



PLANNING AND DEVELOPMENT COMMITTEE

AGENDA

6 FEBRUARY 2024

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that a **PLANNING AND DEVELOPMENT COMMITTEE MEETING of ORANGE CITY COUNCIL** will be held in the **COUNCIL CHAMBER, CIVIC CENTRE, BYNG STREET, ORANGE** on **Tuesday, 6 February 2024**.

David Waddell

CHIEF EXECUTIVE OFFICER

For apologies please contact Administration on 6393 8106.

AGENDA

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1 INTRODUCTION

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

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

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

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

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

RECOMMENDATION

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

2 GENERAL REPORTS

2.1 ITEMS APPROVED UNDER THE DELEGATED AUTHORITY OF COUNCIL

RECORD NUMBER: 2023/2153

AUTHOR: Paul Johnston, Manager Development Assessments

EXECUTIVE SUMMARY

Following is a list of more significant development applications approved by the Chief Executive Officer under the delegated authority of Council, and one development application approved by the Western Regional Planning Panel (WRPP). Not included in this list are residential scale development applications that have also been determined by staff under the delegated authority of Council (see last paragraph of this report for those figures).

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan Strategy “8.1. Plan for growth and development that balances liveability with valuing the local environment”.

FINANCIAL IMPLICATIONS

Nil

POLICY AND GOVERNANCE IMPLICATIONS

Nil

RECOMMENDATION

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

FURTHER CONSIDERATIONS

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

Reference:	DA 289/2017(2)	Determination Date:	20 December 2023
PR Number	PR25416		
Applicant/s:	Hanrahan Place Pty Ltd		
Owner/s:	Hanrahan Place Pty Ltd		
Location:	Lot 87 DP 1167633 - 2 Hanrahan Place, Orange		
Proposal:	Modification of development consent - retail premises (shop)(drive-through liquor shop) and business identification signage. The modification involves modifying the consent to effect minor changes to the approved building floor plan, elevations and signage scheme.		
Value:	\$0		

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 481/2020(4) **Determination Date:** 24 November 2023
PR Number PR29079
Applicant/s: Eastern Developments (NSW) Pty Ltd
Owner/s: Eastern Developments (NSW) Pty Ltd
Location: Lot 1 DP 1276536 - Ophir Road, Orange
Proposal: Modification of development consent - subdivision (216 lots - comprising 207 residential lots, one neighbourhood centre lot, one residue lot and a number of public reserves including *proposed* reserves (Lots 65, 214 and 215) and *Conditional* reserves (Lots 6, 11 ,12 and 76). The modification involves altering the shape of approved englobo Lot 217 and allowing the release of one residential parcel with approved englobo Lots 216 and 217.

Value: \$0

Reference: DA 5/2021(2) **Determination Date:** 26 November 2023
PR Number PR17508
Applicant/s: Mr L Mulvey
Owner/s: Knight Smith Investments Pty Ltd
Location: Lot 1 DP 1010563 - 59 Lords Place, Orange
Proposal: Modification of development consent - general industry (alterations and additions to existing building). The modification involves minor changes to toilets, stairs, enclosure of the undercover space and carparking.

Value: \$0

Reference: DA 211/2021(2) **Determination Date:** 29 November 2023
PR Number PR29648
Applicant/s: Universal Property Group Pty Ltd
Owner/s: UPG 99 Pty Ltd
Location: Lot 983 DP 1285115 - 65 Lysterfield Road, Orange
Proposal: Modification of development consent - subdivision (42 residential lots, 1 mixed use/village centre lot and new roads) and demolition (trees). The modification involves the addition of one long retaining wall along the eastern boundary of the subdivision.

Value: \$0

Reference: DA 265/2021(2) **Determination Date:** 29 November 2023
PR Number PR7191
Applicant/s: Universal Property Group Pty Ltd
Owner/s: UPG 99 Pty Ltd
Location: Lot 78 DP 750401 - 76 Lysterfield Road, Orange
Proposal: Modification of development consent - subdivision 55 residential lots, 1 open space lot and new roads) and demolition (dwelling, outbuildings and trees). The modification involves the addition of four retaining walls between existing allotments.

Value: \$0

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 231/2022(2) **Determination Date:** 1 December 2023
PR Number PR20395
Applicant/s: Locsa Number 2 Pty Ltd
Owner/s: Locsa Number 2 Pty Ltd
Location: Lots 10 and 11 DP 270446 – 12 and 13 Cameron Place, Orange
Proposal: Modification of development consent - mixed use development (office premises, warehouse or distribution centre and self-storage units) and Subdivision (two x 12 Strata lots). The modification involves combining the two approved Strata subdivisions as a single scheme and assigning each Strata lot with a parking space on title.
Value: \$0

Reference: DA 245/2022(2) **Determination Date:** 11 December 2023
PR Number PR12751
Applicant/s: Orange Enterprises No 1 Pty Ltd
Owner/s: Orange Enterprises No 1 Pty Ltd
Location: Lot A DP 381935, Lot 1 DP 381932, Lot 1 DP 630681 and Lot A DP 381933 - 12 and 20 Shiralee Road, Orange
Proposal: Modification of development consent - subdivision (44 lots comprising 43 residential lots and 1 residue lot), demolition (two dwellings, outbuildings and tree removal), bulk earthworks and Category 1 remediation. The proposed modification involves minor amendments to the wording in Conditions 9, 45, 46 and 63 of DA 245/2022(1) to clearly define the requirements for the subdivision during certain aspects of the work.
Value: \$0

Reference: DA 50/2023(1) **Determination Date:** 29 November 2023
PR Number PR12737
Applicant/s: United Protestant Association of NSW Limited
Owner/s: Mr J and Mrs KG Kloosterman
Location: Lot 37 DP 739551 - 212 Shiralee Road, Orange
Proposal: Subdivision (two lot Torrens title)
Value: \$0

Reference: DA 234/2023(1) **Determination Date:** 4 December 2023
PR Number PR29579
Applicant/s: The Trustee for AP5 Trust
Owner/s: Akura Properties Pty Ltd
Location: Lots 11-13 SP 106023 - Units 11-13, 21 Peisley Street, Orange
Proposal: Hardware and building supplies (alterations and additions - including fitout to Units 11-13) and business identification signage (regularising works)
Value: \$551,815

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 243/2023(1) **Determination Date:** 29 November 2023
PR Number PR25188
Applicant/s: Seven Miles Coffee Roasters (Orange)
Owner/s: Sainsbury Green Properties Pty Limited
Location: Lot 2 SP 84946 - 2/2 Gateway Crescent, Orange
Proposal: Artisan food and drink industry (change of use and internal fitout)
Value: \$79,500

Reference: DA 246/2023(1) **Determination Date:** 29 November 2023
PR Number PR29402
Applicant/s: Mr G Connor
Owner/s: Mr G Connor
Location: Lot 14 DP 1286896 - 3 Carwoola Drive, Orange
Proposal: Dual occupancy (detached) and two lot Torrens title subdivision
Value: \$1,803,200.00

Reference: DA 311/2023(1) **Determination Date:** 29 November 2023
PR Number PR26308
Applicant/s: Source Architects Pty Ltd
Owner/s: Kinross Wolaroi School Property Limited
Location: Lot 30 DP 1190518 - 59-67 Bathurst Road, Orange
Proposal: School (ancillary and incidental community notice public information signage)
Value: \$0

Reference: DA 312/2023(1) **Determination Date:** 29 November 2023
PR Number PR18641
Applicant/s: Source Architects Pty Ltd
Owner/s: Kinross Wolaroi School Property Limited
Location: Lot 200 DP 1045829 - 63-97 Coronation Drive, Orange
Proposal: School (ancillary and incidental community notice and public information sign) - (three wall signs) and freestanding signages (two signs)
Value: \$0

Reference: DA 321/2023(1) **Determination Date:** 27 November 2023
PR Number PR7336
Applicant/s: TS Bassmann Pty Ltd
Owner/s: Mr TC and Mrs JM Raffin
Location: Lot 301 DP 809699 - 85 Auberson Road, Orange
Proposal: Dwelling alterations and additions, carport and outbuilding with attached secondary dwelling
Value: \$850,000

2.1 Items Approved Under the Delegated Authority of Council

Reference: DA 330/2023(1) **Determination Date:** 26 November 2023
PR Number PR19676
Applicant/s: Catholic Education Diocese of Bathurst
Owner/s: Trustees Roman Catholic Church
Location: Lot 20 DP 1073611 - Park Street, Orange
Proposal: Educational establishment (extension of carpark)
Value: \$240,000

Reference: DA 337/2023(1) **Determination Date:** 15 December 2023
PR Number PR90
Applicant/s: Ms JE Address
Owner/s: Ms JE Address
Location: Lot 12 DP 519580 - 5 Newman Street, Lucknow
Proposal: Dwelling (change of use from church), alterations and additions, and outbuilding (shed)
Value: \$438,000

Reference: DA 338/2023(1) **Determination Date:** 26 November 2023
PR Number PR6941
Applicant/s: Mrs L Podbereski
Owner/s: Mesaine Pty Limited
Location: Lot 50 DP 499833 - 211-213 Lords Place, Orange
Proposal: Restaurant or café and outdoor dining
Value: \$177,985

Reference: DA 341/2023(1) **Determination Date:** 7 December 2023
PR Number PR20441
Applicant/s: Designs@M
Owner/s: Itchenor Two Pty Ltd
Location: Lot 101 DP 1083040 - 101 Clergate Road, Orange
Proposal: General industry (industrial activity), warehouse or distribution facility and business identification signage
Value: \$2,111,000

Reference: DA 359/2023(1) **Determination Date:** 4 December 2023
PR Number PR26080
Applicant/s: Orange Dealership Properties Pty Ltd
Owner/s: Orange Dealership Properties Pty Ltd
Location: Lot 102 DP 1187463 - 22-34 Forbes Road, Orange
Proposal: Vehicle sales or hire premises (alterations and additions)
Value: \$2,050,750

TOTAL NET* VALUE OF DEVELOPMENTS APPROVED BY THE CEO UNDER DELEGATED AUTHORITY IN THIS PERIOD:	\$8,302,250.00
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2.1 Items Approved Under the Delegated Authority of Council

** **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.*

ITEM APPROVED BY THE WESTERN REGIONAL PLANNING PANEL (WRPP)

Reference: DA 551/2021(1) **Determination Date:** 7 December 2023
PR Number PR29119
Applicant/s: Rossmark Pty Ltd
Owner/s: Anglican Schools Corporation
Location: Lot 201 DP 1276846, Lot 1 DP 1286548 -7 Murphy Lane and 415 Mitchell Highway, Orange
Proposal: Educational establishment (demolition, new building and 750 students)
Value: \$5,735,149.00

Additionally, since the November 2023 meeting report period (21 November 2023 to 22 January 2024), another 23 development applications were determined under delegated authority by other Council staff with a combined value of \$3,889,705.

2.2 DEVELOPMENT APPLICATION DA 278/2023(1) - 1 THE BILLABONG, CLIFTON GROVE

RECORD NUMBER: 2024/4

AUTHOR: Anugya Vishwakarma, Town Planner

EXECUTIVE SUMMARY

Application lodged	1 September 2023
Applicant/s	Mr GA and Mrs DG Selwood
Owner/s	Mr GA and Mrs DG Selwood
Land description	Lot 7 DP 246070 – 1 The Billabong, Clifton Grove
Proposed land use	Subdivision (two lot Torrens title)
Value of proposed development	N/A

Council's consent is sought for a two lot (large lot residential) subdivision. The land is a rural residential parcel of 4.77 hectares and is described as Lot 7 DP 246070. The proposed subdivision does not involve any land shaping.

Proposed Lot 1 will comprise the existing dwelling and existing access. Proposed Lot 2 will be vacant land. A building envelope establishing appropriate boundary setbacks will be required. The building envelope has been designed to match the general setback of development on the adjacent property. All the existing trees on the subject land will be retained and there is already an existing fence around the lot.

Each lot will have minimum area of 2 hectares. Proposed Lots 1 and 2 comply with the minimum lot size requirement under Orange LEP 2011. The proposed subdivision is entirely consistent with the surrounding development pattern.

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

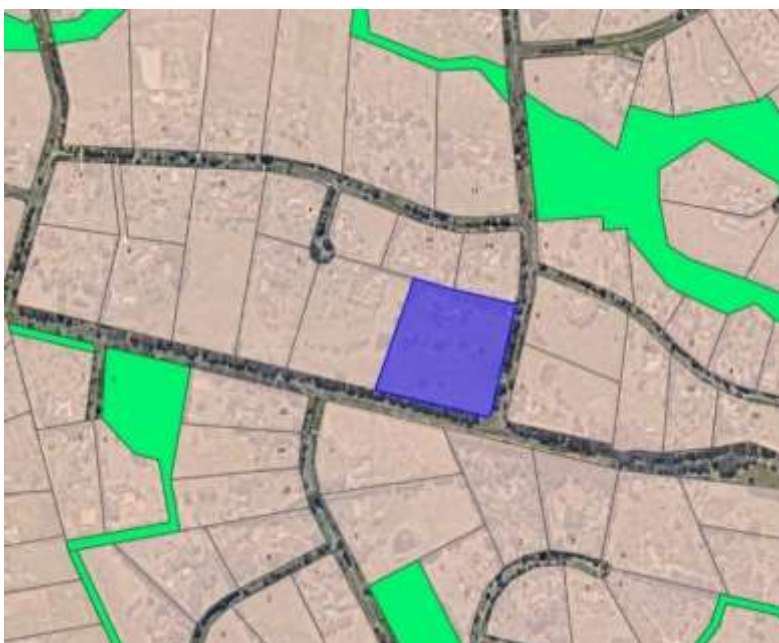


Figure 1 - locality plan

DECISION FRAMEWORK

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

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

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

DIRECTOR'S COMMENT

Council's consent is sought for the subdivision of a large residential lot into two lots. The land is a rural residential parcel of 4.77 hectares. Each of the lots will have a minimum area of 2 hectares and proposed Lots 1 and 2 will both comply with the current minimum lot size of 2ha specified in Orange LEP 2011. It should be noted that the former subdivision provisions within the Clifton Grove locality were originally based on an average area of 2 hectares, and there are now some lots that may be further subdivided as a result of the change in controls in 2011.

Council staff have worked with the applicant to adjust the shape of proposed Lot 2 and to suitably position a building envelope within proposed Lot 2 that matches the setbacks of adjoining and adjacent developments. The applicant was amenable to the changes. The plans were adjusted to ensure that an adequate setback was provided for the proposed building envelope from the primary road, secondary road, and from the northern side (Creekside) of proposed Lot 2. The shape of the building envelope will ensure that it matches the building envelope setback of the existing neighbouring lots and reduces the cumulative impact on streams which link to Summer Hill creek.

The application was notified to adjoining property owners. Council **received two written submissions (see attached)**. The issues raised included:

- impact on natural environment
- proposal will change the character and scenic qualities of the locality
- road safety
- view impacts
- open flood gates for further subdivision.

The matters raised have been addressed in the body the planning report. It is recommended that Council supports the proposal subject to the adoption of the attached Notice of determination.

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy “11.1. 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 278/2023(1) for *Subdivision (two lot Torrens title)* at Lot 7 DP 246070 - 1 The Billabong, Clifton Grove pursuant to the conditions of consent in the attached Notice of Approval.

FURTHER CONSIDERATIONS

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

SUPPORTING INFORMATION**THE PROPOSAL**

The proposal involves a two lot residential subdivision as follows:

Proposed Lot 1	2.771 hectares	Existing dwelling and existing driveway
Proposed Lot 2	2 hectares	Vacant land with identified building envelope

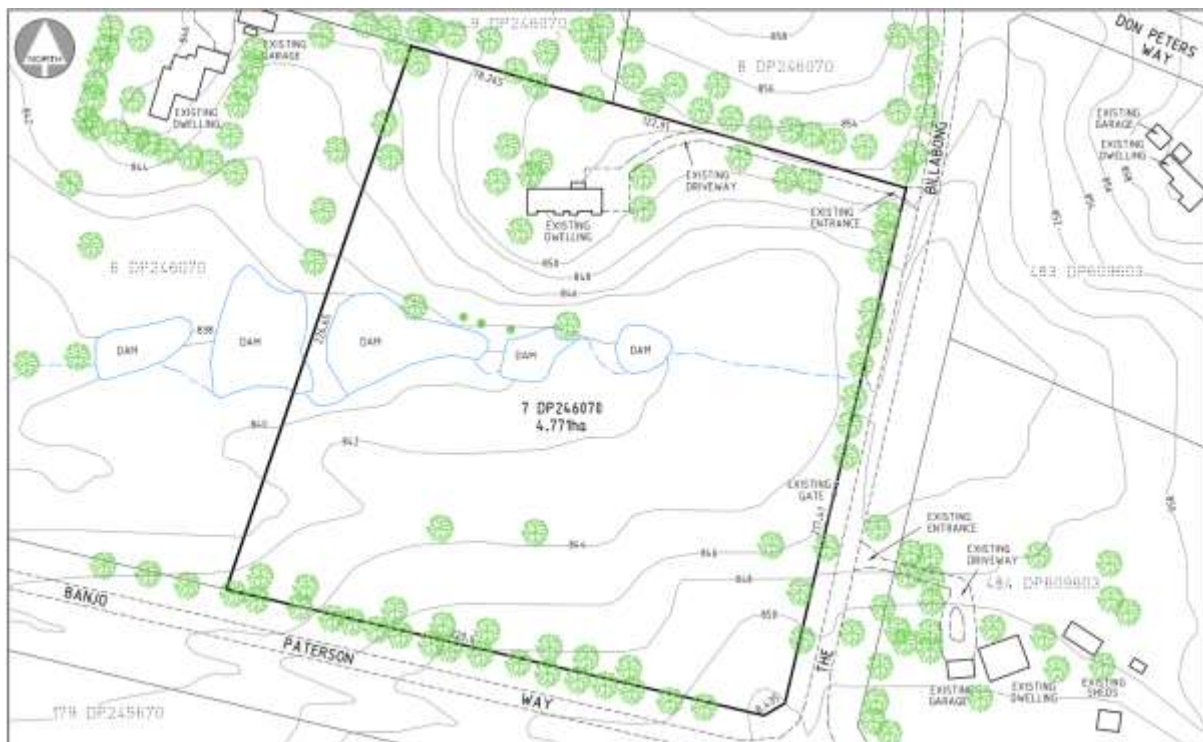


Figure 2 - existing boundaries

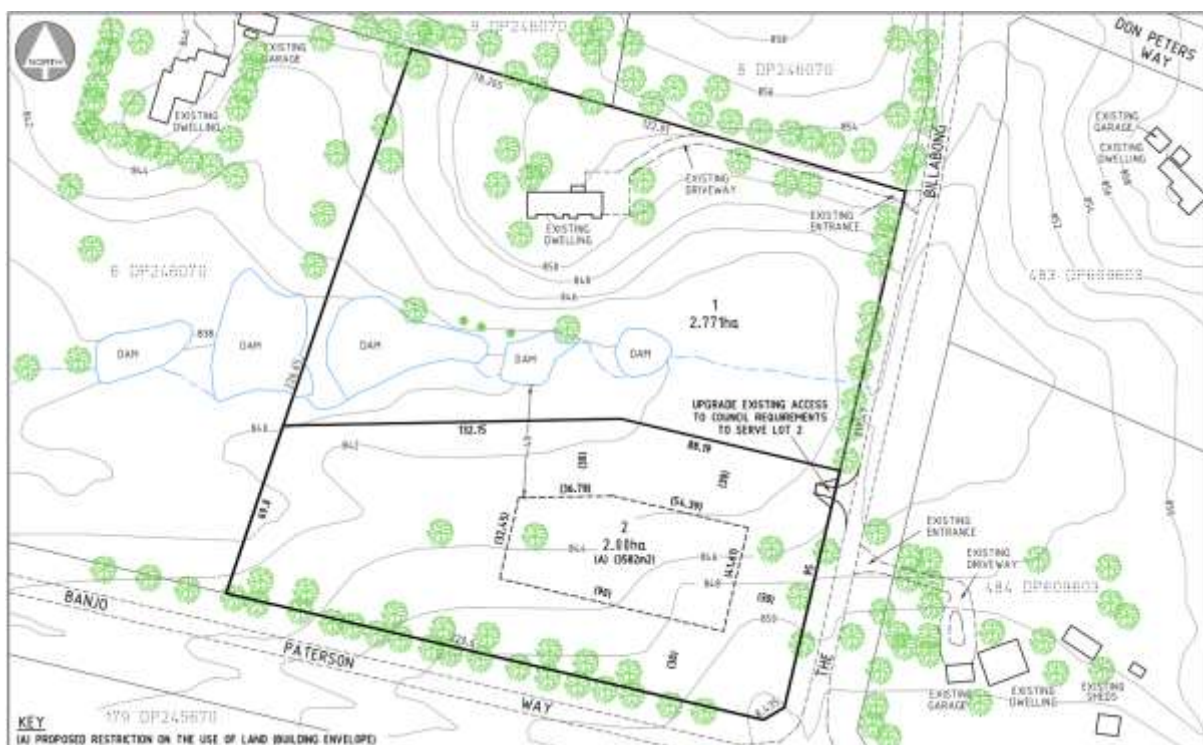


Figure 3 - proposed subdivision

The proposal does not involve clearing of native vegetation. The natural state of the site and surrounding area has been highly modified due to the well-established rural and large lot residential development pattern. However, the topography pattern in the centre of proposed Lot 2 is slightly sloping towards the existing dam. Primarily the location of the future development needs to consider the contours, setbacks and earthworks (separate application).

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 (OEI) (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.

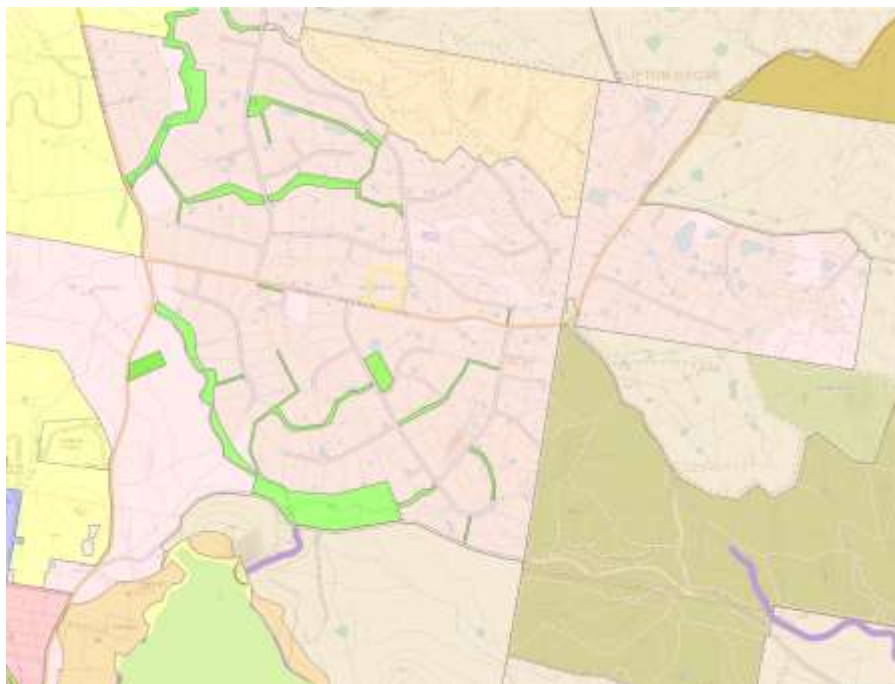


Figure 4 - Biodiversity Values Map

The site does not occur within land mapped on the Biodiversity Values Map (ePlanning spatial viewer - Figure 4). Nor it is identified as Terrestrial Biodiversity under Orange LEP 2011 (Figure 5).

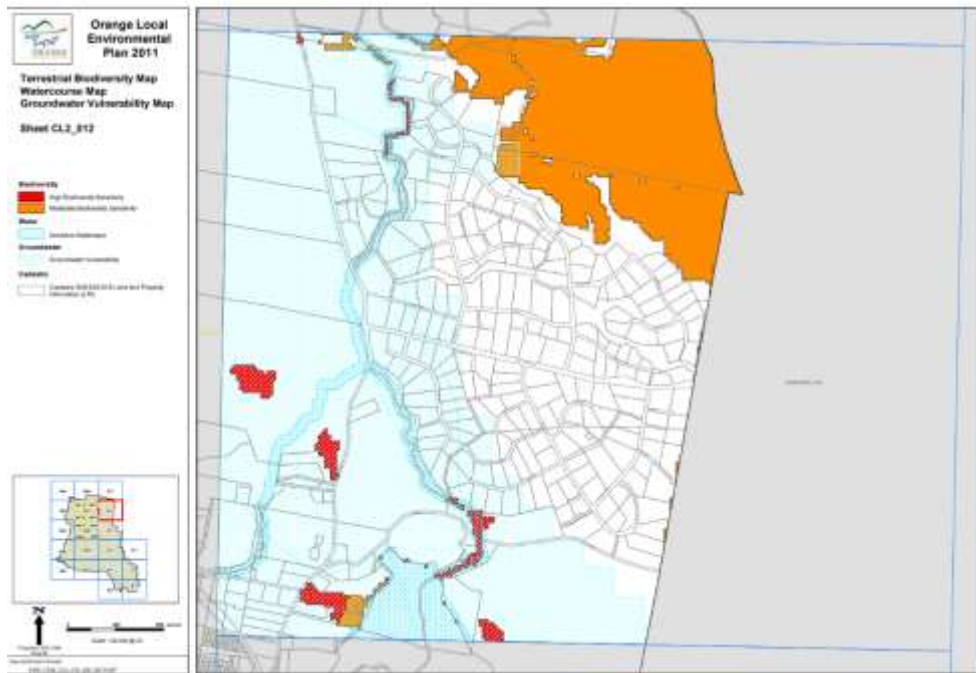


Figure 5 – terrestrial biodiversity under Orange LEP 2011



**Figure 6 - expansion of the Terrestrial Biodiversity Mapping Dataset July 2020
(prepared by Orange City Council)**

According to the Terrestrial Biodiversity 2020 mapping dataset (shown in the above figure), the terrestrial biodiversity is closer to the southern boundary of proposed Lot 2. The adjacent neighbouring lot has achieved sufficient 8m setback from the terrestrial zone.

Similarly, the expansion of terrestrial biodiversity is partially within the proposed Lot 2. Proposed Lot 2 has a satisfactory building envelope with 30m setback from the southern boundary which will not majorly impact the biodiversity zone, nor it will have adverse effect on any vegetation. As the proposal is only related to the subdivision of the subject lot, the development will not involve any clearing or disturbance of native vegetation.

Section 4.15

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

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

Orange Local Environmental Plan 2011

Part 1 - Preliminary

Clause 1.2 - Aims of Plan

The broad aims of the LEP are set out under subclause 2.

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

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

Clause 1.6 - Consent Authority

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

Clause 1.7 - Mapping

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

Land Zoning Map:	Land zoned R5 Large Lot Residential
Lot Size Map:	Minimum Lot Size Z1 - 2ha
Heritage Map:	Not a heritage item or conservation area
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	Mapped in Expansion of the Terrestrial Biodiversity Mapping Dataset July 2020
Groundwater Vulnerability Map:	Groundwater vulnerable
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Not within a flood planning area

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

Clause 1.9A - Suspension of Covenants, Agreements and Instruments

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

- (a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
- (b) *to any relevant instrument under Section 13.4 of the Crown Land Management Act 2016, or*
- (c) *to any conservation agreement under the National Parks and Wildlife Act 1974, or*
- (d) *to any Trust agreement under the Nature Conservation Trust Act 2001, or*
- (e) *to any property vegetation plan under the Native Vegetation Act 2003, or*
- (f) *to any biobanking agreement under Part 7A of the Threatened Species Conservation Act 1995, or*
- (g) *to any planning agreement under Subdivision 2 of Division 7.1 of the Environmental Planning and Assessment Act 1979.*

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

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

The subject site is located within zone **R5 Large Lot Residential**. The proposed development is defined as a “subdivision” (two lot Torrens) under OLEP 2011 and is permitted with consent for this zone. This application is seeking consent.

Objectives of zone R5 Large Lot Residential

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To provide for student housing in close proximity to the Charles Sturt University.*
- *To ensure development is ordered in such a way as to maximise public transport patronage, and encourage walking and cycling, in close proximity to settlement.*

The surrounding land pattern comprises well-established large lot residential development. The proposed development satisfies the minimum allotment size controls for this locality. A suitable building envelope has been established. The proposal is not inconsistent with the above-described objectives.

Clause 2.6 - Subdivision - Consent Requirements

This clause triggers the need for development consent for the subdivision of land. Additionally, the clause prohibits subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal and secondary dwellings being located on separate lots if either of those lots are below the minimum lot size applying to the land.

The proposal does not involve a secondary dwelling.

Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

Part 4 - Principal Development Standards**Clause 4.1 - Minimum Subdivision Lot Size**

This clause requires the subdivision of land to be equal to or greater than the size nominated for the land under the Minimum Lot Size Map.

In relation to this site, the map nominates a minimum lot size of 2ha. The proposed lots 1 and 2 comply with the MLS.

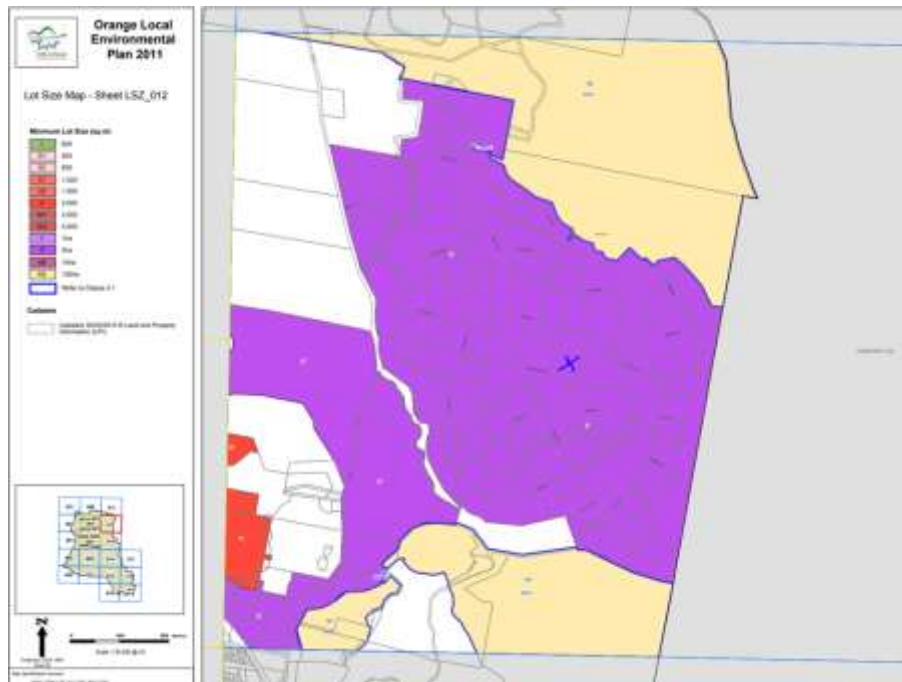


Figure 7 - Lot Size Map

Part 5 - Miscellaneous Provisions**5.16 - Subdivision of, or Dwellings on, Land in Certain Rural, Residential or Conservation Zones**

- (1) *The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or conservation zones concerned (particularly between residential land uses and other rural land uses).*
- (2) *This clause applies to land in the following zones:*
 - (f) *Zone R5 Large Lot Residential,*
- (3) *A consent authority must take into account the matters specified in subclause (4) in determining whether to grant development consent to development on land to which this clause applies for either of the following purposes—*
 - (a) *subdivision of land proposed to be used for the purposes of a dwelling,*
 - (b) *erection of a dwelling.*

(4) *The following matters are to be taken into account:*

- (a) *the existing uses and approved uses of land in the vicinity of the development,*
- (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
- (c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- (d) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

This consent relates to a two lot Torrens subdivision within the R5 Large Lot Residential zone. The surrounding development pattern comprises well-established large lot, rural residential parcels based on the minimum lot size of 2 hectares.

There were a few concerns in relation to the irregular shape of proposed Lot 2 and the close setback of the existing dam which is in the middle the subject lot. Recommendation was provided to the applicant to amend the plans by considering the aspect of topography of the site and the stream setback from proposed Lot 2. Amended plans have been submitted that now show an adequate setback for the proposed building envelope from the primary and secondary roads, and from the northern side of proposed Lot 2. The building envelope matches the building envelope setback of to the existing neighbouring lots and reduces the cumulative impact on streams which link to Summer Hill Creek, which is one of the City of Orange's major waterways and biodiversity corridors. (as shown below)



Figure 8- link to Summer Hill Creek

Part 6 - Urban Release Area

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

Part 7 - Additional Local Provisions**7.1 - Earthworks**

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

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

The earthworks proposed in the application are limited to the extent of cutting and filling.

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

The site is not known to be contaminated. A contamination report submitted in support of the development was referred to Council's Senior Environmental Health Officer.

Senior EHO Comments:

Reports by Envirowest consulting reviewed – Preliminary contamination investigation (ref: R15715c), dated 26 June 2023, and Onsite Effluent Management Study (ref: R15715e), dated 27 June 2023. No contamination identified. An onsite effluent system is feasible, and a system has been recommended.

Standard conditions have been included for erosion and sediment control, unexpected finds of contamination, and the lodgement of a Section 68 application for the installation of an onsite effluent system.

The earthworks will be appropriately supported onsite. Therefore, the effect on the amenity of adjoining properties is considered to be minor.

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

Subdivision work requirements, road permit, adjustment of the utilities, provision of services, rural property access etc conditions are imposed by Council's Assistant Development Engineer.

7.3 - Stormwater Management

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

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

Conditions have been imposed by Council's Assistant Development Engineer in relation to provision of services and works on public land. Future development measures will be approved at the building stage and may include a rainwater tank.

7.4 - Terrestrial Biodiversity

This clause seeks to maintain terrestrial biodiversity and requires that consent must not be issued unless the application demonstrates whether or not the proposal:

- (a) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land*
- (b) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna*
- (c) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (d) is likely to have any adverse impact on the habitat elements providing connectivity on the land.*

Additionally this clause prevents consent being granted unless Council is satisfied that:

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

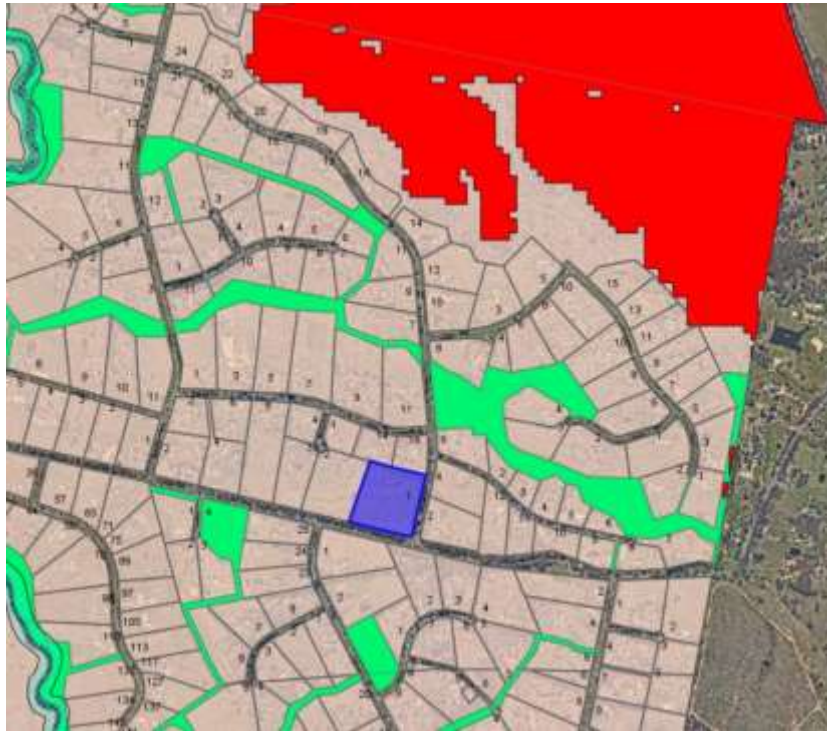


Figure 9 - Terrestrial Biodiversity - OLEP



Figure 10 - expansion of the Terrestrial Biodiversity Mapping Dataset July 2020.

The proposal is located on land that has been identified in the report of **Expansion of the Terrestrial Biodiversity Mapping Dataset July 2020**. The subject site was inspected on 27 September 2023 and the area of sensitivity was found to be moderately sensitive. Additionally, the proposed subdivision layout and vehicular access to the development is clear of the sensitive areas. The amended plans have provided sufficient distance from the proposed building envelope to avoid adverse consequences.

Accordingly, the proposal is unlikely to fragment, diminish or disturb the biodiversity structure, ecological functions or composition of the land, and does not reduce habitat connectivity with adjoining sensitive areas.

7.6 - Groundwater Vulnerability

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

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

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

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

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

Clause 7.11 - Essential Services

Clause 7.11 applies and states:

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

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

Conditions are implemented to ensure proper servicing and provision of access for the development.

STATE ENVIRONMENTAL PLANNING POLICIES**State Environmental Planning Policy (Resilience And Hazards) 2021****Chapter 4 - Remediation of Land****4.6 - Contamination and Remediation to be Considered in Determining Development Application**

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

The applicant has provided a contamination report and geotechnical report. The reports conclude that the site is currently grazed grassland and vegetation was maintained. The site is mapped with a geological unit and no evidence of naturally occurring asbestos was identified on the surface of the site. The site was identified as low asbestos potential. No evidence of staining, odours, mines, sheep dips, mixing sheds or contaminating industrial activities are located on site. Soil sampling did not detect any elevated levels of analysed heavy metals. In this case site is suitable for residential land use. The submitted report was referred to Council's Senior Environmental Health Officer, who had no objections.

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

There are no draft Environmental Planning Instruments currently on exhibition that relate to the subject land or proposed development.

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)**Orange Development Control Plan 2004****PO 6.6-1 PLANNING OUTCOMES FOR RURAL RESIDENTIAL SUBDIVISION**

- 1 Subdivision layout addresses topography, heritage, water resources and vegetation features.*
- 2 Subdivision layout complies with bushfire-planning principles.*
- 3 Large lots created in planned estates such as Clifton Grove and Ammerdown are retained to provide for a range of lot sizes.*
- 4 Large lots created in subdivisions under LEP 2000 due to environmental limitations or due to average lot-size provisions are identified as being restricted from further subdivision.*
- 5 A suitable area for buildings and sewage management systems is identified on subdivision plans as a "building envelope", with such area located for privacy and separation between dwellings on other sites and other rural activities in the locality.*
- 6 Development and associated activities are to be kept clear of environmentally sensitive land.*
- 7 Lots less than 2 hectares are: • capable of containing buildings set back from boundaries an adequate distance to maintain the low-density rural residential character of the locality, as identified in building envelopes; • suitable for on-site sewage management systems.*
- 8 Lots in Zone 1(c) are serviced by an appropriate on-site sewage management system.*
- 9 Development does not increase the number of entrances to a main road (land prior to development is deemed to have a single opening onto a main road).*
- 10 Driveways accessing a lot have sufficient sight distance at the entrance to a public road.*
- 11 Development is constructed to the standard required under the Development and Subdivision Code.*
- 12 Boundaries to agricultural land are adequately fenced.*

The surrounding development pattern is well-established as rural residential. The proposed development is reflective of this pattern. In terms of topography and vegetation, the plans were amended to provide sufficient distance from the existing dam (explained in detail in Section 5.16 of this report). The land is not within the bushfire prone zone. It adopts a minimum lot size of 2 hectares for the subject land. The proposed subdivision satisfies this development standard and sufficient information is provided to indicate that the proposed lots are satisfactory in terms of lot shape, access and surrounding development pattern. It is an objective of the R5 zone to provide residential housing in a rural setting, and in terms of future development the proposed subdivision will provide housing in a rural setting.

The building envelope was amended to increase the setback from the northern existing dam to avoid cumulative impacts. There is more than 30m setback provided from secondary and primary roads to avoid the privacy issue from the public road and neighbouring lot. There are existing trees along the northern side and also few trees on the eastern side to provide privacy screening from the public road. Access for proposed Lot 2 was relocated at the site of the existing paddock gate approximately 90m from the intersection of Banjo Patterson Way and The Billabong to provide the required access which was recommended by the Council's Assistant Development Engineer – Marc Kiho



Figure 11 - proposed subdivision with building envelope setbacks

The proposed lot does not interface with agriculture land. The existing fence outside the subject lot will be retained.

PO 7.7-1 PLANNING OUTCOMES - NEIGHBOURHOOD CHARACTER

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

The amended layout of the proposed lot is surrounded by similar patterns of the lots within the rural area. The application relates only to subdivision at this stage. The design and siting of future development within the subject land will be the subject of separate applications. The building envelope established for future development has been adjusted at staff request. The building envelope was adjusted so that setbacks from the southern, northern and eastern sides of the allotment match the setbacks of development within adjacent lots.

DEVELOPMENT CONTRIBUTIONS**Section 7.11 Development Contributions**

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

Open Space and Recreation	One additional lot @ \$4,785.07	4,785.07
Community and Cultural	One additional lot @ \$1,387.64	1,387.64
Local Area Facilities	One additional lot @ \$0.00	-
Plan Preparation & Administration	One additional lot @ \$374.64	374.64
TOTAL:		\$6,547.35

Section 64 Headworks Charges

Headworks charges for water, sewer and drainage works apply to the proposal. The contribution is based on 1.0 ET for water supply headworks. Conditions are included requiring payment of contributions prior to subdivision certificate release.

PROVISIONS PRESCRIBED BY THE REGULATIONS s4.15(1)(a)(iv)**Demolition of a Building (clause 61)**

The proposal does not involve the demolition of a building.

Fire Safety Considerations (clause 62)

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

Buildings to be Upgraded (clause 64)

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

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

The subject area is characterised as primarily rural residential development with a mix of allotment sizes generally comprising 2 hectares. The proposed development at present relates to subdivision only and complies with the minimum allotment controls within the OLEP 2011. Future development within the proposed lot will be the subject of separate applications.

Agricultural Impact

The subject lot does not represent an agricultural resource. The subject land is situated entirely within the R5 Large Lot Residential zone.

Traffic Impact

The proposed development involves the creation of one additional large lot in a manner consistent with the LEP. Traffic impacts anticipated following the future development of the land are considered to be minimal. Technical Services staff have supported the location of the access driveway.

Biodiversity

The proposal does not involve clearing of native vegetation. The natural state of the site and surrounding area have been highly modified due to the well-established rural and large lot residential development pattern. However, the topography pattern in the centre of proposed Lot 2 is slightly sloping towards the existing dam. The location of future development will need to consider site contours, setbacks and necessary earthworks. These are matters for consideration when and if an application for further development is proposed.

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

It is considered that the site is suitable for the proposal.

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

Council received two written submissions and the applicant was requested to consider addressing the issues raised.

The following issues were raised in both submissions during the first exhibition period:

Vegetation management and permeant natural water course impacts

The submission raised concerns regarding removal of trees. As discussed in the assessment, the existing native trees will be retained. Other concerns related to the impact of the development on the existing water course, suggesting that the proposed dwelling effluent disposal system and contaminated run off will impact wildlife and domestic livestock, which can cause environmental impact especially if there is an increase in impervious areas from future development on the land - sheds, house and possible second dwelling for example. As discussed above, the proposed shape of the Proposed Lot 2 and building envelope has been amended to avoid the environmental impact. Council's Senior Environmental Health Officer has reviewed the submitted environmental reports (**Preliminary Contamination Investigation (ref: R15715c) dated 26 June 2023, and Onsite Effluent Management Study (ref: R15715e) dated 27 June 2023**) and was satisfied that **no contamination was identified, and that a suitable onsite effluent system is feasible. A system has been recommended.**

Standard conditions have been included for erosion and sediment control, unexpected finds of contamination, and the requirement for lodgement of a Section 68 application for the installation of an onsite effluent system.

Future subdivision, change of character and scenic quality

The submitter indicated that Clifton Grove was significant because it was one of the first planned rural residential estates in NSW. The subdivision plan was given approval in the 1970s when the area was under the control of Canobolas Shire Council as a way to utilise marginal agricultural land. The rural residential subdivision responded to the cultural trend for hobby farms and the tree change lifestyle.

The submitter requests that the original character and intent of the design should be preserved, noting a promise made by Orange City Council (2004) that no subdivisions would occur in the Clifton Grove rural residential estate. The original subdivision pattern was dictated by the then planning controls under the LEP that allowed for a 2 hectare average allotment size. In 2011, the planning controls were slightly amended to allow for a minimum allotment size of 2 hectares, meaning that those previously larger allotment sizes could be further subdivided if deemed appropriate. The 2 hectare minimum allotment size maintains a consistent theme of large lot residential parcels. The proposed lot complies with the minimum lot size permitted for the locality. Whilst the proposal provides for one additional dwelling, a building envelope that has been designed in a manner to minimise the impact upon the locality.

Road safety and site access and circulation

The submission stated that the access gate for proposed lot 2 will have traffic consequences and development that will lead to an additional third gate. As discussed in the report, there is no third gate provided as there is already an existing gate towards The Billabong road which will be upgraded and will provide access to proposed Lot 2. The capacity of the existing road network for Clifton Grove is sufficient to accommodate the modest traffic increase that would be attributed to the creation of one extra lot.

Visual and lifestyle concerns materially affecting proposed subdivision

The submission raised concerns about the topography of Lot 7. As discussed above, the physical characteristics of this site are not significantly different or more constraining compared to the physical characteristics associated with other large residential lots in Clifton Grove. To mitigate the future impact, the plans were amended with reference to the topography of the site, and a suitable building envelope has been identified.

Visibility

The submission raised concerns regarding view impacts and argues that the proposed development site is in full view of the adjoining property. The submitter has indicated that any building work within the proposed lot will disrespect the existing character and tranquil appearance of the wider area. As shown in the figure below, measures have been taken to ensure that setbacks within the proposed lot generally accord with existing setbacks on adjoining lands. It is noted that existing tree screening exists from within the adjacent lots that offer filtered views already across this space, and there are opportunities for additional tree screening from within the proposed lot which will, over time, reduce the view impacts. All development within the proposed building envelope will be the subject of a separate application.

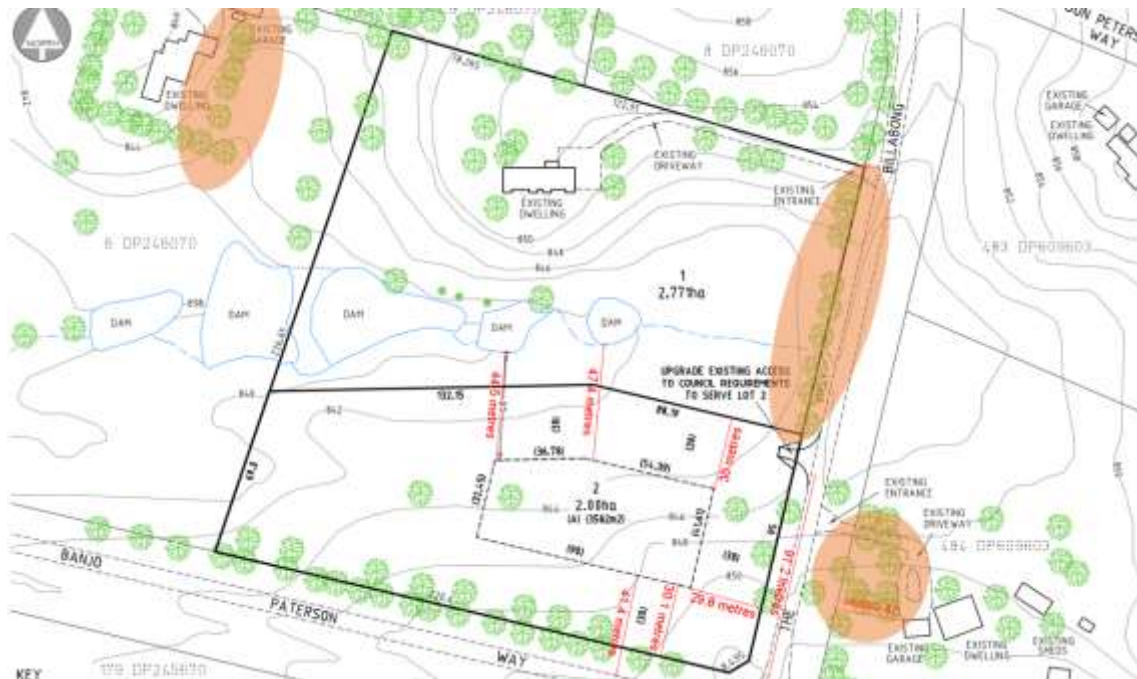


Figure 12 - proposed subdivision with building envelope setbacks

Subdivision issue

The submitter was concerned that the proposal will open the flood gates with regards to further subdivision and building development within Clifton Grove which has the potential to destroy the fabric of the unique estate. As mentioned above, the subdivision land pattern is similar with surrounding land patterns which still maintain the unique fabric of the area. The subdivision can only be considered if it satisfies the LEP provisions, particularly in terms of zoning and minimum lot size, which in this case support the proposal. The site has a minimum allotment size requirement of 2ha. Each of the proposed lots exceed the minimum area requirement. The former provisions (pre 2011) provided for an average allotment size of 2ha across the estate, hence its larger size.

Characterised as urbanisation

Concern was raised that the planned development will be in close proximity to established billabongs, known to be the habitat of diverse species of fauna and flora. The submitter indicated that these billabongs are part of a larger interconnected system serving as a natural asset within this area that have a valuable environmental, social and cultural impact to our community. The submission suggests that further urbanisation within this area has the potential to exacerbate changes to water flow, meaning the billabongs will not receive the water required to sustain healthy biodiversity. As discussed in the planning report, the proposal cannot be characterised as urbanisation. The proposal only seeks the creation of one extra lot that generally matches the lot size and shape of other lots in the area. The proposed building envelope has been designed to minimise impacts upon the waterway traversing the property. Conditions of consent relating to soil and water erosion controls have been included to minimise impacts along the creek line.

Consultation

The submitter was disappointed that no prior consultation was undertaken with homeowners affected by this proposal. There is no obligation on an applicant to consult with adjoining neighbours prior to lodgement of a development application. Once the application was lodged, formal notification of the application was undertaken in a manner consistent with Council's Community Participation Plan.

PUBLIC INTEREST s4.15(1)(e)

The proposal will not be inconsistent with any policy statement, planning study or guideline that has not been considered in this assessment. There are no aspects of the proposal that will be contrary to the welfare or well-being of the general public.

SUMMARY

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

COMMENTS

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

ATTACHMENTS

- 1 Draft Notice of Approval, D24/948 [↓](#)
- 2 Plans, D24/943 [↓](#)
- 3 Submissions (redacted), D24/949 [↓](#)



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA 278/2023(1) PAN-360532
Applicant	GRAHAME AND DEBORAH SELWOOD C/- PETER BASHA PLANNING & DEVELOPMENT PO BOX 1827 ORANGE 2800
Description of development	Subdivision (Two lot Torrens)
Property	1 THE BILLABONG CLIFTON GROVE 2800 7/-/DP246070
Determination	Approved Consent Authority - Council
Date of determination	6/02/24
Date from which the consent operates	7/02/24
Date on which the consent lapses	7/02/29

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Reasons for approval

- 1) To ensure compliance with relevant statutory requirements.
- 2) Because the development will require the provisions of, or increase the demand for, public amenities and services.
- 3) To ensure the utility services are available to the site and adequate for the development.
- 4) To prevent the proposed development having a detrimental effect on adjoining land uses.

- 5) To minimise the impact of development on the environmental.
- 6) The proposal was neighbour notified 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 two submissions were received.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Paul Johnston
Manager Development Assessment
Person on behalf of the consent authority

For further information, please contact Anugya Vishwakarma / Town Planner

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

General Conditions

1	Approved plans and supporting documentation			
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.			
	Approved plans			
	Sheet number	Reference number	Plan title	Drawn by
	1	23009DA	Location	Peter Basha
	2	23009DA	Existing boundaries & site detail	Peter Basha
	3	23009DA	Proposed Subdivision	Peter Basha
	4	23009DA	Surrounding Lot Sizes	Peter Basha
	Approved documents			
	Document title	Version number	Prepared by	Date of document
	In the event of any inconsistency between the approved plans and documents, the approved < Plans / Documents > prevail.			
	In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.			
	Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.			
2	Development and subdivision works requirements			
	All of the following 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 engineering work required by the following conditions is to be completed prior to the issue of an Occupation or Subdivision Certificate, unless stated			

	otherwise.
	Condition reason: To comply with Council's Development and Subdivision Code.

Building Work

Before issue of a construction certificate

3	Section 68 application - water and sewer
	An approval under Section 68 of the <i>Local Government Act</i> is to be sought from Orange City Council, as the Water and Sewer Authority, for water, sewer and stormwater connection. Details concerning the proposed backflow prevention between the nominated water tank supply and the potable system are to be provided. No plumbing and drainage is to commence until approval is granted.
	Condition reason: To ensure the utility services are available to the site and adequate for the development.

Before building work commences

4	Sediment control
	Sediment and erosion control measures shall be implemented on the site.
	Condition reason: To protect waterways from pollution by sediment-laden runoff.

During building work

5	Protection of the Environment Operations Act - material delivery
	All materials onsite or being delivered to the site are to be contained within the site. The requirements of the <i>Protection of the Environment Operations Act 1997</i> 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.
	Condition reason: To protect waterways from pollution by stockpiled or placed construction materials.
6	Unexpected finds - contamination
	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 onsite must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works onsite must not resume unless the express permission of Council's Director Development Services is obtained in writing.
	Condition reason: To ensure any unexpected finds of contamination are notified to Council and managed appropriately.

Before issue of an occupation certificate

No additional conditions have been applied to this stage of development.

Occupation and ongoing use

No additional conditions have been applied to this stage of development.

Subdivision Work

Before issue of a subdivision works certificate

7	Engineering plan design and construction requirements
	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 (certifier – subdivision) for approval prior to the issue of a Subdivision Works Certificate.
	Condition reason: To comply with Council's Development and Subdivision Code.
8	Water and soil erosion control plan to be submitted
	A soil and water erosion control plan is to be submitted to Orange City Council or an Accredited Certifier (certifier – subdivision) for approval prior to the issue of a Subdivision Works 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.
	Condition reason: To comply with Council's Development and Subdivision Code.

Before subdivision work commences

9	Apply for Subdivision Works Certificate
	An application for a Subdivision Works Certificate is required to be submitted to, and a Certificate issued by Orange City Council/Accredited Certifier prior to any excavation or works being carried out on-site.
	Condition reason: To ensure compliance with relevant statutory requirements.
10	Soil and Water Management Plan
	The approved water and soil erosion control plan shall be implemented prior to construction works commencing.
	Condition reason: To ensure compliance with relevant statutory requirements.
11	Road Opening Permit required
	A Road Opening Permit in Accordance with Section 138 of the Roads Act 1993 must be approved by Council prior to a Subdivision Works Certificate being issued or any intrusive works being carried out within the public road or footpath reserve.
	Condition reason: To ensure compliance with relevant statutory requirements.

During subdivision work

12	Adjustments to utility services
	Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
	Condition reason: To comply with Council's Development and Subdivision Code.
13	All services contained within lots
	All services are to be contained within the allotment that they serve.
	Condition reason: To comply with Council's Development and Subdivision Code.
14	Provision of services
	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.

	<p>The developer is to be entirely responsible for the provision of a water service and drainage facilities capable of servicing proposed Lot 2 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.</p> <p>Condition reason: To comply with Council's Development and Subdivision Code.</p>
15	<p>Rural property access</p> <p>A bitumen sealed vehicular entrance with minimum 200mm thick gravel incorporating a pipe culvert is to be constructed to provide access to proposed Lot 2. The access shall be located at the site of the existing paddock gate approximately 90m from the intersection of Banjo Patterson Way and The Billabong.</p> <p>The pipe culvert is to consist of minimum 375mm diameter stormwater pipes and 2 concrete headwalls and be a minimum 5 metres long. Where it is not possible to construct a pipe culvert, due to shallow depth of table drain or the entrance being located on a crest, a 6 metre long by 2 metre wide by 100mm deep concrete dish drain may replace the pipe culvert.</p> <p>The location of this entrance and selection of pipe culvert or dish drain are to be as directed by Orange City Council. The entrance is to be constructed in accordance with the RTA Guidelines for Intersections at Grade Figure 4.9.7 Rural Property Access with Indented Access. The construction is to be as per the requirements of the Orange City Council Development and Subdivision Code and Orange City Council Road Opening Permit.</p> <p>Condition reason: To comply with Council's Development and Subdivision Code.</p>

Before issue of a subdivision certificate

16	<p>All services contained within lots, Statement of Compliance and WAE plans</p> <p>All services are to be contained within the allotment that they serve. A Statement of Compliance and digital works as executed plans (in both .pdf and .dwg formats) for all services, from a Registered Surveyor, is to be submitted to Orange City Council prior to the issue of a Subdivision Certificate.</p> <p>WAE plans shall include MGA co-ordinates and AHD levels with each of the services on a separate layer eg separate out water, sewer, storm water, gas, power, telecommunications to their own layers / drawing sheet.</p> <p>Condition reason: To comply with Council's Development and Subdivision Code.</p>
17	<p>Apply for Subdivision Certificate</p> <p>Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.</p> <p>Condition reason: To ensure compliance with relevant statutory requirements.</p>
18	<p>Contributions - water and sewer headworks charges</p> <p>Payment of contributions for water, sewer and drainage works is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on 1.0 ETs for water supply headworks. A Certificate of Compliance, from Orange City Council in accordance with the <i>Water Management Act 2000</i>, will be issued upon payment of the contributions.</p> <p>This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.</p> <p>Condition reason: To ensure compliance with relevant statutory requirements.</p>

19	Essential Energy certification A Notice of Arrangement from Essential Energy stating arrangements have been made for the provision of electricity supply to the development, is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate. Condition reason: To comply with Council's Development and Subdivision Code.															
20	NBN certification Application is to be made to NBN for infrastructure to be made available to each individual lot within the development. Either a Telecommunications Infrastructure Provisioning Confirmation or Certificate of Practical Completion is to be submitted to the Principal Certifying Authority confirming that the specified lots have been declared ready for service prior to the issue of a Subdivision Certificate. Condition reason: To comply with Council's Development and Subdivision Code.															
21	Provision of services and works on public land Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets. Condition reason: To comply with Council's Development and Subdivision Code.															
22	Contributions - payment of development contributions The payment of \$6,547.35 must be made to Council in accordance with Section 7.11 of the Act and Orange Development Contributions Plan 2017 (Remainder of LGA) toward the provision of the following public facilities: <table><tr><td>Open Space and Recreation</td><td>One additional lot @ \$4,785.07</td><td>4,785.07</td></tr><tr><td>Community and Cultural</td><td>One additional lot @ \$1,387.64</td><td>1,387.64</td></tr><tr><td>Local Area Facilities</td><td>One additional lot @ \$0.00</td><td>-</td></tr><tr><td>Plan Preparation & Administration</td><td>One additional lot @ \$374.64</td><td>374.64</td></tr><tr><td>TOTAL:</td><td></td><td>\$6,547.35</td></tr></table> The contribution will be indexed quarterly in accordance with Orange Development Contributions Plan 2017 (Remainder of LGA), which may be inspected at the Orange Civic Centre, Byng Street, Orange. Condition reason: Because the development will require the provision of, or increase the demand for public amenities and services.	Open Space and Recreation	One additional lot @ \$4,785.07	4,785.07	Community and Cultural	One additional lot @ \$1,387.64	1,387.64	Local Area Facilities	One additional lot @ \$0.00	-	Plan Preparation & Administration	One additional lot @ \$374.64	374.64	TOTAL:		\$6,547.35
Open Space and Recreation	One additional lot @ \$4,785.07	4,785.07														
Community and Cultural	One additional lot @ \$1,387.64	1,387.64														
Local Area Facilities	One additional lot @ \$0.00	-														
Plan Preparation & Administration	One additional lot @ \$374.64	374.64														
TOTAL:		\$6,547.35														

Ongoing use for subdivision work

No additional conditions have been applied to this stage of development.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent. Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means ORANGE CITY COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

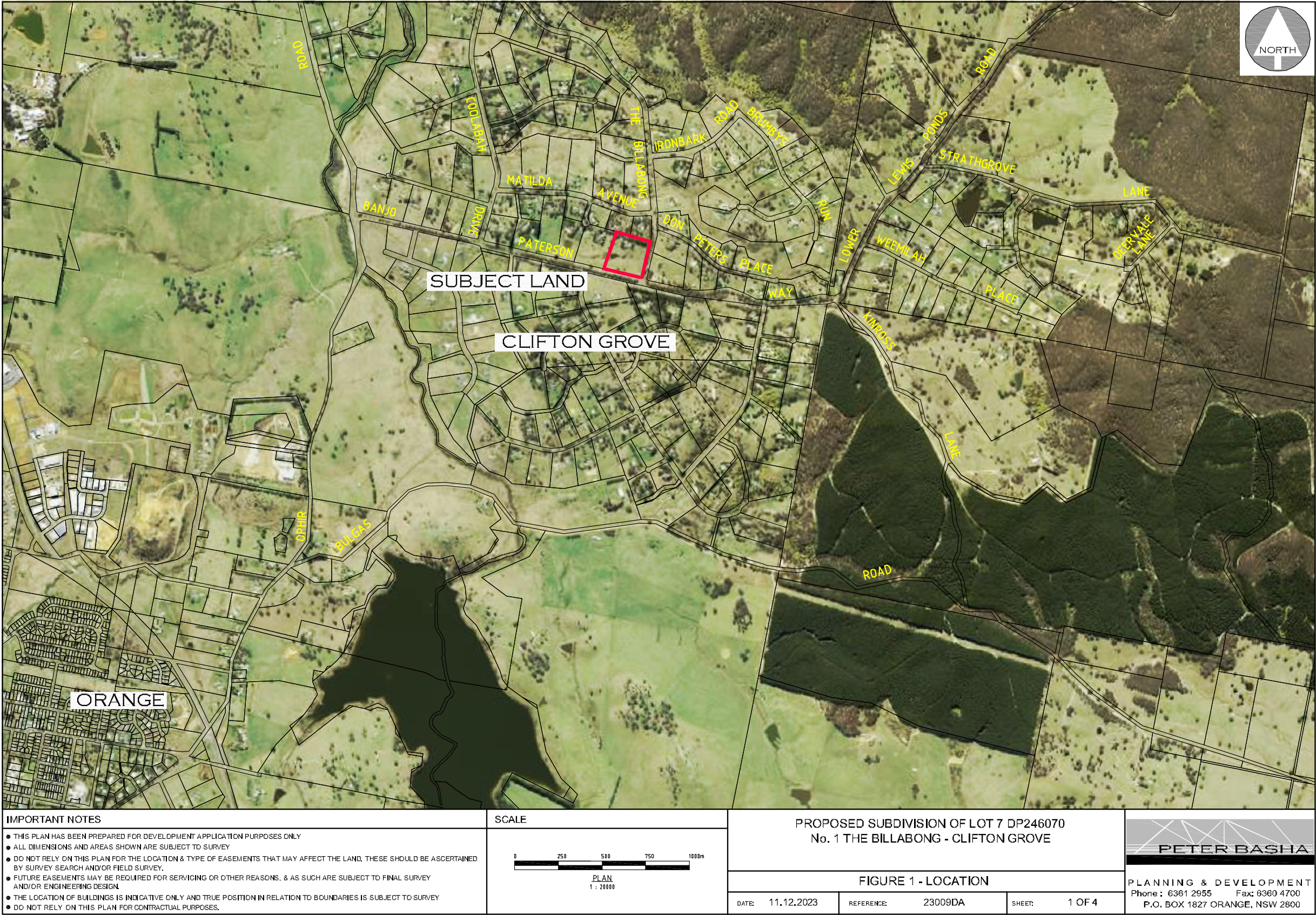
- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

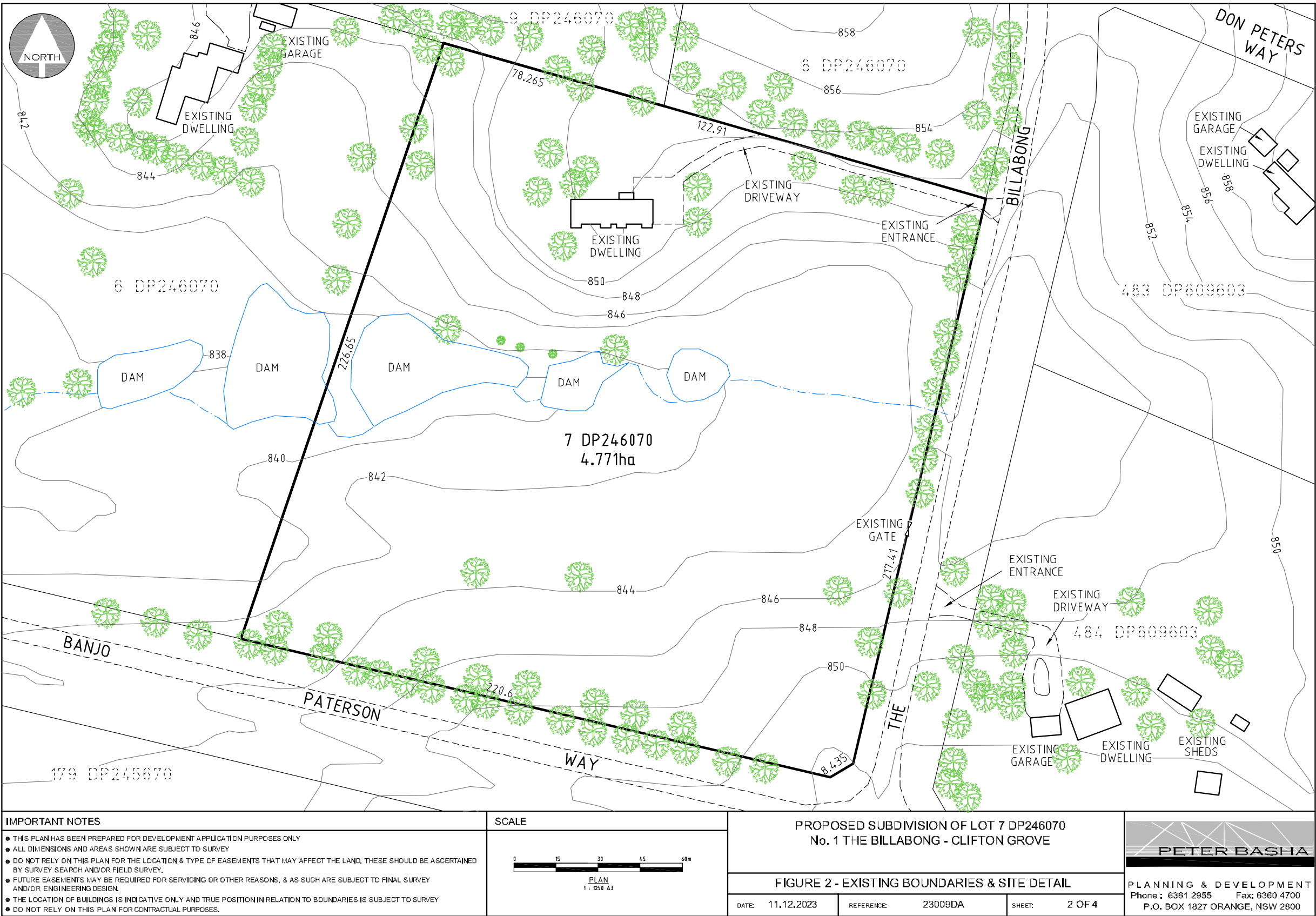
Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

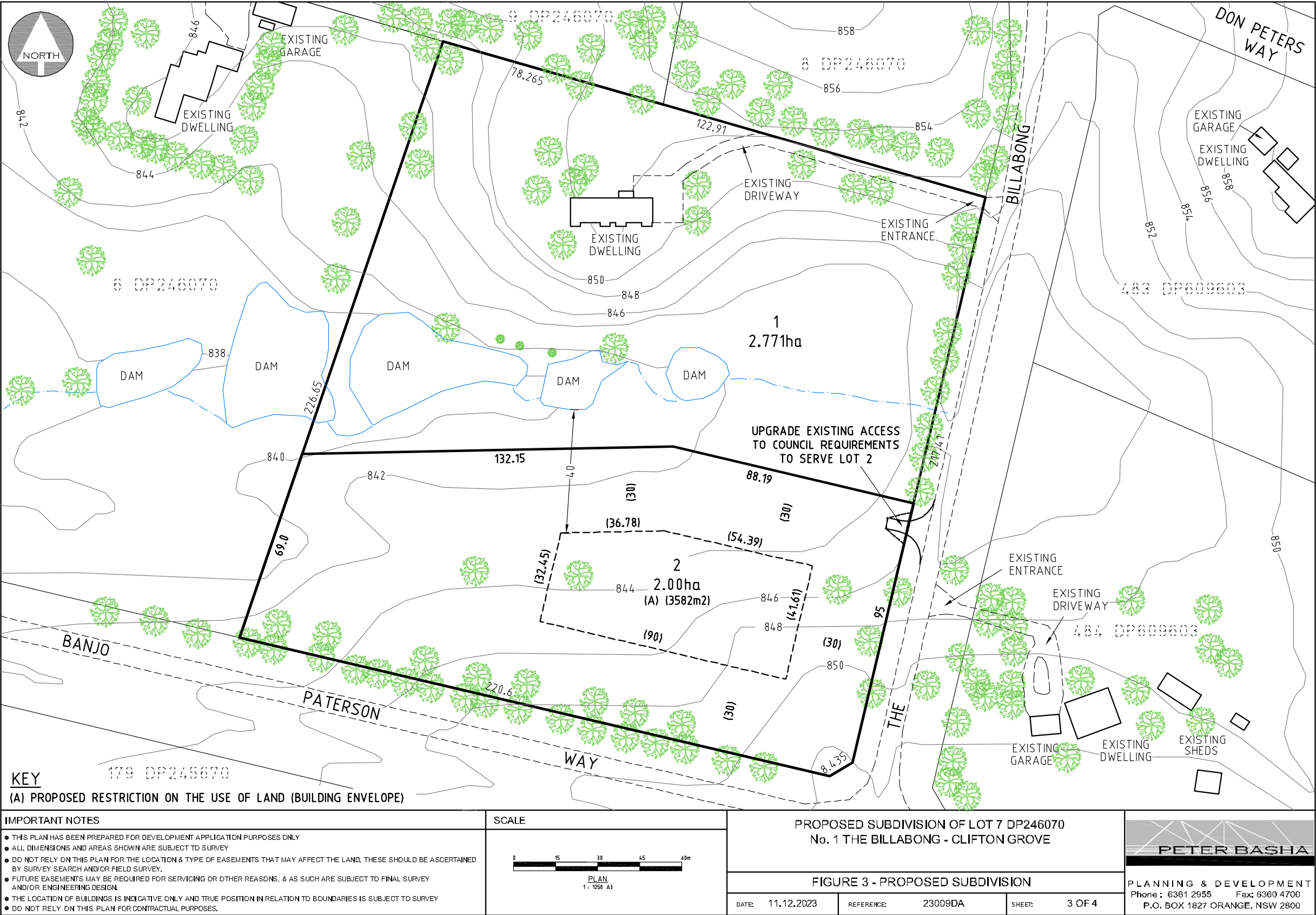
Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

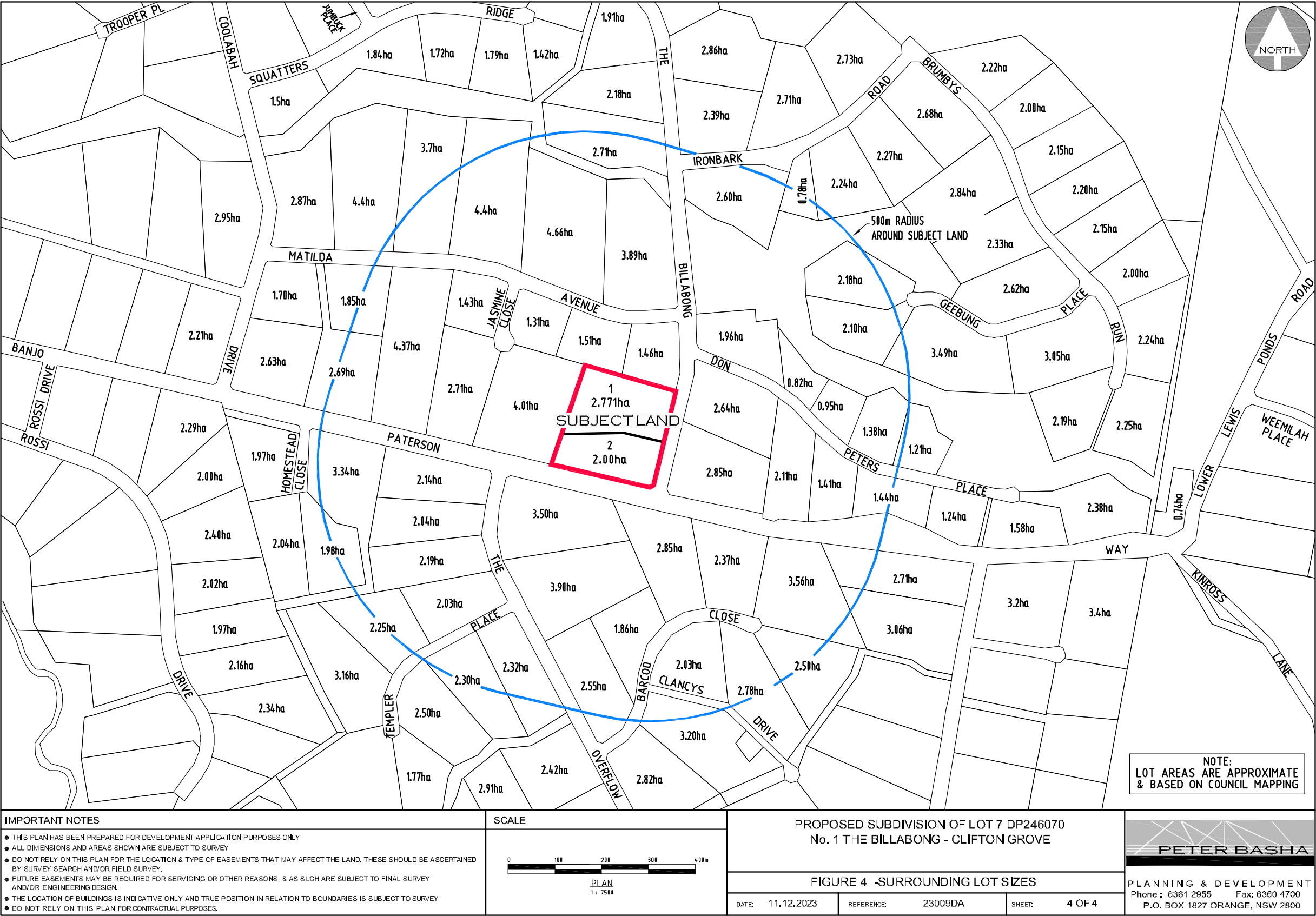
Subdivision work certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Western Regional Planning Panel.









Submission 1

Chief Executive Officer
Orange City Council
135 Byng Street Orange 2800
REF DA 278/2023(1)-PAN-360532

Attention : Orange City Council to the subdivision proposal THE DEVELOPMENT APPLICATION DA 278/2023 (1) LOT 7 DP 246070- 1 THE BILLABONG CLIFTON GROVE SUBDIVISION (TWO TORRENS TITLE).

We respectfully object to this development application at 1 The Billabong Clifton Grove.

Our reasons are as follows:

1. **Natural Environment: Trees and permanent natural Water Course impacts.**
 - a. A reduction in up to 5 fully grown Eucalyptus native timber including on the nature strip of Orange City Council land to allow for proposed dwelling and driveway access.
 - b. Possible negative consequences to biodiversity to existing water course that traverses Lot 7 by the proposed dwelling effluent disposal systems and contaminant run off. This may impact wildlife and domestic live-stock nearby. More people dwelling on this existing block could have environmental impacts especially downstream. This run off could increase if sheds or another second dwelling to the one proposed is erected if this subdivision is approved by Orange City Council. Or if the proposed subdivision services student accommodation or child care or aged services or other community service buildings.
2. **Precedent for future subdivisions and change of the character and scenic quality along Banjo Paterson Way.**

Clifton Grove is significant because it is one of the first planned rural residential estates in NSW: *The subdivision plan was given approval in the 1970's when the area was under the control of the Canobolas Shire Council as a way to utilise marginal agricultural land. The rural residential subdivision responded to the cultural trend for hobby farms and the tree change lifestyle.* (orangesignificantlandscapes.wordpress.com).

Its original character and intent should be preserved. We note that a promise was made by the Orange City Council (2004) that no subdivisions would occur in the Clifton Grove rural residential subdivision. This proposed subdivision of Lot 7 alters the original character of Clifton Grove planning and may create a precedent for future dwellings and residential subdivisions signalling likely future breakups of R5 Large Residential blocks in Clifton Grove. This will affect open space landscape and scenic quality.

3. Road safety and site access and circulation

- a. As residents we have concerns for traffic flow and road safety at the intersection of The Billabong and Banjo Paterson Way made unsafe by an additional dwelling(s) access closer to the corner. The Banjo Paterson Way is an 80km traffic speed road and the access into The Billabong is 50 km and includes a kangaroo care sign for wildlife. The access gate for the proposed lot 2 will have traffic consequences for the neighbourhood traffic flow and likely increase demand for public services and facilities.
- b. This development proposal will lead to an additional third gate and three road entries close to this intersection on The Billabong directly after the Banjo Paterson Way turn off: Two existing gate entries plus the proposed third gate entry enhancing traffic risks for Rural Fire Service trucks, SES volunteers, Council rubbish collection and postal deliveries.

4. Visual and Life Style concerns materially affecting from this proposed subdivision .

The topography of Lot 7 does not lend it to subdivision. This is evident by the dimensions of the proposed division between the two proposed Torrens Titles . The proposed fence line of the two Torrens Titles is sensitive to the water course including the farm gate . The proposed subdivision depicts Lot 2 as a five-sided block with Banjo Paterson Way as its dominant frontage length at 220 metres.

Lot 7 is not a flat block and, although zoned large residential, usage is restricted due to natural features of elevation and natural water use: The land is varied in topography as it is elevated at one end and cut into two areas by a natural water course in the middle. It is not an easy block to subdivide and the proposed DA in its measurements and boundaries, around the water course which can overflow in wet periods, shows this. Therefore, it does not lend itself to 2 Torrens Title dwelling allotments which could pose environmental problems if subdivision is allowed by the Orange City Council.

The proposed subdivision will also impact negatively on the scenic quality of that part of Clifton Grove because an urban style block will replace the existing rural grazing area at a busy road T intersection, Banjo Paterson Way.

In conclusion, we object to this two Torrens Title subdivision because of the proposed site access and change in site character near Banjo Paterson Way and The Billabong. This proposed subdivision will affect the life style and the scenic quality of the area in which we reside.

Yours sincerely

Submission 2

13 September 2023

Chief Executive Officer,
Orange City Council,
135 Byng Street,
Orange
NSW 2800.

DEVELOPMENT APPLICATION DA 278/2023(1)
LOT 7 DP 246070 - 1 THE BILLABONG, CLIFTON GROVE
SUBDIVISION (TWO LOT TORRENS TITLE)

Dear Sir/Madam,

I wish to respectfully object to the development application detailed above on the following grounds:

1. **VISIBILITY.** The proposed development site is in full view from my property and any building work would be disrespectful to the character and appearance of the wider area. The development will adversely affect the currently calming, peaceful, tranquil and untroubled natural vista.
2. **ISSUE OF SUBDIVISION IN CLIFTON GROVE.** Although the proposed development may have the legal right to proceed, would in effect 'open the flood gates' to further subdivision and building developments within Clifton Grove, thus destroying the very fabric of this unique estate.
3. **VIABILITY OF BILLABONGS.** The planned development will be in close proximity to established billabongs, known to be the habitat of diverse species of fauna and flora. These billabongs are part of a larger interconnected system at a landscape scale and enhance water delivery, serving as a natural asset within this area and have a valuable environmental, social and cultural impact to our community. It is well documented that further urbanisation within an area exacerbates changes to water flow, meaning the billabongs do not receive the water required to sustain healthy biodiversity.

Furthermore, I am very disappointed that no prior consultation was taken with the homeowners affected by this proposed development. The letter from Orange City Council detailing this development application arrived in the post on the 12th September, allowing just 10 days to submit an objection.

Yours sincerely,

2.3 DEVELOPMENT APPLICATION DA 275/2023(1) - 25 WAHRATTA WAY

RECORD NUMBER: 2023/2254

AUTHOR: Summer Commins, Senior Planner

EXECUTIVE SUMMARY

Application lodged	24 August 2023
Applicant/s	Designs@M
Owner/s	Mrs MG Sligar
Land description	Lot 1 DP 252192 - 25 Wahratta Way, Orange
Proposed land use	Dwelling (detached addition) - regularise use
Value of proposed development	\$25,990.00

Council's consent is sought to regularise use of a detached dwelling addition at 25 Wahratta Way.

The transportable structure was placed on the land without development consent. Once brought to Council's attention, the landowner was requested to seek development consent to regularise the use of the unauthorised structure.

Retrospective approval under Section 68 of the Local Government Act 1993 cannot be sought or granted for the installation of a manufactured home or associated structure on the land.

The placement of a building on the land without Council's consent is a breach of the Environmental Planning and Assessment Act 1979. The unauthorised use of land is assessed as Low Risk under Council's Enforcement Policy 2018. Enforcement action against the landowner may be undertaken in accordance with that Policy.

Notable planning matters considered in this assessment report include:

- The building will not be contrary to the established neighbourhood character. Sheds and carports are elements in the surrounding streetscapes and contribute to the localised built form. The existing building will take a consistent form with nearby ancillary buildings.
- The building has been placed on the land within a transmission line easement. There is suitable area onsite to relocate the building outside of the easement. Conditions are included.
- The building is not correctly connected to urban utility services. Conditions are included requiring suitable connections to sewer, water and electricity.
- The subject land has partial secondary access to Wahratta Way, via layback and no crossover. Conditions are included requiring access construction via Road Opening Permit.

The DA was notified to adjoining property owners in accordance with Council's Community Participation Plan. Two (2) submissions were received. The submissions raised concerns in relation to neighbourhood character, visual impacts and on street parking.

As outlined in this report, the proposed development will reasonably satisfy applicable Local and State planning controls. Impacts of the development will be within acceptable limit, subject to mitigation conditions. There are no aspects of the development site that are unsuitable for the proposal.

Approval is recommended.



Figure 1 - locality plan

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan Strategy “11.1. 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 275/2023(1) for *Dwelling house (detached addition) - regularise use* at Lot 1 DP 252192 - 25 Wahratta Way, Orange pursuant to the conditions of consent in the attached Notice of Approval.

FURTHER CONSIDERATIONS

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

DECISION FRAMEWORK

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

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

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

DIRECTOR'S COMMENTS

This application relates to a secondary dwelling/dual occupancy that has previously been installed on a residential block without the prior consent of Council. The application would provide an opportunity to address matters of non-compliance (location; connection to services). Two submissions were received objecting to the proposal.

The site is restricted by its shape, and the location of an electrical easement. The building would be compliant if moved slightly. Submissions raise some environmental/ordinance matters which are separate to the application (such as smoke and condition of premises). These compliance issues are to be managed as a separate issue to the DA.

In short, the proposal (as amended by condition) is not unexpected in the area in terms of being a secondary dwelling that are permissible. There are no issues that would suggest the proposal should or indeed can be refused. It is expected that the compliance issues may well continue even after approval, which is common in these cases.

Recommendation of Approval is supported.

THE APPLICATION / PROPOSAL

Council's consent is sought to regularise use of a detached dwelling addition, which takes the form of a transportable building. The structure was placed on the land without development consent being obtained.

The building is located to the side (south-east) of the dwelling and behind the front building line. The building has a footprint of 6.3m x 5.85m, and height of 2.5m. Accommodation includes three small rooms and a bathroom.

The building is not self-contained and does not comprise a secondary dwelling.

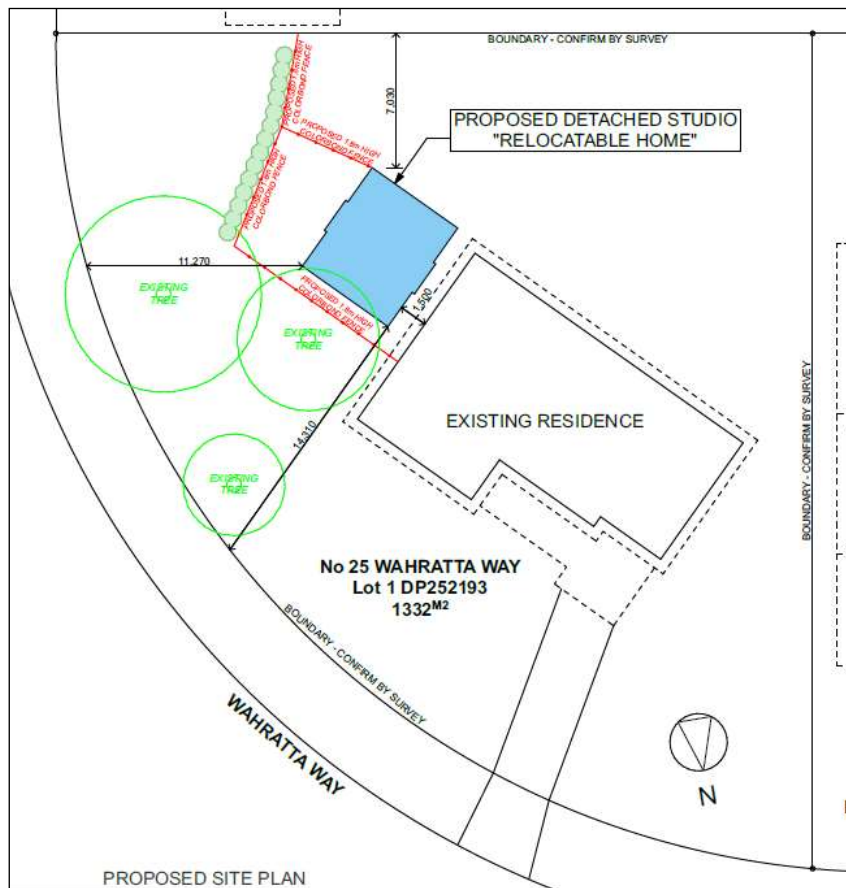


Figure 2 - site plan

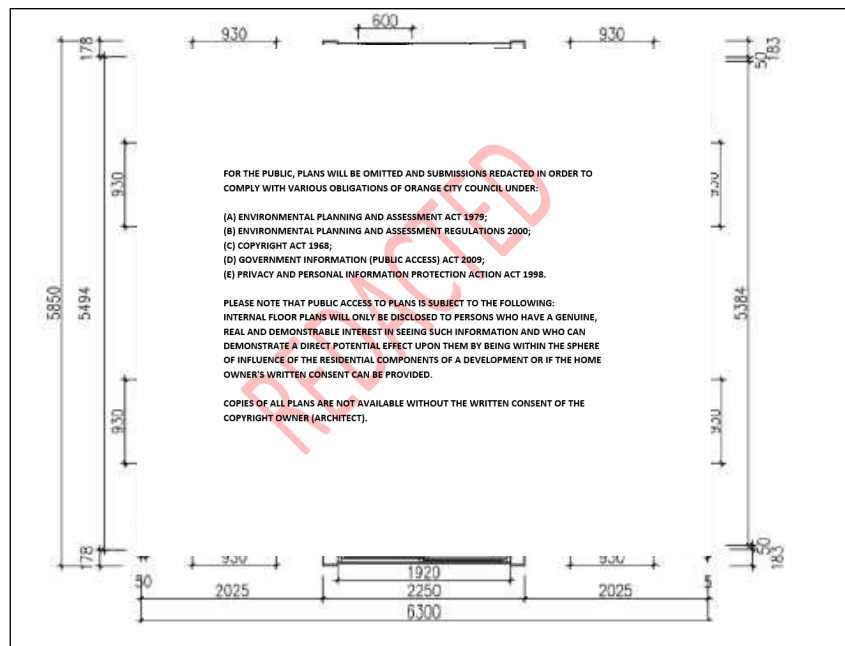


Figure 3 - floor plan

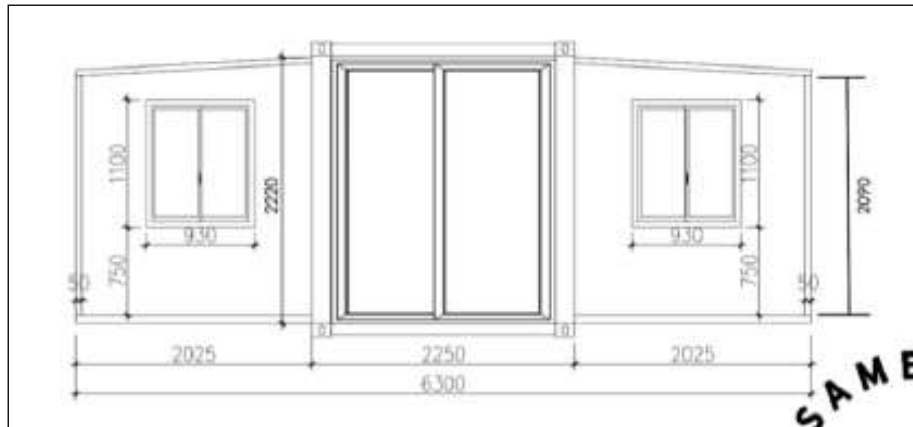


Figure 4 - front (south-east) elevation



Figure 5 - street view

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*

In consideration of Section 1.7, the proposed development is not likely to significantly affect a threatened species:

- The development site is not identified on the Biodiversity Values Map published under the Biodiversity Conservation Regulation 2016. Furthermore, the site does not contain mapped high biodiversity sensitivity pursuant to the Orange LEP 2011 Terrestrial Biodiversity Map.

- The proposal does not involve removal of native vegetation. Clearing thresholds prescribed by regulation are not applicable.
- The site is contained within an established urban residential area and has been highly modified by the urban landuse pattern. The subject land does not contain known threatened species or ecological communities.

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

Section 4.15 Evaluation

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

Orange Local Environmental Plan 2011

Part 1 - Preliminary

Clause 1.2 Aims of Plan

The proposed development will not be contrary to the listed Aims at Clause 1.2, as outlined in this report. The proposal relevantly relates to Aims (e):

- (e) to provide a range of housing choices in planned urban and rural locations to meet population growth.*

Clause 1.6 Consent Authority

Council is the consent authority for the proposed development pursuant to Clause 1.6.

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

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

Council staff are not aware of the title of the subject property being affected by a relevant instrument that would restrict the carrying out of the development, pursuant to Clause 1.9A.

The land is subject to an easement for transmission line (10.7 wide) adjacent the southern boundary. The dwelling addition will significantly encroach within the easement (refer Figure 6). The DA was referred to Essential Energy (EE) for consideration and comment. EE raised no objection to the proposal, however, noted that *'any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.'*

The placement of the dwelling addition in this location does not satisfy this requirement of Essential Energy. Conditions are included that the building be relocated towards Wahratta Way, outside of the restricted area. There is suitable area onsite to accommodate the relocated building behind the front building line for the exiting dwelling, albeit with alterations to existing fencing.

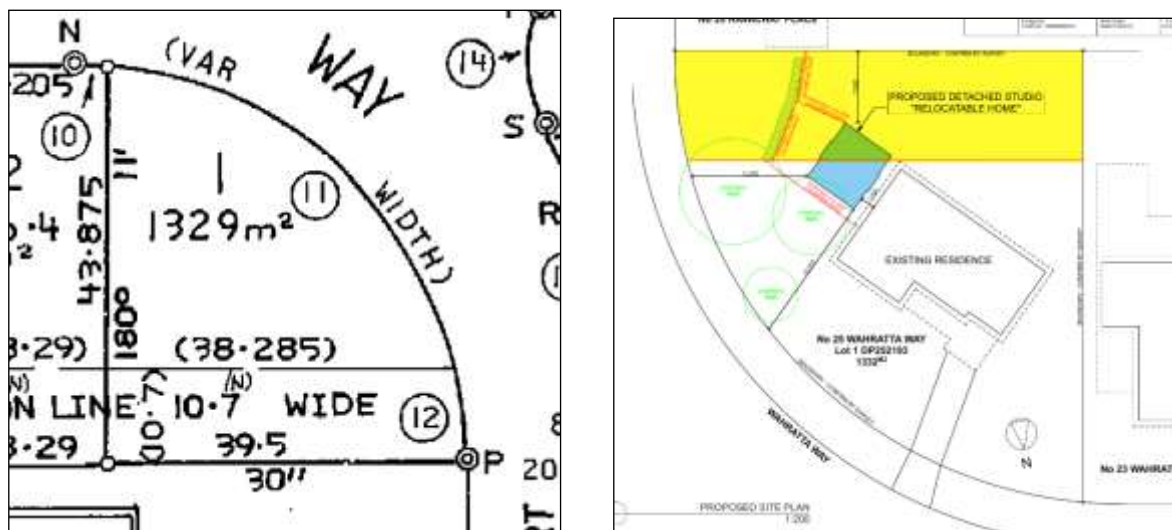


Figure 6 - extract DP 252193 and easement encroachment highlighted yellow

Part 2 - Permitted or Prohibited Development

Clause 2.1 Land Use Zones

The proposal is defined as *dwelling house* (detached addition).

A dwelling house is permitted with consent in the R1 General Residential Zone.

The building addition is not self-contained and does not comprise a *secondary dwelling*. Conditions are included that the building must not be modified or adapted as to be capable of being occupied or used as a separate domicile (and thereby comprise a secondary dwelling).

Clause 2.3 Zone Objectives

The proposal development will not be contrary to the relevant R1 Zone objectives. The development involves residential landuse in a residential environment to accommodate housing needs.

Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

Part 4 - Principal Development Standards

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

Part 5 - Miscellaneous Provisions

The Part 5 provisions are not applicable.

Clause 7.3 Stormwater Management

The proposal will not alter the existing stormwater drainage arrangements that service the subject land, pursuant to Clause 7.3.

Clause 7.6 Groundwater Vulnerability

In consideration of Clause 7.6, there are no aspects of the proposal will not impact on groundwater and related ecosystems.

Clause 7.11 Essential Services

All utility services are available to the land and suitable for the dwelling addition. Conditions are included requiring the building be connected to Council's reticulated sewer and water (via Section 68 application) and electricity. The subject land has partial secondary access to Wahratta Way, via layback and no crossover. Conditions are included requiring crossover construction via Road Opening Permit.

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

In consideration of Section 4.6, the potential for contamination of the site is considered low. The subject and adjoining lands are well-established for residential use. The site is not located within an investigation area and is not known to have been used for a Table 1 purpose to the contaminated land planning guidelines. Further contamination investigation as a precursor to potential site remediation is considered unnecessary for ongoing residential landuse.

State Environmental Planning Policy (Transport and Infrastructure) 2021

An exposed overhead electricity power line and easement for transmission line traverses the development site adjacent the rear boundary in the southern extent (refer Figure 6 above and image below).

The proposal was referred to Essential Energy in accordance with Section 2.48. The electricity supplier raised no objection to the proposal and recommended general conditions, including *'any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.'*

The placement of the dwelling addition in this location does not satisfy this requirement of Essential Energy. Conditions are included that the building be relocated towards Wahratta Way, outside of the restricted area.



Figure 7 - street view of overhead electricity powerline

Provisions of any Draft Environmental Planning Instrument That Has Been Placed on Exhibition 4.15(1)(A)(ii)

None at present.

Part 7 - Development in Residential Areas

Neighbourhood Character and Building Appearance

The existing building will not be contrary to the established neighbourhood character. Sheds and carports are elements in the surrounding streetscapes and contribute to the localised built form. The existing building will take a consistent form with nearby ancillary buildings. The building is of nominal footprint and height and removed from the streetscape by setback, fencing and existing landscaping. Conditions are included for amended fencing to enclose the building in the new location; and retention of front setback landscaping.

Setbacks

The subject land has curved frontage to Wahratta Way, and the existing dwelling addresses the north-east. The proposed dwelling addition is located to the south-east of the dwelling and behind the front building line. Existing setbacks to Wahratta Way are 14.3m and 11.27m. Conditional relocation of the building outside the transmission line easement will still provide generous street setbacks, in the order of 11m and 8m. Street setbacks will exceed the DCP-prescribed setbacks of 4.5m to primary frontage, and 2m to secondary frontage. The existing building is well removed from the adjoining southern dwelling at 25 Havachat Place

Fences and Walls

The rear yard of the subject land is enclosed by 1.5m high Colorbond panels, with mismatched lattice atop. The building is located behind the Colorbond fence. Conditional relocation of the fence will be required to provide clearance of the building from the transmission line easement.

Energy Efficiency

BASIX is not applicable to the proposed development based on development cost.

Visual Bulk

The existing building has acceptable visual bulk within the site and setting, based on generous street setbacks, small footprint and flat roof.

Walls and Boundaries

The proposal does not involve building on the boundary.

Daylight and Sunlight

Internal and external solar access will be provided to the extended dwelling and dwellings on adjoining parcels in accordance with the DCP Guidelines.

Views

The site is located at the intersection of Wahratta Way, Margaret Street and Boolaroo Place, and has extensive curved frontage to the public roads. As such, the building is visible within the streetscape view corridors.

As outlined, it is accepted that the building form will relate to other ancillary residential buildings in the neighbourhood. Street setbacks are generous to prevent encroachment on the frontage and adjoining parcels. The building is screened by existing fencing and landscaping. A demountable building is assessed as an accepted visual element in the neighbourhood.

Visual Privacy

The building will not adversely impact on privacy for opposing dwellings at 23, 24 and 25 Havachat Place. Perimeter fencing is existing. Setbacks are greater than typical for the residential setting (7m). Finished ground levels are consistent between the parcels.

Acoustic Privacy

Residential landuse is not noise-generating. The proposed development will not generate noise emissions.

Circulation Design

The existing primary layback and crossover will be retained in their current form, with reverse egress to Wahratta Way to continue. The subject land has an historical secondary layback (and no crossover) to Wahratta Way at the secondary frontage. The layback is utilised by residents of the dwelling house. Conditions are included requiring complete access construction via Road Opening Permit.

Car Parking

Pursuant to DCP 2004, onsite parking is required for 3+ bedroom dwellings at a rate of 1.5 spaces per dwelling. A single garage and stacked space are provided for the dwelling in compliance with the DCP.

Private Open Space

Private open space for the proposed dwelling will comply with the DCP Guidelines in relation to minimum area, dimension, orientation, solar access and connectivity.

Open Space and Landscaping

Existing site landscaping will be retained.

Stormwater

Existing arrangements for stormwater drainage will be maintained.

Development Contributions

Section 7.11 and Section 64 development contributions are not applicable as the DA involves a dwelling addition and not a secondary dwelling.

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

The proposal will not be inconsistent with any matter prescribed by Regulation.

In relation to *Clause 62 Fire Safety Considerations*, Conditions are included requiring a smoke detector be installed to the building prior to Occupation Certificate.

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

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

- Setting, context and neighbourhood character.
- Visual impacts (streetscape presentation, building design and detailing, bulk and scale, visual bulk, landscaping).
- Traffic matters (site access, car parking and manoeuvring, traffic generation).
- Residential amenity (onsite and on adjoining lands, solar access, acoustic and visual privacy, outdoor spaces, visual bulk).
- Environmental impacts (biodiversity, groundwater, stormwater management, sediment control).

The impacts of the development are considered to be within reasonable limit. Conditions are included on the attached Notice of approval to mitigate and managing arising impacts.

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

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

- The proposal is permitted on the subject land.
- Utility services are available and adequate.
- The land has access and frontage to Wahratta Way.

- The local road network is of sufficient capacity.
- The land is not subject to known technological or natural hazards.
- The site has no particular environmental values.

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

The proposal is notified development pursuant to Council's Community Participation Plan 2019. At the completion of the notification period, two (2) submissions had been received in relation to the application. The issues raised in the submissions are considered here.

The building will encroach the powerline easement and sewer main.

Comment: The building *does* encroach the powerline easement. Conditions are included requiring the building be relocated towards Wahratta Way, outside of the restricted area. The building does not impact the sewer infrastructure within the property, including sewer main and manhole (see below).



Figure 8 - sewer main (red line) and manhole (black dot)

The building will overshadow adjoining properties.

Comment: Staff assessment finds that shadows cast by the building will be largely contained within the subject land. Indoor and outdoor solar access will be maintained for adjoining parcels in accordance with the DCP controls.

The building will impact privacy for neighbours.

Comment: Loss of privacy for adjoining dwellings is unlikely based on boundary setbacks, perimeter fencing and finished ground levels.

The building will adverse visual impacts on the neighbourhood character; building form is bulky.

Comment: The existing building will take a consistent form with nearby ancillary residential buildings, including sheds and carports. The building is of nominal footprint and height and removed from the streetscape by setback, fencing and existing landscaping.

Cars associated with the property park at the intersection and cause congestion and hazards.

Comment: Conditional completion of the secondary access will improve site ingress and egress and may reduce on street parking.

Burning off occurs regularly on the subject land.

Comment: This matter is unrelated to the DA. Nonetheless, an Advisory Note is included that burning off is prohibited on the land in accordance with the Protection of the Environment Operations (Clean Air) Regulation 2022.

Power tools are used in the container, similar to a machinery workshop.

Comment: A home industry is exempt development pursuant to SEPP (Exempt and Complying Development Codes) 2008. To be exempt, however, the use must satisfy the definition for home occupation / home business, including to not interfere with *“the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise.”* An Advisory Note is included in relation to this matter.

What is the difference between a temporary and permanent structure?

Comment: The subject building is a demountable structure. The granting of development consent will authorise use of the building as a detached addition to the existing dwelling. Conditional connection to services is required.

The building has been connected to the sewerage line.

Comment: Conditions are included that the building be connected to Council’s sewer and water.

The ceiling height is contrary to Council regulations.

Comment: Council’s Building Certifier advises that building complies with the BCA in relation to ceiling height.

Neighbours were not consulted when the building was placed on the land.

Comment: The transportable structure was placed on the land without development consent. Once brought to Council’s attention, the landowner was requested to seek development consent to regularise the use of the unauthorised structure. Neighbour notification was undertaken during the DA assessment process.

Barking dogs onsite are causing noise nuisance.

Comment: This matter is unrelated to the DA. Council’s Rangers should be notified of noise nuisance.

Extra construction on the site (shed and awning) are not shown on the DA drawings.

Comment: Council is not aware of other unauthorised structures on the land. An Advisory Note is included advising that development consent is required for works that are not exempt development under the Codes SEPP 2008.

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.

Comments

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

- Assistant Development Engineer
- Building Certifier
- Essential Energy

ATTACHMENTS

- 1 Notice of Approval, D24/8602 [↓](#)
- 2 Plans, D23/81240 [↓](#)
- 3 Submissions (redacted), D24/6336 [↓](#)

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

Application number	DA 275/2023(1)
	PAN-359456
Applicant	Marco Pasquali 7 Aminya Place, Orange
Description of development	Dwelling (detached addition) - regularise use
Property	25 Wahratta Way, Orange Lot 1 DP 252192
Determination	Approved Consent Authority - Council
Date of determination	6 February 2024
Date from which the consent operates	7 February 2024
Date on which the consent lapses	7 February 2029
Building Code of Australia building classification	

Under Section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in Section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Reasons for approval

- 1 The proposed development will reasonably satisfy Local and State planning controls.
- 2 The proposed development will comply with the requirements of State approval authorities.
- 3 Impacts of the proposed development on the natural and built environment will be within acceptable limit, subject to mitigation conditions.
- 4 The proposed development will complement the existing or desired future character of the area.
- 5 The proposed development will be consistent with the Zone objectives and principal development standards.
- 6 The proposed development is permitted in the Zone.
- 7 Utility services are available and adequate.
- 8 Public exhibition of the application was undertaken in accordance with Council's Community Participation Plan or State legislation. During the exhibition period two submissions were received. Public submissions were considered. Mitigation conditions are included where considered necessary.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under Section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under Section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under Section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW Planning Portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Summer Commins
Acting Manager Development Assessments
Person on behalf of the consent authority

Terms and Reasons for Conditions

Under Section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under Section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

General Conditions

1	Development and subdivision works requirements
	All of the following 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 engineering work required by the following conditions is to be completed prior to the issue of an Occupation or Subdivision Certificate, unless stated otherwise.
	Condition reason: To comply with Council's Development and Subdivision Code.
2	National Construction Code
	All building work must be carried out in accordance with the provisions of the National Construction Code.
	Condition reason: To ensure compliance with relevant statutory requirements.
3	Advisory note
	<ol style="list-style-type: none"> 1. Burning-off of waste material is prohibited on the land in accordance with the Protection of the Environment Operations (Clean Air) Regulation 2022. 2. Use of the land for 'home business / home industry' is exempt development subject to compliance with Subdivision 22 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Relevantly, but not exclusively, use of the land for 'home business / home industry' must not interfere with the amenity of the neighbourhood because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise. 3. Development consent is required for works / use of the land unless those works /use are exempt development pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Failure to obtain development consent when consent is required is a breach of the Environmental Planning and Assessment Act 1979, and subject to enforcement action against the landowner in accordance with that Policy.
	Condition reason: To comply with statutory requirements.
4	Essential Energy Conditions
	<ol style="list-style-type: none"> 1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.

	<p>2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.</p> <p>3. Essential Energy's records indicate there is electricity infrastructure located within close proximity of the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.</p> <p>4. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).</p> <p>5. 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) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.</p> <p>Condition reason: To comply with Essential Energy requirements.</p>
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Building Work

Before issue of a construction certificate

No additional conditions have been applied to this stage of development.

Before building work commences

5	<p>Sediment control</p> <p>Sediment and erosion control measures shall be implemented on the site.</p> <p>Condition reason: To protect waterways from pollution by sediment-laden runoff.</p>
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During building work

6	<p>Noise and Vibration requirements</p> <p>While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at a lot boundary of the site.</p> <p>Condition reason: To protect the amenity of the neighbourhood during construction.</p>
7	<p>Adjustments to utility services</p> <p>Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.</p> <p>Condition reason: To comply with Council's Development and Subdivision Code.</p>

8	Kerb and gutter layback and footpath crossing
	A concrete footpath crossing is to be constructed in the position of the existing layback being used for access to the secondary dwelling. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit.
	Condition reason: To comply with Council's Development and Subdivision Code.
9	Hours of work - construction
	All construction work on the site is to be carried out between the hours of 7am and 6pm Monday to Friday inclusive, 7am to 5pm Saturdays, and 8am to 5pm Sundays and Public Holidays. Written approval must be obtained from the Chief Executive Officer of Orange City Council to vary these hours.
	Condition reason: To ensure compliance with relevant statutory requirements.
10	Protection of the Environment Operations Act - material delivery
	All materials onsite or being delivered to the site are to be contained within the site. The requirements of the <i>Protection of the Environment Operations Act 1997</i> 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.
	Condition reason: To protect waterways from pollution by stockpiled or placed construction materials.
11	Section 68 application - water and sewer
	An approval under Section 68 of the <i>Local Government Act</i> is to be sought from Orange City Council, as the Water and Sewer Authority, for water, sewer and stormwater connection. Details concerning the proposed backflow prevention between the nominated water tank supply and the potable system are to be provided. No plumbing and drainage is to commence until approval is granted.
	Condition reason: To ensure the utility services are available to the site and adequate for the development.
12	Stormwater drainage requirements
	All stormwater from the site is to be collected and piped to the existing inter allotment drainage pit on-site.
	Condition reason: To comply with Council's Development and Subdivision Code.

Before issue of an Occupation Certificate

13	Completion of works relating to road opening permit
	A Road Opening Permit in Accordance with Section 138 of the Roads Act 1993 must be approved by Council prior to a Occupation Certificate.

	<p>A Road Opening Permit Certificate of Compliance is to be issued for the works by Council prior to any Occupation Certificate being issued for the development.</p> <p>Condition reason: To ensure compliance with relevant statutory requirements.</p>
14	<p>Section 68 final - water and sewer</p> <p>Where Orange City Council is not the Principal Certifier, 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 an occupation certificate.</p> <p>Condition reason: To ensure the utility services are available to the site and adequate for the development.</p>
15	<p>Engineers Certification</p> <p>Prior to the issue of an Occupation Certificate, certification from a structural engineer is to be provided certifying that the premanufactured studio and footings are suitable for its intended use and all loadings in accordance with all Australian Standards including snow loading.</p> <p>Condition reason: To ensure compliance with relevant statutory requirements.</p>
16	<p>Relocate Building</p> <p>The building must be relocated outside of the transmission line easement, towards Wahratta Way. A registered surveyor must determine the new location for the building to ensure clearance from the transmission line easement. Site setout survey by a registered surveyor for the new location must be provided to Council.</p> <p>Condition reason: To ensure compliance with the requirements of Essential Energy.</p>
17	<p>Fencing</p> <p>The fence enclosing the building and rear / side yard must be modified to suit the location of the building outside of the transmission line easement. The building must be screened from Wahratta Way by a replacement 1.8m high fence of consistent material and colour.</p> <p>Condition reason: To ensure privacy to the building and screening of the building from the public roads.</p>
18	<p>Tree Retention</p> <p>Existing trees in the front setback to Wahratta Way must be retained and protected.</p> <p>Condition reason: To maintain the landscape character and provide screening of the building.</p>
19	<p>Services Connections</p> <p>The building must be connected to Council's reticulated sewer and water. Application must be made for a Section 68 application to provide connection to Council's services.</p> <p>Condition reason: To maintain public health and safety.</p>
20	<p>Electricity Connection</p>

	The building must be properly connected to electricity. Evidence of electrical connection to the building by a licenced electrician, in compliance with Essential Energy requirements, must be provided to Council.
	Condition reason: To ensure public health and safety.
21	Smoke Alarm
	A smoke detector must be installed in the building. A certificate of installation of the smoke detector from a licenced electrician must be provided to Council.
	Condition reason: To ensure public health and safety.
22	Landowner Responsibility
	All of the foregoing conditions are the responsibility of the landowner and must be undertaken prior to issue of an Occupation Certificate.
	Condition reason: To ensure the landowner is responsible for satisfactory completion of the building.

Occupation and ongoing use

23	Dwelling House
	The building must not be modified or adapted as to be capable of being occupied or used as a separate domicile. Development consent is not granted for a 'secondary dwelling.'
	Condition reason: Because development consent has not been sought for a secondary dwelling.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a Construction Certificate or Subdivision Works Certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise).

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction Certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means ORANGE CITY COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by Section 2.7 of the EP&A Act.

Occupation Certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under Section 6.6(1) or 6.12(1) of the EP&A Act respectively.

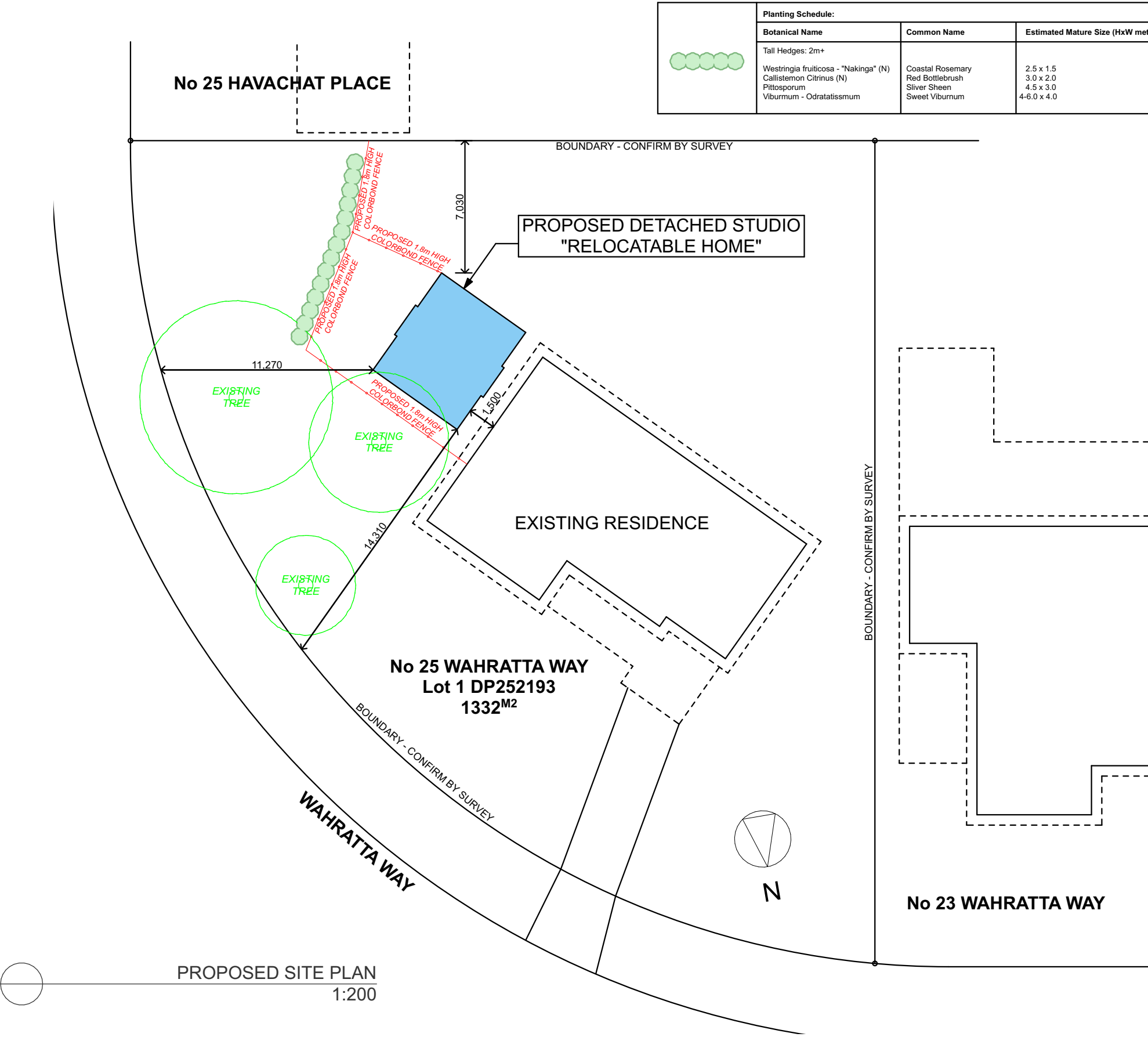
Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.


Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata Certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Sydney district or regional planning panel means Western Regional Planning Panel.



	Planting Schedule:			
	Botanical Name	Common Name	Estimated Mature Size (HxW meters)	Pot Size
	Tall Hedges: 2m+			
	Westringia fruticosa - "Nakinga" (N)	Coastal Rosemary	2.5 x 1.5	200cm
	Callistemon Citrinus (N)	Red Bottlebrush	3.0 x 2.0	200cm
	Pittosporum	Silver Sheen	4.5 x 3.0	200cm
	Viburnum - Odratatissmum	Sweet Viburnum	4-6.0 x 4.0	200cm

NOTE
The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the Building Designer. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction. This drawing reflects a design by Designs AT M and is to be used only for work when authorised in writing by Designs AT M.

All boundaries and contours are subject to survey drawing. All levels to Australian Height Data. It is the contractors responsibility to confirm all measurements on site and locations of any services prior to work on site.


All documents here within are subject to Australian Copyright Laws.

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- Project Partners**
Refer to consultant documentation when directed
- BASIX/Nathers Consultant -
 - Surveyor -
 - Structural Engineer -
 - Civil Engineer -
 - Planning Consultant -
 - Hydraulic Engineer
 - Landscape Designer -
 - Mechanical Engineer -

Revision ID	Transmittal Set Name	Date	Drawn by





bdag
BUILDING DESIGNERS
ASSOCIATION OF AUSTRALIA

7 Aminya Place
Orange NSW 2800
+612 6361 7461
0409 962 793
office@designsatm.com.au
www.designsatm.com.au

Drawn | Checked |

ClientMICHELLE SLIGAR

25 WAHRATTA WAYY ORANGE
LOT 1 - DP252192

Site:

DRAWING TITLE :
DEVELOPMENT APPLICATION
PROPOSED SITE PLAN

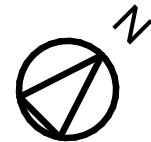
PROJECT NAME :
PROPOSED DETACHED STUDIO

REVISION NO.

DRAWING NO.
DA01

PROJECT NO. 22-010
DATE: August 2023





The drawing shows a side elevation of a building facade. The overall height is 5850 units. The width is divided into three main sections: a left section of 90 units, a central section of 6300 units, and a right section of 90 units. The central section has a total width of 1970 units, which is further divided into two equal parts of 985 units each. There are vertical dimensions of 178 units at both ends and 930 units in the middle of the facade. A large red watermark reading "COPYRIGHT OWNER" is oriented diagonally across the entire drawing.

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

- (A) ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979;
- (B) ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS 2000;
- (C) COPYRIGHT ACT 1968;
- (D) GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009;
- (E) PRIVACY AND PERSONAL INFORMATION PROTECTION ACTION ACT 1998.

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

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



PROPOSED ELEVATIONS
1:100

FLOOR PLAN & ELEVATIONS SUPPLIED BY "SAME DAY GRANNY FLATS"

Revision ID	Transmittal Set Name	Date	Drawn by



PROJECT NO. 22-010
DATE: August 2023



Submission 1

14 September 2023

Chief Executive Officer
Orange City Council
135 Byng Street
ORANGE NSW 2800
Email: council@orange.nsw.gov.au

Dear Sir / Madam

REFERENCE NUMBERS: DA 275/2023(1) – PAN – 359456
25 WAHRATTA WAY, ORANGE NSW 2800

OBJECTION is submitted to the above referenced proposal and I note the Statement of Environmental Effects Form submitted has not been accurately completed.

My submission to the objection are as follows:

- Easements including power lines above the construction and sewerage running through the property are impacted by the construction – page 2.
- Overshadowing caused by the container has impacted my yard – page 3.
- Overlooking and loss of privacy of the container has caused concern and I am unable to feel comfortable in my backyard – page 4.
- Visual bulk of container and appearance does not fit in with the surrounding aesthetics including the container having a large grey tarpoline on the roof and tied down with rope. Should the ropes break it could land on other property in the vicinity and cause damage – page 4.
- Negative changes to the amenity of the area and the lack of respect towards the current structures in place – page 4.
- Cars parked at the intersection of Wahratta Way and Havachat Place, Orange for long periods of time throughout the day where a “Give Way” sign is installed led to and continues to lead to traffic congestion and makes the intersection dangerous to negotiate with potential for accidents as cars cannot see clearly at the intersection – page 5.

Additional concerns:

- The smell of hazardous material being burned off most mornings has been observed and black thick smoke.
- The sound of power tools being used inside the container – similar to a machinery workshop environment. Are they operating a busy from the premises and require council permission to do so?
- Please outline the difference between temporary and permanent – the container has been in place for approximately three (3) years with people residing there for the entirety of this time.

I was never consulted through council or the neighbours when the container was being placed in the yard. I contacted Council to clarify the legality of this and raised major concerns at the time and note it's on record to this effect.

I invite council to come and inspect the container from my property to capture the full extent of this situation.

I look forward to being provided with the outcome of this matter and in the meantime, please contact me by mobile or email if you have any further questions.

Yours faithfully

Submission 2

14TH September, 2023

Chief Executive Officer
Orange City Council.
135 Byng Street,
ORANGE N.S.W. 2800
Email: council@orange.nse.gov.au

Dear Sir/Madam,

REFERENCE NO:
Development Application DA.275/2023(1)
Lot 1DP 252192 – 25 Wahratta Way ORANGE
DWELLING (DETACHED ADDITION – REGULARISE USE.

I OBJECT TO THE DA.

I would like to make comments as regards the DA.

The first and most glaring error on the DA is the description of the Development, unless we are talking a totally new Unit being put in place.

The current Container Home has been in location for approximately 3 years and has had permanent occupancy for that period of time with the Applicants Mother and Partner.

What is the difference between Temporary and Permanent?????

The attached map supplied in the DA does not show the

- PAGE 2 OF THE CHECK LIST. Essential Service corridor – HIGH VOLTAGE POWER LINE AND SEWERAGE EASEMENT.
This dwelling conflicts with the Essential Services corridor running through the of our premises as the sewerage is 8 Metres and the Electricity (11KVA) is 10.7 metres from our buildings in line with the rear fence which is in line with our neighbours.
In the site details it is shown as no easement or covenants relative to the property . I SUGGEST YOU CHECK YOUR RECORDS. (As I had to comply with easement and covenant regulations when I did renovations to my home.)
- Page 2 Sewerage – I am of the impression that the dwelling (demountable building) has been joined to the sewerage/septic line.
- Page 3 Will the building complement the neighbourhood? - It is an eye sore.
- Page 4. The entrance to the property. -The gate from Havachat is in the wrong place as it does not line up with the gates for the access to the Essential Services easement.
I also believe the gate to the easement is locked as Essential Energy had to use our side gate to get to the easement.
- Page 4. Proposed development bulky. The construction does not fit with the surrounds of the area, Clearly there is a water problem with a tarpaulin over the roof permanently and it is tied down with rope.
- Page 4. Privacy of the neighbour. They have a fence of all colours around the building but does not hide it.
- Page 4. Overlooks properties adjoining in Havachat Place.
- Page 5. – Visual Privacy. YES

- Page 5 – Car Parking. This of great concern when visitors come. They are parking on the corner of Margaret Street, Havachat Place and Wahratta Way. They obstruct the Give Way sign on Havachat Place.
- Page 6 -Acoustic Privacy. It is only 1.50m from the main house.
- Page 6 – Car Parking facilities- They are parking such that the easement cannot be used.
- Page 6- Open space- It is already not 5x5 metres open space around the building as it is fenced
- Floor Plan – only shows an open room, but does not show any break down of the interior including the location of the kitchen area or bathroom area
- Floor Plan – Shows door South East but it is East.
- MY OTHER CONCERNS.
- 1) We were never consulted before the demountable building was placed at that address. It has no wheels.

This HAS NOT and is not a temporary dwelling.

- I believe the height of the ceiling may be in breach of Council Regulations.
- When I brought this house it was a quiet place to live, and we did not have trouble with a constantly yapping dog owned by the occupants of the demountable. There are 4 Dogs on the premises
- The Proposed Site Plan makes no mention of extra Construction on the premises including a Shed and an Entertainment area off the rear of the house and is poorly drawn.

WE DID NOT HAVE MUCH TIME TO REPLY TO THIS DA AS WE RECEIVED OUR LETTER ON MONDAY THE 11th SEPTEMBER OWING TO THE RENOVATIONS AT THE ORANGE POST OFFICE. IT WAS SENT TO P.O. BOX AND THEN HAD TO BE RE-DIRECTED.

Regards,

Google Maps

Wahratta Way



Orange, New South Wales

Google Street View

June 2023

See more dates

Image capture: June 2023 © 2023 Google



Google Maps 25 Wahratta Way



Orange, New South Wales

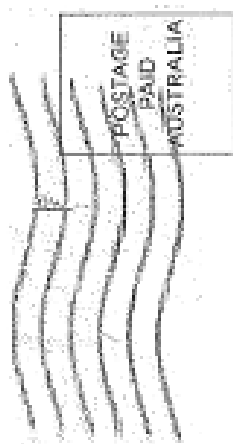
Google Street View

June 2023

See more dates

Image capture: June 2023 © 2023 Google





44-38861-1000

2000



REDIRECTED MAIL •
* Exp. 18/11/2023 *

ORANGE NSW 2400

2.4 DEVELOPMENT APPLICATION DA 213/2023(1) - LOT 15 HAWTHORN PLACE

RECORD NUMBER: 2024/37

AUTHOR: Ben Hicks, Senior Planner

EXECUTIVE SUMMARY

Application lodged	30 June 2023 (123 STOP DAYS)
Applicant/s	FrigFreeze Pty Ltd
Owner/s	FrigFreeze Pty Ltd
Land description	Lot 15 DP 788486 - Hawthorn Place, Orange
Proposed land use	Warehouse or Distribution Centre, Subdivision (two lot industrial) and Business Identification Signage (three signs)
Value of proposed development	\$15,488,000.00

Council has received a development application seeking approval for a Warehouse/Distribution Centre, along with Subdivision (two lot industrial) and Business Identification Signage (three signs) on Lot 15 DP 788486, Hawthorn Place, Orange, within the Leewood Industrial Estate. The proponent is Bidfood Australia.

Bidfood Australia operates in the wholesale food distribution industry, supplying a diverse range of food and beverage products to establishments such as restaurants, cafes, hotels, healthcare and age care facilities, and educational institutions.

The proposed development entails the construction of a 4,613m² industrial scale building featuring purpose-built dry and cold food and beverage storage areas, along with ancillary office/administrative spaces. Operations will encompass the delivery and storage of frozen foods, general food items, beverages, and wholesale liquor. This facility is designed to function as a distribution hub for local and regional customers, operating 24 hours a day, seven days a week. The development is expected to create employment opportunities for up to 30 people.

The subdivision aspect of the development will result in two lots, one accommodating the warehouse/distribution centre and its support areas, and the other designated as a vacant site suitable for various uses permitted in the E4 General Industrial Zone, subject to separate consent. The development will also involve various site works such as earthworks, service installations, security fencing, car parking, and landscaping.

The proposal has a capital investment value exceeding \$2.5 million (\$15.5m). Accordingly, the application has been tabled to the Planning Development Committee for determination, pursuant to Clause 4.10 Delegations of Orange City Council's *Declaration of Planning and Development Assessment Procedures and Protocols (Vers 5, 2019)*.

A Section 4.15 assessment demonstrates that the proposal is consistent with the planning regime that applies to the land, where industrial development is permitted with consent in the E4 General Industrial zone.

Impacts of the development are considered to be within reasonable limit, are consistent with applicable standards and policies, and can be addressed by appropriate conditions of consent. Approval of the application is recommended.



Figure 1 - Site Context and Locality Plan

DECISION FRAMEWORK

The development proposal is subject to several frameworks and regulations that govern development in the Orange Local Government Area. These include the Environmental Planning and Assessment Act 1979 and accompanying regulations, the Orange LEP 2011, and various SEPPs. The Orange Development Control Plan 2004 and Infill Guidelines are also used to guide development. All relevant matters have been taken into consideration in assessing the proposed development.

Council's Community Participation Plan 2019 outlines the parameters for community participation in environmental and land-use planning in the Orange LGA, including notification and exhibition requirements. The proposal was exhibited for a period of 14 days. No submissions were received during this period.

Furthermore, the development is neither integrated nor designated development, meaning that it does not require any further approval or assessment from other government bodies. Notwithstanding, the application was referred to Transport for NSW under traffic-generating provisions. TfNSW raised no objections to the proposal and provided general advice to assist in the assessment of the application.

The proposal has a capital investment value exceeding \$2.5 million (\$15.5m) and, therefore, has been tabled to the Planning and Development Committee for determination, pursuant to Clause 4.10 Delegations of Orange City Council's Declaration of Planning and Development Assessment Procedures and Protocols (Vers. 5, 2019).

DIRECTOR'S COMMENTS

This application is for the construction of a large food distribution and storage development within the Leewood Industrial Estate. The proposal is reported to Council for determination given the value of the project (\$15.5M). The business would if approved, employ between 25 and 30 employees.

The distribution and storage business would operate 24 hours a day. Whilst being proposed within an industrial estate, as with all intensive 24 hour a day operations, there remains the potential to impact on nearby residents throughout the night. Noise studies accompanied the DA showing general compliance. Additional conditions are included to address minor departures on noise. It is considered that this will adequately address the noise impacts. Other impacts are considered within the report and are acceptable.

The Approval recommendation is supported.

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan Strategy "11.1. 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 213/2023(1) for *Warehouse or Distribution Centre, Subdivision (two lot industrial) and Business Identification Signage (three signs)* at Lot 15 DP788486 - Hawthorn Place, Orange pursuant to the conditions of consent in the attached Notice of Determination

FURTHER CONSIDERATIONS

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

THE APPLICATION/PROPOSAL**Built Form**

The proposed development involves the construction of an industrial-scale building situated in the northern part of the designated lot. The main warehouse, measuring 68m x 59m, features a pitched roof with a wall height of 12m and a ridge height of 14.93m. A skillion awning extends over the loading area. The warehouse exterior combines concrete tilt panels, monoclاد metal sheeting, and cold room panels, along with Colorbond roof sheeting. The predominant colour scheme is 'Surfmist,' complemented by selected bands of 'Classic Deep Ocean' on the facade and 'Basalt' along the building's base.

The main office, situated in the southeast corner, adopts a rectilinear profile with a flat parapet and a low-pitched roof. The eaves height is 3.7m, and the top of the parapet is approximately 4.8m. Exterior walls consist of white-painted concrete tilt panels, and the parapet fascia is constructed from FC sheet or a similar material, painted in the Bidfood corporate colour scheme of blue and green.

The proposed building will have a warehouse floor area of around 4141m² and office/amenities space of about 471m². The warehouse will include purpose-built areas for dry and cold food and beverage storage, as well as spaces for packaging and staging. The office and amenities area will consist of an open-plan office, individual offices, amenities, a reception area, and dock office.

Signage

The proposed business identification signage includes an 8m long by 2.196m high flush wall sign affixed to the south elevation of the building above the office. This sign will prominently display the Bidfood logo and wordmark. Similarly, another flush wall sign of the same dimensions is planned for the north elevation of the building.

Additionally, a free-standing pylon sign measuring 5.2m in height and 2m in width is proposed at the main entry gate to the Bidfood site. The purpose of this sign is to enhance visibility and identification of the site for visitors and clients.

The signage design does not incorporate internal illumination.

Figure 2 illustrates the overall exterior configuration, materials, and colours of the proposed building, while Figure 3 provides a representation of the typical signage design.



Figure 2 - proposed elevations



Figure 3 - typical signage design

Activities/Operations

The core focus of the operations is centred around the storage and distribution of food and beverage products. The applicant provides that this entails the sourcing of products, bringing them to the site for either dry or cold storage, before subsequently distributing the goods to clients spanning from the Blue Mountains to Dubbo and beyond. The typical customer base for these services comprises a diverse range of businesses, including restaurants, cafes, hotels, health and aged care facilities, educational institutions and so on.

The intended hours of operation for the facility are 24 hours a day, seven days a week. The operation is estimated to create employment for approximately 25 to 30 people. Staff will undertake various duties and tasks associated with the management and movement of storage items, as well as typical office and administration activities.

The proposed use does not involve retail sales, and the applicant advises that attendance at the site by customers, visitors, and the general public is expected to be modest as the majority of communication and business occurs via online, email, and telephone.

Subdivision

The proposed subdivision creates two lots on the subject land. Lot 1 (1.304 hectares) is designated for the Bidfood warehouse and support areas, while Lot 2 (1.406 hectares) will be created as a vacant lot intended for various industrial uses allowed in the E4 General Industrial Zone. Both lots will connect to utilities, and necessary easements will be established. The bio retention basin for Lot 2 will serve both lots through a designated easement. Each lot will have Hawthorn Place frontage, and access will be facilitated by a shared driveway and a right of way over Lot 2 for Lot 1. Refer to Figure 4 for the subdivision layout.

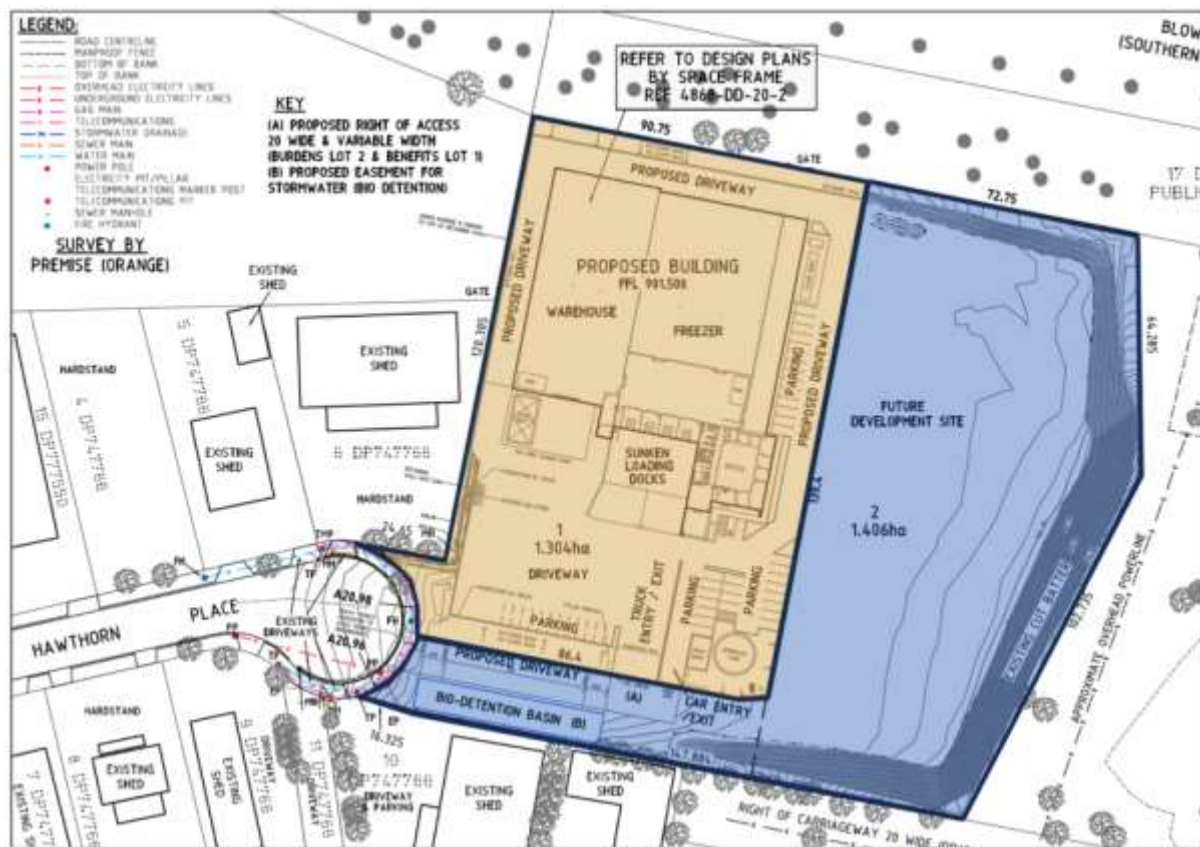


Figure 4 - proposed subdivision layout

Site and Ancillary Works

The proposed site and ancillary works encompass several components aimed at enhancing and supporting the development on the land, functionality and safety. Concrete surfacing will be applied to all vehicle manoeuvring and parking areas. Retaining structures, along with Armco railing where appropriate, will be incorporated to facilitate the proposed driveways around the western and northern sides of the building. A wash bay will be situated beneath the awning, and a sprinkler tank and pump room will be installed in the southeast corner of the Bidfood site for fire protection purposes. Additionally, a containerised plant room will be positioned on the eastern side of the main warehouse, adjacent to the northeast corner.

To address stormwater management, a combined detention and bioretention basin will be constructed in the south-western corner of the land. This basin will serve both the Bidfood development and potential future development within proposed Lot 2.

Landscaping efforts will extend to non-sealed areas, including the Hawthorn Place frontage, battered banks along the southern and northern sides of the Bidfood development, select areas around the main office, the sprinkler tank, and the detention/bioretention basin.

Security measures will involve the installation of a 2.1m high Chainwire fence with steel posts in a black coated finish around the northern, eastern and western sides of the Bidfood development. Additionally, black palisade fencing and sliding gates will be provided along the southern boundary of the Bidfood site.

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

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

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 (OEI) (clause 7.1 of BC Regulation 2017);
- Trigger 2: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017); or
- Trigger 3: development is otherwise likely to significantly affect threatened species (clauses 7.2 and 7.3 of BC Act 2016).

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

The subject property is not delineated on the Biodiversity Values Map or Council's Biodiversity mapping. Furthermore, the proposal avoids any clearance or disturbance of native vegetation. It's important to note that the site has undergone previous modification through approved subdivision works and historical agricultural land use practices, including clearing and ground disturbance.

The existing zoning of the site allows for industrial land uses, and neighbouring parcels have undergone subdivision and development for industrial purposes. In light of relevant provisions, historical and adjoining land uses, and inspection of the property, it is concluded that the proposed development is unlikely to have a significant impact on threatened species, ecological communities, or their habitats.

Given these considerations, and in accordance with the current circumstances, a Biodiversity Development Assessment Report is deemed unnecessary for this particular case.

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

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

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

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

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

The proposed development is considered to be consistent with the above-listed aims, as outlined in the following sections of this report.

Clause 1.6 - Consent Authority

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

Clause 1.7 - Mapping

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

Land Zoning Map:	E4 General Industrial
Lot Size Map:	Minimum Lot Size 3000m²
Heritage Map:	Not a heritage item or conservation area
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
Groundwater Vulnerability Map:	Groundwater vulnerable
Drinking Water Catchment Map:	Adjoins drinking water catchment
Watercourse Map:	Not within or affecting a defined watercourse
Urban Release Area Map:	Not within an urban release area
Obstacle Limitation Surface Map:	No restriction on building siting or construction
Additional Permitted Uses Map:	No additional permitted use applies
Flood Planning Map:	Not within a flood planning area

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

Clause 1.9A - Suspension of Covenants, Agreements and Instruments

Clause 1.9A is applicable and states in part:

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

As of the current assessment, Council staff are not aware of any agreement, covenant, or similar instrument affecting the title of the subject land. The development of the land will necessitate the establishment of easements for sewer, water supply, and stormwater drainage infrastructure.

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

The site of the proposed development is zoned E4 General Industrial under Orange Local Environmental Plan 2011. The Land Use Table for the E4 General Industrial zone permits warehouse/distribution centres, subdivision and signage with the prior consent of Council. Orange LEP 2011 defines the described land uses as follows:

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, but does not include local distribution premises.

subdivision of land means the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition.

business identification sign means a sign:

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

The development as outlined in this application aligns with the warehouse or distribution centre definition. Contrary to being classified as local distribution premises, it is posited that the proposal is not confined to a local area. The explicit intention is for the distribution of food and beverage goods facilitated by the Bidfood operation to reach individuals and businesses beyond the immediate locality, extending from the 'Blue Mountains to at least Dubbo and beyond.'

The proposed signage is consistent with the LEP definition for business identification signage as it identifies the name and nature of the business and includes the logo of the proponent.

Regarding subdivision, the proposed development complies with the definition stipulated in the LEP. It involves the division of land into two or more parts, which, upon completion, will be evidently suitable for separate occupation, use, or disposition.

Clause 2.3(2) of the Orange LEP 2011 provides that the Council shall have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives of the E4 General Industrial zone are:

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

It is considered the proposed development is consistent and reinforcing of the above objectives on the basis of the following:

- the proposal introduces industrial space catering to warehouse and distribution operations, aligning with the objective to provide a range of industrial uses. Further, the proposal designates a vacant lot for development, in line with the objective to ensure efficient and viable land use for industrial purposes
- the proposed development represents expansion of industrial development in Orange and is likely to create employment opportunities through construction and operational phases
- considering the nature of the development, namely warehousing and distribution operations, which generally represent a less intense type of industry, it is therefore unlikely to have adverse effects on other land uses
- the exclusion of direct access to the Southern Feeder Road is consistent with the objective of ensuring alternative access for developments along major roads, promoting efficient traffic flow and safety.

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

Clause 2.6 - Subdivision - Consent Requirements

Clause 2.6 is applicable and states:

- (1) *Land to which this Plan applies may be subdivided but only with development consent.*

Consent is sought for Torrens title subdivision of the subject land in accordance with this clause.

Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

Part 4 - Principal Development Standards

Clause 4.1 - Minimum Subdivision Lot Size

This clause requires the subdivision of land to be equal to or greater than the size nominated for the land under the Minimum Lot Size Map. In relation to this site, the map nominates a minimum lot size of 3000m².

The proposed subdivision plan fully complies with this requirement, creating two lots, each exceeding the specified 3000m² minimum lot size. Specifically, Lot 1 is 1.304 hectares, and Lot 2 is 1.406 hectares.

Part 5 Miscellaneous Provisions

The application is not subject to any development standards contained within Part 5.

Part 6 - Urban Release Area

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

Part 7 - Additional Local Provisions**7.1 - Earthworks**

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

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

In consideration of the relevant matters:

- Earthworks will be required in associated with the provision of services, access and building construction.
- Sediment and erosion controls will need be installed and maintained in accordance with conditions of consent.
- Earthworks aim to support industrial development within an established industrial estate and are unlikely to impact the future use of the land.
- As far as practicable, any excavated material will be reused onsite, in accordance with engineering design. Conditions have been included to address the scenario in which additional fill may need to be brought to the site to comprise Virgin Excavated Natural Material (VENM).
- Conditions are included to maintain neighbourhood amenity including preparation and implementation of a dust management plan. Finished levels will provide suitable landform for congruous industrial built form.
- The site is not known to have European or Indigenous cultural values. Nonetheless, a condition has been included to ensure that any unexpected cultural finds discovered during civil works are appropriately managed.
- The subject land does not contain a waterway and is not within a mapped drinking water catchment. Notwithstanding, mapped water catchment areas are located directly east. Implementation of sediment and erosion controls will mitigate potential runoff impact on the nearby drinking water catchment during earthworks.
- The proposed development site is not situated in an environmentally sensitive area.

7.3 - Stormwater Management

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

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

The application is supported by a detailed Stormwater Management Plan (SWMP) that comprehensively addresses both stormwater quantity and quality considerations. The SWMP proposes implementing a combined detention and bioretention basin in the site's south-western corner along Hawthorn Place. Runoff routing modelling has determined a detention storage demand of 460m³, ensuring the maintenance of peak discharge and preventing any potential nuisances.

Additionally, stormwater quality modelling specifies a required filter media area of 200m² for the basin. Compliant stormwater pipes, adhering to AS3500.3 standards, will facilitate the transfer of runoff to the basin for proper treatment prior to discharge to Council's network.

The SWMP concludes that with these measures in place, there are no flooding or overland flow risks associated with the proposed development.

It is considered that this comprehensive approach aligns with the requirements of Clause 7.3, demonstrating responsible stormwater management.

7.6 - Groundwater Vulnerability

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

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

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

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

The proposal seeks consent for the construction and operation of a warehouse and distribution centre. Foreseen impacts related to such facilities do not generally pose a threat to groundwater. Notably, there is no intention to seek or obtain approval for the extraction of groundwater. Wastewater and effluent disposal will be facilitated through connection to Council's sewer reticulation. Additionally, the applicant advises the proposal does not entail the use, storage, or disposal of large quantities of liquids, wastes, or chemicals in a manner that would pose a threat to groundwater resources.

7.7 - Drinking Water Catchments

- (1) *The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages.*
- (2) *This clause applies to land identified as "Drinking water" on the Drinking Water Catchment Map.*
- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to:*
 - (a) *the distance between the development and any waterway that feeds into the drinking water storage, and*
 - (b) *the onsite use, storage and disposal of any chemicals on the land, and*
 - (c) *the treatment, storage and disposal of waste water and solid waste generated or used by the development.*
- (4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) *the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows, or*
 - (b) *if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*

The site, while not explicitly identified on the drinking water catchment map, shares boundaries with mapped land to the east. Though not strictly subject to the aforementioned considerations, it is deemed appropriate to address in this circumstance. As discussed in earlier sections, the development on the land incorporates various measures to prevent adverse impacts on the quality and quantity of water leaving the site. A comprehensive Stormwater Management Plan (SWMP) addresses both quantity and quality considerations, necessitating the provision of a combined detention and bioretention basin.

Furthermore, the disposal of wastewater and effluent will be managed through connection to the Council's sewer reticulation, ensuring an appropriate approach. The wastewater vehicle washbay will be handled similarly. Lastly, it is submitted that the proposal avoids involving the use, storage, or disposal of large quantities of liquids, wastes, or chemicals in a manner that could threaten water resources.

Collectively, these measures are implemented to mitigate the environmental impact of the development on water quality and ecosystems in the locality, complying with Clause 7.7.

Clause 7.11 - Essential Services

Clause 7.11 applies and states:

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

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

In consideration of Clause 7.11, Council's Technical Services advise that the utility services listed are accessible to the land and can be sufficiently adapted for the proposed development. Conditions are included requiring extension, augmentation and/or upgrading of urban utility services to meet the requirements of the proposal. Any adjustments required to be undertaken will be at the expense of the developer.

STATE ENVIRONMENTAL PLANNING POLICIES

The following SEPPs applicable to the proposed development:

- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*

State Environmental Planning Policy (Resilience and Hazards) 2021**Chapter 4 Remediation of Land**

SEPP (Resilience and Hazards) 2021 is applicable, and states in part:

4.6(1) A consent authority must not consent to the carrying out of any development on land unless:

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

In consideration of the above, a preliminary contamination investigation was prepared by Envirowest Consulting to determine the soil contamination status and suitability of the site for the proposed land use. The investigation found no contamination on the lot and considered it suitable for the proposed use. As per standard practice, an unexpected finds condition has been included to ensure any unforeseen/unidentified contamination found during works is dealt with appropriately.

State Environmental Planning Policy (Transport and Infrastructure) 2021**2.121 - Traffic-Generating Development**

This section is applicable to specific developments as outlined in Column 1 of the Table to Schedule 3. Warehouse and distribution centres are a listed development, and the criteria for applicability involve:

- (a) 8,000m² in site area or (if the site area is less than the gross floor area) gross floor area for sites with access to a road (generally), or
- (b) 8,000m² in site area or (if the site area is less than the gross floor area) gross floor area for sites with access to a classified road or a road connecting to a classified road (if access is within 90m of connection, measured along the alignment of the connecting road).

These criteria establish the conditions under which a development falls within the scope of this section, triggering the need for referral to Transport for New South Wales.

The proposed warehouse and distribution centre, situated on a land area exceeding 8,000m² with access to a road generally, aligns with the criteria outlined in (a). The application was duly referred to Transport for NSW, which raised no objections to the proposal and provided general advice to facilitate the assessment of the application. Their general advice has been considered and addressed through appropriate conditions where necessary.

State Environmental Planning Policy (Industry and Employment) 2021**Schedule 5 Assessment Criteria****1 - Character of the Area**

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

The area is characterised as an established industrial area, with the proposed business identification signs being appropriate in the context and setting of the locality. The proposed signage is considered to be consistent with other existing outdoor signage in the street scene.

2 - Special Areas

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

The site is not subject to any special areas that may be impacted by the proposed signage.

3 - Views and Vistas

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

The proposed signage is not anticipated to negatively impact any notable views or panoramas in the vicinity of the subject land. The design and positioning of the signage are such that they will not disrupt the skyline, obstruct perspectives, or infringe upon the visibility of other advertisers or businesses within the Leewood Industrial Estate.

4 - Streetscape, Setting or Landscape

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

The scale of the proposed signage is considered appropriate in relation to the host building and will result in reasonable streetscape compatibility. While it may not add significant visual interest, it serves essential functions for business identification and wayfinding. The signage is intentionally modest, avoiding visual clutter and not obstructing views.

5 - Site and Building

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

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

6 - Associated Devices and Logos with Advertisements and Advertising Structures

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

The signage does not include any safety devices, platforms or lighting devices that form an integral part of the signage or structure on which it is to be displayed.

7 - Illumination

- *Would illumination result in unacceptable glare?*
- *Would illumination affect safety for pedestrians, vehicles or aircraft?*
- *Would illumination detract from the amenity of any residence or other form of accommodation?*
- *Can the intensity of the illumination be adjusted, if necessary?*
- *Is the illumination subject to a curfew?*

The applicant states that the signage will not feature illumination, with the exception of external lighting from the building or site. Consistent with the overall site lighting strategy, any external lighting for the proposed signage will be controlled to a subdued level to avoid glare and mitigate potential impacts on neighbouring properties or the adjacent road network. This can be reinforced through conditions of consent.

8 - Safety

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

The proposed signage is suitably positioned within the site, ensuring it does not impede pedestrian access, compromise public safety, or hinder sightlines for vehicles, bicyclists, or pedestrians.

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

There are no draft Environmental Planning Instruments currently on exhibition that relate to the subject land or proposed development.

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)

Orange Development Control Plan 2004

CHAPTER 0 - TRANSITIONAL PROVISIONS

Section 0.2 - General Translation of Zones

Clause 0.2 - General Translation of Zones provides that any reference to a zone under Orange LEP 2000 is to be a reference to the corresponding zones in a zone conversion table. The table identifies that the E4 General Industrial zone corresponds with the former Zone 4 - Industry and Employment.

Section 0.4 Former LEP Matters

0.4-10 Interim Planning Outcomes - Residential Proximity

Clause 0.4-10 - Interim Planning Outcomes - Residential Proximity identifies that industrial development has the potential to generate adverse impacts on surrounding land and therefore must be designed and operated in a manner that minimises such impacts. This is particularly relevant where industrial land adjoins or is in proximity to residential land.

This clause applies to development on land within 800m of residential zones or established dwellings in any zone. There is a residential area across the Southern Feeder Road, with the closest properties starting about 75m from the subject land. To the east and south, there are semi-rural properties with associated dwellings, the closest being approximately 190m to the south, and others at 240m to the south-east and 290m to the east.

Specific objectives and planning outcomes include the following:

Objectives

- 1 To preserve reasonable levels of residential amenity for existing and future residents.*
- 2 To protect the character of residential areas from intrusive or obnoxious development.*

Planning Outcomes

- 1 The design of industrial and commercial development is consistent with nearby residential areas in terms of design, siting and landscaping.*
- 2 The hours of operation, traffic and noise generation do not interfere with reasonable expectations of residential amenity.*
- 3 Noise-generating activities are contained within the building where practicable.*
- 4 Industrial air conditioning compressors are shielded to direct noise away from residential development.*
- 5 Car park and security lighting is positioned and shielded to prevent direct light spill onto residential properties.*
- 6 Measures to prevent dust, odour and chemical spray from reaching or affecting residential properties must be demonstrated.*
- 7 The design must demonstrate how residential privacy and solar access will be maintained.*

Supporting information submitted with the development application and assessment by internal specialist staff indicates that the proposed development would not have an unacceptable impact on proximate residential areas for the following reasons:

Noise

The proposal is supported by a Noise Impact Assessment, which has been thoroughly reviewed by Council's Senior Environmental Health Officer (EHO). According to the EHO's evaluation, the assessment covers noise from a range of sources, including truck movements, brakes, refrigerator units, and forklifts.

The EHO notes that the prediction indicates the noise from truck brake operations (L_{Amax}) is expected to exceed the project trigger levels at Receiver 1. However, the exceedance level is not considered significant enough to cause awakening reactions. This prediction assumes the vehicle would have an uninterrupted line of sight to the receiver, which the report deems an unlikely scenario given the proposed structure's positioning acting as a barrier. However, upon a closer examination of the site design, it is considered that an uninterrupted line of sight could potentially occur with the use of the perimeter access driveway around the building.

To address this concern, the EHO recommends including a condition specifying that vehicles are not permitted on the perimeter access, ensuring there is no compromise to the noise barrier, before 7am and after 6pm, except in emergencies.

Air Quality

The supporting information submitted with the development application does not identify any activities (operationally) that would give rise to impacts on air quality in the locality. Emissions of dust may be expected during construction activities, however, these impacts would be relatively localised, short-term and only for the duration of the works. Conditions of consent are recommended for dust suppression during works to protect the air quality. Long-term discernible impacts on air quality or on the microclimate of the locality is not expected.

Light Spill

The application indicates that external lighting will be required for operational and site security reasons. It is recommended that a condition of consent be applied requiring that any external lighting is to be positioned and/or shielded to prevent direct light spill onto any residential properties in the vicinity.

Residential Privacy and Solar Access

Due to the subject property's considerable distance from residential properties, the proposed development is not anticipated to adversely affect residential privacy and solar access.

Design

Considering the subject property's placement within an established industrial estate, separated from residential areas by roads and existing industrial structures, there is no imperative for the design, siting, and landscaping of the proposed development to align with residential aesthetics.

CHAPTER 9 - DEVELOPMENT IN THE INDUSTRY AND EMPLOYMENT ZONE

Section 9.3 - Design and Siting of Industrial Development

Planning Outcomes

- 1 Buildings are set back a minimum of 10m from front boundaries (5m to a secondary boundary on a corner lot) for lots greater than 1,000m² or 5m for lots less than 1,000m² or otherwise to a setback consistent with existing setbacks in established areas. A 10m setback applies to lots that have frontage to Clergate Road.*

The proposed building placement exceeds the required 10m setback from Hawthorn Place, meeting the Planning Outcome criteria.

- 2 Buildings cover up to 50% of the site area (excluding the area of accessways for battleaxe lots).*

The designated subject site for the proposed Bidfood development (Lot 1) covers an area of 1.395 hectares, permitting a maximum site coverage of 6,975m². The design plans show that the proposed development's site coverage is 4,613m², which represents 33% of the site area.

- 3 Landscaping is provided along boundaries fronting roads including trees with an expected mature height at least comparable to the height of buildings on the site. All sites contain an element of landscaping.*

Landscaping provided is of a bulk, scale and height relative to buildings nearest the front property boundary so as to provide beautification and visual relief to the built form proposed or existing on the site. The depth of the landscape bed at the site frontage is sufficient to accommodate the spread of plantings that meet the abovementioned outcomes but, where practicable, a minimum depth of 3.5m is provided. Plantings are designed to provide shade for parking areas, to break up large areas of bitumen, to enhance building preservation and to screen against noise.

Landscaping initiatives are proposed to cover non-sealed areas, encompassing the Hawthorn Place frontage, battered banks along the southern and northern sides of the Bidfood development, specific zones around the main office, the sprinkler tank, and the detention/bioretenention basin. While an initial generic landscaping plan has been presented, it lacks the necessary detail and specificity for current support. It is recommended that conditions of consent require the submission of a comprehensive landscaping plan, prepared by a qualified professional. This detailed plan should specify suitable plant species for the site and Orange's climate, include quantities, and incorporate an ongoing maintenance strategy.

4 Architectural features are provided to the front building façade to provide relief using such elements as verandahs, display windows, indented walls, etc.

The proposed building design thoughtfully integrates a mix of materials, colours, and architectural elements to provide aesthetic relief. The incorporation of monoclاد metal sheeting, cold room panels, and concrete tilt panels adds variation to the overall design. An awning on the warehouse and office frontage to the southern elevation, contributes to the architectural appeal. This combination of materials and well-considered design elements is considered satisfactory, achieving an appropriate level of urban design within its context. Furthermore, the introduction of suitable landscaping along the road frontages will help soften any potential visual impact of the large building.

5 External materials consist of non-reflective materials.

Supporting information submitted with the development application identifies that all proposed external materials will be of subdued tones and low reflective finishes. These materials primarily include concrete tilt panel and cladding in Colorbond 'Surfmist', and Colorbond 'Classic Deep Ocean' for the large workshop building. Colorbond 'Basalt' will be used for concrete tilt panel base. Colours for the front office building consist of white-painted concrete tilt panels, and the parapet fascia is constructed from FC sheet or a similar material, painted in the Bidfood corporate colour scheme of blue and green. The proposed colours and building materials are considered to be acceptable in this context.

6 Adequate parking and onsite manoeuvring is provided.

Section 9.3 and Chapter 15 of the DCP identifies that typical car parking rates to be applied in industrial areas are:

Industry/warehouse/depot: One (1) space per 100m² gross floor area or 1 space per two employees, whichever is greater.

The proposed GFA of 4,613m² generates a requirement for 46.3 or 47 spaces. The development appropriately provides the required 47 parking spaces, ensuring compliance.

The site plan indicates that the site can effectively accommodate the forward ingress, egress, and manoeuvring of a semi-trailer, demonstrating sufficient onsite manoeuvring capabilities in relation to the proposed use.

7 Advertising involves business-identification signs within the front façade and/or by a pole sign comparable to the relative height to the main building on the site.

The proposed development includes four business identification signs. The foregoing assessment under SEPP (Industry and Employment) 2021 identifies that the signage scheme achieves an acceptable design outcome.

8 Security fencing is located or designed in a manner that does not dominate the visual setting of the area.

Fencing will comprise 2.1m high Chainwire fence with steel posts in a black coated finish around the northern, eastern, and western sides of the Bidfood development. Additionally, black palisade fencing and sliding gates will be provided along the southern boundary of the Bidfood site. No concern is raised with regard to this.

Section 9.2 - Industrial Subdivision

Planning Outcomes

- *The subdivision provides for a range of lot sizes consistent with the existing or proposed character of the industrial locality (with reference to the above table).*

The development seeks to provide two lots generally consistent with the character of the industrial locality. The estate comprises a mix of allotment sizes generally around 3000m² or above. The applicant has suitably demonstrated that the lot size and shape of the lots proposed are capable of accommodating future industrial development including site manoeuvring, car parking and the like. To this end, the development is considered consistent with the above.

- *Lots have a regular shape to facilitate the establishment of large industrial buildings*

The proposed subdivision complies with this outcome. Each of the proposed lots is provided with a suitable configuration with reasonable width and depth. The configuration of each lot is of sufficient dimensions to accommodate the larger building footprints and vehicle turn paths that are typically associated with industrial development.

- *The subdivision is designed and constructed according to the Development and Subdivision Code.*

This planning outcome will be met as part of the Construction Certificate and Subdivision Certificate phases of the development.

- *The land is adequately serviced for industrial development.*

The proposal will comply with this planning outcome. Due to the existing development pattern, all utilities services including sewer, water, stormwater, electricity, and telephone are in reasonable proximity to enable connection to the proposed lots.

- *Buildings are set back a minimum of 10m from front boundaries (5m to a secondary boundary on a corner lot) for lots greater than 1,000m² or 5m for lots less than 1,000m² or otherwise to a setback consistent with existing setbacks in established areas. A 10m setback applies to lots that have frontage to Clergate Road.*

Appropriate setbacks will be achievable within the proposed lots.

- *Buildings cover up to 50% of the site area (excluding the area of accessways for battleaxe lots).*

The applicant has demonstrated that the lots are suitably sized to allow for a substantially sized industrial building to be erected whilst covering less than 50% of the site.

- *Landscaping is provided along boundaries fronting roads including trees with an expected mature height at least comparable to the height of buildings on the site. All sites contain an element of landscaping. Landscaping provided is of a bulk, scale and height relative to buildings nearest the front property boundary so as to provide beautification and visual relief to the built form proposed or existing on the site. The depth of the landscape bed at the site frontage is sufficient to accommodate the spread of plantings that meet the abovementioned outcomes but, where practicable, a minimum depth of 3.5m is provided. Plantings are designed to provide shade for parking areas, to break up large areas of bitumen, to enhance building preservation and to screen against noise.*

Landscaping for Lot 1 will be conducted in conjunction with the proposed warehouse/distribution centre. Landscaping related to proposed Lot 2 will be addressed when subsequent development occurs on that parcel.

- *Adequate parking and onsite manoeuvring is provided.*

The proposed lots allow for suitable parking and manoeuvrability.

CHAPTER 15 - CAR PARKING

Section 15.4 - Parking Requirement

The requirements of Section 15.4 have previously been addressed under Section 9.3 - Design and Siting of Industrial Development.

Section 15.6 - Parking Area Construction

Section 15.6 - Parking Area Construction outlines planning outcomes for parking area construction.

Planning Outcomes

- 1 *Adequate off-street car parking is provided in accordance with the Table or, alternatively, according to an assessment that demonstrates peak-parking demand based on recognised research.*
- 2 *Car-parking areas are designed according to Australian Standard.*
- 3 *Car-park areas include adequate lighting and landscaping (preferably deciduous shade trees), which provides for the personal security of users.*

4 *Bicycle-parking facilities are provided according to the relevant Australian Standard.*

5 *Facilities for loading and unloading of commercial vehicles are provided according to the relevant Australian Standard.*

Council's Development Engineer raises no concern with car park design.

Suitable arrangements have been made for the onsite loading and unloading of vehicles. All vehicles will be required to enter and leave the premises in a forward direction.

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

Demolition of a Building (clause 61)

The proposal does not involve the demolition of a building.

Fire Safety Considerations (clause 62)

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

Buildings to be Upgraded (clause 64)

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

BASIX Commitments (clause 75)

BASIX is not applicable to the proposed development. A Section J Energy Efficiency Statement will be required with the Construction Certificate application.

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

Context and Setting

The surrounding locality is characterised by various industrial premises typical of an industrial estate. The proposed development is consistent with the objectives of the zone and is reflective of the locality which provides a broad range of land uses within an industrial setting. It is not expected that the proposal will create significant impacts on the context and setting of the area.

Visual Impacts

The design of the proposed building is considered to be acceptable within an industrial precinct. The bulk, form and proposed external finishes are typical of those found in an industrial area. The building design provides for a reasonably attractive façade to the street scene.

Traffic and Transport Impacts

The evaluation of potential traffic and parking impacts associated with the development indicates a low likelihood of adverse effects. This assessment is substantiated by a comprehensive traffic impact assessment, which yields the following conclusions:

- The driveway access way proposed to serve the development is suitably located and will provide very good sight distance along Hawthorn Place.

- The proposed development satisfies the related geometric design specifications contained in the Australian Standards for off street parking and vehicular access.
- The off-street parking provided in the proposed development exceeds the requirements specified in Council's Development Control Plan.
- The combined proposal and future lot to rear have a potential increase in estimated peak hour traffic flows in the order of 63 vehicle trips which will not have a noticeable or detrimental effect upon Hawthorn Place or the surrounding road network.
- The proposed Articulated Vehicle can access the site, circulate around the building, access the loading docks and exit the site in a forward direction.

Council's Technical Services support the report's findings. Furthermore, Transport for NSW has reviewed the proposal and raised no concerns.

Environmental Impacts

The subject land is a highly modified industrial parcel of land within a well-established industrial precinct. To this end, the subject land is not likely to contain any threatened species, endangered ecological communities, or their habitats. The development is not likely to present any environmental impacts.

Air and Microclimate

Typically, warehousing and distribution activities do not involve processes that lead to unreasonable air and microclimate impacts. Consequently, the proposal is expected to have minimal, if any, long-term effects on air quality or the microclimate of the locality.

Construction works may generate some impacts in the immediate locality including the emissions of dust and odour/fumes from earthmoving equipment, construction vehicles entering and exiting the site and so on. However, these impacts will be short-term and only for the duration of construction works.

Economic Impacts

The proposed development will promote the growth and investment in industrial development in a serviceable area of Orange and thus is expected to have positive economic stimulus and reinforce Orange as a hub for industry and employment within the wider region.

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

The proposed development is located in the E4 General Industrial zone and is permissible with the consent of Council. The subject land is considered to be suitable for the proposed development due to the following:

- The development is permissible and compliant with the relevant provisions of the LEP.
- The development is considered to be satisfactory in regard to s4.15 of the Environmental Planning and Assessment Act 1979.
- The potential impacts of the development can be managed appropriately through the conditions of consent.

- The development of the site will not create significant adverse impacts on the context and setting of the area.
- The development of the site will not detrimentally affect adjoining land and is unlikely to lead to land use conflicts with the imposition of suitable conditions of consent.
- Suitable arrangements have been made for all utility services and vehicle access.

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

The proposed development was exhibited under the provisions of the Community Participation Plan. No submissions have been received in relation to this application.

PUBLIC INTEREST s4.15(1)(e)

The proposal will not be inconsistent with any policy statement, planning study or guideline that has not been considered in this assessment. There are no aspects of the proposal that will be contrary to the welfare or well-being of the general public.

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

Council's Assistant Development Engineer advises:

1. Development contributions for water, sewer and drainage works are applicable to the proposed development (additional allotment).
2. Headworks charges of 1 ET for water and 1 ET for sewer will apply to the proposed development.

Conditions are included on the attached Notice of Determination requiring payment of applicable contributions prior to the Subdivision Certificate.

INTERNAL REFERRAL COMMENTS

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

SUMMARY

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

ATTACHMENTS

- 1 Notice of Approval, D24/8565 [↓](#)
- 2 Plans, D24/6260 [↓](#)

	ORANGE CITY COUNCIL Development Application No DA 213/2023(1) NA24/26 Container PR5008 - PAN-343891
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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: FrigFreeze Pty Ltd
Applicant Address: C/- Peter Basha Planning & Development
PO Box 1827
ORANGE NSW 2800
Owner's Name: Frigfreeze Pty Ltd
Land to Be Developed: Lot 15 DP 788486 - Hawthorn Place, Orange
Proposed Development: Warehouse or Distribution Centre, Subdivision (two lot industrial) and Business Identification Signage (three signs)

Building Code of Australia building classification:

Class to be determined by Certifier

Determination made under Section 4.16

Made On: 6 February 2024
Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

Consent to Operate From: 7 February 2024
Consent to Lapse On: 7 February 2029

Terms of Approval

The reasons for approval:

1. The proposed development will reasonably satisfy Local and State planning controls.
2. The proposed development will comply with the requirements of State approval authorities.
3. Impacts of the proposed development on the natural and built environment will be within acceptable limit, subject to mitigation conditions.
4. The proposed development will complement the existing or desired future character of the area.
5. The proposed development will be consistent with the zone objectives and principal development standards.
6. The proposed development is permitted in the zone.
7. Utility services are available and adequate.
8. Public exhibition of the application was undertaken in accordance with Council's Community Participation Plan or State legislation. No public submissions were received.

The reasons for the imposition of conditions:

- (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.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 213/2023(1)

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Conditions (cont)**Conditions**

- (1) The development must be carried out in accordance with:
- (a) **The approved stamped Architectural Plans prepared by Spaceframe, dated 23 March 2023 (5 sheets)**
 - (b) **The approved stamped Subdivision Plans prepared by Peter Basha Planning & Development, dated 20 June 2023 (5 sheets)**
 - (c) **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.

WAREHOUSE

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (4) A 150mm-diameter sewer main and junction, and interlot stormwater line and pit shall be constructed from Council's existing sewer and stormwater network to individually serve each of the proposed lots. Prior to a Construction Certificate being issued engineering plans for this work shall be submitted to and approved by Orange City Council.
- (5) A water and soil erosion control plan is to be submitted to Orange City Council or an Accredited Certifier 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.
- (6) The development's stormwater design is to include stormwater detention within the development, designed to limit peak outflows from the land to the pre-existing natural outflows up to a 1% AEP event, with sufficient allowance in overflow spillway design capacity to safely pass flows of lower frequency (that is, a rarer event) without damage to downstream developments.

(Condition (6) continued over page)

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 213/2023(1)

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

(6) (cont)

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

- catchment plan showing sub-catchments under existing and developed conditions;
- schematic diagram of the catchment model showing sub areas and linkages;
- tabulation detailing the elevation, storage volume and discharge relationships; and
- tabulation for the range of frequencies analysed, the inflows, outflows and peak storage levels for both existing and developed conditions;
- together with copies of the data files for the model and engineering design plans of the required drainage system;

shall be submitted to and approved by Orange City Council prior to the issue of a Construction Certificate.

All stormwater drainage design shall be based on the most recent version of Australian Rainfall and Runoff calculations allowing for applicable climate change factor(s).

(7) All stormwater from the general vehicle circulation, parking and roof areas shall be collected and piped to an onsite stormwater treatment system. The design and construction of the stormwater treatment system shall ensure that the quality of stormwater leaving the developed site achieves the following stormwater quality targets:

- 90% reduction in the post development average annual gross pollutant (>5 millimetres) load; and
- 85% reduction in the post development mean annual load of Total Suspended Solids (TSS); and
- 65% reduction in the post development mean annual load of Total Phosphorus (TP); and
- 45% reduction in the post development mean annual load of Total Nitrogen loads (TN).

Engineering plans for this stormwater treatment system shall be submitted to and approved by Orange City Council prior to the issuing of a Construction Certificate. The applicant shall undertake comprehensive water quality modelling on for the site, using an accredited assessment tool (recommended using Music™ or other approved assessment tool) and shall include copies of the electronic data files. Modelling shall be undertaken for both pre and post development scenarios.

Proposed Lots 1 and 2 shall have a gross pollutant trap installed within each lot prior to discharge into the common bioretention / onsite detention basin.

(8) Engineering plans showing complete details of the proposed car parking and heavy vehicle manoeuvring areas are to be submitted to the Certifying Authority for approval upon application for a Construction Certificate. These plans are to provide details of levels, cross falls of all pavements, proposed sealing materials, proposed drainage works, line marking and signage and are to be in accordance with Orange City Council Development and Subdivision Code and AS/NZS 2890.1 Off-street car parking.

(9) 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.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 213/2023(1)

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

- (10) A Road Opening Permit in accordance with Section 138 of the *Roads Act 1993* must be approved by Council prior to **a Construction Certificate being issued or any intrusive works** being carried out within the public road or footpath reserve.
- (11) 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.
- (12) Prior to the issue of a Construction Certificate, a detailed landscaping plan shall be prepared by a suitably qualified landscape consultant and submitted to and approved by Council's Manager Development Assessment. The plan is to include:
- (a) an appropriate mix of plantings including trees and mass understorey plantings comprising shrubs and hedges, accent plants, grasses and groundcovers. Trees shall have mature height at least comparable to the height of buildings on the site. All plant species shall be suitable for the Orange climate;
 - (b) detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, quantities of each species, pot sizes and the estimated size at maturity. Trees shall have a minimum pot size of 75L; and
 - (c) a landscape maintenance strategy for the owner/occupier to administer over a 12-month establishment period following the issue of the Occupation Certificate. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

PRIOR TO WORKS COMMENCING

- (13) Soil erosion control measures shall be implemented on the site.
- (14) 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.
- (15) 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.

DURING CONSTRUCTION/SITEWORKS

- (16) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (17) The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.
- The developer is to be entirely responsible for the provision of water, sewerage and drainage facilities capable of servicing all the lots from Council's existing infrastructure. The developer is to be responsible for gaining access over adjoining land for services where necessary and easements are to be created about all water, sewer and drainage mains within and outside the lots they serve.
- (18) 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.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 213/2023(1)

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

- (19) A minimum 8.0m wide heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in the position shown on the plan submitted with the Construction Certificate application. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit.
- (20) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (21) 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 onsite must not resume unless the express permission of the Director Development Services is obtained in writing.
- (22) All construction/demolition work on the site is to be carried out between the hours of 7.00am and 6.00pm Monday to Friday inclusive, and 8.00am to 1.00pm on Saturdays. No construction/demolition work is permitted to be carried out on Sundays or Public Holidays. Written approval must be obtained from the Chief Executive Officer of Orange City Council to vary these hours.
- (23) All services (water, sewer and stormwater) shall be laid outside the easement unless there is a direct connection to the main within that easement.
- (24) If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item must cease; and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council must be notified. Where required, further archaeological investigation must be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy developed in consultation with and approved by the OEH.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- (25) A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater detention basin and stormwater treatment system complies with the approved engineering plans is to be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
- (26) 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.
- (27) A Road Opening Permit Certificate of Compliance is to be issued for the works by Council prior to any Occupation/Final Certificate being issued for the development.
- (28) 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.
- (29) 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.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 213/2023(1)

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

- (30) 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 a final Occupation Certificate.
- (31) The cut and fill is to be retained and/or adequately battered and stabilised (within the allotment) prior to the issue of an Occupation Certificate.
- (32) Prior to the issue of any Occupation Certificate, landscaping in accordance with the approved Landscaping Plan must be completed.
- (33) 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.

MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT

- (34) The applicant shall obtain an Acoustic Report which assesses actual noise emissions from all operations of the development within three (3) months of the issue of an Occupation Certificate. Where the report recommends additional noise attenuation works to be carried out, these works shall be undertaken within 28 days from the date of the Acoustic Report.
- (35) Trucks are only permitted to utilise the perimeter access road before 7am and after 6pm in the event of an emergency.
- (36) 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*.
- (37) Landscaping in accordance with the approved plans must be maintained in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.
- (38) Outdoor lighting must be in accordance with the *Australian Standard 4282-1997 Control of the obtrusive effects of outdoor lighting*.
Any ancillary light fittings fitted to the exterior of the buildings are to be shielded or mounted in a position to minimise light spill and glare to adjoining properties.
- (39) Arrangements shall be made for the regular removal and disposal of waste.

SUBDIVISION**DURING CONSTRUCTION/SITEWORKS**

- (40) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (41) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 213/2023(1)

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

- (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 onsite must not resume unless the express permission of the Director Development Services is obtained in writing.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- (43) Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.
- (44) **Payment of contributions for water, sewer and drainage works** is required to be made at the contribution rate applicable at the time that the payment is made. The contributions are based on 1.0 ETs for water supply headworks and 1.0 ETs for sewerage headworks. A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.
- This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (45) Application is to be made to Telstra/NBN for infrastructure to be made available to each individual lot within the development. Either a Telecommunications Infrastructure Provisioning Confirmation or Certificate of Practical Completion is to be submitted to the Principal Certifying Authority confirming that the specified lots have been declared ready for service prior to the issue of a Subdivision Certificate.
- (46) A Notice of Arrangement from Essential Energy stating arrangements have been made for the provision of electricity supply to the development, is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
- (47) 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 all sewer mains. 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.
- (48) All services are to be contained within the allotment that they serve. A Statement of Compliance and works-as-executed plan, from a Registered Surveyor, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (49) Where stormwater crosses land outside the lot it favours, an easement to drain water is to be created over the works. A Restriction-as-to-User under Section 88B of the *NSW Conveyancing Act 1919* is to be created on the title of the burdened lot(s) requiring that no structures are to be placed on the site, or landscaping or site works carried out on the site, in a manner that affects the continued operation of the interlot drainage system. The minimum width of the easement is to be as required in the Orange City Council Development and Subdivision Code.
- (50) Prior to the issue of a Subdivision Certificate a right of way shall be established over the proposed common access handle and driveway serving proposed Lots 1 and 2 and an easement for services shall be established over the stormwater detention / treatment system.
- (51) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 213/2023(1)

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Conditions (cont)

Prior to the issue of a subdivision certificate (cont)

- (52) Prior to the issuing of the Subdivision Certificate, a Surveyor's Certificate or written statement is to be provided to the Principal Certifying Authority, stating that the buildings within the boundaries of the proposed lots comply in respect to the distances of walls from boundaries.
- (53) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation or Subdivision Certificate, unless stated otherwise.

Other Approvals

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

Right of Appeal

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

Disability Discrimination Act 1992:

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

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

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

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

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

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















Signature:

Name: Paul Johnston - MANAGER DEVELOPMENT ASSESSMENTS

Date: 7 February 2024

1. **INDUSTRIAL CROSS OVERS TO BE CONSTRUCTED AS PER LOCAL AUTHORITY STANDARD DETAILS DRAWINGS.**
2. **150MM WIDE CONCRETE KERBING TO CAR PARK AND DRIVEWAY PERIMETER - WHERE SHOWN.**
3. **PROVIDE DISABLED ACCESS FROM CARPARK TO BUILDING RAMPS TO BE MAX. GRADES OF 1:20 ACROSS CAR TURNING AREA WITH MAX. 3MM STEP UP FROM RAMP TO FLOOR TO COMPLY WITH A.S. 1428. 1-2001.**
4. **ALL RAMPS FROM CARPARK TO TENANCY ENTRY DOORS TO BE 1:14 MAXIMUM GRADIENT.**

LEGEND

- | | | |
|---|-------------|-----------------------------------|
|  | LP | EXISTING LIGHT POLE |
|  | TP | EXISTING TELECOM / ELECTRICAL PIT |
|  | DPH | DUAL PILLAR HYDRANT |
|  | TBM | TEMPORARY BENCH MARK (A.H.D.) |
|  | PSM | PERMANENT SURVEY MARK (A.H.D.) |
|  | SW — SW | EXISTING STORMWATER LINE |
|  | W — W | EXISTING WATER LINE |
|  | S — S | EXISTING SEWER LINE |
|  | E — E | EXISTING ELECTRICAL |
|  | T — T | EXISTING TELECOM |
|  | — // — // — | EXISTING FENCING |
|  | — o — o — | PROPOSED FENCING |
|  | | LANDSCAPING |
|  | | GRAVEL |

SITE INFORMATION

LOT 15 on DP788486	27,050 m²
ACCESS & BIO SITE	1,531 m ²
BIDFOODS SITE AREA	12,989 m ²
FUTURE DEV. SITE AREA	12,529 m ²

FLOOR AREA	4,613 m²
GROUND FLOOR	
Anteroom	487 m²
Chiller	381 m²
Dock Office	47 m²
Docks	129 m²
Freezer	1,462 m²
Office	424 m²
Warehouse	1,682 m²

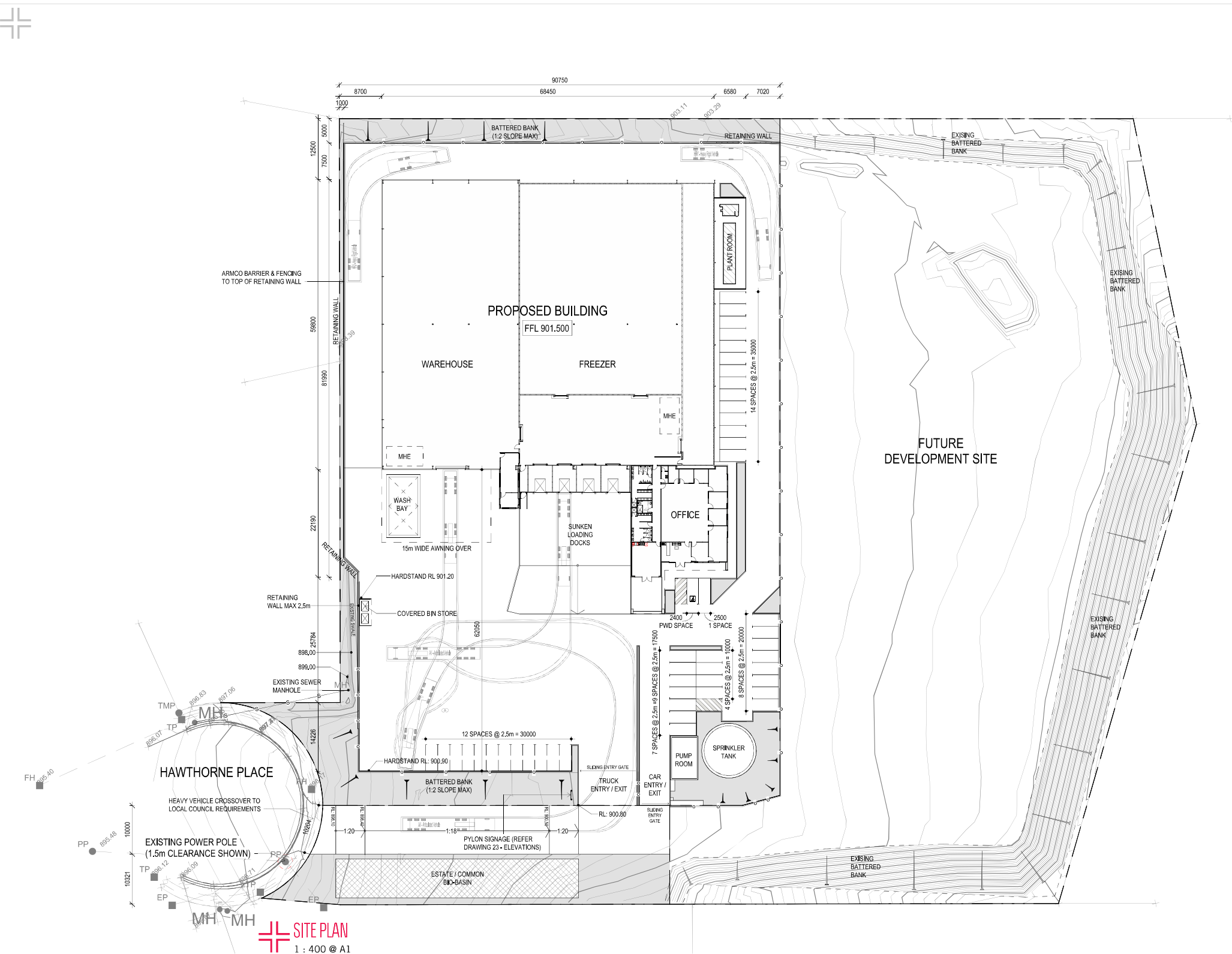
TOTAL CARPARKS		47
LANDSCAPING	12%	1,537 m ²
SITE COVER	36%	4,710m ²
IMPERVIOUS AREA		11,452m ²

SITE PLAN
BIDFOODS
LOT 15, HAWTHORNE PLACE
ORANGE, NSW 2800

DWG N° 4868-DD-20-2 by HAL
DATE 23/03/2023



**space
frame**
DESIGN + CONSTRUCT SOLUTIONS



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