

COUNCIL ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-99 – DA 2021/129
PROPOSAL	Animal boarding and training facility
ADDRESS	Lot 2 DP 1088704 (1949 Martindale Road, Martindale NSW 2333)
APPLICANT	Greyhound Racing NSW
OWNER	Greyhound Racing NSW
DA LODGEMENT DATE	18 October 2021
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 20(1) Schedule 7 of the SRD SEPP: (development with a capital investment value in excess of \$30-million)
CIV	\$30,308,000.00 (excluding GST)
CLAUSE 4.6 REQUESTS	NA
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021;</i> • <i>State Environmental Planning Policy (Planning Systems) 2021;</i> • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021;</i> • <i>Muswellbrook Local Environmental Plan 2009</i>
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	<p>Total number of unique submissions received Notification Period No.1: Eighteen (18)</p> <p>Total number of unique submissions received Notification Period No. 2: Thirty-three (34)</p> <p>*Includes six (6) submissions supporting the application</p> <p>Total combined number of unique submissions received through both notification periods: Thirty-eight (38)</p> <p>(Note: submissions received from individuals and organisations who made submissions to both notification periods have been counted as 1 submission in this combined tally)</p>

	<p>Total number of individuals and organisations that have made submissions including pro-forma submissions: One thousand two hundred and ninety-three (1,293)</p> <p>*proforma submissions have been counted as 1 unique submission in each notification period submission total.</p>
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Documents submitted as attachments to this report include:</p> <ul style="list-style-type: none"> • Attachment A: Muswellbrook Shire Council Flood Impact Assessment File Note • Attachment B: Recommended Conditions of Consent • Attachment C: NSW Department of Planning and Environment – Water General Terms of Approval • Attachment D: NSW Rural Fire Service Concurrence Comments • Attachment E: NSW National Park and Wildlife Services Referral Advice • Attachment F: Acoustic Assessment Peer Review, RCA Australia, 15 March 2023 (Council consultant) • Attachment G: Acoustic Report, Day Design, 18 August 2022 (consultant engaged by submitter) • Attachment H: Greyhound Racing Acoustic Report Revision 7, Stantec (applicant's consultant) • Attachment I: EMM Flood Warning Response Plan Memorandum, 30 November 2022 • Attachment J: EMM Flood Risk Assessment, May 2022 • Attachment K: Traffic Impact Assessment, SECA Solution, 8 October 2021 • Attachment L: Response to Council Traffic RFI, SECA Solution, 11 April 2022 • Attachment M: Consultant baseline weather Data supplementary information • Attachment N: Architectural Plans • Attachment O: Applicant Response to submissions <p>Documents available to the Panel separate to the report attachments include:</p> <ul style="list-style-type: none"> • The Statement of Environmental Effect, appendices and additional information responses. • Public Submissions.
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Not Applicable
RECOMMENDATION	Approval subject to conditions
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	5 April 2023
PLAN VERSION	20 May 2022 Version No D

PREPARED BY	Hamish McTaggart (Muswellbrook Shire Council Development Coordinator)
DATE OF REPORT	27 March 2023

EXECUTIVE SUMMARY

- The proposed development involves the construction and operation of a boarding kennel and re-training establishment for retired racing greyhounds with the aim that greyhounds would be provided with care and training to transition to a post racing life and become suitable companion animals able to be rehomed in the community.
- The facility would comprise a total of 20 kennel buildings, each containing 20 greyhound kennels, with a total capacity to care for 400 greyhounds. These would be installed alongside a veterinary and support service building, related utility infrastructure and the use of existing buildings altered; including an existing cottage building and site manager's residence to support the proposed development.
- The proposed facility would be constructed in 4 Stages, each Stage comprising 5 kennel blocks with 20 greyhound kennels (100 greyhound accommodation capacity) and related services. The veterinary and service building would be constructed in Stage 1.
- The development application relates to 1949 Martindale Road, Denman (Lot 2 DP 1088704). Key site attributes include:
 - The site has a total area of 135.2 hectares
 - The site has previously been used for agriculture (a horse stud was the immediate prior use).
 - The site has been cleared of established vegetation and includes improvements typical of this type of use, including two dwellings and a number of outbuildings, sheds and fencing.
 - The site adjoins and is accessed via a causeway across Martindale Creek. Access via the causeway is restricted during times when Martindale Creek is in flood.
 - Vehicle access to the site is from Martindale Road and a dust sealed, unformed Crown Road Reserve that provides an access between Martindale Road and the site, and also provides access for adjoining properties.
 - The site is identified as bushfire prone.
 - The site adjoins the Wollombi National Park.
- The proposed development has been referred to the Hunter and Central Coast Regional Planning Panel for determination pursuant to Clause 2 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is a development with a CIV over \$30 million.
- The proposed development was publicly notified in accordance with Council Community Participation Plan on two occasions, the second notification was completed following the lodgement of amended development plans.
 - Through the initial public notification, a total of eighteen (18) unique and submissions and 612 template form submissions were received by Council.
 - Through the renotification of the development application a total of 27 unique

submissions objecting to the development application, 6 unique submissions supporting the development application and 681 template form submissions were received by Council.

The submissions received have been taken into consideration in the assessment of the development application. The total number of individuals and organisations who made submissions in relation to the development application was recorded at 1,257.

- The Hunter and Central Coast Regional Planning Panel held a Public Listening Exercise at the Denman Town Hall on the 28 July 2022 allowing members of the public to make verbal submissions to the Panel in relation to the development application. Matters raised at this meeting have been taken into consideration through the assessment of this development application.

Council Officers have completed an assessment of the proposed development against the relevant heads of consideration of Section 4.15 of the *Environmental Planning Assessment Act 1979*. This assessment recommends that the development application be approved subject to recommended conditions of consent. Key findings of the Section 4.15 Assessment which informed this recommendation include:

- The proposed development would be in accordance with the relevant provisions of the Muswellbrook LEP 2009. Council Officers are satisfied that the relevant land use is appropriately characterised as an 'animal boarding or training establishment'. Council has taken legal advice to inform this position. Development for the purpose of animal boarding or training establishments is permissible with consent within the related RU1 Primary Production land use zone under the Muswellbrook LEP 2009.
- The proposed development would be compatible with the requirements of relevant State Environmental Planning Policies (SEPPs), including, SEPP (Resilience and Hazards) 2021, & SEPP (Biodiversity and Conservation) 2021.
- The proposed development is generally in accordance with the requirements of the Muswellbrook Development Control Plan 2009 (DCP) and conditions of consent have been recommended to ensure the development is carried out in accordance with certain DCP provisions.
- NSW Department of Planning and Environment – Water granted General Terms of Approval to the proposed development pursuant to the provisions of the Water Management Act 2000.
- The subject site adjoins the Wollombi National Park. Ecological Advice was prepared by EJD Environmental regarding the proposed development's relationship with the adjoining National Park. This advice was referred to and considered by the NSW Parks and Wildlife Service. Final referral comments provided by the NSW Parks and Wildlife Service raised no objection to development consent being granted to the proposed development subject to recommended conditions.
- The site subject to this development application is identified a bush fire prone. A bush fire threat assessment was prepared in relation to the proposed development which was referred to NSW Rural Fire Service. Correspondence provided by the NSW Rural Fire Service raised no objection to the proposal and provided their concurrence for the development application subject to recommended conditions of consent.
- NSW Crown Lands were notified of the proposed development as the Roads Authority for the road the dust sealed access track between the subject site and the

formed part of Martindale Road. NSW Crown Lands advised that they required the Road Authority function for the management of this road to be transferred to Council. At Council's December 2022 Ordinary Meeting, Council resolved to undertake the transfer of the road concerned. A Transfer of Crown Road request has since been lodged by Council with NSW Crown Lands to manage the administrative process of the transfer of the Road Authority function to Council separate to this development application.

- A flood risk assessment and additional supplementary information has been prepared in relation to the proposed development by EMM Consulting. This information identified that:
 - the site of the proposed development would not be impacted by floodwaters up to and including the 1% AEP event, and
 - that access to the development site would be restricted during periods of heavy rainfall and flooding.

To manage risks to staff, and to ensure the operation of the site during periods when site access is restricted the applicant has proposed a flood management strategy. This strategy includes:

- Proactive weather and streamflow monitoring,
- Site operation changes when access is restricted by streamflow's and flooding,
- Use of stream gauge to identify impending stream flow conditions that may restrict access, and
- A method for alerting staff, use of physical structures (boom gates) as a failsafe to prevent individuals driving through unsafe waters.

The strategy is supplemented by operational management plans detailing measures to maintain site operations during periods where site access is restricted with 5-6 staff maintained on-site. Further details of the flood response and operations management strategies along with a considered assessment of the issue can be found in Attachment A Flood Impact Assessment. Conditions of consent are recommended.

- A hydraulic servicing strategy has been prepared for the proposed development. This strategy has been informed by a study of the developments water usage requirements and a drought resilience strategy. Water usage demands for the proposal is anticipated to comprise 32.9ML annually. The facility has access to a water license for 170ML for water from Martindale Creek – the total usage as a percentage of the overall water license available is 19.3%. Council Officers are satisfied that relevant Water Licenses are in place to support the proposed development's operational water usage requirements.
- A drought security strategy was prepared by Larry Cook Consulting in relation to the potential for droughts to impact on the proposed facilities ability to operate from a water usage perspective. To maintain operation during dry periods a water saving strategy has been proposed alongside an on-site water storage to a capacity of 6ML. Where operated under water saving provisions the facility has been calculated to be capable of operating for a period of 12 months without drawing water from Martindale Creek. The hydraulic servicing strategy and drought resilience planning was considered to provide a reasonable contingency for the operation of the facility during adverse conditions.
- Wastewater associated with the proposed development would be managed by an on-site sewerage management system. A system has been proposed which would treat wastewater via an anaerobic digester, with treated water being applied at the site. The system would also produce a small amount of electricity (up to 20KW

hours). The applicant has proposed for animal faeces to be disposed of into the on-site wastewater management system. Council's Senior Environmental Health Officer has reviewed the proposed wastewater management system and advised that the system may be approved subject to recommended conditions of consent.

- An odour impact assessment has been prepared in relation to the proposed development by RWDI Australia. This assessment concluded that the odour exposure from the proposed development was considered to be 'negligible risk' at all receptors with negligible effect. In view of this report and related supplementary information Council Officers raise no objection to the proposed development from an odour impact perspective.
- After a detailed assessment of road safety, Council Engineers advised of their support for the proposed development from a road safety perspective subject to the applicant carrying out improvements to the Martindale Rd/site access intersection to meet the standard for a Rural Basic Right Hand Turn (RUL) and AUL(s) treatment with a short left hand turn along with the various road safety improvements identified by the SECA additional Information response dated 11 April 2022. Supplementary ecological advice (25 November 2022) indicates that the carrying out of these works would not be constrained by ecological factors.
- Council engaged an independent acoustic engineer to complete a peer review of the acoustic report submitted by the applicant, public submissions and supplementary information from the applicant. The final Peer Review Report is included as an attachment and its findings discussed under the likely environmental impacts, noise and vibration heading of this assessment report. The independent acoustic engineer concluded that the acoustic investigation carried out by the applicant's noise consultant was a fair and representative noise impact assessment in accordance with the most relevant noise guidelines. Council Officers are therefore of the view that the development application may be supported from a noise impact perspective subject to recommended conditions of consent.
- Concerns were raised by submitters related to the use of baseline weather data from outside the Martindale area. The applicant provided a supplementary document providing contextual information from the author of each technical study related to the baseline weather data used in their corresponding reports. Council Officers are satisfied that the baseline weather data selections, in the absence of detailed baseline data for the Martindale Valley, include conservative approaches and estimates (where appropriate) to account for potential variances that may be experienced in the Martindale Valley. Council Officers consider that the technical studies and related models can be relied on to inform the consideration of potential impacts of the proposed development.
- The proposed development would enhance the level of care provided to retired racing greyhounds, positively contributing to the overall care standards and expectations across the industry. From an economic perspective, the proposed development would support 24 full time equivalent jobs and volunteer opportunities and contribute to the local and regional economy through secondary service providers, particularly local veterinary services.

1. THE SITE AND LOCALITY

1.1 The Site

The development application relates to 1949 Martindale Road, Denman (Lot 2 DP 1088704). Key site attributes related to the proposed development have been summarised in the dot points below:

- The land (Lot 2 DP 1088704) has an area of 135.2ha
- The site has a gentle slope rising from where it adjoins Martindale Creek toward more mountainous country to the east.
- The site was most recently operated as a horse stud and the existing buildings and improvements relate to that use. Structures currently located on the site include:
 - A single storey owners' residence.
 - A single storey managers residence.
 - A staff cottage.
 - Stable complex consisting of 15 boxes and 1 mare and foal box.
 - Vet shed and day yards.
 - Larger day yards.
 - Horse shelters - 6 shelter boxes in the horse paddocks.
 - Horse walker.
 - Machinery shed and workshop.
 - Hay shed.
 - Cattle yards.
 - Two silos.
 - One overhead diesel fuel tank.
 - Farm dams and 32 paddocks
- The site has been cleared of established vegetation to support its previous agricultural use.
- An unused and unformed Crown Road Reserve intersects the eastern part of the property. The proposed development would be located to the west of the Crown Land.
- Access to the site is via Martindale Road. Martindale Road forms part of Council's local road network. The road has a variable width and limited passing space at most locations for vehicles traveling in opposite directions. Certain locations along the road have limited sight distances. The road is sealed to the site except for a 750-800m long stretch of dust sealed Crown Road Reserve that provides access between the site and the formed part of Martindale Road. The dust sealed Crown Road Reserve also provides access to the neighbouring property at 1972 Martindale Road and paddocks that form part of the properties at 1951 Martindale Road and 1875 Martindale Road. Before entering the site, the dust sealed Crown Road Reserve crosses Martindale Creek.
- The subject site is identified as bush fire prone by the NSW Rural Fire Service and Council's bush fire mapping.
- There is no comprehensive Flood Study for Martindale Creek. A Flood Risk Assessment related to the proposed development and Martindale Creek was prepared by EMM Consulting. This analysis confirmed that access to the development site would be inhibited during periods of heavy rainfall and flooding. The Flood Risk Assessment identifies the part of the site to be used for the greyhound retirement facility is outside the anticipated extent of the 1% flood event.
- The subject site is zoned RU1 Primary Production under the Muswellbrook Local Environmental Plan 2009.

The image below identifies the subject site within its local context.

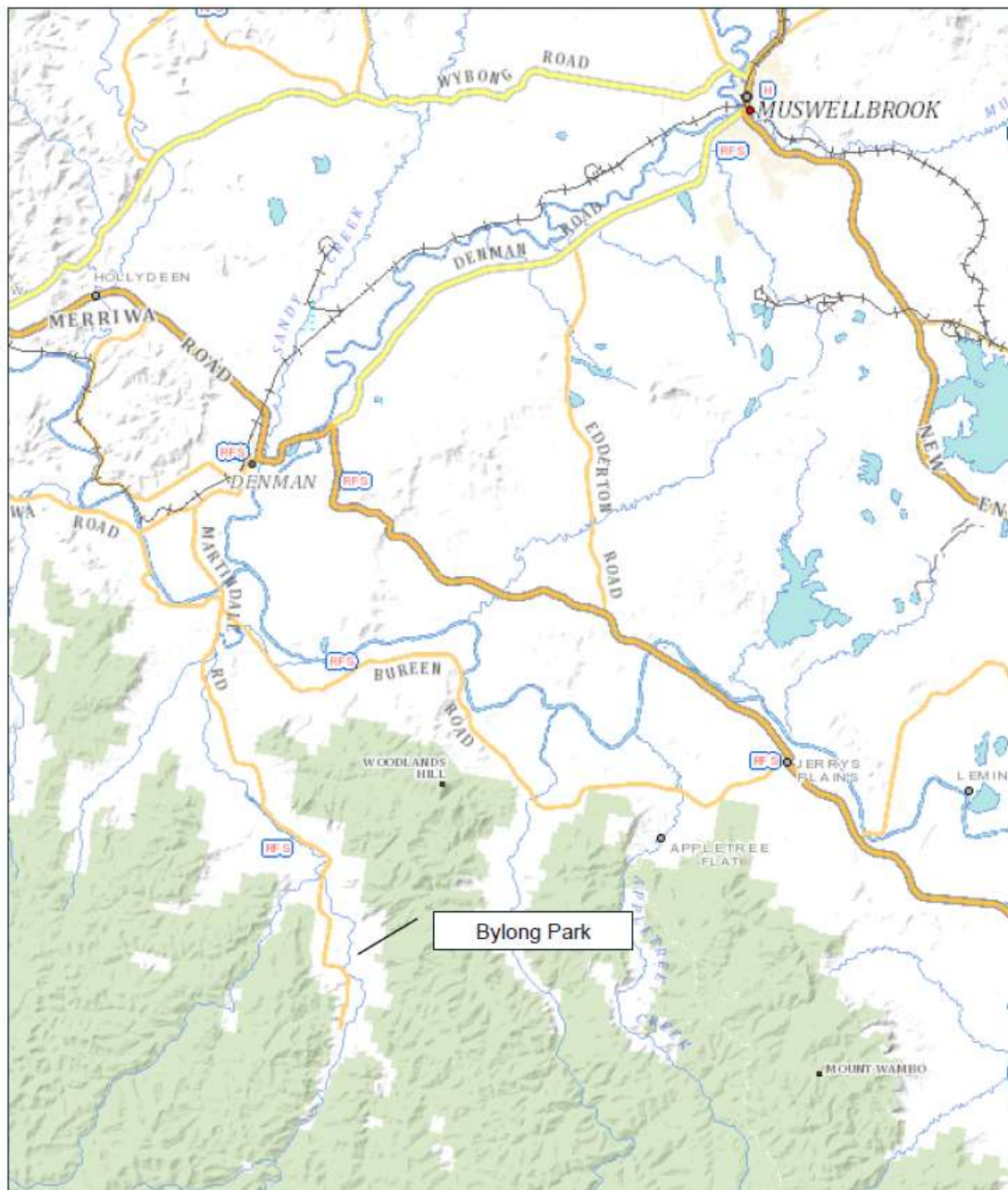


Figure 1-Locality Map (SIX Maps)

The image below identifies the subject site.

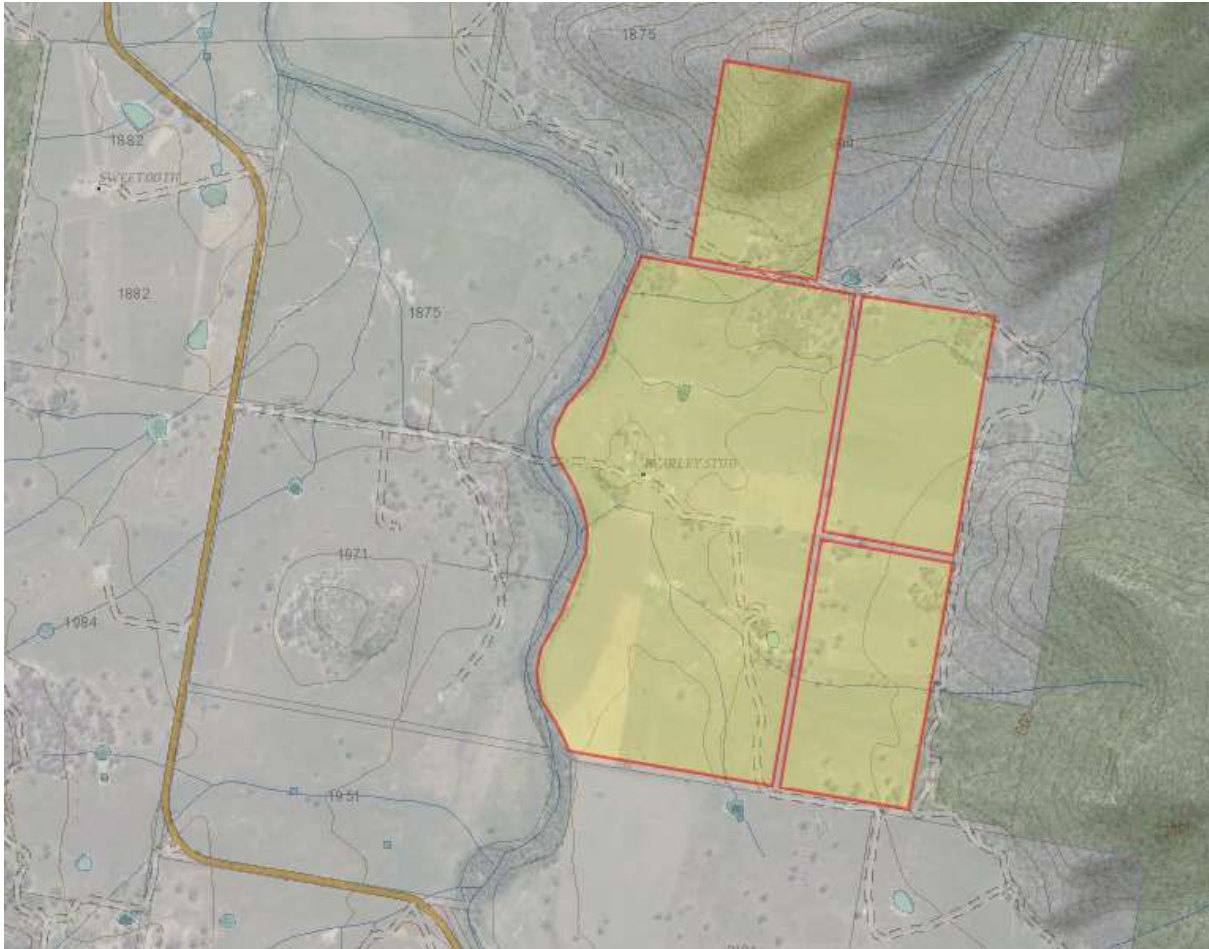


Figure 2-Site Map (Six Maps)

1.2 The Locality

The site and adjoining locality is rural in nature. Ket local attributes have been listed below:

- The subject site adjoins land zoned both RU1 Primary Production, C1 National Parks and Nature Reserves and C3 Environmental Management. Land that forms part of the Martindale Valley floor is largely zoned RU1 Primary Production with the valley escarpments zoned C3 Environmental Management and C1 National Parks and Nature Reserves.
- The valley floor is populated by farm holdings of various sizes. Land along the valley floor has visibly been cleared with the exception of pockets of remnant vegetation to establish and support its agricultural use.
- Martindale Road is the only road into the valley. The road continues beyond the site for a short distance and concludes at the last properties in the valley.
- The dwellings closest to the site are located approximately 110m, 240m and 520m from Martindale Creek which adjacent the property boundary.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

2.1.1 General overview

The proposal seeks consent to establish an animal boarding and re-training establishment at Lot 2 DP 1088704 for the purpose of rehoming retired racing greyhounds.

The proposed facility would have a capacity to accommodate and care for up to 400 greyhounds.

The proposal is to carry out the construction of the development across 4 Stages, with each stage increasing capacity by 100 greyhounds. The Staging Plan is outlined in detail below. While this application is seeking the staged construction of the facility, the application has not been lodged as a 'concept development application' within the meaning of the *Environmental Planning and Assessment Act 1979*, and the application seeks development consent for all stages proposed.

2.1.2 Description of the proposed works

To establish this facility the proposed development would involve the repurposing of existing buildings on-site and the construction of new buildings and infrastructure.

Building works to facilitate the proposed development include:

- Construction of 20 kennel blocks each containing 20 kennels (total 400 kennels).
- A new veterinary and supporting services building.
- Renovation of the existing stable building for use as an outdoor covered training area.
- Use of the existing homestead for the site manager.
- Use of the other cottage on site for other staff: and
- Sewerage, waste treatment and plumbing works.
- Demolition of small-scale existing metal sheds.
- Earthworks related to kennel construction. Typically, this would involve cut less than 0.5m in depth. The applicant has submitted that the balance of cut and fill across the site was calculated to require the importation of 2,400m³ of soil.
- Earthworks to construct a series of earthwork mounds to provide noise attenuation and a visual barrier at the property entrance between the Martindale Creek Crossing and the main building complex.
- Associated landscaping, on-site stormwater drainage and on-site detention, access tracks and site works.
- Water utilities including 6ML of water storage, water pumps, treatment system and related hydraulic infrastructure identified by DA Utility Report.
- Upgrade works to improve the intersection between Martindale Road and the dust sealed access track located within the Crown Road Reserve between the subject site and the formed part of Martindale Road.

The image/site plan below provides an overview of the design and layout of the proposed development.



Figure 3- Proposed Site Plan (Proposed Plans, Tzannes)

The proposed kennel blocks would comprise a large part of the development site, with the other notable new structure being support/veterinary services building. The commentary below provides a description of each of design, layout and built form of these components of the proposal.

Kennels

The key features of each proposed kennel block (images below including a typical kennel layout plan and elevation have been included for additional context related to the kennel design and dot points) are:

- 20 kennel blocks each with a capacity to house 20 dogs in separate adjoining kennels with a communal social run external to the kennel building.
- An entrance driveway accessible via steel gates which is visually separate from individual greyhound kennel areas.
- Working area with stainless steel bench, power, hot and cold-water sink for meal prep and other needs. This is in the kennel vehicle entrance area visually separated from the animals.
- Enclosed circulation area with two doors that connects the working and vehicle access locations to individual kennels.
- Each greyhound housed in a kennel would have access to the following housing and play areas:
 - An enclosed indoor kennel component of the kennel with sub-floor heating
 - A further larger indoor kennel area with a sealed floor without sub-floor heating.
 - An area referred to in the proposed plans as the 'external night run'. This area would be screened from the neighbouring kennels and roofed with material that includes acoustic attenuation measures and insulation to control

animal barking. The floor of the 'night run' would comprise of compacted earth.

- Doors would be included between the heated kennel, indoor kennel and night run, however these doors will typically remain open allowing dogs access to each of these spaces when kept in the indoor part of the kennel.
 - The operational plan indicates greyhounds would be restricted to the heated indoor kennel area, indoor kennel area and the night run parts of the kennel facilities between the hours of 6:15pm and 8:00am.
 - An area referred to in the proposed plans as 'external day run'. This area would be an open grassed area enclosed by a galvanised chain-link fence. Each kennel would have its own day area.
 - The external day area of each individual kennel would open onto a shared social run. The shared social run would be landscaped and allow for communal play or training. Each compound of 20 kennels would have four fenced shared social runs directly accessed by five (5) individual kennels. Gates would be installed between social runs which could be opened to allow access or greater animal socialising subject to operational requirements.
 - The Operational Plan submitted provides 2 options for daily animal care operations dependent on final staffing and roster arrangements. The plan indicates that under either scenario greyhound access to the day runs and social areas would be restricted outside the hours of 8:00am and 6:15pm.
- High performance acoustic attenuation and insulation would be applied to the internal walls between individual greyhound kennels and the roof.
 - The west and southern kennel elevations would include walls constructed using rammed earth or rendered bagged masonry units. This enclosing wall would extend at full height to the 'outdoor day runs' and taper down in a curved pattern along the fenced social run.
 - The north and east elevation kennel block elevations would be constructed from rendered cement. These elevations would be largely obscured from dwellings and roads by natural barriers when viewing the site within the Martindale Valley while the landscaping proposed within each kennel social run would provide additional visual screening.
 - Each kennel block roof would have a metal deck roof with a height no greater than 3.9m above finished floor level and include rooftop solar.

The images below show a typical kennel compound layout and elevations.

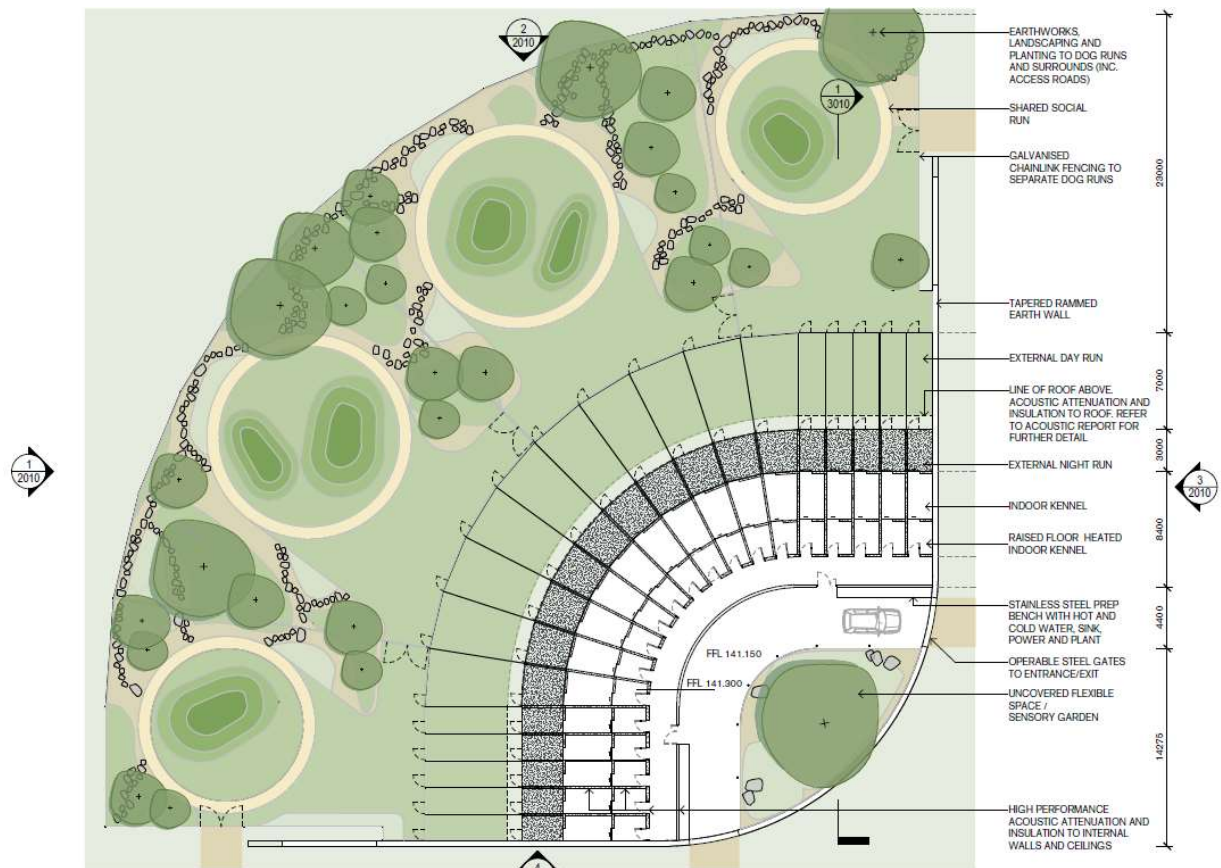


Figure 4- Typical Kennel Plan (Proposed Plans, Tzannes)

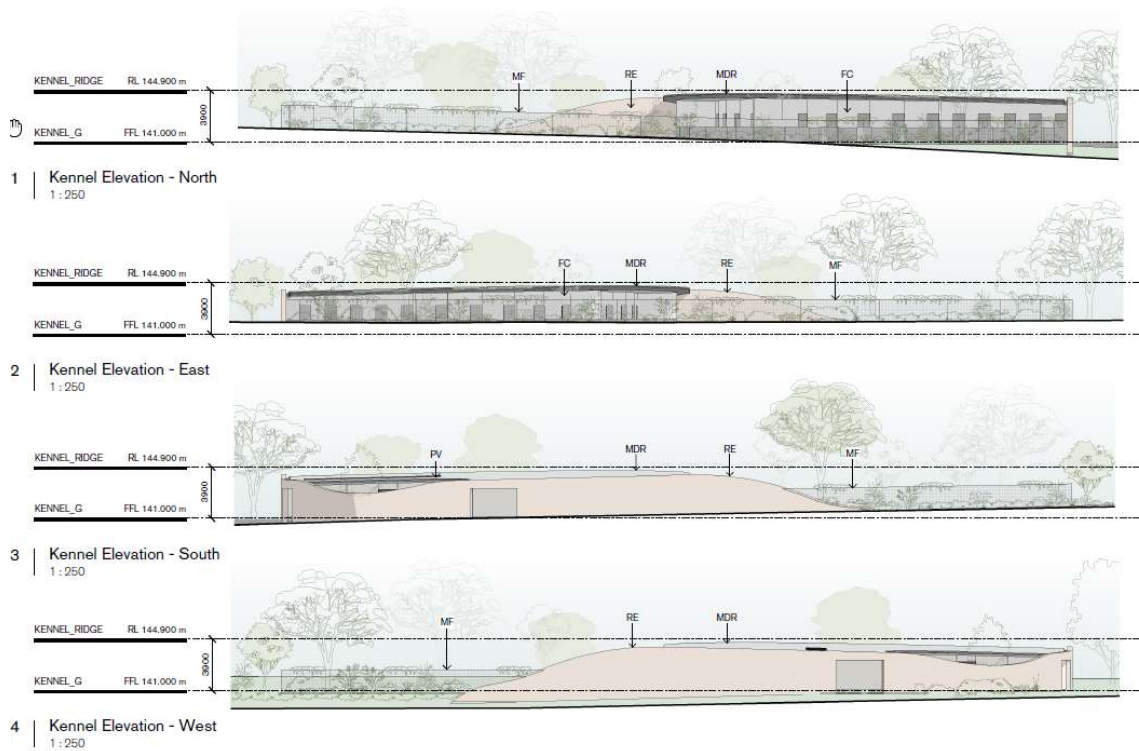


Figure 5 Typical Kennel Elevation Plan (Proposed Plans, Tzannes)

Veterinary & Support Services Complex

Other significant site works would be the construction of a the veterinary and support services complex adjacent the existing homestead buildings. These works would include:

- The construction of a new L shaped veterinary and services building to include;
 - Hydrotherapy pool and associated kennels,
 - Laundry,
 - Garage,
 - Cool rooms and food prep areas,
 - Staff amenities and change room,
 - Waste store,
 - Veterinary facility,
 - Function and meeting space, and
 - Offices.
- The new veterinary and service building would have a height of 4.2m and feature glazing, aluminium louvers, and painted steel cladding and roofing with rooftop solar to be installed on the building.
- An adjoining existing covered stable building would be repurposed as a covered re-training area.
- A new rectangular open-air compound and landscaped area would be constructed between the new building, existing stables and existing cottage buildings. This fenced enclosure could be used to allow for animal re-training, rehab or exercise for animals requiring attention or observation at the veterinary building.
- Landscaping, including an outdoor pond would be incorporated into the compound courtyard and around the new buildings.
- A parking area for 20 vehicles would be constructed to the south of this complex
- The nearby existing homestead building would be used to provide accommodation for the property manager and the nearby cottage as accommodation for other on-site staff.
- Earthen mounds would be installed to the west of this complex (toward Martindale Creek) to mitigate noise and provide additional screening.

The image below provides an overview of the layout of the veterinary and support services area.



Figure 6 (Farmstead Plan, Tzannes)

2.1.3 Development Staging Plan

Through the assessment of the development application the applicant amended the proposal to include a Staging Plan. The Staging Plan and amended Statement of Environmental Effects proposed the carrying out of the development in 4 Stages.

The image and description below sets details the works involved in each stage.

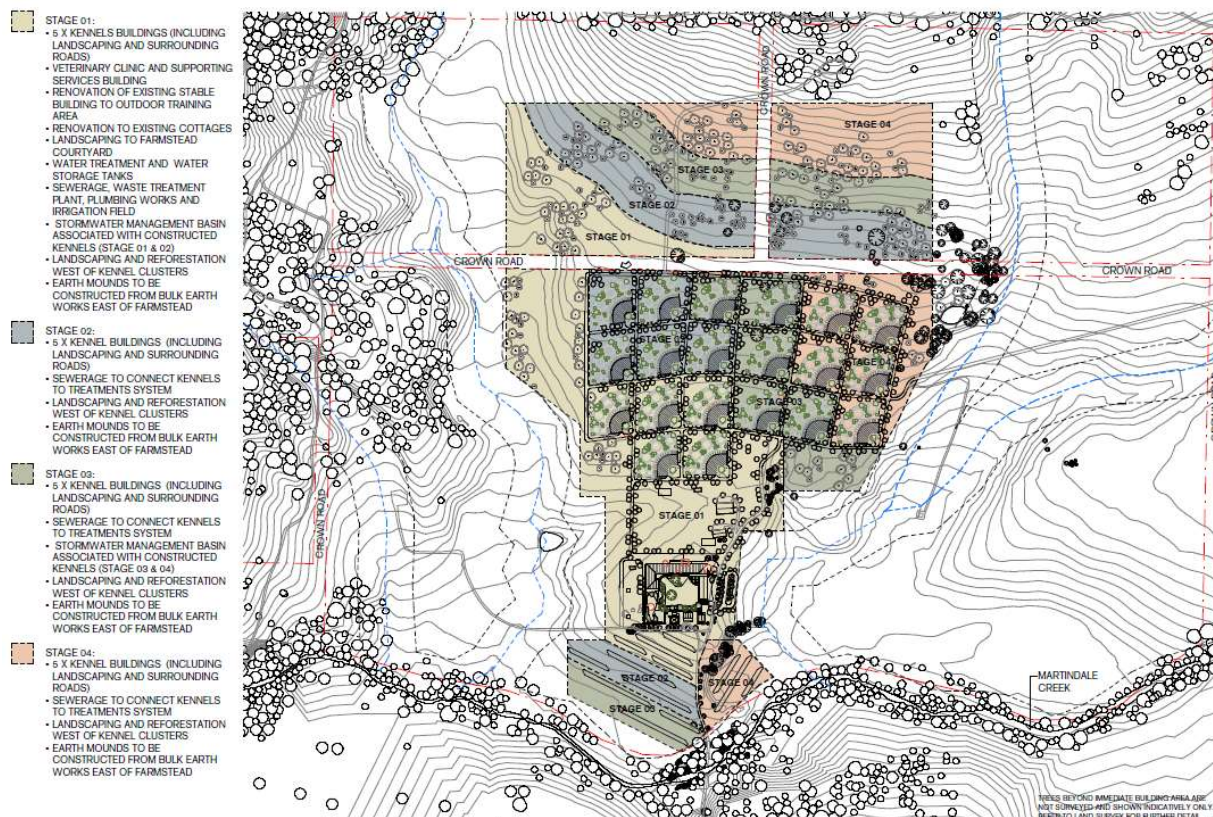


Figure 7 (Staging Plan, Tzannes)

Stage 1

- Construction of 5 kennel blocks (20 kennels per block), including associated landscaping and roads.
- Veterinary clinic and support services building
- Works in the vicinity of the veterinary clinic to renovate existing stables for training use and to establish associated landscaped courtyard area and parking.
- Renovation of the existing cottage and homestead for use as managers residence and staff accommodation.
- Water treatment and water storage tanks and associated utilities for Stage 1 structures.
- Sewerage waste treatment plant and associated plumbing.
- On-site stormwater detention basin associated with Stage 1 and 2 kennels.
- Earth mounds west of the veterinary and services area associated with Stage 1 depicted in the staging plan.
- Works related to Stage 1 would be sufficient to support the keeping and training of 100 greyhounds at the facility.
- The improvement works to Martindale Road and its intersection with the unformed Crown Road that provides access between formed road pavement and subject site. Council Engineers have recommended that all road improvements are carried out prior to the carrying out of construction on-site.

Stage 2

- Construction of 5 kennel blocks (20 kennels per block), including associated landscaping and roads.
- Sewerage to connect the kennels to wastewater treatment system.
- Earth mounds west of the veterinary and services area associated with Stage 2 depicted in the staging plan.
- Works related to Stage 2 would be sufficient to support the keeping and training of an additional 100 greyhounds at the facility (combined Stage 1 and 2 total 200).

Stage 3

- Construction of 5 kennel blocks (20 kennels per block), including associated landscaping and roads.
- Sewerage to connect the kennels to wastewater treatment system.
- Stormwater management detention basin associated with Stage 3 and 4 kennels.
- Earth mounds west of the veterinary and services area associated with Stage 3 depicted in the staging plan.
- Works related to Stage 3 would be sufficient to support the keeping and training of an additional 100 greyhounds at the facility (combined Stage 1, 2 and 3 total 300).

Stage 4

- Construction of 5 kennel blocks (20 kennels per block), including associated landscaping and roads.
- Sewerage to connect the kennels to wastewater treatment system.
- Earth mounds west of the veterinary and services area associated with Stage 4 depicted in the staging plan.
- Works related to Stage 4 would be sufficient to support the keeping and training of an additional 100 greyhounds at the facility (combined Stage 1, 2, 3 and 4 total 400).

The proposed development has not been lodged as a 'concept development application' within the meaning of the *Environmental Planning and Assessment Act 1979* and approval is sought for the construction and operation of all Stages of the proposed development rather than the approval of Stage 1 alongside a concept plan for future stages which would be then subject to further development applications.

2.1.3 Operational Information

Details related to the operation of the proposed development can be found in the Statement of Environmental Effects, Operational Plan and supporting documents submitted with the development application. A summary of key information related to the proposals workforce requirements and operating parameters has been included below:

- When fully operational the proposed facility would have the capacity to provide accommodation for 400 greyhounds.
- When fully operational the proposed facility employ the equivalent of 24 full time staff and volunteers. Key roles described in the Statement of Environmental Effects include:
 - Site Manager/caretaker – to live on-site with responsibilities including maintenance and security.
 - Site Manager/Operations – responsible for overseeing daily animal care and veterinary services. Manages assistant staff, vet nurses and volunteers.
 - Greyhound Assistants – multiple individuals employed on full time and casual basis at a rate of 1(staff member):20(greyhounds). Responsible for providing care for greyhounds and daily enrichment and behavioural training.
 - Veterinary nurses (two roles) – these roles will work in the vet facility and provide daily veterinary care and support veterinary surgeon on-site (the applicant has indicated that they intended to contract a local veterinarian clinic to the site to carry out regular clinics at the site such as routine surgery, desexing and dental work).
 - Maintenance Person – to assist with general tasks.
- The facility would house greyhounds on a 24-hour, 7 day per-week basis, with operations, staff activities, animal care and training occurring between the hours of 7:30am and 6:15pm. The Site Manager would remain on the site outside these

regular operating hours to ensure site operations and respond to any matters that arise outside core hours.

- The Operational Management Plan submitted by the applicant included a draft daily operation overview, setting out two options for an overview of the general daily operations of the facility. Option 1 was prepared as an option that included simultaneous start times for the majority of Staff and Option 2 with staggered starting hours to manage staff arrival pressure on the road network and logistics for facility operations. The daily operations options have been included below as a useful overview of the general operating parameters of the facility (the copy of the plan excerpt below included operating procedures during emergencies or reduced staffing plans are implemented).

Option 1 – simultaneous start times for majority of kennel staff (staff bus arrival for most staff)			Option 2 – staggered staff starts – pressure of roads and reduced bottle neck at feed room, laundry, staff areas (staff bus arrival for most staff)		
7.30am	All kennel staff arrive and meet for muster at under cover training area	Morning supervisors starts (covers reception am) Feed room and laundry attendants start	7.30am	½ of the kennel staff start (2 staff per 40 dogs – 2 modules) – daily timeline for this team matches option 1	Morning supervisors starts (covers reception am) Feed room and laundry attendants start
7.40am	All staff load carts from feed room (morning feeds and enrichment feed) and laundry		7.40am	All staff load carts from feed room (morning feeds and enrichment feed) and laundry	
7.50-8.00am	Feed and medicate dogs in modules		7.50-8.00am	Feed and medicate dogs in modules	
8.00am-9.30am	Let dogs out into day runs, clean night kennels, collect dirty bedding, bowls, scoop any faeces and spot clean or do a full clean if necessary.	Vet nurse 1 starts		Every dog let out into day areas – 2 staff for 40 dogs (2 modules)	Vet nurse 1 starts
Full clean 2 x weekly for all kennels – 8am – 10.00am					
9.30 - 10.30am	Take any dogs to clinic for scheduled treatments/procedures (via cart trailer) staff may need to stay with some dogs for treatments however the majority should be able to be left in kennels in the clinic	Supervisors and nurses manage any transfers to external vets and work with visiting vets as needed	9.30am	Second ½ of kennel staff start – work with early starting buddy to finish the days work with staggered break times with wider time period for drop off and pick-ups at feed and laundry rooms	Supervisors and nurses manage any transfers to external vets and work with visiting vets as needed
10.30 - 10.45am	morning tea at staff bungalow or main quadrangle	Pm supervisor starts Vet nurse 2 starts	10.30		Pm supervisor starts Vet nurse 2 starts
10.45am-12.20pm	Rehabilitation and enrichment activities				
12.20-12.30pm	Unload cart – dirty bowls, dirty laundry, rubbish, dirty toys/enrichment				
12.30-	Lunch at main quadrangle		12.30		

1.15pm					
1.15-1.25pm	Load carts – afternoon feeds, clean bedding if needed, overnight enrichment feeds				
1.25-3.25pm	Rehabilitation, training activities				
3.25pm – 3.40pm or within 1.25-3.25pm period if needed	Afternoon tea in staff gazebo		3.25		
3.40-4.00pm	Bring into night area. Afternoon feed/ enrichment items and medicate – put on coats,		3.40-4pm	Leave dogs out – 2 nd kennel assistant stays and works with dogs – rehab, training, afternoon feed	
4.00-4.15	Cart back to main complex – unload and finish for the day.	Am supervisor finish Laundry and feed room attendants finish	4.00-4.15pm	1 st ½ of kennel staff finish	Am supervisor finish Laundry and feed room attendants finish
4.15-4.45		Vet nurse 1 finishes			Vet nurse 1 finishes
4.45 – 6.15pm		Rounds of all modules Sup 2 and nurse 2	5.30-6.15pm	Bring all 40 dogs into night area, give night enrichment items/feed, medicate (better medication schedule as closer to 12 hrs. apart), put on coats	Rounds of all modules Sup 2 and nurse 2
6.15pm		Supervisor 2 finishes and vet nurse 2 finish	6.15pm	Second group of kennel staff finish	Supervisor 2 finishes and vet nurse 2 finish

- The Cleaning and Odour Control Management contained in Appendix D of the Operational Management Plan establishes the following minimum standards and practices in relation to kennel cleaning:
 - Daily cleaning of kennel facilities in accordance with or exceeding the NSW Animal Welfare Code of Practice No 5 – Dogs and Cats in animal boarding establishments.
 - Collecting dog faeces and placing it into the biogas system for processing, with collections occurring throughout the day.
 - A full clean of the kennels at least once a week.
- The Operation Plan includes complaint management processes around the establishment of a complaint phone line and the reporting and acting on on-site issues to continuously improve operations. Council Officers have recommended that conditions of consent be imposed to ensure minimum expectations around complaint management, incident recording, and reporting are met (draft conditions 48, 63 & 66).
- Documentation provided in response to additional information requests considered and provided details related to the management of site operations during emergency situations including flood events where access to the site was restricted. Proposed measures include:
 - Planning for a quantity of food stores and equipment to be maintained on the site to support its operation where access is intermittently restricted.

- A flood warning system to enable decision making to be taken in relation to the sites operation and non-essential personal to leave site,
- Controls to prevent individuals seeking to leave the site to do so by unsafe floodwaters,
- A reduced staffing operational plan setting for operation of the site during times where adverse emergency situations, such as flooding. During such periods 5-6 staff would be retained on-site to provide core animal care functions.
- A contingency for helicopters to be used to provide access to the site for essential services, staff relief and/or materials deliveries where site access is affected for several days.

A considered assessment of the emergency site management procedures proposed is including in the Likely Environmental Impacts – Flooding Section of this report.

Servicing and Miscellaneous

To support the construction and operation of the facility the following utility services would be constructed/provided/maintained at the facility.

Water – Existing Water Licenses attached to the property and held by the proponent permit the extraction of 170ML of water per year from the Martindale Creek – copies of the Water Licenses associated with the property have been provided.

A Water Utility Report was prepared by Warren Smith Consulting to inform the operational water requirements of the facility. An analysis of estimated water demands in this report suggested that annual water consumption would be comfortably below the existing water allocation (see table below) with approximately 32.9ML of waster required per annum.

TOTAL water required annually =	32.9	ML/yr
TOTAL water required from Creek =	29.7	ML/yr
Total water from Rainwater & Wastewater =	3.2	ML/yr
Water Licence allowance =	170	ML/yr
Estimated % of allowed draw (Max) =	19.3%	
Estimated % of allowed draw (Min) =	17.4%	

Figure 8 (Annual Water Usage, Attachment 5 Warren Smith Consulting Utility Report)

The water utility report provides a high-level design of the basic water utility and infrastructure required to support the operation of the proposed development including water treatment components for drinking water treatment.

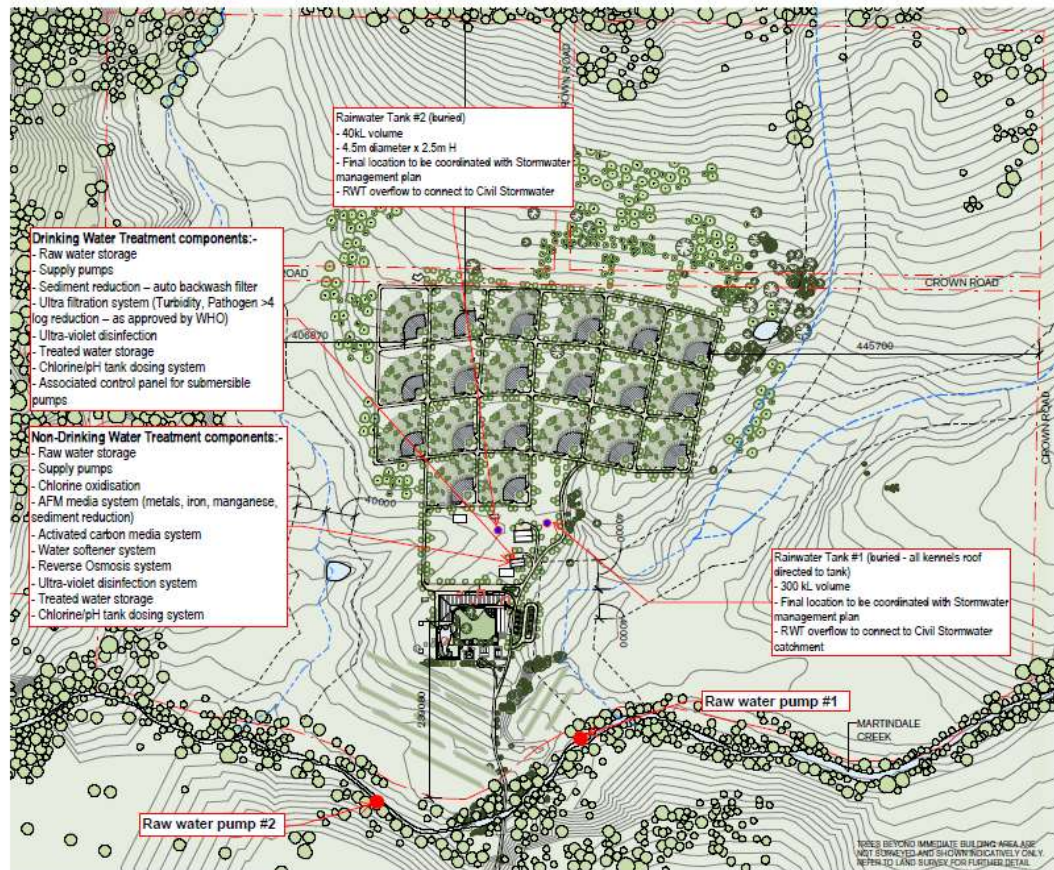


Figure 9 (Annual Water Usage, Attachment 5 Warren Smith Consulting Utility Report)

A Drought Security Strategy was prepared by Larry Cook Consulting and its findings were supplemented by advice from Warren Smith Consulting dated 31 May 2022. The Warren Smith report findings proposed to drought proof the facility by installing 6ML of above ground water tanks supplemented and 0.3ML below ground water storage to allow the facility to operate for 12 months without drawing water from Martindale Creek.

Wastewater – An on-site sewerage management system is required to manage wastewater associated with the proposed development including waste generated from kennel pods, dog wash water, dog faeces, commercial laundry, human waste and the vet clinic. A wastewater management plan has been submitted by Larry Cook Consulting Pty Ltd in relation to options for wastewater treatment.

The proponents preferred sewerage treatment system put forward through this report was an Anaerobic Bio Reactor with a membrane facility. Treated wastewater would be managed via surface spray irrigation. In addition to treating wastewater the Anaerobic Bio Reactor plant (also referred to as a biogas plant in the technical reports provided) would produce small amounts of electricity approximately, 20KW hours per day which could be used to supplement the operating energy requirements of the facility and/or fed back into the grid.

The design of the wastewater treatment system has been informed by a Wastewater Management Plan prepared by Larry Cook Consulting Pty Ltd dated 28 November 2022 and a Bioenergy Feasibility Study prepared by Inoplex Pty Ltd dated 7 October 2021 an overview of the wastewater service infrastructure can be seen from the preliminary drainage site plan below

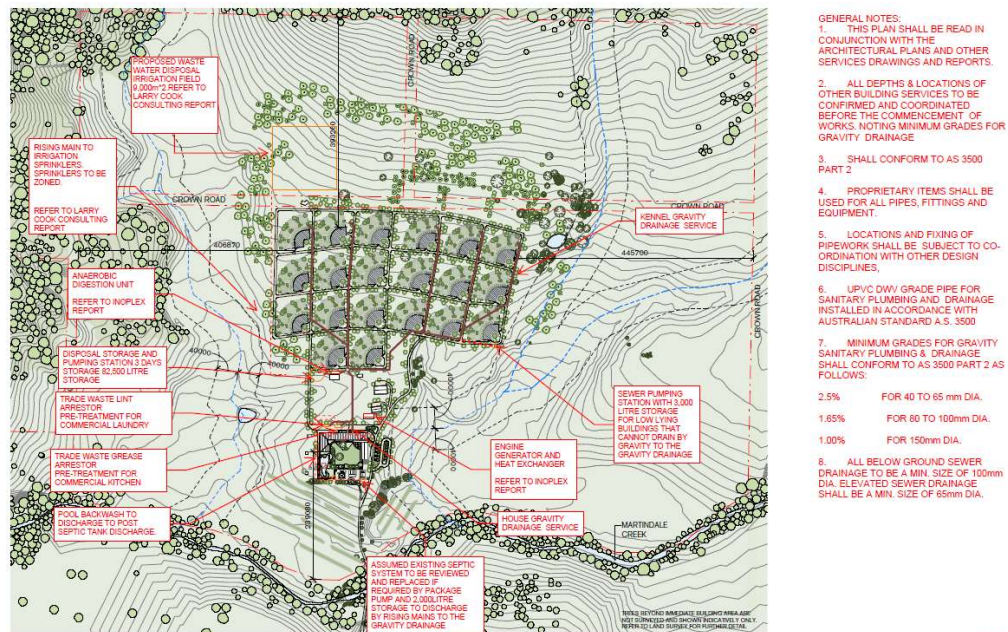


Figure 10 (Preliminary Drainage Service Plan, Warren Smith Consulting Utility Report)

Note: wastewater disposal area relocated in line with advice from the location shown in this prelim report.

Stormwater – The proposed stormwater system design is outlined within the Warren Smith Consulting Engineers Civil Services Report May 2022 and includes:

- Three (3) above ground bio retention basins for combined water quality and quantity management,
- Open drainage swales within each kennel compound to accommodate overland flows and direct toward stormwater pits.
- Grated pits to be fitted with filter baskets and trash screen for water quality treatment.
- Perimeter drainage swales along the extent of the proposed works to accommodate upstream overland flows.
- Discharge from the development site is into the atmosphere, with the provision of rip- rap for scour protection.

The image below provides a high-level view of the stormwater management works and drainage layout.



Figure 11 (On-site detention catchment breakdown breakdown, Warren Smith Consulting Civil Engineering Services Report Appendix 5)

Energy – the proposed facility would be connected to the existing electricity network for electrical services. While energy usage would be partly supplemented/offset by energy generated from the biogas, the majority of the site's energy needs would be supported by connection to the energy grid.

Flood Warning/Safety Structures – to manage site access during flooding in Martindale Creek the Flood Warning System proposed the following structures:

- flood height markers at the causeway/site access.
- Automated boom gates and exclusion barriers to prevent drivers bypassing the boom gates – boom gates proposed to be installed either side of the Martindale causeway crossing entry to restrict access when unsafe conditions occur.
- Stream monitoring system at site – stream monitoring at the site to detect unsafe streamflow conditions and activate boom gates.

- Stream monitoring to be installed at third party property approximately 3km upstream of the site (signed correspondence has been provided from the affected landowner giving permission to the location of a flood monitor at their site and advising they do not object to the principle of a related restriction being registered on the title of their land regarding the management of the system).

Additional commentary related to each of these system components can be found in the EMM Memorandum, 30 November 2022. This document identifies the proposed location of the boom gates and stream gauges monitors.

In relation to the streamflow monitoring device, the applicant has advised that final details of the streamflow monitoring device installed would be finalised with the detailed system design which would occur prior to the issue of a Construction Certificate. Information provided by the applicant dated 14 December 2022 related to the potential scope of the devices indicates the device would likely comprise a water level sensor attached to a pole which houses telemetry instrumentation and a solar panel. An image with an example of the stream gauge device described was provided and has been included below.



General Terms of Approval were issued by NSW Department of Planning and Environment – Water in relation to the works on waterfront land on the 16 December 2022.

A review of the operation and non-built components of the proposed flood warning system is included in the Attachment A File Note.

General Parameters

The table below provides an overview of key physical parameters of the proposed works and subject site.

Table 1: Development Data

Control	Proposal
Site area	135.2 hectares
FSR	Not Applicable
Clause 4.6 Requests	Not Applicable
Max Height	4.2m (12m MLEP 2009 control)
Car Parking spaces	20
Setbacks	406m (northern boundary), 445m (southern boundary) 393m (eastern boundary – National Park) 239m (eastern – creek frontage – setback varies along creek alignment)

2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the applicant on 19 February 2020 where various issues were discussed.

The development application was lodged on **18 October 2021**. A chronology of the key dates and actions for the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the DA

Date	Event
18 October 2021	DA lodged
2 November 2021 – 23 November	Exhibition of the application

2021	
2 November 2021	DA referred to external agencies
20 January 2022	Panel Site visit
21 January 2022	Request for Information from Council to applicant
1 March 2022	Partial response to additional information request
24 March 2022	Partial Response to Additional Information largely related to ecological impacts and National Parks and Wildlife Services requirements
3 June 2022	Amended plans and additional information lodged. Notable changes include: <ul style="list-style-type: none"> ➤ Submission of Staging Plan ➤ Amended Statement of Environmental Effects ➤ Adjustment to greyhound kennels in relation to Crown Land location. ➤ Additional ecological, flooding, odour, noise wastewater, traffic, operational and other information.
27 June 2022 – 21 July 2022	Renotification of the development application.
28 July 2022	Planning Panel Public Listening Exercise at Denman Hall
3 November 2022	Request for Information (unresolved matters)
12 December 2022	Additional information Response
16 December 2022	General Terms of Approval issued by Department of Planning and Environment – Water as a development requiring a Controlled Activity Approval under Section 91 of the Water Management Act 2000.
20 December	Council Ordinary Council Meeting endorsed motion for

2022	the transfer the roads authority function for the Crown Road Reserve that provides access between the site and Martindale Road from NSW Crown Lands to Council.
January – March 2023	Applicant responses to final miscellaneous information requests including, modelling base data queries and engineering referral commentary.
6 February 2023	Submission of final amended Acoustic Report Applicant.
15 March 2023	Completion of final peer review report by Council's acoustic consultant.

2.3 Site History

A search of Council's record system did not identify any recent development applications lodged in relation to the subject site.

It is widely recognised that the site was most recently operated as a horse stud, a use permitted within the RU1 Primary Production zone.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *Muswellbrook Local Environmental Plan 2009*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable State Environmental Planning Policies
(Preconditions in **bold**)

EPI	Matters for Consideration	Comply (Y/N)
SEPP (Planning Systems) 2021	• Clause 2.19(1) declares the proposal as regionally significant development pursuant to Schedule 6, Clause 2 of the SEPP.	Y
SEPP (Resilience and Hazards)	• Chapter 4 – contamination and remediation has been considered in context with the site's historical uses and the development proposed. Council Officers are satisfied that	Y

2021	site remediation is not required for the proposed development to be undertaken.	
SEPP (Biodiversity and Conservation) 2021	<ul style="list-style-type: none"> • Chapter 3 – requires consideration of the relationship of a development with koala habitat protection. The MJD Environmental Ecological report indicates the site is not considered to be core koala habitat and thereby does not require further consideration under against SEPP requirements. 	Y
Muswellbrook LEP 2009	<p>The proposed development is permissible with consent under Muswellbrook LEP 2009 within the RU1 Primary Production zone. Building heights comply with the 12m maximum building height requirement.</p> <p>The proposed development was considered against the Flood Planning Provisions of Clause 5.21.</p> <p>The proposed development is compatible with other Muswellbrook LEP 2009 requirements.</p>	Y

State Environmental Planning Policy (Planning Systems) 2021

State Environmental Planning Policy (Planning Systems) 2011 applies to the proposal. Pursuant to Clause 2.19(1) of the SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 2 of Schedule 6 of the SEPP as the proposal is a development with a CIV over \$30 million.

State Environmental Planning Policy (Resilience and Hazards) 2021

The provisions of Chapter 4 of the *State Environmental Planning Policy (Resilience and Hazards) 2021* have been considered in the assessment of the development application. Clause 4.6 of the SEPP requires consent authorities to consider whether the land is contaminated, and 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.

Council Officers consider the site unlikely to be subject to any contamination requiring remediation under this SEPP. This view was informed by the inspection of the site by Council Officers, the site's previous use as a horse stud an agricultural enterprise not generally associated with significant chemical use, and the nature of the proposed development which does not seek to create or intensify a residential use on the land (which could have additional risk where the site or parts of it are subject to contamination). A soil contamination assessment was not requested to further investigate the issue further.

State Environmental Planning Policy (Primary Production) 2021

Schedule 4 of this Environmental Planning Instrument includes specific provisions related to the development of agricultural land involving subdivision, dwellings and intensive livestock agriculture. Muswellbrook LEP 2009 is not identified as an Environmental Planning Instrument under Part 6 Schedule 4, to which the Schedule applies. Accordingly, the provisions referenced by the SEPP are not a relevant consideration for this development application.

The remaining Chapters of this SEPP do not include relevant provisions for this development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Clause 2.122 and Schedule 3 of this SEPP includes provisions related to the identification and assessment of development as 'traffic generating development'. The criteria for identifying whether a proposed development qualifies as 'traffic generating' is established by Schedule 3. Under those provisions this development would not be characterised as 'traffic generating' development as it would generate 200 or less traffic movements per hour. The Traffic Impact Assessment provided indicated that vehicle movements would equate to approx. 56 vehicle movements per day (half inbound and half outbound).

This State Environmental Planning Policy does not include further provisions that effect the assessment of this development application.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

This SEPP establishes provisions related to the clearing of vegetation in non-rural areas. The subject land is zoned RU1 Primary Production and is outside the area to which the provisions apply.

This SEPP establishes provisions related to the clearing of Koala Habitat. Chapter 3 of the SEPP applies to the Muswellbrook Local Government Area. In accordance with the SEPP, a consent authority is required to have regard to whether the land concerned is a potential or core koala habitat, and where land is identified as a core koala habitat a plan of management is to be prepared in relation to that habitat in accordance with provisions set out in the SEPP.

Inspection of the site and the ecological information submitted by MJD Environmental observe that the land had been previously cleared, used for livestock grazing and there is a mixture of both native, introduced and invasive species of vegetation on the site. The site is not potential or core koala habitat requiring further consideration under the provisions of the SEPP.

Muswellbrook Local Environmental Plan 2009

Muswellbrook Local Environmental Plan 2009 ('the LEP') applies to the site. The aims of the LEP include

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to encourage the proper management of the natural and human-made resources of Muswellbrook by protecting, enhancing or conserving—*
 - (i) *productive agricultural land, and*
 - (ii) *timber, minerals, soils, water and other natural resources, and*
 - (iii) *areas of significance for nature conservation, and*
 - (iv) *areas of high scenic or recreational value, and*
 - (v) *places and buildings of archaeological or heritage significance,*
- (b) *to manage the urban areas of Muswellbrook by strengthening retail hierarchies and employment opportunities, promoting appropriate tourism development, guiding affordable urban form and providing for the protection of heritage items and precincts,*
- (c) *to promote ecologically sustainable urban and rural development,*
- (d) *to manage development in flood-prone areas by ensuring any obstruction, re-direction or pollution of flood waters will not have adverse consequences for the environment or increase the risk of endangering life or property,*
- (e) *to enhance the urban amenity and habitat for flora and fauna,*
- (f) *to protect and conserve—*

- (i) soil stability by controlling development in accordance with land capability, and
- (ii) remnant native vegetation, and
- (iii) water resources, water quality and wetland areas, natural flow patterns and their catchments and buffer areas,
- (g) to provide a secure future for agriculture by expanding Muswellbrook's economic base and minimising the loss or fragmentation of productive agricultural land,
- (h) to allow flexibility in the planning framework so as to encourage orderly, economic and equitable development while safeguarding the community's interests and residential amenity, and to achieve the objectives of each zone mentioned in Part 2 of this Plan.

The proposal is compliant with these aims in view of to the following:

- The proposal would establish an employment generating use at the site associated with greyhound racing and post racing pathways for former racing animals.
- The proposed facility would be generally compatible with agricultural uses on nearby land. The proposed facility would not inhibit the carrying out of primary production at any adjoining site.
- The proposed development would not have a substantive visual impact on the locality or the quality of scenic views in the area.
- Findings of ecological investigations for the proposed development suggest that the proposal would not have any significant adverse ecological impact.
- The proposed development would support diversification of Muswellbrook's economic base.

Zoning and Permissibility (Part 2)

Permissibility

The site is located within the RU1 Primary Production Zone.



Figure 12 (MLEP 2009 Land use zoning map).

Clause 2.3 of the LEP require a consent authority to have regard to the land use table for the zone to which the proposed development relates, including the types of development it specifies as being possible to carry out with or without development consent within the zone and development that is prohibited.

The land use table for the RU1 Primary Production zone is as follows.

Zone RU1 Primary Production

2 Permitted without consent

Extensive agriculture; Home occupations; Intensive plant agriculture

3 Permitted with consent

Air transport facilities; Airstrips; **Animal boarding or training establishments**; Aquaculture; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; **Community facilities**; Crematoria; Depots; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Function centres; Group homes; Hazardous industries; Health consulting rooms; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home industries; Industrial retail outlets; Information and education facilities; **Intensive livestock agriculture**; Kiosks; Landscaping material supplies; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Rural worker's dwellings; Secondary dwellings; Service stations; Sewerage systems; Signage; Storage premises; Take away food and drink premises; Tourist and visitor accommodation; Transport depots; Truck depots; Turf farming; **Veterinary hospitals**; Waste disposal facilities; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

The development was lodged for an 'animal boarding or training establishment'.

Council Officers have examined the land use issue in detail below:

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.

Planning Comment – It is understood that the owner and operator of the proposed facility would be Greyhound Racing NSW. Council Officers are of the view that Greyhound Racing NSW is not a public authority or charity.

In forming this view Council Officers have reviewed Section 16 of the *Greyhound Racing Act 2017* which legislates for the establishment of Greyhound Racing NSW. The language in this Section of the Act is explicit that Greyhound Racing NSW is to be a Corporate Body and does not represent the Crown. The proposed development **is not considered as a community facility.**

Intensive Livestock Agriculture

Means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses, sheep or other livestock, and includes any of the following—

- (a) dairies (restricted),*
- (b) feedlots,*
- (c) pig farms,*
- (d) poultry farms,*

but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief.

Planning Comment – Core to the consideration of this land use classification is whether greyhounds would constitute a type of livestock.

The Muswellbrook LEP 2009 or the Standard Instrument (LEP) do not include definitions for the term livestock.

In the absence of any adopted terminology Council Officers reviewed the Macquarie Dictionary (7th edition published 2017) which defined livestock as – the horses, cattle, sheep or other useful animals kept or bred on a farm or ranch.

Council Officers noted the attributes of the proposed facility were somewhat distinct from a farm or ranch, given that the facility would not be operated to cultivate any agricultural produce for consumption. Accordingly, the proposed development is not considered to be Intensive livestock agriculture.

Veterinary Hospital

Means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

Planning Comment – The proposed development includes a veterinary treatment area which would be used for diagnosing issues and surgically treating greyhounds kept at the site.

For the proposed development to be characterised as a veterinary hospital the related activity of providing medical treatment to animals would need to be the dominant land use/core purpose of the development.

Documentation submitted with the development application describe the dominant reason for the development as being the housing, care and re-training of retired racing greyhounds.

The Department of Planning, Environment and Industries Planning Circular ‘how to characterise development’ (PS 13-001) provides contextual information around the characterisation of the development and the establish of a land use as dominant or ancillary or a development as a mixed-use development

In this instance the administration of veterinary care to those animals is subsidiary to this core purpose:

- The proposed veterinary services building would be used for providing care to greyhounds kept on-site.
- The veterinary service would be contracted out. A building will be provided to enable contracted vets to perform procedures on animals at the site.
- The development does not propose services being offered to animals other than those kept on-site.

Council Officers are of the view that the veterinary services are ancillary to the core purpose of greyhound keeping and re-training and would be operated solely in conjunction with this purpose. The proposed development is not considered to be characterised as a veterinary hospital or a mixed-use development comprising this use alongside an additional separate land use.

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.

Planning comment – there are two key thresholds for a development to be classified as an ‘animal or boarding or training establishment’ the development must be – ‘*building or place used for the breeding, boarding, training, keeping or caring of animals*’, and be for ‘*commercial purposes*’.

The development application is explicit in linking its purpose to the establishment premises for transitional housing, re-training and care to animals (namely retired racing greyhounds). While the premises would not include any animal breeding (management plans indicate that measures are to be put in place to actively inhibit any breeding) the use of the term ‘or’ in the land use excerpt makes clear that it is not incumbent on an animal boarding or training establishment to be inclusive of each activity, but one or a combination of the activities referenced by the excerpt. Council Officers are satisfied that the proposed land use is compatible with the first component of the land use definition of an animal boarding or training establishment.

In relation to the second part or test to establish the land use criteria the phrase – ‘*for commercial purposes*’ a considered examination is required:

- The Statement of Environmental Effects and accompanying documents do not establish a direct link between the site operation and goal of profit making, but rather the provision of care and rehoming services to greyhounds formerly involved in the greyhound racing industry.
- In relation to the broader context of the greyhound racing industry, it is generally accepted that the greyhound racing industry is a profit orientated enterprise with an intrinsic ‘commercial purpose’.
- Case law in *Federal Cmr of Taxation v Whitfords Beach Pty Ltd* [1982] HCA 8 ; (1982) 150 CLR 355 at 378–379, warned of an ambiguity in expressions involving adjectives such as ‘commercial’ and ‘business as they must adapt to different contexts in which they are used.
- The Land and Environment Court case *Acers v Wollondilly Shire Council* [2014] NSW Land and Environment Court LEC 1169, had regard to the ‘commercial purposes’ in context with the development of an animal breeding or training establishment. The consideration of the term in this instance demonstrated that a

- commercial purpose can be established even if no profit is made and is a question of fact and degree in each circumstance.
- Having regard to this case law it is reasonable to form the view that the definition of 'animal boarding or training establishment' does not limit the scope for 'commercial purposes' to only activities conducted on the site but rather requires that the essence of the enterprise as a whole be for 'commercial purposes'.
 - In considering the concept of the enterprise as a whole as being, or not being, for 'commercial purposes' it is relevant to note:
 - The applicant (Greyhound Racing NSW) is a body corporate established under the *Greyhound Racing Act 2017*.
 - Section 23 of the *Greyhound Racing Act 2017* establish the principal objectives of Greyhound Racing NSW which include;
 - 23(a) *'to be a commercially viable entity'*
 - 23(b) *'exhibit a sense of social responsibility by having regard to the welfare of greyhounds'*
 - Section 24 of the *Greyhound Racing Act 2017* specifies functions of Greyhound Racing NSW which it references to include 24(1) *'to manage greyhound adoption programs'*.
 - Council Officers are of the view that the Greyhound Racing Act establishes a reliable link between a development such as that proposed by Greyhound Racing NSW, for the purpose of the care, adoption, welfare or furthering the ethical treatment of greyhounds involved or related to the greyhound racing industry, as relating to a 'commercial purpose'.
 - Council has sought legal advice to inform it in forming a view. This advice is available for the Regional Planning Panel.
 - Council Officers are satisfied that the proposed development is an animal boarding or training establishment.

Summary

Council Officers have reviewed the proposed development against the land use definition of the various land use definitions from the MLEP 2009 considered potentially relevant to the land use classification of the development proposed. The proposed development is a type of development permissible with consent.

Zone Objectives

Clause 2.3(2) of MLEP 2009 requires a consent authority to have regard to the land use zone objectives for the relevant land use zone, in this case RU1 Primary Production, when determining a development application.

The land use zone objectives from the MLEP 2009 have been included below.

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To protect the agricultural potential of rural land not identified for alternative land use, and to minimise the cost to the community of providing, extending and maintaining public amenities and services.

- To maintain the rural landscape character of the land in the long term.
- To ensure that development for the purpose of extractive industries, underground mines (other than surface works associated with underground mines) or open cut mines (other than open cut mines from the surface of the flood plain), will not—
 - (a) destroy or impair the agricultural production potential of the land or, in the case of underground mining, unreasonably restrict or otherwise affect any other development on the surface, or
 - (b) detrimentally affect in any way the quantity, flow and quality of water in either subterranean or surface water systems, or
 - (c) visually intrude into its surroundings, except by way of suitable screening.
- To protect or conserve (or both)—
 - (a) soil stability by controlling development in accordance with land capability, and
 - (b) trees and other vegetation, and
 - (c) water resources, water quality and wetland areas, and their catchments and buffer areas, and
 - (d) valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits.

Council Officers have made the following observations related to the proposed development's relationship with the land use zone objectives:

- While the proposed development does not directly involve a primary industry pursuit, the proposed enterprise shares attributes with such activities as it involves the caring for, and re-training of animals and it requires a sizeable unincumbered maintained area to support its operating requirements.
- The proposed development would not inhibit the carrying out of agriculture on adjoining land.
- The proposed development has been reviewed by the NSW National Parks and Wildlife Services as the development adjoins the Wollombi National Park. Final comments provided by NSW Parks and Wildlife Services do not raise any objection to the proposed development from a land use conflict perspective.
- It is considered that the proposed development would not adversely impact the agricultural potential of rural land. The opportunity for adjoining land to be used for agricultural purposes would be retained. The subject site could be adapted for agricultural use if the proposed development ceased at a future stage.
- The design of the proposed development would have a limited impact on the rural character of the locality. The proponent's architect and team have had regard to the site context and rural character when designing the proposed development. Council Officers are satisfied that the proposal would have a limited visual impact and would not significantly impact the landscape and aesthetics of the locality. The visual impact of the proposed development is considered and commented on in greater detail under the likely environmental impacts heading of this Section 4.15 Assessment.

Council Officers are satisfied that the proposed development would be compatible with the RU1 Primary Production land use zone objectives and thereby is in accordance with the provisions of MLEP 2009 Clause 2.3(2).

General Controls and Development Standards (Part 2, 4, 5, 6 and 7)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
2.3 Zone Objectives and Land Use Table	Permissibility and land use zone objectives.	The proposed development is a type of development permissible with consent and is compatible with the land use zone objectives.	Yes
Minimum subdivision Lot size (CI 4.1)	80ha	No subdivision proposed	NA
Height of buildings (CI 4.3(2))	12m	The design plans indicate the physical height of a kennel module building will be 3.9m from natural ground level, with some variability for cut and fill/site levelling at the individual kennel location and 4.2m for the support service building.	Yes
FSR (CI 4.4(2))	NA	The subject site is not subject to a Floor Space Ratio.	NA
Subdivision and Dwellings in Certain rural Residential or Conservation Zones (CI 5.16)	This clause specifies matters requiring consideration when determining development applications involving the erection of dwelling in the RU1 Primary Production zone	<p>This development application involves the use of existing dwellings on-site as part of the proposed development for managers and staff accommodation.</p> <p>The proposal does not require assessment against the matters for consideration specified by the Clause for development involving the erection of a dwelling.</p>	NA
Flood planning (CI 5.21)	This Clause prescribes matters for consideration when determining development applications within the 'Flood Planning Area'.	<p>A detailed assessment is included as an Attachment to this report.</p> <p>This assessment concluded that the proposed development would be compatible with the requirements of the Clause, provided it is carried generally in accordance with the measures set out by the EMM Flood Risk Assessment May 2022, EMM Memorandum (November 2022) and conditions of consent recommended by Council Officers.</p>	Yes

Earthworks (CI 7.6)		Council Officers are satisfied that the proposed development would be compatible with the relevant assessment matters where carried out in accordance with recommended conditions of consent.	Yes
	<i>the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality.</i>	<p>A stormwater management plan has been prepared in relation to the proposed development.</p> <p>Noting the size of the site, extent of earthworks proposed and drainage measures to be implemented, Council Officers are satisfied that the proposed development could be carried out without substantive impact to established drainage patterns.</p>	
	<i>the effect of the proposed development on the likely future use or redevelopment of the land</i>	The proposed earthworks would not be so extensive to inhibit the use of the site from redevelopment in a manner supportive of agricultural enterprise or alternate pursuits permitted within the land use zone.	
	<i>the quality of the fill or of the soil to be excavated, or both</i>	The applicant has advised that they would endeavour to use fill from the site wherever possible. The estimated balance of cut and fill works was anticipated to require the importation of 2,400m ³ of soil. Should the proposed development be approved a condition of consent is recommended to ensure any fill material transported to the site for use as part of the development is free of contaminants and meets the relevant criteria for use.	
	<i>the effect of the proposed development on the existing and likely amenity of adjoining properties</i>	The proposed cut and fill works are anticipated to have a negligible impact on the amenity of adjoining properties.	

	<i>the source of any fill material or the destination of any excavated material</i>	<p>All excavated material is to be re-used on-site.</p> <p>Should the proposed development be approved it is recommended that a standard condition of consent be included in any Notice of Determination to ensure fill material is appropriately sourced.</p>	
	<i>the likelihood of disturbing relics</i>	<p>The site subject has previously been cleared and disturbed for agricultural use. The likelihood of relics is considered to be low.</p> <p>An AHIMS search has been carried out in relation to the site which identified no recorded artifacts in the vicinity. The application was also referred to the Wanaruah Local Aboriginal Land Council who offered no comment in relation to the proposal.</p> <p>Where the proposed development is approved it is recommended that a standard condition of consent is included to ensure that the appropriate process is followed should there be any unexpected archaeological finds during the carrying out of works.</p>	
	<i>the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area</i>	<p>The proposed earthworks would have limited impact on the adjoining Martindale Creek. The earthworks will create some diversion of the natural stormwater flow to be managed by the stormwater management system.</p> <p>After having regard to the earthworks, stormwater and wastewater management practices proposed, Council Officers are satisfied that suitable measures have been proposed to minimise the potential for the proposal to impact any watercourse, drinking water catchment or environmentally sensitive area.</p>	

The proposal is generally consistent with the LEP.

3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no draft proposed planning instruments with provisions related to the assessment of the proposed development.

3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Muswellbrook Development Control Plan 2009* ('the DCP')

A summary of the relevant Sections of the Muswellbrook Development Control Plan has been included below alongside an assessment of the proposed development against the related controls.

Section 3 Site Analysis

Council Officers are satisfied that the proponent has adequately considered the provisions of this Section and prepared the documentation accompanying the development application in accordance with the requirements of this Section.

Section 8 Rural Development

The table below measures the proposed development against the relevant DCP controls specified by this Section of the DCP.

Table 5 – DCP Section 8 Industrial Development

MUSWELLBROOK SHIRE COUNCIL DCP SECTION 8 RURAL AND ENVIRONMENTAL ZONE DEVELOPMENT		
<u>DCP REQUIREMENTS</u>	<u>COMPLIES</u>	<u>PLANNING COMMENT</u>
8.2.1 Scenic Protection and Building Location	Yes	<p>The kennels have been designed to minimise their visual presence and remain in keeping with the scenic qualities of the area.</p> <p>The use of earth mound construction and the Martindale Creek vegetation would obscure the proposed development when viewed from the street and adjoining residences.</p> <p>The proposed development would meet the relevant DCP Controls related to building height, vegetation disturbance.</p>
8.2.2 Setbacks <i>(i) setback 50m from any public road</i> <i>(ii) setback 10m any</i>	Yes	The setback of the proposed buildings exceeds the minimum required setbacks by this Section of the DCP.

<i>property boundary</i> <i>(iii) A suitable buffer area is established in the vicinity of agricultural operations that may occur on adjoining land.</i>		
8.3 Colours and Materials	Yes	<p>This Section of the DCP encourages muted earth tones and natural colours for development in rural areas and discourages highly reflective materials such as zincalume.</p> <p>Details of the materials and colours proposed have been included in the architectural plans. These colours and materials reflect the requirements of this control and are accepted as suitable colour schemes and material selections in accordance with the DCP requirement.</p>
8.2.4 Car Parking and Access	Yes	<p>Vehicle access to the proposed development is available in a manner consistent with the DCP requirements.</p> <p>While the DCP does not specify a rate of off-street car parking for the type of development proposed, 20 off-street parking spaces have been included in the development design to accommodate staff and operational demands.</p>
8.3.1 Topography	Yes	<p>This Section of the DCP requires development in the RU1 Primary Production zone to have regard to the existing topography of the subject site and rural landscape qualities.</p> <p>The design respects the landform and landscape qualities of the existing site and locality.</p>
8.3.2 Vegetation	Yes	The proposed development involves limited

		<p>native vegetation disturbance.</p> <p>Ecological Advice has been prepared by MJD Environmental regarding the Biodiversity Conservation Act 2016. This advice concludes that the development would not exceed the Biodiversity Offset Scheme clearing threshold.</p>
8.3.3 Riparian Buffers	Yes	<p>The proposed development has had regard to the 40m riparian buffer referenced in this Section. Key buildings associated with the facility will all be located outside of this buffer area.</p> <p>Work on water front land would be limited to stream gauge equipment and gates related to monitoring streamflow and controlling site access. These works have been considered by Department of Planning and Environment (DPE) – Water as the relevant public authority for issuing Controlled Activity Permits for work on waterfront land. DPE – Water have issued their General Terms of Approval permitting the proposed development to proceed.</p>
8.3.4 Management of Rivers, Creeks, Streams and Drainage	Yes	<p>General Terms of Approval have been provided by DPE – Water regarding work proposed on water front land.</p> <p>Council engineers have reviewed the stormwater management plan proposed. Where stormwater management is carried out in accordance with this plan and recommended conditions of consent, the proposed development would be in accordance with the DCP requirements.</p>
8.3.5 Services	Yes	<p>Details have been provided in relation to the water supply for the development and on-site sewerage management system in accordance with the requirements of this DCP Section.</p>

Section 13 Flood Prone Land

Council Officers have completed a comprehensive assessment of the proposed development against the flood impact assessment parameters prescribed by this Section of the DCP alongside other relevant flood impact considerations. This Assessment is included as Attachment A to this report and should be reviewed for a detail examination of the proposed development against this Section of the DCP.

Council Officers have had regard to the location of the proposed development in context to the 1% AEP flood, flood modelling prepared in relation to the site causeway access and management practices proposed to support the site's operation during periods where site access is restricted due to flooding.

The proposed development would be generally in accordance with the related development controls subject to recommended conditions (draft conditions 15, 19(L), 20, 26, 36, 46(c)(f), 57, 58, 60 & 68).

Complies

Section 16 Car Parking and Access

This Section of the Development Control Plan includes requirements for development applications related to the provision of off-street car parking and related vehicle access.

The DCP does not include specific off-street parking requirements for development for the purposes of an animal boarding or training establishment or a similar. The proposed development has nominated suitable off-street parking and internal vehicle manoeuvring areas. The submitted plans, Traffic Impact Assessment and related documentation propose a total of twenty (20) off-street parking spaces. The rate of off-street parking proposed is reasonable.

Council Officers would recommend imposing standard conditions of consent to ensure the construction of off-street parking and associated manoeuvring areas is carried out in accordance with the relevant Australian Standards and related DCP provisions (draft condition 38).

Complies

Section 20 Erosion and Sediment Control

A sediment and erosion control plan was submitted with the proposed development detailing control measures for earthworks involved in the carrying out of the proposed development. The stormwater management plan includes pollution controls.

While Council Officers do not object to the erosion and sediment control measures shown in this document, updated erosion and sediment control plans are required to account for the staging pattern of the proposed development. The plans submitted are for all stages of the development. Should the development be approved it is recommended that conditions of consent are included in any Notice of Determination to require the submission and approval of updated erosion and sediment control plans to account for the development staging (draft condition 17).

Complies – can be suitably managed by conditions of consent

Section 23 On-site sewerage management systems

Noting the size of the proposed development, and the technical nature of the wastewater management system proposed, a Wastewater Management Plan was required to inform the assessment of the application.

This Wastewater Management Plan, subsequent amendments to the document and the related Bioenergy Feasibility Report document were reviewed by Council's Senior Environmental Health Officer. Council's Senior Environmental Health Officer did not object to the wastewater management system proposed and recommended conditions of consent to manage its installation and construction.

Complies

Section 24 Waste Minimisation and Management

A Site Waste Minimisation and Management Plan (SWMMP) was prepared in relation to the development. An updated Plan was submitted to Council dated May 2022.

This SWMMP details waste streams and proposed management procedures from both construction and operational waste.

Council Officers are satisfied that the waste minimisation and operational management practices put forward in the SWMPP provided addresses the requirements of this Section of the DCP related to detailing waste management practices associated with the development.

Complies

Section 25 Stormwater Management

While this site is not situated in an urban context the core stormwater management principles and objectives of the DCP are of relevance and have informed Council Officer's assessment of related stormwater controls.

When considering the stormwater management system, Council Officers have had regard to the following DCP Objectives:

- To ensure that stormwater discharges do not cause poor environmental outcomes or nuisance to adjoining or neighbouring lands (Objective 25.2.1 a))
- Stormwater discharge from the site is appropriately managed on-site and does not cause excessive nuisance to adjoining land (Objective 25.2.4a))
- To ensure that stormwater generated from development does not result in pollution of water courses or receiving waters (Objective 25.2.5a))

The stormwater management plan for the development includes outdoor greyhound social runs. Water quality management will involve a filtration system and settling ponds. This method of stormwater management addresses each the development control plan objectives.

Council's Engineers are generally satisfied with the stormwater management methodology and the accompanying technical reports. Council Engineers have requested some alterations to the system to enhance pollution management controls and ensure the ongoing functionality of the system. Given the timing of the comments

and the ability for engineering solutions to be achieved to the matters raised, Council Officers are satisfied that these requirements could be managed through conditions of consent (draft condition 12, 40, 46 & 56) .

Having regard to the above Council Officers are satisfied that the proposed development would be compatible with the Objectives of this Section of the Development Control Plan.

Development Contributions Plans

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Muswellbrook Section 94A Contribution Plan (2010)*

Muswellbrook Section 94A Contribution Plan (2010) requires the payment of a Section 7.12 Contribution (former Section 94A) at a rate of 1% of the total estimated cost of the development.

The total estimated cost of the development is \$33,338,800.

Under the provisions of Council's Section 94A Plan a Section 7.12 Contribution of \$333,388 would be applicable to the proposed development.

Should the proposed development be approved it is recommended that a condition of consent is imposed requiring the payment of the related contribution prior to the issue of a Construction Certificate.

3.4 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

In early discussions, the applicant referenced the possibility of a Planning Agreement to contribute to Council in relation to the carrying out of related road works. As discussions around Martindale Road improvements progressed the applicant indicated that they would accept an undertaking to complete road improvement upgrades identified by the Road Safety Assessment as conditions of consent should the development be approved. This resolution to the road management/improvements was viewed to be satisfactory by Council Engineers and discussions regarding any potential Planning Agreement were not pursued beyond this point.

3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations

Clause 92(1) of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, comprising the following:

- **Clause 61(1) – Demolition**

This Clause requires a consent authority to have regard to the provisions of the Australian Standard AS 2601—2001: *The Demolition of Structures*. This development

application would include the demolition of existing farm buildings on the site. Should the development be approved it is recommended that standard conditions of consent are imposed to ensure the demolition works are carried out in accordance with the the Australian Standard (draft condition 6).

- **Clause 61(3)** - Dark Sky Planning Guideline if applicable – the proposed development is not located a type of development to which the Dark Sky Planning Guideline applies. The proposed development is not located within the Local Government Areas referenced by this Clause and while the proposal is a type of Regionally Significant Development referenced by Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 measurements between the development site and the Siding Springs Observatory and the development site indicate that it would exceed the 200km radius to which this Clause and the Dark Sky Planning Guideline would apply .
- **Clause 93 Fire Safety and other consideration**
The proposed development involves existing cottages on-site and their use as accommodation to support the proposed development. The suitability of these structures for use as part of the proposed development, and any fire safety improvements required to support their use, has been considered by Council Building Surveyors. Should the proposed development be approved it is recommended that conditions of consent are imposed regarding the carrying out of work in accordance with these requirements (draft condition 10).

3.6 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls and the Key Issues section below:

- **Context and setting** – The design of the proposed development has had regard to the site context and setting and is generally suited to the rural context and setting of the locality.

In relation to this point Council Officers note that the proposed design:

- Is consistent with relevant DCP related to the design of buildings in the RU1 Primary Production zone.
- The proposed building heights are in accordance with the relevant building height controls under the Muswellbrook LEP 2009.
- The earth mound construction and the Martindale Creek vegetation would obscure the proposed development when viewed from the streetscape and adjoining residences.
- The proposed plans indicate that muted and earthy tones would be employed through the development to minimise its visual impact and to better integrate the designs with its rural setting.
- The proposed buildings would be clustered and situated on the site in a manner that fits a rural style and minimises the spread of the development, disturbance area and visual scale.
- Landscaping would be employed through the proposed development.

- Council Officers have inspected the site and locality. Based on these observations, the proposed development would not have a significant adverse impact on the site context and setting and that it would be suitably screened and incorporated into the landscape by existing vegetation, proposed landscaping and design choices in the proposed design, layout and material/colour selection.
- A Visual Impact Assessment/photomontage package prepared by Moir Landscape Architecture has been prepared and submitted in relation to the proposed development. This photomontage of vistas across the site from public places in the vicinity indicate that the proposed development would not have an unreasonable impact on the context and setting.

In view of the above considerations Council Officers are satisfied that the proposed development would not have a significant adverse impact on the pre-existing local context and setting.

- **Access and traffic** – Access to the site is via Martindale Road. Martindale Road forms part of Council's local road network. The road has a variable width and limited passing space at most locations for vehicles traveling in opposite directions. While the main body of the road is sealed, the site access utilises a 750-800m stretch of dust sealed road within a Crown Road Reserve between the site and main road body. This Crown Road Reserve also provides access to neighbouring properties. Various access and traffic considerations have been examined:

Traffic Generation and Road Safety

A Traffic Impact Assessment was prepared in relation to the proposed development by SECA Solutions dated 8 October 2021. This report put forward the following conclusions after considering traffic associated with the proposed development and the standing of the existing road network.

'The above assessment has been undertaken to accommodate peak demands for staff movements with the facility operating at full capacity (400 greyhounds). Traffic and parking have been assessed based on the proposed operation anticipated for the development which is the first of its kind.

It is concluded that the proposal to operate a Greyhound Farmstay at Bylong Park can be accommodated within the capacity of the local road. Traffic movements associated with the development will be minimal across a day with daily movements up to 60 movements two way on days when there are deliveries and vet visits (30 inbound/30 outbound).

The existing access to the site can provide for the required movement of deliveries etc consistent with past rural demands. Whilst it is noted that sight lines to the left of the access are less than required under AS2890, given the lack of through traffic and low demands being primarily local there is an awareness by drivers of the road conditions. Inclusion of signage on the northbound approach can warn drivers of the driveway.

Parking demands associated with the Farmstay can be fully contained within the site with parking required for staff and volunteers as well as the vet or similar visitors.

Given this, the proposal should be approved on traffic and parking grounds'.

Council's Engineers requested a more detailed examination of the safety of Martindale Road and its ability to accommodate additional light and heavy vehicle movements associated with the proposed development. The SECA Solution correspondence and RFI response dated 11 April 2022 was submitted to Council in response. This document:

- Recommended improvements be carried out to the intersection between Martindale Road and the Crown Road Reserve connecting the site to the main road body as part of the proposed development.
- Completed a supplementary review of road safety and recommended several road safety improvements for Martindale Road. Noting these safety measures to be more broadly related to general road safety than improvements required as a direct result of the proposed development, the applicant submitted that they would be prepared to make a reasonable contribution toward those works. The works recommended and their location along Martindale Road are included in the table below.

Chainage (approximate)	Suggested upgrade	Benefit
From bridge to subject site access (2500 metres)	Maintain vegetation to both sides to low level	Allows drivers to use the verges in a safe manner but noted this could encourage drivers to pass each other at higher speeds
Left hand curve at 600 m	Seal shoulder to inside of curve to allow for running width of 6 metres for 100 metres including tapers	Allows vehicles to pass each other in opposing directions on the curve
1400 metres	Seal shoulder to both sides of road to provide a width of 6 metres over 50 metres including tapers	Allows a spot for a vehicle to pull over to allow an opposing vehicle to pass
1900 metres	Seal shoulder to both sides of road to provide a width of 6 metres over 50 metres including tapers	Allows a spot for a vehicle to pull over to allow an opposing vehicle to pass
2100 metres	Seal shoulder to both sides of road to provide a width of 6 metres over 50 metres including tapers	Allows a spot for a vehicle to pull over to allow an opposing vehicle to pass
Site access plus 40 metres south	Remove vegetation on left hand side of road along site boundary	Highlights site access
Prior to site access for northbound traffic	Provide advanced warning sign for the presence of the site access	Highlights site access
At site access	Upgrade site access in accordance with Figure 7.4 from Austroads Guide to Road Design Part 4: Intersections and Crossings.	Highlights site access, allows for safe entry / exit movement for truck

- Provided a preliminary overview of construction traffic management procedures in response to related Council questions with a recommendation that the final Construction Traffic Management Plan be subject to conditions of approval to allow for final logistical considerations following the detailed design and appointment of a contractor.

Council Engineers support the subject development from a roads impact perspective subject to requirements summarised below:

- The carrying out of road safety improvements to Martindale Road in the Road Safety Assessment
- The carrying out of improvement to the Martindale Road/site access intersection to meet the AustRoads standards of a rural basic right-hand turn and treatment with a short left hand turn.
- A requirement that all road safety improvements required are completed prior to the issue of a CC or suitable alternate traffic controls measures put in place subject to written agreement by Council.

- Requirement for and specification of matters to be included in a Construction Traffic Management Plan.
- Requirement for the applicant to assume the maintenance for the former Crown Road Reserve connecting the site to Martindale Road.
- Requirement for related Section 138 permits for the works concerned.

These requirements have been accepted by the applicant.

Crown Road

Access to the site from the main body of Martindale Road traverses a 750-800m long length of dust sealed road situated within a Crown Road Reserve.

This Crown Road Reserve also provides access to the neighbouring property at 1972 Martindale Road and paddocks that form part of the properties at 1951 Martindale Road and 1875 Martindale Road.

When the development application was amended on the 3 June 2022 works within the Crown Road Reserve related to the carrying out of construction work to the Martindale Road intersection. The inclusion of this work was identified to prompt the referral of the development application to NSW Crown Lands as the Road Authority for the dust sealed road.

Advice provided by NSW Crown Lands indicated that they require the ownership and management of the Crown Road Reserve to be transferred to Council.

The matter of the Crown Road Reserve management was considered by Council and a resolution passed at Council's December 2022 Ordinary Council Meeting to progress the transfer of the Roads Authority function with Crown Lands. In deliberating on this issue Council was explicit that their decision related to the administrative process of the road transfer only and that it in no way related to the consideration of the overall development. Council Officers have since lodged a Transfer Request with Crown Lands and will continue the progression of the road transfer in line with NSW Crown Lands requirements and the outcome of the determination of the development application.

While Council has accepted the transfer of the Road Authority function for this Road Reserve, the proponent will be responsible for the road's maintenance for the duration of the site's operation. This requirement is reflected in the recommended conditions of consent.

Consideration has also been given to the current construction standard to service the proposed development. A condition related to the access management is included in recommended conditions (draft condition 45 & 61).

Parking

The proposed development involves the provision of twenty (20) off-street car parking spaces to support the sites operating requirements. The rate of off-street car parking is supported by the related Traffic Assessment and is compatible with site operating/staffing requirements. Noting the site's size, overflow parking would be readily available on-site. Council Officers are satisfied that the rate of off-street car parking proposed is reasonable.

Heritage

Council Officers have made the following observations:

- The results of a search of the Heritage NSW AHIMS Web Service (Aboriginal Heritage Information Management System) in relation to the subject site show that no aboriginal sites or locations are recorded in or near the subject site.
- The development application was referred to the Wanaruah Local Aboriginal Land Council on 2 November 2021 to provide an opportunity to provide comments or advice around any local knowledge in relation to the site and the

- potential for items of aboriginal significance to be located on the site. No response or comments were received in relation to the proposal and subject site.
- The proposed development has had regard to the *Development Adjacent to National Parks and Wildlife Service Lands Guidelines* – which includes requirement for the consideration of potential impacts on the aboriginal cultural heritage value of the adjoining National Park. NSW Parks and Wildlife Services have reviewed the related information and have provided advice indicating that they are satisfied that the matters relevant to their consideration of the proposed development and its impact on the adjoining National Park have been suitably addressed.
 - Council Officers inspected the site and note that it has previously been cleared and subject to disturbance because of past agricultural activities conducted on the land. Given the historic use and level of disturbance it is considered unlikely that previously unrecorded sites of aboriginal cultural or archaeological significance would be located on the site.
 - The site is not listed as a Local or State Heritage item and the existing farm buildings and cottages located on the property have not been identified to have European heritage significance.

In view of the above considerations Council Officers are satisfied that the proposed development is unlikely to impact items of Aboriginal or European heritage significance. However, it is recommended that should the proposed development be approved standard conditions of consent are imposed requiring the person acting with this consent to report any previously unidentified items of aboriginal significance uncovered during the carrying out of works halt works where appropriate and act in accordance with relevant legislation.

Flora and fauna impacts

Consideration has been given through the development assessment to the potential for on and off-site flora and fauna related impacts.

Site Works

Ecological advice related to the proposed development was provided by MJD Environmental in correspondence dated 8 March 2022 and 7 April 2022 (the 7 April 2022 advice had regard to the amended development layout). The advice provides a comprehensive list of species within the subject site and includes introduced and exotic grasses. Informed by the observations of the site inspection and the number of exotic species the ecologist was of the view that the grassland comprised category 1 - 'low conservation grassland' exempt under the Local Land Services Act 2013 and thereby exempt from the Biodiversity Offset Scheme (BOS) native vegetation clearing threshold under the Biodiversity Conservation Act 2016.

Council Officers are satisfied that the carrying out of the proposed works would not have a substantive on ecological communities and would be in accordance with the relevant provisions of the Biodiversity Conservation Act 2016 and related legislation.

Martindale Road Work

Improvements are required to Martindale Road to facilitate the carrying out of the proposed development, these road works will require road widening and vegetation removal at locations along Martindale Road.

NGH Ecological carried out an inspection of vegetation in the Martindale Road Reserve and provided a related report dated 25 November 2022. The key findings and conclusions of this report are:

'The site inspection found that the vegetation within the site consists of both native and exotic vegetation. The abundance and diversity of exotic species was observed to be much higher where native trees were absent and, where multiple native trees formed patches, the vegetation integrity was noted to be higher with more native understorey species being present.'

Native vegetation patches along Martindale Road were commensurate with PCT 3485 – Central Hunter Slaty Gum Grassy Forest and therefore form part of the listed Hunter Valley Foothills Slaty Gum Woodland in the Sydney Basin Bioregion TEC. However, due to the fragmentation, young and small nature of patches with little capability to create habitat for fauna, and the abundance of HTWs, it is unlikely these areas account as significant vegetation belonging to this TEC and have been assessed as not consisting of high constraint to future road works'.

Council Officers note that the study area for the ecological assessment correlates with locations to be affected by road safety improvements required for the proposed development (both of which are limited to the southern Martindale bridge approach and the site intersection and the development site). Council Officers are satisfied that the Martindale Road improvement works required to facilitate the proposed development are unlikely to have any significant ecological or environmental impact that would present an issue for the determination of this development application.

Operational & off-site (National Park) Ecological Considerations

The subject site adjoins the Wollemi National Park. The Wollemi National Park in turn forms part of the Greater Blue Mountains World Heritage Area.

Initial comments received by Council from the National Parks and Wildlife Services dated 18 November 2021 requested the submission of additional information to inform their consideration of the proposal. This information was supplied by the applicant through on the 24 March 2022 and incorporated into the 3 June 2022 development application amendment.

The additional information included:

- An assessment of the proposed development against the *'Development adjacent to National Parks and Wildlife Services Land – Guidelines for consent and planning authorities'* (Appendix 13a of the SoEE)
- An assessment of the proposed development against the *Greater Blue Mountains World Heritage Area Strategic Plan and Significant Impact Guidelines – Environmental Protection and Conservation Act 1999* (Appendix 13b of the SoEE)
- Ecological Advice Report prepared by MJD Environmental (Appendixes 9a and 9b of the SOEE).

Upon review of the additional information, the National Parks and Wildlife Services provided further advice to Council dated 30 March 2022 advising Council that they had no further objection to the proposed development subject to recommended conditions related to carrying out of further surveys prior to the construction and the installation of an exclusion device on hollow bearing trees retained on-site (draft condition 25).

Key assessment considerations and outcomes included in the additional information provided in relation to this matter include:

- The National Park area in the vicinity of the development site includes habitat for endangered Brush Tailed Rock Wallabies. Ecological advice prepared by MJD Environmental has had regard to the potential for the proposed development to impact this endangered species population. This advice notes that the nine (9) locally recorded sightings of this species occur within the Wollemi National Park northeast of the site with no native mammals observed on the site during the times that surveys were conducted. Advice provided by MJD Environmental is that the proposed development is unlikely to impact habitats of these species in the locality by due to the controlled nature of the proposed development, with greyhounds contained within kennels and a barrier fence restricting access to the site by native animals. The NSW Parks and Wildlife Services supports this contention.
- The proposed development would not conflict with the greater Blue Mountains World Heritage Area Strategic Plan.
- The proposed development would be compatible with the National Parks and Wildlife Services document '*Development adjacent to National Parks and Wildlife Service Lands – Guidelines for consent and planning authorities*'.
- The Operational Management Plan submitted details systems, monitoring and escape management practices to be put in place to prevent greyhounds escaping the facility, recapture of any escaped greyhounds and reviewed for learnings to prevent future occurrences.
- The applicant provided information dated 21 February 2022 by Sharon Andronicos – Facilities Manager with Greyhounds as Pets Program for GRNSW, as a person experienced with greyhound management and behaviour related to concerns over animal escape and potential for escaped animals to have an ecological impact. She is confident that there would be minimal chance of an animal escaping from the facility and, if an animal did escape, it is expected that the animal would return to the facility for their treats, companion, home familiarity and/or their main carers.
- National Parks and Wildlife Services correspondence dated 30 March 2022 indicates they have no concern with the development application, subject to recommended conditions being included in any determination.

Council Officers are satisfied that where greyhounds are cared for and kept at the site in the manner set out, the proposed development and the long-term keeping of greyhounds at the site is unlikely to have any significant adverse ecological impact to the locality including the surrounding Wollombi National Park.

• Utilities

Water Supply

The design of the water infrastructure required to support the proposed development has been informed by:

- Hydraulic Services DA Utility Report – Warren Smith Consulting Engineers, 22 September 2021
- Drought Security Strategy Proposed Greyhound Facility – Larry Cook Consulting Pty Ltd, 26 May 2022
- Drought Hydraulic Equipment Concept (Consultant Advice) – Warren Smith Consulting Engineers, 31 May 2022

Analysis of water demands indicated that the facility would require approximately 14,490L of drinking water a day and 75,600L of non-drinking water (a breakdown of

water uses contributing to each total is included in these reports). Informed by these calculations it was identified that:

- Rainwater alone could not be relied on for the supply of drinking water and that treated creek water would need to be used to supplement drinking water requirements. This was included in the hydraulic system design provided.
- The total annual water requirements for the facility were calculated to be 32.9ML. The site currently holds a 170ML water license to draw water from Martindale Creek. Where the facility relies entirely on Martindale Creek to for its water consumption the facility would draw on 19.3% of the water licenses held in relation to the land (the actual water usage after rainfall and water re-use was accounted for was anticipated to be 17.4% of the license allocation).

Council Officers sought further information related to contingency planning to demonstrate adequate consideration had been given to the maintenance of water supply during droughts and dry periods where Martindale Creek flows are interrupted or water allocations restricted. The supplementary reports referenced above explored this issue and put forward additional on-site water storage to provide a reasonable level of drought protection to the facility. Key facts and findings from the reports are summarised and considered below:

- The Larry Cook Drought Security Strategy included a summary of research related to droughts noted their general impact on the Australian East Coast Region, the likelihood of droughts becoming more severe as a result of climate change and that during severe 'worst-case scenario' of an extended dry spell and rainfall deficiency Martindale Creek would cease to flow –prior drought examples were noted where creek flow was likely affected.
- Section 5 of The Larry Cook Drought Security Strategy includes a review of the water license allocation for the facility in context with the Water Sharing Plan for the Hunter and notes the large contingency allocation held by the facility – overall maximum usage calculated to be 19.3% (32.9ML) of the 170ML water allocation license held in relation to the site. Noting the projects water requirements in context with its allocation and having regard to the Water Sharing Plan the project water take from Martindale Creek was 'considered feasible and workable except in times of severe long dryness'.
- The Larry Cook Drought Security put forward options related to alternate water sources that may be explored to drought proof the facility potentially including one or a combination of river water, groundwater supply, above ground water capture and storage and road cartage. The report included observations around the feasibility of options referenced.
- The Warren Smith Consulting Drought Hydraulic Equipment Concept was informed by the Larry Cook Report findings and prepared to present a hydraulic equipment concepts to facilitate water security during extended periods of drought affecting the facility. This report put forward the following related to the management of water usage during dry periods.
 - o Reduced water consumption to be enacted during drought periods (see table 4 of the report for water usage breakdown). Under drought/restricted water usage conditions water use to be reduced to 16,095L/day from 90,090L/day from non-drought water usage.
 - o Water tank storage, the additional of on-site water tank storage proposed to encompass 6ML of above ground and 0.3ML of below ground storage to provide water security during dry periods proposed. Water stored in the above ground tanks would be drawn from Martindale Creek during periods where water is available.

- During drought periods where water is unavailable or intermittently available the facility will be operating in accordance with its reduced water consumption guidelines and non-essential water use restricted. The balance of this water storage and reduced water consumption use requirements during dry periods should enable the facility to operate for 12 months without drawing water from Martindale Creek. The report also notes the ability to review further water security strategies as the project commences.

Council Officers are of the view that suitable consideration has been given to the water requirements for the project and that adequate contingency planning has been carried out to ensure reasonable water security is provided to the proposed development during drought and support its continued operation through such periods.

Council Officers have recognised the potential for climate change to affect weather patterns and exacerbate drought and dry periods but regard the 12 month water storage contingency proposed to be a reasonable drought contingency and note that there would be ability for this water contingency to be increased and/or opportunities for additional water sources to be explored alongside reduced operating and water consumption provisions on a needs basis, should the development be approved and it be identified that further drought resilience measures are required.

It is recommended that a condition of consent be imposed requiring the periodic review of the facilities drought resilience strategy and the adoption/exploration of any recommended operational improvements (draft condition 67).

Wastewater

The subject site does not have access to reticulated Council sewer. Accordingly, an on-site sewage management system is required to manage wastewater generated by the proposed development.

The applicant has proposed an on-site sewage management system comprising of an Anaerobic Bio Reactor with a membrane facility with treated wastewater to be managed via surface spray irrigation. In addition to treating wastewater the Anaerobic Bio Reactor plant (also referred to as a biogas plant in the technical reports provided) would produce small amounts of electricity approximately, 20KW hours per day which could be used to supplement the operating energy requirements of the facility and/or fed back into the grid.

The design of the on-site sewage management and biogas systems have been informed by the following technical reports:

- Wastewater Management Plan, Larry Cook Consulting 28 November 2022
- Bioenergy Feasibility Study prepared by Inoplex Pty Ltd dated 7 October 2021

The findings of both reports are supportive of the method of on-site sewage management proposed and note the method of on-site sewage management proposed as being in accordance with the relevant Environmental Health Protection Guidelines and Council's on-site sewage management requirements.

Council's Senior Environmental Officer agrees that wastewater can be effectively managed on-site with minimal environmental impacts and indicates that the proposed development can be approved subject to recommended conditions of consent.

Council's Senior Environmental Health Officer referenced the requirement for a Section 68 Permit to be obtained from Council under the provisions of the Local Government Act 1993 prior to the endorsement of the final on-site sewage management system design and recommended that any such approval be obtained prior to the issue of a Construction Certificate and the system installed prior to an Occupation Certificate as well as specifying documentation to accompany the Section 68 permit and additional operational requirements.

Council Officers are satisfied that wastewater associated with the proposed development would be appropriately managed on-site in accordance with the relevant Environmental Health Protection Guidelines, and generally in accordance with the method of wastewater management proposed subject to the submission of a final design, technical information and operating parameters with the relevant Section 68 Permit.

Stormwater

The stormwater management system proposed includes the collection of stormwater from each kennel area, filtration for pollution control and atmospheric dispersal through a settling pond.

Commentary has been provided on Council's consideration of the suitability of the system proposed under the Development Control Plan Section 25 Stormwater Management heading.

Council Engineers are generally satisfied that the stormwater management system proposed is a workable stormwater arrangement. Council Engineers have requested conditions be imposed requiring alterations to the final design of the system to enhance pollution management controls and ensure the ongoing functionality of the system (draft condition 12, 40, 46 & 56).

- **Noise and vibration**

The potential for adverse noise impacts from barking dogs kept at the facility has been a key concern raised in submissions and a key assessment consideration for Council Officers.

Council engaged an independent acoustic expert to peer review the acoustic reports prepared by the proponent, and consider acoustic information submitted to Council by submitters to the development application.

To provide context around the assessment of noise impacts a table/timeline has been included below providing a summary of actions and information received in the assessment of noise related to the proposed development.

Date	Action	Agent
18 October 2021	Development Application Lodged accompanied by Stantec Acoustics Report, dated 8 October 2021 This report indicated that the proposed development could be supported from a noise impact perspective.	Applicant

2 November 2021 – 23 November 2021	Public notification of development application. Concerns raised through submissions received in relation to the development application included noise related to acoustic impacts from the development.	Council/Public submissions
21 January 2022	Council requested additional information from the applicant regarding components of the acoustic assessment.	Council
March 2022	Council engaged RCA Australia to complete a peer review of the Acoustic Report submitted by Stantec, and any additional information submitted.	Council
29 March 2022	Request for further additional information issued by Council at the direction of Council's acoustic consultant	Council
3 June 2022	Comprehensive Additional Information Response and DA Amendment submitted by Applicant. The additional information included updated Acoustic Report. This report indicated that the proposed development could be supported from a noise impact perspective.	Applicant
27 June 2022 – 27 July 2022	Renotification of the development as amended. Submissions received included submissions raising concerns related to the impact of flooding on site access.	Council/public submissions
19 July 2022	Council's acoustic consultant issued an updated request for information.	Council
21 July 2022	Applicant response to additional information request applicant .	Applicant
3 August 2022	Preliminary view on updated information by Council acoustic consultant.	Council
22 August 2022	Correspondence received from a member of the public who made a submission in relation to the development application including a peer review of the applicant's acoustic report prepared by Day Design Consulting and Acoustical Engineers (who did not support the findings of the report prepared on behalf of the applicant).	Public Submission
September 2022	Council provided the Day Design peer review to the applicant's consultant with a request to provide a response to the matters raised.	Council
23 September 2022	Applicant's consultant submitted a response to the Day Design peer review.	Applicant
27 October 2022	Council's acoustic consultant completed an initial peer review of the available reports and information. This	Council

	<p>preliminary report was supportive of the proposed development from an acoustic impact perspective.</p> <p>This document forms part of the final Acoustic Assessment Peer Review Report.</p>	
2 November 2022	<p>A briefing was held with the Hunter and Central Coast Regional Planning Panel which included a discussion on the status of the acoustic assessment and a briefing by Council's acoustic consultant.</p> <p>Following the briefing Council Officers and their acoustic consultant undertook further investigations to respond to queries raised through the briefing.</p>	Planning Panel/Council
4 November 2022	Further request for additional information issued by Council to the applicant.	Council
6 February 2023	<p>Submission of final updated acoustic report by the applicant's consultant.</p> <p>This report indicated that the proposed development could be supported from a noise impact perspective.</p>	Applicant
15 March 2023	<p>Completion of final peer review report by Council's Acoustic Consultant.</p> <p>This report indicated that the proposed development could be supported from a noise impact perspective subject to recommended conditions.</p>	Council

To assist the Panel in determining this development application Council Officers have included the following key Acoustic Reports as attachments to this Assessment:

- Acoustic Peer Review Report prepared by Day Design (consultant engaged by submitters) dated 18 August 2022.
- Greyhound Racing Acoustics Report Revision7, prepared by Stantec (applicant's consultant) current revision dated 2 February 2023
- Acoustic Assessment Peer Review DA 2021-129, prepared by RCA Australia (Council's consultant) dated 15 March 2023.

A brief summary of the conclusions and assessment matters of each of the reports referenced above has been included below.

Acoustic Report Peer Review, Day Design (submitters consultant), 18 August 2022

The report put raised 25 matters related to the Acoustic Assessment submitted with the development application and put forward the following conclusion.

'in conclusion it is my professional opinion that in its current form, the acoustic report prepared to support the recently submitted development application (DA129/2021) for the establishment and operation of a boarding kennel at 1959 Martindale Road, Martindale has not been adequately prepared, is not technically correct and has not demonstrated that if approved, the development will not cause an adverse impact on adjoining land and amenity of the neighbourhood'.

The proponent's consultant was requested to review and respond to the matters raised, which was completed in the additional response dated 23 September 2022 and the Day Design Report and subsequent responses considered by Council's acoustic engineer when finalising their peer review of the acoustic assessment.

A detailed examination of each of the matters raised can be seen in table 4 of the Acoustic Assessment Peer Review prepared by RCA Australia dated 28 February and included as an attachment to this report.

Greyhound Racing Acoustics Report Revision7, Stantec dated 2 February 2023

This final report from the applicant's acoustic consultant was updated from previous reports to include:

- A discussion around the Noise Guideline for Local Government (a policy document which the submitter's consultant submitted was the relevant guideline for the assessment of the application in place of the Noise Policy for Industry – it is worth noting that both the applicant and Council's consultant are of the view that the Noise Policy for Industry is the correct assessment guideline). The discussion related to the Noise Guideline for Local Government indicated that if a person adopted this as the correct assessment standard the proposed development would remain compliant with the relevant criteria under that document.
- An updated assessment of mechanical noise
- An updated assessment of traffic noise

The report included previous information related to the assessment of noise from the kennel operation and animal barking.

After commenting on recommended noise mitigation measures the report put forward the following conclusion.

'This document presents a noise impact assessment for the proposed dog kennel facility to be located in Bylong Park (upper Hunter Valley Region) NSW.

The nearest residential receivers were identified, and noise logging was conducted in short term and long-term measurements. Criteria were determined based on the results of the noise logging.

An acoustic model was built to predict the noise levels at nearby residents and the results were compared with criteria for two different scenarios.

Recommendations for noise control were provided regarding a plan of management and architectural design controls.

It was determined that the noise criteria from the NSW Environmental Protection Authority can be achieved for daytime, evening, and night-time periods. As such the development should be approved by Council from an acoustic assessment perspective.'

A theme of the submissions received has been the suitability of baseline weather data being used to prepare technical reports. Council's Acoustic Consultant has examined the suitability of baseline data when analysing the Stantec report and technical commentary can be found on this within the Peer Review report.

Supplementary information was requested from the applicant to assist the consideration of weather data related to technical reports. The document submitted outlining the baseline weather data selection and its use in models has been included as an attachment to this report.

In relation to the Stantec Acoustic report, the supplementary report baseline weather data used to inform the report was obtained from a Denman weather station 15km from the site, as the closest weather station with suitable historical weather records. In explaining how the data was used to inform the Acoustic modelling, the consultant notes wind as the factor informing an acoustic model, that the second highest wind speed criteria was selected for wind categorisation at the site (category 5 – categories are rated between 1 and 6, 1 being least severe and 6 being most severe) and that during attended noise logging periods at the site wind data was also collected and it was noted that at no time did wind speeds reach speeds defined for category weather 6. Council's acoustic consultant RCA made enquiries related to the consideration of noise enhancing weather through the peer review of the Stantec assessment. A reference to this query can be seen in Section 4.4 of the peer review report. In a corresponding table Council's consultant notes the Stantec report assumed noise enhancing weather conditions at all times (i.e., worst case scenarios) and demonstrated that noise compliance was still achieved.

Acoustic Assessment Peer Review DA 2021-129, RCA Australia (Council's consultant), 15 March 2023.

This report is comprised of two parts, the final review document dated 23 February 2023 and initial peer review undertaken on the 27 October 2022.

The final Acoustic Assessment Peer Review document concludes:

'RCA's previous report concluded that Stantec had undertaken a fair and representative noise impact assessment in accordance with the most relevant noise guideline, which is the Noise Policy for Industry. Following the November Regional Planning Panel briefing, RCA understood there to be three outstanding noise issues for Stantec to address in an updated report. RCA are satisfied that Stantec have now adequately addressed two of the three open noise issues and that the third issue (mechanical plant) can most easily be resolved at the occupation certificate stage.'

Summary Assessment

Council Officers are of the view that:

- Noise Policy for Industry is the most relevant noise guideline to inform the assessment of potential noise impacts from this development application.
- While the Noise Guide for Local Government is not considered to be the relevant noise guideline, the applicant has undertaken a review of noise criteria included within this document. This assessment indicates that the proposed development would be below the noise criteria within that document.
- There appears to be no basis for objection to the reliability of the acoustic assessment completed by the applicant's acoustic consultant owing to the

baseline weather used in compiling that report. Refer to the discussion below the summary of the Stantec report conclusion and the attachment related to baseline weather data for sub-consultant reports for related commentary.

- Council Officers accept the view of their acoustic consultant that the applicant's acoustic consultant has undertaken a fair and representative noise impact assessment in accordance with the most relevant noise guideline.
- As indicated by Council's acoustic consultant in their final peer review noted that potential noise impacts from mechanical plant used can be managed through conditions of consent (draft condition 24).
- Council's acoustic consultant indicates that the final Stantec report may be relied upon in as the determination of this development application and that it is accepted that the proposed development can be supported from an acoustic impact perspective.
- While the available information, technical reports and modelling indicates that the proposed should be supported from an acoustic impact perspective Council Officers recommend operational conditions of consent be imposed to require processes related to complaint management and review of acoustic mitigation measures and impacts (draft condition 69).

- **Odour**

An odour impact assessment was prepared in relation to the proposed development by Wilkinson Murray. This report examined the potential for odour related to the proposed development to impact nearby sensitive receivers. This report concluded that the odour exposure was considered to be a 'negligible risk'.

This report has been reviewed by Council Officers, alongside an addendum accounting for the updated kennel location and additional information contextual information provided by the assessment author related to the baseline weather data that has informed the odour assessment. Based on their review of this information and the broader scope of the proposed development, Council Officers accept the report findings and that the proposed development would not adversely impact the locality through odour generation.

- **Waste Management**

A Waste Management Plan has been submitted in relation to the proposed development which considers waste management and minimisation through the construction and operation of the proposed development.

Operationally, animal waste would be managed through collection by operational staff and disposal into the wastewater management system. Further information around cleaning functions and animal waste collection is included in the Operational Management Plan. Animal waste collection would occur by staff daily alongside spot cleans occurring most days with full cleans (more substantive clean use of disinfectant and high-pressure hose out) occurring once a week. Once collected animal waste would be managed by the wastewater management system.

Other operating waste would include food, veterinary, staff, office, landscaping, residential and general waste. The amounts of waste generated, and storage and disposal requirements has been modelled by the Waste Management Plan which indicated the following waste storage requirements for standard non-medical waste

which would be stored separately in accordance with relevant standards and guidelines.

- | | | |
|------------------------------------|------------------|---------------|
| • General Waste – 240L bins x 6 or | 360L bins x 4 or | 660L bins x 2 |
| • Recycling – 240L bins x 4 or | 360L bins x 2 or | 660L bins x 2 |

The plan sets out how general and recyclable waste would be collected by a contractor on a fortnightly basis, with medical waste collected separately on a weekly basis. The Waste Management Plan provides further commentary around operational waste management practices including regular operating/waste management requirements for staff, waste storage, hygiene and waste management during emergency situations.

Council Officers are satisfied that the waste management plan has adequately considered anticipated waste streams, storage, management and disposal in relation to the proposed development.

- **Natural hazards**

Flooding

The issue of flooding related environmental impacts has been comprehensively considered by Council Officers within the Flood Impact Assessment File Note included as Attachment A to this report.

In considering this matter Council Officers have had regard to:

- EMM Flood Risk Assessment, dated August 2021
- EMM Flood Risk Assessment, dated May 2022
- EMM Memorandum, dated 30 November 2022
- Plan of Management – Daily Operations Plan (including emergency operating parameters) submitted 30 November 2022
- Bylong Park Farmstay Operational Plan

Flood impacts related to the proposed development include:

- Potential for the proposed development to be directly impacted through building inundation or flood forces from the 1% AEP flood event and the Probable Maximum Flood event.
- Frequency and duration of property access disruption during various flood conditions (the issue of site access being affected by more frequent flooding events was considered to present the two sub-issue categories relevant to the assessment of the proposal referenced below)
 - o Ability of site operations and greyhound welfare to be maintained during periods where site access is restricted.
 - o Risk and management of persons employed or working at the facility inadvertently or deliberately entering flood waters and putting themselves or others at risk.

Council Officers accept that the flood risk warning and response plan would establish operating conditions and measures at the proposed development which would:

- Take reasonable proactive steps to manage the likelihood of staff being located at or isolated on the site during events where access is restricted.
- Provide reasonable warning and decision-making time informed by available methods of data collection and monitoring to enable staff access to be restricted before a flood event.
- Include physical measures to restrict the ability of staff members to make poor decisions to enter flood waters to avoid being cut off at or from the site.
- Would ensure staff left on-site to maintain site operations are provided for in a safe manner. It is noted that the site is free from flooding at the 1% AEP, with residential buildings above the PMF AEP flood height, able to provide accommodation to house the 5-6 operational staff required during isolation periods. Sufficient supplies and amenities could sustain and support the people staying on-site. The method for ensuring and maintaining these supplies would be required to be detailed in final Flood Risk Management Plans to be specified in any consent.

Council Officers were satisfied that measures proposed would provide suitable and proportionate controls relative to the risk of individuals being exposed to flood waters. Accordingly, flooding related considerations were not considered as an environmental impact that would substantiate a decision to refuse the proposed development provided it the development is carried out in accordance with the management practices proposed and recommended conditions of consent.

The Flood Impact Assessment Attachment provides additional information related to the considering of flooding related impacts (draft conditions 15, 19(L), 20, 26, 36, 46(c)(f), 57, 58, 60 & 68).

Bushfire

A Bush Fire Threat Assessment was prepared in relation to the proposed development. While the proposed development did not comprise a type of development requiring a Section 100B Bushfire Safety Authority from NSW RFS under the Rural Fires Act 1997, Council Officers provided an advisory to the NSW Fire Service to consider the bush fire hazard of the development. NSW RFS provided their concurrence and recommended conditions of consent for the proposed development.

Council Officers are satisfied that the proposed development is acceptable provided it is carried out in accordance with the Bushfire Threat Assessment and conditions of consent recommended by the NSW RFS (draft condition 3, 16 & 39).

• **Social impact**

Social impacts of the proposed development are anticipated to be modest and predominately positive. The proposal would support the provision of post racing care for greyhounds and have positive outcomes in terms of establishing expectations for how the welfare of greyhounds and other animals used in entertainment and recreational pursuits should be administered after they are past their performance peak/utility.

Community concern about racing greyhounds is not a relevant consideration for this application, as racing is not to occur on site and the facility seeks to rehome retired greyhounds into the community.

After having regard to social impact considerations Council Officers are satisfied that the proposed development can be supported.

- **Economic impact**

the proposed develop would provide additional employment opportunities in the Muswellbrook Local Government Area. The documentation accompanying the development application indicates that once fully constructed the proposed development would support the equivalent of 24 full time jobs. In addition to direct employees and their contribution to the local economy, the facility will support local veterinary services and other local and regional enterprise related to its construction and operating requirements.

A submission was received from the Muswellbrook Chamber of Commerce advising of their support for the proposed development for reasoning related to its economic benefit

- **Construction**

The construction of the proposed development has the potential to have short-term traffic related impacts for Martindale residents and road users.

A Preliminary Construction Management Plan was requested to give assessment level consideration to construction traffic management logistics from a safety/road user conflict perspective. Key management measures proposed in the preliminary document include:

- Avoiding construction vehicles and delivery vehicles from using Martindale Road during school bus times.
- Encouraging construction staff to car share to site.
- Having construction staff sign off on a Driver's Code of Conduct as part of employment on site. An example of the Driver's Code of Conduct is provided with the traffic report.
- Nominating and documenting the access route to site for delivery vehicles.
- Provide written communication to all landowners and residents along Martindale Road to advise of upcoming works and potential impacts, along with contact details for the construction site manager.
- For the infrequent occasions when over size mass vehicles to enter the site, these will be required to occur outside school bus travel times and include escort vehicles as per TFNSW requirements. As per the above points, the landowners and residents along Martindale Road will be advised of these movements.

Given that construction will occur over a limited period, construction related disruption and impacts are manageable and could be controlled through conditions of consent related to management of construction related traffic. Conditions have been put forward regarding the submission of a final Construction management Plan and dilapidation survey of Martindale Road.

Overall Council Officers are satisfied that short term construction impacts related to the proposed development can be managed via conditions of consent.

3.7 Section 4.15(1)(c) - Suitability of the site

Council Officers are satisfied that the site characteristics are conducive to the proposed development. In forming this view Council Officers have observed:

- The site is zoned RU1 Primary Production, the proposed development is characterised as an 'animal or boarding or training establishment' a type of development permissible with consent within that land use zone under the Muswellbrook LEP 2009.
- The site is situated in a rural environment. The rural context of the locality has been respected by the design and location of the proposed development within the site.
- Utility services have been incorporated into the site design and layout to support the operation of the proposed development without impacting on local environmental qualities.
- The site adjoins the Wollombi National Park. The proposed development was referred to NSW National Parks who provided their concurrence to the proposed development subject to recommended conditions of consent.
- Consideration has been given to site attributes related to bush fire and flooding risks. A Bush Fire Threat Assessment, Flood Risk Assessment and supplementary information have been prepared by appropriately qualified experts in relation to the management of these issues. Site risks related to bush fire threat has been considered by Council Officers and NSW RFS who provided their concurrence to the proposal and recommended conditions of consent and flood risk considered by Council Officers who were satisfied that the proposal could be supported from a flood impact perspective (Council's Assessment of flood impacts has been included in Attachment A).

3.8 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

3.9 Section 4.15(1)(e) - Public interest

The proposed development is compatible with the public interest.

The proposal would provide additional local employment opportunities and support existing local business. Create the conditions for improved industry wide expectations for the ethical treatment of retired racing greyhounds through post racing care, retraining and adoption pathways. These recognised positive attributes of the development are balanced against potential amenity impacts related to the proposed development which have been considered in depth through the assessment of this development application.

Most public submissions received objected to the proposed development. While Council Officers respect the views put forward, and community concerns about greyhound racing, Officers are of the view, that on balance, the proposal is in the public interest.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for

comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Referral/Consultation Agencies			
NSW Rural Fire Service	S4.14 – EP&A Act Development on bushfire prone land	<p>The proposed development is not integrated development requiring General Terms of Approval from the NSW RFS.</p> <p>As the proposed development involved a unique facility on bushfire prone land an advisory referral was provided to NSW RFS.</p> <p>NSW RFS provided a response to this referral which gave their concurrence to the proposal and included recommended conditions of consent for Council Officers to include in any Notice of Determination where the application is recommended for approval.</p>	Yes (Conditions)
NSW National Parks and Wildlife Services	National Parks and Wildlife Services were referred the proposed development as the proposal adjoins the Wollemi National Park, a National Park under their control and management.	<p>NSW National Parks and Wildlife Services issued a detailed request for information dated 18 November 2021. The proponent provided additional on the 24 March 2022. This information was re-referred to NSW National Parks and Wildlife Services.</p> <p>National Parks and Wildlife Services provided a response dated 30 March 2022 that they were satisfied the issues previously raised had been addressed and the application could be approved subject to conditions.</p>	Yes (Conditions)
Wanaruah Local Aboriginal Land Council	A referral was provided to Wanaruah Local Aboriginal Land Council for advisory purposes.	No response was received within the timeframe for comment provided. The assessment has progressed accordingly.	Yes
Blue Mountains Advisory Council	The Blue Mountains Advisory Council was not directly referred the development application but provided a submission opposing the application.	<p>In their submission the Advisory Council outlined their role as assisting the National Parks and Wildlife Services in the management of the Wollemi National Park.</p> <p>As National Parks and Wildlife Services have indicated they have no objection to the proposal, comments by the Advisory Council have been noted.</p>	Yes
NSW Crown Lands	Carrying out of work on Martindale Road Reserve managed by NSW Crown	Comments provided by NSW Crown Lands advised Council that they required the ownership and management of the	Yes

	<p>Land.</p> <p>The trigger for this referral was improvement work required to the unmaintained Crown Road Reserve between the site and Martindale Road.</p>	<p>Crown Road Reserve to be transferred to Council where the development was approved.</p> <p>The transfer of the Crown Road Reserve was reported to the December 2022 Council Meeting where it was resolved that Council would submit a request to Crown Lands to commence the transfer of the related road reserve.</p> <p>Council' Roads and Drainage Team formally lodged a transfer request with the Crown on 27 February 2023. Council Roads and Drainage Officers will continue the progression of the road transfer in line with NSW Crown Lands requirements and the outcome of the determination of the development application.</p>	
Integrated Development (S 4.46 of the EP&A Act) (if none – N/A – to show consideration)			
Department of Planning and Environment– Water (DPE – Water)	<p>Initial advice provided by the applicant suggested that the proposed development did not require GTA from DPE – Water under the provisions of the Water Management Act 2000.</p> <p>This notwithstanding, an advisory referral was provided to DPE – Water and following the amendment of the development application DPE – Water was of the view that the works require a Controlled Activity Permit under Section 91 of the Water Management Act 2000.</p>	<p>DPE – Water provided General Terms of Approval (GTA) in relation to the proposed development in correspondence dated 16 December 2022.</p> <p>The General Terms of Approval issued by DPE – Water are to be included in the Notice of Determination and conditions of consent where the development is determined by approval.</p>	Yes (General Terms of Approval)

4.2 Council Referrals (internal)

The development application has been referred to various Council officers for technical review.

Officer	Comments	Resolved
Chief Engineer	<p>Council's Chief Engineer provided final advice supportive of the development application and recommending conditions of consent. In relation to each of the three key areas of consideration a summary of the final views and related conditions has been included below:</p> <ul style="list-style-type: none"> Stormwater – recommended system design improvements be incorporated to provide additional pollution control, protect against siltation within the system and support its ongoing maintenance. The applicant was advised and the recommended system improvements have been included as a recommended condition of consent requiring the submission of an updated Stormwater Drainage Management Plan addressing the design improvements specified by Council's Engineer and the related condition for Council approval prior to the issue of a Construction Certificate (draft condition 3, 16 & 39).. Roads – supports the subject development from a roads impact perspective subject to: <ul style="list-style-type: none"> The carrying out of road safety improvements to Martindale Road in the Road Safety Assessment. The carrying out of improvement to the Martindale Road/site access intersection to meet the AustRoads standards of a rural basic right-hand turn and treatment with a short-left hand turn. A requirement that all road safety improvements required are completed prior to the issue of a CC or suitable alternate traffic controls measures put in place subject to written agreement by Council Requirement for and specification of matters to be included in a Construction Traffic Management Plan. Requirement for the applicant to assume the maintenance for the former Crown Road Reserve connecting the site to Martindale Road. Requirement for related Section 138 permits for the works concerned. <p>Council Engineer's had regard to the current road and traffic conditions, information provided by the proponent related to the traffic generation around the previous use as a horse stud, the Traffic Impact Assessment and RFI response, and Traffic Assessment prepared by SECA Solutions. Where Martindale Road improvements were carried out in line with the above, it was</p>	Yes (conditions)

	<p>considered that the proposed development would not negatively impact road safety. Recommended conditions include draft conditions 13, 14, 18, 19, 37, 43, 45 & 61</p> <ul style="list-style-type: none"> • Flooding – information provided in relation to flooding has been considered in detail and examined in the attached File Note. Council's Chief Engineer does not object to the development from a flood impact perspective and recommends conditions of consent. Recommended conditions include draft conditions 15, 19(L), 20, 26, 36, 46(c)(f), 57, 58, 60 & 68. 	
Building Surveyor	Council's Building Surveyor has put forward recommended conditions of consent should the application be approved.	Yes (conditions)
Environmental Health Officer	<p>The proposed development and the waste water treatment system was referred to Council's Senior Environmental Health Officer.</p> <p>Final comments provided by Council's Senior Environmental Officer indicate no objection to the proposed development and recommended conditions of consent.</p> <p>A Section 68 Permit is required under the provisions of the Local Government Act 1993 prior to the endorsement of the final on-site sewage management system design and recommended that any such approval be obtained prior to the issue of a Construction Certificate and the system installed prior to an Occupation Certificate as well as specifying documentation to accompany the Section 68 permit and additional operational requirements.</p> <p>Recommended conditions related to this issue include draft conditions 9 and 41.</p>	Yes (conditions)
Acoustic Consultant	<p>Council engaged an independent acoustic engineer to undertake a peer review of the Acoustic Report prepared by the applicant's consultant Stantec in relation to the proposed development.</p> <p>A detailed discussion regarding the peer review and other relevant information can be found under the likely environmental impacts, noise and vibration heading of this report. A copy of the peer review report is also attached for the Panel's information.</p> <p>Council's independent acoustic engineer does not object to the proposed development subject to recommended conditions of consent. Recommended conditions related to this issue include draft conditions 24 and 69)</p>	Yes (conditions)

The outstanding issues raised by Council officers are considered in the Key Issues section

of this report.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 2 November 2021 until 23 November 2021. A total of 18 unique submissions were received. 612 form submissions were also received. Counting the form submission as a single submission Council Officers have calculated the total number of submissions received as being 19.

Following the amendment of the development application and submission of additional information, the development was renotified between the 27 June 2022 and the 21 July 2022. Through this renotification, a total of 681 form submissions and 27 unique submissions objecting to the development application were received. The majority of submissions opposed the development application.

Six (6) submissions received were supportive of the proposed development.

Following the closure of the developments public notification Council received correspondence from a submitter on the 23 August 2022 providing Council with a Peer Review document prepared by Day Design Pty Ltd in relation to the Acoustic Report submitted with this development application. This document has been considered by Council Officers and referred to Council's Acoustic Consultant to consider when preparing their advice on the proposed development.

Key issues raised by the submissions include:

- Animal welfare (no support for greyhound racing)
- Reliability of baseline weather data in technical studies as data from outside the Martindale Valley.
- Traffic and road safety
- Noise
- Wastewater management and potential impact on Martindale Creek
- Odour
- Visual impact
- Flora and fauna
- Flooding and access safety
- Flooding and its impact on site operation
- Challenges related to staffing and retention due to remote location and on-site facilities including phone service
- Water security and water use.
- Proximity to Wollombi National Park
- Bushfire risk

These key issues are considered and commented in the table below:

Table 6: Community Submissions

Submitter Concern	Planning Comment
Flooding and access safety	<p>Submitters raised concerns that the proposed development may put individuals in harm's way and at risk from flooding should they inadvertently or deliberately enter flood waters to enter or leave the site.</p> <p>To manage this issue the applicant has proposed a sophisticated flood warning system. The system includes proactive and reactive measures.</p> <p>Proactive measures involve the use of weather and streamflow monitoring data to inform the site's operation by taking decisions to ensure staff required to exit or enter can do so before site access is restricted. These decisions would include adjusting on-site staffing levels based on the probability of weather conditions arising that could restrict site access. In addition to these proactive measures the system would include an automated boom gate activated where streamflow exceeds the threshold for safe vehicle crossing. These boom-gates would physically prevent use of the causeway when it is un-safe to use.</p> <p>These safety measures are examined in detail in the Attachment A File Note, with commentary also included under the Likely Environmental Impacts, Natural Hazards, Flooding sub-heading of this Report.</p> <p>Council Officers are satisfied that where enacted these proposed measures would be a reasonable and proportionate protective response to mitigate the risk of individuals being exposed to flooding safety risks.</p>
Flooding and its impact on site operation	<p>The interruption of site access through the Martindale Creek culvert crossing during flooding and streamflow events has logistical complications related to the ability for the operation of the proposed development and animal welfare to be maintained during periods where site access is interrupted.</p> <p>This issue has been explored by the applicant in the technical flood studies and operational management plans submitted.</p> <p>The EMM Flood risk Assessment modelled anticipated frequency and duration of flooding/streamflow events that may restrict safe access to the site. Key findings from this modelling are included and examined in the Attachment A Council Flood Assessment File Note.</p> <p>The modelling indicates that typical events restricting access, result in access being restricted for several hours to several days, depending, with site access generally re-established within 3 days. Large streamflow events result in site access being restricted for longer periods of time with site access generally re-established within 10 days.</p> <p>The applicant has built measures into their Operational Management Plan to support the site's operation through periods where access is restricted. Measures include</p> <ul style="list-style-type: none"> - Providing sufficient onsite storage of dog food, veterinary medicine, and other dog related supplies for 14 days. <p>Appendix C of the Operational Management Plan (June</p>

	<p>2022) provides information around food storage.</p> <ul style="list-style-type: none"> - Ensuring sufficient accommodation is available to allow staff to stay onsite to care for the animals during periods of limited access. Staff accommodation would be stocked with sufficient supplies for 4–6 people for - Ensuring other items required by staff are maintained on-site as set out in Appendix C of the Operational Management Plan (June 2022) - Reducing the scope of site operations to allow the site to be administered of a crew of 5-6 individuals. Reduced operational requirements are set-out in the Daily Operations Plan November 2022. - Subject to specific needs and circumstances where site access is limited for several days the applicant has indicated that the site operator would have capacity to use a charter helicopter to access the site to support arrangements to refresh crews or support the sites operation for longer periods of restriction. - Proactively monitor weather patterns and make decisions under impending flooding conditions to ensure required operating crew ahead of site access being affected and any other crew provided forward warning to leave the site. <p>The suitability of these measures to support the site's operation and the flood warning and response strategies holistically have been reviewed in the Attachment A Council Flood Assessment File Note.</p> <p>Council Officers are satisfied that the measures and systems proposed would ensure that the function of the proposed development could be maintained during periods where site access is restricted.</p>
The reliability of technical studies owing to their use of baseline data outside the Martindale locality	<p>Noting the concern expressed by submitters around the use of baseline data obtained outside the Martindale locality, supplementary information from the applicant on the appropriateness of the baseline data used in technical reports. This supplementary information is included in Attachment M to this report.</p> <p>Council Officers have no issue with the methodology and baseline data used to inform the technical studies and reports.</p> <p>This notwithstanding, Council Officers recognise that while the reports are understood to have been scientifically prepared in accordance with relevant guidelines and informed by the best available data, they remain models and theoretical reports informed by development scope (as proposed), site conditions (as measured at the time any measurements were taken) and best available representative data. Worst case scenarios and conservative data has generally been relied on.</p> <p>While any significant deviation from the impacts/matters modelled by the reports to the actual related impacts are considered unlikely Council Officers recommend that operational conditions and controls are put in place to ensure further technical reviews, continuous improvement and complaint investigation/management related to ensuring that the development in practice operates within the acceptable parameters that key technical reports suggest will be achieved.</p>
Concern related to the proximity of the	<p>Ecological Advice has been prepared by MJD Environmental in relation to the proposed development.</p>

development to a National Park and risk posed to endangered rock wallaby population in the locality	<p>This investigation had regard to the proximity of the proposed development to the Wollemi National Park and the community of endangered Brush Tail Rock Wallabies. The report also noted that no endangered Brush Tail Rock Wallabies had been observed at the subject site. This investigation submitted that the proposed development was unlikely to impact the endangered species and the report and findings was referred to the NSW National Parks and Wildlife Service.</p> <p>Final referral comments received from NSW National Parks and Wildlife Service raised no objection to the proposed development in terms of its potential impact on the Wollemi National Park and any species within subject to conditions of consent.</p> <p>Additional discussion related to the consideration of this issue is included under the Likely Environmental Impacts, Flora and Fauna heading of this report.</p>
Welfare of animals looked after on-site	<p>Various legislation exists related to the welfare of animals. Where approved it would be incumbent on the site operator to ensure the standard of care provided to racing greyhounds is in accordance with this legislation including.</p> <p><i>Prevention of Cruelty to Animals Act 1979</i> <i>Companion Animals Act 1998</i> <i>Greyhound Racing Act 2017</i> <i>NSW Greyhound Welfare Code of Practice</i></p> <p>The site operator would be required to ensure that animals kept on-site comply with these legislated requirements.</p> <p>Council Officers are satisfied that the design of the application has had regard to relevant animal care standards. While it is also clear that the applicant has an understanding of their legislated animal care responsibilities it is recommended that where the application is approved a condition of consent is included referencing the proponent's obligation to ensure animal care is provided in accordance with relevant legislation and industry standards.</p>
Traffic and road safety	<p>The Likely Environmental Impacts, Access and Traffic subheading should be referred to for specific information related to the road safety improvements and their location on Martindale Road.</p> <p>When providing the information, the applicant submitted that the requirement for these improvements should not be fully attributed to their client as they viewed the safety requirements as actions required for road safety irrespective of the development application. This position was not adopted by Council Engineers who have requested all identified road safety improvements to be implemented where the development is approved. This position has been accepted by the applicant and it is recommended that related road safety improvements are administered through conditions of consent where the application is approved.</p> <p>Where the recommended road safety improvements are carried out Council Officers are satisfied that traffic related to the proposed development would not have an adverse impact on Martindale Road safety.</p>
Noise	<p>Noise, particularly noise from barking animals kept at the facility has been a key assessment consideration.</p>

	<p>Submitters objecting to the development application engaged an independent acoustic expert and submitted a peer review document to Council critiquing the applicant's acoustic assessment. Council's acoustic consultant reviewed this document when completing their peer review in relation to noise impact considerations.</p> <p>Detailed commentary related to the consideration of the acoustic assessment and peer review documents has been included under the Likely Environmental Impacts, Noise and Vibration sub-heading of this assessment. The final Acoustic Report submitted by the applicant, the peer review report prepared by the submitter's consultant and the report prepared by Council's consultant have been included as attachments to this report. This section of the assessment report and supplementary information should be referred to for detailed consideration of the noise issue.</p> <p>Ultimately the findings of the final Peer Review Report prepared by Council's acoustic engineer were supportive of the proposed development from a noise impact perspective. The findings of this report noted:</p> <p><i>'RCA's previous report concluded that Stantec had undertaken a fair and representative noise impact assessment in accordance with the most relevant noise guideline, which is the Noise Policy for Industry. Following the November Regional Planning Panel briefing, RCA understood there to be three outstanding noise issues for Stantec to address in an updated report. RCA are satisfied that Stantec have now adequately addressed two of the three open noise issues and that the third issue (mechanical plant) can most easily be resolved at the occupation certificate stage'.</i></p> <p>Council Officers accept that acoustic modelling undertaken is fair and representative along with its conclusions that the proposed facility could achieve the relevant NSW Environmental Protection Authority Noise criteria and could be supported from an acoustic assessment perspective.</p> <p>Council Officers recommend conditions of consent related to complaint management and noise monitoring to ensure the site is operated as proposed and in accordance with best practice from a noise management perspective.</p>
Wastewater management and Martindale Creek contamination risk	<p>Technical Reports have been submitted to Council from Larry Cook Consulting and Inoplex Pty Ltd related to the design and operations of the wastewater management system. These reports have in turn been considered by Council's Senior Environmental Health Officer. Commentary related to these reports and their review by Council's Senior Environmental Health Officer can be found under the Likely Environmental Impacts, Utilities, Wastewater subheading and referrals heading of this report.</p> <p>Council's Senior Environmental Health Officer does not object to the proposed development from a wastewater management perspective. These comments recognised the ability for wastewater to be effectively managed on-site with minimal environmental impacts and thereby recommended that the proposed development be supported subject to recommended conditions of consent.</p> <p>It is also relevant to note that the wastewater management system would be subject to a separate approval from Council under Section</p>

	<p>68 of the <i>Local Government Act 1993</i> and its approval and operation further managed through that approval process.</p> <p>The Council approved wastewater system would be capable of treating wastewater in accordance with relevant public health guidelines and with minimal environmental impact, including impact to adjoining waterways.</p> <p>It is an offence under the the Protection of Environment Operations Act 1997 to pollute waterways. In the unlikely scenario that the development resulted in a pollution incident, there would remain avenues for that incident to be investigated and appropriate action taken by the NSW Environmental Protection Authority irrespective of any Council approvals under the <i>Environmental Planning and Assessment Act 1979</i> and <i>Local Government Act 1993</i> related to the development application and on-site sewerage management system.</p>
Odour	<p>An odour impact assessment was submitted in relation to the proposed development. This report and its findings are discussed under the Likely Environmental Impact, Odour sub-heading of this report.</p> <p>The odour impact assessment concludes that the proposed development would have a negligible impact in terms of odour generation and related impact on adjoining residents. Accordingly, Council Officers have not raised any objection to the proposed development in relation to this issue.</p>
Visual impact	<p>Council Officers are satisfied that the proposed development would not have a significant adverse visual impact.</p> <p>The proposed development has been designed to be in keeping with the rural locality and would be visually screened from adjoining public roads and dwellings by the local topography and Martindale Creek tree line.</p>
Challenges related to staffing and retention due to remote location and on-site facilities including phone service	<p>Submitters have questioned the ability of suitably qualified staff being engaged and retained to work in a remote area and have referenced staffing challenges with the Bylong Valley Horse Stud previously operated at the site.</p> <p>The applicant has indicated that they had already received interest from within their organisation and the community to work at the site.</p> <p>Notwithstanding the above, there would be a range of market and workplace options available to the proponent to engage and retain operational staff at the facility. Given the range of market based and workplace incentives that an employer may utilise should they choose and after having regard to the provisions of Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> Council Officers see no reason to object to the development for any related reasoning.</p>

Water security and drought preparedness	<p>To inform the water use requirements, related infrastructure and drought resilience the following documents were prepared in relation to the proposed development:</p> <ul style="list-style-type: none"> ➤ Hydraulic Services DA Utility Report – Warren Smith Consulting Engineers, 22 September 2021 ➤ Drought Security Strategy Proposed Greyhound Facility – Larry Cook Consulting Pty Ltd, 26 May 2022 ➤ Drought Hydraulic Equipment Concept (Consultant Advice) – Warren Smith Consulting Engineers, 31 May 2022 <p>The proposed development requires 32.9ML of water per year. The required water would be drawn from Martindale Creek under the 170ML per year water license held by the applicant.</p> <p>While the water license allocation comfortably exceeds annual water usage requirements the applicant has been required to give consideration to water security issues that may arise during drought and dry periods that may see the facilities water allocation restricted or the Martindale Creek water source dry up.</p> <p>To manage these potential issues the applicant undertook the 26 May 2022 drought security study. From its recommendations the applicant adopted a plan to implement water saving measures during drought and dry periods to reduce daily water requirements to 16,095L during drought and dry periods and include 6.3ML of water tank storage in the development.</p> <p>This system of reduced water consumption and water tank storage would enable the facility to operate for up to 12 months without drawing water from Martindale Creek during dry periods where water is or is intermittently unavailable from that source.</p> <p>The hydraulic and drought studies referenced above are discussed in greater detail under the Likely Environmental Impacts, Utilities, Water section of this report.</p>
Bushfire risk	<p>The NSW Rural Fire Service provided their concurrence to the proposed development and recommended conditions of consent.</p> <p>The NSW Rural Fire Service are the technical experts in bush fire assessment for development applications.</p>

While the table does not discuss each individual comment made within the submissions Council Officers are satisfied that the proposed development suitably addresses the core issues raised relative to Section 4.15 assessment heads of considerations.

The Response to the submissions prepared by the applicant and included as an attachment dated 3 June 2022 – provides expanded commentary (put forward by the applicant) in relation to the submissions received from the initial notification of the development application. While additional matters were raised, and new submissions received through the renotification of the application key themes and issues were generally consistent.

5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations. Following a thorough assessment of the relevant

planning controls, documentation and technical studies submitted, issues raised in submissions, the advice of Council's independent acoustic engineer and the matters considered through this report, it is considered that the application can be supported subject to conditions.

In forming this view Council Officers note:

- General Terms of Approval have been provided from the NSW Department of Planning and Environment – Water for the carrying out of work on waterfront land.
- Comments provided by NSW Rural Fire Service have provided concurrence to the proposed development from a bushfire risk perspective, subject to compliance with related conditions.
- The proposed development would be in accordance with the relevant provisions of the Muswellbrook LEP 2009.
- The proposed development would be compatible with the requirements of relevant SEPPs.
- The proposed development is compatible with the requirements of the Muswellbrook DCP and conditions of consent have been recommended to ensure the development is carried out in accordance with certain relevant DCP requirements.
- The assessment report has considered potential environmental impacts related to the proposed development. Council Officers are satisfied that the proposed development is unlikely to have a significant adverse environmental impact.
- Council engaged an independent acoustic engineer to undertake a review of the Acoustic Report submitted in relation to the development application. The findings of Council's independent noise expert were supportive of the proposed development from a noise impact perspective.
- The site access across Martindale Creek can be intermittently restricted by high velocity creek flow and flooding. The applicant has demonstrated through the Flood Risk Assessment and supplementary documents that a suitable flood risk warning system can be installed to reduce the risk of drivers seeking to enter or leave the site through unsafe waters during periods where site access is restricted, and that suitable measures can be put in place to ensure the continued operation of the development during periods where access is restricted.
- The proposed development has access to suitable water license allocations to support its operation and drought contingency planning would ensure water security during dry periods through reduced water consumption and the 12 month of on-site water storage capacity proposed.
- Wastewater, including animal waste, would be managed via a suitable wastewater management system.
- Council Engineers do not object to the proposed development subject to the carrying out of improvements to Martindale Road including the upgrade of the Martindale Road site access intersection.
- On balance the proposed development is compatible with the public interest.

6. RECOMMENDATION

That the Development Application DA No 2021/129 for an animal boarding or training establishment at 1949 Martindale Road, Martindale (Lot 2 DP 1088704) for the purpose of rehoming retired racing greyhounds, be approved pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the recommended conditions of consent included as Attachment B to this report.

The following attachments are provided:

- Attachment A: Muswellbrook Shire Council Flood Impact Assessment File Note
- Attachment B: Recommended Conditions of Consent
- Attachment C: NSW Department of Planning and Environment – Water General Terms of Approval
- Attachment D: NSW Rural Fire Service Concurrence Comments
- Attachment E: NSW National Park and Wildlife Services Referral Advice
- Attachment F: Acoustic Assessment Peer Review, RCA Australia, 15 March 2023 (Council consultant)
- Attachment G: Acoustic Report, Day Design, 18 August 2022 (consultant engaged by submitter)
- Attachment H: Greyhound Racing Acoustic Report Revision 7, Stantec (applicant's consultant)
- Attachment I: EMM Flood Warning Response Plan Memorandum, 30 November 2022
- Attachment J: EMM Flood Risk Assessment, May 2022
- Attachment K: Traffic Impact Assessment, SECA Solution, 8 October 2021
- Attachment L: Response to Council Traffic RFI, SECA Solution, 11 April 2022
- Attachment M: Consultant baseline weather Data supplementary information
- Attachment N: Architectural Plans
- Attachment O: Applicant Response to submissions