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| DATE OF DETERMINATION | 17 December 2018 |
| PANEL MEMBERS | Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Ross Fowler and Glenn McCarthy |
| APOLOGIES | None |
| DECLARATIONS OF INTEREST | None |

Public meeting held at Penrith Council on 17 December 2018, opened at 4.40pm and closed at 6.36pm.

MATTER DETERMINED

Panel Ref – 2018SWT010 – LGA – Penrith – DA17/0763 at 7-8 Austin Place, Orchard Hills (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

1. The proposed development will provide a community facility as the base for the non-profit organisation Assistance Dogs Australia teaching assistance dogs specialised tasks which alleviate the effects of their handler's disability. The proposal provides ancillary works to assist the operation of this function including associated office space, a caretakers dwelling, café, guest accommodation and on-site car parking. The proposal will add to the provision of services available to disabled persons within the City of Penrith and the Sydney Western City. It is noted that the café is not for public use, and guest accommodation is limited to those persons whose assistant dogs are being trained.
2. The proposed development subject to the conditions imposed adequately satisfies the relevant State Legislation and State Environmental Planning Policies including the Rural Fires Act 1997, SEPP 55 (Remediation of Land), SEPP 64 - Advertising and Signage and State Regional Environmental Plan No. 20 - Hawkesbury Nepean River.
3. The proposal adequately satisfies the requirements and provisions of Penrith LEP 2010 (Amendment 4) and is a permissible in the R4 zone as a place owned or controlled by a non-profit community organisation aimed at relevantly enhancing the welfare of the community.

4. The proposal adequately satisfies the provisions of Penrith Development Control Plan 2014. The Panel particularly notes that while the proposal exceeds the excavation /filling controls relating to the creation of a building platform the variation is acceptable in the context of this site as it assists building designs and on -site arrangements that will deliver acceptable relationship with adjoining sites and acceptable visual appearance from broader landscape viewpoints.

The proposed development is non-compliant with a number of provisions under CL 1.4.4 of the DCP relating to Animal Training Establishments and C1.5 Non-Agricultural Development. The Panel considers, having regard to the onsite acoustic and visual mitigation measures proposed and the required operations plan these departures are acceptable. Specifically, the generous boundary planting and acoustic fences should protect the amenity of adjoining and nearby residences, and the buildings will be largely hidden from any publicly available vantage.

5. The proposed development, having regard to the amendments made since initially lodged and the conditions imposed, will have no unacceptable adverse impacts on the natural or built environments including:
 - impact on adjoining lots from the appearance of the site from those lots, overshadowing, noise or odour emissions and vehicular movement impacts.
 - the character of the existing rural landscape when viewed from public roadways or its surrounding context.
 - the quality of the local riparian system.
 - The operation of the local road system
6. The proposed development is considered to be of a scale and form consistent with the existing and planned character of that sector of Orchard Hills in which the site is located.
7. In consideration of conclusions 1-6 above and having regard to the service that will be provided to persons with a disability the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- **Condition 2 to read as follows –**
The organisation 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 in relation to the kitchen facilities.
- **Condition 3 to read as follows –**
A satisfactory inspection of the kitchen facility 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.
- **Condition 7 to read as follows –**
The dog training facility is to operate from 7.00am to 9.00pm, seven days a week. During the hours of 6pm and 7am on weekdays and 6pm and 8am, Saturday and Sunday and

Public Holidays, all dogs are to be moved into their overnight accommodation.

- **Condition 10 to read as follows –**

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 Dated 22 January, 2018 forming part of this development consent. Any changes to the Assistance Dog Education and Welfare Operation Plan are to be provided to Council for consideration as a application for modification of this Development Consent. A copy of the management plan for the facility is to be displayed prominently for staff members at the facility and a copy is to be made available to members of the public on request.

- **Condition 11 to read as follows –**

The café to Building B is not to be open to, or accessible by the public and shall only be available for use by staff and users of the facility included intended owners of the assistance dogs and their relatives and carers.

- **Condition 17 to read as follows –**

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 as well as an appropriate acoustic wall treatment along the western and eastern boundary (this treatment not allowing for colourbond fencing), plant species and fencing details are to be provided to the satisfaction of Penrith City Council **prior to the issue of any Construction Certificate**. Fencing details are to ensure compliance with all findings and recommendations of the Noise Impact Assessment prepared by Acoustic Logic and approved as part of this Development Consent.

- **New Condition 19 to read as follows –**

The accommodation in Building D is to be used by staff and users of the facility included intended owners of the assistance dogs and their relatives and carers.

- **Condition 39 to read as follows –**

The construction, fit out and finishes of the kitchenette to Building B 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*.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel.

Issues of concern are summarised from page 28 of the Council staff report, and address issues of noise, odour, view impact, the sufficiency of the size of the site, the increase in traffic, and the DCP requirements in relation to limits on the number of dogs and applicable setbacks.

Specific matters raised at the meeting included:

Mathew Choi speaking against the proposal

- The proposed development is not suitable for the site.
- RU4 small lot zoning is characterised by dwelling houses and small lots. The size and scale of the proposal was said to be inconsistent with the surrounding properties in the street.

- Setback compliance in the DCP required a minimum of 150 metres from existing and future dwellings.
- Proposal is for 60 dogs which would require a setback of 300 metres if the numerical controls were applied, but in this case there are dwellings within 150 metres.
- Scenic and landscape values protected under the LEP and the Orchard Hills DCP will be adversely impacted upon. Specifically the mounds and acoustic fence will compromise the scenic and landscape values, and available views.
- A fully enclosed fence is not in keeping with Council controls.
- A visual impact assessment was said to be required by the DCP, but it had not been provided.
- 16 vehicle trips per hour were predicted by the applicant, which Mr Choi submitted was an overdevelopment which reflects the intensification of the use.






Richard Lord

- Mr Lord explained the history of Assistance Dogs Australia and the situations its assistance dogs are trained to address.
- Mr Lord detailed the activities which take place on site, and the not for profit credentials of the organisation.
- Dogs arrive at the facility after 14 months, when they have been experienced with the challenges of the outside world. There are a number of measures to make the dogs feels comfortable at the facility. In this facility, dogs are accommodated so that they can see each other, and they often share a kennel.
- Dogs are accommodated for 4 – 6 months on the site

Gavin Biggs

- His architectural firm has designed more than 100 kennel facilities.
- This particular facility has been designed to encourage the dogs to be calm and to acoustically
- protect neighbouring properties.
- One on one training means the dogs are calmer. When dogs are outside they are with a trainer.
- There would be around 10 dogs in the exercise yards.
- Mr Biggs explained how the facility had been designed to sit low on the site with the new buildings excavated into the site. The new buildings would not present an apparent height of more than a single storey above existing ground level.
- He also detailed how the earth mounds and planting provided extensive landscaping of more than 6 metres in total width measured from the boundary.

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| PANEL MEMBERS |
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| Justin Doyle (Chair) | Bruce McDonald |
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| Nicole Gurran | Ross Fowler |
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| Glenn McCarthy | |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | Panel Ref – 2018SWT010 – LGA – Penrith – DA17/0763 |
| 2 | PROPOSED DEVELOPMENT | Community Facility for Assistance Dogs Australia National Training Facility including Ancillary Office Space, Conference Room, Café, Guest Accommodation, Caretaker's Dwelling, Car Parking & Associated Works. |
| 3 | STREET ADDRESS | 7-8 Austin Place, Orchard Hills |
| 4 | APPLICANT/OWNER | Applicant - Assistance Dogs Australia Limited Owner - Assistance Dogs Australia Limited |
| 5 | TYPE OF REGIONAL DEVELOPMENT | Community facility with a value of more than \$5million |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Infrastructure) 2007 ○ Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River ○ Penrith Local Environmental Plan 2010 (Amendment 4) • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Penrith Development Control Plan 2014 • Planning agreements: Nil • Provisions of the Environmental Planning and Assessment Regulation 2000: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development |

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| | | <ul style="list-style-type: none"> Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development |
| 7 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> Council assessment report: 17 December 2018 Written submissions during public exhibition: 33 Submissions over 3 notification periods Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – Nil Object – Matthew Choi Council Assessment Officers - Paul Anzellotti, Robert Craig and Gavin Cherry On behalf of the applicant – Richard Lord and Gavin Biggs |
| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> Site inspection – 24 September 2018 Briefing – 24 September 2018 Final briefing to discuss council's recommendation, 17 December 2018, 3.00pm to 4.00pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Ross Fowler and Glenn McCarthy <u>Council assessment staff</u>: Paul Anzellotti, Robert Craig and Gavin Cherry |
| 9 | COUNCIL RECOMMENDATION | Approval |
| 10 | DRAFT CONDITIONS | Attached to the council assessment report |