



# **PLANNING AND DEVELOPMENT COMMITTEE**

# **AGENDA**

**12 MAY 2020**

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that a **PLANNING AND DEVELOPMENT COMMITTEE MEETING of ORANGE CITY COUNCIL** will be held in **VIA ONLINE VIDEO CONFERENCING PLATFORM ZOOM** on **Tuesday, 12 May 2020**.

David Waddell  
**CHIEF EXECUTIVE OFFICER**

For apologies please contact Administration on 6393 8218.

## AGENDA

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## **1 INTRODUCTION**

### **1.1 DECLARATION OF PECUNIARY INTERESTS, SIGNIFICANT NON-PECUNIARY INTERESTS AND LESS THAN SIGNIFICANT NON-PECUNIARY INTERESTS**

The provisions of Chapter 14 of the Local Government Act, 1993 (the Act) regulate the way in which Councillors and designated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public role.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons given for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussion or voting on that matter, and requires that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code of Conduct also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

### **RECOMMENDATION**

It is recommended that Committee Members now disclose any conflicts of interest in matters under consideration by the Planning and Development Committee at this meeting.

## 2 GENERAL REPORTS

### 2.1 ITEMS APPROVED UNDER THE DELEGATED AUTHORITY OF COUNCIL

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RECORD NUMBER: 2020/561

AUTHOR: Paul Johnston, Manager Development Assessments

#### EXECUTIVE SUMMARY

Following is a list of development applications approved under the delegated authority of Council

#### LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy “7.1 Preserve - Engage with the community to develop plans for growth and development that value the local environment”.

#### FINANCIAL IMPLICATIONS

Nil

#### POLICY AND GOVERNANCE IMPLICATIONS

Nil

#### RECOMMENDATION

**That Council resolves to acknowledge the information provided in the report by the Manager Development Assessments on Items Approved Under the Delegated Authority of Council.**

#### FURTHER CONSIDERATIONS

Consideration has been given to the recommendation’s impact on Council’s service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

**Reference:** DA 252/2018(1)      **Determination Date** 10 April 2020  
**PR Number** PR17963  
**Applicant/s:** Patina Wines  
**Owner/s:** Mr GL and Mrs AM Naef  
**Location:** Lot 6 DP 1017787 - 109 Summer Hill Lane, Lucknow  
**Proposal:** Agricultural produce industry (winery) and cellar door premises (wine cave)  
**Value:** \$400,000

**Reference:** DA 4/2019(1)      **Determination Date** 18 March 2020  
**PR Number** PR16467  
**Applicant/s:** Anglicare NSW South, NSW West and ACT  
**Owner/s:** Anglican Property Trust  
**Location:** Lot 1062 DP 863543 - 251-255 Anson Street, Orange  
**Proposal:** Community facility (change of use of parish hall, rectory and garage; alterations and additions to buildings) and business identification sign (wall sign)

2.1 Items Approved Under the Delegated Authority of Council

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**Value:** \$100,000

**Reference:** DA 406/2019(1)      **Determination Date** 25 March 2020

**PR Number** PR19434

**Applicant/s:** Adam Grant Constructions Pty Ltd

**Owner/s:** Mrs F Grant

**Location:** Lot 105 DP 1067744 - 259 Clergate Road, Orange

**Proposal:** General industry (16 industrial units) and subdivision (17 lot Community title)

**Value:** \$1,400,000

**Reference:** DA 407/2019(1)      **Determination Date** 28 April 2020

**PR Number** PR10621

**Applicant/s:** Mr GP Madafiglio and Ms FT Kinghorne

**Owner/s:** Mr P D Blowes

**Location:** Lot 2 DP 706204 - 121 Sale Street, Orange

**Proposal:** Demolition (carport), car parking (4 spaces) and fence

**Value:** \$20,000

**Reference:** DA 425/2019(1)      **Determination Date** 26 March 2020

**PR Number** PR26353

**Applicant/s:** Leaf Architecture

**Owner/s:** MET-Orange Campus Pty Ltd

**Location:** Lot 501 DP 1189720 - 257 Dalton Street, Orange

**Proposal:** School (continued use/retention of portable classroom; and part change of landuse - residential to educational)

**Value:** \$0

**Reference:** DA 2/2020(1)      **Determination Date** 30 March 2020

**PR Number** PR24008

**Applicant/s:** JCT Properties Pty Limited

**Owner/s:** JCT Properties Pty Limited

**Location:** Lot 13 DP 1147595 - 18 Scott Place, Orange

**Proposal:** Warehouse or distribution centre

**Value:** \$360,000

**Reference:** DA 12/2020(1)      **Determination Date** 30 March 2020

**PR Number** PR13473

**Applicant/s:** Designs@m

**Owner/s:** Mr S Wang and Ms L Liu

**Location:** Lot 25 DP826452, 295 Lords Place, Orange

**Proposal:** Demolition (existing garage), secondary dwelling and new detached garage

**Value:** \$100,000

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 25/2020(1)                      **Determination Date**    9 April 2020  
**PR Number**                      PR28407  
**Applicant/s:**                      Allied Group Pty Ltd  
**Owner/s:**                              Mr C Tseris  
**Location:**                              Lot 16 DP1255866, 33 Maramba Road, Orange  
**Proposal:**                              Subdivision (four lot residential)  
**Value:**                                      \$0

**Reference:** DA 28/2020(1)                      **Determination Date**    20 March 2020  
**PR Number**                      PR28489  
**Applicant/s:**                      GHD Pty Ltd  
**Owner/s:**                              DWP Homes Pty Limited  
**Location:**                              Lot 1 DP1259318, 11 Lily Pilly Place, Orange  
**Proposal:**                              Subdivision (two lot residential)  
**Value:**                                      \$0

**Reference:** DA 41/2020(1)                      **Determination Date**    26 March 2020  
**PR Number**                      PR21874  
**Applicant/s:**                      Tantara Property Holding Pty Ltd  
**Owner/s:**                              Tantara Property Holding Pty Ltd  
**Location:**                              Lot 100 DP 1103216 - 72 Hill Street, Orange  
**Proposal:**                              Hotel or motel accommodation (conversion of manager's residence to guest room)  
**Value:**                                      \$0

**Reference:** DA 53/2020(1)                      **Determination Date**    3 April 2020  
**PR Number**                      PR16723  
**Applicant/s:**                      Mr SJ and Mrs KM Rossetto  
**Owner/s:**                              Mr SJ and Mrs KM Rossetto  
**Location:**                              Lot 11 DP 871178 - 119 Ploughmans Lane, Orange  
**Proposal:**                              Subdivision (two lot residential)  
**Value:**                                      \$0

**Reference:** DA 65/2020(1)                      **Determination Date**    31 March 2020  
**PR Number**                      PR10713  
**Applicant/s:**                      Mr A Roberts  
**Owner/s:**                              Mr A and Mrs MA Roberts  
**Location:**                              Lot 1 DP 85324 - 14 Sale Street, Orange  
**Proposal:**                              Demolition (tree removal)  
**Value:**                                      \$2,500

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 71/2020(1)                      **Determination Date**    1 April 2020  
**PR Number**                      **PR7463**  
**Applicant/s:** Mr RD Paterson  
**Owner/s:** Mr RD Paterson  
**Location:** Lot 50 DP 556494, 101 March Street, Orange  
**Proposal:** Demolition (tree removal)  
**Value:** \$3,500

**Reference:** DA 74/2020(1)                      **Determination Date**    6 April 2020  
**PR Number**                      **PR619**  
**Applicant/s:** Mr DWW Stuart  
**Owner/s:** Mr DWW Stuart  
**Location:** Lot 1 DP32882, 261 Anson Street, Orange  
**Proposal:** Demolition (garage and tree removal) dwelling alterations and additions, garage (new construction) and attached studio  
**Value:** \$500,000

**Reference:** DA 75/2020(1)                      **Determination Date**    18 March 2020  
**PR Number**                      **PR8324**  
**Applicant/s:** AT and PL Swain Holdings Pty Ltd  
**Owner/s:** AT and PL Swain Holdings Pty Ltd  
**Location:** Lot 50 DP 595199, 25-27 McNamara Street, Orange  
**Proposal:** Business identification signage (six wall signs)  
**Value:** \$10,000

**Reference:** DA 78/2020(1)                      **Determination Date**    26 March 2020  
**PR Number**                      **PR20260**  
**Applicant/s:** Mr DM and Mrs JM Brus  
**Owner/s:** Mr DM and Mrs JM Brus  
**Location:** Lot 2 DP 1069705 - 1083 Forest Road, Spring Creek  
**Proposal:** Resource recovery facility and helipad (ancillary office and amenities building)  
**Value:** \$21,000

**Reference:** DA 90/2020(1)                      **Determination Date**    2 April 2020  
**PR Number**                      PR28519  
**Applicant/s:** Zauner Constructions  
**Owner/s:** James Richmark Pty Ltd  
**Location:** Lot 1 DP 1258217 - 1521 Forest Road, Orange  
**Proposal:** Hospital (fitout works relating to existing building: radiology)  
**Value:** \$1,000,000.00

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 93/2020(1)                      **Determination Date**  
**PR Number** PR28396  
**Applicant/s:** Hibbards Pty Ltd  
**Owner/s:** Hibbards Pty Ltd  
**Location:** Lot 5 DP1255866, 8 Catherine Place, Orange  
**Proposal:** Dual occupancy (attached) and subdivision (two lot residential)  
**Value:** \$420,000

**Reference:** DA 126/2020(1)                      **Determination Date**    24 April 2020  
**PR Number** PR6240  
**Applicant/s:** CIP Building Services  
**Owner/s:** GE and DA Gale Pty Limited  
**Location:** Lot 1 DP 325230 CA: 0547 - 86 Kite Street, Orange  
**Proposal:** Centre based child care facility (alterations to existing building)  
**Value:** \$185,222

<b>TOTAL NET* VALUE OF ALL DEVELOPMENTS APPROVED UNDER DELEGATED AUTHORITY IN THIS PERIOD:</b>	<b>\$4,522,222.00</b>
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*\* Net value relates to the value of modifications. If modifications are the same value as the original DA, then nil is added. If there is a plus/minus difference, this difference is added or taken out.*

**2.2 DEVELOPMENT APPLICATION DA 417/2019(1) - 1 HAMPDEN AVENUE**

RECORD NUMBER: 2020/612  
 AUTHOR: Summer Commins, Senior Planner

**EXECUTIVE SUMMARY**

Application lodged	10 December 2019
Applicant/s	Mr RA Cummins Tipperary Investment Holdings Pty Ltd
Owner/s	Tipperary Investment Holdings Pty Ltd
Land description	Lot 1 DP 770447 – 1 Hampden Avenue Lot 1 DP 111535 – 261 Lords Place Lot 1 DP 195511 – 259 Lords Place Lot 1 DP 114618
Proposed land use	Residential Flat Building
Value of proposed development	\$1,176,000.00

Council's consent is sought for a *residential flat building* at 1 Hampden Avenue and 259-261 Lords Place (see locality at Figure 1).

The development application relates to that part of the subject lands occupied by an existing car park. Development consent has recently been granted for boundary adjustment to create a consolidated land parcel over the existing carpark. The carpark lot is yet to be registered and is known as proposed Lot 301.

The proposal involves construction of a three level residential flat building on proposed Lot 301. The existing carpark will be retained, with construction of the residential flat building to commence one storey above the car park. The residential flat building will contain three apartments, with car parking for the residential units to be provided via existing surplus parking spaces in the car park.

Notable planning matters for this application include the suitability of the building design within the conservation streetscape and setting; and the allocation of onsite car parking to the existing commercial uses and proposed residential flat building on the subject land.

The application is reported to the Planning and Development Committee for determination as the proposal is considered to have "*significant public interest*", pursuant to Council's *Declaration of Planning and Development Assessment Procedures and Protocols*. Two (2) public submissions were received which raised relevant planning issues. The submissions reject the proposal's compliance with character-based development controls applying to the streetscape and heritage conservation area.

As outlined in this report, the proposed development is considered to satisfy the Local and State planning controls that apply to the subject land and particular landuse. Impacts of the development will be within reasonable limit, subject to mitigation conditions. Approval of the application is recommended.



Figure 1 - locality plan

**DECISION FRAMEWORK**

Development in Orange is governed by two key documents Orange Local Environment Plan 2011 and Orange Development Control Plan 2004. In addition the Infill Guidelines are used to guide development, particularly in the heritage conservation areas and around heritage items.

**Orange Local Environment Plan 2011** – The provisions of the LEP must be considered by the Council in determining the application. LEPs govern the types of development that are permissible or prohibited in different parts of the City and also provide some assessment criteria in specific circumstances. Uses are either permissible or not. The objectives of each zoning and indeed the aims of the LEP itself are also to be considered and can be used to guide decision making around appropriateness of development.

**Orange Development Control Plan 2004** – the DCP provides guidelines for development. In general it is a performance based document rather than prescriptive in nature. For each planning element there are often guidelines used. These guidelines indicate ways of achieving the planning outcomes. It is thus recognised that there may also be other solutions of merit. All design solutions are considered on merit by planning and building staff. Applications should clearly demonstrate how the planning outcomes are being met where alternative design solutions are proposed. The DCP enables developers and architects to use design to achieve the planning outcomes in alternative ways.

**DIRECTOR’S COMMENT**

The proposed residential flat building is permitted with consent. Notable planning matters considered in this report relate to bulk and scale of the development and the suitability of the building design in the streetscape and conservation setting; and the availability of onsite car parking.

Two (2) public submissions were received, rejecting the proposal's compliance with character-based development controls.

On balance, it is considered that the proposed development satisfies the planning provisions applicable to the site and particular land use. Approval of the application is recommended.

The application is reported to the Planning and Development Committee for determination as the proposal is considered to have "*significant public interest*", pursuant to Council's *Declaration of Planning and Development Assessment Procedures and Protocols*.

#### **LINK TO DELIVERY/OPERATIONAL PLAN**

The recommendation in this report relates to the Delivery/Operational Plan strategy "10.1 Preserve - Engage with the community to ensure plans for growth and development are respectful of our heritage".

#### **FINANCIAL IMPLICATIONS**

Nil

#### **POLICY AND GOVERNANCE IMPLICATIONS**

Nil

#### **RECOMMENDATION**

**That Council resolves to consent to development application DA 417/2019(1) for *Residential Flat Building* at Lot 1 DP 770447 – 1 Hampden Avenue, Lot 1 DP 111535 – 261 Lords Place, Lot 1 DP 195511 – 259 Lords Place and Lot 1 DP 114618 pursuant to the conditions of consent in the attached Notice of Approval.**

#### **FURTHER CONSIDERATIONS**

Consideration has been given to the recommendation's impact on Council's service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

#### **SUPPORTING INFORMATION**

This development application relates to land occupied by an existing car park over part 1 Hampden Avenue, 259 Lords Place and 261 Lords Place.

The existing shared car park is comprised of parking spaces associated with commercial development on those lands, namely:

- office premises at 1 Hampden Avenue (DA 340/2012)
- serviced apartments and office premises at 259 Lords Place (DA 340/2016)
- office premises at 261 Lords Place (DA 341/2012).

The development site is the subject of a recent DA for subdivision (boundary adjustment) to create a consolidated car park site, known as proposed Lot 301 (see Figure 2 below).

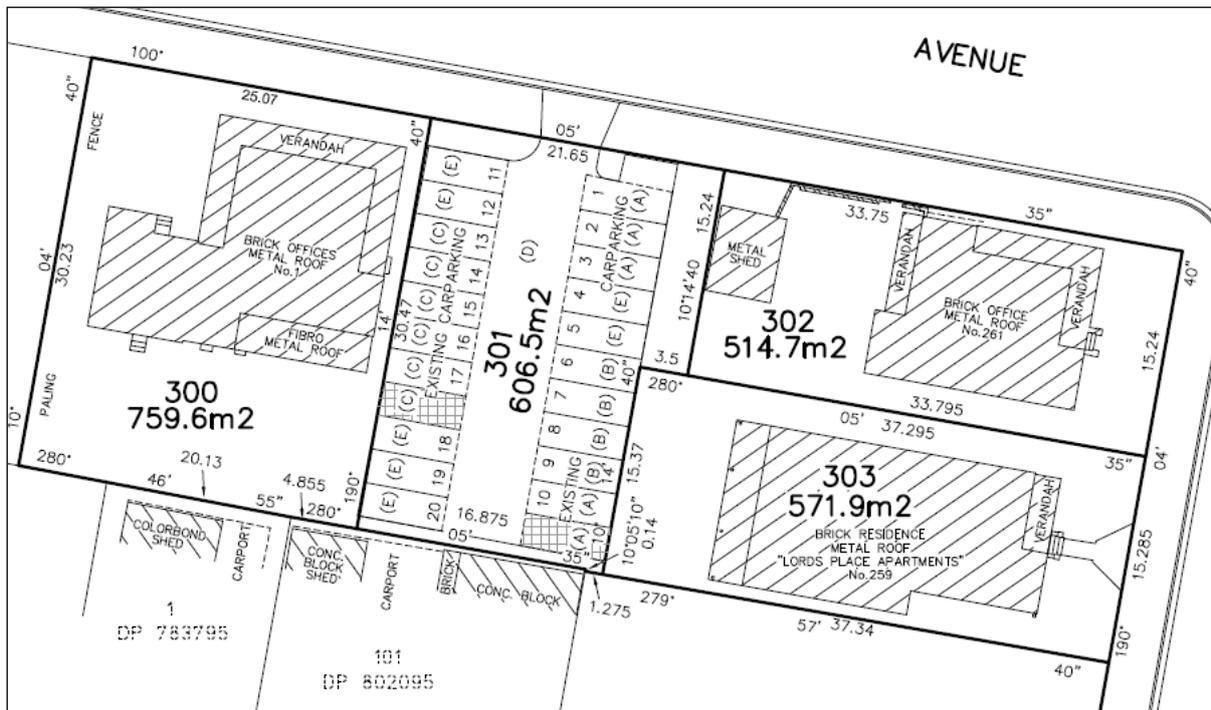


Figure 2 – proposed boundary adjustment to create consolidated car park site – Lot 301

The approved subdivision is yet to be registered. A condition is included on the attached Notice of Approval requiring registration of the plan prior to issue of a construction certificate for the proposed residential flat building.

### THE PROPOSAL

The proposal involves construction of a three-storey residential flat building on proposed Lot 301. The existing car park will be retained, with construction of the building to commence one storey above the car park.

The residential flat building will contain three apartments. A lobby containing lift well, fire stairs and plant room will be provided at ground level within the existing car park. First floor accommodation will comprise 1 x two bedroom apartment; and 1 x three bedroom apartment. A three bedroom apartment will be located on the second floor of the building. Car parking for the residential units will be provided via surplus parking spaces in the existing car park.

The proposed site layout and building design are depicted below (see Figures 3 and 4).



Figure 3 – proposed site plan



Figure 4 – proposed front (north) elevation to Hampden Avenue

**MATTERS FOR CONSIDERATION UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994***

Pursuant to Clause 1.7:

*This Act has effect subject to the provisions of Part 7 of the [Biodiversity Conservation Act 2016](#) and Part 7A of the [Fisheries Management Act 1994](#) that relate to the operation of this Act in connection with the terrestrial and aquatic environment.*

In consideration of this section, the proposed development is not likely to significantly affect a threatened species:

- The subject and adjoining lands are not identified as biodiversity sensitive on the Orange LEP 2011 [Terrestrial Biodiversity Map](#).

- The proposal does not involve clearing or disturbance of native vegetation; clearing thresholds prescribed by regulation do not apply.
- The site is contained within an established urban area and has been highly modified by the urban landuse pattern. The subject land does not contain known threatened species or ecological communities.

Based on the foregoing consideration, a Biodiversity Assessment Report is not required and the proposal suitably satisfies the relevant matters at Clause 1.7.

#### **Section 4.15 Evaluation**

##### ***Provisions of any Environmental Planning Instrument S4.15(1)(A)(I)***

#### **Orange Local Environmental Plan 2011**

##### **Part 1 - Preliminary**

##### **Clause 2.1 Aims of Plan**

The particular aims of Orange LEP 2011 relevant to the proposal include:

- (a) to encourage development which complements and enhances the unique character of Orange as a major regional centre boasting a diverse economy and offering an attractive regional lifestyle,*
- (b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Orange in a way that allows present and future generations to meet their needs by implementing the principles for ecologically sustainable development,*
- (e) to provide a range of housing choices in planned urban and rural locations to meet population growth,*
- (f) to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

The proposed development is considered to be consistent with the listed LEP Aims:

- The proposal represents ongoing redevelopment of the Hampden Avenue precinct, with positive impacts for the local economy and regional centre status of the City.
- The proposed development is not considered to be adverse to ESD principles.
- The proposal will increase the range of housing choices in the City and provide a housing form that is largely under-represented. Infill residential development nearby to urban services is good planning practice.
- As outlined in the following sections of this report, consideration has been given to the impacts of the development on the conservation values of the setting.

##### **Clause 1.6 Consent Authority**

Clause 1.6 is applicable and states:

*The consent authority for the purposes of this Plan is (subject to the Act) the Council.*

**Clause 1.7 Mapping**

The subject site is identified on the LEP maps in the following manner:

Land Zoning Map:	Land zoned B4 Mixed Use
Lot Size Map:	No minimum lot size
Heritage Map:	Land contains a heritage item and is located in a heritage conservation area
Height of Buildings Map:	Building height limit 12m
Floor Space Ratio Map:	Floor space limit 0.75:1 and 1:1
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
Groundwater Vulnerability Map:	Groundwater vulnerable
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Partly within a flood planning area

Those matters that are of relevance are addressed in detail in the body of this report.

**Clause 1.9A Suspension of Covenants, Agreements and Instruments**

Clause 1.9A is applicable and states in part:

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*
- (2) *This clause does not apply:*
  - (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
  - (b) *to any prescribed instrument within the meaning of section 183A of the [Crown Lands Act 1989](#), or*
  - (c) *to any conservation agreement within the meaning of the [National Parks and Wildlife Act 1974](#), or*
  - (d) *to any Trust agreement within the meaning of the [Nature Conservation Trust Act 2001](#), or*
  - (e) *to any property vegetation plan within the meaning of the [Native Vegetation Act 2003](#), or*
  - (f) *to any biobanking agreement within the meaning of Part 7A of the [Threatened Species Conservation Act 1995](#), or*
  - (g) *to any planning agreement within the meaning of Division 6 of Part 4 of the Act.*

In consideration of this clause, Council staff are not aware of the title of the subject property being affected by any of the above. Easements relating to the allocation of parking for adjacent development will remain in place.

**Part 2 - Permitted or Prohibited Development****Clause 2.1 Land Use Zones**

The subject land is zoned B4 Mixed Use.

The proposed development is defined as a *'residential flat building'* which means:

*A building containing three or more dwellings, but does not include an attached dwelling or multi dwelling housing.*

*'Residential accommodation'* (including *'residential flat buildings'*) is permitted with consent in the B4 Mixed Use zone.

**Clause 2.3 Zone Objectives and Land Use Table**

The objectives of the B4 Mixed Use zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To promote, where possible, the retention and reuse of heritage items as well as the retention of established buildings that contribute positively to the heritage or cultural values of the land in the zone.*
- *To promote development that supports the role of Orange CBD as the primary retail and business centre in the region.*

The proposal is not adverse to the relevant B4 zone objectives. Infill residential development is a complementary landuse in this spatial setting. Existing heritage and historic buildings on the subject lands be will retained. The proposal represents continued redevelopment and upgrading of the Hampden Avenue precinct, thereby strengthening the role of the CBD in the region.

**Part 3 - Exempt and Complying Development**

The application is not exempt or complying development.

**Part 4 - Principal Development Standards****Clause 4.3 Height of Buildings**

Clause 4.3 is applicable and states in part:

- (2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The Height of Buildings Map prescribes a maximum height of 12m for the subject land. The proposed residential flat building will have a ridge height of 11m, in compliance with Clause 4.3. Matters in relation to building form and presentation will be addressed later in this report.

**Clause 4.4 Floor Space Ratio**

Clause 4.4 applies to the land and states in part:

- (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The Floor Space Ratio Map prescribes a maximum floor space limit of 0.75:1 for the subject land. As demonstrated in the plan-set and supporting information, the proposed residential flat building will have gross floor area of 423m<sup>2</sup>. Based onsite area of 606.5m<sup>2</sup> (proposed Lot 301), the residential flat building will have FSR of 0.7:1 in compliance with Clause 4.4.

**Clause 5.10 Heritage Conservation**

The subject land contains a mapped Local heritage item (Item 116 – *dwelling* at 261 Lords Place) and is located within the Central Orange Heritage Conservation Area. Clause 5.10(4) is applicable and states in part:

*The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned...*

In consideration of Clause 5.10(4), the proposed development has been the subject of extensive consultation with Council’s Heritage Advisor, as follows:

- Upon lodgement, the application was referred to the Heritage Advisor for consideration and comment. He considered that *‘the proposal is uncharacteristic of the heritage conservation area and streetscape, in particular in relation to the height and form of the second floor.’*  
He recommended a number of design amendments to reduce the building bulk and scale including amendments to roof pitch and profile; a reduction in building height; alternative finishes and window proportions; and treatment of the building and car park entrances.
- Prior to the submission of amended details, a meeting was convened between the Heritage Advisor, proponent’s architect and Council staff. The Heritage Advisor’s recommendations cited above were discussed.
- Amended plans and supported information were subsequently submitted. The recommendations of the Heritage Advisor were largely accepted by the proponent’s architect (see table below), **excepting the recommended hipped roof profile to the front elevation.**

Heritage Advisor’s Recommendations	Proponent’s Response
The roof to be pitched at 25°	Accepted. The roof pitch will be 25°
The roof profiles to be hipped	Partly accepted. Plans amended. A hipped roof profile will be provided on the west (side) façade of the second floor roof. The two front (north) gable roof profiles on the first and second floor to Hampden Avenue will be retained.
Roof, flashing, gutters and downpipes to be heritage galvanised material	Accepted. Details shown on drawings and accepted via conditions of consent.
The building height to be reduced without compromising internal amenity	Accepted. Plans amended. The height of the building was reduced by 300mm to 11m.
Window width modules to be 900mm to north, east and west elevations of first	Partly accepted. Plans amended. Windows to north elevation of first floor

Heritage Advisor’s Recommendations	Proponent’s Response
floor (Unit 1)	Unit 1 to have window modules of 900mm.
The second floor wall finish to be clad	Accepted. Plans amended. The second floor wall finish will be clad in timber weatherboards.
An additional window and screen be provided to the second floor western elevation	Accepted. Plans amended. An additional screened opening will be provided to Unit 3 bed/robe on the west elevation.
A linear detail be provided in the face brickwork	Not accepted. The proponent maintains <i>“it is not appropriate to include an imported heritage feature into this new structure.”</i>
The driveway and vehicle areas to be basalt coloured concrete	Accepted. Plans amended.
A sliding vertical slated gate to be provided to car park entrance at the property boundary	Accepted. Plans amended.
The lobby entry pergola detail to extend to the front boundary; pedestrian gate to be provided on the front boundary.	Accepted. Plans amended.
Perimeter fencing to be provided to the car park on the side (east and west) boundaries for screening and security.	Accepted. Plans amended. A 1500mm high vertical steel slatted fence will be provided to the east and west carpark perimeter.
Plant shall not extend above the roof line	Accepted. A condition of consent may be imposed.
Soffit and services to be the same colour	Accepted. The concrete soffit and car park ceiling to be painted the same colours; services in the car park ceiling to be concealed within a dropped ceiling where possible.
A vehicle height warning indicator be provided.	Accepted.

- The proponent has provided detailed justification for retention of the hipped roofs to the front elevation on the first and second floors:

*“A review of the existing structures on Hampden Avenue and surrounds shows that there is a fairly even mix of hipped and gabled roofs facing the street and there is no predominate roof type. [Based on submitted streetscape analysis] it is reasonable to say that a gable roof is as sympathetic to the streetscape as a hipped roof.*

*As is evidenced in the streetscape analysis and a review of heritage areas in general, hipped roofs on street frontages are almost universally accompanied by a lower level verandah structure. It is very unusual to see a hipped roof facing a street that is not accompanied by a verandah and the applicant does not believe that such an arrangement... is in sympathy with the streetscape.*

*The proposal seeks to provide a detailed gable end in sympathy with neighbouring gable roofs. The street frontage proposed is composed of a heritage sensitive mix of materiality, has depth, light and shadow provided by the brickwork being proud of the clad wall and a strong spandrel element above the windows that gives way to a gable form with timber detailing. The gable end is carefully proportioned and well composed.”*

- The amended details were referred to the Heritage Advisor for consideration and comment. He remains of the view that the gable roof elements in the front elevation visually dominate this setting:

*“The current street elevation drawing indicates that the proposal has a large bulk and scale in the context of single-storey traditional buildings.*



*The Advisor remains of the view that these two elements [gable roofs to front elevation] visually dominate the adjoining buildings and streetscape... While the [proponent] rejects the alternative proposed, the view remains that the proposed elevation which presents two large gables fails to address the visual dominance of the proposal upon the setting and character of the Conservation Area.”*

With regard then to the above referral process, Council staff must contend with two professional and competing views on the suitability of the building design in this streetscape, pursuant to Clause 5.10(4). Council’s DCP 2004 Infill Guidelines provide the objectives and criteria for a ‘*reasoned assessment of the impact the proposal will have on heritage qualities and significance.*’ The Infill Guidelines are considered below.

**Orange DCP 2004 Infill Guidelines**

Infill development is defined as ‘*a new building in an established and valued historic context. Good infill is a building that is sympathetic to the surrounding buildings and historic context and creates new structures that enhance and complete the existing character*’ (NSW Heritage Office and The Royal Institute of Architects 2005).

The infill design objectives contained in the Infill Guidelines include:

- *Retention of appropriate visual setting.*
- *To ensure new buildings respond to and enhance the character and appearance of the streetscapes of the heritage conservation area.*
- *To ensure contributory heritage items retain their prominence and are not dominated by new development within a heritage conservation area and do not compromise the heritage values of the existing area.*
- *To ensure that new buildings do not adversely affect the significance, character or appearance of the heritage conservation area or heritage items.*

- *To allow for reasonable change within a heritage conservation area while ensuring all other heritage objectives are met.*
- *To ensure that new development facilitates the retention of significant vegetation...*

As outlined below, it is considered that the proposed development is reasonably consistent with the listed objectives.

The Infill Guidelines contain five Assessment Criteria for development within an established historic setting. The proposed development is considered against each criteria below.

### **1. Character**

The key characteristics of this setting include:

- Level topography.
- Avenue style tree plantings at road centreline; some advanced trees on private property; low plantings in front setbacks.
- Federation dwellings/converted dwellings circa 1910.
- Single-storey building forms, single and double fronted, addressing the street frontage.
- Double brick construction, brick or smooth finishes to walls, iron roofing, timber windows of vertical proportions, chimneys, hip or gable roof profile, verandah elements.
- Regular subdivision cadastre.
- Minimum front setbacks for buildings.
- Hardstand for car parking in front setbacks.
- Front fencing (picket or post and wire) and brick wall to secondary frontage at 261 Lords Place.

A site and landscape analysis drawing was submitted in support of the proposal. The proposed residential flat building has responded to the key characteristics of this setting, as outlined in the following Assessment Criteria.

### **2. Scale and Form**

The footprint and massing for the proposed building will exceed the improvements on adjoining lands in Hampden Avenue. The building will comprise a three storey building within a single-storey streetscape. The scale will be reduced, however, by breaking the roof at each level into smaller and separate elements (gable and terrace); and increasing the setback of the upper level.

As depicted below (see Figure 5), the proposed Level 1 building envelope and ridge height will reasonably relate to the built form at adjoining 1 Hampden Avenue. Footpath sight lines will not be disparate for the proposed building and the adjoining building at 1 Hampden Avenue.



**Figure 5 – Level 1 and 1 Hampden Avenue building height**

The building will have a rear stepping up effect, caused by the increased setback of the upper level (see Figure 6). As such, Level 2 will be largely removed from adjoining buildings in Hampden Avenue, and have less/minor contribution to the built form in the streetscape.

The height of Level 2 will relate to adjoining commercial buildings at the rear, with frontage to Byng Street and Lords Place. It should also be noted Council issued development consent for a third storey office extension on the recently redeveloped Carrington Hotel development which adjoins the subject land. The applicants at that time chose not to proceed with the third storey.



**Figure 6 – stepped building at rear**

The proposed building will reasonably relate to the form of neighbouring buildings (ie. 'shape, volume and arrangement of parts'), as follows:

- The building will have a roof profile (hip and gable) and pitch (25o) consistent with adjoining buildings in Hampden Avenue.
- The Level 1 ridge height will relate to the nearest adjoining building at 1 Hampden Avenue.
- Window proportions, width modules and fenestration will be consistent with those in the street.

- Fencing to the front boundary will be provided, together with small landscaped beds consistent with private landscaping on adjoining lands.
- The brick wall at the site frontage to enclose the car park on the east side will relate to the brick fence and side building façade at 261 Lords Place to the east.
- Terrace treatment will reflect the verandah decoration on adjoining buildings.

### **3. Siting**

The proposed residential flat building will be oriented to Hampden Avenue, consistent with adjoining improvements. The building will have a front setback of 2.8m, which will match the building line or articulation zone for adjoining buildings. The upper level (Level 2) will be set back 10.9m from the front boundary. Level 2 will be largely removed from the built form in Hampden Avenue.

Level 1 and part Level 2 will have a side boundary setback to the west (opposing 1 Hampden Avenue) of 5.7m. The side setback will provide a visual and spatial separation between the proposed development and adjoining historic building. A minimum setback will apply to the east side boundary. Front and side setbacks will reasonably reflect the established pattern of building spacing and view corridors in the streetscape.

The crossover and driveway width will be retained in their current form. Gates and perimeter fencing will provide screening of the vehicle areas in the streetscape.

Landscaping beds will be provided in the front setback on either side of the driveway. The scale of the beds and planting types proposed will reflect private landscaping on adjoining parcels, and provide some screening and softening of the car park brick wall at the site frontage. A narrow landscape bed is also proposed at Level 1 to address Hampden Avenue. The proposal does not involve vegetation removal.

### **4. Materials and Colour**

External colours and materials for the proposed residential flat building will be informed by those on adjoining buildings in Hampden Avenue, albeit with modern references. External finishes will comprise brown/tan brickwork; part timber wall cladding; galvanised steel roofing and guttering; aluminium windows; and steel awnings.

### **5. Detailing**

The proposed building is recognised as a contemporary infill building and has not attempted to mimic historic building forms nearby to the site. The proposed building design will incorporate modern details that reflect traditional elements present in the built form in the streetscape:

- Covered terraces : verandah treatment.
- Steel privacy awnings : sun shading awnings.
- Part brick and part clad wall finishes : lineal banding effect.
- Window grouping modules : traditional window proportions.

Fencing and landscaping treatment will match forms and proportions on adjoining parcels.

Services will be roof mounted within a recessed and screened platform that will not extend above the roof line. The proposal does not involve installation of solar panels, visible water tanks, satellite dishes or antennae.

**Site Analysis**

The Infill Guidelines provide that the following common levels should be considered when designing residential infill:

- Ridge line.
- Roof springing line.
- Verandah level.
- Window sill levels.
- Fence height.
- Side setbacks.
- Pattern of openings.

It is not possible to achieve all common levels for the particular development, as the proposed building commences one storey above existing ground level. Notwithstanding, it is considered that the ridge line (Level 1), fence height, side setbacks and pattern of openings are suitable within the context of the adjoining built form.

**In conclusion:**

The subject land is located in the Central Orange Heritage Conservation Area. Much consideration has been given to the suitability of the infill building in the streetscape and heritage setting.

The primary matter for contention relates to the building bulk and scale. The proposed building comprises a three-storey building within a single-storey streetscape. The building design responds to this conflict by increasing the setback of the upper level; and breaking the roof at each level into smaller and separate elements. In this way, Level 1 suitably contributes to the built form in Hampden Avenue with a ridge height consistent with adjoining 1 Hampden Avenue; and Level 2 is largely removed from the streetscape.

Council's Heritage Advisor recommended that a hipped roof profile be provided for the front elevation of the upper and lower gables, to assist in reducing the visual bulk of the building in the streetscape. The proponent's architect was not amenable to this recommendation. The heritage setting has a mix of hip and gable profiles, and neither profile dominates. This is considered a reasonable response.

The proposal complies with the LEP prescribed building height; indeed is 1m lower than the maximum permitted. It is a reasonable expectation that the prescribed height limit would inform infill development on the site. It is considered that the proposed building design is a measured response within the context of a three storey height control, single-storey streetscape at the site frontage, and two-three storey built form at the rear.

It is acknowledged that the visual setting will be altered by the proposed development. Furthermore, it is concurred that in elevation plan view, the proposed building will visually dominate the streetscape. Notwithstanding, a building and streetscape are rarely seen in elevation view. It is considered that the design response to reduce the bulk and scale will render the building bulk suitable at human scale footpath view. The proposed residential flat building is considered a suitable infill development in relation to materials, detailing, siting, landscaping and fencing.

Based on reasoned assessment under the DCP 2004 Infill Guidelines, it is considered that the proposed development will not adversely impact on the significance of the conservation area, pursuant to Clause 5.10(4).

#### **Part 6 - Urban Release Area**

Not relevant to the application. The subject site is not located in an Urban Release Area.

#### **Part 7 - Additional Local Provisions**

##### **Clause 7.3 Stormwater Management**

Clause 7.3 is applicable and states in part:

- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting onsite infiltration of water, and*
  - (b) *includes, where practical, onsite stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
  - (c) *avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

In consideration of Clause 7.3, the existing car park comprises a part stormwater detention basin. Council's Assistant Development Engineer is requiring that all stormwater from the development be directed to the existing detention basin; however, the detention basin may require modification to cater for additional flows associated with the proposed residential flat building. Conditions are included on the attached Notice of Approval to satisfy Clause 7.3.

##### **Clause 7.6 Groundwater Vulnerability**

The subject land is identified as Groundwater Vulnerable on the Groundwater Vulnerability Map. Clause 7.6 applies. This clause states in part:

- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider:*
- (a) *whether or not the development (including any onsite storage or disposal of solid or liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystems, and*
  - (b) *the cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.*

In consideration of Clause 7.6, there are no aspects of the proposal that will impact on groundwater and related ecosystems. The subject land is connected to reticulated sewer.

**Clause 7.11 Essential Services**

Clause 7.11 applies and states:

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) storm water drainage or onsite conservation,*
- (e) suitable road access.*

In consideration of this clause, the listed utility services are available and suitable subject to augmentation.

Council's 150mm sewer main traverse the subject land adjacent to the rear boundary. Conditions are included on the attached Notice of Approval requiring the main be accurately located; and where the main is nearby or under any proposed building work, measures taken consistent with Council's Building Over or Adjacent to Sewers Policy.

Shared general, recycling and organic waste bins will be stored in a plant room accessible via the ground level lobby. The bins will be placed kerbside on Hampden Avenue on collection days only.

**State Environmental Planning Policy 55 Remediation of Land**

*State Environmental Planning Policy 55 - Remediation of Land (SEPP 55) is applicable. Pursuant to Clause 7 Contamination and remediation to be considered in determining development application:*

- (1) A consent authority must not consent to the carrying out of any development on land unless:*
  - (a) it has considered whether the land is contaminated, and*
  - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In consideration of this clause, the subject land is unlikely to be contaminated. The site has longstanding commercial use, and prior to this use was contained within a residential neighbourhood since settlement of the City. The site is not contained within an investigation area; and is not known to have been used for a Table 1 purpose to the contamination land planning guidelines. Further contamination investigation as a precursor to potential remediation is considered unnecessary in support of the proposal. The contamination status of the subject land is considered suitable for the proposed development.

***Provisions of any Draft Environmental Planning Instrument that has been Placed on Exhibition 4.15(1)(A)(ii)*****State Environmental Planning Policy Draft Remediation of Land**

Draft Remediation of Land SEPP is applicable. The Draft SEPP requires in part that consideration be given to potential contamination on nearby or neighbouring properties and groundwater. Land adjoining the site has longstanding commercial or residential landuse. The contamination status of the adjoining lands will not impact on the proposed development.

**Draft Orange Local Environmental Plan 2011 (Amendment 24)**

Draft Amendment 24 has recently completed public exhibition (August 2019). The Draft Plan involves various administrative amendments to the LEP including updated maps, and new and amended clauses. The proposed development is not contrary to any matter contained in the Draft Amendment.

**DESIGNATED DEVELOPMENT**

The proposed development is not designated development.

**INTEGRATED DEVELOPMENT**

The proposed development is not integrated development.

***Provisions of any Development Control Plan S4.15(1)(A)(iii)*****Development Control Plan 2004**

The following parts of DCP 2004 are applicable to the proposed development:

- Part 2 - Natural Resource Management.
- Part 3 - General Considerations.
- Part 4 - Special Environmental Considerations.
- Part 8 – Development in Business Zones.
- Part 13 – Heritage Development.
- Part 15 – Car Parking.
- Infill Guidelines.

The relevant matters in Parts 2, 3, 4 and Infill Guidelines were considered in the foregoing assessment under Orange LEP 2011.

The relevant matters in Parts 8, 13 and 15 and are addressed below.

**8.2 Business Service Areas 3(b) [B4]**

- *Applications clearly demonstrate that the development will not detract from the role of the CBD as a regional centre.*

There are no aspects of the proposed development that will detract from the role of the CBD. Ongoing redevelopment and upgrading of the Hampden Avenue precinct will complement the CBD regional centre role. The proposed residential landuse will not compete with commercial status.

- *Provision of adequate fire safety measures and facilities for disabled persons are addressed at the application stage...*

The proposed residential flat building will be provided with fire safety measures and facilities for disabled persons suitable to the building class. Compliance will be demonstrated at Construction Certificate stage.

- *Heritage streetscape are conserved and enhanced through adaptive reuse of heritage buildings, restrained advertising and landscaped gardens.*

The impact on the development on the heritage streetscape has been considered in the foregoing assessment.

- *All sites contain an element of landscaping.*

Landscaping beds will be provided in the front setback on either side of the driveway. A narrow landscape bed is also proposed at Level 1 to address Hampden Avenue. A condition is included on the attached Notice of Approval requiring preparation and implementation of a landscaping plan.

**13.3 Heritage Consideration for Development**

- *Development relates to significant features of heritage buildings on or near the site.*
- *Development conforms with recognised conservation principles.*

The above planning outcomes have been considered in the foregoing assessment.

**15.6 Off-street Car Parking**

- *Adequate off-street car parking is provided in accordance with the table...*
- *Car parking areas are designed according to Australian Standard.*

Pursuant to DCP 2004, 4.8 (ie. 5) onsite car parking spaces will be required for the proposed residential flat building as follows:

Accommodation	DCP requirement	Proposal	Total parking required
2 bedroom unit	1.2 spaces	x 1	1.2
3 bedroom unit	1.5 spaces	x 2	3.0
Visitor	0.2 spaces	x 3	0.6
<b>TOTAL</b>			<b>4.8</b>

The existing shared car park on proposed Lot 301 is comprised of parking spaces associated with commercial landuse on the development sites. As shown in the approved subdivision plan at Figure 7 (DA 25/2019(1)), car parking spaces will be allocated via easement, consistent with the minimum parking requirements attributed to the approved land uses:

**1 Hampden Avenue (proposed Lot 300): Easement denoted (C)**

Three (3) car spaces for office premises (DA 340/2012(3)).

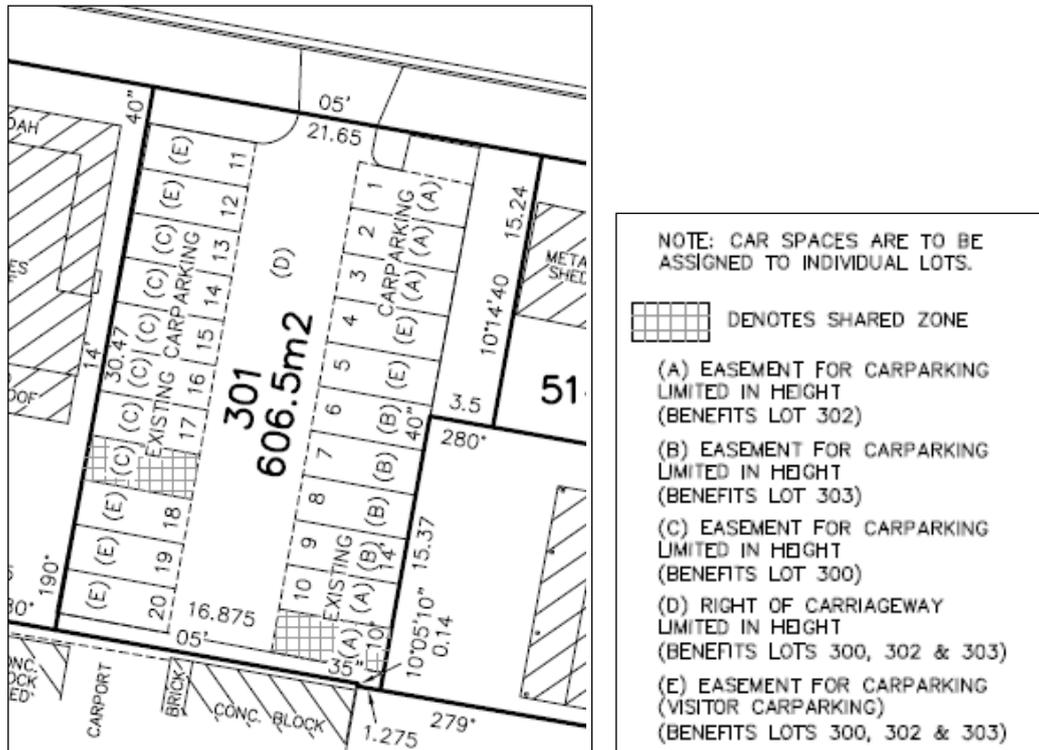
**259 Lords Place (proposed Lot 303): Easement denoted (B)**

Four (4) car spaces for serviced apartments and office premises (DA 340/2016(1)).

**261 Lords Place (proposed Lot 302): Easement denoted (A)**

Four (4) car spaces including one accessible space for office premises (DA 341/2012(1)).

The shared car park contains five surplus parking spaces, denoted as (E) *Easement for Car Parking (visitor car parking)*. The surplus parking spaces will accommodate the car parking requirements associated with the proposed residential flat building.



**Figure 7 – part proposed subdivision plan with car parking easements**

It is noted that the car parking easement allocations in approved DA 25/2019(1) are superseded by the current proposal and DA 340/2012(3). [DA 340/2012(3) involved the creation of two additional parking spaces on 3 Hampden Avenue to service the office premises on 1 Hampden Avenue.] As such, it will be necessary to modify DA 25/2019(1) to reflect the subsequent approved car parking easement allocations.

Notwithstanding, sufficient onsite car parking will be available on proposed Lot 301 to accommodate the car parking requirements associated with the existing and proposed land uses on the development sites. Existing car parking design and construction is consistent with AS 2890-Parking Facilities. All vehicles associated with the development will enter and exit in a forward direction.

**Orange Development Contribution Plan 2017**

Section 7.11 development contributions are applicable to the proposed residential flat building pursuant to the Orange Development Contributions Plan 2017 (LGA Remainder):

Open Space and Recreation	1 x 2br dwelling @ \$2,300.71 plus 2 x 3br dwellings @ \$4,029.94 [\$8,059.88] less 1 standard lot @ \$4,029.94	6,330.65
Community and Cultural	1 x 2br dwelling @ \$667.20 plus 2 x 3br dwellings @ \$1,168.67 [\$2,337.34] less 1 additional standard lot @ \$1,168.67	1,835.87
Roads and Traffic Management	1 x 2br dwelling @ \$3,129.04 plus 2 x 3br dwellings @ \$5,319.38 [\$10,638.76] less 1 additional standard lot @ \$5,319.38	8,448.42
Local Area Facilities	-	-
Plan Preparation & Administration	1 x 2br dwelling @ \$180.15 plus 2 x 3br dwellings @ \$315.54 [\$631.08] less 1 additional standard lot @ \$315.54	495.69
<b>TOTAL:</b>		<b>\$17,110.63</b>

Development contributions for water, sewer and drainage works are also applicable pursuant to Section 64 of the Local Government Act 1993. The contributions are based on water supply headworks and sewerage headworks for 1 x two bedroom dwelling and 2 x three bedroom dwellings (upon registration proposed Lot 301 will have a credit for a single three bedroom dwelling which will be applied at the time of payment).

**Provisions Prescribed By The Regulations S4.15(1)(A)(iv)**

**Demolition of a Building (clause 92)**

The proposal does not involve the demolition of a building.

**Fire Safety Considerations (clause 93)**

Council’s EHBS advises:

*The proposed building will be of Type A construction under the BCA, which is the highest level of fire resisting construction. A report and further details will be required for the CC to determine compliance with the BCA.*

Conditions are included on the attached Notice of Approval to this effect.

**Buildings to be Upgraded (clause 94)**

The proposal relates to a new building and Clause 9 is not applicable.

**BASIX Commitments (clause 97A)**

A compliant BASIX certificate was submitted in support of the proposal.

***The Likely Impacts of the Development S4.15(1)(B)*****Visual Impacts**

The visual impacts of the proposed residential flat building have been considered in the foregoing assessment. As outlined, the proposed building design and detailing is considered to be a measured response to the particular spatial setting and applicable development controls.

**Impacts on Heritage Significance**

As outlined previously, it is considered that the impact of the development on the heritage significance of the buildings and setting will be acceptable, subject to mitigation conditions.

**Residential Amenity**

A high standard of residential amenity will be provided for the proposed residential units in relation to internal and external solar access; visual privacy; and private open space, consistent with DCP 2004 Guidelines at Part 7. Similarly, the proposal will not adversely impact on residential amenity for any adjoining dwellings in terms of overshadowing or overlooking.

**Traffic Impacts**

The proposed development will have a minor impact on local traffic levels and amenity due to the following:

- Onsite parking resources are suitable for the existing and proposed land uses on the subject land.
- Existing car park design and construction is consistent with AS 2890-Parking Facilities.
- The existing site access will be retained, with no additional access required.
- All vehicles associated with the development will enter and exit in a forward direction.
- The local road network is of suitable capacity to accommodate traffic volumes associated with the development.
- The development will not generate or require large service vehicles to access the site.

**Environmental Impacts**

As outlined in the foregoing assessment, the impacts on the natural environment (biodiversity, groundwater, stormwater management, erosion control, waste management) are considered to be within reasonable limit, subject to mitigation conditions.

**Social and Economic Impacts**

The proposal represents ongoing redevelopment of the Hampden Avenue precinct, with positive impacts for the local economy and regional centre status of the City. The proposal will increase the range of housing choices in the City and provide a housing form that is largely under-represented. The development will have positive social and economic impacts for the City and proponent.

***The Suitability of the Site S4.15(1)(C)***

The subject land is suitable for the proposed development due to the following:

- The proposed development is permitted on the subject land zoning.
- All utility services are available and adequate.
- Sufficient onsite car parking will be available for the existing and proposed land uses.
- The local road network is suitable to support the proposal.
- The land is not subject to known natural or technological hazards.
- The site has no particular environmental values.

***Any Submissions Made In Accordance With The Act S4.15(1)(D)***

The proposed development is defined as "advertised development" pursuant to Council's Community Participation Plan 2019.

Written and public notice of the application was given for the prescribed period. At the end of that period, two comprehensive submissions objecting to the development had been received. The issues raised in the submissions are summarised as follows:

- The proposal is contrary to heritage controls contained in Orange LEP 2011, DCP 2004 and the Infill Guidelines.
- The proposed building design and detailing is unsuitable for the streetscape and heritage conservation area.
- The proposal comprises an 'overdevelopment of the site in scale, height, bulk and visual appearance.'
- A three-storey building will be out of scale in the single-storey streetscape.
- Cumulative development of the subject lands has resulted in a carpark within a heritage streetscape. 'Council has not managed the heritage conservation of the streetscape diligently.'
- The proposal will set an undesirable precedent for the heritage conservation area.
- The street presentation of the proposed residential flat building is reflective of a 1970s motel.
- An alternative site layout is suggested, with building envelope at the site frontage and car parking at the rear of the site.
- The existing car park is fully utilised and will not accommodate the parking demands associated with the residential flat building.
- FSR calculations appear incorrect.

The following comments are provided in response to the above issues.

- Detailed consideration on the suitability of the building design and detailing in the streetscape and conservation area has been considered in the foregoing sections of this report. In particular the assessment in relation to heritage and infill development discusses the issues raised.
- Onsite car parking will be provided for the existing commercial land uses and proposed residential flat building consistent with the minimum parking requirements in DCP 2004. A detailed assessment of parking has been provided under the heading "Off street parking"
- Floor area dimensions and total areas are provided on the submitted floor plans. Staff are satisfied that dimensions and areas are correct and the proposal will not exceed the LEP prescribed FSR.

### **Public Interest S4.15(1)(E)**

The proposal is not inconsistent with any relevant policy statements, planning studies, and guidelines etc. that have not been considered in this assessment.

Pursuant to Council's *Declaration of Planning and Development Assessment Procedures and Protocols*, Council has delegation when a DA has "significant public interest."

The Protocol states:

*Significant public interest cannot be defined precisely. As a guide in determining "significant public interest," consideration will be given to:*

- *The number and variety of public submissions received, but more particularly, greater weight will be given to the planning issues raised in those submissions that cannot be addressed through negotiations or by conditions of consent, and*
- *Development that falls short of many objectives and development standards of environmental planning instruments, and planning outcomes of DCP's.*

As outlined above, two (2) public submissions were received which raised relevant planning issues. The submissions reject the proposal's compliance with character-based development controls applying to the streetscape and heritage conservation area. On this basis, the proposal is deemed to have "significant public interest," as defined under Council's *Declaration of Planning and Development Assessment Procedures and Protocols*.

### **SUMMARY**

The proposed residential flat building is permitted with consent. Notable planning matters considered in this report include the suitability of the building design in the streetscape and conservation setting; and the availability of onsite car parking. Two (2) public submissions were received, rejecting the proposal's compliance with character-based development controls. On balance, it is considered that the proposed development satisfies the planning provisions applicable to the site and particular landuse. Approval of the application is recommended. Conditions of consent are included in the attached Notice of Approval to mitigate and manage arising impacts associated with the development.

### **ATTACHMENTS**

- 1 Notice of Approval, D20/22690 [↓](#)
- 2 Plans, D20/22617 [↓](#)
- 3 Submissions, D20/22644 [↓](#)
- 4 Heritage, D20/22648 [↓](#)
- 5 Streetscape Analysis, D20/22647 [↓](#)

	<p><b>ORANGE CITY COUNCIL</b></p> <p>Development Application No <b>DA 417/2019(1)</b></p> <p>NA20/ <span style="float: right;">Container PR4927</span></p>
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**NOTICE OF DETERMINATION  
OF A DEVELOPMENT APPLICATION**

issued under the *Environmental Planning and Assessment Act 1979*  
Section 4.18

**Development Application**

Applicant Name: Mr RA Cummins  
Applicant Address: Tipperary Investment Holdings Pty Ltd

Owner's Name: Tipperary Investment Holdings Pty Ltd

Land to Be Developed: Lot 1 DP 770447 – 1 Hampden Avenue  
Lot 1 DP 111535 – 261 Lords Place  
Lot 1 DP 195511 – 259 Lords Place  
Lot 1 DP 114618

Proposed Development: Residential Flat Building

**Building Code of Australia  
building classification:**

Class to be determined by the PC

**Determination made under  
Section 4.16**

Made On: 12 May 2020

Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

**Consent to Operate From:** 13 May 2020

**Consent to Lapse On:** 13 May 2025

**Terms of Approval**

The reasons for the imposition of conditions are:

- (1) To ensure a quality urban design for the development which complements the surrounding environment.
- (2) To maintain neighbourhood amenity and character.
- (3) To ensure compliance with relevant statutory requirements.
- (4) Because the development will require the provision of, or increase the demand for, public amenities and services.
- (5) To ensure the utility services are available to the site and adequate for the development.
- (6) To prevent the proposed development having a detrimental effect on adjoining land uses.
- (7) To minimise the impact of development on the environment.

**Conditions**

- (1) The development must be carried out in accordance with:
  - (a) **Drawings by Source Architects, Project No. 19010, Drawing Nos. DA00 – DA07 Rev 2 dated 06.03.20 (8 sheets)**
  - (b) statements of environmental effects or other similar associated documents that form part of the approval

**as amended in accordance with any conditions of this consent.**

**PRESCRIBED CONDITIONS**

- (2) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- (3) A sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out.

- (4) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of the Act, evidence that such a contract of insurance is in force is to be provided to the Principal Certifying Authority before any building work authorised to be carried out by the consent commences.
- (5) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and the licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- (6) Where any excavation work on the site extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (a) protect and support the adjoining premises from possible damage from the excavation, and
  - (b) where necessary, underpin the adjoining premises to prevent any such damage.

Note: This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to this condition not applying.

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- (7) The payment of \$17,110.63 is to be made to Council in accordance with Section 7.11 of the Act and the Orange Development Contributions Plan 2017 (LGA Remainder) towards the provision of the following public facilities:

Open Space and Recreation	1 x 2br dwelling @ \$2,300.71 plus 2 x 3br dwellings @ \$4,029.94 [\$8,059.88] less 1 standard lot @ \$4,029.94	6,330.65
Community and Cultural	1 x 2br dwelling @ \$667.20 plus 2 x 3br dwellings @ \$1,168.67 [\$2,337.34] less 1 additional standard lot @ \$1,168.67	1,835.87
Roads and Traffic Management	1 x 2br dwelling @ \$3,129.04 plus 2 x 3br dwellings @ \$5,319.38 [\$10,638.76] less 1 additional standard lot @ \$5,319.38	8,448.42
Local Area Facilities	-	-
Plan Preparation & Administration	1 x 2br dwelling @ \$180.15 plus 2 x 3br dwellings @ \$315.54 [\$631.08] less 1 additional standard lot @ \$315.54	495.69
<b>TOTAL:</b>		<b>\$17,110.63</b>

The contribution will be indexed quarterly in accordance with the Orange Development Contributions Plan 2017 (LGA Remainder). This Plan can be inspected at the Orange Civic Centre, Byng Street, Orange.

- (8) A landscape plan shall be prepared by a suitably qualified landscape architect and submitted to Council for approval of the Manager City Presentation.

The landscape plan shall provide details of plantings (species, size and number) in the landscaped spaces at the site frontage; adjacent to the pedestrian entry path; and within the Level 1 perimeter planter beds.

Species selection shall complement landscaping in the street, with plantings of complementary height, form and character. Advanced trees shall be included at the site frontage with a minimum container size of 70L at planting.

- (9) Development Application No. DA 25/2019(1) shall be modified to reflect the amended car parking easement allocations resulting from the developments approved under this consent (DA 417/2019(1)) and DA No. 340/2012(3).
- (10) An approval under Section 68 of the *Local Government Act* is to be sought from Orange City Council, as the Water and Sewer Authority, for alterations to water and sewer. No plumbing and drainage is to commence until approval is granted.
- (11) Council/Accredited Certifier is to be provided with a Fire Safety Report prepared by a suitably qualified person. The report is to specify the works proposed in order to ensure the building complies with the Building Code of Australia. Where the report recommends the use of an alternative fire engineered solution, specific design details must be provided to Council/Accredited Certifier with the report. Please note that an alternative solution must be carried out by a certified Fire Engineer.

- (12) The applicant is to submit a waste management plan that describes the nature of wastes to be removed, the wastes to be recycled and the destination of all wastes. All wastes from the demolition and construction phases of this project are to be deposited at a licensed or approved waste disposal site.
- (13) Prior to the issue of a Construction Certificate evidence shall be provided to the Principal Certifying Authority that proposed Lot 301 has been registered with NSW Land and Property Information.
- (14) All stormwater from the site is to be collected and piped to the existing stormwater detention basin on site. Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6), prior to issuing a Construction Certificate, is to approve engineering plans for this drainage system.
- (15) **Payment of contributions for water, sewer and drainage works** is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on water supply headworks and sewerage headworks for 1 x two bedroom dwellings and 2 x three bedroom dwellings (upon registration proposed Lot 301 will have a credit for a single 3 bedroom dwelling which will be applied at the time of payment). A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.

This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

- (16) The development's stormwater design is to include stormwater detention within the development, designed to limit peak outflows from the land to the pre-existing natural outflows up to the 100 year ARI frequency, with sufficient allowance in overflow spillway design capacity to safely pass flows of lower frequency (that is, a rarer event) without damage to downstream developments. Where appropriate, the spillway design capacity is to be determined in accordance with the requirements of the Dam Safety Committee.

The design of the detention storage is to be undertaken using the ILSAX/DRAINS rainfall-runoff hydrologic model or an approved equivalent capable of assessing runoff volumes and their temporal distribution as well as peak flow rates. The model is to be used to calculate the flow rates for the existing and post-development conditions. The developed flows are to be routed through the proposed storage within the model so that the outflows obtained are no greater than the flows obtained for the pre-existing natural flows. A report detailing the results of the analysis, which includes:

- catchment plan showing sub-catchments under existing and developed conditions;
- schematic diagram of the catchment model showing sub areas and linkages;
- tabulation detailing the elevation, storage volume and discharge relationships; and
- tabulation for the range of frequencies analysed, the inflows, outflows and peak storage levels for both existing and developed conditions;

together with copies of the data files for the model and engineering design plans of the required drainage system are to be submitted to Orange City Council upon application for a Construction Certificate.

- (17) A Road Opening Permit in accordance with Section 138 of the *Roads Act 1993* must be approved by Council prior to a **Construction Certificate being issued or any intrusive works** being carried out within the public road or footpath reserve.

<b>PRIOR TO WORKS COMMENCING</b>
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- (18) A Construction Certificate application is required to be submitted to, and issued by Council/Accredited Certifier prior to any excavation or building works being carried out onsite.
- (19) A temporary onsite toilet is to be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.

- (20) Soil erosion control measures shall be implemented on the site.
- (21) A dilapidation report prepared by a suitably qualified engineer is to be submitted to Council addressing the current condition of the buildings that are adjoining the development site, and also the existing building that is to remain as part of this development.

**DURING CONSTRUCTION/SITWORKS**

- (22) All construction/demolition work on the site is to be carried out between the hours of 7.00 am and 6.00 pm Monday to Friday inclusive, 7.00 am to 5.00 pm Saturdays and 8.00 am to 5.00 pm Sundays and Public Holidays. Written approval must be obtained from the General Manager of Orange City Council to vary these hours.
- (23) A Registered Surveyor's certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority.
- (24) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (25) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (26) The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.  
  
The developer is to be entirely responsible for the provision of water, sewerage and drainage facilities capable of servicing the development from Council's existing infrastructure. The developer is to be responsible for gaining access over adjoining land for services where necessary and easements are to be created about all water, sewer and drainage mains within and outside the lots they serve.
- (27) A heavy-duty concrete kerb and gutter layback and footpath crossing are to be constructed for the entrance to the proposed development. The location and construction of the layback and footpath crossing are to be as required by the Orange City Council Development and Subdivision Code.
- (28) The existing 150mm diameter sewer main that crosses the site is to be accurately located. Where the main is positioned under or adjacent to any proposed building work, measures are to be taken in accordance with Orange City Council Policy - Building over and/or adjacent to sewers ST009.

**PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

- (29) Landscaping shall be installed in accordance with the approved landscape plan, and permanently maintained to the satisfaction of the Manager City Presentation.
- (30) Site fencing and gates shall be erected in accordance with the approved site plan.
- (31) A vehicle height warning indicator shall be installed at the car park entrance.
- (32) Five off street car parking spaces shall be allocated for the development approved under this consent.  
The car park shall be line-marked in accordance with the approved plan.  
Appropriate signage shall be erected within the car park to allocate parking spaces consistent with parking easement allocations on registered Lot 301.
- (33) Car park construction works on 3 Hampden Avenue approved under DA 340/2012(3) shall be completed.

- (34) No person is to use or occupy the building or alteration that is the subject of this approval without the prior issuing of an Occupation Certificate.
- (35) The owner of the building/s must cause the Council to be given a Final Fire Safety Certificate on completion of the building in relation to essential fire or other safety measures included in the schedule attached to this approval.
- (36) Where Orange City Council is not the Principal Certifying Authority, a final inspection of water connection, sewer and stormwater drainage shall be undertaken by Orange City Council and a Final Notice of Inspection issued, prior to the issue of either an interim or a final Occupation Certificate.
- (37) A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater detention basin complies with the approved engineering plans is to be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
- (38) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets.
- (39) A Road Opening Permit Certificate of Compliance is to be issued for the works by Council prior to any Occupation/Final Certificate being issued for the development.
- (40) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation Certificate, unless stated otherwise.
- (41) Services and plant equipment shall not extend above the roof line.

<b>MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT</b>
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- (42) The owner is required to provide to Council and to the NSW Fire Commissioner an Annual Fire Safety Statement in respect of the fire-safety measures, as required by Clause 177 of the *Environmental Planning and Assessment Regulation 2000*.

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### Other Approvals

- (1) *Local Government Act 1993* approvals granted under Section 68.  
Nil
- (2) General terms of other approvals integrated as part of this consent.  
Nil

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### Right of Appeal

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court. Pursuant to Section 8.10, an applicant may only appeal within 6 months after the date the decision is notified.

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***Disability Discrimination Act 1992:***

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act* currently available in Australia.

**Disclaimer - S88B of the Conveyancing Act 1919 - Restrictions on the Use of Land:**

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

**Signed:**

On behalf of the consent authority **ORANGE CITY COUNCIL**

**Signature:**

**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

**Date:**

13 May 2020



Certificate no.: 000441090  
 Accession Name: 0900 8800  
 Accreditation no.: 20094  
 Certificate date: 03 December 2019  
 Dwelling address:  
 1A Hampden Ave  
 Orange, NSW  
 2800  
[www.nathouse.gov.au](http://www.nathouse.gov.au)



1 SITE PLAN  
1:100

**NOT FOR CONSTRUCTION**

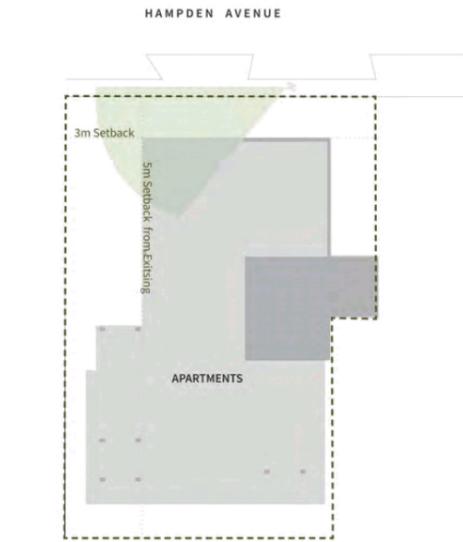
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CH	CURVED	MG	METAL GUTTER
CH	DOUBLE HUNG	NI	NEW
CP	DOWNPIPE	PR	POWDER ROOM
ES	EXISTING	RL	REDUCED LEVEL
FCL	FINISHED CEILING LEVEL	RS	ROLLER SHUTTER
FFL	FINISHED FLOOR LEVEL	SC	STEEL COLUMN
FHR	FIRE HOSE REEL	SKL	SKYLIGHT
FLY	FLYSCREEN	TBC	TO BE CONFIRMED
HWU	HOT WATER UNIT	TF	TIMBER FLOOR
LDF	LAUNDRY		

REV	DATE	DESCRIPTION
1	04.12.19	Issue for DA

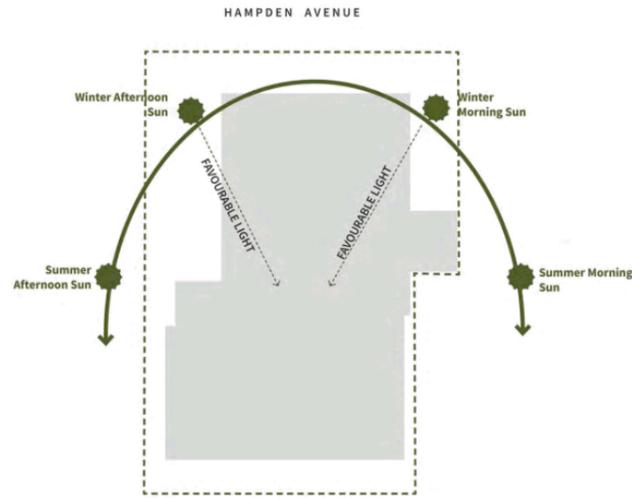
Architect  
**Source Architects**  
 Source Architects Pty Ltd  
 150 Byng Street, Orange NSW 2800  
 PO Box 144 Orange NSW 2800 Australia  
 T 02 6362 7526  
 E [studio@sourcearchitects.com.au](mailto:studio@sourcearchitects.com.au)  
[www.sourcearchitects.com.au](http://www.sourcearchitects.com.au)  
 ABN 75 162 290 066

Project Name	Project No.	
HAMPDEN APARTMENTS	19010	
DEVELOPMENT APPLICATION	LOT 301 - 1A HAMPDEN AVE, ORANGE NSW	
FOR TIPPERARY INVESTMENT HOLDINGS		
No.	Drawing Title	Scale
DA01	SITE PLAN	1:100 @A1
		Rev
		1

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VIEW LINES FROM STREET



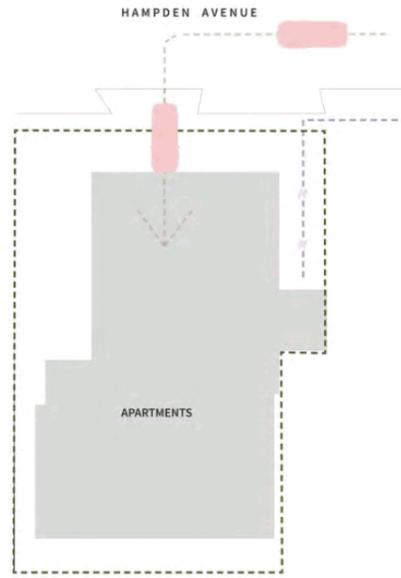
SOLAR EXPOSURE



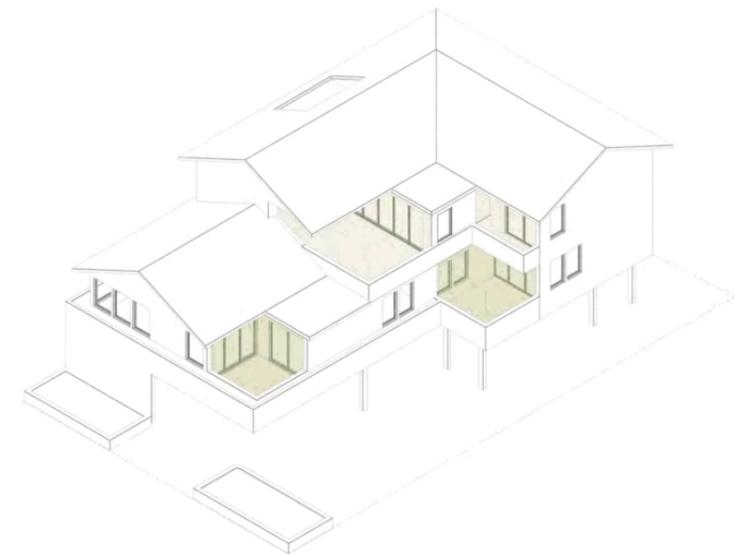
LANDSCAPING  
GARDEN BEDS TO SOFTEN THE BUILDING FORM  
AND MAINTAIN PRIVACY



SERVICE CORE



ACCESS



TERRACED OUTDOOR SPACE FOR PRIVACY  
NORTH FACING PRIVATE OUTDOOR SPACES FOR  
BEST DAYLIGHTING

**NOT FOR CONSTRUCTION**



REV	DATE	DESCRIPTION
1	04.12.19	Issue for DA

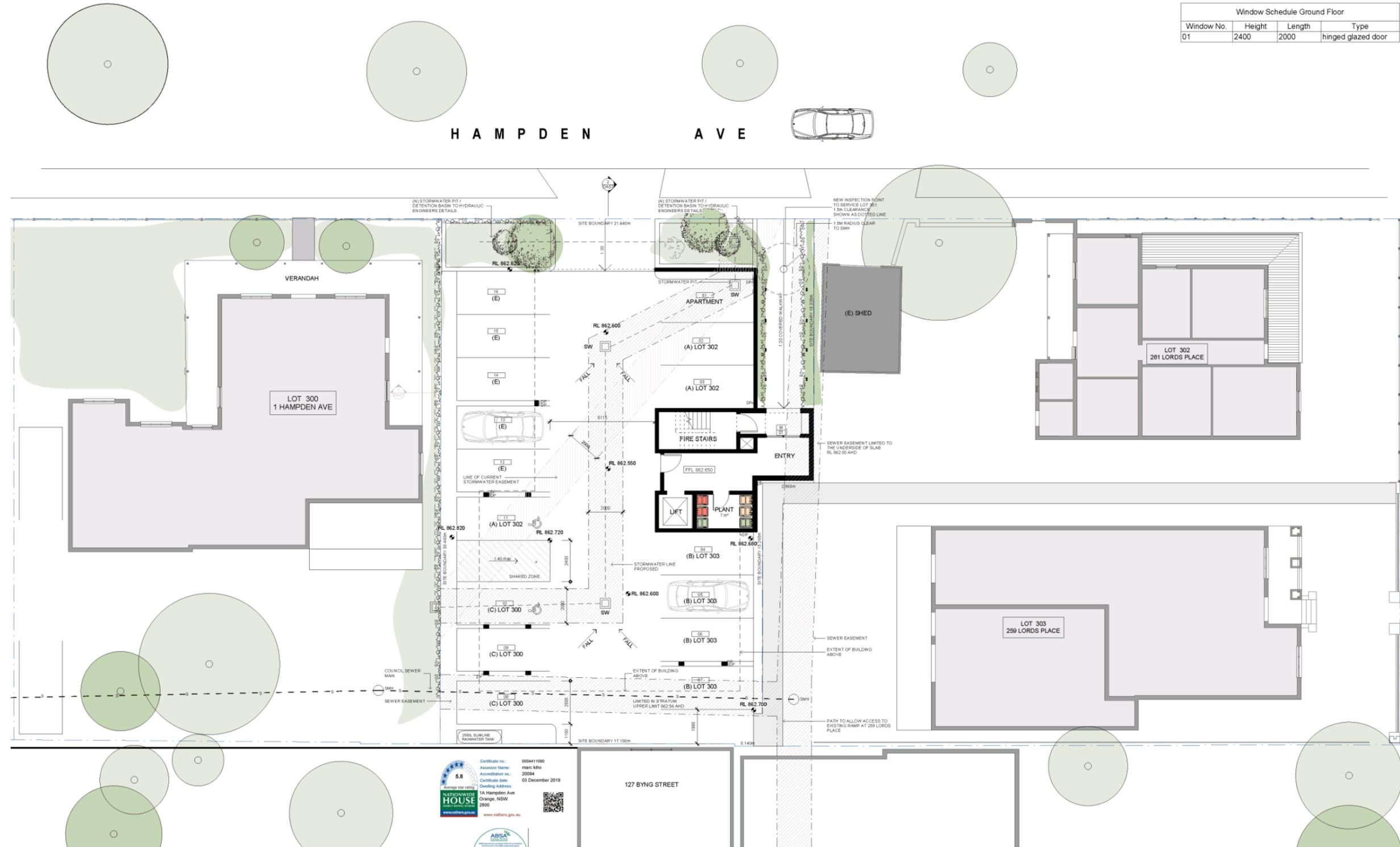


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150 Byng Street, Orange NSW 2800  
PO Box 144 Orange NSW 2800 Australia  
T 02 6362 7528  
E studio@sourcearchitects.com.au  
www.sourcearchitects.com.au  
ABN 75 162 200 096

Project Name <b>HAMPDEN APARTMENTS</b>	Project No. <b>19010</b>	N
DEVELOPMENT APPLICATION FOR <b>TIPPERARY INVESTMENT HOLDINGS</b>		
LOT 301 - 1A HAMPDEN AVE, ORANGE NSW		
No. <b>DA02</b>	Drawing Title <b>SITE + LANDSCAPE ANALYSIS</b>	Scale <b>@A1</b>
Rev <b>1</b>		

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Window Schedule Ground Floor			
Window No.	Height	Length	Type
01	2400	2000	hinged glazed door



Certificate no.: 030411050  
 Assessor Name: marc kibo  
 Accreditation no.: 20064  
 Certificate date: 03 December 2019  
 Dwelling Address:  
 1A Hampden Ave  
 Orange, NSW  
 2800  
[www.nathn.gov.au](http://www.nathn.gov.au)

5.8  
**HOUSE**  
 www.nathn.gov.au

ABSA  
 Australian Building Standards Association  
 Accredited since 2014/15  
 Accredited to: AS/NZS 1539:2006  
 Accredited to: AS/NZS 2964:2004

1 GROUND FLOOR PLAN  
1:100

**NOT FOR CONSTRUCTION**

BK	BROCKWORK	LWC	LIGHT WEIGHT CLADDING
BL	BOLLARD	MRS	METAL ROOF SHEETING
IC	CURVED	MO	METAL OUTTER
DH	DOUBLE HUNG	NI	NEW
DP	DOWNPIPE	PR	POWDER ROOM
ED	EXISTING	RL	REVISED LEVEL
FCL	FINISHED CEILING LEVEL	RL	ROLLER SHUTTER
FFL	FINISHED FLOOR LEVEL	SC	STEEL COLUMN
FHR	FIRE HOSE REEL	SW	STORMWATER OUTLET
FLV	FLOORSCREEN	SHL	SHOULDER
HWU	HOT WATER UNIT	TBC	TO BE CONFIRMED
LDT	LAUNDRY	TF	TIMBER FLOOR

REV	DATE	DESCRIPTION
1	04.12.19	Issue for DA

Architect  
**Source Architects**  
 Source Architects Pty Ltd  
 150 Byng Street, Orange NSW 2800  
 PO Box 144 Orange NSW 2800 Australia  
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 ABN 75 162 200 096

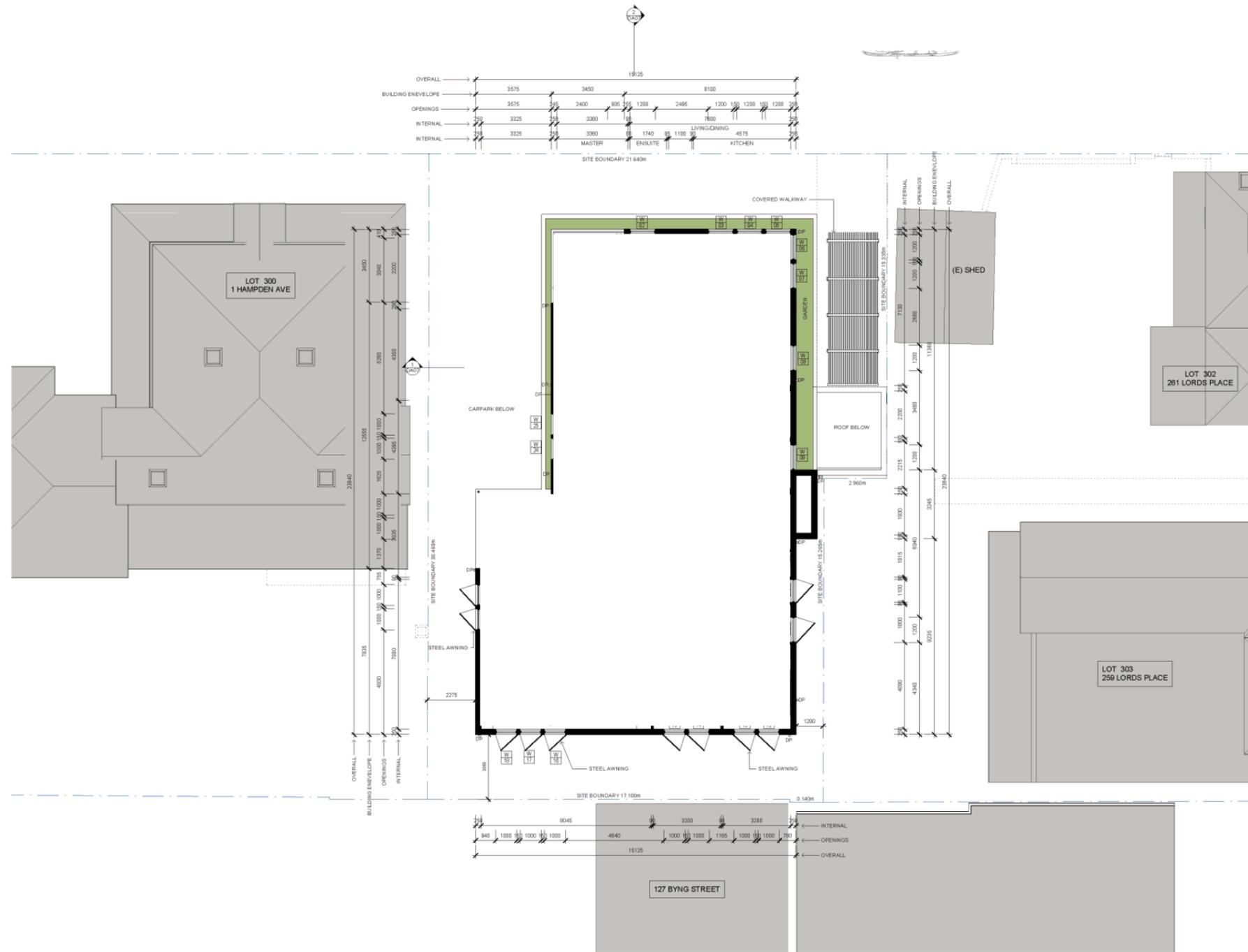
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**HAMPDEN APARTMENTS**  
 DEVELOPMENT APPLICATION  
 FOR **TIPPERARY INVESTMENT HOLDINGS**  
 No. **DA03** Drawing Title **GROUND FLOOR**

Project No.  
**19010**  
 LOT 301 - 1A HAMPDEN AVE, ORANGE NSW

Scale  
**1:100 @A1**

Rev  
**1**

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Window Schedule First Floor			
Window No.	Height	Length	Type
02	1700	1200	double hung
03	1700	1200	fixed
04	1700	1200	fixed
05	1700	1200	double hung
06	1700	1200	double hung
07	1700	1200	fixed
08	1700	1200	double hung
09	1700	1200	fixed
10	1700	1145	double hung
11	1700	1200	double hung
12	1700	1000	double hung
13	1700	1000	fixed
14	1700	1000	fixed
15	1700	1000	double hung
16	1700	1000	fixed
17	1700	1000	fixed
18	1700	1000	double hung
19	1700	1000	fixed
20	1700	1000	double hung
21	2450	3324	sliding door
22	1700	1000	fixed
23	1700	1000	double hung
24	1700	1000	fixed
25	1700	1000	double hung
26	2450	2400	sliding door
27	2450	3040	sliding door


 Certificate no.: 0004411060  
 Assessor Name: RMC kpho  
 Accreditation no.: 20094  
 Certificate date: 03 December 2019  
 Dwelling Address: 1A Hampden Ave  
 Orange, NSW 2800  




1 LEVEL 1  
1:100

**NOT FOR CONSTRUCTION**

BR	BRICKWORK	LWC	LIGHT WEIGHT CLADDING
BOL	BOLLARD	MFS	METAL ROOF SHEETING
C	CURVED	MG	METAL GUTTER
CH	DOUBLE HUNG	NI	NEW
CP	DOWNPIPE	PR	POWDER ROOM
ES	EXISTING	RL	REDUCED LEVEL
FCL	FINISHED CEILING LEVEL	RS	ROLLER SHUTTER
FFL	FINISHED FLOOR LEVEL	SC	STEEL COLUMN
FHR	FIRE HOSE REEL	SKL	SKYLIGHT
FLY	FLYSCREENS	TBC	TO BE CONFIRMED
HWU	HOT WATER UNIT	TF	TIMBER FLOOR
LDR	LAUNDRY		

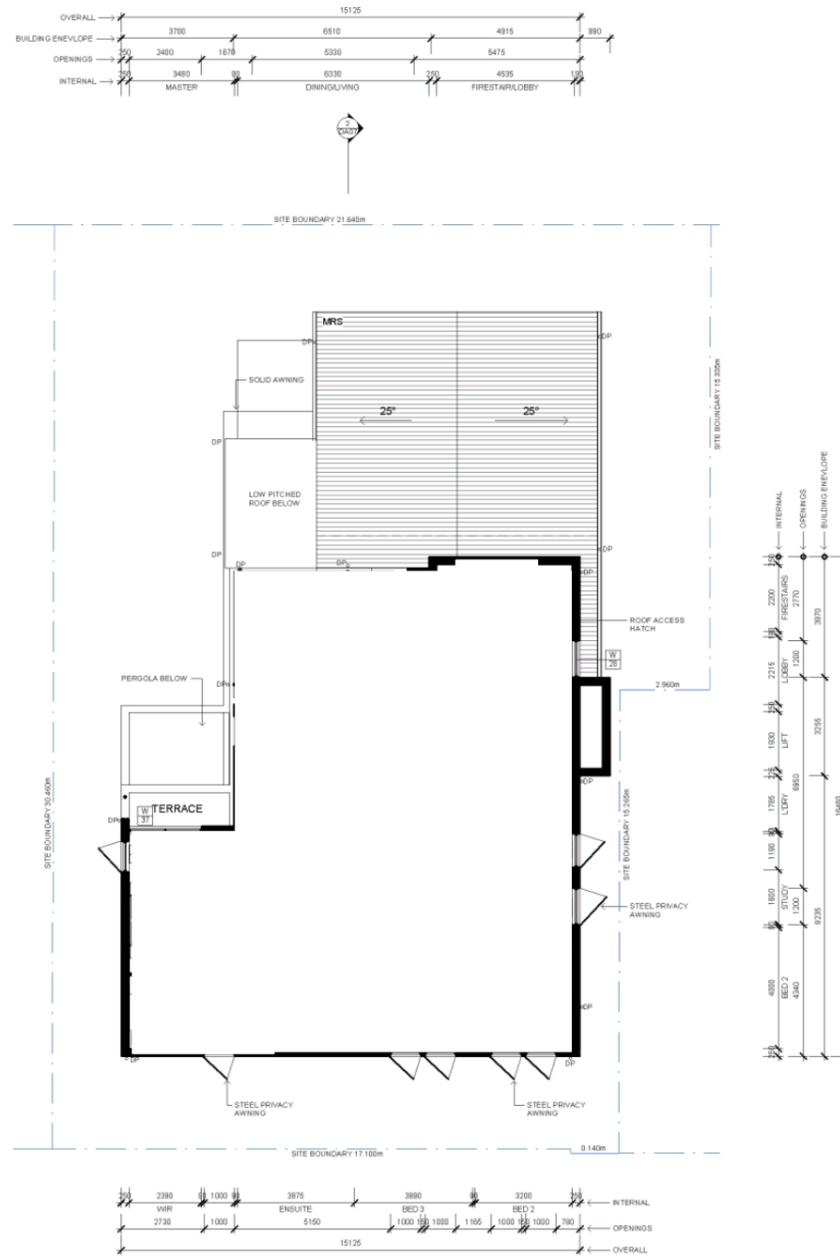
REV	DATE	DESCRIPTION
1	04.12.19	Issue for DA

Architect  

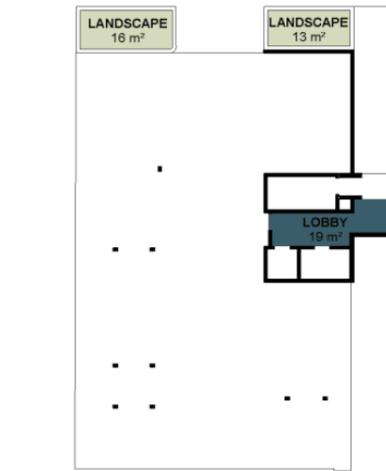
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 150 Byng Street, Orange NSW 2800  
 PO Box 144 Orange NSW 2800 Australia  
 T 02 6302 7520  
 E studio@sourcearchitects.com.au  
 www.sourcearchitects.com.au  
 ABN 75 162 200 096

Project Name: HAMPDEN APARTMENTS  
 Project No: 19010  
 DEVELOPMENT APPLICATION  
 FOR: TIPPERARY INVESTMENT HOLDINGS  
 LOT 301 - 1A HAMPDEN AVE, ORANGE NSW  
 No. Drawing Title: DA04 FIRST FLOOR  
 Scale: 1:100 @A1  
 Rev: 1

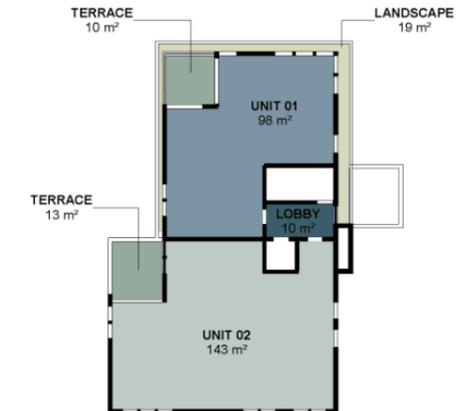
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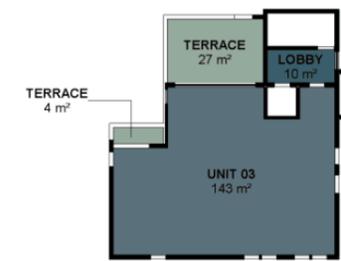
Window Schedule Second Floor			
Window No.	Height	Length	Type
28	1800	1200	fixed
29	1700	1145	double hung
30	1700	1200	double hung
31	1700	1000	double hung
32	1700	1000	fixed
33	1700	1000	fixed
34	1700	1000	double hung
35	1700	1000	double hung
36	1700	1000	double hung
37	2400	2400	sliding door
38	1700	1000	fixed
39	2450	5330	sliding door



2 GROUND FLOOR AREA  
1:200



3 LEVEL 1 AREA  
1:200

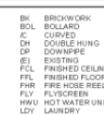


4 LEVEL 2 AREA  
1:200



1 Level 2  
1:100

**NOT FOR CONSTRUCTION**



- BR BRICKWORK
- BOL BOLLARD
- CU CURVED
- CH COVILE HUNG
- CO DOWNPIPE
- EX EXISTING
- FL FINISHED CEILING LEVEL
- FLR FINISHED FLOOR LEVEL
- FLV FLUCCIBER
- FWU HOT WATER UNIT
- LAV LAUNDRY
- LCV LIGHT WEIGHT CLADDING
- MPS METAL ROOF SHEETING
- MG METAL GUTTER
- NI NEW
- PR POWDER ROOM
- RL REDUCED LEVEL
- RS ROLLER SHUTTER
- SC STEEL COLUMN
- SIL SKYLIGHT
- TBC TO BE CONFIRMED
- TF TIMBER FLOOR

REV	DATE	DESCRIPTION
1	04.12.19	Issue for DA



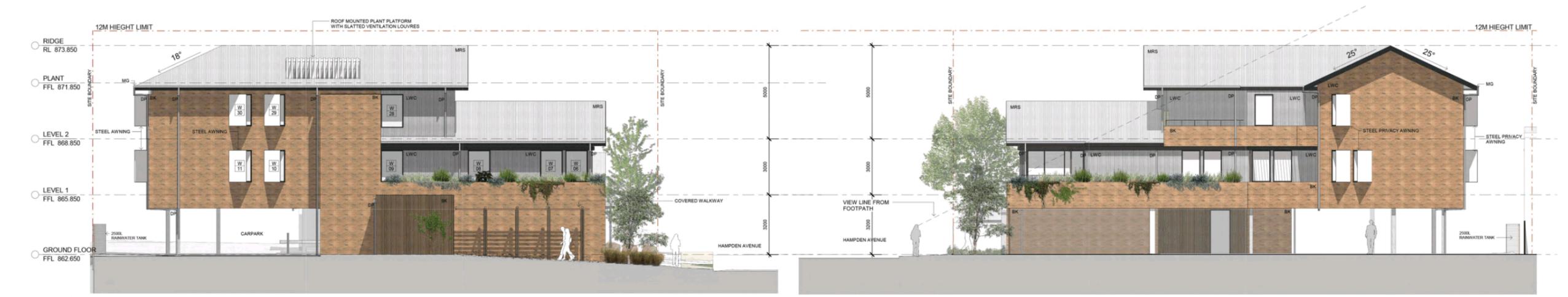
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150 Byng Street, Orange NSW 2800  
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E studio@sourcearchitects.com.au  
www.sourcearchitects.com.au  
ABN 75 162 200 096

Project Name: HAMPDEN APARTMENTS  
Project No: 19010  
DEVELOPMENT APPLICATION FOR TIPPERARY INVESTMENT HOLDINGS  
LOT 301 - 1A HAMPDEN AVE, ORANGE NSW  
No. Drawing Title: DA05 SECOND FLOOR  
Scale: As indicated  
Rev: 1

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1 NORTH ELEVATION  
1:100



2 EAST ELEVATION  
1:100

3 WEST ELEVATION  
1:100



4 SOUTH ELEVATION  
1:100

Certificate no.: 0004411090  
 Assessor Name: marc kiho  
 Accreditation no.: 20094  
 Certificate date: 03 December 2019  
 Dwelling Address: 1A Hampden Ave Orange, NSW 2800  
 www.natwidehouse.com.au

ABSA  
 Australian Building Standards Association  
 www.absa.com.au

**PROPOSED MATERIAL SCHEDULE**

	ROOFING ZINCALUME SHEETING
	WALL CLADDING VERTICAL CLADDING
	BRICK BROWN/TAN
	WINDOWS ALUMINIUM - BLACK
	AWNING STEEL AWNING - WHITE
	GUTTERS ZINCALUME TO MATCH ROOF SHEETING
	FASCIA + BARGE BOARD PAINTED MONUMENT
	TIMBER WALK WAY

NOT FOR CONSTRUCTION

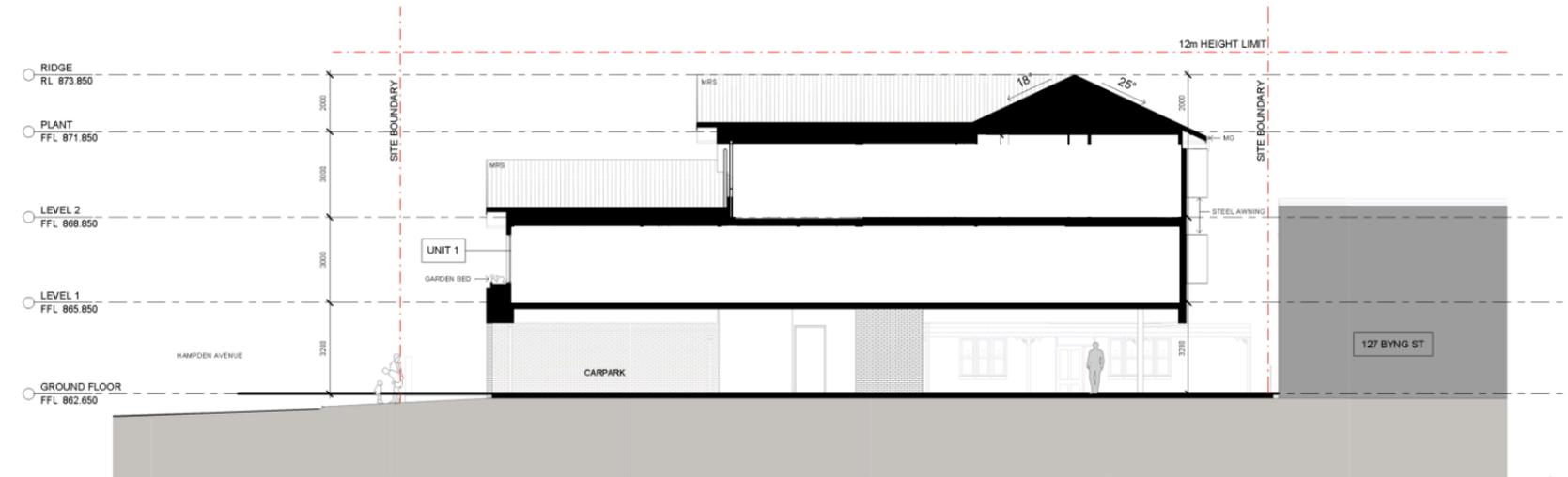
BK	BRICKWORK	LWC	LIGHT WEIGHT CLADDING
BOL	BOLLARD	MRS	METAL ROOF SHEETING
C	CURVED	MG	METAL GUTTER
CH	DOUBLE HUNG	NEW	NEW
DP	DOWNPIPE	PR	POWDER ROOM
ES	EXISTING	RL	REDUCED LEVEL
FCL	FINISHED CEILING LEVEL	RS	ROLLER SHUTTER
FFL	FINISHED FLOOR LEVEL	SC	STEEL COLUMN
FHR	FIRE HOSE REEL	SKL	SKYLIGHT
FLY	FLY SCREEN	TBC	TO BE CONFIRMED
HVU	HOT WATER UNIT	TF	TIMBER FLOOR
LDT	LAUNDRY		

REV	DATE	DESCRIPTION
1	04.12.19	Issue for DA

Architect  
**Source Architects**  
 Source Architects Pty Ltd  
 150 Byng Street, Orange NSW 2800  
 PO Box 144 Orange NSW 2800 Australia  
 T 02 6362 7526  
 E studio@sourcearchitects.com.au  
 www.sourcearchitects.com.au  
 ABN 75 162 290 066

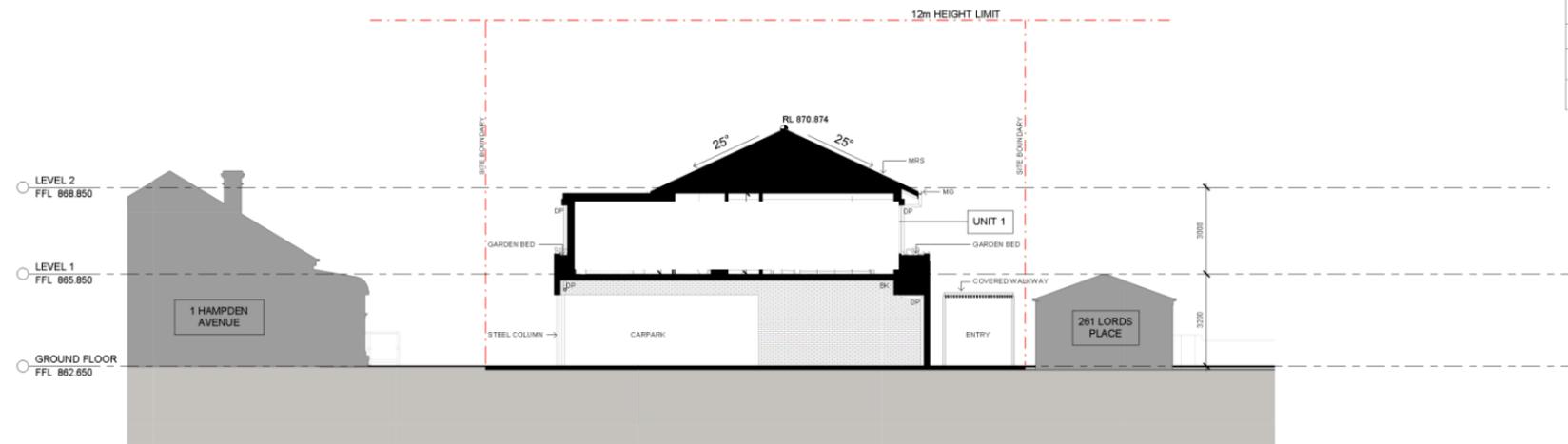
Project Name: **HAMPDEN APARTMENTS**  
 Project No.: **19010**  
 DEVELOPMENT APPLICATION FOR **TIPPERARY INVESTMENT HOLDINGS**  
 LOT 301 - 1A HAMPDEN AVE, ORANGE NSW  
 Drawing Title: **ELEVATIONS**  
 Scale: **1:100 @A1**  
 Rev: **1**

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2 LONG SECTION  
1:100

Insulation & Construction Details	
Roof colour	Dark (SA >0.70)
Roof	Reflective sarking
Ceilings	R4.0
External Walls	R2.5 and sarking
Internal Walls	Nil
Floors	Units 1 and 2: R1.0 to underside of all floors over carpark
Draught sealing	Draught stoppers & foam seals on all external doors Draught stoppers on all ceiling exhaust fans.
Ceiling penetrations	Ceiling insulation to be increased in accordance with BCA 3.12.1.2(e) where ceiling penetrations are in excess of 0.5% of ceiling area.
Window / glass door type	Single glazed clear sliding w/aluminium frame U=6.70 & SHGC=0.70 (+or- 5%)



1 CROSS SECTION  
1:100



**NOT FOR CONSTRUCTION**



BK	BRICKWORK	LWC	LIGHT WEIGHT CLADDING
BOL	BOLLARD	MRS	METAL ROOF SHEETING
IC	CURBED	MS	METAL SHUTTER
DH	DOUBLE HUNG	(N)	NEW
DP	DOWNPIPE	PR	POWER ROOM
(E)	EXISTING	RL	REDUCED LEVEL
FL	FINISHED CEILING LEVEL	RS	ROLLER SHUTTER
FFL	FINISHED FLOOR LEVEL	SC	STEEL COLUMN
FHR	FIRE HOSE REEL	SCL	SKYLIGHT
FLY	FLYSCREEN	TBC	TO BE CONFIRMED
HWU	HOT WATER UNIT	TF	TIMBER FLOOR
LZY	LAUNDRY		

REV	DATE	DESCRIPTION
1	04.12.19	Issue for DA

Architect  
**Source Architects**  
 Source Architects Pty Ltd  
 150 Byng Street, Orange NSW 2800  
 PO Box 144 Orange NSW 2800 Australia  
 T 02 6302 7528  
 E studio@sourcearchitects.com.au  
 www.sourcearchitects.com.au  
 ABN 75 162 200 096

Project Name	HAMPDEN APARTMENTS	Project No	19010
DEVELOPMENT APPLICATION	FOR TIPPERARY INVESTMENT HOLDINGS	LOT 301 - 1A HAMPDEN AVE, ORANGE NSW	
No.	DA07	Drawing Title	SECTIONS
Scale	1:100 @A1	Rev	1

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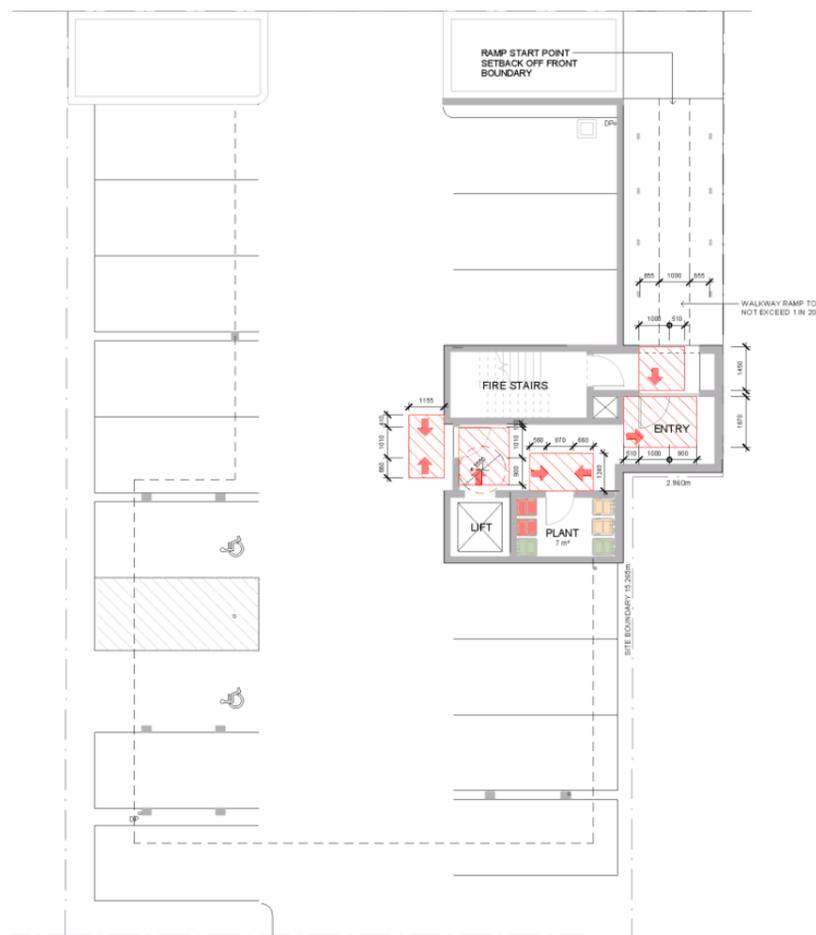
**CARPARKING REQUIREMENTS**

LOT 300	1 HAMPDEN AVENUE - OFFICE SPACE (NOTE: 2 SPACES PROVIDED ON LOT 300 AS APPROVED BY DA 340/2012)	3.0	REQUIRED
LOT 302	281 LORDS PLACE - OFFICE SPACE (123sq.m)	3.075	REQUIRED
LOT 303	APARTMENTS	4.0	REQUIRED
PROPOSED UNITS		4.8	(INCLUDING VISITORS)
<b>TOTAL SPACES REQUIRED</b>		<b>14.875</b>	
<b>TOTAL SPACES PROVIDED</b>		<b>16.0 (COMPLIANT)</b>	

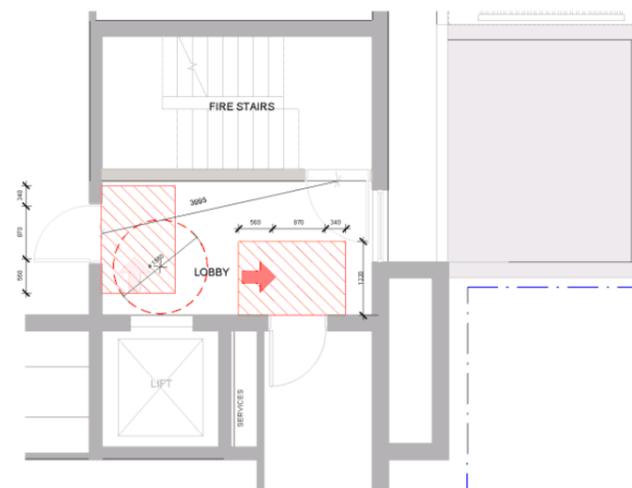
**GARBAGE BIN REQUIREMENTS**

REQUIREMENT: ONE 240L BIN OF EACH TYPE PER TWO UNITS.

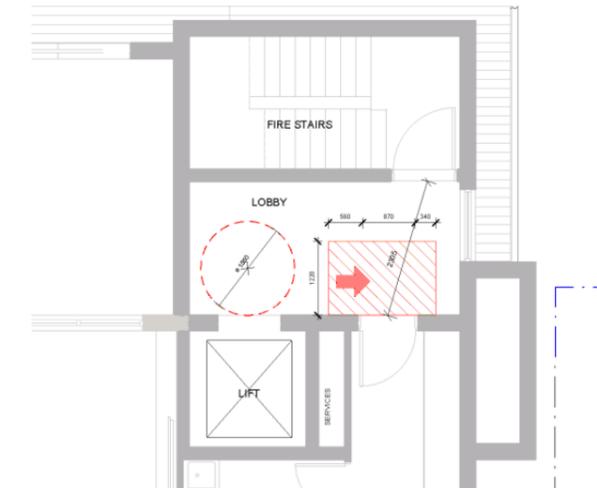
THREE UNITS	1.5 GARBAGE BIN 1.5 RECYCLING BIN 1.5 GREEN BIN
<b>TOTAL BINS REQUIRED</b>	<b>4.5 BINS</b>
<b>TOTAL BINS PROVIDED</b>	<b>6.0 BINS (COMPLIANT)</b> (2 x GARBAGE 2 x RECYCLING 2 x GREEN BINS)



1 GROUND FLOOR PLAN  
1:100



2 LEVEL 1 COMPLIANCE  
1:50



3 LEVEL 2 COMPLIANCE  
1:50

**NOT FOR CONSTRUCTION**



REV	DATE	DESCRIPTION
1	04.12.19	Issue for DA

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150 Byng Street, Orange NSW 2800  
PO Box 144 Orange NSW 2800 Australia  
T 02 6362 7528  
E studio@sourcearchitects.com.au  
www.sourcearchitects.com.au  
ABN 75 162 200 096

Project Name <b>HAMPDEN APARTMENTS</b>	Project No. <b>19010</b>	N
DEVELOPMENT APPLICATION FOR <b>TIPPERARY INVESTMENT HOLDINGS</b>		
LOT 301 - 1A HAMPDEN AVE, ORANGE NSW		
No. <b>DA08</b>	Drawing Title <b>COMPLIANCE NOTES</b>	Scale <b>As indicated</b>
	Rev <b>1</b>	

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22<sup>nd</sup> January, 2020

Att: General Manager  
Orange City Council  
PO Box 35, Orange, NSW 2800

Dear Sir / Madam

**RE: DA 417/2019(1) – PR4927**

I am writing in response to the proposed development application DA 417/2019(1) – PR4927.

Objections & grounds for objection are as listed below;

- A 3 level residential flat building is not in keeping with the context of the adjoining properties in Hampden Ave which are all single level properties.
- The proposed 3 level residential flat building is significantly higher and not in keeping with the adjoining properties in Hampden Ave, Lords Pl and Byng St.
- Infill – p24 of the submitted Statement of Environmental Effects states “The site currently serves as an on-grade concrete carpark which reads as a ‘missing tooth’ in the streetscape”. This ‘missing tooth’ has been created by the developer through removal of existing greenery from the rear of the 259 & 261 Lords Place properties and the rear and side of 1 Hampden Ave property and replacement with concrete and car parking areas on the newly created Lot 301. The proposal does not strengthen the streetscape but rather it detracts from the current streetscape through the proposed inclusion of a development which in no way matches surrounding buildings.
- Each of the below mentioned objectives of Infill design have not been met by this proposed DA for 1A Hampden Ave - Lot 301.
- Orange Development Control Plan 2004 Infill Guidelines D17/5716, Objectives of Infill Design;
  - Retention of appropriate visual setting – appropriate visual setting is not retained as this Infill design occupies the entire space of Lot 301 and is 3 storeys high, well above surrounding buildings.
  - To ensure new buildings respond to and enhance the character and appearance of the streetscapes of the Heritage Conservation Areas. The proposed building does not enhance the character and appearance of the streetscape of the Heritage Conservation Area, but rather clutters and crowds out existing lower level heritage areas.
  - To ensure contributory heritage items retain their prominence and are not dominated by new development within a Heritage Conservation Area and do not compromise the heritage values of the existing area. The proposed building does not allow retention of the prominence of existing heritage items but rather it compromises the heritage values of the area by crowding out existing single storey buildings and heritage streetscape.
  - To ensure new buildings do not adversely affect the significance, character or appearance of the Heritage Conservation Area or heritage items. The proposed new building adversely affects the character & appearance of the heritage conservation area, through its height, size and appearance and is out of step with the character of the surrounding dwellings.
  - To ensure new development facilitates the retention of significant vegetation that contributes to the tree canopy, especially within the Central Orange Heritage Conservation Area. The proposed new building will dominate the skyline and is not proposed to contribute to the tree canopy in the area.

- Orange Development Control Plan 2004 Infill Guidelines D17/5716, p6 – “The infill building should not be substantially smaller or larger than the general height and proportion of buildings in the street”. The proposed development is substantially larger in height & proportion to the existing buildings in the street. The proposed development is not in keeping with the heritage precinct of Hampden Ave due to its scale (height & size) and its close proximity to the adjacent dwellings and will crowd out the southern side of Hampden Ave.
- The front facade of the proposed property is not in keeping with the heritage precinct of Hampden Ave, there is not retention of an appropriate visual setting as required per Orange Development Control Plan 2004 Infill Guidelines D17/5716, p3 Objectives of Infill Design.
- The existing carpark is already full from the properties it currently services namely 1 Hampden Ave, 259 Lords Place & 261 Lords Place prior to the proposed addition of 3 further residences. Lot 300 - 1 Hampden Ave is allocated 3 car parking sites in the proposed DA yet there are currently of the order of 8-10 cars parked onsite servicing this property on a daily basis. Please could council advise what were the original DA ‘off street’ parking requirements for 1 Hampden Ave and have these been amended?
- The significant car parking area created on Lot 301 detracts from the character and sense of continuity with the past for this heritage precinct and is now proposed to become a feature of the new DA.
- The proposed development does not sit well back from Hampden Ave, but rather sits as far forward as the adjacent 1 Hampden Ave, it contracts markedly in style, height and size to the adjacent dwellings and would feature prominently in the Hampden Ave heritage precinct.
- Orange Development Control Plan 2004 Infill Guidelines D17/5716, p6 “Large areas of glass or unrelieved walls should be avoided as they are generally out of character with heritage streetscapes and as a result stand out and dominate the streetscape.” The proposed DA has ignored this guideline.
- Statement of Environmental Effects, p17, 4.3 indicates a floor space ratio of 0.75:1 is required yet the proposed floor space ratio is well in excess of the requirement when considering the gross floor area combined for each of the storeys proposed. “The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.” The detail in terms of floor areas has not been provided. Could council please check and verify the floor space ratio calculation, taking into consideration the multiple floors proposed?
- Orange LEP 5.10 Heritage Conservation has an objective to conserve the environmental heritage of Orange, the proposed building for the reasons mentioned above fails to meet this requirement.
- Orange LEP 8.1 Orange CBD has a requirement for consideration of facade treatments consistent with heritage traditions of Orange, the proposed building is of such a scale and style that it is inconsistent with the surrounding buildings and heritage traditions of the immediate area.

I respectfully suggest to council that this DA is detrimental to the heritage and environment of the heritage precinct of Hampden Ave, does not comply with council guidelines and would have an adverse impact upon an important heritage area within the CBD and hence should not be approved.

I look forward to your response regarding this matter.

Many Thanks  
Yours Sincerely

Andrew Glastonbury  
recipient of 2017 Orange Cultural Heritage Award  
for Restoration of a Residential Heritage Building in Hampden Avenue.

Mr David Waddell  
CEO  
Orange City Council

28<sup>th</sup> January 2020

**RE: DA 417/2019(1) – PR4927 – 1 Hampden Avenue Orange**

Dear Mr Waddell

I write in objection to the above mentioned Development Application. I have interest in the property at 2 Hampden Avenue and have in recent years restored the heritage of my property and, so too, the streetscape in Hampden Avenue. This restoration work was recognised by Orange City Council. The proposed 3 storey block of flats is simply devoid of any consideration of the heritage of such a small quaint street. The proposed covered carpark is reminiscent of a motel entrance way erected in the 1970's.

I have addressed the main issues of objection in the accompanying notes however, I note that the information provided in the actual DA supporting documents does not give adequate numerical information. There is not adequate detail to review overall residential living space, the actual dimension of the buildings or structure. As a result, one is not able to visualise or map out their impact in comparison with other buildings and structures in the Orange Conservation area. For example, the brick wall at the front of the proposal appears to be around 3.4m high and 7m wide – making it a substantial “in your face” building front. Unfortunately, Council could not provide that information either when I met with them.

While the proponent suggests the concrete car park is a “missing tooth”, I hope the development does not become Orange City Council's “elephant in the room” for the Orange Heritage Conservation Area.

My submission follows.

Regards

Jenny Glastonbury

The Burra Charter includes in Article 8 in its section on "Setting":  
**"Conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place. New construction, demolition, intrusions or other changes which would adversely affect the setting or relationships are not appropriate"** : Orange Development Control Plan 2004 Infill Guidelines D17/5716.

**MARCH 2010** – 1 HAMPDEN AVE



**22 Jan 2020** – 1 HAMPDEN AVE



This “missing tooth” as described by the applicant (page 24) has been allowed to happen despite the provision of Orange DCP 2004, and Burra Charter adopted by the Infill Control Plans of the Orange DCP 2004. While the proverbial “horse has bolted” I look to Orange City Council to ensure appropriate streetscape is reinstated to Hampden Avenue. The 22 Jan 2020 photo above is not a picture reflecting conservation of heritage streetscape. This development will set a precedent for the Orange Conservation Area particularly areas where there is a no maximum height limit. Therefore, this development is of wide public interest and an important decision that it set to affect all owners of period properties in the HCA.

I was asked by an OCC representative “wouldn’t you like to see something rather than a car park on the lot” – There was something other than a car park on the lot, and I would have preferred Council to managed the heritage conservation of the streetscape more diligently.

Orange LEP contains controls which apply to the proposed 3 storey flats at 1 Hampden Avenue, further, Orange City Council’s DCP 2004 contain more detailed controls, of which the Infill Guidelines refer specifically to the Heritage Conservation Area (HCA) 1 Hampden Avenue is located. I have applied some of these guidelines to the development proposal and through illustrations and photographs, demonstrate that the impact of the development, as proposed, is not acceptable for either Hampden Ave or the heritage conservation area. Particularly in a small street where the fabric of Orange’s past is highlighted and where the dwellings have been preserved and restored to reinstate streetscape.

HEIGHT at 11.12m



EXISTING DWELLINGS IN THE IMMEDIATE AREA OF THE PROPOSAL.

- the height of the 3 storey flat proposal is grossly out of scale when compared to the single storey premises that make up the Hampden Avenue streetscape. All current premises in Hampden Avenue are single storey as can be seen from the above aerial screen shot.
- The height of the 3 storey flat proposal is taller than the buildings it backs on to from Byng Street, making this development one of this highest buildings in the CBD. It is not an appropriate development for the heritage streetscape of Hampden Ave.
- The artist’s impression of this development does not show how this development will tower above the old Carrington hotel as will be viewed from the corner of Byng and Lords Place, and from the entrance to Hampden Avenue. According to the old Carrington Hotel DA, the new 2 storey development at that site is only 8m at its highest. Therefore, this block of flats will tower some 3.12 metres above the old Carrington site.
- The artistic impression on the cover page of the “plans” document, conveniently obscures the 3<sup>rd</sup> storey with a tree when in fact it would be seen and will be a dominant feature of the skyline particularly in winter when the trees are without leaves. This building will be seen towering over 259 and 261 Lords Place from Lords Place, 261 being a heritage listed item.

As seen below - as illustrated in the OCC Infill guidelines (per figure 4) a 2 storey house is considered **BAD** infill in a line of single storey houses.

*“The infill building should not be substantially smaller or larger than the general height and proportion of buildings in the street, as shown below.*

- Hampden Avenue is ALL single storey – this development is a 3 storey 3 unit residential flat development and its height will dominate the streetscape and skyline.



Figure 4: a bad example of infill where the dwelling is substantially larger



Current infills in the Heritage Conservation Area are for the majority battle-axed and do not interfere with the streetscape. The one exception I could find are the premises built next the Red Cross Blood Bank at 72 Kite street. Those townhouses are in keeping with the heritage scale, bulk and streetscape..

**CONCLUSION: The height of this development is substantially larger and NOT APPROPRIATE to this location. The fact that this is a street full of period homes and a heritage conservation area makes even less appropriate.**



ABOVE: Information as per Orange Heritage Manual 2006. The above image demonstrates the period dwellings that create the streetscape in Hampden Avenue. No 8 which has not been identified of any particular period is a small single storey dwelling with verandah. **The 3 storey flat development is not sympathetic to the height of these premises nor form.**

FORM & HEIGHT

I strongly oppose the proposed form this 3 storey flat development proposes due to the following:

1. It presents a blank brick wall at street level. This wall is not in keeping with the verandah the other premises offer the streetscape, and thus the brick wall is not representative of the Hampden Ave or Orange’s heritage streetscape.

DA Application states:	My response and objection
<p><i>A great deal of care has been taken in the design of proposal to consider the existing neighboring structures, and in particular the locally listed heritage item at 261 Lords Place, 259 Lords Place to the east, and 1 Hampden Avenue to the west</i></p>	<p>259 and 261 Lords Place are not facing Hampden Ave                      As seen below the development is visually more in keeping with the form and visual amenity of the “Templers Mill” motel at 94 Byng Street Orange                      The built over car park is not an acceptable look for Hampden Ave. It would be better to retain the car park as it is and insist on plantings to reinstate the vegetation that has been stripped from the area. This would hide the blank built form from the back fence line.</p>

261 Lords Place



Proposal



263 Lords Place



94 Byng Street Orange – this is what the proposal represents



The image to the left is a reverse photo of the Kmart carpark.

This is the visual impact this development is likely to have on Hampden Avenue – that is a brick wall with a car park entrance.

This is neither sympathetic to the existing streetscape nor does it resembles any attempt to conserve the visual amenity of the HCA

This over car park development has no place in a small HCA street.

DA Application states:	My response and objection
<p>The setting is generally characterised by a regular, or rhythmic pattern of structures along Hampden Avenue, <b>with defined gaps between structures which are generally landscaped.</b></p>	<p>The 3 storey flat proposal does not maintain the “rhythmic pattern” of structures. The pattern of structures in Hampden Avenue is of single storey period premises with verandah.</p> <p>The 3 storey flat proposal provides for a brick wall and a built over car park – there is no structure of this size, bulk and appearance in Hampden Ave or its entrance.</p> <p>The 3 storey flat proposal leaves <b>no defined gaps between structures</b> and no room for landscaping as there will be a concrete car park dominating street level as is currently seen  <b>CONCLUSION: the proposed development does not meet the infill guidelines.</b></p>
	<p>The OCC DCP Infill guidelines state:</p> <p><b><i>Large areas of glass or unrelieved walls should be avoided as they are generally out of character with heritage streetscapes and as a result stand out and dominate the streetscape. Glazing should be broken up and should not be floor to ceiling.</i></b></p> <p>This development has “unrelieved walls” and “floor to ceiling glazing”</p> <p><b>CONCLUSION: the proposed development does not meet the infill guidelines as it is out of character with heritage streetscapes</b></p>
<p>In response, the proposal seeks to <b>strengthen the streetscape</b> and to reference the architectural elements of the surround structures in the architectural expression of the building. The proposal provides a generous setback from 1 Hampden Avenue so that this structure enjoys an appropriate curtilage, and the proposal is well setback from the structures on 261 Lords Place and 259 Lords Place to the east.</p>	<p>2 Hampden Avenue (wrongly described as 4A Hampden Ave) is an example of the potential visual impact blank unrelieved brick walls will have on the streetscape. <u>Below</u> is what development allowed to happen to 2 Hampden Ave.</p> 

Familiar materials, detailing and traditional roof forms and **window proportions** are employed in the proposal so that it immediately reads as part of the established streetscape

2 Hampden Avenue has been restored to reflect the traditional streetscape by;

- Reinstating the verandah which are a feature of the houses in the street, thus softening the hard brick surfaces
- By removing the bulk of the brick fence and planting hedges to soften the impact of the remaining brick fence.
- The proposed 3 storey flat in essence will be repeating the mistakes of the past and this needs to be avoided.



This work won a heritage restoration award from OCC demonstrating the contribution sympathetic improvements make to the streetscape of Hamden Ave.

The proposed 3 storey flats are not an appropriate addition to this HCA as it is proposing an expanse of unrelieved brick wall which the infill guidelines clearly states are not appropriate.

These blank expanses of brick wall are repeated throughout the proposal.

Window proportions of ceiling to floor height do not “immediately reads as part of the established streetscape” as proposed by the applicant.

The site has very limited landscaping currently and additional planting fronting the street and long the pedestrian entry path is proposed to further soften the streetscape. This new planting will be supplemented by planter beds at upper levels of the proposed building that will provide vegetation that will cascade over the upper level walls.

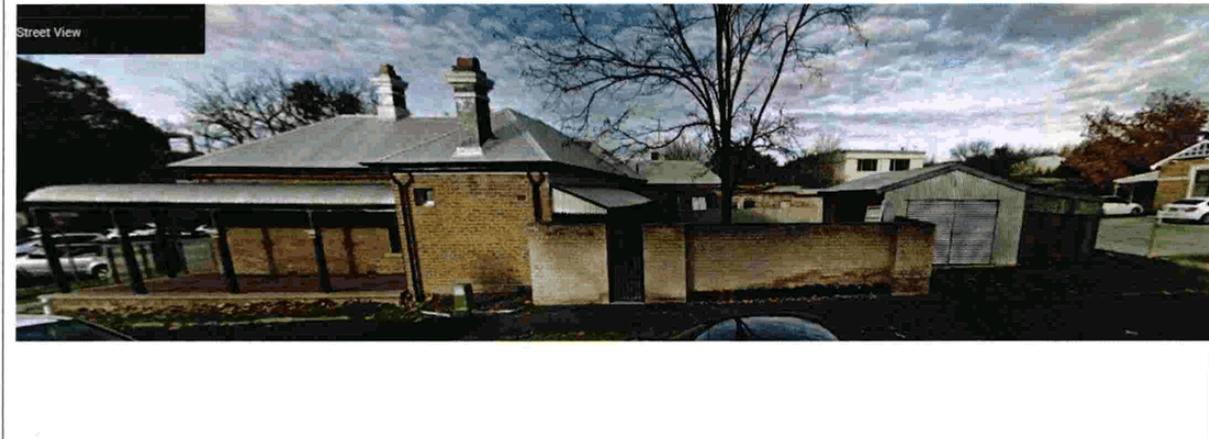


There is next to no vegetation proposed by the applicant as is demonstrated by the image they have supplied.

Due to the expanse and retention of the carpark – there is no space for deep plantings of trees and the area is devoid of any character. **Below** is what the site use to look like:



DA Application states:	My response and objection
<p>The language of the brick wall on the Hampden Avenue frontage of 261 Lords Place is referenced and employed to screen part of the on-grade parking area.</p> 	<p>This proposed brick wall is a rendered brick wall that <b>does not form the fabric of the Heritage item at 261 Lords Place.</b> This rendered brick wall, is not a feature of the federation dwellings and therefore is not a notable feature that should be made a feature of especially as it proposes to be at street frontage and above the full height of the surrounding single story buildings. There is a hedge planted in front of this brick wall - one assumes to soften and eventually hide the wall.</p> <p>Repeating this non-architectural or notable feature is not appropriate and detracts from the streetscape and amenity.</p>



DA Application states:	My response and objection
<p>Whilst the site of the proposal shares a boundary with the locally listed Heritage Item at 261 Lords Place, the structure on 261 Lords is more than 12m away from the subject site. A metal garage and large street tree sit within this separation zone and provide a strong visual separation between the 2 properties. Refer to the Streetscape Elevation included as part of the architectural drawings.</p>	<p>The applicant has stated immediately prior to this statement:  <i>"The language of the brick wall on the Hampden Avenue frontage of 261 Lords Place is referenced and employed to screen part of the on-grade parking area"</i>.</p> <p>The proponent appears to want to borrow the brick fence from 261 to make a feature of it, yet makes a point of saying that 261 is visually separated from the development.</p> <p>These two statements seem to be at odds with each other.</p> <p><i>The full storey brick wall is not appropriate.</i></p>
<p>It is considered that the proposal <b>will not adversely affect</b> the significance, character or appearance of the Heritage Conservation Area or heritage items within proximity to 1A Hampden Avenue. As described, familiar materials, detailing and traditional roof forms and <b>window proportions</b> are employed in the proposal so that it <b>immediately reads as part of the established streetscape</b>. This proposed method ensures that the new building does not adversely affect the significance of the area.</p>	<p><i>This building is an overdevelopment in scale, height, bulk, visual appearance and detracts from the streetscape.</i></p> <p><i>It will be a dominant feature of street and skyline and if approved will set an undesired precedent for the HCA.</i></p> <p><i>The proposal does not enhance and complement Hampden Ave or the HCA</i></p> <p><i>The support information fails to demonstrate that it meets the objectives of the OCC DCP 2004 Infill Guidelines which are specifically referenced when assessing developments in a HCA.</i></p> <p><i>I request that Orange City Council reject the development and any development that proposes to dominate the streetscape. Such as this one. This is not the CBD it is a street full of single storey houses representing the heritage of Orange.</i></p>

*BUILT OVER CAR PARK*

By far this is the most objectionable feature of the design and one that cannot be remedied and therefore the development should not go ahead as proposed.

The brick wall of the front of this proposal will be just over 3.8m high and estimated at least 7m wide.

Below are examples of similar built over car park which demonstrates how out of touch this development is with compliance with the Burra Charter and the objectives of the OCC DCP 2004 and Infill Guidelines.

TEMPLERS MILL MOTEL – this is only a 2 storey building



PLAINSMAN MOTEL FORBES



QUALITY INN DUBBO



WEST END MOTOR LODGE ORANGE



An eyesore is an eyesore, what is proposed creates a visual intrusion to the heritage streetscape. The end result is that it looks like a dated motel entrance as can be seen by a similar entrances above from various hotels. The proposal will have the same visual effect as viewed from Hampden Avenue.

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PARKING

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I note that there appears to be ample space behind both 1 Hampden Avenue and 3 Hampden Avenue for car parking and suggest this area can be utilised to hide the car parking for all the buildings and any future redesigned proposal. Entry can be at the established entrance at 3 Hampden Ave at the end of the street, traffic driving in one way direction will alleviate flow issues and be a safer option for pedestrians.

BELOW: highlighting available area for alternate car parking while allowing for an appropriate residential dwelling on new lot.



BELOW: ILLUSTRATION OF HOW PARKING ISSUES CAN BE ADDRESSED WHILE REINSTATING STREETScape AND ALLOWING FOR A NEW APPROPRIATE RESIDENTIAL DWELLING ON THE NEWLY CREATED LOT.



CONCLUSION: The built over car park and 3 storey flats are unsympathetic to the heritage landscape in every way. There are more viable options for development of this site and Council should insist that they be explored.

Further: OCC DCP 2004

**PO 7.7-3 PLANNING OUTCOMES – HERITAGE**

1. Heritage buildings and structures are efficiently re-used.
2. New development complements and enhances the significance of a heritage item or place of heritage significance listed in the Orange Heritage Study.
3. Significant landscape features are retained including original period fences and period gardens.

**GUIDELINES**

These guidelines indicate ways of achieving the planning outcomes. It is recognised that there may also be other solutions. All design solutions will be considered on merit. Applications should clearly demonstrate how the planning outcomes are being met where alternative design solutions are proposed

- a) Statement of Heritage Significance outlines the impact of the proposed development on the heritage item.
- b) Ancillary buildings such as garages, carports and garden sheds are located to the rear or set back further from the street frontage than the heritage building.
- c) Building form, massing, roof shapes, pitch, height and setbacks are consistent with nearby buildings of heritage significance (NB buildings of heritage significance include buildings listed as heritage items in schedule 8 of LEP 2000 and/or buildings listed in inventory sheets in the Orange Heritage Study).
- d) Any significant heritage features – including mature trees, retaining walls, fences or kerbstones – are retained.
- e) Period fences and gardens are established/reinstated in heritage settings.

**NOTE In heritage settings these criteria override other criteria in this Plan.**

**"Where the planning controls are aimed at preserving the existing character of an area, additional questions to be asked are:<sup>1</sup>**

*Does the area have a predominant existing character and are the planning controls likely to maintain it?*

*Does the proposal fit into the existing character of the area?*

**Only when planning controls are aimed at creating a new character, are the existing character of less relevance."**

NOTE: errors in DA.

The DA refers to 76C of EPA Act when it should be section 79C

It should be 2 Hampden Avenue not 4A Hampden

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<sup>1</sup> *Veloshin v Randwick Council* [2007] NSWLEC 428 at 32

# DEVELOPMENT APPLICATION

## APARTMENT DEVELOPMENT

# HAMPDEN APARTMENTS

LOT 301 - 1A HAMPDEN AVE, ORANGE NSW

DRAWING NO.	DRAWING NAME	REV
DA00	COVER / DRAWING SCHEDULE	2
DA01	SITE PLAN	2
DA02	SITE + LANDSCAPE ANALYSIS	2
DA03	GROUND FLOOR	1
DA04	FIRST FLOOR	2
DA05	SECOND FLOOR	2
DA06	ELEVATIONS	2
DA07	SECTIONS	2
DA08	COMPLIANCE NOTES	1
DA09	SHADOW DIAGRAMS	2
DA10	BASIX REQUIREMENTS	1



PROPOSED STREETScape VIEW



VIEW OF PROPOSAL LOOKING SOUTH WEST ALONG HAMPDEN AVENUE



VIEW OF PROPOSAL LOOKING EAST ALONG HAMPDEN AVENUE

**Member Australian Institute of Architects**

BR	BRICKWORK	LWC	LIGHT WEIGHT CLADDING
BOL	BOLLARD	MRS	METAL ROOF SHEETING
C	CURVED	MG	METAL GUTTER
CH	DOUBLE HURD	NI	NEW
CP	DOWNPIPE	PR	POWDER ROOM
ES	EXISTING	RL	REDUCED LEVEL
FCL	FINISHED CEILING LEVEL	RS	ROLLER SHUTTER
FPL	FINISHED FLOOR LEVEL	SC	STEEL COLUMN
FHR	FIRE HOSE REEL	SW	STORMWATER OUTLET
FV	FUSIBLE	SAL	SKYLIGHT
HWU	HOT WATER UNIT	TBC	TO BE CONFIRMED
LDY	LAUNDRY	TF	TIMBER FLOOR

REV	DATE	DESCRIPTION
1	04.12.19	Issue for DA
2	06.03.20	Revised DA - Heritage Comments

Architect

**Source Architects**

Source Architects Pty Ltd  
 150 Byng Street, Orange NSW 2800  
 PO Box 144 Orange NSW 2800 Australia  
 T 02 6362 7526  
 E studio@sourcearchitects.com.au  
 www.sourcearchitects.com.au  
 ABN 75 162 290 066

Project Name	Project No.	N	
HAMPDEN APARTMENTS	19010		
DEVELOPMENT APPLICATION	LOT 301 - 1A HAMPDEN AVE, ORANGE NSW		
FOR	TIPPERARY INVESTMENT HOLDINGS		
No.	Drawing Title	Scale	Rev
DA00	COVER / DRAWING SCHEDULE	1:100 @A1	2

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1 SITE PLAN  
1:100

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BR	BRICKWORK	LWC	LIGHT WEIGHT CLADDING
BOL	BOLLARD	MRS	METAL ROOF SHEETING
IC	CURVED	MD	METAL DUTTER
DH	DOUBLE HUNG	(N)	NEW
CF	CONCRETE	FR	POWDER ROOM
(E)	EXISTING	RL	REDUCED LEVEL
FCL	FINISHED CEILING LEVEL	RS	ROLLER SHUTTER
PFL	FINISHED FLOOR LEVEL	SC	STEEL COLUMN
PHR	FIRE HOSE REEL	SW	STORMWATER OUTLET
PLY	PLYWOOD	SHL	SUNLIGHT
HWU	HOT WATER UNIT	TBC	TO BE CONFIRMED
LWV	LAUNDRY	TF	TIMBER FLOOR

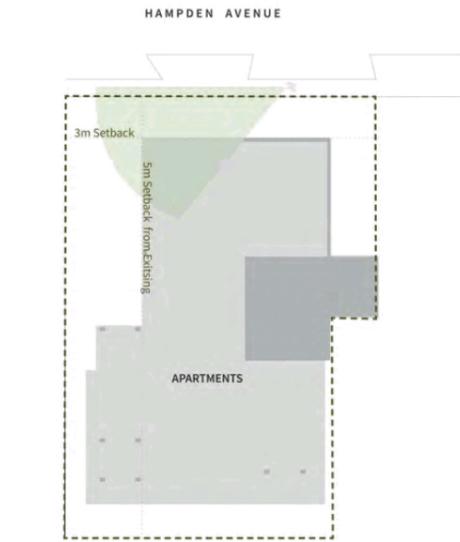
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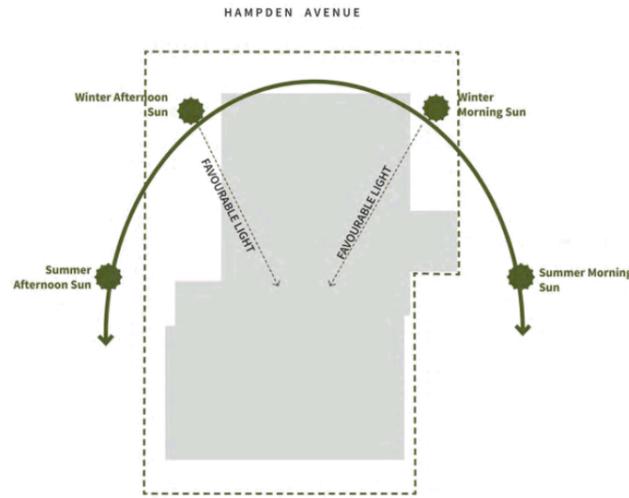
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150 Byng Street, Orange NSW 2800  
PO Box 144 Orange NSW 2800 Australia  
T 02 6302 7520  
E studio@sourcearchitects.com.au  
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ABN 75 162 200 096

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DEVELOPMENT APPLICATION	LOT 301 - 1A HAMPDEN AVE, ORANGE NSW		
FOR TIPPERARY INVESTMENT HOLDINGS			
No.	Drawing Title	Scale	Rev
DA01	SITE PLAN	1:100 @A1	2

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VIEW LINES FROM STREET



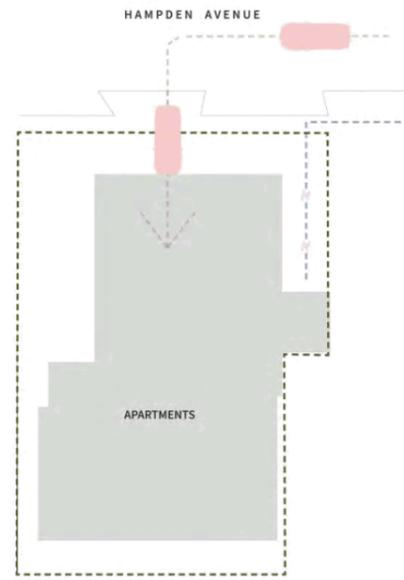
SOLAR EXPOSURE



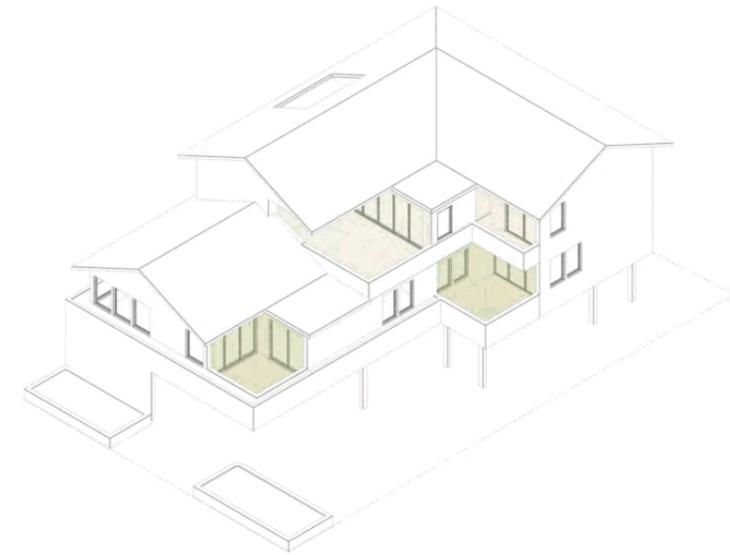
LANDSCAPING  
GARDEN BEDS TO SOFTEN THE BUILDING FORM  
AND MAINTAIN PRIVACY



SERVICE CORE



ACCESS



TERRACED OUTDOOR SPACE FOR PRIVACY  
NORTH FACING PRIVATE OUTDOOR SPACES FOR  
BEST DAYLIGHTING

NOT FOR CONSTRUCTION



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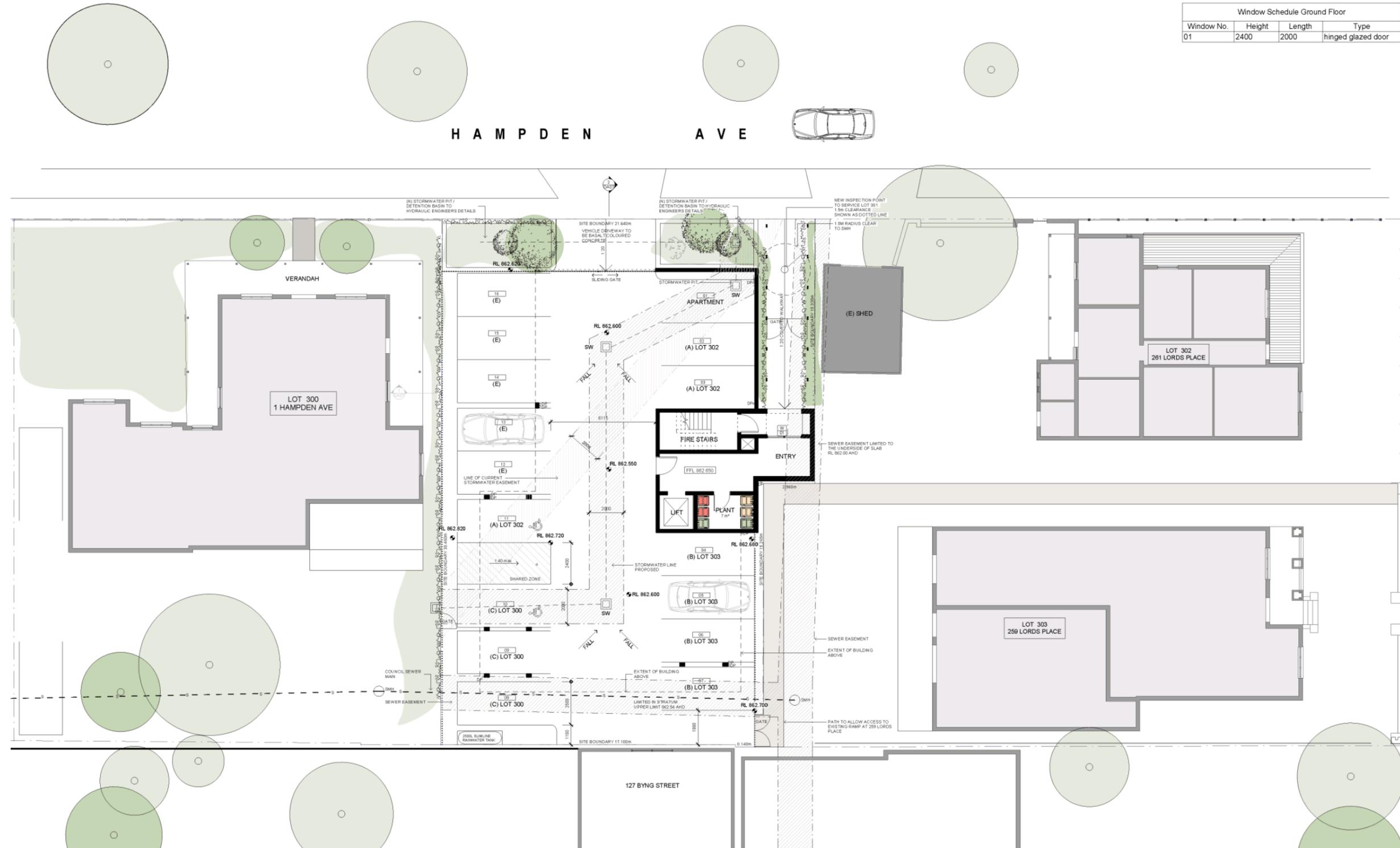


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PO Box 144 Orange NSW 2800 Australia  
T 02 6362 7528  
E studio@sourcearchitects.com.au  
www.sourcearchitects.com.au  
ABN 75 162 200 096

Project Name <b>HAMPDEN APARTMENTS</b>	Project No. <b>19010</b>	N 
DEVELOPMENT APPLICATION FOR <b>TIPPERARY INVESTMENT HOLDINGS</b>		
LOT 301 - 1A HAMPDEN AVE, ORANGE NSW		
No. <b>DA02</b>	Drawing Title <b>SITE + LANDSCAPE ANALYSIS</b>	Scale <b>@A1</b>
		Rev <b>2</b>

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Window Schedule Ground Floor			
Window No.	Height	Length	Type
01	2400	2000	hinged glazed door



1 GROUND FLOOR PLAN  
1:100

NOT FOR CONSTRUCTION



BK	BROCKWORK	LWC	LIGHT WEIGHT CLADDING
BOL	BOLLARD	MRS	METAL ROOF SHEETING
IC	CURVED IRONING	MG	METAL GUTTER
DN	DOWNPIPE	NI	NEW
EX	EXISTING	PR	POWDER ROOM
FCL	FINISHED CEILING LEVEL	RL	REVENGED LEVEL
FFL	FINISHED FLOOR LEVEL	RS	ROLLER SHUTTER
FHR	FIRE HOSE REEL	SC	STEEL COLUMN
FLV	FLOORSCREEN	SW	STORMWATER OUTLET
HWU	HOT WATER UNIT	SHL	SHOULDER
LDT	LAUNDRY	TBC	TO BE CONFIRMED
		TF	TIMBER FLOOR

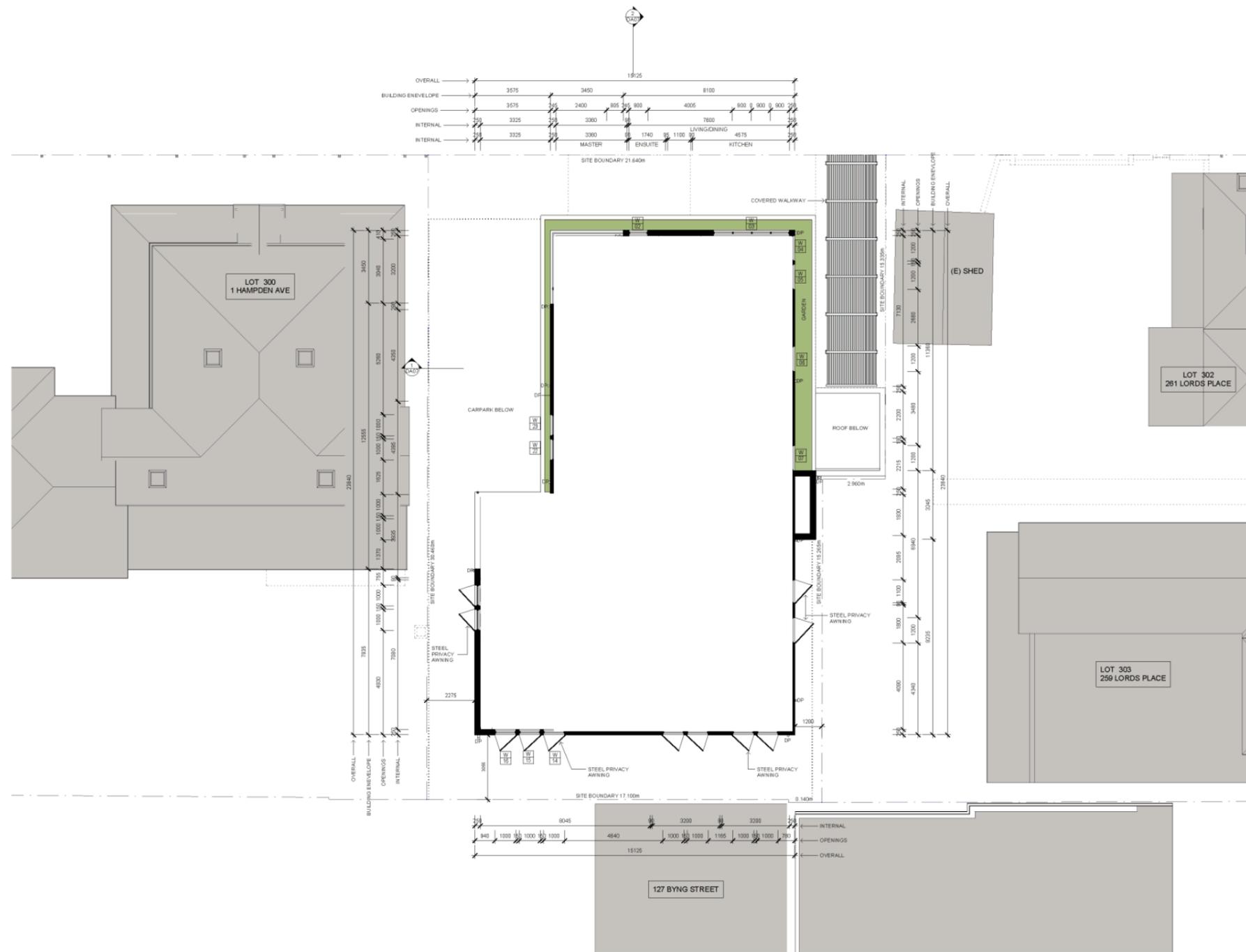
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www.sourcearchitects.com.au  
ABN 75 162 290 096

Project Name	HAMPDEN APARTMENTS	Project No.	19010
DEVELOPMENT APPLICATION		LOT 301 - 1A HAMPDEN AVE, ORANGE NSW	
FOR	TIPPERARY INVESTMENT HOLDINGS		
No.	DA03	Scale	1:100 @A1
Rev	1		

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Window Schedule First Floor			
Window No.	Height	Length	Type
02	1700	900	double hung
03	1700	900	fixed
04	1700	1200	double hung
05	1700	1200	fixed
06	1700	1200	double hung
07	1700	1200	fixed
08	1700	1145	double hung
09	1700	1200	double hung
10	1700	1000	double hung
11	1700	1000	fixed
12	1700	1000	fixed
13	1700	1000	double hung
14	1700	1000	fixed
15	1700	1000	fixed
16	1700	1000	double hung
17	1700	1000	fixed
18	1700	1000	double hung
19	2450	3324	sliding door
20	1700	1000	fixed
21	1700	1000	double hung
22	1700	1000	fixed
23	1700	1000	double hung
24	2450	2400	sliding door
25	2450	3040	sliding door
26	1800	1200	fixed
27	1700	1145	double hung

1 LEVEL 1  
1:100

NOT FOR CONSTRUCTION



- BR BRICKWORK
- BOL BOLLARD
- C CURVED
- CH DOUBLE HUNG
- DN DOWNPIPE
- EX EXISTING
- FCL FINISHED CEILING LEVEL
- FFL FINISHED FLOOR LEVEL
- FHR FIRE HOSE REEL
- FLY FLUSHES
- H/W HOT WATER UNIT
- LDY LAUNDRY
- LWC LIGHT WEIGHT CLADDING
- MFS METAL ROOF SHEETING
- MG METAL GUTTER
- NI NEW
- PDR POWDER ROOM
- RL REDUCED LEVEL
- RS ROLLER SHUTTER
- SC STEEL COLUMN
- SW STORMWATER OUTLET
- SKL SKYLIGHT
- TBC TO BE CONFIRMED
- TF TIMBER FLOOR

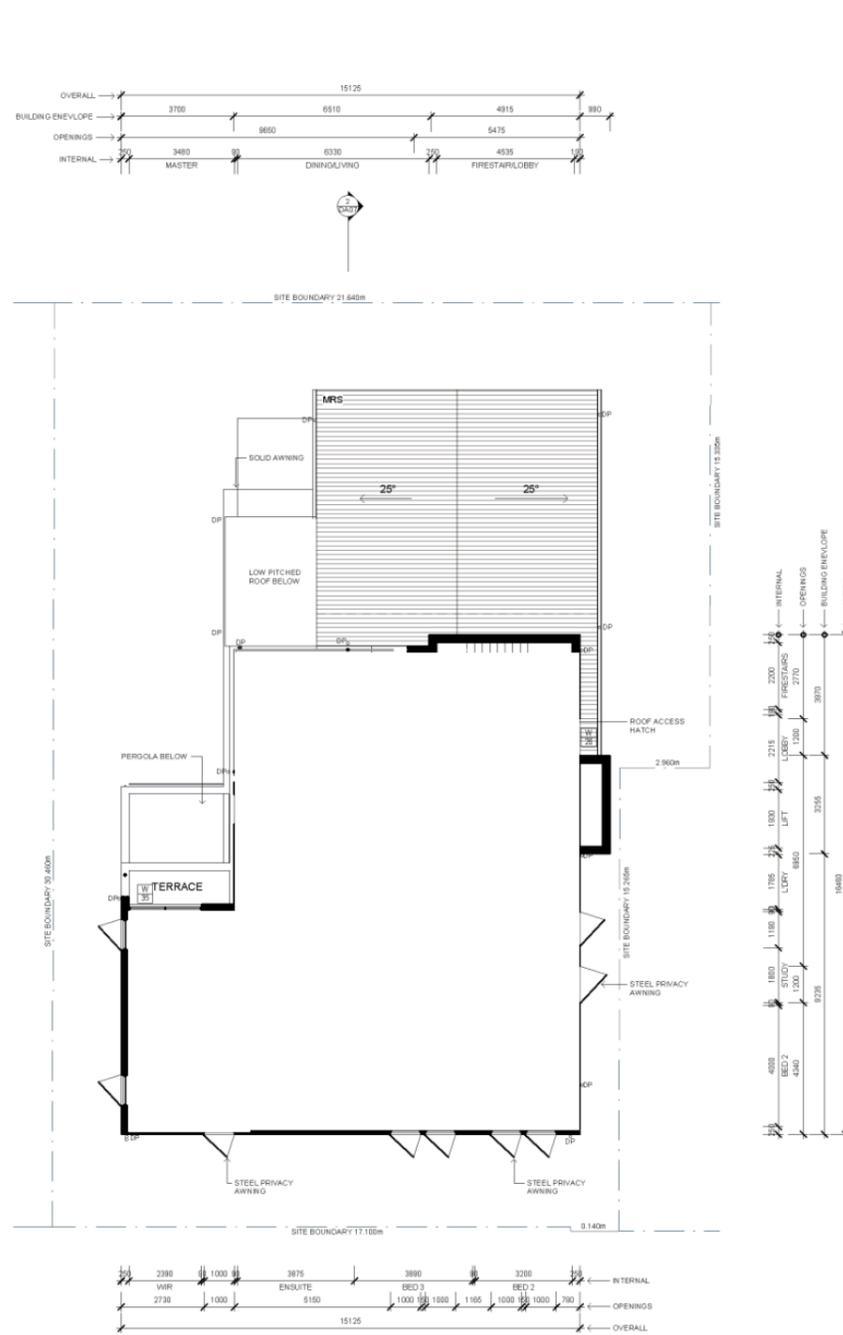
REV	DATE	DESCRIPTION
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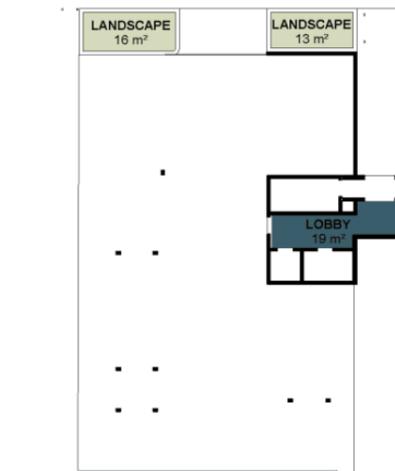
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PO Box 144 Orange NSW 2800 Australia  
T 02 6302 7520  
E studio@sourcearchitects.com.au  
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Project Name: HAMPDEN APARTMENTS  
Project No: 19010  
DEVELOPMENT APPLICATION  
FOR: TIPPERARY INVESTMENT HOLDINGS  
LOT 301 - 1A HAMPDEN AVE, ORANGE NSW  
No. Drawing Title: DA04 FIRST FLOOR  
Scale: 1:100 @A1  
Rev: 2

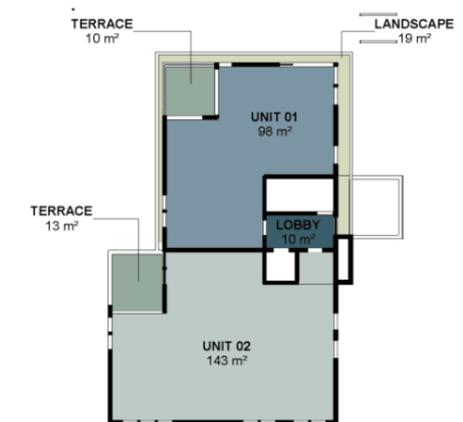
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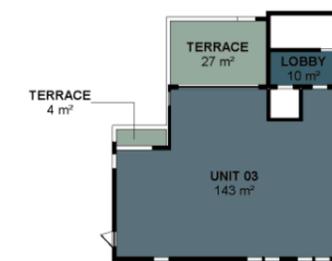
Window Schedule Second Floor			
Window No.	Height	Length	Type
28	1700	1200	double hung
29	1700	1000	double hung
30	1700	1000	fixed
31	1700	1000	fixed
32	1700	1000	double hung
33	1700	1000	double hung
34	1700	1000	double hung
35	2200	2400	sliding door
36	1700	1000	fixed
36	1700	1000	double hung
37	2250	5330	sliding door



2 GROUND FLOOR AREA  
1:200



3 LEVEL 1 AREA  
1:200



4 LEVEL 2 AREA  
1:200

1 Level 2  
1:100

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DEVELOPMENT APPLICATION FOR <b>TIPPERARY INVESTMENT HOLDINGS</b>		
LOT 301 - 1A HAMPDEN AVE, ORANGE NSW		
No. <b>DA05</b>	Drawing Title <b>SECOND FLOOR</b>	Scale <b>As indicated</b>
	Rev <b>2</b>	

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1 NORTH ELEVATION  
1:100



2 EAST ELEVATION  
1:100

3 WEST ELEVATION  
1:100



4 SOUTH ELEVATION  
1:100

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PROPOSED MATERIAL SCHEDULE

	ROOFING GALVANISED STEEL SHEETING		GUTTERS GALVANISED TO MATCH ROOF SHEETING
	WALL CLADDING VERTICAL CLADDING		FASCIA + BARGE BOARD PAINTED MONUMENT
	BRICK BROWNTAN		TIMBER WALKWAY
	WINDOWS ALUMINIUM - BLACK		
	AWNING STEEL AWNING - WHITE		



BK	BRICKWORK	LWC	LIGHT WEIGHT CLADDING
BOL	BOLLARD	MRS	METAL ROOF SHEETING
C	CURVED	MG	METAL GUTTER
CH	DOUBLE HUNG	NI	NEW
DN	DOWNPIPE	NR	POWDER ROOM
ES	EXISTING	RL	REDUCED LEVEL
FCL	FINISHED CEILING LEVEL	RS	ROLLER SHUTTER
FFL	FINISHED FLOOR LEVEL	SC	STEEL COLUMN
FHR	FIRE HOSE REEL	SW	STORMWATER OUTLET
FLY	FLYSCREEN	SKL	SKYLIGHT
HVU	HOT WATER UNIT	TBC	TO BE CONFIRMED
LDY	LAUNDRY	TF	TIMBER FLOOR

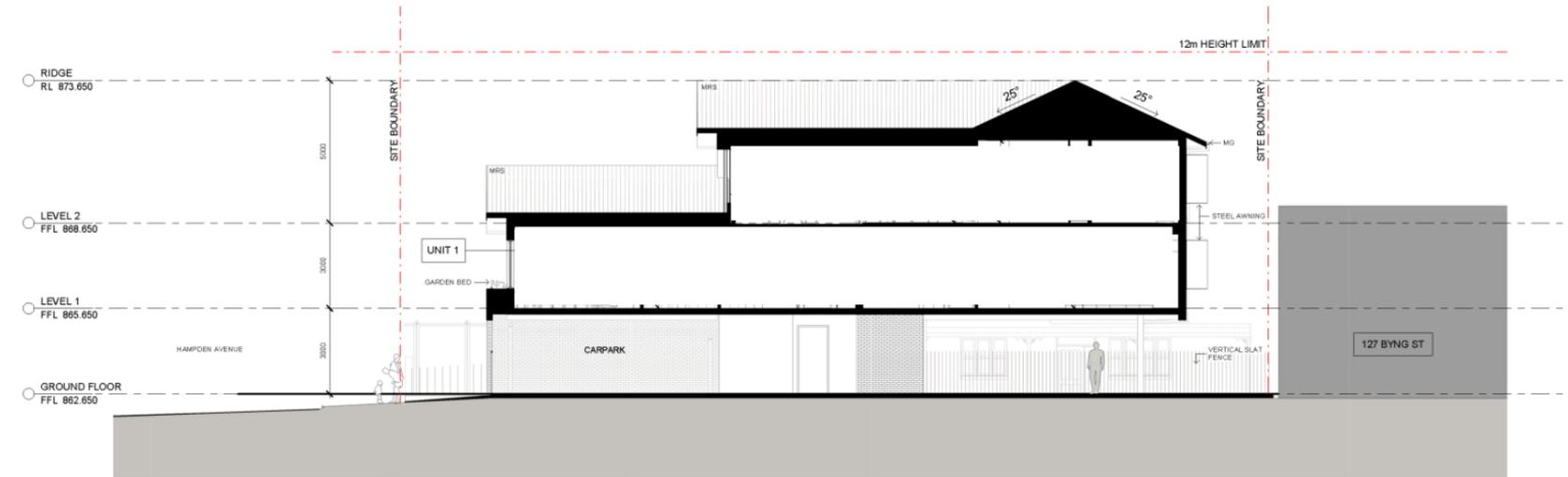
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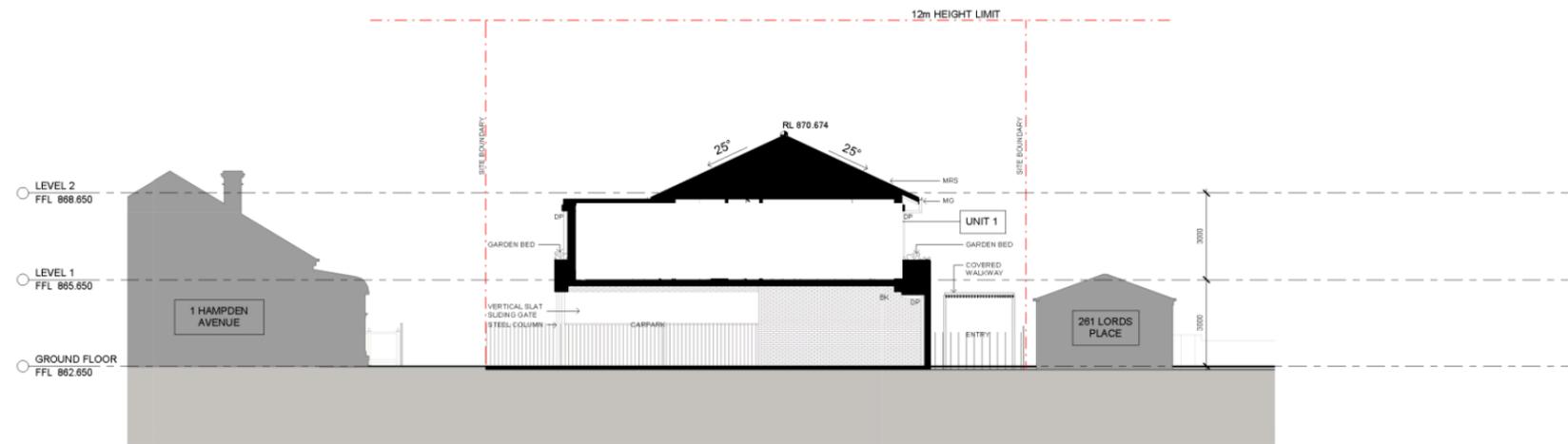
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150 Byng Street, Orange NSW 2800  
PO Box 144 Orange NSW 2800 Australia  
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Project Name <b>HAMPDEN APARTMENTS</b>	Project No. <b>19010</b>	
Development Application FOR <b>TIPPERARY INVESTMENT HOLDINGS</b>	LOT 301 - 1A HAMPDEN AVE, ORANGE NSW	
No. <b>DA06</b>	Drawing Title <b>ELEVATIONS</b>	Scale <b>1:100 @A1</b>
		Rev <b>2</b>

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2 LONG SECTION  
1:100



1 CROSS SECTION  
1:100

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BK	BRICKWORK	LWC	LIGHT WEIGHT CLADDING
BOL	BOLLARD	MRS	METAL ROOF SHEETING
IC	CURBED	MS	METAL OUTLET
DH	DOUBLE HUNG	(N)	NEW
CP	CORNICE	PCR	POWDER ROOM
(E)	EXISTING	RL	REDUCED LEVEL
FCI	FINISHED CEILING LEVEL	RS	ROLLER SHUTTER
FFL	FINISHED FLOOR LEVEL	SC	STEEL COLUMN
FHR	FIRE HOSE REEL	SW	STORMWATER OUTLET
FLY	FLYSCREEN	SHL	SKYLIGHT
HWU	HOT WATER UNIT	TBC	TO BE CONFIRMED
LZY	LAUNDRY	TF	TIMBER FLOOR

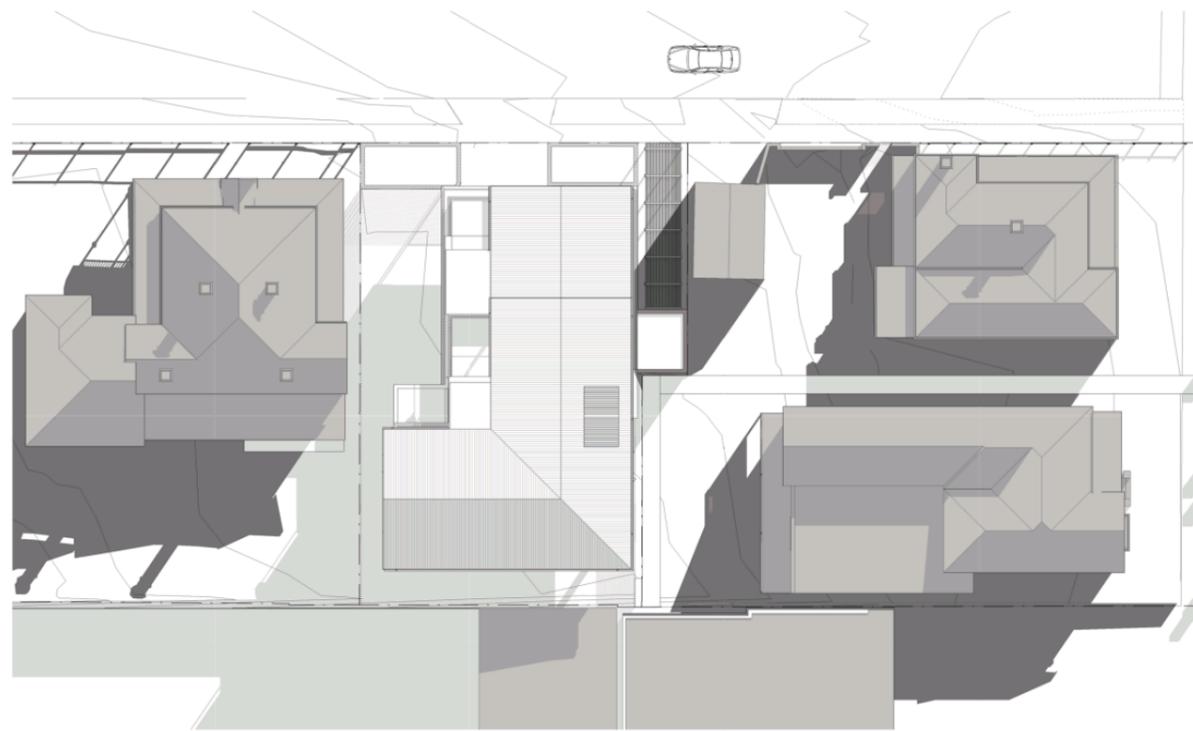
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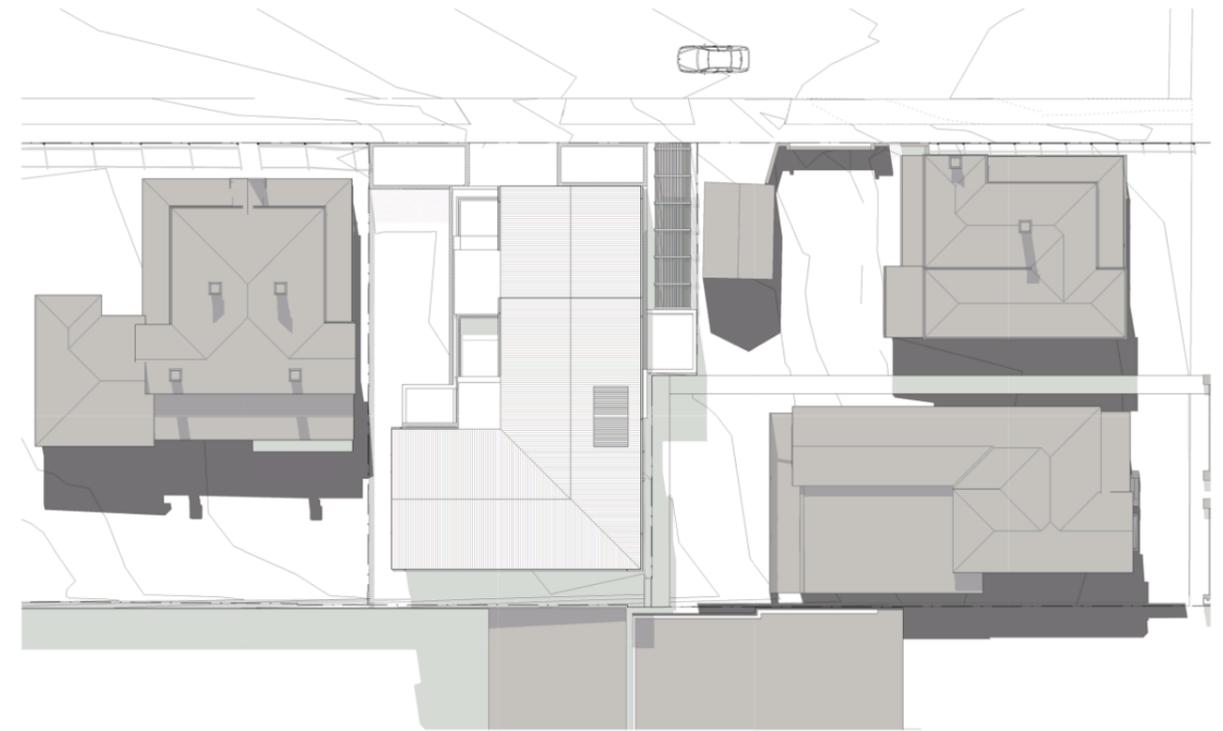
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PO Box 144 Orange NSW 2800 Australia  
T 02 6362 7528  
E studio@sourcearchitects.com.au  
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HAMPDEN APARTMENTS	19010	
DEVELOPMENT APPLICATION	LOT 301 - 1A HAMPDEN AVE, ORANGE NSW	
FOR	TIPPERARY INVESTMENT HOLDINGS	
No.	Drawing Title	Scale
DA07	SECTIONS	1:100 @A1
		Rev
		2

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1 SHADOW DIAGRAM 21st JUNE 9am  
1:200



2 SHADOW DIAGRAM 21st JUNE 12pm  
1:200



3 SHADOW DIAGRAM 21st JUNE 3pm  
1:200

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 Source Architects Pty Ltd  
 150 Byng Street, Orange NSW 2800  
 PO Box 144 Orange NSW 2800 Australia  
 T 02 6302 7520  
 E studio@sourcearchitects.com.au  
 www.sourcearchitects.com.au  
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Project Name  
**HAMPDEN APARTMENTS**  
 DEVELOPMENT APPLICATION  
 FOR **TIPPERARY INVESTMENT HOLDINGS**  
 No. **DA09**  
 Drawing Title  
**SHADOW DIAGRAMS**

Project No.  
**19010**  
 LOT 301 - 1A HAMPDEN AVE, ORANGE NSW

Scale  
**1:200 @A1**

Rev  
**2**

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Hampden Avenue Streetscape Analysis | February 19th 2020  
Hampden Avenue Apartments | Orange



**259 Lords Place**

Gable Roof + Hipped roof over verandah  
Painted dark tones + Black fencing  
No brick banding



**261 Lords Place**

Gable Roof + Hipped roof over verandah  
Painted dark tones + Black fencing  
No brick banding

Streetscape Analysis

NTS





**1 Hampden Ave**

Hipped roof with verandah  
No brick banding  
Windows in excess of 900mm width  
Hipped roof on rear extension



**3 Hampden Ave**

Gable Roof  
No brick banding  
Windows in excess of 900mm width  
Dark tone used as highlight



**10 Hampden Ave**

Gable Roof  
No brick banding  
Windows in excess of 900mm width



**10A Hampden Ave**

Unsympathetic red tone render  
Windows in excess of 900mm width and no relationship to reference windows in the street.



**8 Hampden Ave**

Hipped roof with verandah  
Rendered building with render detail  
Windows in excess of 900mm width  
Arch detail not represented in street



**6 Hampden Ave**

Hipped roof with verandah  
Windows in excess of 900mm width  
Brick banding painted white



**4 Hampden Ave**

Hipped roof with verandah  
Limited consistent features between  
Windows in excess of 900mm width  
Arch detail not represented in street



**263 Lords Place**

Hipped roof with verandah  
Windows in excess of 900mm width  
No brick banding  
Painted dark tones



Source Architects Pty Ltd  
ABN 75 162 290 066

NSW Nominated Architect  
David Sutherland | Reg No 7572

PO Box 144, Orange, NSW 2800  
150 Byng Street, Orange, NSW 2800

P +61 2 6362 7526  
E [studio@sourcearchitects.com.au](mailto:studio@sourcearchitects.com.au)

[www.sourcearchitects.com.au](http://www.sourcearchitects.com.au)



**2.3 DEVELOPMENT APPLICATION DA 89/2020 - 21 MARCH STREET**

RECORD NUMBER: 2020/658  
 AUTHOR: Andrew Crump, Senior Planner

**EXECUTIVE SUMMARY**

Application lodged	6 March 2020
Applicant/s	Mr NG Redmond and Ms JM Allan
Owner/s	Mr NG Redmond and Ms JM Allan
Land description	Lot A DP 152856 - 21 March Street, Orange
Proposed land use	Dwelling Alterations and Additions (carport)
Value of proposed development	\$3,000

Council's consent is sought to construct a single vehicle carport off the western side of the dwelling. The carport will be a simple skillion roof structure set slightly behind the front wall of dwelling.

The subject land is described as Lot A DP 152856 and is known as 21 March Street, Orange (refer Figure 1 below). The land is located in the central Heritage Conservation Area.



Figure 1 - locality plan

**DECISION FRAMEWORK**

Development in Orange is governed by two key documents Orange Local Environment Plan 2011 and Orange Development Control Plan 2004. In addition the Infill Guidelines are used to guide development, particularly in the heritage conservation areas and around heritage items.

**Orange Local Environment Plan 2011** – The provisions of the LEP must be considered by the Council in determining the application. LEPs govern the types of development that are permissible or prohibited in different parts of the City and also provide some assessment criteria in specific circumstances. Uses are either permissible or not. The objectives of each zoning and indeed the aims of the LEP itself are also to be considered and can be used to guide decision making around appropriateness of development.

**Orange Development Control Plan 2004** – the DCP provides guidelines for development. In general it is a performance based document rather than prescriptive in nature. For each planning element there are often guidelines used. These guidelines indicate ways of achieving the planning outcomes. It is thus recognised that there may also be other solutions of merit. All design solutions are considered on merit by planning and building staff. Applications should clearly demonstrate how the planning outcomes are being met where alternative design solutions are proposed. The DCP enables developers and architects to use design to achieve the planning outcomes in alternative ways.

#### **DIRECTOR'S COMMENT**

The proposal involves the construction of a single vehicle carport off the western side of the dwelling. The proposed carport is a simple skillion roof structure set behind the front wall of the dwelling. The recommendation of approval is supported. The proposal is tabled before PDC pursuant to the requirements of the Declaration of Planning Procedures and Protocol Strategic Policy given that the applicant is a Manager employed by Orange City. Council delegation for the determination of this application rests with Council.

#### **LINK TO DELIVERY/OPERATIONAL PLAN**

The recommendation in this report relates to the Delivery/Operational Plan strategy “10.1 Preserve - Engage with the community to ensure plans for growth and development are respectful of our heritage”.

#### **FINANCIAL IMPLICATIONS**

Nil

#### **POLICY AND GOVERNANCE IMPLICATIONS**

Nil

#### **RECOMMENDATION**

**That Council resolves to consent to development application DA 89/2020(1) for *Dwelling Alterations and Additions (carport)* at Lot A DP 152856 - 21 March Street, Orange pursuant to the conditions of consent in the attached Notice of Approval.**

#### **FURTHER CONSIDERATIONS**

Consideration has been given to the recommendation's impact on Council's service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

#### **SUPPORTING INFORMATION**

The land is a rectangular shaped parcel on the northern side of March Street and is one property removed from the north-west corner of the Sampson and March Street intersection. The land contains a simple late Victorian cottage with bullnose verandah in a traditional landscaped settings. At the rear of property is a former outbuilding converted to habitable space under DA 88/2013. The land falls inside the central heritage conservation area.

## THE APPLICATION

Council's consent is sought to erect a simple skillion style carport on the western side of the dwelling set slightly behind the front wall of the dwelling. The existing vehicle crossover from March Street will be used for vehicle access.

## MATTERS FOR CONSIDERATION

### **Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994***

Section 1.7 of the EP&A Act identifies that Part 7 of the Biodiversity Conservation Act 2016 (BC Act) and Part 7A of the Fisheries Management Act 1994 have effect in connection with terrestrial and aquatic environments.

There are four triggers known to insert a development into the Biodiversity Offset Scheme (ie the need for a BDAR to be submitted with a DA):

- Trigger 1: development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017);
- Trigger 2: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017); or
- Trigger 3: development is otherwise likely to significantly affect threatened species (clauses 7.2 and 7.3 of BC Act 2016).

The fourth trigger (development proposed to occur in an Area of Outstanding Biodiversity Value (clause 7.2 of BC Act 2016) is generally not applicable to the Orange LGA; as no such areas are known to occur in the LGA. No further comments will be made against the fourth trigger.

The development will not activate any of the above triggers. The proposed development is located in a highly degraded urban environment; no vegetation is proposed to be removed and there is very little likelihood that any endangered ecological community, threaded species or their habitat would be impacted by the proposed carport.

### **Section 4.15**

Section 4.15 of the *Environmental Planning and Assessment Act 1979* requires Council to consider various matters, of which those pertaining to the application are listed below.

### **PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT s4.15(1)(a)(i)**

#### **Orange Local Environmental Plan 2011**

#### **Part 1 - Preliminary**

#### **Clause 1.2 - Aims of Plan**

The broad aims of the LEP are set out under Subclause 2. Those relevant to the application are as follows:

- (a) *to encourage development which complements and enhances the unique character of Orange as a major regional centre boasting a diverse economy and offering an attractive regional lifestyle,*

- (c) to conserve and enhance the water resources on which Orange depends, particularly water supply catchments,
- (e) to provide a range of housing choices in planned urban and rural locations to meet population growth,
- (f) to recognise and manage valued environmental heritage, landscape and scenic features of Orange.

The application is considered to be consistent with aims (a), (c), (e) and (f) as listed above.

**Clause 1.6 - Consent Authority**

This clause establishes that, subject to the Act, Council is the consent authority for applications made under the LEP.

**Clause 1.7 - Mapping**

The subject site is identified on the LEP maps in the following manner:

Land Zoning Map:	Land zoned R1 General Residential
Lot Size Map:	No Minimum Lot Size
<b>Heritage Map:</b>	<b>Heritage conservation area</b>
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
<b>Groundwater Vulnerability Map:</b>	<b>Groundwater vulnerable</b>
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Not within a flood planning area

Those matters that are of relevance are addressed in detail in the body of this report.

**Clause 1.9A - Suspension of Covenants, Agreements and Instruments**

This clause provides that covenants, agreements and other instruments which seek to restrict the carrying out of development do not apply with the following exceptions:

- covenants imposed or required by Council
- prescribed instruments under Section 183A of the *Crown Lands Act 1989*
- any conservation agreement under the *National Parks and Wildlife Act 1974*
- any trust agreement under the *Nature Conservation Trust Act 2001*
- any property vegetation plan under the *Native Vegetation Act 2003*
- any biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995*
- any planning agreement under Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*.

Council staff are not aware of the title of the subject property being affected by any of the above.

**Part 2 - Permitted or Prohibited Development****Clause 2.1 - Land Use Zones and Clause 2.3 - Zone Objectives and Land Use Table**

The subject site is located within the R1 General Residential zone. The proposed development is characterised as a dwelling house (carport) under OLEP 2011 which means:

*a building containing only one dwelling.*

A further definition of dwelling is provided within the LEP which means:

*a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.*

Dwelling houses are permissible in the R1 General Residential zone with the consent of Council.

The carport is considered ancillary to the use of the dwelling and is therefore permissible with consent also.

**Clause 2.3** of LEP 2011 references the Objectives for each zone in LEP 2011. These objectives for land zoned R1 General Residential are as follows:

**1 - Objectives of the R1 General Residential Zone**

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement.*
- *To ensure that development along the Southern Link Road has an alternative access.*

The development is not incongruous with the objects of the zone.

**Part 3 - Exempt and Complying Development**

The application is not exempt or complying development.

**Part 5 - Miscellaneous Provisions****5.10 - Heritage Conservation**

The subject land is located in the Central Heritage Conservation Area

**(1) Objectives**

The objectives of this clause are as follows:

- (a) *to conserve the environmental heritage of Orange,*
- (b) *to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) *to conserve archaeological sites,*
- (d) *to conserve Aboriginal objects and Aboriginal places of heritage significance.*

As demonstrated by the below assessment against Council's infill guidelines, the development is consistent with the objects of this clause.

**(2) Requirement for Consent**

*Development consent is required for any of the following:*

(e) *erecting a building on land:*

(i) *on which a heritage item is located or that is within a heritage conservation area.*

The development involves the erection of a carport within a conservation area as such development consent is required which the applicant has applied for.

**(4) Effect of Proposed Development on Heritage Significance**

*The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under Subclause (5) or a heritage conservation management plan is submitted under Subclause (6).*

Impact caused by the development upon the significance of the conservation area is considered minor and thus acceptable. This is further detailed below under the consideration of Council's infill guidelines.

**(5) Heritage Assessment**

*The consent authority may, before granting consent to any development:*

(a) *on land on which a heritage item is located, or*

(b) *on land that is within a heritage conservation area, or*

(c) *on land that is within the vicinity of land referred to in paragraph (a) or (b),*

*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

Given the relatively minor nature of the proposed development and the level of heritage significance of the subject land, a heritage management document is not considered necessary.

**(7) Archaeological Sites**

*The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):*

(a) *notify the Heritage Council of its intention to grant consent, and*

(b) *take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

The subject land is not a known archaeological site.

**(8) Aboriginal Places of Heritage Significance**

*The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:*

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

The subject land is not a known Aboriginal place of heritage significance.

**(9) Demolition of Nominated State Heritage Items**

*The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:*

- (a) notify the Heritage Council about the application, and*
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

The site does not contain a Nominated State Heritage Item.

**Part 6 - Urban Release Area**

Not relevant to the application. The subject site is not located in an Urban Release Area.

**Part 7 - Additional Local Provisions****7.3 - Stormwater Management**

This clause applies to all industrial, commercial and residential zones and requires that Council be satisfied that the proposal:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting onsite infiltration of water*
- (b) includes, where practical, onsite stormwater retention for use as an alternative supply to mains water, groundwater or river water; and*
- (c) avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Existing stormwater arrangements will be utilised. The additional small area of roof catchment will not give rise to any unacceptable impacts related to stormwater.

**7.6 - Groundwater Vulnerability**

This clause seeks to protect hydrological functions of groundwater systems and protect resources from both depletion and contamination. Orange has a high water table and large areas of the LGA, including the subject site, are identified with "Groundwater Vulnerability" on the Groundwater Vulnerability Map. This requires that Council consider:

- (a) *whether or not the development (including any onsite storage or disposal of solid or liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystems, and*
- (b) *the cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.*

Furthermore, consent may not be granted unless Council is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact,*
- (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*

The proposal is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related ecosystems. The proposal does not involve extraction of groundwater and will therefore not contribute to groundwater depletion. The design and siting of the proposal avoids impacts on groundwater and is therefore considered acceptable.

#### **Clause 7.11 - Essential Services**

Clause 7.11 applies and states:

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:*

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *storm water drainage or onsite conservation,*
- (e) *suitable road access.*

In consideration of this clause, all utility services are available to the land and adequate for the proposal.

#### **STATE ENVIRONMENTAL PLANNING POLICIES**

##### **State Environmental Planning Policy 55 Remediation of Land**

*State Environmental Planning Policy 55 - Remediation of Land (SEPP 55) is applicable. Pursuant to Clause 7 Contamination and remediation to be considered in determining development application:*

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
  - (a) *it has considered whether the land is contaminated, and*

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

The subject land has a long history being used for residential purposes, Council holds no records to suggest that a contaminating activity has occurred on the land. The development does not seek to alter the historic residential use. As such, the development is considered satisfactory in regards to SEPP 55.

#### **PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT THAT HAS BEEN PLACED ON EXHIBITION 4.15(1)(a)(ii)**

From 31 January to 13 April 2018 the Department of Planning and Environment publically exhibited an Explanation of Intended Effect (EIE) and Draft Planning Guidelines for the proposed Remediation of Land SEPP, which will repeal and replace State Environmental Planning Policy 55 – Remediation of Land (SEPP 55). Of particular note, the Draft Planning Guidelines state:

*“In undertaking an initial evaluation, a planning authority should consider whether there is any known or potential contamination on nearby or neighbouring properties, or in nearby groundwater, and whether that contamination needs to be considered in the assessment and decision making process.”*

*“If the planning authority knows that contamination of nearby land is present but has not yet been investigated, it may require further information from the applicant to demonstrate that the contamination on nearby land will not adversely affect the subject land having regard to the proposed use.”* (Proposed Remediation of Lands SEPP - Draft Planning Guidelines, Page 10).

Not applicable.

#### **DESIGNATED DEVELOPMENT**

The proposed development is not designated development.

#### **INTEGRATED DEVELOPMENT**

The proposed development is not integrated development.

#### **PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s4.15(1)(a)(iii)**

##### **Development Control Plan 2004**

Development Control Plan 2004 (“the DCP”) applies to the subject land (*Part 0 - LEP 2011, Part - 7 Development in Residential Areas and Part 13 - Heritage*). An assessment of the proposed development against the relevant Planning Outcomes will be undertaken below.

**PART 0 – Orange LEP 2011**

Pursuant to Planning Outcome 0.2-1 Interim Planning Outcomes - Conversion of Zones:

- *Throughout this Plan, any reference to a zone in Orange LEP 2000 is to be taken to be a reference to the corresponding zone(s) in the zone conversion table.*

The corresponding zone to zone 2(a) Urban Residential (Orange LEP 2000) is zone R1 General Residential (Orange LEP 2011). As such, *Orange DCP 2004-07 - Development in Residential Areas* is relevant to this proposal.

**PART 7 - DESIGN ELEMENTS FOR RESIDENTIAL DEVELOPMENT**

The DCP sets the following Planning Outcomes at Part 7.7:

**Neighbourhood Character**

The DCP sets the following Planning Outcomes in regard to Neighbourhood Character:

- *Site layout and building design enables the:*
  - *creation of attractive residential environments with clear character and identity*
  - *use of site features such as views, aspect, existing vegetation and landmarks.*
- *Buildings are designed to complement the relevant features and built form that are identified as part of the desired neighbourhood character.*
- *The streetscape is designed to encourage pedestrian access and use.*

The character of the area is typified by an important spread of buildings from the turn of the century, with late Victorian, Edwardian and Federation styles, as well as a spread of Bungalow style dwellings which make up a major element in the housing stock of the area. All of these dwellings are of particular significance because of their concentration and general good condition.

The dwelling - upon completion of the proposed carport - would not be averse to the identified neighbourhood character.

**Building Appearance**

The DCP sets the following Planning Outcomes in regard to Building Appearance:

- *The building design, detailing and finishes relate to the desired neighbourhood character, complement the residential scale of the area, and add visual interest to the street.*
- *The frontages of buildings and their entries face the street.*
- *Garages and car parks are sited and designed so that they do not dominate the street frontage.*

As previously addressed, the proposed building appearance will be sympathetic to the residential area. The proposed carport is appropriately sited and sufficiently complementary within the context and setting such that it will not dominate the street frontage. As detailed below under the heading "Infill guidelines", Council's Heritage Advisor has recommended several minor changes to ensure the most appropriate heritage outcome is achieved; which the applicant has agreed to.

**Setbacks**

The DCP sets the following Planning Outcomes in regard to Setbacks:

- *Street setbacks contribute to the desired neighbourhood character, assist with the integration of new development and make efficient use of the site.*
- *Street setbacks create an appropriate scale for the street considering all other streetscape components.*

The proposed carport is setback slightly behind the front wall of the dwelling. As detailed below this is considered acceptable.

**Front Fences and Walls**

The DCP sets the following Planning Outcomes in regard to Fences and Walls:

- *Front fences and walls:*
  - *assist in highlighting entrances and creating a sense of identity within the streetscape.*
  - *are constructed of materials compatible with associated housing and with fences visible from the site that positively contribute to the streetscape*
  - *provide for facilities in the street frontage area such as mail boxes.*

Not applicable. There no changes proposed to the existing fence.

**Visual Bulk**

- *To allow flexibility in siting buildings and to ensure that the bulk and scale of new development reasonably protects the amenity of neighbouring properties and maintains appropriate neighbourhood character.*
- *To allow adequate daylight, sunlight and ventilation to living areas and private open spaces of new and neighbouring developments.*
- *To encourage the sharing of views, while considering the reasonable development of the site.*
- *Built form accords with the desired neighbourhood character of the area with:*
  - *side and rear setbacks progressively increased to reduce bulk and overshadowing*
  - *site coverage that retains the relatively low density landscaped character of residential areas*
  - *building form and siting that relates to landform, with minimal land shaping (cut and fill)*
  - *building height at the street frontage that maintains a comparable scale with the predominant adjacent development form*
  - *building to the boundary where appropriate.*

The siting of carport from the western boundary coupled with the overall height of the structure will result in the carport fitting within the prescribed visual bulk envelope.

### **Walls and Boundaries**

The DCP sets the following Planning Outcome in regard to Walls and Boundaries:

- *Building to the boundary is undertaken to provide for efficient use of the site taking into account:*
  - *the privacy of neighbouring dwellings and private open space*
  - *the access to daylight reaching adjoining properties*
  - *the impact of boundary walls on neighbours.*

The carport is appropriately sited on the subject land and is consistent with the Building Code of Australia in terms of distances from boundaries. An assessment of daylight has been undertaken below.

### **Daylight and Sunlight**

The DCP sets the following Planning Outcome in regard to Daylight and Sunlight:

- *Buildings are sited and designed to ensure:*
  - *daylight to habitable rooms in adjacent dwellings is not significantly reduced*
  - *overshadowing of neighbouring secluded open spaces or main living area windows is not significantly increased*
  - *consideration of Council's Energy Efficiency Code.*

The subject carport is located partway along the western side of the existing dwelling on the land and as such, no north facing windows will be impacted from overshadowing; both within the dwelling, and on the adjoining land to the west.

Similarly, given the siting of the carport, no areas of private open space will be impacted by way of overshadowing from the development.

### **Views**

The DCP sets the following Planning Outcomes in regard to Views:

- *Building form and design allow for residents from adjacent properties to share prominent views where possible.*
- *Views including vistas of heritage items or landmarks are not substantially affected by the bulk and scale of the new development.*

The subject site is not within an important view corridor. The proposed carport will not unreasonably diminish views for other properties in the vicinity.

### **Visual Privacy**

The DCP sets the following Planning Outcome in regard to Visual Privacy:

- *Direct overlooking of principal living areas and private open spaces of other dwellings is minimised firstly by:*
  - *building siting and layout*
  - *location of windows and balconies and secondly by:*
  - *design of windows or use of screening devices and landscaping.*

The proposed structure is non-habitable and therefore will not give rise to any visual privacy impacts.

**Acoustic Privacy**

The DCP sets the following Planning Outcome in regard to Acoustic Privacy:

- *Site layout and building design:*
  - *protect habitable rooms from excessively high levels of external noise*
  - *minimise the entry of external noise to private open space for dwellings close to major noise sources*
  - *minimise transmission of sound through a building to affect other dwellings.*

The site is located in an area where ambient noise levels are expected to be relatively low due to the predominant residential land use pattern. Council's Environmental Health and Building Surveyor raise no objections to the proposed development.

**Security**

The DCP sets the following Planning Outcomes in regard to Security:

- *The site layout enhances personal safety and minimises the potential for crime, vandalism and fear.*
- *The design of dwellings enables residents to survey streets, communal areas and approaches to dwelling entrances.*

The proposed addition will not compromise the security of the residents or for neighbouring properties.

**Site Access and Circulation**

- *To provide convenient and safe access and parking that meets the needs of all residents and visitors.*
- *To encourage the integrated design of access and parking facilities to minimise visual and environmental impacts.*
- *Accessways and parking areas are designed to manage stormwater.*
- *Accessways, driveways and open parking areas are suitably landscaped to enhance amenity while providing security and accessibility to residents and visitors.*
- *The site layout allows people with a disability to travel to and within the site between car parks, buildings and communal open space.*

The proposed development will not impact upon the present arrangements for site access from March Street, the existing footpath crossover will be utilised for vehicular access to the carport. Storm water arrangements will be adequate.

**Car Parking**

- *Parking facilities are provided, designed and located to:*
  - *enable the efficient and convenient use of car spaces and accessways within the site*
  - *reduce the visual dominance of car parking areas and accessways.*
- *Car parking is provided with regard to the:*
  - *the number and size of proposed dwellings*
  - *requirements of people with limited mobility or disabilities.*

Off-street parking arrangements will be provided in the form of the proposed carport.

**Private Open Space**

The DCP sets the following Planning Outcomes in regard to Private Open Space:

- *Private open space is clearly defined for private use.*
- *Private open space areas are of a size, shape and slope to suit the reasonable requirements of residents including some outdoor recreational needs and service functions.*
- *Private open space is:*
  - *capable of being an extension of the dwelling for outdoor living, entertainment and recreation*
  - *accessible from a living area of the dwelling*
  - *located to take advantage of outlooks; and to reduce adverse impacts of overshadowing or privacy from adjoining buildings*
  - *orientated to optimise year round use.*

The proposed carport is located on the side of the existing dwelling in the location of the existing driveway; as such there will be no changes to existing areas of private open space.

**Open Space and Landscaping**

The DCP sets the following Planning Outcomes in regard to Open Space and Landscaping:

- *The site layout provides open space and landscaped areas which:*
  - *contribute to the character of the development by providing buildings in a landscaped setting*
  - *provide for a range of uses and activities including stormwater management*
  - *allow cost effective management.*
- *The landscape design specifies landscape themes consistent with the desired neighbourhood character; vegetation types and location, paving and lighting provided for access and security.*
- *Major existing trees are retained and protected in a viable condition whenever practicable through appropriate siting of buildings, accessways and parking areas.*
- *Paving is applied sparingly and integrated in the landscape design.*

Not applicable, existing landscaping is considered satisfactory.

**Water and Soil Management Objectives**

- *To control and minimise the impact of stormwater run-off and soil erosion on adjoining land and downstream.*
- *To encourage reduced water wastage by reusing, recycling and harvesting stormwater.*

The development is not inconsistent with the above objectives as detailed below.

**Stormwater**

The DCP sets the following Planning Outcomes in regard to Stormwater:

- *Onsite drainage systems are designed to consider:*
  - *downstream capacity and need for onsite retention, detention and re-use*
  - *scope for onsite infiltration of water*
  - *safety and convenience of pedestrians and vehicles*
  - *overland flow paths.*
- *Provision is made for onsite drainage which does not cause damage or nuisance flows to adjoining properties.*

Relevant conditions of consent are attached to the Notice in relation to stormwater management of the site.

**Erosion and Sedimentation**

The DCP sets the following Planning Outcome in regard to Erosion and Sedimentation:

- *Measures implemented during construction to ensure that the landform is stabilised and erosion is controlled.*

Appropriate erosion and sediment control measures will be required during the construction phase of the development.

**PART 13 - HERITAGE**

The provisions of Part 13 have been previously addressed under the requirements of LEP 2011.

**INFILL GUIDELINES**

As mentioned above, the development is located in the central heritage conservation area and as such Council's Infill guidelines apply to the development.

**Objectives of Infill Design**

The development is not inconsistent with the objects of the infill guidelines, specifically those listed below:

- *To ensure new buildings respond to and enhance the character and appearance of the streetscapes of the Heritage Conservation Areas.*
- *To ensure contributory heritage items retain their prominence and are not dominated by new development within a Heritage Conservation Area and do not compromise the heritage values of the existing area.*
- *To ensure new buildings do not adversely affect the significance, character or appearance of the Heritage Conservation Area or heritage items.*
- *To allow for reasonable change within a Heritage Conservation Area while ensuring all other heritage objectives are met.*

The development is not inconsistent with the above objectives.

**Character**

The subject land is located on western periphery of the central heritage conservation area and thus, this peripheral location influences the character of the locality. There is a mix of intact period dwellings and examples of more recent architectural periods. Onsite vehicle storage is typically in the form of dedicated garages at the rear of properties or simple carports similar to the one proposed in this application.

Accordingly, the proposed development will not adversely alter the existing and well-established character of the area.

**Scale and Form**

The scale and form of the development is appropriate. The skillion roof will cause the development to be understated and relatively unnoticeable from within March Street.

Council's Heritage Advisor has recommended that the gutter and fascia be lowered slightly to line up with the same elements on the bullnose verandah. A relevant condition is attached to this effect.

**Siting**

The siting of the carport has been dictated by the presence of two existing windows within the dwelling which provide natural light internally. As such, the carport is positioned slightly behind the front wall of the dwelling.

This is considered an acceptable location and will result in a sympathetic element within the conservation area.

**Materials and Colour**

The materials and colours adopted within the design are considered satisfactory. They comprise timber posts to match the existing verandah posts, traditional quad profile gutter and galvanised roof sheeting.

The applicant submits that the fascia and barge boards, and the posts will be painted to match the verandah posts. This is considered acceptable.

**Detailing**

Council staff raise no objections to the detailing of the proposed carport.

**PROVISIONS PRESCRIBED BY THE REGULATIONS s4.15(1)(a)(iv)****Demolition of a Building (clause 92)**

The proposal does not involve the demolition of a building.

**Fire Safety Considerations (clause 93)**

The proposal does not involve a change of building use for an existing building.

**Buildings to be Upgraded (clause 94)**

The proposal does not involve the rebuilding, alteration, enlargement or extension of an existing building.

**BASIX Commitments (clause 97A)**

BASIX is not applicable to the proposed development given the type of structure proposed.

**THE LIKELY IMPACTS OF THE DEVELOPMENT s4.15(1)(b)**

The forgoing assessment has considered the likely impacts of the development, particularly within the context of then heritage setting; and subject to a small number of conditions of the consent, the development is considered satisfactory. There are no aspects of the development that are likely to give rise to any unacceptable impacts in the locality.

**THE SUITABILITY OF THE SITE s4.15(1)(c)**

The site has a long history as being used for residential purposes and this application does not seek to alter that. The proposed carport has been sought as the original outbuilding on the land has been converted to be used for habitable purposes.

Council staff are not aware of the site being effected by any physical, natural or technological hazards that may unreasonably constrain the development.

**ANY SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT s4.15(1)(d)**

The proposed development is not defined as advertised development under the provisions of the LEP, and as such no formal exhibition of the application was required. No submissions have been received in relation to this application.

**PUBLIC INTEREST s4.15(1)(e)**

The proposed development is considered to be of minor interest to the wider public due to the relatively localised nature of potential impacts. The proposal is not inconsistent with any relevant policy statements, planning studies, guidelines, etc. that have not been considered in this assessment.

**SUMMARY**

The proposed development is permissible with the consent of Council. The proposed development complies with the relevant aims, objectives and provisions of Orange LEP 2011 (as amended) and DCP 2004. A Section 4.15 assessment of the development indicates that the development is acceptable in this instance. Attached is a draft Notice of Approval outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.

**COMMENTS**

The requirements of the Environmental Health and Building Surveyor and the Engineering Development Section are included in the attached Notice of Approval.

**ATTACHMENTS**

- 1 Notice of Approval, D20/22461 [↓](#)
- 2 Plans, D20/21941 [↓](#)

	<p><b>ORANGE CITY COUNCIL</b></p> <p>Development Application No <b>DA 89/2020(1)</b></p> <p>NA20/ <span style="float: right;">Container PR7421</span></p>
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**NOTICE OF DETERMINATION  
OF A DEVELOPMENT APPLICATION**

issued under the *Environmental Planning and Assessment Act 1979*  
Section 4.18

**Development Application**

Applicant Name: Mr NG Redmond and Ms JM Allan  
 Applicant Address:  
  
 Owner's Name: Mr NG Redmond and Ms J M Allan  
 Land to Be Developed: Lot A DP 152856 - 21 March Street, Orange  
 Proposed Development: Dwelling Alterations and Additions (carport)

**Building Code of Australia  
building classification:**

Class to be determined by the PC

**Determination made under  
Section 4.16**

Made On: 5 May 2020  
 Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

**Consent to Operate From:** 6 May 2020  
**Consent to Lapse On:** 6 May 2025

**Terms of Approval**

The reasons for the imposition of conditions are:

- (1) To ensure a quality urban design for the development which complements the surrounding environment.
- (2) To maintain neighbourhood amenity and character.
- (3) To ensure compliance with relevant statutory requirements.
- (4) To ensure the utility services are available to the site and adequate for the development.
- (5) To prevent the proposed development having a detrimental effect on adjoining land uses.
- (6) To minimise the impact of development on the environment.
- (7) To provide adequate public health and safety measures.

**Conditions**

- (1) The development must be carried out in accordance with:
  - (a) **Plans by Designs@m – project no. 20-009 drawings: SK01 – SK04 and CC05 dated February 2020 (5 sheets)**
  - (b) statements of environmental effects or other similar associated documents that form part of the approval

**as amended in accordance with any conditions of this consent.**

**PRESCRIBED CONDITIONS**

- (2) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- (3) A sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out.

- (4) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of the Act, evidence that such a contract of insurance is in force is to be provided to the Principal Certifying Authority before any building work authorised to be carried out by the consent commences.
- (5) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and the licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information under this condition becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- (6) The plans submitted with the application for a Construction Certificate shall be amended such that the gutter and fascia of the carport align (horizontally) with the same datum line of the gutter and fascia of the bullnose verandah on the house (i.e. the carport will be reduced in height).

**PRIOR TO WORKS COMMENCING**

- (7) A temporary onsite toilet is to be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.
- (8) Soil erosion control measures shall be implemented on the site.
- (9) A Construction Certificate application is required to be submitted to, and issued by Council/Accredited Certifier prior to any excavation or building works being carried out onsite.

**DURING CONSTRUCTION/SITWORKS**

- (10) All construction/demolition work on the site is to be carried out between the hours of 7.00 am and 6.00 pm Monday to Friday inclusive, 7.00 am to 5.00 pm Saturdays and 8.00 am to 5.00 pm Sundays and Public Holidays. Written approval must be obtained from the General Manager of Orange City Council to vary these hours.
- (11) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (12) The colour of the posts, fascia and barge boards of the carport shall match the bullnose verandah colours.

**PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

- (13) No person is to use or occupy the building or alteration that is the subject of this approval without the prior issuing of an Occupation Certificate.
- (14) Finished ground levels are to be graded away from the buildings and adjoining properties and must achieve natural drainage. The concentrated flows are to be dispersed down slope or collected and discharged to the stormwater drainage system.
- (15) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation Certificate, unless stated otherwise.

**MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT**

- (16) The carport is not to be enclosed on any elevation (including enclosure by the installation of roller doors) without separate development consent.

---

**Other Approvals**

- (1) *Local Government Act 1993* approvals granted under Section 68.  
Nil
- (2) General terms of other approvals integrated as part of this consent.
- (1) All stormwater is to be disposed of in a manner suitable to the site.

---

**Right of Appeal**

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court. Pursuant to Section 8.10, an applicant may only appeal within 6 months after the date the decision is notified.

---

***Disability Discrimination Act 1992:***

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act* currently available in Australia.

**Disclaimer - S88B of the Conveyancing Act 1919 - Restrictions on the Use of Land:**

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

**Signed:**

On behalf of the consent authority **ORANGE CITY COUNCIL**

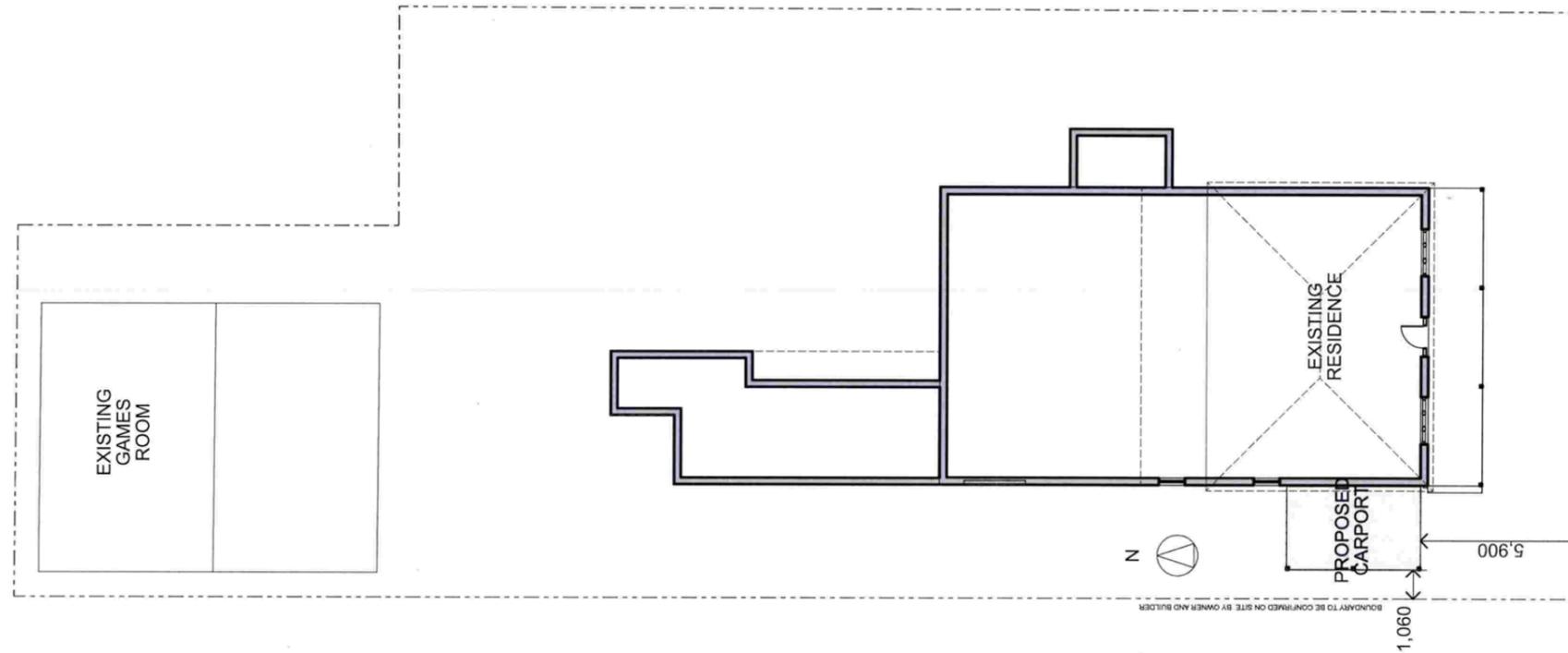
**Signature:**

**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

**Date:**

6 May 2020



PROPOSED SITE PLAN  
1:200

ARCHITECTURAL PLANS/CONCEPT DESIGNS & SKETCHES/20-009 - sketch 1.pdf

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Revision	Date	Drawn by	Checked by

**designsatm**  
7 Aminya Place  
Orange NSW 2800  
+612 6361 7461  
0409 982 793  
office@designsatm.com.au  
www.designsatm.com.au

Drawn | Checked |

Client N.REDMAN & J.ALLAN

21 MARCH STREET ORANGE  
Lot A DP 152856

Site:

DRAWING TITLE:  
CONCEPT DESIGNS & SKETCHES  
PRESPECTIVE VIEWS

PROJECT NAME:  
**PROPOSED NEW CARPORT**

REVISION NO.

DRAWING NO.

SK04

PROJECT NO. 20-009

DATE: February 2020

**GENERAL NOTES**

**GENERAL**

All building work and construction is to comply with the relevant sections of the National Construction Code - Class 1 & Class 10 - Building Code of Australia

**PLANS**

Plans are not to be amended by any other person other than Designs AT m personal

Plans remain the property of Designs AT m

**DIMENSIONS**

All dimensions show in millimeters unless noted otherwise DO NOT SCALE from drawing.

All dimension & levels are to be confirmed on site prior to construction

**TIMBER FRAMING**

All timber used in the building shall be strictly in accordance with the provisions of AS 1684-2010, national timber framing code.

**STAIRWAYS**

Construction of any stairways & balustrades shall comply with the requirements of the NCC- V2 - Part 3.9.1

**STRUCTURAL ELEMENTS**

All structural concrete & steelwork to be designed by a qualified structural engineer.

**INSULATION**

Wall & Ceiling insulation refer to BASIX / NATHERS certificate

**CONSTRUCTION OF SANITARY COMPARTMENTS**

Where a closet pan is within 1200mm of any part of the door frame lift off hinges must be provided to that door as per NCC - V 2 - Part 3.8.3.3 requirements

**DAMP PROOFING OF FLOORS ON THE GROUND**

At least 1 Bathroom: individual fan, not ducted, operation control: manual switch on/off.

Vapour barrier in accordance with AS 2870 NCC - V 2 Part 3.2.2.6 to prevent moisture reaching the upper surface of the floor.

**SMOKE DETECTION**

Smoke detectors to be installed in accordance in accordance with NCC - V 2 - Part 3.7.2 and AS 3786 and 1670.

**VENTILATION**

Kitchen: individual fan, ducted to facade or roof, operation control: manual switch on/off.

Laundry: natural ventilation only, or no laundry, operation control: manual switch on/off.

In accordance with NCC - V2 - Part 3.8.5

**WET AREAS**

Water proofing of wet areas must comply with the NCC - V2 - 3.8.1 and relevant parts of A.S. 3740

**TERMITE PROTECTION**

Termite risk management in accordance with AS 3660.1-2000 and NCC - V2 - 3.1.3 must be provided

**MASONRY STRUCTURE**

All masonry shall be in accordance with AS 3700 - 2011, AS 4773 Parts 1 & 2, and NCC - V2 - 3.3.1

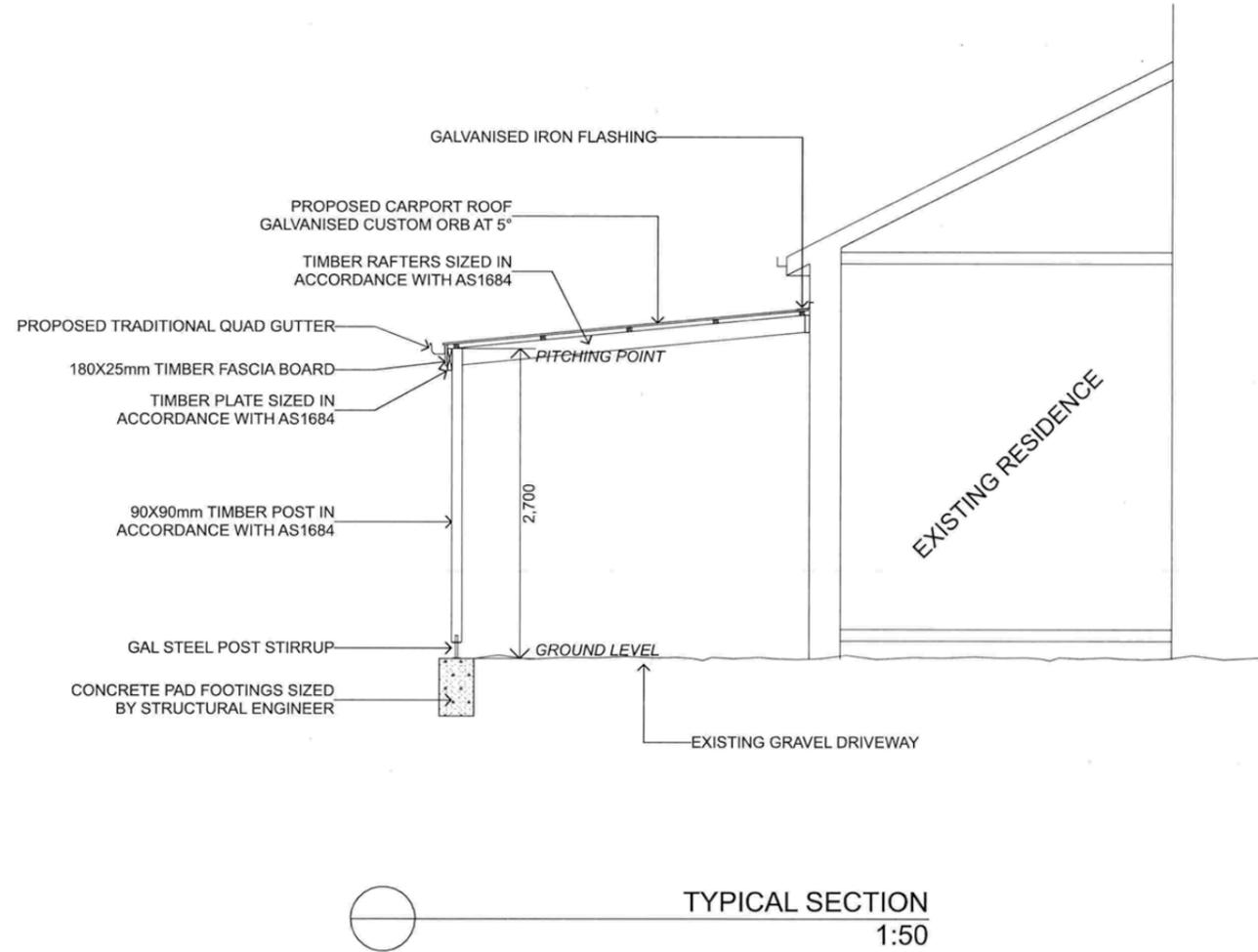
**GUTTERS AND DOWNPIPES**

All gutters and downpipes shall be in accordance with AS/NZ 3500.3 & AS/NZ 3500.5 and NCC - V2 - 3.5.2

**GLAZING**

All glazing to comply with NCC - V2 - Part 3.6 in accordance with AS 2047 and AS 1288

**PLANS TO BE READ IN CONJUNCTION WITH BASIX/NATHERS CERTIFICATE**



TYPICAL SECTION  
1:50

Asures/Share/DAM2020/0009 - NICK REDMAN - JULIANNE ALLAN ARCHITECTURAL PLANS/CONCEPT DESIGNS & SKETCHES/20.009 - CC.pdf

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Revised	By	Date	Drawn by

7 Aminya Place  
Orange NSW 2800  
+612 6361 7461  
0409 982 793  
office@designsatm.com.au  
www.designsatm.com.au

Drawn | Checked |

Client N.REDMAN & J.ALLAN

21 MARCH STREET ORANGE  
Lot A DP 152856

Site:

DRAWING TITLE:

DAICC  
SECTION

PROJECT NAME:

PROPOSED NEW CARPORT

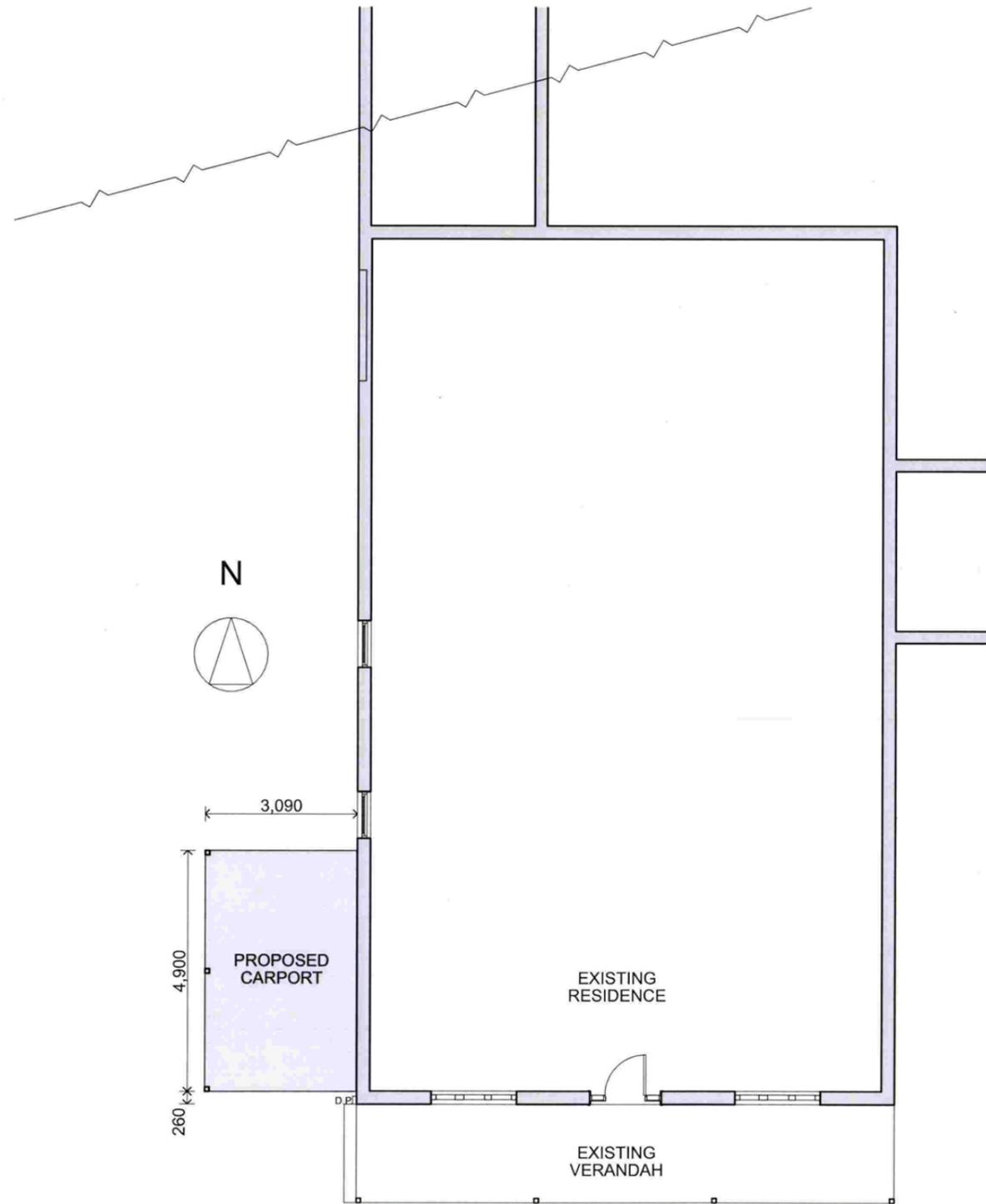
REVISION NO.

DRAWING NO.

CC05

PROJECT NO. 20-009

DATE: February 2020



PROPOSED FLOOR PLAN  
1:100

ARCHITECTURAL PLANS/CONCEPT DESIGNS & SKETCHES/20-009 - sketch 1.jpg

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Revisions	Issue No.	Date	Drawn by

**M designsatm**  
7 Aminya Place  
Orange NSW 2800  
+612 6361 7461  
0409 982 793  
office@designsatm.com.au  
www.designsatm.com.au

**bdaa**  
BUILDING DESIGNERS  
ASSOCIATION OF AUSTRALIA  
7 Aminya Place  
Orange NSW 2800  
+612 6361 7461  
0409 982 793  
office@designsatm.com.au  
www.designsatm.com.au

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Client N.REDMAN & J.ALLAN

21 MARCH STREET ORANGE  
Lot A DP 152856

Site:

DRAWING TITLE:  
CONCEPT DESIGNS & SKETCHES  
FLOOR PLAN

PROJECT NAME:  
PROPOSED NEW CARPORT

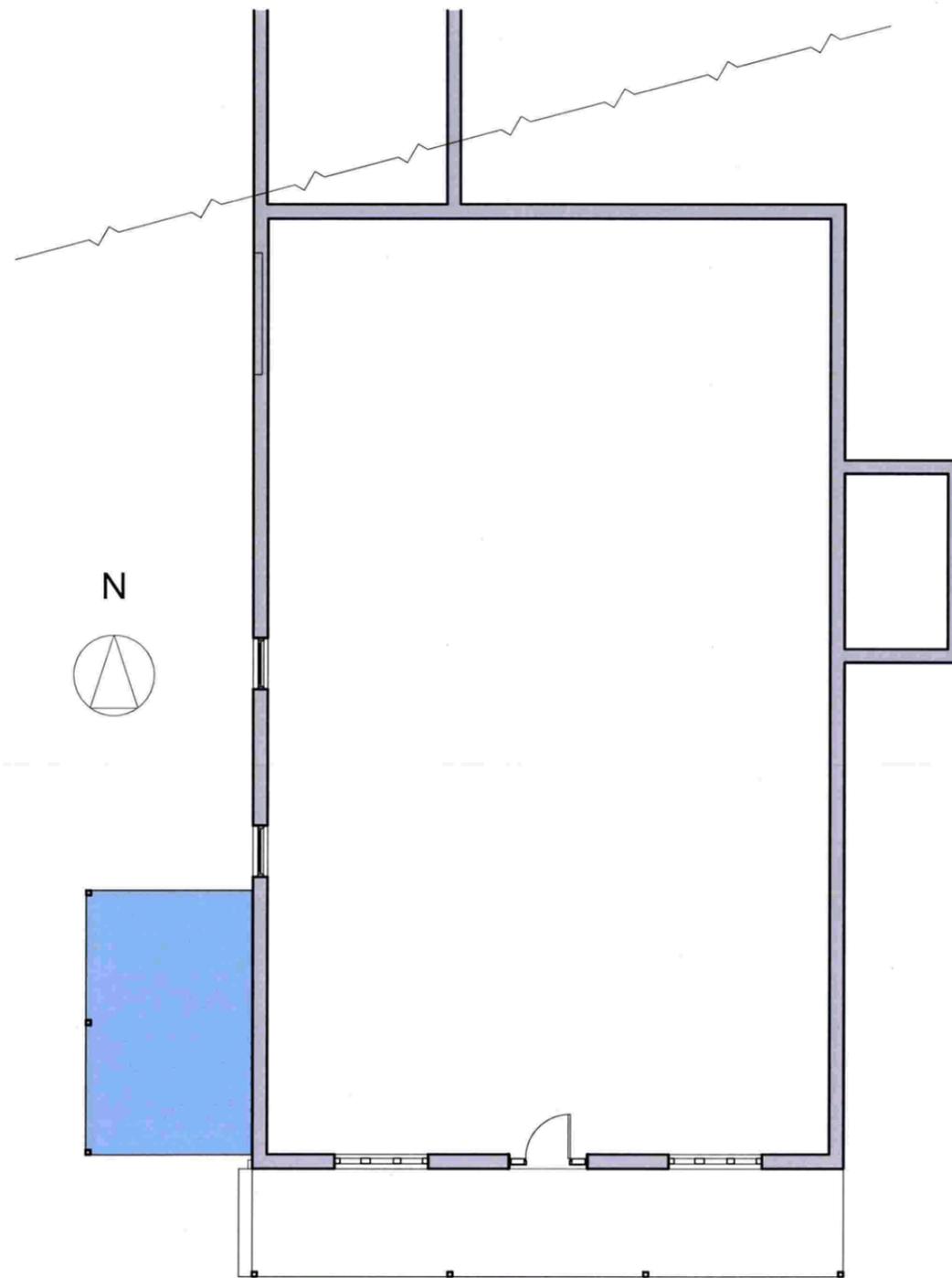
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DRAWING NO.

SK01

PROJECT NO. 20-009

DATE: February 2020



PROPOSED AREA SCHEDULE  
1:100

AREA SCHEDULE		
NO.	ZONE	AREA
001	PROPOSED CARPORT	15.14
		15.14 m <sup>2</sup>

ARCHITECTURAL PLANS/CONCEPT DESIGNS & SKETCHES/20-009 - sketch 1.rvt

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Rev	Issue/Notes	Date	Drawn by

**designs at m**  
7 Aminya Place  
Orange NSW 2800  
+612 6361 7461  
0409 982 793  
office@designsatm.com.au  
www.designsatm.com.au

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Client N.REDMAN & J.ALLAN

21 MARCH STREET ORANGE  
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Site:

DRAWING TITLE:  
CONCEPT DESIGNS & SKETCHES  
AREA SCHEDULE

PROJECT NAME:  
**PROPOSED NEW CARPORT**

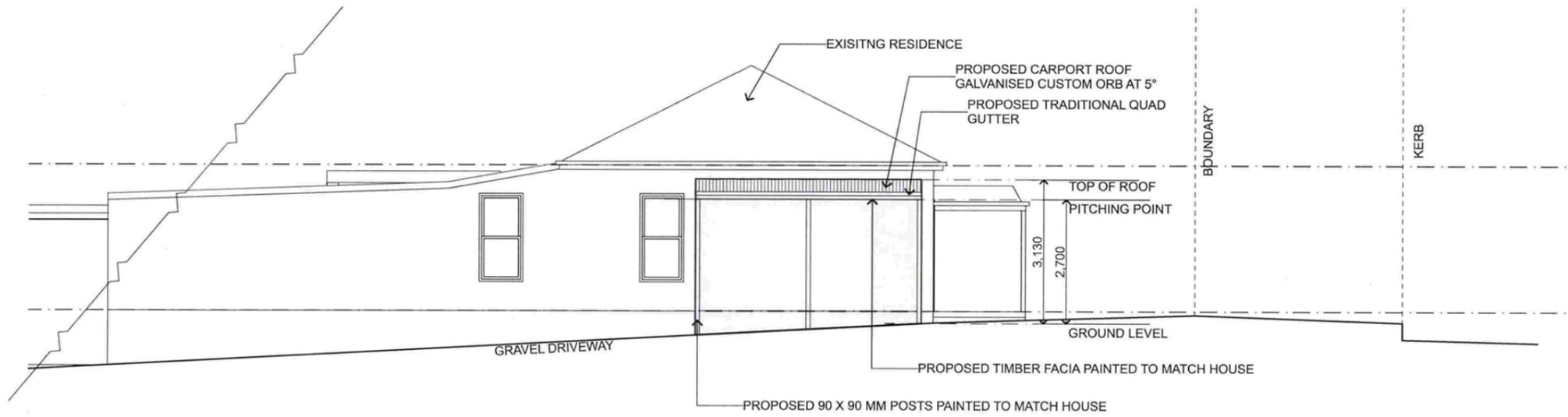
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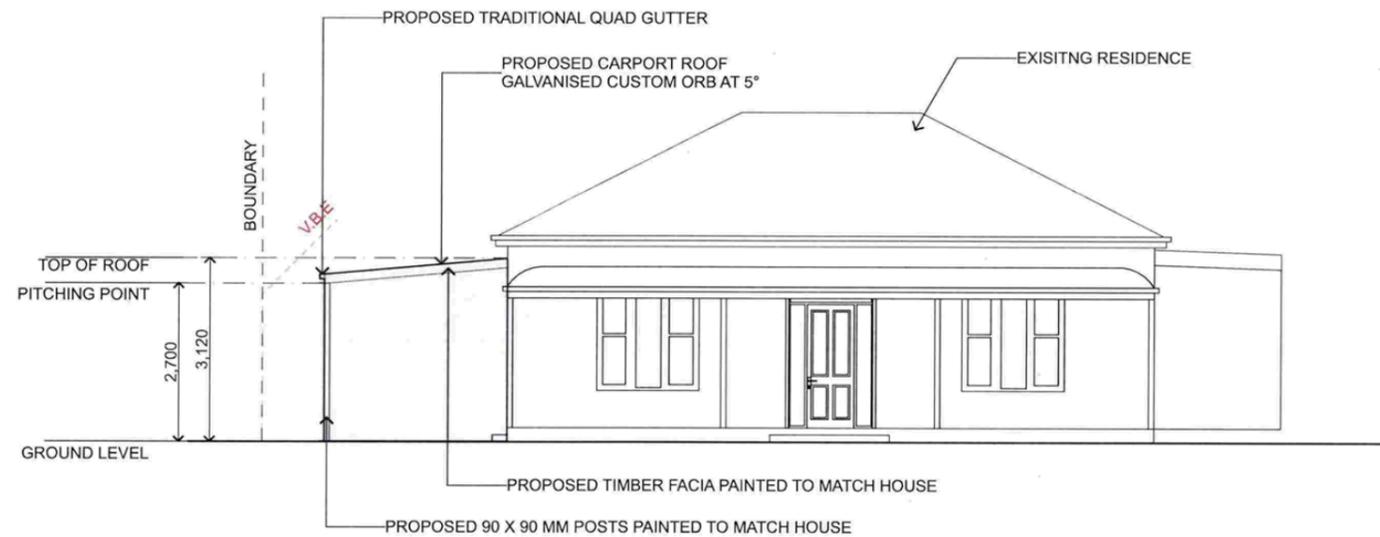
SK02

PROJECT NO. 20-009

DATE: February 2020



WEST ELEVATION  
1:100



SOUTH ELEVATION  
1:100

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Revisions	Date	By	Check By

**designsatm**  
office@designsatm.com.au  
www.designsatm.com.au

**bdaa**  
BUILDING DESIGNERS  
ASSOCIATION OF AUSTRALIA  
7 Aminya Place  
Orange NSW 2800  
+612 6361 7461  
0409 982 793

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Client N.REDMAN & J.ALLAN

21 MARCH STREET ORANGE  
Lot A DP 152856

Site:

DRAWING TITLE:  
CONCEPT DESIGNS & SKETCHES  
PERSPECTIVE VIEWS

PROJECT NAME:  
**PROPOSED NEW CARPORT**

REVISION NO.

DRAWING NO.

SK03

PROJECT NO. 20-009  
DATE: February 2020

**2.4 DEVELOPMENT APPLICATION DA 58/2020(1) - 30 MOONSTONE DRIVE**

RECORD NUMBER: 2020/666  
 AUTHOR: Ben Hicks, Planner

**EXECUTIVE SUMMARY**

Application lodged	19 February 2020
Applicant/s	KJ and RL Keast
Owner/s	KJ and RL Keast
Land description	Lot 406 DP1159176, 30 Moonstone Drive, Orange
Proposed land use	Dual Occupancy (change of use from secondary dwelling) and Subdivision (two lot residential)
Value of proposed development	\$0

Council's consent is sought for the change of use of a secondary dwelling to a dual occupancy and the subdivision land (two lot residential) at Lot 406 DP1159176, 30 Moonstone Drive, Orange.

The site is located within the R1 General Residential zone of the North Orange Waratah area and comprises a principal dwelling (DA28/2014) facing Moonstone Drive and a secondary dwelling (DA121/2014) at the rear of the property with separate vehicular access to Quartz Street.

Under Clause 2.6 of the Orange Local Environmental Plan 2011 and Clause 24 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 subdivisions involving secondary dwellings are prohibited. In this regard, the applicant proposes to redefine the use of the building to allow subdivision consideration.

The subdivision proposes to excise each dwelling on a separate Torrens title allotment. Proposed Lot 1 will have land area of 1608.8m<sup>2</sup> and proposed Lot 2 will have a land area of 916.2m<sup>2</sup>. Proposed Lot 2 will be battleaxe configuration. There is no minimum subdivision lot size applying to the land pursuant to Clause 4.1 of the Orange Local Environmental Plan 2011; however, Council's adopted Development Control Plan provides controls around lot sizes and the DCP provides that lots adjoining Clergate Road should have a minimum area of 2000m<sup>2</sup>. Given the lot sizes proposed are below the minimum lot size prescribed by the DCP, the applicant has sought a dispensation to this standard.

The proposal does not involve any alterations to the internal or external aspects of the existing buildings. Minor subdivision works will be required for the augmentation of services.

A Section 4.15 assessment of the proposal indicates that the development is acceptable, and approval is recommended, subject to conditions of consent.



Figure 1 - Locality and Site Context Map

## DECISION FRAMEWORK

Development in Orange is governed by two key documents Orange Local Environment Plan 2011 and Orange Development Control Plan 2004. In addition the Infill Guidelines are used to guide development, particularly in the heritage conservation areas and around heritage items.

**Orange Local Environment Plan 2011** – The provisions of the LEP must be considered by the Council in determining the application. LEPs govern the types of development that are permissible or prohibited in different parts of the City and also provide some assessment criteria in specific circumstances. Uses are either permissible or not. The objectives of each zoning and indeed the aims of the LEP itself are also to be considered and can be used to guide decision making around appropriateness of development.

**Orange Development Control Plan 2004** – the DCP provides guidelines for development. In general it is a performance based document rather than prescriptive in nature. For each planning element there are often guidelines used. These guidelines indicate ways of achieving the planning outcomes. It is thus recognised that there may also be other solutions of merit. All design solutions are considered on merit by planning and building staff. Applications should clearly demonstrate how the planning outcomes are being met where alternative design solutions are proposed. The DCP enables developers and architects to use design to achieve the planning outcomes in alternative ways.

**DIRECTOR'S COMMENT**

This application proposes to redefine the use of an existing secondary dwelling on the site as a dual occupancy so as to allow subdivision consideration. The lot sizes proposed are below the minimum lot size prescribed by the DCP, the applicant has sought a dispensation to this standard.

Given that both dwellings are existing in this situation, the subdivision of the land is unlikely to impact the standard of ongoing residential amenity to each dwelling. It is recommended that Council supports the proposal in this case.

**LINK TO DELIVERY/OPERATIONAL PLAN**

The recommendation in this report relates to the Delivery/Operational Plan Strategy "10.1 Preserve - Engage with the community to ensure plans for growth and development are respectful of our heritage".

**FINANCIAL IMPLICATIONS**

Nil

**POLICY AND GOVERNANCE IMPLICATIONS**

Nil

**RECOMMENDATION**

**That Council resolves to consent to development application DA 58/2020(1) for *Dual Occupancy (change of use from secondary dwelling) and Subdivision (two lot residential)* at Lot 406 DP1159176, 30 Moonstone Drive, Orange pursuant to the conditions of consent in the attached Notice of Determination.**

**FURTHER CONSIDERATIONS**

Consideration has been given to the recommendation's impact on Council's service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

**SUPPORTING INFORMATION****Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994***

Section 1.7 of the EP&A Act identifies that Part 7 of the Biodiversity Conservation Act 2016 (BC Act) and Part 7A of the Fisheries Management Act 1994 have effect in connection with terrestrial and aquatic environments.

Having regard to the relevant provisions and based on an inspection of the subject property, it is considered that the proposed development is not likely to significantly affect a threatened species. The subject property has no biodiversity or habitat value. A Biodiversity Development Assessment Report is not required in this instance.

**Section 4.15 of the Environmental Planning and Assessment Act 1979**

Section 4.15 of the *Environmental Planning and Assessment Act 1979* requires Council to consider various matters, of which those pertaining to the application are listed below.

**PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT s4.15(1)(a)(i)**

**Orange Local Environmental Plan 2011**

**Clause 1.2 - Aims of Plan**

The broad aims of the LEP are set out under Subclause 2. Those relevant to the application are as follows:

- (a) *to encourage development which complements and enhances the unique character of Orange as a major regional centre boasting a diverse economy and offering an attractive regional lifestyle,*
- (b) *to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Orange in a way that allows present and future generations to meet their needs by implementing the principles for ecologically sustainable development,*
- (e) *to provide a range of housing choices in planned urban and rural locations to meet population growth,*

The application is considered to be consistent with the above objectives, as outlined in this report.

**Clause 1.6 - Consent Authority**

This clause establishes that, subject to the Act, Council is the consent authority for applications made under the LEP.

**Clause 1.7 - Mapping**

The subject site is identified on the LEP maps in the following manner:

Land Zoning Map:	<b>R1 General Residential</b>
Lot Size Map:	No Minimum Lot Size
Heritage Map:	Not a heritage item or conservation area
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
Groundwater Vulnerability Map:	<b>Groundwater vulnerable</b>
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Not within a flood planning area

Those matters that are of relevance are addressed in detail in the body of this report.

### **Clause 1.9A - Suspension of Covenants, Agreements and Instruments**

Clause 1.9A is applicable and states in part:

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*
- (2) *This clause does not apply:*
  - (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
  - (b) *to any prescribed instrument within the meaning of section 183A of the Crown Lands Act 1989, or*
  - (c) *to any conservation agreement within the meaning of the National Parks and Wildlife Act 1974, or*
  - (d) *to any Trust agreement within the meaning of the Nature Conservation Trust Act 2001, or*
  - (e) *to any property vegetation plan within the meaning of the Native Vegetation Act 2003, or*
  - (f) *to any biobanking agreement within the meaning of Part 7A of the Threatened Species Conservation Act 1995, or*
  - (g) *to any planning agreement within the meaning of Division 6 of Part 4 of the Act.*

The land is affected by an easement to drain sewer and water at the rear of the existing allotment (eastern boundary). An easement is proposed along the southern boundary of proposed Lot 2 for the augmentation of services to proposed Lot 1. All buildings are clear of existing and proposed easements and will have nil impact on the operation of the easements.

## **Part 2 - Permitted or Prohibited Development**

### **Clause 2.1 - Land Use Zones and Clause 2.3 - Zone Objectives and Land Use Table**

The site of the proposed development is zoned R1 General Residential under the Orange Local Environmental Plan 2011. The Land Use Table for the R1 General Residential zone permits the proposal with consent of Council.

Clause 2.3(2) of the Orange Local Environmental Plan (OLEP) 2011 provides that the Council shall have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives of the R1 General Residential zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

- *To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement.*
- *To ensure that development along the Southern Link Road has an alternative access.*

The proposed development will continue to provide housing stock within the City and will afford a variation of land size and housing type at greater density for Orange. The subject site is within close proximity to routes used by public transport. The site does not have frontage or access to the Southern Link Road.

The following provisions of the OLEP 2011 have been especially considered in the assessment of the proposal:

- **Clause 2.6 - Subdivision - Consent Requirements** - Clause 2.6(1) of the OLEP 2011 states that the subdivision of land may be permitted, but only with development consent.
- However, Subclause (2) provides that development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and secondary being situated on separate lots. As such, the applicant has applied for development consent for the change of use from a secondary dwelling to a dual occupancy to allow subdivision consideration.
- **Clause 4.1 – Minimum Subdivision Lot Size** - Clause 4.1 minimum subdivision lot size of the OLEP states that the size of any lot resulting from the subdivision of land is not to be less than the minimum lot size shown on the lot size map in relation to that land. The subject allotment is zoned R1 General Residential, and there is no minimum lot size applying to the land. Council’s adopted Development Control Plan provides controls around lot sizes in this area and is addressed in under s4.15(1)(a)(iii) of this report.
- **Clause 4.1B - Minimum Lot Sizes for Dual Occupancy, Multi Dwelling Housing and Residential Flat Buildings** - Clause 4.1B stipulates that development consent may be granted on a lot in a zone shown in Column 2 for a purpose shown in Column 1, if the area of the lot is equal to or greater that the area specified for that purpose and shown in Column 3:

Column 1	Column 2	Column 3
Dual Occupancy	R1 General Residential	800m <sup>2</sup>

In consideration of this clause, the proposed development is situated on land zoned R1 General Residential. The subject land comprises total site area of 2,525m<sup>2</sup>, and exceeds the minimum area of 800m<sup>2</sup> required for a dual occupancy.

- **Clause 7.1 - Earthworks** - Minor subdivision works will be required for stormwater and sewerage works. Sedimentation controls will be required throughout subdivision works as a condition of development consent. No significant impacts on environmental functions, including the soil profile and stormwater flows, neighbouring uses, cultural or heritage items or features of the surrounding land are expected.
- **Clause 7.3 - Stormwater Management** - The objective of this clause is to minimise the impacts of urban stormwater on the land to which the development applies and on adjoining downstream properties, native bushland and receiving waters. This clause applies to all industrial, commercial and residential zones. Conditions of consent will ensure each lot is provided with inter-allotment stormwater drainage, where the surface of the entire lot cannot be drained to the kerb and gutter at the lot frontage.

- **Clause 7.6 - Groundwater Vulnerability** - The site has been mapped as being groundwater vulnerable. The proposed change of use and subdivision is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related ecosystems. The proposal does not involve extraction of groundwater and will therefore not contribute to groundwater depletion.
- **Clause 7.11 - Essential Services** - The existing site has reticulated water and sewer connections for both dwellings. Minor alterations to these connections will need to be undertaken to ensure service arrangements comply with Council's Development and Subdivision code. Proposed Lot 1 has existing vehicular access from Moonstone Drive and proposed Lot 2 has existing vehicular access to Quartz Street.

### STATE ENVIRONMENTAL PLANNING POLICIES

The following State Environmental Planning Instruments (SEPPs) apply to the Orange Local Government Area:

- SEPP 21 - Caravan Parks
- SEPP 33 - Hazardous and Offensive Development
- SEPP 36 - Manufactured Home Estates
- SEPP 50 - Canal Estate Development
- SEPP 55 - Remediation of Land
- SEPP 64 - Advertising and Signage
- SEPP 65 - Design Quality of Residential Flat Development
- SEPP 70 – Affordable Rental Housing (Revised Schemes)
- SEPP (Affordable Rental Housing) 2009
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Concurrences and Consents) 2018
- SEPP (Educational Establishments and Child Care Facilities) 2017
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP (Infrastructure) 2007
- SEPP (Koala Habitat Protection) 2019
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (Primary Production and Rural Development) 2019
- SEPP (State and Regional Development) 2011
- SEPP (Vegetation in Non-Rural Areas) 2017

The following SEPPs are specifically relevant to the assessment of the proposed development:

**SEPP 55 Remediation of Land** - Clause 7 of SEPP 55 requires that a consent authority must consider the contamination potential of the land, and if the land is contaminated, it is satisfied that the land is suitable for the development in its contaminated state, or that appropriate arrangements have been made to remediate the site prior to the development being carried out. The site and surrounding land have been zoned and subdivided for residential purposes. The site has not been used for any known approved activities which would raise concern to any contamination and prevent the continuing use of the land for residential purposes.

**PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT THAT HAS BEEN PLACED ON EXHIBITION 4.15(1)(a)(ii)**

Draft Amendment No 24 to Orange LEP has been placed on public exhibition. The draft plan involves a range of administrative changes. The proposed development is not inconsistent with any of the draft planning provisions in that amendment.

**PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s4.15(1)(a)(iii)****Development Control Plan 2004****Subdivision in North Orange – Waratah**

Clause 7.2-3 of the DCP sets the following (applicable) Planning Outcomes in regard to residential subdivision in the North Orange Waratah area:

*The subdivision layout is generally in accordance with the Conceptual Subdivision Layout (Appendix 16.6).*

The proposed individual lot subdivision will not result in any changes to existing road structures, open spaces areas or public reserves of the locality and thus the subdivision is considered to be largely consistent with the conceptual subdivision layout.

*Subdivision design and construction complies with the Orange City Development and Subdivision Code.*

The subdivision design and construction will need to be carried out in accordance with Council's Development and Subdivision Code as conditions of development consent.

*Lots are oriented to maximise energy-efficiency principles. Where practicable, lots are rectangular rather than splay shaped and oriented to provide the long axis within the range N200W to N300E or E200N to E300S.*

The existing buildings have been sited and designed to achieve good solar access (refer to DA28/2014 and DA121/2014). The subdivision will not result in a reduction of solar access to any dwelling.

*Lots adjoining Farrell Road and industrial lands in Clergate Road and Ralston Drive have a minimum area of 2,000m<sup>2</sup>.*

This control aims to provide separation in terms of noise, views and privacy between industrial and residential development in the north orange waratah area. Clergate Road is located adjacent to the subject allotment and the land directly east of Clergate Road contains light industrial development, namely storage units. It is proposed that Lots 1 and 2 will have land area of 1608.8m<sup>2</sup> and 916.2m<sup>2</sup> respectively, which are below the prescribed 2000m<sup>2</sup> lot size requirement to provide reasonable separation between land uses. However, it is noted that there is an existing vegetation buffer of approximately 15m between the subject allotment and Clergate Road providing the visual separation. Noise and privacy impacts were considered in the assessment for both dwellings and no concerns were raised. Given that both dwellings are existing in this situation, the subdivision of the land is unlikely to impact the standard of ongoing residential amenity to each dwelling. It is acknowledged however that a secondary dwelling when originally approved was essentially seen as an extension to the main residential dwelling on the land and that the proposal to now subdivide will result in two distinct properties.

The submitted plans show that the proposal complies with the minimum area requirements specified in the LEP for Dual Occupancy and generally meets the DCP planning outcomes with respect to other key performance indicators like open space, site coverage and the like. For this reason, the non-compliance with the DCP as concerns to the lot size is supported.

*Battleaxe lots have a minimum area of 650m<sup>2</sup>, excluding the access handle. Access handles have a minimum width of 4.5m incorporating a 3m wide driveway.*

Proposed Lot 2 will be a battleaxe configuration. The allotment will have an area greater than 650m<sup>2</sup> excluding the access handle. The existing access handle has a width of 6.27m with a 3m wide concrete driveway.

*Residential lots have direct frontage and access to a public road. Access is not available to the Northern Distributor Road and Clergate Road for adjoining lots.*

No access is proposed to Clergate Road. Proposed Lot 1 has an existing vehicular access to Moonstone Drive and proposed Lot 2 has an existing vehicular access to Quartz Street.

*All utility services are provided to the proposed lots.*

The existing dwellings are serviced by Council's reticulated systems. The proposed development will have nil effect on current service arrangements and demand. Easements will be provided to ensure each lot has legal access to services.

### **Design Elements for Residential Development**

Given that the dwellings are existing, the planning outcomes with respect to Neighbourhood Character, Building Appearance, Energy Efficiency, Visual Bulk, Water and Soil Management are not relevant and have not been addressed. An assessment of the applicable planning outcomes is provided below:

#### **Setbacks**

The DCP sets the following Planning Outcomes in regard to Setbacks:

- *Street setbacks contribute to the desired neighbourhood character, assist with the integration of new development and make efficient use of the site.*
- *Street setbacks create an appropriate scale for the street considering all other streetscape components.*

The subdivision will have no effect on existing front setbacks, both dwellings are set back in excess of 4.5m from the street frontage.

#### **Visual Privacy**

The DCP sets the following Planning Outcome in regard to Visual Privacy:

- *Direct overlooking of principal living areas and private open spaces of other dwellings is minimised firstly by:*
  - *building siting and layout*
  - *location of windows and balconies**and secondly by:*
  - *design of windows or use of screening devices and landscaping.*

Direct overlooking of principal living areas and private open space has been minimised by the existing layout of both dwellings. Private open space areas do not oppose each other, nor do living areas of the dwellings overlook living areas within adjoining dwellings. In addition, common boundary fencing and landscaping is existing between the two dwellings which minimises the potential for overlooking of living areas and private open space areas.

### **Acoustic Privacy**

The DCP sets the following Planning Outcome in regard to Acoustic Privacy:

- *Site layout and building design:*
  - *protect habitable rooms from excessively high levels of external noise*
  - *minimise the entry of external noise to private open space for dwellings close to major noise sources*
  - *minimise transmission of sound through a building to affect other dwellings.*

Previous assessment of the dwellings considered acoustic privacy to be satisfactory. The proposed subdivision will have no effect on the frequency and volume of existing noise levels.

### **Security**

The DCP sets the following Planning Outcomes in regard to Security:

- *The site layout enhances personal safety and minimises the potential for crime, vandalism and fear.*
- *The design of dwellings enables residents to survey streets, communal areas and approaches to dwelling entrances.*

The proposal does not pose a safety security or crime prevention risk. Existing Crime Prevention Through Environmental Design (CPTED) measures will be maintained including casual surveillance undertaken by the occupants of the dwellings and existing fencing will assist in delineating the private and public areas and provide territorial reinforcement within the site.

### **Circulation and Design**

The DCP sets the following Planning Outcome in regard to Circulation and Design:

- *Accessways and parking areas are designed to manage stormwater.*
- *Accessways, driveways and open parking areas are suitably landscaped to enhance amenity while providing security and accessibility to residents and visitors.*
- *The site layout allows people with a disability to travel to and within the site between car parks, buildings and communal open space.*

Existing and separate vehicular access is provided to each dwelling/lot. Reverse egress will be required to the public road for proposed Lot 1, whilst a sufficient manoeuvring area has been designed for forward exit of vehicles associated with proposed Lot 2. These are consistent with vehicle manoeuvring arrangements for battleaxe dwellings throughout the city.

**Car Parking**

The DCP sets the following Planning Outcomes in regard to Car Parking:

- *Parking facilities are provided, designed and located to:*
  - *enable the efficient and convenient use of car spaces and access ways within the site*
  - *reduce the visual dominance of car parking areas and access ways.*
- *Car parking is provided with regard to the:*
  - *the number and size of proposed dwellings*
  - *requirements of people with limited mobility or disabilities.*

The proposed dual occupancy will require 3.1 onsite parking spaces (based on 1.2 spaces per two-bedroom unit plus 1.5 per three-bedroom dwelling and 0.2 visitor spaces per dwelling). six (6) onsite parking spaces will be provided for the development, comprising two (2) double garages and an additional one (1) tandem parking spaces per allotment.

**Private Open Space**

The DCP sets the following Planning Outcomes in regard to Private Open Space:

- *Private open space is clearly defined for private use.*
- *Private open space areas are of a size, shape and slope to suit the reasonable requirements of residents including some outdoor recreational needs and service functions.*
- *Private open space is:*
  - *capable of being an extension of the dwelling for outdoor living, entertainment and recreation*
  - *accessible from a living area of the dwelling*
  - *located to take advantage of outlooks; and to reduce adverse impacts of overshadowing or privacy from adjoining buildings*
  - *orientated to optimise year-round use.*

Private open space for the proposed dwellings will comply with the DCP Guidelines in respect of minimum area, dimension, orientation, solar access and connectivity:

- the existing dwellings are provided with open space that complies with the minimum requirement in terms of area (i.e. more than 50% of the gross floor area of each dwelling).
- the private yards for each dwelling can accommodate an area of 5m x 5m and are directly accessible to the living areas of each dwelling.
- open space areas are located behind the building line of each dwelling.
- Solar access to each area of private open space on the winter solstice is considered satisfactory.

**Open Space and Landscaping**

The DCP sets the following Planning Outcomes in regard to Open Space and Landscaping:

- *The site layout provides open space and landscaped areas which:*
  - *contribute to the character of the development by providing buildings in a landscaped setting*
  - *provide for a range of uses and activities including stormwater management*
  - *allow cost effective management.*
- *The landscape design specifies landscape themes consistent with the desired neighbourhood character; vegetation types and location, paving and lighting provided for access and security.*
- *Major existing trees are retained and protected in a viable condition whenever practicable through appropriate siting of buildings, access ways and parking areas.*
- *Paving is applied sparingly and integrated in the landscape design.*

Existing landscaping comprises a mix shrubs, trees, plants and ground covers. There is no need to require enhancement of existing landscaping with respect to the proposed development.

**PROVISIONS PRESCRIBED BY THE REGULATIONS s4.15(1)(a)(iv)****Demolition of a Building (clause 92)**

The proposal does not involve the demolition of a building.

**Fire Safety Considerations (clause 93)**

The proposal is not a change in use in terms of building classification under the Building Code of Australia. Each building will remain a Class 1a building. Council's Manager Building and Environment has included a condition to ensure hard wired smoke alarms are within each dwelling. A condition has also been included requiring a survey to be undertaken to ensure the location of the buildings, particularly the rear dwelling comply in respect to BCA fire separation of building walls to boundaries.

**Buildings to be Upgraded (clause 94)**

The proposal does not involve the rebuilding, alteration, enlargement or extension of an existing building.

**BASIX Commitments (clause 97A)**

The proposal is not a BASIX affected development.

**THE LIKELY IMPACTS OF THE DEVELOPMENT s4.15(1)(b)****Neighbourhood Amenity**

The proposed dual occupancy and subdivision will continue to provide a reasonable standard of residential amenity for the existing dwellings and those on adjoining lands in respect of solar access, privacy etc. The proposed development will provide for a continuation of residential land use, albeit in a more compact form, and will not significantly alter the function of the neighbourhood. The development will not have adverse impacts on neighbourhood amenity.

**Traffic Impacts**

The proposal is considered to be satisfactory in terms of traffic impacts. The capacity of the local road network is sufficient to accommodate the development. The existing access, parking and manoeuvring arrangements for the development are appropriate.

**Cumulative Impacts**

The proposal is considered to be satisfactory in terms of cumulative impact. Whilst there are no other examples of detached dual occupancies and configuration of lot layout within the street, the two dwellings have existed on the property for some time now and the physical separation of the land will have negligible impact as concerns to open space, solar access or privacy afforded to the existing dwellings and neighbouring properties.

**Environmental Impacts**

The subject land is contained within a developed residential precinct. Significant vegetation, threatened species or ecological endangered communities, or their habitats are not present on the site. The site is not in proximity to any waterway, drinking water catchment or sensitive area.

**THE SUITABILITY OF THE SITE s4.15(1)(c)**

The subject land is suitable for the development due to the following:

- dual occupancy and subdivision are permitted consent uses in the subject R1 zone
- the proposed development will continue to provide a high standard of residential amenity
- the site has direct frontage and access to Moonstone Drive and Quartz Street.
- there is no known contamination on the land
- all utility services are available and adequate
- the site is not subject to natural hazards
- the subject land has no biodiversity or habitat value
- the site is not in proximity to any waterway, drinking water catchment or sensitive area
- the site is not known to contain any Aboriginal, European or archaeological relics.

**ANY SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT s4.15(1)(d)**

The proposed development was notified to adjoining landowners from 13 March 2020 to 26 March 2020 in accordance with the Orange City Council's Community Participation Plan 2019. No submissions were received.

**PUBLIC INTEREST s4.15(1)(e)**

The proposed development is considered to be of minor interest to the wider public due to the relatively localised nature of potential impacts. The proposal is not inconsistent with any relevant policy statements, planning studies and guidelines etc. that have been considered in this assessment.

**DEVELOPMENT CONTRIBUTION ASSESSMENT**

The Orange Development Contributions Plan 2017 is relevant to the proposal. The proposal involves the change of use from a secondary dwelling to a dual occupancy and a two lot Torrens title subdivision. The original contribution was deferred on the basis that the secondary dwelling would be used by a family member. The creation of an additional residential allotment in the Waratah urban release area normally carries a contribution rate of \$20,000. However, given that the new lot created will contain an existing dwelling and that dwelling only comprises of two bedrooms, it is considered appropriate to apply the lesser contribution rate of \$11,962.12 to the development in this case.

The payment of \$11,962.12 is to be made to Council in accordance with Section 7.11 of the Act and the Orange Development Contributions Plan 2017 (Development in Waratah urban release area) towards the provision of the following public facilities:

Open Space and Recreation	@ \$2,300.72 x 2 bedroom dwelling	2,300.72
Community and Cultural	@ \$667.20 x 2 bedroom dwelling	667.20
Roads and Traffic Management	@ \$3,129.04 x 2 bedroom dwelling	3,129.04
Local Area Facilities	@ \$5,519.42 x 2 bedroom dwelling	5,519.42
Plan Preparation & Administration	@ \$345.74 x 2 bedroom dwelling	345.74
<b>TOTAL:</b>		<b>\$11,962.12</b>

The contribution will be required to be paid at the time of conversion of the secondary dwelling to the dual occupancy or prior to the issue of a Subdivision Certificate, whichever comes first.

**INTERNAL REFERRAL COMMENTS**

The proposal was referred to Council's Manager Building and Environment, Melissa Maccallum and Council's Development Engineer, Marc Kiho for comment. The requirements of the Environmental Health and Building Surveyor and the Development Engineer are included in the attached Notice of Determination.

**SUMMARY**

The proposed development is permissible with the consent of Council. The proposed development complies with the relevant aims, objectives and provisions of Orange LEP 2011 (as amended) and DCP 2004. A Section 4.15 assessment of the development indicates that the development is acceptable in this instance. Attached is a draft notice of determination outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.

**ATTACHMENTS**

- 1 Notice of Approval, D20/22510 [↓](#)
- 2 Plans, D20/22538 [↓](#)

	<p style="text-align: center;"><b>ORANGE CITY COUNCIL</b></p> <p style="text-align: center;">Development Application No <b>DA 58/2020(1)</b></p> <p>NA20/ <span style="float: right;">Container PR24889</span></p>
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**NOTICE OF DETERMINATION  
OF A DEVELOPMENT APPLICATION**

issued under the *Environmental Planning and Assessment Act 1979*  
Section 4.18

**Development Application**

Applicant Name: Mr KJ and Mrs RL Keast  
 Applicant Address:  
  
 Owner's Name: Mr KJ and Mrs RL Keast  
 Land to Be Developed: Lot 406 DP 1159176 - 30 Moonstone Drive, Orange  
 Proposed Development: Dual Occupancy (change of use from secondary dwelling) and Subdivision (two lot residential)

**Building Code of Australia  
building classification:**

Class 1a

**Determination made under  
Section 4.16**

Made On: 12 May 2020  
 Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

**Consent to Operate From:** 13 May 2020  
**Consent to Lapse On:** 13 May 2025

**Terms of Approval**

The reasons for the imposition of conditions are:

- (1) To ensure a quality urban design for the development which complements the surrounding environment.
- (2) To maintain neighbourhood amenity and character.
- (3) To ensure compliance with relevant statutory requirements.
- (4) To provide adequate public health and safety measures.
- (5) Because the development will require the provision of, or increase the demand for, public amenities and services.
- (6) To ensure the utility services are available to the site and adequate for the development.
- (7) To prevent the proposed development having a detrimental effect on adjoining land uses.
- (8) To minimise the impact of development on the environment.

**Conditions**

- (1) The development must be carried out in accordance with:
  - (a) The approved stamped plan prepared by Saunders and Staniforth, Titled: Figure 2 Proposed Subdivision and Conceptual Services and dated 15 January 2020
  - (b) The approved stamped Statement of Environmental Effects prepared by Saunders and Staniforth

except as varied by the conditions listed herein or as marked in red on the approved plans. A copy of the approved stamped plans is to be maintained on site for constructional and reference purposes.

**PRESCRIBED CONDITIONS**

- (2) All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- (3) Engineering plans, showing details of all proposed work and adhering to any engineering conditions of development consent, are to be submitted to, and approved by, Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) prior to the issuing of a Construction Certificate.
- (4) Proposed lots 1 and 2 are to be provided with interlot stormwater drainage, where the surface of the entire lot cannot be drained to the kerb and gutter at the lot frontage. A grated concrete stormwater pit is to be constructed within each lot provided with interlot stormwater drainage. Engineering plans for this drainage system are to be approved by Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) prior to the issuing of a Construction Certificate.
- (5) A 150mm-diameter sewer main is to be constructed from Council’s existing main to serve the proposed lots. Prior to a Construction Certificate being issued engineering plans for this sewerage system are to be submitted to and approved by Orange City Council.
- (6) Proposed Lot 2 shall be provided with dual water services from Quartz Street. Engineering plans are to be submitted to and approved by Orange City Council prior to the issue of a Construction Certificate.

**DURING CONSTRUCTION/SITWORKS**

- (7) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (8) The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.  
  
The developer is to be entirely responsible for the provision of water, sewerage and drainage facilities capable of servicing all the lots from Council’s existing infrastructure. The developer is to be responsible for gaining access over adjoining land for services where necessary and easements are to be created about all water, sewer and drainage mains within and outside the lots they serve.
- (9) All services are to be contained within the allotment that they serve.

**PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

- (10) The payment of \$11,962.12 is to be made to Council at the time of conversion of the secondary dwelling to the dual occupancy or prior to the issue of a subdivision certificate, whichever comes first, in accordance with section 7.11 of the Act and the Orange Development Contributions Plan 2017 (Development in Waratah urban release area) towards the provision of the following public facilities:

Open Space and Recreation	@ \$2,300.72 x 2 bedroom dwelling	2,300.72
Community and Cultural	@ \$667.20 x 2 bedroom dwelling	667.20
Roads and Traffic Management	@ \$3,129.04 x 2 bedroom dwelling	3,129.04
Local Area Facilities	@ \$5,519.42 x 2 bedroom dwelling	5,519.42
Plan Preparation & Administration	@ \$345.74 x 2 bedroom dwelling	345.74
<b>TOTAL:</b>		<b>\$11,962.12</b>

The contribution will be indexed quarterly in accordance with the Orange Development Contributions Plan 2017 (Development in Waratah urban release area). This Plan can be inspected at the Orange Civic Centre, Byng Street, Orange.

- (11) A Surveyor's Certificate or written statement is to be provided to the Principal Certifying Authority, stating that the buildings within the boundaries of the proposed Lots comply in respect to the distances of walls from boundaries.
- (12) The applicant is to provide certification from a suitably qualified electrician that the smoke alarms within each of the dwellings is hard wired and are located in positions within the dwellings in accordance with the requirements of the Building Code of Australia.
- (13) An application for any alterations to water and sewer is to be submitted and approved by Orange City Council as the Water and Sewer Authority. This application must include site plans for any alterations to the sewer connection and junction.
- (14) Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.
- (15) **Payment of contributions for water, sewer and drainage works** is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on 1.0 ETs for water supply headworks and 1.0 ETs for sewerage headworks. A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.  
  
This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (16) Application is to be made to Telstra/NBN for infrastructure to be made available to each individual lot within the development. Either a Telecommunications Infrastructure Provisioning Confirmation or Certificate of Practical Completion is to be submitted to the Principal Certifying Authority confirming that the specified lots have been declared ready for service prior to the issue of a Subdivision Certificate.
- (17) A Notice of Arrangement from Essential Energy stating arrangements have been made for the provision of electricity supply to the development, is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
- (18) An easement to drain sewage and to provide Council access for maintenance of sewerage works a minimum of 2.0 metres wide is to be created over the proposed sewerage works. The Principal Certifying Authority is to certify that the easement is in accordance with the Orange City Council Development and Subdivision Code prior to the issuing of a Subdivision Certificate.
- (19) All services are to be contained within the allotment that they serve. A Statement of Compliance, from a Registered Surveyor, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (20) Where stormwater crosses land outside the lot it favours, an easement to drain water is to be created over the works. A Restriction-as-to-User under section 88B of the *NSW Conveyancing Act 1919* is to be created on the title of the burdened Lot requiring that no structures are to be placed on the site, or landscaping or site works carried out on the site, in a manner that affects the continued operation of the interlot drainage system. The minimum width of the easement is to be as required in the Orange City Council Development and Subdivision Code.
- (21) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets.
- (22) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation Certificate, unless stated otherwise.

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**Other Approvals**

(1) *Local Government Act 1993* approvals granted under Section 68.

Nil

(2) General terms of other approvals integrated as part of this consent.

Nil

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**Right of Appeal**

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court. Pursuant to Section 8.10, an applicant may only appeal within 6 months after the date the decision is notified.

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***Disability Discrimination Act 1992:***

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act* currently available in Australia.

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**Disclaimer - S88B of the Conveyancing Act 1919 - Restrictions on the Use of Land:**

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

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**Signed:**

On behalf of the consent authority **ORANGE CITY COUNCIL**

**Signature:**

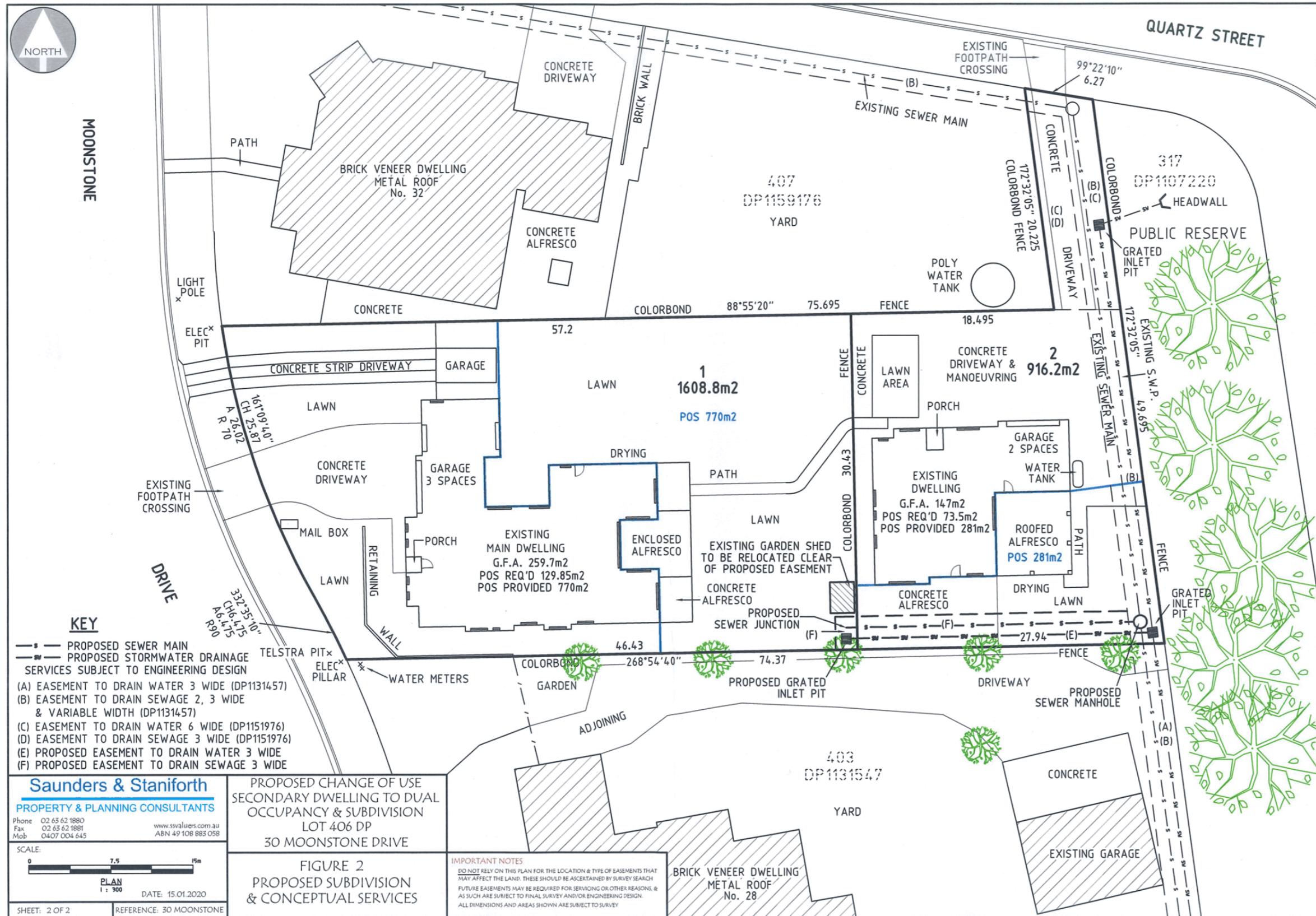
**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

**Date:**

13 May 2020

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**2.5 DEVELOPMENT APPLICATION DA 5/2020(1) - LOT 72 CARWOOLA DRIVE**

RECORD NUMBER: 2020/705  
 AUTHOR: Summer Commins, Senior Planner

**EXECUTIVE SUMMARY**

Application lodged	3 January 2020
Applicant/s	Saran Homes
Owner/s	Saran Homes Pty Limited
Land description	Lot 72 DP 1251988 - Carwoola Drive, Orange
Proposed land use	Subdivision (11 lot residential)
Value of proposed development	Not Applicable

This development application relates to land at Carwoola Drive and Cargo Road described as Lot 72 DP 1251988. The proposal involves Torrens subdivision of the land to create 11 urban residential lots and a new road (cul-de-sac). The proposed lots will range in area between 850sqm–2,000sqm. The subject land is contained within Area 3 of the Ploughmans Valley urban release area.

Pursuant to Clause 4.6 of Orange Local Environmental Plan (LEP) 2011, consent is sought for a minor variation to the Minimum Lot Size development standard that applies to the land. The development site is subject to two different minimum lot sizes, namely 850sqm and 2000sqm. Some of the proposed lots overlap the boundary between the two minimum lot sizes zones.

Notable planning matters specific to the application include the application of Clause 4.6; and the suitability of the proposal within the context of the Ploughmans Valley Area 3 masterplan.

As outlined in this report, the proposed development is considered to satisfy the Local and State planning controls that apply to the subject land and particular landuse. Impacts of the development will be within reasonable limit, subject to mitigation conditions. Approval of the application is recommended.

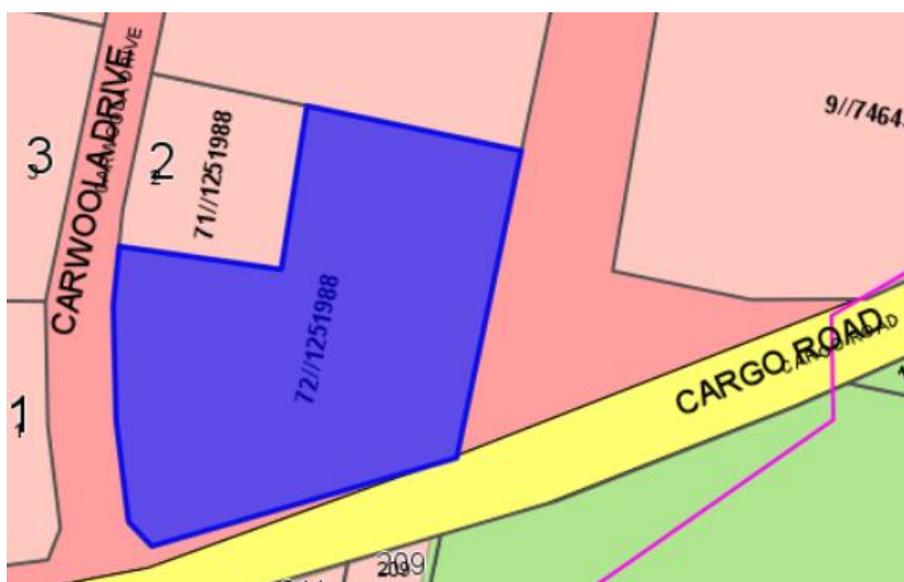


Figure 1 - locality plan

**DECISION FRAMEWORK**

Development in Orange is governed by two key documents Orange Local Environment Plan 2011 and Orange Development Control Plan 2004. In addition the Infill Guidelines are used to guide development, particularly in the heritage conservation areas and around heritage items.

**Orange Local Environment Plan 2011** – The provisions of the LEP must be considered by the Council in determining the application. LEPs govern the types of development that are permissible or prohibited in different parts of the City and also provide some assessment criteria in specific circumstances. Uses are either permissible or not. The objectives of each zoning and indeed the aims of the LEP itself are also to be considered and can be used to guide decision making around appropriateness of development.

**Orange Development Control Plan 2004** – the DCP provides guidelines for development. In general it is a performance based document rather than prescriptive in nature. For each planning element there are often guidelines used. These guidelines indicate ways of achieving the planning outcomes. It is thus recognised that there may also be other solutions of merit. All design solutions are considered on merit by planning and building staff. Applications should clearly demonstrate how the planning outcomes are being met where alternative design solutions are proposed. The DCP enables developers and architects to use design to achieve the planning outcomes in alternative ways.

**DIRECTOR'S COMMENT**

The proposal involves an 11 lot Torrens subdivision of land within Area 3 Ploughmans Valley urban release area. It is considered that the proposed subdivision will comply with the LEP objectives, including those relating to the zone and minimum lot size development standards. The design of the subdivision is consistent with the Area 3 Ploughmans Valley masterplan and the intent for transitional lot sizes along Cargo Road. It is recommended that Council supports the proposal.

**LINK TO DELIVERY/OPERATIONAL PLAN**

The recommendation in this report relates to the Delivery/Operational Plan strategy “10.1 Preserve - Engage with the community to ensure plans for growth and development are respectful of our heritage”.

**FINANCIAL IMPLICATIONS**

Nil

**POLICY AND GOVERNANCE IMPLICATIONS**

Nil

**RECOMMENDATION**

**That Council consents to development application DA 5/2020(1) for *Subdivision (11 lot residential)* at Lot 72 DP 1251988 - Carwoola Drive, Orange pursuant to the conditions of consent in the attached Notice of Approval.**

**FURTHER CONSIDERATIONS**

Consideration has been given to the recommendation’s impact on Council’s service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

**SUPPORTING INFORMATION**

The parent parcel was the subject of recent development consent for two lot subdivision to excise the dwelling on the land and create a vacant development lot for future subdivision (DA 327/2018(1) approved 5 November 2018).

The approved and registered subdivision is depicted below (see Figure 2).



**Figure 2 - subdivision under DA 327/2018(1)**

The current proposal relates to subdivision of the development lot, being approved Lot 2/registered Lot 72.

DA 327/2018(1) involved deferring of servicing and access requirements to the proposed lots, in accordance with Council’s Policy for *Subdivision in a Greenfield Urban Development Area (D16/10684)*. The land is subject to a Section 88B Restriction as to User in favour of Council (DP 1251988) restricting further subdivision or development of the land prior to the completion of infrastructure services; creation of easements over services; payment of contributions; and road and access works.

The requirements listed in the Section 88B will now be undertaken in conjunction with the proposed subdivision.

**THE PROPOSAL**

The proposal involves Torrens subdivision of the land to create 11 urban residential lots and a new road (cul-de-sac).

The lots will range in area between 850sqm – 2,000sqm. Larger lots are proposed at the Cargo Road frontage; with smaller lots to have frontage to Carwoola Drive and the proposed new road. The cul-de-sac will connect to the recently constructed and unnamed road to the east.

The proposed lots will be connected to urban utility services (water, sewer, stormwater drainage, electricity and telecommunications). Monterey Pines (*Pinus radiata*) along the southern boundary with frontage to Cargo Road will be removed.

The proposed subdivision plan is depicted below (see Figure 3).

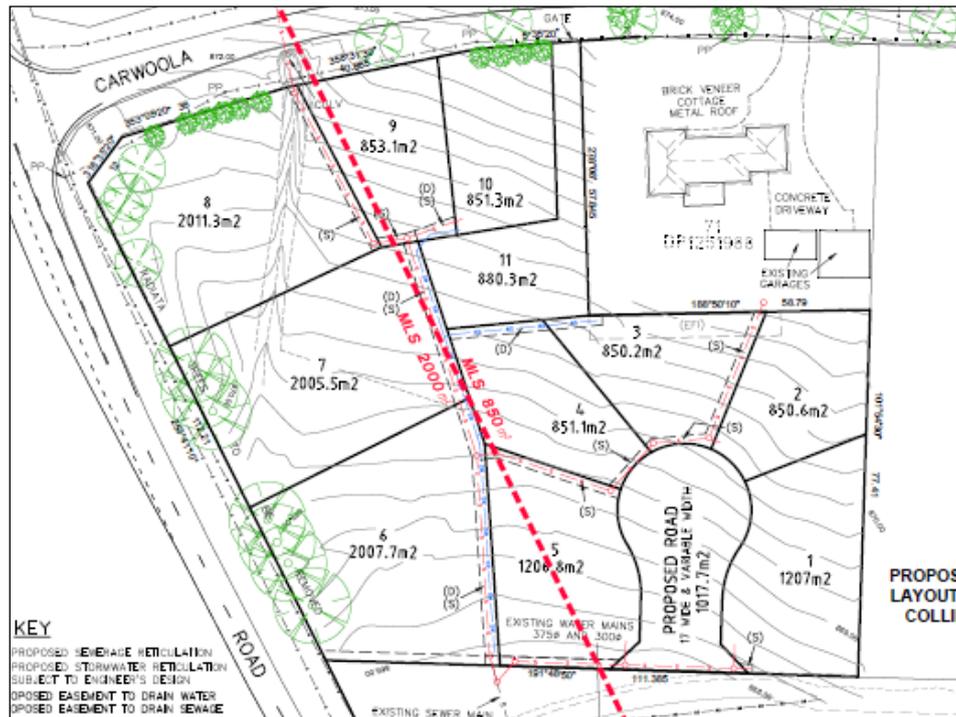


Figure 3 – proposed subdivision

**MATTERS FOR CONSIDERATION UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**Section 1.7 Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994***

Section 1.7 of the EP&A Act identifies that Part 7 of the Biodiversity Conservation Act 2016 (BC Act) and Part 7A of the Fisheries Management Act 1994 have effect in connection with terrestrial and aquatic environments.

There are 3 applicable triggers in the Orange LGA known to insert a development into the Biodiversity Offset Scheme (ie the need for a BDAR to be submitted with a DA):

- **Trigger 1:** development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017);
- **Trigger 2:** development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017); or
- **Trigger 3:** development is otherwise likely to significantly affect threatened species (clauses 7.2 and 7.3 of BC Act 2016).

**Trigger 1**

The subject land is not identified as biodiversity sensitive on the Orange LEP 2011 Terrestrial Biodiversity Map.

**Trigger 2**

The prescribed clearing threshold for the site is 0.25ha (based on minimum lot size for the subject land of less than 1ha (Cl. 7.2 Biodiversity Conservation Regulation 2017)). The site and surrounds consists of deciduous, non-native trees and shrubs that are ornamental in nature and will be removed as part of the development. The proposal does not involve clearing or disturbance of native vegetation.

**Trigger 3**

The subject land is contained within an established urban area and developing residential release area. The development site does not contain or adjoin mapped biodiversity sensitive lands. The natural state of the site and surrounding area have been highly modified by the urban landuse pattern. The development is unlikely to adversely fragment or disturb the biodiversity structure or ecological functions of the development site or surrounding lands. Although subdivision is considered to be a key threatening process, there are no known or threatened ecological communities on the land, nor is it likely to contain any habitat for such species or communities.

Based on the foregoing consideration, a BDAR is not required and the proposal suitably satisfies the relevant matters at Clause 1.7 EPAA 1979.

**Section 4.15 Evaluation*****Provisions of any Environmental Planning Instrument S4.15(1)(A)(I)*****Orange Local Environmental Plan 2011****Part 1 - Preliminary****Clause 1.2 Aims of Plan**

The particular aims of the LEP relevant to the proposal include:

- (a) to encourage development which complements and enhances the unique character of Orange as a major regional centre boasting a diverse economy and offering an attractive regional lifestyle,*
- (b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Orange in a way that allows present and future generations to meet their needs by implementing the principles for ecologically sustainable development,*
- (e) to provide a range of housing choices in planned urban and rural locations to meet population growth,*
- (f) to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

The proposal is considered to satisfy the above aims, as outlined in this report.

**Clause 1.6 Consent Authority**

Clause 1.6 is applicable and states:

*The consent authority for the purposes of this Plan is (subject to the Act) the Council.*

**Clause 1.7 Mapping**

The subject site is identified on the LEP maps in the following manner:

<b>Land Zoning Map:</b>	<b>Land zoned R2 Low Density Residential</b>
<b>Lot Size Map:</b>	<b>850m<sup>2</sup> and 2,000m<sup>2</sup></b>
Heritage Map:	Not a heritage item or conservation area
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
<b>Groundwater Vulnerability Map:</b>	<b>Groundwater vulnerable</b>
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Not within a flood planning area

Those matters that are of relevance are addressed in detail in the body of this report.

**Clause 1.9A Suspension of Covenants, Agreements and Instruments**

Clause 1.9A is applicable and states in part:

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*
- (2) *This clause does not apply:*
  - (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
  - (b) *to any prescribed instrument within the meaning of section 183A of the [Crown Lands Act 1989](#), or*
  - (c) *to any conservation agreement within the meaning of the [National Parks and Wildlife Act 1974](#), or*
  - (d) *to any Trust agreement within the meaning of the [Nature Conservation Trust Act 2001](#), or*
  - (e) *to any property vegetation plan within the meaning of the [Native Vegetation Act 2003](#), or*
  - (f) *to any biobanking agreement within the meaning of Part 7A of the [Threatened Species Conservation Act 1995](#), or*
  - (g) *to any planning agreement within the meaning of Division 6 of Part 4 of the Act.*

Pursuant to Clause 1.9(2)(a) and as outlined in the foregoing assessment, the land is subject to a Section 88B Restriction as to User in favour of Council (DP 1251988).

The covenant restricts further subdivision or development of the land prior to the completion of infrastructure services; creation of easements over services; payment of contributions; and road and access works.

The requirements listed in the Section 88B will now be undertaken in conjunction with the proposed subdivision. At the completion of the development, the Restriction may be released, varied or modified.

## **Part 2 - Permitted or Prohibited Development**

### **Clause 2.1 Land Use Zones**

The subject site is located within the R2 Low Density Residential zone. The proposal is defined as *subdivision of land*, which means:

*The division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition (Section 6.2 Environmental Planning and Assessment Act 1979).*

Subdivision is permitted with consent pursuant to Clause 2.7 below.

### **Clause 2.3 Zone Objectives and Land Use Table**

The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement.*
- *To ensure that development along the Southern Link Road has an alternative access.*

The proposal is consistent with the objectives of the R2 zone. The proposal will facilitate future low density subdivision of the land consistent with the Ploughmans Valley masterplan for Area 3. The proposal relates to residential subdivision only and does not involve other complementary land uses. The proposed subdivision layout will integrate with the existing and planned road and transport networks. The land is accessible to open space linkages for walking and cycling.

**Clause 2.6 Subdivision Consent Requirements**

Clause 2.6 is applicable and states:

- (1) *Land to which this Plan applies may be subdivided but only with development consent.*

Consent is sought for Torrens title subdivision of the subject land in accordance with this Clause.

**Part 3 - Exempt and Complying Development**

The application is not exempt or complying development.

**Part 4 - Principal Development Standards****Clause 4.1 Minimum Subdivision Lot Size**

Clause 4.1 is applicable and states in part:

- (3) *The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.*

The Lot Size Map prescribes a minimum lot size (MLS) of 2,000m<sup>2</sup> (V1) at the Cargo Road frontage, and 850m<sup>2</sup> (S2) for the balance of the parcel (refer Figures 4 and 5).



**Figure 4 - Orange LEP 2011 Lot Size Map 2011**

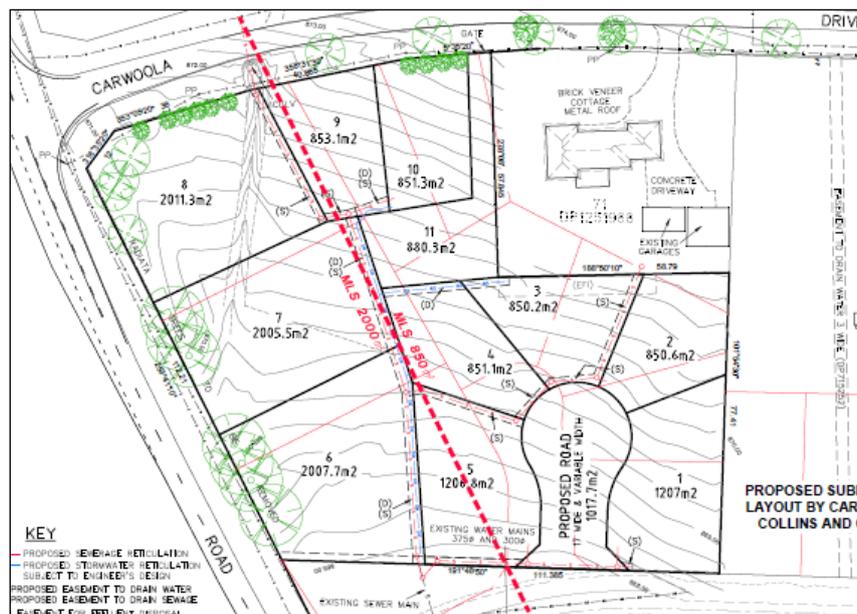


Figure 5 – Minimum Lot Size zone boundary

In consideration of this clause, proposed Lots 5 and 9 overlap the MLS zone boundary, and are subject to minimum areas of both 850m<sup>2</sup> and 2,000m<sup>2</sup>. Lots 5 and 9 will not comply with the prescribed minimum area of 2,000m<sup>2</sup>. As such, a variation of the minimum lot size development standard is sought pursuant to Clause 4.6 (see below). Other lots within the subdivision comply with the prescribed minimum lot sizes.

**Clause 4.6 Exceptions to Development Standards**

Clause 4.6 is applicable and states in part:

- (2) *Development consent may, subject to this clause, be granted for development, even though the development would contravene a development standard imposed by this or any other environmental planning instrument...*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has received a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating-*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

In consideration of this clause, a written request has been received from the applicant for a variation to the minimum lot size (MLS) development standard applying to the land.

Proposed Lots 5 and 9 overlap the MLS zone boundary, and are subject to minimum areas of both 850m<sup>2</sup> and 2,000m<sup>2</sup>. Lots 5 and 9 will not comply with the MLS of 2,000m<sup>2</sup>, and it is proposed to apply the alternative MLS of 850m<sup>2</sup> to these lots.

Pursuant to Clause 4.6(3), the applicant has provided a written request justifying the contravention of the MLS development standard. This request provides:

- The proposal will not result in a greater lot yield, ie. 11 lots could be achieved should the MLS boundary be complied with.
- The proposal will achieve an optimum subdivision layout, with practical and efficient lot sizes and shapes.
- All lots with frontage to Cargo Road will exceed 2,000m<sup>2</sup>, consistent with the intent for a low density character at the City entrance.
- The lots will accommodate the applicable front building line setbacks: 15m to Cargo Road and 6m to Carwoola Drive and the cul-de-sac.
- The proposal will satisfy the objectives of the R2 Low Density zone and objectives of the MLS (Clause 4.1).
- The proposed lot sizes will be consistent with other lots in Area 3 Ploughmans Valley.
- The proposal reasonably accords with the Ploughmans Valley Area 3 masterplan and DCP planning outcomes.
- Non-compliance with the MLS development standard will not generate unacceptable impacts in the locality.
- The proposal will not result in any matter of state or regional planning significance, and will not be adverse to public benefit.

Council staff support the justification above. It is considered that the proposed subdivision will comply with the prescribed objectives for the zone and MLS development standard; will be consistent with the Area 3 Ploughmans Valley masterplan and the intent for transitional lot sizes; and will create efficient and practical residential lots. Contravention of the MLS development standard is considered suitable in the circumstances.

#### **Part 5 - Miscellaneous Provisions**

The Part 5 Provisions do not apply to the subject land or proposed development.

#### **Part 6 - Urban Release Area**

Not relevant to the application. The subject site is not located in an Urban Release Area.

#### **Part 7 - Additional Local Provisions**

##### **Clause 7.3 Stormwater Management**

Clause 7.3 is applicable. This clause states in part:

- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting onsite infiltration of water, and*
  - (b) *includes, where practical, onsite stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*

- (c) *avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

In consideration of this clause, Council's Assistant Development Engineer advises:

*The applicant will be required to contribute to the provision of an off-site stormwater system for the development through Section 7.11 contributions. The existing wetlands detention system caters for stormwater detention within Ploughmans Valley. An existing trunk stormwater main is located within the adjacent Cargo Road reserve.*

Conditions are included on the attached Notice of Approval to satisfy the requirements of Clause 7.3.

### **Clause 7.6 Groundwater Vulnerability**

The subject land is identified as Groundwater Vulnerable on the Groundwater Vulnerability Map. Clause 7.6 applies. This clause states in part:

- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider:*
- (a) *whether or not the development (including any onsite storage or disposal of solid or liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystems, and*
  - (b) *the cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.*

In consideration of Clause 7.6, there are no aspects of the proposed residential subdivision that will impact on groundwater and related ecosystems.

### **Clause 7.11 Essential Services**

Clause 7.11 applies and states:

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:*

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *storm water drainage or onsite conservation,*
- (e) *suitable road access.*

In consideration of this clause, the listed utility services are available and suitable subject to augmentation. Council's Assistant Development Engineer has included conditions on the attached Notice of Approval in relation to reticulated dual water; reticulated sewer; stormwater detention; and road and footpath construction.

**STATE ENVIRONMENTAL PLANNING POLICIES****State Environmental Planning Policy 55 Remediation of Land**

*State Environmental Planning Policy 55 - Remediation of Land (SEPP 55) is applicable. Pursuant to Clause 7 Contamination and remediation to be considered in determining development application:*

- (1) A consent authority must not consent to the carrying out of any development on land unless:
  - (a) it has considered whether the land is contaminated, and*
  - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.**

The proponent has provided the following details in relation to potential contamination of the land:

*Whilst properties within the surrounding area were used for orchards, the subject land itself does not appear to have been used for such purposes, particularly within the past 30 years. The Orange 1:25,000 Topographic Map (based on aerial photography in 1982 and field revised in 1987) shows no orchard within the subject land at the time).*

*The subject land is well-established as a large lot residential property, having been created for this purpose since 1985. Since that time, the land is not known to have been used for a purpose listed in Table 1 of the [Contaminated Land Planning Guidelines.]*

*The land is well established with the dwelling, domestic shed and structures, driveways, lawns, gardens and trees. Inspection of the sites does not indicate any areas of sources of potential contamination.*

Based on historical and longstanding existing landuse, it is considered unlikely that the subject land is contaminated, and will be suitable for the proposed development. Notwithstanding, a condition is included on the attached Notice of Approval requiring soil sampling for chemical residue be undertaken to confirm the suitability of the land for residential landuse prior to the issue of a Subdivision Certificate.

**State Environmental Planning Policy Infrastructure 2007**

Cargo Road comprises a Classified Road (MR237) and SEPP Infrastructure 2007 is applicable. Pursuant to Clause 101 Development with frontage to a classified road:

- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:
  - (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
  - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:**

- (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The following comments are provided in consideration of Clause 101:

- Proposed Lots 6 and 7 will have conditional shared access via Cargo Road (as required by Council's Assistant Development Engineer). Pursuant to Section 138 of the Roads Act 1993, concurrence is required from Transport for NSW for works within the road reserve. The proposal was referred to Transport for NSW and concurrence granted (21 April 2020), subject to conditions.
- All other lots within the development will have access via Carwoola Drive or the proposed cul-de-sac.
- The proposed subdivision will have nil impact on the safety, efficiency or ongoing operation of Cargo Road. Upgrading works of Cargo Road at the site frontage have recently been completed. New access will be appropriately located to achieve reasonable sight distances. Traffic generation associated with dwellings on the proposed lots will be imperceptible within the context of existing volumes.
- Based on daily carrying capacity of Cargo Road, acoustic assessment is not required pursuant to *Development near Rail Corridors and Busy Roads – Interim Guidelines* (NSW Department of Planning 2008).
- Future dwellings on the large lots at the site frontage will have a minimum building line of 15m, pursuant to DCP control and a conditional 88 Restriction. The front setback will assist to remove the dwellings from Cargo Road traffic noise. The large lots will provide a buffer between Cargo Road and other smaller lots within the subdivision.

***Provisions of any Draft Environmental Planning Instrument that has been Placed on Exhibition 4.15(1)(A)(ii)***

**State Environmental Planning Policy Draft Remediation of Land**

Draft Remediation of Land SEPP is applicable. The Draft SEPP requires in part that consideration be given to potential contamination on nearby or neighbouring properties and groundwater. Land adjoining the site has been recently subdivided and developed for residential landuse (Ploughmans Valley), with contaminated clearance provided at that time. The contaminated status of adjoining residential lands will not impact on the proposed development.

**Draft Orange Local Environmental Plan 2011 (Amendment 24)**

Draft Amendment 24 has recently completed public exhibition (August 2019). The Draft Plan involves various administrative amendments to the LEP including, relevantly, an amendment to flood planning controls as informed by the Floodplain Risk Management Study and Plan 2017.

The updated flood data has identified that the development site is subject to flooding via overland flows. Council's Assistant Development Engineer raised no objection to the proposal on these grounds. The overland flows will be managed by the constructed stormwater system for the subdivision.

**DESIGNATED DEVELOPMENT**

The proposed development is not designated development.

**INTEGRATED DEVELOPMENT**

The proposed development is not integrated development.

***Provisions of any Development Control Plan S4.15(1)(A)(lii)*****DCP 2004-7.2 Residential Subdivision in Ploughmans Valley**

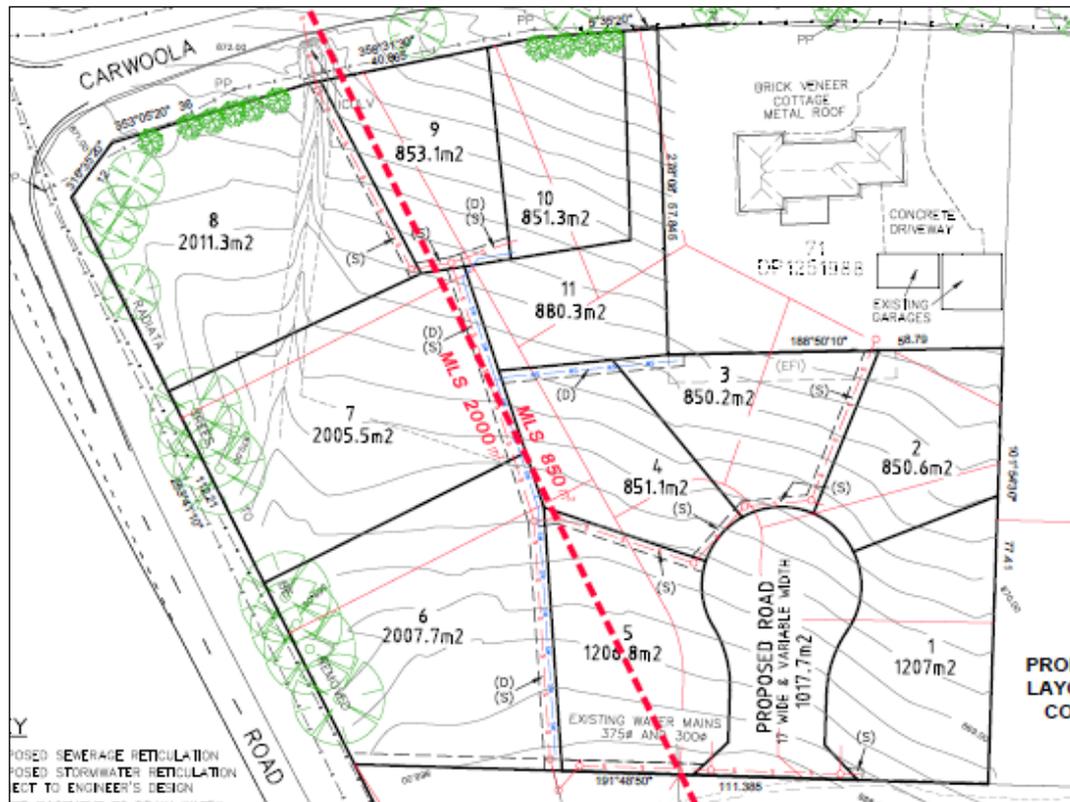
The DCP prescribes the following applicable planning outcomes for subdivision in Ploughmans Valley:

- *The allotment layout is generally in accordance with the Conceptual Subdivision Layout...*

The proposed allotment layout generally accords with the Area 3 Conceptual Subdivision Layout as depicted below (refer Figure 6). Consistent with the DCP, the proposal involves:

- Three (3) large lots to Cargo Road.
- A cul-de-sac via the recently constructed public road to the east.
- A large lot containing the existing dwelling house (DA 327/2018(1)).
- Standard lots with frontage to the new cul-de-sac and Carwoola Drive.

The proposal departs from the DCP in terms of yield. Nine lots are provided for in the masterplan, with the proposal providing 11 lots. An additional lot is proposed in the cul-de-sac (Lot 5); and an additional battleaxe lot is proposed via Carwoola Drive (Lot 11).



**Figure 4 – proposed subdivision and Area 3 Conceptual Subdivision Layout**

No objection is raised to the DCP departure in terms of lot yield. The allotment layout will suitably accord with the Ploughmans Valley masterplan, and will have nil impact on the subdivision potential of adjoining lands and the local road network.

- *Subdivision design and construction complies with the Orange City Development and Subdivision Code.*

The proposed development will comply with the Orange City Development and Subdivision Code. Conditions are included on the attached Notice of Approval to this effect.

- *The allotment layout provides for transitional development of the valley. In Areas 2, 3 and 4, lots along Forbes Road and Cargo Road have a minimum area of 2,000m<sup>2</sup>.*

Proposed Lots 6, 7 and 8 will have frontage to Cargo Road and exceed the prescribed minimum area of 2,000m<sup>2</sup>.

- *The allotment layout provides for a high standard of residential amenity. In Areas 2, 3 and 4, lots have a minimum allotment size of 850m<sup>2</sup>.*

Excepting lots at the site frontage, the proposed lots will exceed the prescribed minimum area of 850m<sup>2</sup>.

- *The allotment layout maximises energy-efficiency principles. Where practicable, lots are rectangular rather than splay-shaped...*

The proposed lots are a mix of regular and irregular shapes. Notwithstanding this, all lots will have long axes within the acceptable orientation range to facilitate effective solar access.

- *Subdivision design retains significant landscape features and minimises disturbance to natural vegetation, landform and overland flow paths.*

The proposed subdivision involves removal of a row of Monterey Pines (*Pinus radiata*) from the Cargo Road frontage. It is acknowledged that the proposed tree removal will alter the landscape setting in the locality. Notwithstanding, Council's Manger City Presentation, raised no objection to tree removal, 'as these specimens are near the end of their safe useful life expectancy.' Conditions are included on the attached Notice of Approval requiring protection of other trees on the land and in the road reserve via Tree Protection Zones in accordance with AS4970-2009.

The proposed subdivision does not involve a significant change to the natural landform.

- *The road layout comprises a modified grid layout with restrained use of cul-de-sacs, generally in accordance with the Conceptual Subdivision Layout.*

The proposed subdivision involves a cul-de-sac connecting to the local road to the east, consistent with the Conceptual Subdivision Layout. Other conditional road works will include upgrading of Carwoola Drive at the site frontage (kerb and gutter, footpaths and hotmix surface); and shared access to Lots 6 and 7 via Cargo Road.

- *Future road connections to adjoining land are provided and located generally in accordance with the Conceptual Subdivision Layout.*

The proposal will not conflict with future road connections to adjoining parcels within Area 3.

- *Lots have direct frontage or access to a public road.*

All proposed lots will have direct frontage and access to a public road. Frontage to battleaxe Lot 11 will be limited to the access via Carwoola Drive.

- *Stormwater runoff from the site is consistent with pre-development stormwater patterns.*
- *Drainage systems are designed to consider catchment and downstream capacities, onsite retention and reuse and overland flow paths.*

Council's Assistant Development Engineer advises:

*The applicant will be required to contribute to the provision of an off-site stormwater system for the development through Section 7.11 contributions. The existing wetlands detention system caters for stormwater detention within Ploughmans Valley. An existing trunk stormwater main is located within the adjacent Cargo Road reserve.*

Conditions are included on the attached Notice of Approval to satisfy the planning outcomes in relation to stormwater management.

- *All utility services are provided to the proposed lots.*

Utility services are available and suitable subject to augmentation. Council's Assistant Development Engineer has included conditions on the attached Notice of Approval in relation to reticulated dual water; reticulated sewer; stormwater detention; and road and footpath construction.

**DCP 2004-00 Transitional Provisions – Transport Routes**

Cargo Road comprises a Classified Road (MR237) and the proposal comprises development along a transport route. The DCP prescribes the following planning outcomes.

- *The development provides a high standard of visual appeal to motorists, cyclists and pedestrians as well as adjoining property owners.*
- *The visual appearance of the development, including any signage, lighting or other ancillary element, must not generate a distraction to motorists.*
- *Any signage must not be animated whether by movement or flashing lights.*
- *Where land has more than one street frontage the street with the lower volume of traffic is to provide the principal access to the development, subject to safety considerations.*
- *Where access is provided onto an arterial road, distributor road or major collector road, the access point must have appropriate safe sight distances for the prevailing speed limit and clear unimpeded entrance/exit signage must be displayed.*
- *Where onsite customer parking is provided that is not immediately visible from a public road, clear and unimpeded directional signage must be displayed.*
- *Where the proposal is residential, or another noise sensitive form, appropriate noise mitigation measures to limit the development from traffic noise must be demonstrated.*

The proposed development satisfies the above relevant planning outcomes:

- The visual impacts associated with the proposal will relate to tree removal at the Cargo Road frontage and works associated with civil construction. The visual impacts are typical to a developing urban release area.
- The proposal does not involve advertising.
- As outlined above, proposed Lots 6 and 7 will have conditional shared access to Cargo Road. Transport for NSW and Council's Assistant Development Engineer raised no objection to this arrangement. Other lots within the subdivision will have access via local roads with lower traffic volumes.
- The proposal involves creation of vacant residential lots and will not require customer parking.
- Based on daily carrying capacity of Cargo Road, acoustic assessment is not required pursuant to *Development near Rail Corridors and Busy Roads – Interim Guidelines* (NSW Department of Planning 2008). Future dwellings on the large lots at the site frontage will have a minimum building line of 15m (pursuant to DCP control and conditional 88B Restriction). The front setback will assist to remove the dwellings from Cargo Road traffic noise.

**Orange City Development Contributions Plan 2017**

Development contributions are applicable to the proposed subdivision (one additional lot), pursuant to the Orange City Development Contributions Plan 2017 (Ploughmans Valley Urban Release Area), as follows:

Open Space and Recreation	10 additional lots @ \$3,989.23	39,892.30
Community and Cultural	10 additional lots @ \$1,156.86	11,568.60
Roads and Traffic Management	10 additional lots @ \$5,265.65	52,656.50
Local Area Facilities	10 additional lots @ \$9,005.74	90,057.40
Plan Preparation and Administration	10 additional lots @ \$582.52	5,825.20
<b>TOTAL:</b>		<b>\$200,000</b>

A condition is included on the attached Notice of Approval requiring payment of contributions prior to issue of a Subdivision Certificate.

**Section 64 Water and Sewer Headworks Charges**

Section 64 water and sewer headwork charges are applicable to the proposed development. The contributions for water, sewer and drainage works are based on 10 ET’s for water supply headworks and 11 ET’s for sewerage headworks (1) pursuant to calculations by Council’s Assistant Development Engineer. Conditions are recommended requiring payment of contributions prior to issue of a Subdivision Certificate.

***Provisions Prescribed By The Regulations S4.15(1)(A)(iv)***

The proposed development is not contrary to any matter prescribed by Regulation.

***The Likely Impacts Of The Development S4.15(1)(B)***

**Context and Setting**

The subject land is contained within Area 3 Ploughmans Valley urban release area. The proposed subdivision layout generally accords with the masterplan for this precinct. The proposal will not conflict with further subdivision of adjoining lots, in compliance with the Area 3 conceptual subdivision layout.

**Visual Impacts**

The visual impacts associated with the proposal will relate to tree removal at the Cargo Road frontage and works associated with civil construction. The visual impacts are typical to a developing urban release area.

Subsequent dwelling construction and private landscaping on the proposed lots will complement the developing neighbourhood character at the entrance to the city, with positive visual impacts for the setting.

### Traffic Impacts

The proposed subdivision is considered satisfactory in regard to traffic impacts. As outlined in the foregoing sections of this report:

- All lots will have direct frontage and access to a public road.
- Lots 6 and 7 will have shared access via classified road Cargo Road. Transport for NSW have given concurrence to this arrangement, and Council's Assistant Development Engineer raised no objections. All other lots will have access via a Local road.
- The proposed road layout is consistent with the Ploughmans Valley Area 3 masterplan, and will not conflict with existing or future road connections to adjoining land.
- The development will result in additional traffic in the locality given the increases in residential density at the completion of the subdivision. Notwithstanding this, the surrounding street network will be capable of serving the additional traffic load.
- Conditional road upgrading works to Carwoola Drive at the site frontage will be required.

### Biodiversity

The proposed subdivision is unlikely to impact on localised biodiversity values. The subject and adjoining lands have been highly modified by the existing and intensifying residential landuse pattern. The site is not identified as 'biodiversity sensitive' on the Orange LEP 2011 Terrestrial Biodiversity Map. The proposed subdivision involves tree removal at the Cargo Road frontage. The subject Monterey Pines (*Pinus radiata*) are not an endangered ecological community, nor provide habitat for threatened species. Council's Manager City Presentation raised no objection to tree removal.

### Cultural Values

The proposed subdivision is unlikely to impact on cultural values. The site is not known to contain any Aboriginal, European or archaeological relics.

### Residential Amenity

The proposed lots will be subsequently developed for dwelling houses. The lots will be of area, dimension, orientation and gradient sufficient to provide a high standard of residential amenity. The lots will accommodate dwellings with setback restrictions to the public roads, and remove the dwellings from road traffic noise.

### ***The Suitability of the Site S4.15(1)(C)***

The subject land is suitable for the development due to the following:

- the site is contained within Area 3 Ploughmans Valley urban release area
- the proposal is permitted on the subject land R2 Low Density Residential zoning

- the site has direct frontage and access to Cargo Road and Carwoola Drive
- all utility services are available and adequate subject to augmentation
- the site is not subject to known natural or technological hazards
- the subject land has no particular environmental value
- the site is not known to contain any Aboriginal, European or archaeological relics.

***Any Submissions Made In Accordance With The Act S4.15(1)(D)***

The proposed development is defined as advertised development pursuant to the Community Participation Plan 2019, as the proposal seeks a Clause 4.6 variation to a development standard under Orange LEP 2011. Written and public notice of the application was given for the prescribed period. At the end of that period, no submissions had been received.

***Public Interest S4.15(1)(E)***

The proposal is not inconsistent with any relevant policy statements, planning studies, guidelines etc. that have not been considered in this assessment.

**SUMMARY**

The proposal involves Torrens subdivision of land within Area 3 Ploughmans Valley urban release area. Notable planning matters considered in the foregoing sections of this report include the application of Orange LEP 2011 Clause 4.6 to vary the minimum lot size development standard; and the suitability of the proposal within the context of the Ploughmans Valley Area 3 masterplan. The proposed development is considered to satisfy the Local and State planning controls that apply to the subject land and particular landuse. Impacts of the development will be within reasonable limit, subject to mitigation conditions. Approval of the application is recommended.

**COMMENTS**

The requirements of the Environmental Health and Building Surveyor, Assistant Development Engineer and Transport for NSW are included in the attached Notice of Approval.

**ATTACHMENTS**

- 1 Notice of Approval, D20/24833 [↓](#)
- 2 Plan, D20/24582 [↓](#)

	<p style="text-align: center;"><b>ORANGE CITY COUNCIL</b></p> <p style="text-align: center;">Development Application No <b>DA 5/2020(1)</b></p> <p>NA20/ <span style="float: right;">Container PR28361</span></p>
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**NOTICE OF DETERMINATION  
OF A DEVELOPMENT APPLICATION**

issued under the *Environmental Planning and Assessment Act 1979*  
Section 4.18

**Development Application**

Applicant Name: Saran Homes  
 Applicant Address: C/- Peter Basha Planning and Development  
 PO Box 1827  
 ORANGE NSW 2800  
 Owner's Name: Saran Homes Pty Limited  
 Land to Be Developed: Lot 72 DP 1251988 - Carwoola Drive, Orange  
 Proposed Development: Subdivision (11 lot residential)

**Building Code of Australia  
building classification:**

Class to be determined by the Certifier

**Determination made under  
Section 4.16**

Made On: 12 May 2020  
 Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

**Consent to Operate From:** 13 May 2020  
**Consent to Lapse On:** 13 May 2025

**Terms of Approval**

The reasons for the imposition of conditions are:

- (1) To ensure compliance with relevant statutory requirements.
- (2) Because the development will require the provision of, or increase the demand for, public amenities and services.
- (3) To ensure the utility services are available to the site and adequate for the development.
- (4) To prevent the proposed development having a detrimental effect on adjoining land uses.
- (5) To minimise the impact of development on the environment.

**Conditions**

- (1) The development must be carried out in accordance with:
  - (a) **Drawing by Peter Basha Planning and Development, Figure 3 Ref. 18031DA dated 19.12.2020 (1 sheet)**
  - (b) statements of environmental effects or other similar associated documents that form part of the approval

**as amended in accordance with any conditions of this consent.**

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- (2) Engineering plans, showing details of all proposed work and adhering to any engineering conditions of development consent, are to be submitted to, and approved by, Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) prior to the issuing of a Construction Certificate.
- (3) A water and soil erosion control plan is to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) for approval prior to the issuing of a Construction Certificate. The control plan is to be in accordance with the Orange City Council Development and Subdivision Code and the Landcom, Managing Urban Stormwater; Soils and Construction Handbook.
- (4) Proposed Lots 1 to 11 and Lot 71 DP 1251988 are to be provided with interlot stormwater drainage, including those lots abutting public land, where the surface of the entire lot cannot be drained to the kerb and gutter at the lot frontage. A grated concrete stormwater pit is to be constructed within each lot provided with interlot stormwater drainage. Engineering plans for this drainage system are to be approved by Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) prior to the issuing of a Construction Certificate.
- (5) A 150mm-diameter sewer main is to be constructed from Council's existing sewer network to serve the proposed lots. Sewer mains shall be extended to the western and northern boundaries of Lot 72. Prior to a Construction Certificate being issued engineering plans for this sewerage system are to be submitted to and approved by Orange City Council.

The existing residence on Lot 71 DP 1251988 shall be connected to the proposed reticulated sewer. The existing septic tank is to be accurately located and indicated on the submitted engineering plans.
- (6) Councils dual water supply shall be constructed for the full frontage of the development to Carwoola Drive, the 17m wide road and the un-named road. A water reticulation analysis is to be carried out by Orange City Council on any proposed water reticulation system for the development. Engineering plans are to be submitted to and approved by Orange City Council prior to the issue of a Construction Certificate.

The reticulation system is to be designed to supply a peak instantaneous demand by gravity of 0.15 L/s/tenement at a minimum residual head of 200kPa.
- (7) Proposed Lots 6 and 7 shall be provided with a shared 6.0m wide concrete kerb and gutter layback and footpath crossing from Cargo Road. Proposed Lots 8 and 11, and Lot 71 DP 1251988 shall each be provided with a 3.0m wide concrete kerb and gutter layback and footpath crossing from Carwoola Drive. Engineering plans, showing details of the vehicle access and traffic management works, are to be submitted to Orange City Council upon application for a Road Opening Permit. The Road Opening Permit shall be approved prior to the issue of a Subdivision Works Certificate. New driveways shall be located to minimise impact on existing street trees. Councils Manager City Presentation shall be consulted during the driveway location assessment.
- (8) A Road Opening Permit in accordance with Section 138 of the *Roads Act 1993* must be approved by Council prior to a **Subdivision Works Certificate being issued or any intrusive works** being carried out within the public road or footpath reserve.
- (9) Prior to the issuing of a Subdivision Works Certificate, a Road Naming Application form is to be submitted to and approved by the Geographical Names Board of NSW for the whole development defining the stage being released - including future road extensions.
- (10) Carwoola Drive shall be constructed as half road width for the full frontage of Lots 71 and 72 DP 1251988. This work is to include road pavement and pavement surfacing to the centreline, kerb and gutter construction, piped stormwater drainage and earth-formed footpath on the development side of the road. Carwoola Drive shall be constructed as a 20m wide urban road.

The proposed 17m wide road shall be constructed to full urban standard and tie into the existing un-named road formation.

**PRIOR TO WORKS COMMENCING**

- (11) Soil erosion control measures shall be implemented on the site.
- (12) A Subdivision Works Certificate application is required to be submitted to, and issued by Council/Accredited Certifier prior to any excavation or building works being carried out onsite.

**DURING CONSTRUCTION/SITWORKS**

- (13) This consent approves the removal of only those trees identified for removal on the approved plan. A Tree Removal Permit shall be required for removal of other trees.
- (14) Tree Protection Zones (TPZ's) as defined by Australian Standard AS4970-2009 shall be established around all retained trees on the land and in the road reserve (Cargo Road and Carwoola Drive). The TPZ's are to be installed for the duration of the construction phase for the proposed subdivision. There shall be no excavation, placement of fill, storage of materials, or placement of plant, equipment or vehicles within the TPZ's.
- (15) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (16) The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.

The developer is to be entirely responsible for the provision of water, sewerage and drainage facilities capable of servicing all the lots from Council's existing infrastructure. The developer is to be responsible for gaining access over adjoining land for services where necessary and easements are to be created about all water, sewer and drainage mains within and outside the lots they serve.

- (17) Dual water and sewerage reticulation is to be provided to Lots 1 to 11, and Lot 71 DP 1251988 in accordance with the Orange City Council Development and Subdivision Code.
- (18) All services are to be contained within the allotment that they serve.
- (19) Concrete footpaths, a minimum of 1.2 metres wide, are to be constructed on the development side of Carwoola Drive, Cargo Road and the existing un-named road.  
Construction work is to be to the requirements and standards of the Orange City Council Development and Subdivision Code.
- (20) Council requires elastic rebound deflection testing carried out on road base material prior to the placement of any asphalt to determine maximum deflection in accordance with RMS Test Method T160 utilising the Benkelman Beam or equivalent.
- (21) The contents of the existing septic tank on Lot 71 are to be removed by a licensed contractor for disposal into Council's sewer system. The septic tank is to be excavated and disposed of at a licensed landfill and the absorption trench is to be drained and the voids limed and backfilled with clean compacted material.

**PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

- (22) The payment of \$200,000 is to be made to Council in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and the Orange Development Contributions Plan 2017 (Ploughmans Valley Urban Release Area) towards the provision of the following public facilities:

Open Space and Recreation	10 additional lots @ \$3,989.23	39,892.30
Community and Cultural	10 additional lots @ \$1,156.86	11,568.60
Roads and Traffic Management	10 additional lots @ \$5,265.65	52,656.50
Local Area Facilities	10 additional lots @ \$9,005.74	90,057.40
Plan Preparation and Administration	10 additional lots @ \$582.52	5,825.20
<b>TOTAL:</b>		<b>\$200,000</b>

The contribution will be indexed quarterly in accordance with the Orange Development Contributions Plan 2017 (Ploughmans Valley Urban Release Area). This Plan can be inspected at the Orange Civic Centre, Byng Street, Orange.

- (23) A Restriction-as-to-User under Section 88B of the NSW Conveyancing Act 1919 shall be created on the titles of proposed Lots 6, 7 and 8 prohibiting the erection of a building within 15m of the Cargo Road boundary of those parcels.
- (24) Soil sampling for analysing chemical residue is to be carried out within the proposed Lots in a manner and frequency as determined by an appropriately qualified and experienced consultant giving consideration to previous specific uses and on-site characteristics of the site. A NATA registered laboratory is to carry out such testing. Reference is to be made to the *Contaminated Land Management Act 1997* and State Environmental Planning Policy No 55 - "Remediation of Land". The results of the testing are to be provided to the Principal Certifying Authority and are to demonstrate that the land is suitable for residential use, to enable a Subdivision Certificate to be issued.
- (25) Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.
- (26) **Payment of contributions for water, sewer and drainage works** is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on 10 ETs for water supply headworks and 11 ETs for sewerage headworks. A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.  
  
This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (27) Evidence from a registered NATA laboratory is to be submitted prior to the issuing of a Subdivision Certificate stating that the filling of all dams and low-lying areas has been carried out in accordance with Australian Standard 3798-2007.
- (28) Application is to be made to Telstra/NBN for infrastructure to be made available to each individual lot within the development. Either a Telecommunications Infrastructure Provisioning Confirmation or Certificate of Practical Completion is to be submitted to the Principal Certifying Authority confirming that the specified lots have been declared ready for service prior to the issue of a Subdivision Certificate.
- (29) A Notice of Arrangement from Essential Energy stating arrangements have been made for the provision of electricity supply to the development, is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
- (30) A Restriction-as-to-User under section 88B of the *NSW Conveyancing Act 1919* shall be registered on the Deed of Title on Lot 8 where vehicular access is to be denied to Cargo Road and Lots 5 and 6 where vehicular access is to be denied to the un-named road on the eastern boundary.

- (31) An easement to drain sewage and to provide Council access for maintenance of sewerage works a minimum of 2.0 metres wide is to be created over the proposed sewerage works. The Principal Certifying Authority is to certify that the easement is in accordance with the Orange City Council Development and Subdivision Code prior to the issuing of a Subdivision Certificate.
- (32) All services are to be contained within the allotment that they serve. A Statement of Compliance, from a Registered Surveyor, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (33) A Maintenance Security Deposit, in accordance with the provisions and requirements of the Orange City Council Development and Subdivision Code, is to be provided to Orange City Council prior to the issuing of a Subdivision Certificate.  
  
A Certificate of Compliance, from Orange City Council, certifying that the maintenance security deposit has been paid, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (34) The existing dwelling on Lot 71 DP 1251988 shall be connected to the sewer by a licensed plumber. The septic tank is to be excavated and disposed of at a licensed landfill and the absorption trench is to be drained and the voids limed and backfilled with clean compacted material. Evidence of the satisfactory completion of such work is to be provided to the Principle Certifying Authority prior to the issue of a Subdivision Certificate.
- (35) Where stormwater crosses land outside the lot it favours, an easement to drain water is to be created over the works. A Restriction-as-to-User under section 88B of the *NSW Conveyancing Act 1979* is to be created on the title of the burdened lots requiring that no structures are to be placed on the site, or landscaping or site works carried out on the site, in a manner that affects the continued operation of the interlot drainage system. The minimum width of the easement is to be as required in the Orange City Council Development and Subdivision Code.
- (36) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets.
- (37) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation Certificate, unless stated otherwise.

<b>CONDITIONS OF TRANSPORT FOR NSW</b>
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- (1) Vehicular access to proposed Lots 6 and 7 from Cargo Road is to be via a shared driveway.
- (2) Vehicular access to all remaining lots (proposed Lot 1-5 and 8-11) is to be obtained via local roads.

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**Other Approvals**

- (1) *Local Government Act 1993* approvals granted under Section 68.  
Nil
  - (2) General terms of other approvals integrated as part of this consent.  
Nil
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## Right of Appeal

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court. Pursuant to Section 8.10, an applicant may only appeal within 6 months after the date the decision is notified.

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### **Disability Discrimination Act 1992:**

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The *Disability Discrimination Act* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act* currently available in Australia.

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### **Disclaimer - S88B of the Conveyancing Act 1919 - Restrictions on the Use of Land:**

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

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**Signed:**

On behalf of the consent authority **ORANGE CITY COUNCIL**

**Signature:**

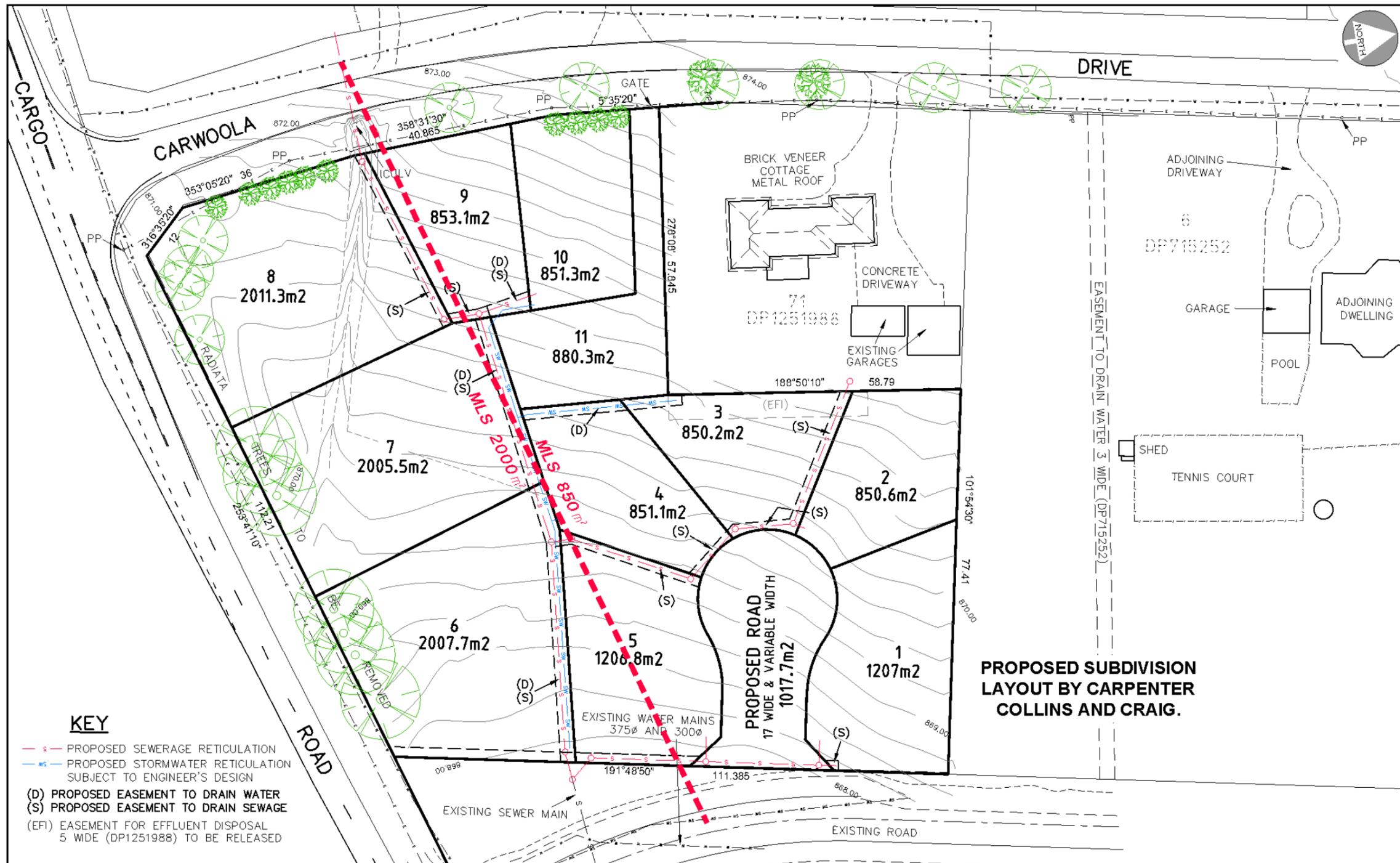
**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

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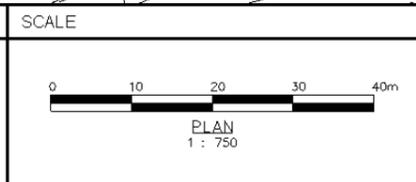
**Date:**

13 May 2020



**IMPORTANT NOTES**

- THIS PLAN HAS BEEN PREPARED FOR DEVELOPMENT APPLICATION PURPOSES ONLY
- ALL DIMENSIONS AND AREAS SHOWN ARE SUBJECT TO SURVEY
- DO NOT RELY ON THIS PLAN FOR THE LOCATION & TYPE OF EASEMENTS THAT MAY AFFECT THE LAND. THESE SHOULD BE ASCERTAINED BY SURVEY SEARCH AND/OR FIELD SURVEY.
- FUTURE EASEMENTS MAY BE REQUIRED FOR SERVICING OR OTHER REASONS, & AS SUCH ARE SUBJECT TO FINAL SURVEY AND/OR ENGINEERING DESIGN.
- THE LOCATION OF BUILDINGS IS INDICATIVE ONLY AND TRUE POSITION IN RELATION TO BOUNDARIES IS SUBJECT TO SURVEY



**PROPOSED RESIDENTIAL SUBDIVISION**  
(11 LOTS AND NEW ROAD)  
LOT 72 DP1251988, CARWOOLA DRIVE, ORANGE

**FIGURE 3 - PROPOSED SUBDIVISION**

DATE: 19.12.19      REFERENCE: 18031DA      SHEET: 3 OF 4

**PETER BASHA**

PLANNING & DEVELOPMENT  
Phone : 6361 2955      Fax: 6360 4700  
P.O. BOX 1827 ORANGE, NSW 2800