



PLANNING AND DEVELOPMENT COMMITTEE

AGENDA

5 JULY 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 July 2022**.

David Waddell

CHIEF EXECUTIVE OFFICER

For apologies please contact Administration on 6393 8106.

AGENDA

1	INTRODUCTION.....	3
1.1	Declaration of pecuniary interests, significant non-pecuniary interests and less than significant non-pecuniary interests.....	3
2	GENERAL REPORTS	5
2.1	Items Approved Under the Delegated Authority of Council	5
2.2	Development Application DA 480/2021(1) - 185 Leeds Parade	11
2.3	Development Application DA 18/2022(1) - 52 Kite Street	63

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: 2022/975

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 259/2019(3)	Determination Date:	20 June 2022
PR Number	PR18317		
Applicant/s:	Mr R Heath		
Owner/s:	Four Forty Eight Silverdown Pty Ltd		
Location:	Lot 102 DP 1264767 - Silverdown Way, Orange		
Proposal:	Subdivision (37 lot residential and 1 reserve lot). The modification involved removing excess rock from the site.		
Value:	N/A		

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 384/2020(2) **Determination Date:** 3 June 2022
PR Number PR10479
Applicant/s: Landorange Partnership
Owner/s: Fenlor Group Pty Limited and Charms Developments Pty Limited
Location: Lot 88 DP 750401 – 55 Rifle Range Road
Lot 860 DP 1276850 – 25 Park Road
Lot 861 DP 1276850 – 23 Park Road
Lot 91 DP 750401 – 158 Shiralee Road
Lot 890 DP 1275082 - 19 Rifle Range Road
Proposal: Modification of development consent - demolition (existing dwelling), boundary adjustment and subdivision (86 lot residential). The modified proposal sought to delete Lot 891 DP 1275082 from the development. A DA has been lodged for this land and is currently in negotiations between the proponent and Council's engineers.
Further subdivide a portion of Lot 88 from three large lots into eight (8) standard lots, thereby bringing the total number of residential lots to 86.
Value: N/A

Reference: DA 444/2020(2) **Determination Date:** 26 May 2022
PR Number PR28631
Applicant/s: James Richmark Pty Ltd
Owner/s: Community Association - Deposited Plan 271257
Location: Lots 1 and 4 DP 271257 - 1517-1539 Forest Road, Orange
Proposal: Modification of development consent - centre-based child care facility. The modification involved extending the approved on-grade car park located to the east of the child care facility; and provide relocated and new access to Albury Way from the modified carpark. Fifteen (15) additional car parking spaces will be provided for the development.
Value: N/A

Reference: DA 102/2021(2) **Determination Date:** 9 June 2022
PR Number PR28436
Applicant/s: BMPS 88 Pty Ltd
Owner/s: BMPS 88 Pty Ltd
Location: Lot 12 DP 1255039 - 86-102 Summer Street, Orange
Proposal: Modification of development consent - retail premises (alterations and additions to existing building) and business identification signage. The modified proposal will make minor changes to the approved alterations and additions, and to the approved signage scheme at The Village.
Value: N/A

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 353/2021(1) **Determination Date:** 9 June 2022
PR Number PR27294
Applicant/s: Mrs L Maguire
Owner/s: Mrs LR Maguire
Location: Lot 1 DP1217170, 56 Witton Place
Proposal: Subdivision (four lot Torrens title)
Value: N/A

Reference: DA 457/2021(1) **Determination Date:** 3 June 2022
PR Number PR29030
Applicant/s: Charms Developments Pty Ltd and Fenlor Group Pty Ltd
Owner/s: Mr LJ and Mrs GM Dwyer
Location: Lot 891 DP 1275082 - 41 Park Road, Orange
Proposal: Subdivision (six lots)
Value: N/A

Reference: DA 553/2021(1) **Determination Date:** 1 June 2022
PR Number PR25982
Applicant/s: Designs@M
Owner/s: Kueb Pty Ltd
Location: Lot 10 DP 1268246 - 4A Hamer Street and Lot 2 DP 1180945 - 4 Hamer Street, Orange
Proposal: Dwelling house and attached garage
Value: \$350,000

Reference: DA 1/2022(1) **Determination Date:** 20 June 2022
PR Number PR16512
Applicant/s: Premise
Owner/s: Ms LM Robinson
Location: Lot 51 DP 867205 - 235 Shiralee Road, Orange
Proposal: Subdivision (four lot residential)
Value: N/A

Reference: DA 42/2022(1) **Determination Date:** 20 June 2022
PR Number PR8822
Applicant/s: Mr R Allan
Owner/s: Mr GJ and Mrs GJ Ramage
Location: Lot 2 DP 37493 - 34 Moulder Street, Orange
Proposal: Demolition (outbuilding) and secondary dwelling
Value: \$170,000

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 47/2022(2) **Determination Date:** 26 May 2022
PR Number PR19463
Applicant/s: MAAS Group Properties Leeds Pty Ltd
Owner/s: MAAS Group Properties Leeds Pty Ltd
Location: Lot 7 DP 1065309 - Leeds Parade, Orange
Proposal: Modification of development consent - subdivision (two lot Torrens title).
The modification involved correcting an error in the owner's details noted on the Notice of Determination.
Value: N/A

Reference: DA 51/2022(1) **Determination Date:** 9 June 2022
PR Number PR28490
Applicant/s: Mr AJ Saunders
Owner/s: Mr TP and Mrs J Woolnough
Location: Lot 2 DP 1259318 - 10 Lily Pilly Place, Orange
Proposal: Dual occupancy (one additional dwelling) and subdivision (two lot Torrens title)
Value: \$350,000

Reference: DA 57/2022(1) **Determination Date:** 3 June 2022
PR Number PR29100
Applicant/s: Hibbards Pty Ltd
Owner/s: Hibbards Pty Ltd
Location: Lot 18 DP 1275461 - 53 Sophie Drive, Orange
Proposal: Dual occupancy (detached) and subdivision (two lot Torrens title)
Value: \$519,586

Reference: DA 86/2022(1) **Determination Date:** 9 June 2022
PR Number PR7563
Applicant/s: Fitness Perfection
Owner/s: Vinsente Pty Ltd
Location: Lot 21 DP 520743 - 166 March Street, Orange
Proposal: Recreation facility (indoor) (internal alterations and additions)
Value: \$15,000

Reference: DA 90/2022(1) **Determination Date:** 26 May 2022
PR Number PR29182
Applicant/s: BT Homes
Owner/s: Mrs J Flowers
Location: Lot 322 DP 1280002 - 26 Platinum Parade, Orange
Proposal: Exhibition Home (construction and first use)
Value: \$430,000

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 92/2022(1) **Determination Date:** 9 June 2022
PR Number PR11394
Applicant/s: Mr J G Simpson
Owner/s: Mr JG Simpson and Ms JJ Seymour
Location: Lot 1 DP 377665 and Lot A DP 386446 - 103 Orchard Road, Springside
Proposal: Dual occupancy (one additional rural dwelling) and farm building (carport and shed)
Value: \$640,900

Reference: DA 93/2022(1) **Determination Date:** 9 June 2022
PR Number PR22381
Applicant/s: Bassmann Drafting Services
Owner/s: Mr DJ Garlick and Miss CI Hartnig
Location: Lots 1 and 2 DP 1111986 - 345 Lords Place, Orange
Proposal: Dwelling alterations and additions, demolition (outbuilding and tree removal) and detached shed
Value: \$506,780

Reference: DA 97/2022(1) **Determination Date:** 9 June 2022
PR Number PR29176
Applicant/s: Bronwyn Chapman
Owner/s: Mr PA Wangmann and Mrs BJ Chapman
Location: Lot 316 DP1280002 - 156 Diamond Drive, Orange
Proposal: Subdivision (two lot residential - Torrens title)
Value: N/A

Reference: DA 111/2022(1) **Determination Date:** 20 June 2022
PR Number PR8736
Applicant/s: Tackle Family Trust
Owner/s: Telstra Corporation Limited
Location: Lot 1 DP 805105 - 97 Moulder Street, Orange
Proposal: Demolition (removal of underground storage tank) and Category 1 remediation
Value: \$12,000

Reference: DA 115/2022(1) **Determination Date:** 26 May 2022
PR Number PR28913
Applicant/s: Mr P Bullock
Owner/s: Mr AR Ziegler
Location: Lot 100 DP 1271607 - 44 Hill Street, Orange
Proposal: Demolition (tree removal)
Value: \$3,500

TOTAL NET* VALUE OF DEVELOPMENTS APPROVED BY THE CEO UNDER DELEGATED AUTHORITY IN THIS PERIOD:	\$2,997,766.00
---	-----------------------

** **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.*

Additionally, since the June 2022 meeting report period (25 May to 21 June 2022), another 27 development applications were determined under delegated authority by other Council staff with a combined value of \$5,982,550.

2.2 DEVELOPMENT APPLICATION DA 480/2021(1) - 185 LEEDS PARADE

RECORD NUMBER: 2022/1070

AUTHOR: Ben Hicks, Senior Planner

EXECUTIVE SUMMARY

Application lodged	4 November 2021
Applicant/s	Jasbe Orange Pty Ltd
Owner/s	Jasbe Orange Pty Ltd
Land description	Lot 4 DP1185665 - 185 Leeds Parade, Orange
Proposed land use	Recreation Facility (indoor) and Business Identification Signage
Value of proposed development	\$3,330,555

Council is in receipt of a development application seeking approval for the establishment of an indoor recreational facility, being a gymnasium for Planet Fitness on land described as Lot 4 DP 1185665, 185 Leeds Parade, Orange. The proposal is a permissible use on the site which is mixed zoned SP3 Tourist and IN2 Light Industrial under the Orange Local Environmental Plan 2011. The proposed development will be located on the portion zoned SP3.

Planet Fitness is an American multinational franchisor and operator of fitness centres, currently with ten locations in Australia. Planet fitness is proposing to expand their business operations and are seeking approval to build and operate a centre in Orange. The proposal will comprise the construction of a 1600sqm building which will provide for an open plan gym space for training and gym equipment, associated amenities, onsite car parking for 100 cars, site landscaping and business identification signage. The proposed hours of operation are 24 hours Monday to Friday and 7am to 7pm on weekends with controlled access. The gym will cater for individual exercise, personal training, and group fitness.

The subject land is vacant with an area of 12.088 hectares. It is a corner allotment with curved road frontages to Northern Distributor Road, (which forms the northern boundary) and Leeds Parade (which forms the eastern boundary). The western boundary is formed by the Great Western Railway corridor. The southern boundary adjoins the former alignment of Leeds Parade. The proposed gymnasium building will be located at the eastern end of the development site fronting Leeds Parade.

The proposed development is generally consistent with the masterplan exhibited with the site-specific development control plan and poses no conflict with approvals previously issued in relation to the highway service centre, subdivision, or the other identified future uses.

The proposal was referred to Essential Energy for concurrence due to proximity to existing power transmission lines. Essential energy raised no concerns subject to conditions. TfNSW and John Holland were consulted on road works and stormwater detention/earthworks under previous development applications. No further works are proposed under this application that would trigger referral to these agencies.

The proposal has a capital investment value exceeding \$2.5 million (\$3.3m). Accordingly, the application has been tabled to an Ordinary Council Meeting (OCM) for determination, pursuant to Clause 4.10 Delegations of Orange City Council's *Declaration of Planning and Development Assessment Procedures and Protocols (Vers 5, 2019)*.

The assessment of the proposal concludes the development fits in the locality and there are no significant impacts on the site or on adjacent lands. All aspects of the proposed development can be adequately managed/controlled as per the submitted Development Application (DA) information, or under recommended conditions of consent.



Figure 1 - Locality and Site Context Plan

DECISION FRAMEWORK

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

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

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

DIRECTOR'S COMMENTS

The proposal involves the establishment of an indoor recreational facility, being a gymnasium for Planet Fitness on land described as Lot 4 DP 1185665, 185 Leeds Parade, Orange. The proposal is a permissible use on the site which is mixed zoned SP3 Tourist and IN2 Light Industrial under the Orange Local Environmental Plan 2011. The proposed development will be located on the portion zoned SP3.

The proposal will comprise the construction of a 1600sqm building which will provide for an open plan gym space for training and gym equipment, associated amenities, onsite car parking for 100 cars, site landscaping and business identification signage. The proposed hours of operation are 24 hours Monday to Friday and 7am to 7pm on weekends with controlled access. The gym will cater for individual exercise, personal training, and group fitness. The proposed gymnasium building will be located at the eastern end of the development site fronting Leeds Parade.

The proposed development is generally consistent with the masterplan exhibited with the site-specific development control plan and poses no conflict with approvals previously issued in relation to the highway service centre, subdivision, or the other identified future uses.

It is recommended that the application is supported subject to the adoption of the attached Notice of Determination.

LINK TO DELIVERY/OPERATIONAL PLAN

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

FINANCIAL IMPLICATIONS

Nil

POLICY AND GOVERNANCE IMPLICATIONS

Nil

RECOMMENDATION

That Council consents to development application DA 480/2021(1) for *Recreation Facility (indoor) and Business Identification Signage* at Lot 4 DP1185665, 185 Leeds Parade, Orange pursuant to the conditions of consent in the attached Notice of Determination.

FURTHER CONSIDERATIONS

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

SUPPORTING INFORMATION**Use/Operational Details**

This application seeks development consent for an indoor recreation facility, being a gymnasium for Planet Fitness providing for a range of gym and fitness activities, with various support spaces and rooms.

The gym will be fully equipped and will cater for individual exercise, personal training as well as group fitness. The group fitness classes will run between 7am and 8pm Monday-Friday. Each class has a capacity of ten members. The support rooms comprise hydrotherapy baths, massage, and spa rooms as well as male and female changerooms/bathrooms.

The proposed hours of operation are 24 hours Monday to Friday with controlled access and 7am to 7pm on weekends.

It is understood that the fitness centre will provide employment opportunities in full time, part time and casual capacities. The exact number of jobs to be created are unknown at this time; however, the applicant advises that the operation could require up to eight employees onsite at any one time.

Composition of the Development/Built Form

The building adopts a contemporary box style design with a flat roof profile and expressed façades. The main wall height of the building is 7m.

The building will primarily be constructed of pre-cast concrete panels. Metal cladding is proposed along both the eastern and western facades of the building and will be returned along the southern and northern walls on furring channels, so as to sit proud of the concrete panel wall. This treatment, in combination with the proposed colour scheme and the vertical piping elements adds an architectural interest and assists to break down the expanse of walls.

Aluminium framed shopfront glazing will be provided to the western and eastern elevations as well steel framed awnings.

Business identification signage will be included on all elevations comprising either the planet fitness logo or wordmark or a combination of both. An independent pylon sign at a height of 6.5m will face the internal road. All signage is proposed to be internally illuminated.

Associated permitter landscaping, stormwater management, and civil engineering work will be undertaken as part of the development.

The architectural renders shown in Figures 2 and 3 illustrate the proposed built form and signage arrangement.



Figure 2 - architectural render internal view looking east



Figure 3 - architectural render view from Leeds Parade

HISTORY/BACKGROUND

Highway Service Centre

A highway service centre has been approved in the north-eastern corner of the subject land pursuant to DA 332/2019(1) – refer to Figures 4-5 for location/positioning in relation to the proposed recreation facility. The approved highway service centre development also involved:

- Construction of a new access point onto Northern Distributor Road and a new public road through the site that links to Leeds Parade. The proposed public road will serve the proposed highway service centre as well as other future development within the subject land such as the proposed recreational facility (this application).
- Construction of an onsite stormwater detention basin in the south-western corner to service the proposed highway service centre; the proposed new road; and future development within the remainder of the subject land.

2.2 Development Application DA 480/2021(1) - 185 Leeds Parade

Subdivision (7 Lot Torrens Title and 5 Lot Community Title)

DA 547/2021(1) involved the subdivision of the site into seven Torrens title lots and five Community Title lots. The proposed recreational facility will be located within approved Lot 105. Proposed Lot 105 will be required to be registered prior to the issue of a CC for this development to ensure all services and road access are provided to the development.

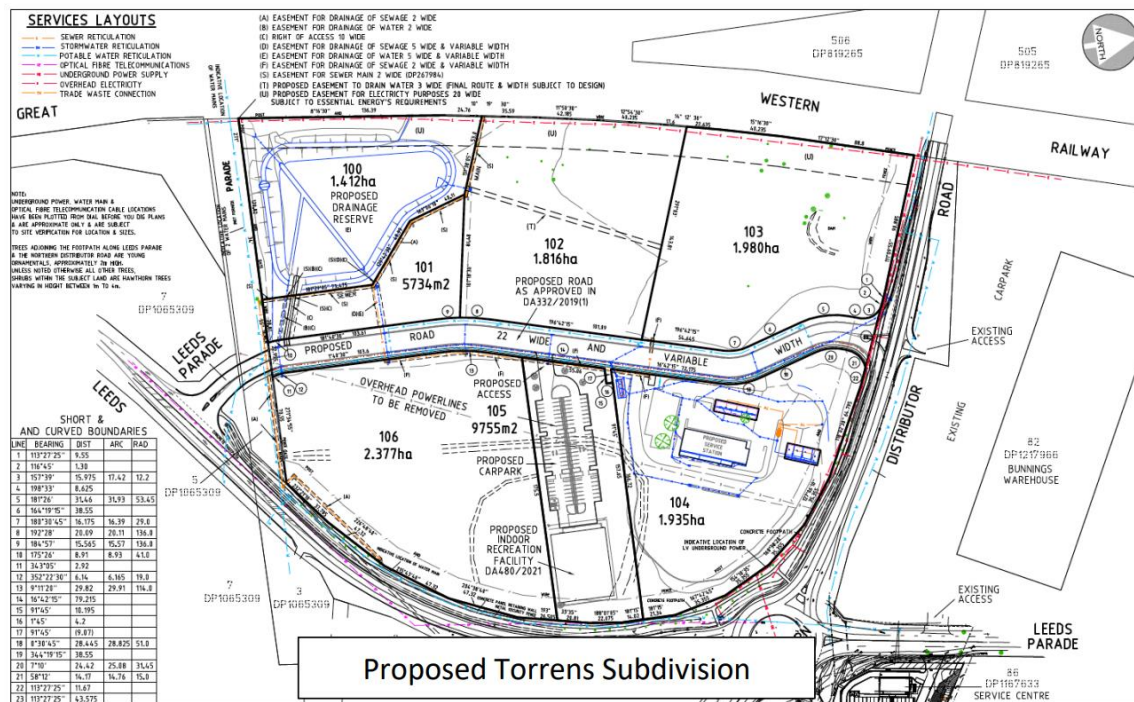


Figure 4 – approved Torrens title subdivision layout

Orange Local Environmental Plan Amendment 27

Amendment 27 related to modification of the zone pattern applying to the land. The proposal increased the area of SP3 Tourist Zone at the expense of reducing the area of IN2 Light Industrial Zone. The nomination of the SP3 zone allows for limited forms of commercial development and provides opportunities to capture trade from passing through traffic on the Northern Distributor and Leeds Parade, as well as extending services available to North Orange residents.

The amendment will provide for a proposed fast food outlet precinct in the north-western corner of the subject land (as indicated on the masterplan); however, development applications are yet to be lodged for this precinct.

A site-specific development control plan and master plan was developed in conjunction with the amendment.

The Development Control Plan and masterplan outlines the prominence of the site as an arrival point into Orange. The controls provide guidance around achieving suitable urban design outcomes for the site. These include built form design, signage and landscaping requirements as well as ensure any future Development applications consider the amenity and safety of the site design and layout.

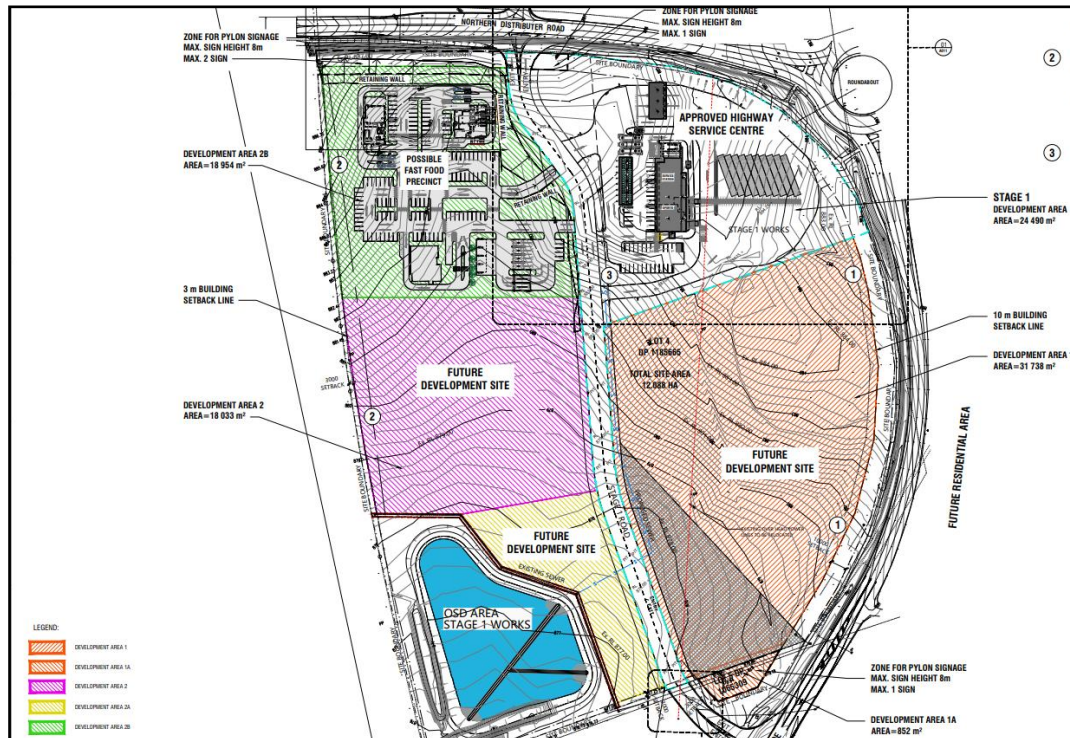


Figure 4 – Masterplan exhibited with DCP

ENVIRONMENTAL PLANNING ASSESSMENT

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

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

The proposed development does not involve the clearing of any native vegetation and the site is not considered to have any particular habitat value. The site is highly disturbed and has been dominated by historical agricultural use and land clearing and is currently zoned for industrial and special purpose land uses. The land is clear of native vegetation excepting a lone eucalypt in the north-eastern section of the property, a significant distance from the proposed development. Other trees and vegetation include a pear tree, prunus, and scattered hawthorn. The remaining land comprises improved pasture.

Having regard to the relevant provisions, historical and adjoining uses, and an inspection of the subject property, it is considered that the proposed development is not likely to significantly affect a threatened species or ecological communities, or their habitats. A Biodiversity Development Assessment Report is not required in this instance.

Section 4.15 of the Environmental Planning and Assessment Act 1979

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

PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT s4.15(1)(a)(i)**Orange Local Environmental Plan 2011****Part 1 - Preliminary****Clause 1.2 - Aims of Plan**

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

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

The proposed development is considered to be consistent with the relevant aims of Orange LEP 2011. In particular, the proposed development will assist in reinforcing Orange as a major regional centre; will contribute to the social and economic development of the city.

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:	SP3 Tourist and IN2 Light Industrial
Lot Size Map:	Not applicable
Heritage Map:	Not a heritage item or conservation area
Height of Buildings Map:	Not applicable
Floor Space Ratio Map:	Not applicable
Terrestrial Biodiversity Map:	No significant biodiversity sensitivity on the site.
Groundwater Vulnerability Map:	Groundwater vulnerable
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	No mapped 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 flood planning map

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.*

The land is subject to a Section 88B Restriction in favour of Orange City Council which prevents vehicle access being provided from Leeds Parade. No access is proposed from Leeds Parade. All access to the development will be obtained from the internal road approved under DA 332/2019(1).

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 SP3 Tourist and IN2 Light Industrial zones. The proposed development will be wholly located within the portion of the site zoned SP3 Tourist. The proposed development is defined as a Recreation Facility (indoor) and Business Identification Signage under OLEP 2011 and is permitted with consent for this zone. This application is seeking consent. Pursuant to the OLEP 2011:

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

business identification sign means a sign -

- (a) *that indicates -*
 - (i) *the name of the person or business, and*
 - (ii) *the nature of the business carried on by the person at the premises or place at which the sign is displayed, and*
- (b) *that may include the address of the premises or place and a logo or other symbol that identifies the business,*
but that does not contain any advertising relating to a person who does not carry-on business at the premises or place.

The development as described in this application satisfies the above definitions as follows:

- The proposal involves the construction of facility that will cater for a range of recreation activities in the form of individual exercise, personal training, and group fitness that will be undertaken entirely indoors. Consistent with the LEP definition, the use is characterised as a gymnasium.
- The supporting rooms within the facility offering hydrotherapy, massage, and spa treatments (tanning and other beauty treatments) are considered ancillary components representing a minor proportion of the overall development (approximately 8% of GFA). The applicant advises that these ancillary components are not advertised or intended to operate independently of the dominant use being a gymnasium. They are provided to premium gym members (Black Card) only and not the general public, verified by referring to the membership plans on the Planet Fitness website. The offering of these amenities as part of the gym membership is considered a reasonable and not unexpected complement to the health, fitness, and wellbeing focus of the gym.
- Lastly, there are no aspects of the proposed development that would cause it to be characterised as an *entertainment facility, recreation facility (major), or registered club*.

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

Objectives of the SP3 Tourist Zone

- *To provide for a variety of tourist-oriented development and related uses.*
- *To cater for the needs of the travelling public.*

While the proposed development is not strictly a tourist related development and is not necessarily something that caters to the travelling public, the development is considered reinforcing of the above objectives on the basis of the following:

- the development is a permitted form of development in the zone as per the land use table
- the proposed development itself does not adversely affect the establishment of tourist-orientated land uses at the site or access to such uses, and
- the proposed development is considered to be a complementary and supportive use to the main role and function of the site for tourist-oriented development and related uses.

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

- **Clause 7.1 Earthworks** – Clause 7.1 of the OLEP aims to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The site gently slopes to the south-west. Levels across the site range from 882.5 AHD at the Leeds Parade boundary to 884.5-885.0 AHD around mid-block down to 880 AHD in the south-west corner of the site. The earthworks proposed in the application are limited to the extent of cutting and filling required to achieve appropriate finished floor levels for the building and grades for the car parking areas. The FFL of the building is noted at 884.0 AHD which is generally consistent with the natural landform. The extent of disruption to the natural drainage of the site is considered to be reasonable and not expected to detrimentally affect adjoining properties or receiving waterways. Existing overland/natural stormwater flows are expected to be redirected to underground stormwater infrastructure and managed through Council's stormwater network and the proposed OSD basin.

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, a condition will be included in relation to unexpected finds.

Overall, the extent of the earthworks is not expected to materially affect the potential future use or redevelopment of the site. Appropriate sediment controls, including silt traps and other protective measures be required to protect adjoining lands during subdivision works as a condition of development consent.

- **Clause 7.3 - Stormwater Management** – The development of the site will involve a significant increase of impervious surfaces at the site resulting from the proposed building footprint and hardstand areas. Therefore, it is essential that the engineering design for the development results in post development stormwater levels that are equal to or less than pre-development levels. Council's Technical Services Division have attached conditions of consent in this regard. Further, the proposal does provide areas of landscaping throughout the site which will further assist in managing stormwater at the site.
- **Clause 7.6 - Groundwater Vulnerability** – The site has been mapped as being groundwater vulnerable. The proposal is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related ecosystems. The proposal does not involve extraction of groundwater and will therefore not contribute to groundwater depletion. In this regard, the proposal is considered acceptable in the context of the groundwater constraints.
- **Clause 7.11 - Essential Services** – All utility services will be augmented to the land and made adequate for the proposal. The proposed development will have frontage to a public road. Electricity will be provided as per Essential Energy's requirements. Appropriate stormwater management infrastructure will be provided.

STATE ENVIRONMENTAL PLANNING POLICIES

SEPP 55 Remediation of Land now known as SEPP Resilience and Hazards (2021)

State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)/SEPP Resilience and hazards 2021 requires that a consent authority must not consent to the carrying out of development of land unless it has considered whether the land is contaminated, is satisfied that the land is suitable in its contaminated state for the development that is proposed, and if the land requires remediation to be made suitable for the proposed development it is satisfied that the land will be remediated before the land is used for that purpose.

An Environmental Site Assessment was carried out as part of the zoning amendments and DA 332/2019(1). The Environmental Assessment concluded that the desktop review and walkover did not indicate any evidence of gross contamination of the subject land that would constrain future development and use of the land. Furthermore, a comprehensive soil sampling program was undertaken across the entire site which did not identify any hotspots. The report did acknowledge the presence of asbestos material from the previous structures on the land and it is understood that conditions of consent were included under DA 332/2019(1) in relation to the clean-up and clearance of the land in accordance with SafeWork requirements. In this regard, the site is considered suitable for the proposed recreation facility.



Figure 5 – soil sampling locations

State Environmental Planning Policy 55 (Infrastructure) 2007 now known as SEPP Transport and Infrastructure (2021)

Development likely to affect an electricity transmission or distribution network

Clause 45 of SEPP Infrastructure requires a consent authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists)
- immediately adjacent to an electricity substation
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line
- placement of power lines underground.

The site contains an existing overhead electricity line running north-south across the site. The powerline is proposed to be removed/relocated under DA 547/2021(1) as part of the subdivision works. Notwithstanding, it was considered appropriate to refer the subject application to Essential Energy for concurrence given no subdivision works have commenced at this time. Essential energy raised no concerns with the proposal subject to conditions which have been included in the consent.

Development in or adjacent to rail corridors and interim rail corridor

Division 15 of the ISEPP provides commentary regarding development involving railways. As the site is located adjacent to the operational Orange Junction to Dubbo rail line, Clause 85 and 86 of the ISEPP are to be considered. Clause 85 states:

- 1) *This clause applies to development on land that is in or adjacent to a rail corridor, if the development -*
 - a) *is likely to have an adverse effect on rail safety, or*
 - b) *involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or*
 - c) *involves the use of a crane in air space above any rail corridor, or*
 - d) *is located within 5m of an exposed overhead electricity power line that is used for the purpose of railways or rail infrastructure facilities.*

The proposed development is unlikely to have an adverse effect on rail safety given the development is located some 200m from the rail corridor. The proposal does not involve placing a metal finish on a structure where the rail corridor is used by electric trains; nor is it expected that the proposal will involve the use of a crane in air space above any rail corridor.

Furthermore, Clause 86 of the SEPP states:

- 1) *This clause applies to development (other than development to which Clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land -*
 - a) *within, below or above a rail corridor, or*
 - b) *within 25m (measured horizontally) of a rail corridor, or*
 - c) *within 25m (measured horizontally) of the ground directly below a rail corridor, or*
 - d) *within 25m (measured horizontally) of the ground directly above an underground rail corridor.*

Construction works associated with the development will not involve the penetration of NGL to a depth greater than 2m within 25m of the rail corridor. It is noted that TfNSW and John Holland were consulted under DA 332/2019(1) for earthworks in relation to the onsite stormwater basin in the south-western corner of the site. On this basis, concurrence is not required to be obtained from TfNSW in this instance.

Development in or adjacent to road corridors and road reservations

The Northern Distributor and Leeds Parade are local roads (Figure 6). The proposed road that will service the development was also approved under a previous consent and therefore Transport for NSW do not have a concurrence role in this application.

It is understood that TfNSW were consulted as part of the assessment of DA 332/2021(1) which approved the link road and its intersections with the NDR and Leeds Parade.

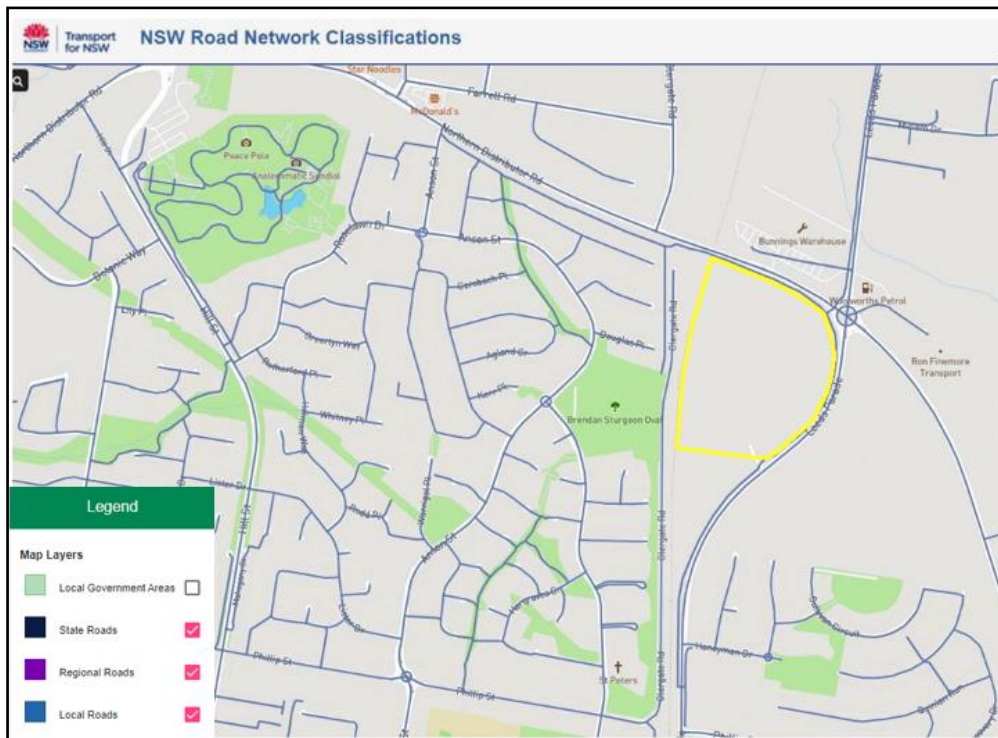


Figure 6 – road network classifications

Traffic-Generating Development

This section applies to development specified in Column 1 of the Table within Schedule 3 that involves -

- (a) new premises of the relevant size or capacity, or
- (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.

The proposed development does not meet the criteria/thresholds listed in Schedule 3 requiring referral to TfNSW. The site does not have access to a classified road (as outlined above) or to a road that connects to a classified road within 90m. The parking associated with the development comprises less than 200 spaces and the proposal will not exceed 200 or more motor vehicles per hour as verified by the submitted Traffic Impact Assessment by SALT3 Traffic Engineers.

Chapter 3 of SEPP Industry and Employment (2021), formerly known as State Environmental Planning Policy 64 - Advertising and Signage

This SEPP aims to ensure that outdoor advertising and signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.

The policy is structured such that the general heads of consideration are listed in Clause 3.11 of the policy.

This clause for the purposes of the assessments acts to enable assessment against the criteria set out in Schedule 5 of the policy. The general assessment standards applicable to all signage affected by this policy are set out in Schedule 5 (previously 1 of SEPP 64).

In addition, the policy has provisions that apply to certain types of signs, making it important to classify the signs before making an assessment of them. Not all sign types have additional assessment criteria applied to them. Moreover, certain definitions have overlapping meanings that can be applied. The proposed signs to be erected on the building are consistent with the definition of business identification signs, meaning:

a sign -

(a) that indicates -

(i) the name of the person or business, and

(ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and

(b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

The proposed development involves the erection of five *Business Identification Signs* to be located on all building elevations and a free-standing pylon sign. The signs display either the planet fitness logo or wordmark or a combination of both.

The proposed *Business identification signs* are consistent with the intent of the assessment criteria set out in Schedule 5 Assessment Criteria of SEPP Industry and Employment as discussed below:

Schedule 5 Assessment Criteria

1 - Character of the Area

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?*
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?*

The character of the area would be defined as special purpose and industrial precinct along key transport routes (road and rail). Most of the signage in the area comprises flush wall signs and pylon/freestanding signage. The proposed signage associated with this application is consistent with theme of lawful signage in the area and is not expected to detract from the character of the area.

2 - Special Areas

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?*

The subject property is located within an industrial and special purpose precinct to the north of the City and while residential land (undeveloped) is located to the west of the site, the proposed signage will not detract from the amenity or visual quality of the area.

3 - Views and Vistas

- *Does the proposal obscure or compromise important views?*
- *Does the proposal dominate the skyline and reduce the quality of vistas?*
- *Does the proposal respect the viewing rights of other advertisers?*

No proposed signage extends beyond the height of the building and therefore will not dominate the skyline or reduce the quality of vistas. No viewing rights of other advertisers will be affected by the proposed signage.

4 - Streetscape, Setting or Landscape

- *Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?*
- *Does the proposal contribute to the visual interest of the streetscape, setting or landscape?*
- *Does the proposal reduce clutter by rationalising and simplifying existing advertising?*
- *Does the proposal screen unsightliness?*
- *Does the proposal protrude above buildings, structures or tree canopies in the area or locality?*
- *Does the proposal require ongoing vegetation management?*

The scale of the proposed signage is considered appropriate in relation to the host building and will result in reasonable streetscape compatibility. The signage is expected to increase the amenity of the building façade and contribute to the visuals along Leeds Parade.

5 - Site and Building

- *Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?*
- *Does the proposal respect important features of the site or building, or both?*
- *Does the proposal show innovation and imagination in its relationship to the site or building, or both?*

The proposed signage is of suitable scale for the site, building and the surrounding land uses. It is not considered to be out of proportion with the surrounding locality and an acceptable way of identifying the business/building. The signage is also considered acceptable in its design and material selection.

6 - Associated Devices and Logos with Advertisements and Advertising Structures

- *Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?*

No safety devices, platforms, lighting devices or logos are proposed.

7 - Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*

- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

The signage is proposed to be illuminated. Appropriate conditions are attached in relation to illumination levels to ensure the safety of road users and the amenity of the area remains acceptable.

8 - Safety

- *Would the proposal reduce the safety for any public road?*
- *Would the proposal reduce the safety for pedestrians or bicyclists?*
- *Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?*

The proposed signage is appropriately located within the site and on the building, so it will not reduce pedestrian access or public safety, or restrict sightlines for vehicles, bicyclists or pedestrians.

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

There are no draft environmental planning instruments that relate to the site or proposed development.

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

Development Control Plan 2004

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

- Chapter 0 – Interim Planning Provisions
- Chapter 2 – Natural Resource Management
- Chapter 4 – Special Environmental Considerations
- Chapter 10 – Special Uses and Road Zones
- Chapter 15 – Car parking

The relevant matters in Chapters 2 and 4 were considered in the foregoing assessment under Orange LEP 2011. The relevant matters contained under Chapter 0, 10 and 15 are addressed below:

Chapter 0 - Planning Outcomes for Development along transport routes

These planning outcomes relate to development that occurs on land with frontage and/or access to a major transport route. Whilst it is acknowledged that the subject land does not have either access nor frontage to the Northern Distributor Road (NDR), the land is currently visually exposed to the NDR. As such for completeness, the below planning outcomes are considered relevant to the assessment of the application.

- *The development provides a high standard of visual appeal to motorists, cyclists and pedestrians as well as adjoining property owners.*

The design of the subject building is of an acceptable standard for the site and locality, commensurate with the level of design quality exhibited on nearby sites such as Bunnings, Caltex, BP, and Ron Finemores. The design rationale adopted results in a simple commercial style building of rectilinear form with articulated elevations, expansive glazing, flat roof form, feature corporate colours, and constrained building identification signage. A sufficient area of landscaping is proposed along the Leeds Parade frontage; however, this area could be enhanced with the inclusion of additional trees which can form part of conditions of consent. Overall, the development is considered to demonstrate high level of visual appeal.

- *The visual appearance of the development, including any signage, lighting or other ancillary element, must not generate a distraction to motorists.*

The development, whilst providing illuminated signage, is unlikely to present any distraction issues for motorist due to two reasons: firstly, its proximity to the NDR being reasonably separated, and secondly a condition is attached relating to the control of light spill.

- *Any signage must not be animated whether by movement or flashing lights.*

The subject signage is not animated, and conditions can be imposed to ensure compliance with this requirement.

- *Where land has more than one street frontage the street with the lower volume of traffic is to provide the principal access to the development, subject to safety considerations.*

The site has frontage to the Northern Distributer Road and Leeds Parade. Access to the development will be provided via a new public road linking the site from Leeds Parade to the Northern Distributer Road which was approved under DA 332/2019(1). The new road has been designed to meet Council's standard requirements detailed in the subdivision and development code. Additional to the standard requirements, it is understood that Council's Technical Services Division also required traffic calming devices to be installed within the proposed road to act as a deterrent for the new road being used as a "rat run" to avoid the NDR/Leeds Parade roundabout. An 88b currently prohibits any direct access to Leeds Parade.

- *Where access is provided onto an arterial road, distributor road or major collector road, the access point must have appropriate safe sight distances for the prevailing speed limit and clear and unimpeded entrance/exit signage must be displayed.*

A new public road will be provided to Council's standard requirements detailed in the subdivision and development code this includes appropriate safe site distances, signage and line marking requirements. Further, the approved internal road through the site would include left-in/left-out intersection at the Northern Distributer Road, with a deceleration lane provided for vehicles turning left into the site and acceleration lane for vehicles turning left out of the site. A give-way intersection at Leeds Parade with left-in and right-in deceleration lanes into the site will also be provided which will ensure through traffic is not affected.

- *Where onsite customer parking is provided that is not immediately visible from a public road clear and unimpeded directional signage must be displayed.*

Proposed parking areas will be clearly visible from the new internal road.

- *Where the proposal is residential, or another noise sensitive form, appropriate noise mitigation measures to limit the development from traffic noise must be demonstrated.*

The proposal is not a form of development that is sensitive to noise generated by traffic.

Chapter 10 – Site Specific Development Controls – 185 Leeds Parade

Setbacks

1. *Council require any development application to be accompanied by a rail noise and vibration assessment in accordance with 'Development Near Rail Corridors and Busy Roads - Interim Guidelines (2008)'.*
2. *A minimum building setback of 3m applies to the western boundary of the site or as required by the rail noise and vibration assessment.*
3. *A minimum landscape bed width of 6m is to be provided within the 10m setback zone.*
4. *A minimum building setback of 10m will apply along the Leeds Parade frontage of the site. No buildings are permitted within 10m setback zone.*
5. *Commencing at the 10m setback line, a 5m-wide building articulation zone applies.*

In consideration of the above:

1. A rail noise and vibration assessment is not considered necessary in this instance. The proposed development is located some 200m away from the rail corridor and the development is not listed as a sensitive land use under clause 2.99 of the SEPP (Transport and Infrastructure) 2021.
2. The proposed development is located well in excess of 3m of the western boundary of the site.
3. A landscape bed between 10m and 15m wide comprising a total area of 500m² is provided within the setback to Leeds Parade.
4. A minimum building setback of 10m is achieved along the Leeds Parade frontage.
5. The building design has been reasonably articulated within the 5m wide zone including the provision of an awning, commercial/shopfront glazing and use of cladding.

Building Design

1. *High quality design, materials and finishes should respect the high-profile nature of the site. Examples of acceptable building materials and finishes include:*
 - i. *High quality metal cladding (standing seam, wide pan and the like).*
 - ii. *Aluminium wall cladding with expressed joints.*
 - iii. *Pre-finished or painted FC sheeting.*
 - iv. *Face brick or (face brick cladding) as main wall finish; feature wall finish; or highlight.*
 - v. *Stonework or stone cladding feature walls or highlights.*

- vi. *Rendered and/or textured wall finishes (masonry or lightweight construction) painted in colours approved by Council. Expansive walls in bright colours to depict corporate branding is discouraged.*
 - vii. *High quality commercial shopfront framing and glazing.*
 - viii. *Low reflective materials.*
- 2. *Building design should demonstrate modulation and articulation of the horizontal and vertical proportions of facades and street facing walls to reduce bulk and scale. This may be achieved by the following:*
 - i. *Design building bays and openings to be vertically proportioned and consistent or regular along a façade or building elevation.*
 - ii. *Break expansive facades into smaller elements that relate to the use of the building and its components.*
 - iii. *Accentuation of vertical elements such as windows, entrances, columns, posts, parapets, and the like.*
 - iv. *A change in materials that relates logically to the facade/elevation components.*
- 3. *For all new buildings within the site and particularly along the Leeds Parade articulation zone.*
 - i. *Facade treatments are to incorporate architectural elements to improve presentation to public areas, particularly Leeds Parade. These may include but not be limited to verandahs; awnings; glazing; modulated walls; a mixed but complementary palette of building finishes and materials.*
 - ii. *To establish a human scale response, continuous expanses of blank wall shall not exceed 6ms. Features to break the expanse may include but not be limited to windows; doors; columns; recessed or glazed breaks; modulation; clearly expressed vertical joints or banding; a change in materials or colour.*
 - iii. *Mechanical plant and back-of-house areas are to be screened visually and acoustically using elements such as discreet building design; architectural screens; and landscaping.*
 - iv. *Minimise the provision of roller doors/loading docks along the Leeds Parade elevation of buildings. Where service areas face the street architectural design, screening, landscaping, and pavement colours/textures are used to minimise the dominance of service areas relative to other aspects of the facade.*

In consideration of the above:

- 1. The proposed development is considered to be appropriate as well as visually interesting in terms of the composition of building elements, textures, materials, finishes and colour, and is considered commensurate with the level of design quality exhibited on nearby sites. The main materials include concrete panels, metal cladding and commercial shopfront framing and glazing.
- 2. The building design proposes a variation of materials, window sizes and locations to provide aesthetic relief.

Metal cladding is proposed along both the eastern and western facades of the building and will be returned along the southern and northern walls on furring channels, so as to sit proud of the concrete panel wall. This treatment, in combination with the proposed colour scheme and the vertical piping elements adds an architectural interest and assists to break down the expanse of walls. Shop front glazing and awnings provided to the eastern and western elevations further break-down the mass and form of the building.

3. As discussed above, the building design adopts appropriate façade treatments including along the Leeds parade frontage. This includes an awning, shopfront glazing, and variation of building materials and finishes including concrete panelling and metal cladding. There are no continuous expanses of blank walls. The design includes parapet on the western elevation which partially screens rooftop mechanical plant; however, remains visually exposed on the remaining elevations. It is recommended that a revised design response be submitted prior to the issue of a CC that provides for suitable integration of roof top mechanical plant. Notwithstanding, the changes in material choices, articulation, and colour tones of the building have resulted in a good interface with and presentation to the Leeds Parade streetscape. The design assists in setting a high standard for the transitioning character of this locality. The landscaping will ensure the building is well integrated into the surroundings.

Signage

1. *Pylon signage around the site frontages (Leeds Parade and Northern Distributor Road) may be permitted as follows:*
 - a. *One free-standing sign pylon along the Northern Distributor Road frontage of the site, east of the new road intersection (already approved in DA 322/2019(1)).*
 - b. *Two free-standing sign pylon signs along the Northern Distributor Road frontage of the site, west of the new road intersection.*
 - c. *One free-standing sign pylon sign at the southern end of the site between Leeds Parade and the new road intersection*
 - d. *The maximum height of the above pylon signs is 8m. The maximum width is 3m.*
2. *Pylon or free-standing signs are permitted within the site and are subject to the following requirements:*
 - a. *For single tenancy buildings/sites - one sign only; maximum height of 4.5m and maximum width of 1.5m.*
 - b. *For multi-tenancy buildings/sites - one sign only as a directory panel which allows each tenant to identify their business. Maximum height of 6m and maximum width of 2m.*
 - c. *Business identification signage is to be integrated into the architectural design and must not obliterate architectural features or project beyond silhouette of the building.*

In consideration of the above:

1. The proposed development does not include any pylon/free-standing signage at the Leeds Parade frontage.

2.2 Development Application DA 480/2021(1) - 185 Leeds Parade

2. A single pylon/free-standing sign is proposed within the site facing the new internal road. The height of the sign is 6.5m and is 2.8m wide. This is inconsistent with the above controls for a single tenancy building and the applicant has not provided any request for a variation to the above standard. In this regard, it is recommended that conditions of consent limit the size/configuration of the sign to the controls listed above for a single tenancy building.
3. All signage located on the building façade is integrated into the architectural design and contained entirely within the building envelope. The proposed signage is considered appropriate in relation to the host building and will result in reasonable streetscape compatibility.

Landscaping

1. *A detailed landscape plan is to be submitted with a development application*
2. *Landscape plans should:*
 - i. *Articulate any changes in level or mounding that has been designed to mitigate any visual or noise impacts.*
 - ii. *Identify species and plantings on the plan.*
 - iii. *Identify any water sensitive urban design measures.*
 - iv. *Provide a planting schedule including species, spread and height to Council's satisfaction.*
 - v. *Provide a sufficient number of shade tree plantings and landscape beds particularly across expansive car park and vehicle areas to reduce the urban heat island effect. Minimum of one (1) shade tree per eight (8) parking spaces. Alternative shade solutions such as solar panel covered shade structures may be considered.*
 - vi. *Where relevant, refer to water sensitive urban design measures that preserve and improve stormwater quality while regulating the flow off site to be no greater than pre-development flows.*
 - vii. *Identify proposed fencing material and finish, noting the need for fencing along the Leeds Parade and Northern Distributor Road boundaries (where proposed) to be consistent or complementary. Industrial style chain wire fencing (i.e. galvanised finish with barbed top wires) is not acceptable along these frontages.*
 - viii. *Ensure landscaping buffers utilise sufficient tree and understorey planting to minimise light spill, noise and other amenity impacts from impact on adjoining residential areas.*

In consideration of the above:

1. A landscape plan has been provided with the application.
2. The landscape plan generally conforms to the above listed requirements, excepting details relating to water sensitive urban design. It is also considered that insufficient tree plantings have been included to the site frontage (Leeds Parade) and some of the tree species proposed throughout the site may not be the most appropriate in terms of achieving a sufficient level of canopy to offset UHI effects.

In this regard, it is recommended that a revised landscape plan is prepared (in consultation with Council's Manager City Presentation for advice on appropriate tree species and quantities) and be approved by Council prior to the issue of a construction certificate.

Amenity

1. *With any development Council requires a Noise Impact Assessment by a suitably qualified person to ensure that development does not generate noise of more than 5dBA above the background ambient level measured at the property boundary.*

Encourage slow speeds and a safe traffic environment within the site.

In consideration of the above:

1. The application is supported by a Noise Impact Assessment prepared by Atkins Acoustics. The assessment provides that:
 - internal noise from the building through onsite management and building design can be controlled and satisfy the project specific noise assessment levels
 - plant and equipment noise with appropriate selections, design and installation can be controlled and satisfy the recommended project specific noise assessment levels, and
 - noise from transient car park activities satisfies the *NPfI* sleep arousal screening test.
2. The Internal layout of the site will promote a low-speed environment provided with appropriate calming measures such as line marking, signposting, bollards, sightlines etc. in accordance with the Australian Standard and Council's Subdivision and Development Code.

Access and Movement

1. *Development on the site must have regard to the nature and scale of traffic generation within the site and must be accompanied by a Traffic Impact Assessment.*
2. *That any identified upgrades or future upgrades to classified road intersections or infrastructure as part of the Traffic Impact Assessment and be accompanied by strategic designs for the proposed civil works on the classified road network.*
3. *A development application must be accompanied by a Traffic Management Plan that gives consideration to traffic calming measures.*
4. *Bike racks are to be provided at safe locations onsite.*

In consideration of the above:

1. The development application is supported by a Traffic Impact Assessment. The TIA provides that the SIDRA results indicate that both planned intersections will operate at Level of Service A for all movements. with the exception of the right-turn out of Leeds Parade that will operate at Level of Service C. This indicates acceptable performance post-development with 2028 traffic volumes on Northern Distributor Road and Leeds Parade.

2. The TIA confirms that the proposed new internal road and intersections will accommodate the additional traffic of the gymnasium without any upgrades. As other land parcels are developed in future, intersection performance will be re-assessed accordingly.
3. The internal carparking areas will be required to be constructed to the applicable Australian Standards and Council's Subdivision and Development Code which will ensure that appropriate traffic calming measures are provided.
4. Bicycle parking has not been identified on the submitted plans. In this regard, it is recommended that a condition be included requiring the provision of bicycling parking.

Safety And Crime Prevention

1. *Landscaping is to be configured to minimise concealment opportunities and maximise passive surveillance to encourage active street environments to enhance the sense of safety.*
2. *Public lighting is to be provided to all areas within the site to promote safety.*
3. *Enhanced levels of lighting are to be installed in areas of pedestrian or cyclist patronage and along pathways provided to and from the site.*

In consideration of the above:

1. The building design includes extensive glazing providing clear sightlines west across the site and its car park; and east towards Leeds Parade.
2. The building design and site layout ensures that there are no concealed back-of-house areas with most sections of the site visible from within the building and from the adjacent road network.
3. The external areas of the site will be illuminated.
4. The landscape plantings indicate limited potential for concealment.

Chapter 15 – Car parking

The DCP provides two rates for development of this type as follows:

- 7.5 spaces per 100m² of GFA for entertainment and recreation facilities (gymnasiums/fitness centres)
- four spaces per 100m² of GFA for health and community services (gymnasium, health, and fitness centres).

The latter requirement generally applies to health and community services provided by the Council (eg Anzac Park). Based on a GFA of 1600m², the parking requirement for the development ranges from 64 spaces to 120 spaces under these controls. The proposed development includes 100 parking spaces representing either a surplus of 36 spaces if assessed at the lower parking control in the DCP or a shortfall of 20 spaces if assessed at the higher rate. The applicant has submitted a traffic and parking assessment in support of the proposal and submits that the proposed 100 spaces is adequate due to the following:

- *The shortfall of 20 spaces is attributed to the higher rate of 7.5 spaces per 100m² GFA. This higher rate is expressed in the RTA Guide as only a "desired provision".*

- *Classes are scheduled and the average stay of members is 45 minutes. As such it is expected that there will be a regular turnover of parking spaces.*
- *Class sizes are limited to ten. A review of other Planet Fitness gyms indicates that only one to three classes run concurrently. This suggests that 100 parking spaces would be more than ample to accommodate not only the class participants but also the other members who attend the gym at the same time but do not partake in classes.*

The traffic impact assessment further provides that:

- *The site is conveniently accessible by the adjacent shared path network. Given the nature of the land use, it is expected that some gym patrons will cycle to/from the facility. Thus, lessening the demand for car parking.*
- *Peak parking demand periods for a gym are typically early morning (before gym), evenings from 5pm-7pm and Saturday mornings. which does not conflict with the peak demand periods for the future industrial land uses that are envisaged for Development Areas 1 and 2.*

Council planning staff and technical services division concur with the findings of the traffic and parking assessment submitted in support of the development in this instance and consider that the proposed 100 onsite parking spaces is more than sufficient to cater for the development. In addition conditions of consent will require the provision of appropriate facilities for bicycle parking.

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

Demolition of a Building (Clause 92)

The proposal does not involve the demolition of any structures.

Fire Safety Considerations (Clause 93)

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

Buildings to be Upgraded (Clause 94)

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

BASIX Commitments (Clause 97A)

BASIX is not applicable to the proposed development.

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

Context and Setting

The subject land is a large irregular shaped vacant parcel that is bound by the NDR to the north, Leeds Parade to the east and south, and the rail corridor (Dubbo Line) to the west.

The surrounding development pattern includes a variety of uses from the residential area to the west (separated from the subject land by the rail corridor), Bunnings to the north, two service stations, an approved (yet to be built) drive-through bottle shop and a truck depot (with industrial land beyond) to the northwest, further industrial land to the northeast, and undeveloped residential land to the east (separated by Leeds Parade) currently used for grazing purposes.

The subject site has been master planned and zoned to permit such a development and thus is consistent with the expectant development pattern of the area. The forgoing assessment of the proposal also demonstrates that the proposed recreation facility can be operated on the site without causing significant impacts on nearby land uses in terms of noise, traffic and visual impacts.

Visual Amenity/Streetscape

The proposed building whilst large in dimension is of an acceptable design for this location/site, with satisfactory design detailing and articulation. The building design proposes a variation of materials, window sizes and locations to provide aesthetic relief. The building will consist of a mix of metal cladding and concrete tilt panel walls. The variation in materials and design, combined with commercial glazing and awning treatments, will present satisfactorily. The applicant has suitably demonstrated that the proposed design will not have an adverse impact upon the visual amenity of this high-profile location. The introduction of appropriate landscaping will also assist in reducing any potential impacts of the large building.

Access, Traffic and Parking

The subject land is well serviced by the existing road networks being the NDR and Leeds Parade as well as bike and footpath networks. A new public road is also proposed that will provide direct vehicle access to the proposed development. Council's Development Engineer has advised that the proposed new road and intersections have been designed in accordance with Council's Development and Subdivision Code and will accommodate the future traffic loads associated with the subdivision/subsequent development on the land. The Traffic Impact Assessments carried out to date have assessed the cumulative traffic impact/intersection performance in relation to traffic associated with the future fast-food precinct, truck stop/service station and recreation facility (this application) and indicates that both intersections will operate at Level of Service A for all movements, with the exception of the right-turn out of Leeds Parade that will operate at Level of Service C. This indicates acceptable performance post-development with 2028 traffic volumes on Northern Distributor Road and Leeds Parade and also demonstrates that there is sufficient capacity to accommodate development on the remaining vacant parcels of land.

Parking, internal circulation/layout, servicing etc. are all considered satisfactory.

Noise and Vibration

The ambient noise levels of the locality are considered to be typical of an area that lies in a special purpose and industrial precinct and along a key transport routes (road and rail). Attached are conditions of consent that requires the applicant to implement the recommendations of the acoustic report in the construction with a requirement for a commissioning report prepared within 3 months of operation to ensure compliance. Construction of the development is unlikely to be disruptive to adjoining uses given the somewhat isolated nature of the site. Any impacts will be temporary and short term and there are no long-term impacts from construction that raise concern. Given the nature of the proposed development (gymnasium), it is not expected there will be any ongoing impacts in the locality in relation noise as demonstrated by the supported noise impact assessment.

Environmental Impacts

The subject land is a highly modified parcel of land and is not likely to contain any threatened species, endangered ecological communities, or their habitats. The development is not likely to present any environmental impacts.

Air and Microclimate

The proposal is not expected to have any long-term discernible impact on air quality or on the microclimate of the locality. Conditions of consent are recommended for dust suppression during construction works to protect the air and microclimate.

Economic Impacts

The proposed development is consistent with Council's strategy identifying the site as a cohesive and interrelated tourism/service/convenience precinct that will be of benefit for travellers along the Northern Distributor Road and also for the expanding North Orange area which includes existing and proposed residential areas; the Narrambla industrial estate; and Charles Sturt University.

The development will present a boost to the economy through job creation and economic stimulation during the construction phase. Post-construction the development will create jobs related to the health and fitness industry. There are no aspects of the development that would result in unacceptable economic impacts in the locality.

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

The subject land is considered to be suitable to undertake the proposed development due to the following:

- The development is permissible and compliant with the relevant provisions of the LEP.
- The development is considered to be satisfactory in regard to s4.15 of the Environmental Planning and Assessment Act 1979.
- The potential impacts of the development can be managed appropriately through the conditions of consent.
- The development of the site will not create significant adverse impacts on the context and setting of the area.
- The development of the site will not detrimentally affect adjoining land and is unlikely to lead to land use conflicts.
- All utility services are or can be made available, including suitable road access.
- The subject land has no significant biodiversity or habitat value.

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

The proposed development was not required to be advertised or notified under the provisions of Council's Community Participation Plan 2019; therefore, no submissions received.

PUBLIC INTEREST s4.15(1)(e)

The proposal is assessed to pose no significant impacts on the public interest.

DEVELOPMENT CONTRIBUTIONS**Section 64 Local Government Act 1993**

Council's Assistant Development Engineer advises:

1. Development contributions for water and sewer are applicable to the proposed development.
2. Water and sewer headworks are based on the PW standard of 1/3 ET per WC (6 x 0.333) + 1 ET for spa area.
3. Once proposed lot 105 is registered a credit of 1 ET will be applicable

Conditions are included on the attached Notice of Determination requiring payment of applicable contributions prior to a Construction Certificate (CC).

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 generally consistent with Council's adopted DCP for this precinct. A Section 4.15 assessment of the development indicates that the development is acceptable in this instance. Attached is a draft Notice of Determination outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.

ATTACHMENTS

- 1 Notice of Approval - DA 480/2021(1) - 185 Leeds Parade, D22/37054 [↓](#)
- 2 Plans, D22/34095 [↓](#)

	ORANGE CITY COUNCIL Development Application No DA 480/2021(1) NA22/359 Container PR26131
---	---

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

Development Application

Applicant Name: Jasbe Orange Pty Ltd
Applicant Address: 1400 Dandenong Road
OAKLEIGH VIC 3166
Owner's Name: Jasbe Orange Pty Ltd
Land to Be Developed: Lot 4 DP 1185665, 185 Leeds Parade, Orange
Proposed Development: Recreation Facility (indoor) and Business Identification Signage

Building Code of Australia building classification:

Class to be determined by Certifier

Determination made under Section 4.16

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

Consent to Operate From: 6 July 2022
Consent to Lapse On: 6 July 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) the approved stamped plans prepared by TRG, dated October 2021, and numbered 1-7
 - (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 480/2021(1)

2

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) 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

- (5) Prior to the issue of a construction certificate evidence shall be provided to the Principal Certifying Authority that proposed Lot 105 in the proposed subdivision of Lot 4 DP 1185665 under DA 547/2021(1) has been registered with NSW Land and Property Information.
- (6) Prior the issue of a Construction Certificate, a Construction Environmental Management Plan (CEMP) must be submitted to the satisfaction of Council's Manager Building and Environment. The CEMP must address, but not be limited to, the following matters where relevant:
- a) Details of:
 - hours of work
 - 24-hour contact details of site manager
 - construction traffic management including parking and pedestrian safety, traffic control etc.
 - construction noise and vibration management, prepared by a suitable qualified person
 - excavation
 - management of dust and odour to protect the amenity of the neighbourhood
 - erosion and sediment control measures
 - stormwater control and discharge
 - groundwater management plan including measures to prevent groundwater contamination
 - measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site
 - external lighting in compliance with AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting
 - waste classification (for materials to be removed) and validation (for materials to remain) be undertaken to confirm the contamination status in these areas of the site; and
 - waste storage, recycling and litter control.

(Condition (6) continued over page)

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 480/2021(1)

3

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

- (6) (cont)
- b) the CEMP must not include works that have not been explicitly approved in this development consent
 - c) in the event of any inconsistency between the consent and the CEMP, the consent prevails
 - d) the CEMP (as revised from time to time) must be implemented by the Applicant for the duration of the construction works.
- (7) Prior to the issue of a Construction Certificate, the landscape plan by TRG shall be amended in accordance with the following:
- a) include an appropriate selection of tree species suitable to the Orange climate and Colour City Image that will achieve a sufficient level of canopy to offset the UHI effect of the development. Tree species shall be determined in accordance with Council's Manager City Presentation
 - b) provide additional tree plantings within the Leeds Parade setback. Quantity and species shall be determined in consultation with Council's Manager City Presentation; and
 - c) provide a revised selection of understorey planting that comprises a mix of shrubs and hedges, accent plants, grasses/groundcovers. All species shall be suitable to the Orange climate.
- The landscape plan shall be supported by a *landscape maintenance strategy* for the landowner to administer following the planting of landscaping. The strategy is to address maintenance issues such as, but not limited to tree and shrub survival, irrigation, soil testing, staking, fertilizing and mulching. The maintenance strategy shall also include an inspection regime/monitoring program.
- The revised landscape plan and landscape maintenance strategy are to be submitted to and approved by Council's Manager Development Assessment.
- (8) Prior to the issue of a Construction Certificate, the architectural plans by TRG shall be amended in accordance with the following:
- a) roof mounted mechanical plant shall be integrated into the overall architectural design of the building and screened from public viewing along Leeds Parade
 - b) the pylon/free-standing sign shall not exceed 4.5m in height or 1.5m in width
 - c) provision of bicycle parking within the site adjacent to the gymnasium in accordance with relevant Standards and at the rate required by Council's Development Control Plan 2004
 - d) all fencing shall comprise black metal palisade fencing. No Fencing permitted within the front setback.
- The revised architectural plans are to be submitted to and approved by Council's Manager Development Assessment.
- (9) Details of compliance with the following acoustic requirements set out in Section 6.1 of Acoustic Report 51.7250.L1:GA/DT/2021 prepared by Atkins Acoustics, and dated 12 October 2021, shall be provided to the Principal Certifier with an application for a Construction Certificate:
- external walls are to be constructed of masonry, or equivalent acoustically rated walls at not less than Rw 50
 - external glazing is to be acoustically rated at not less than Rw 32
 - roof /ceilings are to be constructed of metal decking over glass wool insulation suspended 13mm plaster board ceilings at not less than Rw 35
 - in-house amplified music is to be controlled by 'sound limiters'
 - external mechanical plant and equipment final selections and details are to be confirmed during the project design phase to satisfy the recommended project specific noise assessment levels.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 480/2021(1)

4

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

- (10) All signs that are proposed to be illuminated shall meet the Illumination and reflectance criteria for **Zone 4** set out within Table 5 of the *Transport Corridor Outdoor Advertising and Signage Guidelines 2017*. All illuminated signs must have the ability to be adjusted. Details of compliance shall be provided to the Principal Certifier with an application for a Construction Certificate.
- (11) 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 kerb and gutter. All parking spaces and access aisle dimensions shall be in accordance with AS 2890.1 (Off-street car parking).
- (12) A water and soil erosion control plan is to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) for approval prior to the issuing of a Construction Certificate. The control plan is to be in accordance with the Orange City Council Development and Subdivision Code and the Landcom, Managing Urban Stormwater; Soils and Construction Handbook.
- (13) A Liquid Trade Waste Application is to be submitted to Orange City Council prior to the issuing of a Construction Certificate. The application is to be in accordance with Orange City Council's Liquid Trade Waste Policy. Engineering plans submitted as part of the application are to show details of all proposed liquid trade waste pre-treatment systems and their connection to sewer.
- Where applicable, the applicant is to enter into a Liquid Trade Waste Service Agreement with Orange City Council in accordance with the Orange City Council Liquid Trade Waste Policy.
- (14) **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 ETs for water supply headworks and 3 ETs for sewerage headworks (the proposed Lot 105 will have a 1.0 ET credit on registration of the subdivision which will be applied at the time of payment). A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.
- This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.
- (15) 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.
- (16) 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.

PRIOR TO WORKS COMMENCING

- (17) 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.
- (18) 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.
- (19) Soil erosion control measures shall be implemented on the site.
- (20) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 480/2021(1)

5

Conditions (cont)**Prior to works commencing (cont)**

- (21) Essential Energy's records indicate there is electricity infrastructure located within close proximity of the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.

DURING CONSTRUCTION/SITEWORKS

- (22) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (23) 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.
- (24) A heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in the position shown on the plan submitted with the Construction Certificate application. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit.
- (25) All services are to be contained within the allotment that they serve.
- (26) 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.
- (27) A Registered Surveyor's certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority.
- (28) All construction works are to be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.
- (29) 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.
- (30) If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item shall cease, and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council shall be notified. Where required, further archaeological investigation shall be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy, developed in consultation with and approved by the OEH.
- (31) The existing overhead powerlines impacted by the proposal are to be relocated. Such relocation will be at the Applicant's expense, must follow Essential Energy's Contestable Works process and must be to the satisfaction of Essential Energy. Refer Essential Energy's Contestable Works Team for requirements via contestableworks@essentialenergy.com.au.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 480/2021(1)

6

Conditions (cont)**During construction/siteworks (cont)**

- (32) The proponent will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the development in accordance with *NSW Service and Installation Rules*. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.

PRIOR TO THE ISSUE OF AN 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, and that Council will take ownership of the infrastructure assets.
- (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) 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.
- (36) Landscaping shall be installed in accordance with the approved plans.
- (37) Certification is to be provided verifying that the Illumination and reflectance levels of all illuminated signs comply with Condition 9 of this consent.
- (38) 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.
- (39) 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.
- (40) The applicant shall obtain a Commissioning Report, which assesses actual noise emissions from all operations of the development, within three (3) months of the issue of an Occupation Certificate. Where the report recommends additional noise attenuation works to be carried out, these works shall be undertaken within 28 days from the date of the Commissioning Report.
- (41) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
- (42) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation Certificate, unless stated otherwise.

MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT

- (43) 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*.
- (44) Landscaping in accordance with the approved plans must be maintained in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 480/2021(1)

7

Conditions (cont)**Matters for the ongoing performance and operation of the development (cont)**

- (45) Outdoor lighting must be in accordance with Australian Standard AS 4282-1997 - Control of the obtrusive effects of outdoor lighting.
Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties and motorists.
- (46) All signage approved under this consent is not to flash, move, be objectionably glaring or luminous, replicate any road guide warning or regulatory sign or be prejudice to the travelling public
- (47) The signage shall be adequately maintained so as not to lose its structural and cosmetic integrity.
- (48) Arrangements shall be made for the regular removal and disposal of waste materials.
- (49) In accordance with Acoustic Report 51.7250.L1:GA/DT/2021 prepared by Atkins Acoustics, and dated 12 October 2021, no structured group classes are to be conducted. Should structured classes be proposed to be undertaken, the proponent is to submit to Council for approval a revised acoustic report demonstrating that noise from structured classes can comply with the Noise Policy for Industry 2017.

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:

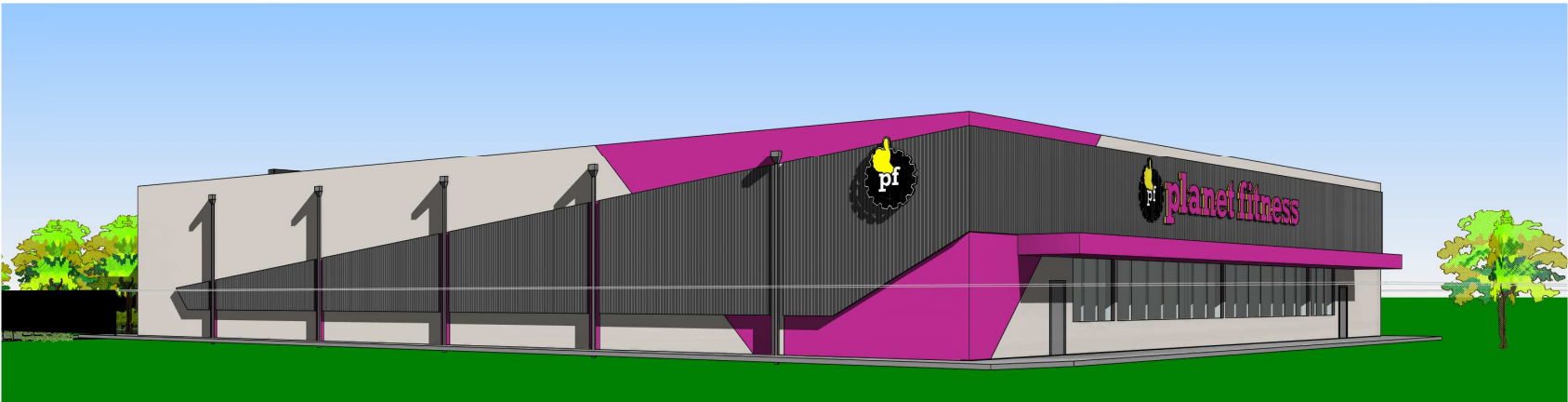
The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Signed:On behalf of the consent authority **ORANGE CITY COUNCIL****Signature:****Name:****PAUL JOHNSTON MANAGER DEVELOPMENT ASSESSMENT****Date:**

6 July 2022

PROPOSED PLANET FITNESS GYM

@ 185 LEEDS PARADE, ORANGE
FOR JASBE GROUP



C:\Users\salwa\OneDrive - The Retail Group\Documents\Orange_Brew_180721.dwg

BUILDER / CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO PRODUCING SHOP DRAWINGS, ORDERING MATERIALS OR COMMENCING WORK ON SITE. USE FIGURED DIMENSIONS ONLY. DO NOT SCALE DRAWINGS & INFORM TRG OF ANY CONFLICT OR DISCREPANCY BETWEEN SITE CONDITIONS AND DOCUMENTS. DRAWINGS SHALL BE READ IN CONJUNCTION WITH RELEVANT CONSULTANTS DRAWINGS, REGULATORY CODES AND STANDARDS © - COPYRIGHT TRG. COPYRIGHT OF DESIGNS SHOWN HEREIN IS RETAINED BY THIS OFFICE. WRITTEN AUTHORITY IS REQUIRED FOR ANY REPRODUCTION.

C	UPDATED SITE PLAN, FLOOR PLAN, ELEVATIONS	YN	22-10-2021
A	ISSUED FOR DA APPROVAL	HB	15-10-2021

BY	DATE
----	------



concept +
design + interiors +
project management

AUCKLAND + BRISBANE + MELBOURNE + PERTH + SYDNEY

Suite 37, Level 3, 799 Springvale Road
Mulgrave, Victoria, 3170 Australia
T: +61 3 9542 9300 F: +61 3 9542 9310
www.trg-aus.com
The Retail Group Pty Ltd ABN 85 050 134 686
RBP No. DP-AD1689

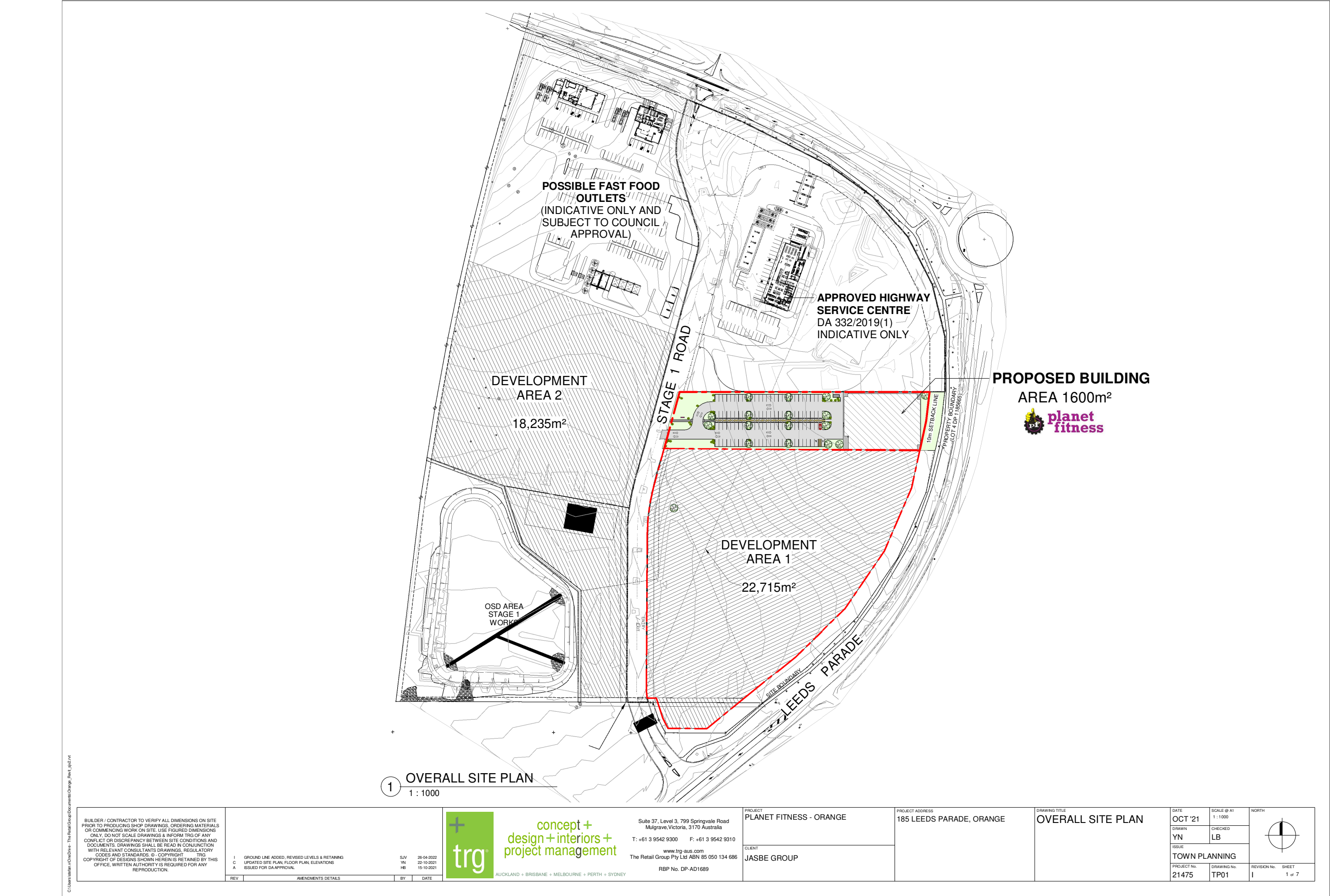
PROJECT
PLANET FITNESS - ORANGE

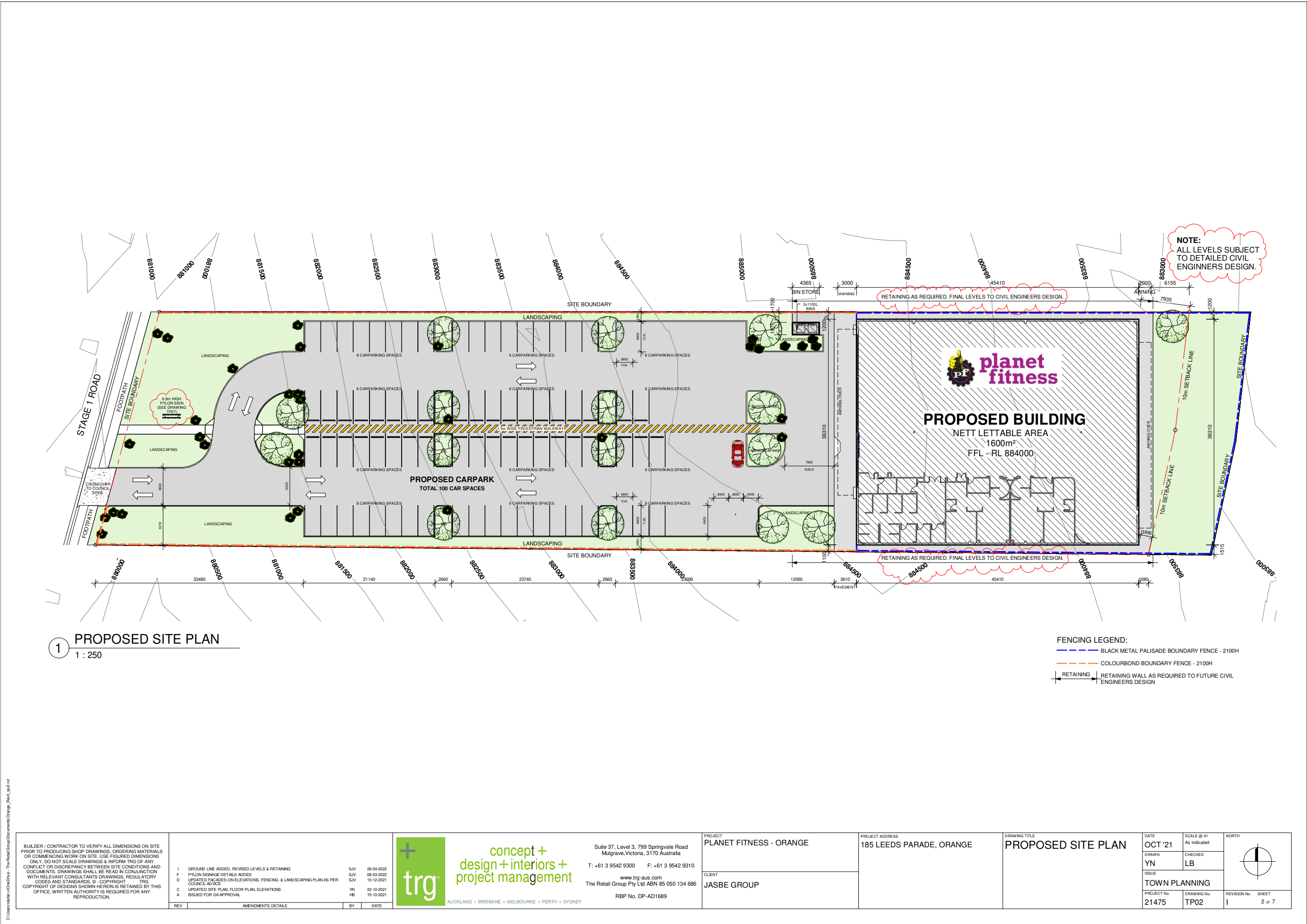
CLIENT
JASBE GROUP

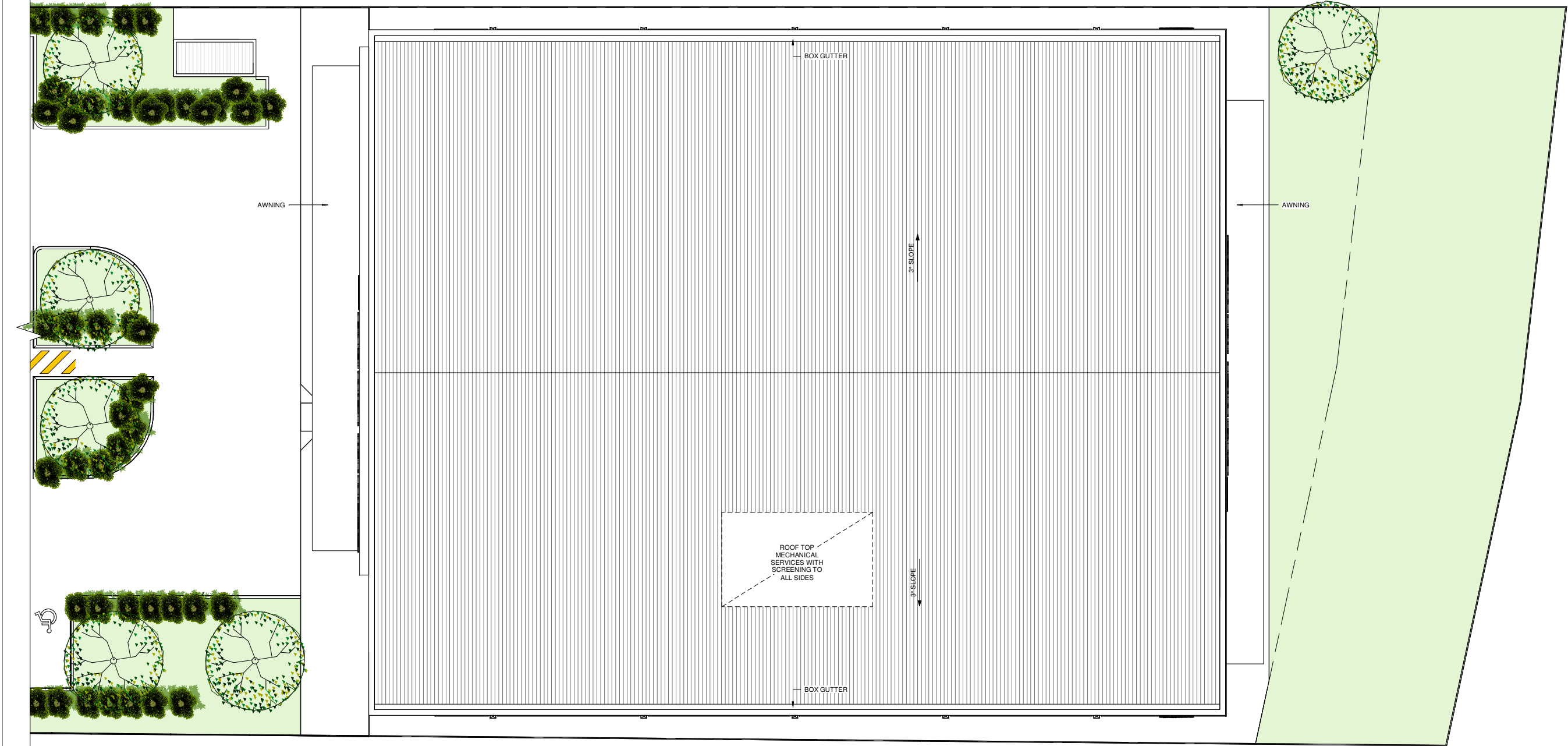
PROJECT ADDRESS
185 LEEDS PARADE, ORANGE

DRAWING TITLE
COVER SHEET

DATE OCT '21	SCALE @ A1	NORTH
DRAWN YN	CHECKED LB	
ISSUE TOWN PLANNING		
PROJECT No. 21475	DRAWING No. TP00	REVISION No. SHEET C of







C:\Users\salas\OneDrive - The Retail Group\Documents\Orange_Retail\JPG\2021

BUILDER / CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO PRODUCING SHOP DRAWINGS, ORDERING MATERIALS OR COMMENCING WORK ON SITE. USE FIGURED DIMENSIONS ONLY. DO NOT SCALE DRAWINGS & INFORM TRG OF ANY CONFLICT OR DISCREPANCY BETWEEN SITE CONDITIONS AND DOCUMENTS. DRAWINGS SHALL BE READ IN CONJUNCTION WITH RELEVANT CONSULTANTS DRAWINGS, REGULATORY CODES AND STANDARDS © - COPYRIGHT TRG. COPYRIGHT OF DESIGNS SHOWN HEREIN IS RETAINED BY THIS OFFICE. WRITTEN AUTHORITY IS REQUIRED FOR ANY REPRODUCTION.

E UPDATED ROOFTOP MECHANICAL & SIGNAGE DIMENSIONS		SJV	18-01-2022
REV	AMENDMENTS DETAILS		BY DATE

+

trg


concept +
design + interiors +
project management

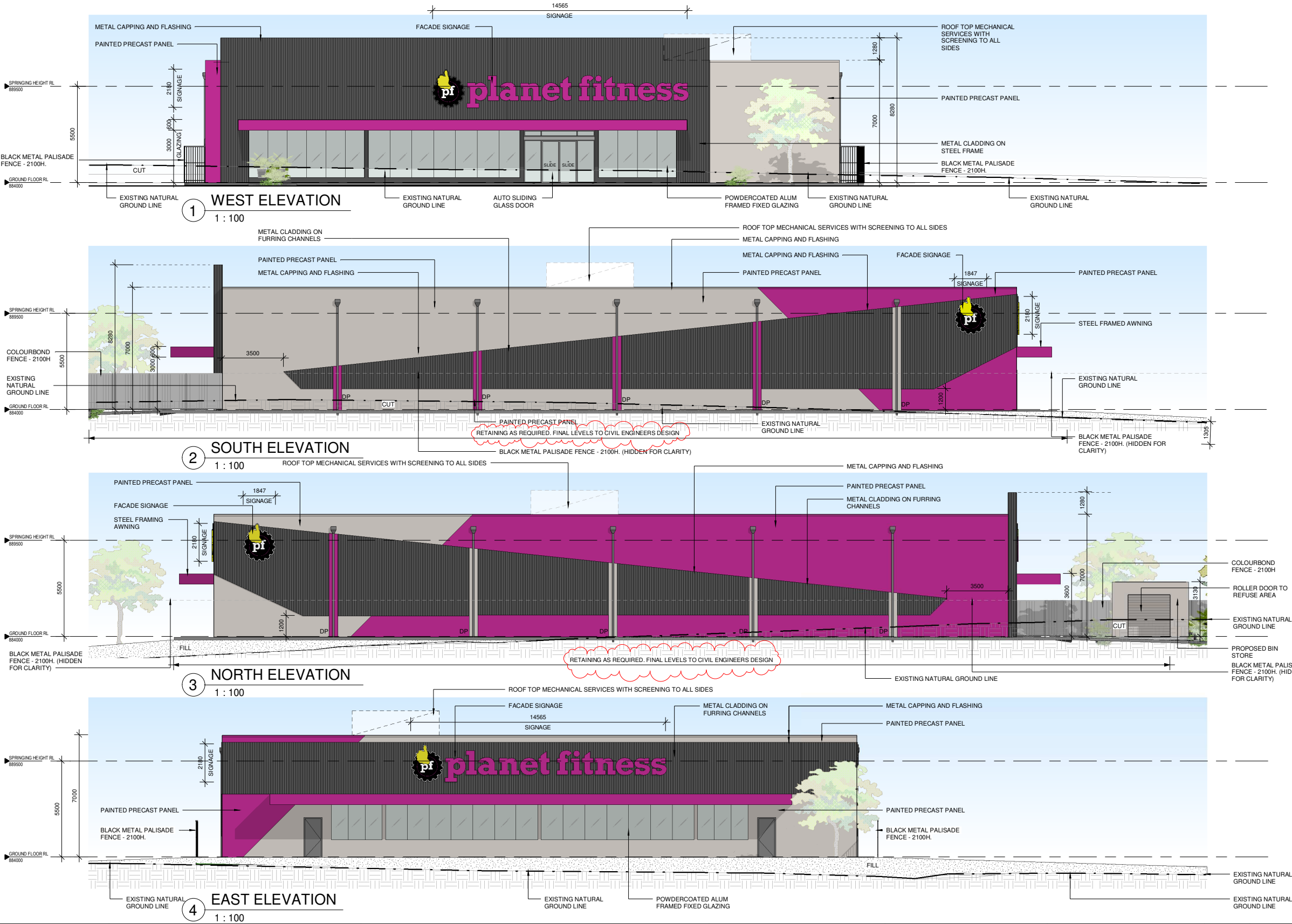
Suite 37, Level 3, 799 Springvale Road
Mulgrave, Victoria, 3170 Australia
T: +61 3 9542 9300 F: +61 3 9542 9310
www.trg-aus.com
The Retail Group Pty Ltd ABN 85 050 134 686
RBP No. DP-AD1689

PROJECT	PLANET FITNESS - ORANGE
CLIENT	JASBE GROUP

PROJECT ADDRESS	185 LEEDS PARADE, ORANGE
-----------------	--------------------------

DRAWING TITLE	ROOF PLAN
---------------	-----------

DATE	SCALE @ A1		NORTH
OCT '21	1 : 100		
DRAWN	CHECKED		
SJV	LB		
ISSUE	TOWN PLANNING		
PROJECT No.	DRAWING No.	REVISION No.	SHEET
21475	TP04	E	4 of 7

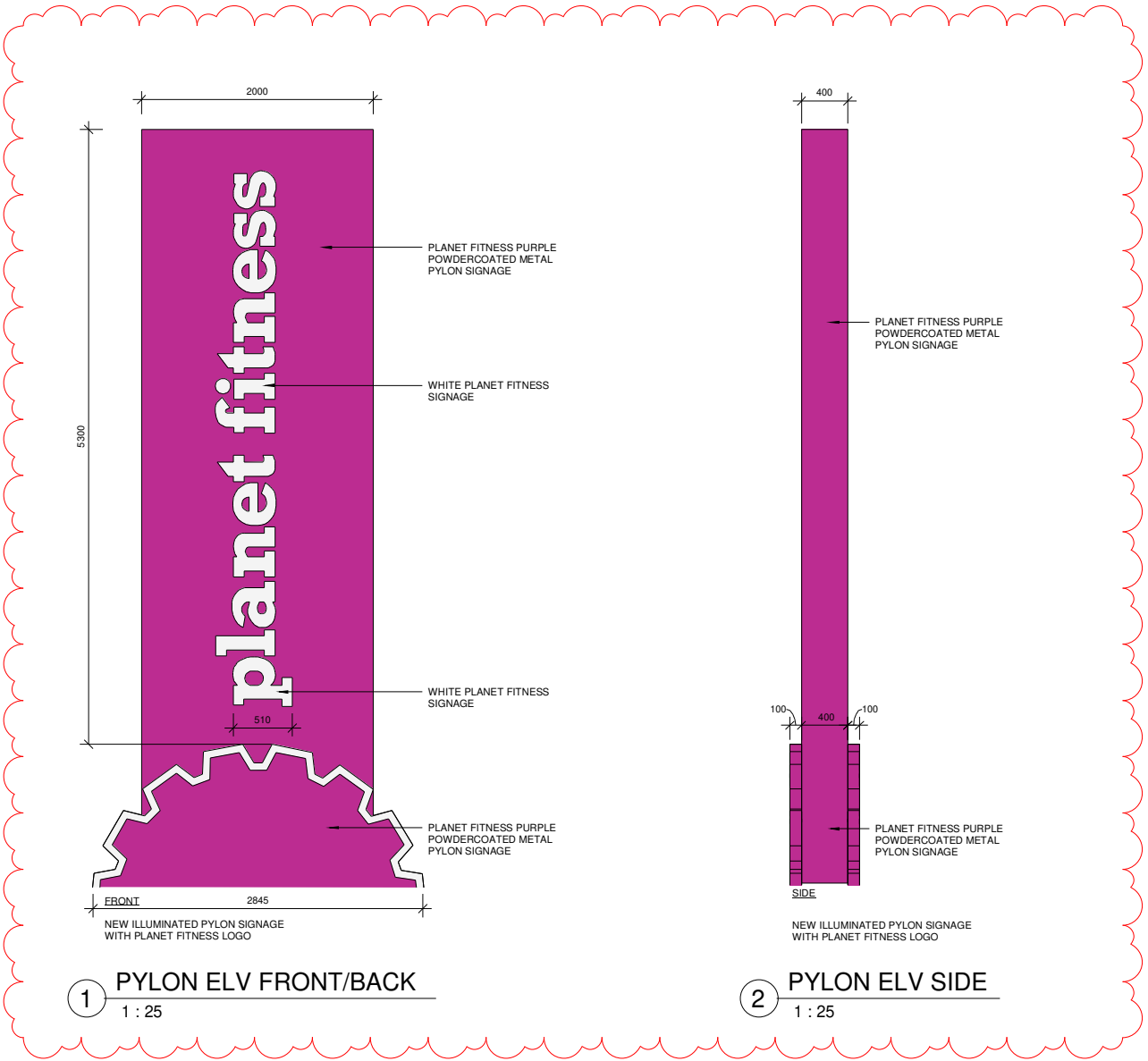


<p>BUILDER / CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO PRODUCING SHOP DRAWINGS, ORDERING MATERIALS OR COMMENCING WORK ON SITE. USE FIGURED DIMENSIONS ONLY. DO NOT SCALE DRAWINGS & INFORM TRG OF ANY CONFLICT OR DISCREPANCY BETWEEN SITE CONDITIONS AND DOCUMENTS. DRAWINGS SHALL BE READ IN CONJUNCTION WITH RELEVANT CONSULTANTS DRAWINGS, REGULATORY CODES AND STANDARDS. © - COPYRIGHT TRG. COPYRIGHT OF DESIGNS SHOWN HEREIN IS RETAINED BY THIS OFFICE. WRITTEN AUTHORITY IS REQUIRED FOR ANY REPRODUCTION.</p>										<div><div><div><div></div><div>concept + design + interiors + project management</div></div><div>Suite 37, Level 3, 799 Springvale Road Mulgrave, Victoria, 3170 Australia T: +61 3 9542 9300 F: +61 3 9542 9310 www.trg-aus.com The Retail Group Pty Ltd ABN 85 050 134 686 RBP No. DP-AD1689</div></div><div>AUCKLAND + BRISBANE + MELBOURNE + PERTH + SYDNEY</div></div>										<div><div>PROJECT PLANET FITNESS - ORANGE</div><div>CLIENT JASBE GROUP</div></div>										<div><div>PROJECT ADDRESS 185 LEEDS PARADE, ORANGE</div></div>										<div><div>DRAWING TITLE PROPOSED ELEVATIONS</div></div>										<div><div>DATE OCT '21</div></div>										<div><div>SCALE @ A1 1:100</div></div>										<div><div>NORTH</div></div>									
<div><div>REV</div><div>AMENDMENTS DETAILS</div><div>BY</div><div>DATE</div></div>										<div><div>DRAWN SJV</div></div>										<div><div>CHECKED LB</div></div>										<div><div>ISSUE TOWN PLANNING</div></div>										<div><div>PROJECT No. 21475</div></div>										<div><div>DRAWING No. TP05</div></div>										<div><div>REVISION No. 1</div></div>										<div><div>SHEET 5 of 7</div></div>									



PU-MI

Page 59



C:\Users\salwa\OneDrive - The Retail Group\Documents\Orange_Signage\Rev_001.dwg

BUILDER / CONTRACTOR TO VERIFY ALL DIMENSIONS ON SITE PRIOR TO PRODUCING SHOP DRAWINGS, ORDERING MATERIALS OR COMMENCING WORK ON SITE. USE FIGURED DIMENSIONS ONLY. DO NOT SCALE DRAWINGS & INFORM TRG OF ANY CONFLICT OR DISCREPANCY BETWEEN SITE CONDITIONS AND DOCUMENTS. DRAWINGS SHALL BE READ IN CONJUNCTION WITH RELEVANT CONSULTANTS DRAWINGS, REGULATORY CODES AND STANDARDS. © - COPYRIGHT TRG. COPYRIGHT OF DESIGNS SHOWN HEREIN IS RETAINED BY THIS OFFICE. WRITTEN AUTHORITY IS REQUIRED FOR ANY REPRODUCTION.

H	PYLON SIGNAGE DIMENSIONS UPDATED	SJV	05-04-2022
G	PYLON SIGNAGE REVISED	SJV	03-05-2022
F	PYLON SIGNAGE DETAILS ADDED	SJV	08-03-2022
REV	AMENDMENTS DETAILS	BY	DATE



concept +
design + interiors +
project management

Suite 37, Level 3, 799 Springvale Road
Mulgrave, Victoria, 3170 Australia
T: +61 3 9542 9300 F: +61 3 9542 9310
www.trg-aus.com
The Retail Group Pty Ltd ABN 85 050 134 686
RBP No. DP-AD1689

PROJECT
PLANET FITNESS - ORANGE

CLIENT
JASBE GROUP

PROJECT ADDRESS
185 LEEDS PARADE, ORANGE

DRAWING TITLE
PYLON SIGNAGE

DATE
OCT '21

DRAWN
SJV

ISSUE
TOWN PLANNING

PROJECT No.
21475

SCALE @ A1
1 : 25

CHECKED
LB

DRAWING No.
TP07

NORTH

REVISION No.
H

SHEET
7 of 7



2.3 DEVELOPMENT APPLICATION DA 18/2022(1) - 52 KITE STREET

RECORD NUMBER: 2022/1076

AUTHOR: Rishelle Kent, Senior Planner

EXECUTIVE SUMMARY

Application lodged	18 January 2022
Applicant/s	PW Studio
Owner/s	Mrs A Warren
Land description	Lot 100 DP 1244765 - 52 Kite Street, Orange
Proposed land use	Demolition (additions, garage, trees), Dwelling Alterations and Additions, Swimming Pool and Front Fence
Value of proposed development	\$900,000

Council at its PDC meeting held on 7 June 2022 resolved to defer consideration of this matter to carry out a site inspection. The site inspection was carried out on Friday 10 June 2022. This matter is now returned to Council for determination.

Council's consent is sought for alterations and additions to a dwelling at 52 Kite Street, Orange. It is proposed to demolish the rear skillion and detached garage and construct a new addition to the rear comprising internal and external living areas, a detached garage, carport, pool and pavilion. It is also proposed to restore the front and side verandahs. Tree removal is sought.

The dwelling is a Heritage Item pursuant to the Orange LEP 2021, is within the vicinity of Heritage Items to the north and west and is located within a heritage conservation area.

The development was notified to neighbours, with one (1) submission received.

The proposed development is permissible with the consent of Council and complies with the planning provisions applicable to the site. The development is recommended for approval subject to the attached Notice of Determination.

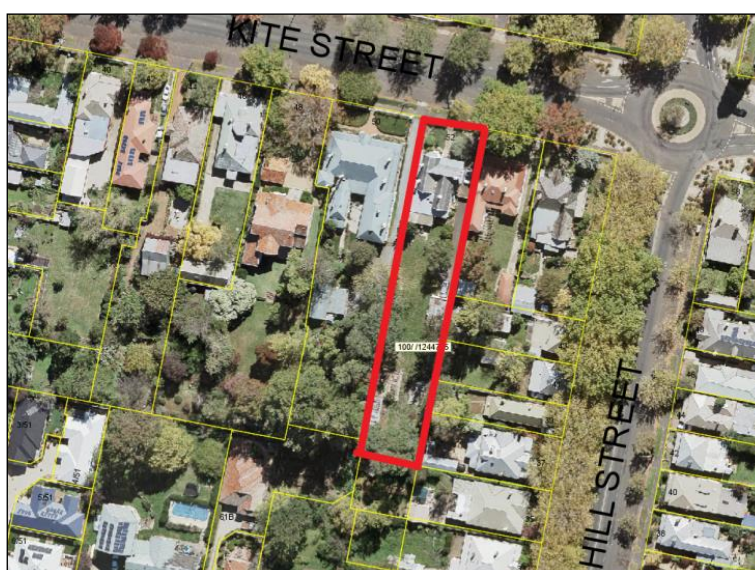


Figure 1 - locality plan

DECISION FRAMEWORK

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

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

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

DIRECTOR'S COMMENT

The proposal involves alterations and additions to a dwelling at 52 Kite Street, Orange. It is proposed to demolish the rear skillion and detached garage and construct a new addition to the rear comprising internal and external living areas, a detached garage, carport, pool and pavilion. It is also proposed to restore the front and side verandahs and tree removal is sought to facilitate the development.

Heritage is a key consideration with this application as this house itself and also the adjoining houses area Heritage Items, including the significant house 'Mena'. The site is also located within a heritage conservation area.

Whilst a modern design, the additions are sensitively designed to maintain the importance of the heritage dwelling to the streetscape. Roof lines are kept low and secondary to the pitched gables of the original built form, and side setbacks increased to allow for privacy. Restoration of the front and side verandahs will positively contribute to the heritage significance of the dwelling.

One (1) written submission was received in relation to the proposal. The most significant objection point is the removal of a bay tree that is near the rear of the existing house. This tree does not significantly add to the heritage value of the area. Retention of the tree is not possible with the design of the proposed additions. Removal of the tree is supported.

It is recommended that the application 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 18/2022(1) for *Demolition (additions, garage, trees), Dwelling Alterations and Additions, Swimming Pool and Front Fence* at Lot 100 DP 1244765 - 52 Kite Street, Orange pursuant to the conditions of consent in the attached Notice of Approval.

FURTHER CONSIDERATIONS

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

SUPPORTING INFORMATION

Council's consent is sought to demolish the rear addition to the dwelling and construct a contemporary addition to the rear (south) of the original dwelling. The addition will consist of new living, master bedroom, laundry and study areas. A new outdoor terrace will be accessible from the new dining area to the south, whilst an entry courtyard will be provided to the east.

A garage with store, carport, pool and pavilion are proposed along the eastern boundary, to the rear of the dwelling.

Restoration of the front and side verandahs is proposed, with further detail to be submitted at construction stage. The white paint on the external brick walls is to remain (excepting a portion in the entry courtyard).

The development proposes the removal of one (1) tree requiring consent under the DCP, and removal of a neighbours tree under Clause 5.10(3)

A new front fence of 1.8m high brick piers with 1.5m high steel palisade and brick basecourse is proposed.

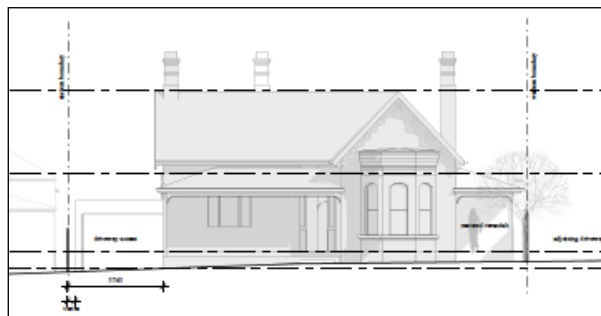


Figure 2 – street presentation (excluding fence)

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 1979 identifies that Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 have effect in connection with terrestrial and aquatic environments.

The site does not occur within land mapped on the Biodiversity Values Map. 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.

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****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:

- (b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Orange in a way that allows present and future generations to meet their needs by implementing the principles for ecologically sustainable development,*
- (e) to provide a range of housing choices in planned urban and rural locations to meet population growth,*
- (f) to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

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

Clause 1.7 - Mapping

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

Land Zoning Map:	Land zoned R1 General Residential
Lot Size Map:	No Minimum Lot Size
Heritage Map:	Heritage Item and 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.

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

The subject site is located within the R1 General Residential zone. The proposed development is defined as dwelling house under OLEP 2011, and demolition under the Environmental Planning and Assessment Act.

Pursuant to part Section 4(f) of the Environmental Planning and Assessment Act:

*Development means... the **demolition** of a building or work.*

Pursuant to the OLEP 2011 Dictionary:

***Dwelling house** means a building containing only one dwelling; and*

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

Demolition and dwelling houses are permitted with consent in the R1 General Residential zone.

The objectives for land zoned R1 General Residential are as follows:

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

The proposed development will provide for the housing needs of the community, with a variety and density suitable for the location. Public transport is located within the vicinity of the site. The site does not have access to the Southern Link Road.

The following provisions of the OLEP 2011 are relevant:

- **Clause 2.7 – Demolition requires Development Consent** – the proposal involves demolition of structures. The demolition works proposed will not have significant impact on adjoining lands, streetscape or public realm. Conditions relating to demolition have been imposed.
- **Clause 5.10 – Heritage Conservation** – the site is listed as a Heritage Item; adjoins, is adjacent to, and within the vicinity of Heritage Items; and is within the Dalton Heritage Conservation Area.



Figure 3 – Heritage Items within the vicinity of 52 Kite Street

The Statement of Significance for the subject site comprises:

An attractive Victorian-style residence which has retained the original character and distinctive details, including mouldings, verandah and barge boards, the property was the home of Sir Charles and Lady Cutler. Sir Charles was leader of the Country Party, Minister for Education, and Deputy Premier of NSW.

The Statement of Significance for the adjoining Heritage Item to the west, at 50 Kite Street comprises:

This symmetrical masonry residence with curved return verandah was built for Thomas Dalton by his father James and is a significant example of the Irish legacy and a manifestation of their confident outlook while complementing the streetscape and contributing to the Conservation Area within the city as a Heritage Item.

The Statement of Significance for the Heritage Item to the north, at 49 Hill Street comprises:

Newstead was built in 1890 by John Douglas for Mr and Mr De Vries Pilcher as a double octagonal bay residence including a roof mounted widows walk, considerable stained glass in the front door, its surrounding sidelights and fanlight. The dominating Indian Cedar tree was planted shortly after the house was built and is one of several significant cultural plantings in the formal garden. It was purchased and adapted to provide a Bowling Club in 1955.

The Character Statement for the Dalton Heritage Conservation Area (formerly the Central HCA) comprises:

There is an important spread of Victorian buildings (especially public and ecclesiastical buildings) and many buildings from the turn of the Century with late-Victorian and Edwardian features. These are of particular significance because of their concentration and general good condition.

Some significant Federation-style houses exist (though not extensive in number), a high proportion of which are located on corner blocks. The Bungalow style gradually became dominant over the next decade and bungalows of the twenties and thirties make up a major element in the housing stock of this area.

Within all these architectural styles there are significant common features. Of these, the use of the vernacular "buff-brown" or "oatmeal" brick is the most important, but also common is the use of corrugated iron for roofs and the consistent front-verandah element.

With these common elements from each of the building periods, together with wide streets often complemented by large trees, the Central conservation area has been described as "having a grace, consistency and highly urban character rarely found in the towns of New South Wales especially in the concentration that exists here".

A surprising number of front fences and gardens retain their original style and reinforce the identity of the periods.

Advice was sought from Council's Heritage Architect on two occasions (general pre-DA advice, and a DA referral). The latest advice is summarised below, including the proponent's response, where received:

Demolition

- *The level of demolition is acceptable.*
- *The impact on retained and significant trees will require an arborists report.*

An Arborist Report has been submitted with the application and is discussed under Chapter 0.

Character

- *The extent of the court and ensuite are to align with the western face of the verandah and not protrude further towards the boundary.*
- A nominal 900mm landscaped space is to be provided between the southern edge of the verandah and the courtyard corresponding to the fixed glass pane, and
- A steel pergola is to be provided at the line of the verandah beam and a slatted infill fitted between the posts and wall of the ensuite and bedroom to provide privacy for the occupants and character between the new and original.
- The siting is suitable subject to adjusting the western extent and the preparation of a professional Landscape Plan with a planting layout sufficient to provide screening to the neighbouring sites, protect the retained plants and provide suitable replacements for those removed.

The ensuite has been amended to align with the setback of the side verandah, as per the amended plans dated 7 March 2022. An amended Floor Plan will be required to reflect this amendment.

The courtyard will extend to the western boundary, however, this garden wall will not impact upon the heritage significant frontage of the dwelling, and will be adequately screened from the street via the existing 2m high front hedge. A professional Landscape Plan is not required in this instance.

The junction between the old and new is expressed with glazing, the recommended industry standard for extensions. The 900mm landscaped space and steel pergola are not supported by the proponent, and are not required in this instance, as it is considered that the contemporary extension will adequately denote the new work from the old.

Scale

The single storey scale is acceptable subject to the following:

- *Raise the top of the parapet to align with the lowest element of the barge boards.*
- *Raise the bottom on the parapet on the extension to match the window head line on the original building.*

The proponent's architect provides *"Careful design consideration was emphasised around height and scale. The proposed parapet height protects the expression and visual connection to the existing gable form rather than compete with it in height and proximity."*

The height of the parapet as per the submitted drawings will not impact upon the heritage significance of the dwelling and are therefore supported as drawn.

Siting

- *The siting is suitable subject to adjusting the western extent and the preparation of a professional Landscape Plan with a planting layout sufficient to provide screening to the neighbouring sites, protect the retained plants and provide suitable replacements for those removed.*

As previously discussed, the ensuite will be required to be sited in-line with the existing dwelling. A Landscape Plan is not required.

Materials and colour

- *The white paint colour for the house is uncharacteristic of houses from the period. While it is a very contemporary character, it is unsuitable in a heritage context. It is recommended that paint scrapes be carried out on the existing and earlier finishes reviewed.*
- *It is understood that the external white paint on the original house is not to be altered. While restoration is a key part of the DCP for Heritage Items, the stance on white is appreciated and in mitigation it is recommended that the colour scheme of the entrance joinery be reconsidered – door, frame and sidelights.*

The applicant wishes to retain the painted exterior of white walls, baby pink eaves and black door colour. An advisory note will be placed on the consent that recommends the white paint be removed to reinstate the former brick exterior, and a colour scheme for the door, frame and sidelights be investigated.

- *The colour of the rear extension may match the selected colour which is expected to be an earthy tone reflecting either render or brick.*
- *Earthy white tones which relate to the face brick on the rear walls are to be reviewed and provided on the final drawings.*

It is intended that the extension will be painted white to match the existing dwelling. This will be conditioned accordingly.

- *The tiled parapet is an unusual selection. It is recommended that alternatives be considered so as to increase the relationship between the old and the new. We need to identify which elements on the new work are proposed as responses to the heritage building.*
- *Consider terracade TN-raglan which is a soft grey colour which will respond to the roof colour but using a wall cladding material.*
- *The height of D08 should match the existing as part of the need for compatibility between the old and the new.*
- *Zincalume is not an acceptable finish in the HCA. Windspray would be appropriate.*
- *Fielders heritage galvanised is to be utilised for the conservation work to the verandah and other roofing to the original building.*

The proponent provides *“Tiled parapet is a nod to the language of the existing roof shingles. Use of a fishtail or clubbed tile will tie in with the expressed tile detail on the front porch. Careful consideration of the colour will be matched as close as possible. The proposed roof sheeting will not be visible, however will be updated to either shale grey or galvanised as discussed.”*

A condition will be imposed requiring materials and colours of the verandah restoration works to be submitted prior to the issue of the Construction Certificate.

Detailing

- The flue in the roof will be a visible element on the new roof from the streetscape and it provides a simple opportunity to express a relationship to be achieved by enclosing with cladding the flue in a 600mm square enclosure using the selected terraced grey panels to 900mm height.

The proponent advises *“As the flue is centred on the proposed plan, behind a parapet and sits behind the existing dwelling, it will not be visible from the street frontage or indeed perceivable to adjacent properties. The preference would be to not draw attention to this term but allow it to sit quietly in the background”*. The flue is supported, as drawn.

- A pair of ruled expressed horizontal joints is recommended in the external walls to respond to the floor level and the window sill levels in the original building.
- Detailed drawings or a detailed scope of works are to be provided for the works to both verandahs – floor and restoration. While pavers were discussed, verandahs were usually tiled and hence a suitable grey is more appropriate.

The proponent advises *“Further details will be provided to Council on proposed verandah restoration to the west and north”*.

- Where existing openings are being infilled such as at the master bedroom, a minor recess of 10-15mm is to be provided so as to interpret the previous element.

The proponent does not wish to provide this element. This requirement will be placed upon the consent as an advisory note, as this element does not impact upon the significance of the Heritage Item.

Fence

- Standard black painted steel palisade and stays as required for bracing with acorn top caps and rendered masonry piers at the four (4) proposed locations. The piers to have semi-circular caps rolled east to west and all at the taller height shown.

The proponent advises *"Fence will be brick pier with steel infill as described"*. The current height of 1.8m piers with 1.5m high infill (including masonry base course) has been decided by the owners and supported. This will be conditioned.

The addition has been sensitively designed to maintain the importance of the heritage dwelling to the streetscape. Roof lines are kept low and secondary to the pitched gables of the original built form, and side setbacks increased to allow for privacy. Restoration of the front and side verandahs will positively contribute to the heritage significance of the dwelling. As such, there will be no detrimental impact to the Heritage Item.

The concentration of the proposed works behind the original dwelling, combined with the reduced roof height and contemporary detailing, will ensure there is no negative impact to the heritage significance of the items within the vicinity or the greater conservation area.

- **Clause 7.1 Earthworks** - earthworks are limited to the preparation of footings, and associated work. The disruption to the site drainage is considered minor and will not detrimentally affect adjoining properties or receiving waterways. The earthworks are not expected to affect the potential future use or redevelopment of the site. The site is not known to contain any Aboriginal, European or Archaeological relics nor is it in proximity to any waterway, drinking water catchment or sensitive area. Sedimentation controls will be required throughout construction as a condition of consent.
- **Clause 7.3 - Stormwater Management** – this clause seeks to minimise the impacts of urban stormwater on the land to which the development applies and on adjoining downstream properties, native bushland and receiving waters; within all industrial, commercial and residential zones. Stormwater runoff will be directed to the existing stormwater system. It is considered that the post development runoff levels will not exceed the predevelopment levels.
- **Clause 7.6 Groundwater Vulnerability** – the site has been mapped as being groundwater vulnerable. The proposal is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related ecosystems. The proposal does not involve extraction of groundwater and therefore will not contribute to groundwater depletion.
- **Clause 7.11 - Essential Services** – the site is connected to Council's reticulated water and sewerage system. Electricity is available to the site. Suitable road access is existing from Kite Street. A Road Opening Permit will be required before construction, a condition has been attached.

STATE ENVIRONMENTAL PLANNING POLICIES**State Environmental Planning Policy (Resilience and Hazards) 2021**

This SEPP is applicable. Pursuant to Clause 4.6 *Contamination and remediation to be considered in determining development application*:

The site is within an established residential area, does not propose a change of use, and is not mapped as contaminated land on Council's Contaminated Land Register. Similarly, the neighbouring sites are not listed as contaminated land, as per the Draft SEPP (Remediation).

No further investigation is required.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

This SEPP is applicable. Trees to be removed will be discussed under Chapter 0.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Clause 2.48 requires Council to give written notice of works within the vicinity of electricity infrastructure, and to take into consideration any response received. A copy of Essential Energy's terms have been attached as conditions of consent.

PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s4.15(1)(a)(iii)**ORANGE DEVELOPMENT CONTROL PLAN 2004**

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

- Part 0 – Tree Preservation
- Part 2 - Natural Resource Management
- Part 3 - General Considerations
- Part 4 - Special Environmental Considerations
- Part 5 - General Considerations for Zones and Development
- Part 7 – Residential Development
- Part 13 – Heritage

The relevant matters in Parts 2, 3, 4 and 13 were considered in the foregoing assessment under Orange LEP 2011.

The relevant matters in Part 0 (tree preservation), five (5) (submissions) and seven (7) (residential development) are addressed below.

Part 0.4-2 – Tree Preservation

There are seven (7) significant trees identified in the Arborist Report as having the potential to be impacted as a result of the development:

- A bay tree proposed to be removed (yellow)
- A box elder located on 54 Kite Street, recommended to be removed (yellow)
- A kurrajong tree to be retained
- A River She Oak located on 54 Kite Street, requiring sensitive construction methods,
- Three trees requiring standard tree protection measures during construction.

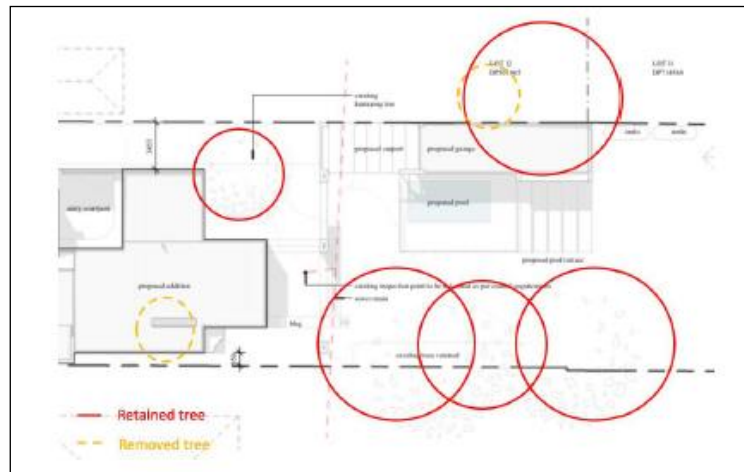


Figure 4 – tree removal/retention

The Arborist Report recommended the removal of the bay tree and the neighbouring box elder tree, combined with a raft of conditions for sensitive construction within the TPZ and SRZ of the remaining identified trees.

The proposal was referred to Council's Manager City Presentation, who supports the proposed works:

A thorough and well documented Arborist's report.

A general condition of approval shall be that the recommendations contained within the arborist's report, Douglas Arbor Consulting shall be implemented prior to construction activities commencing on site, inclusive of the appointment of a Project Arborist to oversee tree protection, undertake monitoring and reporting on the conclusion of construction activities ensuring the trees health and viability is maintained.

This condition has been attached.

An email has been received from the owners of 54 Kite Street, supporting the removal of their box elder tree. Whilst the removal cannot be approved under this DA, Council's City Presentation Manager has advised he would support its removal via a 5.10(3) application to Council. This application shall be lodged and issued prior to the issue of the Construction Certificate and has been conditioned accordingly.

Part 5.3 – Advertised Development

Please refer to 'Submissions' below.

Part 7.7 – Residential Development

Neighbourhood Character

This neighbourhood is of mix use character, predominantly residential with business and commercial uses to the north and east. The character of the area comprises a mixture of heritage buildings and subsequent infill, in wide tree-lined streets with established gardens.

The proposed works are located mainly to the rear, with the new fence being the most prominent change to the streetscape. The proposed steel palisade fence will be sympathetic to the character of the dwelling and is therefore supported.

It is quite common for contemporary additions to be provided to the rear of heritage dwellings within this precinct, and this proposal is in keeping with the desired neighbourhood character of protecting heritage facades, whilst modernising living spaces to the rear.

The proposal will not adversely impact on pedestrian access associated with the residential streets.

Building Appearance

The design and detailing of the proposed works is appropriate in this neighbourhood and will complement the streetscape built form.

The garage and carport has been appropriately sited to the rear of the site, to not dominate the streetscape and Heritage Item.

Minor changes will be undertaken to the frontage of the dwelling, as discussed above. These works are consistent with the outcomes for Building Appearance.

Setbacks

There is no change to the front setback of the dwelling.

Front Fences and Walls

The proposal involves the removal of the existing inappropriate besser block front fence, and replacement with a fence comprising of a maximum 1.8m high brick piers with steel palisade infill of maximum height 1.5m from the footpath level at the eastern end, noting that the land falls to the east. This material and height is compatible with the style of the dwelling and will positively contribute to the streetscape.

Visual Bulk

The proposed addition will be single storey and is sympathetic to the bulk and scale of heritage dwellings within the locality. The addition will not result in visual bulk or overshadowing impacts to adjoining dwellings, with finished floor levels relating to the existing natural ground level by stepping down at the rear.

Site coverage is less than 60% and retains the relatively low density landscaped character of the street. The development will be contained within the bulk and scale envelope prescribed within the DCP.

Walls and Boundaries

The proposal involves the construction of a courtyard wall on the boundary. As outlined in this report, the site layout and building design will not impact on adjoining dwellings in respect of privacy, solar access or visual bulk.

Overshadowing of Dwellings

The proposed development contains north and east facing living windows capable of receiving four (4) hours of sunlight on 21 June, consistent with the DCP guidelines. The proposed dwelling will not impact on solar access to northern windows or private open space for adjoining dwellings due to the distances from boundaries.

Overshadowing of Private Open Space

The proposed development will achieve solar access to at least 40% of the open space area for three (3) hours, between 9am and 3pm, consistent with the DCP guidelines.

Views

The subject site is not within an important view corridor, save for the vista of Heritage Items within the Kite Street view corridor. The proposed addition will not unreasonably diminish views for other properties in the vicinity, based on building height and finished floor levels.

Visual Privacy

The proposed site layout and building design will provide acceptable visual privacy for the proposed dwelling and adjoining dwellings, due to appropriate siting and layout, setbacks from boundaries, and boundary fencing.

In this instance, the new living areas provides glazing to the east, and south. The living room is sited 3.5m from the eastern boundary and features a perforated masonry wall in front of the living window. A 1.8m high fence exists along the property boundary. The combined measures of the height of the fence, the distance from the boundary and the masonry screening are considered sufficient to restrict sightlines and provide privacy to the occupants of 54 Kite Street. The windows to the south overlook the established rear garden, with no privacy concerns.

To the west, a 1.9m high fence exists along the dividing boundary, with the neighbouring property screening this fence with a hedge approximately 2.2m to 2.5m high. A 2.4m high courtyard wall maintains privacy within the master bedroom courtyard and maintains privacy for the adjacent verandah. Glazing of a hallway and laundry will not impact upon visual privacy to occupants of 50 Kite Street.

The BBQ terrace with a solid western wall, the entry courtyard with a perforated masonry wall on the east and the pool and pavilion with a solid eastern wall, combined with their reduced floor heights, will not result in privacy impacts upon neighbours.

Acoustic Privacy

The proposed addition has nil impact upon acoustic privacy.

Security

The proposal is considered acceptable in regard to safety and security. The dwelling maintains opportunities for surveillance of public roads and front yards. The site exhibits suitable perimeter fencing.

Circulation and Design

Access will be provided to the site from Kite Street. Reverse egress will be required to the street, consistent with vehicle manoeuvring arrangements for single dwellings throughout the city.

Car Parking

The site requires two (2) car parking spaces. The development provides two undercover, secure spaces in accordance with the DCP.

Private Open Space

The private open space (POS) is clearly defined for private use, and is of a suitable size, shape, and slope to suit the reasonable requirements of occupants. The POS is accessible from an internal living area and will not overshadow neighbours.

The POS is greater than 50% of the total floor area of the dwelling, with a minimum dimension of 3m, and can accommodate one area of 5m x 5m to achieve a high standard of amenity.

Open Space and Landscaping

The site is suitably landscaped and has been designed to maintain the existing tree canopy at the rear of the site. The front hedge will assist in softening the proposed front fence.

Stormwater and erosion control

Conditions in relation to stormwater management, sediment and erosion control during construction have been imposed upon the development.

THE LIKELY IMPACTS OF THE DEVELOPMENT (Sect 4.15(1)(b))

No further impacts are expected as a result of the proposed development. The development will not adversely affect the quality of the existing streetscape or locality. The site is located within an established residential area, and thus development of this nature is expected.

SUITABILITY OF THE SITE FOR THE DEVELOPMENT (Sect 4.15(1)(c))

The site is considered 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.

SUBMISSIONS (Sect 4.15(1)(d))

The proposed development is listed as a notifiable development under the provisions of the CPP (major alterations/additions to a Heritage Item), and therefore notification of the DA was undertaken. One submission was received.

The following issues were raised by the owners to the west at 50 Kite Street:

- **Removal of bay tree which shades bedroom windows and provides privacy and shade.**

The bay tree is requested to be removed to allow the proposed siting of the development. Council's City Presentation Manager supports the removal of this tree *".... As Bay trees are not an unusual occurrence within the Orange urban area, I don't consider its removal to be a loss to the urban canopy of Orange."*

A 1.9m high fence (measured from ground level to top of fence within 52 Kite Street) has been erected along the property boundary which divides the two (2) properties, screened by a hedge of approx. 2.2m to 2.5m on the western side.

The western wall of the addition provides glazing to only a hallway and laundry, with a solid brick wall of 2.4m height to enclose the western elevation of the master bedroom courtyard.

Alternative measures for eastern bedroom shade can be undertaken upon the site at 50 Kite Street.

As such, the removal of the bay tree is supported. There is not considered to be a privacy issue from 52 Kite Street to the west. Furthermore, it is not considered reasonable to retain a tree for the shade of an adjoining property owner.

- **Noise from the terrace/BBQ/entertaining area.**

The outdoor terrace features a solid western wall which will protect privacy between the two parties and provide sufficient noise attenuation between outdoor areas. The proponent has offered to screen the western wall to provide an increased aesthetic outcome to the western neighbour.

- **Exhaust fumes from the ensuite and kitchen.**

Exhaust fans for kitchens and ensuites are a reasonable expectation of a new build. Fumes are not expected from a development of this scale.

- **Demolition and dust prevention.**

Conditions of consent have been imposed regarding hours of construction and dust and sediment control.

- **Exterior lighting of entertaining area and pool.**

It is fair and reasonable to expect outdoor living areas to be lit.

THE PUBLIC INTEREST (SECTION 4.15(1)(E))

The proposed development is considered of minor interest to the wider public and does not contradict the broader public interest.

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS 2000

The proposal is considered to comply with the additional matters listed under Part 6 Division 8 (including Clauses 93 Fire Safety, 94 upgrading of buildings, 97 BASIX).


COMMENTS

The requirements of the following staff are included in the draft Notice of Approval:

- City Presentation Manager
- Environmental Health and Building Surveyor
- Road Opening Permit officer
- Engineering Development

ATTACHMENTS

- 1 Notice of Approval DA18/2022(1) - 52 Kite Street, D22/37056 [↓](#)
- 2 Plans, D22/30552 [↓](#)
- 3 Submission, D22/30583 [↓](#)

	<p style="text-align: center;">ORANGE CITY COUNCIL</p> <p style="text-align: center;">Development Application No DA 18/2022(1)</p> <p>NA22/361 Container PR28177</p>
---	---

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

Development Application

Applicant Name: PW Studio
 Applicant Address: Attention Mr Paddy Williams
 4 Hawkins Lane
 ORANGE NSW 2800
 Owner's Name: Mrs A Warren
 Land to Be Developed: Lot 100 DP 1244765 - 52 Kite Street, Orange
 Proposed Development: Demolition (additions, garage, trees), Dwelling Alterations and Additions,
 Swimming Pool and Front Fence

Building Code of Australia building classification:

Class TBC

Determination made under Section 4.16

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

Consent to Operate From: 24 June 2022
Consent to Lapse On: 24 June 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) **Plans numbered:** PW Studio A101 Site Plan (9.12.21), A120 Existing and demolition plan (9.12.21) A200 Floor Plan (9.12.21) A210 Roof Plan (9.12.21), A300 Elevations (11.4.22), A400 Sections (7.3.22) (6 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 18/2022(1)

2

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) Prior to the issue of a Construction Certificate the existing 150mm diameter sewer main that crosses the site is to be accurately located and noted on the site plan. Where the main is located adjacent to any proposed building work, measures are to be taken in accordance with Orange City Council Policy - Building over and/or adjacent to sewers ST009 (*the Policy*). Details of compliance with Clause 4 of the Policy shall be provided to the Principal Certifying Authority. Any works in the vicinity of the sewer main are to be designed and certified by a structural engineer.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 18/2022(1)

3

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

- (8) Prior to the issue of a Construction Certificate the applicant shall pay Orange City Council to undertake the following works:
- install a new sewer junction clear of the proposed building works.
- Evidence of payment for the above works will be required to be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
- (9) 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.
- (10) The applicant is to submit a waste management plan that describes the nature of wastes to be removed, the wastes to be recycled and the destination of all wastes. All wastes from the demolition and construction phases of this project are to be deposited at a licensed or approved waste disposal site.
- (11) Full details of external colours and finishes of external materials of the north and west verandah restoration works are to be submitted and approved by Councils Manager Development Assessments **prior to the issue of a Construction Certificate**.
- (12) The front fence shall consist of brick piers of maximum height 1.8m with 1.5m high steel infill pickets and brick basecourse. The design and colour scheme of the front fence shall be submitted to Manager Development Assessments for approval prior to the issue of the Construction Certificate.
- (13) An amended set of plans shall be submitted showing the western wall of the ensuite in line with the existing verandah, prior to the issue of the Construction Certificate.
- (14) A 5.10(3) application to remove the box elder tree at 54 Kite Street shall be submitted and approved by Council, prior to the issue of the Construction Certificate.
- (15) 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

- (16) 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.
- (18) Soil erosion control measures shall be implemented on the site.
- (19) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
- (20) The recommendations contained within the arborist's report, Douglas Arbor Consulting shall be implemented prior to construction activities commencing on site, inclusive of the appointment of a Project Arborist to oversee tree protection, undertake monitoring and reporting on the conclusion of construction activities ensuring the trees health and viability is maintained.
- (21) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 18/2022(1)

4

Conditions (cont)

DURING CONSTRUCTION/SITEWORKS

- (22) The existing 150mm diameter sewer main that crosses the site is to be accurately located. Where the main is positioned under or adjacent to any proposed building work, measures are to be taken in accordance with Orange City Council Policy - Building over and/or adjacent to sewers ST009 and structural engineer's details.
- (23) 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.
- (24) A Registered Surveyor's certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority.
- (25) All construction works are to be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.
- (26) 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.
- (27) Building demolition is to be carried out in accordance with *Australian Standard 2601:2001 – The Demolition of Structures* and the requirements of Safe Work NSW.
- (28) Asbestos containing building materials must be removed in accordance with the provisions of the *Work Health and Safety Act 2011* and any guidelines or Codes of Practice published by Safe Work NSW, and disposed of at a licenced landfill in accordance with the requirements of the NSW EPA.
- (29) No water is to be placed in the swimming pool until the required protective fencing has been inspected and approved by Council.
- (30) The swimming pool filter pump and motor are to be suitably housed and located so as to reduce the possibility of noise nuisance to adjoining or nearby residents.
- (31) The discharge/overflow pipe from the swimming pool and filtration unit is to be connected to the sewer via the over flow gully. A 50mm air gap is required.
- (32) An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.
- (33) In accordance with the *Swimming Pools Act 1992* and Regulations 1998, the swimming pool is to be surrounded by a child-resistant barrier that:
- a separates the swimming pool from any residential building situated on the property and from any place adjoining the property; and
 - b is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and the appropriate Australian Standard.
- (34) The recommendations contained within the arborist's report, Douglas Arbor Consulting shall be implemented during construction, inclusive of the appointment of a Project Arborist to oversee tree protection, undertake monitoring and reporting on the conclusion of construction activities ensuring the trees health and viability is maintained.
- (35) The extension shall be painted white to match the original dwelling, where shown on the plan.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 18/2022(1)

5

Conditions (cont)**PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

- (36) 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.
- (37) 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.
- (38) 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.
- (39) Prior to the issue of an Occupation Certificate, evidence of registration of the swimming pool/spa on the NSW Swimming Pool Register is to be submitted to Council/accredited certifier.
- (40) 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.

MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT

- (41) The carport is not to be enclosed on any elevation (including enclosure by the installation of roller doors) without separate development consent.
- (42) Any outdoor lighting must be in accordance with the *Australian Standard 4282-1997 Control of the obtrusive effects of outdoor lighting*.

ADVISORY NOTES

The following works are encouraged to be undertaken:

- the white paint be removed to reinstate the former brick exterior, and a colour scheme for the door, frame and sidelights be investigated
- where existing openings are being infilled such as at the master bedroom, a minor recess of 10-15mm is to be provided so as to interpret the previous element.

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.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 18/2022(1)

6

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:

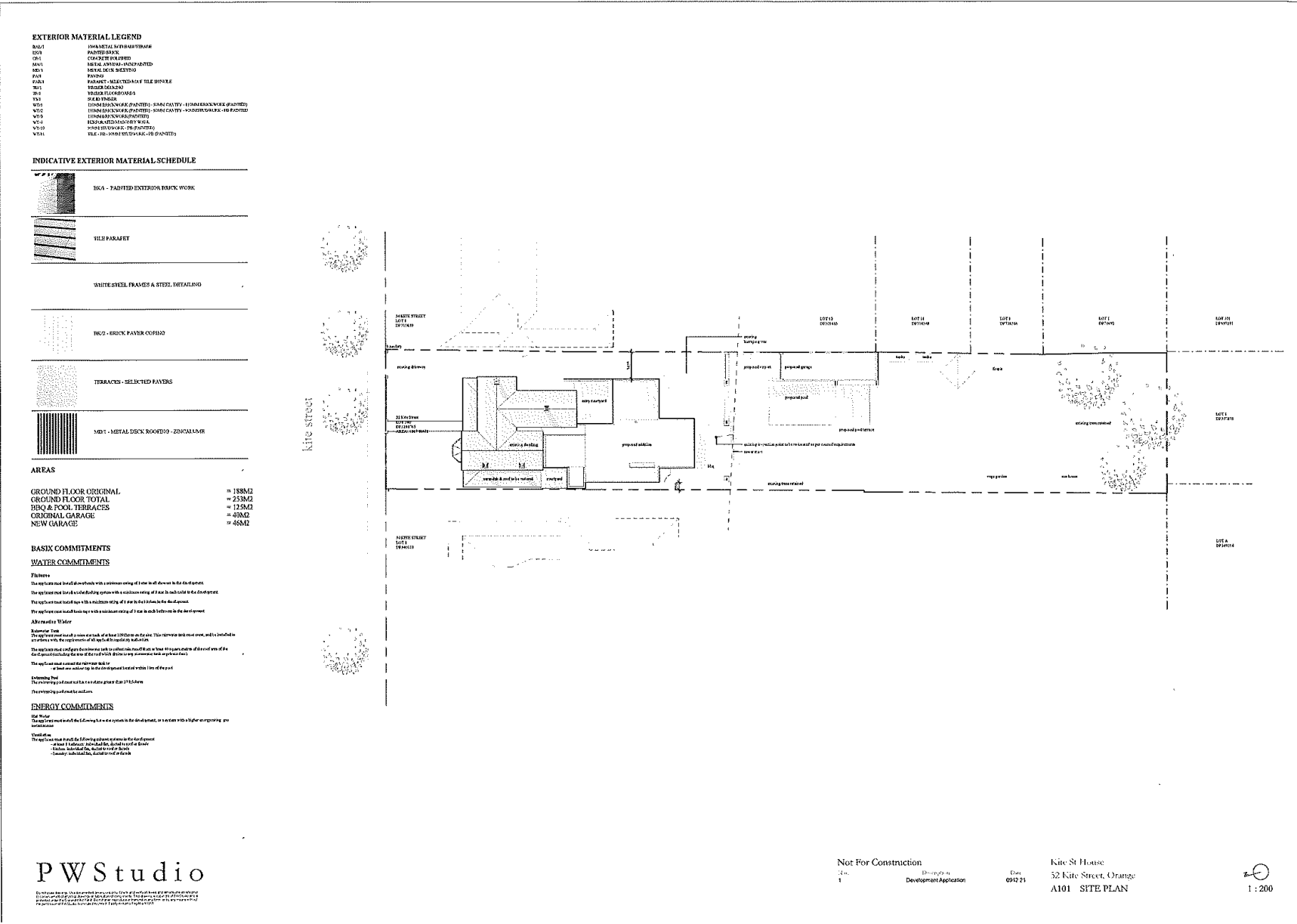
On behalf of the consent authority **ORANGE CITY COUNCIL**

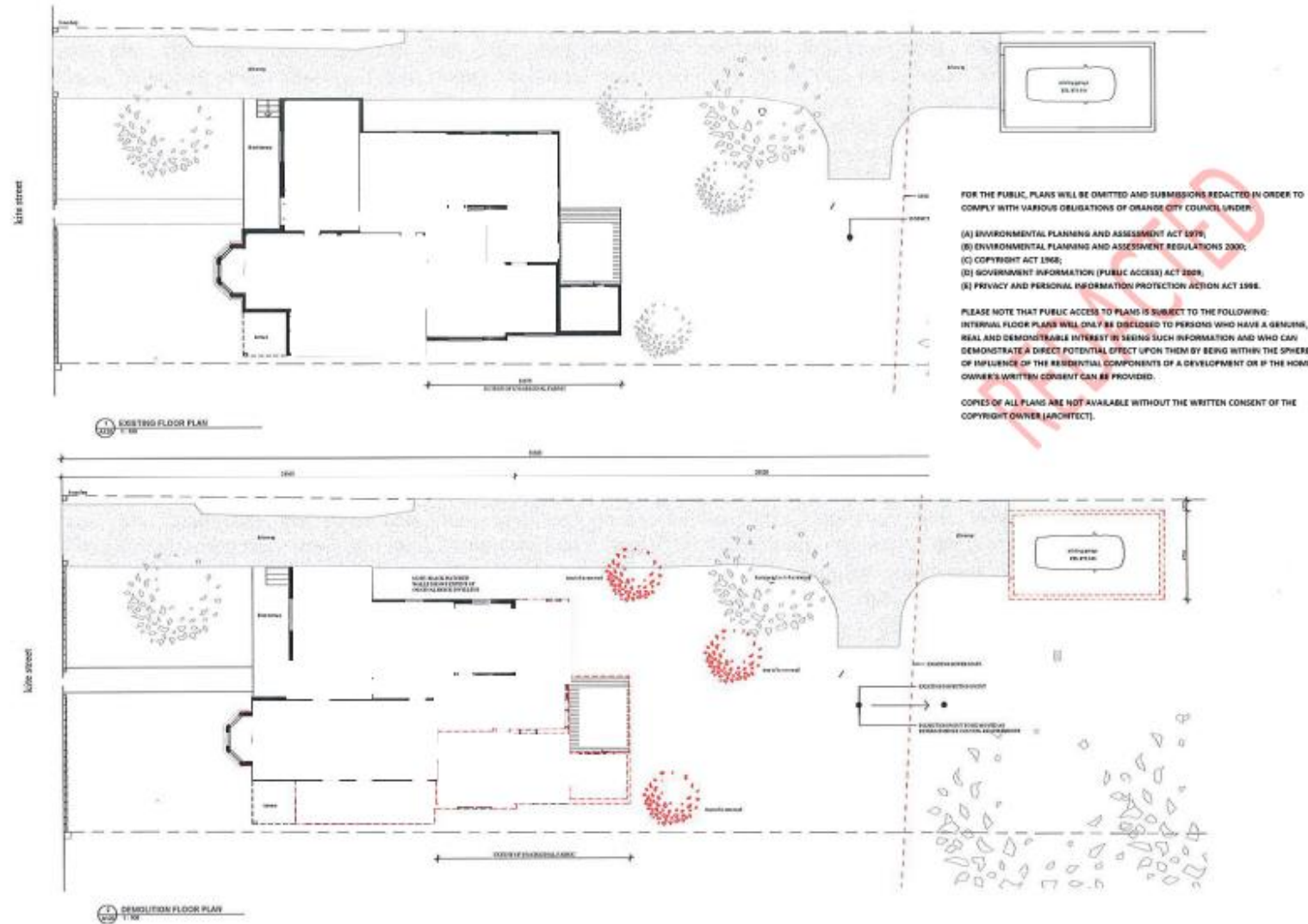
Signature:**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

Date:

6 July 2022





PWStudio

Professional Services and Design Solutions
We are a team of experienced professionals who provide a wide range of services to our clients, including architectural design, engineering, and project management. We are committed to providing high-quality, cost-effective solutions that meet the needs of our clients.

Not For Construction

Development Application

Date:

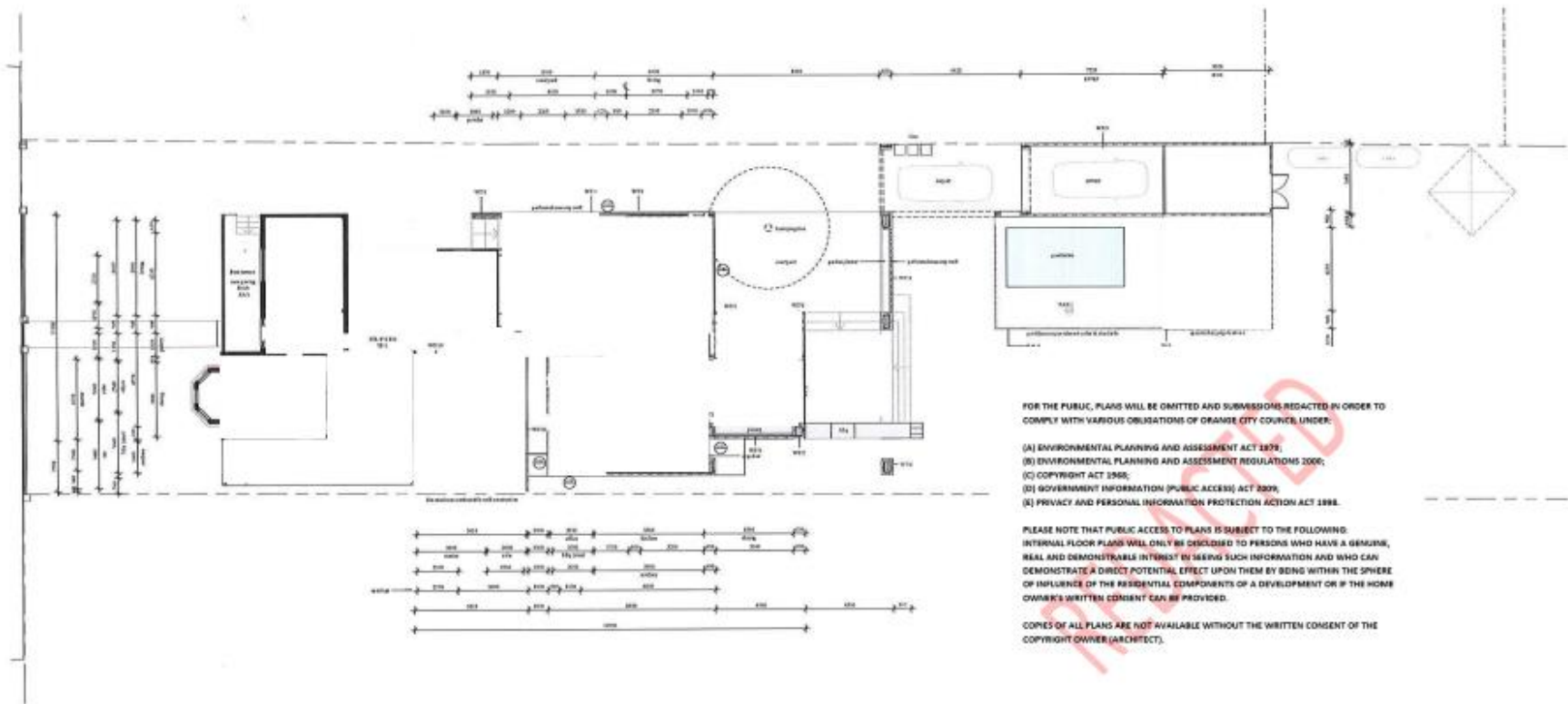
0012/21

Kite St House:

52 Kite Street, Orange

A120 EXISTING & DEMOLITION PLAN

1:100



FOR THE PUBLIC, PLANS WILL BE OMITTED AND SUBMISSIONS REDACTED IN ORDER TO COMPLY WITH VARIOUS OBLIGATIONS OF ORANGE CITY COUNCIL UNDER:

- (A) ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979;
(B) ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS 2006;
(C) COPYRIGHT ACT 1968;
(D) GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009;
(E) PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1988.

PLEASE NOTE THAT PUBLIC ACCESS TO PLANS IS SUBJECT TO THE FOLLOWING:
 INTERNAL FLOOR PLANS WILL ONLY BE DISCLOSED TO PERSONS WHO HAVE A GENUINE,
 REAL AND DEMONSTRABLE INTEREST IN SEEING SUCH INFORMATION AND WHO CAN
 DEMONSTRATE A DIRECT POTENTIAL EFFECT UPON THEM BY BEING WITHIN THE SPHERE
 OF INFLUENCE OF THE RESIDENTIAL COMPONENTS OF A DEVELOPMENT OR IF THE HOME
 OWNER'S WRITTEN CONSENT CAN BE PROVIDED.

COPIES OF ALL PLANS ARE NOT AVAILABLE WITHOUT THE WRITTEN CONSENT OF THE COPYRIGHT OWNER (ARCHITECT).

P W S t u d i o

[illegible]

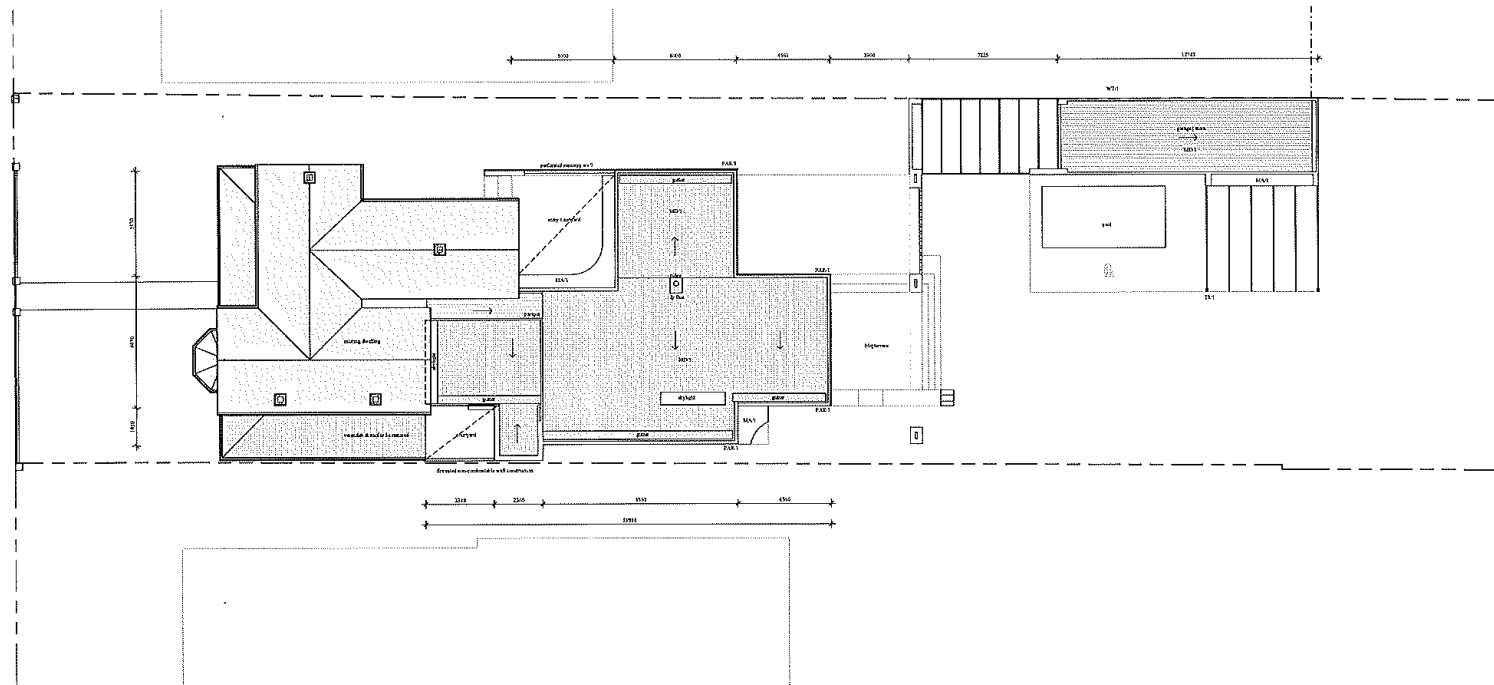
Not For Construction

Item	Description
1	Development Application

Date
09/02/24

Kite St House
32 Kite Street, Orange
A210 FLOOR PLAN





Do not use this journal as a repository for unused data. Items not used within a reasonable time limit are considered as surplus materials for distribution to other users. This journal is subject to publication and is not to be used for any other purpose. It is not to be reproduced or used in any form without the permission of the publisher. (For more information, see the publisher's website at <http://www.elsevier.com/locate/journal>)

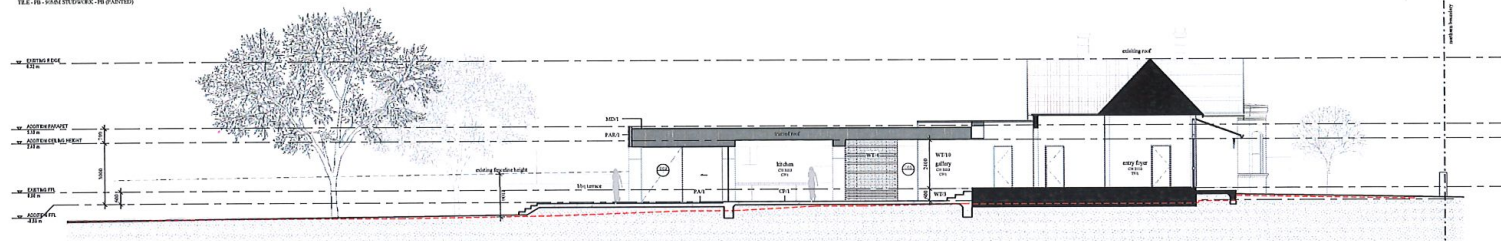
Item	Usage
1	Development Application

1345
0812 31

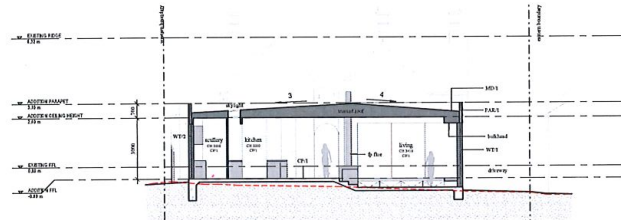
Kite St House
52 Kite Street, Orange
A210 ROOF PLAN



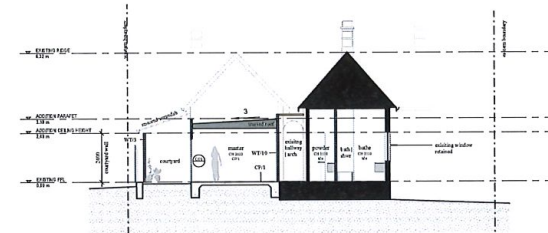
B&G1 JOHNSON & BOUTWELL
 B&G2 JOHNSON & BOUTWELL
 B&G3 JOHNSON & BOUTWELL
 B&G4 JOHNSON & BOUTWELL
 B&G5 JOHNSON & BOUTWELL
 B&G6 JOHNSON & BOUTWELL
 B&G7 JOHNSON & BOUTWELL
 B&G8 JOHNSON & BOUTWELL
 B&G9 JOHNSON & BOUTWELL
 B&G10 JOHNSON & BOUTWELL
 B&G11 JOHNSON & BOUTWELL
 B&G12 JOHNSON & BOUTWELL
 B&G13 JOHNSON & BOUTWELL
 B&G14 JOHNSON & BOUTWELL
 B&G15 JOHNSON & BOUTWELL
 B&G16 JOHNSON & BOUTWELL
 B&G17 JOHNSON & BOUTWELL
 B&G18 JOHNSON & BOUTWELL
 B&G19 JOHNSON & BOUTWELL
 B&G20 JOHNSON & BOUTWELL
 B&G21 JOHNSON & BOUTWELL
 B&G22 JOHNSON & BOUTWELL
 B&G23 JOHNSON & BOUTWELL
 B&G24 JOHNSON & BOUTWELL
 B&G25 JOHNSON & BOUTWELL
 B&G26 JOHNSON & BOUTWELL
 B&G27 JOHNSON & BOUTWELL
 B&G28 JOHNSON & BOUTWELL
 B&G29 JOHNSON & BOUTWELL
 B&G30 JOHNSON & BOUTWELL
 B&G31 JOHNSON & BOUTWELL
 B&G32 JOHNSON & BOUTWELL
 B&G33 JOHNSON & BOUTWELL
 B&G34 JOHNSON & BOUTWELL
 B&G35 JOHNSON & BOUTWELL
 B&G36 JOHNSON & BOUTWELL
 B&G37 JOHNSON & BOUTWELL
 B&G38 JOHNSON & BOUTWELL
 B&G39 JOHNSON & BOUTWELL
 B&G40 JOHNSON & BOUTWELL
 B&G41 JOHNSON & BOUTWELL
 B&G42 JOHNSON & BOUTWELL
 B&G43 JOHNSON & BOUTWELL
 B&G44 JOHNSON & BOUTWELL
 B&G45 JOHNSON & BOUTWELL
 B&G46 JOHNSON & BOUTWELL
 B&G47 JOHNSON & BOUTWELL
 B&G48 JOHNSON & BOUTWELL
 B&G49 JOHNSON & BOUTWELL
 B&G50 JOHNSON & BOUTWELL
 B&G51 JOHNSON & BOUTWELL
 B&G52 JOHNSON & BOUTWELL
 B&G53 JOHNSON & BOUTWELL
 B&G54 JOHNSON & BOUTWELL
 B&G55 JOHNSON & BOUTWELL
 B&G56 JOHNSON & BOUTWELL
 B&G57 JOHNSON & BOUTWELL
 B&G58 JOHNSON & BOUTWELL
 B&G59 JOHNSON & BOUTWELL
 B&G60 JOHNSON & BOUTWELL
 B&G61 JOHNSON & BOUTWELL
 B&G62 JOHNSON & BOUTWELL
 B&G63 JOHNSON & BOUTWELL
 B&G64 JOHNSON & BOUTWELL
 B&G65 JOHNSON & BOUTWELL
 B&G66 JOHNSON & BOUTWELL
 B&G67 JOHNSON & BOUTWELL
 B&G68 JOHNSON & BOUTWELL
 B&G69 JOHNSON & BOUTWELL
 B&G70 JOHNSON & BOUTWELL
 B&G71 JOHNSON & BOUTWELL
 B&G72 JOHNSON & BOUTWELL
 B&G73 JOHNSON & BOUTWELL
 B&G74 JOHNSON & BOUTWELL
 B&G75 JOHNSON & BOUTWELL
 B&G76 JOHNSON & BOUTWELL
 B&G77 JOHNSON & BOUTWELL
 B&G78 JOHNSON & BOUTWELL
 B&G79 JOHNSON & BOUTWELL
 B&G80 JOHNSON & BOUTWELL
 B&G81 JOHNSON & BOUTWELL
 B&G82 JOHNSON & BOUTWELL
 B&G83 JOHNSON & BOUTWELL
 B&G84 JOHNSON & BOUTWELL
 B&G85 JOHNSON & BOUTWELL
 B&G86 JOHNSON & BOUTWELL
 B&G87 JOHNSON & BOUTWELL
 B&G88 JOHNSON & BOUTWELL
 B&G89 JOHNSON & BOUTWELL
 B&G90 JOHNSON & BOUTWELL
 B&G91 JOHNSON & BOUTWELL
 B&G92 JOHNSON & BOUTWELL
 B&G93 JOHNSON & BOUTWELL
 B&G94 JOHNSON & BOUTWELL
 B&G95 JOHNSON & BOUTWELL
 B&G96 JOHNSON & BOUTWELL
 B&G97 JOHNSON & BOUTWELL
 B&G98 JOHNSON & BOUTWELL
 B&G99 JOHNSON & BOUTWELL
 B&G100 JOHNSON & BOUTWELL



1 NORTH SOUTH
A400 1:100



2 EAST WEST
A400 1:100



3 EAST WEST 02
A400 1:100

PWStudio

The above drawings are the property of PWStudio. They are to be used for the purpose of the project only and are not to be reproduced or used in any other way without the written consent of PWStudio. PWStudio is not responsible for any errors or omissions in these drawings.

Not For Construction

Drawn by: [Name]
 Issued For Information

Date:
 07/03/22

Kite St House
 52 Kite Street, Orange
 A400 SECTIONS

1:100

Submission 1

To be considered jointly with our submission DA No 18/2022(1) PR 28177.
52 Kite Street, Orange.

Mr David Waddell.
Chief Executive Officer,
Orange Council,
135 Byng Street,
Orange NSW 2800

CC. Rishelle Kent.

Dear Mr Waddell,

We, _____ Orange would like it
to be noted that we are very disappointed to be placed in a position by our
_____ where we need to make this DA submission of our
concerns in the attached documentation relating to 52 Kite Street. We
thought we could settle these concerns between ourselves, unfortunately that
is not to occur. So we have lodged the attached submission to put our case.

We like _____ and we had hoped we had an
open and honest relationship. There have been several opportunities to
disclose the extent of their building plans but that has not occurred. It's
disappointing that if council had not alerted us, we would never have been
aware as to what was to happen

However, much as we do not wish to upset the _____ we feel we must stand
up for issues that are important to us and _____. We would like to stress that
our submission is not a matter of personal disagreement but of important
principles affecting two heritage homes that should be working in concert to
maintain support for the historical fabric of this part of Orange.

Yours sincerely

A submission from

Orange NSW 2800. Detailed contacts at the foot of this submission.

DEVELOPMENT APPLICATION DA 18/2022(1)-PR28177 LOT 100 DP 1244765-52 KITE STREET, ORANGE. 2800.

As owners and concerned custodians of
Orange, we wish to submit our concerns relating to DA 18/2022(1)-PR28177 at
the property, 52 Kite Street.

We have met with the owners, and after the
meeting, regarding the plans, we have made concessions in areas where we
continue to have concerns, but have personally agreed to give way on many
points that we feel are important as a goodwill gesture. Despite this, however,
we still have some outstanding concerns which we bring to Orange Council's
attention in considering this DA.

We are husband and wife in our 70's and 80's. We moved to Orange in
September 2021. In choosing Orange as our new home and place to live, we
took into account Council's impressive attention in its emphasis on the
protection of heritage properties, its support for wider tree lined streets,
celebration of the city's history and protection of the local environment and its
flora and fauna. This is especially so in the protection of trees in general and
when situated in streetscapes, domestic gardens and in the number of parks
where they provide shade, privacy and an ability to help to lower
temperatures, a factor in the increasing challenge of climate change.

We bought , not for any personal desire to be envied by others but
rather to live, repair, restore, cherish, take care and resuscitate the historic
attributes of this building, its surrounds, fittings and general architecture. The
garden and land where is situated is also very important to . Much
work and considerable cost has already been incurred by us and thousands
more in restoration is still necessary to ensure all major elements of
construction are repaired and maintained in respect for its original 1875 form.

PAGE 2.

Windows, doors and steps are water and weather damaged and need complete resurfacing to cover cracks and deterioration and some of the famous fireplaces need substantial repair due to worrying cracks and removal of marble fireplace surrounds.

Sash window weight ropes are badly deteriorated and in some cases have failed completely. There was minimal roof insulation making internal heating and cooling totally inadequate.(recently we have spent a substantial amount to rectify this). This is necessary to help counter internal cold that causes condensation that damages window frames and other internal timber. Severe cracking in original marble fireplaces also needs urgent attention.

garden needs much attention as it contains many older trees and plantings that support birdlife and provide shading from hot temperatures for several adjoining properties. So in this atmosphere we now must deal with changes that will additionally affect diverting us from dealing with our own challenges for this historic property. It is disappointing that these plans for No 52 were not revealed to us before we purchased We only became aware of the plans on February 14, 2022 via a letter from council six months after we moved in to

We state all of this to reinforce our comments on the DA application and especially the greenery that presently inhabits the adjoining 52 Kite Street property and specifically the Bay Tree that shades our windows and provides privacy and shade.

With the prospect of up to 12 months construction at 52 Kite Street on our doorstep we must now look forward to heavy work five and a half days a week with early morning starts, demolition, dust, heavy drilling and percussion noise, radio music and trades chatter. All this will take its toll on us especially as all our bedrooms are close to this projected construction work. The will not be in occupation of 52 Kite during the work as they have access to another Orange property until the work is finished. We unfortunately do not have such an alternative as is our only home and property.

PAGE 3.

Keeping the front of a heritage building whilst constructing a modern addition at the rear of the property can be quite acceptable as long as there is sympathetic reference to the architectural heritage of the original house. This reference is not only a bricks and mortar criteria but a green one as well. This is where the trees at No 51 and 52 Kite come into focus.

Under the statement of Environmental Effects provided by PW Studio, in planning and support documentation for the 52 Kite Street DA, PW studio states "the site (52 Kite) is characterised by predominantly grassed lawns and a variety of mature, deciduous trees, medium height shrubs and vegetable gardens. All of the trees on the site are to be retained with the exception of a small Crepe Myrtle and Magnolia Tree." The Bay tree was not considered by PW Studio as an impediment to the suggested changes. If removed the Bay tree would be replaced by a plain high bare brick wall.

ITEM.1.

However the 52 Kite Street garden and its Bay Tree is where a major area of concern lies with us. The large Bay tree, which is up to or more than 50 years old, is situated in No 52's garden, opposite 51 Kite Street main entrance and another 51 Kite Street next door situated towards the front of 51 Kite Street. The Bay tree is healthy and bushy and provides shade and privacy for our 51 Kite Street and sits close to the 51 Kite Street adjoining fence with 51 Kite Street. The tree also provides a framework to the driveway and steel heritage gates on the east side of 51 Kite Street and the two high- up 51 Kite Street windows.

Despite the advice by PW Studio "...all the trees on the site are to be retained...." the 51 Kite Street have advised us that the Bay tree would be removed. They were adamant on this point.

PAGE 4.

It is worrying, however that the [redacted] had not read this commentary and that PW Studio saw no reason to specially mention this Bay tree in their 'Statement of Environmental Effects, Trees and Vegetation.' It did not attract much attention in the PW report, a tree which in our view could still be maintained and help protect [redacted]

This Bay tree is described by the [redacted] as a "kitchen tree." However, it is healthy and it is important for our privacy, not just from our personal view but also we feel as part of the green framing of the borders of [redacted] and 52 Kite Street. As good [redacted] we had already given in to pruning of our trees in the past to help [redacted] vegetable garden gain more light. We did so expecting an agreed height would be maintained as the work took place. Unfortunately the trees were cut too short when the Warren's arborist gained access to our property unannounced even though we were in our house. The arborist cutback our trees too short revealing unsightly sections of the fence line. This is just an example of where we wanted to maintain growth of trees in our property but to help our neighbour we gave way. In the past we have much experience with gardens and trees and we know it will take tens of years to gain the height and privacy that the Bay Tree already provides and in this case not in our lifetime.

ITEM 2,

Another major concern is the location of the large terrace/ barbecue/ entertaining area. The windows of the [redacted] at [redacted] facing east and south are directly opposite the proposed entertaining area and although there seems to be a single wall, we feel this would not be enough to minimise noise. Extra provision to dampen the noise is needed ie moving the entertaining area closer to the eastern driveway. The [redacted] have assured us that they would mainly be using the new dining room for entertainment and this is their way of eliminating noise. We hope this is correct.

PAGE 5.

ITEM 3.

We understand that the kitchen and bathroom/ensuite would be on the west side, that is right opposite at . We are concerned that the exhaust fan outlet for the kitchen and the air extraction outlet for the ensuite would be situated on the wall facing all . When windows are open this would result in exhaust fumes entering windows. There are ways of dealing with these fumes without impact on neighbouring properties. They should be incorporated.

ITEM 4.

The west verandah at No 52 is to be reinstated but also an additional small courtyard has been planned, directly opposite the two adjoining veranda. We were concerned regarding noise pollution but we have been assured by the that there will not be a problem and with this we have taken them on their word.

ITEM 5.

There is not a contingency plan for demolition activity. No mention of necessary high dust prevention and protection screening along 52's western boundary. This should be installed to ensure dust control affecting doors, windows and the large terrace surrounding it.

ITEM 6

On lighting, there has been no details given of the positioning of exterior lights on the 52 Kite entertaining area and the pool. This is of concern for at . We know this because at present in the vicinity of where the pool will be constructed, there is already one powerful exterior light which often shines into our main window.

SUMMARY.

As stated in our submission adding a modern addition to the rear of a Heritage House, whilst retaining the historic frontage can be quite acceptable as long as the modern additions are sympathetic to the grace and importance of that heritage and neighbouring historical properties. Also we do appreciate that some changes need to be made at 52 Kite Street, however this is not an easy renovation because it involves the heritage of No 52 and , No

These two houses are both iconic. No 52 once the home of Sir Charles and Lady Cutler, former Deputy Premier of NSW, Leader of the Country Party and NSW Education Minister. To quote the architects PW Studio “the Victorian style in a villa form is rare within Orange.” On the other hand No is a treasured example of a Dalton home. Its heritage favours such importance that it features in several prestigious publications including Great Homes of Australia and is also listed in the Orange Tourism Heritage walk. We are constantly asked by visitors about our home which they acknowledge is a credit to Orange streetscapes. That is why we feel we must maintain a standard that enjoys as an ongoing notable and well maintained heritage house and garden

Whatever the decision reached this development it will set a precedent for future examples of what is acceptable elsewhere. future, under new owners, could be threatened if they used such a precedent as an excuse to change or its garden architecture. Our aim, as present as owners/custodians is always to protect , its architecture and its physical historical presence, its garden and the tree scapes.

Therefore we hope Council will consider our objections and concerns. It is difficult for all parties involved but we feel heritage protection and surrounding greenery once lost, is lost forever.

With all of the concessions and our personal minimisation of objections in the development at No 52 areas we believe we have acted in the best interests of and its grounds and we have acted fairly and reasonably.