



# **PLANNING & DEVELOPMENT COMMITTEE**

## **AGENDA**

**4 MARCH 2025**

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that a **PLANNING & DEVELOPMENT COMMITTEE MEETING of ORANGE CITY COUNCIL** will be held in the **COUNCIL CHAMBER, CIVIC CENTRE, BYNG STREET, ORANGE** on **Tuesday, 4 March 2025**.

David Waddell  
**CHIEF EXECUTIVE OFFICER**

For apologies please contact Executive Support on 6393 8391.

---

## AGENDA

<b>1</b>	<b>INTRODUCTION.....</b>	<b>3</b>
1.1	Declaration of pecuniary interests, significant non-pecuniary interests and less than significant non-pecuniary interests.....	3
<b>2</b>	<b>GENERAL REPORTS .....</b>	<b>5</b>
2.1	Items Approved Under the Delegated Authority of Council .....	5
2.2	Appointment of Joint Regional Planning Panel (JRPP) Members .....	9
2.3	Development Application DA 740/2024(1) - 72 Stevenson Way .....	55
2.4	Development Application DA 743/2024(1) - 5 Barcoo Close .....	131
2.5	Development Application DA 676/2024(1) - 248-266 Summer Street .....	209
2.6	Development Application DA 579/2024(1) - 241-257 Summer Street and 225-229 Lords Place.....	285
2.7	Orange LEP 2011 - Amendment 42 - 168 Shiralee Road - Post Exhibition Report .....	503
2.8	Post Exhibition Report - Amendment to the Orange Local Environmental Plan 2011 and Draft Planning Agreement - 277 Cargo Road .....	599



## **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 & Development Policy Committee at this meeting.



## 2 GENERAL REPORTS

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

---

RECORD NUMBER: 2025/47

AUTHOR: Paul Johnston, Manager Development Assessments

#### EXECUTIVE SUMMARY

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

#### LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan Strategy “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 179/2019(2)

**Determination Date:** 12 February 2025

**PR Number** PR20238

**Applicant/s:** McKinnon Design & Drafting

**Owner/s:** Poonindie Pty Ltd

**Location:** Lot 70 DP 1077737 - 55 Astill Drive, Orange

**Proposal:** Modification of development consent - depot. The modification involved relocating the building, increasing the floor area, alterations and additions to the previously approved building, adjustments to site levels, changes in car parking and alterations to the landscaping.

**Value:** N/A

2.1 Items Approved Under the Delegated Authority of Council

---

**Reference:** DA 551/2021(3)      **Determination Date:** 17 February 2025  
**PR Number** PR30331  
**Applicant/s:** Anglican Schools Corporation  
**Owner/s:** Anglican Schools Corporation  
**Location:** Lot 300 DP 1312878 – 7 Murphy Lane, Orange  
**Proposal:** Modification of development consent – educational establishment (demolition, new building and 750 students). The modification involved amending condition 42 to reflect the approval of the solar panels.  
**Value:** N/A

**Reference:** DA 501/2024(1)      **Determination Date:** 19 December 2024  
**PR Number** PR14937  
**Applicant/s:** Orange Enterprises No.1 Pty Ltd  
**Owner/s:** Orange Enterprises No.1 Pty Ltd  
**Location:** Lot 1 DP 381932 - 20 Shiralee Road, Orange  
**Proposal:** Subdivision (ten lot Torrens title)  
**Value:** N/A

**Reference:** DA 594/2024(1)      **Determination Date:** 17 February 2025  
**PR Number** PR29199  
**Applicant/s:** Mr AJ Harvey  
**Owner/s:** Mr AJ and Mrs DM Harvey  
**Location:** Lot 1 DP 1279746 - 7 Barrett Street, Orange  
**Proposal:** Subdivision (two lot Torrens title) and dwelling houses (two)  
**Value:** \$770,000

**Reference:** DA 723/2024(1)      **Determination Date:** 10 February 2024  
**PR Number** PR9830  
**Applicant/s:** Mr E Forgie  
**Owner/s:** Investhold Pty Ltd  
**Location:** Lot 3 Sec B DP 9602 - 14 Peisley Street, Orange  
**Proposal:** Demolition (dwelling, tree removal and ancillary structures) and general industry (new industrial building)  
**Value:** \$550,000

**Reference:** DA 734/2024(1)      **Determination Date:** 17 February 2025  
**PR Number** PR5492  
**Applicant/s:** Dvyne Design JT Pty Ltd  
**Owner/s:** Mr V McLaughlin  
**Location:** Lot 2 DP 150637 - 53 Icely Road, Orange  
**Proposal:** Demolition (existing shed) and secondary dwelling  
**Value:** \$165,000

2.1 Items Approved Under the Delegated Authority of Council

---

**Reference:** DA 764/2024(1)      **Determination Date:** 17 February 2025  
**PR Number** PR28325  
**Applicant/s:** Signcraft  
**Owner/s:** Autopact Property No 2 Pty Ltd  
**Location:** Lot 34 DP 270446 14 Gateway Crescent, Orange  
**Proposal:** Business identification signage (illuminated pylon sign and fascia signage for GWM Havel)  
**Value:** \$35,200

**Reference:** DA 768/2024(1)      **Determination Date:** 12 February 2025  
**PR Number** PR17579  
**Applicant/s:** Loritz Circus Pty Ltd  
**Owner/s:** Orange City Council  
**Location:** Lots 15, 16 and 17 Sec 29 DP 5600 - Leeds Parade and Phillip Street, Orange  
**Proposal:** Entertainment facility (temporary use of land - circus)  
**Value:** \$1,000

<b>TOTAL NET* VALUE OF DEVELOPMENTS APPROVED BY THE CEO UNDER DELEGATED AUTHORITY IN THIS PERIOD:</b>	<b>\$1,521,200</b>
---	--------------------

*\* **Net** value relates to the value of modifications. If modifications are the same value as the original DA, then nil is added. If there is a plus/minus difference, this difference is added or taken out.*

Additionally, since the February 2025 meeting report period (21 January to 17 February 2025), another 9 development applications were determined under delegated authority by other Council staff with a combined value of \$2,672,554.



**2.2 APPOINTMENT OF JOINT REGIONAL PLANNING PANEL (JRPP) MEMBERS**

---

RECORD NUMBER: 2025/225

AUTHOR: Paul Johnston, Manager Development Assessments

**EXECUTIVE SUMMARY**

Joint Regional Planning Panels (JRPP) have been established across NSW, with the Western Panel established in September 2009. The JRPP is tasked with assessing major or significant development applications that meet a range of criteria. The structure of the JRPP consists of five panellists, of which three are appointed by the State, including the Chair, and the remaining two are local panellists appointed by the relevant Council.

Council may select three people to represent the Council and community, two primary representatives and an alternate. The primary representatives would be expected to participate in most cases, while the alternate can be called on should either of the two primary representatives be unavailable or have a conflict of interest.

Section 2.13(3) of the Environmental Planning and Assessment Act precludes property developers and real estate agents from serving as members of the JRPP. Beyond this legislated restriction nothing else prevents a current or former Councillor or former staff member from being selected, although at least one representative - who should be a primary representative - must have appropriate expertise in the area of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration.

Equally, there is no requirement for any of the representatives to be Councillors or Council staff, and they could all be selected from the community. The primary focus is to ensure that Council is fairly represented on the panel and can have confidence in its decisions.

Council at its meeting held on 20 November 2024 nominated Councillor Melanie McDonell as the primary representative and Councillor Gerald Power as the alternate member. Mr Allan Renike, who has extensive planning experience, is the current appointed community member to the Panel. Mr Renike's current appointment finishes on 15 May 2025. Council is now required to call for expressions of interest for the final primary panel member that would represent Council beyond 15 May 2025.

**LINK TO DELIVERY/OPERATIONAL PLAN**

The recommendation in this report relates to the Delivery/Operational Plan strategy "18.1. Provide representative, responsible and accountable community governance".

**FINANCIAL IMPLICATIONS**

Nil

**POLICY AND GOVERNANCE IMPLICATIONS**

Ensuring a full complement of local nominations for the JRPP will preserve local representation and accountability to the community.

**RECOMMENDATION**

That Council call for an expression of interest to seek a suitable representative for the final position on the Western Region Joint Regional Planning Panel - JRPP. The representative must have appropriate expertise in the area of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration.

**FURTHER CONSIDERATIONS**

The recommendation of this report has been assessed against Council's other key risk categories and the following comments are provided:

Reputation/Political	The community expects to be appropriately represented on the JRPP in decision making of large scale or significant developments. Panel membership normally consists of three state members and two Council appointed members. Should a Council appointee have a conflict of interest or be otherwise unavailable, and no alternate representative has been appointed, local representation on the panel could be reduced.
----------------------	---

**SUPPORTING INFORMATION**

The Joint Regional Planning Panel (Western and when it sits on an Orange LGA matter) is made up of three State members not related to Orange City Council, and two Council representatives (with a reserve 'alternate' representative also nominated in case one of the other representatives is unavailable). Council's representatives may be Councillors or members of the public, but at least one of the representatives must have expertise in a related field.

Permanent non-Council Members

The current JRPP sitting permanent non-Council related members are appointed by the Department of Planning and Environment.

Council Representatives

Council may select three people to represent the Council and community, two primary representatives and an alternate. The primary representatives would be expected to participate in most cases, while the alternate can be called on should either of the two primary representatives be unavailable or have a conflict of interest. Council at its meeting held on 20 November 2024 nominated Councillor Melanie McDonell as the primary member and Councillor Gerald Power as the alternate member. Council is now required to determine the final representative on the planning panel. Mr Allan Renike, who has extensive planning experience, is the current appointed community member to the Panel. Mr Renike's current appointment finishes on 15 May 2025. Council is now required to call for expressions of interest for the final primary panel member that would represent Council beyond 15 May 2025.

It is recommended that Council call for an expression of interest to seek a suitable representative for the final position on the Western Region Joint Regional Planning Panel – JRPP.

**ATTACHMENTS**

- 1 Sydney District and Regional Planning Panels Operational Procedures - November 2022, D25/19711 [↓](#)





# **Sydney District & Regional Planning Panels Operational Procedures**

November 2022

These procedures are provided for general guidance and information only and are made available on the understanding that the NSW Department of Planning and Environment (Department) is not providing legal advice.

The Department has compiled the procedures in good faith, exercising all due care and attention.

The procedures do not affect or replace relevant statutory requirements.

Where an inconsistency arises between the provisions of the procedures and relevant statutory provisions, the statutory requirements prevail.

While every reasonable effort has been made to ensure that this document is correct at the time of printing, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.

The procedures are not intended to give rise to any rights, claims, benefits, privileges, liabilities, or obligations with respect to matters the subject of the procedures.

It should be noted that the procedures may be affected by changes to legislation at any time and/or be subject to revision without notice.

It is recommended that independent advice be sought in respect of the operation of the procedures and the statutory requirements applying to Sydney District and Regional Planning Panels under the *Environmental Planning and Assessment Act 1979*.

Sydney District and Regional Planning Panels Operational Procedures  
© State of New South Wales through the NSW Department of Planning and Environment  
November 2022  
NSW Department of Planning and Environment  
Four Parramatta Square, 12 Darcy Street, Parramatta, NSW 2150.  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

ISBN 978-0-7313-3590-9

## Contents

1.	Introduction	1
2.	Defining the regions and districts	2
3.	Functions of Planning Panels	3
4.	Membership of Planning Panels	5
5.	Code of Conduct considerations	7
6.	Administration	8
7.	Government information, privacy and complaints	9
8.	Monitoring, review and reporting	10
9.	Liability and indemnification	11
10.	Roles of councils and other panels	12
11.	Development application and assessment	15
12.	Determination of development applications	21
13.	Reviews and appeals	23
14.	Planning proposals - Strategic Planning Panel	26
15.	Site compatibility certificates	29
	Schedule 1: Procedures for briefings, meetings and decisions.	30

## Definitions

*Capital Investment Value* or *CIV* has the same meaning as 'capital investment value' defined in the Dictionary in Schedule 7 of the *Environmental Planning and Assessment Regulation 2021*.

*Commission* means the Greater Cities Commission.

*Council* means the council for the local government area in which the land the subject of a panel matter is located.

*Days* means calendar days unless otherwise stated.

*Department* means the Department of Planning and Environment.

*Development Application* or *DA* means an application for consent under Part 4 of the *Environmental Planning & Assessment Act 1979* to carry out development but does not include an application for a complying development certificate.

*District* means any part of the Greater Cities Region, or other region of the State, declared to be a district by the Minister.

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

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

*Greater Sydney Region* means the region comprising the local government areas as described in Schedule 1 of the *Greater Cities Commission Act 2022*.

*GCC Act* means the *Greater Cities Commission Act 2022*.

*LALC* means Local Aboriginal Land Council.

*LEP* means local environmental plan.

*LGA* means local government area.

*LGNSW* means Local Government NSW.

*LG Act* means the *Local Government Act 1993*.

*LPP* means local planning panel.

*Minister* means the Minister for Planning.

*Panel* or *Planning Panel* means a Sydney District Planning Panel or Regional Planning Panel constituted under Schedule 2 of the *Environmental Planning & Assessment Act 1979*.

*Planning Panel meeting* means a public briefing meeting or a public determination meeting.

*Planning proposal* has the same meaning as a 'planning proposal' under section 3.33 of the *Environmental Planning & Assessment Act 1979*.

*Planning Systems SEPP* or *PS SEPP* means the *State Environmental Planning Policy (Planning Systems) 2021*.

*Regional Planning Panel* means a regional planning panel constituted under clause 10 of Schedule 2 of the *Environmental Planning & Assessment Act 1979*.

*Regionally significant development* means development that meets criteria set out under Part 2.4, Part 3.3 and Schedule 6 of the *State Environmental Planning Policy (Planning Systems) 2021*.

*Planning proposal authority or PPA* means the public authorities identified under section 3.32 of the *Environmental Planning & Assessment Act 1979*.

*SCC* means a Site Compatibility Certificate issued under the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

*Secretariat* means the Planning Panels Secretariat of the Department which provides technical and administrative support to Planning Panels.

*Secretary* means the Secretary of the Department of Planning and Environment.

*Strategic Planning Panel* means a Sydney District or Regional Planning Panel convened for the specific function of considering a strategic or Aboriginal land planning matter.

*Sydney District Planning Panel* means a Sydney district planning panel constituted under clause 9 of Schedule 2 of the *Environmental Planning & Assessment Act 1979*.

*Transport and Infrastructure SEPP* means the *State Environmental Planning Policy (Transport and Infrastructure) 2021*

*Unique submission* means a submission which is in substance unique, distinctive or unlike any other submission. It does not mean a petition or any submission that contains the same or substantially the same text. Separate unique submissions may be made in relation to the same issue. One individual, or one household, could potentially submit multiple unique submissions.

---

November 2022

---

## 1. Introduction

The Planning Panels were introduced in NSW on 1 July 2009 to strengthen decision making for regionally significant development and certain other planning functions under the EP&A Act.

These procedures relate to the operation of the Sydney District Planning Panels and Regional Planning Panels.

The Planning Panels are independent bodies representing the Crown and are not subject to the direction of the Minister, except on matters relating to Planning Panel procedures or where the Minister issues a formal direction under the EP&A Act.

These procedures are the Planning Panels charter and have been developed to explain the objectives, powers, and authorities of the Planning Panels. They also detail the means of operating the Planning Panels and clarify the roles of various parties in the work of the Planning Panels.

The procedures should be read in conjunction with the Local Environmental Plan Making Guidelines, relevant Planning Circulars and the Planning Panels Code of Conduct which explains the standard of conduct expected of Planning Panel members.

These procedures will be kept under review and may be amended periodically.

---

November 2022

---

## **2. Defining the regions and districts**

Planning Panels are constituted for each region of the State (other than the Greater Sydney Region), and each district of the Greater Sydney Region (see sections 2.12, 3.2 and Part 3 of Schedule 2 of the EP&A Act).

The nine Planning Panels are the:

- Hunter and Central Coast Regional Planning Panel,
- Northern Regional Planning Panel,
- Southern Regional Planning Panel,
- Western Regional Planning Panel,
- Sydney Eastern City Planning Panel,
- Sydney North Planning Panel,
- Sydney South Planning Panel,
- Sydney Central City Planning Panel, and
- Sydney Western City Planning Panel.

November 2022

---

### 3. Functions of Planning Panels

#### 3.1 Functions

The principal functions of Planning Panels are to determine regionally significant DAs and undertake rezoning reviews of planning proposals. Other functions of Planning Panels include:

- determining Crown DAs,
- determining modification applications for regionally significant development,
- determining DA reviews,
- determining SCCs,
- undertaking independent reviews for specific Local Aboriginal Land Council lands,
- advising the Minister or the Secretary upon request, and
- preparing planning proposals if they are directed to be a planning proposal authority.

**Note:** Section 2.15 of the EP&A Act contains the functions that may be exercised by Planning Panels.

**Note:** In relation to preparing planning proposals, see Chapter 14 of this Operational Procedures.

#### 3.2 Legislation

Legislation governing Planning Panels includes:

- the EP&A Act for the constitution and functions of Planning Panels and obligations in respect to councils, with the following key provisions:
  - Division 2.4 and Schedule 2 provides for the constitution of Planning Panels, member appointments, functions and general procedures,
  - Division 3.4 allows for a Planning Panel to act as the planning proposal authority and undertake planning proposal reviews,
  - Section 4.5 specifies that a Planning Panel is the consent authority for regionally significant development, and
  - Section 4.7 sets out the consent functions of a Planning Panel which are to be exercised by the relevant council.
- the EP&A Regulation contains provisions for where a Planning Panel is exercising consent authority functions,
- the Planning System SEPP sets out in Parts 2.4, 3.3 and Schedule 6 development declared to be regionally significant,
- the Transport and Infrastructure SEPP sets out the process for consideration and determination of relevant applications for Site Compatibility Certificates.

#### 3.3 Classes of regionally significant development

The Planning System SEPP identifies the types of development classified as regionally significant (see Parts 2.4, 3.3 and Schedule 6 of the SEPP). The relevant Planning Panel will be the consent authority for regionally significant development.

**Note** State significant development or development within the City of Sydney cannot be declared as regionally significant development (see section 4.7 of the EP&A Act).

On lodgement of a DA, the council will decide if a DA is regionally significant development.

The capital investment value (CIV) is relevant for some regionally significant development and should be calculated at the time of lodgement. Councils should request a quantity surveyor's certificate or another relevant expert assessment to confirm the CIV from the applicant. The CIV is to be calculated in accordance the Planning Circular PS 21-020 (or as updated).

The Planning Panels determine applications to modify consent for regionally significant development under section 4.55(2) of the EP&A Act which seek to modify:

- new or amended conditions of consent imposed by the Panel;
- development for which the applicant or landowner is:



---

November 2022

---

- the council,
- a councillor,
- a member of council staff who is principally involved in the exercise of council's functions under the Act,
- a member of the NSW or Commonwealth Parliament, or
- a relative (within the meaning of the *Local Government Act 1993*) of a person referred to above;
- development that is subject to 10 or more unique submissions by way of an objection; or
- development that contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.

All other modification applications under sections 4.55(2), 4.55(1) or 4.55(1A) to development consents granted by a Panel are to be determined by the relevant council. A court granted consent may be modified by a Panel under section 4.56 if it is in relation to regionally significant development.

---

November 2022

---

## **4. Membership of Planning Panels**

(Part 4, Schedule 2 of the EP&A Act)

### **4.1 Chairs and Members**

Each Panel consists of 5 members:

- 3 members, including the chair, appointed by the Minister (State members), and
- 2 members appointed by the relevant council (council members).

Property developers and real estate agents are not eligible to be members of a Panel.

The agenda of a Panel meeting may include consideration of multiple matters, each located in different council areas. The council members may change from time to time, depending on the LGA in which the matter under consideration is located.

Panel members can be appointed to more than one Panel, either as a Panel member and/or as an alternate member.

When there is a vacancy on a Panel, the Minister in the case of a State member, and the relevant council in the case of a council member, will appoint another member to that vacancy.

Terms of appointment for Panel members (both State and council members), must not exceed 3 years. Members are eligible for re-appointment. A State member of a Sydney District Planning Panel must not be a member for more than 9 years in total.

The Secretariat is responsible for maintaining a register of all Panel members.

The chair (or, in the absence of the chair, a deputy chair, or a person elected by the members) presides at Panel meetings. The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

**Note:** In relation to the membership of a Planning Panel responsible for preparing planning proposals, see further Chapter 14 of this Operational Procedures.

### **4.3 Expertise requirements for members appointed by the Minister**

All Panel members appointed by the Minister, including alternates, must have expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration.

### **4.4 Council members**

Two council members are appointed by each council. At least one council member must have expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, or tourism.

To reduce the opportunity to improperly influence panel members councils should consider appointing a minimum of 4 alternate members to enable regular rotation.

### **4.5 Selection of council members**

Each council determines how their members are selected. In selecting members, councils should have regard to any conflict of duties that would be created for a person nominated to the Panel if they are in any way responsible or involved in the assessment of matters to be determined by the Panel or involved in voting or deliberating on matters that come before the Panel.

When appointing its nominees to a panel, council should require a statutory declaration to be signed by proposed nominees stating that they are not property developers or real estate agents, as required by section 2.13 of the Act. Council should also arrange probity checks. These checks should include, at a minimum:

- a. public register of real estate agents check
- b. bankruptcy record check
- c. National Police check (ACIC).

---

November 2022

---

This is in line with the checks and declarations required for State members.

Councils are not restricted to nominating people from the council's local area. They can appoint, terminate, and reappoint members at any time, and can determine the duration of each appointment. Generally, so as to ensure the greatest degree of continuity for the Panels, councils should consider appointing members for the maximum term of 3 years. However, councils should reconsider if the nominations to the Panels are appropriate within 12 months following a council election.

Following a change to its nominees, council is to forward the new member's contact details to the Secretariat as soon as possible and this must be a minimum of 14 days before any meeting at which they will act as a Panel member.

If a council fails to nominate 1 or more council members, a Panel may still exercise its functions in relation to the area of the council concerned.

#### **4.6 Payment of council members**

Councils determine the fees they pay their Panel members. The Minister has provided guidance to all councils on appropriate rates of remuneration for travel and subsistence allowances for their members.

Each council is responsible for making any payments to its Panel members when they attend Panel meetings.

#### **4.7 Alternate members**

The Minister may at any time appoint a person to be the alternate of another member appointed by the Minister and may revoke any such appointment.

A council may also at any time appoint a person to be the alternate of a member nominated by the council and may revoke any such appointment.

Any changes are to be notified in writing to the Secretariat as soon as possible and at least 14 days before undertaking any Panel business.

The alternate will act in the place of the member with all the powers of the member. Although a member may be appointed as an alternate for two or more members, they will only have one vote on any Panel decision.

#### **4.8 Rotation of members**

To ensure there is a level of randomisation involved in which panel members and alternates hear a matter, all members are required to regularly rotate with alternate members. This will reduce opportunities for panel members to be improperly influenced. The chair is to determine the frequency of rotation in consultation with the Planning Panel secretariat.

Following a matter being deferred, where possible the same members should reconvene to finalise the determination.

November 2022

---

## **5. Code of Conduct considerations**

### **5.1 Planning Panels Code of Conduct**

All Panel members must comply with the Planning Panels Code of Conduct when exercising their functions as a Panel member and make impartial merit-based decisions in accordance with their statutory obligations. The latest version of the Planning Panels Code of Conduct is available online at [www.planningpanels.nsw.gov.au](http://www.planningpanels.nsw.gov.au). On appointment each Panel member must acknowledge in writing that they will abide by the Planning Panels Code of Conduct.

### **5.2 Declaration of interests**

On being informed of a matter to come before the Panel members should consider if they have an actual, potential or reasonably perceived conflict and, if so, declare the conflict and take any appropriate action, such as allowing an alternate member to take their place.

Panel members are required to complete and sign a declaration of interest form in relation to each matter which is considered by the Panel, either before, or at the commencement of, the Panel's determination proceedings. Any verbal declarations are to be recorded in writing.

To avoid any perceptions of bias, and to meet requirements of the Code of Conduct, councillors who have previously deliberated or voted on a matter that is to come before the Panel (such as a submission from the council on a DA for regionally significant development, a related voluntary planning agreement or a planning proposal) must stand aside from their place on the Panel and allow council's nominated alternate member to take their place. Alternatively, the member may choose to not participate in the deliberations or voting on the matter at the council (or council committee) meeting. They should also not remain in the council chamber during the council's deliberations.

### **5.3 Representations to Planning Panel members**

If a Panel member is approached by any person about a matter to come before the Panel, the Panel member must not discuss the matter.

Any person that approaches a Panel member should be encouraged to make a written submission to the council planning staff for DAs during the exhibition period, or if the matter relates to a planning proposal for which the Panel is the PPA, to the Secretariat. Issues raised in submissions will be addressed in the assessment report to be provided to the Panel.

### **5.4 Interactions with third parties about matters before the Planning Panel**

Panel members are not to discuss any matter that is to be considered by the Panel with councillors, the applicant, their consultants, parties who have made a submission, or any other person with an interest in the matter outside of a Panel briefing, meeting or site visit.

### **5.5 Public meetings organised by the council or community about the proposed development**

To avoid any perception of bias, Panel members should avoid attending public meetings about a proposed development organised by members of the community or council, unless the meeting has been organised at the request of the Panel.

---

November 2022

---

## 6. Administration

Administration and support for the Panels is provided by the Planning Panels Secretariat. Support includes:

- scheduling of meetings, briefings, and site visits,
- preparing and issuing agendas,
- notification of meetings,
- arranging for travel and accommodation for State appointed Panel members,
- preparing records of decision (with assistance from council),
- arranging for the audio recording of public Panel meetings,
- record keeping for the Panels, and
- being the first point of contact for councils to notify a Panel of any decision made by the Panel which is the subject of a merit appeal in the Land and Environment Court.

The Secretariat is the first point of contact for all Panel matters and publishes a wide range of information on its website:

[www.planningportal.nsw.gov.au/planningpanels](http://www.planningportal.nsw.gov.au/planningpanels)

The contact details for the Secretariat are:

phone: (02) 8217 2060

email: [enquiry@planningpanels.nsw.gov.au](mailto:enquiry@planningpanels.nsw.gov.au)

---

November 2022

---

## **7. Government information, privacy and complaints**

### **7.1 Right to information and privacy management**

The Department assists Planning Panels in managing applications made under the *Government Information (Public Access) Act 2009* and the *Privacy and Personal Information Protection Act 1998*.

For applications of this nature visit the Department's website at:

<http://www.planning.nsw.gov.au/About-Us/Right-to-Information/How-Can-I-Access-Information>

### **7.2 Complaints**

The Department assists Planning Panels in managing complaints. Complaints are investigated and managed in accordance with the Department's Management of Complaints Policy.

Dissatisfaction with determinations of the Planning Panels will not be regarded as a complaint.

If you wish to make a complaint visit the Department's website at: telephone, write or email the Department at:

<https://www.planning.nsw.gov.au/Contact-Us?>

Complaints made in this way will be recorded in the Department's Complaints Register and will be allocated to the appropriate level for investigation and response.

If you are not satisfied with a response, you can ask for the issue to be considered by a more senior officer.

Code of conduct complaints will be dealt with under the Planning Panels Code of Conduct.

At any time, a person can complain to external bodies such as the Independent Commission Against Corruption (ICAC), the Ombudsman, or the Audit Office of NSW. Allegations of corrupt conduct, misconduct, or serious waste of resources are encouraged to be made directly to these organisations.

Complaints about council, councillors, council staff or local planning panels should be directed to the relevant council.



---

November 2022

---

## 8. Monitoring, review, and reporting

The Secretariat monitors the progress of DAs referred to the Panels. It is expected that council will complete its assessment report within 60 days after the close of the public exhibition period.

The performance of the Panels is monitored and reported in the Department's Annual Report.

Once a planning assessment is completed by the council and referred to the Panel, the Panel will be expected to:

- d. determine the matter within 2 weeks (14 calendar days) for development and modification of consent applications; and
- e. provide its advice within 2 weeks (14 calendar days) on planning proposals.

To ensure assessment and determination times are not subject to delay:

- a. Panel chairs are obliged to work with senior council staff to ensure that key issues are addressed during assessment, in order to minimise the number of deferrals by the panel at determination stage.
- b. Should an application experience unreasonable delays in excess of 180 calendar days from lodgement the Panel chair may require the council to report the matter to the Panel within 4 weeks for determination.

**Note:** The requirements relating to the timeframes for assessing development applications under the *Environmental Planning and Assessment Regulation 2021* must be considered by Panels.

### 8.1 Availability of information

The Secretariat makes a range of information publicly available on its website, including:

- Panel notices with dates, locations, meeting format and times (at least 7 days before the Planning Panel meeting),
- the relevant council's assessment report and recommendation (at least 7 days before the Panel meeting),
- records of briefings and Panel meetings, Determinations and Statements of Reasons, decisions on rezoning reviews and Site Compatibility Certificates, resolutions of the Planning Panels and any advice provided by the Panels to the Minister, Secretary or GCC, as relevant,
- audio recordings of Panel meetings, and
- a schedule of meeting dates reserved for Panel business.

Councils remain responsible for receiving, notifying and exhibiting DAs and supporting documents in accordance with statutory provisions and council's own notification and exhibition requirements set out in its community participation plan and for issuing the notice of determination.

---

November 2022

---

## **9. Liability and indemnification**

Panel members are excluded from personal liability as long as the act or omission was done in good faith for the purpose of carrying out their duties under the EP&A Act (see s 2.28 of the EP&A Act).

The NSW Government extends insurance indemnity cover to Panel members. For indemnification provisions to apply Panel members must act honestly and in accordance with the Panel Code of Conduct in the performance of their responsibilities.

For further information please contact the NSW Self Insurance Corporation (icare) at:  
<https://www.icare.nsw.gov.au>



November 2022

---

## 10. Roles of councils and other panels

### 10.1 Role of councillors and council staff

The elected council and council staff have different roles in the assessment of DAs. Under the *Local Government Act 1993*, the independence of council staff is protected in the preparation of advice and recommendations. Staff members are not subject to direction by the council or by a councillor as to the content of any advice or recommendation made by the staff member. Equally, a council or councillor is not bound by the advice or recommendation made by a member of staff.

### 10.2 Assessment role

Council staff undertake the assessment of a DA. The assessment of a DA includes accepting the DA, consultation, concurrence and obtaining general terms of approval from an agency if required, carrying out community participation requirements and assessment of the matters set out in 4.15 of the EP&A Act. The assessment is documented in a report with recommendations. The report is then considered by the person or body that is the consent authority.

Council is responsible for carrying out community participation requirements on behalf of the Panels (see section 4.7(2)(d) and Division 2.6 of the EP&A Act).

The Department undertakes the assessment of planning proposals and applications for site compatibility certificates referred to the Panels.

### 10.3 Determination role

Historically, one of the roles of an elected council has been to determine or make decisions on DAs in their capacity as a consent authority. There are occasions, however, where the determination role is performed by other people or bodies, either because the council has delegated that function, or because it has been conferred upon another person or body. For example, where local planning panels have been introduced, elected councils no longer determine DAs (see section 2.17 of the EP&A Act).

The Panel for the area in which the development is to be carried out is the consent authority for regionally significant development (see section 4.5 of the EP&A Act).

### 10.4 Post-determination role

Council staff are responsible for post-determination functions including:

- notifying Panel determinations on DAs (see sections 4.7(2)(e), 4.18 and 4.59 of the EP&A Act),
- registering Panel development consents on the NSW Planning Portal (see sections 4.7(2)(e) and 4.20 of the EP&A Act), and
- monitoring and enforcing compliance with conditions of the development consent.

The notice of determination should be issued once council receives a copy of the endorsed and final determination from the Panel. The notice of determination must include all conditions imposed by the Panel, including any additional or amended conditions.

The council has no power to amend conditions or include additional conditions following the Panel's determination.

Council will advise any person who made a submission on the DA of the determination.

The council continues to be responsible for the monitoring of, and enforcing compliance with, any conditions of the development consent.

Where an application has been approved subject to a 'deferred commencement' condition council is responsible for determining whether the requirements of the condition have been met (see section 4.16(3) of the EP&A Act). Council advises the chair of the Panel in writing when the matter specified in the condition has been satisfied (see section 277(2) of the EP&A Regulation).

---

November 2022

---

### 10.5 Support provided to Planning Panels by councils

Planning Panels are entitled on request to the general manager of a council, to use the staff and facilities of the relevant council, have access to council records, and any other assistance or action for the purpose of carrying out their functions (see section 2.27 of the EP&A Act).

It is expected that use of council facilities such as meeting rooms would be arranged prior to Panel meetings.

Support, such as recording the written decisions of the Panel, audio recording of Panel meetings, copying of documents and the provision of professional advice, may also be required.

Generally, the relevant council bears the administrative and council staffing costs associated with Panel meetings. Administrative costs may include those associated with the meeting venue and set up, the attendance of council staff, as well as administrative support.

The chair and members of a Panel will need to be mindful of the regular duties and responsibilities of council staff when requests for assistance are made. Requests by members of Panels for support and assistance from councils should be made through the chair to the general manager (or other person nominated by the general manager) of the council concerned.

### 10.6 Role of design review panels

Design review panels are established by councils either formally under *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* with the approval of the Minister, or informally to bring special design expertise to the assessment of certain types of DAs.

Design review panels that are properly integrated in the assessment process are an effective tool which helps to improve the quality of design outcomes. The quality of design has a bearing on many, but not all, of the matters considered in the assessment of a DA.

The role of design review panels in the assessment of applications is not changed by the fact that the application is to be determined by a Panel. However, it is generally more effective in terms of design quality outcomes and timeliness if the design review panel is convened at the pre-DA stage or early in the assessment phase.

Council assessment officers and the Panels should consider the advice of the design review report in their assessment reports and in making a determination. The design review report may be used in the following ways:

- to support the application of relevant planning controls in a flexible manner where the design review panel has identified this will achieve better outcomes
- to establish if the reasonable recommendations of the design review panel have been followed
- as evidence for refusing development consent where the advice of the design review panel has not been adopted

In some instances, the Panel may require additional design quality advice or clarification of design quality matters to finalise their recommendations or to make a determination. In this instance, they may refer the project back to the design review panel. The following criteria can be used to establish when to re-engage with the design review panel:

- The application is poor and has not considered the advice of the design review panel – refusal.  
**No return to design review panel**
- Application will require minor modifications – to be managed via conditions of consent.  
**No return to design review panel**
- The application will require significant modification, the extent and nature of which requires advice from the design review panel.  
**Return to design review panel**

---

November 2022

---

**10.7 Role of local planning panels**

Although similar in operation, the roles of local planning panels and the Sydney district and Regional Planning Panels do not overlap. Local planning panels determine all DAs that meet criteria set by the Minister.

November 2022

---

## **11. Development application and assessment**

### **11.1 Pre-development application meetings**

Pre-DA meetings between applicants and assessment officers are commonly used to inform lodgement requirements and likely assessment pathways before applications are submitted to the consent authority.

Applicants are encouraged to meet with council before lodging a DA, and to respond to the advice of council when preparing the DA.

Applicants should consider the Local Government Design Review Panel manual in relation to pre-application design reviews and the requirements to be met in that process.

### **11.2 Making of development applications**

DAs for regionally significant development are made to the relevant local council.

In the case of development located in two or more LGAs, a separate DA must be lodged with the councils of each LGA. Additionally:

- each DA should only address that part of the development located on land in the relevant LGA,
- neighbouring councils may wish to consider setting up joint assessment procedures, if appropriate, and
- the Panel will determine each DA separately (although the determinations may be made concurrently).

### **11.3 Notification to the Secretariat**

Within 7 days of receiving a DA for regionally significant development, the council registers the DA with the Secretariat.

The registration is made via the NSW Planning Portal. Documents can be automatically linked via the NSW Planning Portal meaning that DA documents and any updated information are electronically transmitted to the Secretariat.

The Secretariat advises relevant Panel members of the DA once the registration is accepted. The DA documents, including the application form are made available to Panel members electronically via the NSW Planning Portal.

These documents allow Panel members to become familiar with the development and to identify if they have any potential conflicts of interest prior to their review of the assessment report and before determining the application.

### **11.4 Kick-off briefing and timing for determination**

Generally within 28 days of the lodgement of a DA, the Secretariat will arrange a Kick-off briefing between the Panel, relevant council staff and the applicant. At this meeting, the applicant will be invited to outline the DA to the Panel, and the Panel chair will identify key issues including areas where further information is required. Importantly, for larger matters, the Panel chair will outline a timeframe for a subsequent briefing between all parties (generally around day 128 since lodgement), and an estimated date for determination (generally no more than 250 days since lodgement).

### **11.5 Public exhibition of development applications by council**

Public exhibition of the DA is undertaken by council staff in accordance with the requirements of the EP&A Act, EP&A Regulation and Council's Community Participation Plan or any relevant development control plan or policy of council. Public exhibition can commence or occur after the Kick-off briefing.

Notification of exhibition, including letters and advertisements, should contain appropriate statements to advise:

- that the {name of relevant} Panel is the consent authority for the application,

---

November 2022

---

- that submissions made in respect of the application should be made to {name of relevant} Council, but will be provided to the Panel and may be viewed by other persons with an interest in the application,
- names and addresses of submitters will be provided to the Panel for notification purposes, and
- other information required by the EP&A Act or EP&A Regulation.

#### **11.6 Requests for additional information**

It is the applicant's responsibility to provide adequate information and technical reports on potential impacts of the proposed development.

Holding a pre-DA meeting with council staff will often clarify council requirements for the lodgement of an application. However, the applicant may be requested by council staff to provide further information or reports to properly address all relevant aspects of the development, or to enable an assessment report to be completed.

During the assessment process the Panel may identify issues at a briefing that must be addressed or clarified in council's assessment report, and for which council may request further information.

Amended plans or additional information for a DA must be lodged with council.

#### **11.7 Status reports**

Councils must advise the Secretariat if it is evident that there are difficulties in assessing the DA or the assessment report will not be completed within the timeframe indicated in the referral notification.

The Secretariat tracks the progress of DAs registered with it and requests status updates from council for DAs lodged for 70 days or more.

Where a response or concurrence from public agencies delays the assessment of a DA, a council can ask the Secretariat for assistance to ensure the agency responds to council in a timely manner.

Where there is an ongoing and unreasonable delay in the processing of a DA, council may be requested by the Panel to complete its assessment without further delay.

#### **11.8 Assessment of the development application**

The council that received the DA is responsible, through its staff, for the assessment of the application.

It is council's responsibility to prepare an assessment report addressing all statutory requirements and properly considering all issues. Usually councils will rely on their own professional staff, however where they do not have the technical expertise required in-house, they may engage external expertise. All costs associated with the preparation of the assessment report are to be covered from application fees, which are retained by council.

The assessment report must clearly identify how the proposal meets the relevant requirements for regionally significant development, and that the Panel is responsible for determining the application.

The assessment report must include a recommendation on the proposed development:

- if the recommendation is for approval of the application, the report must include recommended conditions of consent, and
- if the recommendation is for refusal, the report must include reasons for refusal based on the assessment in the report.

The chair of the Panel may request without prejudice draft conditions of consent where council's report recommends refusal.

In considering an application, a Panel may request additional information to assist in its determination of the application.

Council assessment officers (and the Panels) should consider the advice of any design review report in their assessment reports and in making a determination. The design review report may be used in the following ways:

November 2022

- to support the application of relevant planning controls in a flexible manner where the design review panel has identified this will achieve better outcomes
- to establish if the reasonable recommendations of the design review panel have been followed
- as evidence for refusing development consent where the advice of the design review panel has not been adopted

In some instances, the Panel may require additional design quality advice or clarification of design quality matters to finalise their recommendations or to make a determination. In this instance, they may refer the project back to the design review panel. The following criteria can be used to establish when to re-engage with the design review panel:

- The application is poor and has not considered the advice of the design review panel – refusal.  
**No return to design review panel**
- Application will require minor modifications – to be managed via conditions of consent.  
**No return to design review panel**
- The application will require significant modification, the extent and nature of which requires advice from the design review panel.

#### **Return to design review panel**

#### **11.9 Varying development standards**

Where a DA includes a variation to a development standard, an application under clause 4.6 of the relevant LEP is required. Council's assessment report includes an assessment of the application against the relevant statutory provisions.

The function of obtaining concurrence from the Secretary under clause 4.6 is a matter for the council. However, where concurrence is assumed, the council does not need to obtain concurrence. The Panel will determine whether a clause 4.6 application is well founded on the basis of the applicant's justification.

#### **11.10 Local infrastructure contributions**

The assessment report should address contributions required in accordance with the council's relevant contributions plan (see section 7.11 and 7.12 of the EP&A Act). The Panel is able to impose additional or different contributions than those set out in the contributions plan. For Crown developments, councils should address contributions in accordance with the relevant planning circular (Circular No. D6, issued September 1995 or as updated).

#### **11.11 Special infrastructure contributions and certification requirements**

If the development falls within a special contributions area the council should address the relevant requirements in its assessment report and recommend appropriate conditions in accordance with the Ministerial direction (see section 7.24 of the EP&A Act).

The council must address any "Satisfactory Arrangements" clause in the applicable LEP in its assessment report. These clauses usually state that development consent must not be granted by a consent authority until arrangements to the satisfaction of the Secretary have been made to contribute to regional or State infrastructure. A Panel cannot provide consent to the DA until the Secretary (or delegate) of the Department has certified in writing that satisfactory arrangements have been made.

#### **11.12 Development subject to delays in determination**

An applicant with a DA that has a CIV between \$10 million and \$30 million can refer the DA to the relevant Panel for determination if it remains undetermined for 120 days after being lodged with council (see Schedule 6 of the Planning Systems SEPP). The referral process is outlined below:

- when making a referral, applicants must use the Regional Development Request form available on the Panels website,

November 2022

---

- the applicant is to complete the relevant part of the form and submit it to **both** the relevant council and the Secretariat,
- once the council receives the referral form it cannot determine the DA until a decision has been made regarding whether the Panel will have the function of determining the DA, however council can continue to assess the DA,
- the council sends the completed referral form and copies of all DA documents, to the Secretariat within seven days. Council should also send its explanation for the delay in completing its assessment,
- the chair will consider the information in the referral form and advise the Secretariat if the referral is accepted (i.e. the applicant is not responsible for a delay in the application), generally within 14 days of the applicant making the referral. The chair will consider a number of matters in making this decision, including:
  - permissibility and zoning, including whether the determination is dependent on a rezoning,
  - whether the determination is dependent on a voluntary planning agreement or the approval of a masterplan or DCP,
  - whether the landowner's consent has been provided,
  - whether the required referrals and concurrences have been obtained,
  - whether there have been requests for further information, and what the responses were to those requests, and
  - if council has considered the DA and the outcome of that consideration,
- once the chair decides, the Secretariat will notify the council and the applicant as to whether the development is regionally significant development,
- if the referral is not accepted the chair must advise the reason(s) for not accepting the referral,
- if the referral is accepted, council completes the assessment of the application and prepares an assessment report for submission to the Secretariat, and
- a briefing with council may be held prior to determination.

#### **11.13 Council representation to the Planning Panel**

An elected council may make a submission on a DA within their LGA that is to be determined by a Panel up to seven days before the Panel meeting.

After the assessment report is sent to the Secretariat, it may be given to the elected council to assist in its decision as to whether it will be making a submission to the Panel. The elected council's submission should not be prepared by persons involved in the assessment of the application but could be prepared by another council officer, or a consultant.

A council submission should not be specifically referenced in the assessment report or recommendations prepared by the council staff. If council makes a submission, a staff representative or individual Councillors may register to address the Panel at the meeting to express the views of council.

Councillors who are also Panel members have an independent role because they have been nominated by their council as its nominee to the Panel.

#### **11.14 Submission of assessment report to the Secretariat**

The completed assessment report and recommendation is to be immediately uploaded to the NSW Planning Portal such that it is sent via electronic means to the Secretariat.

The assessment report is not to be endorsed or presented to the elected council before being sent to the Secretariat.

The following items are to be uploaded to the NSW Planning Portal:

- assessment report and any attachments and recommendations (including conditions),
- the Council Assessment Report cover sheet (available on the Planning Panels website),



---

November 2022

---

- final architectural drawings and plans and other reports that the assessing officer considers that the Panel may require in order to make an informed decision,
- copies of each submission received in respect of the DA
- a completed List of Submitters (available on the Planning Panels website) containing the names, postal addresses and email addresses (if provided) of every person or body who made a submission to allow the Secretariat to notify submitters of the details of the Panel meeting,
- in the case of petitions, only the name and address of the head petitioner should be provided, if that person can be identified, and
- the final number of unique submissions received.

**Note:** Council's assessment report must include a summary and assessment of all submissions so that the Planning Panel can consider the submissions as part of the assessment of the DA. Based on the details provided by council, the Secretariat will notify persons who made submissions of the time, date and venue of the Panel meeting at which the relevant application will be considered. Councils should also upload copies of any late submissions to the NSW Planning Portal and, where necessary, provide further assessment if the issues are not already covered in council's assessment report.

#### **11.15 Written submissions to the Planning Panel**

All written submissions must be sent directly to council to be considered as part of the assessment of the DA.

Submissions sent to the Panel will be given to council for assessment. If additional late information is received from the applicant it will be published on the NSW Planning Portal for transparency. Panels will not normally accept information "in confidence" that is not also given to council. However, if confidentiality is requested, the reason must be clearly stated as to why it is confidential and relevant to the assessment matter before the Panel and the chair will consider the request.

#### **11.16 Rezoning, development control plans and planning agreements**

Where a DA is lodged concurrently with a planning proposal seeking the rezoning of land under the LEP Council's assessment report must address the DA against the proposed zoning. Council is responsible for progressing the planning proposal. The Panel cannot determine a DA to approve such development until the land is rezoned to permit that development.

Where the provisions of an environmental planning instrument require a development control plan (DCP), (previously known as a master plan) to be adopted by the council before granting development consent, it is the responsibility of council to prepare and adopt the DCP prior to sending the assessment report to the Panel. In such circumstances, the Panel will not determine the application until the DCP is adopted by the council.

If a planning agreement is proposed, it should be negotiated by council staff. Council's assessment report for the Panel would normally make reference to any planning agreement and its relationship to the DA. The planning agreement would normally be exhibited by the council before the assessment report is provided to the Panel, and the planning agreement would be provided to the Panel as part of the supporting documentation for the DA.

The Panel may only impose a condition of consent requiring a planning agreement be entered into if the condition reflects the terms of any offer made by the applicant to enter into a planning agreement (see section 7.4 of the EP&A Act).

#### **11.17 Referral of Crown development applications with a CIV less than \$5 million**

Crown DAs with a CIV greater than \$5 million are regionally significant development. Crown DAs with a CIV under \$5 million can be referred to the relevant Panel (see section 4.33 of the EP&A Act) by either:

- the applicant where council (or LPP, if relevant) has not determined in the prescribed period, or
- the council at any time including before the end of the prescribed period.



---

November 2022

---

Before the end of the prescribed period, only a council (not the applicant) can refer an application to the Panel.

For Crown DAs with a CIV of less than \$5 million where a council or LPP seeks to refuse consent or impose a condition to which the applicant has not provided their agreement, the application is also to be referred by council to the relevant Panel (see section 4.33(2) of the EP&A Act).

The referral to the Panel must be in writing. Additional procedures for the referral, including the requirement to notify the other party in writing of the referral are set out at sections 4.33(6) and section 4.33(7) of the EP&A Act.

Once the application is referred to a Panel, the council registers the DA on the NSW Planning Portal and uploads its assessment report to the NSW Planning Portal for the Planning Panel to consider.

November 2022

---

## 12. Determination of development applications

### 12.1 Determining regionally significant development applications

Planning Panels determine regionally significant development as the consent authority.

For contentious matters, where the DA has attracted 10 or more unique submissions by way of objection, the Panels will generally hold a public determination meeting to consider the DA. Refer to **Schedule 1** for more information on the detailed procedures for Panel meetings.

The purpose of the public determination meeting is for the Panel to hear views of the community and other interested parties, such as the applicant and the council, on the DA before the Panel makes a decision.

Public determination meetings may be held wholly or partly by audio link, audio visual link or other electronic means (EP&A Act Schedule 2 clause 25(4)). Such meetings must be recorded with the recording made publicly available on the Planning Panel website.

After reviewing written submissions on a DA, considering the recommendation in council's assessment report and hearing from those wishing to address the Panel, the Panel may determine the application or defer its decision for reasons that will be stated in the meeting record.

In circumstances where the DA is the subject of less than 10 unique submissions by way of objection a Panel is able to determine the application by an electronic circulation of papers.

In some instances, the Panel may require additional design quality advice or clarification of design quality matters to finalise their recommendations or to make a determination. In this instance, they may refer the project back to the design review panel. The following criteria can be used to establish when to re-engage with the design review panel:

- The application is poor and has not considered the advice of the design review panel – refusal.  
**No return to design review panel**
- Application will require minor modifications – to be managed via conditions of consent.  
**No return to design review panel**
- The application will require significant modification, the extent and nature of which requires advice from the design review panel.  
**Return to design review panel**

### 12.2 Obligation to consult council – if adverse financial impacts

A Panel must not make a decision that will have, or that might reasonably be expected to have, a significantly adverse financial impact on a council without first consulting the council (see section 2.26 of the EP&A Act).

The consultation must be in writing, with the council being given a specified time to respond in writing. Where a briefing with the general manager (or nominee) is to be held to discuss the matter, all relevant Panel members should be present, and a meeting record and outcomes should be sent to the Secretariat.

### 12.3 Determining Crown development applications

A consent authority for Crown development cannot refuse consent to a Crown DA except with the approval of the Minister, nor can it impose a condition on a development consent for Crown development except with the approval of the applicant or the Minister.

This requirement applies to Crown development that is to be considered by a Panel, where the application is for regionally significant development, or where the DA is referred to the Panel under Division 4.6 of the EP&A Act.

Where the Panel wishes to either refuse an application or impose conditions not agreed by the applicant, or where a Panel fails to determine the DA within the prescribed period, the applicant or the

---

November 2022

---

Panel may refer the DA to the Minister. The Minister may then direct the Panel to approve or refuse the Crown DA within a specified time.

#### **12.4 Determining DAs for coastal protection works**

Certain coastal protection works are classified as regionally significant development. Where a Panel is to determine a DA for coastal protection works the chair and the council nominated members will remain on the panel, however the State members will be replaced by members appointed by the Minister who have expertise in coastal engineering or coastal geomorphology (see EP&A Act Schedule 2 clause 20(2) and clause 8A, Schedule 6 of the Planning System SEPP).

#### **12.5 Delegation to council to determine applications**

If the Minister agrees, Panels may delegate the determination of applications to councils, a local planning panel of a council or the general manager or other staff of council (see section 2.16(2) of the EP&A Act). Delegation may be for development in a specified area, for a class of application, or be made on a case-by-case basis.

In situations where the determination is delegated, councils must:

- register the application on the NSW Planning Portal,
- inform and update the Secretariat on the processing of the application as requested, and
- provide a copy to the Secretariat of all determination documents, including the assessment report and Notice of Determination.

The chair of the relevant Planning Panel may request the council to not exercise the delegated function in certain circumstances.

Any determination made by council under delegation is a decision of the Panel.

November 2022

---

## 13. Reviews and appeals

### 13.1 Decision reviews

Planning Panels also review decisions made on DAs by the Panels (see Division 8.2 of the EP&A Act). The Council notifies the Panel when a request to review a decision has been lodged through lodging it on the NSW Planning Portal. The Panel reviewing the decision will be comprised of different members to those members that made the original decision and will be called the Decision Review Panel of the [relevant] Planning Panel.

**Note** that decision reviews cannot be requested where the following applies:

- the time to lodge a legal appeal has passed,
- a merit appeal has been determined regarding the DA, or
- it is an application for complying development, a Crown DA or a designated development DA.

The Decision Review Panel may ask to be briefed on the decision review request, either by the applicant, Council staff undertaking the assessment, or other experts engaged to assess the application.

The circumstances where this may be needed include where the applicant for the DA has amended the development the subject of the original DA since the original determination.

If needed, the Decision Review Panel may also hold a site visit or public briefing meeting.

Council must prepare an additional assessment report to the Decision Review Panel if the DA or application to modify a development consent has been amended after its initial determination, or if submissions have been made following any further notification.

A Decision Review Panel will only need to hold a public determination meeting if the application was exhibited and 10 or more unique submissions by way of objection were received.

Council must give written notice to the applicant of the result of the review within 7 days of the completion of the review.

### 13.2 Appeals against a Planning Panel determination

#### *Merit appeals*

An applicant who is dissatisfied with a determination or deemed refusal of an application may lodge a merit appeal to the Land and Environment Court within six months against the decision as provided for in the EP&A Act.

**Note:** An application is deemed to have been refused if it is not determined within 40 days, or 60 days if the application is for designated or integrated development, requires concurrence of a concurrence authority or is accompanied by a biodiversity development assessment report and that proposes a discount in the biodiversity credits required under the report to be retired.

If the development is designated development, then an objector to the development who is dissatisfied with a determination may also lodge a merit appeal in the Land and Environment Court within 28 days as provided for in the EP&A Act.

The council for the area will be the respondent for any merit appeal against a determination made by a Panel on a development application. The council is subject to the control and direction of the Panel in connection with the conduct of the appeal.

The council is to give notice of the appeal to the Planning Panel. It must do this by notifying the Secretariat. Notification to the Panel must be made no more than seven days after the council receives notice of the appeal and must advise whether the council will be actively defending the appeal.

**Note:** Each Planning Panel chair has delegated authority to act as the Planning Panel's representative to provide instructions and seek legal advice in relation to appeals. Planning Panel delegations are published on the Planning Panels website.

---

November 2022

---

The Panel will determine its level of involvement in an appeal, and what directions (if any) it wishes to issue to the council, on a case-by-case basis. While a Panel has the power to direct and control the council, it may choose not to exercise the power. If a Panel wishes to take a more active role in a council's conduct of the appeal, the Panel can exercise its powers to control and direct council. In some circumstances the Panel may seek to join proceedings and act as the respondent in the place of the council.

Council is to:

- 1) provide the Panel with a copy of the application commencing the appeal within 7 days of the council being served with it,
- 2) provide the council's proposed statement of facts and contentions to the Panel at least 7 days before the earlier of:
  - a) the day of the first directions hearing for the appeal or
  - b) the day the statement is proposed to be filed,
- 3) identify in the council's statement of facts and contentions the steps taken by the council to notify the Panel of the appeal, and any response received by the council, and
- 4) provide the Panel, within 3 days, with:
  - a) a copy of any directions or orders made by the Court in relation to the appeal,
  - b) the dates on which the Court has arranged a conciliation conference under section 34 or section 34AA of the *Land and Environment Court Act 1979*,
  - c) the dates on which the appeal will be heard,
  - d) a copy of any judgment of the Court in relation to the appeal.
- 5) Request instructions if a conciliation conference has been arranged:
  - a) as to any agreement that might be reached between the parties as to the terms of a decision in the proceedings that would be acceptable to the parties, at least 14 days before the conciliation conference is held, and
  - b) as to any proposed in principle agreement that is reached between the parties at or after the conciliation conference, at the time of or no later than 2 days after an in-principle agreement is reached and before any written agreement is executed.

The Panel is to respond to requests from council for instructions within 7 days of the request.

#### *Deemed Refusals*

A Panel may determine a DA even though it is subject to a deemed refusal appeal. When a deemed refusal appeal has been filed with the Court, the usual practice is for council's assessment officer to complete their assessment report.

Applications may be deemed to have been refused before a Panel has been briefed on the application. Where a Panel has not been briefed on an application that is subject to an appeal, the Panel may request a briefing from the council.

#### *Judicial review and civil enforcement proceedings*

Any person may commence judicial review or civil enforcement proceedings in the Land and Environment Court against a Panel determination. Unlike merit appeals, in these types of proceedings the Panel will be named as a respondent.

A submitting appearance may be filed by the Panel if the grounds of challenge are not related to the powers or procedures of the Panel in determining the application.

---

November 2022

---

*Appeals against determinations where council is the applicant*

The Panel will be the respondent in merit appeal and judicial review proceedings in the Land & Environment Court where council is the applicant.

---

November 2022

---

## 14. Planning proposals - Strategic Planning Panels

Planning Panels also undertake LEP making functions, including:

- acting as the planning proposal authority in relation to LEP making if directed by the Minister and in certain circumstances,
- undertaking administrative reviews in relation to LEP making,
- overseeing Aboriginal land planning proposals, and
- providing advice to the Minister or the Secretary on matters relevant to LEP making.

**Note:** The Independent Planning Commission undertakes these functions if directed by the Minister in relation to LEP making for the City of Sydney LGA.

### 14.1 Strategic Planning Panels

When convened for specific strategic and Aboriginal land planning functions a Planning Panel will be known as the Strategic Planning Panel of the [relevant] Planning Panel.

### 14.2 Strategic Planning Panel members

The constitution of a Strategic Planning Panel is to comply with the EP&A Act and this Chapter 14 of the Operational Procedures.

A Strategic Planning Panel will consist of 5 members:

- 3 members, including the chair, appointed by the Minister (State members), and
- 2 members appointed by the relevant council (council members).

At least 2 of the State members appointed by the Minister must have expertise in strategic planning (district or regional strategic planning). The State members may be members or alternate members, so long as they have relevant strategic or Aboriginal land planning expertise.

For matters relating to Aboriginal land planning, specifically land in a development delivery plan made under the Planning Systems SEPP, at least 1 of the State members with strategic planning expertise should also identify as being Aboriginal or Torres Strait Islander or have expertise in Aboriginal land planning.

**Note:** This Chapter should be read together with Chapter 4 of this Operational Procedures.

### 14.3 Reviews

A Strategic Planning Panel may conduct certain LEP related reviews, including:

- Rezoning reviews — that may be requested by a proponent before a planning proposal has been submitted to the Department for a Gateway determination,
- Independent reviews — that may be requested by a LALC before a planning proposal for land subject to a development delivery plan made under the Planning Systems SEPP has been submitted to the Department for a Gateway determination.

The Department's LEP Making Guidelines sets out how to apply for a rezoning review, fees and costs, eligibility requirements and information the council or proponent must provide for reviews to be undertaken.

### 14.4 Rezoning reviews

The Department will provide the Strategic Planning Panel with the rezoning planning proposal, council's comments on the proposal and a summary briefing report for review.

The Strategic Planning Panel will be briefed by the proponent and council and may request a site visit to assist in its consideration of any matter relevant to the planning proposal. All briefings or site visits should follow the procedures set out in Schedule 1 of this Operational Procedures.

---

November 2022

---

*Assessment and Determination*

The Strategic Planning Panel's review and determination are to be in accordance with the LEP Making Guidelines.

The Strategic Planning Panel will assess the rezoning planning proposal, having regard to the matters outlined in the LEP Making Guidelines and determine whether the planning proposal has:

- strategic merit, and
- site-specific merit.

Planning proposals that do not reasonably meet the strategic and site-specific merit tests are unlikely to proceed to a Gateway determination.

The Department will monitor the progress of the rezoning review to achieve an outcome within a target of 100 days of receiving the initial rezoning review request.

*Recommendation*

If the Strategic Planning Panel recommends that the planning proposal should proceed to a Gateway determination, it will:

- notify the relevant council that the Strategic Planning Panel will assume the PPA role, if the council has refused to support the planning proposal, or
- identify the PPA (either council or itself) where council has not made a determination on a planning proposal but has informed the panel in writing prior to the Strategic Planning Panel meeting of its nomination.

*Planning Proposal Authority*

The Strategic Planning Panel may be directed to be the PPA for a planning proposal by the Minister.

The Strategic Planning Panel has delegated authority to direct itself to be the PPA in the following cases:

- a. in a case where the recommendation relates to a proposed instrument relating to land owned by a Local Aboriginal Land Council and to which Chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 applies:
  - i. before the recommendation was made, a written request to prepare a planning proposal has been submitted to the Department of Planning and Environment by the Local Aboriginal Land Council, or
- b. in any other case:
  - i. before the recommendation was made, a written request to prepare a planning proposal has been submitted to the council, and
  - ii. after the recommendation was made, the council has been given an opportunity to be the planning proposal authority, unless the council has previously refused to support the request to prepare a planning proposal.

**Note:** The appointment function under s 3.32(2)(c) of the EP&A Act has been delegated by the Minister to the Planning Panels and the Independent Planning Commission under an instrument of delegation.

**14.5 Independent reviews**

An independent review is an administrative review process closely aligned with rezoning reviews. Independent proposal reviews give LALCs an opportunity for an independent body to give advice on planning proposals for land subject to a development delivery plan made under the Planning Systems SEPP.



---

November 2022

---

*Assessment and Determination*

When a Strategic Planning Panel is undertaking an independent review, it must consider the:

- strategic merit - consideration must be given to the consistency of the planning proposal with the relevant development delivery plan for the land, and
- site-specific merit - consideration must be given to the social and economic benefit to the Aboriginal community facilitated by the proposal.

The Strategic Planning Panel must determine whether or not to recommend that a planning proposal be submitted for a Gateway determination under section 3.34 of the EP&A Act.

Further detail on the independent review process can be found in Planning Circular PS 22-001 Independent review of planning proposals for identified Aboriginal land, or as updated.

**14.6 Planning Proposal Authority**

As the PPA, the Strategic Planning Panel performs functions that a council normally would in preparing a LEP. This includes:

- submitting a planning proposal that satisfies the requirements of section 3.33 of the EP&A Act including any requirements issued by the Secretary for a Gateway determination,
- undertaking any necessary agency consultation prior to public exhibition of the planning proposal,
- exhibiting the planning proposal in accordance with the terms of the Gateway determination (if all relevant Gateway conditions have been met Panel endorsement to proceed to exhibition is not necessary),
- considering a recommendation report, addressing submissions received during public exhibition,
- holding a public meeting if the planning proposal is the subject of 10 or more unique submissions by way of objection following public exhibition,
- if required by the Minister, conducting a review of the planning proposal if there has been any delay in the matter being finalised, or if for any other reason the Minister considers it appropriate to do so,
- providing a revised planning proposal to the Minister following consideration of any submission or report during community consultation or for any other reason,
- submitting a request to the Department, as delegate of the Minister, that the LEP be legally drafted and made.

The Minister (or delegate) remains responsible for determining the planning proposal.

The Secretary is responsible for making arrangements for the drafting of any required LEP to give effect to the final proposals of the PPA.

**14.7 Support provided to the Planning Panel in its role as PPA**

The Secretariat are to provide any necessary support for agency and community consultation (public exhibition) and can facilitate the provision of technical support from other parts of the Department and briefings to the Strategic Planning Panel.

**14.8 Strategic Planning Panel decisions and advice to be made publicly available**

A Strategic Planning Panel will need to make decisions throughout the LEP making process when undertaking reviews or acting as PPA. Decisions of the Strategic Planning Panel must be made publicly available on the relevant Planning Panels website within 7 business days of any decision.

**14.9 Community consultation**

There is no requirement for a Strategic Planning Panel meeting to be held prior to determining a rezoning review. The Gateway determination details requirements, if any, for community consultation on planning proposals. The Strategic Planning Panel may hold Panel meetings at any time, at the discretion of the chair, and request briefings from relevant parties at any time.

---

November 2022

---

Submissions received as part of the public exhibition of a planning proposal for which the Strategic Planning Panel is the PPA must be made publicly available on the Panels' website.

## **15. Site compatibility certificates**

Panels determine applications for SCCs made under section 3.14 of the Transport and Infrastructure SEPP.

Written applications are to be lodged with the Department. The Department prepares an assessment of the application and a recommendation for the relevant Panel. The Panel considers the application and the Department's assessment report and those matters set out at section 3.14(6) of the SEPP. The Panel may determine an application by issuing a SCC or refusing to do so.

The Panel may request a briefing and/or a site visit to assist in its considerations.

A briefing or site visit will be attended by the Panel and Department staff and follow the procedures set out in Schedule 1.

Decisions on SCCs will generally be made by a resolution following a circulation of papers in accordance with the procedures set out in Schedule 1.

November 2022

---

**Schedule 1: Procedures for briefings, meetings and decisions.****1 Briefings and site visits**

The chair may agree to a site visit or a briefing prior to a Planning Panel making a decision or providing advice on a matter.

A site visit or briefing is solely to identify and clarify issues with the proposal. Panel members will not offer opinions on the merits of the proposal or ask those involved with the assessment of the proposal for their opinion or recommendations at site visits or briefings.

However, the Panel may identify issues that it expects to be addressed or clarified in any assessment report.

A site visit or briefing will be attended by the Panel and relevant council or Department assessment staff or other persons engaged in the assessment of the DA or matter to be determined by the Panel. Secretariat staff may also attend site visits and briefings. In some circumstances, other parties, including the applicant or people who made submissions on an application or matter may also be invited to attend a site visit or briefing. The invitation of parties is at the discretion of the chair.

Briefings on DAs may include a presentation by council assessment staff on key elements of the proposal and the planning controls that affect it (such as zoning), and an overview of issues of concern arising through the Council's assessment or raised in submissions. The timing of the submission of the assessment report and tentative date for a determination may also be discussed.

The assessment officer briefing the Panel during a site visit should have available a set of large-scale plans and be able to point out relevant features of the site and the proposed development.

Only Panel members who will sit on the Panel to determine the matter should attend the briefing.

Briefings and site visits on planning proposals and site compatibility certificates follow the same format, with Departmental staff briefing the Panel.

It is not mandatory that the Panel be briefed prior to considering a matter. However, the Panel will typically hold a Kick-off briefing within 28 days of the DA being lodged. At this Kick-off briefing, the Panel chair will identify key issues, any areas where further information is to be requested and set out a timetable for the next phases of the assessment process, including the estimated timing for determination. Where there is an additional assessment briefing, it should take place no later than 128 days after the lodgement of the DA. The assessment of a DA should not be delayed for a briefing to occur.

Panel members may identify further issues where they need clarification or more information. A Panel may request briefings with council or Department staff or the applicant at any time to clarify any element of the proposal and the assessment report prior to the Panel making its decision.

Briefings are not determination meetings and Panel members should not make any comment that would indicate pre-determination of the matter.

The chair should take into consideration the availability of all members of the Panel and any other necessary persons when deciding to conduct a site visit.

Entry to any private land may only take place with the express permission of the owner of the land, and it is the responsibility of council staff, in relation to a DA, or Department staff in relation to a planning proposal, to seek owner's consent when required.

A written record of the briefing or site visit is made including time, date, attendees, any declarations and key issues discussed and is published on the Planning Panels website within 7 days. Site visits or briefings are not recorded by audio/ video record, an audio record or a transcription record.

It may be appropriate to invite the applicant or proponent to attend a briefing or site visit when:

- it would be beneficial to gain a joint understanding between the Panel, council and applicant of the key issues and timing for resolution relating to a DA or planning proposal,
- the Panel could benefit from additional technical explanation on a complex matter,

---

November 2022

---

- the development or other options are still being considered (e.g. if a major re-design has been requested by the council), or if
- material to be presented may be commercially sensitive or confidential.

Site inspections and briefings are not public meetings of the Panel.

## **2 Meetings**

The Panel may meet on-line, in-person or a combination of both. The Panel will generally conduct its business on-line.

### *Public briefing meetings*

If the matter before the Panel attracts significant community interest, the Panel may consider calling a public briefing meeting.

Public briefing meetings are held to hear submissions in a public forum and to meet with key stakeholders to discuss unresolved issues. Community groups and individuals may register to speak to the Panel at the public briefing meeting. Public briefing meetings are held at the discretion of the Panel. A recording will be made of public briefing meetings and made available on the Planning Panel website.

Panel members should not make any comment that would indicate pre-determination of the application at a public meeting.

### *Determination meetings*

For contentious matters, where a DA has attracted 10 or more unique submissions by way of objection, the Panels will generally hold a public determination meeting to consider the DA.

Notice of a public determination meeting is given at least 7 days before the meeting. Notice of the meeting (including the time, date, meeting format and if relevant, venue for the meeting) are:

- notified on the Panels website, and
- given to every person who made a submission to the council (in the case of petitions, only the head petitioner).

The meeting agenda, any business papers, assessment reports and attachments (including any representations made by council) are distributed to members of the Panel and uploaded on the Planning Panels website in advance of the meeting.

People wishing to address the Panel must register prior to the meeting.

The chair determines the order of presentations to the Panel and the amount of time given to each speaker. At the meeting, it is acceptable to provide the Panel with written material which summarises the matters to be presented to the panel by the speaker. However, written material must be kept to a minimum. Any written material provided may be made available on the Planning Panel website.

## **3 Procedures for public meetings**

Planning Panel meetings are to be conducted in public.

### *Meeting dates and agendas*

Expected determination timeframes for DAs are estimated soon after the DA is lodged and referred to the Planning Panels. Regular status updates on DAs ensure that DAs are determined in a timely manner. Briefings and meetings are scheduled on an as-needs basis. Generally, Panels will have a regular schedule of proposed meeting dates that is determined at the beginning of each year by the Secretariat in consultation with the chair. Meeting dates can be utilised for any Panel related business including public briefing meetings, Panel briefings including Kick-off briefings and site visits, meetings with relevant Government agencies (eg concurrence authority) or Panel meetings. Panel public determination meetings are generally arranged within 14 days of receiving council's assessment report.

---

November 2022

---

Additional meetings or briefings of a Panel may be organised at the discretion of the chair and via the Secretariat.

The council notifies the Secretariat of any revised date for completion of the assessment report as soon as it is aware of any delay and advises of the reasons for the delay.

*The meeting time and venue*

The meeting time, meeting format and if relevant, venue is determined by the chair in consultation with relevant councils, and taking into account:

- the location of the proposed developments to be considered at the Panel meeting,
- the number of persons who have expressed an interest in the different matters to be considered at the Panel meeting,
- if the meeting is being held on site, the availability of a suitable venue and the accessibility of the proposed venue for those persons, and
- local considerations and logistics.

The meeting time, meeting format and if relevant, venue should:

- maximise accessibility to people who have expressed an interest in the matters to be considered at the meeting, and
- facilitate the open exchange of information between the Panel members and other parties.

*Notice of meeting*

Notice of a Panel meeting is to be given by the Secretariat at least 7 days before the meeting. Notice is given to Panel members, the general managers (or their nominee) of the councils in that region or district, every person who made a submission to the council (in the case of petitions, only the head petitioner) in respect of an item to be considered at the meeting and the applicants for those items. A notice is placed on the Panels website and may be placed in the local newspaper.

The notice is to include details of:

- the time, date and format of the meeting,
- if relevant, the venue for the meeting,
- the matter under consideration (DA/s or planning proposal),
- the availability of the assessment report, supporting documentation and recommendations, and
- other matters to be considered at the meeting.

*Distribution of meeting papers*

The meeting papers including assessment reports and attachments, including any representations made by councils, are to be distributed to members of the Panel and uploaded on the Panels website by the Secretariat no less than 7 days prior to the meeting.

*Opening and closing meetings*

The chair will open the meeting with an Acknowledgement of Country followed by introducing the Panel and its members, state the purpose of the meeting, read out any apologies and call for declarations of interest following the declarations of interest procedures.

The chair will note any site visits or briefings the panel has had the benefit of and describe the order of proceedings and time limits for speakers.

The chair may also request council staff to briefly summarise the key issues that have arisen in the assessment report.

The panel will then listen to those wishing to address the panel. After the presentations the panel will make its determination and the chair will read out the decision of the panel before closing the meeting.

*Declarations of interest procedures*

November 2022

The declarations of interest procedures set out below follow the requirements of the Panels Code of Conduct (Code):

1. The chair calls on Panel members to complete and sign written declarations of interest forms prior to the meeting for each panel matter (under clause 4.1 of the Code). Any verbal declarations must be recorded in writing.

**Note:** Under the Code, a panel member should declare the following interests:

- a. an actual, potential or reasonably perceived conflict of interest (see clause 3.1 of the Code),
  - b. a pecuniary interest listed under clauses 3.10 – 3.12 of the Code,
  - c. a non-pecuniary interest (see clause 3.14 of the Code),
  - d. a conflict of duties listed under clauses 3.18 – 3.25 of the Code,
  - e. a pecuniary interest or non-pecuniary interest arising from a political contribution or donation (see clause 3.26 of the Code),
  - f. a position and pecuniary interest in corporations, partnerships or other businesses that may be relevant to the activities of the Panel in accordance with the Department of Premier and Cabinet's Guidelines 'Conduct Guidelines for Members of NSW Government Boards and Committees' (see clause 4.3 of the Code),
  - g. a personal dealing with council (see clause 5.1 of the Code), and
  - h. a gift or benefit listed under clauses 5.2 – 5.6 of the Code.
2. The chair reviews the written and signed declarations and the management measures put in place for any declared interests.
  3. If the chair is satisfied that reasonable and appropriate management measures are consistent with those set out in the Code, then a note to this effect is to be made on the meeting record.
  4. Should the chair have concerns, the chair is to raise these concerns with the member and suggest additional reasonable and appropriate management measures including, if warranted, that the member not take part in the determination for the matter (see clause 3.8 of the Code).
  5. The chair is to provide the member an opportunity to respond.
  6. The chair is to consider any response prior to making a final decision on the reasonable and appropriate management measures and note the response, the decision, and the chair's reasons for the decision in the meeting record.

#### *Presentations at a Panel meeting*

The chair determines the order of presentations to the Panel. Panel members may ask questions of those making presentations. The amount of time given to each speaker is at the discretion of the chair.

At the Panel meeting, it is at the chair's discretion whether to accept written material which summarises the matters to be presented to the Panel by the speaker. Any allowed written material must be kept to a minimum.

By registering to speak at a meeting, speakers agree to being audio recorded and to the publication of that recording on the Panels website.

#### *a) Presentation by the assessment officer*

The chair may request that the assessing officer responsible for preparing the assessment report (or a representative) presents a summary of the DA or planning proposal, as the case may be, and outline any relevant assessment issues at the start of the presentations. For meeting being held in person, the assessment officer should have available at the Panel meeting a set of large-scale plans (including any amended plans).

Generally, it is council's professional planning and assessment staff that prepare DA assessment reports for the Panel's consideration.



---

November 2022

---

Where a Panel is acting in the role of the PPA for a planning proposal matter the Department provides technical assistance, which may include the provision of an assessment report for the Panel.

The assessment officer (or representative) should inform the chair of any late submissions received, and of any issues raised which may not have been addressed in the assessment report.

The assessment officer (or representative) should be present throughout the Panel meeting, so that the chair can seek clarification where necessary of assessment issues that may arise during the course of the meeting. Other technical experts from the council/Department may also be present (such as traffic engineers) and the chair may ask for clarification of specific issues. Any questions to council/Department staff can only be made by Panel members and are to be directed through the chair.

b) Presentation by the applicant or proponent

The applicant, in the case of a DA, or the proponent, in the case of a planning proposal, will be given the opportunity to outline the proposal and respond to the assessment report. The applicant/proponent may also be required to respond to submissions made at the meeting. The time allocated to the applicant/proponent, including their consultant(s), is at the discretion of the chair, but is generally 15 minutes. Additional time may be allocated where professional consultants have been engaged by the applicant/proponent to present at the meeting.

c) Presentation by people or groups who made submissions

Panel meetings enable people or groups to make a presentation to the Panel meeting. People who wish to address the Panel must register with the Secretariat prior to the meeting by contacting the Secretariat by telephone or email within the timeframe specified in the notification letter (generally two days before the Panel meeting).

For those people who are of the view that they would not be appropriately or adequately represented by any groups, they may register to speak to the Panel as individuals.

The chair will advise on the time allocated for verbal submissions which will vary from meeting to meeting depending on a number of considerations such as the number of registered speakers.

As a guide:

- individual submitters will have 3 minutes to speak,
- a speaker for a community organisation/group will have 10 minutes to present. Additional time may be allocated where professional consultants have been engaged by community groups to present at the meeting.

In addition, where a large group of people have common issues to raise at the meeting, the chair may ask that a spokesperson be appointed to speak on behalf of the group. In such cases, the spokesperson will generally be allocated more time than individual speakers.

The chair seeks to ensure that all groups or individuals who request to address the Panel are heard. Any requests for extending time limits should be made to the Panel at the meeting and may be granted at the discretion of the chair.

Speakers should focus their oral presentations on the assessment report and its recommendation rather than re-stating information outlined in their earlier written submissions. The Panel has been provided with all submissions and associated documents before the Panel meeting.

d) Presentation by people or groups that have not made a submission

The chair has the discretion to allow any member of the public to address the Panel, even if they have not made a submission or registered to speak by the relevant deadline. Considerations may include the number of persons that made submissions and have requested to address the meeting and the available time.

e) Presentation by an expert engaged by the Panel

---

November 2022

---

For the purpose of making a decision on a matter, such as a DA or a planning proposal, a Panel may obtain independent assessment reports, advice and assistance that the Panel may require, particularly in relation to complex technical matters. This would be in addition to any assessment report or other information provided by the relevant council/Department in assessing the application.

Selection of such experts is to be determined by the chair in consultation with the other Panel members.

Depending on the circumstances, the expert may submit a report with recommendations directly to the Panel. In addition, the expert may be invited to present the outcomes of their report at the Panel meeting.

The independent assessment report should be made available on the Planning Panels website prior to the meeting, except where this information includes legal advice provided to the Panel and is subject to legal professional privilege.

#### *Adjourning during a Planning Panel meeting*

A Panel may adjourn a meeting where:

- a briefing is required to hear confidential or sensitive information, and/or
- the panel wishes to confer amongst itself before reconvening the meeting for voting and determination.

Before the adjournment the panel chair publicly states the reasons for the adjournment which are recorded in the audio and written record of the meeting.

If the meeting is adjourned so that the panel may confer amongst themselves prior to making a decision, the chair briefly summarises the matters discussed in the adjournment after reconvening the meeting. The panel may discuss the matter further in the meeting and/or make its determination.

Panel discussions during adjournments are not recorded.

#### **4 Decisions and determinations**

The Panel will strive to make its decisions unanimously. Where a decision cannot be made by unanimously, the decision will be made by majority vote. The chair will have a second or casting vote if required because of an equality of votes.

#### *Quorum for a Planning Panel decisions*

A quorum is a majority of the Panel's members, including the chair, i.e. a total of three members. The decision of the Panel will be deferred if a quorum is not present.

Where conflicts of interest are known before a decision is to be made, alternate members will be used to make a quorum.

#### *The Planning Panel's consideration*

In addition to the assessment report, the Panel is to take into account all written submissions, as well as the views expressed by those addressing the Panel should a public meeting be required.

#### *Deferring the decision*

A decision may be deferred for any reason including to obtain additional information or advice.

Should the Panel determine to defer a decision on an application, it must provide a written record of the reasons for deferral.

Where the determination of a proposal is deferred pending the provision of additional information, the panel must specify the timeframe in which the information is to be provided to the council for assessment.

It is the council's responsibility to follow up on any requests for additional information or amendments from the applicant, to determine whether re-exhibition is required, and to provide a supplementary assessment report to the Panel.



---

November 2022

---

*The Panel's reasons*

The Panel must provide reasons for its decisions, which are to be recorded in the 'Determination and Statement of Reasons' template provided by the Secretariat.

The Panel may rely on the conclusions and recommendations within the assessment report, however, the Panel must identify where it has its own reasons for making the decision and where it adopts the reasons from any assessment report of Council or the Department. As part of setting out its reasons the Panel is to:

- provide a summary of the main issues raised in submissions,
- demonstrate how the Panel considered the community's concerns, and
- demonstrate how the Panel dealt with the issues raised, should they have been found to have merit i.e. requested further studies, applied appropriate conditions or, agreed with council recommendation that the applicant had satisfactorily addressed the concerns.

*Determinations on DAs*

The determination must clearly state whether a DA is unconditionally approved, approved with conditions, has a deferred commencement or refused.

Any new conditions of consent or changes to the recommended conditions of consent must be recorded.

If the Panel resolves to approve an application that is recommended for refusal, the Panel may seek a further report from the council's planning officer providing recommended conditions of consent. The Panel may request without prejudice conditions of consent before a Panel meeting if council's report recommends refusal.

The determination and statement of reasons must include the following:

- the decision of the Panel,
- the date of the decision,
- the reasons for the decision (having regard to any statutory requirements applying to the decision), and
- how community views were considered in making the decision.

DA determinations must be publicly notified in accordance with clause 20 Schedule 1 of the EP&A Act. The date that the determination has effect is the date that it is registered (by the Panel secretariat) on the NSW Planning Portal (EP&A Act s.4.20(1)). The council will provide the Notice of Determination after this date.

The decision of the Panel is not subject to a 'Rescission Motion' as in local government.

Decisions of Decision Review Panels are called a 'Review of Decision' Determination and Statement of Reasons.

*Determinations on matters other than DAs*

Decisions made by the Panels on SCCs, Rezoning Reviews and where the Panel is the PPA will include the following:

- the decision of the Panel,
- the date of the decision, and
- the reasons for the decision (having regard to any statutory requirements applying to the decision).

*Resolutions of the Panels*

The Panels may from time to time make resolutions on certain matters, e.g. to authorise the chair to provide instruction in relation to legal appeals on behalf of the Panel.

Resolutions of the Panel will be published on the Panels website.

---

November 2022

---

*Dissenting views*

If the decision (and reasons for the decision) is not unanimous, all members of the Panel (i.e. including the minority) still need to give reasons.

*Timing of Determination and Statement of Reasons*

It is preferable that the Panel record both its decision and its reasons at the time of the determination.

*Signatures*

All members of the Panel must sign the Determination and Statement of Reasons. Where one or two members are in dissent, they must still sign, as the reasons will set out their dissenting views.

**5 Transactions of business outside meetings**

A Panel can transact its business by the circulation of papers, (including the electronic transmission of the information in the papers) (known as an electronic determination) (see Schedule 2, Clause 26 of the EP&A Act). The chair and each Panel member have the same voting rights as they have at a public meeting.

The chair may decide that the Panel can complete its business through an electronic determination. These circumstances may arise when:

- there are less than 10 unique submissions by way of objection,
- the Panel has held a public meeting and deferred its decision to request specific additional information from an applicant or council (such as amended drawings) and if council, after having accepted the amended drawings, has decided that re-exhibition of is not required,
- the Panel is voting on a procedural matter, or
- the Panel is voting on a decision following a briefing in relation to a Rezoning Review, Planning Proposal or site compatibility certificate.

Prior to an electronic determination the council report and recommendation is made available on the Planning Panels website for 7 days.

Following consideration of the assessment report, the Panel advises the Secretariat of its decision and a record of decision is completed and endorsed by all members.

Resolutions approved by circulation of papers are recorded in writing and made publicly available on the Panels website within 7 days. The circulation of papers is generally done electronically and are not recorded by audio/ video record, an audio record or a transcription record.

**6 Records of proceedings**

The chair is responsible for ensuring that full and accurate records are kept of the proceedings of Panel meetings, briefings and other business.

An audio recording will be made for all public briefing meetings and determination meetings and will be published on the Panels website. By registering to speak at a meeting, speakers agree to being recorded and to the publication of that recording. Where a speaker has not registered to speak but wants to make a submission at the meeting it is at the chair's discretion and the speaker is asked to agree to being recorded and that recording being published.

Document templates for written records of proceedings are provided by the Secretariat.

Secretariat or council staff will assist in the preparation of draft written records. A copy of the unconfirmed written record is provided to all Panel members who participated in the proceedings. Panel members may submit any proposed corrections to the unconfirmed record to the Secretariat for confirmation by the chair.

Alternatively, a Panel may choose to complete and endorse the final record immediately after completing the meeting or briefing. In this case, draft records are not circulated.

When the written records have been confirmed and endorsed by the chair the written record is placed on the Panels website.

---

November 2022

---

The confirmed written record is available within 7 days of the Panel meeting or briefing.

Record details are to include:

- the opening and closing times of the meeting,
- the details of the matter considered by the Panel,
- the names of all members of the Panel, including the chair, and any other attendees at the meeting,
- any disclosure of interest made by a member, the reason for that disclosure of interest and whether the member making the disclosure participated in the discussion or determination of the matter,
- any adjournments and reasons for the adjournment,
- the names of each person heard by the Panel in respect of a matter,
- any decision of the Panel,
- reasons for the decision,
- the names of each member who voted for or against the decision, and reasons for dissent, where the decision is not unanimous, and
- the signatures of all the members making the decision.

A written record of briefings or site visits are made including time, date, attendees, any declarations and key issues discussed and are published on the Panels website within 7 days. Site visits or briefings are not recorded by audio/ video record, an audio record or a transcription record.

The Secretariat, with assistance from the relevant council, is responsible for recording decisions for Panel meetings.

Panel members are required to provide any notes made during a meeting, briefing or site inspection to the Secretariat for registration as a record. This includes handwritten or electronic notations.



**2.3 DEVELOPMENT APPLICATION DA 740/2024(1) - 72 STEVENSON WAY**

RECORD NUMBER: 2025/227

AUTHOR: Dhawala Ananda, Town Planner

**EXECUTIVE SUMMARY**

Application lodged	5 December 2024
Applicant/s	Mr MA Paddison
Owner/s	MKNC Holdings Pty Ltd and Mr KS and Mrs SB Barber
Land description	Lot 56 DP 1274510
Proposed land use	Subdivision (two lot Torrens title); Dwelling, Attached Garage and Attached Secondary Dwelling; and Dwelling and Attached Garage
Value of proposed development	\$846,338

Council's consent is sought for a two lot subdivision and the construction of two single dwellings and one attached secondary dwelling at 72 Stevenson Way, Orange.

The development is proposed in two stages. The first stage involves a two lot Torrens title subdivision. The second stage involves the construction of a single storey dwelling with secondary dwelling on the front subdivided lot and a single storey dwelling on the rear lot.

Dwellings 1 and 2 (principal and secondary dwellings) are proposed to be on lot one and will front Stevenson Way, while the second lot and dwelling are proposed to be in a battleaxe arrangement, with the driveway along the northern boundary to the rear of the subject land.



**Figure 1 - locality plan**

**DECISION FRAMEWORK**

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

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

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

#### **DIRECTOR'S COMMENT**

The proposal involves a two lot subdivision and then the construction of two single dwellings and one attached secondary dwelling at 72 Stevenson Way, Orange. Effectively this results in a duplex at the front of the site and a single dwelling in the backyard.

Dwellings 1 and 2 (principal and secondary dwellings) are proposed to be on lot one and will front Stevenson Way, while the second lot and dwelling are proposed to be in a battleaxe arrangement, with the driveway along the northern boundary to the rear of the subject land.

In terms of planning law and compliance, the application complies with the matters that Council is to consider when assessing the application. It is noted that there is a private covenant on the land that indicates a restriction on the type of buildings on the site. These private covenants are not a matter for Council to consider. The Orange LEP (like all LEPs in the State) expressly overrules them in terms of planning law. Such covenants remain a private matter between owners of the land.

This development application has been referred to Council for determination due to the public interest test. Council received a very detailed submission that objected to the proposal, citing continued erosion of desired character amongst other matters as a result of ongoing increasing density of the residential estate.

The concerns of the neighbour are acknowledged and certainly have been taken into account in the assessment of this application. It is concluded, however, that the development is compliant with Council and reasonable. Moreover, increasing density within the City will continue both due to State Policy and also the need for sustainable growth of the City, whereby land is used appropriately and urban sprawl is not left unchecked. Therefore the recommendation of approval 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 740/2024(1) for Subdivision (two lot Torrens title); Dwelling, Attached Garage and Attached Secondary Dwelling; and Dwelling and Attached Garage at Lot 56 DP 1274510 - 72 Stevenson Way, Orange pursuant to the conditions of consent in the attached Notice of Approval.

**FURTHER CONSIDERATIONS**

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

**SUPPORTING INFORMATION**

**THE PROPOSAL**

The proposal involves a two lot subdivision and the construction of two single dwellings and one attached secondary dwelling at 72 Stevenson Way, Orange.

The development is proposed in two stages. The first stage involves a two lot Torrens title subdivision. The second stage involves the construction of a single storey dwelling with secondary dwelling on the front subdivided lot and a single storey dwelling on the rear lot.

Dwellings 1 and 2 (principal and secondary dwellings) are proposed to be on lot one and will front Stevenson Way, while the second lot and dwelling are proposed to be in a battleaxe arrangement, with the driveway along the northern boundary to the rear of the subject land.

The below table provides a summary of the proposed development:

Component	Metric		
Subdivision	Lot 1		Lot 2
Lot Size	496.048m <sup>2</sup>		504.014m <sup>2</sup>
Lot shape	Regular Shape East/West orientation		Regular (battleaxe) Shape East/West orientation
Access Handle Width	N/A		3.75m
New Dwellings	Dwelling 1 (Secondary)	Dwelling 2 (Principal)	Dwelling 3
Access / Driveway	Stevenson Way	Stevenson Way	Stevenson Way (battleaxe access handle
No. of storeys	Single Storey	Single Storey	Single Storey
GFA (excludes garages)	63.15m <sup>2</sup>	128.83m <sup>2</sup>	149.3m <sup>2</sup>
No. of bedrooms	1	3	3
No. of parking spaces provided	2	2	1
POS Provided	132.48m <sup>2</sup>		93.03m <sup>2</sup>
Site Coverage	53.06%		37.98%

The second stage of the proposed development involves the construction of a new single storey dwelling on each of the newly created lots, as well as an attached secondary dwelling associated with the front lot.



Dwelling 1 (secondary dwelling) comprises the following:	Dwelling 2 (principal dwelling) comprises the following:	Dwelling 3 (rear dwelling) comprises the following:
<ul style="list-style-type: none"><li>• One bedroom</li><li>• Open plan kitchen/living/ dining</li><li>• Ensuite bathroom</li><li>• Laundry cupboard area</li><li>• Attached single garage</li><li>• Patio to rear</li></ul>	<ul style="list-style-type: none"><li>• Three bedrooms</li><li>• Open plan kitchen/living/ dining</li><li>• Main bathroom and ensuite bathroom</li><li>• Laundry</li><li>• Attached single garage</li><li>• Attached covered alfresco to rear</li></ul>	<ul style="list-style-type: none"><li>• Three bedrooms</li><li>• Open plan kitchen/living/ dining</li><li>• Main bathroom, separate toilet, and ensuite</li><li>• Laundry</li><li>• Attached single garage</li><li>• Attached covered alfresco to rear</li></ul>



Figure 2 - site plan and landscape plan



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

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

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

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

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

The site is identified on the terrestrial biodiversity map for high sensitivity (as shown in figure 3), however the site does not include any sensitive vegetation. Vegetation was presumably removed as a part of the initial subdivision of the land.



**Figure 3 - Terrestrial Biodiversity Map**

**Section 4.15**

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

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

### Orange Local Environmental Plan 2011

#### Part 1 - Preliminary

#### Clause 1.2 - Aims of Plan

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

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

The proposed development is considered to be consistent with this aim of the plan. The proposal will add to the availability of residential living opportunities within the City.

#### Clause 1.6 - Consent Authority

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

#### Clause 1.7 - Mapping

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

Land Zoning Map:	<b>Land zoned R1 General Residential</b>
Lot Size Map:	No Minimum Lot Size
Heritage Map:	Not a heritage item or conservation area
Height of Buildings Map:	No building height limit
Floor Space Ratio Map:	No floor space limit
Terrestrial Biodiversity Map:	<b>High biodiversity sensitivity on the site (however, site is now cleared for any vegetation)</b>
Groundwater Vulnerability Map:	<b>Groundwater vulnerable</b>
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.

The site is burdened by the following –

- 1 Easement to drain sewage 2.5 wide and variable width (SM)** - complies.
- 2 Restriction on the Use of Land** - the subject land is proposed to be subdivided into two lots, a fence is proposed to be installed between the two lots.
- 3 Restriction on the Use of Land -**
  - **No main habitable building shall have external walls consisting of material other than brick, brick veneer, stone, Hebel blocks or panels, cement blocks or concrete construction** - complies.
  - **No building (other than a main habitable building) shall have a roof other than slate, tile or steel sheet material** - complies
  - **No more than one main habitable building shall be erected or allowed to remain on one lot.**



**Figure 4 – site burdened by 2.5m wide drain sewage easement**

Additional information was requested to be provided regarding the restriction on the use of the land. The following comments were made by the applicant:

*Pursuant to LEP Clause 1.9A(1) "covenant or other similar instrument that restricts the carrying out of that development DOES NOT APPLY to the extent necessary to serve that purpose" (my emphasis added). As such, you do not take into account any non-Council covenants, as these are a private civil matter. Negotiations are separately underway with the developer. With reference to the s88b restriction numbered 6 in the plan, the development is located clear of Council's sewer easement as shown on submitted plans.*

As the restriction of use of the land is between non-Council covenants, the assessment of the application is not impacted. The potential non-compliance with the private covenant on the land is a matter for the property owner and beneficiary of the covenant to resolve.

## **Part 2 - Permitted or Prohibited Development**

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

The subject site is located within the R1 General Residential zone. The proposed development is defined as a subdivision (two lot Torrens title), construction of dwelling, secondary dwelling and dwelling (single storey) all with attached garages under OLEP 2011 and is permitted with consent for this zone. This application is seeking consent.

**Clause 2.3** of LEP 2011 references the Land Use Table and Objectives for each zone in LEP 2011. These objectives for land zoned R1 General Residential are as follows:

#### **Objectives of zone R1 General Residential**

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

The proposal is considered to be consistent with the above-described objectives of the zone. The proposal will add to the supply of residential development. The proposed development is permitted with consent in the zone pursuant to the LEP.

### **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 applicant has sought approval for a two lot subdivision. In this case the dwelling and proposed secondary dwelling will be located wholly within proposed Lot 1. No subdivision of the secondary dwelling is proposed.

**Part 3 - Exempt and Complying Development**

The application is not exempt or complying development.

**Part 4 - Principal Development Standards**

This part is not relevant to the application.

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

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

- ***secondary dwellings on land other than land in a rural zone:*** the total floor area of the dwelling, excluding any area used for parking, must not exceed 60m<sup>2</sup> or 50% of the floor area of the principal dwelling (whichever is the greater)

In consideration of this clause, the total floor area of the principal dwelling on the front lot is 128.83 m<sup>2</sup>, which allows the proposed secondary dwelling to be up to 64.415 m<sup>2</sup>. The secondary dwelling is 63.15m<sup>2</sup> and is consistent with this requirement.

**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:

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

The site has a certain degree of slope, which then involves earthworks and construction of retaining walls to provide level building platforms for the new dwellings, driveways and private open space.

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

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

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

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

The site is not known to contain any Aboriginal, European or Archaeological relics. Previous known uses of the site do not suggest that any relics are likely to be uncovered. However, conditions may be imposed to ensure that should site works uncover a potential relic or artefact, works will be halted to enable proper investigation by relevant authorities and the proponent required to seek relevant permits to either destroy or relocate the findings.

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

### **7.3 - Stormwater Management**

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

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

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

### **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.*

The proposal is located on land that has been identified on the Terrestrial Biodiversity Map as partially comprising “High Biodiversity Sensitivity” land. The subject site was inspected on 6 January 2025 and the area of sensitivity was found to have been cleared during a recent residential subdivision.

The subject land was cleared and surrounding area partially cleared for the recently completed subdivision. The nearest cluster of remaining native vegetation is located around 40m from the subject site (to the west). Larger clusters and corridors of significant vegetation are located some 400m away from the site and proposed development. It is not proposed to remove any vegetation other than non-native grass cover as part of this proposal.

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.



**Figure 5 - nearest cluster of native vegetation is approximately 40m west from the site**





**Figure 6 - site visit photo**

### **7.6 - Groundwater Vulnerability**

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

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

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

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

The proposal is not anticipated to involve the discharge of toxic or noxious substances and is therefore unlikely to contaminate the groundwater or related ecosystems. The proposal does not involve extraction of groundwater and will therefore not contribute to groundwater depletion.

The design and siting of the proposal avoids impacts on groundwater and is therefore considered acceptable.



**Clause 7.11 - Essential Services**

Clause 7.11 applies and states:

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

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

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

**STATE ENVIRONMENTAL PLANNING POLICIES**

The following SEPPs are applicable to the proposed development:

- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Housing) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*

**STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX BASIX) 2004**

State Environmental Planning Policy (Building Sustainability Index BASIX) applies to the subject development. The applicant has submitted a BASIX Certificates in support of the development which demonstrate compliance with the State Government Water and Thermal efficiency targets.

The application is consistent with the SEPP.

**STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021**

State Environmental Planning Policy (Housing) 2021 applies to the proposal. Pursuant to Chapter 3, Part 1, Division 2, Clauses 52 and 53, secondary dwellings may be carried out with consent.

The provisions of the SEPP are not inconsistent with Orange LEP 2011 in respect of secondary dwellings. The proposed secondary dwelling meets the definition outlined in the SEPP. The secondary dwelling is permissible in the R1 General Residential zone under the provisions of Orange LEP 2011.

As such, the proposed development is not contrary to the objectives of the SEPP as outlined in this report.

**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.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital -land:*
    - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Pursuant to Clause 4.6, a consent authority must consider the contamination potential of the land, and if the land is contaminated, it is satisfied that the land is suitable for the development in its contaminated state, or that appropriate arrangements have been made to remediate the site prior to the development being carried out.

The site is within an established residential area and is not mapped as contaminated land on Council's Contaminated Land Register.

Similarly, the neighbouring sites are not listed as contaminated land. The site is considered suitable for the proposed development.

**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**

Orange Development Control Plan 2004 ("the DCP") applies to the subject land. An assessment of the proposed development against the relevant Planning Outcomes will be undertaken below.

The provisions of Parts 07 and 15 are considered below.

**Part 7 - Development in Residential Areas****Subdivision in North Orange – Waratah (PO 7.2-3)**

The DCP sets the Planning Outcomes in regard to subdivision in North Orange – Waratah and those relevant to this application are outlined below:

1. *The subdivision layout is generally in accordance with the Conceptual Subdivision Layout (Appendix 16.6).*
2. *Subdivision design and construction complies with the Orange City Development and Subdivision Code.*
3. *Lots are oriented to maximise energy-efficiency principles.*
4. *Battleaxe lots have a minimum area of 650m<sup>2</sup>, excluding the access handle. Access handles have a minimum width of 4.5m incorporating a 3m- wide driveway.*
5. *Residential lots have direct frontage and access to a public road.*
6. *All utility services are provided to the proposed lots. The capacity for sewer reticulation to lots to the west of the ridgeline is investigated at development application stage.*
7. *Significant landscape features are retained and disturbance to natural vegetation, landform and overland-flow paths is minimised.*

In respect to the above, the following comments are made:

1. The proposed subdivision does not strictly align with the DCP map for the 'Waratah Hills Concept Plan,' which originally envisioned this area as a single lot. However, the proposed two lot subdivision is considered acceptable given that it complies with the LEP provisions, it aligns with the surrounding development pattern, it creates two lots of appropriate size and shape ensuring a satisfactory level of residential amenity for future residents, and it contributes to the City's housing stock by providing additional dwellings.
2. It is considered that compliance with the Orange Development and Subdivision Code is achievable, and engineering conditions relating to residential subdivision and dwelling house development will be imposed.
3. It is identified that the proposed lots are oriented to achieve a good level of solar access.
4. The proposed access handle of the battleaxe lot measures 4.5m incorporating a 3m-wide driveway, in compliance with the DCP guidelines. The subdivision proposes two (2) lots, one of which is a battleaxe lot with an area of 504.014m<sup>2</sup>. It is less than the site area required by the Orange DCP and is considered as a variation from the standards. The recommended lot size is intended to ensure sufficient space for a dwelling, driveway, carparking space and vehicle manoeuvring (e.g. turning onsite and exiting in a forward direction), while also maintaining adequate solar access and privacy. Notwithstanding, as demonstrated in the following sections of this report, the proposed lots will be of sufficient area to provide a reasonable standard of residential amenity to the proposed dwellings in compliance with Part 7.7. The proposed development will be connected to urban utility services. The proposed lots will have direct street frontage and legal and practical access to Stevenson Way. The battleaxe accessway will be of suitable width to accommodate proposed Dwelling 3. The subdivision design and construction will comply with the Orange Development and Subdivision Code, as required by conditions.
5. Both lots will have direct and legal access to Stevenson Way.
6. Both lots will be fully serviced by Council and non-Council services. No changes are proposed to existing easements.
7. This matter has been addressed in the biodiversity, stormwater, and earthworks sections earlier in this report. Notably, the site contains no significant vegetation. Due to the slope of the land, earthworks and retaining walls are proposed to create level building pads for the new dwellings, driveways and private open space areas. These measures are consistent with the surrounding development. During construction, soil and erosion control measures will be imposed to protect downstream properties and waterways.

Overall, the proposed subdivision is not inconsistent with the relevant DCP planning outcomes for the North Orange – Waratah precinct.

**7.7 Design Elements for Residential Development Streetscape****7.7-1 Planning Outcomes - Neighbourhood Character**

- |   |  |
|---|--|
| 1 | Site layout and building design enables the: <ul style="list-style-type: none"><li>- creation of attractive residential environments with clear character and identity;</li><li>- use of site features such as views, aspect, existing vegetation and landmarks.</li></ul> |
| 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 proposed development of three new dwellings at the end of stage 2 will not alter the existing neighbourhood character. The pattern of development in the street will be similar to the surrounding area. The proposed development is consistent with neighbourhood character. The development will ultimately present as a single dwelling at the street frontage.

**7.7-2 Planning Outcomes - Building Appearance**

- |   |  |
|---|--|
| 1 | The building design, detailing and finishes relate to the desired neighbourhood character, complement the residential scale of the area and add visual interest to the street. |
| 2 | The frontage of buildings and their entries address the street.  |
| 3 | Garages and car parks are sited and designed so that they do not dominate the street frontage.   |

The proposed development is proposed to suit the building appearance in the existing neighbourhood. The proposed dwellings present to their respective street frontage with front door, porch and suitable window fenestration.

The garage for each dwelling remains considerably less than 50% of the façade width of the dwelling. Further, each garage is set back behind the front building line of each dwelling so as to not appear dominant in the streetscape.

**7.7-3 Planning Outcomes - Heritage**

Heritage planning outcomes are not applicable to this proposed development.

**7.7-4 Planning Outcomes - Setbacks**

- |   |   |
|---|---|
| 1 | Street setbacks contribute to the desired neighbourhood character, assist with integration of new development and make efficient use of the site. |
| 2 | Street setbacks create an appropriate scale for the street considering all other streetscape components.  |

The proposed development is to be carried out in stages. At the end of stage two, three new dwellings will be erected on the subject site. Lot 1 will be formed as the front lot facing Stevenson Way and Lot 2 will be created as a battleaxe lot with access handle from Stevenson Way.

The setbacks of the proposed dwellings 1 and 2 facing Stevenson Way are consistent with the DCP guidelines and the established patterns of the development in the immediate surrounds: 4.5m setback from the main building line and 6m from the garages to Stevenson Way.

A front landscaped garden area is proposed. The proposed development has an appropriate scale for the street.

**7.7-5 Planning Outcomes - Fences and Walls**

- |   |  |
|---|--|
| 1 | Front fences and walls: <ul style="list-style-type: none"><li>- assist in highlighting entrances and creating a sense of identity within the streetscape.</li><li>- are constructed of materials compatible with associated housing and with fences visible from the site that positively contribute to the streetscape</li><li>- provide for facilities in the street frontage area such as mail boxes.</li></ul> |
|---|--|

The development does not propose a front fence, which is consistent with the neighbouring dwellings and the wider surrounding area. Mailboxes are to be incorporated within the site frontage for each dwelling (a relevant condition will be imposed).

**7.7-6 Planning Outcomes - Visual Bulk**

- |   |   |
|---|---|
| 1 | Built form accords with the desired neighbourhood character of the area with: <ul style="list-style-type: none"><li>- side and rear setbacks progressively increased to reduce bulk and overshadowing;</li><li>- site coverage that retains the relatively low-density, landscaped character of residential areas;</li><li>- building form and siting that relates to land form, with minimal land shaping (cut and fill);</li><li>- building height at the street frontage that maintains a comparable scale with the predominant adjacent development form;</li><li>- building to the boundary where appropriate.</li></ul> |
|---|---|

Proposed dwelling 1 has a small portion of the gutter and fascia penetrating the building envelope along southern boundary (refer figure 7). However, it is considered to be not inconsistent with the Orange DCP. Visual impacts will be indiscernible in this regard.

The development is proposed in stages: Stage 1 - subdivision of the subject site and Stage 2 - construction of the dwellings on separate Torrens title. In this case, dwellings 1 and 2 on proposed Lot 1 will have a site coverage of 53.06%, which is inconsistent with the planning outcome. The proposed site coverage for Dwellings 1 and 2 exceeds the 50% limit by 3%. While the 50% threshold is encouraged to ensure adequate daylight, sunlight and ventilation to living areas and private open spaces, as well as to limit bulk and scale for shared views, this minor exceedance is justified based on the following:

- The design ensures that all living areas and private open spaces still receive sufficient natural light, ventilation, and solar access, maintaining a high standard of residential amenity.
- The additional 3% site coverage has been carefully distributed to avoid any significant impact on neighbouring properties in terms of overshadowing or loss of privacy.
- The proposed site coverage remains consistent with similar developments in the area and does not create a disproportionate bulk or scale.
- The slightly increased site coverage optimizes the use of the site while still meeting other key planning controls and objectives.

This minor variation is considered acceptable as it does not compromise the intent of the control and achieves a balanced outcome for the site and its surroundings.

Dwelling 3 on Lot 2 will have a site coverage of 37.98%, which is consistent with the planning outcomes of the Orange DCP.

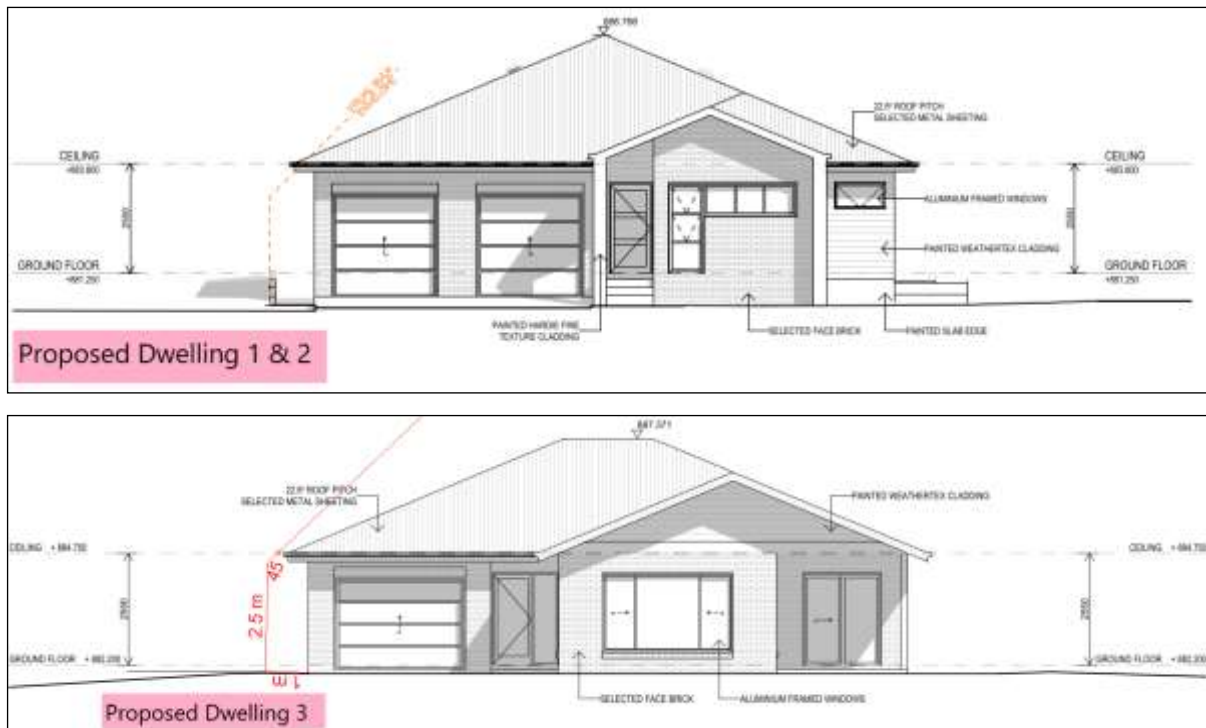


Figure 7 - visual bulk envelopes

### 7.7-7 Planning Outcomes – Walls and Boundaries

- 1 Building to the boundary is undertaken to provide for efficient use of the site taking, into account:
  - the privacy of neighbouring dwellings and private open space;
  - the access to daylight reaching adjoining properties;
  - the impact of boundary walls on neighbours.

The proposed development does not involve any built to boundary development. The proposed setbacks are considered to be acceptable.

### 7.7-8 Planning Outcomes - Daylight and sunlight

- 1 Buildings are sited and designed to ensure:
  - daylight to habitable rooms in adjacent dwellings is not significantly reduced;
  - overshadowing of neighbouring secluded open spaces or main living-area windows is not significantly increased;
  - consideration of Council's Energy Efficiency Code.

According to the DCP Guidelines, *sunlight to at least 75% of north-facing living area windows within the development and on adjoining land is to be provided for a minimum of 4 hours on 21 June; or not further reduced than existing where already less.*



## 2.3 Development Application DA 740/2024(1) - 72 Stevenson Way

With regard to the proposed development, it is considered that the proposed private open space (POS) for Lots 1 and 2 will have sufficient access to daylight and sunlight to maintain compliance with DCP. The below table indicates the percentage of sunlight received on the POS of both lots:

DAYLIGHT AND SUNLIGHT CALCULATIONS			
AS PER ORANGE CITY COUNCIL DCP 2004, DEVELOPMENT IN RESIDENTIAL AREAS, PRIVATE OPEN SPACE (AT GROUND LEVEL) MUST RECEIVE SUNLIGHT TO AT LEAST 40% OF THE REQUIRED P.O.S. FOR AT LEAST 3 HOURS BETWEEN 9:00AM AND 3:00PM			
DWELLING 1 & 2		DWELLING 3	
REQUIRED P.O.S. (50% x 183.22)	= 91.61m <sup>2</sup>	REQUIRED P.O.S. (50% x 139.39)	= 69.70m <sup>2</sup>
REQUIRED P.O.S. SUNLIGHT (40% x 91.61)	= 36.64m <sup>2</sup>	REQUIRED P.O.S. SUNLIGHT (40% x 69.70)	= 27.88m <sup>2</sup>
SUNLIGHT AT 11AM	66.00m <sup>2</sup> (72.0%)	SUNLIGHT AT 11AM	59.38m <sup>2</sup> (85.2%)
SUNLIGHT AT 12PM	68.76m <sup>2</sup> (75.1%)	SUNLIGHT AT 12PM	62.99m <sup>2</sup> (90.4%)
SUNLIGHT AT 1PM	57.88m <sup>2</sup> (63.2%)	SUNLIGHT AT 1PM	50.35m <sup>2</sup> (72.2%)
SUNLIGHT AT 2PM	39.40m <sup>2</sup> (43.0%)	SUNLIGHT AT 2PM	32.95m <sup>2</sup> (47.3%)
3 HOUR AVERAGE	58.01m <sup>2</sup> (63.3%)	3 HOUR AVERAGE	51.42m <sup>2</sup> (73.8%)

### Overshadowing of Dwellings

The proposed development would not create any adverse shadowing impacts on any adjoining lots. Due to the orientation of the lots, the neighbour to the north will not be overshadowed. The neighbour to the south will be overshadowed to a small extent in winter, however much of the shadowing is from existing boundary fencing.

The majority of adjoining neighbour's (74 Stevenson Way) area of open space will receive adequate daylight. Further, it is noted that the neighbour's pool is setback approximately 3.7m from the northern boundary. The living room of the adjoining neighbour is almost 5m from the fence. A very small extent of shadowing is caused from the proposed development, and the majority of the shadowing is cast by the existing fence. Summer shadow extents will be much less than shown on the diagrams because the sun is higher during warmer months of the year.



**Figure 8 - distance to living room and POS of adjoining property to the south of the proposed development**



### 7.7-9 Planning Outcomes - Views

- |   |   |
|---|---|
| 1 | Building form and design allow for residents from adjacent properties to share prominent views where possible.                  |
| 2 | Views including vistas of heritage items or landmarks, are not substantially affected by the bulk and scale of new development. |

*When views are identified from site analysis, the application demonstrates how those views are reasonably shared between the new development and adjacent premises.*

**NOTE:** In Orange, views to Mount Canobolas are highly valued. Living areas require special treatment to achieve northern solar access and optimise the south-western views. Other prized views are the Suma Park and Mount Bulga views to the east, the framing hills north of Clifton Grove and the Mullion Ranges to the north as viewed from the western ridge of Ploughmans Valley.

Mount Canobolas is considered an iconic view in the context of Orange and is highly valued. The highest point of the site is 882m and the lowest point is 881m. Due to the topography of the site the level of the slope is approximately 0.4m to 0.45m higher to the western side of the subject lot. The Mount Canobolas view to the neighbour at 70 Stevenson Way can be obtained standing from higher ground where a secondary dwelling has recently been built. It is noted that due to the existing fence and higher slope, the Mount Canobolas view was never received from the living area of the neighbouring lot (as shown in Figure 9 below).



Figure 9 - view of Canobolas from 70 Stevenson Way

**7.7-10 Planning Outcomes - Visual Privacy**

- 1 Direct overlooking of principal living areas and private open spaces of other dwellings is minimised firstly by:
- building siting and layout;
  - location of windows and balconies;
- and secondly by:
- design of windows or use of screening devices and landscaping.

The proposed development will not impact adversely on the visual privacy matters as the finished ground levels of the proposed dwellings relate to existing ground levels, and no living room windows are directly facing each other within the development site. Further, the existing and proposed boundary fencing will provide adequate visual privacy between the proposed dwellings on the subject site and adjoining properties.

**7.7-11 Planning Outcomes - Acoustic Privacy**

- 1 Site layout and building design:
- protect habitable rooms from excessively high levels of external noise;
  - minimise the entry of external noise to private open space for dwellings close to major noise sources;
  - minimise transmission of sound through a building to affect other dwellings.

The proposed development is situated in proximity to the Northern Distributor Road (NDR), a recognized source of high noise levels. However, the original subdivision included a noise assessment which concluded that the subject land will not experience any significant adverse impact from road noise.

To mitigate potential noise issues between individual units, a fire wall will be constructed between Dwellings 1 and 2, providing effective noise attenuation. Additionally, bedroom locations are strategically placed away from neighbouring garages, further reducing the likelihood of noise disturbance. The overall design ensures adequate separation between dwellings and neighbouring properties, promoting a comfortable living environment for future residents.

**7.7-12 Planning Outcomes - Security**

- 1 The site layout enhances personal safety and minimises the potential for crime, vandalism and fear.
- 2 The design of dwellings enables residents to survey streets, communal areas and approaches to dwelling entrances.

The proposed development effectively satisfies key planning outcomes by prioritizing personal safety and minimizing the potential for crime, vandalism, and fear. The site layout has been carefully designed with clear sightlines and open spaces, ensuring natural surveillance across public areas. This thoughtful arrangement promotes a sense of security, reducing opportunities for undesirable activities.

Additionally, the design of the dwellings has been tailored to enable residents to easily monitor surrounding streets, communal spaces and approaches to dwelling entrances. This not only enhances safety but also fosters a greater sense of community as residents are encouraged to stay engaged with their environment.

**7.7-14 Planning Outcomes - Circulation Design**

- |   |   |
|---|---|
| 1 | Accessways and parking areas are designed to manage stormwater.   |
| 2 | Accessways, driveways and open parking areas are suitably landscaped to enhance amenity while providing security and accessibility to residents and visitors. |
| 3 | The site layout allows people with a disability to travel to and within the site between car parks, buildings and communal open space.                        |

The development effectively satisfies the planning outcomes by incorporating thoughtful design features that address stormwater management, landscaping, accessibility and security. The accessways, driveways, and open parking areas are strategically designed to manage stormwater runoff, ensuring environmental sustainability.

Additionally, these areas are landscaped to enhance the overall aesthetic appeal while maintaining a secure and accessible environment for both residents and visitors. The site layout prioritizes accessibility, providing clear, safe pathways for people with disabilities to navigate between car parks, buildings and communal open spaces, ensuring ease of movement and inclusivity for all users.

**7.7-15 Planning Outcomes - Car Parking**

- |   |   |
|---|---|
| 1 | Parking facilities are provided, designed and located to: <ul style="list-style-type: none"> <li>- enable the efficient and convenient use of car spaces and accessways within the site;</li> <li>- reduce the visual dominance of car-parking areas and accessways.</li> </ul> |
| 2 | Car parking is provided with regard to the: <ul style="list-style-type: none"> <li>- number and size of proposed dwellings;</li> <li>- requirements of people with limited mobility or disabilities.</li> </ul>   |

**CAR PARKING TABLE**

DWELLING SIZE OR NUMBER OF BEDROOMS	AVERAGE CAR PARKING PER DWELLING
Small (<75m <sup>2</sup> ) or 1-bedroom unit	1.0 spaces per unit
Medium (75m <sup>2</sup> – 110m <sup>2</sup> ) or 2-bedroom unit	1.2 spaces per unit
Large (>110m <sup>2</sup> ) or 3+ -bedroom unit	1.5 spaces per unit
Visitor Parking	0.2 spaces per unit

The proposed development generates a car parking demand of 1.7 spaces for each of the 2–3 bedroom dwellings (Dwellings 2 and 3), resulting in a total demand of 3.4 spaces.

The parking needs are fully accommodated onsite through the provision of an attached single garage for each dwelling, along with additional stacked parking spaces within the front setback of Dwellings 1 and 2. In total, five (5) parking spaces are provided, ensuring that the development meets the off-street parking requirements satisfactorily.

**7.7-16 Planning Outcomes - Private Open Space**

- 1 Private open space is clearly defined for private use.
- 2 Private open space areas are of a size, shape and slope to suit the reasonable requirements of residents, including some outdoor recreational needs and service functions.
- 3 Private open space is:
  - capable of being an extension of the dwelling for outdoor living, entertainment and recreation;
  - accessible from a living area of the dwelling;
  - located to take advantage of outlooks and to reduce adverse impacts of overshadowing or privacy from adjoining buildings;
  - orientated to optimise year-round use.

The proposed dwellings comply with the private open space (POS) requirements outlined in the Development Control Plan (DCP).

The POS areas for each dwelling are clearly defined with boundary fencing, ensuring privacy. The provided POS for Dwellings 1 and 2 (132.48m<sup>2</sup>) exceeds the required 91.61m<sup>2</sup>, and Dwelling 3 provides 93.03m<sup>2</sup>, which surpasses the 69.7m<sup>2</sup> requirement. The size, shape and slope of the POS areas are appropriate for outdoor living, entertainment and recreation, while also being directly accessible from the living areas of each dwelling.

The POS areas are well-orientated, with Dwelling 3 benefiting from views of Mount Canobolas, ensuring year-round usability. Furthermore, the design minimises overshadowing and privacy impacts from adjoining buildings, meeting the DCP's objectives.

**7.7-17 Planning Outcomes – Open Space and Landscaping**

- 1 The site layout provides open space and landscaped areas which :
  - contribute to the character of the development by providing buildings in a landscaped setting;
  - provide for a range of uses and activities including stormwater management;
  - allow cost-effective management.
- 2 The landscape design specifies landscape themes consistent with the desired neighbourhood character and vegetation types and location, paving and lighting are provided for access and security.
- 3 Major existing trees are retained and protected in a viable condition whenever practicable through appropriate siting of buildings, accessways and parking areas.
- 4 Paving is applied sparingly and integrated in the landscape design.

A landscaping plan is submitted in support of the proposed development. The proposed landscaping will soften the development into the setting, is consistent with the surrounding emerging character and assists with stormwater management.

**DEVELOPMENT CONTRIBUTIONS PLAN 2012 - Section 7.11 Development Contributions**

Development contributions are applicable to the proposed development, pursuant to Orange Development Contributions Plan 2024 (Waratah Contributions Area). Contributions are based on the net increase of one (1) additional subdivided lot + one bedroom dwelling.

*(i.e. 2 x three bedroom dwellings + 1 x one bedroom dwelling less (1) standard lot [same as 3 x three bedroom dwellings]):*

The development is proposed to occur in stages. Stage 1 involves subdivision and Stage 2 is construction of 2 dwellings and a secondary dwelling. The contributions applied are reflective of the stages.



Table 1 (below) indicates the contributions to be paid at Stage 1 of the development which is **before the issue of a subdivision certificate**.

Open Space and Recreation	Per subdivided lot @ \$2,418.08	\$2,418.08
Community and Cultural	Per subdivided lot @ \$317.17	\$317.17
Roads and Traffic Management	Per subdivided lot @ \$5,335.20	\$5,335.20
Local Area Facilities	Per subdivided lot @ \$11,347.02	\$11,347.02
Plan Preparation & Administration	Per subdivided lot @ \$582.53	\$582.53
<b>TOTAL:</b>		<b>\$20,000.00</b>

Table 2 (below) indicates the contributions to be paid at stage 2 of the development which is **before the issue of a construction certificate**.

Open Space and Recreation	Per one (1) bedroom dwelling @ \$1,303.73	\$1,303.73
Community and Cultural	Per one (1) bedroom dwelling @ \$171.00	\$171.00
Roads and Traffic Management	Per one (1) bedroom dwelling @ \$2,876.53	\$2,876.53
Local Area Facilities	Per one (1) bedroom dwelling @ \$6,117.88	\$6,117.88
Plan Preparation & Administration	Per one (1) bedroom dwelling @ \$314.07	\$314.07
<b>TOTAL:</b>		<b>\$10,783.21</b>

The contribution will be indexed quarterly in accordance with Orange Development Contributions Plan 2024 (December 2024 - February 2025) Development in Waratah, which may be inspected at the Orange Civic Centre, Byng Street, Orange.

Headworks charges for water supply, sewerage and stormwater will also apply to the proposal. The contributions are based on water supply headworks and sewerage headworks for 1 additional subdivided lot and 1 x one (1) bedroom dwelling (the existing allotment has a credit for a single three (3) bedroom dwelling which will be applied at the time of payment).

Conditions are included requiring payment of development contributions prior to the issue of a construction certificate.

#### **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 Certificates have been submitted in support of the proposed development which demonstrates compliance.

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

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

- setting and context (residential setting)
- visual impacts (streetscape presentation, building design and detailing, landscaping, visual bulk)
- traffic matters (site access, car parking and manoeuvring)
- residential amenity (solar access, acoustic and visual privacy, outdoor spaces, visual bulk)
- crime prevention
- 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 suitable for the development due to the following:

- the proposal is permitted on the subject land which is zoned R1 General Residential
- the site is of sufficient area and dimensions to accommodate the development and provide a suitable standard of residential amenity
- the site has direct frontage and access to Stevenson Way
- there is no known contamination on the land
- all utility services are available and adequate
- the site is not subject to natural hazards
- the subject land has no biodiversity or habitat value
- the site is not in proximity to any waterway, drinking water catchment or sensitive area
- the site is not known to contain any Aboriginal, European or archaeological relics.

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

The proposed development is defined as "notified development" under the provisions of the Community Participation Plan. The application was advertised for the prescribed period of 14 days and at the end of that period one submission was received.

**Submission**

Key issues raised are as follows:

**Developer's Restrictions:** They question the development based on the developer's restrictions, which included allowing only one main habitable building per lot.

**Below is the response provided by the applicant:** Pursuant to LEP Clause 1.9A(1) "*covenant or other similar instrument that restricts the carrying out of that development DOES NOT APPLY to the extent necessary to serve that purpose*" my emphasis added). As such, you do not take into account any non-Council covenants, as these are a private civil matter. Negotiations are separately underway with the developer. With reference to the s88b restriction numbered 6 in the plan, the development is located clear of Council's sewer easement as shown on submitted plans.

**Neighbourhood Impact:** They are disappointed by the presence of Aboriginal Housing house nearby, citing issues such as noise, police visits, and disturbances, which they believe would worsen with the new development.

**Response:** Council acknowledges the challenges mentioned in the submission. However, the comments raised are not relevant considerations in the determination of this application. It is important to approach this matter with sensitivity and understanding, as diverse housing solutions contribute to a vibrant and inclusive community.

At this stage in the application the occupants of the proposed development are unknown, and it cannot be warranted that the development will contribute negatively to the neighbourhood. Council's focus is on ensuring that the design and planning of the dwellings meet all required standards of its existing controls, promoting a positive living environment.

**Housing Density Concerns:** The submitter questions the need for three dwellings on one lot, emphasizing that other blocks are available in the area for development.

**Response:** The provision of two dwellings and a secondary dwelling is in line with current zoning regulations and urban planning goals, which aim to address the ongoing housing shortage. Increasing housing density in appropriate areas helps provide more housing options and makes better use of existing infrastructure. In accordance with Clause 1.9A Council is not restricted from considering this proposal. The potential non-compliance with the private covenant that exists on the land relating to the number of dwellings is a matter for the property owner and any beneficiary of the covenant to separately resolve.

Council acknowledges the point about other blocks being available for development. Council in this case must only focus on the application that has been submitted for consideration.

**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 Building Surveyor and the Engineering Development Section are included in the attached Notice of Approval.

**ATTACHMENTS**

- 1 DRAFT Notice of Determination, D25/17253 [↓](#)
- 2 Plans, D25/17263 [↓](#)
- 3 Submission, D25/17254 [↓](#)





**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

<b>Application number</b>	DA 740/2024(1) PAN-493265
<b>Applicant</b>	Michael Paddison 21 BOWMAN AVENUE ORANGE 2800
<b>Description of development</b>	Two lot residential subdivision and construction of two dwellings, one of which will be a principle dwelling with a secondary dwelling.
<b>Property</b>	72 STEVENSON WAY ORANGE 2800 56/-/DP1274510
<b>Determination</b>	Approved Consent Authority - Council staff under delegated authority
<b>Date of determination</b>	17/02/25
<b>Date from which the consent operates</b>	17/02/25
<b>Date on which the consent lapses</b>	17/02/30

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. To ensure the utility services are available to the site and adequate for the development.
3. To provide adequate public health and safety measures.
4. To prevent the proposed development having a detrimental effect on adjoining land uses.
5. To comply with the Environmental Planning and Assessment Act 1979.
6. The proposal will reasonably satisfy local and state planning controls.
7. The proposal development will be consistent with the zone objectives and principal development standards.
8. The proposal development will complement the existing or desired future character of the area.
9. To ensure a quality urban design for the development which complements the surrounding environment.

#### **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 Dhawala Ananda / Senior 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	<p><b>Erection of signs</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving building work, subdivision work or demolition work.</li> <li>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out— <ol style="list-style-type: none"> <li>a. showing the name, address and telephone number of the principal certifier for the work, and</li> <li>b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</li> <li>c. stating that unauthorised entry to the work site is prohibited.</li> </ol> </li> <li>3. The sign must be— <ol style="list-style-type: none"> <li>a. maintained while the building work, subdivision work or demolition work is being carried out, and</li> <li>b. removed when the work has been completed.</li> </ol> </li> <li>4. This section does not apply in relation to— <ol style="list-style-type: none"> <li>a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</li> <li>b. Crown building work certified to comply with the <i>Building Code of Australia</i> under the Act, Part 6.</li> </ol> </li> </ol> <p><b>Condition reason:</b> Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
2	<p><b>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</b></p> <ol style="list-style-type: none"> <li>1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.</li> <li>2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.</li> </ol>

	<ol style="list-style-type: none"> <li>3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.</li> <li>4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.</li> <li>5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.</li> <li>6. This section does not apply— <ol style="list-style-type: none"> <li>a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or</li> <li>b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.</li> </ol> </li> </ol> <p><b>Condition reason:</b> Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
3	<p><b>Fulfilment of BASIX commitments</b></p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled—</p> <ol style="list-style-type: none"> <li>1. BASIX development,</li> <li>2. BASIX optional development, if the development application was accompanied by a BASIX certificate.</li> </ol> <p><b>Condition reason:</b> Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
4	<p><b>Notification of Home Building Act 1989 requirements</b></p> <ol style="list-style-type: none"> <li>1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council.</li> <li>2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following— <ol style="list-style-type: none"> <li>a. for work that requires a principal contractor to be appointed— <ol style="list-style-type: none"> <li>i. the name and licence number of the principal contractor, and</li> <li>ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,</li> </ol> </li> <li>b. for work to be carried out by an owner-builder— <ol style="list-style-type: none"> <li>i. the name of the owner-builder, and</li> <li>ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989—the number of the owner-builder permit.</li> </ol> </li> </ol> </li> <li>3. If the information notified under subsection (2) is no longer correct, it is a condition</li> </ol>

	<p>of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.</p> <p>4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</p>															
	<p><b>Condition reason:</b> Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>															
5	<p><b>Approved plans and supporting documentation</b></p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <table><tr><th colspan="5">Approved plans</th></tr><tr><th>Project name</th><th>Job number</th><th>Drawing numbers</th><th>Drawn by</th><th>Date of plan</th></tr><tr><td>Proposed 3 X dwellings at 72 Stevenson Way</td><td>24-045</td><td>1-21</td><td>Bassmann Drafting services</td><td>27 November 2024</td></tr></table> <p>In the event of any inconsistency between the approved plans and documents, the approved <b>Plans / Documents</b> prevail.</p> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p><b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Approved plans					Project name	Job number	Drawing numbers	Drawn by	Date of plan	Proposed 3 X dwellings at 72 Stevenson Way	24-045	1-21	Bassmann Drafting services	27 November 2024
Approved plans																
Project name	Job number	Drawing numbers	Drawn by	Date of plan												
Proposed 3 X dwellings at 72 Stevenson Way	24-045	1-21	Bassmann Drafting services	27 November 2024												
6	<p><b>Development and subdivision works requirements</b></p> <p>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.</p> <p><b>Condition reason:</b> To comply with Council's Development and Subdivision Code.</p>															
7	<p><b>National Construction Code</b></p> <p>All building work must be carried out in accordance with the provisions of the National Construction Code.</p> <p><b>Condition reason:</b> To ensure compliance with relevant statutory requirements.</p>															

### Subdivision Work

**Before issue of a subdivision works certificate**

8	<b>Engineering plan design and construction requirements</b>
	A 150mm-diameter sewer junction and dual water services shall be constructed from Council's existing sewer and water mains to individually serve proposed Lots 1 and 2. Prior to a Subdivision Works Certificate being issued engineering plans for this work shall be submitted to and approved by Orange City Council.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.

**Before subdivision work commences**

9	<b>Apply for Subdivision Works Certificate</b>
	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.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.

**During subdivision work**

10	<b>Adjustments to utility services</b>
	Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
11	<b>All services contained within lots</b>
	All services are to be contained within the allotment that they serve.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
12	<b>Provision of water service and sewer junction</b>
	Dual water services and sewer junction are to be provided to each lot in the proposed residential subdivision in accordance with the Orange City Council Development and Subdivision Code.

	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
--	---

**Before issue of a subdivision certificate**

13	<b>Apply for Subdivision Certificate</b>
	Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
14	<b>Contributions - water and sewer headworks charges</b>
	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 <i>Water Management Act 2000</i> , will be issued upon payment of the contributions.
	This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
15	<b>Essential Energy certification</b>
	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.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
16	<b>NBN certification</b>
	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.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
17	<b>Provision of services and works on public land</b>
	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.																		
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.																		
18	<p><b>All services contained within lots, Statement of Compliance and WAE plans</b></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><b>Condition reason:</b> To comply with Council's Development and Subdivision Code.</p>																		
19	<p><b>Contributions - payment of development contributions</b></p> <p>The payment of <b>\$20,000.00</b> must be made to Council in accordance with Section 7.11 of the Act and Orange Development Contributions Plan 2024 (Greater Waratah urban release area) toward the provision of the following public facilities:</p> <table><tr><td>Open Space and Recreation</td><td>Per subdivided lot @ \$2,418.08</td><td>\$2,418.08</td></tr><tr><td>Community and Cultural</td><td>Per subdivided lot @ \$317.17</td><td>\$317.17</td></tr><tr><td>Roads and Traffic Management</td><td>Per subdivided lot @ \$5,335.20</td><td>\$5,335.20</td></tr><tr><td>Local Area Facilities</td><td>Per subdivided lot @ \$11,347.02</td><td>\$11,347.02</td></tr><tr><td>Plan Preparation &amp; Administration</td><td>Per subdivided lot @ \$582.53</td><td>\$582.53</td></tr><tr><td>TOTAL:</td><td></td><td><b>\$20,000.00</b></td></tr></table> <p>The contribution will be indexed quarterly in accordance with Orange Development Contributions Plan 2024, December 2024 to February 2025, (Greater Waratah urban release area), which may be inspected at the Orange Civic Centre, Byng Street, Orange.</p>	Open Space and Recreation	Per subdivided lot @ \$2,418.08	\$2,418.08	Community and Cultural	Per subdivided lot @ \$317.17	\$317.17	Roads and Traffic Management	Per subdivided lot @ \$5,335.20	\$5,335.20	Local Area Facilities	Per subdivided lot @ \$11,347.02	\$11,347.02	Plan Preparation & Administration	Per subdivided lot @ \$582.53	\$582.53	TOTAL:		<b>\$20,000.00</b>
Open Space and Recreation	Per subdivided lot @ \$2,418.08	\$2,418.08																	
Community and Cultural	Per subdivided lot @ \$317.17	\$317.17																	
Roads and Traffic Management	Per subdivided lot @ \$5,335.20	\$5,335.20																	
Local Area Facilities	Per subdivided lot @ \$11,347.02	\$11,347.02																	
Plan Preparation & Administration	Per subdivided lot @ \$582.53	\$582.53																	
TOTAL:		<b>\$20,000.00</b>																	



<p><b>Condition reason:</b> Because the development will require the provision of, or increase the demand for public amenities and services.</p>
--

**Ongoing use for subdivision work**

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

**Building Work**

**Before issue of a construction certificate**

20	<p><b>Contributions - water and sewer headworks charges</b></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 water supply headworks and sewerage headworks for a one-bedroom dwelling. 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 Construction Certificate.</p> <p><b>Condition reason:</b> To ensure compliance with relevant statutory requirements.</p>
21	<p><b>Road opening permit required</b></p> <p>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.</p> <p><b>Condition reason:</b> To ensure compliance with relevant statutory requirements.</p>
22	<p><b>Proposed Lots 1 and 2 to be registered prior to the issue of a Construction Certificate</b></p> <p>Prior to the issue of a construction certificate evidence shall be provided to the Principal Certifying Authority that proposed Lots 1 and 2 have been registered with NSW Land and Property Information.</p> <p><b>Condition reason:</b> To comply with relevant statutory requirements.</p>
23	<p><b>Section 68 application - water and sewer</b></p> <p>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</p>

	system are to be provided. No plumbing and drainage is to commence until approval is granted.	
	<b>Condition reason:</b> To ensure the utility services are available to the site and adequate for the development.	
24	<b>Contributions - payment of development contributions</b>	
	The payment of <b>\$10,783.21</b> must be made to Council in accordance with Section 7.11 of the Act and Orange Development Contributions Plan 2024 (Greater Waratah urban release area) toward the provision of the following public facilities:	
	Open Space and Recreation	Per one (1) bedroom dwelling @ \$1,303.73 \$1,303.73
	Community and Cultural	Per one (1) bedroom dwelling @ \$171.00 \$171.00
	Roads and Traffic Management	Per one (1) bedroom dwelling @ \$2,876.53 \$2,876.53
	Local Area Facilities	Per one (1) bedroom dwelling @ \$6,117.88 \$6,117.88
	Plan Preparation & Administration	Per one (1) bedroom dwelling @ \$314.07 \$314.07
	<b>TOTAL:</b>	<b>\$10,783.21</b>
	The contribution will be indexed quarterly in accordance with Orange Development Contributions Plan 2024, December 2024 to February 2025, (Greater Waratah urban release area), which may be inspected at the Orange Civic Centre, Byng Street, Orange.	
	<b>Condition reason:</b> Because the development will require the provision of, or increase the demand for public amenities and services.	

**Before building work commences**

25	<b>Appoint PC</b>
	Appoint Principal Certifier. The person having the benefit of the development consent and a construction certificate shall:  (a) Appoint a Principal Certifier and notify Council of the appointment (if Council is not appointed) and,

	<p>(b) Notify Council of their intension to commence the erection of the building (at least two (2) day's notice is required)</p> <p>The Principal Certifier shall determine when inspections and compliance certificates are required.</p> <p><b>Condition reason:</b> To ensure compliance with relevant statutory requirements.</p>
26	<p><b>Construction certificate required</b></p> <p>A construction certificate must be obtained from Council or an accredited certifier at least two (2) days prior to any building or ancillary work commencing. Where the construction certificate is obtained from an accredited certifier, the determination and all appropriate documents must be notified to Council within seven (7) days of the date of determination.</p> <p><b>Condition reason:</b> To ensure compliance with Section 6.7 of the Environmental Planning and Assessment Act 1979, and Part 3 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.</p>
27	<p><b>Erosion and sediment control - implementation</b></p> <p>Erosion and sediment controls shall be implemented onsite in accordance with Managing Urban Stormwater: Soils and Construction - Volume 1 (4<sup>th</sup> edition).</p> <p><b>Condition reason:</b> To prevent site erosion and sediment loss, and protect waterways from sediment pollution.</p>
28	<p><b>No commencement until details received</b></p> <p>The construction works the subject of this development consent MUST NOT be commenced until:</p> <p>(a) Detailed plans/specifications of the building have been endorsed with a construction certificate by:</p> <ul style="list-style-type: none"> <li>(i) the Council, or</li> <li>(ii) a registered certifier, and</li> </ul> <p>(b) The person having the benefit of the development consent:</p> <ul style="list-style-type: none"> <li>(i) has appointed a Principal Certifier, and</li> <li>(ii) has notified the Council of the appointment, and</li> </ul> <p>(c) The person having the benefit of the development consent has given at least two</p>

	<p>(2) day's notice to the Council of the person's intention to commence the erection of the building; and</p> <p>(d) Builder's name and licence number has been supplied to Council or the Principal Certifier; or</p> <p>(e) Owner Builder's permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifier; and</p> <p>(f) Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifier; and</p> <p>(g) A sign has been erected onsite in a prominent position containing the information prescribed by Clause 98A(2) and (3) of the EP&amp;A Regulations, being the name, address and telephone number of the Principal Certifier for the work, name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained onsite while work is being carried out and removed when the work has been completed.</p>
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
29	<b>Onsite toilet</b>
	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.
	<b>Condition reason:</b> To provide adequate public health and safety measures.

### During building work

30	<b>Surveys by a registered surveyor</b>
	While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier: <ul style="list-style-type: none"> <li>a. All footings / foundations in relation to the site boundaries and any registered and proposed easements</li> <li>b. At other stages of construction – any marks that are required by the principal certifier.</li> </ul>
	<b>Condition reason:</b> To ensure buildings are sited and positioned in the approved location.
31	<b>Adjustments to utility services</b>
	Any adjustments to existing utility services that are made necessary by this development

	proceeding are to be at the full cost of the developer.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
32	<b>Driveway and parking areas</b>
	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 and be in accordance with the Orange City Council Development and Subdivision Code.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
33	<b>Kerb and gutter layback and footpath crossing</b>
	A 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.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
34	<b>Erosion and sediment control - review, maintain and modify</b>
	Erosion and sediment controls shall be regularly reviewed, maintained, and modified as required in accordance with Managing Urban Stormwater: Soils and Construction - Volume 1 (4 <sup>th</sup> edition), to ensure they remain effective.
	<b>Condition reason:</b> To prevent site erosion and sediment loss, and protect waterways from sediment pollution.
35	<b>Hours of work - construction</b>
	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.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
36	<b>No encroachment on easements</b>
	No portion of the building or service to and from that building - including footings, eaves, overhang and service pipes - shall encroach into any easement.
	<b>Condition reason:</b> To prevent the proposed development having a detrimental effect on adjoining land uses.
37	<b>Protection of the Environment Operations Act - material delivery</b>

	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.
	<b>Condition reason:</b> To protect waterways from pollution by stockpiled or placed construction materials.
38	<b>Reduced levels</b>
	All constructions works are to be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans.
	<b>Condition reason:</b> To comply with the Environmental Planning & Assessment act, 1979.

**Before issue of an occupation certificate**

39	<b>Completion of works relating to road opening permit</b>
	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.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
40	<b>Erosion and sediment control - soil to be stabilised</b>
	Prior to the issuing of an occupation certificate, soil on the site shall be stabilised to prevent erosion and the pollution of waters by uncontrolled sediment.
	<b>Condition reason:</b> To prevent site erosion and sediment loss, and protect waterways from sediment pollution.
41	<b>Finished ground levels</b>
	Finished ground levels are to be graded away from the buildings and adjoining properties and must achieve natural drainage. The concentrated flows are to be dispersed down slope or collected and discharged to the stormwater drainage system.
	<b>Condition reason:</b> To comply with the Environmental Planning & Assessment Act, 1979.
42	<b>No use or occupation without occupation certificate</b>
	No person is to use or occupy the building or alteration that is the subject of this approval with the prior issuing of an occupation certificate.
	<b>Condition reason:</b> To ensure compliance with the Building Code of Australia.

43	<b>Section 68 final - water and sewer</b>
	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.
	<b>Condition reason:</b> To ensure the utility services are available to the site and adequate for the development.

#### Occupation and ongoing use

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.

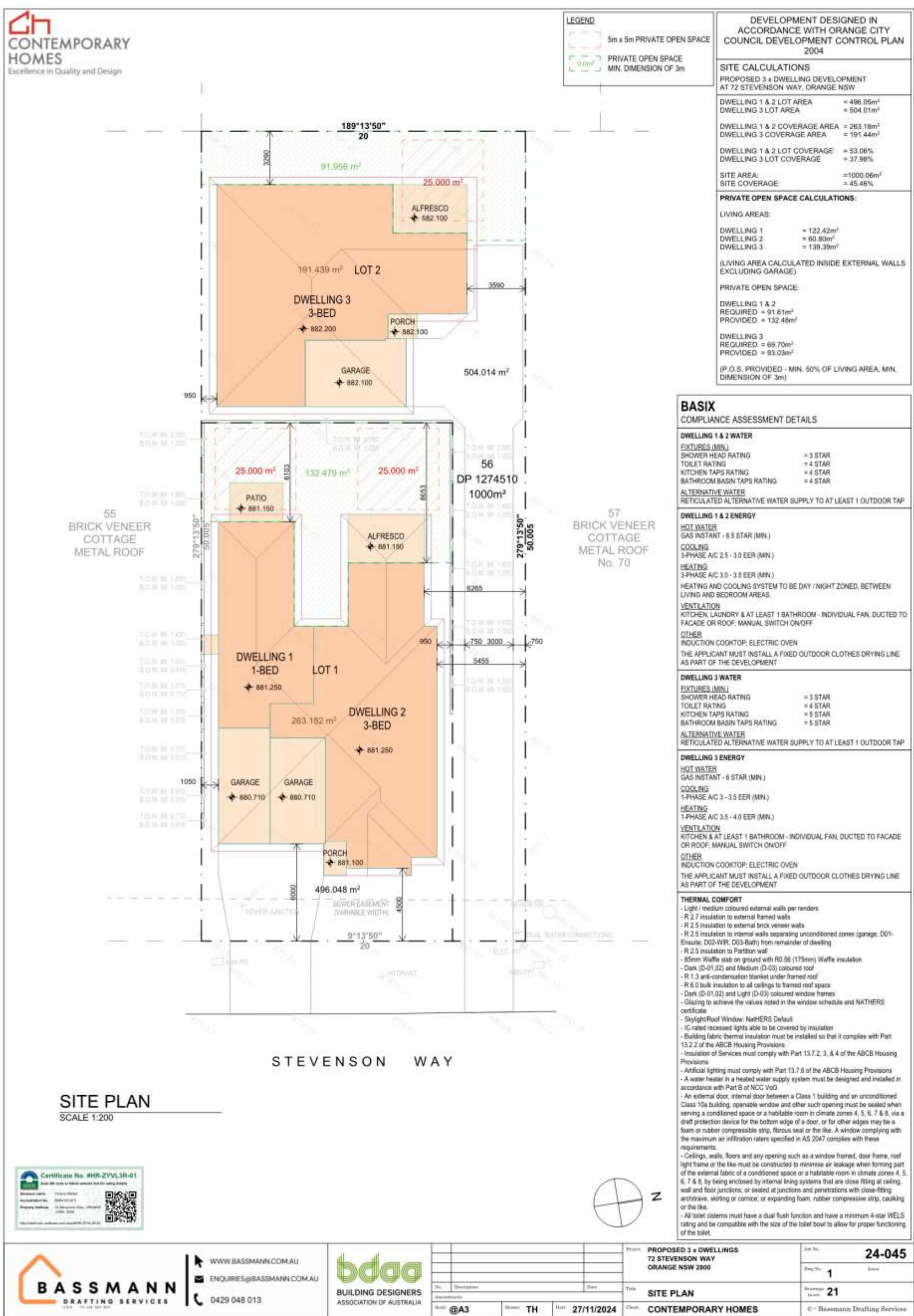
**Strata certificate** means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

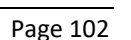
**Subdivision certificate** means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

**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.

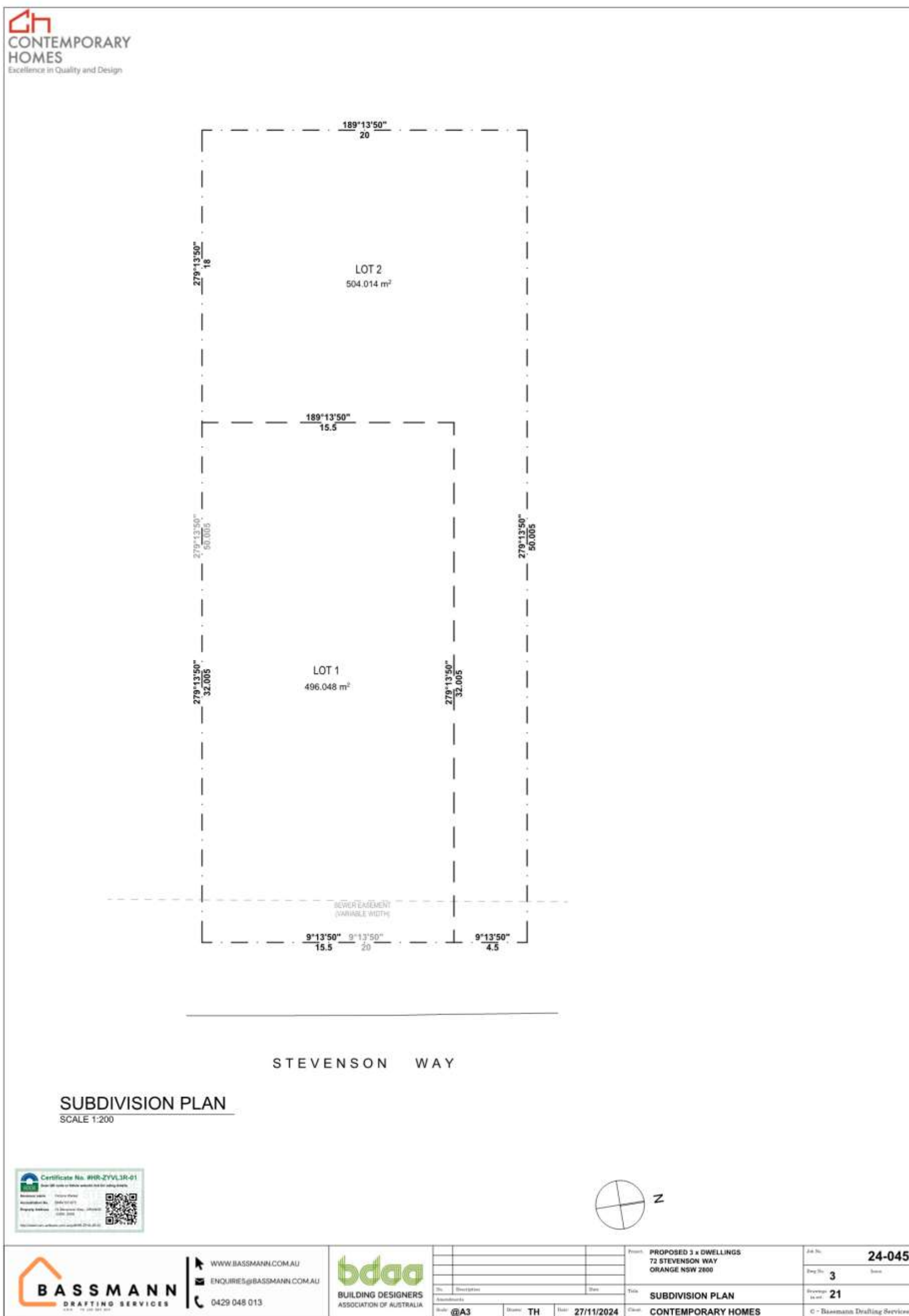
**Sydney district or regional planning panel** means Western Regional Planning Panel.



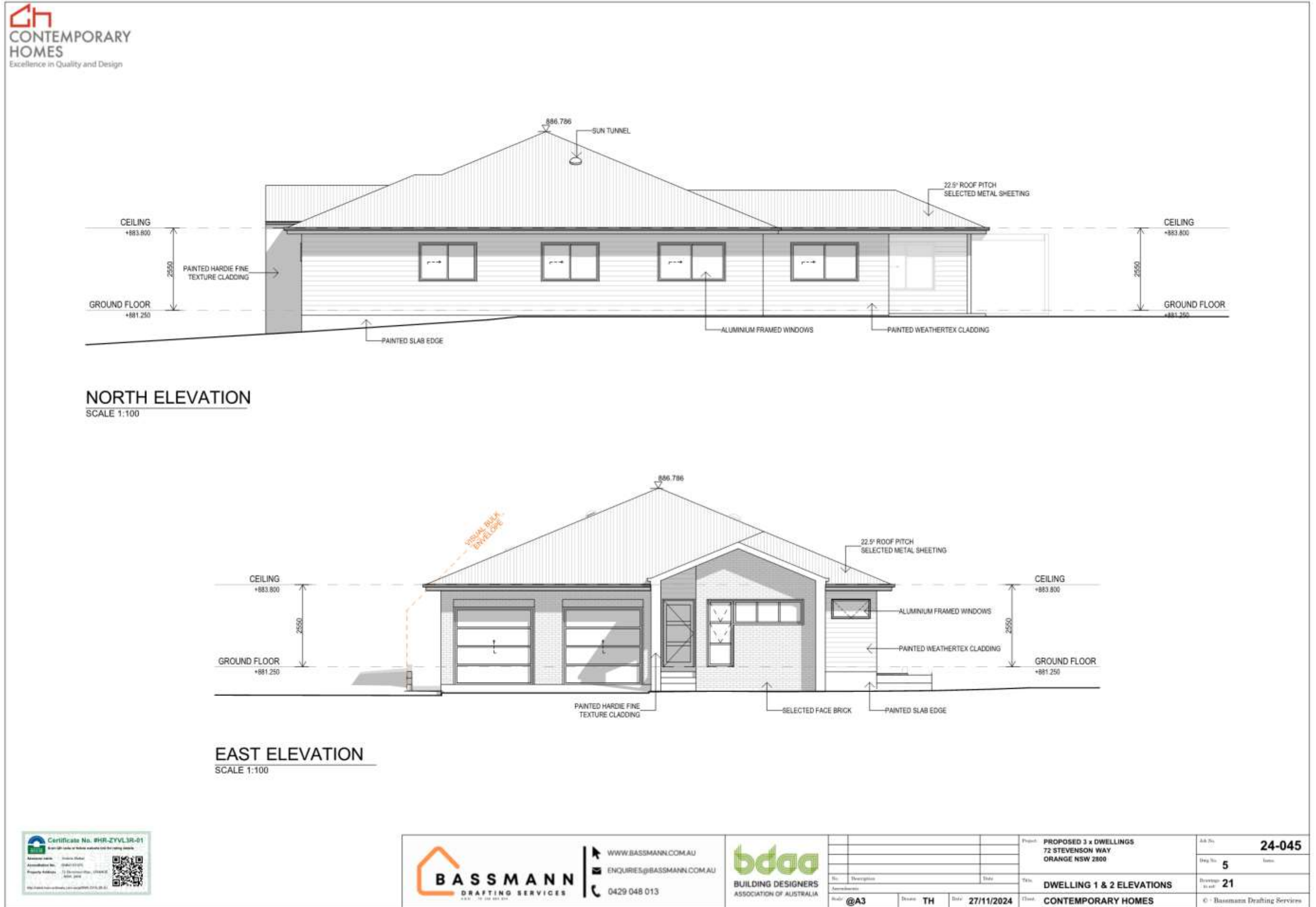






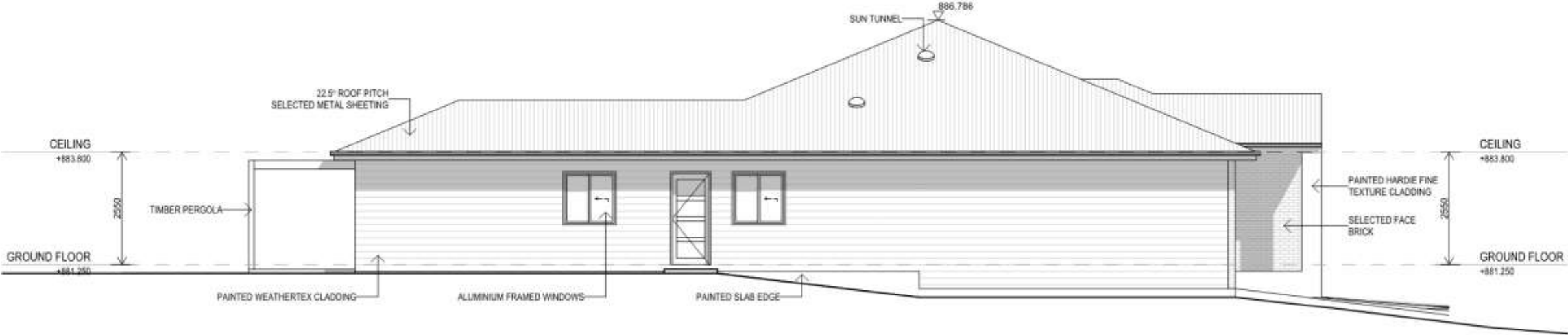












**SOUTH ELEVATION**  
SCALE 1:100



**WEST ELEVATION**  
SCALE 1:100

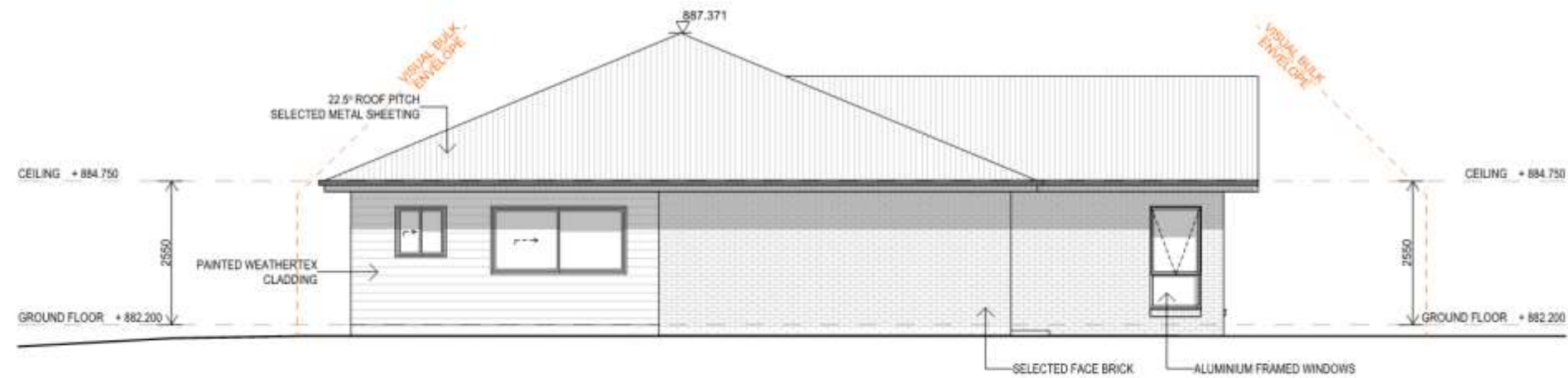


 <p>WWW.BASSMANN.COM.AU ENQUIRIES@BASSMANN.COM.AU 0429 048 013</p>				<table><tr><td>No.</td><td>Description</td><td>Date</td></tr><tr><td>1</td><td>PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800</td><td></td></tr><tr><td>2</td><td>DWELLING 1 &amp; 2 ELEVATIONS</td><td></td></tr><tr><td>3</td><td>CONTEMPORARY HOMES</td><td></td></tr></table>		No.	Description	Date	1	PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800		2	DWELLING 1 & 2 ELEVATIONS		3	CONTEMPORARY HOMES		<table><tr><td>Job No.</td><td>24-045</td></tr><tr><td>Dwg No.</td><td>6</td></tr><tr><td>Drawing in set</td><td>21</td></tr><tr><td>©</td><td>Bassmann Drafting Services</td></tr></table>		Job No.	24-045	Dwg No.	6	Drawing in set	21	©	Bassmann Drafting Services
No.	Description	Date																									
1	PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800																										
2	DWELLING 1 & 2 ELEVATIONS																										
3	CONTEMPORARY HOMES																										
Job No.	24-045																										
Dwg No.	6																										
Drawing in set	21																										
©	Bassmann Drafting Services																										
BASSMANN DRAFTING SERVICES		bdaa BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA		Project: PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800		Job No. 24-045																					
Bdaa BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA		Title: DWELLING 1 & 2 ELEVATIONS		Dwg No. 6		Issue																					
Scale: @A3		Drawn: TH		Date: 27/11/2024		Drawing in set: 21																					
				Client: CONTEMPORARY HOMES		© Bassmann Drafting Services																					





**NORTH ELEVATION**  
SCALE 1:100



**EAST ELEVATION**  
SCALE 1:100



 <div><p>WWW.BASSMANN.COM.AU</p><p>ENQUIRIES@BASSMANN.COM.AU</p><p>0429 048 013</p></div>	 <div><p>BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA</p></div>					Project:	PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800	Job No:	24-045		
									Dwg No:	9	
		No:	Description	Date				Title:	DWELLING 3 ELEVATIONS	Drawing in set:	21
		Rev:	@A3	Drawn:	TH	Date:	27/11/2024	Class:	CONTEMPORARY HOMES	© Bassmann Drafting Services	





**SOUTH ELEVATION**  
SCALE 1:100

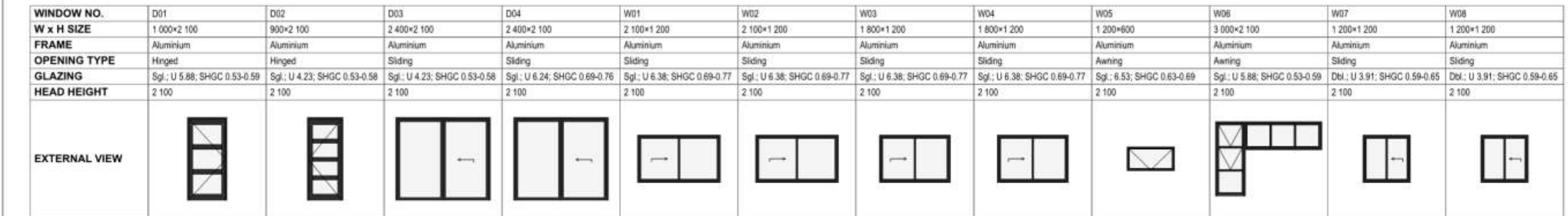



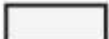
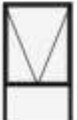
**WEST ELEVATION**  
SCALE 1:100















 <div><p><b>BASSMANN</b> DRAFTING SERVICES <small>AUST. INC. REG. NO. 124</small></p></div>	 <p>WWW.BASSMANN.COM.AU</p>  <p>ENQUIRIES@BASSMANN.COM.AU</p>  <p>0429 048 013</p>	 <p><b>bdca</b> BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA</p>				Project:	PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800	Job No:	24-045		
									Dwg No:	10	Issue:
			No.	Description	Date			Title:	DWELLING 3 ELEVATIONS	Drawings in set:	21
			Remarks:								
			Ready @A3	Drawn TH	Date 27/11/2024			Class:	CONTEMPORARY HOMES	© Bassmann Drafting Services	





<b>WINDOW NO.</b>	W09	W10	W11
<b>W x H SIZE</b>	1 800×1 500	1 500×600	1 000×1 800
<b>FRAME</b>	Aluminium	Aluminium	Aluminium
<b>OPENING TYPE</b>	Sliding	Fixed	Awning
<b>GLAZING</b>	Dbl.; U 3.91; SHGC 0.59-0.65	Dbl.; U 3.71; SHGC 0.62-0.69	Dbl.; U 5.23; SHGC 0.46-0.51
<b>HEAD HEIGHT</b>	2 100	1 650	2 100
<b>EXTERNAL VIEW</b>			

---

WINDOW NO.	D301	D302	W301	W302	W303	W304	W305	W306	W307	W308	W309	W310
W x H SIZE	1 500×2 100	1 800×2 100	3 000×1 800	900×1 800	2 400×1 200	900×900	1 200×1 200	1 500×1 200	1 500×1 200	600×900	2 100×1 500	900×1 800
FRAME	Aluminium	Aluminium	Aluminium	Aluminium	Aluminium	Aluminium	Aluminium	Aluminium	Aluminium	Aluminium	Aluminium	Aluminium
OPENING TYPE	Hinged	Sliding	Sliding	Awning	Sliding	Sliding	Sliding	Sliding	Sliding	Awning	Sliding	Awning
GLAZING	Dbl.; U 3.7t; SHGC 0.62-0.69	Dbl.; U 3.9t; SHGC 0.59-0.65	Dbl.; U 3.9t; SHGC 0.59-0.65	Dbl.; U 5.38; SHGC 0.68-0.75	Dbl.; U 3.9t; SHGC 0.59-0.65	Dbl.; U 3.9t; SHGC 0.59-0.65	Dbl.; U 3.9t; SHGC 0.59-0.65	Dbl.; U 3.9t; SHGC 0.59-0.65	Dbl.; U 3.9t; SHGC 0.59-0.65	Dbl.; U 5.38; SHGC 0.68-0.75	Dbl.; U 3.9t; SHGC 0.59-0.65	Dbl.; U 5.38; SHGC 0.68-0.75
HEAD HEIGHT	2 100	2 100	2 100	2 100	2 100	2 100	2 100	2 100	2 100	2 100	2 100	2 100
EXTERNAL VIEW												

---



				Project:	PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800	Job No.	24-045
						Days	12
No.	Description		Date	Title:	WINDOW SCHEDULE	Days	21
Accessories							
Qty	@A3	Drawn	TH	Date	27/11/2024	Client:	CONTEMPORARY HOMES
							© Bassmann Drafting Services







CONTEMPORARY  
HOMES

Excellence in Quality and Design

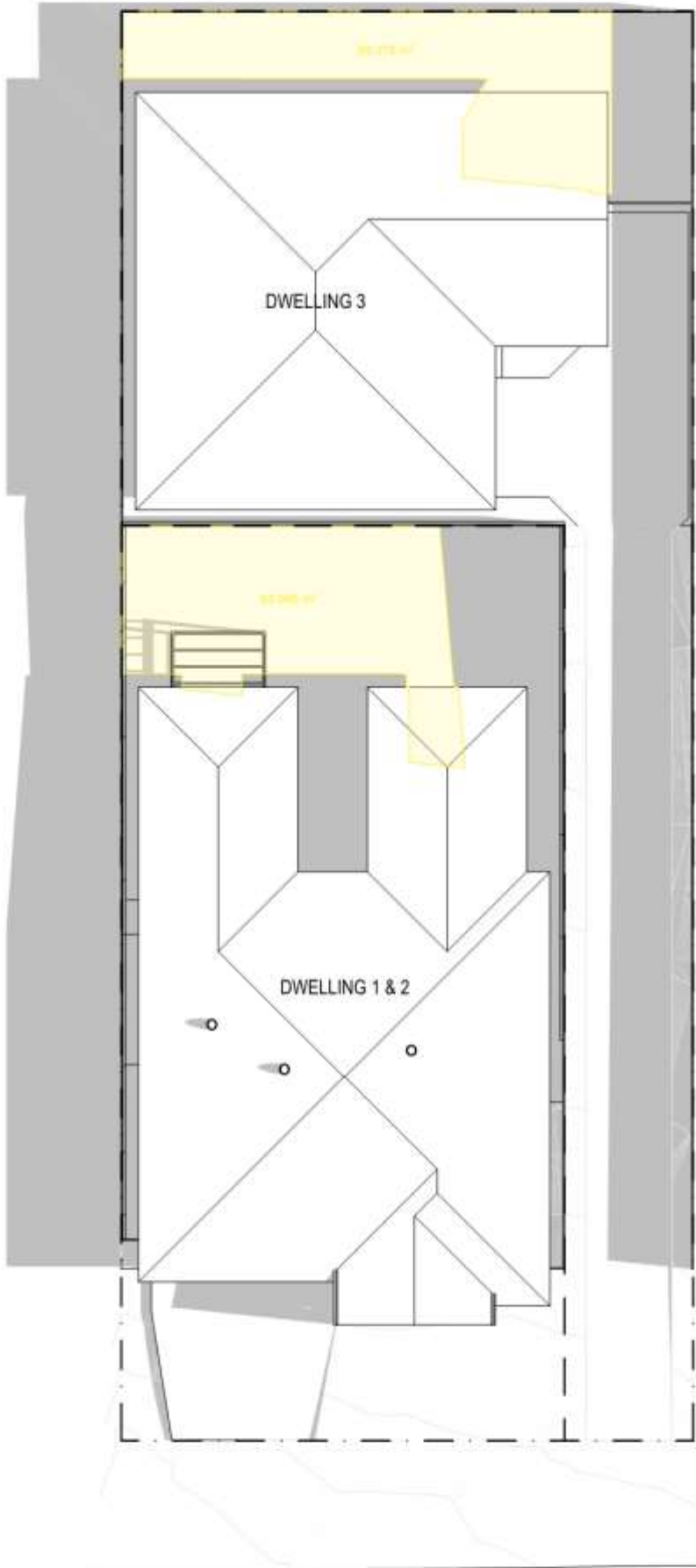
Certificate No. BHR-ZYVL3R-01

Authorisation No. 2404137475

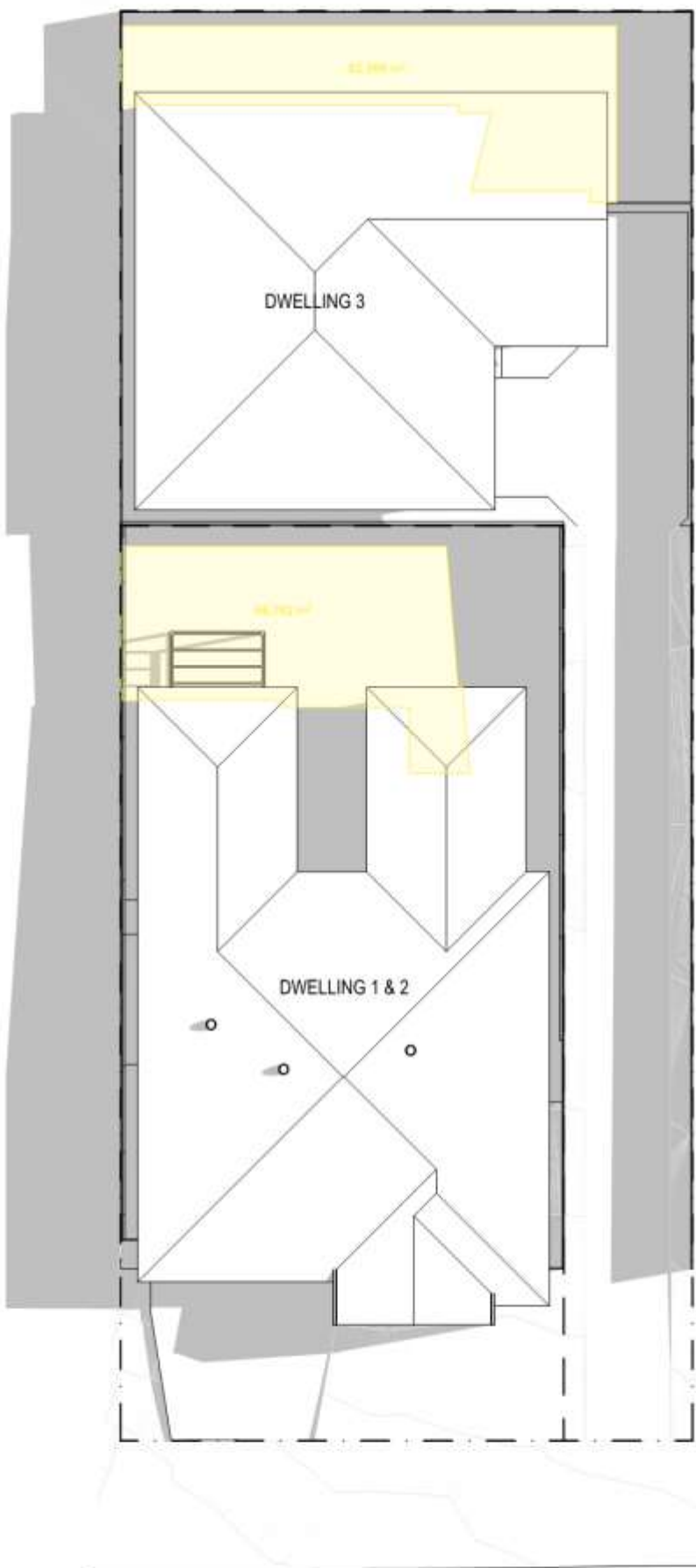
Property Address 72 Stevenson Way, Orange NSW 2800



DAYLIGHT AND SUNLIGHT CALCULATIONS			
AS PER ORANGE CITY COUNCIL DCP 2004, DEVELOPMENT IN RESIDENTIAL AREAS, PRIVATE OPEN SPACE (AT GROUND LEVEL) MUST RECEIVE SUNLIGHT TO AT LEAST 40% OF THE REQUIRED P.O.S. FOR AT LEAST 3 HOURS BETWEEN 9:00AM AND 3:00PM			
DWELLING 1 & 2		DWELLING 3	
REQUIRED P.O.S. (50% x 183.22)	= 91.61m <sup>2</sup>	REQUIRED P.O.S. (50% x 139.39)	= 69.70m <sup>2</sup>
REQUIRED P.O.S. SUNLIGHT (40% x 91.61)	= 36.64m <sup>2</sup>	REQUIRED P.O.S. SUNLIGHT (40% x 69.70)	= 27.88m <sup>2</sup>
SUNLIGHT AT 11AM	66.00m <sup>2</sup> (72.0%)	SUNLIGHT AT 11AM	59.38m <sup>2</sup> (85.2%)
SUNLIGHT AT 12PM	66.76m <sup>2</sup> (75.1%)	SUNLIGHT AT 12PM	62.99m <sup>2</sup> (90.4%)
SUNLIGHT AT 1PM	57.88m <sup>2</sup> (63.2%)	SUNLIGHT AT 1PM	50.35m <sup>2</sup> (72.2%)
SUNLIGHT AT 2PM	39.40m <sup>2</sup> (43.0%)	SUNLIGHT AT 2PM	32.95m <sup>2</sup> (47.3%)
3 HOUR AVERAGE	58.01m <sup>2</sup> (63.3%)	3 HOUR AVERAGE	51.42m <sup>2</sup> (73.8%)



21 JUNE 11AM  
SCALE 1:200



21 JUNE 12PM  
SCALE 1:200





WWW.BASSMANN.COM.AU

ENQUIRIES@BASSMANN.COM.AU

0429 048 013



BUILDING DESIGNERS  
ASSOCIATION OF AUSTRALIA

Proj	PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800
Drawn	TH
Date	27/11/2024
Scale	@A3
Client	CONTEMPORARY HOMES

Job No. 24-045

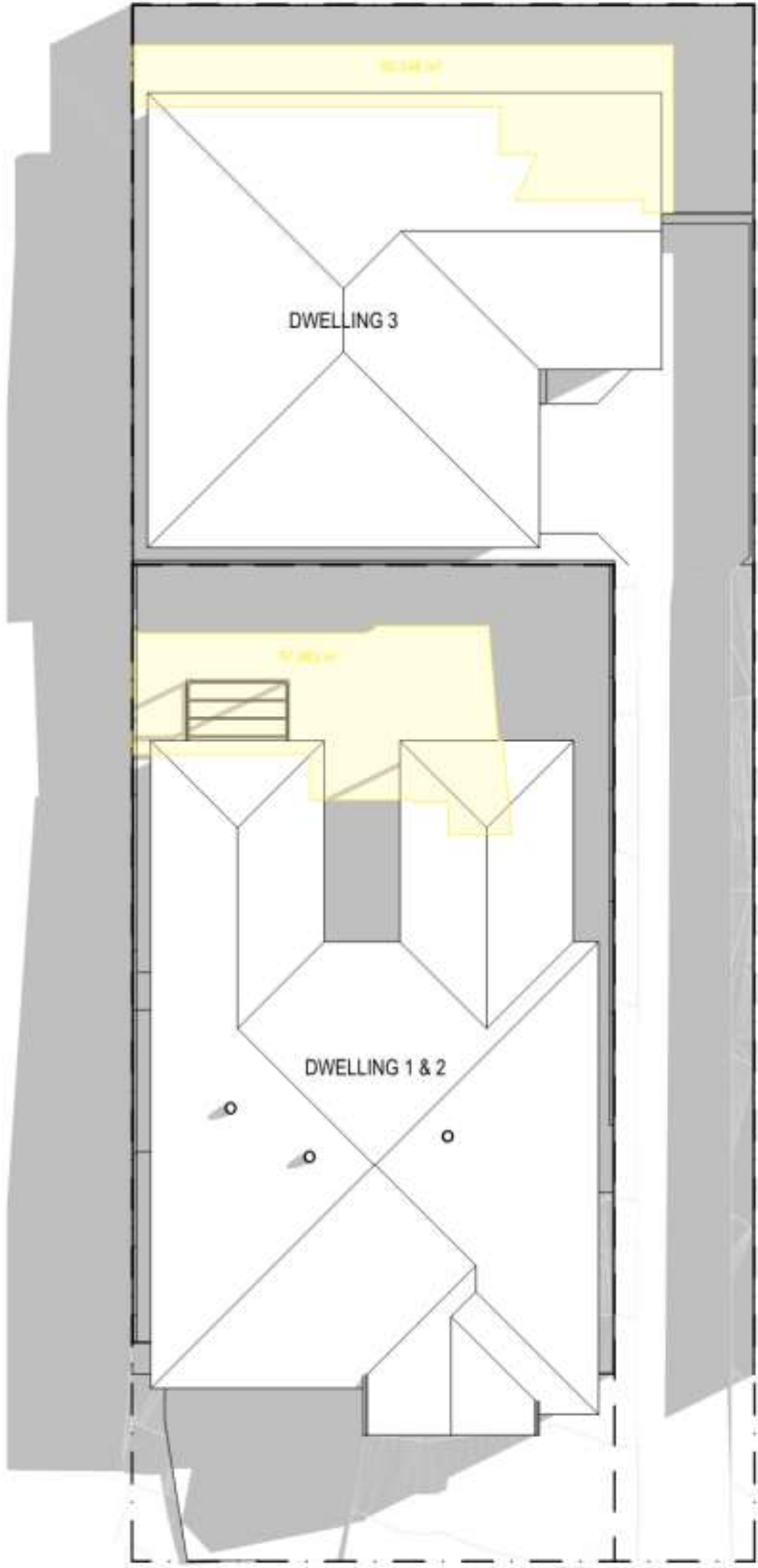
Draw No. 13

Revisions 21

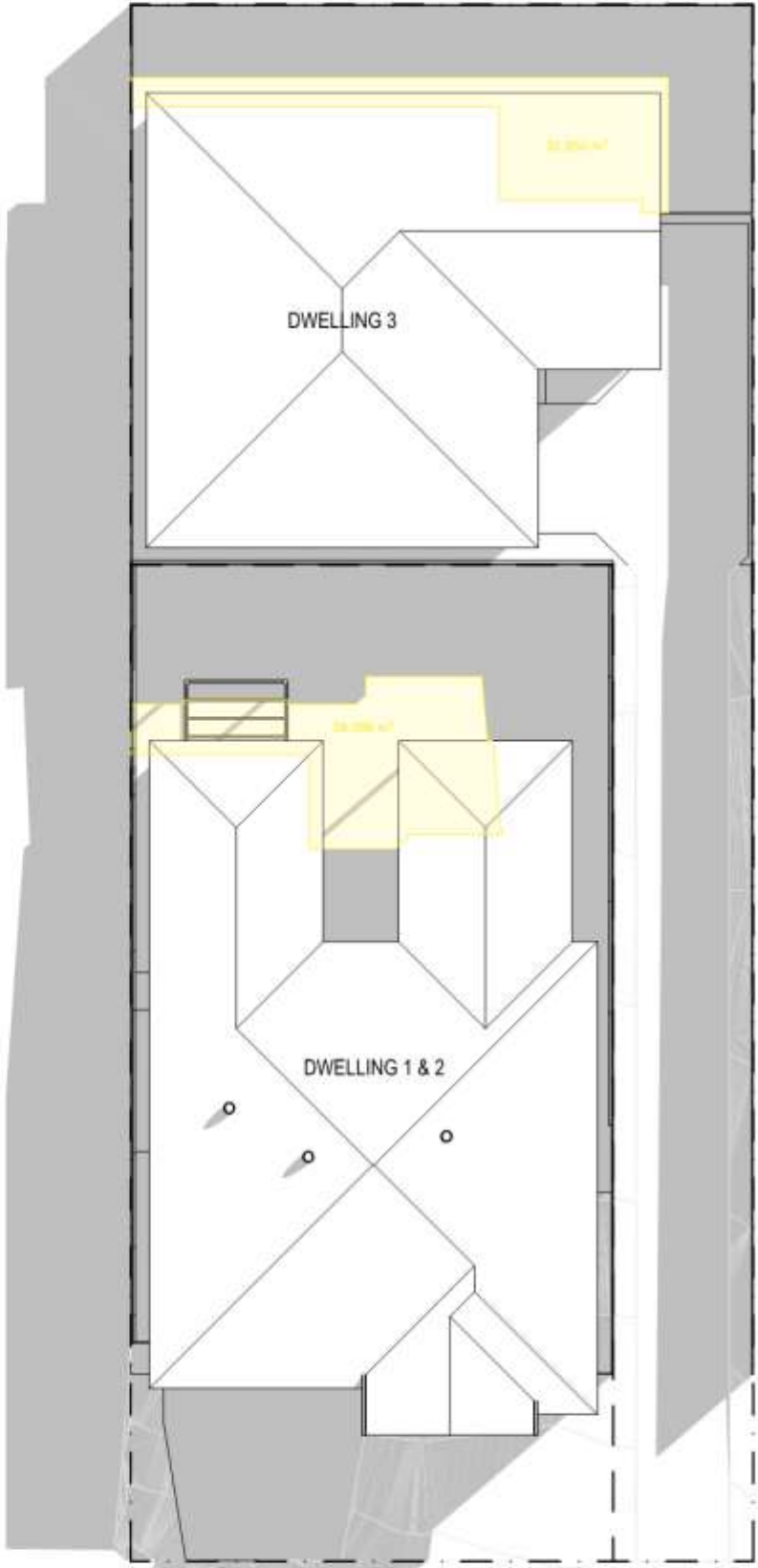
C - Bassmann Drafting Services



DAYLIGHT AND SUNLIGHT CALCULATIONS			
AS PER ORANGE CITY COUNCIL DCP 2004, DEVELOPMENT IN RESIDENTIAL AREAS, PRIVATE OPEN SPACE (AT GROUND LEVEL) MUST RECEIVE SUNLIGHT TO AT LEAST 40% OF THE REQUIRED P.O.S. FOR AT LEAST 3 HOURS BETWEEN 9:00AM AND 3:00PM			
DWELLING 1 & 2		DWELLING 3	
REQUIRED P.O.S. (50% x 183.22)	= 91.61m <sup>2</sup>	REQUIRED P.O.S. (50% x 139.39)	= 69.70m <sup>2</sup>
REQUIRED P.O.S. SUNLIGHT (40% x 91.61)	= 36.64m <sup>2</sup>	REQUIRED P.O.S. SUNLIGHT (40% x 69.70)	= 27.88m <sup>2</sup>
SUNLIGHT AT 11AM	66.00m <sup>2</sup> (72.0%)	SUNLIGHT AT 11AM	59.38m <sup>2</sup> (85.2%)
SUNLIGHT AT 12PM	68.76m <sup>2</sup> (75.1%)	SUNLIGHT AT 12PM	62.99m <sup>2</sup> (90.4%)
SUNLIGHT AT 1PM	57.88m <sup>2</sup> (63.2%)	SUNLIGHT AT 1PM	50.35m <sup>2</sup> (72.2%)
SUNLIGHT AT 2PM	39.40m <sup>2</sup> (43.0%)	SUNLIGHT AT 2PM	32.95m <sup>2</sup> (47.3%)
3 HOUR AVERAGE	58.01m <sup>2</sup> (63.3%)	3 HOUR AVERAGE	51.42m <sup>2</sup> (73.8%)



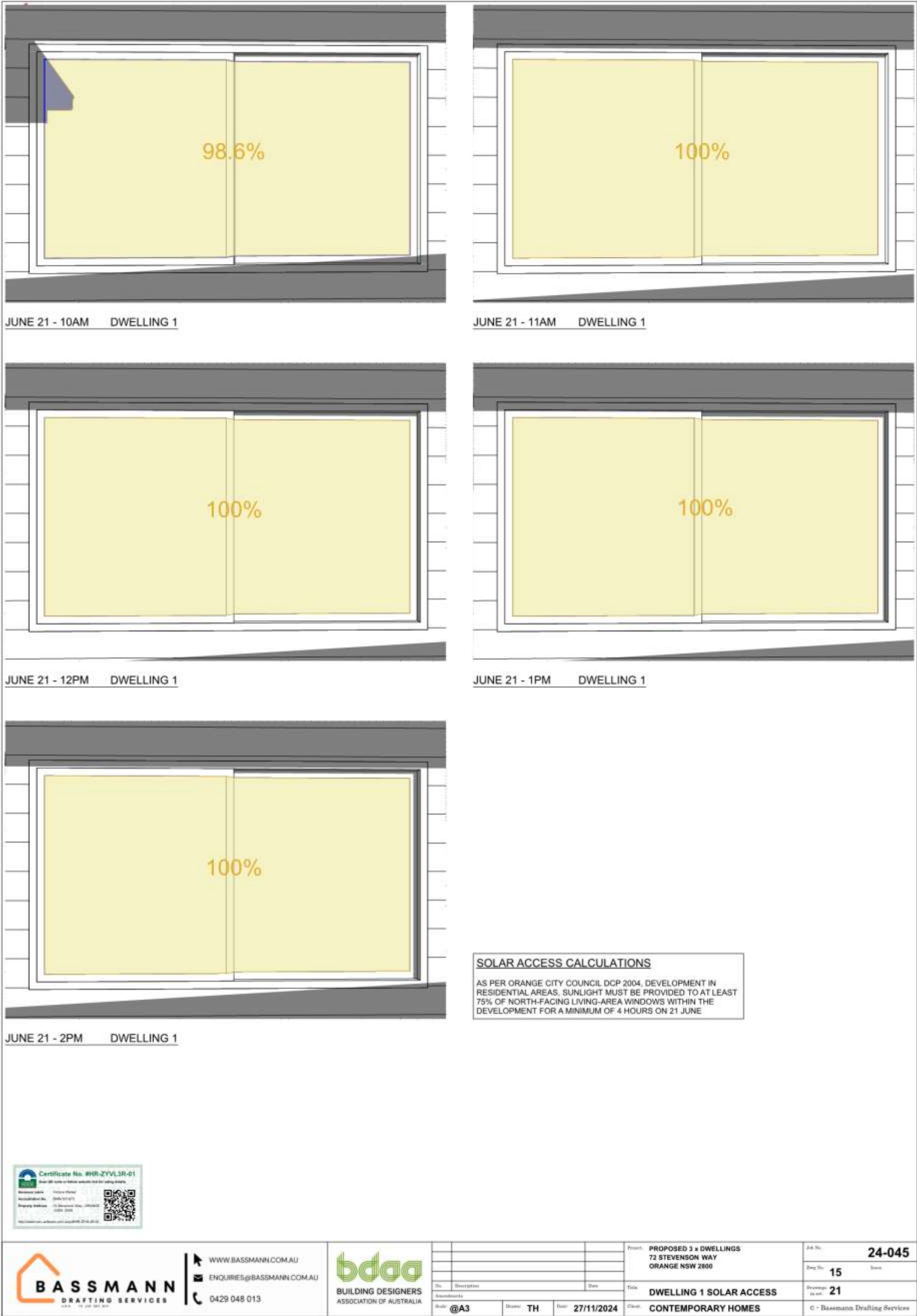
21 JUNE 1PM  
SCALE 1:200

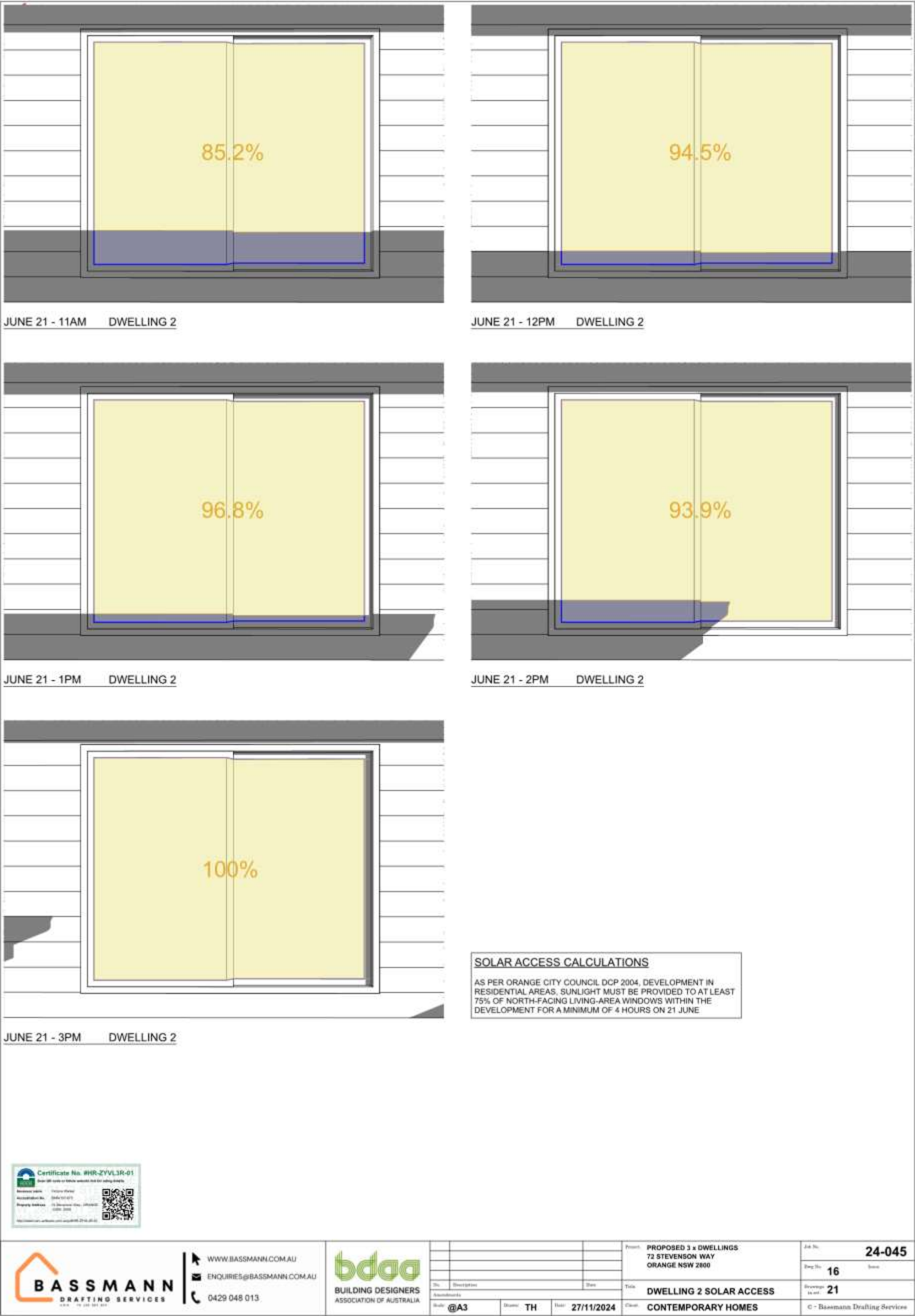


21 JUNE 2PM  
SCALE 1:200

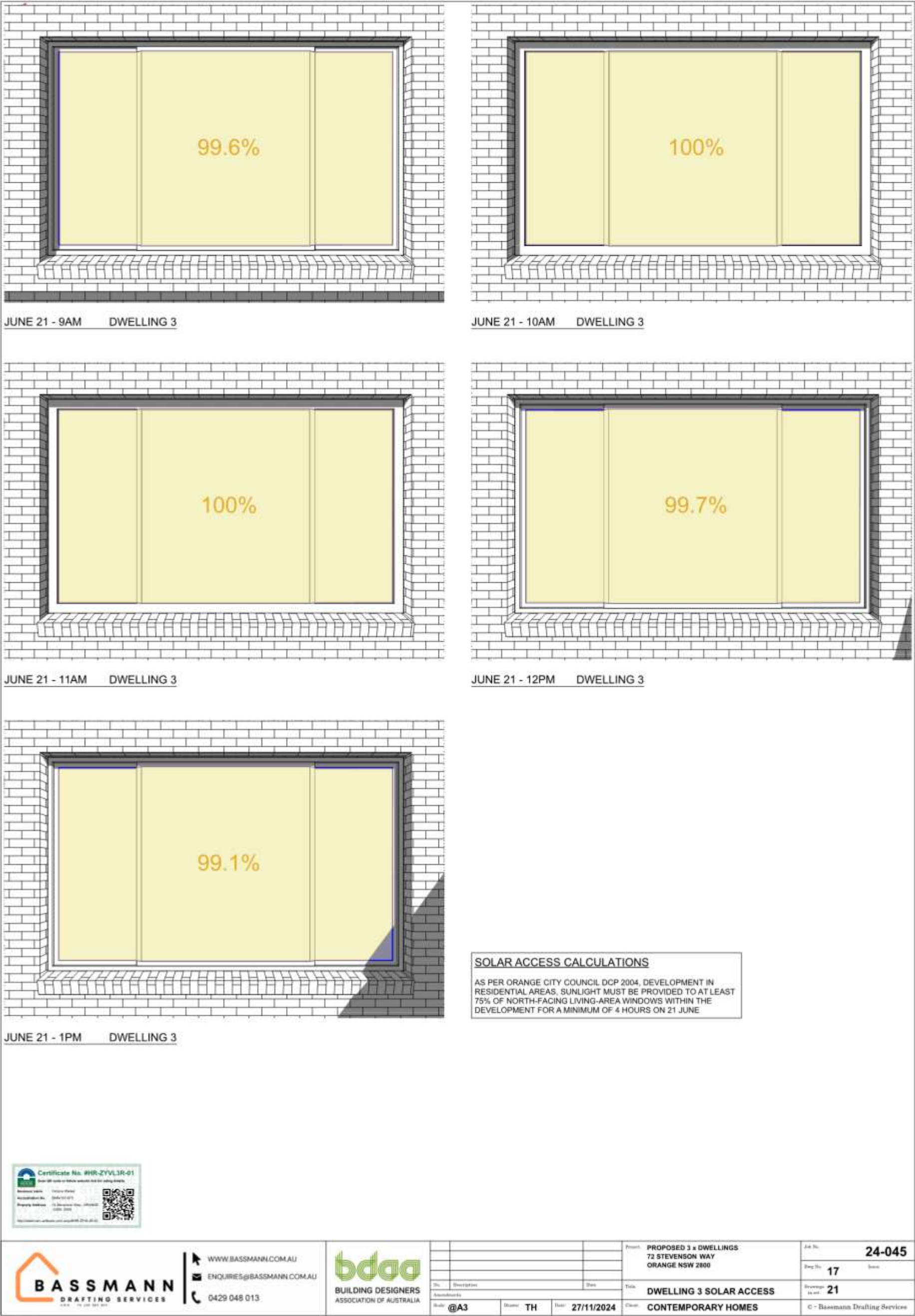


 BASSMANN DRAFTING SERVICES		WWW.BASSMANN.COM.AU ENQUIRIES@BASSMANN.COM.AU 0429 048 013		 Bdaa BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA		Project: PROPOSED 3 x DWELLINGS 73 STEVENSON WAY ORANGE NSW 2800		Job No: 24-045	
Title: SHADOWS		Drawn: TH		Date: 27/11/2024		Client: CONTEMPORARY HOMES		Drawn: 21	
Scale: @A3		Drawn: TH		Date: 27/11/2024		Client: CONTEMPORARY HOMES		C - Bassmann Drafting Services	













VIEW                      01





[WWW.BASSMANN.COM.AU](http://www.bassmann.com.au)  
[ENQUIRIES@BASSMANN.COM.AU](mailto:ENQUIRIES@BASSMANN.COM.AU)  
 0429 048 013



No.		Description		Date	Project: PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800	Job No: 24-045
Revised		Description		Date	Title: VIEWS	Draw No: 18
Revised		Description		Date		Drawn: 21
Scale: @A3	Drawn: TH	Date: 27/11/2024	Client: CONTEMPORARY HOMES		© Bassmann Drafting Services	







VIEW                      02



Certificate No. **WHR-ZYVL3R-01**  
Read QR code or follow website link for policy details  
 Applicant Name:    Project Name:  
 Association No:    04/2024/015  
 Property Address:    72 Stevenson Way, Orange NSW 2800  
0429 048 013  
http://www.bassmann.com.au/qr/015-ZYVL3R-01



**BASSMANN**  
 DRAFTING SERVICES  
MEMBER OF THE BDA

[WWW.BASSMANN.COM.AU](http://WWW.BASSMANN.COM.AU)  
[ENQUIRIES@BASSMANN.COM.AU](mailto:ENQUIRIES@BASSMANN.COM.AU)  
 0429 048 013



**bd aa**  
 BUILDING DESIGNERS  
 ASSOCIATION OF AUSTRALIA

No.		Description		Date	Project: <b>PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800</b>	Job No: <b>24-045</b>
Revisions						
Revised By:		Revised Description:		Revised Date:		
Drawn: <b>@A3</b>		Checked: <b>TH</b>		Date: <b>27/11/2024</b>	Title: <b>VIEWS</b>	Dwg No: <b>19</b>
					Client: <b>CONTEMPORARY HOMES</b>	Issue: <b>21</b>
© Bassmann Drafting Services						





VIEW                      03





[WWW.BASSMANN.COM.AU](http://WWW.BASSMANN.COM.AU)  
[ENQUIRIES@BASSMANN.COM.AU](mailto:ENQUIRIES@BASSMANN.COM.AU)  
 0429 048 013



BUILDING DESIGNERS  
 ASSOCIATION OF AUSTRALIA

No.		Description		Date	Project: PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800	Job No: 24-045
No.		Description		Date	Title: VIEWS	Dwg No: 20
No.		Description		Date	Title: CONTEMPORARY HOMES	Drawing in set: 21
Scale: @A3	Drawn: TH	Date: 27/11/2024	Client: CONTEMPORARY HOMES		© Bassmann Drafting Services	







VIEW                      04





WWW.BASSMANN.COM.AU  
 ENQUIRIES@BASSMANN.COM.AU  
 0429 048 013



No.		Description		Date	Project: PROPOSED 3 x DWELLINGS 72 STEVENSON WAY ORANGE NSW 2800	Job No: 24-045
Revised		Description		Date	Title: VIEWS	Drawn: 21
Revised		Description		Date		Drawn: 21
Scale: @A3	Drawn: TH	Date: 27/11/2024	Client: CONTEMPORARY HOMES		© Bassmann Drafting Services	



To Chief Executive Officer Dhawala Ananda,

DEVELOPMENT APPLICATION DA 740/2024(1) – PAN-493265  
LOT 56 DP 1274510 – 72 STEVENSON WAY, ORANGE  
SUBDIVISION (TWO LOT TORRENS TITLE); DWELLING, ATTACHED GARAGE AND ATTACHED SECONDARY  
DWELLING; AND DWELLING AND ATTACHED GARAGE

Our details are as follows;

We are writing to you today regarding the letter we received in the mail in December 2024. We **strongly oppose** the development application for the two-lot Torrens title (3 dwellings) at 70 Stevenson way.

When we purchased our block of Land in July 2020, we had multiple options as to where we could've purchased. We planned on building our home to raise our family. We wanted a safe and reputable area which had privacy, and plenty of space on the land but also in the street, (not pokey and cars parked either side).

We decided to wait a little longer and buy in Stevenson Way as the developer Keneth Baker had terms of restriction on the use of land on the contract.

- No more than one main habitable building shall be erected or allowed to remain on any lot.

This meant we knew when purchasing and building we wouldn't be surrounded by battle-axe blocks, and houses with 2 dwellings eg. 55A and 55B Stevenson Way, which were becoming a very common thing around town.

We have already been **extremely disappointed** that we have an Aboriginal Housing house across the road at Stevenson Way, Which sold in March 2023. We are constantly listening to loud arguments with the adults, resulting in the police attending the residence and being taken away. Also, the disgusting language and yelling at the children, and constant screaming at all hours through the night to the early hours of the morning. There was a second dwelling approved and built recently, which now has attracted more adults to the house who appear to be living there, with more partying, more arguing and more screaming happening. This is exactly what we didn't want to raise our family amongst.

There are plenty of talks that we are currently in a housing crisis, which makes us wonder is this why a builder is wanting 3 dwellings on this lot. But there are plenty of blocks for sale in our area, and around town that have been on the market for a very long time, which suggests no need to go against terms everyone else in the street has followed when purchasing their land.

We thank you for taking the time to read and understand our reasons for opposing this development. We're sure if you were in our shoes you'd have the same concerns.

Regards,





**2.4 DEVELOPMENT APPLICATION DA 743/2024(1) - 5 BARCOO CLOSE**

RECORD NUMBER: 2025/230

AUTHOR: Ross Jauncey, Town Planner

**EXECUTIVE SUMMARY**

Application lodged	5 December 2024
Applicant/s	Mr CRJ Cook
Owner/s	Mr G D and Mrs B V Westcott
Land description	Lot 1 DP 1282681 - 5 Barcoo Close, Clifton Grove
Proposed land use	Secondary Dwelling (moveable dwelling) and Demolition (tree removal)
Value of proposed development	\$313,755

Council's consent is sought for a secondary dwelling (moveable dwelling) and tree removal at Lot 1 DP 1282681, known as 5 Barcoo Close Clifton Grove.

The subject site is located within the R5 Large Lot Residential zone. The proposed development is defined as a secondary dwelling and is not permitted in this zone under the OLEP 2011; however, is permissible under *State Environmental Planning Policy (Housing) 2021* (the SEPP). This application is seeking consent under the SEPP. The secondary dwelling has a gross floor area (GFA) of 133.57m<sup>2</sup>, and as such the applicant has requested a variation to the minimum area development standard of 60m<sup>2</sup> contained within the SEPP for secondary dwellings in a R5 zone. An assessment of this variation has been included in the body of this report and concludes that the proposed variation is reasonable in the context of the locality with consideration of the conflicting development restrictions across the various residential zones within the Orange City Council area.

The subject land is defined as Bushfire Prone Land. The application was referred to RFS pursuant to Clause 4.14 for advice and recommendations. The RFS responded on the 28 January and the recommendations provided have been incorporated into the attached draft Notice of Determination.

The proposed development is advertised development pursuant to Council's Community Participation Plan 2019 and Schedule 1 of the *Environmental Planning and Assessment Act 1979*. The application was notified and no submissions were received.

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 limit, subject to mitigation conditions. Approval of the application is recommended.



**Figure 1 - locality plan**



### Figure 2 - aerial View

**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 a secondary dwelling (moveable dwelling) and tree removal at Lot 1 DP 1282681, known as 5 Barcoo Close, Clifton Grove. The proposal is permissible pursuant to *State Environmental Planning Policy (Housing) 2021* (the SEPP).

The main issue in the assessment of this application relates to the need for a section 4.6 variation to a development standard that will permit the secondary dwelling to be larger than 60m<sup>2</sup>. The proposed secondary dwelling has a gross floor area (GFA) of 133.57m<sup>2</sup>, and as such the applicant has requested a variation to the minimum area development standard of 60m<sup>2</sup> contained within the SEPP for secondary dwellings in zone R5.

Council has a history of accepting these types of variations in Clifton Grove. It is a good use of the land and does not significantly change the character of the area.

In the future, an amendment to the LEP would be made that permits secondary dwellings in zone R5 (Clifton Grove) with larger floor areas without the need for these section 4.6 variations.

The report also addresses matters in relation to bushfire planning. The RFS has provided comment and recommended conditions in this regard. This matter has been discussed in the body of this report.

It is recommended that Council supports the proposed development 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 743/2024(1) for Secondary Dwelling (moveable dwelling) and Demolition (tree removal) at Lot 1 DP 1282681 - 5 Barcoo Close, 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**

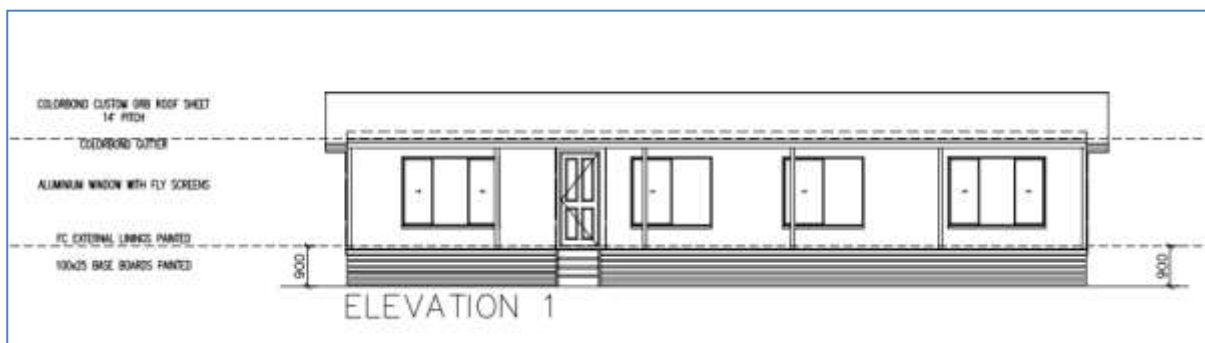
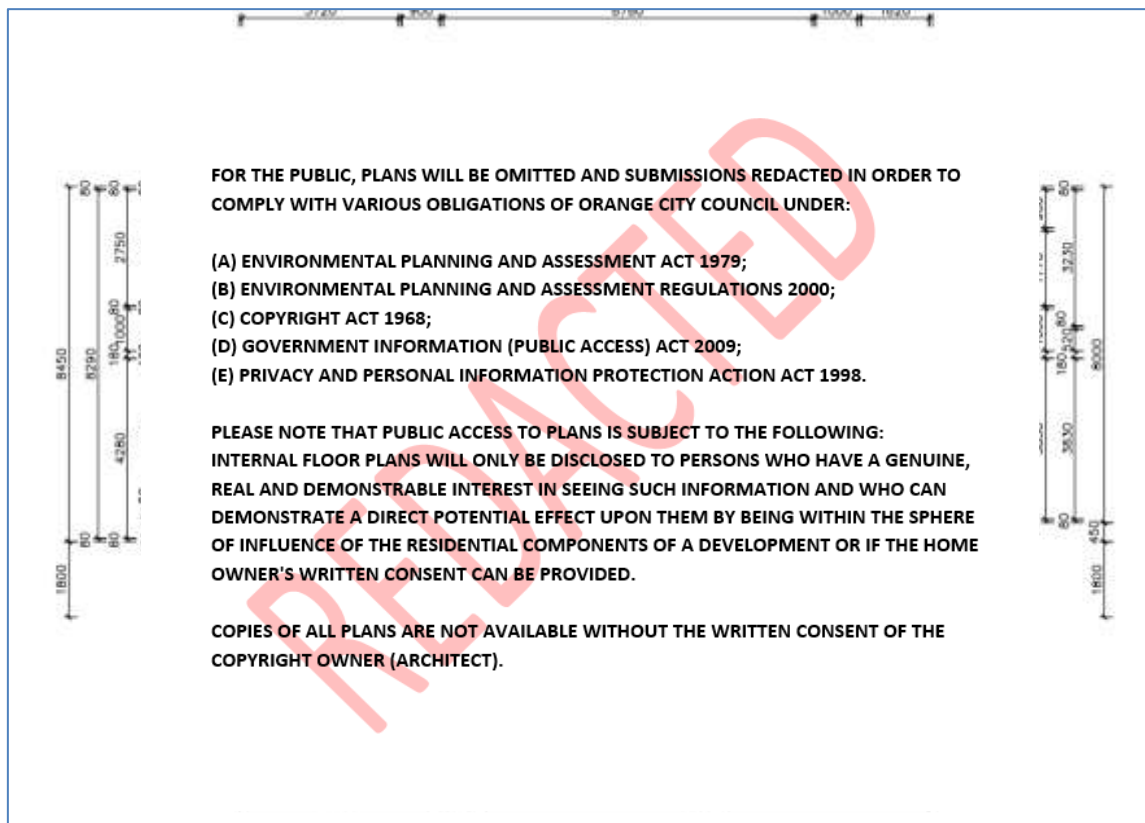
The proposal involves the construction of a secondary dwelling and tree removal. The trees to be removed are 1 eucalyptus tree and three various types of pine. There is also the removal of underlying shrubbery to create the required APZ for bushfire protection. The proposed secondary dwelling will comprise:

- 4 bedrooms
- Open plan kitchen/living/meals zone
- Laundry, main bathroom and separate WC
- Timber deck

The proposed external finishes will comprise:

- Colorbond custom orb roofing
- Painted fibrous cement sheeting to the walls
- Powder coated aluminium windows and doors.

The proposed secondary dwelling will have a GFA of 169.13m<sup>2</sup>.



Due to the size of the secondary dwelling, the applicant has requested a variation to the maximum floor area development standard of 60m<sup>2</sup> contained within the SEPP for secondary dwellings. The applicant has requested a variation of the 60m<sup>2</sup> standard to 133.57m<sup>2</sup>, which equates to a variation of 122.62%.



**SITE INSPECTION**

The subject land is a large rural residential lot that has an area of 2.368ha. It is a triangular shaped lot with a combined frontage of 25.26m to Barcoo Close. The subject land is used for large lot residential purposes. The principal dwelling is situated in the southernmost corner of the parcel, while a newly built shed has been constructed approximately 20m north of the dwelling.

The land comprises scattered vegetation identified as regrowth throughout the lot.

The site has legal and practical access from Barcoo Close.

The site of the secondary dwelling is on an existing levelled pad and has been selected because:

- It is not overly constrained by the slope of the land and is well drained.
- It is located in reasonable proximity to the recently constructed shed and existing dwelling.
- It is well recessed from the external property boundaries.

The subject property sits at the end of Barcoo Close with an informal cul-de-sac adjoining the southeastern boundary of the property. The site is serviced by a reticulated town water supply but is not serviced by a reticulated sewer system.

The surrounding development pattern is well established as a rural residential estate comprised of dwellings on lots with an average size of 2ha. Development in the immediate vicinity of the subject land is summarised as follows:

- A public reserve (bridle track) adjoins the eastern boundary. Two large lot residential properties are further to the west. The dwellings on those lots are some 140m from the proposed secondary dwelling.
- A large lot residential property is located immediately to the north. The nearest dwelling in this direction is some 150m from the proposed secondary dwelling.
- A large lot residential property is located immediately to the west. The dwelling within that land is sited some 180m to the northwest of the proposed secondary dwelling.



**Figure 4 – indicating that the proposed secondary dwelling will be located approximately 226m from the entry point on Barcoo Close.**



**Photo 1:** location of proposed secondary dwelling



**Photo 2:** view looking west of site of proposed secondary dwelling





**Photo 3:** view of trees to be removed for APZ.



**Photo 4:** view of trees to be removed for APZ



**Photo 5:** view of trees to be removed for APZ



**Photo 6:** area for wastewater disposal





**Photo 7:** area for wastewater disposal



**Photo 8:** eucalyptus tree to be removed for APZ



**Photo 9:** proposed driveway area back to existing dwelling



**Photo 10:** view looking east for APZ





**Photo 11:** view looking east with peg showing eastern corner of proposed secondary dwelling



**Photo 12:** view looking south showing existing shed on site

**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 (i.e. the need for a BDAR to be submitted with a DA);

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

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

**Summary**

The site does not occur within land mapped on the Biodiversity Values Map and no clearing/disturbance is proposed. As the proposal does not trigger any of the four requirements for insertion into the BOS, a Biodiversity Development Assessment Report is not required to be lodged.

**Section 4.14 - Consultation and Development - Certain Bush Fire Prone Land**

- (1) Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2)) unless the consent authority—
  - (a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled *Planning for Bush Fire Protection* prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (***the relevant specifications and requirements***), or
  - (b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

- (1A) If the consent authority is satisfied that the development does not conform to the relevant specifications and requirements, the consent authority may, despite subsection (1), grant consent to the carrying out of the development but only if it has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire.
- (1B) This section does not apply to State significant development.
- (1C) The regulations may exclude development from the application of this section subject to compliance with any requirements of the regulations. The regulations may (without limiting the requirements that may be made)—
- (a) require the issue of a certificate by the Commissioner of the NSW Rural Fire Service or other qualified person in relation to the bush fire risk of the land concerned, and
  - (b) authorise the payment of a fee for the issue of any such certificate.

- (2) In this section—

***special fire protection purpose*** has the same meaning as it has in section 100B of the [Rural Fires Act 1997](#).

The subject land is bush fire prone. A bush fire assessment report was submitted in support of the application. The report was prepared by Statewide Bushfire Consulting dated 08.11.2024.

The bushfire assessment report was referred to the Rural Fire Service (RFS) for their concurrence. Concurrence was received from RFS. The RFS provided a number of conditions to be applied to the development consent. These conditions have been included in the draft Notice of Determination for Council's consideration.

#### **Section 4.15**

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

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

##### **Orange Local Environmental Plan 2011**

##### **Part 1 - Preliminary**

##### **Clause 1.2 - Aims of Plan**

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

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



- (e) *to provide a range of housing choices in planned urban and rural locations to meet population growth,*
- (f) *to recognise and manage valued environmental heritage, landscape and scenic features of Orange.*

The development will provide for additional housing choice within a semi- rural environment and the development will not adversely impact on the scenic features of the locality. The proposal is considered to be consistent with relevant aims of the plan.

#### **Clause 1.6 - Consent Authority**

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

#### **Clause 1.7 - Mapping**

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

Land Zoning Map:	Land zoned R5 Large Lot Residential
Lot Size Map	Minimum Lot Size 2 Ha
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 Area	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 in a flood planning area

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

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

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

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

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

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

The subject site is located within the R5 Large Lot Residential zone. The proposed development is defined as a secondary dwelling and is not permitted in this zone under the OLEP 2011 but is permissible under the State Environmental Planning Policy (Housing) 2021 (the SEPP). This application is seeking consent under the SEPP.

**Clause 2.3** of LEP 2011 references the Land Use Table and Objectives for each zone in OLEP 2011. These objectives for land zoned R5 Large Lot Residential are as follows:

**Objectives of the R5 Large Lot Residential Zone**

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

The proposed secondary dwelling is not permissible in the R5 Large Lot Residential zone under the Orange LEP, although is permissible under the SEPP. The proposed development is not contrary to the above described objectives of the zone as outlined in this report.

**Part 3 - Exempt and Complying Development**

The application is not exempt or complying development.

**Clause 4.6 - Exceptions to Development Standards.**

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

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

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

Accordingly, this clause identifies that a secondary dwelling is limited to a total floor area of not greater than 60m<sup>2</sup>, which the proposed secondary dwelling of this development exceeds.

The proposed total floor area of the secondary dwelling is 133.57m<sup>2</sup>, representing a variation of 122.62% of the development standard.

Clause 4.6 is intended to achieve the following objectives:

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

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

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

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

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

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

With this in mind, several secondary dwellings have been approved in Clifton Grove with a floor area greater than 60m<sup>2</sup>.

The applicant has requested, given the conflicting provisions that apply throughout the City for this type of development, and Council's previous approach to the consideration of same with other requests, that Council determine the suitability of the proposed development against the secondary dwelling standard of 50% of the principal dwelling's floor area as opposed to the current limitation of 60m<sup>2</sup> and vary the restriction in this instance.

The applicant has advised that the GFA of the primary dwelling is 292.89m<sup>2</sup> (excluding alfresco and porch). In this case 50% of the GFA of the main dwelling equals 146.445m<sup>2</sup>. Based on a GFA of 133.57m<sup>2</sup> (excluding alfresco, porch and garage) the development represents 45.6% of the main dwelling and would have ordinarily met the standard if it were permissible in the zone under the LEP as opposed to the SEPP.

The secondary dwelling development is proposed on a large rural residential parcel (2.368ha) and will not result in an excessive site coverage, as it would if it were to be constructed on an urban parcel. The proposed site coverage for the development is considered comparable to that of adjoining rural residential parcels such that the character of Clifton Grove is preserved. The site coverage proposed remains far less than the site coverage typical of secondary dwellings permitted in urban areas, demonstrating that large lot environments have greater capacity to accommodate larger secondary dwellings with the same or lesser impacts compared to urban lots.

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

### **Matters to Address in an Application**

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

The application must address:

- (i) whether strict compliance with the standard, in the particular case, would be unreasonable or unnecessary and why.*

*And*

- (ii) demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant has argued that strict compliance with the 60m<sup>2</sup> floor area limit is unreasonable in this instance for the reasons below:

- The proposed secondary dwelling satisfies the relevant Planning Outcomes for residential development pursuant to both Orange DCP 2004 – Chapter 06 Rural Development and Chapter 07 Residential Development.
- The residential development is considered a reasonable development for the site considering the large lot nature of the area.
- The proposed secondary dwelling does not exceed the LEP's prescribed standard of being less than 50% of the principal dwelling's floor area (<200m<sup>2</sup>), and therefore would have been approved if it were permissible in the zone under the LEP.

It is also noted that there are numerous examples of secondary dwellings in the Clifton Grove area. Whilst Council does not accept the concept of precedents as each application should be assessed on its merits, it is acknowledged that this indicates an emerging character of the area.

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

- A variation of the development standard is justified in this case because it can be demonstrated that the proposal satisfies the objectives of the R5 Large Lot Residential zone and the objectives of the secondary dwelling standards under the Housing SEPP.
- The secondary dwelling development has a high degree of compliance with the other relevant LEP and DCP provisions.

- The proposed secondary dwelling is considered compatible with the residential land use pattern in this area. A variation of the maximum floor area to allow the proposed secondary dwelling to be excised on a large lot allotment does not diminish this aspect of the development.
- It is demonstrated that non-compliance with the development standard does not generate unacceptable impacts in the locality.

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

### **The Five Part Test**

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

The Five Part Test embodies the following:

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

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

- (a) *Ensuring new housing development provides residents with a reasonable level of amenity;*
- (b) *Promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services;*
- (c) *Minimising adverse climate and environmental impacts of new housing development;*
- (d) *Reinforcing the importance of designing housing in a way that reflects and enhances its locality.*

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

With regard to point (2), it is considered that a variation of the maximum total floor area for secondary dwellings is a development standard that may be considered within the ambit and operation of this clause. Floor area requirements for secondary dwellings are a blunt assessment tool aimed at achieving good design outcomes, whilst at the same time making efficient use of the land at densities likely to achieve a reasonable return for the development, and at the same time ensuring that neighbourhood character and amenity is not excessively compromised. The variation is considered acceptable in this case due to the size of the large residential allotment and the fact that the secondary dwelling would have an allowable floor area if it were permissible in the zone under the LEP. As the proposed development is a secondary dwelling and is situated on a parcel of land that is not typical of an urban area, the variation is considered to be acceptable in this instance as the effect of the proposal on the surrounding development will be minimal. The development in this case has been designed to blend into the site and is not visible from the street or any adjoining dwellings.

With regard to Point (3), it is considered that strict compliance with the 60m<sup>2</sup> standard under the SEPP would not necessarily defeat or thwart the underlying objective or purpose of the development standard. However, the proposal is considered to be consistent with the objectives of the development standard.

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

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

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

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

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

### **Department of Planning's Circular**

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

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



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

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

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

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

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

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

## **Part 5 - Miscellaneous Provisions**

### **Clause 5.4 - Controls Relating to Miscellaneous Permissible Uses**

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

- Secondary dwellings to be limited to the greater of 60m<sup>2</sup> or 50% of the floor area of the principal (main) dwelling.

In this regard the proposed secondary dwelling is proposed in a zone where the use is not permissible under the OLEP, and therefore this clause is not relevant to the proposal, but has nonetheless been used as a guide in the assessment of this application.

**Clause 5.5 - Controls Relating to Secondary Dwelling on Land in a Rural Zone**

- (a) *the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater:*
  - (i) *60m<sup>2</sup>*
  - (ii) *50% of the total floor area of the principal dwelling, and*
- (b) *the distance between the secondary dwelling and the principal dwelling must not exceed 60 metres.*

The applicant has advised that the GFA of the primary dwelling is 292.89m<sup>2</sup> (excluding alfresco and porch). In this case 50 % of the GFA of the main dwelling equals 146.445m<sup>2</sup>. Based on a GFA of 133.57m<sup>2</sup> (excluding alfresco, porch and garage) the development represents 45.6% of the main dwelling, and would have ordinarily met the standard if it were permissible in the zone under the LEP as opposed to the SEPP.

**Part 6 - Urban Release Area**

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

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

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

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

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

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

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

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

The site is not known to contain any Aboriginal, European or Archaeological relics. Previous known uses of the site do not suggest that any relics are likely to be uncovered. However, conditions may be imposed to ensure that should site works uncover a potential relic or artefact, works will be halted to enable proper investigation by relevant authorities and the proponent required to seek relevant permits to either destroy or relocate the findings.

### **7.3 - Stormwater Management**

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

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

The proposal has been designed to include permeable surfaces and includes onsite retention of stormwater through the use of a rainwater tank for firefighting purposes.

Overflow waters will discharge to the site through absorption trenches and will not impact on surrounding properties. It is therefore considered that the post-development runoff levels will not exceed the pre-development levels.

### **7.5 - Riparian Land and Watercourses**

This clause seeks to preserve both water quality and riparian ecological health. The clause applies to land identified as a “Sensitive Waterway” on the Watercourse Map. The subject land does not contain a sensitive waterway, therefore Council is not required to consider this matter.

### **7.6 - Groundwater Vulnerability**

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

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

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

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

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

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

Clause 7.11 applies and states:

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

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

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

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

##### **State Environmental planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of Land**

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

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

The site has a long-established residential land use, therefore contamination of the site is unlikely. The site currently contains an existing dwelling and shed and the proposed development does not propose a change of use for the site.

**State Environmental Planning Policy (Housing) 2021 - Chapter 3 Diverse Housing**

Chapter 3 Division 1 Clause 49 applies and states:

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

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

The proposed secondary dwelling meets the definition outlined in the SEPP. The secondary dwelling is not permissible in the R5 Large Lot Residential zone under the Orange LEP although is permissible under the SEPP. The proposed development is not contrary to the objectives of the SEPP as outlined in this report.

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

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

There are no draft 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**

Development Control Plan 2004 ("the DCP") applies to the subject land. The relevant chapters are:

- **Part 2** (Natural Resource Management) - The relevant matters have been discussed in the LEP assessment above. No further comments are required.
- **Part 3** (General Considerations) - The relevant matters have been discussed in the LEP assessment above. No further comments are required.
- **4.3.1** Orange Development Control Plan 2004-00 Transitional Provisions – Tree Preservation
- **Part 6**(Rural Development) - The proposed development is within an area characterised as rural and should be assessed against the relevant planning outcomes.

- **Part 7** (Development in Residential Areas) - The proposed development is within the R5 Large Lot Residential zone and requires assessment against the relevant planning outcomes.

These matters have been addressed in the body of this report. The relevant Planning Outcomes requiring further comment are detailed below.

#### 4.3.1 Orange Development Control Plan 2004-00 Transitional Provisions - Tree Preservation

The Transitional Provisions for tree preservation are relevant as the proposed development requires the removal of 4 trees within the site. The Planning Outcomes for tree preservation provide as follows:

- An application for the Council's approval must be accompanied by an appropriately qualified specialist (i.e. arborist) report outlining the following information:
  - The location, size, species and condition (i.e. diseased, healthy etc).
  - A statement that details any anticipated impacts on vegetation that may have derived from endangered ecological communities and/or that may be habitat for threatened species.
  - The purpose of removal and whether the pruning of the tree would be a more practical and desirable alternative.
  - Whether a replacement tree or trees should be planted.
  - The location, size and species of any trees proposed to replace those intended for removal.
  - The owner's consent to the application being lodged.
  - Any other relevant information regarding the tree to be removed.

In response to the above Planning Outcomes:

The proposed siting of the secondary dwelling will require the removal of four trees and associated shrubbery. The trees that are to be removed are illustrated in Figure 3 and the aerial plan below. Among these, only one is a eucalyptus, while the others are various types of pine.



The applicant has requested that Council not require the advice from an arborist on the basis that there is no debate concerning the health or condition of the trees and reasonable justification is provided below.

- *The subject land is vegetated with a variety of native and exotic trees, shrubs and other vegetation. The removal of four trees from the site is not expected to have a significant cumulative impact on the landscape. In this regard, the trees/vegetation to be removed do not represent an integral element of the streetscape or setting.*
- *Retention of the trees is not possible due to the development. The site of the secondary dwelling has been selected for its levelled terrain and lower vegetation density. Alternative locations within the site would necessitate more extensive earthworks and tree removal*

Given the nature of the subject land, removal of the stated vegetation is considered appropriate to accommodate the planned development. It is agreed that an arborist report is not required in this case.

#### **DCP 2004-6 - Rural Development**

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

The proposed secondary dwelling is considered to comply with Council's Energy Smart Homes Code.

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

The proposed secondary dwelling is detached from the principal dwelling. The land is bush fire prone and a bush fire assessment report has been provided as well as the application being referred to the RFS. Conditions recommended in the Bushfire Assessment Report and from the RFS have been incorporated in the NOD.

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

The proposed secondary dwelling is single storey and is not anticipated to impact on the views or privacy of adjoining dwellings. The proposed location of the secondary dwelling onsite is considered to be sufficiently distanced from other dwellings to mitigate any privacy issues. The proposed development is also not considered to be within any valuable view corridors.

**4. A suitable area is available for perpetual onsite disposal of wastes.**

A wastewater report has been submitted with the application that advises that the land is suitable for the installation of a waste water system.

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

The proposed development involves the removal of vegetation to meet the requirements for bushfire protection. The impact of tree removal has been discussed above.

**6. An adequate water supply is provided**

The site is serviced by a town water reticulated water supply. The bush fire assessment report requires the installation of a 20,000 litre water tank for firefighting purposes.



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

The proposed secondary dwelling will utilise the existing access and driveway to Barcoo Close. The internal road will be upgraded to meet the requirements of the Bushfire Assessment Report.

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

The proposed secondary dwelling will utilise the existing access and driveway to Barcoo Close.

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

The current land is not used for agricultural purposes.

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

There are no outbuildings proposed as a part of this development. An existing outbuilding is located on the site and will be at the rear of the proposed secondary dwelling.

<b>PO 6.11-1 PLANNING OUTCOMES FOR RURAL DUAL OCCUPANCIES</b>	
1	Both dwellings achieve the planning outcomes for rural dwellings outlined in section 6.10.
2	Both dwellings are located on the same lot and in close proximity to provide a rural character where dwellings form part of a discrete cluster of buildings in a rural setting.  On-site sewage management systems adequately provide for 2 dwellings.
3	Detached dwellings are designed to complement each other in scale and form
4	(both dwellings do not have to be the same but do need to appear as a group).

While the proposal is for a secondary dwelling, not a dual occupancy, the above planning outcomes still apply. It is considered that the secondary dwelling is generally compliant with the planning outcome, with the proposed secondary dwelling being located in reasonably close proximity to the existing dwelling and the existing shed.

**PART 7 - DESIGN ELEMENTS FOR RESIDENTIAL DEVELOPMENT**

The DCP sets the following Planning Outcomes in regard to Urban Residential Development.

**Residential Design Objectives**

- *To ensure that the development fits into its setting and environmental features of the locality.*
- *To ensure that the appearance of housing is of a high visual quality, enhances the streetscape and complements good quality surrounding development.*
- *To ensure that new development complements places with heritage significance and their settings in a contemporary way.*
- *To develop a sense of place with attractive street frontages.*

- *To encourage visually appealing cohesive streetscapes.*
- *To create a safe and secure environment.*
- *To provide consistent design elements that protect private investment.*

The development is not antipathetic to the relevant objectives of this section of the DCP as detailed below:

### **Neighbourhood Character**

The DCP sets the following Planning Outcomes in regard to Neighbourhood Character:

- *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*
- *Buildings are designed to complement the relevant features and built form that are identified as part of the desired neighbourhood character.*
- *The streetscape is designed to encourage pedestrian access and use.*

The proposed secondary dwelling is not expected to adversely impact on the existing neighbourhood character of the Clifton Grove area.

### **Building Appearance**

The DCP sets the following Planning Outcomes in regard to Building Appearance:

- *The building design, detailing and finishes relate to the desired neighbourhood character, complement the residential scale of the area, and add visual interest to the street.*
- *The frontages of buildings and their entries face the street.*
- *Garages and car parks are sited and designed so that they do not dominate the street frontage.*

The proposed secondary dwelling has been designed with regard to the nature and location of the site. The finished development is set well back from the front of the site, and is not visible from the street.

### **Setbacks**

The DCP sets the following Planning Outcomes in regard to Setbacks:

- *Street setbacks contribute to the desired neighbourhood character, assist with integration of new development and make efficient use of the site.*
- *Street setbacks create an appropriate scale for the street considering all other streetscape components.*

The proposed secondary dwelling is considered sufficiently set back from the street frontage to mitigate any impacts on the neighbourhood character.

**Bulk and Scale Objectives**

- *To allow flexibility in siting buildings and to ensure that the bulk and scale of new development reasonably protects the amenity of neighbouring properties and maintain appropriate neighbourhood character.*
- *To allow adequate daylight, sunlight and ventilation to living areas and private open spaces of new and neighbouring developments.*
- *To encourage the sharing of views, while considering the reasonable development of the site.*

The development is not inconsistent with the above objectives as detailed below.

**Visual Bulk**

The DCP sets the following Planning Outcomes in regard to Visual Bulk.

- *Built form accords with the desired neighbourhood character of the area with:*
  - *Side and rear setbacks progressively increased to reduce bulk and overshadowing.*
  - *Site coverage that retains the relatively low-density landscaped character of residential areas.*
  - *Building form and siting that relates to landform, with minimal land shaping (cut and fill).*
  - *Building height at the street frontage that maintains a comparable scale with the predominant adjacent development form.*
  - *Building to the boundary where appropriate.*

The proposal fits within the bulk and scale envelope and successfully retains the relatively low density nature of the Clifton Grove residential area. The proposal will maintain a site coverage well below the 60% limit, and is of a comparable bulk and scale to the other dwellings in the area.

**Walls and Boundaries**

The DCP sets the following Planning Outcome in regard to Walls and Boundaries:

- *Building to the boundary is undertaken to provide for efficient use of the site taking into account:*
  - *The privacy of neighbouring dwellings and private open space;*
  - *The access to daylight reaching adjoining properties;*
  - *The impact of boundary walls on neighbours.*

Building to the boundary for the secondary dwelling is not necessary in this instance. The setback of the development from the closest boundary is 20.6m from the south-eastern boundary. This setback is consistent with the area.

**Daylight and Sunlight**

The DCP sets the following Planning Outcome in regard to Daylight and Sunlight:

- *Buildings are sited and designed to ensure:*
  - *Daylight to habitable rooms in adjacent dwellings is not significantly reduced.*
  - *Overshadowing of neighbouring secluded open spaces or main living area windows is not significantly increased.*
  - *Consideration of Council's Energy Efficient Code.*

The proposed secondary dwelling is well distanced from adjoining dwellings or private open spaces. The development will not impact on the solar access afforded to the primary dwelling on the site.

**Views**

The DCP sets the following Planning Outcomes in regard to views:

- *Building form and design allow for residents from adjacent properties to share prominent views where possible.*
- *Views including vistas of heritage items or landmarks are not substantially affected by the bulk and scale of the new development.*

The proposed development is not anticipated to impact on any important view corridors or vistas.

**Privacy and Security Objective**

- *To ensure that the siting and design of buildings provide privacy for residents and neighbours in their dwellings and principal private open space.*

The development is not inconsistent with the above objective as detailed below.

**Visual Privacy**

The DCP sets the following Planning Outcome in regard to Visual Privacy

- *Direct overlooking of principal living areas and private open spaces of other dwellings is minimised firstly by:*
  - *Building siting and layout*
  - *Location of windows and balconies**And secondly by:*
  - *Design of windows or use of screening devices and landscaping.*

The proposed development is well distanced from surrounding dwellings and private open space, and is therefore not expected to impact on the visual privacy afforded to the adjoining dwellings or the subject proposal.

**Acoustic Privacy**

The DCP sets out the following Planning Outcome in regard to Acoustic Privacy:

- *Site layout and building design:*
  - *Protect habitable rooms from excessively high levels of external noise*
  - *Minimise the entry of external noise to private open space for dwellings close to major noise sources.*
  - *Minimise transmission of sound through a building to affect other dwellings.*

Existing domestic noise expected to remain.

**Security**

The DCP sets the following Planning Outcomes in regard to Security.

- *The site layout enhances personal safety and minimises the potential for crime, vandalism and fear.*
- *The design of dwellings enables residents to survey streets, communal areas and approaches to dwelling entrances.*

The proposed development is not expected to impact on the existing security arrangements on site.

**Site Access and Circulation Objectives**

- *To provide convenient and safe access and parking that meets the needs of all residents and visitors.*
- *To encourage the integrated design of access and parking facilities to minimise visual and environmental impacts.*

The development is not inconsistent with the above objectives as detailed below.

**Circulation and Design**

The DCP sets the following Planning Outcomes in regard to Circulation and Design:

- *Accessways and parking areas are designed to manage stormwater.*
- *Accessways, driveways and open parking areas are suitably landscaped to enhance amenity while providing security and accessibility to residents and visitors.*
- *The site layout allows people with a disability to travel to and within the site between car parks, buildings and communal open space.*

It is considered that adequate accessways will be provided to the dwelling to ensure connectivity from the existing dwelling and associated accessways/driveway.

**Car Parking**

The DCP sets the following Planning Outcomes in regard to Car Parking:

- *Parking facilities are provided, designed and located to:*
  - *Enable the efficient and convenient use of car spaces and accessways within the site.*
  - *Reduce the visual dominance of car parking areas and accessways.*
- *Car parking is provided with regard to the:*
  - *The number and size of proposed dwellings.*
  - *Requirements of people with limited mobility or disabilities.*

The SEPP states that: *“The number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out”*, therefore no additional parking spaces are required.

Although there are no specific car parking requirements for secondary dwellings as stipulated in the SEPP, it is considered that there is sufficient space onsite for any additional car parking demand.

**Private Open Space**

The DCP sets the following Planning Outcomes in regard to Private Open Space:

- *Private open space is clearly defined for private use.*
- *Private open space areas are of a size, shape and slope to suit the reasonable requirements of residents including some outdoor recreational needs and service functions.*
- *Private open space is:*
  - *Capable of being an extension of the dwelling for outdoor living, entertainment and recreation.*
  - *Accessible from a living area of the dwelling.*
  - *Located to take advantage of outlooks: and to reduce adverse impacts of overshadowing or privacy from adjoining dwellings.*
  - *Orientated to optimise year-round use.*

Useable open space continues to be available for the development and existing dwelling. The development will result in minimal loss of private open space. The proposal is considered consistent.

**Open Space and Landscaping**

The DCP sets the following Planning Outcomes in regard to Open Space and Landscaping:

- *The site layout provides open space and landscaped areas which:*
  - *Contribute to the character of the development by providing buildings in a landscaped setting.*
  - *Provide for a range of uses and activities including stormwater management.*
  - *Allow cost effective management.*

- *The landscape design specifies landscape themes consistent with the desired neighbourhood character: vegetation types and location, paving and lighting provided for access and security*
- *Major existing trees are retained and protected in a viable condition whenever practicable through appropriate siting of buildings, accessways and parking areas*
- *Paving is applied sparingly and integrated in the landscape design.*

The open spaces are considered to contribute to the character of the development. The proposed plans allow for future landscaping possibilities and are considered consistent with the DCP requirements.

### **Stormwater**

The DCP sets the following Planning Outcomes in regard to Stormwater:

- *Onsite drainage systems are designed to consider:*
  - *Downstream capacity and need for onsite retention, detention and re-use*
  - *Scope for on-site infiltration of water.*
  - *Safety and convenience of pedestrians and vehicles.*
  - *Overland flow paths*
- *Provision is made for onsite drainage which does not cause damage or nuisance flows to adjoining properties.*

Stormwater for the proposed development will be disposed of to the rainwater tank, with overflow being carried to existing dam on-site.

### **Erosion and Sedimentation**

The DCP sets the following Planning Outcome in regard to Erosion and Sedimentation:

- *Measures implemented during construction to ensure that the landform is stabilised and erosion is controlled.*

Erosion and sediment control measures will be implemented during construction, as required by condition.

### **DEVELOPMENT CONTRIBUTIONS PLAN 2024**

Development contributions are applicable to the proposed secondary dwelling (one additional two-bedroom dwelling), pursuant to Orange Development Contributions Plan 2024 (Remainder of LGA), as follows:



<b>Open Space and Recreation</b>	One additional 3 or more-bedroom dwelling @ \$2,507.17	\$2,507.17
<b>Community and Cultural</b>	One additional 3 or more-bedroom dwelling @ \$328.85	\$328.85
<b>Roads and Traffic Management</b>	Excluded in rural residential areas.	\$0
<b>Local Area Facilities</b>	One additional 3 or more-bedroom dwelling @ \$60.71	\$60.71
<b>Plan preparation and Administration</b>	One additional 3 or more-bedroom dwelling @ \$272.82	\$272.82
<b>TOTAL:</b>		<b>\$3,169.55</b>

Contributions in relation to roads and cycleways do not apply to land used for rural residential purposes. These figures are indexed quarterly, in accordance with the Plan. Conditions of consent are recommended requiring payment of these development contributions prior to the issuing of a Construction Certificate.

### Section 64 Headworks Charges

Pursuant to the *Local Government Act 1993* and the *Water Management Act 2000*, headworks charges for water supply, sewerage and stormwater also apply to the proposal. The calculations will be based on one 4 bedroom dwelling for water.

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

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

There is no demolition.

#### Fire Safety Considerations (clause 93)

The proposal does not involve a change of building use for an existing building. The proposed development will be a class 1a building and will not contain essential fire safety measures.

#### Buildings to be upgraded (clause 94)

Not applicable

#### BASIX Commitments (clause 97A)

The proposed building is a manufactured dwelling and does not require a BASIX Certificate.

### RELOCATABLE (TRANSPORTABLE) AND FLAT PACK HOMES

#### What is a Relocatable Home?

Under the *Local Government Regulation 2021* 'Relocatable home' means a manufactured home or other moveable dwelling, other than a tent, caravan, campervan or vehicle capable of being registered –

- (a) Whether or not self-contained, and
- (b) That consists of at least 1 major section including an associated structure forming part of the dwelling.

*‘Manufactured home’ is defined in the Local Government Act 1993 as a: ‘self-contained dwelling (that is, a dwelling that includes at least one kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:*

- (a) That comprises one or more major sections , and*
- (b) That is not a registrable vehicle within the meaning of the Road Transport Act 2013.’ This includes any associated structures that form part of the dwelling.*

*‘Moveable dwelling’ is defined in the Local Government Act 1993 as:*

- (a) Any tent, or any caravan or other van or portable device (whether on wheels or not), used for human habitation, or*
- (b) A manufactured home , or*
- (c) Any conveyance, structure or thing of a class or description prescribed by the regulations for the purpose of this definition.*

In the EP&A Act ‘manufactured home’ and associated structure has the same meaning as in the Local Government Act 1993.

*‘Major section’ is defined in the Local Government Regulations 2021 as a single portion of a manufactured home or relocatable home:*

- (a) Containing a total living space (excluding the living space contained in any associated structure). Of at least 20 cubic metres, and*
- (b) That comprises all the major components of that portion of the home, including the chassis or frame, the external and internal walls, the roof and ceilings, the floors, the windows and doors, the internal plumbing and wiring, the tiling, the kitchen, bathroom and laundry fittings (other than stoves, refrigerators, washing machines and other whitegoods) and the built-in cupboards and cabinets.*

*‘Associated structure’ is defined in the Local Government Act 1993 as:*

- (a) A carport, garage, shed, pergola, verandah or other structure designed to enhance the amenity of a moveable dwelling and attached to or integrated with, or located on the same site as, the dwelling concerned, or*
- (b) A separating wall between two moveable dwellings.*

### **Approval needed to install a relocatable home**

#### **Local Government Act 1993**

The installation of a relocatable home or associated structure on land other than in a caravan park or MHE requires approval under section 68 of the *Local Government Act 1993* (as an activity within item 1A in the table to that section), unless an exemption is provided by a local approvals policy of the council.

In applying for a section 68 approval to install a relocatable home or associated structure on land, the applicant needs to submit with their application the plans and specifications referred to in section 79 of the *Local Government Regulations 2021*. The installation (if approved) would have to comply with all the design, construction and installation requirements of Division 4 of Part 3 of that Regulation (sections 133-136 excepted).

In applying the relevant provisions of Division 4 of Part 3 of the *Local Government Regulation 2021* to the installation of a relocatable home or associated structure on land that is not in a caravan park or MHE, a reference in those provisions to a caravan park is taken to refer to the land on which a relocatable home or associated structure is to be installed.

The requirements of Division 4 include that the home or associated structure must:

- Be of a design certified by a practising structural engineer as structurally sound;
- Be installed in accordance with the specifications in the engineer's certificate or such other specifications as are in the approval for the installation on the land; and
- Have compliance plates attached.

These requirements are intended to ensure that the home meets relevant health, safety and amenity standards.

### **Environmental Planning and Assessment Act 1979**

Development consent is required for the use of land in association with the installation of a relocatable home (that land not being a caravan park or MHE) if required by an environmental planning instrument (EPI), for example, a local environment plan. Any EPI definition that refers only to the erection and/or use of some type of building will not include relocatable homes because (as noted earlier) those homes are not within the EP&A Act definition of 'building'.

In determining a development application to install a relocatable home, the consent authority would be required to consider such of the matters referred to in section 4.15(1) of the EP&A Act as are relevant to the subject development.

A person (other than the Crown or a person acting on behalf of the Crown) may in the same development application apply for development consent and approval to install a relocatable home or associated structure.

If installation of a relocatable home does require development consent under an EPI, a construction certificate is not required (and should not be sought) for that installation. This is because a construction certificate is only required for building work or subdivision work, and installation of a relocatable home is not erection of a building for the purposes of the EP&A Act.

Instead of requiring a construction certificate, certification by structural engineer/s and compliance plates are relied upon.

A principal certifying authority is not required to be appointed in connection with the installation of a relocatable home.

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

- **Context and setting** - The subject site is located within a well-established rural residential area. The proposed development is considered unlikely to adversely impact the surrounding area. There is an emerging character of secondary dwellings in Clifton Grove and it is considered that the proposed development will be acceptable in the context of the area.

- **Land use conflict** - It is considered that the proposal is compatible with the area and is not expected to have negative impacts on neighbouring land uses.
- **Access and traffic** - There is ample space for informal parking adjacent to the existing dwelling and the proposed secondary dwelling. This is considered to be sufficient parking to mitigate any issues of car parking related to the secondary dwelling.
- **Utilities** - Electricity and telephone services are available to the site. The scale of the development does not require upgrading of any existing services.
- **Surface water and groundwater** - The site is identified on the groundwater vulnerable land map, however it is expected that the proposed earthworks will not generate any adverse effects.
- **Soils** - The proposed development is expected to involve excavation (footings) required for the construction of the secondary dwelling on the site: however, it is not expected to generate any significant impacts.
- **Safety, security and crime prevention** The proposal does not pose a safety, security or crime prevention risk.
- **Social impact in the locality** - Due to the type and scale of the proposed development, the social impacts of the development are not significant. No adverse impacts are assessed.
- **Economic impact in the locality** - Due to the type and scale of the proposed development, the economic impacts of the development are not significant. No adverse impacts are assessed.
- **Cumulative Impacts** - The proposal is consistent with the Orange Local Environmental Plan 2011 and Council's Development Control Plan 2004. The proposal is surrounded by other residential properties of similar size and features. It is assessed that the cumulative impacts of the proposed development are not such that the application should be refused.

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

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

- Secondary dwellings are permitted in the R5 Large Lot Residential Zone under SEPP (Housing) 2021.
- Essential services are available and suitable. The proposed septic tank is capable of accommodating the new dwelling.
- There is existing access to Barcoo Close.
- The local road network is suitable to support the proposal without upgrade.
- The contamination status of the land is suitable for the proposed development.
- The site is not subject to known technological or natural hazards.
- The site does not have any particular environmental or cultural values.

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

The proposed development is defined as "advertised development" under the provisions of the Community Participation Plan. The application was notified from with no submissions being received.

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

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

**SUMMARY**

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

**COMMENTS**

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

**ATTACHMENTS**

- 1 DRAFT Notice of Determination, D25/20421 [↓](#)
- 2 Site Plans, D25/18447 [↓](#)
- 3 Architectural Plans, D25/18448 [↓](#)

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

<b>Application number</b>	DA 743/2024(1) PAN-494036
<b>Applicant</b>	CROSBY COOK C/- PETER BASHA PLANNING & DEVELOPMENT PO BOX 1827 ORANGE 2800
<b>Description of development</b>	Secondary dwelling (moveable dwelling) and tree removal
<b>Property</b>	5 BARCOO CLOSE CLIFTON GROVE 2800 1/-/DP1282681
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	13/02/25
<b>Date from which the consent operates</b>	13/02/25
<b>Date on which the consent lapses</b>	13/12/30
<b>Building Code of Australia building classification</b>	To be determined PCA

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**

To ensure compliance with relevant statutory requirements.

To ensure the utility services are available to the site and adequate for the development.

To provide adequate public health and safety measures.

To prevent the proposed development having a detrimental effect on adjoining land uses.

To comply with the Environmental Planning and Assessment Act 1979.

The proposal will reasonably satisfy local and state planning controls.

The proposal development will be consistent with the zone objectives and principal development standards.

The proposal development will complement the existing or desired future character of the area.

To ensure a quality urban design for the development which complements the surrounding environment.

**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 Ross Jauncey / 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	<b>Approved plans and supporting documentation</b>			
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.			
	<b>Plan Title / Supporting Document</b>	<b>Reference / Version</b>	<b>Prepared By</b>	<b>Dated</b>
	Site Plan	Ref: JE 0391, Rev: PRE, DRWN: 24036	Taylor made buildings	01/07/2024
	Floor Plan	Ref: JE 0391, Rev: PRE, DRWN: 24036	Taylor made buildings	01/07/2024
	Elevations	Ref: JE 0391, Rev: PRE, DRWN: 24036	Taylor made buildings	01/07/2024
	Electrical Layout	Ref: JE 0391, Rev: PRE, DRWN: 24036	Taylor made buildings	01/07/2024
	Typical Section	Ref: JE 0391, Rev: PRE, DRWN: 24036	Taylor made buildings	01/07/2024
	Bushfire Assessment Report	Job Reference: 24SBC_1079	Statewide Bushfire Consulting	08/11/2024
	Figure 1 - Location	Ref: 22061DA, Sheet 1 of 5	Peter Basha Planning & Development	20.07.2022
	Figure 2 - Existing Boundaries and Site Detail	Ref: 22061DA, Sheet 2 of 5	Peter Basha Planning & Development	20.07.2022

	Figure 2 - Proposed Site Plan	Ref: 22061DA, Sheet 3 of 5	Peter Basha Planning & Development	20.07.2022
	On-Site effluent management study	Ref: R14542e	Envirowest Consulting Pty Ltd	13 July 2022
	Statement of Environmental Effects	Ref: DA1PJB24012	Peter Basha Planning & Development	November 2024
	<p>In the event of any inconsistency between the approved plans and documents, the approved <b>&lt;Plans / Documents&gt;</b> prevail.</p> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p><b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>			
2	<b>Development and subdivision works requirements</b>			
	<p>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 Certificate, unless stated otherwise.</p> <p><b>Condition reason:</b> To comply with Council's Development and Subdivision Code.</p>			
3	<b>National Construction Code</b>			
	<p>All building work must be carried out in accordance with the provisions of the National Construction Code.</p> <p><b>Condition reason:</b> To ensure compliance with relevant statutory requirements.</p>			
4	<b>New South Wales Rural Fire Service</b>			
	<p>The proposed development is required to comply with the requirements from Rural Fire Service as outlined in correspondence to Council dated on 28th January 2025 pursuant to clause 4.14 at the Environmental Planning and Assessment Act 1979.</p> <p><b>Condition reason:</b> To ensure compliance with relevant statutory requirements</p>			

## Building Work

### Before issue of a construction certificate

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

### Before building work commences

5	<b>Erosion and sediment control - implementation</b>  Erosion and sediment controls shall be implemented onsite in accordance with Managing Urban Stormwater: Soils and Construction - Volume 1 (4 <sup>th</sup> edition).  <b>Condition reason:</b> To prevent site erosion and sediment loss, and protect waterways from sediment pollution.
6	<b>Onsite toilet</b>  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.  <b>Condition reason:</b> To provide adequate public health and safety measures.
7	<b>Contribution - water and sewer headworks charges</b>  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.  This Certificate of Compliance is to be submitted to Council prior to the issue of a Section 68 Local Government Approval for the installation of relocatable home.  <b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
8	<b>Section 68 Local Government Act 1993 Approvals</b>  An application under section 68 of the Local Government Act 1993 shall be made to, and issued by, Orange City Council, for the following approvals:  a. Installation of a relocatable home. b. Water and sewer service.

	c. Stormwater
	<b>Condition reason:</b> A requirement under the provisions of the Local Government Act 1993
9	<b>Section 138 Roads Act 1993 Approval</b>
	Where works are proposed within the road reserve, the developer must obtain approval from Council (as the Roads Authority and/or as required under Section 138 of the Roads Act 1993) before any works are undertaken. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere with a structure, or any other activities as defined within the Roads Act 1993.
	The following details must be submitted to Council in order to obtain the Section 138 approval:
	A copy of approved design plans related to the development and proposed works to be undertaken. Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS1742.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan. Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.
	Advice: Where works are required within a Classified Road, the Developer must obtain the concurrence and / or the approval of the Roads and Maritime Services for engineering design plans, Traffic Control Plans and approvals under Section 138 of the Roads Act 1993.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
10	<b>Water and soil erosion control plan to be submitted</b>
	A water and soil 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.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code
11	<b>Installation Requirements</b>
	All sewer and water plumbing and drainage work shall be carried out by a licensed plumber. A Permit in accordance with the NSW Code of Practice Plumbing and

	Drainage is to be obtained from Council (as the local Water Supply Authority) for the work to be carried out prior to the issue of a section 68 Local Government approval is required for the installation of a relocatable dwelling.	
	<b>Condition reason:</b> To comply with the Legislation	
1	<b>Contributions - payment of development contribution</b>	
2	The payment of \$3,169.55 must be made to Council in accordance with Section 7.11 of the Act and Orange Development Contributions Plan 2024 remainder of LGA toward the provision of the following public facilities:	
	Open Space and Recreation	One additional 3 or more-bedroom dwelling @ \$2,507.17
	Community and Cultural	One additional 3 or more-bedroom dwelling @ \$328.85
	Roads and Traffic Management Facilities	Excluded in rural residential areas.
	Local Area Facilities	One additional 3 or more-bedroom dwelling @ \$60.71
	Plan Preparation and Administration	One additional 3 or more-bedroom dwelling @ \$60.71
	<b>TOTAL:</b>	<b>\$3,169.55</b>
	The contribution will be indexed quarterly in accordance with Orange Development Contributions Plan 2024 Remainder of LGA, which may be inspected at the Orange Civic Centre, Byng Street, Orange. The payment shall be made to Orange City Council prior to the issue of a section 68 approval for the installation of a relocatable dwelling.	
	<b>Condition reason:</b> The development will require the provision of or increase the demand for public amenities and services.	

**During building work**

13	<b>Adjustments to utility services</b>
	Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
14	<b>Hours of work - construction</b>

	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.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
15	<b>RFS Construction standard</b>
	The new (modular) dwelling must comply with Sections 3 and 7 (BAL 29) of the Australian Standard AS3959- 2018 Construction of buildings in bush fire-prone areas or the relevant BAL 29 requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas 2021, and Section 7.5 of Planning for Bush Fire Protection 2019.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.

**Before issue of an occupation certificate**

16	<b>Section 138 Roads Act Final</b>
	The applicant is to ensure that the works associated with the Section 138 approval for this development be completed and inspected by Council prior to the occupation certificate.
	<b>Condition reason:</b> Reason: To ensure that the development is completed as per this consent and the approved plans
17	<b>Section 68 Local Government Act Final</b>
	The applicant is to ensure that the works associated with the Section 68 approval for this development be completed and inspected by Council prior to the issue of any Occupation Certificate.
	<b>Condition reason:</b> Reason: To ensure that the development is completed as per this consent and the approved plans
18	<b>Bushfire Control</b>
	In accordance with the accompanying report from Statewide Bushfire Consulting Reference No 24SBC_1079 that was lodged with the development application the applicant shall ensure that the required bush fire control measures are installed in accordance with "Planning for Bush Fire Protection", AS3959-2009 Construction of buildings in bushfire-prone areas and other relevant Council policies prior to the issue of the Occupation Certificate. A requirement contained within the report may only be varied provided that it is not inconsistent with the RFS requirement specified in the RFS correspondence to Council dated 28 <sup>th</sup> January 2025.



	<b>Condition reason:</b> Reason: To minimize the potential for damage to Councils assets.
19	<p><b>RFS condition - Property Access</b></p> <p>The Property access road must comply with the following requirements of Table 5.3b of Planning for Bush Fire Protection 2019:</p> <ul style="list-style-type: none"> <li>● property access roads are two-wheel drive, all-weather roads;</li> <li>● the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes), bridges and causeways are to clearly indicate load rating;</li> <li>● there is suitable access for a Category 1 fire appliance to within 4m of the static water supply;</li> <li>● a minimum 4m carriageway width;</li> <li>● a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;</li> <li>● property access must provide a suitable turning area in accordance with Appendix 3 of Planning for Bush Fire Protection 2019;</li> <li>● curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;</li> <li>● the minimum distance between inner and outer curves is 6m;</li> <li>● the cross fall is not more than 10 degrees; and</li> <li>● maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.</li> </ul> <p><b>Condition reason:</b> Intent of measures: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.</p>
20	<p><b>Water and Utility Services - RFS conditions</b></p> <p>The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019:</p> <ul style="list-style-type: none"> <li>● A 20,000 litre static water supply must be provided on site;</li> </ul>

- a connection for firefighting purposes is located within the IPA or non-hazard side, and away from the structure;
- 65mm Storz outlet with a ball valve is fitted to the outlet;
- ball valve and pipes are adequate for water flow and are metal;
- supply pipes from tank to ball valve have the same bore size to ensure flow volume;
- underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank;
- a hardened ground surface for truck access is supplied within 4m;
- above-ground tanks are manufactured from concrete or metal;
- raised tanks have their stands constructed from non combustible materials; -
- unobstructed access be provided at all times;
- underground tanks are clearly marked;
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;
- all exposed water pipes external to the building are metal, including any fittings;
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack;
- any hose and reel for firefighting be connected to the pump and be 19mm internal diameter, and fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
  - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
  - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.

	<ul style="list-style-type: none"> <li>● reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used; 3</li> <li>● all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;</li> <li>● connections to and from gas cylinders are metal;</li> <li>● polymer sheathed flexible gas supply lines are not used; and -</li> <li>● above-ground gas service pipes are metal, including and up to any outlets.</li> </ul> <p><b>Condition reason:</b> To provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.</p>
--	---

### Occupation and ongoing use

21	<p><b>Construction standard for Existing Dwelling</b></p> <p>The existing dwelling shall be upgraded to improve ember protection. This can be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.</p> <p><b>Condition reason:</b> In accordance with Bushfire Planning Protection</p>
22	<p><b>Landscaping - RFS Conditions</b></p> <p>Landscaping within the inner protection area (IPA) must comply with Appendix 4 of Planning for Bush Fire Protection 2019. In this regard, the following principles are to be incorporated:</p> <ul style="list-style-type: none"> <li>● A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;</li> <li>● Planting is limited in the immediate vicinity of the building;</li> <li>● Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);</li> <li>● Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA) at maturity and trees do not touch or overhang buildings;</li> </ul>

	<ul style="list-style-type: none"> <li>● Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;</li> <li>● Use smooth bark species of trees species which generally do not spread fire up the bark into the crown;</li> <li>● Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);</li> <li>● Avoid climbing species to walls and pergolas;</li> <li>● Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;</li> <li>● Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and</li> <li>● Low flammability vegetation species are used.</li> </ul> <p><b>Condition reason:</b> In accordance with Bushfire Planning Protection</p>
23	<p><b>General Advice - Consent Authority to Note</b></p> <p>The minimum Asset Protection Zone requirement of 20 metres was recommended by the NSW RFS based on the predominate vegetation assessment of Tall Heath (Scrub).</p> <p><b>Condition reason:</b> In accordance with the Bushfire Planning Protection.</p>
24	<p><b>RFS condition - Property Access</b></p> <p>The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019:</p> <ul style="list-style-type: none"> <li>● A 20,000 litre static water supply must be provided on site;</li> <li>● a connection for firefighting purposes is located within the IPA or non-hazard side, and away from the structure;</li> <li>● 65mm Storz outlet with a ball valve is fitted to the outlet;</li> <li>● ball valve and pipes are adequate for water flow and are metal;</li> <li>● supply pipes from tank to ball valve have the same bore size to ensure flow volume;</li> <li>● underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank;</li> </ul>

- a hardened ground surface for truck access is supplied within 4m;
- above-ground tanks are manufactured from concrete or metal;
- raised tanks have their stands constructed from non combustible materials; -
- unobstructed access be provided at all times;
- underground tanks are clearly marked;
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;
- all exposed water pipes external to the building are metal, including any fittings;
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack;
- any hose and reel for firefighting be connected to the pump and be 19mm internal diameter, and fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
  - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
  - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used; 3
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal;
- polymer sheathed flexible gas supply lines are not used; and -
- above-ground gas service pipes are metal, including and up to any outlets.

	<p><b>Condition reason:</b> To provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.</p>
25	<p><b>New South Wales Rural Fire Service - Recommended Conditions</b></p> <p>1. From the commencement of building works and in perpetuity, an inner protection area (IPA) must be provided in the following areas in accordance with the following requirements of Appendix 4 of Planning for Bush Fire Protection 2019:</p> <p>New dwelling</p> <ul style="list-style-type: none"> <li>● 20 metres on the northeastern, northwestern and southwestern elevations;</li> <li>● 17 metres on the southeastern elevation/s.</li> </ul> <p>Existing dwelling</p> <ul style="list-style-type: none"> <li>● Any part of the subject property within 20 metres of the existing dwelling;</li> </ul> <p>The inner protection area (IPA) must be managed in perpetuity in the following manner under Appendix 4 of Planning for Bush Fire Protection 2019:</p> <ul style="list-style-type: none"> <li>● Tree canopy cover should be less than 15% at maturity;</li> <li>● Trees at maturity should not touch or overhang the building;</li> <li>● Lower limbs should be removed up to a height of 2 m above the ground;</li> <li>● Tree canopies should be separated by 2 to 5 m;</li> <li>● Preference should be given to smooth-barked and evergreen trees;</li> <li>● Large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings;</li> <li>● Shrubs should not be located under trees;</li> <li>● Shrubs should not form more than 10% ground cover;</li> <li>● Clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;</li> </ul>

	● Grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and
	● Leaves and vegetation debris should be removed regularly
	<b>Condition reason:</b> In accordance with Bushfire Planning Protection

#### 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.

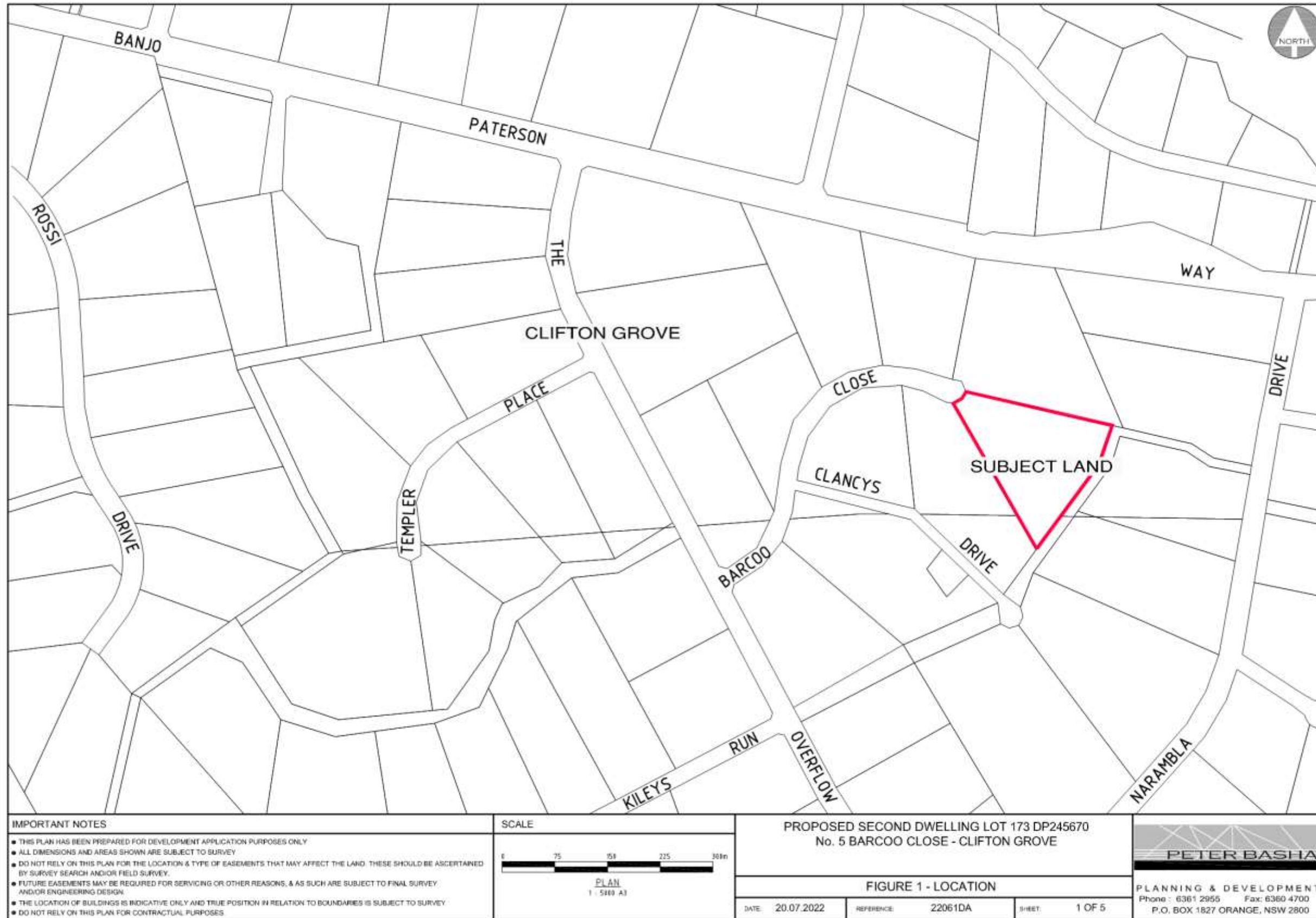
**Stormwater drainage system** means all works and facilities relating to:

- 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.

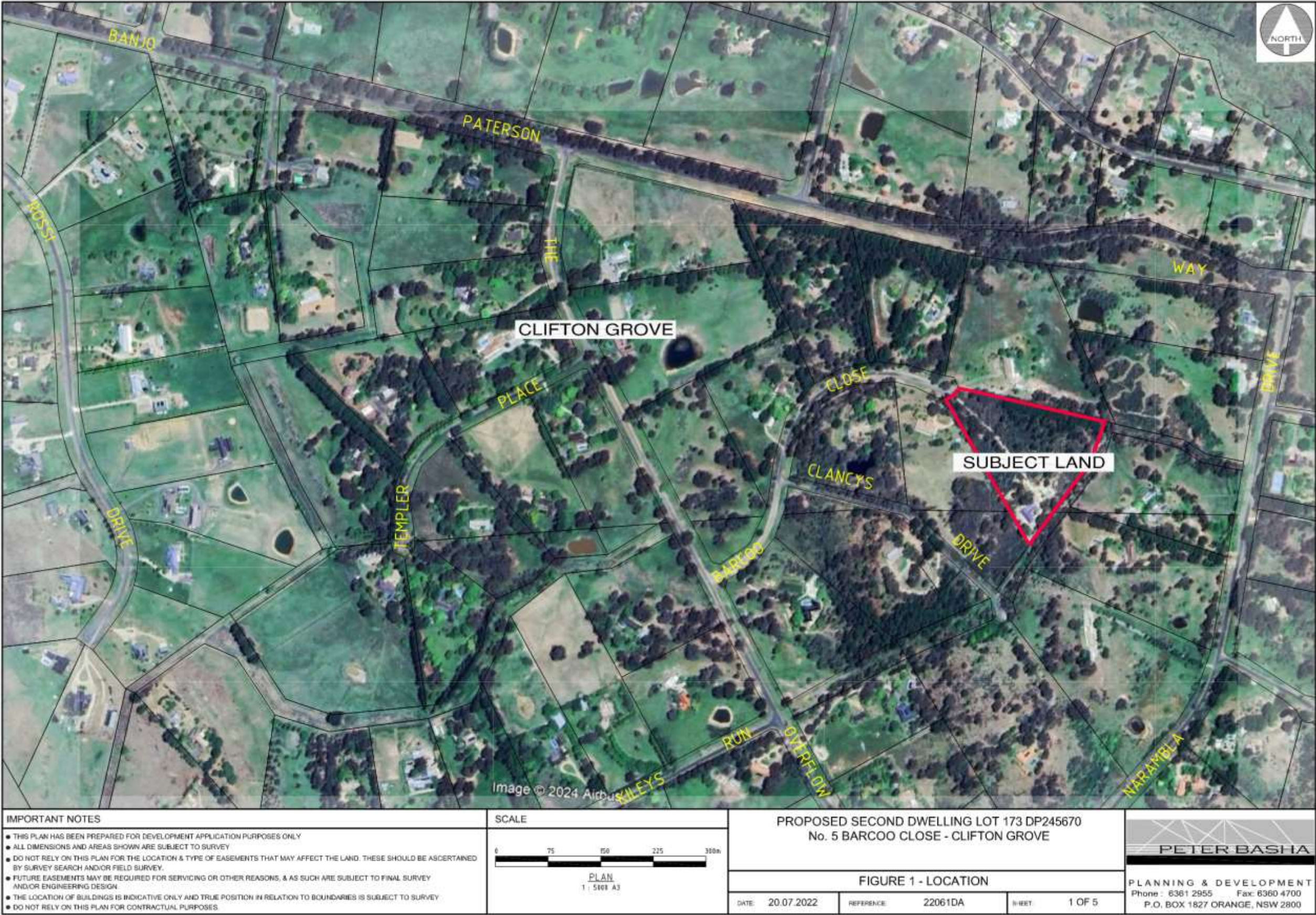
**Sydney district or regional planning panel** means Western Regional Planning Panel.







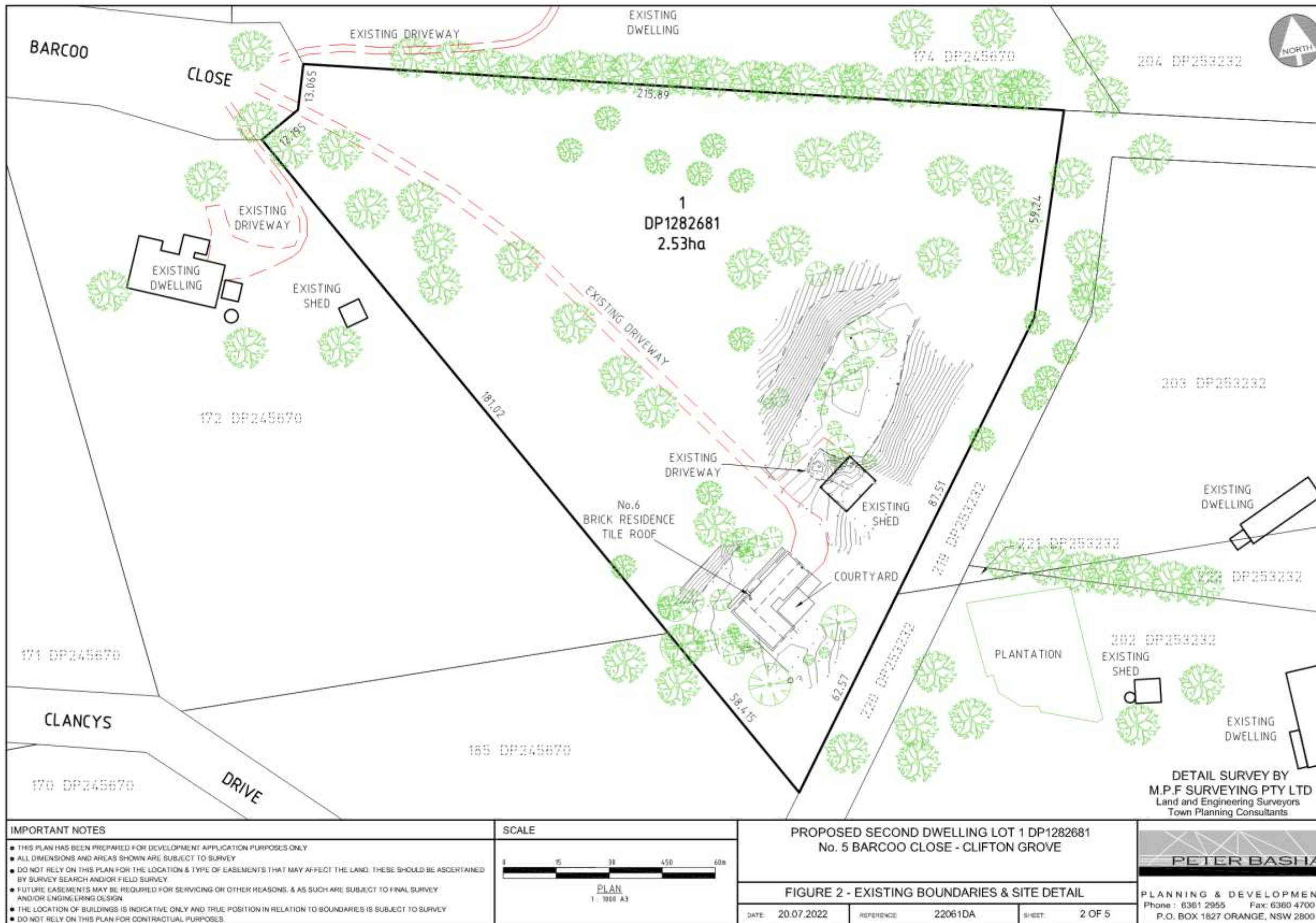












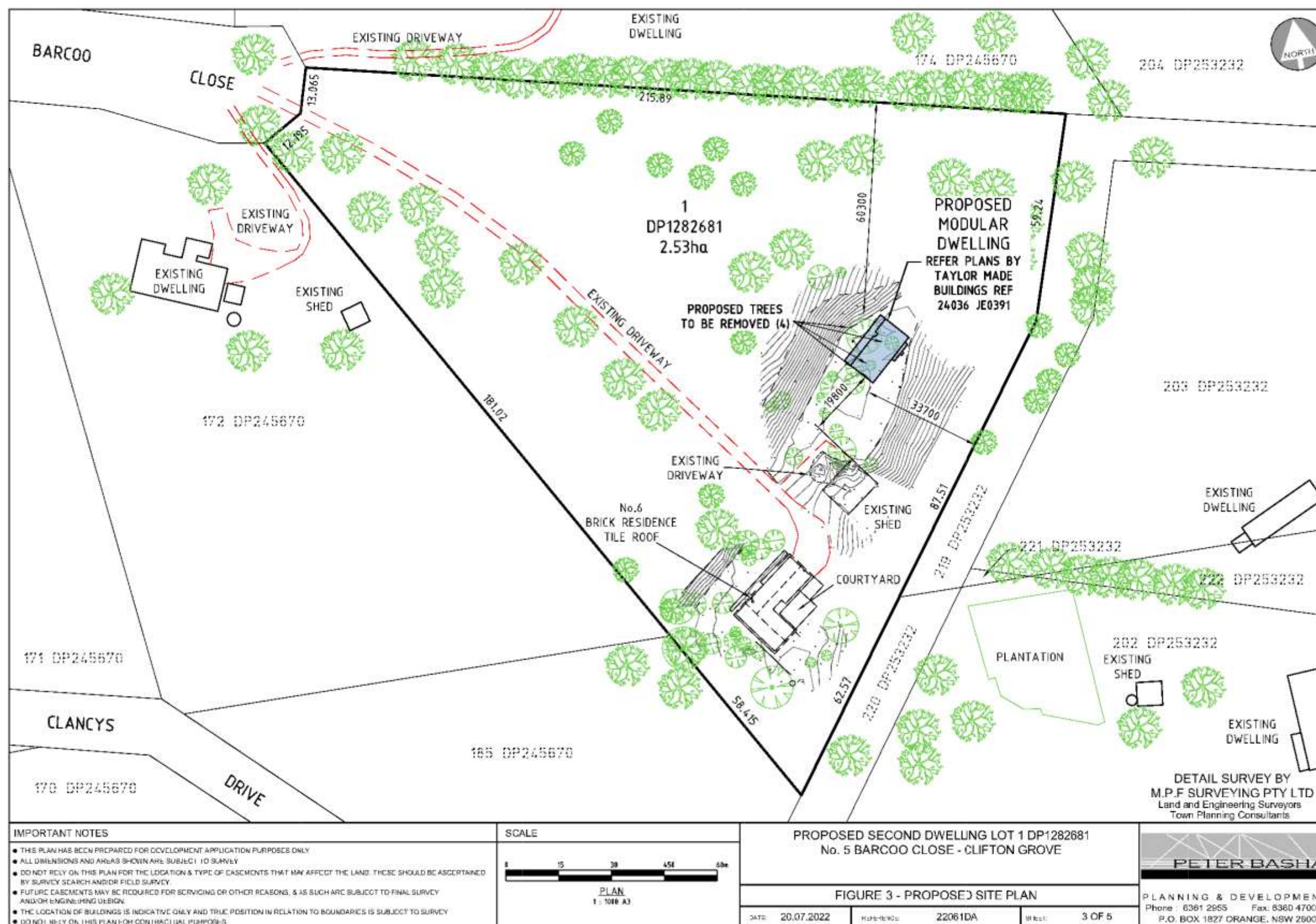






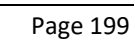


















CLIENT

ADDRESS

5 BARCOO CLOSE  
CLIFTON GROVE NSW 2800

HOUSE TYPE

THORNDALE 8 MODIFIED

JOB No./REFERENCE

24036 JE 0391

DATE

1st July 2024

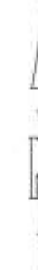
Taylor Made Buildings Pty Ltd

2R Gilgandra Road, North Dubbo NSW 2830  
Tel - 02 6882 6066 Fax - 02 6882 0155 Freecall - 1800 628 040  
Email - admin@taylormadebuildings.com.au

PLAN SCHEDULE

Drawing	Scale
Block Plan	-
Site Plan	1:1200
Floor Plan	1:100
Elevations	1:100
Electrical Layout	1:100
Typical Section	1:50





ALL DIMENSIONS RELEVANT TO SETTING OUT AND OFF-SITE WORK SHALL BE VERIFIED BY THE CONTRACTOR BEFORE CONSTRUCTION AND/OR FABRICATION IS COMMENCED. DRAWINGS SHALL NOT BE SCALED UNLESS SPECIFICALLY NOTED OTHERWISE

WORKMANSHIP AND MATERIALS ARE TO BE IN ACCORDANCE WITH THE REQUIREMENTS OF THE RELEVANT CURRENT SAA CODES (INCLUDING ALL AMENDMENTS), AND LOCAL & STATUTORY AUTHORITIES, EXCEPT WHERE VARIED BY THE CONTRACT DOCUMENTS

ALL FRAMING, TIE-DOWN DETAILS & BRACING TO COMPLY WITH THE FRAME MAKER'S DETAILS & SPECIFICATION & AS 3623 - Domestic Metal Framing Code

HOLD DOWN DETAILS ARE NOT SUITABLE FOR LOOSE SAND  
OR SOFT TO FIRM CLAY  
REFER TO STRUCTURAL ENGINEER IF NECESSARY

SAFETY REQUIREMENTS SHALL BE IN ACCORDANCE WITH THE  
RELEVANT HEALTH AND SAFETY ACT AS ADMINISTERED BY THE  
DIVISION OF ACCIDENT PREVENTION

ALL DIMENSIONS ARE IN MILLIMETRES UNLESS NOTED OTHERWISE

ALL PLANS REMAIN THE PROPERTY OF  
Taylor Made Buildings Pty Ltd

[illegible]

2R Gulgandra Road, North Dubbo NSW 2830 Tel 02 6882  
6066 Fax 02 6882 0155 Freecall 1800 628 040 Email -  
admin@taylor-made-buildings.com.au

THORNDALE 8

MODIFIED

5 BARCOO CLOSE  
CLIFTON GROVE NSW 2800

TITLE	SITE PLAN
-------	-----------

DATE	01.07.24	DRWN	24036
REV	PRE	REF	JE 0391

SITE PLAN  
SCALE 1:1200

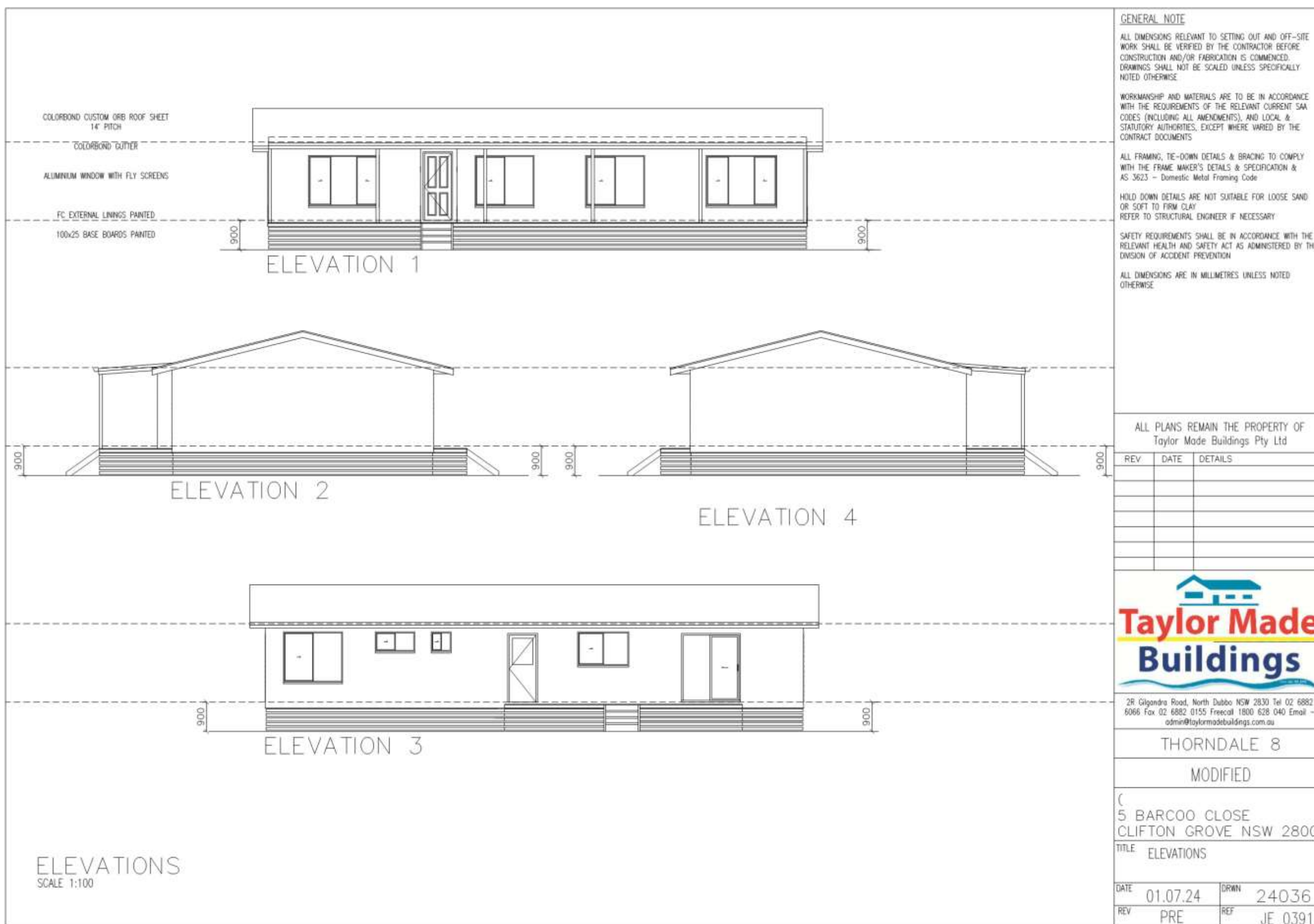
NOTE - BOUNDARY DIMENSIONS  
PROVIDED BY OTHERS AND ARE TO  
BE CONFIRMED PRIOR TO  
CONSTRUCTION

**NOTE:-**  
SEWER TO RUN TO SEPTIC TANK OR EXISTING SEWAGE SYSTEM  
ALL IN ACCORDANCE WITH PCA Section C & LOCAL AUTHORITY  
REQUIREMENTS.

STORMWATER TO RUN TO RW TANK AND/OR THE STREET  
ALL IN ACCORDANCE WITH PCA Section D & LOCAL AUTHORITY  
REQUIREMENTS

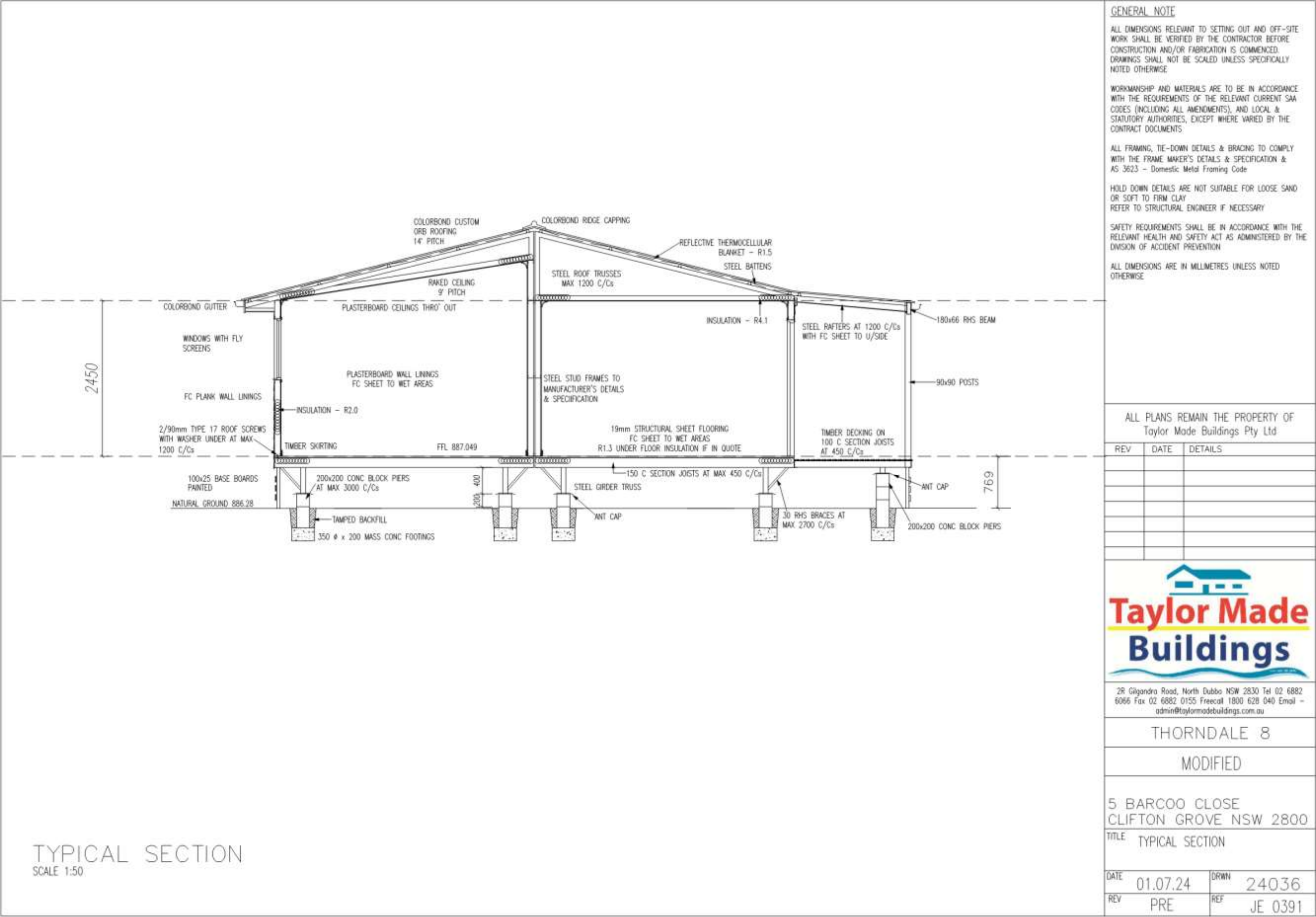














**2.5 DEVELOPMENT APPLICATION DA 676/2024(1) - 248-266 SUMMER STREET**

RECORD NUMBER: 2025/114

AUTHOR: Ross Jauncey, Town Planner

**EXECUTIVE SUMMARY**

Application lodged	22 October 2024
Applicant/s	Canobolas Property Pty Limited
Owner/s	Reg Prop SP 31035, 82891 (Hotel Canobolas)
Land description	248-264 Summer Street, Orange
Proposed land use	Pub (alterations and additions) and Signage
Value of proposed development	\$4,338,859.00

Council's consent is sought for proposed pub (alterations and additions) and Signage at the Canobolas Hotel, located at 248-264 Summer Street, Orange.

The proposed works largely consist of remedial measures to the façades and roof, as well as the provision of new signage and external lighting. The Hotel is a Local Heritage Item located in the Dalton Heritage Conservation Area. Council's Heritage Advisor has raised no major objections to the proposal, subject to specific conditions on certain elements to ensure an appropriate heritage outcome.

In accordance with Council's Community Participation Plan 2023 and Schedule 1 of the Environmental Planning and Assessment Act 1979, this application was advertised as required. No submissions or representations were received by the close of the exhibition period.

The proposal has a capital investment value exceeding \$2.5 million (\$4.3m) and, therefore, has been tabled to Council 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).

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 limit, 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**

This DA relates to alterations and additions and also signage at the Canobolas Hotel, located at 248-264 Summer Street, Orange. The proposed works largely consist of remedial measures to the external façades and roof of the building, as well as the provision of new signage and external lighting.

Given the heritage significance of the hotel, this report has a particular focus on heritage considerations. Appropriate conditions of consent have been incorporated to ensure that the development mitigates any potential negative impacts.

Staff assessment has concluded that the development will not have any adverse social, economic or environmental effects. Council's Heritage Advisor has raised no major objections to the proposal, subject to specific conditions that will protect the heritage significance of the building.

The proposal has a capital investment value of \$4.3 million, and therefore has been tabled to Council for determination of the PDC, pursuant to Clause 4.10 Delegations of Orange City Council's Declaration of Planning and Development Assessment Procedures and Protocols (Vers 5, 2019).

It is recommended that Council supports the proposed development in accordance with the requirements of the attached recommended 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 676/2024(1) for *Pub (alterations and additions) and Signage* at 248-264 Summer Street, Orange pursuant to the conditions of consent in the attached Notice of Approval**

**FURTHER CONSIDERATIONS**

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

**SUPPORTING INFORMATION****THE PROPOSAL**

The applicant provides that the Hotel Canobolas has experienced significant deterioration over recent decades, and the proposed following works aim to restore the external facades and enhance the building's visual appeal, aligning it with its historical prominence as a key asset in the Central Business District (CBD):

**Street Level Works**

The street facade will undergo improvements, including new tiles, refurbishment or replacement of frames and doors, painting of frames, and the addition of decals to windows. The awning will be repaired, reconditioned, and repainted, with new roof sheeting, gutters, and finials installed above the main entry. Modifications to the hotel entry will create step-free access. A new booster assembly will be installed within an existing opening on the Summer Street frontage, requiring modifications to the frame and fire-resistant construction. The corner window at Summer Street and Lords Place will be converted to a doorway with timber framing, painted to match the building. A shopfront window on Lords Place will be replaced with a perforated skin featuring a historical print for ventilation. The rear carriageway entry will be upgraded with new gates and surface treatments. Battens will be fixed along the southern wall to visually unify the laneway and conceal pipes and services.

**Upper-Level Works**

Timber frame sash windows on the primary and secondary facades will be repaired or replaced to improve thermal and acoustic performance. On verandah and central levels, existing frames will be replaced with slender metal frames recessed within the brickwork. Planters on the verandah at Level 2 will be reconditioned, and new planting will be introduced. Brickwork will be cleaned and re-pointed as required, while painted render will undergo remedial work and repainting. Air conditioning units, conduits, and old signage will be removed.

**Roof Level Works**

Roof planes facing the street and neighbouring properties will be re-roofed with terracotta tiles, while those facing the courtyard will use corrugated metal sheeting. Remedial work to framing and the application of thermal and moisture treatments will also be undertaken. Capping's, flashings, gutters, and downpipes will be repaired or replaced. Flagpoles and other roof features will be refurbished and repainted.



**External Lighting**

The external lighting upgrades include new under-awning globe fittings, wall lights to replicate original placements, facade lighting to highlight architectural features, and festoon lighting for the laneway. Disused laneway openings will be fitted with backlit glass to enhance safety and ambiance.

**Signage Works**

Proposed signage includes internally illuminated under-awning signs near retail and hotel entry points, transom signs above public bar entries, edge-lit poster frames, and embossed lettering on awning fascia. Art deco-inspired illuminated projecting signs will be installed at key corners, with additional signage for artwork and information at specific locations.

These works are designed to maintain the building's heritage character while improving its functionality and visual appeal.

**Activity/Operation**

The applicant indicates that the typical activities and hours of operation will remain unchanged under the proposal.

The proposal is described as not seeking to increase the scale or intensity of operations at Hotel Canobolas. Instead, it aims to enhance the building's appearance and its contribution to the streetscape and public domain.

**BACKGROUND INFORMATION**

This Development Application is one of two concurrent applications that seek approval for alterations and additions to the Hotel Canobolas at 248 Summer Street, Orange.

The works described in each DA are components of a broader vision to improve the overall Hotel operation as well as enhance and maintain the building and its public facing elements.

This DA primarily relates to the external renovation of the Hotel including repairs and enhancements to the building facade, windows and roof. It also addresses changes to street frontages, signage and external lighting.

The parallel DA primarily relates to internal alterations and additions to the Hotel along with some consequential external works associated with operations and servicing. This DA will be reported to committee at a later date under separate cover.

**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 provides:

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

The proposed development will have nil impact on terrestrial and aquatic environments. This Section has no effect for the proposed development.

### Section 4.15 Evaluation

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

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

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

#### Clause 1.6 - Consent Authority

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 <b>E2 Commercial Centre</b>
Lot Size Map:	No Minimum Lot Size
Heritage Map:	<b>Heritage Item (I142) and within Dalton Central Conservation Area</b>
Height of Buildings Map:	<b>Building height limit 16m (Hotel Building) 20m (rear carpark)</b>
Floor Space Ratio Map:	<b>Floor space limit 2:1 (Hotel Building) 2:25 (rear carpark)</b>
Terrestrial Biodiversity Map:	No biodiversity sensitivity on the site
Groundwater Vulnerability Map:	<b>Groundwater vulnerable</b>
Drinking Water Catchment Map:	Not within the drinking water catchment
Watercourse Map:	<b>Blackmans Swamp Creek</b>
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:	<b>Within a flood planning area</b>

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.*

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

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

The subject site is located within the E2 Commercial Centre zone under the Orange Local Environmental Plan 2011 (OLEP 2011). The proposed development involves alterations and additions to the existing premises, which is classified as a “pub” in accordance with the Dictionary to the OLEP 2011. A pub is defined as:

*Licensed premises under the Liquor Act 2007, the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.*

The existing use of the site as a pub, established circa 1939, is retained. The proposed alterations and additions are permissible within the development parameters applicable to the zone.

**Clause 2.3** of LEP 2011 references the Land Use Table and Objectives for each zone in LEP 2011. These objectives for land zoned E2 Commercial Centre are as follows:

**Objectives of zone E2 Commercial Centre**

- *To strengthen the role of the commercial centre as the centre of business, retail, community and cultural activity.*
- *To encourage investment in commercial development that generates employment opportunities and economic growth.*
- *To encourage development that has a high level of accessibility and amenity, particularly for pedestrians.*
- *To enable residential development only if it is consistent with the Council’s strategic planning for residential development in the area.*

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To promote development that contributes to the role of the Orange CBD as the primary retail and business centre in the City and region.*

The proposal is consistent with the objectives of the B3 zone:

- the development will maintain the existing function and operation of the site. The existing land use serves the needs of the local and wider community.
- the proposal may generate additional employment opportunities in an accessible location, both during and post-construction.
- the building is centrally located in the CBD and accessible via public transport, walking and cycling.
- ongoing upgrading of the heritage listed pub will contribute to the role of the CBD as the primary retail and business centre for the region.

#### **Clause 2.7 - Demolition Requires Development Consent**

The proposal involves demolition works, and the applicant is seeking the consent of Council. The demolition works proposed will have no significant impact on adjoining lands, streetscape or public realm. Conditions may be imposed in respect of hours of operation, dust suppression and the need to investigate for, and appropriately manage the presence of, any materials containing asbestos.

#### **Part 3 - Exempt and Complying Development**

The application is not exempt or complying development.

#### **Part 4 - Principal Development Standards**

##### **Clause 4.3 - Height of Buildings**

The Height of Buildings Map prescribes a maximum height of 16m and 20m for the subject land. Works associated with the proposed development will be wholly located within the existing building envelope and will not alter the height of the building. The proposal is not contrary to Clause 4.3.

##### **Clause 4.4 - Floor Space Ratio**

Clause 4.4 limits the Floor Space Ratio (FSR) for land as specified on the Floor Space Ratio Map, with Clause 4.5 providing the rules for calculating the site area and FSR. The subject land is identified on the map with an FSR of 2:1 and 2.25:1.

The proposed development does not involve any increase to the building footprint or Gross Floor Area (GFA), and the existing FSR remains unchanged.

**Part 5 - Miscellaneous Provisions****5.10 - Heritage Conservation**

The subject land is located in the Central Orange Heritage Conservation Area. The Hotel Canobolas is listed as an item of Local heritage significance in OLEP 2011 (Item 142). Further, there are a number of heritage items within proximity of the subject land. Clause 5.10 is applicable and states in part:

*(4) Effect of Proposed Development on Heritage Significance*

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

The proposed works, at a high level, comprises remedial works to the building façades and roof, and the provision of new signage and external lighting. The scope of works is as follows:

Roof Level Works

- Remedial work to roof tiles, framing, eaves, gutters and downpipes, including repair and replacement with like-for like materials.
- Replacement of secondary roof planes (facing interior courtyard) with metal sheeting.

First and Second Floor Facades

- Remedial work and cleaning to existing brickwork and repainting of rendered areas.
- Removal of extant AC units, compressors and conduits from all elevations.
- Remedial work and repainting of flagpoles at Summer Street and Lords Place.
- Remedial work to windows on all elevations in accordance with a Schedule of Conservation Works.
- Replacement of timber-framed casement windows with metal-framed windows on inside of brickwork at Summer Street Level 1 verandah.
- Removal of aluminium-framed windows and reinstatement of planter boxes at Summer Street Level 2 verandah.

Ground Floor Facades

- Re-tiling to match original façade tile, and repainting of ground floor facades at Summer Street and Lords Place.
- Remedial work to awning including repairs to pressed metal soffit, fascia, roofing and drainage.
- Repainting of existing shopfront window frames.
- Addition of new booster cupboard at Summer Street façade.
- Addition of new corner door at corner of Summer Street and Lords Place facades.
- Addition of new permeable ventilation window with heritage interpretation graphic at Lords Place façade.
- Provision of new lights under awning, onto facades and along rear laneway.

**New Signage and Interpretation**

- Provision of new under-awning signage along footpath.
- Provision of new signage including building identity, entry marking, information, graphic and interpretive signs.

**Impact Assessment**

Overall, Council staff generally endorses the works as they aim to conserve and enhance the heritage character of Hotel Canobolas. Specific concerns and conditions apply to certain elements of the proposal, as detailed below.

**Roof Level Works**

The inward-facing roof slopes, featuring Marseilles tiles, are an integral component of the original roofing structure and thus contribute significantly to the building's heritage value. Council staff consider it inappropriate to replace these original tiles with metal sheeting, as doing so would erode the building's heritage significance. Furthermore, the repeated loss of original material can have a cumulative negative effect on the overall heritage integrity of the site. Although the applicant has provided several arguments to justify this change, these considerations are not deemed sufficiently compelling to warrant deviation from original materials. As such, any necessary roof replacement should maintain the existing configuration and utilise materials that closely match the historic fabric to preserve the structure's heritage character. This requirement has been conditioned.

**First and Second Floor Façade Works**

The proposed works will need to be undertaken in accordance with a Schedule of Conservation Works prepared by a suitably qualified person. This schedule must be approved by Council and implemented in accordance with the conditions of consent for the Development Application.

**Ground Floor Façade Works**

Council requires that tile layout plans, tile samples, and proposed colours be submitted for approval prior to any works to ensure compatibility with the building's heritage character. Signage and fascia details must be reinstated according to historical photographs or documentation. The existing downlights are considered visually intrusive and should be removed. Historically appropriate soffit lighting will achieve a softer, more compatible evening illumination. Instead of proposed spherical fixtures, an "old school house" style is recommended. Additionally, the booster cupboard on the Summer Street frontage must include a glass door or frontage to maintain visibility. The material, colour, and detailing of any battens on the laneway-facing façade are also subject to review and approval prior to construction. External chimneys must be retained, and a reduction in external services is encouraged to limit visual clutter. Currently, conduits and services are painted pale pink, which contrasts sharply with the brickwork; a darker, more sympathetic colour is required. These requirements have been incorporated as conditions.



**New Signage and Interpretation**

Poster panels on the façade must not include their own lighting and are to rely solely on soffit lighting. Similarly, any sign elements on the fascia are not to be illuminated directly but may incorporate a discreet linear LED strip as part of the fascia's detailed design. Corner and laneway signs require the submission of detailed designs for Council approval prior to installation, with all existing external signs removed and the underlying fabric repaired where necessary. Sign E, in particular, should take the form of individual letters mounted on a minimal frame (with no solid panel), ensuring the original drum feature remains dominant and the lettering secondary. Original detailing is to be reinstated for key fascia signage, using a consistent font that aligns with historical documentation. Proposed sign S7 should similarly consist of individual letters on a minimal frame, with no solid panel, for a cohesive, heritage-appropriate aesthetic. These requirements have been conditioned

**5.21 - Flood Planning**

This clause applies to land identified on the Flood Planning Map as a Flood Planning Area and requires that, before any consent is issued, Council must be satisfied that the proposal:

- (a) is compatible with the flood function and behaviour on the land, and*
- (b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

The subject land is flood affected in the 2019 flood maps. Given the built-form is not significantly changing in footprint and the proposal relates largely to external cosmetic alterations there will be little impact on the flood function and behaviour of the land.

**5.22 - Special Flood Considerations**

This clause applies to sensitive and hazardous development identified between the flood planning level and the level of the probable maximum flood, but does not apply to land at or below the flood planning level and requires that, before any consent is issued, Council must be satisfied of the following:

- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development -*
  - (a) will affect the safe occupation and efficient evacuation of people in the event of a flood, and*
  - (b) incorporates appropriate measures to manage risk to life in the event of a flood, and*
  - (c) will adversely affect the environment in the event of a flood.*

***Sensitive and hazardous development means development for the following purposes:***

(t) *tourist and visitor accommodation.*

The site's use as a pub is not classified as non-sensitive or non-hazardous. However, because it includes a component of tourist and visitor accommodation, this clause must be taken into account.

The proposed development will not affect flood behaviour and will not increase the risk to human life for the following reasons:

- The proposed development involves only external alterations to existing premises.
- There is no change to flood levels.
- The proposal does not involve an increase in the building footprint.

As such the present circumstances will be maintained in terms of existing floor levels and construction. Based on the above, it is submitted that the requirements of Clause 5.22(3) would be addressed as follows:

- Clause 5.22(3)(a) - The development allows for the safe occupation and efficient evacuation of people, noting that the development does not increase the number of habitable rooms on ground level.
- Clause 5.22(3)(b) - The development **should** have a flood evacuation plan prepared and displayed in selected public areas that outlines appropriate measures to manage risk to life in the event of a flood.
- Clause 5.22(3)(c) - The development is not likely to affect the environment in the event of a flood largely because it does not involve a change or addition to existing building footprint and does not significantly alter existing site levels.

## **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**

### **7.3 - 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.*

In consideration of this clause, the proposed works will occur entirely within the existing building/roofed structures and thus no change in relation to the stormwater management of the site.

**7.5 - Riparian Land and Watercourses**

This clause seeks to preserve both water quality and riparian ecological health. The clause applies to land identified as a “Sensitive Waterway” on the Watercourse Map. The subject land contains such a waterway and therefore Council must consider whether or not the proposal:

- (a) *is likely to have any adverse impact on the following:*
  - (i) *the water quality and flows within a watercourse*
  - (ii) *aquatic and riparian species, habitats and ecosystems of the watercourse*
  - (iii) *the stability of the bed and banks of the watercourse*
  - (iv) *the free passage of fish and other aquatic organisms within or along the watercourse*
  - (v) *any future rehabilitation of the watercourse and its riparian areas, and*
- (b) *is likely to increase water extraction from the watercourse.*

Additionally, consent may not be granted until 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.*

The site contains a mapped watercourse (Blackmans Swamp Creek) under the Water Management (General) Regulation 2018 hydroline spatial data. However, the section of the system that extends through the site has been extensively modified and is no longer in its natural state. The creek has been enclosed and now forms a concrete-lined channel (known as the CBD Trunk Drainage Line). Consequently, the site no longer possesses the attributes of waterfront land.

Furthermore, the potential impact on the watercourse at this location is considered negligible because the watercourse is piped beneath a highly urbanised surface, and the development does not involve any works that would disturb it or have an adverse impact on the matters described under Clause 7.5(a).

**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.*

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

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

Clause 7.11 applies and states:

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

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

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

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

The following SEPPs applicable to the proposed development:

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

#### **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.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by Subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
  - (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital -land:*
    - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

In consideration of this clause, the proposal involves cosmetic alterations of the existing and longstanding use of land. There is no physical evidence or site history to suggest the land has been used for a contaminating activity in the past. The site is considered suitable in its current state for the proposed development. Preliminary investigation as a precursor to site contamination is considered unnecessary in support of the proposal.

## **State Environmental Planning Policy (Industry And Employment) 2021**

### **Chapter 3 - Advertising and Signage**

#### **3.1 Aims, Objectives etc**

- (1) *This Chapter aims:*
  - (a) *to ensure that signage (including advertising):*
    - (i) *is compatible with the desired amenity and visual character of an area, and*
    - (ii) *provides effective communication in suitable locations, and*
    - (iii) *is of high-quality design and finish, and*
  - (b) *to regulate signage (but not content) under Part 4 of the Act, and*
  - (c) *to provide time-limited consents for the display of certain advertisements, and*

- (d) to regulate the display of advertisements in transport corridors, and*
  - (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*
- (2) This Chapter does not regulate the content of signage and does not require consent for a change in the content of signage.*

### **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 signage character of the Orange CBD is formed by a diverse range of sign types including:

- Awning fascia signage
- Under awning sign boxes (mostly internally illuminated)
- Flush wall signs above awning
- Hamper signs below awning
- Window signs/shopfront signage below awning
- Occasional projecting wall signs above awning (mostly internally illuminated)
- Corporate and non-corporate branding.

The proposal involves a number of different styles of signage including what is best described as poster boards on both the Summer Street and Lords Place frontages of the development. Whilst specific detail of content for the poster boards is not known at this time these signs are understood to be used for future advertising. Advertising signage is not permitted within the Heritage Conservation Area. A condition of consent has been included requiring the submission of amended plans that delete this signage. There are no other aspects of the proposed signage scheme for the development that would be inconsistent with local signage character.

#### **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 proposal involves the establishment of signage within a heritage conservation area. It is recognised that the conservation area may be sensitive to the potential visual and lighting impacts of the signage. The potential impacts are considered in this assessment and via conditions of consent.



**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?*

There are no significant views or vistas around the subject land that are likely to be adversely affected by the proposed signage. Other than the proposed Poster Signage the form and location of the signage will not interrupt the skyline; obscure views; or compromise viewing rights of other advertisers in the precinct.

**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?*

Other than the proposed poster signage, the scale, proportion and form of the signage is appropriate for the streetscape and setting. Condition of consent has been included in the Notice that requires removal of the poster signage boards from both the Summer Street and Lords Place ground floor frontages.

In terms of adding visual interest to the streetscape, the remaining signage is relatively restrained; remains in scale with existing development; and complements the commercial land use pattern. The signage is restrained and simplified so as to not contribute to visual clutter. The signage is not intended to screen unsightliness. The signage does not project above buildings, structures, or tree canopies in the locality. The proposed signage does not require on-going vegetation management.

**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 considered satisfactory in terms of the site and building due to the following:

- The signage relates reasonably to the scale of the existing building.
- The proposed signage does not obliterate any of the architectural features or mar views into or from the site.

- There is nothing remarkable about the sign to suggest that it shows innovation or imagination. It is simple signage that is intended to identify the hotel and mark the entrances for convenience.
- Generally, the signage clearly identifies the site and premises at a level which is not considered unreasonable or unexpected for a prominent hotel building. It is important for the signage to be easily read and understood. Signage will be limited to building identification and or business identification information only.

#### **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, lighting devices or logos 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 signage will be internally illuminated and only to a subdued level that enables it to be read. The illumination will be set to not cause glare impacts upon nearby residential development or the adjacent roadway.

#### **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 signage is affixed to the building and would not obstruct movement, obscure sightlines, or reduce the safety for any public road, pedestrians or cyclists.

#### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

The subject land has frontage to Summer Street (Mitchell Highway) which is zoned SP2 Classified Road under Orange LEP 2011. As such, State Environmental Planning Policy (Transport and Infrastructure) 2021 (the SEPP) requires consideration. Clause 2.119 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 - Chp 2 Infrastructure applies where a property has a frontage to a classified road.

Whilst Section 2.119 of the SEPP is technically applicable, there are no implications for the proposed development because:

- The proposed works are ancillary to the well-established pub/hotel and would not generate additional traffic beyond that which is reasonably expected for the current land use.
- There is no alteration to the existing access arrangements that serve the site.
- There are no aspects relating to the proposal that would trigger the thresholds provided in Schedule 3 of the SEPP. As such, it is not regarded as traffic-generating development does therefore did not require referral to TfNSW.

**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**

**Development Control Plan 2004**

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

- Part 2 - Natural Resource Management.
- Part 3 - General Considerations.
- Part 4 - Special Environmental Considerations.
- Part 8 – Development in Business Zones.
- Part 15 – Car Parking.
- Infill Guidelines.

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

The relevant matters in Parts 8 and 15 are addressed below.

**Part 8 - Development in Business Zones**

- *Buildings have a high level of urban design to contribute to the regional status of the CBD with attention given to façade features, external materials, colour and advertising.*

The proposed works will be contained within the existing building envelope. The development will not alter the bulk, massing or profile of the building and how it relates within the CBD setting.

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

The proposal is consistent with the principles of the CBD Strategic Action Plan. The design and detailing of the various elements are generally acceptable, except for the issues identified in the report, which are addressed through conditions. The development will maintain active frontages along Summer Street and Lords Place and ensure pedestrian amenity both on and adjacent to the site.

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

Fire safety measures will be provided. Further assessment will be undertaken at Construction Certificate stage.

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

The subject pub is a longstanding and complementary land-use in this precinct. Ongoing upgrading of the landmark premises will reinforce the role of the CBD as a regional centre for commerce and services.

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

Car parking is addressed below under 'Part 15 - Car Parking'.

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

Signage has been assessed under State Environmental Planning Policy (Industry And Employment) 2021. Conditions have been recommended to limit some of the signage. This has been addressed above elsewhere in this report.

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

The existing zero boundary setback Summer Street and Lords Place will be retained. There is no opportunity for landscaping at the site frontage.

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

The proposal will not alter existing arrangements for service vehicle un/loading.

**Part 13 - Heritage**

- *Development relates to the significant features of heritage buildings on or near the site, as reflected in inventory sheets.*
- *Development conforms with recognised conservation principles.*
- *Conservation Management Plans are prepared for development having a significant effect on heritage site.*

As outlined above, the proposed development will not adversely impact the significance of the subject heritage item, the Central Orange Heritage Conservation Area, or nearby heritage items, subject to the implementation of specified conditions.

**Part 15 - Car Parking**

- *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.*

The proposed works are typically limited to external faced of the building. This proposal does not generate a net increase in parking demand, and therefore the parking provision remains unaffected.

**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 93 & 94)**

The proposal does not involve a change of building use for an existing building. A BCA report has been provided, and conditions have been placed on the notice of determination requiring the building to be fire upgraded in accordance with the BCA and the report prepared by Blackett Maguire + Goldsmith dated 27 June 2024.

**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)**

This report presents a comprehensive assessment of the potential impacts of the proposed development, with a particular focus on heritage considerations. Appropriate conditions of consent have been incorporated to ensure that the development proceeds acceptably and mitigates any potential negative impacts. Based on this assessment, it is reasonably concluded that the development will not have any adverse social, economic, or environmental effects.

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

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

- the proposal is permitted on the subject land zoning
- the proposal is ancillary to the longstanding commercial use of the site, and appropriate within the CBD setting
- the site is a listed heritage item, and the proposal involves sympathetic development
- all utility services are available
- the subject land is flood liable. The proposed works will be contained within the existing building envelope and footprint and will have nil impact on localised flooding regimes
- the local road network has sufficient capacity to accommodate any additional traffic volumes
- existing access and parking arrangements are suitable
- there is no known contamination on the land.

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

The proposed development was advertised and notified in accordance with the Community Participation Plan. No submissions have been received in relation to this application.

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

There are no aspects of the proposal that will be contrary to the public interest.

**SUMMARY**

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

**COMMENTS**

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

**ATTACHMENTS**

- 1 Draft Notice of Determination, D25/13507 [↓](#)
- 2 Plans, D25/11997 [↓](#)





**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

<b>Application number</b>	DA 676/2024(1) PAN-478253
<b>Applicant</b>	CANOBOLAS PROPERTY PTY LTD C/- PETER BASHA PLANNING & DEVELOPMENT PO BOX 1827 ORANGE NSW 2800
<b>Description of development</b>	Pub (alterations and additions) and Signage
<b>Property</b>	7 248-264 SUMMER STREET ORANGE 2800 CP/-/SP31035 1/-/SP31035 7/-/SP31035 2/-/SP31035 3/-/SP31035 8/-/SP31035 9/-/SP31035 10/-/SP31035 11/-/SP31035 12/-/SP31035 18/-/SP82891
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	14/01/25
<b>Date from which the</b>	14/01/25

**consent operates**

---

<b>Date on which the consent lapses</b>	14/01/30
---	----------

---

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. To ensure the utility services are available to the site and adequate for the development.
3. To provide adequate public health and safety measures.
4. To prevent the proposed development having a detrimental effect on adjoining land uses.
5. To comply with the Environmental Planning and Assessment Act 1979.
6. The proposal will reasonably satisfy local and state planning controls.
7. The proposal development will be consistent with the zone objectives and principal development standards.
8. The proposal development will complement the existing or desired future character of the area.
9. To ensure a quality urban design for the development which complements the surrounding environment.

**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 Ross Jauncey / Town Planner

DRAFT

### 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

Erection of signs

1.

This section applies to a development consent for development involving building work, subdivision work or demolition work.

2.

It is a condition of the development consent that a sign must be erected in a prominent position on a 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 certifier for the work, and

b.

showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and

c.

stating that unauthorised entry to the work site is prohibited.

3.

The sign must be—

a.

maintained while the building work, subdivision work or demolition work is being carried out, and

b.

removed when the work has been completed.

4.

This section does not apply in relation to—

a.

building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or

b.

Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

2

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.

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Cover Page	DA3.01	RDO Architects	June 2004
Site Context	Job No: 113HCO, DA3.02 Rev: A	RDO Architects	21.06.24
Site Images	Job No: 113HCO, DA3.03 Rev: A	RDO Architects	21.06.24
Site Vision	Job No: 113HCO, DA3.04 Rev: A	RDO Architects	21.06.24
Scope of Works	Job No: 113HCO,	RDO Architects	21.06.24

		DA3.20 Rev: A		
	Floor Plan – Ground Level	Job No: 113HCO, DA3.21 Rev: A	RDO Architects	21.06.24
	Floor Plan – Level 1	Job No: 113HCO, DA3.22 Rev: A	RDO Architects	21.06.24
	Floor Plan – Level 2	Job No: 113HCO, DA3.23 Rev: A	RDO Architects	21.06.24
	Floor Plan – Level 3 (Roof)	Job No: 113HCO, DA3.24 Rev: A	RDO Architects	21.06.24
	North Elevation (Summer Street)	Job No: 113HCO, DA3.31 Rev: A	RDO Architects	21.06.24
	West Elevation - (Lords Place)	Job No: 113HCO, DA3.32 Rev: A	RDO Architects	21.06.24
	South Elevation – (Laneway)	Job No: 113HCO, DA3.33 Rev: A	RDO Architects	21.06.24
	East Elevation	Job No: 113HCO, DA3.34 Rev: A	RDO Architects	21.06.24
	Key Materials	Job No: 113HCO, DA3.41 Rev: A	RDO Architects	21.06.24
	BCA Upgrade Assessment	Not Referenced	Blacket Maguire + Goldsmith	27 June 2024
	Heritage Impact Statement	Project Code: P0052029, Report No: 04 Rev: Final	Urbis	24 June 2024
	Detail Survey Plan	Ref. No: 23-0649, Sheet Ref: 23-0649G T01 (01) – SHT - 1	Colliers	26.03.2024
	Detail Survey Plan	Ref. No: 23-0649, Sheet Ref: 23-0649G T01 (01) – SHT - 2	Colliers	26.03.2024
	Detail Survey Plan	Ref. No: 23-0649, Sheet Ref: 23-0649G T01 (01) – SHT - 3	Colliers	26.03.2024
	Detail Survey Plan	Ref. No: 23-0649, Sheet Ref: 23-0649G T01 (01) – SHT - 4	Colliers	26.03.2024
	Detail Survey Plan	Ref. No: 23-0649, Sheet Ref: 23-0649G T01 (01) – SHT - 5	Colliers	26.03.2024
	Detail Survey Plan	Ref. No: 23-0649, Sheet Ref: 23-0649G	Colliers	26.03.2024

		T01 (01) – SHT - 6		
	Detail Survey Plan	Ref. No: 23-0649, Sheet Ref: 23-0649G T01 (01) – SHT - 7	Colliers	26.03.2024
	Statement of Environmental Effects	Ref: DA3PJB22090	Peter Basha Planning & Development	July 2024
	In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.			
	<b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.			
3	<b>Compliance with Disability Discrimination Act 1992</b>			
	This approval does not protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the <i>Disability Discrimination Act 1992</i> , and the applicant/owner is therefore advised to investigate their liability under this Act.			
	<b>Note:</b> <i>Disability (Access to Premises - Buildings) Standards 2010 -As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.</i>			
	<b>Condition reason:</b> To inform of relevant access requirements for persons with a disability.			
4	<b>National Construction Code</b>			
	All building work must be carried out in accordance with the provisions of the National Construction Code.			
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.			

**Before issue of a construction certificate**

5	<b>Engagement of Heritage Consultant</b>			
	A suitably qualified heritage consultant should be engaged to provide ongoing advice throughout the demolition, contract documentation and construction stages of the project. The heritage consultant should be involved in the resolution of any heritage matters and should undertake regular inspections of the site during building works. The Heritage Consultant shall engage with Council's Heritage advisor in relation to suggested changes.			
	<b>Condition reason:</b> To ensure the building works are carried out sympathetically with heritage guidelines.			
6	<b>Final colour and Materials Palette</b>			
	The final colours and materials palette should be provided to the nominated heritage consultant for approval and to the satisfaction of the Manager Development Assessment.			
	<b>Condition reason:</b> To ensure the building works are carried out sympathetically with heritage			

	guidelines.
7	<p><b>Schedule of Conservation</b></p> <p>Prior to the issue of a Construction Certificate, a Schedule of Conservation Works for the exteriors and roof should be prepared for the Hotel Canobolas by a suitably qualified and experienced heritage consultant.</p> <p><b>Condition reason:</b> To ensure the building works are carried out sympathetically with heritage guidelines.</p>
8	<p><b>Heritage Interpretation Strategy</b></p> <p>A Heritage Interpretation Strategy should be prepared for the site by a suitably qualified heritage consultant to guide the proposed interpretive elements. The Heritage Interpretation Strategy should identify significant themes and narratives for interpretation focusing on the historical use of the Hotel Canobolas, as well as identifying indicative content for the proposed interpretation panels and other opportunities for interpretation at the site. Interpretation should be developed throughout detailed design and construction phases in conjunction with the project architect and other specialists as required.</p> <p><b>Condition reason:</b> To ensure the building works are carried out sympathetically with heritage guidelines.</p>
9	<p><b>Photographic Archival Recording.</b></p> <p>Prior to the issue of a Construction Certificate, a Photographic Archival Recording should be undertaken of the subject site in accordance with the Heritage NSW Guidelines for 'Photographic Recording of Heritage Items Using Film or Digital Capture'.</p> <p><b>Condition reason:</b></p>
10	<p><b>Access for People with Disabilities</b></p> <p>Access for people with disabilities shall be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the <i>Disability Discrimination Act 1992</i>. Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance.</p> <p><b>Note:</b> <i>Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.</i></p> <p><b>Condition reason:</b> To inform of relevant access requirements for persons with a disability</p>
11	<p><b>Section 68 Local Government Act 1993 Approvals</b></p> <p>Prior to the issue of a Construction Certificate, an application under section 68 of the <i>Local Government Act 1993</i> shall be made to, and issued by, Orange City Council, for the following approvals:</p> <ul style="list-style-type: none"> <li>a) Water supply</li> <li>b) Sewerage</li> </ul>



	c) Stormwater
	<b>Condition reason:</b> A requirement under the provisions of the Local Government Act 1993.
12	<b>Hoardings and Other Temporary Barriers on Council Property</b>  Council areas are required to have appropriate measures put in place to protect the public. A separate application under the <i>Roads Act 1993</i> along with details and appropriate fees be submitted to Council prior to the commencement of work. The application shall detail all hoardings, temporary barriers and various other arrangements proposed to be installed to protect the general public from potential disruption and/or injury and also how Council assets will be protected throughout the course of construction activities.  <b>Condition reason:</b> To maintain public safety.
13	<b>Waste Management Plan</b>  A Waste Management Plan shall be completed and submitted to Council for approval, prior to the issue of the Construction Certificate for the development. Requirements of the approved Waste Management Plan shall be complied with during site preparation and throughout demolition and construction. Waste management and its storage must not pose a threat to public health or the environment.  <b>Condition reason:</b> To minimise the amount of waste going to landfill.
14	<b>Water and soil erosion control plan to be submitted</b>  A water and soil 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.  <b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
15	<b>Amendments to Approved Plans</b>  Prior to the issue of a Construction Certificate, the architectural plans shall be amended in accordance with the following: <ul style="list-style-type: none"> <li>a) All advertising poster panels (Signs S3 and S7) on the façade shall be removed.</li> <li>b) The design for Sign S6 (Corner Sign) and Sign S8 (Laneway Sign) shall depict a series of individual letters mounted on a minimal frame without a solid panel, ensuring that the lettering is the primary visual element while the drum feature remains the dominant architectural form.</li> <li>c) Fascia lettering on Signs S4 and S5 shall be reinstated with original detailing using a consistent, historically accurate font and shall not include any lighting.</li> <li>d) The tile design and configuration shall conform to that approved by Council's Heritage Advisor.</li> <li>e) All external chimneys shall be retained.</li> <li>f) All externally visible conduits, cabling, and service elements in the laneway shall be finished in a dark, sympathetic colour that corresponds with the brickwork of the building.</li> <li>g) The battens along the laneway façade shall reflect the material, colour, and detailing approved by Council's Heritage Advisor.</li> <li>h) Alternative lighting, as approved by Council's Heritage Advisor, shall replace the pin globe fittings at the main entry.</li> <li>i) The soffit shall be illuminated by installing surface-mounted house lights in an "old school"</li> </ul>

	<p>style.</p> <p>j) Booster cupboard is to utilise a glass frontage/door to the street elevation.</p> <p>k) Roof replacement of the inward-facing slopes shall be undertaken using like-for-like materials that closely replicate the original Marseilles tile configuration. Metal sheeting or any dissimilar material is not permitted.</p>
	<b>Condition reason:</b> Reason: To confirm and clarify the terms of Council's approval

#### Before building work commences

16	<p><b>Traffic Control Plan</b></p> <p>A minimum of seven (7) days prior to the commencement of work, the developer shall submit to Council a Certified Traffic Management Plan for each activity of work in accordance with the current version of Roads and Maritime Services (RMS) document "Traffic Control at Work Sites". This plan must include each construction activity that involves works on or adjacent to public land. If the work site alters, further plans are to be submitted to Council. A copy of the plan (s) is to be kept on site at all times.</p> <p><b>Condition reason:</b> To ensure public safety.</p>
17	<p><b>Appoint PC</b></p> <p>Appoint Principal Certifier. The person having the benefit of the development consent and a construction certificate shall:</p> <p>a) Appoint a Principal Certifier and notify Council of the appointment (if Council is not appointed) and,</p> <p>b) Notify Council of their intension to commence the erection of the building (at least two (2) day's notice is required)</p> <p>The Principal Certifier shall determine when inspections and compliance certificates are required.</p> <p><b>Condition reason:</b> To ensure compliance with relevant statutory requirements.</p>
18	<p><b>Construction certificate required</b></p> <p>A construction certificate must be obtained from Council or an accredited certifier at least two (2) days prior to any building or ancillary work commencing. Where the construction certificate is obtained from an accredited certifier, the determination and all appropriate documents must be notified to Council within seven (7) days of the date of determination.</p> <p><b>Condition reason:</b> Required by Section 6.6 (formerly 81A) of the Environmental Planning and Assessment Act, 1979 and Part 8, Division 2 of the Environmental Planning and Assessment Regulation, 2000.</p>

#### During building work

19	<p><b>Adjustments to utility services</b></p> <p>Any adjustments to existing utility services that are made necessary by this development</p>
----	---

	proceeding are to be at the full cost of the developer.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
20	<b>Protection of Public Places</b>  The adjoining or adjacent public area shall not be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances. If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected prior to the commencement of any work subject to approval of a Section 138 Roads Act 1993 approval (including submission of a Traffic Management Plan). Where a hoarding is required, an application for hoarding shall also be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.  <b>Condition reason:</b> Public safety.
21	<b>Paint Spillage, Work over Footpaths</b>  The public footpath shall be protected from paint spillages while work is being carried out.  <b>Condition reason:</b> To protect public places.
22	<b>Hours of work - construction</b>  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.  <b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
23	<b>Protection of the Environment Operations Act - material delivery</b>  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.  <b>Condition reason:</b> To protect waterways from pollution by stockpiled or placed construction materials.

**Before issue of an occupation certificate**

24	<b>Removal of A/C unites</b>  Prior to the issue of an Occupation Certificate all air conditioning units are to be removed from the façade of building with no new air conditioning units being located in a position where they are visible from a public place.  <b>Condition reason:</b> To ensure the building works are carried out sympathetically with heritage
----	--

	guidelines.
25	<p><b>Section 138 Roads Act Final</b></p> <p>The applicant is to ensure that the works associated with the Section 138 approval for this development be completed and inspected by Council prior to the issue of any Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure that the development is completed as per this consent and the approved plans.</p>
26	<p><b>Section 68 Local Government Act Final</b></p> <p>The applicant is to ensure that the works associated with the Section 68 approval for this development be completed and inspected by Council prior to the issue of any Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure that the development is completed as per this consent and the approved plans.</p>
27	<p><b>Council Property</b></p> <p>The applicant shall rectify any damage to Council property (including footpaths, road furniture, landscaping/trees, drainage, water, sewer, kerb and gutter, road pavement and the like) as a result of the development, prior to the issue of any Occupation Certificate at no cost to Council.</p> <p><b>Condition reason:</b> To ensure that Councils assets are protected</p>
28	<p><b>No use or occupation without occupation certificate</b></p> <p>No person is to use or occupy the building or alteration that is the subject of this approval with the prior issuing of an occupation certificate.</p> <p><b>Condition reason:</b> To ensure compliance with the Building Code of Australia.</p>
29	<p><b>Completion of Conservation Works</b></p> <p>Conservation works, as outlined in the approved schedule, shall be completed to the satisfaction of the Council's Manager, Development Assessment, prior to the issuance of any final Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure the building works are carried out sympathetically with heritage guidelines</p>
30	<p><b>Heritage Interpretation Strategy Implementation</b></p> <p>Heritage interpretation shall be implemented in accordance with the approved strategy and to the satisfaction of the Council's Manager of Development Assessment prior to the issuance of any final Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure the building works are carried out sympathetically with heritage guidelines</p>

### Occupation and ongoing use

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:

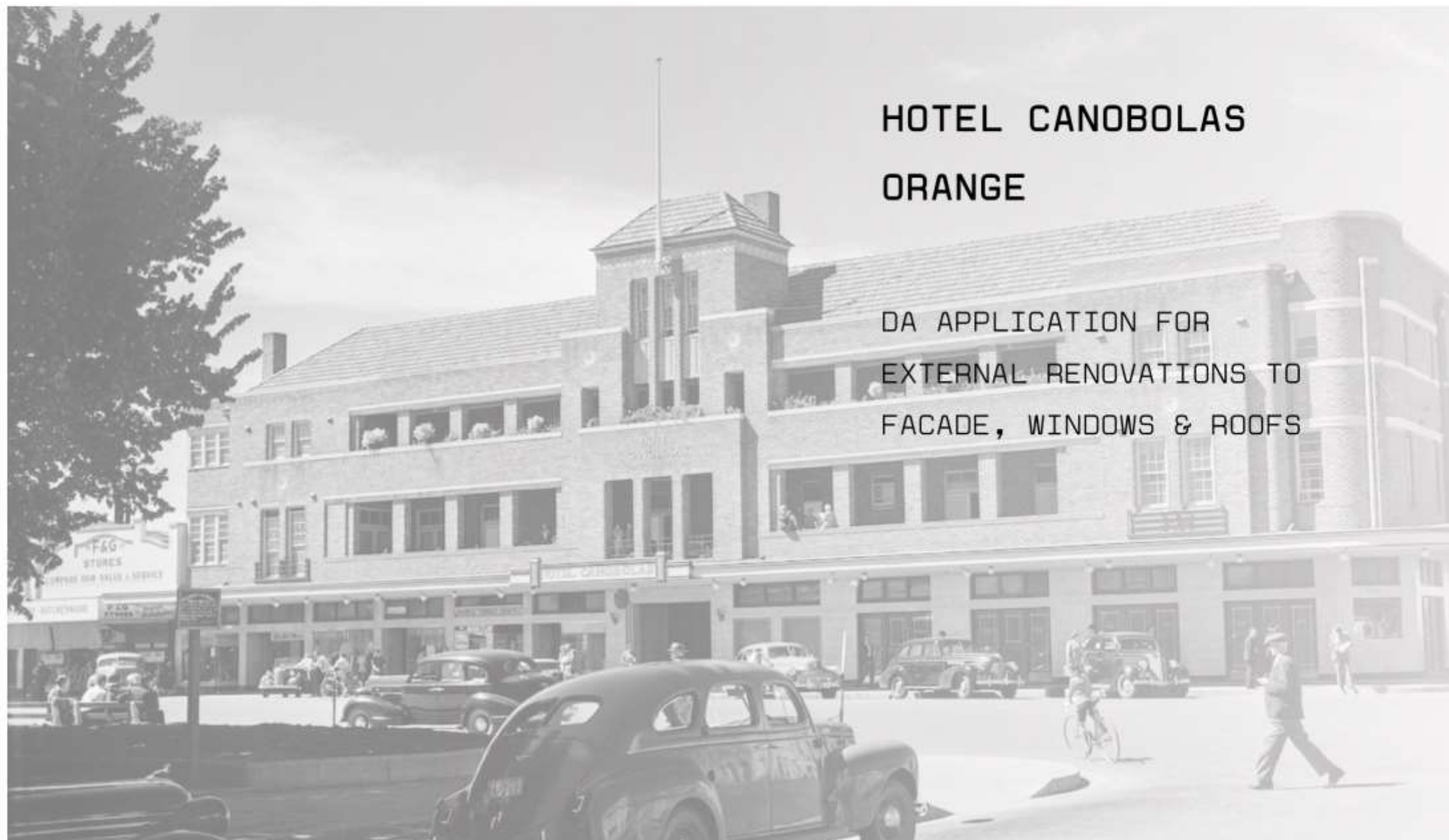
- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**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.

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



## DRAWING LIST



DWG #	TITLE
3.0	ORIENTATION & SITE
DA3.01	DRAWING LIST
DA3.02	SITE CONTEXT
DA3.03	SITE IMAGES
DA3.04	SITE VISION
3.2	FLOOR PLANS
DA3.20	SCOPE OF WORK
DA3.21	FLOOR PLAN: LG
DA3.22	FLOOR PLAN: L1
DA3.23	FLOOR PLAN: L2
DA3.24	FLOOR PLAN: L3 (ROOF)
3.3	ELEVATIONS
DA3.31	NORTH ELEVATION (SUMMER STREET)
DA3.32	WEST ELEVATION (LORDS PLACE)
DA3.33	SOUTH ELEVATION (LANEWAY)
DA3.34	EAST ELEVATION
3.4	MATERIALS & FINISHES
DA3.41	KEY MATERIALS

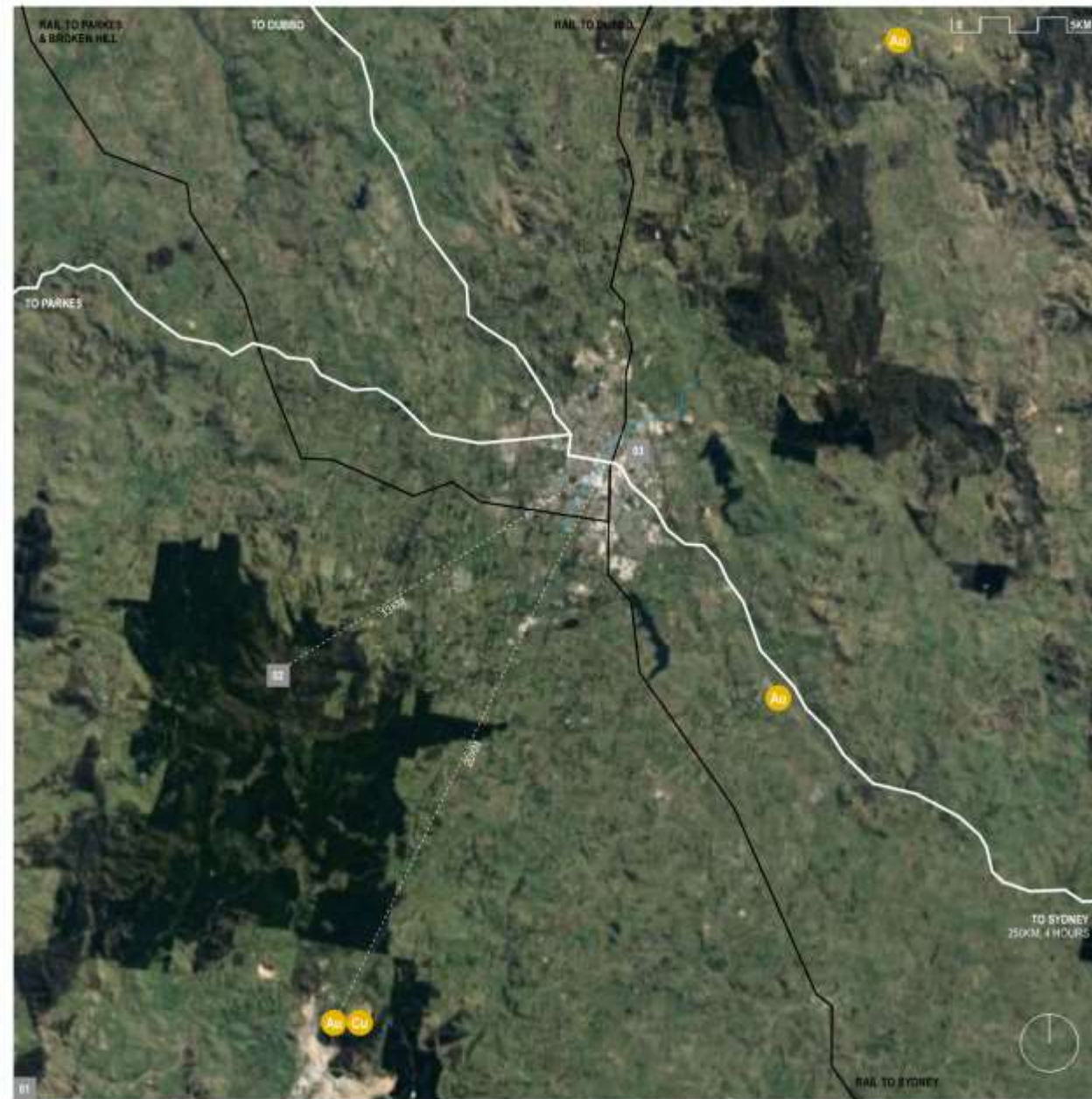
rdo.

DA3.01





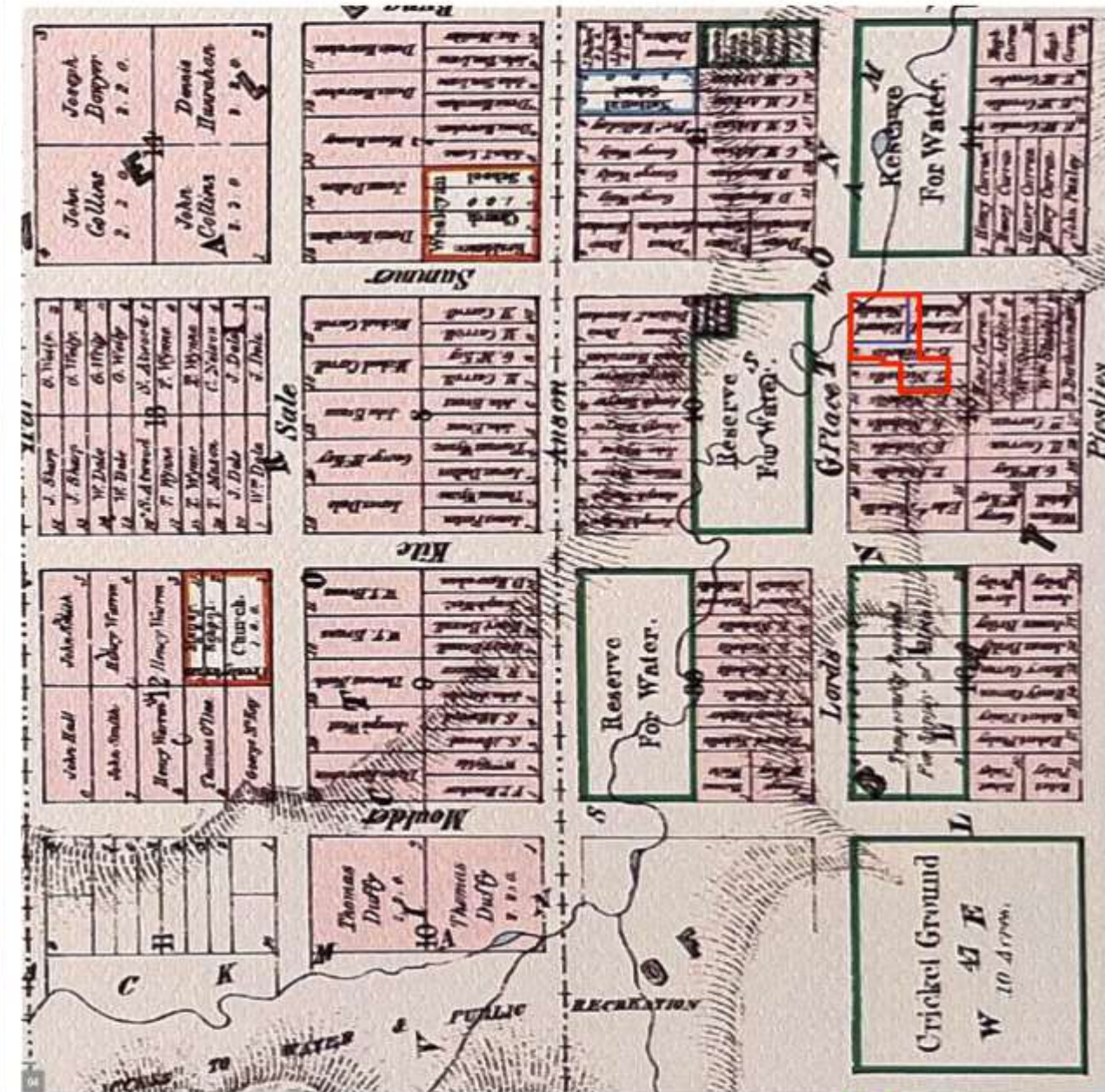




01 WARRUMBUNGLE LAND.  
LAND OF THE THREE RIVERS  
WARRUMBUNGLE, MURRUMBIDGEE  
& MURUMBidgee

02 MOUNT CANOBOLAS  
1390M ABOVE SEA LEVEL  
11-13M YEAR OLD VOLCANO

03 ORANGE  
883M ABOVE SEA LEVEL  
BLACKMAN'S SWAMP CREEK  
POPULATION 40,000



04 TOWN OF ORANGE  
1890

THE SITE  
266 SUMMER STREET  
CORNER LORDS PLACE

rdo.

rdo. architect  
L3/03 Foveaux Street  
Surry Hills NSW 2010  
Tel: 02 9699 6969  
Reg: 88 66 NSW  
www.rdo.net.au

Work is copyright under Copyright Act 1968.  
Drawings not to be scaled: use figured dimensions only.  
Please advise urgently of any inconsistencies.

Project HOTEL CANOBOLAS

Address 266 SUMMER STREET, ORANGE

Dwg Title SITE CONTEXT

Job 113 HCO

Issue 21 06 24

Scale NTS @ A3

DA3.02

REV A







SOURCES: ROO ARCHITECT UNLESS NOTED OTHERWISE; NAA: NATIONAL ARCHIVE OF AUSTRALIA; OMDHS: ORANGE & DISTRICT HISTORICAL SOCIETY; OCL: ORANGE CITY LIBRARY

rdo.architect  
13/63 Foveaux Street  
Surry Hills NSW 2010  
Tel: 02 9699 6969  
Reg: 88 66 NSW  
[www.rdo.net.au](http://www.rdo.net.au)

Work is copyright under Copyright Act 1968.  
Drawings not to be scaled: use figured dimensions only.  
Please advise urgently of any inconsistencies.

Dwg Title **SITE IMAGES**

scale NTS @ A3

A







**rdo.architect**  
L3/63 Foveaux Street  
Surrey Hills NSW 2010  
Tel: 02 9699 6969  
Reg: 88 86 NSW  
[www.rdo.net.au](http://www.rdo.net.au)

Work is copyright under Copyright Act 1968.  
Drawings not to be scaled: use figured dimensions only.  
Please advise urgently of any inconsistencies.

Dwg Title **SITE VISION**

[scale 1:500 @ A3]

A





SCOPE OF THIS DA APPLICATION:  
PARTS SUBJECT TO SEPARATE DA APPLICATION -  
SOME MODIFICATIONS DEPICTED ON DRAWINGS ARE SUBJECT TO SEPARATE DA APPLICATION, INCLUDING:  
> INTERNAL ALTERATIONS & MODIFICATIONS.  
> ALTERATIONS WITHIN COURTYARD.  
> BACK OF HOUSE AREAS WITHIN EAST SIDE SETBACK.  
> SERVICES ADDITION WITHIN EAST SIDE SETBACK.  
> NEW PLANTROOM IN CARPARK AREA.  
> PHOTOVOLTAIC PANELS ON ROOF.

STREET LEVEL

- 01
- STREET FACADE - NEW TILES, REFURBISH OR REPLACE FRAMES AND DOORS. PAINT FRAMES, DECALS TO WINDOWS.
- 02
- AWNING - REPAIR AND RE-CONDITION PRESSED METAL SOFFIT AND FASCIA, REPAINT, NEW ROOF SHEETING AND GUTTERS. ADD FINALS EACH END OF FASCIA ABOVE MAIN ENTRY.
- 03
- HOTEL ENTRY - SUBJECT OF SEPARATE DA. MODIFY AND REFURBISH TO MAKE ENTRY ROUTE STEP FREE.
- 04
- BOOSTER CUPBOARD - NEW BOOSTER ASSEMBLY WITHIN EXISTING OPENING, MODIFY WINDOW FRAME, FIRE RESISTANT CONSTRUCTION WHERE REQUIRED, RE-USE SECTIONS OF WINDOW IF FEASIBLE, NEW DOORS TO CUPBOARD.
- 05
- CORNER DOOR - CONVERT EXISTING WINDOW TO DOORWAY, NEW TIMBER FRAME TO MATCH, PAINT.
- 06
- PERMEABLE WINDOW - MODIFY EXISTING FRONT TO PROVIDE VENTILATION TO INTERNAL SPACE. REMOVE EXISTING METAL MESH AND GLASS, REPLACE WITH PERFORATED SKIN WITH HISTORICAL PRINT (ACTUAL IMAGE TBC).
- 07
- CARRIAGEWAY ENTRY - NEW GATES AND SURFACE TREATMENTS TO ENTRY POINT & EGRESS PATH. BATTENS FOR VENTILATION.
- 08
- BATTENS ON WALL - BATTENS FIXED TO WALL TO VISUALLY UNITE THE LENGTH OF LANEWAY, TO PROTECT AND CAMOUFLAGED PIPES AND SERVICES, PAINTED.

UPPER LEVELS

- 11
- WINDOWS ON PRIMARY FACADES - TYPICALLY EXISTING TIMBER FRAME SASH WINDOWS TO COMMON AREAS, FUNCTION ROOMS & GUEST ROOMS. REPAIR OR REPLACE WITH NEW TIMBER FRAME & SASHES TO MATCH EXISTING, IMPROVED THERMAL AND ACOUSTIC PERFORMANCE.
- 12
- WINDOWS ON SECONDARY FACADES TO COMMON AREAS - TYPICALLY EXISTING TIMBER FRAME SASH WINDOWS TO COMMON AREAS, ANTEROOMS & FUNCTION ROOMS. REPAIR OR REPLACE WITH NEW TIMBER FRAME & SASHES TO MATCH EXISTING, IMPROVED THERMAL AND ACOUSTIC PERFORMANCE.
- 13
- WINDOWS ON SECONDARY FACADES TO BOH & GUEST ROOMS - TYPICALLY EXISTING TIMBER FRAME SASH WINDOWS TO BOH & GUEST ROOMS. REPLACE WITH NEW METAL FRAME, FIXED GLAZING, IMPROVED THERMAL AND ACOUSTIC PERFORMANCE.
- 14
- VERANDAH L1 WINDOWS - REMOVE EXISTING FRAMES & ARCHITRAVES, NEW SLENDER METAL FRAME WINDOWS WITH GUILLOTINE ACTION, SET ON INSIDE OF BRICKWORK SO OPENINGS READ AS DEEP RECESSES.
- 15
- CENTRAL L1 & L2 WINDOWS - REMOVE EXISTING FRAMES AND ARCHITRAVES, NEW SLENDER METAL FRAME WINDOWS WITH PIVOT OR CASEMENT ACTION, SET BACK FROM FACE OF BRICKWORK.
- 16
- VERANDAH L2 WINDOWS - REMOVE EXISTING ALUMINIUM FRAME WINDOWS, MAKE GOOD, RECONDITION PLANTERS, NEW PLANTING.
- 17
- BRICKWORK - CLEAN, RE-POINT WHERE NECESSARY.
- 18
- PAINTED RENDER - REMEDIAL WORK WHERE REQUIRED, REPAINT.
- 19
- REMOVE AIR CON UNITS - REMOVE UNITS, SUPPORTS & CONDUITS.
- 20
- REMOVE CONDUITS & SERVICES - WHERE FEASIBLE, (GENERALLY NOT ILLUSTRATED ON DRAWINGS).
- 21
- REMOVE SIGNAGE - REMOVE OLD SIGN BOXES AND CONDUITS.

ROOF LEVEL

- 31
- ROOF (OUTWARD) - ROOF PLANES FACING STREET AND NEIGHBOURS: RE-ROOF WITH NEW MATHING (OR SIMILAR) TERRACOTTA ROOF TILES, REMEDIAL WORK TO FRAMING, NEW THERMAL & MOISTURE TREATMENTS.
- 32
- ROOF (INWARD) - ROOF PLANES FACING COURTYARD: RE-ROOF WITH CORRUGATED METAL SHEETING, REMEDIAL WORK TO FRAMING, NEW THERMAL & MOISTURE TREATMENTS.
- 33
- GUTTERS & FLASHINGS - REPAIR OR REPLACE CAPPINGS, FLASHINGS, GUTTERS AND DOWNPIPES.
- 34
- FLAGPOLES & FEATURES - REPAIR OR REPLACE TO MATCH, REPAINT.

EXTERNAL LIGHTING

- 51
- UNDER AWNING LIGHTING - REMOVE FLUORO BATTENS AND CONDUITS, NEW SURFACE MOUNTED GLOBE FITTINGS.
- 52
- UNDER AWNING LIGHTING - TO ENHANCE ENTRY, AS PER L2, NEW PIN-GLOBE FITTINGS.
- 53
- WALL LIGHT - TO EMULATE ORIGINAL LOCATIONS, LOW GLARE.
- 54
- FACADE LIGHTING - TO HIGHLIGHT ARCHITECTURAL FEATURES, MOUNTED ON AWNING AND BRICKWORK, ON TIME CONTROL.
- 55
- FESTOON LIGHTING - DIFFUSE LIGHT IN LANEWAY, SUSPENDED ACROSS LANE, HEIGHT TO CLEAR GARBAGE TRUCKS.
- 56
- LANEWAY OPENINGS - DIS-USED OPENINGS ALONG LANEWAY: BACK-LIT GLASS, TO PROVIDE WARM GLOW TO LANEWAY FOR SAFETY AND COMFORT.

SIGNAGE

- 61
- UNDER AWNING SIGN - LOCATE NEAR ENTRY POINTS TO RETAIL TENANCIES & SECONDARY ENTRY POINTS TO HOTEL: CHANGEABLE GRAPHIC RELEVANT TO INTERIOR USE, SUPPORTED OFF WALL OR SOFFIT, INTERNALLY ILLUMINATED, TIME CONTROL.
- 62
- TRANSOM SIGN - LOCATE ABOVE PUBLIC BAR ENTRY POINTS. FLUSH WITH ADJACENT WALL, MATCH HEIGHTS TO ADJACENT TO READ AS CONTINUATION OF HORIZONTAL, INTERNALLY ILLUMINATED, TIME CONTROL.
- 63
- POSTER FRAME - INFORMATION AND ARTWORK: FLUSH WITH TILING, METAL EDGE, EDGE LIT.
- 64
- AWNING FASCIA, AT ENTRY - BUILDING IDENTITY: EMBOSSED & REVELLED LETTERING, EDGE LIT, TIME CONTROL.
- 65
- AWNING FASCIA, AT CORNER - BUILDING IDENTITY: HAND PAINTED.
- 66
- PROJECTING SIGN AT SUMMERLORDS CORNER - BUILDING IDENTITY: ART DECO HERITAGE REFERENCE, ILLUMINATED SIGN, SUPPORTED CLEAR OF BRICKWORK, LIGHT ELEMENTS EXTEND TOP AND BOTTOM, TIME CONTROL.
- 67
- POSTER BOARD - AT SW CORNER FOR INFORMATION & ARTWORK: RENOVATE EXISTING PANEL, SURFACE MOUNTED, METAL EDGE.
- 68
- PROJECTING SIGN AT LANEWAYLORDS CORNER - SUPPORTED OFF WALL, METAL EDGE, INTERNALLY ILLUMINATED, TIME CONTROL.

rdo.

rdo. architect  
L3/63 Foveaux Street  
Surry Hills NSW 2010  
Tel: 02 9599 8869  
Reg: 88 68 NSW  
www.rdo.net.au

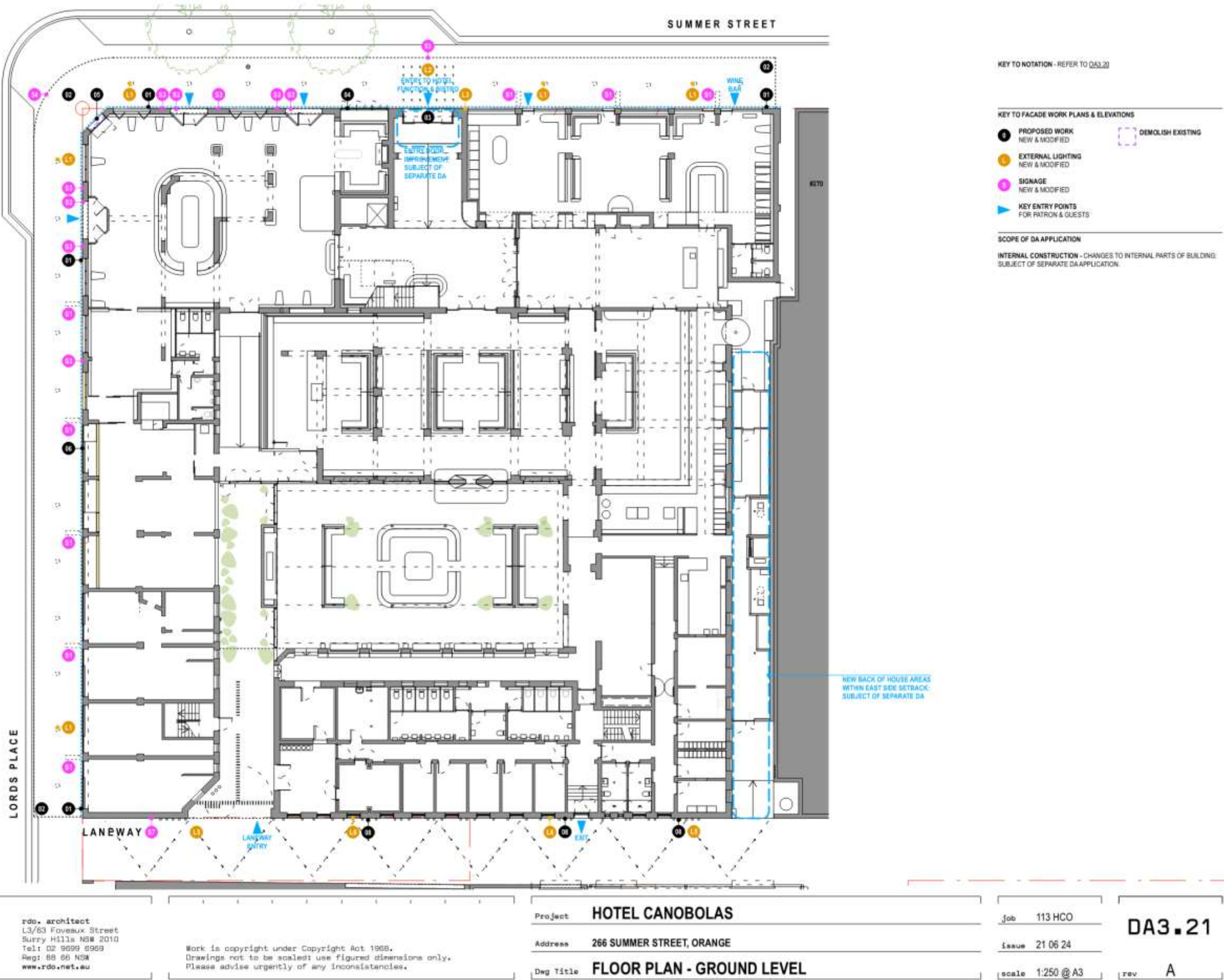
Work is copyright under Copyright Act 1968.  
Drawings not to be scaled; use figured dimensions only.  
Please advise urgently of any inconsistencies.

Project HOTEL CANOBOLAS  
Address 266 SUMMER STREET, ORANGE  
Dwg Title SCOPE OF WORK

Job 113 HCO  
Issue 21 06 24  
Scale 1:250 @ A3

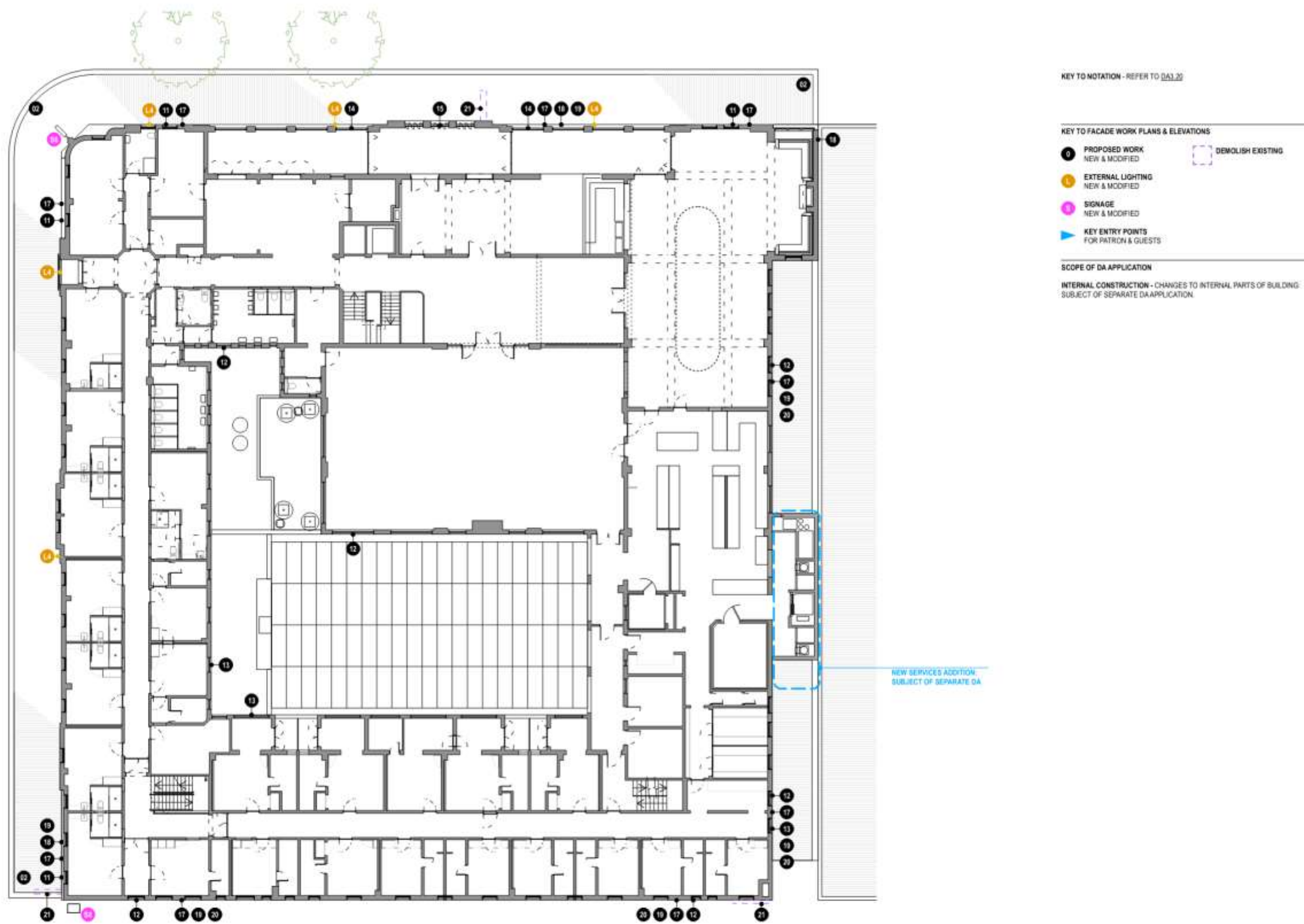
DA3.20  
A











rdo.

rdo. architect  
L3/53 Foveaux Street  
Surry Hills NSW 2010  
Tel: 02 9699 6969  
Reg: 86 66 NSW  
www.rdo.net.au

Work is copyright under Copyright Act 1968.  
Drawings not to be scaled: use figured dimensions only.  
Please advise urgently of any inconsistencies.

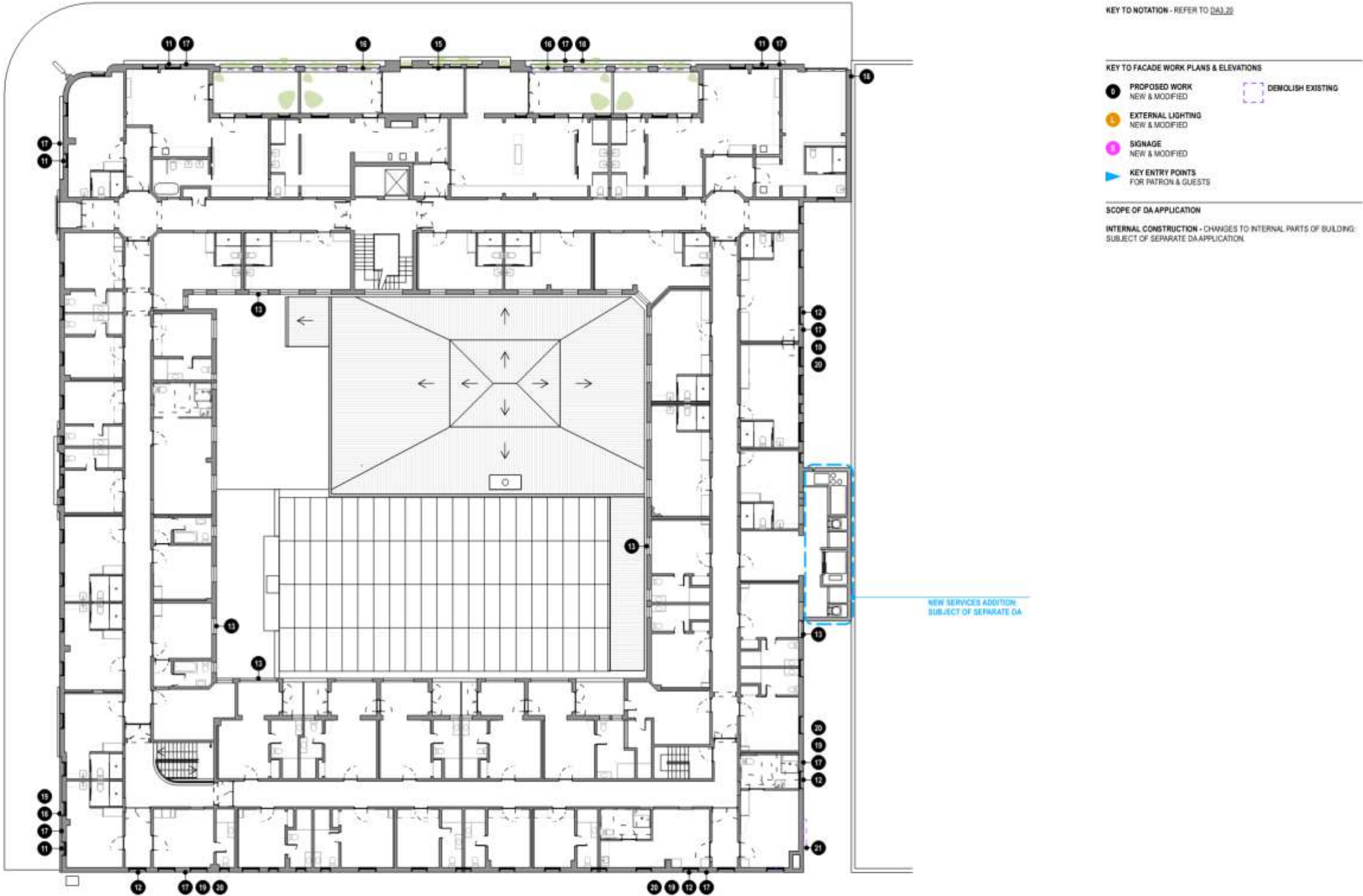
Project HOTEL CANOBOLAS  
Address 266 SUMMER STREET, ORANGE  
Dwg Title FLOOR PLAN - LEVEL 1

Job 113 HCO  
Issue 21 06 24  
Scale 1:250 @ A3

DA3.22  
Rev A







rdo.

rdo. architect  
L3/63 Foveaux Street  
Surry Hills NSW 2010  
Tel: 02 9699 6969  
Reg: 88 66 NSW  
www.rdo.net.au

Work is copyright under Copyright Act 1968.  
Drawings not to be scaled: use figured dimensions only.  
Please advise urgently of any inconsistencies.

Project HOTEL CANOBOLAS

Address 266 SUMMER STREET, ORANGE

Dwg Title FLOOR PLAN - LEVEL 2

Job 113 HCO

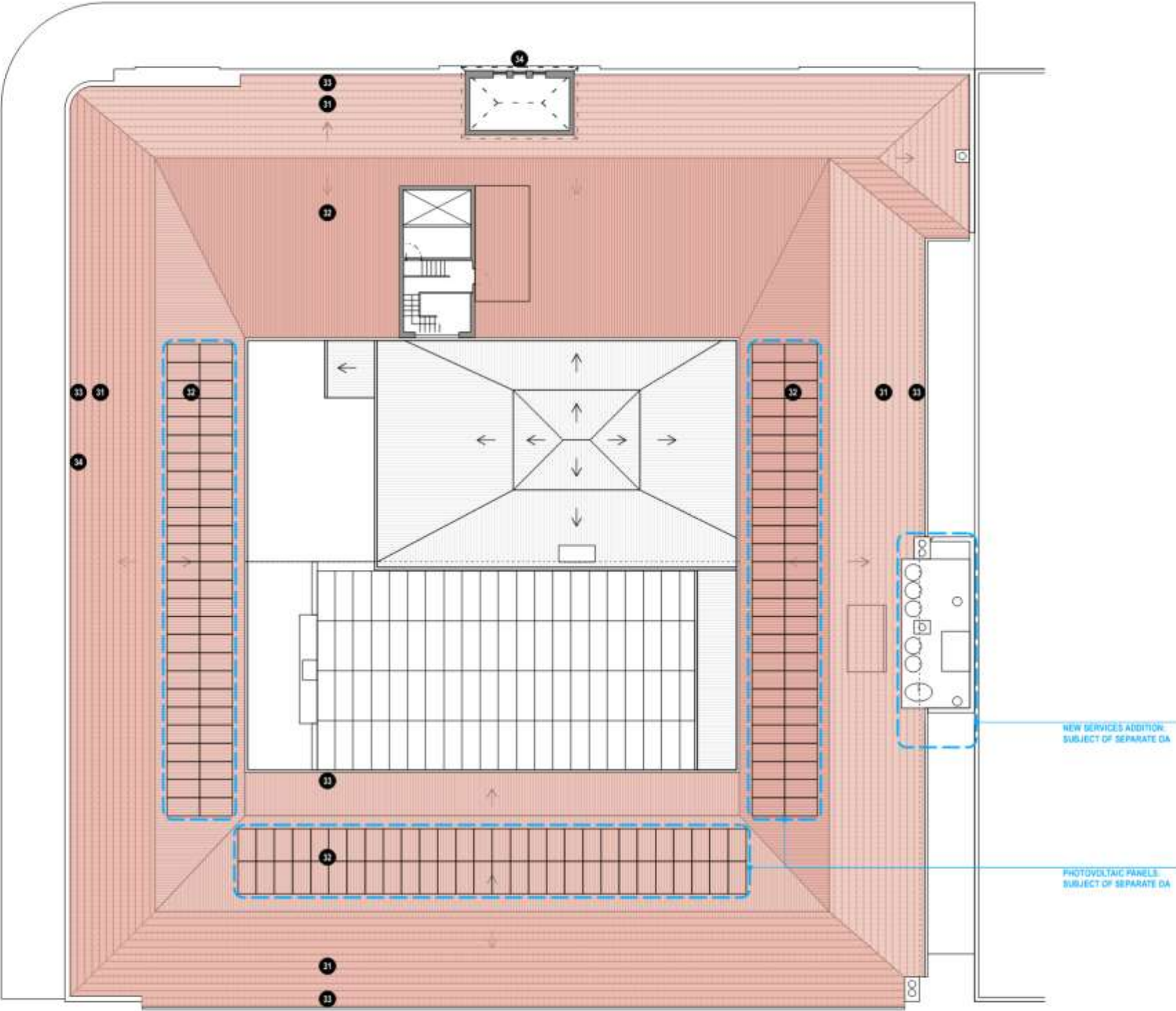
Issue 21 06 24

Scale 1:250 @ A3

DA3.23

REV A





KEY TO NOTATION - REFER TO DA3.20

KEY TO FACADE WORK PLANS & ELEVATIONS

- PROPOSED WORK NEW & MODIFIED
- EXTERNAL LIGHTING NEW & MODIFIED
- SIGNAGE NEW & MODIFIED
- KEY ENTRY POINTS FOR PATRON & GUESTS
- DEMOLISH EXISTING

SCOPE OF DA APPLICATION

INTERNAL CONSTRUCTION - CHANGES TO INTERNAL PARTS OF BUILDING: SUBJECT OF SEPARATE DA APPLICATION

MATERIALS

- TERRACOTTA ROOF TILES - MONIER MARSEILLE, COLOUR TBC ON SITE.
- METAL ROOF - CUSTOM ORB, COLORBOND MANOR RED

NEW SERVICES ADDITION: SUBJECT OF SEPARATE DA

PHOTOVOLTAIC PANELS: SUBJECT OF SEPARATE DA

rdo.

rdo. architect  
L3/53 Foveaux Street  
Surry Hills NSW 2010  
Tel: 02 9699 6969  
Reg: 86 66 NSW  
www.rdo.net.au

Work is copyright under Copyright Act 1968.  
Drawings not to be scaled: use figured dimensions only.  
Please advise urgently of any inconsistencies.

Project HOTEL CANOBOLAS

Address 266 SUMMER STREET, ORANGE

Dwg Title FLOOR PLAN - LEVEL 3 (ROOF)

Job 113 HCO

Issue 21 06 24

Scale 1:250 @ A3

DA3.24

Rev A





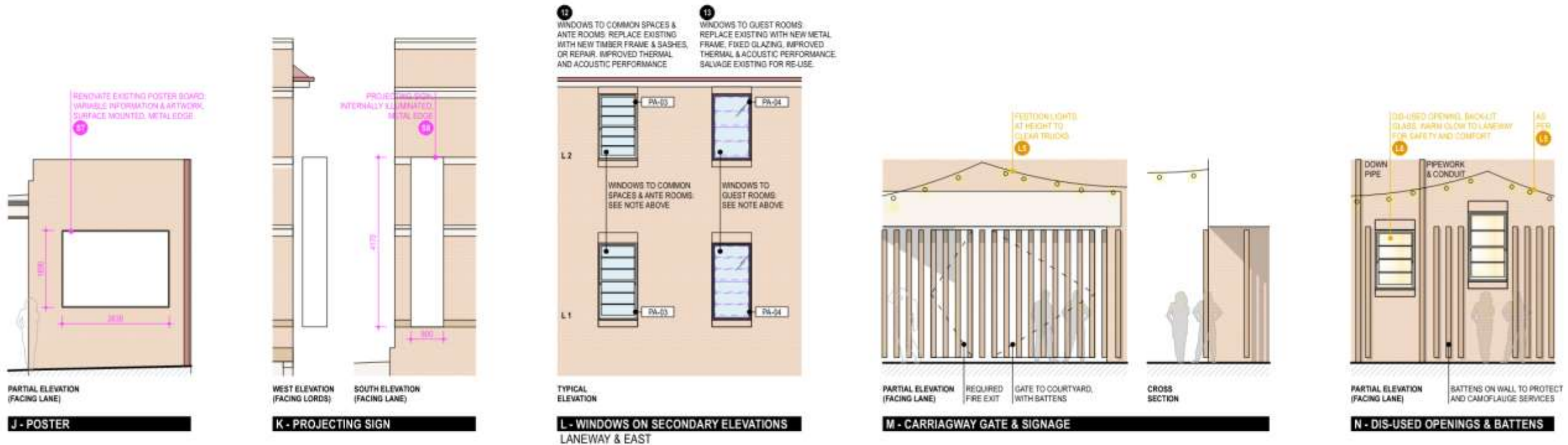
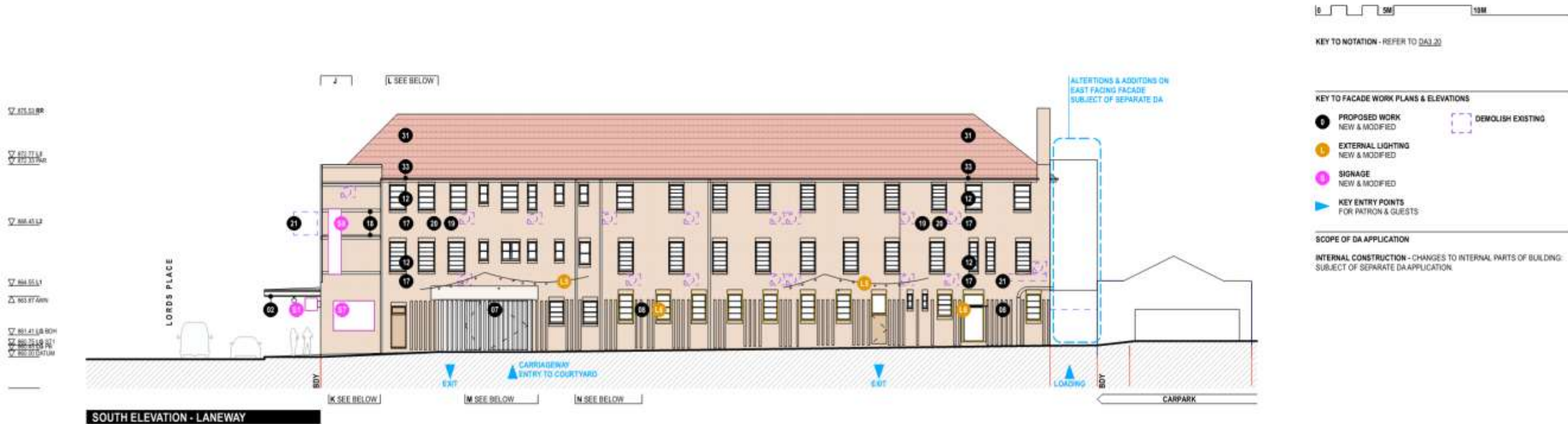












rdo.

rdo. architect  
L3/03 Foveaux Street  
Surry Hills NSW 2010  
Tel: 02 9699 6969  
Reg: 88 66 NSW  
www.rdo.net.au

Work is copyright under Copyright Act 1968.  
Drawings not to be scaled: use figured dimensions only.  
Please advise urgently of any inconsistencies.

Project **HOTEL CANOBOLAS**  
Address **266 SUMMER STREET, ORANGE**  
Dwg Title **SOUTH ELEVATION (LANEWAY)**

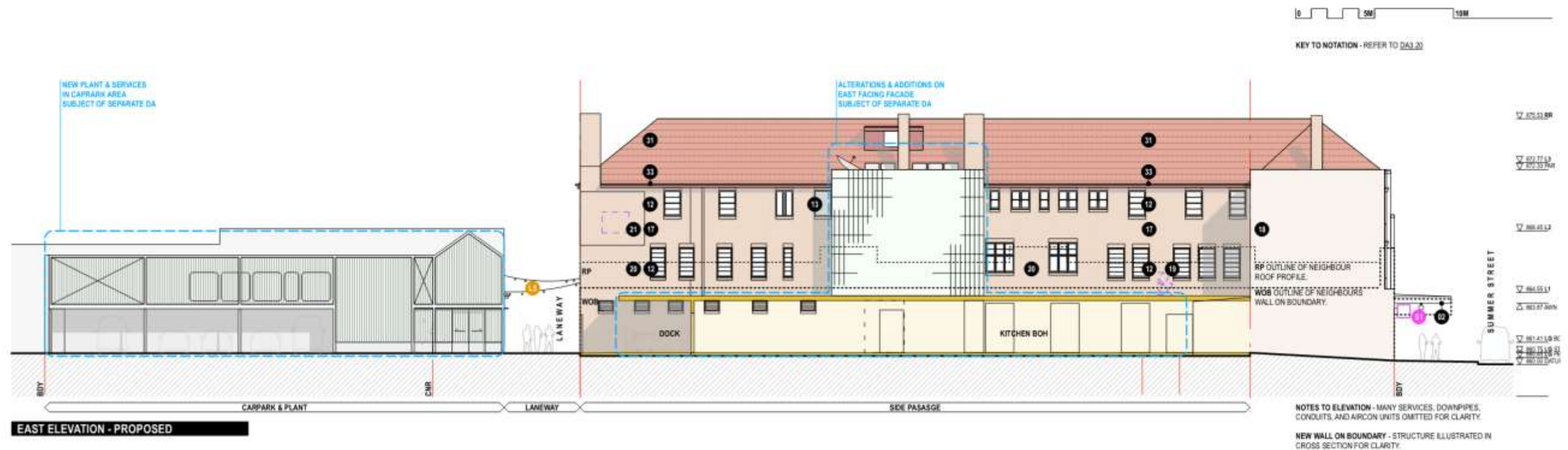
0 1M 5M

Job **113 HCO**  
Issue **21 06 24**  
Scale **1:250, 1:100**

**DA3.33**  
REV **A**















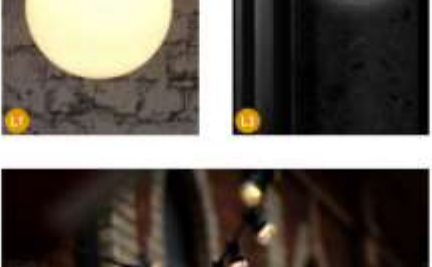





















08 - BATTENS ON REAR LANE AND GATE. FIXED TO WALL TO CAMOUFLAGE & PROTECT SERVICES.

12 - TIMBER WINDOWS ON PRIMARY ELEVATIONS. REFURBISH OR NEW TO MATCH EXISTING.

13 - METAL WINDOWS ON SECONDARY ELEVATIONS. REPLACE EXISTING, IMPROVED ACOUSTIC & THERMAL.

14 - L1 VERANDAH WINDOWS. SLENDER METAL FRAMES, GUILLOTINE ACTION.

15 - L1 & L2 CENTRAL WINDOWS. SLENDER METAL, PIVOT OR CASEMENT ACTION.

16 - L2 VERANDAH. RECONDITION PLANTERS.

L1 - GLOBE LAMP ON AWNING SOFFIT. 300MM DIAMETER, FROSTED GLASS, 2700K.

L2 - EXAMPLE OF PIN-GLOBE ARRAY AT MAIN ENTRY. 60MM DIAMETER, 2700K.

L3 - WALL LIGHT AT MAIN ENTRY. BELLHOB, DIFFUSE ILLUMINATION, 2700K.

S9 - EXAMPLE OF UNDER AWNING SIGNS. PROJECTING, METAL EDGE, INTERNALLY ILLUMINATED.

RT-01 RT-01 ROOF TILES, TO OUTWARD-FACING ROOF PLANES. TERRACOTTS MARSEILLE

RS-02 RS-02 ROOF SHEET, TO INWARD-FACING ROOF PLANES. CORRUGATED, MANOR RED.

BR-X1 BR-X1 BRICKWORK. EXISTING, CLEAN & RE-POINT WHERE NECESSARY.

WT-01 WT-01 FACADE TILE GREEN. ENGLISH TILE 100X200 SAGE.

WT-02 WT-02 FACADE TILE BLACK. ENGLISH TILE 100X200 BLACK.

PA-01 PA-01 PAINT TO RENDER & INFILLS. DULUX PATTPAN S21 B2.

PA-02 PA-02 PAINT TO SHOPFRONT WINDOWS (DARK). TALEMANS AOKAL T15 32.7.

PA-03 PA-03 PAINT TO TIMBER WINDOWS (LIGHT). TALEMANS FUR SEAL T12.7 A5.

PA-04 PA-04 POWDERCOAT OR PAINT TO METAL WINDOWS. INTERPON ASTEROID PEARL MATT.

PA-05 PA-05 PAINT TO RENDER STRIPS, DETAIL. (SAME AS PA-03).

PA-06 PA-06 PAINT TO RENDER STRIPS, RECESSIVE. DULUX PUDDLE P1203.

PA-07 PA-07 PAINT TO FASCIA, LIGHT. (SAME AS PA-07).

PA-08 PA-08 PAINT TO FASCIA, DARK. (SAME AS PA-02).

PA-09 PA-09 GUTTER, DOWNPIPES & ROOF ELEMENTS. COLORBOND MANOR RED.

ME-CH ME-CH METAL FINISH, HARDWARE AND FITTINGS. CHROME FINISH.

ALL FIXTURES AND FINISHES TO BE CONFIRMED FOLLOWING ON-SITE SAMPLES.

rdo.

rdo. architect  
L3/53 Foveaux Street  
Surry Hills NSW 2010  
Tel: 02 9699 6969  
Reg: 88 68 NSW  
www.rdo.net.au

Work is copyright under Copyright Act 1968.  
Drawings not to be scaled: use figured dimensions only.  
Please advise urgently of any inconsistencies.

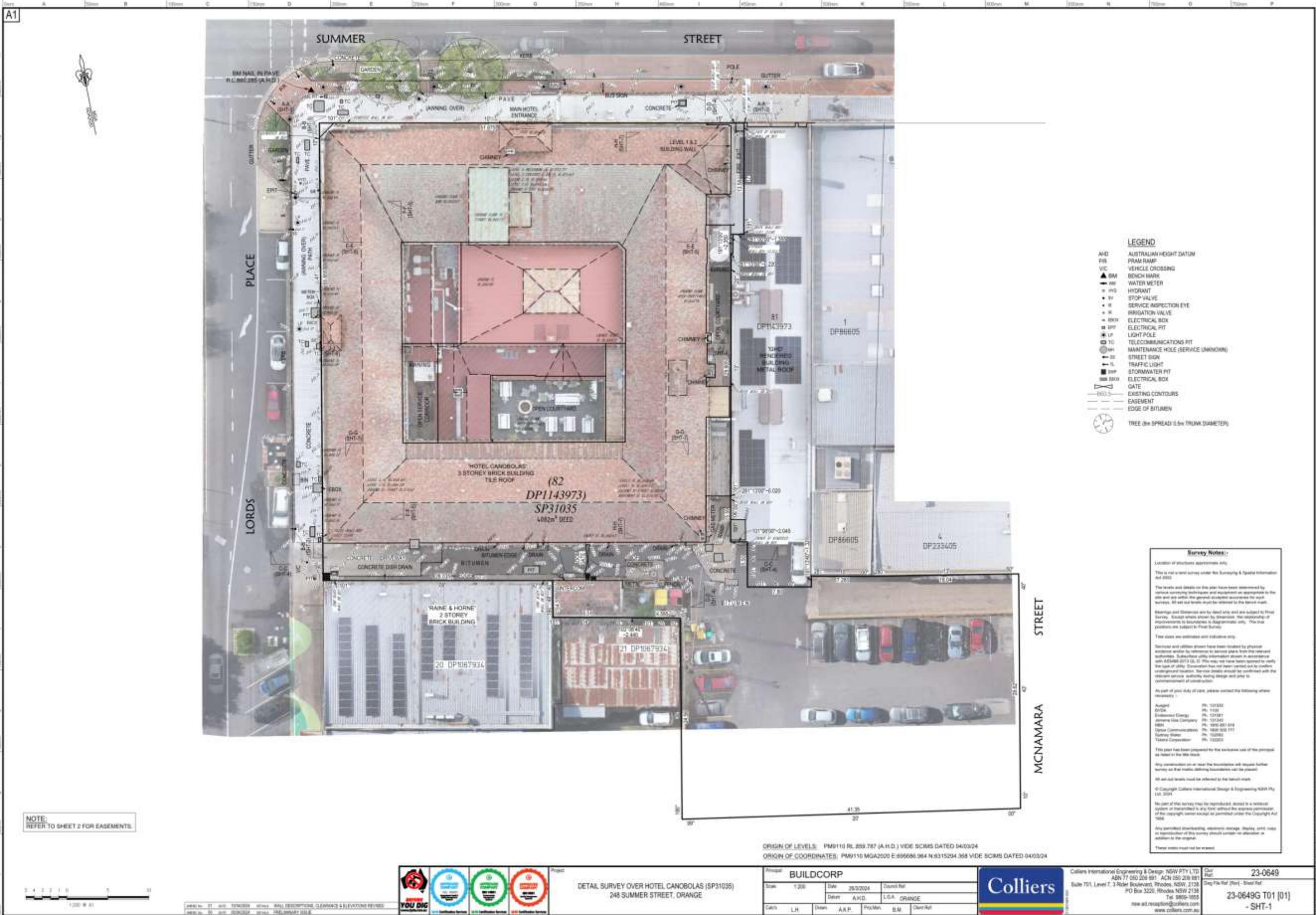
Project **HOTEL CANOBOLAS**  
Address **266 SUMMER STREET, ORANGE**  
Dwg Title **KEY MATERIALS**

job 113 HCO  
issue 21 06 24  
scale NTS @ A3

DA3.41  
A

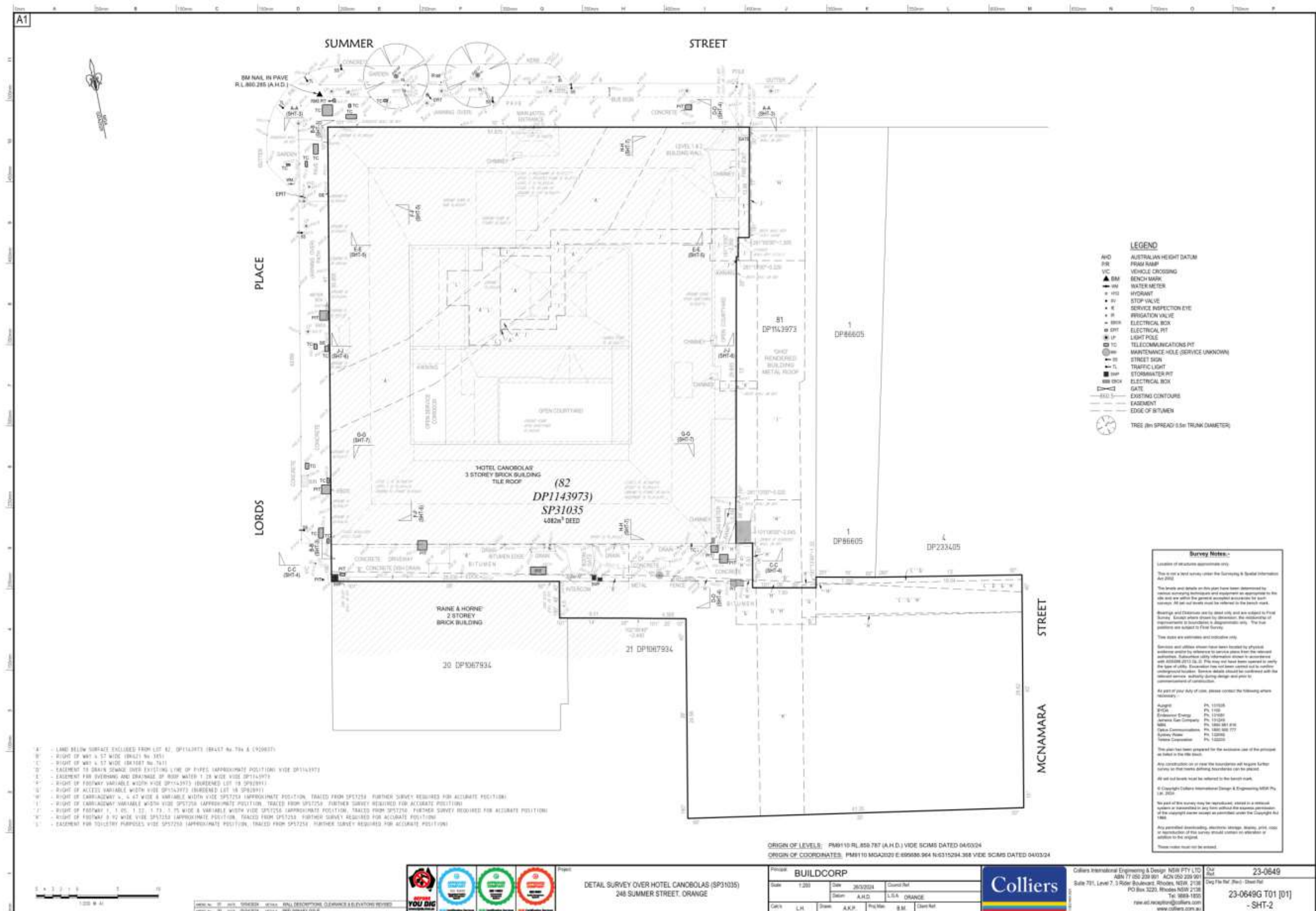










































## 2.6 DEVELOPMENT APPLICATION DA 579/2024(1) - 241-257 SUMMER STREET AND 225-229 LORDS PLACE

RECORD NUMBER: 2025/217  
 AUTHOR: Ross Jauncey, Town Planner

### EXECUTIVE SUMMARY

Application lodged	16/07/2024
Applicant/s	Mr Andrew Turnbull
Owner/s	Investment Management Group Hotels Pty Ltd
Land description	Lots 5, 7, 8 and 9 DP 30201, Lot 1 DP 1294072 and Lot 414 DP 626022 - 241-257 Summer Street and 225-229 Lords Place, Orange
Proposed land use	Pub (alterations and additions)
Value of proposed development	\$3,139,950.00

Council's consent is sought for alterations and additions to the Royal Hotel, a prominent heritage item located within the Dalton Central Heritage Conservation Area, at 249-257 Summer Street. The application also incorporates properties located at 243, 245, 247 Summer Street and 225-229 Lords Place. These sites once formed part of the Royal Hotel and were subdivided in July 1959. The proposal seeks to reincorporate the parcels into a consolidated lot representative of the prior cadastral layout at the time of the construction of the hotel.

Lot 414, 229 Lords Place (The Royal Hotel bottle shop) is being used to provide off street parking (20 spaces) for the development of the hotel. The lot is not a legal entity of the hotel site and could be sold off separately, thereby losing the parking provision for the hotel. Lot 414, 229 Lords Place has not been referenced in the development application form, however it has been referenced in the submitted plans as providing off street parking spaces for the Hotel development. The site is also referenced in the SEE as part of the development for the purpose of car parking.

Following discussions with the owner of the land a condition has been placed on the Draft Notice of Determination requiring Lot 414 to be consolidated with the hotel site.

The applicant is seeking to demolish and reconfigure the internal layout of the ground floor, first floor and second floor layouts to better reflect the ongoing use of the hotel, whilst retaining internal architectural elements of heritage significance.

Given the nature of the internal alterations, the focus is on ensuring that an acceptable level of significant fabric is retained, reused, or reinterpreted in a meaningful way for future generations. Where changes are proposed that impact on areas of significant fabric, mitigation and interpretation measures have been made to limit impact of the proposal.

Council's Heritage Advisor has provided recommendations to interpret the style and period within the sports bar, lounge, foyer, stairwell, and hallways to mitigate the extent of the proposed internal works. Alterations to the first floor and second floor seek to reinstate the traditional use as accommodation, and interpretation measures have been incorporated to mitigate the proposed alterations.

Proposed external works have been subject to the review of Council's Heritage Advisor, and recommendations have been made and conditioned accordingly to ensure that alterations are sympathetic to the prominent heritage item. This includes retaining the brick building to the rear of the hotel, which would mean a loss of two car parking spaces.

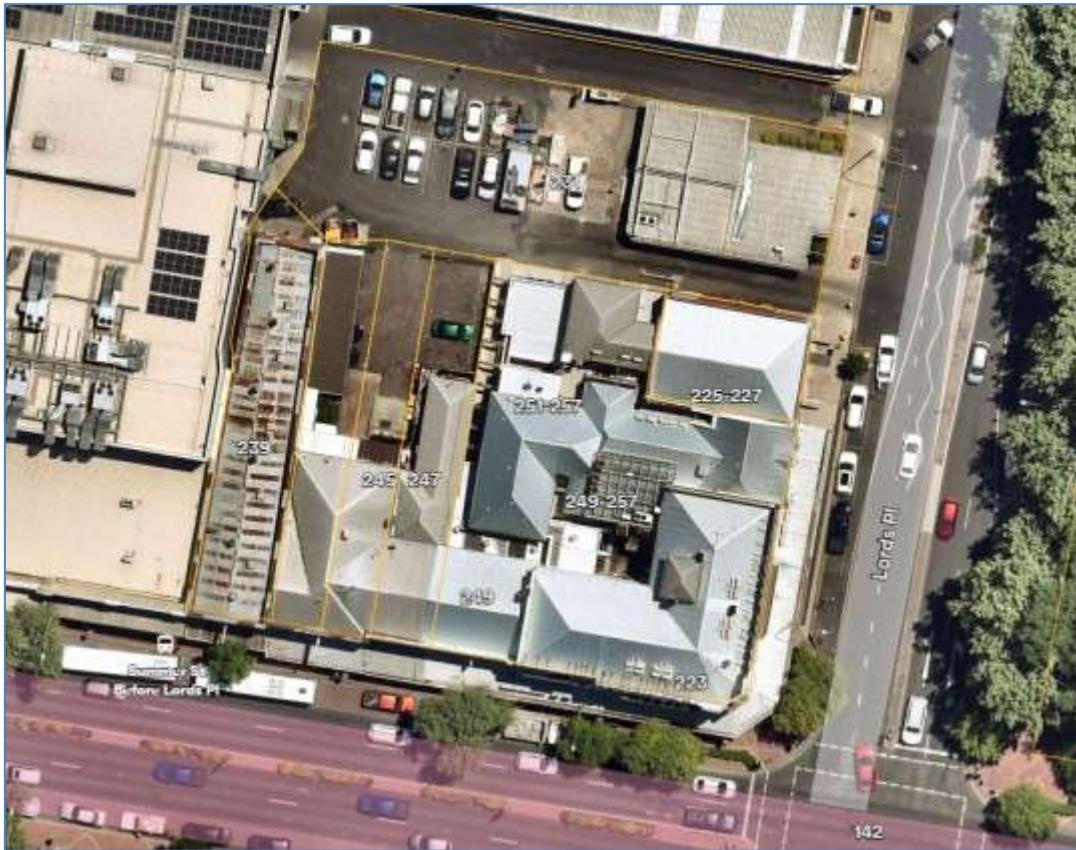
The subject site is located within the E2 Commercial Centre zone. The proposed development at 249-257 Summer Street, 243, 245, 247 Summer Street and 225-229 Lords Place is defined as alterations and additions and are permitted in this zone under the OLEP 2011.

The proposed development is advertised development pursuant to Council's Community Participation Plan 2023 and Schedule 1 of the *Environmental Planning and Assessment Act 1979*. The application was notified from 5 August to 19 August 2024 and no submissions were received.

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 limit, subject to mitigation conditions. Approval of the application is recommended.







**Figure 2: Aerial Photograph**

(source: Nearmap 2024)



**Figure 3: Royal Hotel Summer Street and Lords Place Intersection**

(source: Google Streetview 2024)



**Figure 4: Royal Hotel - Summer Street**  
(source: Google Streetview 2024)



**Figure 5: Royal Hotel - Lords Place**  
(source: Google Streetview 2024)

## 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 Orange Local Environmental Plan 2011 (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 Orange Development Control Plan 2004 (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 alterations and additions to the Royal Hotel, a prominent heritage item located within the Dalton Central Heritage Conservation Area, at 249-257 Summer Street. The application also incorporates properties located at 243, 245, 247 Summer Street and 225-227 and 229 Lords Place. These sites once formed part of the Royal Hotel and were subdivided in 1959. The proposal seeks to reincorporate the parcels into a consolidated lot representative of the prior cadastral layout at the time of the construction of the hotel.

The development application proposes to demolish and reconfigure the internal layout of the ground floor, first floor and second floor layouts to better reflect the ongoing use of the hotel, whilst retaining internal architectural elements of heritage significance.

The proposed internal alterations of this heritage item are of such a scale that staff have focussed the assessment on ensuring that an acceptable level of significant fabric is retained, reused or reinterpreted in a meaningful way for future generations.

Given the complexity, staff obtained additional expert advice to assist with the assessment of this development application from Council's Heritage Advisor. This assisted with practical solutions to interpret the style and period within the ground floor sports bar, lounge, foyer, stairwell and hallways.

Alterations to the first floor and second floor seek to reinstate the traditional use as accommodation, and interpretation measures have been incorporated to mitigate the proposed alterations. Proposed external works have also been subject to the review of Council's Heritage Advisor. The application proposes work to clad the existing concrete building (solicitors offices). Work to this building has been encouraged by staff during discussions with the applicant over some years. The cladding proposed in the application falls a little short of what is needed to provide a positive contribution to Lords Place and also the heritage value of the hotel. A condition is included that requires the applicant to work with staff on providing an alternative. This is a good solution to help the application progress.



The proposed development is considered to 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. Staff have engaged with the applicant over many months with the complex application. There are a large number of conditions with this consent that will protect the heritage of this building and the streetscape of Lords Place. The conditions also allow the applicant to continue with works whilst addressing a few key design issues. This is a good outcome. The recommendation to approve the application 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 579/2024(1) for Pub (alterations and additions) at Lot 1 DP 1294072, Lots 5, 7, 8 and 9 DP 30201 and Lot 414 DP 626022 - 241-257 Summer Street and 225-229 Lords Place, Orange pursuant to the conditions of consent in the attached Notice of Approval.**

**FURTHER CONSIDERATIONS**

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

**SUPPORTING INFORMATION****THE PROPOSAL**

The proposal involves alterations and additions to the existing Royal Hotel and adjoining buildings which are summarised as follows:

**Ground Floor - Pub**

- Remove existing sports bar and TAB fit out and replace with new;
- Removal of and reconfiguration of amenities in sports bar;
- Remove bistro doors to foyer;
- Replace bistro bar with kitchen;
- Demolish most of internal party wall with 225-227 Lords Place, retain brick piers;
- Add an accessible toilet and redesign the female toilet;

- Remove part of the wall blades in existing keg room - bulkheads are to be retained;
- Remove rear beer garden fence of hotel and replace with new wall and roof to create a storeroom and MSB room;
- Dark batten cladding to match Lords Place.

**First Floor - Pub**

- Various reconfiguration of existing accommodation to include ensuite bathrooms in each room;
- Demolition of shared bathrooms and WC's;
- Removal of external fire and access stairs;
- Partial removal of function room wall - retain bulkhead;
- Remove internal stairs 249 Summer Street;
- Continue corridor into 241-243, 247 and 245 Summer Street.

**Second Floor - Pub**

- Various reconfiguration of existing accommodation to include ensuite bathrooms in each room;
- Demolition of shared bathrooms and WC's.

**247 Summer Street**

- Demolish rear brick wing to building;
- New low-profile roof to rear section containing offices;
- Dark batten cladding to rear wall to match Lords Place and rear store of the pub;
- Ramp through to ground floor shopfront of 245 Summer Street to make one combined shop;
- Reconfiguration of top floor into ensuite bedroom accommodation.

**245 Summer Street**

- Access from 247 Summer to make into one shop/commercial premises;
- Added new WC's;
- Infill door to rear yard;
- Rear room to become part of 243 shop premises;
- Reconfiguration of top floor into ensuite bedroom accommodation.

**243 Summer Street**

- New wall around stairs to first floor;
- New door to rear yard;
- New stairs to rear entrance of 243 Summer Street;
- Reconfiguration of top floor into ensuite bedroom accommodation.

### 225-227 Lords Place

- New glazing and doors to front and side elevations;
- New dark grey/black batten cladding to external elevations;
- Reinstate door to first floor hallway of pub;
- Remove all interiors, new bistro and function fitout at ground and first floor;
- Join to pub's rear double storey former service accommodation.

### Landscape

- Reconfiguration of car parking spaces to the rear of the bottle shop;
- New car parking spaces to the rear of 247 and 243 Summer Street;
- New paving to walkway to rear of gaming room.



Figure 6: Proposed Ground Floor Plan





Figure 7: Proposed Ground Floor - Car Parking and 243, 245 and 247 Summer Street



Figure 8: Proposed First Floor Plan



Figure 9: Proposed First Floor Plan - 243, 245 and 247 Summer Street



Figure 10: Proposed Second Floor Plan



Figure 11: Proposed Lords Place Elevation



Figure 12: Proposed Summer Street Elevation



Figure 13: Proposed North Elevation



**Figure 14: Proposed West Elevation**

### SITE INSPECTION

A site inspection was carried out on 3 December 2024 by Council's planning staff and Heritage Advisor.

Council's Heritage Advisor has recommended the retention of the existing heritage building at the rear of the shop at 247 Summer Street.



**Photo 1: Existing brick building at the rear of the shop at 247 Summer Street**





**Photo 2: Existing brick building at the rear of the shop at 247 Summer Street**



**Photo 3: Existing brick building at the rear of the shop at 247 Summer Street**

With the retention of the existing brick building the hotel will lose two (2) parking spaces, being spaces marked 26 and 27 on the plans.

**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 (i.e. the need for a BDAR to be submitted with a DA):

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

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

The site does not occur within land mapped on the Biodiversity Values Map and no clearing/disturbance is proposed as the proposal relates to an existing urban area. As the proposal does not trigger any of the four requirements for insertion into the BOS, a Biodiversity Development Assessment Report is not required to be lodged.

**Section 4.15**

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

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

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

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



The aims of the plan that are relevant to the application are listed above. The application as submitted is consistent with the first two stated aims. The development as submitted is considered to be inconsistent with aim (f); notwithstanding this, the following assessment contains critical conditions of consent that mitigate the heritage impacts to the extent that the development is considered to be consistent with aim (f).

#### 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:	<b>E2 Commercial Centre</b>
Lot Size Map	No Minimum Lot size
Heritage Map	<b>Heritage Item I361 and is located within the Dalton Central Heritage Conservation Area</b>
Height of Buildings Map	<b>Building Height Limit 12m</b>
Floor Space Ratio Map	<b>FSR 2:1</b>
Terrestrial Biodiversity Map	No biodiversity sensitivity on the site
Groundwater Vulnerability Map	<b>Groundwater vulnerable</b>
Drinking Water Catchment Area	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	The site is flood affected

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

#### Clause 1.9A - Suspension of Covenants, Agreements and Instruments

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

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

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

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

The subject site is located within the E2 Commercial Centre zone under the Orange Local Environmental Plan 2011 (OLEP 2011). The proposed development involves alterations and additions to the existing premises, which is classified as a “pub” in accordance with the Dictionary to the OLEP 2011. A pub is defined as:

*Licensed premises under the Liquor Act 2007, the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.*

The proposed alterations and additions are permissible within the development parameters applicable to the zone.

**Clause 2.3** of LEP 2011 references the Land Use Table and Objectives for each zone in LEP 2011. These objectives for land zoned E2 Commercial Centre are as follows:

**Objectives of zone E2 Commercial Centre**

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

The development is consistent with the objectives of the E2 Commercial Centre zone:

- the development will maintain the existing function and operation of the site. The existing land use serves the needs of the local and wider community,
- the proposal may generate additional employment opportunities in an accessible location, both during and post-construction,
- the building is centrally located in the CBD and accessible via public transport, walking and cycling,
- ongoing upgrading of the heritage listed pub will contribute to the role of the CBD as the primary commercial centre of the City and region.

**Clause 2.7 - Demolition Requires Development Consent**

This clause triggers the need for development consent in relation to a building or work. This requirement does not apply to any demolition that is defined as exempt development.

The proposal involves demolition and the applicant is seeking the consent of Council. The demolition works proposed will have no significant impact on adjoining lands, streetscape or public realm. Conditions have been imposed in respect to ensuring the ongoing protection of the heritage fabric, hours of operation, dust suppression and the need to investigate for, and appropriately manage the presence of, any materials containing asbestos.

**Part 3 - Exempt and Complying Development**

The application is not exempt or complying development.

**Part 4 - Principal Development Standards****Clause 4.3 - Height of Buildings**

The Height of Buildings Map prescribes a maximum height of 12m for the subject land. Works associated with the proposed development will be wholly located within the existing building envelope and will not alter the height of the building. The proposal is not contrary to Clause 4.3.

**Clause 4.4 - Floor Space Ratio**

Clause 4.4 limits the Floor Space Ratio (FSR) for land as specified on the Floor Space Ratio Map, with Clause 4.5 providing the rules for calculating the site area and FSR. The subject land is identified on the map with an FSR of 2:1.

**Total Site Area = 3190.71 m<sup>2</sup>**

Max allowable floor area = 6381.42 m<sup>2</sup>

Existing ground floor area = 1687 m<sup>2</sup>

Existing first floor area = 1284.1 m<sup>2</sup>

Existing second floor area = 325.9 m<sup>2</sup>

**TOTAL EXISTING FLOOR AREA = 3297 m<sup>2</sup>**

**EXISTING FSR = 1.03:1**

Proposed ground floor area = 1661.7 m<sup>2</sup> (inclusive of rear brick building to be retained)

Proposed first floor area = 1,258.7 m<sup>2</sup>

Proposed second floor area = 337.7 m<sup>2</sup>

**TOTAL PROPOSED FLOOR AREA = 3258.1 m<sup>2</sup>**

**PROPOSED FSR = 1.02:1**

There is a minor decrease in FSR. This has resulted because of changes to the fire egress stairs internally, demolished northern part of shop 1. The above calculations are inclusive of the retention of the rear brick building in accordance with Council's Heritage Advisor.

## Part 5 - Miscellaneous Provisions

### 5.10 - Heritage Conservation

The subject land is identified as a heritage item of Local significance and is located in the Dalton Central Heritage Conservation Area. It plays an important contributory role in the conservation area. The building is notable for being a key corner Art Deco style building and forms a key landmark within the City of Orange.



**Figure 15: Heritage map**

The heritage inventory sheet for the Dalton Central Heritage Conservation area, provides the following statement of significance:

*Consisting of a range of buildings dating from the latter part of the nineteenth century and the early part of the twentieth, the conservation area has historical importance for reflecting the development and prosperity of Orange during this period.*

*The conservation area exhibits several fine examples of different architectural styles. The building materials used, the mature street trees and the fine parklands all help to bring the area together as an aesthetically pleasing whole and as a townscape of importance.*

*Representing much of the core of the city, the conservation area has an appreciable level of social significance for the Orange community.*

The heritage inventory sheet for the Royal Hotel provides the following statement of significance:

*An historically significant hotel in the City's history, with the Canobolas Hotel and the Commonwealth Bank, the building forms a key corner grouping complements the streetscape and contributes to the Conservation Area as a heritage item.*

A Heritage Impact Statement has been prepared for the development and surmises the following:

*Most importantly, there are no changes proposed to the Royal Hotel's highly significant façade.*

*The proposed works are largely confined to the interior of the non-listed No. 249 Summer Street, the rear of and to select internal areas of the Hotel.*

*Alterations have been carefully sited so as to cause as little disturbance as possible to the Item, Items in the vicinity and the HCA. There are no alterations to notable interior features including the public bar wall tiling, and extant floor tiling discovered under the public bar and function room carpet.*

*The bulk of the internal alterations are at No. 249. This allows the expansion of the Hotel's amenities and the rationalization of its configuration without major impact on its significant features and layout. The alteration to 249's shopfront will create cohesion with the Hotel without imitation. It is not proposed to continue the black banding on the white paint to this part of the elevation as the vitrolite tiling never extended this far. The Hotel facade will continue to be the dominant feature in the streetscape.*

*The additional carparking at the rear of the site makes use of a vacant space and improves the amenities of the Hotel with no adverse impact on significant fabric or views.*

The following comprises an assessment of the applicable statutory controls under the LEP.

### **(1) Objectives**

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Orange,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The development as proposed is considered inconsistent with the above objectives. Council staff are of the view that the externally proposed works to the northern and eastern elevation (fronting Robertson Park) are unsympathetic, in particular the materiality, architectural design elements including the proposed roof profiles, proposed facade treatment to 225-227 Lords Place, and removal of the brick building which is considered significant heritage fabric to cater for additional car parking spaces.

To this end, to ensure that an appropriate level of conservation and mitigation occurs, thereby ensuring the development is consistent with the above objectives, a number of conditions of consent relating to the heritage value have been imposed and are further detailed in this report.

**(2) Requirement for Consent**

*Development consent is required for any of the following:*

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*
  - (i) a heritage item,*
  - (ii) an Aboriginal object,*
  - (iii) a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) disturbing or excavating an Aboriginal place of heritage significance,*
- (e) erecting a building on land:*
  - (i) on which a heritage item is located or that is within a heritage conservation area, or*
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) subdividing land:*
  - (i) on which a heritage item is located or that is within a heritage conservation area, or*
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

The development involves the above components that require consent, which the applicant has sought.

**(4) Effect of Proposed Development on Heritage Significance**

*The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).*

An assessment of the effect of the proposed development upon the heritage significance of the heritage item and the conservation area generally is undertaken below.



**(5) Heritage Assessment**

*The consent authority may, before granting consent to any development:*

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*

*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

A heritage management document was submitted in the form of a Heritage Impact Statement (HIS) (Sue Rosen Associates, October 2020). The HIS is considered acceptable. Where required Council has provided conditions to ensure the ongoing protection of the heritage significance of the item and Heritage Conservation Area, consistent with recommendations from Council's Heritage Advisor.

**(6) Heritage Conservation Management Plans**

*The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.*

The preparation of a CMP would be ideal, however is not considered warranted in the circumstances.

**(7) Archaeological Sites**

*The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies):*

- (a) notify the Heritage Council of its intention to grant consent, and*
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

The site is located across from Robertson Park, a site of significance identified under the Orange Aboriginal Heritage Report (February 2012). In this regard, a precautionary condition is attached that sets out the protocol that is required to be followed in the event that an object or a relic is discovered.

**(8) Aboriginal Places of Heritage Significance**

*The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:*

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*

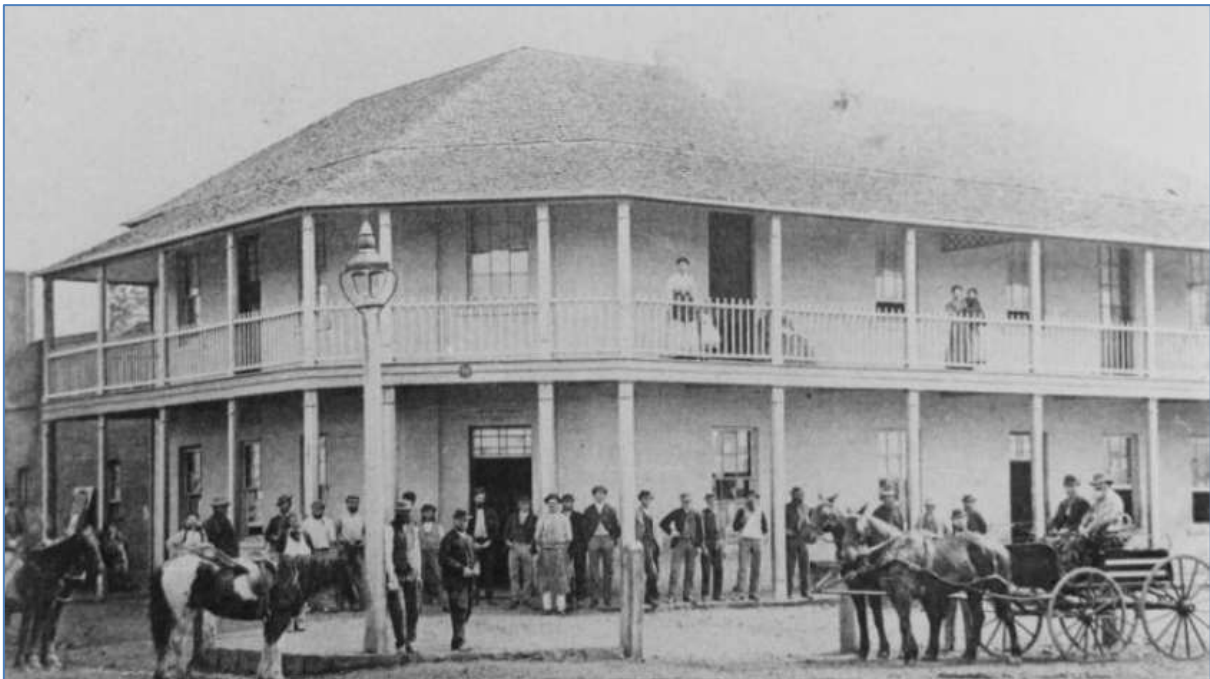
- (b) *notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

An AHIMS search of the subject property concludes that no Aboriginal sites are recorded for the property, nor have any Aboriginal places been declared in or near the subject land.

## HERITAGE ASSESSMENT

### Brief History of the Royal Hotel

The subject site was first developed in 1857/1858 as the Wellington Inn, later to be renamed the Royal Hotel in 1881. The hotel originally comprised a two-storey building, hipped timber shingle roof, with face brick chimneys, sash windows and timber verandah and balustrades. The Hotel has been subject to continued alterations and additions, including the alignment and rationalisation of the wings, including the extension of the hotel to incorporate shops, the pub and accommodation up until the early 1900's.



**Figure 16: Wellington Inn circa 1875-1880**

(source: Sue Rosen Associates (2020) Heritage Impact Statement)

The existing Hotel as it currently stands is an Art Deco style, with elements of Streamline Moderne reconstructed in this style in 1937. As previously mentioned, the shops at 245-247 Summer Street have long been associated with the Royal, and the facades of the buildings were updated contemporaneously with the Royal when it underwent alterations to its interwar form in 1937.



**Figure 17: Royal Hotel 18 April 1938**

(source: Sue Rosen Associates (2020) Heritage Impact Statement)

225-227 Lords Place once formed part of the Royal, being the site of late 1910/early 1920 additions, of which one half of the gable-roofed section is still extant. The existing c1960's office building is not significant and is a detracting element within the Dalton Central Heritage Conservation Area.



**Figure 18: Royal Hotel January 1970 showing 1960's addition**

(source: Sue Rosen Associates (2020) Heritage Impact Statement)

**The Existing Hotel**

The hotel is cement-rendered brickwork, with decorative horizontal linear mouldings around the first-floor wall, the second-floor balconies and on the parapet. The splayed corner is emphasised by a section of raised parapet with a central stepped 'finial' motif. A large 'Royal Hotel' of free-standing letters in an Art Deco font sits on top of the parapet at both Summer Street and Lords Place frontages. The hip roof is corrugated sheet metal, with a rectangular lift overrun behind the ridge of the Lords Place wing.

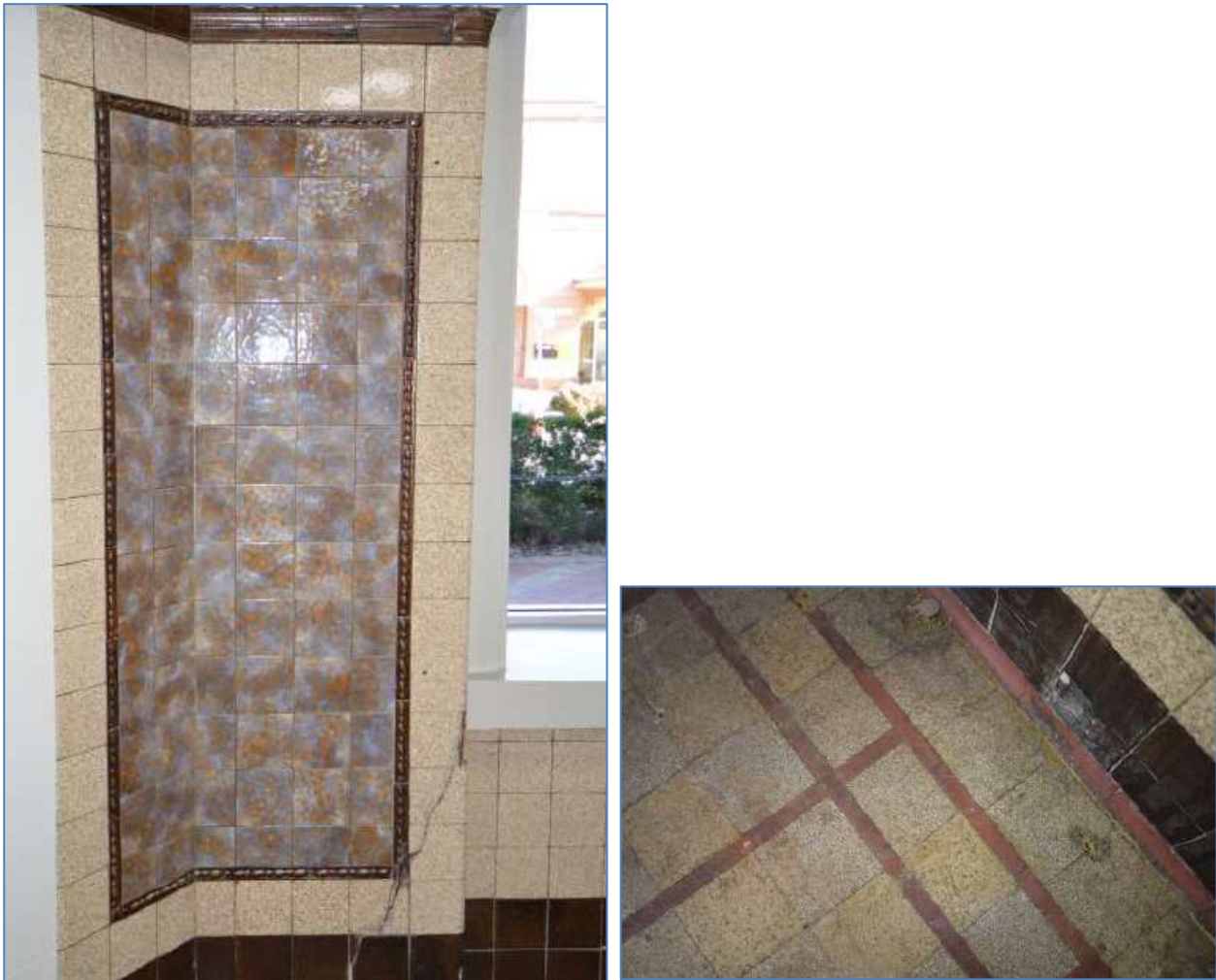
The 1930's vitrolite tiling of the ground floor facade has been removed in the past and replaced by three painted horizontal bands above a black base to sill level, which interprets the black/green banded design of the former tiles.

The facade wall colour is white, with horizontal detail picked out in black. A wrap-around awning with pressed metal soffit, once suspended, is now supported by round columns. The under-awning light fixtures are reproductions. The ground floor windows and doors are aluminium framed, with timber framed sash windows at first floor. The second-floor street frontage doors and windows are black aluminium.

The northern end of the Lords Place frontage is a two-storey hip and gable roofed structure in the Federation style. It has a small decorative gable finished with painted pebble dash and timber panelling above the gutter line. Once part of a larger building that extended further along Lords Place, it is a surviving vestige of the 1928/9 upgrade of the Hotel.

At Lords Place, there is a single storey detached bottle shop, with a right-of-way on either side of it leading to/from an open-air car park for hotel patrons. The small brick building situated adjoining the car park is contemplated to be removed as part of the application, however it is noted that the building is of heritage significance and its use and form is to be retained.

The interior of the building has been subjected to substantial change at ground floor level, though there is evidence remaining of the original plan, detailing and finishes, including portions of wall and floor tiling in the public bar. A central staircase wraps around the former lift well to provide access to the upper levels. Council's Heritage Advisor has recommended that the foyer, stair and sports bar be designed and fit out sympathetic to the Art Deco style of the building to mitigate the proposed changes contemplated under the application.



**Figure 19: Examples of tiling in the public bar**

(source: Sue Rosen Associates (2020) Heritage Impact Statement)

The layouts of the first and second floors are generally intact. The first floor contains two large rooms at the corner splay (former saloon/dining room) now used as a function area. Original floor tiling, ceiling linings and two fireplaces are extant in these rooms. On both the first and second floors a series of hotel bedrooms and communal bathrooms and lavatories are accessed by a central corridor that extends through the entire level. Similarly to the above mentioned recommendations, Council's Heritage Advisor has recommended that the larger room forming the proposed lounge, hall and staircase be designed and fit out sympathetic to the Art Deco style of the building to mitigate the proposed changes contemplated under the application.

The condition of the bedrooms is fair-to-good; some bedrooms have had showers installed and other alterations made. Art deco architraves around windows and doors, skirting boards, original ceiling linings and cornices were extant in several of the rooms, as well as in the corridors. Bathrooms are generally intact or with only minor alterations, though not all in good condition.





**Figure 20: Example of Art Deco ceiling and cornicing details**

(source: Sue Rosen Associates (2020) Heritage Impact Statement)

### **Proposed Alterations and Additions**

The current owners of the Royal Hotel have purchased some adjoining properties and are proposing to consolidate the lots and reconstitute the original footprint of the Hotel. The current Royal Hotel is at 249-257 Summer Street, to which the heritage listing applies.

The commercial premises proposed for incorporation into the Royal's footprint are:

- 241-243 Summer Street
- 245 Summer Street
- 247 Summer Street
- 225-227 Lords Place.
- 229 Lords Place.

While these properties are not individual heritage items, they are, along with the Royal, in the vicinity of items and located in the Dalton Heritage Conservation Area. As such they are subject to the heritage provisions set out in Section 5.10 of the OLEP 2011 and DCP 2004.

The abovementioned properties have been purchased by the Royal and the application includes a change of use to incorporate the properties into the use of the hotel. All of the properties were once part of the Royal's premises, which were variously alienated following a subdivision in July 1959 that created Deposited Plan 30201.



The majority of the works are internal, with some external works on the Lords Place property. There are no alterations to notable features, including the Hotel's highly significant facade, wall tiling and extant floor tiling discovered under the public bar and function room carpet. The inspection has shown that over the years a number of air conditioning units have been installed along the awnings on Summer Street and Lords Place, and a large advertising sign has been erected on the awning on the corner of Summer Street and Lords Place. These are unsightly and do not fit the heritage status of the building.

A condition has been placed on the Draft Notice of Determination (NOD) requiring these to be removed prior to the issue of an Occupation Certificate. A condition has also been placed on the Draft NOD requiring all air conditioning units on the roof to be adequately screened so they are not visible from the surrounding streets.

The proposed internal alterations to the non-listed 241-243, 245 and 247 Summer Street are not considered to have any impact on the Heritage Conservation Area and allow for the continuation of the Hotel's amenities. The alterations to the shopfronts on Summer Street will create cohesion and echo the prior cadastral pattern.

Council's Heritage Advisor has assisted the staff assessment, making a number of design recommendations. Staff agree with the recommendation and have included these condition in the Draft NOD, to ensure that the proposed works are sympathetic to the heritage fabric and that appropriate delineation between the different periods is appropriately distinguished.

1. The proposed works will need to be undertaken in accordance with a Schedule of Conservation Works prepared by a suitably qualified person. This schedule must be approved by Council and implemented in accordance with the conditions of consent for the development application. This is to ensure that any early features of heritage significance are suitably reused and/or repurposed.
2. The brick building, which forms part of the original building, currently located to the rear of the building and proposed for demolition is to be retained and retrofitted appropriately, this will reduce the proposed car parking provisions by 2 car parking spaces.
3. Proposed alterations to areas identified as N7 and N8 on the architectural plans are accepted subject to the tiled wall areas not to being demolished, and are to be refurbished and reinstated sympathetic with the Art Deco style. Internal fit out plans and elevations, materials and colours schedule are to be provided to Council prior to works commencing.
4. The brick facade within the laneway off Lords Place (northern elevation), is not to be painted, and prior to commencement a test patch using Westox Brick Stain is to be reviewed by Council's Heritage Advisor to confirm that the colour of stain is sympathetic with earlier brickwork.
5. No battered treatments are to be proposed on the northern and eastern elevations.
6. Northern and eastern windows are to include interpreted framed Heka Hood to provide added character and shading.
7. Rendered facades and other earlier buildings that relate to the sequential development of the hotel within the laneway are not to be painted white, as to differentiate the different periods of built form and morphology of the hotel. Colours recommended include Dulux Hog Bristle, Beige Royal and Paperbark, which are of closer colour consistency to what would have originally been used on these portions of the building.

8. Plans are to be resubmitted to Council that reconsider the architectural elements and treatment of the contemporary building on Lords Place. An interpreted suspended awning, or post steel awning is to be explored. Linear ashlar rustication at a nominal 600mm with centres aligned to the fenestration of the building is to replace any battened or clad elements as currently proposed.
9. As mitigation for the proposed internal changes, the following rooms are to be reinstated to the period and style evident in the main facade, in which an interpretive strategy including plans, elevations and sections are to be submitted to Council:
  - a. Ground floor – foyer, stair, and bar
  - b. First floor – stair and lounge room
  - c. Second floor – stair and hallway
10. Low-pitched roofs are to be redesigned as traditional skillions.
11. Colour schemes (varying shades of white to interpret the different stages of development, noting black, charcoal and greys are not appropriate) and material schedules are to be submitted to Council for approval.
12. Art deco architraves around windows and doors, skirting boards, original ceiling linings and pressed metal ceilings and cornices are to be retained in situ.

#### 5.21 - Flood Planning


This clause applies to land identified on the Flood Planning Map as a Flood Planning Area and requires that, before any consent is issued, Council must be satisfied that the proposal:


- (a) *is compatible with the flood function and behaviour on the land, and*
- (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

The subject land is flood affected and the 2019 flood maps indicate a Flood Planning Level of 868.9m AHD, which is about 0.3m above the ground floor foyer, sports bar and bistro areas. Given the built form is not significantly changing in footprint and the proposal largely relates to alterations and additions, there will be little impact on the flood function and behaviour of the land. The consolidation of the lots and access points to the west onto Summer Street and the rear adjoining blocks provide opportunities for emergency egress from the site.

A Flood Risk Management Report prepared by Smart Structures Australia, Ref: 240649 – Rev03 dated 29 January 2025 has been provided and provides a flood evacuation plan. A condition has been placed on the Draft NOD requiring the flood evacuation plan to be available in the lobby areas, car parks and other common areas as recommended in the report.



 FLD2019 Blackmans Swamp Creek

 FLD2019 Overland Flow

**Figure 21: Flood Planning**

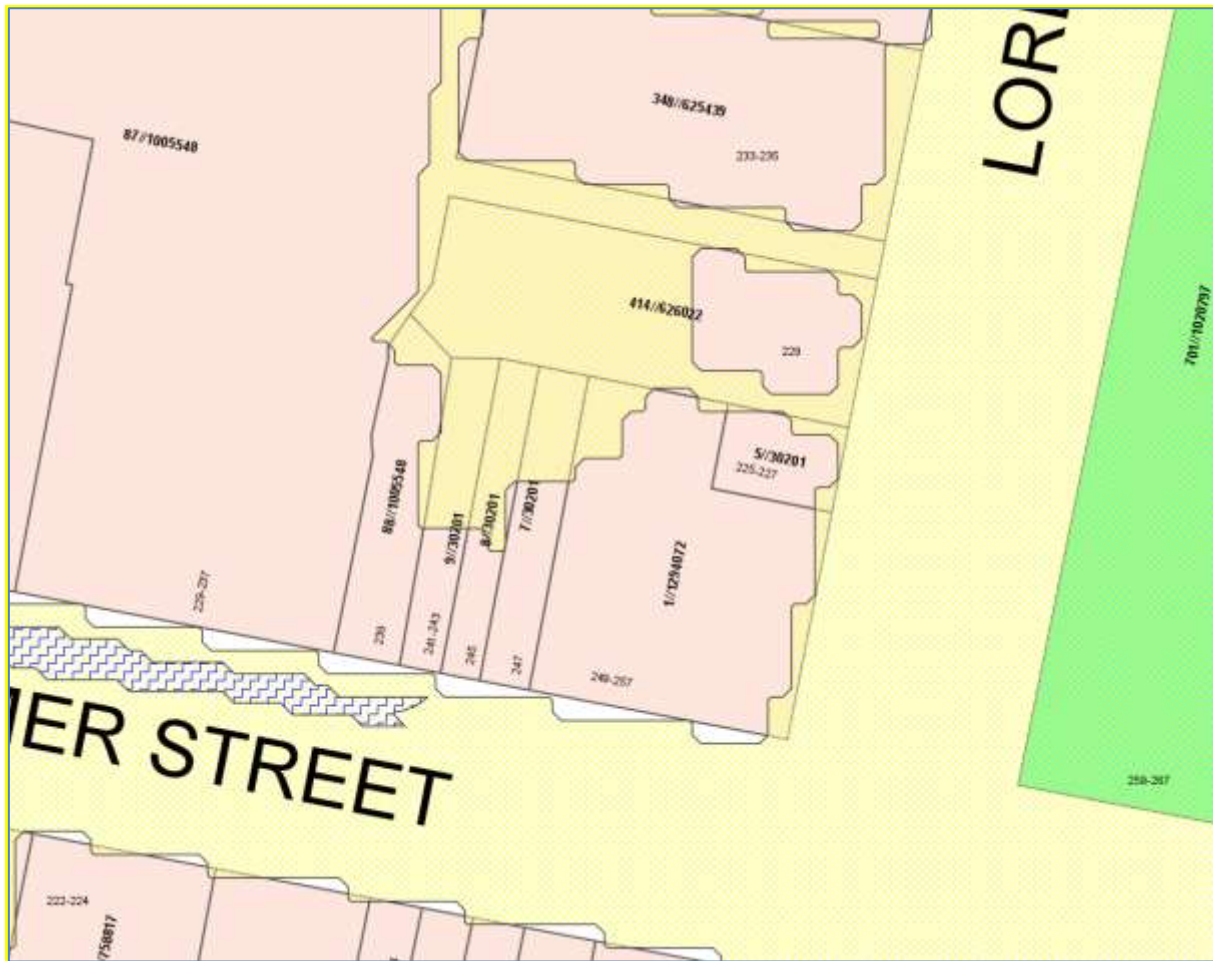
## 5.22 - Special Flood Considerations


This clause applies to sensitive and hazardous development identified between the flood planning level and the level of the probable maximum flood, but does not apply to land at or below the flood planning level and requires that, before any consent is issued, Council must be satisfied of the following:

- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority has considered whether the development—*
  - (a) *will affect the safe occupation and efficient evacuation of people in the event of a flood, and*
  - (b) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
  - (c) *will adversely affect the environment in the event of a flood.*

*Sensitive and hazardous development means development for the following purposes:*

- (t) tourist and visitor accommodation,



 Blackmans Swamp Creek PMF

**Figure 22: Flood Planning**

The site is affected by the PMF to the north and east which would restrict evacuation of the site from this entry and exit points. However, the site has suitable egress to Summer Street, allowing for the evacuation of people to higher ground up Summer Street. The alterations and additions proposed do not pose any greater risk in terms of affecting the surrounding environment during a flood event, and the flood evacuation plan as a condition of consent will ensure suitable emergency protocols are in place.

#### **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****7.3 - Stormwater Management**

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

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

The proposal is utilising the existing buildings on the site, with predominantly internal alterations and additions with redevelopment of some car parking. Stormwater will be conveyed to the existing stormwater system and there will be no additional flows.

**7.6 - Groundwater Vulnerability**

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

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

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

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

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

**Clause 7.11 - Essential Services**

Clause 7.11 applies and states:

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

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

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

**STATE ENVIRONMENTAL PLANNING POLICIES**

The following SEPPs applicable to the proposed development:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*

**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.**
- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) The applicant for development consent must carry out the investigation required by subsection (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*



(4) *The land concerned is:*

- (a) *land that is within an investigation area,*
- (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
- (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital -land:*
  - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
  - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 4 - Remediation of Land requires that the consent authority must not consent to the carrying out of development of land unless it has considered whether the land is contaminated, is satisfied that the land is suitable in its contaminated state for the development that is proposed, and if the land requires remediation to be made suitable for the proposed development it is satisfied that the land will be remediated before the land is used for that purpose.

Given that the land has a longstanding historic use for commercial purposes, it is considered that the subject land is suitable for the proposed development and no further investigation of contamination is required. Notwithstanding this, Councils standard precautionary condition is attached which sets out the protocols in the event of an unexpected find.

#### **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**

Orange Development Control Plan 2004 ("the DCP") applies to the subject land (*Chapter 0 – OLEP 2011, Chapter 4a – Flood Affected Land, Chapter 8 - Development in Business Zones, Chapter 13 - Heritage and Chapter 15 - Car Parking*). An assessment of the proposed development against the relevant Planning Outcomes will be undertaken below.

Pursuant to Planning Outcome 0.2-1 Interim Planning Outcomes - Conversion of Zones:

- *Throughout this Plan, any reference to a zone in Orange LEP 2000 is to be taken to be a reference to the corresponding zone(s) in the zone conversion table.*

The corresponding zone to zone 3a Regional Centre (Orange LEP 2000) is zone E2 Commercial Core (Orange LEP 2011). As such, Orange DCP 2004 - Chapter 8 - Development in Business Zones is the chapter of primary relevance to this proposal in addition to the other chapters listed above.

#### **CHAPTER 4A - FLOOD AFFECTED LAND**

The extent of the Flood Planning Level has been discussed under 5.21 Flood Planning and conditioned accordingly.

#### **CHAPTER 8 - DEVELOPMENT IN BUSINESS ZONES**

##### **Planning Outcomes - Central Business District**

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

The facade of the Royal will remain as part of the development, and the applicant has proposed a new external paint and material scheme for 241-247 Summer Street and 225-227 Lords Place. In addition to this, as part of the heritage assessment and the subsequent mitigation required to ensure that the development is acceptable, certain sympathetic works are required to be undertaken to the proposed facade on 225-227 Lords Place and the northern elevation.

This includes the proposed recommendations as detailed above in this report, including change of materiality as recommended by Council's Heritage advisor, sympathetic installation of contemporary hooded awnings over windows and alterations to the proposed colour scheme.

#### **CHAPTER 13 - HERITAGE**

##### **Planning Outcomes - Heritage Development**

- *Development relates to the significant features of heritage buildings on or near the site, as reflected in inventory sheets.*
- *Development conforms with recognised conservation principles.*
- *Conservation Management Plans are prepared for development having a significant effect on heritage sites.*

A detailed assessment of the impact upon the heritage significance against recognised heritage conservation principles has been undertaken above, under the heading "Clause 5.10 of Orange LEP".

## CHAPTER 15 - CAR PARKING

A review of the previous development application approved for the Royal Hotel in relation to parking is as follows:

DA 182/2020(1) assessed the parking for the proposed DA to be satisfactory in respect of parking provision.

DA 446/2020(1) assessed the parking provision proposed (being 18 car park spaces at the rear of the bottle shop) to be satisfactory.

Off Street car parking spaces are required to be provided at the following rates for specific land uses:

Motels; hotel or tourist accommodation	1 space per unit/ bedroom/tent or caravan site 1 space for every 3 beds (hostel accommodation) + 1 space for each resident manager + 1 space for every 2 employees + 1 space for every 3 seats in the restaurant, + 1 space per 10m <sup>2</sup> of entertainment or function room areas.
Hotels (in the CBD)	1 space per 25m <sup>2</sup> of bar, restaurant, entertainment or function room areas

### Parking Assessment for 249-257 Summer Street (existing hotel)

There are no changes to ground floor in relation to floor space, so no additional car parking is required. The provision of 18 car spaces was assessed under DA 446/2020(1).

**Existing first floor:** hotel accommodation - 25 existing rooms = 25 x 1 = 25 spaces

**Proposed first floor:** hotel accommodation - 18 proposed rooms = 18 x 1 = 18 spaces

**First floor function area:** has no changes, so no additional car parking required.

On this basis the first floor has a reduction in 7 accommodation rooms and therefore has a credit of 7 car spaces.

**Existing second floor:** hotel accommodation - 15 existing rooms = 15 x 1 = 15 spaces.

**Proposed second floor:** hotel accommodation - 11 proposed rooms = 11 x 1 = 11 spaces

On this basis the second floor has a reduction in 4 accommodation rooms and therefore has a credit of 4 car spaces.

**Total credit car spaces for this site: 7 + 4 = 11 car spaces.**

### Parking assessment for 243, 245 and 247 Summer Street

The existing sites have 3 shops that share parking space in the back. Therefore, the parking requirement has been calculated together for all of these sites.

**Existing ground floor business premises:** 388.28m<sup>2</sup> = 388.28 ÷ 40 = 8.4 spaces

**Proposed ground floor business premises:** 255.49m<sup>2</sup> = 255.49 ÷ 40 = 6.3 spaces

Therefore, ground floor for this site has (8.4 - 6.3) = 2.1 rounded up to 2 credit spaces of car spaces.

**Existing first floor:** hotel accommodation - 11 existing rooms = 11 x 1 = 11 spaces.

**Proposed first floor:** hotel accommodation - 7 proposed rooms =  $7 \times 1 = 7$  spaces.

Therefore, the first floor for this site has  $(11 - 7) = 4$  credit spaces of car spaces.

**Total credit car spaces for this site:  $2 + 4 = 6$  car spaces.**

**Parking assessment for 225-227 Lords Place**

**Existing ground floor office:**  $154.22\text{m}^2 = 154.22 \div 40 = 3.8 = 4$  spaces rounded to nearest whole number.

**Existing first floor office:**  $154.22\text{m}^2 = 154.22 \div 40 = 3.8 = 4$  spaces rounded to nearest whole number

The existing requirement is 8 car spaces, but there are currently no car parking spaces on the current site.

**Proposed ground floor hotel:**  $106.68\text{m}^2$  ground floor hotel =  $106.68 \div 25 = 4.2$

**Proposed first floor hotel:**  $106.68\text{m}^2$  first floor hotel =  $106.68 \div 25 = 4.2$

**Total Proposed parking requirement for this site:  $8.4 = 9$  spaces rounded to nearest whole number.**

**Car parking requirements for existing bottle shop**

$275\text{m}^2 = 4.1$  spaces per  $100\text{m}^2 = 11.275$  car spaces.

**Consolidated whole site car parking assessment for proposed alterations and additions to 249-257 Summer Street (existing Hotel), 243, 245, and 247 Summer Street and 225-227 Lords Place**

The proposal included assessment of the entire ground floor area of 249-257 Summer Street, 243, 245 and 247 Summer Street and 225-227 Lords Place with regards to car parking

**249-257 Summer Street:** The first floor for this site has credit for 7 car spaces and the second floor for this site has credit for 4 car spaces making a total of **11 credit car spaces**.

**243, 245 and 247 Summer Street:** The ground floor for this site has 2.1 credit of car spaces. The first floor for this site has 4 credits of car spaces, making a total of **6 credit car spaces**.

**225-227 Lords Place:** Because of the change of use of these premises the total car parking spaces required are **9 spaces**.

Therefore, with the consolidation of the sites we have a credit of  $11 + 6$  spaces = 17 spaces. Lords Place requires the provision of 9 spaces.  $17 - 9 = 8$  spaces in credit.

The hotel currently provides a total of 27 existing car park spaces. With the consolidated site/s the total car parking supplied will be 35 car spaces (which includes 2 accessible parking spaces). Advice from Council's heritage advisor is to retain the existing heritage brick building behind shop 1 (243 Summer Street). The retention of the building will reduce the parking provision by 2 car spaces. The application therefore provides for the provision of 33 car spaces. Under DA 446/2020(1) the Royal provided 18 car spaces. The current proposal includes the reduction in accommodation rooms from 51 rooms to 36 rooms, which leaves a credit of 15 spaces. The reduction in floor area of the 3 shops leaves a credit of 2 spaces. The change of use of the 225-227 Lords Place from office to pub has been assessed as requiring the provision of 9 spaces. The previous use as an office required provision of 8 car spaces but is deemed to have provided those spaces. The net increase in parking demand for this aspect of the development is assessed as 1 car space.

The proposed development now has a requirement to provide the following car spaces:

- 18 spaces provided from DA 446/2020(1)
- 1 space provided for conversion of 225-277 Lords Place.

The proposed development results in an overall nett decrease in car parking demand. Based on the consideration of historic approvals relating to the various sites within the development and the nett reduction in the overall number of hotel rooms now proposed has reduced the overall parking demand for the site. The assessed requirement for the development is calculated at 19 car spaces. The submitted plans show the provision of 33 car spaces. Car parking impacts are considered to be acceptable for the development

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

#### **Demolition of a Building (clause 61)**

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

#### **Fire Safety Considerations (clause 62)**

The proposal does involve a change of building use for an existing building. The proposed development will be a class 3 and class 6 building and will contain essential fire safety measures. A BCA report has been provided and conditions have been placed on the draft NOD requiring the building to be fire upgraded in accordance with the BCA and the report prepared by BCA Logic, Project No: 115007 dated 04/06/2024.

#### **Buildings to be Upgraded (clause 64)**

Upgrading of the building will be required to ensure the existing building is brought into partial or total conformity with the Building Code of Australia. Conditions are attached in relation to the required upgrading works.

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

#### **Context and Setting**

The subject site is located within a well-established commercial area of the Orange CBD. The building is a very visually prominent building in the streetscape due to its size, appearance, and general heritage character. The proposed development will not alter the functionality of the building and, if anything, will enhance how the building functions. This development will enhance the vibrancy of the City and provide much needed additional accommodation to the City for tourism. The development will retain the important commercial building within the CBD, and the proposed alterations and additions are considered appropriate in the context and setting.

#### **Visual Impacts**

The development with consideration of the recommended conditions that require alterations to the architectural elements to the facade on Lords Place, along with a new sympathetic exterior colour and materiality scheme, will result in acceptable visual impacts and a general improvement to the exterior of the building, particularly from Lords Place. The development, with consideration of the relevant conditions of consent, is considered acceptable in terms of the likely visual impacts.

**Heritage Impacts**

A detailed heritage assessment has been undertaken above under the heading "Clause 5.10 - Orange LEP 2011".

**Flooding Hazard**

The site is mapped in a flood zone. A condition has been placed on the draft NOD requiring the submission of a flood evacuation plan to the satisfaction of the Manager Development Assessments prior to the issue of a Construction Certificate.

**Access and Traffic Impacts**

The proposal provides for 33 car parking spaces (with the retention of the brick building) in an open air car park at the rear of the hotel premises. There is ample space for on-street parking adjacent to the Hotel. This is considered to be sufficient parking to mitigate any issues of car parking related to the Hotel alterations and additions.

**Construction Methodology/Sequencing**

Given the possible safety risks, the highly trafficable CBD location and the extent of works proposed, a condition is attached that requires a construction management plan to be submitted to and approved by the principal certifying authority (PCA).

The construction management plan should be prepared in line with industry standards and must address matters such as loading/unloading, parking of construction worker vehicles, measures to reduce impacts on Summer Street and Lords Place, dust, noise and vibration mitigation etc.

**Pedestrian Impacts - During Construction**

A separate Local Government Act approval will be required for the installation of hoarding, scaffolding and site compound area. An approval would be required prior to work commencing on the site.

**Utilities**

Electricity and telephone services are available to the site. The scale of the development does not require upgrading of any existing services.

**Surface Water and Groundwater**

The site is identified on the groundwater vulnerable land map, however it is expected that the proposed works will not generate any adverse effects.

**Crime Prevention Through Environmental Design**

As the proposal largely related to internal alterations and additions, with minimal external works proposed to the laneway, and through consideration of the conditions of consent for the proposal, Council staff are satisfied that the proposal does not pose a safety, security or crime prevention risk.



**Cumulative Impacts**

Cumulative impacts of a development can arise under four typical scenarios, namely:

- time crowded effects where individual impacts occur so close in time that the initial impact is not dispersed before the proceeding occurs
- space crowded where impacts are felt because they occur so close in space, they have a tendency to overlap
- nibbling effects occur where small, often minor impacts, act together to erode the environmental condition of a locality and
- synergistic effects, where a mix of heterogeneous impacts interact such that the combined impacts are greater than the sum of the separate effects.

Given the existing and well-established commercial nature of the development and CBD location, the development is not likely to result in any unreasonable cumulative impacts within the locality.

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

The site is suitable for the proposed development. The development is commensurate with the longstanding commercial use of the site. Furthermore, Council staff are not aware of any natural, physical or technological hazards that would constrain the development in any material way.

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

The proposed development is advertised development pursuant to Council's Community Participation Plan 2019 and Schedule 1 of the Environmental Planning and Assessment Act 1979. The application was notified from 5 August to 19 August 2024 and no submissions were received.

**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 Surveyors, Building Certifiers, Council's Heritage advisor and the Engineering Development Section are included in the attached Notice of Approval.

**ATTACHMENTS**

- 1 DRAFT Notice of Determination, D25/20349 [↓](#)
- 2 Plans, D25/16832 [↓](#)
- 3 Schedule of Colours, Materials and Finishes, D25/16830 [↓](#)
- 4 Heritage Impact Statement, D25/16859 [↓](#)



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA 579/2024(1) PAN-446651				
Applicant	Andrew Turnbull 55A Bougainville Street Forest ACT 2603				
Description of development	Refurbishment of the Royal Hotel at 249- 257 Summer Street and alteration and addition of the Royal Hotel to adjacent sites.				
Property	249-257 SUMMER STREET ORANGE 2800 1/- /DP1294072				
	241-243 SUMMER	245 SUMMER	247 SUMMER	225-227 LORDS	231 LORDS

	STREET ORANGE 2800 9/-/DP30201	STREET ORANGE 2800 8/- /DP30201	STREET ORANGE 2800 7/- /DP30201	PLACE ORANGE 2800 5/- /DP30201	PLACE ORANGE 2800 414/- /DP626022
<b>Determination</b>	Approved Consent Authority - Council				
<b>Date of determination</b>	4/03/25				
<b>Date from which the consent operates</b>	4/03/25				
<b>Date on which the consent lapses</b>	4/03/30				

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

To ensure compliance with relevant statutory requirements.

To ensure the utility services are available to the site and adequate for the development.

To provide adequate public health and safety measures.

To prevent the proposed development having a detrimental effect on adjoining land uses.

To comply with the Environmental Planning and Assessment Act 1979.

The proposal will reasonably satisfy local and state planning controls.

The proposal development will be consistent with the zone objectives and principal development standards.

The proposal development will complement the existing or desired future character of the area.

To ensure a quality urban design for the development which complements the surrounding environment.

#### **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 Ross Jauncey / 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

Erection of signs

1.

This section applies to a development consent for development involving building work, subdivision work or demolition work.

2.

It is a condition of the development consent that a sign must be erected in a prominent position on a 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 certifier for the work, and

b.

showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and

c.

stating that unauthorised entry to the work site is prohibited.

3.

The sign must be—

a.

maintained while the building work, subdivision work or demolition work is being carried out, and

b.

removed when the work has been completed.

4.

This section does not apply in relation to—

a.

building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or

b.

Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

Condition reason:

Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

2

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.

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Existing Ground Floor Plan	Project No: 1927, Dwg No: DA-01-2,	Darren Mah Design Pty Ltd	27/06/2024

	Rev A		
Existing First Floor Plan	Project No: 1927, Dwg No: DA-01-3, Rev A	Darren Mah Design Pty Ltd	27/06/2024
Existing Second Floor Plan	Project No: 1927, Dwg No: DA-01-4, Rev A	Darren Mah Design Pty Ltd	27/06/2024
Proposed Ground Floor Plan	Project No: 1927, Dwg No: DA-02-2, Rev A	Darren Mah Design Pty Ltd	27/06/2024
Proposed First Floor Plan	Project No: 1927, Dwg No: DA-02-3, Rev A	Darren Mah Design Pty Ltd	27/06/2024
Proposed Second Floor Plan	Project No: 1927, Dwg No: DA-02-4, Rev A	Darren Mah Design Pty Ltd	27/06/2024
Proposed Roof Plan	Project No: 1927, Dwg No: DA-02-5, Rev A	Darren Mah Design Pty Ltd	27/06/2024
Ground Floor detail Plan - Part 1	Project No: 1927, Dwg No: DA-03-1, Rev A	Darren Mah Design Pty Ltd	27/06/2024
Ground Floor Detail Plan - Part 2	Project No: 1927, Dwg No: DA-03-2, Rev A	Darren Mah Design Pty Ltd	27/06/2024
First Floor Detail Plan – Part 1	Project No: 1927, Dwg No: DA-03-3, Rev A	Darren Mah Design Pty Ltd	27/06/2024
First Floor Detail Plan – Part 2	Project No: 1927, Dwg No: DA-03-4, Rev A	Darren Mah Design Pty Ltd	27/06/2024
Second Floor Detail Plan	Project No: 1927, Dwg No: DA-03-5, Rev A	Darren Mah Design Pty Ltd	27/06/2024
Elevations	Project No: 1927, Dwg No: DA-04-1,	Darren Mah Design	27/06/2024



		Rev A	Pty Ltd	
	Elevations	Project No: 1927, Dwg No: DA-04-2, Rev A	Darren Mah Design Pty Ltd	27/06/2024
	Sections	Project No: 1927, Dwg No: DA-05-1, Rev A	Darren Mah Design Pty Ltd	27/06/2024
	Erosion and sediment control plan	Project No: 1927, Dwg No: DA-07-1, Rev A	Darren Mah Design Pty Ltd	27/06/2024
	Heritage Impact Statement	Not Referenced	Sue Rosen Associates	18/06/2024
	BCA Assessment Report DA Stage	Project No: 115007, Rev: 4	Jensen Hughes Pty Ltd	04/06/2024
	Annual Fire Safety Statement Inspection report	Not Referenced	Wheeler Industries	26/06/2024
	External Finishes and colours	Project No: 1927, Dwg No: DA-06-1, Rev A	Darren Mah Design Pty Ltd	27/06/2024
	Existing Site Plan	Project No: 1927, Dwg No: DA-01-1, Rev A	Darren Mah Design Pty Ltd	27/06/2024
	Proposed Site Plan	Project No: 1927, Dwg No: DA-02-1, Rev A	Darren Mah Design Pty Ltd	27/06/2024
	Statement of Environmental Effects	Project No: 1927	Darren Mah Design Pty Ltd	27/06/2024
	Stormwater Services Cover Sheet, Legend, Notes and Drawing Index	Project No: 23002, Dwg No: C-001, Rev: 1	TDL Engineering Consulting Pty Ltd	03/06/2024
	Stormwater Services, Ground Floor Stormwater	Project No: 23002, Dwg No: C-101, Rev: 1	TDL Engineering Consulting Pty Ltd	03/06/2024

	Management Plan			
	Stormwater Services First Floor Stormwater Management plan	Project No: 23002, Dwg No: C-102, Rev: 1	TDL Engineering Consulting Pty Ltd	03/06/2024
	Survey Plan	Ref: 3489/24, Sheet 1 of 4, Rev: B	Craig Jacques & Assoc (Orange) Pty Ltd	09/04/2024
	Survey Plan	Ref: 3489/24, Sheet 2 of 4, Rev: B	Craig Jacques & Assoc (Orange) Pty Ltd	09/04/2024
	Survey Plan	Ref: 3489/24, Sheet 3 of 4, Rev: B	Craig Jacques & Assoc (Orange) Pty Ltd	09/04/2024
	Survey Plan	Ref: 3489/24, Sheet 4 of 4, Rev: B	Craig Jacques & Assoc (Orange) Pty Ltd	09/04/2024
	Waste Management Plan	Not Referenced	Not Referenced	20 June 2024
	<p>In the event of any inconsistency between the approved plans and documents, the approved &lt;Plans / Documents&gt; prevail.</p> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p><b>Condition reason:</b> To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>			
3	<b>Development and subdivision works requirements</b>			
	<p>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.</p> <p><b>Condition reason:</b> To comply with Council's Development and Subdivision Code.</p>			
4	<b>National Construction Code</b>			

	All building work must be carried out in accordance with the provisions of the National Construction Code.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
5	<b>Compliance with Disability Discrimination Act 1992</b>  <p>This approval does not protect or guarantee against a possible claim of discrimination (intentional or unintentional) under the <i>Disability Discrimination Act 1992</i>, and the applicant/owner is therefore advised to investigate their liability under this Act.</p> <p><b>Note:</b> <i>Disability (Access to Premises - Buildings) Standards 2010</i></p> <p><i>-As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.</i></p>
	<b>Condition reason:</b> Reason: To inform of relevant access requirements for persons with a disability.

### Building Work

#### Before issue of a construction certificate

7	<b>Liquid trade waste application</b>  <p>A Liquid Trade Waste Application is to be submitted to Orange City Council prior to the issue 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.</p> <p>Where applicable, the applicant is to enter into a Trade Waste Services Agreement with Orange City Council in accordance with the Orange City Council Liquid Trade Waste Policy.</p>
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements
8	<b>Consolidation of water and sewer connections.</b>  <p>Prior to the issue of a Construction Certificate plans detailing the consolidation of individual sewer junctions, water meters and fire service to a single point of connection for each service (or as approved) shall be submitted to and approved by Orange City Council.</p>
	<b>Condition reason:</b> To comply with Orange City Councils Development and Subdivision

	Code.
9	<p><b>Section 68 application - water and sewer</b></p> <p>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.</p> <p><b>Condition reason:</b> To ensure the utility services are available to the site and adequate for the development.</p>
10	<p><b>Structural certification for additional loads</b></p> <p>A qualified practising registered structural engineer must provide structural certification to Council (where Council is the Accredited Certifier) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the National Construction Code (previously known as Building Code of Australia) prior to a construction certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building, including its performance under earthquake actions (AS1170.4).</p> <p><b>Condition reason:</b> To ensure the existing structure can support the new loads.</p>
11	<p><b>Structural details for existing</b></p> <p>Prior to the issue of a construction certificate, building work that is constructed on an existing concrete slab will require certification from a structural engineer detailing the adequacy of the slab for the proposed structure.</p> <p><b>Condition reason:</b> To ensure compliance with relevant statutory requirements.</p>
12	<p><b>Survey for hazardous materials</b></p> <p>A survey to determine the existence of any hazardous materials on the site is to be provided. Suitable arrangements are to be made to dispose of, or remediate any identified hazardous materials - including the notification of authorities and/or the obtaining of any required permits. Particular care and attention is to be paid to the disposal of any waste containing asbestos material.</p> <p><b>Condition reason:</b> To prevent the proposed development having a detrimental effect on adjoining land uses.</p>
13	<p><b>Amendments to Approved Plans</b></p> <p>The applicant shall submit amended drawings with the Constrcution Certificate</p>

Plans that include the following amendedmnets:

1. The brick building, which forms part of the original building, currently located to the rear of the shop (247 Summer Street) and proposed for demolition is to be retained and retrofitted appropriately, this will reduce the proposed car parking provisions by 2 car parking spaces.
2. Proposed alterations to areas identified as N7 and N8 on the architectural plans are accepted subject to the tiled wall areas not to being demolished. These areas are to be refurbished and reinstated sympathetic with the Art Deco style. Internal fit out plans and elevations, materials and colours schedule addressing such are to be provided to the Manager of Development Assessments for approval prior to works commencing.
3. The brick facade within the laneway off Lords Place (northern elevation), shall not to be painted. The use of a Westox brick stain sympathetic with earlier brickwork shall be used as the required finish. The final brick stain colour shall be approved in consultation with Council's Heritage Adviser.
4. No battened treatments are permitted on the northern and eastern elevations of the Lords Place Structure (Ex-Soilcitors building).
5. Northern and western windows shall include interpreted framed Heka Hood to provide added character and shading.
6. Rendered facades, and other earlier buildings that relate to the sequential development of the hotel within the laneway are to not to be painted white, as to differentiate the different periods of built form and morphology of the hotel. Colours recommended include Dulux Hog Bristle, Beige Royal and Paperbark which are of closer colour consistency to what would have originally been used on these portions of the building. The final proposed colour scheme shall be submitted for the approval of Council's Manager Development Assessments.
7. The architectural elements and treatment of the contemporary building on Lords Place shall include a suspended awning, or post steel awning. Linear ashlar rustication at a nominal 600mm with centres aligned to the fenestration of the building is to replace any battened or clad elements as currently proposed. Final details shall be submitted to the Manager Development Assessments for approval prior to the issue of a Construction Certificate.
8. Low-pitched roofs are to be redesigned as traditional skillions.
9. Colour schemes (varying shades of white to interpret the different stages of development, noting black, charcoal and greys are not appropriate) and

	<p>material schedules are to be submitted to Council for approval.</p> <p>10 Art deco architraves around windows and doors, skirting boards, original ceiling linings and pressed metal ceilings and cornices are to be retained in situ</p> <p>11. The final finishes of ground floor - foyer, stair and bar, first floor stair and lounge room, and second floor stair and hallway shall be reinstated to the period and style evident in the main facade. Final details of all proposed finishes and designs for each shall be submitted to Council's Manager Development Assessments for approval prior to the issue of a Construction Certificate.</p> <p><b>Note:</b> The above requirements involve a change to the plans as submitted to and approved by Council. The changes in this regard shall be reflected as amended plans to be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate for the proposed development.</p> <p>A suitably qualified heritage consultant should be engaged to provide ongoing advice throughout the demolition, contract documentation and development of final construction plans that reflect the above requirements.</p> <p><b>Condition reason:</b> Reason: To confirm and clarify the terms of Council's approval.</p>
14	<p><b>Final colour and Materials Palette</b></p> <p>The final colours and materials palette for the proposed development shall be submitted to Council's Manager Development Assessment for approval prior to the issue of Construction Certificate.</p> <p><b>Condition reason:</b> Condition reason: To ensure the building works are carried out sympathetically with heritage guidelines.</p>
15	<p><b>Schedule of Conservation</b></p> <p>Prior to the issue of a Construction Certificate, a Schedule of Conservation Works reflecting the requirements of this consent as it relates to the proposed exteriors and roof for the Royal Hotel shall be prepared by a suitably qualified and experienced heritage consultant and submitted to Council's Manager Development Assessments for approval.</p> <p><b>Condition reason:</b> Condition reason: To ensure the building works are carried out sympathetically with heritage guidelines.</p>
16	<p><b>Heritage Interpretation Strategy</b></p> <p>A Heritage Interpretation Strategy shall be prepared for the site by a suitably qualified heritage consultant to guide the proposed interpretive elements. The Heritage Interpretation Strategy shall identify significant themes and narratives for interpretation focusing on the historical use of the Royal Hotel, as well as identifying indicative content for the proposed interpretation panels and other</p>



	opportunities for interpretation at the site.
	<b>Condition reason:</b> Condition reason: To ensure the building works are carried out sympathetically with heritage guidelines.
17	<b>Photographic Archival Recording.</b>
	Prior to the issue of a Construction Certificate, a Photographic Archival Recording should be undertaken of the subject site in accordance with the Heritage NSW Guidelines for <i>'Photographic Recording of Heritage Items Using Film or Digital Capture'</i> .
	<b>Condition reason:</b> Reason: To ensure that there is a record of the building for archival purposes.
18	<b>Access for People with Disabilities</b>
	Access for people with disabilities shall be provided in accordance with the requirements of the Building Code of Australia, relevant Australian Standards and with regard to the <i>Disability Discrimination Act 1992</i> .
	Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance.
	<b>Note:</b> <i>Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992.</i>
	<b>Condition reason:</b> Reason: To inform of relevant access requirements for persons with a disability
19	<b>Section 68 Local Government Act 1993 Approvals</b>
	Prior to the issue of a Construction Certificate, an application under section 68 of the <i>Local Government Act 1993</i> shall be made to, and issued by, Orange City Council, for the following approvals:
	<ul style="list-style-type: none"> <li>a. Water supply</li> <li>b. Sewerage</li> <li>c. Stormwater</li> </ul>
	<b>Condition reason:</b> Condition reason: A requirement under the provisions of the Local Government Act 1993.
20	<b>Construction Traffic Management Plan</b>
	To undertake development works including demolition, earthworks and construction a Construction Traffic Management Plan (CTMP) is required to be submitted and approved by Council prior to issue of the Construction Certificate.

	<p>The CTMP shall indicate measures to be implemented to protect the environment as well as public health, safety and convenience. The CTMP must include the following:</p> <ul style="list-style-type: none"><li>a) Details of site security;</li><li>b) Off-street parking for employees, contractors and sub-contractors.</li><li>c) Site access for construction vehicles and equipment purposes.</li><li>d) Public safety in the use of roads and footpaths where development activities adjoin such facilities.</li><li>e) The storage and removal, on a regular frequency, of builder 's rubble and waste by trade waste contractors.</li><li>f) Provision for loading and unloading materials;</li><li>g) Location of all building materials, structures, plant and equipment to be stored or placed within the construction site;</li><li>h) How materials are to be loaded/unloaded and potential impact on Council infrastructure (including but not limited to footpaths and street trees)<ul style="list-style-type: none"><li>i. Public risk policies and management for all contractors' employees using or gaining access over public footpaths and roads.</li></ul></li><li>j) External lighting and security alarms proposed for the construction site.</li><li>k) Firefighting measures to be available on site during development</li></ul>
--	---

	<p>and construction.</p> <p>l) Sanitary amenities proposed on site during development and construction.</p> <p>m) Ensuring the safety of members of the public and Council staff who may have occasion to enter and be in attendance on the site;</p> <p>n) Details of management of storm water run-off and the proposed sediment and erosion control measures including the location of any rubble grids;</p> <p>o) Details of any air and dust management</p> <p>p) Details of noise and vibration controls;</p> <p>q) Anticipated staging and duration of works</p> <p>r) Provision of Traffic Management Plan (TMP) and Traffic Control Plans (TMP)</p>
	<p><b>Condition reason:</b> Reason: To ensure the safety, amenity and protection of public infrastructure and the environment.</p>
21	<p><b>Accessible Car Parking Spaces</b></p> <p>Two (2) of the car parking spaces provided as part of the total requirement shall be reserved for disabled persons.</p> <p>These spaces shall be constructed and identified in accordance with Volume 1 of the National Construction Code (NCC) and AS/NZS 2890.6 - Parking Facilities; Off-street parking for people with disabilities.</p> <p>Details to demonstrate compliance shall be submitted to and approved by the Certifying Authority prior to the issue of the Construction Certificate.</p> <p><b>Condition reason:</b> Reason: To inform of relevant access requirements for persons with a disability.</p>

22	<p><b>Pedestrian Safety</b></p> <p>The Contractor shall endeavour to minimise disturbance to pedestrian / vehicle traffic in the vicinity of the site. If required by Council a hoarding shall be erected and consent required in accordance with Section 138 of <i>Roads Act 1993</i>.</p> <p>Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate showing compliance with this condition.</p> <p><b>Condition reason:</b> Reason: To ensure pedestrian and vehicular safety.</p>
23	<p><b>Disabled Toilets</b></p> <p>Plans and details of the disabled toilet/s shall comply with the relevant Australian Standards, the Building Code of Australia, and with regard to the <i>Disability Discrimination Act 1992</i>. Prior to the issue of a Construction Certificate, the plans shall demonstrate compliance.</p> <p><b>Note:</b> <i>Disability (Access to Premises - Buildings) Standards 2010 - As of 1 May 2011, if access is provided to the extent covered by this Standard, then such access cannot be viewed as unlawful under the Disability Discrimination Act 1992. The plans must be approved by the Accredited Certifier prior to issue of a Construction Certificate.</i></p> <p><b>Condition reason:</b> Reason: To inform of relevant access requirements for persons with a disability.</p>
24	<p><b>Hoardings and Other Temporary Barriers on Council Property</b></p> <p>Council areas are required to have appropriate measures put in place to protect the public. A separate application under the <i>Roads Act 1993</i> along with details and appropriate fees be submitted to Council prior to the commencement of work. The application shall detail all hoardings, temporary barriers and various other arrangements proposed to be installed to protect the general public from potential disruption and/or injury and also how Council assets will be protected throughout the course of construction activities.</p> <p><b>Condition reason:</b> Reason: To maintain public safety.</p>
25	<p><b>Disabled Persons Access and Facilities</b></p> <p>(a) Detailed drawings shall be provided to Council for the fit out to the disabled person's facilities with the construction certificate application. Details shall be in accordance with AS 1428.1 Design for Access and Mobility and the Premises Code.</p> <p>(b) At least <b>two (2)</b> car parking space/s for use by disabled persons shall be</p>

provided. These spaces shall be clearly identified by sign posting complying with AS1428.1, and comply with AS2980.1 and the Premises Standard).

(c) No work is to commence on disabled persons access routes until details of the routes are submitted to and approved by the Principal Certifying Authority. The details shall include a site plan clearly identifying the proposed route for access by disabled persons. It is noted that access from the allotment boundary, carpark and any other building on the allotment which access for people with disabilities is required, to the entrance of the subject building. Access shall be in accordance with AS 1428.1 Design for Access and Mobility.

(d) Access for people with disabilities shall be provided to and within buildings as set out in Table D3.2 of the National Construction Code (NCC) by means of a continuous path of travel in accordance with AS1428.1:

-from the allotment boundary at the main points of entry; and

(ii) from any carparking space on the allotment (whether within or outside the building) provided in accordance with D3.5; and

(iii) from any adjacent and associated accessible building on the allotment; and

(iv) through the principal public entrance.

(e) Sanitary facilities must be provided in accordance with Table F2.4 of the National Construction Code (NCC) for:

(i) every Class 3, 5, 6, 7, 8 and 9 building that is required by the deemed to satisfy provisions of Part D3 to be accessible to people with disabilities and may be calculated as part of the number of facilities required by Table F2.3; and

(ii) a Class 10a building to which the public will have access and which contains sanitary facilities, showers or hand basins etc.

(iii) The construction and layout of all facilities provided in accordance with Table F2.4 must comply with AS1428.1.

(iv) A unisex facility must be located so that it can be entered without crossing an area reserved for one sex only.

(f) Identification of Accessible Facilities, Services and Features In every building required to be accessible, clear and legible Braille and tactile signage complying with Specification D3.6 and incorporating the international symbol of access or deafness or other symbol as appropriate in accordance with AS1428.1 must

	<p>identify all items as specified in                      Clause D3.6 of the National Construction Code</p> <p>(NCC).</p> <p>(g)     Hearing Augmentation</p> <p>(a)     Where an inbuilt amplification system, other than one used for emergency warning purposes only, is installed, a hearing augmentation system complying with AS1428.1 must be provided in the locations specified in Clause D3.7 of the National Construction Code (NCC).</p> <p>(b)     In a Class 9b building, any screen or scoreboard capable of displaying public announcements must be capable of supplementing any public address system, other than a public address system used for emergency warning purposes only.</p> <p>(h)     Tactile Indicators</p> <p>(a)     For a building required to be accessible, tactile ground surface indicators must be provided to warn people with vision impairment that they are approaching any area as specified in Clause D3.8 of the National Construction Code (NCC).</p> <p>(b)     Tactile ground surface indicators required by (a) must be Type B indicators in accordance with AS1428.4.</p> <p>(c)     A hostel for the aged, nursing home for the aged or a</p>
--	--



residential aged care building, need not comply with (a) (i) of D3.8 of the National Construction Code (NCC) if handrails incorporating a raised dome button in accordance with AS1428.1 are provided to

warn people with impaired vision that they are approaching a stairway or ramp.

(i) Braille Signage

In every building required to be accessible, clear and legible Braille and tactile signage complying with Specification D3.6 of the National Construction Code (NCC) and incorporating the international symbol of access or deafness or other symbol as appropriate, in accordance with AS 1428.1 must identify:

(a) each

- (i) sanitary facility; and
- (ii) accessible space with a hearing augmentation system; and

(b) where an entrance or lift is not accessible, identify each accessible -

- (i) entrance; and
- (ii) lift or bank of lifts; and

the path of travel from the principal public entrance to these features and facilities where their location is not apparent to the building occupant (see National Construction code (NCC) D3.6 Braille and

Tactile Signs).

(j) Disabled Sanitary Facility

The sanitary facility shall be constructed in accordance with the requirements of AS1428.1 *Design for Access and Mobility General Requirements for Access*.

(k) **Advisory Note**

(i) The Applicants/property owner should note that the Commonwealth *Disability Discrimination Act 1992* provides opportunity for public complaint potentially leading to legal action if access to premises by people with disabilities or their carers is precluded. This may require action to provide or improve access in addition to the minimum requirements of the National Construction Code (NCC), particularly if such work would not cause "unjustifiable hardship" for the proprietors or owners.

(ii) The Human Rights and Equal Opportunity Commission

	can provide further information on this issue).
	<b>Condition reason:</b> Reason: Statutory requirement.
26	<b>Structural details for construction certificate</b>
	Prior to the issue of a construction certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A5.2(1)(e) of the National Construction Code (previously known as Building Code of Australia) must be submitted to the satisfaction of Council (where Council is the Accredited Certifier).
	<b>Condition reason:</b> To ensure structural certification is undertaken.

**Before building work commences**

27	<b>Appoint PC</b>
	Appoint Principal Certifier. The person having the benefit of the development consent and a construction certificate shall:
	(a) Appoint a Principal Certifier and notify Council of the appointment (if Council is not appointed) and,
	(b) Notify Council of their intension to commence the erection of the building (at least two (2) day's notice is required)
	The Principal Certifier shall determine when inspections and compliance certificates are required.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
28	<b>Traffic Control Plan</b>
	A minimum of seven (7) days prior to the commencement of work, the developer shall submit to Council a Certified Traffic Management Plan for each activity of work in accordance with the current version of Roads and Maritime Services (RMS) document "Traffic Control at Work Sites". This plan must include each construction activity that

	<p>involves works on or adjacent to public land. If the work site alters ,</p> <p>further plans are to be submitted to Council. A copy of the plan (s) is</p> <p>to be kept on site at all times.</p>
	<p><b>Condition reason:</b> Reason: To ensure public safety.</p>
29	<p><b>Approval Required for Work within Road Reserve - Section 138 Roads Act 1993</b></p> <p>Where works are proposed within the road reserve, the Developer must obtain approval from Council (as the Roads Authority and / or as required under Section 138 of the Roads Act 1993) before any works are undertaken. Works within the road reserve may include activities such as erect a structure, dig up or disturb the surface of a public road, remove or interfere with a structure, or any other activities as defined within the Roads Act 1993.</p> <p>The following details must be submitted to Council in order to obtain the Section 138 approval:</p> <p>A copy of approved design plans related to the development and proposed works to be undertaken.</p> <p>Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS1742.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.</p> <p>Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant / contractor undertaking the works.</p> <p>Advice: Where works are required within a Classified Road, the Developer must obtain the concurrence and / or the</p>

	approval of the Roads and Traffic Authority for engineering design plans, Traffic Control Plans and approvals under Section 138 of the Roads Act 1993. <b>Condition reason:</b> Reason: Statutory requirement.
30	<b>Construction certificate required</b>  A construction certificate must be obtained from Council or an accredited certifier at least two (2) days prior to any building or ancillary work commencing. Where the construction certificate is obtained from an accredited certifier, the determination and all appropriate documents must be notified to Council within seven (7) days of the date of determination.  <b>Condition reason:</b> Required by Section 6.6 (formerly 81A) of the Environmental Planning and Assessment Act, 1979 and Part 8, Division 2 of the Environmental Planning and Assessment Regulation, 2000.

**During building work**

31	<b>Adjustments to utility services</b>  Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.  <b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
32	<b>Driveway and parking areas</b>  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. All parking spaces, line marking and signage shall be in accordance with AS/NZS2890.1: 2004 Off-street car parking.  <b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
33	<b>Provision of services</b>  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.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
34	<b>Asbestos material removal and disposal</b>
	Any asbestos material must be removed and disposed of in accordance with the provisions of the <i>Work Health &amp; Safety Act 2011</i> and any guidelines or Codes of Practice published by SafeWork NSW.
	<b>Condition reason:</b> To ensure asbestos materials are handled and disposed of in a safe manner.
35	<b>Hours of work - construction</b>
	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.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
36	<b>Licence for waste material</b>
	Any receiver of waste material must be properly licensed by the NSW Environment Protection Authority to receive that waste. If a non-licensed premises is intended to receive waste from the site then an approved notice within the meaning of Section 143(4) of the <i>Protection of the Environment Operations Act 1997</i> (Section 143 Notice) must be supplied prior to the removal of the material from the remediation site. Details of material removed - including volume, mass, classification, destination - and any Section 143 Notices are to be included in the validation report.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
37	<b>Hot Water Installations</b>
	<p>All new hot water installations shall deliver hot water at the outlet of</p> <p>all sanitary fixtures used primarily for personal hygiene purposes, at a</p> <p>temperature not exceeding:</p> <p style="text-align: center;">a. 43.5oC for childhood centres, primary and secondary schools</p> <p style="text-align: center;">and nursing homes or similar facilities for aged, sick or</p>



	<p>disabled persons; and</p> <p>(b) 50oC in all other classes or buildings.</p> <p>a. Where hot water is being delivered to an outlet of a sanitary fixture, used primarily for personal hygiene purposes on commercial premises or by the public, at a temperature exceeding 50oC, such fixture must have a sign, using symbol and red writing on a white background in appropriate languages, displayed adjacent to the sanitary fixture which states, "<i>Warning - this fixture may deliver hot water which will scald</i>".</p>
	<b>Condition reason:</b> Reason: To comply with statutory requirements
38	<b>Building Operations</b>
	<p>Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footways or in any other locations which could lead to the discharge of materials into the storm water drainage system.</p>
	<b>Condition reason:</b> Reason: To ensure that building materials are not washed into storm water drains.
39	<b>Protection of Public Places</b>
	<p>The adjoining or adjacent public area shall not be obstructed by any materials, vehicles, refuse skips and the like, under any</p>

	<p>circumstances.</p> <p>If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected prior to the commencement of any work subject to approval of a Section 138 Roads Act 1993 approval (including submission of a Traffic Management Plan).</p> <p>Where a hoarding is required, an application for hoarding shall also be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.</p> <p><b>Condition reason:</b> Reason: Public safety.</p>
40	<p><b>Paint Spillage, Work over Footpaths</b></p> <p>The public footpath shall be protected from paint spillages while work is being carried out.</p> <p><b>Condition reason:</b> Reason: To protect public places.</p>
41	<p><b>Protection of the Environment Operations Act - material delivery</b></p> <p>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.</p>

	<b>Condition reason:</b> Condition reason: To protect waterways from pollution by stockpiled or placed construction materials.
--	--

**Before issue of an occupation certificate**

42	<b>Completion of works on public land and services</b>  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.  <b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
43	<b>No use or occupation without occupation certificate</b>  No person is to use or occupy the building or alteration that is the subject of this approval with the prior issuing of an occupation certificate.  <b>Condition reason:</b> To ensure compliance with the Building Code of Australia.
44	<b>Section 68 final - water and sewer</b>  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.  <b>Condition reason:</b> To ensure the utility services are available to the site and adequate for the development.
45	<b>Flood Evacuation Plan</b>  Prior to the issue of an Occupation Certificate a prepared flood evacuation plan shall be available in the lobby areas, car parks and other common areas in accordance with the recommendations of the Flood Risk Management Report prepared by Smart Structures Australia, Ref: 240649 – Rev03 dated 29 January 2025  <b>Condition reason:</b> Reason: To ensure that the patrons of the hotel can safely evacuate the premises in case of a flood.
46	<b>Consolidation of Lots</b>

	<p>Prior to the issue of an Occupation Certificate the lots being:</p> <ul style="list-style-type: none"> <li>• Lot 9 DP 30201, 241-243 Summer Street</li> <li>• Lot 8 DP 30201, 245 Summer Street</li> <li>• Lot 7 DP 30201, 247 Summer Street</li> <li>• Lot 1 DP 1294072, 249-257 Summer Street</li> <li>• Lot 5 DP 30201, 225-227 Lords Place</li> <li>• Lot 414 DP 626022, 229 Lords Place</li> </ul> <p>Shall be consolidated into one lot and registered with the NSW land registry Services shall be submitted to Council prior to the issue of an Occupation Certificate.</p>
	<p><b>Condition reason:</b> Reason: To ensure the use of the land as one allotment is legally recognised and to prevent separate dealings in the existing allotments after the use commences</p>
47	<p><b>Removal of A/C units and sign/s</b></p> <p>Prior to the issue of an Occupation Certificate all air conditioning units are to be removed from the façade of building with no new air conditioning units being located in a position where they are visible from a public place.</p> <p>The large advertising sign above the façade on the corner of Summer Street and Lords Place shall be removed.</p> <p><b>Condition reason:</b> Reason: To ensure the building works are carried out sympathetically with heritage guidelines.</p>
48	<p><b>Section 138 Roads Act Final</b></p> <p>The applicant is to ensure that the works associated with the Section 138 approval for this development be completed and inspected by Council prior to the issue of any Occupation Certificate.</p> <p><b>Condition reason:</b> Reason: To ensure that the development is completed as per this consent and the approved plans.</p>
49	<p><b>Council Property</b></p> <p>The applicant shall rectify any damage to Council property (including</p>

	<p>footpaths, road furniture, landscaping/trees, drainage, water, sewer, kerb and gutter, road pavement and the like) as a result of the development, prior to the issue of any Occupation Certificate at no cost to Council.</p> <p><b>Condition reason:</b> Reason: To ensure that Councils assets are protected</p>
50	<p><b>Completion of Conservation Works</b></p> <p>Conservation works, as outlined in the approved schedule, shall be completed to the satisfaction of the Council's Manager, Development Assessment, prior to the issuance of any final Occupation Certificate.</p> <p><b>Condition reason:</b> Condition reason: To ensure the building works are carried out sympathetically with heritage guidelines</p>
51	<p><b>Heritage Interpretation Strategy Implementation</b></p> <p>Heritage interpretation shall be implemented in accordance with the approved strategy and to the satisfaction of the Council's Manager of Development Assessment prior to the issuance of any final Occupation Certificate.</p> <p><b>Condition reason:</b> Condition reason: To ensure the building works are carried out sympathetically with heritage guidelines</p>

#### Occupation and ongoing use

52	<p><b>Annual fire safety statement</b></p> <p>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 <i>Environmental Planning and Assessment Regulation 2000</i>.</p> <p><b>Condition reason:</b> To ensure compliance with relevant statutory requirements.</p>
53	<p><b>Use not to Commence</b></p> <p>The approved use shall not commence until the proposed development has been completed in accordance with this consent and issue of any other Council approvals which may be required.</p> <p><b>Condition reason:</b> Reason: To ensure that the use of the site is lawful.</p>

54	<b>Advertising Signs - Consent required</b>
	Unless Exempt Development, before an advertising signage is erected/displayed development consent is required to be issued by Council.
	<b>Condition reason:</b> Reason: To comply with the provisions of the Orange Local Environmental Plan 2011.

### Land Subdivision

### Before issue of a subdivision certificate

55	<b>All services contained within lots and Statement of Compliance</b>
	All services are to be contained within the allotment that they serve. A Statement of Compliance and digital works as executed plans for all services, from a Registered Surveyor, are to be submitted to Orange City Council prior to the issue of a Subdivision Certificate.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
56	<b>Apply for Subdivision Certificate</b>
	Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.
	<b>Condition reason:</b> To ensure compliance with relevant statutory requirements.
57	<b>Easements for sewer mains</b>
	An easement to drain sewage and to provide Council access for maintenance of sewerage works, a minimum of 2.0 metres wide, is to be created over 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 issue of a Subdivision Certificate.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.
58	<b>Provision of services and works on public land</b>
	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.
	<b>Condition reason:</b> To comply with Council's Development and Subdivision Code.

### Demolition Work

#### Before demolition work commences

59	<b>Asbestos removal signage</b>
	Before demolition work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.
	<b>Condition reason:</b> To alert the public to any danger arising from the removal of asbestos

#### During demolition work

60	<b>Handling of asbestos during demolition</b>
	While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements: <ol style="list-style-type: none"> <li>1. Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material;</li> <li>2. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and</li> <li>3. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m<sup>2</sup> or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.</li> </ol>
	<b>Condition reason:</b> To ensure that the removal of asbestos is undertaken safely and professionally

#### On completion of demolition work

61	<b>Removal of waste upon completion</b>
----	---

	<p>After completion of all site work:</p> <ul style="list-style-type: none"> <li>a. all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan; and</li> <li>b. written evidence of the waste removal must be provided to the satisfaction of the <b>&lt;Insert principal certifier or Council (where a principal certifier is not required)&gt;</b>.</li> </ul>
	<p><b>Condition reason:</b> To ensure waste material is appropriately disposed or satisfactorily stored.</p>
62	<p><b>Waste disposal verification statement</b></p> <p>On completion of demolition work:</p> <ul style="list-style-type: none"> <li>a) a signed statement must be submitted to <b>&lt;Insert the certifier OR council (where a certifier is not required)&gt;</b> verifying that demolition work, and any recycling of materials, was undertaken in accordance with the waste management plan approved under this consent,</li> </ul> <p><b>&lt;Delete as required&gt;</b> and</p> <ul style="list-style-type: none"> <li>b) if the demolition work involved the removal of asbestos, an asbestos clearance certificate issued by a suitably qualified person, must be submitted to <b>&lt;Insert the certifier OR council (where a certifier is not required)&gt;</b> within 14 days of completion of the demolition work.</li> </ul> <p><b>Condition reason:</b> To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken in accordance with the approved waste management plan</p>

#### 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.

DRAFT

## 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:

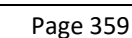
- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**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.

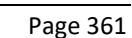
**Sydney district or regional planning panel** means Western Regional Planning Panel.



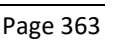
















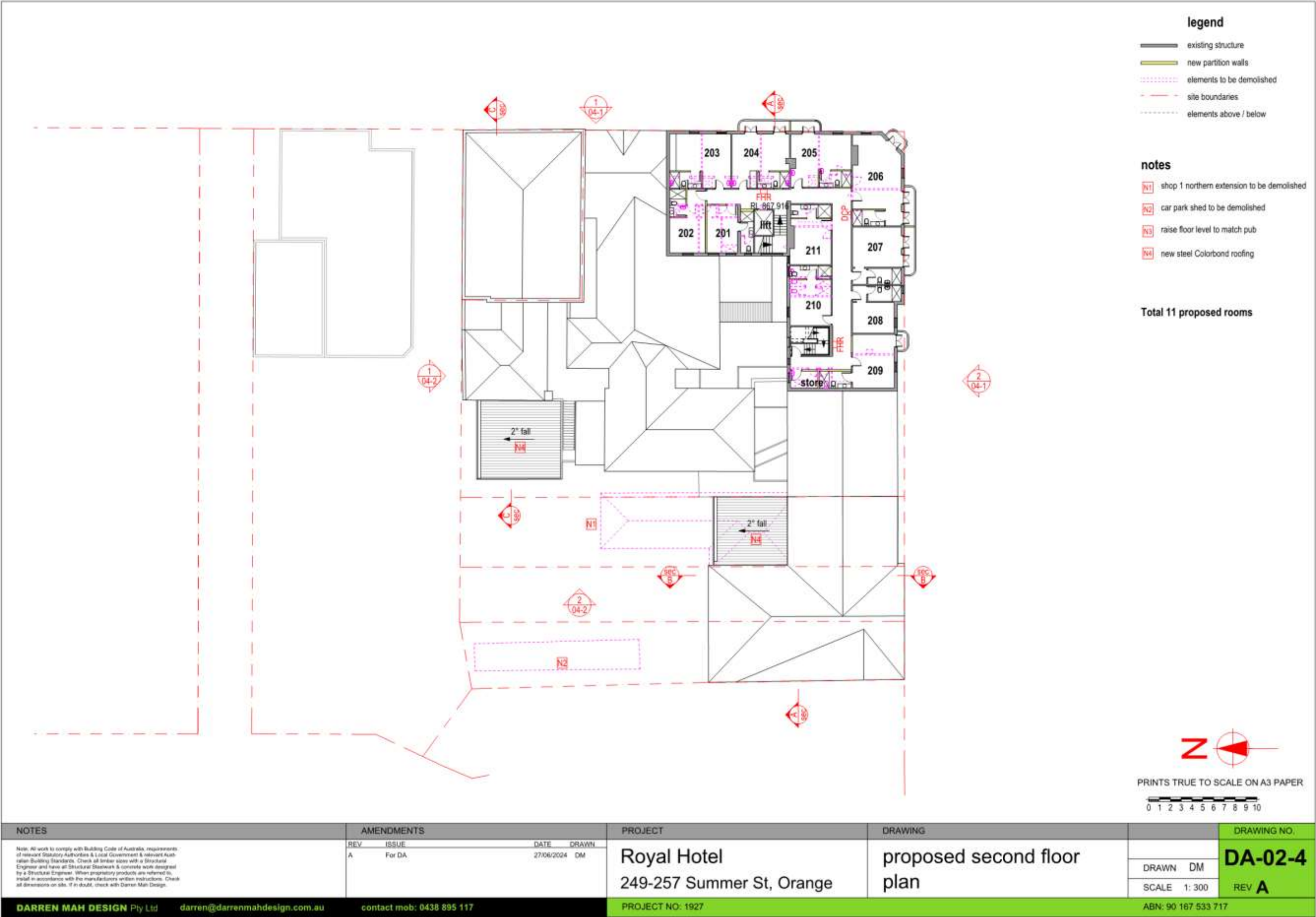






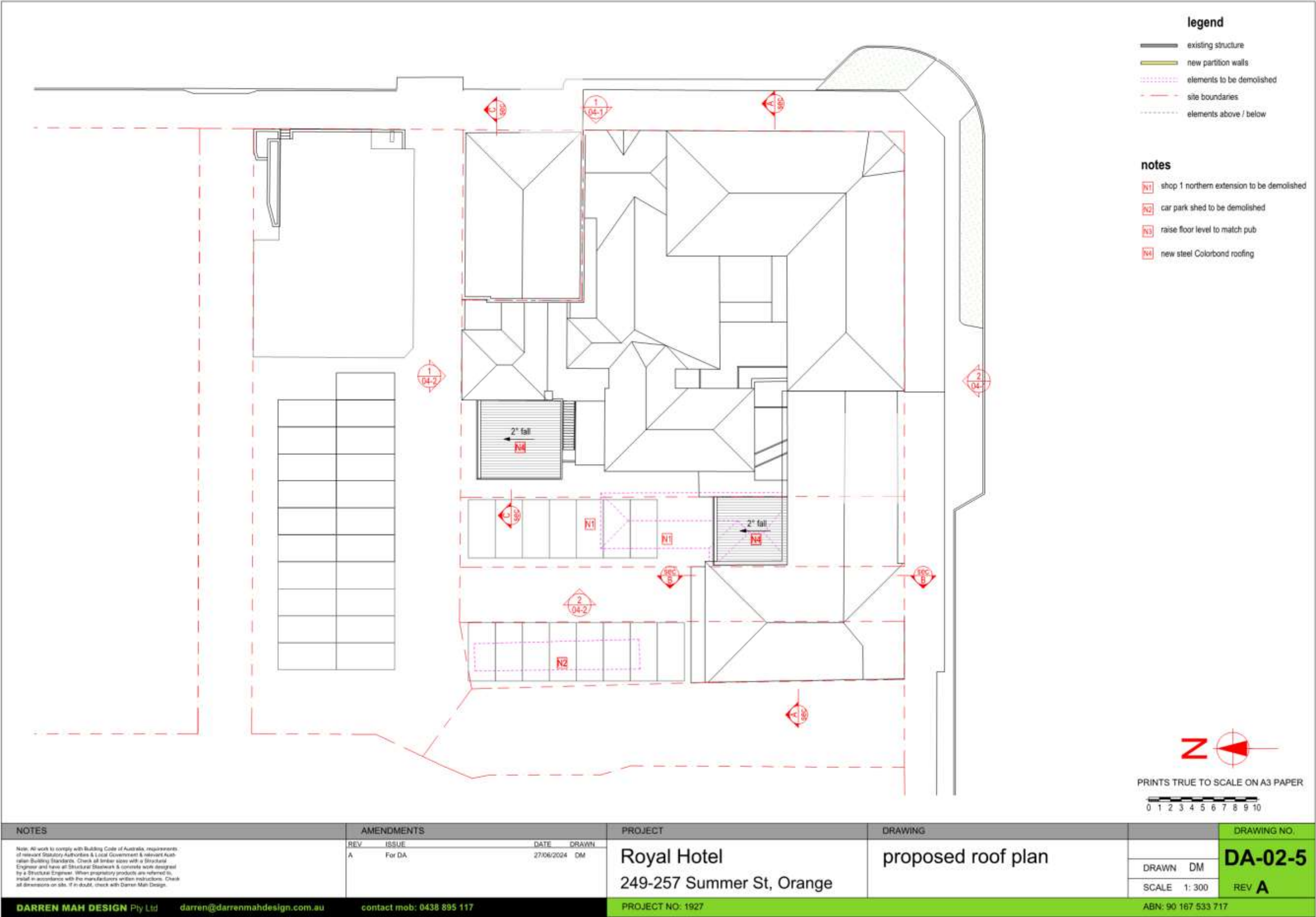




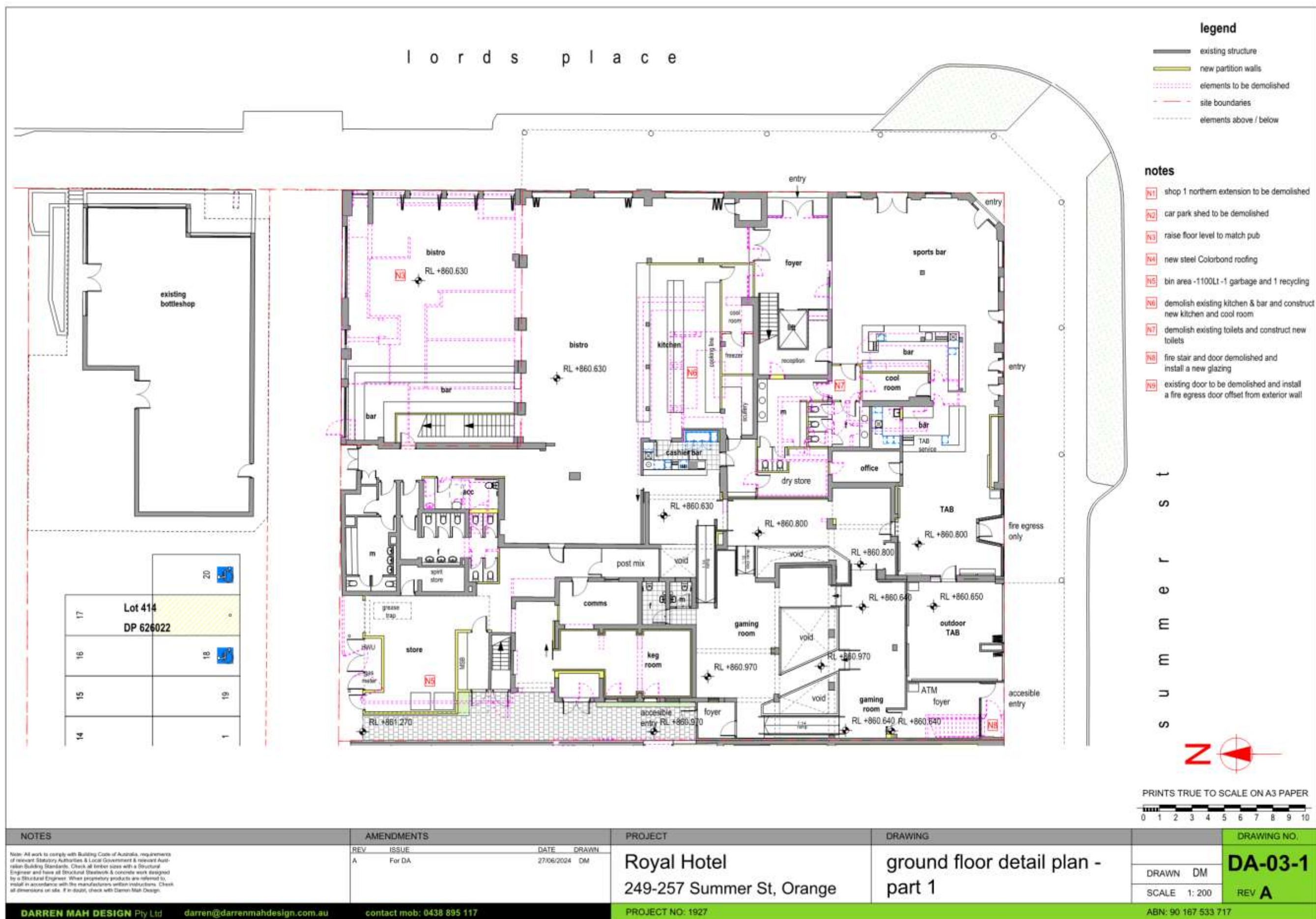






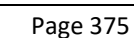










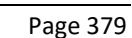












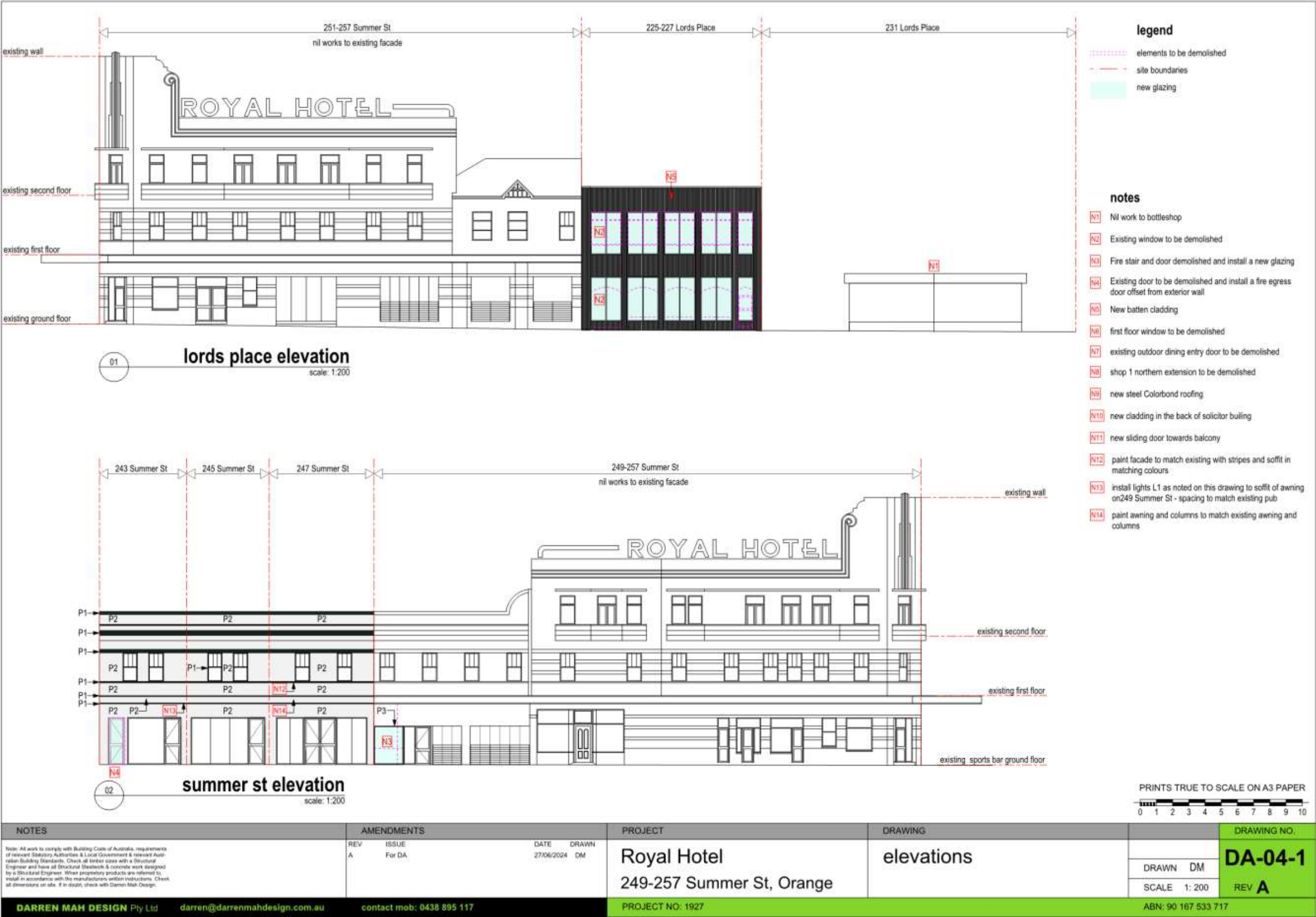










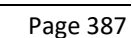




















**L1**

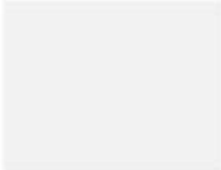
Lights in the Art Deco style for the awning soffit from Heritage Building Centre - Rockdale



**P1**

Black paint


Location: wall banding window frames at first floor



**P2**

Off-white paint

Location: main walls between banding



**P3**

White powdercoat

Location: new window frames and door frames on ground floor to match existing aluminium framing

**New batten cladding detail**

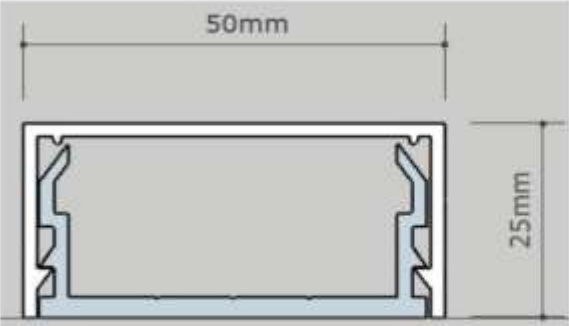


**Deco batten**

QuickClick™ Two-Piece Battens by DecoBatten

Size: 25x 50mm

code: DC-DM01-25, 25x50 DecoBatten Cover plus DC-DB01-B, 50 series STD DecoBatten Base


Colour & Finish: charred-timber

**general notes**

awning columns not shown for clarity

PRINTS TRUE TO SCALE ON A3 PAPER



NOTES	AMENDMENTS	PROJECT	DRAWING	DRAWING NO.								
<p><small>Note: All work to comply with Building Code of Australia, requirements of relevant Statutory Authorities &amp; Local Government &amp; relevant Australian Building Standards. Check all timber sizes with a Structural Engineer and have all Structural Steelwork &amp; concrete work designed by a Structural Engineer. When proprietary products are referred to, install in accordance with the manufacturers written instructions. Check all dimensions on site. If in doubt, check with Darren Mah Design.</small></p>	<table> <tr> <th>REV</th> <th>ISSUE</th> <th>DATE</th> <th>DRAWN</th> </tr> <tr> <td>A</td> <td>For DA</td> <td>27/06/2024</td> <td>DM</td> </tr> </table>	REV	ISSUE	DATE	DRAWN	A	For DA	27/06/2024	DM	<p><b>Royal Hotel</b></p> <p>249-257 Summer St, Orange</p> <p>PROJECT NO: 1927</p>	<p><b>external finishes and colours</b></p>	<p><b>DA-06-1</b></p>
	REV	ISSUE	DATE	DRAWN								
	A	For DA	27/06/2024	DM								
	<p>DRAWN DM</p> <p>SCALE 1: 100</p>	<p>REV <b>A</b></p>										
<p>DARREN MAH DESIGN Pty Ltd    darren@darrenmahdesign.com.au    contact mob: 0438 895 117</p>		<p>ABN: 90 167 533 717</p>										



**SUE ROSEN ASSOCIATES**  
HISTORY HERITAGE RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia

18 June 2024

Orange City Council  
135 Byng Street  
ORANGE NSW 2800

To Whom it May Concern,

**Alterations and additions at the Royal Hotel 247-251 Summer Street, Orange, and  
Change of use and alterations and additions at 241-247 Summer Street & 225-227 Lords Place,  
Orange**

**BACKGROUND**

The Proprietor of the *Royal Hotel* has engaged Sue Rosen Associates to consider and comment on the heritage impact of a proposal to annex the above commercial properties into the licensed area of the Hotel, and for alterations and additions variously throughout. The works in the existing Hotel premises are largely focused on adding ensuite bathrooms to the accommodation rooms.

Sue Rosen Associates prepared a comprehensive Heritage Impact Statement (HIS) to support an application for alterations and additions to the *Royal* in October 2020. This is attached and contains the historical overview for the site.

Given time limitations, we were unable to visit site to comprehensively document and inspect all areas affected by work, relying on photos from the 2020 inspection, and a non-exhaustive selection of recent photos provided by the *Royal*.

The following letter-style addendum offers comment on the proposed works and supplementary documentation where appropriate.

**THE SITE**

The Royal Hotel is at 249-257 Summer Street (Lot 1/1294072). The heritage listing is currently applied to the area consisting of No. 249-257.

The commercial premises proposed for incorporation to the Royal's footprint are:

241-243 Summer Street (9/302010)  
245 Summer Street (8/302010)  
247 Summer Street (7/302010), and  
225-227 Lords Place (5/302010)

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes

**SUE ROSEN ASSOCIATES**  
HISTORY   HERITAGE   RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
srosen@suerosenassociates.com  
+61 2 9876 1655  
www.suerosenassociates.com  
14 Crown Street, Epping NSW 2121, Australia

While these properties are not individual heritage items, they are, along with the *Royal*, in the vicinity of items, and located in the Dalton Central Heritage Conservation Area. As such it is subject to the heritage provisions set out in Section 5.10 of the Orange LEP and Development Control Plan.

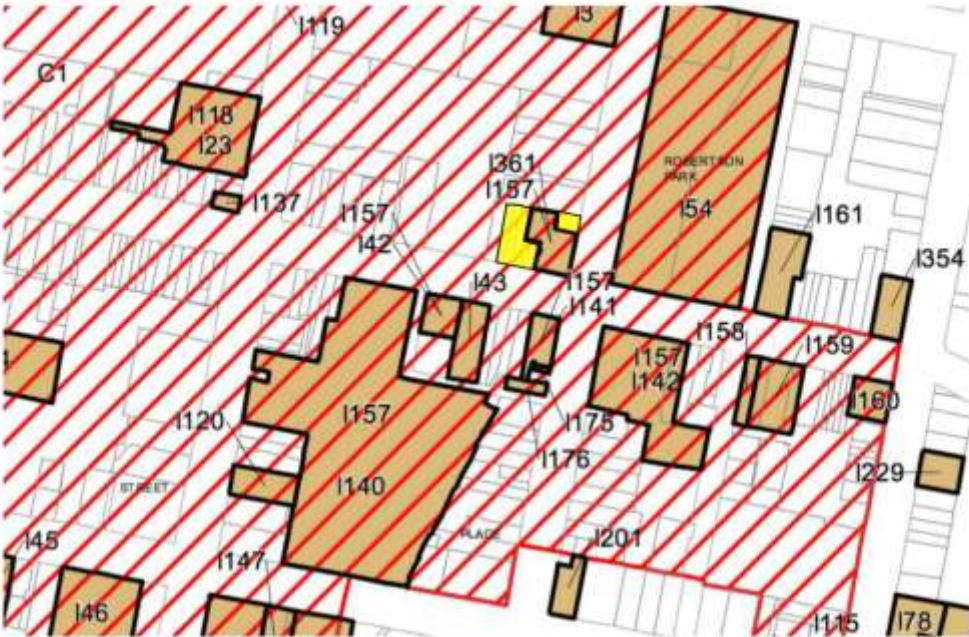


Figure 1 | Extract from Heritage Map Sheet HER\_008A. Heritage items shaded brown, HCA is red cross hatching. 249 Summer Street indicated in yellow.

- Items:**
- I361: *Royal Hotel*
  - I157: Former street signs
  - I141: Commonwealth Bank
  - I142: *Hotel Canobolas*
  - I42: Orange Post Office
  - I43: Palmer's Building
  - C1: Dalton Central Orange Heritage Conservation Area

The heritage significance of the *Royal* hotel and the Central Orange / Dalton Central Heritage Conservation Area is documented in the 2020 HIS, appended.

A full inspection and documentary research has not yet been conducted on the remaining *Royal Buildings* at Summer Street so conclusions as to their ability to reach the threshold against the NSW heritage significance assessment criteria are yet to be reached. They do demonstrate aesthetic significance, being a positive contributor to the HCA, and have historic value as remnant commercial buildings of the late 19<sup>th</sup> century phase of the *Royal*, overlaid with Interwar modernisations.

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes



## SUE ROSEN ASSOCIATES

HISTORY HERITAGE RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 596  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia

### CHANGE OF USE

#### 241-247 Summer Street & 225-227 Lords Place

The above properties have been purchased by the *Royal* and the application includes a change of use to incorporate the properties into the use of the hotel. All of the properties were once part of the *Royal's* premises, which were variously alienated following a subdivision in July 1959 that created Deposited Plan 302010.

Records indicate that the row of shops including 239-247 Summer Street has long been associated with *Royal*; being part of the c.1880s 'Royal Hotel Buildings' which were an extended commercial precinct of the Hotel.<sup>1</sup> At minimum, the façade of the Buildings were updated contemporaneously with the *Royal* when it underwent alterations to its Interwar form in 1937. This is evident in the following images and plans. Like the *Royal*, there are some elements of the premises that were not updated in the 30s and retain the core of its earliest late 19<sup>th</sup> century form.

The Lords Place property was once part of the *Royal*, being the site of late 1910/early 1920 additions, of which, one half of the gable-roofed section is still extant. The existing c1960s office building on Lot 5 is not significant and is a detracting element in Heritage Conservation Area.

The return of Buildings to the *Royal* is an appropriate outcome, and the conversion of the first floor into accommodation rooms returns it to a traditional use by the hotel; evidenced by the historic photos and plans indicating the use. Likewise, the addition of the Lords Place property returns a missing piece of the *Royal's* historic cadastral parcel.



Figure 2 | By the time of this c.1880s image of the *Royal Hotel*, the neighbouring single-storey timber saddlery has been replaced by the double storey 'Royal Hotel Buildings', which during this incarnation, has only a ground floor awning. The Lords Place frontage is still the same as the 1870s. [Orange Regional Museum, *A Short History of Orange*, 2018, p.5]

<sup>1</sup> NSW Heritage: 'Royal Hotel, incorporating Diamond Lill's', State Heritage Inventory database no. 222D48D

**SUE ROSEN ASSOCIATES**  
HISTORY HERITAGE RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia



Figure 3 | Postcard from the *Royal Hotel*, c.1917. The *Royal Hotel* Buildings, including its distinctive rooftop sign is seen at left. [Flickr: Aussie™mobs, taken 17 March 2020, <https://flic.kr/p/2iSdZBr>]



Figure 4 | The *Royal*, c.1920's. The *Royal Hotel* Buildings have had a first floor verandah added, which is linked with the Hotel's. A new wing with decorative gables has been constructed in place of the yard fronting Lords Place; the furthest gable section is where the mid-20<sup>th</sup> century office block is now. [ANU: Noel Butlin Archive, Tooth & Company Records, ID N417-597-512]

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes



**SUE ROSEN ASSOCIATES**  
HISTORY HERITAGE RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
srosen@suerosenassociates.com  
+61 2 9876 1655  
www.suerosenassociates.com  
14 Crown Street, Epping NSW 2121, Australia



Figure 5 | Summer Street side of the Royal Hotel in March 1930. 241-249 Summer Street is located in the row of shops owned by the Hotel, indicated above. The distinctive roofline is still extant. [ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Orange - Royal Hotel, card 2, side 2]



Figure 6 | The almost-finished *Royal Hotel* on 18 April 1938. Part of the Lords Place gabled roof section survives in part today, the rest was removed and replaced by 225-227 Lords Place and the bottlehop. [ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 2 side 2, ID N60-YC-1976]

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes

**SUE ROSEN ASSOCIATES**  
HISTORY   HERITAGE   RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia



Figure 7 | Looking east along Summer Street. The Royal Hotel Buildings are at left of image. [Flickr: 'Summer Street, Orange, N.S.W. - circa 1949', uploaded April 20, 2020 by Aussie™mobs, <<https://flic.kr/p/2i5iCh7>>]

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988  
On Site, In Archives, With Communities, Across Landscapes

**SUE ROSEN ASSOCIATES**  
HISTORY   HERITAGE   RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 596  
srosen@suerosenassociates.com  
+61 2 9876 1655  
www.suerosenassociates.com  
14 Crown Street, Epping NSW 2121, Australia

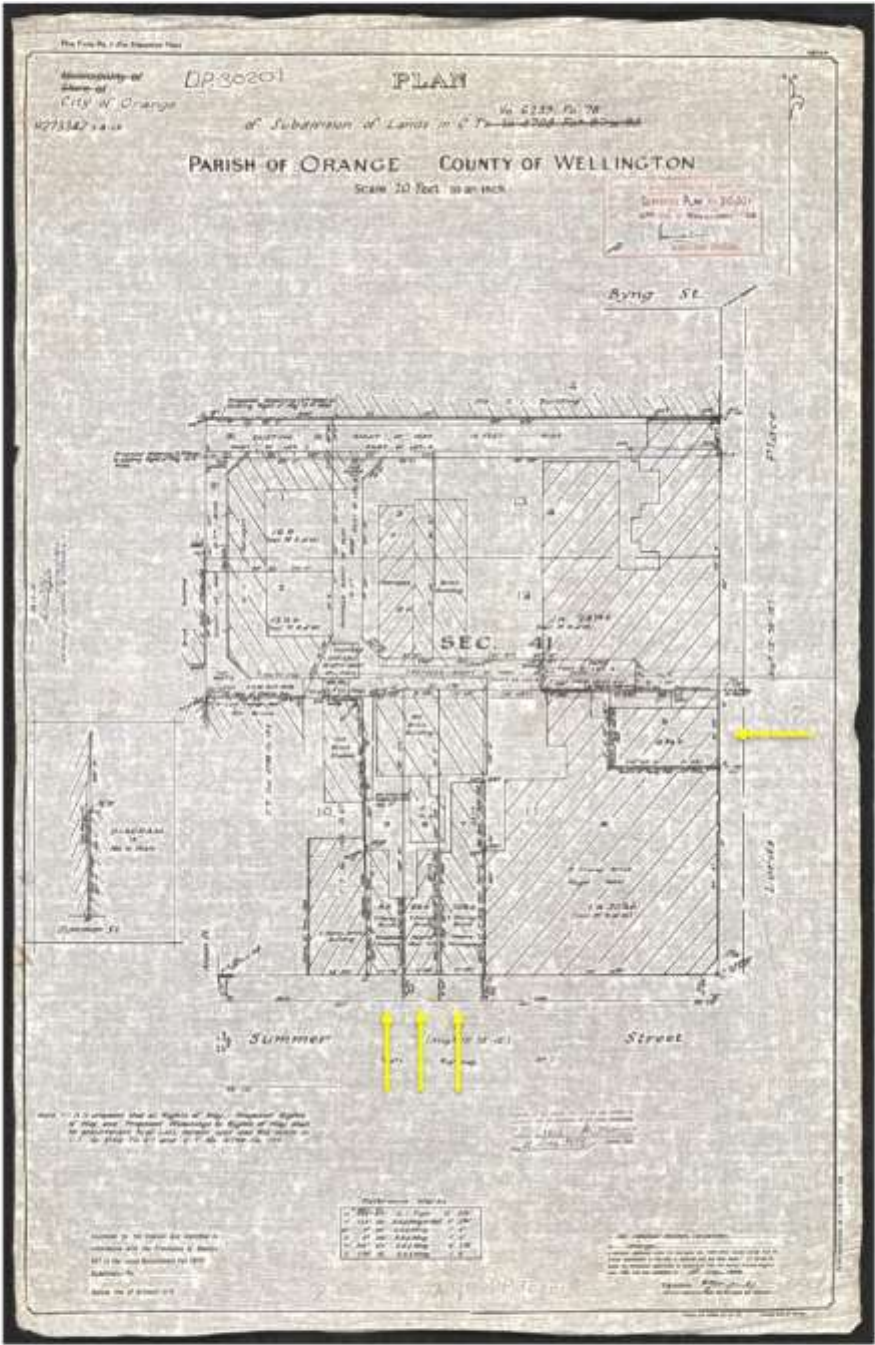


Figure 8 |  
Deposited Plan  
30201, which was  
surveyed in July  
1959. The DP  
included the hotels  
land holdings at  
the time. The  
commercial  
premises being  
annexed are  
indicted with  
arrows. [LRS]

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988  
On Site, In Archives, With Communities, Across Landscapes



**SUE ROSEN ASSOCIATES**  
HISTORY   HERITAGE   RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
srosen@suerosenassociates.com  
+61 2 9876 1655  
www.suerosenassociates.com  
14 Crown Street, Epping NSW 2121, Australia

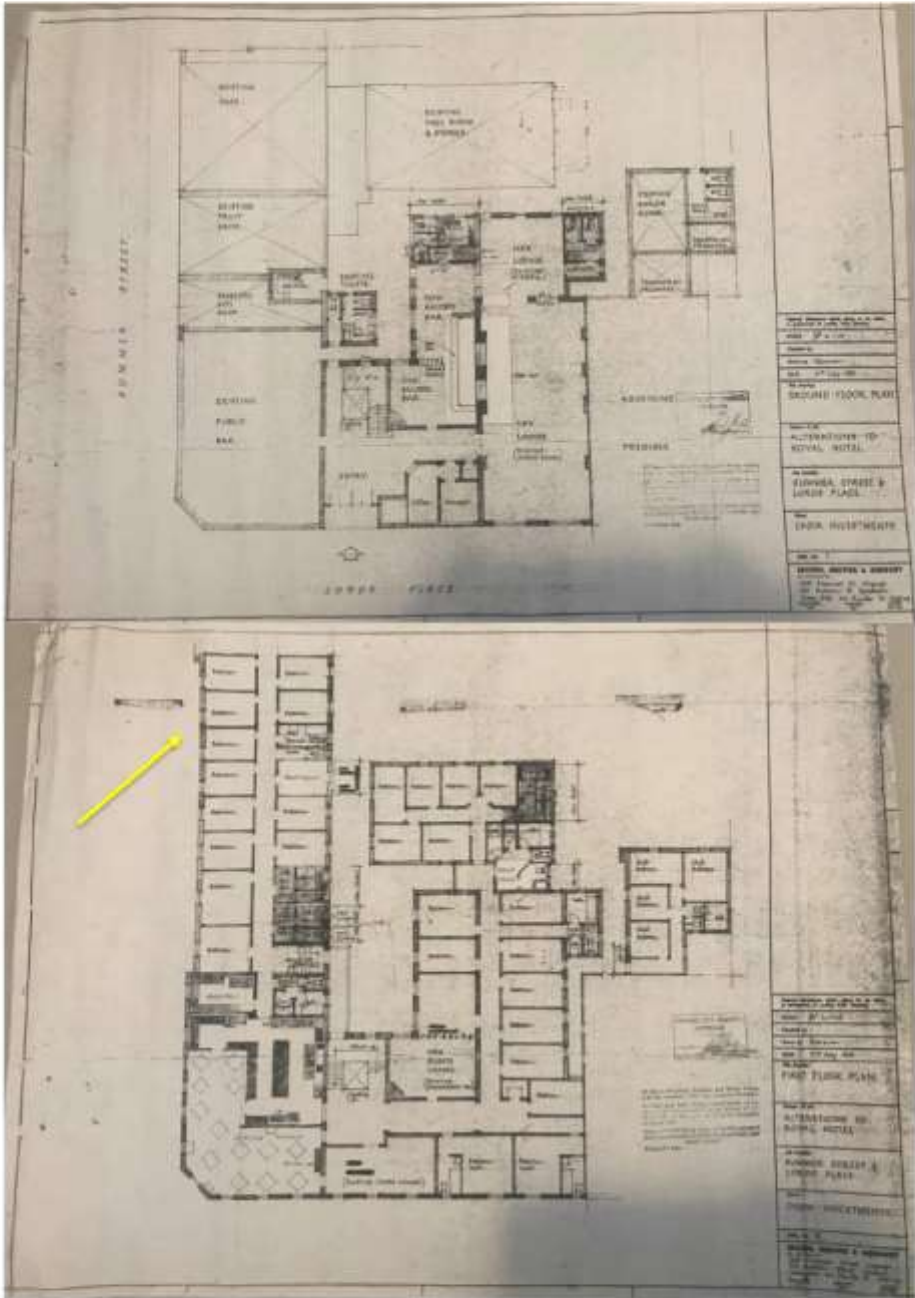


Figure 9 | Top: Ground Floor. Bottom: First Floor. July 1959 plans for alterations to the *Royal Hotel*. The accommodation across the first floor of the Buildings is a traditional use. The Lords Place lot had been sold. [Orange City Council]

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988  
On Site, In Archives, With Communities, Across Landscapes

**SUE ROSEN ASSOCIATES**  
HISTORY   HERITAGE   RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia



Figure 10 | *Royal Hotel* in January 1970. The Lords Place ground floor has a separate wall treatment for the 1920s section. Lot 5 at Lords Place had been demolished(?) and the office building constructed. [ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 4 side Z, ID N60-YC-1976]

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes

**SUE ROSEN ASSOCIATES**  
HISTORY   HERITAGE   RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 596  
srosen@suerosenassociates.com  
+61 2 9876 1655  
www.suerosenassociates.com  
14 Crown Street, Epping NSW 2121, Australia

**SITE PHOTOS**

The following selection of (non-exhaustive) site photos were provided by the *Royal Hotel* in June 2024.

**Summer Street**



Figure 11 | View of 241-247 Summer Street which were once the *Royal Buildings*. Will consolidate 3 shop fronts into 2 and use the top floor for accommodation.



Figure 12 | No. 241-243. Art Deco soffit to be retained and restored. Shopfronts will be retained as is.



Figure 13 | No. 245 will be combined internally with No. 247 to be one shop, but will retain the 2 shopfront entrances.



Figure 14 | No. 247 to be combined with 245.

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes



## SUE ROSEN ASSOCIATES

HISTORY HERITAGE RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
srosen@suerosenassociates.com  
+61 2 9876 1655  
www.suerosenassociates.com  
14 Crown Street, Epping NSW 2121, Australia

### Lords Place and rear



Figure 15 | 225-227 Lords Place. This is a 1960s office building on land that was subdivided off the Royal. New external windows and doors to the E and N elevations, contemporary batten cladding in a dark grey/black to match hotel highlight colour.



Figure 16 | 225-227 Lords Place and former service accommodation building of the Royal. The new storeroom to be constructed at ground floor where excavation machinery is currently.



Figure 17 | Sandstock brick rear wing of No. 247. Proposed for demolition and replacement with carpark.



Figure 18 | Sandstock brick rear wing of No. 247. New flat roof and dark batten clad exterior for remnant of rear wing.

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes

SUE ROSEN ASSOCIATES

HISTORY   HERITAGE   RESEARCH

Sue Rosen and Associates Pty Ltd

ABN 42 053 393 598

 [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)

 +61 2 9876 1655

 [www.suerosenassociates.com](http://www.suerosenassociates.com)

 14 Crown Street, Epping NSW 2121, Australia



Figure 19 | Rear of 245 and 241-243

Hotel interior



Figure 20 | Existing public bar rear wall to be removed and new bar fitout. Significant wall tiling to be left in situ.



Figure 21 | Public bar Significant wall tiling to be left in situ.

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes

**SUE ROSEN ASSOCIATES**  
HISTORY   HERITAGE   RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia



Figure 22 | New door to existing aperture. Significant wall tiling to be left in situ.



Figure 23 | Significant wall tiling to be left in situ.



Figure 24 | First floor function room significant flooring to be left in situ.



Figure 25 | First floor Function Room significant floor tiling to be left in situ, as is door at right. Bulkhead to be kept at left where part of the wall is proposed for removal.

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes



## SUE ROSEN ASSOCIATES

HISTORY HERITAGE RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 596  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia

### THE PROPOSAL

The proposed works are as follows:

#### *Royal Hotel*

##### Ground

- Remove existing public bar and TAB bar fitout and replace with new.
- Removal of and reconfiguration of WCs in public bar
- Remove glazed door of public bar to foyer. Replace with glazed auto-sliding door in existing aperture.
- Remove bistro doors to foyer
- Replace bistro bar with kitchen
- Demolish most of N party wall with 225-227 Lords Place, retain brick piers.
- New WC configuration at NW corner of Bistro.
- Remove part of the wall blades in existing keg room. Bulkheads to be retained.
- Remove rear beergarden fence of hotel and replace with new wall and roof to create a store room. Dark batten cladding to match Lords Place

##### First

- Various reconfiguration of existing accommodation to include ensuite bathrooms in each room
- Demolition of shared bathrooms and WCs
- Removal of external fire and access stairs
- Partial removal of function room wall. Retain bulkhead.
- Remove internal stairs at no. 249.
- Continue corridor into the Nos 247, 245 and 241-243

##### Second

- Various reconfiguration of existing accommodation to include ensuite bathrooms in each room
- Demolition of shared bathrooms and WCs

#### **247 Summer Street**

- Demolish rear sandstock brick wing
- New low-profile roof to rear section containing offices
- Dark Batten cladding to rear wall to match Lords Place and rear store of the *Royal*
- Ramp through to ground floor shopfront of 245 to make one combined shop
- Reconfiguration of top floor into ensuite bedroom accommodation.

#### **245 Summer Street**

- Access from 247 to make into one shop/commercial premises
- New WCS
- Infill of door to rear yard.
- Rear room to become part of 241-243 shop premises
- Reconfiguration of top floor into ensuite bedroom accommodation.

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes

## SUE ROSEN ASSOCIATES

HISTORY HERITAGE RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 596  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia

### 241-243 Summer Street

- New wall around stairs to first floor.
- New door to rear yard
- New rear door instead of roller door to space between 235 and 241-243
- New stairs to rear entrance of 241-243
- Reconfiguration of top floor into ensuite bedroom accommodation.

### 225-227 Lords Place

- New glazing and doors to front and side elevations
- New dark grey/black batten cladding to external elevations.
- Reinstate door to first floor hallway of *Royal*
- Remove all interiors, new bistro and function fitout at ground and first floor
- Join to *Royal's* rear double storey former service accommodation

### Landscape

- Re-configuration of car parking spaces to the rear of the bottleshop
- New car parking spaces to the rear of 247 and 241-243 Summer Street
- New paving to walkway to rear of gaming room

Architectural plans are appended.

### ASSESSMENT

The proposed works at the study site have undergone several iterations since the initial concept to avoid, minimise and lastly mitigate heritage impact on the *Royal*, especially, but also on views and the setting of the HCA and nearby items. Preliminary advice regarding appropriate **mitigative measures** included:

- Retain and protect all significant wall and floor tiling in the ground floor public bar and first floor function room.
- Retain and restore all chimneys and fireplaces throughout
- Retention of original/early doors, windows, and detailing in situ;
- Reduce the extent of proposed demolition which would remove significant interior fabric, detailing, and readable elements of the surviving floorplan including the earlier 19<sup>th</sup> C. core parts of the *Royal and Buildings*;
- Where ceilings are early/decorative and ensuites are being inserted, the ceiling is to be conserved in situ and the ceiling for the works dropped so that it remains untouched. No new cornicing/plasterwork should be installed, or walls inserted which would cut off decorative ceilings.
- Retain bulkheads and nib walls to provide a readable vestige of the original floorplan where change is unavoidable;
- Re-construction of original doors, windows and rendered wall detailing where missing/altered and being re-instated;
- Deletion of contemporary batten cladding proposed to the first floor of the 1920s part of the hotel at Lords Place
- Deletion of the continuation of the *Royal's* striped exterior paint treatment across to the Summer Street shops.
- Retain traditional shopfront configurations to Summer Street.

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes

**SUE ROSEN ASSOCIATES**  
HISTORY HERITAGE RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 596  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia

In response, the proposal has:

- Made no change to wall or floor tiling in the public bar and function room;
- Retained fireplaces, chimney breasts and chimneys, especially proposed room 115 and 102;
- Alter the design to retain rinate plaster ceilings and cornices and spatial dimensions of rooms such as the now hallway to the rear door near room 108;
- Where original doorways are being proposed to be 'infilled' be locked instead and retained in situ (see function room door to room 101 etc);
- Façade treatment at Lords place to remain as-is;
- Façade colour scheme at Summer Street Royal Buildings utilizes the same colour palette as the Royal to exhibit the association, but is restricted to the existing string coursing etc of those properties. The main wall colour is white, with no black banding at ground floor as the shops never had vitrolite tiling;
- Salvaged and re-use of original elements such as doors and skirting boards/architraves if removal is unavoidable.
- Retained traditional shopfront configurations to Summer Street.

The proposed alterations and additions at the *Royal Hotel* are largely internal, to achieve greater modern amenity in the Hotel's accommodation. There are no alterations to notable features including the Royal's highly significant façade, public bar wall tiling, and extant floor tiling discovered under the public bar and function room carpet.

The external façade of the Royal will remain as is, with the Summer Street shops being brought back into the fold as they once were as the *Royal Buildings*; being both commercial shopfronts and accommodation. The c.1960s Lords Place property is also being brought back into the fold; being paneled with a contemporary batten finish in a dark grey/black to indicate its relationship with the Hotel through its colour scheme.

Likewise, the exterior colour scheme will be continued for cohesion at the *Royal Buildings* at Summer Street, but will use white as the main wall colour and black on its own distinctive string coursing. Importantly, the ground floor black wall banding will not be continued to the shopfronts as the vitrolite tiling never extended this far.

The Hotel façade will continue to be the dominant feature in the streetscape, and the views to the Lords Place façade be significantly improved by the batten cladding and recessive colour scheme on 225-225 Lords Place.

Where alterations are necessary for rooms/areas with significant fabric, detailing and relatively intact layouts, the design and treatments proposed have been modified to retain as much fabric in situ as possible – through the retention of bulkheads and wall blades, the use of lightweight infill, suspended ceilings and the retention of the overall dimensions of the original space. Where any early features are proposed for removal, these will be salvaged and stored on site for re-use. Where doors are being made redundant, they are to be made inoperable, but left in situ so that the works may be easily reversible.

The additional carparking at the rear of the site makes use of a vacant space and improves the service of the Hotel with no adverse impact on significant fabric or views.

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes



**SUE ROSEN ASSOCIATES**  
HISTORY HERITAGE RESEARCH

Sue Rosen and Associates Pty Ltd  
ABN 42 053 393 598  
✉ [srosen@suerosenassociates.com](mailto:srosen@suerosenassociates.com)  
☎ +61 2 9876 1655  
🌐 [www.suerosenassociates.com](http://www.suerosenassociates.com)  
📍 14 Crown Street, Epping NSW 2121, Australia

**Conclusion & Recommendations**

The proposed development at the *Royal Hotel* will have no adverse impact on the items and the HCA which are in its immediate vicinity.

The proposed alterations and additions at the site ensure the continued use of the site as a public hotel by significantly improving the amenity of the site to suit modern expectations of such venues, in both hospitality and accommodation. The addition of the existing commercial buildings to the footprint of the *Royal* will allow an expanded bistro and function space, modernized accommodation suites, and a diversified income from the 2 shopfronts at Summer Street. This will allow the site to better compete for local and tourist custom with the other pubs and accommodation providers in Orange.

We recommend that Council consider the approval of the proposed works.

Do not hesitate to contact the undersigned if clarification of our response is required.

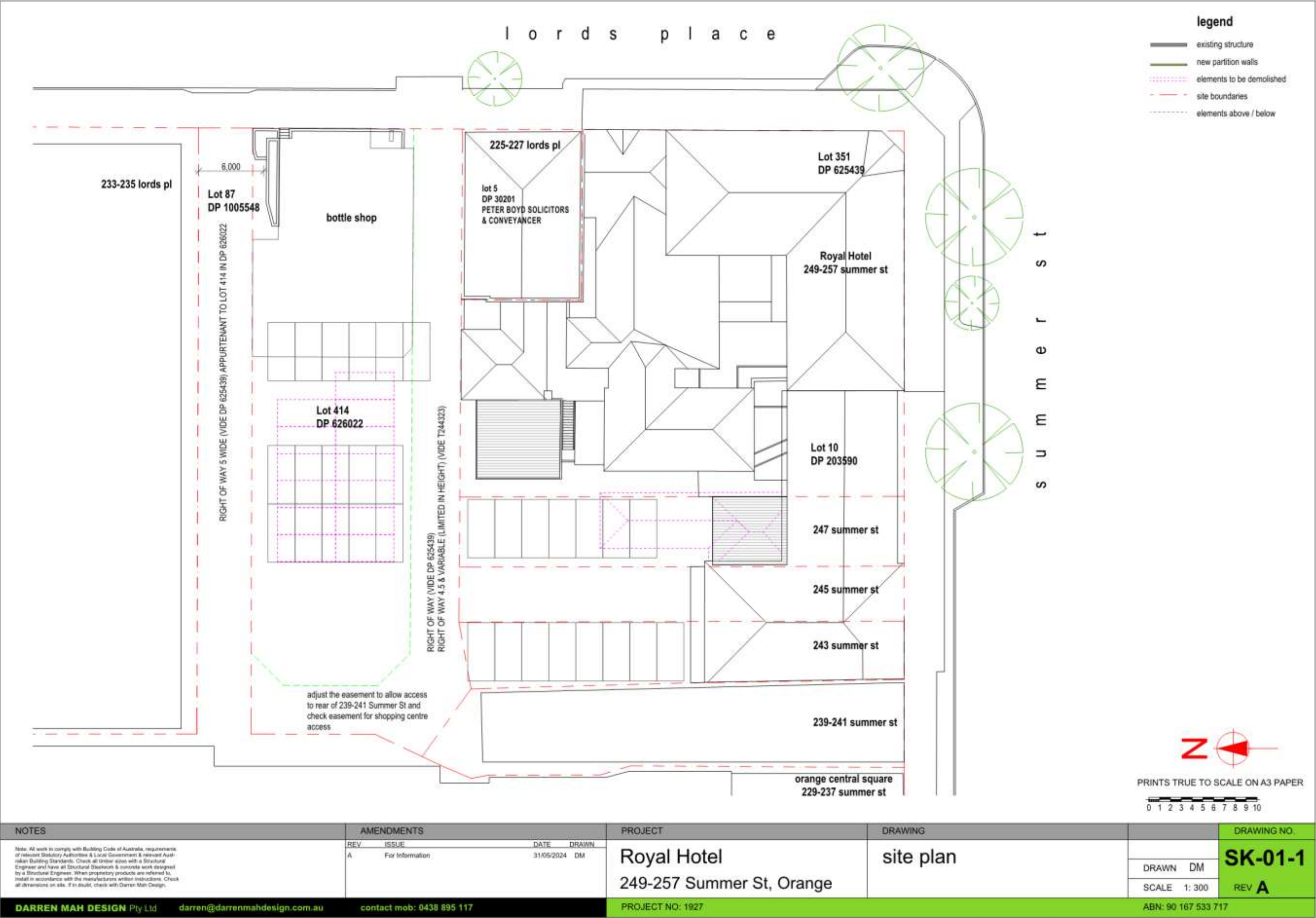
Yours sincerely,

**Elizabeth Gorman B.A., M.A., M.ICONOS**  
Associate Director  
**Sue Rosen Associates**

HISTORY, HERITAGE AND RESEARCH SERVICES SINCE 1988

On Site, In Archives, With Communities, Across Landscapes





















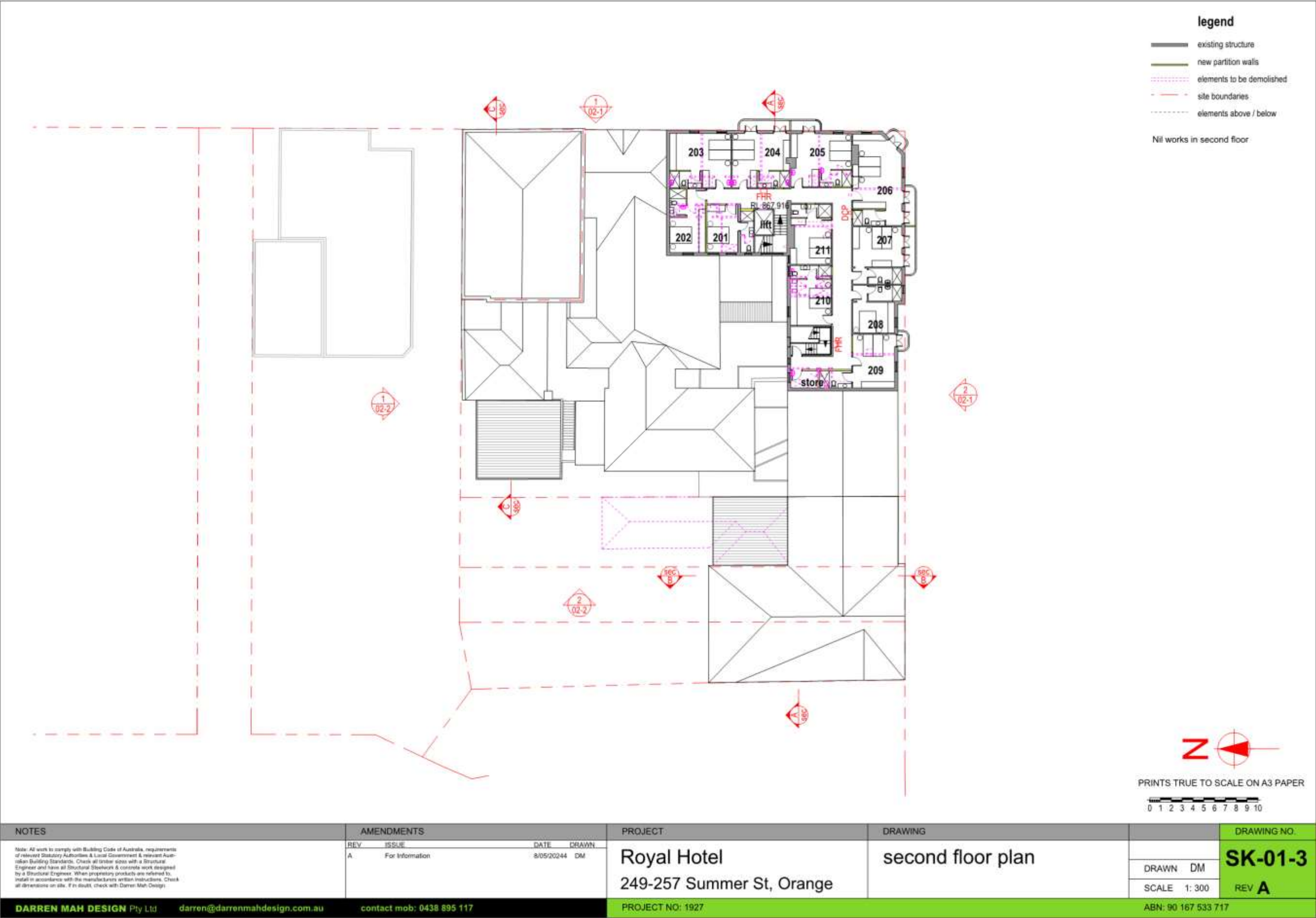




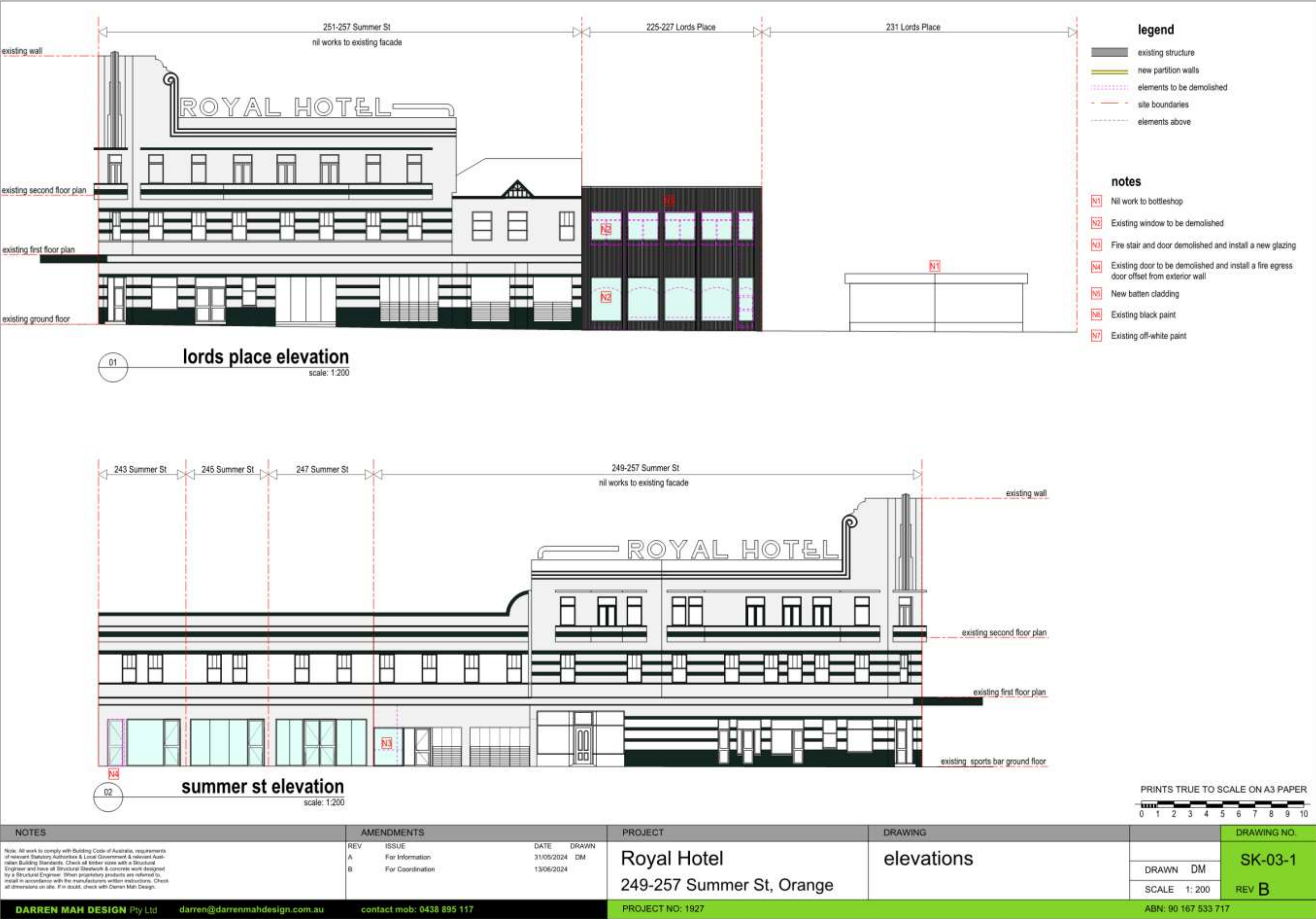












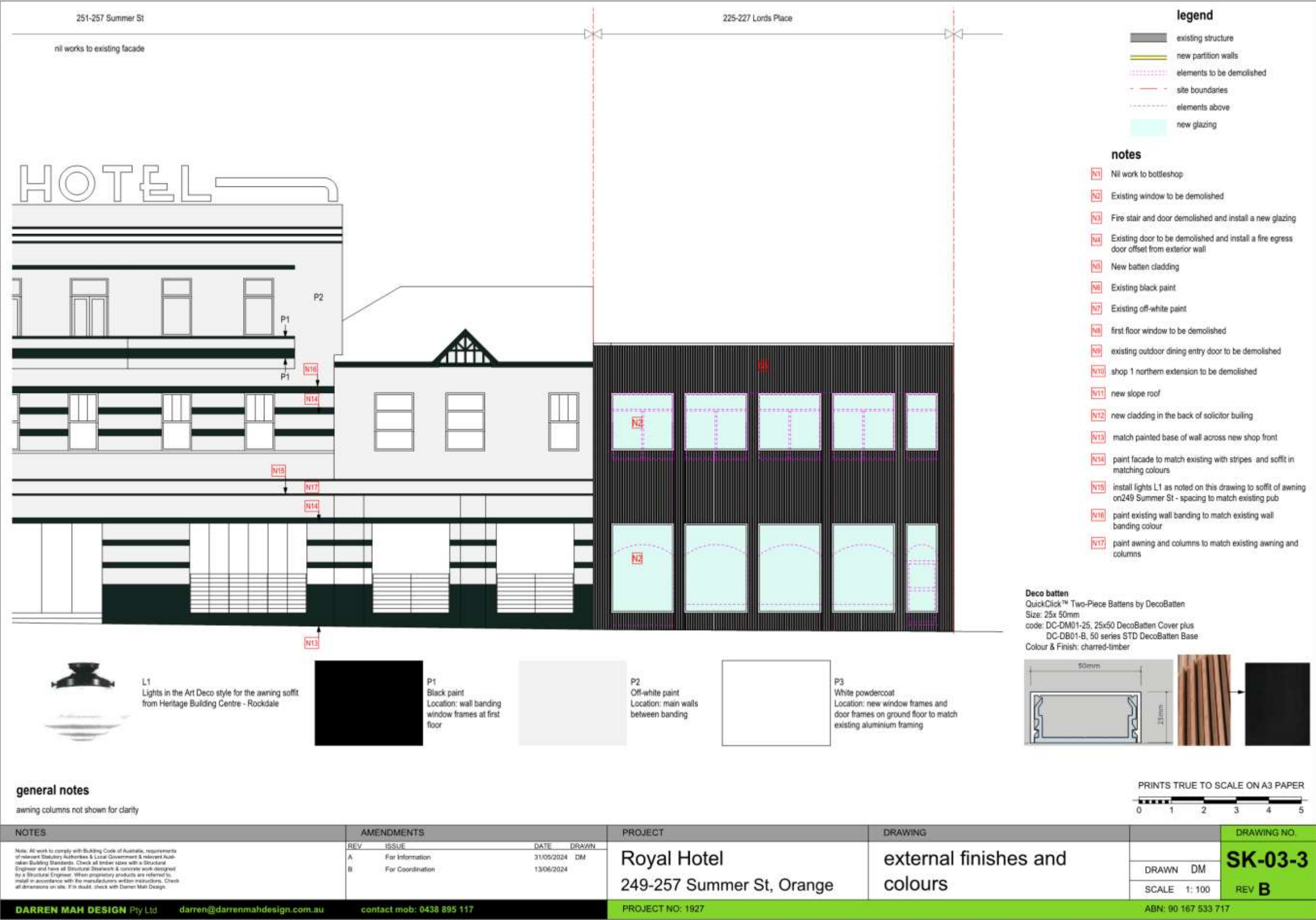














# HERITAGE IMPACT STATEMENT



*Royal Hotel*  
249 – 257 Summer Street  
Orange NSW  
October 2020

---

**SUE ROSEN ASSOCIATES**  
HISTORY | HERITAGE | RESEARCH

SUE ROSEN ASSOCIATES

---

**This statement forms part of a Development Application for:**

Alterations and additions to the *Royal Hotel* (study site); heritage item 1361 per Schedule 5 of the Orange Local Environmental Plan 2011.

Date:

October 2020

**Controls:**

*Orange Local Environmental Plan 2012 (LEP)*  
*Orange Development Control Plan 2004 (DCP)*

**Address and Property Description:**

249 – 257 Summer Street ORANGE NSW 2800  
Lot 351 DP 625439, Lot 10 DP 203590, Lot 414 DP 626022  
Parish of Orange, County of Wellington

**Authors:**

Liz Gorman, B.A., M.A., M.ICOMOS  
Dr Sue Rosen, B.A., M.A., Ph.D., M.PHA, M.ICOMOS

Sue Rosen Associates  
History-Heritage-Research  
14 Crown Street  
EPPING NSW 2121  
Ph: 02 9876 1655  
[www.suerosenassociate.com](http://www.suerosenassociate.com)  
ABN 42 035 393 598

**Client:**

*Royal Hotel*  
249 – 257 Summer Street  
ORANGE NSW 2800

Front cover: ANU, Noel Butlin Archives: *Tooth & Company Limited yellow cards, Royal Hotel Orange*, card 2 side 2

SUE ROSEN ASSOCIATES

---

## CONTENTS

<b>1. EXECUTIVE SUMMARY</b>	<b>5</b>
<b>2. INTRODUCTION</b>	<b>7</b>
2.1 Background	7
2.2 Site Location and description	7
2.3 Heritage status	9
2.4 Methodology	9
2.5 Terminology	9
<b>3. HISTORICAL EVIDENCE</b>	<b>11</b>
3.1 Orange	11
3.2 The <i>Wellington Inn</i>	15
3.2.1 George Newton Kenworthy	23
3.2.2 The 'New' <i>Royal</i>	24
<b>4. PHYSICAL EVIDENCE</b>	<b>39</b>
4.1 <i>Royal Hotel</i>	39
4.2 Site Photographs	40
4.2.1 Exterior and Streetscape	40
4.2.2 Ground Floor	43
4.2.3 First Floor	50
<b>5. HERITAGE SIGNIFICANCE</b>	<b>59</b>
5.1 Statements of significance	59
5.2 Assessment of significance - <i>Royal Hotel</i>	59
<b>6. THE PROPOSAL</b>	<b>61</b>
<b>7. PLANNING POLICY / ASSESSMENT OF HERITAGE IMPACT</b>	<b>63</b>
7.1 Orange Local Environmental Plan 2011	63
7.2 Orange Development Control Plan 2004	64
<b>8. CONCLUSION</b>	<b>69</b>
<b>9. RECOMMENDATIONS</b>	<b>69</b>
 <b>APPENDIX A ARCHITECTURAL DRAWINGS</b>	
 <b>APPENDIX B HERITAGE LISTINGS</b>	
 <b>APPENDIX C BA/DA DOCUMENTATION</b>	

SUE ROSEN ASSOCIATES

---

PAGE INTENTIONALLY BLANK



SUE ROSEN ASSOCIATES

## 1. EXECUTIVE SUMMARY

The development at the *Royal Hotel* aims to rationalize the ground floor layout and create a new gaming area in the premises of the former shop at 249 Summer Street, plus various alterations to improve to the amenities on the site. Proposed works include:

### GROUND

**Carpark:** 8 x car parking spaces at rear off Lords Place

#### **No. 249 – former shop**

Construct new glazed bifold doors with balustrades to match existing detail along Lords Place

Construct new access to gaming room with glazed door and glazed sidelight panel

Demolish existing stair & construct new stair with new egress door

Demolition of selected internal walls to create new gaming area

Remove part of former shop wall to install new 1 in 10 step ramp for access from hotel alley through to new gaming area.

#### **Hotel**

Sports Bar: Part demolish wall to create larger door opening from foyer

TAB: Partly demolish wall into current gaming room, leave wall blade

Gaming: Partly demolish rear wall with splay corner to create open access to alley.

Bistro: Construct new opening for fixed glazed window and glazed door in western wall

Bistro: New auto door at Cashier Bar, open sections in western and southern walls to connect space to alley and new gaming area in rear of No. 249.

Courtyard: Relocate existing fire ground floor egress stair and separate with fire rated construction. Relocate entry to store rooms to western side wall.

Alley: Relocate toilet to new location and reconnect to existing plumbing. Retain former cool room doorways in situ.

Alley: Retain and upgrade external fire stair per BCA report

### FIRST FLOOR

#### **No. 249 – former shop**

Part demolish party wall with No. 249 to width of corridor - continue corridor through from Hotel

Refurbish existing bathrooms

Create 3 additional accommodation rooms in existing footprint.

#### **Hotel**

Relocate existing fire egress stair from ground floor courtyard and separate with fire rated construction. New fire egress platform at first floor.

Infill of northern door and window of Room 18. Relocate door to eastern wall onto new fire egress platform.

Demolish temporary wall/door across corridor near Room 19

Install new partition wall and door across western end corridor of toilets, with key lock for accommodation guest to be able to access toilets after hours

Construct new female amenities. Retain doorway architrave and infill with lightweight material to be an interpretable vestige. Install suspended ceiling to cover and protect existing decorative ceiling.

Retain and upgrade external fire stair (Summer Street wing) per BCA report

### SECOND FLOOR

Retain and upgrade external fire stair (Summer Street wing) per BCA report

SUE ROSEN ASSOCIATES

---

The guiding principle of the proposal design has been 'as much as necessary, as little as possible'.

- No changes are proposed to the *Royal Hotel's* highly significant façade. The proposed works maintain the relatively intact floorplans of the Hotel.
- Works are largely confined to the interior of the non-listed No. 249 Summer Street, the rear of and to select internal areas of the Hotel.
- Alterations have been carefully sited and there are no alterations to notable interior features including the public bar wall tiling, and extant floor tiling discovered under the public bar and function room carpet. Where significant interior fabric is extant in areas being altered, the approach has been modified to preserve them in situ.
- Alterations to 249's shopfront will improve its contribution to the streetscape and create cohesion with the Hotel without imitation. It is not proposed to continue the black banding on the white paint to this part of the elevation as the vitrolite tiling never extended this far.
- Additional carparking at the rear of the site makes use of a vacant space and improves the service of the Hotel with no adverse impact on significant fabric, setting or views.
- There is no adverse impact on items in the immediate vicinity and the HCA.

The changes allow the Hotel to cater to a larger demographic of potential patrons, improving its commercial viability and ensuring its continued function as a public hotel. The outcome will be the revitalisation of a landmark venue in the Summer Street commercial precinct, with the improvements increasing the potential patronage of the hotel and with that, its ability to fund ongoing essential maintenance of the building.

It is, therefore, **recommended** that the proposed alterations be approved as they will enhance the amenity of the *Royal Hotel* and its continued viability as a public bar and residential hotel, which serves the needs of people who live in, work in and visit the greater Orange area.

SUE ROSEN ASSOCIATES

## 2. INTRODUCTION

### 2.1 Background

This Statement of Heritage Impact has been prepared on behalf of the client for submission as part of a development application for proposed alterations and additions to the *Royal Hotel*; heritage item I361 listed in Schedule 5 of the *Orange Local Environmental Plan 2011*.

### 2.2 Site Location and description

The *Royal Hotel* is located on the north western corner of the intersection of Summer Street and Lords Place, Orange. The Hotel has frontages to both streets.



Figure 2.1 | Map showing the Royal Hotel at the corner of Summer Street and Lords Place, Orange. Lot marked in red.  
[SIX Maps]

SUE ROSEN ASSOCIATES



Figure 2.2 | Aerial view of the study site, marked in red, in the context of the surrounding area. All corners of the Summer Street and Lords Place intersection contain heritage items: *Royal Hotel*, *Robertson Park*, *Hotel Canobolas* and the *Commonwealth Bank*. [SIX Maps]



Figure 2.3 | Detailed aerial view of the allotments consisting the premises of the Royal Hotel, marked red. Lot 10 DP203590 at 249 Summer Street has recently been acquired and approved for use by the Hotel. [SIX Maps]



SUE ROSEN ASSOCIATES

## 2.3 Heritage status

The *Royal Hotel*, which is comprised of Lot 351 DP 625439, Lot 10 DP 203590 and Lot 414 DP 626022, is locally listed as heritage Item I361, and is in the vicinity of the heritage items listed below. As such, the study site is subject to the heritage standards and development controls provided under the *Orange Local Environmental Plan 2011*.



Figure 2.4 | Extract from Heritage Map Sheet HER\_008C. Heritage items shaded brown, HCA indicated with red cross hatching. The *Royal Hotel* is indicated with a yellow X. [OLEP, 2011].

## 2.4 Methodology

The site inspection was undertaken by historian/heritage consultants Dr Sue Rosen and Liz Gorman in August 2020. Proposed development plans were reviewed against Council's planning guidelines and background research undertaken by Liz Gorman. The heritage impact of the proposal was evaluated in light of the heritage qualities of the *Royal Hotel* itself, the items in the immediate vicinity and the Central Orange Heritage Conservation Area.

The methodology employed in this study conforms to the principles and guidelines of The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 1999. The assessment presented is in accord with the criteria and guidelines prepared by the NSW Heritage Branch of the NSW Department of Planning for the preparation of Heritage Impact Statements.

## 2.5 Terminology

The terminology used in this report is consistent with the *NSW Heritage Manual* and the definitions of the *Burra Charter*.

SUE ROSEN ASSOCIATES

---

PAGE INTENTIONALLY BLANK



SUE ROSEN ASSOCIATES

### 3. HISTORICAL EVIDENCE

#### 3.1 Orange

In 1813 Gregory Blaxland, William Wentworth and William Lawson started their expedition to discover a path up and across the Blue Mountains. The expedition generally followed the path of the Great Western Highway, continuing to Mount Victoria, then down via Mount York, out to Hartley Vale on the tableland.

Once the route had been established, the job of constructing the road was awarded in 1814 to William Cox. He embarked on the construction campaign with a gang of 30 convict labourers to build the 4 metre-wide, 170-kilometre-long road that stretched from Emu Plains, over the mountain and out to Bathurst. It took his convict team just six months to build the road starting at Lapstone in July to get to the top of Mount York by early November. While Governor Macquarie's carriage was able to make the trip along the road and beyond the mountains in 1815, the constructed road could not really be considered a suitable highway; rushed and more than slightly treacherous.

With a way designated to cross the mountains, the central west plains were opened up for exploration. In November 1813, explorer G. W. Evans noted his view of "high, distant mountains", thought to be part of the range containing Mt Canobolas. In 1817 and 1818 Surveyor-General John Oxley made trips through the area now known as Lewis Ponds and Ophir, and Surveyor Meehan (unintentionally) passed to the west of Orange in 1820.

After a decade of 'near-misses', in 1823 Lieutenant Percy Simpson accompanied by Chief Constable John Blackman drove through the now-City of Orange on their way from Bathurst to Wellington. Blackman's Swamp Creek which runs through the city centre was named for John Blackman, and for the following 24 years the area was known as 'Blackmans Swamp'.<sup>1</sup>

Under Governor Darling (1825-1831) the Surveyor Generals Office were directed to apportion of the interior of New South Wales into civil parishes, and to select and mark out one-mile squares of land as reservations for future villages. J.B. Richards measured Shadforth reserve in 1828, and Orange reserve in the following year. While the subdivision of Shadforth began to create its township during the 1830s, Orange remained an empty reserve – marked simply 'VR' on the 1843 map of Wellington County.<sup>2</sup>

By 1839, the land surrounding the Orange township reserve had been granted in three substantial portions to resident grazier Joseph Moulder, while William Sampson and Simeon Lord also benefitted with large tracts of land nearby. By 1846 Moulder, Sampson and Lords land had begun to be subdivided; some for lease, others for sale. Some of these allotments and their owners began to encroach on the boundaries of the still-empty Orange township reserve; building huts, enclosing extra land into their paddocks, and using the land for crop cultivation.

Walker Rannie Davidson surveyed the area in 1846 and alerted Sydney as to the situation, urging them to create the town of Orange, reasoning that 'There is already the nucleus of a village here, there being a Blacksmith, wheelwright etc. established here.'<sup>3</sup> The surrounding 'hinterland' of Orange at that time had four inns, a flour mill and, according to local petitioners, about 1400 – 1600 residents within a 45 mile radius.<sup>4</sup>

The Village of Orange was proclaimed on the 18<sup>th</sup> November 1846 and gazetted two days later. Surveyor Davidson's recommended plan provided for both large and small allotments, which could support cultivation or simply residential/commercial buildings.

<sup>1</sup> Orange Regional Museum, *A Short History of Orange*, 2018, p.3

<sup>2</sup> Hughes Trueman Ludlow, *Heritage Study of the City of Orange Volume 1*, produced for the Department of Environment & Planning and the Council of the City of Orange, November 1986, p.42

<sup>3</sup> AONSW 2/1529, 7 July 1840

<sup>4</sup> Hughes Trueman Ludlow, *Heritage Study of the City of Orange Volume 1*, produced for the Department of Environment & Planning and the Council of the City of Orange, November 1986, p.43

SUE ROSEN ASSOCIATES

The uptake on town allotments was slow; five years after proclamation, only seven houses were actually occupied within the square mile of Orange. Clearing and laying out of the street grid was not attempted in any concerted manner until the 1860s. The township was also faced with a very real issue of a reliable water supply, as Blackmans Swamp Creek did not deliver on Davidson's optimistic representations.

Despite these challenges, the township did increasingly become the focus for the surrounding farming community and began acquiring civic amenities. In 1848 a police station was opened, and in 1849, the Court of Petty Sessions was moved from Shadforth, and the post office established. A few stores were trading – one attached to Mills' hotel, and James Dalton opened his store on Summer Street.

The 1851 discovery of gold and the subsequent rush to the nearby Ophir gold fields was the kickstart that the Orange township needed. Benefitting from the westward migration, the 1852/3 price of allotments doubled from the original 4 pounds, with desirable blocks fetching up to 300 pounds per acre by the end of the 1850s. By 1861, the census recorded 91 houses and a population of 581 people; a considerable increase on the 28 people present in 1851. Despite a sluggish start, the township of Orange was well on its way.<sup>5</sup>

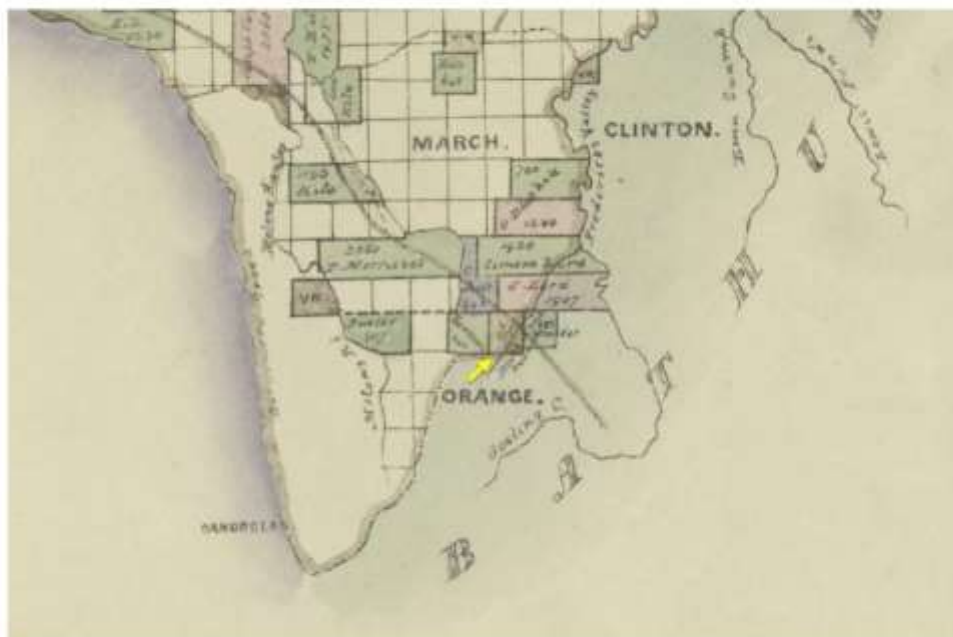


Figure 3.1 | Excerpt from an 1843 map of the County of Wellington. The township reserve for now-Orange is indicated as the square labelled 'VR' and is labelled as it was then known as 'Blackmans Swamp'. The reserve is surrounded by grants to Simeon Lord, William Sampson and Joseph Moulder. Blackmans Swamp Creek runs across the reserve. [NLA: Baker, W and Mitchell, Thomas. *Map of the County of Wellington dedicated by permission to Sir T.L. Mitchell, Knt., Surveyor General of New South Wales* [Sydney: Printed and published by W. Baker, 1843, <http://nla.gov.au/nla.obj-2236342507>]

<sup>5</sup> Hughes Trueman Ludlow, *Heritage Study of the City of Orange Volume 1*, produced for the Department of Environment & Planning and the Council of the City of Orange, November 1986, pp.43-45

SUE ROSEN ASSOCIATES



Figure 3.2 | The Town of Orange, drawn on the 27<sup>th</sup> June 1929 showing the grid pattern put forward by Surveyor Davidson for the Crown's subdivision of the township reserve. The Royal Hotel is located on part of Denis Hanrahan's allotments on Block 41, shown in the inset. [NLA: NSW Department of Lands, *Map of the town of Orange Parishes of Orange, Counties of Wellington and Bathurst, Land District of Orange, N.S.W.*, 1929, <http://nla.gov.au/nla.obj-233973569>]

SUE ROSEN ASSOCIATES



Figure 3.3 | Looking east along Summer Street from Sale Street Orange. [SLNSW: American & Australasian Photographic Company, *Summer Street, Orange Looking East from Sale Street*, 1870-1875]



SUE ROSEN ASSOCIATES

### 3.2 The Wellington Inn

Publican Denis Hanrahan purchased four, 2 rood allotments in the Orange village in 1851 for a total of 16 pounds, with a further two 2 roods in 1852 for 10 pounds.<sup>6</sup> Hanrahan was the licensee for the *Valley Steamer Inn* at Fredericks Valley from at least 1846, then the *Plough and Harrow* at Campdale on the Wellington Road from 1853. On the 20<sup>th</sup> April 1858, Hanrahan was granted a 'Publican's Licence for the house situated at "Summer Street", Village of Orange under the sign of "the Wellington Inn".<sup>7</sup>

The first double storey hotel in Orange, the *Wellington* had been constructed by at least the 29<sup>th</sup> May 1858, when a residents meeting was held there.<sup>8</sup> When Orange was declared a municipality, Hanrahan was elected as an alderman in the first election held on the 9<sup>th</sup> February 1860. He held the licensee for the *Wellington* until his death in 1868.<sup>9</sup> Wife, Catherine Hanrahan was briefly recorded as the licensee, before James Torpy, publican and later-Mayor of Orange, took over the 'Wellington Hotel' in August 1869. He ran another hotel, in Byng Street – also named the *Royal Hotel*. In 1879 the *Wellington* was licensed to John W. Smith; by September of 1881 he had changed the name to the *Royal Hotel*. The hotel was the location of the Cobb & Co. booking office in Orange for 50 years.<sup>10</sup>



Figure 3.4 | The *Wellington Inn* viewed from Summer Street between 1870-75, looking west with Lord's Place and the paddock, now-Robertson Park, on the right. The name over the door is James Torpy, and the ground floor window says 'Cobb & Co Office'. The hotel façade has an ashlar pattern, face brick chimney, sash windows, timber verandah posts, with timber balustrading on the first floor. Roof is timber shingle, a timber stable/coachhouse is at the right. [SLNSW: American & Australasian Photographic Company, *Summer Street, Looking West with Lord's Place and the Paddock That Was Later Robertson Park on the Right, Orange, 1870-1875*]

<sup>6</sup> State Records Authority of New South Wales: *Returns of the Colony ('BlueBooks')*, 1822-1857; Collection Number: Series 1286; publication years 1851 and 1852, web <[www.ancestry.com](http://www.ancestry.com)>

<sup>7</sup> State Archives NSW: *New South Wales, Australia, Certificates for Publicans' Licences, 1830-1849, 1853-1899*, Series: 14403; Item: [7/1507-1508]; Reel: 1239 and 1240; License Years: 1846, 1847, 1848, 1853, 1856, 1858.

<sup>8</sup> NSW Heritage: 'Royal Hotel, incorporating Diamond Lil's', State Heritage Inventory database no. [2220480](https://www.environment.nsw.gov.au/heritage/pubs/2220480); *Bathurst Free Press and Mining Journal*, 2 June 1858: p. 3, <<http://nla.gov.au/nla.news-article64376752>>.

<sup>9</sup> Orange Regional Museum, *A Short History of Orange*, 2018, p.7; Ancestry.com: *Australia, Death Index, 1787-1985*, 'Denis Hanrahan', Registration Year: 1868, Registration Place: Orange, New South Wales, Registration number: 5659.

<sup>10</sup> *New South Wales Government Gazette*, 24 August 1869, p.2138; State Archives NSW: *New South Wales, Australia, Certificates for Publicans' Licences, 1830-1849, 1853-1899*, Series: NRS 14411; Item: 7/1514; Reel: 1243, License Year: 1870; *Evening News*, 5 December 1879, p.2; *NSW Gov Gazette*, 12 September 1879, p.4063; *New South Wales Police Gazette and Weekly Record of Crime*, 13 September 1881, p.4722, [SUPPLEMENT TO THE NEW SOUTH WALES Government Gazette.]; NSW Heritage: 'Royal Hotel, incorporating Diamond Lil's', State Heritage Inventory database no. [2220480](https://www.environment.nsw.gov.au/heritage/pubs/2220480); Bathurst Regional Council: Cobb & Co Heritage Trail, web, 15 Sep 2020, <<https://www.cobbandco.net.au/trails/area-trails/108-orange-area-trail>>

SUE ROSEN ASSOCIATES



Figure 3.5 | Looking west down Summer Street toward the Wellington Inn, with the surrounding houses and businesses of Orange evident. [SLNSW: American & Australasian Photographic Company, [Summer Street, Orange](#), 1870-1875]



Figure 3.6 | Another view showing the view down Summer Street toward the Wellington Inn, and the skyline of the Orange village. [SLNSW: American & Australasian Photographic Company, [Summer Street, Orange](#), 1870-1875]



SUE ROSEN ASSOCIATES

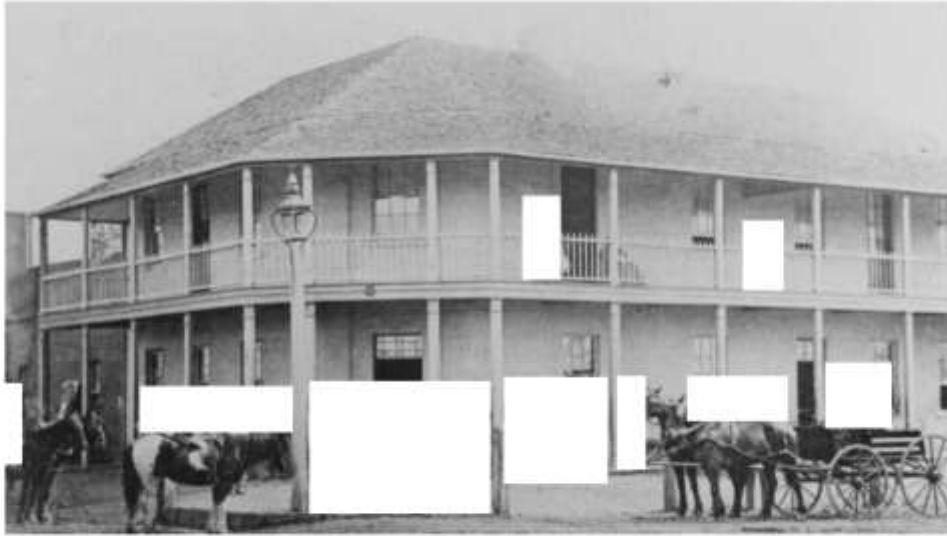


Figure 3.7 | Photo of the *Wellington Inn*, n.d., but looks to be post-1875, pre-1880s, as small timber buildings at Summer Street side is gone, but Royal Hotel Buildings not built yet. [Central Western Daily: 'Archival Revival: Orange streetscapes in the early 20<sup>th</sup> century | Photos', [26 May 2018, 1:00PM](#), Photo: Robert Bartlett Collection, Central West Libraries]



Figure 3.8 | By the time of this c.1880s image of the *Royal Hotel*, the neighbouring single-storey timber saddlery has been replaced by the double storey 'Royal Hotel Buildings', which during this incarnation, has only a ground floor awning. The Lords Place frontage is still the same as the 1870s. Summer Street has been 'paved' and has a gutter, and Robertson Park has been fenced. [Orange Regional Museum, *A Short History of Orange*, 2018, p.5]

SUE ROSEN ASSOCIATES



Figure 3.9 | Postcard from the *Royal Hotel*, c.1917. The *Royal Hotel* Buildings, including its distinctive rooftop sign is seen at left. The *Royal* has been re-roofed in iron and now has iron verandah posts and lacework. [Flickr: Aussie™mobs, taken 17 March 2020, <https://flic.kr/p/2i5dZ8r>]



Figure 3.10 | The ground floor Dining Room of the *Royal Hotel* c.1912, under the management of the Edey family. [Ancestry.com]

## SUE ROSEN ASSOCIATES

The Edye family were the next to run the *Royal*. Andrew and Harriet Edye, followed by sons; William Benjamin Edye, before Lionel Vivian, who took over in August 1917.<sup>11</sup> Lionel was still at the helm in May 1920, when the hotel got an 'advertorial' write up in the *Catholic Press*;

### THE ROYAL HOTEL, ORANGE.

Everyone touring the western parts knows that the hotel in Orange is run by L. V. Edye. The Royal Hotel is just where all desirous of securing for themselves the best that is going put up at. It is fitted up with every modern convenience, and is well-appointed. Being established for over a quarter of a century, it has put up a record among both tourists and businessmen for being just a first-class hotel that keeps moving on with the times.<sup>12</sup>

It was either under the next publican, Oswald Neich, that the Hotel underwent a transformation that saw it expand into a substantial 'complex' consisting of shops, pub and residential accommodation. Oswald Neich came to Orange in 1914 to run the *Oriental Hotel* (Byng & Lords Place), before the *Royal Hotel* in Wellington. He returned to Orange in 1922 and bought the Edye's interest in the Summer Street *Royal*.<sup>13</sup>

### ROYAL HOTEL IMPROVEMENTS

Mr Ossie Neich, the new proprietor of the Royal Hotel, Orange, finds that, despite the large number of rooms in the building, they are totally inadequate for the ever-increasing trade. He is now in negotiations for the erection of additional accommodation, which will make the Royal Hotel the largest and most replete this side of the mountains. It is Mr. Neich's intention to effect such modern improvements and adjuncts to the celebrated old hotel that will stand in line with the most up-to-date residential hotel in the state. Mr Neich will stop at nothing, and will spare no expense in order that the comfort of the public is the best on offer.<sup>14</sup>



Figure 3.11 | The *Royal*, c.1920's. The Royal Hotel Buildings have had a first floor verandah added, which is linked with the Hotel's. A new wing with decorative gables has been constructed in place of the yard fronting Lords Place. The end part of this section has survived. [ANU: Noel Butlin Archive, Tooth & Company Records, ID [N417-597-512](#)]

<sup>11</sup> *National Advocate*, 18 April 1946, p.2; *Forbes Times*, 17 August 1917, p.4

<sup>12</sup> *The Catholic Press*, 13 May 1920, p.38

<sup>13</sup> *Leader*, 13 May 1935, p.3

<sup>14</sup> *Leader*, 16 March 1923, p.5

SUE ROSEN ASSOCIATES



Figure 3.12 | The *Royal Hotel* in July 1925. The different alignments of the new Lord's Place wing and the verandah of the *Royal Hotel* Buildings are evident, but unified through the use of the diagonal gables at the verandah sections linking the 3 buildings. [ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, *Royal Hotel* Orange card 1 side 2, ID N60-YC-1976]

It is early on during Neich's tenure that the *Royal* became associated with famed brewers Tooth & Company as a 'tied' hotel. Figure 3.12 above is on the back of the first Tooth & Co. record card for the *Royal*, and notes

Altered....

28f brick – very big house. Nicely tiled to about 7 feet – no mirrors at all – oppos park – very good office. 27/4/30'

Despite being a 'very big house', the demand for accommodation was such that the Hotel operated at capacity. The need for more accommodation and upgrades to the building was acknowledged by the owner, Sam Williams at the end of 1927;

"In order to cope with the increasing business, and also to keep pace with the town, Mr. Sam Williams, owner of the *Royal Hotel*, Orange, has decided to construct another storey over the two existing ones, which will make the *Royal* the most commodious hotel outside the metropolitan centres. He also is to effect alterations to the street verandah, which will be converted into one long promenade, with provision for seats or lounges. Mr. Williams contemplates that the improvements will be effected before the end of 1928. Orange feels the need of a hotel of this nature, as time and again, Mr. Neich, the present proprietor, has had to turn people away, despite the fact that he has already ninety bedrooms for their accommodation."<sup>15</sup>

<sup>15</sup> *Leader*, 28 December 1927, p.2



## SUE ROSEN ASSOCIATES

---

And while the third floor did end up being added during this particular project, the renovations were undertaken and the upgraded *Royal Hotel* was delivered by the end of 1929.

Mr A. E Rauch, Contractor, of Sydney and Orange, admits that of all the hotel construction works he has been engaged on in the past years which had been devoted entirely to this class of building, he has not handled another job so beautifully finished....

A feature of the bars which have few superiors in the metropolis and none in the country, is the costly tiling of floor, walls and bar counter, the walls having inset panels of considerable charm. Comfort and cleanliness, together with the attraction of excellent lighting, impress immediately upon entry, and are compatible with the ornate tiling of the exterior and the embossed plate glass door panels, an unusual feature.

The ceiling is pure white, and is constructed on Wunderlich steel. The tiles used are made in our own country by the Australian Tessellated Tile Co. Ltd.

The Woodwork is of Queensland silky oak, while huge built-in ice chest and aluminium sinks of the latest design, with hot and cold water services, together with the special automatic door checks, adds to the attractiveness of the well-lit bar, which will never lack patrons or admiration.

A cashier's apartment, opening on to both saloon and public bars, will facilitate handling of money in rush times. The well-stocked storeroom communicates directly with the bars. The shelves above the public bar, which hold the stock of spirits, are not of the usual solid, unsightly type but are fronted with plate-glass.

The tiled floors are most hygienic, and taps in recesses in the walls will make it possible to wash the floors with a minimum of trouble: the water will drain off through outlets placed in most convenient positions. Six pumps tap the liquor in the cellar. Seasonal requirements are to be met with electric fans and power points, and a large, ornate fireplace.

A corridor connects the public bar with a court, and after this inspection, a glimpse or the extensive work being carried out in other parts of the thoroughly renovated building was afforded the "Leader" reporter. Typical of the costly equipment is the installation of a specially constructed Frigidaire, costing £360, and of an unusual size, being 10ft 6ins long and 7ft high, with 100 cubic feet of storage space.

The lounge bar on the upper floor is a revelation of cleanliness, beauty and comfort, and is to be opened shortly. It is very well lighted, and has a very fresh outlook over the park. The tiling here is more beautiful than in the other bars, and here, as in the saloon bar, a homely, well finished fireplace adds to the congeniality of the scene and will provide comfort and warmth in winter. The lounge bar, when it is opened shortly, will be a pleasant surprise to the discriminating public of Orange.

The modern and costly improvements already effected are typical of the great work that is being carried on, under difficulties, by Mr. Rauch and his staff, and when the structure is completed it will place Orange far in advance of its contemporaries as regards public buildings of every Mr. Geo. A. Marsh, of Sydney, is the architect.<sup>16</sup>

---

<sup>16</sup> *Leader*, 27 December 1929, p.7

SUE ROSEN ASSOCIATES



Figure 3.13 | The Royal Hotel in March 1930. Top: view from Lords Place following the renovations undertaken by Oswald Neich. Bottom: Summer Street, including the Royal Hotel Buildings. The forward building line of the three 'wings' seems to have been rationalized and aligned, through works including the new corner roof parapet and pub verandah roof form. The sign on the first floor verandah (still undergoing works) reads 'These premises are being [reconstructed?] as a Modern Hotel for O. Neich, Proprietor. Architect Geo. A. Marsh...Builder A. E. Rauch...' [ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 2 side 2, ID N60-YC-1976]

Robert Walder purchased a 10 year lease of the hotel in 1937 with manager/licensees acting on his behalf. The extensive length of the lease was unusual, and the matter had to be first heard and permission given by the Sydney Equity Court in August 1937.

The long lease was prompted by the announcement that the *Club Hotel* diagonally opposite was being demolished and that Tooheys was spending £70,000 to erect the *Hotel Canobolas* on the site. The investment of the Lessor's time and money was required to get the *Royal* back up to a competitive level with the 'shiny' new hotel across the road.<sup>17</sup>

<sup>17</sup> *Leader*, 9 August 1937, p.1



## SUE ROSEN ASSOCIATES

ROYAL HOTEL - £15,000 for improvements.

It has been officially announced that Mr. Robert Walder who has purchased a long lease of the Royal Hotel, will spend about £15,000 on effecting modern improvements and additions.

Mr. Walder, prominent York Street merchant, who controls big Sydney hotels, took over the lease of the Royal Hotel on Saturday last. With him on his arrival in Orange, came Mr. Kenworthy, FRAIA, one of Sydney's leading architects. They discussed the proposal of completely reconstructing the hotel.

It is Mr. Walder's intention to make the Royal, which is probably one of the biggest hotels outside of Sydney, into one of the most modern and up-to-date in any country town.

The whole of the place is being refurnished, a large ballroom and lounge is being added, while several suites of rooms, together with complete alterations to bars, are noted in the works programme. In addition to this, the verandah posts in Summer Street will be abolished and the facade will be improved and modernised.

Local builders and renovators will be given the assignment, and it is stated that it will not be long before work is under way.

The new manager and manageress of the Royal Hotel are Mr. and Mrs. G. W. Blair, formerly of Forbes.

The agents concerned in the transaction were Messrs. McNeilly, Crampton and Martin Ltd of Orange.<sup>18</sup>

The tender was awarded on the 27<sup>th</sup> July 1937 for 'remodelling and modernising Royal Hotel: G. N. Kenworthy, to E. Rauch, Orange.'<sup>19</sup>

### 3.2.1 George Newton Kenworthy

Prominent theatre architect George Kenworthy was born in Manchester England and studied architecture at Liverpool University; qualifying in 1906. He travelled to Sydney in 1911, where, two weeks later, he secured a position in the Government Architect's Office. He worked there until 1923, eventually becoming 'Architect-in-Chief, Secretary's Department, Theatres and Public Halls Section'. During this time, he also lectured part-time at the Sydney Technical College (now-TAFE) in Ultimo, teaching various architectural diploma course subjects.

He went into partnership with architect Henry Eli White in 1923. During this 6 year period, the partnership was responsible for a long series of major projects in N.S.W., Victoria, Queensland, and New Zealand. Their portfolio included fourteen theatres, among them the St. James and State Theatres in Sydney; Newcastle's Civic Theatre (and Town Hall) and the St. James Theatre in Auckland, N.Z. Other projects included extensions to the Bunnerong Power Station and city building, Hengrove Hall in Macquarie Street, Chalfont Chambers in Phillip Street; Stanton House, Pitt Street and the State Shopping Block, Market Street, Sydney.

Kenworthy started his own practice in Pitt Street Sydney in 1930. While he was a recognised authority on the design and construction of theatres and auditoria (which constituted a considerable proportion of his work), he undertook every type and size of project; his policy being that nothing was too small or too large. His style at this time tended toward Art Deco, Streamline Moderne, Functionalist and Spanish Mission. In 1935, he designed and oversaw the construction of the Cremorne Orpheum theatre, added a ballroom and supper

<sup>18</sup> *Leader*, 5 May 1937, p.5

<sup>19</sup> *The Daily Telegraph*, 27 July 1937, p.14; This is A. E. Rauch

SUE ROSEN ASSOCIATES

room to the Paragon Café in Katoomba, and designed private residences in Pymble and Roseville. He went on to design and build high-rise flats at the site of the former-Roslyn Hall in Elizabeth Bay in 1937.<sup>20</sup> His previous work in Orange included the Spanish Mission style doctor's residence, completed in 1930.<sup>21</sup>

A Fellow of the Royal Australian Institute of Architects and a member of the Institute Council for many years, he also continued his involvement in technical education, being an examiner for the Board of Architects and the Sydney Technical College until 1951. George Kenworthy passed away at his Lindfield home on the 28th October, 1954, aged 69. His obituary remembered him

...as a man of integrity, of strong mind and personality; a just man; a convivial man of good humour, who thoroughly enjoyed the daily social contacts of his profession; a man of brilliant brain and kind heart, and a staunch friend in time of trouble. He deeply loved Australia and never returned to England – not even for a holiday – and, to use his own words, has left his mark on the skyline of Sydney.<sup>22</sup>

### 3.2.2 The 'New' Royal

By April of 1938, just 8 months after the awarding of the tender, the transformation of the *Royal Hotel* was almost complete. The Tooth & Co card records the 1937 works;

#### Work Being Done

- (1) New Bottle dept
- (2) New bars replacing old downstairs
- (3) New saloon bar & reception room & ladies lounge on 1<sup>st</sup> floor
- (4) Re-conditioning of bedrooms
- (5) Four new suites with bathrooms
- (6) Addnl. Bathrooms & toilets on each wing
- (7) New exterior treatment<sup>23</sup>

The Hotel had a second storey of accommodation added above the pub-proper. The Royal Hotel Buildings also benefitted from the façade update; the trafficable first floor verandah was removed from it and the pub, converted to a suspended awning. The new façade acted as a parapet to conceal the rooflines of both. The first floor of the Buildings was also part of the accommodation facilities of the Hotel. The gabled-roofed section of the Hotel in Lords Place survived. It kept its roof, first floor facade and deep, covered verandah.

By 1941, the number of bedrooms was noted as 90, then updated to 106 in April 1942.

At 11<sup>th</sup> May 1948 the shops (along with their annual rental) at the site included

Motor Garage £312  
Fruitier £106  
Billiard Room £141  
Café £353.3.4  
Hairdresser £104  
Newsagent £245.5.0  
Sadler £198.2.0  
Bakery £144

<sup>20</sup> *Building: the magazine for the architect, builder, property owner and merchant* [Sydney: Building Publishing Co.], Volume 61 No. 364 (24 December 1937), p.78.

<sup>21</sup> *Building*: Volume 47 No. 278 (11 October 1930), p.60.

<sup>22</sup> *Construction*, 8 December 1954, p.36

<sup>23</sup> ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, *Royal Hotel Orange* card 2 side 2, ID N60-YC-1976

SUE ROSEN ASSOCIATES



Figure 3.14 | The almost-finished *Royal Hotel* on 18 April 1938. The white, black and green vitrolite tiles have been finished to the corner splay and is yet to continue around to Summer Street. The Lords Place gabled roof section survives in part today. [ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 2 side 2, ID N60-YC-1976]



Figure 3.15 | The finished product on January 1941. The vitrolite tiling has been finished and shopfronts installed at the Hotel Buildings. The gabled roof section has had an alteration made to its verandah roof, but interesting that it retained the late 1929 wall tiling at ground level. [ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 3 side 2, ID N60-YC-1976]

SUE ROSEN ASSOCIATES



Figure 3.16 | The Royal in 1949. The structure housing the lift overrun is visible behind the roof sign facing Lords Place. [ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 4 side 2, ID N60-YC-1976]



Figure 3.17 | Looking east along Summer Street. The Royal Hotel Buildings are at left of image. Different day, but same, or similar, black car as Figure 3.16 is parked near Robertson Park. [Flickr: 'Summer Street, Orange, N.S.W. - circa 1949', uploaded April 20, 2020 by Aussie~mobs, <<https://flic.kr/p/2iSiCh7>>]



SUE ROSEN ASSOCIATES



Figure 3.18 | The *Royal Hotel* at left, in this 1949 view looking north up Lords Place.  
[NAA: A1200, L12698, barcode [11356541](#)]

Robert Walder passed away in September of 1940, only getting to enjoy the result of his efforts for a few years past completion. After some negotiation, the lease was retained by his company - Walder's Manchester Pty Ltd. The freehold of the hotel was sold in June 1950; King Pitt Investments picked it up for £71,850, after it had been offered at £75,000.<sup>24</sup>

Cadia (Orange) Investments were the next syndicate to run the Hotel. They first had a tenancy arrangement with an 'option to purchase f/hold for £101,500 provided settlement is made on or before 1.12.59'; which they did.<sup>25</sup> Architectural drawings from 1959 show that by this time, the 1920s Lords Place wing had been reduced to its current footprint, and the allotment next to it sold off. Alterations were made to reconfigure bars and lounges, the kitchen and dining areas were moved to the first floor, and new toilet and bathroom facilities were added.

<sup>24</sup> ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 3 side 1

<sup>25</sup> ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 4 side 1

SUE ROSEN ASSOCIATES

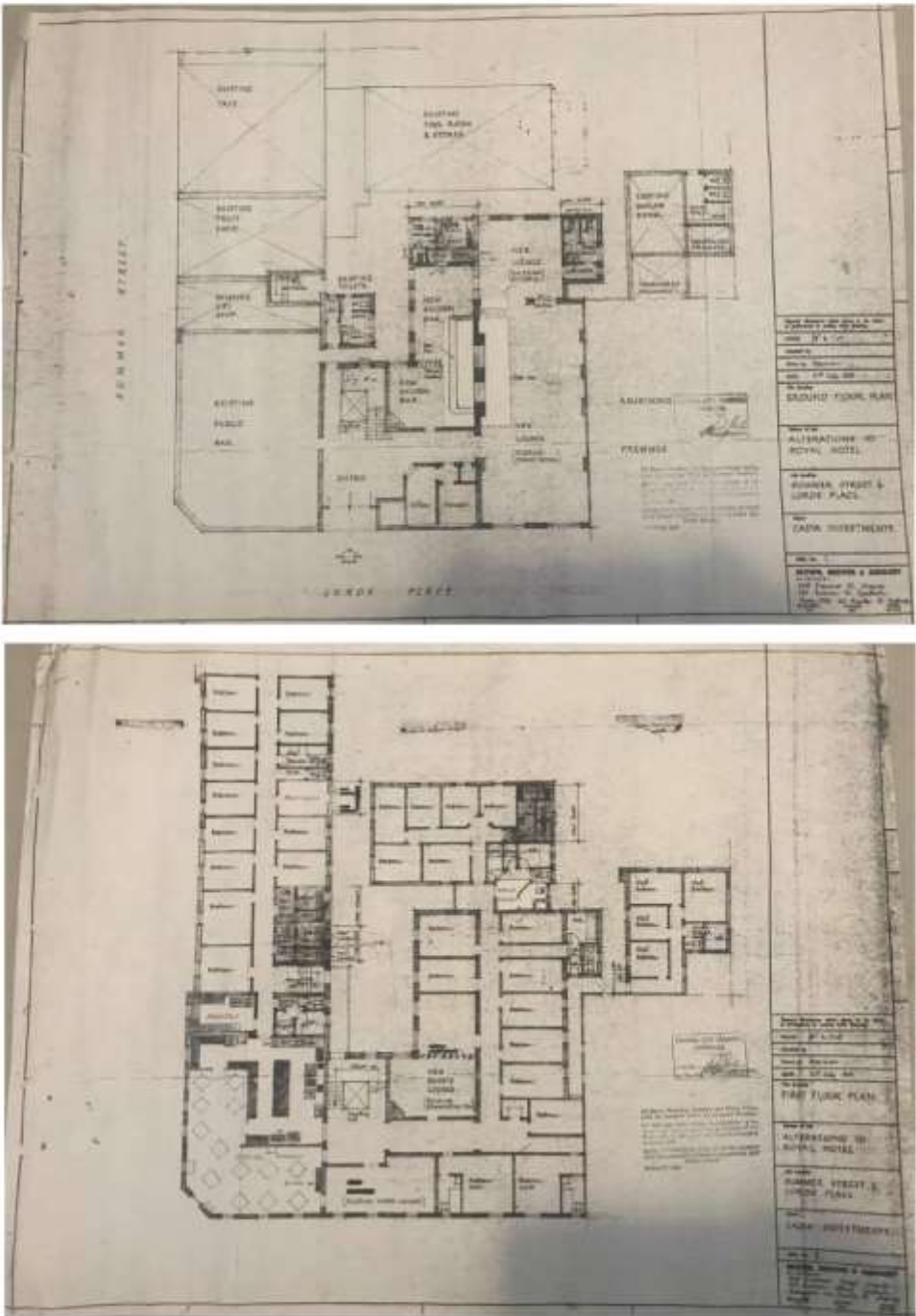


Figure 3.19 | Top: Ground Floor. Bottom: First Floor. July 1959 plans drawn by Brown, Brewer and Gregory for alterations to the *Royal Hotel*. The kitchen and dining room were moved upstairs, lounges were reconfigured, and new bathrooms were installed. [Orange City Council]



SUE ROSEN ASSOCIATES



Figure 3.20 | Royal Hotel in January 1970. The Lords Place ground floor has a separate wall treatment for the 1920s section. The first and second floor window frames are in a dark colour, with flat white wall colour. [ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 4 side 2, ID N60-YC-1976]

The *Royal Hotel* was sold a few times from the early 1960s; going from \$140,000 in 1968 and \$175,000 in 1969. Spoto & Co moved in from the early 1970s through to 1978. The Hotel was put up for auction in 1974, but was not successful in securing a sale.

Valuation Oct '74 = \$356,000.

Submitted for Auction 21-2-1974 Res - \$500,000 Highest bid \$400,000 W/D

Submitted for Auction 18-4-1974 Reserve unknown Highest bid \$400,000 W/D<sup>26</sup>

In December of 1978, the *Royal* was sold to Wiseman Ferry Hotel Pty Ltd, being Robert & Andre Bressan.<sup>27</sup>

For decades, Tooth & Co. was the dominant brewer of the Sydney metropolitan and New South Wales country markets, its only competitor being Toohey's Ltd – who operated the *Canobolas*. Eventually though, Tooth's star waned and their assets were acquired in 1983 by Carlton United Breweries Ltd, ending the arrangement that the *Royal* had been run under since the early 1920s.

Toohey's were quick to fill the gap, with their branding appearing on the *Royal's* awning and the corner splay in the 1980s.

<sup>26</sup> ANU: Noel Butlin Archives, Tooth & Company Limited yellow cards, Royal Hotel Orange card 6 side 2

<sup>27</sup> ANU: Royal Hotel Orange Card 5 side 1, card 6 side 1

SUE ROSEN ASSOCIATES



Figure 3.21 | A 1974 view west along Summer Street. The *Royal Hotel* is at right, the auction sign is visible above the awning. [CWL: Summer Street, Orange 1975, photo [113446](#)]



Figure 3.22 | A 1980s view of the *Royal Hotel*, Tooth & Co. is no more, and the hotel advertises for Tooheys. The corner splay door has been replaced and tiling changed around it. The streamlines have been painted in a dark colour at first, second floors and the parapet. [CWL: Glen Griffith, *Royal Hotel Orange*, 1980s, photo [800978](#)]

SUE ROSEN ASSOCIATES



Figure 3.23 | The Royal Hotel in 1996. The building now housing Peter Boyd Solicitors has cut down the 1920s gable-roofed section to its current dimensions. The façade of that wing was also retained the street trees are starting to get a bit more established. [NLA: Bell, Brendan, *Royal Hotel, Summer Street, Orange*, 1996, <http://nla.gov.au/nla.obj-143029346>]

Mivodu Pty Ltd had taken over the property in the early 1990s and carried out 'brick veneer additions to hotel'<sup>28</sup> They were followed by Sunrise Ventures Pty Ltd by at least 1999 when approval was given for them to carry out alterations and additions at the Hotel.<sup>29</sup>

Refurbishment works were again carried out by Sunrise in 2001, under DA 00/318, and again in 2003/4 for alterations to kitchen and toilet facilities and increase in bar area (DA 03/012); changes to the ventilations and exhaust systems were also included.

<sup>28</sup> Orange City Council: 'Approval to Build' notice, reference: DND: AAI, Building permit number 39/90 258/249/11/7, 23 February 1990

<sup>29</sup> Council of the City of Orange: 'Notice of Determination of a Development Application', DA No. 99/207, file No. P258.890, 1 December 1999

SUE ROSEN ASSOCIATES

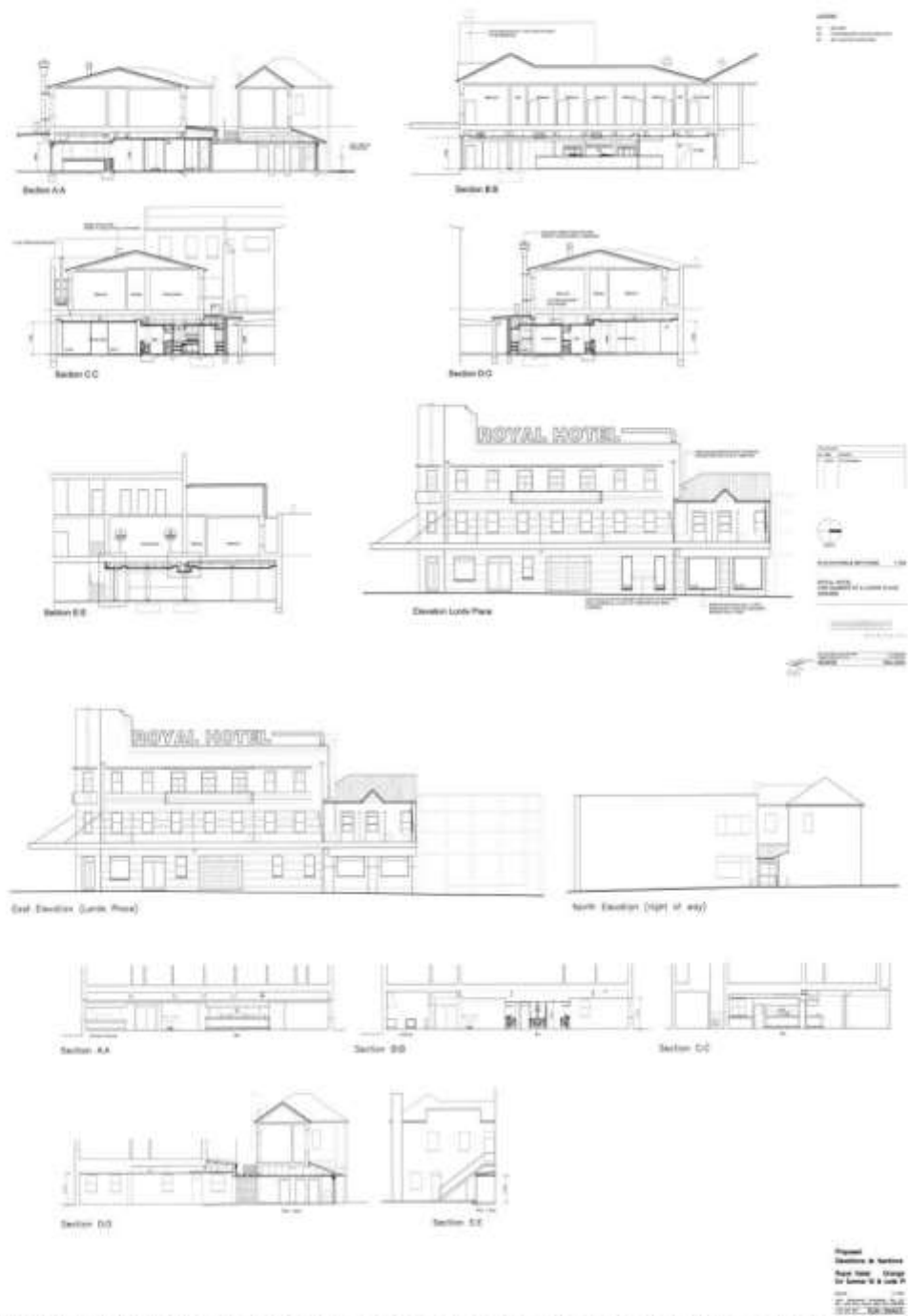


Figure 3.24 | John Blackwood Architects elevations and sections for the 2003 proposed alterations to kitchens and bars at the Royal Hotel. [Orange City Council]



SUE ROSEN ASSOCIATES

In December 2005, a memorandum was made by Council's then-heritage advisor, Barbara Hickson noting the 'detail of this stylish hotel is being eroded away, piece by piece, probability [sic] through misunderstanding or ignorance of its historical and aesthetic significance.'

The motivation for the memo was that the *Royal's* distinctive ground floor vitrolite tiling had been removed.

Hickson remarked

The removal of the tiles is another such contribution to the deterioration of the façade. The glazed tiles were not simply an intrinsic part of the Art Deco movement, but were a very practical 'best practice' protects for the external skin of the building'<sup>30</sup>

She recommended that glazed tiles, or similar, as closely as possible to the original quality/colour should be sourced, so that the wall tiling could be reinstated.

Another application was made in 2007 (DA 250/2007(1)) and in 2008 (DA 135/2008 (1)). The 2008 application proposed to render the ground floor exterior of the Hotel, which had not been treated following the removal of the tiles in 2005. The vitrolite had become a rarity; there now not being a true modern equivalent. A compromise was reached that the surface be rendered, the art deco banding re-instated by paint, and that 'colourback' glass panels be installed at the corner splay to mimic the glassy reflective quality of the late-vitrolite.<sup>31</sup>



Figure 3.25 | The *Royal* as at 6 July 2007. The vitrolite has been removed back to facebrick around the cornersplay. The colour scheme has been changed to yellow/cream and maroon from whites [Gdaypubs.com.au: Photo by user Jon G, 06/07/2007]

<sup>30</sup> Orange City Council: Barbara Hickson, 'Memo: Heritage Advice' to Orange City Council, 11 Dec 2005

<sup>31</sup> Orange City Council: Barbara Hickson, 'Memo: Heritage Advice' to Orange City Council, 22 May 2008

SUE ROSEN ASSOCIATES



Figure 3.26 | Photo of the part of the Summer Street ground floor façade. Detail of the rendered wall treatment with painted banding at right of image that replaced the vitrolite. [NSW Heritage: Photo by David Scobie, 'Royal Hotel, incorporating Diamond Lil's', State Heritage Inventory database no. [2220480](#)]



Figure 3.27 | The Royal Hotel at 25 January 2009. [Waymarking.com, [Royal Hotel, Orange](#), NSW Australia Image Gallery, viewed 11 September 2020]



SUE ROSEN ASSOCIATES



Figure 3.28 | 30 October 2010. The colourback glass panels have been installed around the corner splay door, some face brick still evident on either side. [Waymarking.com, [Royal Hotel, Orange, NSW Australia Image Gallery](#), viewed 11 September 2020]

SUE ROSEN ASSOCIATES

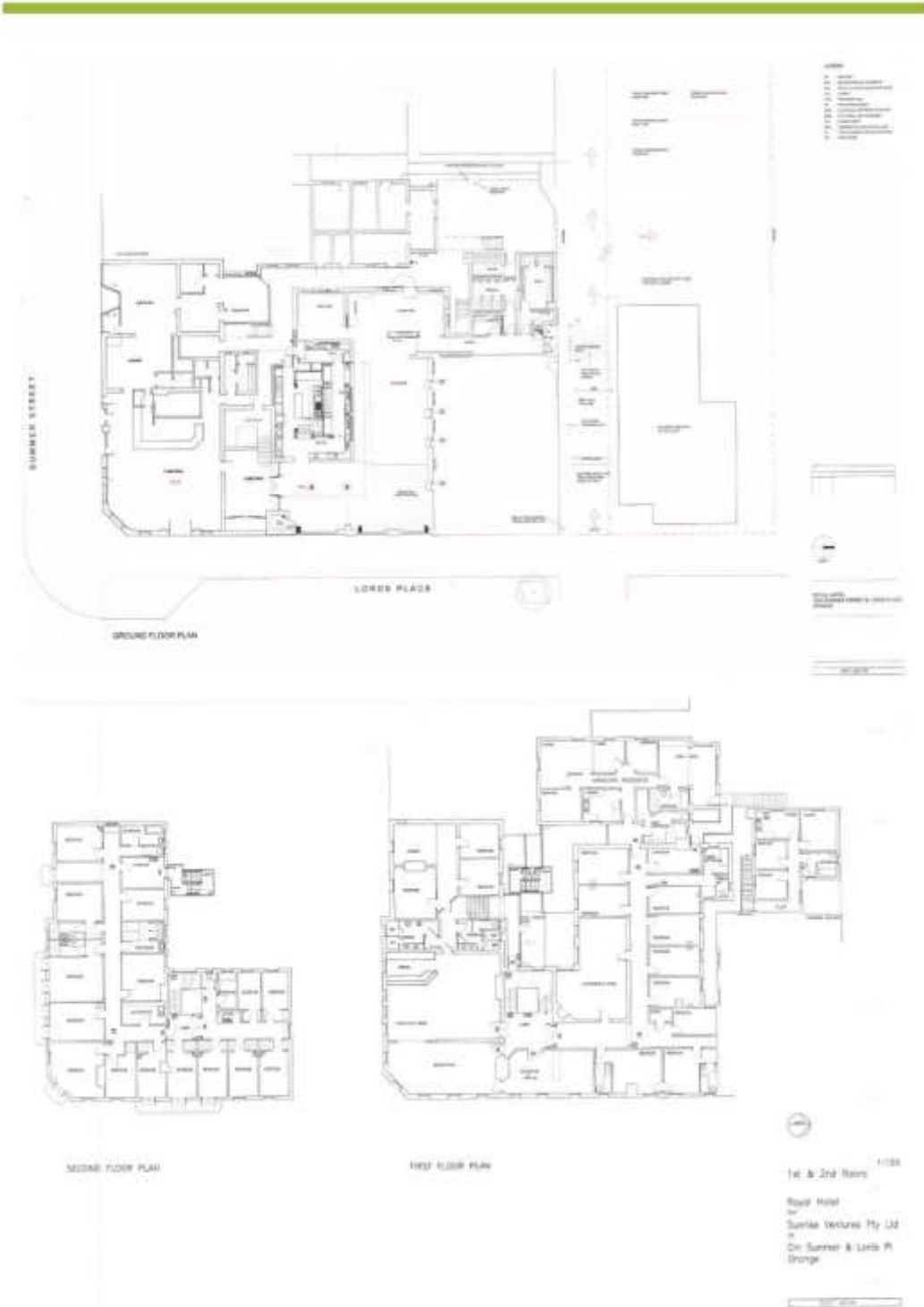


Figure 3.29 | Floorplan of the *Royal Hotel* in October 2014. [Orange City Council]

SUE ROSEN ASSOCIATES



Figure 3.30 | The Royal Hotel in 2017, still yellow cream with maroon accents. Larger windows have been put in at the Lords Place side, (existing Bistro). [ABC Central West: Melanie Pearce, 'Royal Hotel Orange NSW', Posted [26 Oct 2017, 1:07pm](#)]



Figure 3.31 | (L) Before and (R) after of the exterior painting project undertaking in 2018. The base wall colour is Bristol Paints 'Light Delight', with details picked out in 'Black Pearl'. [Kat Everett, 2018, [colourstyling.com.au](#)]

In 2015, Council were investigating solutions to shore up the suspended awning of the Hotel as it was failing and required extensive refurbishment to make it sound. The decision was to approve the introduction of simple, round supporting columns, which were installed in March 2018.<sup>12</sup> By August of that year, a new exterior colour scheme and replacement under-awning light fittings had been considered and approved.<sup>13</sup>

<sup>12</sup> Orange City Council: David Scobie, email 'Heritage advice royal hotel', 25 August 2015, Document No. D16/146427.

<sup>13</sup> Orange City Council: Orange City Council Heritage Advisory Service (David Scobie Architects), 'The Royal Hotel – Colour Scheme', June 2018, Document No. IC18/1375, '12. The Royal Hotel, Colour Scheme', August 2018, Document No. IC18/18455.

SUE ROSEN ASSOCIATES

On the 3<sup>rd</sup> of October 2019, current proprietors, MPK Hotels, acquired the Royal from the Irvin Hotel Group.<sup>34</sup> In late 2019/early 2020, MPK purchased the neighbouring property at No. 249 Summer Street to annex it into the licensed premises and exclusive use of the Hotel. The change of use was approved by Orange City Council and No. 249 – formerly of the Royal Hotel Buildings - was returned to the *Royal Hotel*.



Figure 3.32 | The *Royal Hotel*, c2019. Round supporting posts and new light fittings have been added under the awning, and the hotel has been painted in whites and blacks. The banding has been made into one solid colour, rather than the dual colour stripe that had been there previously. [Booking.com: [Royal Hotel Orange](#), viewed 4 September 2020]

<sup>34</sup> *Central West Daily*, Alex Crowe, 'The Royal Hotel sees changing of the guards with new kings on Lords Place', [4 October 2019 – 4:30AM](#)



SUE ROSEN ASSOCIATES

## 4. PHYSICAL EVIDENCE

This section builds on the documentary evidence to describe the local and streetscape context and the house fabric.

### 4.1 *Royal Hotel*

The Royal Hotel is an corner-facing two and three storied structure with an Interwar façade in the Art Deco style, with elements of Streamline Moderne. The facade is built around/in front of a complex of brick structures that has been on the site since the Hotel was first constructed late 1857/early 1858.

The hotel is cement-rendered brickwork, with decorative horizontal linear mouldings around the first floor wall, the second floor balconies, and on the parapet. The spayed corner is emphasized by a section of raised parapet with a central stepped 'finial' motif. A large 'Royal Hotel' of free-standing letters in an art deco font sits on top of the parapet at both Summer Street and Lords Place frontages. The hip roof is corrugated sheet metal, with a rectangular lift overrun behind the ridge of the Lords Place wing.

The 1930s vitrolite tiling of the ground floor façade has been removed in the past and replaced by three painted horizontal bands above a black base to sill level, which interprets the black/green banded design of the former tiles.

The façade wall colour is white, with horizontal detail picked out in black. A wrap-around awning with pressed metal soffit, once suspended, is now supported by round columns. The under-awning light fixtures are reproductions. The ground floor windows and doors are aluminium framed, with timber fumed sash windows at first floor. The second floor street frontage doors and windows are black aluminium.

The northern end of the Lords Place frontage is a two storey hip & gable roofed structure in the Federation style. It has a small decorative gable finished with painted pebble dash and timber panelling above the gutter line. Once part of a larger building that extended further along Lords Place, it is a surviving vestige of the 1928/9 upgrade of the Hotel.

Figures throughout this report document the changes made to the street frontages over time.

The site now includes 249 Summer Street; a double storey shopfront adjoined to the hotel at its western wall, which was purchased by the hotel owners in 2019/2020. A double storey structure at the western boundary of the Hotel adjoins the ground floor rear of No. 249, and contains storerooms and a pair of early coolrooms. A self-contained accommodation suite is above on the first floor.

At Lords Place, there is a single storey detached bottle shop, with a right of way on either side of it, leading to/from an open-air carpark for hotel patrons.

The interior of the building has been subjected to substantial change at ground floor level; though there is evidence remaining of the original plan, detailing and finishes; including portions of wall and floor tiling in the public bar. A central staircase wraps around the former lift well to provide access to the upper levels.

The layout of the first floor and second is generally intact. The first floor contains a two large rooms at the corner splay (former saloon/dining room), now used as a function area. Original floor tiling, ceiling linings, two fireplaces are extant in these rooms. On both first and second floor, a series of hotel bedrooms and communal bathrooms and lavatories are accessed by a central corridor that extends through the entire level. The condition of the bedrooms is fair to good; some bedrooms have had showers installed and other alterations made. Although not all rooms were inspected because occupants were present at the time, art deco architraves around windows and doors, skirting boards, original ceiling linings and cornices were extant in a number of the rooms, as well as in the corridors. Bathrooms are generally intact or with only minor alterations, though not all in good condition.

See following site photographs describing the interior and exterior of the *Royal Hotel* and the surrounding streetscape of the Central Orange Conservation Area.

SUE ROSEN ASSOCIATES

4.2    Site Photographs

4.2.1    Exterior and streetscape



Figure 4.1 | Summer Street façade looking west.



Figure 4.2 | Summer Street façade. No. 249 at left is again part of the hotel buildings. There is no change to the Victorian shopfront, nor the painted banding on the now-rendered hotel ground façade.



Figure 4.3 | Summer Street façade looking east. Showing the art deco design of the awning soffit.



Figure 4.4 | View of the Summer Street façade, including No. 249 and the rest of the row that was the 'Royal Hotel Buildings' from the south western corner of Lord Place.



Figure 4.5 | The *Royal Hotel* viewed from the southeastern corner of Lords Place.



Figure 4.6 | The Lords Place façade of the Royal, including the 1920s gable roofed section.



SUE ROSEN ASSOCIATES



Figure 4.7 | Looking northwest across the Lords Place frontage to the Hotel's bottleshop and driveway



Figure 4.8 | View south from the bottleshop showing the building that replaced part of the Hotel's 1920 footprint.



Figure 4.9 | Looking northwest at the Lords Place frontage of the Hotel bottleshop.



Figure 4.10 | Rear of the Hotel bottleshop from the carpark. Additional carpark spaces proposed here.



Figure 4.11 | View of rear of bottleshop and carpark, to the detached rear accommodation suite of the Hotel. Sign and garden bed to be removed to enable additional parking.



Figure 4.12 | Hotel carpark. Sign etc are being removed.

SUE ROSEN ASSOCIATES



Figure 4.13 | Rear of Hotel. Rear wing containing the bistro WCs and accommodation above, ground floor beer garden and the rear of the hotel accommodation and shop at No.249. Chimney has early paint colour scheme of whites with green bands.



Figure 4.14 | Rear entry to No.249, with access to the Hotel storerooms at left.



Figure 4.15 | Looking northeast across Lords Place to Robertson Park.



Figure 4.16 | Looking northeast across the intersection of Summer Street and Lords Place to Robertson Park



Figure 4.17 | Looking southeast across Lords Place to the Hotel Canobolas.



Figure 4.18 | View from the north side of Summer Street to the Hotel Canobolas.

SUE ROSEN ASSOCIATES



Figure 4.19 | View southeast down Summer Street.



Figure 4.20 | View southwest up Summer Street.

4.2.2    Ground Floor



Figure 4.21 | View to front of the ground floor of No. 249. This is to become the Hotel's outdoor TAB area.



Figure 4.22 | View to the ground floor party wall of No. 249 with Hotel gaming room. An aperture will be put through the 'chimney breast' section, as well as to the right near the front windows to join the two areas.



Figure 4.23 | No. 249 eastern ground floor wall. Remove this section to allow access from rear Hotel 'alley'.



Figure 4.24 | No. 249 ground floor eastern wal. Gaming machines to be installed in alcove.



SUE ROSEN ASSOCIATES



Figure 4.25 | Ground floor of No. 249. This area will be opened up to be a light-well void for the gaming area.



Figure 4.27 | Ground floor of No. 249. These walls to be removed to be configured into the gaming area.



Figure 4.28 | Ground floor of No. 249. Part of wall to be removed for access to the gaming area.



Figure 4.29 | Rear of alley of No.249, which will be altered to facilitate gaming area and equitable access.

SUE ROSEN ASSOCIATES



Figure 4.30 | Ground floor window of No. 249 onto alley.



Figure 4.31 | Beer garden area of Hotel at northwestern rear.



Figure 4.32 | Beer garden looking south at fire stairs (left) to be relocated to be against rear northern wall of hotel where the grey roller door is.

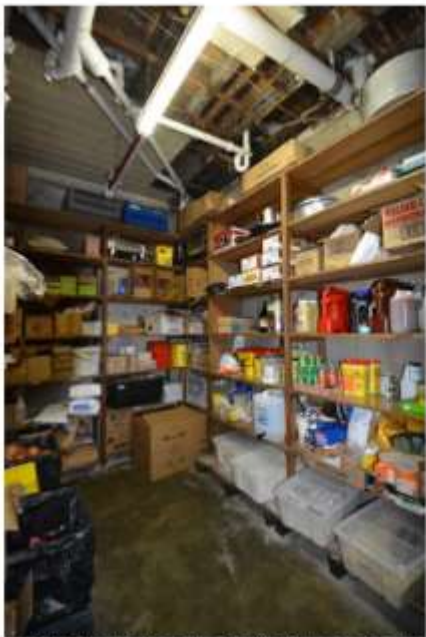


Figure 4.33 | Inside dry store of Hotel. Remnant of pressed metal ceilings evident.

SUE ROSEN ASSOCIATES



Figure 4.33 | Inside store of Hotel. Exposed sandstock bricks and pressed metal ceilings evident.



Figure 4.34 | Inside store of Hotel. Pressed metal ceilings and decorative cornicing evident.



Figure 4.35 | Inside store of Hotel. Exposed sandstock bricks and pressed metal ceilings evident.



Figure 4.36 | Inside store of Hotel. Exposed sandstock bricks and pressed metal ceilings evident.



SUE ROSEN ASSOCIATES



Figure 4.37 | Rear alley of Hotel, showing former coolroom doors. These doors will remain in situ.



Figure 4.38 | Former coolroom door.



Figure 4.39 | Insulated door to former coolroom, with concrete floor and timber threshold.



Figure 4.40 | Threshold of coolroom and profile of door.



Figure 4.41 | Door has a plate from the refrigeration company of Dangar, Gedye & Mallory of Young Street Sydney. Plate is post-1937 based on the company name, though the coolroom likely predates.



Figure 4.42 | Window into rear of No.249. This will be removed to facilitate access into gaming area.

SUE ROSEN ASSOCIATES



Figure 4.43 | Existing TAB area of the Hotel at rear of Bistro. Proposed to put an doorway in the walls where indicated.



Figure 4.44 | Existing TAB area of the Hotel at rear of Bistro. Door to be replace with glass auto slider and a glass wall where indicated.



Figure 4.45 | Tiling on northern wall of public bar on western side of door to the foyer

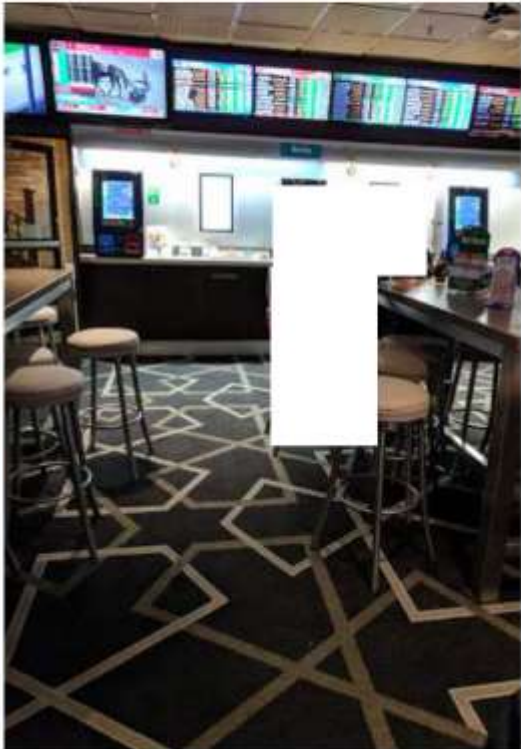


Figure 4.46 | Northern wall of public bar on eastern side of door to the foyer. Carpet has been removed due to water damage. Foyer door to be widened on this side to be a double door.

SUE ROSEN ASSOCIATES



Figure 4.47 | Tiling on eastern wall of public bar next to cornersplay



Figure 4.48 | Tiling on southern wall of public bar next to cornersplay



Figure 4.49 | Floor tiling in Public Bar. Original colour and surface evident where the carpet glue has been scraped back. Unfortunatley tiles not extant where the original bar was.



Figure 4.50 | Floor tiling in Public Bar and detail of how it related to the wall tiling. The carpet glue is making it look more yellow than actual colour.



SUE ROSEN ASSOCIATES

4.2.3    First Floor



Figure 4.51 | First floor function room. Carpet removed due to water damage from a burst water pipe. Early ceiling and fireplace.



Figure 4.52 | First floor function room. Early floor boards could indicate the original footprint of the hotel before the 1938 façade was added to align with the Lords Place front building line.



Figure 4.53 | First floor Function room, former saloon bar. Carpet removed due to water damage from a burst water pipe to reveal early tiling, matching that in the Public Bar.



Figure 4.54 | First floor venue room, ex-saloon bar. Tiles are laid around the location of a former bar that had a different floor treatment.

SUE ROSEN ASSOCIATES



Figure 4.55 | Temporary wall/door into the western wing of accommodation rooms. Hall will be extended through into No. 249, which will also include accommodation rooms.



Figure 4.56 | Chimney breast in Room 21 currently being repaired, early skirting evident.



Figure 4.57 | Room 21, window faces north.



Figure 4.58 | Existing women's bathroom at northwest rear corner.



Figure 4.58 | Existing women's bathroom at northwest rear corner.

SUE ROSEN ASSOCIATES



Figure 4.59 | Corridor leading south from women's bathroom above. 3 x doors to new women's bathroom facilities and fire egress to be installed in wall at right.



Figure 4.60 | Room/corridor to fire egress stairs at northwest rear corner. Women's bathrooms to be installed in here. The door architraves to remain and be infilled with lightweight material. Ceiling to be protected by the installation of a lower suspended ceiling for the bathrooms.



Figure 4.61 | Example of detail of the Art Deco designs on the ceilings of some accommodation rooms.

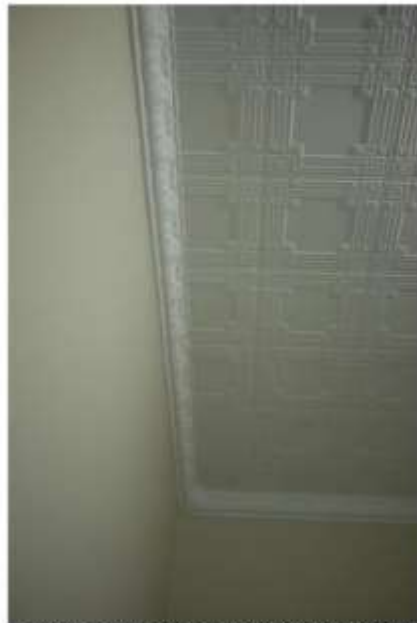


Figure 4.62 | Art Deco ceiling and detailed cornice.



SUE ROSEN ASSOCIATES



Figure 4.63 | Northwest rear fire egress door to landing of fire stairs



Figure 4.64 | Fire stairs landing will be extended to the wall at right, where a new door will be put in for the Room 18.



Figure 4.65 | Rear fire stairs to be moved to run east-west, instead of north-south as here.

SUE ROSEN ASSOCIATES



Figure 4.66 | First floor of No.249, which is being re-instated as Hotel accommodation. View southeast to party wall with Hotel.



Figure 4.67 | Looking southwest across area about to become 2 x accommodation rooms and hallway reinstated. Stairs from Summer Street to be slightly reconfigured.



Figure 4.68 | Accommodation room on the northern side of No. 249, which will be split into 2 accommodation rooms at the centre nib seen here.



Figure 4.69 | Accommodation room on the northern side of No. 249 looking northeast.

SUE ROSEN ASSOCIATES



Figure 4.70 | Kitchen/laundry room in No. 249 which will be fitted out as a women's bathroom.



Figure 4.71 | View from window of Room 25 in No. 249 looking northeast across ground floor roof to window of Room 14.



Figure 4.72 | View from window of Room 25 in No. 249 looking northwest across ground floor roof.



Figure 4.73 | View from window of Room 25 in No. 249 looking northwest to the side wall of Room 15.

SUE ROSEN ASSOCIATES

4.4.4    Second Floor



Figure 4.74 | Women's WC at northwest corner of Summer Street wing.



Figure 4.75 | Floor tiling in women's bathroom northwest corner of Summer Street wing.



Figure 4.76 | Wall tiling in women's bathroom northwest corner of Summer Street wing.



Figure 4.77 | Wall tiling and window in women's bathroom northwest corner of Summer Street wing.



SUE ROSEN ASSOCIATES



Figure 4.78 | View west down Summer Street wing hallway. Access to the external fire egress stairs marked by green ceiling sign.



Figure 4.79 | View from the external fire egress stairs back to door into the Summer Street wing hallway.



Figure 4.80 | View to landing of external fire egress stairs at middle of Summer Street wing of Hotel.

SUE ROSEN ASSOCIATES

---

PAGE INTENTIONALLY BLANK



SUE ROSEN ASSOCIATES

## 5. HERITAGE SIGNIFICANCE

### 5.1 Statements of significance

The February 2011 State Heritage Inventory statement of significance for the **Central Orange Heritage Conservation Area** is as follows:

Consisting of a range of buildings dating from the latter part of the nineteenth century and the early part of the twentieth, the conservation area has historical importance for reflecting the development and prosperity of Orange during this period.

The conservation area exhibits several fine examples of different architectural styles. The building materials used, the mature street trees and the fine parklands all help to bring the area together as an aesthetically pleasing whole and as a townscape of importance.

Representing much of the core of the city, the conservation area has an appreciable level of social significance for the Orange community.

The November 2010 statement of significance from the State Heritage Inventory database entry for the **Royal Hotel** reads:

An historically significant hotel in the City's history, with the Canobolas Hotel and the Commonwealth Bank, the building forms a key corner grouping complements the streetscape and contributes to the Conservation Area as a heritage item

### 5.2 Assessment of significance - *Royal Hotel*

The *Royal Hotel* is significant under the following heritage assessment criterion defined in the NSW Heritage Manual (amended July 2002). We agree with and support the significance assessment of the SHI listing, reproduced in *italics* below.<sup>35</sup> We offer additional comment informed by the historical research and 2020 inspection of the fabric and relative integrities of the property.

**Criteria a) an item is important in the course, or pattern, of the Orange LGA's cultural or natural history.**

*The oldest Hotel site within Orange, the current structure accommodates bars, function rooms, shops and accommodation.*

The *Royal Hotel* is sited on a block of the subdivision of the Crown's reserve for the township of Orange. The Hotel is the first double-storey hotel in Orange and was built following the discovery of gold at the nearby Ophir gold fields.

The *Royal Hotel* was the booking office in Orange for coach companies including Cobb & Co. The Orange agency of Cobb & Co. was operated by W.F. Whitney, Orange resident and a director of Cobb & Co.

It reflects the NSW Historic Themes of leisure, commerce, accommodation, labour and transport.

**Criteria b) an item has strong or special association with the life or works of a person, or group of persons, of importance in Orange's cultural or natural history.**

*The design probably owes its origins and style to the Brewery associated with the site during the 1930's, when major projects were constructed by Breweries at their 'tied houses' due to changes in the licensing laws prompting substantial investment.*

<sup>35</sup> NSW Heritage: 'Royal Hotel, incorporating Diamond Lf's', State Heritage Inventory database no. [2220480](#)

SUE ROSEN ASSOCIATES

**(Continued) Criteria b) an item has strong or special association with the life or works of a person, or group of persons, of importance in Orange's cultural or natural history**

The *Royal Hotel* is associated with Cobb & Co, being used as its booking office in Orange.

The *Royal Hotel* was tied to dominant NSW brewery Tooth & Company from the 1920s through to the late 1970s.

The *Royal Hotel* is strongly associated with the architect George Newton Kenworthy, who designed the Interwar period alterations and additions, resulting in its Art Deco façade.

The *Royal Hotel* is strongly associated with Orange builder Adolphus Eugene Rauch, who, as the principle contractor, undertook the major renovation projects of the *Royal* in both the late 1920s and late 1930s.

**Criteria c) an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the Orange's LGA.**

*A fine corner building from the 1930's, the elevations are well scaled and detailed to emphasise the prominence of the location and the details add highly styled elements to the facade typical of the hospitality industry*

The *Royal Hotel* is aesthetically distinctive and is a significant local landmark building in the Orange town center. The Hotel makes a strong contribution to the streetscape at the intersection of Summer Street and Lords Place.

**Criteria d) an item has strong or special association with a particular community or cultural group in the Orange LGA for social, cultural or spiritual reasons.**

*Hotels are highly valued by the community generally due to their patronage*

**Criteria e) an item has potential to yield information that will contribute to an understanding of Orange cultural or natural history.**

Not significant under this criterion.

**Criteria f) an item possesses uncommon, rare or endangered aspects of Orange cultural or natural history.**

*The building is a rare example of the art deco style in Hotel mode.*

The *Royal Hotel* has undergone several improvement projects since it was first built in the late 1850s. The Hotel has never been completely demolished and re-built, so portions of the building still contain extant evidence of the earlier phases, including original/early sandstock bricks, pre-1925 gable roof detail and pre-March 1930 windows.

A comparative investigation has not been completed of local hotels to qualify, however it is likely that the evidence of several layered phases of development at the *Royal Hotel* is rare in the Orange township.

**Criteria g) an item is important in demonstrating the principal characteristics of a class of Orange's cultural or natural places; or cultural or natural environments.**

The *Royal Hotel* is significant as a representative example of the Art Deco hotel style as well as a country hotel which retains its original uses of bar and accommodation.

Heritage Listings are at **Appendix B**.

SUE ROSEN ASSOCIATES

## 6. THE PROPOSAL

The proposed works are described in documentation prepared in the office of Darren Mah Design Pty Ltd. These include the following:

### GROUND

#### *Carpark*

Demolish existing pole sign and concrete footing slab

8 x car parking spaces

#### *No. 249 – former shop*

Construct new glazed bifold doors with balustrades to match existing detail along Lords Place Modify bar to create TAB service point

Demolish existing stair & construct new stair with new egress door

Construct new access to gaming room with glazed door and glazed sidelight panel

Demolition of selected internal walls to create new gaming area

Removal of portions of skillion roofing at rear to create light-well voids for gaming area.

Install new 1 in 14 ramp compliant with AS148.1 at western rear side of shop through to new gaming area.

Remove part of former shop wall to install new 1 in 10 step ramp compliant with AS148.1 for access from hotel alley through to new gaming area.

#### *Hotel*

Sports Bar: Part demolish wall to create larger door opening from foyer

TAB: Construct new door to office

TAB: Partly demolish wall into current gaming room, leave nib

Gaming: Partly demolish rear wall with splay corner to create open access to alley.

Bistro: Construct new opening for fixed glazed window and glazed door in western wall

Bistro: New auto door at Cashier Bar, open sections in western and southern walls to connect space to alley and new gaming area in rear of No. 249.

Courtyard: Relocate existing fire ground floor egress stair and separate with fire rated construction. Relocate entry to store rooms to western side wall.

Courtyard: new door to bottom of stairs to detached first floor accommodation suite.

Alley: Install of 3 x gates

Alley: Relocate toilet to new location and reconnect to existing plumbing. Retain former cool room doorways in situ.

Alley: Retain and upgrade external fire stair (Summer Street wing) per BCA report

SUE ROSEN ASSOCIATES

#### FIRST FLOOR

##### *No. 249 – former shop*

Part demolish party wall with No. 249 to width of corridor - continue corridor through from Hotel

Demolish existing stair from ground & construct new stair with new egress door

Refurbish existing bathrooms

Create 3 additional accommodation rooms in existing footprint.

##### *Hotel*

Relocate existing fire egress stair from ground floor courtyard and separate with fire rated construction. New fire egress platform at first floor.

Infill of northern door and window of Room 18. Relocate door to eastern wall onto new fire egress platform.

Demolish temporary wall/door across corridor near Room 19

Install new partition wall and door across western end corridor of toilets, with key lock for accommodation guest to be able to access toilets after hours

Construct new female amenities. Retain doorway architrave and infill with lightweight material to be an interpretable vestige. Install suspended ceiling to cover and protect existing decorative ceiling.

Retain and upgrade external fire stair (Summer Street wing) per BCA report

Relocate existing FHR

#### SECOND FLOOR

##### *Hotel*

Retain and upgrade external fire stair (Summer Street wing) per BCA report

See Plans in **Appendix A**.



SUE ROSEN ASSOCIATES

## 7. PLANNING POLICY / ASSESSMENT OF HERITAGE IMPACT

### 7.1 Orange Local Environmental Plan 2011

Heritage provisions are contained in Clause 5.10 of the LEP 2011. The proposed development has been assessed against the following relevant provisions;

LEP Provision	Compliance Comments
<p>2. Requirement for consent</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item.</p>	<p>This Statement of Heritage Impact has been written to evaluate the effects of the proposed development at 249-257 Summer Street Orange (<i>Royal Hotel</i>), which is a heritage item, and is located in the Central Orange Heritage Conservation Area.</p>
<p>4. Effect on heritage significance</p> <p>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This sub clause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p>	<p>This Statement of Heritage Impact has been written to evaluate the effects of the proposed development at the <i>Royal Hotel</i>, on itself as a heritage item, the numerous items in its vicinity and the character of the Central Orange HCA.</p>
<p>5. Heritage assessment</p> <p>The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is located,</p> <p>(b) on land that is within a heritage conservation area</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p>	<p>This Statement of Heritage Impact has been written in satisfaction of this clause.</p>

## 7.2 Orange Development Control Plan 2004

The heritage provisions of the Orange Development Control Plan apply to the site.

DCP Control	Compliance Comments
<b>13.1 HERITAGE ITEMS &amp; HERITAGE CONSERVATION AREAS</b>	<b>LEP 2000 CI 75</b>
Under LEP 2000, development consent is required for substantial changes that affect the heritage significance of the heritage item or heritage-conservation areas.	
Substantial changes are deemed to occur at least under the following circumstances:	
<p><b>HERITAGE ITEMS</b></p> <ul style="list-style-type: none"> <li>development (including building, land shaping, fencing and subdivision, changes to landscaping) that encroaches within the curtilage of a building identified as having heritage significance;</li> <li>demolition of notable features identified in Heritage Inventory Sheets or Conservation- Management Plan prepared for the site, including major trees, gardens or fences where specifically identified in an inventory sheet or management plan;</li> <li>additions or alterations affecting notable features;</li> <li>removal or destruction of relics in the site that are identified as contributing to the heritage significance of the site in the Heritage Inventory Sheet or Conservation Management Plan.</li> </ul>	<p>The proposed alterations and additions at the <i>Royal Hotel</i> are largely internal, in areas and to fabric of lower significance. There is no demolition of notable features proposed.</p> <p>Alterations have been carefully sited so as to cause as little disturbance to the Item, Items in the vicinity and the HCA.</p> <p>There are no alterations to notable features including the Hotels highly significant façade, wall tiling, and extant floor tiling discovered under the public bar and function room carpet.</p> <p>The bulk of the internal alterations are in the non-listed No. 249. This allows the expansion of the Hotel's amenities and the rationalization of its configuration without major impact on its significant features and layout. The alteration to the shopfront will create cohesion with the Hotel, without imitation. It is not proposed to continue the black banding on the white paint to this part of the elevation as the vitrolite tiling never extended this far. The Hotel façade will continue to be the dominant feature in the streetscape.</p> <p>The additional carparking at the rear of the site makes use of a vacant space and improves the service of the Hotel with no adverse impact on significant fabric or views.</p> <p>Where alterations are necessary for rooms/areas with significant fabric, detailing and relatively intact layouts, the design and treatments proposed have been modified to retain as much fabric in situ as possible – through the use of lightweight infill, suspended ceilings and the retention of the overall dimensions of the original space. Where any early features are proposed for removal, these will be salvaged and stored on site for re-use.</p>



SUE ROSEN ASSOCIATES

	No relics/fabric that contribute to the heritage significance of the site will be removed or destroyed.
<p>HERITAGE CONSERVATION AREAS</p> <ul style="list-style-type: none"> <li>New building visible from a public place in a conservation area</li> <li>Demolition of notable features identified in Heritage Inventory Sheet or Conservation Management Plan prepared for the site</li> <li>additions or alterations affecting notable features.</li> </ul> <p>When proposing a development that may affect heritage significance, the application is - as a minimum, - to include information that demonstrates the effect the development would have on the following heritage aspects as identified in the applicable Inventory Sheet(s):</p> <ul style="list-style-type: none"> <li>Significance Classification</li> <li>Style</li> <li>Streetscape (in a conservation area)</li> <li>Notable Features/Significance</li> <li>Alterations and Recommendations</li> <li>Other Comments</li> </ul>	<p>The shop at No. 249 has been annexed to the floorspace of the Hotel, though is not included in its listing. The shop was originally part of the Royal Hotel Buildings, and has long been associated with the Hotel's operations as a retail space at ground, and accommodation at first floor.</p> <p>The ground floor shopfront has been changed to a contemporary aluminum framed windows/door and, as existing, is a neutral-to-detracting element in the streetscape.</p> <p>The alterations to the shopfront propose to install 2 large elevated openings with glazed bi-fold doors with a steel balustrade in front, as observed on the Hotel's bistro elevation at Lords Place. This will create a sense of symmetry and visual harmony; the shop will be able to be read as part of the hotel, and works will vastly improve its contribution to the streetscape.</p>
<b>13.3 HERITAGE CONSIDERATION FOR DEVELOPMENT LEP 2000 CI 76</b>	
<p>IMPACT ON HERITAGE SIGNIFICANCE</p> <p>Respectful design principles apply to:</p> <ul style="list-style-type: none"> <li>all additions to heritage items</li> <li>additions to buildings with level 1 local significance</li> <li>new buildings or additions visible from public places for Level 1 or 2 streetscapes in a conservation area</li> </ul>	<p>Compliant. While there is not technically an 'extension' being constructed on the site, the proposed alterations have been sympathetically sited and designed to do 'as much as necessary, as little as possible'.</p>
<p>HERITAGE FEATURES</p> <p>The following heritage features need to be considered when undertaking respectful or interpretive design:</p> <ul style="list-style-type: none"> <li>building scale and form; including height, width, roof form and pitch, chimneys</li> <li>façade features such as verandahs, window sizes and proportions, positioning of doors</li> <li>materials and external finishes</li> <li>fences, and gardens</li> </ul>	<p>Compliant. The façade features of the hotel are not being changed, however the façade treatment of No. 249 has been carefully considered so it is sympathetic and cohesive with the Hotel, without pretense or imitation.</p> <p>The exterior wall finish of No. 249 will be render painted in the same shade of white as the Hotel, with an option to have the matching black at the base. No painted banding on the white to avoid confusion over the original extent of the vitrolite tiling.</p>

SUE ROSEN ASSOCIATES

	<p>The proportions and treatments to the windows at 249 echo those on the Lords Place façade of the Hotel, so will bring a sense of symmetry to the site.</p> <p>At the rear of the Hotel, where external walls are having doorways installed, the existing wall treatment will be made good.</p> <p>Overall, the materials used for alterations will be sympathetically selected from the existing palette of materials on site.</p>
<p><b>DEMOLITION</b></p> <p>The application must include information to justify to Council's satisfaction that all options for retaining the building have been reasonably exhausted and that the development enhances or improves the heritage setting by conforming with heritage-design principles.</p> <p>To demonstrate that the new development will enhance the character of the City, an application to demolish must include details of the proposed development requiring the demolition of the heritage-significant building or site.</p> <p>Applications involving demolition affecting heritage significance will be advertised to assess the community's views on the demolition affecting a site or sites with heritage significance.</p>	<p>There is limited demolition involved in the project, and the design has been amended to further minimize the disturbance of fabric and layout.</p> <p>There is no change to any of the Hotel's highly significant façade.</p> <p>The bulk of demolition works has been concentrated in No. 249, which is not covered by the heritage listing of the Hotel, and which, as a shop, has been highly altered over the years. The removal of the contemporary shopfront glazing is a positive.</p> <p>In the Hotel-proper, demolition has been largely limited to modern alterations/additions and to blank walls. Where parts of walls are removed, either a wall blade is left, or the wall replaced by glazing, so the dimensions of the original room can be read. Removed bricks which have sufficient integrity will be stored on site for re-use.</p> <p>The continuation of the first floor hallway from the Hotel into 249 is restoring the use of the space as hotel accommodation and as such, is acceptable.</p>
<p><b>13.4 DEVELOPMENT IN THE VICINITY OF HERITAGE ITEMS LEP 2000 CI 77</b></p>	
<p>Development in the vicinity of heritage items or on the fringe of a conservation area should address the relationship of the development with heritage sites in the vicinity.</p> <p>Good interpretive design is appropriate for sites near the fringe of a conservation area or adjacent to a heritage item outside a heritage conservation area.</p>	<p>The proposed development at the <i>Royal Hotel</i> will have no adverse impact on the items and the HCA which are in its immediate vicinity. The visible alterations to the Summer Street shopfront of No. 249 will improve its contribution to the streetscape, and the addition of additional carparking spots at the rear of the Hotel off Lords Place are sufficiently deep in the block to have no impact on setting and views.</p>

SUE ROSEN ASSOCIATES

13.5 HERITAGE PROPOSALS AS ADVERTISED DEVELOPMENT	LEP 2000 CI 78
<p>Demolition affecting heritage significance of a heritage item or in a heritage-conservation area requires advertising in order that the Orange community can participate in the determination process.</p> <p>Development that may be carried out on the site of a heritage item but which would otherwise be prohibited development also requires advertising.</p> <p>A development application that proposes the demolition of a heritage item (being sites listed in Schedule 8 of LEP 2000) must be referred to the NSW Heritage Office for consideration by the NSW Heritage Council. Any comments received from the Heritage Council within 28 days of notification must be taken into account in the determination.</p>	<p>Not applicable. The proposal does not contain demolition that will affect the heritage significance of the site.</p> <p>The nature of the proposed development on the site is nothing not usually permitted in this circumstance.</p>

SUE ROSEN ASSOCIATES

---

PAGE INTENTIONALLY BLANK

SUE ROSEN ASSOCIATES

## 8. CONCLUSION

Most importantly, there are no changes proposed to the *Royal Hotel's* highly significant façade.

The proposed works are largely confined to the interior of the non-listed No. 249 Summer Street, the rear of and to select internal areas of the Hotel.

Alterations have been carefully sited so as to cause as little disturbance as possible to the Item, Items in the vicinity and the HCA. There are no alterations to notable interior features including the public bar wall tiling, and extant floor tiling discovered under the public bar and function room carpet.

The bulk of the internal alterations are at No. 249. This allows the expansion of the Hotel's amenities and the rationalization of its configuration without major impact on its significant features and layout. The alteration to 249's shopfront will create cohesion with the Hotel without imitation. It is not proposed to continue the black banding on the white paint to this part of the elevation as the vitrolite tiling never extended this far. The Hotel façade will continue to be the dominant feature in the streetscape.

The additional carparking at the rear of the site makes use of a vacant space and improves the amenities of the Hotel with no adverse impact on significant fabric or views.

## 9. RECOMMENDATIONS

The guiding principle of the proposal's design has been 'as much as necessary, as little as possible'.

The *Royal Hotel* will continue to be a dominate landmark in the streetscape. The proposed works maintain the relatively intact floorplans of the Hotel. Works are largely located within the non-listed No. 249, or where significant interior fabric is extant in areas being altered, the approach has been modified to preserve them in situ.

There is no adverse impact on items in the immediate vicinity and the HCA. The alterations to the shopfront of No. 249 will improve its contribution to the streetscape, and the addition of additional carparking spots at the rear of the Hotel off Lords Place are sufficiently deep in the block to have no impact on setting and views.

The changes allow the Hotel to cater to a larger demographic of potential patrons, improving its commercial viability and ensuring its continued function as a public hotel. The outcome will be the revitalisation of a landmark venue in the Summer Street commercial precinct, with the improvements increasing the potential patronage of the hotel and with that, its ability to fund ongoing essential maintenance of the building.

It is, therefore, **recommended** that the proposed alterations be approved as they will enhance the amenity of the *Royal Hotel* and its continued viability as a public bar and residential hotel, which serves the needs of people who live in, work in and visit the Greater Orange area.

SUE ROSEN ASSOCIATES

---

# APPENDIX A

## ARCHITECTURAL DRAWINGS

---

HERITAGE IMPACT STATEMENT | *Royal Hotel, Orange* | October 2020



SUE ROSEN ASSOCIATES

---

PAGE INTENTIONALLY BLANK

SUE ROSEN ASSOCIATES

---

## APPENDIX B

# HERITAGE LISTINGS

---

HERITAGE IMPACT STATEMENT | *Royal Hotel*, Orange | October 2020

SUE ROSEN ASSOCIATES

---

PAGE INTENTIONALLY BLANK

SUE ROSEN ASSOCIATES

---

# APPENDIX C

## BA / DA DOCUMENTATION

---

HERITAGE IMPACT STATEMENT | *Royal Hotel*, Orange | October 2020

SUE ROSEN ASSOCIATES

---

PAGE INTENTIONALLY BLANK

SUE ROSEN ASSOCIATES

---

END OF REPORT

---

HERITAGE IMPACT STATEMENT | *Royal Hotel*, Orange | October 2020



---

**2.7 ORANGE LEP 2011 - AMENDMENT 42 - 168 SHIRALEE ROAD - POST EXHIBITION REPORT**

---

RECORD NUMBER: 2025/218

AUTHOR: Craig Mortell, Senior Planner

**EXECUTIVE SUMMARY**

Council recently completed the public exhibition process for a proposed amendment to the Orange Local Environmental Plan 2011 (Amendment 42) relating to 168 Shiralee Road, Orange (Lot 90 DP 750401).

The planning proposal seeks to:

- Rezone part of the land from R2 Low Density Residential to R1 General Residential.
- Adjust the minimum lot size (MLS) from the existing 3,000m<sup>2</sup> and 200m<sup>2</sup> to a uniform 500m<sup>2</sup>.
- Retain the R2 zoning for the portion of land fronting Shiralee Road with a 3,000m<sup>2</sup> MLS.

The amendment is intended to increase housing supply and diversity within the Shiralee urban release area, allowing for more efficient use of land and infrastructure, and aligning with Orange's strategic planning objectives, including the Orange Local Housing Strategy and the Shiralee Masterplan.

The proposal was publicly exhibited from 14 December 2024 to 4 February 2025, in accordance with the requirements set by the Environmental Planning and Assessment Act 1979 and the Gateway Determination issued by the NSW Department of Planning, Housing and Infrastructure.

No submissions were received during the public exhibition period.

**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 endorse the planning proposal as exhibited and authorise the Chief Executive Officer to formally make the plan, subject to:

1. That the formal LEP mapping be undertaken consistent with the plan as exhibited and to the satisfaction of the Department of Planning, Housing and Infrastructure (DPHI).
2. That such mapping be undertaken by, or at the expense of, the proponent.
3. That staff refer the matter to Parliamentary Counsel for formal advice that the plan can be made
4. That staff undertake such other matters as may be required by DPHI in the finalisation of the plan.

**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 planning proposal, to be known as Amendment 42, aims to amend the Orange Local Environmental Plan 2011 for part of 168 Shiralee Road (Lot 90 DP 750401), Orange, to slightly increase the yield of residential lots.

**OBJECTIVES AND INTENDED OUTCOMES**

Amendment 42, seeks to amend the Orange Local Environmental Plan 2011 as follows:

- Rezoning a portion of the land from R2 Low Density Residential to R1 General Residential.
- Standardizing the Minimum Lot Size (MLS) to 500m<sup>2</sup> across the rezoned area, replacing the existing 3,000m<sup>2</sup> and 200m<sup>2</sup> controls.
- Retaining the R2 zoning for land fronting Shiralee Road, maintaining an MLS of 3,000m<sup>2</sup>.

The intended outcomes of the proposal are:

- To optimize land use within the Shiralee residential release area, increasing the potential housing supply.
- To enhance infrastructure efficiency by aligning lot sizes with planned urban services and road networks.
- To diversify housing options, providing medium-sized residential lots consistent with surrounding developments.
- To support the strategic vision outlined in the Orange Local Housing Strategy and Shiralee Masterplan.

The proposal aligns with broader planning objectives for residential growth in Orange, ensuring sustainable development while maintaining a balanced urban form. The concept layout provided is for illustrative purposes only to demonstrate that a viable subdivision can happen. The ultimate subdivision design will occur through a future DA assessment which may result in changes to the eventual subdivision layout potentially impacting upon lot yield.



### EXISTING SHIRALEE MASTER PLAN AND LOT LAYOUT



### PLANNING PROPOSAL CONCEPT PLAN LAYOUT

## NEED FOR THE PROPOSAL

The planning proposal responds to the need for greater housing diversity and land use efficiency within the Shiralee residential release area. The proposed amendment seeks to refine the existing zoning and minimum lot size controls to better align with the ongoing implementation of the Shiralee Masterplan and the evolving residential needs of the area, supporting a well-integrated and sustainable urban community.

The proposed changes aim to:

- Improve land use efficiency by enabling a subdivision pattern that better utilizes urban infrastructure while maintaining an appropriate residential character.
- Address housing supply and affordability by facilitating the creation of additional medium-sized lots (500m<sup>2</sup> - 664m<sup>2</sup>) that provide a missing middle between compact and larger lot housing in the region.
- Align with strategic planning by ensuring the site contributes to Orange's planned growth in a way that maximizes infrastructure investments and supports sustainable residential development.

The proposal reflects market demand for a variety of lot sizes and ensures that the Shiralee area continues to develop in a way that meets both community needs and broader housing objectives for Orange.

## STRATEGIC MERIT

The proposal supports key strategic planning priorities, including:

- Alignment with local and regional strategies, facilitating residential growth in an identified urban release area.
- Efficient land use, optimizing existing zoning provisions to support a diverse and sustainable housing mix.
- Infrastructure efficiency, ensuring planned services and road networks are utilized effectively without requiring additional investment.

**SITE-SPECIFIC MERIT**

The site is well-suited for the proposed amendment due to:

- Compatibility with surrounding development, as the revised lot sizes align with the emerging pattern of residential subdivision in Shiralee.
- Access to urban infrastructure, including water, sewer, roads, and public transport links, making it an appropriate location for moderate-density residential development.
- Minimal environmental constraints, with no significant biodiversity, flood, or heritage impacts identified that would affect the proposed changes.

**COMMUNITY CONSULTATION**

The proposal underwent public exhibition and agency consultation as part of the Gateway process, from 14 December to 4 February. The period was extended due to the legislative requirement to ignore the period of 20 December to 10 January (inclusive) when determining exhibition periods. No submissions were received.

**HOUSING STRATEGY**

The planning proposal aligns with the objectives of the Orange Local Housing Strategy (OLHS), which seeks to accommodate population growth through a diverse range of housing options while ensuring efficient land use and infrastructure delivery.

The proposal supports the OLHS by:

- Increasing housing supply and diversity by enabling medium-sized lots (500m<sup>2</sup>) that fill a gap between compact and large-lot housing in Shiralee.
- Enhancing housing affordability by facilitating a greater mix of dwelling types, catering to a broad range of buyers, including first-home buyers, families, and downsizers.
- Optimising land use within an identified growth area, ensuring that residential development occurs in a coordinated and sustainable manner.

By refining zoning and lot size controls, the proposal directly supports the OLHS vision for a well-planned, accessible, and diverse housing market, ensuring that Shiralee continues to develop as a vibrant residential community.

**SHIRALEE MASTERPLAN**

The planning proposal aligns with the Shiralee Masterplan, which provides a framework for the orderly and sustainable development of the Shiralee urban release area.

The proposal supports the Masterplan by:

- Providing a balanced mix of lot sizes, contributing to the planned diverse and vibrant residential community.
- Maintaining the area's design principles, ensuring development integrates with existing and future road networks, green spaces, and pedestrian links.
- Supporting connectivity and walkability, with future subdivision layouts designed to align with the broader structure of Shiralee's neighbourhoods.
- Preserving key environmental and heritage considerations, ensuring that important view corridors and landscape elements remain protected.

The proposal is a logical refinement of the existing planning framework, ensuring that the Shiralee precinct continues to evolve in line with its intended character and objectives.

**PRELIMINARY CONTAMINATION INVESTIGATION**

A Preliminary Contamination Investigation was conducted for the site at 168 Shiralee Road, Orange (Lots 90 and 100 DP 750401) to assess its suitability for residential development. The investigation considered the site's history of orcharding and grazing as potential contamination sources.

Key findings of the investigation include:

- No elevated levels of contaminants were detected, including heavy metals, hydrocarbons, or pesticides.
- All soil samples collected from the site were below relevant thresholds for residential land use.
- No remediation was required, and the site was deemed suitable for residential development.

The investigation confirms that there are no contamination constraints affecting the proposed amendment, and the land is appropriate for rezoning and future residential subdivision in accordance with the planning proposal.

**ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT**

The planning proposal has been assessed for its potential environmental, social, and economic impacts, with findings confirming that the amendment will have positive outcomes for the community while maintaining environmental sustainability.

Environmental Impact

- The proposal does not present significant environmental constraints, with no flood, biodiversity, or contamination risks identified.
- Existing heritage values and view corridors are preserved, ensuring alignment with the Shiralee Masterplan.
- The site is well-serviced by urban infrastructure, reducing the need for additional environmental interventions.

Social Impact

- The amendment promotes a more diverse housing mix, offering greater choice for residents in line with evolving community needs.
- It supports the creation of a well-connected and sustainable neighbourhood, integrating with existing and planned roads, pathways, and public spaces.
- The proposal aligns with broader planning objectives to enhance liveability and housing affordability in Orange.

Economic Impact

- The increase in developable residential lots will contribute to economic growth, generating investment and construction activity.
- More efficient land use will help optimize infrastructure costs, ensuring that public resources are used effectively.
- The proposal supports sustained residential growth, reinforcing Orange's position as a vibrant and expanding regional centre.

Overall, the proposal is expected to deliver positive social and economic benefits while ensuring environmental sustainability, contributing to the cohesive and strategic development of the Shiralee area.

**STATE ENVIRONMENTAL PLANNING POLICIES**

The planning proposal has been assessed against relevant State Environmental Planning Policies (SEPPs) to ensure consistency with NSW's strategic planning framework. The key SEPPs applicable to this amendment are outlined below:

**SEPP (Resilience and Hazards) 2021**

- The site has been assessed for contamination, and investigations confirm that it is suitable for residential development with no remediation required.
- There are no bushfire-prone areas, flood risks, or other significant hazards affecting the land.

**SEPP (Biodiversity and Conservation) 2021**

- The proposal does not impact terrestrial biodiversity, watercourses, or areas of environmental sensitivity as mapped under the LEP.
- There are no significant vegetation or ecological constraints on the site.

**SEPP (Transport and Infrastructure) 2021**

- The site has good access to road infrastructure, with connections to Clearview Crescent, Covelli Place, and the Southern Feeder Road.
- The proposal will not have any adverse impacts on regional transport corridors and aligns with the broader road network strategy for the Shiralee area.

**SEPP (Housing) 2021**

- The proposal facilitates housing diversity by enabling medium-sized lots (500m<sup>2</sup>), aligning with state and local housing strategies.
- It supports increased housing supply in an area zoned for residential expansion, ensuring alignment with housing demand projections for Orange.

***Consistency with SEPPs***

The proposal is consistent with all relevant SEPPs, demonstrating compliance with state planning objectives while supporting the orderly and sustainable development of the Shiralee urban release area.

**GATEWAY CONDITIONS**

The planning proposal was subject to a Gateway Determination issued by the NSW Department of Planning, Housing and Infrastructure (Department Ref: PP-2023-2696) on 28 November 2024. The determination allowed the proposal to proceed, subject to the following conditions:

**Condition 1:** Update the project timeline before exhibition and submit to the Minister.

The project timeline was updated as required and submitted to the Minister prior to public exhibition.

**Condition 2:** Undertake public exhibition for a minimum of 20 working days.

The proposal was exhibited for 20 business days, from 14 December 2024 to 4 February 2025, in accordance with statutory requirements.



Condition 3: Ensure compliance with notice and exhibition material requirements.

The public notice was published on the Council's website, and all required documentation was made available for public inspection.

Condition 4: No consultation with public authorities or agencies required.

No agency consultation was required, and no referrals were made.

Condition 5: No public hearing required.

As per the determination, no public hearing was conducted, as no submissions were received during the exhibition period.

Condition 6: Complete the LEP amendment by 6 October 2025

The proposal remains on track for completion within the required timeframe, subject to Council's final determination and submission for plan-making.

All Gateway Conditions have been satisfied, allowing the planning proposal to progress to the final plan-making stage.

### **Planning Proposal Technical Studies**

The Planning Proposal was supported by a Preliminary Contamination Report that was attached to the previous Planning and Development Committee report on 6 August 2024. The report has been summarised with the Planning Proposal and this report and is available upon request.

### **ATTACHMENTS**

- 1 Planning Proposal, D24/75306 [↓](#)
- 2 Planning Proposal - Annexure A - Land Plans, D24/79306 [↓](#)
- 3 Planning Proposal - Annexure B - Concept Plans, D24/79307 [↓](#)
- 4 Planning Proposal - Annexure C - LEP Maps - Zone and Minimum Lot Size, D24/79308 [↓](#)
- 5 Gateway Determination - Cover Letter to Council, D25/16375 [↓](#)
- 6 Gateway Determination, D25/16373 [↓](#)



## PLANNING PROPOSAL

Change Minimum Lot Size for Residential Subdivision and  
Rezone from R2 Low Density Residential to R1 General Residential  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Prepared for

November 2023

Ref: PP1 – PJB15061

**TABLE OF CONTENTS**

<b>THE PLANNING PROPOSAL.....</b>	<b>2</b>
1.1 SUMMARY TABLE.....	2
1.2 INTRODUCTION.....	3
1.3 THE SUBJECT LAND .....	5
1.4 CURRENT LEP PROVISIONS .....	8
1.5 VISION/CONCEPT .....	11
<b>PART 1 - OBJECTIVES OR INTENDED OUTCOMES .....</b>	<b>24</b>
<b>PART 2 – EXPLANATION OF PROVISIONS.....</b>	<b>25</b>
<b>PART 3 – JUSTIFICATION OF STRATEGIC AND SITE SPECIFIC MERIT .....</b>	<b>26</b>
SECTION A – NEED FOR THE PLANNING PROPOSAL .....	26
SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK.....	27
SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT.....	45
SECTION D – INFRASTRUCTURE (LOCAL, STATE AND COMMONWEALTH).....	52
SECTION E – STATE AND COMMONWEALTH INTERESTS.....	52
<b>PART 4 – MAPS.....</b>	<b>53</b>
<b>PART 5 – COMMUNITY CONSULTATION.....</b>	<b>55</b>
<b>PART 6 – PROJECT TIMELINE .....</b>	<b>57</b>
<b>PART 7 – CONCLUSION .....</b>	<b>58</b>
 Annexure A Land Plans by Peter Basha Planning & Development	
 Annexure B Subdivision Concept	
 Annexure C Draft LEP Maps	
 Annexure D Preliminary Contamination Assessment	

## THE PLANNING PROPOSAL

### 1.1 SUMMARY TABLE

Planning Proposal		
Site Address	Part of 168 Shiralee Road, Orange	
Lot/DP	Part Lot 90 DP 750401	
Land Owner	Byng Administration Services Pty Ltd	
Existing Planning Controls	Local Environmental Plan: Orange LEP 2011	
	Land Zoning	R1 General Residential and R2 Low Density Residential
	Floor Space Ratio	Not applicable
	Land Application	Not applicable
	Height of Buildings	Not applicable
	Minimum Lot Size	3,000m <sup>2</sup> and 200m <sup>2</sup>
	Land Reservation Acquisition	Not applicable
	Heritage	Heritage Items in vicinity
	Additional Permitted Uses	Not applicable
	Obstacle Limitation	Not applicable
	Drinking Water Catchment	Not applicable
	Terrestrial Biodiversity	Not applicable
	Watercourses	None identified
	Groundwater Vulnerable	Yes
	Urban Release Area	Not applicable
	Flood Planning	Not applicable
	Slope Constraint Area	Not applicable
Proposed LEP amendment	<p>Change current MLS of 3,000m<sup>2</sup> and 200m<sup>2</sup> to a MLS of 500m<sup>2</sup>.</p> <p>Rezone that part of the land currently zoned R2 Low Density Residential to R1 General Residential.</p>	
Supporting Documentation	<p>Annexure A: Land Plans</p> <p>Annexure B: Subdivision Concept Plan</p> <p>Annexure C: Draft LEP Maps</p> <p>Annexure D: Preliminary Contamination Assessment</p>	

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 3

## 1.2 INTRODUCTION

This Planning Proposal (PP) seeks to amend Orange Local Environmental Plan 2011 as follows:

- Change those parts of the subject land that are subject to a Minimum Lot Size (MLS) of 3,000m<sup>2</sup> and 200m<sup>2</sup> to a MLS of 500m<sup>2</sup>.
- Rezone that part of the subject land that is currently zoned R2 Low Density Residential to R1 General Residential to reflect the proposed change in MLS.

The subject land is described as part Lot 90 DP 750401, which is part of the property addressed as 168 Shiralee Road, Orange NSW.



The purpose of this PP is to adopt an appropriate zone and MLS that enables a more efficient use of:

- Land that has already been identified for residential development; and
- Urban infrastructure which is being provided to serve such development.

This PP has been prepared in accordance with Section 3.33 of the Environmental Planning & Assessment Act 1979 (the Act) and *Local Environmental Plan Making Guideline* (DPIE 2021).

---

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 4

A Gateway determination under Section 3.34 of the Act is requested. It is acknowledged that the Gateway determination will confirm the information (which may include further studies) and consultation required before the LEP can be finalised.

The PP structure is outlined in the table below.

<b>The Planning Proposal</b>	This part of the report provides an overview of the proposed amendment to the LEP; describes the subject land; outlines the existing LEP provisions; and explains the vision/concept.
<b>Part 1</b>	Provides a statement of the objectives and intended outcomes of the proposed amendment to the LEP.
<b>Part 2</b>	Provides an explanation of the provisions to be included in Orange LEP 2011 to enable the vision/concept.
<b>Part 3</b>	Provides justification for the proposal, having regard to strategic and site specific merit; and the potential environmental, economic, and social impacts.
<b>Part 4</b>	Provides existing and proposed LEP mapping (where relevant).
<b>Part 5</b>	Details how consultation is to be undertaken.
<b>Part 6</b>	Details the projected timeline for the PP

---

*Peter Basha*  
*Planning & Development*

---



Rezone Land from R2 Low Density Residential to R1 General Residential and  
 Change Minimum Lot Size for Residential Subdivision  
 Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 5

1.3    THE SUBJECT LAND

*Location and Title*

The subject land is located in South Orange within the emerging Shiralee residential  
 release area (refer image below).



The subject land is part of 168 Shiralee Road, Orange (being Lots 90 and 100 DP 750401.  
 This Planning Proposal affects the eastern part of Lot 90 DP 750401 (refer image below).



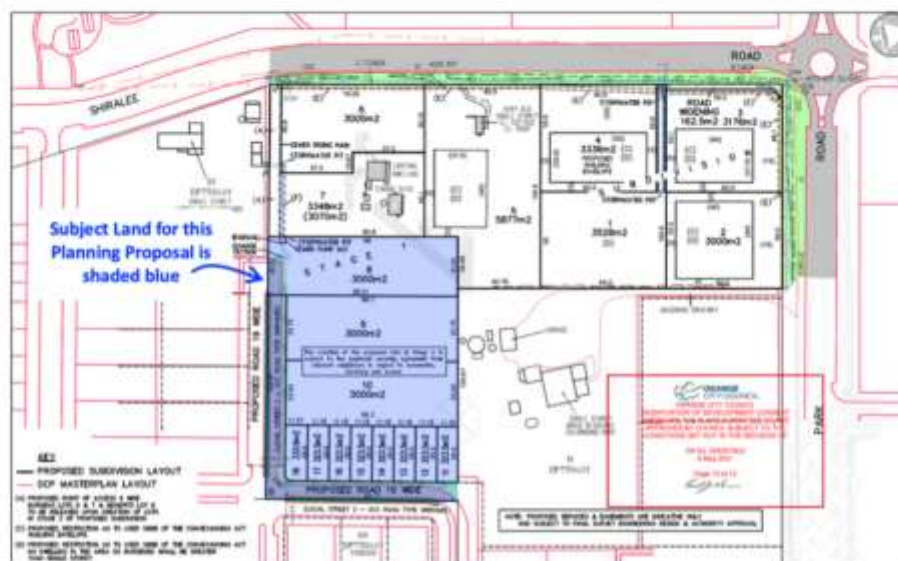
Peter Basha  
 Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 6

### Site Description

For context, 168 Shiralee Road has obtained development consent for an 18 lot residential subdivision pursuant to DA 305/2016(2). The stamped DA plan is depicted below and is annotated to show the subject land for this Planning Proposal.



Lots 1 to 7 are currently under construction.

This Planning Proposal relates to the land covered by Lots 8 to 18 as shown above. The site has been selected because it would allow the creation of lots that are smaller than those already approved, and achieve a pattern residential subdivision that is reasonably consistent with the pattern already planned for the land to the east and south.

The site has an area of some 1.36 hectares. The land falls to the south east from an RL of 907m AHD down to 897.5m AHD. The land is well drained and not affected by any watercourses. The predominant vegetative cover is grass. There is no remnant vegetation within the site.

### Surrounding Development

The surrounding development pattern (existing and planned) comprises residential development on a mix of lots sizes and is best depicted with reference to the LEP Minimum Lot Size map extract below.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 7



The aerial image below depicts the emerging pattern around the site.



With reference to the above extract and image:

- The land to the north is subject to larger minimum lot sizes ranging from 2,000m<sup>2</sup> to 3,000m<sup>2</sup> to 9,000m<sup>2</sup>.
- The land to the east allows a minimum lot size down to 700m<sup>2</sup> noting that the eastern fringe of the subject land itself allows a minimum lot size down to 200m<sup>2</sup>.

Peter Basha  
Planning & Development



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 8

- The land to the south allows a minimum lot size down to 700m<sup>2</sup> and includes a tract of land within that pattern which allows a minimum lot size down to 400m<sup>2</sup>.
- The land to the west is subject to a minimum lot size of 3,000m<sup>2</sup>.

As a result of the emerging urban residential pattern, public road access and typical urban utility services (town water, stormwater, sewer, electricity and telecommunications are in reasonable proximity to be extended to the site).

#### 1.4 CURRENT LEP PROVISIONS

The relevant matters in Orange Local Environmental Plan 2011 are outlined below.

##### **Zoning**

According to *Land Zoning Map - Sheet LZN\_008B*, the subject land is zoned R1 General and R2 Low Density Residential (see LEP map extract below).



The objectives of R1 Zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 9

- To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement.
- To ensure that development along the Southern Link Road has an alternative access.

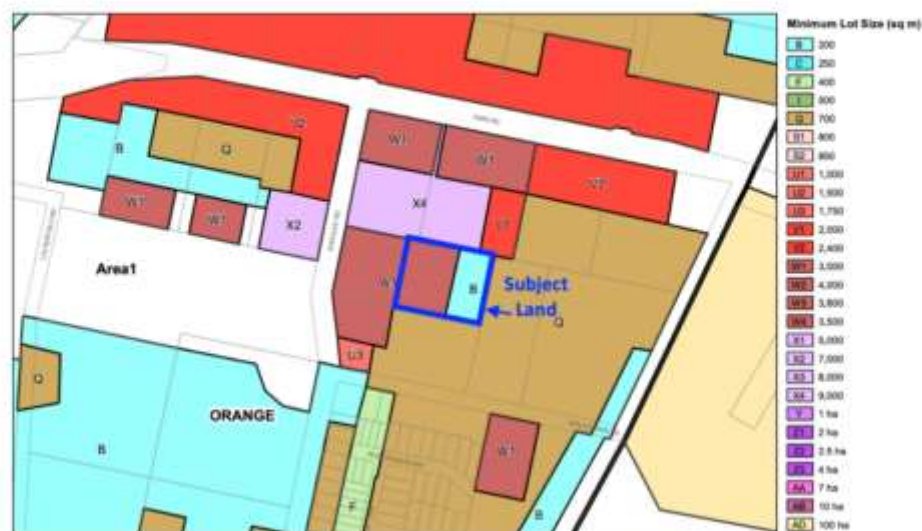
The objectives of the R2 zone are:

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

This Planning Proposal affects the current zones. The intention is to rezone that part of the land currently zoned R2 to R1 to reflect the proposed change in Minimum Lot Size.

#### **Minimum Lot Size**

According to *Minimum Lot Size Map - Sheet LSZ\_008B*, the subject land is allowed a minimum lot size of 3,000m<sup>2</sup> and 200m<sup>2</sup> (see LEP map extract below).



Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 10

This Planning Proposal affects the MLS for the subject land. The intention is to facilitate a revised subdivision pattern by:

- Increasing the MLS of 200m<sup>2</sup> to 500m<sup>2</sup>; and
- Reducing the MLS of 3,000m<sup>2</sup> to 500m<sup>2</sup>.

### ***Heritage***

According to *Heritage Map - Sheet HER\_008B* the subject land is not within a Heritage Conservation Area. However, it is in the vicinity of the following Heritage Items:

- Item 286 – *Former House and Packing Shed* (Local Significance) on Lot 100 DP 750401, adjoining to the north west of the site.
- Item 285 – *House* (Local Significance) on Lot 51 DP1256004, to the south of the site.



This Planning Proposal will demonstrate that heritage values will not be affected.

### ***Terrestrial Biodiversity, Watercourses and Groundwater Vulnerability***

According to the *Terrestrial Biodiversity Map, Watercourse Map, Groundwater Vulnerability Map - Sheet CL2\_008B* the site is not affected by biodiversity values or watercourses.

However, the subject land is identified as Groundwater Vulnerable (refer LEP map extract below).

Peter Basha  
Planning & Development



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 11



There are no aspects of the Planning Proposal that would reduce groundwater quality.

## 1.5 VISION/CONCEPT

### *Intent*

This Planning Proposal seeks to amend Orange LEP 2011 as follows:

- Change those parts of the subject land that are subject to a MLS of 3,000m<sup>2</sup> and 200m<sup>2</sup> to a MLS of 500m<sup>2</sup>.



Peter Basha  
Planning & Development

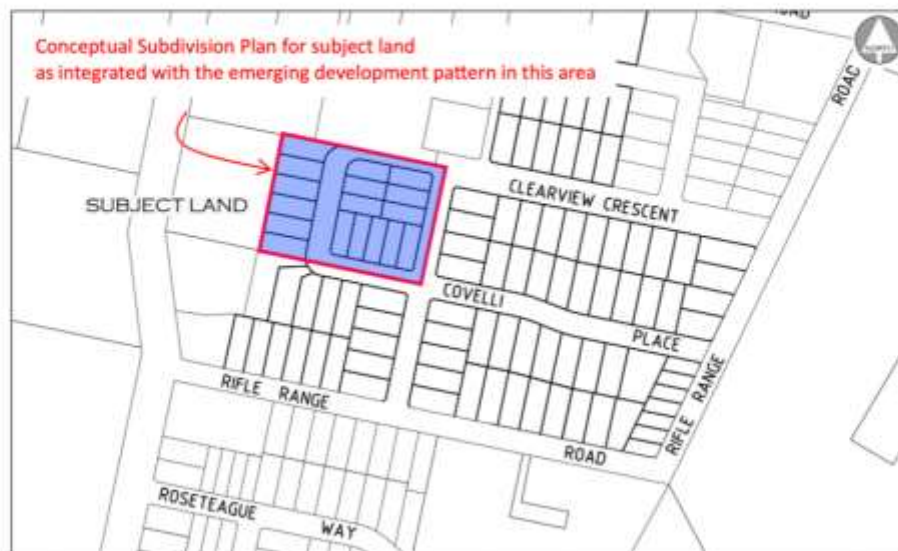
Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 12

- Rezone that part of the subject land that is currently zoned R2 Low Density Residential to R1 General Residential to reflect the proposed change in Minimum Lot Size.



A conceptual subdivision plan has been prepared which depicts how these changes might be applied to a future subdivision (refer *Annexure B* and extract below).



Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 13

The conceptual subdivision plan is indicative only for the high-level purpose of a Planning Proposal. It serves as a point-of-reference to assess the relevant planning issues around the proposal. Any future residential subdivision will be subject to a development application and assessment under the approvals process.

#### ***Justification – Infrastructure***

Refer to annotated DCP site analysis diagram below.

The site will integrate with the new road pattern within Shiralee with direct connections to Clearview Crescent and Covelli Place. The site will achieve good traffic connections to the rest of the City due to Woodward Street and the Southern Feeder Road which is under construction.

Typical urban utility services (sewer, town water, electricity, gas and telecommunications) are in close proximity to the site due to the emerging residential pattern. The site is not constrained by infrastructure easements.



The proposal facilitates a more efficient use of resources and infrastructure as follows:

- The slight increase in lot yield (by some 6 lots) will result in a more efficient use of roads and utility services that are required to serve other lots in the immediate vicinity.
- The additional lots will increase the level of monetary contributions that can be collected to assist with the funding of infrastructure and facilities for the Shiralee release area.

Peter Basha  
Planning & Development



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

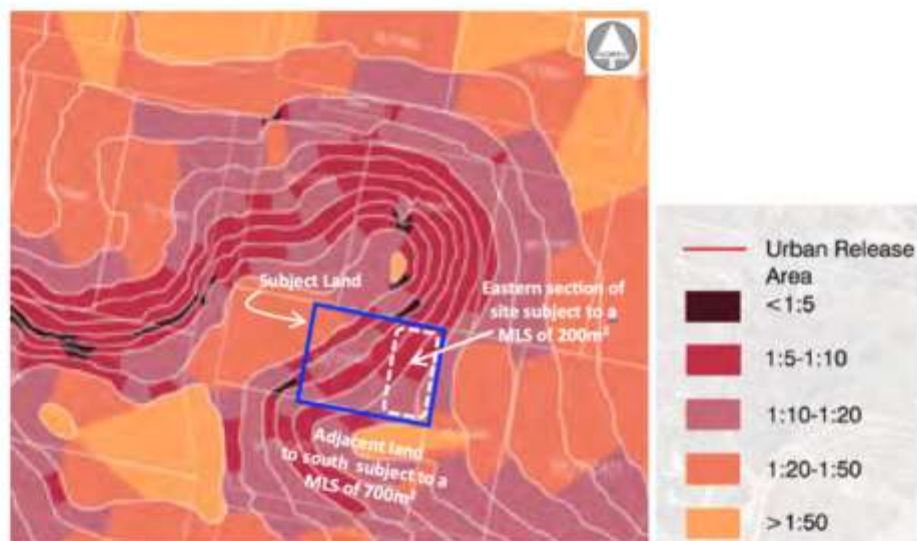
Page 14

### ***Justification – Site Constraints and Opportunities***

The proposed lot size/subdivision pattern relates reasonably to the physical aspects of the site. In this regard:

#### Topography

The slope of the site is not a constraint to the Planning Proposal. The land occupies a slope ranging between 1:5 and 1:10 (refer annotated DCP site analysis diagram below).



The slope within this site is comparable to the slope on the adjoining land to the south. Under the current LEP provisions, the slope accepts a MLS of 200m<sup>2</sup> (within the eastern fringe of the subject land) and a MLS of 700m<sup>2</sup> (on the adjoining land to the south). The suggested MLS of 500m<sup>2</sup> is considered suitable in this context.

#### Vegetation

With reference to the annotated DCP diagram below, the site is not constrained in terms of trees or vegetation.

The trees identified in the north western corner are pine trees and are not likely to have biodiversity value.

A lone eucalypt exists on the northern boundary and will require consideration at the time of development.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 15

The southern edge of the site is identified as having medium biodiversity. It is assumed that this does not represent a constraint to the proposal given that the affected area is already identified as a roadway in the Shiralee DCP masterplan.

Further, the adjoining land to the south, which is already zoned for residential development with a MLS of 700m<sup>2</sup> is also within the area of medium biodiversity sensitivity.



#### Watercourses

As shown in the DCP diagram below, the subject land is not affected by watercourses



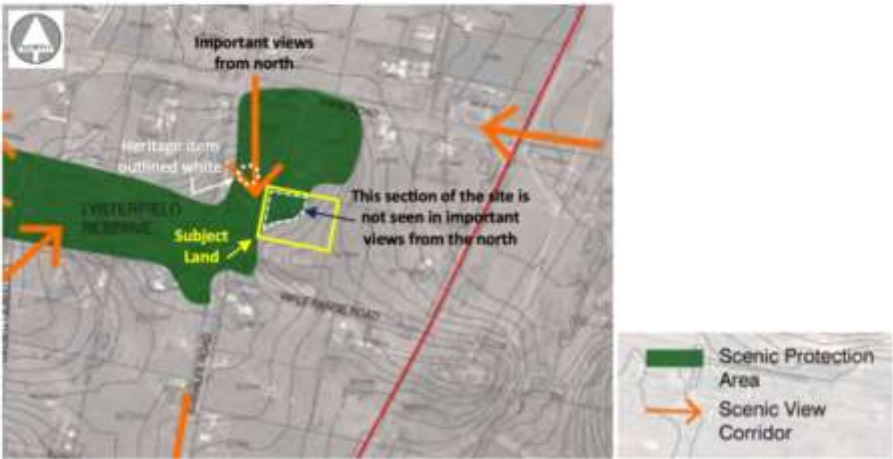
Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 16

Scenic Protection and Heritage

With reference to the annotated DCP diagram below, the north west section of the site is identified as a Scenic Protection Area. The important view is from the north looking south towards the heritage item that occupies a high point within Lot 100 DP 750401.



This does not represent a constraint to the proposal because the subject land is at a lower contour than the heritage item and the high point. As such, development within the future lots contemplated by this proposal would be unlikely to mar this important view corridor.

Bushfire

As shown in the DCP site analysis diagram below, the subject land is not bushfire prone.



Peter Basha  
Planning & Development



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 17

***Justification – Increase in Residential Land Supply***

The public would benefit from an increase in the choice of residential land. The proposal represents a modest and appropriate addition to the residential land supply in terms of number and lot size, without compromising the broader aims and principles of the Shiralee DCP.

***Justification – Acceptable under the Aims and Principles of Shiralee DCP***

Desired Future Character

According to the DCP, the desired future character for Shiralee is outlined as follows:

The Shiralee Master Plan:

- Has a distinct, separate identity to Orange whilst maintaining the best themes of Orange.
- Is anchored by a hill-top mixed use village.
- Provides housing choice that promotes a diverse community.
- Provides community infrastructure to create a viable community.
- Responds to existing site conditions, including natural features and man-made elements including the street grid.
- Retains and enhance the unique character of the place.
- Ensures development has regard to the fabric and character of each area in scale, proportion, street alignment, materials and finishes and reinforces distinctive attributes and qualities of built form.
- Conserves and protect historic items and their settings.
- Maintains a high level of daylight access to streets, lanes, parks and other public domain spaces.
- Encourages active street frontages to the public domain.
- Conserves, maintains and enhances existing views and vistas to buildings and places of historic and aesthetic significance.

---

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 18

As a general response, this proposal is considered acceptable in terms of the Shiralee Master Plan due to the following:

- The proposal is confined to a particular property (and a relatively small tract of land). As such, it would not reduce the potential to achieve the desired future character for the broader Shiralee area.
- As encouraged by the DCP, the proposal contributes to the mix of lot sizes within Shiralee and responds sensibly to the site constraints and opportunities.
- The proposal demonstrates that landscape character, important view corridors, and heritage values can be maintained.
- The proposal for smaller lots relates to local streets where future housing can achieve active frontages, safe access, and effective casual surveillance.
- The proposal does not affect the landscape character of the gateway streets.
- The proposal for smaller lots increases housing choice and diversity.

#### Design Principles

The DCP sets Design Principles to underpin the Shiralee Master Plan and the desired future character of the area. These are considered as follows.

**Ensure the development feels separate to existing residential suburban areas north of the site**

The proposal maintains this Design Principle. Despite the proposed variation to the subdivision layout/lot size, this report demonstrates that the proposed subdivision will remain largely consistent with the key elements of the DCP Masterplan.

The proposal is confined to a particular property (and a relatively small tract of land). As such, it would not reduce the potential to achieve the desired future character for the broader Shiralee area.

---

*Peter Basha*  
*Planning & Development*

---

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 19

**Protect steep, visually exposed and constrained lands**

The proposal is not adverse to this Design Principle. Part of the subject land is identified in the Master Plan as a scenic hill. However:

- The important view is from the north looking south towards the heritage item that occupies a high point within Lot 100 DP 750401. The subject land is at a lower contour than the heritage item and the high point. As such, development within the future lots contemplated by this proposal would be unlikely to mar this important view corridor.
- The slope within this site is comparable to the slope on the adjoining land to the south. Under the current LEP provisions, the slope accepts a MLS of 200m<sup>2</sup> (within the eastern fringe of the subject land) and a MLS of 700m<sup>2</sup> (on the adjoining land to the south). The suggested MLS of 500m<sup>2</sup> is considered suitable in this context.

**Conserve remnant vegetation**

The proposal does not involve the removal of significant native vegetation.

**Maintain a rural edge along Pinnacle Road**

This Design Principle is not relevant to the proposal as the subject land does not relate to Pinnacle Road.

**Create a village heart with a mix of active uses**

The proposal is not adverse to this Design Principle.

**Utilise existing road reserves**

The proposal is consistent with this Design Principle. The proposed lots rely on vehicle access being provided via the planned roads in the DCP Masterplan.

---

*Peter Basha*  
*Planning & Development*

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 20

**Provide housing choice and a diversity of lot sizes as shown on the Master Plan**

The proposal is not adverse to this Design Principle. Notwithstanding the proposed variation to the Masterplan layout, the proposed subdivision contributes to the diversity of lot sizes in the Shiralee area.

**Locate housing density where amenity is highest**

The proposal is not adverse to this Design Principle. This proposal seeks a modest increase in density (17 lots instead of 11 lots) on a tract of land that offers attractive residential amenity in terms of outlook, aspect and relative elevation.

**Develop east-west and north-south open space network through the site to link to existing and future open spaces**

This Design Principle is not relevant to the proposal as the subject land does not include land identified for future open space.

**Provide green streets that minimise road pavement widths and maximise green verges and trees**

The proposal is not adverse to this Design Principle. New roads or alteration to the existing road network will be in accordance with the DCP.

**Encourage walking by providing footpaths on all streets and mid-block links where shown on the Master Plan and minimise requirement for roundabouts**

The subdivision concept demonstrates that this Design Principle can be achieved.

*Peter Basha  
Planning & Development*

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 21

**Provide a connected network of public open spaces that links to existing open spaces**

The proposal is not adverse to this Design Principle as it does not affect land identified for future open space.

**Distribute public open spaces throughout the development and in varying topographic locations (hilltops and drainage lines)**

The proposal is not adverse to this Design Principle as it does not affect land identified for future open space.

**Safeguard future street links to Forest Road**

This Design Principle is not relevant to the proposal.

**Develop Shiralee consistent with the Master Plan and this Development Control Plan**

The proposal represents a modest variation to the DCP master Plan but can be demonstrated to remain consistent with the broader aims and principles of the DCP.

**Provide continuous awnings to retail and commercial buildings in the Village Centre**

This Design Principle is not relevant to the proposal.

**Development must achieve and satisfy the outcomes expressed in the character statement and supporting principles**

For the reasons expressed above and elsewhere in this report, it is submitted that the proposal is not adverse to the character statement and supporting principles.

---

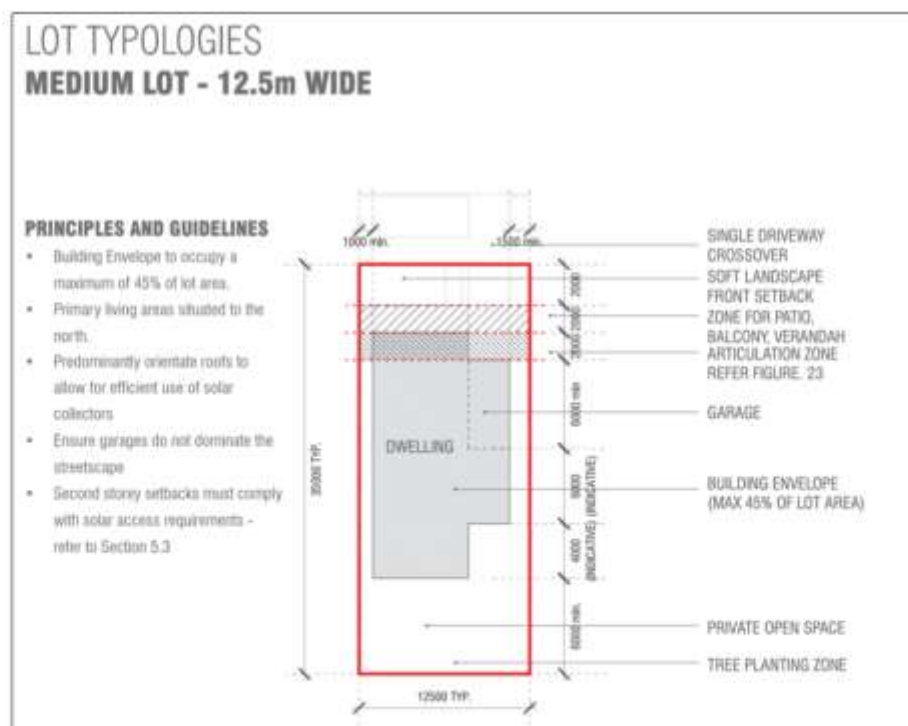
*Peter Basha*  
*Planning & Development*

This Design Principle will be relevant at the time that new buildings are proposed within the lots.

This Design Principle is not relevant to the proposal.

### Lot Typologies

The concept subdivision adopts recognises the attributes of DCP Lot Typology: *Medium Lot – 12.5m Wide*.



Peter Basha  
Planning & Development



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 23

With reference to the above extract from the DCP, the Concept compares as follows:

- The DCP suggests a typical frontage of 12.5m. The concept is acceptable with lot frontage ranging from 13.7m to 16.3m. The wider frontage will allow more opportunity for dwelling presentation, articulation and landscaping.
- The DCP suggests a typical side boundary dimension of 35m. The concept is acceptable with side boundary dimension ranging from 35m to 38m. Such depth allows ample opportunity for private open space, clothes drying/utility area, and medium/tall tree planting.

The DCP regards Medium Lots as lots that range between 400m<sup>2</sup> to 550m<sup>2</sup>. The majority of the lots in the concept are within this range. The lots along the western edge are slightly larger (621m<sup>2</sup> to 664m<sup>2</sup>) but generally retain the attributes of a Medium Lot.

The subdivision concept demonstrates that future lots will achieve reasonable solar access. A review of lot design and orientation was undertaken in accordance with the publication *Guidelines for Solar Efficient Residential Subdivision in NSW*. In consideration of the "Design Guidelines for Solar Access":

- The concept layout depicts lot within the acceptable orientation range of east-west and north-south and in accordance with the Lot Width Guidelines to ensure that each achieves a reasonable solar access rating.
- Table 1 was used to assess the solar rating for each lot as there is no height limitations proposed for neighbouring dwellings to the north of each lot. In summary:
  - Concept Lots 8 to 13 are in the east-west orientation range. Each has a width in the range of 15.2 to 17.4 metres at the building line and would achieve a 4-star rating.
  - Concept Lots 14-16 and 22-24 are in the east-west orientation range. Each has a width of more than 14 metres at the building line and would achieve a 2-star rating. Whilst this is at the lower end of the scale, it is a better solar access outcome compared to approved Lots 11 to 18 in DA 305/2016(2).
  - Concept Lots 17 and 21 are in the north orientation range. Each has a width of at least 14.2m at the effective building line and would achieve a 5-star rating.
  - Concept Lots 18 to 20 are in the north orientation range. Each has a width between 12.2m to 14.1m at the building line and would achieve a 4-star rating.

---

Peter Basha  
Planning & Development

---

## **PART 1 - OBJECTIVES OR INTENDED OUTCOMES**

---

### ***Objective***

The objectives of this Planning Proposal are:

- Amend the MLS to allow subdivision of the subject land to enable the creation of smaller residential lots.
- Rezone the subject land that part of the subject land which is currently zoned R2 Low Density Residential to R1 General Residential to reflect the proposed change in Minimum Lot Size.

### ***Intended Outcomes***

The intended outcome of the Planning Proposal is to facilitate a more efficient use of urban resources and infrastructure as follows:

- The slight increase in lot yield (by some 6 lots) will result in a more efficient use of roads and utility services that are required to serve other lots in the immediate vicinity.
- The additional lots will increase the level of monetary contributions that can be collected to assist with the funding of infrastructure and facilities for the Shiralee release area.

---

*Peter Basha*  
*Planning & Development*

---

## PART 2 – EXPLANATION OF PROVISIONS

The objectives and intended outcomes of this Planning Proposal would be achieved by amending Orange Local Environmental Plan 2011 as explained below.

Amend the *Lot Size Map Sheet LSZ\_008B* to change those parts of the subject land that are subject to a MLS of 3,000m<sup>2</sup> and 200m<sup>2</sup> to a MLS of 500m<sup>2</sup> (see diagrams below).



Amend the *Land Zoning Map Sheet LZN\_008B* to rezone that part of the subject land that is currently zoned R2 Low Density Residential to R1 General Residential to reflect the proposed change in Minimum Lot Size.



The Draft LEP maps are provided in *Part 4* and *Annexure C* of this Planning Proposal.

Peter Basha  
Planning & Development

## **PART 3 – JUSTIFICATION OF STRATEGIC AND SITE SPECIFIC MERIT**

---

### **SECTION A – NEED FOR THE PLANNING PROPOSAL**

#### **1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?**

The Planning Proposal is not the result of any strategic study or report. It represents a submission by the landowner to have the LEP amended in the manner described in Parts 1 and 2 above.

In effect, the Planning Proposal seeks to amend the Minimum Lot Sizes of Orange LEP 2011 which have been informed by the Shiralee Masterplan/DCP.

It is understood that Council is prepared to consider reductions in lot size to facilitate a sensible increase in lot yield which in turn would result in an increase in developer contributions to support the proposed infrastructure for Shiralee.

#### **2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

An amendment to the Orange LEP 2011 Minimum Lot Size Map and Land Zoning Map is the best means of achieving the objectives or intended outcomes.

Clause 4.6 of the LEP allows a development standard (in this case, the MLS) to be varied. However, the number of lots and the variation in lot size contemplated by this proposal extends beyond the scope of Clause 4.6.

---

*Peter Basha*  
*Planning & Development*

---

Rezoned Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 27

## SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

### 3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

The *Central West and Orana Regional Plan 2041* guides the NSW Government's land use planning priorities and decisions in the Central West and Orana Region up to 2041. The Regional Plan provides an overarching framework to guide subsequent and more detailed land use plans, development proposals and infrastructure funding decisions and is supported by an implementation plan. The themes of the Regional Plan are:

- Re-shaping investment within the region.
- A sustainable and resilient place.
- People, centres, housing and communities.
- Prosperity, productivity and innovation.

The Regional Plan identifies the following priorities for the Orange LGA:

Priorities for Orange LGA	
Priority	Comment
Support continued growth and diversification in the LGA's healthcare and education sectors.	PP not adverse to this priority
Servicing regional industry growth through the coordination of a revised sub-regional industrial lands strategy and continued provision of a diversity of industrial location opportunities.	Not relevant to PP
Growing a strong visitor economy linked to regional tourism priorities and drivers.	Not relevant to PP
Developing Orange's urban night-time economy.	Not relevant to PP

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 28

Priorities for Orange LGA	
Priority	Comment
Facilitate continued growth and diversification of the LGA's visitor economy.	PP not adverse to this priority
Enhancing Orange's cultural quarter and delivering events to increase the LGA's robustness and capacity as a regional visitor destination.	Not relevant to PP
Diversification of new housing opportunities in both new greenfield areas and existing urban areas.	The PP satisfies this priority
Ensuring growth in villages is consistent with both cultural heritage requirements and community needs and expectations.	Not relevant to PP
Ensure new urban growth prioritises the protection of productive agricultural land, drinking water catchment and terrestrial biodiversity resources and assets.	PP not adverse to this priority
Ensure commercial development supports the development of a viable and sustainable activity centres hierarchy, including the need to facilitate the complementary development of a diverse network of accessible local and neighbourhood centres.	PP not adverse to this priority
Delivery of new social and recreational infrastructure such as the Orange Sports Precinct and relocated Orange Regional Conservatorium.	Not relevant to PP
Continued growth in inward investment and industry attraction.	PP not adverse to this priority
Preparation of a new comprehensive development control plan and associated infill guidelines.	Not relevant to PP
Preparation of an urban biodiversity framework.	Not relevant to PP
Protection from and preparation for natural hazards, including adaptation to the impacts of long-term climate change.	PP not adverse to this priority
Identifying opportunities for the LGA as the wider region's economy diversifies, and leveraging its accessibility to Dubbo, Bathurst, Lithgow and Greater Sydney.	PP not adverse to this priority

Peter Basha  
Planning & Development



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 29

The table below provides a consideration of the Planning Proposal against the objectives and actions of the Central West and Orana Regional Plan 2041.

Central West and Orana Regional Plan 2041	
Objective	Comment
1. Deliver the Parkes Special Activation Precinct and share its benefits across the region.	Not relevant to this PP.
2. Support the State's transition to Net Zero by 2050 and deliver the Central-West Orana Renewable Energy Zone.	The PP is not adverse to this objective.
3. Sustainably manage extractive resource land and grow the critical minerals sector	Not relevant to this PP.
4. Leverage inter-regional transport connections	Not relevant to this PP.
5. Identify, protect and connect important environmental assets	Not relevant to this PP.
6. Supported connected and healthy communities	Not relevant to this PP.
7. Plan for resilient places and communities	<p>The PP is not adverse to this objective.</p> <p>The land is not bushfire prone.</p> <p>The land is not flood affected.</p> <p>The land is not subject to other known natural risks or hazards.</p>
8. Secure resilient regional water resources	The PP is not adverse to this objective.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 30

Central West and Orana Regional Plan 2041	
Objective	Comment
9. Ensure site selection and design embraces and respects the region's landscapes, character and cultural heritage	Consistent.  The proposal can be demonstrated to maintain the landscape, character and cultural heritage of the area.
10. Protect Australia's first Dark Sky Park	Not relevant to this PP.
11. Strengthen Bathurst, Dubbo and Orange as innovative and progressive regional cities	The PP is consistent with this objective. In particular it will contribute to the diversity of high quality lifestyle offerings, including inner city, suburban and rural living opportunities.
12. Sustain a network of healthy and prosperous centres	The PP is consistent with this objective.
13. Provide well located housing and options to meet demand	The PP is consistent with this objective. In particular, it will support housing by making efficient use of existing infrastructure and services.
14. Plan for diverse, affordable, resilient and inclusive housing	The PP is consistent with this objective and aligns with Strategy 14.2 in the sense that it will contribute to a diversity of housing types and lot sizes, through appropriate development standards, including minimum lot sizes, minimum frontage and floor space ratio
15. Manage rural residential development	Not relevant to this PP.
16. Provide accommodation options for seasonal, temporary and key workers	Not relevant to this PP

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 31

Central West and Orana Regional Plan 2041	
Objective	Comment
17. Coordinate smart and resilient utility infrastructure	The PP is consistent with this objective and particularly aligns with Strategy 17.1 in the sense that it will focus development around existing infrastructure.
18. Leverage existing industries and employment areas and support new and innovative economic enterprises	Not relevant to this PP.
19. Protect agricultural production values and promote agricultural innovation, sustainability and value-add opportunities	Not relevant to this PP.
20. Protect and leverage the existing and future road, rail and air transport networks and infrastructure	Not relevant to this PP.
21. Implement a precinct-based approach to planning for higher education and health facilities	Not relevant to this PP.
22. Support a diverse visitor economy	The PP is not adverse to this objective.
23. Supporting Aboriginal aspirations through land use planning	The PP is not adverse to this objective.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 32

**4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?**

***Orange City Council Local Strategic Planning Statement***

Council's *Local Strategic Planning Statement* (LSPS) sets the narrative of land use planning decisions and assists the community to understand how the various components of the strategic framework are connected. The LSPS identifies a range of Planning Priorities that set out the 20 year vision for land use planning in the LGA; the special character and values that are to be preserved; and how change will be managed into the future.

Those Planning Priorities relevant to the Planning Proposal are outlined below.

- Planning Priority 2: Support the delivery of new homes in residential release areas including North Orange and Shiralee and increase the range of housing options in the existing urban areas.
- Planning Priority 4: Provide diverse housing choice and opportunities to meet changing demographics and population needs, with housing growth in the right location.
- Planning Priority 9: Enhance local and neighbourhood centres as great, connected places, whilst maintaining the regional town atmosphere.
- Planning Priority 10: Improve access to, from and within Orange, and encourage active transport.
- Planning Priority 12: Protect and conserve the natural, built and Aboriginal cultural heritage of Orange.
- Planning Priority 13: Protect, conserve and enhance Orange's urban tree canopy, landform, waterways and bushland.
- Planning Priority 15: Manage energy, water and waste efficiently to ensure a sustainable urban environment.
- Planning Priority 16: Adapt to the impacts of hazards and climate change.
- Planning Priority 17: Plan for industrial land and protect industrial areas from incompatible land uses.
- Planning Priority 18: Advocate for development to be supported by infrastructure.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 33

The proposal is consistent with the above Planning Priorities as follows:

- Planning Priority 2: The modest increase in lot yield will increase land supply and choice to facilitate the delivery of new homes in Shiralee.
- Planning Priority 4: It will contribute to the range of lot sizes and increase the diversity in housing choices and affordability.
- Planning Priority 9: The modest increase in lot yield will translate to population of the area to support the planned neighbourhood centre.
- Planning Priority 10: The proposal integrate with the planned road and access networks that will serve Shiralee and the connection of this area to other parts of the city.
- Planning Priority 13: The proposal does not impact upon urban tree canopy, landform, waterways or bushland.
- Planning Priorities 15 and 16: Future residential development within the subject land will be required to comply with the requirements of BASIX which aims to make dwellings more efficient in regard to thermal comfort and water saving measures.
- Planning Priority 17: The proposal relates to land that is clearly identified for residential development. It is not close to industrial or other incompatible land uses. There are no aspects of the proposal that would contribute to land use conflict.
- Planning Priority 18: The proposal will encourage a more efficient use of land that has already been identified for residential development and urban infrastructure which is being provided to serve such development.

**5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?**

There appears to be no other applicable State and regional studies or strategies that are of relevance to the subject land or this PP.

---

*Peter Basha*  
*Planning & Development*

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 34

#### 6. Is the planning proposal consistent applicable State Environmental Planning Policies?

The consistency of the PP in relation to the applicable State Environmental Planning Policies is indicated in the table below.

State Environmental Planning Policies – Schedule of Consideration	
SEPP	Relevance/Comment
State Environmental Planning Policy (Planning Systems) 2021	Not relevant.
State Environmental Planning Policy (Biodiversity and Conservation) 2021	Applicable. Addressed in <i>Section C</i> .
State Environmental Planning Policy (Resilience and Hazards) 2021	Applicable. Addressed in <i>Section C</i> .
State Environmental Planning Policy (Transport and Infrastructure) 2021	Applicable. Addressed in <i>Section C</i> .
State Environmental Planning Policy (Industry and Employment 2021)	Not relevant.
State Environmental Planning Policy (Resources and Energy)	Not relevant.
State Environmental Planning Policy (Primary Production) 2021	Not relevant.
State Environmental Planning Policy (Housing) 2021	The Proposal remains consistent with the Principles of this policy.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	Not relevant.
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Not relevant.
State Environmental Planning Policy (Sustainable Buildings) 2022	Not relevant.
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021	Not relevant.
State Environmental Planning Policy (Precincts – Central River City) 2021	Not relevant.
State Environmental Planning Policy (Precincts – Western Parkland City) 2021	Not relevant.
State Environmental Planning Policy (Precincts – Regional) 2021	Not relevant.
State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development	Not relevant.

Peter Basha  
Planning & Development



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 35

**7. Is the planning proposal consistent applicable Ministerial Directions (section 9.1 Directions)?**

Section 9.1(2) of the Environmental Planning and Assessment Act, 1979 allows the Minister to give directions to Councils regarding the principles, aims, objectives or policies to be achieved or given effect to in the preparation of draft Local Environmental Plans.

A Planning Proposal needs to be consistent with the requirements of the Direction but can be inconsistent if justified using the criteria stipulated. The consistency or otherwise of the planning proposal with the Ministerial Directions is indicated below.

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 1 – Planning Systems	
Direction	Comment/Response
<b>1.1 Implementation of Regional Plans</b>  Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	The PP is consistent with this Direction. The Table on pages 26 to 30 of this PP provides a consideration of the objectives and actions of the <i>Central West and Orana Regional Plan 2041</i> .
<b>1.2 Development of Aboriginal Council Land</b>  When preparing a planning proposal to which this direction applies, the planning proposal authority must take into account: <ul style="list-style-type: none"> <li>(a) any applicable development delivery plan made under the chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021; or</li> <li>(b) if no applicable development delivery plan has been published, the interim development delivery plan published on the Department's website on the making of this direction.</li> </ul>	This Direction is not relevant to the Planning Proposal.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 36

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 1 – Planning Systems	
Direction	Comment/Response
<p><b>1.3 Approval and Referral Requirements</b></p> <p>A planning proposal to which this direction applies must:</p> <ul style="list-style-type: none"> <li>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</li> <li>(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: <ul style="list-style-type: none"> <li>i. the appropriate Minister or public authority, and</li> <li>ii. the Planning Secretary (or an officer of the Department nominated by the Secretary),</li> </ul> prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&amp;A Act, and</li> <li>(c) not identify development as designated development unless the relevant planning authority: <ul style="list-style-type: none"> <li>i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and</li> </ul> has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&amp;A Act</li> </ul>	<p>The PP is consistent with this Direction.</p>

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 37

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 1 – Planning Systems	
Direction	Comment/Response
<b>1.4 Site Specific Provisions</b>  (1) A planning proposal that will amend another environmental planning instrument in order to allow particular development to be carried out must either:  (a) allow that land use to be carried out in the zone the land is situated on, or  (b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or  (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.  (2) A planning proposal must not contain or refer to drawings that show details of the proposed development.	In consideration of (1):  – The Planning Proposal is consistent with this Direction as it proposes to rezone the subject land to a zone that already exists in the Orange LEP 2011 without imposing any additional development standards or requirements that are not already contained within that zone.  – The proposed MLS of 500m <sup>2</sup> is found elsewhere in the Shiralee release area.  In consideration of (2), although this proposal is supported by a development concept, it is important to note that this has only been prepared to demonstrate the suitability of the site for the proposed MLS and Zone change. The final development option will be subject to analysis, design, assessment, and the approvals process under Part 4 of the Environmental Planning and Assessment Act, 1979.
<b>1.5 Parramatta Road Corridor Urban Transformation Strategy</b>	Not relevant
<b>1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan</b>	Not relevant
<b>1.7 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan</b>	Not relevant

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 38

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 1 – Planning Systems	
Direction	Comment/Response
1.8 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not relevant
1.9 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not relevant
1.10 Implementation of the Western Sydney Aerotropolis Plan	Not relevant
1.11 Implementation of Bayside West Precincts 2036 Plan	Not relevant
1.12 Implementation of Planning Principles for the Cooks Cove Precinct	Not relevant
1.13 Implementation of St Leonards and Crows Nest 2036 Plan	Not relevant
1.14 Implementation of Greater Macarthur 2040	Not relevant
1.15 Implementation of the Pyrmont Peninsula Place Strategy	Not relevant
1.16 North West Rail Link Corridor Strategy	Not relevant

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 39

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 2 – Design and Place	
Direction	Comment/Response
This Focus Area was blank when the Directions were made	Noted
Focus Area 3 – Biodiversity and Conservation	
Direction	Comment/Response
<b>Direction 3.1 Conservation Zones</b>  (1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.  (2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) of "Rural Lands".	The Planning Proposal is consistent with this Direction. The subject land does not contain an <i>environmentally sensitive area</i> (as defined by State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and is not within an environment conservation or protection zone.
<b>Direction 3.2 Heritage Conservation</b>  (1) A planning proposal must contain provisions that facilitate the conservation of:  (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (continued over)	The PP is consistent with this Direction.  The subject land is not identified in Schedule 5 of the Orange Local Environmental Plan 2011 as containing an Item of Environmental Heritage and is not within a Heritage Conservation Area.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 40

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 3 – Biodiversity and Conservation	
Direction	Comment/Response
(Direction 3.2 continued)	
(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and	The PP is consistent with this Direction.
(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	A search of the Aboriginal Heritage Information Management System (AHIMS) does not reveal any recorded Aboriginal sites or places within or adjoining the subject land.  Due to the highly disturbed state of the subject land and its surrounds, the site is not likely to contain Aboriginal sites, places or relics.
Direction 3.3 Sydney Drinking Water Catchments	Not relevant.
Direction 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Not relevant.
Direction 3.5 Recreation Vehicle Areas	Not relevant.
Direction 3.6 Strategic Conservation Planning	Not relevant.
Direction 3.7 Public Bushland	Not relevant.
Direction 3.8 Willandra Lakes Region	Not relevant.
Direction 3.9 Sydney Harbour Foreshores and Waterways Area	Not relevant.
Direction 3.10 Water Catchment Protection	Not relevant.

Peter Basha  
Planning & Development



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 41

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 4 – Resilience and Hazards	
Direction	Comment/Response
Direction 4.1 Flooding	Not relevant. The land is not flood affected.
Direction 4.2 Coastal Management	Not relevant.
Direction 4.3 Planning for Bushfire Protection	Not relevant. The land is not bushfire prone.
Direction 4.4 Remediation of Contaminated Land	The Preliminary Investigation (refer report in <i>Annexure D</i> ) concluded that the subject land is suitable for residential land-use.
Direction 4.5 Acid Sulfate Soils	Not relevant.
Direction 4.6 Mine Subsidence and Unstable Land	Not relevant.
Focus Area 5 – Transport and Infrastructure	
Direction	Comment/Response
<p><b>Direction 5.1 Integrating Land Use and Transport</b></p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) Improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) Increasing the choice of available transport and reducing dependence on cars, and</p> <p>(continued over)</p>	<p>The proposal is consistent with the objectives of this Direction.</p> <p>The potential impacts associated with the Planning Proposal on the capacity and function of the local road network are considered minimal. The proposal contemplates a very modest increase in lot yield (some 6 lots).</p> <p>The existing and planned road system would be of an adequate standard to cater for traffic that would be generated by this proposal.</p>

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 42

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 5 – Transport and Infrastructure	
Direction	Comment/Response
<p>(Direction 5.1 continued)</p> <p>(c) Reducing travel demand by including the number of trips generated by development and the distances travelled, especially by car, and</p> <p>(d) Supporting the efficient and viable operation of public transport services, and</p> <p>(e) Providing efficient movement of freight</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001)</i>, and</p> <p>(b) <i>The Right Place for Business and Services – Planning Policy (DUAP 2001)</i>.</p>	<p>Any future subdivision pattern for the site will integrate with the new road pattern within Shiralee with direct connections to Clearview Crescent and Covelli Place and then onto Rifle Range Road</p> <p>The site will achieve good traffic connections to the rest of the City due to Woodward Street and the Southern Feeder Road which is under construction.</p> <p>The modest increase in yield (6 lots) will have negligible impact on the capacity of the existing and planned Shiralee road network</p>
<b>Direction 5.2 Reserving Land for Public Purposes</b>	Not relevant.
<b>Direction 5.3 Development Near Regulated Airports and Defence Airfields</b>	Not relevant.
<b>Direction 5.4 Shooting Ranges</b>	Not relevant.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 43

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 6 – Housing	
Direction	Comment/Response
<p><b>Direction 6.1 Residential Zones</b></p> <p>The objectives of the direction are to:</p> <ul style="list-style-type: none"> <li>(a) Encourage a variety and choice of housing types to provide for existing and future housing needs,</li> <li>(b) Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>(c) Minimise the impact on residential development on the environment and resource lands.</li> </ul> <p>(1) A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> <li>(a) Broaden the choice of building types and locations available in the housing market, and</li> <li>(b) Make more efficient use of existing infrastructure and services, and</li> <li>(c) Reduce the consumption of land for housing and associated urban development on the urban fringe, and</li> <li>(d) Be of good design.</li> </ul> <p>(2) A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> <li>(a) Contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</li> <li>(b) Not contain provisions which will reduce the permissible residential density of the land.</li> </ul>	<p>The PP satisfies this Direction as follows:</p> <ul style="list-style-type: none"> <li>– It upholds the objectives (a), (b) and (c).</li> <li>– It contributes to the range of lot sizes and in turn will broaden choice for the housing market.</li> <li>– As expressed in this report, it makes use of facilitates an efficient use of urban infrastructure and services.</li> <li>– It relates to land already zoned for residential development and therefore assists to reduce the consumption of land on the urban fringe.</li> <li>– Typical urban utility services (sewer, town water, electricity, gas and telecommunications) are in close proximity to the site due to the emerging residential pattern.</li> <li>– The PP does not contain provisions that reduce the residential density of the land. Rather, the intent of the PP is to actually facilitate a sensible increase in residential density.</li> </ul>
<p><b>Direction 6.2 Caravan Parks and Manufactured Home Estates</b></p>	<p>Not relevant.</p>

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 44

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 7 – Industry and Employment	
Direction	Comment/Response
<b>Direction 7.1 Employment Zones</b>  (1) A planning proposal must: <ul style="list-style-type: none"> <li>(a) give effect to the objectives of this direction,</li> <li>(b) retain the areas and locations of Employment zones,</li> <li>(c) not reduce the total potential floor space area for employment uses and related public services in Employment Zones.</li> <li>(d) not reduce the total potential floor space area for industrial uses in E4, E5 and W4 zones, and</li> <li>(e) ensure that proposed employment areas are in accordance with a strategy that is approved by the Planning Secretary.</li> </ul>	The PP satisfies this Direction because it has no impact whatsoever on existing Employment zones.
<b>Direction 7.2 Reduction in non-hosted short term rental accommodation period</b>	Not relevant.
<b>Direction 7.3 Commercial and Retail Development along the Pacific Highway, North Coast</b>	Not relevant.
Focus Area 8 – Resources and Energy	
Direction	Comment/Response
<b>Direction 8.1 Mining, Petroleum and Extractive Industries</b>	Not relevant. The land is Residential which does not permit mining or extractive industries.  Exploration and mining is unlikely due to the urbanised development pattern and the nature of the land uses.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 45

Section 9.1 Ministerial Directions – Schedule of Consideration	
Focus Area 9 – Primary Production	
Direction	Comment/Response
Direction 9.1 Rural Lands	Not relevant.
Direction 9.2 Oyster Aquaculture	Not relevant.
Direction 9.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not relevant.

#### SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

**8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?**

No. The subject land has an agricultural land use history and is virtually devoid of native vegetation. It is now part of an emerging urban pattern. As such it would be of minimal biodiversity value. Notwithstanding, the following information is submitted in accordance with the requirements for assessment of development under the *Biodiversity Conservation Act, 2016*.

Section 1.7 of the Environmental Planning & Assessment Act, 1979 requires consideration of Part 7 of the *Biodiversity Conservation Act, 2016* in relation to terrestrial environments; and Part 7A of the *Fisheries Management Act, 1994* in relation to aquatic environments. The proposal does not involve an aquatic environment. As such, only *Biodiversity Conservation Act, 2016* requires consideration.

There are four matters that may trigger the Biodiversity Offset Scheme to determine whether or not a Biodiversity Assessment Report (BDAR) is required. These are considered below.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 46

**Whether the development occurs on land identified on the OEH Biodiversity Values Map**

The proposal does not involve land on the Biodiversity Values Map published under clause 7.3 of the *Biodiversity Conservation Regulation 2016*.

**Whether the amount of native vegetation being cleared exceeds a threshold area based on the minimum lot size associated with the property**

The proposal does not involve the clearing of native vegetation.

**Whether the development or activity is "likely to significantly affect threatened species"?**

The natural state of the site and surrounding area has been highly modified by historic agricultural land use and now an emerging urban development pattern which has seen the removal of native vegetation from the development site and its immediate surrounds.

Due to the developed and developing state of the site and its surrounds, the potential to attract less common native species is considered minimal. The habitat value of the site is low and it does not have realistic potential to re-establish into providing a habitat of value.

As such, the proposal is not likely to have an adverse effect on a threatened species; endangered ecological community; or a critically endangered ecological community or their habitat.

**Whether the development or activity development or activity will be carried out in a declared area of outstanding biodiversity value?**

No. The subject land is not a declared area of outstanding biodiversity value.

---

Peter Basha  
Planning & Development

---



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 47

**9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?**

***Visual Impact***

Future subdivision will alter the visual amenity of the area due to the construction of the new roads and alterations to landform. However, in the context of the expanding Shiralee urban footprint, such impacts are considered reasonable.

Future dwellings or buildings within the proposed lots will be required to meet the provisions of the *Shiralee Development Control Plan 2015* and the relevant planning outcomes of *Orange Development Control Plan 2004 – 7 Development in Residential Areas*.

***Traffic***

The proposal is considered to be satisfactory in terms of traffic impacts due to the following:

- The roads to serve future subdivision will be constructed in accordance with the requirements outlined in Council's *Shiralee Engineering Requirements and Additional Information* to ensure that the capacity of the road network can accommodate traffic associated with long term development of the area.
- The DCP Masterplan road pattern provides reasonable clarity and connection of secondary roads to the main collector roads; and would remain largely unaffected by the proposal. The modest increase in lot yield (some 6 lots) will not challenge the capacity of the existing and planned Shiralee road network.
- The proposed *DCP Laneway* road type along the northern edge of the site is proposed only to avoid the creation of a cul de sac; and instead, provide for a more permeable road network. It is expected that traffic movement along the *Laneway* will be modest and infrequent. The subdivision concept shows that the *DCP Local Street 2* road type will form the principal access routes to and from future lots. The *Laneway* is regarded as a secondary access.
- The proximity of the subject land to the Southern Feeder Road provides an opportunity for future residential development to connect to other parts of the city via an efficient transport link and therefore minimise traffic increases in local streets elsewhere.

---

Peter Basha  
Planning & Development

---

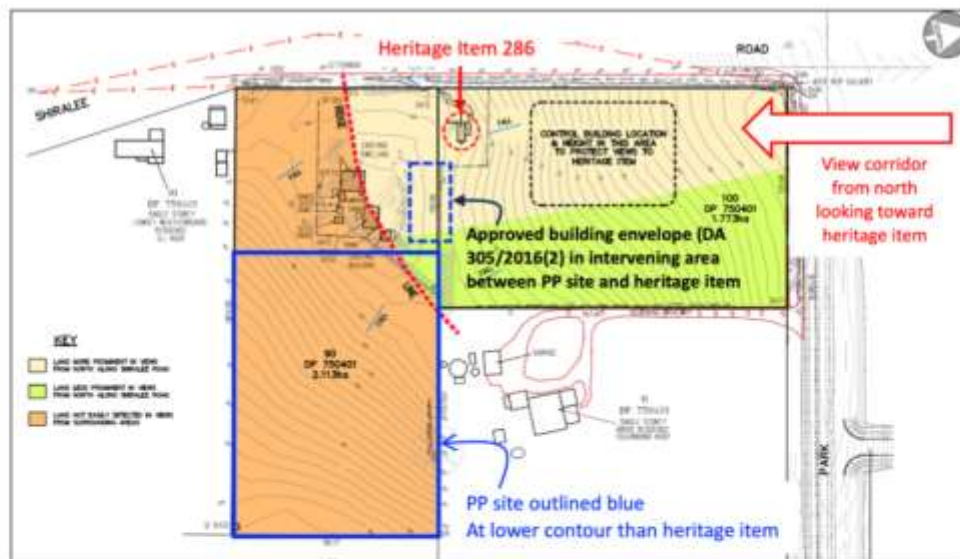
Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 48

### Heritage

Heritage Item 286 lies to the north west of the site within Lot 100 DP 750401. The item sits within approved Lot 5 in DA 305/2016(2). The potential for this proposal to affect the value of the heritage item is considered minimal, due to the following:

- The curtilage of the heritage item has been recognised via the approval granted to DA 305/2016(2). This proposal does not affect approved Lot 5 or intrude on the curtilage.
- Approved Lot 5 in DA 305/2016(2) contemplates a future dwelling between the PP site and the heritage item. As such, future development within the PP site will not have a direct interface with the heritage item.
- The heritage item occupies a high point within Lot 100 DP 750401. The important views associated with the heritage item are from the north looking south. The PP site is at a lower contour than the heritage item and the high point. As such, future development within the PP site would be unlikely to mar this important view corridor (refer diagram below).



Heritage Item 285 lies to the south across Rifle Range Road. The potential for this proposal to affect the value of the heritage item is considered minimal, due to the physical separation and the intervening development pattern which includes buildings, Rifle Range Road, and future residential lots.

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 49

Aboriginal Archaeology

The site is not likely to contain Aboriginal sites, places or relics due to the following:

- The natural state of the site and surrounding area has been highly modified by:
  - Historic agricultural land use (cultivation, grazing, intensive fruit production); and
  - Now an emerging urban development pattern (dwellings, roads, urban services).
- The site is not located on a major watercourse or near a major landscape feature where gathering places & artefacts are commonly found.

The Aboriginal Heritage Information Management System (AHIMS) database was searched for Aboriginal sites in or near the investigation area. The search was undertaken with a buffer of 50 metres around the subject land. The search of the AHIMS database did not identify any recorded aboriginal sites or declared aboriginal places in or near the search location (refer below)

AHIMS Web Service search for the following area at Lot : 90, DP:DP750401, Section : - with a Buffer of 50 meters, conducted by Peter Basha on 24 November 2023.

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 50

In the event that unrecorded Aboriginal relics are uncovered during development, work should immediately stop and both the NSW National Parks and Wildlife Service and the Local Aboriginal Land Council be notified.

#### ***Water Quality***

Subdivision works have the potential to generate impacts upon water quality. The following measures would mitigate potential impacts:

- Erosion and sediment control devices should be placed during the construction phase. Retention of existing vegetation around disturbed areas where practical would reduce mass movement of sediment.
- Immediately after construction works have been completed the exposed areas should be re-sown with appropriate grass species. The erosion and sediment control devices installed at the construction phase should remain in place until revegetation of the exposed areas has occurred.
- Prior to any earthworks or development, an erosion and sediment control plan should be prepared. The plan is to cover all aspects of erosion and sediment control during the construction and post-construction phases of the development.
- There are no defined watercourses or other surface water features in close proximity to the site.

An increase in impervious surfaces as a result of buildings and roadways will increase the volume and velocity of run-off from the site and may lead to erosion, sedimentation and water quality problems downstream. Stormwater detention will be addressed via the Shiralee scheme.

These matters will be addressed in greater detail at the civil engineering design and Construction Certificate phase of the development.

#### ***Air Quality***

Subdivision works have the potential to generate impacts upon air quality. The following measures would mitigate potential impacts:

- Water cart to be readily available to suppress raised dust particularly during dry and windy periods.

---

*Peter Basha*  
*Planning & Development*

---



Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 51

- Exposed areas to be minimised and revegetated or stabilised as soon as practicable.
- During high wind periods, construction is to be delayed or postponed.

#### ***Land/Site Contamination***

A Preliminary Site Investigation was undertaken in 2017 by Envirowest Consulting as part of the assessment process for DA 305/2016(2). The assessment is included as *Annexure D*.

The assessment adopted a systematic sampling pattern to assess the probable location of contamination across Lots 90 and 100 DP 750401 (which includes the site for this PP). The soil sampling program did not detect elevated levels of the analysed metals, pesticides or hydrocarbons. The levels of all substances analysed in the soil samples were not detected or at environmental background levels and below the residential land-use thresholds

The assessment concluded that the subject land is suitable for residential land-use.

Since the assessment, there has been no change in land use; and no activities or processes that have the potential to cause land contamination.

Based on the above, further assessment in regard to potential site contamination is not warranted.

#### **10. Has the planning proposal adequately addressed any social and economic effects?**

This PP relates to a small tract of land within the Shiralee release area that is already identified for residential development. Most social and economic effects would already be understood as part of the ongoing development of the broader Shiralee release area. This PP does not introduce any unexpected effects in this regard.

In any case, the social and economic effects of the PP Planning Proposal are considered to be positive for the following reasons:

- It represents a modest and appropriate addition to the residential land supply in terms of number and lot size, without compromising the broader aims and principles of the Shiralee DCP.
- It relates to land already zoned for residential development and therefore assists to reduce the consumption of land on the urban fringe.

\_\_\_\_\_  
Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 52

- The public would benefit from an increase in the choice of residential land. It will contribute to the range of lot sizes and increase the diversity in housing choices and affordability.
- It makes use of facilitates an efficient use of urban infrastructure and services.
- The additional lots will increase the level of monetary contributions that can be collected to assist with the funding of infrastructure and facilities for the Shiralee release area.

#### SECTION D – INFRASTRUCTURE (LOCAL, STATE AND COMMONWEALTH)

##### **11. Is there adequate public infrastructure for the planning proposal?**

Yes. The PP relates to developed land that can be fully serviced in terms of urban utilities and relevant infrastructure.

The augmentation of existing services and infrastructure can be provided without burden on the community or undue burden on the proponent.

#### SECTION E – STATE AND COMMONWEALTH INTERESTS

##### **12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?**

The views of State and Commonwealth public authorities are not required on the PP until after the Gateway determination.

---

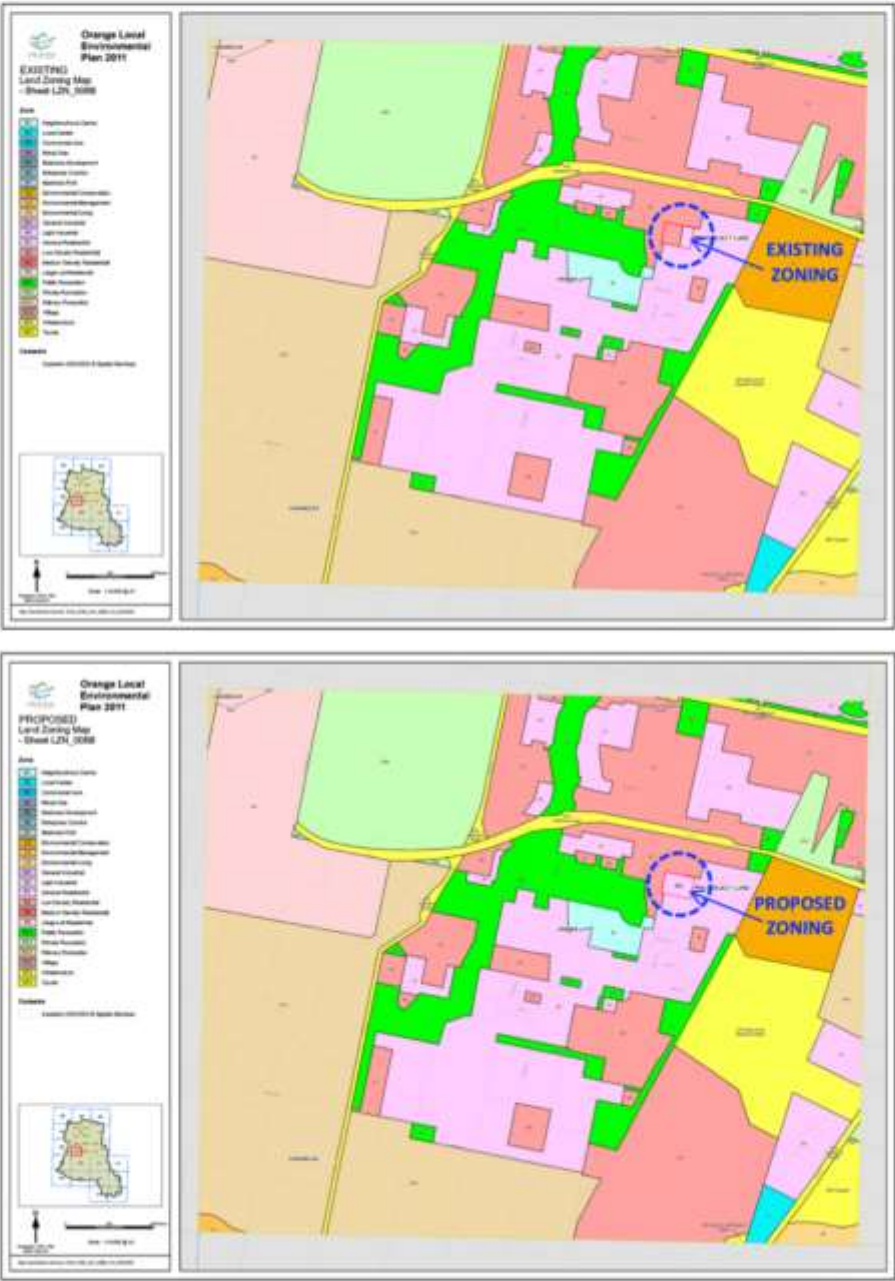
*Peter Basha*  
*Planning & Development*

---



PART 4 – MAPS

The PP will require an amendment to the LEP Land Use Zone maps. The existing and proposed LEP maps are depicted below and in *Annexure C*.

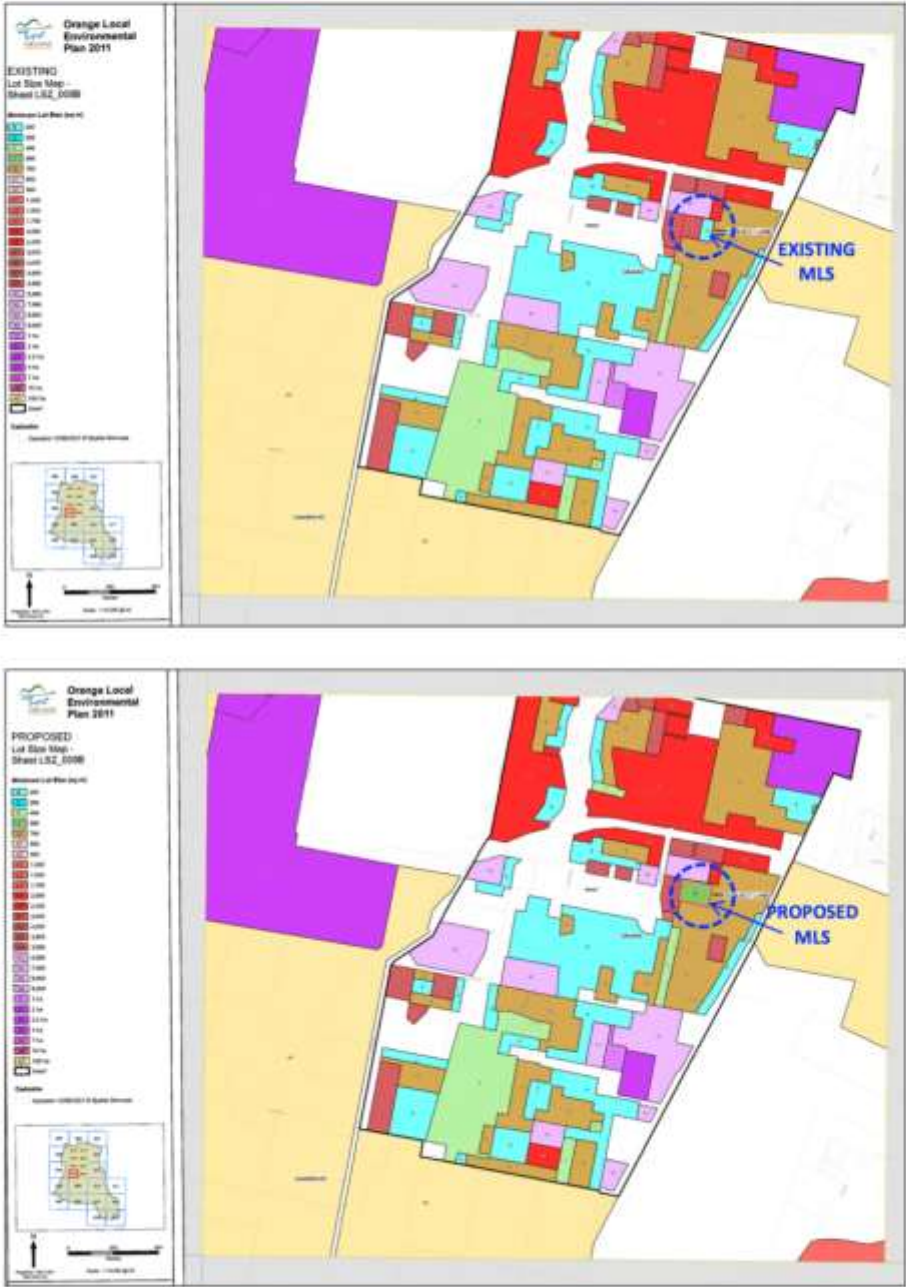


Peter Basha  
Planning & Development

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 54

The PP will require an amendment to the LEP Minimum Lot Size maps. The existing and proposed LEP maps are depicted below and in *Annexure C*.



Peter Basha  
Planning & Development

## PART 5 – COMMUNITY CONSULTATION

---

The Planning Proposal will be subject to public exhibition and agency consultation as part of the Gateway process. The Gateway determination will specify the community consultation that must be undertaken on the Planning Proposal.

This Planning Proposal is considered to be a minor proposal for the following reasons:

- This Planning Proposal provides information to demonstrate that it is not adverse to the relevant strategic planning framework and that the potential impacts are not unreasonable.
- Issues pertaining to infrastructure servicing are not significant and can be adequately addressed.
- The Planning Proposal is not for a principal LEP.
- The Planning Proposal does not seek to reclassify public land.

Community consultation would involve:

- An exhibition period of 28 days.
- The community is to be notified of the commencement of the exhibition period via a notice in the local newspaper and on Council's website. The notice will:
  - Give a brief description of the objectives or intended outcomes of the planning proposal;
  - Indicate the land affected by the planning proposal;
  - State where and when the planning proposal can be inspected;
  - Provide the name and address for the receipt of submissions; and
  - Indicate the closing date for submissions.
- Written notification to adjoining and surrounding landowners.

During the exhibition period, it is expected that Council would make the following material available for inspection:

---

*Peter Basha*  
*Planning & Development*

---

Rezone Land from R2 Low Density Residential to R1 General Residential and  
Change Minimum Lot Size for Residential Subdivision  
Part Lot 90 DP 750401, being part 168 Shiralee Road, Orange

Page 56

- The Planning Proposal in the form approved for community consultation by the Director General of Planning;
- Any studies (if required) relied upon by the planning proposal.

Electronic copies of relevant exhibition documentation to be made available to the community free of charge.

At the conclusion of the notification and public exhibition period Council staff will consider submissions made in respect of the Planning Proposal and prepare a report to Council.

---

*Peter Basha*  
*Planning & Development*

---

## PART 6 – PROJECT TIMELINE

This Planning Proposal is categorised under the *Department of Planning and Environment's Local Environmental Plan Making Guideline (2021)* as a 'Standard' Planning Proposal and is expected to be completed within the benchmark timeframe of 9 months.

Once the planning proposal receives a Gateway determination, the anticipated project timeline will be further refined, including at each major milestone throughout the planning proposal's process.

Stage	Timeframe and/or date
Consideration by Council	January 2024
Council decision	February 2024
Gateway determination	March/April 2024
Pre-exhibition	May/June 2024
Commencement and completion of public exhibition period	Complete by June 2024
Consideration of submissions	July 2024
Post-exhibition review and additional studies	August 2024
Submission to the Department for finalisation (where applicable)	August/September 2024
Gazettal of LEP amendment	September/October 2024

Peter Basha  
Planning & Development

## PART 7 – CONCLUSION

---

This Planning Proposal is not adverse to the relevant strategic planning framework. It represents a sensible increase in residential lot yield and density within the emerging Shiralee release area. The Planning Proposal warrants support due to the following:

- It represents a modest and appropriate addition to the residential land supply in terms of number and lot size, without compromising the broader aims and principles of the Shiralee DCP.
- It relates to land already zoned for residential development and therefore assists to reduce the consumption of land on the urban fringe. The modest increase in lot yield and density is not unreasonably constrained by the physical characteristics of the site.
- The public would benefit from an increase in the choice of residential land. It will contribute to the range of lot sizes and increase the diversity in housing choices and affordability.
- It makes use of facilitates an efficient use of urban infrastructure and services.
- The additional lots will increase the level of monetary contributions that can be collected to assist with the funding of infrastructure and facilities for the Shiralee release area.

Yours faithfully

**Peter Basha Planning & Development**

Per:

**PETER BASHA**

---

*Peter Basha*  
*Planning & Development*

---



Annexure A

---

*Land Plans by Peter Basha Planning & Development*

Annexure B  
*Subdivision Concept*

---

---

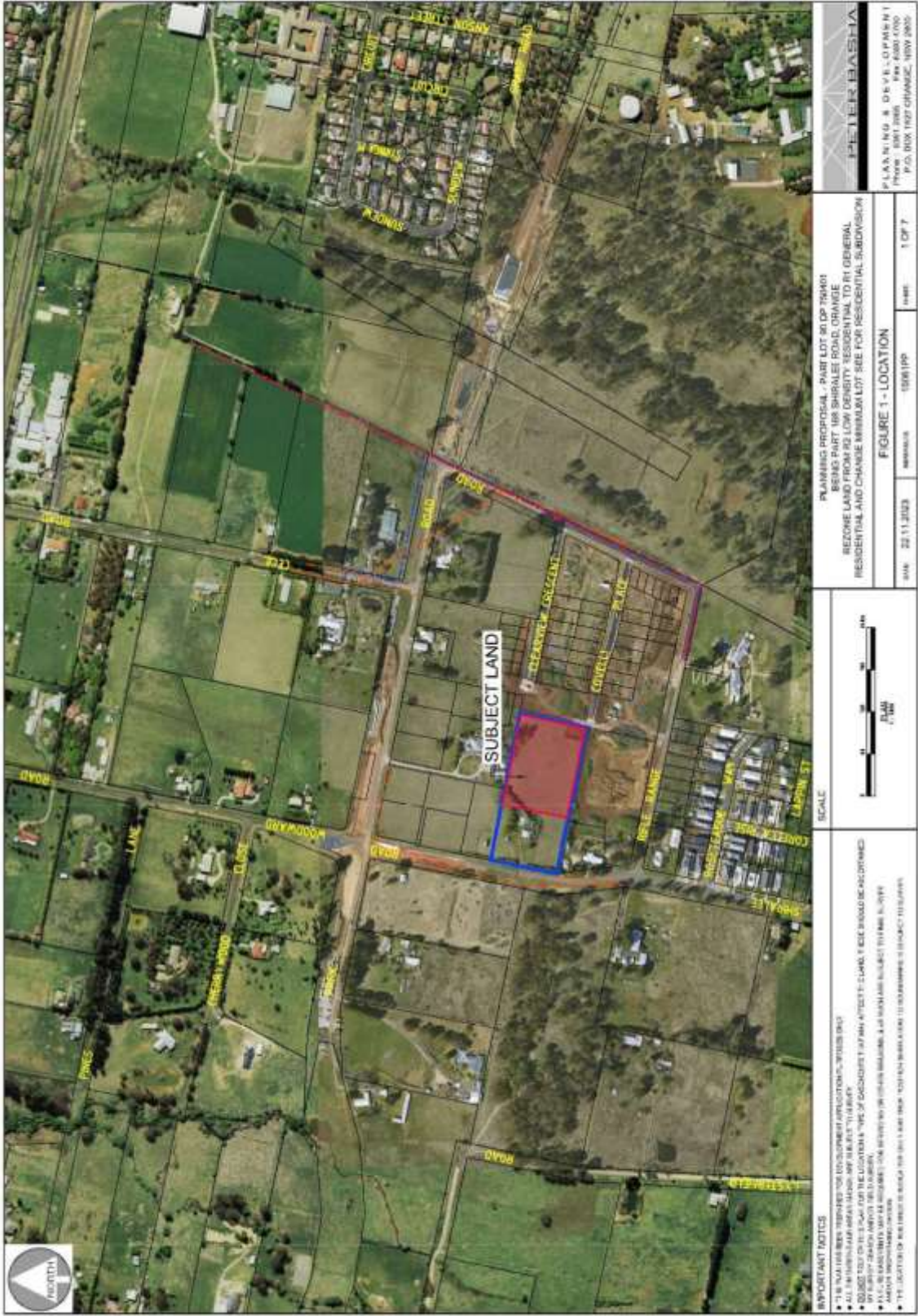
Annexure C  
*Draft LEP Maps*

Annexure D

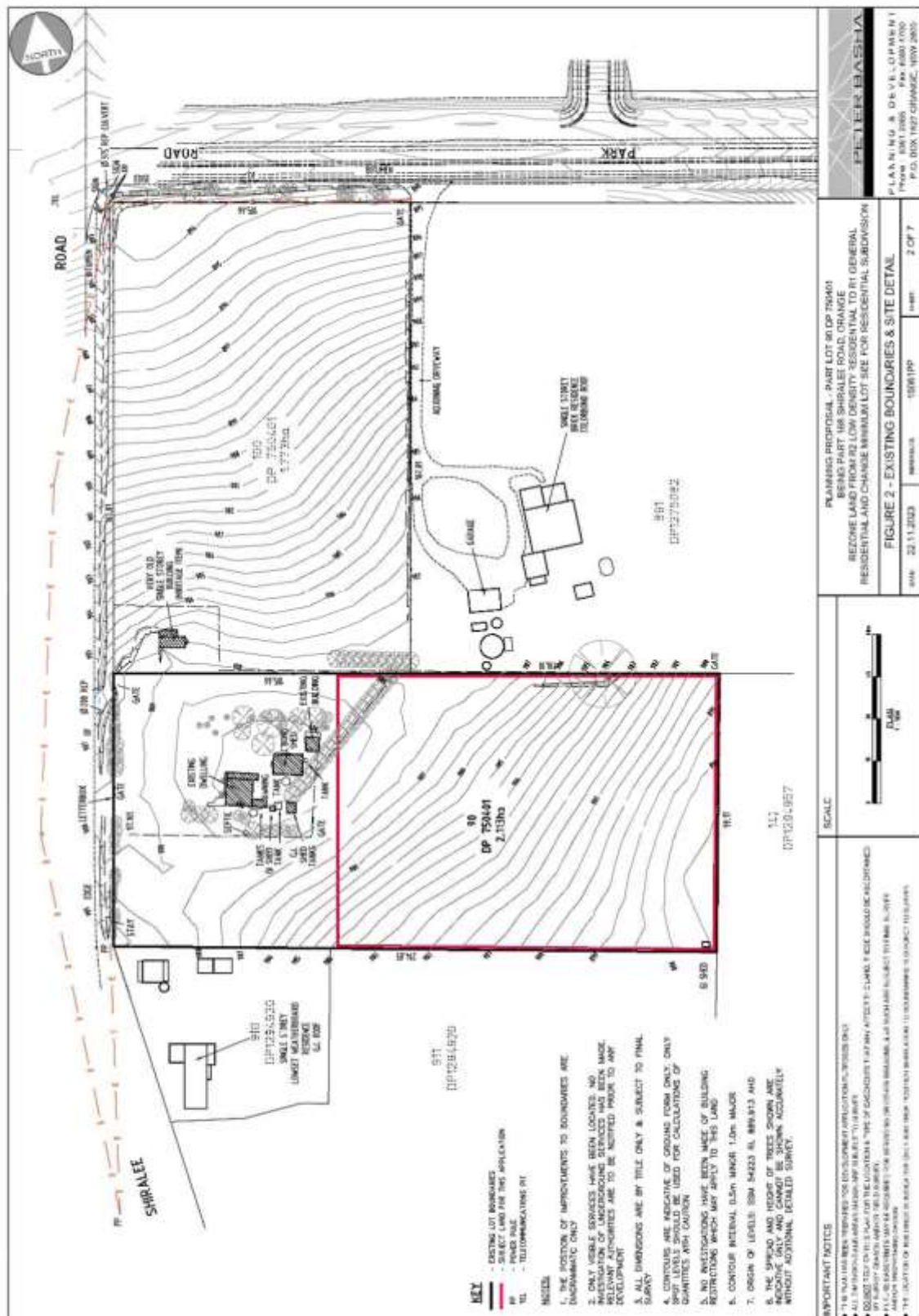
---

*Preliminary Contamination Assessment*



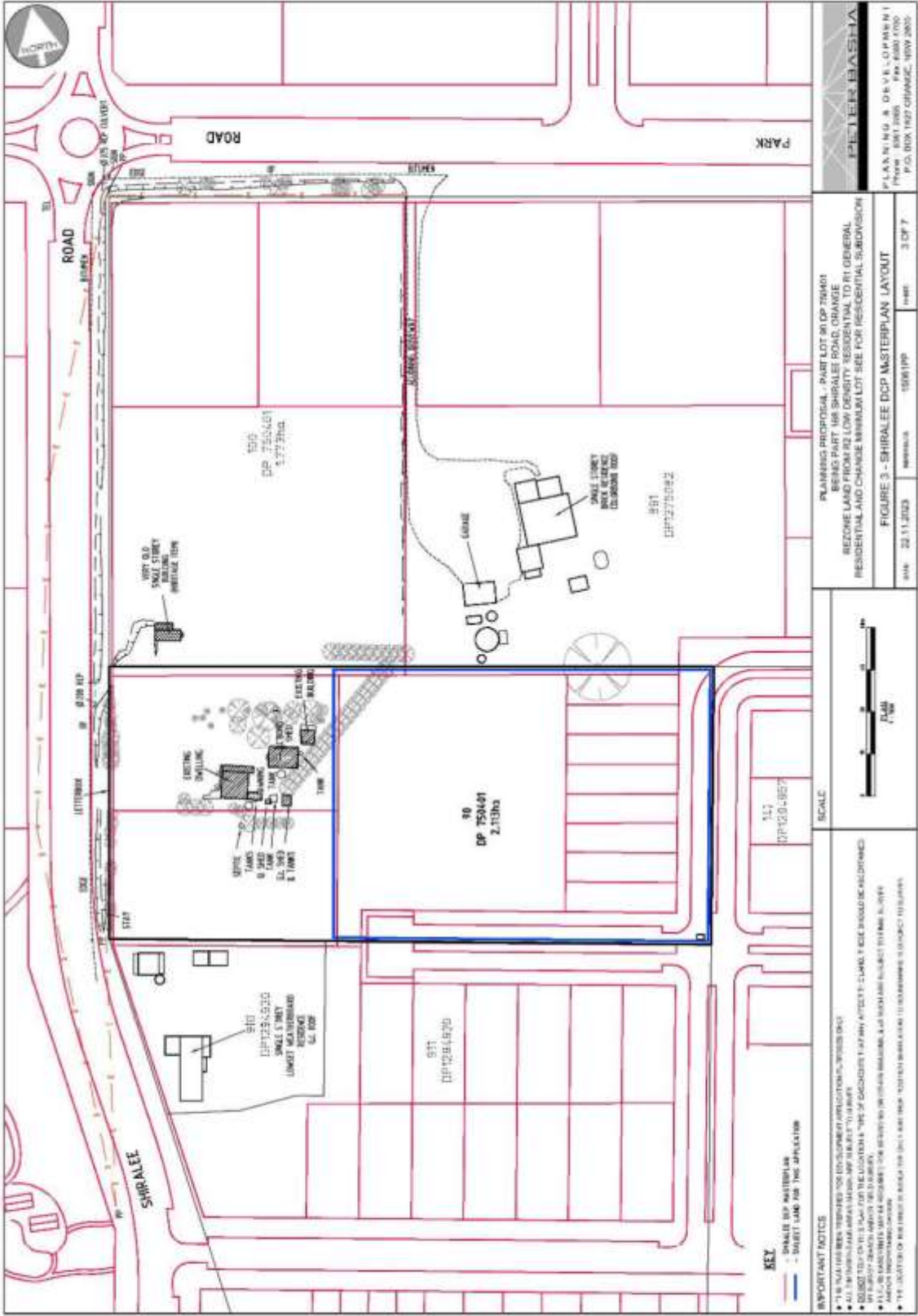






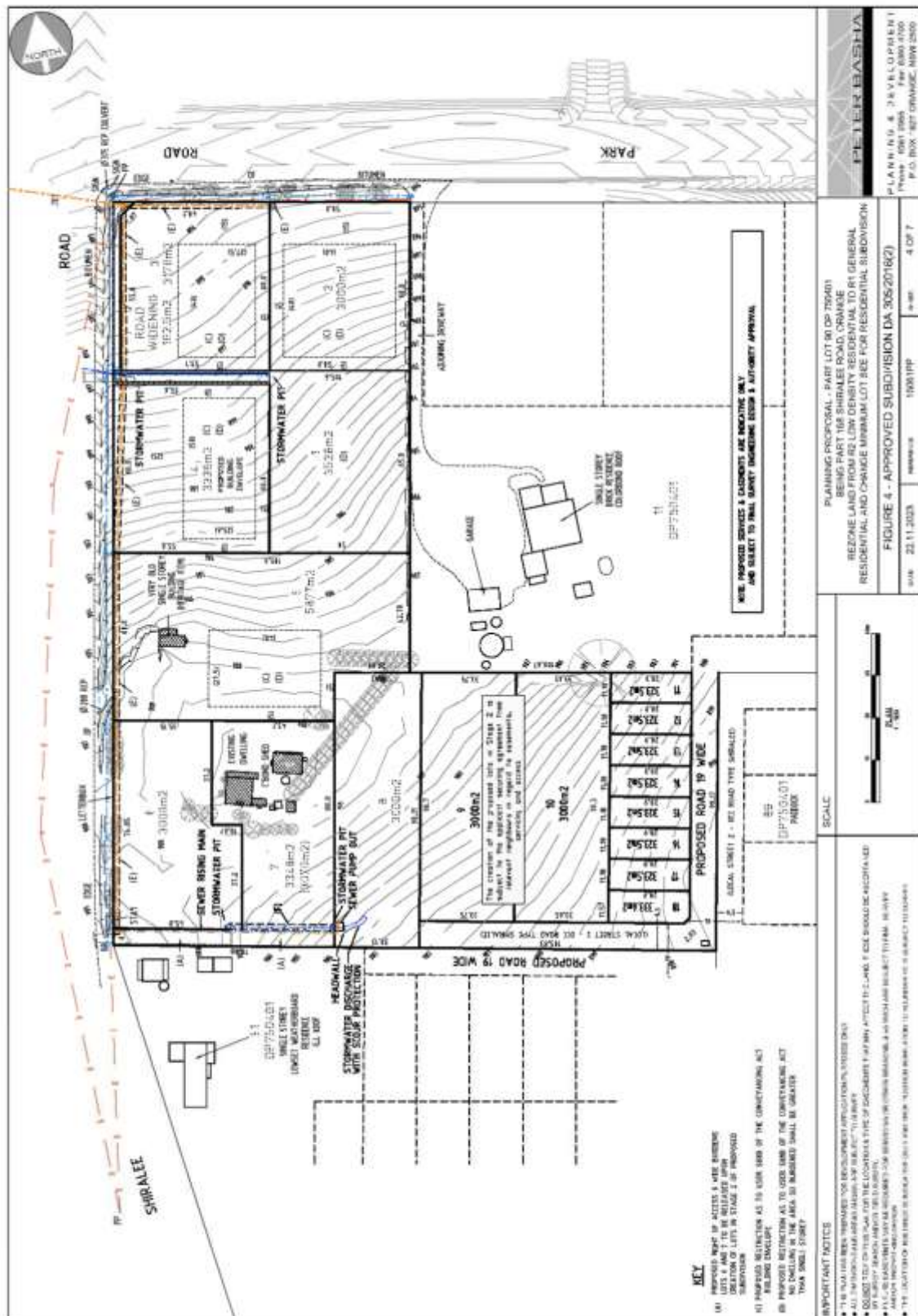


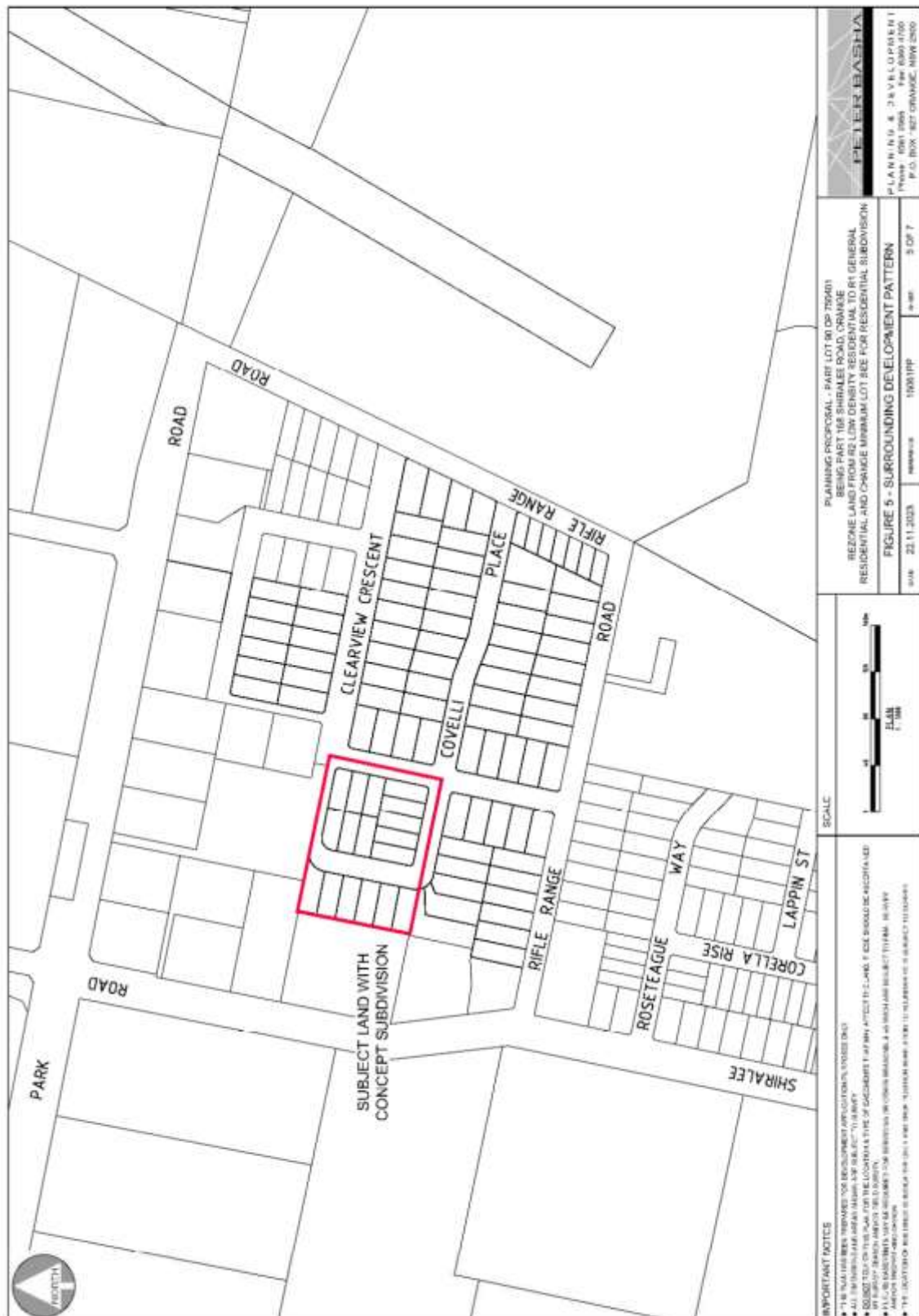










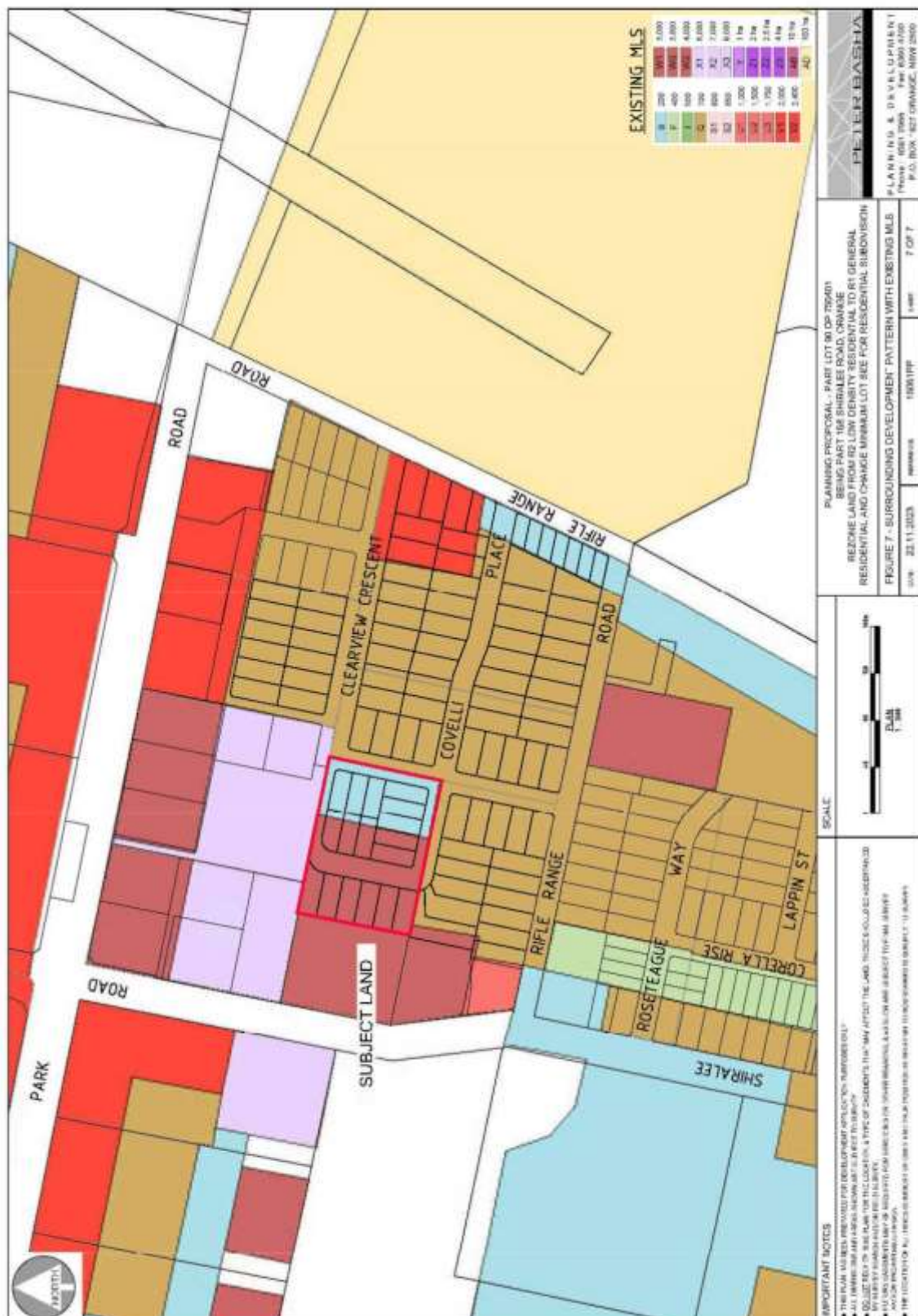


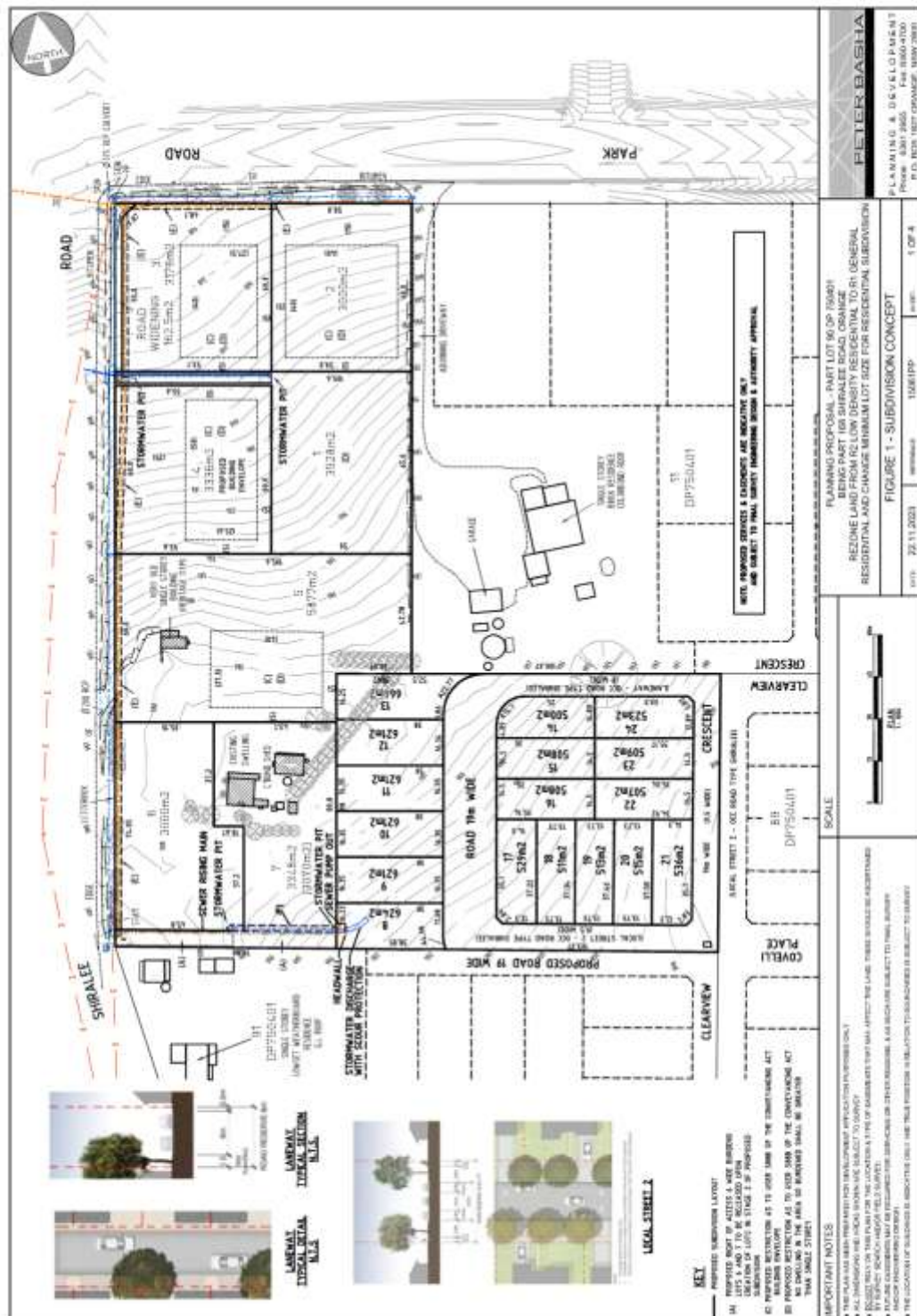






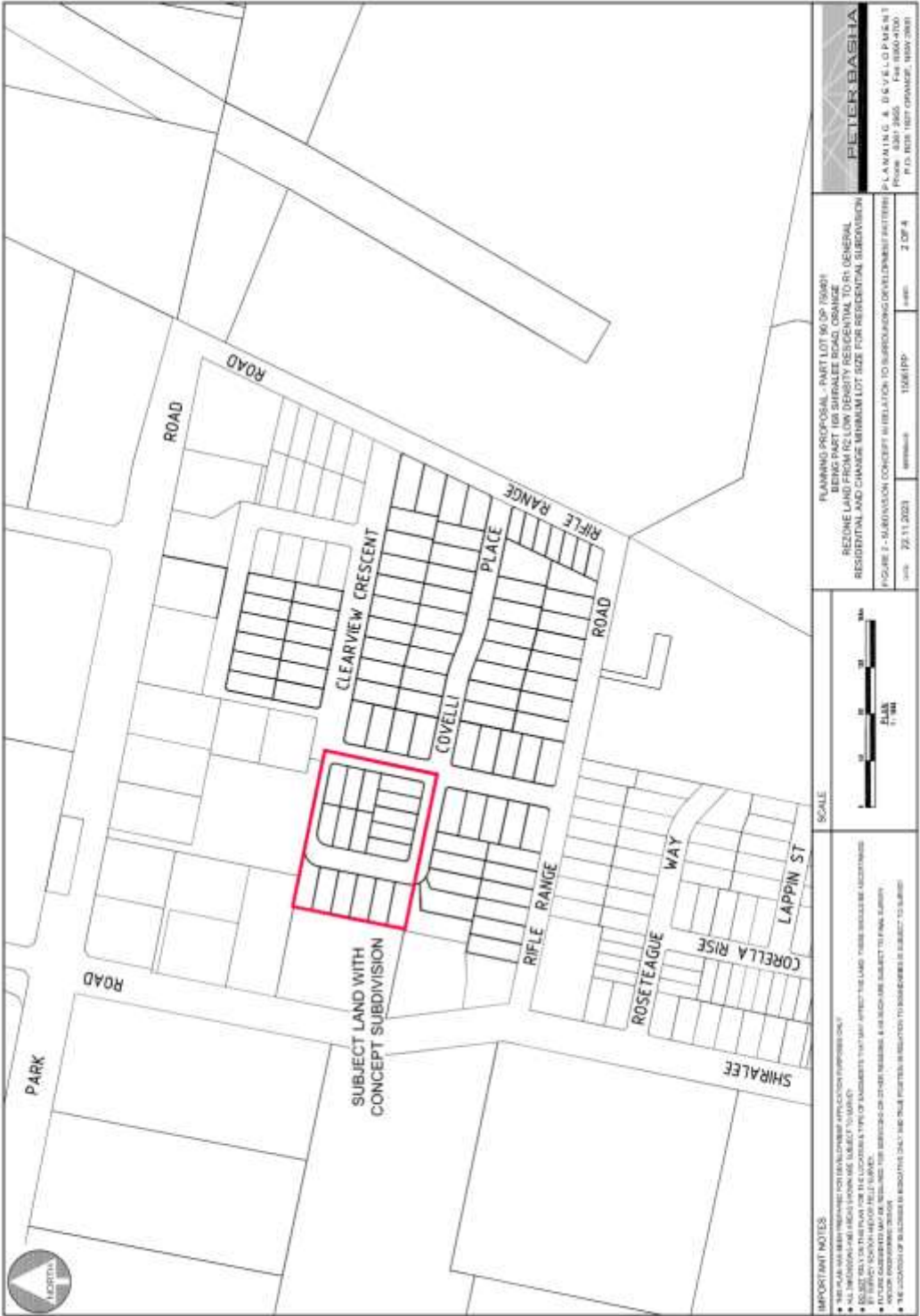










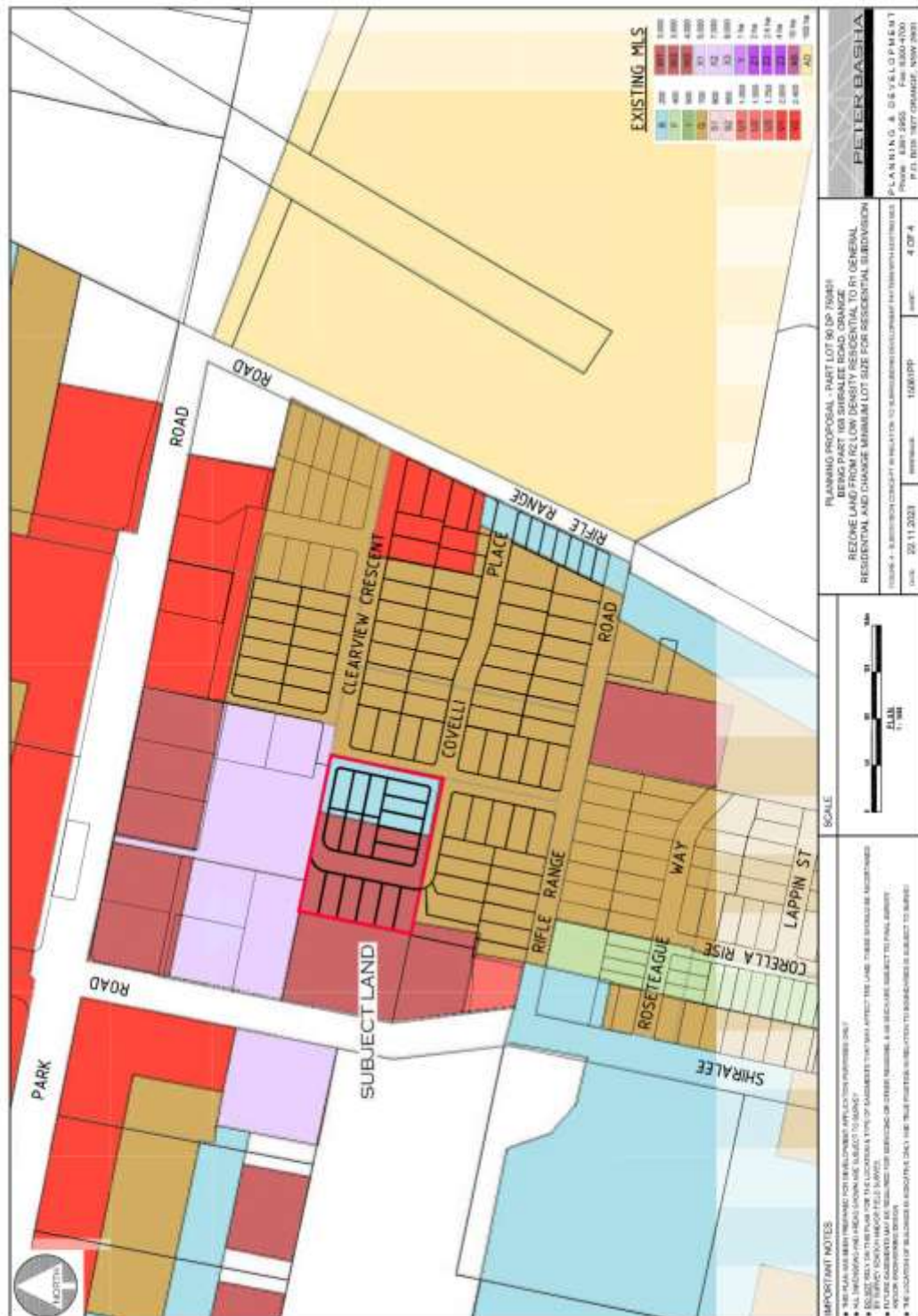
























## Department of Planning, Housing and Infrastructure

Our ref: PP-2023-2696 (IRF24/2767)

Mr David Waddell  
Chief Executive Officer  
Orange City Council  
PO Box 35  
ORANGE NSW 2800

Dear Mr Waddell

**Planning proposal PP-2023-2696 to amend Orange Local Environmental Plan 2011**

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) on 5 November 2024 in respect of the planning proposal to rezone land to R1 General Residential and introduce 500m<sup>2</sup> MLS at part 168 Shiralee Road, Orange.

As delegate of the Minister for Planning and Public Spaces, I have determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the proposal is consistent with the applicable Directions of the Minister under section 9.1 of the Act. No further approval is required in relation to the Directions.

Considering the nature of the planning proposal I have determined that Council may exercise local plan-making authority functions in relation to the planning proposal.

The proposed local environmental plan (LEP) is to be finalised on or before 6 October 2025. Council should aim to commence the exhibition of the planning proposal as soon as possible. Should Council seek to make a proposed LEP, the request to draft the LEP should be made well in advance of the date the LEP is projected to be made.

Parliamentary Counsel's Office is not responsible for the drafting of map-only amendments to LEPs. Requests for legal drafting for map-only amendments must instead be sent to [mapinstrument.drafting@dpie.nsw.gov.au](mailto:mapinstrument.drafting@dpie.nsw.gov.au). The relevant Department of Planning, Housing and Infrastructure team contact should be copied into the request. The request must include the drafting instruction template, planning proposal and Gateway determination.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the Gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning, Housing and Infrastructure, August 2023) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Liyan Smith to assist you. Ms Smith can be contacted via

Yours sincerely

**Jessica Holland**  
**Manager, Southern, Western and Macarthur Region**  
**Local Planning and Council Support**  
**Department of Planning, Housing and Infrastructure**

Encl: Gateway determination





Department of Planning, Housing and Infrastructure

## Gateway Determination

**Planning proposal (Department Ref: PP-2023-2696):** *Rezone land to R1 General Residential and introduce 500m2 MLS at part 168 Shiralee Road, Orange*

I, the Manager, Southern, Western and Macarthur Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Orange Local Environmental Plan 2011 to rezone land to R1 General Residential and introduce 500m2 MLS at part 168 Shiralee Road, Orange should proceed subject to the following

The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

The LEP should be completed on or before 6 October 2025.

### Gateway Conditions

1. Prior to exhibition, the planning proposal is to be amended to update the project timeline and forwarded to the Minister under s 3.34(6) of the Act.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).

No consultation is required with public authorities or government agencies under section 3.34(2)(d) of the Act

3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).



4. The LEP should be completed on or before 6 October 2025.

Dated 28 November 2024

Jessica Holland  
Manager, Southern, Western and Macarthur  
Region  
Local Planning and Council Support  
**Department of Planning, Housing and  
Infrastructure**

**Delegate of the Minister for Planning and  
Public Spaces**

PP-2023-2696 (IRF24/2767)



## 2.8 POST EXHIBITION REPORT - AMENDMENT TO THE ORANGE LOCAL ENVIRONMENTAL PLAN 2011 AND DRAFT PLANNING AGREEMENT - 277 CARGO ROAD

RECORD NUMBER: 2025/4

AUTHOR: Alison Weir, Coordinator Strategic Planning

### EXECUTIVE SUMMARY

The Planning Proposal applies to land known as “Stage 1” of the Witton Place Candidate Area, being 277 Cargo Road, Orange. The Witton Place Candidate Area is one of several greenfield precincts identified by the Orange Local Housing Strategy (OLHS) (adopted 7 June 2022) as being suitable for investigation for rezoning and associated residential development. Under the OLHS, the Witton Place Candidate Area is identified as a critical site for meeting the City of Orange’s long term housing needs.

Council considered the Planning Proposal at the 5 September 2023 Planning and Development Committee meeting, and subsequently the amended proposal at the 20 November 2024 Council meeting. Subsequent to the Gateway Alteration being received from the Department of Planning, Housing and Infrastructure on the 6 December 2024, Council staff placed the Planning Proposal on exhibition for a period of 28 days.

During the public exhibition period Council received four (4) agency submissions during this period and one (1) public submission.

In accordance with the Gateway Determination and supporting correspondence Council is not authorised as the local plan-making authority for this proposal due to the site being mapped as an Urban Release Area, therefore Council staff will need to direct the local plan-making authority, to finalise the amendment, if supported by Council.

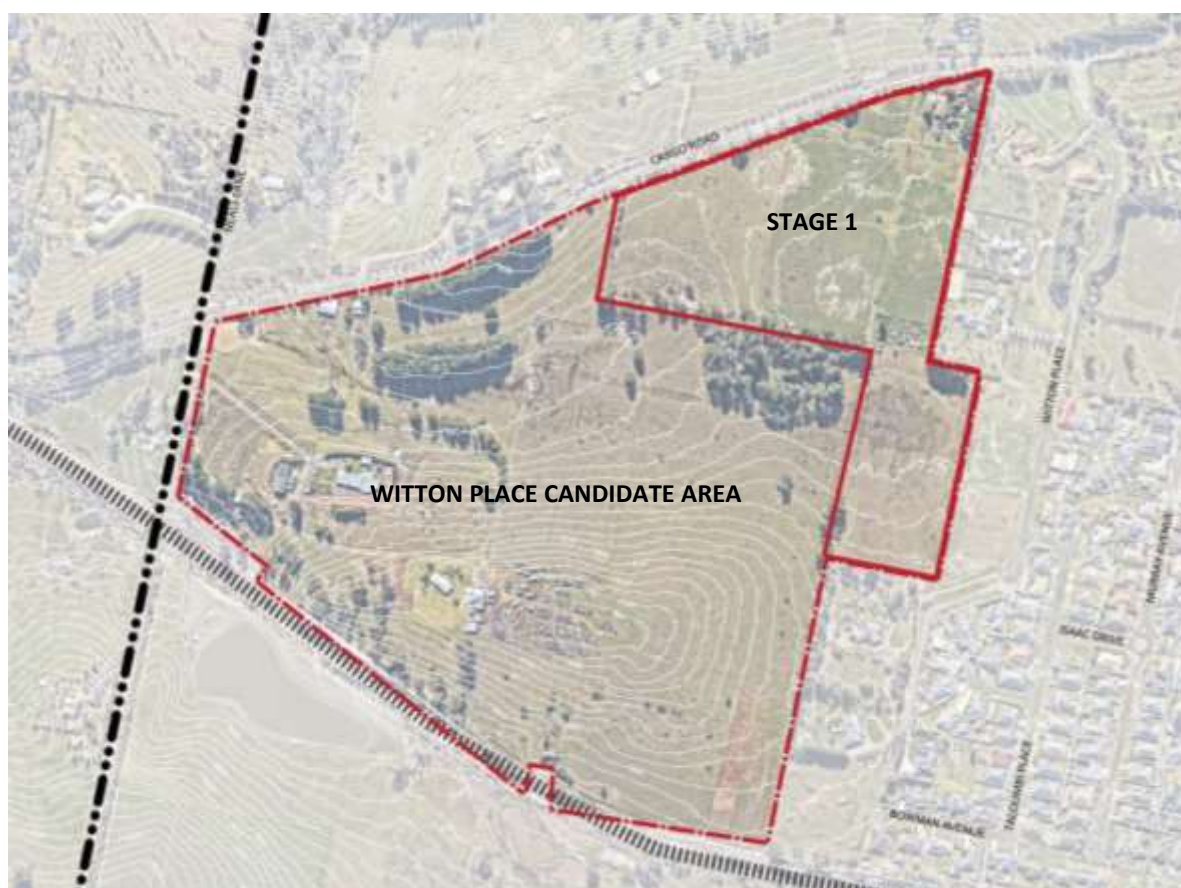


Figure 1 - Witton Place Candidate Area and Stage 1

**2.8 Post Exhibition Report - Amendment to the Orange Local Environmental Plan 2011 and Draft Planning Agreement - 277 Cargo Road**

---

The Planning Proposal is supported by a draft Planning Agreement that applies to Lot A in Deposited Plan 408148 and known as 277 Cargo Road, Orange, NSW, for the purposes of amending the Orange Local Environmental Plan. The draft agreement requires the dedication, embellishment and maintenance of any open space delivered under the amendment to Council. The draft Planning Agreement was placed on exhibition for a period of 28 days with the Planning Proposal. No submissions were received in relation to the draft Planning Agreement.

**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:**

- 1 Support the amendment to the Orange Local Environmental Plan 2011 and direct staff to request that the local plan-making authority seek to finalise the amendment, and**
- 2 Delegate the execution of the Planning Agreement – 277 Cargo Road, Orange to the Chief Executive Officer.**

**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****Site Context**

The Witton Place Candidate Area is located on the western edge of Orange’s urban area and is a key visual element defining the western entrance to the city along Cargo Road. The site is located adjacent the southern-most portion (“Area 4”) of the Ploughman’s Valley residential area and approximately 3 kilometres west of the Orange Central Business District (CBD).

The candidate area is bounded by Cargo Road to the north, the Sydney to Broken Hill railway line to the south and Neals Lane to the west. The Planning Proposal applies to land known as “Stage 1” of the Witton Place Candidate Area, the north-eastern most lot of the Candidate Area.

## 2.8 Post Exhibition Report - Amendment to the Orange Local Environmental Plan 2011 and Draft Planning Agreement - 277 Cargo Road



Figure 2 - Site context (Witton Place Candidate Area)

### Objective and Intended Outcomes

To amend the Orange Local Environmental Plan 2011 to provide for greenfield development at 277 Cargo Road to accommodate a diverse range of housing consistent with the OLHS. The amended proposal seeks to:

- To contribute to the protection of local water catchments and environmental assets.
- Contribute to housing Orange's growing community and improve housing affordability through the provision of a diverse range of lots and housing typologies.
- To maintain the scenic values of the site through well located open space corridors and larger lots that contribute to the rural entry into the City.

### Explanation of provisions

The amended Planning Proposal for Stage 1 of the site, known as 277 Cargo Road (Lot A DP 408148) seeks to amend the Orange Local Environmental Plan 2011 to change the land use zoning, minimum lot size, add an Urban Release Area overlay and biodiversity sensitivity mapping. The amended Planning Proposal seeks to:

- Rezone part RU1 Primary Production and C3 Environmental Management to R1 General Residential and R2 Low Density Residential in accordance with the Structure Plan for the Witton Place Candidate Area.
- Amend the Minimum Lot Size from 100 hectares to 1500 square meters corresponding with the R2 Low Density Residential zone and remove the Minimum Lot Size from the remainder of the site.
- Add the Urban Release Area overlay to the site to ensure a Development Control Plan is prepared before any Development Applications can be made on the subject land, and for the purpose of streamlining the assessment of Bush Fire Prone Land, consistent with the previous proposal considered by Council.
- Remove the mapped area from the biodiversity sensitivity mapping (existing stand of Pine Trees).



**Strategic Merit****Central West and Orana Regional Plan 2041**

Planning for the wider Central West and Orana region is undertaken in accordance with the *Central West and Orana Regional Plan 2041* ("CW&ORP 2041"). This sets out the NSW Government's long term (20-year) growth vision and land use planning priorities for the region, and is based on a projected growth in the regional population from 295,319 in 2024 to 324,943 in 2041 (NSW Population Projections, 2022). The amended proposal demonstrates consistency with the key objectives and strategies outlined in the Regional Plan, as summarised:

- Creating connected and healthy communities, by linking into existing infrastructure.
- Planning for resilient communities, through the design of the public domain by providing green infrastructure.
- Securing resilient region water resources, by minimising impact on water catchments through careful site design.
- Ensuring the site design is responsive to the scenic landscape and protects important views into and from the site.
- Providing well located housing that responds to future demand and population needs.
- Providing diverse housing that improves the provision of housing affordability.

**Orange, Blayney and Cabonne Regional Economic Development Strategy—2023 Update**

At the sub-regional scale, Orange forms the principal urban centre and LGA within the Orange, Blayney and Cabonne Functional Economic Region (FER). Council's role in supporting the economic development of the FER is governed by the Orange, Blayney and Cabonne Regional Economic Development Strategy - 2023 Update, which establishes the NSW Government's strategic economic development priorities for the region. These recognise the economic importance of well-located housing supported by good place design.

**Local Strategic Planning Statement**

The Orange Local Strategic Planning Statement (LSPS) provides a 20-year vision for land use planning in the Orange Local Government Area and outlines how growth and change will be managed. The amended proposal demonstrates consistency with the Planning Priorities, as outlined:

- Supporting the delivery of new homes in residential release areas,
- Providing a range of public domain spaces that foster a culturally rich and connected community,
- Provides for diverse housing choices and opportunities to meet the projected demographic needs of the community.

**Orange Local Housing Strategy**

The Planning Proposal has resulted from the identification of the subject site within the OLHS. The OLHS identifies that 86% of housing stock in the Orange Local Government Area is single freestanding dwellings. Households made up of either couples with no children or lone person households are expected to increase from 53% (2016) to 59% (2041). The number of households with children is expected to decrease from 41% (2016) to 37% (2041). This demonstrated an increase demand for the delivery of smaller dwellings and a greater need for housing diversity within the City. Housing diversity is also a critical component in influencing housing affordability.

The Orange Local Government Area has limited greenfield land that is viable in supporting the growth of the City, and the sustainable use of greenfield land continues to be one of the key challenges faced by Council.

The site forms a portion of the Witton Candidate Area identified in the Orange OLHS. The OLHS identified the Candidate Area with a potential yield of 8 lots/ha equating to 280 lots within low density, rural residential zones. The yield identified in the strategy was estimated based on high-level constraints analysis across all Candidate Areas within the Local Government Area and provides a basis for ongoing infrastructure planning. These estimates need to be tested against site specific constraints and opportunities to determine the highest and best use of the land. The projected yield resulting from the Structure Plan layout across the whole Candidate Area may not vary significantly from the overall yield identified in the OLHS due to larger lot required to maintain the entry into the city and as buffers from the railway line.

### Section 9.1 Local Planning Directions

The amended proposal has resulted in no changes to the commentary provided in the report to the Planning and Development Committee on 5 September 2023.

### State Environmental Planning Policies

The amended proposal has resulted in no changes to the commentary provided in the report to the Planning and Development Committee on 5 September 2023.

### Gateway Conditions

Conditions	Response
Condition 1(a) – Reference correct zone name – C3 Environmental Management. All references and mapping referencing 'E3' are to be removed.	The conditions were resolved through the amended proposal as issued via the Gateway Alteration request.
Condition 1(b) - Reference current adopted minimum lot size mapping. All mapping showing blue outline and all references to 'Area 1' are to be removed and all applicable map references are to be updated from 'V' to 'V1'.	The conditions were resolved through the amended proposal as issued via the Gateway Alteration request.
Condition 1(c) - the planning proposal is to be updated to remove all reference to the amendment seeking a Buffer Area Map.	The Planning Proposal was updated prior to agency consultation and public exhibition to remove all references to the Buffer Area and Buffer Area map.
Condition 1(d) - the updated planning proposal is to be	The updated Planning Proposal and supporting technical information was referred to the NSW Rural Fire Service (NSW

Conditions	Response
provided to Rural Fire Service for comment (to satisfy Direction 4.3 Planning for Bushfire Protection).	<p>RFS) prior to proceeding to public exhibition in accordance with the <i>Local Planning Directions, Direction 4.3 Planning for Bushfire Protection</i>. NSW RFS provided a response to the referral on 19 December 2024, noting the following considerations:</p> <ol style="list-style-type: none"> <li>3 That any future bush fire hazard assessment takes into account the Category 3 mapped land west of the site.</li> <li>4 Future referrals are to demonstrate compliance with <i>Chapter 5 of Planning for Bush Fire Protection 2019</i> and that future plans may be revised to accommodate a perimeter road.</li> <li>5 Where future referrals identify open space as managed land, the referral must provide information consistent with the requirements of <i>Sections 3.2.5 and 3.2.6 of Planning for Bush Fire Protection 2019</i>.</li> <li>6 Any future applications for Special Fire Protection Purpose (SFPP) developments demonstrate compliance with <i>Chapter 6 of Planning for Bush Fire Protection 2019</i>.</li> </ol> <p>The above commentary can be suitably addressed through any future Development Applications for the site, notwithstanding, that any subdivision for the purpose of residential development (being integrated development) will likely be referred through to the NSW RFS for concurrence under 100B of the Rural Fires Act 1997.</p> <p>Council staff have also requested that the site be mapped as a Bush Fire Planning - Urban Release Area (URA) to be approved by the Secretary of Department of Planning, Housing and Infrastructure. This will ensure all the requirements including the issuing of a 100B under the Rural Fires Act and a Post-Subdivision Bush Fire Attack Level (BAL) Certificate have been undertaken at the subdivision stage. This excludes subsequent development, such as dwelling houses, dual occupancies, secondary dwellings and ancillary buildings, requiring any further supporting information in relation to bush fire planning at the Development Application stage, hence streamlining the application process for applicants and Council's assessing officers.</p>
Condition 2 - Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:	<p>The Planning Proposal was referred to the following agencies for consultation through the Planning Portal:</p> <ul style="list-style-type: none"> <li>• Department of Primary Industries</li> <li>• Department of Climate Change, Energy, Environment and Water</li> <li>• Transport for NSW</li> </ul> <p>Council staff issued the Planning Proposal through to Cabonne Shire Council for comment, subsequent to ongoing consultation with Cabonne regarding the Molong Drinking Water Catchment.</p>

Conditions	Response
<ul style="list-style-type: none"> <li>• Cabonne Shire Council (regarding the drinking water catchment matters)</li> <li>• Department of Climate Change, Energy, Environment and Water (regarding removal of biodiversity mapping)</li> <li>• Department of Primary Industries (regarding impact to BSAL mapped land)</li> <li>• Transport for NSW (regarding access to classified road, infrastructure arrangements, and introduction of URA)</li> </ul> <p>Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.</p>	<p>The submissions received from public agencies have been summarised below.</p>
<p>Condition 3 - Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:</p> <ul style="list-style-type: none"> <li>• The Planning Proposal is categorised as standard and must be made publicly available for a minimum of 20 working days.</li> <li>• The Planning Proposal authority must comply with the notice requirements and specifications as identified in the Local Plan Making Guidelines (August</li> </ul>	<p>The Planning Proposal was placed on Public Exhibition through the Planning Portal, Council's website, and in accordance with Council's Community Participation Plan 2023 from the 13 January 2025 through to the 11 February 2025 for a period of 20 working days.</p> <p>The public submission received has been summarised below.</p>

Conditions	Response
2023).	
Condition 4 – A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act.	This is a standard condition that aims to clarify that Section 3.34(2)(e) of the Act is not triggered by the proposal.

It is considered that all gateway conditions have been satisfactorily addressed.

### **Submissions**

#### **NSW Rural Fire Service**

As required by the Gateway Alteration, condition 1(d) Council provided the Planning Proposal prior to public exhibition for comment. The submission and response to submissions has been addressed prior in this report in response to the Gateway Conditions.

#### **NSW Department of Primary Industries and Regional Development, Agriculture and Biosecurity**

The submission does not support the rezoning of the land for residential purposes. The submission relates to the retention of highly productive agricultural land and expands on advice previously issued in relation the scoping proposal issued to the agency in 2022. The submission notes that the site is mapped as Biophysical Strategic Agricultural Land (BSAL) and the draft State Significant Agricultural Land (SSAL) which correlates with highly productive agricultural land. This relates to the Towac Soil Landscape, being Ferrosols (Kraznozems) with depths between 1 meter and 10 meters and 90 meters deep in depressions. Areas dominated by Ferrosols make up less than 1.5% of NSW total land area and are extremely rare nationally. The submission states that the proposal will result in further fragmentation of the existing agricultural land.

The site is furthermore identified as Class 3 moderately high capability land, with over 53% of the land within the Orange Local Government Area being Class 3, noting that 9.4% of this is used for urban purposes.

In addition to the above noted concerns, the submission states that the Planning Proposal has not adequately provided an assessment of the strategic justification. The submission states that the proposal is inconsistent with the Local Strategic Planning Statement (LSPS), in addition to the site being identified in the OLHS which has not been endorsed by the Department of Planning, Housing and Infrastructure. The submission states that housing could be provided elsewhere in the City negating the need for the rezoning of agricultural land.

Council staff note the above concerns relayed through the submission. The Planning Proposal has addressed the conflict in detail noting that the site forms a narrow band of BSAL land which continues north towards large lot residential land. The site was identified through the OLHS as a site capable of being rezoned for residential purposes due to the fragmented ownership pattern of the site, the small holding and isolated nature of the site in limiting any future residential development further west or south of the immediate site. The site is formed by hard boundaries to the east - residential development, to the north - Cargo Road, to the south – the railway line and to the west – Neals Lane and the Orange Local Government Area boundary. Furthermore, an analysis of the site indicates that the site would be unlikely in sustaining commercial agricultural operations given the current constraints. The site has an area of 10.99 hectares, and after applying the required biological buffers required by the Orange Development Control Plan 2004 for

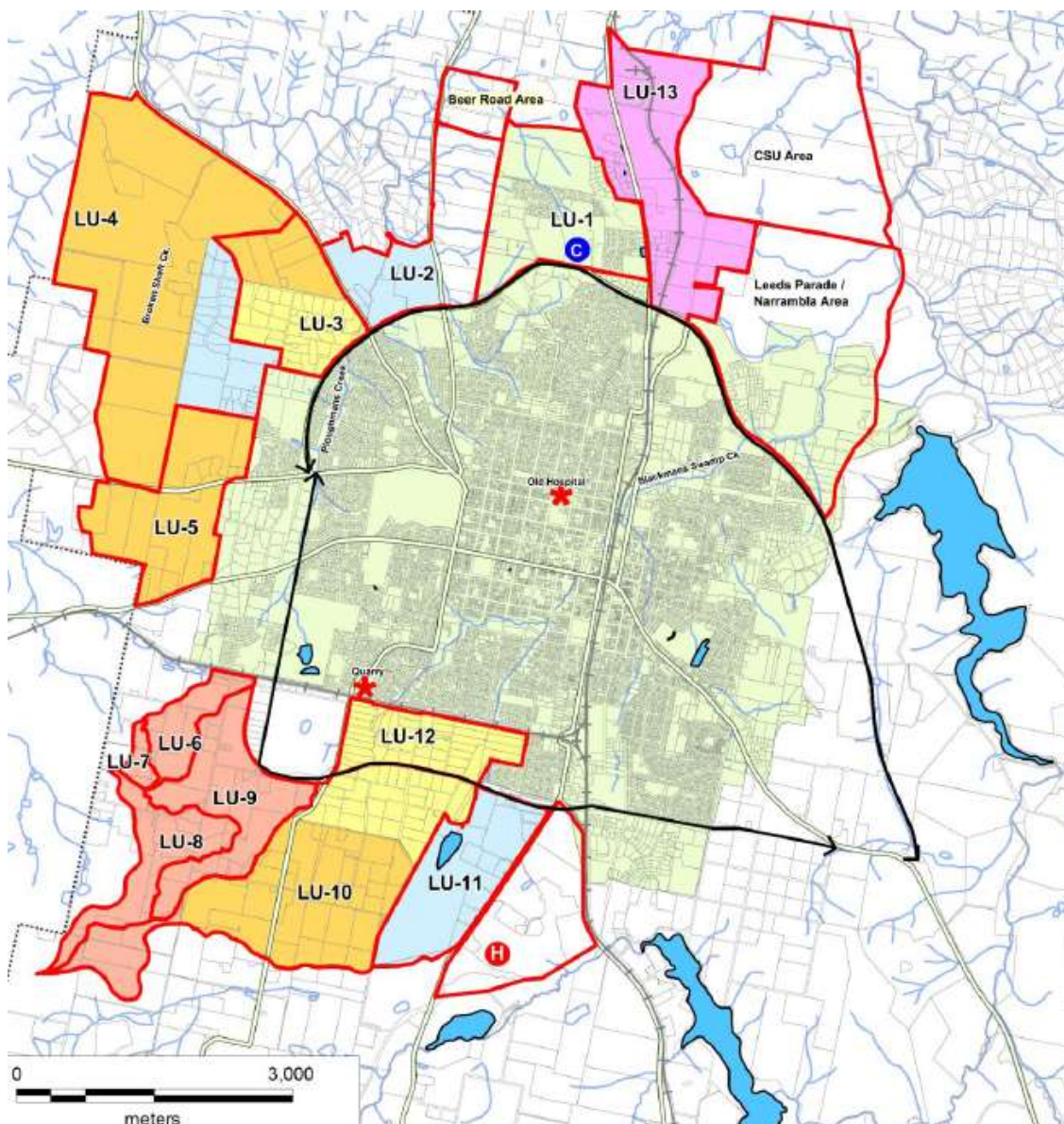


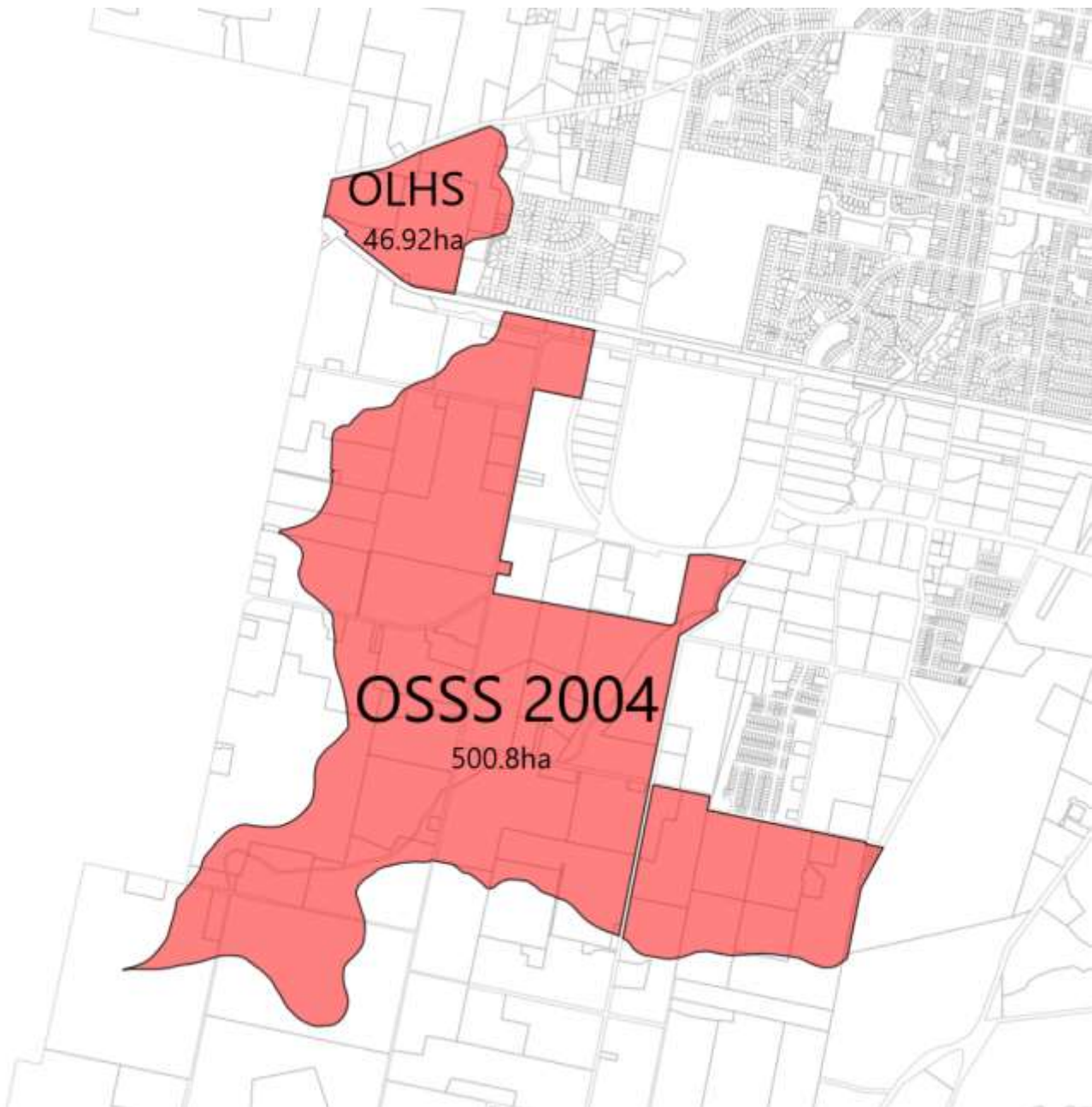
## 2.8 Post Exhibition Report - Amendment to the Orange Local Environmental Plan 2011 and Draft Planning Agreement - 277 Cargo Road

residential development adjoining agricultural uses, the land size that is available to cater for agricultural production is 5.42ha in size.

Whilst the submission notes various other opportunities to cater to the required dwellings as identified in the OLHS, the constrained nature of the majority of the greenfield sites (topography, biodiversity, waterways etc.), land banking and the willingness of land holders to rezone land or redevelop within urban areas places increased importance on such sites to provide for future housing within the City. These constraints were a key consideration in determining appropriate Candidate Sites when undertaking the analysis phase of the OLHS.

The OLHS supplants the previous Orange Sustainable Settlement Strategy (OSSS) (May 2010) in which a significant amount of BSAL land was identified for future urban development. Council staff recognises the importance of BSAL land, in which the Department notes in their submission in relation to the protection of highly productive agricultural land as identified in Council's LSPS. Through the review of the OSSS with recognition of the importance of BSAL land Council staff sought a reduction in 453.88 hectares of highly productive agricultural land for the purposes of residential growth (see figure 4). The Witton Place Candidate Area represents an isolated, relatively constrained site equating to 46.92 hectares of BSAL land.



**Figure 3 – Orange Sustainable Settlement Strategy growth areas (2010)****Figure 4 – Orange Sustainable Settlement Strategy growth areas (2010) analysis against the Orange Local Housing Strategy Witton Place Candidate Area (2022)**

Council staff have sought to ratify the OLHS through the Department of Planning, Housing and Infrastructure, but it has been stated on numerous occasions that the Department are no longer in the position to endorse local strategies. In addition, the Department of Planning, Housing and Infrastructure in the Gateway Determination (dated 1 August 2024) stated inconsistencies with section 9.1 of the EP&A Act (3.1 Conservation Zones, 9.1 Rural Zones and 9.2 Rural Lands) were justified in accordance with the terms of the directions. Therefore, it is determined that the strategic and site-specific merit have been adequately justified through the Planning Proposal. The above noted submission however remains as an unresolved agency issued, notwithstanding that the OLHS has been endorsed by Council and forms the key Strategic justification for urban growth throughout the Orange Local Government Area.

**NSW Department of Climate Change, Energy, the Environment and Water**

The submission recommended additional assessment of the biodiversity within Lot 4 DP1099080. This relates to the requested removal of the biodiversity layer on the neighbouring site, which contains a stand of pine trees within a heavily modified landscape due to historic agricultural activity. The intention to retain the pines within the proposed open has been discussed with Councils staff and concluded that removal of the pines is appropriate due to the largely degraded quality of the vegetation, and ongoing public safety and management requirements. Council staff remained satisfied based on the Preliminary Flora and Fauna Assessment (Envirowest Consulting Pty Ltd, March 2023), and further site investigation that the pine stands within Lot 4 DP1099080 have little environmental significance and therefore the request to remove the environmentally sensitive area mapping across the two sites remains valid.

The submission also recommended that the quantity of the area of native vegetation be accurately identified to determine if the activity would trigger the Biodiversity Offset Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). Clearing thresholds of 0.25 hectares will be required to apply to the future development and based on the Preliminary Flora and Fauna Assessment (Envirowest Consulting Pty Ltd, March 2023) the BOS is likely to be triggered and a BDAR would be required at the Development Application Stage.

The submissions also noted that protection measures should be outlined in a site-specific Development Control Plan, as well as explaining the BAM and BOS entry thresholds to assist with future development applications. It is noted Council staff are currently preparing a draft site-specific Development Control Plan for the site.

The submission raises that hydraulic studies be provided through future Development Applications to demonstrate that flood waters under 1% Annual Exceedance Probability (AEP) flood event can be safely contained by planned infrastructure on the site, and that any future development comply with the principles in the NSW Flood Risk Management Manual 2023.

Council staff are satisfied that the above noted recommendations can be adequately addressed through the preparation of a site-specific Development Control Plan and future Development Applications.

**Transport for NSW**

The submission notes that the proposal does not adversely affect Transport for NSW (TfNSW) interest and has requested the following matters be addressed through any future Development Application:

1. A final revised Transport Impact Assessment be submitted with the Development application and strategic design of the intersection treatment consider:
  - a. Environmental constraints, i.e. drainage channels, removal of vegetation etc.
  - b. Property acquisition requirements, if required.
  - c. Identification of impact to Cargo Road, such as excavation, fill, drainage impacts, changes to utilities, etc.
  - d. Identification and confirmation of available Safe Intersection Sight Distance, Safe Stopping Distance and Approach Site Distance in accordance with Section 3 of Part

## 2.8 Post Exhibition Report - Amendment to the Orange Local Environmental Plan 2011 and Draft Planning Agreement - 277 Cargo Road

---

4a – Unsignalised and Signalised Intersections – Austroads Guide to Road Design (AGTRD).

- e. Swept path diagrams indicating a 19m semi-trailer can enter and exit the intersection, ensuring movements do not conflict with other turning vehicles.
2. Any future Planning Proposals subsequent to stage 1 are not to propose additional access onto Cargo Road, as previously discussed between Council and TfNSW. (i.e. the entire candidate area will contain only 1 access point onto Cargo Road which will be delivered in this stage. Future rezonings will result in a secondary access through Bowman Avenue.
3. That the TIA apply a 2% growth rate for the Development Application.
4. Any future intersections works or upgrades required to the classified (regional) road are identified by the application and undertaken in accordance with Austroads Guide to Road Design.
5. That there be given appropriate provision for public and active transport provided within the site.

The requirements of TfNSW are noted and will not prevent any viable development of the site.

### Public Submission 1

The public submission queries the process in terms of staging the rezoning of the site, however this relates to other landowners' willingness to proceed to rezone land within the Witton Place Candidate Area. Future Planning Proposals and associated required technical supporting studies will be required for the subsequent stages.

The submission further queries several matters in relation to Planning for Bush Fire Protection 2019, in relation to access being limited to a single point, and the concept layout does not provide a perimeter road, and whether Council has commissioned the report. The Strategic Bush Fire Study was prepared on behalf of the applicant, at the request of Council, due to the status of the land as bush fire prone land. Any future Development Applications for residential subdivision of the land will be required to comply with Planning for Bush Fire Protection 2019 which will require General Terms of Approval from the NSW Rural Fire Service. The Strategic Bush Fire Study demonstrates that at the rezoning stage the land is capable of being rezoned for residential purposes. Due to the lot yield identified at later stages, a secondary emergency access has been identified as being provided for emergency purposes only.

The submission also requests to clarify the sewer servicing concept, potential burdens on Lot 10 DP104567, in addition to the costs that arise from providing the required infrastructure to service the site. Given the Planning Proposal only relates to Stage 1 (277 Cargo Road) there is no impact in relation to abovementioned site. Any future Planning Proposals and Development Applications will be required to address the servicing requirements for future stages. In addition, contributions will be in accordance with Council's Development Contribution Plan 2024 and the applicant may negotiate Planning Agreements with Council in relation to suitable servicing requirements.

### Draft Planning Agreement

The draft Planning Agreement is to be made pursuant to *Section 7.4 of the Environmental Planning and Assessment Act, 1979* with Charms Developments Pty Limited and the owner of 277 Cargo Road. The draft Planning Agreement that applies to Lot A in Deposited Plan 408148 and known as 277 Cargo Road, Orange, NSW, for the purposes of amending the Orange Local Environmental Plan. The draft agreement requires the:



## 2.8 Post Exhibition Report - Amendment to the Orange Local Environmental Plan 2011 and Draft Planning Agreement - 277 Cargo Road

---

- dedication of part of the Land proposed for a public park (Open Space Land);
- carrying out of embellishment works to the Open Space Land prior to dedication; and,
- the maintenance of the Open Space Land for a period of two years.

As prior noted, Council's legal advisors have broadly endorsed the Planning Agreement, however, have raise concerns regarding Council's ability to further leverage, should it be needed, if in the event the land is transferred to another owner/developer. The concerns relate to:

- the timing and dedication of the open space to Council which currently aligns with the registration of the subdivision. Council could further negotiate the conditions of the dedication of the open space land to Council is at the registration of the open space parcel and a nominal number of lots (for example 10 lots) to limit Council's liability.
- the limited detail regarding the embellishment of open space. Council staff have requested the Planning Agreement be broad in this regard as the exact layout and size of the open space parcel is to be determined through further detailed design. It is to be noted though that this approach does pose a risk to Council in being able to negotiate the embellishment outcomes.

The risk of the above has been determined as minor, and Council's legal advisers have indicated broad support of the Planning Agreement, advising Council staff of the above limitations.

The draft Planning Agreement was placed on exhibition for a period of 28 days concurrently with the Planning Proposal and no submissions were received during the exhibition period.

### Planning Proposal Technical Studies

The Planning Proposal was supported by a range of supporting technical studies as previously reported to Council 20 November 2024. The matters raised within these reports/studies have largely been summarised within the Planning Proposal. Any supporting technical studies are available upon request.

### ATTACHMENTS

- 1 277 Cargo Road - Letter to Council - Gateway Determination, D25/16668 [📄](#)
- 2 277 Cargo Road - Gateway Determination, D25/16669 [📄](#)
- 3 277 Cargo Road - Letter to Council Alteration to Gateway Determination (redacted), D25/16676 [📄](#)
- 4 277 Cargo Road - Alteration of Gateway Determination, D25/16671 [📄](#)
- 5 Planning Proposal - 277 Cargo Road Orange, D24/122415 [📄](#)
- 6 Draft Planning Agreement, D24/131674 [📄](#)
- 7 Draft Planning Agreement - Explanatory Note, D24/131673 [📄](#)
- 8 277 Cargo Road - Submissions (redacted), D25/15487 [📄](#)





## Department of Planning, Housing and Infrastructure

Our ref: PP-2023-934/IRF24/1506

Mr David Waddell  
Chief Executive Officer  
Orange City Council  
PO Box 35  
ORANGE NSW 2800

Dear Mr Waddell

**Planning proposal (PP-2023-934) to amend Orange Local Environmental Plan 2011**

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to rezone land, reduce the minimum lot size, and amend mapping at 277 Cargo Road, Orange.

As delegate of the Minister for Planning and Public Spaces, I have determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the inconsistency of the planning proposal with applicable directions of the Minister under section 9.1 of the Act (3.1 Conservation Zones, 9.1 Rural Zones and 9.2 Rural Lands) is justified in accordance with the terms of the Directions. No further approval is required in relation to the Directions.

I have determined not to authorise Council to be the local plan-making authority for this proposal as it seeks to identify the site as a URA which requires arrangements for designated State public infrastructure. It is also recommended that Council seek comment from Transport for NSW on any designated State public infrastructure that may be required to support the proposal.

The amending local environmental plan (LEP) is to be finalised on or before 30 April 2025. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning, Housing and Infrastructure to draft and finalise the LEP should be made eight weeks in advance of the date the LEP is projected to be made.

Parliamentary Counsel's Office is not responsible for the drafting of map-only amendments to LEPs. Requests for legal drafting for map-only amendments must instead be sent to [mapinstrument.drafting@dpie.nsw.gov.au](mailto:mapinstrument.drafting@dpie.nsw.gov.au). The relevant Department of Planning, Housing and Infrastructure team contact should be copied into the request. The request must include the planning proposal and Gateway determination.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the Gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Liyan Smith to assist you. Ms Smith can be contacted on 02 9274 6347.

Yours sincerely

1/8/2024

**Chantelle Chow**  
**Acting Director, Southern, Western and Macarthur Region**  
**Local Planning and Council Support**

Encl: Gateway determination



Department of Planning, Housing and Infrastructure

## Gateway Determination

**Planning proposal (Department Ref: PP-2023-934):** *Rezone, MLS and mapping amendments at 277 Cargo Road, Orange*

I, the A/Director, Southern, Western and Macarthur Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Orange Local Environmental Plan 2011 to rezone land to R2 Low Density Residential, reduce the minimum lot size and amend mapping should proceed subject to the following:

### Gateway Conditions

1. Prior to public exhibition, the planning proposal is to be updated to:
  - (a) Reference correct zone name - C3 Environmental Management. All references and mapping referencing 'E3' are to be removed.
  - (b) Reference current adopted minimum lot size mapping. All mapping showing blue outline and all references to 'Area 1' are to be removed and all applicable map references are to be updated from 'V' to 'V1'.
2. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
  - Cabonne Shire Council (regarding the drinking water catchment matters)
  - Department of Climate Change, Energy, Environment and Water (regarding removal of biodiversity mapping)
  - Department of Primary Industries (regarding impact to BSAL mapped land)
  - Transport for NSW (regarding access to classified road, infrastructure arrangements, and introduction of URA)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.
3. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The LEP should be completed on or before 30 April 2025.

Dated 1 August 2024

**Chantelle Chow**  
**Acting Director, Southern, Western and**  
**Macarthur Region**  
**Local Planning and Council Support**  
**Department of Planning, Housing and**  
**Infrastructure**

**Delegate of the Minister for Planning and**  
**Public Spaces**

PP-2023-934 (IRF24/1506)



**Department of Planning, Housing and Infrastructure**

PO Box 35  
ORANGE NSW 2800

Mr David Waddell  
Chief Executive Officer  
Orange City Council



Our ref: PP-2023-934/(IRF24/2787)

Dear Mr Waddell

**Planning proposal PP-2023-934 – Alteration of Gateway Determination**

I refer to your correspondence in relation to revisions to planning proposal PP-2023-934 at 277 Cargo Road, Orange which now seeks to:

- rezone the land from C3 and RU1 to R2 Low Density Residential and R1 General Residential;
- reduce the MLS from 100ha to 1500m<sup>2</sup> and nil (for R1 zoned land);
- introduce an Urban Release Area (URA) at the site;
- remove terrestrial biodiversity Lot A DP408148 and part of the adjoining Lot 4 DP1099080;
- retain the drinking water catchment mapping; and
- introduce Buffer Area Mapping (and associated local provision).

I note that the amended planning proposal is supported however the proposed introduction of the Buffer Area Mapping is not supported. There is insufficient justification for the proposed Buffer Area Mapping and it is recommended to be removed from the proposal. Should Council wish to pursue this outcome, it is recommended a separate amendment suitably justifying the reasons for implementation be sought.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to alter the Gateway determination dated 1 August 2024 for PP-2023-934. The Alteration of Gateway determination is enclosed.

If you have any questions in relation to this matter, have arranged for Llyan Smith to assist you. Ms Smith can be contacted on \_\_\_\_\_

Yours sincerely

**Chantelle Chow**  
**Acting Director, Southern, Western and Macarthur Region**  
**Local Planning and Council Support**

Encl: Alteration of Gateway Determination



Department of Planning, Housing and Infrastructure

## Alteration of Gateway Determination

### *Planning proposal (Department Ref:2023-934)*

I, A/Director, Southern, Western and Macarthur Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 1 August 2024 for the proposed amendment to the Orange Local Environmental Plan 2011 as follows:

1. Change the description of the planning proposal

**from** rezone land to R2 Low Density Residential, reduce the minimum lot size and amend mapping

**to** rezone land to part R2 Low Density and part R1 General Residential, reduce the minimum lot size and amend mapping

2. Insert:

new condition 1 (c) and (d):

(c) the planning proposal is to be updated to remove all reference to the amendment seeking a Buffer Area Map.

(d) the updated planning proposal is to be provided to Rural Fire Service for comment (to satisfy Direction 4.3 Planning for Bushfire Protection)

Dated 6<sup>th</sup> day of December 2024.

**Chantelle Chow**  
Acting Director, Southern, Western and  
Macarthur Region  
Local Planning and Council Support  
Department of Planning, Housing and  
Infrastructure  
Delegate of the Minister for Planning and  
Public Spaces

PP-2023-934 (IRF24/2787)



## Revised Planning Proposal

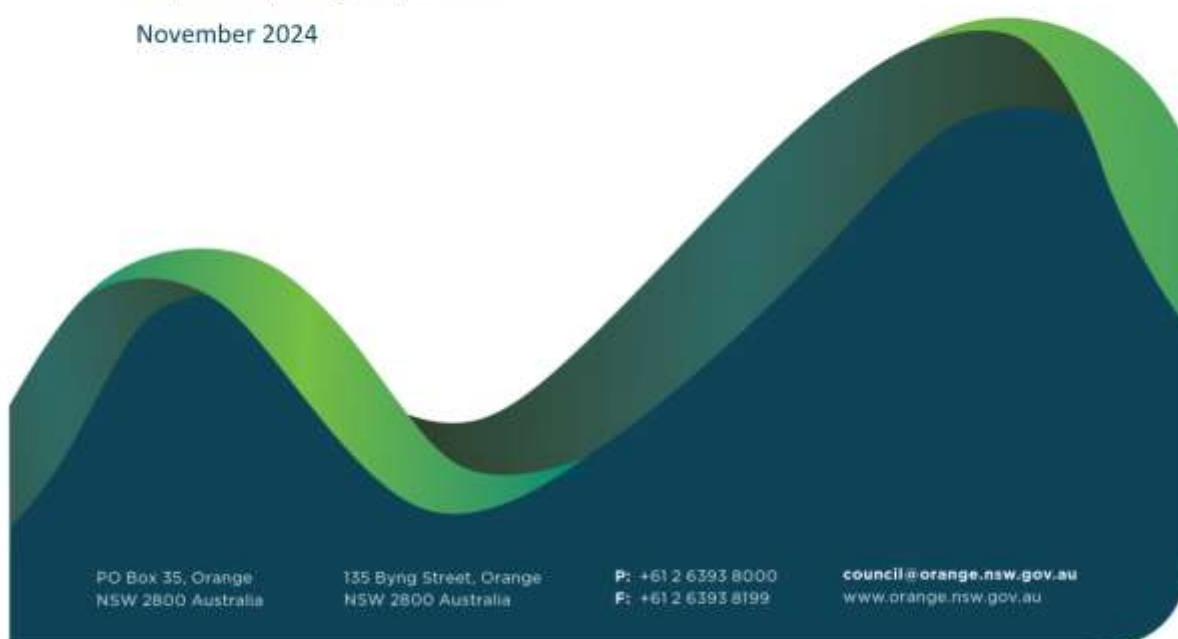
**(PP-2023-934)**

277 Cargo Road, Orange (Lot A  
DP408148)

Submitted for Gateway Alteration

Prepared by Orange City Council

November 2024



PO Box 35, 'Orange'  
NSW 2800 Australia

135 Byrig Street, Orange  
NSW 2800 Australia

P: +61 2 6393 8000  
F: +61 2 6393 8199

[council@orange.nsw.gov.au](mailto:council@orange.nsw.gov.au)  
[www.orange.nsw.gov.au](http://www.orange.nsw.gov.au)

# Document Control

Version	Status	Date of Issue
A	FINAL—For Gateway Alteration	4 November 2024
-	-	-

# Table of Contents

1

Introduction .....

1

1.1

Overview .....

1

1.2

The proposal to date .....

3

1.3

Gateway Determination .....

4

1.4

Amendments Proposed .....

4

1.5

Proponent .....

5

1.6

Supporting Documents .....

5

2

The Proposal .....

6

2.1

Site Context .....

6

2.2

Statutory Planning Framework .....

8

2.3

Witton Place Structure Plan .....

14

3

Planning Proposal .....

15

3.1

Part 1 – Objectives and Intended Outcomes .....

16

3.2

Part 2 – Explanation of Provisions .....

17

3.3

Part 3 – Justification of Strategic and Site-Specific Merit .....

20

3.4

Part 4 - Maps .....

66

3.5

Part 5 – Community Consultation .....

69

3.6

Part 6 – Project Timeline .....

71



## List of Figures

<b>Figure 1</b> Site location.....	2
<b>Figure 2</b> Site context.....	6
<b>Figure 3</b> The site .....	7
<b>Figure 4</b> BSAL Map .....	8
<b>Figure 5</b> Orange LEP 2011 Land Use Zone Map .....	9
<b>Figure 6</b> Orange LEP 2011 Minimum Lot Size Map .....	10
<b>Figure 7</b> Orange LEP 2011 Drinking Water Catchment Map .....	11
<b>Figure 8</b> Orange LEP 2011 Terrestrial Biodiversity Map .....	12
<b>Figure 9</b> Groundwater Vulnerability Map .....	13
<b>Figure 10</b> Witton Place Candidate Area .....	36
<b>Figure 11</b> Biodiversity Analysis.....	49
<b>Figure 12</b> Hydrology Analysis .....	50
<b>Figure 13</b> Bush Fire Analysis.....	51
<b>Figure 14</b> AHIMS Results .....	54
<b>Figure 15</b> Acoustic treatment analysis.....	58
<b>Figure 16</b> Historic aerial photo of Site from 2/01/1964 (NSW Portal). .....	59
<b>Figure 17</b> Geology and BSAL Analysis .....	60
<b>Figure 18</b> Common Ground Results.....	61
<b>Figure 19</b> Scenic and Visual Analysis.....	62
<b>Figure 20</b> Social Infrastructure Analysis.....	64
<b>Figure 21</b> Land Use Zone .....	66
<b>Figure 22</b> Minimum Lot Size.....	67
<b>Figure 23</b> Urban Release Area.....	67
<b>Figure 24</b> Environmentally Sensitive Land.....	68
<b>Figure 25</b> Buffer Area .....	68

# List of Tables

<i>Table 1 Central West and Orana Regional Plan 2041 .....</i>	<i>22</i>
<i>Table 2 Orange Local Strategy Planning Statement .....</i>	<i>34</i>
<i>Table 3 Orange Local Housing Strategy .....</i>	<i>37</i>
<i>Table 4 State Environmental Planning Policies .....</i>	<i>40</i>
<i>Table 5 Section 9.1 Directions .....</i>	<i>42</i>
<i>Table 6 Project Timeline .....</i>	<i>71</i>

# 1 Introduction

## 1.1 Overview

This revised Planning Proposal has been prepared by Orange City Council. The proposal seeks to amend Planning Proposal PP-2023-934, which is subject to an existing Gateway Determination issued by the NSW Department of Planning, Housing and Infrastructure (DPHI) on 1 August 2024.

PP-2023-934 applies to land known as “Stage 1” of the Witton Place Candidate Area. The Witton Place Candidate Area is one of several greenfield precincts identified by the Orange Local Housing Strategy (adopted 7 June 2022) as being suitable for investigation for rezoning and associated residential development. Under the Orange Local Housing Strategy, the Witton Place Candidate Area is identified as a critical site for meeting the City of Orange’s long term housing needs. It is anticipated that, subject to future rezoning and detailed site suitability assessment, the candidate area as a whole will yield around 300 new dwellings along with associated public open space, amenities and community infrastructure.

The Stage 1 site comprises Lot A DP408148 (known as No. 277 Cargo Road) and has an area of 10.99 hectares. PP-2023-934 broadly seeks to make changes to the Orange Local Environmental Plan (LEP) 2011 in order to facilitate development of the Stage 1 site for low density residential development.

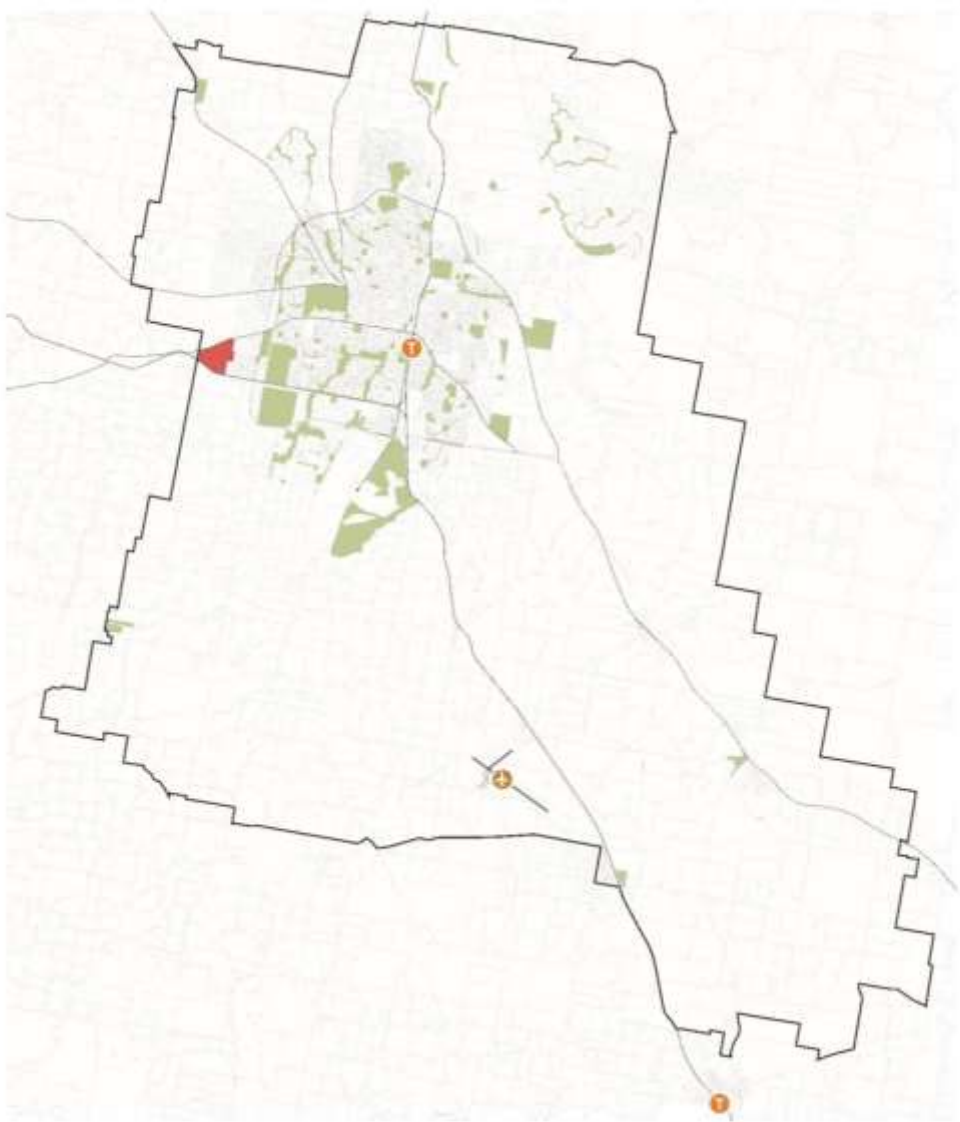
This revised Planning Proposal seeks to amend the previously submitted proposal by:

1. Removing changes to the “Drinking Water Catchment” status of the land as previously proposed (in response to matters raised in consultation with Cabonne Council and in DPHI’s Gateway Determination).
2. Further diversifying the land use zoning and minimum lot sizes proposed to better reflect site conditions and more closely align with the housing priorities of the Orange Local Housing Strategy, in particular Housing Priority 2 (‘Increase housing supply and diversity to meet the population’s needs’), Housing Priority 4 (‘Support the supply of affordable housing’) and Housing Priority 5 (‘Facilitate and guide housing design, creativity and innovation’).
3. Ensuring the proposal and its supporting technical material better reflects the Orange Local Housing Strategy’s requirement for candidate areas to be subject to comprehensive urban design analysis and associated concept planning prior to rezoning.
4. Responding to housing and neighbourhood design opportunities resulting from more detailed urban design analysis and concept planning undertaken the Candidate Area as a whole (Appendix A), including the identification of strategic opportunities for improved housing diversity and better place making within the Stage 1 site.
5. In combination with the above, refining the proposed quantity and layout of public recreation land proposed within the Stage 1 site to reflect a more holistic and strategic approach to the prioritisation of public open space investment within the Witton Place Candidate Area as a whole. This includes the removal of the RE1 Public Recreation land, and the dedication of open space as per the Structure Plan through a Planning Agreement.

Revised Planning Proposal (PP-2023-934)

1

The revised Planning Proposal has been prepared by Orange City Council in consultation with the developer, Landorange Partnership. Where relevant, additional technical advice relating to traffic management and site servicing is provided to supplement the technical studies previously submitted in support of the original Planning Proposal.



**Figure 1** Site location



## 1.2 The proposal to date

An initial Planning Proposal to amend the Orange LEP 2011 in relation to Stage 1 was prepared by Landorange Partnership and was submitted for consideration on 5 May 2023. At its meeting of 5 September 2023, Council's Planning and Development Committee resolved to support the referral of the proposal to DPHI for Gateway review. A Gateway determination supporting the progress of the proposal was subsequently issued by DPHI on 1 August 2024.

In its Gateway Determination DPHI raised, among other things, the need to consult with Cabonne Council regarding the proposed removal of the Stage 1 site from the OLEP 2011's Drinking Water Catchment Map due to the land's location within the Molong Dam catchment. Council's consultation with Cabonne Council has confirmed its opposition to any change in the Drinking Water Catchment status of the land. The change in status is also considered to be inconsistent with Orange City Council's general approach to development control for land located within drinking water catchments. In order to ensure the Planning Proposal clearly aligns with Council's preferred approach to the management of drinking water catchment assets, and to avoid unnecessary confusion regarding this, it is considered desirable to remove this aspect of the proposal prior to public exhibition.

In addition, Council staff have undertaken more detailed urban design analysis and concept planning for the Candidate Area to ensure the proposal more satisfactorily meets the requirements of the Orange Local Housing Strategy. An urban design study and preliminary concept plan are attached to the revised proposal as Appendix A. This process has, among other things, identified strategic opportunities for greater housing diversity and better neighbourhood planning within the Stage 1 site that will enable development to better align with the housing priorities of the Orange Local Housing Strategy. In this regard, the revised proposal seeks to vary the original proposal by applying a combination of R2 Low Density Residential and R1 General Residential zones in order to facilitate a limited mix of smaller lot housing types located in proximity to proposed new public open space. This is to be supported by amendments to the street, open space and block arrangements shown in the previously submitted concept layout plan in order to foster a more permeable street and green space grid that is significantly more supportive of a sustainable, walkable neighbourhood form for the candidate area as a whole.

The amended Planning Proposal is supported by an updated Urban Design Study, Transport Assessment Addendum and Water and Sewer Strategy Addendum.



## 1.3 Gateway Determination

A Gateway Determination was issued on 1 August 2024. By amending the Planning Proposal, it is considered that the following conditions have been satisfied:

1. *Prior to public exhibition, the planning proposal is to be updated to:*
  - *Reference correct zone name - C3 Environmental Management. All references and mapping referencing 'E3' are to be removed.*
  - *Reference current adopted minimum lot size mapping. All mapping showing blue outline and all references to 'Area 1' are to be removed and all applicable map references are to be updated from 'V' to 'V1'.*
2. *Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:*
  - *Cabonne Shire Council (regarding the drinking water catchment matters)*

Council had initial discussions in May 2024 with the DPHI to discuss concerns in relation to the request to remove the drinking water catchment overlay. Cabonne Council's, Development Team Leader confirmed that the request should be removed from the Planning Proposal. Further consultation was conditioned through the Gateway Determination issued to Council.

Council has engaged with the Deputy General Manager (DGM Cabonne Services) (October 2024) to obtain advice in relation to the previous Proposals request to remove the drinking water catchment overlay. It has been confirmed that the removal of the overlay is not appropriate given the environmental considerations required to be addressed through future applications. The amended Planning Proposal has been updated to reflect this advice.

## 1.4 Amendments Proposed

This Planning Proposal (Proposal) seeks to amend the planning controls in Orange Local Environmental Plan 2011 for the site to enable an urban residential subdivision. The Proposal seeks to:

- **Land Use Zoning (LZN)** - Amend existing mix of Zone RU1 Primary Production and Zone C3 Environmental Management to include an urban residential zones, **R1 General Residential** and **R2 Low Density Residential**. Remove the originally proposed RE1 Public Recreation zoned land, as the associated Planning Agreement ensures the provision of open space in accordance with the Structure Plan.
- **Lot Size (LSZ)** – Amend existing lot size of 100ha to **1,500m<sup>2</sup>** for lots corresponding to the R2 Low Density Residential zone, and **remove** the lot size requirements for the proposed R1 General Residential Zone;

- **Urban Release Area (URA)** – Add URA overlay to the site to trigger the requirements of Part 6 of the LEP in relation to a site-specific Development Control Plan and for the purpose of mapping the site as a Bush Fire Planning - Urban Release Area;
- **Terrestrial Biodiversity Map** — Remove biodiversity overlay over the pine trees in the centre of the site (and overlapping into adjacent site being Lot 4 DP1099080).
- **Buffer Area** – Add a buffer area to the R1 General Residential zone to exclude sensitive locations from the Complying Development provisions to ensure development is consistent with the desired future character for the site.

## 1.5 Proponent

The proponent is Landorange Partnership Pty Ltd and the revised Planning Proposal has been prepared by Orange City Council

## 1.6 Supporting Documents

The following reports/plans are provided to support this Planning Proposal:

- **Urban Design Study** – Orange City Council (October 2024)
- **Concept Sewer Servicing Strategy** – Heath Consulting (13 December 2023)
- **Concept Sewer Servicing Strategy Addendum** – Orange City Council and Heath Consulting (25 September 2024)
- **Strategic Bushfire Assessment** – Barson/Envirowest Consulting (30 May 2024)
- **Transport Assessment**– ARC traffic + transport (11 November 2023)
- **Transport Assessment Addendum** - Orange City Council and ARC traffic + transport (1 October 2024)
- **Preliminary Flora and Fauna Assessment**– Envirowest Consulting (29 March 2023)
- **Preliminary Contamination Investigation** – Envirowest Consulting (14 April 2023)
- **Traffic Noise Assessment**– Acoustik (27 April 2023)
- **Conceptual (Cargo Road) Intersection Layout** – Heath Consulting (September 2023)
- **Draft Planning Agreement (PA)** – prepared by Messenger Cole Solicitors (October 2024)

## 2 The Proposal

### 2.1 Site Context

Orange is an established Regional City located within the Central West approximately a 257km drive west of Sydney. With an estimated population of 44,244 (Profile.Id, 2023) and projected population growth of 10,800 people between 2016 and 2041, representing an increase of 26%, there is a growing need to ensure that future housing development utilises land in an efficient and effective manner, while supporting the community's vision and values for a growing City (OLHS, 2022). This growth is contingent on protecting the aspects that make Orange special and a desirable place to live; the amenity, rural setting, open spaces, great outdoors, food, wine, natural environment, Gaanha Bula (Mount Canobolas), vistas and heritage.

The Stage 1 site (the site) is located on the western fringe of the City and forms the entry into Orange from Canowindra, Cowra and beyond. The site is located adjacent the southern-most portion of the Ploughman's Valley residential area and is approximately 4km from the Orange Central Business District.



Figure 2 Site context



The site is bound by Cargo Road to the north, the Sydney to Broken Hill railway line to the south and south-west and Neals Lane (the Orange Local Government Area boundary) to the west. The site interfaces large lot residential lots to the east that are located on the ridgeline. Historically, the area is known for apple orcharding and agricultural use including pasture improvement and livestock grazing.

The Witton Place Candidate Area is nominated in Council's OLHS for short term development (0-5 years) as low density residential and large lot residential, subject to a site-specific Structure Plan. The site is 10.99 hectares in size and is the first Planning Proposals to be lodged with Orange City Council.



Figure 3 The site

## 2.2 Statutory Planning Framework

### 2.2.1 State Legislation Overlays

#### Asbestos (NOA)

The site is mapped as having a low potential for naturally occurring asbestos.

#### Biophysical Strategic Agricultural Land

The site is identified as Biophysical Strategic Agricultural Land (BSAL) land.



Figure 4 BSAL Map



2.2.2 Orange Local Environmental Plan 2011

Land Use Zone

The site is partly zoned as C3 Environmental Management and RU1 Primary Production. The C3 Zone corresponds to the Drinking Water Catchment (see below). Zone SP2 Infrastructure covers the Cargo Road corridor to the north and the Broken Hill rail corridor to the south of the site.



Figure 5 Orange LEP 2011 Land Use Zone Map

Lot Size

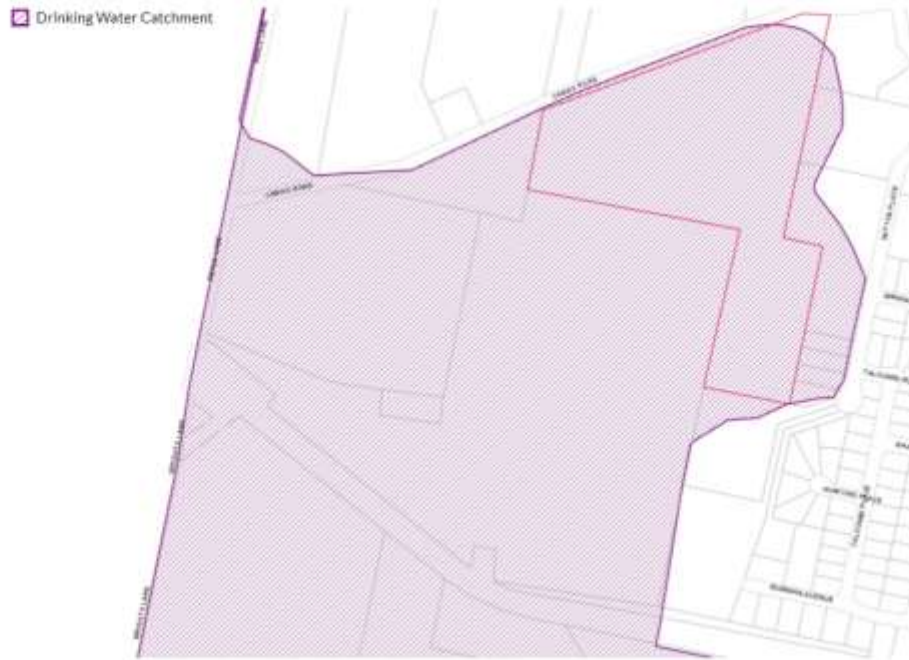
The site has a Minimum Lot Size (MLS) of 100 ha. The adjacent land to the east has an MLS of 1,500 m<sup>2</sup> dropping to MLS of 850m<sup>2</sup> east of Witton Place.



Figure 6 Orange LEP 2011 Minimum Lot Size Map

### Drinking Water Catchment

The site is identified as the Molong Dam Drinking Water Catchment.



**Figure 7** Orange LEP 2011 Drinking Water Catchment Map

## Terrestrial Biodiversity

The site contains mapped area of high biodiversity sensitivity.



**Figure 8** Orange LEP 2011 Terrestrial Biodiversity Map

**Groundwater Vulnerability**

The entire site is in a groundwater vulnerability area.



**Figure 9** Groundwater Vulnerability Map

**Bush Fire Prone Land**

The site is identified as Bush Fire Prone Land in the draft Bush Fire Prone Land map, currently with the RFS Commissioner for certification.

**Built Form and Heritage**

The site is not subject to built form controls or heritage controls under the Orange LEP 2011.



## 2.3 Witton Place Structure Plan

A Structure Plan for the site has been prepared and is contained within the Urban Design Study. The Structure Plan outlines a framework for which future Planning Proposal's and Development Applications can be considered for the site. The site will cater to diversity of lot sizes, housing typologies and a high provision of open space that responds to the site-specific environmental and scenic opportunities and constraints.

The site has an area of 10.99 hectares which will cater to approximately 100 lots. A variety of lot sizes can be supported across the site to promote diversity in housing and meet a variety of housing demands in accordance with the OLHS. Larger lots (1,500m<sup>2</sup>) are proposed along Cargo Road with sufficient lot depths to allow for future dwellings to have adequate setbacks from Cargo Road to minimise road impacts.

### 3 Planning Proposal

The Planning Proposal has been prepared in accordance with the Local Environmental Plan Making Guideline (NSW Government, August 2023), as it is structured as follows:

- Part 1 – Objectives and intended outcomes – a statement of the objectives of the proposed LEP.
- Part 2 – Explanation of provisions – an explanation of the provisions that are to be included in the proposed LEP.
- Part 3 – Justification of strategic and site-specific merit – justification of strategic and potential site-specific merit, outcomes, and the process for implementation.
- Part 4 – Maps – maps, where relevant, to identify the effect of the planning proposal and the area to which it applies.
- Part 5 – Community consultation – details of the community consultation that is to be undertaken on the planning proposal.
- Part 6 – Project timeline – project timeline to detail the anticipated timeframe for the LEP making process in accordance with the benchmarks in this guideline

## 3.1 Part 1 – Objectives and Intended Outcomes

### Objective(s)

The objective of the Proposal is to amend the key planning controls in *Orange Local Environmental Plan 2011* (OLEP 2011) to enable the development of the subject site for urban residential use including an urban release overlay and suitable zoning and lot size for standard urban residential subdivision and removal of biodiversity overlays. The Proposal seeks to exclude the site from Complying Development to ensure that the site develops consistent with the desired future character of the area, given its scenic qualities.

### Intended Outcome(s)

The intended outcomes of the Planning Proposal are:

- (a) Rezone the land to facilitate residential development, and associated open space,
- (b) Identify the site as an urban release area,
- (c) Remove any inconsistencies in mapped biodiversity sites in accordance with the studies prepared for this proposal,
- (d) Ensure any future development is consistent with the desired future character of the area.

3.2    Part 2 – Explanation of Provisions

The Proposal seeks to amend the OLEP 2011 to facilitate the following:

Rezone the land from part RU1 Primary Production, part Zone C3 Environmental Management to part R1 General Residential and art R2 Low Density Residential.



Amend the Minimum Lot Size from 100 hectares to 1,500m<sup>2</sup> for lots corresponding to the R2 Low Density Residential Zone, no MLS is proposed for the remainder of the site.



Add Urban Release Area (URA) overlay on a new map tile, so that Part 6 of the LEP will apply to the land. Clause 6.3 requires a site-specific Development Control Plan (DCP) to be prepared for the site before development consent can be granted for development of the land. In addition, this will allow for the site to be identified as a Bush Fire Planning - Urban Release Area.



Remove the Terrestrial Biodiversity map overlay on in relation to the Stage 1 site and adjoining parcel (Lot 4 DP1099080) in accordance with the Flora and Fauna Assessment as there is limited/if any biodiversity value.



Add clause to Part 7 Additional Local Provisions to include the R1 General Residential zone as a buffer area and include a new map tile in the Buffer Zone Map. This will exclude the site from allowing Complying Development to occur, given its high value scenic qualities (as the entry into the City) and



location within the Molong Dam drinking water catchment. This also ensures that high quality-built form outcomes will arise consistent with the intent of the Structure Plan and site specific DCP given the unique design aspects of the site and the presentation of built form to the open space corridors. This will ensure any Development Applications lodged for the site comply with the site specific DCP controls in relation to the abovementioned considerations.



The intent of the clause would be consistent with Clause 7.15 Development in Shiralee Hilltop Park Buffer Area of the Orange Local Environmental Plan 2011.

### 3.3 Part 3 – Justification of Strategic and Site-Specific Merit

The Proposal has been assessed against the following Council Strategies, Policies and Guidelines, and the State Environmental Planning Policies and Ministerial Directions to demonstrate strategic alignment:

- Central West and Orana Regional Plan 2041 (NSW Government, 2022)
- Draft Blayney Cabonne Orange Sub-Regional Rural and Industrial Lands Strategy 2019 (Blayney Shire Council, Cabonne Shire Council and Orange City Council)
- Orange Community Strategic Plan 2022-2032 (Orange City Council)
- Orange Local Strategic Planning Statement (Orange City Council, 2020)
- Orange Local Housing Strategy (Orange City Council, 2022)
- State Environmental Planning Policies, and
- Ministerial Directions.

#### Section A – Need for the Planning Proposal

*1. Is the planning proposal a result of an endorsed LSPS, strategic study or report?*

The Orange Local Housing Strategy identifies:

- (a) opportunities on existing undeveloped residentially zoned land (urban land release areas, areas for infill development and easily serviced areas),
- (b) opportunities on future residential land,
- (c) candidate areas for future housing, and
- (d) land for investigation as candidate sites for new housing.

The site has been identified as part of a Candidate Area – short term (0-5 years). The Housing Strategy identifies that a Planning Proposal will be required to rezone and change the applicable planning provisions to accommodate future development of the Candidate Areas.

*2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The Proposal is required to align the current OLEP 2011 zones and development standards with the identified objectives and outcomes of the OLHS and Structure Plan for the site. A site-specific Planning Proposal to amend the land use zones and development standards will facilitate the planned redevelopment of the site as a residential precinct.

**SECTION B – RELATIONSHIP TO THE STRATEGIC PLANNING FRAMEWORK**

*3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?*

Central West and Orana Regional Plan 2041

The *Central West and Orana Regional Plan 2041* was endorsed in December 2022 and envisioned the region to be healthy, connected and resilient, with a prosperous economy that is home to more than 325,000 people. Orange is one of the three regional cities in the region and services a broad population catchment. The amended proposal demonstrates consistency with the key objectives and strategies outlined in the Regional Plan, as summarised:

- Creating connected and healthy communities, by linking into existing infrastructure,
- Planning for resilient communities, through the design of the public domain by providing green infrastructure,
- Securing resilient region water resources, by minimising impact on water catchments through careful site design,
- Ensuring the site design is responsive to the scenic landscape and protects important views into and from the site,
- Providing well located housing that responds to future demand and population needs, and
- Providing diverse housing that improves the provision of housing affordability.

The Planning Proposal is consistent with the relevant objectives and strategies of the *Central West and Orana Regional Plan 2041* as demonstrated in Table 1.

**Table 1** Central West and Orana Regional Plan 2041

Objective	Strategy	Consistency
<i>Part 1 – Region-shaping investment</i>		
1. Deliver the Parkes Special Activation Precinct and share its benefits across the region		<p>The Regional Plan recognises that Orange is within 90 minutes drive of Parkes and there will be flow-on growth effects from the Parkes SAP/Inland Rail.</p> <p>The Proposal seeks to provide a diverse range of lot sizes and housing options to cater for the future house demand and demographic projections for the City.</p> <p><b>The proposal is consistent with the relevant direction.</b></p>
2. Support the State's transition to Net Zero by 2050 and deliver the Central-West Orana Renewable Energy Zone	<p>2.1 To prepare for the transition to Net Zero strategic and statutory planning should:</p> <ul style="list-style-type: none"> <li>provide measures that will increase the energy efficiency of new and renovated buildings and subdivisions</li> </ul>	<p>The Proposal is supported by Urban Design Study and Structure Plan layout that responds to the sites environmental constraints providing for energy efficiency, layout and design that enhances sustainability of the precinct and the sustainable use of land.</p> <p><b>The proposal is consistent with the relevant objective and strategy.</b></p>
3. Sustainably manage extractive resource land and growth the critical mineral sector		<p>The site is outside the mapped/ known Mineral Resource Potential areas or buffer to existing extractive industries and largely outside the area with existing exploration licences due to proximity to the urban area of Orange. There is low chance of any impact.</p>

Objective	Strategy	Consistency
<b>The proposal is consistent with the relevant objective and strategy.</b>		
<i>Part 2 – A sustainable and resilient place</i>		
5. Identify, protect and connect important environmental assets	<p>5.2 Respond to biodiversity values when planning for new residential and employment development by:</p> <ul style="list-style-type: none"> <li>identifying opportunities to integrate biodiversity values into new development</li> <li>using buffers to separate or manage incompatible land uses</li> <li>identifying HEV land at planning proposal stage through site investigation</li> </ul> <p>5.3 Create biodiversity corridors, including riparian corridors, through strategic planning and in LEPs by:</p> <ul style="list-style-type: none"> <li>identifying a biodiversity corridor network</li> <li>preparing and validating biodiversity corridor mapping</li> <li>reviewing land zonings on land where there are opportunities to protect high priority corridor areas</li> <li>reserving links between areas of projected climate refugia.</li> </ul>	<p>The site is not identified as HEV land. The Preliminary Flora and Fauna Assessment for the site has noted that there are limited sites of native flora/fauna and has confirmed that the Pine Plantation has limited, if any biodiversity value.</p> <p>The Proposal is supported by an Urban Design Study and Structure Plan, designed through a landscape-led approach, which has identified any environmental assets on the site. An opportunities and constraints analysis has informed the layout so that environmental assets are protected by being included in open space corridors limiting the impact of any future development on these assets.</p> <p><b>The proposal is consistent with the relevant objective and strategy.</b></p>
6. Support connected and healthy communities	<p>6.1 Undertake public space needs analyses and develop public space strategies by:</p> <ul style="list-style-type: none"> <li>exploring new public space opportunities and green infrastructure in accordance with the Government Architect NSW's Greener Places and Better Placed, Designing with</li> </ul>	<p>The subject site is located within 1 km walking distance of two local parks 1.5 hectares in size. One of which includes a small play space. The site is also located within 800m walking distance of a district park being the Ploughman Valley Wetlands.</p>



Objective	Strategy	Consistency
	<p>Country discussion paper, the Streets as Shared Spaces program and Everyone Can Play</p> <ul style="list-style-type: none"> <li>considering the needs of future and changing populations</li> <li>understand and manage potential noise impacts of play areas on existing and proposed surrounding residential areas</li> <li>identifying opportunities to: <ul style="list-style-type: none"> <li>prioritise new and improved quality public space to areas of most need</li> <li>Incorporate natural drainage features within public spaces and linking them with green infrastructure networks</li> <li>improve walking and cycling connections to public space and preparing Active Transport Plans, where appropriate</li> </ul> </li> </ul> <p>1.2 Strategic planning and local plans should consider opportunities to:</p> <ul style="list-style-type: none"> <li>ensure new residential areas provide sufficient public and open space and link to existing pedestrian and cycle networks</li> <li>demonstrate how the quantity of, and access to, high quality and diverse existing public space is maintained, embellished and improved.</li> </ul>	<p>The Proposal includes a small parcel of open space which is suitably sited on flat land to allow for a play space and any required amenities, accessible to all residents. This ensures suitable recreation opportunities for residents if subsequent Planning Proposals within the Witton Place Candidate Area do not proceed.</p> <p>The open space layout has been informed by the Urban Design Study, which is consistent with the Government Architect's Guidelines, Everyone Can Play and Orange City Council's Play Strategy 2024.</p> <p>The Proposal is supported by a Planning Agreement for the dedication of open space to Council.</p> <p><b>The proposal is consistent with the relevant objective and strategy.</b></p>
7. Plan for resilient places and communities	Strategy 7.1 Reducing the level of vulnerability and risk for communities will involve early consideration of natural hazards	The subject site and broader Candidate Area are identified on the draft Bush Fire Prone Land map. There is a small

Objective	Strategy	Consistency
	<p>and avoidance and mitigation for both existing and new development areas. To achieve this strategic and local planning must:</p> <ul style="list-style-type: none"> <li>ensure consistency with the applicable NSW policy, manual and/or guidelines</li> <li>take a risk-based-approach that uses best available science in consultation with the NSW Government, emergency service providers, local emergency management committees and bush fire risk management committees</li> <li>locate development away from areas of known high bushfire, salinity and flooding risk</li> <li>ensure that mapping that identifies hazard affected areas, including bushfire and flooding, is kept up to date and used in decision-making.</li> </ul>	<p>portion of Category 1 Vegetation (the Pine Plantation) and Category 3 Grasslands. Secondary access to the site is capable of being provided for firefighting purposes off Cargo Road, subject to further consultation with the relevant agencies.</p> <p>The minimum Asset Protection Zone (APZ) applicable to the site is 25 metres for land adjoining the Pine Plantation, and 11 metres for land adjoining the grasslands. Residential land to the east and south-east is managed land.</p> <p>Council staff have advised that the removal of the Pine Plantation does not require approval. Removal of the Pine Plantation will reduce the APZ back to 11 metres for all southern boundaries of the site. Suitable re-planting of vegetation will be required in accordance with a landscape plan as agreed under the Planning Agreement.</p>
	<p>1.3 Strategic planning and waste management strategies should align with the NSW Waste and Sustainable Materials Strategy 2041 and the NSW Waste and Sustainable Materials Strategy: A guide to future infrastructure needs when planning for waste and resource recovery</p>	<p>Any Development Applications for the subject site will be assessed according to Planning for Bush Fire Protection 2019 and will be reviewed by Rural Fire Service under Section 100B of the Rural Fires Act 1979.</p>
	<p>1.4 Strategic planning and local plans should encourage:</p> <ul style="list-style-type: none"> <li>energy efficient building design and practices that</li> </ul>	<p>Council is preparing a site-specific Development Control Plan for the site that will align with the NSW Waste and Sustainable Materials Strategy</p>

Objective	Strategy	Consistency
	respond to the natural environment	2041 and the NSW Waste and Sustainable Materials Strategy: A guide to future infrastructure needs when planning for waste and resource recovery.  <b>The proposal is consistent with the relevant objective and strategy.</b>
8. Secure resilient regional water resources	<p>8.1 Strategic water and land use planning, at the regional and local scale, must consider opportunities to:</p> <ul style="list-style-type: none"> <li>improve the reliability, quality and security of the region's water supply by considering the impact of the following on water security: <ul style="list-style-type: none"> <li>climate variability and change</li> <li>planned future growth</li> <li>integrated water cycle management and water sensitive urban design</li> <li>the needs of the natural environment</li> </ul> </li> <li>locate, design, construct and manage new developments to minimise impacts on water catchments, including downstream impacts and groundwater resources</li> <li>improve provision for stormwater management and the application of green infrastructure</li> <li>identify and consider surface and groundwater</li> </ul>	<p>The subject site and Candidate Area is identified as groundwater vulnerable through the Orange Local Environmental Plan 2011 and has been identified at a minimum depth of 8 metres on the site. Any future development of the land will be required to address any direct or indirect impacts.</p> <p>The site contains a headwater flow path, known as a first order stream under the Strahler stream ordering system. This stream forms part of the mid-Macquarie tributaries.</p> <p>The subject site and broader Candidate Area are located within Molong Drinking Water Catchment. The Cabonne Settlement Strategy (2021) notes that development within the Catchment should be minimised unless high levels of water management demonstrate that impacts can be avoided or mitigated.</p> <p>Basins/Wetlands for storage and treatment will be provided within the open space network and in accordance with the Structure Plan and Water and Sewer Servicing Strategy to</p>

Objective	Strategy	Consistency
	<p>drinking water catchments and storages.</p> <ul style="list-style-type: none"> <li>limit land uses that can harm surface and groundwater quality or lead to its overuse</li> <li>consider water needs and sources early in planning and development processes.</li> </ul>	<p>ensure water quality maintained/improved.</p> <p><b>The proposal is consistent with the relevant objective and strategy.</b></p>
9. Ensure site selection and design embraces and respects the region's landscapes, character and cultural heritage	<p>9.1 Strategic and local planning will strengthen the amenity in centres across the region by:</p> <ul style="list-style-type: none"> <li>identifying and protecting scenic and cultural landscapes</li> <li>providing guidance for new development to ensure that views of scenic and cultural landscapes, particularly views from the public realm, are protected</li> <li>elevating the importance of design quality and design excellence</li> </ul> <p>1.5 Use strategic planning and local plans to recognise and enhance local character including through local character statements in local plans that accord with the NSW Government's Local Character and Place Guideline</p> <p>1.6 Use strategic planning and local plans to consider opportunities to apply the seven urban design strategies for regional NSW when planning for:</p> <ul style="list-style-type: none"> <li>public space in centres, including main streets</li> </ul>	<p>The site is located on the western entry into the City, which is currently characterised by planted rows of fruit, cedar and oak trees, which provide a buffer from viewing into and across the site.</p> <p>The site is identified as a Scenic Protection Zone under Council's Development Control Plan due to the height and scenic rural surrounds of the site.</p> <p>Currently, larger lots present along the ridgeline of Witton Place creating a visual buffer to any development that occurs to the west.</p> <p>Key views into the site are located at Neals Lane and from Witton Place and Bowan Avenue. Significant views to Gaanha Bula (Mount Canobolas) are located within the site, which is a key component of Orange's first nations cultural landscape.</p> <p>The Structure Plan accounts for the scenic qualities of the site and proposes a carefully considered layout. In addition to this, Council has requested the site be identified as a Buffer</p>



Objective	Strategy	Consistency
	<ul style="list-style-type: none"> <li>development in both existing and new neighbourhoods</li> </ul>	<p>Area within the OLEP 2011 to ensure that development quality is commensurate with the scenic values.</p> <p><b>The proposal is consistent with the relevant objective and strategy.</b></p>
<i>Part 3 – People, centres, housing and communities</i>		
11. Strengthen Bathurst, Dubbo and Orange as innovative and progressive regional cities		<p>The Proposal has resulted from the identification of the subject site within the OLHS. The OLHS has reviewed key drivers of population change and determined appropriate locations for growth.</p> <p>The Proposal provides a short-term growth area for urban residential uses within 4 km of the CBD and is well suited to meet local demand.</p> <p><b>The proposal is consistent with the relevant objective.</b></p>
12. Sustain a network of healthy and prosperous centres	<p>11.1 Use economic development and local housing strategies to reinforce the regional scale functions of each regional city by:</p> <ul style="list-style-type: none"> <li>ensuring there is sufficient capacity to meet ongoing housing and employment needs.</li> </ul>	<p>The Orange Local Government Area has limited greenfield land that is viable in supporting the growth of the City, and the sustainable use of greenfield land.</p>
13. Provide well located housing options to meet demand	<p>13.1 To ensure an adequate and timely supply of housing, in the right locations, strategic and local planning should:</p> <ul style="list-style-type: none"> <li>respond to environmental, employment and investment considerations, and population dynamics</li> </ul>	<p>With an estimated population of 44,244 (Profile.Id, 2023) and projected population growth of 10,800 people between 2016 and 2041, representing an increase of 26%, there is a growing need to ensure that future housing development</p>



Objective	Strategy	Consistency
	<p>when identifying new housing opportunities</p> <ul style="list-style-type: none"> <li>consider how proposed release areas could interact with longer term residential precincts</li> <li>provide new housing capacity where it can use existing infrastructure capacity or support the timely delivery of new infrastructure.</li> <li>Identify a pipeline of housing supply that meets community needs and provides appropriate opportunities for growth.</li> </ul>	<p>utilises land in an efficient and effective manner. The Witton Place Candidate Area is a critical piece of land in achieving the LGAs housing targets.</p> <p>The identification of the site within the OLHS was due to the Candidates Area proximity to existing residential land uses, the CBD and the ability to service the land.</p> <p>The yield resulting from the Structure Plan layout is approximately 100 lots for the subject site.</p>
	<p>13.3 Use strategic planning and local plans to facilitate a diversity of housing in urban areas by:</p> <ul style="list-style-type: none"> <li>creating flexible and feasible planning controls, including a greater mix of housing in new release areas</li> <li>aligning infrastructure and service provision to housing supply needs</li> </ul>	<p>The OLHS identified the Candidate Area as a short term site (0-5 years) with a potential yield of 8/ha equating to 280 lots within low density, rural residential zones. The yield identified in the strategy was estimated based on high-level constraints analysis across all Candidate Areas within the Local Government Area and provides a basis for ongoing infrastructure planning.</p>
14. Plan for diverse, affordable, resilient and inclusive housing	<p>14.1 To improve housing diversity, strategic and local planning should:</p> <ul style="list-style-type: none"> <li>allow a diversity of housing, including affordable housing, student housing, shop top housing, more dense housing types and housing choices for seniors close to existing services, and on land free from hazards</li> <li>improve certainty of development outcomes</li> </ul>	<p>These estimates are to be tested against an urban design analysis of the site to determine the highest and best use of the land. The projected yield resulting from the Structure Plan layout across the whole Candidate Area may not vary significantly from the overall</p>

Objective	Strategy	Consistency
	and streamline development processes.	yield identified in the OHLS due to larger lot required to maintain the entry into the city and as buffers from the railway line, in addition to a significant amount of open space required to manage potential scenic impacts, and potential impacts of the watercourses through the site.
14.2 Plan for a range of sustainable housing choices in strategic planning and local plans including:	<ul style="list-style-type: none"> <li>a diversity of housing types and lot sizes, through appropriate development standards, including minimum lot sizes, minimum frontage and floor space ratio</li> <li>housing that is more appropriate for seniors, including low-care accommodation</li> <li>considering development incentives or reduced contributions to boost construction of secondary dwellings</li> <li>innovative solutions for older people, multigeneration families, group housing, people with special needs or people from different cultural backgrounds</li> <li>sustainable housing solutions that can reduce costs and environmental impacts of household operations.</li> </ul>	<p>The OLHS identifies that 86% of housing stock in the Orange Local Government Area is single freestanding dwellings. Households made up of either couples with no children or lone person households are expected to increase from 53% (2016) to 59% (2041). The number of households with children is expected to decrease from 41% (2016) to 37% (2041). This demonstrated an increase demand for the delivery of smaller dwellings and a greater need for housing diversity within the City. Housing diversity is also identified with the OLHS as a critical component in influencing housing affordability.</p> <p>The Proposal has been amended to include the R1 General Residential zone and remove the minimum lots size for this zone. This is supported by the site-specific Structure Plan which identifies the capability of the site to cater for an increased yield and provide flexibility for a greater mix of lot</p>

Objective	Strategy	Consistency
		sizes and housing types within the site. This aligns with the projected population growth and demographic analysis within the OLHS.
		<b>The proposal is consistent with the relevant objective and strategy.</b>
<i>Part 4 – Prosperity, productivity and innovation</i>		
19. Protect agricultural production values and promote agricultural innovation, sustainability and value-add opportunities.	19.1 Use strategic planning and local plans to: <ul style="list-style-type: none"> <li>• identify and enable emerging opportunities for higher-value agriculture, including agriculture innovation and value-add opportunities such as on-farm processing that includes provisions for intensification of industry, farm gate sales and small-scale value adding manufacturing that advantages the differentiation of the local produce</li> <li>• protect agricultural land and industries from land use conflicts and fragmentation</li> <li>• maintain and protect agricultural land and industries from land use conflicts and fragmentation, especially those lands identified as Class 1-3 using the NSW land and capability mapping, biophysical</li> </ul>	<p>Historically, the area is known for apple orcharding and agricultural use including pasture improvement and livestock grazing. However, the area otherwise known as Ploughmans Valley has been highly fragmented through historic subdivision and the creation of concessional allotments, and rural residential subdivision.</p> <p>The Candidate Area contains 5 lots of varying sizes up to a maximum of 21 hectares. The site is subject to a minimum lot size of 100 hectares, with the provision for lots equal to or greater than 25 hectares can be approved for the purposes intensive plant agriculture under clause 4.2B of the OLEP 2011.</p> <p>The Candidate Area is enclosed/isolated by the rail line/Cargo Road/Neals Lane and urban development to the east such that it is unlikely to have</p>

Objective	Strategy	Consistency
	strategic agricultural land, those currently developed for irrigation, or other special use lands that support specialised agricultural industries	sufficient area for or be able to sustain intensive agriculture due to current ownership patterns and land use conflict. There is little potential for the Site to consolidate with adjacent farmland to create a viable farm size.
	19.2 Strategic and local planning should maintain and protect the productive capacity of agricultural land in the region.	Due to the above-mentioned constraints the site no longer presents an opportunity for viable primary production purposes.
	19.3 Use strategic and local planning to consider the quality of the land for agriculture and the scarcity of productive agricultural land in the region when making decisions regarding: <ul style="list-style-type: none"> <li>the permissibility of compatible non-agricultural land uses in rural zones, without compromising agricultural production</li> <li>minimum lot sizes, standards for dwellings and limiting land fragmentation</li> <li>farm boundary adjustments and subdivisions to create a lot for primary production</li> <li>identifying suitable areas for smaller agricultural holdings for activities such as horticulture, whether these areas are suitable for inclusion in the primary production small lot zone, and ensure they are not developed for rural residential use.</li> </ul>	<p>The subject site and Candidate Area is located within the Towac Soil Landscape. Soil in the landscape is located on undulating to rolling low hills. The soil is derived from the ancient volcanic complex of Gaanha Bula (Mount Canobolas) and basalt flows which have been separated by layers of volcanic ash. Basalts are alkaline olivines, with trachytes and come shales and slats.</p> <p>The subject site and Candidate Area is identified along a narrow band of Biophysical Strategic Agricultural Land (BSAL). A portion of band to the North has been developed for residential purposes and the main concentration of BSAL land is located to the south of the urban area of Orange. The focus of protecting BSAL land within Orange is concentrated to the south of the Orange LGA.</p> <p>During the scoping phase, the Department of Primary</p>



Objective	Strategy	Consistency
		<p>Industries and Regional Development provided a submission (15/11/2022) that notes the Site is mapped as BSAL land noting the importance of this land to the economy.</p> <p>The Department of Primary Industries and Regional Development notes there are inconsistencies or competing requirements between and within Council's adopted Rural and Industrial land use strategies that seek to protect agricultural land but also identify the Candidate Area for Orange's growth in the short-term. The primary concern appears to be that consumption of higher quality agricultural land should only be supported where there is a clear strategic direction that it has a higher and better use for urban growth.</p> <p>The Department of Primary Industries and Regional Development did not support the current Proposal but stated they would be happy to review this position once Council's Housing Strategy was endorsed by the NSW Government. However, discussion with Department of Planning, Housing and Infrastructure confirmed that they are no longer endorsing local plans.</p>



Objective	Strategy	Consistency
		The proposal is inconsistent with the relevant objective and strategy; however, the inconsistency has been justified as abovementioned.

4. Is the planning proposal consistent with a council local strategic planning statement (LSPS) that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Orange Local Strategic Planning Statement (September 2020)

The Orange Local Strategic Planning Statement (LSPS) provides a 20-year vision for land use planning in the Orange Local Government Area and outlines how growth and change will be managed. The amended proposal demonstrates consistency with the Planning Priorities, as outlined:

- Supporting the delivery of new homes in residential release areas,
- Providing a range of public domain spaces that foster a culturally rich and connected community,
- Provides for diverse housing choices and opportunities to meet the projected demographic needs of the community.

The LSPS contains 19 Planning Priorities to achieve the 20-year visions for Orange, along with associated actions. **Table 2** provides an assessment of the Planning Proposal against the relevant LSPS priorities.

**Table 2** Orange Local Strategy Planning Statement

Planning Priority	Consistency
Planning Priority 2: Support the delivery of new homes in residential release areas, including North Orange and Shiralee, and increase housing options in existing urban areas.	The site is identified as a residential release area (Candidate Area) within the OHLS. The Proposal identifies the site as an Urban Release Area with the capacity to deliver approximately 100 dwellings within the subject site.  <b>The proposal is consistent with the relevant Planning Priority.</b>
Planning Priority 3: Provide a range of facilities and services to meet community needs, and foster a culturally rich, creative and socially connected Orange community.	The subject site proposes a portion of open space as identified in the Structure Plan which is suitably sited on flat land to allow for a play space and amenities, and accessible to all residents. This ensures suitable recreation opportunities to residents if subsequent Planning Proposals within the Witton Place Candidate Area do not proceed. This has been informed by the Structure Plan for the Witton Place Candidate Area. In addition, the Transport Assessment identifies the extension of the 1.5m shared path along Cargo Road to facilitate an ongoing connection to the adjoining suburb and the Orange CBD. The Structure Plan proposes suitable street widths to provide internal connectivity.

Planning Priority	Consistency
	<b>The proposal is consistent with the relevant objective and strategy.</b>
Planning Priority 4: Provide diverse housing choices and opportunities to meet changing demographics and population needs, with housing growth in the right locations.	The R1 General Residential zone permits a range of housing forms. The Structure Plan supporting the Proposal facilitates housing choice by identifying opportunities for low density, medium density housing within the site.  <b>The proposal is consistent with the relevant objective and strategy.</b>
Planning Priority 6: Provide recreational opportunities to meet the needs of residents of, and visitors to, Orange.	The existing and proposed open space network provides a range of recreational opportunities to meet the needs of the residents on the site and the adjoining suburbs. Residents of Orange and visitors to the City will also be able to enjoy these spaces.  <b>The proposal is consistent with the relevant objective and strategy.</b>
Planning Priority 10: Improve access to, from and within Orange, and encourage active transport.	The Structure Plan indicates a hierarchy of street typologies that will cater to active transport to and from the site connecting into the existing network. The Site is also located 1 km from the popular Wetlands loop.  <b>The proposal is consistent with the relevant objective and strategy.</b>

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

Orange Local Housing Strategy (July 2022)

The OLHS demonstrates a critical mismatch between the City's housing stock and its dominant modes of housing investment and capitalisation on the one hand, and the community's actual housing needs and capacity to pay on the other. This is evidenced by a substantial and growing "housing affordability gap" and an over-reliance on detached 3-4 bedroom dwellings in new market-based housing provision. To date, Council's efforts to encourage private developers to provide diverse and affordable housing within their projects have achieved only moderate success.

The OLHS identifies that 86% of housing stock in the Orange Local Government Area is single freestanding dwellings. Households made up of either couples with no children or lone person households are expected to increase from 53% (2016) to 59% (2041). The number of households with children is expected to decrease from 41% (2016) to 37% (2041). This demonstrated an increased demand for the delivery of smaller dwellings and a greater need for housing diversity within the City. Housing diversity is also identified as a critical component in influencing housing affordability.

The Orange Local Government Area has limited greenfield land that is viable in supporting the growth of the City, and the sustainable use of greenfield land continues to be one of the key challenges faced within the LGA. The OLHS targets concentrated sites to ensure the growth is

sustainable and can be feasibly serviced with roads, sewer and water. This also facilitates good connections to employment, education, health and recreation opportunities.

The Proposal has resulted from the identification of the subject site within the OLHS. The site forms a portion of the Witton Place Candidate Area identified in the OLHS as a short-term site (0-5 years) for growth.

The OLHS identified the Candidate Area with a potential yield of 8/ha equating to 280 lots within low density, rural residential zones. The yield identified in the strategy was estimated based on high-level constraints analysis across all Candidate Areas within the Local Government Area and provides a basis for ongoing infrastructure planning. These estimates need to be tested against site specific constraints and opportunities to determine the highest and best use of the land. The projected yield resulting from the Structure Plan layout across the whole Candidate Area will not vary significantly from the overall yield identified in the OLHS due to larger lots required to maintain the entry into the city and as buffers from the railway line, a significant amount of open space to manage scenic and environmental constraints.



Figure 10 Witton Place Candidate Area

The Department of Planning, Housing and Infrastructure have advised Council that they are no longer endorsing all land use strategies. The Department has had the opportunity to comment on the Strategy and supported Council through its development.

The Planning Proposal is consistent with the relevant objectives and strategies of the OLHS as demonstrated in **Table 3**.



Table 3 Orange Local Housing Strategy

Housing Priority	Consistency
<b>1. Coordinate services and community infrastructure to facilitate housing growth in appropriate locations:</b> Ensure new housing development can be efficiently and effectively serviced by infrastructure suitable to the location and is unconstrained.	<p>The Planning Proposal is supported by a Water and Sewer Servicing Strategy and Addendum which outlines that the site can be serviced with a mix of existing and new infrastructure. The Proposal is being prepared consistent with the identified timeframes in the OLHS due to the limited constraints for servicing.</p> <p><b>The proposal is consistent with the relevant Priority.</b></p>
<b>2. Increase housing supply diversity and choice to meet populations needs:</b> Ensure a wide range of housing can be provided to meet the social and economic needs of the changing demographics of the City.	<p>The R1 General Residential zone permits a range of housing forms. The Structure Plan supporting the Planning Proposal facilitates housing choice by identifying opportunities for low density, medium density housing within the site. Land zoned R1 will not have a Minimum Lot Size to allow for a mix of lot sizes and limit any future spot rezonings on the subject site.</p> <p><b>The proposal is consistent with the relevant Priority.</b></p>
<b>3. Facilitate infill opportunities for housing near jobs and service.</b> Identify suitable areas for increased densities which are strategically located close to or well connected to existing and future services such as commercial and employment centres and transport to make more effective use of existing community infrastructure and facilities.	<p>The subject site is located 4 km from the Orange CBD and is currently serviced via a bus network that terminates in the CBD. The site will also be connected into the existing footpath network which provides shared paths and pathways that link to local primary and high schools, an extensive open space network, playgrounds, the CBD and other commercial areas. The site is approximately a 3-4 minute drive to the CBD and a 10 minute drive to the Hospital.</p> <p><b>The proposal is consistent with the relevant Priority.</b></p>
<b>4. Support the supply of affordable housing.</b> Encourage the development of affordable housing including affordable rental housing to meet the needs of medium and low income earners and those affected by housing stress.	<p>The subject site does not propose any provisions for affordable housing. Through the provision of the R1 General Residential zone and no Minimum Lot Size for lots subject to the R1 zone, it is anticipated that through varying lot sizes and housing typologies the site will assist in increasing housing affordability. The yield also provides the opportunity for Community Housing Providers to obtain lot/s or housing product for the purpose of affordable housing.</p> <p><b>The proposal is consistent with the relevant Priority.</b></p>
<b>5. Facilitate and guide housing design, creativity and innovation:</b> Encourage development to facilitate and guide housing design and innovation to enhance resident character and amenity.	<p>The Structure Plan has been designed in accordance with an opportunities and constraints analysis that identified the scenic qualities of the site. Council has also requested the R1 General Residential Zone be identified as a Buffer Area within OLEP 2011 to ensure that development quality is commensurate with the scenic values, and desired future character for the area in accordance with the site specific Development Control Plan.</p>

Housing Priority	Consistency
	<b>The proposal is consistent with the relevant objective and strategy.</b>
<p><b>Ensure water security for the future:</b> Manage drought response, uncertainty and impacts of climate change, and implement long-term planning to ensure cities and villages maintain water security.</p> <p>Protect the local environment and scenic landscapes: Encourage residential development which protects scenic amenity and ensures that growth in the City occurs in a sustainable way.</p>	<p>The Proposal has been amended to increase the potential yield for the subject site. However, this is noting that the projected yield for the whole Candidate Area may not vary significantly from the overall yield identified in the OHLS due to larger lots required to maintain the entry into the city and as buffers from the railway line. Therefore, the Proposal remains consistent with the estimated yield in the Strategy and does not have any further impact on water security for the City.</p> <p>The site forms part of Molong Creek catchment, within the mid-Macquarie tributaries and is located within Molong Drinking Water Catchment. The Cabonne Settlement Strategy (2021) notes that development within the Catchment should be minimised unless high levels of water management demonstrate that impacts can be avoided or mitigated.</p> <p>Basins/Wetlands for storage and treatment will be provided within the open space network and in accordance with the Structure Plan and Water and Sewer Servicing Strategy to manage post development water quality.</p> <p><b>The proposal is consistent with the relevant objective and strategy.</b></p>

Draft Blayney, Orange and Cabonne Subregional Rural and Industrial Lands Strategy (2019-2036)

This Subregional Strategy relates primarily to rural and industrial zoned land across the combined Local Government Areas (LGAs) of Orange, Cabonne and Blayney.

Sections 2 and 3 of the *Subregional Strategy* provide the rural lands strategies and actions. It includes several relevant aims/objectives including:

- Promote and protect sustainable agriculture
- Support rural economic development
- Rural tourism
- Recognise and manage development on Mt Canobolas
- Protect environmental values and manage threats
- Manage the rural-urban interface

The Site includes a small pocket of Zone RU1 Primary Production land in the north-eastern corner near Cargo Road but is otherwise largely within Zone C3 Environment Management.



The key recommendations include:

- A3 – Prioritise agriculture and associated economic development over rural lifestyle [not urban] development;
- A4 – Reduce Long Term Fragmentation of Agricultural Land;
- B1 – Recognise the value of managing contested landscapes of Mt Canobolas across rural living, agriculture, the wine industry, tourism and environmental resources investigating options to better manage competing land uses;
- B2 – Identify a range of land use planning controls to manage the Mt Canobolas landscape;
- B3 – Limit mining activity on Important Agricultural Land;
- E1 – Manage incompatible land use activities on the urban fringe of urban areas;
- G1 – Protect the integrity of the drinking water catchment;
- G2 – Protect biodiversity.

It acknowledges that the current zoning of the site relates to protection of the drinking water catchment but states that local provisions are more effective at this protection than zoning. The subject site is located within the Towac Soil Landscape. Soil in the landscape is located on undulating to rolling low hills. The soil is derived from the ancient volcanic complex of Gaanha Bula (Mount Canobolas) and basalt flows which have been separated by layers of volcanic ash. Basalts are alkaline olivines, with trachytes and some shales and slats.

The subject site and Candidate Area is identified along a narrow band of Biophysical Strategic Agricultural Land (BSAL). A portion of band to North has been developed for residential purposes and the main concentration of BSAL land is located to the south of the urban area of Orange. The focus of protecting Biophysical Strategic Agricultural Land within Orange is concentrated to the South of the Orange LGA where there are currently numerous primary producers located.

During the scoping phase, Department of Primary Industries and Regional Development has provided a submission dated 15/11/2022 that notes the Site is mapped as BSAL land noting the importance of this land to the economy.

The Department of Primary Industries and Regional Development notes there are inconsistencies or competing requirements between and within Council's adopted land use strategies that seek to protect agricultural land but also identify the Candidate Area for Orange's growth in the short-term. The Department of Primary Industries and Regional Development's primary concern appears to be that consumption of higher quality agricultural land should only be supported where there is a clear strategic direction that it has a higher and better use for urban growth.

The Department of Primary Industries and Regional Development did not support the current Proposal but stated they would be happy to review this position once Council's Housing Strategy was endorsed by the NSW Government. The Department of Planning, Housing and Infrastructure have stated they are no longer endorsing local strategies.

The Candidate Area contains 5 lots of varying sizes up to a maximum of 21 hectares, three of which have existing dwellings. The site is subject to a minimum lot size of 100 hectares, with the provision

that rural-residential subdivision can be approved on a lot no less than 25 hectares for intensive plant agriculture. The lots are fragmented in ownership and no longer present an opportunity for viable primary production purposes.

The Candidate Area is enclosed/isolated by the rail line/Cargo Road/Neals Lane and urban development to the east such that it is unlikely to have sufficient area for or be able to sustain intensive agriculture and this could increase land use conflicts.

The site itself is only 11ha, of which, a significantly lower portion would be suited to intensive agriculture. The site is immediately adjacent to the urban edge of Orange and land use conflicts would likely be high if intensive agriculture were to proceed. There is little potential for the site to consolidate with adjacent farmland to create a viable farm size.

Whilst inconsistent, the Proposal is in an area that is highly fragmented in ownership and isolated by road/rail from larger agricultural holdings, so it has limited agricultural potential and good buffers to avoid/minimise land use conflicts with adjacent agricultural lands (particularly those to the south of the railway line in BSAL lands).

6. Is the planning proposal consistent with the applicable SEPPs?

**Table 4** State Environmental Planning Policies

SEPP	Consistency
<i>SEPP (Primary Production) 2021</i>	The proposal is inconsistent; however, this has been addressed in the abovementioned. The site is identified in the OLHS and given the prevailing context of the site the inconsistency is justified.
<i>SEPP (Housing) 2021</i>	The proposal is consistent with the 3 Principles of the Policy and can comply with the requirements of the SEPP (Housing) 2021 where required.
<i>SEPP (Exempt and Complying Development Codes) 2008</i>	The proposal is consistent. Council has requested the site be identified as a Buffer Area within Council's LEP to ensure that development quality is commensurate with the scenic values, and desired future character for the area in accordance with the site specific DCP.
<i>SEPP (Biodiversity and Conservation) 2021</i>	<p>The proposal is consistent, as supported by the Preliminary Flora and Fauna Assessment, as summarised:</p> <p><i>An assessment of the impacts of subdivision was undertaken by site inspection and desktop study. The subject site comprises of predominately introduced pasture grasses and broadleaved weeds with minor native grasses, herbs, and rushes.</i></p> <p><i>Faunal habitat comprised limited nesting areas due to the lack of significant trees and understory. The conifer windbreak and apple trees may provide for fauna that do not require hollows with nesting</i></p>

SEPP	Consistency
	<p>sites. Farm dams and tall grasses provide shelter and foraging habitat for fauna. No threatened species were identified on the subject site.</p> <p>An area of native rushes, tussock grass, and herb located at the natural drainage depressions to the south, on the lower slopes to the west and at the horse yards will require removal. No other native vegetation will be removed.</p> <p>The development is not expected to have significant impact on the long-term survival of threatened species and communities in the South Eastern Highlands Bioregion.</p> <p>Most of the site is modified grassland with limited trees and ground cover dominated by introduced pasture species. Vegetation on the site has been heavily modified through historic clearing and agricultural practices. The site was an apple orchard from the 1960s with a remnant stand of fruit trees on the eastern boundary near the centre of the Site.</p> <p>The Planning Proposal seeks to update the Terrestrial Biodiversity mapping to remove the ESA mapped area that applies to the site and immediate adjacent area. Council has indicated that the removal of the Pine Plantation is appropriate and replanting of native species is to be undertaken in accordance with the Planning Agreement.</p> <p>The other Terrestrial Biodiversity mapped areas along the rail corridor (outside the site and within the remainder of the Candidate Area) includes larger eucalypt species.</p>
SEPP (Resilience and Hazards) 2021	Chapter 4 Remediation of land is the only applicable portion of the SEPP applicable to the site. The Proposal can comply and is considered consistent.
SEPP (Transport and Infrastructure) 2021	The Proposal is capable of complying. There has been extensive consultation and provision of updated Transport Assessment to Council and TfNSW to support the proposed connection to Cargo Road.
SEPP (Sustainable Buildings) 2022	Will be addressed by future dwelling applications, can comply.

7. Is the planning proposal consistent with the applicable Ministerial Directions (Section 9.1 Directions) or key government priority?

**Table 5** Section 9.1 Directions

Section 9.1 Directions		Consistency
<i>Focus Area 1: Planning Systems</i>		
1.1	Implementation of Regional Plans (1/03/22)	<b>Consistent.</b> The <i>Central West and Orana Regional Plan 2041</i> is addressed abovementioned. The Proposal is consistent with the Regional Plan but requests minor variation by balancing (competing objectives) for the protection of agricultural land with the need for sustainable urban growth. This is resolved by Council's adopted <i>Housing Strategy</i> identifying the Site's highest and best use is for urban growth whilst minimising agricultural impacts.
1.2	Development of Aboriginal Land Council Land	<b>Not Applicable.</b> Applies to Central Coast only.
1.3	Approval and Referral Requirements	<b>Not Applicable.</b> No change in concurrence, consultation or referral of applications proposed.
1.4	Site Specific Provisions	<b>Consistent.</b> The Planning Proposal does not propose any unnecessarily restrictive site-specific planning controls. The proposed zone will facilitate residential development.
1.4A	Exclusion of Development Standards from Variation	<b>Consistent.</b> The Planning Proposal does not propose to exclude any development standards.
<i>Focus Area 1: Planning Systems - Place Based</i>		
1.5	Parramatta Road Corridor Urban Trans. Strategy	<b>Not Applicable.</b>
1.6	Implementation of NW Priority Growth Area LUIIP	<b>Not Applicable.</b>
1.7	Implementation of Greater Parramatta Priority Growth Area LUIIP	<b>Not Applicable.</b>
1.8	Implementation of Wilton Priority Growth Area ILUIIP	<b>Not Applicable.</b>



Section 9.1 Directions		Consistency
1.9	Implementation of Glenfield to Macarthur Urban Renewal Corridor	<b>Not Applicable.</b>
1.10	Implementation of the Western Sydney Aerotropolis Plan	<b>Not Applicable.</b>
1.11	Implementation of Bayside West Precinct 2036 Plan	<b>Not Applicable.</b>
1.12	Implementation of Planning Principles for the Cooks Cove Precinct	<b>Not Applicable.</b>
1.13	Implementation of St Leonards and Crows Nest 2036 Plan	<b>Not Applicable.</b>
1.14	Implementation of Greater Macarthur 2040	<b>Not Applicable.</b>
1.15	Implementation of the Pyrmont Peninsula Place Strategy	<b>Not Applicable.</b>
1.16	North West Rail Link Corridor Strategy	<b>Not Applicable.</b>
1.17	Implementation of the Bays West Place Strategy	<b>Not Applicable.</b>
<i>Focus Area 3: Biodiversity and Conservation</i>		
3.1	Conservation Zones	<p><b>Inconsistency justified.</b> Most of the site is currently zoned C3 Environmental Management. However, the Preliminary Flora and Fauna Assessment undertaken for the Planning Proposal identifies that the land is ecologically degraded and contains limited native vegetation.</p> <p>No threatened species or ecologically endangered communities have been identified on the land. The land has not been found to be environmentally sensitive and is not currently used for conservation purposes. The proposed rezoning will not result in the loss of environmentally sensitive areas.</p>
3.2	Heritage Conservation	<b>Consistent.</b> No known indigenous or non-indigenous heritage on the site. An AHIMS search is provided and identified no known



Section 9.1 Directions		Consistency
		sites. The land has a lower risk of impact on archaeology due to its location and historic land disturbance.
3.3	Sydney Drinking Water Catchments	<b>Not Applicable.</b>
3.4	Application of C2 and C3 Zones and Environmental Overlays	<b>Not Applicable.</b> Only applicable to North Coast where these zones were deferred.
3.5	Recreation Vehicle Areas	<b>Not Applicable.</b>
3.6	Strategic Conservation Planning	<b>Not Applicable.</b> The site is not identified as 'avoided land' or a 'strategic conservation area' under <i>SEPP (Biodiversity and Conservation) 2021</i> .
3.7	Public Bushland	<b>Not Applicable.</b> Not an identified LGA (Sydney Metro only)
3.8	Willandra Lakes Region	<b>Not Applicable.</b>
3.9	Sydney Harbour Foreshores and Waterways Area	<b>Not Applicable.</b>
3.10	Water Catchment Protection	<b>Not Applicable.</b> Site not in a regulated catchment (excluding Sydney DWC) under <i>SEPP (Biodiversity and Conservation) 2021</i> .
<i>Focus Area 4: Resilience and Hazards</i>		
4.1	Flooding	<b>Not Applicable.</b> The site is not mapped as being flood prone land and is not in sufficient proximity or level to be affected by nearby watercourses. The site has good slope and the draft road layout for drainage can be addressed during the Development Application phase.
4.2	Coastal Management	<b>Not Applicable.</b>
4.3	Planning for Bushfire Protection	<b>Consistent.</b> The site is identified as Category 1 Vegetation and Category 3 Grasslands. The site is capable of complying with Planning for Bush Fire Protection at the subdivision stage.
4.4	Remediation of Contaminated Land	<b>Consistent.</b> The Preliminary Contamination Assessment indicated that remediation may be required. Further studies will be prepared to support the future residential use of the land.

Section 9.1 Directions		Consistency
4.5	Acid Sulfate Soils	<b>Not Applicable.</b> Land NOT mapped as acid sulfate prone land.
4.6	Mine Subsidence and Unstable Land	<b>Not Applicable.</b> Land NOT within a mine subsidence district or unstable land.
<i>Focus Area 5: Transport and Infrastructure</i>		
5.1	Integrating Land Use and Transport	<b>Consistent.</b> The Proposal is a logical extension of the existing Orange urban area and its transport and infrastructure in reasonable proximity to a reasonable level of facilities and services. The Structure Plan prepared in support of the Planning Proposal provides opportunities for the bus network to be extended through the site, as well as the incorporation of active transport, with walking and cycling paths, to increase transport options and encourage a reduction in the number of car trips.
5.2	Reserving Land for Public Purposes	<b>Consistent.</b> Future roads and public parks to be dedicated to Council as required.
5.3	Development Near Regulated Airports and Defence Airfields	<b>Not Applicable.</b> The land is not near Orange Regional Airport.
5.4	Shooting Ranges	<b>Not Applicable.</b> There are no known rifle ranges in or near any part of the Site or Candidate Area.
<i>Focus Area 6: Housing</i>		
6.1	Residential Zones	<b>Consistent.</b> The site is a proposed residential zone for residential development. The Structure Plan in support of the Proposal demonstrated a diversity in housing types that will be available to Orange population.
6.2	Caravan Parks and Manufactured Home Estates	<b>Consistent.</b> The proposal does not involve any caravan or manufactured home estates.
<i>Focus Area 7: Industry and Employment</i>		
7.1	Employment Zones	<b>Not Applicable.</b> The existing/proposed land use zones are not a business or industrial zone.

Section 9.1 Directions		Consistency
7.2	Reduction in Non-Hosted Short-Term Rental Accom. Period	<b>Not Applicable.</b> Only applies to Byron Shire Council currently.
7.3	Commercial and Retail Dev. along the Pacific Hwy, North Coast	<b>Not Applicable.</b>
<i>Focus Area 8: Resources and Energy</i>		
8.1	Mining, Petroleum Production and Extractive Industries	<b>Consistent.</b> The proposal does not carry out mining or production industries.
<i>Focus Area 9: Primary Production</i>		
9.1	Rural Zones	<b>Inconsistency justified.</b> This Proposal seeks variation to these directions as it rezones rural/environmental zoned land for residential purposes in accordance with the adopted recommendations of the OHLS and justified in more detail in abovementioned.
9.2	Rural Lands	
	a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement	<b>Consistent.</b> The adopted <i>Housing Strategy</i> recommends the site is rezoned for urban residential purposes and has sought to minimise or mitigate impacts on agricultural land. The consistency of the Proposal against the Regional Plan and Local Strategic Planning Statement is outlined prior.
	b) consider the significance of agriculture and primary production to the State and rural communities	Whilst it is clearly acknowledged in Council's strategies that agriculture is of major significance to the Central West regional economy – there must be a balancing of this with the need for housing to support local growth.
	c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources	The site constraints are minimal and can either be avoided or impacts minimised or mitigated. The supporting Structure Plan demonstrates how future development could address these constraints.
	d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions	The Planning Proposal is supported by the Urban Design Study attached.

Section 9.1 Directions		Consistency
	e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities	The site has limited potential for future viable agricultural growth and investment, and this is best focussed on less fragmented/conflicted land. This is discussed in detail prior.
	f) support farmers in exercising their right to farm	The site has extensive buffers (roads/rail) to adjacent agricultural lands so the Right to Farm on adjacent lands should not be impeded.
	g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use	As the Candidate Area is already fragmented and isolated the highest and best use is for a logical urban extension, suitably buffered from surrounding agricultural lands. This will lessen the need for urban form to encroach on other, more viable, agricultural lands.
	h) consider State significant agricultural land identified in chapter 2 of the <i>State Environmental Planning Policy (Primary Production) 2021</i> for the purpose of ensuring the ongoing viability of this land	The site has previously been mapped as draft State Significant Agricultural Land (this has not yet been adopted) along the BSAL mapping boundaries. Protection of this narrow band along the western edge of Orange and may be lower priority than protection of BSAL land south of the railway line where there is less conflict with urban expansion.
	i) consider the social, economic and environmental interests of the community.	The OLHS and this Proposal has considered the social, economic and environmental interests of the community and this Proposal is a reasonable balancing of potential conflicts.
9.3	Oyster Aquaculture	<b>Not Applicable.</b>
9.4	Farmland of State and Regional Significance on the NSW Far North Coast	<b>Not Applicable.</b>



**Section C – Environmental, Social and Economic Impact**

*8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?*

**Flora and fauna**

The Preliminary Flora and Fauna Assessment has confirmed that there is a low likelihood of impact from the Proposal on critical or threatened species, populations or ecological communities or their habitats. The site is significantly disturbed pasture with limited native vegetation. The area of mapped terrestrial biodiversity is a non-native pine plantation and is being sought to be removed from the mapping as part of this proposal.

Vegetation on the site has been extensively modified through historic orcharding practices and agricultural processes including pasture improvement and livestock grazing. Grasslands are the predominate vegetation type across the site. Small pockets of native vegetation were present on site and represent an area of 0.82 hectares.

There are few habitat features remaining on the site. Habitat attributes for the Regent Honeyeater, Bush Stone-Curlew, Speckled Warbler, Brown Treecreeper, White fronted Chat, Little Eagle, Booroolong Frog, Scarlet Robin, Flame Robin, Superb Parrot, Australian Painted Snipe, Yellow Bellied Sheath-tail Bat and the Diamond Firetail are found within the subject site, however the relatively small amount of habitat and availability of alternatives within the locality suggest that there would be limited habitation on the subject site.



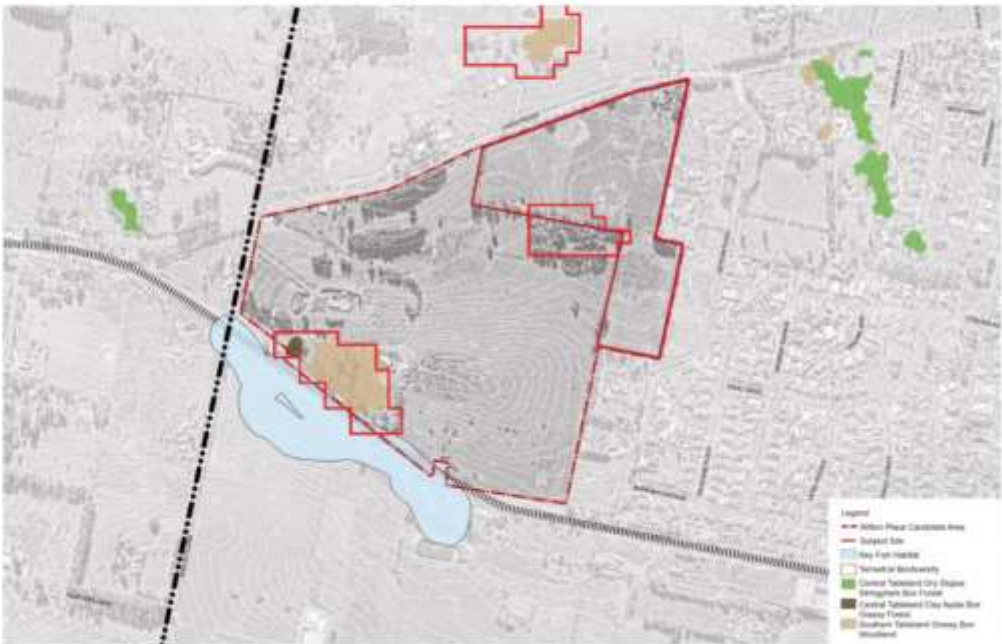


Figure 11 Biodiversity Analysis

Future development of the site will be subject to a Biodiversity Assessment Report or a Biodiversity Development Assessment Report dependent on the extent of clearing of the native vegetation found onsite.

### Hydrology

The site contains a headwater flow path, known as a first order stream under the Strahler stream ordering system. This stream forms part of Molong Creek catchment, within the mid-Macquaire tributaries. There are no threatened fish species or populations, or endangered aquatic ecological communities identified to be potentially occurring within the site. The subject site is also located within Molong Drinking Water Catchment.



**Figure 12** Hydrology Analysis

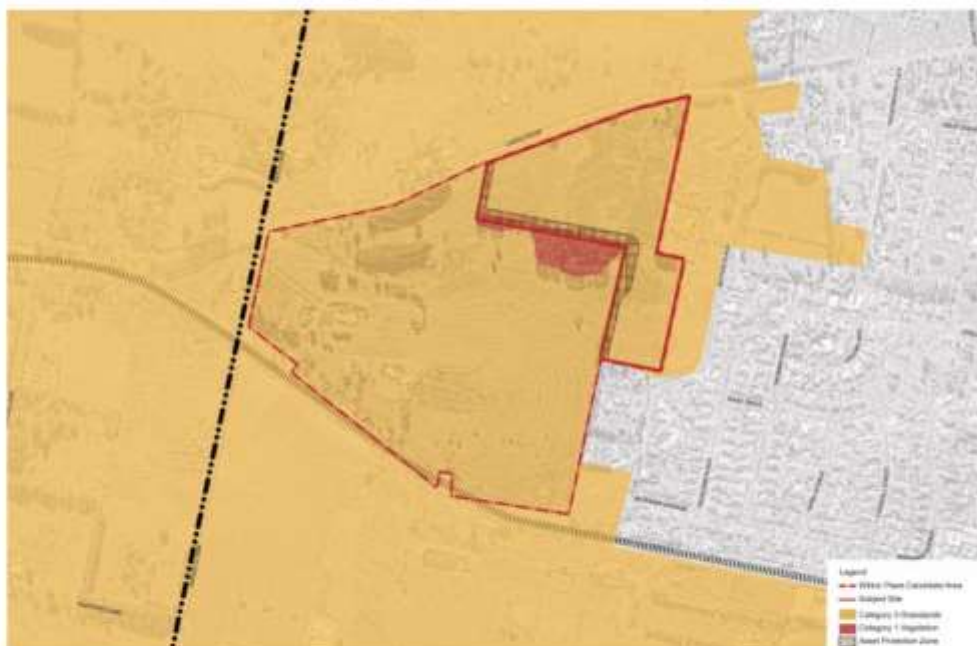
### Groundwater

The subject site and Candidate Area is identified as groundwater vulnerable through the OLEP 2011 and has been identified at a minimum depth of 8 metres on the site, it is not expected that the proposal or subsequent developments will have significant impact on any groundwater ecologies.

9. Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

#### Bush fire

The Proposal has been supported by the Strategic Bush Fire Study. Bush fire hazards were identified on the northern, western and southern sides of the development. Maintained residential land is present to the east of the site and are considered managed land and not a bush fire hazard. The largest APZ applicable to the site is 25m due to the Pine Plantation, however it is expected this will be removed as confirmed with Council, requiring an APZ of 11 metres for any future subdivision.



**Figure 13** Bush Fire Analysis

The 277 Cargo Road site has one access onto Cargo Road until the Witton Place Candidate Area is developed. The furthest lot is approximately 500m from the road connection. The future subdivision design will include internal roads that moves people towards the key access/egress points and not through higher risk bush fire lands.

The development is less likely to support Special Fire Protection Purposes such as aged care or schools due to distance from services. There is a low probability these higher risk land-uses increasing demand for emergency services. This is consistent with the OHLS as the site is not identified to require any social infrastructure above and beyond the open space network proposed in the Structure Plan.



The broader Candidate Area benefits from being buffered by Cargo Road to the north, the Broken Hill Railway Line to the south, Neals Lane to the west, and urban development to the east that is likely to reduce bush fire risk. The risk to the site largely remains within the Candidate Area if a fire were to occur. Given the broader context, Bush Fire is not expected to be a major constraint to urban residential development of the Site with appropriate buffers around the future subdivision provided by roads and asset protection zones where required.

Future applications will be assessed against Planning for Bush Fire Protection 2019 (NSW Rural Fire Service) to ensure that acceptable solutions or suitable performance solutions are proposed, and the application is compliant.

#### Stormwater and water quality management

The subject site is located within Molong Drinking Water Catchment. The Cabonne Settlement Strategy (2021) notes that development within the Catchment should be minimised unless high levels of water management demonstrate that impacts can be avoided or mitigated.

The Structure Plan and supporting Water and Sewer Strategy identifies the water management approach onsite. On-Site Detention (OSD) at the western-most / lowest point of the Candidate Area (near Neals Lane) is a logical location to capture stormwater from the entire area. However, until this is developed temporary sub-basins and water treatment areas are to be located on the western edge (low-point) of the site, being 277 Cargo Road.

This Strategy limits post-development flows to pre-development flows and will ensure neutral/beneficial water quality. This would primarily be achieved by the proposed OSD system. Heath Consulting have modelled an appropriately sized OSD to meet the requirements of urban development of the Site in the depression towards the western corner. This could be removed once the land develops to the west and there was a Candidate Area OSD to enable extension of the new internal road network, and the open space network would primarily facilitate the development of the additional basins required.

As the site is not in the Ploughman Creek stormwater harvesting area it is not required to have dual-pipe non-potable water supply from this system. Therefore, there is potential to require rain-water tanks for each individual dwellings consistent with BASIX requirements to provide some additional detention from roof areas.

Council is also mindful of water 'balance' and not placing additional demand on existing water catchment and treatment systems for the city. The Housing Strategy identifies that the Candidate Area could look at relocating stormwater back to the Ploughmans Creek catchment for stormwater harvesting as one means to balance water consumption on the Site. However, this would need to be balanced with any loss of environmental flows into Molong Creek and its water supply system.

Heath Consulting have modelled the combination of stormwater management systems including a central on-site detention pond, SPEL Ecoceptor gross pollutant trap, and rainwater tanks and demonstrated this will significantly reduce suspended solids, phosphorus, nitrogen and gross pollutants below Council's standard requirements. This will continue to be investigated in more detail at the Development Application stage.

Aboriginal cultural heritage

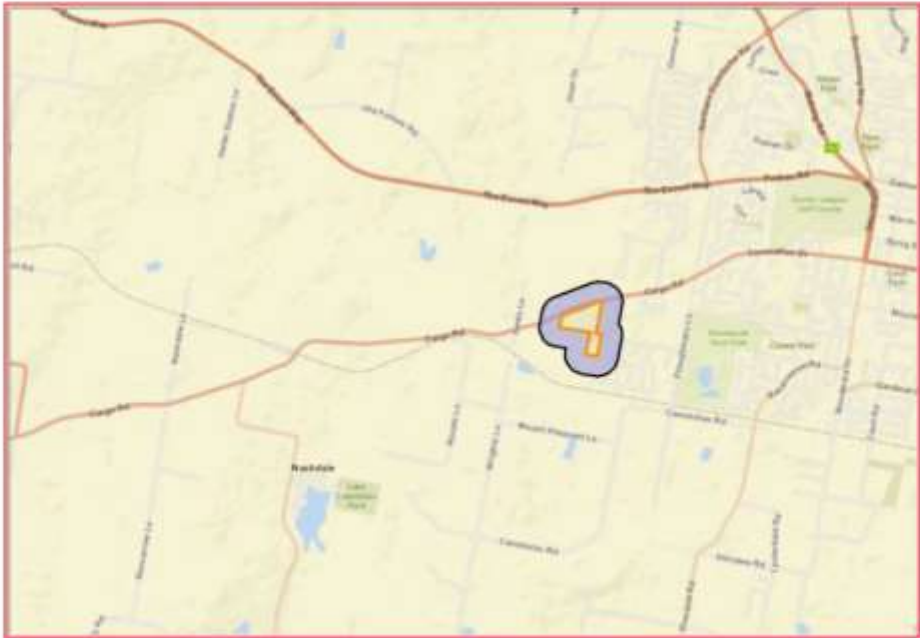
The Orange Aboriginal Heritage Report (OAHR) has been reviewed as part of the assessment to assess risk of impact. The site is not located on a major watercourse or on land with significant topography or natural features that would increase the chance it was a significant cultural or archaeological site and is not an identified 'Site of Significance' in the OAHR.

The site has been used for orcharding (intensive horticulture) and extensive agriculture for a significant period which is likely to have significantly disturbed/modified the upper soil layers and reduced the potential for intact archaeology or cultural sites. A Basic AHIMS search on 17/10/2022 for the Site with a 200m buffer and no Aboriginal sites or places are recorded or have been declared in the search area. Therefore, the risk of impact to Aboriginal archaeology is relatively low.

It is noted that the site does contain views to Gaanha bula (Mount Canobolas) a known area of significance to the local first nations people. The Development Control Plan will ensure significant view corridors are protected from the public domain



The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of Heritage NSW AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

Figure 14 AHIMS Results

#### Non-Indigenous heritage

The site is not a listed heritage item or in a heritage conservation area. The nearest item is to the south of the railway line – *Item No.19 'Glengarra' homestead* more than 800m from the Site. It is unlikely the subdivision would have a significant impact on surrounding heritage item(s) due to the separation distances and buffers of Cargo Road and the railway line and the topography limiting sightlines.

#### Traffic and transport

The Proposal is supported by the Transport Assessment and Addendum. Consultation has been undertaken with Council and Transport for NSW (TfNSW) to ensure the following has been adequately addressed:

- Land use strategies and direction for the Site
- Nearby road and intersection analysis
- Current traffic counts (traffic surveys) and traffic growth projections (SIDRA assessment for intersections)
- Traffic generation/volumes and proposed local roads
- Key intersection analysis, delays and level of service and nearby crash data
- Active transport and public transport facilities near the Site and future potential link
- Review of the Proposal and its impacts
- Additional review of different traffic percentages on different routes.

During the Scoping Proposal stage, consultation with TfNSW was undertaken December 2022. This feedback noted that Cargo Road (MR237) is a classified Regional Road (Council is the roads authority). Due to concerns of sight-line distances on Cargo Road, TfNSW suggested preference should be given for all road access, including the existing dwelling to be retained, to be provided via the local public road network to the east (Witton Place and Bowman Ave).

Subsequently, there has been extensive consultation and provision of updated Transport Assessment(s) to Council and TfNSW to support the proposed connection to Cargo Road.

This Proposal seeks to have its primary road access to Cargo Road but supplement this with (future) secondary access via Bowman Avenue (and possibly Witton Place) for the following key reasons:

- Council's Housing Strategy has accepted that access to Cargo Road may be supported subject to the outcomes of the Transport Assessment. Council have flagged that traffic generation to other local streets may be an issue and need to be addressed.
- Councillors have specifically rejected the opportunity for the Candidate Area to provide vehicle connection (in the future) to Neals Lane.

- The local road network via Bowman Avenue does not provide reasonably direct paths of travel between the site and key attractions in Orange so, as stated in the Transport Assessment, it is less likely to be used as a primary access route. There are numerous intersections and turns required to connect to Ploughmans Lane. The traffic from the Candidate Area would impact on a significant number of properties along this route and is unlikely to be supported by those residents. However, it is suitable as a secondary access and particularly for pedestrian and bicycle access.
- Witton Place connects to Cargo Road east of the site. The Transport Assessment outlines that the Cargo Road connection is sufficient for the yield proposed under this Planning Proposal. However, this Proposal could provide an additional connection as shown on the plans near the intersection with Taloumbi Place subject to those landowners providing that access.
- The Transport Assessment concluded that most traffic is likely to utilise a direct connection to Cargo Road in accordance with different distribution profiles set out in the report (in preference to other local road connections as these are the most direct paths - *Section 5.5 Trip Distribution*). Few if any trips would be generated to the east through Bowman Avenue.
- The Transport Assessment states that the site can have primary access directly to Cargo Road and does not rely on other road connection (Witton Place/Bowman Avenue) for operation. The location chosen has a suitable width to allow for road widening, a reduced number of street trees that would be impacted by the road upgrades/access, and good sightlines that comply with standards based on the current speed limit.
- The Assessment notes that the warrants for the design of new Cargo Road intersection would likely require a Basic Right Turn (BAR) and Basic Left Turn (BAL) to the site from Cargo Road and a BAL turn from the new internal road to Cargo Road. These are similar intersection treatments to Yackerboon Place, Ploughmans Lane, and Kooranga Avenue.
- The Cargo Road Intersection location provides suitable site distances in both an east and west direction that can meet or exceed an SISD requirement of 151m in both directions (70km/hr) – noting it is currently 60km/hr and may reduce to 50km/hr in the future.
- The Structure Plan demonstrates the Candidate Area can support a clear internal road network for ease-of-navigation and wayfinding.
- Roads setback from Cargo Road and the railway line provide internal access to lots along these frontages. These extend to east-west connections into the existing urban area. Most new roads align just off north-south to run across contours and promote east-west lots with good passive solar access.

The following hierarchy in road reserve width and design is adopted as a concept:

- 25m – Northern Entry Street from Cargo Road into centre of Site along primary open space – two-way traffic, parking both sides with wide verges, shared path, boulevard/median entry planting;
- 20m – Local Street Network – two-way traffic, parking both sides with wide verges;



- 18m – Interface Streets - two-way traffic, parking one side with normal verges and on-road cycleways.

The site would provide the primary access point to Cargo Road with higher-level connector roads behind the Cargo Road frontage and a key north-south road. The roads provide frontages to part of the proposed park area for access and casual surveillance, minimising the number of rear fences of dwellings facing the park.

The Transport Assessment assessed the vehicle volumes on the internal road network against Council's Subdivision Code to determine different road classes and road profiles and these can be accommodated within the site and Candidate Area with detail at the Development Application stage.

The Transport Assessment demonstrates that there is an existing public bus route along Witton Place and a new/amended route could be provided through the Site running along the urban collector roads / perimeter road/ or north-south roads (TBC) and would provide access to bus stops within 400m of most dwellings. These would connect to Orange's CBD and key transport services.

The Proposal provides for good pedestrian/cycle connectivity through the site in accordance with the Subdivision Code. A primary shared path can be facilitated running east-west within the open space corridor through the site and beyond, this is proposed to connect on-road back to Cargo Road and through Bowman Avenue (in the future) – connecting to shared paths along the Ploughmans Valley Wetlands where Council's Active Travel Plan identifies key bicycle routes.

#### Noise

Cargo Road is located to the north of the site and is a classified road. Traffic volumes on this road are higher than other local roads around the Site so there is a need to consider and address traffic noise on dwellings fronting this road.

The primary vehicle noise and vibration that could affect the site is development along the Cargo Road frontage. Cargo Road is an important connector to the west and south via Canowindra but The Escort Way is generally a higher order road for heavy freight vehicles due to the topography, slower maximum speeds, and poorer road conditions along Cargo Road.

The Preliminary Traffic Noise Assessment has been prepared to support this Proposal that addresses the Development Near Rail Corridors and Busy Roads – Interim Guideline (Interim Guideline) (2008). This has assessed noise from projected traffic volumes on Cargo Road to determine the category of acoustic treatment required under the Interim Guideline for residential dwellings.

By proposing lot sizes of 1,500m<sup>2</sup> or greater along the Cargo Road frontage it allows for minimum 15m setbacks of dwelling envelopes from Cargo Road boundary (with additional setback to the road edge) to minimise impacts from road traffic on residential amenity.

The Noise Assessment has determined that with a setback of 28m to 78m from the road/kerb edge of Cargo Road all dwellings would only require Category 1 Acoustic Treatment under the Interim Guideline. Therefore, as shown on the Structure Plan, only the proposed lots fronting Cargo Road would require acoustic treatment.

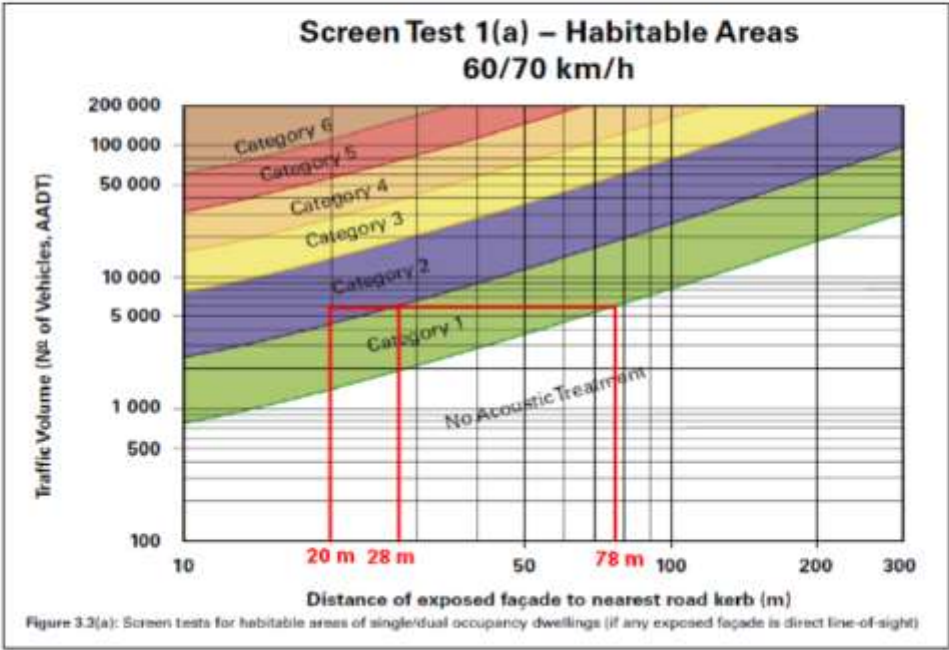


Figure 15 Acoustic treatment analysis

The Category 1 Acoustic treatments are set out in Section 4 of the Noise Assessment and can be achieved with some minor construction standards for residential development. Therefore, the site can achieve the required residential amenity without significant impact from Cargo Road traffic noise and without visually intrusive mounding or acoustic fencing.



#### Contamination

The site is not identified on the NSW EPA Contaminated Land Record of Notice as being contaminated. The site was used for horticultural plantings/orchards from approximately the 1960s onwards. This site does not include the car/vehicle yard in the western part of the Candidate Area thus the risk of contamination from that source to development of the Site is low but this may need to be reviewed for the broader Candidate Area.



**Figure 16** Historic aerial photo of Site from 2/01/1964 (NSW Portal).

As a result of historic intensive agricultural uses on the Site and some farm buildings, a Preliminary Contamination Investigation has been prepared.

The report recommends that areas of environmental concern are required to be remediated to enable the residential land-use and prevent any environmental impacts. Remediation of the site will need to be supported by a Remediation Action Plan (RAP) at the Development Application stage. A validation assessment is to be undertaken to confirm that no residual contamination is detected after

the completion of the works. The areas of concern are in relatively small locations at low depth and are expected to be excavated and removed from the site.

#### Agricultural land

The site contains alluvial soils located within the mapped Biophysical Strategic Agricultural Land (BSAL) that runs from the railway line up the western edge of the urban area of Orange. An analysis of historic aerial photos from the 1960's indicates this aligns with a belt of orcharding/intensive horticulture that historically occurred in these areas.



**Figure 17** Geology and BSAL Analysis

Urban development north of The Escort Way already encroaches this area.

DPI notes there are inconsistencies or competing requirements between and within Council's adopted land use strategies that seek to protect agricultural land but also identify the Candidate Area for Orange's growth in the short-term. DPI's primary concern appears to be that consumption of higher quality agricultural land should only be supported where there is a clear strategic direction that it has a higher and better use for urban growth. This has largely been addressed through prior sections of the Planning Proposal.

#### Mineral resources

The site does not appear to be directly affected by any existing known extractive industries or exploration licences as the exploration licences are mostly to the west of the Orange LGA boundary.

The risk of new extractive industries commencing close to the existing urban areas of Orange is low. The Subregional Rural and Industrial Land Use Strategy (p.47) states that mining is less likely to occur in BSAL areas and around Mount Canobolas. Development of a site immediately adjacent to this urban area is likely to have the lowest impact on future mineral resource potential compared to developments further from Orange's urban area.

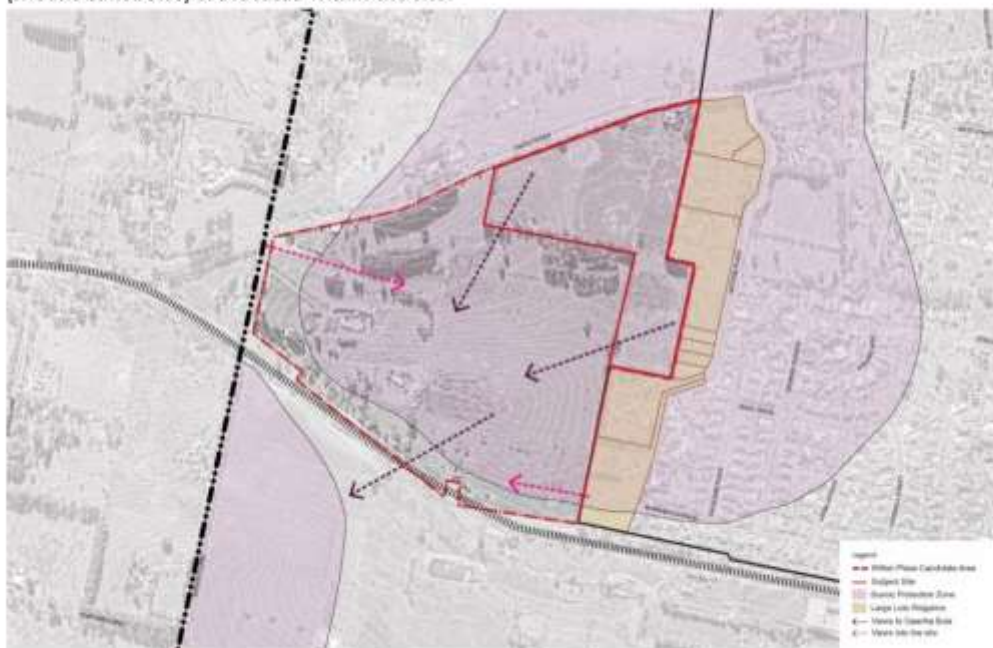


**Figure 18** Common Ground Results

### Scenic quality and visual impact

Prominent ridgelines run along Witton Place the slope falls away to West within the site. There is another ridge line that runs along the bottom third of the site. There are three high points within the site one of which is visible from Cargo Road, Witton Place and Bowman Avenue.

The site is located on the western entry into the City, which is currently characterised by planted rows of fruit, cedar and oak trees, which provide a buffer from viewing into and across the site. The broader area and the site are nominated as a Scenic Protection Zone under Council's Development Control Plan due to the height of the site. Larger lots present along the ridgeline of Witton Place creating a visual buffer to any development that occurs to the west. Key views into the site are located at Neals Lane and from Witton Place and Bowman Avenue. Significant views to Gaanha Bula (Mount Canobolas) are located within the site.



**Figure 19** Scenic and Visual Analysis



*10. Has the planning proposal adequately addressed any social and economic effects?*

Housing need

The NSW Government population projections suggest that the Orange LGA will experience steady population growth over the coming decades. Between 2021 and 2024, the population of the LGA is likely to increase by approximately 8,180 residents. The Orange LGA will represent about 50% of the broader Central West Region population in the coming years.

In 2021, 18,670 dwellings were recorded in Orange. Based on the projected population growth, it is estimated that 21,900 dwellings may be required in the LGA to accommodate the population in 2031. This implies that an additional 3,230 dwellings will be required over the 10 years between 2021 and 2031, or an additional 320 dwellings per annum. The Proposal will assist in delivering approximately 100 dwellings.

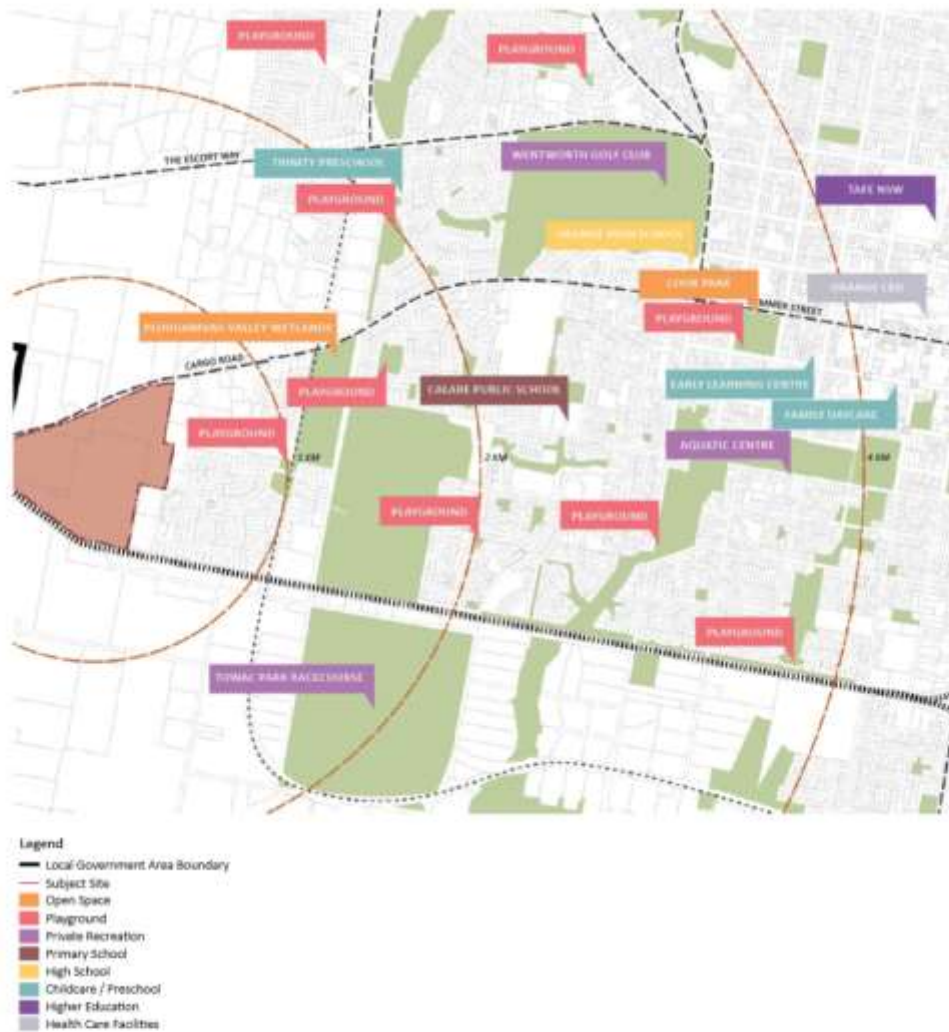
The OLHS indicates a mismatch between current housing supply in Orange and the need. Almost 85% of housing in Orange in 2021 was large, detached housing, while 52% of households were smaller, with 27% of households being lone person households and 25% being couple only households. Given the lack of housing options, over 80% of households live in separate housing, regardless of household size.

Smaller households are expected to grow in proportional share in the coming years to reach 56% in 2031. This includes a projected 27% of lone person households and 30% of couple only households in 2031. The proportion of older residents (aged >60 years) is expected to grow from 23% in 2021 to 26% in 2031, while growth is also expected in the proportion of middle-aged residents (40-49 years) and pre-retirees (50-59 years).

The Planning Proposal has been amended in response to the above, to include the R1 General Residential zone and removed the minimum lots size for this zone. This was in response to the development of a site-specific Structure Plan identifying the capability of the site to cater for an increased yield and provide flexibility for a greater mix of lot sizes and housing types within the site. The R1 zone allows for greater flexibility in dwelling typologies that are permissible within the site, and the removal of the Minimum Lots Size from the corresponding zone, provides flexibility as the subdivision occurs to provide varying lot sizes to cater to the market needs. This aligns with the projected population growth and demographic analysis within the OLHS.



### Social infrastructure



#### Economic impact

Given the sites projected population and the potential yield the economic impact of the site is considered relatively minimal compared to other Planning Proposals within the Orange LGA. The conversion of the land which is currently being utilised for lifestyle agricultural blocks, with no primary production value to residentially zoned land being R1 General Residential and R2 Low Density Residential will allow for increased housing capacity within the City allowing people to move within the LGA and from other areas, creating increased capacity for people to live and work within the Orange Local Government Area.

#### **Section D – Infrastructure (Local, State and Commonwealth)**

##### *11. Is there adequate public infrastructure for the planning proposal?*

#### Water and sewer

The site is capable of connection to the reticulated potable water network. Council has provided an Addendum in consultation with the proponent's consultant indicating that there is sufficient capacity in the existing water supply system for the indicative yield for the site (approximately 100 Equivalent Tenements/Dwellings).

The Candidate area is outside of Council's current dual water service reticulation area and outside the Ploughmans Creek catchment so Council will not require installation of non-potable piping for irrigation and other non-potable uses. This may enable the introduction of water tanks for dwellings to provide some retention capacity and reduce stormwater peak flows.

The site is capable of connection to the reticulated sewer network. However, the site will require a new sewer pump station to service the site (location to be agreed) as a new sewer connection from Lake Canobolas will no longer pass by the Site. Council has provided an Addendum in consultation with the proponent's consultant indicating that there is sufficient capacity in the existing water supply system for the indicative yield for the site (approximately 100 Equivalent Tenements/Dwellings).

Most importantly, a temporary sewer pump station on the site is agreed as the easiest way forward until the land is available for development of a more permanent pump station closer to Neals Lane when the larger Candidate Area is developed.

Council is currently preparing an updated Servicing Strategy (Water and Sewer) that will guide development on this and other candidate growth areas, but this may not be available until the Subdivision Application is prepared.

#### Electricity

There are existing overhead electricity lines along Cargo Road to/near the Site. Further investigation will occur to determine network capacity and upgrade requirements at the DA Stage with preliminary consultation during the exhibition of the Planning Proposal.

Section E – State and Commonwealth Interests

12. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

The list of authorities that have been contacted/engaged as part of the preliminary stages of this Project (and Scoping Planning Proposal) are listed in Section 3.5 - Part 5 Community Consultation. There will be further consultation in accordance with the Gateway Conditions during the public exhibition of the Planning Proposal. This is a local development that has limited state-significant issues and no known federal issues other than biodiversity conservation.

3.4 Part 4 - Maps

For the purposes of public exhibition, the following maps have been provided. Maps will be prepared consistent with the Standard Technical Requirements for Spatial Datasets and Maps following public exhibition.





Figure 22 Minimum Lot Size



Figure 23 Urban Release Area





Figure 24 Environmentally Sensitive Land



Figure 25 Buffer Area



## 3.5 Part 5 – Community Consultation

### Completed as part of Scoping Proposal

The Proponent provided a draft Proposal prior to a meeting with Orange City Council staff on 16 September 2022 to discuss some preliminary issues and way forward and received correspondence from Council water and sewer manager.

Subsequently, a Scoping Planning Proposal was formally issued to Council by email dated 17 October 2022. Council then forwarded the Scoping Proposal to several agencies which included:

- DPHI Planning and Assessment (Local and Regional Planning) - DPHI
- Transport for NSW (Regions) - TfNSW
- NSW Department of Primary Industries (Agriculture) – DPI Agriculture
- NSW Environment, Energy and Science (Biodiversity) – EES Biodiversity

Subsequently, Council provided agency feedback by email dated 2 December 2022 from only two (2) agencies, summarised as follows:

- **Transport for New South Wales (TfNSW)** - Email from Masa Kimura, Development Services Case Officer – which notes Cargo Road (MR237) is a classified Regional Road with Council as the road authority. The preference was for all road access being provided by local public roads (Witton PI and Bowman Ave), though subsequently it requested a Traffic Impact Assessment (requirements were listed) that addressed access to Cargo Road including sight-distances; turn treatment warrants, swept path analysis, and any changes in speed zones.
- **Department of Primary Industries and Regional Development** – Letter dated 15 November 2022 signed by Tamara Prentice (Manager, Agricultural Land Use Planning) – This notes the site is mapped as Biophysical Strategic Agricultural Land (BSAL) and draft State Significant Agricultural Land (SSAL). DPI Agriculture seeks to protect productive agricultural land but also recognises that on occasion this land may meet a higher and better use where it is strategically planned for this purpose.

In 2023, the Applicant had extensive meetings and correspondence with TfNSW and Council on the traffic implications of the Proposal including the preparation of an amended/updated Traffic Assessment.

The Planning Proposal will be publicly exhibited in accordance with the Gateway Determination requirements and Guidelines. As a 'Standard Planning Proposal' the public exhibition period is likely to be a minimum of 20 working days (excluding public holidays) consistent with Council's Community Participation Plan. The Planning Proposal will be exhibited via the NSW Planning Portal.

It is recognised that some site issues may require additional consultation with other agencies during the public exhibition of the Proposal after Gateway Determination including, but not limited to (in accordance with Guideline Attachment B):

- Transport for NSW (Regions - TfNSW/RMS) for access to Cargo Road;

- Cabonne Council to discuss the potential impacts on Molong Creek catchment;
- NSW Department of Climate Change, Energy, the Environment, and Water (Biodiversity, Conservation and Science) for removal of biodiversity overlay over part of Site (pine trees);
- NSW Department of Primary Industries (Agriculture) for impacts to agriculture and BSAL/SAL mapping.

## 3.6 Part 6 – Project Timeline

**Table 6** Project Timeline

Stage	Estimated Timeframe and/or Date
Consideration by Council	2023 (complete) October 2024 Mtg (Gateway Alteration)
Council Decision	September 2023 Council Meeting November 2024 Meeting (Gateway Alteration)
Post-Approval Changes	None likely to be required
Provided to NSW Government	May-June 2024 (Original Gateway) By end November (Gateway Alteration)
Stage 3 - Gateway Determination	1 August 2024 (Original Gateway) By early December 2024 (Gateway Alteration)
Pre-Exhibition	Early December 2024
Stage 4 - Commencement and Completion of Public Exhibition Period	Mid-December 2024 to Mid-January 2025
Consideration of Submissions	Late January 2025
Stage 6 - Post-Exhibition Review and Additional Studies	Late January 2025
Council meeting to approve the LEP Amendment	February / March 2025
Submission to the Department for Finalisation (or Parliamentary Counsel if Council is the LPMA)	March 2025
Gazettal of LEP Amendment / Commencement	April 2025

# Appendix A – Urban Design Study

# Appendix B – Water and Sewer Strategy



# Appendix C – Strategic Bush Fire Study

# Appendix D – Transport Assessment

## Appendix E – Preliminary Flora and Fauna Assessment

## Appendix F – Preliminary Contamination Assessment

## Appendix G – Traffic Noise Assessment



# Appendix H – Draft Intersection Design

---

## **Deed**

# **277 Cargo Road, Orange – Planning Agreement**

Section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW)

**Orange City Council**

**&**

**Charms Developments Pty Limited and Fenlor Group Pty Limited**

**&**

**Celestina Maria Vardanega**

---

**277 CARGO ROAD, ORANGE**

---

**Contents**

1	Definitions and Interpretation .....	1
2	Status of this Deed .....	5
3	Application of this Deed .....	5
4	Commencement of this Deed .....	5
5	Application of sections 7.11, 7.12 and 7.24 of the Act .....	6
6	Contribution - Dedication of the Open Space Land .....	6
7	Carrying out the Works .....	7
8	Maintenance .....	8
9	Dispute Resolution - Parties to negotiate .....	10
10	Dispute resolution – expert determination .....	11
11	Dispute Resolution - Mediation .....	12
12	Registration of this Deed .....	13
13	Review of this Deed .....	14
14	Enforcement in a court of competent jurisdiction .....	15
15	Assignment and dealings .....	17
16	Costs and GST .....	17
17	No fetter .....	18
18	Representations and warranties .....	19
19	Notices .....	19
20	General .....	20
21	Explanatory Note .....	22
	Schedule 1 .....	1
	Summary of requirements (section 7.4 of the Act) .....	1
	Schedule 2 – Contribution Schedule .....	3
	Schedule 3 - Works Schedule .....	4
1	Interpretation .....	4
2	Requirements and Approvals .....	4
3	Project Management and Contractor Engagement .....	5
4	Design Development and Approvals .....	5
5	Carrying out of Works .....	6
6	Inspection .....	7
7	Completion .....	8
8	Risk .....	11
9	Insurance .....	11
10	Indemnities .....	11

277 CARGO ROAD, ORANGE

11	Intellectual Property Rights .....	11
12	Risk of contamination .....	11
	Schedule 4 - Explanatory Note .....	12
1	Introduction .....	12
2	Parties to the Planning Agreement .....	12
3	Description of the Land .....	12
4	Description of the Instrument Change .....	13
5	Summary of Objectives, Nature and Effect of the Planning Agreement .....	13
6	Assessment of the Merits of the Planning Agreement .....	13

---

## 277 CARGO ROAD, ORANGE

---

### Date

### Parties

**Orange City Council ABN 85 985 402 386** of 135 Byng Street, Orange, NSW (**Council**)

**Charms Developments Pty Limited (ACN 147 580 149)** of 171 Margaret Street, Orange, NSW and **Fenlor Group Pty Limited (ACN 93 072 632 430)** of 1 Borrodell Drive, Orange, NSW (**Developers**).

**Celestina Maria Vardanega** of 277 Cargo Road, Orange NSW (**Owner**)

### Recitals

- A The Developers have a right to purchase the Land from the Owner.
- B The Developers propose to carry out the Development which requires the Land to be rezoned. The Instrument Change must come into force for the Development to be undertaken.
- C If the Instrument Change comes into force, the Developers intend to lodge one or more development applications for the Development.
- D The Instrument Change application was accompanied by an offer by the Developers to enter into this Deed to make contributions for public purposes associated with the Instrument Change and the Development.

The Parties agree, in consideration of, among other things, the mutual promises contained in this Deed as follows:

## 1 Definitions and interpretation

### 1.1 Definitions

In this Deed the following definitions apply:

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**Approval** includes approval, consent, licence, permission or the like.

**Authority** means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, a public authority established by or under any Act, a council or county council constituted under the *Local Government Act 1993* (NSW), or a person or body exercising functions under any Act including a commission, panel, court, tribunal, and the like.

**Business Day** means any day except for Saturday or Sunday or a day which is a public holiday in NSW.

**Certificate of Practical Completion** means a certificate issued by Council to the Developers to the effect that, in the reasonable opinion of Council, the Works have reached Practical Completion.



---

## 277 CARGO ROAD, ORANGE

---

**Claims** means any claim, loss, liability, damage, proceeding, order, judgment or expense arising out of the operation of this Deed.

**Contributions** means the contributions referred to in the Contribution Schedule.

**Contribution Schedule** means Schedule 2 to this Deed.

**Dedication Land** means the Open Space Land dedicated under this Deed.

**Deed** means this document and includes all Schedules, annexures and other documents attached, or referred to, in it.

**Determination Notice** has the meaning given to that term in clause 9.4.

**Development** means the:

- (a) subdivision of the Land into up to 103 lots (containing up to 102 urban residential lots and 1 open space lot);
- (b) the open space lot will be a public park / reserve available to the public for recreation;
- (c) construction and installation of works and services for the residential lots and public open space.

**Development Consent** has the same meaning as in the Act.

**Dispute** means a dispute or difference between the Parties under or in relation to this Deed described in a Notice of Dispute.

**Encumbrance** means any security interest or other proprietary interest in the Vendor's Property including but not limited to a lease, mortgage, charge or caveatable interest.

**GST** means the same as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**GST Law** means the same as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Instrument Change** means the amendment to the LEP pursuant to the Planning Proposal.

**Land** means the land comprised in Lot A DP401482 known as 277 Cargo Road, Orange.

**LEP** means *Orange Local Environmental Plan 2011*.

**Maintenance Period** is the period of 2 years from the later of:

- (a) the date of the Certificate of Practical Completion; and
- (b) the date on which the Council becomes the owner of the Dedication Land pursuant to dedication under clause 6.1(a) or otherwise.

**Maintenance Works** means soft landscaping works including mowing grass, trimming edges, pruning trees and shrubs, and any other works reasonably required by Council to bring, or keep, the Dedication Land (and any item within or otherwise forming part of the

---

**277 CARGO ROAD, ORANGE**

---

Dedication Land and improvement to it) in good condition and otherwise in a condition that satisfies the Standards.

**Open Space Land** means that part of the Land:

- (a) identified in the Planning Proposal as proposed for dedication as a park;
- (b) with an area and configuration otherwise acceptable to the Council; and
- (c) not otherwise the subject of a proposed dedication under any contributions plan under section 7.18 of the Act.

**Party** means a party to this Deed (including their assigns and a person bound by the Deed under section 7.6(3) of the Act), and Parties means all of them.

**Planning Proposal** means the planning proposal within the meaning of section 3.33 of the Act, proposing an amendment to the LEP commencing no earlier than 21 March 2025 to:

- (a) rezone the Land from the existing zoning (part C3 – Environmental Management and part RU1 – Primary Production) to part Zone R1 General Residential, part Zone R2 Low Density Residential and part RE1 Public Recreation.
- (b) vary the minimum lot size applicable to the Land; and
- (c) to modify the terrestrial biodiversity mapping over the Land.

**Practical Completion** with respect to Works, means that stage in the execution of the Works when:

- (a) the Works have been carried out in accordance with this Deed and are complete except for minor defects;
- (b) any temporary works (including scaffolding, site sheds and covered walkways) have been removed from the Open Space Land;
- (c) all rubbish, debris and surplus building material has been removed from the Open Space Land; and
- (d) all water points for irrigation have been connected and installed on the Open Space Land.

except for minor omissions and defects:

- (e) which do not prevent the Works from being reasonably capable of being used for their intended purpose; and
- (f) the rectification of which will not prejudice the convenient use of the Works.

**Register** means the Torrens title register maintained under the *Real Property Act 1900* (NSW).

**Regulation** means the *Environmental Planning and Assessment Regulation 2021*.

**Schedule** means a schedule to this Deed.

---

## 277 CARGO ROAD, ORANGE

---

**Standards** means the scope of services for the maintenance of the public open space set out in *Scope of Services - Orange City Council Request for Tender F3980 - Maintenance of Public Open Space*.

**Works** means construction and embellishment of the Open Space Land as a public park for public recreation in accordance with the Works Schedule.

**Works Schedule** means Schedule 3 to this Deed.

### 1.2 Interpretation

In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

- (a) except as otherwise provided in this Deed, words in this Deed have the same meaning as those words have in the Act;
- (b) a heading is for convenience only and does not affect the interpretation of this Deed;
- (c) a reference to a business day means a day other than a Saturday or Sunday on which banks are open generally for business in New South Wales;
- (d) If the day on which any act, matter or thing is to be done under this Deed is a not a Business Day, the act, matter or thing must be done on the next Business Day.
- (e) a reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- (f) a reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced;
- (g) a reference to a clause, part, annexure or Schedule is a reference to a clause, part, annexure or Schedule to this Deed;
- (h) an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or Authority;
- (i) grammatical forms of defined words or phrases have corresponding meanings;
- (j) a word which denotes the singular denotes the plural, and a word which denotes the plural denotes the singular;
- (k) references to the word 'include' or 'including' are to be construed without limitation;
- (l) a reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party' successors and assigns;
- (m) references to a Party are intended to bind their executors, administrators and permitted transferees;
- (n) any annexures or Schedules form part of this Deed;

---

**277 CARGO ROAD, ORANGE**

---

- (o) a reference to a period unless specifically written otherwise, excludes the first day of that period;
- (p) a reference to a notice, consent, request, approval or other communication under this Deed or an agreement between the Parties means a written notice, request, consent, approval or agreement.

## **2 Status of this Deed**

- (a) The parties agree that this Deed is a planning agreement within the meaning of section 7.4(1) of the Act.
- (b) Schedule 1 summarises the requirements for planning agreements under section 93F of the Act and the way this Deed addresses those requirements.

## **3 Application of this Deed**

This Deed applies to:

- (a) the Instrument Change;
- (b) the Land; and
- (c) the Development.

## **4 Commencement of this Deed**

### **4.1 Ownership of Land**

The Parties acknowledge and agree that as at the date of this Deed the Developers have provided evidence to satisfy the Council that

- (a) the Developers are the registered proprietors of the Land; or
- (b) if the Developers are not the registered proprietors of the Land, they have entered a legally binding agreement with the Owner to take ownership of the Land with settlement to occur on or before 28 February 2025.

### **4.2 Commencement of Deed**

- (a) This Deed commences and has force and effect on, and from, the date that all Parties have signed this Deed.
- (b) Despite anything else contained in this Deed:
  - (i) the obligation of the Developers or the Owner (as the case may be), to provide the Contributions does not take effect until the Instrument Change comes into force; and
  - (ii) the obligations of the Owner are limited to matters concerning or affecting dedication, of freehold transfer, of the Open Space Land.



---

**277 CARGO ROAD, ORANGE**

---

**5 Application of sections 7.11, 7.12 and 7.24 of the Act**

- (a) This Deed does not exclude the application of section 7.11, 7.12 or 7.24 of the Act to the Development.
- (b) Benefits under this Deed are to be taken into consideration in determining a development contribution under section 7.11 of the Act.

**6 Contribution - Dedication of the Open Space Land**

**6.1 Dedication**

- (a) If:
  - (i) the Instrument Change takes effect; and
  - (ii) a Development Consent is granted for the Development;

the Developers must procure (and the Owner must permit) dedication, or freehold transfer, to the Council of the Open Space Land (at no cost to the Council) in accordance with the Contribution Schedule and any other provision of this Deed relating to the dedication, or freehold transfer, of the Open Space Land.
- (b) The Developers must (at their cost) obtain all Approvals required and do all things necessary to subdivide the Land so as to create separate freehold lots including the Open Space Land.
- (c) The Developers must ensure (and the Owner must permit) the dedication, or freehold transfer, of the Open Space Land to the Council free of any trusts, estates, interests, covenants and Encumbrances excluding those otherwise agreed in writing by the Council or required by the Council under any condition of any Development Consent for the Development.
- (d) The Developers must pay all costs associated with the dedication, or freehold transfer, of land of the Open Space Land under this clause 6.1.
- (e) The Developers and the Owner's obligations under this clause 6.1 will have been satisfied when:
  - (i) the Open Space Land is dedicated to the Council as a public open space by operation of the registration of a plan of the subdivision in accordance with section 49 of the *Local Government Act 1993* (NSW); and
  - (ii) an eCT is issued by NSW Land Registry Services for the whole of the Open Space Land identifying the Council as the registered proprietor of this land.

**6.2 Purpose**

The Parties acknowledge and agree that the dedication of the Open Space Land will serve the public purposes set out in the Contribution Schedule.



---

**277 CARGO ROAD, ORANGE**

---

**7 Carrying out the Works**

**7.1 Works**

- (a) If:
  - (i) the Instrument Change takes effect; and
  - (ii) a Development Consent is granted for the Development;the Developers must procure (and the Owner must permit) the carrying out of the Works in accordance with the Contributions Schedule, the Works Schedule and any other provision of this Deed relating to the Works.
- (b) To the extent of any inconsistency, the conditions of any Development Consent for the Works will prevail over any requirements under this Deed relating to the Works.
- (c) Nothing in this clause 7.1 prevents or restricts the Council from taking any enforcement action in relation to:
  - (i) any obligation of the Developers or the Owner under this Deed; or
  - (ii) any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Council because of the failure by the Developers or the owner (as the case may be) to comply with this Deed,
- (d) The Works required under this Deed will be taken to have reached Practical Completion for the purposes of this Deed when a Certificate of Practical Completion has been issued for those Works.
- (e) The Works must reach Practical Completion prior to the dedication, or freehold transfer of the Open Space Land.
- (f) The Developer may:
  - (i) carry out the Works itself; or
  - (ii) enter into an agreement with another person, approved by the Council, acting reasonably, under which the other person carries out the Works on the Developer's behalf.

**7.2 Purpose**

The Parties acknowledge and agree that the carrying out of the Works will serve the public purposes set out in the Contributions Schedule.

**8 Maintenance**

**8.1 Maintenance**

- (a) The Dedication Land must be maintained by the Developers to the reasonable satisfaction of the Council for the Maintenance Period in accordance with the Standards.

---

**277 CARGO ROAD, ORANGE**

---

- (b) The Developers must comply with, or satisfy, all relevant Council policies and obtain all Approvals necessary to carry out the Maintenance Works required under this clause 8.1.
- (c) The Council agrees that the Developers may:
  - (i) carry out the Maintenance Works itself; or
  - (ii) enter into an agreement with another person, approved by the Council, under which the other person carries out the Maintenance Works on the Developers behalf.
- (d) 40 Business Days prior to the end of any Maintenance Period, the Developers must request Council to carry out an inspection of the Dedication Land.
- (e) The Council must carry out the inspection as requested by the Developers within 5 Business Days of the request.
- (f) If, following the inspection carried out by the Council under clause 8.1(e):
  - (i) the Council determines (acting reasonably) that the Developers have failed to substantially comply with the Standards;
  - (ii) the Council issues a written notice to the Developers identifying the manner in which the Council considers that the Developers have failed to substantially comply with the Standards; and
  - (iii) the Developers do not rectify that failure within 21 Business Days of being notified of that failure or within a reasonable period of time agreed between the Parties,

then the Council may extend the Maintenance Period for a period reasonably necessary to enable the Developers to achieve substantial compliance with the Standards and, if deemed necessary by the Council acting reasonably, by itself, its employees, contractors or agents, carry out the required works and may recover as a debt due to the Council by the Developer in a Court of competent jurisdiction the amount of the costs incurred by the Council in carrying out the Maintenance Works.

**8.2 Access licence**

- (a) The Council authorises the Developers (including any servant, agent or contractor), to enter upon the Dedication Land with all necessary materials and appliances necessary for the purpose of carrying out the Maintenance Works in accordance with this clause 8.2.
- (b) Nothing in this Deed creates or gives the Developers any estate or interest in the Dedicated Land.
- (c) Prior to entering upon the Dedication Land, the Developers must give the Council not less than 3 Business Days' notice in writing, setting out:
  - (i) the period during which the Developers (including any servant, agent or contractor) will enter, and remain, upon the Dedicated Land; and

---

## 277 CARGO ROAD, ORANGE

---

- (ii) that part of the Dedication Land the Developers (including any servant, agent or contractor) will enter, and remain, upon.
- (d) The Developers (including any servant, agent or contractor) must when on the Dedication Land comply with:
  - (i) all reasonable directions and requirements that may be given by the Council; and
  - (ii) all laws relevant to the conduct of the Maintenance Works upon the Dedicated Land.
- (e) The Developers release the Council from all Claims of every description which the Council suffers or incurs in connection with, or arising from, the Maintenance Works carried out by the Developers, except to the extent that any such Claim is caused, or contributed to, directly or indirectly as a result of the Council or its employees, officers, agents, contractors or workmen's negligence, default, act or omission.
- (f) The Developers indemnify, and hold indemnified, the Council from and against all Claims of every description which the Council suffers or incurs in connection with, or arising from, the Maintenance Works carried out by the Developers, except to the extent that any such Claim is caused, or contributed to, directly or indirectly as a result of the Council or its employees, officers, agents, contractors or workmen's negligence, default, act or omission.
- (g) For so long as the Developers (including any servant, agent or contractor) is carrying out the Maintenance Works, the Developers must obtain, and maintain current, a public risk insurance policy containing terms that are commonly used by reputable insurers in New South Wales for the amount of \$20,000,000 in respect of any single event or accident or for such higher amount as the Council (acting reasonably) may require at any time. No later than 10 Business Days after any request by the Council, the Developers must provide to the Council a certificate of currency in respect of any insurance that must be established and maintained under this Deed.

### 8.3 Purpose

The Parties acknowledge and agree that the Maintenance Works will serve the public purposes set out in the Contributions Schedule.

## 9 Dispute Resolution - Parties to negotiate

### 9.1 Reference to Dispute

If a dispute arises between the Parties in relation to this Deed, the Parties must not commence any court proceedings relating to the dispute unless the Parties have complied with this clause 9, except where a Party seeks urgent interlocutory relief.

### 9.2 Notice of Dispute

The Party wishing to commence the dispute resolution process must give notice (**Notice of Dispute**) to the other Parties of:

---

**277 CARGO ROAD, ORANGE**

---

- (a) the nature of the Dispute,
- (b) the alleged basis of the Dispute, and
- (c) the position which the Party issuing the Notice of Dispute believes is correct.

**9.3 Representatives of Parties to meet**

(a) The representatives of the Parties must promptly (and in any event within 20 Business Days of the Notice of Dispute) meet in good faith to attempt to resolve the notified Dispute.

(b) The Parties may, without limitation:

- (i) resolve the Dispute during the course of that meeting,
- (ii) agree that further material or expert determination in accordance with clause 10 about a particular issue or consideration is needed to effectively resolve the Dispute (in which event the Parties will, in good faith, agree to a timetable for resolution); or
- (iii) agree that the Parties are unlikely to resolve the Dispute and, in good faith, agree to a form of alternative dispute resolution (which may include expert determination, arbitration or mediation in accordance with clause 11) which is appropriate for the resolution of the relevant Dispute.

**9.4 Notice if dispute is not resolved**

If the Dispute is not resolved within 10 Business Days after the nominated representatives have met or by another time agreed by the Parties in accordance with clause 9.3(b), either Party may give to the other a notice calling for determination of the Dispute (**Determination Notice**) by mediation under clause 11 or by expert determination under clause 10.

**10 Dispute resolution – expert determination**

**10.1 Expert determination to apply**

(a) If the Dispute is not resolved under clause 9.3 or clause 11, or the Parties otherwise agree that the Dispute may be resolved by expert determination, the Parties may refer the Dispute to an expert, in which event this clause 10 applies.

(b) The Dispute that can be determined by an appropriately qualified and independent expert in the relevant field:

- (i) agreed upon and appointed jointly by the Parties; or
- (ii) if no agreement is reached or no appointment is made within 20 Business Days of the agreement to refer the Dispute to an expert, appointed on application of a Party by the President of the Law Society of New South Wales.

**10.2 Expert appointment**

The expert must be appointed in writing and the terms of the appointment must not be inconsistent with this clause 10.



---

**277 CARGO ROAD, ORANGE**

---

**10.3 Expert determination**

- (a) The determination of the Dispute by such an expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination.
- (b) The expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice.
- (c) Any determination made by an expert pursuant to this clause 10 is final and binding upon the parties unless;
- (i) in the case of fraud, misfeasance by the expert, or error of law; or
  - (ii) within 20 Business Days of receiving the determination, a Party gives written notice to the other Party that it does not agree with the determination and commences litigation; or
  - (iii) the determination is in respect of, or relates to, termination or purported termination of this Deed by any Party, in which event the expert is deemed to be giving a non-binding appraisal.

**10.4 Costs**

Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.

**10.5 Litigation**

If the Dispute is not finally resolved in accordance with this clause 10 then a Party is at liberty to litigate the Dispute.

**10.6 No suspension of contractual obligations**

Subject to any interlocutory order obtained under clause 10.5, the referral to or undertaking of a dispute resolution process under this clause 10 does not suspend the Parties' obligations under this Deed.

**11 Dispute Resolution - Mediation**

**11.1 Mediation to apply**

If a Party gives a Determination Notice calling for the Dispute to be mediated:

- (a) the Parties must agree to the terms of reference of the mediation within 15 Business Days of the receipt of the Determination Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply); and
- (b) the mediator will be agreed between the Parties, or failing agreement within 15 Business Days of receipt of the Determination Notice, either Party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator.



---

**277 CARGO ROAD, ORANGE**

---

**11.2 Mediator appointment**

The mediator appointed pursuant to this clause 11 must:

- (a) have reasonable qualifications and practical experience in the area of the Dispute; and
- (b) have no interest or duty which conflicts or may conflict with his or her function as a mediator he or she being required to fully disclose any such interest or duty before his or her appointment.

**11.3 Confidentiality**

The mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties.

**11.4 Appoint representatives**

The Parties must within 15 Business Days of receipt of the Determination Notice notify each other of their representatives who will be involved in the mediation.

**11.5 Costs**

Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.

**12 Registration of this Deed**

**12.1 Registration**

- (a) The Developers agree to procure registration of this Deed under the *Real Property Act 1900* (NSW) in the relevant folios of the Register of the Land in accordance with section 7.6(1) of the Act.
- (b) The Developers (at their own expense), must:
  - (i) procure the lodgement of this Deed with the Registrar-General as soon as reasonably practicable after this Deed comes into operation, but in any event, no later than 21 Business Days after that date;
  - (ii) procure the registration of this Deed by the Registrar-General in the relevant folio(s) of the Register for the Land as soon as reasonably practicable after this Deed is lodged for registration; and
  - (iii) provide documentary evidence that the registration of this Deed has been completed to the Council within 5 Business Days of receiving confirmation that the registration has occurred.
- (c) The Developers (at its own expense) will take all practical steps, and otherwise do anything that the Council reasonably requires to procure:
  - (i) the consent of each person who:

---

**277 CARGO ROAD, ORANGE**

---

- (A) has an estate or interest in the Land registered under the *Real Property Act 1900* (NSW); or
  - (B) is seized or possessed of an estate or interest in the Land;
  - (ii) an acceptance of the terms of this Deed and an acknowledgement in writing from any existing mortgagee in relation to the Land that the mortgagee will adhere to the provisions of this Deed if it takes possession of the Land as mortgagee in possession;
  - (iii) the execution of any documents; and
  - (iv) making available the title to the Land for registration purposes,
- to enable the registration of this agreement in accordance with this clause 12.1 .
- (d) The Owner consents to the registration of the Deed in accordance with this clause 12.1.

**12.2 Removal from register**

- (a) The Parties agree that the registration of the Deed will be removed from the folio(s) of the Register for the Land (or any part of it) if:
- (i) the Instrument Change does not occur; or
  - (ii) the Council, acting reasonably, is satisfied that the Owner has fulfilled their obligations under this Deed and are not otherwise in default of their obligations under this Deed.
- (b) The Council is to do such things as are reasonably necessary as requested by an Owner to facilitate removal from the folio(s) of the Register for the Land (or any part of it).

**12.3 Notation**

The Developers acknowledge and agree that the Council may, in its absolute discretion, make a notation under section 10.7(5) of the Act about this Deed on any certificate issued under section 10.7(2) of the Act relating to any lot on which this Deed is required to be registered under this Deed.

**12.4 Caveat**

- (a) The Developers and the Owner acknowledge and agree that:
- (i) when this Deed comes into force, the Council is deemed to have acquired and the Developers or the Owner (as the case may be) are deemed to have granted, an equitable estate and interest in the Land for the purposes of section 74F(1) of the *Real Property Act 1900* (NSW) and consequently the Council will have a sufficient interest in the Land in respect of which to lodge a caveat over the Land notifying that interest;
  - (ii) they will not object to the Council lodging a caveat in the relevant folio(s) of the Register for the Land nor will it seek to remove any caveat lodged by the Council provided the caveat does not prevent registration of any dealing or plan other than a transfer.

---

**277 CARGO ROAD, ORANGE**

---

- (b) The Council must, at the Developers cost, register a withdrawal of any caveat in respect of the Land within reasonable time after the Developers comply with clause 12.1.

**13 Review of this Deed**

**13.1 Review by agreement**

- (a) The Parties agree that this Deed may be reviewed or modified by agreement between them.
- (b) No modification or review of this Deed will be of any force or effect unless it is in writing, exhibited in accordance with the Regulation and signed by the Parties.
- (c) Any review or modification of this agreement under this clause 13 will be conducted in the circumstances and in the manner determined by the Parties.

**13.2 Notice**

- (a) The Parties agree that this Deed may be reviewed or modified by agreement between them if:
  - (i) the Developers notify the Council or the Council notifies the Developers that any change of circumstance has occurred, or is imminent, that materially affects the operation of this Deed; or
  - (ii) the Council notifies the Developers that it considers that circumstances exist that justify the review.
- (b) For the purposes of this this clause 13, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the Council or any other planning authority to restrict or prohibit any aspect of the Development.
- (c) For the purposes of addressing any matter arising from a review of this Deed referred to in this clause 13, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Deed.

**13.3 Illegality**

If this Deed becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

**13.4 No breach**

A failure by a Party to agree to take action requested by the other Party as a consequence of a review referred to in clause 13.1 is not a Dispute for the purposes of clauses 9, 10 or 11 and is not a breach of this Deed.

---

**277 CARGO ROAD, ORANGE**

---

**13.5 Further agreements**

The Parties may, at any time and from time to time, enter into agreements relating to the subject matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

**14 Enforcement in a court of competent jurisdiction**

**14.1 Enforcement**

- (a) Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- (b) For the avoidance of doubt, nothing in this Deed prevents:
  - (i) a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates,
  - (ii) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

**14.2 Default**

- (a) If a Party considers another Party has failed to perform and fulfil an obligation under this Deed, it may give notice in writing to the other Party (**Default Notice**) giving all particulars of the matters in respect of which it considers default has occurred and by such notice require the default to be remedied within a reasonable time, not being less than 10 Business Days.
- (b) In determining a reasonable time, regard must be had to both the nature of the default and the work or other action required to remedy it and whether the continuation of the default constitutes a public nuisance or raises other circumstances of urgency or emergency.
- (c) If a party disputes the Default Notice, it may refer the dispute to the dispute resolution under clauses 9, 10 or 11 of this Deed.
- (d) If the Developers or the Owner (as the case may be) fails to comply with a Default Notice, the Council may perform the obligations the Developers or the Owner (as the case may be) have failed to fulfil in accordance with the Default Notice and do anything which the Developers or the Owner (as the case may be) should have done under this Deed in relation to their obligations the subject of the Default Notice.
- (e) Without limiting clause 14.2(d)(d), the Developers and the Owner agree that the Council, its employees, agents and contractors, may when exercising its rights under that clause, decide (acting reasonably) to enter onto the Land and do whatever is necessary to remedy the default.
- (f) For so long as the Council (including any servant, agent or contractor) is carrying out Works in purported exercise of its rights under clause 14.2(e) above, the Council must obtain, and maintain current, a public risk insurance policy containing terms that are commonly used by reputable insurers in New South Wales for the amount of \$20,000,000 in respect of any single event or accident.



---

**277 CARGO ROAD, ORANGE**

---

- (g) The Developers indemnify, and keep indemnified, the Council against all Claims made against the Council as a result of the exercise or purported exercise of the rights of the Council under this clause 14.2 except to the extent such Claim arises either directly or indirectly as a result of the Council or its employees, officers, agents, contractors or workmen's negligence, default, act or omission.

**14.3 Compulsory Acquisition**

- (a) If the Developers do not procure dedication or transfer, or the Owner does not dedicate or transfer, the Open Space Land to the Council as required by this Deed, the Council may compulsorily acquire the relevant land, in which case the Developer consents to the Council compulsorily acquiring that land for compensation in the amount of \$1.00 without having to follow the pre-acquisition procedures in the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)*.
- (b) Clause (a) constitutes an agreement for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)*.
- (c) Except as otherwise agreed between the Parties, the Developers and the Owner (as the case may be) must ensure the Open Space Land is freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, rights, charges, rates, strata levies and any other Encumbrance, except as may be permitted by this Deed on the date that the Council will acquire the Open Space Land in accordance with clause (a).
- (d) The Developers indemnify, and keep indemnified, the Council against all Claims made against the Council as a result of any acquisition by the Council of the Open Space Land under clause (a).
- (e) The Developers must pay the Council, promptly on demand, an amount equivalent to all costs, including legal costs, reasonably incurred by the Council acquiring the Open Space Land under clause (a).

**15 Assignment and dealings**

**15.1 Assignment**

- (a) A Party must not assign or deal with any right under this Deed without the prior consent of the other Parties, such consent not to be unreasonably withheld.
- (b) Any change of ownership or control (as defined in section 50AA of the *Corporations Act 2001 (Cth)*) of the Developers (excluding the Council) shall be deemed to be an assignment of this Deed for the purposes of this clause 15.1.
- (c) Any purported dealing in breach of this clause 15.1 is of no effect.

**15.2 Transfer of Land**

The Developers and the Owner, if the Developers are not the registered proprietors of the Land may not transfer, assign or dispose of the whole or any part of its right, title or interest in the Land (present or future) or in the Development to another person (**Transferee**) unless before it sells, transfers or disposes of that right, title or interest:



---

**277 CARGO ROAD, ORANGE**

---

- (a) the Developers (and the Owner if applicable) satisfy the Council that the proposed Transferee is financially capable of complying with the Developers' obligations under this Deed;
- (b) the Developers (and the Owner if applicable) satisfy the Council that the rights of the Council will not be diminished or fettered in any way;
- (c) (c)the Transferee delivers to the Council a novation deed signed by the Transferee in a form and of such substance as is acceptable to the Council containing provisions under which the Transferee agrees to comply with all the outstanding obligations of the Developers (and the Owner if applicable) under this Deed;
- (d) any default under this Deed has been remedied or waived by the Council, on such conditions as the Council may determine, and
- (e) the Developers and the Transferee pay the Council's reasonable costs in relation to the assignment.

**16 Costs and GST**

**16.1 Costs**

- (a) Each Party must pay their own legal costs in connection with the negotiation, preparation and signature of this Deed.
- (b) The Developers must pay the Council's legal costs and disbursements (on a solicitor client basis) in connection with the carrying into effect, enforcement and release and discharge of this Deed, no later than 21 Business Days after receiving a demand from the Council to pay such costs.
- (c) The Developers must pay or reimburse the Council for the costs and expenses incurred by Council in connection with the advertising and exhibition of this Deed in accordance with the Act, no later than 21 Business Days after receiving a demand from the Council to pay such costs
- (d) The Developers must pay the Council any administrative fees as required by Council, acting reasonably, in connection with the administration of this Deed, no later than 21 Business Days after receiving a demand from the Council to pay such costs

**16.2 Duty**

The Developers must pay any duty in respect of the Deed.

**16.3 GST**

- (a) Words and expressions which are not defined in this Deed, but which have a defined meaning in GST Law have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Deed are exclusive of GST.
- (c) If GST is imposed on any supply made under or in accordance with this Deed, the Developers must pay the GST or pay to the Council an amount equal to the GST payable on or for the taxable supply, whichever is appropriate in the circumstances.

---

**277 CARGO ROAD, ORANGE**

---

- (d) If the Council is obliged to pay any GST on any supply made under or in accordance with this Deed, the Developers indemnify the Council for the amount of any such payment is required to make.

**17 No fetter**

**17.1 Discretion**

This Deed is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of the Council, including, but not limited to, any statutory power or discretion of the Council relating to any application submitted to the Council in its capacity as a public authority (referred to in this Deed as a **Discretion**).

**17.2 No fetter**

No provision of this Deed is intended to constitute any fetter on the exercise of any discretion. If, contrary to the operation of this clause, any provision of this Deed is held by a court of competent jurisdiction to constitute a fetter on any discretion, the Parties agree:

- (a) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is substantially satisfied,
- (b) in the event that clause (a) cannot be achieved without giving rise to a fetter on the exercise of a discretion, the relevant provision is to be severed and the remainder of this Deed has full force and effect, and
- (c) to endeavour to satisfy the common objectives of the Parties in relation to the provision of this Deed which is to be held to be a fetter on the extent that is possible having regard to the relevant court judgment.

**17.3 Planning Certificates**

The Developers and the Owner acknowledge that the Council may include advice on any planning certificate issued under section 10.7 of the Act that this Deed affects the Land.

**18 Representations and warranties**

The Parties represent and warrant that they have power to enter into this Deed and comply with their obligations under the Deed and that entry into this Deed will not result in the breach of any law.

**19 Notices**

**19.1 Form**

Any notice, consent, information, application or request that must or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:

- (a) delivered or posted to that Party at its address, or

---

## 277 CARGO ROAD, ORANGE

---

(b) emailed to that Party at its email address.

### 19.2 Address

Such address or email address is as specified below or the most recently notified by the recipient to the sender under clause 19.3:

Developers	<b>Charms Developments Pty Limited (ACN 147 580 149)</b> of 171 Margaret Street, Orange, NSW and <b>Fenlor Group Pty Limited (ACN 93 072 632 430)</b> of 1 Borrodell Drive, Orange, NSW ( <b>Developers</b> ).
Owner	277 Cargo Road, Orange, NSW 2800
Council	135 Byng Street, Orange, NSW 2800

### 19.3 Change of details

If a Party gives the other Party not less than 2 Business Days' notice of a change of its address or email address, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or email address.

### 19.4 Deemed service

Any notice, consent, information, application or request is to be treated as given or made if it is:

- (a) delivered, when it is left at the relevant address;
- (b) sent by post, 6 business days after it is posted; or
- (c) sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.

## 20 General

### 20.1 Entire Deed

- (a) This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- (b) No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

---

**277 CARGO ROAD, ORANGE**

---

---

**20.2 Severability**

- (a) If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- (b) If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

**20.3 Invalidity**

- (a) A word or provision must be read down if:
  - (i) this Deed is void, voidable, or unenforceable if it is not read down;
  - (ii) this Deed will not be void, voidable or unenforceable if it is read down; and
  - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
  - (i) despite the operation of clause (a), the provision is void, voidable or unenforceable if it is not severed; and
  - (ii) this Deed will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this Deed has full effect even if clause (b) applies.

**20.4 Variation**

No variation of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed.

**20.5 Waiver**

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- (b) A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

**20.6 Joint and several liability**

Except as otherwise set out in this Deed, any agreement, covenant, representation or warranty under this Deed by the Developers binds each of them jointly and individually, and any benefit in favour of the Developers for an individual lot is for the benefit of them jointly and each of them individually.



---

**277 CARGO ROAD, ORANGE**

---

---

**20.7 Further acts**

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

**20.8 Counterparts**

This Deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

**20.9 Approvals and consent**

- (a) Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.
- (b) A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

**20.10 Governing law and jurisdiction**

- (a) This Deed is governed by the law of New South Wales.
- (b) The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.

The Parties are not to object to the exercise of jurisdiction by those courts on any basis.

**20.11 Electronic signature**

- (a) In this clause 20.11, electronic signature means a digital signature or other visual representation of a person's handwritten signature or mark placed or typed on a copy of this Deed by electronic or mechanical means (including by using DocuSign or other electronic signing platform agreed between the Parties) and electronically signed has a corresponding meaning.
- (b) The Parties consent to this Deed being signed by or on behalf of a Party by electronic signature.
- (c) Where this Deed is electronically signed by or on behalf of a Party, the Party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the Party intends to be bound by this Deed.
- (d) Each Party consents to the exchange of counterparts of this Deed by delivery by email to the Party or its legal representative or other electronic means of exchange as the Parties may agree.
- (e) On request, each Party must deliver a physical counterpart of this Deed with the handwritten signature or signatures of the Party and any written evidence of the authority of a person signing on their behalf, but a failure to comply with this request will not affect the validity of this Deed.



---

**277 CARGO ROAD, ORANGE**

---

---

**21     Explanatory Note**

- (a) Schedule 4 contains the Explanatory Note relating to this Deed required by clause 205 of the Regulation.
- (b) Pursuant to clause 205(5) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.

277 CARGO ROAD, ORANGE

Schedule 1

Summary of requirements (section 7.4 of the Act)

Subject and subsection of the Act	Planning Agreement
<b>Description of the land to which the planning Agreement applies –</b> Section 7.4(3)(a)	The land comprised in Lot A DP408148 known as 277 Cargo Road, Orange
<b>Description of the change to the environmental planning instrument to which the agreement applies –</b> Section 7.4(3)(b)(i)	<ul style="list-style-type: none"> <li>Change the mapping of the Land from existing zones C3 – Environmental Management and RU1- Primary Production to part Zone R1 General Residential, part Zone R2 Low Density Residential, and part RE1 Public Recreation.</li> <li>Change the mapping of the Land from existing 100-hectare minimum lot size to a range of lot sizes including, but not limited to: 1500 m<sup>2</sup> and areas with no minimum lot size.</li> <li>Modify the terrestrial biodiversity mapping from the Land.</li> </ul>
<b>Description of the application to which the agreement applies –</b> Section 7.4(3)(b)(ii)	Subdivision to create up to 103 lots (containing up to 102 urban residential lots and 1 open space lot)
<b>The nature and extent of the provision to be made by the developer under the agreement, the time or times by which the provision is to be made and the manner by which the provision is to be made –</b> Section 7.4(3)(c)	See clauses 6, 7 and 8; and Schedule 2.
<b>Applicability of section 7.11 of the Act –</b> Section 7.4(3)(d) & (e)	Section 7.11 is not excluded by this agreement. See clause 5 of this Deed.
<b>Applicability of section 7.12 of the Act –</b> Section 7.4(3)(d)	Section 7.12 is not excluded by this agreement. See clause 5 of this Deed.
<b>Applicability of section 7.24 of the Act –</b> Section 7.4(3)(d)	Section 7.24 is not excluded by this agreement. See clause 5 of this Deed.
<b>Whether benefits under the agreement are to be taken into consideration in determining a development contribution under section 7.11</b> Section 7.4(3)(e)	Yes. See clause 5 of this Deed.
<b>Mechanism for dispute resolution –</b>	See clauses 9 - 11 of this Deed.

277 CARGO ROAD, ORANGE

Section 7.4(3)(f)	
<b>Enforcement of the Planning Agreement –</b> Section 7.4(3)(g)	See clause 14 of this Deed.
<b>No obligation to grant consent or exercise functions –</b> Section 7.4(9)	See clause 17 of this Deed.

## Schedule 2 – Contribution Schedule

Column 1	Column 2	Column 3	Column 4
Contribution item	Public Purpose	Manner & Extent	Timing
<b>Dedication of the Open Space Land</b>			
Open Space Land	The provision of public amenities (section 7.4(2)(a) of the Act)	Dedication, or a freehold ownership transfer, to the Council of the Open Space Land at no cost to the Council.	At any time prior to or simultaneously with the registration of the last registered lot the subject of the Development.
<b>Carrying out of the Works</b>			
Works on the Open Space Land	The provision of public amenities (section 7.4(2)(a) of the Act)	Carrying out the Works on the Open Space Land	Works to be completed to the Council's reasonable satisfaction on, or before, the date on which the dedication, or freehold ownership transfer, to the Council of the Open Space Land occurs.
<b>Maintenance of the Open Space Land</b>			
Maintenance of the Open Space Land for the Maintenance Period	The provision of public amenities (section 7.4(2)(a) of the Act)	Carrying out works and services necessary for the maintenance of the Open Space Land	Maintenance of the Open Space Land to be carried out during the Maintenance Period

---

## Schedule 3 - Works Schedule

### 1 Interpretation

For the purposes of this clause 1 of Schedule 3, the defined terms in clause 1.1 of this Deed and the Interpretation principles in clause 1.2 of this Deed will apply and, unless context indicates a contrary intention:

**Builder** means any entity contracted under the Construction Contract to carry out the Works.

**Construction Contract** means the contract to carry out the Works (whether or not that is a contract for the Works only or forms part of a contract for the building of other components of the Development).

**Defects Liability Period** means in respect of each item of building works which together comprise the Works the period of 12 months from the date on which the Certificate of Practical Completion is issued for the Works.

**Detailed Design** means the final specifications and finishes for the Works prepared in accordance with clause 4.2 of this Schedule 3 and will include the design of the Works, the location for the Works, installation specifications and estimated costs of construction and/or installation.

**Services** means all water, gas, electricity, television, drainage, sewerage, cable TV, data communications, telecommunications and other services which are required under any Development Consent or an Approval and which are necessary or desirable for the construction or operation of the Development.

**Superintendent** means the Superintendent appointed under any Construction Contract.

### 2 Requirements and Approvals

#### 2.1 Construction

This Works Schedule must be read and construed subject to:

- (a) any requirements or conditions of any Development Consent;
- (b) the requirements of and conditions imposed by all relevant Authorities and all laws relating to the Works.

#### 2.2 Approvals

If the Developers requires any Approvals in order to carry out the obligations under this Deed, then the Developers must obtain all Approvals necessary to carry out the Works at their own cost.



---

### **2.3 Approvals**

- (a) The Developers must ensure that the Works carried out under this Deed are carried out:
  - (i) in accordance with any Development Consent for the Works, all Approvals and the requirements of all laws, including without limitation, work health and safety legislation; and
  - (ii) in a good and workmanlike manner and so that they are diligently progressed until completion.
- (b) All costs of the Works must be borne by the Developers.

## **3 Project Management and Contractor Engagement**

- (a) The Developers are responsible for managing the Works.
- (b) The Developers must ensure that any contractor it engages to carry out the Works agrees to carry out the Developers obligations in this Works Schedule as part of any Construction Contract.

## **4 Design Development and Approvals**

### **4.1 Concept Design**

The Council and the Developers will work in consultation with each other to prepare and agree the concept plans for the Works.

### **4.2 Detailed Design**

- (a) Prior to Works commencing the Developers must provide a copy of the draft Detailed Design to the Council for approval.
- (b) Within 20 Business Days of receiving the Detailed Design, the Council will respond to the Developer with any suggested amendments to the Detailed Design.
- (c) The Council and the Developers must work in consultation with each other to prepare and agree the Detailed Design and must both act reasonably and with due expedition in their consultations with each other.
- (d) If the Detailed Design is not completed and agreed within 20 Business Days of the Council providing its suggested amendments in accordance with clause 4.2(b) of this Schedule 3, to avoid possible delays to the issue of a Construction Certificate, the Council will, in its sole discretion, be entitled to decide on any outstanding or undecided matter or item relating to areas that are to be accessible to the public, provided that any decision made by Council under this clause:
  - (i) is consistent with the obligation to carry out the Works in accordance with the agreed scope and specifications and dedicate the Dedication Land under this Deed; and
  - (ii) is consistent with any Development Consent for the Development; and

- (iii) does not materially and adversely affect the Development; and
  - (iv) is not unreasonable; and
  - (v) does not add to the scope or cost of the Works (unless agreed by both parties).
- (e) Any acceptance by the Council of the Detailed Design under this clause 4 of Schedule 3 is not to be taken as approval of or to any Construction Certificate for the Works.

#### **4.3 Good faith**

The Parties must act promptly and in good faith to consult in relation to the Detailed Design.

### **5 Carrying out of Works**

#### **5.1 Communication**

The Developer must keep the Council reasonably informed of progress of the Works and provide to Council such information about the Works as the Council reasonably requests.

#### **5.2 Standard of Works**

- (a) Unless otherwise provided, the Developers shall, and must cause the Builder to, use suitable new materials and proper and tradesman like workmanship when carrying out the Works.
- (b) The qualitative standard of the design and finishes for the Works must be no less than those described in the following documents:
  - (i) any relevant Australian Standard; and
  - (ii) any relevant design standards or guidelines required to be complied with under the conditions of any Development Consent or any Approval required to carry out the Works.
- (c) The Developers will obtain any relevant standards (including design standards), specifications, or guidelines and any other requirements or policies referred to in clause 5.2(b) of this Schedule 3 from the Council if the Council fails to deliver them to the Developers.
- (d) The Developers may but is not obliged to reinstate any Works where damage or destruction is as a result of:
  - (i) any act or omission of the Council or its employees, consultants or agents relating to any part of the Works under this Deed; or
  - (ii) the use or occupation by the Council or its employees, consultants or agents, Council's representatives or other contractor of the Council of any part of the Works.

---

### 5.3 Damage to people, property & utilities

- (a) The Developers are to ensure to the fullest extent reasonably practicable that, in performing its obligations under this Deed:
  - (i) all necessary measures are taken to protect people and property;
  - (ii) unnecessary interference with the passage of people and vehicles is avoided; and
  - (iii) nuisances and unreasonable noise and disturbances are prevented.
- (b) Without limiting clause 5.3(a) of this Schedule 3, the Developers are not to obstruct, interfere with, impair or damage any public road, public footpath, public cycleway or other public thoroughfare, or any pipe, conduit, drain, watercourse or other public utility or service on any land except as authorised in writing by the Council or any relevant Authority.

## 6 Inspection

- (a) Prior to the commencement of the Works, the Council may at its absolute discretion provide a schedule of inspections to be undertaken by Council (**Inspection Schedule**) to occur at specified stages of the construction of the Works (**Inspection Stage**). If the Council does not provide the Inspection Schedule, the Developers must request confirmation from Council as to whether it intends to provide an Inspection Schedule from the Council prior to the Works commencing.
- (b) 5 Business Days prior to reaching an Inspection Stage as set out in any Inspection Schedule, the Developers must notify the Council of the proposed inspection date (**Inspection Date**).
- (c) On the Inspection Date, or other agreed date, the Developers must ensure that any employees, contractors, agents or representatives of Council have access to and may enter the Land to inspect the Works.
- (d) In addition to carrying out inspections in accordance with the Inspection Schedule, the Council may enter the Land or any part of the Land on which the Works are located to inspect the progress of the Works, subject to:
  - (i) the terms of the Construction Contract (save for any clause of the Construction Contract which prevents the Council from accessing the Land);
  - (ii) giving reasonable notice to the Developers;
  - (iii) complying with all reasonable directions of the Developers; and
  - (iv) being accompanied by the Developers or a nominee, or as otherwise agreed.
- (e) The Council may, acting reasonably, within 5 Business Days of carrying out an inspection (either under clause 6.1(c) or 6.1(d) of this Schedule 3, notify the Developers of any defect or non-compliance in the Works and direct the Developer

to carry out work to rectify that defect or non-compliance within a reasonable period of time. Such work may include, but is not limited to:

- (i) removal of defective or non-complying material;
  - (ii) demolishing defective or non-complying work;
  - (iii) reconstructing, replacing or correcting any defective or non-complying work; and
  - (iv) not delivering any defective or non-complying material to the site of the Works.
- (f) If the Developers are issued a direction to carry out further work under clause 6.1(e) of this Schedule 3, the Developers must, at its cost, rectify the defect or non-compliance specified in the notice within the time period specified in the notice, provided that it is reasonable having regard to the nature of the works.
- (g) If the Developers fail to comply with a direction to carry out work given under 6.1(e) of this Schedule 3, the Council will be entitled to refuse to accept that the Works (or the relevant part of the Works) meet the Council's standards and specifications and may refuse to issue a Certificate of Practical Completion, until the required Works have been completed to the Council's satisfaction, acting reasonably.
- (h) For the avoidance of doubt, any acceptance by the Council that the Developers have rectified a defect or non-compliance identified in a notice issued under 6.1(e) of this Schedule 3 does not constitute:
- (i) acceptance by the Council that the Works comply with all Approvals and laws; or
  - (ii) an Approval by the Council in respect of the Works; or
  - (iii) an acknowledgment by the Council that the Works or the relevant part of the Works are complete and may be delivered to the Council in accordance with this Deed.

## 7 Completion

### 7.1 Practical Completion

- (a) When the Developers considers that the Works, or any part of the Works, are complete, the Developers must send a notice to the Council accompanied by complete works as executed plans, any relevant certificates or consents of any public utility authority and a request for written certification from the Council that the Works are complete (**Completion Notice**).
- (b) Within 10 Business Days of receipt of the Completion Notice, the Council will carry out an inspection of the Works and will, acting reasonably, either:
- (i) provide written certification to the Developers that the Works have been completed; or



- (ii) notify the Developers of any additional information required or matters which must be addressed by the Developers prior to the certification being issued.
- (c) If the Developers are required to provide additional information or address any matters under clause 7.1(b)(ii) of this Schedule 3, the Developers will provide that information to Council or address those matters within 10 Business Days of receiving the notice or within a reasonable period of time and make a further request under clause 7.1(a) of this Schedule 3 for written certification that the Works have been completed.
- (d) Practical Completion will be achieved in relation to the Works or any part of the Works when a Certificate of Practical Completion has been issued for those Works.

## 7.2 Delivery of documents

- (a) If requested by Council, acting reasonably, prior to issue of the Certificate of Practical Completion, the Developers must deliver to Council complete and legible copies of:
  - (i) all "as built" full-sized drawings, specifications and relevant operation and service manuals;
  - (ii) all necessary certificates required under any Development Consent including the certificates of any consultants of the Developers that the Council may reasonably require, and Approvals of any public utility authority (where relevant); and
  - (iii) copies of all Approvals required for use of the land subject to the Works.
- (b) If requested by Council, acting reasonably, prior to the issue of the Certificate of Practical Completion, the Developers must provide the Council with a tour of the land subject to the Works and provide reasonable instructions on the operation and use of the services on that land.

## 7.3 Assignment of Warranties and Causes of Action

- (a) The Developers must assign (as beneficial owner) or cause to be assigned to Council the benefit of any warranties and guarantees obtained by the Developers and the Builder (and capable of assignment) with respect to any material or goods incorporated in or forming part of the Works.
- (b) To the extent that any such warranties or guarantees cannot be assigned, the Developer must at the request of Council do anything reasonably required by Council to enforce such warranties or guarantees for the benefit of Council, provided any legal costs of such enforcement are paid for by Council.

## 7.4 Defects Liability Period

- (a) During the Defects Liability Period, the Council (acting reasonably) may give to the Developer a notice (**Rectification Notice**) in writing that identifies a defect in the Works and specifies:
  - (i) action required to be undertaken by the Developers to rectify that defect (**Rectification Works**); and



- 
- (ii) the date on which the defect must be rectified (**Rectification Date**).
  - (b) The Developers must comply with the Rectification Notice by:
    - (i) procuring the performance of the Rectification Works by the Rectification Date, or such other date as agreed between the parties;
    - (ii) keeping the Council reasonably informed of the action to be taken to rectify the defect; and
    - (iii) carrying out the Rectification Works.
  - (c) The Council must give the Developers and its contractors any access required to carry out the Rectification Works.
  - (d) When the Developers consider that the Rectification Works are complete, either the Developers must notify the Council and provide documentation, plans or invoices which establish that the Rectification Works were carried out.
  - (e) The Council may inspect the Rectification Works within 15 Business Days of receiving a Notice from the Developers under clause 7.4(d) of this Schedule 3 and, acting reasonably:
    - (i) issue a further Rectification Notice if it is not reasonably satisfied that the Rectification Works are complete; or
    - (ii) notify the Developer in writing that it is satisfied the Rectification Works are complete.
  - (f) The Developers must meet all costs of and incidental to rectification of defects under this clause 7.4.
  - (g) If the Developers fail to comply with a Rectification Notice, then the Council may do such things or take such action as is necessary to carry out the Rectification Works, including accessing and occupying any part of the Dedication Land without further notice to the Developers, and may recover as a debt due to the Council by the Developers in a court of competent jurisdiction, any difference between the amount of the security deposit and the costs incurred by the Council in carrying out Rectification Works.
  - (h) The Developers must request that Council inspect the Works 20 Business Days prior to the end of the Defects Liability Period. The Council must inspect the Works at any time after receiving the request from the Developers and before to the end of the Defects Liability Period.
  - (i) If, prior to the end of the Defects Liability Period:
    - (i) the Developers fail to request the inspection, or
    - (ii) the Council does not carry out the inspection,
- the Council may extend the Defects Liability Period so that the inspection may be carried out.

---

## 8 Risk

The Developers undertakes the Works entirely at their own risk.

## 9 Insurance

- (a) Prior to the commencement of the construction of any of the Works, the Developers must ensure the Builder effects and the Developers must produce evidence to the Council of the following insurances issued by an insurer approved by the Council (acting reasonably) in a form approved by the Council (acting reasonably):
  - (i) construction works insurance for the value of the Works;
  - (ii) public risk insurance for at least \$20 million;
  - (iii) workers compensation insurance as required by Law.
- (b) The Developers must provide evidence of currency of insurance required by clause 9.1(a) of this Schedule 3 upon request by the Council, acting reasonably, throughout the term of this Deed.

## 10 Indemnities

The Developers indemnify the Council, its employees, officers, agents and contractors from and against all Claims in connection with the carrying out by the Developer of the Works except to the extent such Claim arises either directly or indirectly as a result of the Council or its employees, officers, agents, contractors or workmen's negligence, default, act or omission.

## 11 Intellectual Property Rights

The Council acknowledges that the Developers or its contractors hold all rights to copyright and any intellectual property which may exist in the Works. To the extent the Developers have or receive intellectual property rights for the Works, the Developer shall assign those intellectual property rights to Council or permit use thereof.

## 12 Risk of contamination

- (a) The Developers acknowledge and agree:
  - (i) that they are responsible for the management and remediation of any contamination present upon or under the land on which the Works are to be carried out;
  - (ii) they will attend to any necessary remediation at their own cost; and
  - (iii) to the fullest extent permitted by law indemnify and release the Council from any Claim which might arise from any contamination caused by the Developers or its contractors as a result of the Works, with respect to the land on which the Works are to be carried out.

---

## Schedule 4 - Explanatory Note

### Planning Agreement

277 Cargo Road, Orange, NSW

## 1 Introduction

- (a) The purpose of this Explanatory Note is to provide a summary to support the notification of a draft Planning Agreement (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)*, prepared in connection with the Instrument Change that seeks to amend the *Orange Local Environmental Plan 2011 (LEP)* to:
  - (i) rezone the Land;
  - (ii) vary the minimum lot sizes; and
  - (iii) modify the terrestrial biodiversity mapping over the Land.
- (b) This Explanatory Note has been prepared jointly by the parties to the Planning Agreement as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000 (Regulation)*.
- (c) In this Explanatory Note, capitalised terms have the meaning given to those terms in the Planning Agreement unless otherwise defined.
- (d) This Explanatory Note is not to be used to assist in construing the Planning Agreement.

## 2 Parties to the Planning Agreement

The parties to the Planning Agreement are:

- (a) Orange City Council of 135 Byng Street, Orange, NSW (**Council**).
- (b) Charms Developments Pty Limited (ACN 147 580 149) of 171 Margaret Street, Orange, NSW and Fenlor Group Pty Limited (ACN 93 072 632 430) of 1 Borrodell Drive, Orange, NSW (**Developers**); and
- (c) Celestina Maria Vardanega of 277 Cargo Road, Orange NSW (**Owner**).

## 3 Description of the Land

The Planning Agreement applies to Lot A in Deposited Plan 408148 and known as 277 Cargo Road, Orange, NSW being the land comprised in certificate of title folio identifier A / 408148 (**Land**).

---

## 4 Description of the Instrument Change

The Developers wish to redevelop the Land. To facilitate the redevelopment of the Land an Instrument Change is being pursued that seeks to amend the *Orange Local Environmental Plan 2011 (LEP)* to (amongst other things):

- (i) rezone the Land;
- (ii) vary the minimum lot sizes; and
- (iii) modify the terrestrial biodiversity mapping over the Land.

The redevelopment of the Land that will be facilitated by the Instrument Change being pursued involves subdivision of the Land into up to 103 lots (containing up to 102 urban residential lots and 1 open space lot).

## 5 Summary of Objectives, Nature and Effect of the Planning Agreement

The objective of the Planning Agreement is to facilitate the following benefits to the Council:

- (iv) dedication of part of the Land proposed for a public park (**Open Space Land**);
  - (v) carrying out of embellishment works to the Open Space Land prior to dedication; and
  - (vi) maintenance of the Open Space Land,
- (together **Contributions**).

## 6 Assessment of the Merits of the Planning Agreement

### 6.1 How the Planning Agreement promotes the public interest and one or more of the objects of the Act

The Contributions under the Planning Agreement will be in the public interest because they increase public open space to meet the needs of the people who live, work or visit the locality that includes the Land. This will promote the social and economic welfare of the community.

In doing so, the Planning Agreement promotes the following objects of the Act:

- (a) to promote the orderly and economic use and development of land (section 1.3(c)); and
- (b) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources (section 1.3(a)).



---

## **6.2 How the Planning Agreement promotes the objects of the Local Government Act 1993 (LG Act) and the elements of the Council's charter**

The Planning Agreement promotes the exercise by Council of its functions in accordance with the guiding principles set out in Chapter 3 of the LG Act because it will assist Council to provide infrastructure and public spaces for the benefit of the community in the area of the Development.

Council's strategic planning for the locality that includes the Land envisions an attractive, vibrant and sustainable residential developments.

In summary, the Planning Agreement promotes the Council's charter by ensuring the delivery of the public benefits under the Planning Agreement which in turn satisfy the following aspects of Council's charter under the LG Act:

- (a) Councils should plan strategically for the provision of effective and efficient services and regulation to meet the diverse needs of the local community (section 8A(1)(c));
- (b) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way (section 8A(1)(g)); and
- (c) Council should work with others to secure the appropriate services for local community needs (section 8A(1)(g)).

## **6.3 Assessment of the merits of the Planning Agreement**

In accordance with section 7.4(2) of the Act, the Planning Agreement promotes the public purposes of the provision of (or the recoupment of the cost of providing) public amenities or public services.

## **6.4 How the Planning Agreement promotes the public interest**

The Planning Agreement requires the dedication of the Open Space Land and the carrying out of embellishment works to that land prior to dedication.

The Planning Agreement provides to Council a park which will enhance public amenities servicing the surrounding residential area.

## **6.5 Whether the Planning Instrument Conforms with the Council's Capital Works Program**

The Planning Agreement conforms with Council's capital works program.

## **6.6 Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued**

The Planning Agreement does not impose such requirements. Rather, it proposes the embellishment and dedication of the Open Space Land at any time prior to or simultaneously with the registration of the final lot in the subdivision.



Signing page

Executed as a Deed

**EXECUTED** by **ORANGE CITY COUNCIL** by its General Manager pursuant to s733 and s 683 of the *Local Government Act 1993* in the presence of:

Signature of witness	Signature
Name of witness <i>(please print)</i>	

**EXECUTED** by **CHARMS DEVELOPMENTS PTY LTD** (ACN 147 580 149) in accordance with s127 of the *Corporations Act 2001*.

Signature of Director/Secretary	Signature of Director/Secretary
Name of Director/Secretary	Name of Director/Secretary

**EXECUTED** by **FENLOR GROUP PTY LTD** (ACN 072 632 430) in accordance with s127 of the *Corporations Act 2001*.

Signature of Director/Secretary	Signature of Director/Secretary
Name of Director/Secretary	Name of Director/Secretary

---

**SIGNED SEALED AND DELIVERED** by  
**CELESTINA MARIA VARDANEGA** in the  
presence of:

---

Signature of witness

---

Signature of **Celestina Maria Vardanega**

---

Name of witness *(please print)*

# Explanatory Note

## Planning Agreement

277 Cargo Road, Orange, NSW

### 1 Introduction

- (a) The purpose of this Explanatory Note is to provide a summary to support the notification of a draft Planning Agreement (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979 (Act)*, prepared in connection with the Instrument Change that seeks to amend the *Orange Local Environmental Plan 2011 (LEP)* to:
- (i) rezone the Land;
  - (ii) vary the minimum lot sizes; and
  - (iii) modify the terrestrial biodiversity mapping over the Land.
- (b) This Explanatory Note has been prepared jointly by the parties to the Planning Agreement as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000 (Regulation)*.
- (c) In this Explanatory Note, capitalised terms have the meaning given to those terms in the Planning Agreement unless otherwise defined.
- (d) This Explanatory Note is not to be used to assist in construing the Planning Agreement.

### 2 Parties to the Planning Agreement

The parties to the Planning Agreement are:

- (a) Orange City Council of 135 Byng Street, Orange, NSW (**Council**).
- (b) Charms Developments Pty Limited (ACN 147 580 149) of 171 Margaret Street, Orange, NSW and Fenlor Group Pty Limited (ACN 93 072 632 430) of 1 Borrodell Drive, Orange, NSW (**Developers**); and
- (c) Celestina Maria Vardanega of 277 Cargo Road, Orange NSW (**Owner**).

### 3 Description of the Land

The Planning Agreement applies to Lot A in Deposited Plan 408148 and known as 277 Cargo Road, Orange, NSW being the land comprised in certificate of title folio identifier a / 408148 (**Land**).

### 4 Description of the Instrument Change

The Developers wish to redevelop the Land. To facilitate the redevelopment of the Land an Instrument Change is being pursued that seeks to amend the *Orange Local Environmental Plan 2011 (LEP)* to (amongst other things):

- (a) rezone the Land;
- (b) vary the minimum lot sizes; and
- (c) modify the terrestrial biodiversity mapping over the Land.

The redevelopment of the Land that will be facilitated by the Instrument Change being pursued involves subdivision of the Land into up to 103 lots (containing up to 102 urban residential lots and 1 open space lot).

## **5 Summary of Objectives, Nature and Effect of the Planning Agreement**

The objective of the Planning Agreement is to facilitate the following benefits to the Council:

- (a) dedication of part of the Land proposed for a public park (**Open Space Land**);
  - (b) carrying out of embellishment works to the Open Space Land prior to dedication; and
  - (c) maintenance of the Open Space Land,
- (together **Contributions**).

## **6 Assessment of the merits of the Planning Agreement**

### **6.1 How the Planning Agreement promotes the public interest and one or more of the objects of the Act**

The Contributions under the Planning Agreement will be in the public interest because they increase public open space to meet the needs of the people who live, work or visit the locality that includes the Land. This will promote the social and economic welfare of the community.

In doing so, the Planning Agreement promotes the following objects of the Act:

- (a) to promote the orderly and economic use and development of land (section 1.3(c)); and
- (b) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources (section 1.3(a)).

### **6.2 How the Planning Agreement promotes the objects of the Local Government Act 1993 (LG Act) and the elements of the Council's charter**

The Planning Agreement promotes the exercise by Council of its functions in accordance with the guiding principles set out in Chapter 3 of the LG Act because it will assist Council to provide infrastructure and public spaces for the benefit of the community in the area of the Development.

Council's strategic planning for the locality that includes the Land envisions an attractive, vibrant and sustainable residential developments.

In summary, the Planning Agreement promotes the Council's charter by ensuring the delivery of the public benefits under the Planning Agreement which in turn satisfy the following aspects of Council's charter under the LG Act:

- (a) Councils should plan strategically for the provision of effective and efficient services and regulation to meet the diverse needs of the local community (section 8A(1)(c));
- (b) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way (section 8A(1)(g); and
- (c) Council should work with others to secure the appropriate services for local community needs (section 8A(1)(g)).

### **6.3 Assessment of the merits of the Planning Agreement**

In accordance with section 7.4(2) of the Act, the Planning Agreement promotes the public purposes of the provision of (or the recoupment of the cost of providing) public amenities or public services.

### **6.4 How the Planning Agreement promotes the public interest**

The Planning Agreement requires the dedication of the Open Space Land and the carrying out of embellishment works to that land prior to dedication.

The Planning Agreement provides to Council a park which will enhance public amenities servicing the surrounding residential area.

### **6.5 Whether the Planning Instrument Conforms with the Council's Capital Works Program**

The Planning Agreement conforms with Council's capital works program.

### **6.6 Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued**

The Planning Agreement does not impose such requirements. Rather, it proposes the embellishment and dedication of the Open Space Land at any time prior to or simultaneously with the registration of the final lot in the subdivision.





## Department of Climate Change, Energy, the Environment and Water

Your ref: PP-2023-934  
Our ref: DOC25/20788-1

Alison Phillips  
Senior Strategic Town Planner  
Orange City Council  
PO Box 35  
Orange NSW 2800

By email:

Dear Alison

**Re: Planning Proposal – 277 Cargo Road, Orange**

Thank you for your request via the NSW Planning Portal dated 10 December 2024 to the Biodiversity, Conservation and Science Group (BCS) of the Department of Climate Change, Energy, the Environment and Water (NSW DCCEEW) inviting comments on the proposed amendments to Orange Local Environmental Plan 2011. BCS has reviewed the planning proposal dated 24 May 2024 and understand the proposed amendments comprise of:

- Adding an Urban Release Area (URA) overlay to the subject site, triggering the application of Part 6 of the LEP which requires a Development Control Plan (DCP) to be adopted for the subject site.
- Rezoning the subject site (Lot A DP408148) from RU1 Primary Production and C3 Environmental Management to R2 Low Density Residential and RE1 Public Recreation.
- Amending the Minimum Lot Size (MLS) to include part 1500m<sup>2</sup> and Nil MLS within the subject site.
- Removing the High Sensitivity mapping (Environmentally Sensitive Area) from the biodiversity overlay over Lot A DP408148 and Lot 4 DP1099080.

**In summary, we do not object to the planning proposal.** Our key recommendations in relation to biodiversity and flooding are:

- Undertake additional assessment of biodiversity within Lot 4 DP1099080 and document in the Preliminary Flora and Fauna Assessment before the biodiversity overlay is amended and the High Sensitivity mapping (Environmentally Sensitive Area) is removed.
- Accurately quantify the area of native vegetation being removed to determine if the activity would trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR) to be prepared. All clearing including provisions for fencing, asset protection zones, road accesses and ancillary developments must be included to determine BOS thresholds. The clearing thresholds will be determined based on the smallest proposed MLS identified in the amended LEP.
- Consider protection measures in the site-specific development control plan for remnant native vegetation, as well as specific requirements explaining the Biodiversity Assessment Method (BAM) and BOS entry thresholds to assist future development applications.
- Include hydraulic studies in the future development assessment to demonstrate that flood waters under 1% Annual Exceedance Probability (AEP) flood event can be safely contained by planned infrastructure stormwater network.

[rog.nw@environment.nsw.gov.au](mailto:rog.nw@environment.nsw.gov.au) | [environment.nsw.gov.au](http://environment.nsw.gov.au)

- Refer to and comply with the principles in the NSW Flood Risk Management Manual 2023.

Our detailed comments are provided in **Attachment A**.

We have developed a standard approach for planning proposals to assess biodiversity impacts on HEV land. The approach is set out in the three attachments to this letter:

- **Attachment B** describes our recommended steps for assessing and addressing biodiversity as part of a planning proposal. This aims to ensure that a planning proposal can demonstrate consistency with the strategic planning framework including the relevant Regional Plan, particularly in identifying and protecting HEV lands.
- **Attachment C** describes the HEV criteria and provides our recommended method for investigating lands for the presence of the HEV criteria at the property scale as part of a planning proposal.
- **Attachment D** provides our recommended guidance for avoiding and minimising impacts on HEV land as part of a planning proposal.

BCS remains available for consultation to discuss components of fieldwork for identification of HEV or preparation of any biodiversity studies associated with the planning proposal.

If you require any further information regarding this matter, please contact Alex Christie, Conservation Planning Officer, via

Regards

Candice Larkin  
**A//Principal Project Manager, North West  
Biodiversity, Conservation and Science**

13 January 2025

Attachment A – BCS Detailed Comments & Recommendations

Attachment B – BCS NW Branch Steps for Assessing Biodiversity in Planning Proposals

Attachment C – BCS NW Branch HEV Criteria and Identification Methods at the Property Scale

Attachment D – BCS NW Branch HEV Guidance for Avoiding and Minimising Impacts on HEV Land

## Attachment A

**BCS's Detailed Comments and Recommendations****277 Cargo Road, Orange – Planning Proposal**

BAM	Biodiversity Assessment Method
BC Act	<i>Biodiversity Conservation Act 2016</i>
BC Reg	<i>Biodiversity Conservation Regulation 2017</i>
BDAR	Biodiversity development assessment report
BOS	Biodiversity Offsets Scheme
DCCEEW	Department of Climate Change, Energy, Environment and Water
DCP	Development control plan
EIS	Environmental impact statement
HEV	High environmental value
LEP	Local environmental plan
LSPS	Local strategic planning statement
MLS	Minimum lot size
R1	General Residential zone
RE1	Public Recreation zone
SAII	Serious and irreversible impact

**Recommendations**

- 1.1 Undertake additional assessment of biodiversity within Lot 4 DP1099080 and document in the Preliminary Flora and Fauna Assessment before the biodiversity overlay is amended and the High Sensitivity mapping (Environmentally Sensitive Area) is removed.
- 1.2 Accurately quantify the area of native vegetation being removed to determine if the activity would trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a BDAR to be prepared. All clearing including provisions for fencing, asset protection zones, road accesses and ancillary developments must be included to determine BOS thresholds. The clearing thresholds will be determined based on the smallest proposed MLS identified in the amended LEP.
- 1.3 Consider protection measures in the site-specific development control plan for remnant native vegetation, as well as specific requirements explaining the BAM and BOS entry thresholds to assist future development applications.
- 2.1 Include hydraulic studies in the future development assessment to demonstrate that flood waters under 1% Annual Exceedance Probability (AEP) flood event can be safely contained by planned infrastructure stormwater network.
- 2.2 Refer to and comply with the principles in the NSW Flood Risk Management Manual 2023.



## 277 Cargo Road, Orange – Planning Proposal

---

### 1. Biodiversity

We understand that the proposal comprises of:

- Adding Urban Release Area (URA) overlay to the subject site so that it triggers the application of Part 6 of the LEP which requires a Development Control Plan (DCP) to be adopted for the subject site.
- Rezoning the subject site (Lot A DP408148) from RU1 Primary Production and C3 Environmental Management to R2 Low Density Residential and RE1 Public Recreation.
- Amending the Minimum Lot Size (MLS) to include part 1500m<sup>2</sup> and Nil MLS within the subject site.
- Removing the High Sensitivity mapping (Environmentally Sensitive Area) from the biodiversity overlay over Lot A DP408148 and Lot 4 DP1099080.

BCS has four areas of interest relating to strategic land use planning proposals:

1. The impacts of development intensification on biodiversity.
2. Adequate investigation of the environmental constraints of affected land.
3. Avoiding intensification of land use and settlement in areas of high environmental value (HEV).
4. Ensuring that development within a floodplain is consistent with the NSW Government's Flood Prone Land Policy, the principles set out in the Floodplain Development Manual, and applicable urban and rural floodplain risk management plans.

We generally support strategic planning proposals which:

- Avoid settlement intensification in areas of HEV and environmental hazards
- Aligns with state, regional and local strategic planning frameworks and includes objectives, such as 'no net loss of native vegetation'
- Update planning controls to reflect the environmental values and constraints present; and
- Minimise flood risk to human life, property and the local environment while maintaining floodplain connectivity for environmental benefit.

We have reviewed the draft growth management and housing strategy. Detailed comments and recommendations are provided below to:

- help Council meet the stated aims and intent of the strategy
- facilitate consistency with the Central West and Orana Regional Plan 2041 and Orange Local Strategic Planning Statement 2020 (LSPS)
- inform the proposed Place Delivery Group Program, future planning proposals and master planning/development control planning
- simplify future development assessment.

### High Sensitivity mapping (Environmentally Sensitive Area)

The planning proposal and Preliminary Flora and Fauna Assessment (PFFA) dated 29 March 2023 suggests that the High Sensitivity mapping (Environmentally Sensitive Area) shown on the biodiversity overlay does not contain any native vegetation and provides limited fauna habitat within the subject site. The Gateway Alteration report – GA-2024-179 notes that the amended proposal includes a small section of the adjoining Lot 4 DP1099080 covering the extent of a pine plantation mapped as terrestrial biodiversity area. As the PFFA only assesses biodiversity values within Lot A DP408148 we recommend that further field verification be undertaken to confirm the absence of biodiversity values in this lot and that the PFFA is updated with this additional information before amendments are made to the biodiversity overlay and the High Sensitivity mapping over Lot 4 DP1099080 is removed.

#### Recommendation

- 1.1 Undertake additional assessment of biodiversity within Lot 4 DP1099080 and document in the Preliminary Flora and Fauna Assessment before the biodiversity overlay is amended and the High Sensitivity mapping (Environmentally Sensitive Area) is removed.

#### **BOS Triggers**

The *Biodiversity Conservation Act 2016* (BC Act) and *Biodiversity Conservation Regulation 2017* (BC Reg) section 7.1 apply to subdivisions. When assessing subdivisions, the consent authority must consider the clearing of native vegetation required, or likely to be required, for the purpose for which the land is to be subdivided.

Native vegetation includes trees, understorey plants, groundcover and plants occurring in a wetland that are native to New South Wales (including planted native vegetation), not just trees.

If the subdivision will impact native vegetation and the clearing exceeds the biodiversity offsets scheme (BOS) thresholds (Part 7, BC Reg), the biodiversity assessment method (BAM) must be applied and a BDAR prepared to assess and calculate the biodiversity offset credit requirement.

Biodiversity offsets are calculated and secured in accordance with the *Biodiversity Conservation Act 2016* for the subdivision. Once this is done, no further offsets are required for subsequent development of the land that is within the approved subdivision.

The BAM requires proponents to demonstrate that biodiversity impacts have been avoided and minimised as far as possible, with residual impacts offset. Both the complexity of assessments, and the costs to the proponent associated with complying with the BOS, are lower where impacts on biodiversity are avoided and/or concentrated in areas of lower vegetation integrity.

The proposed lot sizes for the subject land is approximately 26 lots with a MLS <1ha (i.e. a clearing threshold of up to 0.25 ha) and approximately 46 lots >1 ha (i.e. a clearing threshold of up to 0.5 ha). Section 6.5.1 of the Preliminary Flora and Fauna Assessment (PFFA) incorrectly states that as the current MLS is 100 ha the development is permitted to clear up to 1 ha without triggering the BOS. As development footprint contains two different MLS the smallest MLS (i.e. clearing of up to 0.25 ha) should be applied.

Future development of the subject site should consider all clearing including provisions for fencing, asset protection zones, road accesses and ancillary developments to determine BOS thresholds. It is unclear from the information provided in the planning proposal and PFFA if >0.25 ha of native vegetation is proposed to be cleared. If this is to occur the BOS will be triggered and a BDAR must be prepared.

#### Recommendation

- 1.2 Accurately quantify the area of native vegetation being removed to determine if the activity would trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a BDAR to be prepared. All clearing including provisions for fencing, asset protection zones, road accesses and ancillary developments must be included to determine BOS thresholds. The clearing thresholds will be determined based on the smallest proposed MLS identified in the amended LEP.

#### **Site-specific Development Control Plan**

We note that the Urban Release Area (URA) overlay is to be added to the subject land to trigger the application of LEP Part 6 and requirement of a Development Control Plan (DCP) to be adopted for the subject land.

The DCP would benefit from specific provisions relating to protecting native vegetation within open space areas where future development is not proposed. This would allow for remnant native vegetation to be protected. It may also contribute toward demonstrating that future subdivision development applications have avoided impacts to biodiversity.



The site-specific DCP may also benefit from wording that summarises how the BOS and BAM applies to future subdivision applications; to provide guidance and clarify what level of biodiversity assessment is required at DA stage.

#### Recommendation

- 1.3 Consider protection measures in the site-specific development control plan for remnant native vegetation, as well as specific requirements explaining the BAM and BOS entry thresholds to assist future development applications.

## 2. Flooding

Overall, we acknowledge that it is unlikely that the proposed amendments will increase the risk of flooding on the subject site in accordance with the Section 9.1 Ministerial Direction 4.1 Flooding.

We are satisfied that flooding risk can be satisfactorily addressed at development application stage, as per our recommendations below. In this regard, the relevant flood data to assess the flood behaviour is the adopted Blackmans Swamp Creek and Ploughmans Creek Floodplain Risk Management Study and Plan (Lyall & Associates, 2020).

#### Recommendations

- 2.1 Include hydraulic studies in the future development assessment to demonstrate that flood waters under 1% Annual Exceedance Probability (AEP) flood event can be safely contained by planned infrastructure stormwater network.
- 2.2 Refer to and comply with the principles in the NSW Flood Risk Management Manual 2023.

**Attachment B****BCS NW Branch Steps for Assessing Biodiversity in Planning Proposals**

---

**Introduction**

Planning proposals should demonstrate consistency with the State, regional and local strategic planning framework including the relevant Regional Plan and section 9.1 Ministerial Directions. To be consistent with the relevant Regional Plan for areas with High Environmental Value (HEV) (see **Attachment B** for identifying HEV), planning proposals should identify areas of HEV at the property scale and avoid intensification of development and land uses in those areas.

The s.9.1 Direction 2.1 Conservation Zones, require that Councils in preparing or amending an LEP must include provisions that facilitate the protection and conservation of Environmentally Sensitive Areas (ESAs) zoned or otherwise identified for conservation. As a minimum, these provisions must aim to maintain the existing level of protection for ESAs within the local government area (LGA), as afforded by the current LEP

Avoiding and minimising land use intensification in HEV areas may also facilitate future development by avoiding triggering the Biodiversity Offset Scheme (BOS) at the development application stage; or simplifying the application of the Biodiversity Assessment Method (BAM) and reducing future biodiversity credit liability.

**Biodiversity assessment for all planning proposals which affect HEV**

Biodiversity assessment for planning proposals should implement the following steps:

**Step 1: Identify HEV**

The planning proposal should identify and map areas of HEV with desktop analysis and site investigations when required, as set out in **Attachment B**.

**Step 2: Avoid and minimise impacts on HEV**

The planning proposal should take into consideration any impacts throughout the life of the proposal and all possible future land uses. Once all impacts are identified, the proposal can be located and designed to maximise avoidance of land use intensification in HEV areas and adhere with the guidance in

**Attachment C. Step 3: Protect HEV**

The planning proposal should maintain or improve existing planning provisions to protect HEV, while permitting land use intensification on certain parts of the land suitable for development. Updates to planning controls should reflect the environmental values and constraints present on the land, rather than permitting development intensification uniformly across an entire site. Areas of HEV should instead be better protected by updating LEP provisions, such as through:

- an appropriate zone which has strong conservation objectives and limited land uses
- an appropriate minimum lot size (MLS) so the land cannot be subdivided
- updating terrestrial biodiversity mapping
- creating local provisions which:
  - contain site specific constraints such as buffers, objectives and considerations for future development consents and limits certain development or land uses
  - identifies land with "high biodiversity significance"<sup>1</sup> to preclude exempt or complying development from occurring on any ESAs

---

<sup>1</sup> State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – cl.1.5(g) and Standard Instrument – Principal Local Environmental Plan (2006 EPI 155a) cl.3.3(g) "environmentally sensitive area" includes land identified in an environmental planning instrument as being of high biodiversity significance.

- require future management actions through a Development Control Plan (DCP) or Biodiversity and Vegetation Management Plan (BVMP).

Optional step for large or complex planning proposals which affect HEV

**Step 4: Identify biodiversity values and entities at risk of Serious and Irreversible Impacts (SII)**

The planning proposal could apply Stage 1 of the Biodiversity Assessment Method (BAM) to identify Plant Community Types, threatened species and ecological communities, as well as SII entities likely to be present. Application of Stage 1 of the BAM can be beneficial at the planning proposal stage as, if in the opinion of Council any:

- clearing associated with future subdivision or development of the land is likely to impact native vegetation and exceed the thresholds in Part 7 of the *Biodiversity Conservation Regulation 2017*, then a biodiversity development assessment report will be required at the development application stage.
- future development is likely to have a serious and irreversible impact on a SII entity, then under section 7.16 of the *Biodiversity Conservation Act 2016* a consent authority must refuse to grant consent to the development. Further advice regarding determination of serious and irreversible impacts is available via the [\*Guidance to assist a decision-maker to determine a serious and irreversible impact \(2019\)\*](#).

By applying Stage 1 of the BAM as part of the planning proposal, the proponent can further identify and avoid areas of biodiversity value that will generate a biodiversity credit liability or contain SII entities in the development application planning phase. When biodiversity is considered strategically at planning stage, future development assessment can be simplified and credit obligations reduced.



## Attachment C

## BCS NW Branch HEV Criteria and Identification Methods at the Property Scale

High Environmental Value (HEV) Criteria and Components		Property Scale HEV Identification Method
Criterion 1. Sensitive Biodiversity Mapped on the Biodiversity Values Map		
1.1 Biodiversity Values Map		a. Identify the parts of the land on the Biodiversity Values map which can be viewed at <a href="https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/about-the-biodiversity-offsets-scheme/when-does-bos-apply/biodiversity-values-map">https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/about-the-biodiversity-offsets-scheme/when-does-bos-apply/biodiversity-values-map</a> . b. Include any BV map areas as HEV.
Criterion 2. Native vegetation of high conservation value		
2.1 Vegetation in over-cleared landscapes (Mitchell landscapes)		a. Identify over-cleared Mitchell landscapes by viewing map data from the SEED portal <a href="https://www.seed.nsw.gov.au/">https://www.seed.nsw.gov.au/</a> – selecting NSW (Mitchell Landscapes) – latest version, selecting 'Show on Seed Map' and viewing the 'View Over Cleared Land Status'. b. Map all native vegetation on the land as HEV if it is in an over-cleared Mitchell landscape.
2.2 Over-cleared vegetation types		a. Identify Plant Community Types (PCTs) on the land through field work. b. Register and visit the Vegetation Information System (VIS) database at <a href="mailto:vis@environment.nsw.gov.au">vis@environment.nsw.gov.au</a> . c. Use the VIS to determine whether the % cleared status of the PCTs identified through field work on the land is above 70%. d. Map all PCTs on the land with the % cleared above 70% as HEV.
2.3 Threatened Ecological Communities - any vulnerable, endangered, or critically endangered ecological community listed under the BC Act, the FM Act 1994 or the EPBC Act and not mapped on the BV map		a. Identify Plant Community Types (PCTs) on the land through field work. b. Register and visit the VIS database at <a href="mailto:vis@environment.nsw.gov.au">vis@environment.nsw.gov.au</a> . c. Use the VIS to determine whether the PCTs on the land have Threatened Ecological Community (TEC) Status. d. If not identified as a TEC from steps a – c above, then refer to the NSW <a href="#">Threatened Species Scientific Committee determinations</a> to consider whether any of the PCTs accords with the determinations. e. Map all PCTs on the land that are TECs as HEV.
Criterion 3. Threatened species		
3.1 Key habitat for threatened species (vulnerable, endangered, or critically endangered species listed under BC Act)	Key breeding habitats with known breeding occurrence	a. Search BioNet for threatened species records on and within 10km of the land. b. Undertake field work to identify potential breeding habitats on the land for threatened species. c. Either assume breeding occurrence and map identified breeding habitats on the land as HEV or undertake targeted surveys during the applicable breeding season(s) and map these habitats as HEV if breeding occurs there.
	Core Koala Habitat	a. Check council records for approved comprehensive or individual property Koala Plans of Management (KPoM). b. Identify areas of core koala habitat on the land mapped in any approved KPoM and map these areas as HEV. c. If there are no approved KPoMs, then undertake field work in accordance with the relevant State Environmental Planning Policy (SEPP) for koalas, e.g. SEPP (Biodiversity and Conservation) 2022, to determine whether Core Koala Habitat is present on the land. d. Map any core koala habitat identified on the land through field work as HEV.
	Habitat for known populations of flora and fauna species-	a. Search BioNet for threatened species records on and within 10km of the land. b. Undertake field work to identify populations of threatened

High Environmental Value (HEV) Criteria and Components		Property Scale HEV Identification Method
	credit-species and SAI entities (species-credit species and SAI entities are identified in the Threatened Biodiversity Data Collection)	<p>species credit species on the land and their habitats.</p> <p>c. Map all habitats of known populations of species credit species on the land as HEV.</p> <p>The <a href="#">Biodiversity Assessment Method</a> and the Department's survey assessment guidelines should be referred to for suitable habitat assessment methodologies and can be found <a href="#">here</a>.</p> <p>If a recent Biodiversity Development Assessment Report has been prepared for the land, then this could be referred to in support of demonstrating how this criterion has been considered.</p>
	Key habitats for migratory species	<p>a. Search BioNet for threatened migratory species records on and within 10km of the land.</p> <p>b. Undertake field work to identify habitats of threatened migratory species on the land.</p> <p>c. Map all habitats of threatened migratory species on the land as HEV.</p>
Criterion 4. Wetlands, rivers, estuaries & coastal features of high environmental value		
4.1 Nationally important wetlands	<p><b>Note:</b> Rivers and their riparian areas comprising HEV are already included in the Biodiversity Values Map under HEV Criterion 1 as protected riparian land</p>	<p>a. Search the Directory of Important Wetlands in Australia for those occurring in NSW available at <a href="http://www.environment.gov.au/cgi-bin/wetlands/search.pl?smode=DOIW">http://www.environment.gov.au/cgi-bin/wetlands/search.pl?smode=DOIW</a>.</p> <p>b. Identify any nationally important wetlands listed in the directory that occur on the land and map these areas as HEV.</p>
Criterion 5. Areas of geological significance		
5.1 Karst landscapes		<p>a. Identify whether limestone outcrops or caves occur on the land.</p> <p>b. Consider any additional Karst landscapes that occur in the vicinity of the land, with reference to the NSW Government's <i>Guide to New South Wales Karst and Caves</i> available at <a href="https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Land-and-soil/nsw-karst-cave-guide-110455.pdf">https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Land-and-soil/nsw-karst-cave-guide-110455.pdf</a> and any other available karst mapping, such as karst maps associated with local environmental plans.</p> <p>c. Map any limestone outcrops or caves on the land and any other karst landscapes that occur in the vicinity of the land as HEV.</p>
5.2 Sites of geological significance included in the State Heritage Register or Heritage Inventory		<p>a. Map any sites of geological significance that occur on, or in the vicinity of, the land as HEV. Refer to the State Heritage Inventory and map at <a href="https://www.environment.nsw.gov.au/topics/heritage/search-heritage-databases/state-heritage-inventory">https://www.environment.nsw.gov.au/topics/heritage/search-heritage-databases/state-heritage-inventory</a></p>



## Attachment D

## BCS NW Branch HEV Guidance for Avoiding and Minimising Impacts on HEV Land

Decisions about the location of land use intensification in planning proposals should be informed by knowledge of biodiversity values including High Environmental Values (HEV) recognising that this is an iterative process that should consider the guidance provided below.

### Locating land use intensification to avoid and minimise impacts on validated HEV

1. Planning proposal design, including the potential location of future temporary and permanent ancillary construction and maintenance facilities, should minimise direct impacts to clearing of native vegetation, habitat of threatened species and ecological communities, and validated HEV.

Impacts can be avoided and minimised by locating land use intensification in areas:

- (a) where there are no biodiversity values e.g. locating future development away from native vegetation, geological features of significance or waterbodies
  - (b) that avoid habitat for species and native vegetation communities in high threat status categories (i.e. endangered or critically endangered species or communities)
  - (c) where the native vegetation or threatened species habitat is in the poorest condition (e.g. areas that have already been disturbed)
  - (d) such that connectivity enabling movement of species and genetic material between areas of adjacent or nearby habitat is maintained e.g. further fragmenting or isolating habitat patches, and migratory flight paths to important habitat.
2. In selecting locations for land use intensification, the following alternatives should be addressed:
    - (a) optimising the locations of land use intensification to minimise future interactions with threatened species and ecological communities, e.g. allowing for buffers around features that attract and support aerial species, such as forest edges, riparian corridors and wetlands, ridgetops and gullies, and National Park estate<sup>2</sup>
    - (b) alternative locations that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed location
    - (c) alternative sites within a property on which land use intensification is proposed that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed site.
  3. Justifications for decisions on the location of land use intensification should identify any other site constraints that the proponent has considered in determining the location and design of these areas, e.g. bushfire protection requirements including clearing for asset protection zones, flood planning levels, servicing constraints.
  4. Actions taken to avoid and minimise impacts through locating areas for land use intensification must be documented and justified in the planning proposal.

<sup>2</sup> For more information, see the Developments adjacent to NPWS lands: Guidelines for consent and planning authorities (Environment, Energy and Science, 2020), accessible at <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Parks-reserves-and-protected-areas/Development-guidelines/developments-adjacent-npws-lands-200362.pdf>

#### Other Impacts on validated HEV

Some future development to be enabled by a planning proposal may have other impacts on validated HEV in addition to, or instead of, impacts from clearing vegetation and/or loss of habitat. For many of these impacts, validated HEV may be difficult to quantify, replace or offset, making avoiding and minimising impacts critical.

Other impacts on validated HEV can include:

- (a) impacts of future development on the habitat of threatened species or ecological communities associated with:
  - i. karst, caves, crevices, cliffs and other geological features of significance, or
  - ii. rocks, or
  - iii. human made structures, or
  - iv. non-native vegetation
- (b) impacts of future development on the connectivity of different areas of habitat of threatened species that facilitates the movement of those species across their range
- (c) impacts of future development on movement of threatened species that maintains their life cycle
- (d) impacts of future development on water quality, water bodies and hydrological processes that sustain threatened species and threatened ecological communities (including from subsidence or upsidence resulting from underground mining)
- (e) impacts of wind turbine strikes on protected animals
- (f) impacts of vehicle strikes on threatened species or on animals that are part of a Threatened Ecological Community.

Within the BC Act, these types of impacts are called 'prescribed impacts'. Where the Biodiversity Offset Scheme is triggered by a future development, the decision maker may increase the number of biodiversity credits to be retired (or other conservation measures to be undertaken) to compensate for residual prescribed impacts. Avoiding these types of impacts to HEV at the planning proposal stage can simplify future development assessment at the site.

Department of Primary Industries  
and Regional Development



OUT25/1040

Mr David Waddell  
General Manager  
Orange City Council

Attention: Alison Phillips

---

Revised Planning Proposal PP-2024-934 concerning 277 Cargo Road Orange

Dear Mr Waddell,

Thank you for your referral of 10 December 2024 and the opportunity to comment on the revised Planning Proposal for 277 Cargo Road, Orange.

The NSW Department of Primary Industries and Regional Development, Agriculture and Biosecurity (the Department) collaborates and partners with our stakeholders to protect and enhance the productive and sustainable use and resilience of agricultural resources and the environment. Agriculture plays a vital role in supporting state, regional and local economies and strengthening rural communities' social bonds and character, particularly in the Orange Local Government Area.

The Department's advice is guided by section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Sections 1.3(a) and (b) of the EP&A Act, which emphasises the facilitation of ecologically sustainable development (ESD) in land use decision-making. This includes promoting responsible resource management that benefits present and future generations and underpins the objective of the orderly and economic development of land.

The Department's AgTrack tool<sup>1</sup> shows the Orange Local Government Area (LGA) has a total gross value (TGV) of agricultural commodities totalling \$15.19M (2020/21), producing 22 commodities on 192 km<sup>2</sup> of agricultural land, being the 4<sup>th</sup> highest LGA in NSW for stone fruits, orchard fruits and fruit and nuts which contribute 26% TGV of production. Livestock production contributes 45.3%.

Our assessment of the revised planning proposal has raised additional concerns to those expressed in 2022 to the Scoping Proposal (OUT22/18973), not supported at the time due to a lack of strategic justification against an endorsed strategy, and the use of highly productive agricultural land for housing despite the strategic objectives contained in the [former] Central West and Orana Regional Plan 2036 and Orange Local Housing Strategy (OLHS) narrative and objectives. A Land Use Conflict

---

<sup>1</sup> [AgTrack - Agricultural and Land Use Dashboard](#)

---

105 Prince Street | Locked Bag 21  
Orange NSW 2800

Risk Assessment (LUCRA) was suggested, and we note attempts by Council to incorporate a mapped buffer zone in a subsequent iteration of the planning proposal. However, the issue of land use conflict potential and the concerns regarding strategic justification and highly productive agricultural land remain.

The advice below is provided in response to the Revised Gateway Determination issued in December 2024 requiring the Department to be consulted in relation to the 'BSAL' qualities of the site.

Soil information:

- The 10.99ha and wider Candidate Area site is mapped as Biophysical Strategic Agricultural Land (BSAL) (apart from ~1,500m<sup>2</sup>) and 100% draft State Significant Agricultural Land (SSAL | Social Pinpoint, 2022) correlating with high soil fertility and structural qualities.
- The site has Class 3 Moderately high capability land identified by the Land and Soil Capability Assessment Scheme (LSC) (Second Approximation), noting that four of the seven LSC characteristics are LSC Class 1, the highest and rarest of all classes in NSW, being lowest risk for structural decline, shallow soils and rockiness, salinity and mass movement. The three LSC Class 3 characteristics are due to the potential for acidification, soil and wind erosion, which are manageable through standard agricultural inputs. Over half of the land (53%) in the LGA is LSC Class 3; however, 9.4% or 2,681ha of this is used for urban purposes. Similarly LSC Class 2 land makes up 4% of the entire LGA; however, 1.7% or 477ha is used for urban purposes. LSC Classes 1 and 2 comprise just 2% combined of all NSW land mass.
- The Department's soil scientists' advice indicates that the site consists of the Towac Soil Landscape<sup>2,3</sup> being Ferrosols (Kraznozems), characterised by deep, fertile volcanic soils with few limitations. The soils in the area have depths of between 1m and 10m, up to 90m deep in depressions.
- Areas dominated by Ferrosols make up less than 1.5% of NSW's total land area and are extremely rare nationally.
- From an agricultural perspective Ferrosols (along with Vertosols) are generally regarded as having the highest productivity of any soil type with no limitations for agriculture. These soils are almost entirely formed on either basic or ultrabasic igneous rocks, their metamorphic equivalents, or alluvium derived therefrom. As noted these soils do not occupy large areas in Australia, but they are widely recognised and often intensively used because of their favourable physical properties. Ferrosols are a major horticulture cropping soil that generally occurs in higher rainfall areas. From this perspective, and as the Orange area has the unique pairing of favourable soil and climatic conditions, it is preferred that these soils remain for agricultural use and not for urban development.

---

<sup>2</sup> <https://www.environment.nsw.gov.au/Salisapp/resources/spade/reports/SI5508to.pdf>

<sup>3</sup> Version 4.5 of the NSW Statewide Soil Landscape Map



- The outcomes of the revised planning proposal will considerably add to further fragmentation of the existing agricultural land, permanently removing land identified on the draft SSAL Map and as BSAL.

#### Strategic justification

- The revised planning proposal does not adequately assess the agricultural values of the site, using informal observations and assumptions about the scale of 'viable' agricultural enterprises in justifying the proposal against Objective 19 of the Central West and Orana Regional Plan 2041 (CWORP).
- The revised planning proposal is inconsistent with Council's LSPS, which promotes the preservation of highly productive agricultural land that is mapped BSAL and SSAL as part of the Towac soil landscape around Orange.
- The Council's LSPS also describes the need to protect quality agricultural land of all holding sizes, particularly where holdings do not meet LEP lot size minima, and not only in the area south of Orange, as asserted in the revised planning proposal.

#### Zone and Orange Local Housing Strategy (OLHS)

- The current zone of the subject site (majority) C3 Environmental Management is a legacy of the former drinking water catchment contour; however, it is also rural land. The C3 zone precludes formal assessment of agricultural values of the site against section 9.1 Ministerial Directions 9.1 and 9.2. The small area of zone RU1 Primary Production is not assessed.
- The OLHS states on numerous occasions the need to avoid using the highly productive agricultural land around Orange for housing supply (page 34), where *'It is considered these lands are not appropriate for housing development and should be conserved and sustained due to their biophysical characteristics'*. However, the subject site, which was nominated through an EOI process, is located on some of the rarest agriculturally productive soil in Australia.
- The Orange Local Housing Strategy 2022 (OLHS) is not endorsed by the Department of Planning, Housing and Infrastructure (DPHI). Despite contrary claims in the revised planning proposal, local housing strategies are being endorsed, as noted on the DPHI website ([Strategic Planning Toolkit | Planning](#)).

#### Housing supply comments

- The subject site was identified for potential investigation in the OLHS. However, it is also noted that the projected 4,183 dwellings required by 2041 (p49) can be met with the existing Shiralee greenfield site, inner city infill development and other zoned land identified on the city's outskirts. 'Productive agricultural lands' are noted as a constraint.
- Since the scoping proposal was lodged in 2022, there has been an uplift in housing supply opportunities on zoned land (from 450 to 700 lots) in the Clergate area due to PP-2021-5680, which significantly adds to the zoned supply equation.



**Land use conflict**

- There is no Land Use Conflict Risk Assessment (LUCRA) provided to determine potential land use conflict risk between existing land uses and the proposed development. Whilst the subject 10.99ha has been deemed 'unviable' for agriculture by the revised planning proposal, cumulative impacts of progressive development should be considered, particularly if the entire Candidate Area is identified for rezoning for residential land uses. This will progressively transform agricultural landscapes and increase the potential for land use conflict with adjoining land, including Cabonne Shire Council.

**Summary**

The Department does not support rezoning highly productive agricultural land for residential development where inconsistent with the overarching strategic framework and without evidence. The revised planning proposal does not align with key government strategic plans and objectives to protect, support, and promote agriculture, and it overlooks potential impacts on local agricultural production.

Our advice highlights the importance of incorporating important agricultural land as an equal and relevant consideration in land use decision-making. Avoiding this agricultural land can also assist in meeting the principles of Ecologically Sustainable Development (ESD) for future food and fibre production. Alternatives exist within the zoned urban area of Orange City Council to accommodate new housing growth beyond 2041 without using this site.

The NSW Agriculture Commissioner's report<sup>4</sup> confirms the effectiveness of strategic planning in guiding land use decisions for continued investment in agriculture, facilitation of food security and reducing land use conflict risk. Council's strategic plans should continue to prioritise important agricultural land over incompatible development through clear guidance for future amendments to the planning framework. Council should also seek the endorsement of any amended OLHS.

Should you require clarification on any information in this response, I have arranged for Nita Scott, Agricultural Land Use Planning, to assist you. Nita can be contacted by email at

Sincerely

esigned 30-1-2025

Lilian Parker

A/Manager, Agricultural Land Use Planning

---

<sup>4</sup> [Improving the Prospects for Agriculture and Regional Australia in NSW](#)



Orange City Council  
PO Box 35  
ORANGE NSW 2800

Your reference: (REF-3362) PP-2023-934  
Our reference: SPI20241211000261

**ATTENTION:** Alison Phillips

Date: Thursday 19 December 2024

Dear Sir/Madam,

**Strategic Planning Instrument  
LEP Amendment – Planning Proposal**

*[This field will be populated from the Strategic Planning Instrument on save]*

I refer to your correspondence dated 10/12/2024 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

Based on the review of the bushfire strategic study prepared by Barnson Pty Ltd (dated: 30/05/2024 and Ref: R44810bf) following comments are provided:

- The submitted report identifies that the site is not mapped on Bush Fire Prone Land (BFPL) map and has not assessed the category 3 mapped hazard east of the subject site. Any future bushfire hazard assessment undertaken for the subject site must also address the hazard in the east direction.
- It is noted that the proposed amendment to the *Orange Local Environmental Plan 2011* is to allow additional housing supply on site which is considered increase in density under *Planning for Bush Fire Protection (PBP) 2019*. As such, future referral associated with increase in density on site must demonstrate compliance with Chapter 5 of *PBP 2019*. This includes but is not limited to the provision of perimeter roads along the hazard interface. A review of preliminary structure plan provided shows that a perimeter road is not proposed along the hazard interface, therefore the plan maybe revised to accommodate a perimeter road.
- The report identifies part of the proposed open space as managed land. Where open space is identified as managed land, future referral must include information which meets the requirements of section 3.2.5 and/3.2.6 of *PBP 2019*.
- The site is proposed to be zoned to R1: General Residential and R2: Low Density Residential which allows some Special Fire Protection Purpose (SFPP) developments with consent. As such, future SFPP developments must be able to demonstrate compliance with Chapter 6 of *PBP 2019*.

For any queries regarding this correspondence, please contact

on 1300 NSW RFS.

Yours sincerely,

1

**Postal address**

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

**Street address**

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)





Kalpana Varghese  
Manager Planning & Environment Services  
Built & Natural Environment



Transport for NSW



13 February 2025

TfNSW reference: WST24/00431/001 | SF2024/226071  
Your reference: PP-2023-934 | Ref-3361

General Manager  
Orange City Council  
By Email: [council@orange.nsw.gov.au](mailto:council@orange.nsw.gov.au)

Attention: Alison Phillips

**PP-2023-934 – Proposed future subdivision of up to 72 residential lots, open space and new roads – Lot: A DP408148 – 277 Cargo Road, Orange**

Dear Alison,

Transport for NSW (TfNSW) is responding to Council's request for comments as part of agency consultation for the abovementioned Planning Proposal received via the NSW e-Planning Portal on 10 December 2024. Council's request coincides with the public exhibition period.

Following review of the information submitted and assessment of the impact on the existing transport network, TfNSW submits comments for Council's consideration prior to the finalisation of the proposal. These comments are included in **Attachment 1** of this letter.

TfNSW welcomes the opportunity for further consultation if any changes to the Planning Proposal are made that would impact the function and operation of the classified road network.

If you have any questions, please contact Brendan Croft, Development Services Case Officer, on 1300 019 680 or email [development.west@transport.nsw.gov.au](mailto:development.west@transport.nsw.gov.au).

Yours faithfully,

**Kylie-Anne Pont**  
Team Leader Development Services (West)  
Transport Planning  
Planning, Integration and Passenger

---

OFFICIAL

Level 1, 51-55 Currajong Street, PARKES NSW 2870  
PO Box 334 PARKES NSW 2870 | DX20256  
Email: [development.west@transport.nsw.gov.au](mailto:development.west@transport.nsw.gov.au) | Phone: 1300 207 783  
[transport.nsw.gov.au](http://transport.nsw.gov.au)

1



Transport for NSW



Attachment 1

PP-2023-934 – Proposed future subdivision of up to 72 residential lots, open space and new roads – Lot: A DP408148 – 277 Cargo Road, Orange

This attachment relates to TfNSW's response dated 13 February 2025 reference WST24/00431/001.

### Context

TfNSW has reviewed the information submitted and provides the following context:

- The subject site is located approximately 3km west of the Orange city centre. TfNSW notes the subject lot has a size of approximately 10.9 hectares and currently contains two existing dwellings with direct access to Cargo Road.
- The affected classified (Regional) road is Cargo Road (MR237). The site is located approximately 2.8km west of the Mitchell Highway (HW7).
- The Planning Proposal seeks to amend the *Orange Local Environmental Plan 2011 (OLEP)* by rezoning the existing site from *RU1 Primary Production* and *E3 Environmental Management* to *R2 Low Density Residential* and *RE1 Public Recreation* to allow for a future residential subdivision of up to 72 lots and allow for the provision of open space. The proposal will also result in an amendment to the minimum lot size controls, amending to a minimum of 850m<sup>2</sup> for the majority of residential lots and 1500m<sup>2</sup> for lots fronting onto Cargo Road (MR237).
- The site forms part of the 'Witton Place Candidate Area' as identified in the *Orange Local Housing Strategy*. The subject site is bordered to the west by existing *E3 Environmental Management* land within the candidate area that is anticipated to yield an additional 150 residential lots, subject to a separate application.
- Access to the future subdivision is proposed directly off Cargo Road (MR237) by way of a new intersection to be delivered as part of the development works. It is understood that future local road connections will be constructed to provide access to existing road network, namely Witton Place to the east of the subject site.
- The proposal has received gateway determination from the Department of Planning, Housing and Infrastructure (DPHI) on 1 August 2024. Consultation is required with TfNSW as a government agency under s.3.34(2)(d) of the *Environmental Planning and Assessment Act 1979*.

### TfNSW comments

TfNSW's primary interests are in the road network, traffic, and broader transport issues. In particular, the efficiency and safety of the classified road network, the security of property assets and the integration of land use and transport.

Following review of the information provided, TfNSW is generally satisfied that the Planning Proposal will not adversely affect TfNSW interests, subject to the following matters being addressed in any future Development Application (DA):

1. A future development application seeking approval for residential subdivision will require construction of a new intersection on Cargo Road (MR237) providing access, as indicated in the submitted Traffic Impact Assessment (TIA). Accordingly, in addition to the final TIA, a strategic design of the identified intersection treatment should be provided for TfNSW review. The strategic designs should consider and incorporate the following:

OFFICIAL

Level 1, 51-55 Currajong Street, PARKES NSW 2870  
PO Box 334 PARKES NSW 2870 | DX20256  
Email: [development.west@transport.nsw.gov.au](mailto:development.west@transport.nsw.gov.au) | Phone: 1300 207 783  
[transport.nsw.gov.au](http://transport.nsw.gov.au)

2



## Transport for NSW

- a) Identification of any environmental constraints, e.g. drainage channels, removal of vegetation.
  - b) Highlight any property acquisition requirements required
  - c) Identification of any impacts to Cargo Road (MR237) such as excavation, fill, drainage impacts, changes to utilities, etc.
  - d) Identification and confirm available Safe Intersection Sight Distance (SISD), Safe Stopping Distance and Approach Site Distance in accordance with Section 3 of *Part 4a – Unsignalised and Signalised Intersections – Austroads Guide to Road Design (AGTRD)*. The SISD is to be consistent with Table 3.2 of Part 4a of AGTRD for a design speed of 70km/h. Note: Concept plans submitted have not illustrated SISD measurements or indicate if removal of vegetation is required to achieve compliant SISD.
  - e) Swept path diagrams (developed in AutoTurn Pro 10.2) are to be provided demonstrating the design vehicle (19m semi-trailer) can:
    - i. Enter and exit the intersection consistent with traffic control road markings and road signage, and
    - ii. Ensure opposing vehicle movements to and from the new local road (Road 1) can be undertaken without conflict with other turning vehicles. Note: These movements were not indicated on submitted concept plans.
2. TfNSW understands that the Witton Place Candidate Area (WPCA) (as identified within the *Orange Local Housing Strategy*), will be subject to a future separate planning proposal and provide an additional 150 lots according to the Council report (identified as 177 lots in the TIA). In line with previous discussions between Council and TfNSW, future development of the WPCA must include the rationalising of the existing local road network to provide additional local road connections to reduce traffic impacts on the classified (Regional) road. No further connections to Cargo Road would be supported by TfNSW and additional traffic would be assigned to the existing Cargo Road / Witton Place intersection via the proposed local road network connections, including Bowman Avenue.
  3. The TIA has identified the use of the *Orange Strategic Transport Model* to partially determine traffic generation rates. Further, a 1.5% growth rate has also been applied to determine future traffic volumes associated with the WPCA. TfNSW advises that a 2% growth rate should be applied in a revised TIA in support of any future development of the site. Any changes to the trip generation rates or recommendations made to reduce cumulative impacts to the classified road network should be clearly detailed in the TIA and referred to TfNSW for comment.
  4. Any future intersection works (or upgrades) required to the classified (regional) road are to be identified by the applicant, undertaken in accordance with *Austroads Guide to Road Design*, and implemented at no cost to TfNSW.

In addition to the above comments, it is recommended that consideration be given to the provision of both public and active transport opportunities to connect the future residential precinct (and open space) with existing and future infrastructure within the Orange local government area. The provision of footpaths, school bus routes and bus stops and amenities should be considered in any Development Control Plan or future subdivision plan within the WPCA.

OFFICIAL

Level 1, 51-55 Currajong Street, PARKES NSW 2870  
 PO Box 334 PARKES NSW 2870 | DX20256  
 Email: [development.west@transport.nsw.gov.au](mailto:development.west@transport.nsw.gov.au) | Phone: 1300 207 783  
[transport.nsw.gov.au](http://transport.nsw.gov.au)

3

Hi Council team

I am writing in relation to proposed changes to the LSP for Whitton Place candidate area.

I am supportive of a proposal to rezone the entire candidate area.

However, it would be great to get clarity on the below matters:

- Why is the entire candidate area not being rezoned rather than merely stage one? It appears that stage one is reliant on a number of items in the future rezoning of the candidate area, in particular, to address its obligations to meet the planning for bushfire protection
  - It would appear that stage one may not have earmarked perimeter roads and only has a single point of egress in the event of a bushfire. Noting a secondary egress could be established by rezoning Lot 4 DP 1089060. Any reports from RFS have not been provided to review and comment on.
  - Did Council commission their own bushfire consultant report? If not, how come given their recent precedents for assessing bushfire risks in this impact area.
  - It seems logical for the entire area to be rezoned even if this required further review so that all people living in the affected areas can assess the impact in its entirety.
- The conceptual sewer servicing lacks details and appears to puts obligations on Lot 10 DP 1045677 which seem unreasonable.
- There appears to be little details on the potential downstream costs of upgrades to key infrastructure by Council. Whilst unclear, I presume the development will require material upgrades to the existing capacity to help facilitate the future development. Can you confirm that the full cost of the upgrades will be borne by the developer in its entirety? This should include any upgrades for all stages of the Whitton Place candidate area including upgrades to the south eastern portion.