



## **PLANNING AND DEVELOPMENT COMMITTEE**

# **AGENDA**

**3 MARCH 2020**

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that a **PLANNING AND DEVELOPMENT COMMITTEE MEETING of ORANGE CITY COUNCIL** will be held in the **GLENROI COMMUNITY CENTRE, GAREMA ROAD, ORANGE** on **Tuesday, 3 March 2020**.

David Waddell

**CHIEF EXECUTIVE OFFICER**

For apologies please contact Administration on 6393 8218.

## AGENDA

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## **1 INTRODUCTION**

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

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

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

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

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

### **RECOMMENDATION**

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

## 2 GENERAL REPORTS

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

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RECORD NUMBER: 2019/2660

AUTHOR: Paul Johnston, Manager Development Assessments

#### EXECUTIVE SUMMARY

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

#### LINK TO DELIVERY/OPERATIONAL PLAN

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

#### FINANCIAL IMPLICATIONS

Nil

#### POLICY AND GOVERNANCE IMPLICATIONS

Nil

#### RECOMMENDATION

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

#### FURTHER CONSIDERATIONS

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

<b>Reference:</b>	<b>DA 3/2009(2)</b>	<b>Determination Date</b>	15 January 2019
<b>PR Number</b>	<b>PR22287</b>		
<b>Applicant/s:</b>	Mr D and Mrs M Taylor		
<b>Owner/s:</b>	Mr G J and Mrs M Taylor		
<b>Location:</b>	Lot 105 DP 1109491 - 1938 Millthorpe Road, Shadforth		
<b>Proposal:</b>	Modification of development consent - subdivision (seven lot rural). The modified proposal seeks to amend the previously approved farm management plan for proposed Lot 6. The application, when originally submitted, also sought to delete a condition that requires fencing to be installed along Summer Hill Creek to prevent stock entering the creek system. This element of the modification application was removed by the applicant.		
<b>Value:</b>	\$0		



2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 4/2012(3)                      **Determination Date**    23 December 2019  
**PR Number**                      PR26330  
**Applicant/s:**                      Orange Ex-Services Club Limited  
**Owner/s:**                      Orange Ex-Services Club Limited  
**Location:**                      Lot 200 DP 1191450 - 225-243 Anson Street, Orange (previously referred to as Lot 103 DP 1037584, Lot 1 DP 517210, Lot 1 DP 710943, Lot 26 DP 531801, Lot 104 DP 1037584, Lot 23 DP 531801, Lot 1 DP 797346 – 225-227 and 231-243 Anson Street, 42 Sale Street, and 94 and 98 Byng Street, Orange)  
**Proposal:**                      Modification of development consent - demolition, alterations and additions to a registered club, motel, shop and business identification signage. The modified proposal seeks to reconfigure the on-grade car parking layout; increase the number of car parking spaces from 25 to 44; and enable the on-grade car park to be accessed via the existing driveway along the western side of the demolished PCYC building, instead of creating new access points and driveways to ingress and egress off Byng Street as approved.  
**Value:**                      N/A

**Reference:** DA 18/2012(2)                      **Determination Date**    29 January 2020  
**PR Number**                      PR15084  
**Applicant/s:**                      Appledale Processors Co-Operative Ltd  
**Owner/s:**                      Appledale Processors Co-Operative Ltd  
**Location:**                      Lots 137 and 200 DP 750387, Lot B DP 346260 - Hiney Road, Orange  
**Proposal:**                      Modification of development consent - dwelling and detached shed. The modified proposal seeks consent to amend the approved Farm Plan to bring DA 18/2012(1) into consistency with DA 233/2019(1) which applies to the site and provides for the reinstatement of the orchard on the site.  
**Value:**                      N/A

**Reference:** DA 284/2012(4)                      **Determination Date**    3 February 2020  
**PR Number**                      PR26859  
**Applicant/s:**                      Allity Aged Care Pty Ltd  
**Owner/s:**                      Australian AC Partners Property Pty Limited  
**Location:**                      Lot 200 DP 1202634 - 1501 Forest Road, Orange (formerly known as Lot 142 DP 750401 – 1501-1503 Forest Road, Orange)  
**Proposal:**                      Modification of development consent - demolition (existing weatherboard dwelling/cafe and steel garage) and seniors housing (retirement village). The modification involves: amending the approved footprint and building design for the remaining wing of the nursing home; reducing the number of beds in the remaining wing from 43 as approved, to 36 as proposed; recalculation of sewer and water headworks charges due to amended bed numbers to be retained at Calare Nursing Home (March Street).  
**Value:**                      \$9,800,000

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 225/2013(3)      **Determination Date**      5 December 2019  
**PR Number**      PR5116  
**Applicant/s:** Mr S Forsyth  
**Owner/s:** Mr B A and Mrs R R Westgeest  
**Location:** Lot 2 DP 660443 - 87 Hill Street, Orange  
**Proposal:** Modification of development consent - food and drink premises. The modification will involve the placement of two (2) tables and eight (8) chairs in the rear yard and five (5) seats along the rear fence to be used during the approved hours.  
**Value:** N/A

**Reference:** DA 407/2013(3)      **Determination Date**      23 December 2019  
**PR Number**      PR22203  
**Applicant/s:** Statspan Pty Ltd  
**Owner/s:** Statspan Pty Ltd  
**Location:** Lot 1 DP 1109351 - 120-122 Summer Street, Orange  
**Proposal:** Modification of development consent - food and drink premises, retail premises and demolition (minor). The modification involves internal and external alterations to the pub component of the development.  
**Value:** N/A

**Reference:** DA 109/2015(2)      **Determination Date**      27 November 2019  
**PR Number**      PR8530  
**Applicant/s:** Mr O K and Mrs K M Reid  
**Owner/s:** Mr O K and Mrs K M Reid  
**Location:** Lot 205 DP 756869 - 791 Mitchell Highway, Orange  
**Proposal:** Modification of development consent - secondary dwelling (change of use), and dwelling house (new). The modification seeks to alter the built-form of the dwelling house, and alter the setbacks of the dwelling house.  
**Value:** \$250,000 (being \$250,000 more than the original development)

**Reference:** DA 228/2015(2)      **Determination Date**      17 December 2019  
**PR Number**      PR7067  
**Applicant/s:** RDC and JSC No 2 Pty Ltd  
**Owner/s:** RDC and JSC No 2 Pty Ltd  
**Location:** Lot 2 SP 22368 - 2/298 Lords Place, Orange  
**Proposal:** Modification of development consent - restaurant or cafe and outdoor dining. The modified proposal will alter the internal layout of the approved café.  
**Value:** N/A

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 212/2017(2)      **Determination Date** 13 January 2020  
**PR Number** PR18287  
**Applicant/s:** Lovick Engineering  
**Owner/s:** Lovick SF Pty Ltd  
**Location:** Lot 34 DP 1035913, Lot 350 DP 1243925 - 13 and 15-17 Colliers Avenue, Orange  
**Proposal:** Modification of development consent - general industry and business identification signage. The modification involves:

- the consolidation of Stages 3 and 4 into a single stage
- the reduction in the extent of retaining structures and earthworks (up to 1500mm lower) to allow for the building to better complement the existing ground levels
- an increase in the overall height of the ridgeline
- the stepping of the floor levels to allow the building to relate to existing ground levels better and for the roof's ridgeline (between the two buildings under the various stages) to be a more consistent height
- inconsequential changes to the floorplan
- the relocation and part enclosure of the dust extraction system
- four additional 200,000 litre rainwater tanks and water detention tanks
- the construction of the paint booth in Stage 2 with it being relocated to the western elevation
- new wash bay and additional transmission dyno to be completed in Stage 2
- to amend Condition number 5 of the Consent that relates to the provision of landscaping along the Northern Distributor frontage.

**Value:** N/A

**Reference:** DA 57/2018(3)      **Determination Date** 15 January 2020  
**PR Number** PR28282  
**Applicant/s:** Mr G Millar  
**Owner/s:** Mr G W and Mrs T M Millar  
**Location:** Lot 207 DP 1248730 - 29 Emmaville Street, Orange (formerly known as part Lot 3 DP 787088 – 45 William Maker Drive, Orange)  
**Proposal:** Modification of development consent - subdivision (19 lot residential) (3 stage) – demolition. The modified proposal involves removal of a protected tree on Lot 207, pursuant to the Tree Protection Plan required by Condition 4.  
**Value:** N/A

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 77/2018(3)      **Determination Date** 13 February 2020  
**PR Number** PR26464  
**Applicant/s:** Aero Refuellers  
**Owner/s:** Orange City Council  
**Location:** Lot 200 DP 1195298 - 136 Aerodrome Road, Huntley  
**Proposal:** Modification of development consent - airport (bulk fuel tanks (2) and refuelling facility). The modified proposal involves removal of Condition 4a from DA 77/2018(2).  
Condition 4a is a 'Low Hazard' condition pursuant to HIPAP No. 12 and states:  
(4a) A Hazard and Operability (HAZOP) Study for the development shall be prepared in accordance with the recommendations of the Preliminary Hazard Analysis (JBS&G dated 25 April 2018, Ref. 54843/115042 Rev A).  
The HAZOP Study shall be consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 8 "HAZOP Guidelines." The HAZOP Study may be undertaken by the proponent as part of their internal commissioning processes.  
The proponent's environmental consultant (JBS&G Australia Pty Ltd 19 December 2019) supports the deletion of Condition 4a.  
**Value:** N/A

**Reference:** DA 104/2018(2)      **Determination Date** 6 February 2020  
**PR Number** PR17373  
**Applicant/s:** Kent's H Hardware  
**Owner/s:** Mr D M and Mrs J M Kent  
**Location:** Lot 102 DP 880908 and Lot 3 DP 1238633 – 151 and 155 Dalton Street, Orange  
**Proposal:** Modification of development consent - hardware and building supplies (alterations and additions). The modified proposal seeks to reconfigure and resize the approved awning to comply with fire safety requirements, as well as provide fire safety measures such as door and masonry upgrading, fire hydrant and hose provisions, etc. as described in the "Proposal" section of this report.  
**Value:** N/A

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 178/2018(4)      **Determination Date** 30 November 2019  
**PR Number** PR26723  
**Applicant/s:** MAAS Group Properties Westwinds Pty Limited  
**Owner/s:** MAAS Group Properties Westwinds Pty Limited  
**Location:** Lot 81 DP 1202584 – 386 Molong Road, Orange  
Lot 6 DP 1065578 - Northern Distributor Road, Orange  
**Proposal:** Modification of development consent - subdivision (103 lots, comprising 96 residential lots, 6 open space lots and 1 residue lot). The modified proposal will increase the residential lot yield by one (1) additional lot from 94 to 95 residential lots, thus seeking an overall modification for a 103 lot subdivision, comprising 95 lots, six (6) open space lots and two (2) residue lots.  
**Value:** N/A

**Reference:** DA 372/2018(3)      **Determination Date** 7 February 2020  
**PR Number** PR16982  
**Applicant/s:** Ramsay Health Care Pty Ltd  
**Owner/s:** HCOA Operations (Australia) Pty Limited  
**Location:** Lot 62 DP 877808 and Lots 1 - 5 SP 57262 – 261 March Street, Orange  
**Proposal:** Modification of development consent - hospital (alterations and additions). The modified proposal seeks to make amendments to the approved external appearance through a reduced roof ridge height and roof pitch, and altered cladding, screening and fencing materials, as set out in "The Proposal" section of this report.  
**Value:** N/A

**Reference:** DA 446/2018(2)      **Determination Date** 28 November 2019  
**PR Number** PR24252  
**Applicant/s:** Banks Family Pty Limited  
**Owner/s:** Banks Family Pty Limited  
**Location:** Lot 9 DP 2986 - 26 Cox Avenue, Orange  
**Proposal:** Modification of development consent - demolition (garage and trees), multi dwelling housing (two additional dwellings), subdivision (two lot Torrens) and subdivision (three lot Community). The proposal seeks to amend Engineering Condition (9) on the original consent which relates to the required width of the driveway.  
**Value:** N/A

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 25/2019(2)      **Determination Date**      18 November 2019  
**PR Number**      PR4927  
**Applicant/s:** Tipperary Investment Holdings Pty Ltd and Mr R A Commins  
**Owner/s:** Tipperary Investment Holdings Pty Ltd  
**Location:** Lot 1 DP 770447, Lot 1 DP 111535, Lot 1 DP 195511 and Lot 1 DP 114618 – 1 Hampden Avenue and 259-261 Lords Place, Orange  
**Proposal:** Modification of development consent - subdivision (four lot boundary adjustment). The proposal involves boundary adjustment in order to create a shared carpark.  
**Value:** N/A

**Reference:** DA 94/2019(1)      **Determination Date**      27 November 2019  
**PR Number**      PR28288  
**Applicant/s:** Willowdene Constructions Pty Ltd  
**Owner/s:** Mr G J and Mrs K L Stevenson  
**Location:** Lot 213 DP 1248730 - 6A Emmaville Street, Orange  
**Proposal:** Dual occupancy and subdivision (two lot Torrens title)  
**Value:** \$470,000

**Reference:** DA 159/2019(2)      **Determination Date**      12 December 2019  
**PR Number**      PR21840  
**Applicant/s:** Bassmann Drafting Services  
**Owner/s:** Mr H J and Mrs D J Courtney  
**Location:** Lot 132 DP 1103278 - 5 Jade Avenue, Orange  
**Proposal:** Modification of development consent - dual occupancy and subdivision (two lot residential). The modified proposal will contain a skylight in order to obtain solar access to the northern open plan living area.  
**Value:** N/A

**Reference:** DA 185/2019(1)      **Determination Date**      18 December 2019  
**PR Number**      PR4605  
**Applicant/s:** Mr W G Ryan  
**Owner/s:** Mr W G Ryan  
**Location:** Lot 100 DP 1258232 - 291 Giles Road, Springside  
**Proposal:** Dwelling alterations and additions, secondary dwelling  
**Value:** \$400,000

**Reference:** DA 190/2019(1)      **Determination Date**      23 December 2019  
**PR Number**      PR6929  
**Applicant/s:** Formdell Pty Ltd  
**Owner/s:** Formdell Pty Limited  
**Location:** Lot 59 DP 736583 - 173 Lords Place, Orange  
**Proposal:** Demolition, restaurant or cafe and office premises  
**Value:** \$1,500,000

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 228/2019(2)      **Determination Date** 27 November 2019  
**PR Number** PR8135  
**Applicant/s:** Mr T D and Mrs S A Watson  
**Owner/s:** Mr T D and Mrs SA Watson  
**Location:** Lot 1 DP 780993 - 39 McLachlan Street, Orange  
**Proposal:** Modification of development consent - demolition (part dwelling and tree removal), dwelling (alterations, additions and detached outbuilding-workshop). The modified proposal involves removing the approved secondary dwelling, altering the internal structure and using the structure instead as a storage workshop.

**Value:** N/A

**Reference:** DA 240/2019(2)      **Determination Date** 12 December 2019  
**PR Number** PR10126  
**Applicant/s:** Wentworth Golf Club  
**Owner/s:** Wentworth Golf Club  
**Location:** Lot 199 DP 756899, Lot 181 DP 1154782 – 130 Ploughmans Lane, Orange  
**Proposal:** Modification of development consent - registered club (ancillary buildings), recreation facility (outdoor). The modification is intended to expand the temporary clubhouse space within the building. This involves moving the office from inside the temporary clubhouse into the middle bay, adding a storeroom next to the office and allowing the rest of the space to be used as a gaming room (poker machines).

**Value:** N/A

**Reference:** DA 250/2019(1)      **Determination Date** 20 November 2019  
**PR Number** PR6918  
**Applicant/s:** Mr T Kerry  
**Owner/s:** Ophir Tavern Land Pty Ltd  
**Location:** Lot 50 PCE C DP 817766 - 133 Lords Place, Orange  
**Proposal:** Take away food and drink premises (drive-through coffee shop)  
**Value:** N/A

**Reference:** DA 262/2019(1)      **Determination Date** 24 December 2019  
**PR Number** PR28293  
**Applicant/s:** Mr J Richard  
**Owner/s:** Beltrasna Property Pty Ltd  
**Location:** Lot 218 DP 1248730 - 43 William Maker Drive, Orange  
**Proposal:** Multi dwelling housing, subdivision (two lot Torrens title) and subdivision (three lot Community title)  
**Value:** \$900,000

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 272/2019(1)      **Determination Date**      13 December 2019  
**PR Number**      PR20240  
**Applicant/s:** Marks Fuel Delivery Pty Ltd  
**Owner/s:** Tura Holdings Pty Limited  
**Location:** Lot 72 DP 1077737 - 59 Astill Drive, Orange  
**Proposal:** Service station and business identification signage  
**Value:** \$520,000

**Reference:** DA 287/2019(1)      **Determination Date**      18 November 2019  
**PR Number**      PR1514  
**Applicant/s:** Mr K P McNamara  
**Owner/s:** Mr K P and Mrs M E McNamara  
**Location:** Lot 1 DP 347378, Lot 1 DP 341704 and Lot 1 DP 387792 and Lot 2 DP 513219 - 80 Bletchington Street and 263 and 265 Dalton Street, Orange  
**Proposal:** Demolition (existing dwelling, outbuildings and tree removal), shed (relocation of existing shed), carports (two new carports) and subdivision (three lot residential)  
**Value:** \$100,000

**Reference:** DA 304/2019(1)      **Determination Date**      25 November 2019  
**PR Number**      PR3433  
**Applicant/s:** Mr M Jacobs  
**Owner/s:** BT Orange Property Pty Ltd  
**Location:** Lot 2 DP 5265 - 149 Dalton Street, Orange  
**Proposal:** Vehicle repair station (change of use and alterations to existing building) and business identification signage  
**Value:** \$15,000

**Reference:** DA 318/2019(1)      **Determination Date**      25 November 2019  
**PR Number**      PR9719  
**Applicant/s:** Mr F and Mrs G Slack-Smith  
**Owner/s:** Mr F and Mrs G Slack-Smith  
**Location:** Lot 16 Sec 5 DP 2193 - 325 Peisley Street, Orange  
**Proposal:** Dwelling house (minor alterations), demolition (garage and tree removal), secondary dwelling and carport  
**Value:** \$250,000

**Reference:** DA 324/2019(1)      **Determination Date**      18 November 2019  
**PR Number**      PR15668  
**Applicant/s:** Mr C J Cunich  
**Owner/s:** Mr C J and Mrs K A Cunich  
**Location:** Lot 1 DP 839889 - 1-5 Ash Street, Orange  
**Proposal:** Subdivision (two lot industrial)  
**Value:** N/A



2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 337/2019(1)      **Determination Date** 18 December 2019  
**PR Number** PR10713  
**Applicant/s:** Psychological Solutions  
**Owner/s:** Mr A C and Mrs M A Roberts  
**Location:** Lot 1 DP 85324 - 14 Sale Street, Orange  
**Proposal:** Health services facility (change of use)  
**Value:** N/A

**Reference:** DA 338/2019(1)      **Determination Date** 24 January 2020  
**PR Number** PR26101  
**Applicant/s:** Braid Superannuation Pty Limited  
**Owner/s:** Braid Superannuation Pty Limited  
**Location:** Lot 5 DP 1183249 – (Tenancy 1) 168 Dalton Street, Orange  
**Proposal:** Recreation facility (indoor) (change of use and internal alterations to existing building) and business identification signage  
**Value:** \$60,000

**Reference:** DA 342/2019(1)      **Determination Date** 6 January 2020  
**PR Number** PR16311  
**Applicant/s:** Fenton Developments Pty Ltd  
**Owner/s:** Mr M N and Mrs K A Bilske and Mr B L and Mrs J J Bailey  
**Location:** Lots 2 and 3 DP 859235 – 3 and 4 Yackerboon Place, Orange  
**Proposal:** Subdivision (29 lot residential)  
**Value:** N/A

**Reference:** DA 349/2019(1)      **Determination Date** 24 January 2020  
**PR Number** PR28112  
**Applicant/s:** Willowdene Constructions Pty Ltd  
**Owner/s:** Mulgoa Corporations Pty Ltd  
**Location:** Lot 41 DP 1244657 - 9 Geraldton Street, Orange  
**Proposal:** Multi dwelling housing (five dwellings) and subdivision (six lot Community title)  
**Value:** \$1,100,000

**Reference:** DA 369/2019(1)      **Determination Date** 9 December 2019  
**PR Number** PR15091  
**Applicant/s:** Mr G Thornberry  
**Owner/s:** Mr A R Hutchinson  
**Location:** Lot A DP 346260, Lot 164 DP 750387 – 159 Hiney Road, Orange  
**Proposal:** Dwelling house (replacement) and farm building  
**Value:** \$1,000,000

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 376/2019(1)      **Determination Date**      23 December 2019  
**PR Number**      PR28331  
**Applicant/s:** Mr J Simpson  
**Owner/s:** Keronga Developments Pty Limited  
**Location:** Lot 20 DP 271090 - Cedar Street, Orange  
**Proposal:** Subdivision (eight lot Community Title residential)  
**Value:** N/A

**Reference:** DA 377/2019(1)      **Determination Date**      18 December 2019  
**PR Number**      PR19676  
**Applicant/s:** Trustees of the Roman Catholic Diocese of Bathurst (Orange Parish)  
**Owner/s:** Trustees Roman Catholic Church  
**Location:** Lot 20 DP 1073611 - Park Street, Orange  
**Proposal:** Place of public worship (alterations and additions), presbytery (alterations and additions) and carport  
**Value:** \$700,700

**Reference:** DA 378/2019(1)      **Determination Date**      18 December 2019  
**PR Number**      PR28435  
**Applicant/s:** Mr F D Pigot  
**Owner/s:** Mr F D Pigot  
**Location:** Lot 11 DP 1255039 - 54 Hill Street, Orange  
**Proposal:** Demolition (tree removal)  
**Value:** \$350

**Reference:** DA 393/2019(1)      **Determination Date**      10 February 2020  
**PR Number**      PR3884  
**Applicant/s:** Mr T Zinger  
**Owner/s:** Junci Properties Pty Limited  
**Location:** Lot 18 Sec 8A DP 979858 - 56 Endsleigh Avenue, Orange  
**Proposal:** Subdivision (two lot residential), subdivision (three lot Community title), demolition (outbuildings and removal of street tree), dwellings (two) and attached garages and carport (new construction)  
**Value:** \$800,000

**Reference:** DA 394/2019(1)      **Determination Date**      7 January 2020  
**PR Number**      PR2280  
**Applicant/s:** Mr D R and Mrs A A Davis  
**Owner/s:** Mr D R and Mrs A A Davis  
**Location:** Lot 1 DP 8196 - 28 Caroline Street, Orange  
**Proposal:** Dual occupancy (alterations to existing dwelling to create attached dual occupancy) and subdivision (two lot Strata)  
**Value:** \$60,000

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 395/2019(1)      **Determination Date** 10 January 2020  
**PR Number** PR28409  
**Applicant/s:** James Richmark Pty Ltd  
**Owner/s:** James Richmark Pty Ltd  
**Location:** Lot 1 DP 1258217 (formally Lot 2 DP 1250343, Lots 100 and 101 DP 1147525) – 1517, 1515 and 1539 Forest Road, Orange  
**Proposal:** Subdivision (four lot Community title) and Subdivision (eight lot Strata title)  
**Value:** N/A

**Reference:** DA 396/2019(1)      **Determination Date** 12 February 2020  
**PR Number** PR14629  
**Applicant/s:** Orange Pre-School Kindergarten Ltd  
**Owner/s:** Orange City Council (lessee Orange Pre-School Kindergarten Ltd)  
**Location:** Lots 2 and 3 DP 237232 - 13 Moad Street, Orange  
**Proposal:** Centre based child care facility (alterations and additions to existing building)  
**Value:** \$489,250

**Reference:** DA 397/2019(1)      **Determination Date** 16 December 2019  
**PR Number** PR611  
**Applicant/s:** Ms H Zhang, Ms X Xing and Xing and Zhang Wellcare Pty Ltd  
**Owner/s:** Bindawalla Securities Pty Limited  
**Location:** Lot 5 DP 711877 - 213 Anson Street, Orange  
**Proposal:** Business premises (remedial massage)  
**Value:** \$20,000

**Reference:** DA 403/2019(1)      **Determination Date** 6 January 2020  
**PR Number** PR26330  
**Applicant/s:** Orange Ex-Services Club Limited  
**Owner/s:** Orange Ex-Services Club Limited  
**Location:** Lot 200 DP 1191450 – 225-243 Anson Street, Orange  
**Proposal:** Registered club (alterations and additions to existing building)  
**Value:** \$1,100,000

**Reference:** DA 411/2019(1)      **Determination Date** 10 February 2020  
**PR Number** PR25814  
**Applicant/s:** Hiflow Concrete Pumps  
**Owner/s:** Mr N P and Mrs J Brooking  
**Location:** Lot 10 DP 1176470 - 3 Atlas Place, Orange  
**Proposal:** Mixed use development (depot and warehouse or distribution centre)  
**Value:** \$300,000

2.1 Items Approved Under the Delegated Authority of Council

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**Reference:** DA 420/2019(1)      **Determination Date** 10 February 2020  
**PR Number** PR7446  
**Applicant/s:** Mr T Ford  
**Owner/s:** Mr A J Ford  
**Location:** Lot 6 DP 37468 and Lot 1 DP 455302 -55-57 March Street, Orange  
**Proposal:** Office premises (change of use from shop)  
**Value:** N/A

**Reference:** DA 4/2020(1)      **Determination Date** 30 January 2020  
**PR Number** PR20604  
**Applicant/s:** Mustang Rocks Pty Ltd  
**Owner/s:** Mr A Blyth and Ms D L Chappel  
**Location:** Lot 16 DP 1085726 - 120 McLachlan Street, Orange  
**Proposal:** Demolition (tree removal)  
**Value:** \$1,500

<b>TOTAL NET* VALUE OF ALL DEVELOPMENTS APPROVED UNDER DELEGATED AUTHORITY IN THIS PERIOD:</b>	<b>\$19,836,800.00</b>
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*\* **Net** value relates to the value of modifications. If modifications are the same value as the original DA, then nil is added. If there is a plus/minus difference, this difference is added or taken out.*

## 2.2 DEVELOPMENT APPLICATION DA 33/2020(1) - 1521 FOREST ROAD (PRIVATE HOSPITAL FITOUT - OPERATING THEATRES)

RECORD NUMBER: 2020/295

AUTHOR: Summer Commins, Senior Planner

### EXECUTIVE SUMMARY

Application lodged	3 February 2020
Applicant/s	James Richmark Pty Ltd
Owner/s	James Richmark Pty Ltd
Land description	Lot 1 DP 1258217 - 1521 Forest Road, Orange
Proposed land use	Hospital (fitout works relating to existing building: operating theatres, associated support areas and facilities- Level 4, Ground Level and Rooftop)
Value of proposed development	\$4,900,000

This development application relates to the private hospital building within the Bloomfield private health precinct at Lot 1 DP 1258217 – 1521 Forest Road, Orange (see locality at Figure 1).

The proposed development involves internal fit-out works on Level 4 of the private hospital building to provide seven (7) operating theatres and associated support facilities and spaces. Minor external works will also be undertaken to accommodate rooftop plant, and ground level waste store and medical gas compound.

The proposed development for part-hospital fitout will be entirely consistent with the intent of the Major Project Approval (private hospital and medi-motel) (MP 08\_0233) relating to the subject land that was approved by the Department of Planning, Industry and Environment. The development is not contrary to applicable Local and State planning provisions. Approval of the application is recommended.

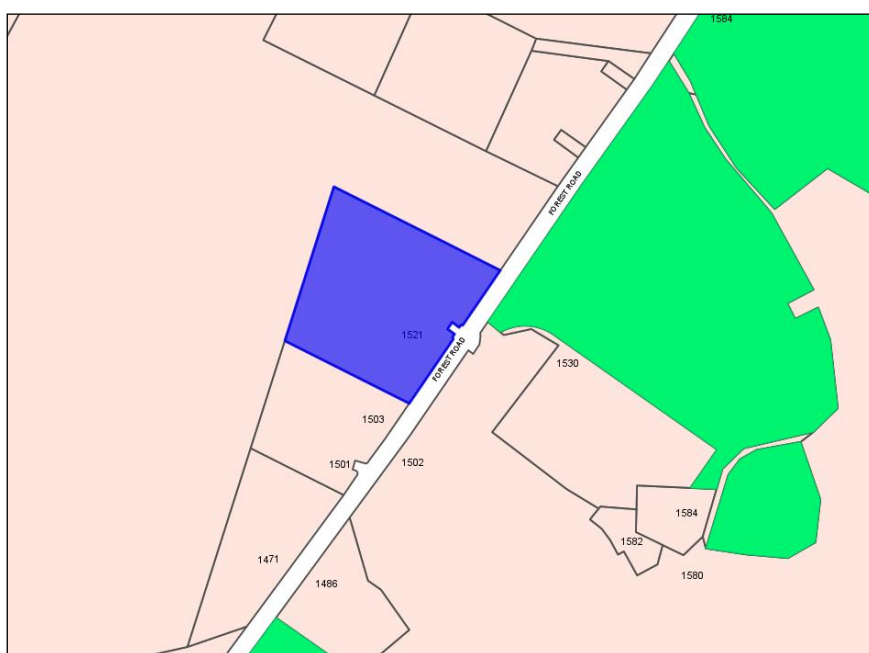


Figure 1 – locality plan

**DECISION FRAMEWORK**

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

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

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

**DIRECTOR'S COMMENT**

The proposed development involves internal fitout works on Level 4 of the private hospital building to provide seven (7) operating theatres and associated support facilities and spaces, together with minor external works to accommodate rooftop plant, and ground level waste store and medical gas compound. The building itself has been constructed pursuant to the Major Project Approval (private hospital and medi-motel) (MP 08\_0233) relating to the subject land that was approved by the Department of Planning, Industry and Environment. It is recommended that Council supports the development as proposed.

**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 33/2020(1) for *Hospital (fitout works relating to existing building: operating theatres, associated support areas and facilities - Level 4, Ground Level and Rooftop)* at Lot 1 DP 1258217 - 1521 Forest Road, 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****BACKGROUND**

The Bloomfield private hospital precinct was initially the subject of a Major Project Concept Approval (MP07\_0072) granted by the NSW Minister for Planning on 23 November 2008. The concept approval and the 2 project approvals have been the subject of various amendments which have been subsequently approved by the Department of Planning Industry and Environment. The Concept Approval had four distinct precincts as follows (refer Figure 2):

**Precinct 1:**

Health facilities (pathology, medical imaging, medical suites) and retail (convenience store, hairdresser, takeaway food and drink premises). Project Approval has been granted for Precinct 1 (MP 08\_0232 (as modified)).

**Precinct 2:**

Private hospital and medi-motel. Project Approval has been granted for Precinct 2 (MP 08\_0233 (as modified)).

**Precinct 3:**

Child care centre (100 places) and residential purposes (7,500m<sup>2</sup> GFA or 59 x two bedroom apartments).

**Precinct 4:**

Residential purposes (17,000m<sup>2</sup> GFA or 157 x two bedroom apartments).



**Figure 2: Project Concept Approval Masterplan**

The applicants have recently surrendered the concept approval relating to the site so as to facilitate the further consideration of the planning proposal for future retail opportunities. The proposed development relates to the private hospital building within Precinct 2, as circled in red in Figure 2. The private hospital is now known as Bloomfield Medical Centre.

The Project Approval for the private hospital (MP 08\_0233 Mod 2) required that further development consent be obtained for fitout of the building (Condition D5). Consent is now sought for fitout works generally relating to Level 4.

Level 4 currently comprises an open space with a floor area of some 2,285m<sup>2</sup> with central core of lift well, stairwell, plant and toilets.

## THE PROPOSAL

The proposal involves fitout of Level 4 to provide:

- seven (7) (general and specialist) operating theatres and adjacent support facilities and spaces;
- patient recovery areas;
- nurses' stations;
- staff offices;
- reception and waiting area;
- admissions and interview rooms;
- public amenities;
- stores and utility rooms, and
- waste room.



## 2.2 Development Application DA 33/2020(1) - 1521 Forest Road (Private Hospital Fitout - Operating Theatres)

Minor internal demolition works relating to the existing plant room and toilets will be required to accommodate the proposed new spaces. The proposed Level 4 floor plan is depicted below (see Figure 3).



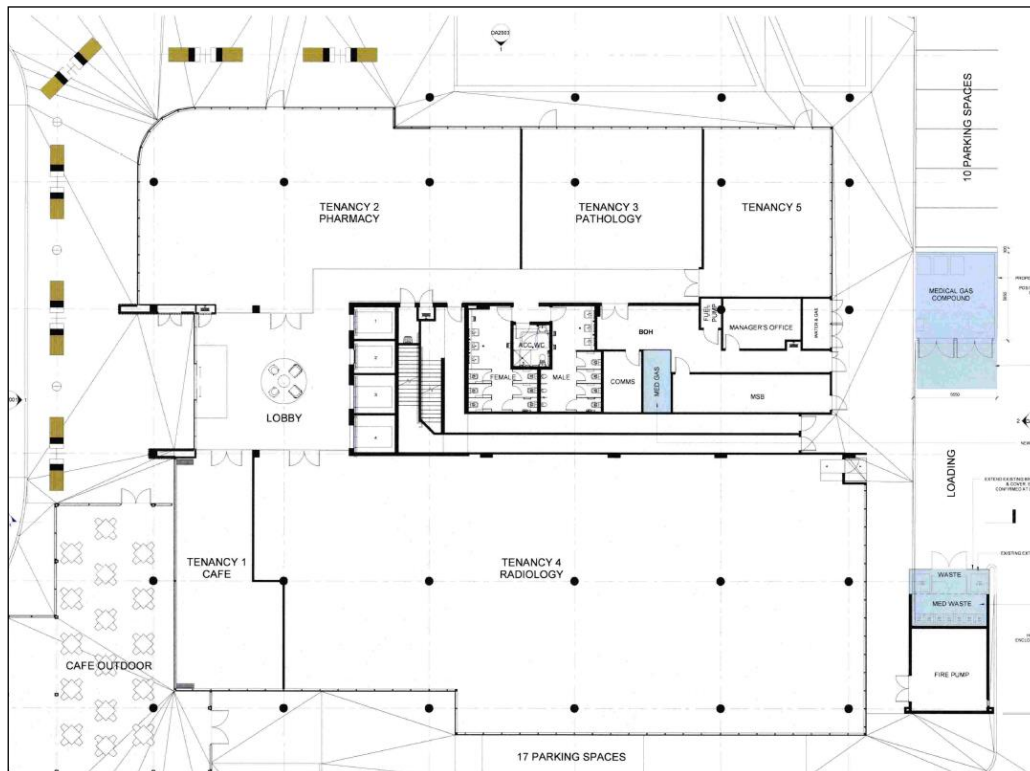
**Figure 3 – proposed Level 4 floor plan**

The proposal also involves an expansion to the existing rooftop plant enclosure to accommodate air handling units. The expanded enclosure will be provided with a powder-coated screen to match the existing, as depicted in Figure 4.



**Figure 4 – rooftop plant screen enclosure (north elevation)**

A medical gas compound will be constructed at ground level, external to the south side of the existing building. The compound will comprise a new structure and extended waste bin enclosure adjacent to the loading area, as depicted below (see Figure 5). A medical gas room will also be established internally at ground level.



**Figure 5– external medical gas compound internal gas room**

## 2.2 Development Application DA 33/2020(1) - 1521 Forest Road (Private Hospital Fitout - Operating Theatres)

The proposed development also involves a remote oxygen storage tank and enclosure adjacent to the southern boundary and accessed via the internal cul-de-sac (see Figure 6).

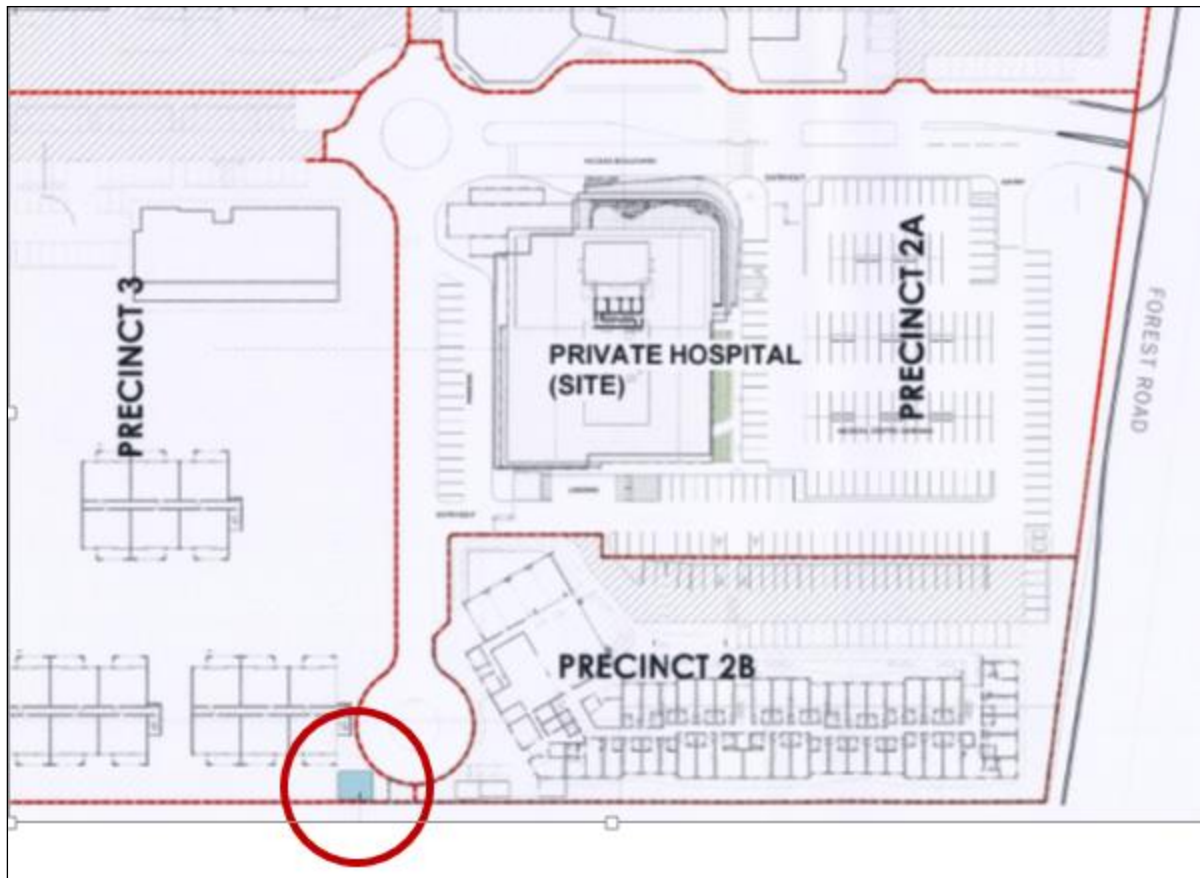


Figure 6 – oxygen storage tank and enclosure

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

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

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 Biodiversity Offset Scheme does not apply to the development. The proposed works will be wholly located within the building envelope or the immediate (cleared) curtilage and will have nil impact on biodiversity or habitat values.

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

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

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

The application is considered to be consistent with the applicable aims of the plan as outlined in this report.

**Clause 1.6 Consent Authority**

Clause 1.6 is applicable and states:

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

**Clause 1.7 - Mapping**

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

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

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

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

Clause 1.9A is applicable and states in part:

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

In consideration of this clause, Council staff are not aware of the title of the subject property being affected by any of the above.

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

The subject land is zoned R1 General Residential. The proposed development is defined as a *hospital*.

The proposal is permitted pursuant to Major Project Approval MP 08\_0233. Furthermore, *health service facilities* (including *hospitals*) are permitted in the R1 General Residential zone pursuant to Clause 57(1) of State Environmental Planning Policy (SEPP) Infrastructure 2007 (see below).

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

The objectives for land zoned R1 General Residential are:

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



## 2.2 Development Application DA 33/2020(1) - 1521 Forest Road (Private Hospital Fitout - Operating Theatres)

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The proposed development is consistent with the relevant objectives of the R1 zone. The proposal involves hospital fitout and ancillary structures for an approved health services facility, which will meet the needs of local and wider residents. The subject land is serviced by public transport. The site does not have frontage or access to the Southern Link Road.

### Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

### Part 4 - Principal Development Standards

The Part 4 Development Standards do not apply to the subject land or proposed development.

### Part 5 - Miscellaneous Provisions

#### Clause 5.10 - Heritage Conservation

The subject land is located adjacent to a State-listed heritage item: *Item 21- Bloomfield Hospital "Nymagee Lodge" including landscape features, entry gateway, Elm Avenue and grounds*).

Clause 5.10 is applicable and states in part:

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

In consideration of this clause, the proposed development will not have adverse impacts on the significance of the nearby listed item. The proposed works will be largely confined to the existing building envelope and/or located at the rear of the building. There will be nil spatial and visual relationship between the heritage item and proposed development.

### Part 6 - Urban Release Area

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

### Part 7 - Additional Local Provisions

#### Clause 7.3 - Stormwater Management

Clause 7.3 is applicable. This clause states in part:

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

## 2.2 Development Application DA 33/2020(1) - 1521 Forest Road (Private Hospital Fitout - Operating Theatres)

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The proposed development will not alter existing stormwater drainage arrangements that service the subject land and building. The development will not be contrary to Clause 7.3.

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

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

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

In consideration of Clause 7.6, there are no aspects of the proposed development that will impact on groundwater and related ecosystems. The site is connected to Council's reticulated sewerage system.

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

Clause 7.11 applies and states:

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

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

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

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

SEPP 55 - Remediation of Land is applicable and states in part:

- 7(1) *A consent authority must not consent to the carrying out of any development on land unless:*
- (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

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2.2 Development Application DA 33/2020(1) - 1521 Forest Road (Private Hospital Fitout - Operating Theatres)

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- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Contamination clearance was given for the subject land in conjunction with the Major Project Approval. The proposed hospital fitout works will not necessitate further contamination investigation. The subject land is suitable in its current form for the proposed development.

**State Environmental Planning Policy (Infrastructure) 2007*****Division 10 Health Services Facilities***

Pursuant to Clause 57 *Development permitted with consent:*

- (1) *Development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone.*

Consent is sought for hospital fitout in accordance with this clause.

Pursuant to Division 17 Roads and Traffic, Clause 101 *Development with frontage to classified road:*

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

In consideration of this clause, the subject land has frontage and existing access to Forest Road, being a classified road. The siting and design of the access; the nature, volume and frequency of vehicles using the access; and the effects of traffic noise and vehicle emissions within the site were considered for the Major Project Approval. The proposed hospital fitout works will not alter the approved arrangements.



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

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

**Draft Orange Local Environmental Plan 2011 (Amendment 21)**

Draft Amendment 24 has recently completed public exhibition (26 July – 26 August 2019). The Draft Plan involves various administrative amendments to the LEP including updated maps, and new and amended clauses. The proposed development is not contrary to any matter contained in the Draft Amendment.

**DESIGNATED DEVELOPMENT**

The proposed development is not designated development.

**INTEGRATED DEVELOPMENT**

The proposed development is not integrated development.

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

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

- Part 0 – Transport Routes
- Part 2 - Natural Resource Management
- Part 3 - General Considerations
- Part 4 - Special Environmental Considerations
- Part 15 – Car Parking

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

The relevant matters in Parts 0 and 15 are addressed below.

**DCP 2004 - 0 Transport Routes**

The DCP Planning Outcomes for Transport Routes include:

- *The development provides a high standard of visual appeal to motorists, cyclists and pedestrians as well as adjoining property owners.*
- *The visual appearance of the development, including any signage, lighting or other ancillary element must not generate a distraction to motorists.*

## 2.2 Development Application DA 33/2020(1) - 1521 Forest Road (Private Hospital Fitout - Operating Theatres)

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- *Any signage must not be animated whether by movement or flashing lights.*
- *Where land has more than one street frontage, the street with the lower volume of traffic is to provide the principal access to the development...*
- *Where access is provided onto an arterial road, distributor road or major collector road, the access point must have appropriate safe sight distances...*
- *Where onsite customer parking is provided that is not immediately visible from public road, clear and unimpeded directional signage must be displayed.*
- *Where the proposal is residential, or another noise sensitive form, appropriate noise mitigation measures to limit the development from traffic noise must be demonstrated*

In consideration of the above Planning Outcomes:

- The proposed works will be internal to the building or at the rear of the building, and will not alter the building appearance. The expanded rooftop plant enclosure will match the existing enclosure. There are no aspects of the proposal that would generate a distraction to motorists.
- The proposed development will not alter existing access arrangements to the subject land via Forest Road. The site does not have secondary frontage to another public road.
- Existing and other approved car parking areas on the subject land are reasonably exposed to the public road.
- The impacts of traffic noise and vehicle emissions were considered during assessment of the Major Project Approval. The proposed fitout works will not alter the approved situation.

### DCP 2004 - 15 Car Parking

The relevant DCP Planning Outcomes for Car Parking include:

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

In consideration of the planning outcomes, Project Approval MP 08\_0233 (Mod 2) required 243 onsite parking spaces to be provided for Precinct 2 to service the private hospital and medi-motel. It is noted that the parking provision associated with the landuses was based on the minimum parking requirements for *hospital* and *motel* as contained in Orange DCP 2004.

The proposed development for hospital fitout is entirely consistent with the defined landuse (hospital) and the intent of Project Approval MP 08\_0233. The proposal will not generate additional parking demands than those considered and anticipated for MP 08\_0233.

## 2.2 Development Application DA 33/2020(1) - 1521 Forest Road (Private Hospital Fitout - Operating Theatres)

The existing parking provision and car park layout for the private hospital is consistent with the latest approved site Masterplan pursuant to MP 08\_0233 (Mod 3) (refer Figure 7). As noted above, a total of 243 car spaces are required, with 259 spaces provided. Potential opportunity for additional parking over and above that provided to date within the areas formerly known as Precincts 3 and 4 will be considered and determined in conjunction with the assessment of any future applications for development on that land.

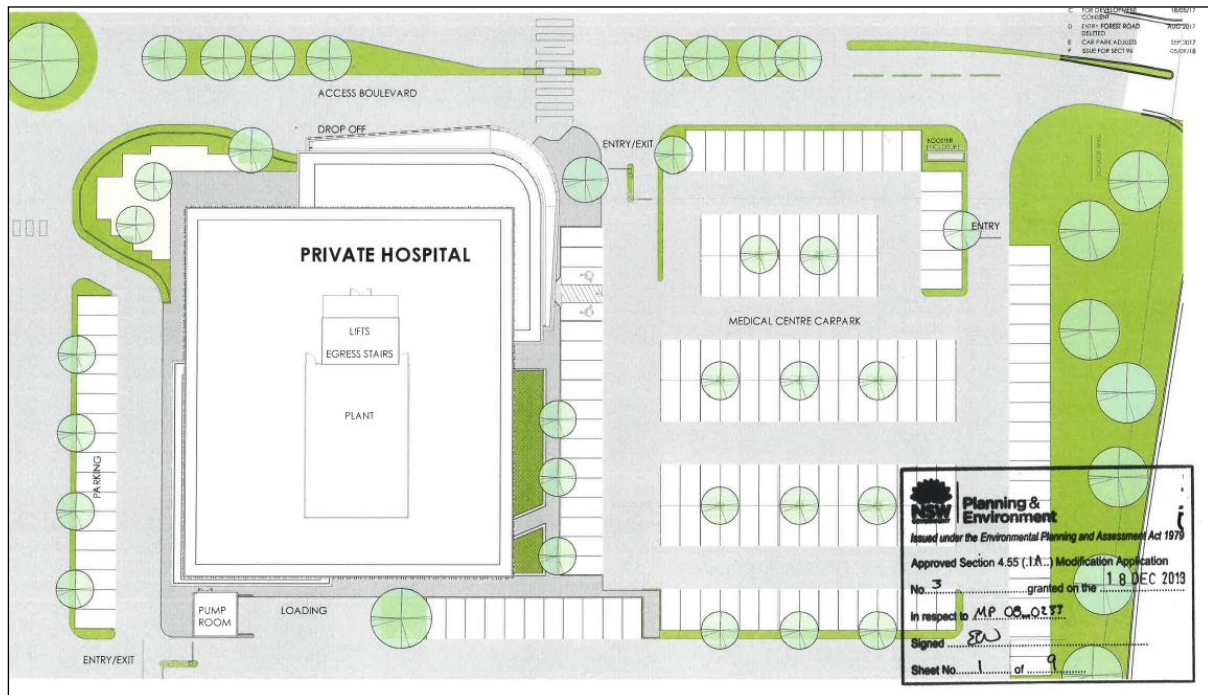


Figure 7 – approved part site plan: MP 08\_0233

### DEVELOPMENT CONTRIBUTIONS

Council's Assistant Development Engineer advises that water and sewer headworks changes have been paid for the private hospital under the Voluntary Planning Agreement. No further headworks charges are applicable to the proposed development.

### *Provisions Prescribed by the Regulations S4.15(1)(a)(iv)*

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

The proposal does not involve the demolition of a building.

#### Fire Safety Considerations (clause 93) and Buildings to be Upgraded (clause 94)

Council's EBHS advises:

*The proposal will be located on the 4<sup>th</sup> floor of a brand new building which should be compliant with the current requirements. The main BCA compliance issues associated with the fitout of this level will relate to occupant egress (travel distances) and whether any fire safety measures such as fire hydrants, fire hose reels, sprinkler systems or smoke/heat detection systems need to be revised/relocated/adjusted due to the proposed floor plan and uses within that storey. This details will need to be assessed by the Certifier at the CC stage.*

**BASIX Commitments (clause 97A)**

BASIX is not applicable to the proposal. The fitout will need to comply with Section J of the BCA.

***The Likely Impacts Of The Development S4.15(1)(b)*****Visual Impacts**

The proposed development will not have adverse visual impacts for the site and setting. Level 4 fitout works will be internal and will not alter the building appearance. The extension to the rooftop plant enclosure will match the existing enclosure in height, detailing and finishes. The gas compound and waste store will be located at the rear of the building, and are considered to be of acceptable scale and design for back-of-house utility structures. The remote oxygen storage tank and enclosure is an expected visual element within a hospital setting. The structure will be screened from Forest Road by the medi-motel.

**Traffic Impacts**

The proposal will not alter the approved situation in relation to site access, car parking and service vehicle manoeuvring. The proposed improvements will not conflict with existing vehicle areas within the site.

**Environmental Impacts**

Environmental impacts, including sediment and erosion control, groundwater, biodiversity values, cultural values and contamination were considered in the foregoing assessment.

***The Suitability Of The Site S4.15(1)(c)***

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

- the proposal is entirely consistent with the intent of Project Approval MP 08\_0233;
- existing access and parking arrangements are suitable;
- there is no known contamination on the land;
- all utility services are available and adequate;
- the site is not subject to natural hazards;
- the subject land has no particular environmental values; and
- the site is not known to contain any Aboriginal, European or archaeological relics.

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

*Health services facilities* are advertised development pursuant to Council's Community Participation Plan 2019, excepting when the works relate to an already approved landuse. The subject private hospital has Project Approval pursuant to MP 08\_0233. As such, public notice and exhibition of the DA was not required. No submissions have been received in relation to the application.

***Public Interest S4.15(1)(e)***

The proposal is not inconsistent with any relevant policy statements, planning studies and guidelines etc that have not been considered in this assessment. The proposed development is associated with ongoing expansion of a health services precinct and is considered to be in the public interest.

**SUMMARY**


The proposed development for part-hospital fitout is entirely consistent with the intent of Project Approval MP 08\_0233. The development is not contrary to applicable Local and State planning provisions. A 4.15 evaluation of the application indicates that the proposed development is acceptable. Conditions of consent are included on the attached Notice of Approval to prevent, minimise or offset adverse environmental impacts.

**COMMENTS**

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

**ATTACHMENTS**

- 1 Notice of Approval, D20/9734 [↓](#)
- 2 Plans, IC20/2179 [↓](#)

	<p style="text-align: center;"><b>ORANGE CITY COUNCIL</b></p> <p style="text-align: center;">Development Application No <b>DA 33/2020(1)</b></p> <p>NA20/ <span style="float: right;">Container PR28519</span></p>
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## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

### Development Application

Applicant Name: James Richmark Pty Ltd  
 Applicant Address: C/- Peter Basha Planning & Development  
 PO Box 1827  
 ORANGE NSW 2800  
 Owner's Name: James Richmark Pty Ltd  
 Land to Be Developed: Lot 1 DP 1258217 - 1521 Forest Road, Orange  
 Proposed Development: Hospital (fitout works relating to existing building: operating theatres, associated support areas and facilities - Level 4, Ground Level and Rooftop)

### Building Code of Australia building classification:

To be determined by the PC

### Determination made under Section 4.16

Made On: 3 March 2020  
 Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

**Consent to Operate From:** 4 March 2020  
**Consent to Lapse On:** 4 March 2025

### Terms of Approval

The reasons for the imposition of conditions are:

- (1) To ensure compliance with relevant statutory requirements.
- (2) To provide adequate public health and safety measures.
- (3) To ensure the utility services are available to the site and adequate for the development.
- (4) To prevent the proposed development having a detrimental effect on adjoining land uses.
- (5) To minimise the impact of development on the environment.

### Conditions

- (1) The development must be carried out in accordance with:
  - (a) **Drawings by Anthony Vavayis + Associates, Drawing Nos. DA100, DA101, DA1001, DA1003, DA1004, DA2001, DA2002, DA2003, DA 2004 Rev A, date 19/12/2019 (9 sheets)**
  - (b) statements of environmental effects or other similar associated documents that form part of the approval

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

**PRESCRIBED CONDITIONS**

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

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

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

- (4) 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.
- (5) 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.

**PRIOR TO WORKS COMMENCING**

- (6) A Construction Certificate application is required to be submitted to, and issued by Council/Accredited Certifier prior to any excavation or building works being carried out onsite.

**DURING CONSTRUCTION/SITWORKS**

- (7) 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.
- (8) All materials onsite 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.
- (9) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

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

- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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**

- (14) The owner is required to provide to Council and to the NSW Fire Commissioner an Annual Fire Safety Statement in respect of the fire-safety measures, as required by Clause 177 of the *Environmental Planning and Assessment Regulation 2000*.

**Other Approvals**

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

**Right of Appeal**

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

***Disability Discrimination Act 1992:***

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

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

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



---

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

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

---

**Signed:**

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

**Signature:**

**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

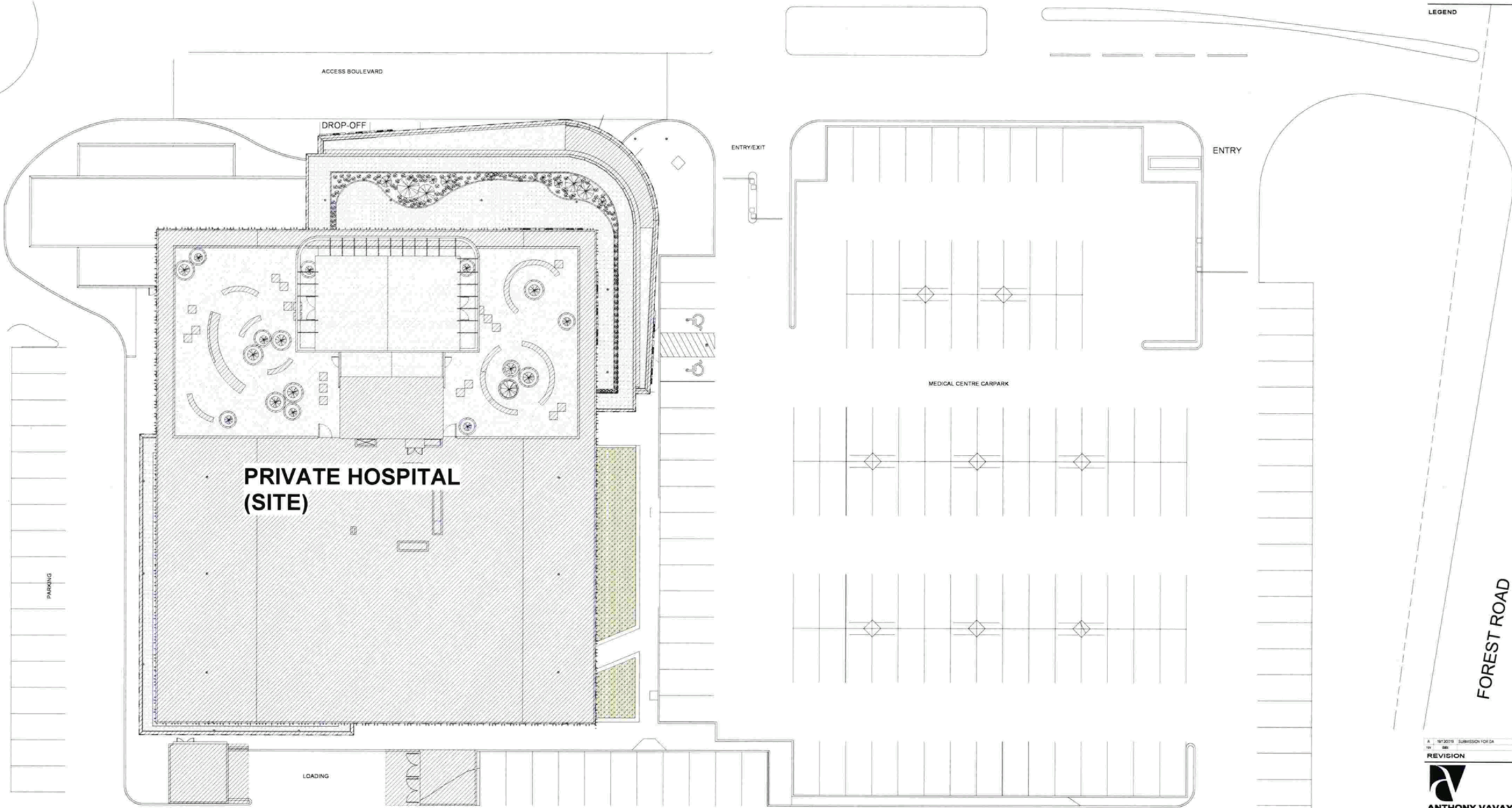
**Date:**

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4 March 2020

NOTE  
All dimensions to be verified prior to commencement of any shop drawings or fabrication. Shop drawings are to be approved before construction. All dimensions are in millimeters unless otherwise noted. Annotated dimensions are to be used in preference to scaling from drawings. This drawing is the property of ANTHONY VAVAYIS + ASSOCIATES PTY LTD and any reproduction or distribution without prior consent constitutes a breach of copyright.

LEGEND



1 Site Plan  
1 : 200

**PROPOSED MEDICAL FIT-OUT WORKS AT LEVEL 3 AND 4,  
1517-1539 FOREST ROAD, ORANGE, NSW**

Sheet Number	Sheet Name	Current Revision	Current Revision Date
DA100	COVER SHEET	A	19/12/2019
DA101	SITE PLAN	A	19/12/2019
DA1001	GROUND FLOOR PLAN	A	19/12/2019
DA1002	LEVEL 3 FLOOR PLAN	A	19/12/2019
DA1003	LEVEL 4 FLOOR PLAN	A	19/12/2019
DA1004	ROOF PLANT PLAN	A	19/12/2019
DA2001	BUILDING ELEVATION - NORTH	A	19/12/2019
DA2002	BUILDING ELEVATION - SOUTH	A	19/12/2019
DA2003	BUILDING ELEVATION - EAST	A	19/12/2019
DA2004	BUILDING ELEVATION - WEST	A	19/12/2019
DA3001	BUILDING SECTION	A	19/12/2019

A 19/12/2019 SUBMISSION FOR DA  
REVISION  
ANTHONY VAVAYIS + ASSOCIATES  
ARCHITECTS DESIGNERS PLANNERS  
24 LIME STREET KING STREET WHARF  
SYDNEY NSW 2000  
E: admin@avaarchitects.com.au T: 02 9290 1810  
W: www.avaarchitects.com.au

P: 20/26A LIME STREET KING STREET WHARF  
SYDNEY NSW 2000  
ANTHONY VAVAYIS & ASSOCIATES PTY LTD  
ACN 069 737 935

NSW NOMINATED ARCHITECT - ANTHONY VAVAYIS NO 5243

PROJECT TITLE  
Medical Fitout  
1517-1539 Forest Road, Orange NSW

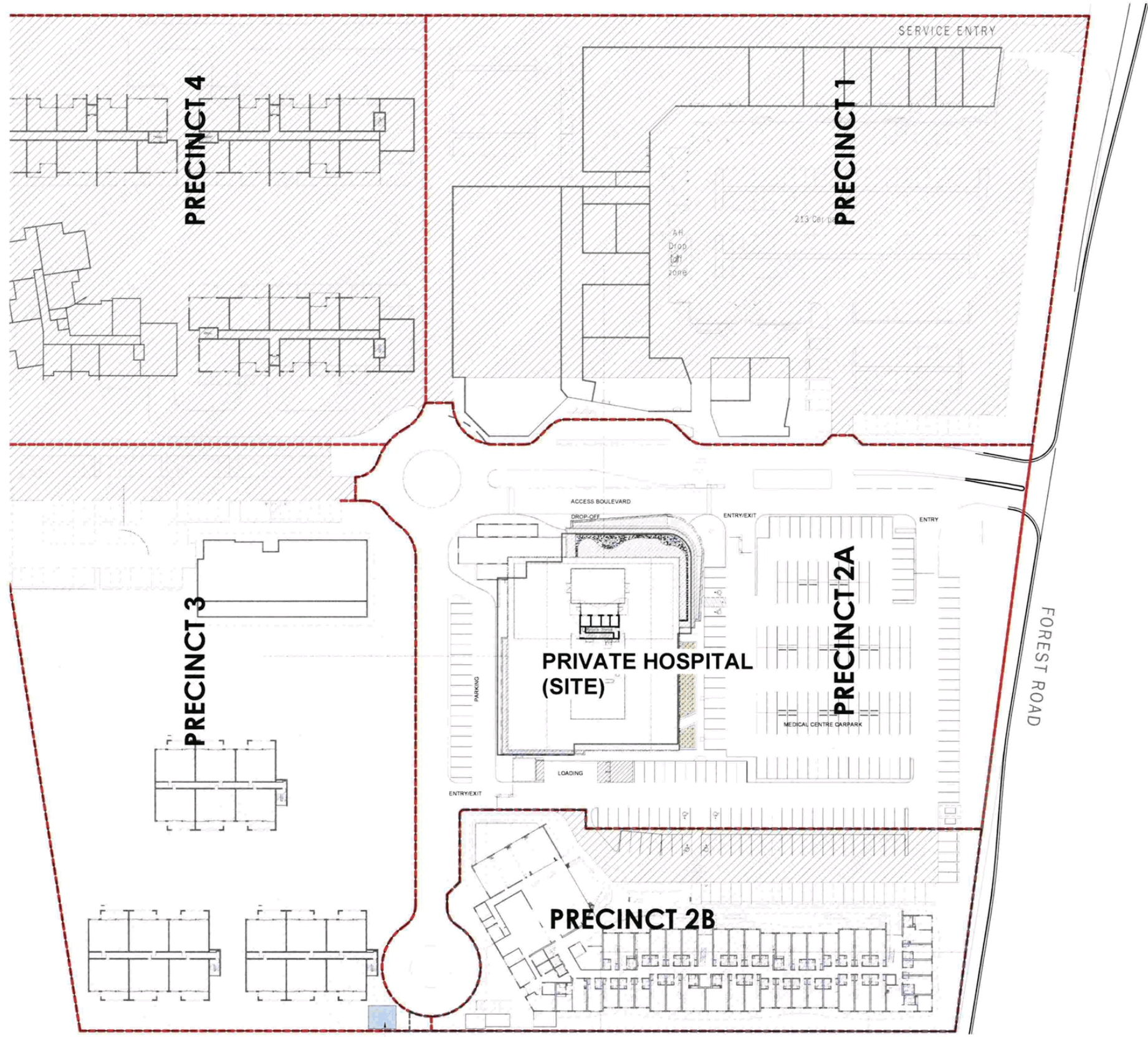
CLIENT  
ORANGE PRIVATE HOSPITAL  
PTY LTD

DRAWING TITLE  
COVER SHEET

SCALE @ A1 1 : 200 DATE SEP 2019  
DRAWN BY Author PROJECT 19019

DA100 A





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**LEGEND**

- NO WORKS, TO RETAIN EXISTING
- PROPOSED WORKS

REVISION

**ANTHONY VAVAYIS & ASSOCIATES**  
ARCHITECTS DESIGNERS PLANNERS  
24 LIME STREET KING STREET WHARF  
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SYDNEY NSW 2000  
ANTHONY VAVAYIS & ASSOCIATES PTY. LTD.  
ACN 069 737 635  
NSW NOMINATED ARCHITECT - ANTHONY VAVAYIS NO 5243

**PROJECT TITLE**  
Medical Fitout  
1517-1538 Forest Road, Orange NSW

**CLIENT**  
ORANGE PRIVATE HOSPITAL  
PTY LTD

**DRAWING TITLE**  
SITE PLAN

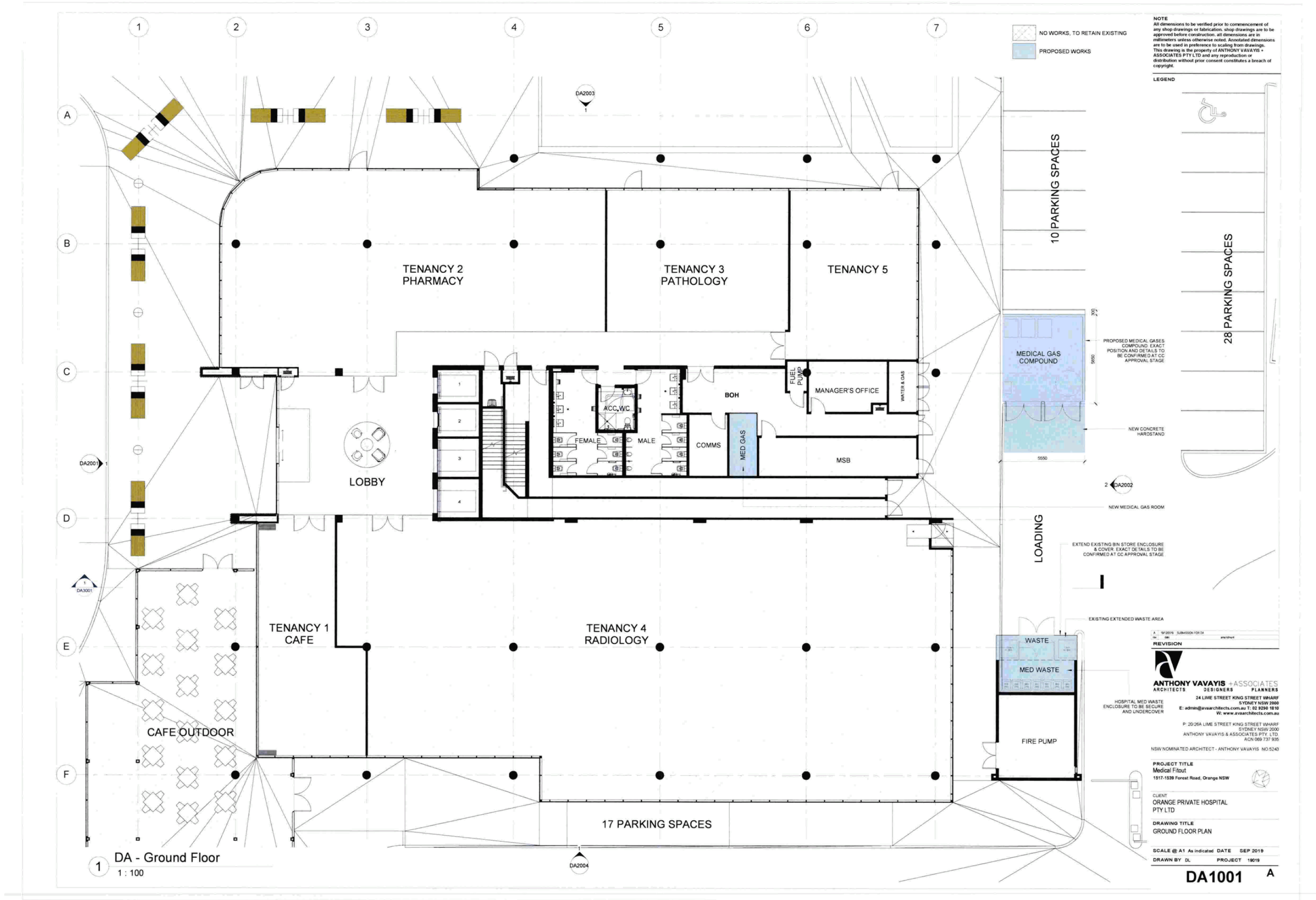
**SCALE @ A1** As indicated **DATE** SEP 2019  
**DRAWN BY** Author **PROJECT** 19019

**DA101** A

1 Overall Site Plan  
1 : 500

REMOTE OXYGEN STORAGE TANK AND  
ENCLOSURE EXACT POSITION AND DETAILS TO BE  
CONFIRMED







NOTE  
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LEGEND

NO WORKS, TO RETAIN EXISTING

PROPOSED WORKS

1 DA - Level 4  
1 : 100

1

DA1003

A

REVISION

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SYDNEY NSW 2000

ANTHONY VAVAYIS & ASSOCIATES PTY. LTD.

ACN 065 737 935

NSW NOMINATED ARCHITECT - ANTHONY VAVAYIS NO 5243

PROJECT TITLE

Medical Fitout

1517-1538 Forest Road, Orange NSW

CLIENT

ORANGE PRIVATE HOSPITAL

PTY LTD

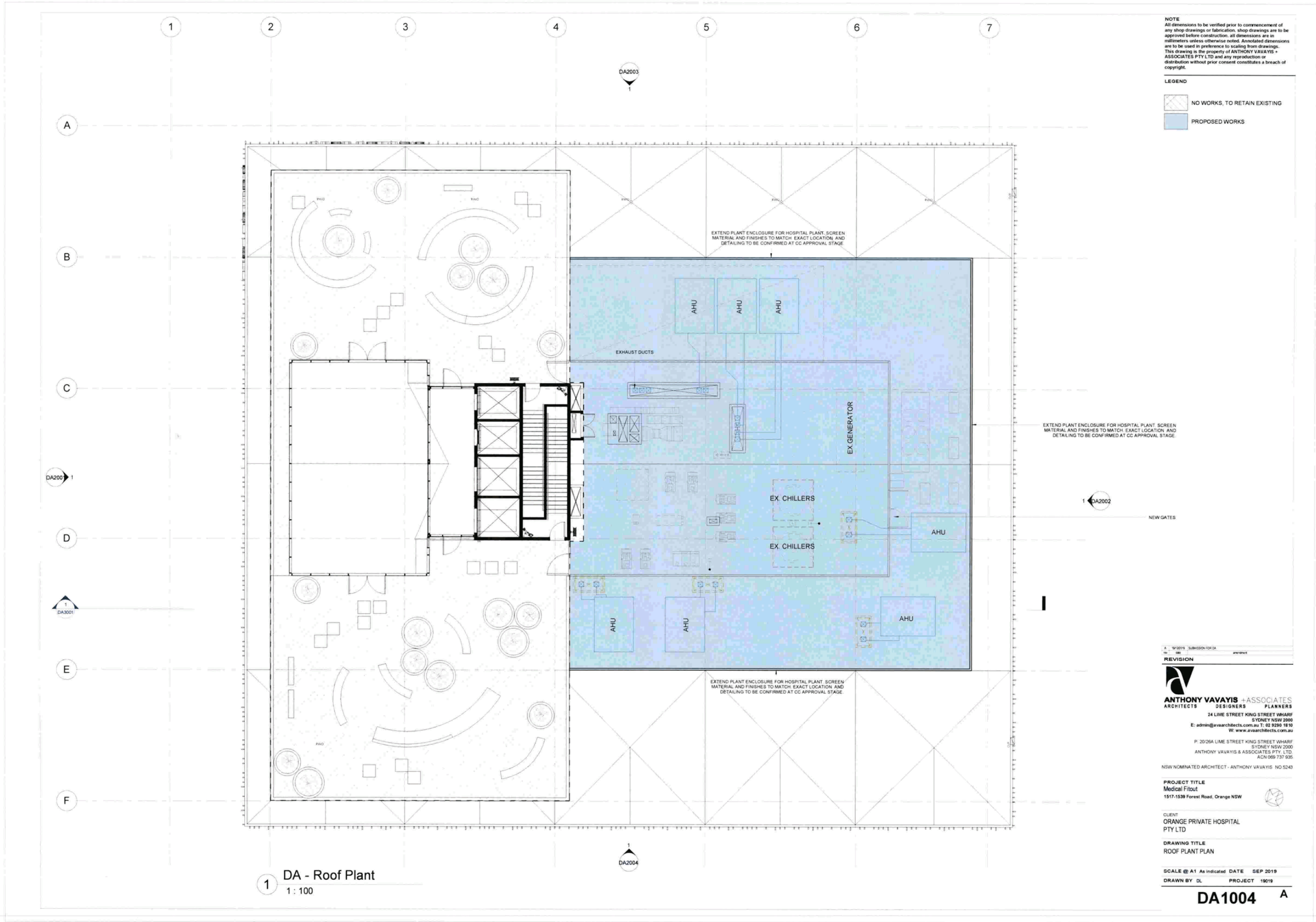
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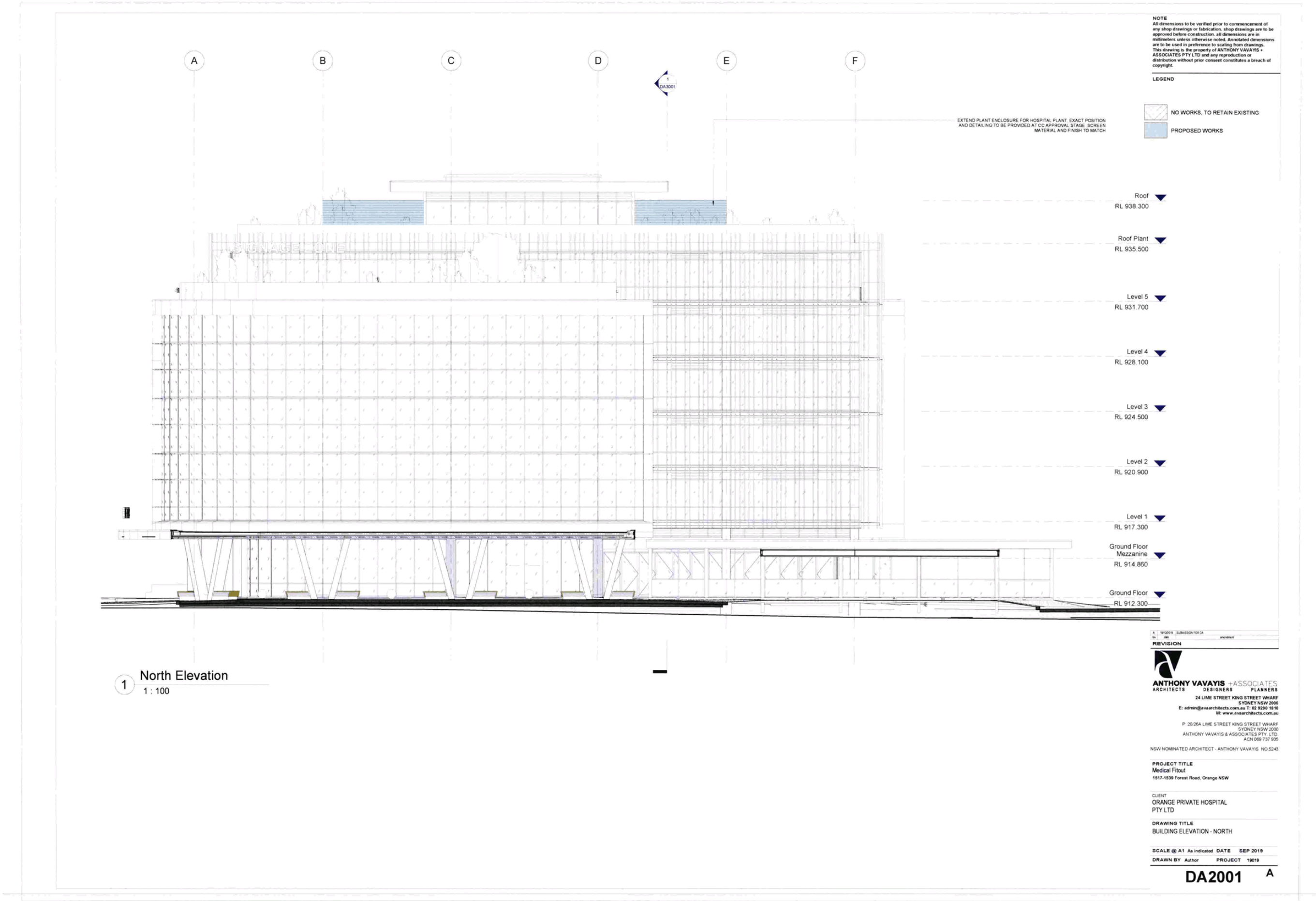
LEVEL 4 FLOOR PLAN

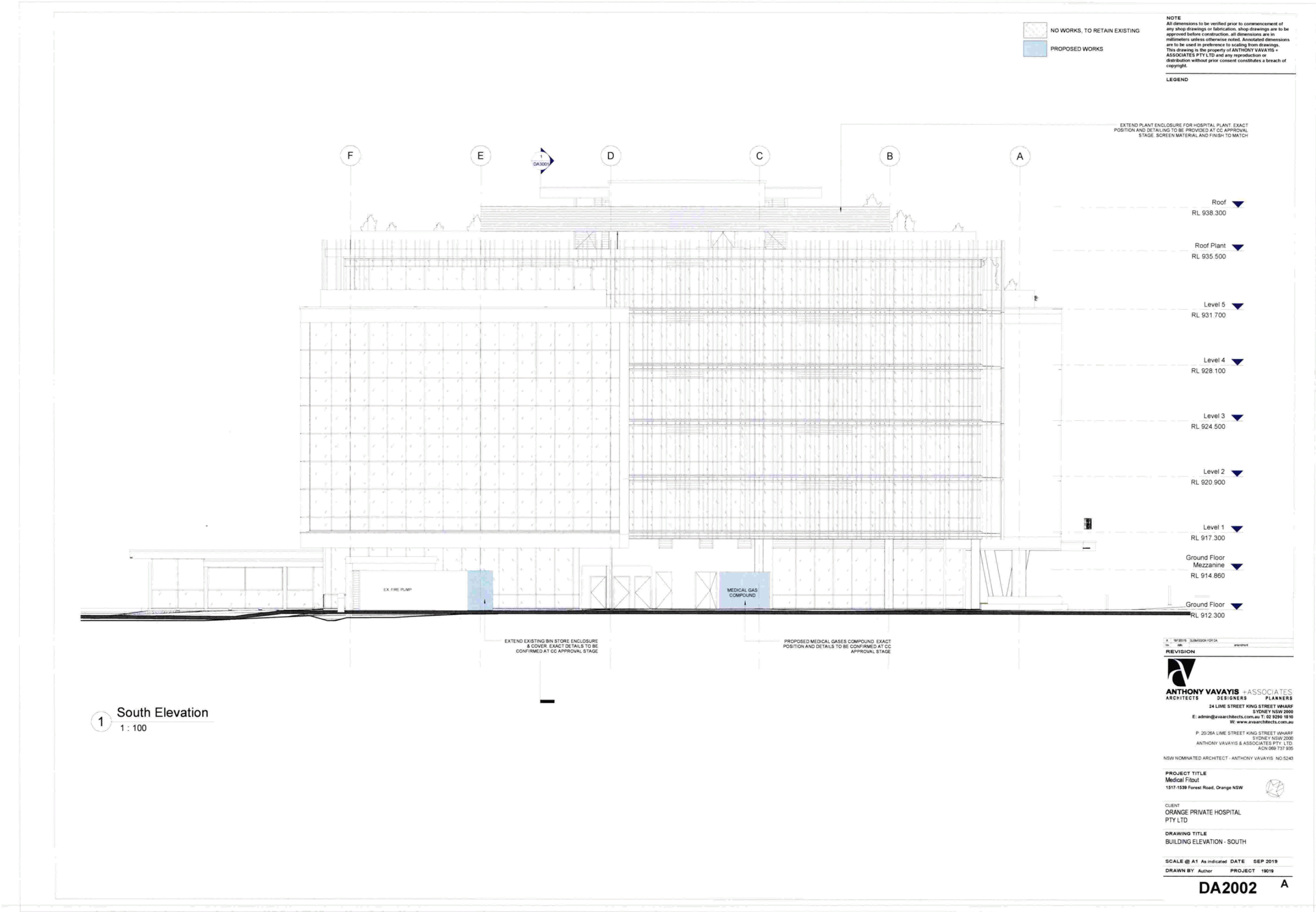
SCALE @ A1 As indicated DATE SEP 2019

DRAWN BY DL PROJECT 19019

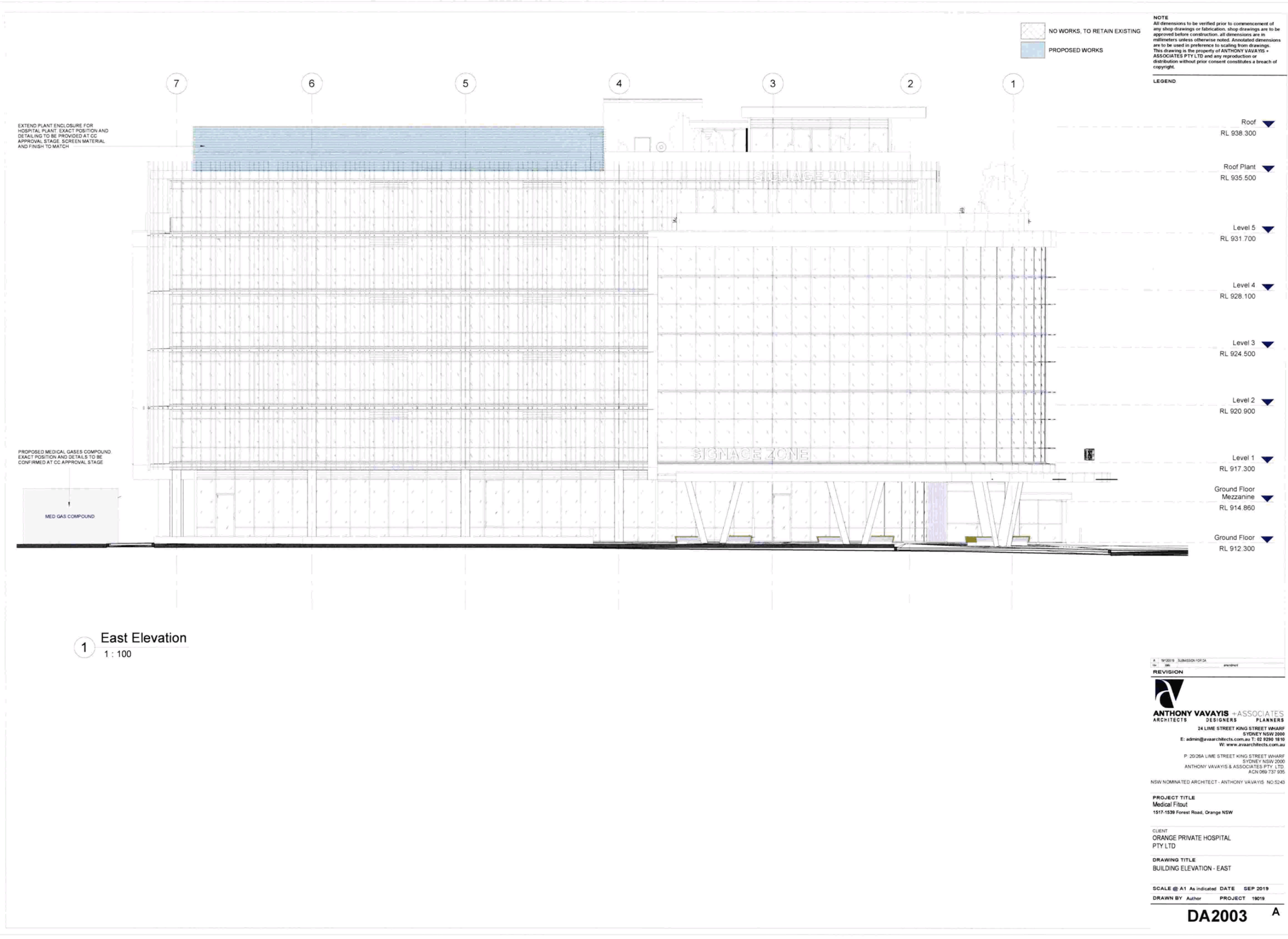


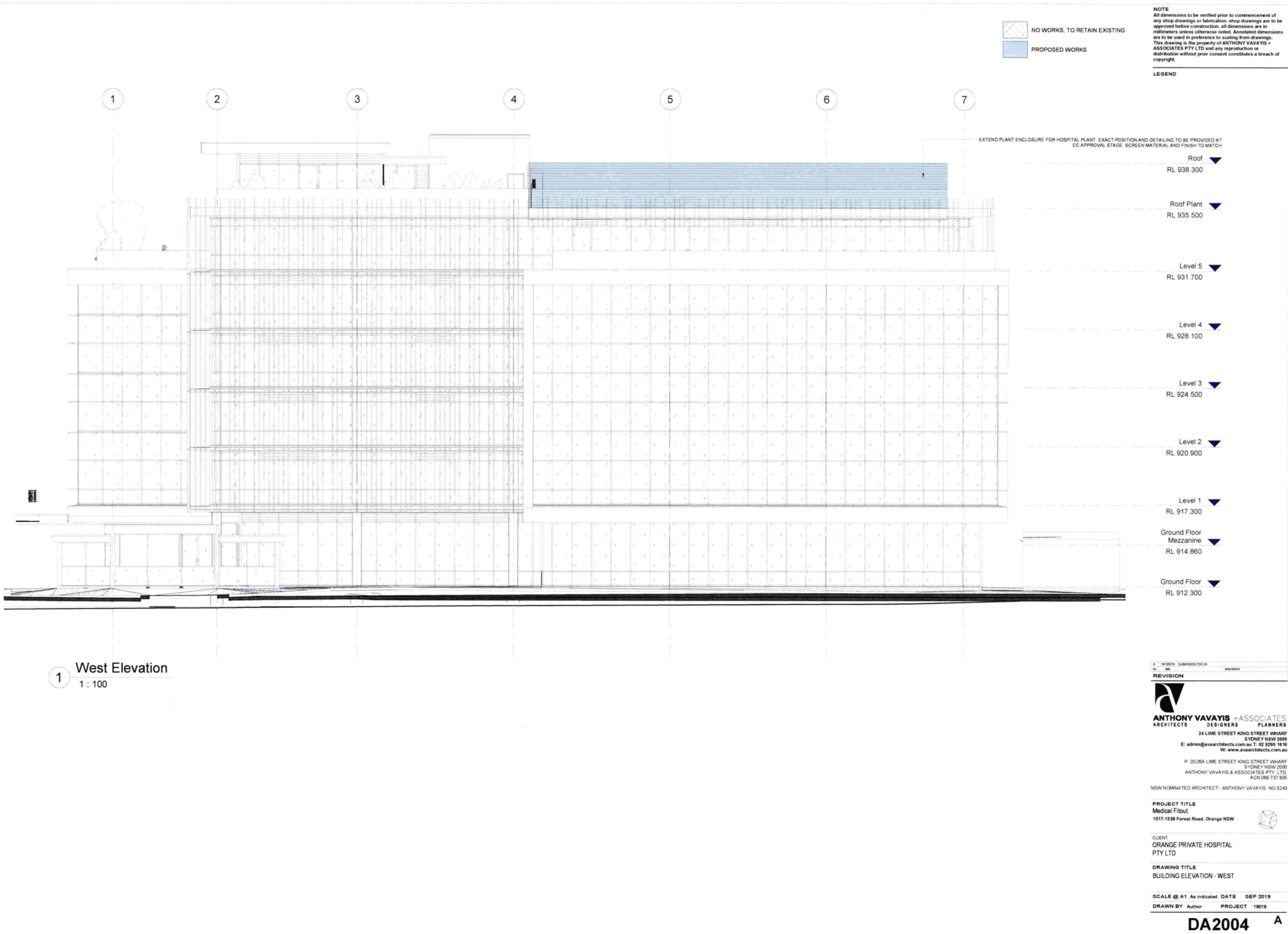












Annexure B

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*Site Masterplan*





### 2.3 DEVELOPMENT APPLICATION DA 34/2020(1) - 1521 FOREST ROAD (PRIVATE HOSPITAL FITOUT - MEDICAL WARDS)

RECORD NUMBER: 2020/296

AUTHOR: Summer Commins, Senior Planner

#### EXECUTIVE SUMMARY

Application lodged	3 February 2020
Applicant/s	James Richmark Pty Ltd
Owner/s	James Richmark Pty Ltd
Land description	Lot 1 DP 1258217 - 1521 Forest Road, Orange
Proposed land use	Hospital (fitout works relating to existing building: medical wards and associated support areas and facilities- Level 3)
Value of proposed development	\$4,100,000

This development application relates to the private hospital building within the Bloomfield private health precinct at Lot 1 DP 1258217 – 1521 Forest Road, Orange (see locality at Figure 1).

The proposed development involves internal fitout works on Level 3 of the private hospital building to provide 34 single bed wards, and associated support spaces and facilities.

The proposed development for part-hospital fitout will be entirely consistent with the intent of the Major Project Approval (private hospital and medi-motel) (MP 08\_0233) relating to the subject land that was approved by the Department of Planning, Industry and Environment. The development is not contrary to applicable Local and State planning provisions. Approval of the application is recommended.

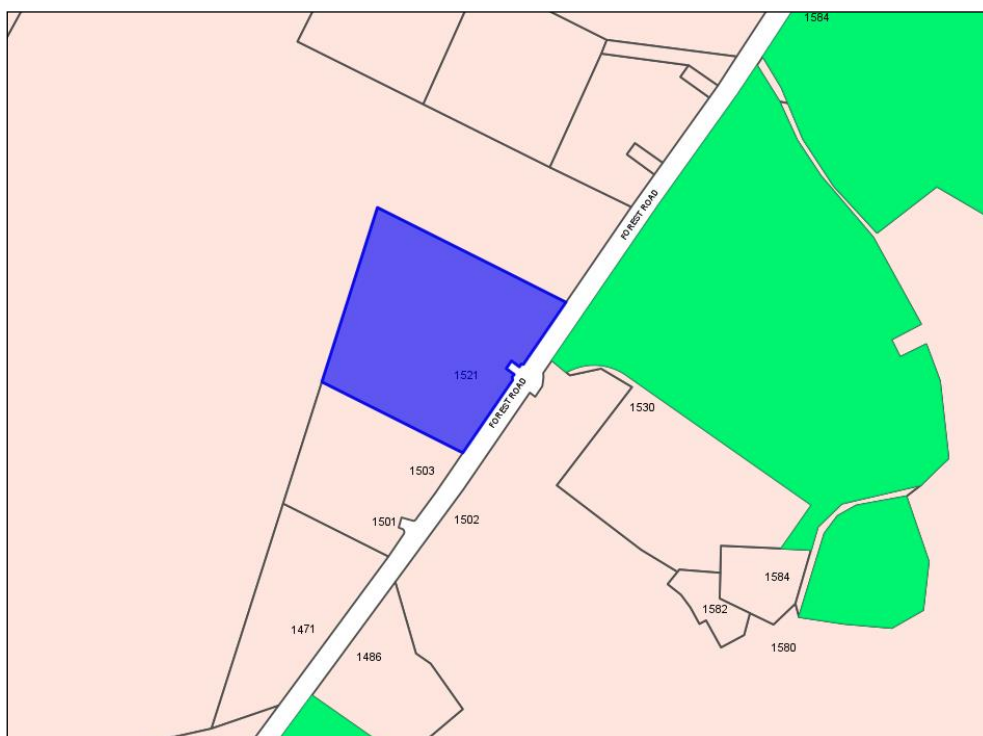


Figure 1 – locality plan



**DECISION FRAMEWORK**

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

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

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

**DIRECTOR'S COMMENT**

The proposed development involves internal fitout works on Level 3 of the private hospital building to facilitate 34 single bed wards, each with an ensuite. The fitout will also include nurse stations and office, family support spaces including family room, lounge area and children's playroom, staff amenities and paediatric bathroom, respiratory consult room, food handling room and stores and utility rooms. The building itself has been constructed pursuant to the Major Project Approval (private hospital and medi-motel) (MP 08\_0233) relating to the subject land that was approved by the Department of Planning, Industry and Environment. It is recommended that Council supports the development as proposed.

**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 34/2020(1) for *Hospital (fitout works relating to existing building: medical wards and associated support areas and facilities - Level 3)* at Lot 1 DP 1258217 - 1521 Forest Road, 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****BACKGROUND**

The Bloomfield private hospital precinct was initially the subject of a Major Project Concept Approval (MP07\_0072) granted by the NSW Minister for Planning on 23 November 2008. The concept approval and the 2 project approvals have been the subject of various amendments which have been subsequently approved by the Department of Planning Industry and Environment. The Concept Approval had four distinct precincts as follows (refer Figure 2):

**Precinct 1:**

Health facilities (pathology, medical imaging, medical suites) and retail (convenience store, hairdresser, takeaway food and drink premises). Project Approval has been granted for Precinct 1 (MP 08\_0232 (as modified)).

**Precinct 2:**

Private hospital and medi-motel. Project Approval has been granted for Precinct 2 (MP 08\_0233 (as modified)).

**Precinct 3:**

Child care centre (100 places) and residential purposes (7,500m<sup>2</sup> GFA or 59 x two bedroom apartments).

**Precinct 4:**

Residential purposes (17,000m<sup>2</sup> GFA or 157 x two bedroom apartments).



**Figure 2: Project Concept Approval Masterplan**

The proposed development relates to the private hospital building within Precinct 2, as circled in red in Figure 2. The private hospital is now known as Bloomfield Medical Centre.

The Project Approval for the private hospital (MP 08\_0233 Mod 2) required that further development consent be obtained for fitout of the building (Condition D5). Consent is now sought for fitout works generally relating to Level 3.

Level 3 currently comprises an open space with a floor area of some 2,285m<sup>2</sup> with central core of lift well, stairwell, plant and toilets.

### THE PROPOSAL

The proposal involves fitout of Level 3 to provide:

- 34 single bed wards, each with an ensuite;
- nurse stations and office;
- family support spaces including family room, lounge area and children's playroom;
- staff amenities and paediatric bathroom;
- respiratory consult room;
- food handling room; and
- stores and utility rooms.



### 2.3 Development Application DA 34/2020(1) - 1521 Forest Road (Private Hospital Fitout - Medical Wards)

The proposed Level 3 floor plan is depicted below (see Figure 3).



**Figure 3 – proposed Level 3 floor plan**

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

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

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 Biodiversity Offset Scheme does not apply to the development. The proposed works will be wholly located within the building envelope or the immediate (cleared) curtilage and will have nil impact on biodiversity or habitat values.

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

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

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

The application is considered to be consistent with the applicable aims of the plan as outlined in this report.

**Clause 1.6 Consent Authority**

Clause 1.6 is applicable and states:

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

**Clause 1.7 Mapping**

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

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

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

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

Clause 1.9A is applicable and states in part:

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

In consideration of this clause, Council staff are not aware of the title of the subject property being affected by any of the above.

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

The subject land is zoned R1 General Residential. The proposed development is defined as a *hospital*.

The proposal is permitted pursuant to Major Project Approval MP 08\_0233.

Furthermore, *health service facilities* (including *hospitals*) are permitted in the R1 General Residential zone pursuant to Clause 57(1) of State Environmental Planning Policy (SEPP) Infrastructure 2007 (see below).

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

The objectives for land zoned R1 General Residential are:

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

## 2.3 Development Application DA 34/2020(1) - 1521 Forest Road (Private Hospital Fitout - Medical Wards)

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The proposed development is consistent with the relevant objectives of the R1 zone. The proposal involves hospital fitout for an approved health services facility, which will meet the needs of local and wider residents. The subject land is serviced by public transport. The site does not have frontage or access to the Southern Link Road.

### Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

### Part 4 - Principal Development Standards

The Part 4 Development Standards do not apply to the subject land or proposed development.

### Part 5 - Miscellaneous Provisions

#### Clause 5.10 - Heritage Conservation

The subject land is located adjacent to a State-listed heritage item: *Item 21- Bloomfield Hospital "Nymagee Lodge" including landscape features, entry gateway, Elm avenue and grounds*).

Clause 5.10 is applicable and states in part:

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

In consideration of this clause, the proposed development will not have adverse impacts on the significance of the nearby listed item. The proposed works will be confined to the existing building interior. There will be nil spatial and visual relationship between the heritage item and proposed development.

### Part 6 - Urban Release Area

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

### Part 7 - Additional Local Provisions

#### Clause 7.3 Stormwater Management

Clause 7.3 is applicable. This clause states in part:

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

## 2.3 Development Application DA 34/2020(1) - 1521 Forest Road (Private Hospital Fitout - Medical Wards)

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The proposed development will not alter existing stormwater drainage arrangements that service the subject land and building. The development will not be contrary to Clause 7.3.

### **Clause 7.6 Groundwater Vulnerability**

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

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

In consideration of Clause 7.6, there are no aspects of the proposed development that will impact on groundwater and related ecosystems. The site is connected to Council's reticulated sewerage system.

### **Clause 7.11 Essential Services**

Clause 7.11 applies and states:

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

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

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

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

SEPP 55 - Remediation of Land is applicable and states in part:

- 7(1) *A consent authority must not consent to the carrying out of any development on land unless:*
- (a) *it has considered whether the land is contaminated, and*
  - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

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2.3 Development Application DA 34/2020(1) - 1521 Forest Road (Private Hospital Fitout - Medical Wards)

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- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Contamination clearance was given for the subject land in conjunction with the Major Project Approval. The proposed hospital fitout works will not necessitate further contamination investigation. The subject land is suitable in its current form for the proposed development.

**State Environmental Planning Policy (Infrastructure) 2007*****Division 10 Health Services Facilities***

Pursuant to Clause 57 *Development permitted with consent*:

- (1) *Development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone.*

Consent is sought for hospital fitout in accordance with this clause.

Pursuant to Division 17 Roads and Traffic, Clause 101 *Development with frontage to classified road*:

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

In consideration of this clause, the subject land has frontage and existing access to Forest Road, being a classified road. The siting and design of the access; the nature, volume and frequency of vehicles using the access; and the effects of traffic noise and vehicle emissions within the site were considered for the Major Project Approval. The proposed hospital fitout works will not alter the approved arrangements.

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

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

**Draft Orange Local Environmental Plan 2011 (Amendment 21)**

Draft Amendment 24 has recently completed public exhibition (26 July – 26 August 2019). The Draft Plan involves various administrative amendments to the LEP including updated maps, and new and amended clauses. The proposed development is not contrary to any matter contained in the Draft Amendment.

**DESIGNATED DEVELOPMENT**

The proposed development is not designated development.

**INTEGRATED DEVELOPMENT**

The proposed development is not integrated development.

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

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

- Part 0 – Transport Routes
- Part 2 - Natural Resource Management
- Part 3 - General Considerations
- Part 4 - Special Environmental Considerations
- Part 15 – Car Parking

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

The relevant matters in Parts 0 and 15 are addressed below.

**DCP 2004 - 0 Transport Routes**

The DCP Planning Outcomes for Transport Routes include:

- *The development provides a high standard of visual appeal to motorists, cyclists and pedestrians as well as adjoining property owners.*
- *The visual appearance of the development, including any signage, lighting or other ancillary element must not generate a distraction to motorists.*

### 2.3 Development Application DA 34/2020(1) - 1521 Forest Road (Private Hospital Fitout - Medical Wards)

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- *Any signage must not be animated whether by movement or flashing lights.*
- *Where land has more than one street frontage, the street with the lower volume of traffic is to provide the principal access to the development...*
- *Where access is provided onto an arterial road, distributor road or major collector road, the access point must have appropriate safe sight distances...*
- *Where onsite customer parking is provided that is not immediately visible from public road, clear and unimpeded directional signage must be displayed.*
- *Where the proposal is residential, or another noise sensitive form, appropriate noise mitigation measures to limit the development from traffic noise must be demonstrated*

In consideration of the above Planning Outcomes:

- The proposed works will be confined to the building interior and will not alter the building appearance. There are no aspects of the proposal that would generate a distraction to motorists.
- The proposed development will not alter existing access arrangements to the subject land via Forest Road. The site does not have secondary frontage to another public road.
- Existing and other approved car parking areas on the subject land are reasonably exposed to the public road.
- The impacts of traffic noise and vehicle emissions were considered during assessment of the Major Project Approval. The proposed fitout works will not alter the approved situation.

#### **DCP 2004 - 15 Car Parking**

The relevant DCP Planning Outcomes for Car Parking include:

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

In consideration of the planning outcomes, Project Approval MP 08\_0233 (Mod 2) required 243 onsite parking spaces to be provided for Precinct 2 to service the private hospital and medi-motel. It is noted that the parking provision associated with the landuses was based on the minimum parking requirements for *hospital* and *motel* as contained in Orange DCP 2004.

The proposed development for hospital fitout is entirely consistent with the defined landuse (hospital) and the intent of Project Approval MP 08\_0233. The proposal will not generate additional parking demands than those considered and anticipated for MP 08\_0233.

It is noted that the parking calculation for MP 08\_0233 was based on 104 hospital beds, which generates a requirement for 35 car spaces (based on 1 space per 3 beds). The current proposal involves 34 hospital beds, which generates a parking requirement of 12 spaces. On this basis, the proposed development will generate a lesser parking demand than was anticipated for MP 08\_0233.



### 2.3 Development Application DA 34/2020(1) - 1521 Forest Road (Private Hospital Fitout - Medical Wards)

The existing parking provision and car park layout for the private hospital is consistent with the latest approved site Masterplan pursuant to MP 08\_0233 (Mod 3) (refer Figure 7). As noted above, a total of 243 car spaces are required, with 259 spaces provided. Potential opportunity for additional parking over and above that provided to date within the areas formerly known as Precincts 3 and 4 will be considered and determined in conjunction with the assessment of any future applications for development on that land.

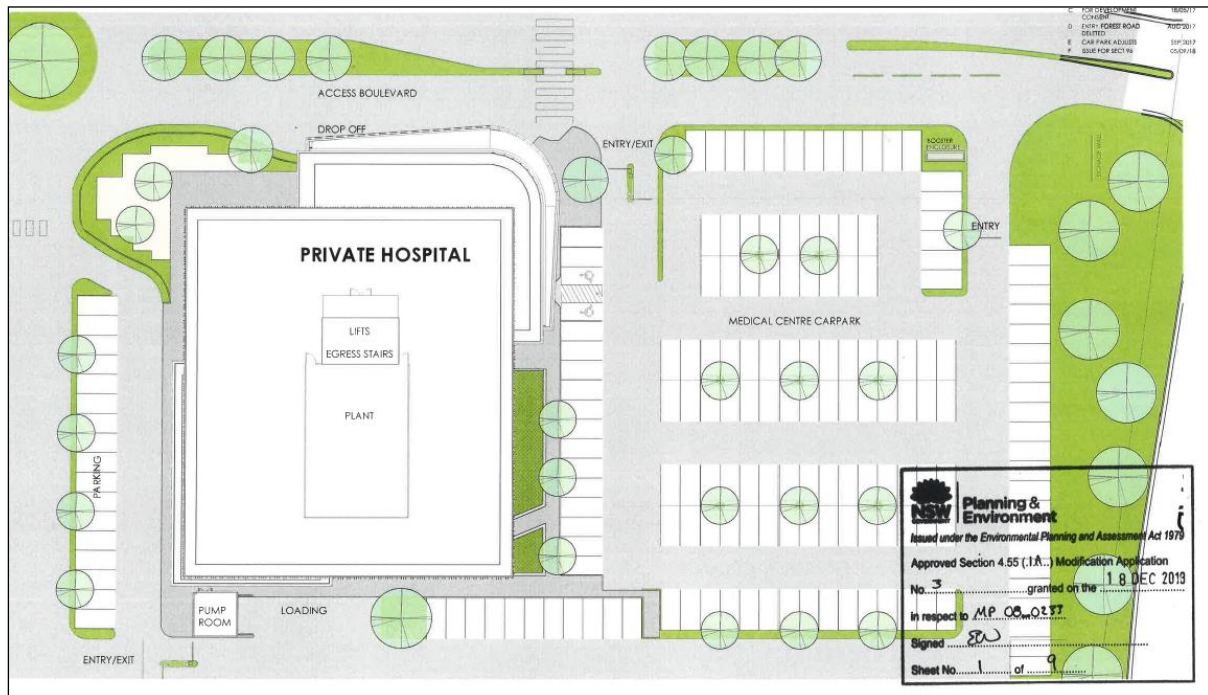


Figure 4 – approved part site plan: MP 08\_0233

### DEVELOPMENT CONTRIBUTIONS

Council's Assistant Development Engineer advises that water and sewer headworks changes have been paid for the private hospital under the Voluntary Planning Agreement. No further headworks charges are applicable to the proposed development.

#### ***Provisions Prescribed by the Regulations S4.15(1)(a)(iv)***

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

The proposal does not involve the demolition of a building.

#### **Fire Safety Considerations (clause 93) and Buildings to be Upgraded (clause 94)**

Council's EBHS advises:

*The proposal will be located on the 3rd floor of a brand new building which should be compliant with the current requirements. The main BCA compliance issues associated with the fitout of this level will relate to occupant egress (travel distances) and whether any fire safety measures such as fire hydrants, fire hose reels, sprinkler systems or smoke/heat detection systems need to be revised/relocated/adjusted due to the proposed floor plan and uses within that storey. This details will need to be assessed by the Certifier at the CC stage.*

**BASIX Commitments (clause 97A)**

BASIX is not applicable to the proposal. The fitout will need to comply with Section J of the BCA.

***The Likely Impacts Of The Development S4.15(1)(b)*****Visual Impacts**

The proposed development will not have adverse visual impacts for the site and setting. Level 3 fitout works will be wholly confined to the building interior and will not alter the building appearance.

**Traffic Impacts**

The proposal will not alter the approved situation in relation to site access, car parking and service vehicle manoeuvring.

**Environmental Impacts**

Environmental impacts, including sediment and erosion control, groundwater, biodiversity values, cultural values and contamination were considered in the foregoing assessment.

***The Suitability Of The Site S4.15(1)(c)***

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

- the proposal is entirely consistent with the intent of Project Approval MP 08\_0233;
- existing access and parking arrangements are suitable;
- there is no known contamination on the land;
- all utility services are available and adequate;
- the site is not subject to natural hazards;
- the subject land has no particular environmental values; and
- the site is not known to contain any Aboriginal, European or archaeological relics.

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

*Health services facilities* are advertised development pursuant to Council's Community Participation Plan 2019, excepting when the works relate to an already approved landuse. The subject private hospital has Project Approval pursuant to MP 08\_0233. As such, public notice and exhibition of the DA was not required. No submissions have been received in relation to the application.

***Public Interest S4.15(1)(e)***

The proposal is not inconsistent with any relevant policy statements, planning studies and guidelines etc that have not been considered in this assessment. The proposed development is associated with ongoing expansion of a health services precinct and is considered to be in the public interest.

**SUMMARY**


The proposed development for part-hospital fitout is entirely consistent with the intent of Project Approval MP 08\_0233. The development is not contrary to applicable Local and State planning provisions. A 4.15 evaluation of the application indicates that the development is acceptable. Conditions of consent are included on the attached Notice of Approval to prevent, minimise or offset adverse environmental impacts.

**COMMENTS**

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

**ATTACHMENTS**

- 1 Notice of Approval, D20/9745 [↓](#)
- 2 Plans, IC20/2187 [↓](#)

	<p style="text-align: center;"><b>ORANGE CITY COUNCIL</b></p> <p style="text-align: center;">Development Application No <b>DA 34/2020(1)</b></p> <p>NA20/ <span style="float: right;">Container PR28519</span></p>
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## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

### Development Application

Applicant Name: James Richmark Pty Ltd  
 Applicant Address: C/- Peter Basha Planning & Development  
 PO Box 1827  
 ORANGE NSW 2800  
 Owner's Name: James Richmark Pty Ltd  
 Land to Be Developed: Lot 1 DP 1258217 - 1521 Forest Road, Orange  
 Proposed Development: Hospital (fitout works relating to existing building: medical wards and associated support areas and facilities - Level 3)

### Building Code of Australia building classification:

To be determined by the PC

### Determination made under Section 4.16

Made On: 3 March 2020  
 Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

**Consent to Operate From:** 4 March 2020  
**Consent to Lapse On:** 4 March 2025

### Terms of Approval

The reasons for the imposition of conditions are:

- (1) To ensure compliance with relevant statutory requirements.
- (2) To provide adequate public health and safety measures.
- (3) To prevent the proposed development having a detrimental effect on adjoining land uses.
- (4) To minimise the impact of development on the environment.
- (5) To ensure the utility services are available to the site and adequate for the development.

### Conditions

- (1) The development must be carried out in accordance with:
  - (a) **Plan/s numbered Drawings by Anthony Vavayis + Associates, Drawing Nos. DA100, DA101, DA 1002, Rev A dated 19/12/2019 (3 sheets)**
  - (b) statements of environmental effects or other similar associated documents that form part of the approval

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

**PRESCRIBED CONDITIONS**

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

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

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

- (4) 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.
- (5) 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.

**PRIOR TO WORKS COMMENCING**

- (6) A Construction Certificate application is required to be submitted to, and issued by Council/Accredited Certifier prior to any excavation or building works being carried out onsite.

**DURING CONSTRUCTION/SITEWORKS**

- (7) 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.
- (8) All materials onsite 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.
- (9) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

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

---

- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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**

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- (14) The owner is required to provide to Council and to the NSW Fire Commissioner an Annual Fire Safety Statement in respect of the fire-safety measures, as required by Clause 177 of the *Environmental Planning and Assessment Regulation 2000*.

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**Other Approvals**

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

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**Right of Appeal**

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

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***Disability Discrimination Act 1992:***

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

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

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

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

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

**Signed:**

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

**Signature:**

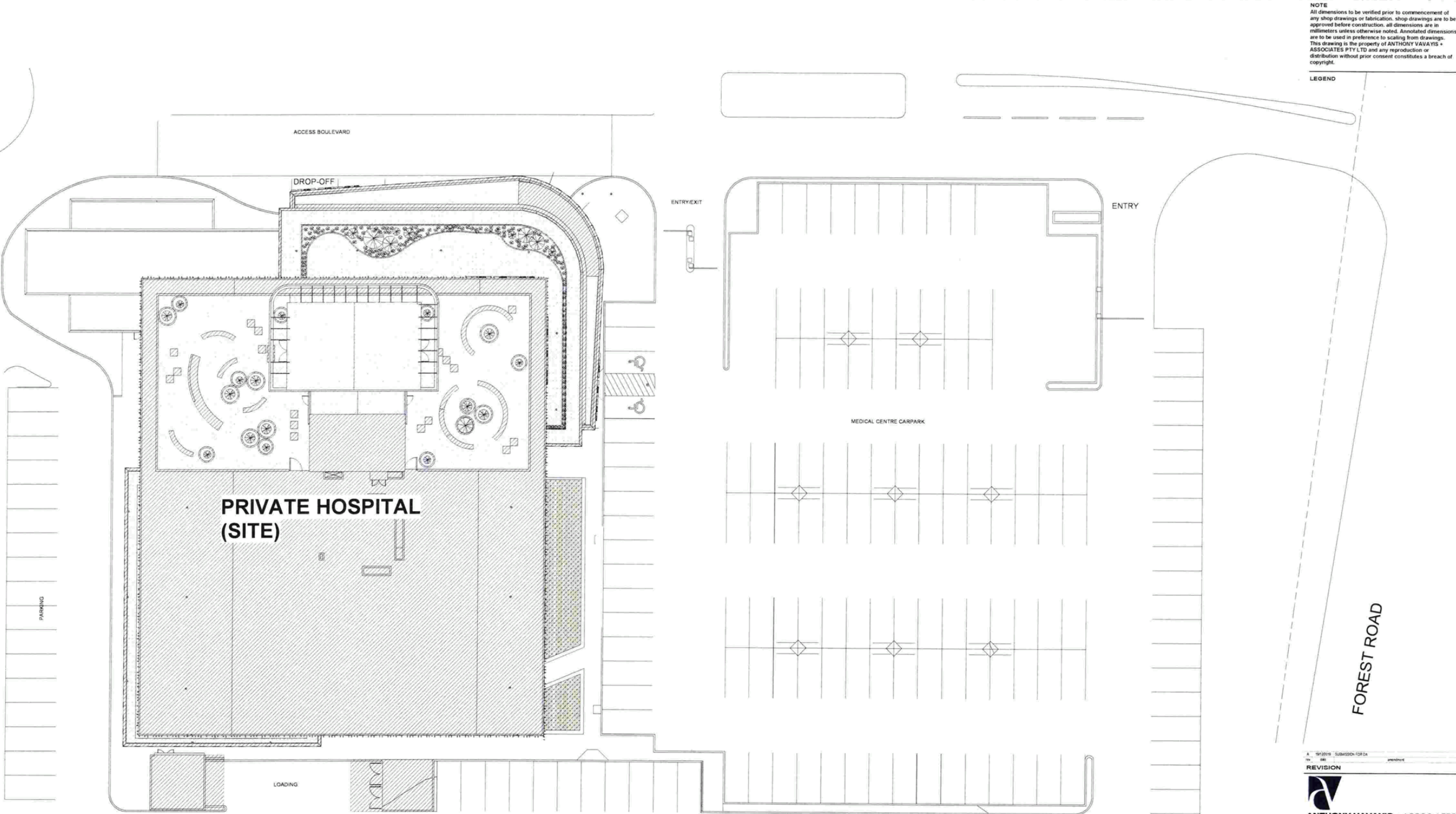
**Name:**

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

**Date:**

4 March 2020





1 Site Plan  
1 : 200

**PROPOSED MEDICAL FIT-OUT WORKS AT LEVEL 3 AND 4,  
1517-1539 FOREST ROAD, ORANGE, NSW**

Sheet Number	Sheet Name	Current Revision	Current Revision Date
DA100	COVER SHEET	A	19/12/2019
DA101	SITE PLAN	A	19/12/2019
DA1001	GROUND FLOOR PLAN	A	19/12/2019
DA1002	LEVEL 3 FLOOR PLAN	A	19/12/2019
DA1003	LEVEL 4 FLOOR PLAN	A	19/12/2019
DA1004	ROOF PLANT PLAN	A	19/12/2019
DA2001	BUILDING ELEVATION - NORTH	A	19/12/2019
DA2002	BUILDING ELEVATION - SOUTH	A	19/12/2019
DA2003	BUILDING ELEVATION - EAST	A	19/12/2019
DA2004	BUILDING ELEVATION - WEST	A	19/12/2019
DA3001	BUILDING SECTION	A	19/12/2019

19/12/2019

Submission - RPA CA

amv

REVISION

ANTHONY VAVAYIS + ASSOCIATES

DESIGNERS PLANNERS

ARCHITECTS

24 LIME STREET KING STREET WHARF

SYDNEY NSW 2000

E: admin@avaarchitects.com.au T: 02 9290 1810

W: www.avaarchitects.com.au

P: 20/26A LIME STREET KING STREET WHARF

SYDNEY NSW 2000

ANTHONY VAVAYIS & ASSOCIATES PTY. LTD.

ACN 069 737 935

NSW NOMINATED ARCHITECT - ANTHONY VAVAYIS NO 5243

PROJECT TITLE

Medical Fitout

1517-1539 Forest Road, Orange NSW

CUSTOMER

ORANGE PRIVATE HOSPITAL

PTY LTD

DRAWING TITLE

COVER SHEET

SCALE @ A1 1 : 200

DATE SEP 2019

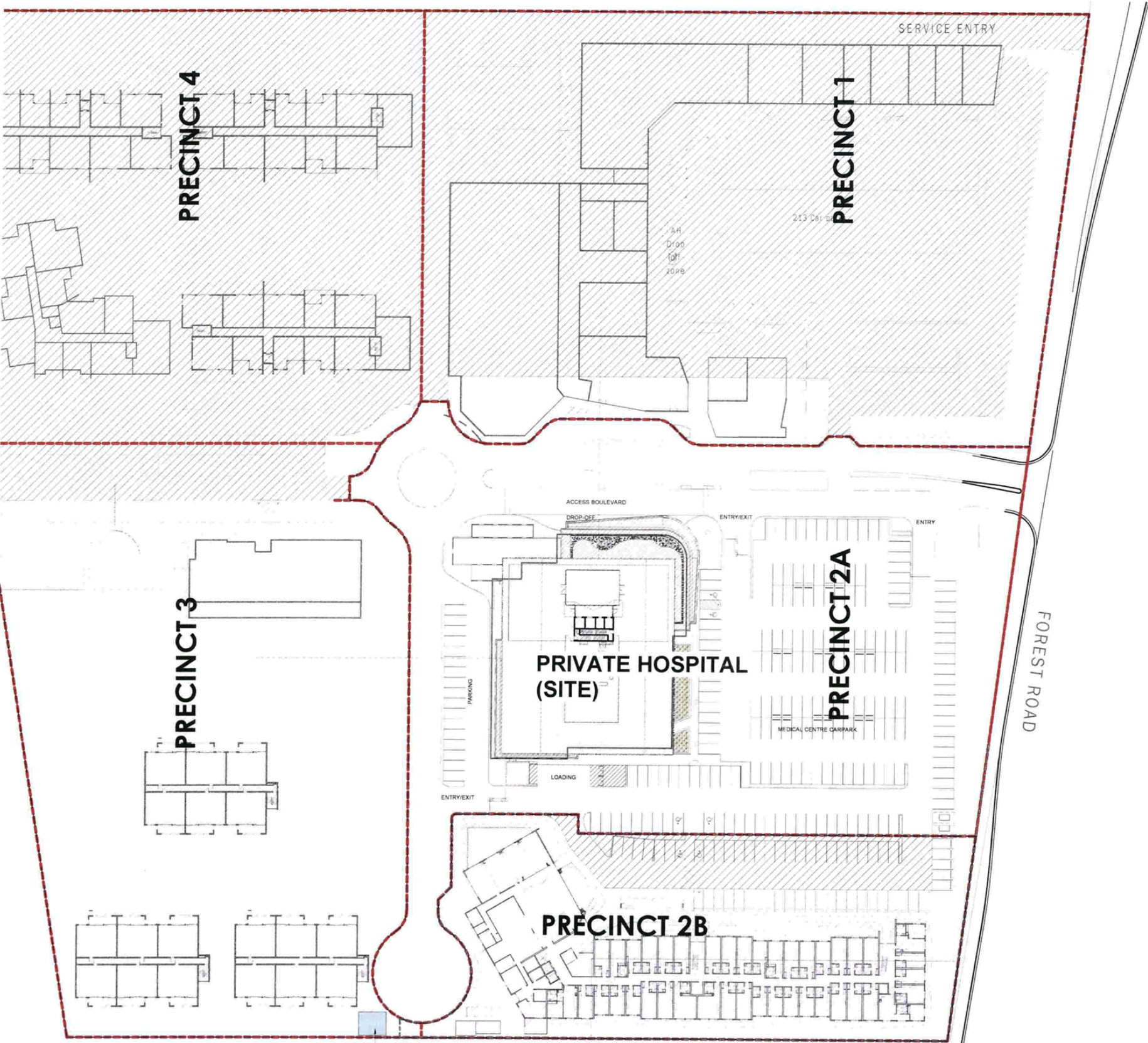
DRAWN BY Author

PROJECT 19019

DA100

A





**NOTE**  
All dimensions to be verified prior to commencement of any shop drawings or fabrication. Shop drawings are to be approved before construction. All dimensions are in millimeters unless otherwise noted. Annotated dimensions are to be used in preference to scaling from drawings. This drawing is the property of ANTHONY VAVAYIS & ASSOCIATES PTY LTD and any reproduction or distribution without prior consent constitutes a breach of copyright.

**LEGEND**

- NO WORKS, TO RETAIN EXISTING
- PROPOSED WORKS

REVISION

**ANTHONY VAVAYIS & ASSOCIATES**  
ARCHITECTS DESIGNERS PLANNERS  
24 LIME STREET KING STREET WHARF  
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P: 20/26A LIME STREET KING STREET WHARF  
SYDNEY NSW 2000  
ANTHONY VAVAYIS & ASSOCIATES PTY. LTD.  
ACN 068 737 335  
NSW NOMINATED ARCHITECT - ANTHONY VAVAYIS NO.5243

**PROJECT TITLE**  
Medical Fitout  
1517-1539 Forest Road, Orange NSW

**CLIENT**  
ORANGE PRIVATE HOSPITAL  
PTY LTD

**DRAWING TITLE**  
SITE PLAN

**SCALE @ A1** As indicated **DATE** SEP 2019  
**DRAWN BY** Author **PROJECT** 19019

**DA101** **A**





NOTE  
All dimensions to be verified prior to commencement of any shop drawings or fabrication. Shop drawings are to be approved before construction. All dimensions are in millimeters unless otherwise noted. Annotated dimensions are to be used in preference to scaling from drawings. This drawing is the property of ANTHONY VAVAYIS + ASSOCIATES PTY LTD and any reproduction or distribution without prior consent constitutes a breach of copyright.

LEGEND

NO WORKS, TO RETAIN EXISTING

PROPOSED WORKS

1 DA - Level 3 - FLOOR PLAN  
1 : 100

REVISION

ANTHONY VAVAYIS + ASSOCIATES  
ARCHITECTS DESIGNERS PLANNERS

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SYDNEY NSW 2000  
ANTHONY VAVAYIS & ASSOCIATES PTY. LTD.  
ACN 069 737 925

NSW NOMINATED ARCHITECT - ANTHONY VAVAYIS NO.5243

PROJECT TITLE  
Medical Fitout  
1517-1528 Forest Road, Orange NSW

CLIENT  
ORANGE PRIVATE HOSPITAL  
PTY LTD

DRAWING TITLE  
LEVEL 3 FLOOR PLAN

SCALE @ A1 As indicated DATE SEP 2019  
DRAWN BY DL PROJECT 19019

DA1002 A

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Annexure B  
*Site Masterplan*





- Common
- Health
- Motel
- Retail
- Retail - Common

**TVS** architects

## Preliminary

Site Masterplan

5420.1.02.9.3





**2.4 DEVELOPMENT APPLICATION DA 304/2016(5) - 132 KITE STREET**

RECORD NUMBER: 2020/324

AUTHOR: Andrew Crump, Senior Planner

**EXECUTIVE SUMMARY**

Application lodged	3 January 2020
Applicant/s	Eastern Developments (NSW) Pty Ltd
Owner/s	Eastern Developments Pty Ltd
Land description	Lot 200 DP 1225088 - 132 Kite Street, Orange
Proposed land use	Demolition, Hotel or Motel Accommodation, Restaurant or Cafe, Retail Premises and Subdivision (44 lot Strata)
Value of proposed development	N/A (original application CIV: \$10,500,000.00)

Council's consent is sought to modify development consent DA 304/2016(4) which relates to the Quest development on land shown in Figure 1 below.

The extent of the proposed modifications are detailed as follows:

- delete a condition requiring architectural screens linking balconies within the Kite Street and McNamara Lane elevations
- delete the requirement for Lynia tiles to be applied to full extent of the ground floor exterior walls within the Kite Street and McNamara Lane elevations
- augment the ground floor retail tenancies which were divided in to two separate tenancies under the most recent modification
- request that the café or restaurant tenancy located on the ground floor be created as a shell only and require a first use and fitout DA once a tenant is secured.

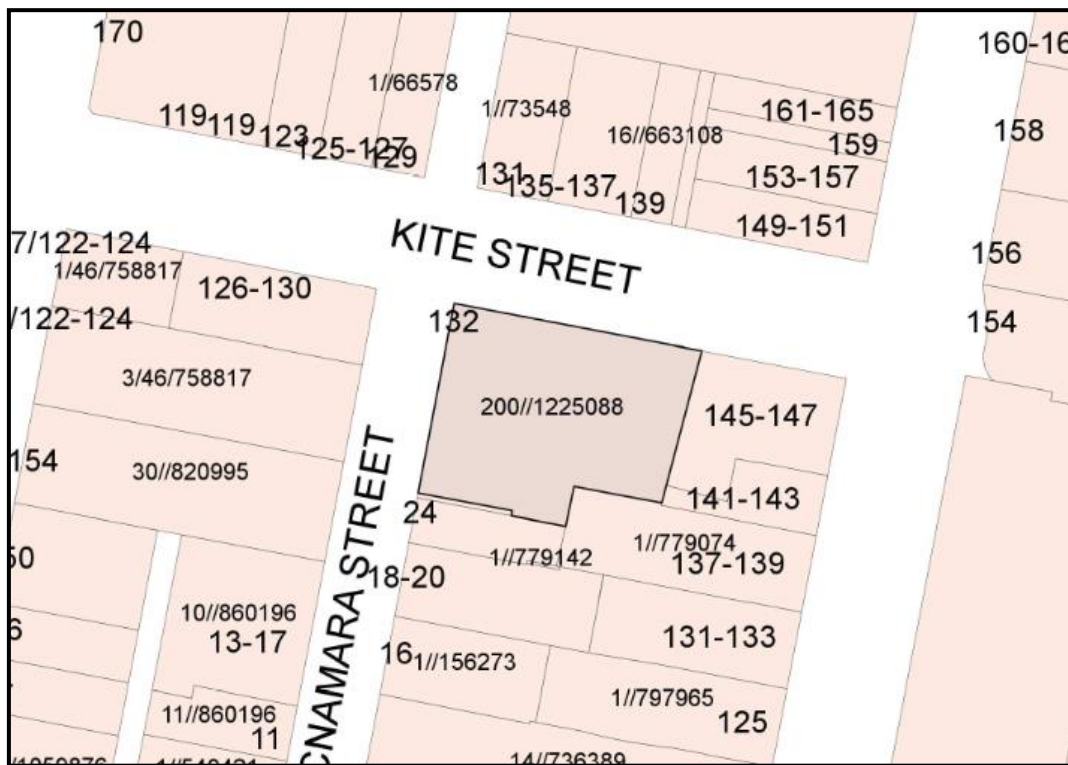
Council staff accept dot points 2, 3 and 4 above.

The main focus of this report relates to the continued contention around the installation of architectural screening detail to the balconies.

The applicant has presented justification as to the reasons why the previously approved screening detailed ought not to be installed including:

- structural inadequacies relating to the two horizontal connections
- architectural/aesthetic factors
- climb and fall risk
- cleaning and maintenance issues.

These issues are discussed in detail below.



**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 applicant has departed from the plans previously approved by Council. It is disappointing that some of the variations that the applicant seeks approval for relate to works that they originally proposed to offset specific impacts of the development on its surroundings. Notwithstanding this, Staff have assessed the modification application with a focus on trying to identify solutions that permit the full completion of the building with the altered design, but not at the expense of key heritage and streetscape features of the area.

Key architectural features of the building were originally proposed by the applicant as 'trade-offs' to soften the overall scale and form of the building amongst the surrounding heritage items and the adjacent conservation area. The proposal to completely remove the vertical screens from the balconies of this building is not supported. I endorse however the recommendation provided in this report to remove the horizontal screening between the eastern balconies. In reaching this position, I have given consideration to the consistency of designs and recent decisions relating to other similar motel developments within the City, such as the Byng Street Boutique Hotel and the Lords Place Hotel. These designs equally relied upon the use of alternative materials to soften the scale of the developments, and in the case of the Lords Place Hotel included the setting back of the uppermost floor to offset the scale of the building. With consistency in mind, it is therefore difficult for staff to recommend the deletion of an architectural feature that was originally proposed by the applicant.

**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 modifies DA 304/2016(4) for *Demolition, Hotel or Motel Accommodation, Restaurant or Cafe, Retail Premises and Subdivision (44 lot Strata)* at Lot 200 DP 1225088 - 132 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

### THE LAND

The subject land is located on the southern side of the central business district. The land sits between the Great Western Hotel to the east and the former Canobolas Shire Council building to the west (both of which are local heritage items). The land is located on the corner of Kite Street and McNamara Lane. The nearest intersecting streets with Kite Street are Lords Place to the west and Peisley Street to the east; both intersections are controlled by a roundabout. McNamara Lane intersects with Moulder Street to the south.

### THE APPLICATION/THE PROPOSAL

The application seeks to modify the consent as follows:

- delete a condition requiring architectural screens linking balconies within the Kite Street and McNamara Lane elevations
- delete the requirement for Lynia tiles to be applied to the full extent of the ground floor exterior walls within the Kite Street and McNamara Lane elevations
- augment the ground floor retail tenancies which were divided into two separate tenancies under the most recent modification
- request that the corner café or restaurant tenancy be created as a shell only and require a first use and fitout for any subsequent use.

### DISCUSSION OF MODIFIED ELEMENTS AND EFFECT ON EXISTING CONDITIONS

- **Deletion of screens** – as it stands the following condition is attached to the consent:  
(20) *Architectural plans must be amended prior to the issue of a Construction Certificate to include the following:*
  - *Pre-finished metal screens comprising material “J” as shown on exterior finishes plan dated 25 March 2019 shall be fixed to all balconies, and in addition, the same material noted as material “J” on exterior finishes plan dated 25 March 2019 must extend vertically between Levels 1, 2 and 3 on the outer edge of the five bays of balconies as shown on the below figures.*



Figure 1 (excerpt)





Figure 2 (excerpt)

### Recommended condition

For the reasons detailed throughout this report it is recommended that the following condition replace the current condition:

- (20) Architectural plans must be amended prior to the issue of a Construction Certificate to include the following:
- Pre-finished metal screens comprising material "J" as shown on exterior finishes plan dated 25 March 2019 shall be fixed to all balconies, and in addition, the same material noted as material "J" on exterior finishes plan dated 25 March 2019 must extend vertically between Levels 1, 2 and 3 on the outer edge of the six bays of balconies as shown on the below figures.
  - For the avoidance of doubt, horizontal screens under the red hatching in the below Figure 1a are not required. The red hatching is for illustrative purposes to exclude the previously required horizontal screens and does not represent a physical element on the subject building.

**Previous Figure 1 will be replaced with Figure 1a below:**

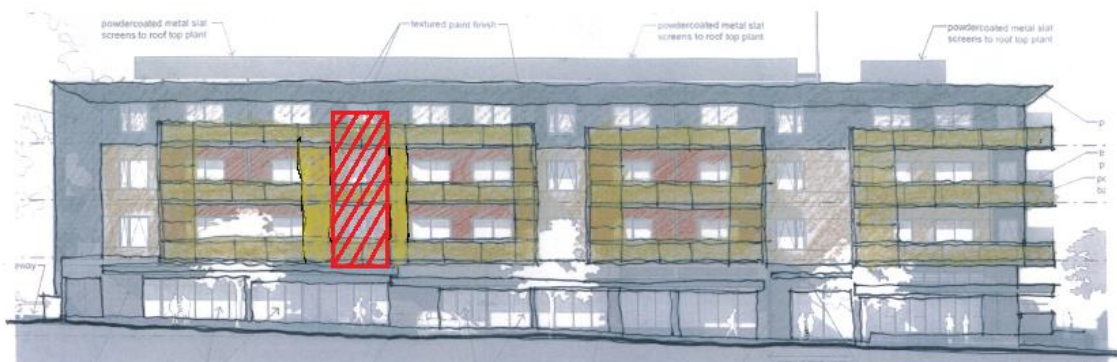


Figure 1a (excerpt)



Figure 2a (excerpt)

- **Reduced tiling to Ground floor exterior walls** - as it stands the following condition is attached to the consent:

(20) *Architectural plans must be amended prior to the issue of a Construction Certificate to include the following:*

- *Material D on the Exterior Finishes plans dated 3 November 2016 and 25 March 2019 being the Lynia tile in Norestone Grey Basalt shall be applied to the full extent of the exterior walls on the ground floor elevations fronting Kite Street and McNamara Lane.*

Council staff are prepared to compromise on the extent of tiling previously required and as such the above condition can be deleted as the tiling to the extent proposed has been installed - the condition is now superfluous.

- **Retail tenancies** – as it stands a condition is attached as follows:

(75) *The use and fitout of the areas shown on the plans as Lease Area 2a, Lease Area 3 and Lease Area 4 have not been approved under this consent. The applicant shall obtain development consent for the first use of the above referenced tenancies.*

**Recommended condition:**

(75) The use and fitout of the areas shown on the plans as Lease Area 2a and 3 have not been approved under this consent. The applicant shall obtain development consent for the first use of the above-referenced tenancies.

- **Café tenancy to be a shell** – as it stands there is an expectation within the terms of the consent that the approved café or restaurant would be fitted out for such purposes prior to a final Occupation Certificate. The applicant has indicated their intention is for the approved café or restaurant tenancy be set up as a shell and that a separate first use and fitout DA be lodged when a tenant is found. This way the final Occupation Certificate can be issued without requiring the final detailed fitout of the subject tenancy.

**Recommended conditions:****Condition (75) can be further amended for this purposes also as follows:**

- (75) The first use and fitout of the areas shown on the plans as “café”, Lease Area 2a and Lease Area 3 have not been approved under this consent. The applicant shall obtain development consent for the first use of the above referenced tenancies.

Additionally, to achieve the above the applicant has requested that the following conditions relating to the café fitout be deleted:

*(24) Detailed plans and specifications are to be provided specifying the proposed fitout of the food preparation and storage areas in accordance with the requirements of Australian Standard 4674-2004 "Design and construction and fitout of food premises" and Standard 3.2.3 "Food Premises and Equipment" of the Australian New Zealand Food Standards Code.*

*(33) 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.*

*(65) Operating hours of the restaurant or café are restricted to between 6am-11pm Monday to Sunday, inclusive.*

It is recommended that the above conditions be deleted, save for Condition (33) which is a standard condition that can be discharged via a simple letter to Council.

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

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

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

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

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

In respect of the above, the site is fully developed with no native vegetation or other habitat located on the site. The modification will not give rise to any significant impacts in regards to threatened species, their habitats or any endangered ecological communities.

The development is considered satisfactory with regards to the above referenced section of the Act.

#### **4.55 - Modification of consents—generally**

##### **(2) - Other modifications**

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:*
  - (i) the regulations, if the regulations so require, or*
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1) and (1A) do not apply to such a modification.*

In response to Point (a), the test to be applied for a modification is that the consent authority must be satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted.

In the decision of *Moto Projects (No. 2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298, his Honour Justice Bignold found that it is necessary that the modified development be “essentially or materially” the same as the approved development. The comparative task is to understand in a “qualitative, as well as quantitative” appreciation of the comparison between the originally approved development and the development as it would be if the modification is approved.

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2.4 Development Application DA 304/2016(5) - 132 Kite Street

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The only aspect of this modification application that needs to be considered in relation to the above relates to the architectural changes. The changes to the ground floor tenancies will not cause the development as modified to depart from the original application such that it is not substantially the same.

Council staff provided the following in relation to a previous request to delete the screens (under modification DA304/2016(3)) that formed part the original application and were shown on the approved plans.

*In the application of those principles, Commissioner Brown in Iris Diversified Property Pty Ltd v Randwick City Council [2011] NSWLEC 1038 dealt with a proposed modification to the consent for the Clovelly Hotel.*

*There are some similarities between the application before Council and the proposed modification in Iris. The proposed alteration to the exterior finish of the Quest building may not be seen as significant in quantitative terms, however, the qualitative impacts of the physical alteration may support, as they did in Iris, the conclusion that the modification is not substantially the same development.*

*It was held in Iris that additional height had the effect of creating an unacceptable impact on the heritage significance of the hotel, an unacceptable impact on the relationship with the adjoining residential flat buildings and the character of the area. As a consequence, Commissioner Brown held that the development was not substantially the same development and for reasons which were similar to those, the application also failed on the merits.*

*Merit issues can run close to the qualitative assessment of the impact of the proposed structure as they did in Iris v Randwick. There is at least the potential for the merit issues which would cause the modification to be refused to be assessed of significant impact that the application would not be considered to be a modification.*

*Essentially, this means that for such an impact to be avoided, the previously approved screens on the exterior of the northern and western façades (those being the elevations that address the public streets adjoining the site) are an essential element of the approved consent. An agreement to delete the screens from the development consent would cause a significant impact within the setting, to the extent that this application to modify the consent would fail the test of substantially the same development, and consequently the application to modify the consent could not be considered meritorious.*

The same considerations have materialised again as part of this request to delete to screens.

If Council were to delete the requirement for the important detailing provided by the screens, being the fine scale detailing that was an essential design feature of the original proposal; it is the position of Council staff that doing so would cause the development as modified to fail a test of substantially the same development and could potentially expose Council to a legal challenge of validity of the consent in the Land and Environment Court.

Council staff accept the argument in relation to the structural limitations with installation of the two horizontal links; however, **it is strongly recommended** that Council maintain the condition requiring the screens connecting the balconies vertically.

In response to (b), there were no conditions imposed on the original consent as part of a concurrence requirement or as part of general terms of approval. As such, there is no obligation on Council to consult with any Minister, public authority or approval body.

In response to (c) and (d), the Environmental Planning and Assessment Regulations require that the development be formally advertised. The application was formally advertised. At the conclusion of the exhibition period, no submissions were received.

**Section 4.55(2) also states:**

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*
- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

The relevant matters are assessed below.

**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**

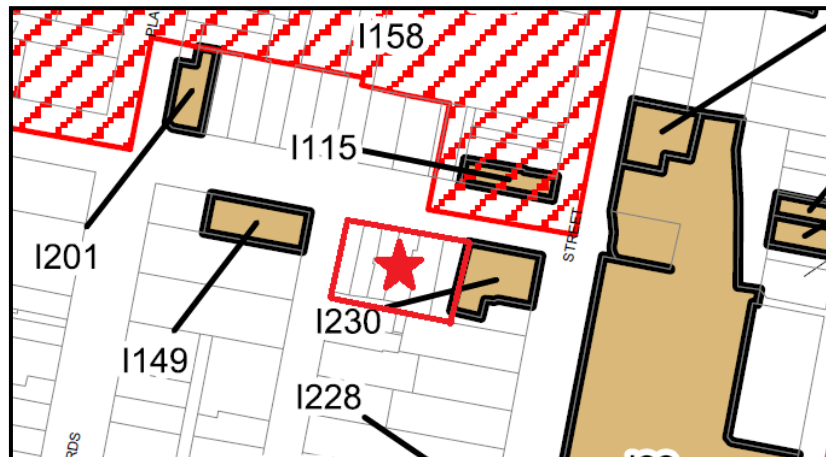
The initial development was approved under the provisions of Orange LEP 2011. The subject land is zoned Zone B3 Commercial Core. The proposed development continues to be characterised as hotel or motel accommodation, restaurant or café, retail premises and subdivision 44 Lot Strata. The development as modified remains consistent with the aims of the plan and the objects of the B3 Commercial Core Zone. The other relevant matters to the assessment of the modification application are considered below.

**Part 5 - Miscellaneous Provisions**

**5.10 - Heritage Conservation**

Clause 5.10 seeks to conserve the environmental heritage of Orange, the heritage significance of heritage items and heritage conservation areas (including associated fabric, settings and views), to conserve archaeological sites, and to conserve Aboriginal objects and Aboriginal places of heritage significance.

While the subject property is not identified as a heritage item and is not located within a heritage conservation area, it is located adjacent to two heritage items being the former Canobolas Shire Council Chambers (now the Kite Street Specialist Centre) (Heritage Item I149) at 126-130 Kite Street and the Great Western Hotel (Heritage Item I230) at 145-147 Peisley Street, Orange. The subject property is also located adjacent to the southern periphery of the Central Orange Heritage Conservation Area (Figure 2).



**Figure 2 - heritage context plan (subject property identified by heavy red line and star)**

Relevantly, a detailed assessment of the proposed modified development against Council's infill guidelines has been undertaken below. The below assessment concludes that the proposed changes to the previously approved materiality of the building is acceptable subject to fine scale screening detail provided by the previously approved screens being installed.

In relation to the tile, it is recommended Council agrees to compromise and allow the paint finish to the eastern end of the North elevation.

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

There are no State Environmental Planning Policies relevant to the development as modified.

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

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

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

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

The draft EPI is not relevant to the assessment of this application to modify the consent.

**DESIGNATED DEVELOPMENT**

The proposed development is not designated development.

**INTEGRATED DEVELOPMENT**

The proposed development is not integrated development.

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

Development Control Plan 2004 ("the DCP") applies to the subject land. Chapters of the DCP relevant to the proposed use and development include:

- Chapter 0 - Transitional Provisions
- Chapter 2 - Natural Resource Management
- Chapter 3 - General Considerations
- Chapter 4 - Special Environmental Considerations
- Chapter 5 - General Considerations for Zones and Development
- Chapter 8 - Development in Business Zones
- Chapter 13 - Heritage

**CHAPTER 0 - TRANSITIONAL PROVISIONS****Section 0.2 - General Translation of Zones**

Section 0.2 - General Translation of Zones provides that any reference to a zone under Orange Local Environmental Plan 2000 is to be a reference to the corresponding zones in the zone conversion table.

The table identifies that the B3 Commercial Core zone corresponds with the 3A Regional Centre zone for the purposes of the DCP.

**CHAPTER 2 - NATURAL RESOURCE MANAGEMENT****Section 2.1 - Water Quality**

Section 2.1 - Water Quality identifies that development that concentrates, redirects flows, increases flow rates or disturbs land in close proximity to creeks has the potential to affect waterways with associated erosion, sedimentation and release of nutrients, which combine to affect downstream water quality.

Section 2.1 also identifies development involving groundwater extraction and/or onsite wastewater disposal is deemed to affect groundwater resources.

These have been considered under previous assessments with the development considered adequate.

It is considered that the requirements of the DCP have been adequately addressed.



**CHAPTER 3 - GENERAL CONSIDERATIONS****Section 3.1 - Cumulative Impacts**

Section 3.1 - Cumulative Impacts identifies that Council will consider not only the direct impacts of a particular development, but also whether the development, when carried out in conjunction with other development in the locality, has a more significant environmental impact.

Cumulative impacts of the proposed development are addressed under the heading “Likely Impacts of the Development”.

**Section 3.2 - Scenic, Landscape and Urban Areas**

Section 3.2 - Scenic, Landscape and Urban Areas identifies that in urban areas consideration should be given to the character of the locality, whether that locality is recognised as having heritage character with formal plantings of exotic trees or whether the locality comprises areas developed as suburban release areas where informal native planting is common.

The original plans showed provision of street trees. This requirement is maintained as part of this application. A detailed assessment of the modified developments impact on the locality is detailed below.

**CHAPTER 8 - DEVELOPMENT IN BUSINESS ZONES****Section 8.1 - Orange CBD**

Section 8.1 - Orange CBD outlines planning outcomes for the Orange Central Business District, with an emphasis on design, character, parking and loading. The relevant planning outcomes are addressed below.

- *Buildings have a high level of urban design to contribute to the regional status of the City's Central Business District with attention given to façade features, external materials, colour and advertising.*

Matters relating to the changes of materiality/urban design are addressed below under the infill guidelines.

- *Urban design demonstrates a clear reference to the CBD Strategic Action Plan.*

The *Orange Central Business District Strategic Action Plan 2003* (the ‘Strategic Action Plan’) seeks to provide a long term strategy to address a broad range of issues affecting the CBD.

In general, the Strategic Action Plan identifies the subject property as forming a tertiary street retail area at the southern periphery of the CBD (Figure 3). Key themes of the Strategic Action Plan relevant to the application to modify the consent include access and movement, built form and heritage, and landscape and public domain.



Figure 3 - Orange Central Business District Strategic Action Plan - Structure Plan (Land Use)

### Access and Movement

In terms of access and movement, the development as modified remains consistent with the Strategic Action Plan as previously noted the ground level will incorporate a continuous awning over the Kite Street footpath, protecting against sun and rain; and the increase in the amount of active street frontage in Kite Street is considered a good outcome.

### Built Form and Heritage

The major changes to the architectural elements above street level arising from the application to modify the original consent are considered in further detail within the Infill Guidelines Section of this report.

### Landscape and Public Domain

This application will not alter the previous assessment relating to landscaping and public domain considerations.

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

The proposed modification will not alter the fire safety of the building.

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

The proposed development as modified remains complementary to the role of the CBD as a regional centre as it will make a substantial contribution to the existing supply of tourist and visitor accommodation within Orange as well as a modest amount of additional retail floor space.

- *The reinstatement of verandahs on posts over footpaths is encouraged.*

Not applicable to the modification application.

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

Car parking has been dealt with under previous assessments. This application to modify the consent does not alter those previous assessments. The changes to the retail and café tenancies has no bearing on car parking requirements previously imposed by Council.

- *Advertising comprises business identification signs in accordance with SEPP 64.*

Not applicable to the application to modify the consent.

- *Loading areas are provided for developments requiring access by large trucks in a manner that doesn't reduce active frontages for important pedestrian pathways.*

Loading/unloading, service deliveries and garbage collection arrangements were determined under the original assessment. This application to modify the consent does not seek to alter those approved arrangements.

- *Where possible, new buildings or external alterations in the CBD include an element of landscaping.*

The original application included the provision of street trees within Kite Street and McNamara Lane. These street trees remain a part of the redevelopment of the site and are required to be installed within three months following the issue of any Occupation Certificate. The first interim Occupation Certificate was issued in October 2019. The trees are yet to be installed.

## CHAPTER 13 - HERITAGE

Sections 13.1-13.06 of Chapter 13 - Heritage of the DCP address heritage matters in detail, including heritage objectives, heritage items and heritage conservation areas, heritage consideration for development, development in the vicinity of heritage items, heritage proposals as advertised development, and incentives for heritage conservation.

These matters have previously been addressed in detail under the heading “*Clause 5.10 - Heritage Conservation*”.

It is considered that the requirements of the DCP have been adequately addressed.

## INFILL GUIDELINES

The modified development is located in an area of the City considered to be highly important from a heritage conservation point of view. The subject land sits between two heritage items, the Great Western Hotel to the east and the former Canobolas Shire Council Chambers, and is partly opposite the southern end of the central Heritage Conservation Area. Accordingly, Council's infill guidelines are applicable to the assessment of the modification application. The guidelines states these guidelines are applicable to new development that is on/adjacent to a heritage item.

**Objectives of Infill Design**

The guidelines provide the following relevant objectives for infill design:

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

The development as proposed in this modification application (in the absence of the screening elements in the northern and western elevations) is inconsistent with the above objectives. The development as modified will detract from the character of the area and the development without the necessary mitigating fine scale detail elements will cause the building to dominate the setting and reduce the prominence of the adjoining heritage items.

**Character**

The character of the area is described as an important commercial site. The land is opposite the southern edge of the central heritage conservation area and sits between two heritage items. The original design sat appropriately within context and setting and maintained the character whilst not dominating the adjoining heritage items. The development as modified with the complete removal of important architectural features will result in a development that impacts upon the character of the area.

The inclusion of the screening detail described above on the northern and western facades is considered critical to the building's fit within the locality.

**Siting**

The proposed modification does not seek to alter the previously approved siting of the development.

**Scale and Form**

In relation to scale and form, Council's Heritage and Urban Design advisor stated the following in respect to the original design that Council approved:

- a. while the building is higher than the neighbours the scaling references and screens mitigate this impact*
- b. the form addresses the street corner where the height and corner details are appropriate.*

The scale and form of this development when it was originally put before Council was only supported at that time because of the level of sophistication in the design proposed by the applicant. The applicant is now seeking to further delete those elements that were fundamental to the endorsement of Council staff and the Council Heritage and Urban Design advisor.

It should be made very clear that the screening elements in question were proposed by the developer from the beginning, even in the early concepts of the development the screening elements on the northern and western facades were an integral component within the broader design rationale; a position which was supported by staff and also Council's Heritage and Urban Design advisor.

The applicant has presented the following (summarised) justification based on architectural and aesthetic ground in relation to deleting the screens:

- The vertical screens would hide the articulation and architectural detailing that is currently provided.
- A heritage assessment was previously provide by URBIS which effectively recommends that the screen need not be provided given verticality in the design and that the façade will be further modulated by the strong warm terracotta colour a colour that references traditional brick and terracotta.
- That Council's Heritage advisor accepted the red colour.

In response to the above, the recommended screens will simply obscure painted concrete walls.

In relation to the comment by URBIS, the selected colour is far different from the traditional buff brick used in Orange and it is very unusual and somewhat confusing from a heritage interpretation perspective to see terracotta used as a vast wall treatment in a traditional setting.

In relation to the final point, it is important to note that Council's Heritage advisor was not supportive of the Tokimaru Bay colour in isolation. It was only supported on the basis that the screens remained as part of the overall design, and as a direct consequence of the screens being installed they would in fact partially obscure the bright burnt orange colour.

The selected materials and colours on a building and how they are used by an architect are vital to the success of the development.

As detailed above, further deleting those elements that mitigate the volume and height of the building would result in an adverse impact, to the extent that the development as modified would not qualify in the opinion of staff as passing the judicial test of substantially the same development. These measures, in the opinion of Council staff, were considered to be essential elements that led to a recommendation to support the development in the first instance.

The details around the proposed changes to the previously approved materiality is detailed below under the heading materials and colours.

### **Materials and Colour**

As mentioned above, the selection of materials and colours adopted in a design of a building is interrelated with the scale and form considerations of a building.

A sophisticated design combining an amalgam of materials along with fine scale detailing can successfully reduce the overall impression of a buildings bulk and scale. The initial design achieved this exact principle quite successfully and for that very reason, Council's Heritage and Urban Design advisor was supportive of the development at that time.

Noting that a number of other elements have been deleted or amended through previous modifications such as the materials and colour of the window and balcony frames, the exterior cladding of the upper level walls (previously proposed a metal cladding – now painted concrete) and the paint scheme and materiality at ground floor level.

This modification application seeks to further diminish those critical elements that collectively resulted in what is comparatively quite a large building, having an appropriate fit within the context and setting.

Council's Heritage and Urban Design advisor has previously indicated that the proposed changes detailed *are* meritorious, but only if the important fine scale detail elements (the screening devices shown in above figures) are incorporated into the design.

Accordingly, it is not as simple as to look at this one request to delete the screens in isolation. One needs to be cognisant of the full extent of changes to the initial approved design that have occurred over time via the previous four modifications.

In other words, if the screens were to be deleted now, all of the other materiality changes previously accepted should be required now.

### **Detailing**

The detailing elements are addressed above, namely the fine scale detail provided in the original design that Council's Heritage and Urban Design advisor has recommended - that the same design rationale continue to apply to the modified design.

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

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

The proposal does not involve the demolition of a building.

#### **Fire Safety Considerations (clause 93)**

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

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

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

#### **BASIX Commitments (clause 97A)**

BASIX is not applicable to the proposed development. A Section J energy efficiency statement was required with the Construction Certificate application.

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

An assessment of the relevant impacts associated with the development was considered as part of the initial assessment of the development application. The potential impacts of the development as modified are considered below.

**Visual Impacts**

The visual impacts of the development as modified relate to diminishing the level of sophistication presented in the original design, resulting in a building that has a bulk and scale that is incongruous with the context and setting.

This impact can be mitigated to an acceptable level provided the essential fine scale detailing is returned to the design of the building. The proposed changes are supported by Council's Heritage and Urban Design advisor, but only if the screening detail as previously required by Council remains within the design.

**Heritage**

The heritage aspects of the development as modified are addressed above.

**Safety Concerns**

The applicant has raised safety concerns with regards to the screens presenting a climb and fall risk. In response to this claim, the required screens present the same level of climbable risk as the existing balustrade. Moreover, this risk can be easily addressed in the design of the screens at the detailed design stage.

In any event, there is always a level of risk associated with the use of balconies at height and people using them need to be cognisant of the risk and supervise accordingly.

**Cleaning and Maintenance**

The applicant has presented some concerns in relation to the ease with which the screens are able to be cleaned. The required screens would be no more difficult to clean than the existing balconies. This justification is not accepted by Council staff.

**Public Domain**

The changes to the exterior walls at ground level and the changes to the retail tenancies will not unreasonably interfere with the public domain. Whilst it would be ideal from a continuity point of view for the Lymington tile to extend to the corner of the building in the front elevation, the paint finish as described above will not result in an unsatisfactory interface with the public domain.

**Neighbourhood Amenity**

The development as modified will not alter the previously accepted level of neighbourhood amenity.

**Cumulative Impacts**

Ordinarily when Council staff assess likely cumulative impacts of a development things like busy periods of a development are considered such as school pick-up; or when numerous noises occur at once in an industrial development.

However, in this case the cumulative impacts have arisen over the course of a number of modifications with the large number of (seemingly minor) requested changes to the visual appearance of the building, such that it is no longer sits appropriately in the setting.

This is also referred to as development by creep. Where a number of seemingly minor changes over the course of numerous modifications amount in totality to a significant departure from the original approval.

Further agreeing to the requested changes (ie removal of screening devices) to the building would result in unacceptable cumulative visual and heritage impacts.

The request to delete the screening detail should not be supported on this basis.

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

Council has previously determined that the site is suitable for the proposed development. There are no aspects of the site to indicate that it would be unsuitable to accommodate the modified development.

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

The proposed development is defined as "advertised development" under the provisions of the LEP. The application was advertised for the prescribed period of 14 days and at the end of that period no submissions were received.

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

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

**SUMMARY**

The proposed modification is considered to be substantially the same development for which development consent was originally granted, but only on the stipulation that the vertical screens on the Kite Street and McNamara Lane elevation as described above are installed upon the building. As indicated above, relying on the decision of *Iris Diversified Property Pty Ltd v Randwick City Council* the development as modified in the opinion of staff would not pass a test of substantially the same development in the absence of the screening detail.

The previous modification was granted on a negotiated outcome that included retention of the screens in order to justify the modification proposed at that time as it was seen as keeping the development within the scope of being substantially the same development. If Council were minded to delete the requirement for the screens to be installed, it would be recommended that Council obtains legal advice prior to a determination so as to clarify whether or not such a change would remain within the scope of a modification as this would potentially affect the legal ability to grant a consent.

A Section 4.15 assessment of the development indicates that the development is acceptable subject to certain conditions being imposed relating to the materiality of the subject building. Attached is a draft amended Notice of Approval outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.

**COMMENTS**

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

**ATTACHMENTS**

- 1 Notice of Approval, D20/10032 [↓](#)



	<p style="text-align: center;"><b>ORANGE CITY COUNCIL</b></p> <p style="text-align: center;">Development Application No <b>DA 304/2016(5)</b></p> <p>NA20/ <span style="float: right;">Container PR27531</span></p>
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## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION (AS MODIFIED)

issued under the *Environmental Planning and Assessment Act 1979*  
Section 81(1)

### Development Application

Applicant Name:	Eastern Developments (NSW) Pty Ltd
Applicant Address:	C/-Peter Basha Planning and Development PO Box 1827 ORANGE NSW 2800
Owner's Name:	Eastern Developments Pty Ltd
Land to Be Developed:	Lot 200 DP 1225088 - 132 Kite Street, Orange (previously Lot 1 DP 197828, Lots 2-6 DP 131416 and Lots 1-3 DP 779111 - 132-142 Kite Street and 26 McNamara Street, Orange)
Proposed Development:	Demolition, Hotel or Motel Accommodation, Restaurant or Cafe, Retail Premises and Subdivision (44 lot Strata)

### Building Code of Australia building classification:

To be determined by the PCA

### Determination

Made On:	3 March 2020
Determination:	<b>CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:</b>

**Consent to Operate From:** 7 August 2019

**Consent to Lapse On:** 7 August 2024

### 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.

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## Conditions

(1) The development must be carried out in accordance with:

- (a) Plans numbered DA.01 (10.11.16), DA02(30.08.16), DA03(08.02.17), DA.04 (10.02.17), DA.05 (08.02.17), DA.06 (21.12.16), DA.07(10.11.16), DA.08 (30.08.16), DA.09(30.08.16), DA.10 (30.08.16), DA.11 (21.03.17), Exterior Finishes (03.11.16 and March 2017) (13 sheets)

**Amending plans:**

Plans by Havenhand Mather – Job No. 1605 MOD.01 dated 17 April 2019; MOD.02B dated 3 June 2019; MOD.03A dated 22 January 2019; MOD.04E dated 3 June 2019; exterior finished dated 25 March 2019 (5 sheets)

**Amending Plans:**

Plans by Havenhand Mather – Job No. 1605 – TM.01; TM.02; TM.03; TM.04; TM.05 – dated 9 July 2019 (5 sheets)

**Amending Plans:**

Plans by Havenhand Mather Architects - Drawing No. MOD.01 B dated 17 April 2019; MOD.04 I dated 10 October 2019 and RLS.09 Rev. D dated 7 February 2017 (3 sheets)

Plan by Saran Engineers and Managers - Drawing No. 32085-S.03 Rev A dated 13 December 2019 (1 sheet)

- (b) statements of environmental effects or other similar associated documents that form part of the approval

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

- (1A) Plan by Havenhand Mather – Job No. 1605 identified as TM.04 (valet mode D) is not approved under this consent. For the avoidance of doubt, Valet Mode D is not approved.

<b>PRESCRIBED CONDITIONS</b>
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- (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.

**DEMOLITION****PRIOR TO WORKS COMMENCING**

- (5) Due to the extensive nature of the demolition works and their proximity to the public footpath, the applicant is to provide public liability and public risk insurance cover for a minimum of \$10,000,000, endorsed to cover Council for its respective rights and interests. Evidence of valid insurance cover must be submitted to Council.
- (6) Prior to demolition works commencing, the applicant is to obtain an approval under Section 68 of the *Local Government Act* for the temporary closure of any footpath or roadway. A pedestrian/vehicle management plan is to accompany the application. Details are to be provided of the protective hoardings, fences and lighting that are to be used during demolition, excavation and building works in accordance with the requirements of the *Occupational Health & Safety Act 2000*, Australian Standard AS3798-1996 (Guidelines on Earthworks for Commercial and Residential Developments) and the WorkCover Authority.  
  
Note: On corner properties, particular attention is to be given to the provision of adequate sight distances.
- (7) 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 phase of this project are to be deposited at a licensed or approved waste disposal site.
- (8) A survey to determine the existence of any hazardous materials on the site is to be provided. Suitable arrangements are to be made to dispose of, or remediate, any identified hazardous materials - including the notification of authorities and/or the obtaining of any required permits. Particular care and attention is to be paid to the disposal of any waste containing asbestos material.

**DURING DEMOLITION/SITEWORKS**

- (9) All construction/demolition work on the site is to be carried out in accordance with the EPA's *Interim Construction Noise Guideline 2009*.
- (10) All construction/demolition work on the site is to be carried out between the hours of 7.00 am and 6.00 pm Monday to Friday inclusive, 7.00 am to 5.00 pm Saturdays and 8.00 am to 5.00 pm Sundays and Public Holidays. Written approval must be obtained from the General Manager of Orange City Council to vary these hours.
- (11) Building demolition is to be carried out in accordance with *Australian Standard 2601:2001 - The Demolition of Structures* and the requirements of the NSW WorkCover Authority.
- (12) Any asbestos material must be removed and disposed of in accordance with the provisions of the *Work Health & Safety Act 2011* and any guidelines or Codes of Practice published by WorkCover.
- (13) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (14) The existing sewer connection to the building proposed to be removed is to be sealed off at the sewer main.
- (15) The existing water service connection to the building proposed to be removed is to be sealed off at the Council water main.
- (16) Certification from Orange City Council is required and shall be obtained on completion of the demolition works stating that all works relating to disconnection of the development from Council assets, works on Public Land, 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.

- (17) A Tree Protection Zone (TPZ) as detailed in AS 4970 – 2009 shall be established on the development site 132 – 142 Kite Street for the Eucalyptus sp tree sited upon 145-147 Peisley Street.
- (18) No excavation shall occur within 4 metres of the centre of the stem of the Eucalyptus sp tree sited upon 145-147 Peisley Street in accordance with the Tree Protection Zone required by Condition (17).
- (19) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation or Subdivision Certificate, unless stated otherwise.

## CONSTRUCTION OF MOTEL, CAFE AND RETAIL PREMISES

### PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (20) (Amended) Architectural plans must be amended prior to the issue of a Construction Certificate to include the following:
  - Pre-finished metal screens comprising material “J” as shown on exterior finishes plan dated 25 March 2019 shall be fixed to all balconies, and in addition, the same material noted as material “J” on exterior finishes plan dated 25 March 2019 must extend vertically between Levels 1, 2 and 3 on the outer edge of the six bays of balconies as shown on the below figures.

For the avoidance of doubt, horizontal screens under the red hatching in the below Figure 1a are not required. The red hatching is for illustrative purposes to exclude the previously required horizontal screens and does not represent a physical element on the subject building.

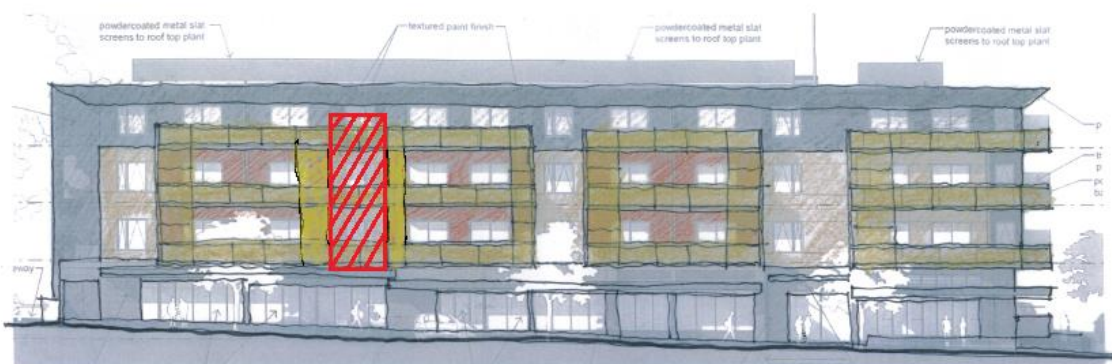


Figure 1a



Figure 2a

**Note** It is suggested strongly that the applicant obtain advice from Council and its Heritage Adviser to ensure that stone material complies with heritage requirements.

- (21) The payment of **\$59,043.41** shall be made to Council in accordance with Section 7.11 of the Act and Orange Car Parking Development Contributions Plan 2015 in lieu of the physical provision of adequate onsite car parking spaces.

Payment must be made prior to the issue of a Construction Certificate for the building structure.

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

An unconditional bank guarantee will be accepted prior to issue of a Construction Certificate for the building structure as per Council fees, policies and procedures with full payment required prior to issue of an Occupation Certificate.

- (21A) Prior to the issue of a construction certificate, a plan shall be submitted to Council showing the precise location of the street trees to be planted in Kite Street and McNamara Lane. The plans shall show the location of trees whilst ensuring the most amount of on-street car parking is achieved and adequate sight distances are achieved where necessary.
- (22) 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 water, sewer and stormwater connection. No plumbing and drainage is to commence until approval is granted.
- (23) Prior to the issue of a Construction Certificate, the applicant is to obtain an approval under Section 68 of the *Local Government Act* for the temporary closure of any footpath or roadway. A pedestrian/vehicle management plan is to accompany the application. Details are to be provided of the protective hoardings, fences and lighting that are to be used during demolition, excavation and building works in accordance with the requirements of the *Occupational Health & Safety Act 2000*, Australian Standard AS3798-1996 (Guidelines on Earthworks for Commercial and Residential Developments) and the WorkCover Authority.  
Note: On corner properties particular attention is to be given to the provision of adequate sight distances.
- (24) (deleted)
- (25) 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 construction phase of this project are to be deposited at a licensed or approved waste disposal site.
- (26) Prior to the issue of a Construction Certificate, evidence shall be submitted to Council of the lodgement of plans with Land & Property Information to consolidate Lot 1 DP 197826, Lots 2-6 DP 131416 and Lots 1-3 DP 779111 into one parcel.
- (27) The applicant shall provide the Principal Certifying Authority and Council with a report from a qualified Acoustic Consultant that identifies all mechanical equipment and attenuation solutions (such as acoustic shielding) to be installed within the development. The Report shall confirm that the operation of such plant will comply with the NSW State Industrial Noise Policy. Plans must be amended to include any recommendations and design requirements of the Acoustic Consultant prior to the issue of a Construction Certificate.
- (28) Engineering plans, showing details of all proposed work and adhering to any engineering conditions of development consent, are to be submitted to, and approved by, Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) prior to the issuing of a Construction Certificate.
- (29) 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.

- (30) Engineering plans providing complete details of the proposed driveways and car parking areas are to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) upon application for a Construction Certificate. These plans are to 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.

- (31) All stormwater from the site is to be collected and piped to the existing stormwater pits located on the corner of Kite Street and McNamara Lane. Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6), prior to issuing a Construction Certificate, is to approve engineering plans for this drainage system. The drainage works are to be in accordance with Orange City Council Development and Subdivision Code.

The existing stormwater line serving Lot 1 DP 779074 is to be included as part of the drainage works.

- (32) The existing 150mm diameter sewer main is to be relocated clear of the proposed building. Prior to a Construction Certificate being issued engineering plans for this sewerage system are to be submitted to and approved by Orange City Council.

- (33) 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.

- (34) 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 payment of contributions is required to be paid prior to the issue of a Construction Certificate for the building structure. The contributions are based on 23.05 ETs for water supply headworks and 36.55 ETs for sewerage headworks. A Certificate of Compliance, from Orange City Council in accordance with the Water Management Act 2000, will be issued upon payment of the contributions.

An unconditional bank guarantee will be accepted prior to issue of a construction certificate for the building structure as per Council fees, policies and procedures with full payment required prior to issue of an Occupation Certificate.

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

- (35) Backflow Prevention Devices are to be installed to AS3500 and in accordance with Orange City Council Backflow Protection Guidelines. Details of the Backflow Prevention Devices are to be submitted to Orange City Council prior to the issuing of a Construction Certificate.

- (36) The 150mm diameter sewer main that crosses the site is to be accurately located in relation to the proposed building. Where the main is positioned adjacent to any part of the building, measures to support building footings and slabs are to be taken in accordance with Orange City Council Policy - Building over and/or adjacent to sewers ST009.

<b>PRIOR TO WORKS COMMENCING</b>
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- (37) A Tree Protection Zone (TPZ) as detailed in AS 4970 – 2009 shall be established on the development site 132 – 142 Kite Street for the Eucalyptus sp tree sited upon 145-147 Peisley Street.
- (38) 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.
- (39) 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.
- (40) Soil erosion control measures shall be implemented on the site.



<b>DURING CONSTRUCTION/SITEWORKS</b>
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- (41) No excavation shall occur within 4 metres of the centre of the stem of the Eucalyptus sp tree sited upon 145-147 Peisley Street in accordance with the Tree Protection Zone required by Condition (37).  
Prior to removal of the TPZ to construct the vehicle crossover and driveway Council's Manager City Presentation shall be contacted and approval gained to establish formwork within the TPZ for the construction of any hard surfacing.
- (42) In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work on site must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works on site must not resume unless the express permission of the Director Development Services is obtained in writing
- (43) All construction/demolition work on the site is to be carried out in accordance with the EPA's *Interim Construction Noise Guideline 2009*.
- (44) A Registered Surveyor's certificate identifying the location of the building on the site must be submitted to the Principal Certifying Authority prior to the pouring of the slab or footings.
- (45) All construction works are to be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.
- (46) All materials onsite 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.
- (47) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (48) 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.
- (49) All driveway and parking areas are to be sealed with bitumen, hot mix or concrete and are to be designed for all expected loading conditions (provided however that the minimum pavement depth for gravel and flush seal roadways is 200mm) and be in accordance with the Orange City Council Development and Subdivision Code.
- (50) Heavy-duty concrete kerb and gutter laybacks and footpath crossings are to be constructed for the entrances to the proposed development. The location and construction of the laybacks and footpath crossings are to be as required by the Orange City Council Development and Subdivision Code.
- (51) The existing basalt (bluestone) kerb and gutters in Kite Street and McNamara Lane are to be retained. Where bluestone exists in the location of the proposed new driveways, the bluestone gutter is to be retained and incorporated into the new vehicular layback. Any kerb stones removed as a result of the works are to be firstly used as kerb stones in the areas of reinstated kerb and any leftover stones returned to Council.  
The existing driveways in Kite Street and McNamara Street that are not proposed to be used are to be replaced with concrete and/or bluestone kerb, and the footpath reinstated to the requirements of the Orange City Council Development and Subdivision Code.

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

- (52) Garbage collection is to be fully contained within the site. Bins must not be located on the footpath or roadway on collection days. Prior to a Construction Certificate being issued plans and/or details of the operation of the garbage collection are to be submitted to and approved by Orange City Council, including details of a private service agreement with Council's waste contractor. The private service agreement must be to the satisfaction of Council's Waste Services Manager.
- (53) A Car Parking Management plan must be submitted to and be approved by Council's Manager Development Assessments. The Car Parking Management plan must, as a minimum:
  - Outline the trigger points for when valet modes A and B are enacted based on occupancy levels of the motel.
  - Provide an appropriate methodology for each car park to be accessed at all times (i.e. all 'tandem' and 'valet' car parking spaces must be accessible to hotel occupants at all times via the valet parking system and all non-valet spaces must be available when the café and shops are operating).
  - Outline the methodology for delineating the café and retail spaces, and how those spaces will be identified as spaces available to the public.
- (54) External lighting is to be provided to ensure adequate lighting of the proposed car park to ensure the safety of employees and visitors outside of daylight hours. The lighting must be installed on the external façade of the existing / proposed building and be orientated in such a manner that it does not cause light spill from the subject property. Outdoor lighting must be in accordance with Australian Standard Control of the obtrusive effects of outdoor lighting – AS 4282-1997.
- (55) 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.
- (56) 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 compliance certificate issued, prior to the issue of either an interim or a final Occupation Certificate.
- (57) 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.
- (58) Prior to the issue of an Occupation Certificate, evidence shall be submitted to Council of the registration of plans with the Department of Lands and Property Information to consolidate Lot 1 DP 197826, Lots 2-6 DP 131416 and Lots 1-3 DP 779111 into one parcel.
- (59) The applicant shall provide Council with an Operational Management Plan. The Plan shall include measures to appropriately mitigate operational noise from the development (including noise from plant; patrons/pedestrians entering/leaving the site; noise from private areas such as balconies and the BBQ area; waste collection times; delivery times, general access and security gate operations) along with measures to mitigate odours and fumes that could be emitted from the kitchen or waste storage area.
- (60) 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.
- (61) Certificates for testable Backflow Prevention Devices are to be submitted to Orange City Council by a plumber with backflow qualifications prior to the issue of an Occupation Certificate.

- (62) Prior to the issue of an Occupation Certificate the existing 2.0m wide interlot drainage easement benefiting Lot 1 DP 779074 shall be amended as required. A Restriction-as-to-User under section 88B of the *NSW Conveyancing Act 1979* is to be created on the title of the proposed development Lot requiring that no structures are to be placed on the site, or landscaping or site works carried out on the site, in a manner that affects the continued operation of the interlot drainage system. The minimum width of the easement is to be as required in the Orange City Council Development and Subdivision Code.
- (63) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation or Subdivision Certificate, unless stated otherwise.

<b>MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT</b>
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- (64) The applicant shall within **3 months from the issue of any Occupation Certificate** arrange for street trees are to be supplied and installed in Kite Street and McNamara Street to Council's specification, including removal of the existing Scotch Elm and refurbishment of the tree surround within the Kite Street frontage.
- Each new tree site (three) in Kite Street is to be planted with a *Fraxinus 'Raywood'* – Claret Ash grown in a minimum 100 litre container size. Tree planting and surrounds are to be to the satisfaction of Council's Manager City Presentation.
- Each new tree site (three) and trees species in McNamara Street is to be determined in consultation with Council's Manager City Presentation and Traffic Management Officer. Each street tree shall be of a minimum 100 litre container size and shall be installed in the parking lane on the McNamara Street frontage of the subject site. The tree sites shall be constructed using a tree pit in combination with structural soils methodology (for example City Greens Stratvault).
- For the avoidance of doubt the tree pits are not required to be connected to Council's stormwater system.
- (65) (deleted)
- (66) (deleted)
- (67) The development must be operated in accordance with the approved car parking management plan required under Condition (53).
- (68) (deleted)
- (69) All garbage bins must be stored within the garbage bay at all times, other than on garbage collection days.
- On garbage collection days, garbage bins must be stored in the garbage bay or within the property boundary between the conference room terrace and McNamara Street ingress.
- (70) 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*.
- (71) An assessment of noise emissions from the premises is to be provided to Council **within 3 months from the issue of any Occupation Certificate**. This commissioning report is to indicate noise levels through the monitoring of noise emanating from the normal peak use of the premises and determine if any, necessary noise mitigation measures. Any identified mitigation works shall be carried out within 1 month of the commissioning report, and the operation of the premises shall be carried out in accordance with any recommendations set out in the report.

- (72) Emitted noise shall not exceed 5dB(A) above background sound level measured at the nearest affected residence.
- (73) The development shall be operated in accordance with the approved Operational Management Plan.
- (74) Waste collection bins shall be contained within the site and not located on public footpaths or roadways.
- (75) (Amended) The first use and fitout of the areas shown on the plans as “cafe”, Lease Area 2a and Lease Area 3 have not been approved under this consent. The applicant shall obtain development consent for the first use of the above referenced tenancies.

## **STRATA SUBDIVISION**

<b>DURING CONSTRUCTION/SITEWORKS</b>
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- (76) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

<b>PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE</b>
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- (77) An easement is created for any existing electrical infrastructure. The easement is to be created using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision.
- (78) Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) must be issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions.
- (79) Prior to the issue of a Subdivision Certificate, the applicant is to provide a written statement that the building complies with the Building Code of Australia with regard to fire separation and early warning systems.
- (80) Application shall be made for a Subdivision Certificate under Section 109(C)(1)(d) of the Act.
- (81) Certification from Essential Energy, stating that electricity and street lighting systems comply with Essential Energy's Networks Division Customer Connection Policy NP11.1, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (82) An easement to drain sewage and to provide Council access for maintenance of sewerage works a minimum of 2.0 metres wide is to be created over the 150mm diameter sewer line. The Principal Certifying Authority is to certify that the easement is in accordance with the Orange City Council Development and Subdivision Code prior to the issuing of a Subdivision Certificate.
- (83) All services are to be contained within the allotment that they serve. A Statement of Compliance, from a Registered Surveyor, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (84) Prior to the issuing of a Subdivision Certificate, Certification from Orange City Council is required stating that all works relating to connection of the development to Council assets, works on Public Land, 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.

- (85) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation or Subdivision Certificate, unless stated otherwise.

<b>ADVISORY NOTES</b>
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- (1) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property are complied with.

Essential Energy's records indicate there is electricity infrastructure located within close proximity to 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*.

Prior to carrying out any works, a "Dial Before You Dig" enquiry must be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995 (NSW)*.

Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines and Underground Assets*.

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## Other Approvals

- (1) *Local Government Act 1993* approvals granted under Section 68.

Nil

- (2) General terms of other approvals integrated as part of this consent.

Nil

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## Right of Appeal

If you are dissatisfied with this decision, Section 97 of *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

\* Section 97 of the *Environmental Planning and Assessment Act 1979* does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.

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### **Disability Discrimination Act 1992:**

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

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

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

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**Disclaimer - S88B  
Restrictions on the Use  
of Land:**

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

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**Signed:**

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

**Signature:**

**Name:**

PAUL JOHNSTON – MANAGER DEVELOPMENT ASSESSMENTS

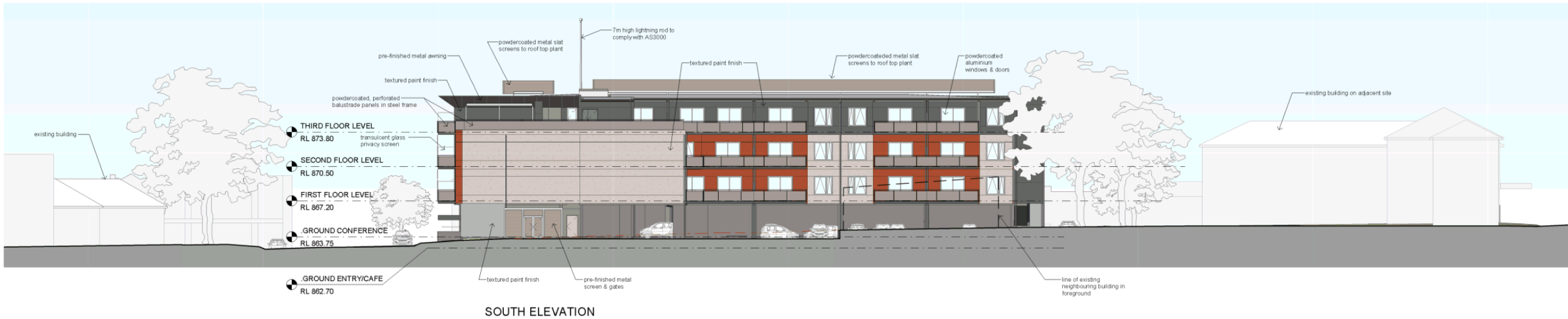
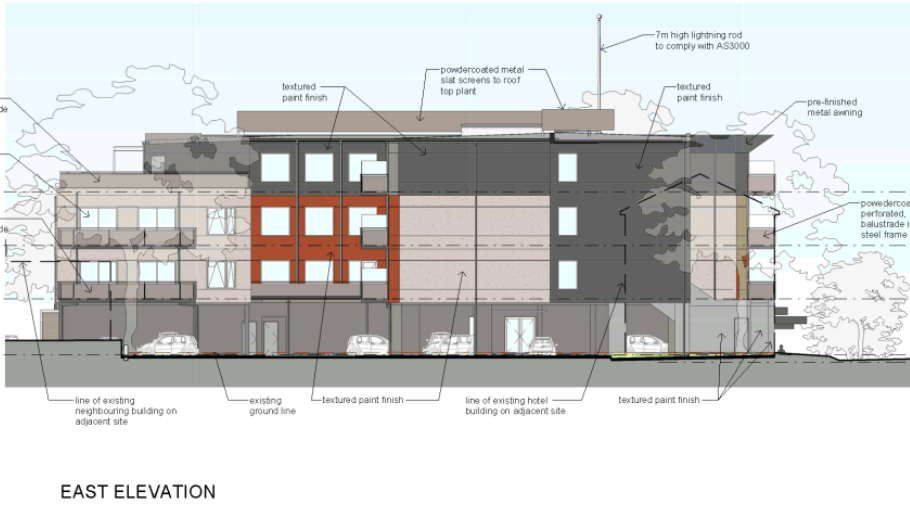
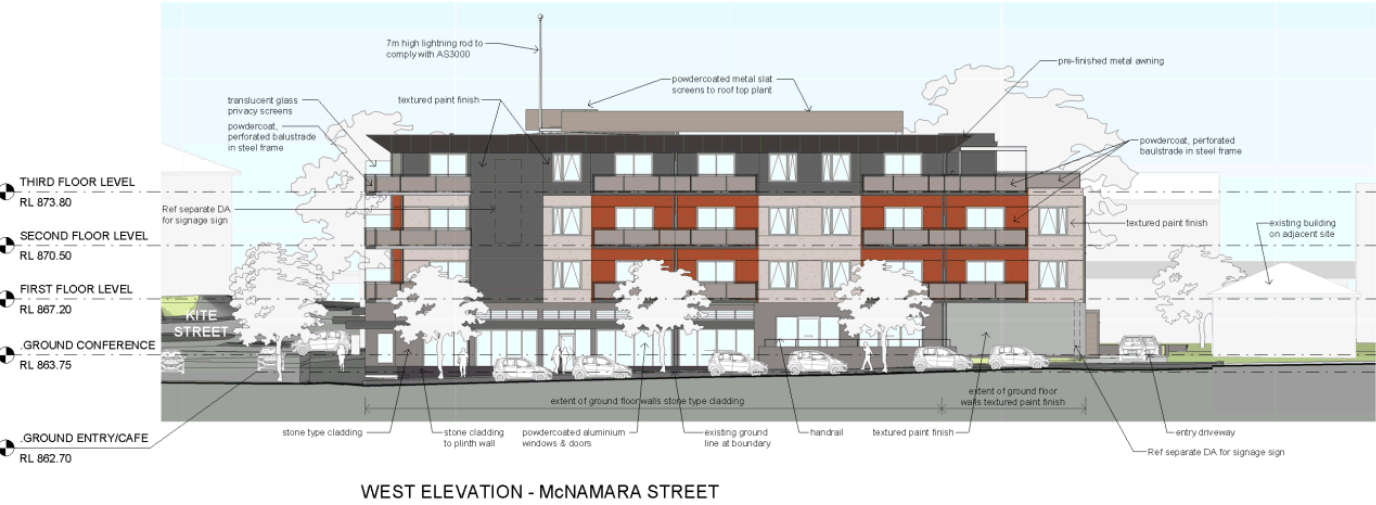
**Date:**

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4 March 2020







Plotted: 10/12/2019 4:19:02 PM

**HavenhandMather**  
ARCHITECTS  
PO Box 209, Bathurst 2795  
Tel 02-63311155 Fax 02-63322115  
Email: mail@havenhandmather.com.au  
Architects Registration Board: 8799

A 28.06.19 ELEVATIONS REVISED IN ACCORDANCE WITH DA 304/2016(3) (AS MODIFIED)  
B 10.12.19 KITE & McNAMARA STREET BALCONY SCREENS DELETED. GROUND FLOOR CLADDING/PANT FINISH & NOTES AMENDED.

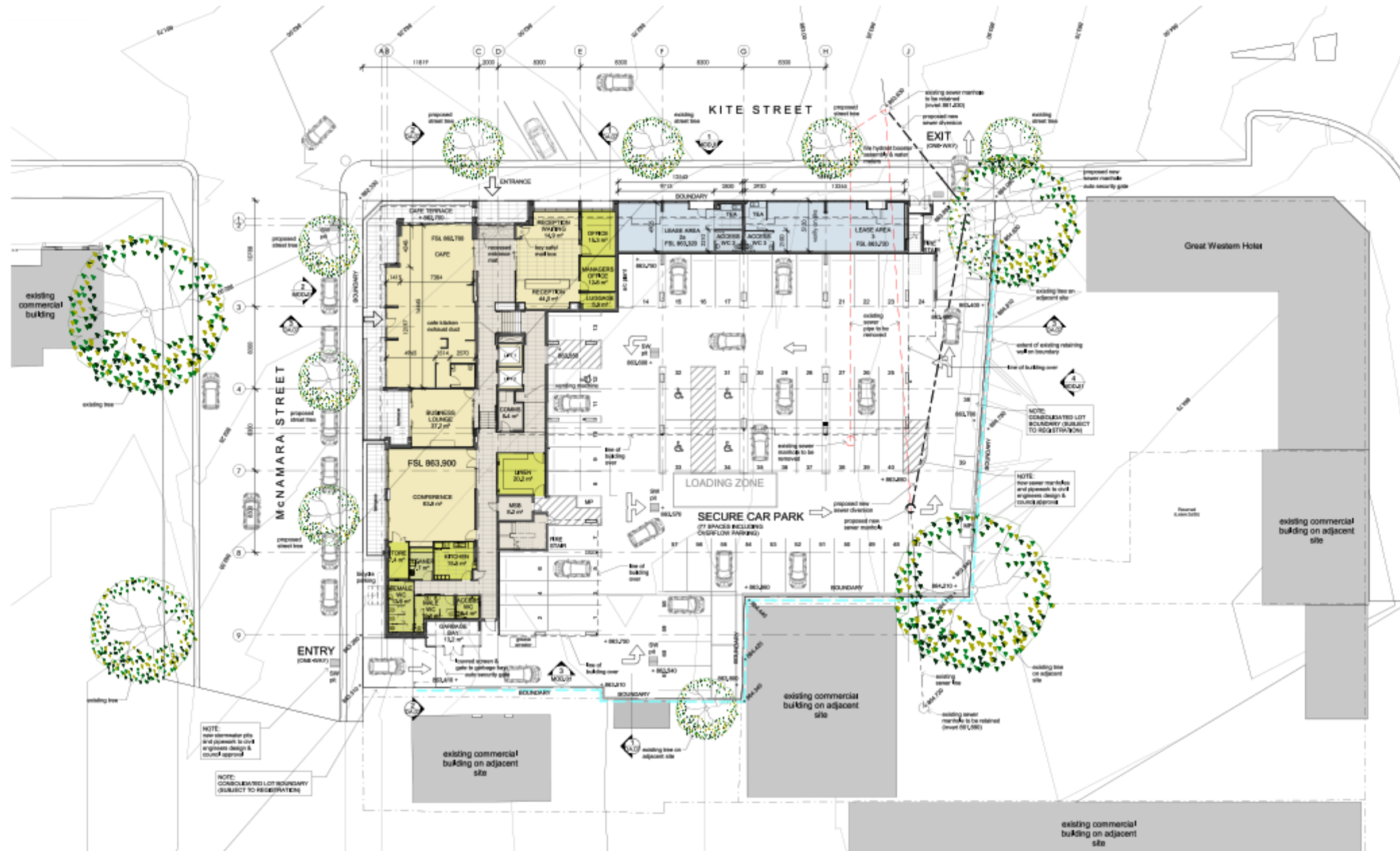
# QUEST APARTMENTS, ORANGE NSW

FOR EASTERN DEVELOPMENTS (NSW) PTY LTD

DA MODIFICATION  
ELEVATIONS

JOB No.: 1605  
SCALE: 1:200  
DATE: 17.04.19  
DRAWN: CJF CJR  
CHECKED: DFM  
MOD.01 B

Z:\1605 Quest Apartments Orange\2. Drawings\QUEST mods jan 2019.vrt



Revised: 14/12/2019 12:54:38 PM

**HavenhandMather**  
ARCHITECTS PLANNERS

PO Box 105, Bathurst NSW  
2430  
Email: info@havenhandmather.com.au  
Website: Register Board 0199



D 30/04/19 OVERFLOW PARKING ARRANGEMENT REVISED, CARPARKING MODES & LEGEND ADDED, BICYCLE PARKING RELOCATED.  
E 03/06/19 TENANCY AREAS REVISED TO INCLUDE INCL AREA.  
F 13/06/19 TENANCY 3 & 4 COMBINED INTO SINGLE TENANCY, TENANCY 3 ACCESS INC. LOCATION AMBIGUOUS.  
G 15/10/19 PH1 CLIPBOARD REMOVED FROM LEASE AREA 2A.  
H 15/12/19 FLOOR FINISHES REMOVED FROM LEASE AREA 3.  
I 16/12/19 TENANCY 3 LAYOUT REVISED.

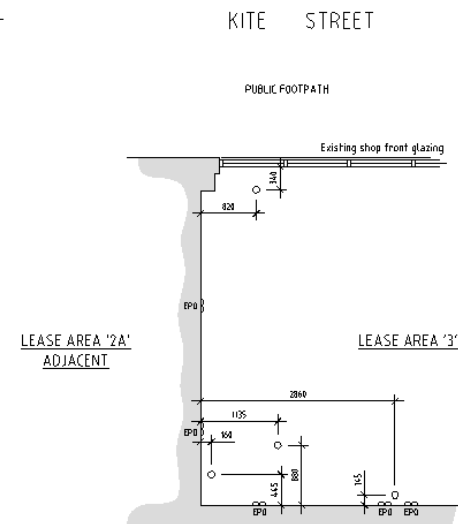
## QUEST APARTMENTS, ORANGE NSW

FOR EASTERN DEVELOPMENTS (NSW) PTY LTD

DA MODIFICATION  
GROUND FLOOR PLAN

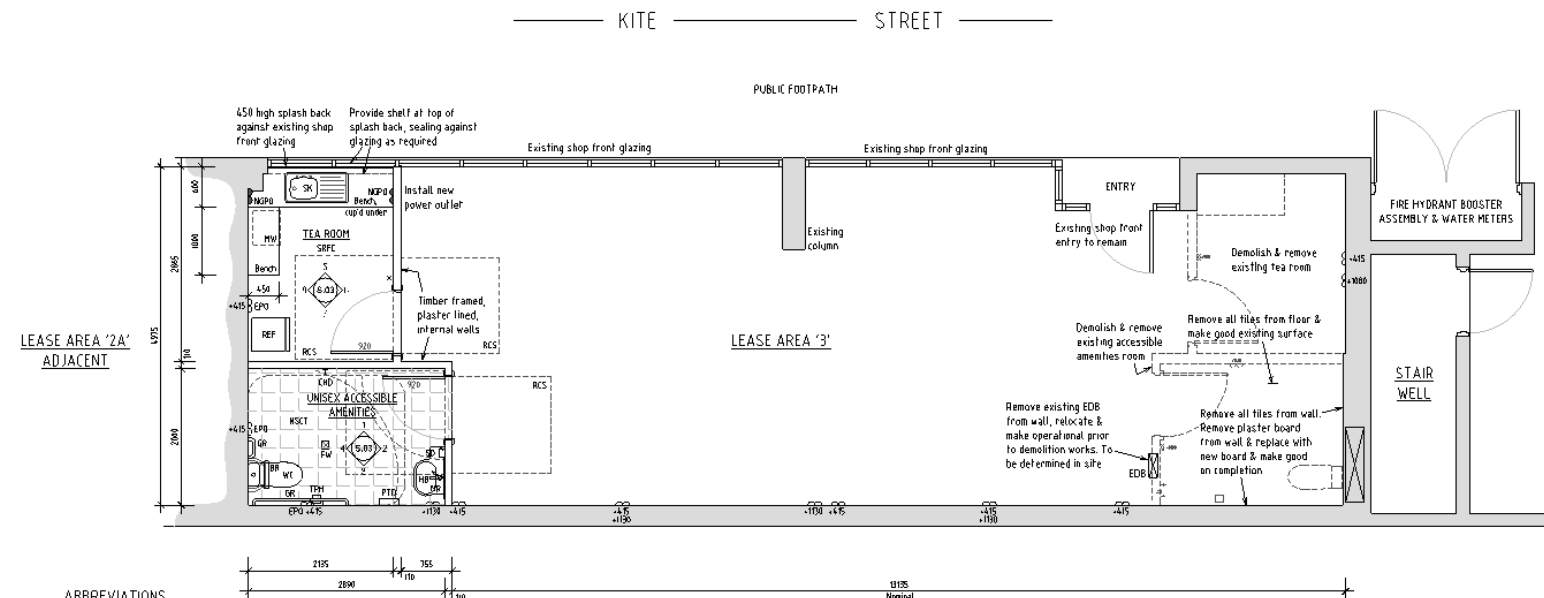
JOB No.: 1405  
SCALE: 1:200  
DATE: 10.10.19  
DRAWN: CJF  
CHECKED: DFM  
**MOD.04.**

C:\1405 Quest Apartments Orange\2. Drawings\2001 mod Jan 2019.rvt



### PLAN - EXISTING WASTE PIPES

SCALE 1:50



**PLAN - REVISED LEASE AREA '3'**

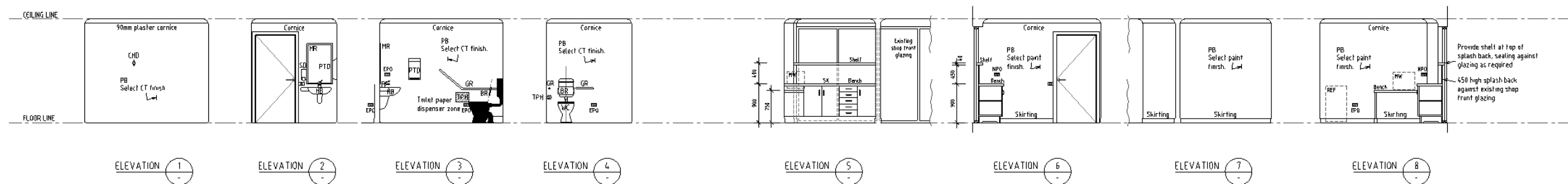
SCALE 1:50

## ABBREVIATIONS

EMB	Electrical meter board
REF	Refrigerator
MW	Microwave
NPO	New power outlet
EPD	Existing power outlet
SK	Sink
WC	Water closet
BR	Back rest
GR	Grab rail
TPH	Toilet paper holder
HB	Hand basin
MR	Mirror
SD	Soap dispenser
PTD	Power towel dispenser
CHD	Clothes hanging device
TSB	Tiled splash board
PB	Plaster board
SRFC	Slip resistant floor covering
CTC	Ceramic tiles
CR	Ceramic tiles
FW	Floor waste
RCIS	Required circulation space
EPDAS	Existing power outlet elevation above floor

NOTES:

1. All dimensions shown are indicative & are from finished surfaces only
2. All references to AS 1428.1 are to be current standard, AS 1428.1-2009. Unless noted otherwise
3. Please refer to AS 1428.1-2009 for locations & dimensions of all fittings & fixtures required by the standard.
4. The standard will take precedence over all information shown on the drawing.
5. The contractor is to retain a current copy of AS 1428.1-2009 on site for reference at all times



## ELEVATIONS - AMENITIES

SCALE 1:50

### ELEVATIONS - TEA ROOM

SCALE 1:50

-	-	-	-	-	-
A	<b>ISSUED FOR APPROVAL</b>				13.12.16
No.	Revision	Made:	Drafts	Checked	Approved

0 500 1000 1500 2000 2500mm  
SCALE 1:50 AT ORIGINAL SIZE

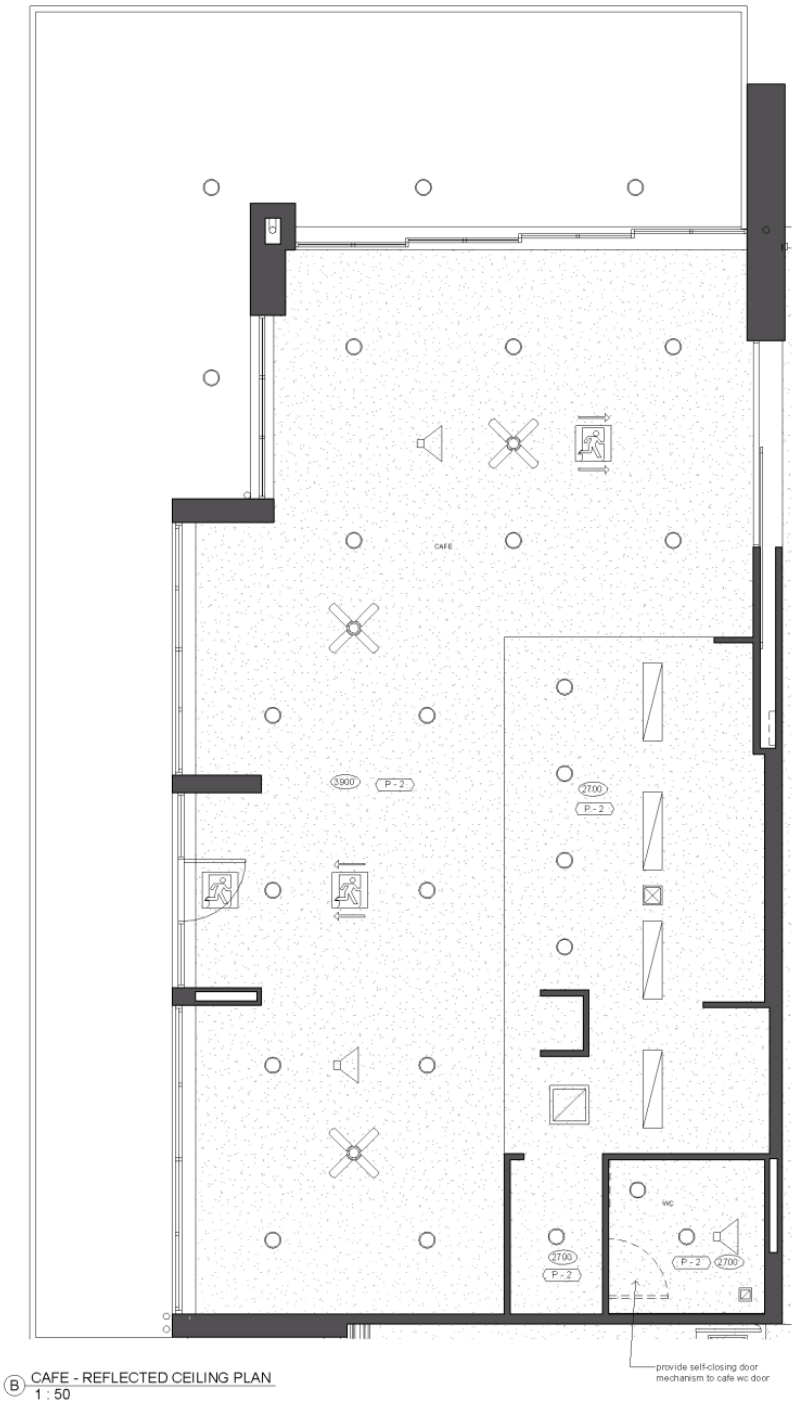
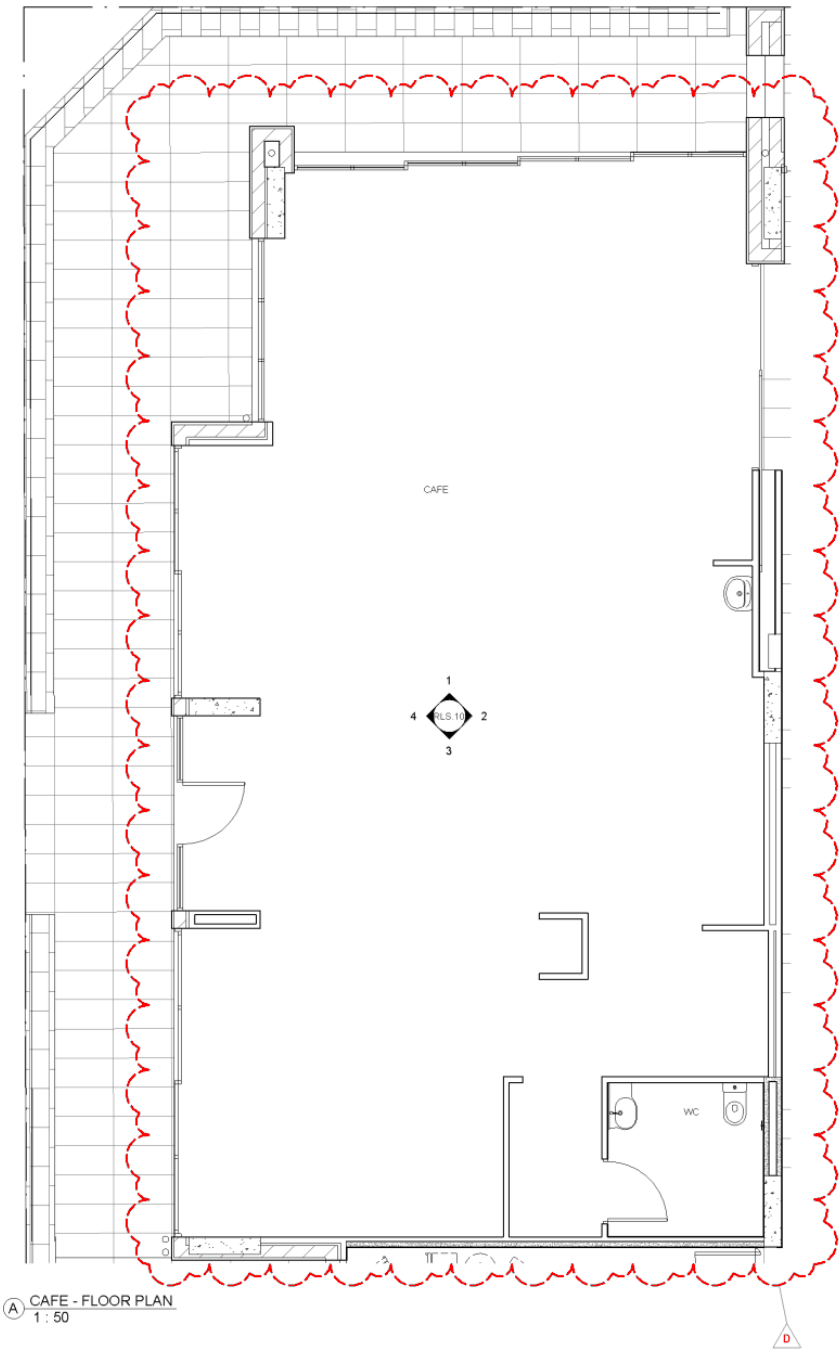
<b>DO NOT SCALE</b>
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Print out	<b>QUEST APARTMENTS, ORANGE KITE STREET, ORANGE. N.S.W.</b>
File	<b>PLAN - REVISED LEASE AREA '3'</b>

Client <b>EASTERN DEVELOPMENTS</b>			
Drawn LGF	Designed JPS	Approved -	
Scale AS SHOWN	Date DEC. 2019	This Drawing shall be valid for construction unless stated as approved	
Drawing No: <b>32085-S.03</b>	Rev: A	Orig. Date: <b>A1</b>	



**INTERNAL FINISHES LEGEND**

Notes: Refer to Internal Finishes Schedule for selected finishes  
(number) refers to finish type

(CPT-1)	Carpet
(CFT-1)	Ceramic floor tile
(CG-1)	Corner guard
(RS-1)	Resilient sheet floor
(RP-1)	Resilient plank vinyl
(CT-1)	Ceramic tile finish
(MAT-1)	Matt - recessed
(P-1)	Paint finish
(LAM-1)	Laminates finish
(ST-1)	Stone finish
(TM-1)	Timber finish
(TMV-1)	Timber Veneer finish
(MC-1)	Metal Cladding

NO.	DATE	REVISION
A	14.03.18	TENDER ISSUE
B	30.05.18	CONSTRUCTION ISSUE - REVISIONS AS CLOUDED
C	27.07.18	REVISIONS AS CLOUDED
D	10.12.19	CAFE JOINERY & FLOOR FINISHES DELETED

FIGURED DIMENSIONS TO BE TAKEN IN PREFERENCE TO SCALING.

CHECK ALL DIMENSIONS ON SITE BEFORE FABRICATING ANY ITEM.

THESE DRAWINGS SUBJECT TO COPYRIGHT.

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<b>HavenhandMather</b> ARCHITECTS PLANNERS
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PROJECT:	QUEST APARTMENTS, ORANGE NSW
FOR EASTERN DEVELOPMENTS (NSW) PTY LTD	

DRAWING:	<b>ROOM DETAIL PLANS - CAFE</b>
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JOB NO.	<b>1605</b>
SCALE:	<b>1:50</b>
DATE:	<b>07/20/17</b>
DRAWN:	<b>CJR</b>
CHECKED:	<b>DFM</b>
REVISION:	<b>RLS.09</b>
NUMBER IN SET:	<b>D</b>