39-49 Calverts Road) which all maintain detached dwellings and associated buildings. Adjoining the proposed development to the west is No. 17 Calverts Road which maintains a number of residential buildings and is currently accessed by a right of carriageway from Austin Place which also serves the subject site. Directly to the south of the subject site is No. 7 Austin Place which provides for the right of carriageway servicing the subject site, the parcel of land rural in nature and maintaining no dwellings. It is noted that No. 7 Austin Place is provided with a separate ownership to that of No. 8 Austin Place. Directly adjoining No. 7 Austin Place to the east is No. 6 Austin Place maintaining a dwelling house which is located at the end of Austin Place as it leads from Calverts Road.

The context of the surrounding lots is rural in nature primarily providing for agricultural and rural industry uses.

Proposal

Background

The application was subject to a pre-lodgement meeting held with relevant Council staff members on the 6 August, 2015.

Development application DA17/0763 was originally received by Penrith City Council on the 17 August, 2017. The original application provided for the proposed training / kennel facility to be as one building with a north-east to south-west orientation. In addition, a total of 54 car parking spaces were proposed. Following a preliminary assessment of the application, the applicant was provided with correspondence on the 20 November, 2017 advising of the following matters to be addressed:

- Inadequate information and inconsistencies in documents submitted to suitably address permissibility;
- Concerns that the proposal reflects an overdevelopment of the site with the layout contributing to excessive hardstand areas and an adverse impact on the existing rural character including on site sewage maintenance implications;

- An inadequate acoustic analysis;
- Inadequate on site sewage maintenance information;
- Inadequate stormwater drainage and Water Sensitive Urban Design details including the provision of on site detention; and
- Inadequate details for public health.

In response, amended and additional information was resubmitted to Council which was registered on the 22 January, 2018. Following a further assessment of the application and subsequent correspondence with the applicant further amended plan and documentation were received on the 26 September, 2018. Following the receipt of information, the proposal was subsequently re-notified from the 13 March, 2018 and then again from the 21 September, 2018.

The application was briefed to the Sydney Western City Planning Panel on the 24 September, 2018.

Current Proposal

The proposal seeks the construction of the Assistance Dogs Australia National Training Facility including ancillary office space, conference rooms, café, guest accommodation, care takers dwelling, car parking and associated works at No. 8 Austin Place and upgrade works to the existing Right of Carriageway on land connected to No. 7 Austin Place to accommodate two-way vehicular movement. The following details are provided in relation to the proposed development;

Applicant

Assistance Dogs Australia Limited is registered with the Australian Charities and Not-for-profits Commission as a charity and seeks to use the proposed facility subject of this application to teach assistance dogs specialised tasks to assist handlers with a disability including in part physical disabilities, autism, post-traumatic stress disorder, early onset dementia and special needs children. Trained dogs are also provided for group therapy, prison programs and Autism workshops.

Proposed works

No. 8 Austin Place currently maintains 4 buildings which are proposed to be either demolished and reconstructed or to be provided with internal renovations. In this regard, the following works have been identified;

Building	Description of use
A – Administration building	Administration use. Internal demolition is proposed to facilitate a new office layout.
B – Reception building	Reception, hall of fame area, café with kitchenette, toilet facilities, two (2) conference rooms and retention of existing verandah. Internal demolition is proposed to facilitate the new layout.
C – Training building	Demolition of the existing building and replacement with a two level building providing for storage and a workshop to the ground floor and two (2) agility areas to the first floor. The first floor is connected to the conference room areas of building B. A lift is also proposed from the ground floor to a verandah area provided on the first floor.

D – Accommodation building	Guest accommodation consisting of five (5) guest rooms with associated separate carer rooms. In addition a shared living/dining area with associated kitchen and laundry is provided for use for each guest. All rooms are provided to the first floor with the ground floor to be provided with storage facilities. Internal demolition is proposed to facilitate the new layout.
E – Training / Kennel building	Provision of two (2) new buildings providing for separate kennel wings for dogs (Buildings E1 and E2), training facility and administration area. Building E1 is proposed to maintain the training facility and administration area along with a total of twenty (20) kennels. Building E2 is proposed to maintain a total of ten (10) kennels. The overall total of 30 kennels may accommodate two dogs each. Each building is proposed to be connected via breezeway maintaining stairs and an awning.
F – Caretakers building	Provision of a new building providing for caretakers accommodation consisting of three (3) bedrooms, living/dining area, kitchen, laundry and associated decks. A detached carport for two parking spaces is to be also provided adjoining the new building.

No. 7 Austin Place currently maintains an existing right of carriageway which provides for access from Austin Place to No. 8 Austin Place. This existing right of carriageway is proposed to be upgraded to accommodate two-way vehicular movement. This work has identified the required repositioning of two (2) existing power poles.

Staging

The proposal is to be provided in two stages as follows;

- Stage 1 - The provision of buildings A, B, C, D E1 (Training facility) and building F (Caretakers residence) as well as all associated infrastructure including training yards, site entry, driveways, car parking, fencing and services.
- Stage 2 - The provision of building E2.

The application has identified that Stage 2 will commence construction after 12 months of Stage 1 operations.

Car parking and maneuverability

No. 8 Austin Place is to be provided with a total of thirty seven (37) car parking spaces (including three (3) accessible spaces) in 3 separate areas as follows;

- Car park 1 (south-west corner of site) - The provision of four (4) car parking spaces and two (2) accessible spaces. In addition a bus park area is provided.
- Car park 2 (centre of site between proposed building E1 and buildings B, C, D and E) - The provision of thirty (30) car parking spaces.
- One (1) accessible car parking space is proposed in the vicinity of Building C, being the proposed training building.

In addition to the above, a number of accessible ramps for pedestrian use are proposed between each building.

Operations

The proposed facility at full capacity may house a maximum of 60 dogs, based upon 30 available kennels. The facility is proposed to operate from 7am to 9pm, seven days a week. Between 6pm and 7am, all dogs are to be moved into their overnight accommodation. The total number of staff is to be 30 but will be varied throughout the week as indicated by the tables below;

Monday to Friday

Position	No. of Staff	Working hours
Dog Welfare Team	6 + 2 during night shift	7am-2pm, 8am-4pm and 2pm-9pm
Dog Instructors	11	8am-4pm
Administration	11 (including managers)	9am-5pm
Maintenance/Caretakers	2	Living on-site
Total	30	

Saturday and Sunday

Position	No. of Staff	Working hours
Dog Welfare Team	6 + 2 during night shift	7am-2pm, 8am-4pm and 2pm-9pm
Total	8	

It is intended that a vet will visit the facility once a week to monitor the dogs. In addition, it is anticipated that one or two volunteers will assist on weekend within the operational hours.

Landscaping and fencing

The application seeks consent for the removal of approximately fifty two (52) plants within the footprint of the proposal. In this regard, new landscaping is to be undertaken with the application accompanied by a Statement of Landscaping Intent. The northern end of No. 8 Austin Place is provided with Shale Plains Woodland which is proposed to be retained. Accompanying landscape plans have identified informal planting beds throughout the subject site with the provision of large shade trees to be planted in open lawn areas, a visual stimulation barrier at a height of 1200mm to be planted adjoining the dog kennel runs and native deciduous trees to be planted along training yards to allow for summer shading.

The proposal will also provide for landscape mounds in part along both the eastern and western site boundaries. Each mound is to be 6m wide and will vary in height on each side as a 1.5m high acoustic fence (steel framed colourbond cladding and steel posts) is also proposed to portions of the eastern and western elevations of the subject site.

The subject site is proposed to be provided with fencing to the whole of its perimeter with a 2.1m high black plastic coated chain wire fence with PDR proposed along the eastern, western and northern boundary. It is noted that fencing along the eastern and western boundary for the majority of its length has been internally positioned 1.5m from the boundary to allow for vegetation to be provided between the boundary and fencing. Along the southern elevation (fronting onto the right of carriageway along No. 7 Austin Place), a 2.0m high framed braced and clad fence is proposed with horizontal powdercoated aluminium battens (spaced 10mm apart) and aluminium posts are proposed. It is also noted that this fencing is in part also set back 1.5m from the southern boundary to allow for landscaping between the boundary and fence.

The accompanying landscape plan has identified that '*mounding to the eastern and western boundaries*' are to be provided with '*wind break style planting to outer edges to provide visual barrier plus "rural" character. Mounding*

works to retain existing trees. Supplementary planting to the mounding include: *Eucalyptus moluccana*, *Eucalyptus tereticornis*, *Angophora subvelutina*, *Corymbia gummifera*, *Corymbia maculate*, *Pittosporum revolutum*, *indigofera australis* and *Dodonaea viscosa*'.

Signage

The proposal has identified the provision of 1 business identification sign (1.35m high x 1.5m wide) to be located adjoining the entry to No. 8 Austin Place. No details in relation to the proposed signage have accompanied the application. Training yards located within the subject side adjoining the proposed dog kennels are also provided with 2.1m high black plastic coated chain wire fences with PDR while dog run enclosures associated with the proposed dog kennels are proposed to be provided with 1.8m high PDR coated aluminium 'pool style' fencing with aluminium posts.

Café and Guest Accommodation

The application has identified the provision of a café to building B (reception building) and guest accommodation to building D accommodation building). The following description of each use is provided within the accompanying Statement of Environmental Effects;

The nature of the training process requires that short term accommodation facilities and constant caretaker presence is provided onsite. This short-term accommodation is only used during the 'pairing' process when the dogs are paired with the person they are to assist. The short-term accommodation is only used for this purpose and is not made available to unrelated members of the public. The use of the short-term accommodation is subservient to the dominant purpose being the 'Community Facility' which trains assistance dogs and as such is an ancillary land use.

Likewise, with the small 'café and conference space', these facilities will only be used as an 'as needs' basis to support the community education around the workings of the training centre and the works that Assistance Dogs Australia undertake. Although labelled a 'cafe' this space is an area for the preparation of tea and coffee and the heating and serving of premade food items from offsite suppliers. The 'cafe' will not be open to the public.

Waste Management

The subject site is currently serviced by reticulated town water but does not maintain access to reticulated sewage treatment. In this regard, the application as amended will provide for a commercial sewage treatment plant (STP) and effluent disposal via pressure dosed sand mounds. The following description of the revised on-site sewage management design is provided by the accompanying revised waste water management report prepared by HMC Environmental Consulting Pty Ltd;

The sand mounded system will provide for an aggregated effluent disposal bed constructed within sand fill above the soil surface. Secondary treatment effluent is distributed in even and timed doses into the mounds via a pumpwell within the STP.

A level area is best for building sand mound systems and the site presents a gentle slope that will be cut and leveled for the mound construction.

The sand mounds provide additional effluent treatment as it moves through the sand mound, and reduces the retained rainfall. The fenced assistance dogs training areas are not required for effluent disposal and 100% reserve land application area is provided.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64—Advertising and Signage
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

Under Section 2.12 and 2.15 (previously Section 23G) of the Environmental Planning and Assessment Act, 1979, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

Under Clause 5 of Schedule 7 *Regionally significant development* of the *State Environmental Planning Policy (State and Regional Development) 2011* a regional panel, in this instance being the Sydney Western City Planning Panel are required to determine an application for development that has a capital investment value of more than \$5 million for any of the following purposes:

(a) *air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*

(b) *affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

It is noted that the application was originally received by Council for an Assistance Dogs Australia National Training Facility (Animal Boarding or Training Establishment) with a value of works proposed at \$10 million. The application was subsequently amended indicating that the proposed land use was now one of a 'Community Facility' with the original cost of works maintained at \$10 million. It is noted that a community facility with a value of more than \$5 million as per Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011* is required to be determined by a regional panel.

In this regard, the Sydney Western City Planning panel is required to determine the current application.

- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 (previously Section 79C) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- **Section 4.46 - Integrated development**

An assessment of the provided plans has identified that No. 7 and 8 Austin Place are located on land identified by Council's mapping as being bush fire prone and is therefore required to be assessed accordingly under the '*Planning for Bushfire Protection (PBP) – 2006*' document prepared by the Rural Fire Service. The development application requires an approval in accordance with Section 100B of the Rural Fire Act 1997.

In this regard, the application was accompanied by a Bushfire Assessment Report prepared by Planit Consulting and subsequently referred to the NSW Rural Fire Service (NSWRFS). Correspondence dated 22 September, 2017 was received by Council from the NSWRFS raising no objection to the proposal subject to the provision of a number of conditions should the application be approved.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy No 55—Remediation of Land

Clause 7 of State Environmental Planning Policy No. 55 (SEPP 55) outlines the following requirements that a consent authority consider prior to the issue of a consent for any development:

A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

There is no record that the subject site is contaminated or has been the subject of any potentially land contamination activities. The proponent has outlined that the site has been historically used in the past for housing for disabled persons via consents previously granted in 1978, 1982 and 1983. Council's Environmental Health Officer has reviewed the proposal in detail and outlined that the site is considered to be suitable for the proposed development and that no objection is raised subject to appropriate conditions accompanying any approval granted in relation to the provision of any landfill.

As a result, it is considered that the proposed development is compliant with the provisions of SEPP 55.

State Environmental Planning Policy No 64—Advertising and Signage

The application is provided with a proposed single 'building identification sign' to be located adjoining the entry of No. 8 Austin Place. A range of additional internal signs (primarily directional signs) are proposed to be located within the subject site but have been identified as exempt development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2009*.

Noting the above, the building identification signage is proposed to be incorporated as part of the new southern facing rock veneered masonry entry fence directly adjoining the proposed new auto sliding electronic entry gate. The proposed signage is provided with dimensions of 1.35m in height and 1.5m in width. The location of the proposed sign is generally considered appropriate and consistent with the objectives of *State Environmental Planning Policy No. 64 - Advertising and Signage* with no impact on its surrounds generated by its location and should approval be granted a condition is to be included to restrict the illumination of this sign.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997). This Policy aims “*to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context*”. The Policy requires Council to assess development applications with regard to general and specific considerations, policies and strategies.

The proposal is not found to be contrary to these general and specific aims, planning considerations, planning policies and recommended strategies of the plan. The site is not located within a scenic corridor of local or regional significance and it is considered that the proposed development will not significantly impact on the environment of the Hawkesbury-Nepean River either in a local or regional context.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies - See discussion
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.3 Height of buildings	Complies
Clause 4.4 Floor Space Ratio	N/A
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 5.10 Heritage conservation	N/A
Clause 7.2 Flood planning	N/A
Clause 7.4 Sustainable development	Complies
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion
Clause 7.20 Orchard Hills	Complies - See discussion

Clause 1.2 Aims of the plan

The application is considered to promote development that is consistent with Council's vision for Penrith as the proposal has via amended information received identified that there is sufficient land available for the disposal of effluent on site, while the odor and acoustic impacts identified by the proposal on surrounding land parcels have been appropriately mitigated. In addition, the appropriate treatment of the perimeter of the site via the provision of landscaping to screen the presentation of any proposed fencing is not considered an inappropriate introduction to a rural context setting noting the existing surrounding lot layouts and the location of the subject site which is not considered to create a visual impact contrary to the desired character of the Orchard Hills area.

Clause 2.3 Permissibility

The application originally received by Council proposed the provision of an '*Animal Boarding and Training Establishment with Caretakers dwelling and ancillary accommodation*' on No. 8 Austin Place (Lot 23, DP 239091). The original Statement of Environmental Effects accompanying the application provided the following commentary in regard to permissibility;

The proposal is considered consistent with the objectives and the defined land uses of 'animal boarding or training establishment' and 'Dwelling Houses' are permissible in the zone. Further the proposed accommodation and café component is ancillary development and therefore also permissible in the zone.

The following definition is provided for an 'animal boarding or training establishment' in the Penrith Local Environmental Plan 2010 (PLEP);

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

Following a preliminary assessment of the application, correspondence was provided to the applicant on the 20 November, 2017 advising that while the proponent is identified as being not for profit, the definition for animal boarding or training establishment specifically relates to commercial purposes. In this regard,

the proposed use does not fit within this definition.

An amended Statement of Environmental Effects dated 20 December, 2017 was received by Council indicating that the proposed land use was now one of a 'Community Facility' and 'Dwelling Houses' in the zone with the café component maintained as an ancillary development. The following definition is provided for a 'community facility' in the PLEP;

community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

The application was also provided with evidence that the applicant being 'Assistance Dogs Australia Limited' has been registered with the Australian Charities and Not-for-profits Commission since December, 2012.

In addition to the above, additional correspondence was provided by Planit Consulting advising in part as follows;

Assistance Dogs Australia seeks to use the new facility to teach assistance dogs specialised tasks which alleviate the effects of their handlers' disability. The handlers are trained to ensure they are receiving the maximum benefit from their assistance dog to alleviate the effects of their physical disability or mental health disorder. That is, it is used for physical and intellectual development for community welfare.

It is not an educational establishment, as it is not a school or tertiary institution. It is not a hospital, as it is not providing professional health care services to people directly at the site. Nor is it a retail premises, place of worship or residential accommodation as defined under the LEP.

The proposed land use is clearly a community facility as defined by the Penrith LEP as it is:

- (a) owned or controlled by a public authority or not-profit community organisation
- (b) used for the physical, social, cultural or intellectual development or welfare of the community and
- (c) does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

Taking into consideration the description provided with the application and certification that Assistance Dogs Australia Limited is a registered Australian charity, it is considered that the proposed development is a community facility as defined by the PLEP and is therefore permissible within the subject sites RU4 Primary Production Small Lots zone. The proposed operations are considered to be for the welfare of the wider community rather than for being for a commercial gain.

The proposal will also provide for a number of uses in addition to an assistance dogs training establishment on No. 8 Austin Place being administration uses, reception area with associated café, conference room facilities, agility areas, guest accommodation facilities and a care taker building. The accompanying Statement of Environmental Effects has indicated that the proposed caretakers building may be defined as a dwelling house. While the Caretakers facility will provide for permanent residents on the subject site, this is not considered a 'dwelling house' by definition but rather the built form and its use provided in association with the proposed operation of the animal boarding and training establishment.

Noting the above, NSW Planning Circular PS 13-001 issued on the 21 February, 2013 provides the following discussion on 'Development for a purpose',

Development is considered to be for a particular purpose if that purpose is the dominant purpose of the development. This purpose is the reason for which the development is to be undertaken or the end to which the development serves.

The Planning Circular also provides the following definition for an 'Ancillary use'

An ancillary use is a use that is subordinate or subservient to the dominant purpose. The concept is important when a development involves multiple components on the same land.

To put it simply:

- *if a component serves the dominant purpose, it is ancillary to that dominant purpose;*
- *if a component serves its own purpose, it is not a component of the dominant purpose but an independent use on the same land. It is a dominant use in its own right. In such circumstances, the development could be described as a mixed use development.*

Noting the above discussion, it is considered that the dominant purpose of the proposed development on No. 8 Austin Place Lot 221 is one of a community facility providing for the training of assistance dogs. Each additional use proposed is considered to operate as an ancillary element to the dominant use, being the community facility providing for the training of assistance dogs, rather than operating in isolation to the proposal on No. 8 Austin Place. Their location in the near vicinity of each other on the subject site is also considered to identify their operation in association with the proposed dominant purpose and is acceptable in this instance.

The application will also provide for the upgrading of an existing right of carriageway on No. 7 Austin Place to accommodate two way vehicular movement to the proposed new facilities. The application has been accompanied by owners consent for the proposed upgrade works noting this parcel of land is provided under separate ownership to No. 8 Austin Place. The upgrade of the existing right of carriageway is considered to meet the definition of 'roads' under the PLEP which is permissible with consent under the subject site's RU4 Primary Production Small Lots zone.

Clause 2.3 Zone objectives

The subject site is zoned *RU4 - Primary Production Small Lots* which provides for the following objectives;

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To ensure land uses are of a scale and nature that is compatible with the environmental capabilities of the land.*
- *To preserve and improve natural resources through appropriate land management practices.*
- *To maintain the rural landscape character of the land.*
- *To ensure that development does not unreasonably increase the demand for public services or facilities.*

Taking into consideration the objectives provided above, it is noted that the proposal is not a primary industry use. While so, consideration has been given to the compatibility of the application with existing land uses as it is acknowledged that a *community facility* is permitted with consent within the RU4 zoning. The proposal is not considered to impact upon the operation of sustainable primary industry uses on adjoining or surrounding land parcels taking into consideration the accompanying technical documentation received by Council which has identified that issues such as waste water treatment, noise generation by the proposed use, odour mitigation, treatment of stormwater, traffic generation and flora and fauna impacts can be appropriately mitigated should the application be approved.

In addition to the above, while not a primary industry use, the application is considered to promote employment opportunities and is not considered will cause conflict to surrounding land uses as identified via accompanying documentation supporting the application, which has been reviewed by Council's technical staff and considered to provide for acceptable design solutions. The application as amended is also considered to have identified that the existing environmental capabilities of the land are such to maintain the scale and nature of the intended use.

The provision of the new built forms and associated structures are also not considered inappropriate additions to the subject site (noting three existing buildings are to be maintained) so as to create an unacceptable addition to the rural landscape nature of the surrounding land. The location of the subject site is not considered to create a dominant visual presence upon its surrounds or public areas noting the topography of the area which does not make the subject site visible from Calverts Road to the east. The provision of landscapes mounds, associated landscaping and the new buildings will therefore maintained a restricted visual presence to its surrounds which is not considered inappropriate in this instance.

In this regard, the application is considered acceptable in relation to objectives as provided by the subject sites *RU4 - Primary Production Small Lots* zone.

Clause 5.9 Preservation of trees or vegetation

The subject site is mapped as containing Shale Plains Woodland which is a Critically Endangered Ecological Community under the NSW *Biodiversity Conservation Act 2016* and Critically Endangered under the Commonwealth *Environment Protection Biodiversity Conservation Act 1999*. In this regard, mid to high/tall woodland (*Casuarina Cunninghamiana* and *Eucalyptus Amplifolia*) occupies the northern portion of the subject site and is approximately 2200m² (0.22 hectares) in area with low/mid-high open forest (*Casuarina Cunninghamiana*) occupying the north-east section of the site with an area approximately of 1200m² (0.12 hectares).

In this regard, a Flora and Fauna Report prepared by Planit Consulting Pty Ltd accompanied the Development Application documenting flora, fauna and habitat studies undertaken over the subject site. The report also undertook the 7-part test of significance pursuant to Section 5A of the Environmental Planning and Assessment Act, 1979. The application identified that the proposal will result in the removal of a total of fifty two (52) trees from the site, the majority of these a planted and introduced species, the proposal intending to retain all vegetation to the northern end of the property adjoining the M4 Motorway.

The application and accompanying Flora and Fauna Report were referred to Council's Senior Biodiversity Officer who raised no objection to the proposal subject to the provision of appropriate conditions with any Development Consent granted.

Clause 7.5 Protection of scenic character and landscape values

The subject site is located in an area identified as having scenic character and landscape views as provided by Clause 7.5 of the Penrith Local Environmental Plan 2010. The objectives of this clause are provided as follows;

- (a) to identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places,*
- (b) to ensure development in these areas is located and designed to minimise its visual impact.*

Subclause (3) reads as follows;

(3) Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places.

The application as amended is provided with a central hardstand car parking area with an associated turning area positioned between the proposed administration buildings (to the southern end of the site) and proposed kennel building (to the northern end of the site). While the amount of hardstand will be significantly increased on the subject site, it is not considered that its location will be visually identifiable from major roads or other public places. Motor vehicles or persons using Calverts Road to the east of the site are not considered to visually identify the new development noting the gradual increase in natural ground level from this road to the west (with the subject site located 250m to the west of Calverts Road) while users of the M4 motorway will not obtain a clear view of the subject site noting the existing amount of mature vegetation located along or in the vicinity of its northern side boundary.

The application as amended has also provided for 6m wide densely landscaped mounds provided in part with an accompanying acoustic fence to be located centrally along the western and eastern boundary with lengths respectively of 136m and 118m. It is noted that each mound is located 2m from their respective side boundaries. The location of these mounds and acoustic fencing is considered to assist in screening the proposed hardstand parking areas and new training facility buildings from immediate neighbouring properties also noting that these mounds will not be visually identifiable from either Calverts Road or the M4 Motorway. In addition, the application is provided with perimeter fencing to the eastern and western boundary in the form of 2.1m high black plastic coated chain wire. This fencing is offset from the boundary by 1.5m to allow for landscaping that provides screening of the subject fence. It is also noted that part of the proposed fencing to the southern boundary (being 2.0m high framed braced and clad fencing with horizontal powder coated aluminium battens) will also be setback in part 1.5m from the boundary to allow for screen planting. Noting the treatment of the earth mounds and perimeter fencing, it is considered that vegetation proposed will minimise the visual presentation of fences along the perimeter and allow for its improved integration with its surrounds.

In this regard, it is considered that the proposal will not create an immediate impact upon the existing scenic and landscaped character of the area taking into consideration the location of the subject site, treatment of its perimeter and its inability to be readily visible from public places or main roads.

Clause 7.6 Salinity

The subject site is affected by moderate salinity. While so, it is considered that appropriate measures can be taken to avoid or reduce any undesirable effects that may be created as a consequence of the proposed development via appropriate conditions of consent.

Clause 7.7 Servicing

Clause 7.7 of the Penrith Local Environmental Plan provides in part for the following;

(1) *The objective of this clause is to ensure that development of land to which this Plan applies reflects the availability of services.*

(2) *Before granting development consent for development on any land to which this Plan applies, the consent authority must be satisfied that:*

(a) *the development will be connected to a reticulated water supply, if required by the consent authority, and*

(b) *the development will have adequate facilities for the removal and disposal of sewage, and*

(c) *if the development is for seniors housing, the development can be connected to a reticulated sewerage system, and*

(d) *the need for public amenities or public services has been or will be met.*

The subject site currently maintains an existing on-site sewage management (OSSM) system to cater for the use of the existing buildings. The application proposes the decommissioning of the existing OSSM systems and the installation of a new on-site sewage management facility. The application was accompanied by a 'Revised Wastewater Management Report' prepared by HMC Environmental Consulting Pty Ltd which has provided the following discussion in regard to solid waste and liquid waste management;

Management - Solid Waste

For the purposes of characterising the wastewater stream and solid waste volumes, this Wastewater Assessment provides an estimate of the likely volume of solid dog faecal matter waste expected to be generated by the kennel operations, and the method of collection, storage and disposal.

No faecal matter collected as solid waste is proposed to be discharged to the on-site sewage management system. All dog and human food waste is also to be collected and composted on-site.

Table 3 Management of Kennel Solid Waste - Dog Manure, Food Waste, Bedding

<i>Waste Material</i>	<i>Management Methods</i>	<i>On-Site Composting</i>
<i>Dog Faeces</i>	<i>Dog manure to be collected twice daily via dry method from kennels and training yards and potty area. Storage within containers/drums within tight fitting lids. Approximately 26kg/day manure generated at 100% kennel occupancy.</i>	<i>Compostable waste material is to be transported to the Onsite Composting Apparatus (OSCA).</i>
<i>Food Waste</i>	<i>Dog food and other food waste to be separated from general waste. Food waste to be stored with containers/drum with tight fitting lids.</i>	<i>Any remainder to be bagged and disposed off-site as general waste.</i>
<i>Dog Bedding</i>	<i>Soiled bedding of compostable material is to be separated from general waste and stored in containers/drums with tight fitting lids.</i>	<i>OSCA technical specification is provided in Appendix 8.</i>
<i>Cardboard, paper hand towels, compostable plates, cups, cutlery</i>	<i>These products to be separated at source within the building, and stored in containers/drums with tight fitting lids.</i>	<i>The end product is to be used as compost material for onsite landscaping, and is not to be taken off site.</i>

Proposed Commercial Sewage Treatment Plant

It is proposed to install a commercial Sewage Treatment Plant to treat the on-site sewage and interior washdown water all buildings.

The proposed STP is capable of each up to 10,000L/day of the expected low-strength effluent generated from the development. The recommended make and model is the Taylex CABS, and this will be subject to contractual agreement to be decided at time of installation approval.

Pre-treatment - Building Design Requirements

- *Shallow under cover surface drains within interior floor of kennels to receive washdown water.*
- *Screened sumps/shallow drains constructed at end of exterior runs to receive clean run-off from exterior runs during rainfall events, and discharge to underground piped stormwater reticulation system.*
- *Basket trap within all floor wastes and sink wastes to provide removal of grit, hair and particulates prior to discharge to the sewage treatment plant for treatment*

Effluent Disposal Method - Sand Mounds

This revised report proposes the use of sand mounds, not ETA beds, and therefore eliminates the need for wet weather storage and management.

Sand mounds are raised, pressure-dosed bottomless sand filters that provide a treatment and land application function all in one. The sand mound itself is made of layered sand fill containing a raised distribution bed of coarse aggregate constructed near the top of the mound. The mound is constructed on top of the existing, pre-prepared ground surface.

Pre-treated effluent is pressure dosed via a manifold in the aggregate distribution bed. The effluent then permeates through the mound of sand where it undergoes treatment before it enters the underlying soil. Mounds offer the smallest footprint combination of secondary on-site treatment and land application, and depending upon design, can significantly reduce BOD5 and Total Suspended Solids.

The accompanying 'Revised Wastewater Management Report' prepared by HMC Environmental Consulting Pty Ltd was provided to Council's Environmental Management Section for consideration. To allow for further appropriate consideration of the proposed effluent management system, the waste water report was externally peer reviewed with the following comments in part provided by Council's Environmental Management Section;

HMC proposes to decommission the existing OSSM systems to install a 10KL Taylex CABS system which disposes of treated effluent into pressure dosed sand mounds. Site modifications include soil amelioration and cutting into the slope to ensure that the sand mound basal area is flat. sand mound design: 2 mounds, each 8m x 51m x 0.9m high. A 100% reserve area has been allowed for.

The waste water report has been peer reviewed by Witehead and Associates who are known technical experts within the waste water field. The report is supported by Whitehead and Associates with recommended conditions. As such, the waste water component is satisfactory subject.

Noting the above commentary, it is considered that sufficient land is available for the disposal of the proposed effluent on site and it is considered that the objectives of Clause 7.7 of the Penrith LEP have be satisfied.

Clause 7.20 Orchid Hills

Clause 7.20 of the Penrith Local Environmental Plan provides for the following;

- (1) *The objectives of this clause are as follows:*
 - (a) *to ensure residential development incorporates features necessary to protect occupiers against adverse noise impacts arising from traffic noise,*
 - (b) *to limit the potential risk to life and property from flood events.*
- (2) *This clause applies to certain land identified as “Orchard Hills” on the Clause Application Map.*
- (3) *Before granting development consent for development on land identified as “Orchard Hills” on the Clause Application Map and adjacent to or immediately opposite the M4 Motorway or The Northern Road, the consent authority must be satisfied that:*
 - (a) *the external facade of any habitable room would not be exposed to an LA10 (18 hour) traffic noise level exceeding 63 dBA, or*
 - (b) *appropriate noise attenuation measures have been or will be carried out that will reduce the internal noise level to meet AS 3671—1989, Acoustics—Road traffic noise intrusion—Building siting and construction.*
- (4) *Despite any other provision of this Plan, development consent must not be granted for the erection of a building on land identified as “Orchard Hills” on the Clause Application Map and subject to flooding or in a watercourse unless the consent authority is satisfied that:*
 - (a) *no practical alternative location exists for the proposed building, and*
 - (b) *the building is not likely to be threatened by flood flows, and*
 - (c) *the erection or use of the building will not divert flood flows or adversely affect drainage flows, and*
 - (d) *the erection or use of the building will not cause soil erosion.*

The application is located with the Orchard Hills Clause Application Map and in this regard this Clause of the Penrith LEP is applicable. In this regard, the proposal via the construction of a caretakers cottage is considered will maintain an acceptable separation from the M4 motorway while it is also not considered that flooding on the site will constrain the provision of the proposed residential portion of the application.

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

There are no draft environmental planning instruments applicable to the subject site or to the proposed development.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies - see Appendix - Development Control Plan Compliance
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A

C8 Public Domain	N/A
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies - see Appendix - Development Control Plan Compliance
D1.1. Rural Character	Complies - see Appendix - Development Control Plan Compliance
D1.2. Rural Dwellings and Outbuildings	N/A
D1.3. Farm buildings	N/A
D1.4 Agricultural Development	Does not comply - see Appendix - Development Control Plan Compliance
D1.5. Non-Agricultural Development	Complies - see Appendix - Development Control Plan Compliance
D5.1. Application of Certification System	N/A
D5.2. Child Care Centres	N/A
D5.3. Health Consulting Rooms	N/A
D5.4. Educational Establishments	N/A
D5.5 Parent Friendly Amenities	N/A
D5.6. Places of Public Worship	N/A
D5.7. Vehicle Repair Stations	N/A
D5.8. Cemeteries, Crematoria and Funeral Homes	N/A
D5.9. Extractive Industries	N/A
D5.10 Telecommunication Facilities	N/A
E10 Orchard Hills controls	Does not comply - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iia) The provisions of any planning agreement

There are no planning agreements applying to this proposal.

Section 79C(1)(a)(iv) The provisions of the regulations

The relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia and fire safety requirements, will be imposed as conditions of consent where applicable. Subject to the recommended conditions of consent, the proposed development complies with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

Section 79C(1)(b) The likely impacts of the development

Context and Setting

The development application will provide for the provision of a community facility primarily serving as an assistance dog training centre to an existing rural lot currently maintaining a number of built forms which has previously provided supported accommodation for persons with disabilities. The nature of the subject lot and the proposed training facility layout will provide for restricted visual impacts to its surrounds noting the contours of the surrounding rural area. In this regard, the primary thoroughfare leading to Austin Place being Calverts Road to the east of the subject site will not provide for any direct views of the proposal noting the topography of the area which provides for a gradual rise from Calverts Road to its west before dropping towards the subject site, in turn only allowing for the presentation of existing rural dwellings on surrounding adjoining lots fronting this Road. To the west of the subject site is no formed road network which will therefore provide for no public viewing of the proposal. The M4 Motorway directly to the north of the subject site is also considered to be screened from the proposed development noting the existing vegetation between the Motorway and the site as well as existing vegetation to be retained at the northern end of the subject lot. In this regard, the visual impact of the proposal is restricted to immediate adjoining neighbours rather than creating an impact on existing views and vistas.

Noting the above, it is considered that the subject properties provided with direct views of the proposal are No's. 19-29, 31-37 and 39-49 Calverts Road to the east of the subject site, No. 17 Calverts Road adjoining to the west and No. 7 Austin Place adjoining to the south of the subject site. The rural context of the surrounding area provides for primarily paddocks or fields adjoin the boundaries of the subject site with four properties being No's. 19-29, 31-37 and 39-49 Calverts Road to the east and No. 17 Calverts Road to the west considered to maintain direct views from dwelling houses of the proposed development.

The application will provide for the provision of 2.1m high wire fencing to the boundary perimeter along the eastern and western boundary (off set 1.5m from the boundary) as well as 6m wide earth mounds for the majority of the length to the eastern and western boundaries. It is also noted that a 1.5m high acoustic fence to the top of the earth mounds are provided for a substantial portion of each length of these earth mounds. The treatment of each of these mounds as landscaping features is considered to soften the visual impacts of these mounds and associated fencing to the adjoining properties. Via the introduction of vegetation to the front of each fence which will screen its presentation, direct visual impact to its immediate surrounds are considered to have been appropriately mitigated. It is also noted that elevated mounds are provided to the perimeter of existing dams to the east of the subject site at No's. 19-29, 31-37 and 39-49 Calverts Road which comparatively to the current proposal is considered to create a greater visual impact to the surrounding public area than the proposed mounds on the subject site along the eastern and western boundaries as they are visible from a public area. Accompanying plans have also identified the retention of trees along the boundary which will assist in maintaining the rural context of the subject site with its immediate surrounds

While so, it is noted that the proposed acoustic fencing is to be provided as a colourbond finish which is not considered an appropriate inclusion in the rural context of the area. In this regard, should approval be granted it is considered appropriate that an alternate finish to this fence be provided more sympathetic with its surrounds to the satisfaction of Council prior to the commencement of any works.

For adjoining properties to the east of the subject site, the existing dwelling at No. 39-49 Calverts Road is located approximately 45m from the eastern side boundary of the subject site. The location of existing vegetation on this adjoining property and the position of the dwelling house alongside this adjoining lots southern boundary providing for views primarily of existing building on the subject site (3 of the 4 of which are to be retained) is considered to minimise the visual impact of the proposal to this dwelling. The location of the new dog kennel buildings will be in the vicinity of 140m to 150m from this dwelling house on No. 39-49 Calverts Road which combined with the landscaped earth mounds and additional perimeter landscaping along the subject sites eastern boundary is not considered to create an inappropriate visual relationship

with this neighbouring dwelling house.

No. 31-37 Calverts Road is provided with a residential dwelling with a large rural shed adjoining. The location of the new dog kennels will be directly parallel with the width of this adjoining lot. The rear of the existing dwelling is located a distance of 65m to the eastern boundary of the subject site with the adjoining shed located in the vicinity of 60m from this respective boundary. The application will provide for a vegetation treated earth mound with a 1.5m high acoustic fence atop this mound along the boundary with this neighbouring site which is considered will assist in minimising the direct visual impact of the new buildings to this adjoining property. It is noted that the land between the neighbouring dwelling house and the subject site is used for the purposes of agricultural use and may be considered to be in an ongoing area of use and change via agricultural operations. The immediate impact to No. 31-37 Calverts Road is therefore considered acceptable with the proposed densely landscaped mounds as well as landscaping provided to the front of an offset perimeter fence not considered to provide for an inappropriate relationship to the dwelling and land use between. Appropriate screening of any proposed perimeter fencing will also assist in maintaining an acceptable relationship with the adjoining lot.

No. 19-29 Calverts Road is located adjoining the north eastern end of the subject site with the rear of the courtyard area associated with the existing dwelling located in the vicinity of 110m from the boundary of the subject site. The proposed landscape mound on the subject site adjoining the neighbouring lot is to be provided at a height of 1.5m but only for a length of 7.5m along the common boundary noting the northern end of the subject site abutting this neighbouring lot is provided with mature tree vegetation in the form of Shale Plains Woodland. Taking into consideration the distance from the existing dwelling house to the subject site the visual impact of the proposal is not considered to create a visually dominant feature for occupants of this dwelling. It is also considered that the position of the existing shed adjoining at No. 31-37 Calverts Road will serve to screen a large portion of the proposed development in this instance.

No. 17 Calverts Road is located directly adjoining the subject site for the entire length of its western boundary. The existing dwelling house is located to the southern end of the adjoining lot, being 15m from the common boundary. The location of the dwelling house is considered to currently maintain an existing relationship with the buildings currently located on the subject site. In this regard, the addition of building F (caretakers building) on the subject site will provide for an acceptable relationship with the adjoining neighbouring dwelling noting its single level presentation which is not considered out of context with its immediate neighbour. The location of the earth mound proposed along the subject sites western boundary with a 1.5m high acoustic fence atop is located in the vicinity of 70m to 80m from the adjoining dwelling, but while so is not considered to create an immediate visual impact noting the provision of the mound along the boundary and its setting. In addition, the use of landscaping to screen the proposed offset boundary fence is considered an appropriate measure which will also assist in minimising the visual impact of a chain wire fence presentation. A number of parking spaces including a bus parking area is proposed to the south western corner of the subject lot which are considered in the vicinity of the adjoining dwelling. While so, it is noted that the application has been provided with landscape plans showing this area to be densely landscaped. In addition it is noted that part of this corner is currently provided as a car parking area, the application in part therefore maintaining a similar operational use to this portion of the subject site.

Noting the above, the surrounding lots are not considered to be inappropriately impacted upon via the proposed design features which are considered an acceptable response to the existing rural character currently prevalent for this portion of Orchard Hills and is not considered will create an immediate visual impact to the above mentioned adjoining dwellings. In this regard, it is considered that the proposal will not create a direct impact upon the overall impression of the rural lands when viewed from the existing road network when considering a broader planning context. In addition, taking into consideration the location of surrounding adjoining dwellings, the treatment of the subject site especially along the perimeter of the site, in this instance it is not considered that the proposal will create an inappropriate relationship to its direct neighbours, especially to its eastern and western sides. Further consideration of the impact of the

development upon its surrounds will be discussed under separate titles of this report.

Amenity

Consideration is to be given to the impacts of the proposed development as well as the operations of the subject site upon its surrounds in the immediate vicinity as follows;

(a) Overshadowing

The proposal will not create any direct overshadowing concerns to adjoining properties noting the single and double storey nature of built forms to be either retained or proposed for construction.

(b) Overlooking

Taking into consideration the rural context of the subject site and its surrounds, design measures proposed along the subject sites boundaries and the siting of proposed built forms, no direct overlong concerns are considered to be created to adjoining lots.

(c) Noise

Noting the nature of the proposed use and potential to create intrusions into the amenity of surrounding properties, the application was required to consider noise impacts and in this regard, the application was supported by an Acoustic DA Assessment report prepared by Acoustic Logic. Following the request for additional information, an amended report dated 25 September, 2018 was received by Council. The report included an assessment of the noise impacts on nearby lots (primarily adjoining the subject site), additional traffic generated on the roads network and noise impacts from the operations of the proposed assistance dog training centre.

As the proposed operations provide for a use involving animals which can create uncertainty in controlling their behaviour during daytime and night time periods, it is acknowledged that providing for accurate forecasts can only be based upon assumptions as compared to calculating noise generated for instance from a mechanical source. In this regard, the supporting Acoustic Report has provided the following discussion under the title of 'Noise Levels Assumed for Dogs Barking' as follows;

The facility is not intended as a commercial boarding kennel. In this respect, Acoustic Logic Consultancy (ALC) note the following:

- *Noise predictions have been based on noise monitoring conducted by ALC at commercial boarding facilities.*
- *On the basis that dogs will be permanently located in the facility, it is expected that dogs will be more comfortable in the surrounds and familiar with staff and other dogs within the facility.*
- *In this regard, ALC would suggest that dogs would be unlikely to bark as frequently as in a normal commercial boarding kennel where dogs only temporarily reside.*
- *In this report, in predicting noise emissions using data from commercial kennels as a basis, it is likely that predicted noise levels will be in fact be louder than what is likely to be generated by the proposed site. The assessment is therefore conservative. If compliant noise levels can be demonstrated using the commercial kennel as a basis for prediction, then compliant levels will also be achieved under the proposed operation.*

Noting the above criteria, the accompanying report has identified recommended management conditions and acoustic treatments to ensure compliance with identified noise objectives. In addition, the following discussion was provided for noise emissions during the night which is in principle considered to potentially

create the greatest disturbance to surrounding residents;

With regard to dogs barking whilst located within the kennels during the night time assessment period we provide the following commentary. Predictions indicate noise levels:

- 7 - 23dB(A) below the night time amenity criterion.
- 15 - 31dB(A) below the night time intrusiveness criterion.

Noise levels associated with dogs barking within the kennel during the night time assessment period will be generally inaudible at residential receiver locations and in full compliance with the INP noise emission criteria. Given that the same operation is proposed during the evening assessment period, noise emission during the evening assessment period will also be compliant with INP noise criteria.

Noting the above, the findings of the amended acoustic report were considered acceptable by Council's Environmental Health Unit and considered to resolve the original concerns raised during the preliminary assessment of the application. It is noted that subsequent to the receipt of the acoustic report, amended landscape plans were received by Council identifying the provision of a 1.5m high acoustic fence atop the proposed earth mounds to meet the overall 2.5m height as specified by the accompanying acoustic report. The amended design was also accompanied by a supporting document from Acoustic Logic Consulting (ALC) advising the following;

The submitted acoustic report recommended a 2500mm high earth mound along the east and west boundaries of the development.

A combination of acoustic screen incorporating a portion of earth mound topped with an acoustic fence, ALC confirms that this proposal will be acoustically acceptable.

In this regard, should development consent be issued, it is considered appropriate conditions be included to mitigating any possible complaints as recommended by Council's Environmental Health Unit.

(d) Odour

The application as amended was supported by an Odour Impact Assessment Report prepared by ASK Acoustic and Air Quality, with data provided based on a similar facility located in Victoria and Glossodia, NSW. The assessment was provided using NSW EPA approved modelling software to carry out the findings provided.

The assessments modelling results predicted an odour level of less than 1ou (odour units) at all sensitive receivers provided on adjoining properties. The NSW EPA recommends an odour limit of 2ou in urban areas and an odour limit of 7ou for rural residencies. As such, the accompanying assessment states that '*predicted odour concentrations at nearby sensitive receptors comply with the nominated odour concentration criterion of 2ou*'. The accompanying report also provided for mitigation measures, a daily routine and an odour management plan which should be enforced through relevant conditions of consent should the application be approved to ensure that best management practices are implemented to reduce any odours.

Noting the above, the findings of the odour were considered acceptable by Council's Environmental Health Unit.

Access, Parking and Traffic

The development application as amended will provide for a total of thirty seven (37) car parking spaces to

the subject site. Parking arrangements will provide for one main central parking area of thirty (30) spaces, six (6) parking spaces including one (1) bus parking bay to the south western corner of the subject site adjoining the entry gate and one (1) accessible parking space adjoining the proposed new training building. Of the overall parking spaces proposed, three (3) are proposed to be provided as accessible parking spaces.

Access to the subject site is currently provided by an existing unsealed right of carriageway over No. 7 Austin Place leading directly from Austin Place. This existing right of carriageway is proposed to be upgraded to accommodate two-way vehicular movement.

The application was accompanied by a Traffic Impact Assessment Report prepared by Planit Consulting which has identified that during AM and PM peak periods, the proposal will generate some 16 vehicle trips per hour. In this regard, the application and supporting documentation was provided to Council's Senior Traffic Officer for consideration. While no direct car parking rate is provided for the proposed use by Council's controls, the number of proposed spaces was considered adequate to cater for the number of identified staff. The number of trips generated by the proposal was also considered an amount which could be appropriately mitigated by the existing road network in the vicinity of the subject site. The upgrading of the existing right of carriageway to allow for two way vehicle movement was also considered appropriate. In this regard, it is noted that the owner of No. 7 Austin Place has provided owners consent for this upgrading work to be included as part of the current application.

Landscaping

The subject site has been identified as containing Shale Plains Woodland which is a Critically Endangered Ecological Community under the NSW *Threatened Species Conservation Act 1995* and Critically Endangered under the Commonwealth *Environment Protection Biodiversity Conservation Act 1999*. This species is identified as being located to the northern end of the subject site and as part of the application is to be retained with proposed works not extending to this area. The application was accompanied by a Flora and Fauna Report prepared by Planit Consulting Pty Ltd which has identified that the proposal will result in the removal of a total of fifty two (52) trees from the subject site..

The application and accompanying report was referred to Council's Biodiversity Officer who has indicated that should the application be approved, any determination should be appropriately conditioned to provide for only native species as replacement trees, rather than the current mix of native and introduced species as indicated on the accompanying landscape plan.

The application has also been accompanied by a 'Statement of Landscape Intent' which via plans has identified landscaping to be provided for the subject site associated with the proposed use. In this regard, earth mound and offset perimeter fencing along the eastern and western boundary are considered to have been appropriately treated with shrubs and trees to minimising the visual impact of new fencing. Noting the proximity of the proposed earth mounds and perimeter fencing to adjoining lots, it is considered appropriate that further clarification of the proposed vegetation to be planted be provided for via a planting schedule to be provided to the satisfaction of Council, prior to the commencement of any works, any development consent granted to be appropriately conditioned.

Landscaping also provided along the southern boundary between the lot boundary and the indented boundary fence is also considered to allow for an improved relationship with its surrounds as well as a softened visual presentation for persons entering the subject site. plans have also identified native deciduous trees to be located along training yards with a 1200mm high visual stimulation barrier adjoining the ends of dog kennel runs. While the planting described above is considered appropriate, to further minimise the impact of sunlight during the warmer summer months, it is considered appropriate that further deciduous trees be provided directly to the west of the proposed dog runs leading from kennels to allow for

further shade in warmer temperatures. In addition, the provision of deciduous trees would also assist in providing more chances of solar access during the colder winter periods. In this regard, should development consent be granted, it is considered appropriate that a condition be included requesting further deciduous trees be provided for.

Natural Environment

The application as amended is considered to have adequately demonstrated that the proposed waste management will be catered for via the proposed decommissioning of the existing on site sewage maintenance system and replacement with a proposed CABS system 10KL/day comprising 3 x underground concrete tanks and the disposal of treated effluent into pressure dosed sand mounds. The application was accompanied by a Waste Water report which was referred to Council's Environmental Management Unit. The Waste Water report was peer reviewed by Whitehead & Associates Environmental Consultants with the provided report considered acceptable subject to recommended conditions. In this regard, the application is not considered to be an overdevelopment of the site with the proposal as amended considered to provide for an acceptable effluent management system and disposal on the subject site, this process also involving the decommissioning of the existing on site sewage maintenance system existing on the subject site.

Comments were also received from Council's Development Engineering and Water Management Departments which have indicated that drainage works proposed in association with the development will comply with Council's Water Sensitive Urban Design Policy.

Accessibility

Assistance Dogs Australia provides for the training of dogs to assist people with physical disabilities, children and young adults on the autism spectrum, police and defence personnel living with post-traumatic stress disorder and educational support dogs. Visitors to the subject site are therefore considered may require assistance in providing equitable manoeuvrability to certain areas and buildings on the subject site. In this regard, an assessment of the provided architectural plans is considered to have identified the provision of accessible ramps to buildings A (Administration building), B (Reception Building), C (training building), D (accommodation Building) and buildings E (Training / Kennel Buildings). In addition, the application will provide for a lift to the front of Building C from the car parking driveway area as well as a total of four (4) accessible car parking spaces as well as the provision of a sole occupancy unit to building D constructed for a person with a disability

The application was accompanied by a Building Code of Australia Report prepared by Thomas Independent Certification which has identified that the proposal will comply with accessibility requirements as well as the relevant Australian Standard for access for persons with disabilities. In this regard, the application was provided to Council's Building Surveyors Section who have raised no objection to the development.

Social and Economic Impacts

The development is not considered likely to result in any negative social impacts for this area of the Orchard Hills and as discussed within this report, the proposal has been assessed against the principles and objectives contained within the Penrith Development Control Plan and is considered to provide for a sustainable use. In particular, it is noted that the application as amended will provide for an appropriate method of effluent disposal as a consequence of the intended use. Noting the findings of this report provided, the proposal is therefore also considered in accordance with the aims of the Penrith Local Environmental Plan 2010.

Section 79C(1)(c)The suitability of the site for the development

The subject site is considered suitable for the proposed development for the following reasons:

- The provision of a *community facility* within the subject zone is a permissible use subject to development consent. The applicant being Assistance Dogs Australia Limited has provided evidence with the application that they are a registered Australian charity.
- The subject site is identified as being bush fire prone and was accompanied by a Bushfire Assessment Report and subsequently referred to the NSW Rural Fire Services (NSWRFS). Correspondence was received from the NSWRFS by Council raising no objection to the proposal subject to the provision of a number of conditions should the application be approved.
- The application is considered to have appropriately demonstrated that the proposed operations are not contrary to the subject sites RU4 zone objectives.
- The application is considered to have appropriately demonstrated that the proposal located within in an area identified as having scenic character and landscape views as provided by Clause 7.5 of the Penrith Local Environmental Plan 2010 is not contrary to the objectives of this Clause.
- The application has adequately demonstrated that the increased volume of waste water as a consequence of the proposed use on the subject site can be appropriately treated and discharged.
- While it is acknowledged that the scale of the proposal is larger in relation to adjoining rural uses, the subject site is considered to maintain acceptable infrastructure subject to compliance with appropriate conditions of consent for the provision of the proposed development.
- The application has adequately demonstrated via accompanying technical documentation that the proposed operations on the subject site will provide for an acceptable impact to adjoining properties in relation to noise and odour created.
- Recommended conditions of consent are considered to ensure that the proposal will have an acceptable and manageable impact on the surrounding environment during construction and operational use.

Section 79C(1)(d) Any Submissions

Community Consultation

The development application was originally advertised in the local newspaper and notified to owners and occupiers of adjoining and nearby properties pursuant to the requirements of the Regulations and in accordance with Council's Development Control Plan. Affected property owners and occupiers were notified in the surrounding area and invited to make a submission on the proposal during the exhibition period from 8 September, 2017 to 22 September, 2017. During this period, Council received four (4) submissions.

Following the receipt of amended plans and documents, the application was renotified from the 13 March, 2018 to 27 March, 2018. During this re-notification period, fifteen (15) submissions were received.

During the assessment process, it was noted that as the land use was amended to now be one of a community facility and is therefore required to be determined by a regional panel, in this instance being the Sydney Western City Planning Panel. In addition, the application was provided with amended plans and documentation in response to a number of concerns raised by Council. In this regard, the application was therefore re-notified from the 24 September, 2018 to 8 October, 2018. During this re-notification period, fourteen (14) submissions were received.

The concerns raised in these submissions are addressed below.

Issue: The location of the proposed Assistance Dogs Australia facility will create noise concerns to immediate neighbours.

Comment: The application as amended was accompanied by a Noise Impact Assessment Report prepared by *Acoustic Logic* which was provided to Council's Environmental Management Unit for consideration. The

Report provided for a number of recommended management and acoustic conditions which have identified how the proposed operations will manage any potential acoustic impact to its surrounds. The report was considered acceptable by Council's Environmental Management Unit and in this regard, it is considered that the application has demonstrated that the proposed operations will maintain an acceptable level of acoustic amenity for surrounding neighbours subject to the implementation of the accompanying report recommendations and appropriate conditions.

Issue: The location of the proposed Assistance Dogs Australia facility will create direct odour concerns to immediate neighbours.

Comment: The application as amended was accompanied by an Odour Impact Assessment Report prepared by *Ask Acoustic and Air Quality* which have provided for a number of recommendations to be implemented for any proposed operation. In this regard, the accompanying report has identified that the predicted odour concentrations at identified sensitive receptors will comply with the nominated odour concentration criterion. This report was reviewed by Council's Environmental Management Unit and considered acceptable. In this regard, should approval be granted, the recommendations of this report will be included with any determination along with appropriate conditions.

Issue: The location of the proposal will create an immediate impact upon existing views maintained by adjoining neighbours.

Comment: The application has identified the provision of earth mounds at a width of 6m to be provided for large portions of both the eastern and western boundary. In conjunction with the accompanying acoustic report, portions of the eastern and western earth mounds are to be provided with a 1.5m high acoustic fence to allow for compliance with the desired noise criteria emanating from the intended operations. In addition, to the front of each mounded area and along the eastern and western boundary of the subject site, a 2.1m high black plastic coated chain wire fence is to be provided with a separate 2m high fence framed braced and clad with horizontal powder coated aluminium batons (spaced 100mm apart) with aluminium posts proposed along the southern elevation of the subject site. In regard to built forms, the proposed dog kennels (being buildings E1 and E2) are to be provided to the mid section of the subject site, with the design incorporating an amount of cut for each building to allow them to be in line with the existing topography of the subject site.

Taking into consideration the location of existing dwellings surrounding the subject site, the amount of view loss is not considered to create an inappropriate impact in this instance. It is noted that no dwellings are located directly adjoining the subject site to the south (on No. 7 Austin Place) while to existing topography of the surrounds will not create any loss of views for No. 6 Austin Place positioned to the south east of the subject site. While it is noted that the dwelling at No. 39-49 Calverts Road provides for direct views of the subject site, westerly and northerly views are considered to be maintained noting the retention of existing buildings on the subject site. This is also considered the case for the dwelling at No. 17 Calverts Road directly adjoining the subject site to the west where existing views to the east and north are not considered inappropriately impeded by the proposed works or earth mounds also noting the location of the M4 Motorway further to the north.

While views from No. 31-37 Calverts Road adjoining to the east will be impeded by the proposed earth mound and new buildings, it is noted that the rear of this lot is currently operated as an agricultural use and with the dwelling house setback 65m from the shared boundary, the proposal is not considered to create an inappropriate visual relationship with the neighbouring lot. It is noted that the dwelling on No. 19-29 Calverts Road is setback over 100m from the subject site with westerly views currently impeded by an adjoining neighbouring shed (on No. 31-37 Calverts Road). In addition, the extent of proposed mounds (which at this point are only 1.5m in height) along the subject sites boundary only adjoin this neighbour by a length of only 7.5m with the main view to the west being the existing trees to the northern end of the subject site.

The application has also been accompanied with landscape plans which have identified screen planting to be provided to the proposed earth mounds and also to the perimeter of the subject site which will assist in screening the proposed fencing along the boundary. The use of this planting to the front of fenced areas is considered an acceptable inclusion with its surrounds also noting that the application has identified the retention of a number of existing trees which will assist in maintaining the existing context of the rural surrounds.

Noting the above, it is not considered that the existing views from adjoining lots and dwellings will be unacceptable in this instance. While it is acknowledged that the proposal will create an impact upon its surrounds, the nature of the subject lot, provision of landscaping along the perimeter, treatment of proposed mounds and new buildings is considered to mitigate the raised concerns which on balance is acceptable in this instance.

Issue: The subject site is not adequate in size to allow for the operation of the proposed use.

Comment: The waste management proposal as amended is considered to have satisfactorily demonstrated that the subject site has sufficient land available for the disposal of treated effluent onsite. The application has also been accompanied by acoustic and odour reports which have identified that subject to the implementation of recommendations that the amenity of adjoining neighbours will be maintained. In addition, the application will provide for the upgrading of the existing right of carriageway at No. 7 Austin Place accessing the subject site to allow for the appropriate movement of vehicles associated with the proposed operations while stormwater and impacts on flora and fauna have been appropriately mitigated.

While it is noted that proposal does not comply with identified setbacks for Dog Boarding, Training or Breeding Establishments as provided by Section *D1 Rural Land Uses* of the Penrith Development Control Plan 2014, non compliance in this instance is considered acceptable noting that the accompanying technical documents have identified that subject to the implementation of provided recommendations the amenity of adjoining neighbours will be maintained in accordance with the relevant standards.

In this regard, the proposed capacity of the operations is supported, the site considered to be of a size to allow for the operation of the proposed use.

Issue: The proposed development will create an unacceptable increase in traffic concerns for surrounding streets.

Comment: The application was accompanied by a Traffic Impact Assessment Report prepared by *Planit Consulting* which has identified that the proposal will generate some 16 vehicle trips per hour during the AM or PM peak periods. In this regard, the application and accompanying Traffic Impact Assessment Report were provided to Council's Senior Traffic Engineer for consideration. Comments returned have indicated that the traffic implications of the proposed operations will not create an unacceptable impact upon the existing road network while the parking facilities on site will adequately cater for the proposed 30 staff and visitors.

Issue: The proposal will create an increase in security concerns for surrounding properties due to an escalation in the number of persons in the area.

Comment: The application is not considered to increase security concerns for adjoining properties. The application has been accompanied by an Operational Plan which has outlined staff movements and times of arrival and departure to and from the subject site during the week and also on weekends. While additional movements will be created upon the existing right of carriageway to and from the subject site, movement of persons and vehicles is not considered an extraordinary feature for the proposed use. The application will also provide for perimeter fencing to its while to minimise any possibility of indirect access to the subject site. In this regard, the submission is considered reliant on assumptions about the behaviour of persons not

associated with the proposed operation which is not considered well founded or supported by any evidence.

Issue: The proposal will create a monetary reduction in value for adjoining properties.

Comment: The submission is not considered well founded or supported by any evidence and in this regard, consideration of the provided concern cannot be given under Section 4.15 (previously Section 79C) of the Environmental planning and Assessment Act 1979.

Issue: The proposal is non-compliant with the Penrith Development Control Plan 2014 in regard to the minimum setback required to cater for the maintenance of dogs.

Comment: An assessment of the proposal has identified that the minimum setback requirements to cater for the maintenance of dogs has not been complied with in this instance. While so and as discussed within this report, it is considered that the application has adequately identified that the amenity of the adjoining and surrounding properties will be maintained in relation to acoustic and odour concerns along with the movement of vehicles to and from the subject site.

In addition, the treatment of site boundaries, in particular looking at the provision of landscaped mounds and offset wire fencing appropriately landscaped (or powder coated aluminium battens to the southern boundary) is considered taking into consideration the context of the subject site and its surrounds an acceptable response to maintain the amenity of adjoining neighbours.

Issue: The proposal is non-compliant with the Penrith Development Control Plan 2014 in regard to the maximum number of dogs proposed to be provided on site.

Comment: While it is acknowledged that the proposal will provide for a maximum of 60 dogs which is in exceedance of the DCP requirements, it is considered that the application has appropriately demonstrated that acceptable acoustic measures may be provided for to minimise an impact upon the amenity of surrounding properties.

Issue: The proposed development is reliant on an on-site composting facility which is not permissible within the subject sites zone.

Comment: An assessment of the proposal as amended has identified that the proposed treatment of waste water and effluent disposal is considered acceptable. It is also noted that the accompanying amended waste water report has been peer reviewed externally by Whitehead and Associates on Council's behalf who are renowned technical experts within the waste field with the waste water component considered satisfactory subject to the provision of appropriate conditions with any development consent which may be granted. In this regard, the proposed treatment of waste water and effluent disposal is considered ancillary to the dominant use proposed for the subject site which is permissible with consent in this instance.

Issue: Adverse waste and odour impacts generated by the proposed development.

Comment: The application was accompanied by a Waste Water report prepared by *HMC Environmental Planning Consulting* and an Odour Impact Assessment Report prepared by *Ask Acoustic and Air Quality*. Each report was respectively reviewed by Council's Environmental Management Section (the waste water report also being externally reviewed by Whitehead and Associates on Council's behalf) with the findings and recommendations found to be acceptable in each instance.

Issue: The proposal does not satisfy the objectives of the subject sites RU4 zoning.

Comment: An assessment of the proposal is considered to indicate that the application will provide for a

compatible land use within an area which is characterised by primary industry operations as it is not considered that the proposed operational use will impact the ability of adjoining lots to provide for sustainable primary industry. The application as amended is considered to promote diversity and employment opportunities noting that the amended land use description of a 'community facility' is a permissible land use under the subject zoning. The accompanying technical reports are considered to appropriately address issues which may create land use conflicts while the provision of the new built forms, associated structures and landscaped treatment of the subject site are considered to maintain the rural landscape nature of the surrounding lands.

In this regard, it is considered that the proposal has appropriately demonstrated that the objectives of the subject sites zone have been satisfactorily met.

Issue: The proposal is contrary to the objectives found within Part E10: Orchard Hills of the Penrith Development Control Plan 2014.

Comment: The location of the subject site is considered to restrict the overall impact of the proposal noting that the development will not be visible from the existing road pattern or from public places. The nature of the proposed built forms being either single or two storey in nature is not considered inappropriate while the provision of densely landscaped mounds, perimeter fencing and associated landscaping is not considered to be contrary to the existing character and scenic quality of the locality. In this regard and on balance noting especially the landscaped treatment of the subject site, the proposal is considered an appropriate inclusion to the Orchard Hills area.

Issue: A Plan of Management has not accompanied the proposal.

Comment: The application as amended has provided for an Operational Plan providing for details in regard to the management of the proposed facility.

Issue: The use of the existing roadway at Austin Place for the proposed use is unsuitable as the carriageway is in a state of degradation.

Comment: No. 7 Austin Place currently maintains an existing right of carriageway which provides for access from the identified public road section of Austin Place to No. 8 Austin Place. This existing right of carriageway as part of this application is proposed to be upgraded to accommodate two-way vehicular movement. In this regard, it is considered that an acceptable means of access has been appropriately identified.

Issue: Concern that the proposal will not reflect the future desire of the NSW Government to advance future residential subdivisions in Orchard Hills.

Comment: The submission is not considered well founded or supported by any evidence and in this regard, consideration of the provided concern cannot be given under Section 4.15 (previously Section 79C) of the Environmental Planning and Assessment Act 1979.

Council is currently considering a planning proposal for Orchard Hills North as part of the Government's accelerated housing program, however this does not include or relate to this site or the immediate surrounds.

Issue: Concern that the number of dogs proposed in association with the application will increase over time.

Comment: The application as originally received by Council identified the provision of a number of kennels

so as to provide for 68 dogs. While so, the application has identified that a maximum of 60 dogs are to be provided to the proposed use. The receipt of amended plans by Council has identified that the number of kennels proposed has been reduced to accommodate a maximum of 60 dogs in accordance with the identified maximum number to be provided. In this regard, should development consent be granted for the proposal, it will be appropriately conditioned to provide for a maximum of 60 dogs.

Should the proponent in the future request an increase in the number of dogs to be provided on the subject site in accordance with the application, this will require a modification of any consent granted which will require the receipt of the modification request and an appropriate assessment to be conducted by Penrith City Council which will include notification of the proposed modification to adjoining and surrounding properties.

Issue: Concern that extra car movements in the area together with Café and guest accommodation will generate more people using the surrounding streets increasing the danger of injury or death.

Comment: The accompanying Statement of Environmental Effects under Section 1.3 has advised that the proposed café will not be open to the public with this facility to be used on an 'as needs' basis in support of the community education around the workings of the proposed training centre. In addition, it is noted via the accompanying Statement of Environmental Effects that the café space, *'is an area for the preparation of tea and coffee and the heating and serving of premade food items from offsite suppliers'*. It is considered that the accompanying plans have reflected this comment. In relation to the proposed guest accommodation, the Statement of Environmental Effects has also advised that, *'This short-term accommodation is only used during the 'pairing' process when the dogs are paired with the person they are to assist. The short-term accommodation is only used for this purpose and is not made available to unrelated members of the public'*. In this regard, it is not considered that the café and guest accommodation is provided in a traditional manners to allow for general public access but is ancillary to the main defined use on the subject site.

In addition to the above and as indicated within this report, the application and accompanying Traffic Impact Assessment Report were provided to Council's Senior Traffic Engineer for consideration. Comments returned have indicated that the traffic implications of the proposed operations will not create an unacceptable impact upon the existing road network.

Noting the above, it is not considered that the proposal is of a nature so as to create immediate safety concerns in regard to the movement of persons or vehicles in the vicinity of the subject site.

Issue: Concern that approval of the proposed application will restrict adjacent properties from being redeveloped in the future as the current proposal does not allow for minimum setback requirements from the dog kennels as required by the Penrith Development Control Plan 2014.

Comment: Any future redevelopment of adjoining or surrounding lots is to be considered in accordance with the appropriate planning legislation at the time of the receipt of an application. In this regard, while an adjoining lot may not be non compliant with a control provided by planning legislation, this does not restrict an adjoining owner in submitting an application for the consideration of Penrith City Council.

Issue: Concern that emergency vehicles with loud sirens using the adjoining M4 Motorway during the day and night will distress dogs within the kennels and create noise concerns for adjoining residents

Comment: The application was accompanied with a Noise Impact Assessment report prepared by *Acoustic Logic* who has provided the following commentary in part for noise emissions during day and night time assessment periods;

With regard to dogs barking whilst in outdoor runs and training yards we provide the following commentary. Predictions indicate noise levels:

- *2-19 dB(A) below the daytime amenity criterion.*
- *5-22 dB(A) below the daytime intrusiveness criterion.*

Noise emissions associated with dogs barking during the day time assessment period will be fully compliant with the INP intrusiveness and amenity criterion (that being the most stringent criteria) during the day time assessment period.

Noise predictions presented in this report are considered conservative given that dogs within outdoor training yards will be supervised in a 1-on-1 training arrangement. It is expected that in line with dogs training, barking during supervised periods within the yards would not be encouraged and is expected to be substantially less than that associated with dogs in the runs which are not typically supervised.

With regard to dogs barking whilst located within kennels during the night time assessment period we provide the following commentary. Predictions indicate noise levels:

- *7-24 dB(A) below the night time intrusiveness criterion.*
- *15-32 dB(A) below the night time intrusiveness criterion.*

Noise levels associated with dogs barking within the kennels during the night time assessment period will be generally inaudible at residential receiver locations and in full compliance with the INP noise emission criteria. Given that the same operation is proposed during the evening assessment period, noise emissions during the evening assessment period will also be compliant with the INP noise criteria.

Noting the above, void of extraordinary circumstances, the proposal is not considered to create unacceptable noise intrusions to adjoining properties. While there is no specific information available to determine the potential impact of emergency sirens on dogs and if this would lead to them being disruptive, it is considered that the application has been accompanied with adequate noise management information to advise that should a scenario arise which is extraordinary, that staff will be available to mitigate concerns. It is also noted that the accompanying Operational Plan has indicated that a 24 hour video and audio surveillance system will be installed to monitor both the movement and noise levels inside and outside of the kennel blocks which is considered to assist in the management of dogs on site. In this regard, it is considered that while the proposal cannot secure that disturbances will not occur as per any commercial use, the application has been accompanied or displayed best practice methods to manage this possible scenario of disturbance by loud sirens along the M4 motorway.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Landscape Architect	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Public Health	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

Section 79C(1)(e)The public interest

The public interest is best served by the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. In this regard, the proposed works are considered to be consistent with the relevant planning provisions. Subject to compliance with conditions of any development consent and modifications to the development design as outlined within this report, the proposal is considered worthy of support.

Section 94 - Developer Contributions Plans

Section 7.11 contributions do apply to the proposed development in regard to the provision of the permanent caretakers dwelling to be provided. While so, in the calculation of the applicable rate, it is noted that a credit for one (1) dwelling house is also provided for the subject site. In this regard, noting the applicable credit, Section 7.11 contributions do not have to be provided for the proposal.

Conclusion

The proposal has been assessed against the relevant provision of the environmental planning instruments and development control plan pertaining to the land. The application was originally received by Council for a proposed animal boarding and training establishment. As this definition under the standard instrument is for a commercial purpose which is contrary to the proponent (Assistance Dogs Australia Limited) being a not for profit organisation, the proposed use on the site was modified as a 'community facility' (while in principle maintaining the original use), which is a permissible land use under the subject sites RU4 - Primary Production Small Lots. In this regard, the operation of an assistance dogs training establishment by Assistance Dogs Australia Limited is considered consistent with the definition of a community facility.

The proposal will provide for a considerable redevelopment of the subject lot within the existing rural context of its surrounds. Consideration has been given in regard to the potential impacts of the layout and operation of the training facility upon its surrounds and especially surrounding adjoining rural properties. The design and operation of the development subject to appropriate conditions is considered an acceptable response to the context of the subject site.

The application has provided for the reuse and refurbishment of existing building on the subject site, the provision of an infill building as well as the provision of a larger built form in the way of two (2) dog kennels to accommodate a total of 60 dogs. To allow for compliance with the recommendations of the accompanying Acoustic Report, the report has recommended that 2.5m high and 6m wide landscaped earth mounds are to be provided in part to both the eastern and western side boundaries. The application as amended has maintained mounds to the boundary but have also now incorporated a 1.5m high acoustic fence (for areas required to be 2.5m in height) while boundary fencing has been offset 1.5m from the eastern and western boundary to incorporate screen planting. The location of these earth mounds and the position and treatment of perimeter fencing has been considered in relation to the context of the subject site and its immediate relationship with adjoining lots which in this instance is considered an acceptable inclusion to its surrounds. The application was also accompanied by supporting documentation in relation to noise emission, odour and the disposal of waste water which were all considered acceptable by Council Environmental Management Team.

The proposal has also been assessed in relation to potential parking and traffic impact and provision of infrastructure on the subject site including stormwater and is considered acceptable subject to appropriate conditions. It is noted that an existing right of carriageway from Austin Place servicing the subject site will require upgrading as part of the application which will be appropriately conditioned as part of any Development Consent granted.

While it is acknowledged that the proposal will provide for an operation not in line with the surrounding rural uses, the location of buildings as well as the proposed earth mounds (with in part acoustic walls) and screened fencing to the boundary is not considered to create an inappropriate relationship with its immediate surrounds or create an unacceptable impact upon the amenities of adjoining residents. Taking into consideration the location of the subject site and the topography of its surrounds lands, the proposal will not be visible from a public area minimising its overall visual impact to the Orchard Hills area.

The proposed development has been assessed against the relevant heads of consideration contained in Section 2.12, 2.15 and 4.15 of the *Environmental Planning and Assessment Act, 1979* and has found to be satisfactory. The site is suitable for the proposed development and the proposal subject to compliance with conditions is in the public interest. The proposal is therefore worthy of support.

Recommendation

That DA17/0197 for an Assistance Dogs Australia National Training Facility including Ancillary Office Space, Conference Rooms, Cafe, Guest Accommodation, Caretaker's Dwelling, Car Parking & Associated Works be approved subject to the attached conditions.

CONDITIONS

General

- The development must be implemented substantially in accordance with the following plans approved by the Sydney Western City Planning Panel, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Doc No.	Issue	Title	Prepared By	Date
Architectural Plans all Project No. A013				
DA01	C	Site Plan - Overall	Therian Pty Ltd	25 September, 2018
DA02	E	Site Plan - Proposed	Therian Pty Ltd	23 November, 2018
DA03	C	Building 'A' – Proposed Design	Therian Pty Ltd	25 September, 2018
DA04	C	Building 'B' – Proposed Design	Therian Pty Ltd	25 September, 2018
DA05	C	Building 'C' – Proposed Design	Therian Pty Ltd	25 September, 2018
DA06	C	Building 'C' – Proposed Design	Therian Pty Ltd	25 September, 2018
DA07	C	Building 'D' – Proposed Floor Plan	Therian Pty Ltd	25 September, 2018
DA08	C	Building 'D' - Elevations	Therian Pty Ltd	25 September, 2018
DA09	C	Building 'E1' – Proposed Floor Plan	Therian Pty Ltd	25 September, 2018
DA10	C	Building 'E1' - Elevations	Therian Pty Ltd	25 September, 2018
DA11	C	Building 'E2' – Proposed Floor Plan	Therian Pty Ltd	25 September, 2018
DA12	C	Building 'E2' - Elevations	Therian Pty Ltd	25 September, 2018
DA13	C	Building 'F' – Proposed Design	Therian Pty Ltd	25 September, 2018
Drainage Layout Plan Job No. J082				
0001	E	Drainage Layout Plan	Planit Consulting	20 September, 2018
Statement of Landscape Intent, Issue J, dated July 2017				
Figure 1.0	J	Landscape Intent	Planit Consulting	July, 2017
Figure 2.0	J	Landscape Design Elements	Planit Consulting	July, 2017
Figure 3.0	J	Landscape Intent – Bioretention Planting Palette	Planit Consulting	July, 2017
Figure 4.0	J	Landscape Intent – Section A	Planit Consulting	July, 2017
Figure 5.0	J	Landscape Intent – Section B	Planit Consulting	July, 2017
Figure 6.0	J	Landscape Intent – Section C	Planit Consulting	July, 2017
Figure 7.0	J	Planting Palette	Planit Consulting	July, 2017

- Assistance Dog Education and Welfare Operation Plan – Orchard Hills National Training School, Document Set ID: 8015777, Version 1, Version Date 22 January, 2018;
- Noise Impact Assessment prepared by Acoustic Logic, Document Reference No. 2016007.1/2509A/R5/JS, Revision 5, dated 25 September, 2018;
- Odour Impact Assessment prepared by Ask Acoustic & Air Quality, Report No. 8108R01V05.doc, dated 29 October, 2018;
- Revised Wastewater Management Report prepared by HMC Environmental Consulting Pty Ltd, Job No. 2015.149, Report No. HMC 2015.149, dated 25 September, 2018;
- Stormwater Assessment, Document No. J082-SW_RPT01, Version 6, dated 20 September, 2018;
- Waste Management Plan prepared by HMC Environmental Consulting Pty Ltd, Report No. 2015.149.01, dated 21 December, 2017;
- Bushfire Assessment prepared by Planit Consulting, dated 15 December, 2017;
- Demolition Plan prepared by Planit Consulting, dated July 2017;

- Preliminary Compliance Report prepared by Thomas Independent Certification, TIC Reference 10587, Revision 2-0, dated 7 August, 2017;
- Flora and Fauna Assessment prepared by Planit Consulting Pty Ltd, Issue C, dated 19 July, 2017;
- Basix Certificate No. 84333S, dated 24 July, 2017; and
- NSW Rural Fire Services comments, Reference No. DA17/2982 DA17083009009 SD, dated 22 September, 2017.

- 2 The proprietor of the food business (café) shall ensure that the requirements of the NSW Food Act 2003, NSW Food Regulation 2010 and the Australian and New Zealand Food Standards Code are met at all times.
- 3 A satisfactory inspection of the food business (café) from an authorised officer of Council's Environmental Health Department is required **prior to the issue of the Occupation Certificate**. The occupier is to contact the Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.
- 4 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 6 Construction and demolition works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
 - Mondays to Fridays, 7am to 6pm
 - Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
 - No construction work is permitted on Sundays and Public Holidays.

In the event that the construction relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the construction works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

- 7 The dog training facility is to operate from 7.00am to 9.00pm, seven days a week. During the hours of 6pm and 7am, all dogs are to be moved into their overnight accommodation.
- 8 A maximum of sixty (60) dogs is to be provided to the dog training facility at any one time.

- 9 Staffing number for the dog training facility are to be provided as follows;

Weekdays

Position	No. of Staff	Working hours
Dog Welfare Team	6 + 2 during night shift	7am - 2pm, 8am - 4pm, 2pm - 9pm
Dog Instructors	11	8am – 4pm
Administration	11 (including managers)	9am – 5pm
Maintenance / Caretakers	2	Living on-site
Total	30	

Weekends

Position	No. of Staff	Working hours
Dog Welfare Team	6 + 2 during night shift	7am - 2pm, 8am - 4pm, 2pm - 9pm
Total	8	

- 10 The dog training facility is to be operated in accordance with the Assistance Dog Education and Welfare Operation Plan – Orchard Hills National Training School, Document Set ID: 8015777, Version 1, Version Date 22 January, 2018 forming part of this development consent.
- 11 The café to Building B is not to be open to, or accessible by the public.
- 12 No works are to be conducted to the northern end of Lot 23, DP 239091 maintaining mature tree vegetation in the form of Shale Plains Woodland which have been identified as critically endangered. In this regard, this area is to remain separate from the approved use and operations and be protected at all times.
- 13 The approved signage to the southern boundary is not to be illuminated.
- 14 A maximum of one (1) bus visit to the dog training facility is to be provided per week.

15 The development is to be carried out in 2 stages as follows;

- Stage 1 - The provision of buildings A, B, C, D E1 (Training facility) and building F (Caretakers residence) as well as all associated infrastructure including training yards, site entry, driveways, car parking, fencing and services.
- Stage 2 - The provision of building E2.

Anything in this consent making reference to a Construction Certificate or Occupation Certificate is to be read as applying to the relevant Construction Certificate or relevant Occupation Certificate for the relevant stage. Stage 2 is not to commence construction until a minimum of 12 months after the Occupation Certificate for Stage 1 is provided. For the avoidance of doubt, this consent permits the issue of early works Construction Certificates, or Staged Construction Certificates within the relevant Stage of the development and any conditions referring to the relevant stage are to be read as applying to the relevant Construction Certificate for the relevant stage.

- 16 The Statement of Landscape Intent is to be amended to provide for an additional number of deciduous trees along the western edge of Buildings E1 and E2. In this regard, plans are to be amended to the satisfaction of Penrith City Council's Landscape Architecture Supervisor **prior to the issue of any Construction Certificate**. The resulting landscaping works must then be implemented **prior to the issue of an Occupation Certificate**.
- 17 To ensure that appropriate plant species and screening are provided to the proposed earth mounds along the eastern and western boundary and to the front of proposed perimeter fencing, plant species are to be provided to the satisfaction of Penrith City Council's Landscape Architecture Supervisor **prior to the issue of any Construction Certificate**.
- 18 This consent does not allow for any cooking onsite. A separate development application shall be provided to Penrith City Council for any future expansion of the operation of the food business (café).

Demolition

- 19 **Prior to commencement of demolition works on site**, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:
- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
 - The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

- 20 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 21 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 22 **Prior to demolition works commencing**, a hazardous materials assessment is to be conducted of the existing structures to be demolished. A copy of the hazardous materials assessment is to be provided to Penrith City Council for review prior to demolition works commencing.

Environmental Matters

- 23 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development**. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the demolition and construction associated with the development.

- 24 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

25 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith Development Control Plan 2014) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: Penrith Development Control Plan 2014 defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

26 Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with AS3798 - 1996. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

If Penrith City Council is not the Principal Certifying Authority, a copy of the certification is to be submitted to Council for their reference.

- 27 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 28 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 29 The operating noise level of plant and equipment shall not exceed 38dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 30 In the event that Penrith City Council receives noise complaints in relation to the operation of the development, an acoustic report shall be prepared by a suitably qualified and experienced person and submitted to Penrith City Council for review and approval. The acoustic assessment is to provide recommendations for mitigation of the noise impacts generated by the operation of the development.
- 31 The recommendations provided in the acoustic report prepared by Acoustic Logic, Document Reference No. 2016007.1/2509A/R5/JS, Revision 5, dated 25 September, 2018

shall be implemented and incorporated into the design and construction of the development, and **shall be shown on plans accompanying the Construction Certificate application**. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed in accordance with the recommendations prescribed in the approved acoustic report. **This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate**. A copy of the certification together with the Occupation Certificate shall be submitted to Penrith City Council if Council is not the Principal Certifying Authority.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 32 Prior to the commencement of works, including the removal of any trees, an inspection for resident threatened fauna (including inspection of all hollows) is to be undertaken under the supervision of a fauna ecologist. Where possible, these fauna are to be removed and relocated in accordance with relevant guidelines and permits.

Trees identified for removal are to be lowered to the ground slowly under the supervision of a qualified ecologist when felling to allow any resident fauna time to escape and to ensure they aren't crushed by falling trees and branches. A local Wildlife rescue group are to be contacted in the case of any injured fauna.

- 33 All *Corymbia* sp. and *Eucalyptus* sp. trees that are scheduled for removal once felled in accordance with the Consent Conditions, are to be sawn into 2-6m lengths and relocated into the area of retained native vegetation at the rear of the site. This is to be done under the guidance of an ecologist to provide additional fauna habitat.
- 34 The recommendations outlined in the Odour Impact Assessment prepared by Ask Acoustic & Air Quality, Report No. 8108R01V05.doc, dated 29 October, 2018 are to be implemented at all times. In the event that Council receives concerns regarding offensive odour emissions, an amended Odour Impact Assessment is to be provided to Council for review, approval and implementation.

BCA Issues

- 35 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.
- 36 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
 - (b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

- 37 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Health Matters and OSSM installations

- 38 The construction, fit out and finishes of the food premises (café) must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 *Design, Construction and Fitout of Food Premises*.
- 39 A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed by the business prior to commencement of the business (café).
- 40 Hand basins must be freestanding, serviced with hot and cold water through a single outlet, able to be mixed at a temperature of at least 40°C and fitted with a hands free operation. Where sensor taps are installed the basin must not be more than 6 metres from the hot water system. Disposable paper hand towels and soap must be provided and serviced from a dispenser adjacent to each hand basin.
- 41 The double bowl sink must be constructed of stainless steel, have a minimum bowl size of 450mm x 300mm x 300mm, be fitted with a draining area at each end, and have a splashback as part of the unit at least 300mm up the wall.
- 42 A cleaners sink must be provided in addition to the hand wash basin and double bowl equipment wash sink. The cleaners sink must be serviced with hot and cold water through taps fitted with hose connectors. Cleaner's sinks must be located outside of areas where open food is handled.
- 43 All garbage must be stored in accordance with the requirements of the Food Safety Standards of the Australian and New Zealand Food Standards Code and the *Protection of the Environment Operations Act 1997* to prevent the harbourage of vermin or generation of odours.

Utility Services

- 44 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

- 45 **Prior to the issue of a Construction Certificate**, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

- 46 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
 - For a fibre ready facility, the NBN Co’s standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

- 47 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

- 48 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

Engineering

- 49 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 50 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council **prior to the issue of any Construction Certificate**. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 51 **Prior to the issue of any Construction Certificate**, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - b) Concrete footpaths and or cycleways
 - c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 - d) Road occupancy or road closures
 - e) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve
 - f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note:

- a) Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- b) All works associated with the Roads Act approval must be completed **prior to the issue of any Occupation Certificate**.

- 52 A Construction Certificate is to be approved by the Certifying Authority for the provision of engineering works (road upgrade, earthworks). The Construction Certificate shall be issued for any roadworks within the right of carriageway within Lot 6, DP 869116.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that engineering plans are consistent with the stamped approved concept plan/s prepared by Therian Pty Ltd, Document No. DA01, Project No. A013, revision C, dated 25 September 2018, and that all roadworks within the right of carriageway have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

The works may include but are not limited to the following:

- Private access driveways
- Sediment and erosion control measures
- Earthworks
- Relocation of services
- Landscaping and embellishment works

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

Note:

- a) Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information;
- b) The applicant shall notify other residents benefited by the right of way before any approvals being obtained and commencing any works;
- c) A Section 138 Approval is required for any works within the public road reserve (Austin Place) - see separate S138 condition.

- 53 The stormwater management system shall be provided generally in accordance with the Stormwater Assessment Report prepared by Planit Engineering Document No. J082-SW_RPT01, Version 6, dated 20 September, 2018 and associated concept plan lodged for development approval, prepared by Planit Engineering Job No. J082 Drawing No. 0001, Revision E, dated 20 September 2018.

Engineering plans and supporting calculations for the final configuration of the stormwater management system, including revised MUSIC modeling in accordance with the WSUD Technical Guideline requirements, are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy. In addition, a revised MUSIC model and detailed design plans must be submitted to the satisfaction of Council to ensure the stormwater management system meets all pollutant reduction targets in accordance with the Water Sensitive Urban Design Policy requirements and has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

- 54 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.
- 55 **Prior to the issue of a Construction Certificate**, the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted to and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee. The CTMP shall include, but not limited to the following: vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, turning templates for narrow streets and intersections and parking management for workers. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller. The CTMP shall ensure that adequate parking is provided for the development and not severely impacted by the construction of this development.

The TMP shall be supported by a traffic control plan, designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

- 56 Prior to commencement of works, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 57 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

- 58 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities regulations and standards.

- 59 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that all works associated with a Section 138 Roads Act approval or Section 68 Local Government Act approval have been inspected and signed off by Penrith City Council.

- 60 **Prior to the issue of an Occupation Certificate**, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

- 61 **Prior to the issue of an Occupation Certificate**, the Principal Certifying Authority shall ensure that the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

- 62 **Prior to the issue of an Occupation Certificate**, a restriction as to user and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)

Shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage for Building Development.

- 63 **Prior to the issue of any Occupation Certificate**, directional signage and linemarking shall be installed indicating directional movements and the location of staff, patron and visitor parking to the satisfaction of the Principal Certifying Authority.
- 64 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s
- 65 All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc

66 All vehicles are to enter/exit the site in a forward direction.

Landscaping

67 All landscape works are to be constructed in accordance with the stamped approved plans as amended by the applicable conditions of this Development Consent and Sections C2 'Vegetation Management' and C6 'Landscape Design' of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plans, and
- in a healthy state, and
- in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

68 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional. This includes the following requirements:-

- All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Development Control Plan 2014.

69 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a suitably qualified and experienced landscape professional.

i. Implementation Report

Upon completion of the landscape works associated with the development and **prior to the issue of an Occupation Certificate** for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

70 All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Development Control Plan 2014.

- 71 All landscape works are to meet industry best practice and the following relevant Australian Standards:
- AS 4419 Soils for Landscaping and Garden Use,
 - AS 4454 Composts, Soil Conditioners and Mulches, and
 - AS 4373 Pruning of Amenity Trees.
- 72 No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained. Tree protection measures are to be implemented as outlined in the Australian Standard AS 4970-2009 'Protection of trees on development sites'. No fill, machinery, or materials are to be placed or stored within the drip line of any tree that is to be retained.
- 73 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Section C6 'Landscape Design' of Penrith Development Control Plan 2014.
- 74 No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed (other than those shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.
- 75 All trees and landscaping must be maintained in perpetuity to enable maturity to their full potential in healthy growing conditions. This includes mature height, spread and form, consistent with the tree species. Pruning must not alter the natural form and height of trees.

Payment of Fees

- 76 All roadworks and drainage works are to be carried out at the applicant's cost.
- 77 Prior to the commencement of any works on site, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

Certification

- 78 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of that Certificate including the above mentioned documents shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

- 79 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
 - (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Operation of OSSM

- 80 The on-site sewage management (OSSM) system and effluent management area shall be installed and operated in accordance with the:
- "Environmental and Health Protection Guidelines On Site Sewage Management for Single Households"
 - Australian Standards AS1547:2012,
 - Council's *On-Site Sewage Management and Greywater Reuse Policy (2014)*,
 - the Effluent Management Area Plan as provided by the revised Wastewater Management Report prepared by HMC Environmental Consulting Pty Ltd, Job No. 2015.149, Report No. HMC 2015.149, dated 25 September, 2018,
 - the revised Wastewater Management Report prepared by HMC Environmental Consulting Pty Ltd, Job No. 2015.149, Report No. HMC 2015.149, dated 25 September, 2018,
 - And, the conditions of this consent.

81 All wastewater generated on the site is to be diverted to a Taylex CABS sewage treatment plant with a minimum treatment capacity of **10 kilolitres**. The treated effluent is to be disposed of into **two sand mounds** in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved Effluent Management Area Plan as part of the revised Wastewater Management Report prepared by HMC Environmental Consulting Pty Ltd, Job No. 2015.149, Report No. HMC 2015.149, dated 25 September, 2018.

82 Penrith City Council is both the consent authority and certifying authority for the installation of the On-Site Sewage Management System (OSSM). **It is your responsibility to contact Council's Development Services Department to organise all inspections required for the installation of the system.**

In this regard, the Taylex CABS tanks and sand mounds will need to be inspected at the following stages:

- On completion of the Taylex CABS tanks installation (before back-filling occurs) and prior to its commissioning,
- During the soil amelioration phase prior to the installation of the sand mounds.
- To observe the conduct of the pre-commissioning tests, including the water squirt test, to ensure even distribution of treated effluent across the distribution manifold.

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority.

83 The Taylex CABS sewage treatment plant, drainage and effluent management area shall not be altered without the prior approval of Council. In addition, the Taylex CABS tanks shall not be buried or covered.

84 All house drainage and sanitary plumbing shall be carried out in accordance with the requirements of the Plumbing and Drainage Act 2011 and the Plumbing Code of Australia.

85 There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves.

86 A minimum of two signs shall be erected within the effluent management area. These signs are to state "RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT". The signage shall be maintained for the term of the development.

87 The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the aerated septic tank(s) every three (3) months from the date of commissioning in the following manner:

i. A three monthly service shall include a check on all mechanical, electrical and functioning parts of the aerated system including:

- the chlorinator,
- replenishment of the disinfectant,
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and filters,
- the slime growth on the filter media, and
- the operation of the sludge returns system.

ii. The following field tests are to be carried out at every service:

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.

iii. On the yearly anniversary date of the commissioning of the system, an annual service of the system shall also be carried out which includes a check on the sludge accumulation in the septic tank (primary treatment tank) and the clarifier, where appropriate.

iv. For systems which utilise the sewage treatment principle of activated sludge or contact aeration, a sludge bulking test, known as a SV30 Test, shall also be conducted on an annual basis. This test is to determine whether the accumulated sludge is bulking, indicating that the aeration compartment(s) will require desludging.

v. On completion of each service, a service report sheet is to specify all service items and test results, the amount of chlorine compound provided, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

88 The contents of the existing septic tanks are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed, demolished or filled with clean soil and garden lime. Documentation of the collection and disposal of waste are to be retained and provided to Council on request.

- 89 The effluent management area is to be turfed to the satisfaction of Council. Where a specific variety of turf is identified in the approved Wastewater Report that variety is to be installed and maintained.
- 90 No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area.
- 91 All stormwater and seepage shall be diverted away from the septic tank and the disposal area by using an agricultural drain or earthen bund and dish drain.
- 92 Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area. Effluent from the on-site sewage management system is not to be used on fruit or vegetables grown for human consumption.
- 93 The effluent management area shall be protected from possible stock damage.
- 94 **Prior to the issue of the Construction Certificate**, a Hydraulic Report is to be submitted to Council for approval that demonstrates how the wastewater generated across the site will be transferred to the approved treatment system, and how wastewater will be distributed evenly across the approved Effluent Disposal Area using two sand mounds. This Report is to include an amended Site Plan showing the location of all pipework, any pump stations and all other associated infrastructure required.
- 95 **Prior to the issue of the Occupation Certificate**, an Operational Wastewater Management Plan (OWMP) for the system is to be provided to Penrith City Council for consideration and approval. The OWMP shall be prepared by a suitable qualified consultant in consultation with Council and other relevant agencies, and may need to be amended to include the comments provided by Council and other agencies. The OWMP is to address:
- All environmental aspects of the operation of the on-site sewage management system
 - All systems and controls to be implemented to minimise the potential for any adverse environmental impacts
 - A program for ongoing monitoring and review to ensure that the OWMP remains contemporary with relevant environmental standards. Council is to be consulted prior to any amendments of the OWMP. Council may request a review of the OWMP or any proposed amendments.

The OWMP should include but is not limited to the following:

- System information (including specifications and site plans)
- Monitoring and testing
- Maintenance and servicing program (treatment system and sand mounds)
- System performance
- System failure contingency
- Odour management
- Landscape and disposal area management
- Health and safety

The on-site sewage management system is to be operated in accordance with the requirements of this Plan.

96 Council is to be provided with an Annual Environmental Performance Report detailing the performance of the system including but not limited to the following information:

- Details and records of maintenance checks of disposal areas.
- Copies of maintenance report sheets.
- Results of effluent output testing.

The first Annual Environmental Performance Report is to be provided to Council 12 months after the system is commissioned.

97 Annual testing of effluent output is to occur for the following parameters:

- Metered hydraulic load
- pH
- turbidity
- Total Nitrogen
- Total Phosphorus
- Faecal Coliforms
- Biochemical Oxygen Demand
- Total Suspended Solids
- Dissolved Oxygen (in aeration chamber)
- Free residual chlorine

Effluent is to be sampled by a suitably qualified person and tested at a NATA accredited laboratory. The test results are to be provided to Council within 21 days of their receipt by the owner/operator. Testing is to occur at the stage of commissioning the system and every 12 months thereafter from the date of commissioning.

98 The reserve area, as marked on the Stamped Approved Effluent Management Area Plan as provided by the revised Wastewater Management Report prepared by HMC Environmental Consulting Pty Ltd, Job No. 2015.149, Report No. HMC 2015.149, dated 25 September, 2018, is to be established with turf and is not to be used for any ancillary purpose. No materials are to be stored in the reserve area, and the reserve area is not to be developed. In the event that the primary effluent disposal area is to fail the reserve area is to be used. Written approval is to be obtained from Penrith City Council prior to any works being undertaken.

99 **Prior to the issue of the 'Approval to Operate', a Commissioning Certificate for the Onsite Sewage Treatment system shall be provided to Penrith City Council for approval.** This Certificate shall certify that the Taylex CABS sewage treatment plant has been installed with a Phosphorous Reduction System in accordance with the relevant Australian Standards.

Prior to the issue of the Occupation Certificate and before the Onsite Sewage Treatment (OSSM) system can be used, an 'Approval to Operate' for the OSSM system is to be sought from and issued by Penrith City Council.

100 Each sand mound is to be 51m long and 8m wide. Each distribution bed will be 45.6m long and 1.8m wide. The sand loading rate is to be 40mm/day. **Prior to the issue of a Construction Certificate**, certification from the sand supplier is to be provided to Penrith City Council verifying that the sand meets the recommended specification outlined in the revised Wastewater Management Report prepared by HMC Environmental Consulting Pty Ltd, Job No. 2015.149, Report No. HMC 2015.149, dated 25 September, 2018.

101 At no time is the effluent management area to be used for ancillary purposes including dog training.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part B - DCP Principles

The proposed development has undergone a number of modifications throughout the assessment process which have provided in particular for a reconsideration of the effluent management system and location and capacity of the proposed dog kennel area. It is considered that original concerns raised in relation to effluent management on site have now been adequately resolved and in this regard the proposal is considered to provide for a sustainable use of the subject site. Concerns were created during the assessment process in relation to the proposed effluent disposal method as a consequence of the intended use. As discussed within this report, it is considered that the proposed waste water management has been appropriately modified so as to now allow for the availability of sufficient land for its appropriate disposal on site. In this regard, the application as amended is considered to allow for an appropriate integration of the necessary infrastructure required for the proposed use with the constraints of the subject site and is therefore considered to be environmentally sustainable in the long term subject to appropriate maintenance.

Noting the above, it is considered that the proposal as amended does provide for a long term economic focus on the Orchard Hills area. As discussed within this report, appropriate consideration via the provision of supporting technical documents is considered to have been given to the existing and surrounding development, biodiversity and ecological values in regard to waste water disposal, acoustic treatment, odour control, movement of vehicles to and from the subject site and stormwater maintenance. The proposal is therefore considered to have appropriately demonstrated a long term vision of this part of Orchard Hills in accordance with Penrith Development Control Plan provisions.

Part C - City-wide Controls

C1 Site Planning and Design Principles

The application will provide for a mixture of retention and renovation of existing buildings on the subject site, demolition and reconstruction of built forms and provision of new buildings. In this regard, three existing buildings are to be retained with internal renovations and replacement of existing roofs to match the current roof layout, the provision of a new 2 storey building between existing built forms (being buildings B and D) and the provision of three new single storey buildings including the new dog training facility buildings. Each new dog training facility is subject to an amount of cut within the topography of the subject site varying from 1.5m to 2.2m, in turn providing for built forms with a 1.5m difference in proposed finished floor levels from building E1 to E2 as it progressed to the south of the subject site.

The application was originally provided with a single dog training facility building with a north-east to south-west orientation. The original application providing for substantial areas of hardstand via driveways and parking areas. Amended plans have provided for the repositioning of this dog training facility building so as to be provided with a north to south orientation and separation into two built forms. In addition, the amount of hardstand area has been reduced via the removal of an internal driveway section which previously circumnavigated this proposed built form as well as along the western side of buildings E1 and E2.

The reduction in the amount of hardstand area is considered a positive design modification taking into consideration the rural nature of its surrounds. It is noted that the nature of landscaping proposed and the location of existing buildings is considered to screen the proposed main car parking and turning area within the of the subject site limiting its visual

presentation from adjoining properties. The area of hardstand proposed is therefore not considered excessive with the nature of the subject site considered to be consistent with driveway areas provided for a number of surrounding dwellings on large rural lots. The treatment of parking areas with asphalt is also considered acceptable in this instance noting the screening provided by existing buildings and proposed landscaping.

The grouping of buildings to the southern end of the subject lot is not considered to create a significant impact to the character of the area noting the retention of existing buildings and provision of new built forms which are also considered low scale in nature. New building C (to replace an existing building) will provide for a two storey structure to replace an single storey building. This will provide in part for cut to a depth of 1.2m below the existing natural ground level. While so, the upper level proposed is provided with a finished floor R.L of 59.95 which is as per the adjoining buildings to either side (being buildings B and D) and is considered to maintain consistency with the surrounding building layout. In addition, this new building will in principle provide for a single storey presentation to the southern elevation and two levels to the northern elevation which is considered to minimise any visual impact to its surrounds.

The location of the larger dog kennels to the mid section of the subject site is also considered will not create an immediate visual impact to its surrounds noting the lower existing contours within this area, the single level nature of the buildings E1 and E2 and the cut proposed within the existing topography of the site for these buildings. In addition, the nature of landscaping proposed surrounding each building is also considered to assist in minimising the visual impact of the new structures upon its immediate surrounds. It is also noted that the reconfiguration of the built form layout will allow for sufficient area for the disposal of treated waste effluent created by the proposed operations.

Noting the above points, it is considered that the proposal has provided for an acceptable implementation of appropriate site planning and design principles to allow for an appropriate building form, treatment of the car park area and associated use layout for the subject site. While the proposal will provide for significant changes in finished levels via the provision of the proposed dog training facility buildings, the scale and size of the redevelopment is considered appropriate and sustainable in the long term noting that an acceptable area has been provided for the proper dispersion of treated effluent waste.

C4 Land Management

The following control is provided for the limitation of earthworks under Part C4 of the Penrith Development Control Plan 2014;

a) Earthworks to create a building platform shall not be undertaken where excavation and/or filling would exceed 1m from the existing natural ground level of the site.

An assessment of the provided plans has indicated that building C is to be demolished and reconstructed as a new training building. In this regard, this will provide for the removal of an existing single storey building and replacement with a two (2) storey building. This new building will allow for an additional new ground floor providing for storage and a first floor maintaining agility rooms. The extent of excavation proposed is non compliant with the above mentioned control with the amount of fill proposed to the building increasing the finished floor level to the proposed first floor by 2.75m from and existing R.L of 57.2 to a proposed R.L of 59.95. The applicant has provided a justification for this variation in the accompanying Statement of Environmental Effects by advising that, *'The filling is proposed to ensure compatible floor levels with the existing adjoining buildings B and D'*. While the overall maximum roof height of Building

C will exceed the existing maximum roof heights of the adjoining Buildings B and D, the new building is considered to provide for an appropriate infill development between the existing adjoining buildings. In addition, the visual impact of the fill and elevated height is considered to be minimal when viewed from adjoining properties or from persons entering the subject site via the main entry to the south and is therefore considered an appropriate inclusion in this instance.

The proposal will provide for a significant amount of cut to cater for the location of new building E1 (training facility building) for a length of 24m (out of the overall 29m length proposed). This cut is of a depth greater than 1m for this length, with a worst case scenario of 2.1m cut being provided to parts of this building proposed southern elevation. For proposed building E2, the nature of the proposed earthworks will provide for fill up to 2m in height to the north western corner of this new building, with the majority of the northern elevation being provided with a fill greater than 1m as well as for 18m of the proposed length of the western elevation to building E2. While the non compliance to building C is considered in the context of the adjoining buildings and associated architectural connectivity in turn creating an infill built form, Buildings E1 and E2 will provide for a new and distinct built form within the subject site, separate from the building bunched to its southern end.

The application as amended has allowed for the re-orientation of both Buildings E1 and E2 (noting its originally design as a single structure) from a north -west to south-east orientation to a central north to south orientation which is considered to provide for improved side separation distances to adjoining lots. The split nature of buildings E1 and E2 is considered an acceptable response to the topography of this part of the subject site also noting that no impact is created on the proposed stormwater quality via the earthworks. In addition, the level nature of buildings E1 and E2 is considered an acceptable response to the nature of the proposed use in allowing for equitable access to all building proposed. Setbacks of between 25m to 30m are provided to the outdoor dog runs for building E2 to the western boundary with a 38m to 43m setback from outdoor dog runs provided to the eastern boundary. Building E1 will provide for a 25m setback from outdoor dog runs to the western boundary with a 38m setback from dog runs provided to the eastern boundary. It is noted that these setbacks will be increased to between 5 and 6m when setback calculations are provided from the buildings rather than open dog runs while both the eastern and western boundary are to be treated with landscaping which is considered to assist in minimising the impact of these new built forms to neighbouring properties.

Noting the above, while it is acknowledged that the application will request a variation to the amount of fill permissible under Chapter C4 of the Penrith Development Control Plan 2014, as the proposed buildings E1 and E2 are set into the existing topography, are provided with generous setbacks to side boundaries and will be screened by proposed vegetation and in part via the earth mounds along the side boundaries, it is not considered that the new buildings will create an inappropriate inclusion to the subject site or create a significant visual impact upon adjoining rural lots.

C9 Advertising and Signage

The application is provided with one (1) business identification sign to be positioned adjoining the entry gate to No. 8 Austin Place. The sign is proposed to be incorporated into a rock veneered masonry entry fence and is provided with dimensions of 1.35m by 1.5m for a total area of 2.025m². Council's DCP controls have identified that business identification signage within a rural zone should not exceed 3m², be no more than 2m above the ground, not intrude into the skyline and must not be illuminated. The location and size of the proposed sign is compliant with these controls except for plans identifying that the proposed sign is to be

externally lit via ground mounted LED lighting. In this regard, should the application be approved, any determination will include a condition requiring that the signage not be illuminated.

C10 Transport, Access and Parking

Penrith Development Control Plan does not provide a car parking rate for the proposed use or for a use which may be considered similar in nature. While so, the application as amended is proposed to provide for three (3) separate car parking areas, car park 1 to the south western corner of the site adjoining the entry area providing for a total of six (6) parking spaces (including two (2) disabled car parking space as well as a bus parking area, car park 2, centrally located and providing for a total of thirty (30) car parking spaces and one (1) additional disabled car parking space is proposed adjoining building C (new agility rooms). In this regard, a total of thirty seven (37) car parking spaces are proposed for the amended application including three (3) disabled spaces and a separate bus parking bay. It is noted that the original application was provided with fifty four (54) parking spaces, the realigned building layout therefore providing for a reduction of seventeen (17) spaces. Access to the subject site is proposed from Austin Place and the upgrading of an existing right of carriageway which is proposed to be upgraded so as to be sealed with a width of 6.2m to cater for two way vehicular movement.

The application was accompanied by a Traffic Impact Assessment Report prepared by Planit Consulting who provided in part the following conclusion;

- *The main traffic generation of the site is from staff that will be employed at the centre and these will include administration, dog trainers and kennel hands. A maximum of 30 staff may be employed on the site and this has been determined as generating some 16 v.t.p.h during the AM or PM peak periods. This is not a heavy movement and will have minimal impact on the road system.*
- *The site may generate additional traffic movement throughout the day, although this is minor and limited to a caretaker, a bus once a week, delivery vans and trainers' vans that travel to and from the shopping centres as part of dog training.*

The following additional operational points are provided by the accompanying Traffic Impact Assessment Report in regard to generated vehicular movements;

- *A bus will visit the site on a possible weekly basis and this will be restricted to a Wednesday in the middle of the day. A bus set-down area is provided on site for this purpose. The bus will usually carry 40 people and is proposed with the main purpose of demonstrating to interested community groups the workings of the dog training centre.*
- *Deliveries to and from the site will be made by small vans approximately five times per week to mainly service the café and provide food for the dogs. A vet and a waste removal truck will also make approximately one trip per week.*
- *Staff will transport dogs most days to local suburbs and shopping centres for training purposes. This will usually occur between 10.00am - 1.00pm using up to six vans.*

The accompanying report has identified that the main areas of increased traffic impact (being 16 vehicle trips per hour) will be likely to occur at the driveway entrance to the site and at the intersection of Calverts Road and Lansdowne Road which will lead to the intersection of Kent Road with the M4 Motorway. It is noted that the upgraded right of carriageway along No. 7 Austin Place being two way in nature will allow for the appropriate movement of vehicles and bus coaches to and from the subject site from Austin Place.

The application and accompanying Traffic Assessment Report were provided to Council's Senior Traffic Officer for consideration. Comments returned have advised that the proposed car parking spaces were adequate to cater for the 30 staff and visitors, also noting that staff associated with the operation of the use will be provided with staggered shifts so as to not be all present on the site at any one time. In addition, access around the site to the various parking areas is considered satisfactory, the traffic report considered to address the traffic implications resulting from the proposed development and as such, the proposal is considered acceptable in terms of traffic and parking.

Part C12 - Noise and Vibration

The application as amended was accompanied by an Acoustic Report prepared by Acoustic Logic which was referred to Council's Environmental Health Unit. Section 6 of this Acoustic Report provided for the following recommendations;

6.1 Recommended Management Conditions

- 1. Access to dog runs shall only be open to staff or contractors.*
- 2. All doors from the kennel buildings to the outside must be kept closed during the evening and night time periods (unless where required for access) to minimise noise breakout to surrounding receiver locations.*
- 3. All skylights are to be closed during the evening and night time periods.*
- 4. Dogs are to be restricted from outdoor runs and yard areas during the following periods. Restrictions are to ensure compliance with the noise emission criteria detailed in Section 4.2 and Penrith City Council DCP requirements:*
 - 6:00pm to 7:00am, Monday to Friday; and*
 - 6:00PM to 8:00am, Saturday and Sunday*

6.2 Recommended Acoustic Treatments

- 1. Minimum 4mm float glass for skylights and windows to the kennels will be acoustically satisfactory. Thicker glazing for structural purposes will also be satisfactory.*
- 2. Roof sheeting above kennels is to be constructed from minimum 0.42mm sheet metal with Enviro spray 300 adhered to the inside face.*
- 3. Walls separating the kennels from the main office areas are to be constructed from slab to the underside of the roof sheeting.*
- 4. Earth mounds are to be constructed down the East and West sides of the development. The mounds are to be 2.5m in height.*
- 5. Primary entry / exit doors into the kennel are to be constructed from 35mm solid core construction or 4mm glazing.*
- 6. Ensure all penetrations / gaps in the building façade to the kennel areas are acoustically sealed.*
- 7. Plant and equipment should be designed to ensure compliance with the criteria in combination with dogs barking as per Section 4.*

The recommendation that various construction materials be provided for the kennels to mitigate noise from barking dogs during the evening / night period was considered appropriate by Council's Environmental Health Unit with suitable conditions to be provided to adhere to these requirements should the application be approved. Noise from dogs barking externally to the building during the day time assessment period was also taken into consideration by Council's Environmental Health Unit with the accompanying report advising that, *'Noise predictions presented in this report are considered conservative given that dogs within outdoor training*

yards will be supervised in a 1 - on - 1 arrangement. It is expected that in line with the dog's training, barking during supervised periods within the yards would not be encouraged and is expected to be substantially less than that associated with dogs in the runs which are not typically supervised.'

The introduction of earth mounds and associated acoustic fencing is considered to assist in mitigating noise concerns created by the activities of dogs. The findings of the accompanying acoustic report were considered acceptable by Council's Environmental Health Unit and have resolved concerns originally raised with the applicant.

Part C12 also provides for controls to be followed for proposed dog boarding, training and breeding establishments. As the proposal will provide as its primary use training of dogs (while also noting that the application has requested that the defined use be defined as a community facility), these controls are considered applicable. While the controls have identified specific distances that kennels should be setback from dwelling sites, for the purposes of this section of the DCP, it is considered that the accompanying acoustic assessment has appropriately demonstrated that the acoustic impact of the proposed use is of an acceptable nature to adjoining properties. The nature in which these measures will be provided for and their visual impact upon adjoining properties, i.e, the provision of landscaped mounds and associated acoustic fencing has been discussed under separate sections of this report.

In addition to the above, Part C12 also provides for the following specific requirements. Compliance with these requirements will be discussed individually;

All development applications for dog boarding, training and breeding establishments shall also demonstrate the following noise mitigation measures in the design and management procedures:

i) All kennel buildings to be of masonry construction, concrete floors and incorporate screening measures to adequately restrict external stimulation;

Comment: The proposed design of the kennels is considered compliant with this requirement.

ii) Kennels to be separated by a solid divider of adequate height;

Comment: The proposed design of the kennels is considered compliant with this requirement.

iii) Sound-proofed kennels to be provided, incorporating internal absorptive lining to reduce reverberant sound, for particularly noisy dogs. A minimum of one soundproofed kennel shall be provided for every 10 dogs accommodated;

Comment: The application is considered to have adequately demonstrated that soundproofing measures have been provided for via the accompanying Acoustic Report. In this regard, should the application be considered acceptable, appropriate conditions will be included with any determination notice.

iv) Dogs to be housed and exercised singly or in compatible pairs;

Comment: The application has been accompanied with an operational plan which is considered to have appropriately demonstrated compliance with this control, this document stating for instance as follows, *'There will never be more than two dogs in a play or free running session at the same time'*.

v) *Feeding to be restricted to late afternoon or early evening;*

Comment: The application has been accompanied with an operational plan which is considered to have appropriately demonstrated compliance with this control, this document stating for instance as follows, '3:50pm - 4pm - *Instructors feed all dogs according to the practiced feeding routine and collect all bowls*'. It is also noted that should the application be approved, any determination will be appropriately conditioned.

vi) *Lights to be extinguished after evening feeding; and*

Comment: Should the application be approved, this requirement may be included as a condition of consent with any determination provided.

vii) *No animals permitted in the run areas between the hours of 8.00pm to 7.00am Monday to Friday and 8.00pm to 8.00am Weekends and Public Holidays.*

Comment: Should the application be approved, this requirement may be included as a condition of consent with any determination provided.

C13 Infrastructure and Services

It is noted that the provision of infrastructure and services to the subject site are limited taking into consideration the rural context of its surrounds. In this regard, Council is required to ensure that there is adequate provision of utilities and services to the subject lot to support any proposed development. It is noted that an on-site sewage management system will be required to replace the existing service. Therefore, consideration is given to the impact of the use of the proposed system, especially to prevent risks to public health and the environment. The provision of utility services such as water, electricity and telecommunications are currently maintained to the subject site.

The application as amended is considered acceptable in regard to waste water management on site. It is noted that the treatment and disposal of effluent waste water on the subject site has been an ongoing concern since the receipt of the application by Council. In this regard, a peer review of the most recently received Waste Water Management Plan by Council's Environmental Management Section was considered appropriate and conducted. The peer review by Whitehead & Associates recommended that Penrith City Council approve the proposed onsite wastewater management system as described in the accompanying report provided that the recommendations of the report and additional recommendation provided by the peer review are followed. In this regard, should development consent be granted for the proposal, any determination is to be appropriately conditioned.

D1 Rural Land Uses

D1 Rural Land Uses

The proposal has been assessed against the other applicable provisions of the Penrith Development Control Plan 2014, in particular those under Part D1, Rural Land Uses. In this regard, the applicable controls for the proposal noting the nature of the application are provided under *Clause 1.4.4 Animal Boarding or Training Establishment* and *Clause 1.5 Non-Agricultural Development*.

Clause 1.4.4 of Part *D1 Rural Land Uses* of the Penrith DCP deals specifically with animal boarding and training establishments including dog kennels. While the application as amended

has requested that the proposal be considered as a 'community facility', in principle the operations of the application will be as a dog training establishment also noting the description of the application originally received by Council referred to the proposed use via this definition and also noting that the primary use of the facility would be to train assistance dogs. In this regard, it is considered that appropriate consideration of the controls within this Clause are necessary.

The following objectives are provided for animal boarding and training establishments;

- a) To allow the development of these establishments while minimising the impact on adjoining land uses and the local road system;*
- b) To encourage establishments which are designed to promote efficient internal circulation, drainage and aesthetic appeal; and*
- c) To ensure that properties are large enough to support the required facilities and allow for sufficient setback from boundaries, adjacent land uses and public areas to minimise impacts.*

In regard to objective 'a', as discussed within this report it is considered that the local road system will not be inappropriately impacted by the proposal. In relation to the impact upon adjoining land uses, it is not considered that the operation of the proposed use will provide for any restriction to the existing adjoining agricultural uses for neighbouring properties. In addition, it is considered that the provision of boundary fencing and proposed earth mounds (with associated acoustic fencing for part of its length) to the eastern and western boundaries of the subject site is not an inappropriate addition to this part of Orchard Hills noting the topography of the site and its surrounds, provision of screening vegetation as well as the location of surrounding dwelling houses which is considered to create a restricted visual impact of the proposed use.

In regard to objective 'b', the proposal is not considered to create internal circulation or drainage concerns with new infrastructure to be provided not considered to create an inappropriate visual relationship for neighbouring properties.

In regard to objective 'c', as discussed within this report, the application as amended is considered to be an acceptable development of the subject site, noting the appropriate accommodation of the envisaged effluent disposal of sewage and waste water. In this regard, the application as amended is considered to have demonstrated that the subject property is large enough to support the required facilities for the intended use on the subject site.

Noting the above, the proposal is not considered to be contrary to the objectives of Clause 1.4.4 of Part D1 Rural Land Uses of the Penrith DCP.

In addition to the above objectives, the following setback requirements for Dog Boarding, Training or Breeding Establishments are provided for. Compliance with these requirements will be discussed individually;

- a) Dog boarding, training or breeding establishments will not be approved on allotments which have a frontage of less than 90m.*

Comment: The subject site is provided with a southern boundary frontage of 91.53m and a northern boundary frontage of 94.835m and is therefore compliant with the above control. It is noted that the site does not maintain a direct frontage to a road in which it is considered that this control is primarily applicable to.

b) Kennels shall be located a minimum of 150m from any existing dwelling or potential dwelling site.

Comment: A review of the accompanying plans has identified that the proposed location of the kennels (being buildings E1 and E2) are within 150m of two properties directly adjoining the subject site to the east being No's. 31-37 Calverts Road (with a distance of 103m calculated) and 39-49 Calverts Road (with a distance of 130m calculated) and one property directly adjoining to the west being No. 17 Calverts Road (with a distance of 98m calculated). A calculation of the distance from the proposed kennels to the existing dwelling on No 19-29 Calverts Road has identified a compliant distance of 150m with the dwelling on No. 6 Austin Place a distance in excess of 200m from the nearest proposed kennel building. No. 7 Austin Place is located directly adjoining the subject site to the south and while currently maintaining no dwelling, is also not considered may provide for a potential dwelling as 1000 ha+ is required for subdivision in this instance under the necessary Clause of the Penrith Local environmental Plan 2010. In addition, it is noted that a minimum area of 2 hectares is required to provide for a dual occupancy development and in this regard, it is considered that the adjoining lots to the west and to the east do have the potential for an additional dwelling to be provided on each separate lot. Noting the existing nature of the adjoining lots and their current use it is acknowledged that the potential does exist for a dual occupancy development in the future for each of these lots. While so, the location of an additional dwelling in the vicinity of the subject sites boundary is considered unlikely noting the current use of land for agricultural purposes, especially for 19-29 and 31-37 Calverts Road.

Noting the above, the proposal is non compliant with this control. While so, as discussed within this report, the nature of the proposal on the subject site is considered to allow for an appropriate relationship with its surrounds via the introduction of landscaped mounds, acoustic fencing and associated landscaping while the position of the kennel buildings following the topography of the subject site is considered an appropriate design solution. In this regard, a variation to this 150m requirement is considered acceptable in this instance.

c) Kennels, which are located 150m from existing or future dwellings, shall accommodate not more than 10 dogs.

Comment: The proposal is non compliant with this control as 60 dogs are proposed to be accommodated. While so, it is considered that the accompanying Acoustic Assessment Report does appropriately outline recommended management conditions and acoustic treatments to ensure that the amenity of surrounding residents will be maintained during the operation of the proposed use.

d) A proportional increase in the number of dogs will be permitted as the distance from existing or future dwellings is increased, to a maximum of 40 dogs for 300m.

Comment: As discussed above, the proposal is considered to have appropriately demonstrated proposed acoustic measures to minimise impact to surrounding lots and in this regard, a variation to this control is considered acceptable in this instance.

e) Kennels should be setback a minimum of 60m from any public road.

Comment: The proposed kennels are located a distance greater than 60m to a public road.

Noting the above, while the proposal is considered contrary to the minimum setback requirements for kennels to a number of adjoining dwelling houses, the treatment of the subject

site is not considered to create an immediate visual or amenity impact to adjoining properties.

In addition, it is noted that the following controls in relation to residential amenity are applicable as provided by *Clause 1.5 Non-Agricultural Development* as follows;

Non-agricultural development must demonstrate the following:

- i) There will not be significant visual impacts from either the main activity or associated activities on the rural area or adjacent properties; and*
- ii) The development will achieve the noise control standards established by the NSW Office of Environment and Heritage or relevant authority.*

The application as amended was accompanied by a Noise Impact Assessment Report prepared by Acoustic Logic which was provided to Council's Environmental Management Unit for consideration. In addition to providing for noise emission predictions for the operation of the proposed use the report identified building fabric to be provided for the kennel construction with the following recommendations formulated within the report to ensure compliance with project noise objectives;

Recommended Management Conditions

- 1. Access to dog runs shall only be open to staff or contractors.*
- 2. All doors from the kennel buildings to the outside must be kept closed during the evening and night time periods (unless where required for access) to minimise noise breakout to surrounding receiver locations.*
- 3. All skylights are to be closed during the evening and night time periods.*
- 4. Dogs are to be restricted from outdoor runs and yard areas during the following periods. Restrictions are to ensure compliance with the noise emission criteria detailed In Section 4.2 and Penrith City Council DCP requirements:*
 - 6:00pm to 7:00am, Monday to Friday; and*
 - 6:00pm to 8:00am, Saturday and Sunday.*

Recommended acoustic Treatments

- 1. Minimum 4mm float glass for skylights and windows to the kennels will be acoustically satisfactory. Thicker glazing for structural purposes will also be satisfactory.*
- 2. Roof sheeting above kennels is to be constructed from minimum 0.42mm sheet metal with Enviro spray 300 adhered to the inside face.*
- 3. Walls separating the kennels from the main office areas are to be constructed from slab to the underside of the roof sheeting.*
- 4. Earth mounds are to be constructed down the East and west sides of the development. The mounds are to be 2.5m in height.*
- 5. Primary entry / exit doors into the kennel are to be constructed from 35mm solid core construction or 4mm glazing.*
- 6. Ensure all penetrations / gaps in the building façade to the kennel area are acoustically sealed.*
- 7. Plant and equipment should be designed to ensure compliance with the criteria in combination with dogs barking as per Section 4.*

Comments provided have advised that the report is considered satisfactory and subject to the implementation of the proposed recommendations including management of canines and materials to be provided for the construction especially of the dog training facility buildings, the

noise impacts of the proposal are compliant with the NSW EPA Industrial Noise Policy. In this regard, point (ii) as shown above is considered to have been appropriately satisfied.

An assessment of the provided plans as amended have identified that compliance with the relevant noise criteria is in part provided via the provision of densely landscaped mounds and associated acoustic walls in part to both the eastern and western boundaries for a length respectively of 137m and 118m. Each mound is proposed to be 6m in width and subject to the necessary provision of an acoustic wall are identified on the accompanying architectural plans as having two varying heights of either 1.5m or 2.5m. In addition, it is noted that a 2.1m high black plastic coated chain wire fence with coated posts and top/bottom rails is proposed to be offset 1.5m to both the eastern and western boundary as well as the entire length of the northern boundary with landscaping identified to be provided to the front of the proposed fencing along the eastern and western boundary. In addition, a 2.0m high fence framed braced and clad with horizontal powder coated aluminium batons (spaced 100mm apart) with aluminium posts is proposed along the southern elevation of the subject site.

Three (3) rural lots with dwellings are provided adjoining the subject site to the east with one (1) lot with dwelling and structures directly adjoining to the west. The provision of the proposed mounds and associated acoustic fencing as well as boundary fencing will be directly visible from the adjoining lots and in this regard is considered to create a direct impact upon the visual amenity of neighbouring occupants. While fencing of this style and nature is not considered characteristics of the surrounds as the subject site is not currently used for agricultural purpose, the provision of these features is not considered to fragment the surrounding agricultural land or as discussed within this report create an unacceptable impact upon the visual amenity and scenic quality of the area noting the nature and location of the subject site and proposed vegetated treatment of the earth mounds as well as planting to screen boundary fencing. In this regard, the provision of fencing and mounds, while considered a consequence of the proposal, (i.e, to mitigate noise impacts and restrict the movement of dogs within the subject site) and visible to its immediate surrounds is not considered an inappropriate inclusion for this part of Orchard Hills noting their softened treatment via vegetation. In this regard, point (i) as shown above is considered to have been appropriately satisfied.

E10 Orchard Hills

The subject site is identified as being located within the Orchard Hills Precinct, which is predominately rural in character and predominately used for rural living on 2 hectare lots. The application will not be visible from main transport thoroughfares due to its internal positioning and access via a right of carriageway while the topography of the surrounds limiting the visual impact of the application directly to its immediate surrounds rather than creating a built form which is considered to intrude into the skyline and be visible from numerous vantage points.

The proposal will retain and renovate three (3) existing buildings on the subject site (building A - Administration building, B - Reception building and D - Accommodation building) while providing for four (4) new buildings (building C - Training building E1 and E2 - Training / Kennel buildings and F - caretakers building). The retention of the existing buildings (subject to proposed renovations) are not considered to create an immediate impact upon its surrounds. The provision of a redesigned building C and F are also considered an appropriate outcome for the subject site as they are in close vicinity with the existing buildings.

While the subject site is provided with a significant fall in contours from the southern to northern site boundary this in turn does create elevated presentations for most of these building when viewed from the northern elevation, due to the amount of cut proposed. While so, each building is provided with a maximum two (2) storey height and will not be visible from a public area. Training building E1 and E2 will provide for the most significant development on the subject site. It is noted that this built form has been separated into two buildings, each to be single level in nature which are to be provided with a stepped finish at a height difference of 1.5m provided between finished floors. This stepped presentation is considered will allow for a restricted impact into the skyline.

The proposal will provide for a predominately internalised parking area (via an access driveway located along the western side of the subject site off Austin Place) to be positioned between the administration / service buildings and the proposed training / kennel buildings. This amount of hardstand, is not considered to be directly visible from public roads while the provision of landscape mounds and associated landscaping to the boundary to both part of the eastern, western and southern boundaries will serve to assist in screening this area. The provision of these proposed densely landscaped mounds and associated perimeter fencing to a height of 2.1m, while considered to alter the immediate context of the subject site is not considered to detract from the overall existing landscape setting also noting the vegetation proposed to the front of and on these design features and will not interfere with adjoining agricultural uses.

Noting the nature of the subject site, the placement of the built forms is not considered excessive in height and the amount of car parking hardstand has been reduced via amended plans which is not considered to create an immediate visual impact to its surrounds. The treatment of the perimeter of the subject site is considered acceptable in this instance and will not create an unacceptable impact upon the existing predominately rural character or scenic vistas which is characteristic of the area.