



PLANNING AND DEVELOPMENT COMMITTEE

AGENDA

5 APRIL 2022

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** on **Tuesday, 5 April 2022**.

David Waddell
CHIEF EXECUTIVE OFFICER

For apologies please contact Administration on 6393 8106.

AGENDA

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1 INTRODUCTION

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

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

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

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

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

RECOMMENDATION

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

2 GENERAL REPORTS

2.1 ITEMS APPROVED UNDER THE DELEGATED AUTHORITY OF COUNCIL

RECORD NUMBER: 2022/241

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 (see last paragraph of this report for those figures).

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 171/2007(3)

Determination Date: 21 February 2022

PR Number PR2315

Applicant/s: Mrs TA Fenton

Owner/s: Mrs TA Fenton

Location: Lot 4 DP 715252 - 1 Borrodell Drive, Orange

Proposal: Modification of development consent - subdivision (seven lot residential). The modified proposal sought to create two stages for the construction and release of the lots, by excising the existing dwelling from the development site as Stage One, and then further subdivision of the development site as Stage Two. Changes to lot boundaries are proposed, however, lot yield remains as previously approved.

Value: N/A

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 405/2017(5) **Determination Date:** 9 March 2022
PR Number PR10141
Applicant/s: Orange Evangelical (OEC) Church Incorporated
Owner/s: Orange Evangelical (OEC) Church Incorporated
Location: Lot 9 DP 746439 - 2 Cottonwood Way, Orange
(formerly known as 241 Ploughmans Lane)
Proposal: Modification of development consent - place of public worship and business identification sign. The modified proposal involves amended site entrance treatment, business identification signage and internal pedestrian paths (levels and location).
Value: N/A

Reference: DA 214/2021(2) **Determination Date:** 9 March 2022
PR Number PR12120
Applicant/s: Saunders and Staniforth Pty Ltd
Owner/s: Mr BW and Mrs KL Draper
Location: Lot 11 DP700977 - 207 Canobolas Road, Orange
Proposal: Modification of development consent – subdivision. The modified proposal involves changes to the equine and dwelling building envelope on Lot 101. The proposal also involves the relocation of the access point of Lot 101 to a more central point along Canobolas Road.
Value: N/A

Reference: DA 227/2021(1) **Determination Date:** 7 March 2022
PR Number PR19769
Applicant/s: Spectrum Retail Group
Owner/s: Peter Terry Nominees Pty Limited
Location: Lot 10 DP1069827 - 2-6 Bathurst Road, Orange
Proposal: Demolition (existing buildings and hardstand area), takeaway food and drink premises (new construction) and business identification signage
Value: \$1,312,594.00

Reference: DA 470/2021(1) **Determination Date:** 28 February 2022
PR Number PR14163
Applicant/s: Erolwren Pty Limited
Owner/s: Erolwren Pty Limited
Location: Lot 1 DP 392443, Lot 1 DP 213505, Lot 2 DP 213505, Lot 102 DP 562456
85-107 Glenroi Avenue, Orange
Proposal: Subdivision (consolidation and boundary adjustment: four lots into three lots)
Value: N/A

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 499/2021(1) **Determination Date:** 28 February 2022
PR Number PR25281
Applicant/s: Voerman and Ratsep
Owner/s: Housing Plus
Location: Lot 124 DP 1156423 - 260-266 Phillip Street, Orange
Proposal: Subdivision (16 lot Strata title)
Value: N/A

Reference: DA 501/2021(1) **Determination Date:** 7 March 2022
PR Number PR7083
Applicant/s: C/- Andrew Saunders
Owner/s: AMP Pastoral Pty Limited
Location: Lot 100 DP 1226302
Proposal: Hotel or motel accommodation (internal alterations - apartment conversion)
Value: \$18,000

Reference: DA 522/2021(1) **Determination Date:** 11 March 2022
PR Number PR21749
Applicant/s: Housing Plus
Owner/s: Housing Plus
Location: Lot 1 DP 1101782 - 72A Icely Road, Orange
Proposal: Subdivision (eleven lot Community title)
Value: N/A

Reference: DA 535/2021(1) **Determination Date:** 11 March 2022
PR Number PR24686
Applicant/s: Voerman and Ratsep
Owner/s: Housing Plus
Location: Lot 101 DP 1160763 - 21-25 Bletchington Street, Orange
Proposal: Subdivision (12 lot Community title)
Value: N/A

Reference: DA 541/2021(1) **Determination Date:** 28 February 2022
PR Number PR25813
Applicant/s: Saunders and Staniforth Pty Ltd
Owner/s: Mr MA and Mrs H Foley
Location: Lot 9 DP 1176470 - 2 Atlas Place, Orange
Proposal: General Industrial (construction of nine units)
Value: \$800,000

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 543/2021(1) **Determination Date:** 28 February 2022
PR Number PR28970
Applicant/s: Mr B Kattuvallil Garvasees
Owner/s: Mr B Kattuvallil Garvasees
Location: Lot 64 DP 1274510 - 4 Mountain Vista, Orange
Proposal: Subdivision (two lot Torrens title)
Value: N/A

Reference: DA 552/2021(1) **Determination Date:** 28 February 2022
PR Number PR7212
Applicant/s: Mrs JL Regan
Owner/s: Mr KL and Mrs JL Regan
Location: Lot 58 DP 602098 - 15 Catto Close, Orange
Proposal: Demolition (tree removal)
Value: \$2,000

Reference: DA 15/2022(1) **Determination Date:** 7 March 2022
PR Number PR25846
Applicant/s: Source Architects
Owner/s: Mr BJ and Mrs RJ Davis
Location: Lot 18 DP 1057526- 87 Bargwanna Road, Spring Creek
Proposal: Dwelling, attached garage, swimming pool (inground) and pool fencing, tennis court and sheds
Value: \$2,148,900.00

Reference: DA 34/2022(1) **Determination Date:** 28 February 2022
PR Number PR14873
Applicant/s: Caladines Town Planning
Owner/s: 156-160 Summer Street Orange Pty Ltd
Building F 44-54 Raglan Street
Location: Lot 1 DP 196052 and Lot C DP 402112 - 156 Summer Street, Orange and
Lot 1 DP 743344, Lot 1 DP 572454, Lot 11 DP 1164287 - 158 Summer
Street, Orange
Proposal: Retail Premises (alterations - shop fitout)
Value: \$250,000

TOTAL NET* VALUE OF DEVELOPMENTS APPROVED BY THE CEO UNDER DELEGATED AUTHORITY IN THIS PERIOD:	\$4,531,494.00
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** Net value relates to the value of modifications. If modifications are the same value as the original DA, then nil is added. If there is a plus/minus difference, this difference is added or taken out.*

2.1 Items Approved Under the Delegated Authority of Council

Additionally, since the March 2022 meeting report period 17 February to 22 March 2022 to 2022), another 21 development applications were determined under delegated authority by other Council staff with a combined value of \$3,040,785.

2.2 INFORMATION REPORT - EMPLOYMENT ZONES REFORMS

RECORD NUMBER: 2022/415

AUTHOR: Craig Mortell, Senior Planner

EXECUTIVE SUMMARY

The NSW Department of Planning and Environment (DPE) have advised of an intended change to the standard LEP template with respect to employment zones. The term 'employment zones' encompasses and combines both the current business zones (B1 – B7) and the industrial zones (IN1 – IN2). The Department intends to replace these zones with new E zones and in doing so the number of zones available will be reduced.

This will alter every LEP in the state to one degree or another and the local effects for Orange are discussed in this report. DPE advise that a draft SEPP will be exhibited shortly to outline the changes and provide for public input. It is understood that the exhibition will be formatted in the style of an explanation of intended effects, rather than a highly detailed form where the changes of each LEP are essentially finalised.

The finalisation of the employment zone changes is anticipated to occur toward the end of the current year. The purpose of this report is to enable Council to give direction and guidance to staff on any further discussions and representations with DPE as they progress the reforms to completion.

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 acknowledge the content of this report and advise the Department of Planning and Environment of the following concerns;

- The merging of the B1 and B2 zones creates a risk to the established hierarchy of commercial activity in Orange, such that it may result in pressure for more out-of-centre shopping centres and supermarkets, and
- The merging of the B5, B6 and B7 zones creates a risk to the established hierarchy of commercial activity in Orange, such that it may result in a scattering of specialised retail premises (a.k.a. bulky goods premises) across various parts of Orange in an uncoordinated manner
- That both of these risks are likely to undermine the trading performance of the Orange CBD, which is a centre of regional significance providing higher order services to the sub-region and beyond.

That Council request the Department of Planning and Environment work with Council staff to identify and draft appropriate local clauses and other mapping changes, such as

- Floor Space Ratio limits on the current B1 land to reflect the neighbourhood scale these sites have always been intended to serve, and limit the potential for out-of-centre retail shopping.
- GFA limits on the current B6 and B7 zoned land in relation to:
 - Specialised retail premises
 - Landscaping and material supplies
 - Local distribution centres
 - Rural supplies
 - Timber yards

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

Late last year (1 December) the Department of Planning and Environment changed the designation of four zones from E (Environmental) to C (Conservation). That change was negligible since the only change was to the alphanumeric label for the zone. In all other respects the zones remained the same, carrying over their objectives and land use tables intact.

In effect that change was a precursor to allow a change, known as the employment zone reforms, to replace the (B) business and (IN) industrial zones merging them into a single (E) employment category. However, employment zone change goes further by reducing the overall number of zones for these purposes.

2.2 Information report - Employment Zones Reforms

Currently there are 12 B and IN zones, of which Orange has adopted 9, and these are to be replaced with a total of 5 zones. This reduction means that some zones will be 'collapsed' together and as a result the objectives and land use tables of these zones will not be a direct one to one conversion.

Some of the affected lands may have the range of permissible uses broadened as they gain the uses currently limited to other zones.

The proposed reform consists of replacing all current B (business) and IN (industrial) zones with a total of 5 new zones. The following table illustrates how the zones in the Orange LEP would be translated.

Proposed zone	Current Orange LEP zone(s)
Zone E1 Local Centre	B1 and B2
Zone E2 Commercial Centre	B3
Zone E3 Productivity Support	B5, B6 and B7
Zone E4 General Industrial	IN1 and IN2
Zone MU1 Mixed Use	B4

Translation of the B3 into the E2 commercial Centre zone and the translation of the B4 into the MU1 Mixed Use zone are supported as these zones are only replacing a single zone, allowing the objectives and land use tables to remain essentially unchanged.

2.2 Information report - Employment Zones Reforms



Figure 1 – existing B3 Commercial Core to become proposed E2 Commercial Centre Zone



Translation of the IN1 and IN2 zones into a single E4 General Industrial zone is also supported. The extent of difference between the IN1 and IN2 zones is minimal. The following table shows the uses currently prohibited in one but not the other zone.

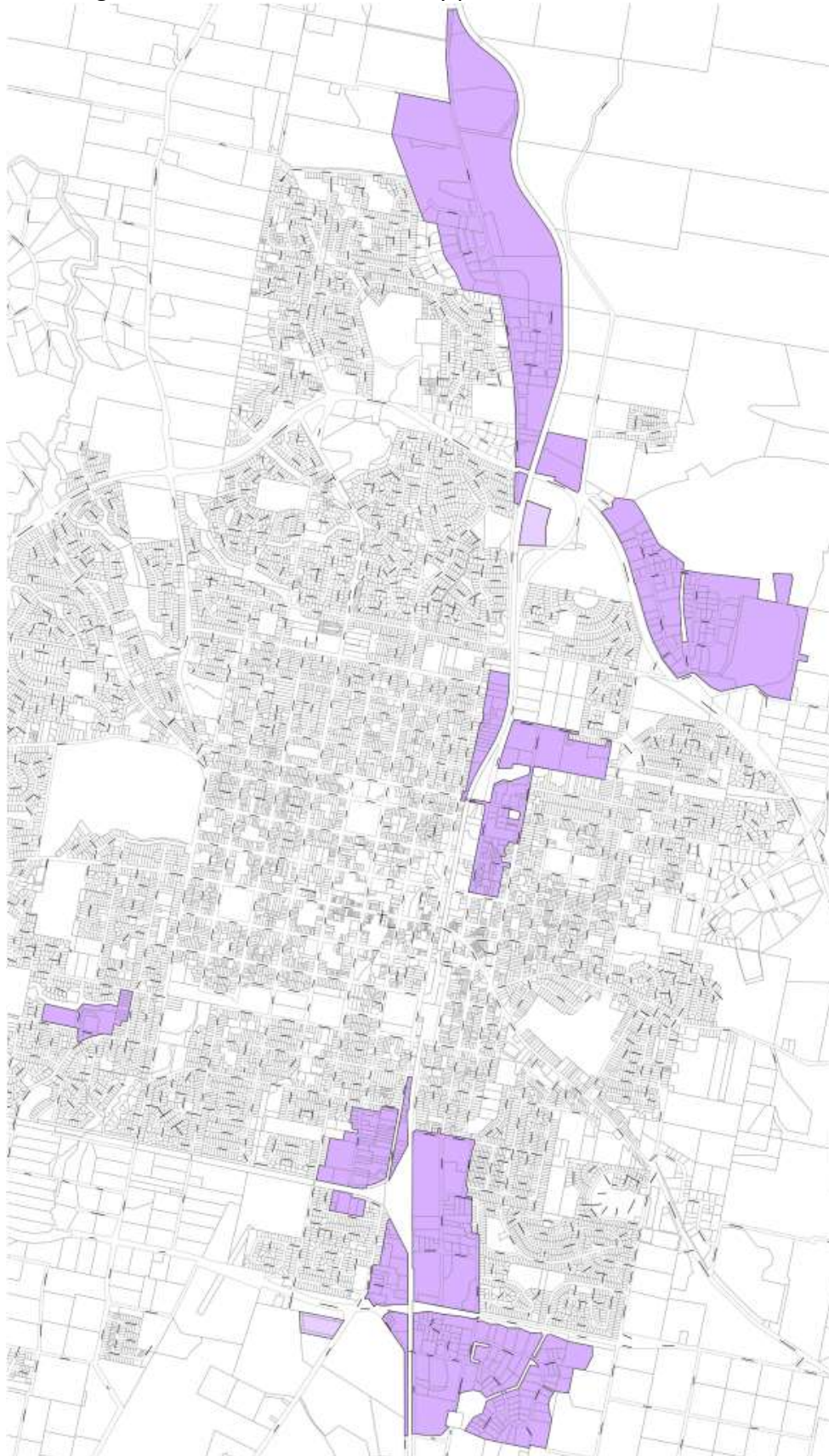


Figure 3 – Existing IN1 and IN2 zones to become proposed E4 General Industrial Zone

IN1 zone prohibitions	IN2 zone prohibitions
Animal boarding or training establishments; Information and education facilities;	Biosolids treatment facilities; Extractive industries; Heavy industrial storage establishments; Recreation facilities (major); Recreation facilities (outdoor); Rural industries; Sewage treatment plants; Sex services premises; Water recycling facilities; Water supply systems

The merging of the IN1 and IN2 zones into the E4 will broaden the locations where the above uses can occur. The draft land use tables prepared by DPE suggest that the IN2 prohibitions above be lifted while the IN1 prohibitions to remain, this reflects that the IN1 prohibitions involve uses that would potentially draw in light vehicle traffic into areas with significant heavy vehicle movements, whereas the IN2 prohibitions were largely related to potential interface concerns. In most cases it is considered that market forces will adequately guide site selection of the above uses.

Translation of the B1 and B2 zones into the E1 Local Centre zone is problematic as this would result in small neighbourhood shops such as Greengate, Woodward Street shops and others having the same zone and status as the north orange shopping centre.

In theory, this could result in a developer seeking to buy up an existing B1 cluster and proposing to redevelop with a full line supermarket and specialty shops. If this were to occur it could undermine the trading performance of the existing CBD. The likelihood of this occurring is considered minor in most instances as the area of land available in most B1 zoned areas is relatively small as shown in **figure 4**.

However larger B1 zones have been created further out in Shiralee and in a planned subdivision area east of Leeds Parade, which have areas comparable to the B2 zones at North Orange and on Forest Road south of the hospital as shown on **figure 5**. Discussions with DPE have indicated that Council can seek to have a local clause that would impose a retail floor space ratio (FSR) limit on the current B1 lands such that this scenario would be far less likely to occur.

Council could also seek to have supermarkets prohibited in the new E1 zone (only allowing Neighbourhood Supermarkets which have a cap of 1000m²) and create an Additional Permitted Use (APU) over the existing north orange shopping centre to ensure that development remained permissible.



Figure 4 – existing B1 zones applying to traditional neighbourhood shop clusters.

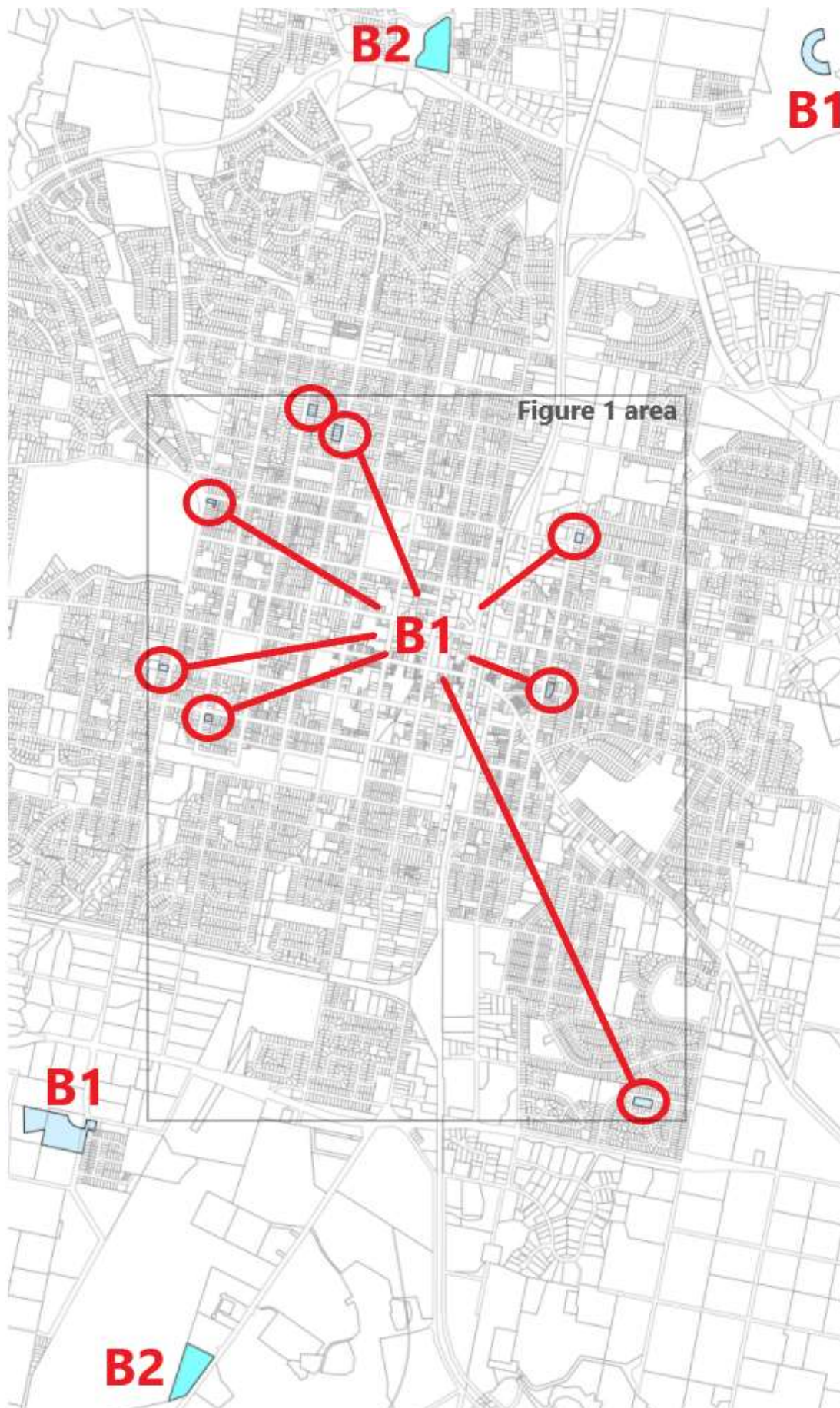


Figure 5 – map all B1 and B2 zoned areas (Shiralee and Leeds Parade sites substantially larger)

Translation of the B5, B6 and B7 zones into the E3 Productivity Support zone also raises concerns as this would create a similar concern in relation to Specialised Retail Premises (also known as bulky goods premises). Currently the only potential for out-of-centre specialised retail premises is in the B5 zone, which applies to the Homemaker Centre, former Prime TV site and a child care centre on the corner of Dalton and McLachlan Streets.

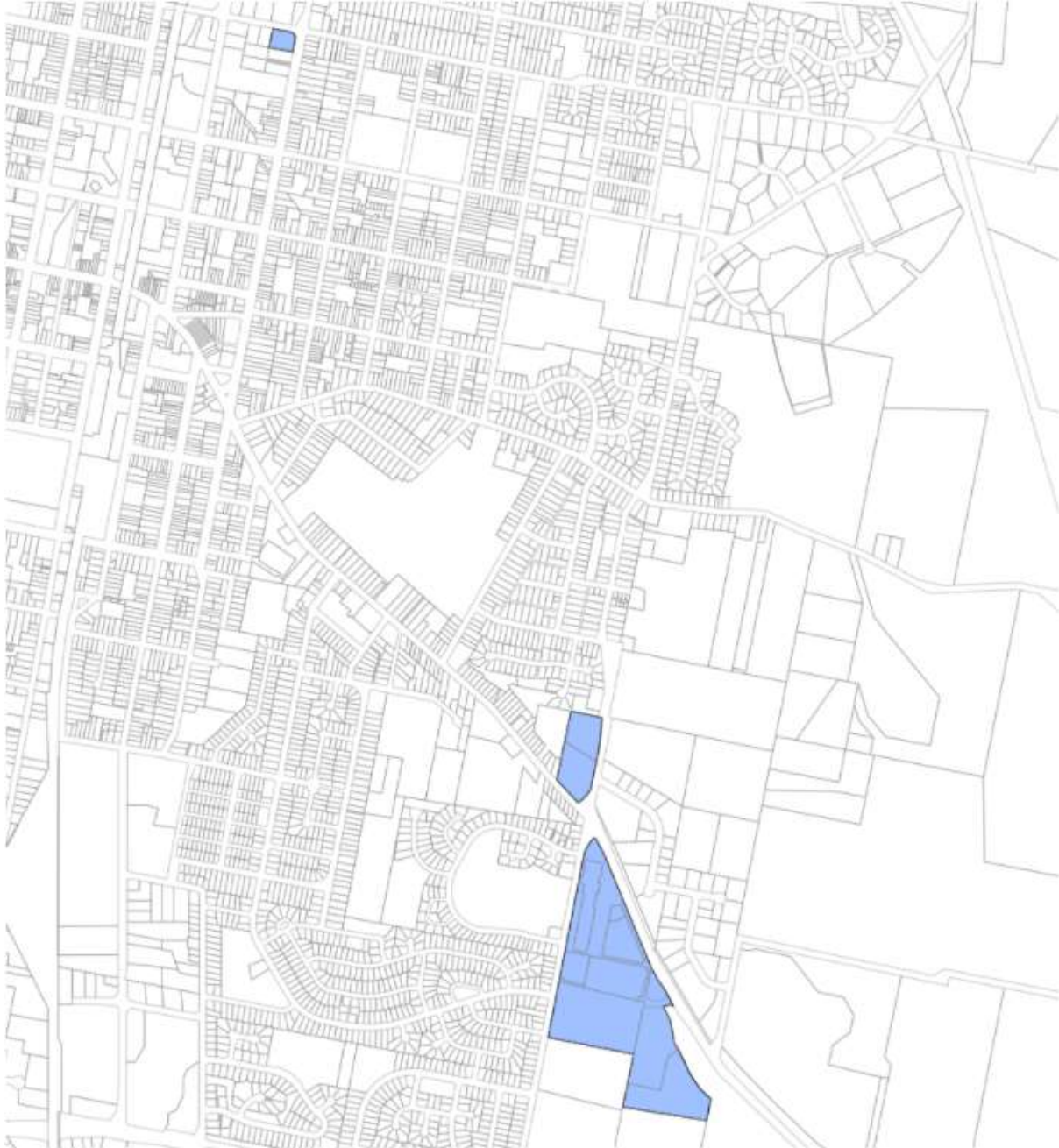


Figure 6 - current B5 zoned lands

However once the three zones are combined the new zone would encompass a much broader area of the city. The current B5 lands are shown in **figure 6**, while **figure 7** shows all three affected zones that would be combined together into the new E3 zone.

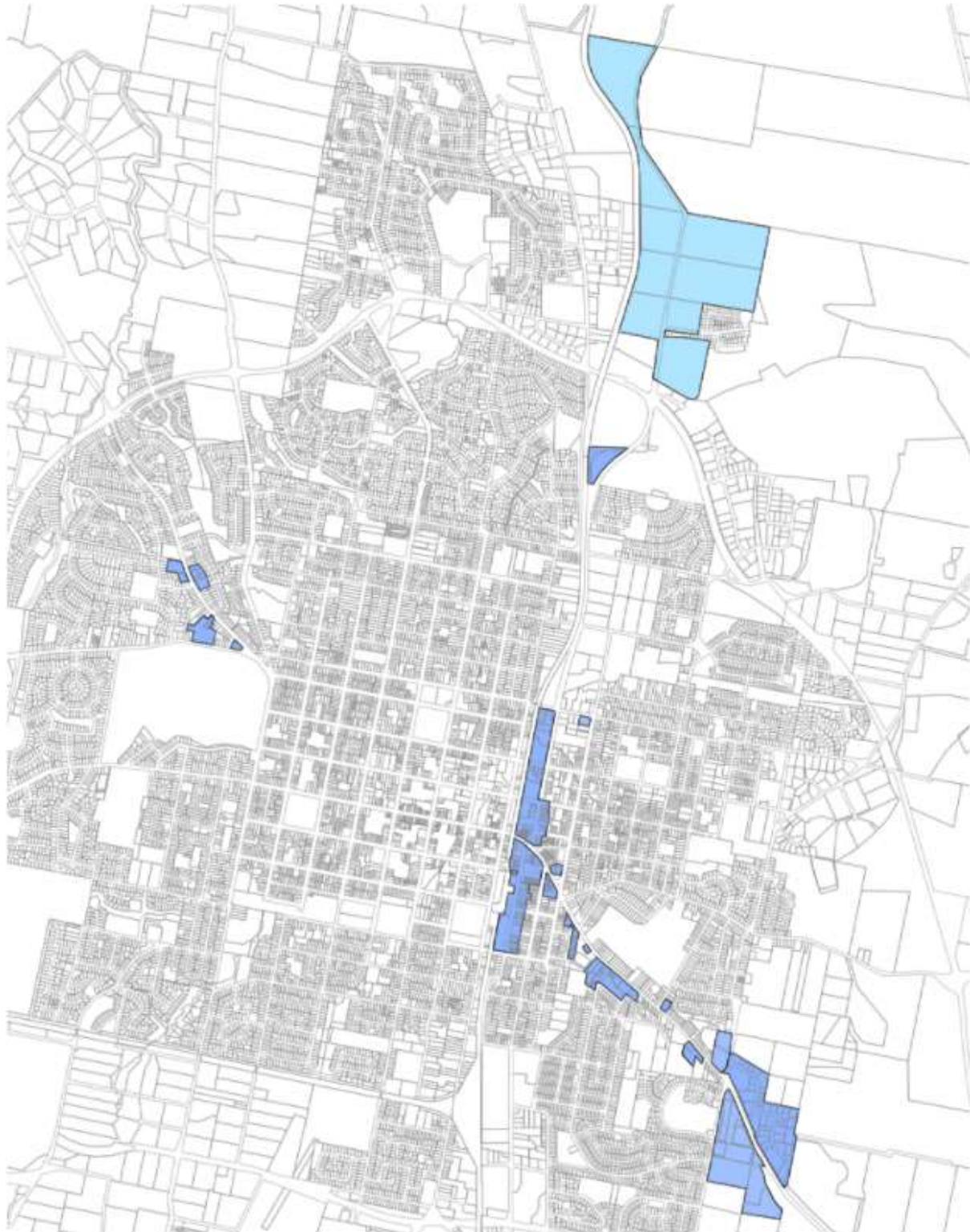


Figure 7 - current B5, B6 and B7 lands proposed to be combined into a single E3 Productivity Support zone

Discussions with DPE have indicated that Council can seek a local clause to limit the gross floor area for any uses of concern outside of the current B5 zone. i.e. specialised retail premises could be limited to 300m² or 400m² other than at the established homemaker centre site.

2.2 Information report - Employment Zones Reforms

As an example DPE have indicated the following (or similar) is likely to be part of the exhibition for a similar regional council:

A new local provision will be introduced which will set a maximum gross floor area of 400sqm for landscaping material supplies, local distribution premises, rural supplies, specialised retail premises, timber yards and vehicle sales and hire premises in the E1 zone.

Council staff have indicated to DPE that Orange may seek a similar provision, particularly in relation to specialised retail premises. Of the other uses listed most are considered to be appropriate to be included with the possible exception of vehicle sales and hire premises as these already exist in the B6 zone and should not be constrained simply due to the proposed change in zones.

The other uses stated are more typical within our industrial zones and may not be relevant for the E3 zone in Orange. However they are not considered to undermine the CBD performance given that they would typically require a large footprint and would not compete with other uses for CBD land values.

In view of the above staff have advised DPE that Orange would likely seek to have some delineation within the proposed E1 and E3 zones to reflect the above stated concerns. DPE have advised that the upcoming SEPP exhibition will set out the intended effects (similar to the above example) rather than the final wording of specific clauses. This will allow scope for Council, or others, to make submissions to further guide the final drafting of the changes.

ATTACHMENTS

- 1 Draft Land Use Tables prepared by Department of Planning and Environment, D22/16928 [↓](#)



Preliminary translation of the employment zones land use tables

Orange LEP 2011 land use tables (Version 1.0)

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



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PRELIMINARY TRANSLATION

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



Orange Local Environmental Plan 2011

Zone E1 Local Centre

Direction

The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone—

Building identification signs; Business identification signs; Home businesses; Home industries; Home occupations; Recreation areas; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –
Pond-based aquaculture; Tourist and visitor accommodation (as the group term) and non-mandated land use sub-terms – backpackers’ accommodation; bed and breakfast accommodation; farm stay accommodation; and serviced apartments.
2. Objectives – there may be guidance detailed in 1 Objectives of zone for council feedback. This includes whether to ‘retain’, ‘delete’ or ‘amend’ a local objective.

1 Objectives of zone

- To provide a range of retail, business and community uses that serve the needs of people who live, work or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- ~~To ensure that retail, business and community uses in North Orange and South Orange will not detract from the role of the CBD as the primary business centre within the City. [delete]~~
- ~~To encourage local employment opportunities in accessible locations. [delete]~~
- 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. [retain]
- To promote development of a scale that is conducive to the role of the Orange CBD as the primary retail and business centre in the region. [retain]
- To ensure development in the Northern Leeds Parade area is appropriately serviced, of a scale consistent with the needs of the area and will not detract from the role of the CBD as the primary business centre within the City. [retain]

2 Permitted without consent

Environmental protection works; Home occupations; Home-based child care

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



3 Permitted with consent

Amusement centres; Artisan food and drink industries; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Dwelling houses; Educational establishments; Electricity generating works; Entertainment facilities; Environmental facilities; Function centres; Home businesses; Home industries; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Secondary dwellings; Seniors housing; Service stations; Shop top housing; Signage; Tank-based aquaculture; Veterinary hospitals; Water supply systems; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Recreation facilities (major); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Wholesale supplies

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



Zone E2 Commercial Centre

Direction

The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone—

Building identification signs; Business identification signs; Home businesses; Home industries; Home occupations; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –
Pond-based aquaculture
2. Objectives – there may be instructions detailed in 1 Objectives of zone for council feedback. This includes whether to ‘retain’, ‘delete’ or ‘amend’ a local objective.

1 Objectives of zone

- To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.
- To encourage investment in commercial development that generates employment opportunities and economic growth.
- To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.
- To enable residential development that is consistent with the Council’s strategic planning for residential development in the area.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To promote development that contributes to the role of the Orange CBD as the primary retail and business centre in the City and region. [retain]

2 Permitted without consent

Environmental protection works; Home occupations; Home-based child care

3 Permitted with consent

Amusement centres; Artisan food and drink industries; Backpackers’ accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Commercial premises; Community facilities; Dwelling houses; Educational establishments; Entertainment facilities; Function centres; Group homes; Home businesses; Home industries; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Secondary dwellings;

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



[Shop top housing](#); [Tank-based aquaculture](#); [Tourist and visitor accommodation](#); [Vehicle repair stations](#); [Veterinary hospitals](#); [Any other development not specified in item 2 or 4](#)

4 Prohibited

[Agriculture](#); [Air transport facilities](#); [Airstrips](#); [Animal boarding or training establishments](#); [Biosolids treatment facilities](#); [Boat building and repair facilities](#); [Boat launching ramps](#); [Boat sheds](#); [Camping grounds](#); [Caravan parks](#); [Cemeteries](#); [Charter and tourism boating facilities](#); [Correctional centres](#); [Crematoria](#); [Depots](#); [Eco-tourist facilities](#); [Exhibition homes](#); [Exhibition villages](#); [Extractive industries](#); [Farm stay accommodation](#); [Forestry](#); [Freight transport facilities](#); [Heavy industrial storage establishments](#); [Helipads](#); [Highway service centres](#); [Home occupations \(sex services\)](#); [Industrial retail outlets](#); [Industrial training facilities](#); [Industries](#); [Jetties](#); [Marinas](#); [Mooring pens](#); [Moorings](#); [Open cut mining](#); [Recreation facilities \(major\)](#); [Research stations](#); [Residential accommodation](#); [Resource recovery facilities](#); [Rural industries](#); [Sewage treatment plants](#); [Sex services premises](#); [Storage premises](#); [Transport depots](#); [Truck depots](#); [Vehicle body repair workshops](#); [Vehicle sales or hire premises](#); [Warehouse or distribution centres](#); [Waste disposal facilities](#); [Water recreation structures](#); [Water recycling facilities](#); [Water supply systems](#); [Wholesale supplies](#)

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



Zone E3 Productivity Support

Direction

The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone—

Building identification signs; Business identification signs; Home industries; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –
Pond-based aquaculture
2. Objectives – there may be guidance detailed in 1 Objectives of zone for council feedback. This includes whether to ‘retain’, ‘delete’ or ‘amend’ a local objective.

1 Objectives of zone

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured on-site.
- To provide for residential uses, but only as part of a mixed use development. [retain]
- To encourage a mix of light industrial activities and research activities that encourage the sharing of facilities. [retain]
- 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. [retain]

2 Permitted without consent

Environmental protection works; Home occupations; Home-based child care

3 Permitted with consent

Animal boarding or training establishments; Boat building and repair facilities; Building identification signs; Business identification signs; Business premises; Centre-based child care facilities; Community facilities; Depots; Function centres; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Information and education facilities; Kiosks; Landscaping material supplies; Light industries; Local distribution premises; Markets; Mortuaries; Multi dwelling housing; Neighbourhood shops; Office

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



premises; Oyster aquaculture; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Respite day care centres; [Restaurants or cafes](#); [Roads](#); Rural supplies; Service stations; [Shop top housing](#); [Signage](#); Specialised retail premises; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; [Tourist and visitor accommodation](#); Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Wholesale supplies

4 Prohibited

[Agriculture](#); [Air transport facilities](#); [Airstrips](#); [Amusement centres](#); [Biosolids treatment facilities](#); [Boat launching ramps](#); [Boat sheds](#); [Camping grounds](#); [Car parks](#); [Caravan parks](#); [Cemeteries](#); [Charter and tourism boating facilities](#); [Commercial premises](#); [Correctional centres](#); [Crematoria](#); [Eco-tourist facilities](#); [Entertainment facilities](#); [Exhibition homes](#); [Exhibition villages](#); [Extractive industries](#); [Farm buildings](#); [Forestry](#); [Freight transport facilities](#); [Heavy industrial storage establishments](#); [Helipads](#); [Highway service centres](#); [Home business](#); [Home occupations \(sex services\)](#); [Industries](#); [Jetties](#); [Marinas](#); [Mooring pens](#); [Moorings](#); [Open cut mining](#); [Registered clubs](#); [Residential accommodation](#); [Retail premises](#); [Rural industries](#); [Rural workers' dwellings](#); [Sewage treatment plants](#); [Sex services premises](#); [Transport depots](#); [Truck depots](#); [Waste or resource management facilities](#); [Water recreation structures](#); [Water recycling facilities](#)

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



Zone E4 General Industrial

Direction

The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone—

Building identification signs; Business identification signs; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –
Pond-based aquaculture; Places of public worship
2. Objectives – there may be guidance detailed in 1 Objectives of zone for council feedback. This includes whether to ‘retain’, ‘delete’ or ‘amend’ a local objective.

1 Objectives of zone

- To provide a range of industrial, warehouse, logistics and related land uses.
- To ensure the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.
- To ensure development along the Southern Link Road has an alternative access. [retain]

2 Permitted without consent

Environmental protection works

3 Permitted with consent

Building identification signs; Business identification signs; Depots; Freight transport facilities; Funeral homes; Garden centres; General industries; Goods repair and reuse premises; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Kiosks; Landscaping material supplies; Light industries; Local distribution premises; Neighbourhood shops; Oyster aquaculture; Roads; Rural supplies; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Centre-based child care facilities; Charter and tourism boating facilities; Commercial premises; Community facilities; Correctional centres; Eco-tourist facilities; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Forestry; Function centres; Health services facilities; Highway service centres; Home businesses; Home occupations;

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



Home occupations (sex services); Home-based child care; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Public administration buildings; Registered clubs; Residential accommodation; Respite day care centres; Tourist and visitor accommodation; Water recreation structures

PRELIMINARY TRANSLATION

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



Zone MU1 Mixed Use

Direction

The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone—

Building identification signs; Business identification signs; Home industries; Roads

Guidance

The following needs to be considered by council in finalising the land use table:

1. Land uses - a decision by council as to whether council permits or prohibits –
Pond-based aquaculture
2. Objectives – there may be guidance detailed in 1 Objectives of zone for council feedback. This includes whether to ‘retain’, ‘delete’ or ‘amend’ a local objective.

1 Objectives of zone

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To promote, where possible, the retention and reuse of heritage items as well as the retention of established buildings that contribute positively to the heritage or cultural values of the land in the zone. [retain]
- To promote development that supports the role of Orange CBD as the primary retail and business centre in the region. [retain]

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations

3 Permitted with consent

Amusement centres; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Light industries; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Any other development not specified in item 2 or 4

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Recreation facilities (major); Research stations; Resource recovery facilities; Rural industries; Rural workers' dwellings; Sex services premises; Storage premises; Transport depots; Truck depots; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures

PRELIMINARY TRANSLATION

Employment zones reform

Preliminary translation of Orange LEP 2011 land use tables



Local Provisions and Schedule 1 – Additional permitted uses

This table lists Local Provisions and Schedule 1 – Additional permitted uses. The department, in reviewing these existing provisions, has prepared a recommendation for how to proceed as part of translation into the new employment zones. Council is asked to review, confirm, or amend the recommendations.

LEP	Clause/Schedule	Provision	Implications for implementation	Recommendation
Orange LEP 2011	Schedule 1			
	Schedule 1, cl.5, 1 Leewood Dr, Orange	Allows business premises, community facilities, highway service centres, office premises, plant nurseries, rural supplies and take away food and drink premises (land zoned IN1)	Apart from take away food and drink premises all other uses not mandated in E4.	Retain provision

2.3 DEVELOPMENT APPLICATION DA 521/2021(1) - 370 THE ESCORT WAY

RECORD NUMBER: 2022/423

AUTHOR: Summer Commins, Senior Planner

EXECUTIVE SUMMARY

Application lodged	29 November 2021 – 29 STOP DAYS
Applicant/s	Habitat Planning
Owner/s	McAuley Property Limited
Land description	Lot 206 DP 1257565 - 370 The Escort Way, Orange
Proposed land use	Seniors Housing (four dwellings)
Value of proposed development	\$3,730,100.00

Council's consent is sought for proposed *seniors housing (four dwellings)* at Lot 206 DP 1257565 – 370 The Escort Way, Orange.

The proposal involves construction of four self-contained dwellings for supported or independent living for seniors or people with a disability. A separate social pavilion will be provided for use by residents. Staff accommodation will be available. The application is made pursuant to State Environmental Planning Policy (Housing) 2021, Part 5 Housing for Seniors and People with a Disability.



Figure 1 – presentation of the development to The Escort Way

The proposal comprises advertised development in accordance with Council's Community Participation Plan 2019. Written and public notice of the application was given for the prescribed period. No submissions were received.

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

The Planning and Development Committee have delegation to approve the application based on the development cost of more than \$2.5million. Approval of the application is recommended.

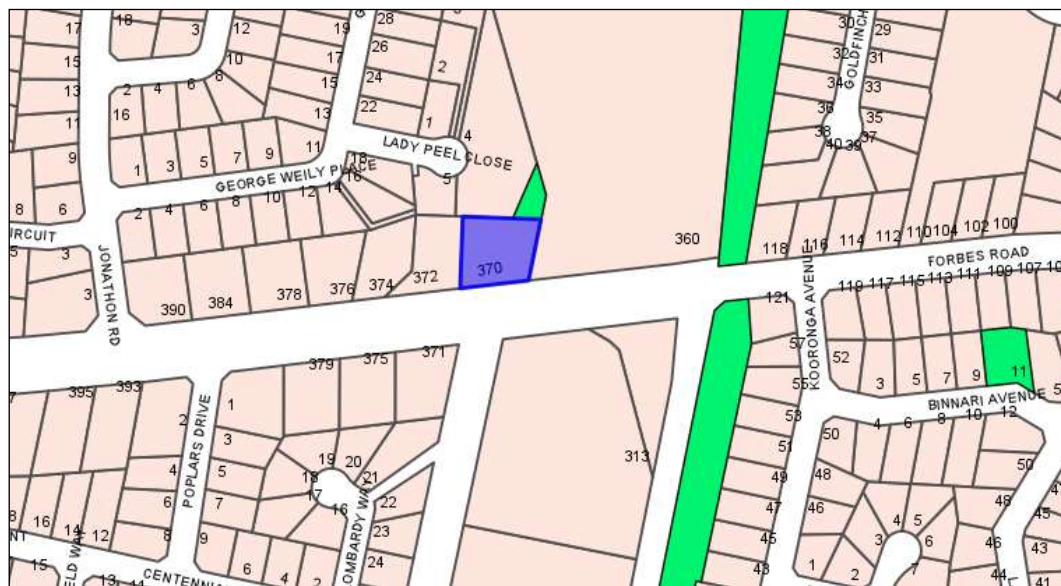


Figure 2 - locality plan

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

As alluded to in the above summary, the proposal involves construction of four self-contained dwellings for supported or independent living for seniors or people with a disability. Please note that the application has made pursuant to State Environmental Planning Policy (Housing) 2021, Part 5 Housing for Seniors and People with a Disability and the requirements of this SEPP have been addressed in this report.

The planning report concludes that the proposal will reasonably satisfy the Local and State planning controls that apply to the subject land and particular land use. It is considered that impacts of the development will be within acceptable limit, subject to mitigation conditions.

Attached is a recommended Notice of Determination containing conditions of consent considered appropriate to ensure that the development proceeds in an acceptable manner. It is recommended that Council supports the subject application.

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 521/2021(1) for *Seniors Housing (four dwellings)* at Lot 206 DP 1257565 - 370 The Escort Way, 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

The proposal involves development of the subject land for housing for seniors and people with a disability.

Two residential buildings will be constructed each containing two dwellings (known as Houses 1-4). Each dwelling will contain two or three bedrooms, two or three bathrooms, open-plan living and dining areas, and laundry facilities. Private open space will be provided for each dwelling.

Staff facilities comprising bedroom, bathroom and office and known as Onsite Overnight Assistance (OOA) will be provided within the western residential building. A detached social pavilion/games room and associated outdoor area will provide a communal recreation space for residents.

Shared on grade car parking will be provided for eight vehicles between the building groups. A carport will be constructed to two over-wide parking spaces for ambulance or mini bus.

The site will be landscaped, and pedestrian paths established. The proposed site layout is depicted below (see Figure 3).

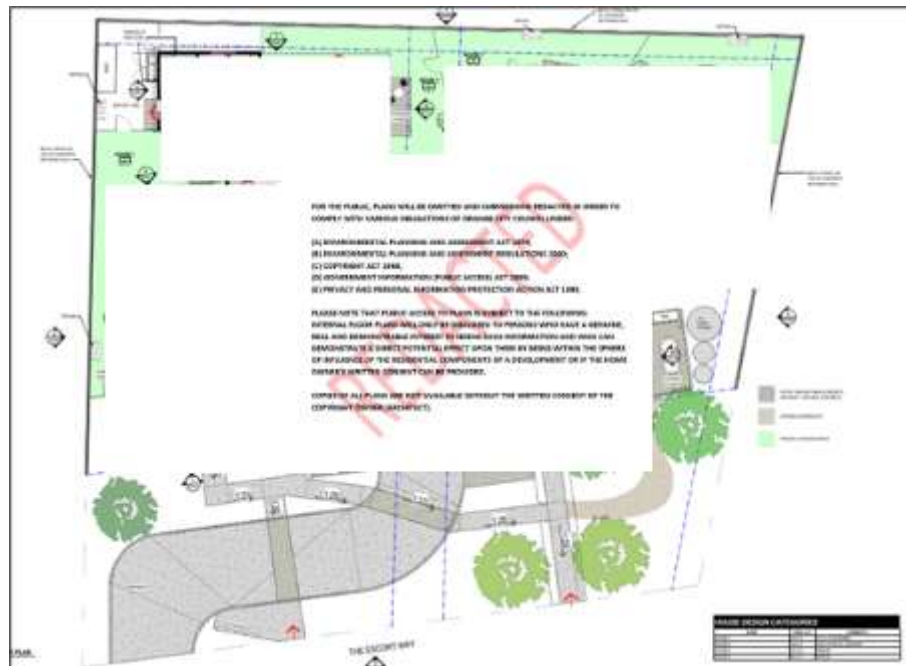


Figure 3 – proposed site plan

The proposed dwellings will take a contemporary building form with flat and skillion roof profiles, irregular fenestration, and mixed finishes. The building design is depicted below (see Figure 4).



Figure 4 – south elevation to The Escort Way

The proposal will comprise a group of self-contained dwellings for supported or independent living for seniors or people with a disability. The dwellings will be designed as 'fully accessible' (House 1); 'high physical support' (House 2); or 'robust living' (Houses 3 and 4). Residents will be supported by three staff members 24 hours per day with meals, cleaning services, personal care, and nursing care.

The application is made pursuant to State Environmental Planning Policy (Housing) 2021, Part 5 Housing for Seniors and People with a Disability. The proposed dwellings will comprise Specialist Disability Accommodation pursuant to the National Disability Insurance Scheme.

MATTERS FOR CONSIDERATION UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994***

Pursuant to Section 1.7:

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

In consideration of this section, the development is not likely to give rise to any significant impact upon any endangered ecologically communities, threatened species or their habitat:

- The subject and adjoining lands are not identified as biodiversity sensitive on the Orange LEP 2011 [Terrestrial Biodiversity Map](#).
- The proposal does not involve clearing or disturbance of native vegetation; clearing thresholds prescribed by regulation do not apply.
- The site is contained within an established urban area and has been highly modified by the urban landuse pattern. The subject land does not contain known threatened species or ecological communities.

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

Section 4.15 Evaluation***Provisions of any Environmental Planning Instrument S4.15(1)(a)(i)*****Orange Local Environmental Plan 2011****Part 1 - Preliminary****Clause 1.2 Aims of Plan**

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

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

The proposed development will not be averse to the above-listed Aims, as outlined in this report.

Clause 1.6 Consent Authority

Clause 1.6 is applicable and states:

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

Clause 1.7 Mapping

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

Land Zoning Map:	Land zoned R2 Low Density 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 biodiversity sensitivity on the site
Groundwater Vulnerability Map:	Groundwater vulnerable
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Partly within a flood planning area

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

Clause 1.9A Suspension of Covenants, Agreements and Instruments

Clause 1.9A is applicable and states in part:

- (1) *For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.*

In consideration of this clause, Council staff are not aware of the title of the subject property being affected by a relevant agreement, covenant, etc.

As a matter arising, the subject land is affected by easements for water 4 wide ("D") and sewer 2 wide ("B") (see DP extract at Figure 5).

The proposed dwellings will be sited clear of the easements and will have nil impact on the operation of the easements. However, based on the proximity of the dwellings to the easements, Council's Assistant Development Engineer has included Conditions requiring structural engineering design of footings, piers and slabs nearby to water and sewer mains within the easements; and no earthworks being carried out within the easements except with Council approval.

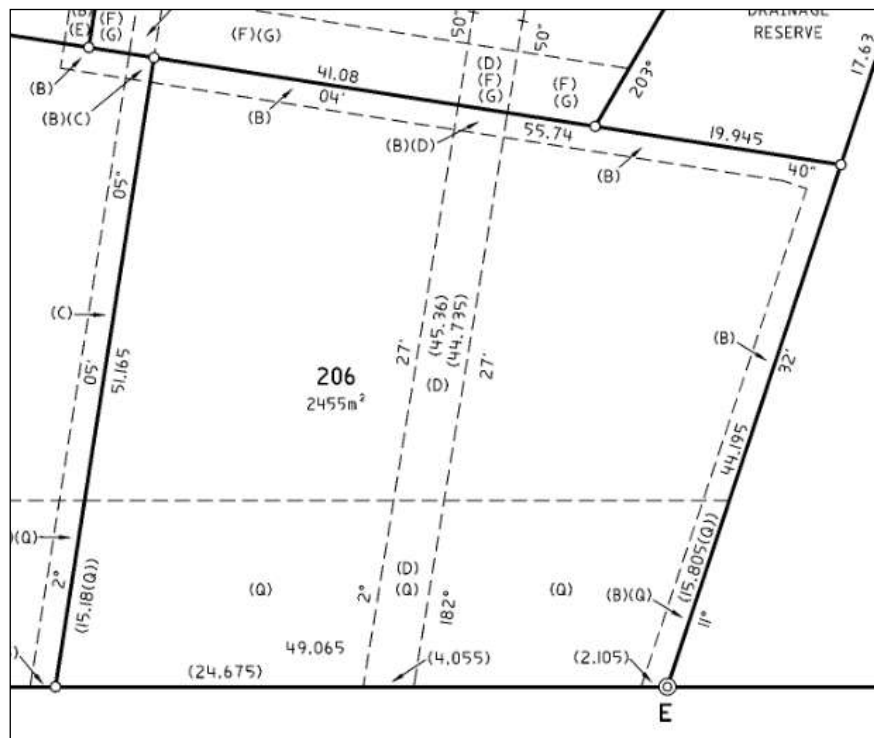


Figure 5 – extract DP 1257565

The site is subject to Restrictions on the Use of Land as follows:

12. *No future domicile/dwelling house application on the lot burdened will be accepted unless accompanied by a Noise Assessment Report and certification from an appropriately qualified Acoustic Consultant Confirming that the design and location of any domicile/dwelling house complies with the relevant road noise standards applicable...*
13. *No structures may be erected on any burdened lot within the area designed (Q) on the plan.*
14. *No vehicular access to any lot burdened will be established from the Northern Distributor Road frontage of the burdened lot.*

In consideration of the Restrictions:

- An Acoustic Engineering Report was submitted in support of the proposal (Cogent Acoustics 18 November 2021). The report concludes that subject to acoustic engineering recommendations in relation to construction methods and materials, the proposed development will satisfy prescribed acoustic requirements. Council's Environmental Health Officer (EHO) concurs with the conclusions. Conditions are included requiring implementation of the acoustic engineering recommendations for the construction.
- The proposed site layout does not include any structures within the area designated Q on the Deposited Plan.
- The proposal does not involve access via the Northern Distributor Road.

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

The subject land is zoned R2 Low Density Residential.

The proposal is defined as *housing for seniors and people with a disability*.

The proposal is permitted with consent in the R2 Zone, pursuant to Section 81 of SEPP Housing 2021 (see following sections of this report).

Clause 2.3 Zone Objectives and Land Use Table

The objectives of the R2 Low Density Residential zone are:

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

The proposed development will satisfy the relevant R2 zone objectives. The proposal will provide additional housing stock to accommodate housing needs.

Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

Part 4 - Principal Development Standards

The Principal Development Standards do not apply to the subject land or proposed land use.

Part 5 - Miscellaneous Provisions

The Miscellaneous Provisions are not applicable to the proposed development.

Part 6 - Urban Release Area

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

Part 7 - Additional Local Provisions**Clause 7.2A Floodplain Risk Management**

The land is partly affected by Probable Maximum Flood (PMF) associated with Ploughman's Creek (see Figure 6).

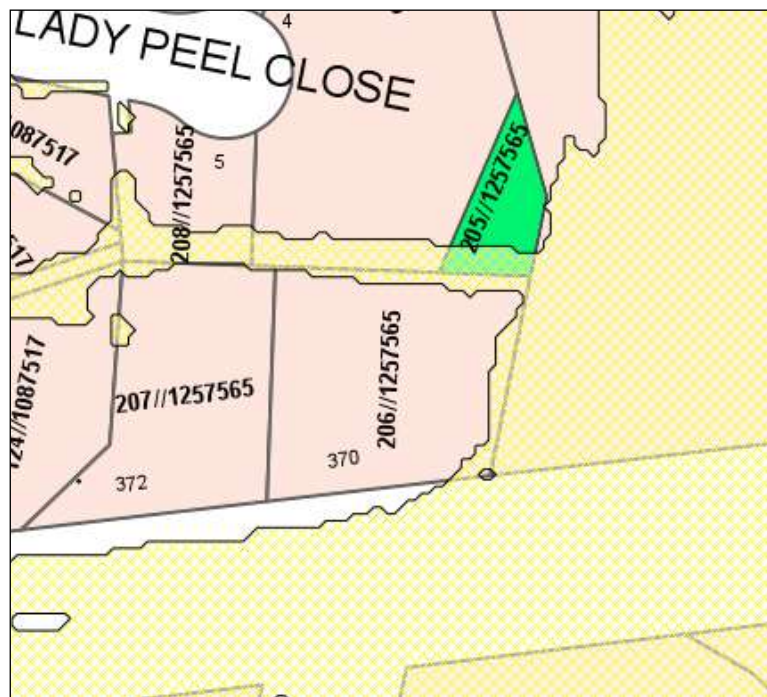


Figure 6 – probable maximum flood hatched yellow

Clause 7.2A is applicable and states in part:

- (3) *Development consent must not be granted to development for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land -*
- (r) *residential accommodation,*

An overland stormwater flow path is located adjacent to the northern boundary and within adjoining land (4 Lady Peel Close). The PMF hatching in Figure 6 depicts the overland flows on the northern boundary. Council's Development Engineer required (at pre-lodgement) that dwellings adjoining the northern boundary have a minimum finished floor level 300mm above natural ground level. The proposed development has been designed to achieve the required minimum floor level.

The proposed buildings will be located outside of flood liable land. There are no aspects of the proposal that will affect the safe occupation or, or evacuation from the land in flood events.

Clause 7.3 Stormwater Management

Clause 7.3 is applicable. This clause states in part:

- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting onsite infiltration of water, and*
- (b) *includes, where practical, onsite stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*

- (c) *avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Council's Assistant Development Engineer has included conditions to satisfy the requirements of this clause.

Clause 7.6 Groundwater Vulnerability

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

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

In consideration of Clause 7.6, there are no aspects of the proposed development that will impact on groundwater and related ecosystems.

Clause 7.11 Essential Services

Clause 7.11 applies and states:

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

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

In consideration of this clause:

- The listed utility services at (a)-(d) are available to the land and adequate for the proposal.
- Existing access (layback and crossover) was provided to the land in conjunction with subdivision works to create the lot (DA 444/2018 (amended)). The proposal will not alter existing access arrangements to the classified road.
- A nominated bin store will be provided centrally within the site nearby to House 3, with kerbside collection to occur. The site has suitable frontage to accommodate the placement of bins on collection days.

STATE ENVIRONMENTAL PLANNING POLICIES**SEPP 55 Remediation of Land**

SEPP 55 was repealed on 28 February 2022 and replaced with SEPP (Resilience and Hazards) 2021. The repealed SEPP was in force at the date of lodgement of the application. The applicable parts of the repealed SEPP are considered here.

- (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.*

Contamination clearance was given in conjunction with residential subdivision of the parent parcel pursuant to DA 444/2018 (amended). The land has been assessed as suitable for residential landuse and further contamination investigation is not required. Council's EHO has included a condition of consent requiring implementation of unexpected finds protocol during construction works.

SEPP (Infrastructure) 2007

SEPP (Infrastructure) was repealed on 28 February 2022 and replaced with SEPP (Transport and Infrastructure) 2021. The repealed SEPP was in force at the date of lodgement of the application. The applicable parts of the repealed SEPP are considered here.

Division 17 Roads and Traffic**Clause 101 Development with frontage to a classified road**

Clause 101 is applicable and states in part:

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The subject land has frontage and existing access to The Escort Way (a classified road), constructed in conjunction with subdivision civil works (DA 444/2018 (amended)). The proposal will not alter the existing layback or crossover.

The proposal will not adversely impact the safety, efficient or operation of The Escort Way. The vehicular access is existing. All vehicles associated with the development will enter and exit the site in a forward direction; sufficient manoeuvring area will be available onsite to accommodate swept paths.

Sight lines in both directions are generous. The proposal does not involve emissions. Traffic generation associated with the proposed development will be imperceptible within the context of existing traffic volumes along the classified road.

The proposed seniors housing will not be sensitive to traffic noise or vehicle emissions, subject to Conditional compliance with the acoustic recommendations in the submitted acoustic assessment (Cogent Acoustics 18 November 2021).

Clause 102 Impact of road noise or vibration on non-road development

Clause 102 is applicable and states in part:

- (1) *This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration -*
 - (a) *residential accommodation,*
 - (b) *a place of public worship,*
 - (c) *a hospital,*
 - (d) *an educational establishment or centre-based child care facility.*
- (2) *Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*

In consideration of this clause, the proposal involves residential accommodation (seniors housing) on land with frontage to The Escort Way (a classified road). The road has an annual average daily traffic volume of **less than 20,000 vehicles**. The noise and vibration amelioration controls contained in *Development near Rail Corridors and Busy Roads - Interim Guideline* (Department of Planning 2008) are not applicable to the proposal.

The proposed seniors housing will not be sensitive to traffic noise or vehicle emissions, subject to Conditional compliance with the acoustic recommendations in the submitted acoustic assessment (Cogent Acoustics 18 November 2021).

SEPP (Housing) 2021

Part 5 Housing for Seniors and People with a Disability

SEPP Housing 2021 is applicable. The relevant sections are considered below.

Section 3 Principles of policy

The proposed development will be consistent with the following particular principles:

- (b) *encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability*
- (c) *ensuring new housing development provides residents with a reasonable level of amenity*
- (d) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services*

- (e) *minimising adverse climate and environmental impacts of new housing development*
- (f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality*

Section 79 Land to which Part Applies

The subject land is zoned R2 Low Density Residential, and is land to which Part 5 applies.

Section 81 Senior Housing Permitted with Consent

Seniors housing is permitted with consent in R2 Low Density Residential Zone.

Section 82 Definitions

The proposed dwellings will be occupied by ‘seniors,’ which means:

- (a) *people who are at least 60 years of age,*
- (b) *people who are resident at a facility at which residential care, within the meaning of the [Aged Care Act 1997](#) of the Commonwealth, is provided,*
- (c) *people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.*

The proposed development will comprise ‘serviced self-care housing’ which means:

Seniors housing comprising independent living units where the following services are available on the site -

- (a) *meals,*
- (b) *cleaning services,*
- (c) *personal care,*
- (d) *nursing care.*

Section 84 Development standards – general

The proposed development will satisfy the development standards at Section 84, as follows:

Clause	Control	Proposal	Compliance
84(2)(a)	Site area: 1,000m ²	2,446m ²	Yes
84(2)(b)	Site frontage: 20m at the building line	47m	Yes
84(2)(c)	Height: 9.5m or more than 2 storey	6m and single storey	Yes

Section 85 Development standards for hostels and independent living units

The proposed development may be designed to comply with the listed standards at Schedule 4. A Condition is included requiring a Schedule 4 compliance table be provided on the construction drawings.

Section 86 Development standards for seniors housing – Zones RE2, SP1, SP2, RU5 and R2

The proposed seniors housing will be provided by an operator (Mercy Connect) as defined in the Retirement Villages Act 1999, consistent with Section 86(1)(d)(iii). Consent may therefore be granted for seniors housing in the R2 zone.

Section 88 Restrictions on occupation of seniors housing

The proposed development will provide accommodation for seniors or people with a disability; people in the same household; and service and administration staff, consistent with Section 88. Conditions are included restricting occupation of the dwellings to those listed in Section 88.

Section 90 Subdivision

Subdivision of seniors housing on land in the R2 Low Density Residential zone is not permitted, pursuant to Section 90. The proposal does not involve subdivision. A Condition is included prohibiting future subdivision consistent with this Section.

Section 91 Fire sprinkler systems in residential care facilities

The proposed seniors housing will incorporate a fire sprinkler system as required by Section 91.

Section 93 Location and access to facilities and services – independent living units

The proposed development will have adequate access to facilities and services, consistent with Section 93. The operator (Mercy Connect) will provide a bus services for residents of the development. The transport service will be operated from within the site (covered car parking) and will be accessible from all independent living units via suitable access compliant pathways. The bus service will be available to residents during daylight hours, Monday to Friday, and will provide access to the Orange CBD.

Section 95 Water and sewer

The subject land is connected to reticulated sewer and water in accordance with this Section.

Section 98 Design of seniors housing

The proposed development will satisfy the design principles at Division 6 (Sections 99-105) as outlined below.

Section 99 Neighbourhood Amenity and Streetscape

The proposed development will complement the existing neighbourhood character and amenity, as follows:

- The proposal will satisfy the R2 zone objectives to provide a variety of housing types. Seniors housing is a permitted and complementary landuse in the zone.
- The development will relate to the group home on the adjoining northern parcel (4 Lady Peel Close) in respect of building form and function (assisted residential care).
- The proposed seniors housing will take a multi-dwelling housing scale and appearance, which will not be incongruous in this setting.
- The proposed built form will reflect the design typology in the neighbourhood: single-storey, generous footprint and massing, contemporary architectural elements.
- The proposed development will be single storey and will complement the bulk and scale of adjoining improvements.
- External finishes (brick and steel) will be generally compatible with adjoining dwellings.

2.3 Development Application DA 521/2021(1) - 370 The Escort Way

- Proposed House 1 and the social pavilion will comply with the front setback restriction of 15m, and complement the established streetscape building line. Side and rear boundary setbacks and associated opposing interfaces will be typical of residential development.
- Proposed car parking will not dominate the site frontage. The carport will be located behind the front building lines for House 1 and the social pavilion. The carport will be integrated with the building via an extension to the skillion roof profile. Site landscaping will provide suitable screening and softening of car parking areas.
- Landscaping in the front setback to The Escort Way will be generous and complement private landscaping to adjoining dwellings. Council's Manager City Presentation supports the proposed landscape design subject to minor Conditional species substitution.
- Site coverage for the development will comprise some 40%, and complement the site coverage in the neighbourhood (ie. generally 50% or less, consistent with Orange DCP 2004).
- Front fencing to The Escort Way will not be erected, consistent with open frontages in this streetscape.
- Earthworks (levelling and filling) will be required in the north-eastern extent to provide a level (and accessible) site. Retaining walls will be erected on the rear (north) and part side (east and west) boundaries. Retaining walls will have a height of 500mm (in the north-west corner of the site); and 1350mm (in the north-east corner of the site). Metal fencing to a height of 1.8m will be erected atop the retaining walls.

The visual bulk impacts associated with the wall and fencing will be acceptable in this setting. The eastern perimeter addresses the NDR road reserve and the wall and fence will relate to the eastern fencing for the group home. The northern boundary will address the group home, which is located a sufficient distance from the common boundary (some 22m) to prevent visual bulk encroachment impacts.

Section 100 Visual and Acoustic Privacy

The proposed development will provide acceptable visual and acoustic privacy for residents and neighbours, as follows:

- Perimeter fencing will be installed.
- The private yards associated with each dwelling will be enclosed by fencing.
- Internal living area windows will overlook associated and fenced private yards, and will not be directly opposing.
- Living room windows to site perimeters will be reasonably removed from boundaries (a minimum 2m). Opposing land uses and finished ground levels will not present privacy impacts.
- The entrance to each dwelling will be recessed or screened to ensure privacy to residents when arriving and departing each dwelling.
- Site landscaping will assist to conceal views and provide buffer opportunities.

- Seniors housing is not a noise generating landuse and the proposal will not alter the neighbourhood acoustic setting.
- The proposed seniors housing will not be sensitive to traffic noise or vehicle emissions from The Escort Way, subject to Conditional compliance with the acoustic recommendations in the submitted acoustic assessment (Cogent Acoustics 18 November 2021).
- House 1 bedrooms will oppose the shared carpark. Driver speeds will be slow and night-time vehicle movements minimal. The acoustic engineering recommendations above will assist to provide acoustic privacy to House 1.

Section 101 Solar access and design for climate

A high standard of solar access will be provided to the proposed seniors housing and adjoining dwellings:

- Houses 1-4 will be provided with north-facing living room windows.
- The private yard for Houses 1-4 will have a broad northern exposure.
- The proposed development will not impact on northern internal or external solar access for any future/adjoining dwelling.

Section 102 Stormwater

Conditions are included in relation to stormwater management for the development in order to minimise stormwater disturbance and runoff.

Section 103 Crime Prevention

The proposed development will incorporate *Crime Prevention through Environmental Design* Principles in relation to surveillance, access control, territorial enforcement and space management. Crime prevention measures in the design response include habitable openings to public and private areas; clear sightlines between the dwellings and to the public domain; landscaping that does not conceal; sensor/security lighting; fencing; and site maintenance.

Section 104 Accessibility

The proposed development will provide clear and safe pedestrian paths between the dwellings, social pavilion, parking areas, onsite private transport service and site frontage. Resident access to facilities (shops, community services, recreation facilities and medical care) will be met by a private bus service. The onsite carpark will be centrally located within the building group, and will provide convenient and accessible parking for residents, staff and visitors.

Section 105 Waste Management

The proposed development will be serviced by Council's domestic kerbside waste collection service.

Section 108 Non-discretionary development standards for independent living units-the Act, s 4.15

The proposed development will satisfy the non-discretionary development standards for independent living units, as follows:

Clause	Control	Proposal	Compliance
108(2)(a)	Building height: 9.5m or less	6m and single-storey	Yes
108(2)(c)	FSR: 0.5:1	0.27:1	Yes
108(2)(e)	Landscape area: 30% of site area [734m ²]	31% [750m ²] excluding private open space areas	Yes
108(2)(f)	Deep soil zones: 15% of the site [367 ²]; minimum dimension 3m	Deep soil zones provided to front setback, communal open space, private open space areas	Yes
108(2)(g)	Solar access: 3 hours sunlight to indoor and outdoor living spaces for 2 hours, to 70% of dwellings	All dwellings have north facing indoor and outdoor habitable spaces and will achieve prescribed daylighting	Yes
108(2)(h)	Private open space: 15m ² per dwelling with a minimum dimension of 3m and accessible from a living room	Minimum private open space to each dwelling is 60.78m ² . Open space areas will have a minimum dimension of 3m, and be accessible from a living room	Yes
108(k)	Parking: 0.5 spaces / bedroom [10 bedrooms = 5 car spaces]	Eight car spaces will be provided.	Yes

Provisions of any Draft Environmental Planning Instrument that has been Placed on Exhibition 4.15(1)(A)(li)

There are no Draft EPIs on public exhibition at present.

Provisions of any Development Control Plan S4.15(1)(A)(lii)

Development Control Plan 2004

Part 7 Development in Residential Zones

The proposed development is consistent with the relevant planning outcomes and guidelines contained in Part 7, as demonstrated in the assessment under SEPP (Housing) 2021.

DEVELOPMENT CONTRIBUTIONS

Section 7.11 Development Contributions

Pursuant to the Orange Development Contributions Plan 2017 Part 2.6.1, the following landuse is exempt from development contributions:

Seniors housing as defined in [repealed] SEPP (Housing for Seniors of People with a Disability) 2004 that is provided by a social housing provider as defined in that policy

Pursuant to in-force SEPP (Housing) 2021, **social housing provider** means -

- (a) the Secretary of the Department of Communities and Justice,
- (b) the Land and Housing Corporation,

- (c) a registered community housing provider,
- (d) the Aboriginal Housing Office,
- (e) a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998,
- (f) a local government authority that provides affordable housing,
- (g) a not-for-profit organisation that is a direct provider of rental housing to tenants.

The proposed seniors housing will be operated by Mercy Connect.

Mercy Connect is a *registered community housing provider* ((c) above); and a *not-for-profit organisation that is a direct provider of rental housing to tenants* ((g) above). The proponent has provided details demonstrating same, including but not limited to Registered Charity Details.

Assessment staff are satisfied that Mercy Connect is a social housing provider, and that the proposal is **exempt** from development contributions under the Orange Development Contributions Plan 2017. A Condition is included on the attached Notice of Approval requiring perpetual operation of the development by a registered social housing provider.

For Council's information, it is noted that should the proposal NOT be exempt from development contributions, the following contributions would apply:

Open Space and Recreation	two x 3br dwellings at 3989.24 + two x 2br dwellings at 2449.48 less one standard lot at 3989.24	8,888.20
Community and Cultural	two x 3br dwellings at 1156.86 + two x 2br dwellings at 710.35 less one standard lot at 1156.86	2,577.56
Roads and Traffic Management	two x 3br dwellings at 5265.65 + two x 2br dwellings at 3331.41 less one standard lot at 5265.65	11,928.47
Local Area Facilities	two x 3br dwellings at 9005.72 + two x 2br dwellings at 5529.77 less one standard lot at 9005.72	20,065.26
Plan Preparation & Administration	two x 3br dwellings at 582.53 + two x 2br dwellings at 357.69 less one standard lot at 582.53	1,297.91
TOTAL		\$44,757.40

Section 64 Headworks Charges

Headworks charges for water, sewer and drainage works apply to the proposal. The charges are based on NSW Water Directorate rates for Nursing Home/Special Care Home as follows:

	ETs	Bedrooms	Subtotal	Less 1 standard lot	Total
Water	0.5/bedroom	nine bedrooms	4.5	1.0	3.5 w ETs
Sewer	0.75/bedroom	nine bedrooms	6.75	1.0	5.75 s ETs

Conditions are included requiring payment of headworks charges prior to issue of a Construction Certificate.

Provisions Prescribed by the Regulations S4.15(1)(A)(iv)

Council's Building Certifier/Environmental Health and Building Inspector advises that the proposed development will not be contrary to any matter prescribed by Regulation. The proposal will comply with the Building Code of Australia. Further details will be required to demonstrate same at Construction Certificate stage.

The Likely Impacts Of The Development S4.15(1)(B)

The impacts of the proposed development have been considered in the foregoing sections of this report and include:

- Setting and context
 - neighbourhood character and function
 - built form
 - interface
 - presentation
- Visual impacts
 - streetscape presentation
 - building design and detailing
 - building bulk, height and siting
 - landscape character
- Residential amenity
 - visual privacy
 - visual bulk encroachment
 - acoustic privacy
 - solar access
 - accessibility
 - private open space
- Traffic matters
 - site access
 - onsite manoeuvring
 - car parking
 - network capacity
 - traffic generation
- Environmental impacts
 - sediment and erosion control
 - biodiversity
 - groundwater
 - stormwater management
 - contamination
 - flooding

- Infrastructure
 - availability
 - development contributions

The Suitability Of The Site S4.15(1)(C)

- The proposal is permitted on the subject land zoning.
- The site has direct frontage and access to The Escort Way.
- The local road network has sufficient capacity to accommodate traffic volumes associated with the proposal.
- Site area, dimensions and landform / topography are suitable for the proposal.
- There is no known contamination on the land.
- All utility services are available and adequate.
- The partial flood liability of the subject land will not impact the proposed development.
- The subject land has no particular environmental and conservation values.

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

The proposed development is defined as "advertised development" pursuant to Council's Community Participation Plan 2019. Written and public notice of the application was given for the prescribed period (10-25 January 2022). At the end of that period, no written submissions had been received.

Public Interest S4.15(1)(E)

The proposal is not inconsistent with any relevant policy statements, planning studies, guidelines etc. that have not been considered in this assessment. The development will provide assisted long term residential accommodation for aged and/or disabled persons, and is considered to be in the public interest.

SUMMARY

Consent is sought for proposed seniors housing pursuant to the SEPP (Housing) 2021. As outlined in this report, the proposal will satisfy the Local and State planning controls that apply to the subject land and particular land use. The development is sited and designed to reasonably integrate in this setting, without adversely impacting on neighbourhood character or function. Impacts of the development will be within acceptable limit, subject to mitigation conditions. Approval of the application is recommended.

COMMENTS

This report and the attached Notice of Approval have been informed by the following:

- Manager Building and Environment
- Assistant Development Engineer
- Manager City Presentation
- Senior Planner

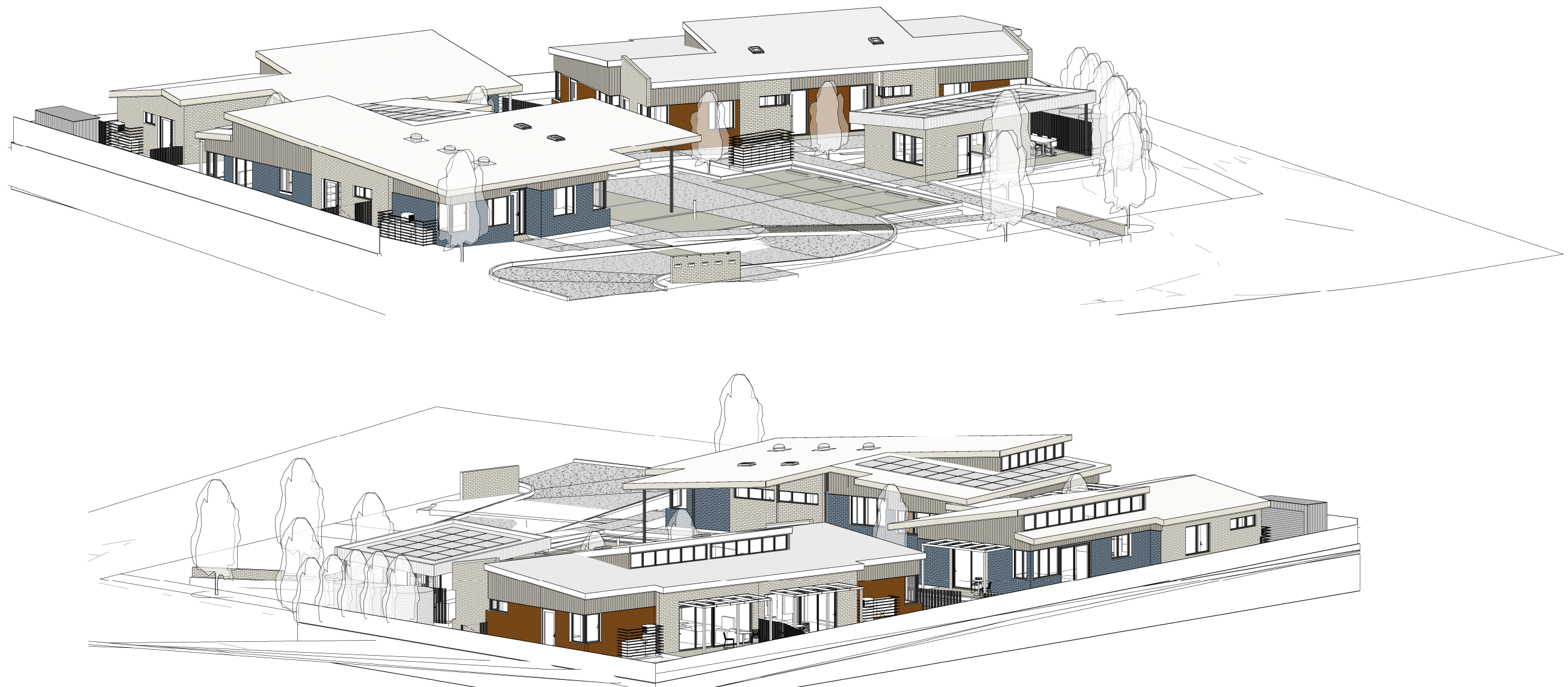
ATTACHMENTS

- 1 Plans, D22/17638 [↓](#)
- 2 Notice of Approval, D22/17043 [↓](#)

RESIDENTIAL VILLAS AND SOCIAL PAVILION
AT 370 THE ESCORT WAY, ORANGE NSW 2800

SITE INFORMATION:
ORANGE CITY COUNCIL
TRADITIONAL CUSTODIANS - WIRADJURI PEOPLE

ARCHITECTURAL DRAWING LIST	
SHEET NAME	SHEET
COVER SHEET	DA000
LOCALITY PLAN	DA100
SITE ANALYSIS	DA101
EXISTING SITE PLAN WITH SURVEY	DA102
PROPOSED SITE & ROOF PLAN	DA200
PROPOSED FLOOR PLAN	DA201
SITE ELEVATIONS	DA300
BUILDING ELEVATIONS	DA301
PERMEABILITY PLAN	DA400



NSW NOMINATED ARCHITECT: ANDREW MASTERS (9037)

A	02.11.2021	ISSUED FOR DA	CM
REV	DATE	DETAILS	INITIALS

PRELIMINARY ISSUE
NOT FOR CONSTRUCTION

MELBOURNE
(03) 9682 0621
LEVEL 3, 25 ROSS ST.
SOUTH MELBOURNE
VIC 3205
www.hedearchitects.com.au

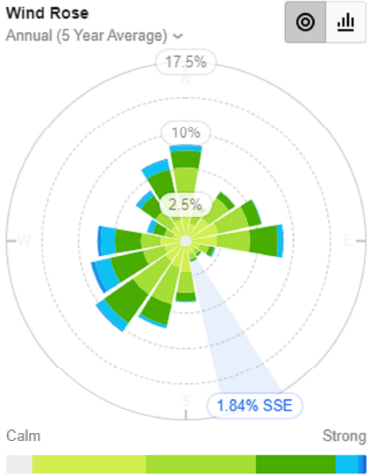


PROJECT: 01640
PROPOSED SDA
370 THE ESCORT WAY,
ORANGE NSW 2800

CHECKED: RA DRAWING: REVISION:
DRAWN: DA000 A
JS

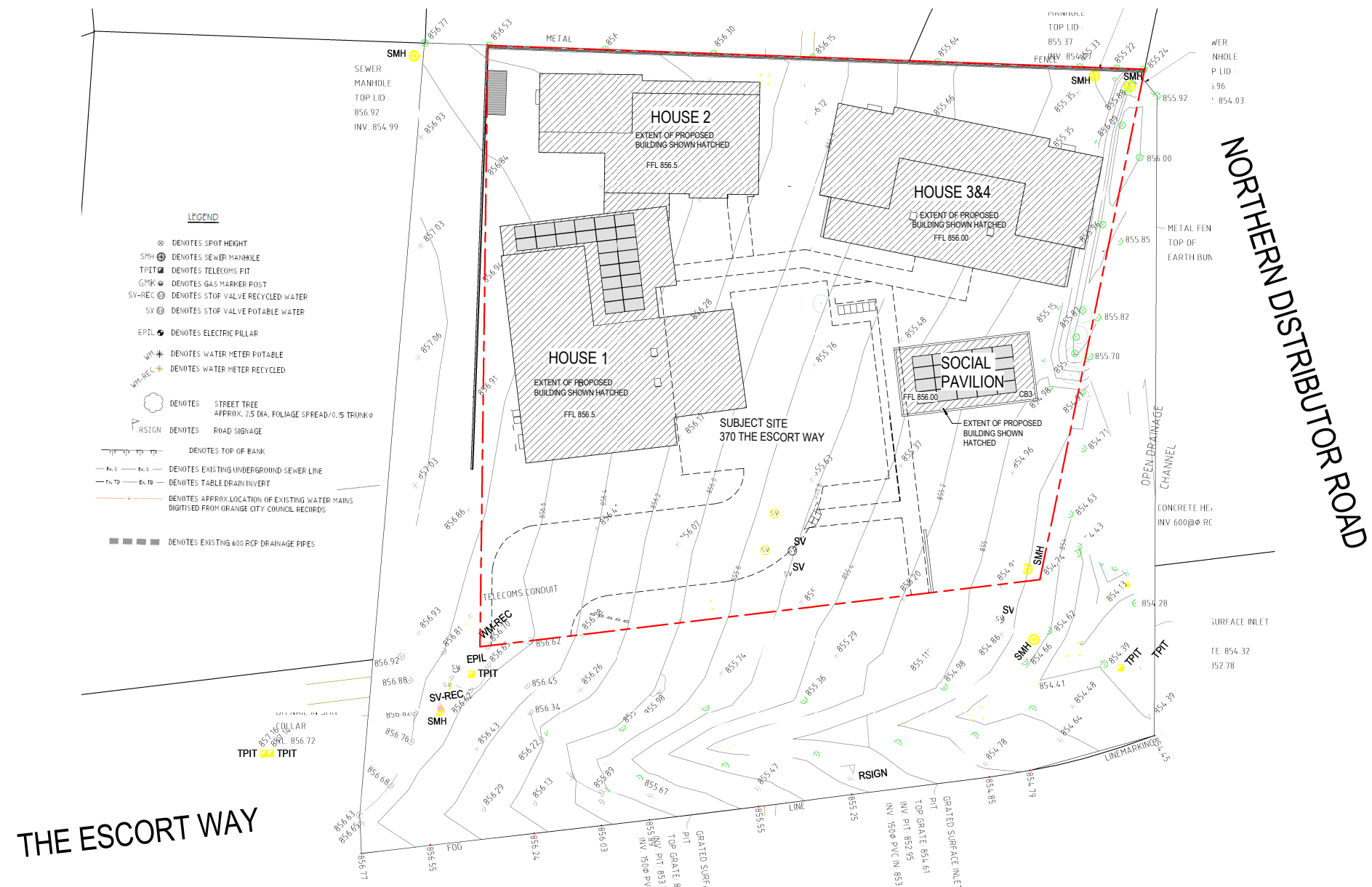
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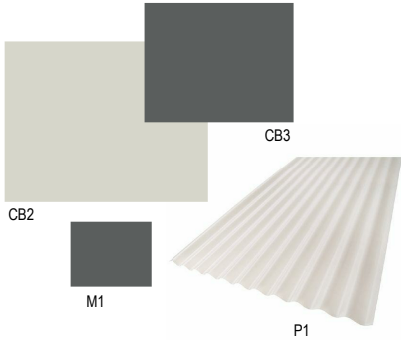
LAND USE ZONE		
	R2	LOW DENSITY RESIDENTIAL
	RE1	PUBLIC RECREATION

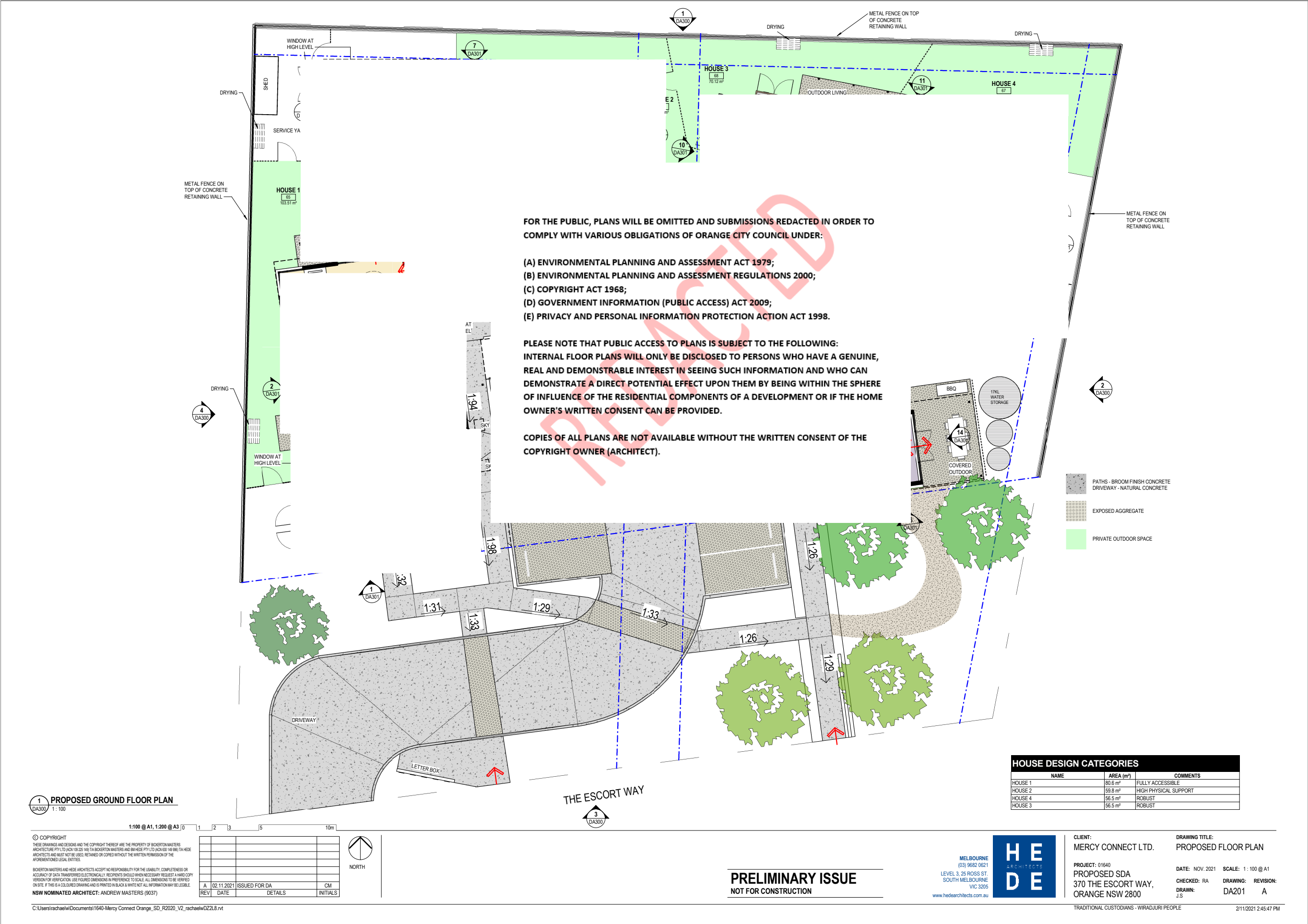


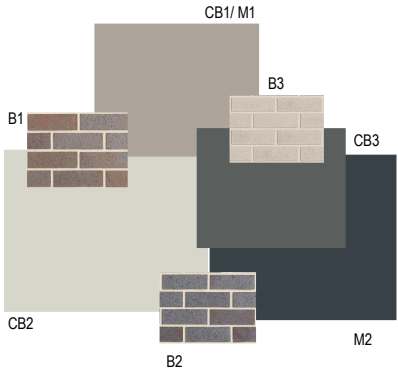
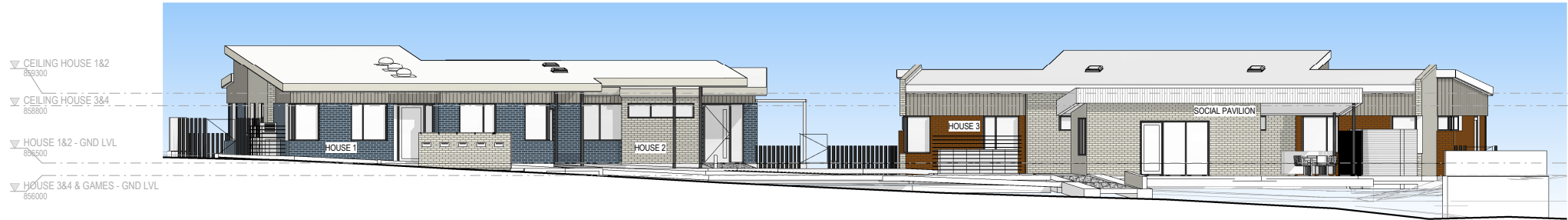
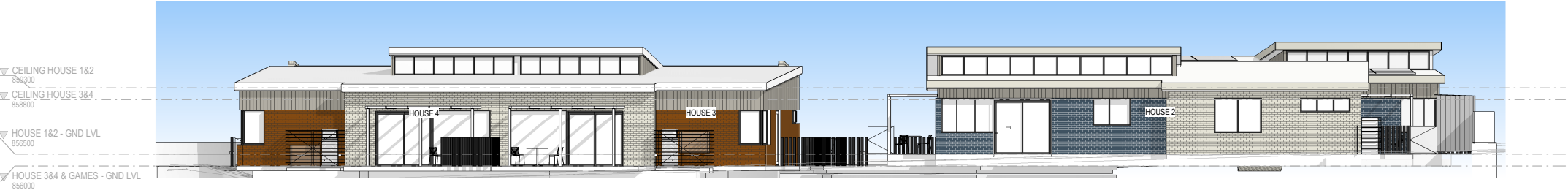


SCHEMATIC ROOF FINISHES LEGEND

- CB2
 - COLORBOND 'SURFMIST'
- CB3
 - COLORBOND 'BASALT'
- P1
 - SUNTUF - CORRUGATED POLYCARBONATE ROOFING SHEET - OPAL STANDARD
- M1
 - ALUMINIUM PERGOLAS (WITH POLYCARBONATE ROOFING OVER FOR WEATHER PROTECTION)
 - FINISH: COLORBOND BASALT

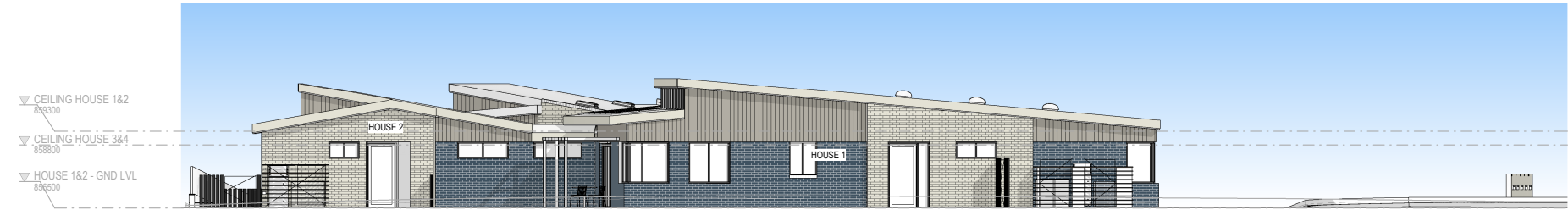




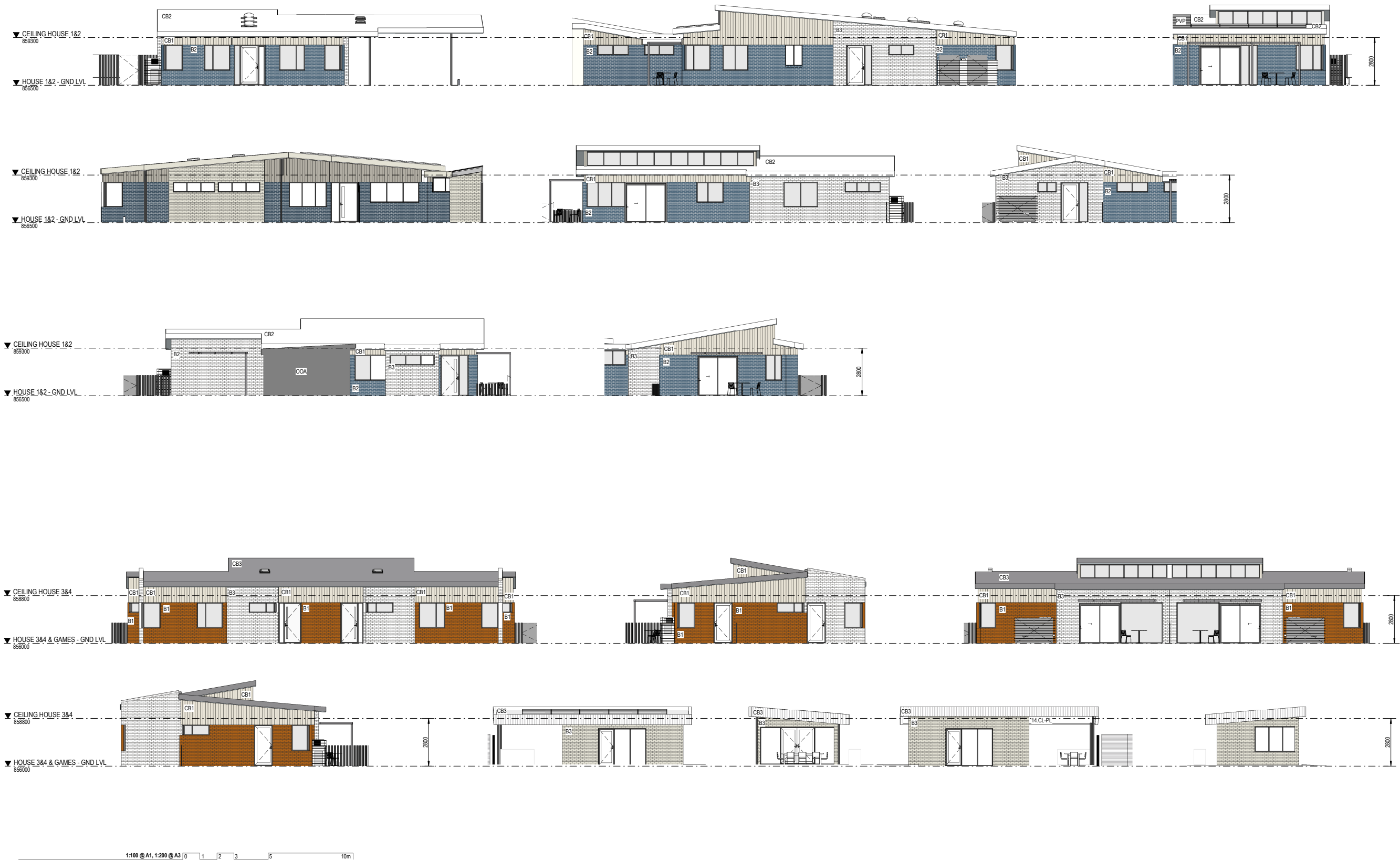


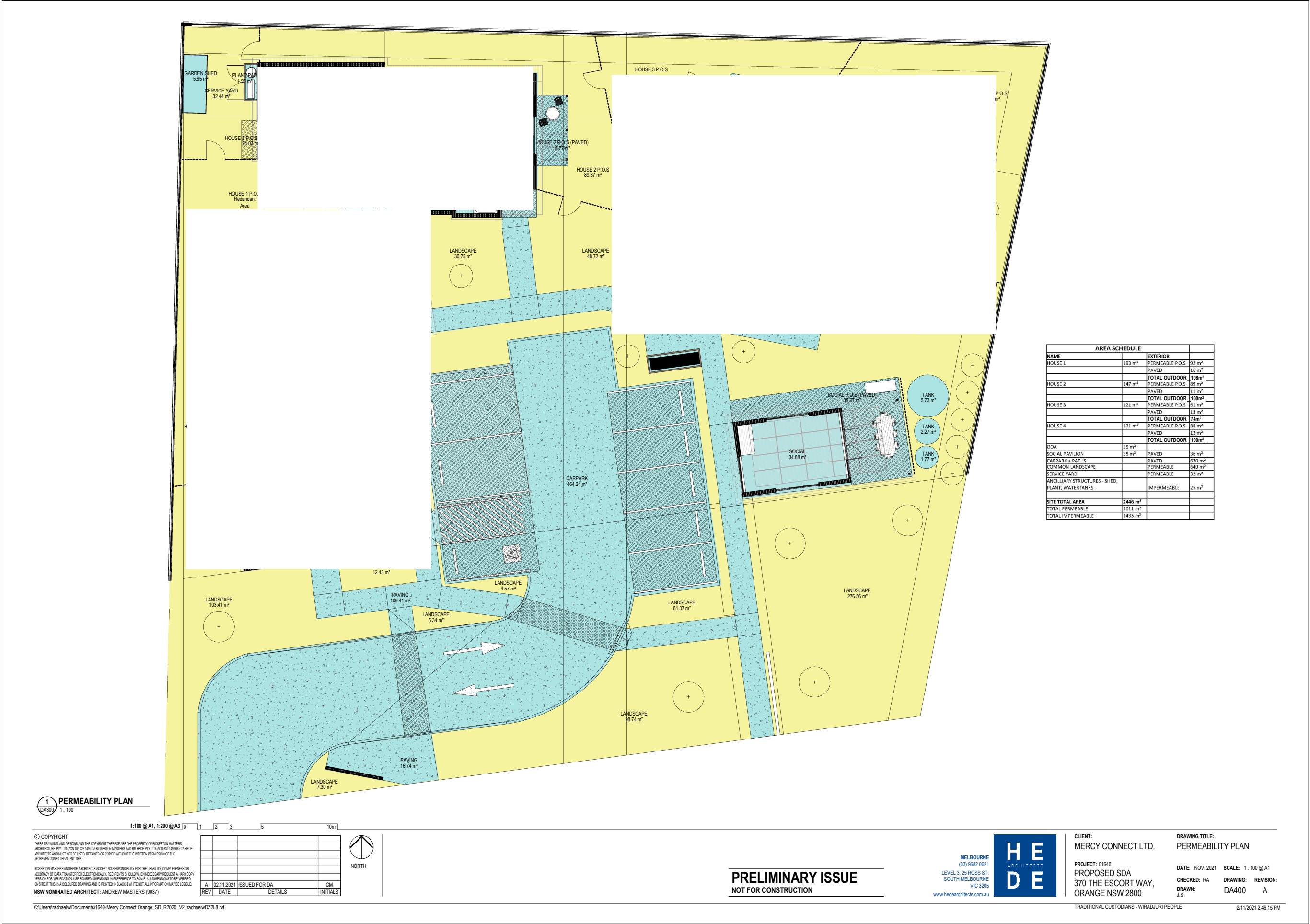
SCHEMATIC FINISHES LEGEND

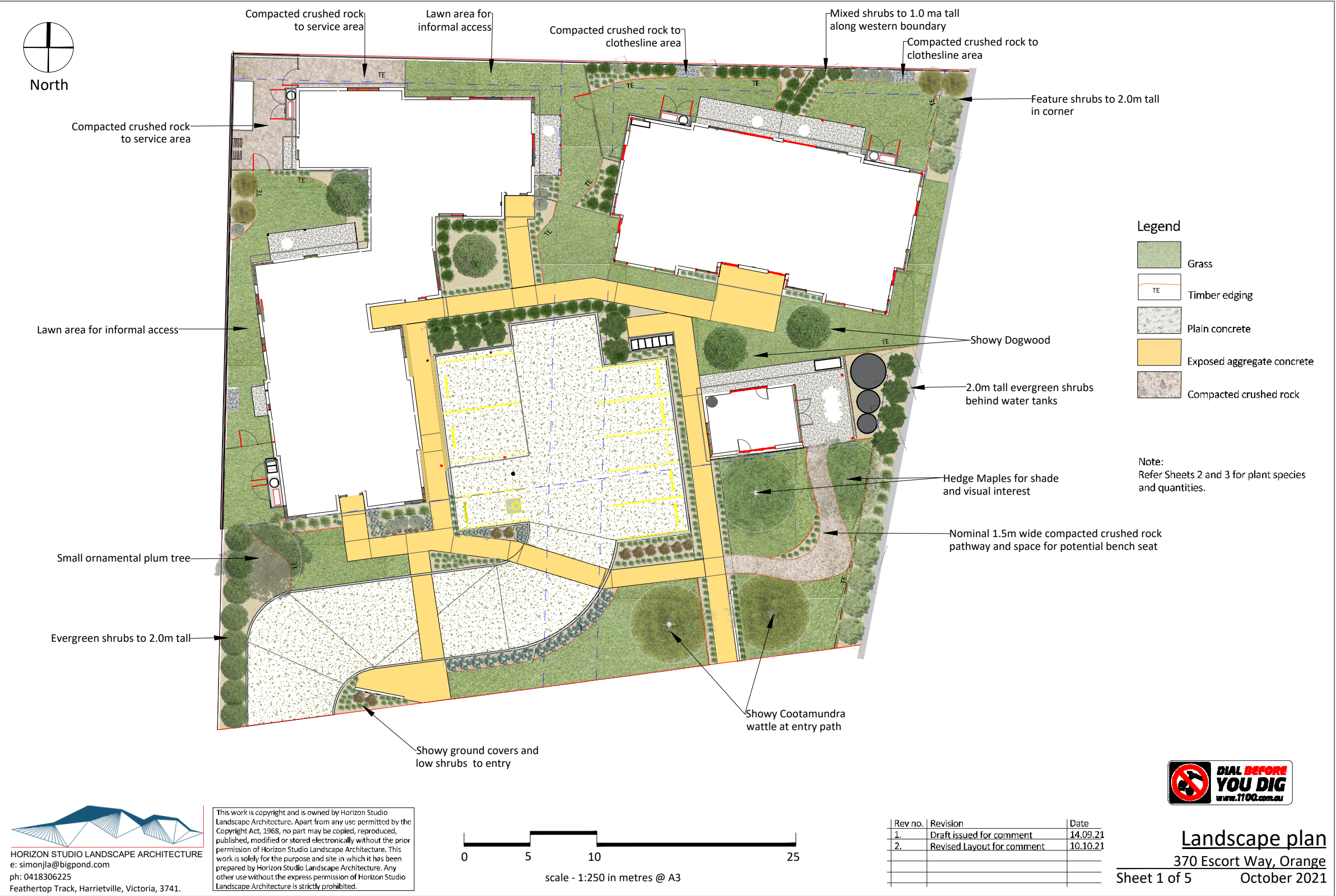
- | | |
|-------------------------------|--|
| CB1 | B1 |
| • COLORBOND 'DUNE' | • AUSTRAL BRICKS - PGH METALLIC RANGE |
| CB2 | • FINISH: 'NICKEL FLASH' |
| • COLORBOND 'SURFMIST' | B2 |
| CB3 | • AUSTRAL BRICKS - PGH METALLIC RANGE |
| • COLORBOND 'BASALT' | • FINISH: 'BLUE STEEL FLASH' |
| M1 | B3 |
| METAL WORK & SCREENS | • AUSTRAL BRICKS - PGH PURE VELVET RANGE |
| FINISH: COLORBOND 'BASALT' | • FINISH: 'CRUSHED GREY' |
| M2 | |
| WINDOW FRAMES | |
| FINISH: COLORBOND 'CELESTIAN' | |

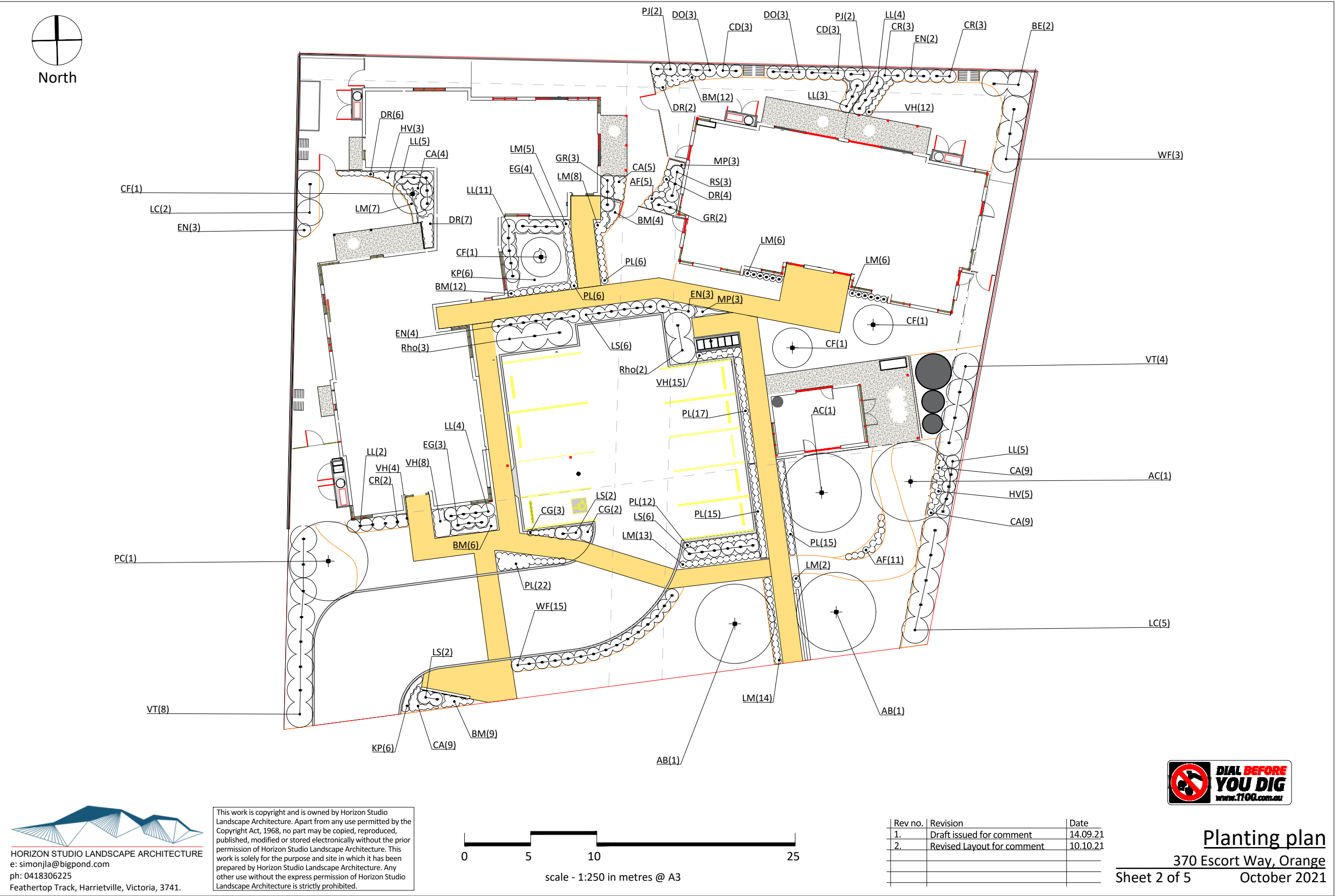


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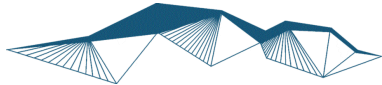








Code	Botanical name	Common name	HxS @ maturity	Total	Planting spacing	Planting size
Trees						
AB	Acacia baileyana	Cootamundra Wattle	6x5m	2	As shown	45cm pot
AC	Acer campestre	Hedge Maple	6x5m	2	As shown	45cm pot
CF	Cornus florida "alba"	White flowering Dogwood	3x3m	4	As shown	45cm pot
PC	Prunus cerasifera "Nigra"	Pink Flower Plum	5x4m	1	As shown	45cm pot
Shrubs						
BE	Banksia ericifolia	Heath Banksia	2x2m	2	3m	15cm pot
CD	Ceanothus dentatus	Ceanothus	1x1m	6	1m	15cm pot
CR	Correa reflexa - red flowering	Native fuschia	1x1m	8	1m	15cm pot
DO	Daphne odora	Winter Daphne	1x1m	6	1m	15cm pot
EN	Eremophylla nivea	Silky Emu bush	1x1m	13	1m	15cm pot
EG	Eremophylla glabra	Tar bush	1x1m	7	1m	15cm pot
GR	Grevillea rosamarinafolia	Rosemary Grevillea	1x1m	5	1m	15cm pot
LC	Loropetalum China Pink	Chinese Fringe Flower	2x2m	7	2m	15cm pot
LS	Leucadendron salignum	Fire Glow	1x1m	16	1m	15cm pot
PJ	Pieris japonica	Japanese Pearl Flower	1x1m	4	1m	15cm pot
Rho	Rhododendron sp	Rhododendron	2x2m	5	2m	30cm pot
RS	Rhagodia spenisciens	Creeping saltbush	1x1m	3	1m	15cm pot
VT	Viburnum tinus	Laurestinus	2x2m	12	2m	15cm pot
WF	Westringia fruticosa	Coastal Rosemary	2x2m	18	2m	15cm pot
Ground covers						
AF	Anizoganthos Flavidus	Kangaroo Paw	0.5x0.6	16		15cm pot
BM	Brachyscombe multifida	Break of Day Daisy	0.3x0.6m	43	0.3m	Tube
CA	Chrysocephalum apiculatum	Yellow buttons	0.5x0.3	36	3/m2	10cm pot
CG	Casaurina glauca	Prostate Casaurina	0.5x1.5m	5	1m	15cm pot
DR	Dianella revoluta	Black anther Flax lilly	0.8x0.6m	19	1m	15cm pot
HV	Hardenbergia violacea	Native sarsparilla	0.3x0.8m	8	2/M2	8cm pot
KP	Kennedia prostrata	Running Postman	0.3x1.0m	12	3/m2	Tube
LM	Liriope muscarii	Lilly turf	0.5x0.8m	59	2/m2	15cm pot
MP	Myoporum pavifolium purpurea	Boobiala	0.3x 0.6m	6	3/m2	8cm pot
VH	Violacea hederacea	Native violet	0.5x0.25	39	4/m2	Tube
Grasses						
LL	Lomandra Longifolia	Lomandra	1X1m	32	1/m2	Tube / pot
PL	Poa labillarderi	Poa	0.8x0.5m	93	2-3 / m2	Tube / pot



HORIZON STUDIO LANDSCAPE ARCHITECTURE
e: simonjla@bigpond.com
ph: 0418306225
Feathertop Track, Harrietville, Victoria, 3741.

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- Note:
- Planting areas and quantities are indicative only and may vary depending on final site conditions.
 - Quantities may also vary depending on species availability at the time of planting.
 - Where plant availability is limited use alternative species with similar characteristics including size, suitability to the location and where possible foliage and flowering colour.

Rev no.	Revision	Date
1.	Draft issued for comment	14.09.21
2.	Revised Layout for comment	10.10.21

Plant schedule

370 Escort Way, Orange

Sheet 3 of 5 October 2021

1. Site preparation

1.1 Site establishment

- Prior to the commencement of any works the site must be cleared of any building debris, stockpiles and any detritous.
- Check the location and depths of all services prior to any excavation.
- The site must be clearly delineated with marker tape or bunting.
- Vehicles must not drive over the planting areas where possible to avoid soil compaction.

1.2 Weed Control.

Before planting commences, the areas to be planted shall be eradicated of weeds and any existing vegetative growth (excluding native vegetation to be retained), shall be slashed to a height of 150 mm.

Trash build-up and cut material shall be removed from the area prior to spraying with an approved knockdown herbicide incorporating a herbicide marker. Biactive herbicide shall be used around wetlands and waterways. The herbicide shall be used according to the manufacturer's recommended rates and any off-target damage shall be rectified by the Contractor.

1.3 Site preparation

After a period no shorter than 10 days after spraying, the areas shall be cultivated to a depth of 100mm.

For grassed areas the soil shall be cultivated to a fine tilth, raked and lightly rolled to bring the surface to an even grade, free from small mounds and hollows. All deleterious material including roots, stones and building debris exceeding 50 mm in diameter, which is unsuitable for re-spreading, shall be removed and disposed of at a location in accordance with Environmental Requirements.

1.4 Supply of top soil

Imported soil shall be in accordance with AS 4419, 'Soils for Landscaping and Garden Use'. The texture of the imported soil blend shall be a sandy loam capable of being handled when moist, but lacking cohesion so that it will fall apart easily when dry. Soil shall be free of debris, stones, weeds, roots or other deleterious material, plant pathogens and other pests.

1.4 Spreading of soil

Soil shall be evenly spread, lightly consolidated and levelled to provide a surface free from lumps and hollows to a minimum depth of 100 mm.

For grass areas the finished soil level for seeded lawns is to be flush with adjacent hard surfaces such as kerbs, paths and mowing strips.

Soil shall not be worked in a muddy condition.

2. Grassed areas

2.1 Seed installation

Newly seeded areas shall be identified using a bunting tape or approved equivalent during the establishment period.

(a) Broadcast Seeding

Following ground preparation, and a minimum of 10 days after weed control spraying, the soil bed shall be lightly raked in one direction, allowing the rake to drag across the area creating shallow seed furrows. On sloping sites the soil bed shall be lightly raked along the contour. The seed mix shall be prepared by mixing the seed, fertiliser and bulking medium in the specified proportions and shall be uniformly sown over all specified areas.

The seed mix shall be broadcast either by hand, through a Roto-spreader or by a machine-mounted spreader in one direction (east-west) and then again in another (north-south). Once seeded, lightly rake the area in the opposite direction of the last broadcast and lightly roll the area bringing the seed in contact with the soil.

2.2 Watering

Watering shall be carried out by the Contractor from the time of installation until the end of the establishment period at the required frequency.

Post germination of seeded areas shall be irrigated with a fine spray until the topsoil is moistened to its full depth. Watering shall be continued until germination to keep the surface damp and the topsoil moist but not waterlogged. After germination watering shall continue to maintain a healthy condition, progressively reducing watering to the required frequency.

2.3 Establishment

Establishment means the continuing care and maintenance o grassed areas to promote healthy and vigorous growth by implementing accepted horticultural practices, as well as rectifying any defects that become apparent in the works under normal use.

On completion of the establishment period, grassed areas shall have a healthy, dense continuous sward notwithstanding adverse weather conditions at the time. Irrigated grass shall be evenly green. Dry-land grass areas shall be kept green and actively growing until continuous healthy grass cover has been achieved; then the watering program shall be adjusted gradually until the grass is hardened off to natural climatic conditions.

3. Trees

3.1 tree selection

Trees must be healthy and have good form including a straight and perpendicular trunk. The rootball must be moist with the roots not exposed to the air, and be of firm consistency.

3.2 Timing

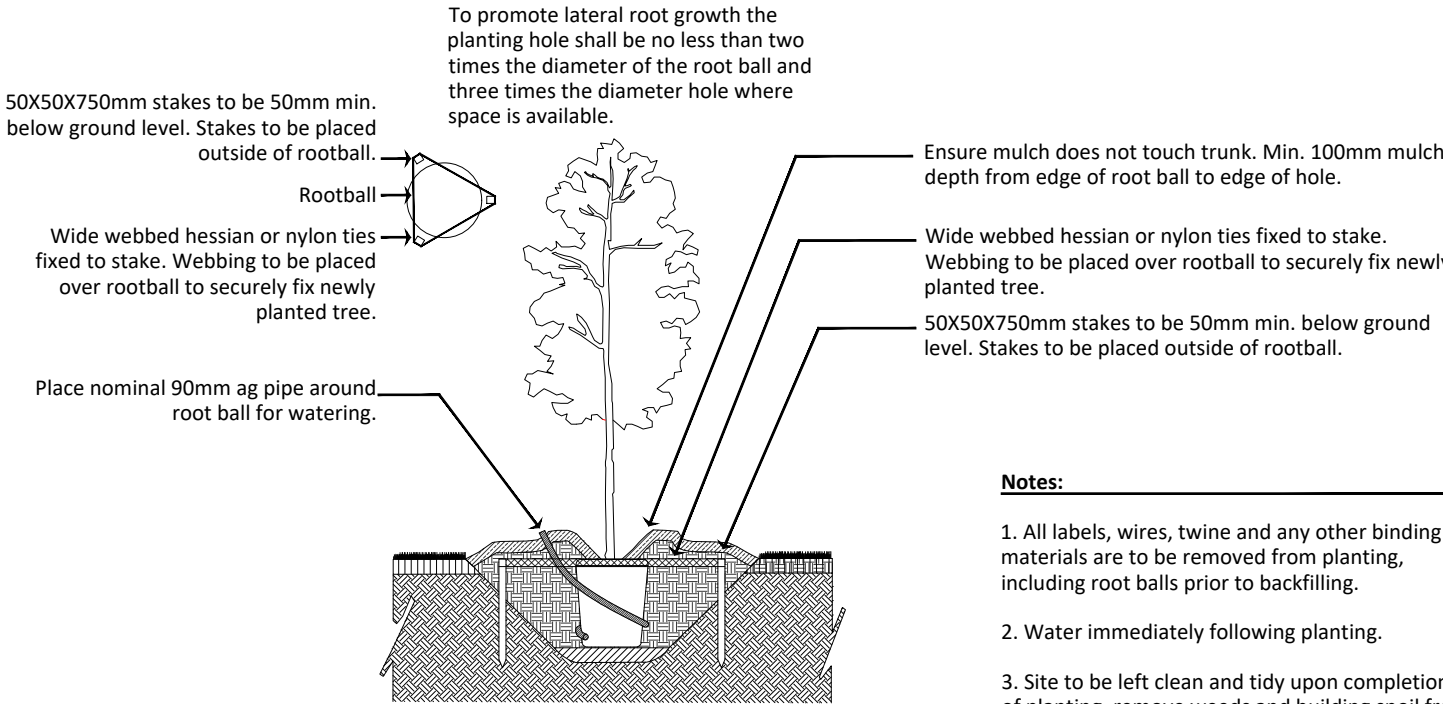
Tree planting shall generally take place between the 1st of April and the 30th September unless otherwise approved by the responsible officer of the Council.

3.3 Setting out

Tree positions shall be in accordance with the planting plans. Minor refinement of tree position may be required subject to final site conditions. Any deviation from the proposed positions described in the plans must be approved by the responsible officer of the Council.

3.4 Watering

Each tree shall be watered thoroughly after planting ensuring that the moisture has penetrated to the full depth of the root ball.



- Notes:**
1. All labels, wires, twine and any other binding materials are to be removed from planting, including root balls prior to backfilling.
 2. Water immediately following planting.
 3. Site to be left clean and tidy upon completion of planting, remove weeds and building spoil from tree planting zone.

TYPICAL TREE PLANTING DETAIL
scale - 1:20 @ A3


HORIZON STUDIO LANDSCAPE ARCHITECTURE
e: simonjla@bigpond.com
ph: 0418306225
Feathertop Track, Harrietville, Victoria, 3741.

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Rev no.	Revision	Date
1.	Draft issued for comment	14.09.21
2.	Revised Layout for comment	10.10.21

Planting notes
370 Escort Way, Orange
Sheet 4 of 5 October 2021

4 Planting areas - shrubs and ground covers

4.1 Plant selection

All plants are to be in good health, not bound in their containers and with adequate moisture in the planting medium. If stored the plants must be sufficiently watered to prevent drying out. Roots must be moist and contained in a moist medium at the time of planting.

4.2 Planting

Plants must be spaced according the Planting Plan. Minor refinement including the addition or subtraction of plants may be required subject to the area at the time of planting.

Plants shall be set upright in the centre of the pit at such a depth that the soil, when firmed down is at the same height as the top of the root ball. Soil shall be heeled in using natural body weight and not compacted by machinery or 'stamped' down. Any major roots that accidentally break off or fray shall be cleanly cut off from the plant. Loose roots shall be spread out in a radial fashion, and the pit progressively backfilled with first class topsoil, carefully placed under and amongst them to fill all voids and consolidated so that no air pockets are present and the plant is firmly held. Where roots are pot bound and/or girdling they shall be cleanly severed at the edge of the root ball and gently teased out in a radial fashion.

Each plant shall be watered thoroughly after planting, ensuring that the moisture has penetrated to the full depth of the root ball (initial watering is also important to settle the soil around the roots).

4.3 Mulching of plants

Approved organic mulch is to be applied to all planted areas to a nominal depth of 100mm. The mulch is to be kept away from the trunks and stems of all plants, so to make a watering well at the base of each plant.

4.4 Protection of plants

Plants must be protected by the use of fencing or tree guards until they are established.

4.5 Post planting watering.

All planted areas are to be regularly monitored to ensure the soil around the plants remains moist for a nominal period of twelve weeks. The period of watering in may vary according to the final site conditions and the time of planting.

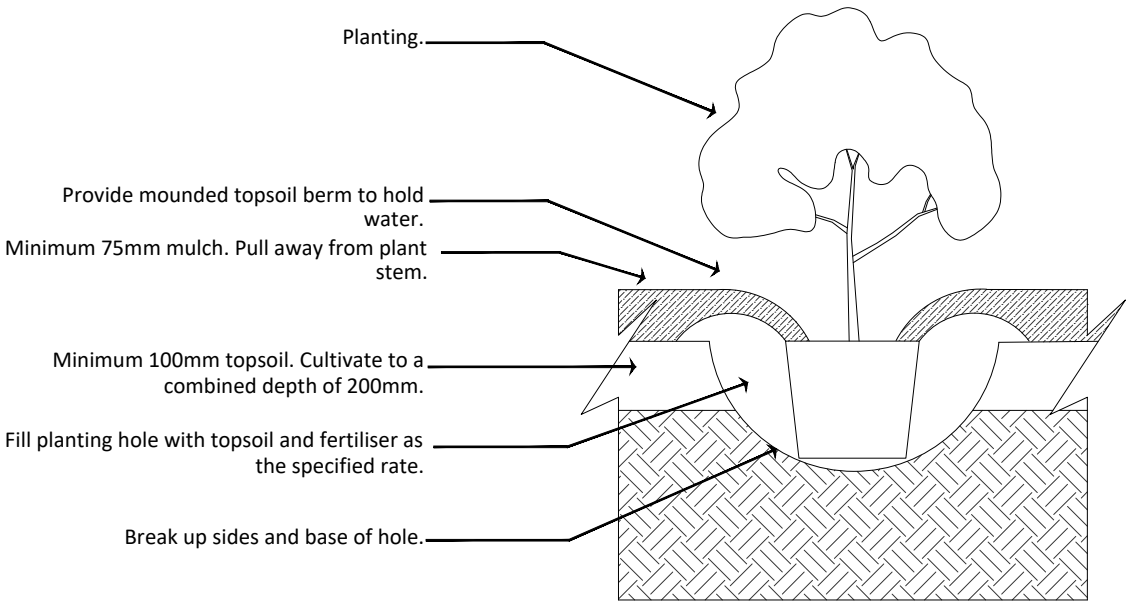
4.6 Post planting weed management.

Planted areas are to be regularly monitored for weeds for a minimum period of twelve weeks.

Weeds may be removed by hand pulling or spot spraying with an approved herbicide applied during the right climatic conditions in order to avoid spray drift.

4.7 Plant replacement

Any plants which do not take and survive within the twelve week establishment period must be replaced by the contractor.



- Notes:
1. Dig hole twice as deep as root ball and allow at least 200mm around sides for backfilling with topsoil.
 2. Place plant in centre of hole, backfill with approved topsoil, firming progressively.
 3. Water well into base of plant.

TYPICAL SHRUB PLANTING DETAIL
scale - 1:10 @ A3

HORIZON STUDIO LANDSCAPE ARCHITECTURE
e: simonjla@bigpond.com
ph: 0418306225
Feathertop Track, Harrietville, Victoria, 3741.


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Planting notes

370 Escort Way, Orange

Sheet 5 of 5 October 2021

	<p style="text-align: center;">ORANGE CITY COUNCIL</p> <p style="text-align: center;">Development Application No DA 521/2021(1)</p> <p>NA22/182 Container PR28698</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: Habitat Planning
 Applicant Address: 409 Kiewa Street
 SOUTH ALBURY NSW 2640
 Owner's Name: McAuley Property Limited
 Land to Be Developed: Lot 206 DP 1257565 - 370 The Escort Way, Orange
 Proposed Development: Seniors Housing (four dwellings)

Building Code of Australia building classification:

To be determined by the PC

Determination made under Section 4.16

Made On: 5 April 2022
 Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

Consent to Operate From: 6 April 2022
Consent to Lapse On: 6 April 2027

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) **Drawings by HEDE Architects- Drawing Nos. DA000, DA100, DA101, DA102, DA200, DA201, DA300, DA301, DA400 Rev A dated 02.11.2011 (9 sheets)**
Landscape Plans by Horizon Studio Landscape Architecture – Sheets 1-5 Rev 2 dated 10.10.21 (5 sheets)
 - (b) statements of environmental effects or other similar associated documents that form part of the approval

as amended in accordance with any conditions of this consent.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 521/2021(1)

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Conditions (cont)

PRESCRIBED CONDITIONS

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

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

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

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

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

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (7) An approval under Section 68 of the *Local Government Act* is to be sought from Orange City Council, as the Water and Sewer Authority, for alterations to water and sewer. No plumbing and drainage is to commence until approval is granted.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 521/2021(1)

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Conditions (cont)**Prior to the issue of a construction certificate (cont)**

- (8) Compliance with the requirements of Schedule 4 of State Environmental Planning Policy (Housing) 2021 shall be demonstrated on the detailed construction drawings submitted with the application for a Construction Certificate.
- (9) **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 3.5 ETs for water supply headworks and 5.75 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 Construction Certificate.
- (10) Prior to the issue of a Construction Certificate the plans shall be amended to indicate the floor level of houses 2, 3 and 4 adjacent to the northern boundary to be a minimum of 300mm above the natural ground level at the property boundary. The floor level measurement is to be taken at 90 degrees to the alignment of the boundary.
- (11) The existing stop valves and water mains are to be accurately located and clearly indicated on the site plans. Where a main is positioned adjacent to any proposed building work, measures are to be taken to protect the mains from excavation and construction works. All valves shall be protected on-site during construction.
- No cut or fill is to occur within the water main or sewer main easements without approval from Orange City Council.
- (12) Structural engineers designs for footings / piers / slabs in the vicinity of the water and sewer mains shall be submitted to Orange City Councils Water and Sewer Engineer for approval prior to the issue of a Construction Certificate.
- (13) Prior to the issue of a Construction Certificate plans of the carpark shall be submitted to the Principal Certifying Authority for approval. The carpark plans shall provide details of levels, cross falls of all pavements, proposed sealing materials and proposed drainage works and are to be in accordance with Orange City Council Development and Subdivision Code. Stormwater shall be collected in stormwater pits located within the carpark and piped to the existing stormwater pit and pipe system in the north east corner. All parking spaces and access aisle dimensions shall be in accordance with AS 2890.1 (Off-street car parking).
- (14) 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.

PRIOR TO WORKS COMMENCING

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

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 521/2021(1)

4

Conditions (cont)**DURING CONSTRUCTION/SITEWORKS**

- (18) In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work on site must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works on site must not resume unless the express permission of the Director Development Services is obtained in writing.
- (19) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (20) 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.
- (21) A Registered Surveyor's certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority.
- (22) All construction works are to be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.
- (23) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (24) The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.
- The developer is to be entirely responsible for the provision of water, sewerage and drainage facilities capable of servicing the development from Council's existing infrastructure. The developer is to be responsible for gaining access over adjoining land for services where necessary and easements are to be created about all water, sewer and drainage mains within and outside the lots they serve.
- (25) All driveway and parking areas are to be sealed with bitumen, hot mix or concrete and are to be designed for all expected loading conditions (provided however that the minimum pavement depth for gravel and flush seal roadways is 200mm) and be in accordance with the Orange City Council Development and Subdivision Code.
- (26) The existing water mains that cross the site are to be accurately located. Where the main is positioned adjacent to any proposed building work, measures are to be taken to protect the mains from excavation works. All water main stop valves shall be located and protected during construction. No cut or fill is to occur within the water main or sewer main easements without approval from Orange City Council.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- (27) Landscaping shall be installed in accordance with the approved plans, subject to deletion of the listed species, and substitution with alternative climate-suitable species:
- Kangaroo Paw
 - Running Postman
 - Cootamundra Wattle.
- Landscaping shall be permanently maintained to the satisfaction of Council's Manager Development Assessments.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 521/2021(1)

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Conditions (cont)

Prior to the issue of an occupation certificate (cont)

- (28) A total of eight off-street car parking spaces shall be provided upon the site in accordance with the approved plans, and be constructed in accordance with the requirements of Council's Development and Subdivision Code prior to the issue of an Occupation Certificate.
- (29) A Restriction-as-to-User under section 88B of the *NSW Conveyancing Act 1979* shall be created on the title of the subject land that restricts occupants of the development to the following only, as specified by State Environmental Planning Policy (Housing) 2021:
- (a) *seniors or people who have a disability,*
 - (b) *people who live in the same household with seniors or people who have a disability,*
 - (c) *staff employed to assist in the administration and provision of services to housing provided under this Policy.*
- Evidence that the Restriction-as-to-User has been created on the title of the land shall be submitted to Council prior to the issue of an occupation certificate.
- (30) 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.
- (31) 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.
- (32) Where Orange City Council is not the Principal Certifying Authority, a final inspection of water connection, sewer and stormwater drainage shall be undertaken by Orange City Council and a Final Notice of Inspection issued, prior to the issue of either an interim or a final Occupation Certificate.
- (33) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions.
- (34) A Road Opening Permit Certificate of Compliance is to be issued for the works by Council prior to any Occupation/Final Certificate being issued for the development.
- (35) Prior to the issue of an Occupation Certificate, the applicant is to provide certification that the acoustic construction elements recommended in Table 9 in Section 8.1 of the Acoustic Engineering Report completed by Cogent Acoustics (No. 21519), dated 18 November 2021, have been implemented and are compliant with that report.
- (36) 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.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 521/2021(1)

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Conditions (cont)**MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT**

- (37) The proposed development shall be operated in perpetuity by a social housing provider, as defined in State Environmental Planning Policy (Housing) 2021 as follows:
- social housing provider** means the following—
- (a) the Secretary of the Department of Communities and Justice,
 - (b) the Land and Housing Corporation,
 - (c) a registered community housing provider,
 - (d) the Aboriginal Housing Office,
 - (e) a registered Aboriginal housing organisation within the meaning of the *Aboriginal Housing Act 1998*,
 - (f) a local government authority that provides affordable housing,
 - (g) a not-for-profit organisation that is a direct provider of rental housing to tenants.
- (38) Any outdoor lighting must be in accordance with the *Australian Standard 4282-1997 Control of the obtrusive effects of outdoor lighting*.
- (39) Development consent shall be obtained for any signage that is not exempt development pursuant to local or state planning policies.
- (40) 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*.
- (41) The carport is not to be enclosed on any elevation (including enclosure by the installation of roller doors) without separate development consent.

ADVISORY NOTES

- (1) Further development consent will not be granted for subdivision of the development, pursuant to State Environmental Planning Policy (Housing) 2021 Section 90.

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
-

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 521/2021(1)

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Right of Appeal

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

Disability Discrimination Act 1992:

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

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

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

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

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

Signed:

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

Signature:**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

Date:

6 April 2022

2.4 PART 5 ENVIRONMENTAL ASSESSMENT LAKE CANOBOLAS WATER AND SEWER RETICULATION PROJECT

RECORD NUMBER: 2022/427

AUTHOR: Ben Hicks, Senior Planner

EXECUTIVE SUMMARY

Orange City Council is proposing to construct and operate a new water and sewer reticulation system running roughly east from a new Sewage Pump Station (SPS) within the Lake Canobolas Reserve, to terminate near the intersection of Canobolas Road with Racecourse and Pinnacle Road, on the south-western outskirts of Orange.

The project intends to upgrade existing water and sewer infrastructure to provide a broad range of health and environmental benefits to the community. This includes an upgrade to an existing water main and provision of new connections to all existing customers, which will deliver better quality water, improve residual water pressure and offers improved social and health benefits for the community. The installation of a new sewer main will also provide an opportunity to remove existing onsite sewage management systems (septics) around the Lake Canobolas Reserve and Scout Camp areas; it is anticipated that this will improve waterway health and reduce potential issues associated with downstream water catchments, including potential for seepage into Cabonne Council's Molong Creek Dam reservoir.

The proposed route for the pipeline runs between the fringes of Orange city in the vicinity of Towac Park (south-west of Orange, within the Orange City Council LGA), to a new sewer pumping station within the Lake Canobolas Reserve, in the Cabonne Shire (Figure 1).

Pursuant to Clause 106 and 125 of the State Environmental Planning Policy (Infrastructure 2007) the activity proposed is a *sewage reticulation system* and *water reticulation system*, which are defined as:

sewage reticulation system means a building or place used for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated waste for use or disposal, including associated -

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

water reticulation system means a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure and dosing facilities.

As Orange City Council is a public authority, the works are permitted without consent via Clause 106(3B) and Clause 125(1) of the State Environmental Planning Policy (Infrastructure) (ISEPP), and thus the provisions of the ISEPP prevail over Part 4 assessment/consent requirements.

2.4 Part 5 Environmental Assessment Lake Canobolas Water and Sewer Reticulation Project

Notwithstanding, Orange City Council has an obligation under Section 5.5 of the Environmental Planning and Assessment Act 1979 to examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of the proposed activity. In this regard, the proponent commissioned EnviroFact Pty Ltd to prepare a Review of Environmental Factors (REF) to address the heads of consideration outlined in Clause 228 of the Environmental Planning and Assessment Regulation 2000 and to inform the determination process.

The REF was exhibited for 36 days. Following the closure of the exhibition period, three public submissions were received. The submissions received represent those stakeholders with a direct and legitimate interest in the impacts of the proposed water and sewer reticulation system, particularly adjoining residents. Principally, the concerns raised by the submission writers relate to impacts during construction works including noise, property access, excavation works, vibration and disruption to business. A copy of all submissions received are included in the attachments.

Extensive consultation has been undertaken with Cabonne Council during the planning and design phase of the project. Cabonne Council were also given the opportunity to formally comment on the final REF during the public exhibition period. No comments or concerns were received.

The proposed works will interact with a number of waterways, creek systems and water bodies. Where works are not exempt, Council will need to seek the appropriate approvals/permits under the *Water Management Act 2000* and *Fisheries Management Act 1994* from the appropriate authority (NRAR, DPIE Fisheries etc.) before works commence.

The environmental impact assessment undertaken provides a comprehensive analysis of the impacts in relation to native vegetation, biodiversity, waterways, air quality, soils and erosion, heritage and traffic. The REF concluded that the proposed works, providing all proposed management measures and safeguards are implemented, will not result in a significant impact on the environment. These, together with Council's standard conditions, form part of the determination.

In this respect, it is concluded that Orange City Council has satisfied its obligations under Part 5 of the EP&A Act 1979 and that the project can proceed.



Figure 1 –Locality Plan and Pipeline Route

BACKGROUND INFORMATION

Council intends to expand on the existing potable water and sewer network to encapsulate additional residences and businesses along these core growth areas on the outskirts of Orange City. The purpose of the new infrastructure is to deliver better quality water, improve residual water pressure and to offer improved social and health benefits for the community and sewer is to remove existing sewer septic systems around the Lake Canobolas Reserve and Scout Camp areas improving waterway health and reducing issues associated with downstream water catchments, including Cabonne Council's Molong Creek Dam reservoir.

PROPOSAL

The project includes the proposed construction of new water and sewer mains from the Lake Canobolas Reserve to Orange, NSW. A new sewage pump station (SPS) is proposed to be constructed approximately 140m northeast of Lake Canobolas to service the Lake, Scout Camp, and Bike Park. The water main will also service the same users, including residents in proximity to the main within the catchments of Lake Canobolas Reserve and Molong Creek.

The existing road network and some private property will be utilized for laying the mains pipelines. Both water and sewer mains will be constructed below ground, using predominately trenching or boring techniques. The pump station is proposed to be constructed underground in an isolated location, with minimal infrastructure above ground within the Lake Reserve. The proposed pipeline is approximately 7.9 km long and pipes are expected to be laid on top of each other within a single trench, in order to reduce overall trench width. The proposed methodology of constructing the main is predominantly through trenching, using a 1200 mm deep and 900 wide trench that will house both mains along the majority of the route, however, exact construction methodologies are open to consideration at time of Tender.

2.4 Part 5 Environmental Assessment Lake Canobolas Water and Sewer Reticulation Project

A 20-tonne excavator is expected to be the maximum size plant for excavation work along areas with clear/adequate access, with smaller 5-tonne excavators used in more restricted locations, including sensitive sites such as within the riparian zone of the tributary of Molong Creek. All disturbed vegetation and infrastructure, such as roads, road reserves and driveways will be reinstated and rehabilitated as per the relevant Orange City Council Subdivision Code and Cabonne Shire Council's Guidelines for Engineering Works.

DECISION FRAMEWORK AND STATUTORY OBLIGATIONS

Development in the Orange LGA is governed by the Environmental Planning and Assessment Act 1979 and the accompanying Environmental Planning and Assessment Regulations 2000. Sitting below the Act and Regulations is State-wide Environmental Planning Instruments (SEPPs) and the Orange Local Environmental Plan (LEP) 2011. There are three main approval pathways being Exempt Development, Development that needs consent and Development that does not need consent:

1. **Exempt development** – which requires no formal environmental assessment as it has been identified as having minimal environmental impact.
2. **Development that needs consent** – subject to Part 4 of the EP&A Act. This includes both local and state significant development (Part 4.1). The consent authority is usually Council.
3. **Development that does not need consent** - subject to Part 5 of the EP&A Act, which requires the full range of environmental impacts associated with an activity to be considered before it may proceed. The 'determining authority' is usually a public authority, such as Council, planning to undertake the activity, or whose statutory approval is required.

The proposed activity is defined as a water and sewer reticulation system. Pursuant to Clause 106(3B) and 125(1) of the State Environmental Planning Policy (Infrastructure) 2007, development for the purpose of water and sewer reticulation systems may be carried out by or on behalf of a public authority without consent on any land. Where the activity is permitted without consent, there is an obligation under Section 5.5 of the Environmental Planning and Assessment Act 1979 to *'examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity'*. The minimum statutory requirements that must be considered are set out in Clause 228 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

Orange City Council is a public authority and is the determining authority for all its activities that are assessed by way of an REF under Part 5 of the EP&A Act. Orange City Council has developed internal systems to ensure separation and transparency in decision-making, as outlined by the General Manager's delegation GM004 adopted by Council on 19 January 2015. This provides that the responsibility for the final determination of REFs and decisions to proceed with a project are at a sufficiently senior level, tailored to the size and scale of the project, and independent of proponent and the person preparing the REF.

The proposed activity was publicly exhibited for 36 days. All submissions and comments from the public have been considered in the review of the REF.

2.4 Part 5 Environmental Assessment Lake Canobolas Water and Sewer Reticulation Project

Cabonne Council have also been extensively involved in the planning/design phase and are supportive of the project. No formal submission was received from Cabonne Council on the final REF document during the exhibition period.

Council will need to seek the appropriate approvals under the *Water Management Act 2000* and *Fisheries Management Act 1994* from NRAR and DPIE Fisheries where no exemptions apply. Where required, these approval/permits will need to be obtained prior to the commencement of works.

Furthermore, the REF has considered and addressed the relevant provisions of:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Biodiversity Conservation Act 2016*
- *Environmental Protection and Biodiversity Conservation Act 1999*
- *Fisheries Management Act 1994*
- *National Parks and Wildlife Act 1974*
- *National Parks and Wildlife Regulation 2009*
- *Heritage Act 1977*
- *Protection of the Environment Operations Act 1997*
- *Water Management Act 2000*
- *Water Act 1912*
- *Local Government Act 1993*
- *Roads Act 1993*
- *State Environmental Planning Policy (Infrastructure) 2007*

DIRECTOR'S COMMENT

Development Services staff have completed a peer review of the REF for the Lake Canobolas Reticulation Project dated 6 December 2021, under Part 5, Division 5.1 of the Environmental Planning and Assessment Act.

The REF was advertised for the purposes of public interest. 3 submissions were received and have been adequately considered.

The EnviroFact Pty Ltd Review of Environmental Factors (REF) adequately addresses the heads of consideration outlined in Clause 228 of the Environmental Planning and Assessment Regulation 2000 and to inform the determination process. The REF concludes that the proposed works are unlikely to have a significant adverse impact on the environment provided that all proposed management measures and safeguards are implemented.

It is concluded that Council has satisfied its obligations under Part 5 of the EP&A Act 1979 and that the project can proceed. Works cannot commence until the appropriate approvals/permits are granted by DPIE Fisheries or NRAR.

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan Strategy “8.1 Preserve - Identify and deliver essential water, waste and sewer infrastructure to service the community into the future”.

FINANCIAL IMPLICATIONS

This report and associated REF document relate only to the assessment of environmental impacts arising from the construction and operation of the Lake Canobolas water and sewer reticulation project. It does not consider the financial implications of construction and operation of the system. This is a matter to be considered at a later date by Council once all funding opportunities and budgets are determined.

POLICY AND GOVERNANCE IMPLICATIONS

Nil

RECOMMENDATION

That Council approves the Lake Canobolas Water & Sewer Reticulation Project in accordance with its obligations and powers under Part 5 of the *Environmental Planning & Assessment Act 1979* subject to:

- 1. All safeguards and mitigation measures identified within the REF;**
- 2. Additional conditions imposed by Council staff outlined in this report; and**

Compliance with all other relevant statutory approvals, licences, permits and authorisations needed to carry out the project.

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

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.

ENVIRONMENTAL IMPACTS & MITIGATION MEASURES

Council commissioned Premise to prepare a Review of Environmental Factors (REF) for determination by Council as the proponent and the determining authority under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

As is required under legislation, the REF has considered impacts as follows:

- Soils and Erosion
- Waterways
- Noise

2.4 Part 5 Environmental Assessment Lake Canobolas Water and Sewer Reticulation Project

- Air quality
- Non-Aboriginal Heritage
- Aboriginal Heritage
- Biodiversity
- Traffic and Transport
- Socio-economic
- Waste and Resource Use
- Visual Amenity
- Climate Change

The REF analysis of each of these is summarised below.

Soils and Erosion

The REF advises that the study area travels mainly along existing road reserves and past/through private property, including cultivated paddocks towards the western extent. The route was observed to be mostly flat and subject to historical disturbance, including patches of exposed soils. However, some native remnant vegetation did occur in patches across the private land and within the road reserves. The following table provided in the REF summarizes the impacts on soils as part of the project:

Description	Y	N	Comments
Are there any known occurrences of salinity or acid sulfate soils in the area?		X	Cq (p4) and Bn (p4) ASS occur within the study area (Figure 5) which are classified as 'low' and 'extremely low' probability ASS. Care should be taken in wet / riparian areas where these have a higher chance of occurring within the top 1 m of soil. A small area of Aq(P4) ASS occurs in the vicinity of the Lake at the western extent of the study area. These are considered 'high' probability and extreme care should be taken to test soils and watch for ASS in this vicinity.
Does the project involve the disturbance of large areas (e.g. >2ha) for earthworks?		X	A 2 m wide trench / excavation footprint will be required, equivalent to an impact of 1.84 ha which will be progressively stabilised and backfilled. This sits within the maximum impact area (10 m wide) of 7.92 ha (the subject site).
Does the site have constraints for erosion and sedimentation controls such as steep gradients, narrow corridors or is located on private property?	X		Passes through private property and crosses a tributary of Molong Creek.

The REF advises that the erosion and soil pollution risks outlined above are considered to be manageable through the use of best practice construction methods for erosion and sediment control and the implementation of appropriate Environmental Safeguards. The erosion and sediment control methods are considered appropriate for the project and are in line with industry standards. Monitoring and response actions with regards to ERSED

2.4 Part 5 Environmental Assessment Lake Canobolas Water and Sewer Reticulation Project

controls will need to be incorporated within the Construction Environmental Management Plan (CEMP) for the project.

Waterways

The nearest permanent water source is Molong Creek, immediately downstream of Lake Canobolas, which is a tributary of the Bell River. The proposed new pipelines will cross Molong Creek below the Lake Canobolas dam wall; however, this crossing will be completed using an existing pipe sleeve, and no excavation of the bed or banks of this waterway will be undertaken.

A 2nd order unnamed waterway, that is a tributary to Molong Creek, interacts with the study area where the pipeline crosses through a private property. 2nd Order streams correspond with Class 4 waterways, constituting unlikely fish habitat.

However, the section of this waterway within the study area is mapped as supporting Key Fish Habitat was well vegetated at the time of the site inspection, with steep banks and a narrow streambed. Other areas mapped as containing KFH occur within a 5km of the proposal location, including one large (> 1 ha) farm dam along Mount Pleasant Lane, however, the proposed works will not impact on these areas.

Potential impacts to downstream surface waters of Molong Creek and Bell River relate directly to erosion and increased sedimentation during construction. As the new pipeline alignment is located close to the dam and crosses a tributary of Molong Creek, there is risk of sedimentation entering waterways during the construction phase of the proposal.

The creek crossing will occur on a 2nd order tributary of Molong Creek which will require a Part 7 Permit due to the nature of the proposed works falling under 'Dredging and Reclamation'. All works will need to be undertaken in accordance with the conditions/requirements of that permit.

The REF outlines a number of safeguards to be implemented through a Soil and Water Management Plan developed as part of the CEMP for the project, detailing, water quality parameters, appropriate monitoring locations and frequency, location and types of ERSED controls, proposed revegetation and stabilisation measures to be undertaken, spill response protocols, stockpile management.

Noise and Vibration

The REF outlines that the project area will traverse a range of settings, including rural paddocks, residential streets and agricultural properties, with background noise levels arising from traffic, local wildlife, farming machinery and activities, anthropogenic noises, livestock and inclement meteorological conditions (rain and wind).

As the route travels alongside roads throughout most of its length, noise from passing vehicles and houses were the major contributors, along with farm machinery, livestock, and wildlife (predominantly birds), to the acoustic environment during the site investigation. Noise levels at the SPS site consisted mostly of human noises in the form of children playing in the park and families enjoying the recreational facilities surrounding the lake.

Noise impacts during construction are anticipated to arise predominantly from heavy vehicle movement and excavation of the compacted road shoulder to make way for the trench; excavators and other mechanical equipment will generate noise, including general

engine noise and reverse alert beepers, as well as loud scraping and digging, and dumping of excavated material into trucks for transportation offsite as required.

Construction will occur in close proximity to sensitive receivers, including up to 32 private properties. Several homesteads, a golf club, recreational facilities, Scout Camp, Retirement Village, Bus Depot and the Racecourse may experience intrusive noise disturbances as a result of construction works and at the Lake Canobolas precinct. Noise impacts during the construction of the SPS are likely to generate the most noticeable impact due to the potential for bedrock and the high use of the area and its closeness to public amenities.

The safeguards recommended in the REF to minimise the impact on surrounding receivers during construction include Community consultation i.e., notifying property owners when works will occur, timing etc, hours of work - daylight hours only and weekend restrictions and ensuring all vehicles and equipment are operated and maintained in accordance with the manufacturer's specifications.

Overall, the noise impacts associated with the construction of the pipeline are of a short-term nature and will have no ongoing discernible impacts on sensitive receivers in the locality.

The operation of the SPS may have some ongoing noise impact; however, would be minimal. The SPS will be located below ground and enclosed.

Air Quality

Air emission sources during construction include particulate matter and plant/vehicle emissions.

Particulate matter is a result of fugitive dust sources produced during construction from, clearing of groundcover and topsoil, earthmoving, and transport of construction materials.

The quantity of emissions from the construction works are dependent on a range of factors, including the characterisation of the soil materials (e.g., silt and moisture content), the construction methods adopted, local wind conditions, and the presence and density of vegetation in the area. It is noted, however, that these impacts are likely to be temporary and localised, and best practice management and mitigation measures can adequately address relevant goals for dust deposition, and control and minimise potential impacts.

Vehicle emissions include petrol and diesel-fuelled vehicles and operation of onsite machinery. The emission rates and impact potential would depend on power output of combustion engines, quality of fuel and condition of combustion engines. Odour may be detected close to the source; however, given the short-term nature of construction works, the potential for odour impacts are minimal.

Provided the construction contractor meets the requirements of relevant legislation, regulations, and operates machinery appropriately, the proposed works are unlikely to result in air quality impacts and are therefore not considered to be significant.

Aboriginal Heritage

The REF outlines that a visual pedestrian inspection, examining the Aboriginal archaeological values of the study area, was undertaken on the 23rd of March 2020 by Apex Archaeology. An additional site visit was conducted on 5 July 2021. Two additional alignment sections were assessed via pedestrian survey. This assessment was designed to satisfy the Due

2.4 Part 5 Environmental Assessment Lake Canobolas Water and Sewer Reticulation Project

Diligence requirements as outlined in the *DECCW 2010 Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (the Due Diligence Code of Practice). A search of the Aboriginal Heritage Information Management System (AHIMS) register was conducted on 17 February 2020. This search included a 1km buffer, and no registered sites were identified as occurring within this area.

The REF determined that no Aboriginal objects or intact archaeological deposits will be harmed and that works may proceed without further archaeological investigation, subject to adoption of mitigation measures. These measures include:

- All staff and contractors involved in the proposed work should be made aware of the legislative protection requirements for all Aboriginal sites and objects.
- If Aboriginal artefacts or skeletal material are noted, all work should cease and the procedures in the Unanticipated Finds Protocol should be followed.
- Work crews should undergo cultural heritage induction to ensure they recognise Aboriginal stone artefacts, particularly those commonly found within the Orange area and are aware of the legislative protection of Aboriginal objects under the National Parks and Wildlife Act 1974 and the contents of the Unanticipated Finds Protocol.

Non-Aboriginal Heritage

The REF outlines that the heritage sites (SEED, 2020) listed within a 500 m radius of the study area include the following, the bolded items are those in close proximity to the study area:

2.4 Part 5 Environmental Assessment Lake Canobolas Water and Sewer Reticulation Project

1. Towac Park Racecourse (timber grandstand, pavilion, entry avenue).
2. 'Luxultan' – dwelling
3. **Glengarra Homestead** – located at 84 Mount Pleasant Lane, immediately north of the study area, listed on the Orange LEP as number I19.
4. **Rossi Orchard** – Brick barn and shed located at 98 Mount Pleasant Lane, listed on the Orange LEP as item 1324, immediately north of the study area.
5. **Mt Pleasant – Dwelling and Barn** - located at 101 Mount Pleasant Lane and listed as number 1325 on the Orange LEP, located immediately south of the study area.
6. Braehead – Outbuildings and Lands
7. Canobolas Public School
8. Roseteague Homestead and curtilage
9. Rose Cottage (House- former post office)
10. **Orange Racecourse Railway Station** - located at 74 Canobolas Road, the building is no longer in use as a station and is currently a private residence.
11. **Railway Crossing Cottage (former)** – located at 94 Ploughmans Lane, immediately north of the study area, listed as I190 on the Orange LEP.
12. **Dwelling and Shed** – located at 8 Canobolas Road and listed as item I188 on the Orange LEP, located immediately north of the study area.
13. **CSR Readymix site (Bluestone quarry)** – located on Laurel Street, listed as item I58 on the Orange LEP, located immediately east of the study area.
14. Dwelling (off Racecourse Rd)
15. 'Melyra' Dwelling House
16. **Lake Canobolas Reserve and Pump House** – listed on the Cabonne LEP as item number 1218. The Reserve is owned by OCC but is located within the Cabonne LGA.

The proposed pipeline route falls within the road verge in front of all built structures. The REF provides that the project could impact the front fence of "Glengarra", given its proximity to the road, as well as the root zone of the mature plantings at the front of 74 Canobolas Road; however, given the pipeline will be closely aligned with the road, the works will not be within the zone of influence of the fence or major/significant roots of the plantings fronting 74 Canobolas Road. Figures below show the expected placement of the pipeline. It is, however, reasonable to require a dilapidation report to be prepared for the fence and exclusions zones in place during works to avoid potential damage by machinery.



Plate 10 Glengarra Homestead fence fronting the road verge and street (Apex, 2020)



Plate 12 Treeline shielding the former Orange Racecourse Railway Station from view of the road, 74 Canobolas Road (Apex,2020)

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Biodiversity

A detailed terrestrial ecological assessment has been prepared as part of the REF in accordance with the NSW *Biodiversity Conservation Act 2016* and Commonwealth *Environmental Protection Conservation Act 1999*. This report contains details on the survey methods employed, habitat assessments, threatened species assessment and tests of significance.

The project includes a 10 m wide direct impact corridor over a 7.91 km length, from the Lake Canobolas Reserve to Orange. The REF advises that the proposal would result in the removal of up to 0.75 ha native vegetation consisting of ground and shrub cover. No mature native trees will be removed or impacted by the works. Ground- truthed vegetation occurring within the subject site is shown in the following table:

Vegetation type	Subject Site (ha)
Non-Native Vegetation	7.17
Roadside Radiata Pine with scattered Eucalypts	0.06
Blakelys Red Gum - Yellow Box grassy tall woodland of the NSW Southwestern Slopes Bioregion	0.09
Broad-leaved Peppermint - Red Stringybark grassy open forest on undulating hills; South Eastern Highlands Bioregion	0.53
River Red Gum shrub/grass riparian tall woodland or open forest wetland mainly in the upper slopes sub-region of the NSW South Western Slopes Bioregion and western South Eastern Highlands Bioregion	0.07
Total area impacted	7.92
Total native	0.75

The current road and adjacent private properties heavily dictate the alignment of the proposed clearing works and as such, no major alterations to the route can be made. However, amendments have been made to the route where it crosses private land and waterways, to ensure crossings are perpendicular to reduce erosion potential, and tracts of native vegetation have been avoided where possible. The REF advises that the native vegetation that will be impacted by the project is in poor/moderate condition. All disturbed areas will be required to be suitably revegetated e.g. hydroseed or hydromulch with native seed mix.

Ecological surveys, including habitat assessments and incidental flora and fauna recordings were completed during the site visits to identify important habitat components for any threatened species and ecological communities recorded, or that may occur, within the locality. The report advises that a total of 27 fauna species were recorded within the study area. This included twenty-four (24) bird species, including one (1) exotic and three (3) mammal species two (2) exotic.

However, the report advises that the study area supports a limited range of habitat for native wildlife. The study area contains several native trees that potentially provide shelter, nesting, and food resources throughout the year. Due to the relative isolation of the roadside vegetation, most faunal habitat is located towards the western extent of the study area within the Lake Reserve. Beyond the scattered roadside trees and vegetation surrounding the lake, the study area consists mostly of cleared paddocks and land unsuitable for habitation by most native wildlife. Beyond the road reserve there is little habitat for native wildlife as it is completely barren, exposing wildlife to predation and providing minimal habitat in terms of shelter or food resources. Adjacent land consists of ploughed fields devoid of shelter or other resources. In this regard, the REF advises that the proposal is unlikely to result in habitat fragmentation.

Indirect impacts caused by the Proposal will include noise and dust pollution generated by machinery during clearing and trenching activities. Noise and dust have the potential to travel long distances and disrupt wildlife outside of the study area. Presence of vehicles, machinery and staff within and surrounding the study area may also disturb terrestrial species that feed or breed in the vicinity. Appropriate sediment controls and hours of work will limit the potential for significant impact.

In terms of the riparian ecological impacts, the REF advises that sediment generated and/or emitted during and following clearing and trenching may migrate downhill of Molong Creek, disrupting amphibious and or aquatic species through increased sediment deposition and reduced water quality (increased turbidity). Careful management of the pipeline crossing at Molong Creek and the unnamed waterway, including strict erosion and sediment controls and best practice techniques will greatly reduce any potential impact to creek biodiversity. Council/contractor will also need to comply with any requirements of approvals/permits issued by NRAR or DPIE Fisheries before commencing any work in these areas.

Overall, the removal of the vegetation (grasses and shrubs) within the subject site is unlikely to affect an ecologically significant proportion of local native populations in the area; and mobile fauna that can either easily move from the subject site or which only use resources on a temporary or seasonal basis are highly unlikely to be injured or killed by the proposal. The strategies/safeguards proposed in the REF are considered appropriate to ensure minimal impact on biodiversity.

Traffic and Transport

The primary impacts on traffic associated with the proposal are likely to be disturbance to local traffic movements and access to the site during construction, including short term lane closures and/or traffic controls, resulting in commuter delays. No major permanent detours or loss of access to businesses/properties is expected as a result of works. The pipeline route occurs along sections of road that can easily be bypassed by locals travelling through the area. Impacted driveways/accesses will be replaced/repared of all damages post-completion of construction in the immediate vicinity.

A Traffic Management Plan (TMP) will be prepared as part of the standard safety and site induction materials within the project CEMP, to ensure that staff undertaking the road works are suitably inducted to site, that traffic flow is minimally disrupted during the works and that appropriate traffic safety measures are employed. Residents and businesses will be notified/consulted in relation to timing of works to avoid any significant disruption.

Waste Management

Several types of waste will arise from the project which will be disposed of and managed in line with legislation.

Socio-Economic Effects

Construction of the proposed Lake Canobolas Water and Sewer Reticulation mains is anticipated to have positive long-term socio-economic benefits for the local community, by giving residents access to reticulated sewerage and water, which are generally the most effective method for removing and treating waste in an urban area.

Visual Amenity Impacts

During construction, the proposed works would affect the visual environment by the presence of machinery and equipment, excavation and soil disturbance, and temporary excavation of private property entrances that will be undertaken for pipeline construction. However, these impacts will be short term and only for the duration of works and all impacted areas will be suitably rehabilitated.

Further, the proposal will mainly constitute buried pipelines and a below-ground pump station that would not significantly detract from the visual environment post installation. The new pump station will not cause significant impact to visual amenity due to its remoteness, and the location being surrounded by established trees and the landscaping to accompany the design and construct. Overall, the proposal is not expected to have a significant impact on the visual amenity of the site.

Climate Change

The REF has assessed climate change impacts resulting from the project, however, these are minimal given the nature of the project. Appropriate resource management will be followed including avoiding unnecessary resource consumption, followed by appropriate resource recovery including reuse of materials, reprocessing, recycling and energy recovery.

STAKEHOLDER ENGAGEMENT

The REF was exhibited between 20 December 2021 and 25 January 2022 receiving three (3) public submissions. The submissions received represent those stakeholders with a direct and legitimate interest in the impacts of the proposed water and sewer reticulation system, particularly adjoining residents. Principally, the concerns raised by the submission writers relate to impacts during construction works including noise, property access, excavation works, vibration and disruption to business. The concerns raised in the submissions are addressed below:

Submission 1 response:

At present it is intended to place the pipeline on the Northern side of Mount Pleasant Lane to minimize the impacts on vegetation on the southern side of the road. Council is aware of the Power and Optus infrastructure in this vicinity and will liaise with the relevant authority as necessary.

Council typically has the construction contractor undertake a dilapidation report before works commences. Given the age of the dwelling and wall, Council is also prepared to engage an independent engineer to undertake this evaluation.

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An instruction will also be given to contractors not to utilize vibration equipment in the vicinity of the wall. Council is insured and requires all contractors to be insured. Council will rectify any damage caused to infrastructure on private land as a result of the works.

Submission 2 response:

Council will ensure the pipe is located far enough from the structure to ensure its footings are not compromised. In addition, Council will instruct that vibration equipment is not used in the vicinity of the property.

With respect to the placement of the pipe past the dwelling this should only take a few days, however, access down Pines Lane will be necessary as works progress past 381 Pinnacle Road.

Council can provide indicative dates for construction once a contract is let however this would be weather dependent and could be impacted by COVID or material supply.

Submission 3 response:

The majority of the new water main does not affect access and will be constructed parallel to the existing water main falling within the same easement. Consultation will occur to ensure there is minimal impact on business operations. Consultation with property owners regarding vegetation rehabilitation over the pipeline will also be undertaken in due course.

Council initially proposed to run the sewer main through the property adjacent to the existing water main with a view that it would have negligible impact upon mature trees. However, based on the concerns raised, Council has now designed the sewer main to follow Woods lane. The sewer main is to be placed on the western side of the road with a view to minimising the impact on mature trees.

Orange City Council will rectify any damage caused by the sewer and water main construction. However, the upgrading of roads within Cabonne Shire Council does not form part of this project.

Cabonne Council

Consultation with Cabonne Shire Council is ongoing, as a portion of the infrastructure will be constructed and operated in the Cabonne LGA. Cabonne Council are supportive of the project.

Other Government agencies

As identified within REF and discussed in the report, consultation with NSW DPI Fisheries is required to determine whether a Part 7 Permit under the FM Act is required to be obtained prior to commencement of works. The 2nd order unnamed creek to be crossed by the proposal is mapped as supporting Key Fish Habitat, which triggers the need for further investigation and liaison with Fisheries or NRAR.

CONCLUSION

Under Section 5.5 of the EP&A Act, Orange City Council is responsible for assessing all matters affecting or likely to affect the environment from this activity. In this regard, the proponent commissioned EnviroFact Pty Ltd to prepare a Review of Environmental Factors (REF) to address the heads of consideration outlined in Clause 228 of the Environmental Planning and Assessment Regulation 2000 and to inform the determination process.

2.4 Part 5 Environmental Assessment Lake Canobolas Water and Sewer Reticulation Project

The REF provides a comprehensive outline of the project, neatly summarising pages of analysis as well as clearly determining that the project will not cause undue impact to the environment. The REF concludes that the proposed works are unlikely to have a significant adverse impact on the environment provided that all proposed management measures and safeguards are implemented.

Staff concur with the findings of the REF. It is concluded that Council has satisfied its obligations under Part 5 of the EP&A Act 1979 and that the project can proceed. Works cannot commence until the appropriate approvals/permits are granted by DPIE Fisheries or NRAR.

CONDITIONS

In addition to the safeguards and environmental management measures outlined the REF by EnviroFact Pty Ltd dated 7 December 2021, the following conditions apply:

1. A Construction Environment Management Plan (CEMP) is to be prepared prior to any construction works commencing. The CEMP must include all REF Environmental Safeguards and Mitigation Measures.
2. Works are to be carried out during normal work hours (7am to 6pm Monday to Friday; 8am to 1pm Saturdays). No work is permitted to occur on Sundays or public holidays.
3. All personnel working onsite will receive training to ensure awareness of environment protection requirements to be implemented during the project. This is to include site induction and regular 'toolbox' briefings. Site specific training to include areas of high sensitivity including heritage items, native vegetation etc. Records of site induction training to be kept by project manager.
4. A dilapidation report prepared by a suitably qualified engineer is to be submitted to Council's Director Development Services addressing the current condition of the front fence and dwelling at 84 Mount Pleasant Lane, Orange.
5. An exclusion zone is to be established by fencing or other means adjacent to the front boundary fence at 84 Mount Pleasant Lane, Orange to ensure avoidance of impacts. Access by personnel or vehicles/plant and storage of any materials within the exclusion zone is strictly prohibited.

ATTACHMENTS

- 1 Submissions, D22/16190 [↓](#)
- 2 Site Plans, D22/16059 [↓](#)

Submission 1

23/1/2022

RE:F3461 – Ref Lake Canobolas Reticulation Project

Chief Executive Officer
Orange City Council
PO Box 35
Orange NSW 2800

Dear Sir / Madam,

We write as property owners directly adjacent to the proposed pipeline. I have a number of concerns that I ask you to take into consideration during the construction when it is next to my property.

Firstly, on the boundary of our property adjacent to Pines Lane (less than 1 metre from the boundary) is a building that was classed as “significant” in the 2011 Orange City Heritage Review (2220795). This building was not mentioned and I request that construction near the building be very sympathetic to the structural integrity of the building. I believe the pipeline is designed to be very close to the property boundary.

We request that the pipeline construction be planned as far as possible from the boundary of _____ and Pines Lane.

Secondly, the above building was upgraded in 2018 to become a Short Term Rental Accommodation facility (Melaleuca Cottage). Heritage aspects were considered in the DA. This has constant bookings on the Short Term rental market and many visitors to Orange book well in advance (up to 12 months). Construction of the pipeline will have a significant effect on any visitors to the cottage. Thus:

- It will be very difficult to have guests when the construction is being done in Pines Lane.
- The two-week notice of construction in the vicinity of the cottage does not allow us to have time to have guests find alternate accommodation. In addition the online booking sites heavily penalise owner cancellations.

We request that we be provided significantly more notice of construction. We would be happy to close the cottage for a two or three week period, if we have definite dates of construction.

I look forward to your cooperation in these matters.

Yours sincerely,



Submission 2

Orange NSW 2800

4th January 2022

Orange City Council
135 Byng Street
Orange NSW 2800

Re: F3461 – REF -Lake Canobolas Reticulation Project

Dear Chief Executive Officer

Having reviewed the proposed development for the above I am still not sure on which side of the road in Mt Pleasant Lane that the pipeline is going to be laid. As the power lines and the Optus lines are on the same side as my home I am presuming that the pipes will be laid on the other side where there are no such obstructions and indeed no homes close by.

Note the work and positioning of same that Optus carried out in March 2010 on our side of the road





— left their equipment in our yard overnight



Council clean-up on the opposite side of the road to my front gate May 2012- no apparent obstructions for a pipeline

*"4.5.2**Potential Non-Aboriginal Heritage – Construction*

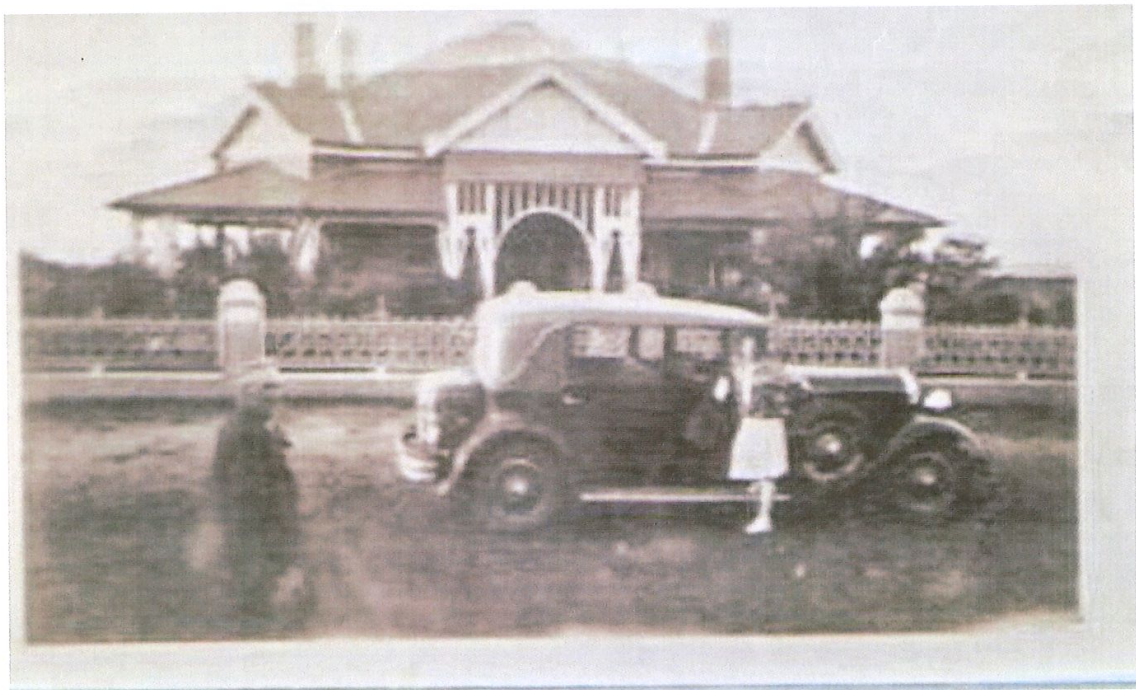
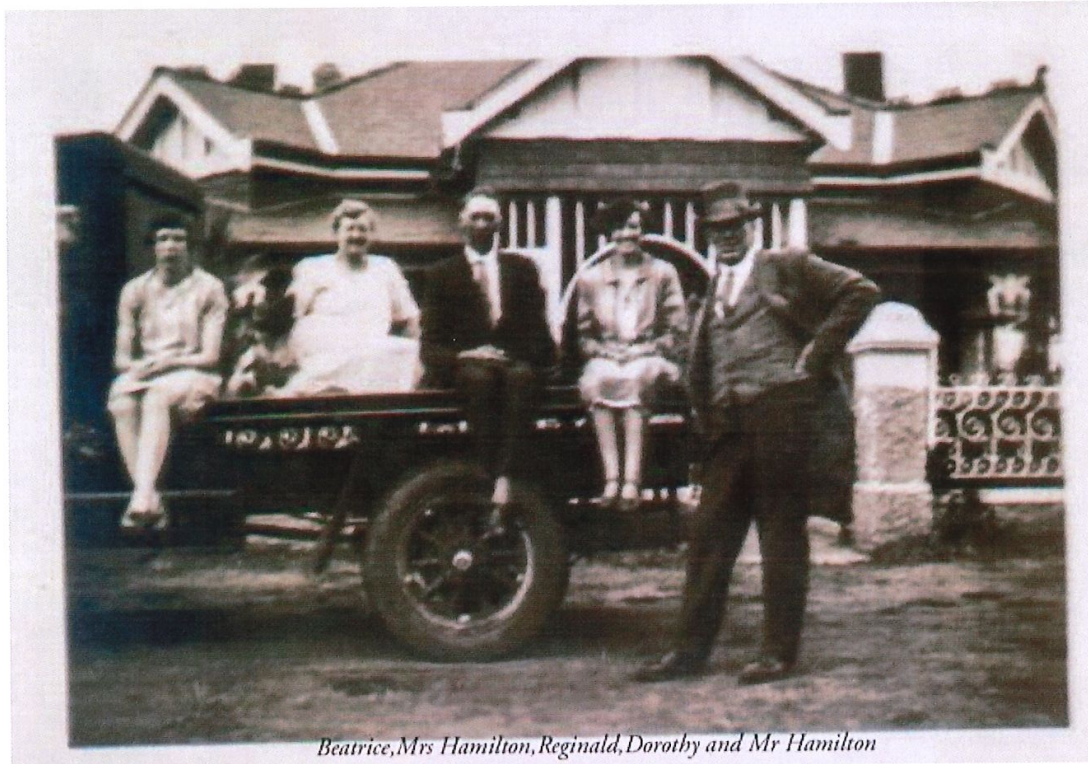
A number of heritage items are located immediately adjacent to the proposed pipeline route, and hence the project has the potential to impact the heritage values of these items. In particular, the project could impact the front fence of "Glengarra", given its proximity to the road, "

My home, built in 1913, is mentioned several times in your report due to its historical significance. You seem to be concerned only about the fence. I am also concerned about the impact that heavy machinery will have on the bluestone foundations and consequently the bricks and plaster.

When we bought the property in 1972 the road was unsealed and was considerably higher and the verge to our front gate more of a gentle slope than it is now. (You can gauge this by the three photos – Jack Hamilton, who built the house, with a truck which appears to be level and another of a car facing the opposite way -although on a slope is not too significant – and the first one which I took last week)

When Council decided to seal the road, they asked permission if they could lower the height of the road in that area as it was difficult to see what was coming from the other side when driving either to or from the west. Being rather naïve we did allow this not realising how it was going to make it extremely difficult to drive a car to the front gate. If we have a visitor with a wheelchair or walking stick etc it is the only way that they can access the house. The back entrance entails 14 steps. I am loathe to have any more "renovations" done on this area.





My worries are more to do with the actual excavation works using heavy machinery that will be carried out on either side of the road but more particularly if they are on our side and hence closer to the house.

The house is built on bluestone foundations – there is no cement or extra supports. The bluestone sits on the dirt as can be verified by climbing underneath – if you wish to see. Over the years I have had to repair many of walls where the plaster had cracked. If we have a lot of rain then the soil on the outside becomes soft whilst the soil under the bluestone remains dry. The bluestone blocks tend to sink on the outside and this then causes the brick above to move and consequently the plaster to crack.

When we moved here there was a large tree which had obviously sent its roots in the direction of the house and had caused the verandah on the east side to shift considerably. We had steps constructed against the bluestone foundations to the verandah to support it. Luckily, we have had no further problems with that.

As you know the train line is at the end of our property and whilst you may think I am exaggerating, at night time whilst lying in my waterbed in the front bedroom I can feel the vibrations of any heavily-laden train whilst it is travelling in that area. I am just stating that to reiterate how sensitive to vibrations is the bluestone.

In the last 24 months I had reason to contact Ron Lodweijks, “Stone Restorations” re a section towards the back of the house to see if we needed to do some restoration due to the movement of the bluestones. He made some observations and showed us how to check for subsequent movement.

I intend to have him inspect the house prior to any work being done on the pipelines and again afterwards.

Does the Council have an insurance policy whereby they will pay for any damage that is done? I am happy for your insurance company to inspect the property as well, prior to the work.

Yours truly,

From:
Sent: Tuesday, 1 February 2022 10:34 AM
To: John Boyd; Orange City Council
Cc: David Waddell
Subject: F3461-REF-Lake Canobolas Reticulation Project

[Submission 3](#)

Dear all,

and I have just arrived home from 6 weeks away in Newcastle to be with our family since my sister in law's accident-I see that the submissions closed over a week ago, I do hope that you can see past this.

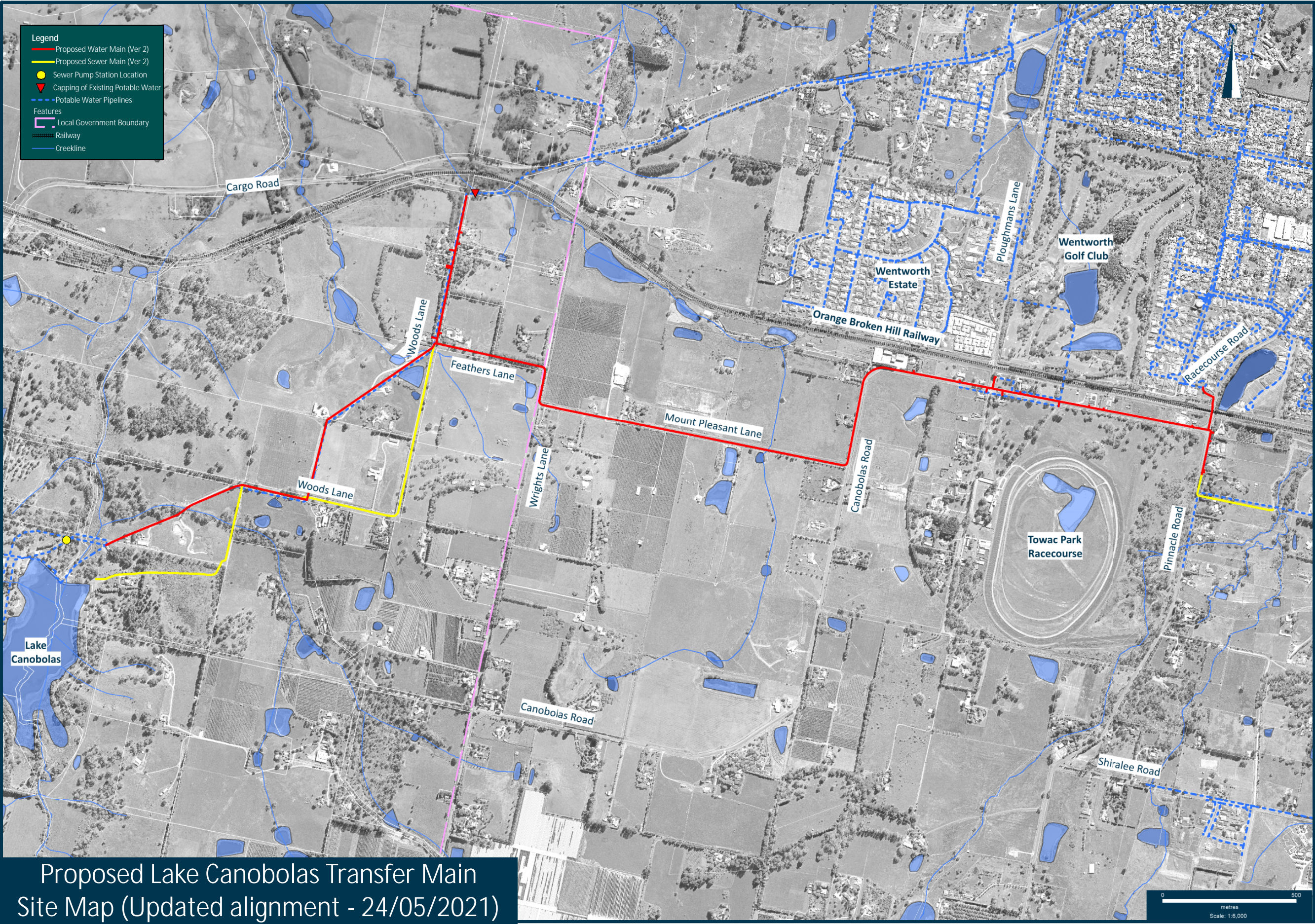
We would like more details on the following:

- The disruption of business in terms of access would like to be better understood- business takes large delivery trucks daily
- The established trees on Woods lane-We would like to know they will be protected
- We would like to see the road upgraded-As this road is a major walk way and cyclist track to the lake from people from town, it is in a state of disrepair at present.

Kind regards,



HIVE ORANGE
25-27 McNamara Street
Orange 2800



Proposed Lake Canobolas Transfer Main
Site Map (Updated alignment - 24/05/2021)

2.5 DEVELOPMENT APPLICATION DA 372/2021(1) - 75 ROSSI DRIVE, CLIFTON GROVE

RECORD NUMBER: 2022/434

AUTHOR: Lucy McDermott, Town Planner

EXECUTIVE SUMMARY

Application lodged	27 August 2021
Applicant/s	Ms E Stelling
Owner/s	Mr AD Stelling and Ms CA Rieksen
Land description	Lot 108 DP 1043048 - 75 Rossi Drive, Clifton Grove
Proposed land use	Secondary Dwelling
Value of proposed development	\$191,078

Council's consent is sought for a secondary dwelling at 75 Rossi Drive, Clifton Grove - Lot 108 DP 1043048. The proposed secondary dwelling is a four bedroom dwelling located to the north-east of the primary dwelling.

The subject site is located within the R5 Large Lot Residential zone. The proposed development is defined as a secondary dwelling and is not permitted in this zone under the OLEP 2011 but is permissible under the SEPP (Housing) 2021. This application is seeking consent under the SEPP (Housing) 2021. The secondary dwelling has a Gross Floor Area of 133.45m² and as such the applicant has requested a variation to the maximum area development standard of 60m² contained with the SEPP (Housing) 2021 for secondary dwellings. An assessment of this variation has been included in the body of this report and concludes that the proposed variation is reasonable in the context of the locality with consideration of the conflicting development restrictions across the various residential zones within Orange City Council area.

The applicant has outlined that the secondary dwelling will be occupied by family.

Approval of the application is recommended.



Figure 1 - locality plan

DECISION FRAMEWORK

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

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

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

DIRECTOR'S COMMENT

The major issue in the assessment of this application relates to the need for a Section 4.6 variation to a development standard. This has been required due to the poor construction of Section 52(2)(c) of SEPP (Housing) which enables consent to be granted where:

(c) the total floor area of the secondary dwelling is -

(i) no more than 60m², or

(ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.

The underlined phrase effectively prevents any application made under the SEPP from accessing the percentage rule normally available under Clause 5.4 of the LEP. This is not logical given that if the use were permissible “on the land” under the LEP the application would not be made under the SEPP in the first instance.

The proposed secondary dwelling is for use by a family member and whilst being generous in size, is positioned on the allotment so as not to adversely impact on the character of Clifton Grove, nor the privacy, amenity or views of neighbours. In the current housing market, it is not unforeseen that such applications may be received.

One submission was received objecting to the secondary dwelling due to amenity concerns. It is considered that the proposal is not unreasonable and would not adversely impact on neighbours. The recommendation of approval is supported.

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 372/2021(1) for *Secondary Dwelling* at Lot 108 DP 1043048 - 75 Rossi Drive, Clifton Grove 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 APPLICATION**

Council's consent is sought for a secondary dwelling at 75 Rossi Drive, Clifton Grove - Lot 108 DP 1043048.

THE PROPOSAL

The proposal involves the construction of a secondary dwelling which will be located to the north-east (rear) of the main residence. The secondary dwelling will consist of four bedrooms, open plan living and kitchen space, and a front wrap-around verandah. The total proposed GFA area is 133.45m². The applicant has requested a variation to the minimum area development standard of 60m² contained with the State Environmental Planning Policy (Housing) 2021 for secondary dwellings.

The proposed secondary dwelling is a kit home to be constructed of timber frames and trusses with Colorbond steel wall and roof cladding and aluminium framed windows.

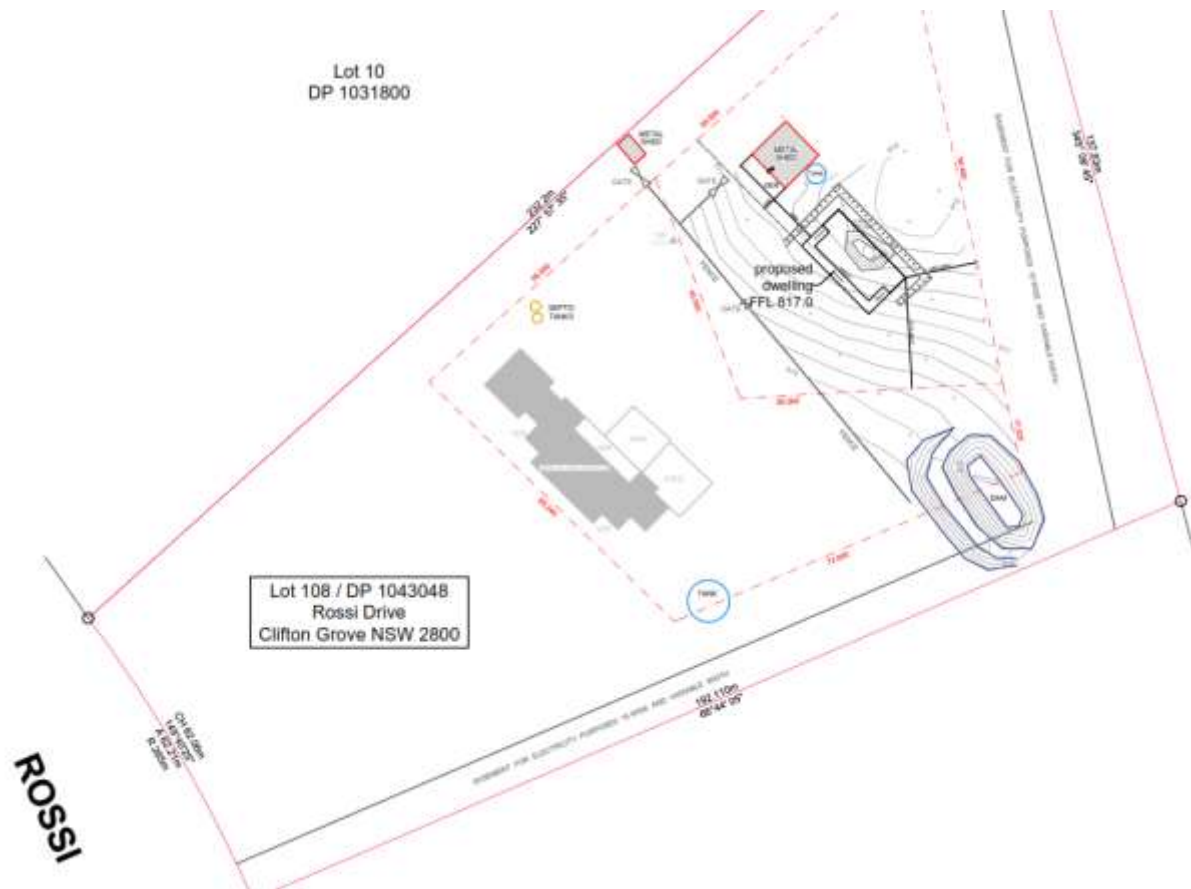


Figure 2 – Site Plan

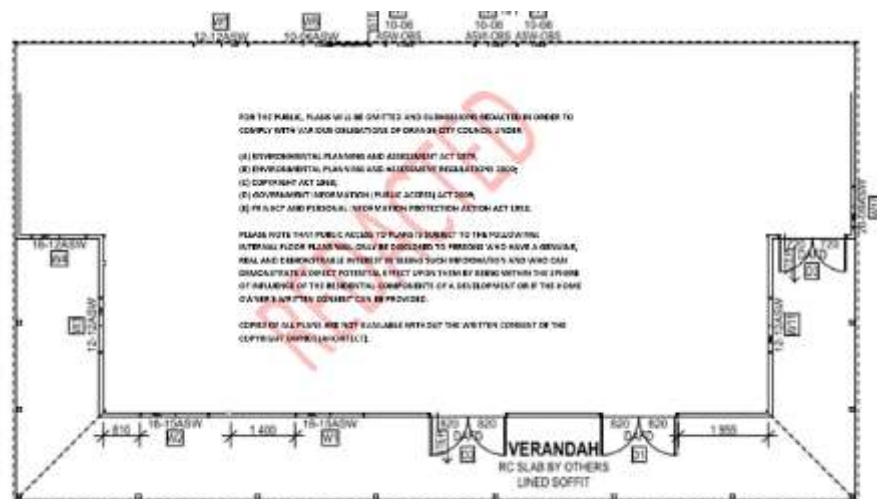


Figure 3 – proposed Floor Plan

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.

Summary

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 insertion into the BOS, a Biodiversity Development Assessment Report is not required to be lodged with the application for modified 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:

- 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,*
- 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,*

- (d) *to manage rural land as an environmental resource that provides economic and social benefits for Orange,*
- (e) *to provide a range of housing choices in planned urban and rural locations to meet population growth,*
- (f) *to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

The application is considered to be consistent with the relevant 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 R5 Large Lot Residential
Lot Size Map:	Minimum Lot Size 2Ha
Heritage Map:	Not a heritage item or conservation area
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
Groundwater Vulnerability Map:	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.

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.*

It is noted that a Restriction of the Use of Land existing on the land title. Part of this restriction discusses that no dual occupancy development is permitted on the site. While it is acknowledged that dual occupancy remains prohibited within the zone, the application specifies that the development will be a secondary dwelling. The proposed dwelling exceeds the size permitted under Clause 52 of the SEPP (Housing) 2021, and as such requests a 4.6 variation which has been discussed later in the report.

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 R5 Large Lot Residential zone. The proposed development is defined as a secondary dwelling and is not permitted in this zone under the OLEP 2011 but is permitted under the SEPP (Housing) 2021. This application is seeking consent under the SEPP (Housing) 2021.

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

1 - Objectives of the R5 Large Lot Residential Zone

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide for student housing in close proximity to the Charles Sturt University.*
- *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 development along the Southern Link Road has an alternative access.*

The proposed secondary dwelling is not permissible in the R5 Large Lot Residential zone under the Orange LEP although is permissible under the State Environmental Planning Policy (Housing) 2021. The proposed development is not contrary to the objectives of the zone as outlined in this report.

Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

Part 4 - Principal Development Standards

Clause 4.6 - Exceptions to Development Standards

This clause is applicable as the proposed secondary dwelling has a floor area that is greater than the maximum size allowed under the State Environmental Planning Policy (Housing) 2021. Clause 52(2) of the SEPP sets out maximum total floor area for secondary dwellings, which relevantly states:

- (b) *the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.*

The proposed secondary dwelling is situated on land within the R5 Large Lot Residential zone, where secondary dwellings are prohibited under the Orange LEP 2011, although they are permissible under Clause 49 of the Housing SEPP.

Accordingly, this clause identifies that a secondary dwelling cannot have a total floor area greater than 60m², which the proposed secondary dwelling of this development exceeds. The proposed total floor area of the secondary dwelling is 133.45m², representing a variation of 122%.

Clause 4.6 is intended to achieve the following objectives:

- (a) provide an appropriate degree of flexibility in applying certain development standards
- (b) achieve better outcomes for and from development by allowing flexibility in particular circumstances.

At its core, a Clause 4.6 variation may be supported where it can be shown that the objectives of the standard are unreasonable and/or unnecessary to apply in this particular case, and where it can be shown that the objectives of both the plan and the clause to be varied are achieved notwithstanding the non-compliance with the numerical value of the standard.

Clause 4.6 may not be used to routinely seek variation to a standard and may not be used in such a way as to render a development contrary to the intent of the standard or the plan that it relates to. Clause 4.6 may also not be used as a de facto rezoning tool, and cannot be used to bypass permissibility issues that a particular proposal may have.

There are set procedures outlined in guidelines published by the NSW Department of Planning encapsulated in a circular published in 2008, and quite strongly supported and upheld in the Land & Environment Court. For obvious reasons the Department advises all Councils to allow variations only where exceptional circumstances exist and where certain other criteria can be shown to be achieved.

The Clause 4.6 variation submitted with the application generally achieves those outcomes and the procedures outlined in the Department's circulars; and the principals established by the Courts. The main basis for justification advanced in the submission is addressed below.

The permissibility of secondary dwellings in the R5 Large Lot Residential zone was excluded from the Orange LEP on Departmental advice that such development was already permitted under the provisions of SEPP (Affordable Rental Housing) 2009, which has subsequently been replaced by SEPP (Housing) 2021. Although under the provisions of the SEPP, there are limitations on the floor area allowed for secondary dwellings (Clause 52(2)) (max 60m² GFA) whereas in the LEP, secondary dwellings are permissible if they have a total floor area that is not greater than 60sqm, or do not exceed 50% of the floor area of the principal dwelling.

The applicant has requested that given the conflicting provisions that apply throughout the city for this type of development, and Council's previous approach to the consideration of same with other requests, that Council determine the suitability of the proposed development against the secondary dwelling standard of 50% of the principal dwellings floor area as opposed to the current limitation of 60m².

The applicant has advised that the GFA of the primary dwelling is 506.6m². In this case 50% of the GFA of the main dwelling equals (<253.3m²). Based on a GFA of 133.45m² the development represents 26.4% of the main dwelling and would have ordinarily easily met the standard if it were permissible in the zone under the LEP as opposed to the SEPP.

The secondary dwelling development is proposed on a large rural residential parcel (2.01ha) and will not result in an excessive site coverage as it would if it were to be constructed on an urban parcel. The proposed site coverage for the development is considered comparable to that of adjoining rural residential parcels such that the character of Clifton Grove is preserved. The site coverage proposed remains far less than the site coverage typical of secondary dwellings permitted in urban areas, demonstrating that large lot environments have greater capacity to accommodate larger secondary dwellings with the same or lesser impacts compared to urban lots.

As a result, Council may consider including secondary dwellings as permissible in the R5 Large Lot Residential zone with future amendment to the Orange LEP.

Matters to Address in an Application

When applicants lodge development applications and associated requests to vary a development standard, they must give grounds of objection to the development standard. Variation of a development standard may be justified where it is consistent with the objectives that the relevant environmental planning instrument is attempting to achieve.

The application must address:

- (i) *whether strict compliance with the standard, in the particular case, would be unreasonable or unnecessary and why,*
- and
- (ii) *demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard*

The applicant has argued that the minimum lot size is **unnecessary and unreasonable** in this instance for the reasons explained below:

- The proposed secondary dwelling satisfies the relevant Planning Outcomes for residential development pursuant to Orange DCP 2004 – 06 Rural Development.
- The residential development is considered a reasonable development for the site as each lot within the vicinity of the subject site are able to accommodate more buildings than the primary residence alone.

The lot size can easily accommodate the proposed dwelling whilst maintaining the low density residential character of the area.

- The proposed secondary dwelling does not exceed the LEP's prescribed standard of being less than 50% of the principal dwellings floor area (<253.3m²), and therefore would have been approved if it were permissible in the zone under the LEP.

Further, the applicant has provided numerous examples of secondary dwellings in the Clifton Grove area. Whilst Council does not accept the concept of precedents as each application should be assessed on its merits, it is acknowledged that this may indicate an emerging character of the area. While some of these examples may have not been approved by Council this is not required to be considered as part of this application.

There are sufficient **environmental planning grounds** cited to support the variation. These are as follows:

- A variation of the development standard is justified in this case because it can be demonstrated that the proposal satisfies the objectives of the R5 Large Lot Residential zone and the objectives of the secondary dwelling standards under the Housing SEPP.
- The secondary dwelling development has a high degree of compliance with the other relevant LEP and DCP provisions.
- The proposed secondary dwelling is considered compatible with the residential land use pattern in this area. A variation of the minimum floor area to allow the proposed secondary dwelling to be excised on a large lot allotment does not diminish this aspect of the development.
- It is demonstrated that non-compliance with the development standard does not generate unacceptable impacts in the locality.

Written applications to vary development standards need to not only address the above matters, but may also address matters set out in the 'five part test' established by the NSW Land and Environment Court. The NSW Department of Planning strongly advises councils to apply the Five Part Test in their assessments of Clause 4.6 matters.

The Five Part Test

The Five Part Test is anchored in Land and Environment Court Planning Principles. The Department of Planning recommends that consent authorities apply the test in their assessment of Clause 4.6 variations.

The five part test embodies the following:

- 1 *the objectives of the standard are achieved notwithstanding noncompliance with the standard*
- 2 *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary*
- 3 *the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable*
- 4 *the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable*
- 5 *the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

With regard to Point (1), section 52 of SEPP(Housing) does not contain specific objectives, however the overall principles in section 3 of the SEPP include:

- (c) *ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*

(e) minimising adverse climate and environmental impacts of new housing development,

(f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,

It is considered that the secondary dwelling on a large residential lot in Clifton Grove will provide residents with reasonable amenity, makes use of existing infrastructure and services, does not adversely impact the climate and given the relationship to the overall size of the lot will read as consistent with the character of Clifton Grove.

With regard to Point (2), it is considered that a variation of the minimum total floor area for secondary dwellings is a development standard that may be considered within the ambit and operation of this clause.

Floor area requirements for secondary dwellings are a blunt assessment tool aimed at achieving good design outcomes, whilst at the same time making efficient use of the land at densities likely to achieve a reasonable return for the development; and at the same time ensuring that neighbourhood character and amenity is not excessively compromised.

The variation is considered acceptable in this case due largely to the size of the rural residential allotment and the fact that the secondary dwelling would have an allowable floor area if it were permissible in the zone under the LEP. As the proposed development is a secondary dwelling and is situated on a parcel of land that is not typical of an urban area, the variation is considered to be acceptable in this instance as the effect of the proposal on the surrounding development will be minimal.

With regard to Point (3), it is considered that strict compliance with the 60m² standard under the SEPP (Housing) 2021 would not necessarily defeat or thwart the underlying objective or purpose of the development standard. However, the proposal is considered to be consistent with the objectives of the development standard.

With regard to Point (4), the development standard cannot be said to be abandoned. However, it is considered that other land holdings within close proximity to the subject site would most likely encounter this issue themselves.

With regard to Point (5), the zoning of the land is reasonable and appropriate for the proposal. It is considered that insistence on full compliance with Clause 52(2) for this site is unreasonable, and unnecessary in this case.

Council may grant consent only if the concurrence of the Director General of the Department of Planning has been obtained and Council is satisfied that:

- the written request has adequately addressed the above, and
- the proposed development will be in the public interest because of:
 - consistency with the objectives of the particular standard, and
 - consistency with the objectives of the zone applying to the site.

The written request adequately addresses the variation criteria of the clause.

Department Of Planning's Circular

This circular sets out the circumstance and criteria for applying Council's assumed concurrence to the determination of development standards under Clause 4.6. Council has assumed concurrence to assess and process Clause 4.6 variations of this nature. In this case given the departure exceeds 10% the decision must be extended to the Council as opposed to a delegate of the Council.

In accordance with the requirements of the circular, Council has quarterly reporting obligations as to the number of times it has used Clause 4.6 and for what purposes. The Department wants to keep check on the over use of Clause 4.6 to discourage inappropriate use of the clause on a routine basis. Despite some use of the clause for development in the Orange City LGA, there has been no expressions of concern from the department about the overuse of the clause.

There are some circumstances where Clause 4.6 is prohibited from being used, but this particular situation is not one of those circumstances.

The land is located within the R5 Large Lot Residential zone, which has the following objectives:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide for student housing in close proximity to the Charles Sturt University.*
- *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 development along the Southern Link Road has an alternative access.*

The proposed development with its non-compliance to Clause 52(2) is not contrary to any of the objectives for the zone even if it is prohibited under the LEP it is compliant under the Housing SEPP (subject to the 4.6 variation being granted); neither does the proposed development significantly contravene the DCP's planning outcomes.

Overall, it is considered that the proposed development does not result in any adverse impact on the operation of the LEP or the DCP, and would not result in any significant adverse impact.

It is considered that the proposal, including the variation sought, is consistent with the above objectives.

Part 5 - Miscellaneous Provisions**Clause 5.4 - Controls Relating to Miscellaneous Permissible Uses**

This clause contains various development standards that apply to specific types of development. Relevantly the clause requires:

- *secondary dwellings to be limited to the greater of 60 square metres or 50% of the floor area of the principal (main) dwelling*

In this regard, the proposal is inconsistent with the former requirement, as the proposed secondary dwelling exceeds 60sqm. Although the development does comply with the latter standard as it does not exceed 50% of the floor area of the principal dwelling.

It must be noted that due to the development being prohibited in the zone, the secondary dwelling is being assessed under the SEPP (Housing) 2021, where the former standard (<60sqm) is applied. Due to the development exceeding this measurement, a Clause 4.6 variation has been applied to vary Clause 52(2) of the SEPP (Housing) 2021.

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

7.1 - Earthworks

This clause establishes a range of matters that must be considered prior to granting development consent for any application involving earthworks, such as:

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*
- (b) *the effect of the development on the likely future use or redevelopment of the land*
- (c) *the quality of the fill or the soil to be excavated, or both*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties*
- (e) *the source of any fill material and the destination of any excavated material*
- (f) *the likelihood of disturbing relics*
- (g) *the proximity to and potential for adverse impacts on any waterway, drinking water catchment or environmentally sensitive area*
- (h) *any measures proposed to minimise or mitigate the impacts referred to in Paragraph (g).*

The earthworks proposed in the application are limited to the extent of cutting and filling required for the proposed building or structure. The extent of disruption to the drainage of the site is considered to be minor and will not detrimentally affect adjoining properties or receiving waterways.

The extent of the earthworks will not materially affect the potential future use or redevelopment of the site that may occur at the end of the proposed development's lifespan.

The site is not known to be contaminated and conditions may be imposed requiring the use of verified clean fill only. Excavated materials will be reused onsite as far as possible and conditions may be imposed to require that surplus materials will be disposed of to an appropriate destination.

The earthworks will be appropriately supported onsite and the change in ground level is not substantial. Therefore the effect on the amenity of adjoining properties is considered to be minor.

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. However, conditions may be imposed to ensure that should site works uncover a potential relic or artefact, works will be halted to enable proper investigation by relevant authorities and the proponent required to seek relevant permits to either destroy or relocate the findings.

The site is not in proximity to any waterway, drinking water catchment or sensitive area. Conditions may be imposed to require a sediment control plan, including silt traps and other protective measures, to ensure that loose dirt and sediment does not escape the site boundaries.

7.3 - Stormwater Management

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

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

The proposal has been designed to include permeable surfaces and includes onsite retention of stormwater through the use of rainwater tanks/detention basins. It is therefore considered that the post development runoff levels will not exceed the predevelopment levels.

7.6 - Groundwater Vulnerability

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

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

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

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*

- (b) *if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact,*
- (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*

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

Clause 7.11 - Essential Services

Clause 7.11 applies and states:

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

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *storm water drainage or on-site 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 (Resilience and Hazards) 2021 – Chp 4 Remediation of Land

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is applicable. Pursuant to Clause 4.6 *Contamination and remediation to be considered in determining development application*:

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

The site has a long established residential and agricultural land use, therefore contamination of the site is unlikely. The proposed development is located within the established building envelope and does not propose a change of use for the site. Inspection of the site does not indicate any areas or sources of potential contamination.

State Environmental Planning Policy (Housing) 2021 – Chp 3 Diverse Housing

Chapter 3 Division 2 Clause 49 applies and states:

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling*
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.*

The proposed secondary dwelling meets the definition outlined in the SEPP. The secondary dwelling is not permissible in the R5 Large Lot Residential zone under the Orange LEP although is permissible under the State Environmental Planning Policy (Housing) 2021. The proposed development is not contrary to the objectives of the SEPP as outlined in this report.

Due to the development being prohibited in the zone, the secondary dwelling is being assessed under the SEPP (Housing) 2021, where the <60sqm standard is applied. Due to the development exceeding this measurement, a Clause 4.6 variation has been applied to vary Clause 52(2) of the SEPP (Housing) 2021 which was addressed above.

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

There are no draft EPI's that are applicable to this development or the subject land.

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

DCP 2004 – 06 Rural Development is considered to be the most relevant to this proposal. An assessment of the proposed development against the relevant Planning Outcomes (**6.10-2 Rural Dwelling Houses**) will be undertaken below.

1. The dwelling house complies with Council's Energy Smart Homes Code.

The proposed secondary dwelling is considered to comply with Council's Energy Smart Homes Code. Further, a compliant BASIX Certificate and NatHERS Certificate has been submitted to Council.

2. *The dwelling house is sited on land identified as being suitable for construction and free from contamination, flooding and bushfire risk.*

The proposed secondary dwelling is located with the specified building envelope for the area and is considered free from contamination, flooding and bushfire risk. The land is therefore considered acceptable for the proposed development.

3. *Privacy and views of neighbouring houses are retained.*

The proposed dwelling is not anticipated to impact on the views or privacy of adjoining dwellings. The proposed location of the secondary dwelling on site is considered to be sufficiently distanced from other dwellings to mitigate any privacy concerns. The dwelling is also not considered to be within any valuable view corridors, and is surrounded by vegetation to screen the location from several adjoining dwellings.

4. *A suitable area is available for perpetual on-site disposal of wastes.*

A report by Envirowest was provided by the applicant that recommends a suitable area for on-site disposal of wastes.

5. *Substantial remnant vegetation is protected from disturbance.*

The proposed development does not involve the clearing of any existing vegetation.

6. *An adequate water supply is provided.*

Water is anticipated to collect on site and stored in the existing water tanks to supply onsite water supply.

7. *All-weather access to a public road is provided.*

The proposed secondary dwelling will utilise the existing access and driveway to Rossi Drive.

8. *Entry gateways are set back sufficiently from the front boundary to allow vehicles to pull up off the public road carriageway.*

The proposed secondary dwelling will utilise the existing access and driveway to Rossi Drive.

9. *A buffer area is established in the vicinity of agricultural operations.*

The site is surrounded by established large lot residential development and is therefore considered to be sufficiently distanced from agricultural operations in the area.

10. *Outbuildings are located in proximity of and to the rear of the main dwelling house when viewed from the nearest road.*

The proposed secondary dwelling is positioned behind the existing primary dwelling

DEVELOPMENT CONTRIBUTIONS

Section 7.11 Development Contributions

Development contributions are applicable to the proposed development, pursuant to *Orange Development Contributions Plan 2017* (Remainder of LGA) as follows:

Open Space and Recreation	x one additional 3 or more bedroom dwelling @ 4,290.56	4,290.56
Community and Cultural	x one additional 3 or more bedroom dwelling @ 1,244.25	1,244.25
Local Area Facilities	-	-
Plan Preparation and Administration	x one additional 3 or more bedroom dwelling @ 335.94	335.94
TOTAL:		\$5,870.75

These figures are indexed quarterly, in accordance with the Plan. Conditions of consent are recommended requiring payment of these development contributions prior to the issuing of a Construction Certificate.

Section 64 Headworks Charges

Pursuant to the *Local Government Act 1993* and the *Water Management Act 2000* headworks charges for water supply, sewerage, and stormwater also apply to the proposal as previously discussed.

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

Demolition of a Building (clause 92)

The proposal does not involve the demolition of a building.

Fire Safety Considerations (clause 93)

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

Buildings to be Upgraded (clause 94)

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

BASIX Commitments (clause 97A)

A BASIX Certificate has been submitted in support of the proposed development which demonstrates compliance with water, energy, and thermal comfort.

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

Generally

The proposed development is unlikely to generate any impacts that would adversely affect the quality of the environment of the locality; particularly as the secondary dwelling is considered to reasonably integrate into the surrounding land use pattern.

Visual Amenity

The visual impact of the proposed secondary dwelling is considered satisfactory and has been addressed above in the relevant considerations under the DCP 2004.

The subject land comprises a site area of approximately 2.01ha. As demonstrated on the site plan, the footprint of the secondary dwelling does not comprise overdevelopment in the context of the lot size. This is in conjunction with the generous boundary setbacks to assist in maintaining the open character of the area.

Existing and Future Amenity of the Neighbourhood

The potential impact upon the amenity of the neighbourhood is considered satisfactory and the non-compliance with the development standard does not generate unacceptable impacts in the locality.

Soil Erosion

Provided that adequate measures are implemented during the construction phase, the proposed development would not generate adverse impacts in terms of soil erosion.

Cumulative Impacts

The proposed development will not reduce the open space, solar access or privacy afforded to neighbouring properties. Similarly, the site layout and building design will provide a reasonable standard of residential amenity to the proposed secondary dwelling in terms of open space, solar access and privacy. Landscaping will be established around the dwelling and is expected to complement future privacy landscaping in the vicinity.

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

It is considered the site is suitable for the proposal as the site is appropriately serviced and there are no known physical attributes, technological or natural hazards, which constrain the site. Electricity and telephone services are available to the site. The scale of the development does not require upgrading of any existing services.

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 LEP. The application was advertised for the prescribed period of 14 days and at the end of that period one submission was received. The submission raised concerns regarding the permissibility of secondary dwellings in the R5 Large Lot Residential zone and the impact on the amenity of the area. While secondary dwellings are not permitted under the OLEP, the SEPP (Housing) 2021 allows for secondary dwellings with a floor area of up to 60m² in the R5 zone. While the proposed secondary dwelling does not comply with this floor area requirement it is noted that the application includes a request for a 4.6 variation which has been discussed previously in the report.

Further to this, the applicant justifies this variation with numerous examples of secondary dwellings in the Clifton Grove area. While Council does not consider precedents when assessing a development application, it is considered that these examples indicate an emerging character in the area. Therefore, it is considered that the proposed development will not unreasonably impact the amenity of the area. It is considered that the proposed development is reasonable in the context of the locality.

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

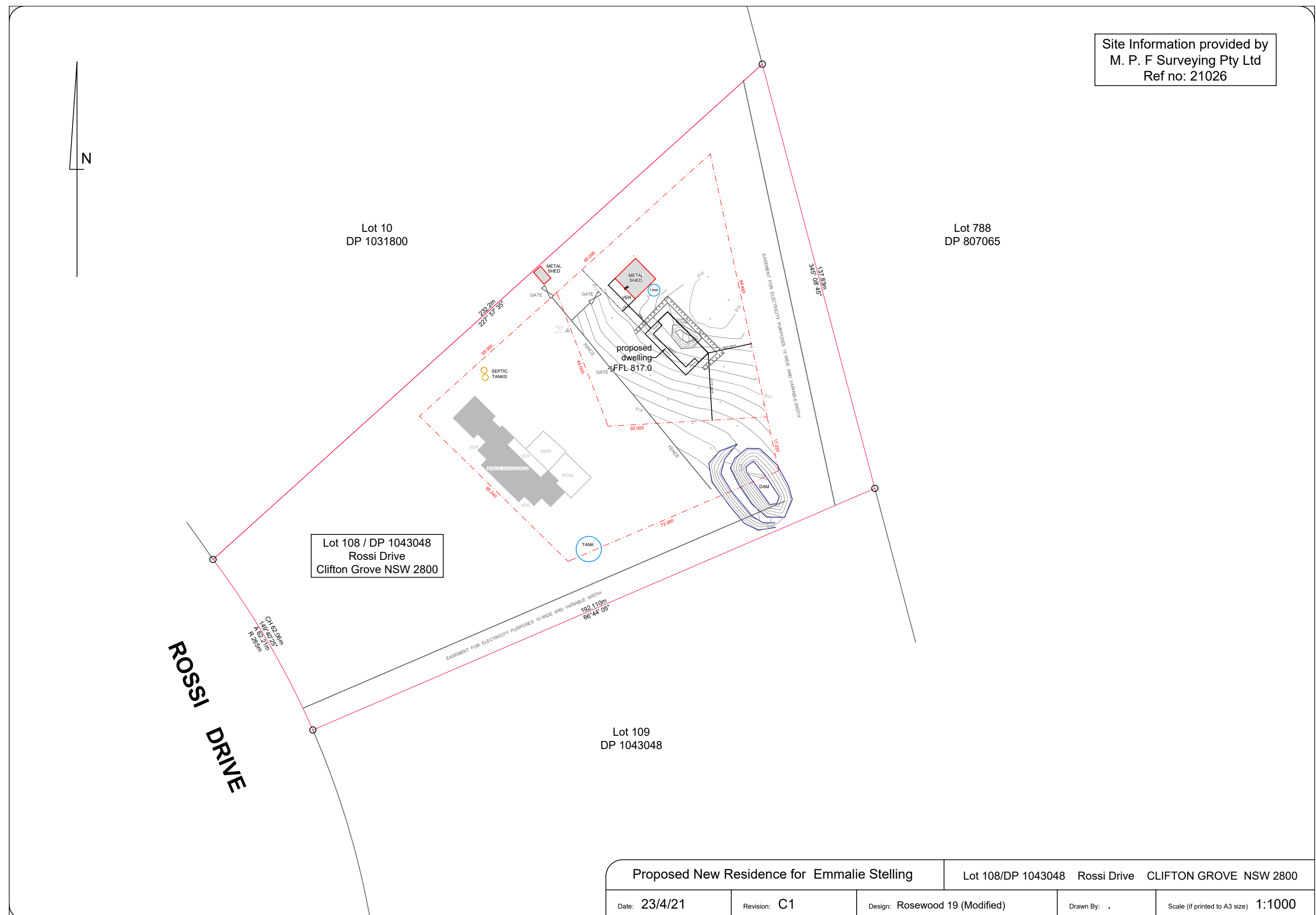
The proposed development is permissible with the consent of Council. The proposed development complies with the relevant aims, objectives and provisions of Orange LEP 2011 (as amended) and DCP 2004. A Section 4.15 assessment of the development indicates that the development is acceptable in this instance. 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 Plans, D22/17631 [↓](#)
- 2 Submission, D22/16734 [↓](#)
- 3 Notice of Approval, D22/17044 [↓](#)



ALL WORKS SHALL COMPLY WITH THE REQUIREMENTS OF THE BUILDING CODE OF AUSTRALIA AND ALL CODES REFERRED TO THEREIN. DESIGN WIND CATEGORY N3

THE BUILDER SHALL PROVIDE ALL FLASHINGS, WEEPHOLES, DPC's, CAPPINGS ETC THAT MAY BE REQUIRED BY THE BCA & TO MAKE THE ENTIRE WORKS WATERTIGHT. ALL WORKS SHALL COMPLY WITH THE REQUIREMENTS OF THE BCA.

SA  DENOTES INTERCONNECTED SMOKE ALARMS COMPLYING WITH AS3786. ALARMS SHALL BE HARD WIRED TO MAINS POWER AND INTERCONNECTED. THE LOCATIONS INDICATED ON THE PLANS ARE NOMINAL ONLY AND ARE TO BE VERIFIED ON SITE BY THE ELECTRICIAN

PROVIDE WET AREA WATERPROOFING IN ACCORDANCE WITH PART 3.8.1 OF THE BUILDING CODE OF AUSTRALIA & AS 3740. PROVIDE AN IMPERVIOUS SUBSTRATE (I.E TILES) TO FLOORS WITHIN A MINIMUM 150mm OF AN UNENCLOSED SHOWER AND SAME TO WALLS AT 1800mm ABOVE SHOWER BASE & 150mm ABOVE BATH, SINKS, BASINS AND SPLASH BACKS IN ACCORDANCE WITH AS3740. ALL WATERPROOFING TO BE PROVIDED AND INSTALLED BY OTHERS.

THE LAYOUT OF FIXTURES AND FITTINGS IN THE KITCHEN AND WET AREAS IS TO BE VERIFIED BY THE CLIENT PRIOR TO CONSTRUCTION.

WHEN MAKING FLOOR FINISH SELECTIONS (CARPET, TILES, TIMBER ETC) THE THICKNESS OF THE FLOOR FINISH WILL BE LIMITED AND THE OWNER/BUILDER SHALL ENSURE THAT THE MINIMUM CEILING HEIGHT OF 2400mm(CLEAR) IS MAINTAINED TO ALL HABITABLE ROOMS.

HOUSE DESIGN : ROSEWOOD 19 MODIFIED



TEAMINVEST PRIVATE RESIDENTIAL GROUP
 TRADING AS KITOME
 UNIT 5/7-8 ALTAIR PLACE
 JAMISONTOWN, NSW. 2750
 P.O. BOX 269 EMU PLAINS NSW 2750
 TEL - (02) 4724 1900

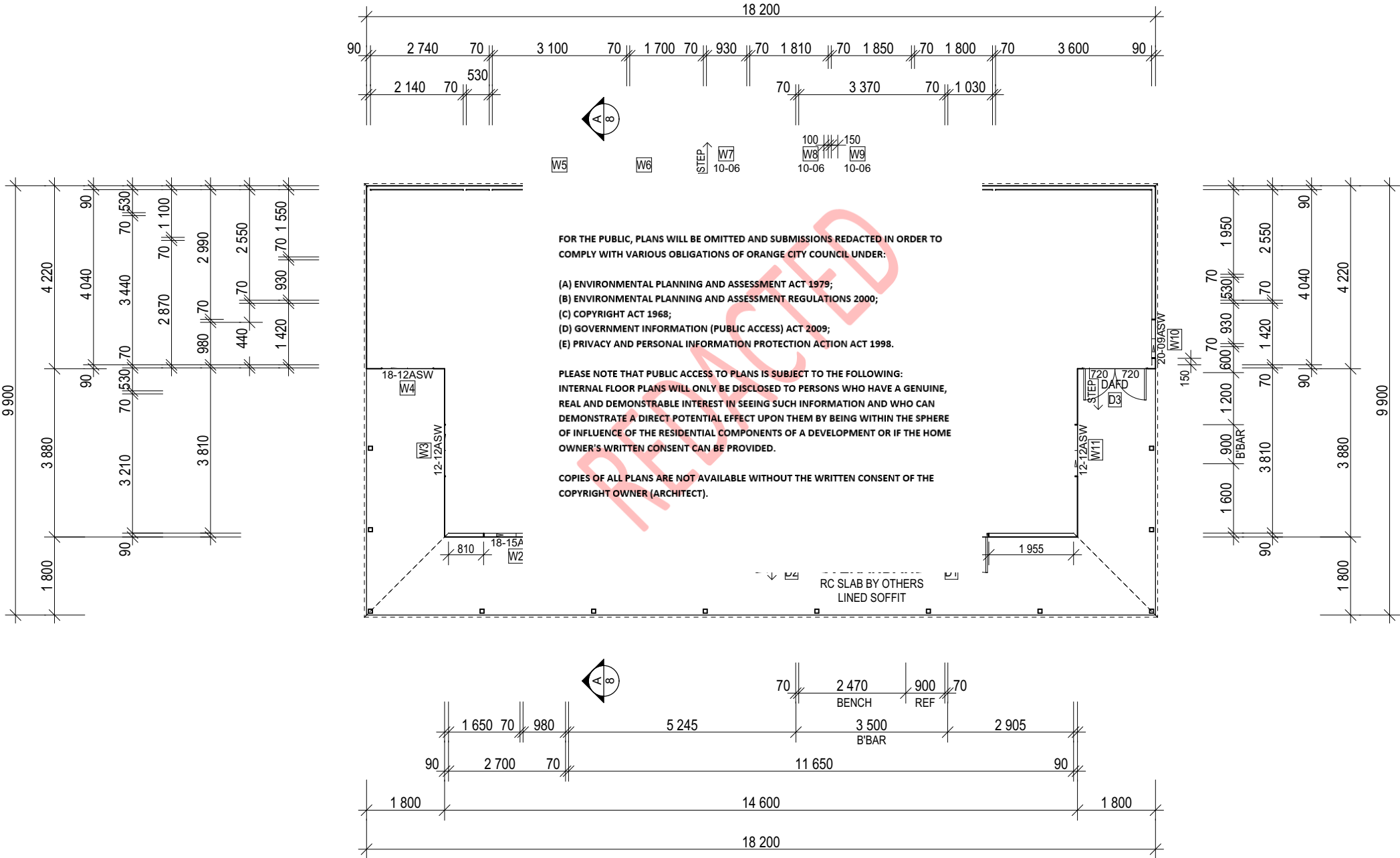
Drawings Prepared By:
 PETER TURNER & ASSOCIATES
 ACCREDITED BUILDING DESIGNERS

Project

DETAILS OF BUILDING KIT (N21203)
 FOR EMMALIE STELLING
 75 ROSSI DRIVE
 CLIFTON GROVE NSW 2800

Drawing Status
 CONSTRUCTION / BUILDING APPROVAL

Scale	Drawn	Job No	
As Noted	AR	4015-554	
<hr/>			
Print Date	Checked	Drawing No	Issue No
14/07/2021	PT	WD4	A



FLOOR PLAN

SCALE 1:100 @ A3

ENCLOSED AREA (to outside face of external walls)	=	133.45m ²
TOTAL AREA (inc verandahs, porches etc)	=	180.18m ²
WINDOW MANUFACTURER	=	WIDELINE (NSW)
BAL	=	BAL=LOW
SNOW LOAD	=	Sg 1/20 (kPa=1.08) Sg 1/150 (kPa=1.62)
WALL FRAME	=	TIMBER
ROOF TRUSSES	=	TIMBER
VERANDAH STRUCTURE	=	TIMBER

 DENOTES FLOOR TILING TO WET AREAS

TOTAL OF 18 SOLAR PANELS. EACH PANEL 1775mmL x 1038mmW AND 19.5Kg. TOTAL WEIGHT 351Kg. THE LOCATION OF THE SOLAR PANELS IS INDICATIVE ONLY & IS TO BE CONFIRMED BY THE SOLAR INSTALLER PRIOR TO THE FABRICATION OF THE ROOF TRUSSES.

ALL DOORS AND WINDOWS SHALL BE AS INDICATED ON THE PLANS / ELEVATIONS AND AS SCHEDULED
 ASW DENOTES ALUMINIUM SLIDING WINDOW
 CSD DENOTES CAVITY SLIDING DOOR
 OBS DENOTES OBSCURE GLASS
 DAFD DENOTES DOUBLE ALUMINIUM FRENCH DOOR

LEGEND

GT - Girder Truss
VB - Verandah Beam
RB - Ridge Beam

Roof Pitch 20°
Ceiling Height 2455 mm
Roof Trusses @ 900mm crs. max.
Roof Battens typically Steel Tophat TS40 @ 600 crs.

All timber construction to be accordance with AS 1684.2 (Residential Timber Framed Construction) and the NCC.

All works shall comply with the requirements of AS 3959 BAL = LOW

Wind Classification = N3

Ground Snow Load = 1.4 kPa

MATERIAL SPECIFICATIONS

MEMBER SCHEDULE

External Posts 88 x 88mm T/Pine
VB1 190 x 45 MGP10

LINTELS SCHEDULE

L1 130 x 42 LVL 15
L2 90 x 42 LVL 15

WALL FRAMING

Wall framing to be min MGP10 radiata pine

Studs

Common studs 90 x 35 @ 450 crs
90mm External & Load Bearing Internal Walls

Common studs 90 x 35 @ 600 crs
90mm Non Load Bearing Internal Walls

Common studs 70 x 35 @ 600 crs
70mm Non Load Bearing Internal Walls

Top and Bottom Plates

Top and Bottom Plates 1 / 70 x 35
70mm Non Load Bearing Internal Walls

Top and Bottom Plates 1 / 90 x 35
90mm Non Load Bearing Internal Walls

Top Plates 2 / 90 x 35
Load Bearing Walls

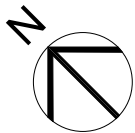
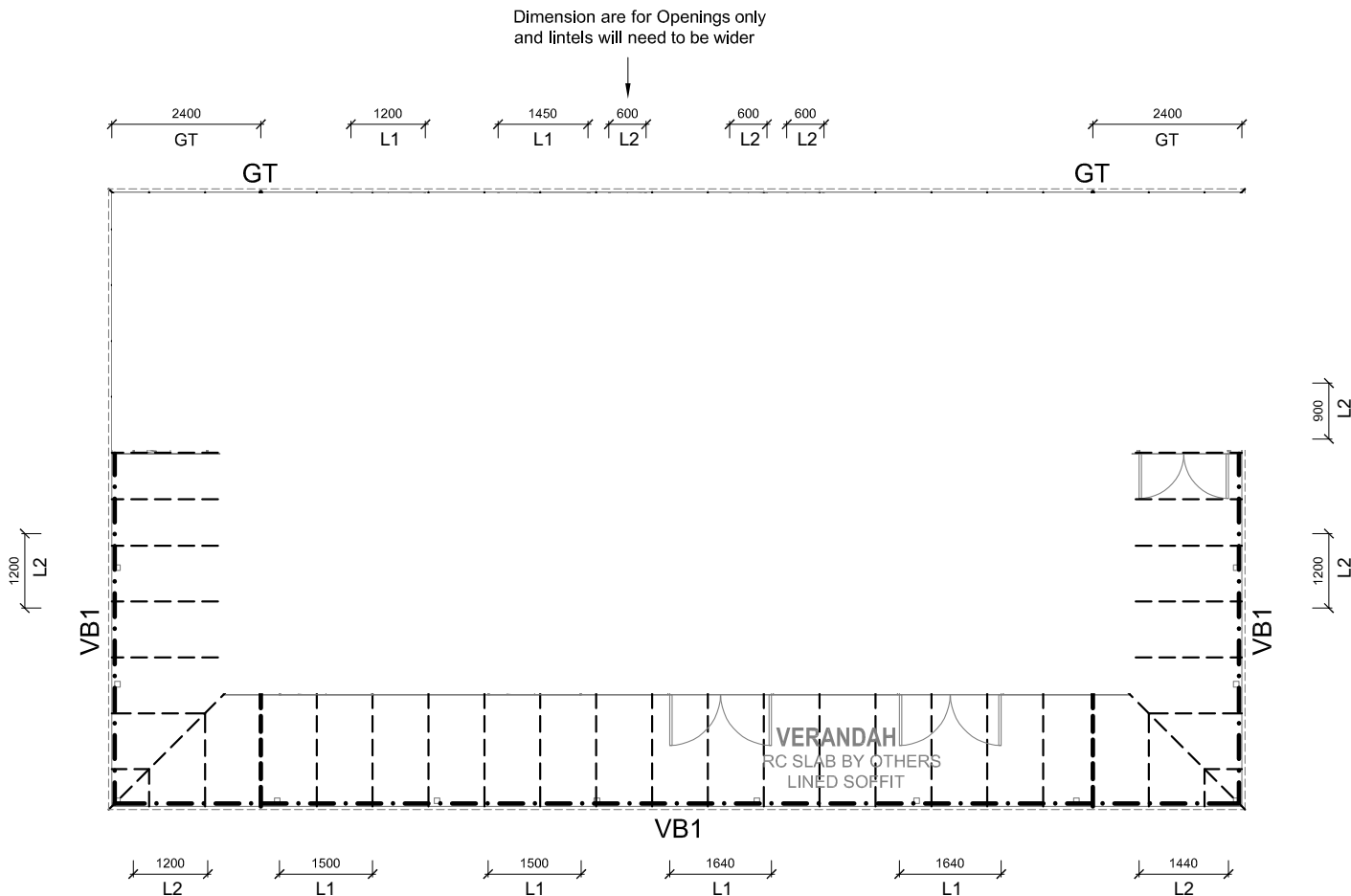
Bottom Plates 1 / 90 x 35
Load Bearing Walls

BRACING

Bracing & tie down are to comply with AS 1684.2 and the NCC. Refer to Bracing & Tie Down Details Drawing Sheets in Plan Pack.

REFERENCE DRAWING

These drawings should be read in conjunction with Plan Pack drawings.



ROOF FRAMING PLAN

Truss layout is shown indicative only.
Truss manufacturer's layout takes precedence over this plan.

HOUSE DESIGN : ROSEWOOD 19 MODIFIED

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ACCREDITED BUILDING DESIGNERS

Project

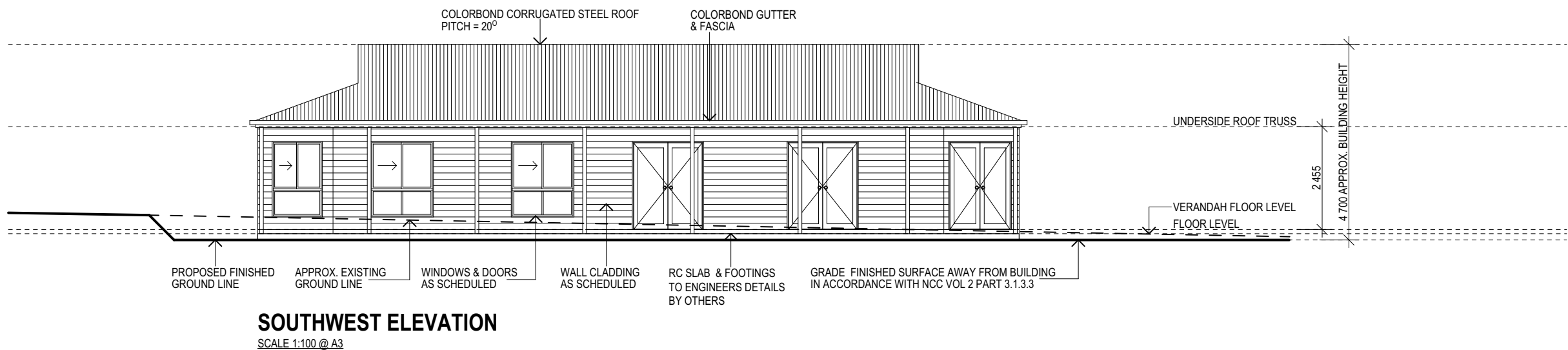
DETAILS OF BUILDING KIT (N21203)
FOR EMMALIE STELLING
75 ROSSI DRIVE
CLIFTON GROVE NSW 2800

Drawing Status

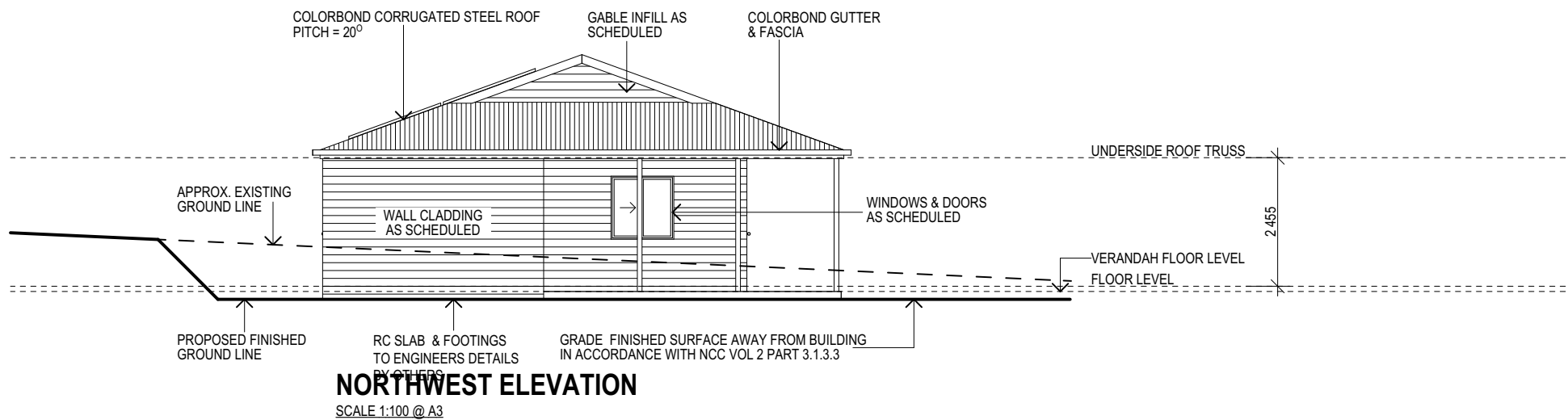
CONSTRUCTION / BUILDING APPROVAL

Scale As Noted
Drawn CW
Job No 4015-554

Print Date 14/07/2021
Checked
Drawing No WD5
Issue No A



SOUTHWEST ELEVATION
SCALE 1:100 @ A3



NORTHWEST ELEVATION
SCALE 1:100 @ A3

EXTERNAL MATERIAL AND COLOUR SCHEDULE		
ELEMENT	MATERIAL	COLOUR
WALL CLADDING	WEATHERTEX RUFF SAWN	TAUBMANS FAWN ROSE
DOWNPIPES	PVC BY OWNER	TAUBMANS FAWN ROSE
EAVES GUTTERS	COLORBOND STEEL	PALE EUCALYPT
FASCIAS	COLORBOND STEEL	PALE EUCALYPT
ROOF SHEETING	COLORBOND CUSTOM ORB	PALE EUCALYPT
POSTS	TIMBER	
DOORS	TIMBER	
WINDOWS & DOORS	ALUMINIUM - POWDER COATED	PRIMROSE GLOSS
THE COLOURS INDICATED FOR NON PRE-FINISHED ELEMENTS (eg TIMBER POSTS, WEATHERBOARD CLADDINGS) IN THIS SCHEDULE ARE TO BE VERIFIED ON SITE BY THE CLIENT. IF THERE ARE ANY CHANGES MADE TO PAINT COLOURS, THE OWNER SHALL OBTAIN APPROVAL FROM THE CERTIFYING AUTHORITY BEFORE PUTTING WORK IN HAND.		

TOTAL OF 18 SOLAR PANELS. EACH PANEL 1775mmL x 1038mmW AND 19.5Kg. TOTAL WEIGHT 351Kg.
THE LOCATION OF THE SOLAR PANELS IS INDICATIVE ONLY & IS TO BE CONFIRMED BY THE SOLAR INSTALLER PRIOR TO THE FABRICATION OF THE ROOF TRUSSES.

1 No. WIND DRIVEN ROOF VENTILATOR SHALL BE INSTALLED ON THE ROOF IN ACCORDANCE WITH MANUFACTURERS SPECIFICATIONS. THE LOCATION OF THE VENTILATOR(S) SHALL BE DETERMINED ON SITE

SURFACE LEVELS INDICATED ON THESE ELEVATIONS AND SECTIONS ARE BASED ON INFORMATION SUPPLIED BY THE CLIENT. THE OWNER/ BUILDER SHALL VERIFY THE ACCURACY OF THE LEVELS ON SITE & PRIOR TO MAKING APPLICATIONS OR PUTTING WORK IN HAND. SHOULD ANY DISCREPANCIES BE FOUND THE OWNER SHALL ADVISE KITOME IMMEDIATELY IN WRITING

HOUSE DESIGN : ROSEWOOD 19 MODIFIED

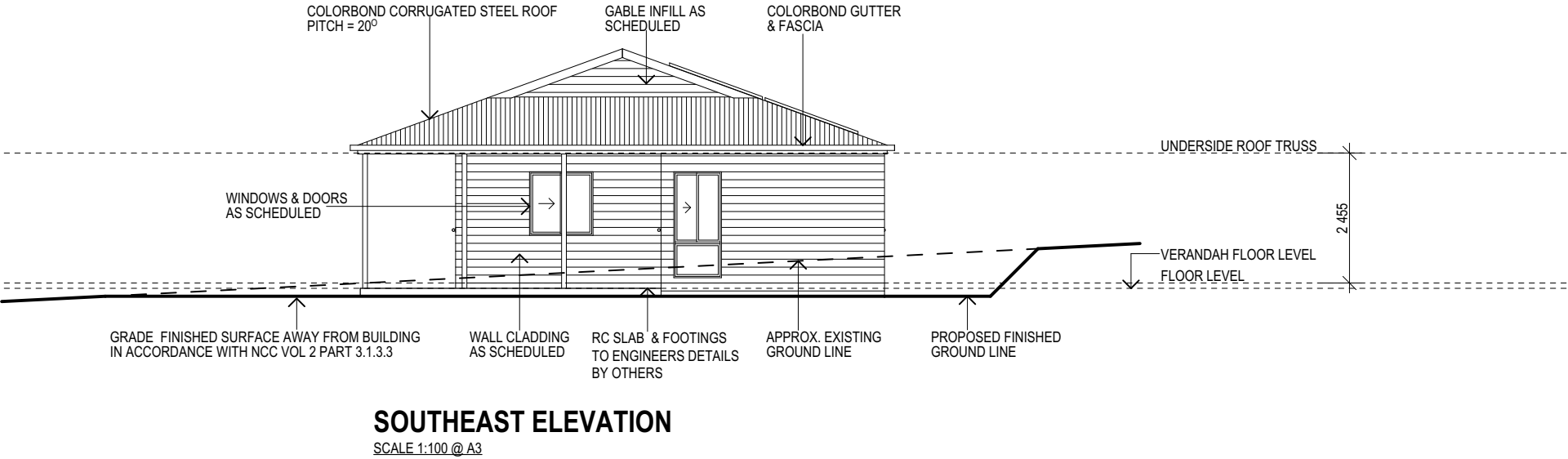
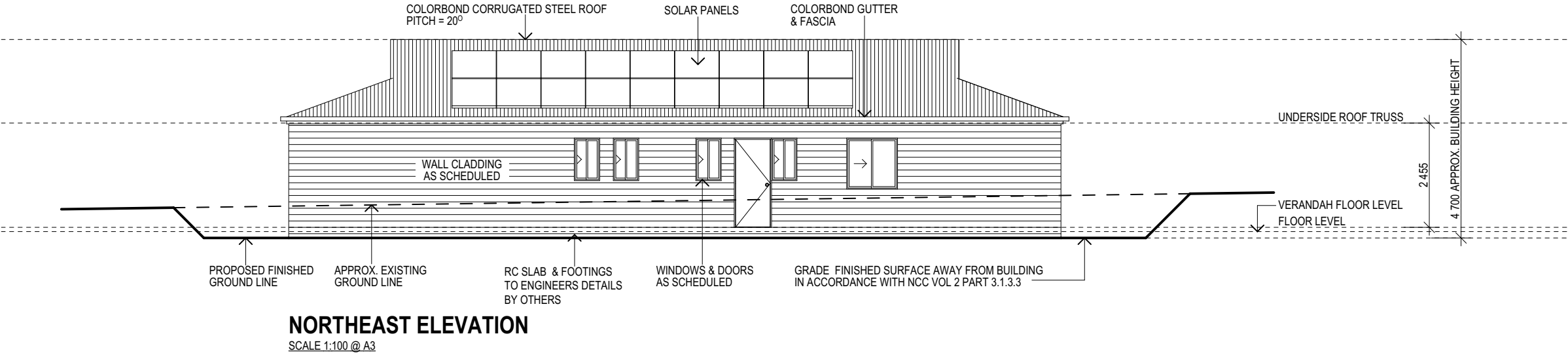
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Project
**DETAILS OF BUILDING KIT (N21203)
FOR EMMALIE STELLING
75 ROSSI DRIVE
CLIFTON GROVE NSW 2800**

Drawing Status
CONSTRUCTION / BUILDING APPROVAL

Scale	Drawn	Job No	
As Noted	AR	4015-554	
Print Date	Checked	Drawing No	Issue No
14/07/2021	PT	WD6	A



HOUSE DESIGN : ROSEWOOD 19 MODIFIED

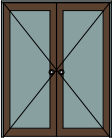
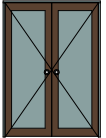






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Scale	Drawn	Job No	
As Noted	AR	4015-554	
Print Date	Checked	Drawing No	Issue No
14/07/2021	PT	WD7	A

EXTERNAL WINDOW & DOOR SCHEDULE								
ID	D1 & D2	D3	W1 & W2	W3, W5 & W11	W4	W6	W7, W8 &W9	W10
Quantity	2	1	2	3	1	1	3	1
Nominal Height	2 100	2 100	1 800	1 200	1 800	1 000	1 000	2 000
Nominal Width	1 640	1 440	1 500	1 200	1 200	600	600	900
Sill height	0	0	300	900	300	1 100	1 100	100
Head height	2 100	2 100	2 100	2 100	2 100	2 100	2 100	2 100
Glazing	CLEAR, SINGLE	CLEAR, SINGLE	CLEAR, SINGLE	CLEAR, SINGLE	CLEAR, SINGLE	CLEAR, SINGLE	OBSCURE, SINGLE	CLEAR, SINGLE
Frame	TIMBER	TIMBER	ALUMINIUM	ALUMINIUM	ALUMINIUM	ALUMINIUM	ALUMINIUM	ALUMINIUM
BAL	LOW	LOW	LOW	LOW	LOW	LOW	LOW	LOW
Viewed from Outside								

REFER TO BASIX REPORT FOR GLAZING SPECIFICATIONS

HOUSE DESIGN : ROSEWOOD 19 MODIFIED



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As Noted	AR	4015-554	
Print Date	Checked	Drawing No	Issue No
14/07/2021	PT	WD10	A

PLANNING AND DEVELOPMENT COMMITTEE

Attachment 1 Plans

5 APRIL 2022

BASIC SCORE/TARGET	
WATER	67 / TARGET 40
ENERGY	99 / TARGET 35
THERMAL COMFORT	PASS/PASS
CONSTRUCTION-THERMAL	
FLOOR	CONC SLAB. FINISHES: CARPET, LAMINATE & TILES.
WALLS	FRAMED/CLADDING, FOIL+BATTS R2.5, COLOUR LIGHT
CEILING	INSULATION BATTS R4.5
ROOF	COLORBOND STEEL, FOIL , ANTICON BLANKET R1.3 MIN, COLOUR LIGHT
GLAZING WINDOWS	CLEAR SINGLE GLAZED, ALUMINIUM FRAMES. FOR U AND SHGC INDICES SEE ATTACHED NATHERS REPORT BOTTOM PAGE 2.
CEILING FANS	LIVING & BEDROOMS
ROOFLIGHTS	N/A
ROOF VENT	SEE PLANS
DOWNLIGHTS LED RECESSED	MUST BE TESTED TO AS/NZS60598.2.2.2016, RATED 'IC-4', NOT VENTED, MUST BE SAFE INSTALLED UNDER INSULATION
ASSESSOR	A PEART Reg No DMN/13/1511
ASSESSOR JOB	21070 KITOME L108
NATHERS CERT No	6092191
SIGNED	
ASSESSOR COMPANY	APEART BUILDING DESIGN
NOTE: 'N/A' DENOTES NOT APPLICABLE	

BASIX[®]Certificate

Building Sustainability Index www.basix.nsw.gov.au

Single Dwelling

Certificate number: 1209883S_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.basix.nsw.gov.au

Secretary

Date of issue: Sunday, 18 July 2021

To be valid, this certificate must be lodged within 3 months of the date of issue.



Planning,
Industry &
Environment

Project summary

Project name	21070 STELLING L108 N20203_02
Street address	75 ROSSI Drive CLIFTON GROVE 2800
Local Government Area	Orange City Council
Plan type and plan number	deposited 1043048
Lot no.	108
Section no.	-
Project type	separate dwelling house
No. of bedrooms	4

Project score

Water	✓ 67	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 99	Target 35

Certificate Prepared by

Name / Company Name: APearl Building Design

ABN (if applicable): 78481548188

Description of project

Project address

Project name	21070 STELLING L108 N20203_02
Street address	75 ROSSI Drive CLIFTON GROVE 2800
Local Government Area	Orange City Council
Plan type and plan number	Deposited Plan 1043048
Lot no.	108
Section no.	-

Project type

Project type	separate dwelling house
No. of bedrooms	4

Site details

Site area (m²)	20234
Roof area (m²)	180
Conditioned floor area (m2)	119.0
Unconditioned floor area (m2)	12.2
Total area of garden and lawn (m2)	0

Assessor details and thermal loads

Assessor number	DMN/13/15110
Certificate number	15110680
Climate zone	65
Area adjusted cooling load (MJ/m².year)	0
Area adjusted heating load (MJ/m².year)	255
Ceiling fan in at least one bedroom	Yes
Ceiling fan in at least one living room or other conditioned area	Yes

Project score

Water	✓ 67	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 99	Target 35

Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

Water Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Fixtures			
The applicant must install showerheads with a minimum rating of 3 star (> 7.5 but <= 9 L/min) in all showers in the development.		✓	✓
The applicant must install a toilet flushing system with a minimum rating of 3 star in each toilet in the development.		✓	✓
The applicant must install taps with a minimum rating of 3 star in the kitchen in the development.		✓	
The applicant must install basin taps with a minimum rating of 3 star in each bathroom in the development.		✓	
Alternative water			
Rainwater tank			
The applicant must install a rainwater tank of at least 22000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.	✓	✓	✓
The applicant must configure the rainwater tank to collect rain runoff from at least 180.18 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).		✓	✓
The applicant must connect the rainwater tank to: <ul style="list-style-type: none"> all toilets in the development the cold water tap that supplies each clothes washer in the development at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.) all hot water systems in the development all indoor cold water taps (not including taps that supply clothes washers) in the development 		✓ ✓ ✓ ✓ ✓	✓ ✓ ✓ ✓ ✓

Thermal Comfort Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Simulation Method			
The applicant must attach the certificate referred to under "Assessor Details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for an occupation certificate for the proposed development.			
The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX certificate, including the Cooling and Heating loads shown on the front page of this certificate.			
The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Assessor Certificate requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor to certify that this is the case. The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.	✓	✓	✓
The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		✓	✓
The applicant must show on the plans accompanying the development application for the proposed development, the locations of ceiling fans set out in the Assessor Certificate. The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), the locations of ceiling fans set out in the Assessor Certificate.	✓	✓	✓
The applicant must construct the floors and walls of the dwelling in accordance with the specifications listed in the table below.	✓	✓	✓


Floor and wall construction	Area
floor - concrete slab on ground	All or part of floor area square metres


Energy Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Hot water			
The applicant must install the following hot water system in the development, or a system with a higher energy rating: electric storage.	✓	✓	✓
Cooling system			
The applicant must install the following cooling system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 3.5 Star (old label)		✓	✓
The bedrooms must not incorporate any cooling system, or any ducting which is designed to accommodate a cooling system.		✓	✓
Heating system			
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area: 1-phase airconditioning; Energy rating: 3.5 Star (old label)		✓	✓
The bedrooms must not incorporate any heating system, or any ducting which is designed to accommodate a heating system.		✓	✓
Ventilation			
The applicant must install the following exhaust systems in the development:			
At least 1 Bathroom: individual fan, not ducted; Operation control: manual switch on/off		✓	✓
Kitchen: individual fan, not ducted; Operation control: manual switch on/off		✓	✓
Laundry: natural ventilation only, or no laundry; Operation control: n/a		✓	✓
Natural lighting			
The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.	✓	✓	✓
The applicant must install a window and/or skylight in 3 bathroom(s)/toilet(s) in the development for natural lighting.	✓	✓	✓
Alternative energy			
The applicant must install a photovoltaic system with the capacity to generate at least 6.7 peak kilowatts of electricity as part of the development. The applicant must connect this system to the development's electrical system.	✓	✓	✓


Energy Commitments	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Other			
The applicant must construct each refrigerator space in the development so that it is "well ventilated", as defined in the BASIX definitions.		✓	
The applicant must install a fixed outdoor clothes drying line as part of the development.		✓	

Legend

In these commitments, "applicant" means the person carrying out the development.

Commitments identified with a  in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).

Commitments identified with a  in the "Show on CC/CDC plans and specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.

Commitments identified with a  in the "Certifier check" column must be certified by a certifying authority as having been fulfilled, before a final occupation certificate (either interim or final) for the development may be issued.

Chief Executive Officer
Orange City Council
Orange 2800

Development Application DA372/2021(1)
Lot 108 DP 1043048 - 75 Rossi Drive
Clifton Grove
Secondary dwelling.


Dear Sir,

I wish to lodge an Objection to the above
Development Application.

The EVPP (Affordable Housing) 2009 was
established to ensure the environmental
integrity of the area.

This DA is in direct contravention of the
EVPP 2009 & would destroy the environmental
amenity of the area.

Yours sincerely

	ORANGE CITY COUNCIL Development Application No DA 372/2021(1) NA22/187 Container PR17958
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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: Ms E Stelling
Applicant Address: 37 Allenby Road
ORANGE NSW 2800
Owner's Name: Mr AD Stelling and Ms CA Rieksen
Land to Be Developed: Lot 108 DP 1043048 - 75 Rossi Drive, Clifton Grove
Proposed Development: Secondary Dwelling

Building Code of Australia building classification:

Class to be determined by PCA

Determination made under Section 4.16

Made On: 5 April 2022
Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

Consent to Operate From: 6 April 2022

Consent to Lapse On: 6 April 2027

Terms of Approval

The reasons for the imposition of conditions are:

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

Conditions

- (1) The development must be carried out in accordance with:
 - (a) **Plan titled Site Plan, Rev C1, Ref 21026, prepared by M.P.F Surveying Pty Ltd, dated 23 April 2021.**
Plans numbered WD4, WD5, WD6, WD7, WD10, Iss A, Job No 4015-554, prepared by Peter Turner and Associates, dated 14 July 2021. BASIX commitments table sheet, dated 18 July 2021.
BASIX Certificate No. 1209883S_02, dated 18 July 2021
 - (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.**

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 372/2021(1)

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Conditions (cont)**PRESCRIBED CONDITIONS**

- (2) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- (3) A sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out.
- (4) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of the Act, evidence that such a contract of insurance is in force is to be provided to the Principal Certifying Authority before any building work authorised to be carried out by the consent commences.
- (5) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and the licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (6) The payment of \$5,870.75 is to be made to Council in accordance with Section 7.11 of the Act and the Orange Development Contributions Plan 2017 (Remainder of LGA) towards the provision of the following public facilities:

Open Space and Recreation	@ 4,290.56 x 1 additional 3 or more bedroom dwelling	4,290.56
Community and Cultural	@ 1,244.25 x 1 additional 3 or more bedroom dwelling	1,244.25
Local Area Facilities	@ 0 x 1 additional 3 or more bedroom dwelling	0.00
Plan Preparation & Administration	@ 335.94 x 1 additional 3 or more bedroom dwelling	335.94
TOTAL:		\$5,870.75

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

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 372/2021(1)

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Conditions (cont)**Prior to the issue of a construction certificate (cont)**

- (7) An approval under Section 68 of the *Local Government Act* is to be sought from Orange City Council, as the Water and Sewer Authority, for alterations to water and sewer. No plumbing and drainage is to commence until approval is granted.
- (8) **Payment of contributions for water, sewer and drainage works** is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on 1 ET for water supply 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 Construction Certificate.

PRIOR TO WORKS COMMENCING

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

DURING CONSTRUCTION/SITWORKS

- (12) 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.
- (13) A Registered Surveyor's certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority.
- (14) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (15) The site is located within an area identified as containing serpentinite rock formations, which can contain chrysotile, a naturally occurring asbestos. Therefore the applicant or person with management or control of the site shall ensure that a written plan (an **Asbestos Management Plan**) for the site is prepared in accordance with the provisions of the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*.
- To assist applicants with developing an Asbestos Management Plan, applicants are encouraged to access the '*Asbestos Management Plan for Orange City Council 2014*', which is available on Council's website: www.orange.nsw.gov.au
- (16) 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

- (17) 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.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 372/2021(1)

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Conditions (cont)**Prior to the issue of an occupation certificate (cont)**

- (18) Where Orange City Council is not the Principal Certifying Authority, a final inspection of water connection, sewer and stormwater drainage shall be undertaken by Orange City Council and a Final Notice of Inspection issued, prior to the issue of either an interim or a final Occupation Certificate.
- (19) The cut and fill is to be retained and/or adequately battered and stabilised (within the allotment) prior to the issue of an Occupation Certificate.

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:

6 April 2022