

# PLANNING & DEVELOPMENT COMMITTEE

# **AGENDA**

# 1 JULY 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, 1 July 2025.** 

David Waddell

**CHIEF EXECUTIVE OFFICER** 

For apologies please contact Executive Support on 6393 8391.

# **AGENDA**

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#### 1 INTRODUCTION

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

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

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

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

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

#### RECOMMENDATION

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

#### 2 GENERAL REPORTS

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

RECORD NUMBER: 2025/796

AUTHOR: Paul Johnston, Manager Development Assessments

#### **EXECUTIVE SUMMARY**

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

# LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy "7.3 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.

#### SUPPORTING INFORMATION

**Reference:** DA 158/2023(4) **Determination Date:** 29 May 2025

PR Number PR29195 Applicant/s: Mr R Heath

Owner/s: Orange Land Holdings Pty Ltd and Mr LJ Royle Location: Lot 335 DP 1280002 - 16 Dolomite Way, Orange

**Proposal:** Modification of development consent - subdivision (12 lot Torrens title)

and public road. The modification sought as follows:

 Adjust the common boundary of proposed Lots 1 and 4 to provide a straight boundary alignment and provided additional area to Lot 4. The proposal also sought to add a non-building zone within Proposed Lot 4 so as to protect the existing trees consistent with the original DA boundary alignment.

• Adjust the common boundary of Proposed Lots 4 and 5 to have this boundary parallel with the common boundary of Proposed Lots 5 and 6.

Value: Not applicable

**Reference:** DA 776/2024(1) **Determination Date:** 4 June 2025

PR Number PR10015

**Applicant/s:** Mr GB and Mrs S Campbell **Owner/s:** Mr GB and Mrs S Campbell

**Location:** Lot 1 DP 506380 - 696 Pinnacle Road, Orange

Proposal: Demolition (farm building), dwelling alterations and additions, dual

occupancy (one additional detached dwelling), sheds (two) and category 1

remediation

Value: \$2,270,000.00

**Reference:** DA 27/2025(1) **Determination Date:** 26 May 2025

PR Number PR17322

**Applicant/s:** Mrs SE Commins

Owner/s: Orange District Early Education Program
Lot 10 DP 1003757 - 83 Dalton Street, Orange

Proposal: Demolition (existing internal layout and carport), community facility

(change of use and building alterations) and business identification signage

**Value:** \$765,000

**Reference:** DA 43/2025(1) **Determination Date:** 13 June 2025

PR Number PR29647
Applicant/s: Mr S Graziani

Owner/s: Mr SJ and Mrs KM Rossetto

**Location:** Lot 201 DP 1294500 - 119 Ploughmans Lane, Orange

**Proposal:** Subdivision (three lot Torrens title)

Value: Not Applicable

**Reference:** DA 82/2025(1) **Determination Date:** 10 June 2025

PR Number PR29923
Applicant/s: Mr M Paddison

Owner/s: Mikell Investments Pty Limited

**Location:** Lot 157 DP 1293694 - 52 Sweetheart Drive, Orange

**Proposal:** Exhibition home (change of use) and business identification signage

**Value:** \$15,950.00

**Reference:** DA 87/2025(1) **Determination Date:** 4 June 2025

PR Number PR1954
Applicant/s: Mr RJ Mages
Owner/s: Ms M Schwilk

**Location:** Lot 1 DP 730562 - 97 Byng Street, Orange

**Proposal:** Business premises (educational tutoring - change of use and alterations),

business identification signage and demolition (garage)

**Value:** \$198,000.00

**Reference:** DA 95/2025(1) **Determination Date:** 15 June 2025

PR Number PR10183

**Applicant/s:** Bassmann Drafting Services **Owner/s:** Mr SJ and Mrs RL Coote

**Location:** Lot A DP 154899 - 63 Prince Street, Orange

Proposal: Demolition (rear additions and front fence), dwelling alterations and

additions, garage with attached secondary dwelling, swimming pool, new

front fence and gate

Value: \$800,000

Reference: DA 112/2025(1) Determination Date: 29 May 2025

PR Number PR23141

**Applicant/s:** Barretts Wholesale Foods Pty Ltd **Owner/s:** Gateway Commercial Pty Ltd

**Location:** Lots 29 and 30 DP 270446 - 4A and 6 Gateway Crescent, Orange

**Proposal:** Shop and warehouse (alterations and additions), light industry (additional

use) and boundary adjustment

**Value:** \$1,394,360.00

**Reference:** DA 116/2025(1) **Determination Date:** 3 June 2025

PR Number PR26991

**Applicant/s:** Commins PLANVIEW P/L **Owner/s:** Mr DP and Ms L Banjade

**Location:** Lot 30 DP 1274510 - 53 Stevenson Way, Orange

**Proposal:** Subdivision (two lot Torrens title)

**Value:** \$40,000.00

**Reference:** DA 132/2025(1) **Determination Date:** 30 May 2025

PR Number PR2349

**Applicant/s:** Mr D and Mrs NS Purvis **Owner/s:** Mr DW and Mrs NS Purvis

**Location:** Lot 15 Sec 6 DP 5265 - 60 Casey Street, Orange

Proposal: Subdivision (two lot Torrens title), demolition (garage), multi dwelling

house (three dwellings), subdivision (four lot community title), dwelling

alteration and garage (detached)

**Value:** \$1,091,300.00

**Reference:** DA 161/2025(1) **Determination Date:** 2 June 2025

PR Number PR7617

**Applicant/s:** Colin Joss Group **Owner/s:** Gramcorp Pty Ltd

**Location:** Lot 1 DP 635616 - 50 March Street, Orange

**Proposal:** Dwelling alterations (unit 1 - reinstatement of fire damaged interior)

**Value:** \$389,616.00

2.1 Items Approved Under the Delegated Authority of Council

# **TOTAL NET\* VALUE OF DEVELOPMENTS APPROVED BY THE CEO UNDER DELEGATED AUTHORITY IN THIS PERIOD:** \$6,964,226

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

Additionally, since the June 2025 meeting report period (20 May to 16 June 2025), another 23 development applications were determined under delegated authority by other Council staff with a combined value of \$6,910,728.

2.2 DEVELOPMENT APPLICATION DA 19/1995(2) - LOT 4 OPHIR ROAD

RECORD NUMBER: 2025/903

AUTHOR: Benjamin Hayter, Town Planner

# **EXECUTIVE SUMMARY**

| Application lodged            | 25 March 2025                         |
|-------------------------------|---------------------------------------|
| Applicant/s                   | Maxus Group Pty Ltd                   |
| Owner/s                       | Maxus Group Pty Ltd                   |
| Land description              | Lot 4 DP 1274221 - Ophir Road, Orange |
| Proposed land use             | Rural Residential Subdivision         |
| Value of proposed development |                                       |

Application has been made to modify development consent DA 19/1995(1) pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 [EPAA]. The modified proposal seeks to amend the site access, lot layout, size and number of the lots proposed to the South West of Summer Hill Creek on land known as Lot 4 DP1274221. The development as modified seeks to respond to various conditions that were imposed by Council in 1995 that were designed to protect the operation of the Resource Recovery centre and address significant flooding issues in the event of a dam failure.

A further modification is proposed to the DA to allow for domestic wastewater disposal to take place on each individual lot. To this end it is proposed to delete Conditions (f) and (g), which relate to the provision of funding to the Council for the provision of a connection to the Wastewater Treatment Plant (which would no longer be required).

A Section 4.15 assessment of the development indicates that the development as modified is acceptable. Attached is an amended Notice of Approval for Council's consideration.

It is recommended that Council supports the subject proposal.

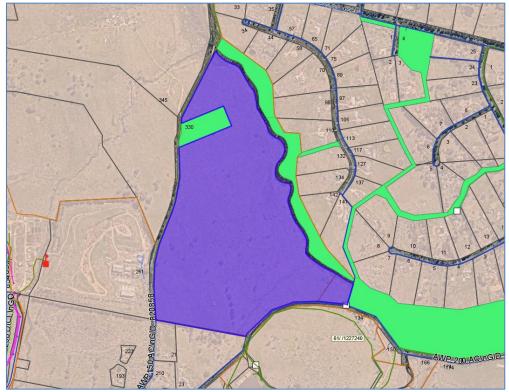


Figure 1 - locality plan

#### **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 COMMENTS**

Application has been made to modify development consent DA 19/1995(1) pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* [EPAA]. The proposed modification to previously approved DA 19/1995(1) consists of modifications to: site access, lot layout, size and number of the lots and effluent disposal arrangements. The development as modified seeks to respond to various conditions that were imposed by Council in 1995 that were designed to protect the operation of the Resource Recovery Centre and address significant flooding issues in the event of a dam failure.

Council in determining this matter is required to be satisfied that development as modified is 'substantially the same' as what was previously approved. The staff planning assessment has formed the view that the development as modified directly responds to the conditions that were placed on the original consent and the character of the development would remain the same as a large lot residential subdivision.

The proposed development is defined as "advertised 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 nine submissions (including one from the Orange and District Historical Society (ODHS)) were received. The matters raised in the submissions including matters in relation to heritage impact on Banjo Patterson Park, water resources, access, lot density, buffers, building envelopes and vegetation features have been addressed under various sections of this report.

Despite nine of the proposed lots being below 2ha, their median size is still greater than the lot sizes previously approved and all would exceed 1ha. Therefore, large lots would be retained on site, one of which would be 44ha, allowing for the site to retain its rural character.

It is recommended that Council supports the development as modified. Attached is an amended Notice of Determination for Council's consideration.

#### LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy "7.3 Plan for growth and development that balances liveability with valuing the local environment".

#### **FINANCIAL IMPLICATIONS**

Nil

#### **POLICY AND GOVERNANCE IMPLICATIONS**

Nil

#### RECOMMENDATION

That Council consents to modified development application DA 19/1995(2) for *Rural Residential Subdivision* at Lot 4 DP 1274221 - Ophir Road, Orange pursuant to the conditions of consent in the attached Notice of Approval.

#### **FURTHER CONSIDERATIONS**

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

#### **SUPPORTING INFORMATION**

#### THE PROPOSAL

The original consent (DA 19/1995(1), which was granted in April 1996, has been part implemented. The previously approved lot plan is indicated below (Figure 2) below. The lots shaded yellow (to the North East of Summer Hill Creek) have been constructed and are occupied by residential dwellings for a number of years, the lots shaded blue have not yet been developed. Work commenced to build the lots shaded yellow within the 5 year statutory time limit and therefore the consent for the whole development, including the lots shaded blue (to the South West of Summer Hill Creek) has not lapsed and remains valid.

The applicant states that the reason why the area of the site to the South West of Summer Hill Creek has as yet not been developed is due to the restrictive conditions that Council placed on the original consent, which meant it was difficult to implement the approved lot layout. These restrictive conditions were designed to protect the operation of the Resource Recovery centre and address significant flooding issues in the event of a dam failure. The subject conditions are 1, 2, and 3 which prevent the building of the lots located within the fuse gate flood zone, Condition 5 which restricts the number of lots that can be provided on the subject site and Condition 7 which prevents development from occurring within 400m of the nearby Resource Recovery Centre. The conditions read as follows:

**Condition 1:** A restriction as to user shall be placed upon the title of each affected lot to prohibit any building development from occurring within the Summer Hill Creek Probable Maximum Flood Area.

**Condition 2:** That development may be permitted within the defined concrete arch dam failure area as outlined in the Water Manager's report dated 29 March 1995, subject to:

- (a) appropriate Saddle Dam alteration being carried out by Council; and
- (b) adoption and implementation of a Flood Emergency Plan applicable to land downstream of Suma Park Dam.

**Condition 3:** That no building development shall be permitted to occur within the Saddle Dam area, as outlined in the Water Manager's report dated 29 March 1995, (assuming appropriate Saddle Dam alterations have taken place) until such time as the main concrete arch dam has been upgraded to full Probable Maximum Flood standards according to current Dam Safety Committee Guidelines.

**Condition 5:** That the number of lots permissible on the south-western side of Summer Hill Creek shall not exceed the number of lots that are possible to be achieved in the area outside the open space at a lot size of 2ha.

**Condition 7:** No development shall occur upon the subject land with 400m of the Orange Garbage Depot site until such time as the garbage disposal activities cease upon the site or until such time that the activities at the Garbage Depot change such that the 400m buffer area is, in Council's opinion, no longer required. Separate application will be required for the development of land within the 400m buffer area at that time.

The effect of the above conditions, as was acknowledged on Page 6 of the report that was presented to the Council Committee in April 1996, was to reduce the number of lots that could be built out South West of Summer Hill Creek from 40 to 20 and to as low as 12 if the works described in Conditions 2 and 3 are not caried out.

This modification application relates to the lots shaded blue on Figure 2, and seeks approval pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act 1979 [EPAA] to modify the lot number, layout and access as well as effluent disposal arrangements, and are in response to the conditions set out above that were placed on the original consent.

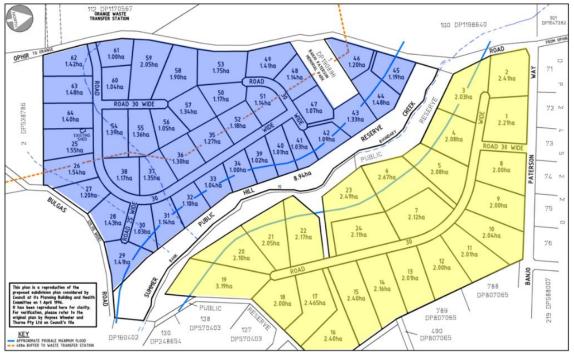


Figure 2 - approved lot plan

It is proposed to amend the lot layout plan to reduce the number of lots South West of Summer Hill Creek from 40 to 12, amend the lot sizes and to move the access from Ophir Road further to the North (see Figure 3 below).

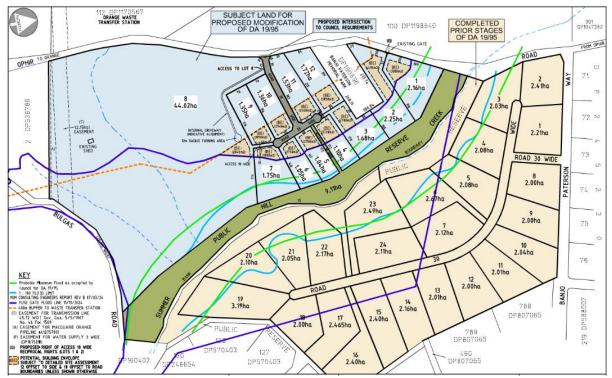


Figure 3 - proposed lot plan

As can be seen in Figure 3 above, the proposed lot plan includes the maximum potential building envelope for each lot which is in response to the conditions placed on the original consents as set out above.

Proposed lot sizes and indicated maximum potential building envelope:

| Proposed lot | Proposed lot Size | Maximum potential  |
|--------------|-------------------|--------------------|
| number       | (ha)              | building area (ha) |
| 1            | 2.16              | 0.3                |
| 2            | 2.25              | 0.45               |
| 3            | 1.68              | 0.27               |
| 4            | 1.10              | 0.27               |
| 5            | 1.04              | 0.22               |
| 6            | 1.05              | 0.175              |
| 7            | 1.75              | 0.19               |
| 8            | 44.02             | 0.28               |
| 9            | 1.35              | 0.195              |
| 10           | 1.36              | 0.2                |
| 11           | 1.53              | 0.25               |
| 12           | 1.72              | 0.3                |

The median proposed lot size is: 1.52ha, the median approved lot size for the site is: 1.2ha.

#### **Domestic Wastewater Management Modification**

It is further proposed to amend the wastewater management arrangements. It was previously approved that the subdivision would link up to Councils wastewater treatment plant. Under this application it is proposed that each individual lot has its own onsite waste management system. The applicant has provided an onsite effluent management study for each individual lot in support of the proposal. To reflect the proposed modified effluent management arrangements it is proposed to delete Conditions (f) and (g), which read as follows:

- (f) That, in view of the increase in demand caused by the development proceeding, the payment of \$15,000 shall be made to Council towards the provision of the effluent drainage line and pump station within Council's Waste Disposal Depot to convey common effluent drainage to the Wastewater Treatment Plant.
- (g) A contribution of 50% of the normal Headworks charge of \$1,166 shall be made to Council prior to the release of subdivision plans for that land on the south-western side of Summer Hill Creek towards Sewerage Headworks.

# **Modifications to Conditions Wording**

To reflect the proposed amended plans, the applicant proposes the following amendments to the relevant conditions:

## Condition 21

A caveat shall be registered on the Deed of Title of Lots 26, 27, 28 and 29 to deny vehicular access to these lots from Bulgas Road.

Given the proposed amendments to lot layout and numbering, it is proposed to remove reference to Lots 26, 27, 28 and 29 and instead refer to 'Lot 8'.

#### Condition 24

Building envelopes shall be established on Lots 35, 36, 51 and 52 to the satisfaction of the Manager - Planning Approvals to locate dwellings generally outside the 400m buffer area. Such building envelopes shall be shown on the subdivision plan and a Section 88b Instrument.

Given the proposed amendments to lot layout and numbering, it is proposed to remove reference to Lots 35, 36, 51 and 52 and instead refer to Lots: 2, 8, 9, 10, 11 and 12.

### Condition 29(d)

Stages 3 and 4 - Connection of approximately 22 lots of 1ha minimum area, west of Summer Hill Creek.

- Standard Water Headworks Charge \$1,212 per lot
- Contribution for water

Main in Phillip Street (from Jilba Street to Ophir Road) \$1,062 per lot

It is proposed to remove reference to 22 lots and refer to 12 lots instead, to reflect the proposed reduction in number of lots.

# **MATTERS FOR CONSIDERATION**

# Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 [EPAA] - Modification of consents - Other Modifications

This modification application is made pursuant to Section 4.55 (2) of the EPAA, which states that a consent authority may, on application being made by the applicant modify the consent if -

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

# In relation to (a) - Whether the development is 'substantially' the same as the development for which consent was previously granted please note the following:

There is no statutory definition of what constitutes 'substantially the same' as the development for which consent was previously granted, however case law provides a guide for decision makers.

Scrap Realty Pty Ltd v Botany Bay City Council [2008] provides that in determining whether the approved and proposed development are substantially the same, a comparison exercise between the approved and proposed developments is required.

Arrage v Inner West Council [2019] provides that an assessment as to whether the approved and proposed development are substantially the same can not only require an assessment as to whether the two consents are in essence the same, but also a comparison of the consequences of the development can be required.

### **Quantitative and Qualitative Assessment**

The original approval provided for a large lot subdivision, this does not change under the current proposal. However, the proposed modification would provide significantly fewer lots on the South Western side of Summer Hill Creek than was indicated on the approved plans (12 as opposed to 40), would provide an amended lot layout, lot sizes and access road location. Nevertheless, the applicant states that the proposed modifications to the original consent are in direct response to the restrictive conditions that the Council put on this consent.

These restrictive conditions are: Conditions 1, 2, and 3 which prevent the construction of the lots located within the fuse gate flood zone, Condition 5 which restricts the number of lots that can be provided on the subject site and Condition 7 which prevents development from occurring within 400m of the nearby Resource Recovery Centre. The impact of these conditions is that despite the original lot layout technically being approved, the conditions prevented the applicant from constructing the lots as indicated on the approved plans, and only permitted development on a narrow strip of land as indicated on the plan that the applicant has provided (see Figure 6 below):

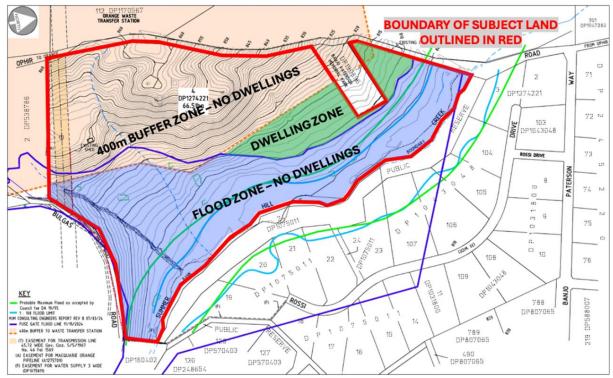


Figure 4 - site constraints

Despite the layout of the modified development proposal appearing noticeably different to the previously approved plan, the modified proposal is in direct response to the conditions placed on the original consent. Due to the restrictive conditions, the original consent in essence only provided consent to construct dwellings in the area where the current proposed plan indicates that they would be placed. Furthermore, the key characteristics of the development remain the same as was approved in terms of it providing a large lot subdivision with access from Ophir Road. Given the above, Council staff are satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted.

In relation to (b) - please note that this clause is not relevant. Notwithstanding, it is worth noting that the site is in proximity to a waterway: Summer Hill Creek, as such the application was referred to the Department of Planning and Environment-Water [the Department] for comment. The Departments General Terms of Approval includes a condition requiring an application be made to them for any controlled activity on waterfront land which would include the submission of site plans, construction plans, sediment and erosion plans, drainage plans and construction stormwater drainage outlet plans. Subject to condition therefore it is considered that the development as modified would have an acceptable impact on the neighbouring waterway.

In relation to (c) - please note that arrangements were made for the application to be formally advertised for a period of 14 days consistent with the requirements of Council's *Community Participation Plan 2019* and the requirements of the Environmental Planning and Assessment Act and associated Regulations.

In relation to (d) - please note that the application was advertised for the prescribed period of 14 days and at the end of that period nine submissions (including one from the Orange and District Historical Society (ODHS)) were received. Each of the submissions raised have been addressed under the heading "Any Submissions made in accordance with the Act".

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

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

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

- <u>Trigger 1</u>: development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017);
- <u>Trigger 2</u>: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017); or
- <u>Trigger 3</u>: 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.

### Trigger 1

No part of the site is contained within land mapped on the Biodiversity Value Map, and therefore Trigger 1 would not apply.

#### **Trigger 2**

The existing site is covered in vegetation in the form of grasses and shrubs, and as per the findings of the submitted Preliminary Contamination Investigation, the majority of existing vegetation on the site is non-native. Clause 7.2 of BC Regulation 2017 states that on land with lot sizes of between 1 and 40ha, if an area of over 0.5ha is cleared, the provisions of the BC Act 2017 are triggered. The development would not involve the clearing of more than 0.5ha of vegetation, and therefore Trigger 2 does not apply.

Further to the above, as the DA is a modification application, Clause 7.17 (c) of the BC Act 2016 states that a further assessment report is not required to be submitted with the application for modification if - the authority or person determining the application for modification is satisfied that the modification will not increase the impact on biodiversity values. The proposed modification would reduce the area of land to be developed, with the area occupied by the proposed access road significantly reduced. It is therefore clear that the modified proposal would significantly decrease the impact on biodiversity values at the site and therefore a further assessment report is not required.

#### **Trigger 3**

For the reasons noted above, it is not considered that the proposed modification would have any greater potential impact on threatened species given that the scale of the development would be reduced as compared to what was previously approved and noting that the land is not located on the Biodiversity Value 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:

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

The application is considered to be consistent with Objectives (a) and (b) as outlined in this report. Residential lots have been previously approved on this site which is zoned for large lot residential. The proposed amended lots would be of a size and siting that would accord with the open character of the area and would provide additional housing contributing to the local economy in accordance with the above objectives.

# **Clause 1.6 - Consent Authority**

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

#### Clause 1.7 - Mapping

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

Land Zoning Map: Land zoned R5 Large Lot Residential

Lot Size Map: Minimum Lot Size 2ha

Heritage Map: Not a heritage item or conservation area

Height of Buildings Map: No building height limit Floor Space Ratio Map: No floor space limit

Terrestrial Biodiversity Map: High biodiversity sensitivity on the site

Groundwater Vulnerability Map: Groundwater vulnerable

Drinking Water Catchment Map: Not within the drinking water catchment Watercourse Map: Within or affecting a defined watercourse

Urban Release Area Map: Not within an urban release area

Obstacle Limitation Surface Map: No restriction on building siting or construction

Additional Permitted Uses Map: No additional permitted use applies Flood Planning Map: Not within a flood planning area

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

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

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

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

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

# Part 2 - Permitted or Prohibited Development

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

The Original development was authorised under former Environmental Planning Instrument in 1996. The provisions at that time provided for the averaging of allotment sizes based on 1 lot per 2 hectares. The subject site is located within the R5 Large Lot Residential zone as defined under Orange LEP 2011. The proposed development is defined as a subdivision under OLEP 2011 and subdivision remains permissible with consent for this zone. This application is seeking consent to modify the terms of the 1995 development 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 large lot residential are as follows:

# **Objectives of zone R5 Large Lot Residential**

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

# Comment on above objectives

- The proposed modification would reduce the number of lots whilst increasing the median lot size, which would not have an additional impact on scenic quality and would not impact on environmentally sensitive locations.
- The subject site zoned for large lot residential and is located away from the Orange urban area, thus not hindering its development.
- The modification would not increase the number of lots on the subject site from what was
  previously allowed (taking into account the garbage depot and flood zone buffer
  limitations), thus not causing any potential additional demand on public services and
  facilities. Twelve (12) lots is a relatively small number, which it is not considered would
  produce a significant number of additional residents which would have an impact on local
  services.
- The proposed modification indicates that no development would be constructed within the 400m buffer to the Council Resource Recovery Centre, which subject to Condition 24 of the consent would not result in a conflict of land uses. The land is zoned for large lot residential, and the proposed modification would provide such a land use.
- The subject site is located in a rural setting with limited sustainable transport options, this remains the same as the previous approval and is considered appropriate in the context.

# **Clause 2.6 - Subdivision - Consent Requirements**

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

The proposal does not involve a secondary dwelling.

#### Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

#### Part 4 - Principal Development Standards

#### Clause 4.1 - Minimum Subdivision Lot Size

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

The objectives of this clause are as follows:

- (a) to ensure that new subdivisions reflect existing lot sizes and patterns in the surrounding locality,
- (b) to ensure that lot sizes have a practical and efficient layout to meet intended use,
- (c) to ensure that lot sizes do not undermine the land's capability to support rural development,
- (d) to prevent the fragmentation of rural lands,
- (e) to provide for a range of lot sizes reflecting the ability of services available to the area,
- (f) to encourage subdivision designs that promote a high level of pedestrian and cyclist connectivity and accommodate public transport vehicles.

In relation to this site, the map nominates a minimum lot size of 2ha. The smallest lot proposed by this application is 1.05ha, which is below the minimum lot size requirements. However, as noted above, the proposed lot sizes previously approved on the subject site are all below 2ha, apart from one. The proposed modification involves a lot size and layout that is consistent with requirements of Condition 5 of the current consent.

On Pages 6 and 7 of the report that went to committee on 1 April 1996 in regards to the original consent, it was explained that the reason for allowing lots of less than 2ha in area was based on averaging provisions that applied at the time and was to also compensate for the reduction in site area that can be developed due to the requirement for there to be a 400m buffer to the Resource Recovery Centre and the requirement not to build on the flood zone.

As lot sizes below the 2ha LEP requirement have previously been approved, it is not permissible under Clause 4.55 of the EPAA to re-open an assessment of that decision. Nevertheless, as noted in the description of development section of this report; as compared to the previously approved lot plan, the median size of the lots would increase from 1.2ha to 1.52ha, and the number of lots exceeding 2ha would increase from 1 to 3, which brings the median lot sizes closer to the LEP requirements. Furthermore, the lot sizes proposed are still substantial (all lots would exceed the area of a football field) and would therefore reflect the general pattern of the locality, which is characterised by large semi-rural lots.

# Clause 4.3 - Height of Buildings

This clause is not relevant to the modified development proposal.

#### **Clause 4.4 - Floor Space Ratio**

This clause is not relevant to the modified development proposal.

#### **Part 5 - Miscellaneous Provisions**

### 5.10 - Heritage Conservation

# (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.

# (4) Effect of Proposed Development on Heritage Significance

Adjacent to the proposed subdivision is Banjo Paterson Memorial Park, which contains the Locally listed heritage items: Banjo Paterson Memorial and Templer's Mill ruins. The park as a whole is integral to the setting of these heritage items and the impact on the setting of the park as a whole therefore forms part of the heritage impact assessment. Banjo Paterson Memorial Park also has significance as being where it is believed that the 'Narrambla' homestead was located, where Banjo Paterson was born. However, as is noted in the Conservation Management Plan (2004) by Ian Jack Heritage Consulting Pty Ltd for the park, the precise location of 'Narrambla' is not known and could be outside the confines of the park and within the subject site.

As noted under proceeding sections of this report, six residential lots were previously approved adjacent to Banjo Paterson Park, and therefore the principal of allowing such lots in this location has previously been approved under the original application and cannot be revisited under this application. It should further be noted that four of these previously approved lots adjacent to the park could be built out in accordance the extant permission (taking into account the restrictions of the conditions placed on the original consent) without any further DA approval from the Council.

Despite the above, it is noted that the previously approved lot layout had lots that were orientated such that the dwellings would most likely back onto the park, with a reasonably large separation distance between the built form and the park boundary. The proposed modified lot layout, however, would provide for three dwellings that would likely be 'side on' to the park and may be at closer proximity to the park boundary than what would have occurred under the previously approved lot layout, thereby having a greater impact on the setting of the park. To address these concerns in relation to the amended lot layout, it is considered necessary to impose an additional condition requiring a 20m wide buffer zone between the park boundary and any built form to be constructed. This would reduce the potential impact on the setting of the park whilst allowing for the development of dwellings to continue to be achievable.

Furthermore, the original consent for the subdivision of the site did not include any archaeological conditions. Following the granting of the original consent in 1996, the Conservation Management Plan for the park was published in 2004, which highlighted the potential for there to be archaeological remains outside the confines of the park and within the application site itself.

In light of this additional information that has come to light following the granting of the original consent, it is considered necessary to impose a new condition requiring archaeological investigations to be carried out if any potential archaeological items are discovered during excavation works.

Overall, subject to the additional conditions outlined above, it is not considered that the proposed modification to the original consent would have any additional adverse impact on the heritage significance of neighbouring heritage items.

#### 5.16 - Subdivision of, or Dwellings on, Land in Certain Rural, Residential or Conservation Zones

The following matters are to be taken into account:

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

As stated in other sections of this report, the subdivision of the land has previously been approved, and the land is zoned as large lot residential (which the approved and proposes amended subdivision would provide). The principle of the acceptability of the use of the land for large lot residential is therefore well established.

The Orange Waste Disposal Facility lies to the west of the subject land on the opposite side of Ophir Road. Council has previously applied a 400 metre buffer zone around this facility to minimise the potential for land use conflict. The development as modified complies with the 400 metre buffer zone. The proposed dwelling envelopes are located outside the buffer. Compared to the current approval, there would be no dwellings within the 400 metre buffer (noting that under the current consent, Council does allow approved Lot 48 in the current DA to have a dwelling within this buffer area).

#### 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 site is not identified on the Flood Planning Map as being within a Flood Planning Area, however, the site is susceptible to flooding from Summer Hill Creek and if the nearby dam fuse gate were to fail. The provisions of Clause 5.21 are therefore relevant in the determination of the application.

The proposed building envelopes as indicated on the proposed modified lot layout plan indicates that all dwellings would be located outside the probable maximum flood level of the creek and the fuse gate flood line, in accordance with the conditions placed on the original consent. These building envelopes can be secured via recommended amended Condition 24 and would ensure that construction on the site would not be located on flood prone land, avoiding any impact on the flood function of the land and the river environment. Evacuation routes would be provided in the form of the access road to the subdivision leading to Ophir Road.

# **5.22 - Special Flood Considerations**

As per above, the development as modified responds to the flooding constraints on the land. The proposed modification plans for dwellings to be located outside the Fuse Gate flood zone and above the 1% AEP. Evacuation to nearby flood free land is available via the proposed public road. The modification significantly reduces the number of lots to be approved from 28 to 12 lots.

It is considered that the development as modified incorporates appropriate measures to manage risk to life in the event of a flood. This is addressed by existing Conditions in DA 19/95 and also by the exclusion of dwellings from the Fuse Gate flood zone. Council's Technical Services Department have reviewed the modified proposal and have determined that the modified layout is acceptable to address flooding related issues.

The modification 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. In this regard, future works will be located well away from the Summer Hill Creek riparian zone and the unnamed non-perennial watercourse in the southern section of the site.

#### 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 bitumen sealed access road to the subdivision. Given the limited excavation required to construct the access road, 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 is necessary to facilitate the future development of the land for dwellings.

The submitted contamination report indicates that the site has no known contamination (with the exception of an area of asbestos away from proposed building envelopes) and is suitable for residential development. Council staff concur with its findings subject to the imposition of an 'unexpected finds' contamination condition to ensure that in the unlikely event that contamination is found, that it is dealt with appropriately.

The proposed access road is located a significant distance from neighbouring properties and therefore no impact associated with the earthworks is anticipated to neighbouring properties.

As noted in previous sections of this report, it is possible that archaeological remains from the Narrambla homestead could be located within the subject site. Therefore, a condition is recommended 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 in proximity to a waterway: Summer Hill Creek, as such the application was referred to the Department of Planning and Environment-Water [the Department] for comment. The Departments General Terms of Approval includes a condition requiring an application be made to them for any controlled activity on waterfront land which would include the submission of site plans, construction plans, sediment and erosion plans, drainage plans and construction stormwater drainage outlet plans. Subject to condition therefore it is considered that the proposal would have an acceptable impact on the neighbouring waterway.

#### 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.

No modification to the previously approved stormwater drainage arrangements is proposed. Stormwater would be piped to the neighbouring creek, as per the requirements of Condition 16 of the approved development.

#### 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 proposed modified lot layout would reduce the number of lots previously approved and the proposed built envelopes would maintain a distance of at least 145m to the watercourse. Furthermore, the previously approved public reserve would be provided which would provide a further buffer between the development and the watercourse. Given the above, it is not considered that the development as modified would have any additional impact on riparian land and watercourses.

# 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 development as modified proposes the disposal of domestic wastewater onsite rather than the previously approved proposal to link with the Council's pumping station. The applicant has submitted onsite effluent management studies for each individual previously approved lot, which indicate that onsite effluent management would be achievable without any impact on groundwater. Further approval would be required under a Section 68 application to install the onsite effluent management systems. Council's Environmental Health Officer (EHO) has reviewed the onsite effluent management plans and has raised no concerns. No other aspects of the modified proposal would have any additional impact on groundwater.

#### Clause 7.11 - Essential Services

Clause 7.11 applies and states:

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

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

Council staff are satisfied that it is has been demonstrated that individual lot management of sewage is achievable on the development. A relocated access road to serve the development is now proposed. The road access to the lots has been reviewed by the Council's Development Engineer. Following a requested amendment to its location to improve site lines; the dimensions and location of the access road is considered to be appropriate. Proposed Lots 1 and 2 would be accessed directly from Ophir Road, which is considered suitable as well.

All other arrangements in relation to access to essential services would remain unchanged from the original consent.

# STATE ENVIRONMENTAL PLANNING POLICIES

#### STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

# **Chapter 4 - Remediation of Land**

# 4.6 - Contamination and Remediation to be Considered in Determining Development Application

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

In response to Condition 23 of the original consent, the applicant has provided a contamination investigation report for the site. This report indicates that the site is suitable for residential use as there are no known contaminants of the site, with the exception of the potential for naturally occurring Asbestos in the Northern section of the site. To address the potential for naturally occurring Asbestos, the applicant has submitted a management plan which details measures to reduce ground disturbance and the capping of the access road with bitumen seal. Separate asbestos management plans would be required for each individual dwelling when the time comes. Council's EHO has reviewed the submitted reports and raises no further issues subject to the addition of a condition requiring further investigation if unexpected contamination is found during construction works.

# 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 subject site is located on land identified as being bushfire prone and contains a watercourse. The proposal would ordinarily be categorised as Integrated development due the bushfire classification of the land and the proximity of the development to a watercourse and any works within 40m of the watercourse would require Controlled Activity approval under the Water Management Act 2000.

However, as the application relates to a modification, the proposal does not require general terms of approval under Section 100B of the Rural Fires Act 1997. Notwithstanding the above, the proposal was referred to both agencies and formal responses have been received which have been addressed in the report and recommended conditions of consent in the amended Notice of determination.

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

# **Orange Development Control Plan 2004**

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

- Chapter 6 Rural Development
- Chapter 13 Heritage
- Chapter 4A Flood Affected Land

#### **CHAPTER 6 - RURAL DEVELOPMENT**

Section 6.6-1 outlines planning outcomes for rural residential subdivision The relevant planning outcomes are addressed below:

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

Issues regarding heritage, water resources and vegetation features have been addressed under previous sections of this report. It is considered that the proposed access road and lot layout responds well to the moderate sloped topography of the site. No additional heritage impact would be caused to the setting of the adjacent park subject to archaeological condition and the provision of a buffer zone. No development is proposed within the direct vicinity of the riparian corridor and no additional impact on vegetation features is anticipated as compared to the original consent.

A Bushfire Safety Assessment has been submitted, and is assessed under proceeding sections of this report.

Despite nine of the proposed lots being below 2ha, their median size is still greater than the lot sizes previously approved and all would exceed 1ha. Therefore, large lots would be retained on site, one of which would be 44ha, allowing for the site to retain its rural character.

The submitted subdivision plans indicate building envelopes ranging from 1,750m² to 4,490m². The submitted onsite effluent management studies indicate that each lot would be able to accommodate onsite effluent disposal with a sub-surface irrigation area ranging from 555m² to 663m². The building envelopes proposed are therefore sufficient to accommodate buildings and sewage management systems. The building envelopes would be set back from the lot boundaries by at least 10m, which is considered sufficient to allow for adequate privacy. A condition is required to ensure at least a 20m setback from Banjo Paterson Park to ensure adequate separation.

The modified lot layout involves an entrance to the main road from the proposed access road and a separate entrance to Lots 1 and 2, this is the same number of entrances as was previously approved and is therefore acceptable. Following an amendment to the location of the access road, Council's Development Engineer is satisfied that the proposed access road provides adequate sightlines.

The external fencing around the subject site would be retained. The relevant procedures would ensure compliance with the Development and Subdivision Code.

#### 6.5 General Rural Planning Issues

#### **RURAL FIRE MANAGEMENT AND CONTROL**

Where development, including subdivision, is proposed for land identified as being bush fire prone, the development must comply with the provisions of the Planning for Bushfire Protection Guide. Furthermore, part 6.5 states that such developments may need to be referred to the RFS as integrated development.

The subject site is located on land identified as being bushfire prone. However, as the application being considered is a modification, it is not required to be referred to the RFS under Section 100B of the Rural Fires Act 1997. Nevertheless, the RFS were consulted on the application, and their recommendations are included in the attached draft notice of determination. Bush fire impact is assessed below under the 'LIKELY IMPACTS OF THE DEVELOPMENT' section of this report.

### **Chapter 13 - Heritage**

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

Heritage matters have previously been addressed in detail under the heading "Clause 5.10 - Heritage Conservation". It is considered that the requirements of the DCP have been adequately addressed.

#### **Chapter 4A - Flood Affected Land**

Section 1.2 of this chapter of the DCP sets out the aims of this section of the DCP, which seeks to minimise the potential impact of development on ecological value of waterways and control development so that the potential risk to human life and damage to property caused by floods is reduced.

Issues relating to flooding have been addressed previously in detail under the headings: "Clause 5.21 Flood planning" and "Clause 5.22 Special Flood Considerations" of this report.

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

# **Demolition of a Building (clause 61)**

The proposal does not involve the demolition of a building.

# Fire Safety Considerations (clause 62)

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

## **Buildings to be Upgraded (clause 64)**

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

#### **BASIX Commitments (clause 75)**

BASIX is not applicable to the proposed development.

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

# **Bush fire prone land**

The identification of bushfire prone lands (BPL Map) in NSW is required under Section 10.3 of the Environment Planning and Assessment Act 1979 (EP&A Act). Section 4.14 of the EP&A Act requires developments to comply with NSW Rural Fire Service, Planning for Bushfire Protection (PBP 2019) if any part of a development site is affected by a bush fire hazard as indicated within the BPL Map.

As it currently stands, the subject site falls within the Vegetation Category 3 zone on the Orange City Bushfire Prone Land Map which triggers development assessment provisions under 4.14 of the EP&A Act and compliance with PBP 2019.

The original application was approved in 1996. At the time of the original approval the site was not located on land considered to be bushfire prone, and therefore planning for bushfire protection was not included in the assessment of the original application. As a result, the previously approved subdivision does not comply with the PBP requirements. For example, the PBP requires dead end access roads to not exceed 200m, and the previously approved access road is a dead-end road that significantly exceeds this length. As the original consent is still valid, the applicant could (as discussed previously) build out the previously approved PBP non-compliant access road and lots without requiring any further consent from Council. This modification application therefore offers an opportunity to increase the bushfire resilience of the proposed subdivision, in accordance with the requirements of the PBP 2019.

Given that this application is for a modification of a previous approval, comments from the Rural Fire Service (RFS) are advisory only. The RFS has provided an advisory letter which recommends a condition requiring adequate fire-fighting access to the subdivision and general advice in regards to providing Asset Protection Zones and adequate water supply. This recommended condition and general advice has been incorporated into conditions included on the attached draft notice of determination. It is the assessment of Council staff that the proposed modified development is able to comply with the condition recommended by the RFS. However, Council staff have modified the condition wording slightly to reflect that a through route for firefighting vehicles would be provided via the internal driveway of Lot 8.

The proposed modified subdivision would be located in a potential grassland hazard area. The PBP states that subdivisions in such areas must be provided with: Asset Protection Zones (APZs), adequate access, adequate provision of and protection of services. The applicant has submitted a Bush Fire Assessment Report, which seeks to address these requirements, and is assessed below:

#### <u>APZs</u>

The PBP states that APZs should be provided around buildings to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

The submitted Bushfire Assessment Report recommends that APZs be provided to all proposed residential lots, with widths of at least 10m, to be managed as an Inner Protection Area. The proposed APZs would meet the requirements of the PBP and are therefore acceptable and can be secured by condition.

#### <u>Access</u>

The PBP states that adequate access should be provided to provide safe operational access to structures and water supply for emergency services while residents are seeking to evacuate from an area. Table 5.3b of the PBP states that this intent may be achieved where: firefighting vehicles are provided with safe, all-weather access to structures. Acceptable solutions to this intent are set out in the PBP and comment on how the proposal would comply with these are set out as follows:

- 1. Property access roads are two-wheel drive, all-weather roads;
  - Comment: The applicant has indicated that future properties would be accessed via an all-weather sealed road, this would need to be secured via condition and would meet the requirements of provision 1.
- 2. Perimeter roads are provided for residential subdivisions of three or more allotments;
  - Comment: The originally approved subdivision did not include a perimeter road, nor does the proposed modified proposal. In their advice to Council, the RFS do not state that a perimeter road would be required. It is considered that the RFS recommended condition requiring adequate fire fighting vehicle access and provision of the Asset Protection Zones recommended by the submitted Bushfire Assessment Report would provide sufficient firefighting access to satisfy the requirements of the PBP.

3. Subdivisions of three or more allotments have more than one access in and out of the development;

Comment: The subdivision would be accessed via a dead-end road. However, Lot 8 would have two accesses: one via an internal driveway leading from the entrance to the proposed subdivision road and the other between Lots 7 and 9. The applicant states that in an emergency this would provide a direct route to link up with the main driveway, thus providing an additional access to the lots for firefighting purposes, and could be secured via condition. The originally approved subdivision included a dead-end road with a much greater length (refer to figure 2) that did not include a through access, and therefore the proposed modification would improve access for firefighting vehicles.

4. Traffic management devices are constructed to not prohibit access by emergency services vehicles;

Comment: This can be secured via condition.

5. Maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient;

Comment: Proposed road would not exceed this gradient, and can be ensured via condition.

6. All roads are through roads;

Comment: Lot 8 would have two accesses: one via an internal driveway leading from the entrance to the proposed subdivision road and the other between Lots 7 and 9, which would provide a direct route to link up with the main driveway, thus providing an additional access to the lots.

7. Dead end roads are not recommended, but if unavoidable, are not more than 200m in length, incorporate a minimum 12m outer radius turning circle, and are clearly sign posted as a dead end;

Comment: A dead-end road is proposed that would exceed 200m in length, however, this would be linked to the driveway to Lot 8, which would provide a circular route through the site. There would be one dead end section, but this would only be 61m in length and would include more than 12m outer radius turning circles. The proposal therefore complies with Provision 7.

8. Where kerb and guttering is provided on perimeter roads, roll top kerbing should be used to the hazard side of the road;

Comment: Perimeter road would not be provided, and therefore provision 8 would not apply.

9. Where access/egress can only be achieved through forest, woodland and heath vegetation, secondary access shall be provided to an alternate point on the existing public road system; and

Comment: The access would be provided through pasture, and therefore an alternative access onto the public road is not required.

- 10. One way only public access roads are no less than 3.5m wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression.
  - Comment: The access road would be two way and 20 metres wide.
- 11. The capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/ causeways are to clearly indicate load rating.
  - Comment: The applicant has indicated that the proposed road surfaces would have sufficient capacity for vehicles up to 23T and would be ensured by way of condition.
- 12. Hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;
  - Comment: The applicant has indicated that the development would comply with the above, and can be secured via condition.
- 13. Hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 Fire hydrant installations System design, installation and commissioning; and
  - Comment: The applicant has indicated that the development would comply with the above and can be secured via condition.
- 14. There is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available.
  - Comment: The applicant has indicated that the development would comply with the above.

# Water supply

- Reticulated water is to be provided to the development where available;
  - Comment: Static water supply would be provided.
- 2. A static water and hydrant supply is provided for non-reticulated developments or where reticulated water supply cannot be guaranteed; and
  - Comment: Each lot would be provided with a 20,000 litre water tank.
- 3. Static water supplies shall comply with Table 5.3d.
  - Comment: A 20,000 litre water tank would meet the requirements for each lot, all of which exceed 10,000sqm.
- 4. Fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2005;
  - Comment: A condition would ensure fire hydrants would comply with the relevant clauses.
- 5. Hydrants are not located within any road carriageway; and
  - Comment: A condition would ensure fire hydrants would comply with the relevant clauses.
- 6. Reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads.
  - Comment: Not applicable to proposed development.

- 7. Fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005.
  - Comment: A condition would ensure fire hydrants would comply with the relevant clauses.
- 8. All above-ground water service pipes are metal, including and up to any taps; and
  - Comment: The applicant states that the service pipes would comply with these requirements.
- 9. Above-ground water storage tanks shall be of concrete or metal.
  - Comment: The applicant states that the storage tanks would comply with these requirements.

# **Electricity services**

- 1. Where practicable, electrical transmission lines are underground;
- 2. Where overhead, electrical transmission lines are proposed as follows:
  - o lines are installed with short pole spacing of 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 ISSC3 Guideline for Managing Vegetation Near Power Lines

Comment: The submitted bushfire assessment report states that the development would comply with the above requirements.

# Gas services

- 1. Reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;
- 2. All fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- 3. Connections to and from gas cylinders are metal;
- 4. Polymer-sheathed flexible gas supply lines are not used; and
- 5. Above-ground gas service pipes are metal, including and up to any outlets.

Comment: The submitted bushfire assessment report states that the development would comply with the above requirements.

#### Overall Bushfire Assessment conclusion

The above measures can be secured by way of recommended conditions, and are considered to be sufficient to ensure compliance with PBP 2019 and comply with the advice of the RFS.

# **Traffic**

The proposed modification to the approved subdivision would not increase the number of lots over what was previously consented, and there would therefore not be any potential increase in vehicular traffic associated with the proposed development. Furthermore, the provision of 12 residential dwellings is not a significant number and would therefore not have any notable impact on road network capacity.

Following amendments, the proposed intersection from Ophir Road is considered to provide adequate site lines and is deemed appropriate by Council's Development Engineer.

Conditions 14, 15 and 19 of the extant consent would ensure that the development would accord with Council's Development Code in regards to internal roads, accessways and intersections.

# **Social and Economic Impacts**

No change to the social impact of the development proposal as modified is anticipated. The development would provide employment opportunities during construction works.

# **Construction Impacts**

The proposed development may result in short-term impacts typically associated with construction activities, including noise, dust, construction worker parking, and site deliveries.

Given the rural setting and distance from neighbouring properties, and adverse impact is likely to be limited, and they are temporary and limited to the construction phase.

# **Environmental Impacts**

As stated previously, the site does not comprise significant amounts of native vegetation and development would be a sufficient distance from the adjacent water course to avoid any adverse environmental impact.

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

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

- The development is permissible and compliant with the relevant provisions of the LEP.
- The development is considered to be satisfactory in regard to Section 4.15 of the Environmental Planning and Assessment Act 1979.
- The potential additional impacts of the modified development can be managed appropriately through the conditions of consent.
- The development as modified responds to the restrictions placed on the development of the land by the conditions placed on the original consent including no development allowed within the 400m buffer attributed to the Orange Waste Disposal facility and no development allowed within the Fuse gate flood zone.
- The proposed amended lots are considered to be as suitable for onsite effluent disposal as per the onsite effluent management studies.

Therefore the site is considered suitable for the development as modified.

# 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 advertised for the prescribed period of 14 days and at the end of that period nine submissions (including one from the Orange and District Historical Society (ODHS)) were received. The details of the submissions are outlined below, along with Council's planning assessment and response:

# **Issue 1: Heritage impact**

Several submissions have raised concerns regarding the impact of the proposed subdivision on the setting of Banjo Paterson Memorial Park. Furthermore, submissions have raised concerns that due to the uncertainty around the precise location of the homestead of 'Narrambla' (where Banjo Paterson was born), the proposed modified development may damage archaeological evidence and prevent the potential future discovery of the location of 'Narrambla'. The Orange and District Historical Society have recommended the following measures to reduce this impact:

- 1. For Lot 2, increase the 10m limit on the building envelope to 50m from the joint boundary fence in an attempt to provide greater protection for possible archaeological evidence of the homestead and its surrounding buildings on Lot 2.
- 2. Require a strip of land 8-10m wide, centred on the joint boundary between Lots 2 and 3 (below the north-eastern boundary of the park), be set aside to provide contiguous access to the creek, the raison-d'etre for the mill, and the public reserve already declared. This would improve the locational relevance of the park.
- 3. We ask that vegetation height limits be a condition of approval on all boundary fences between Lot 2 and the park and the north-eastern boundary between Lot 3 and the park. The exception to this condition is the common boundary between the park and the lots along the requested pathway from the park to the Creek Reserve. Twin lines of vegetation there would direct the attention of park visitors to the pathway and emphasise the ties between the park and the creek.
- 4. In relation to the height limits along joint boundaries we suggest the limit at the fence lines be less than 2m, increasing to natural heights ie. 60m from the boundary. Obviously, this request applies particularly to Lot 2. The south-eastern joint boundaries between the park and Lots 3 and 12 are of less concern to us in this respect.
- 5. With reference to Point 1, ODHS requests that a non-invasive archaeological survey be conducted on Lot 2 to search for evidence that 'Narrambla' homestead and its outbuildings may have been built in that area, as has long been suggested. Techniques such as ground penetrating radar and electro-magnetic conductance will be less costly than the standard technique of digging survey trenches which may easily miss artefacts. With both techniques, absence of evidence is not proof that there were no buildings. All it indicates is that evidence was not found.
- 6. Using ODHS' recently gained expertise and experience with early mapping of the Orange district, we will continue to search for 'Narrambla' homestead by examining maps of the period for any indication of buildings on the park and on Lot 2.

**Assessment Response:** It should be emphasised that more lots have previously been approved under an existing consent surrounding Banjo Paterson Memorial Park than are proposed under this modification application, and therefore Council does not have the ability to object to such development when it has previously been approved.

It is considered that the amount of development and therefore the level of impact on the landscape would be lower than the submitted subdivision plan may suggest. The submitted proposed subdivision plan indicates maximum proposed building envelopes for each lot, but the actual footprint of houses built on each lot would be much smaller than is indicated (and would be subject to separate applications for each dwelling).

For instance, the maximum proposed building envelope for Lot 2 as indicated on the submitted plan is 4490m<sup>2</sup>, whereas the average area of an Australian home is approximately 240m<sup>2</sup>, and therefore the actual area of Lot 2 that would be developed would likely be a fraction of the area of the built envelope indicated on the submitted plan.

Furthermore, included on the draft notice is a condition requiring compliance with the building envelopes indicated on the submitted plans, this would prevent the construction of any buildings between the park and Summer Hill Creek. In addition, included on the draft Notice of Determination is a condition requiring a 20m buffer zone between any built development and the boundary with Banjo Paterson Memorial Park. This is to reduce any potential additional impact to the setting of the park given that it is considered that the modified lot orientation could result in built form closer to the park than was previously approved.

Given that the subdivision was previously approved without any archaeological conditions attached it is not possible for Council to require archaeological investigation conditions as part of the proposed modification to the consent. However, an 'unexpected finds' archaeological condition is considered appropriate to ensure that if an archaeological artifacts are discovered during construction works, that adequate protections are in place.

As the original consent does not include a provision for a public access from the park to the creek, it is not possible to make this a requirement of this proposal to modify this consent.

Vegetation height limits was not a requirement of the original consent, and therefore it is not possible to require such a restriction under this modification application. Furthermore, it is not considered that such a condition would be readily enforceable due to the difficulties involved in measuring vegetation heights in private property.

# **Issue 2: Traffic Impact on Ophir Road**

Concerns have been raised that the proposed development would increase traffic volume on Ophir Road, which in turn would increase road noise.

**Assessment response:** Residential lots of have previously been approved on this site, and there would therefore be no increase in traffic generation over what was previously approved at the site. The development as modified results in a reduced number of allotments being proposed within this precinct when compared to the original proposal.

# Issue 3: Proximity to Ophir Road Resource Recovery Centre

The following concerns have been raised in relation to the proposed development:

- Increasing the frequency of garbage collection services, adding more heavy vehicle traffic and associated noise.
- Compounding existing noise pollution, particularly during early morning hours.

**Assessment response:** As stated above, residential lots have previously been approved on this site, and it is therefore not considered that a cumulative noise impact would be any greater than was previously approved. Furthermore, noise associated with garbage collection from residential properties is infrequent and would unlikely cause any greater disturbance than is the case as existing in relation to the collection of garbage from existing properties in the area.

# **Issue 4: Light Pollution and Loss of Rural Character**

Concerns have been raised that the proposed development would cause the following adverse effects:

- Introducing numerous new streetlights, porch lights, and internal house lighting, much of which will be visible from our property at night.
- Disrupting natural darkness.
- Contributing to the suburbanisation of a semi-rural area, counter to the appeal that originally drew many residents here.

Assessment response: As stated above, residential lots have previously been approved on this site (which is zoned for large lot residential) and it is not considered that the proposed modification would increase light pollution or have a greater impact on rural character than was previously approved. The development as modified would allow up to 12 residential dwellings within this area. The addition of only 12 dwellings would not have a significant impact on light pollution particularly when considered in the existing residential area (Clifton Grove) in which they would form a part.

The lots proposed are large (at least 1ha) and the largest lot would be 44ha. In addition, the building envelopes proposed provide for a separation distance of at least 20m between dwelling houses. It is therefore considered that the modified proposal would retain the open character of the site and given that the majority of the site area would remain undeveloped, the semi-rural character of the area would be maintained.

# **Issue 5: Loss of Property Value**

Concerns have been raised that the expected increase in noise, traffic, light pollution, and loss of privacy is likely to negatively influence neighbouring properties marketability and resale value.

**Assessment response:** Loss of property value is not a matter than can be taken into account when assessing Development applications.

The issues raised in regard to noise, traffic and light pollution have been addressed above.

The proposed building envelopes would be located a significant distance (at least 260m) from any neighbouring existing dwelling. And accounting for existing vegetation, it is considered highly unlikely that any future dwellings would have any notable adverse privacy impact.

# **Issue 6: Noise and Disruption During Construction**

Concerns that construction works would cause the following:

- High noise levels from heavy machinery, earthworks, and daily vehicle movements.
- Dust, vibration, and potential property damage, especially given the proximity of our home to the construction boundary.
- Loss of amenity and peaceful enjoyment of our home, both indoors and outdoors, for an extended period.

**Assessment response:** The proposed development may result in short-term impacts typically associated with construction activities, including noise, dust, construction worker parking, and site deliveries.

Given the rural setting and distance from neighbouring properties, an adverse impact is likely to be limited, and they are temporary and limited to the construction phase.

# 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.

#### INTERNAL REFERRAL COMMENTS

The requirements of the Environmental Health and the Engineering Development Section are included in this report.

# **SUMMARY**

Application has been made to modify development consent DA 19/1995(1) pursuant to Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 [EPAA]. The proposed modification to previously approved DA 19/1995(1) consisting of modifications to: site access, lot layout, size and number of the lots and effluent disposal arrangements is considered to result in a development that would be 'substantial the same' as what was previously approved, in accordance with Section 4.55 (2) of the Environmental Planning and Assessment Act 1979 [EPAA]. This is because the proposed modification directly responds to restrictive conditions placed on the original consent and the character of the development would remain the same as a large lot residential subdivision.

A Section 4.15 assessment of the development indicates that subject to conditions requiring compliance with the proposed building envelopes and the provision of a 20m buffer to Banjo Paterson Memorial Park, the proposed modification to the previously approved subdivision would not result in any additional adverse environmental impacts. The development as modified is therefore considered acceptable.

It is therefore recommended that Council supports the subject proposal.

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. Attached is a draft Notice of Determination outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner.

# **ATTACHMENTS**

- 1 Draft Notice of Determination and General Terms of Approval, D25/67630 ₹
- 2 Plans, D25/64998 U
- 3 Submissions (redacted), D25/52664 U.



### ORANGE CITY COUNCIL

Development Application No DA 19/1995(2)

D25/32752

Container PR29017

# NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION (AS MODIFIED)

issued under the Environmental Planning and Assessment Act 1979 Section 4.18

Development Application

Applicant Name: Maxus Group

Applicant Address: C/- Peter Basha Planning & Development

PO Box 1827

ORANGE NSW 2800

Owner's Name: Maxus Group Pty Ltd

Land to Be Developed:

Lot 4 DP 1274221 - Ophir Road, Orange (previously Lot 1 DP 781111 - Ophir Road, Orange)

Proposed Development: Rural Residential Subdivision

**Building Code of Australia** 

building classification: Not Applicable

Determination made under

Section 4.16

Made On: 1 July 2025

CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW: Determination:

Consent to Operate From: 2 April 1996 Consent to Lapse On: 2 April 2001

#### Terms of Approval

#### The reasons for approval:

- 1. The proposed development will reasonably satisfy Local and State planning controls.
- The proposed development will comply with the requirements of State approval authorities.
- Impacts of the proposed development on the natural and built environment will be within acceptable limit, subject to mitigation conditions.
- The proposed development will complement the existing or desired future character of the area.
- The proposed development will be consistent with the zone objectives and principal development standards.
- The proposed development is permitted in the zone.
- Utility services are available and adequate.
- Public exhibition of the application was undertaken in accordance with Council's Community Participation Plan or State legislation. No public submissions were received.
- Public exhibition of the application was undertaken in accordance with Council's Community Participation Plan or State legislation. During the exhibition period 9 submissions were received. Public submissions were considered. Mitigation conditions are included where considered necessary.

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#### **Conditions**

The development be carried out in accordance with:

- (a) Amended Plan numbers: Figure 1 LOCATION, Figure 2 APPROVED SUBDIVISION DA 19/95, Figure 3 PROPOSED MODIFICATION OF DA 19/95, Figure 4 SITE DETAIL & CONSTRAINTS WEST SIDE OF SUMMER HILL CREEK, Figure 5 PROPOSED SUBDIVISION FOR WESTERN SIDE OF SUMMER HILL CREEK by Peter Basha REFERENCE: 22080DA DATE: 13.05.2025,
- (b) Submitted reports: Naturally occurring asbestos management plan by Envirowest Consulting dated: 6/2/2023 report number: R14687amp, Preliminary contamination investigation by Envirowest Consulting dated: 06/02/2023 Report number: R14687c, Bush Fire Assessment Report by Statewide Bushfire Consulting dated: 14/02/2025 Ref: 24SBC\_1162

as amended in accordance with any conditions of this consent.

- (1) A restriction as to user shall be placed upon the title of each affected lot to prohibit any building development from occurring within the Summer Hill Creek Probable Maximum Flood Area.
- (2) That development may be permitted within the defined concrete arch dam failure area as outlined in the Water Manager's report dated 29 March 1995, subject to:
  - (a) appropriate Saddle Dam alteration being carried out by Council; and
  - (b) adoption and implementation of a Flood Emergency Plan applicable to land downstream of Suma Park Dam.
- (3) That no building development shall be permitted to occur within the Saddle Dam area, as outlined in the Water Manager's report dated the 29th March 1995, (assuming appropriate Saddle Dam alterations have taken place) until such time as the main concrete arch dam has been upgraded to full Probable Maximum Flood standards according to current Dam Safety Committee Guidelines.
- (4) A film plan of subdivision and three (3) copies shall be submitted for the approval of the General Manager.
- (5) That the number of lots permissible on the south-western side of Summer Hill Creek shall not exceed the number of lots that are possible to be achieved in the area outside the open space at a lot size of 2 hectares.
- (6) In view of the significant effect of the Probable Maximum Flood area upon Lot 23, this lot shall be deleted. Notwithstanding this, the area of this lot may be incorporated into other lots provided that adequate area for the erection of a dwelling and associated outbuildings can be satisfactorily provided.
- (7) No development shall occur upon the subject land with 400m of the Orange Garbage Depot site until such time as the garbage disposal activities cease upon the site or until such time that the activities at the Garbage Depot change such that the 400m buffer area is, in Council's opinion, no longer required. Separate application will be required for the development of land within the 400 metre buffer area at that time.
- (8) The land within the 400 metre buffer area shall be densely planted with trees and shrubs that will effectively provide for noise attenuation, litter screening, dust screening and odour attenuation prior to the release of Stage 1. A plan detailing such planting shall be submitted for the approval of the Manager-Planning Approvals.
- (9) No tree upon the subject land shall be removed without the written consent of the Manager-Planning Approvals.
- (10) The existing GI shed upon the proposed Lot 2 shall be removed at the commencement of construction of Stage 3.
- (11) The area of open space adjacent to Summer Hill Creek shall be dedicated as public open space in accordance with Section 94 of the Act and the Orange City Contributions Plan 1993.

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(12) That, in view of the increase in demand for public facilities likely to be cause by this development proceeding, the payment of \$1,277.66 per lot shall be made to Council in accordance with Section 94 of the Act, and Council's Contributions Plan 1993, towards the provision of the following facilities prior to the release of the film plan of subdivision for each stage:

Sportsgrounds \$464.62 per lot
Distributor Roads \$619.50 per lot
Childcare Centres \$38.67 per lot
Neighbourhood Centres \$154.87 per lot

The contribution shall be indexed at the 1st January each year according to the Australian Bureau of Statistics Consumer Price Index for Sydney, current at that time.

- (13) Any adjustments to existing utility services which are made necessary by this development proceeding, shall be at the full cost of the developer.
- (14) The provisions and requirements of the Orange City Council Subdivision Code shall be applied to this application and all work constructed within the subdivision shall be in accordance with that Code.
- (15) Engineering plans showing details of all proposed work shall be submitted to Council for the approval of the Director - Technical Services.
- (16) Stormwater from the site shall be piped to the existing watercourse where it shall be discharged through a standard headwall with appropriate scour protection.
- (17) All proposed battle-axe lots shall be provided with a gravel driveway a minimum of 3m wide from the public road to the main body of the lot. The construction of the gravel driveway shall be to the satisfaction of the Director Technical Services.
- (18) All existing dams on the subject land shall be filled and compacted to the satisfaction of the Director Technical Services. The filling of all dams and low lying areas shall be carried out in accordance with the recommendations contained in a geotechnical report to be obtained from a registered N.A.T.A. Laboratory, which shall be submitted to Council for approval in accordance with Council's Subdivision Code Sec. 2.1.5, as amended 15 August 1991.
- (19) The intersections of Banjo Paterson Way and Proposed Road No. 4 and Ophir Road and Proposed Road No. 1 shall be designed in accordance with Policies, Guidelines and Procedures for Traffic Generating Developments, Part B, Guidelines for the Assessment of the Traffic Impacts of Developments. This will require the construction of slip lanes, acceleration and deceleration lanes in Ophir Road and Banjo Paterson Way. Engineering plans showing details of this required work shall be submitted for the approval of the Director Technical Services.
- (20) A caveat shall be registered on the Deed of Title of Lots 1, 2, 8, 9 and 10 to deny vehicular access to these lots from Banjo Paterson Way.
- (21) As amended as part of DA 19/1995(2)

A caveat shall be registered on the Deed of Title of Lot 8 to deny vehicular access to this lot from Bulgas Road.

- (22) A soil erosion management control plan approved by the Department of Conservation and Land Management (Soil Conservation) is to be submitted for approval by Manager - Corporate Planning, for implementation with the subdivision construction phases.
- (23) To determine whether the subject land is suitable for residential development, a soil contamination study shall be carried out over the whole of the subject land by suitably qualified consultants in accordance with Council's policy.

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#### (24) As amended as part of DA 19/1995(2)

Building envelopes shall be established on Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 to the satisfaction of Manager - Planning Approvals to locate dwellings outside the 400 metre buffer area to the Waste transfer station, outside the fuse gate flood line (as indicated on submitted drawing: Figure 5 - PROPOSED SUBDIVISION FOR WESTERN SIDE OF SUMMER HILL CREEK DATED: 13.05.2025) and outside a 20 metre buffer area to the boundary with Banjo Paterson Memorial Park. Such building envelopes shall be shown on the subdivision plan and a Section 88b Instrument.

- Section 88b Instruments shall be applied to all allotments stating that, prior to the erection of buildings, a geotechnical investigation shall be carried out by a NATA Registered Laboratory in order to classify each allotment in accordance with AS 2870 - Residential Slabs and Footings Code.
- (26) To ensure that the building regulations are observed, a building application shall be submitted conforming to the requirements of the Local Government (Approvals) Regulations, 1993 for all buildings to be erected on the site.
- (27) To ensure that the requirements of the Local Government (Approvals) Regulations are observed, an application shall be submitted for approval of the proposed method of disposal of liquid wastes from the buildings in accordance with the requirements of the Local Government (Approvals) Regulations, 1993 and AS 1546 - Small Septic Tanks.
- To ensure that the building and the waste water disposal area is sited in the most appropriate position, the siting of the buildings on the allotments shall be agreed to by the owner and the building surveyor.
- (29) All of the following conditions shall be at the full cost of the Developer and to the satisfaction of

NOTE: In accordance with Section 64 of the Local Government Act 1993 and Section 27 of the Water Supply Authorities Act 1987 Notice be given that:

- The developer is responsible for the construction of all water works to serve the development at
- Stage 1 Connection of 11 lots, east of Summer Hill Creek, from the existing Clifton Grove Water Supply.
  - Standard Water Headworks Charge \$1,212 per lot
  - Contribution for water main in Phillip Street (from Jilba Street to

Stage 2 - Connection of the remaining 12 lots, east of Summer Hill Creek, to the Clifton Grove (c) Water Supply.

 Standard Water Headworks Charge \$1,212 per lot

Contribution for water main in Phillip Street (from Jilba Street to Ophir Road)

\$1,062 per lot

Upgrading Works (0.646m of additional 100mm diameter water main - The Overflow) - estimate only \$60,000

#### As amended as part of DA 19/1995(2)

Stages 3 and 4 - Connection of approximately 12 lots of 1 hectare minimum area, west of Summer Hill Creek.

Standard Water Headworks Charge \$1,212 per lot

Contribution for water main in Phillip Street (from Jilba Street to \$1,062 per lot Ophir Road)

The upgrading works proposed in Stage 2 will not alleviate the need for a further contribution in Stages 3 and 4. The 45 lot subdivision increases the demand on the entire Clifton Grove water supply system. The entire 45 lots should therefore contribute to any capital improvements

#### Condition (29) continued over the page

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required as a result of the subdivision occurring.

\$1.062 per lot

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#### (29) (cont)

#### (f) Deleted as part of DA 19/1995(2)

That, in view of the increase in demand caused by the development proceeding, the payment of \$15,000 shall be made to Council towards the provision of the effluent drainage line and pump-station within Council's Waste Disposal Depot to convey common effluent drainage to the Wastewater Treatment Plant.

#### (g) Deleted as part of DA 19/1995(2)

A contribution of 50% of the normal Headworks charge of \$1,166 shall be made to Council prior to the release of subdivision plans for that land on the south-western side of Summer Hill Creek towards Sewerage Headworks.

- (h) The contributions shall be indexed at the 1st January each year according to the Australian Bureau of Statistics Consumer Price Index for Sydney, current at that time.
- (i) The water main for the proposed subdivision shall be constructed from the existing water main at the intersection of Bulgas Road and Ophir Road. Connections to the existing water mains in Clifton Grove and Bulgas Road are not available.

#### (30) New condition as part of DA 19/1995(2)

If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item must cease; and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council must be notified. Where required, further archaeological investigation must be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy developed in consultation with and approved by the OEH.

#### (31) New condition as part of DA 19/1995(2)

In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work onsite must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works onsite must not resume unless the express permission of Council's Director Development Services is obtained in writing.

#### (32) New condition as part of DA 19/1995(2)

Asset Protection Zone

At the commencement of building works and in perpetuity asset protection zones shall be established on each lot in accordance with the zones identified in the submitted Bush Fire Assessment Report prepared by State Wide Bushfire Consulting (Subdivision-Western Side of Summer Hill Creek) dated 14 February 2025.

Building envelopes shall be maintained as an inner protection area (IPA) as outlined within Appendix 4 of Planning for Bush Fire Protection 2019 and the NSW RFS document Standards for Asset Protection Zones to a distance of:

- o Lot 1: 11m IPA on north-east and eastern sides of proposed Building Envelopes
- Lots 2-7: 11m IPA on east side of proposed Building Envelopes
- Lot 8: 11m IPA on east and south sides, and 10m on western side of proposed Building Envelope
- o Lots 9-12: 10m area on the western side of proposed Building Envelopes

# (33) New condition as part of DA 19/1995(2)

Management of asset protection zones (APZ).

During ongoing use of the site, APZ must be managed in accordance with, Planning for Bushfire Protection 2019 and NSW Rural Service's Standards for Asset Protection Zones.

6

#### (34) New condition as part of DA 19/1995(2)

The access serving Lots 1 to 12 located along the western side of Summer Hill Creek must comply with the general requirements of Table 5.3b of Planning for Bush Fire Protection 2019 and the following:

- o is a two-way sealed roads with minimum 5.5m carriageway width kerb to kerb;
- o parking is provided outside of the carriageway width;
- o hydrants are located clear of parking areas;
- unincumbered emergency vehicular access is provided linking the communal access road to the internal driveway serving Lot 8.
- o curves of the access road has a minimum inner radius of 6m;
- o the road crossfall does not exceed 3 degrees; and
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.
- o the maximum grade road is 15 degrees and average grade of not more than 10 degrees;
- o the road crossfall does not exceed 3 degrees;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- dead-end parts of the access road incorporate a minimum 12m outer radius turning circle, and are clearly sign posted as a dead end;
- o the capacity of road surfaces is sufficient to carry fully loaded firefighting vehicles;
- hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression; and
- hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 Fire hydrant installations System design, installation and commissioning.

#### (35) New condition as part of DA 19/1995(2)

A right-of-way under Section 88B of the NSW Conveyancing Act is to be registered on the Deed of Title on Lot 8 (As indicated on approved plan titled: Figure 3-Proposed Modification of DA 19/95) to allow for direct emergency vehicular access (between Lots 7 and 9) linking the public subdivision access road to the internal driveway of Lot 8. This right-of-way shall only apply in terms of a bushfire emergency.

#### Department of Planning and Environment-Water condition

#### (36) New condition as part of DA 19/1995(2)

Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000. The application shall address the Departments requirements set out in its letter dated 16<sup>th</sup> May 2025 (Annexure A)

### **Other Approvals**

Local Government Act 1993 approvals granted under Section 68.

Nil

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

Department of Planning and Environment-Water

7

# **Right of Appeal**

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

# Disability Discrimination Act 1992:

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

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

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

Disclaimer - S88B of the Conveyancing Act 1919 -Restrictions on the Use of Land: The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Signed: On behalf of the consent authority ORANGE CITY COUNCIL

Signature:

Name: PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

**Date:** 2 July 2025

This is page 7 of 7 page/s of Council's Approval of a Development Application

# **Department of Planning and Environment**



Contact: Department of Planning and Environment-Water Phone: 1300081047 Email: waterlicensing.servicedesk@dpie.nsw.gov.au

> Our ref: IDAS-2025-10238 Your ref: DA 19/1995(2)

> > 16 May 2025

The General Manager ORANGE CITY COUNCIL 135 Byng Street, Orange

Attention: Paul Johnston

Uploaded to the ePlanning Portal

Dear Sir/Madam

IDAS-2025-10238 - Integrated Development Referral - General Terms of Approval Re:

Dev Ref: DA 19/1995(2)

Description: MODIFY DA 19/1995(1) AS DESCRIBED IN ATTACHED SOEE, PLANS AND SUPPORTING

INFORMATION

Location: Lot 4, DP1274221, BULGAS ROAD ORANGE 2800

I refer to your recent referral regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Department of Planning and Environment-Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the Water Management Act 2000 (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the Environmental Planning and Assessment Act 1979 (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the department requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

• if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment-Water will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- · if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- · of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, the department recommends the following condition be included in the development consent:

The attached GTA issued by the Department of Planning and Environment-Water do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application must be submitted to the department together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150 LOCKED BAG 5022, Parramatta, NSW 2124

www.dpie.nsw.gov.au

Applications for controlled activity approval should be made to the department, by lodgement of a Controlled Activity Approval – New approval application on the NSW Planning Portal at: <a href="https://www.planningportal.nsw.gov.au/">https://www.planningportal.nsw.gov.au/</a>

The Department of Planning and Environment-Water requests that Council provide a copy of this letter to the development consent holder.

The Department of Planning and Environment-Water also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely

For Patrick Pahlow Team Leader Licensing and Approvals Department of Planning and Environment-Water



# **General Terms of Approval**

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

Reference Number:

IDAS-2025-10238

Issue date of GTA:

16 May 2025

Type of Approval:

Controlled Activity

Location of work/activity:

Lot 4, DP1274221, BULGAS ROAD ORANGE 2800

Waterfront Land:

Summer Hill Creek

DA Number:

DA 19/1995(2)

**ORANGE** 

The GTA issued by Department of Planning and Environment-Water do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to the Department of Planning and Environment-Water for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.

# Condition Details

Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act

- TC-G004 A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application DA 19/1995(2) provided by Council to Department of Planning and Environment-Water.
  - B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required.

TC-G005 A. The application for a controlled activity approval must include the following plan(s):

- Site plans shall define the waterfront boundary measured 40 metres from the top of the stream bank
- · Detailed civil construction plans
- · Erosion and sediment control plans
- · Construction detailed drainage plans
- · Construction stormwater drainage outlet plan

B. The plan(s) must be prepared in accordance with Department of Planning and Environment-Water's guidelines located on the website

https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/quidelines

www.dpie.nsw.gov.au



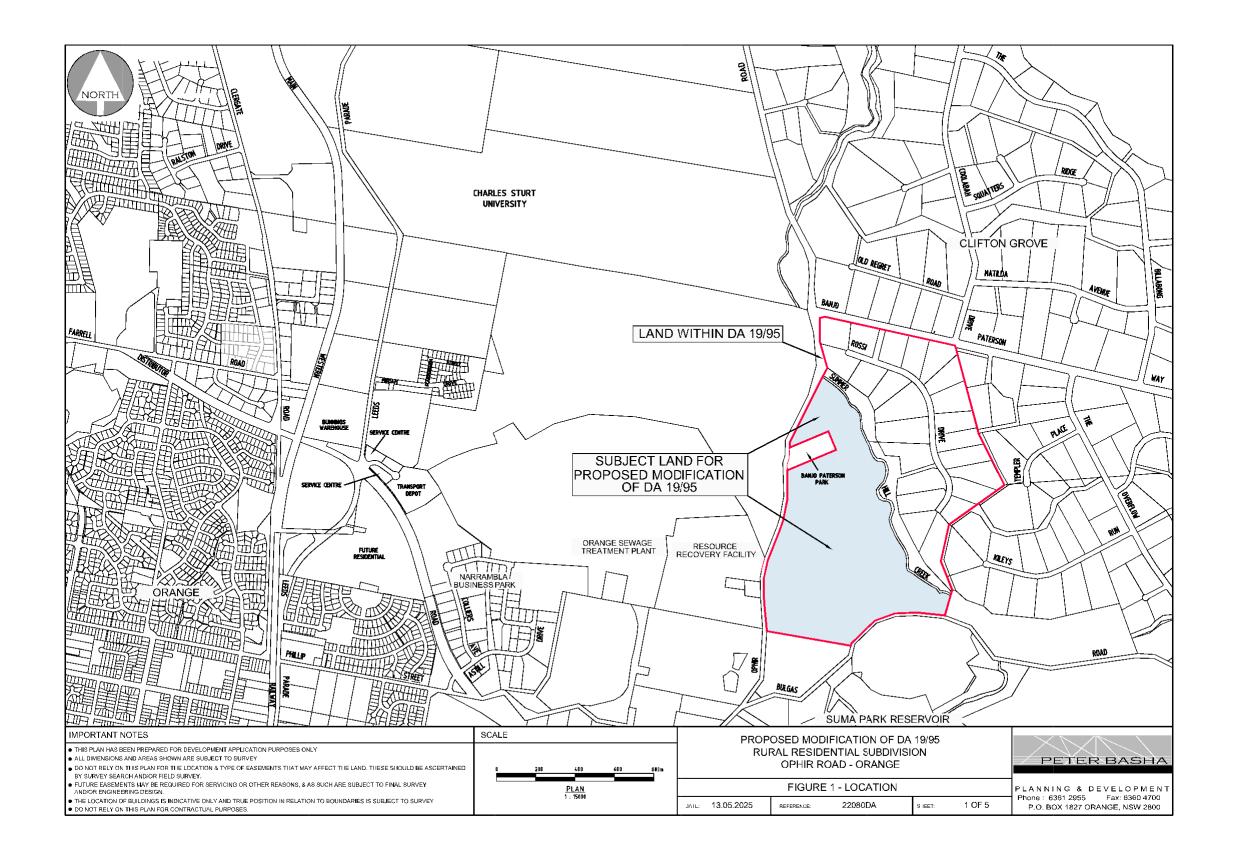
General Terms of Approval for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

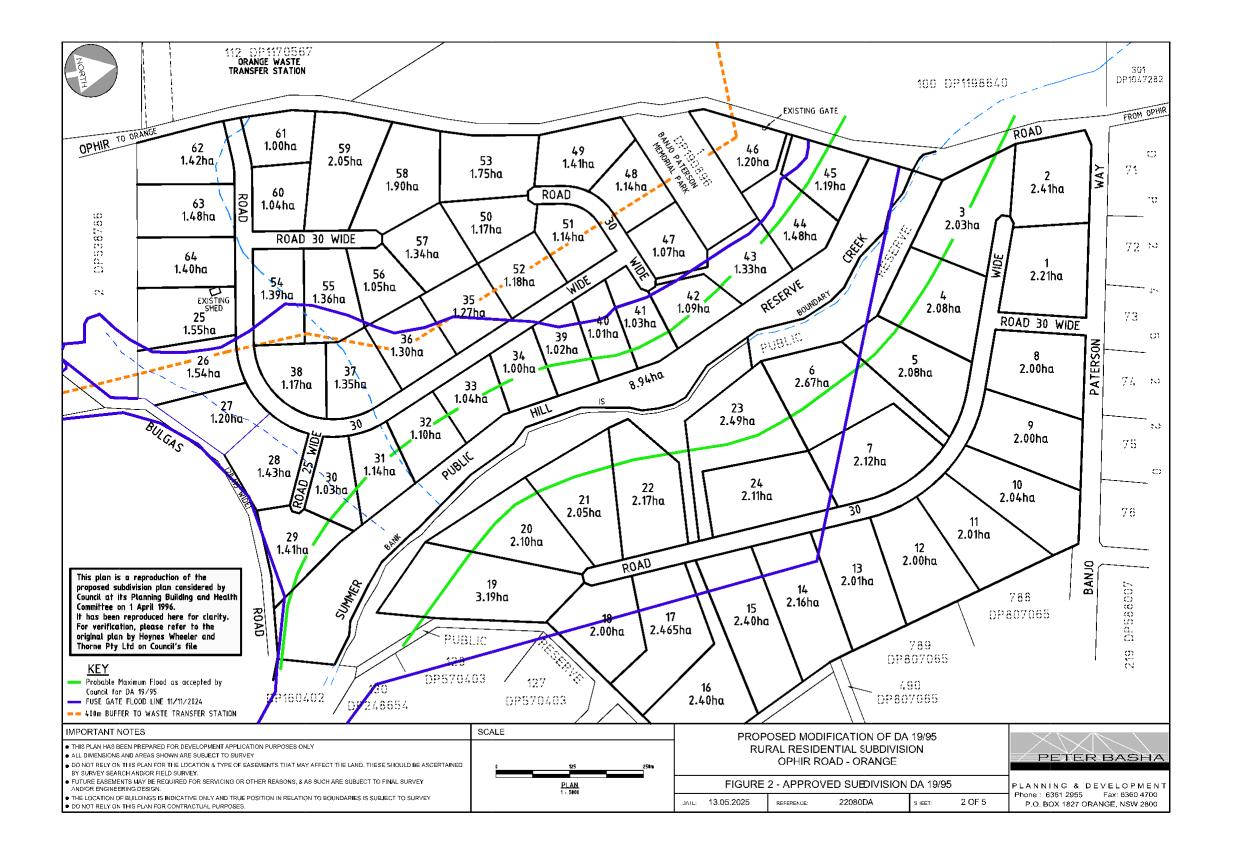
#### SCHEDULE 1

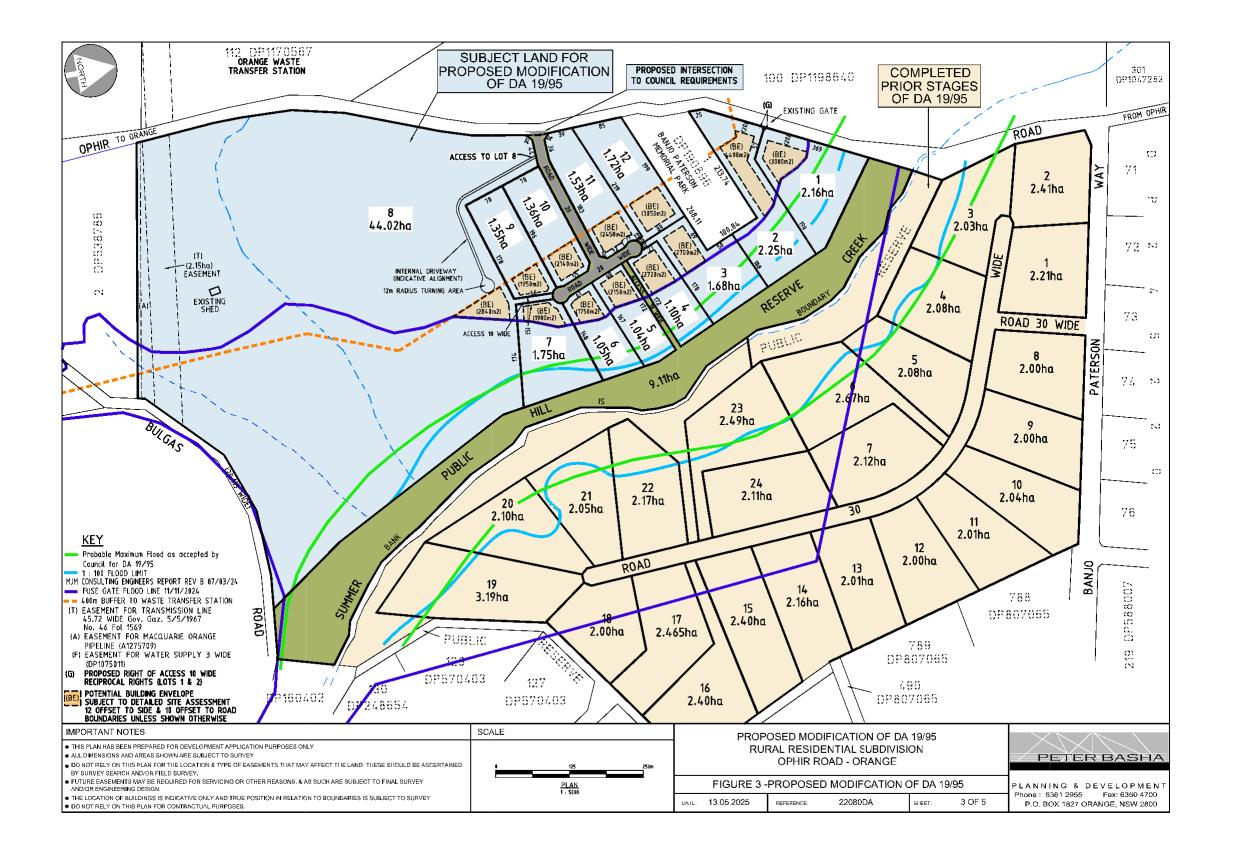
The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by Department of Planning and Environment-Water for integrated development associated with IDAS-2025-10238 as provided by Council:

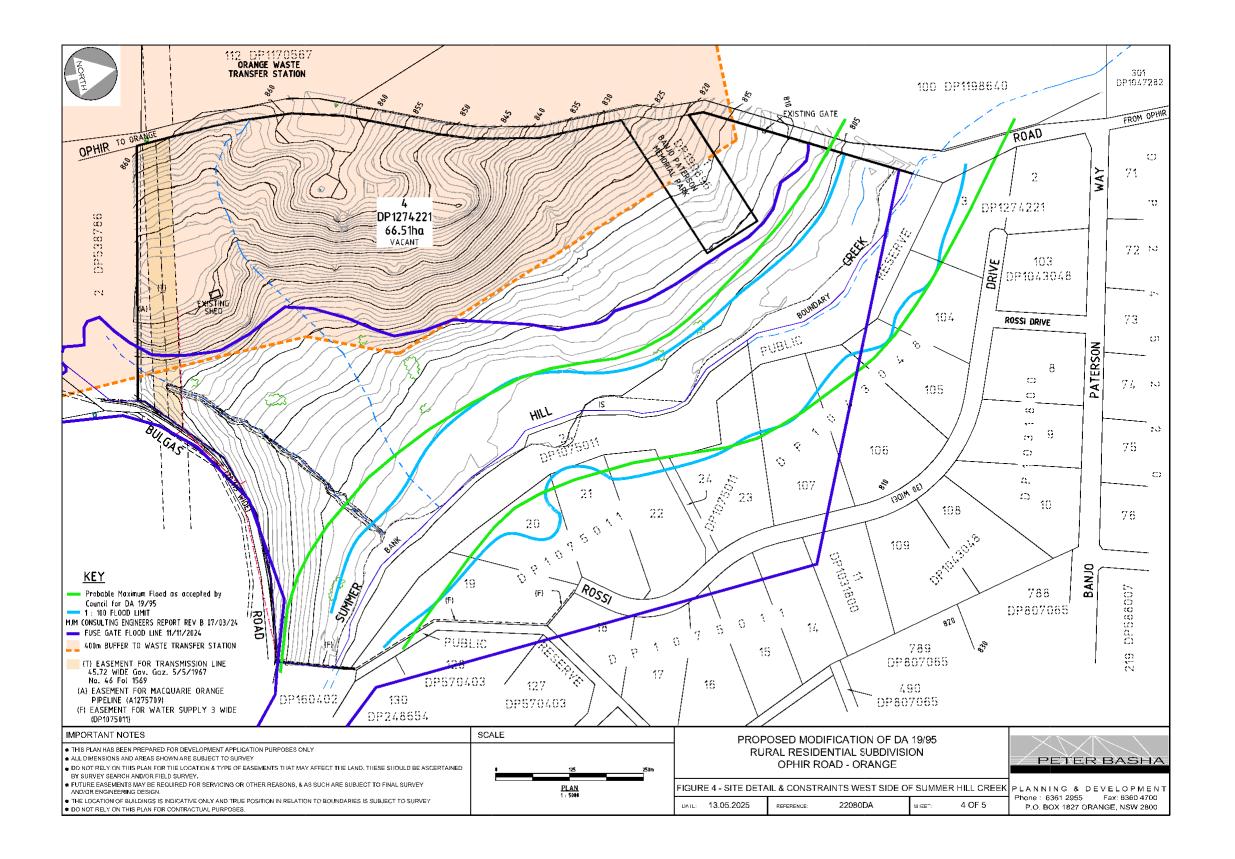
Modification Application, Statement of Environmental Effects, prepared by Peter Basha dated February 2025

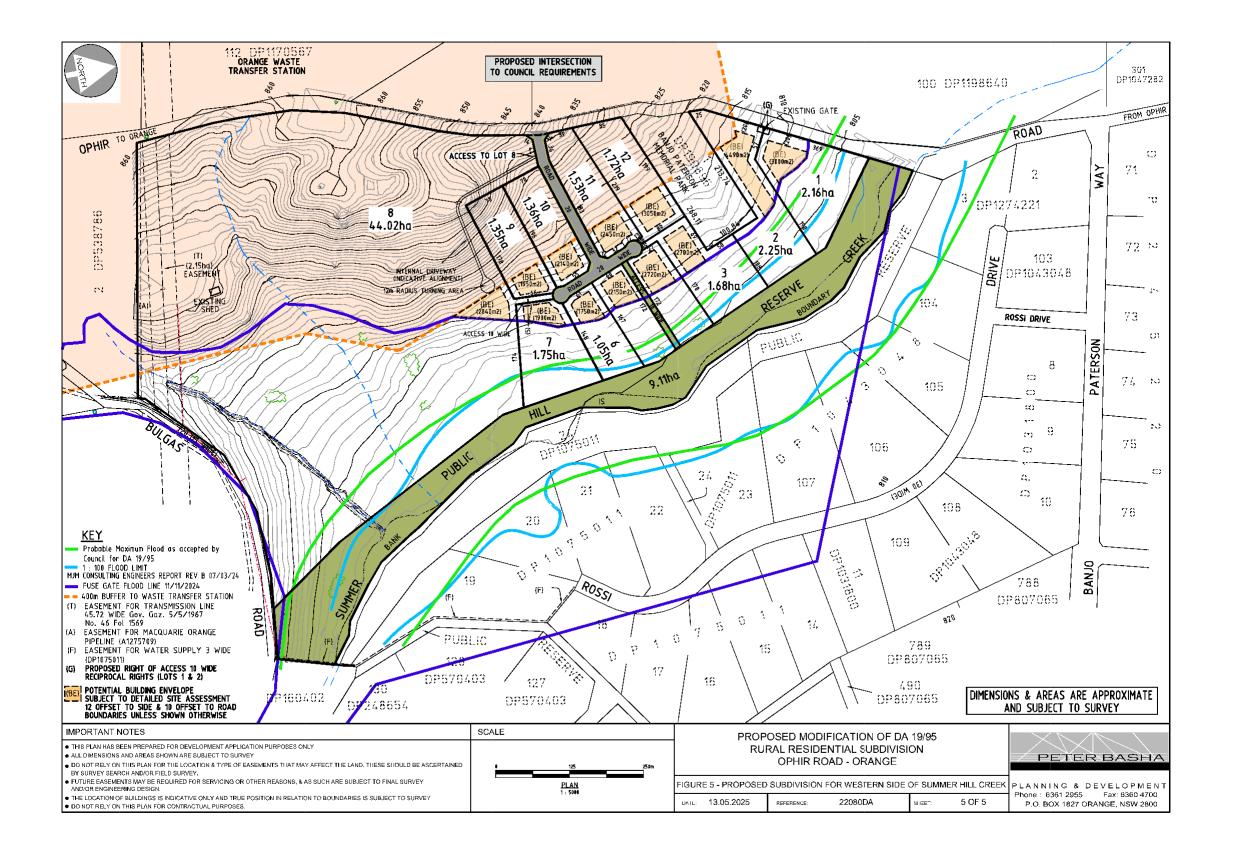
Civil Plans, Sheets 1-5 prepared by Peter Basha dated February 2025











### Submission 1

To: Orange City Council

Re: Objection to Proposed Residential Development - Lot 4 Ophir Road, Orange

Reference number: DA19/1995(2)- PAN-521936

Dear Council Members.

We are writing to formally object to the proposed development of 12 residential dwellings on the land bordering our property along Ophir Road.

Our home at , Orange, shares its full western boundary with Ophir Road, which is planned to serve as the sole access route for both construction vehicles and all future residents of this development. Our entire northern boundary shares a border with the proposed development. As such, we are directly and significantly impacted by this proposal. We have attached an annotated map of our property and the proposed development to show the proximity clearly.

We acknowledge and appreciate that the number of dwellings has been reduced from the original concept. However, even at the reduced scale, the proposed development poses serious concerns around traffic safety, environmental disruption, and loss of amenity for directly affected residents—particularly those whose properties adjoin the road.

We are a young family raising our at this address, and we are currently . This home is not only our place of residence—it is a place where we are nurturing our children through their earliest years. The peace, safety, and quiet rural character of this area were central to why we chose to build our life here.

As two healthcare professionals we work irregular and often unpredictable shifts, including nights and early mornings. Quiet rest and recovery between shifts is essential to our wellbeing and our ability to provide safe care to our patients. The introduction of construction noise over several years as well as permanently increased traffic, and light pollution will significantly disrupt our quality of life, ability to rest and also enjoy the semi-rural lifestyle that we chose.

We understand that a 24-lot subdivision has already been approved directly adjacent to this proposed 12-lot development. Crucially, Ophir Road will serve as the primary access route for both developments—first for construction vehicles and later for all residential and service traffic.

This means our home, which sits directly bordering Ophir Road as well as the border of the development boundary, will bear the entire brunt of construction activity and long-term traffic volume not just from this current proposal, but also from the already approved 24-lot project.

#### **Estimated Traffic Impact on Ophir Road**

Based on standard planning estimates of 7–10 vehicle movements per household per day (as per Transport for NSW):

- The 24 approved dwellings are expected to add 168–240 daily vehicle movements.
- The additional 12 proposed dwellings would bring a further 84–120 daily vehicle movements.
- This would result in a total increase of 252–360 additional vehicles per day on Ophir Road.

According to Transport for NSW's Traffic Volume Viewer, the current average daily traffic volume on Ophir Road is approximately **1,200 vehicles**. The proposed development would increase this by over **20%**.

As a property owner whose residence directly borders a large length of Ophir Road, this projected increase in traffic volume is of significant concern to us. Higher traffic volumes are directly associated with increased road noise. This is especially problematic during early morning or evening hours when ambient noise is otherwise low. Given the proximity of my home to the road, we would be disproportionately impacted by the elevated and more frequent traffic noise, which will reduce the amenity of my property, its monetary value and will adversely affect sleep, wellbeing, and overall quality of life for our family.

#### **Proximity to Ophir Road Resource Recovery Centre**

Our property is already affected by noise and traffic associated with the Ophir Road Resource Recovery Centre, located at 261 Ophir Road. This facility operates daily and brings regular heavy vehicle movements and operational noise.

The proposed development would exacerbate these issues by:

- Increasing the frequency of garbage collection services, adding more heavy vehicle traffic and associated noise.
- Compounding existing noise pollution, particularly during early morning hours.
- Elevating the cumulative impact on our household due to the combined effects of waste facility operations and new residential demands.

#### **Light Pollution and Loss of Rural Character**

One of the primary reasons we chose to live in this location was its rural-like atmosphere, quiet surroundings, and low levels of artificial light. The proposed development risks fundamentally changing this character by:

- Introducing numerous new streetlights, porch lights, and internal house lighting, much of which will be visible from our property at night.
- Disrupting natural darkness, affecting not only our family's enjoyment of the night sky and outdoor areas, but also local wildlife and habitat.
- Contributing to the suburbanisation of a semi-rural area, counter to the appeal that originally drew many residents here.

#### **Loss of Property Value**

We are also concerned about the impact this development will have on the value of our property. Homes that directly border high-density residential developments—especially along busy access roads—are often viewed less favorably by prospective buyers. The expected increase in noise, traffic, light pollution, and loss of privacy is likely to negatively influence our property's marketability and resale value. This is an unfair financial burden on long-standing residents who invested in this area for its space, peace, and rural character.

#### **Noise and Disruption During Construction**

We are also deeply concerned about the long-term disruption from the construction phase, which is likely to last 24 months or longer. During this time, we anticipate:

- High noise levels from heavy machinery, earthworks, and daily vehicle movements.
- Dust, vibration, and potential property damage, especially given the proximity of our home to the construction boundary.
- Loss of amenity and peaceful enjoyment of our home, both indoors and outdoors, for an extended period.

Typical construction equipment generates large amounts of noise levels that exceed the EPA's recommended residential noise limits (normally 55 dBA for daytime periods), meaning the noise from construction will be clearly audible and intrusive from within our home and outdoor areas—particularly given the proximity of our property line to the development site and Ophir Road, which will carry most construction traffic.

Construction hours (typically starting at 7am on weekdays) will impact our family's ability to rest, work from home, or use our outdoor space peacefully with children.

Dust, vibration, and heavy vehicle movement add to the overall environmental disruption, affecting both health and amenity.

Given that the entire length of our property runs alongside the main access point (Ophir Road), we will be subject to daily construction traffic noise, including trucks, tradespeople's utes, and machinery deliveries. This is a high level of prolonged environmental noise for a residential property, and it warrants serious consideration and mitigation.

#### **Request for Mitigation Measures**

Given the disproportionate and ongoing impact on our property, If this project is approved we respectfully request the following conditions be applied to the developer:

# 1. Developer-funded acoustic fencing:

- Along the entire boundary of our property fronting Ophir Road, to mitigate increased traffic (from new residents as well as construction vehicles during the development phase) and construction noise.
- Along the shared boundary between our property and the development site, to protect our privacy and reduce construction noise and dust
- This fencing should be of high acoustic performance and appropriate height.

#### 2. Preparation and implementation of a Construction Management Plan, which includes:

- Clear working hour restrictions
- Dust and vibration mitigation
- Noise control measures
- Traffic management protocols

# 3. Public release of a Traffic Impact Study, including:

- Baseline traffic data
- Peak traffic projections
- Road safety impact assessments
- Community consultation

#### 4. Consideration of lighting plans:

We request a limit on streetlight installation or requirements for low-impact, downward-directed lighting to reduce light spill into neighbouring properties and maintain the rural character of the area.

We accept that some level of development is inevitable. However, the approval of one large subdivision already places significant strain on this area. The addition of another development immediately adjacent, relying on the same regional access road, feels excessive and unsustainable. It is especially concerning for directly affected families like ours, who will be living with constant construction disruption, increased traffic noise, and lasting impacts to our home environment and wellbeing.

We urge Orange City Council to consider the cumulative and long-lasting impact this development will have on directly affected residents, including our family. While the smaller scale is noted, the proximity, traffic impact, and environmental disruption still represent a significant shift for the local area.

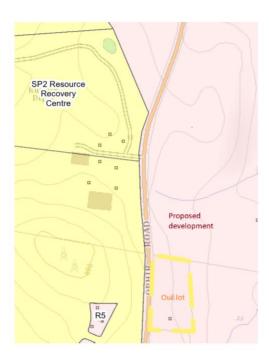
We are not opposed to growth but believe that it must be balanced, respectful of existing residents, and mitigated where impacts are unavoidable. We ask that Council hold the developer accountable for meaningful mitigations and transparent communication throughout the planning and construction process.

Thank you for your time and consideration.

Yours sincerely,

Appendix 1- Location of our property and only access point- Ophir road.

relative to proposed development site



#### Submission 2

From:

Sent: Monday, 14 April 2025 3:26 PM

To: Orange City Council

Subject: Objection to a DA submission 19/1995 (2)

Follow Up Flag: Follow up Flag Status: Completed

DA 19/1995 (2) Lot 4 Ophir Road. Orange.

Dear Council,

My postal address and contact details are shown below.

I am writing to comment on this DA application which should be REJECTED. The DA proposes to build houses on each side of the Banjo Paterson Memorial Park.

- 1. Tourism. The land on which this DA proposes to build 12 houses is of significant tourism value to Orange. I drive past it twice a day and it is rare for there not to be Visitors there admiring the scenery and learning about Banjo Paterson. Council spent a significant amount of money renovating the Banjo Patterson Memorial park, adding in information boards and toilet facilities, to commemorate Australia's most famous poet. Visitors come from all around the country to this special place, enjoying the Banjo Paterson festival and other events. Building houses on every side of the park completely alters the ambience of this park and therefore takes away a tourism asset for Orange.
- 2. Heritage. This area of Ophir Road is of significant historical value, not just to Orange but to Australia. Council have a responsibility to care for it. Archaeological surveys should be done and this will not be possible if the land has housing built on it. We have already lost the Narrambla Mill. Council should not allow development of any of the land adjacent to the Banjo Peterson Memorial Park
- 3. Ambience. The Banjo Paterson memorial park is not only a special site of heritage commemoration, but holds a memorial to a recently deceased person. It hosts weddings, community and commemorative events. Building houses on every side of the park within metres of the boundary is inappropriate and insensitive.
- 4. The building blocks proposed are squeezed in so that, on the plans, they appear to be bordering the flood zone. However, building houses to within a metre of the flood zone is dangerous. We only have to look at flood events in the Central West in the last 3 years to see how unpredictable water is, and our changing climate makes these flood events more likely.
- 5. The plans proposed are very unsympathetic to the area. Since the potential building area has been reduced, the developer has attempted to squeeze maximum houses into a minimum space. So these are can not be generous lifestyle blocks to complement the existing Clifton Grove development. Although the plots are a generous size, the building area is very cramped.

Squashing houses into this heritage area is short sighted on heritage, tourism, environmental and safety grounds . The DA should be rejected.

Thank you for your consideration,

Submission 3

The Chief Executive Officer
Orange City Council
P O Box 35
Orange
NSW 2800

14th April 2025

Dear Sir

Reference DA19/1995 (2) Lot 2 Ophir Road

I wish to object to this proposal based on safety, heritage and overall building conditions. The section of Ophir Road that this proposal faces is extremely dangerous due to it slow bend and steep climb vehicle heading towards Orange from outlying areas have not slowed down and are usually exceeding the speed limit, this is most prevalent when workers are running late for work.

In the years I lived in Clifton Grove I witnessed where at least 5 vehicles had left the road and ran into the property now under consideration for development. If the development is approved turning lanes will have to be installed and the speed will have to be reduced.

Banjo Paterson Park a Heritage Item in Orange the birthplace of one of Australia's leading poet the foundation of Orange and there is no consideration of protecting this beautiful area from a raggedy subdivision.

The subdivision seems to be a mish mash thrown together to get as much out of the site as possible with as little as possible spent.

Proclaimed bush fire area one narrow entry to the development in case of fire how do the residents vacate the area in a hurry.

Sewage disposal should be pumped of site on all lots, every lot slopes to the creek and all moisture will eventually gravitate to the creek and pollute the waterway.

The pipeline from the river to Suma Park Dam how will it be affected with the road entry being constructed over it.

The Lots restrictions should be in place as follows:

All cottages adjacent to Banjo Paterson Park should be sympathetic to the heritage nature of the park.

No multi story construction.

No sheet metal fencing.

On lots adjacent to the park there be a restriction that there be no outbuildings animal or bird structures within 10 metres of the boundary with the park.

That any work carried out within 10 metres of the park boundary be approved before work commences and the Friends of Banjo Paterson Park group be consulted.

I am totally against this development in its present form it will be a lot of units squashed together without thought for the surroundings.

Using the original development of this site as a guide now 10 years on with the standard of usage and mess I feel council should reject the development in the present form

Yours Sincerely

Submission 4

14<sup>th</sup> April, 2025

The Manager of Planning Orange City Council Byng Street, Orange, 2800

To whom it may concern,

It is with some concern that I noticed an application to develop and sell land lots around the Banjo Paterson Memorial Park precinct. The wish to lodge an objection.

The have been working with Orange City Council for some 4 years now to preserve and promote the park as a local and tourist destination. The aim is to have the park listed as a State site of historical significance.

The Banjo Paterson Memorial Park is a unique location within Orange's history and development. Not only was it the birthplace of Banjo but the site of many of original events within the history of Orange. The land was acquired by a deal made between Governor Lachlan Macquarie and Simon Lord.

The first horse racing, ploughing completions, the first show was also held on the flood plains near the creek and it was the first industrial area for Orange. There was a blacksmith, cheese factory, brewery, wheelwright as well as the flour mill and wheat fields.

Apart from the Heritage issues we have other concerns:

- 1. The amount of traffic that drives up and down Ophir Road at speed during the day, particularly in the mornings and afternoons as people from Clifton Grove and further out go to work and home again. The speed limit might need to be extended to ensure the safe turning into the new estate.
- 2. The lower end of lot 1,2,3,4,5,6, and 7 are in identified flood zones. It doesn't take much rain to soak the lower eastern end of the park, let alone how the second and fourth crossing on Ophir Road goes under water. Also there apparently is a water course under most of the area and that is why John Templar had two wells near the old mill.
  - 3. If there are to be buildings on the lots, is there a restriction on the height of

these buildings and locations within the lots? They could spoil some of the parks vista. Concern also has been expressed about the type of fences around the park boarders. Modern fences, mainly colour bond, would enclose the whole park, spoiling the openness and flow of the park.

- 4. At this point, I must also point out that before the toilets and shelters in the park could be constructed, investigations into the amount of asbestos in the ground had to be tested and reported on. As I understand it there is a naturally occurring asbestos build up in the soil in the prescribed area for development.
- 5. According to some local oral reports, it is believed that the Templar's homestead may have been located just outside of the parks boundaries on lot 2. This will require further investigation at a later date.

**At this point,** May I draw your attention to the Conservation Management Report by Professor Ian Jack and some of his comments.

### Curtilage

If curtilage is defined as the area within which development needs to be controlled so as to conserve the significance of the place, the curtilage for the Paterson Memorial Park should extend considerably beyond the present boundary of the reserve. In the vicinity of the present Park are some other elements of interest such as views between the Park and Summer Hill Creek to the east and to the twin hills to the south, which were important aspects of the significance of the place and attempts should continue to be made in future to retain these connections. The 1964 aerial photo also indicates a structure in the paddock adjacent to the south of the Park.

Bearing in mind these wider considerations, however, the existing Park as defined by its gazettal by the Department of Lands in 1952 is the area under the direct control of the local Council as Trustees and is therefore the primary curtilage. Any proposals for development in the sensitive areas within the historic sight-lines from the Park should be closely scrutinised by the Orange City Council and the heritage values of the Park should be an important consideration in the assessment of any Development Application.

### **Obligations and Constraints**

In developing a Conservation Policy for Banjo Paterson Park, a major input is the consideration of the heritage values—or cultural significance—of the place. The Assessment of Cultural Significance (section 6.0), particularly as summarised in the Statement of Significance, provides this information, and is based on a thorough assessment of the history and use of the site.

The cultural significance provides several obligations that must be addressed in the Conservation Policy (section 7.0). In summary, these are:

- Most of these obligations relate to the evolving development of the site from the Templer purchase in 1847 to the present;
- · Most relate to the overall development of the landscape;
- Some are isolated and relate to individual items (especially hard landscape features, such as the 1947 Paterson Monument); and
- Obligations vary for each component (i.e. site boundaries and overall layout, archaeological remains, remnant garden structure, trees, and structures).

The translation of the Statement of Cultural Significance into tangible opportunities and constraints which include the following:

- Recognition of the high cultural significance as a major determinant in future development of the place;
- Recognition that the remnant garden is the only surviving visible evidence for a dwelling, possibly Narrambla Homestead, near the former mill;
- Acknowledgment that future developments outside the Park, particularly a rural residential subdivision approved in 1993, may jeopardize the cultural significance of the place, and these developments should be scrutinized and where necessary controls put in place to minimise adverse impacts; and
- Acknowledgment that rankings of significance will form the basis for any conservation actions or future developments.

### 7.5 SETTING, LANDSCAPE and structures: policies and recommendations

### **Policy 7.5.1**

The present boundaries of the Paterson Memorial Park should be maintained. The older, larger boundaries of the Narrambla property may be appropriately interpreted.

### Recommendations:

Maintain view lines to Summer Hill Creek from the Park and maintain the clumps of trees, remnant of the former estate, in future and development of the adjacent subdivision. Do not allow any large structures to be constructed between the Park and Summer Hill Creek. It may be appropriate to indicate, through fencing or the use of boundary posts, the former boundaries of the outer paddock and of the larger property.

Regards

Submission 5

From:

Sent: Wednesday, 16 April 2025 12:15 PM

To: Orange City Council

Subject: DA19/1995(2) LOT 4 Ophir Rd

#### Dear Council,

We are residents of Clifton Grove residing at an objection to the development planned for Lot 4 Ophir Rd Orange DA 19/1995 on two grounds. The first is that Banjo Paterson Park which will be surrounded by this development has significant historic value not just for our region but for Australians in general. As a revered poet's birthplace Orange council has promoted this site in which the park features events such as poetry readings and even has a week of events dedicated to AB Paterson.

As a resident I see how often this park is utilised by the public and tourists who seek it out because of its location in relation to Patersons birthplace and for the tributes the council itself have installed in the park. Council has actively developed and promoted this park as a historical attraction. The present plan will disrupt the charm and appeal of the current location ruining a valued historical site, replacing a rural vista with backyards and fences. Once the park is surrounded by houses noise levels for poetry readings will not be able to be controlled and the visual appeal of the park will be lost.

The second is that Clifton Grove is one of the first planned residential estates in NSW of 2 to 5 hectare residential lots. I note that the address of the DA is Orange but the character of Clifton Grove begins as you cross the roundabout on the Northern distributor. The plan for 12 lots although on large lots only two are 2 hectares or over, in order to keep the spirit and feel of the original plan for Clifton Grove which has been in place since 1970's, if this plan must go ahead it should have the same requirements as the rest of Clifton Grove. Clifton Grove is a unique and historic part of the Orange community. Its character should not be ruined by encroaching suburban sprawl which is not bound by the same regulations as the rest of the suburb.

Thank you for your consideration,

| _   |     |      |     | _ |
|-----|-----|------|-----|---|
| Sul | bmi | ISSI | ion | b |

From:

**Sent:** Monday, 21 April 2025 6:44 PM

To: Orange City Council

Subject: Letter of Objection - DA 19/1995 (2) Lot 4 Ophir Road, Orange

NSW 2800

council@orange.nsw.gov.au

Monday

21st April 2025

DA 19/1995 (2) Lot 4 Ophir Road, Orange

To Orange City Council and Councillors,

I am writing to object to DA19/1995 (2) Lot 4 Ophir Road, Orange; for which an extension for objection has been granted until 22nd April 2025.

The development of 12 houses takes over the slope uphill and down hill of the small Banjo Paterson Park commemorating the birthplace of Banjo Paterson. The Banjo Paterson Park and surrounds is a site of great historical and cultural significance to Orange and the nation. Visitors come from all over Australia to enjoy the site and take in the open hills and beautiful view in such a peaceful place. To build any homes along Ophir Road on that stretch of road will destroy the ambience and reverence associated with Banjo Paterson, his memory and the many cultural festivities and annual local Festival surrounding his life. The land would be best dedicated to honouring Banjo Paterson and his legacy as a national treasure, for future generations.

The city of Orange has invested so much in attracting visitors to the Banjo Paterson Festival and for commemorating the memory of A B Paterson, developing a block of homes on 3 sides of the hillside either side of the park, is to make a mockery of honouring this great poet, journalist, solicitor, war correspondent and soldier. Why not acquire the land for enlarging this significant cultural precinct into a substantial park and gardens? It will be enjoyed for generations to come.

The plans before council are unsympathetic to the current 5-acre housing developments down the valley. Furthermore, the traffic into Orange on this busy road will be greatly affected and cause congestion along the 80km zone, impeding the already substantial traffic flow.

The development will detract from the heritage, environmental and cultural integrity of Orange and of our nation.

Please consider rejecting development DA19/1995 (2) Lot 4, Ophir Road, Orange.

Banjo Paterson Park and surrounds is a site of great significance and should be preserved for everyone to enjoy in perpetuity.

Thank you for your consideration,

### Submission 7

From:

**Sent:** Monday, 21 April 2025 11:09 PM

To: Orange City Council

Subject: Submission to object to DA 19/1995 (2) Lot 4 Ophir road

I'm writing to object to the DA submission shown above. My details are shown at the bottom of this email.

I ask the Planning Committee to make a site visit to the Banjo Paterson Memorial Park to fully appreciate how much the proposed development will affect the area.

There are some glaring inaccuracies in the Review of Environmental factors included in the DA, and a site visit would allow the planning committee to see just how flawed, and out of date the application is. The development proposes 12 houses, which due to the flood zone on one side and the Waste/recycling centre exclusion zone on the other, would have to be built on a narrow strip of land, bordering the Banjo Paterson Memorial Park. While the gardens of these potential houses would stretch to the exclusion zone and the flood zone, the houses themselves would have to be built close adjacent to the park, surrounding it on 3 sides. This is completely inappropriate for such an important heritage site.

Listed below are some of the inaccurate statements in the Review of Environmental factors included in the DA.

- 1. "Public Interest". The review states that the development is of "minor interest to the wider public due to the relatively localised nature of potential impacts". This statement is wildly inaccurate. The development is of interest not only to the residents of Orange but the rest of Australia! Its proposed to be built on the site of birthplace of Australia's most famous poet. Council has a responsibility for this piece of national heritage. Property developers should not be allowed to override national interest.
- 2. The D.A Review of Environmental factors claims "the proposal will not adversely affect the value of heritage, landscape and scenic features of the city". Wrong. It will affect the views from this beautiful park which Council has spent so much money upgrading. Visitors come from all over the country to see the historic site and to attend the Banjo Paterson events which are held there. Building houses all around the perimeter of the park fundamentally alters value of heritage, landscape and scenery.
- 3. The D.A Review of Environmental factors claims that the "proposed modification would not have adverse amenity impacts on neighbours". Wrong. This beautiful area is used for events, weddings, celebrations and includes a commemorative space for a recently

deceased person . Building houses around the park perimeter spoils the views and ambience for everyone.

4. The D.A Review of Environmental factors claims that the development "does not propose changes which would cause increased impacts on the public domain". You have to ask what planet the developers are on if they do not think that building 12 large houses right along the border of an important heritage, tourism and cultural space does not impact significantly onto the public domain.

When limited permission was granted 30 years ago, there was not the same appreciation of heritage, and Orange was not the tourism destination it is now. Reducing the number of houses applied for from 40 to 28 to 12 still does not make the proposed development an appropriate one. This site has national heritage and historic/archaeological significance and is a tourism asset for Orange. The DA should be rejected.

**Submission 8** 

1

This page of the submission should be presented on

letterhead

### Modification of Development Consent DA19/95920 Rural Residential Subdivision Ophir Road, Orange Ref: PAN-521936

Submission from

Prepared on behalf of the

by

, member<sup>©</sup>

did not learn of the above Development Application (DA) until the late afternoon of the Friday before submissions closed. Council's Planning and Development staff allowed us an extension of time for which we are most grateful. This response has been prepared at the direction, and with the assistance of,

Committee particularly

### Opening remarks

Our submission is in relation to the impact of the DA on the Banjo Paterson Memorial Park which is surrounded by the subject land.

In the perception of the wider community, the purpose of the park is to mark and commemorate the birthplace of Andrew Barton 'Banjo' Paterson, among the finest and greatest of Australian-born poets and writers. He was born in the homestead of the property 'Narrambla' on 17<sup>th</sup> February, 1864 (Jack, 2004, p.20).

Council commissioned Professor Ian Jack in 2004 to prepare a Conservation Management Plan for the park. The plan as submitted is of Jack's usual very thorough and considered nature. The report is central to an understanding of the heritage implications of Maxus Ltd's DA and the society suggests it be carefully studied by assessing staff.

Three conclusions can be drawn from the report:

Banjo Paterson WAS born in the homestead of 'Narrambla'

The exact site of the homestead is open to conjecture, it may or may not lie within the bounds of the park

The history of the flour mill built by John Arthur Templer<sup>1</sup> and opened on the 18<sup>th</sup> December, 1848, is as stated (p.14).

Despite the third point there is a consistent claim that there was an earlier horse-worked flour mill on the land when it was owned by Simeon Lord who sold the estate to Templer. It is also at odds with Jack's statement that it was highly unlikely there was any development on the property before it was purchased by Templer. In fact, Jack (p.15) dismisses this as

<sup>&</sup>lt;sup>1</sup> Variously spelled as TemplAR or TemplER in contemporary references.

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'certainly mistaken'. But it still has relevance to the site of the homestead as mentioned below.

### The park and the homestead

By the side of Ophir Road, at the top of the park, a monument proclaims "his birthplace is 8 chains NE of" here. That places the site of the event in the middle of the Park, below the ruins of Templer's flour mill. The second page (un-numbered) of Jack's report presents a map showing two wells and ruins (number 5), identified as a possible house (note the question mark in the key beneath the map), exactly 8 chains (160 yards, 146 metres) from the Monument. This measurement was scaled from the stated scale on that map and from others. However, the source of the 8 chains figure is unknown. It may have been so-called common knowledge, by direct measurement from the monument to the pile of rubble genuinely believed to be the homestead or derived from an earlier-published source.

Over the years since the park was established there has been ongoing commentary that the homestead was not within the bounds of the park but on the grazing paddock to the left, i.e. north, which would place the homestead somewhere on the proposed Lot 2 of the subdivision. At least one other submission we are aware of has made the same comment.

When the property was offered for sale, it was described in the advertisement as having eight rooms, cellarage and numerous ancillary outbuildings which reads as quite a large structure. Two days ago, the author went out to the park to familiarise himself with its current state and was impressed with the presentation of the park by the Trustee, Orange City Council.

From the map mentioned above it was easy to identify the two wells shown and the ruins of the possible homestead. It was easy to identify verandas at presumably the front (facing the creek and the obvious remains of garden plantings) of the structure and on at least part of either side. To the amateur eye the remains were nowhere big enough to be the eight-room house described in 'for sale' notices around June 1877, which reinforced our view that the homestead was not within the park and more likely on the gently sloping ground of proposed Lot 2.

If not the homestead but still a dwelling, who else could have occupied it? Jack states (p.15) that engaged a 'First-rate Miller' one William Trappitt. Was it he who occupied the house? Accommodation would normally be expected to come with such a position. Trappitt later went on to build his own flour mill in Orange.

### The homestead - A definitive answer?

The advertising of this DA has led to intense searching in the ODHS archives. This has just brought to light documented evidence which makes it look more likely than not that the 'Narrambla' homestead was indeed within the park at the site marked 'house?' on the frontispiece map in Jack's report. Further research and corroboration are required before the definitive answer can be given. Council will be advised of the outcome.

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### Options for addressing the heritage threats

It is our position that the Maxus Group's proposed developments as amended poses a threat in the alienation of the historical, cultural and locational contexts of the park (as discussed above) where:

historical = the industrial history of a near-self-supporting agrarian community centred around an early industrial enterprise (flour milling) contributing to the growth and development of Orange;

cultural = potential loss of the actual birthplace of one of Australia's most famous and greatest literary talents;

locational = the overall rural setting of the park by a permanent creek for purely practical purposes, water.

Currently, the park can only be considered as part of the property on which Paterson was born. That event occurred in the homestead of 'Narrambla' which may or may not have stood within the bounds of the park.

To counter these threats we proffer the following **options:** 

- 1. In Lot 2, increase the 10 metre limit on the building envelope to 50m from the joint boundary fence in an attempt to provide greater protection for possible archaeological evidence of the homestead and its surrounding buildings on Lot 2.
- 2. Require a strip of land 8-10 metres wide, centred on the joint boundary between Lots 2 and 3 (below the north-eastern boundary of the park), be set aside to provide contiguous access to the creek, the raison-d'etre for the mill, and the public reserve already declared. This would improve the locational relevance of the park.
- 3. A complementary way of preserving locational relevance is through preserving and enhancing existing sightlines from the park, especially to the east right round to the north. Even though they will be living on large, semi-rural blocks, modern humans value their privacy, especially when next to a public park. A standard means of achieving privacy is through vegetative screening along fence lines. Because of this we ask that vegetation height limits be a condition of approval on all boundary fences between Lot 2 and the park and the north-eastern boundary between Lot 3 and the park. The exception to this condition is the common boundary between the park and the lots along the requested pathway from the park to the Creek Reserve. Twin lines of vegetation there would direct the attention of park visitors to the pathway and emphasise the ties between the park and the
- 4. In relation to the height limits along joint boundaries we suggest the limit at the fence lines be less than 2 metres, increasing to natural heights say 60m from the boundary. Obviously, this request applies particularly to Lot 2. The south-eastern joint boundaries between the park and Lots 3 and 12 are of less concern to us in this respect
- 5. With reference to point 1, ODHS requests that a non-invasive archaeological survey be conducted on Lot 2 to search for evidence that 'Narrambla' homestead

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and its outbuildings may have been built in that area, as has long been suggested. Techniques such as ground penetrating radar and electro-magnetic conductance will be less costly than the standard technique of digging survey trenches which may easily miss artefacts. With both techniques, absence of evidence is not proof that there were no buildings. All it indicates is that evidence was not found.

6. Using ODHS' recently gained expertise and experience with early mapping of the Orange district, we will continue to search for 'Narrambla' homestead by examining maps of the period for any indication of buildings on the park and on Lot 2.

### **Summary**

This development application by Maxus Ltd. to modify an earlier DA in line with Councils' earlier conditions of consent pose threats to the historical, cultural and locational contexts of the Banjo Paterson Memorial Park. has summarised the significant heritage values of the park, the possible impacts the proposed development could have on those values and outlined ways in which these impacts could be avoided or minimised.

Basically, the question revolves around the location of the 'Narrambla' homestead at the time of the birth of Banjo Paterson (on 17<sup>th</sup> February, 1864) in the homestead. It is a question yet to be resolved.

21 April, 2025

### Submission 9

Banjo Paterson park subdivision -

DA1995-2

For the greater part of my life in Orange and district my husband and I moved to Molong approximately three years ago to live. My life has always been associated closely with history from Colonial days involving both Orange and Molong.

Much has been involved with various historical groups and this includes BanjoPaterson Park. I have not heard of these plans before reading before seeing these and must say I'm extremely Surprised and taken back by the sheer closeness of the described blocks of land bordering on the park.

Just having a quick look I am shocked firstly as the plan does not Show any empathy, sensitivity or apparent consideration to the Potential owners. Could easily become a bit of a ghetto. I feel that I can speak freely as I have spent much time involved With the park and keeping its history. In fact I was the person at that time as Secretary of Orange Historical Society, who started the first Banjo Paterson Festival in the 1990's..

There is so much history associated here I'm shocked that Orange City Council has gone this far and hurrying it through now doubt t someone's or something's benefit. If some of previous Councillors Such as Reg Kidd and those so proud of our heritage and especially in that area this would not be getting raced through for such quick approval.

Banjo Paterson Park is a special place that has its own meaning In our heritage. It's there for generations to come and I can't see it remaining with the eloquence and Australiana othat this unique little area offers.

Sincerely,

13th April 2025

### 2.3 DEVELOPMENT APPLICATION DA 218/2015(5) - LOT 218 HAWKE LANE

RECORD NUMBER: 2025/650

AUTHOR: Ben Hicks, Senior Planner

### **EXECUTIVE SUMMARY**

| Application lodged            | 11 December 2024   |
|-------------------------------|--|
| Applicant/s                   | Michael Brown Planning Strategies Pty Ltd                  |
| Owner/s                       | Roy Mammone Developments Pty Ltd                           |
| Land description              | Lot 218 DP 1305914 - Hawke Lane, Orange                    |
| Proposed land use             | Subdivision (207 lot residential) and Demolition (existing |
|                               | dwelling and shed)   |
| Value of proposed development | Not Applicable   |

This application seeks to amend consent to development application DA 218/2015(4) relating to the development approved by Council initially on 4 November 2015 and further amended on 16 March 2023.

This report follows Council's previous consideration of the modification application which sought to alter the obligations for road construction on Joseph Drive, specifically to allow only half-road construction and to create a residual lot with the potential to impede further development (often referred to as a "ransom lot"). The application was recommended for refusal on the grounds that the proposed modification would result in incomplete and inadequate infrastructure delivery, was contrary to the requirements of the Shiralee Development Control Plan 2015, failed to satisfy the broader principles of orderly development and was not in the public interest.

At its meeting held on 1 April 2025, the Planning and Development Committee resolved to defer determination of the application to allow a Councillor site inspection. During the intervening period the proponent amended the application to modify the consent and now proposes to dedicate the full width of Joseph Drive as public road at the time of subdivision registration, but continues to seek approval to half road construction only along the development frontage. The balance of the road is proposed to be constructed by the developer of the adjoining property.

The substantive issues with the proposal previously identified remain unresolved, insofar as it fails to fulfil the infrastructure delivery obligations imposed by the development consent and improperly seeks to transfer these obligations to a third party. The proposal remains contrary to the Shiralee DCP and the requirements of the Environmental Planning and Assessment Act 1979, particularly with respect to the orderly and economic use and development of land and public interest considerations.

The proponent's current predicament in relation to road construction is a direct consequence of their decision to realign Joseph Drive largely within their own land for the purpose of expediting their development, thereby accepting full responsibility for delivery of the relevant infrastructure. These obligations were acknowledged and accepted throughout the course of the development by the proponent. Subsequent changes in ownership or the development status of adjoining land are immaterial to Council's assessment of the application.

The amended application was re-notified under the Orange Community Participation Plan 2023, resulting in an additional submission from the adjoining landowner. Two submissions have now been received in relation to the application, both objecting to the proposal.

For these reasons, the application is not supported, and refusal is recommended. The application is referred back to the Planning and Development Committee for determination following the staff recommendation for refusal and in accordance with Clause 4.10 of Orange City Council's Declaration of Planning and Development Assessment Procedures and Protocols (Version 5, 2019).



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 application seeks to amend the consent for development application DA 218/2015(4) relating to a large subdivision development in the south of the Shiralee area, which was previously approved by Council on 4 November 2015. At its meeting held on 1 April 2025, the Planning and Development Committee resolved to defer determination of the application to allow a Councillor site inspection. During the intervening period the proponent amended the application to modify the consent and now proposes to dedicate the full width of Joseph Drive as public road at the time of subdivision registration, but continues to seek approval to only half road construction along the development frontage on the western fringe of the development.

The Shiralee Development Control Plan required shared construction of Joseph Drive between the subject site and the adjoining property (Figure 3 within the planning report). The proponent's original application (DA 218/2015(1)) sought to amend the DCP layout to reposition the road to its current approved location. This amendment was pursued at the proponent's own initiative at the time in order to expedite development of their land and address matters around stormwater management below the Hawke Lane dam. The resulting approved plans positioned approximately 26m of the 34.6m road reserve within the subject land, assigning to the proponent responsibility for constructing the road, including both northbound and southbound traffic lanes, the central swale and associated infrastructure within their portion of the reserve as required by Condition 23 of the consent.

A search of Council's records clearly indicates that the proponent demonstrated an acceptance of the conditions of consent and the associated infrastructure delivery obligations required by the consent by making application for a Subdivision Works Certificate (SWC) that was inclusive of the required works. The Subdivision Works Certificate was authorised by Council and included engineering drawings that showed compliance with the full requirements of Condition 23. The applicant has since committed to the construction of the subdivision with the majority of the infrastructure required by the Subdivision Works Certificate being completed, with the exception of that part of the road works that are now the subject of this modification application.

The application was notified on two separate occasions. During the notification periods Council received two written objections to the proposal from the adjoining property owner. The matters raised in the submissions are summarised in the proceeding parts of this report.

The application is recommended for refusal on the grounds that the proposed modification would result in incomplete and inadequate infrastructure delivery for the subdivision, is contrary to the requirements of the Shiralee Development Control Plan 2015 and fails to satisfy the broader principles of orderly development and is not in the public interest.

The assessment report concludes that it is inappropriate for Council and the DA process to be drawn into a commercial argument between two neighbouring developers. The fact that the neighbouring developer has since commenced works does not alter the planning considerations for Council for this development. This is a commercial issue between neighbours. It is considered reasonable that others should be permitted to access this future public road. The refusal recommendation is supported.

### LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy "7.3 Plan for growth and development that balances liveability with valuing the local environment".

### **FINANCIAL IMPLICATIONS**

The recommendation to refuse the modification does not give rise to any direct financial implications for Council. Approval of the modification, however, may expose Council to potential future costs arising from incomplete infrastructure delivery.

### POLICY AND GOVERNANCE IMPLICATIONS

Nil

### RECOMMENDATION

That Council REFUSES consent to modify development application DA 218/2015(4) for Subdivision (207 lot residential) and Demolition (existing dwelling and shed) at Lot 218 DP 1305914, Hawke Lane, Orange for the following reasons:

- 1. The proposed development is inconsistent with the requirements of Section 9.4 (Street Network and Access) of the Shiralee Development Control Plan 2015.
- 2. The proposed modification is inconsistent with the objects of the Environmental Planning and Assessment Act 1979, specifically Section 1.3(c), to promote the orderly and economic use and development of land.
- 3. The proposed modification does not serve the public interest as required by Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

### **FURTHER CONSIDERATIONS**

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

### THE APPLICATION

This application seeks to modify development consent DA 218/2015(4) by amending Condition 23 to alter the road construction requirements for Joseph Drive, located along the western boundary of the subject land. The proponent now proposes to:

- a) Dedicate the full width of Joseph Drive as public road at the time of subdivision registration, thereby resolving any issue of a residual or 'ransom lot' between properties.
- b) Construct only a single (half) carriageway along the frontage of the subject land.
- c) Require that the remainder of Joseph Drive, adjoining the neighbouring Lot A, be constructed by the developer or owner of that land when it is subdivided (Figure 2).
- d) Permit the half-road to be operated as a one-way system until the full width is constructed.

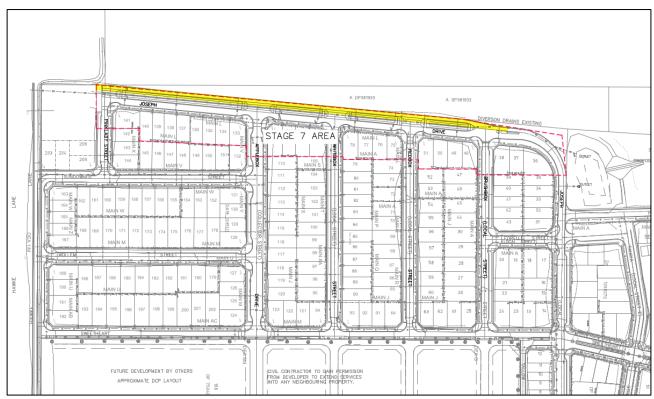


Figure 2 - highlighted section of Joseph Drive showing the area in dispute

### **BACKGROUND INFORMATION**

The Shiralee Development Control Plan required shared construction of Joseph Drive between the subject site and the adjoining property (Figure 3). As the adjoining landowner was not interested in development at the time, and due to considerations relating to overland flooding from Hawke Lane Dam, the proponent's original application (DA 218/2015(1)) sought to amend the DCP layout. This amendment was pursued at the proponent's own initiative in order to expedite development of their land. The resulting approved plans positioned approximately 26m of the 34.6m road reserve within the subject land, assigning to the proponent responsibility for constructing the road, including both northbound and southbound traffic lanes, the central swale and associated infrastructure within their portion of the reserve.

The proponent's actions in proceeding under the initial 2015 consent and subsequent modifications by submitting the required Subdivision Works Certificate (SWC) drawings, which were subsequently approved by Council, and by undertaking most of the works, clearly demonstrate acceptance of the conditions of consent and the associated infrastructure delivery obligations.



Figure 3 - Shiralee DCP master plan showing the original intended alignment of Joseph Drive (red dashed line) straddling the boundary between the subject land (right/east) and the adjoining property (left/west)

The effect of the proposed realignment is shown in figure 4 below. The diagram illustrates how the majority of the 34.6m road reserve now falls within the subject land, shifting primary responsibility for road and infrastructure delivery to the proponent for their portion. The remaining section, within the adjoining property, would be constructed in conjunction with any future development of that land.

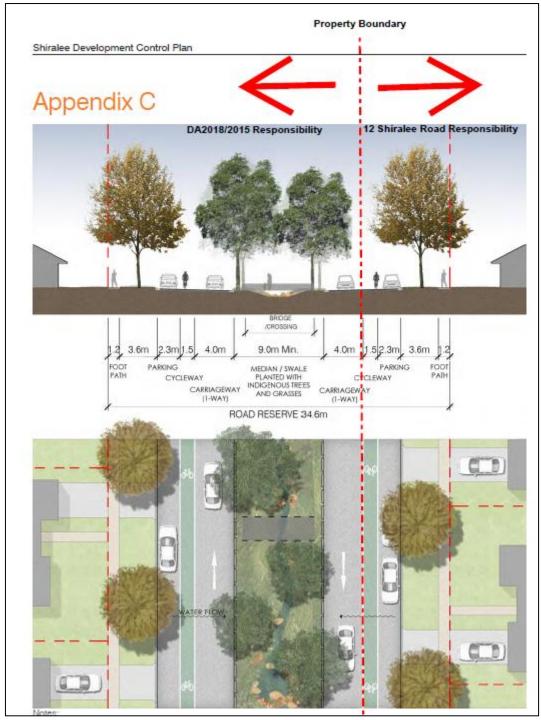


Figure 4 - effect of Joseph Drive Realignment

### **ENVIRONMENTAL PLANNING ASSESSMENT**

### Section 4.55 Modification of consents - generally

Section 4.55(1A) of the EP&A Act 1979 states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact,

**Comment:** The proposed modification is of minimal environmental impact. The modification is confined to an adjustment in the road construction strategy along Joseph Drive, whereby only half of the road would be constructed to facilitate the release of the Subdivision Certificate. This change would not introduce significant additional land disturbance or environmental effects beyond those already assessed in the original consent. The modification does not alter the overall environmental outcomes of the approved development, and all impacts remain within the scope of previous environmental assessments.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).

**Comment:** While the modification alters the manner and timing in which the approved road infrastructure is to be delivered, the essential character, layout and purpose of the approved subdivision remain unchanged. On balance, the development as modified is considered to remain substantially the same as that for which consent was originally granted.

- (c) it has notified the application in accordance with:
  - (i) the regulations, if the regulations so require, or
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

**Comment:** The modified development does not ordinarily comprise advertised or notified development pursuant to the Environmental Planning and Assessment Regulation or Orange Community Participation Plan 2023 and is discretionary only. Council staff exercised this power in view of the potential implications for the adjoining landowner.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

**Comment:** The application has been notified on two occasions. On each occasion, a submission objecting to the proposal was received from the adjoining landowner. Both submissions have been considered in accordance with section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979 and are addressed in this report.

In addition to the above considerations, Section 4.55(3) of the EP&A Act 1979 provides that:

(e) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application.

**Comment:** The relevant matters under Section 4.15(1) have been addressed hereunder.

# 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.

Pursuant to Section 7.17 of the BC Act, applications for a modified consent are subject to biodiversity assessment and offsets as required under Part 7 of that Act. The BC Act requires the biodiversity offset scheme entry requirements to be applied to modification applications based on the 'as modified' project.

The Biodiversity Offset Scheme does not apply to the modified development. The applicable triggers will not be exceeded, or do not apply to the subject land or modified development.

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

Section 4.15(1) of the EP&A Act 1979 provides that in determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

### s4.15(1)(a)(i) Provisions of any environmental planning instrument

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

The initial development was approved under the provisions of Orange LEP 2011. The subject land is zoned R1 General Residential. The proposed development is defined as subdivision, consent for which is required under Clause 2.6. The applicant is seeking to modify the terms of the existing development consent. The development as modified would remain consistent with the aims of the plan and the objects of the zone.

The modified development does not alter the previous assessment under the LEP provisions.

### **State Environmental Planning Policies**

A number of State Environmental Planning Policies (SEPPs) apply to the land; however, no SEPPs are specifically relevant to the assessment of this modification application. The modified development remains consistent with the previous assessment carried out.

## s4.15(1)(a)(ii) provisions of any draft environmental planning instrument that has been placed on exhibition

The modified development is not contrary to any matter contained in the draft plans currently on exhibition.

### s4.15(1)(a)(iii) provisions of any development control plan

The original development was assessed pursuant to the following:

- Development Control Plan 2004
- Shiralee Development Control Plan 2015

The proposed modification remains broadly consistent with the relevant provisions of Development Control Plan 2004 and Shiralee Development Control Plan 2015, except as they relate to Section 9.4 (Street Network and Access) of the Shiralee DCP.

The previous concern regarding the creation of a residual "ransom lot" has been resolved by the amended proposal, which now provides for dedication of the full width of the road reserve as public road at the time of subdivision registration.

The outstanding issue now relates to the broader requirement that streets be constructed in accordance with the Masterplan and the relevant street typology. While the Masterplan originally depicted Joseph Drive as extending across both properties, the approved layout, amended at the proponent's request, realigned the majority of the 34.6m wide road reserve (approximately 26 metres) within the subject land. As a consequence, responsibility for constructing both the northbound and southbound traffic lanes, the central swale and associated infrastructure within this portion of the reserve, consistent with the DCP's street typology and cross-section requirements, rests with the proponent.

This arrangement has been clearly accepted by the proponent. Subdivision construction has progressed through various stages, engineering plans were assessed, and the following details demonstrating the proposed works to satisfy Condition 23 were included (see Figure 5).

The approved construction detail clearly shows the northbound travel lane pavement, with notes indicating either a retaining wall or a batter adjacent to the neighbour's property. The detail also identifies that road construction works within the adjoining property are to be undertaken by the neighbour to achieve the full road width (this relates to a cycle and parking lane, verge and footpath).

Accordingly, the proposed modification is not consistent with the objectives of Section 9.4 of Shiralee Development Control Plan 2015 in relation to the delivery of street networks and access.

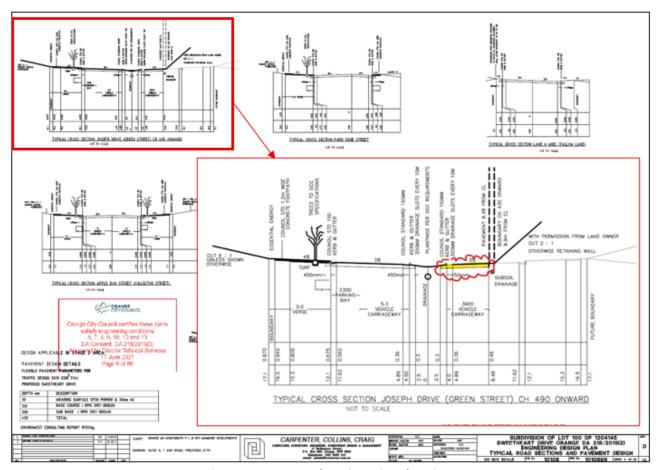


Figure 5 - approved engineering drawings

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

The proposed modification does not give rise to any material additional environmental impacts, as the changes are limited to the responsibilities and timing of road construction along Joseph Drive. However, the modification introduces substantial policy and legal concerns. While the amended proposal seeks to dedicate the full width of the road reserve as public road at the time of subdivision registration, it continues to defer the construction of a portion of the required road infrastructure.

The current consent imposes a clear obligation on the proponent to construct the full extent of Joseph Drive within the subject land, in accordance with Condition 23 and the approved engineering plans. This requirement was established at the proponent's own request and is fundamental to the orderly and economic subdivision and servicing of both the subject and adjoining lands.

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

The subject site is zoned for residential development and was deemed suitable for the approved subdivision under Orange Local Environment Plan 2011, Orange Development Control Plan 2004 and Shiralee Development Control Plan 2015. The original consent was granted on the basis that the site met all relevant planning and environmental criteria or, where variations were sought, that such variations were acceptable. While the site remains fundamentally appropriate for the approved development, the proposed modification, by seeking to transfer its statutory responsibilities for road construction, undermines the orderly and coordinated development of the subject and neighbouring properties.

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

The application was notified on two separate occasions in accordance with the Community Participation Plan, and on both occasions, a submission was received from the same adjoining landowner objecting to the proposal. The concerns raised in the submissions are summarised below:

### **FIRST EXHIBITION PERIOD**

### **Submission 1**

- Notes that the applicant/developer has not accepted repeated offers for property access to facilitate construction works.
- Identifies errors in the Statement of Environmental Effects (SEE), including:
  - Omission of cross-sectional road details.
  - Inaccurate allocation of the road reserve (26m on Lot 218 versus 8.6m on the adjoining property).
  - Markup in Annexure 1 illustrates the approved scope (southbound lane, full central swale and northbound traffic lane on Lot 218; northbound bicycle lane, parking lane and footpath on the adjoining property).
- Disputes the claim that rejection of the modification would yield a financial windfall for the new developer of the adjoining property.

- States that certain approved infrastructure elements (eg swale completion and extensions for water, sewer and stormwater services) remain incomplete.
- Raises concerns regarding the recent Planning Proposal for the Hawke Lane Park rezoning (PP-2023-45, LEP Amendment 36).
- Supports the bonding of the works to ensure completion of the remaining infrastructure.

**Assessment Response**: Staff agree with the principal concerns raised in the submission. The modification is not supported for the reasons outlined in this report.

### **SECOND EXHIBITION PERIOD**

### **Submission 1**

- The submission references established legal principle and case law (Buyozo Pty Limited v Ku-ring-gai Council [2021] NSWLEC 2 and Arkibuilt Pty Ltd v Ku-ring-gai Council [2006] NSWLEC 502), confirming that a consent holder cannot accept the benefit of a consent while later seeking to avoid its burdens.
- It is submitted that Oakstand acquired its land in reliance on the original development consent, which required the proponent to construct Joseph Drive to a three-quarter width standard along the shared boundary.
- The submission asserts that approval of the modification would improperly shift the responsibility for delivery of required infrastructure to Oakstand or Council, which would be inconsistent with the approved consent and contrary to established law.
- The submission highlights that the consent for the subdivision of the adjoining land (DA 770/2024) only requires Oakstand to construct Joseph Drive to the boundary of its property and does not require works on land owned by the proponent.
- The submission maintains that Council cannot lawfully require Oakstand to undertake works on land it does not own.
- Concern is raised that, if the modification is approved, Council may ultimately bear responsibility for the cost or completion of the remaining road section unless a suitable monetary contribution is secured from the proponent.
- The submission requests refusal of the modification, or in the alternative, imposition of a condition requiring a monetary contribution from the proponent sufficient to fund the balance of road works.

**Assessment Response**: Staff agree with the principal concerns raised in the submission. The modification is not supported for the reasons outlined in this report.

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

The modification is not in the public interest. The original consent created legitimate reliance interests for adjoining landowners and prospective purchasers, who were entitled to rely on the expectation that the consented infrastructure would be delivered in accordance with the approved plans and conditions. The modification undermines the integrity of the consent process, generates uncertainty as to the delivery of essential infrastructure, and has the potential to prejudice parties who have arranged their affairs in reliance on the existing approval. The proposal is therefore not in the public interest.

### **SUMMARY**

The proposed modification seeks to alter the infrastructure delivery obligations previously accepted by the proponent, transferring these responsibilities to a third party. This approach is inconsistent with the approved consent, undermines established planning principles and is contrary to established law. The application fails to demonstrate that the revised arrangement would result in coordinated, orderly and economic development, or serve the public interest.

Accordingly, the application is not supported, and refusal is recommended.

### **ATTACHMENTS**

- 1 Draft Notice of Refusal, D25/70087 Uses 1
- 2 Statement of Environmental Effects, D25/55272 J
- 3 Request to Amend Condition 23, D25/70121 U.
- 4 Submissions (redacted), D25/55275 4



### **ORANGE CITY COUNCIL**

Development Application No DA 218/2015(5)

NA25/230 Container PAN-490939

### NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

issued under the Environmental Planning and Assessment Act 1979 Section 4.18

**Development Application** 

Applicant Name:
Applicant Address:

Michael Brown Planning Strategies Pty Ltd

PO Box 295

CAMDEN NSW 2570

Land to Be Developed:

Lot 218 DP 1305914 - Hawke Lane, Orange

**Proposed Development:** 

Subdivision (207 lot residential) and Demolition (existing dwelling and shed)

Building Code of Australia Building Classification:

Class to be determined

Determination made under Section 4.16

Made On:

Made On:

Determination:

1 July 2025

**APPLICATION REFUSED** 

### Reason(s) for Refusal:

- The proposed development is inconsistent with the requirements of Section 9.4 (Street Network and Access) of the Shiralee Development Control Plan 2015.
- The proposed modification is inconsistent with the objects of the Environmental Planning and Assessment Act 1979, specifically Section 1.3(c), to promote the orderly and economic use and development of land
- The proposed modification does not serve the public interest as required by Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979

### Right of Appeal:

### Applicant:

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

### Objector:

The Environmental Planning and Assessment Act 1979 does not give a right of appeal against this determination to an objector.

Signed:

On behalf of the consent authority:

Signature:

Name:

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

Date:

2 July 2025

# Statement of Environmental Effects to Accompany a Section 4.55(1A) Application:

Subdivision (202 lot residential) and Demolition (existing dwelling and shed) (DA 218/2015(4)).

Lot 218 in DP 1305914 - Hawke Lane, ORANGE (formerly Lot 90 in DP 1284877 - Sweetheart Drive & Lot 100 DP 1204145 - 118 Lysterfield Road, ORANGE)

Prepared on behalf of: Roy Mammone Developments Pty Ltd

Prepared By:



November 2024

Post: PO Box 295, Camden NSW 2570 • Ph: 02 4648 0877 • Mob: 0418 620 718 Email: michael@michaelbrown.com.au • Web: www.michaelbrown.com.au

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#### 1 Introduction

#### 1.1 GENERAL

On 4 November 2015, Orange City Council approved consent to Development Application 218/2015(4) for the subdivision (202 lot residential) and demolition (existing dwelling and shed), subject to a number of conditions. The consent was modified on 16 March 2023.

This report has been prepared by Michael Brown Planning Strategies Pty Ltd on behalf of Roy Mammone Developments Pty Ltd to accompany an application to modify Condition 1(a) of the Consent to Development Application DA 218/2015(4) on land described as Lot 218 in DP 1305914 - Hawke Lane, ORANGE (formerly Lot 90 in DP 1284877 - Sweetheart Drive & Lot 100 DP 1204145 - 118 Lysterfield Road, ORANGE), as described in Section 2.2.

This Section 4.55(1A) application does not change the approved development, but merely seeks to amend Condition 1(a) to amend the approved plans and to enable the Subdivision Certificate to be released. We are of the opinion that the modification is substantially the same as the approved development, as detailed in this report.

### 2 Description of the Development Consent Condition

### 2.1 THE CONDITION TO BE MODIFIED

This application seeks to amend Consent to Development Application 218/2015(4) relating to the development approved by Council on 4 November 2015 and further amended on 16 March 2023. The application involves amending Condition 1(a) of the consent, which reads as follows:

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

### (a) Plan/s numbered - Job reference number: F13269\_DA:

DA\_01 SITE PLAN dated 6/05/2015; DA\_02 Rev A dated 21/10/2015; DA\_03 dated 20/05/2015; DA\_04 dated 20/06/2015; DA\_05 dated 20/06/2015; DA\_06 dated 16/06/2015; DA\_07 dated 16/06/2015; DA\_08A Rev A dated 21/10/2015; DA\_09 dated 20/05/2015; DA\_10 dated 20/05/2015;

Draft Road Layout Rev A dated 21/10/2015

### **Amending Plans**

Revision D of Drawings numbered 10106 REV B dated 25.3.19 and Staging Plan dated 19.3.2019 excluding Stage 8 (2 sheets)

Amending Plans - Carpenter Collins Craig 10106 Sheet 2 of 3 Rev G (1 sheet)

**Amending Plans** - Sheet 1 of 1, Job 10106, Rev K, Job No 10106, prepared by Carpenter, Collins, Craig, Dated 16 February 2023 (1 sheet)

The following Section 2.2 details the changes that have occurred.

### 2.2 DETAILS OF MODIFICATION 218/2015(4)

Reason for amendment: The reasons for seeking modification to the consent are described in the

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Michael Brown Planning Strategies Pty Ltd - Ref 2024/0185

### following section of this report - History:

We refer to the first plan our client's wanted proposed, which we understand it had half the road on the neighbour's block and half on our client's. This plan was in accordance with the Council's Development Control Plan (DCP) 2015 for the Shiralee Estate and normal and logical town planning practice. This was also the approach also shown in the DCP for the perimeter boundary with the other neighbour and as agreed with Council, our client built (our¹) half of the road. However, the adjoining neighbour did not wish to subdivide and therefore our client was required to redesign the subdivision to move the DCP road entirely on their land.

Notwithstanding, the approved Shiralee DCP was not amended to accommodate the new subdivision layout, which should have occurred as normal practice under Division 3.6 – Development Control Plans – Sections 3.41-3.44 of the Environmental Planning & Assessment Act 1979 and under Division 2 – Development Control Plans – Sections 12-16 of the Environmental Planning and Assessment Regulation 2021. To date, the DCP remains as adopted by Council in 2015.

Unfortunately, our client was not aware of the requirements of the Act and Regulation to amend the DCP, and acting on good faith in order to have Development Application 2018/2015 approved to undertake the subdivision of the land amended the road layout to accommodate Council requests. Indeed, the subject application was not amended to effect the subdivision to construct half roads, which is now the subject of this Section 4.55(1A) application. The constructed roads, as per the agreement, shown on the following photos, with **Figure** .



<sup>&</sup>lt;sup>1</sup> Refers to client proposal

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Michael Brown Planning Strategies Pty Ltd - Ref 2024/0185



Photo 2 - Applebox Street looking south



Photo 3 - Brushbox Street looking south



Photo 4 - Joseph Drive looking south



Photo 5 - Redbox Street looking north

Michael Brown Planning Strategies Pty Ltd - Ref 2024/0185



Photo 6 - Redbox Street looking south

The plans at **Appendix A** show the extent of works that were agreed to be undertaken to facilitate the one-way road system shown on **Figure 3**. This Section 4.55(1A) application seeks to modify the consent to approve the works that have been undertaken. It will be the requirement of the adjoining owner to undertake road works to finalise the roads that have been half built in accordance with the instructions of Council officers.



Photo 7 - Whitebox Street looking north

The subdivision certificate released had a one-way<sup>2</sup> system operating for a period and when that neighbour developed (still finishing off now) they would build the other half of the perimeter road. There were no issues with the operation of the one-way system during the interim period. This was in fact expected by the DCP because of the very generous constructed pavement widths, very low traffic generation and middle separation of road pavement and shown on the approved Construction Certificate plans at **Appendix A**.

However, in this matter the relevant neighbour at the time did not want development (subdivide) or even deal with our client. Accordingly, the Council officers requested that our development be amended and the road reserve moved completely onto our client's land not in accordance with the DCP shared between the two sites, as is normal practice. This would at least provide for, in the longer term, the land for the road being available and a one-way system in the interim. Our clients agreed to this amendment request by Council, despite it decreasing yield.

Our clients have constructed their half of the road to Council's standards, including the separation landscaping section in the middle, noting the two sides of the road pavement are not contiguous being separated in the centre by landscaping and drainage, reflecting the Council's original approach of each adjoining owner constructing their half of the road giving access to their properties.

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<sup>&</sup>lt;sup>2</sup> Refer to Figure 3

The modification sought is simply to technically put in place the development consent change to 'line up with' the agreement as to how this development could proceed and facilitate the release of the subdivision certificate. As Council would be aware the subdivision plans show the full road reserve on our client's land and when the subdivision certificate is registered, the land will be automatically dedicated as road reserve.

As the neighbour's site has now been sold, the registration of our client's subdivision certificate will allow for that developer to build the other half of the road on the reserve, including their detailed design of lot layouts, driveway crossings, necessary batters etc, which obviously our client cannot and will not do on land that they do not own.

Finally, as Council would be aware the agreement with Council officers was reached in good faith and approval of this application simply facilitates that so as to remove any arguable formal impediment to the issue of the subdivision certificate. Failure to approve it and release the subdivision certificate will obviously have a significant cost impost on our client, caused by the actions of Council, while giving an unjustifiable financial windfall to the new developer next door.

Failure to allow creation of the blocks with the issue of the subdivision certificate, this half road construction interim one-way system being apparently the only outstanding issue, is also denying a number of local families who have already purchased blocks (approximately 26) the ability to build their homes, along with the added disadvantages of rising building costs and personal disruption of their lives. As it currently stands, some of these purchasers have rescinded their contracts due to the ongoing non-resolution of the subdivision.

Therefore, the applicant seeks to stage the approval to enable the subdivision to proceed to enable the subdivision certificate to be released for the approved subdivision. This is shown on the approved plans at **Figure 1**. It was agreed with Council officers that half the road could be constructed with a one-way traffic system in place, as shown on **Figure 2**. This traffic management system is currently operational. The subject lots cannot be sold or settled, as the subdivision certificate is held up on the basis that the full road width be constructed. This decision is holding up settlement of a number of lots.

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FIGURE 3 - AGREED TRAFFIC MANAGEMENT PLANS



## 2.3 LAND AND ENVIRONMENT COURT DECISIONS

There have been a number of Court decisions regarding whether an application to modify a consent under Section 4.55 of the Act is "substantially the same" as that approved.

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The planning merits of the modification are not relevant to the determination of the threshold question of whether the development to which the consent relates would be substantially the same development as the development for which the consent was originally granted.

In this regard, Council must apply the "substantially the same development test". In respect of the subject Section 4.55(1A) application, there is no change to the proposed development being the subdivision (202 lot residential) and demolition (existing dwelling and shed).

The Court has found amended development <u>not to be substantially the same</u> where <u>land use</u> changes are proposed under the amended application (i.e. retail to residential). This is not the case under this amended application where the main features of the original approval are maintained, with the development staged to permit the subdivision to proceed.

The nature of Section 4.55 assumes that there is likely to be some change between an original proposed (and approved) development and a modified one. There are some changes, as detailed above in Section 2.2, but these changes do not change the approval issued by Council.

The decision of *North Sydney Council – v – Michael Standley & Associates Pty Ltd (97 LGERA 433, 12 May 1998, Mason P)*, added to the understanding of the appropriateness of permitting a modification as follows:

"Parliament has therefore made it plain that a consent is not set in concrete – it has chosen to facilitate the modification of consents, conscious that such modifications may involve beneficial cost savings and/or improvements to amenity."

In contemplating consent for a modification, it is the degree of change which determines whether the consent authority has the power to approve a modification or where there is no such power whether the application fails to pass the threshold test under Section 4.55(1A) of the Act. The subject amended application does not modify or delete an essential element of the approved development. The following provides details of cases sited in this regard:

- Toner Design Pty Ltd V Newcastle City Council (2013) 198 LEGRA 203; (2013) NSWCA 410;
- Arrange V Inner West Council (2019) NSWLEC 85;
- Hatch V Northern Beaches Council (2019) NSWLEC 1422;
- Beaini Projects Pty Ltd V Cumberland Council (2019) NSWLEC 1547;
- Tasman Property Holdings Pty Ltd V Canterbury-Bankstown Council (2020) NSWLEC 59;
- Progress East Pty Ltd v Randwick City Council (2019) NSWLEC 1029.

Case law in the Vacik matter stated that the test in the following terms:

"... 'substantially when used in the section means essentially or materially or having the same essence"

In respect of the subject Section 4.55(1A) application, there is no change to the proposed development, as detailed in Section 3.1.2.

The subject amended application does not modify or delete an essential element of the approved development.

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We are of the opinion that the development is substantially the same and that Council has the authority to deal with the application under Section 4.55(1A) of the EP&A Act 1979 to enable the development to be staged.

#### 3 Environmental Planning and Assessment Act 1979

#### 3.1 CLAUSE 100 OF THE REGULATION 2021

Clause 100(1) of the Regulation 2021 sets out a series of matters that are required to be addressed in an application for modification of development consent.

These are addressed as follows:

#### 3.1.1 NAME AND ADDRESS OF THE APPLICANT

The applicant for this modification is Roy Mammone Developments Pty Ltd.

#### 3.1.2 A DESCRIPTION OF THE DEVELOPMENT TO BE CARRIED OUT UNDER THE CONSENT

The consent as approved is described as "Subdivision (202 lot residential) and Demolition (existing dwelling and shed)".

# 3.1.3 THE ADDRESS AND FORMAL PARTICULARS OF TITLE OF THE LAND ON WHICH THE DEVELOPMENT IS TO BE CARRIED OUT

The address of the property is described in Section 1.1 of this application.

#### 3.1.4 A DESCRIPTION OF THE PROPOSED MODIFICATIONS TO THE DEVELOPMENT CONSENT

The proposed modification is described in Section 2.2 of this application.

#### 3.1.5 A STATEMENT OF THE EFFECTS OF THE MODIFICATION

This report sets out and describes the likely effects of the proposed modification. It is considered that the modification is substantially the same, notwithstanding the proposed changes as detailed in this report.

#### 3.1.6 A DESCRIPTION OF THE EXPECTED IMPACTS OF THE MODIFICATION

It is not expected that there will be a significant impact on the amenity of the area.

#### 3.1.7 SCOPE OF THE DEVELOPMENT AS IT IS TO BE MODIFIED - SUBSTANTIALLY THE SAME

The development as it is proposed to be modified will remain substantially the same as the development that was originally approved, noting comments made above highlighting the changes in Section 2.2 involving staging the development.

## 3.1.8 BIODIVERSITY ASSESSMENT

The proposed development does not involve biodiversity credits.

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#### 3.1.9 OWNER CONSENT

A copy of the owner's consent for Michael Brown Planning Strategies Pty Ltd to lodge the application to modify the consent accompanies this Section 4.55(1A) application.

#### 3.1.10 MAKING OF APPLICATION

This application is being made to the consent authority under Section 4.55(1A) of the Act.

#### 3.1.11 BASIX

Not applicable.

#### 3.2 PROPOSED DEVELOPMENT

As discussed above, there are no changes to the development and the application seeks to modify Condition 1(a) to enable the development to commence in a staged manner, as detailed in Section 2.1.

## 4 Modification of Consent to Development Application 218/2015(4)

The Environmental Planning and Assessment Act 1979 (NSW) establishes the system of planning, environmental impact assessment and development approvals in NSW. The ability to modify development consents is provided in Section 4.55 of the EP&A Act.

Section 4.55 confers three separate powers to modify a development consent:

- Modifications involving errors, misdescriptions or miscalculations contained in s4.55(1).
- Modifications with minimal environmental impact contained in s4.55(1A). Subs (1A) confers the power if the consent authority is satisfied, inter alia, that the proposed modification is of "minimal environmental impact".
- Other modifications- contained in s4.55(2). Subs (1A) confers the more general and widely based power. Pursuant to s4.55(2), the consent authority is granted a general power to grant a modification if it involves more than minimal environmental impact, provided the development is substantially the same development and provided other conditions are fulfilled as set out in s4.55(2) (c) and (d).

In each case above, it is relevant to note that the same wording is used, namely "to modify a development consent".

Subsection (1A) requires any such modification to be "substantially the same" development.

This application is to be dealt with by way of utilising the powers conferred under s4.55(1A). Subsections (1) and (1A) do not apply to such a modification.

The relevant response is provided below:

#### a) It is satisfied that the proposed modification is of minimal environmental impact, and

The modification seeks to amend Condition 1(a) of Consent to Development Application 218/2015(4), as detailed in this application.

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b) It is satisfied that the development to which the consent as modified is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all) under this section, and

We are of the opinion that the modification sought is within the ambit of Section 4.55(1A) and that Council can modify the consent accordingly.

- c) It has notified the application in accordance with:
- i) The regulations, if the regulations so require, or

No notification is required pursuant to the regulations.

ii) A Development Control Plan, if the consent authority is a Council that has made a Development Control Plan under section 3.42 that requires the notification or advertising of applications for modification of a development consent, and

We are not aware of submissions being received during the exhibition of the development application. The Council may wish to notify persons if there were submissions made to the original application and this is a matter for Council to determine.

d) It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the Development Control Plan, as the case may be.

It is unlikely that if the Council notified the application that submissions would be received giving the extent of the amendment to the approved development. The Council will be required to assess any submissions received having regard to Section 4.15 of the EP&A Act 1979.

## 4.1 PROVISIONS OF SECTION 4.55(3) OF THE ACT

Section 4.55(3)(1) of the Act provides:

"(1) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application".

The matters considered to be of relevance are discussed in the following sections; however, it is not proposed to undertake a detailed assessment given the proposed amendment and the fact that it only seeks to stage the development consent to enable the subdivision certificate to be released.

The proposed modification therefore satisfies the criteria listed under section 4.55(1A) of the EP & A Act 1979, which allows Council to modify the consent.

#### 5 Assessment of Relevant Controls and Policies

#### 5.1 APPLICABLE PLANNING INSTRUMENTS, CONTROLS AND POLICIES

The following documents are relevant to the proposed development:

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- The Environmental Planning and Assessment Act, 1979, as amended.
- The Environmental Planning and Assessment Regulation 2021.
- Orange City Local Environmental Plan 2011.
- Shiralee Development Control Plan 2014.

#### 5.2 LOCAL ENVIRONMENTAL PLAN 2011

Under the LEP the subject land is zoned R1 General Residential and the development is permissible, as approved by 218/2015(4). There are no matters which need to be addressed given the request to modify the consent.

#### 5.3 SHIRALEE DEVELOPMENT CONTROL PLAN 2015

The subject Development Control Plan 2015 provides a compendium of development controls for the Orange City Local Government Area. There are no matters that require an assessment for compliance under the DCP.

#### 6 Conclusion

#### 6.1 DA 218/2015(4)

- 1. Consent to Development Application 218/2015(4) be amended as follows:
- (1) The development must be carried out in accordance with:

## (a) Plan/s numbered - Job reference number: F13269\_DA:

DA\_01 SITE PLAN dated 6/05/2015; DA\_02 Rev A dated 21/10/2015;

 $DA\_03 \; dated \; 20/05/2015; \; DA\_04 \; dated \; 20/06/2015; \; DA\_05 \; dated \; 20/06/2015; \\$ 

 $DA\_06 \; dated \; 16/06/2015; \; DA\_07 \; dated \; 16/06/2015; \; DA\_08A \; Rev \; A \; dated \; 21/10/2015; \; DA\_08A \; Rev \; A \; dated \; A \; dated \; A \; dated \; A \; da$ 

DA\_09 dated 20/05/2015; DA\_10 dated 20/05/2015;

Draft Road Layout Rev A dated 21/10/2015

#### **Amending Plans**

Revision D of Drawings numbered 10106 REV B dated 25.3.19 and Staging Plan dated 19.3.2019 excluding Stage 8 (2 sheets)

Amending Plans - Carpenter Collins Craig 10106 Sheet 2 of 3 Rev G (1 sheet)

**Amending Plans** - Sheet 1 of 1, Job 10106, Rev K, Job No 10106, prepared by Carpenter, Collins, Craig, Dated 16 February 2023 (1 sheet)

**Amending Plans** – Sheet 76 of 86, Job 10106, Rev E, Stage 7 prepared Carpenter, Collins, Craig dated 26.10.23

**Amending Plans** – Sheet 77 of 86, Job 10106, Rev E, Stage 7 prepared Carpenter, Collins, Craig dated 26.10.23

**Amending Plans** – Sheet 78 of 86, Job 10106, Rev E, Stage 7 prepared Carpenter, Collins, Craig dated 26.10.23

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Appendix "A" Subdivision Plans

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PO Box 295 CAMDEN NSW 2570

Phone: 46 480877

Mobile:0418620718 Email: michael@michaelbrown.com.au ABN 52 162 313 895

22 May 2025

Your Ref: 2018/2015(5) Our Ref: 2024/0185

Chief Executive Officer Orange City Council Byng Street ORANGE NSW 2560

Attention Ben Hicks

Dear Ben,

# Re: Lot 218 DP 1305914 Hawke Lane, ORANGE - Development Application 2018/2015(5) - Residential Subdivision - Section 4.55(1A) Application

Reference is made to the previous report to the Planning & Development Committee dated 1 April 2025 dealing with the Section 4.55(1A) application. This report pointed out that there was a proposal in the draft subdivision certificate plan to create a strip of 'no man's land, between our client's lot now awaiting subdivision registration and the developer's lot next door on Lot A. This was not our client's intention and they have moved to ensure this land is dedicated as public road. This dedication will be automatically achieved with the registration of their subdivision plan.

Our letter dated 7 April 2025 requested the original application be amended to line up with the agreement between our client and the previous Council General Manager and Planner. We act for Roy Mammone Developments Pty Ltd in this section 4.55 application and we prepared the Statement of Environmental Effects for the proposed development and the Section 4.55 application.

We note that the Council has requested a cost report for the construction of the remainder of Joseph Drive to enable the Section 4.55(1A) to be determined by Council. The issue relates to the responsibility for construction of the road servicing our clients' completed lots and those to be established by the developer next door to the west (Lot A).

Originally, under the DCP, the road was to be constructed half on our client's land and half on the neighbours (Lot A). The previous owner of next door was uninterested in developing the land.

DA 2018/2015(5) – Hawke Lane, ORANGE 1 | Page The issue of the full width of Joseph Drive however and compliance with Consent to Development Application DA 218/2015(4) thus became the subject of long and protracted discussions and negotiations with Council over an extended period of time. A brief history is provided in the application currently before Council and we can provide correspondence to support this issue.

To summarise, following the detailed discussions with Council officers at the time to obtain the approval to move the matter forward involved the relocation of Joseph Drive entirely onto our clients land. Our client was to construct their half, and all the land dedicated as public road so when the neighbour wanted to develop, the Council owned the necessary land as public road to facilitate full road construction.

The next-door land has now been sold to a local developer who wishes our clients to construct their half of the road to the tune of \$1 million. The Council practice of temporary one-way construction and use until neighbouring land is developed was successfully applied to 2 sites immediately to the north. The DCP required design with large separated pavements facilitated this approach. Importantly there are no traffic engineering or safety reasons to not do the same here. The only difference is our client had to dedicate more of their land for public road and losing housing lot yield, as they previously agreed and as they are trying to formalise in this current s4.55. They are asking Councillors to approve the requested amendments.

The relocation of the road has not resulted in the Shiralee Development Control Plan being amended or breached and the road (Joseph Drive) is shown partially on Lot A as well as our client's land. Our clients part has been constructed.

The letter dated 7 April 2025 was to amend the application to dedicate the full width of Joseph Drive. However, it seems now that Council's engineer believes that the previous agreements and compromises should be ignored and our clients be forced to construct both halves of the road. The current s. 4.6691A) application will clear up the non-dedication of the strip of our clients land so as to facilitate the fair approach originally negotiated with Council.

The Council requested a "Bill of Quantities" to provide details of the costs of completing our clients road to the eastern boundary of Lot A to assist in their deliberations over the original s4.55(1A) to dedicate extra land for the ultimate road. Such details accompany this correspondence, and it provides a breakdown of the works that will need to be undertaken to finalise the road construction at \$914,696.89, which was prepared by Keeden who have undertaken the subdivision works to date.

Dedicating the land to enable the construction of the full width of Joseph Drive enables the neighbour's subdivision of Lot A access to a public road. Their design and lot access will have to deal with this. The fair and normal position is that a developer should construct their fair share of the road, which is in accordance with the Shiralee DCP, whereby both owners and their ultimate purchasers who share the road and costs of works.

Our client moved the road onto its land in good faith to enable Consent to Development Application 218/2015 to proceed.

DA 2018/2015(5) – Hawke Lane, ORANGE 2 |  $\mathbb P$  a g e

It should be noted that the agreement of our client to 'sacrifice' more of their land was to deal with the then neighbours time delay. At the time it was very important and necessary for Council to have our client's development proceed, as Council needed the subdivision contributions as considerable monies had been expended by Council on construction the sewer works for the Shiralee Estate and our clients subdivision would provide contribution towards these costs.

However, our client will not construct the road at his cost.

Approval of the application will enable the Subdivision Certificate to be released and enable the settlement of the lots to the purchasers of the lots within this stage of the subdivision of the land.

Accordingly, we request that Condition 23 of Consent to Development Application 218/2015(4) be amended to read:

"Lysterfield Road and Joesph Drive are to be constructed as half road width for the full frontage of the development adjoining Lot A. This work is to include road pavement and pavement surfacing to the centreline/far side of median island, kerb and gutter construction and earth formed footpath on the development side of the road.

The remainder of the construction of Joseph Drive adjoining Lot A shall be at the full cost of the developer/owner of that property when that land is subdivided. Until the completion of the full width of Joseph Drive, the half construction required under this consent shall be marked and used as a one-way system.

Hawke Lane and Road 3 are to be constructed full road width for the frontage of the proposed development.

Lysterfield Road, Hawke Lane and Roads 1 to 12 are to be constructed in accordance with Orange City Councils *Shiralee Engineering Requirements and Additional Information* (D15/40462)."

We trust that the above is of assistance and should you require any further details please contact the undersigned.

Sincerely yours,

MICHAEL J BROWN
DIRECTOR
MICHAEL BROWN PLANNING STRATEGIES PTY LTD

DA 2018/2015(5) – Hawke Lane, ORANGE 3 | P a g e

First Exhibition Period Submission 1 of 1

31 January 2025

Orange City Council 135 Byng Street Orange NSW 2800 council@orange.nsw.gov.au

To whom this may concern,

#### DA2018/2015(5) - Lot 218 Hawke Lane, Orange- Submission

provides this submission in respect to the \$4.55 modification to DA218/2015(5) for Lot 218 Hawke Lane, Orange. , Orange, having purchased the property in late 2021. We is the note we have corresponded with the Applicant/Developer on several occasions offering access to our property for the purpose of undertaking the works which this modification is subject to. Despite these offers to provide access to facilitate the works, the Applicant has not responded. The Statement of Environmental Effects (SEE) prepared by Michael Brown Planning Strategies, contains a number of errors and omissions which we summarize below; Whilst Engineering drawings have been provided in markup, cross sections of the road have not been provided to confirm the scope of what is to be constructed and what scope is proposed to be omitted. 2. The SEE falsely states on page 5 that "our client was required to redesign the subdivision to move the DCP road entirely on their land". DA218/2015 did not approve the whole of the DCP road onto the Applicants land. The required Road Reserve width is 34.6m in total, 26m of the road reserve has been approved on Lot 218 Hawke Lane, with the remaining 8.6m of the road reserve on the adjoining property Shiralee Road. Please refer to Annexure 1 – being Appendix C of the Shiralee DCP Figure 107 Green Street cross section, marked up. The mark-up depicts the scope of work the Applicant committed to as approved under DA218/2015, being the south bound lane, the whole of the central swale and the north bound traffic lane. The north bound bicycle lane, parking lane and footpath were not moved onto the Applicant's land and will be on Shiralee Road. constructed by The Applicant states on page 12 that Council's failure to approve the modification will provide; "an unjustifiable financial windfall to the new developer next door". purchased Shiralee Road, on the basis of the approved DA218/2015, with the north bound lane of Joseph Drive located on the Applicant's land with the construction of the same, the Applicant's refutes this claim of any financial windfall when the purchase of the property responsibility. was based upon the certainty of the approved Development Applicant DA218/2015. While the Applicant willingly agreed to the construction of north bound traffic lane at the time of Development Application Determination to achieve the approval and proceed with the development, it appears there may have been a number of factors that necessitated this requirement, which were not limited to two way traffic flow.

We understand that the development of the Applicant's property was unable top proceed until the Hawke Lane Dam was decommissioned and appropriate works were undertaken to address the flood risk to downstream properties. We note these requirements were referenced in the Planning Report tabled to Council on 3 November 2015 as outlined below;

"The majority of the proposed subdivision is affected by the Hawke Lane Dam exclusion zone.
Council's DCP for Shiralee specifies that lots within the subdivision may not be developed until such

time that the dam has been decommissioned or appropriate works are undertaken to safely convey discharges from the dam into the downstream watercourse or drainage system in such a manner so as to ensure no adverse flood risk is presented to downstream properties."

"Surface stormwater flows will be required to be diverted towards the swale drain in "Green Street" to the west of the subdivision."

To that end, Development Consent Condition number 42 states:

"Prior to the issue of a subdivision certificate the stormwater diversion structure contained within the proposed Hawke Lane road widening and flow path along the Green Street shall be completed and approved by Orange City Council's Director of Technical Services" (our emphasis).

We understand as confirmed by the photographs in the Applicants SEE, the flow path and swale along the Green Street (now known as Joseph Drive) has not been completed by the Applicant, with only half of the swale having been constructed to date, as such the works have not been completed in accordance with the intent of condition 42.

We understand the approved plans under DA218/2015 require the Applicants to extend water, sewer and stormwater to within the property Boundary of Shiralee Road, to facilitate the coordinated and orderly development and servicing of the Shiralee Release area. We understand these works have not been completed in accordance with the Development Approval. Furthermore, the amended plans provided by the Applicant do not address these items in any detail.

The Developer is also the proponent of a Planning Proposal for The Hawke Lane Park rezoning - being PP-2023-45 - Amendment 36 to the Orange LEP. This planning proposal is currently being finalised having been endorsed by Council. We note our submission to this Planning Proposal dated 28 June 2024, outlining our concern about the approval of the PP prior to the completion of the swale and north bound lane to Jospeh Drive, being undertaken by the Applicant to ensure this infrastructure and broader community benefit is delivered. Refer to Annexure 2 – PP2023-45 – LEP Amendment 36 Submission.

We note this modification to DA2018/2015 has been lodged after Council has endorsed the Planning Proposal, which will yield the applicant between 5 to 7 lots, for which there has been no Voluntary Planning Agreement entered into and no additional public benefit provided. Given the uplift afforded to the Developer, it would seem unreasonable that the Developer now seeks to remove the obligation to deliver the completion of Jospeh Drive on their land as required under DA2018/2015.

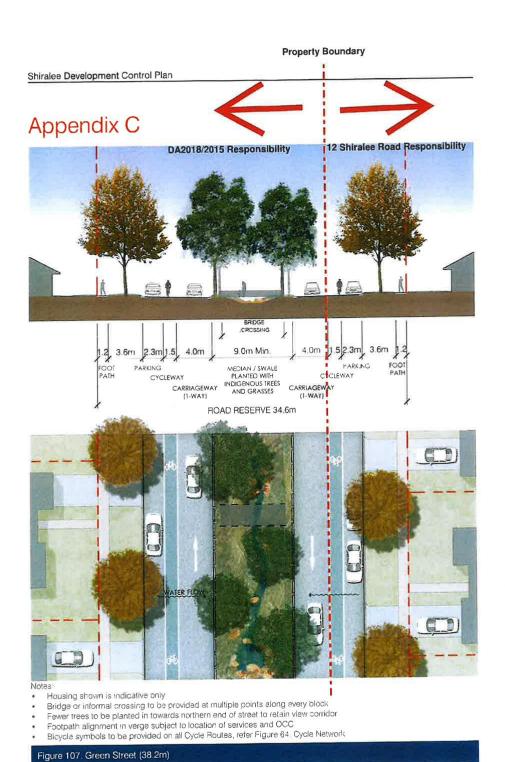
objects to the Applicants' modification to remove the obligation to construct the north bound traffic lane and half of the central swale to Joseph Drive, as it is not in the publics interest.

would be supportive of the bonding of the works, allowing the dedication of the road carriage way and bonding the value of the remaining works to ensure these works can be delivered by Council, consistent with the development approval and the DCP.

We would be pleased to discuss this matter further, and welcome the opportunity to speak at a Council meeting should the modification be determined by Council.

Should you have any queries relating to this letter please contact the undersigned on Yours Sincerely,

Annexure 1 – being Appendix C of the Shiralee DCP Figure 107 Green Street cross section, marked up



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Annexure 2 – PP2023-45 – LEP Amendment 36 Submission

28 June 2024

Senior Planner Orange City Council 135 Byng Street Orange NSW 2800

Dear Craig,

#### F4056 - LEP Amendment 36 - Submission

provide this submission as the

to the property subject to LEP

Amendment 36.

We note that LEP Amendment 36, is not supported by any Voluntary Planning Agreement or Works in Kind Agreement that provides any additional public benefit in consideration for the rezoning of land currently zoned public recreation, beyond the payment of additional development contributions for the additional residential lots, despite the commercial benefit afforded to the applicant.

Whilst we do not object to the amendment, is only supportive on the basis that the infrastructure and associated public benefits the applicant is required to complete under the Development Approval DA218/2015 are completed, satisfying these existing obligations and delivering these community benefits, prior to additional lots subject to Amendment 36 being rezoned.

The public benefits specifically referred to are the completion of Joseph Drive and the central bioswale stormwater treatment which are approved under DA218/2015, and form part of the wider road network and stormwater infrastructure for the Shiralee Release area, as approved by Council.

We request Council withhold approval of LEP Amendment 36, to ensure this infrastructure and these public benefits are delivered for the benefit of the greater Shiralee release area and Orange City Council.

Should you have any queries relating to this letter please contact the undersigned on

Yours Sincerely,

Our reference LC/LL/OAKS30029-9171418

Second Exhibition Period Submission 1 of 1

18 June 2025

By email: council@orange.nsw.gov.au Orange City Council Civic Centre, 135 Byng Street Orange NSW 2800

Partner

Contact

Dear Sir/Madam

# Objection to modification application DA218/2015(5) Lot 218 DP 1305914, Hawke Lane, Orange

- 1 Introduction
- 1.1 We act for
- 1.2 We refer to Council's letter dated 5 June 2025 advising of an amendment to the above modification application to DA218/2015(5) (Modification Application).
- 1.3 As Council is aware, is the developer of the master-planned community located at which is located to the site to which the Modification Application applies.
- 1.4 For the reasons detailed below, strongly objects to the Modification Application and urges Council to determine it by way of refusal. Unless a monetary contribution is sought sufficient to fund the remaining road works as a condition of approval, it would be to Council's own detriment to approve the Modification Application, as this would leave Council in a position of having to fund and/or construct a quarter of the width of Joseph Drive.

# 2 Modifications sought

2.1 As required under condition 23 of DA218/2015(4), the owner of the land to which DA218/2015(4) applies (**Neighbouring Owner**) is required to construct "Road 1B" (being Joseph Drive) as "a half road width for the full frontage of the proposed development. This work is to include road pavement and pavement surfacing to the centreline / far side of median island, kerb and gutter construction and earthformed footpath on the development side of the road." In addition, "Boxing out and pavement construction of the roadway on the <u>opposite side of the development including transitions to the existing formation is to also be carried out" (our emphasis).</u>

3442-4023-3019v2

18 June 2025
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Objection to modification application DA218/2015(5)
Lot 218 DP 1305914, Hawke Lane, Orange

- 2.2 That is, the conditions of development consent and accompanying stamped plans require the Neighbouring Owner to construct Joseph Drive to roughly threequarter width, up to the boundary of the Neighbouring Owner's property.
  - owns the land on which the remaining portion of Joseph Drive (ie quarter width) is to be constructed. purchased its site on the understanding that it would only be responsible for the construction of Joseph Drive to one-quarter width, given that the Neighbouring Owner was obliged, under condition 23 of DA218/2015(4), to construct that road to three-quarter width.
- 2.3 We are instructed that the Neighbouring Owner has largely completed its 202 lot residential subdivision, but has failed to complete the construction of Joseph Drive to three-quarter width as required by condition 23, having constructed the road to the centre median only. The Modification Application seeks to remove the obligation to complete the remaining works, to facilitate Council issuing the subdivision certificate for the final stage of the development.
- 2.4 The Modification Application originally sought to amend Condition 23 of Development Consent DA 218/2015(4) to simply remove the obligation to complete the remaining works. We are instructed that this was not supported by Council staff, primarily on the basis that it would result in a stranded residue lot between the road reserve and property. objected to this application on 31 January 2025 and 1 April 2025.
- 2.5 Accordingly, the Neighbouring Owner has now amended the Modification Application to provide for the dedication of the stranded residue lot. As outlined in Council's 5 June 2025 letter:
  - "This amendment now proposes that Joseph Drive be constructed to half road width only for the full frontage of the development, with dedication of the unbuilt section as public road. The remainder of the road would be completed by the adjoining landowner when that land is developed in the future. The amendment would allow release of the subdivision certificate for the final stage of this development."
- 3 Reasons why the Modification Application should be refused
- (a) Approval of the Modification Application would run directly contrary to wellestablished legal principle
- 3.2 It is a well-established principle of planning law that a person who takes the "benefit" of a development consent must also take the "burden" of the obligations or conditions which attach to it.
- 3.3 This principle was recently considered and affirmed by Pepper J in Buyozo Pty Limited v Ku-ring-gai Council [2021] NSWLEC 2 (undisturbed on appeal) at [39], citing Jagot J in Arkibuilt Pty Ltd v Ku-ring-gai Council [2006] NSWLEC 502; (2006) 67 NSWLR 529 at [68]-[70]. As held in Arkibuilt:
  - [68] The Council submitted that the discretionary power in s 94B(3) of the EPA Act should not be exercised in the applicant's favour (if condition 69 was found to

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be unreasonable to any extent) because the applicant had taken the benefit of the development consent knowing about the s 94 contributions payable and, thereafter, had modified the development consent without, until recently, raising any issue about the s 94 contributions. The Council said that there had been no change of circumstances since the grant of development consent. Hence, the facts were analogous to those in Progress and Securities Pty Ltd v North Sydney Municipal Council (1988) 66 LGERA 236, where Bignold J (at 245) found that although the power in s 102 (then the relevant modification power) was not limited to cases in which circumstances had changed, a discretionary consideration that weighed strongly against granting the application in that matter was the conduct of the applicant in accepting the benefit of the development consent, and then belatedly seeking to avoid the burden imposed by that consent. Bignold J determined that it would be contrary to the public interest to enable the particular consent in that matter to be modified as sought. (emphasis added)

- 3.4 It would be contrary to:
  - (i) the above well-established legal principle;
  - the objects of the Environmental Planning and Assessment Act 1979 (NSW), particularly the promotion of the orderly and economic use and development of land (section 1.3(c)); and
  - (iii) the public interest,

for a developer to take the benefit of a development consent and then, only after that benefit has been realised and the land value increased, seek to modify the consent to avoid a burden or obligation imposed by that consent.

- 3.5 We submit that these considerations weigh even more strongly when the burden is proposed to be belatedly shifted onto a third party in this case, particularly in circumstances where purchased its land on the basis that the Neighbouring Owner was obliged to construct Joseph Drive to three-quarter width and factored this into the assumptions that informed the purchase price for its land.
- (a) Approval of the Modification Application would leave Council exposed to having to construct and/or fund the remaining section of Joseph Drive
- 3.6 has already sought and obtained development consent for its 47 lot subdivision (DA 770/2024). That consent <u>does not authorise or require any works to be undertaken on the Neighbouring Owner's land</u>. This is evident from:
  - (i) the approved plans, which clearly show that is only required to construct Joseph Drive to one-quarter width, up to boundary; and
  - (ii) the fact that there was no landowner's consent to undertake any works on the Neighbouring Owner's land. The provision of landowner's consent

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under section 23 of the *Environmental Planning and Assessment Regulation 2021* is a jurisdictional prerequisite to the grant of development consent. Accordingly, had Council intended to require the proponent of DA 770/2024 (the site now owned by ) to undertake works on the Neighbouring Owner's land, the Neighbouring Owner's landowner's consent would have been required to be obtained. Such consent could not be provided as this land was in different ownership and consequently Council only required the proponent of DA 770/2024 to build to its site boundary.

- 3.7 Further, <u>DA 770/2024 could never oblige</u> to undertake works on the <u>Neighbouring Owner's land</u>, even if, as is now proposed, land is dedicated to Council. The land to which DA 770/2024 applies is clearly outlined on the approved plans. To the extent that the Neighbouring Owner has indicated to Council that "The remainder of the road would be completed by the adjoining landowner when that land is developed in the future", this is factually and legally incorrect. If, in fact, Council were minded to approve the Modification Application, then <u>this would expose Council (not onstruct a guarter of the width of Joseph Drive</u>.
- 3.8 therefore urges Council to determine the Modification Application by way of refusal. Alternatively, if Council is minded to approve the Modification Application, Council is urged to ensure that it obtains a monetary contribution from the Neighbouring Owner sufficient to cover the remaining road construction, to protect Council's own position.
- 3.9 We are instructed that the <u>only</u> circumstance in which would be willing to entertain constructing the remaining quarter-road width would be if those works were fully funded by Council, such as by way of a full offset against developer contributions that would otherwise by payable by

Thank you for your consideration of this submission.

Should you have any queries, please contact

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2.4 DEVELOPMENT APPLICATION DA 18/2025(1) - 185 LEEDS PARADE (CHILD CARE FACILITY)

RECORD NUMBER: 2025/1131

AUTHOR: Dhawala Ananda, Town Planner

## **EXECUTIVE SUMMARY**

| Application lodged            | 5 February 2025                                    |
|-------------------------------|--|
| Applicant/s                   | MAAS Commercial Leeds Unit Trust                   |
| Owner/s                       | MAAS Commercial Leeds Pty Limited                  |
| Land description              | Lot 4 DP 1065309, Lot 1 DP 1286615 - Leeds Parade, |
|                               | Orange   |
| Proposed land use             | Centre Based Childcare Facility (130 places)       |
| Value of proposed development | \$2,805,657.00                                     |

Council's consent is sought for an establishment of a childcare centre on Lot 02 of a recently approved subdivision (DA 518/2024(1)) which will cater for a maximum of 130 children and associated signage, landscaping and earthworks.

The childcare centre is proposed to cater up to 130 children:

- Group 1 aged 0-1 years (20 children)
- Group 2 aged 1-2 years (20 children)
- Group 3 and 4 aged 2-3 years (30 children)
- Group 5 and 6 aged 3-4 years (60 children).

The centre will involve the following components:

- Construction of a purpose-built childcare one storey building.
- Two signs (wall mounted and pylon sign) to include business identification information, non-illuminated.
- Provision of 33 onsite car parking spaces.
- Playgrounds and landscaping.



Figure 1 - locality plan



Figure 2 - aerial locality plan

A Section 4.15 assessment has been prepared below and it is assessed that the proposed development is consistent with Orange Local Environmental Plan 2011, Orange Development Control Plan 2004 and all relevant State Environmental Planning Instruments. The assessment of the proposal concludes that the development fits in the locality and there are no significant impacts on the site or on adjacent lands.

It is noted that the site was granted development consent for a two-lot subdivision on 11 October 2024 pursuant to development consent DA 518/2024(1). That subdivision is currently being constructed and conditions have been imposed on the draft Notice to ensure that no commencement of the proposed development the subject of this application occurs until the subdivision is registered.

The proposal has a capital investment value exceeding \$2.5 million (\$2.8m). Accordingly, the application has been tabled to the Planning and Development Committee (PDC) Meeting 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).

## **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 an establishment of a childcare centre on proposed Lot 02 in a recently approved subdivision (DA 518/2024(1)) which will cater for a maximum of 130 children and associated car parking, signage, landscaping and earthworks.

The subject land is located adjacent to the regional railway line. Transport for NSW have responded with recommendations in relation to development near railways and these matters have been addressed through conditions of consent. The proposed development is also located on a site identified as containing Vegetation Category 3 and a vegetation buffer, as per the Bushfire Prone Land Mapping. As the proposal constitutes a Special Fire Protection Purpose development, the application is recognised as an integrated development under Section 100B of the *Rural Fires Act 1997*, requiring assessment and approval by the NSW Rural Fire Service (RFS) before Council may determine the application. The RFS has provided general terms of approval for the Integrated Development Application. These matters have been addressed in the attached Notice of Determination.

An exposed overhead electricity powerline is located at the site frontage on the proposed new road. The proposal was referred to Essential Energy for consideration and comments. As the plans provided show that the proposed development is to be directly under Essential Energy infrastructure, the overhead 11kv high voltage infrastructure will need to be relocated by an accredited service provider before any works on this proposed development can be carried out. This work is likely to be undertaken as a part of the subdivision works but has nonetheless been covered by conditions given that the subdivision works are not yet complete. The electricity supply authority has raised no objection to the proposal. Recommended conditions have been included on the draft Notice of Determination.

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 "7.3 Plan for growth and development that balances liveability with valuing the local environment".

## FINANCIAL IMPLICATIONS

Nil

## **POLICY AND GOVERNANCE IMPLICATIONS**

Nil

#### **RECOMMENDATION**

That Council consents to development application DA 18/2025(1) for *Centre Based Childcare Facility (130 places)* at Lot 4 DP 1065309 and Lot 1 DP 1286615 - Leeds Parade, 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 development is proposed to provide a childcare facility, with proposed access road from Leeds Parade. The proposed works include:

- Construction of a single storey childcare centre.
- The internal of the proposed building will contain six (6) playrooms dedicated to age groups, six (6) cot rooms, one staff room, kitchen and pantry, office and associated ancillary facilities.
- The external of the proposed development is to contain a bin area on the southern side and outdoor play area.
- Provision of 33 onsite car parking spaces.
- Two business identification signs, one sign (wall mounted), non-illuminated and one pylon sign at the entry.
- Landscaping.

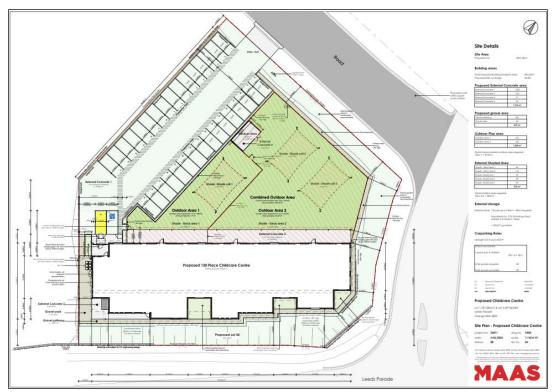


Figure 3 - site plan

2.4 Development Application DA 18/2025(1) - 185 Leeds Parade (Child Care Facility)





Figure 4 - north-western elevation

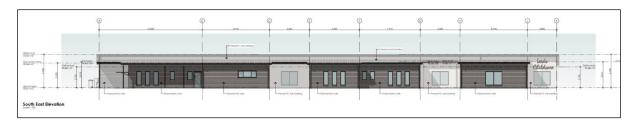




Figure 5 - south-eastern elevation (facing Leeds Parade)

The subject land is vacant and has a gentle slope of approximately 3m across the site from the east to west. The site has frontage to Leeds Parade, however, the proposed development will have egress via an access road off the Leeds Parade.

The site is adjacent to the regional railway line and identified within bushfire prone land mapping. External referrals are sought accordingly.



Photo 1 - shows subject lot (vacant) from the access road off Leeds Parade facing north-west





Photos 2 and 3 - shows subject lot (vacant) facing west

## **Development Application History**

The site was granted development consent for a two-lot subdivision on 11 October 2024 - DA 518/2024(1). The applicants are currently in the process of developing the 2 lot subdivision. Recommended conditions have been imposed to ensure that no commencement of proposed childcare development occurs until the subdivision is completed and the lots are registered. The approved subdivision plan is shown below in Figure 5.

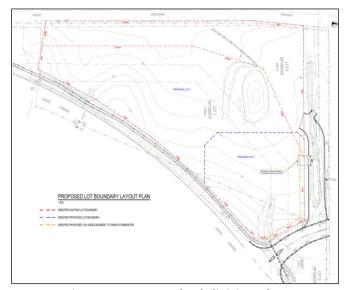


Figure 6 - approved subdivision plan

# MATTERS FOR CONSIDERATION

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

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

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

- <u>Trigger 1</u>: development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017);
- <u>Trigger 2</u>: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017); or
- <u>Trigger 3</u>: 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 does not trigger any of the four requirements for insertion into the BOS, a Biodiversity Development Assessment Report is not required to be lodged with the application for development consent. No other comments are warranted under this section.

### Section 4.14

## **Consultation and Development Consent - Certain Bush Fire Prone Land**

The proposed development is located on a site identified as containing Vegetation Category 3 and a vegetation buffer, as per the Bushfire Prone Land Mapping. As the proposal constitutes a Special Fire Protection Purpose development, the application is recognised as an integrated development under Section 100B of the *Rural Fires Act 1997*, requiring assessment and approval by the NSW Rural Fire Service (RFS).

The RFS provided general terms of approval for the Integrated Development Application. The integrated requirements address the following matters:

- 1. Asset Protection Zones
- 2. Construction Standards
- 3. Access Internal Roads
- 4. Water and Utility Services
- 5. Landscaping Assessment and
- Emergency and Evacuation Planning Assessment

The requirements of Rural Fires Service have been incorporated into conditions of consent that are included on the attached Notice of Determination.

#### 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 application is considered to be consistent to the above-listed objectives.

## **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 E3 Productivity Support

Lot Size Map: No Minimum Lot Size

Heritage Map: Not a heritage item or conservation area

Height of Buildings Map: No building height limit
Floor Space Ratio Map: No floor space limit

Terrestrial Biodiversity Map: No biodiversity sensitivity on the site

Groundwater Vulnerability Map: Groundwater vulnerable

Drinking Water Catchment Map: Not within the drinking water catchment

Watercourse Map: Not within or affecting a defined watercourse

Urban Release Area Map: Not within an urban release area

Obstacle Limitation Surface Map: No restriction on building siting or construction

Additional Permitted Uses Map: No additional permitted use applies

Flood Planning Map: Within a flood planning area

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

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

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

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

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

# Part 2 - Permitted or Prohibited Development

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

The subject site is located within the E3 Productivity Support zone. The proposed development is defined as a *Centre-based child care facility* under OLEP 2011 and is permitted with consent for this zone. This application is seeking consent.

## centre-based child care facility means -

- (a) a building or place used for the education and care of children that provides any one or more of the following -
  - (i) long day care,
  - (ii) occasional child care,
  - (iii) out-of-school-hours care (including vacation care),
  - (iv) preschool care, or
- (b) an approved family day care venue (within the meaning of the <u>Children (Education and Care Services) National Law (NSW)</u>),

**Note** - An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the <u>Children (Education and Care Services) National Law (NSW)</u>) is provided.

but does not include -

- (c) a building or place used for home-based child care or school-based child care, or
- (d) an office of a family day care service (within the meanings of the <u>Children (Education and Care Services) National Law (NSW)</u>), or
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or
- (g) a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or
- (h) a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility.

**Clause 2.3** of LEP 2011 references the Land Use Table and Objectives for each zone in LEP 2011. These objectives for land zoned E3 Productivity Support are as follows:

# **Objectives of zone E3 Productivity Support**

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured onsite.
- To encourage a mix of light industries that encourage the sharing of facilities.
- To ensure development is ordered in such a way as to maximise public transport patronage, and encourage walking and cycling, in close proximity to settlement.

The proposed centre based childcare facility is consistent with the objectives of the E3 zone as it provides an essential service that supports the needs of workers, businesses, and the broader community within the employment area. The facility offers a service that will be compatible with surrounding anticipated light industrial, warehouse, and office type uses. By offering a day-to-day service necessary for workers, the childcare centre complements the functioning of the employment zone.

## 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**

## 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 not identified on the Flood Planning Map as a Flood Planning Area.

### **5.22 Special Food Considerations**

Clause 5.22 applies to land defined as being located between what is defined as the flood planning area and the probable maximum flood. The development site is identified to be within the *Blackmans Swamp Creek PMF 2021*, as shown in figure 6 below.

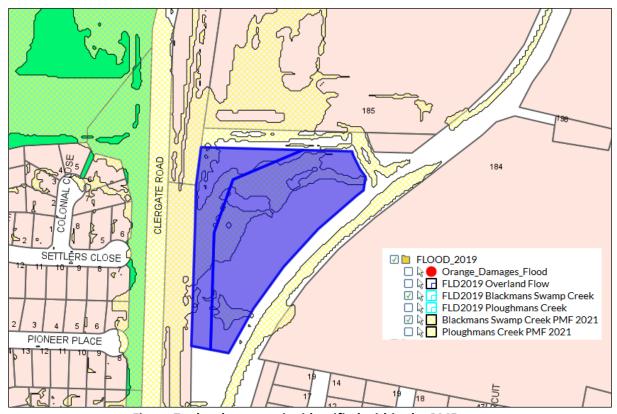


Figure 7 - development site identified within the PMF area

Clause 5.22 specifies that early education and care facilities are defined as sensitive and hazardous development under this clause. To this end 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.

In this regard the proposed development is unlikely to change flooding behaviour on or off the site and is unlikely to adversely affect the safe occupation and efficient evacuation of people from the site. However, having said this, it is nonetheless recommended given the nature of the development involving the care of young children that a flood evacuation plan be prepared prior to the issue of an Occupation certificate to ensure the safe occupation and efficient evacuation of people in the event of a major flood. The development is unlikely to cause or contribute to erosion, siltation or reduce riparian vegetation.

## Part 6 - Urban Release Area

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

#### Part 7 - Additional Local Provisions

#### 7.1 - Earthworks

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

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

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

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

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

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

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

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

# 7.3 - Stormwater Management

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

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

The proposal has been designed to include permeable surfaces and includes onsite retention of stormwater through the use of rainwater tanks. Conditions are included to address stormwater management issues. The final design for stormwater will need to respond to the recommended conditions. It is therefore considered that the post development runoff levels will not exceed the predevelopment levels.

# 7.6 - Groundwater Vulnerability

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

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

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

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

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

#### Clause 7.11 - Essential Services

# Clause 7.11 applies and states:

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

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

In consideration of this clause, all utility services are available to the land and adequate for the proposal. The utility services were conditioned to be completed as part of the subdivision application (DA 518/2024(1)).

#### Clause 7.13 - Commercial Premises in Zone E3

- (1) This clause applies to land in Zone E3 Productivity Support and identified as "Area B" on the Land Zoning Map.
- (2) Development consent must not be granted to development for the following purposes unless the consent authority is satisfied the gross floor area of the part of a building used for the purposes will not exceed 400m<sup>2</sup>:
  - (a) landscaping material supplies,
  - (b) local distribution premises,
  - (c) rural supplies,
  - (d) specialised retail premises,
  - (e) timber yards.

The development site is within *E3 Productivity Zone*, however, not within the "Area B". Thereby this clause is not relevant to this application.

#### STATE ENVIRONMENTAL PLANNING POLICIES

The following SEPPs applicable to the proposed development:

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

# STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

# **Chapter 3 - Advertising and Signage**

# 3.6 Granting of Consent to Signage

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Chapter as set out in Section 3.1(1)(a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.

The proposed development includes two business identification signs (refer Figure 7):

- Pylon Sign located at the entrance to the site;
- Flush Wall Sign affixed to the building façade.

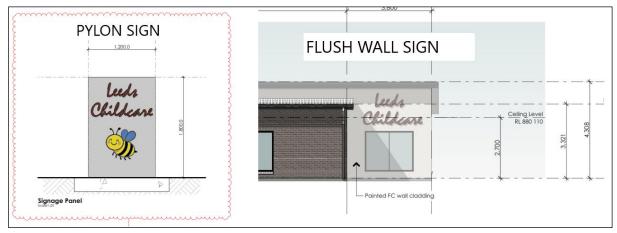


Figure 8 - business identification signages proposed

The proposed signs are consistent with the objectives of this clause as they:

- Provide effective identification of the business premises without contributing to visual clutter.
- Maintain the amenity and character of the locality, as the signage scale and materials complement the low-rise, single storey childcare facility and the future built-form character of the area.
- **Ensure public safety**, with signage positioned to avoid obstruction to sightlines or interference with traffic and pedestrian movement.

# **Schedule 5 - Assessment Criteria**

| Criteria                             | Assessment  |
|--------------------------------------|---|
| Character of the Area                | The signage is appropriate in scale and design for the rural-urban fringe context. The height (1.8m for the pylon sign) and simple typography ensure the signage integrates with the low-density and emerging commercial character of the locality. |
| Special Areas                        | The site is not within a heritage conservation area or special precinct. The signage does not detract from any scenic or environmental quality.   |
| Views and Vistas                     | The signs do not obstruct or dominate views and are not located in prominent view corridors. The pylon sign is located near the site entrance and maintains visibility while remaining unobtrusive.   |
| Streetscape, Setting or<br>Landscape | The signage enhances legibility for users without overwhelming the streetscape. The flush wall sign is incorporated into the architectural design of the façade and the pylon sign is of a suitable height and proportion.                          |
| Site and Building                    | Both signs are proportionate to the scale of the development. The flush wall sign is aligned with the building's roof height and positioned above eye level to remain visible yet subtle.   |
| Associated Devices and Logos         | The bee logo and "Leeds Childcare" branding are simple, child-friendly, and visually appealing. They reflect the nature of the facility while maintaining a clean, professional appearance.   |
| Illumination                         | No illumination is proposed, thereby avoiding potential light spill or impact on nearby properties.   |
| Safety                               | The placement of the signage does not interfere with driver sightlines or pose safety risks to pedestrians or vehicles.   |

# 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

In consideration of this section, a supporting Site Contamination Investigation was submitted in support of the proposal (Prepared by Barnson Pty Ltd, dated 23 January 2025).

The investigation concluded:



#### 10.6 Recommendations

Based on the findings of the desktop review and site investigation, it can be stated with a reasonable level of confidence that the contaminants detected at the investigation area pose a low risk to the health of humans and the environment and the site can be considered suitable for the proposed residential land-use including use as a childcare centre.

Source: Preliminary Site Investigation, Barnson, January 2025

The application was referred to Council's Environmental Health Officer for review. The officer confirmed that the submitted Preliminary Site Investigation Report is satisfactory. The conclusions and recommendations provided within the report are considered acceptable. However, to address any unforeseen issues that may arise during the course of works, a standard unexpected finds condition has been included.

# STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 Chapter 2 Infrastructure

#### **Division 15 Railways**

The subject Development Application (DA) was referred to TfNSW for comment in accordance with clause 2.98(2) of the *State Environmental Planning Policy (Transport and Infrastructure)*. The application seeks approval for a childcare centre on part of 185 Leeds Parade Orange (Lot 4 DP 1065309 and Lot 1 DP 1286615). Whilst the subject land is located adjacent to operational rail corridor from Orange Junction to Dubbo the land known as Proposed lot 02 on which the childcare centre is proposed is well removed from the railway area. Out of abundance of caution given that the subdivision works have not yet been completed the documents exhibited in support of the subject proposal have been reviewed by TfNSW who have recommended conditions of consent and comments regarding the proposal in accordance with clause 2.98(2). These matters have been addressed through conditions of consent.

#### Part 2.3 Division 5 Electricity transmission or distribution

# Section 2.48 Determination of development applications - other development

An exposed overhead electricity powerline is located at the site frontage on the proposed new road (see Figure 8). The proposal was referred to Essential Energy for consideration and comments. The electricity supply authority raised no objection to the proposal, subject to the following specific comments relating to the application along with standard conditions. The conditions are included in the notice of determination.

- As the plans provided show that the proposed development is to be directly under Essential Energy infrastructure, the overhead 11kv high voltage infrastructure would need to be relocated by an accredited service provider before any works on this proposed development can be carried out, it is advised that the applicant contacts a Level 1 and 3 accredited service providers for the relocation of the 11kv overhead network, please note, this will incur costs set by the accredited service provider.
- It is also essential that all works comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a Request for Safety Advice if works cannot maintain the safe working clearances set out in the Working Near Overhead Powerlines Code of Practice, or CEOP8041 Work Near Essential Energy's Underground Assets.



Figure 9 - exposed overhead electricity powerline

## Chapter 3 Educational establishments and childcare facilities

The relevant provisions of the SEPP are considered below:

# Section 3.22 - Centre-based childcare facility - concurrence of Regulatory Authority required for certain development

A total of 422.5m² indoor unencumbered floor space is required (based on 3.25m² X 130 children). Indoor unencumbered floor space of 439.18m² is proposed to be provided over six (6) learning rooms.

Outdoor unencumbered floor space of 910m<sup>2</sup> is required (based on 7m<sup>2</sup> X 130 children). Outdoor floor space of 1,057.84m<sup>2</sup> is proposed to be provided over two outdoor areas.

Based on the compliance with the regulations for indoor and outdoor unencumbered floor space, notice to and concurrence of the Regulatory Authority for NSW under the children (Education and Care Services) National Law (NSW) is not required for the proposed development, pursuant to this section.

# Section 3.23 - Centre-based childcare facility - matters for consideration by consent authorities

The proposed development will comply with the applicable provisions of the *Child Care Planning Guideline* (DPIE 2021) pursuant to Section 3.23 as demonstrated below.

#### **CHILD CARE PLANNING GUIDELINE**

# Part 2 - Design Quality Principles

# **Principle 1 - Context**

The proposed childcare facility is located approximately 2.4km from the Orange City Centre. The site is bounded by Leeds Parade to the east, the main Western Railway line to the west, a public road and industrial-zoned land to the north, and residential-zoned land to the south. Access to the childcare facility will be provided via a concrete driveway connecting to the bitumen service road, which was formerly part of Leeds Parade. The site is legally described as Lot 1 DP 1286615 and is zoned E3 Productivity Support under the Orange Local Environmental Plan 2011. The surrounding exhibits mixed land-uses with character of rural residential typology, light industry and general residential dwellings.

The site is strategically located at the interface of residential and industrial zoned land, enabling the centre to serve both nearby families and the local workforce. Its proximity to surrounding residential areas supports accessibility for families and carers, while the adjoining industrial zone ensures minimal land use conflict.

# Principle 2 - Built-form

The built-form of the proposed childcare centre fits appropriately within the existing built-form. The single storey development is of a scale and design that complements the surrounding mix of low-density residential dwellings and light industrial buildings. The built-form has been designed to minimise visual impact, with landscaped setbacks and low-height structures that respect the semi-rural character of the area. The proposal incorporates materials and finishes that are sympathetic to the surrounding environment while meeting the functional requirements of a childcare facility. In accordance with the Guidelines, the development achieves a balance between providing a safe, accessible, and high-quality care environment and maintaining compatibility with the local character and streetscape.

# **Principle 3 - Adaptive learning spaces**

The proposal includes purpose-built indoor learning areas designed to be functional, enjoyable, and user-friendly. These spaces proposed will have direct access to adjacent outdoor play areas, ensuring easy flow between indoor and outdoor activities. Internal playrooms proposed will be tailored to suit different age groups and developmental needs, while both indoor and outdoor areas will offer a variety of settings and facilities to encourage interaction and engagement.

## **Principle 4 - Sustainability**

The proposed design integrates passive sustainable design principles through careful orientation and the selection of appropriate materials. The use of brick façades will assist in minimising heat gain, while the building's substantial thermal mass will help moderate internal temperature fluctuations.

# Principle 5 - Landscape

The proposed development is supported by a landscape design concept that aims to enhance site aesthetics and ensure integration with the public domain and surrounding streetscape. Council's Manager City Presentation has expressed support for the proposed landscape design. A condition will be included in the consent requiring the submission of a detailed landscape plan prior to the issue of a Construction Certificate, for review and approval by Council's Manager City Presentation and Manager Development Assessments.

# **Principle 6 - Amenity**

The proposed childcare facility is designed to provide a high standard of amenity for its users. Learning spaces will be efficient and functional, offering direct access to essential facilities such as bathrooms, sleep rooms, storage, and service areas. Indoor playrooms will create ideal environments for learning and play, benefiting from ample natural light, cross-ventilation, and pleasant outlooks. Outdoor play spaces will be located immediately adjacent to the indoor areas, allowing seamless indoor-outdoor connectivity.

The proposed childcare facility is located on Leeds Parade, well separated from nearby residential dwellings. As such, it is not expected to unreasonably impact residential amenity in terms of visual or acoustic privacy, solar access, or visual bulk. The location of the site provides an appropriate buffer from sensitive residential interfaces, minimising potential amenity impacts.

# **Principle 7 - Safety**

The building design and associated site works have been developed in accordance with the principles of Crime Prevention Through Environmental Design (CPTED). The proposal aligns with key design quality principles, including Context, Built-form, Adaptive Learning Spaces, Sustainability, Landscape, Amenity, and Safety. It also addresses the relevant considerations outlined in the Child Care Planning Guideline, which generally take precedence over the Development Control Plan (DCP) provisions - except in relation to building height, side and rear setbacks, and car parking requirements.

#### Part 3 - Matters for Consideration

# 3.1 - Site Selection and Location

# **Objectives:**

- C1 To ensure that appropriate zone considerations are assessed when selecting a site.
- C2 To ensure that the site selected for a proposed childcare facility is suitable for the use.
- C3 To ensure that sites for childcare facilities are appropriately located.
- C4 To ensure that sites for childcare facilities do not incur risks from environmental, health or safety hazards.

In consideration of the above objectives:

- In relation to Objective 1, the proposed childcare centre is located on a site zoned E3
  Productivity Support, which permits the intended land use. The surrounding area is currently
  undeveloped, allowing for sufficient building separation from any existing or future
  neighbouring developments.
- Noise-generating elements such as outdoor play areas have been strategically positioned to minimize impacts on adjoining and future residential properties. An Acoustic Report by RAPT Consulting, dated October 2024 has been provided, demonstrating compliance with relevant noise criteria.

# Conclusion

This noise assessment has been undertaken for MAAS to inform a Development Application (DA) for a proposed childcare centre at Lot 4 DP1065309 185 Leeds Parade Orange, NSW.

#### **Operational Noise**

The results of the assessment indicate compliance with noise goals can be safely met. While compliance is expected, a standard set of management measures has been provided to deal with the unlikely event of any noise issues.

#### **External Noise**

Based on the monitoring results inclusive of road traffic, natural sounds and cumulative ambient noise environment and the information provided regarding the development, it is expected compliance with established noise goals can be achieved provided design measures similar to what has been outlined in Section 4.3 of this report are investigated and implemented.

Source: RAPT Consulting, October 2024

- Setbacks are compliant with planning controls, ensuring that adjoining properties are not adversely affected by overshadowing and that sufficient solar access is maintained. Given the development is single storey, impacts on privacy, views, or overshadowing are negligible.
- Vehicular access is proposed via a concrete driveway connecting to the bitumen service road
  previously known as Leeds Parade. Onsite car parking is provided in accordance with Orange
  DCP 2011 and TfNSW guidelines. A Traffic Impact Assessment prepared by Intersect Traffic
  supports the proposal and confirms its acceptability from a traffic and access perspective.
- The subject site is considered suitable for the proposed childcare centre. Its size and configuration accommodate the proposed built-form, car parking, and outdoor play areas while meeting the relevant design and operational standards. The single storey building design is compatible with the intended use and allows for safe and convenient access, internal circulation, and supervision. The site layout provides clear separation between functional zones, such as play areas and vehicular access, ensuring child safety and efficient operation of the facility. Furthermore, the location within an emerging employment precinct supports the need for childcare services within proximity to future workplaces.

## 3.2 - Local Character, Streetscape and the Public Domain Interface

# **Objectives:**

- To ensure that the childcare facility is compatible with the local character and surrounding streetscape.
- To ensure clear delineation between the childcare facility and public spaces.
- To ensure that front fences and retaining walls respond to and complement the context and character of the area and do not dominate the public domain.

# In consideration of the above objectives:

- The proposed childcare centre is designed to respond appropriately to the existing character of
  the locality, which comprises primarily vacant land surrounding established residential areas
  and is zoned Productivity Support. The single storey built-form, along with the use of modern
  materials and finishes, ensures the development integrates well with the emerging residential
  and commercial streetscape planned for the area.
- In regard to the second objective, a clear distinction is maintained between public and private areas, with the use of fencing, strategic window placement, and thoughtful facility layout enhancing safety, security, and passive surveillance. The facility features a single, clearly defined entry point.
- The development proposes to install Colorbond and palisade fencing throughout the facility and retaining wall along the southeastern side of the subject site. It is identified to be complementing the context and character of the surrounding area and have minimal visual impact.



Figure 10 - proposed elevation showing frontage (northeast direction)



Figure 11 - proposed elevation showing frontage (northwest direction)

# 3.3 - Building orientation, envelope, building design and accessibility Objectives:

- To respond to the streetscape and site, mitigate impacts on neighbours, while optimising solar access and opportunities for shade.
- To ensure that the scale of the childcare facility is compatible with adjoining development and the impact on adjoining buildings is minimised.
- To ensure that setbacks from the boundary of a childcare facility are consistent with the predominant development within the immediate context.
- To ensure that buildings are designed to create safe environments for all users.
- To ensure that childcare facilities are designed to be accessible by all potential users.

In consideration of the above objectives:

## **Bulk and Scale**

- The proposal has been designed to comply with local building height and setback controls
  while minimising any potential adverse overshadowing or amenity impacts. The design also
  promotes a safe and inclusive environment, accessible to all potential users, and includes
  appropriately shaded outdoor play areas that respond to the natural environment.
- As the facility is single storey, it results in minimal overshadowing impacts. As shown in Figure 11 below, the Vertical Building Envelope (VBE) for the proposed development remains well within the permissible limits.



Figure 12 - VBE plane

#### **Setbacks**

- The subject site is located within the Productivity Support zone, and the proposed side and rear boundary setbacks are appropriate given the prevailing context, as the surrounding land is currently vacant.
- The proposed building is set back a minimum of 6m from Leeds Parade (western boundary). Its stepped design further enhances the setback towards the southern and northern ends, achieving a maximum setback of 10.7m to the southwest and 8.8m to the northwest.
- The site frontage (north) provides a consistent 5m setback from the property boundary to the start of the front fence. The outdoor play area is located at the front of the development, as shown in the site plan below.
- Overall, the proposed development is appropriately sited and responds well to its context.

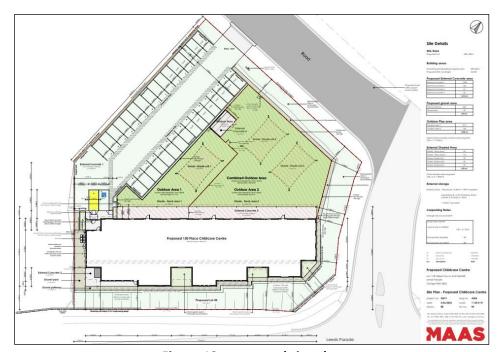


Figure 13 - proposed site plan

#### **Solar Access**

The proposed care rooms will have openings to the north and east for daylighting and solar access. The outdoor playgrounds will have access to northern and eastern sunlight.

## Security

The proposed development will achieve ease of access and secure entry to the site and building, noting perimeter fencing and internal carpark access. Crime prevention measures are included in the site layout and building design.

# **Accessibility**

Accessible design will be achieved via accessibility to and within the facility, ramped pathways to key areas and continuous paths of travel to and within the building.

## 3.4 - Landscaping

# **Objective**

• To provide landscape design that contributes to the streetscape and amenity.

The proposed development is supported by a landscape design concept. The proposed landscape design will complement the landscaping established in the nearby neighbourhood. A variety of hard and soft landscaping elements will be provided in outdoor play spaces. Council's Manager City Presentation supports the proposed landscape design concept for the site.

A condition requiring the submission of a detailed landscape plan to be approved by Council's Manager City Presentation via Manager Development Assessments will be included in the recommended Notice of Determination.

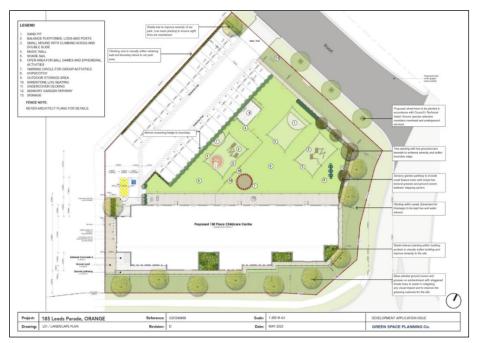


Figure 14 - proposed landscape concept plan

### 3.5 - Visual and Acoustic

# **Objectives**

- To protect the privacy and security of children attending the facility.
- To minimise impacts on privacy of adjoining properties.
- To minimise the impact of child care facilities on the acoustic privacy of neighbouring residential developments.

The proposal has been designed to ensure no adverse visual or acoustic privacy impacts are caused to the nearby properties. The proposed security fencing consisting of Colorbond and palisade fencing and childproof self-closing gates will ensure the privacy and security of children attending the facility. Noise emissions from the proposed child care facility will comply with relevant criteria.

#### 3.6 Noise and Air Pollution

# **Objectives**

- To ensure that outside noise levels on the facility are minimised to acceptable levels.
- To ensure air quality is acceptable where childcare facilities are proposed close to external sources of air pollution such as major roads and industrial development

The proposal is accompanied by an Acoustic Report prepared by RAPT Consulting which provides conclusion that noise goals can be achieved safely. The application was referred to the Council's Environmental Health Officer and following comments were made:

The acoustic report recommended Category 2 building materials to achieve a certain level of noise reduction, and an operational noise management plan to help regulation noise from children and vehicles, etc. Both of these have been conditioned.

No detailed mechanical plant specifications were provided for the acoustic assessment, so those details and a requirement to demonstrate compliance with the assessment's noise goals has been conditioned.

The proposal is not considered to be adversely affected by potential air pollution.

# 3.7 Hours of Operation

# **Objectives**

• To minimise the impact of the childcare facility on the amenity of neighbouring developments.

The proposed hours of operation for the childcare facility are 6:30am to 6pm Monday to Friday. An Acoustic Report in support of the proposed hours has been submitted with the application. Recommended acoustic measures have been included in the design. Conditions of consent have been included to address matters in relation to Noise. The proposed hours are considered suitable in this context.

## 3.8 - Traffic, Parking and Pedestrian Circulation

# **Objectives**

- To provide parking that satisfies the needs of users and demand generated by the centre.
- To provide vehicle access from the street in a safe environment that does not disrupt traffic flows.
- To provide a safe and connected environment for pedestrians both on and around the site.

The following comments are provided in consideration of the above objectives:

# **Car Parking**

Pursuant to DCP 2004, onsite parking is required for childcare centres at a rate of one space per four children. Based on 130 children,  $32.5 \sim 33$  onsite parking spaces will be required. The proposed carpark will contain 33 car spaces, thereby satisfying the requirements on the DCP.

#### Access

The proposed development will adopt the following design solutions:

- Car park layout that will allow vehicles to enter and exit the site in a forward direction.
- Provision of an accessible parking space with shared zone.

#### **Traffic Generation**

Traffic generation associated with the proposed childcare facility will be as follows:

Using these rates, the traffic generating potential of the proposed 130 place child care centre can be calculated as follows:

#### AM Peak

Traffic generation = 0.8 vehicle trips per child x 130 children

= 104 vehicle trips per hour

PM Peak

= 0.7 vehicle trips per child x 130 children Traffic generation

= 91 vehicle trips per hour

Source: Intersect Traffic Pty Ltd based on RTA's guide to Traffic Generating Developments 2002

Pursuant to the submitted supplementary Traffic Investigation (Intersect Traffic Pty Ltd November 2024):

- SIDRA analysis / traffic surveys demonstrate that traffic generation associated with the development will have minimal impact on the operation of the nearby key intersections (Northern Distributor Road / Leeds Parade / Hanrahan Place round about and Leeds Parade / New proposed road T-intersection).
- The surrounding road network has sufficient spare capacity to cater for the additional development traffic without adversely impacting on current levels of service experienced by motorists on the road network both post development and through to 2034.
- It is expected that the additional traffic generated by the development will be in the order of up to 104 vtph in the AM peak and 91 vtph in the PM peak.
- The proposed car park access is safe and suitable to service the car park as it complies with the minimum requirements of Orange City Council and Australian Standards.
- The proposal provides a total of 33 onsite car parking spaces including 1 accessible parking space and is considered compliant with the Orange City Council DCP (2004) car parking requirements.
- A review of the plans indicates that the parking layout complies with both the requirements of Australian Standard AS2890.1-2004 Parking facilities - Part 1 - Off-street car parking and Orange City Council DCP (2004).
- Servicing of the site will be infrequent (once or twice a day) by vehicles that would utilise the vacant carparking spaces during the day.
- The proposed development will not generate any significant external pedestrian or bicycle traffic therefore no nexus exists for the provision of additional infrastructure near the site.

Council's Assistant Development Engineer concurs with the findings of the submitted traffic investigations. The proposed development is acceptable subject to the recommended conditions of consent.

# Part 4 - Applying the National Regulations to Development Proposals

The proposed development will satisfy the following National Regulations:

- Regulation 104 Fencing or barrier that encloses outdoor spaces.
- Regulation 106 Laundry and hygiene facilities.
- Regulation 107 Unencumbered indoor space.
- Regulation 108 Unencumbered outdoor space.
- Regulation 109 Toilet and hygiene facilities.
- Regulation 110 Ventilation and natural light.
- Regulation 111 Administrative space.
- Regulation 112 Nappy change facilities.
- Regulation 113 Outdoor space natural environment.
- Regulation 114 Outdoor space shade.
- Regulation 115 Premises designed to facilitate supervision.

# Section 3.27 Centre-based childcare facility - development control plans

DCP 2004 does not contain prescribed provisions for centre-based childcare facilities (including operational or management plans; the demonstrated need for childcare services; proximity to other facilities; design considerations, etc.). Notwithstanding, such provisions would not apply to the proposed development pursuant to Section 3.27.

# 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 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 5 General Considerations for Zones and Development
- Part 7 Development in Residential Zones
- Part 10 Special Uses and Roads Zones
- Part 14 Advertising
- Part 15 Car Parking.

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

The relevant matters in Part 5 are addressed below in Section 4.15(1)(d).

The relevant matters in Parts 7 and 15 were considered in the foregoing assessment under Child Care Planning Guideline (Department of Environment and Planning 2017).

The relevant matters in Parts 10 and 14 are considered below:

# DCP 2004 - 10 Special Uses and Roads Zones

# 10.7 Site Specific Development Control Plan - 185 Leeds Parade

The proposed development is not situated within the specific site identified in this chapter of the DCP. While it shares the same address as the referenced site, the development is actually located to the south of that identified area. There are therefore no site specific development controls that apply to this site.



Figure 15 - subject site with respect to the site identified in ODCP Part 10.7

# DCP 2004 - 14 Advertising

#### PO 14.2-1 PLANNING OUTCOMES - ADVERTISEMENTS

- 1 The location, size, colour and design of advertisement complement the character of the locality
- 2 Advertisements on buildings fit within the envelope of the building.
- 3 Free-standing pole or pylon signs relate to the height of associated buildings in business and industrial areas.
- Free-standing signs in residential areas are at a personal scale (ie, about 2-metres high or less) within a landscaped setting.

The proposed signage is in the form of flush wall signage and a pylon sign. Detailed assessment is carried out under the Chapter 3 (Advertising and Signage) of State Environmental Planning Policy (industry and employment) 2021.

#### **DEVELOPMENT CONTRIBUTIONS**

#### Section 64 Local Government Act 1993

Development contributions for water, sewer and drainage works are applicable to the proposed development. Water and sewer headworks based on NSW Water Directorate Guidelines for childcare centres (130 placement centre = 0.06wET & 0.10sET = 7.8 ET water and 13.0 ET sewer).

The contributions are based on 7.8 ETs for water supply headworks and 13.0 ETs for sewerage headworks. A Condition is included requiring payment of applicable headworks contributions.

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

# **Demolition of a Building (clause 61)**

The proposal does not involve the demolition of a building.

# Fire Safety Considerations (clause 62)

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

# **Buildings to be Upgraded (clause 64)**

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

# **BASIX Commitments (clause 75)**

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

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

The proposed development of a childcare centre is likely to have the following impacts:

# 1. Environmental Impacts on the Natural Environment

- Vegetation and Biodiversity: The site currently contains limited established vegetation, with no known threatened species or significant habitat areas. Minimal removal of vegetation is required, and compensatory planting is proposed to enhance site aesthetics.
- Stormwater and Drainage: The development includes appropriate stormwater management measures to ensure that runoff is controlled and directed to points of discharge.
- Noise: Acoustic impacts from children playing outdoors have been assessed. The proposed outdoor play areas have been located and acoustically treated (e.g., fencing, landscaping) to mitigate noise transmission to neighbouring properties.

# 2. Impacts on the Built Environment

- Traffic and Parking: A Traffic Impact Assessment has been undertaken and indicates that
  the development will generate a manageable increase in traffic movements, particularly
  during peak drop-off and pick-up times. Adequate onsite parking is provided in accordance
  with Orange DCP 2004, ensuring minimal impact on the surrounding road network.
- Access and Safety: Vehicular and pedestrian access points have been designed to ensure safe ingress and egress from Leeds Parade.
- **Streetscape and Character**: The proposed single storey building has been designed to be sympathetic to the existing residential character of the area through the use of appropriate materials, scale, and landscaping. The development is consistent with surrounding low-density uses and integrates well into the existing streetscape.

# 3. Social Impacts

- Community Benefit: The development provides a valuable service to support the needs of
  working families in Orange by increasing access to early childhood education and care. The
  centre will cater 130 children, contributing to the local community's wellbeing and
  productivity.
- Amenity: Measures such as appropriate fencing, acoustic treatment, landscaped buffers, and restricted operating hours (e.g., 7am–6pm weekdays) are proposed to mitigate impacts on adjoining properties and maintain neighbourhood amenity.

# 4. Economic Impacts

- **Employment**: The childcare centre will generate employment for educators, administrative staff, and support services, both during the construction phase and ongoing operation.
- **Local Economy**: The facility may provide indirect economic benefits to nearby businesses and services through increased patronage by families and employees.

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

The subject site at 185 Leeds Parade is considered suitable for the proposed childcare centre due to its location, land use zoning, and surrounding context. The site is appropriately zoned under the Orange Local Environmental Plan 2011 to permit childcare centres with development consent and is of sufficient size and configuration to accommodate the proposed building, outdoor play areas, car parking, and landscaping in accordance with relevant planning controls and design standards.

The site has good access to the local road network via Leeds Parade, a key arterial route, facilitating safe and convenient drop-off and pick-up. It is also well-positioned to serve the surrounding residential catchment and support the increasing demand for early childhood education in the area. The relatively flat topography of the site further supports cost-effective development and ease of access for all users. Overall, the physical attributes, zoning compliance, and strategic location of the site make it a highly suitable setting for a childcare facility.

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

The proposed development comprises "advertised development" pursuant to DCP 2004-5.3. The application was advertised for the prescribed period of 14 days. At the conclusion of the exhibition period, one submission had been received.

The submission was from the organisation which oversees the management of the adjacent rail corridor on behalf of Transport for NSW (TfNSW). The submission advised that a formal referral to TfNSW would be required. This referral was carried out via the NSW Planning Portal. TfNSW responded and their requirements have been incorporated into the attached draft Notice of Determination.

# 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**

- 2 Plans, D25/64886
- 3 Submission (redacted), D25/70363 J



# NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

| Application number  | DA 18/2025(1)<br>PAN-505232                                    |
|---|--|
| Applicant   | Maas Properties<br>206 HANNELL STREET MARYVILLE 2293           |
| Description of development                                | Centre Based Childcare Facility (130 Placement Capacity)       |
| Property  | 185 LEEDS PARADE ORANGE 2800<br>4/-/DP1065309<br>1/-/DP1286615 |
| Determination   | Approved Consent Authority - Council                           |
| Date of determination                                     | 1/07/25  |
| Date from which the consent operates                      | 1/07/25  |
| Date on which the consent lapses                          | 1/07/30  |
| Approval bodies that have given general terms of approval | Council  |
|   |  |

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.
- To ensure the utility services are available to the site and adequate for the development.
- 3. To provide adequate public health and safety measures.
- 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.
- 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**

#### Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

#### **Approved Plans:**

- 1. Site Plans prepared by MAAS, job code DV018\_SS001, Revision 1, dated 21/11/2023, total number of sheets 2
- 2. Architectural Plans prepared by MAAS, Project number 24011, named 'Proposed Childcare Centre', Revision 4, Sheets A000, A001, A002, A003, A004, A005, A101, A102, A501, A502, A503, A1001, A1002, total number of sheets 13, dated 05/06/2025
- 3. Landscape Plan prepared by Green Space Planning Co., Revision D, Reference GSP240488, total number of sheets 3, dated May 2025

#### **Approved documents:**

- 1. Operational Waste Management Plan by MAAS group of properties
- 2. Plan of Management prepared by MAAS group of properties
- 3. Acoustic Assessment, prepared by RAPT Consulting, dated October 2024.
- 4. Bushfire threat Assessment prepared by Firebird ecoSultants Pty Ltd, dated 03/12/2024

In the event of any inconsistency between the approved plans and documents, the approved **Plans / Documents** prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

**Condition reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

#### 2 Development and subdivision works requirements

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

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

#### National Construction Code

All building work must be carried out in accordance with the provisions of the National Construction Code.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 4 Transport for NSW - Guidelines

The applicant must comply with the requirements of T HR CI 12090 ST Airspace and External Developments (Link: https://www.transport.nsw.gov.au/industry/asset-standards-authority/finda-standard/airspace-and-external-developments-1) and Development Near Rail Corridors and Busy Roads- Interim

Guidelines (Link: https://www.planning.nsw.gov.au/sites/default/files/2023-03/development-near-rail-corridorsand-busy-roads-interim-guideline.pdf.

Please note that *State Environmental Planning Policy (Infrastructure) 2007* referred in the above documents has been superseded by *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

#### Condition reason:

#### 5 Access to the rail corridor

The applicant must not and, must ensure its employees and all other persons do not enter any parts of the rail land at all times unless otherwise permitted in writing by UGRRL and TfNSW in advance.

**Condition reason:** The proposed project site is adjacent to the rail corridor. As such, it is essential that access to the rail land must be permitted in advance.

#### Noise & Vibration

The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled "Development Near Rail Corridors and busy Roads -InterimGuidelines."

**Condition reason:** The proposed development will be occupied as a Childcare Facility in the near future. The rail corridor adjacent to site is operational thus rail noise and vibration should be considered for the

proposed development. It is essential to maintain the acoustic amenity of the occupants of the Childcare Facility.

# **Building Work**

#### Before issue of a construction certificate

#### Noise - Mechanical Plant

Detailed plans and specification for all mechanical plant is to be provided to Council for approval by the Manager Development Assessments. These details must include confirmation that mechanical plant noise will comply with the project noise goals in Section 3.3 of the acoustic assessment prepared by APT Consulting (Document ID: 2224623\_241212), dated 12 December 2024.

**Condition reason:** To ensure noise from mechanical plant complies with established noise goals.

#### 8 Noise - construction materials

Detailed specification for façade construction materials demonstrating compliance with the acoustic design recommendations in Section 4.3.3 of the acoustic assessment prepared by APT Consulting (Document ID: 2224623\_241212), dated 12 December 2024, is to be provided to Council for approval by the Manager Development Assessments.

Condition reason: To ensure noise does not unreasonably impact users of the facility.

#### 9 Contributions - water and sewer headworks charges

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 7.8 ETs for water supply headworks and 13.0 ETs for sewerage headworks. A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.

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

Condition reason: To ensure compliance with relevant statutory requirements.

# 10 Engineering plans for carpark

Engineering plans providing complete details of the proposed driveway and car parking

areas are to be submitted to Orange City Council or an Accredited Certifier (certifier - subdivision) upon application for a Construction Certificate. These plans are to provide details of levels, cross falls of all pavements, proposed sealing materials, linemarking, signage and proposed drainage works and are to be in accordance with Orange City Council Development and Subdivision Code and AS/NZS2890.1. The carpark plans shall be amended to delete the proposed stack parking.

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

#### 11 Liquid trade waste application

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.

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.

Condition reason: To ensure compliance with relevant statutory requirements

#### 12 Road opening permit required

A Road Opening Permit in Accordance with Section 138 of the Roads Act 1993 must be approved by Council prior to a Construction Certificate being issued or any intrusive works being carried out within the public road or footpath reserve.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 13 Stormwater detention design

The development's stormwater design is to include the incorporation of stormwater detention within the development, designed to limit peak outflows from the land to the pre-existing natural outflows up to a 1% AEP storm event, with sufficient allowance in overflow spillway design capacity to safely pass flows of lower frequency (that is, a rarer event) without damage to downstream developments.

The design of the detention storage is to be undertaken using the DRAINS rainfall-runoff hydrologic model (or an approved equivalent capable of assessing runoff volumes and their temporal distribution as well as peak flow rates) based on the most recent version of Australian Rainfall and Runoff calculations allowing for applicable climate change factor(s). The model is to be used to calculate the flow rates for the existing and post-development conditions. The developed flows are to be routed through the proposed storage within the model so that the outflows obtained are no greater than the flows obtained for the pre-existing natural flows. A report detailing the results of the analysis, which includes:

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

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

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

#### 14 Proposed Lot 02 to be registered prior to issue of a Construction Certificate

Prior to the issue of a construction certificate evidence shall be provided to the Principal Certifying Authority that proposed Lot 02 has been registered with NSW Land and Property Information.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 15 Landscaping - amended plan showing landscaping

An amended detailed plan showing landscaping must be submitted with an application for a construction certificate. The amended plan must include list of species proposed to be installed and msut be submitted to, and approved by Council's Manager Development Assessments prior to the issue of a constrution certificate.

**Condition reason:** To ensure a quality urban design for the development which complements the surrounding environment.

#### 16 Education and Care Services National Regulations

Complaince with the requirements of Education and Care Services National Regulations shall be demonstrated on the detailed construction drawings (include a compliance schedule format) submitted with the application for a Construction Certificate.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 17 Food - plans for food shop fit-out

Detailed plans and specifications are to be provided to Council specifying the proposed fit-out of the food preparation and storage areas in accordance with the requirements of Standard 3.2.3 "Food Premises and Equipment" of the Australian New Zealand Food Standards Code.

Condition reason: To ensure compliance with relevant statutory requirements.

18 Section 68 application - water and sewer

An approval under Section 68 of the *Local Government Act* is to be sought from Orange City Council, as the Water and Sewer Authority, for water, sewer and stormwater connection. Details concerning the proposed backflow prevention between the nominated water tank supply and the potable system are to be provided. No plumbing and drainage is to commence until approval is granted.

**Condition reason:** To ensure the utility services are available to the site and adequate for the development.

## 19 TfNSW - Stormwater Management

Prior to the issue of the Construction Certificate or commencement of any works, whichever is earlier, the applicant shall provide UGLRL and TfNSW with written confirmation and evidence

that the post-development flow rate and velocity are no more than the pre-development flow rate and velocity into the rail corridor. The applicant must ensure that all drainage from the

development is adequately disposed of and managed and not allowed to be discharged into the railway corridor unless prior written approval has been obtained from UGLRL on behalf of

TfNSW.

**Condition reason:** The documents supplied by the applicant do provide some information about pre-development and post-development flows; however, it is not clear whether post-development flow rate and velocity are no more than the pre-development flow rate and velocity. Furthermore, there is no evidence that the stormwater from the development will not be discharged towards the rail corridor.

It is essential for UGLRL and TfNSW to be satisfied that the proposed stormwater/drainage does not have any adverse impact

#### 20 RFS - Landscaping Assessment

Landscaping within the required asset protection zone must comply with Appendix 4 of Planning for Bush Fire

Protection 2019. In this regard, the following principles are to be incorporated:

• 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:

- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or

located in small clusters);

 Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30%

(OPA) at maturity and trees do no touch or overhang buildings;

 Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in

their canopies;

- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

**Condition reason:** Intent of measures: to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.

# Before building work commences

#### 21 Onsite toilet

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.

Condition reason: To provide adequate public health and safety measures.

# 22 Appoint PC

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.

Condition reason: To ensure compliance with relevant statutory requirements.

# 23 Construction certificate required

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.

**Condition reason:** 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.

#### 24 No commencement until details received

The construction works the subject of this development consent MUST NOT be commenced until:

- (a) Detailed plans/specifications of the building have been endorsed with a construction certificate by:
  - (i) the Council, or
  - (ii) a registered certifier, and
- (b) The person having the benefit of the development consent:
  - (i) has appointed a Principal Certifier, and
  - (ii) has notified the Council of the appointment, and
- (c) The person having the benefit of the development consent has given at least two (2) day's notice to the Council of the person's intention to commence the erection of the building; and
- (d) Builder's name and licence number has been supplied to Council or the Principal Certifier; or
- (e) Owner Builder's permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifier; and
- (f) Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifier; and
- (g) A sign has been erected onsite in a prominent position containing the information prescribed by Clause 98A(2) and (3) of the EP&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.

Condition reason: To ensure compliance with relevant statutory requirements.

# 25 Essential Energy - Relocation of overhead 11kv high voltage infrastructure

- As the plans provided show that the proposed development is to be directly under Essential Energy infrustructure, the overhead 11kv high voltage infrustructrure would need to be relocated by a accredited service provider before any works on this proposed development can be carried out, it is advised that the applicant contacts a level 1 and 3 accredited service providers for the relocation of the 11kv overhead network, please note, this will incure costs set by the accredited service provider.
- It is also essential that all works comply with SafeWork clearance requirements. In
  this regard it is the responsibility of the person/s completing any works to
  understand their safety responsibilities. The applicant will need to submit a <u>Request</u>
  <u>for Safety Advice</u> if works cannot maintain the safe working clearances set out in
  the <u>Working Near Overhead Powerlines Code of Practice</u>, or <u>CEOP8041</u> <u>Work Near Essential Energy's Underground Assets</u>.

**Condition reason:** To ensure that safety measures are followed when working near essential energy infrastructure, protecting both workers and the surrounding environment while complying with legal and industry guidelines.

# **During building work**

#### 26 Food - details of food preparation

The fit-out of the food preparation and storage areas are to be installed in accordance with the requirements of Food Safety Standard 3.2.3 "Food Premises and Equipment" of the Australian New Zealand Food Standards Code.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 27 Unexpected finds - contamination

In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work onsite must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works onsite must not resume unless the express permission of Council's

Director Development Services is obtained in writing.

**Condition reason:** To ensure any unexpected finds of contamination are notified to Council and managed appropriately.

#### 28 Adjustments to utility services

Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

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

### 29 Driveway and parking areas

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.

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

#### 30 Kerb and gutter layback and footpath crossing

A heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in the position shown on the plan submitted with the Construction Certificate application. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit.

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

#### 31 Provision of services

The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.

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.

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

#### 32 Hours of work - construction

All construction work on the site is to be carried out between the hours of 7am and 6pm Monday to Friday inclusive, 7am to 5pm Saturdays, and 8am to 5pm Sundays and Public Holidays. Written approval must be obtained from the Chief Executive Officer of Orange City Council to vary these hours.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 33 No encroachment on easements

No portion of the building or service to and from that building - including footings, eaves, overhang and service pipes - shall encroach into any easement.

**Condition reason:** To prevent the proposed development having a detrimental effect on adjoining land uses.

#### 34 Protection of the Environment Operations Act - material delivery

All materials onsite or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material, or when disposing of waste products, or during any other activities likely to pollute drains or watercourses.

**Condition reason:** To protect waterways from pollution by stockpiled or placed construction materials.

#### 35 RFS - Asset Protection Zones

- From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the property around the building must be maintained as an inner protection area (IPA), in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019, as follows:
  - Northwest for a distance of 48 metres;
  - Northeast to the property boundary;
  - Southwest for a distance of 40 metres; and,
  - Southeast to the property boundary.

When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- 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.

**Condition reason:** Intent of measures: to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.

#### 36 RFS - Access - Internal Roads

Access roads must comply with the following general requirements of Table 6.8b of Planning for Bush Fire Protection 2019:

Access roads must:

- be two-wheel drive, all-weather roads;
- provide access to all structures, and
- provide reasonable pedestrian access from the vehicular access to the building.
- traffic management devices are constructed to not prohibit access by emergency services vehicles; and
- one way only public access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas to ensure accessibility to reticulated water for fire suppression

**Condition reason:** Intent of measures: to provide safe operational access for emergency services personnel in suppressing a bushfire, while residents are accessing or egressing an area.

#### 37 RFS - Construction Standards

New construction must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018

Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel

Framed Construction in Bushfire Areas -2021 as appropriate and Section 7.5 of Planning for Bush Fire Protection 2019.

**Condition reason:** Intent of measures: to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.

# 38 RFS - Water and Utility Services

The provision of water, electricity and gas must comply the following in accordance with Table 6.8c of Planning

for Bush Fire Protection 2019 and Table 4 of the November 2022 addendum to Planning for Bush Fire Protection

• reticulated water is to be provided to the development where available;

• fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS

2419.1:2005;

- hydrants are not located within any road carriageway;
- reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
- o lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
- o 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;
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;
- 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.

**Condition reason:** Intent of measures: 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.

## Before issue of an occupation certificate

# 39 Operational Noise Management Plan

An Operational Noise Management Plan that incorporates the recommendations in Section 4.2 of the acoustic report prepared by APT Consulting (Document ID: 2224623\_241212), dated 12 December 2024, shall be prepared and submitted to Council for approval by Council's Manager Development Assessments.

**Condition reason:** TO ensure noise from operations does not unreasonably impact surrounding premises.

# 40 Food business registration

Prior to the issuing of an Occupation Certificate, the applicant shall register the food business with Orange City Council.

Condition reason: To ensure compliance with statutory requirements.

## 41 | Completion of works on public land and services

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.

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

#### 42 Completion of works relating to road opening permit

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.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 43 Stormwater detention certification

A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater detention basin complies with the approved engineering plans is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

# 44 Parking - off-street parking required

A total of 33 off-street car parking spaces must be provided upon the site in accordance with the approved plans and the provisions of Orange Development Control Plan 2004. The parking spaces are to be constructed in accordance with the requirements of Council's Development and Subdivision Code prior to the issue of an occupation certificate.

**Condition reason:** To ensure the development has adequate parking to meet demands, and ensure complaince with relevant statutory requirements.

# 45 No use or occupation without occupation certificate

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.

Condition reason: To ensure compliance with the Building Code of Australia.

# 46 Section 68 final - water and sewer

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.

**Condition reason:** To ensure the utility services are available to the site and adequate for the development.

# 47 RFS - Emergency and Evacuation Planning Assessment

A Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: *A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan*.

The Bush Fire Emergency Management and Evacuation Plan should include planning for the early relocation of occupants.

Note: A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.

**Condition reason:** Intent of measures: to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.

#### 48 Landscaping - to be insatlled and maintained in accordance with approved plans

Landscaping must be installed in accordance with the approved plans and must be permanently maintained to the satisfaction of Councils Manager Development Assessments.

**Condition reason:** To ensure a quality urban design for the development which complements the surrounding environment.

#### 49 Flood Evacuation Plan

Prior to the issue of an occupation certificate, a flood evacuation plan shall be prepared and approved by the Manager of Development Assessments. The plan shall address the requirements of Clause 5.22 of the Orange LEP 2011, ensuring safe occupation and efficient evacuation in the event of a flood.

**Condition reason:** To ensure the safe occupation and efficient evacuation of people in the event of a flood.

## Occupation and ongoing use

# 50 Hours of Operation

Hours of Operation of the Childcare centre shall be between the hours of 6:30 am and 6:00 pm, Monday to Friday.

Condition reason: To ensure complaince with relevant statutory requirements.

#### 51 Maximum enrolment of children

The childcare facility shall have a maximum capacity of not more than 130 children.

**Condition reason:** To ensure compliance with approved capacity limits for safety, amenity, and regulatory requirements.

#### 52 Waste Management Plan

The waste managment plan prepared by MAAS group Pty Ltd is to be complied with at all times.

**Condition reason:** To ensure propoer waste management practices and compliances with approved guidelines.

#### 53 Loading/Servicing

All vehicular loading and unloading shall be carried out within the site to provide for safe offstreet loading and unloading of vehicles servicing the site and to prevent interference with

the use of the public road by vehicles and pedestrians.

Condition reason: To ensure public safety.

### 54 Lighting

Any external lighting shall:

(a) Comply with AS 4282-1997 Control of the obtrusive effects of outdoor lighting, and (b) Be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places

Lighting at vehicle access points to the development must be provided in accordance with AS/NZ S1158 Set: 2010 Lighting for roads and public spaces Set.

**Condition reason:** To ensure that the amenity of neighbouring properties is not compromised.

# 55 Annual fire safety statement

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

Condition reason: To ensure compliance with relevant statutory requirements.

# 56 | Food - compliance with Food Act

Compliance with the *Food Act and Regulation* and the Australian Food Safety Standards is required in relation to the storage of ingredients, temperature control, cross contamination, cleaning and sanitising of contact surfaces, labelling and packaging, health and hygiene of food handlers, and handwashing.

**Condition reason:** To ensure compliance with relevant statutory requirements in the operation of home food businesses.

# 57 Advisory Comments from TfNSW - Contamination of the rail land

TfNSW is currently conducting an environmental assessment to identify contamination on the CRN. All railway corridors are generally deemed to be contaminated unless proven otherwise

by sample testing. Contamination risk arises from both the construction (e.g., unknown fill used in rail construction) and operations (e.g., transportation of contaminated material, spills) of the

railway. Potential contaminants could include but are not limited to, heavy metals, PAHs, phenolics (boiler ash), Organochlorine Pesticides (OCPs) and Organophosphorus Pesticides (OPPs). TfNSW is committed to ensuring the health and well-being of the community. TfNSW is not aware of whether there are contaminants found in the rail corridor or on the common

boundaries with the development site.

Furthermore, in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021-Section 4.6 'Contamination and remediation to be considered in determining development

application' (Previously State Environmental Planning Policy No. 55 – Remediation of Land) the consent authority must consider whether the land is contaminated.

#### **Condition reason:**

#### 58 Off-Street car parking

All parking associated with the childcare facility shall be within the approved off-street car parking area provided as part of the development approval. No parking associated with the childcare facility shall be on new internal road proposed.

**Condition reason:** To ensure all parking associated with the child care facility is maintained off the street.

#### 59 Essential Energy - General Comments

- As part of the subdivision, an easement is created for any existing electrical infrastructure. The easement is to be created using Essential Energy's standard easement terms current at the time of registration on of the plan of subdivision;
- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;

- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- All Torrens lots must have access and frontage to a public road as per Service and Installation rules this is to allow for the provision of power/services to the new development, a right of carriageway can not to be used for the provision of power/services to any part of the new development.
- Council should ensure that a Notification of Arrangement (confirming satisfactory
  arrangements have been made for the provision of power) is issued by
  Essential Energy with respect to all proposed lots which will form part of the
  subdivision, prior to Council releasing the Subdivision Certificate. It is
  the Applicant's responsibility to make the appropriate application with Essential
  Energy for the supply of electricity to the subdivision, which may include the
  payment of fees and contributions;
- In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;
- Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW);
- Given there is electricity infrastructure in the area, it is the responsibility of the
  person/s completing any works around powerlines to understand their safety
  responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that
  provide guidance when working close to electricity infrastructure. These include the
  Code of Practice Work near Overhead Power Lines and Code of Practice Work
  near Underground Assets.

**Condition reason:** To ensure that safety measures are followed when working near essential energy infrastructure, protecting both workers and the surrounding environment while complying with legal and industry guidelines.

# 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 <u>Conditions of development consent: advisory notes</u>. The consent should be read together with the <u>Conditions of development consent: advisory notes</u> 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.



# **Proposed Childcare Centre**

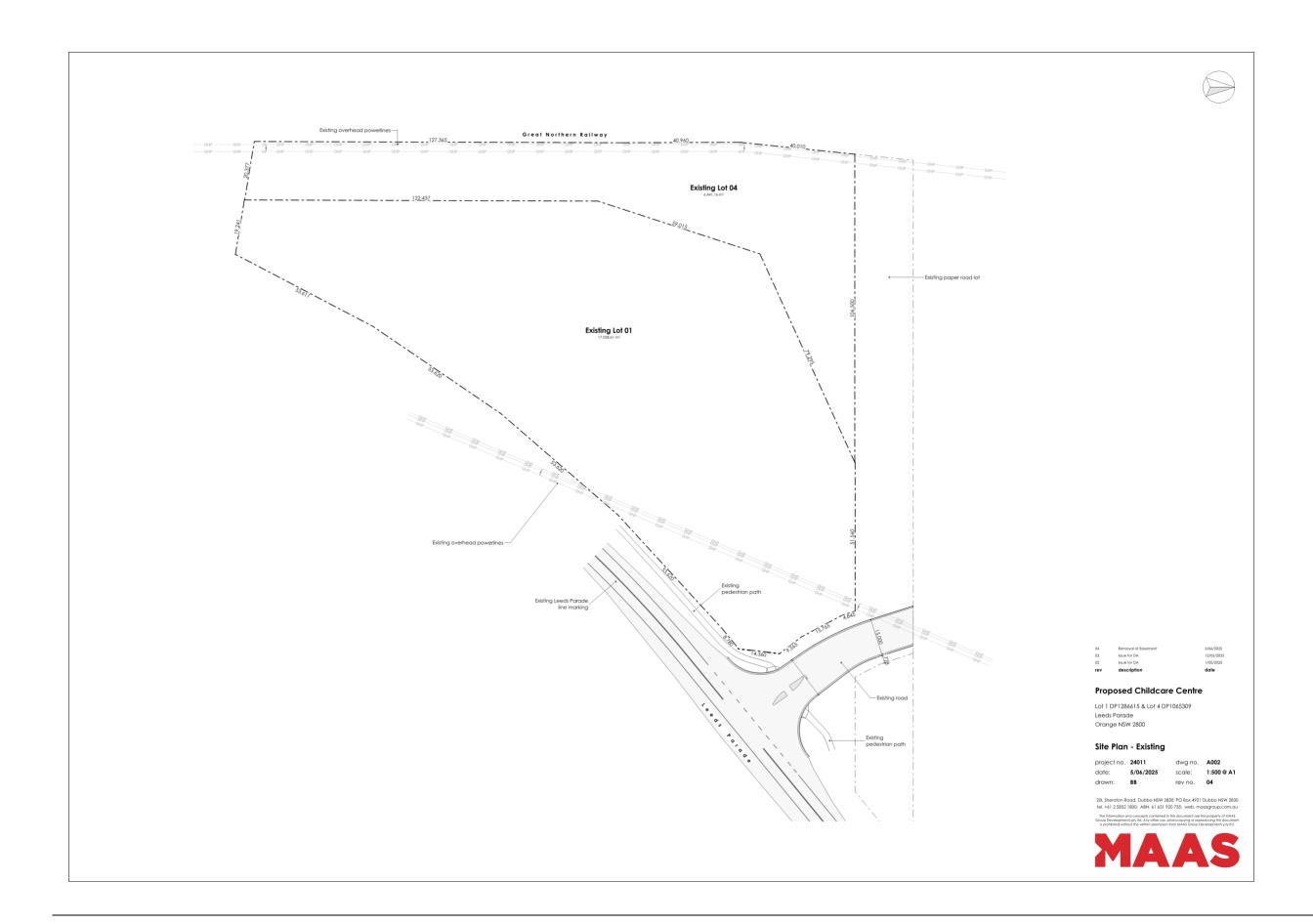
Lot 1 DP1286615 & Lot 4 DP1065309 Leeds Parade Orange NSW 2800

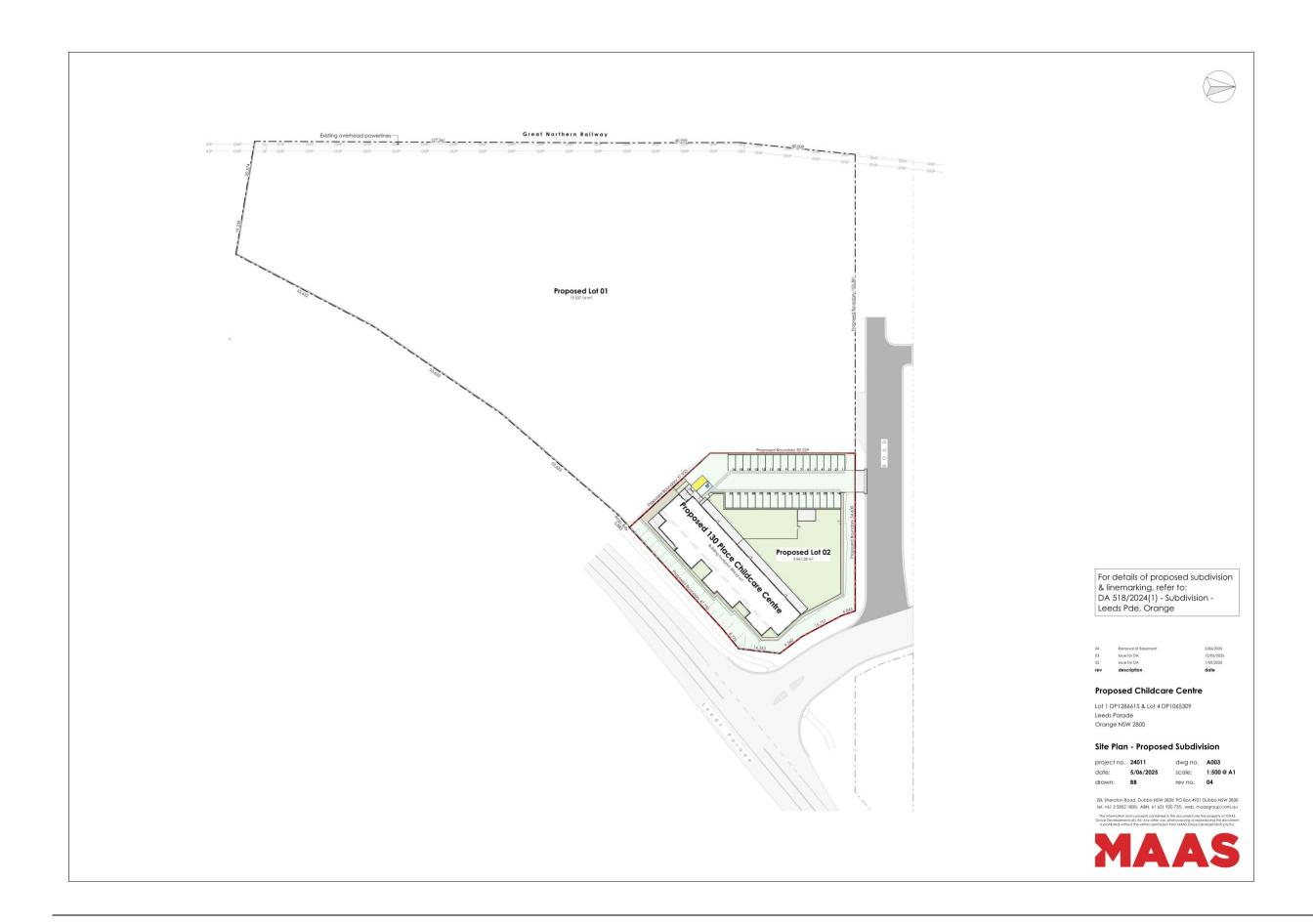


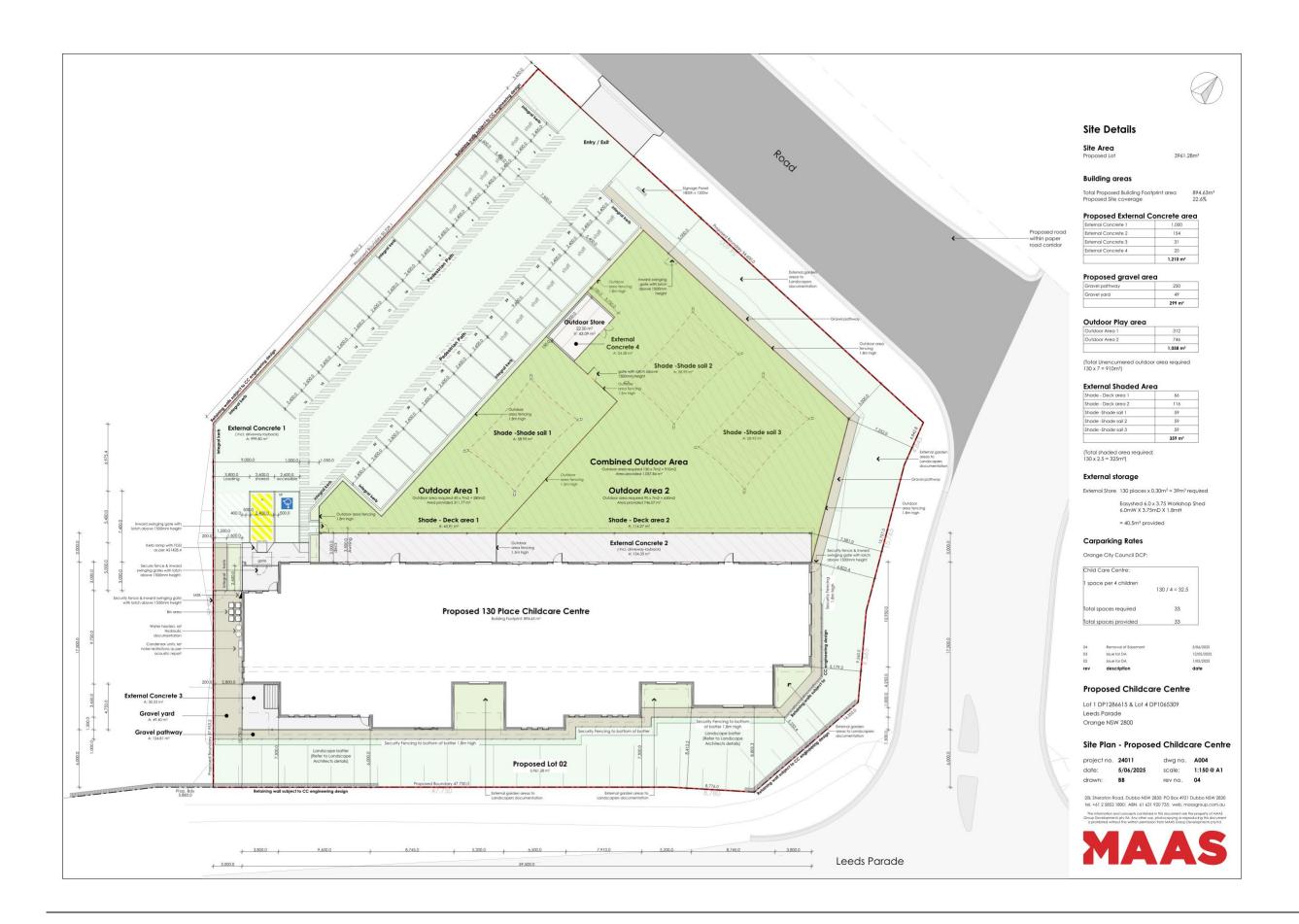
|       | Drawing Schedule                      |          |
|-------|---------------------------------------|----------|
|       | Layout Name                           | Revision |
| A000  | Cover Sheet                           | 04       |
| A001  | Location Map                          | 04       |
| A002  | Site Plan - Existing                  | 04       |
| A003  | Site Plan - Proposed Subdivision      | 04       |
| A004  | Site Plan - Proposed Childcare Centre | 04       |
| A005  | Perspective                           | 04       |
| A101  | Ground Floor Plan                     | 04       |
| A102  | Roof Plan                             | 04       |
| A501  | Elevations                            | 04       |
| A502  | Elevations                            | 04       |
| A503  | Sections                              | 04       |
| A1001 | Turning Templates                     | 04       |
| A1002 | Emergency Evacuation Plan             | 04       |











PLANNING & DEVELOPMENT COMMITTEE

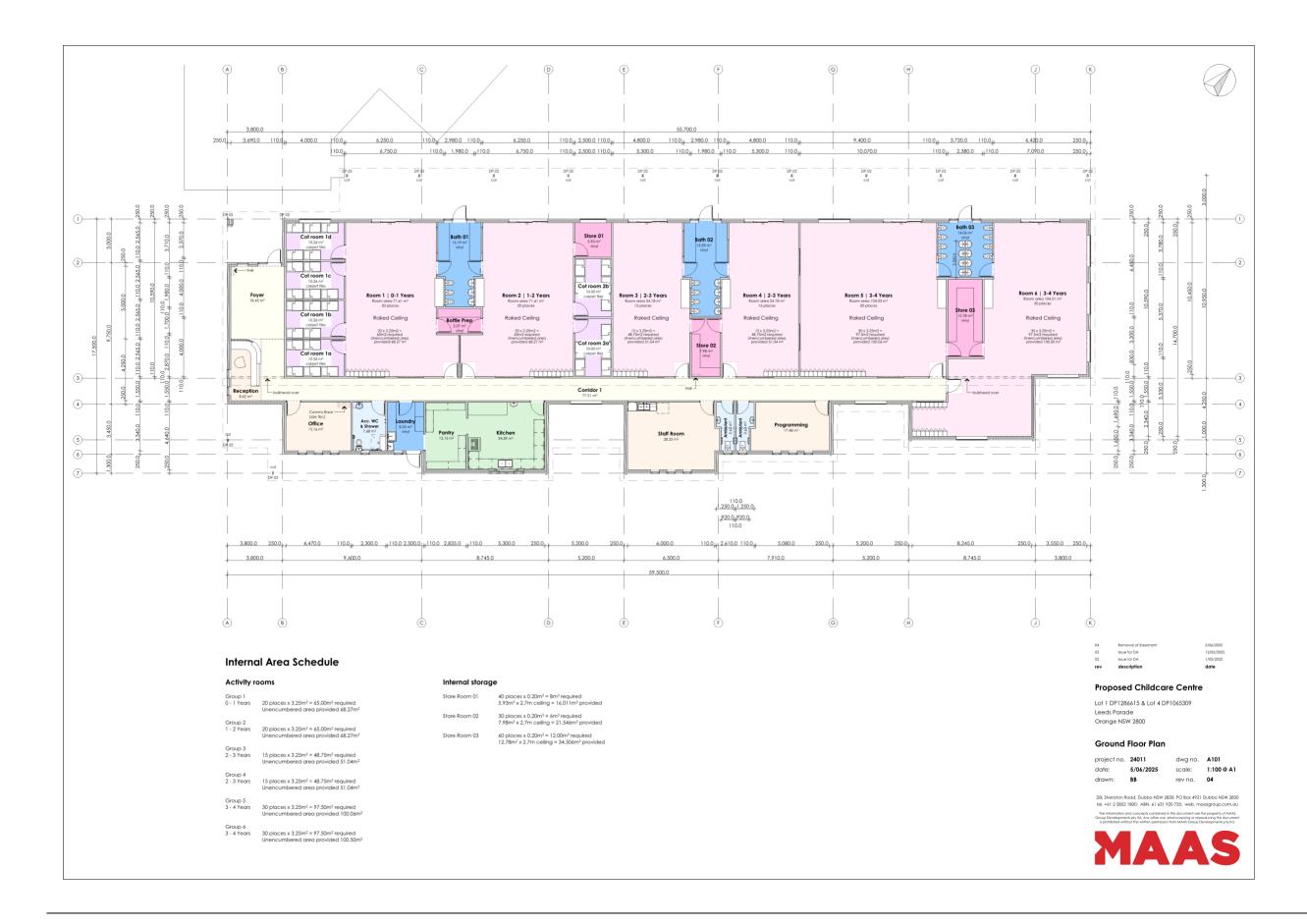


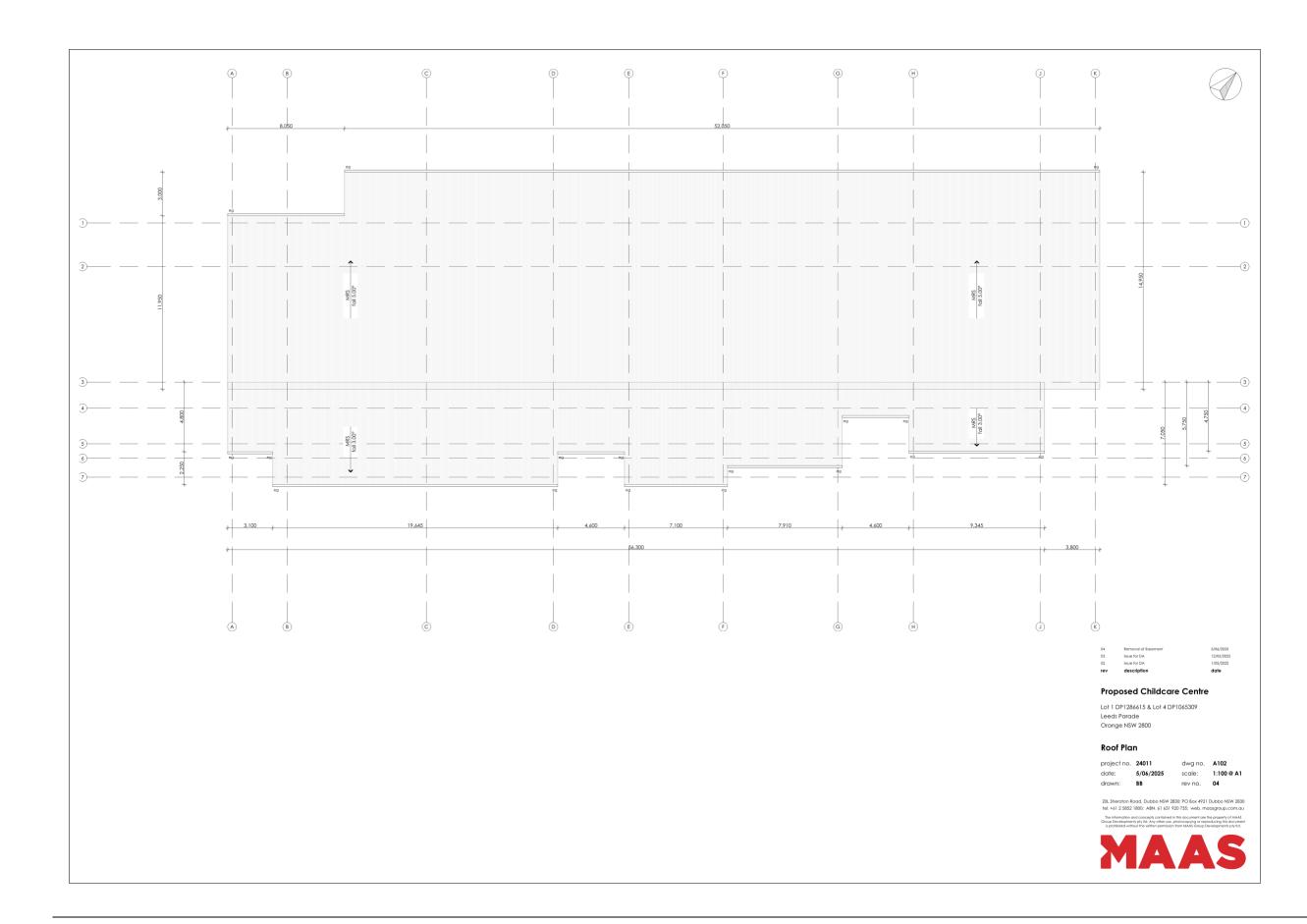


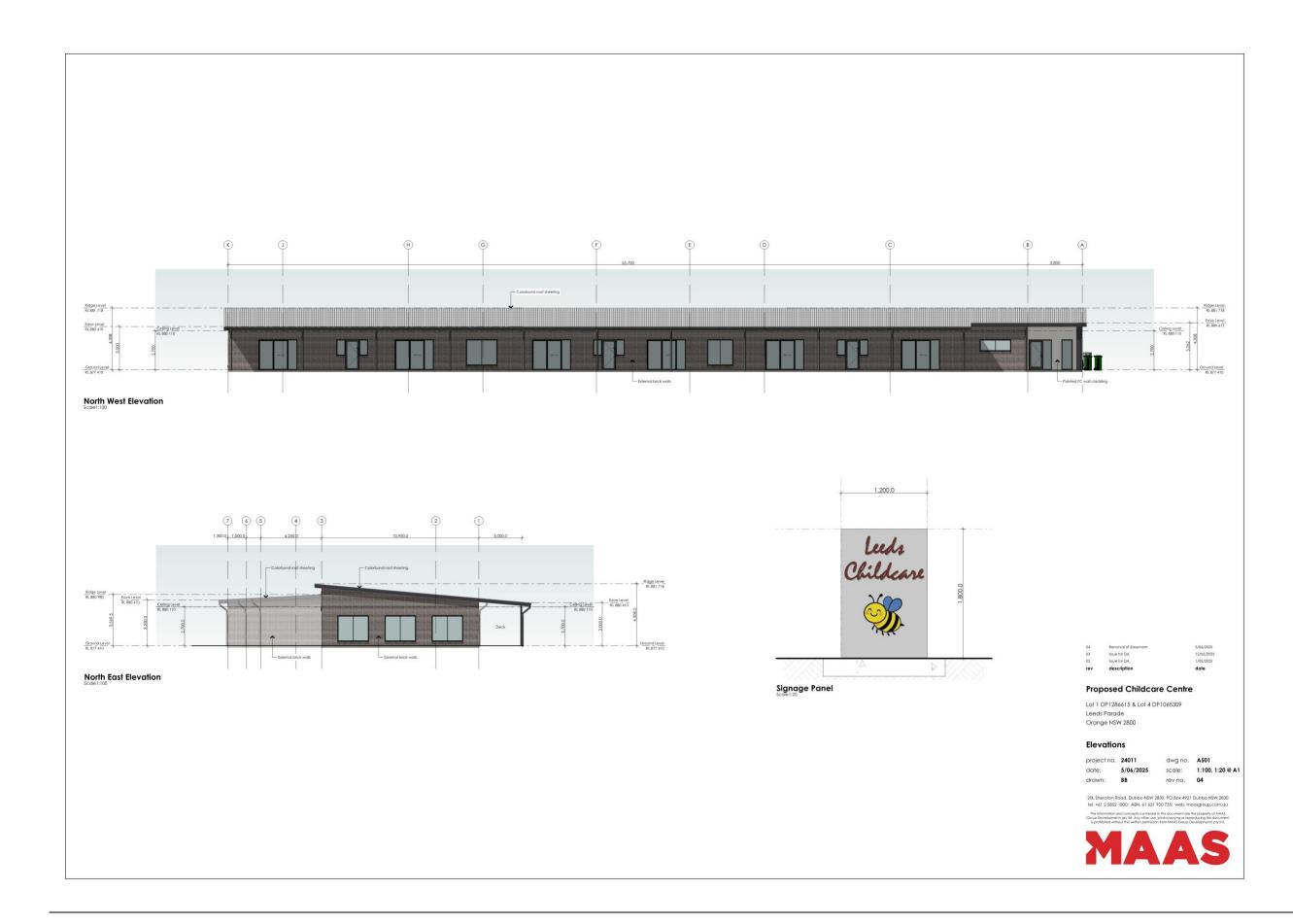


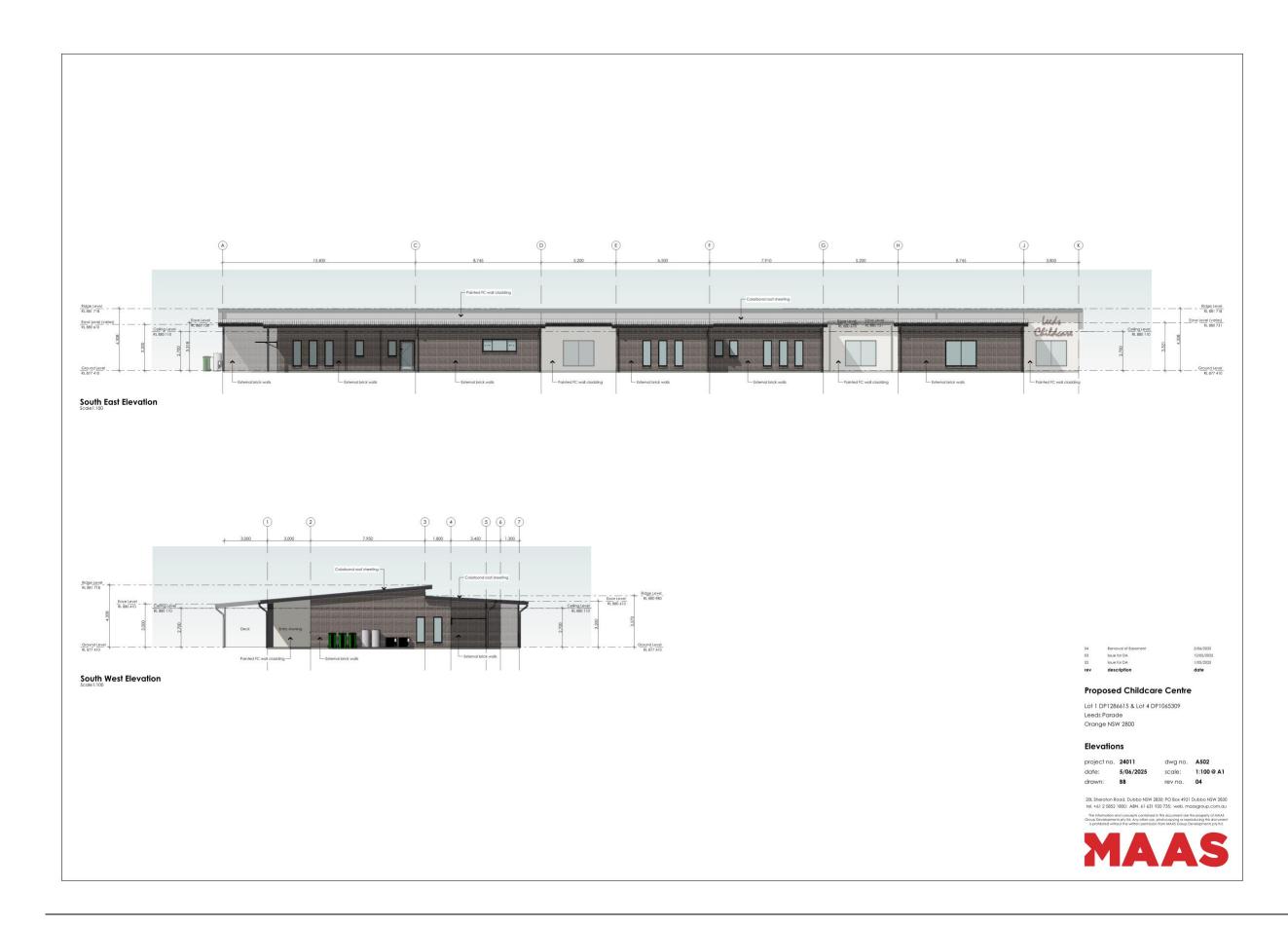


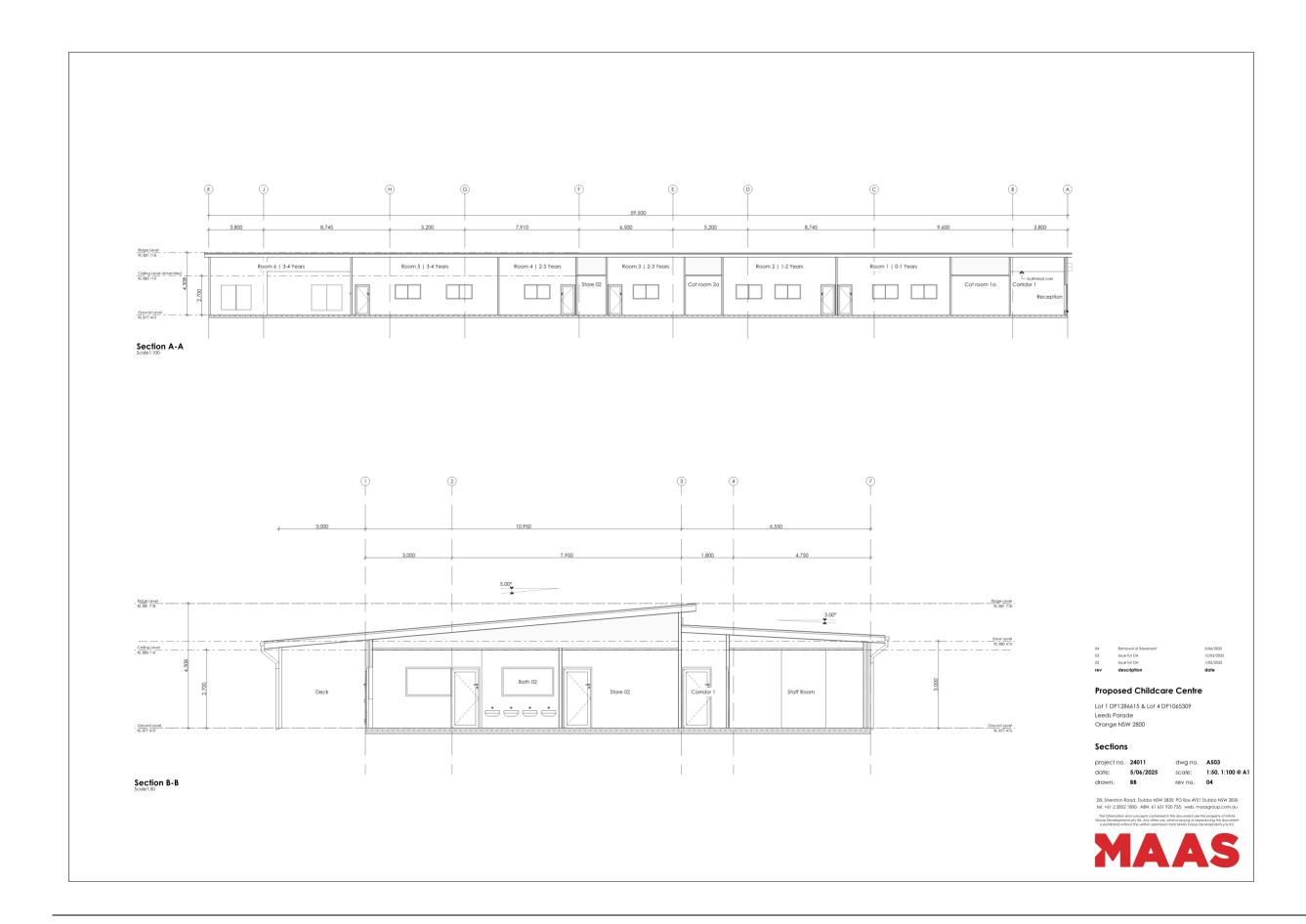




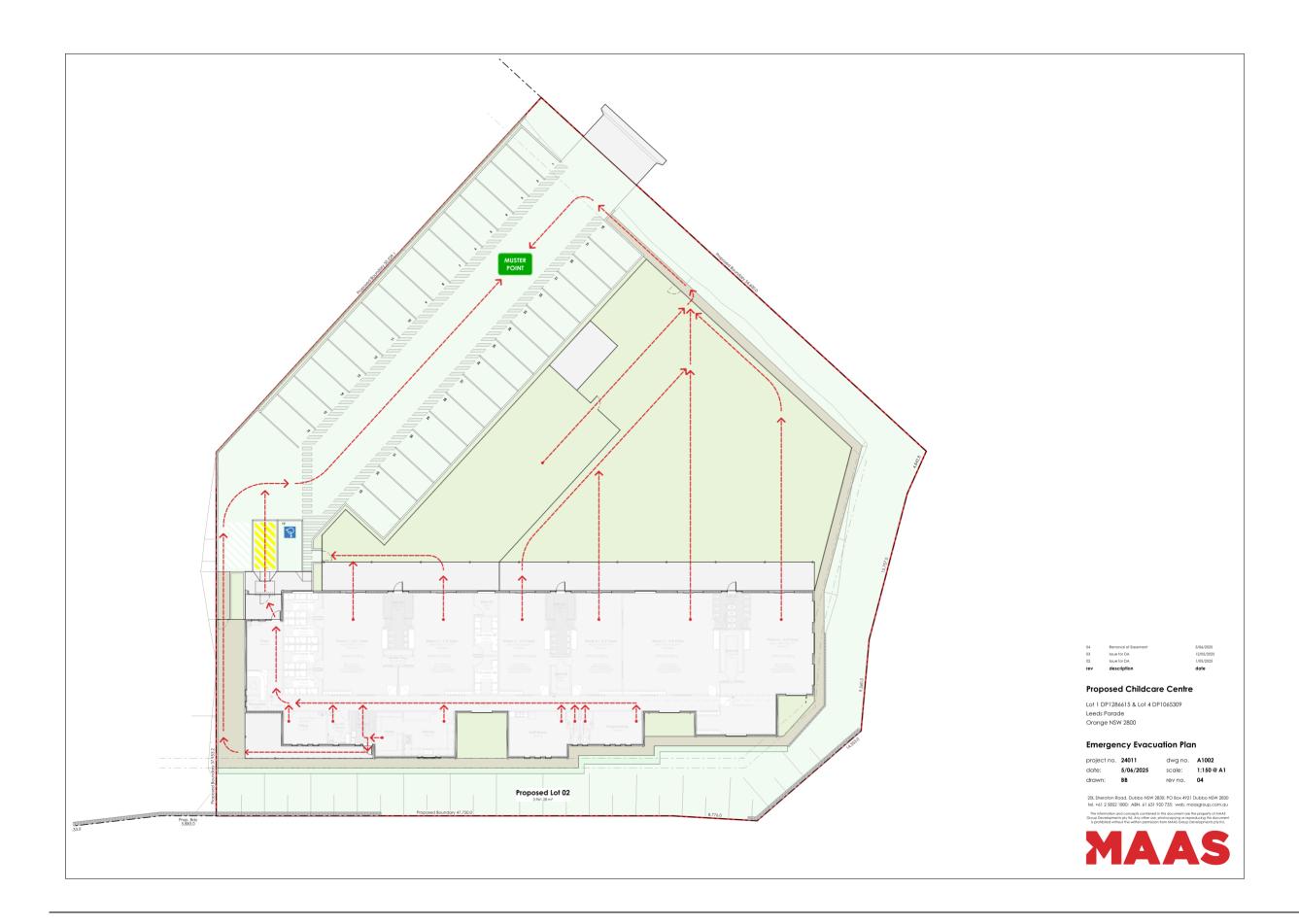


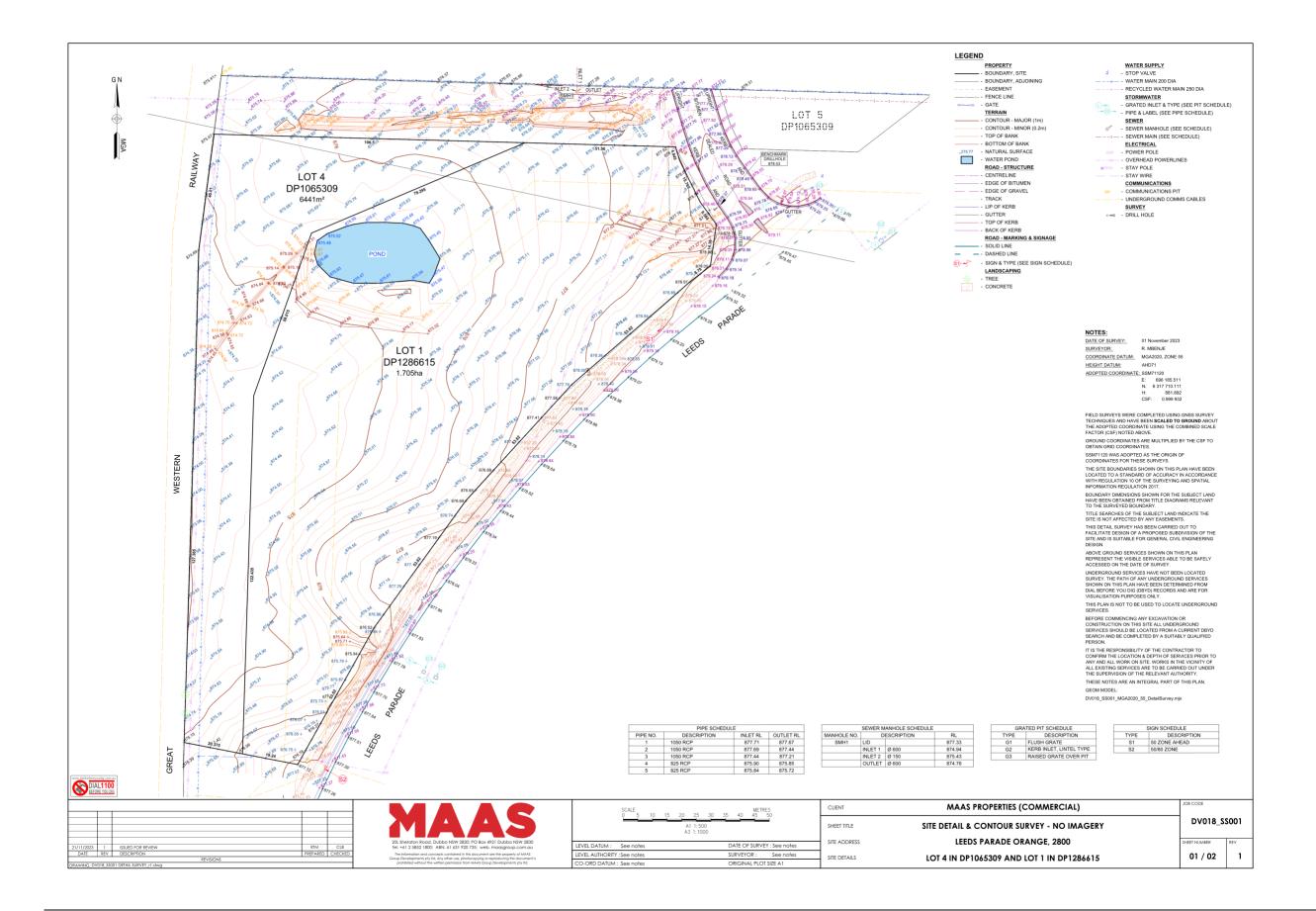


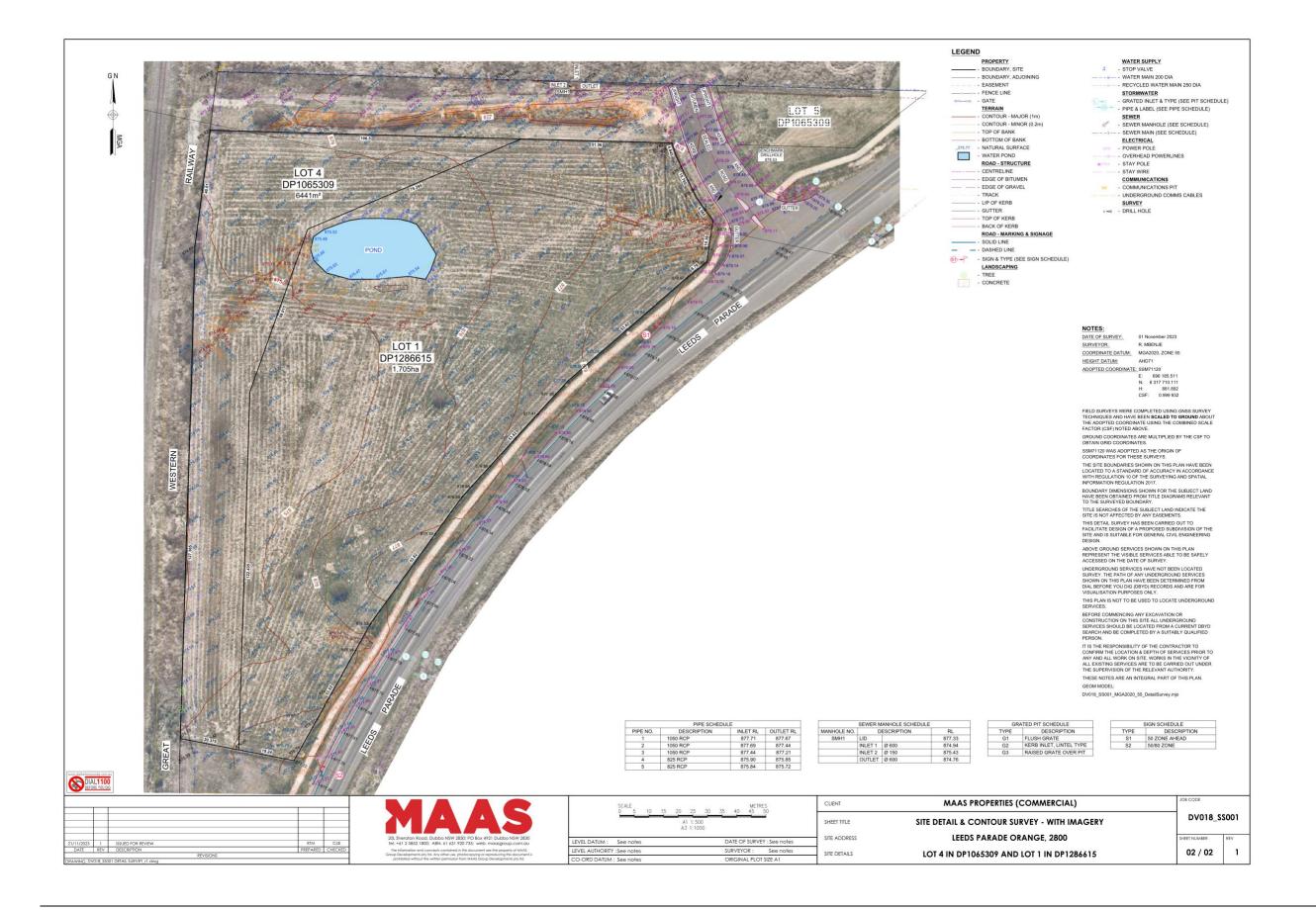












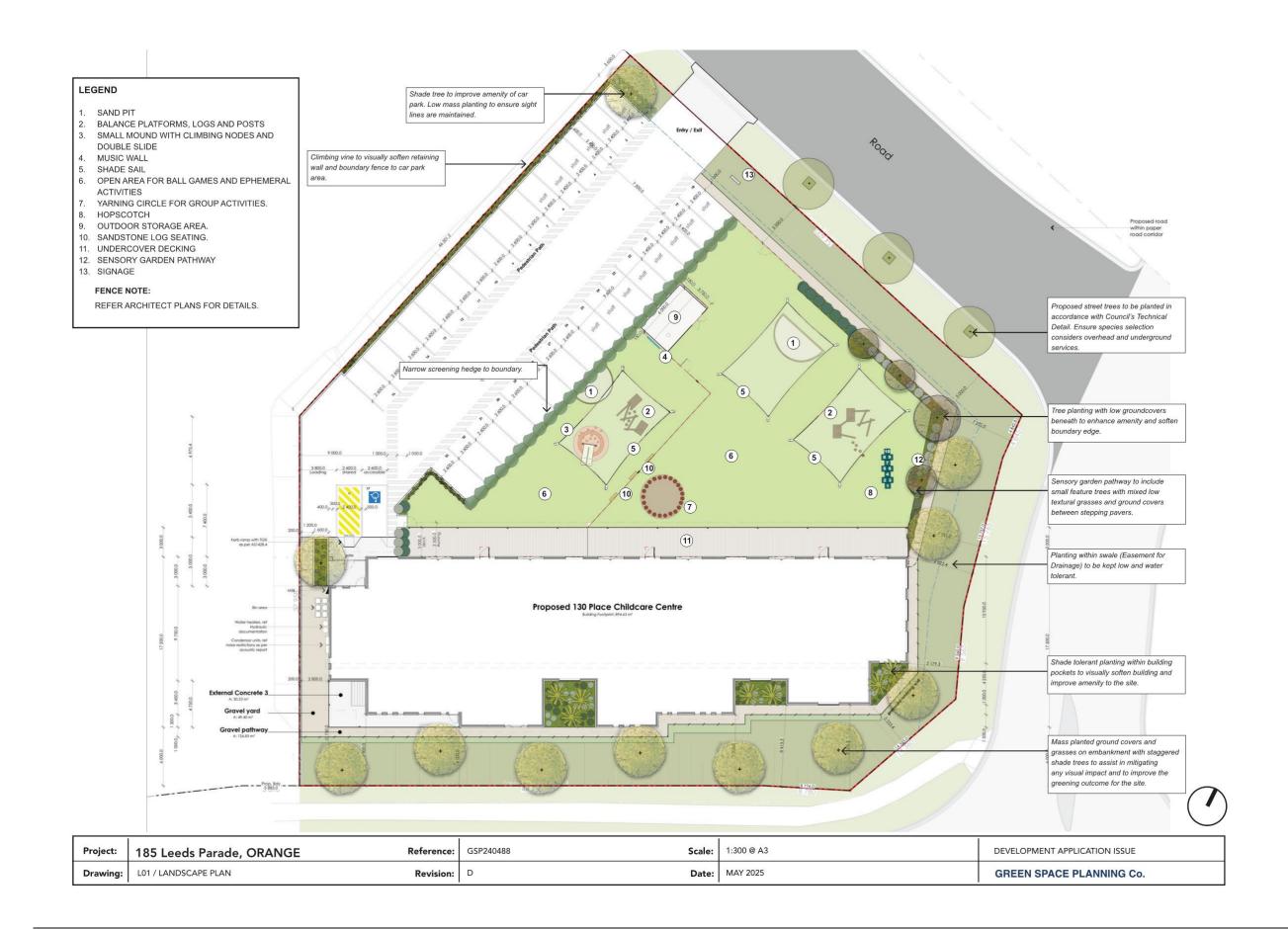
# 185 Leeds Parade, ORANGE

Lot 4 / DP1185665 Wiradjuri Country

# Landscape Documentation



**GREEN SPACE PLANNING Co.** 



1 JULY 2025 PLANNING & DEVELOPMENT COMMITTEE

PLAY CHARACTER IMAGES











SAND PIT

TIMBER BALANCE EQUIPMENT TO INCLUDE LOW HEIGHT LOGS AND PLATFORMS TO DEVELOP BALANCE, CO-ORDINATION AND FINE MOTOR SKILLS

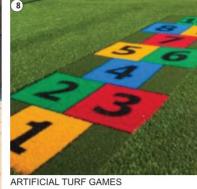
MOUND WITH TUNNEL AND SLIDE

MUSIC WALL











YARNING CIRCLE

| Project: | 185 Leeds Parade, ORANGE Refer  | nce: GSP | SP240488 <b>Scale:</b> | @ A3     | DEVELOPMENT APPLICATION ISSUE |
|----------|---------------------------------|----------|------------------------|----------|-------------------------------|
| Drawing: | L02 / PLAY CHARACTER IMAGES Rev | ion: D   | Date:                  | MAY 2025 | GREEN SPACE PLANNING Co.      |

5 March 2025

Paul Johnston Orange City Council 135 Byng Street Orange NSW 2800

Attention: Paul Johnston

By email: council@orange.nsw.gov.au

Dear Paul Johnston,

Re: Notice of Development Application (DA) on Exhibition for DA 18/2025(1) – Construction of centre based childcare facility (130 places)
Land: 185 Leeds Parade Orange NSW 2800 – Lot 1 DP 1286615 & Lot 4 DP 1065309

I refer to your letter dated 25 February 2025 requesting comments on the Notification of Development Application.

for our

Transport for NSW (**TfNSW**) is the rail authority of a Country Regional Network (**CRN**) across NSW. Transport Asset Manager (**TAM**) of NSW formerly known as Transport Asset Holding Entity of New South Wales (**TAHE**) is a State-owned corporation that holds rail property assets and rail infrastructure, including the **CRN**. As of 29 January 2022, has been appointed by **TfNSW** to operate and manage the **CRN** to ensure any potential impacts to rail corridors are considered and addressed.

the Rail Infrastructure Manager (**RIM**) on behalf of **TfNSW** reviewed the Notification of Development Application and the relevant documents via Orange City Council's website - Development Application on Exhibition - Monday, 3 March to Monday, 17 March 2025 - Orange City Council.

This DA is seeking consent for the construction of a centre-based childcare facility, including 130 Placement Capacity and associated signage, landscaping and earthworks on Lot 1 DP 1286615 and Lot 4 DP 1065309 (delineated in red in Annexure A), which is adjacent to the operational rail corridor from Orange Jct to Dubbo (Freight & Passenger) (marked in green in Annexure A)

The proposed development site is adjacent to the CRN rail corridor; thus, it would trigger clause s2.98 (Development adjacent to rail corridors) of the (Transport and Infrastructure) State Environmental Planning Policy (TISEPP) 2021. Orange City Council is requested to refer this DA via the NSW planning portal under the s2.98 referral to TfNSW with all relevant documents including Civil Drawings, and Stormwater Management Plan.

Thank you again for reaching out to on behalf of **TfNSW** for this Notice of Development Application. If you have any further questions, please contact the writer at (02) 4923 5332 at your earliest convenience.

Yours faithfully,

#### Annexure A



Proposed Development Location (Source: UGLRL ArcGIS)

UGL Regional Linx Pty Ltd Level 2, 161 Kite Street, Orange NSW 2800 PO Box 1069, Orange NSW 2800 T (+61) 2 8925 8925 | F (+61) 2 8925 8926 UGL | ACN 646 771 011 | ugllimited.com



2.5 DEVELOPMENT APPLICATION DA 68/2025(1) - 185 LEEDS PARADE (SELF-STORAGE UNITS)

RECORD NUMBER: 2025/1132

AUTHOR: Dhawala Ananda, Town Planner

#### **EXECUTIVE SUMMARY**

| Application lodged            | 03/03/2025   |
|-------------------------------|--|
| Applicant/s                   | MAAS Commercial Leeds Unit Trust                     |
| Owner/s                       | MAAS Commercial Leeds Pty Limited                    |
| Land description              | Lot 4 DP 1065309 and Lot 1 DP 1286615- Leeds Parade, |
|                               | Orange   |
| Proposed land use             | Self-Storage Units                                   |
| Value of proposed development | \$7,143,063.00                                       |

Council's consent is sought for a self-storage facility consisting of 515 units varying in size on Proposed lot 01. The parent parcels are described as Lot 4 DP 1065309 and Lot 1 DP 1286615 Leeds Parade, with proposed road access being from Leeds Parade.

The proposed works include:

- construction of a single storey self-storage units
- provision of 13 car parking spaces
- three business identification signs (one flush wall sign and two pylon signs)

External finishes for the proposed building will comprise off form concrete gable end walls and entry feature wall, Colorbond wall sheeting, roof sheeting and roller doors. Shopfront entry doors and a cantilevered awning will be provided to the office element at the site frontage.

The proposal represents a response to the demand for storage solutions in the City as the trend for more compact homes/lots continues to grow. The proposal has a capital investment value exceeding \$2.5 million (\$7.14m). Accordingly, the application has been tabled to the Planning and Development Committee (PDC) Meeting for determination pursuant to Clause 4.10 Delegations of Orange City Council's Declaration of Planning and Development Assessment Procedures and Protocols (Vers 5, 2019).

A Section 4.15 assessment has been prepared below and it is assessed that the proposed development is consistent with Orange Local Environmental Plan 2011, Orange Development Control Plan 2004 and all relevant State Environmental Planning Instruments. The assessment of the proposal concludes that the development fits in the locality and there are no significant impacts on the site or on adjacent lands.

It is noted that the site was granted development consent for a two-lot subdivision on 11 October 2024 pursuant to development consent DA 518/2024(1). That subdivision is currently being constructed and conditions have been imposed on the draft Notice to ensure that no commencement of the proposed development the subject of this application occurs until the subdivision is registered.

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 - site photo (source - Google Maps)



Figure 3 - illustration of proposed development

# **DECISION FRAMEWORK**

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

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

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

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

The proposed development involves the construction of a self-storage facility comprising five (5) single-storey storage buildings, with a total of 515 individual storage units. The facility will also include an onsite office, 13 car parking spaces (including one accessible parking space) and three business identification signs (one flush wall sign and two double sided, flex face, backlight lightbox pylon signs).

The subject land is located adjacent to the regional railway line. Transport for NSW have responded with recommendations in relation to development near railways and these matters have been addressed through conditions of consent. The proposed development is also located on a site identified as containing Vegetation Category 3 and a vegetation buffer, as per the Bushfire Prone Land Mapping. These matters have been addressed in the report and conditions have been included on the attached Notice of Determination to address relevant matters.

The proposed external finishes are appropriate for the industrial setting and satisfy the planning outcome. A neutral palette of Colorbond Surfmist and Monument, combined with off-form concrete, will ensure a cohesive and modern appearance. The use of yellow for roller doors adds a practical and visually distinct feature without detracting from the overall design. The materials are durable, low-maintenance and visually compatible with the surrounding context.

Council received one written submission in relation to this proposal. The planning-related issues raised have been reviewed and are addressed in the body of this report.

The subject site is considered suitable for the proposed self-storage facility. It is located within a light industrial precinct and zoned appropriately to accommodate light industrial uses such as self-storage. The development is consistent with the intended land use, provides adequate access and does not adversely impact the surrounding environment or adjoining land uses.

2.5 Development Application DA 68/2025(1) - 185 Leeds Parade (Self-Storage Units)

The proposal has a capital investment value exceeding \$2.5 million (\$7.14m). Accordingly, the application has been tabled to the Planning and Development Committee (PDC) Meeting 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).

It is recommended that Council supports the development subject to the adoption of the recommended Notice of Determination.

# LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy "7.3 Plan for growth and development that balances liveability with valuing the local environment".

#### FINANCIAL IMPLICATIONS

Nil

#### **POLICY AND GOVERNANCE IMPLICATIONS**

Nil

#### RECOMMENDATION

That Council consents to development application DA 68/2025(1) for *Self-Storage Units* at Lot 4 DP 1065309 and Lot 1 DP 1286615 - Leeds Parade, 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 proposed development involves the construction of a self-storage facility comprising five (5) single-storey storage buildings, with a total of 515 individual storage units. The facility will also include an onsite office, 13 car parking spaces (including one accessible parking space) and three business identification signs (one flush wall sign and two double sided, flex face, backlight lightbox pylon signs).

#### Units

The storage units vary in size. Unit sizes range from 4.5m<sup>2</sup> to 18m<sup>2</sup>, the unit types are explained below:

- Unit Type B 3.0m x 6.0m (18m<sup>2</sup>)
- Unit Type C 3.0m x 4.5m (13.5m<sup>2</sup>)
- Unit Type D 3.0m x 3.0m (9m²)
- Unit Type F 1.5m x 3.0m (4.5m<sup>2</sup>)
- Unit Type G 1.5m x 4.5m (6.75m<sup>2</sup>)

# **Buildings**

A complete breakdown of the buildings is as follows:

<u>Building A</u> will accommodate a total of 107 self-storage units with a combined gross floor area of 1,457m<sup>2</sup>, and will also include a site office and an accessible toilet. The unit mix within this building comprises: 4 one-off units (47m<sup>2</sup>), 47 units of Type B (846m<sup>2</sup>), 22 units of Type C (286m<sup>2</sup>), 26 units of Type D (234m<sup>2</sup>), 6 units of Type F (30m<sup>2</sup>) and 2 units of Type G (14m<sup>2</sup>).

<u>Building B</u> will contain 114 self-storage units with a total gross floor area of 1,699m<sup>2</sup>. The unit configuration includes 69 units of Type B (1,242m<sup>2</sup>), 25 units of Type C (325m<sup>2</sup>), 8 units of Type D (72m<sup>2</sup>) and 12 units of Type F (60m<sup>2</sup>).

<u>Building C</u> will comprise 66 self-storage units with a combined area of 986m<sup>2</sup>. This includes 4 one-off units (54m<sup>2</sup>), 38 units of Type B (684m<sup>2</sup>), 14 units of Type C (182m<sup>2</sup>), 4 units of Type D (36m<sup>2</sup>) and 6 units of Type F (30m<sup>2</sup>).

<u>Building D</u> is designed to accommodate 114 self-storage units over an area of 1,719m<sup>2</sup>. The internal layout includes 73 units of Type B (1,314m<sup>2</sup>), 21 units of Type C (273m<sup>2</sup>), 8 units of Type D (72m<sup>2</sup>) and 12 units of Type F (60m<sup>2</sup>).

<u>Building E</u> will also include 114 self-storage units, with a total area of 1,719m<sup>2</sup>, mirroring the layout of Building D. It comprises 73 units of Type B (1,314m<sup>2</sup>), 21 units of Type C (273m<sup>2</sup>), 8 units of Type D (72m<sup>2</sup>), and 12 units of Type F (60m<sup>2</sup>).

The external finishes of the buildings will feature a mix of Colorbond wall and roof sheeting and roller doors in a complementary palette of neutral and colour-contrasting tones, ensuring a consistent and durable aesthetic.



Figure 4 - site plan



Figure 5 - perspective image (frontage)

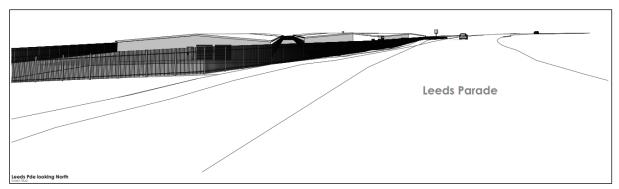


Figure 6 - perspective image (looking north on Leeds Parade)

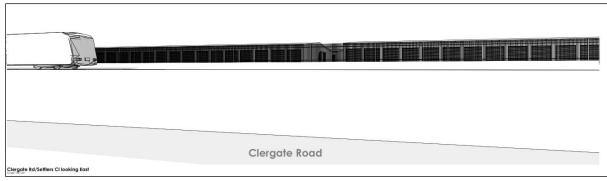


Figure 7 - perspective image (looking east on Clergate Road/Settlers Close)



Figure 8 - building floor plan

#### **Site Visit**

The subject land is vacant and has a gentle slope of approximately 3m across the site from east to west. The site has frontage to Leeds Parade; however the proposed development will have egress via an access road off Leeds Parade.

The site is located adjacent to the regional railway line and is identified as bush fire prone on Council's bushfire mapping. However, the proposed land use is not classified as integrated development under *Planning for Bush Fire Protection* and does not require referral to the NSW Rural Fire Service. A separate assessment of bushfire related matters has been addressed in the proceeding assessment.



Photo 1 - shows subject land (vacant) from the access road off Leeds Parade facing north-west





Photos 2 and 3 - show subject land (vacant) facing west

# **Development Application History**

The site was granted development consent for a two lot subdivision on 11 October 2024 pursuant to development consent DA 518/2024(1). The subdivision is currently being developed and conditions have been imposed to ensure that no commencement of this development occurs until the subdivision is registered. The approved subdivision plan is shown below in Figure 8.

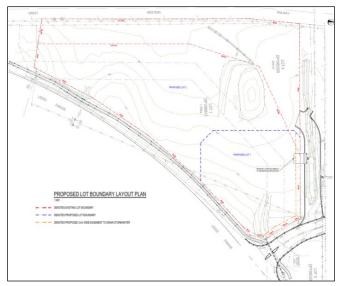


Figure 9 - approved subdivision plan

#### MATTERS FOR CONSIDERATION

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

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

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

- <u>Trigger 1</u>: development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017);
- <u>Trigger 2</u>: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017); or
- <u>Trigger 3</u>: 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 does not trigger any of the four requirements for insertion into the BOS, a Biodiversity Development Assessment Report is not required to be lodged with the application for development consent. No other comments are warranted under this section.

#### Section 4.14

# **Consultation and Development Consent - Certain Bush Fire Prone Land**

Industrial development is not captured under Section 4.14 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) or Section 100B of the *Rural Fires Act 1997* (RFT Act 1997). Nevertheless, the Planning for Bush Fire Protection 2019 (PBP) guide states that all development on Bushfire Prone Land must satisfy the aims and objectives of the guide. The proposed development is located on a site identified as containing Vegetation Category 3 and a vegetation buffer, as per the Bush Fire Prone Land Mapping.

Where no residential component is included, commercial and industrial development within a bushfire prone area is addressed through consideration of the aims and objectives of Planning for Bushfire Protection (Chapter 1).

All development on Bushfire Prone Land must satisfy the aims and objectives of Planning for Bushfire Protection. The aim of Bushfire Protection is to provide for the protection of human life and minimise impacts on property from the threat of bushfire, while having due regard to development potential, site characteristics and protection of the environment.

The overall objectives for consideration are as follows:

- 1. Afford buildings and their occupants protection from exposure to bushfire
- 2. Provide a defendable space to be located around buildings
- 3. Provide appropriate separation between a hazard and buildings which in combination with other measures prevent the likely fire spread to buildings.
- 4. Ensure that appropriate operational access and egress for emergency services personnel and occupants are available
- 5. Provide for ongoing management and maintenance of bushfire measures, and
- 6. Ensure that utility services are adequate to meet the needs of firefighters.

A Bushfire Threat Assessment has been prepared by Firebird EcoSolutions for the proposed development, which responds to the above objectives. The submitted assessment recommends that the entire site should be managed as an Inner Protection Area (IPA), which means that any vegetation within the site should be kept to a minimum to avoid fuelling a potential bushfire. An IPA can be secured via condition, and is considered to be sufficient to meet the first two overall objectives listed above. Compliance with the other four objectives listed above is included in the assessment below.

Part 8.3.1 of the PBP sets out the specific objectives for the proposed building type. The proposed building would be defined as a Class 5 to 8 building under the NCC (which includes offices, shops, factories, warehouses, public car parks and other commercial and industrial facilities). The PBP states that the following specific objectives will be applied to such buildings in relation to access, water supply and services:

- 1. to provide safe access to/from the public road system for firefighters providing property protection during a bush fire and for occupant egress for evacuation;
- 2. to provide suitable emergency and evacuation (and relocation) arrangements for occupants of the development;
- 3. to provide adequate services of water for the protection of buildings during and after the passage of bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building; and
- 4. provide for the storage of hazardous materials away from the hazard wherever possible

The submitted Bushfire Threat Assessment which responds to the above objectives.

In regard to objective 1, the submitted assessment states that safe access to Leeds Parade would be provided via a private driveway, this is considered to be sufficient to provide safe access to and from the public road system for firefighters. The development by way of its very nature will mean that only a limited number of persons will be on site at any one time, and the proposed driveway is considered to be sufficient to provide sufficient egress for evacuation during an emergency, and therefore meets the requirements of objective 1.

In regard to objective 2, the submitted assessment states that a Bushfire Emergency Management and Evacuation Plan can be prepared for the existing development, which would be best developed with the future occupants. This would need to be secured by way of condition and would be sufficient to ensure that suitable emergency evacuation would be provided in accordance with objective 2.

In response to objective 3, the submitted assessment states that the site will be connected to reticulated water. A condition can ensure that hydrants are also provided, which would accord with objective 3.

In regard to objective 4, the assessment states that any hazardous materials are to be stored on the Southern side of the site, away from the Northern elevation (where there is unmanaged grassland which poses the greater bushfire hazard), this considered sufficient to meet objective 4.

The submitted Bushfire Threat Assessment is considered to sufficiently demonstrate compliance with all relevant objectives of the PBP (2019) subject to the recommended conditions set out on the attached draft notice of determination requiring the following:

- 1. Any landscaping that may occur within the site shall meet the requirements of an Inner Protection Area (IPA) as defined under Planning for Bushfire Protection
- 2. Hydrants are provided in accordance with the relevant clauses of AS 2419.1:2017.
- 3. A Bushfire Emergency Management and Evacuation Plan be prepared for the development.

#### 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,
- (d) to manage rural land as an environmental resource that provides economic and social benefits for Orange,
- (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.

### **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 E3 Productivity Support

Lot Size Map: No Minimum Lot Size

Heritage Map: Not a heritage item or conservation area

Height of Buildings Map: No building height limit Floor Space Ratio Map: No floor space limit

Terrestrial Biodiversity Map: No biodiversity sensitivity on the site

Groundwater Vulnerability Map: Groundwater vulnerable

Drinking Water Catchment Map: Not within the drinking water catchment

Watercourse Map: Not within or affecting a defined watercourse

Urban Release Area Map: Not within an urban release area

Obstacle Limitation Surface Map: No restriction on building siting or construction

Additional Permitted Uses Map: No additional permitted use applies Flood Planning Map: Within a flood (PMF) 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 E3 Productivity Support zone. The proposed Self-Storage Units are defined as *Storage Premises and Self-storage* units under OLEP 2011 and is permitted with consent for this zone. This application is seeking consent.

Self-storage units and storage premises are defined in the OLEP 2011 as follows:

**self-storage** units means premises that consist of individual enclosed compartments for storing goods or materials (other than hazardous or offensive goods or materials).

**storage premises** means a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any industry, business premises or retail premises on the same parcel of land, and includes self-storage units, but does not include a heavy industrial storage establishment, local distribution premises or a warehouse or distribution centre.

**Clause 2.3** of LEP 2011 references the Land Use Table and Objectives for each zone in LEP 2011. These objectives for land zoned *E3 Productivity Support* are as follows:

# **Objectives of zone E3 Productivity Support**

- To provide a range of facilities and services, light industries, warehouses and offices.
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
- To maintain the economic viability of local and commercial centres by limiting certain retail and commercial activity.
- To provide for land uses that meet the needs of the community, businesses and industries but that are not suited to locations in other employment zones.
- To provide opportunities for new and emerging light industries.
- To enable other land uses that provide facilities and services to meet the day to day needs of workers, to sell goods of a large size, weight or quantity or to sell goods manufactured onsite.
- To provide for residential uses, but only as part of mixed use development.
- To encourage a mix of light industries that encourage the sharing of facilities.
- To ensure development is ordered in such a way as to maximise public transport patronage, and encourage walking and cycling, in close proximity to settlement.

The proposed self-storage facility aligns with the zone objectives by providing a compatible light industrial use that supports local businesses and the broader community. It does not compete with nearby commercial centres, maintains industrial character, and meets demand for secure storage services. The development promotes efficient land use, supports emerging business needs and contributes to the area's employment and service diversity without introducing prohibited residential uses.

# Part 3 - Exempt and Complying Development

The application is not exempt or complying development.

# Part 4 - Principal Development Standards

This part is not applicable to the development application.

#### **Part 5 - Miscellaneous Provisions**

### 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 identified on the Flood Planning Map as a Flood Planning Area.

# 5.22 - Special Flood Considerations

Clause 5.22 applies to land defined as being located between what is defined as the flood planning area and the probable maximum flood. The development site is identified to be within the *Blackmans Swamp Creek PMF 2021*, as shown in figure 6 below.

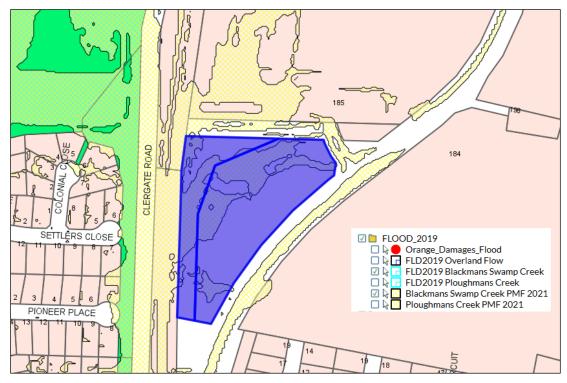


Figure 10 - development site identified within the PMF area

Clause 5.22 does not define a *Storage Premises* as being a sensitive and hazardous development under this clause. For development that is not listed as being sensitive and hazardous development the Council must still determine whether it considers that it is land that, in the event of a flood, may—

- (i) cause a particular risk to life, and
- (ii) require the evacuation of people or other safety considerations.

In this regard the proposed development is unlikely to change flooding behaviour on or off the site and given the nature of the proposed use it is unlikely to adversely affect the safe occupation and efficient evacuation of people from the site. The development is unlikely to cause or contribute to erosion, siltation or reduce riparian vegetation.

### Part 6 - Urban Release Area

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

#### **Part 7 - Additional Local Provisions**

#### 7.1 - Earthworks

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

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

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

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

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

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

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

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

### 7.3 - Stormwater Management

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

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

The proposal has been designed to include permeable surfaces and the design will need to include onsite retention of stormwater. Council's Technical Services Department advises that the will be sufficient room within the driveway areas to suitably manage retention of stormwater. Attached are conditions of consent that address stormwater related matters. The post development runoff levels will not exceed the predevelopment levels.

#### 7.6 - Groundwater Vulnerability

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

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

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

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

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

#### Clause 7.11 - Essential Services

### Clause 7.11 applies and states:

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

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

In consideration of this clause, all utility services are available to the land and adequate for the proposal. The utility services were conditioned to be completed as part of the subdivision application (DA 518/2024(1)). The development is proposed to be located on Proposed lot 01. The attached Notice of Determination includes a condition of consent that prevents the issue of a Construction Certificate until such time that the lot in question has been formally registered meaning that all relevant services including access will be available to the land at the time of construction.

#### Clause 7.13 - Commercial Premises in Zone E3

- (1) This clause applies to land in Zone E3 Productivity Support and identified as "Area B" on the Land Zoning Map.
- (2) Development consent must not be granted to development for the following purposes unless the consent authority is satisfied the gross floor area of the part of a building used for the purposes will not exceed 400m<sup>2</sup>:
  - (a) landscaping material supplies,
  - (b) local distribution premises,
  - (c) rural supplies,
  - (d) specialised retail premises,
  - (e) timber yards.

The development site is within E3 Productivity Zone however not within "Area B". Thereby this clause is not relevant to this application.

#### STATE ENVIRONMENTAL PLANNING POLICIES

The following SEPPs applicable to the proposed development:

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

### STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

# **Chapter 4 - Remediation of Land**

# 4.6 - Contamination and Remediation to be Considered in Determining Development Application

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 subject land is presently vacant and is not known to have been used for a purpose listed in Table 1 of Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land.

Whilst properties within the surrounding area were used for orchards prior to urban development, this particular lot and its surrounds were not used for such purposes, particularly within the last 30 years.

The subject site is not identified as a contaminated land. However, the applicant has submitted a preliminary site investigation prepared by Envirowest Consulting Pty Ltd. The application was referred to Council's Environmental Health Officer, and the following comments were made:

'The PCI found no elevated levels of contaminants and concluded the site is suitable for the proposed use. An Unexpected Finds conditions in the 'During Works' stage is recommended as a precaution'.

#### 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.

# 3.6 Granting of Consent to Signage

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Chapter as set out in section 3.1(1)(a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.

The proposed development includes three (3) business identification signs comprising:

- 1 x flush wall sign located on the façade of Building A adjacent to the site office entrance,
   and
- 2 x double-sided, backlit pylon signs (approximately 1.7m x 1.8m mounted on 3.5m high pylons), positioned at the site frontage along Leeds Parade and near the facility's main entry gate.

Under Clause 3.6, a consent authority must not grant consent unless it is satisfied that the proposed signage is consistent with the objectives of Clause 3.1(1)(a). Although the final design and content of the signage are not known at this stage (due to the business name yet to be confirmed), the proposed signage structures are considered to meet the Chapter's intent:

- Amenity and Visual Character: The signage locations and scale are compatible with the industrial setting and the built form of the proposed self-storage facility.
- Effective Communication in Suitable Locations: The proposed signage positions (adjacent to the site office and at the site entry) are logical and practical, ensuring future business identification signage will provide site recognition.
- High Quality Design and Finish: While the signage design is not yet developed, the structural
  components (pylon and wall-mounted formats) are standard, durable and capable of
  accommodating high-quality signage finishes in line with future tenancy branding.

Whilst Council would ordinarily only allow 1 pylon sign per property the two signs in this case are accepted on the basis that they address separate streets. Future signage design and content will be subject to separate approval once tenancy details are finalised. A condition is included in relation this matter as follows:

A separate development application must be submitted to and approved by Council prior to the erection of any advertising structures or signs of a type that do not meet the exempt development provisions of Orange Local Environmental Plan 2011, State Environmental Planning Policy (Exempt and Complying Development 2008 and Orange Development Control Plan 2004.

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Figure 11 - indicative locations and dimensions of proposed pylon signs



Figure 12 - indicative location and dimensions of flush-wall sign on building A

#### **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 proposed sign locations and formats are appropriate for an industrial area and consistent with similar developments along Leeds Parade.

### 2 - Special Areas

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

The site is not within or adjacent to a heritage item, conservation area, or sensitive environmental or scenic area.

#### 3 - Views and Vistas

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

The signage structures will not obstruct significant public views or vistas due to their placement and scale.

# 4 - Streetscape, Setting or Landscape

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

The signage locations will integrate with the built form of the development and maintain a cohesive streetscape presentation along Leeds Parade.

# 5 - Site and Building

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

Signage is positioned at logical locations: one wall-mounted near the main entrance and two pylons to mark vehicle access and visibility.

# 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?

While final signage content is not yet determined, future designs will be confined to business identification only and subject to review.

#### 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 proposed backlit pylon signs includes controlled lighting, however it will be subject to a separate development application for approval of the signage.

# 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?

Signage locations are clear of vehicle sight lines and do not obstruct pedestrian or vehicular movement within or adjacent to the site.

# STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021 Chapter 2 Infrastructure

# **Division 15 Railways**

The subject Development Application (DA) was referred to TfNSW for comment in accordance with clause 2.98(2) of the *State Environmental Planning Policy (Transport and Infrastructure)*. The application seeks approval for a self-storage facility consisting of five (5) storage buildings having a total of 515 storage units on part of 185 Leeds Parade Orange (Lot 4 DP 1065309 and Lot 1 DP 1286615). The land is located adjacent to operational rail corridor from Orange Junction to Dubbo. The documents exhibited in support of the subject proposal have been reviewed by TfNSW who have recommended conditions of consent and comments regarding the proposal in accordance with clause 2.98(2). These matters have been addressed through conditions of consent.

#### Part 2.3 Division 5 Electricity transmission or distribution

# Section 2.48 Determination of development applications - other development

An exposed overhead electricity powerline is located on part of the land to be developed. The proposal the subject of this application is not affected by the overhead power line. Matters in relation to servicing the site and compliance with essential energy will be addressed prior to registration of the proposed lot to which this development relates. Given that the land has not yet been subdivided and matters in relation to compliance with Essential Energy requirements are ongoing as a part of the planned subdivision works it was considered appropriate to nonetheless refer the matter to Essential Energy for consideration. The electricity supply authority has raised no objection to the proposal.

# 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.

# Part 2 - Natural Resource Management

#### P0 2.1-1 PLANNING OUTCOMES - STORMWATER QUALITY

- 1 Development is carried out in a manner that does not contribute to downstream erosion or sedimentation of waterways.
- 2 Development complies with the *Water and Soil Erosion Control* requirements of the *Development and Subdivision Code*.
- On-site detention is carried out in accordance with the *Development and Subdivision Code* for all developments comprising buildings with a site coverage greater than 50m<sup>2</sup> or where site coverage exceeds the "percentage impervious" level listed in the Code applicable to that development.
- Where on-site detention is not appropriate, contributions are made towards retarding basins and/or GPTs and associated drainage under the Contribution Plan that applies to the land.
- Development in the vicinity of natural watercourses is positioned away from the waterway and includes measures to minimise the impact of the development on the waterway such as the establishment of creekside buffer zones and planting of native trees in a manner that enhances streambank stability.

The proposed development is not expected to result in downstream erosion or sedimentation of waterways. An Erosion and Sediment Control Plan is included within the submitted Stormwater Plans and demonstrates compliance with the Water and Soil Erosion Control provisions of Council's Development and Subdivision Code. Stormwater drainage between the proposed lots will be facilitated via easements to be created as part of the subdivision. Additionally, the subject site is not located near any natural watercourses.

#### Part 3 - General Considerations

#### PO 3.1-1 PLANNING OUTCOMES - CUMULATIVE IMPACT

- 1 Applications for development demonstrate how the development relates to the character and use of land in the vicinity.
- 2 The introduction of new development into a locality maintains environmental impacts within existing or community-accepted levels.
- 3 Water conservation measures are implemented.

The proposed self-storage facility is appropriately scaled for the site and its surrounding context. The development will serve the needs of the local community by providing convenient storage solutions and contributing to local employment opportunities. Environmental impacts have been carefully considered through the design and supporting documentation, and the proposal whilst simplistic in design is expected to positively contribute to the character and functionality of the area.

#### PO 3.2-1 PLANNING OUTCOMES - SCENIC, LANDSCAPE AND URBAN AREAS

- 1 Development incorporates landscaping that enhances the landscaped setting of the locality.
- 2 External finishes, materials and colour schemes of development complement its setting.

A detailed landscape plan has been submitted as part of the development application. The proposal was referred to Council's Manager City Presentation for review, and the following comments were provided:

"I think we could condition this development to plant street trees along the Leeds Parade frontage of the property and the short access road.

Trees to be planted are: 75 Litre container sized Quercus palustris 'Green Pillar' Upright Oak at 15 metre centres, location to be determined by the Manager City Presentation with consideration to the overhead power lines. The landscaping plan is acceptable."

The landscaping design aims to enhance the visual appearance of the site, contribute to the streetscape and support the overall amenity of the development.

Regarding the second planning outcome, the proposed external finishes are appropriate for the industrial setting and satisfy the planning outcome. A neutral palette of Colorbond Surfmist and Monument, combined with off-form concrete, will ensure a cohesive and modern appearance. The use of yellow for roller doors adds a practical and visually distinct feature without detracting from the overall design. The materials are durable, low-maintenance and visually compatible with the surrounding context.

#### PO 3.4-1 PLANNING OUTCOMES - WASTE GENERATION

- Applications involving demolition indicate measures that will be implemented for reuse and recycling of waste materials.
- 2 Development involving demolition is carried out in a manner that optimises reuse and recycling of waste materials consistent with waste-minimisation principles (refer table below).

No demolition is proposed as the site is currently vacant. A Waste Management Plan prepared by MAAS Group has been submitted with the application. The plan outlines measures to maximise reuse and recycling of construction materials during the build phase, consistent with waste minimisation principles. For ongoing operation waste will be managed via designated onsite storage areas and collected through Council's kerbside collection service.

## Part 4 - Special Environmental Considerations

### PO 4.1-1 PLANNING OUTCOMES - SEWAGE DISPOSAL

- Development within the urban area of Orange as defined above is connected to sewerage facilities or arrangements to the satisfaction of Council have been made for the provision of sewerage services prior to occupation.
- Where sewerage services are not provided, on-site disposal of effluent is designed and implemented in accordance with the relevant guidelines for on-site sewage management systems.
- 3 Suitable areas for on-site disposal of effluent are defined prior to:
  - · issue of a construction certificate for a building; or
  - issue of a subdivision certificate for new lots.
- 4 Lots to be created by subdivision for residential purposes indicate an envelope defining an area suitable for on-site disposal of effluent that has been subject to geotechnical assessment.
- Rural or rural residential-zoned land is served by on-site sewage management systems unless the land is traversed by sewer mains with adequate planned capacity.

The proposed development will be connected to reticulated sewer infrastructure that was constructed as part of the approved subdivision under DA 518/2024(1). This satisfies Council's requirement for connection to sewerage services within the urban area

# PO 4.4-1 PLANNING OUTCOMES FOR CONTAMINATED LAND

- 1 Land subject to development is clear from contamination.
- 2 Development complies with the Contaminated Land Management Act 1997.
- 3 Applications for development consent on land used or likely to have been previously used for uses in the table below include contamination assessment and where necessary a proposed remediation strategy to make the site suitable for the proposed use.
- 4 An independent site audit at the applicant's cost is carried out to assess the information provided with an application where Council considers that:
  - information may be incorrect or incomplete;
  - it needs to verify that the information adheres to appropriate standards, procedures or quidelines; or
  - · the type or level of contamination requires an independent technical review.

The site is currently vacant and is not identified on the NSW Contaminated Land Register, nor is it known to be affected by contamination. A Preliminary Site Investigation has been prepared. The report supports the suitability of the site for the proposed commercial and industrial use.

# Part 9 - Development in Industry and Employment Zone

### PO 9.3-1 PLANNING OUTCOMES - INDUSTRIAL-SITE DEVELOPMENT

- Buildings are set back a minimum of 10 metres from front boundaries (5 metres to a secondary boundary on a corner lot) for lots greater than 1,000m<sup>2</sup> or 5 metres for lots less than 1,000m<sup>2</sup> or otherwise to a setback consistent with existing setbacks in established areas. A 10m setback applies to lots that have frontage to Clergate Road.
- 2 Buildings cover up to 50% of the site area (excluding the area of accessways for battleaxe lots).
- Landscaping is provided along boundaries fronting roads including trees with an expected mature height at least comparable to the height of buildings on the site. All sites contain an element of landscaping. Landscaping provided is of a bulk, scale and height relative to buildings nearest the front property boundary so as to provide beautification and visual relief to the built form proposed or existing on the site. The depth of the landscape bed at the site frontage is sufficient to accommodate the spread of plantings that meet the abovementioned outcomes but, where practicable, a minimum depth of 3.5m is provided. Plantings are designed to provide shade for parking areas, to break up large areas of bitumen, to enhance building preservation and to screen against noise.
- Architectural features are provided to the front building façade to provide relief using such elements as verandahs, display windows, indented walls, etc.
- 5 External materials consist of non reflective materials.
- 6 Adequate parking and on-site manoeuvring is provided.
- Advertising involves business-identification signs within the front façade and/or by a pole sign comparable to the relative height to the main building on the site.
- 8 Security fencing is located or designed in a manner that does not dominate the visual setting of the area.

The proposed self-storage facility is located on a corner allotment and complies with the required 10m building setback from Leeds Parade. Site plans confirm compliance with building offsets.

Site coverage is approximately 7,580m<sup>2</sup> with the size of the site being 19,536.66m<sup>2</sup>, which equates to a building coverage of 38.8%.

A concept landscape plan is included with the proposal. It provides planting buffers along street frontages, within outdoor areas, and around the car park to soften visual impact, offer shade and enhance site presentation. However, Council's Manager City Presentation requested that the following condition be included:

"75 Litre container sized Quercus palustris 'Green Pillar' Upright Oak at 15 metre centres, location to be determined by the Manager City Presentation with consideration to the overhead power lines. The landscaping plan is acceptable."

Architectural plans illustrate non-reflective finishes and include features that add articulation to the building façade.

In relation to car parking requirements, the DCP does not set a parking rate for self-storage units, and while the DCP provides rates for similar uses such as warehouses/distribution centres and depots (ie one (1) space per  $100m^2$  GFA), it is not considered appropriate to adopt this rate given the unique nature of the type of development proposed and the fact that a self-storage unit development operates in a manner contrary to typical warehouse/distribution centres or depot style developments. The applicant has requested that Council considers parking demand based on the findings of an independent report prepared by Aurecon Australia Pty Ltd commissioned in 2009 by the Self-Storage Association of Australia on parking requirements for self-storage developments. Below is a table indicating the study findings for self-storage facilities.

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Based on the table the minimum number of off-street parking spaces required for the proposed development is 11. The application proposes 13 spaces (including one accessible space), hence satisfying the requirements.

| MLA   | Office<br>Parking | Storage Area<br>Parking* | Staff<br>Parking | Trailer/Ute<br>Parking | Total Parking<br>Spaces |
|---|-------------------|--------------------------|------------------|------------------------|-------------------------|
| 0-3,000 m <sup>2</sup>                      | 1                 | 2                        | 2                | 1                      | 6                       |
| 3,000 m <sup>2</sup> -6,000 m <sup>2</sup>  | 2                 | 5                        | 2                | 1                      | 10                      |
| 6,000 m <sup>2</sup> – 9,500 m <sup>2</sup> | 3                 | 5                        | 2                | 1                      | 11                      |

\*Note: Ranch style sites will not require designated storage area parking as vehicles in these sites will park in aisles adjacent to their storage units; similarly "mixed" sites may require less designated storage area parking if they have a significant number of drive up storage units in a ranch style arrangement.

Source: - Study Results and Findings Self Storage Facility Traffic and Parking Study (Aurecon July 2009).

Three business identification signs are proposed: one flush wall sign and two pylon signs (illuminated signage), all located appropriately to communicate business identity without dominating the streetscape. Detailed assessment of the proposed signage is discussed under chapter 3 of SEPP industry and employment 2021.

Security fencing is proposed around the perimeter including gated entry, ensuring site safety without adversely impacting the visual setting.

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

# **Demolition of a Building (clause 61)**

The proposal does not involve the demolition of a building.

### Fire Safety Considerations (clause 62)

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

## **Buildings to be Upgraded (clause 64)**

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

## **BASIX Commitments (clause 75)**

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

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

The proposed self-storage facility is considered to have minimal adverse environmental, social or economic impacts for the following reasons:

**Built Form and Character**: The development is consistent with the built form expected in the E3 Productivity Support zone. The design, scale and materials are appropriate to its context, with architectural articulation and non-reflective finishes that minimise visual dominance.

**Traffic and Parking**: The proposal includes 13 onsite car parking spaces (including one accessible space). Traffic movements generated by the facility are low and are not expected to impact the operation of the local road network.

**Noise**: The proposed facility would be accessible to customers 24hrs a day, 7-days a week. As figure 13 indicates below, there are residential properties within the vicinity of the site and therefore an assessment as to whether the proposal would result in any undue noise disturbance is required. The applicant has provided an Acoustic Assessment report by Rapt Consulting, which provides an assessment of the noise impact of the proposal on the nearest noise sensitive receptors (indicated as orange circles on figure 13 below). The receptors chosen are located at the nearest residential properties to the site (except R9 which is where the proposed childcare centre would be located) and are therefore considered to be suitable to measure the potential noise impact of the proposal.



Figure 13 - site plan indicated noise sensitive receptors assessed under the submitted acoustic assessment

As part of the assessment, monitoring was carried out to determined existing site background and ambient noise. The existing ambient/background noise at the site is described as emanating primarily from road traffic, rail and natural wildlife. The existing daytime rating background noise level at the site has been calculated as 44dB, existing evening noise levels as 39dB and existing nighttime noise levels as 33dB.

The Noise Policy for Industry (NPFI), Environment Protection Authority (EPA), 2017 guidance states how potentially noise intrusive developments shall be assessed. The NPFI states that for a noise source to be considered acceptable, it must not exceed background noise levels by more than 5dB. As such, the table below indicates what level of noise from the subject site would be required for the noise generated to be considered intrusive against the measured rating background noise level:

| Period  | RBL. L <sub>A90</sub> , dB(A) | Intrusiveness noise<br>level (RBL + 5), dB(A) |
|---------|-------------------------------|---|
| Day     | 44                            | 49  |
| Evening | 39                            | 44  |
| Night   | 33                            | 38  |

The submitted report indicates that operational use of the site measured during a 15-minute period in relation to: site traffic, use of roller doors, loading/unloading and site mechanical plant would not reach intrusive noise levels. The loudest cumulative noise impact would be to noise receptors on Settlers Close (R5) and Sheldon Crescent (R1) where noise levels are calculated to reach 33dB. This would not exceed the rating background noise levels and therefore any noise emanating from the proposed development is unlikely to be intrusive for nearby residents.

In addition to the above, a maximum noise level assessment was carried out in relation to maximum calculated noise levels for: site traffic, use of the roller doors and loading/unloading. This assessment indicated that the maximum estimated noise level heard from a residential dwelling would be 45dB relating to site traffic, but this would be below the 52dB that is calculated as being required for sleep to be disturbed and would therefore be acceptable.

The submitted acoustic assessment concludes that the proposal would comply with noise trigger levels and no adverse impact on residential noise receivers is anticipated.

Overall, given the location of the proposed self-storage development at least 60m from residential dwellings across roads that generate traffic noise and given that the proposed use is not anticipated to generate significant noise levels (as outlined in the submitted acoustic assessment), it is not considered that the proposed development would cause any undue noise disturbance to neighbouring residents. Therefore, no noise mitigation measures are required. Councils EHO has reviewed the submitted acoustic assessment and accepts its findings.

**Contamination**: A preliminary site investigation has been submitted confirming the site is suitable for the proposed commercial and industrial use. No significant contamination was identified. However, a condition relating to unexpected finds is included.

**Stormwater and Erosion Control**: Stormwater will be managed in accordance with Council's Development and Subdivision Code. An erosion and sediment control plan has been prepared, and easements will be registered to support drainage across the site. The site is not in proximity to any natural watercourses, and no downstream erosion or sedimentation is anticipated.

**Bushfire**: While the site is mapped as bush fire-prone land, the land use is not identified in Planning for Bushfire Protection as requiring referral to the RFS. Appropriate separation from vegetated areas is maintained. Conditions included in the attached draft notice of determination would ensure compliance with the relevant objectives of the PBP (2019).

**Landscaping and Visual Impact**: Landscaping is proposed along the site's street frontages, around the car park and within outdoor areas to soften the built form and improve visual amenity. A condition regarding tree species and locations to be reviewed and approved by Council's Manager City Presentation is included.

**Signage**: Three business identification signs are proposed. These are compatible with the character of the area and meet the requirements of Chapter 3 of the SEPP (Industry and Employment) 2021 A condition has been included to require a separate development application for the installation of the signs to ensure detailed assessment.

**Employment and Services**: The development will contribute positively by providing employment opportunities and essential storage services to the local and regional community.

Overall, the proposal is expected to integrate well into the existing urban fabric, with no significant impacts identified that cannot be managed through appropriate conditions of consent.

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

The subject site is considered suitable for the proposed self-storage facility. It is located within a light industrial precinct and zoned appropriately to accommodate light industrial uses such as self-storage. The development is consistent with the intended land use, provides adequate access and does not adversely impact the surrounding environment or adjoining land uses.

The site benefits from existing infrastructure, including reticulated sewer and stormwater connections. Furthermore, fairly flat topography and generous lot size enable appropriate building setbacks, landscaping and vehicle manoeuvring areas, reinforcing the site's capacity to support the proposed use.

# 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 advertised for the prescribed period of 14 days and at the end of that period one submission was received.

The applicant provided a response to the matters raised in the public submission, which has be reviewed by Council staff and taken into account when assessing the application. The issues raised by the submission are outlined below, along with Council's planning assessment and response:

# 1 - Acoustic Impacts and Hours of Operation

Concerns have been raised that the proposed development would be located within 58m of the nearest houses, with the existing local environment and proposed development providing no noise barriers. There are concerns that the proposal would create undue noise pollution for neighbouring residents by virtue of the arrival and departure of vehicles, unit roller doors opening and closing and the moving of heavy items. To address these concerns, the submitter requests that no roller doors be permitted facing residential areas to the southern and western boundaries and that the proposed hardstand area adjacent to the western boundary of the site be moved to the centre of the site.

Assessment response: The facility will operate 24/7 for authorised users, with restricted access via security codes. Staffing will occur during standard business hours. This operational arrangement is consistent with typical self-storage uses. As set out under the preceding section of this report, an Acoustic Assessment Report prepared by a qualified consultant was submitted with the application. The report concludes that the predicted noise levels from the proposed development will comply with relevant project noise trigger levels and will not adversely impact nearby residential uses. Council considers this response and the supporting documentation to be satisfactory. Any operational noise complaints can be managed under the Protection of the Environment Operations Act 1997 if required.

The submitted acoustic assessment indicates that operational noise levels from roller door use, site traffic and loading/unloading on-site would not be above the rating background noise level when measured from the nearest residential dwellings. Furthermore, the maximum potential noise from these operations would be below the established sleep disturbance screening level. It is therefore not considered that it would be necessary or reasonable to require the removal of roller doors from the western and southern sides of the site nor to require the removal of the hardstand area adjacent to the Western boundary of the site.

# 2 - Construction Impacts

Concerns have been raised in regard to disturbance during construction in regard to noise, dust vibration and visual impact.

Assessment response: The proposed development may result in short-term impacts typically associated with construction activities. However, such impacts are temporary and limited to the construction phase. To mitigate any potential adverse impact during construction works, a condition is included on the draft notice of determination requiring the submission of a construction management plan.

## 3 - Landscaping and Visual Impact

Concerns have been raised that the appearance of the proposed development would cause harm to visual amenity

Assessment response: The design of the proposed development is considered appropriate for its intended use. A concept landscape plan has been prepared and submitted. It includes street frontage plantings and perimeter treatments to soften visual impacts. Council's Manager City Presentation has accepted the plan subject to a condition requiring the planting of Quercus palustris 'Green Pillar' trees at 15m intervals along the frontage, with final placement to consider overhead power lines. The existing fencing along the western boundary will be retained, which is considered appropriate for security and visual containment.

# 4 - Light Pollution

Concerns have been raised in regards to light pollution to local residents in regards to vehicles within the site, lighting to signage, operational lighting and security lighting.

**Assessment response:** The applicant has clarified that lighting will be limited to building perimeters, the site entrance and the car park for security purposes. No floodlights are proposed, and lighting will comply with AS/NZS 4282:2019 - Control of the Obtrusive Effects of Outdoor Lighting. This is acceptable, and a condition is included to ensure lighting is installed and maintained in accordance with this standard.

## 5 - Drainage

Concerns have been raised that the proposal would significantly increase stormwater run-off

**Assessment response:** Stormwater management for the site has been designed by a qualified civil engineer in accordance with Council's Development and Subdivision Code. Anti-scour features are proposed to reduce flow rates and prevent erosion. A drainage easement arrangement is proposed to ensure lawful discharge of stormwater between subdivided lots.

# 6 - Waste Management

Concerns have been raised as to how waste would be managed adequately on the site.

**Assessment response:** A Waste Management Plan has been submitted identifying a dedicated onsite waste storage area with weekly collection by Council. Onsite staff will monitor waste and arrange additional pickups as needed. This is considered an appropriate and acceptable arrangement for the nature of the proposed development.

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

## **ATTACHMENTS**

- 1 DRAFT Notice of Determination, D25/70794
- 2 Plans, D25/68186<u>↓</u>
- 3 Submission (redacted), D25/66158 J



# NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

| Application number                   | DA 68/2025(1)<br>PAN-508324                                    |
|--------------------------------------|--|
| Applicant                            | Maas Properties<br>206 HANNELL STREET MARYVILLE 2293           |
| Description of development           | Proposed Self Storage Facility                                 |
| Property                             | 185 LEEDS PARADE ORANGE 2800<br>4/-/DP1065309<br>1/-/DP1286615 |
| Determination                        | Approved Consent Authority - Council                           |
| Date of determination                | 1/07/25  |
| Date from which the consent operates | 1/07/25  |
| Date on which the consent lapses     | 1/07/30  |

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.
- To ensure the utility services are available to the site and adequate for the development.
- 3. To provide adequate public health and safety measures.
- 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.
- 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.
- 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**

### **Erection of signs**

- This section applies to a development consent for development involving building work, subdivision work or demolition work.
- 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
  - 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.

Approved Plans -

 Site Plans prepared by MAAS, job code - DV018\_SS001, Revision 1, dated 21/11/2023, total number of sheets - 2

- Architectural Plans prepared by MAAS, Project number 24011, named 'Self Storage, Orange', Sheets A000, A001, A002, A003, A004, A005.a, A005.b, A006, A008, A102, A103, A104, A106, A107, A108, A110, A111, A114, A115, A116, A118, A119, A120 total number of sheets - 24, dated 19/02/2025
- Landscape Plan prepared by tolero Landscape Design., Job number MAAS161224, total number of sheets - 5, dated 03/02/2025

Approved documents -

- 1. Operational Waste Management Plan by MAAS group of properties
- 2. Acoustic Assessment, prepared by RAPT Consulting, dated January 2025.

In the event of any inconsistency between the approved plans and documents, the approved **Plans / Documents** prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

**Condition reason:** To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

### 3 Development and subdivision works requirements

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

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

# 4 Essential Energy

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;
- Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); and

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

Condition reason: To ensure compliance with relevant statutory requirements.

#### 5 Transport for NSW - Guidelines

The applicant must comply with the requirements of T HR CI 12090 ST Airspace and External Developments (Link: https://www.transport.nsw.gov.au/industry/asset-standards-authority/finda-standard/airspace-and-external-developments-1) and Development Near Rail Corridors and Busy Roads-Interim Guidelines (Link:

https://www.planning.nsw.gov.au/sites/default/files/2023-03/development-near-rail-corridorsand-busy-roads-interim-guideline.pdf.)

Please note that State Environmental Planning Policy (Infrastructure) 2007 referred in the above documents has been superseded by State Environmental Planning Policy (Transport and Infrastructure) 2021.

Condition reason: To ensure compliance with relevant statutory requirements.

## 6 Transport for NSW - Access to the rail corridor

The applicant must ensure its employees and all other persons do not enter any parts of the rail land at all times unless otherwise permitted in writing by UGRRL and TfNSW in advance.

**Condition reason:** The proposed project site is adjacent to the rail corridor. As such, it is essential that access to the rail land must be permitted in advance.

### 7 National Construction Code

All building work must be carried out in accordance with the provisions of the National Construction Code.

Condition reason: To ensure compliance with relevant statutory requirements.

# **Building Work**

# Before issue of a construction certificate

8 Construction Site Management Plan

Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to Council for approval. The plan must include the following matters:

- a. The location and materials for protective fencing and hoardings on the perimeter of the site;
- Location of dedicated washdown areas (located away from drainage lines, stormwater drains and water bodies);
- c. Provisions for public safety;
- d. Pedestrian and vehicular site access points and construction activity zones;
- e. Details of construction traffic management including:
  - i. Proposed truck movements to and from the site;
  - i. Estimated frequency of truck movements; and
  - i. Measures to ensure pedestrian safety near the site;
- f. Details of bulk earthworks to be carried out;
- g. The location of site storage areas and sheds;
- h. The equipment used to carry out works;
- i. The location of a garbage container with a tight-fitting lid;
- j. Dust, noise and vibration control measures;
- k. Details of chemical storage and management;
- I. The location of temporary toilets

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

**Condition reason:** To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

## 9 Engineering plans for carpark

Engineering plans providing complete details of the proposed driveway and car parking areas are to be submitted to the Certifier upon application for a Construction Certificate. These plans are to provide details of levels, cross falls of all pavements, proposed sealing materials, linemarking, signage and proposed drainage works and are to be in accordance with Orange City Council Development and Subdivision Code and AS/NZS2890.1. All stormwater from the site is to be collected and piped to the proposed on-site stormwater detention basin.

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

# 10 Road opening permit required

A Road Opening Permit in Accordance with Section 138 of the Roads Act 1993 must be approved by Council prior to a Construction Certificate being issued or any intrusive works being carried out within the public road or footpath reserve.

Condition reason: To ensure compliance with relevant statutory requirements.

## 11 Stormwater detention design

The development's stormwater design is to include the incorporation of stormwater detention within the development, designed to limit peak outflows from the land to the

pre-existing natural outflows up to a 1% AEP storm event, with sufficient allowance in overflow spillway design capacity to safely pass flows of lower frequency (that is, a rarer event) without damage to downstream developments.

The design of the detention storage is to be undertaken using the DRAINS rainfall-runoff hydrologic model (or an approved equivalent capable of assessing runoff volumes and their temporal distribution as well as peak flow rates) based on the most recent version of Australian Rainfall and Runoff calculations allowing for applicable climate change factor(s). The model is to be used to calculate the flow rates for the existing and post-development conditions. The developed flows are to be routed through the proposed storage within the model so that the outflows obtained are no greater than the flows obtained for the pre-existing natural flows. A report detailing the results of the analysis, which includes:

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

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

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

### 12 Proposed Lot 01 to be registered prior to issue of a Construction Certificate

Prior to the issue of a construction certificate evidence shall be provided to the Principal Certifying Authority that proposed Lot 01 has been registered with NSW Land and Property Information.

Condition reason: To comply with relevant statutory requirements.

### 13 Transport for NSW - Survey

Prior to the issue of the Construction Certificate or commencement of any works, whichever is earlier, the applicant shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor to the satisfaction of UGLRL and TfNSW.

**Condition reason:** It is essential for the applicant to prepare a survey to the satisfaction of UGLRL and TfNSW to confirm the distance between the proposed development works and the rail corridor and ensure that the development does not encroach onto the operational rail corridor/rail land.

#### 14 Transport for NSW - Fencing

Prior to the issue of the Construction Certificate or commencement of any works, whichever is earlier, appropriate fencing is to be installed or maintained between the boundary of the site and the rail corridor in accordance with the relevant CRN civil standards relating to Boundary Fences including CRN CS 510 (standard) (BOUNDARY FENCES (sitecorecloud.io)), CRN CM 511 Boundary Fences (manual) (BOUNDARY FENCES (sitecorecloud.io)), and CRN CP 511 Boundary Fences (specification) (Boundary Fences (sitecorecloud.io)) to prevent unauthorised access.

Before commencing any fencing work (either new installation, upgrade, or renewal), the applicant must provide fencing design/site plans to UGLRL and TfNSW for approval. The applicant is advised to contact UGLRL's third-party works via third-partyworks@uglregionallinx.com.au for more information.

Condition reason: The fencing along the CRN rail corridor is essential to prevent unauthorised entry and ensure safety. UGLRL CRN Boundary Fences Civil Standards (CRN CS 510, CRN CM 511, and CRN CP 511) provide detailed specifications about material as well as reference drawings. If there is existing fencing that meets CRN CS 510 (standard), CRN CM 511 Boundary Fences (manual), and CRN CP 511 Boundary Fences (specification), the applicant is advised to contact UGLRL property via propertyenquiries@uglregionallinx.

### 15 Transport for NSW - Stormwater Management

Prior to the issue of the Construction Certificate or commencement of any works, whichever is earlier, the applicant shall provide UGLRL and TfNSW with written confirmation and evidence that the post-development flow rate and velocity are no more than the pre-development flow rate and velocity into the rail corridor. The applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the railway corridor unless prior written approval has been obtained from UGLRL on behalf of TfNSW.

Condition reason: The submitted stormwater plans include drainage drawings; however, it is unclear whether post-development flow rates and velocities are equal to or less than pre-development levels. Additionally, Section 3.2 (Page 13) of the SEE indicates that overflow drainage will be directed into existing stormwater infrastructure within the railway corridor. It is essential that UGLRL and TfNSW are satisfied that the proposed drainage will not adversely impact rail land or infrastructure.

### 16 Transport for NSW - Excavation in, above, below or adjacent to the rail corridor

Prior to the issue of the Construction Certificate or commencement of any works, whichever is earlier, the applicant shall provide information about the location and depth of the excavation work within 25m of the rail corridor.

If any development works are within 25m of the boundary of the rail corridor, and are greater than 2m in depth, the applicant shall also provide a geotechnical report (specifically

developed to address the integrity of the nearby rail corridor) prepared by qualified Geotechnical and Structural Engineers to the satisfaction of UGLRL demonstrating that the proposed works will not have a negative impact on the rail corridor and associated rail infrastructure.

The applicant must consult and obtain written approval from UGLRL stating that this condition has been satisfied.

**Condition reason:** Section 3.2 (Page 13) of the SEE notes bulk earthworks involving cut and fill. While a cut and fill plan is provided, the extent of works—particularly stormwater drainage near the rail corridor—is unclear. UGLRL and TfNSW must be satisfied that the proposed excavation will not impact the rail corridor or infrastructure.

### 17 Transport for NSW - Lighting/non-reflective materials

The design, installation and use of lights, signs, and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridors must limit glare and reflectivity to the satisfaction of UGLRL on behalf of TfNSW. The applicant shall not use red, amber, or green lighting colours to avoid adverse effects on train running schedules and safety issues due to the misidentification of lighting colours. The Principal Certifying Authority (PCA) shall not issue the relevant construction certificate until written confirmation has been received from UGLRL and TfNSW confirming that this condition has been satisfied.

Condition reason: The rail corridor is operational, thus, the glare from lighting and external finishes has the potential to affect the drivers for safe operations of trains. The applicant is advised to contact UGLRL's Development Application team via development@uglregionallinx.com.au.

## 18 Section 68 application - water and sewer

An approval under Section 68 of the *Local Government Act* is to be sought from Orange City Council, as the Water and Sewer Authority, for water, sewer and stormwater connection. Details concerning the proposed backflow prevention between the nominated water tank supply and the potable system are to be provided. No plumbing and drainage is to commence until approval is granted.

**Condition reason:** To ensure the utility services are available to the site and adequate for the development.

# Before building work commences

## 19 Appoint PC

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.

Condition reason: To ensure compliance with relevant statutory requirements.

# 20 Construction certificate required

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.

**Condition reason:** 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.

### 21 No commencement until details received

The construction works the subject of this development consent MUST NOT be commenced until:

- (a) Detailed plans/specifications of the building have been endorsed with a construction certificate by:
  - (i) the Council, or
  - (ii) a registered certifier, and
- (b) The person having the benefit of the development consent:
  - (i) has appointed a Principal Certifier, and
  - (ii) has notified the Council of the appointment, and
- (c) The person having the benefit of the development consent has given at least two (2) day's notice to the Council of the person's intention to commence the erection of the building; and

| (d) | Builder's name and licence number has been supplied to Council or the Principal |
|-----|---|
| Cer | tifier: or  |

- (e) Owner Builder's permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifier; and
- (f) Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifier; and
- (g) A sign has been erected onsite in a prominent position containing the information prescribed by Clause 98A(2) and (3) of the EP&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.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 22 Onsite toilet

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.

Condition reason: To provide adequate public health and safety measures.

# 23 Erosion and sediment control - implementation

Erosion and sediment controls shall be implemented onsite in accordance with Managing Urban Stormwater: Soils and Construction - Volume 1 (4<sup>th</sup> edition).

**Condition reason:** To prevent site erosion and sediment loss, and protect waterways from sediment pollution.

# **During building work**

## 24 Adjustments to utility services

Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

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

## 25 Driveway and parking areas

All driveway, vehicle manoeuvring 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.

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

#### 26 Kerb and gutter layback and footpath crossing

A heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in the position shown on the plan submitted with the Construction Certificate application. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit.

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

#### 27 Provision of services

The provisions and requirements of the Orange City Council Development and Subdivision Code are to be applied to this application and all work constructed within the development is to be in accordance with that Code.

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.

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

# 28 Transport for NSW - Cranes and Equipment

- 1. If required, the applicant must submit an application to UGLRL on behalf of TfNSW prior to any use of cranes and equipment (Equipment) in the air space over the rail corridor.
- 2. The applicant is required to provide a safety assessment of the works necessary for the development assessing any potential impact or intrusion on the Danger Zone (as defined in the UGLRL Network Rules and Procedures and that any works are undertaken by a qualified Protection Officer.
- 3. The use of Equipment must be in accordance with the AS 2550 series of Australian Standards, Cranes, Hoist and Winches, including AS2550 15-1994 Cranes Safe Use Concrete Placing Equipment.

Condition reason: If such equipment is required to be used in the air space over the rail corridor or adjacent rail land other than the leased premises, the applicant must submit an application to UGLRL for its endorsement and TfNSW's approval in advance. The applicant is advised to contact UGLRL's Third-party works team via thirdpartyworks@uglregionallinx.com.au for more information in this regard.

#### 29 Hours of work - construction

All construction work on the site is to be carried out between the hours of 7am and 6pm Monday to Friday inclusive, 7am to 5pm Saturdays, and 8am to 5pm Sundays and Public Holidays. Written approval must be obtained from the Chief Executive Officer of Orange City Council to vary these hours.

Condition reason: To ensure compliance with relevant statutory requirements.

#### No encroachment on easements

No portion of the building or service to and from that building - including footings, eaves, overhang and service pipes - shall encroach into any easement.

**Condition reason:** To prevent the proposed development having a detrimental effect on adjoining land uses.

### 31 Protection of the Environment Operations Act - material delivery

All materials onsite or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material, or when disposing of waste products, or during any other activities likely to pollute drains or watercourses.

**Condition reason:** To protect waterways from pollution by stockpiled or placed construction materials.

### 32 Unexpected finds - contamination

In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work onsite must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works onsite must not resume unless the express permission of Council's Director Development Services is obtained in writing.

**Condition reason:** To ensure any unexpected finds of contamination are notified to Council and managed appropriately.

## Before issue of an occupation certificate

### 33 | Completion of works on public land and services

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.

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

### 34 Completion of works relating to road opening permit

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.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 35 Stormwater detention certification

A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater detention basin complies with the approved engineering plans is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

#### 36 Landscaping - to be installed and maintained in accordance with approved plans

Landscaping must be installed in accordance with the approved plans and must be permanently maintained to the satisfaction of Councils Manager Development Assessments.

Additinally, 75 Litre container sized Quercus palustris 'Green Pillar' Upright Oak trees at 15 metre centres are required to be planted, location to be determined by the Manager City Presentation with consideration to the overhead power lines.

**Condition reason:** To ensure a quality urban design for the development which complements the surrounding environment.

## 37 Parking - off-street parking required

A total of 13 off-street car parking spaces must be provided upon the site in accordance with the approved plans and the provisions of Orange Development Control Plan 2004. The parking spaces are to be constructed in accordance with the requirements of Council's Development and Subdivision Code prior to the issue of an occupation certificate.

**Condition reason:** To ensure the development has adequate parking to meet demands, and ensure compliance with relevant statutory requirements.

# 38 Section 68 final - water and sewer

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.

**Condition reason:** To ensure the utility services are available to the site and adequate for the development.

### 39 No use or occupation without occupation certificate

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.

Condition reason: To ensure compliance with the Building Code of Australia.

#### 40 Bushfire Evacuation

A Bushfire Emergency Evacuation Plan must be prepared and submitted for approval by the Manager of Development Assessments before an Occupation Certificate is issued.

Condition reason: To ensure compliance with Planning for Bushfire Protection.

### 41 Fire Hydrant Design

The applicant shall demonstrate to the certifier that the hydrant design has been provided in accordance with AS2419.1:2017.

Condition reason: To ensure compliance with Planning for Bushfire Protection.

### Occupation and ongoing use

### 42 Transport for NSW - Advisory Comments

TfNSW is currently conducting an environmental assessment to identify contamination on the CRN. All railway corridors are generally deemed to be contaminated unless proven otherwise by sample testing. Contamination risk arises from both the construction (e.g., unknown fill used in rail construction) and operations (e.g., transportation of contaminated material, spills) of the railway. Potential contaminants could include but are not limited to, heavy metals, PAHs, phenolics (boiler ash), Organochlorine Pesticides (OCPs) and Organophosphorus Pesticides (OPPs). TfNSW is committed to ensuring the health and well-being of the community. TfNSW is not aware of whether there are contaminants found in the rail corridor or on the common boundaries with the development site.

Furthermore, in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021-Section 4.6 'Contamination and remediation to be considered in determining development application' (Previously State Environmental Planning Policy No. 55 – Remediation of Land) the consent authority must consider whether the land is

contaminated.

|    | Condition reason: To ensure compliance with relevant statutory requirements.  |  |  |  |  |
|----|---|--|--|--|--|
| 43 | Signage - not comprising exempt development   |  |  |  |  |
|    | A separate development application must be submitted to and approved by Council prior to the erection of any advertising structures or signs of a type that do not meet the exempt development provisions of Orange Local Environmental Plan 2011, State Environmental Planning Policy (Exempt and Complying Development 2008 and Orange Development Control Plan 2004. |  |  |  |  |
|    | Condition reason: To ensure compliance with relevant statutory requirements.  |  |  |  |  |
| 44 | Lighting - outdoor lighting   |  |  |  |  |
|    | Any outdoor lighting must be in accordance with Australian Standard 4282-1997 "Control of the obtrusive effects of outdoor lighting". Any ancillary light fittings fitted to the exterior of the buildings must be shielded or mounted in a position so as to minimise light spill and glare to adjoining properties.   |  |  |  |  |
|    | <b>Condition reason:</b> To prevent the proposed development having a detrimental effect on adjoining land uses.  |  |  |  |  |
| 45 | Annual fire safety statement  |  |  |  |  |
|    | The owner is required to provide to Council and to the NSW Fire Commissioner an Annual Fire Safety Statement in respect of the fire-safety measures as required by Clause 177 of the Environmental Planning and Assessment Regulation 2000.   |  |  |  |  |
|    | Condition reason: To ensure compliance with relevant statutory requirements.  |  |  |  |  |
| 46 | Outdoor storage of goods and equipment  |  |  |  |  |
|    | Outdoor storage of goods and equipment must not occur on any approved car parking spaces.   |  |  |  |  |
|    | Condition reason: To minimise the impact of development on the environment.   |  |  |  |  |
| 47 | Signage - A-frames and sandwich boards not permitted  |  |  |  |  |
|    | No sandwich boards or the like are to be placed on Council's footpath.  |  |  |  |  |
|    | Condition reason: To provide adequate public health and safety measures.  |  |  |  |  |
| 48 | Use of individual self-storage units  |  |  |  |  |
|    | No commercial use is to be made of the individual self-storage units.   |  |  |  |  |
|    | Condition reason: To ensure compliance with relevant statutory requirements.  |  |  |  |  |

#### 49 Inner Protection Area

Landscaping within the subject land shall at all times be managed to meet the requirement of an Inner Protection Area as defined under Planning for Bushfire Protection.

Condition reason: To ensure compliance with Planning for Bushfire 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 <u>Conditions of development consent: advisory notes</u>. The consent should be read together with the <u>Conditions of development consent: advisory notes</u> 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.

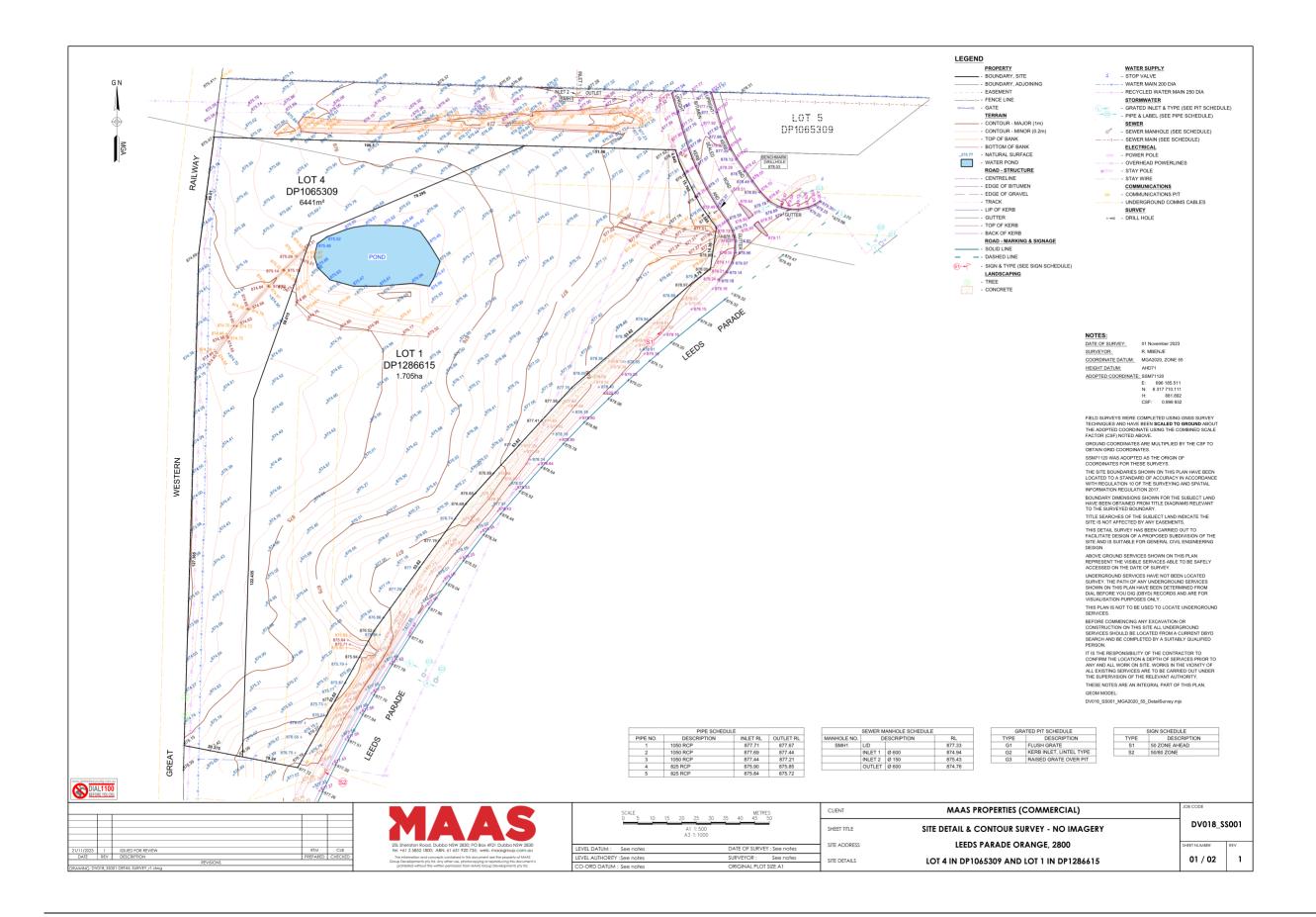
Stormwater drainage system means all works and facilities relating to:

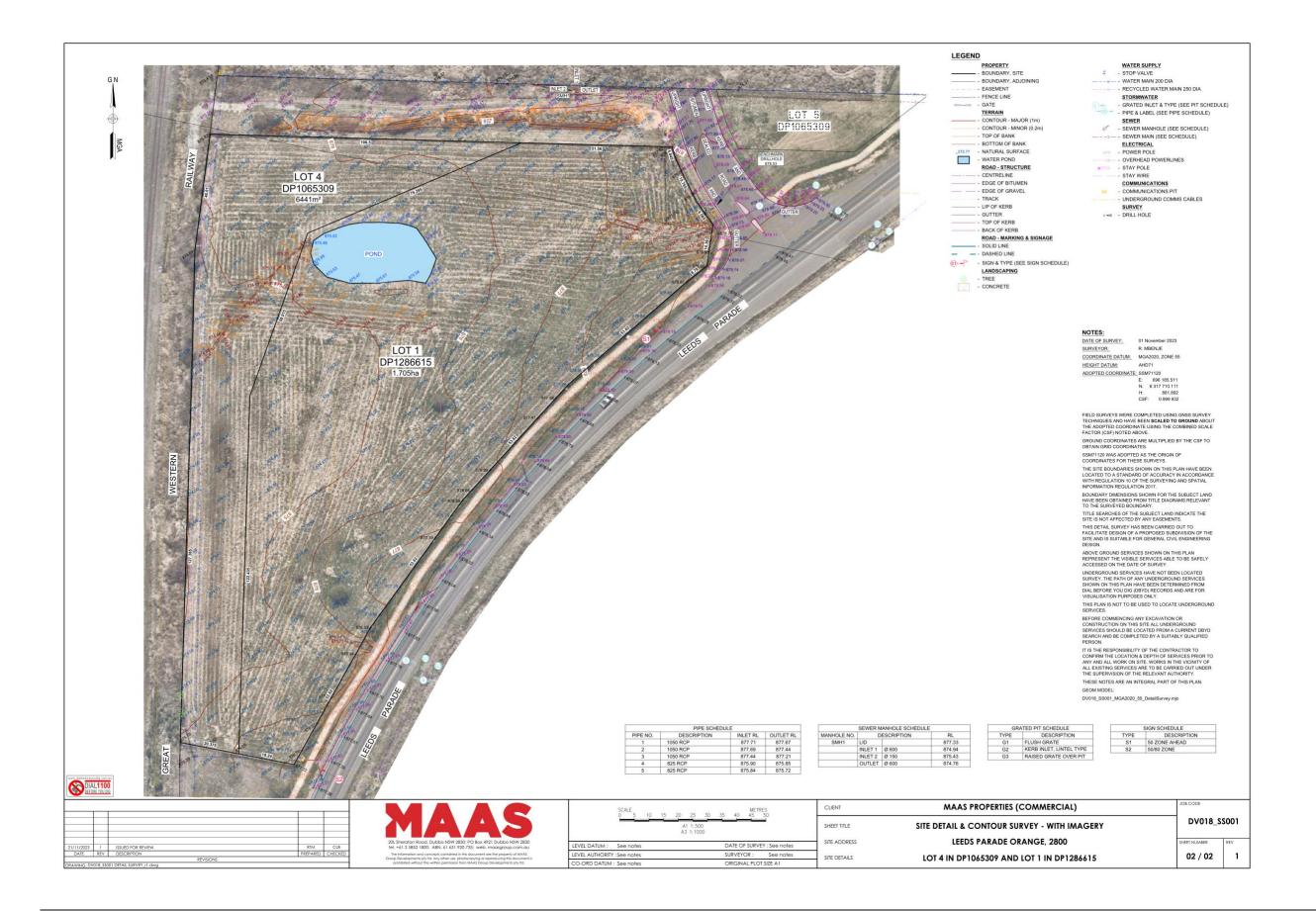
- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

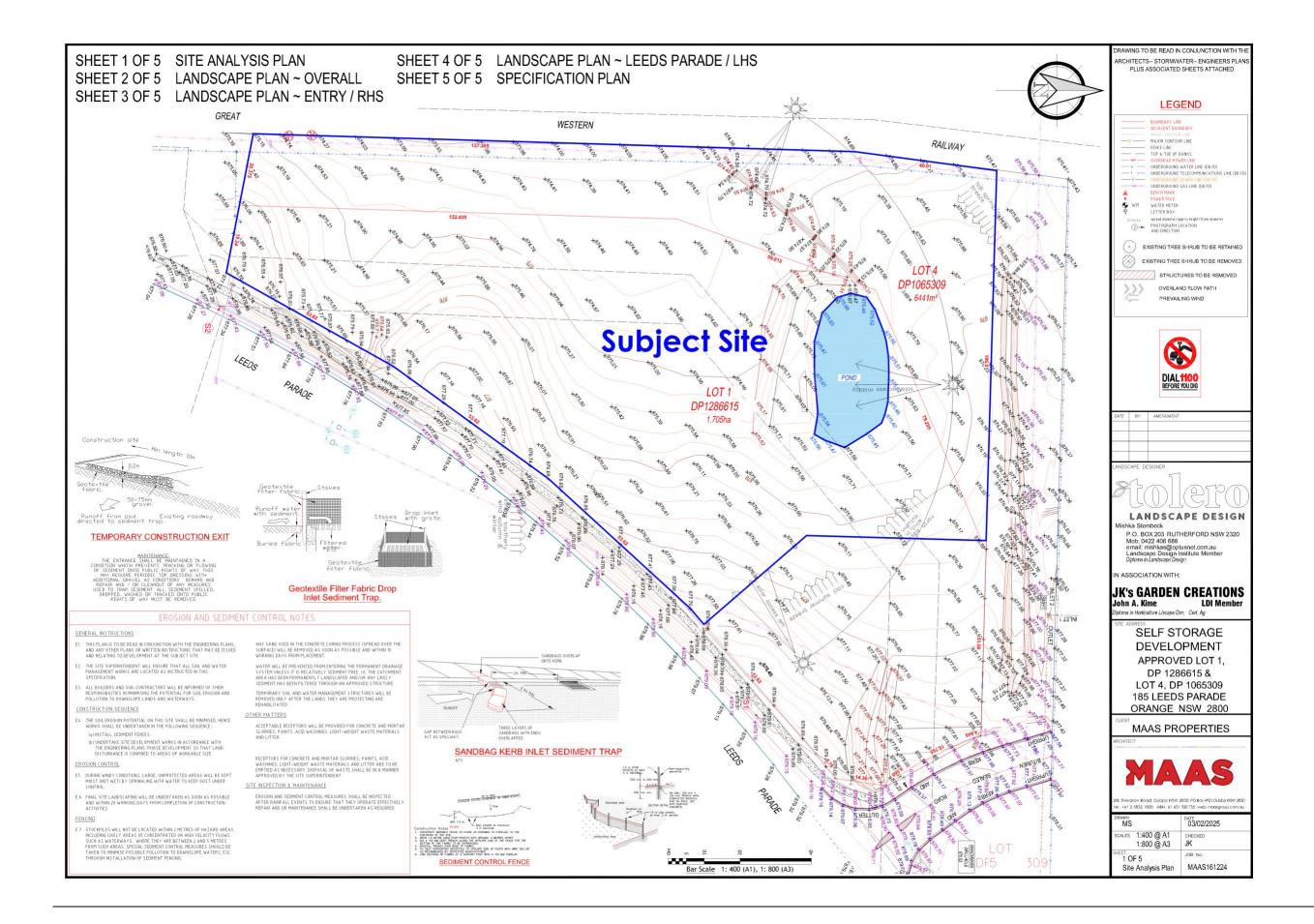
**Strata certificate** means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

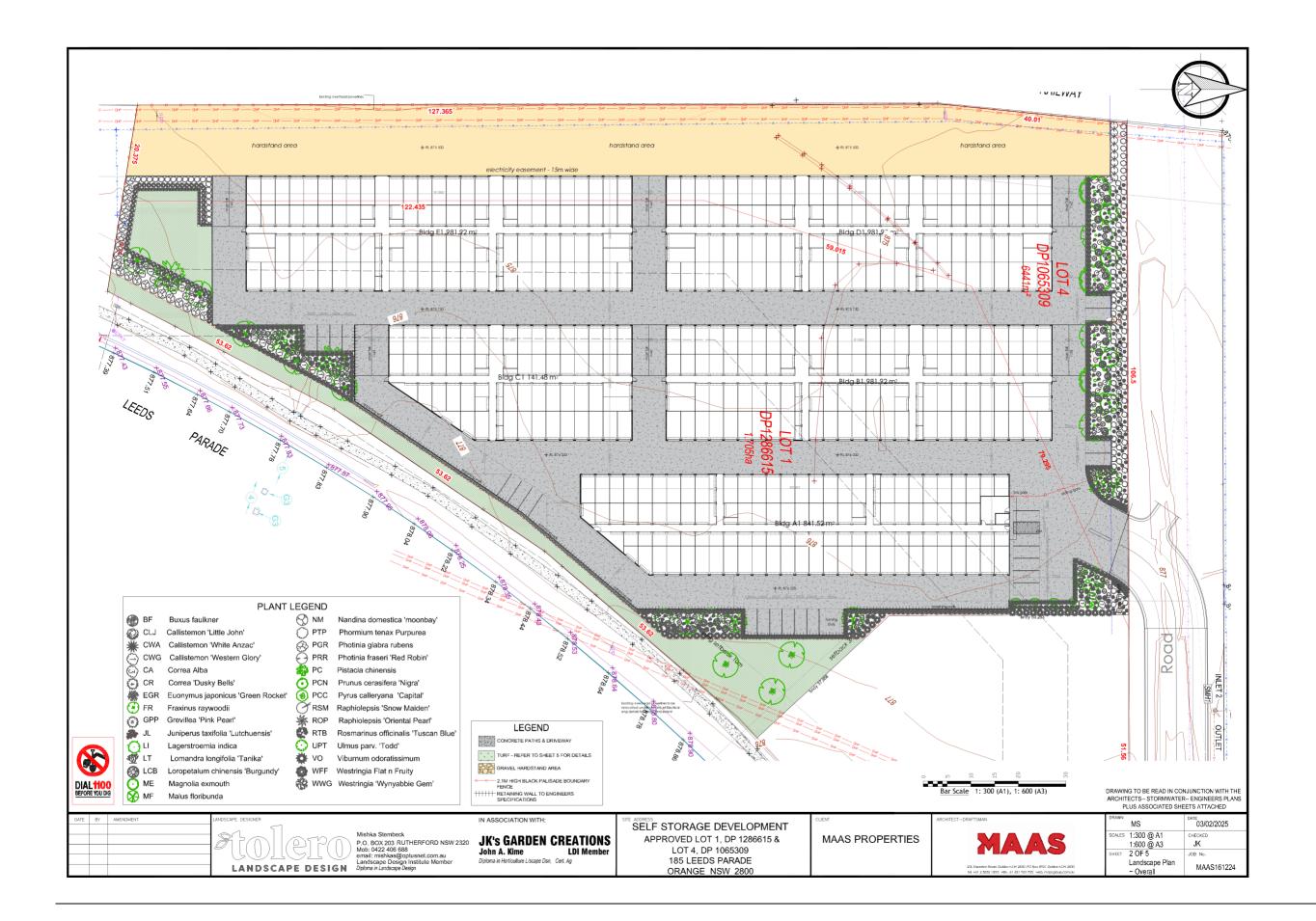
Sydney district or regional planning panel means Western Regional Planning Panel.

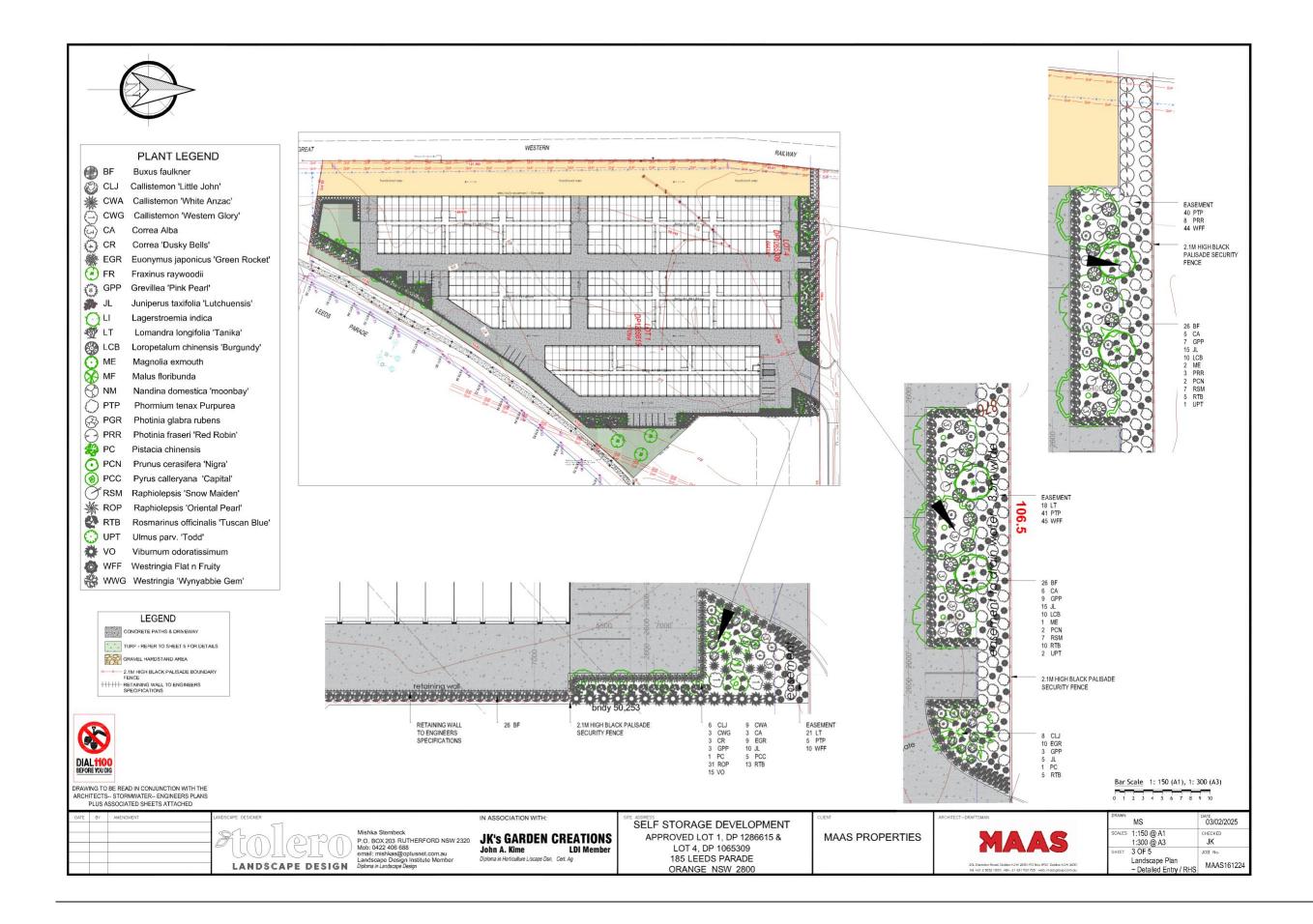


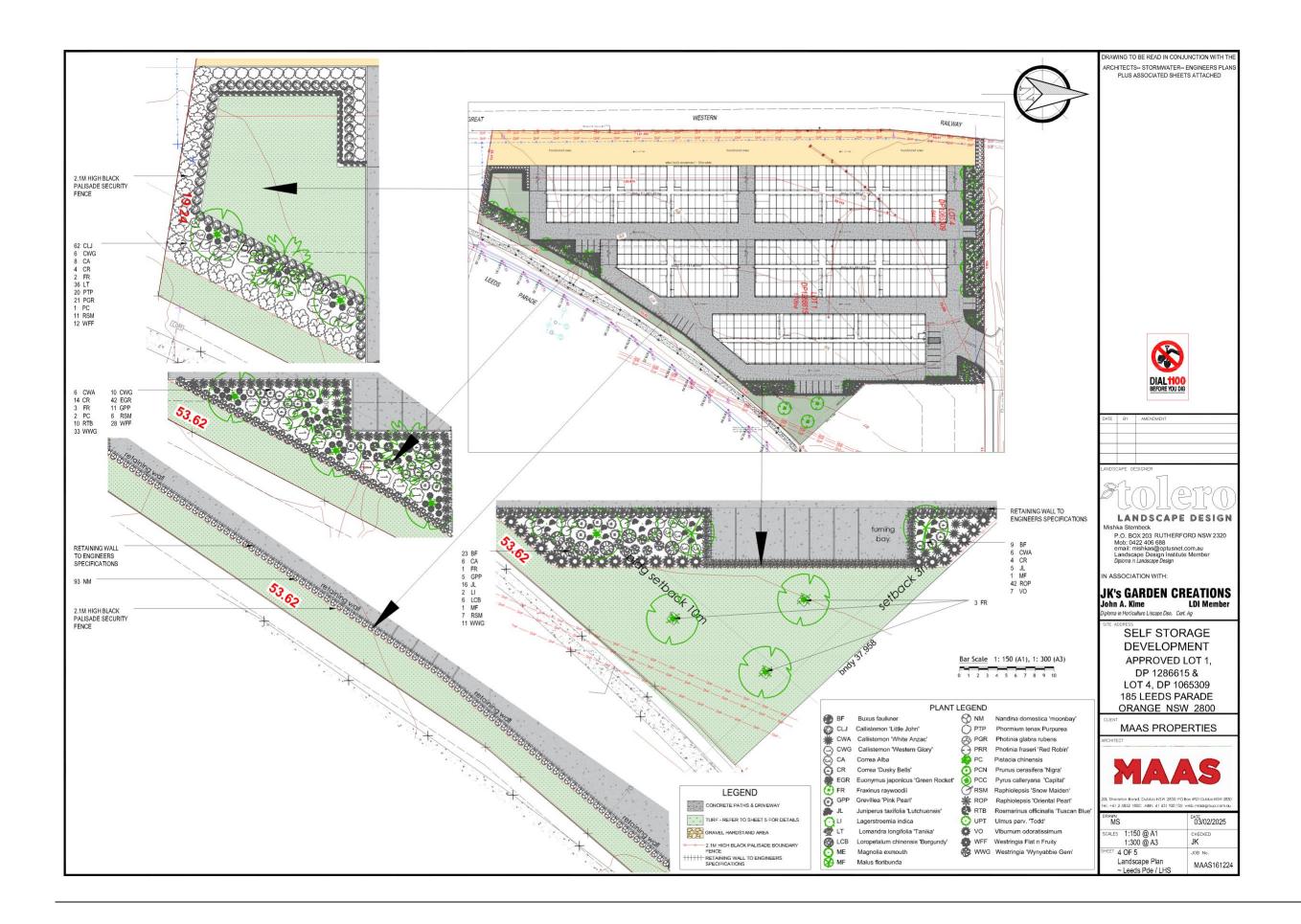












PLANNING & DEVELOPMENT COMMITTEE 1 JULY 2025

# INITIAL PREPARATION

Verify all dimensions on site prior to commencement, locate all underground services and ensure no damage occurs to them throughout the contract. Comply with the requirements of the Council site guidelines in reference to erosion and sediment control regulations and other environmental controls to contain all within confines of the site. Spray with approved herbicide weed killer to all proposed lawn and garden areas to manufactures directions. Spray all weeds before commencement of any site works are carried and throughout the contract so as to suppress any weeds that may arise. Source all plants before start of job so the time factor to purchase from species list, will be true to plant schedule. The trees and shrubs recommended may sometimes be difficult to source due to times of year, weather, disease etc, this being the case, please inform early so arrangements to substitute can be made. Excess soils and contaminated soil are to removed within the guidelines of the council requirements to approved sites.

Cultivate to the minimum depth of 200mm in all garden areas and 100mm depth in all lawn areas; add a clay breaker to all garden areas, before the addition of garden soil is added. In all areas where fill is required, gain required levels using a premium soil mix. Where excavation is required as with clay excavate as required to allow for addition of 200-400mm depth of premium garden soil to garden areas and 100-300mm depth of topsoil to lawn areas. Undertake all required action to ensure that no root balls of proposed plants sit in clay wells and that all garden and lawn areas drain satisfactorily. It is the contractor's responsibility to ensure the end result of the project is that all lawn and garden areas drain sufficiently (both surface and subsurface), are at required finished levels and have sufficient soil depths to enable lawn and plants to thrive and grow. Soil levels are to allow for the addition of turf and mulches to specified requirements.

#### GARDEN EDGING

Timber edging shall be located to all planter bed edges where meeting new or existing turfed areas. Use 38x100mm treated pine edging with 50x50x450mm pegs at 1200mm centres finished 25mm below top of edging.

#### PLANTING

Purchase plants from an approved nursery that supplies plants that are true to type and species, healthy and able to store at nursery to maintain vigor before planting. Plant within 24hrs of plants being delivered. Set out plants as indicated on plan. Plant holes shall be dug approximately twice the width and 100mm deeper than the plant root balls that they are to receive. Add fertilizer, followed by 100mm of garden soil shall be placed into the base of hole and lightly consolidated. Remove plant from container install and backfill with garden soil and firmed into place. Base of stem shall finish flush with finished soil level. Thoroughly water all plants on first planting to soak soil of plant and surrounding soil so as to allow roots to adjust, do not allow drying out. Water regular over the first 3-4 weeks.

# FERTILISING

Use slow release fertilizers such as osmocote and or agriform tablets on all plants. MULCHING

Install 100mm minimum of Forest mulch as a mulch over all gardens. Shaded areas mulch with 10-25mm pebble mulch with weedmat under.

#### GRAVEL AREAS

- Consolidated crushed rhyolite, 100mm thick, over a compacted road base. Contain areas between gardens & gravel with timber edging.

## RETAINING WALLS

Erection of masonry block retaining walls treated timber retaining walls to be as per retaining wall specification guidelines. All retaining walls and footings to remain within the confines of boundary.

#### TURF

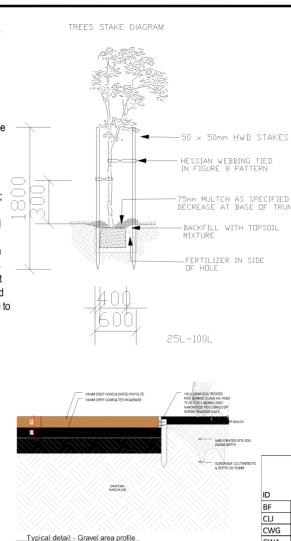
Prepare for, level and lay cultivated Couch turf to all areas nominated on the plan as being lawn. To be layed within 24 hrs of delivery on site, making sure all areas are level for drainage, garden edging and paths.

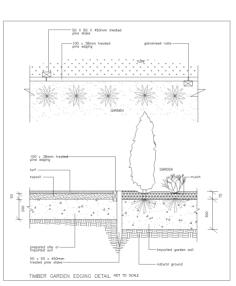
### COMPLETION

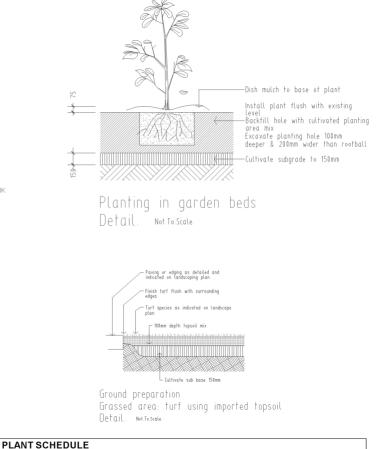
Prior to practical completion removal from site all unwanted debris occurring from work. Satisfy council that all landscaping work has been undertaken in strict accordance with council's landscape codes and guide lines.

At the completion of landscape works and prior to the issue of the Certificate of Practical Completion.

Carry out the following during the maintenance period( determined by Builder). These works shall include but not limited to watering, weeding, fertilizing, pest and disease control, returfing, staking and tying, replanting, cultivation, pruning, aerating, renovation, top dressing and the like.







|      | TREES, SHRUBS, GRASSES & GROUNI      | DCOVERS                      | Qty | mm/ltr | W x H mtr  |
|------|--------------------------------------|------------------------------|-----|--------|------------|
| ID   | Botanical Name                       | Common Name                  |     |        |            |
| BF   | Buxus faulkner                       | Korean box                   | 110 | 200mm  | 1.2x1.2m   |
| СП   | Callistemon 'Little John'            | Dwarf red bottlebrush        | 76  | 200mm  | 1.5x1.5m   |
| CWG  | Callistemon citrinus 'Western Glory' | Mauve-red bottlebrush        | 19  | 200mm  | 2 x 2m     |
| CWA  | Callistemon citrinus 'White Anzac'   | White bottlebrush            | 21  | 200mm  | 1.5 x 1.5m |
| CA   | Correa Alba                          | Correa                       | 28  | 150mm  | 1.2 x 1.2m |
| CR   | Correa 'Dusky Bells'                 | Correa                       | 25  | 150mm  | 1.2 x 2m   |
| EJGR | Euonymus japonicus'Green Rocket'     | Euonymus                     | 61  | 150mm  | 1.5 x 1.5m |
| FR   | Fraxinus oxycarpa 'Raywoodii'        | Claret Ash                   | 9   | 25ltr  | 7 X 12m    |
| GPP  | Grevillea 'Pink Pearl'               | Grevillea                    | 38  | 200mm  | 1 x 1m     |
| JL   | Juniperus taxifolia 'Lutchuensis'    | Creeping Juniper             | 66  | 150mm  | G/cover    |
| LIC  | Lagerstroemia indica cultivar        | Crepe mrytle                 | 2   | 25ltr  | 4 x 8m     |
| LT   | Lomandra longifolia 'Tanika'         | Dwarf mat rush               | 75  | 150mm  | .7x.7m     |
| LCB  | Loropetalum chinensis 'Burgundy'     | Pink witchhazel              | 26  | 200mm  | 2 x 2m     |
| MGE  | Magnolia grandiflora 'Exmouth'       | Bull bay Magnolia            | 3   | 25ltr  | 9 x 9m     |
| MF   | Malus floribunda                     | Japanese flowering crabapple | 2   | 25ltr  | 5 x 5m     |
| NM   | Nandina domestica 'moonbay'          | Dwarf sacred bamboo          | 93  | 200mm  | 1 x 1m     |
| PTP  | Phormium tenax Purpurea              | New Zealand Flax             | 106 | 200mm  | 1.5 x 1.5m |
| PGR  | Photinia glabra 'Rubens'             |                              | 21  | 200mm  | 4 x 6m     |
| PRR  | Photinia fraseri 'Red Robin'         |                              | 11  | 200mm  | 3 x 5m     |
| PC   | Pistacia chinensis                   | Chinese Pistacio             | 5   | 25ltr  | 6 x 8m     |
| PCN  | Prunus cerasifera 'Nigra'            | Black Cherry Plum            | 4   | 25ltr  | 4 x 5m     |
| PCC  | Pyrus calleryana 'Capital'           | Ornamental pear              | 5   | 25ltr  | 2.5 x 7m   |
| ROP  | Raphiolepsis oriental pearl          |                              | 73  | 200mm  | 1 x 1m     |
| RSM  | Raphiolepsis 'Snow Maiden'           |                              | 38  | 200mm  | 1.5 x 1.5m |
| RTB  | Rosmarinus officinalis 'Tuscan Blue' | Rosemary                     | 43  | 200mm  | 1.5x1.5m   |
| UPT  | Ulmus parvifolia 'Todd'              | Chinese Elm                  | 3   | 25ltr  | 11 x 10m   |
| VO   | Viburnum odoratissimma               |                              | 22  | 200mm  | 3 x 5m     |
| WFF  | Westringia Flat n Fruity             | Dwarf coastal rosemary       | 139 | 150mm  | G/cover    |
| WWG  | Westringia 'Wynyabbie Gem'           | coastal rosemary             | 44  | 200mm  | 1.5 x 1.5m |

LANDSCAPE DESIGN snka Stembeck P.O. BOX 203 RUTHERFORD NSW 2320 Mob: 0422 406 688 email: mishkas@optusnet.com.au ASSOCIATION WITH: JK'S GARDEN CREATIONS John A. Kime LDI Member Diploma in Horticulture Uscape Dsn, Cert. Ag SELF STORAGE **DEVELOPMENT** APPROVED LOT 1, DP 1286615 & LOT 4, DP 1065309 185 LEEDS PARADE ORANGE NSW 2800 MAAS PROPERTIES 03/02/2025

> 5 OF 5 Specification Plan

MAAS161224

Pot Size Mature Size

AWING TO BE READ IN CONJUNCTION WITH THE

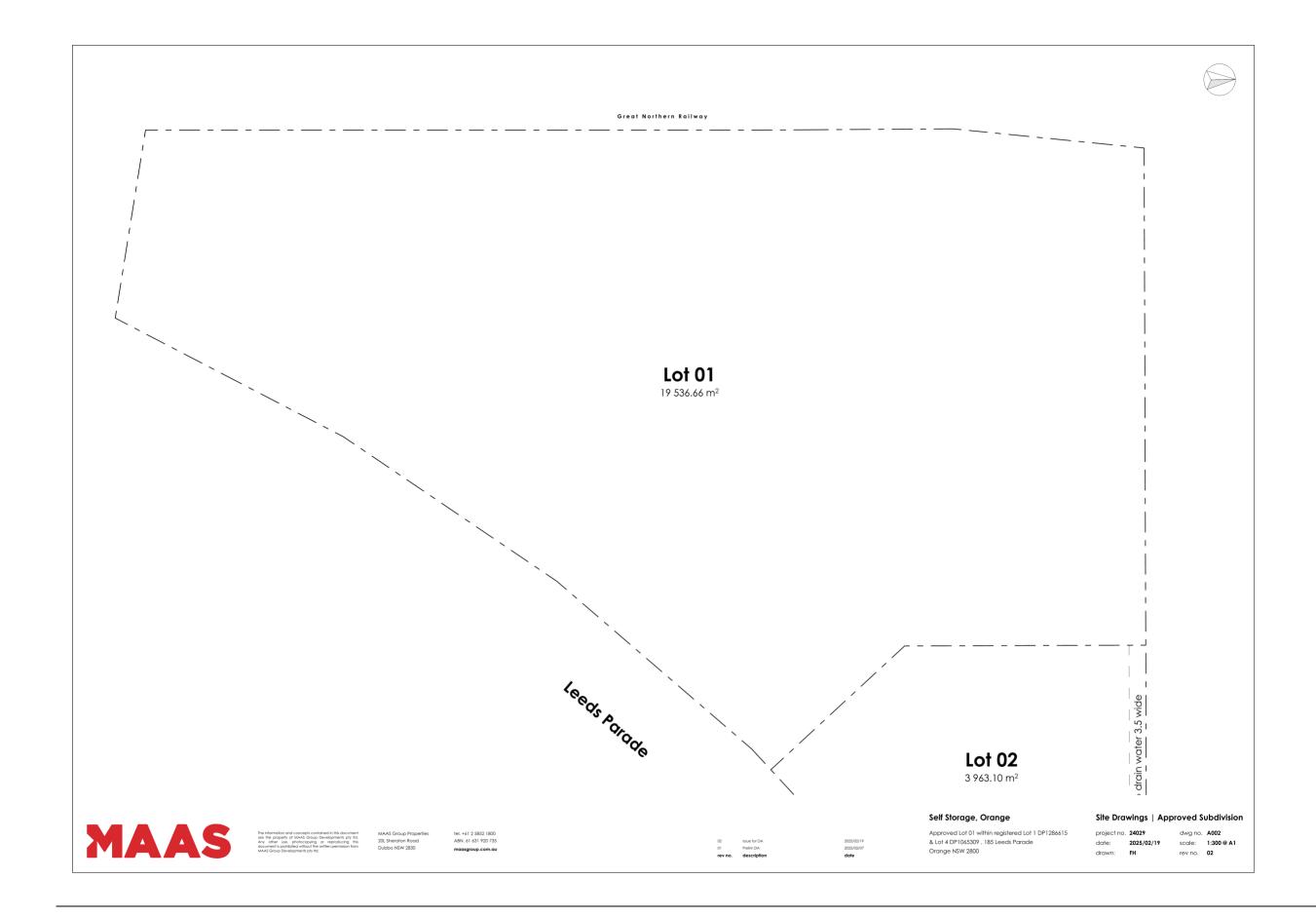
RCHITECTS-- STORMWATER-- ENGINEERS PLAN PLUS ASSOCIATED SHEETS ATTACHED

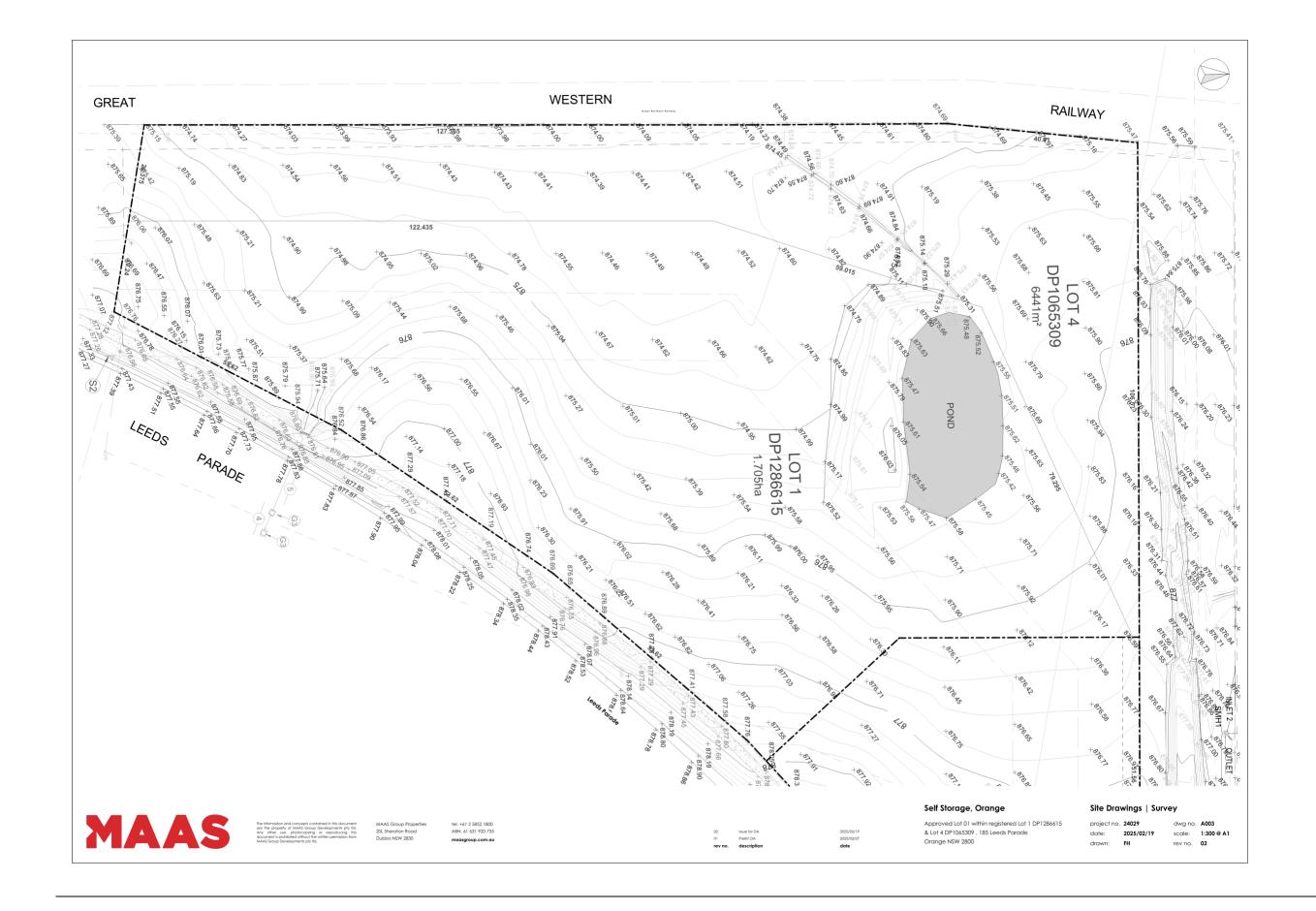
# Development Application Self Storage, Orange

Approved Lot 01 within registered Lot 1 DP1286615 & Lot 4 DP1065309 185 Leeds Parade Orange NSW 2800



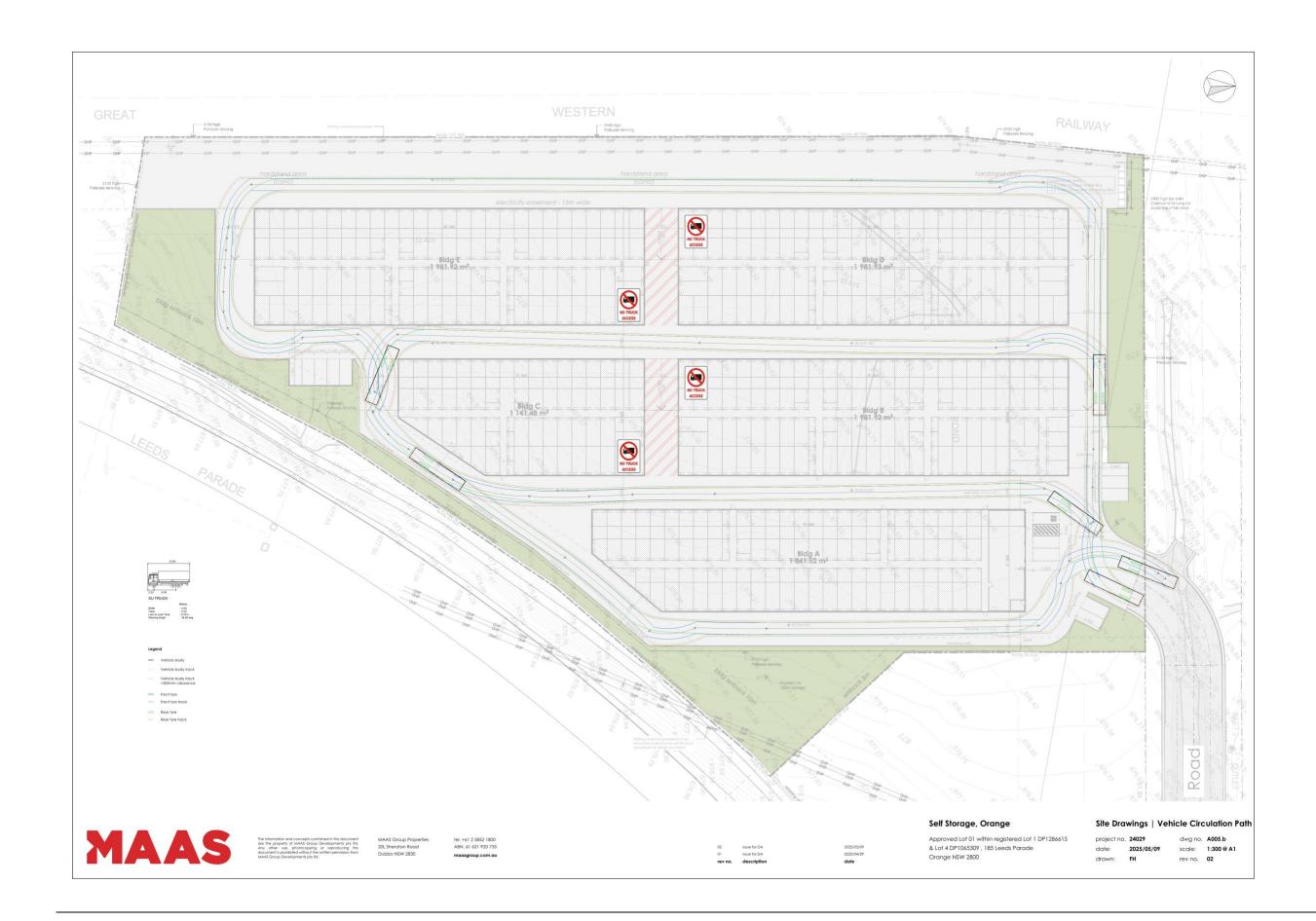












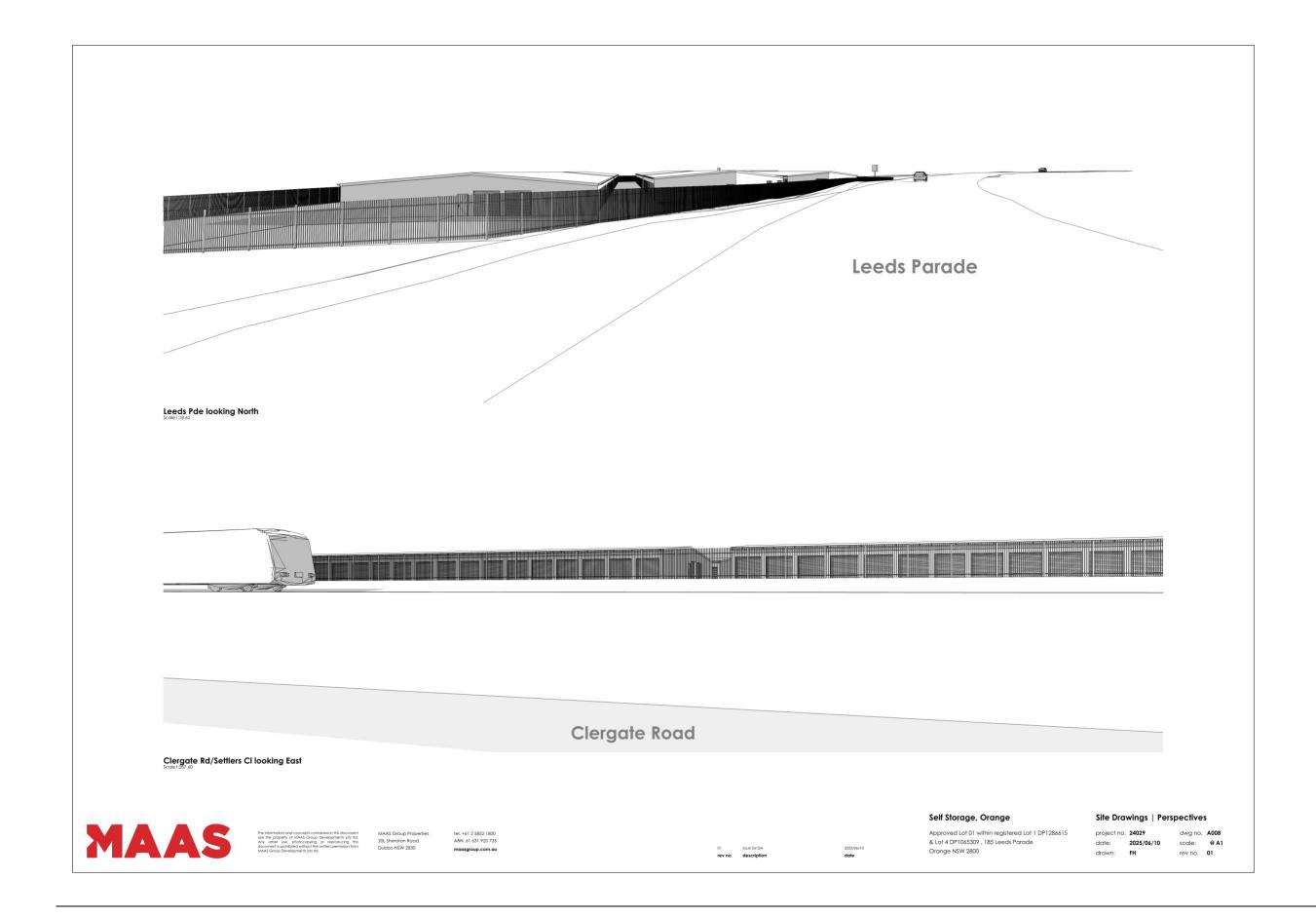


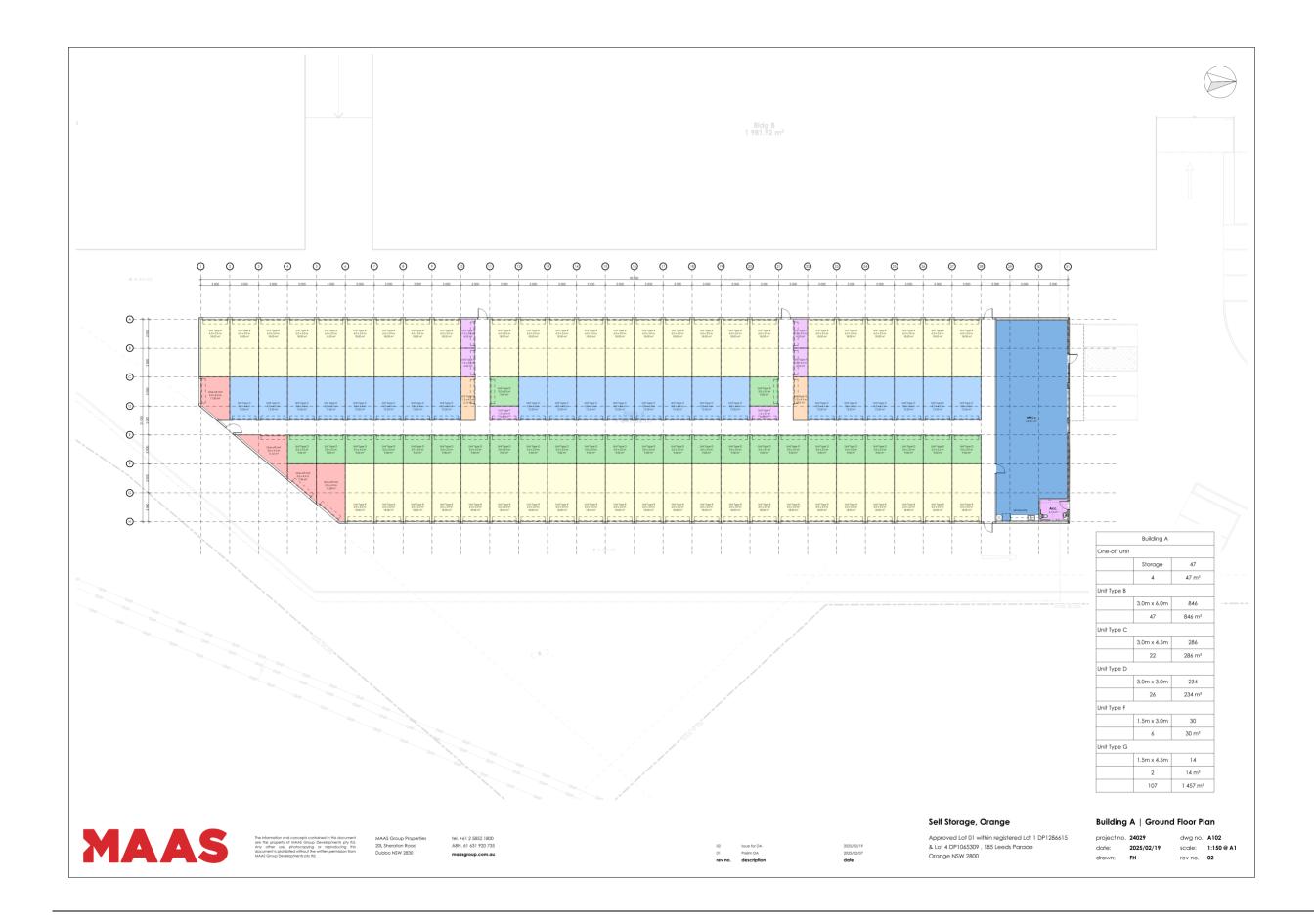


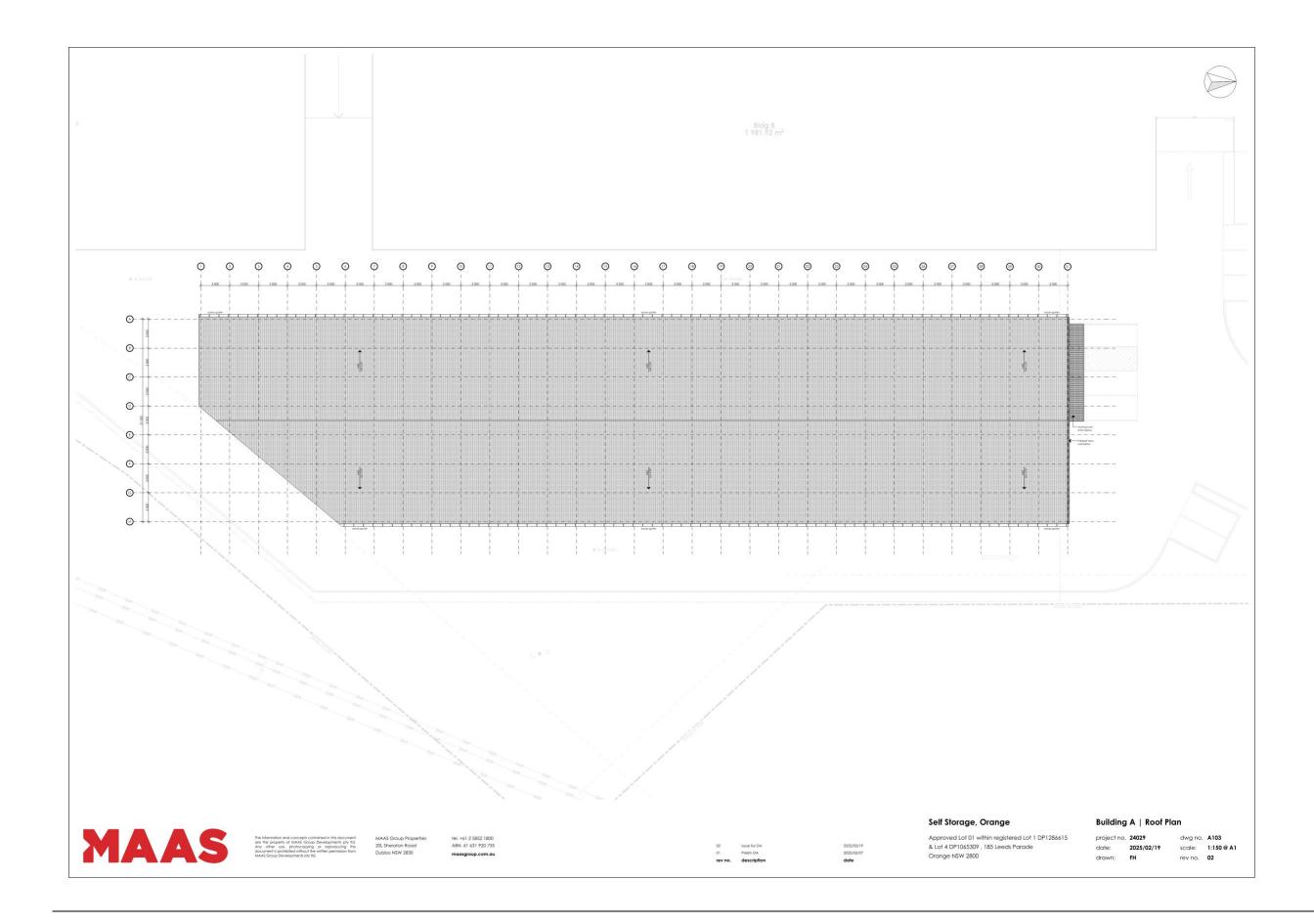
Self Storage, Orange

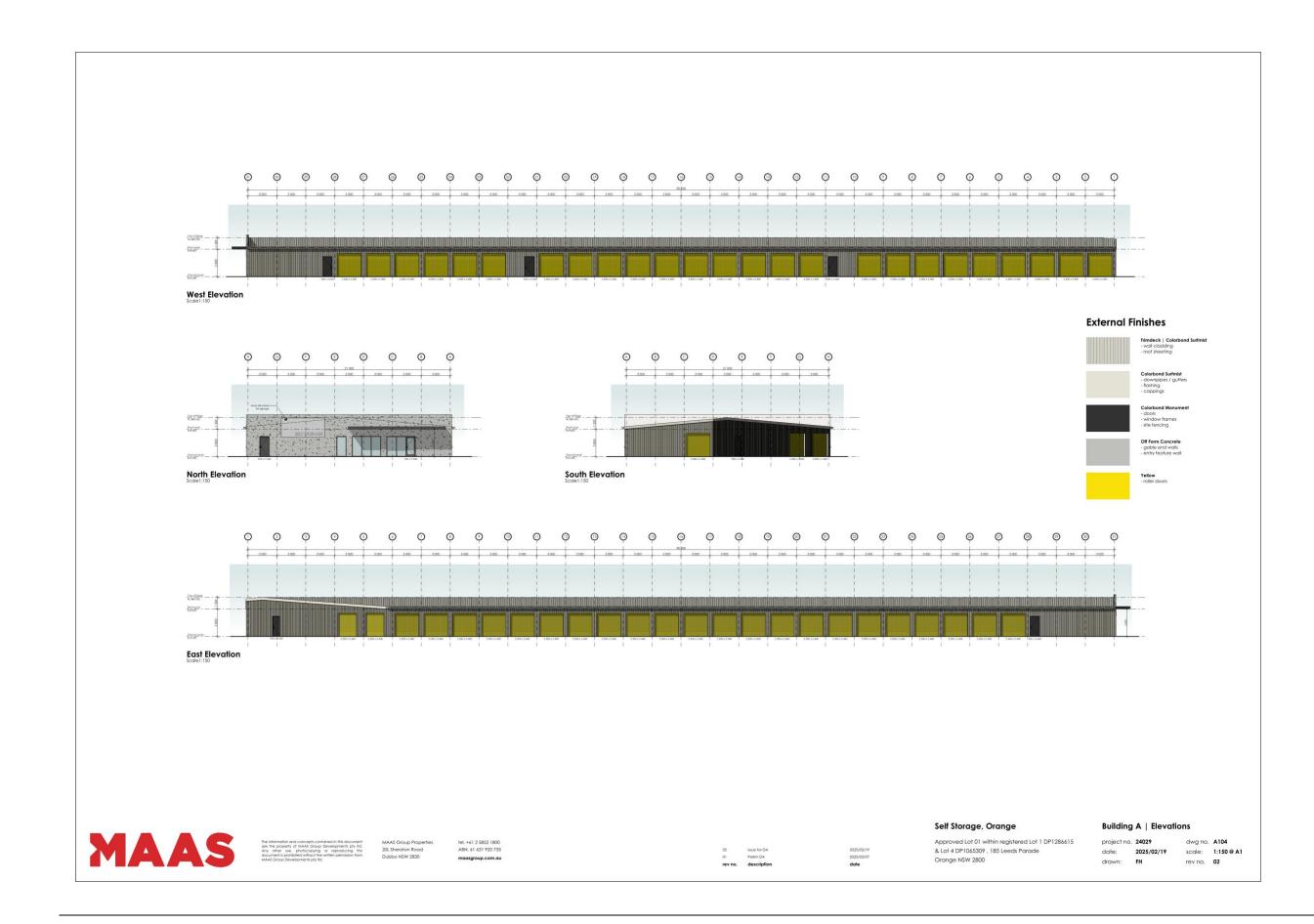
Approved Lot 01 within registered Lot 1 DP1286615 & Lot 4 DP1065309 , 185 Leeds Parade Orange NSW 2800

PLANNING & DEVELOPMENT COMMITTEE 1 JULY 2025

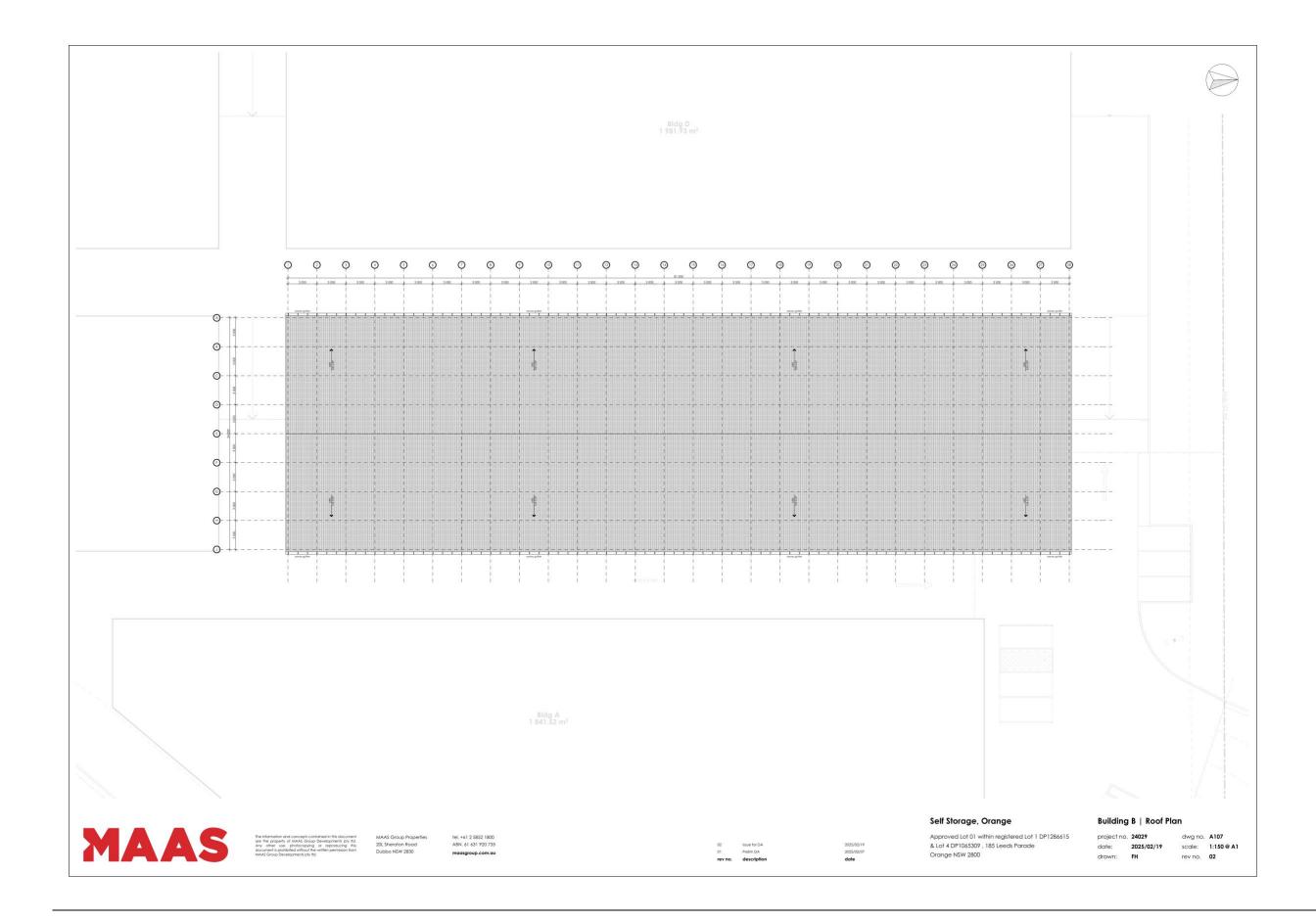


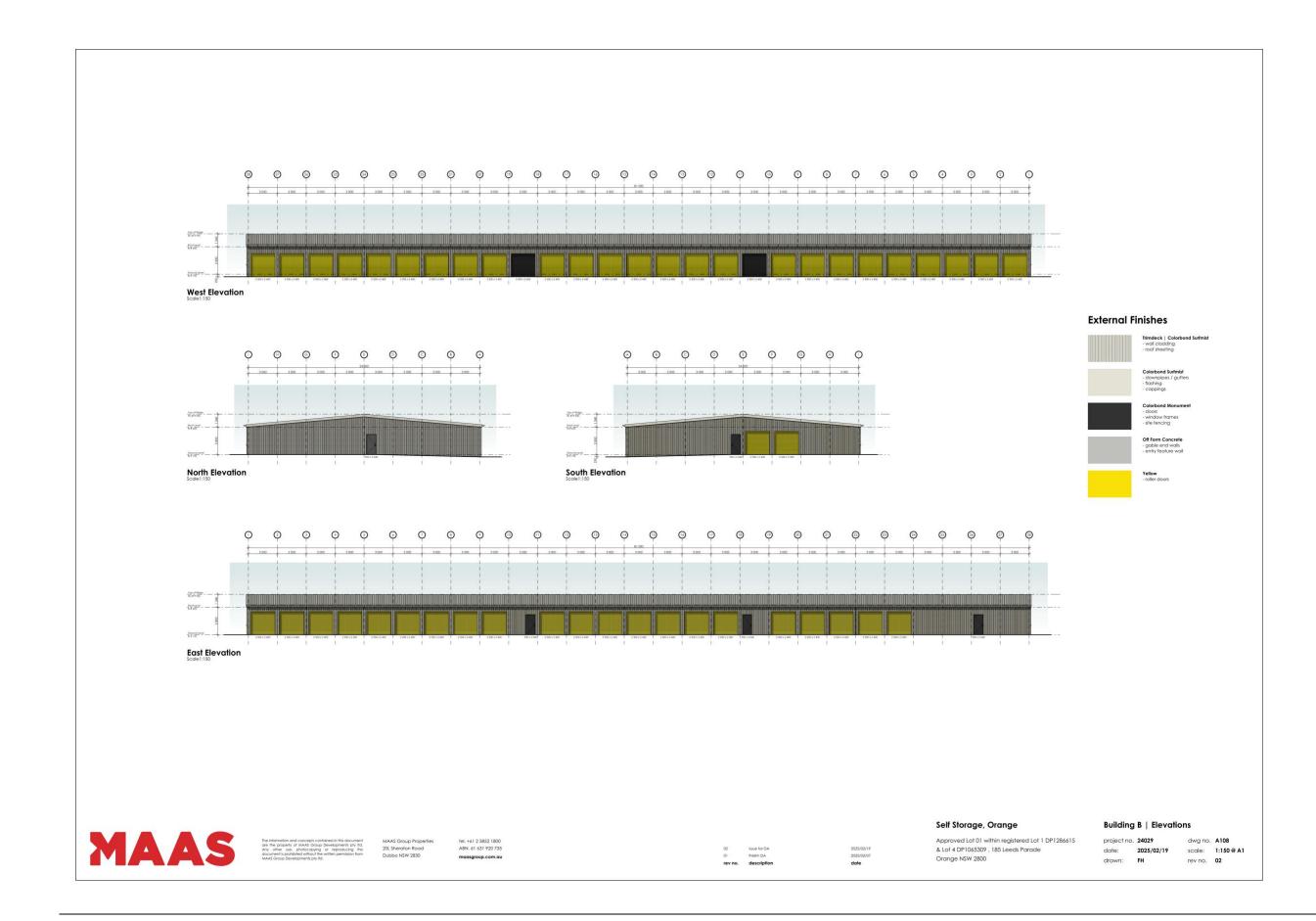




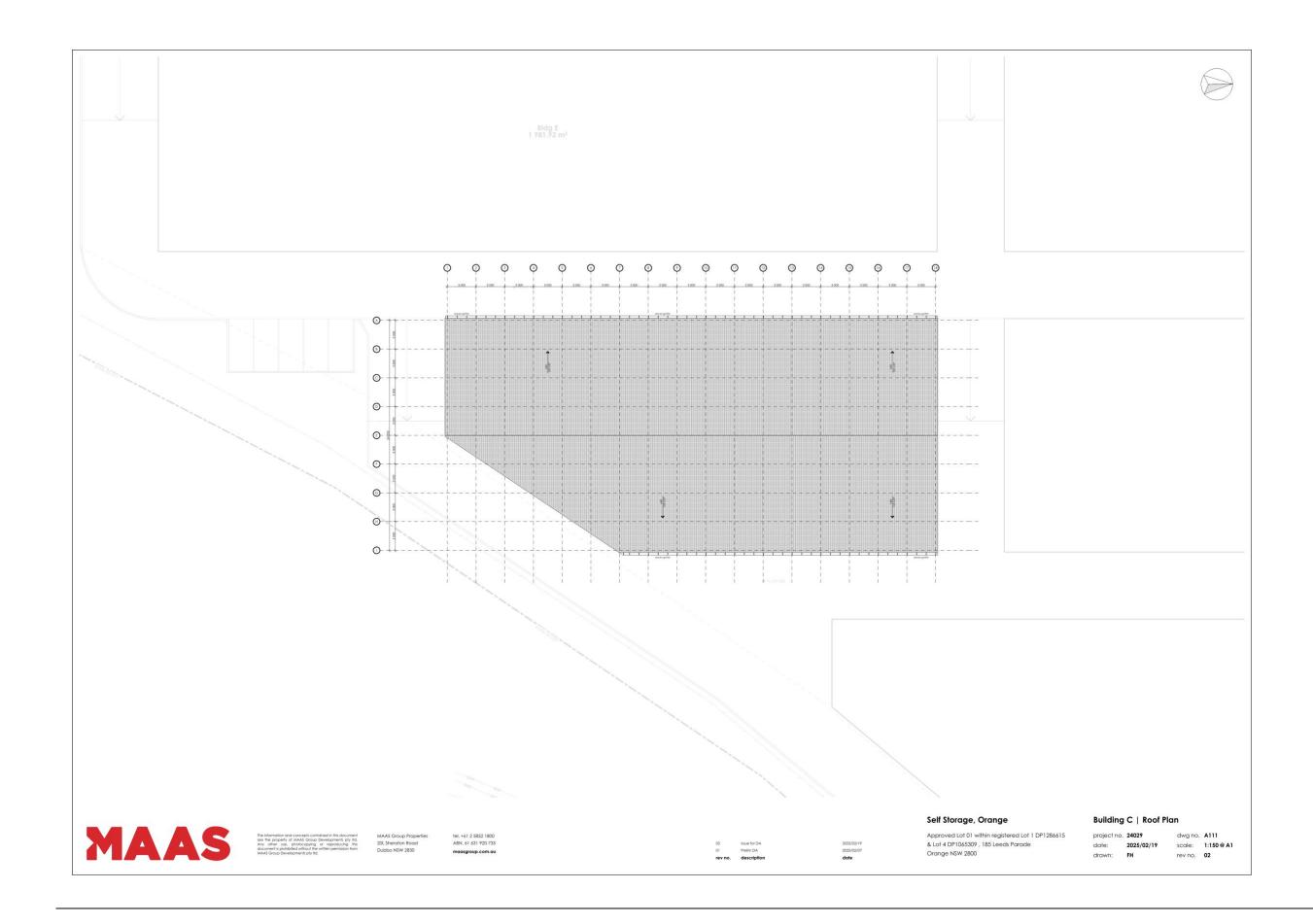


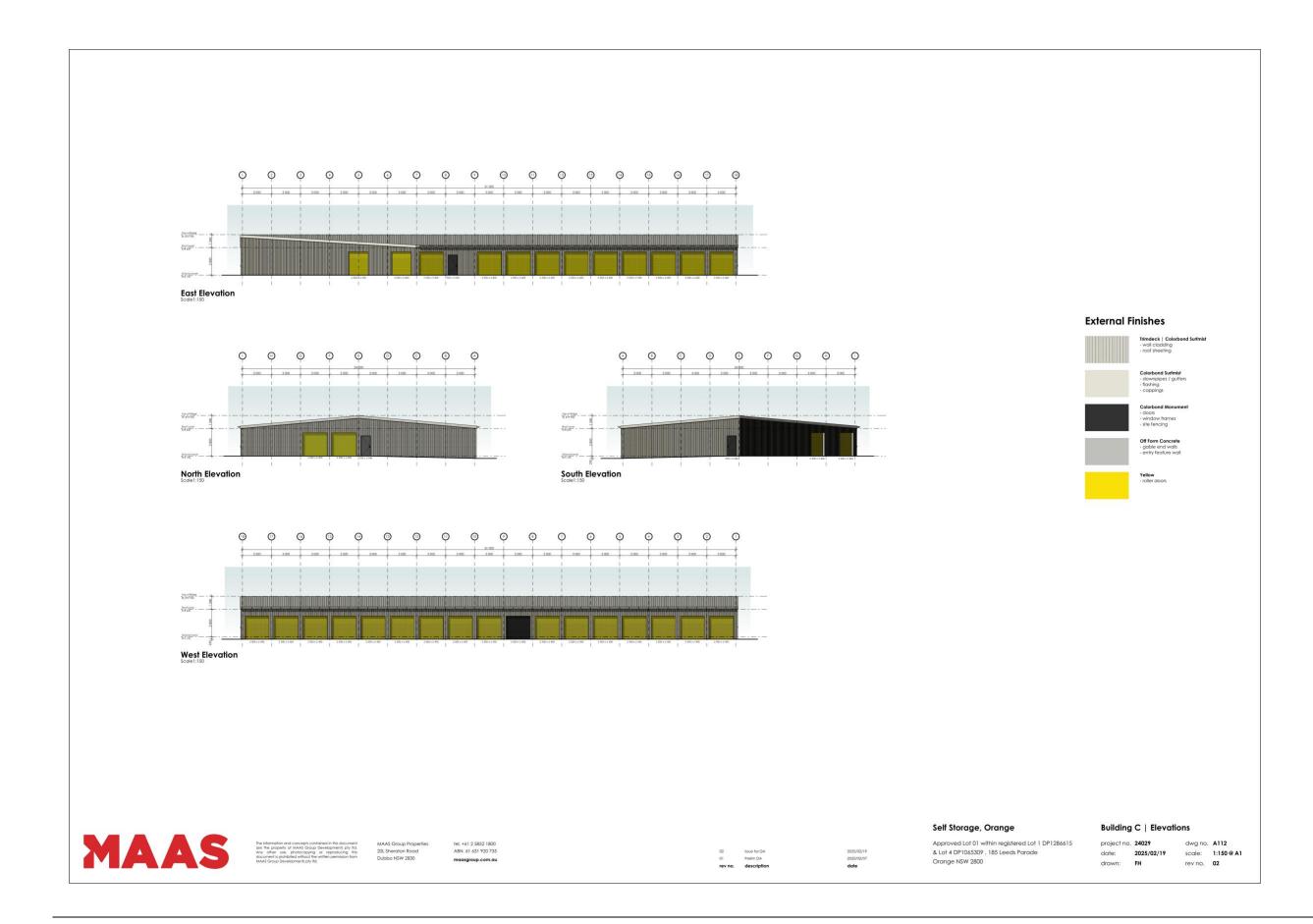




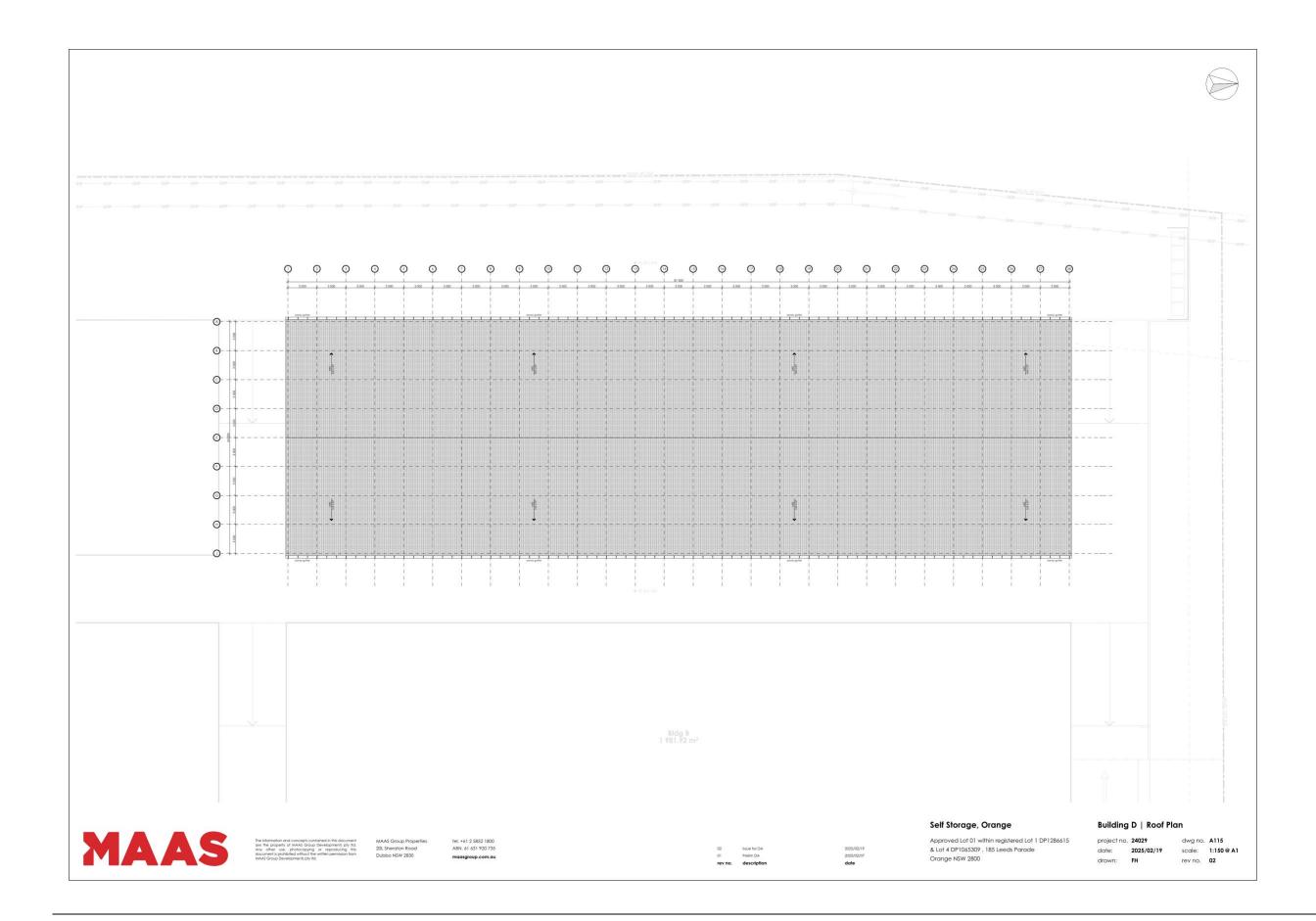


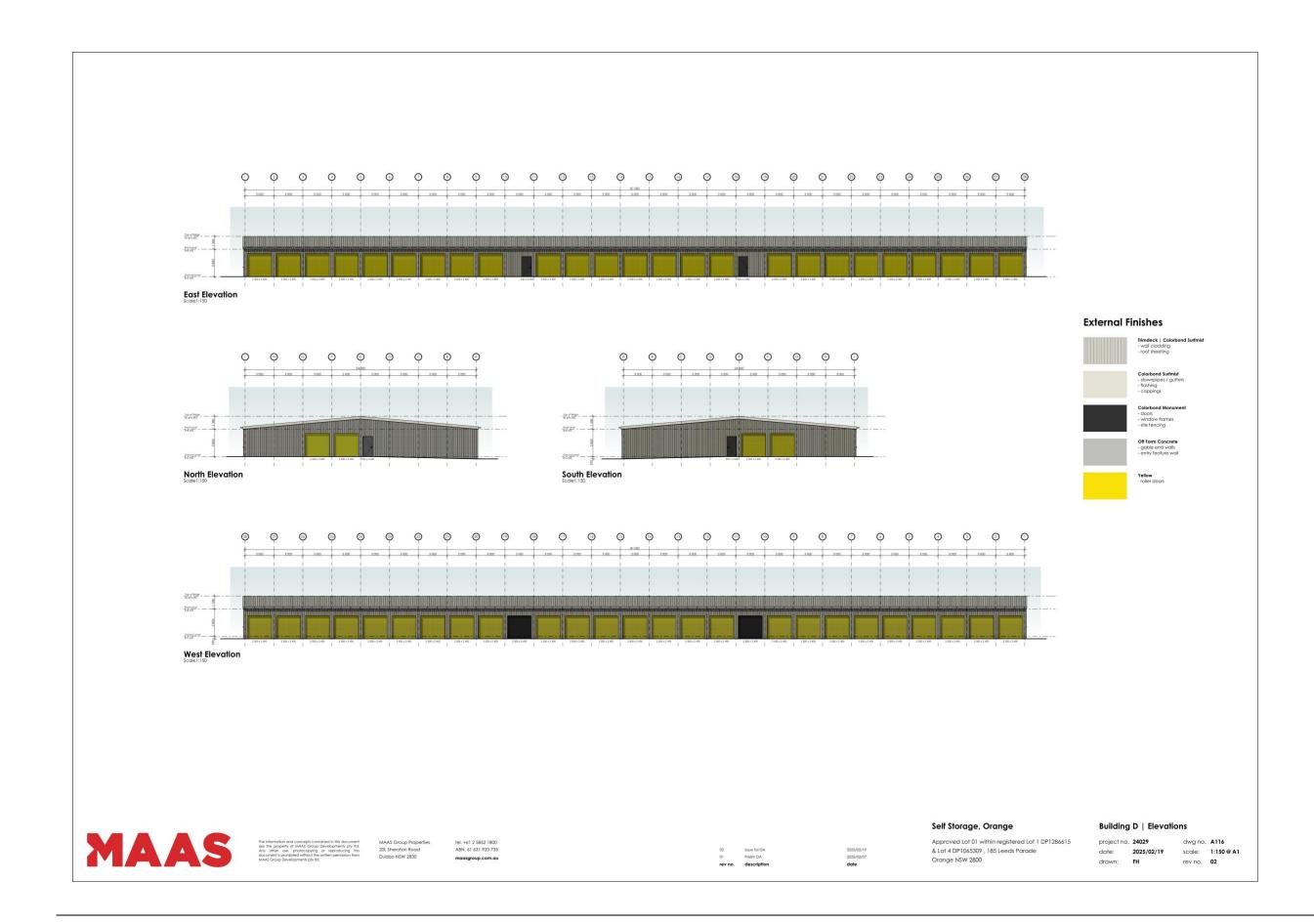


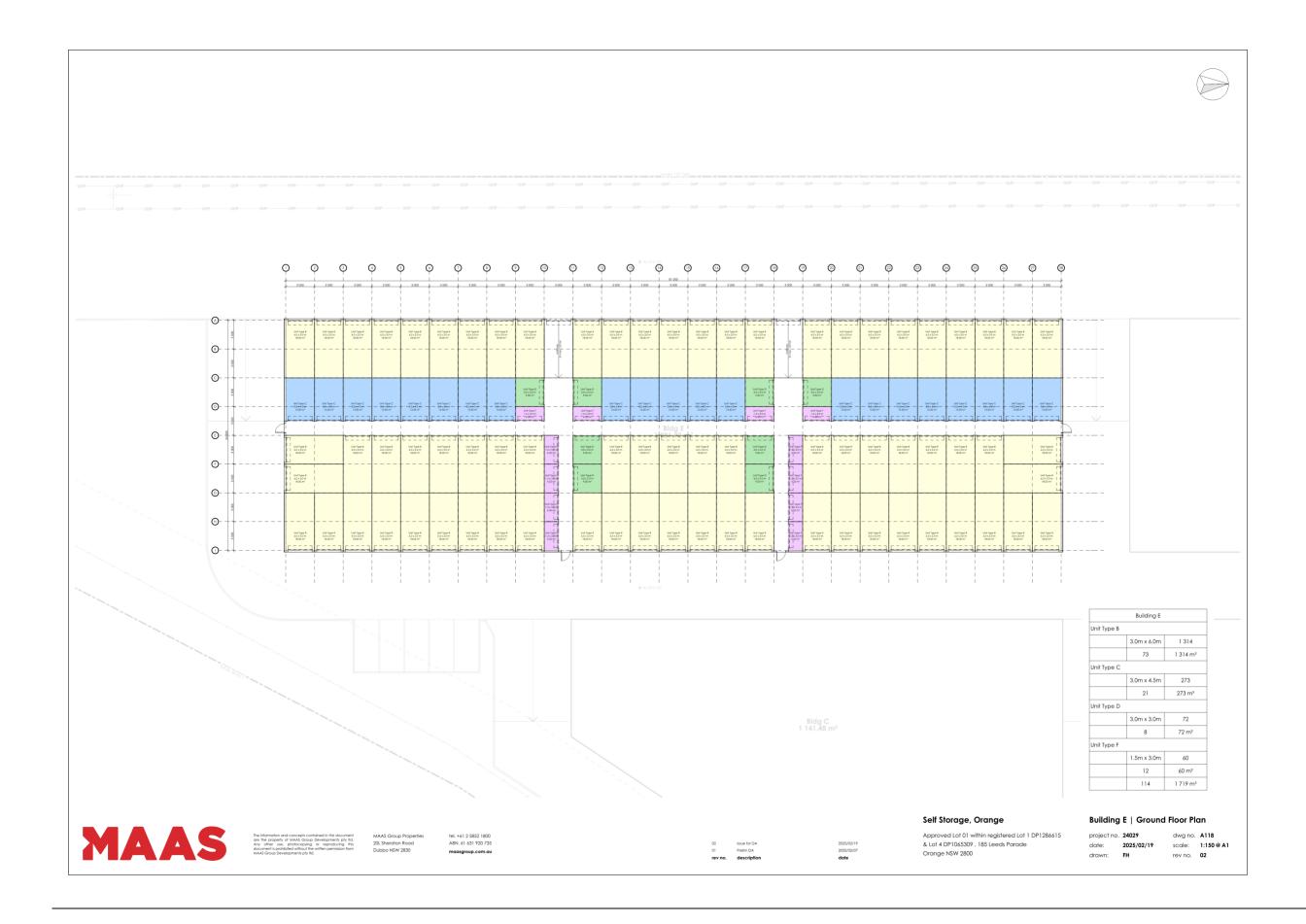


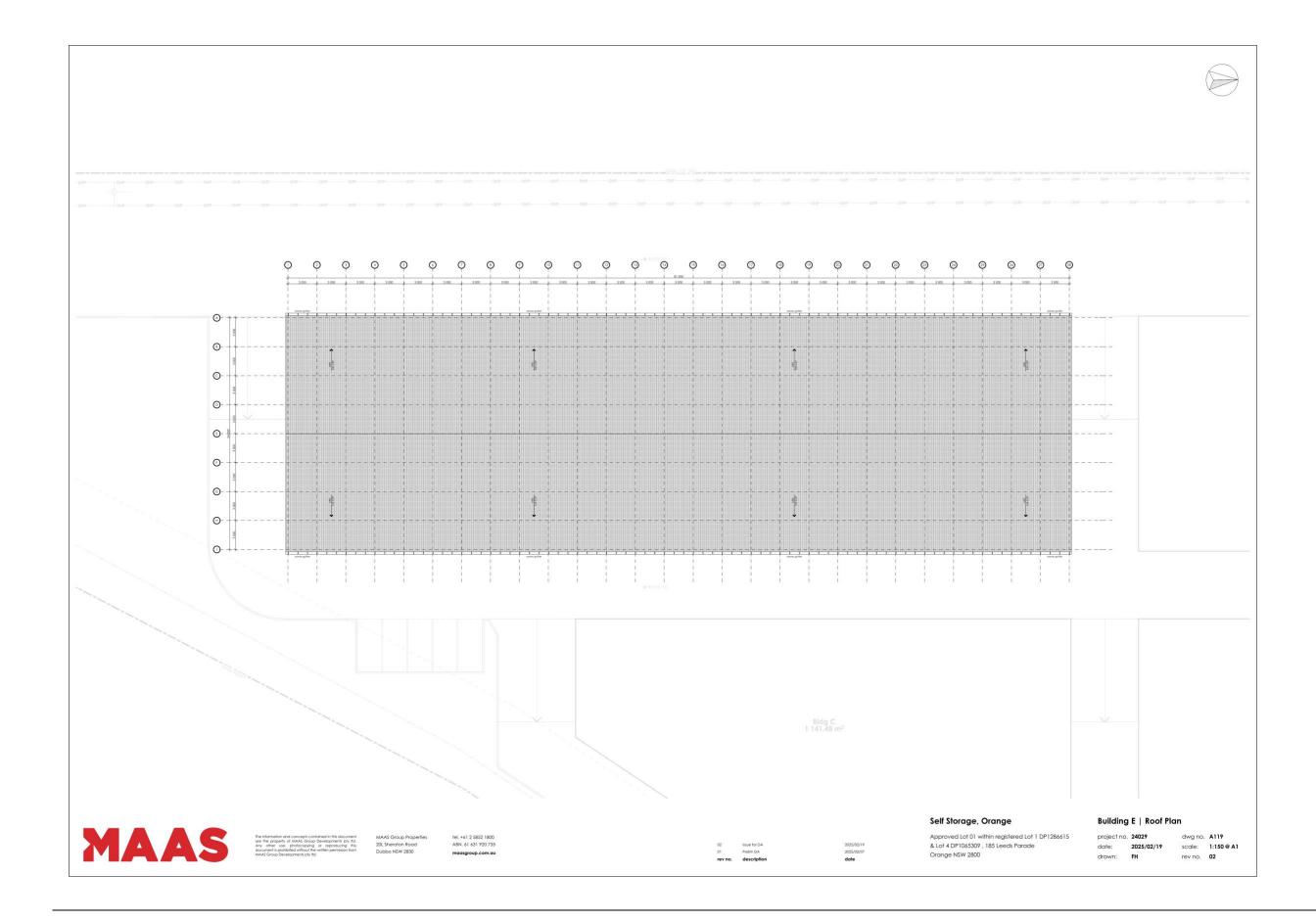


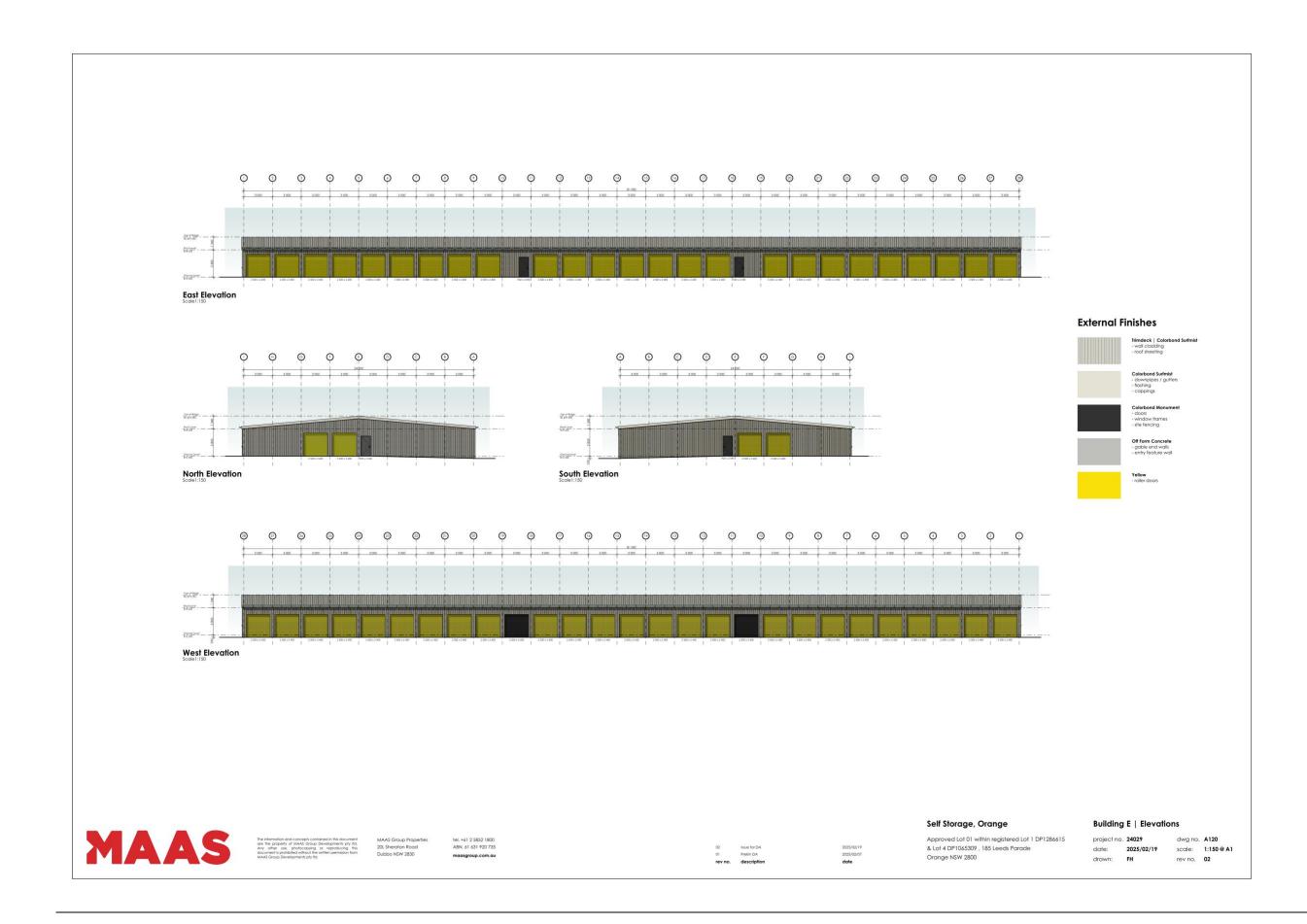












Submission 1

27<sup>th</sup> March 2025

DA 68/2025(1)

Submission Regarding Development Application: DA 68/2025(1) PAN- 508324 Lot 4 DP 1065309 AND LOT 1 DP 1286615 LEEDS PARADE, ORANGE SELF STORAGE UNITS

Dear Madam/Sir.

I am writing in response to the abovementioned Development Application. On reviewing the available documentation on Council's website, it appears that Council has been provided with insufficient information from the applicant, MAAS Commercial Leeds Unit Trust, to make an informed decision regarding the likely impact on the nearby residential area.

The 515 proposed self-storage units lie not adjacent to vacant land as stated on page 33 of the Statement of Environmental Effects (SEE), but in close proximity to an established residential area, with impacts expected on residents in Settlers Close, Colonial Close, Pioneer Place and Sirius Close. The proposed development is 58m from the nearest houses, with local topography providing no protection from noise, light or impact on visual amenity. It is noted that the 58m includes: 1. Road Reserve 2. Rail Corridor and 3. Overhead Powerlines- all of which will provide no future protection to the residential area from the proposed development.

The existing residential neighbourhood has low ambient noise, interrupted very briefly by one daily passenger train and a small number of freight trains. The construction and ongoing operation of a substantial self-storage facility would create significant increases in ambient noise. There is no detail provided regarding the staging of construction, meaning that the duration of construction of the 5 buildings could potentially extend for many years, prolonging the initial noise, dust, vibration and visual impact of construction on nearby residents.

There is no detail provided regarding the intended hours of operation. Will access to the storage facility be allowed after normal business hours? Until midnight? Associated noise pollution would include the arrival and departure of trucks and other vehicles, vehicles idling, vehicle doors closing, storage unit roller doors opening and closing, and heavy items being moved around on concrete flooring within non-insulated steel structures. The proposed open palisade fencing provides nearby residents with no protection from noise or visual pollution, with particular note made of the visual impact of the proposed bright yellow roller doors.

It is strongly recommended that there are no roller doors facing the adjacent residential areas. The western and southern boundary walls of Building E and D should be of masonry construction to provide the primary aid for noise attenuation to the adjacent residential area and be set back 4-5m from the boundary.

Light pollution to nearby residents is of concern, particularly with the proposed open fencing style. Impacts would be from vehicle headlights turning within the facility, operational lighting and permanent security lighting. The residential neighbourhood has existing very low light pollution. The two 3.5m high double-sided lightbox pylon signs would be illuminated and due to local topography, would likely to be visible from local residences to the south-west. There is no detail provided regarding curfew of the lighting.

There is no allowance provided by the developer for landscaping along the western and southern boundaries, which are of particular importance to the residential area. Dense and well-maintained screen vegetation extending to 5m in width beyond the easement, and which are suitable to electricity easement planting, along

both the western and southern boundaries are strongly recommended. This would aid in the minimisation of siltation during construction, assist in ongoing stormwater runoff minimisation, aid in the reduction of noise and light pollution and improve visual amenity to the residential neighbourhood. There will be a significant increase in stormwater runoff due to the substantial impervious surface of the proposed development. The SEE states that stormwater collected from the proposed development will be discharged to existing stormwater drainage within the railway land. It is noted that the existing open stormwater drainage line on the western side of Leeds Parade exceeds capacity during heavy rainfall, at times with water extending to within 12m of existing houses. Professional landscaping plans with suitable screening species for the local area should incorporate ongoing maintenance and watering requirements.

The proposed plans indicate a substantial hardstand area immediately adjacent to the railway corridor (electricity easement) on the western boundary, in close proximity to the residential area. There is no information provided regarding the intended use and control of this area. The area will inevitably become an uncontrolled outdoor handling and storage area, creating noise pollution, detracting from the existing visual amenity and enabling likely dumping of waste/unwanted goods on property and into the railway corridor- all having a detrimental effect on residential property values and residential amenity. The hardstand area should therefore be relocated to between the buildings (E/D and C/B), with no roller doors facing the residential area. The electricity easement may then, in addition to the elimination of roller doors and requirement for masonry walls along the western and southern boundaries, play a favourable part with landscaping buffering to the residential area, rather than the significant detrimental impacts of an expansive hardstand area detailed above

515 self-storage units, where people are sorting and eliminating unwanted items, including bulky items, are likely to generate more waste than the proposed standard Council kerbside collection will accommodate, as stated in the SEE. Measures should therefore be in place to monitor and control waste, which may negatively impact local property values if left outside the buildings and potentially discarded into the rail corridor, in close proximity to the residential area.

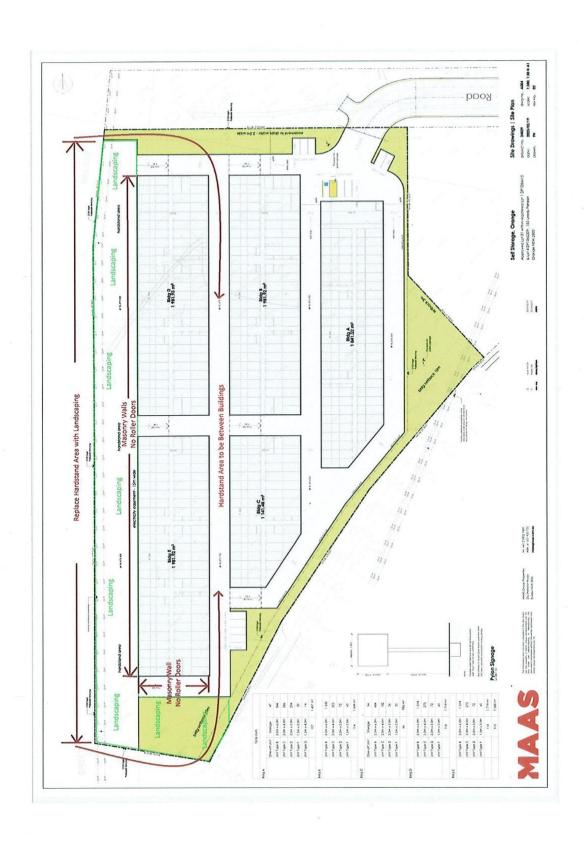
In conclusion, the proposal is lacking in information for Council to make an informed decision on the likely negative impacts on the existing residential area. It is requested that Council require both a noise and light pollution attenuation plan, and further information regarding the staging of construction, hours of access and operation.

Of particular importance is that Council seek revision of the plans to relocate the hardstand area from the western boundary to between buildings E/D and C/B, with no roller doors facing the residential area to the west and south, and masonry construction of those building walls to provide noise attenuation. It is also essential that the development includes professional landscape screen plans along the western and southern boundaries, which include provisions for ongoing maintenance and watering.

Please ensure that the affected residents are notified and provided further opportunity for review and comment when this information has been provided by the developer.

Thank you for your consideration in this matter and please note that my best contact method is via the above email rather than post.

Kind Regards,



2.6 DEVELOPMENT APPLICATION DA 144/2025(1) - 171 DALTON STREET

RECORD NUMBER: 2025/1133

AUTHOR: Benjamin Hayter, Town Planner

#### **EXECUTIVE SUMMARY**

| Application lodged            | 24 April 2025   |
|-------------------------------|---|
| Applicant/s                   | Harry Seidler & Associates Pty Ltd                        |
| Owner/s                       | Master Builders Association of New South Wales            |
| Land description              | Lot 300 DP 1183165 - 171 Dalton Street, Orange            |
| Proposed land use             | Industrial Training Facility and General Industrial Units |
| Value of proposed development | \$3,926,465.00  |

Council's consent is sought for the construction of an industrial training facility and general industrial units and associated office space for the New South Wales Master Builders Association at 171 Dalton Street. An associated 14 space car park, landscaping and access would be provided.

The subject site is zoned E4 General Industrial, and in accordance with Council's Local Environmental Plan the proposed industrial training facility and general industrial units are permissible with consent in this zone.

In accordance with Council's Community Participation Plan 2023 and Schedule 1 of the Environmental Planning and Assessment Act 1979, this application was advertised due to the proximity of the site access to residential dwellings. No submissions or representations were received by the close of the exhibition period.

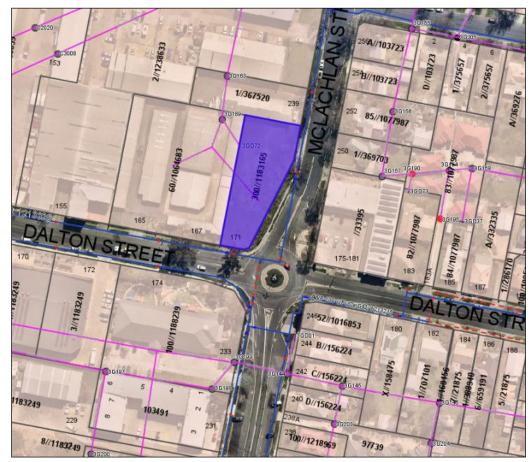


Figure 1 - locality plan

The proposal has a capital investment value exceeding \$2.5 million (\$3.9m) 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 would be within acceptable limits, subject to mitigation conditions.

Approval of the application is therefore recommended.

#### **DECISION FRAMEWORK**

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

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

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

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

Council's consent is sought for the construction of an industrial training facility and general industrial units and associated office space for the New South Wales Master Builders Association at 171 Dalton Street. An associated 14 space car park, landscaping and access would be provided. The proposed classroom based industrial training would primarily consist of lectures supported by screen based visual material to classes of 10 to 30 people. The proposed practical training sessions would include courses in waterproofing, tiling, paving and bricklaying.

The site comprises an irregular shaped allotment that resulted from historic road widening requirements to facilitate the construction of the roundabout many years ago. The design responds well to the shape of the land and incorporates wall-to-wall glass to Dalton Street, which would provide an active frontage. It is noted that visual relief would be provided by the use of contrasting materials including brickwork, precast concrete and steel. A void is proposed to the front façade which would provide a direct view through the site, providing further visual relief and promoting a sense of openness. Overall, it is considered that the proposed front building façade has been well designed and would provide visual relief in accordance with the requirements of Council's DCP. The secondary frontage along McLachlan Street includes indented walls and variety of materials and windows to also provide sufficient visual relief for the secondary frontage.

In accordance with Council's Community Participation Plan 2023 and Schedule 1 of the Environmental Planning and Assessment Act 1979, this application was advertised due to the proximity of the site access to residential dwellings. No submissions or representations were received by the close of the exhibition period.

The proposal has a capital investment value exceeding \$2.5 million (\$3.9m) 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).

Approval of the application is therefore recommended.

# LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy "7.3 Plan for growth and development that balances liveability with valuing the local environment".

#### FINANCIAL IMPLICATIONS

Nil

#### POLICY AND GOVERNANCE IMPLICATIONS

Nil

#### RECOMMENDATION

That Council consents to development application DA 144/2025(1) for *Mixed Use Development* (industrial training facility and general industrial units) at Lot 300 DP 1183165 - 171 Dalton 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 proposed development would consist of two separate built forms (training facility and general industrial units), with a car park in the centre and landscaped areas fronting the street (see figure 2 - proposed site plan below). The proposed development would include varying materials (brickwork, concrete, metalwork and glazing systems), which the applicant states is intended to exhibit different building, reflective of part of the development's intended use for building trades education.

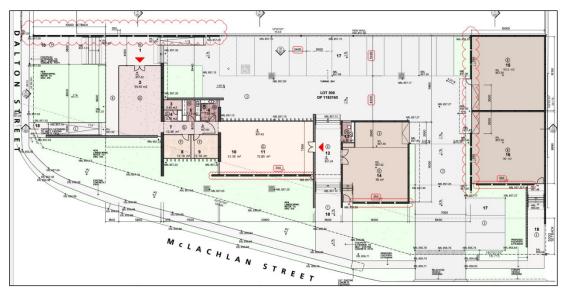


Figure 2 - site plan

## Training facility

The proposed training facility to the front of the site would consist of four connecting built forms: a glazed lobby area fronting Dalton Street; an offices and support facilities section; a classroom section and a storage/practical training room section.

The proposed glazed lobby would have ramped and stepped access and would consist of entirely glazed southern, western and eastern elevations, with concrete to the northern elevation (see figure 3 below). The lobby would be topped with a flat roof consisting of a concrete slab. The lobby section roof would have a height of 4.3m, a width of 15m and a depth of 8.46m. To the front of the lobby area, soft landscaping is proposed with a 4m high concrete panelled wall adjacent to the western boundary and a 1.6m high brick wall dividing the entrance area from the side setback of the site.



Figure 3 - rendered image of proposed Dalton Street elevation

The offices and support facilities section of the building would have a brick wall to the internal facing western elevation, a glazed wall with aluminium sun blades to the eastern elevation and a concrete wall to the northern and southern elevations. This section of the building would have a height of 3.34m, a depth of 6.86m and a width of 8.7m.

The classroom section of the building would have a concrete panelled wall with seven 0.35m wide and 3.37m high windows to the eastern elevation, a glazed wall to the western elevation with aluminium sun blades, a brick wall to the northern elevation and a concrete wall to the southern elevation. This section of the building would have a height 5m, a length of 14.2m and a width of 7.9m.

The storage/practical training room section of the building would have concrete panelled walls to all elevations, with metal deck roofing detailing to the eastern and western elevations. The eastern and southern elevations would include 0.35m windows. This section of the building would have a length of 9m, a width of 11m and a height of 7.4m.

## **Industrial Units**

The proposed industrial units building would consist of two separate units, each provided with a loading bay suitable for a small rigid vehicle (SRV). The eastern elevation of the building would be clad in concrete panelling with three 0.35m wide windows and metal deck roofing detailing. The southern elevation of the building would be clad in concrete panelling with five 0.35m wide windows and two vehicular entrance doors. The other elevations would be clad in concrete panelling. The building would have a length of 10.4m, a width of 20.6m and a height of 6.7m.

## Car Park

The proposed car park would have 14 spaces, including 1 disabled space. A new access to the car park would be provided from McLachlan Street. The car park would be topped with an asphalt hardstand area. An onsite stormwater detention basin would be provided within the car park.

## Landscaping

The submitted landscape plan (see figure 4 below) indicates that landscaping would be provided to the street frontages and within the proposed central car park. The majority of the landscaped areas would be planted with Palmetto Buffalo Turf, with clumps of foliage consisting of Nyalla, Cream Lea and Evergreen Baby. Three new trees would also be planted: two on the McLachlan Street frontage and one within the car park. The trees would be of the species: 'Manchurian Pear', planted in 500L tubs.

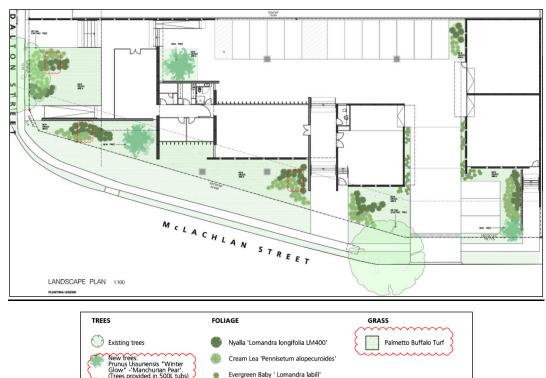


Figure 4 - proposed landscape plan

# Intended Use and Operation

The proposed development would incorporate classroom based and practical industrial training sessions. The proposed two storage units to the rear of the site would be used for storage to support the training function of the site or would be sub-leased as storage space to local building trades or members of the Master Builders Association.

The proposed classroom based industrial training would primarily consist of lectures supported by screen based visual material to classes of 10 to 30 people. The proposed practical training sessions would include courses in waterproofing, tiling, paving and bricklaying. A number of small areas (approximately 4-5m²) of building works would be constructed and demolished as part of the training.

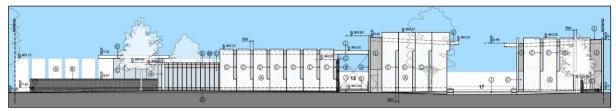


Figure 5 - proposed McLachlan Street elevation



Figure 6 - aerial view rendered image of proposed carpark



Figure 7 - rendered image of proposed development from Dalton Street/McLachlan Street intersection

#### MATTERS FOR CONSIDERATION

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

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

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

- <u>Trigger 1</u>: development occurs in land mapped on the Biodiversity Values Map (OEH) (clause 7.1 of BC Regulation 2017);
- <u>Trigger 2</u>: development involves clearing/disturbance of native vegetation above a certain area threshold (clauses 7.1 and 7.2 of BC Regulation 2017); or
- <u>Trigger 3</u>: 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 not located on land mapped on the Biodiversity Value Map, would not involve the disturbance/clearing of native vegetation and the development is not likely to significantly affect threatened species. Therefore, the biodiversity offset scheme is not triggered.

#### Section 4.15

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

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

## **Orange Local Environmental Plan 2011**

# Part 1 - Preliminary

## Clause 1.2 - Aims of Plan

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

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

The application is considered to be consistent with the above aims because the proposed building is considered to be of a high quality design that would relate well to the existing industrial context. The proposed use would provide training opportunities and potential additional commercial floorspace that would contribute to the social and economic resources of Orange.

#### **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 E4: General Industrial

Lot Size Map: Minimum Lot Size 800m<sup>2</sup>

Heritage Map: Not a heritage item or conservation area

Height of Buildings Map: No building height limit
Floor Space Ratio Map: No floor space limit

Terrestrial Biodiversity Map: No biodiversity sensitivity on the site

Groundwater Vulnerability Map: Groundwater vulnerable

Drinking Water Catchment Map: Not within the drinking water catchment

Watercourse Map: Not within or affecting a defined watercourse

Urban Release Area Map: Not within an urban release area

Obstacle Limitation Surface Map: No restriction on building siting or construction

Additional Permitted Uses Map: No additional permitted use applies

Flood Planning Map: Within a flood planning area

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

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

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

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

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

#### Part 2 - Permitted or Prohibited Development

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

The subject site is located within the E4 General Industrial zone. The proposed development is defined as an industrial training facility and general industrial units.

An industrial training facility is defined in the Orange LEP as: 'a building or place used in connection with vocational training in an activity (such as forklift or truck driving, welding or carpentry) that is associated with an industry, rural industry, extractive industry or mining, but does not include an educational establishment, business premises or retail premises'.

General industry is defined in the Orange LEP as: 'a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity'.

The applicant states that the proposed development would incorporate: classroom based industrial training, practical training sessions, and the two storage units to the rear of the site could be used for storage to support the training function of the site or could be sub-leased as storage space to local building trades or members of the Master Builders Association. The use of the main part of the site would therefore meet the LEP definition of an industrial training facility and the two units to the rear would meet the definition of general industrial units.

OLEP 2011 states that general industries and industrial training facilities are permitted with consent in the E4 General Industrial 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 E4 General Industrial are as follows:

# **Objectives of zone E4 General Industrial**

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

The proposed development would provide for two industrial units and an industrial training facility, which would accord with the intended uses in the general industrial zone. The development would be located on an existing vacant lot of land and is therefore considered to make efficient use of a vacant plot of land for industrial uses. A full assessment of the impact of the proposal on other land uses is set out under following sections of this report, but overall it is not considered that the proposal would have any notable adverse effect on other land uses. The proposal would provide employment and training to boost the employment opportunities of local residents.

Given the above, it is considered that the proposed development would accord with all relevant objectives of zone E4 General Industrial.

# 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 application site is not located on land identified on the Height of Buildings Map and therefore clause 4.3 does not apply.

## Clause 4.4 - Floor Space Ratio

The subject land is not located on the floor space ratio map, and therefore clause 4.4 does not apply.

#### **Part 5 - Miscellaneous Provisions**

# 5.10 - Heritage Conservation

## (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 subject site is not located within the vicinity of any heritage items, and therefore clause 5.10 does not apply.

## 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 site is located on land identified on the Flood Planning Map as a Flood Planning Area, with a maximum flood level of 857.5 AHD. The submitted information states that all proposed structures below 857.5 AHD would be designed using flood compatible construction and components. The applicant has stated that an engineers report will be provided to certify that the development would not increase flood affection elsewhere. This can be secured via condition. Council's Assistant Development Engineer has reviewed the proposal and considers that the proposed building footprint would not block or alter the 1% AEP flood waters subject to the provision of onsite stormwater detention which would be secured via condition. Therefore subject to conditions the proposal is considered to be acceptable from a flood planning perspective.

#### Part 6 - Urban Release Area

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

#### **Part 7 - Additional Local Provisions**

#### 7.1 - Earthworks

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

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

The earthworks proposed in the application are limited to the extent of cutting and filling required for the proposed building or structure. The extent of disruption to the drainage of the site is considered to be minor and will not detrimentally affect adjoining properties or receiving waterways. The extent of the earthworks will therefore not materially affect the potential future use or redevelopment of the site that may occur at the end of the proposed development's lifespan.

Councils EHO has stated that the neighbouring site to the north is flagged as potentially contaminated in the register as it was listed as chemical storage for being a printery business; however contamination has never been confirmed as being an issue at this adjacent site.

The proposed use is industrial in nature rather than a more sensitive use such as residential. The site has been empty since at least 2013, and a single residential dwelling was previously on the site. Given the above, it is considered that contamination on the site is unlikely. The quality of the soil that would be excavated is therefore considered to be acceptable, subject to the provision of an unexpected finds contamination condition to ensure that if any contaminants are found they are adequately dealt with.

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.

The site is not in proximity to any waterway, drinking water catchment or sensitive area. The submitted plans indicate that a sediment fence would be provided on the northern and eastern site boundaries to ensure that loose dirt and sediment does not escape the site boundaries. Conditions are recommended to be imposed to secure sediment control measures.

Given the above, the proposed earthworks are considered to be acceptable, in accordance with clause 7.1.

# 7.2A - Floodplain Risk Management

This clause applies to land 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 for the following purposes on land to which this clause applies unless the consent authority is satisfied that the development will not, in flood events exceeding the flood planning level, affect the safe occupation of, and evacuation from, the land—
  - (o) industries

See comments above under clause 5.21.

#### 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 proposed development includes areas of soft landscaping along the street frontages that would provide water permeable surfaces, in accordance with the requirements of part (a).

The proposed development would include onsite retention of stormwater through the use of a rainwater detention basin (as indicated on the submitted civil design plans), in accordance with the requirements of parts (b) and (c). Council's Assistant Development Engineer considers the proposed onsite retention acceptable subject to a condition requiring further details to be submitted to Council for approval.

Therefore, subject to conditions it is considered that the proposed development would avoid any significant impacts of stormwater runoff, in accordance with clause 7.3 of the LEP.

# 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 not located on land that has been identified on the Terrestrial Biodiversity Map. There is no native vegetation on the site - the site is currently covered in short grass. The proposal would therefore not have an impact on terrestrial biodiversity and clause 7.4 therefore does not apply.

# 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 is located approximately 105m from a sensitive waterway and therefore this clause requires consideration:

- (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 subject site is located over 100m away from the sensitive waterway. This provides a significant separation distance to manage any post-development runoff. Additionally, stormwater retention in the form of a detention basin is proposed, which would further reduce potential risk to the watercourse. This solution is proposed by the applicant and would be secured by condition.

Overall, given the above it is considered that the potential risk to the waterway associated with the development is limited, in accordance with clause 7.5.

## 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.

Councils Assistant Development Engineer has confirmed that water and sewage headworks charges would not apply due to the low density use of the site and the existing site credit of 1 ET.

The proposed onsite stormwater retention and drainage is considered satisfactory, subject to conditions requiring further details.

Council's Assistant Development Engineer has stated that a Road Opening Permit would be required for the new driveway, kerb repair works and stormwater connection. Furthermore, two existing kerb laybacks that are not proposed to be used will need to be replaced with a standard kerb and gutter (secured via condition). Subject to the above, it is considered that suitable road access would be provided onto McLachlan Street.

#### 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).

Council's records indicate that the neighbouring site to the north is flagged as potentially contaminated in the register, as it was listed as a printery business involving chemical storage. Contamination on the neighbouring site has not been confirmed, however. Furthermore, it is considered unlikely that there is contamination on the subject site itself given that it has been vacant since at least 2013 and a single residential dwelling was previously located on the site. In addition, the proposed industrial and training use is not classified as a sensitive use (such as residential). It is therefore considered that the land is suitable for the intended use and land remediation is not required. Nevertheless, a 'Unexpected Finds – Contamination' condition is included on the attached draft notice of determination as a precaution.

# STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

# 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 Environmental Planning and Assessment Regulations classify certain large-scale or offensive projects as designated developments. With reference Schedule 3, this development is not categorised as designated development.

# INTEGRATED DEVELOPMENT

The applicant has not identified any additional permits or licenses required from NSW Government agencies or approval bodies, such as Water NSW for potential dewatering, nor requested that the development application be treated as integrated development. Consequently, under Section 4.46 of the Environmental Planning and Assessment Act this proposal is not classified as integrated development. Any required approvals must be obtained separately by the owner of the consent following the determination of this application.

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

# Orange Development Control Plan 2004 [DCP]

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

- Chapter 0 Tree Preservation
- Chapter 2 Natural Resource Management
- Chapter 4 Special Environmental Considerations
- Chapter 9 Development in the Industry & Employment Zone
- Chapter 15 Car Parking

The relevant matters in Chapters 2 and 4 were considered in the foregoing assessment under Orange LEP 2011. The relevant matters contained under 0, 9 and 15 are addressed below:

# **CHAPTER 0 - TREE PRESERVATION**

Two street trees are located adjacent to the site, both with a trunk diameter exceeding 300mm. Therefore the provisions of clause PO-0.4-2 of the DCP apply, which seeks to protect existing trees. The existing street trees are proposed to be retained as part of the development proposal. Council's Manager City Presentation has recommended a condition requiring tree protection fencing to be erected in the form of three panels of temporary construction fencing (or similar) to form a triangle around each tree's trunk to prevent damage to the trees. A condition requiring the installation of tree protection measures is included in the attached draft notice of determination to comply with the requirements of clause PO-0.4-2.

# **CHAPTER 9 - DEVELOPMENT IN THE INDUSTRY & EMPLOYMENT ZONE**

PO 9.3-1 sets out the desired planning outcomes for industrial site development. These planning outcomes are set out below along with an assessment of compliance with these outcomes:

- Buildings are set back a minimum of 10 metres from front boundaries (5 metres to a secondary boundary on a corner lot) for lots greater than 1,000m2 or 5 metres for lots less than 1,000m2 or otherwise to a setback consistent with existing setbacks in established areas. A 10m setback applies to lots that have frontage to Clergate Road.
  - **Comment:** The subject lot has an area greater than 1,000m², and therefore a 10m setback from the front boundary and a 5m setback from the secondary boundary is required. The proposed development would provide a 10m setback between the main entrance and Dalton Street, and the secondary frontage to McLachlan Street would have a setback of at least 5m for its length. The proposal would therefore accord with desired Planning Outcome 1 and would include setbacks that would contribute towards the desired neighbourhood character, providing a spacious and attractive pedestrian environment.
- 2. Buildings cover up to 50% of the site area (excluding the area of accessways for battleaxe lots).
  - **Comment:** The proposal would include buildings that would cover an area of 508m<sup>2</sup> compared to the site area of 1,913m<sup>2</sup>. This translates to a building coverage of 27%, which therefore meets the aims of Planning Outcome 2 to ensure that the site is not overdeveloped.

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

**Comment:** The submitted landscape plan indicates that three new trees would be planted on the site: two along the McLachlan Street frontage and one within the internal car parking area. Further shrub planting is proposed in the street frontage setbacks and adjacent to the access driveway. The siting and extent of planting proposed is considered to be sufficient to provide beautification and sufficient visual relief to enhance the appearance of the site. Planting would be provided adjacent to the proposed parking area which it is considered would provide visual relief, and once the proposed tree has reached sufficient maturity, would provide further shade as well. Given the above, it is considered that the proposed landscaping would meet the requirements of desired Planning Outcome 3.

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

**Comment:** The applicant states that the front façade of the building fronting Dalton Street is designed to be read as an all glass 'pavilion' structure signalling 'accessibility and openness to the public arena'. The front of the proposed building would include wall-to-wall glass, which would provide an active frontage, which it is considered would appear inviting and would enhance the streetscape by providing a welcoming and open environment. Further visual relief would be provided by the use of contrasting materials including brickwork, precast concrete and steel. Furthermore, a void is proposed to the front façade which would provide a direct view through the site, providing further visual relief and promoting a sense of openness. Overall the proposed front building façade is considered to be well designed and would provide visual relief in accordance with desired Planning Outcome 4.

The secondary frontage along McLachlan Street would include indented walls and variety of materials on such, which it is considered to provide sufficient visual relief for the secondary frontage. In addition, following amendments to the original design, the secondary frontage would include 0.35m wide windows that would provide for passive surveillance and would allow for views into the building, in accordance with desired Planning Outcome 4.

5. External materials consist of non-reflective materials.

**Comment:** The materials used in the development would be non-reflective, in accordance with desired Planning Outcome 5.

6. Adequate parking and on-site manoeuvring is provided.

**Comment:** Car parking arrangements are assessed under the section below: 'Chapter 15 - Car Parking'.

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

**Comment:** No advertising is proposed under this DA.

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

**Comment:** No fencing along street frontages is proposed, to allow for the proposal to have a positive impact on the visual setting of the area by providing an open environment in accordance with desired Planning Outcome 8.

## **CHAPTER 15 - CAR PARKING**

Sections 15.1-15.3 of Chapter 15 - Car Parking sets out the background, objectives and relationship between on-street and off-street car parking in Orange. In particular, these sections highlight the importance of making provision for car parking in order that the demand for parking in the City is met and ensuring that the design and layout of car parking facilitates the safe and effective use of off-street parking. Section 15.4 - Parking Requirements sets out the minimum parking requirements for specific land uses.

The DCP prescribes the following applicable Planning Outcomes for 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.
- Car-parking areas are designed according to Australian Standard.
- Car-park areas include adequate lighting and landscaping
- Bicycle-parking facilities are provided according to the relevant Australian Standard.
- Facilities for loading and unloading of commercial vehicles are provided according to the relevant Australian Standard.

The following car parking requirements apply:

| INDUSTRIES AND TRADE                |  |
|-------------------------------------|--|
| SERVICES                            |  |
| Industries and warehouses           | 1 space per 100m <sup>2</sup> GFA or 1 space for every 2 |
| (Note: parking requirements are the | employees whichever is the greater. Employee numbers     |
| same for these uses to facilitate   | are calculated on the proposed number to operate for the |
| changes of use.)                    | peak shift.  |
|                                     |  |
| Educational establishments:         | 1 space for every 2 employees                            |
| Schools and higher-educational      | + 1 space per 10 students over 17 years of age in        |
| facilities (TAFE, universities)     | attendance   |
| ,                                   | Additional parking is to be determined by Council where  |
|                                     | on-site residential accommodation is provided based on   |
|                                     | the peak-parking demand anticipated for the              |
|                                     | development.   |

The development as a whole has a floor area of approximately 511m², which in accordance with the DCP requires 5 onsite car parking spaces. The applicant states that the development is expected to accommodate up to 30 students and 2 staff at any one time, which would create a further onsite DCP car parking space requirement of 4 spaces. Therefore the DCP requires the provision of 9 onsite car parking spaces. The proposed development would provide 14 onsite parking spaces, and would therefore exceed DCP requirements.

Car parking spaces proposed would each have a width of 2.4m and a length of 5.4m, which would meet the Australian Standard. A disabled car parking space is proposed that would have a width of 2.4m and a length of 5.4, along with a shared zone for the disabled space - this would also meet the Australian Standard. The car park isle width would range from 5.85m to 6.2m and would therefore meet the Australian Standard for medium term car parking (5.8m). The driveway width would also meet the required standard, being 7m wide.

The applicant states that the maximum sized vehicle that is proposed to be catered for on the site is a small rigid vehicle (SRV) (6.4m long). Three SRV loading docks are proposed as part of the development proposal, each with a length of 7.3m and a width of 3.5m,. This would exceed the required standard for SRVs. The aisle width adjacent to the loading docks would be 7m, which would also meet the standard. A condition can ensure that the largest vehicles to use the site are SRVs.

Given the above, the proposed car parking arrangements at the site are considered to be acceptable in accordance with the car parking requirements of the DCP.

#### **INFILL GUIDELINES**

Development in a heritage setting must be assessed against Council's Infill Guidelines. The subject site is not located in a heritage conservation area, nor is it a heritage item.

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

# **Demolition of a Building (clause 61)**

The proposal does not involve the demolition of a building.

# Fire Safety Considerations (clause 62)

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

# **Buildings to be Upgraded (clause 64)**

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

# **BASIX Commitments (clause 75)**

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

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

# **Context and Visual Impacts**

The subject site is located on land zoned E4 General Industrial on a prominent position on a corner lot between Dalton Street and McLachlan Street. Located across McLachlan Street is the Alpine local centre and land zoned as R1 General Residential. The site is therefore located in a transitional area between industrial and residential uses.

It is considered that the proposed glazed entrance section of the building would provide a high-quality design that would appear welcoming and enhance the streetscape. The design of the building (separated into interconnected forms rather than one singular mass) assists in breaking up the massing of the building, thus providing visual interest and assisting in integrating the appearance of the building into the existing varied streetscape. The proposal involves the use of pre-cast concrete, which gives the development a somewhat utilitarian appearance, reflective of its industrial context. But there would be a variety of other materials on show, including brickwork, aluminium and Terrazzo, to create visual interest. Furthermore, the proposed landscaping scheme which would include tree, shrub and grass plantings, would soften the appearance of the development and aid in the transition between the industrial zone and the residential zone across MacLachlan Street.

Overall, the design of the proposed development is considered to be of a high quality that responds well to the industrial context and the shape of the land whilst appropriately addressing the street frontage.

#### **Traffic and access**

Onsite manoeuvring of SRVs has been confirmed as practical, with swept path analysis provided (see figure 6 below). All vehicles would enter and exit the site in a forward direction.



Figure 8 - SRV access to loading bay swept path analysis

The applicant has provided vehicular trip generation calculations based on the Roads and Maritime Services 'Guide to Traffic Generating Developments, Section 3 - Landuse Traffic Generation' of October 2002. The guide states that each 100m<sup>2</sup> of commercial floor space is expected to generate two peak hour vehicle trips.

The development would have a floor area of 793.5m<sup>2</sup> and is therefore expected to generate 16 vehicle trips in the peak hours. Given the relatively small scale of the proposed use, accommodating up to 30 trainees at any one time, it is considered that the development would cause a minor increase in traffic flows that can be accommodated by the surrounding road network.

# Infrastructure Impacts

Council mapping indicates a sewer main crossing the site, however Council's Technical Services staff have stated that this sewer is abandoned and therefore development above it is allowable. If excavations during construction works uncover the abandoned sewer, it will be capped off at the boundary of the site.

# **Environmental Impacts**

The site does not comprise any significant vegetation, and therefore it is unlikely to significantly impact upon any threatened species or habitat.

# **Noise and Vibration**

The only mechanical plant proposed is on the training building, and the plant for this would be within a plant room on the opposite side of the building to residential receivers. While mechanical plant could be added later to the industrial units at the rear, the nearest neighbours on the western and northern sides are commercial/industrial and so would be unlikely to be significantly impacted.

The proposed use of the site would involve potentially noise intensive activities, including practical training sessions in: waterproofing, tiling, paving and bricklaying, and may include the use of power tools. The applicant states that noise levels may peak at approximately 95 decibels. However, potentially noise intensive activities would be contained internally and it is therefore not considered that they would result in any noise disturbance to residential properties across McLachlan Street.

In the industrial context it is not considered that anticipated vehicular deliveries to the site would cause any notable additional noise disturbance. A condition has been recommended to limit the size of vehicles permitted on the land. All vehicles will be required to enter and leave the premises in a forward direction.

Given the above, it is considered that the development would not have an undue impact on the locality in terms of noise and vibration.

#### Air and Microclimate

The construction phase of the development may generate some dust. Dust suppression and sediment controls will need to be in place during works to ensure minimal impact to adjoining properties and the public during this period. This can be ensured by way of condition. Because of the specific nature of the proposed use, it is not expected that there will be any ongoing issues relating to air quality in the locality.

# **Social Impacts**

The development would provide educational and training opportunities for local residents and is therefore likely to have a positive social impact.

# **Economic Impacts**

The development would provide employment during construction and during its ongoing use, as well as providing training for building trades. It is therefore likely that the proposal would have a positive economic impact.

# **Construction Impacts**

The proposed development may result in short-term impacts typically associated with construction activities, including noise, dust, construction worker parking and site deliveries. While these impacts are inherent to a project of this scale in an urban setting, they are temporary and limited to the construction phase.

To ensure these impacts are effectively managed, a condition has been imposed requiring the preparation of a comprehensive Construction Management Plan. This plan would address key considerations such as construction worker parking, site deliveries, dust mitigation and traffic management, ensuring that construction activities are carried out in a controlled and responsible manner.

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

- The development is permissible and compliant with the relevant provisions of the LEP.
- The development is considered to be satisfactory in regard to Section 4.15 of the Environmental Planning and Assessment Act 1979.
- The potential impacts of the development can be managed appropriately through the conditions of consent.
- The development of the site will not create significant adverse impacts on the context and setting of the area.
- The development of the site will not detrimentally affect adjoining land and is unlikely to lead to land use conflicts.

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

The proposed development was notified 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 no comments 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 industrial training facility and general industrial units are permissible with consent in the E4 General Industrial zone. The proposed uses are considered to be appropriate in the context and would not give rise to any harmful impacts to neighbouring land users. It is not considered that the proposal would result in any harmful effects in regards to noise and vibration and other environmental impacts, subject to conditions of consent on the attached draft notice of determination.

The car parking and loading arrangements would meet the requirements of the DCP, and it is not considered that the proposal would have a significant impact on traffic generation.

The design and appearance of the development would accord with DCP requirements in terms of setbacks and landscaping. The overall design is considered to contain interesting elements that would appear appropriate in the industrial context and would provide visual interest and a street frontage that would enhance the appearance of the streetscape.

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 the Engineering Development Section are included in the attached Notice of Approval.

#### **ATTACHMENTS**

- 1 DRAFT Notice of Determination, D25/69227 Use 1
- 2 Plans, D25/66410<u>↓</u>



# NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

| Application number                   | DA 144/2025(1)<br>PAN-477003   |
|--------------------------------------|--|
| Applicant                            | Andrea De la Rosa Carnota<br>LEVEL 5, 2 GLEN STREET MILSONS POINT 2061   |
| Description of development           | Construction of a mixed-use development comprising an industrial training facility and general industrial units. |
| Property                             | 171-173 DALTON STREET ORANGE 2800<br>300/-/DP1183165   |
| Determination                        | Approved Consent Authority - Council   |
| Date of determination                | 1/07/25  |
| Date from which the consent operates | 1/07/25  |
| Date on which the consent lapses     | 1/07/30  |

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

#### Right of appeal / review of determination

If you are dissatisfied with this determination:

#### Request a review

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

#### Rights to appeal

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

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

Paul Johnson Manager - Development Assessments Person on behalf of the consent authority

#### **Terms and Reasons for Conditions**

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

#### **General Conditions**

#### **Erection of signs**

- This section applies to a development consent for development involving building work, subdivision work or demolition work.
- 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
  - 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 Shoring and adequacy of adjoining property

- This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
- 2. It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense—
  - protect and support the building, structure or work on adjoining land from possible damage from the excavation, and

- b. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
- 3. This section does not apply if—
  - a. the person having the benefit of the development consent owns the adjoining land, or
  - the owner of the adjoining land gives written consent to the condition not applying.

**Condition reason:** Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.

# 3 Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

| Approved plans Plan number/Title Drawn by Date of plan Elevations & Sections 01 020 Issue E Elevations & Sections 02 021 Issue E Elevations & Sections 03 022 Issue E Elevations & Sections 03 022 Issue E Plan 010 Issue G Landscape Plan 015 Issue D Site Analysis 002 Issue C Site Plan 001 Issue E Finishes Schedule 060 Issue C Cover Sheet Notes & Details 24031-C01 REV: A  Site Detail & Finished Site Levels 24031-C02 REV: A |   |                        |           |
|--|---|------------------------|-----------|
| Elevations & Sections 01 020 Issue E Elevations & Sections 02 021 Issue E Elevations & Sections 03 022 Issue E Elevations & Sections 03 022 Issue E Plan 010 Issue G Landscape Plan 015 Issue D Site Analysis 002 Issue C Site Plan 001 Issue E Finishes Schedule 060 Issue C Cover Sheet Notes & Details 24031-C01 REV: A Site Detail & Finished Site Levels  | Approved plans                          |                        |           |
| Elevations & Sections 02 021 Issue E Elevations & Sections 03 022 Issue E Plan 010 Issue G Landscape Plan 015 Issue D Site Analysis 002 Issue C Site Plan 001 Issue E Finishes Schedule 060 Issue C Cover Sheet Notes & Details 24031-C01 REV: A  Site Detail & Finished Site Levels   | Plan number/Title                       | Drawn by               |           |
| E Elevations & Sections 03 022 Issue E Plan 010 Issue G Landscape Plan 015 Issue D Site Analysis 002 Issue C Site Plan 001 Issue E Finishes Schedule 060 Issue C Cover Sheet Notes & Details 24031-C01 REV: A Site Detail & Finished Site Levels   | Elevations & Sections 01 020 Issue<br>E | Seidler Architects and | 13.06.202 |
| Plan 010 Issue G Landscape Plan 015 Issue D Site Analysis 002 Issue C Site Plan 001 Issue E Finishes Schedule 060 Issue C Cover Sheet Notes & Details 24031-C01 REV: A Site Detail & Finished Site Levels  | Elevations & Sections 02 021 Issue<br>E |                        | )         |
| Landscape Plan 015 Issue D  Site Analysis 002 Issue C  Site Plan 001 Issue E  Finishes Schedule 060 Issue C  Cover Sheet Notes & Details 24031-C01 REV: A  Site Detail & Finished Site Levels  | Elevations & Sections 03 022 Issue<br>E |                        |           |
| Site Analysis 002 Issue C  Site Plan 001 Issue E  Finishes Schedule 060 Issue C  Cover Sheet Notes & Details Heath Consulting March 24031-C01 REV: A  Site Detail & Finished Site Levels   | Plan 010 Issue G                        |                        |           |
| Site Plan 001 Issue E  Finishes Schedule 060 Issue C  Cover Sheet Notes & Details Heath Consulting March 24031-C01 REV: A  Site Detail & Finished Site Levels  | Landscape Plan 015 Issue D              |                        |           |
| Finishes Schedule 060 Issue C  Cover Sheet Notes & Details Heath Consulting March 24031-C01 REV: A Engineers 2025  Site Detail & Finished Site Levels  | Site Analysis 002 Issue C               |                        |           |
| Cover Sheet Notes & Details 24031-C01 REV: A  Site Detail & Finished Site Levels  Heath Consulting Engineers  March 2025   | Site Plan 001 Issue E                   |                        |           |
| 24031-C01 REV: A Engineers 2025 Site Detail & Finished Site Levels   | Finishes Schedule 060 Issue C           |                        |           |
|  |   |                        |           |
|  |   |                        |           |

|   | Stormwater Reticulation Layout   |  |  |  |  |  |
|---|--|--|--|--|--|--|
|   | 24031-C03 REV: A   |  |  |  |  |  |
|   | Basin Details, Calculations & Results 24031-C04 REV: A   |  |  |  |  |  |
|   | Erosion & Sediment Control Plan<br>24031-C05 REV: A  |  |  |  |  |  |
|   | In the event of any inconsistency between the approved plans and documents, the approved <b>Plans</b> prevail.                               |  |  |  |  |  |
|   | 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. |  |  |  |  |  |
| 4 | Development and subdivision works requirements   |  |  |  |  |  |
|   | All of the following conditions are to be at the full cost of the developer and to the requirements  |  |  |  |  |  |
|   | and standards of the Orange City Council Development and Subdivision Code, unless specifically   |  |  |  |  |  |
|   | stated otherwise. All engineering work required by the following conditions is to be completed   |  |  |  |  |  |
|   | prior to the issue of an Occupation or Subdivision Certificate, unless stated otherwise.   |  |  |  |  |  |
|   | Condition reason: To comply with Council's Development and Subdivision Code.   |  |  |  |  |  |
| 5 | National Construction Code   |  |  |  |  |  |
|   | All building work must be carried out in accordance with the provisions of the National Construction Code.                                   |  |  |  |  |  |
|   | Condition reason: To ensure compliance with relevant statutory requirements.   |  |  |  |  |  |

# **Building Work**

# Before issue of a construction certificate

|--|

Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the building certifier for approval. The plan must include the following matters:

- a. The location and materials for protective fencing and hoardings on the perimeter of the site;
- Location of dedicated washdown areas (located away from drainage lines, stormwater drains and water bodies);
- c. Provisions for public safety;
- d. Pedestrian and vehicular site access points and construction activity zones;
- e. Details of construction traffic management including:
  - i. Proposed truck movements to and from the site;
  - i. Estimated frequency of truck movements; and
  - ii. Measures to ensure pedestrian safety near the site;
- f. Details of bulk earthworks to be carried out;
- g. The location of site storage areas and sheds;
- h. The equipment used to carry out works;
- i. The location of a garbage container with a tight-fitting lid;
- j. Dust, noise and vibration control measures;
- k. Details of chemical storage and management;
- I. The location of temporary toilets;
- m. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:
  - i. AS 4970 Protection of trees on development sites;
  - ii. An applicable Development Control Plan;
  - iii. An arborist's report approved as part of this consent

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

**Condition reason:** To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

#### 7 Erosion and sediment control plan

Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to Council for approval:

- 1. Council's relevant development control plan,
- the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and
- the 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure) (dated 2024, as amended from time to time).

**Condition reason:** To ensure no substance other than rainwater enters the stormwater system and waterways.

# 8 Engineering plans for car park

Engineering plans providing complete details of the proposed driveway and car parking areas are to be submitted upon application for a Construction Certificate. These plans are to provide details of levels, cross falls of all pavements, proposed sealing materials and

proposed drainage works and are to be in accordance with Orange City Council Development and Subdivision Code and AS/NZS 2890.1:2004 Off-street carparking. All stormwater from the site is to be collected and piped to Councils stormwater network in McLachlan Street.

Condition reason: To comply with Councils Development and Subdivision Code.

#### 9 Stormwater detention design

The development's stormwater design is to include the incorporation of stormwater detention within the development, designed to limit peak outflows from the land to the pre-existing natural outflows up to a 1% AEP storm event, with sufficient allowance in overflow spillway design capacity to safely pass flows of lower frequency (that is, a rarer event) without damage to downstream developments.

The design of the detention storage is to be undertaken using the DRAINS rainfall-runoff hydrologic model (or an approved equivalent capable of assessing runoff volumes and their temporal distribution as well as peak flow rates) based on the most recent version of Australian Rainfall and Runoff calculations allowing for applicable climate change factor(s). The model is to be used to calculate the flow rates for the existing and post-development conditions. The developed flows are to be routed through the proposed storage within the model so that the outflows obtained are no greater than the flows obtained for the pre-existing natural flows. A report detailing the results of the analysis, which includes:

- · catchment plan showing sub-catchments under existing and developed conditions;
- schematic diagram of the catchment model showing sub areas and linkages;
- · tabulation detailing the elevation, storage volume and discharge relationships; and
- tabulation for the range of frequencies analysed, the inflows, outflows and peak storage levels for both existing and developed conditions,
- together with copies of the data files for the model and engineering design plans of the required drainage system, are to be submitted to and approved by Orange City Council prior to the issue of a Construction Certificate.

Condition reason: To comply with Councils Development and Subdivision Code.

# 10 Obtain Road Opening Permit

A Road Opening Permit in Accordance with Section 138 of the Roads Act 1993 must be approved by Council prior to a Construction Certificate being issued or any intrusive works being carried out within the public road or footpath reserve.

Condition reason: To ensure compliance with relevant statutory requirements.

# 11 Floor levels above 1% AEP flood level

The development is to be constructed so that all floor levels are at least 500 mm above the 1% AEP flood level. Prior to the issue of a Construction Certificate the plans shall indicate a minimum floor level of 857.62m AHD for all habitable buildings and storage areas.

Condition reason: To comply with Councils Development and Subdivision Code.

#### 12 Flooding - structural engineers report

Prior to the issue of a Construction Certificate a report from a practising consulting engineer certifying that the proposed structures are able to safely withstand the force of flowing floodwaters, including debris and buoyancy forces as appropriate up to and including the 1% AEP flood level.

Condition reason: To comply with Councils Development and Subdivision Code.

#### 13 Section 68 application - water and sewer

An approval under Section 68 of the *Local Government Act* is to be sought from Orange City Council, as the Water and Sewer Authority, for water, sewer and stormwater connection. Details concerning the proposed backflow prevention between the nominated water tank supply and the potable system are to be provided. No plumbing and drainage is to commence until approval is granted.

**Condition reason:** To ensure the utility services are available to the site and adequate for the development.

# Before building work commences

#### 14 Erosion and sediment controls in place

Before any site work commences, the Building Certifier must be satisfied that the erosion and sediment controls in the erosion and sediment control plan which was provided to Council are in place. These controls must remain in place until any bare earth has been restabilised in accordance with the erosion and sediment control plan.

**Condition reason:** To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

#### 15 Protection of adjoining areas

Before work commences, a temporary hoarding or temporary construction site fence must be erected around the work site perimeter and must be kept in place until after the work is completed.

**Condition reason:** To protect land uses and amenity and ensure safety on an operating farm.

#### 16 Tree protection measures

Before any site work commences, the principal certifier, or Council where a principal certifier is not required, must be satisfied the measures for tree protection detailed in the construction site management plan are in place.

Condition reason: To protect and retain trees.

# 17 Appoint PC

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.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 18 Construction certificate required

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.

**Condition reason:** 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.

#### 19 No commencement until details received

The construction works the subject of this development consent MUST NOT be commenced until:

- (a) Detailed plans/specifications of the building have been endorsed with a construction certificate by:
  - (i) the Council, or
  - (ii) a registered certifier, and
- (b) The person having the benefit of the development consent:
  - (i) has appointed a Principal Certifier, and

- (ii) has notified the Council of the appointment, and
- (c) The person having the benefit of the development consent has given at least two (2) day's notice to the Council of the person's intention to commence the erection of the building; and
- (d) Builder's name and licence number has been supplied to Council or the Principal Certifier; or
- (e) Owner Builder's permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifier; and
- (f) Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifier; and
- (g) A sign has been erected onsite in a prominent position containing the information prescribed by Clause 98A(2) and (3) of the EP&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.

Condition reason: To ensure compliance with relevant statutory requirements.

# **During building work**

# 20 Tree protection during work

While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:

- the construction site management plan (as approved under condition 5 of this consent);
- 2. the relevant requirements of AS 4970 Protection of trees on development sites.
- 3. any arborist's report approved under this consent.

This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

Condition reason: To protect trees during the carrying out of site work.

Provision of services

# Adjustments to utility services Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer. Condition reason: To comply with Council's Development and Subdivision Code. Driveway and parking areas 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. Condition reason: To comply with Council's Development and Subdivision Code. Erosion and sediment control - review, maintain and modify Erosion and sediment controls shall be regularly reviewed, maintained, and modified as required in accordance with Managing Urban Stormwater: Soils and Construction - Volume 1 (4th edition), to ensure they remain effective. Condition reason: To prevent site erosion and sediment loss, and protect waterways from sediment pollution. Hours of work - construction All construction work on the site is to be carried out between the hours of 7am and 6pm Monday to Friday inclusive, 7am to 5pm Saturdays, and 8am to 5pm Sundays and Public Holidays. Written approval must be obtained from the Chief Executive Officer of Orange City Council to vary these hours. Condition reason: To ensure compliance with relevant statutory requirements. Kerb and gutter layback and footpath crossing A heavy-duty concrete kerb and gutter layback and footpath crossing is to be constructed in the position shown on the plan submitted with the Construction Certificate application. The works are to be carried out to the requirements of the Orange City Council Development and Subdivision Code and Road Opening Permit. Condition reason: To comply with Council's Development and Subdivision Code.

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.

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

### 27 Reinstate kerb and gutter

The existing kerb and gutter laybacks in Mclachlan Street and Dalton Street that are not proposed to be used are to be replaced with standard concrete kerb and gutter and the adjacent footpath area re-graded to the shape and level requirements of footpaths in the Orange City Council Development and Subdivision Code and Road Opening Permit.

Condition reason: To comply with Councils Development and Subdivision Code.

#### 28 Unexpected finds - contamination

In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work onsite must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works onsite must not resume unless the express permission of Council's Director Development Services is obtained in writing.

**Condition reason:** To ensure any unexpected finds of contamination are notified to Council and managed appropriately.

# 29 No encroachment on easements

No portion of the building or service to and from that building - including footings, eaves, overhang and service pipes - shall encroach into any easement.

**Condition reason:** To prevent the proposed development having a detrimental effect on adjoining land uses.

# 30 Protection of the Environment Operations Act - material delivery

All materials onsite or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material, or when disposing of waste products, or during any other activities likely to pollute drains or watercourses.

**Condition reason:** To protect waterways from pollution by stockpiled or placed construction materials.

#### Before issue of an occupation certificate

## 31 Completion of works relating to road opening permit

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.

Condition reason: To ensure compliance with relevant statutory requirements.

#### 32 No use or occupation without occupation certificate

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.

Condition reason: To ensure compliance with the Building Code of Australia.

#### 33 Stormwater detention certification

A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater detention basin complies with the approved engineering plans is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

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

# Completion of works on public land and services

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.

Condition reason: To comply with Councils Development and Subdivision Code.

#### 35 Section 68 final - water and sewer

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.

**Condition reason:** To ensure the utility services are available to the site and adequate for the development.

#### Occupation and ongoing use

#### 36 Truck movement time limits

No truck movements, including deliveries, are to occur between the hours of 22:00 and 07:00, Monday to Sunday.

**Condition reason:** To ensure noise generated from the development does not unreasonably impact upon surrounding premises.

#### 37 Maximum sized vehicle

The maximum sized delivery vehicle permitted to enter the development is a 6.4 metre length Small Rigid Vehicle. All vehicles shall enter and exit the site in a forward direction.

Condition reason: To comply with Councils Development and Subdivision Code.

#### 38 Annual fire safety statement

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

Condition reason: To ensure compliance with relevant statutory requirements.

# 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 <u>Conditions of development consent: advisory notes</u>. The consent should be read together with the <u>Conditions of development consent: advisory notes</u> 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.

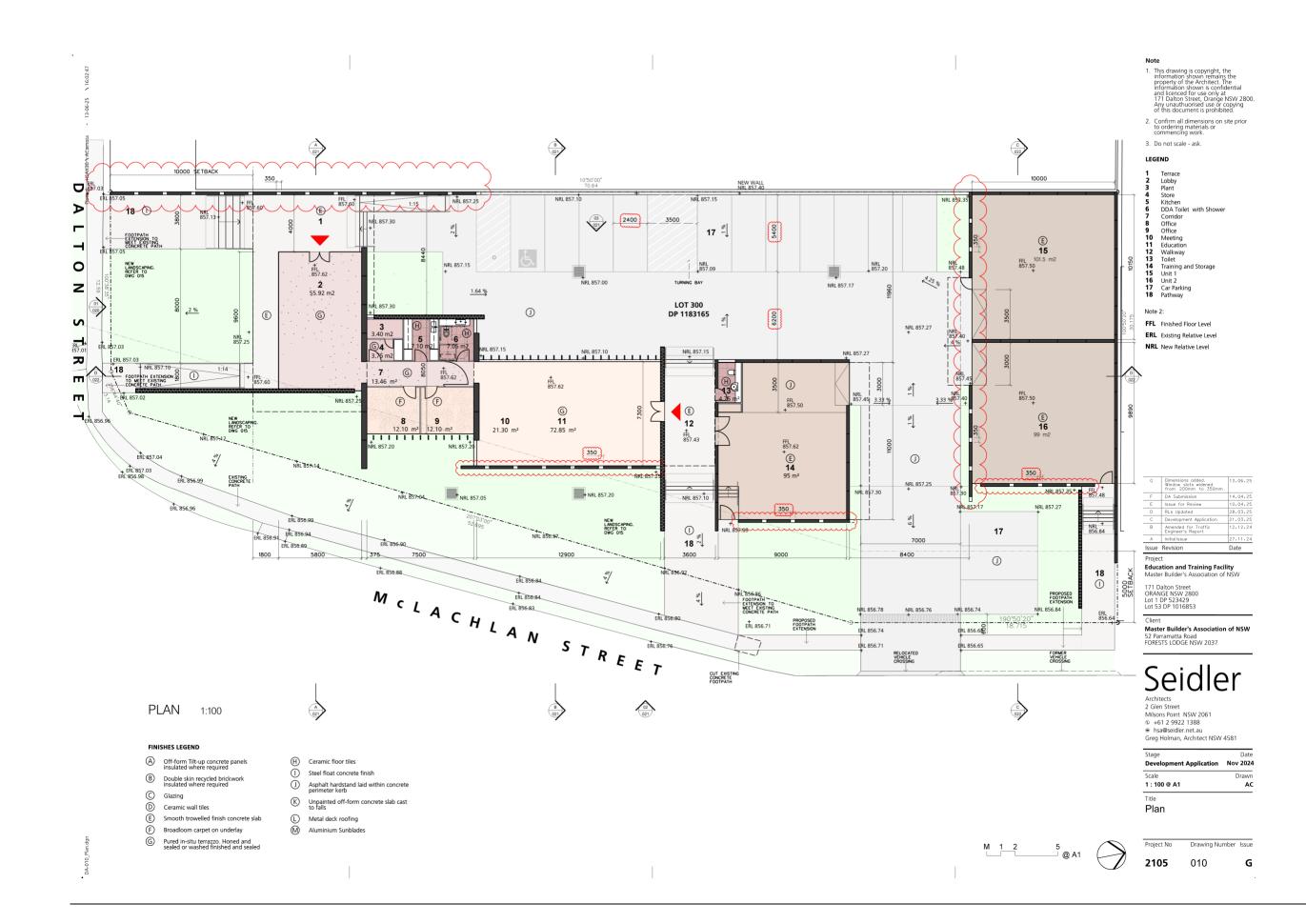
Stormwater drainage system means all works and facilities relating to:

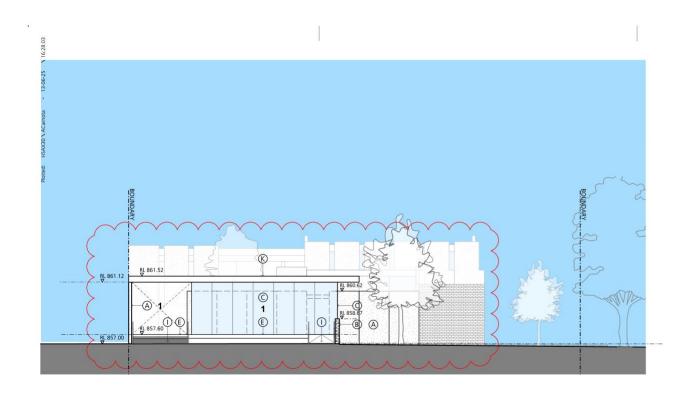
- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

**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.







ELEVATION 01 1:100

#### FINISHES LEGEND

- Off-form Tilt-up concrete panels insulated where required
- B Double skin recycled brickwork insulated where required
- © Glazing
- Ceramic wall tiles
- E Smooth trowelled finish concrete slab
- F Broadloom carpet on underlay Pured in-situ terrazzo. Honed and sealed or washed finished and sealed
- H Ceramic floor tiles
- Steel float concrete finish
- Asphalt hardstand laid within concrete perimeter kerb
- K Unpainted off-form concrete slab cast to falls
- (L) Metal deck roofing

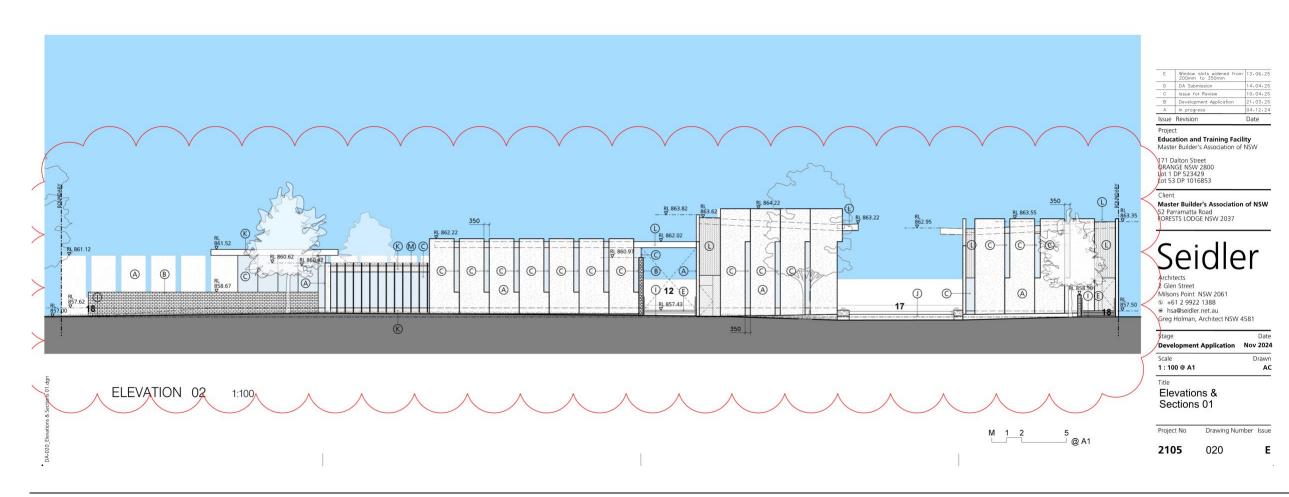
- 1 Terrace
  2 Lobby
  3 Plant
  4 Store
  5 Kitchen
  6 DDA Tollet with Shower
  7 Corridor
  8 Office
  9 Office
  10 Meeting
  11 Education
  12 Walkway
  13 Tollet
  14 Training and Storage
  15 Unit 1
  16 Unit 2
  17 Car Parking
  18 Pathway

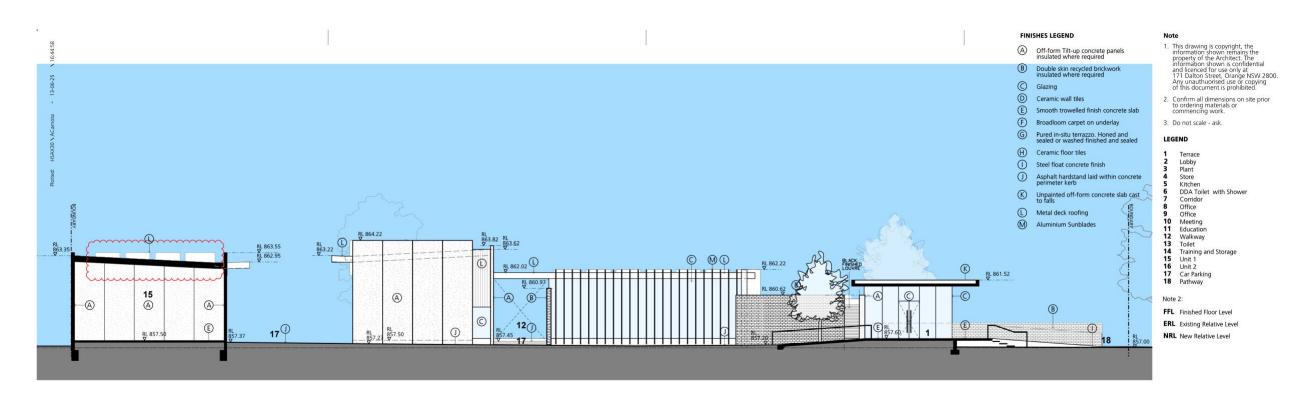
# Note 2:

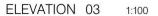
FFL Finished Floor Level

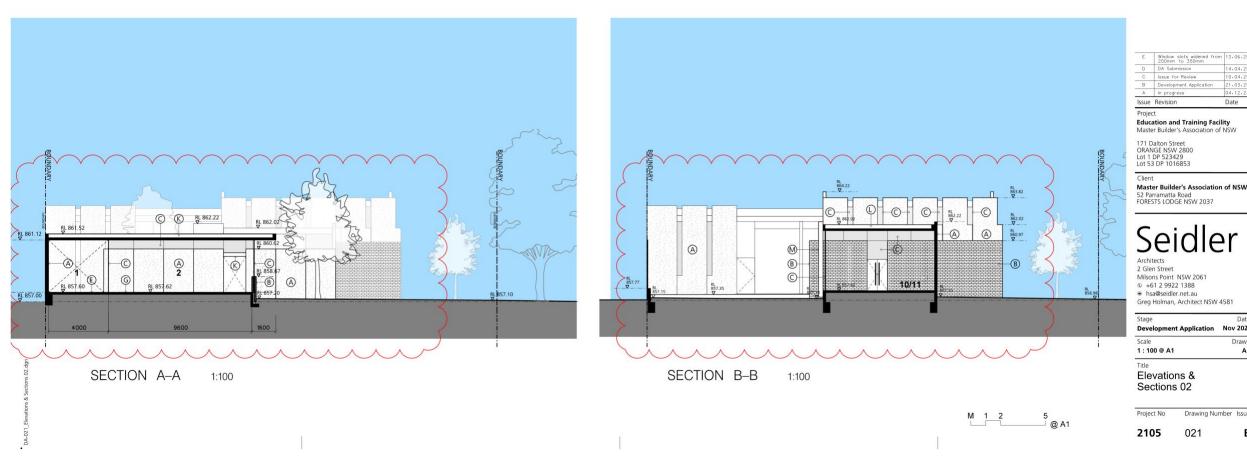
ERL Existing Relative Level

NRL New Relative Level

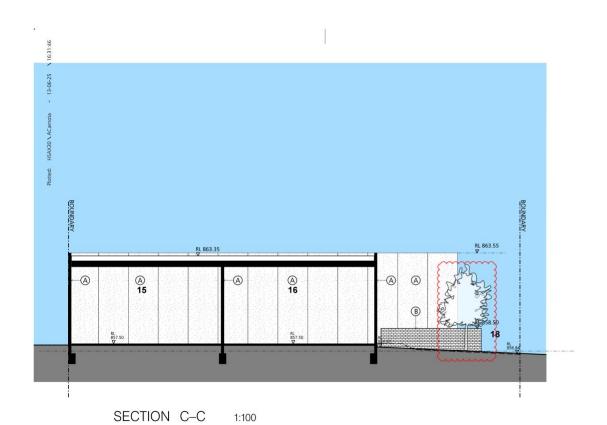








| D DA Submission C Issue for Review B Development Application A In progress Issue Revision  | 14.04.2                  |
|--|--------------------------|
| B Development Application A In progress  |                          |
| A In progress  | 10.04.2                  |
|  | 21.03.2                  |
| issue revision   | 04.12.2<br>Date          |
| Master Builder's Association of 171 Dalton Street ORANGE NSW 2800 Lot 1 DP 523429 Lot 53 DP 1016853  Client Master Builder's Association   |                          |
| Architects<br>2 Glen Street  |                          |
| Milsons Point NSW 2061<br>© +61 2 9922 1388<br>© hsa@seidler.net.au<br>Greg Holman, Architect NSW  | 4581                     |
| Milsons Point NSW 2061<br>© +61 2 9922 1388<br>● hsa@seidler.net.au  | Dat                      |
| Milsons Point NSW 2061   | Dat<br>Nov 202           |
| Milsons Point NSW 2061   | Dat<br>Nov 202           |
| Milsons Point NSW 2061<br>© +61.2 9922 1388<br>© hsa@selder.net.au<br>Greg Holman, Architect NSW<br>Stage<br>Development Application<br>Scale  | Dat<br>Nov 202           |
| Milsons Point NSW 2061<br>\$\psi +61 2 9922 1388   \text{ h5a@sedider.net.au}   \text{ Greg Holman, Architect NSW }  \text{ Stage }  \text{ Development Application }  \text{ Scale }   \text{ 1: 100 @ A1}   \text{ Title }  \text{ Elevations & }   \text{ All Stage }   All Sta | Date<br>Nov 202<br>Drawi |



- Confirm all dimensions on site prior to ordering materials or commencing work.
- 3. Do not scale ask.

#### LEGEND

- © Glazing
- D Ceramic wall tiles

FINISHES LEGEND

E Smooth trowelled finish concrete slab F Broadloom carpet on underlay

Off-form Tilt-up concrete panels insulated where required

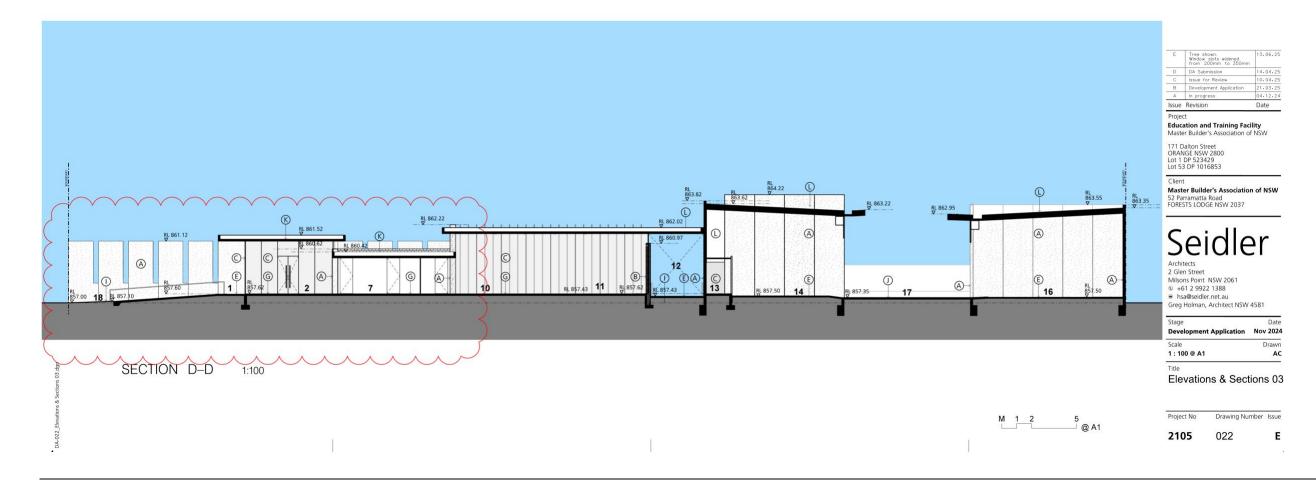
- Pured in-situ terrazzo. Honed and sealed or washed finished and sealed
- (H) Ceramic floor tiles
- Steel float concrete finish
- Asphalt hardstand laid within concrete perimeter kerb
- K Unpainted off-form concrete slab cast to falls
- (L) Metal deck roofing
- M Aluminium Sunblades

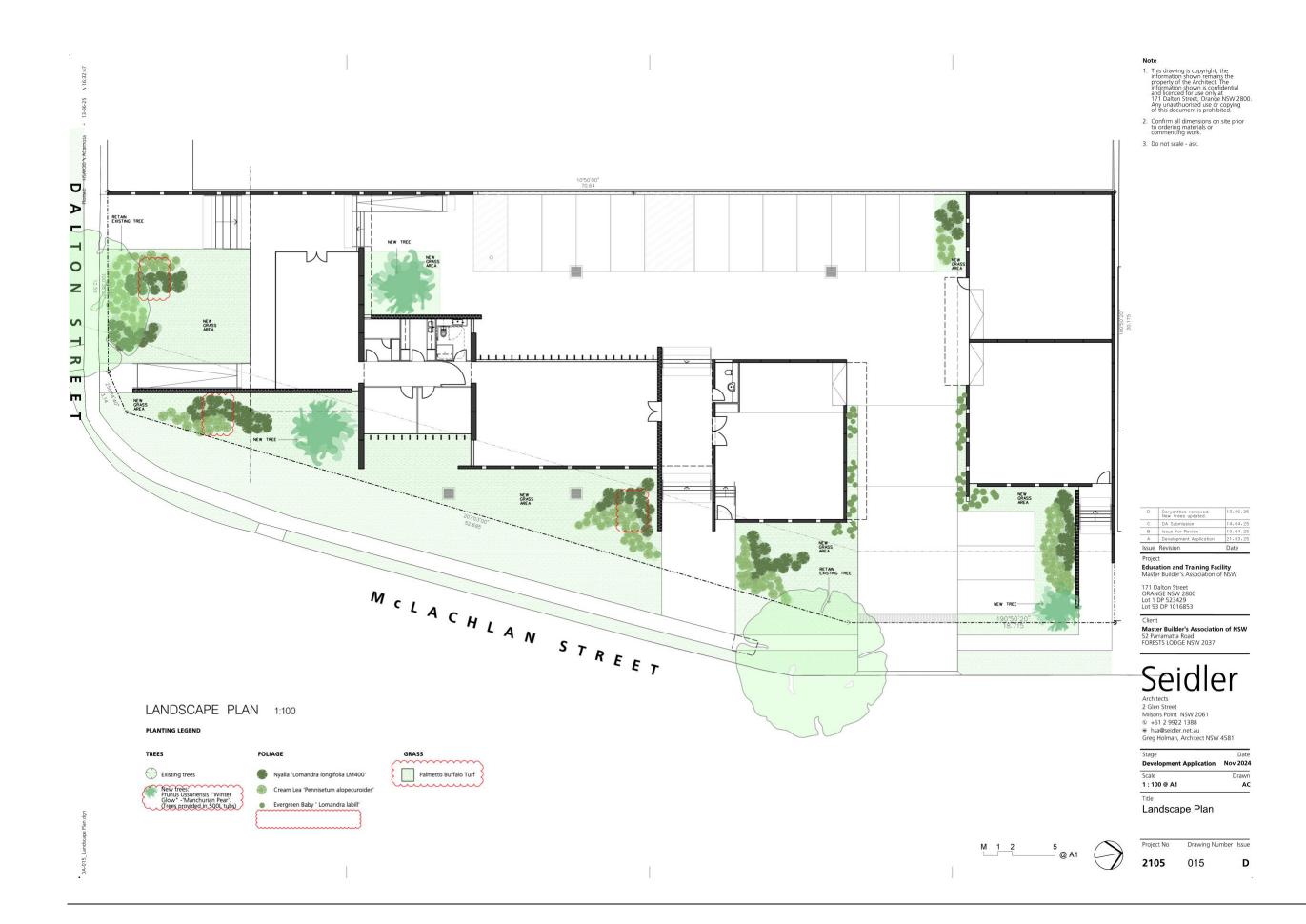
1 Terrace
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FFL Finished Floor Level

ERL Existing Relative Level

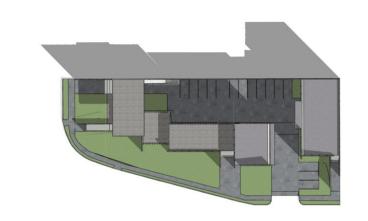
NRL New Relative Level





PLANNING & DEVELOPMENT COMMITTEE 1 JULY 2025

Attachment 2 Plans



22 June 9:00 AM





22 June 12:00 PM 22 June 15:00 PM







22 December 9:00 AM 22 December 12:00 PM

22 December 15:00 PM

- 3. Do not scale ask.

| Issue | Revision                | Date    |
|-------|-------------------------|---------|
| Α     | In progress             | 04.12.2 |
| В     | Development Application | 21.03.2 |
| C     | Issue for Review        | 10.04.2 |
| D     | DA Submission           | 14.04.2 |

# Education and Training Facility Master Builder's Association of NSW

171 Dalton Street ORANGE NSW 2800 Lot 1 DP 523429 Lot 53 DP 1016853

Client Master Builder's Association of NSW 52 Parramatta Road FORESTS LODGE NSW 2037

# Seidler Architects 2 Glen Street Milsons Point NSW 2061 0 +61 2 9922 1388 • hsa@seidler.net.au Greg Holman, Architect NSW 4581

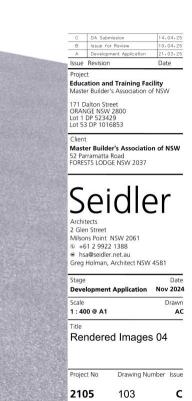
| Stage                          | Date    |
|--------------------------------|---------|
| <b>Development Application</b> | Nov 202 |
| Scale                          | Draw    |
| 1:400 @ A1                     | A       |

Shadow Diagrams



| Project No | Drawing Number | Is |
|------------|----------------|----|
| 2105       | 050            |    |













1 JULY 2025



Not

This drawing is copyright, the information shown remains the property of the Architect. The information shown confidential and icenced for use only a 171 Datton Street, Orange NSW 281 Any unauthuorised use or copying

Confirm all dimensions on site pricto ordering materials or

3. Do not scale - as

 C
 DA Submission
 14.04.2

 B
 Issue for Review
 10.04.2

 A
 Development Application
 21.03.2

Project

Education and Training Facility

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Seidler

Architects
2 Glen Street
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hsa@seidler.net.au
Greg Holman, Architect NSW 4581

Stage

Development Application Nov Scale

1:400 @ A1

Rendered image & Photomontage

Project No Drawing Number Iss
2105 104

### 2.7 DRAFT REDMOND PLACE PRECINCT DCP

RECORD NUMBER: 2025/1220

AUTHOR: Christopher Brown, Town Planner - Strategic

### **EXECUTIVE SUMMARY**

Council staff are seeking an amendment to the Orange Development Control Plan 2004 to guide the delivery of diverse and affordable housing within the Redmond Place Precinct. The proposed amendment will provide site-specific development controls for environmental management, subdivision, urban design and housing design. The amendment is an important step in facilitating the delivery of affordable and diverse housing in the Redmond Place Precinct in accordance with the site's recent rezoning to R1 General Residential. The draft development controls support the endorsed Redmond Place Precinct Vision and Concept Plan. The controls also support Council's responsibilities under its adopted Strategic Policy ST24 - Redmond Place Precinct and the Project Delivery Agreement with Landcom.

The *Environmental Planning and Assessment Act 1979* requires a Draft Development Control Plan to be placed on public exhibition for a period of 28 days prior to the DCP being reported back to Council at a future meeting for final adoption. The recommendation attached to this report seeks Council's approval to place the Draft Redmond Place Precinct Development Control Plan on public exhibition in accordance with the Act's requirements.

It is important to progress this DCP as Landcom are currently finalising a Development Application for the estate. The DCP will set the overall direction of planning controls, including development standards for this important precinct in the City.

### LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy "5.2 Improve housing supply, diversity and affordability".

### **FINANCIAL IMPLICATIONS**

Nil

### **POLICY AND GOVERNANCE IMPLICATIONS**

Nil

### RECOMMENDATION

That Council resolves to place the Draft Redmond Place Precinct Development Control Plan on public exhibition for a period of 28 days.

### **FURTHER CONSIDERATIONS**

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

### SUPPORTING INFORMATION

Council staff are seeking an amendment to the Orange Development Control Plan 2004 to guide the development of land within the Redmond Place Precinct. The Redmond Place Precinct comprises Council-owned land currently known as Lot 1 DP153167, Lot 6 DP 1031236 and Lot 200 DP 1288388. The site predominantly comprises former dairy and orcharding land and includes the existing Gateway Park, Old Dairy Building, Hangar Building, and Memorial Garden and Avenue Planting for fallen soldiers that define the eastern entry to the city along Bathurst Road. The Redmond Place Precinct is shown in Figure 1 below.

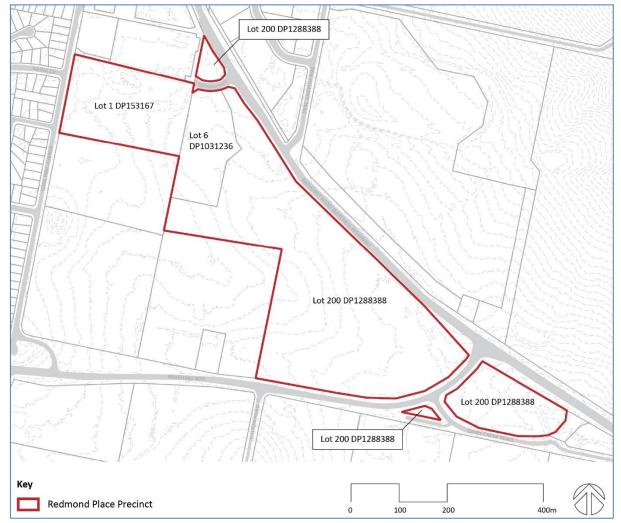


Figure 1 - Redmond Place Precinct

The Redmond Place Precinct is a joint affordable housing project being undertaken by Council and Landcom with the intention of promoting housing diversity and affordability within the City of Orange. The project is expected to deliver around 320 dwellings, at least 20% of which are required to be provided as affordable rental housing for households on very low, low and median household incomes. Under clause 7.17 of the Orange Local Environmental Plan 2011, the required affordable housing must be maintained as affordable housing for a period of at least 15 years and be managed by a registered community housing provider.

In April 2025, the land to be developed for housing was rezoned to R1 General Residential through the NSW Government's accelerated rezoning programme for social and affordable housing. In addition to providing a model for using Council-owned land to deliver affordable housing, the project will also set benchmarks for design excellence in precinct planning and housing design that will be used to guide the development of other urban release areas in the City of Orange.

The Draft Redmond Place Precinct Development Control Plan applies to all land within the precinct. The DCP's controls support a diverse range of strategic policy aims for the project, including:

- Ensuring development is consistent with the endorsed Redmond Place Precinct Vision and Concept Plan.
- Delivery of Council's responsibilities under the Redmond Place Project Delivery Agreement with Landcom and key actions under Council's adopted Strategic Policy ST24 Redmond Place Precinct (notably Actions 1.3, 1.4, 4.1, 4.5, 4.6, 4.7 and 5.8).
- Supporting the project's 5-Star accreditation under the Green Building Council of Australia's Green Star Communities rating scheme.
- Supporting urban heat management and the urban tree canopy coverage targets of Council's adopted *Urban Forest Strategy*.
- Supporting implementation of the *Redmond Place Connecting with Country Framework*.
- Promotion of design excellence for small lot and medium density housing in line with best practice guidelines, including the Low Rise Housing Diversity Guide, Livable Housing Design Guidelines and Landcom's Built Form Design Guidelines.
- Ensuring precinct layout and place making reflect relevant NSW Government guidance, including the *Greener Neighbourhoods Guide*, *Network Planning in Precincts Guide*, *NSW Guide to Activation—Public Space*, *NSW Guide to Walkable Public Space*, *NSW Smart Public Spaces Guide* and *Urban Design for Regional NSW*.
- Ensuring development controls for the precinct reflect Council's obligations for hazard management under section 733 of the Local Government Act 1993, including compliance with *Planning for Bush Fire Protection* and the *NSW Flood Risk Management Manual*.

The Redmond Place Precinct is designated as an Urban Release Area under the Orange LEP 2011. Consequently, clause 6.3 of the LEP requires a Development Control Plan to be in force prior to the issuing of any development consent on land within the precinct.

A Draft Development Control Plan for the Redmond Place Precinct is attached to this report. Under the *Environmental Planning and Assessment Act 1979*, the Draft Development Control Plan is required to be placed on public exhibition for a period of 28 days prior to its adoption by Council. The recommendation attached to this report seeks Council's approval to place the Draft Development Control Plan on public exhibition in accordance with the Act's requirements.

## **ATTACHMENTS**

1 FOR EXHIBITION - Redmond Place Precinct DCP, D25/72867 (Under Separate Cover) ⇒