



PLANNING AND DEVELOPMENT COMMITTEE

AGENDA

11 AUGUST 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 the **COUNCIL CHAMBER, CIVIC CENTRE, BYNG STREET, ORANGE WITH AN OPTION OF ONLINE CONFERENCING PLATFORM ZOOM DUE TO COVID-19 REQUIREMENTS** on **Tuesday, 11 August 2020.**

David Waddell
CHIEF EXECUTIVE OFFICER

For apologies please contact Administration on 6393 8218.

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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 ITEM APPROVED UNDER THE DELEGATED AUTHORITY OF COUNCIL

RECORD NUMBER: 2020/1287

AUTHOR: Paul Johnston, Manager Development Assessments

EXECUTIVE SUMMARY

Following is a list of more significant development applications approved by the Chief Executive Officer under the delegated authority of Council. Not included in this list are residential scale development applications that have also been determined by staff under the delegated authority of Council.

Since the July PDC meeting report periods (26 June to 22 July 2020), a combined total of 22 development applications have been determined under delegation (CEO and staff) with a combined value of \$3,314,504.

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 694/2000(3) **Determination Date** 3 July 2000

PR Number PR18432

Applicant/s: Mr RO and Mrs NE Hoskin

Owner/s: Mr RO and Mrs NE Hoskin

Location: Lot 431 DP 1037421 - 669 Pinnacle Road, Orange

(DA 694/2000(3) continued over page)

2.1 Item Approved Under the Delegated Authority of Council

Proposal: Modification of development consent - home business (furniture manufacture and ancillary sawmill) and associated advertising signage. The modification involves the following:
Stage 1: Upgrading of entrance to showroom and office area (existing) with garden entrance, retaining wall and new awning.
Stage 2: Additions to existing shed of 156m² (135m² new/additional assembly area and 21m² for staff area).
Stage 3: Enclose existing awning area (266m²) (shown in below image) and removal of existing window on southern elevation of existing workshop area for new door and landing.
Stage 4: New water tank (100,000L).

Value: N/A

Reference: DA 367/2008(2) **Determination Date** 19 June 2020

PR Number PR28460

Applicant/s: Mr MA and Mrs BM Crombie

Owner/s: Mr MA and Mrs BM Crombie

Location: Lot 100 DP 1257871 – 5A Ploughmans Lane, Orange

Proposal: Modification of development consent – demolition (existing building) and outbuilding (new construction). The modification involves regularising unauthorised works (conversion of an open plan office space to a series of rooms, and the installation of a single window for the new rooms on each of the southern, western and northern facades).

Value: N/A

Reference: DA372/2018(4) **Determination Date** 15 July 2020

PR Number PR16982

Applicant/s: Ramsay Health Care Pty Ltd

Owner/s: HCOA Operations (Australia) Pty Limited

Location: Lot 62 DP 877808 and Lots 1-5 SP 57262 - 261 March Street, Orange

Proposal: Modification of development consent - hospital (alterations and additions). The modified proposal seeks to make amendments to the approved development, including locating air conditioning units under the sub-floor, which requires acoustic screening; increased number of roof lights; and widened access off Wolsley Street, as set out in "The Proposal" section of this report

Value: N/A

Reference: DA 411/2018(1) **Determination Date** 18 June 2020

PR Number PR4553

Applicant/s: Zhang Building and Development Pty Ltd

Owner/s: Zhang Building and Development Pty Ltd

Location: Lot 22 DP 522405 - 101 Gardiner Road, Orange

Proposal: Demolition (existing dwelling, ancillary structures, vegetation) multi dwelling housing (six dwellings) subdivision (four lot residential Torrens Title) subdivision (four lot residential Community Title)

Value: \$800,000

2.1 Item Approved Under the Delegated Authority of Council

Reference: DA 381/2019(2) **Determination Date** 26 June 2020
PR Number PR1010
Applicant/s: Mr R Tyquin
Owner/s: Mr R Tyquin
Location: Lot 1 DP 199430, Lot 101 DP 817293, Lot 4 DP 744354, Lot 1 DP 745927, 101-107 Autumn Street, Orange
Proposal: Modification of development consent - subdivision (five lot residential), demolition (outbuildings) and carports (two). It is proposed to amend approved Lots 100 and 101 and reposition the proposed carport in Lot 101 to improve the vehicle access arrangements.

Value: N/A

Reference: DA 29/2020(1) **Determination Date** 25 June 2020
PR Number PR9676
Applicant/s: Mad Hatter Beverage Co Pty Ltd
Owner/s: Mr MR Hardman
Location: Lot 1 DP 779074 - 137-139 Peisley Street, Orange
Proposal: Artisan food and drink industry
Value: \$35,000

Reference: DA 117/2020(1) **Determination Date** 8 July 2020
PR Number PR19435
Applicant/s: Lindfield Family Trust
Owner/s: MLPL Investments Pty Ltd
Location: Lot 106 DP 1067744 - 1 Ralston Drive, Orange
Proposal: Self-storage units
Value: \$600,000

Reference: DA 148/2020(1) **Determination Date** 28 June 2020
PR Number PR2356
Applicant/s: Robert Close
Owner/s: Mr RC Close and Ms LC Schipp
Location: Lot 6 Section 14 DP1249530, 61 Casey Street, Orange
Proposal: Demolition (part of existing patio and tree removal), multi dwelling housing (three dwellings) and carport and garage (new construction), subdivision (two lot Torrens), subdivision (four lot community)
Value: \$678,000

Reference: DA 165/2020(1) **Determination Date** 19 June 2020
PR Number PR28460
Applicant/s: Mr MA and Mrs BM Crombie
Owner/s: Mr MA and Mrs BM Crombie
Location: Lot 100 DP 1257871 – 5A Ploughmans Lane, Orange
Proposal: Secondary dwelling (partial conversion from outbuilding)
Value: \$10,000

2.1 Item Approved Under the Delegated Authority of Council

Reference: DA 179/2020(1) **Determination Date** 15 July 2020
PR Number PR26464
Applicant/s: BJM International Ferry Services Pty Ltd
Owner/s: Orange City Council
Location: Lot 200 DP 1195298 - 136 Aerodrome Road, Huntley
Proposal: Airport (bulk fuel tank and refuelling facility)
Value: \$150,000

Reference: DA 181/2020(1) **Determination Date** 6 July 2020
PR Number PR26591
Applicant/s: Integral Scaffolding
Owner/s: Kenna Street Pty Ltd
Location: Lot 12 DP1198903, 49 Leewood Drive, Orange
Proposal: Industrial training facility (two portable buildings)
Value: \$22,500

Reference: DA 183/2020(1) **Determination Date** 29 June 2020
PR Number PR26448
Applicant/s: Mr IY Zhang
Owner/s: I & J Australia Pty Ltd
Location: Lot 207 DP 1194620 - 29 Clem McFawn Place, Orange
Proposal: Subdivision (two lot Torrens title) and dwelling houses (two)
Value: \$500,000

Reference: DA 199/2020(1) **Determination Date** 22 June 2020
PR Number PR7529
Applicant/s: Orange City Council
Owner/s: Orange City Council
Location: Lots 1 and 2 DP 526194 – March Street, Orange
Proposal: Recreation area (demolition and earthworks)
Value: \$20,000

TOTAL NET* VALUE OF DEVELOPMENTS APPROVED BY THE CEO UNDER DELEGATED AUTHORITY IN THIS PERIOD:	\$2,815,500
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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.*

Since the July PDC meeting report periods (26 June to 22 July 2020), a combined total of 22 development applications have been determined under delegation (CEO and staff) with a combined value of \$3,314,504.

2.2 DEVELOPMENT APPLICATION DA 155/2020(1) - 7 WILLIAM MAKER DRIVE

RECORD NUMBER: 2020/1208

AUTHOR: Ben Hicks, Planner

EXECUTIVE SUMMARY

Application lodged	28 April 2020
Applicant/s	Central West Development Trust
Owner/s	Mrs J Blattman
Land description	Lot 1 DP366693, 7 William Maker Drive, Orange
Proposed land use	Subdivision (13 lot residential and drainage reserve), Demolition (outbuilding and tree removal), Earthworks and Category 1 Remediation Works
Value of proposed development	Not applicable

Council's consent is sought to subdivide land described as Lot 1 DP 366693, known as 7 William Maker Drive, Orange. The application seeks to subdivide the aforementioned land into 13 residential lots. The development presents a range of lots sizes varying from 444m² up to 1,516m². Approval is also sought for demolition (outbuilding and tree removal), Earthworks and Category 1 Remediation Works. The applicant proposes to carry out the development in two stages. Stage 1 comprising the subdivision of the existing dwelling and the creation of a development lot and Stage 2 relating to the remainder of the subdivision.

The proposal is consistent with the objectives and controls in the Orange Local Environmental Plan 2011 and relevant State Environmental Planning Policies; however, the proponent seeks a departure to the approved Waratah Area Masterplan under the Orange Development Control Plan 2004 by way of increasing the lot yield and thus the application has been tabled to Council for determination. The departure to the DCP is to partly accommodate previous departures made to the Waratah Area Masterplan by Council under preceding development applications for subdivisions in the area. Those particular applications sought to re-position the connecting road (Geraldton Road) to William Maker Drive further south so as to accommodate safe access and align the road having regard to the access considerations for a possible future school site opposite the subject land. The agreed realignment of the road meant that a slightly different design response was required for the subject land. The proposed variation is pertinent only to the subject land and will have nil consequence for the remainder of the Waratah Area Masterplan area, and in this regard, the proposed variation is supported.

The applicant elected to nominate the development application as Integrated Development because of the presence of a mapped watercourse within subject allotment. As a result, the application was referred to the Natural Resources Access Regulator (NRAR) to obtain their General Terms of Approval. However, NRAR have since advised that despite the presence of a mapped watercourse, the site no longer possesses the attributes of waterfront land, and as such a controlled activity approval is not required under the Water Management Act 2000.

Council staff raise no objections to the proposed development, and as such the application is recommended for approval.



Figure 1 - Locality and Site Context 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 seeks to alter the adopted concept plan for this precinct. The design response, however, is the direct result of previous Council decisions whereby Geraldton Road was agreed to be positioned further south than initially planned. The design response is considered to be acceptable in this case. The proposed variation is pertinent only to the subject land and will have nil consequence for the remainder of the Waratah Area Masterplan. It is recommended that Council supports the proposed development.

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 DA155/2020(1) *for Subdivision (13 lot residential and drainage reserve), Demolition (outbuilding and tree removal), Earthworks and Category 1 Remediation Works* at Lot 1 DP 366693, 7 William Maker 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.

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.

Trigger 1

The subject land is not identified as biodiversity sensitive on the Orange LEP 2011 Terrestrial Biodiversity Map or mapped on the Biodiversity Values 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). It is proposed to remove three native trees as well as approximately 100m². The area to be cleared is less than threshold for native vegetation clearing.

Trigger 3

The subject land is contained within an established urban area and developing residential release area. The development site does not contain any threatened vegetation species; however, the site does adjoin an ecological reserve containing a Blakely's red gum community. The natural state of the site has been highly modified by previous land-use activities and surrounding recent urban development. A Preliminary Flora and Fauna Assessment prepared by Envirowest Consulting confirms that the development is unlikely to adversely fragment or disturb the biodiversity structure or ecological functions of the development site or surrounding lands.

Based on the foregoing consideration and supporting Preliminary Flora and Fauna Assessment Report, a BDAR is not required and the proposal suitably satisfies the relevant matters at Clause 1.7 EPAA 1979.

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****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,*
- (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.*

In consideration of the above, the application is considered to be consistent with objectives of the LEP. The proposed subdivision will provide for additional residential lots for dwelling stock that will accommodate for the housing needs of the community. The proposed lot size and layout is appropriate for the setting and will have negligible environmental impact.

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:	R1 General Residential
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 significant biodiversity sensitivity on the site. Adjoins Council's Ecological Woodland Reserve to the north
Groundwater Vulnerability Map:	Groundwater vulnerable
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Mapped watercourse under WM (General) Regulation 2018
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:	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:

- (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
- (b) *to any relevant instrument under Section 13.4 of the Crown Land Management Act 2016, or*
- (c) *to any conservation agreement under the National Parks and Wildlife Act 1974, or*
- (d) *to any Trust agreement under the Nature Conservation Trust Act 2001, or*
- (e) *to any property vegetation plan under the Native Vegetation Act 2003, or*
- (f) *to any biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995, or*
- (g) *to any planning agreement under Subdivision 2 of Division 7.1 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 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 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 development is considered to be consistent with the objectives of the R1 General Residential zone. The subdivision will provide for additional lots for dwelling stock to accommodate the housing needs of the community.

The subject land is located between recently established residential developments and will integrate with the existing road and transport networks, including public transport services. The land is accessible to open space linkages for walking and cycling in the Waratah area. The proposed lot size and resulting pattern of development is generally consistent with that of the locality and surrounding residential development.

The development is not located adjacent 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 subdivision of the OLEP 2011 states that the subdivision of land may be permitted, but only with development consent. As such, the applicant has applied for development consent via Development Application DA 155/2020(1) for the subdivision of land.
- **Clause 2.7 – Demolition requires Development Consent** - Clause 2.7 of the OLEP 2011 states that the demolition of a building or work may be carried out only with development consent. Accordingly, the applicant has applied for development consent (DA 155/2020(1)) for the demolition of an outbuilding and the removal of trees. The demolition works proposed are not expected to have a significant impact on adjoining lands, streetscape or public realm. Conditions may be imposed in respect of hours of operation, dust suppression and the need to investigate for, and appropriate management of the presence of, any materials containing asbestos.

- **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 and is addressed in under s4.15(1)(a)(iii) of this report.
- **Clause 7.1 Earthworks** – Earthworks are required to facilitate the use of the land for residential development. The earthworks will involve cutting and filling across the entire site to achieve appropriate site surface levels for future residential allotments including filling of the existing dam. Earthworks will also extend to the installation of sewer, water and utility services.

The extent of disruption to the drainage of the site is considered to be reasonable. Overland/natural stormwater flows will be redirected to underground stormwater infrastructure and managed through Council's stormwater network. Therefore the disruption to natural overland flow paths are not expected detrimentally affect adjoining properties or receiving waterways. Comments were also sought from the Natural Resource Regulator (NRAR) as the site contains a mapped watercourse. NRAR advised that the site no longer possesses the attributes of waterfront plan and as such no approvals are required under the Water Management Act 2000.

A small area of contamination has been identified on the site associated with a former sheep dip adjacent to an existing shed in the western section of the site. Remediation of the impacted soil will be required in accordance with the Remediation Action Plan prepared by Envirowest Consulting. Contaminated soil is proposed to be removed from the site and disposed of at an approved landfill facility, clean fill will be introduced to the site as needed.

The site is not known to contain any Aboriginal, European or Archaeological relics. Previous known uses of the site do not suggest that any relics are likely to be uncovered. Notwithstanding, a condition will be imposed to ensure appropriate procedures are followed in the event that unexpected heritage items are uncovered during subdivision works.

Overall, the extent of the earthworks are not expected to materially affect the potential future use or redevelopment of the site that may occur at the end of the proposed development's lifespan and appropriate sediment controls, including silt traps and other protective measures be required to protect adjoining lands during subdivision works as a condition of development consent.

- **Clause 7.2 Flood Planning** – The 2019 Flood Study Report has identified that the central, eastern and southern parts of the lot is affected by overland stormwater flows. Council's Assistant Development Engineer has confirmed this flow will be accommodated during the construction stage of the development, and has been conditioned accordingly. In this regard, the proposed development is unlikely to change flooding regimes on or off the site and would be unlikely to cause or contribute to erosion and siltation and is therefore unlikely to create a cost burden on the community or neighbours.

- **7.3 - Stormwater Management** - An overland flow path runs north-south through the site and the existing onsite dam is proposed to be filled. In this regard, the overland flow path will need to be directed to a surface pit and piped to Geraldton Street. Inter-allotment drainage will need to be provided to all new allotments where lots are unable to drain directly to kerb and gutter at the lot frontage. The applicant will also be required to contribute to the provision of off-site stormwater detention system for the development via Section 7.11 Contributions.
- **Clause 7.6 - Groundwater Vulnerability** – The site has been mapped as being groundwater vulnerable. 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.
- **Clause 7.11 - Essential Services** – All utility services will be augmented to the land and made adequate for the proposal. The development, including the existing dwelling, will be required to connect to Council's reticulated water system and gravity sewerage system. Suitable public road access to the new allotments are existing via William Maker Drive and Geraldton Street (subject to necessary upgrades). Electricity will be provided as per Essential Energy's requirements. Appropriate stormwater management infrastructure will be provided to the required allotments and the proponent will be required to contribute to the provision of off-site stormwater detention through Section 7.11 Contributions.

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 - State Environmental Planning Policy 55 - Remediation of Land (SEPP 55) requires that a consent authority must not consent to the carrying out of development of land unless it has considered whether the land is contaminated, is satisfied that the land is suitable in its contaminated state for the development that is proposed, and if the land requires remediation to be made suitable for the proposed development it is satisfied that the land will be remediated before the land is used for that purpose. Furthermore, SEPP 55 requires that before determining an application for consent to carry out development that would involve a change of use on any of the land specified in Subclause (4), the consent authority must consider a report specifying findings of a preliminary investigation of the land concerned.

A preliminary hazard investigation was prepared by Envirowest Consulting to determine the soil contamination status and suitability of the site for residential land-use. The report identified that the property has historically been used for grazing which may have resulted in the application of pesticides and contaminating activities. A sheep dip was identified in the western section of the site. The soil sampling program conducted as part of the assessment detected levels of arsenic exceeding the health investigation levels around the area of the sheep dip. The elevated levels of contamination were identified at depths of less than 300mm. Levels of nickel and zinc were detected above the adopted Ecological Investigation Levels (EILs) for residential land-use in two samples collected from around the sheep dip depths between 100mm and 300mm. Pathways for exposure to contaminants by potential receptors (vegetation and aquatic ecosystems) were assessed and found to be incomplete and the levels are not expected to impact on the environment. The levels of all substances evaluated in the remaining samples were below the adopted thresholds for residential land-use with access to soil.

The report concluded that remediation of the arsenic impacted soil is required to enable suitability of the site for residential use and works should be undertaken in accordance with a Remediation Action Plan. A Remediation Action Plan (RAP) accompanied the development application. The RAP explored a number of remediation options and suggested that excavation and off-site disposal is the preferred option for remediation of the arsenic, nickel and zinc impacted soil.

Council's Environmental Health Officer, considered the RAP and the suggested remediation option acceptable. A condition is attached that obligates the beneficiary of the consent to undertake the remediation works in accordance with the RAP. A further condition is attached which requires a validation report to be furnished to Council prior to the issue of a subdivision certificate.

At the completion of the remediation works the site will be suitable for the purposes of residential development.

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 2011 has been placed on public exhibition. The draft plan includes several amendments to the LEP. In particular the draft deals with flooding across the City. Council's Technical Services Department have included conditions in the notice of determination addressing matters in relation to flooding and stormwater issues.

INTEGRATED DEVELOPMENT

The applicant elected to nominate the development application as Integrated Development because of the need to seek permits under the *Water Management Act 2000* for works within 40m of a defined creek system. As a result, the application was advertised for an extended period and the application referred to the NRAR. However, NRAR have advised Council that the site no longer contains the attributes of waterfront land and therefore the proposal does not constitute a controlled activity under the *Water Management Act 2000*.

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 7 - Development in Residential Areas*). An assessment of the proposed development against the relevant Planning Outcomes (applicable) will be undertaken below:

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

The subdivision pattern is not strictly in accordance with the relevant Conceptual Subdivision Layout for the Waratah area (Figure 2). However, past surrounding subdivisions and road layout changes have resulted in the land being of such a shape and size that requires further variations to the DCP Masterplan. In particular the re-positioning of Geraldton Road further south than initially envisaged has required a different design response for the subject land.

The applicant proposes to increase the lot yield from four large lots to 13 smaller residential lots, three of which are proposed as battleaxe allotments. The proposed lots are of reasonable size and of regular configuration with acceptable frontage to depth ratio and similar to the adopted lot size and configuration on adjoining lands. The road frontages are of a sensible width and only a modest number of battleaxe shaped allotments are proposed in this layout. The battleaxe allotments benefit from the public reserve north and will have independent views to this area instead of other private properties.

It must also be noted that the proposed variation is pertinent only to the subject land and will have nil consequence for the remainder of the Waratah Area Masterplan, and in this regard, the proposed variation is supported.



Figure 2 - Plan of subdivision superimposed over Waratah Concept Plan

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

Relevant conditions are attached in this regard.

- *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 lots are orientated such that solar access principles for future residential development on the resultant lots is achievable.

- *Battleaxe lots have a minimum area of 650m², excluding the access handle. Access handles have a minimum width of 4.5m incorporating a 3m wide driveway.*

The development comprises three battleaxe lots, identified as Lots 200 (existing dwelling), 203 and 205. Each battleaxe allotment will have sufficient area such that it will comply with the above.

- *Local collector roads connect to the Northern Distributor Road, Clergate Road and Farrell Road generally at the locations shown on the Conceptual Subdivision Layout. Future road connections to adjoining land are located generally in accordance with the Conceptual Subdivision Layout.*

The proposed subdivision does not require direct connection to the above listed roads.

- *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.*

Each new allotment will have direct frontage or access to a public road being William Maker Drive or Geraldton Street. William Maker Drive will be required to be widened by 2m along the eastern frontage of the site including the provision of kerb and gutter, footpaths and bitumen sealing to permit vehicle access for proposed Lots 209-212.

- *Footpath cycleways (4.5m wide) are provided in the locations shown on the Conceptual Subdivision Layout.*

Relevant conditions are attached in this regard.

- *Onsite stormwater detention basins and drainage reserves are provided.*

The applicant will be required to contribute to the provision of off-site stormwater detention.

- *All utility services are provided to the proposed lots. The capacity for sewer reticulation to lots to the west of the ridgeline is investigated at development application stage.*

All the proposed lots will be required to be connected to Council's existing reticulated dual water supply and sewer. Relevant conditions are attached in this regard.

- *Significant landscape features are retained and disturbance to natural vegetation, landform and overland-flow paths is minimised.*

The site is not considered to contain any significant landscape features. All vegetation is proposed to be removed from the site as part of this application. Council's Manager City Presentation, Nigel Hobden confirmed the vegetation on the site comprises mainly of introduced species and has no ecological importance to the site or adjoining woodland reserve. There is one red gum eucalypt from the adjoining woodland reserve occurring on the subject property; however, given the isolated nature of the tree and the hostility of the surrounding environment (cleared, introduced species, weeds, evidence of contamination) the removal of the eucalypt is expected to have nil impact on the survival and ecological processes and interactions of the adjoining Blakely's red gum community. A native single Silky Oak tree and Finger Hakea tree have been identified onsite and are likely to have planted as an ornamental tree. The removal of these trees will have no significant environmental implications. A preliminary flora and fauna assessment prepared by Envirowest Consulting also confirms that the removal of the native vegetation on the site will have no significant ecological impacts.

Bulk earthworks are also required to facilitate the use of the land for residential development. The earthworks are expected to have some disruption to the natural landform and overland stormwater flow paths. Overland/natural stormwater flows will be redirected to underground stormwater infrastructure and managed through Council's stormwater network to avoid any impacts on adjoining properties and any receiving waterways.

- *Public open space areas are sited in accordance with the Conceptual Subdivision Layout. Public open space contains significant trees/tree groups, threatened species, populations, ecological communities or their habitats. Public open space areas incorporate stormwater detention basins where required.*

Existing public open space within the Waratah area will be maintained as part of this application.

- *An assessment under Section 5A of the Environmental Planning and Assessment Act 1979 is submitted at development application stage to identify the effect of subdivision on threatened species, ecological communities or their habitats.*

An assessment under the Biodiversity Conservation Act 2016 was prepared by Envirowest Consulting to identify the impacts of the subdivision on threatened species, ecological communities or their habitats. The assessment found that the vegetation on the site had been highly disturbed through historical clearing and agricultural practices such as stock grazing, and introduction of weeds, herbicides and fertilisers, and as a result, the site mostly comprised of introduced vegetation species (pasture grasses, cypress trees and broadleaved weeds). Some native vegetation species were identified including a single red gum eucalypt, silky oak tree and finger hakea tree. No threatened or endangered flora was identified. Faunal habitat of the site comprises of limited nesting areas, including a dam and shelter provided by tall grasses. Insects, berries, seeds, aquatic invertebrates and grazing fodder were identified as potential food sources. No threatened or endangered fauna species were observed within the site. Notwithstanding, the report identified that faunal species within South Eastern Highlands Bioregion (refer to Appendix 2 of the Flora and Fauna Assessment prepared by Envirowest) have the potential to occur onsite due to the habitat features; however, the faunal species with the potential to occur are considered to be highly mobile species and are expected to populate in other nearby areas such as the adjoining ecological reserve, given that the habitat features on the subject site represents only a small proportion of potential habitat for the species.

Overall, the report concluded that the proposed development is not expected to have a significant impact on the long term survival of threatened species (flora or fauna) and communities in the South Eastern Highlands Bioregion.

PROVISIONS PRESCRIBED BY THE REGULATIONS s4.15(1)(a)(iv)

Demolition of a Building (Clause 92)

The proposal involves the demolition of an outbuilding shed. A condition is attached requiring the demolition to be carried out in accordance with *Australian Standard AS2601 - 2001: The Demolition of Structures* and the requirements of Safe Work NSW.

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.

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

Context and Setting - The subject land is located in an urban residential locality and has been zoned for residential purposes for many years. The site is surrounded by residential development and lot sizes that are similar to that of the proposed development. The development is consistent with the predominant development pattern that has occurred recently and is not incongruous with the setting and context of the area.

It is not anticipated that the development will create any significant adverse impacts on the neighbourhood amenity of the area. The proposal will not have any negative impacts regarding limiting views or solar access to adjoining properties. The proposed lots will all be of a size, shape and slope capable of providing a reasonable standard of residential amenity for future occupants.

Traffic and Access - The proposal is considered to be satisfactory in regard to traffic impacts. The proposed lots have appropriate connectivity to the existing road network through William Maker Drive and Geraldton Street. The development will result in additional traffic in the locality given the increases in residential density at the completion of the subdivision; however, the surrounding street network will be capable of serving the additional traffic load. The development is considered satisfactory in regards to traffic impacts.

Flora and Fauna - The site has been mostly cleared and used for livestock grazing purposes for many years. Only a few native trees remain on the site and are proposed to be removed. The property adjoins an ecological woodland reserve. The information in support of the application has not identified any threatened species of flora or fauna that may be impacted by the proposal and also identified that the proposal is unlikely to fragment, diminish or disturb the biodiversity structure, ecological functions and composition and habitat connectivity with the adjoining reserve.

Surface Water and Groundwater - The site is identified on the groundwater vulnerable land map and contains an overland stormwater flow path. All lots will be serviced by reticulated water and sewerage and no impacts on the groundwater table have been identified as a result of the proposed development. Matters in relation to stormwater management for the site will be addressed as a part engineering plan approval process post consent.

Air and Microclimate - Subdivision works, removal vegetation etc. may generate some impacts in the immediate locality including the emissions of dust and odour/fumes from earthmoving equipment, the use of tree removal equipment, construction vehicles entering and existing the site and so on. However, these impacts will be short term and only for the duration of subdivision construction works. The proposal is not expected to have any long-term discernible impact on air quality or on the microclimate of the locality. Conditions of consent are recommended for dust suppression during subdivision works to protect the air and microclimate.

Noise and Vibration - Some noise and vibration is expected to occur during subdivision construction works and therefore it is considered appropriate to limit the time work can be carried out as a condition of development consent.

Economic Impacts - The proposed development is consistent with Council's long term land use strategy identifying the Waratah area as a residential growth area. The proposed subdivision will promote the growth and investment in residential development in a serviceable area of Orange and thus is expected to have positive economic stimulus to the construction and building sector of Orange.

Cumulative Impacts - The proposed subdivision is considered to be largely consistent with the surrounding development pattern and acts as a natural continuation of residential land from the south and west. The cumulative impacts of the proposed development have been considered throughout the foregoing report and are considered to be acceptable.

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

The proposed development is located in the R1 General Residential zone and is permissible with the consent of Council. The subject land is considered to be suitable to undertake the proposed development due to the following:

- The development is permissible and compliant with the relevant provisions of the LEP.
- The development is considered to be satisfactory in regard to Section 4.15 of the Environmental Planning and Assessment Act 1979.
- The potential impacts of the development can be managed appropriately through the conditions of consent.
- The development of the site will not create significant adverse impacts on the context and setting of the area.
- The development of the site will not detrimentally affect adjoining land and is unlikely to lead to land use conflicts.
- All utility services are or can be made available, including suitable road access.
- The subject land has no significant biodiversity or habitat value.

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

The proposed development was advertised and notified to adjoining landowners for a period of 28 days under the provisions of the Environmental Planning and Assessment Regulations and SEPP 55. Following the closure of the exhibition period, 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 CONTRIBUTIONS

The proposed development is subject to Section 7.11 Contributions (Waratah Urban Release area) and Section 64 Headworks Charges. The contributions are based on a 13 lot residential subdivision. A credit is applicable to the existing allotment and as such the monetary contribution for 12 lots will be applied as follows:

Open Space and Recreation	\$3,876.55 per subdivided lot x 12	46,518.60
Community and Cultural	\$1,124.18 per subdivided lot x 12	13,490.16
Roads and Traffic Management	\$5,116.91 per subdivided lot x 12	61,402.92
Local Area Facilities	\$9,299.83 per subdivided lot x 12	111,597.96
Plan Preparation & Administration	\$582.53 per subdivided lot x 12	6,990.36
TOTAL:		\$240,000.00

Section 64 headwork charges for the development have been calculated at 13.0 Equivalent Tenements (ETs) for water supply and 13.0 ETs for sewerage supply.

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.

ATTACHMENTS

- 1 Notice of Approval, D20/43157 [↓](#)
- 2 Plans, D20/43163 [↓](#)

	ORANGE CITY COUNCIL Development Application No DA 155/2020(1) NA20/ Container PR5848
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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: Central West Development Trust
Applicant Address: C/- Peter Basha Planning & Development
PO Box 1827
ORANGE NSW 2800
Owner's Name: Mrs J Blattman
Land to Be Developed: Lot 1 DP 366693 - 7 William Maker Drive, Orange
Proposed Development: Subdivision (13 lot residential and drainage reserve), Demolition (outbuilding and tree removal), Earthworks and Category 1 Remediation Works

Building Code of Australia building classification:

Not applicable

Determination made under Section 4.16

Made On: 4 August 2020
Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

Consent to Operate From: 5 August 2020
Consent to Lapse On: 5 August 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) **Plans prepared by Heath Consulting Engineers, numbered 1-6 (6 sheets), Revision B and dated 8 April 2020**

- (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.

STAGE 1 - TWO LOT SUBDIVISION

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (3) 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.
- (4) 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.

DURING CONSTRUCTION/SITEWORKS

- (5) If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item shall cease, and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council shall be notified. Where required, further archaeological investigation shall be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy, developed in consultation with and approved by the OEH.
- (6) 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.
- (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) A heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed to serve proposed Lot 100. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit.
- (9) All services are to be contained within the allotment that they serve.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE
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- (10) Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.
- (11) Prior to issue of a Subdivision Certificate, the area identified as being contaminated (former sheep dip location) in Clause 7 and Figures 1 and 2 of Remediation Action Plan (RAP) prepared by Envirowest Consulting Pty Ltd R11554rap, dated 17 March 2020, shall be remediated in accordance with the Remediation Action Plan.

- (12) Prior to issue of a Subdivision Certificate, a Validation Report for the remediation works confirming that the land is suitable for residential development shall be prepared by an appropriately qualified consultant, and a copy of this Report is to be provided to Council.
- (13) **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 2.0 ETs for water supply headworks and 2.0 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.

- (14) The payment of **\$20,000.00** 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 (Waratah Urban Release area) towards the provision of the following public facilities:

Open Space and Recreation	\$3,876.55 per subdivided lot x 1	3,876.55
Community and Cultural	\$1,124.18 per subdivided lot x 1	1,124.18
Roads and Traffic Management	\$5,116.91 per subdivided lot x 1	5,116.91
Local Area Facilities	\$9,299.83 per subdivided lot x 1	9,299.83
Plan Preparation & Administration	\$582.53 per subdivided lot x 1	582.53
TOTAL:		\$20,000.00

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

- (15) 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.
- (16) 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.
- (17) An easement shall be established over the existing septic tank absorption trenches including an appropriate buffer to ensure full containment of the effluent disposal area where the absorption trenches are located outside proposed Lot 100.
- (18) 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.
- (19) Prior to the issue of a Subdivision Certificate William Maker Drive shall be widened by 2.0 metres and dedicated as Public Road at no cost to Council. A 5m splay shall be created on the boundary intersection of Geraldton Street and William Maker Drive.
- (20) The applicant shall provide Orange City Council with either a bond (supported by cash or an undated and unconditional guarantee) or full payment to cover the cost of the following works to service proposed Lot 100:
- Extension of the following infrastructure to service Lot 100 (as required):
 - water mains
 - sewer mains
 - electricity
 - stormwater drainage
 - gas
 - telecommunications

- Geraldton Street frontage is constructed in accordance with the Orange City Council Development and Subdivision Code; and
- Preparation of engineering plans for Council approval and issue of a construction certificate for all civil infrastructure works noted above.

(21) A Restriction-as-to-User under Section 88B of the *NSW Conveyancing Act* 1919 is to be created on the title of proposed Lot 100 which requires the bonded works to be completed within 6 months of being requested by Orange City Council.

(22) A Restriction-as-to-User under Section 88B of the *NSW Conveyancing Act* 1919 is to be created on the title of proposed Lot 100 which states that:

Proposed Lot 100 may not be subdivided or further developed unless the following works are carried out to the satisfaction of Orange City Council:

- All infrastructure services (water, sewer, stormwater drainage, gas, electricity, phone lines) as required by the Orange City Council Development and Subdivision Code are provided to Lot 100; and
- The developer of proposed Lot 100 is responsible for gaining access over adjoining land for services as necessary. Easements are to be created about all service mains within and outside the lots they serve; and
- Geraldton Street frontage is constructed in accordance with the Orange City Council Development and Subdivision Code; and
- Section 7.11 Contributions are paid as required by the development contributions plan applicable at the time of development and Water and Sewer charges as required by Orange City Council in accordance with Division 5 of Part 2 of Chapter 6 of the Water Management act 2000.

(23) A Restriction-as-to-User under Section 88B of the *NSW Conveyancing Act* is to be created on the title of proposed Lot 101 which states that:

Proposed Lot 101 may not be subdivided or further developed and may not be used for residential purposes unless the following works are carried out to the satisfaction of Orange City Council:

- All infrastructure services (water, sewer, stormwater drainage, stormwater detention, gas, electricity, phone lines) as required by the Orange City Council Development and Subdivision Code are provided to Lot 101; and
- The developer of proposed Lot 101 is responsible for gaining access over adjoining land for services as necessary. Easements are to be created about all service mains within and outside the lots they serve; and
- Contributions are paid as required by the development contributions plan applicable at the time of development and Water and Sewer charges as required by Orange City Council in accordance with Division 5 of Part 2 of Chapter 6 of the Water Management act 2000; and
- Geraldton Street and William Maker Drive frontages shall be constructed in accordance with the Orange City Council Development and Subdivision Code as half road width including kerb and gutter on the development side of the road.

(24) 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.

(25) 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 or Subdivision Certificate, unless stated otherwise.

STAGE 2 – ELEVEN LOT SUBDIVISION

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (26) 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.

Geraldton Street and William Maker Drive shall be constructed to full urban standard for the frontage of proposed Lots 100 and 101. This work is to include road pavement and pavement surfacing to key into the existing road pavement, kerb and gutter, piped stormwater drainage and earth-formed footpath reserve on the development side of the road.

- (27) A soil and water management 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 soil and water management 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.

- (28) 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.

- (29) Proposed lots 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 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.

- (30) Stormwater from within the site and William Maker Drive shall be piped to the existing stormwater pit in Geraldton Street. Engineering plans of this drainage system are to be approved by Orange City Council or by an Accredited Certifier (Categories B1, C3, C4, C6) prior to the issuing of a Construction Certificate. A licence from the Department of Planning Infrastructure and Natural Resources is required for any work within 30 metres of a defined watercourse.

Stormwater overflow from the dam located on adjoining Lot 238 DP 1238394 shall be directed to a surface inlet pit located within Lot 238. Stormwater shall be piped to the existing pit in Geraldton Street. Engineering plans for the drainage works within Lot 238 shall be submitted to and approved by Councils Manager of City Presentation prior to the issue of a Construction Certificate.

Prior to the issue of a Construction Certificate the plans shall be amended to delete proposed Lot 213. Lot 213 shall be consolidated into adjoining Lots 203 and 205. An easement for storm water drainage 8.0m wide shall be located centrally over the storm water pipe and the ground levels within the easement shaped to contain storm water flows.

- (31) A 150mm-diameter sewer main is to be constructed from Council's existing main to serve the proposed lot. Prior to a Construction Certificate being issued engineering plans for this sewerage system are to be submitted to and be approved by Orange City Council.

- (32) 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.

- (33) The existing residence on Lot 100 shall be connected to the proposed reticulated sewer. The existing septic tank is to be accurately located and indicated on the submitted engineering plans.

- (34) Prior to the issue of a construction certificate evidence shall be provided to the Principal Certifying Authority that proposed Lots 100 and 101 have been registered with NSW Land and Property Information.

PRIOR TO WORKS COMMENCING

- (35) Soil erosion control measures shall be implemented on the site.
- (36) A Subdivision Works 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/SITEWORKS

- (37) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (38) 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.
- (39) A heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in the position shown on the plan submitted with the Construction Certificate application. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code.
- (40) All proposed residential lots adjacent to the stormwater easement are to have a minimum freeboard above the 1-in-100-year flood level in accordance with the Orange City Council Development and Subdivision Code and the Floodplain Risk Management Plan.
- (41) Dual water and sewerage reticulation is to be provided to every lot in the proposed residential subdivision in accordance with the Orange City Council Development and Subdivision Code.
- (42) All services are to be contained within the allotment that they serve.
- (43) The contents of the existing septic tank serving Lot 100 shall 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. The existing dwelling shall be connected to the sewer by a licensed plumber.
- (44) If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item shall cease, and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council shall be notified. Where required, further archaeological investigation shall be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy, developed in consultation with and approved by the OEH.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- (45) Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.
- (46) Prior to the issuing of the Subdivision Certificate, 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 Lot 200 comply in respect to the distances of walls from boundaries.

- (47) **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 11 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.

- (48) The payment of **\$220,000.00** 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 (Waratah Urban Release area) towards the provision of the following public facilities:

Open Space and Recreation	\$3,876.55 per subdivided lot x 11	42,642.05
Community and Cultural	\$1,124.18 per subdivided lot x 11	12,365.98
Roads and Traffic Management	\$5,116.91 per subdivided lot x 11	56,286.01
Local Area Facilities	\$9,299.83 per subdivided lot x 11	102,298.13
Plan Preparation & Administration	\$582.53 per subdivided lot x 11	6,407.83
TOTAL:		\$220,000.00

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

- (49) 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.
- (50) 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.
- (51) 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.
- (52) 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.
- (53) 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.
- (54) 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.
- (55) 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* shall be created on the title of the burdened lot(s) 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.

- (56) The existing dwelling on proposed Lot 100 shall be connected to the sewer. Evidence of the satisfactory completion of such work by a licensed plumber shall be provided to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
- (57) 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.
- (58) 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 or Subdivision Certificate, unless stated otherwise.

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

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:



5 August 2020

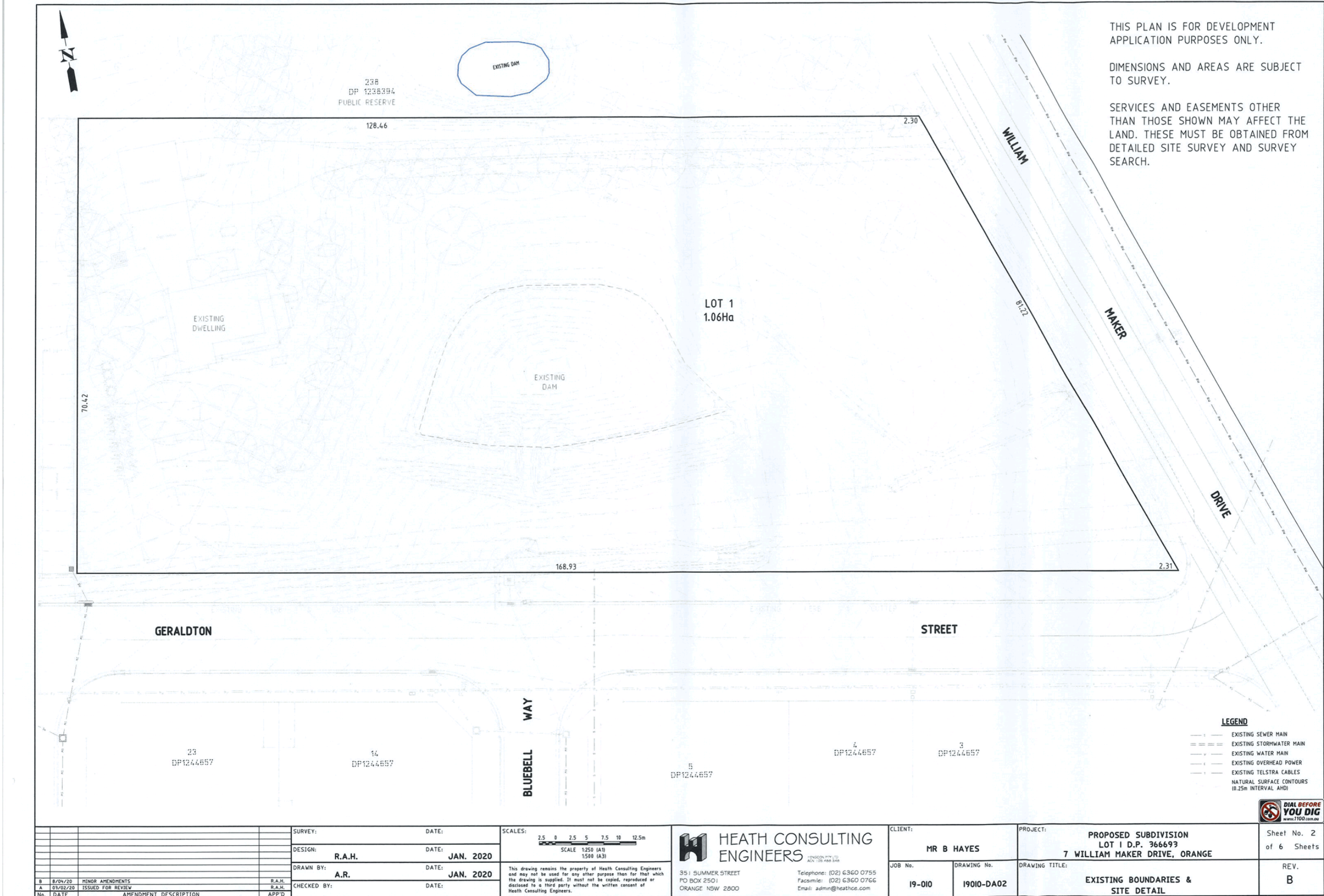


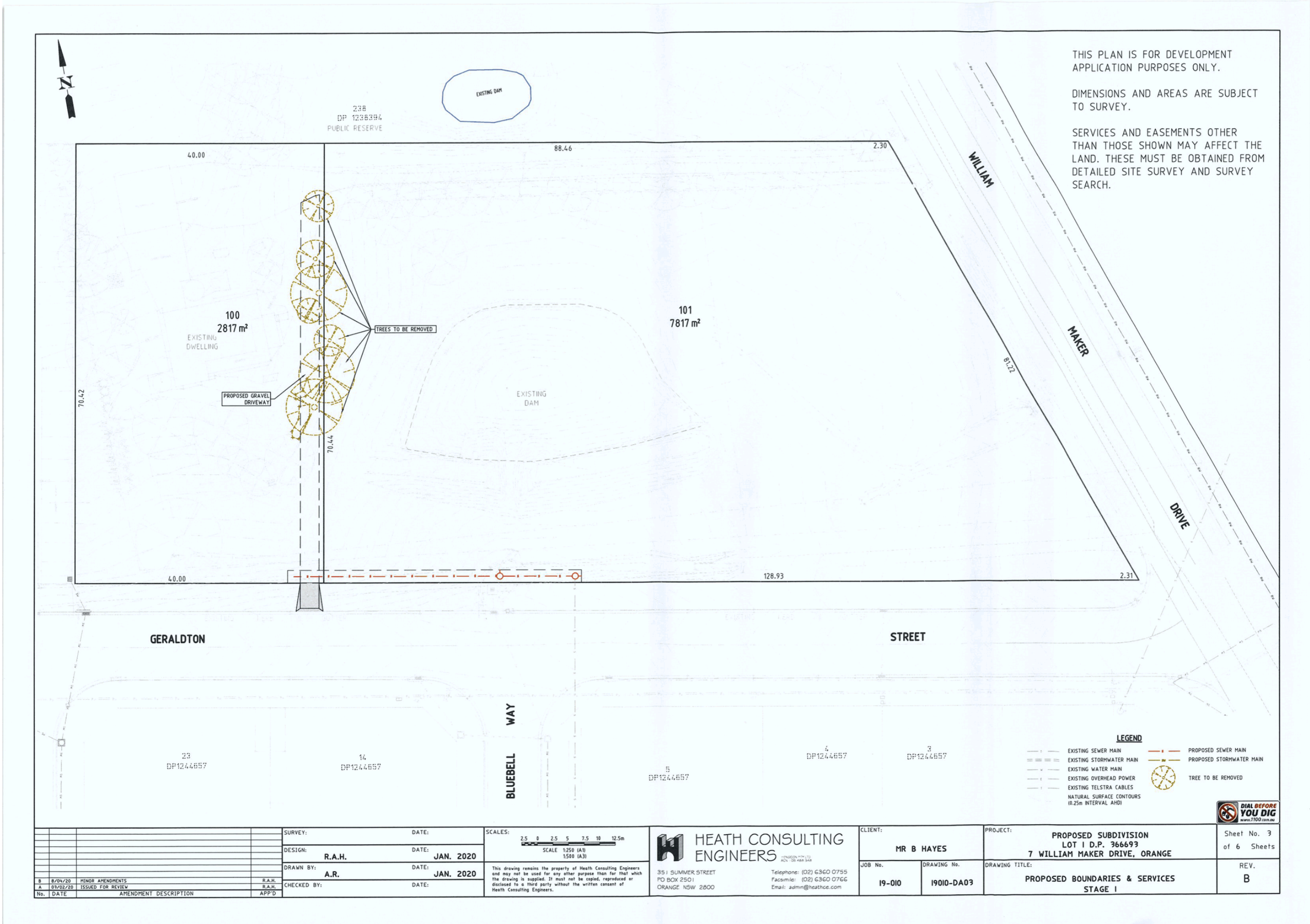
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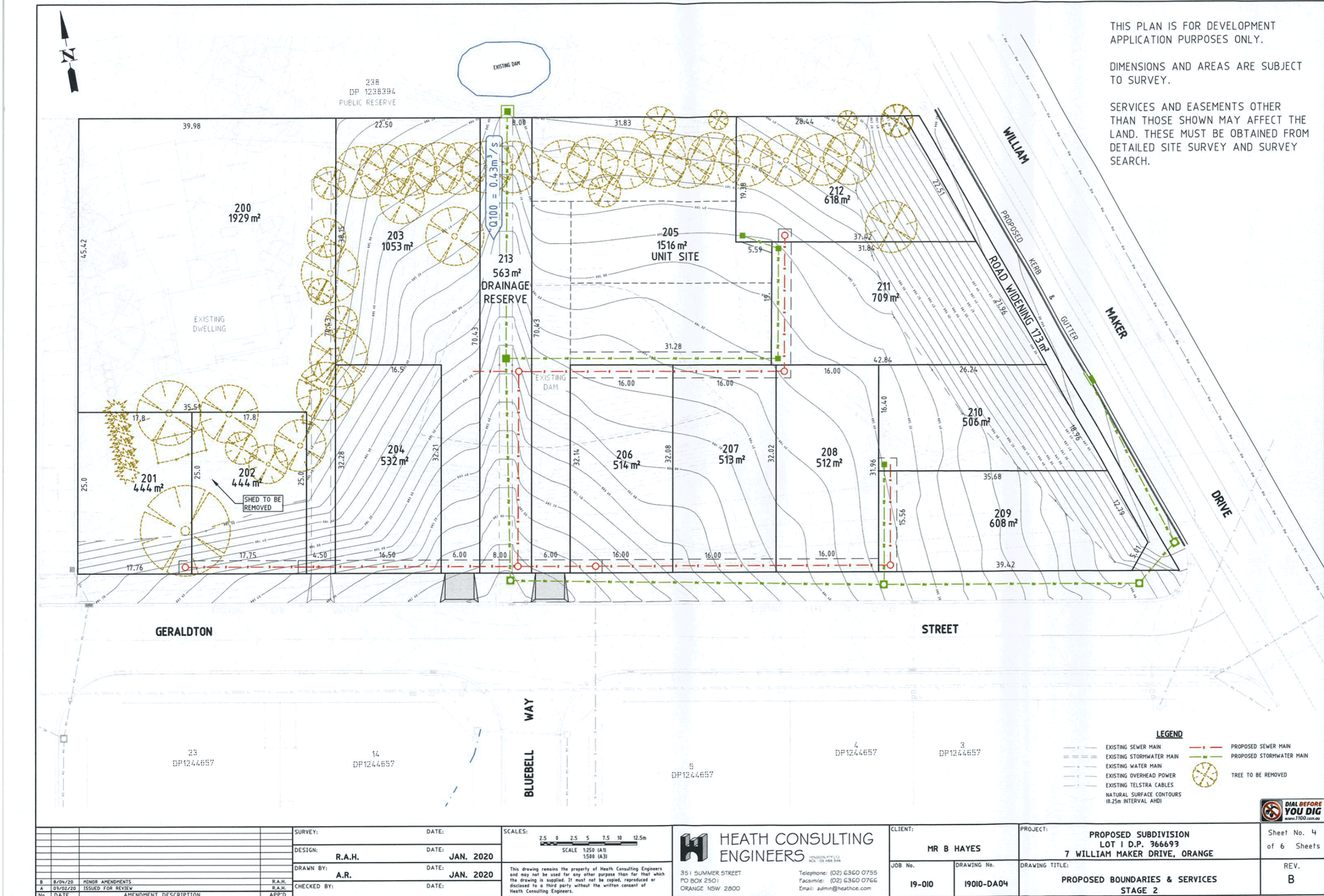
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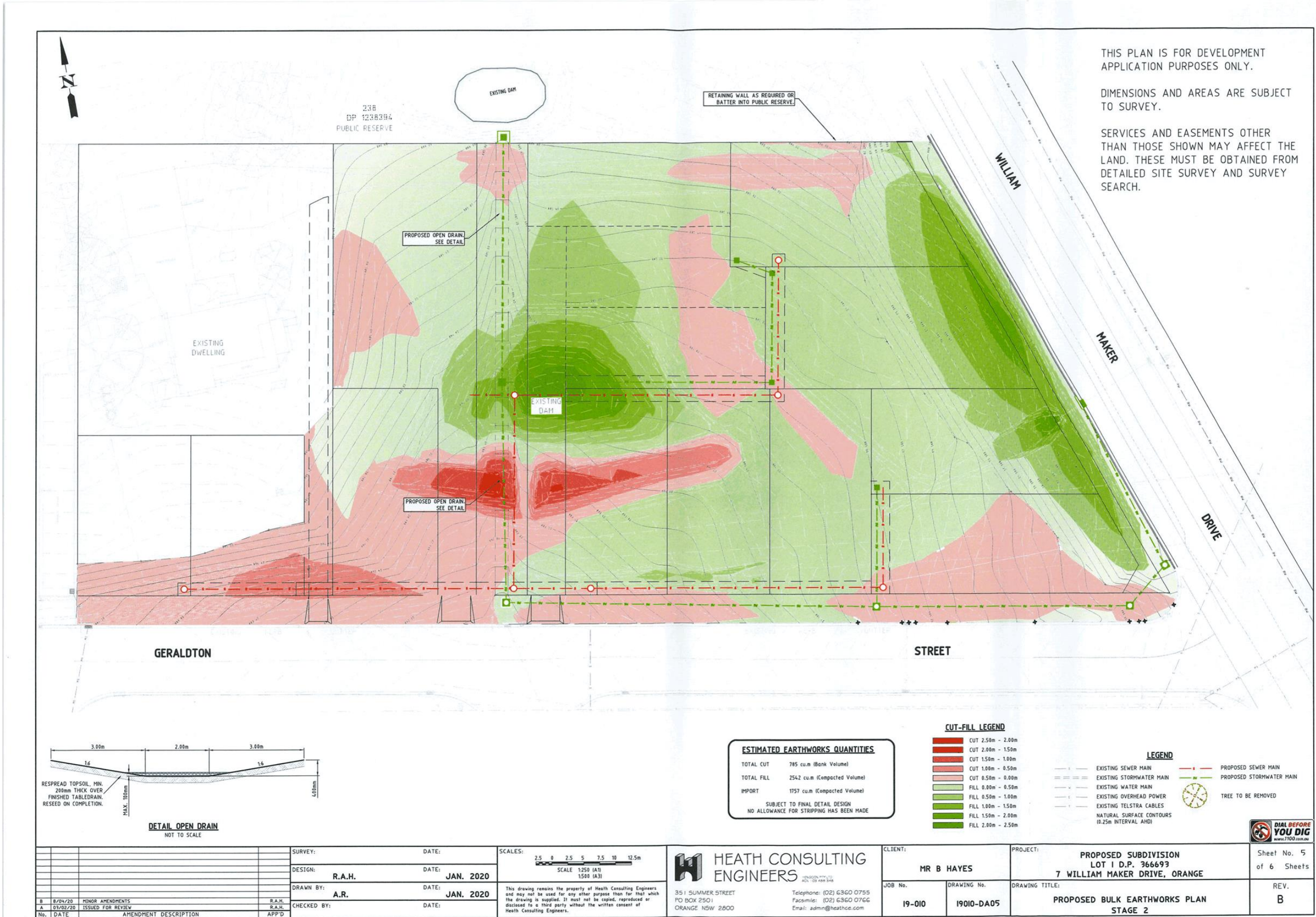
SERVICES AND EASEMENTS OTHER THAN THOSE SHOWN MAY AFFECT THE LAND. THESE MUST BE OBTAINED FROM DETAILED SITE SURVEY AND SURVEY SEARCH.

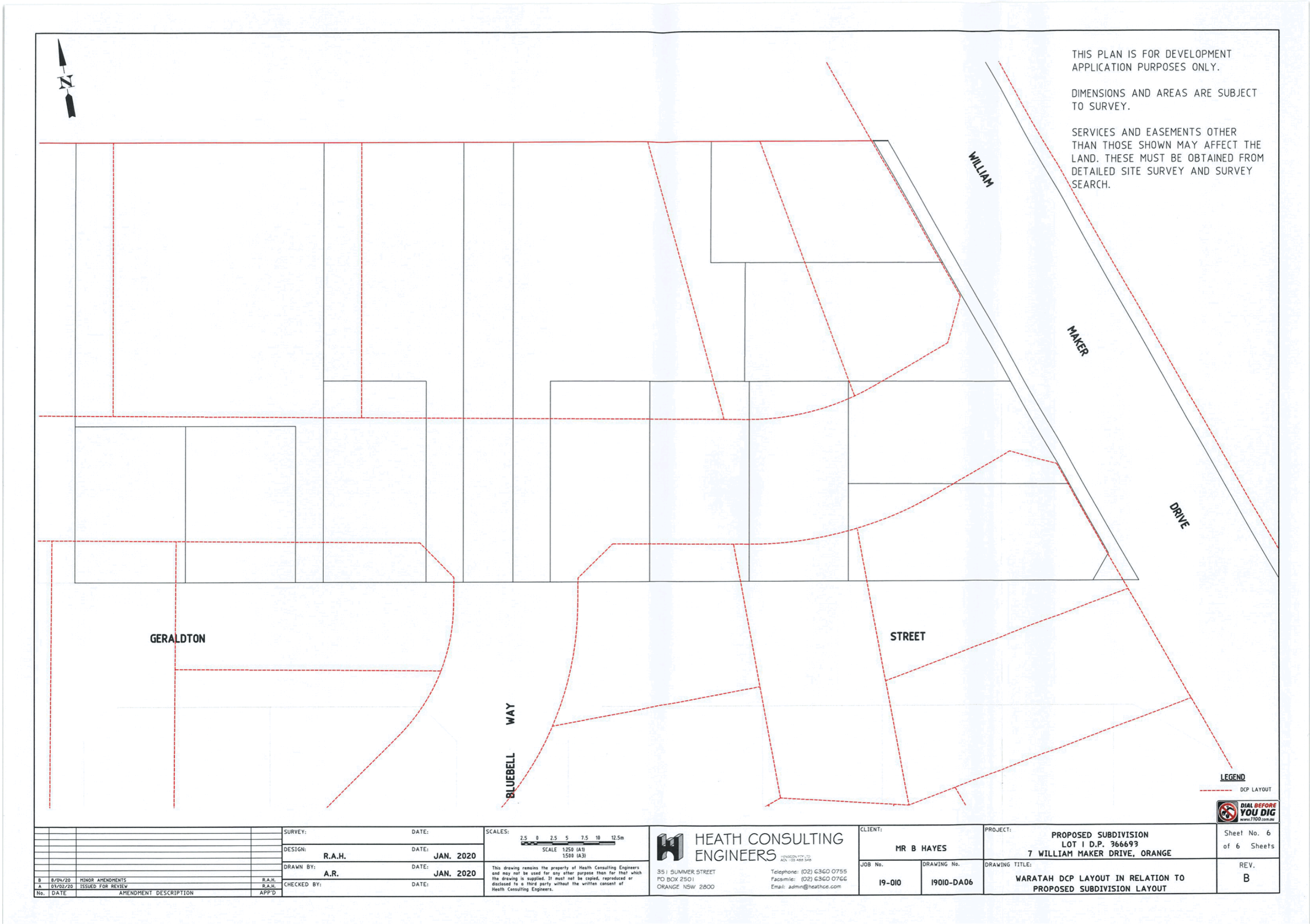
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		DESIGN:		DATE:			MR B HAYES		PROPOSED SUBDIVISION LOT 1 D.P. 366693 7 WILLIAM MAKER DRIVE, ORANGE			
		DRAWN BY:		DATE:			JOB No.		DRAWING No.			DRAWING TITLE:
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A 03/02/20 ISSUED FOR REVIEW		R.A.H.				This drawing remains the property of Heath Consulting Engineers and may not be used for any other purpose than for that which the drawing is supplied. It must not be copied, reproduced or disclosed to a third party without the written consent of Heath Consulting Engineers.					REV. B	
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2.3 ELECTRONIC LODGEMENT OF PLANNING APPLICATIONS ON THE NSW PLANNING PORTAL

RECORD NUMBER: 2020/1209

AUTHOR: Paul Johnston, Manager Development Assessments

EXECUTIVE SUMMARY

NSW Government recently passed the *Environmental Planning and Assessment Amendment (Planning Portal) Regulation (2020) (the Regulation)*. This amendment impacts on how all Councils across the state receive and process planning applications. The amendment makes the use of the NSW Planning Portal mandatory for the lodgement of certain planning applications (in particular, development applications including modifications, applications for complying development certificates (CDCs) and for certificates under Part 5 of the *Environmental Planning and Assessment Act 1979*), the assessment of those applications, as well as the issue of any relevant consents, CDCs and certificates.

In order to successfully transition to the NSW Department of Planning portal, Council staff will be undertaking several projects in house to refine assessment processes, improve internal integration of electronic systems and suitably educate developers, various consultants and the general community alike of the upcoming changes.

The information contained in the report is recommended to be acknowledged.

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

The proposed changes will require internal system changes and the eventual introduction of integration modules to link Council’s electronic records management system with Council’s property management system and the NSW Planning Portal. In addition it will also be necessary to introduce and purchase electronic assessment tools to assist with the assessment of applications online. These integration modules and electronic assessment tools will be planned and budgeted for through Council’s IT Department.

POLICY AND GOVERNANCE IMPLICATIONS

NSW Government recently passed the *Environmental Planning and Assessment Amendment (Planning Portal) Regulation (2020) (the Regulation)*. The amendment makes the use of the NSW Planning Portal mandatory for the lodgement of certain planning applications.

RECOMMENDATION

That the information contained in the report by the Manager Development Assessments on ePlanning – Electronic lodgement of planning applications on the NSW Planning Portal be acknowledged.

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. The required change has been legislated by the State Government.

SUPPORTING INFORMATION

NSW Government recently passed the *Environmental Planning and Assessment Amendment (Planning Portal) Regulation (2020) (the Regulation)*. This amendment impacts on how all Councils across the state receive and process planning applications. The amendment represents an *important step in the implementation of the Premier's mandate of ePlanning Digital Services, which was announced in November 2019*.

The amendment makes the use of the NSW Planning Portal mandatory for the lodgement of certain planning applications (in particular, development applications including modifications, applications for complying development certificates (CDCs) and for certificates under Part 5 of the *Environmental Planning and Assessment Act 1979*), the assessment of those applications, as well as the issue of any relevant consents, CDCs and certificates.

Details on the implementation of the Premier's mandate and the amendment to the Regulation can be found on the [NSW Planning Portal](https://www.planningportal.nsw.gov.au/eplanning-portal), including a full list of when each Council is required to commence using ePlanning Digital Services (<https://www.planningportal.nsw.gov.au/eplanning-portal>).

In order to successfully transition to the NSW Department of Planning portal, Council staff will be undertaking several projects in house to refine assessment processes, improve internal integration of electronic systems and suitably educate developers, various consultants and the general community alike of the upcoming changes.

Council staff are proposing a soft implementation for the electronic lodgement of applications in September/October 2020. This will involve an invitation to the key planning and engineering consultants and various building companies who operate within the region to transition to use the ePlanning portal in the first instance. This will provide an opportunity for Council staff to receive feedback and refine systems prior to the mandated requirement for 100% use of the portal, by 1 July 2021.

2.4 DEVELOPMENT APPLICATION DA 41/2020(1) - 72 HILL STREET

RECORD NUMBER: 2020/1245

AUTHOR: Rishelle Kent, Senior Planner

EXECUTIVE SUMMARY

Application lodged – Section 8.2A Review of Determination	29 May 2020
Applicant/s	Mr DA and Mrs JL Player
Owner/s	Tantara Property Holding Pty Ltd
Land description	Lot 100 DP 1103216 - 72 Hill Street, Orange
Proposed land use	Hotel or Motel Accommodation (conversion of manager's residence to guest room)
Value of proposed development	Not applicable

This application seeks to review the determination of DA 41/2020(1) for *a hotel or motel accommodation (conversion of manager's residence to guest room)* at 72 Hill Street, Orange. The site is known locally as the De Russie Boutique Hotel. The original application was approved on 26 March 2020 subject to conditions of consent.

A Review of Determination under the legislation is to be taken as a review of the previous decision made in its entirety. Council in determining the review of the determination has the ability to confirm or change the terms of the previously issued determination or decision.

The proponent has requested Council to reconsider the imposition of Condition 4 of the previously issued determination, relating to the requirement for a car parking contribution of \$7,421.30 in lieu of the physical provision of 0.5 onsite car parking spaces.

A formal review of the determination has been undertaken by staff pursuant to Sections 8 and 4.15 of the *Environmental Planning and Assessment Act 1979*. Council can be satisfied that the original assessment and the conditions of consent were not issued in error.

With specific reference to the requirement for a car parking contribution, Council is advised that the demand for parking exceeds the recommended number of car parking spaces available upon the site by 0.5 spaces as per Council's DCP. Accordingly the requirement of a monetary contribution in lieu of onsite parking is consistent with Council's policy.

In accordance with Section 8.4 of the Act, it is recommended that Council confirms the determination previously made by a delegate of Council including the previously issued Notice of Determination.

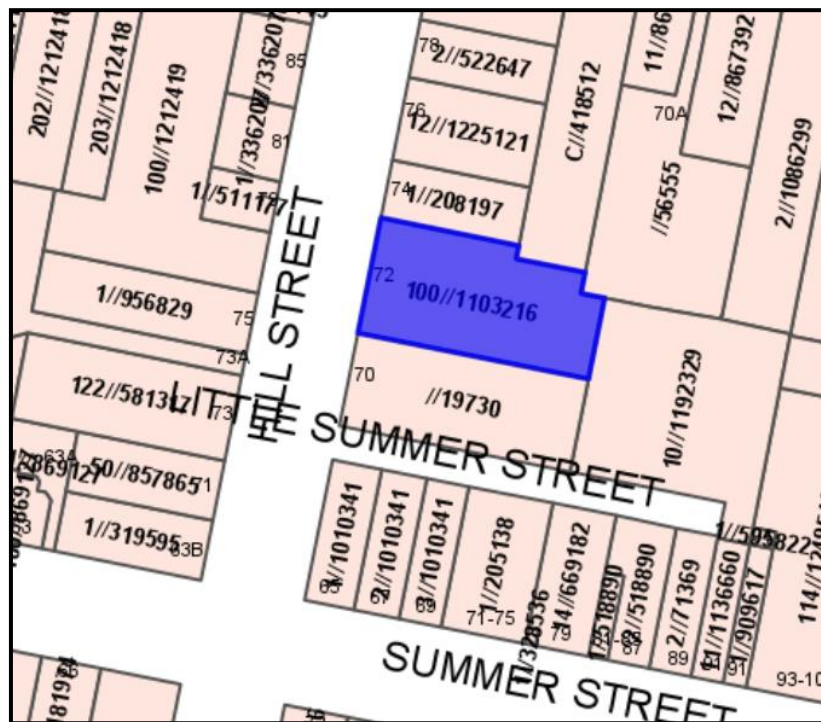


Figure 1 - locality plan

DECISION FRAMEWORK

Development in Orange is governed by two key documents Orange Local Environment Plan 2011 and Orange Development Control Plan 2004.

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 report is formal Review of Council's previous approval (March 2020) to convert a motel manager's room into a room available to guests at the De Russie Boutique Hotel. The applicant was dissatisfied with the condition that required a monetary contribution to parking. In short the applicant wants the condition requiring parking contributions deleted from the consent.

Council in determining the review of the determination has the ability to confirm or change the terms of the previously issued determination or decision.

The demand for parking will exceed the recommended car parking spaces available upon the site by 0.5 spaces as per Council's DCP hence the requirement for the contribution.

Council has a history of applying parking requirements to motels in this precinct. Therefore, for consistency, it is recommended that Council confirms the previous planning assessment and Notice of Determination.

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 confirms the previous decision made in relation to DA 41/2020(1) for *Hotel or Motel Accommodation (conversion of manager's residence to guest room)* at Lot 100 DP 1103216 - 72 Hill Street, Orange, as per the previously issued Notice of Determination (attached).

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 application seeks to review the previous determination of DA 41/2020(1) made by Council on 26 March 2020. The application sought consent to convert the manager's residence to an additional guest room, thereby reducing the hours to which the manager would be onsite (7am to 9pm) and increase the number of guests onsite.

The application was approved in March subject to conditions including the provision of a Plan of Management (POM) and a contribution for the deficiency of onsite car parking spaces. A POM has not been received to date.

Whilst a complete review of the application is required by the legislation, the applicant has requested specific re-consideration of Condition 4 of the consent which requires a car parking contribution of \$7,421.30 (figure subject to indexing).

Reasons provided by the applicant include:

- *Prior to Covid there was ample parking for guests even when occupancy was at over 90%*
- *We see the Council rate of one space per managers unit being replaced by one space per motel unit as a logical and practical approach.*
- *The one for one requirement under the DCP appears reasonable.*
- *As occupancy is not at 100% all of the time and the manager is no longer parking in the spot overnight, we have actually increased the availability of parking.*
- *All of our staff are instructed to park in the car park behind the motel at all times.*
- *Under normal occupancy patterns, many of our guests arrive via air and taxi and therefore do not park onsite.*
- *Quest have less than 1 space per room and (we) would ask that a consistent parking approach be adopted.*

It is noted that the business will still operate with an onsite manager, however the hours of this position will be 7am to 9pm.

MATTERS FOR CONSIDERATION

Section 8 of the Environmental Planning and Assessment

A development approval issued by a local Council can be subject to a review pursuant to Section 8.2(1)(a) of the Act, and lodged in accordance with Section 8.3 of the Act. The application has not been amended subject to Section 8.3(3). The review of an application previously made by a delegate of Council must be reviewed by a Council subject to Section 8.4 of the Act, and therefore this application must be determined by virtue of a Council Meeting. After conducting its review of a determination or decision, the Council may confirm or change the determination.

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.

The development will not trigger the provisions which require the need for a BDAR. The subject land is characterised as a highly disturbed urban site with no native vegetation present of the site. Additionally, the development relates to the use of an existing building with no further works being proposed that could disturb threatened species or their habitats.

The development is considered acceptable with regards to the above provisions.

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,*
- (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,*
- (c) *to conserve and enhance the water resources on which Orange depends, particularly water supply catchments,*
- (f) *to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

The application is considered to be consistent with the aims 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 B3 Commercial Core
Lot Size Map:	No Minimum Lot Size
Heritage Map:	Heritage Conservation Area
Height of Buildings Map:	Building height limit: 9m
Floor Space Ratio Map:	Floor space limit: 0.5:1
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:	Not within a flood planning area

Those matters that are of relevance are addressed in detail in the body of this report. It is noted that building height limit and floor space limit are not relevant as the proposed application does not involve additional floor space or building works.

Clause 1.9A - Suspension of Covenants, Agreements and Instruments

Council staff are not aware of the title of the subject property being affected by any of the excepted instruments as listed in 1.9A.

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

The subject site is located within the B3 Commercial Core zone. The proposed development is characterised as hotel or motel accommodation under OLEP 2011 which is defined as:

a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:

- (a) comprises rooms or self-contained suites, and*
- (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,*

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Hotel or motel accommodation is permitted with consent in the B3 Commercial Core zone.

Clause 2.3 of LEP 2011 references the Land Use Table and Objectives for each zone in LEP 2011. These objectives for land zoned insert relevant zone are as follows:

1 - Objectives of the B3 Commercial Core Zone

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- To encourage appropriate employment opportunities in accessible locations.*
- To maximise public transport patronage and encourage walking and cycling.*
- To promote development that contributes to the role of the Orange CBD as the primary retail and business centre in the City and region.*

The development is not inconsistent with object of the zone.

5.10 - Heritage Conservation

The subject land is located in the Central Orange Heritage Conservation Area and adjoins a heritage item to the north (68 Byng Street).

The development is not contrary to the objectives of the clause. No building work or changes to the exterior appearance of the building is proposed.

7.6 - Groundwater Vulnerability

The proposal will not 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

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**

The site has a long standing history of residential landuse, both as residential units and motel accommodation. This development will not alter that use, nor will it involve ground disturbance. As such, the land is unlikely to be contaminated and there are no previous uses to suggest otherwise. Additionally, the development does not represent a change of use.

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).

There are no known contaminated sites immediately adjoining the subject land. Additionally, the application does not involve ground disturbance, thereby removing the likelihood of encountering a new contamination pathway from adjoining sites.

DRAFT AMENDMENT NO 24

Amendment No 24 to Orange LEP 2011 has been placed on public exhibition. The draft plan includes several amendments to the plan. The proposed development is not inconsistent with the draft plan.

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 (*Chapter 8 - Development in business zones, Chapter 13 - Heritage and Chapter 15 - Car Parking*). An assessment of the proposed development against the relevant Planning Outcomes will be undertaken below, excepting matters relating to heritage which has been previously addressed.

Chapter 8 - Development in Business Zones

Development consent was sought for the change in use of one room. The room was initially approved to be used as a managers residence, the March 2020 consent granted approval for this room to be used by motel guests.

Compliance with onsite parking will be addressed in detail below.

Chapter 15 - Car Parking

The DCP requires parking for motels at the rate of:

One space per unit/bedroom/tent or caravan site
 One space for every three beds (hostel accommodation)
 + one space for each resident manager
 + one space for every two employees
 + 1 space for every three seats in the restaurant
 + one space per 10m² of entertainment or function room areas

Background

The original approval of the motel in 2006 required the provision of 25 onsite car parking spaces (21 spaces provided onsite and a contribution for the deficiency of four spaces). The applicant modified that consent, by providing an additional two car parking spaces onsite, thereby reducing the levied contribution to two car parking spaces. With the provision of 23 spaces onsite and the contributions paid for two spaces; 25 spaces were recognised for the development and satisfied Council's parking requirement.

In 2014 Council granted consent to an application to convert an indoor pool to a bridal suite, which required a monetary car parking contribution to be paid for the additional car parking space generated by the additional unit. The applicant subsequently lodged a modification to have the condition removed, which the Council agreed to at the February 2015 Sustainable Development Committee.

In summary, development history of the site provides for 23 physical spaces, two spaces have been accounted for via monetary contribution, and the contribution for one space has been waived by Council.

Car Parking Assessment

DA 41/2020(1) sought to convert the manager's residence to one additional guest room. Based on the information submitted at the time, the staff numbers were to remain as previously approved (being one manager and two staff), however, the 'resident manager' was redescribed as 'staff' under the car parking definitions above. Therefore the car parking calculation relevant to the proposed development was:

One space for an additional room
 Less one space for the 'resident manager'
 Plus 0.5 space for an 'employee'

And therefore a contribution of 0.5 spaces, being \$7,421.30, was conditioned in accordance with the provisions of the DCP.

The applicant has provided the following justification to remove the car parking contribution:

- *Prior to Covid there was ample parking for guests even when occupancy was at over 90%*
- *We see the Council rate of one space per managers unit being replaced by one space per motel unit as a logical and practical approach.*

- *The one for one requirement under the DCP appears reasonable.*
- *As occupancy is not at 100% all of the time and the manager is no longer parking in the spot overnight, we have actually increased the availability of parking.*
- *All of our staff are instructed to park in the car park behind the motel at all times.*
- *Under normal occupancy patterns, many of our guests arrive via air and taxi and therefore do not park onsite.*
- *Quest have less than one space per room and (we) would ask that a consistent parking approach be adopted.*

In response:

1. The application seeks to convert a manager's residence to guest accommodation. The manager will be onsite from 7am to 9pm and therefore require onsite parking. The guest accommodation will introduce additional customers to the site, therefore increasing demand for onsite parking.
2. Under the DCP car parking requirement, the 'resident manager' requirements was downgraded to 'employee' car parking requirements as the manager would not require onsite parking between the hours of 9pm and 7am. An 'employee' is calculated at a lesser rate (0.5 space per employee compared to one space for 'resident manager') even though in this instance the manager's hours would overlap with customer parking and therefore increase demand for onsite parking.
3. The advice that "*staff are instructed to park in the carpark behind the motel at all times*" is testament to the demand for availability of car parking upon the site.
4. In accordance with Council policy, when additional car parking demand cannot be met onsite, the net increase is required to be met by a car parking contribution. This is particularly relevant given the use of Council's car park to facilitate parking for this business. Such car parks are directly paid for by way of recouped funds via Council's Car Parking Contribution Plan.

As a result, the following options are available to Council in review of the application:

1. Review the Determination and confirm the previously issued conditions of consent requiring the payment of 0.5 car parking spaces in accordance with Council's Car Parking Contribution Plan, based on an increase in guest accommodation and the manager being present onsite between the hours of 7am to 9pm (**RECOMMENDATION**).
2. Review the Determination and change the conditions of consent.

It should be noted that Council's Contribution Plan provides a 50% discount for a change of land use application, however this application is not defined as a change of land use, rather a modification to the operation of the site. An example of a change of land use is shop to office, or other example where the land use definition changes.

INFILL GUIDELINES

The proposed development will not impact upon Council's Infill 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 involves a change of building use for an existing building. Council is satisfied that the fire protection and structural capacity of the building are appropriate for the proposed new building use.

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)

Not applicable.

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

The Review of Determination relates to the issue of car parking demand only. No other issues are addressed as it is considered they have been adequately assessed.

Context and Setting

The land is situated within the CBD of Orange and adjoins residential properties and a Council owned car park. The development to convert the manager's residence to a guest room will not dramatically change the nature of the existing motel and as such the development remains consistent with the context and setting of the locality.

Access, Traffic and Parking

Existing access and traffic arrangements remain unchanged and are considered to remain satisfactory for the development. The demand for parking exceeds the recommended car parking spaces available upon the site as per Council's DCP, and therefore it is recommended that the net increase be catered for by means of car parking contribution as per Council's Car Parking Contributions Plan.

Cumulative Impacts

With the requirement for the monetary compensation for the deficiency in onsite parking, the development is not expected to give rise to any unacceptable cumulative impacts.

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

The site has a relatively long history being used for the purposes of hotel or motel accommodation. This application will not alter that longstanding use. The development is considered suitable for the site.

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

The proposed development is defined as "advertised development" under the provisions of the Act. The application was advertised for the prescribed period of 14 days and at the end of that period 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, guidelines etc that have not been considered in this assessment. Public submissions have not been received in regard to this review.

SUMMARY


The proposed development remains permissible with the consent of Council. The development complies with the relevant aims, objectives and provisions of Orange LEP 2011 (as amended) and DCP 2004 pursuant to the previously issued conditions of consent. A Section 4.15 and Section 8 assessment of the development indicates that the development is acceptable in this instance. Attached is the Notice of Approval previously issued imposing conditions considered appropriate to ensure that the development proceeds in an acceptable manner without detrimental impact to the surrounding environment.

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, D20/44106 [↓](#)
- 2 Plans, D20/44115 [↓](#)

	<p style="text-align: center;">ORANGE CITY COUNCIL</p> <p style="text-align: center;">Development Application No DA 41/2020(1)</p> <p>NA20/182 Container PR21874</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: Tantara Property Holding Pty Ltd
 Applicant Address: 72 Hill Street
 ORANGE NSW 2800
 Owner's Name: Tantara Property Holding Pty Ltd
 Land to Be Developed: Lot 100 DP 1103216 - 72 Hill Street, Orange
 Proposed Development: Hotel or Motel Accommodation (conversion of manager's residence to guest room)

Building Code of Australia building classification:

Class 3

Determination made under Section 4.16

Made On: 26 March 2020
 Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

Consent to Operate From: 26 March 2020
Consent to Lapse On: 26 March 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 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) **Plans by McKinnon Design job no. 20005 sheets 1 and 2 dated January 2020 (2 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.

DURING CONSTRUCTION/SITEWORKS

- (3) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- (4) The payment of **\$7,421.30** shall be made to Council in accordance with Section 7.11 of the Act and Orange Car Parking Development Contributions Plan 2015 in lieu of the physical provision of adequate on-site car parking spaces.

PAYMENT MUST BE MADE PRIOR TO THE ISSUE OF ANY CERTIFICATE under part 4A of the Act.

The contribution shall be indexed quarterly in accordance with the Orange Car Parking Development Contributions Plan 2015, which may be inspected at the Orange Civic Centre, Byng Street, Orange.

- (5) Prior to the issue of any Occupation Certificate a detailed Plan of Management (POM) for the development shall be prepared and submitted to Council for approval. The POM shall address how the operation of the motel will be managed outside of staffed hours. The POM as a minimum must provide measures for the following situations:

- security measures,
- staff responsibilities,
- noise minimisation and dealing with complaints,
- management of anti-social behaviour,
- management of unsolicited large gatherings within guest rooms and common areas,
- fire alarm procedure,
- procedures for medical emergencies,
- late check-in procedures,
- lock out procedures,
- etc.

The POM shall also include a complaints register and an incident log that may be made available for the NSW Police or Council officers carrying out their duties under the EP and A Act.

- (6) 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.
- (7) 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.
- (8) 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

- (9) 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*.

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

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:

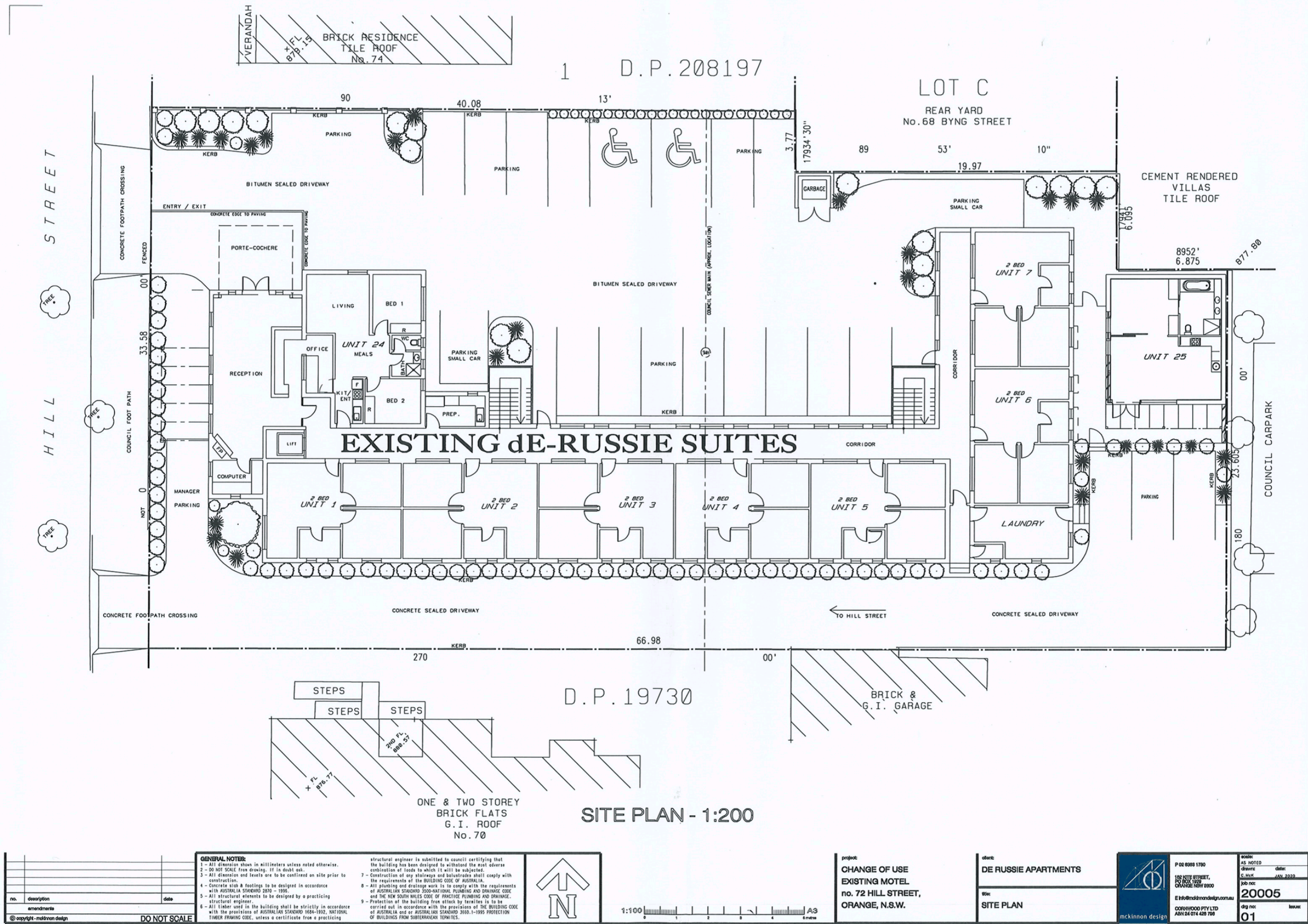
On behalf of the consent authority **ORANGE CITY COUNCIL**

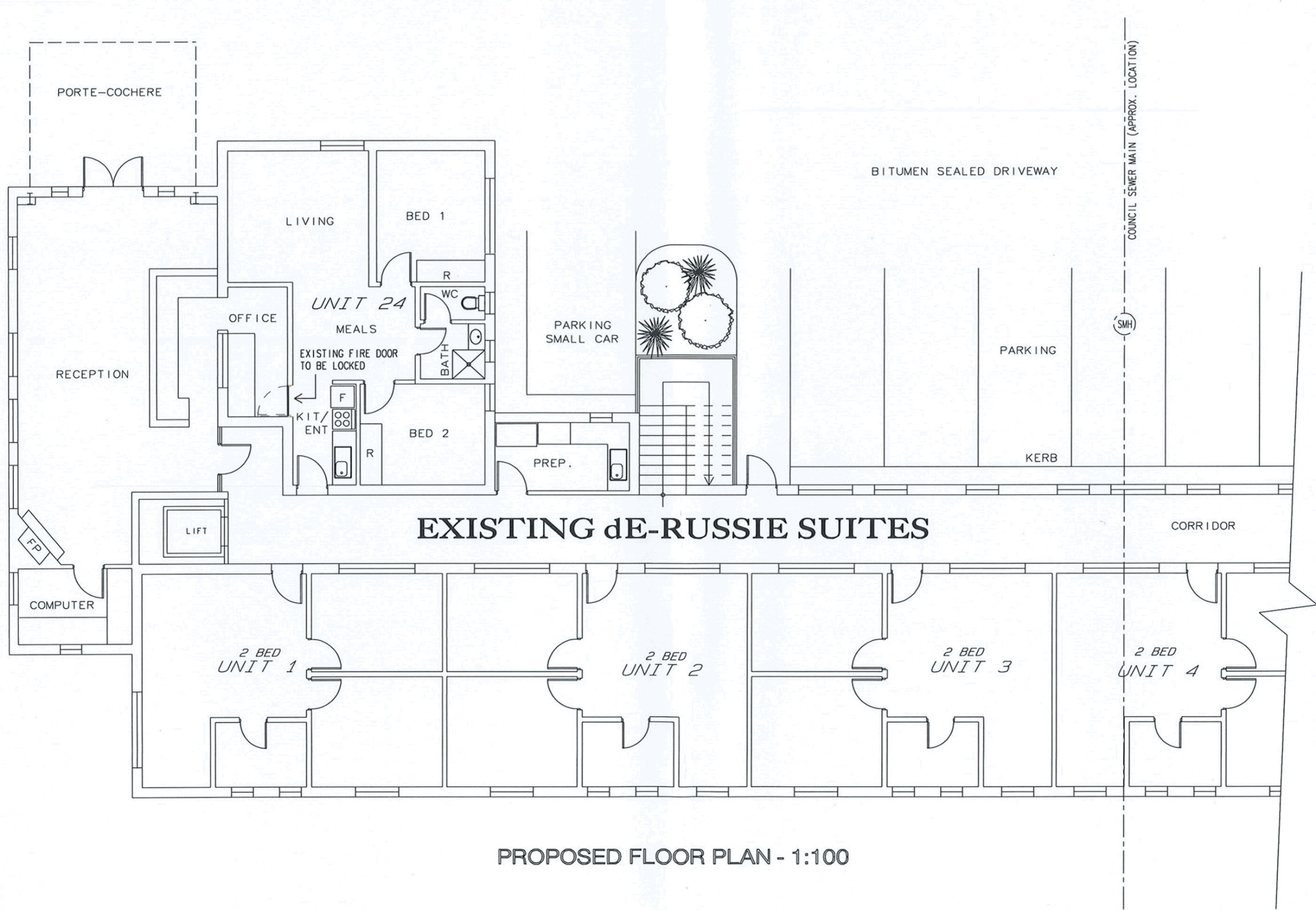
Signature:**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

Date:

26 March 2020





GENERAL NOTES: 1 - All dimensions shown in millimeters unless noted otherwise. 2 - DO NOT SCALE from drawing. If in doubt ask. 3 - All dimensions and levels are to be confirmed on site prior to construction. 4 - Concrete slab & footings to be designed in accordance with AUSTRALIAN STANDARD 2870 - 1995. 5 - All structural elements to be designed by a practicing structural engineer. 6 - All timber used in the building shall be strictly in accordance with the provisions of AUSTRALIAN STANDARD 1684-1992, NATIONAL TIMBER FRAMING CODE, unless a certificate from a practicing structural engineer is submitted to council certifying that the building has been designed to withstand the most adverse combination of loads to which it will be subjected. 7 - Construction of any stairways and balustrades shall comply with the requirements of the BUILDING CODE OF AUSTRALIA. 8 - All plumbing and drainage work is to comply with the requirements of AUSTRALIAN STANDARD 3500-NATIONAL PLUMBING AND DRAINAGE CODE and the NEW SOUTH WALES CODE OF PRACTICE PLUMBING AND DRAINAGE. 9 - Protection of the building from attack by termites is to be carried out in accordance with the provisions of the BUILDING CODE OF AUSTRALIA and or AUSTRALIAN STANDARD 3699.1-1995 PROTECTION OF BUILDINGS FROM SUBTERRANEAN TERMITES.			1:100 0 1 2 3 4 5 6 metres A3	project: CHANGE OF USE EXISTING MOTEL no. 72 HILL STREET, ORANGE, N.S.W.	client: DE RUSSIE APARTMENTS	 P 02 6009 1700 102 KITE STREET, PO BOX 1106 ORANGE NSW 2800 E info@mcinnondesign.com.au CORNWOOD PTY LTD ABN 24 074 429 700	scale: AS NOTED drawn: C. MCK date: JAN 2020 job no: 20005 issue: 02
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2.5 DEVELOPMENT APPLICATION DA 210/2020(1) - 80 SUMMER STREET

RECORD NUMBER: 2020/1266

AUTHOR: Sophie Currenti, Student Planner

EXECUTIVE SUMMARY

Application lodged	11 June 2020
Applicant/s	Mrs MC Cubitt
Owner/s	Mr EWK and Mrs SK Ko
Land description	Lot 2 DP 1181850 - 80 Summer Street, Orange
Proposed land use	Recreation Facility (indoor) (change of use)
Value of proposed development	Not applicable

Council's consent is sought for the change of use from a restaurant to an indoor recreational facility (to be used as a dance studio) within part of the existing building at 80 Summer Street – Lot 2 DP1181850.

The dance studio is to be located on the first floor of the existing building, replacing a space which was originally intended for further restaurant dining by the ground floor premises. The ground floor is to remain a restaurant. The dance studio will be accessed through the shared foyer on the ground floor.

The hours of operation are to be from 3.30pm–8.30pm on Monday to Friday and from 9am–3pm on Saturdays. There will be three staff operating the 80 students, although there will only be approximately 5 to 15 students on the premises at one time.

The proposed change of use generates a theoretical increase in parking demand of six spaces. There is no ability to accommodate additional parking onsite. It is noted that the subject land is contained within the *car parking development contributions area*, and a contribution in lieu could be imposed by condition. The contribution in this case would equate to \$44,661.48. The applicant requests a waiver for this contribution. The requirement for a contribution in this case is considered unreasonable for the reasons outlined in the body of this report. Council's records show that Council has consented to other dance studios/gymnasiums in and around the city where onsite car parking provision has departed from the DCP requirements and a contribution was not sought on the basis of conditions being included which restricted the hours of operation and student/patrons numbers and the like.

Being an application with a request to waive contributions over \$20,000, delegation falls to the Planning and Development Committee. It is recommended that Council supports the recommendation as articulated in the report and the accompanying Notice of Determination.



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 dance studio is to be located on the first floor of the existing Canton building, replacing a space which was originally intended for further restaurant dining by the ground floor premises. The main issue of this development is parking. The proposed change of use generates a theoretical increase in parking demand of six spaces and given that there is no ability to accommodate additional parking on the land a contribution could be requested by Council. The applicant requested a waiver for this contribution due to small dance student numbers, hours of operation and high turnover. The justification seems reasonable and consistent with other dance studio operations in the City. It is recommended that Council supports the recommendation of approval with the waiver of parking contributions.

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 210/2020(1) for *Recreation Facility (indoor) (change of use)* at Lot 2 DP 1181850 - 80 Summer 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 proposal involves the change of use from a restaurant to an indoor recreational facility (to be used as a dance studio) within part of the building at 80 Summer Street. The proposal does not involve any construction works and purely relates to the change of use.

The dance studio is to be located on the first floor of the existing building, replacing a space which was originally intended for further restaurant dining by the ground floor premises. The ground floor is to remain a restaurant. The dance studio will be accessed through the shared foyer on the ground floor.

The hours of operation are to be from 3.30pm–8.30pm on Monday to Friday and from 9am–3pm on Saturdays. There will be three staff operating the 80 students, although there will only be approximately 5 to 15 students on the premises at one time. The applicant has stated that majority of the students will be arriving via a school bus or parent drop off and will walk to the premises.



Figure 2 – first floor space



Figure 3 - first floor space

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 site does not occur within land mapped on the Biodiversity Values Map and no clearing/disturbance is proposed. As the proposal does not trigger any of the four requirements for insertions into the BOS, a Biodiversity Development Assessment Report is not required to be lodged with the application for development consent. No other comments are warranted under this section.

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,*
- (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,*
- (f) to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

The application is considered to be consistent with the applicable aims of the plan.

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 B3 Commercial Core
Lot Size Map:	No Minimum Lot Size
Heritage Map:	<i>Within the conservation area</i>
Height of Buildings Map:	<i>Building height limit 12m</i>
Floor Space Ratio Map:	<i>Floor space limit 1.5-1.8:1</i>
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
Groundwater Vulnerability Map:	<i>Groundwater vulnerable</i>
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.

- (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
- (b) *to any relevant instrument under Section 13.4 of the Crown Land Management Act 2016, or*
- (c) *to any conservation agreement under the National Parks and Wildlife Act 1974, or*
- (d) *to any Trust agreement under the Nature Conservation Trust Act 2001, or*
- (e) *to any property vegetation plan under the Native Vegetation Act 2003, or*
- (f) *to any biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995, or*
- (g) *to any planning agreement under Subdivision 2 of Division 7.1 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 B3 Commercial Core zone. The proposed development is defined as a *'recreation facility (indoor)'* under OLEP 2011 and is permitted with consent for this zone. This application is seeking consent.

Clause 2.3 of LEP 2011 references the Land Use Table and Objectives for each zone in LEP 2011. These objectives for land zoned B3 Commercial Core are as follows:

1 - Objectives of the B3 Commercial Core Zone

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*
- *To encourage appropriate employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To promote development that contributes to the role of the Orange CBD as the primary retail and business centre in the City and region.*

The proposal is considered to be consistent with the objectives of the zone. The proposed dance studio will not be altering the built environment of the locality as it is relating to the internal space of an existing building. The change of use provides another form of business within the zone and enhances the role of the Orange CBD.

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

This clause limits the height of buildings (HoB) on land identified on the Height of Buildings Map. The subject land is identified on the Map as having a HoB limit of 12m. This proposal does not intend to alter the current building height from its compliant height. Therefore is consistent with the established height limit.

Clause 4.4 - Floor Space Ratio

This clause limits the floor space ratio (FSR) permitted on land identified on the Floor Space Ratio Map. Clause 4.5 is associated with this clause and establishes the rules for calculating the site area and FSR of any proposal. These rules exclude certain parts of a site and development such as:

- excluding any part of the site upon which the development is prohibited (ie if the site is split zoned only the zone in which the development is permissible may be considered)
- excluding community land and most public places
- lots in a strata scheme wholly or partly above other lots in the scheme do not increase the site area (ie the site area is the ground level of the scheme only)
- adjoining lots in the same ownership do not form part of the site area unless significant parts of the development are proposed on that land
- the floor area of existing buildings is to be included in the FSR calculation
- any covenant restricting floor space on the lot, due to floor space having been considered as part of the development of another lot, is to be taken into account.

The subject land is identified on the Map as having an FSR of 1.5-1.8:1. Due to there being no alterations to the building itself, the existing FSR is not changing, and is therefore consistent with the FSR requirements.

Part 5 - Miscellaneous Provisions

5.10 - Heritage Conservation

(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.*

(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).

(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.

The proposed change of use is occurring within a building located in the Orange Conservation Area. Due to there being no additions or alterations to the development itself, and the proposal is related to the internal state of the building, it is considered that there will be a minimal impact on the heritage significance of the area.

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

7.6 - 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.*

This proposal is not altering any part of the designated building, therefore the proposal is not anticipated to involve effects on groundwater and is 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.*

There are no known uses for the subject site which undertook practices that result in contaminated land. It is concluded that the likelihood of contamination is significantly low.

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).

Land adjoining the site is identified to be contaminated. Testing would have been undertaken on the subject site when the original building was developed. As such, the provisions of the draft EPI are considered to have been addressed.

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

Orange DCP 2004 – Chapter 8 Development in Business Zones is relevant to this proposal. The provisions of Part 1-1 of Chapter 8 are related to the Central Business District although due to the proposal being related to the use of the existing building rather than works to the building itself, there are minimal controls that are applicable to the development application. The below are considered applicable:

- *Provision of adequate fire-safety measures and facilities for disabled persons (according to the BCA) are addressed at the application stage (relevant for all development but particularly important where converting residential buildings for business use).*

The proposal is considered to meet the fire-safety measures and disability access as addressed under s4.15(1)(c) the suitability of the site.

- *Land use complements the role of the CBD as a regional centre for commerce and services.*

The proposed change of use is considered to meet the aims of the zone, complementing the role of the CBD, through increasing its productivity by providing further services for the community.

- *Car parking is provided to meet demand either as onsite parking areas or through contributions towards public parking in and adjacent to the CBD.*

Fourteen (14) car parking spaces are provided onsite for the existing restaurant and dual occupancy, approved under DA 344/2010 (amended). It is noted that the proposed land uses generate demand for 18 parking spaces, however, Council agreed to dispense with the requirement for four parking spaces (based on historical use of the site; proposed hours of operation; and proximity to parking in the Summer Centre car park).

The proposed dance studio will comprise floor area of 197m². The approved restaurant use of this space generates a requirement for 4.92 (5) spaces, based on one space per 40m² GFA. The proposed dance studio will generate a requirement for 15 spaces, based on 7.5 spaces per 100m² GFA for this type of use. The net increase in parking required for the proposed development will therefore be ten spaces.

It is considered that the dispensation of four parking spaces approved in DA 344/2010 (amended) should carry over to the proposed part change of use to dance studio. On this, the proposed change of use generates a theoretical increase in parking demand of six spaces. It is not possible to provide additional parking onsite. It is noted that the subject land is contained within the *car parking development contributions area*, and a contribution in lieu could be imposed by Council as a condition of consent. The contribution in this case would equate to \$44,661.48.

The applicant requested a waiver for this contribution on the basis that the specific use would be limited to certain periods of the day and that only 5-15 students would be in attendance at the premises at any one time during those periods. It is considered that the proposed development will not adversely impact on parking amenity in the locality due to the following:

- With majority of students arrive via public transport, parent drop-off or walk from school, there will not be a high demand for parking spaces.
- Timetables for classes are generally back-to-back, and as students attend more than one class, children will not all be dropped off and picked up at the same time.
- Staff and student numbers are low, and most classes are held outside of business hours of the neighbouring restaurant, being in the afternoons and on Saturdays.
- On-street parking is available in Summer Street, which will be readily available during afternoon and weekend classes when children need to be picked up and carers require parking for the duration of the class.

The requirement for a contribution in this case is considered unreasonable for the reasons outlined above. Council's records show that Council has consented and agreed to waive certain contributions on other dance studios/gymnasiums in and around the city where onsite car parking provision had departed from the DCP requirements. In each of those cases conditions were specifically included on the notice of determination to restrict the hours of operation and student/patrons numbers to minimise the impact on parking reserves. The same approach is recommended in this case. A condition has been included to limit hours of operation to that proposed by the applicant with a limitation on the maximum number of students permitted on the premises for classes at any one time to 15 students.

It is recommended that Council supports the recommendation as articulated in the report and the accompanying Notice of Determination.

INFILL GUIDELINES

The proposed change of use is not affected by Council's Infill Guidelines.

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 involves a change of building use for an existing building. Council is satisfied that the fire protection and structural capacity of the building are appropriate for the proposed new building use. Relevant conditions are attached.

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.

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

The proposed change of use is unlikely to generate any impacts that would adversely affect the quality of the environment of the locality; particularly as such development is considered to be consistent with the zone objectives and would achieve reasonable integration with the surrounding land use pattern.

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

The proposed development is not considered to be unreasonably constrained by the identified physical features associated with the subject building and land. The proposed change of use to a part of an existing building is considered a suitable outcome for the vacant space. The surrounding development demonstrates the suitability of this style of development within the CBD.

Fire Safety Assessment

The applicant will need to ensure compliance prior to occupation with the required Fire Safety Schedule. Council is satisfied that the fire protection and structural capacity of the building are appropriate for the proposed new building use. Relevant conditions are attached.

Disability Access

The *Disability (Access to Premises – Buildings) Standards 2010* seeks to describe the minimum level of access that must be achieved to meet the requirements of the DDA without causing unjustifiable hardship.

The exiting premises warranted disability access through having the same use on both the ground floor and first floor. Therefore, preliminary analysis into this application suggested that due to the change of use, disability access would need to be provided.

Where an existing building is modified or extended in a way that triggers the requirement for a building approval, the Premises Standards will generally require an upgrade of the 'affected part' of the building. This would entail the provision of a continuous accessible path of travel between the principal pedestrian entrance and the new part of the building. Through investigating the *Guideline on the Application of the Premises Standards (Version 2 February 2013)*, Section 4.3 provides a limited concession from this requirement.

Section 4.3 *Lessees* states that; "where a building is occupied by a number of lessees, i.e., by two or more lessees, and an application for approval of building work is made by one of the lessees for work on the area of the building that they lease, there is no requirement on the lessee or any other person to provide a continuous accessible path of travel to the area of new work which the person leases".

Based upon the above provision, the proposed change of use does not need to provide further disability access within the building and is therefore considered compliant.

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, D20/43731 [↓](#)
- 2 Plan, D20/43748 [↓](#)

	<p style="text-align: center;">ORANGE CITY COUNCIL</p> <p style="text-align: center;">Development Application No DA 210/2020(1)</p> <p>NA20/ Container PR26085</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:	Mrs M C Cubitt
Applicant Address:	PO Box 8500 ORANGE NSW 2800
Owner's Name:	Mr EWK and Mrs S K Ko
Land to Be Developed:	Lot 2 DP 1181850 - 80 Summer Street, Orange
Proposed Development:	Recreation Facility (indoor) (change of use)

Building Code of Australia building classification:

Class to be determined by the PC

Determination made under Section 4.16

Made On:	4 August 2020
Determination:	CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:

Consent to Operate From:	5 August 2020
Consent to Lapse On:	5 August 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) 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) **Plan numbered – DA02**
 - (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.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- (3) 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.
- (4) 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.
- (5) 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

- (6) A separate Development Application shall be submitted to and approved by Council prior to the erection of any advertising structures or signs of a type that do not meet the exempt development provisions of Orange Local Environmental Plan 2011 (amended) and Development Control Plan 2004.
- (7) The hours of operation of the premises shall **not exceed Monday to Friday 3.30pm to 8.30pm and Saturday 9.00am to 3.00pm.**
- (8) During the hours of operation the use of the tenancy is limited to a **maximum intensity of 15 students (excluding staff) on-site at any one time.** Notwithstanding this, classes catering for children can have siblings, parents, carers and the likes in addition to this number. The scheduling of classes during these hours shall have at least a 10 minute period between each class to allow for car parking turnover.

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

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**

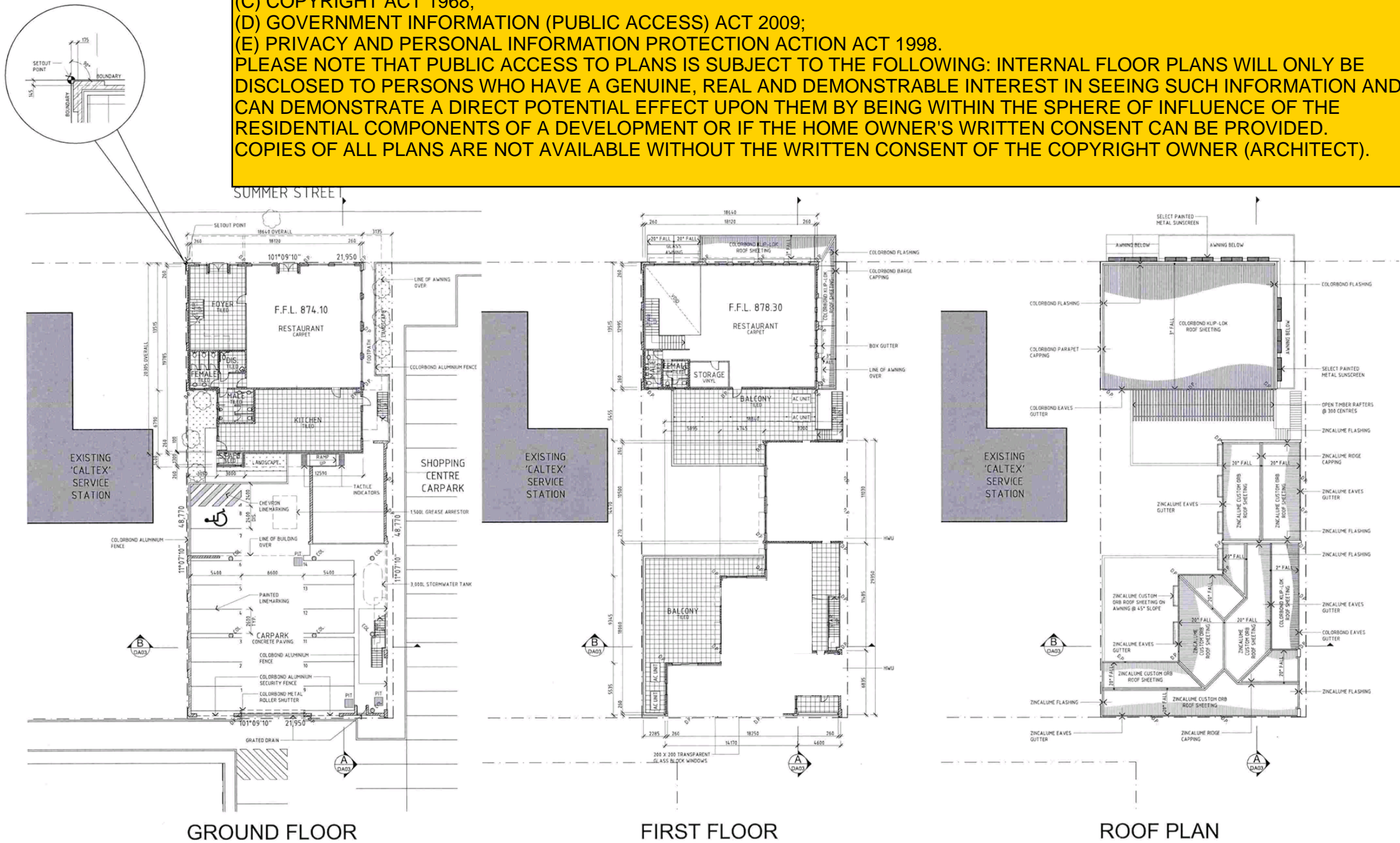
Signature:**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

Date:

5 August 2020

FOR THE PUBLIC, PLANS WILL BE OMITTED AND SUBMISSIONS REDACTED IN ORDER TO COMPLY WITH VARIOUS OBLIGATIONS OF ORANGE CITY COUNCIL UNDER:
(A) ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979;
(B) ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS 2000;
(C) COPYRIGHT ACT 1968;
(D) GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009;
(E) PRIVACY AND PERSONAL INFORMATION PROTECTION ACTION ACT 1998.
PLEASE NOTE THAT PUBLIC ACCESS TO PLANS IS SUBJECT TO THE FOLLOWING: INTERNAL FLOOR PLANS WILL ONLY BE DISCLOSED TO PERSONS WHO HAVE A GENUINE, REAL AND DEMONSTRABLE INTEREST IN SEEING SUCH INFORMATION AND WHO CAN DEMONSTRATE A DIRECT POTENTIAL EFFECT UPON THEM BY BEING WITHIN THE SPHERE OF INFLUENCE OF THE RESIDENTIAL COMPONENTS OF A DEVELOPMENT OR IF THE HOME OWNER'S WRITTEN CONSENT CAN BE PROVIDED. COPIES OF ALL PLANS ARE NOT AVAILABLE WITHOUT THE WRITTEN CONSENT OF THE COPYRIGHT OWNER (ARCHITECT).



ISSUE	DATE	AMENDMENT	PROJECT	TITLE	CLIENT	ARCHITECT	SCALE	DATE	DATE	PROJECT
P1	14-09-09	PRELIMINARY ISSUE	PROPOSED MIXED USE DEVELOPMENT SUMMER STREET, ORANGE NSW	PROPOSED FLOOR PLANS	PRIMESPACE PTY LTD		1/200 @ A1	14-09-09	14-09-09	09031
P2	15-09-09	PRELIMINARY REV'D								
P3	16-09-09	PRELIMINARY REV'D								
P4	17-09-09	PRELIMINARY REV'D								
P5	18-09-09	PROPOSITION FOR DA ISSUE								
P6	19-09-09	PRELIMINARY REV'D								
P7	20-09-09	PRELIMINARY REV'D								
P8	21-09-09	PRELIMINARY REV'D								
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