



ORDINARY COUNCIL MEETING

AGENDA

6 JUNE 2023

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that an **ORDINARY MEETING of ORANGE CITY COUNCIL** will be held in the **COUNCIL CHAMBER, CIVIC CENTRE, BYNG STREET, ORANGE** on **Tuesday, 6 June 2023** commencing at **6.30PM**.

David Waddell

CHIEF EXECUTIVE OFFICER

For apologies please contact Administration on 6393 8106.

AGENDA

EVACUATION PROCEDURE

In the event of an emergency, the building may be evacuated. You will be required to vacate the building by the rear entrance and gather at the breezeway between the Library and Art Gallery buildings. This is Council's designated emergency muster point.

Under no circumstances is anyone permitted to re-enter the building until the all clear has been given and the area deemed safe by authorised personnel.

In the event of an evacuation, a member of Council staff will assist any member of the public with a disability to vacate the building.

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1 INTRODUCTION

1.1 APOLOGIES AND LEAVE OF ABSENCE

1.2 LIVESTREAMING AND RECORDING

This Council Meeting is being livestreamed and recorded. By speaking at the Council Meeting you agree to being livestreamed and recorded. Please ensure that if and when you speak at this Council Meeting that you ensure you are respectful to others and use appropriate language at all times. Orange City Council accepts no liability for any defamatory or offensive remarks or gestures made during the course of this Council Meeting. A recording will be made for administrative purposes and will be available to Councillors.

1.3 ACKNOWLEDGEMENT OF COUNTRY

I would like to acknowledge the Traditional Custodians of the land on which we meet today, the people of the Wiradjuri Nation. I pay my respects to Elders past and present, and extend those respects to Aboriginal Peoples of Orange and surrounds, and Aboriginal people here with us today.

1.4 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 Councillors now disclose any conflicts of interest in matters under consideration by the Council at this meeting.

COUNCIL MEETING ADJOURNS FOR THE CONDUCT OF THE OPEN FORUM

COUNCIL MEETING RESUMES

2 MAYORAL MINUTES

Nil

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RECOMMENDATION

That the Minutes of the Ordinary Meeting of Orange City Council held on 16 May 2023 (copies of which were circulated to all members) be and are hereby confirmed as a true and accurate records of the proceedings of the Council meeting held on 16 May 2023.

ATTACHMENTS

- 1 Minutes of the Ordinary Meeting of Orange City Council held on 16 May 2023

ORANGE CITY COUNCIL

MINUTES OF THE

ORDINARY COUNCIL MEETING

HELD IN COUNCIL CHAMBER, CIVIC CENTRE, BYNG STREET, ORANGE

ON 16 MAY 2023

COMMENCING AT 6.30PM

1 INTRODUCTION

ATTENDANCE

Cr J Hamling (Mayor), Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power (Deputy Mayor), Cr J Whitton

Chief Executive Officer, Director Corporate and Commercial Services, Director Development Services, Director Community, Recreation and Cultural Services, Director Technical Services, Manager Corporate Governance, Chief Financial Officer, Executive Support Officer

1.1 APOLOGIES

Nil.

1.2 LIVESTREAMING AND RECORDING

The Mayor advised that the meeting was being livestreamed and recorded.

1.3 ACKNOWLEDGEMENT OF COUNTRY

The Mayor conducted an Acknowledgement of Country.

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

Nil.

1.5 OPENING PRAYER

Khalid Tufail of the Regional NSW Islamic Centre led the Council in Prayer.

THE MAYOR DECLARED THE ORDINARY MEETING OF COUNCIL ADJOURNED FOR THE CONDUCT OF THE OPEN FORUM AT 6.33PM

Item 5.4 Orange Function Centre

Mitchell Colton – CCT Productions Pty Ltd.

THE MAYOR DECLARED THE ORDINARY MEETING OF COUNCIL RESUMED AT 6.38PM

2 MAYORAL MINUTES

Nil.

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED - 23/171

Cr S Peterson/Cr T Greenhalgh

That the Minutes of the Ordinary Meeting of Orange City Council held on 2 May 2023 (copies of which were circulated to all members) be and are hereby confirmed as a true and accurate record of the proceedings of the Council meeting held on 2 May 2023.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

4 NOTICES OF MOTION/NOTICES OF RESCISSION

4.1 NOTICE OF MOTION - FIRST NATION CULTURE TRAINING

TRIM REFERENCE: 2023/634

MOTION

Cr G Power/Cr G Floyd

That Council include First Nation Culture Training for Councillors as part of the induction and training program conducted during their elected term.

AMENDMENT

Cr T Mileto/Cr K Duffy

That the 'Councillor Training Manual' be updated to include and acknowledge the importance of Councillors having an understanding of First Nations Culture, and if required, encourage Councillors to familiarise themselves with online training available regarding First Nations Culture and other relevant issues of importance.

For: Cr J Hamling, Cr K Duffy, Cr G Floyd, Cr T Mileto

Against: Cr J Evans, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr S Peterson, Cr G Power, Cr J Whitton

Absent: Nil

THE AMENDMENT ON BEING PUT WAS LOST

FORESHADOWED AMENDMENT

Cr K Duffy/Cr G Floyd

That the Notice of Motion – First Nation Culture Training be deferred for the purpose of obtaining further information on proposed program options.

For: Cr J Hamling, Cr K Duffy, Cr G Floyd, Cr T Greenhalgh, Cr T Mileto

Against: Cr J Evans, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr J Whitton, Cr S Peterson, Cr G Power

Absent: Nil

THE FORESHADOWED AMENDMENT ON BEING PUT WAS LOST

THE MOTION ON BEING PUT WAS CARRIED

RESOLVED - 23/172

Cr G Power/Cr G Floyd

That Council include First Nation Culture Training for Councillors as part of the induction and training program conducted during their elected term.

For: Cr J Hamling, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Cr K Duffy

Absent: Nil

4.2 NOTICE OF MOTION - ACTIVE KIDS VOUCHERS

TRIM REFERENCE: 2023/657

RESOLVED - 23/173**Cr T Greenhalgh/Cr J Hamling**

That Orange City Council resolves to:

- 1 Support local Children and Sporting Clubs by writing to the NSW Government to implore them to extend & increase the funding for the Active Kids Voucher which will expire in June 2023.
- 2 Write to our fellow Councils encouraging them to lobby the NSW Government to seek an extension to the Active Kids Program.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonnell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

4.3 NOTICE OF MOTION - EMERGENCY SERVICES LEVY

TRIM REFERENCE: 2023/661

RESOLVED - 23/174**Cr S Peterson/Cr K Duffy**

- 1 That Council contact the Treasurer, the Minister for Local Government, the Minister for emergency services and the State member to express our concern at the vastly increased cost of the emergency services levy. We feel it is unprofessional to have this change at short notice without consultation. This can only have an impact on Council projects, staffing or services.
- 2 That we ask the New South Wales government to restore the Emergency Services Levy subsidy for the coming financial year and additionally that we ask the new Government to consult and examine how to make emergency services funding and Local Government overall self-sustaining financially in the future.
- 3 That Orange City Council support advocacy work on this issue from LGNSW.
- 4 That Council expresses these concerns to the Independent Pricing and Regulatory Tribunal (IPART).

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonnell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

Cr Power asked if we will be required to adjust the draft budget to follow the LGNSW lead.

The Chief Executive Officer advised staff will make adjustments to the budget, we will be required to participate and take a hit but we will make the protest as encouraged by a strong lead of LGNSW.

5 GENERAL REPORTS

5.1 RECOMMENDATIONS AND RESOLUTIONS FROM POLICY COMMITTEES

TRIM REFERENCE: 2023/307

RESOLVED - 23/175**Cr J Whitton/Cr G Power**

That Council resolves:

- 1 That the Minutes of the Planning & Development Policy Committee at its meeting held on 2 May 2023 be and are hereby confirmed as a true and accurate record of the proceedings.
- 2 That the Minutes of the Employment and Economic Development Policy Committee at its meeting held on 2 May 2023 be and are hereby confirmed as a true and accurate record of the proceedings.
- 3 That the Minutes of the Infrastructure Policy Committee at its meeting held on 2 May 2023 be and are hereby confirmed as a true and accurate record of the proceedings.
- 4 That the Minutes of the Environmental Sustainability Policy Committee at its meeting held on 2 May 2023 be and are hereby confirmed as a true and accurate record of the proceedings.
- 5 That the Minutes of the Finance Policy Committee at its meeting held on 2 May 2023 be and are hereby confirmed as a true and accurate record of the proceedings.
- 6 That the Minutes of the Services Policy Committee at its meeting held on 2 May 2023 be and are hereby confirmed as a true and accurate record of the proceedings.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

Cr Duffy asked what the Camera was for on Woodward Street.

The Chief Executive Officer advised that the camera was a security camera for Moulder Park.

QUESTION TAKEN ON NOTICE**Cr J Evans**

Cr Evans requested that the intersection of Pinnacle and Shiralee Roads be inspected and sufficient temporary lighting be installed during the SFR detour period.

QUESTION TAKEN ON NOTICE**Cr T Mileto**

Cr Mileto requested that the intersection of the SFR at Huntley & Forest Roads be inspected and a give way or stop sign be installed to control the flow traffic turning left off Forest Road onto SFR.

5.2 DEVELOPMENT APPLICATION DA 230/2022(1) - 33 MARAMBA ROAD

TRIM REFERENCE: 2023/653

MOTION**Cr D Mallard/Cr M McDonell**

That Council defers consideration of development application DA 230/2022(1) for Subdivision (six lot Torrens title and 13 lot Community title) at Lot 17 DP 1275461 - 33 Maramba Road, Orange in order to work with the developer to preserve the vegetation on the site.

AMENDMENT**Cr J Whitton/Cr T Mileto**

That Council consents to development application DA 230/2022(1) for Subdivision (six lot Torrens title and 13 lot Community title) at Lot 17 DP 1275461 - 33 Maramba Road, Orange pursuant to the conditions of consent in the attached Notice of Approval.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr T Mileto, Cr S Peterson, Cr J Whitton

Against: Cr D Mallard, Cr M McDonell, Cr G Power

Absent: Nil

THE AMENDMENT ON BEING PUT WAS CARRIED AND BECAME THE MOTION**THE MOTION ON BEING PUT WAS CARRIED****RESOLVED - 23/176****Cr J Whitton/Cr T Mileto**

That Council consents to development application DA 230/2022(1) for Subdivision (six lot Torrens title and 13 lot Community title) at Lot 17 DP 1275461 - 33 Maramba Road, Orange pursuant to the conditions of consent in the attached Notice of Approval.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr T Mileto, Cr S Peterson, Cr J Whitton

Against: Cr D Mallard, Cr M McDonell, Cr G Power

Absent: Nil

Cr Whitton asked why this Development Application was part of Council and not in the next Planning and Development Policy Committee.

The Director Development Services advised it was just timing of the application being ready for determination. Also, noting the increased paper size in Committee meetings it was deemed to place this application into the Council meeting instead of waiting for the next Committee meeting in June.

5.3 NSW LOCAL ROADS CONGRESS - NOMINATION(S) FOR COUNCILLOR ATTENDANCE

TRIM REFERENCE: 2023/637

RESOLVED - 23/177**Cr T Mileto/Cr J Hamling**

That Council resolves Councillors Greenhalgh and Mileto to attend the NSW Local Roads Congress to be held on Monday 5th June, 2023.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

5.4 ORANGE FUNCTION CENTRE

TRIM REFERENCE: 2023/483

RESOLVED - 23/178**Cr J Evans/Cr G Floyd**

That Council resolves to:

- 1 Support the primary use of the Orange Function Centre to be for Community style events
- 2 Consider allocation of funding for works as described in the report in future budgets
- 3 Develop a venue plan for the future use of the functions centre and engages current operators in the process.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

Cr Floyd noted the type and frequency of the function centre usage and asked for an estimated time of Return on Investment for any upgrade works.

The Director Community, Recreation & Culture Services advised that it is more of an economic consideration for example if \$4mil was spent, events generating \$5000 a week would be required for 14 years to repay this investment, it will never be a positive return for this facility and the broader benefit of attracting visitors to Orange to stay and shop in the city increases the broader community benefit.

5.5 STATEMENT OF INVESTMENTS - APRIL 2023

TRIM REFERENCE: 2023/635

RESOLVED - 23/179**Cr K Duffy/Cr J Whitton**

That Council resolves:

- 1 To note the Statement of Investments for the period April 2023.
- 2 To adopt the certification of the Responsible Accounting Officer.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

5.6 QUARTERLY BUDGET REVIEW - QUARTER 3 OF 2022/2023

TRIM REFERENCE: 2023/659

RESOLVED - 23/180**Cr G Floyd/Cr K Duffy**

That Council resolves:

- 1 That the information provided in the report on the quarterly budget and performance indicators review for January 2023 to March 2023 be acknowledged.
- 2 To adopt favourable variations in the consolidated overall cost to council arising from the March 2023 quarterly review amounting to \$172,977.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

As Chair of Councils Finance Policy Committee, Cr Duffy assumed the role of Chairperson for item 5.7 with the time being 8.04pm

5.7 DRAFT INTEGRATED PLANNING AND REPORTING - DELIVERY PROGRAM REALIGNMENT 2023-2025, OPERATIONAL PLAN 2023-2024 AND RESOURCING STRATEGY INCLUDING LTFP, BUDGET, WORKFORCE MANAGEMENT STRATEGY AND THE ASSET MANAGEMENT STRATEGY

TRIM REFERENCE: 2023/522

RESOLVED - 23/181

Cr J Hamling/Cr G Floyd

That Council resolves to place on public exhibition for a minimum of 28 days the following documents:

- Draft Delivery – Principal Activity Program 2023/2024 to 2024/25
- Draft Operational Plan – Actions on Principal Activity 2023/2024
- Draft Budget 2023/2024
- Draft Fees and Charges 2023/2024
- Draft Long Term Financial Plan 2023/2024 to 2032/2033
- Draft Workforce Management Strategy 2023/2024
- Draft Asset Management Strategy 2023/2024
- Draft Strategic Policy ST27 – Statement of Revenue
- Draft Strategic Policy ST28 – Asset Management.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

Cr Hamling noted that the budget should include an increase to the roads rehabilitation program to a total of \$600,000.

Cr Peterson noted that the budget should include an increased allocation towards Donations and Grants for the community.

Cr Peterson noted the substantial rise in interest income and asked if normally without this we would have substantially worse deficit and if this were indication of structural deficit that would impact on future budgets.

The Chief Executive Officer advised that Local Government itself has a structural problem with budgets, interest was fortunate for this year and we will not get that again in terms of interest rates.

Cr Peterson referred to the worsening trend in own source operating revenue and asked why this is.

The Chief Financial Officer advised that in the LTFP, an assumption of 3% rate peg was used as indicated by iPART, which is not sustainable and will not sustain these surpluses.

Cr Peterson asked what the difference was between City Council and Administration expenses in the breakdown of where \$100 is spent.

The Chief Financial Officer advised that the City Council relates to Councillors and Administration relates to the costs of running Council.

Cr Peterson asked about the decreasing performance of Council's operating ratios.

The Chief Financial Officer advised that unless the ratios were to change in the future, there will be operating deficits.

The Chief Executive Officer stated that it will only get harder.

Cr Evans noted there was a 5% increase in Airport passenger tax and asked if contact had been made with the affected businesses to advise of the increase and the process of making a submission during the exhibition period.

The Director Technical Services advised that notice has been given of the 5% increase and of the exhibition process and noted that the fees will commence in July and not payable until August.

Cr Kinghorne asked why we are borrowing for water & sewer when we have funding set aside.

The Director Technical Services advised that funds borrowed for the LIRS scheme, a State Government funded program, are low interest to enable infrastructure in developments such as Shiralee. The rate we can borrow under the scheme is less than the rate we could secure in an investment portfolio. At the time of the investment, returns from our reserve funds were better than was available with a lower interest rate through treasury.

Cr Kinghorne asked if information on Pensioner rebates is included with rates notices.

The Chief Executive Officer advised this information is included with every notice.

QUESTION TAKEN ON NOTICE

Cr F Kinghorne

Cr Kinghorne noted that the workforce management plan concentrates on staff health and wellbeing and employment impacts on this wellbeing. She asked how many staff are on short-term contracts?

Cr Mileto noted that a 5% increase in wages is included in the budget and asked when and how this would be implemented.

The Chief Executive Officer advised that award negotiations are currently being undertaken and will be finalised over the next few months which will then be in place for 3 years, so the next 3 years budgets will then be known.

The Mayor resumed the role of Chairperson with the time being 8.32pm

5.8 STRATEGIC POLICY ADOPTION - POST EXHIBITION

TRIM REFERENCE: 2023/571

RESOLVED - 23/182

Cr J Evans/Cr S Peterson

That Council resolves to adopt Strategic Policy – ST15 – Risk Management.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonnell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

6 CLOSED MEETING

In accordance with the Local Government Act 1993, and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

In response to a question from the Mayor, the Chief Executive Officer advised that no written submissions had been received relating to any item listed for consideration by the Closed Meeting of Council.

The Mayor extended an invitation to any member of the public present at the meeting to make a presentation to the Council as to whether the meeting should be closed for a particular item.

RESOLVED - 23/183**Cr J Whitton/Cr J Evans**

That Council adjourn into a Closed Meeting and members of the press and public be excluded from the Closed Meeting, and access to the correspondence and reports relating to the items considered during the course of the Closed Meeting be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:

6.1 Debt Provisions

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

6.2 Airport Runway Extension Project Update

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Information contained in this paper is subject to legal professional privilege and is strictly confidential. Any disclosure of this paper, including a verbal disclosure of its content or conclusions, beyond Council officers directly involved in this matter may result in the loss of legal professional privilege and cause damage to the Council's legal and financial position. Councillors have a good faith duty to strictly maintain confidentiality of privileged communications, and any failure to do so may result in a penalty under section 664 of the Local Government Act 1993 and action under the Code of Conduct.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonnell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

The Mayor declared the Ordinary Meeting of Council adjourned for the conduct of the Closed Meeting at 8.34pm.

The Mayor declared the Ordinary Meeting of Council resumed at 8.56pm.

7 RESOLUTIONS FROM CLOSED MEETING

The Chief Executive Officer read out the following resolutions made in the Closed Meeting of Council.

6.1 DEBT PROVISIONS

TRIM REFERENCE: 2023/5

RESOLVED - 23/184**Cr J Evans/Cr G Floyd**

That Council adopt and write off the outstanding debt for Debtor account 5156.90 in the sum of \$1,490,155.38.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonnell, Cr T Mileto, Cr S Peterson, Cr G Power, Cr J Whitton

Against: Nil

Absent: Nil

6.2 AIRPORT RUNWAY EXTENSION PROJECT UPDATE

TRIM REFERENCE: 2023/660

RESOLVED - 23/185**Cr J Whitton/Cr G Power**

That Council's Chief Executive officer be given delegated authority to settle the outstanding legal matter between Council and Hewatt Pty Ltd based on the information presented within the body of this report.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr D Mallard, Cr M McDonell, Cr T Mileto, Cr S Peterson, Cr G Power , Cr J Whitton

Against: Nil

Absent: Nil

THE MEETING CLOSED AT 8.59PM

This is Page Number 15 and the Final Page of the Minutes of the Ordinary Meeting of Orange City Council held on 16 May 2023.

COUNCIL MEETING ADJOURNS FOR THE CONDUCT OF THE POLICY COMMITTEES

Planning and Development - Chaired by Cr Jeff Whitton

Employment and Economic Development – Chaired By Cr Tony Mileto - NO ITEMS

Infrastructure - Chaired by Cr Jack Evans

Sport and Recreation - Chaired by Cr Tammy Greenhalgh

Environmental Sustainability - Chaired by Cr David Mallard – NO ITEMS

Finance - Chaired by Cr Kevin Duffy

Services - Chaired by Cr Melanie McDonell

COUNCIL MEETING RESUMES

4 NOTICES OF MOTION/NOTICES OF RESCISSION

4.1 NOTICE OF RESCISSION - DEVELOPMENT APPLICATION DA230/2022(1) - 33 MARAMBA ROAD

RECORD NUMBER: 2023/780

We, **CR DAVID MALLARD, CR MELANIE MCDONELL and CR GERALD POWER** wish to move the following Notice of Rescission at the Council Meeting of 6 June 2023:

MOTION

That Council rescind the following decision made at the Council Meeting of 16 May 2023.

5.2 DEVELOPMENT APPLICATION DA 230/2022(1) - 33 MARAMBA ROAD

TRIM REFERENCE: 2023/653

MOTION

Cr D Mallard/Cr M McDonell

That Council defers consideration of development application DA 230/2022(1) for Subdivision (six lot Torrens title and 13 lot Community title) at Lot 17 DP 1275461 - 33 Maramba Road, Orange in order to work with the developer to preserve the vegetation on the site.

AMENDMENT

Cr J Whitton/Cr T Mileto

That Council consents to development application DA 230/2022(1) for Subdivision (six lot Torrens title and 13 lot Community title) at Lot 17 DP 1275461 - 33 Maramba Road, Orange pursuant to the conditions of consent in the attached Notice of Approval.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr T Mileto, Cr S Peterson, Cr J Whitton

Against: Cr D Mallard, Cr M McDonell, Cr G Power

Absent: Nil

THE AMENDMENT ON BEING PUT WAS CARRIED AND BECAME THE MOTION

THE MOTION ON BEING PUT WAS CARRIED

RESOLVED - 23/176

Cr J Whitton/Cr T Mileto

That Council consents to development application DA 230/2022(1) for Subdivision (six lot Torrens title and 13 lot Community title) at Lot 17 DP 1275461 - 33 Maramba Road, Orange pursuant to the conditions of consent in the attached Notice of Approval.

For: Cr J Hamling, Cr K Duffy, Cr J Evans, Cr G Floyd, Cr T Greenhalgh, Cr F Kinghorne, Cr T Mileto, Cr S Peterson, Cr J Whitton

Against: Cr D Mallard, Cr M McDonell, Cr G Power

Absent: Nil

Signed Cr David Mallard Cr Melanie McDonell Cr Gerald Power

ATTACHMENTS

- 1 Rescission Motion - Copy of Council Report 16 May 2023 - Development Application DA230/2022(1) - 33 Maramba Road, D23/34948 [↓](#)

COUNCIL MEETING

16 MAY 2023

5.2 DEVELOPMENT APPLICATION DA 230/2022(1) - 33 MARAMBA ROAD

RECORD NUMBER: 2023/653

AUTHOR: Summer Commins, Senior Planner

EXECUTIVE SUMMARY

Application lodged	18 July 2022 Amended details submitted 27 April 2023 145 STOP days
Applicant/s	Central Property Projects Pty Ltd
Owner/s	Orange Asset Holdings Pty Ltd
Land description	Lot 17 DP 1275461 - 33 Maramba Road, Orange
Proposed land use	Subdivision (six lot Torrens title and 13 lot Community title)
Value of proposed development	\$0

Council's consent is sought for residential subdivision of land at 33 Maramba Road, Orange (see locality at Figure 1).

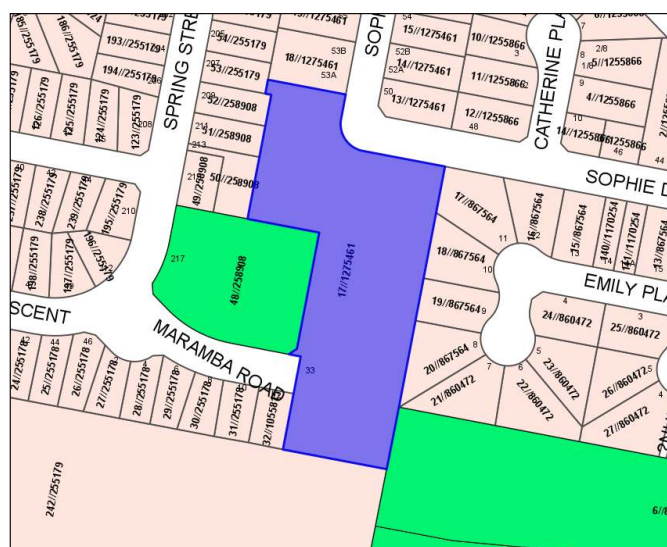


Figure 1 - locality plan

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.

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

DIRECTOR'S COMMENTS

The proposed involves subdivision of the land to create six Torrens lots with frontage and access to Maramba Road and Sophie Drive; and 13 Community lots with frontage and access to a private road. Maramba Road will be slightly extended to the east and terminate in a cul-de-sac. The private road will connect to Sophie Drive. The proposed residential lots will range in area between 400m² and 1,092m².

Key planning issues identified within the planning report relate to removal of vegetation, consideration of allotment sizes, the necessary provision of restrictions on the title of some of the lots to assist with the streetscape design and presentation of future dwellings, the extent of cut and fill across the site and traffic impact assessment.

The proposed development will satisfy Local and State planning controls. Impacts of the development are considered to be within acceptable limit, subject to mitigation conditions. Approval of the application is recommended.

The Planning and Development Committee/Council is required to determine this application as the proposal involves '*subdivision that would result in eleven or more lots being created without an existing DCP or prior endorsed subdivision concept plan,*' pursuant to Council's Declaration of Planning and Development Assessment Procedures and Protocols (October 2020).

LINK TO DELIVERY/OPERATIONAL PLAN

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

FINANCIAL IMPLICATIONS

Nil

POLICY AND GOVERNANCE IMPLICATIONS

Nil

RECOMMENDATION

That Council consents to development application DA 230/2022(1) for *Subdivision (six lot Torrens title and 13 lot Community title)* at Lot 17 DP 1275461 - 33 Maramba Road, Orange pursuant to the conditions of consent in the attached Notice of Approval.

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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 proposed involves subdivision of the land to create six Torrens lots with frontage and access to Maramba Road and Sophie Drive; and 13 Community lots with frontage and access to a private road. Maramba Road will be slightly extended to the east and terminate in a cul-de-sac. The private road will connect to Sophie Drive. The proposed residential lots will range in area between 400m² and 1,092m². The proposal involves removal of 0.1ha of native vegetation and protection of remaining native vegetation on the development site. The proposed lots will be fully serviced to an urban standard.

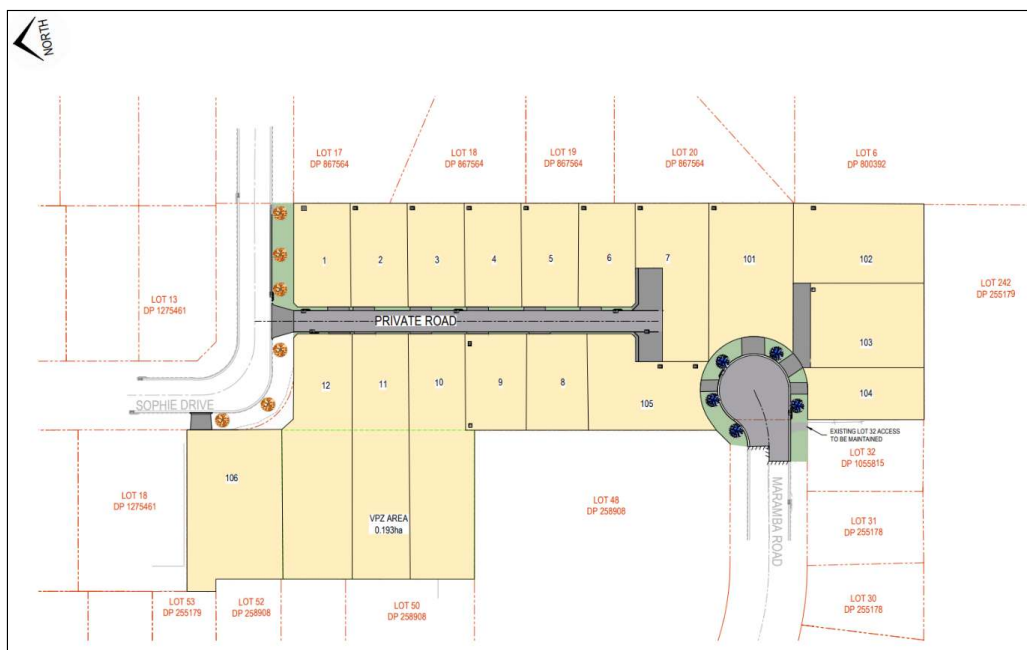


Figure 2 - proposed subdivision

The following notable planning matters are considered in this assessment report:

- The proposal involves clearing of 0.1ha of native vegetation. A submitted Biodiversity Assessment concludes that the proposed subdivision is not likely to affect threatened species subject to Conditional mitigation strategies. Council's Manager City Presentation concurs with the findings and recommendations. The proposal will not trigger the Biodiversity Offset Scheme under the Biodiversity Conservation Act 2016.
- The development site is subject to User Restrictions relating to 'no build zones' in locations of native vegetation in the north and south extents. The authority to vary is Orange City Council. Native vegetation in the north extent will be retained in a nominated Vegetation Protection Zone. Native vegetation to the south of the development site will be removed in conjunction with this development consent.

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- The development site is contained within a residential neighbourhood zoned R2 Low Density. The proposed *Standard* and *Compact* Lots are considered an acceptable density in this setting, noting the prevailing mixed lot sizes in the neighbourhood; the discrete subdivision layout removed from the adjoining cadastral pattern; and the future single dwelling built form.
- A maximum 2.5m of cut and fill will be required across the development site. The earthworks will result in a cut and filled site that will 'step' down the hill from Maramba Road to Sophie Drive. The smallest of the proposed lots will comprise site area of 400m². Subject to considered dwelling design, the finished levels and proposed lot sizes may be acceptable in relation to overlooking, visual bulk and solar access. A submitted indicative dwelling footprint demonstrates same.
- All urban utility services are available and suitable subject to Conditional augmentation and extension.
- The proposed traffic arrangements comprising an extension to the Maramba Road cul-de-sac and private road connecting to Sophie Drive are acceptable to Council's Technical Services Division.
- The subject land is demonstrated as suitable for residential landuse from a contamination perspective.
- The subject land contains an overhead electricity powerline and power pole in the southern extent, nearby the proposed extension to Maramba Road cul-de-sac. Essential Energy raised no objections or concerns in relation to potential safety risks associated with the proposal.
- In order to improve streetscape activation and public domain impacts, a Conditional User Restriction will require primary dwelling frontage to the public roads for Lots 1 and 12 (Sophie Drive) and Lot 105 (Maramba Road).
- Section 7.11 development contributions are applicable to the proposed subdivision pursuant to the Orange Development Contributions Plan 2017. Section 64 headworks charges will also apply.

As outlined in this report, the proposed development will satisfy Local and State planning controls. Impacts of the development will be within acceptable limit, subject to mitigation conditions. Approval of the application is recommended.

The Planning and Development Committee/Council has delegation to approve the proposed development as the proposal involves '*subdivision that would result in eleven or more lots being created without an existing DCP or prior endorsed subdivision concept plan,*' pursuant to Council's Declaration of Planning and Development Assessment Procedures and Protocols (October 2020).

THE PROPOSAL

The proposal involves residential subdivision of land at 33 Maramba Road. The land will be subdivided to create 6 Torrens lots and 13 Community Lots.

Torrens Lots 101-106 will have frontage and access Maramba Road (Lots 101-105) or Sophie Drive (Lot 106). Maramba Road will be slightly extended to the east and terminate in a cul-de-sac.

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The proposed Torrens lots will range in area between 412m² and 990m². The lots will be of regular shape and configuration, however, Lots 102 and 103 will be battleaxe parcels with shared access handles to Maramba Road.

Community Lots 1-12 will have frontage and access to a private roadway (Community Lot) connecting to Sophie Drive. The residential lots will range in area between 400m² and 1092m². The lots will be of regular shape and configuration. Proposed Community Lots 10-12 will contain a Vegetation Protection Zone (as outlined below). Excluding the Vegetation Protection Zone, the developable area of Lots 10-12 will be in the order of 400m².

The proposed Torrens and Community lots will be vacant and are intended for future residential development. The proposed lots will be fully serviced to an urban standard.

The proposed subdivision plan is shown here (see Figure 3).

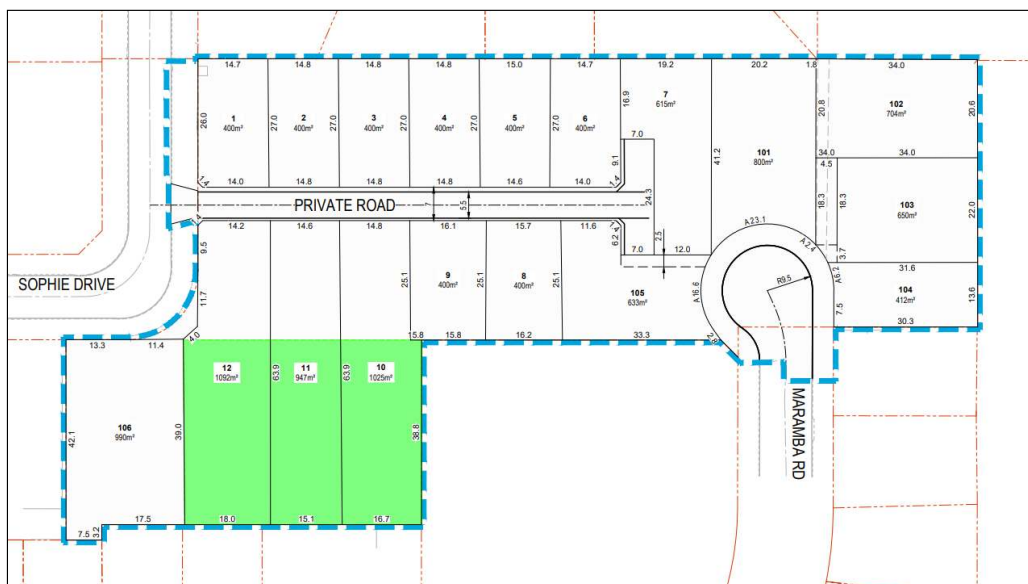


Figure 3 - proposed subdivision

Earthworks will be required to create level building pads for the development site. A maximum 2.5m of cut and fill will be variously required across the site as depicted below (see Figure 4).

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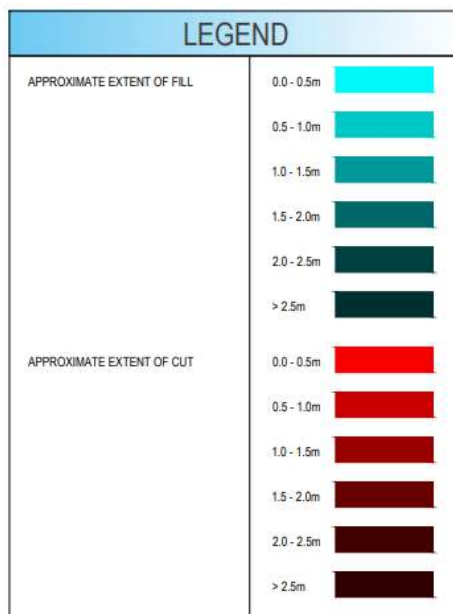


Figure 4 - proposed earthworks

The proposed finished levels are demonstrated in the north-south section through the site (see Figure 5).

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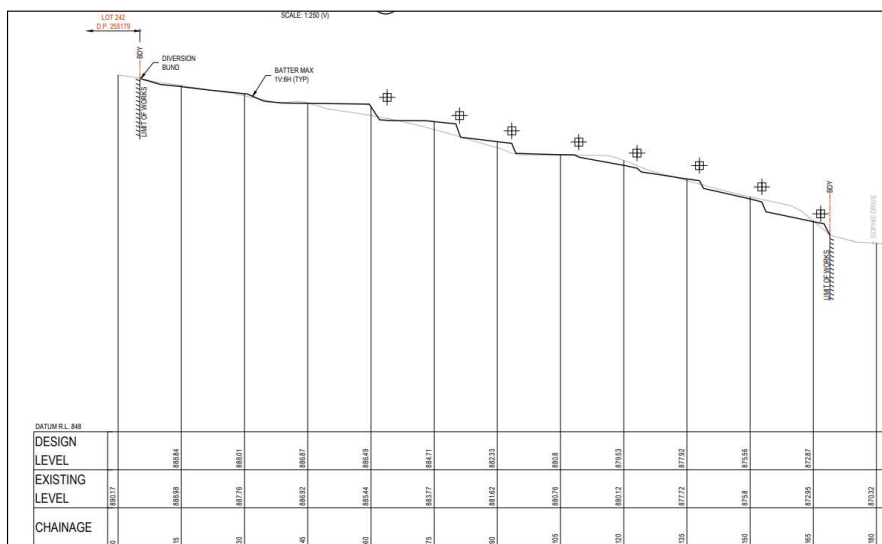


Figure 5 - site section

The proposed civil works involve tree removal and retention, as depicted below (see Figure 6). A maximum 0.1ha of native vegetation will be removed from the southern extent. Proposed Community Lots 10, 11 and 12 will include a nominated Vegetation Protection Zone as denoted in green in Figure 2 above.



Figure 6 - proposed tree removal (red) and tree retention (green)

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

In consideration of Section 1.7, there are four matters that may trigger the Biodiversity Offset Scheme, and thereby require a Biodiversity Assessment Report (BDAR):

1. *Whether the development occurs on land identified on the OEH Biodiversity Values Map*

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

2. *Whether the amount of native vegetation being cleared exceeds a threshold area based on the minimum lot size associated with the property*

A *Biodiversity Assessment* was submitted in support of the proposal (Premise 9 June 2022). The assessment found that native vegetation on the development site presents as two 'patches' of native woodland, identified as Plant Community Type (PCT) 1300: Yellow Box-Blakely's Red Gum grassy woodland (see Figure 7).

The native woodland PCT 1300 is part of the White Box, Yellow Box, Blakely's Red Gum ecological community which is listed as a Critically Endangered Ecological Community in the Environment Protection and Biodiversity Conservation Act 1999 and the Biodiversity Conservation Act 2016.

A maximum of 0.1ha of native vegetation will be removed from the development site generally in the southern extent. Clearing of native vegetation will not exceed the prescribed clearing threshold of 0.25ha (based on land subject to a minimum lot size of less than 1ha), pursuant to Biodiversity Conservation Regulation 2017, Section 7.2.

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Figure 7 - patches of Box Gum Woodland

3. Whether the development or activity is “likely to significantly affect threatened species”

The submitted *Biodiversity Assessment* (Premise 9 June 2022) identifies the following threatened species on the development site, and considers the impact of the proposed subdivision on same:

Threatened ecological community: Box Gum Woodland (Patches 1 and 2 in Figure 7).

The proposed development is not considered likely to have an adverse impact on the extent or composition of Box Gum Woodland such that it would be placed at risk of extinction in the locality, and is not considered likely to modify or fragment the remaining woodland in the locality. It will contribute to a Key Threatening Process for the Box Gum Woodland but the total area to be affected is a very small percentage of the Box Gum Woodland present in the surrounds and within the IBRA Subregion.

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Threatened flora species: Small Purple Pea (*Swainsona recta*) and Silky Swainson Pea (*Swainsona sericea*) in the understorey of native woodland (Patch 1 in Figure 7).

The development will not remove any habitat for the Small Purple Pea or Silk Swainson-pea. The development will not have an adverse effect on the life cycle of the Small Purple Pea or Silk Swainson-pea, and will not modify, remove or fragment habitat such that either species will be adversely impacted or placed at risk of extinction in the locality.

Threatened fauna species: The Pink-tailed Legless Lizard (*Aprasia parapulchella*) and the Superb Parrot (*Polytelis swainsonii*) habitat and hollows within remnant woodland (Patch 1 in Figure 7).

The development will remove 0.1 ha of potential foraging habitat for the Superb Parrot. The development will not have an adverse effect on the life cycle of the Pink-tailed Legless Lizard or Superb Parrot, and will not modify, remove or fragment habitat such that either species will be adversely impacted or placed at risk of extinction in the locality.

Based on the above findings, the Biodiversity Assessment concludes that proposed subdivision is not likely to affect threatened species. The following proposed mitigation strategies will further minimise impacts on biodiversity:

- cleared vegetation to not exceed 0.1ha
- retained vegetation to be demarcated and protected during construction works
- clearing protocols to check for nests or roosting fauna prior to felling
- rubbish removal at completion of civil works.

Council's Manager City Presentation has reviewed the submitted Biodiversity Assessment and is satisfied that the findings and recommendations. The mitigation strategies above are included as Conditions.

4. Whether the development or activity will be carried out in a declared area of outstanding biodiversity value.

The subject land is not a declared area of outstanding biodiversity value.

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

Section 4.15 Evaluation

Provisions of any environmental planning instrument S4.15(1)(A)(I)

Orange Local Environmental Plan 2011 (as amended)

Part 1 - Preliminary

Clause 1.2 - Aims of Plan

The proposed development will satisfy the following listed Aims of the LEP, as outlined in this report:

- (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,*

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

Clause 1.6 - Consent Authority

Council is the consent authority pursuant to Clause 1.6.

Clause 1.7 - Mapping

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

Land Zoning Map:	Land zoned R2 Low Density Residential
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

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

The development site (described as Lot 17 DP 1275461) is not subject to a known agreement, covenant or instrument that would restrict the carrying out of the proposed development, pursuant to Clause 1.9A.

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The Deposited Plan for the development site is shown here (see Figure 8):

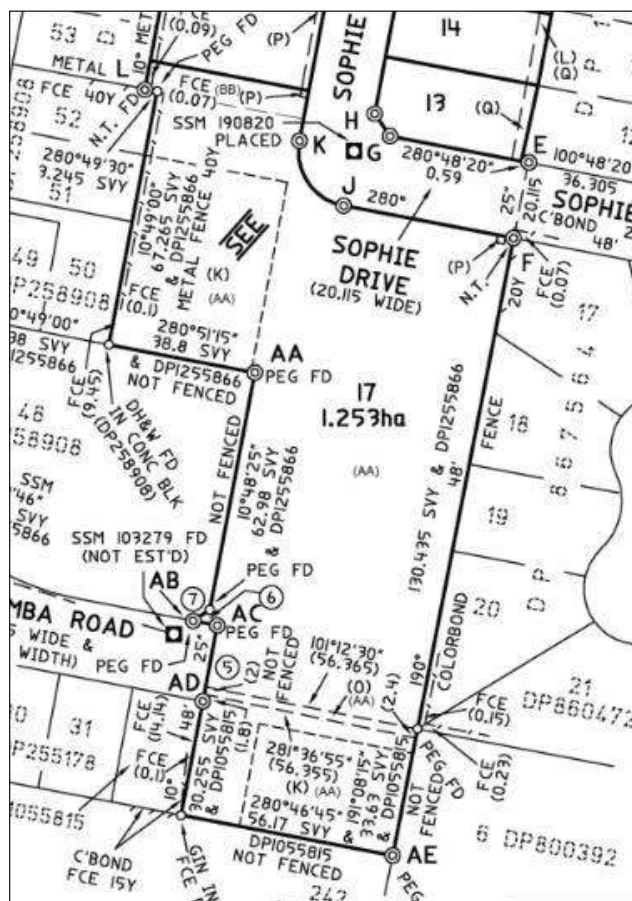


Figure 8 - extract DP 1275461

As depicted, the land is subject to various easements for services. The proposed subdivision will have nil impact on the operation of the easements.

The land is also subject to the following Restrictions (from DP 1274561 and parent DP 1255866):

That no buildings shall be erected, no planting of exotic invasive species or excavation is permitted and vegetation, fallen timber or understorey plants are not to be removed within the area designated by the letter (K) unless there is a written agreement with Orange City Council.

The removal of weeds and introduced species is permitted and approval is not required.

The *north* area designated by the letter (K) is contained within the proposed Vegetation Protection Zone within proposed Community Lots 10-12 (refer Figure 3 above). Vegetation clearing in the *south* area designated by the letter (K) will be cleared in conjunction with the proposed development. A Condition is included requiring the 'no-build' Restriction be imposed on proposed child Lots 10-12.

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No building or subdivision works are to commence on the lot burdened, unless Maramba Road is terminated with an appropriate turn bay suitable for a 12.5 metre heavy vehicle. The turn bay may be partly located within the existing road reserve. Stormwater drainage from the turn bay is to be connected to the inter-allotment drainage system for the proposed lots.

The proposed subdivision civil design will satisfy the terms of this restriction.

No structures are to be placed on the lot burdened, or landscaping or site works carried out on the lot burdened, in a manner that affects the continued operation of the interlot drainage system.

The proposed subdivision civil design will satisfy the terms of this restriction.

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

The subject land is zoned R2 Low Density Residential.

The proposal is defined as '*subdivision of land*.'

Subdivision of land is permitted with Council's consent pursuant to Clause 2.6 (refer below).

Clause 2.3 - Zone Objectives and Land Use Table

The objectives of the R2 Low Density Residential Zone are:

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

The proposed subdivision will not be contrary to the relevant R2 zone objectives; and will facilitate future development of the subject land consistent with the objectives. Detailed assessment of matters pertaining to the compatibility of the development within the R2 zone has been discussed under the heading 7.2 Residential subdivision.

Clause 2.6 - Subdivision Consent Requirements

Consent is sought for Torrens title and Community title subdivision of land in accordance with this clause.

Clause 4.1 - Minimum Subdivision Lot Size

The development site is not subject to a minimum subdivision lot size under Clause 4.1.

Part 5 - Miscellaneous Provisions

The provisions at Part 5 are not applicable.

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

In consideration of the relevant listed matters at Clause 7.1:

- Conditional sediment and erosion controls will be installed and maintained during civil construction works.
- The proposed earthworks will facilitate residential subdivision and dwelling houses.
- Excavated material will be reused onsite as far as practicable. Conditions are included requiring additional fill to be brought to the site to comprise Virgin Excavated Natural Material (VENM).
- The earthworks will result in a cut and filled site that will 'step' down the hill from Maramba Road to Sophie Drive (refer site section at Figure 5 above). There will be a change in finished ground levels between the proposed residential lots of some 1.5-2m. The finished levels and proposed lot sizes may result in adverse amenity impacts for future dwellings on the lots in relation to overlooking, visual bulk and solar access. Compliance may be achieved with considered design.
- The site is not known to have European or Indigenous cultural values, pursuant to the State Heritage Register, OLEP 2011 listing or the Aboriginal Heritage Information System database (AHIMS). A Condition is included to protect and manage unexpected finds during civil works.
- The subject land does not contain a waterway and is not within a mapped drinking water catchment or environmentally sensitive area.

Clause 7.3 - Stormwater Management

Council's ADE has included Conditions to satisfy the requirements of Clause 7.3 including stormwater detention and interlot stormwater drainage.

Clause 7.6 - Groundwater Vulnerability

There are no aspects of the proposal that will impact groundwater and related ecosystems. The proposed lots will be connected to reticulated sewer.

Clause 7.11 - Essential Services

The listed utility services at Clause 7.11 are available and suitable subject to Conditional augmentation and extension:

- The proposed lots will be connected to reticulated water. The Community lots will be provided with a single service and meter, constructed as a private service. The proposed Torrens lots will have individual meters.
- Electricity and telecommunications are available in Maramba Road and Sophie Drive.
- The proposed lots will be connected to the reticulated sewerage system.
- Onsite stormwater detention will be required.
- Maramba Road will be slightly extended to the east and terminate in a cul-de-sac. A proposed private roadway will connect to Sophie Drive.

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Traffic generation associated with the proposed 18 residential lots is estimated to be in the order of 14 'am' vehicle trips and 18 'pm' vehicle trips (Roads and Maritime Services Guide to Traffic Generating Developments, Updated Surveys TDT 2013/14, May 2013). A supporting Traffic Impact Assessment (Traffic Solutions Pty Ltd, 21 December 2022) concludes that *'the increase in traffic will not have any unacceptable traffic impact effect on the current operation of Sophie Drive or Maramba Road or the surrounding road network.'* Council's ADE concurs with this conclusion.

- In relation to waste collection, the proposal is supported by advice from JR Richards, advising that the proposed Community lots may be serviced either by a contractor walk-in arrangement from Sophie Drive; or access to the private roadway by a 'Street Litter' small truck. Conditions are included requiring private waste collection arrangements be incorporated into the Community Title Management Statement; and kerbside placement of bins on Sophie Drive is not permitted.

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

In consideration of the relevant matters at Chapter 4, Clause 7 the following comments are provided:

A Preliminary Site Investigation was submitted in support of the proposal (Premise 7 June 2022). The investigation concludes:

- The area comprising the site, consisting of Lot 17 in DP 1275461 appears to have predominantly been historically utilised for passive rural / agricultural purposes.
- Based on known activities at or in the vicinity of the site, and observations during the inspection in May 2022, no significant routes of exposure by receptors (current or future) to potential contamination sources have been identified due to minimal evidence of impacts being identified.
- With regard to naturally occurring asbestos (NOA), no significant routes of exposure have been identified that may impact future long-term occupants of the site (who may be exposed to shallow soil such as vegetable gardens, etc.). The exposure risk to short-term site personnel who may encounter NOA in deeper soil during construction (e.g. for excavation of footings, pipes, etc.) has not been considered in this investigation. A condition of consent requiring the assessment for the presence of sub-surface NOA and/or preparation of an Asbestos Management Plan in accordance with the provisions of the Work Health and Safety Act 2011 and Work Health and Safety Regulation 2017 is recommended prior to the issue of a construction certificate. Such aspects may be included within a works- and site-specific construction & environment management plan (CEMP).
- No further assessment of contamination impacts resulting from historic land practices at the site is considered to be required, with the suitability of the site for residential land uses having been established.

Council's Environmental Health Officer has reviewed the Investigation and is satisfied with the conclusions and recommendations. Conditions are included to manage naturally occurring asbestos and unexpected finds.

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State Environmental Planning Policy (Biodiversity and Conservation) 2021**Chapter 2 - Vegetation in Non-rural Areas**

In consideration of the relevant matters at Chapter 2, the proposal involves clearing of trees covered by Tree Preservation Order under DCP 2004 Part 0.4-2 (see below). Council's Manager City Presentation raised no objection to proposed tree removal, subject to Conditional replacement planting and protection of retained species. Permit to remove is granted under the terms of this development consent pursuant to Section 2.10. As outlined in the foregoing sections of this report, tree clearing will not exceed the biodiversity offsets scheme threshold.

SEPP (Transport and Infrastructure) 2021**Division 5 - Electricity Transmission or Distribution**

The subject land contains an overhead electricity powerline and power pole in the southern extent, nearby the proposed extension to Maramba Road cul-de-sac (see Figure 9). The proposal was referred to Essential Energy for consideration and comment, in accordance with Section 2.48. The electricity provider raised no objections or concerns in relation to potential safety risks associated with the proposal. General Conditions are included.



Figure 9 - exposed overhead electricity powerlines

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

None at present.

Provisions of any Development Control Plan S4.15(1)(A)(iii)**DEVELOPMENT CONTROL PLAN 2004****Part 0 Transition Provisions - Tree Preservation**

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PO-0.4-2 INTERIM PLANNING OUTCOMES - TREE PRESERVATION

- 1 Trees prescribed by this DCP must not be ringbarked, cut down, topped, lopped or wilfully destroyed without the Council's approval and landowners consent
- 2 This clause applies to Eucalypts of any size belonging to the White Box, Yellow Box and Blakely's Red Gum Endangered Ecological Communities, including species indicated as affected in the tree preservation table.
- 3 This clause also applies to any tree, native or exotic, with a trunk diameter equal to or greater than 300mm at breast height (refer AS4970-2009 for measurement guidelines).
- 4 Notwithstanding IPO-4(3) this clause does not apply to species indicated as exempt in the tree preservation table.
- 5 An application for the Council's approval must be accompanied by an appropriately qualified specialist (i.e. Arborist) report outlining the following information
 - The location, size, species and condition (i.e. diseased, healthy, etc)
 - A statement that details any anticipated impacts on vegetation that may have derived from endangered ecological communities and/or that may be habitat for threatened species
 - The purpose of removal and whether the pruning of the tree would be a more practical and desirable alternative
 - Whether a replacement tree or trees should be planted
 - The location, size and species of any trees proposed to replace those intended for removal
 - The owners consent to the application being lodged
 - Any other relevant information regarding the tree to be removed (i.e. photographs)

As outlined in the foregoing sections of this report, the proposal involves removal of 0.1ha of native woodland from the development site, comprised of Blakely's Red Gum Endangered Ecological Community. The subject native trees are covered by Tree Preservation Order under Part 0. A supporting *Biodiversity Assessment Report* (Premises June 2002) demonstrates that the vegetation removal is unlikely to affect a threatened species (including ecological community, flora species or fauna species); nor exceed the native vegetation clearing thresholds prescribed by Regulation. Council's MCP raised no objection to tree removal, subject to Conditional replacement planting and protection of retained species.

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Part 7 - Development in Residential Areas**7.2 - Residential Subdivision****PO 7.2-1 PLANNING OUTCOMES FOR URBAN RESIDENTIAL SUBDIVISION**

- 1 Subdivision layouts in areas zoned Urban Residential prior to this plan are generally in accordance with the applicable plan maps in Appendix 1.
- 2 Lots are orientated to optimise energy-efficiency principles.
- 3 New roads are planned according to modified grid layouts with restrained use of cul-de-sac roads in new developments according to the UDAS *Urban Form* principles for Orange.
- 4 Local open space is provided along creek corridors to create open space linkages for environmental conservation and social interaction. Release areas removed from creeks provide for open-space links incorporating substantial stands of native vegetation.
- 5 Release areas indicate trunk cycle and pedestrian ways that link the area to major open space networks and activity centres (schools, shopping centres and employment areas).
- 6 Lots below 500m² indicate a mandatory side setback to provide for solar access and privacy.
- 7 Lots below 350m² indicate existing or planned house layouts, which identify how privacy, solar access, vehicular access and private open-space needs are to be achieved.
- 8 Up to 25% of new subdivisions comprise small lots in dispersed locations.
- 9 Lots are fully serviced and have direct frontage/access to a public road.
- 10 Design and construction complies with the Orange Development and Subdivision Code.
- 11 Corner lots provide for a house to front one street.
- 12 Battleaxe lots provide an adequate accessway width for the number of dwellings proposed to be served in order to allow for vehicle and pedestrian access and location of services.
- 13 Lots proposed to be used specifically for dual occupancy or units in new residential areas are identified on development application plans to inform prospective purchasers of the mixed residential form of the area and measures are outlined on how prospective residents are to be informed of these identified sites prior to purchasing land.

The proposed subdivision will satisfy the relevant Planning Outcomes:

- The development site is not covered by **Masterplan**.
- The proposed residential lots will be rectangular-shaped with a long east-west orientation to maximise **energy efficiency** principles.
- The proposed subdivision layout does not involve new public **roads**, excepting a minor easterly extension of Maramba Road, terminating in a cul-de-sac. This arrangement will be consistent with the terms of the Restriction on title (see Clause 1.9A above).

A 7m wide private roadway (Community Lot) will connect to Sophie Drive to provide access to the proposed Community lots. The roadway will have a formed minimum width of 5.5m and terminate in a T-shaped turning head (see Figure 10).

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5.2 Development Application DA 230/2022(1) - 33 Maramba Road

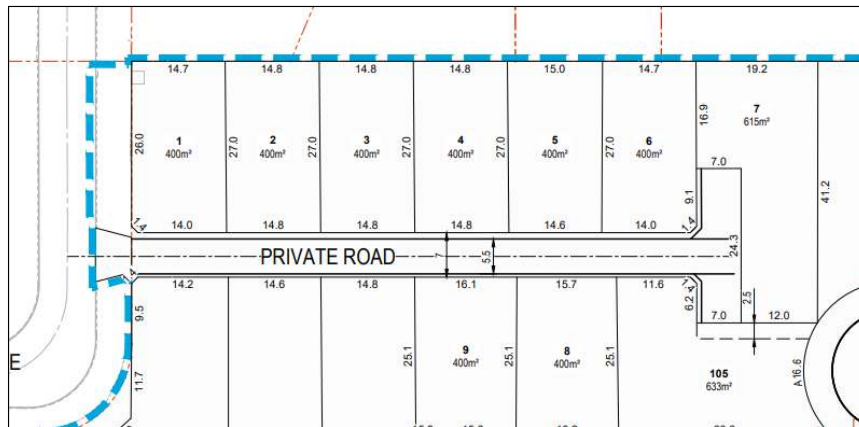


Figure 10 - Community Lot private roadway

A Traffic Impact Assessment was submitted in support of this arrangement (Traffic Solutions Pty Ltd, 21 December 2022). The Assessment concludes:

- The roadway exceeds the minimum width requirement for two way traffic flow in AS/NZS 2890.1:2004 of 5.5m.
- The available sight lines to/from the proposed roadway will provide good sight distance [on Sophie Drive] and meets the desirable sight distance suggested by AS/NZS 2890.1:2004.
- The [turning head] is sufficient for a medium rigid vehicle to undertake a three point turn (see Figure 11).

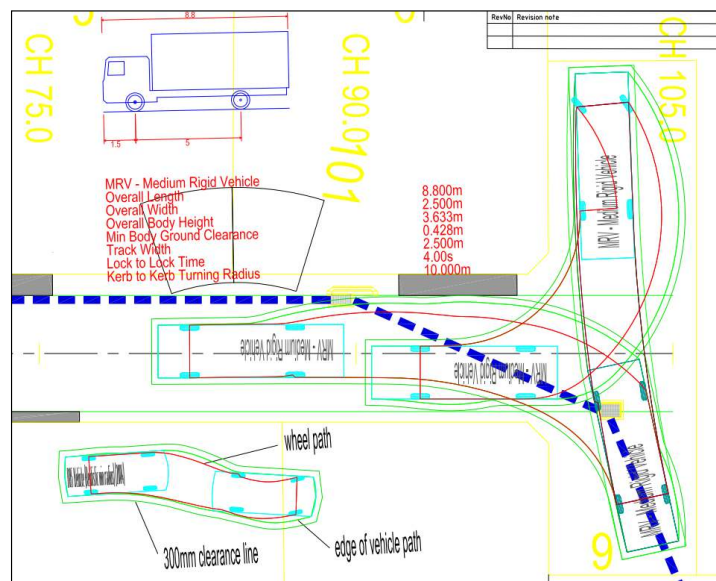


Figure 11 - MRV manoeuvring in turning head

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5.2 Development Application DA 230/2022(1) - 33 Maramba Road

Council's ADE concurs with the above conclusions and raises no objection to the proposed private roadway. He advises:

The proposed Community Title access handle driveway is considered satisfactory for two-way low speed vehicle access. The common driveway has sufficient width to allow vehicles to pass and turn around inside the site. Garbage trucks will not be required to enter the site. Garbage will be serviced from the street under a private Waste Service Agreement.

As outlined above (see Clause 7.11), waste collection associated with the proposed Community lots will be via either contractor walk-in from Sophie Drive; or access to the private roadway by a 'Street Litter' small truck.

The proposed road connections to adjoining streets are considered acceptable for an infill subdivision that is not subject to masterplan. It is noted that the proposed subdivision layout has been subject to extensive consultation and negotiation with Council's Development and Technical Services staff.

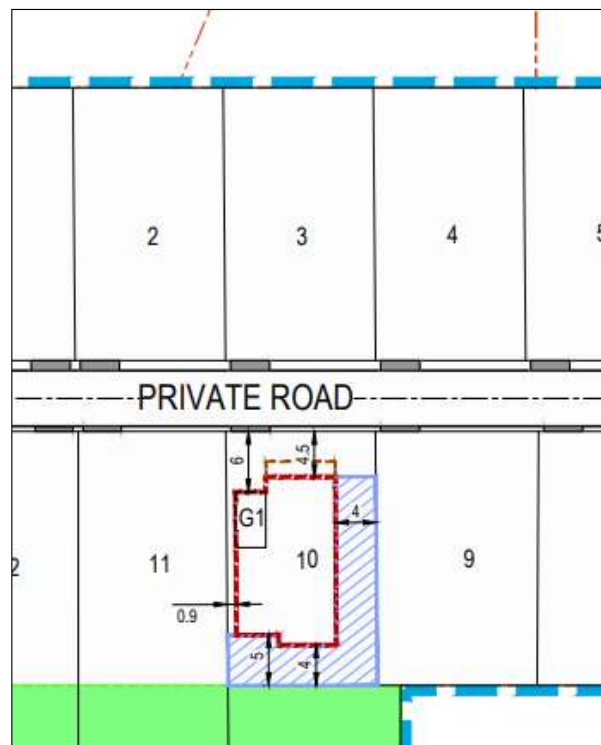
- The proposed subdivision will have nil impact on local **open space**.
- Proposed Community Lots 1-12 will comprise **site area** or **developable site area** (excluding Vegetation Protection Zone) of 400m². Future residential development on the lots will be subject to development controls in DCP 2004-7.7 *Design Elements for Residential Development*. Compliance with the Planning Outcomes will ensure a reasonable standard of residential amenity for future dwellings in relation to solar access and privacy.

An indicate building footprint is provided for the 400m² lots, and demonstrates that future built form could satisfy DCP development controls and achieve acceptable solar access and privacy (see Figure 12). It is noted that site aspect and orientation (downhill to the north) will assist same.

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Figure 12 - indicate building envelope on 400m² lots

- The proposed subdivision layout will comprise a **mix** of *Standard Lots* (>500m²) and *Cottage Lots* (350-500m²) as defined under the DCP. The prevailing cadastral pattern in the R2 zoned neighbourhood is generally comprised of *Standard Lots* in the order of 600-800m². The proposal is supported by a neighbourhood 'lot size analysis,' that demonstrates other *Cottage Lots* nearby to the site, including parcels in Maramba Road and Spring Street to the west, and Sophie Drive to the north. Despite the R2 setting, the proposed lot sizes are considered acceptable as follows:
 - The surrounding R2 zoned neighbourhood supports a mix of lot sizes. The proposed lots will not be incongruous in this setting.
 - The proposal will provide a suitable broader transition between older and smaller lots to the west, and newer and larger lots to the east.
 - The proposed Community lots will be removed and distinct from the surrounding cadastral pattern by the private and no-through roadway. The subdivision will create a new and separate neighbourhood with discrete character and identity.
 - The proposed Torrens lots with frontage to Maramba Road and Sophie Drive will complement adjoining parcels beyond the development site in size, shape and public road frontage.
 - The lot sizes will accommodate single dwellings only, and will be of insufficient site area for dual occupancy (except Lots 101 and 106) or multi dwelling housing. The future built form will complement the prevailing built form in the R2 neighbourhood.

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- All utility services are available to the proposed lots subject to Conditional extension, augmentation and easements where required (see Clause 7.11 above).
- The proposed lots will have direct **frontage and access to a public road**.

Proposed Torrens Lots 101-106 will have frontage and/or access to Sophie Drive or Maramba Road. Future dwellings on the Torrens lots will address the public roads (excepting battleaxe Lots 102 and 103), and complement the adjoining streetscape built form and siting. Development of the Torrens lots with frontage to the cul-de-sac (Lots 105, 101 and 104) will create a uniform and cohesive streetscape for the cul-de-sac.

The proposed Community lots will connect to Sophie Drive via the private roadway (Community lot). Dwellings on the Community lots will address the private roadway. The Sophie Drive streetscape nearby to the private road is generally comprised of secondary/back-of-house frontages for adjoining dwellings. In order to improve streetscape activation and public domain impacts in this setting, future dwellings on proposed Community Lots 1 and 12 should have frontage to Sophie Drive. A Condition is included requiring a Section 88 Restriction be registered on those titles to affect the dwelling orientation. The proponent is amenable to this Restriction, and has submitted an indicative building footprint demonstrating that orientation may be achieved (see Figure 13).

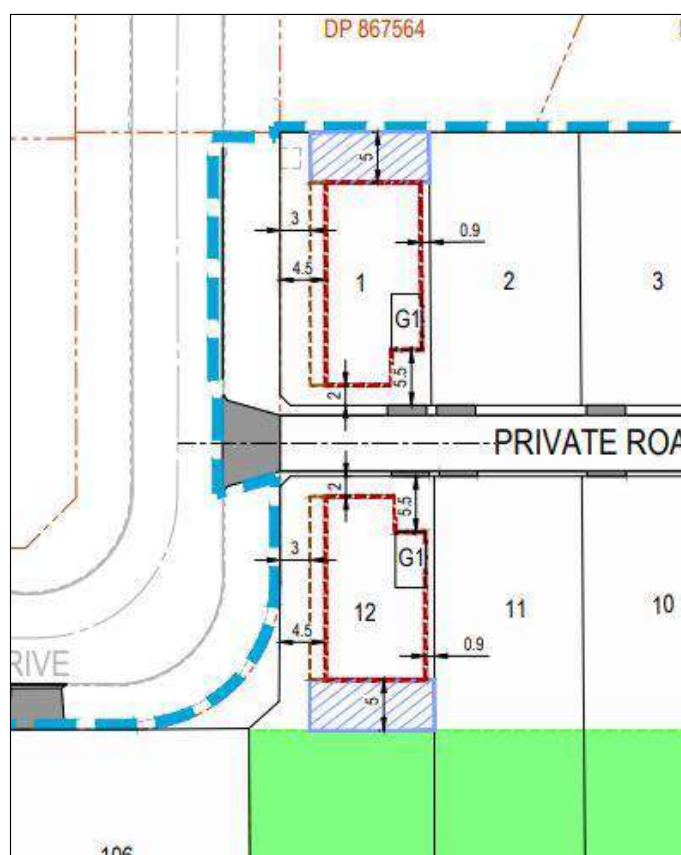


Figure 13 - future dwellings on Lots 1 and 12 to address Sophie Drive

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As a matter arising, it is noted that proposed Torrens Lot 105 will have primary frontage to Maramba Road and secondary frontage to the private roadway (see Figure 14). Though cumbersome, the layout is acceptable. Lot 105 will be terraced to provide a higher dwelling envelope at the Maramba Road frontage, and lower rear yard to the private roadway. Site area of 633m² is suitable for dwelling design for amenity and solar access. A Condition is included requiring an 88B Restriction be registered on Lot 105, requiring primary dwelling frontage and access to Maramba Road. The Restriction will ensure continuity in the future Maramba Road streetscape built form.

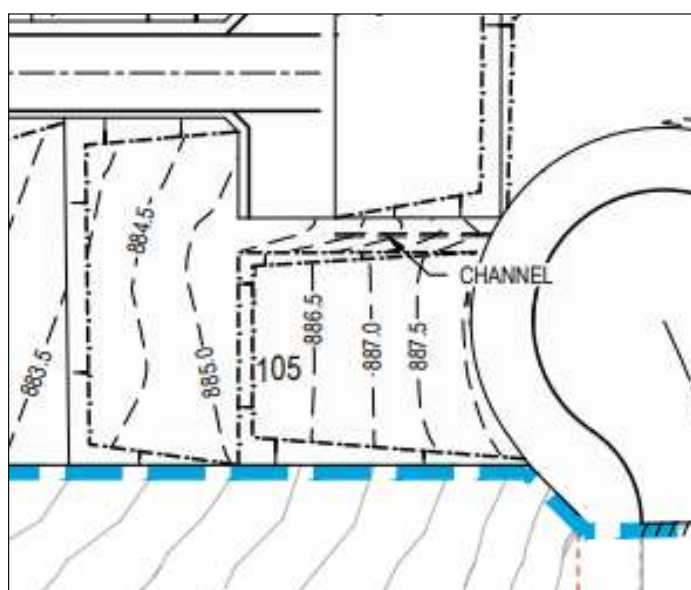


Figure 14 - dual frontage for proposed Torrens Lot 105

- Conditions are included requiring subdivision design and construction to comply with the Development and Subdivision Code.
- Proposed Lots 102 and 103 will be battleaxe parcels connecting to the Maramba Road extension/cul-de-sac (see Figure 15). The width of the access handle (4.5m) will be suitable for single dwelling landuse of each proposed lot.

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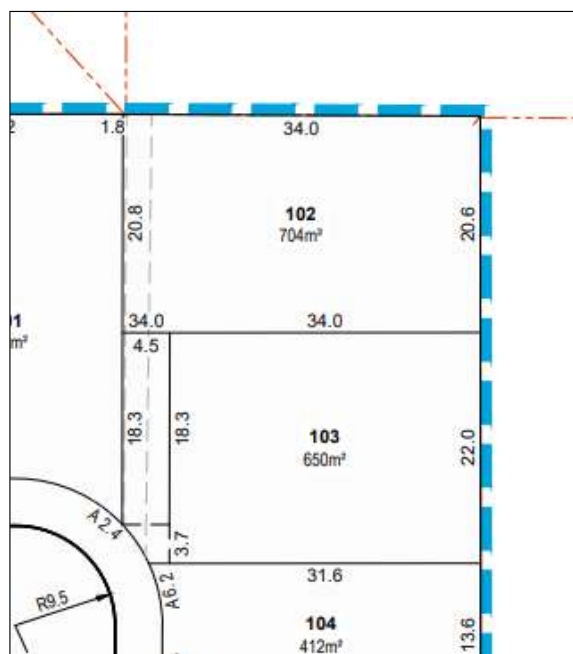


Figure 15 - battleaxe Lots 102 and 103

- Dual occupancy lots are not nominated on the proposed subdivision plan. Based on Clause 4.1B OLEP 2011, dual occupancy would only be permitted on proposed Lots 101 and 106, having proposed site area of >800m².

DEVELOPMENT CONTRIBUTIONS

Section 7.11 Environmental Planning and Assessment Act 1979

Development contributions are applicable to the proposed subdivision pursuant to the Orange Development Contributions Plan 2017.

The contributions are based on 17 additional residential lots in the LGA Remainder Contributions Area, that is, 18 proposed lots less one existing lot. The following development contributions will therefore apply to the proposed subdivision:

Open Space and Recreation	17 additional lots at 4,626.04	78,642.68
Community and Cultural	17 additional lots at 1,341.53	22,806.01
Roads and Traffic Management	17 additional lots at 6,106.21	103,805.60
Local Area Facilities	-	-
Plan Preparation and Administration	17 additional lots at 362.19	61,57.23
TOTAL:		\$211,411.50

Conditions are included requiring payment of applicable contributions prior to Subdivision Certificate release.

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5.2 Development Application DA 230/2022(1) - 33 Maramba Road

Section 64 - Local Government Act 1993

Development contributions for water, sewer and drainage works are also applicable to the proposed subdivision. Council's ADE advises the contributions are based on 18 ETs for water supply headworks and 18 ETs for sewerage headworks. The existing lot has 1ET credit which will be applied at the time of payment.

Conditions are included requiring payment of applicable headworks charges prior to Subdivision Certificate release.

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

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

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

The likely impacts associated with the proposed subdivision have been outlined in the foregoing sections of this report and include:

Context and setting

- Adjoining landuses
- Low density residential neighbourhood
- Distinct and separate infill subdivision
- Absence of masterplan

Traffic impacts

- Traffic generation and network capacity
- Road connections
- Private roadway
- Access and frontage
- Internal manoeuvring

Infrastructure

- Availability
- Augmentation and extension
- Development contributions
- Orange Development and Subdivision Code
- Overhead electricity powerlines
- Waste collection

Environmental Values

- Compliance with legislation
- Vegetation retention and removal
- Restrictions to protect

COUNCIL MEETING**16 MAY 2023****5.2 Development Application DA 230/2022(1) - 33 Maramba Road**

Landscape Setting

- Tree removal
- Conditional tree retention and protection

Cultural Values

- Unknown European and indigenous cultural heritage
- Conditional protection of unexpected find

Visual Impacts

- Civil and construction works typical of release area development
- Altered landscape character
- Streetscape presentation
- Dwelling orientation

Amenity Impacts

- Lot design for solar access and privacy
- Site topography
- Construction impacts
- Hours of work

Water Quality

- Construction controls
- Stormwater management

Conditions are included to mitigate and manage arising impacts to within acceptable limits.

The Suitability of the Site S4.15(1)(C)

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

- The land zoning permits the proposal.
- Site area and dimensions are suitable for residential subdivision.
- Utility services are available and adequate, subject to extension and augmentation.
- The land does not contain known technological or natural hazards.
- Onsite naturally occurring asbestos will be managed during civil construction works.
- The subject land does not have particular cultural values.
- The biodiversity values will not be adversely impacted.

Any Submissions Made in Accordance with The Act S4.15(1)(D)

The proposal is an advertised development pursuant to Council's Community Participation Plan 2019. At the completion of the exhibition period no submissions were received.

COUNCIL MEETING**16 MAY 2023**5.2 Development Application DA 230/2022(1) - 33 Maramba Road

Public Interest S4.15(1)(E)

The proposal is considered to be in the public interest. The proposal is not inconsistent with any relevant policy statements, planning studies, and guidelines etc. that have not been considered in this assessment.

COMMENTS

This report and the attached Notice of Approval are informed by:

- Road Opening Permit Officer
- Assistant Development Engineer
- Building Certifier
- Environmental Health Officer
- Manager City Presentation
- Essential Energy

ATTACHMENTS

- 1 Notice of Approval, D23/29869 [↓](#)
- 2 Plans, D23/28813 [↓](#)

 <p>ORANGE CITY COUNCIL</p>	<p align="center">ORANGE CITY COUNCIL</p> <p align="center">Development Application No DA 230/2022(1)</p> <p>NA23/232 Container PR29099</p>
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NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

Development Application

Applicant Name:	Central Property Projects Pty Ltd
Applicant Address:	Unit 1/78 Terrigal Esplanade TERRIGAL NSW 2260
Owner's Name:	Orange Asset Holdings Pty Ltd
Land to Be Developed:	Lot 17 DP 1275461 - 33 Maramba Road, Orange
Proposed Development:	Subdivision (six lot Terraces title and 13 lot Community title)

**Building Code of Australia
building classification:**

Not applicable

**Determination made under
Section 4.16**

Made On: 16 May 2023
Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

Consent to Operate From:	17 May 2023
Consent to Lapse On:	17 May 2023

Terms of Approval

The reasons for the imposition of conditions are:

- (1) To ensure a quality urban design for the development which complements the surrounding environment.
- (2) To maintain neighbourhood amenity and character.
- (3) To ensure compliance with relevant statutory requirements.
- (4) To provide adequate public health and safety measures.
- (5) Because the development will require the provision of, or increase the demand for, public amenities and services.
- (6) To ensure the utility services are available to the site and adequate for the development.
- (7) To prevent the proposed development having a detrimental effect on adjoining land uses.

Conditions

- (1) The development must be carried out in accordance with:
- (a) **Plan numbered: Concept Subdivision Plan by Orion Consulting, Project No. 21-0195, Plan 002 Rev E (1 sheet)**
 - (b) statements of environmental effects or other similar associated documents that form part of the approval
- as amended in accordance with any conditions of this consent.**

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 230/2022(1)

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Conditions (cont)**PREScribed CONDITIONS**

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

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (3) Details of the entry / gate at the Sophie Drive entrance to the private road shall be provided to Council for approval prior to issue of a Construction Certificate.
- (4) Engineering plans, showing details of all proposed work and adhering to any engineering conditions of development consent, are to be submitted to, and approved by, Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) prior to the issuing of a Construction Certificate.

The following Orange City Council engineering design and construction requirements shall be used in addition to, or taking precedence over, the Orange City Council Development and Subdivision Code:-

- Council requires elastic rebound deflection testing carried out on road base material prior to the placement of any asphalt to determine maximum deflection in accordance with RMS Test Method T160 utilising the Benkelman Beam or equivalent;
 - All road reserves between the back of kerb and property boundary, and areas of public land shall be either hydro mulched or turfed prior to the issue of a Subdivision Certificate. All allotments shall be spread with topsoil and seed;
 - The street lighting system shall comprise LED lighting to the requirements of Essential Energy and satisfaction of Council. Details of the street lighting system shall be submitted for approval prior to the issue of a Construction Certificate;
 - Asphaltic cement wearing surface shall not be included in road pavement depth calculations;
 - A 10 day soaked CBR test shall be used for road subgrade pavement evaluations;
 - All stormwater drainage design shall be based on the most recent version of Australian Rainfall and Runoff calculations allowing for applicable climate change factor(s).
- (5) A Soil and Water Management Plan (SWMP) is to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) for approval prior to the issuing of a Construction Certificate. The management plan is to be in accordance with the Orange City Council Development and Subdivision Code and the Landcom, Managing Urban Stormwater; Soils and Construction Handbook.
- (6) The development's stormwater design is to include stormwater detention within the development, designed to limit peak outflows from the land to the pre-existing natural outflows up to a 1% AEP event, with sufficient allowance in overflow spillway design capacity to safely pass flows of lower frequency (that is, a rarer event) without damage to downstream developments. Where appropriate, the spillway design capacity is to be determined in accordance with the requirements of the Dam Safety Committee.

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.

(Condition (6) continued over page

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 230/2022(1)

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

(6) (cont)

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 Orange City Council upon application for a Construction Certificate.

- (7) The proposed lots are to be provided with interlot stormwater drainage, including those lots abutting public land, where the surface of the entire lot cannot be drained to the kerb and gutter at the lot frontage. A grated concrete stormwater pit is to be constructed within each lot provided with interlot stormwater drainage including adjoining Lot 48 DP 258908. Engineering plans for this drainage system are to be approved by Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) prior to the issuing of a Construction Certificate.
- (8) A 150mm-diameter sewer main is to be constructed from Council's existing sewer network to serve the proposed lots. Prior to a Construction Certificate being issued engineering plans for this sewerage system are to be submitted to and approved by Orange City Council.
- (9) A water reticulation analysis is to be carried out by Orange City Council on any proposed water reticulation system in Maramba Road. Engineering plans are to be submitted to and approved by Orange City Council prior to the issue of a Construction Certificate.
- The reticulation system is to be designed to supply a peak instantaneous demand by gravity of 0.15 L/s/tenement at a minimum residual head of 200kPa.
- (10) The existing sewer rising main and water main crossing proposed Lots 102-104 are to be accurately located. The sewer and water mains shall be relocated / renewed / removed (as necessary) to Orange City Council's requirements. Engineering plans shall be prepared detailing the necessary works are to be submitted to and approved by Orange City Council prior to the issue of a Construction Certificate.
- (11) A single common water meter shall be located in the common property driveway of the Community Title development. Internal water mains servicing each lot from the common water meter shall be constructed as private water mains constructed to Australian Standard AS/NZS 3500. The size of the common water meter shall be determined by a practicing engineer.
- (12) Engineering plans providing complete details of the proposed Community Title driveway, 6.0m wide heavy-duty footpath crossing and vehicle manoeuvring areas is to be submitted to Orange City Council or an Accredited Certifier (Categories B1, C3, C4, C6) upon application for a Construction Certificate. These plans are to provide details of levels, cross falls of all pavements, proposed sealing materials and proposed drainage works and be in accordance with the Orange City Council Development and Subdivision Code.
- (13) 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.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 230/2022(1)

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Conditions (cont)**PRIOR TO WORKS COMMENCING**

- (14) Where any existing fencing at the perimeter of the site needs to be removed, or is of a type which does not ensure the occupants of any adjoining residence adequate privacy, new fencing of the type shown on the approved development application plans, or as referred to elsewhere in this Notice, shall be erected **prior to any building or construction work** being carried out upon this development.
- (15) Tree protection zones (TPZ) (protective fencing) shall be installed in accordance with AS 4373-2009 - *Protection of Trees on Development Sites*, for retained native trees.
- Protective fencing shall be installed prior to site works commencing and must remain intact until completion of all works. Fencing must not be altered or removed without approval of a project arborist.
- If access is required or minor activities are to be undertaken within the TPZ, it must be approved by the project arborist. No routing of services, parking of vehicles, stacking of builder's materials / equipment, is to occur within the TPZ.
- The protective fence is to be constructed from ridged chain wire mesh panels (or similar), 1.8m in height, and securely anchored without penetrating the ground. Signs identifying the TPZ should be placed on the fencing and be visible from within the development site on all angles.
- (16) Any remnant tree containing habitat shall be dismantled to enable its relocation to a public reserve for habitat restoration works.
- (17) A temporary onsite toilet is to be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.
- (18) Soil erosion control measures shall be implemented on the site.
- (19) The approved water and soil erosion control plan shall be implemented prior to construction work commencing.
- (20) An application for a Subdivision Works Certificate is required to be submitted to, and a Certificate issued by Council/Accredited Certifier prior to any excavation or works being carried out onsite.

DURING CONSTRUCTION/SITEWORKS

- (21) The site is located within an area identified as containing serpentinite rock formations, which can contain chrysotile, a naturally occurring asbestos. Therefore the applicant or person with management or control of the site shall ensure that a written plan (an **Asbestos Management Plan**) for the site is prepared in accordance with the provisions of the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*.
- To assist applicants with developing an Asbestos Management Plan, applicants are encouraged to access the '*Asbestos Management Plan for Orange City Council 2014*', which is available on Council's website: www.orange.nsw.gov.au
- (22) In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work on site must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works onsite must not resume unless the express permission of the Director Development Services is obtained in writing.
- (23) Any additional fill to be brought to the site shall comprise Virgin Excavated Natural Material (VENM).

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 230/2022(1)

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

- (24) If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item shall cease, and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council shall be notified. Where required, further archaeological investigation shall be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy, developed in consultation with and approved by the OEH.
- (25) 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.
- (26) Removal of vegetation shall not exceed vegetation nominated in the Demolition and Tree Removal Plan (Orion Consulting, Project No 21-0195 Plan 002 Rev B dated 21/12/2022).
- (27) All construction/demolition work on the site is to be carried out between the hours of 7.00am and 6.00pm Monday to Friday inclusive, and 8.00am to 1.00pm on Saturdays. No construction/demolition work is permitted to be carried out on Sundays or Public Holidays. Written approval must be obtained from the Chief Executive Officer of Orange City Council to vary these hours.
- (28) All materials on site or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (29) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (30) 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.
- (31) Maramba Road is to be constructed for the full frontage of the proposed development. This work is to include road pavement and pavement surfacing, kerb and gutter construction and earth-formed footpath.
- (32) Proposed Lots 102 and 103 shall be provided with a heavy-duty kerb layback and footpath crossing constructed to a minimum width of 5.5m and to the requirements and standards of the Orange City Council Development and Subdivision Code.
- (33) All proposed residential lots adjacent to the overland flow path, are to have a minimum freeboard above 1% AEP flood level in accordance with the Orange City Council Development and Subdivision Code and Development Control Plan 2004 Chapter 4A - Flood Affected Land.
- (34) A water service and sewer junction is to be provided to every lot in the proposed residential subdivision in accordance with the Orange City Council Development and Subdivision Code.
- (35) All services are to be contained within the allotment that they serve.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 230/2022(1)

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Conditions (cont)**PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

- (36) The payment of \$211,411.50 is to be made to Council in accordance with Section 7.11 of the Act and the Orange Development Contributions Plan 2017 (LGA Remainder Contributions Area) towards the provision of the following public facilities:

Open Space and Recreation	17 additional lots at 4,626.04	78,642.68
Community and Cultural	17 additional lots at 1,341.53	22,806.01
Roads and Traffic Management	17 additional lots at 6,106.21	103,805.60
Local Area Facilities	-	-
Plan Preparation and Administration	17 additional lots at 362.19	61,57.23
TOTAL:		\$211,411.50

The contribution will be indexed quarterly in accordance with the Orange Development Contributions Plan 2017 (LGA Remainder Contributions Area). This Plan can be inspected at the Orange Civic Centre, Byng Street, Orange.

- (37) A works-as-executed Demolition and Tree Removal Plan shall be submitted to Council for approval by Manager Development Assessment. Vegetation clearing shall not exceed 0.1ha.
- (38) A Restriction as to User under the NSW Conveyancing Act 1919 shall be registered on the title of Lots 10, 11 and 12 prohibiting the erection of buildings, removal of vegetation or planting of exotic species within the nominated Vegetation Protection Zone.
- (39) A Restriction as to User under the NSW Conveyancing Act 1919 shall be registered on the title of approved Torrens Lot 1 and Community Lot 12 requiring the front façade of future residential buildings to address Sophie Drive. Side dwelling facades and privacy fencing to Sophie Drive forward of the front dwelling façade are not permitted.
- (40) A Restriction as to User under the NSW Conveyancing Act 1919 shall be registered on the title of approved Torrens Lot 105 requiring a future dwelling have primary frontage and access to Maramba Road.
- (41) Details of the waste collection arrangements for the Community Lots as agreed by a waste collection contractor shall be submitted to Council for approval, prior to issue of a Subdivision Certificate.
- (42) Waste collection arrangements shall be incorporated into the Community Title Management Statement.
- (43) Green waste shall be removed from the development site at the completion of civil works prior to issue of a Subdivision Certificate.
- (44) Street trees shall be planted in the proposed road reserve to Sophie Drive and Maramba Road in accordance with the Street Tree Plan (Orion Consulting, Project No 21-0195 Plan 900 Rev B dated 21/12/2022) and Council's Development and Subdivision Code, and to the satisfaction of the Manager City Presentation.
- (45) Soil sampling for analysing chemical residue is to be carried out within the proposed lots in a manner and frequency as determined by an appropriately qualified and experienced consultant giving consideration to previous specific uses and on-site characteristics of the site. A NATA registered laboratory is to carry out such testing. Reference is to be made to the *Contaminated Land Management Act 1997* and State Environmental Planning Policy No 55 - "Remediation of Land". The results of the testing are to be provided to the Principal Certifying Authority and are to demonstrate that the land is suitable for residential use, to enable a Subdivision Certificate to be issued.
- (46) Application shall be made for a Subdivision Certificate under Section 6.3(1)(d) of the Act.

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 230/2022(1)

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

- (47) **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 18 ETs for water supply headworks and 18 ETs for sewerage headworks (the site has a credit for 1 ET which will be applied at the time of payment). A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, will be issued upon payment of the contributions.
- This Certificate of Compliance is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (48) Evidence from a registered NATA laboratory is to be submitted prior to the issuing of a Subdivision Certificate stating that the placement of fill within allotments has been carried out in accordance with Australian Standard 3798-2007.
- (49) Application is to be made to Telstra/NBN for infrastructure to be made available to each individual lot within the development. Either a Telecommunications Infrastructure Provisioning Confirmation or Certificate of Practical Completion is to be submitted to the Principal Certifying Authority confirming that the specified lots have been declared ready for service prior to the issue of a Subdivision Certificate.
- (50) A Notice of Arrangement from Essential Energy stating arrangements have been made for the provision of electricity supply to the development, is to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.
- (51) A Restriction-as-to-User under section 88B of the *NSW Conveyancing Act* is to be registered on the Deed of Title on Lots 1 and 12 where vehicular access is to be denied to Sophie Drive, and Lot 7 where access is to be denied to Maramba Road.
- (52) An easement to drain sewage and to provide Council access for maintenance of sewerage works a minimum of 2.0m wide is to be created over the proposed sewerage works. The Principal Certifying Authority is to certify that the easement is in accordance with the Orange City Council Development and Subdivision Code prior to the issuing of a Subdivision Certificate.
- (53) All services are to be contained within the allotment that they serve. A Statement of Compliance, from a Registered Surveyor, is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (54) A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater retention basin comply with the approved engineering plans is to be submitted to the Principal Certifying Authority prior to the issuing of a Subdivision Certificate.
- (55) Where stormwater crosses land outside the lot it favours, an easement to drain water is to be created over the works. A Restriction-as-to-User under section 88B of the *NSW Conveyancing Act 1919* is to be created on the title of the burdened Lot(s) requiring that no structures are to be placed on the site, or landscaping or site works carried out on the site, in a manner that affects the continued operation of the interlot drainage system. The minimum width of the easement is to be as required in the Orange City Council Development and Subdivision Code.
- (56) Prior to the issue of a Subdivision Certificate the following conditions 'a' to 'e' must be included in the Community Title Management statement:
- a. water mains constructed as private services by the developer must accord with at least the National Plumbing Code standards; and
 - b. Orange City Council makes no representation that the private water related services provided to the development are suitable; and

(Condition (56) continued over page)

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION NO DA 230/2022(1)

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

- (56) (cont)
- c. if a request is made at any time in the future by the developer or future owner to Orange City Council to extend the private services for any reason, then such extension shall be at Orange City Council standards including appropriate easements and must be constructed, funded and transferred by the applicant; and
 - d. Orange City Council will not provide maintenance services to the private services; and
 - e. clauses a-e shall not be deleted, varied or modified without the written consent of Orange City Council.
- (57) Prior to the issue of a Subdivision Certificate, proposed Lots 102 and 103 shall each be provided with a minimum 3.0m of road boundary frontage to Maramba Road.
- (58) Prior to the issue of a Subdivision Certificate a reciprocal right of way shall be established over the length of the shared access handle serving proposed Lots 102 and 103.
- (59) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions, and that Council will take ownership of the infrastructure assets.
- (60) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of a Subdivision Certificate, unless stated otherwise.

MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT

- (61) Kerbside placement of waste bins associated with the Community Lots on Sophie Drive is not permitted.

ADVISORY NOTES

- (62) Dwelling houses on the proposed lots shall be sited and designed to comply with Planning Outcomes and Guidelines contained in Orange Development Control Plan 2005, Part 7 Development in Residential Areas.

CONDITIONS FROM ESSENTIAL ENERGY

- a. 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 of the plan of subdivision;
- b. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- c. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;

(Conditions from Essential Energy continued over page)

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Conditions (cont)**Conditions from Essential Energy (cont)**

- d. 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;
- e. 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*;
- f. 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);
- g. 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*.

Other Approvals

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

Right of Appeal

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

**Disability
Discrimination Act
1992:**

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

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

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

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**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**

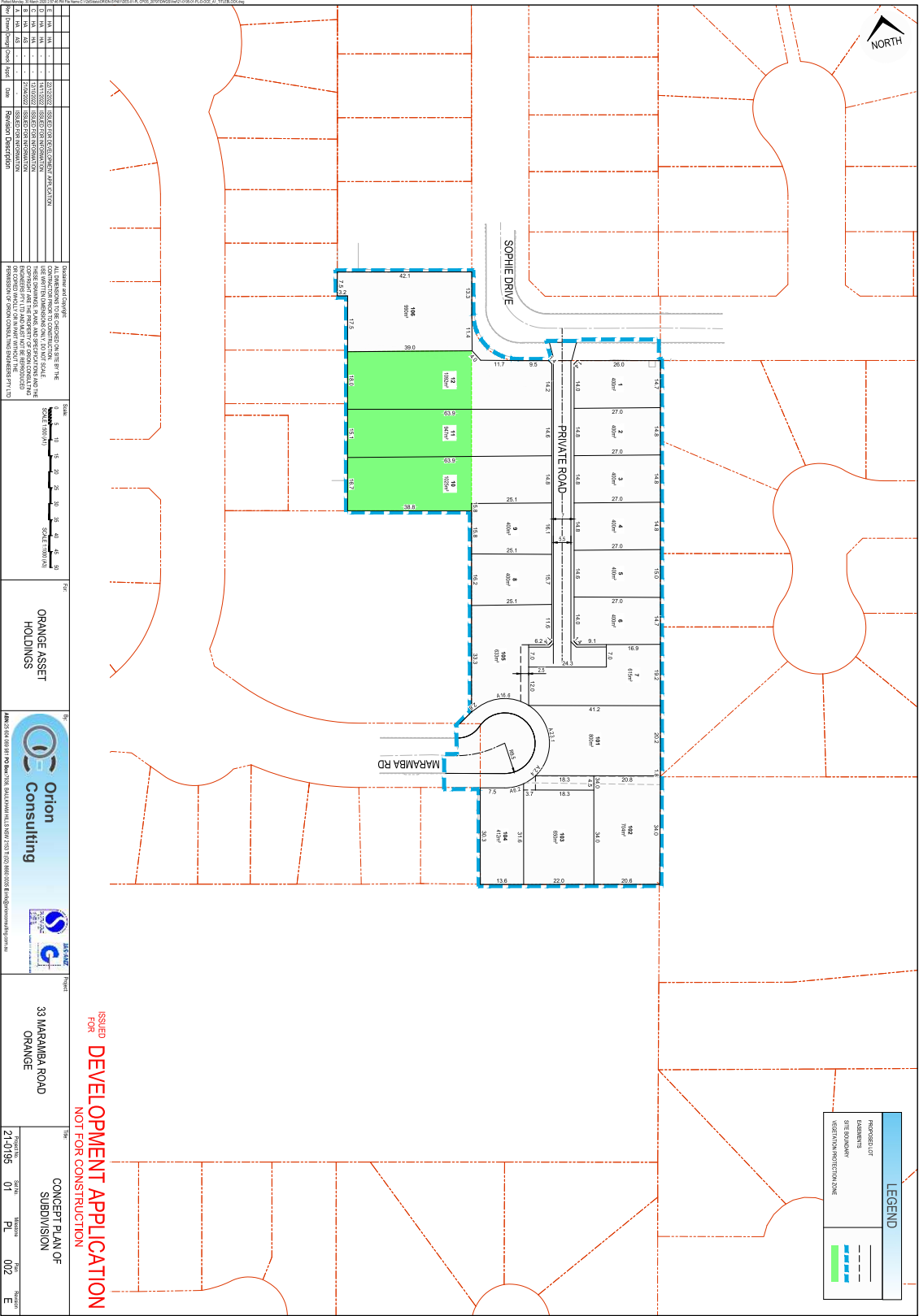
Signature:

Name:

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

Date:

17 May 2023



5 GENERAL REPORTS

5.1 AMENDED STRATEGIC POLICY REVIEW - FOR EXHIBITION

RECORD NUMBER: 2023/755

AUTHOR: Janessa Constantine, Manager Corporate Governance

EXECUTIVE SUMMARY

This report presents the amended Strategic Policies that have been reviewed following the carried notice of rescission at the 18 April 2023 Council meeting. A Councillor briefing was held to identify and refine each of the policies and we now recommended the following for placement on public exhibition for a period of 28 days:

- ST18 – Social Media
- ST19 – Media
- ST20 – Community Engagement

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy “17.1. Provide representative, responsible and accountable community governance”.

FINANCIAL IMPLICATIONS

Nil

POLICY AND GOVERNANCE IMPLICATIONS

Council’s Strategic Policies are reviewed and amended to ensure ongoing compliance with legislation and industry best practice.

Policies of Council are of two types – Strategic Policies are determined by Council, and relate to Councillors, required by Legislation or Regulation and/or have an impact on the Orange community. The Local Government Act 1993 requires the public exhibition of Policies (if new or include significant changes) and adoption by Council. Operational Policies are determined and implemented by the Chief Executive Officer and relate to staff and the operations of the organisation.

RECOMMENDATION

That Council resolves to place the following policies on public exhibition for a minimum period of 28 days:

- **ST18 – Social Media**
- **ST19 – Media**
- **ST20 – Community Engagement**

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**Policies for Exhibition**

The following policies have been reviewed and outlined below are changes/updates made to each policy. Councillors participated in a workshop on 21 April 2023 to discuss and develop the below policies in consultation with the Executive. It is recommended these policies now be placed on public exhibition for a period of at least 28 days to allow for Council and public review and submissions.

ST18 – Social Media

The Social Media policy is based on the Model policy issued by the Office of Local Government. The policy is not mandatory, and Councils can adapt the policy for our own purposes. If adopted, the policy will operate to supplement the provisions of the adopted Code of Conduct.

Reference	Update
General	<ul style="list-style-type: none"> • New Policy. • Section 2.1 - Inclusion of 'respectfully' in the openness principle. • Section 2.1 – Inclusion of “we will apply these same standards to those who choose to engage with our posts” in the respect principle. • Section 4 – Removal of reference to Records Management for Councillors. • Section 4 – Removal of reference to Councillors complying with platform rules. • Section 4 – Clarification in 4.14 that Councillors engaging on Council’s social media must receive induction training. • Section 4 – Removal of reference to Councillors identifying themselves with specific wording and profile picture. • Section 4 – Change of ‘must’ to ‘should’ in relation to Councillors providing house rules. • Section 4 – Removal of reference to Councillors using personal, informal language. • Section 4 – Removal of reference to questions regarding the policy being directed to the CEO or Manager Communications & Engagement. • Section 8 – Clarification that Records Management related to Council managed Social Media accounts and removal of requirements for Councillors.

5.1 Amended Strategic Policy Review - For Exhibition

ST19 – Media

The Media policy is based on the Model policy issued by the Office of Local Government. The policy is not mandatory, and Councils can adapt the policy for our own purposes. If adopted, the policy will operate to supplement the provisions of the adopted Code of Conduct.

Reference	Update
General	<ul style="list-style-type: none"> • New Policy • Section 4.7(a) – remove reference to ‘purport to’ to read ‘Councillors must not speak for the Council’ • Section 4.7(d) – add ‘that has not been made public’ in reference to not disclosing information. • Section 4.7(e) - change ‘must’ to ‘may’ seek information and guidance. • Section 4.18 – change ‘must’ to ‘are advised to direct questions.

ST20 – Community Engagement

Reference	Update
General	<ul style="list-style-type: none"> • Renumbering of Policies commenced – New Numbering ST20, Previously ST049. • Condensed Policy information to remove any information covered in the Social Media and Media policies. • Operational Information on how Community Engagement is to be undertaken through specific mechanisms has been removed from Strategic Policy into an Operational Procedure.

ATTACHMENTS

- 1 FOR EXHIBITION - Strategic Policy - ST18 - Social Media, [D23/6709](#)
- 2 FOR EXHIBITION - Strategic Policy - ST19 - Media, [D23/6710](#)
- 3 FOR EXHIBITION - Strategic Policy - ST20 - Community Engagement, [D23/6711](#)



Strategic Policy ST18

Social Media

FOR EXHIBITION

PO Box 35, Orange
NSW 2800 Australia

135 Byng Street, Orange
NSW 2800 Australia

P: +61 2 6393 8000
F: +61 2 6393 8199

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www.orange.nsw.gov.au



All policies can be reviewed or revoked by a resolution of Council, at any time.

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1 OVERVIEW

Social media and Local Government in NSW

As in the federal and state jurisdictions, social media has become an important tool in government and political discourse at the local level. In the context of NSW local government, social media has two primary functions:

- a) it is used by councils to interact and share information with their communities in an accessible and often more informal format.
- b) it enables councillors to promote their achievements and address their constituents directly about community issues and events in ways that either complement or bypass traditional news and print media.

In addition, many councils use social media as the platform through which they webcast their meetings. This increases transparency by providing visibility of council decision making in real time.

However, councils and councillors are not immune from the challenges associated with social media, which can pose a significant risk both in a legal sense, and in terms of a council's ability to operate in a unified and coordinated way. It is therefore vital that councils have the right policy settings in place so that both councils and councillors can realise the full benefits of social media whilst mitigating risk.

Clause 3.1(b) of the *Model Code of Conduct for Local Councils in NSW* provides that council officials must not conduct themselves in a manner that is contrary to a council's policies. If adopted by a council, a breach of the policy will be a breach of the council's code of conduct.

2 PRINCIPLES

- 2.1 We, the Councillors, staff and other officials of Orange City Council, are committed to upholding and promoting the following principles of social media engagement:

Openness	Our social media platforms are places where anyone can respectfully share and discuss issues that are relevant to our Council and the community we represent and serve.
Relevance	We will ensure our social media platforms are kept up to date with informative content about our Council and community.
Accuracy	The content we upload onto our social media platforms and any other social media platform will be a source of truth for our Council and community and we will prioritise the need to correct inaccuracies when they occur.
Respect	Our social media platforms are safe spaces. We will uphold and promote the behavioural standards contained in this policy and our Council's code of conduct when using our social media platforms and any other social media platform. We will apply these same standards to those who choose to engage with our posts.



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3 ADMINISTRATIVE FRAMEWORK FOR COUNCIL'S SOCIAL MEDIA PLATFORMS

Platforms

3.1 Council will maintain a presence (but not limited to) on the following social media platforms:

- Facebook
- Twitter
- Instagram
- LinkedIn
- YouTube

3.2 Council's social media platforms must specify or provide a clearly accessible link to the 'House Rules' for engaging on the platform.

Establishment and deletion of Council social media platforms

3.3 A new Council social media platform, or a social media platform proposed by a Council related entity (for example, a council committee), can only be established or deleted with the written approval of the Chief Executive Officer or their delegate.

3.4 Where a Council social media platform is established or deleted in accordance with clause 3.3, the Chief Executive Officer or their delegate may amend clause 3.1 of this policy without the need for endorsement by the Council's governing body.

Appointment and role of the Social Media Coordinator

3.5 The Chief Executive Officer will appoint a member of Council staff to be the Council's Social Media Coordinator. The position is to be a senior and suitably qualified member of staff being the Manager Communications & Engagement.

3.6 The Chief Executive Officer may appoint more than one Social Media Coordinator.

3.7 The Manager Communications & Engagement's role is to:

- a) approve and revoke a staff member's status as an authorised user
- b) develop and/or approve the training and/or induction to be provided to authorised users

- c) maintain a register of authorised users
 - d) maintain effective oversight of authorised users
 - e) moderate the Council's social media platforms in accordance with Part 5 of this policy
 - f) ensure the Council complies with its record keeping obligations under the *State Records Act 1998* in relation to social media (see clauses 8.1 to 8.4 of this policy)
 - g) ensure the Council adheres to the rules of the social media platform(s)
 - h) coordinate with the Council's Communications & Engagement team to ensure the Council's social media platforms are set up and maintained in a way that maximises user friendliness and any technical problems are resolved promptly.
- 3.8 The Manager Communications & Engagement may delegate their functions under paragraphs (e) and (f) of clause 3.7 to authorised users.
- 3.9 The Manager Communications & Engagement is an authorised user for the purposes of this policy.

Authorised users

3.10 Authorised users are members of Council staff who are authorised by the Chief Executive Officer or Manager Communications & Engagement to upload content and engage on social media on the Council's behalf.

3.11 Authorised users may be members of Council staff that are responsible for managing, or have expertise in, the events, initiatives, programs or policies that are the subject of the social media content.

3.12 The Chief Executive Officer or Manager Communications & Engagement will appoint authorised users when required.

3.13 An authorised user must receive a copy of this policy and induction training on social media use and Council's obligations before uploading content on Council's behalf.



All policies can be reviewed or revoked by a resolution of Council, at any time.

- 3.14 The role of an authorised user is to:
- a) ensure, to the best of their ability, that the content they upload onto social media platforms is accurate
 - b) correct inaccuracies in Council generated content
 - c) engage in discussions and answer questions on Council's behalf on social media platforms
 - d) keep the Council's social media platforms up to date
 - e) where authorised to do so by the Manager Communications & Engagement :
 - i) moderate the Council's social media platforms in accordance with Part 5 of this policy
 - ii) ensure the Council complies with its record keeping obligations under the *State Records Act 1998* in relation to social media (see clauses 7.1 to 7.4 of this policy)

- 3.15 When engaging on social media on Council's behalf (such as, but not limited to, on a community social media page), an authorised user must identify themselves as a member of Council staff but they are not obliged to disclose their name or position within the Council.

- 3.16 Authorised users must not use Council's social media platforms for personal reasons.

Administrative Tone

- 3.17 Authorised users upload content and engage on social media on the Council's behalf. Authorised users must use language consistent with that function and avoid expressing or appearing to express their personal views when undertaking their role.

- 3.18 Authorised users may use more personal, informal language when engaging on Council's social media platforms, for example when replying to comments.

Register of Authorised Users

- 3.19 The Manager Communications & Engagement will maintain a register of authorised users. This register is to be

reviewed annually to ensure it is fit-for-purpose.

Ceasing to be an Authorised User

- 3.20 The Chief Executive Officer or Manager Communications & Engagement may revoke a staff member's status as an authorised user, if:
- a) the staff member makes such a request
 - b) the staff member has not uploaded content onto any of the Council's social media platforms in the last six months.
 - c) the staff member has failed to comply with this policy
 - d) the Chief Executive Officer or Manager Communications & Engagement is of the reasonable opinion that the staff member is no longer suitable to be an authorised user.

4 ADMINISTRATIVE FRAMEWORK FOR COUNCILLORS' SOCIAL MEDIA PLATFORMS

- 4.1 For the purposes of this policy, Councillor social platforms are not Council social media platforms. Section 3 of this policy does not apply to Councillors' social media platforms.

- 4.2 Councillors are responsible for the administration and moderation of their own social media platforms.

- 4.3 Clause 4.2 also applies to Councillors in circumstances where another person administers, moderates, or uploads content onto their social media platform.

Induction and Training

- 4.4 Councillors who engage, or intend to engage, on Council's social media must receive induction training on social media use. Induction training can be undertaken either as part of the Councillor's induction program or as part of their ongoing professional development program.



All policies can be reviewed or revoked by a resolution of Council, at any time.

Identifying as a Councillor

- 4.5 Councillors must identify themselves on their social media platforms.
- 4.6 If a Councillor becomes or ceases to be the Mayor, Deputy Mayor, or the holder of another position (for example, chairperson of a committee), this must be clearly stated on the Councillor's social media platforms and updated within 14 days of a change in circumstances.

Other general requirements for Councillors' social media platforms

- 4.7 Councillor social media platforms should specify or provide a clearly accessible link to the 'House Rules' for engaging on the platform.
- 4.8 A Councillor's social media platform must include a disclaimer to the following effect: *"The views expressed and comments made on this social media platform are my own and not that of the Council"*.
- 4.9 Despite clause 4.10, Mayoral or Councillor media releases and other content that has been authorised according to the Council's media and communications protocols may be uploaded onto a Councillor's social media platform.
- 4.10 Councillors may upload publicly available Council information onto their social media platforms.

Other social media platforms administered by Councillors

- 4.11 A Councillor must advise the Chief Executive Officer or Manager Communications & Engagement of any social media platforms they administer on which content relating to the Council or Council officials is, or is expected to be, uploaded. The Councillor must do so within:
 - a) 14 days of becoming a Councillor, or
 - b) 14 days of becoming the administrator.

5 STANDARDS OF CONDUCT ON SOCIAL MEDIA

- 5.1 This policy only applies to Council officials' use of social media in an official capacity or in connection with their role as a Council official. The policy does not apply to personal use of social media that is not connected with a person's role as a Council official.
- 5.2 Council officials must comply with the Council's Code of Conduct when using social media in an official capacity or in connection with their role as a Council official.
- 5.3 Council officials must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is defamatory, offensive, humiliating, threatening or intimidating to other Council officials or members of the public
 - b) contains profane language or is sexual in nature
 - c) constitutes harassment and/or bullying within the meaning of the *Model Code of Conduct for Local Councils in NSW*, or is unlawfully discriminatory
 - d) is contrary to their duties under the *Work Health and Safety Act 2011* and their responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety



All policies can be reviewed or revoked by a resolution of Council, at any time.

- e) contains content about the Council, council officials or members of the public that is misleading or deceptive
 - f) divulges confidential Council information
 - g) breaches the privacy of other council officials or members of the public
 - h) contains allegations of suspected breaches of the Council's code of conduct or information about the consideration of a matter under the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*
 - i) could be perceived to be an official comment on behalf of the Council where they have not been authorised to make such comment
 - j) commits the Council to any action
 - k) violates an order made by a court
 - l) breaches copyright
 - m) advertises, endorses or solicits commercial products or business
 - n) constitutes spam
 - o) is in breach of the rules of the social media platform.
- 5.4 Council officials must:
- a) attribute work to the original author, creator or source when uploading or linking to content produced by a third party
 - b) obtain written permission from a minor's parent or legal guardian before uploading content in which the minor can be identified.
- 5.5 Council officials must exercise caution when sharing, liking, retweeting content as this can be regarded as an endorsement and/or publication of the content.
- 5.6 Council officials must not incite or encourage other persons to act in a way that is contrary to the requirements of this Part.
- 5.7 Councillors must uphold and accurately represent the policies and decisions of the Council's governing body but may explain why they voted on a matter in the way that

they did. (see section 232(1)(f) of the *Local Government Act 1993*).

6 MODERATION OF SOCIAL MEDIA PLATFORMS

Note: Councils and Council officials should be aware that they may be considered a 'publisher' of any content uploaded onto a social media platform they administer, including content that:

- is uploaded by a third party; and/or
- appears on their social media platform because they have 'liked', 'shared', or 'retweeted' the content, or similar.

6.1 Council officials who are responsible for the moderation of the Council's or Councillors' social media platforms may remove content and 'block' or ban a person from those platforms. Such actions must be undertaken in accordance with this Part.

6.2 For the purposes of this Part, 'social media platform' and 'platform' means both the Council's and Councillors' social media platforms.

House Rules

6.3 Social media platforms must state or provide an accessible link to the 'House Rules' for engaging on the platform.

6.4 At a minimum, the House Rules should specify:

- a) the principles of social media engagement referred to in clause 2.1 of this policy
- b) the type of behaviour or content that will result in that content being removed or 'hidden', or a person being blocked or banned from the platform
- c) the process by which a person can be blocked or banned from the platform and rights of review
- d) a statement relating to privacy and personal information (see clause 8.4 of this policy)
- e) when the platform will be monitored (weekdays 9am – 5pm, during the Council's business hours)
- f) that the social media platform is not to be used for making complaints about the Council or council officials.



All policies can be reviewed or revoked by a resolution of Council, at any time.

- g) If the Council adopts clause 6.4(f), the House Rules should include information about, or a link to, Council's complaints handling policy.
- 6.5 For the purposes of clause 6.4(b), third parties engaging on social media platforms must not post or share comments, photos, videos, electronic recordings or other information that:
- a) is defamatory, offensive, humiliating, threatening or intimidating to council officials or members of the public,
 - b) contains profane language or is sexual in nature
 - c) constitutes harassment and/or bullying within the meaning of the *Model Code of Conduct for Local Councils in NSW*, or is unlawfully discriminatory
 - d) contains content about the Council, council officials or members of the public that is misleading or deceptive
 - e) breaches the privacy of council officials or members of the public
 - f) contains allegations of suspected breaches of the Council's code of conduct or information about the consideration of a matter under the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*,
 - g) violates an order made by a court
 - h) breaches copyright
 - i) advertises, endorses or solicits commercial products or business,
 - j) constitutes spam
 - k) would be in breach of the rules of the social media platform.
- Removal or 'hiding' of Content
- 6.6 Where a person uploads content onto a social media platform that, in the reasonable opinion of the moderator, is of a kind specified under clause 6.5, the moderator may remove or 'hide' that content.
- 6.7 Prior to removing or 'hiding' the content, the moderator must make a record of it (for example, a screenshot).
- 6.8 If the moderator removes or 'hides' the content under clause 6.6, they must, where practicable, notify the person who uploaded the content that it has been removed and the reason(s) for its removal and their rights of review.
- 6.9 A person may request a review of a decision by a moderator to remove or 'hide' content under clause 6.6. The request must be made in writing to the Chief Executive Officer and state the grounds on which the request is being made.
- 6.10 Where a review request is made under clause 6.9, the review is to be undertaken by the Chief Executive Officer or Manager Communications & Engagement or a member of staff nominated by the Chief Executive Officer who is suitably qualified and who was not involved in the decision to remove or 'hide' the content.
- Blocking or Banning
- 6.11 If a person uploads content that is removed or 'hidden' under clause 6.6 of this policy on 3 occasions, that person may be blocked or banned from the social media platform.
- 6.12 A person may only be blocked or banned from a Council social media platform with the approval of the Chief Executive Officer or Manager Communications & Engagement. This clause does not apply to blocking or banning a person from a Councillor's social media platform.



All policies can be reviewed or revoked by a resolution of Council, at any time.

- 6.13** Prior to blocking or banning a person from a social media platform, the person must, where practicable, be advised of the intention to block or ban them from the platform and be given a chance to respond. Any submission made by the person must be considered prior to a determination being made to block or ban them.
- 6.14** The duration of the block or ban is to be determined by the Chief Executive Officer or Manager Communications & Engagement, or in the case of a Councillor's social media platform, the Councillor.
- 6.15** Where a determination is made to block or ban a person from a social media platform or all social media platforms, the person must, where practicable, be notified in writing of the decision and the reasons for it. The written notice must also advise the person which social media platforms they are blocked or banned from and the duration of the block or ban and inform them of their rights of review.
- 6.16** Despite clauses 6.11 to 6.15, where a person uploads content of a kind referred to under clause 6.5, and the moderator is reasonably satisfied that the person's further engagement on the social media platform poses a risk to health and safety or another substantive risk (such as the uploading of defamatory content), an interim block or ban from the platform/all platforms may be imposed on the person immediately for a period no longer than 28 days.
- 6.17** A person who is blocked or banned from the platform/all platforms under clause 6.16 must, where practicable, be given a chance to respond to the interim block or ban being imposed. Any submission made by the person must be considered when determining whether the interim block or ban is to be removed or retained under clauses 6.11 to 6.15.
- 6.18** A person may request a review of a decision to block or ban them from a social media platform. The request must be made in writing to the Chief Executive Officer and state the grounds on which the request is being made.
- 6.19** Where a review request is made under clause 6.18, the review is to be undertaken by the Chief Executive Officer or a member of staff nominated by the Chief Executive Officer who is suitably qualified and who was not involved in the decision to block or ban the person. Where the decision to block or ban the person was made by the Chief Executive Officer, the review must be undertaken by another senior and suitably qualified member of staff who was not involved in the decision.
- 6.20** Where a person that is the subject of a block or ban continues to engage on a social media platform(s) using an alternative social media account, profile, avatar, etc., a moderator may block or ban the person from the platform(s) immediately. In these circumstances, clauses 6.11 to 6.19 do not apply.
- ## **7 USE OF SOCIAL MEDIA DURING EMERGENCIES**
- 7.1** During emergencies, such as natural disasters or public health incidents, the Manager Communications & Engagement will be responsible for the management of content on the Council's social media platforms.
- 7.2** To ensure consistent messaging both during and after an emergency, authorised users and Council officials must not upload content onto the Council's or their own social media platforms which contradicts advice issued by the agency coordinating the emergency response, or agencies supporting recovery efforts.
- 7.3** Training on social media use during emergencies should be included in training and/or induction provided to authorised users and Councillors.



All policies can be reviewed or revoked by a resolution of Council, at any time.

8 RECORDS MANAGEMENT AND PRIVACY REQUIREMENTS

Records management for Council managed Social Media accounts

- 8.1 Social media content created, sent and received by Council officials acting in their official capacity is a Council record and may constitute open access information or be subject to an information access application made under the *Government Information (Public Access) Act 2009*. These records must be managed in accordance with the requirements of the *State Records Act 1998* and the Council's approved records management policies and practices.
- 8.2 You must not destroy, alter, or remove social media content unless authorised to do so. If you need to alter or remove social media content, you must do so in accordance with this policy, and consult with the Council's Manager Corporate Governance and comply with the requirements of the *State Records Act 1998*.
- 8.3 In fulfilling their obligations under clauses 8.1 and 8.2, Council officials should refer to any guidance issued by the State Archives and Records Authority of NSW relating to retention requirements for Councils' social media content.

Privacy considerations and requirements

- 8.4 Social media communications are in the public domain. Council officials should exercise caution about what personal information, if any, they upload onto social media.
- 8.5 The *Privacy and Personal Information Protection Act 1998* applies to the use of social media platforms by the Council. To mitigate potential privacy risks, Council officials will:
- advise people not to provide personal information on social media platforms
 - inform people if any personal information they may provide on social media platforms is to be used for official purposes

- moderate comments to ensure they do not contain any personal information
- advise people to contact the Council through alternative channels if they have personal information they do not want to disclose in a public forum.

- 8.6 Council officials must ensure they comply with the *Health Records and Information Privacy Act 2002* when engaging on and/or moderating social media platforms. In fulfilling their obligations, Council officials should refer to any guidance issued by the Information and Privacy Commission of NSW, such as, but not limited to, the Health Privacy Principles.

9 PRIVATE USE OF SOCIAL MEDIA

Note: Activities on social media websites are public activities. Even though privacy settings are available, content can still be shared and accessed beyond the intended recipients.

The terms and conditions of most social media sites state that all content becomes the property of the site on which it is posted.

What constitutes 'private' use?

- 9.1 For the purposes of this policy, a Council official's social media engagement will be considered 'private use' when the content they upload:
- is not associated with, or does not refer to, the Council, any other Council officials, contractors, related entities or any other person or organisation providing services to or on behalf of the Council in their official or professional capacities, and
 - is not related to or does not contain information acquired by virtue of their employment or role as a Council official.
- 9.2 If a Council official chooses to identify themselves as a Council official, either directly or indirectly (such as in their user profile), then they will not be deemed to be acting in their private capacity for the purposes of this policy.



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Use of social media during work hours

9.3 Council staff may only access and engage on social media in their private capacity while at work during breaks.

9.4 Council staff who access and engage on social media in their private capacity during work hours must ensure it does not interfere with the performance of their official duties.

platforms should be made to the council's Chief Executive Officer or Manager Communications & Engagement in the first instance.

10.2 Complaints about the conduct of Council officials (including Councillors) on social media platforms may be directed to the Chief Executive Officer.

10.3 Complaints about a Chief Executive Officer's conduct on social media platforms may be directed to the Mayor.

10 CONCERNS OR COMPLAINTS

10.1 Concerns or complaints about the administration of a council's social media

11 DEFINITIONS

In this Social Media Policy, the following terms have the following meanings:

authorised user	members of Council staff who are authorised by the Chief Executive Officer Manager Communications & Engagement to upload content and engage on the Council's social media platforms on the Council's behalf.
Council official	Councillors, members of staff and delegates of the Council (including members of committees that are delegates of the council).
minor	for the purposes of clause 5.4(b) of this policy, is a person under the age of 18 years
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
SMC	is a council's social media coordinator appointed under clause 3.5 of this policy
social media	online platforms and applications - such as but not limited to social networking sites, wikis, blogs, microblogs, video and audio sharing sites, and message boards - that allow people to easily publish, share and discuss content. Examples of social media platforms include, but are not limited to Facebook, Twitter, Snapchat, LinkedIn, Yammer, YouTube, Instagram, Flickr and Wikipedia

ST18 – Strategic Policy – Social Media

Review Due: November 2024

Version 1_23

Last Revision: New Policy

Approved By:

Minute Number:

Approval Date:



Strategic Policy ST19

Media

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1 OVERVIEW

- 1.1 The Model Media Policy has been developed to provide a framework to assist councils when dealing with the media and to ensure that media engagement by councillors and staff is consistent, accurate and professional and enhances the council's reputation.
- 1.2 Effective media engagement can assist councils to keep their community informed, explain decisions and to promote community confidence in the council and its decisions.
- 1.3 The term "media" used in this policy means print, broadcast and online media used for communicating information to the public, including, but not limited to, newspapers, magazines, internet publishers, radio, and television broadcasters.

2 PRINCIPLES

- 2.1 We, the Councillors, staff, and other officials of Orange City Council, are committed to upholding and promoting the following principles of media engagement:

Openness We will ensure that we promote an open exchange of information between our council and the media.

Consistency We will ensure consistency by all councillors and staff when communicating with the media.

Accuracy The information we share with the media will be a source of truth for our council and community and we will prioritise the need to correct inaccuracies when they occur.

Timeliness We will ensure that we respond to media enquiries in a timely manner.

3 ADMINISTRATIVE FRAMEWORK FOR ENGAGEMENT WITH MEDIA

Appointment and role of the Media Coordinator

- 3.1 The Chief Executive Officer will appoint a member of Council staff to be the Council's Media Coordinator. The Media Coordinator should be a suitably qualified member of staff being the Manager Communications & Engagement.
- 3.2 The Chief Executive Officer may appoint more than one Media Coordinator.
- 3.3 The Media Coordinator's role is to:
- be the lead point of contact for all media enquiries, requests for interviews, requests to film or photograph Council staff, facilities or events for news and current affairs purposes
 - be responsible for preparing all media statements prior to their release
 - liaise with relevant staff members within the organisation where appropriate.
 - ensure that media statements are approved by the Mayor and/or Chief Executive Officer prior to their release



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- e) develop and/or approve media training and/or induction to be provided to relevant staff and/or Councillors
- f) maintain a record of all media enquiries and responses
- g) ensure that media organisations and their representatives are treated professionally, equally and without bias
- h) ensure that media enquiries are dealt with promptly
- i) provide guidance to Councillors approached by the media for comment to avoid communication of misinformation, and
- j) ensure that all media releases are published on the Council's website.

4 WHO CAN ENGAGE WITH THE MEDIA

The Chief Executive Officer

- 4.1 The Chief Executive Officer is the official spokesperson for the Council on operational and administrative matters.
- 4.2 The Chief Executive Officer may delegate to other Council staff to speak on their behalf where appropriate, (for example, where the delegated staff member has professional expertise regarding the subject matter, or the Chief Executive Officer is unavailable).

The Mayor

- 4.3 The Mayor is the principal member and spokesperson of the governing body of the Council, including representing the views of the Council as to its local priorities (section 226(c) of the Local Government Act 1993).
- 4.4 If the Mayor is unavailable, the Deputy Mayor may act as the Council's spokesperson.

- 4.5 The Mayor may delegate their role as spokesperson to other Councillors where appropriate, (for example, where another Councillor is best placed to comment, because the issue is of particular interest to them, or it is within their particular area of expertise).

Councillors

- 4.6 As a member of the governing body and as a representative of the community, councillors are free to express their personal views to the media.
- 4.7 When engaging with the media Councillors:
 - a) must not speak for the Council unless authorised to do so
 - b) must clarify when speaking to the media that they are expressing their personal views as an individual Councillor and that they are not speaking for the Council (unless authorised to do so)
 - c) must uphold and accurately represent the policies and decisions of the Council
 - d) must not disclose Council information that has not been made public, unless authorised to do so, and
 - e) may seek information and guidance from the Chief Executive Officer/Manager Communications & Engagement where appropriate before providing comment to the media to ensure they have the most up-to-date and relevant information and have considered reputational or other risks.



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- 4.8 In the interests of promoting a positive, safe and harmonious organisational culture, Councillors should endeavour to resolve personal differences privately and must not prosecute them publicly through the media
- 4.9 Where Councillors (including the Mayor) become aware of potential issues that could result in media interest, they should provide this information to the Chief Executive Officer or Manager Communications & Engagement.
- Council Staff
- 4.10 Council staff must not speak to the media about matters relating to the Council unless authorised by the Chief Executive Officer or Manager Communications & Engagement to do so.
- 4.11 If Council staff receive a media enquiry or they are invited to comment to the media on a matter relating to the Council, they must refer the enquiry to the Chief Executive Officer or Manager Communications & Engagement.
- 4.12 Council staff are free to express their personal views to the media on matters that do not relate to the Council, but in doing so, must not make comments that reflect badly on the Council or that bring it into disrepute.
- 4.13 If authorised to speak to the media, Council staff:
- must uphold and accurately represent the policies and decisions of the Council
 - must not disclose Council information unless authorised to do so by the Chief Executive Officer or Manager Communications & Engagement, and
 - must seek information and guidance from the Chief Executive Officer or Manager Communications & Engagement where appropriate before providing comment to the media to ensure they have the most up-to-date and relevant information and have considered reputational or other risks
- 4.14 Where Council staff become aware of potential issues that could result in media interest, they should provide this information to the Chief Executive Officer or Manager Communications & Engagement.
- Tone
- 4.15 All media engagement by Council officials must be conducted in a professional, timely and respectful manner.
- Induction & Training
- 4.16 The Council must provide training to Council officials who engage or are authorised to engage with the media.
- 4.17 Media engagement training will be provided to Councillors as part of their induction or refresher training or as part of their ongoing professional development program.
- Councillors' questions about media engagement
- 4.18 Councillors are advised to direct any questions about their obligations under this policy to the Chief Executive Officer or Manager Communications & Engagement.



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5 STANDARDS OF CONDUCT WHEN ENGAGING WITH THE MEDIA

- 5.1 Council officials must comply with the Council's Code of Conduct when engaging with the media in an official capacity or in connection with their role as a Council official.
- 5.2 Council officials must not share information or make comments to the media through either direct or indirect mechanisms that:
 - a) are defamatory, offensive, humiliating, threatening, or intimidating to other Council officials or members of the public
 - b) contains profane language or is sexual in nature
 - c) constitutes harassment and/or bullying within the meaning of the *Model Code of Conduct for Local Councils in NSW*, or is unlawfully discriminatory
 - d) is contrary to their duties under the Work Health and Safety Act 2011 and their responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety
 - e) contains content about the Council, Council officials or members of the public that is misleading or deceptive
 - f) divulges confidential Council information
 - g) breaches the privacy of other Council officials or members of the public
 - h) contains allegations of suspected breaches of the Council's Code of Conduct or information about the consideration of a matter under the *Procedures for the Administration of the Model*

Code of Conduct for Local Councils in NSW

- i) could be perceived to be an official comment on behalf of the Council where they have not been authorised to make such comment
- j) commits the Council to any action
- k) violates an order made by a court
- l) breaches copyright
- m) advertises, endorses, or solicits commercial products or business.

6 USE OF MEDIA DURING EMERGENCIES

- 6.1 During emergencies, such as natural disasters or public health incidents, The Manager Communications & Engagement will be responsible for coordinating media releases and statements on behalf of the Council.
- 6.2 Councillors, Council staff and other Council officials must not provide comment or information to the media that is inconsistent with official advice issued by the Council and any other agency coordinating the emergency response.

7 MEDIA ENGAGEMENT IN THE LEAD UP TO ELECTIONS

- 7.1 This policy does not prevent the Mayor or Councillors who are candidates at a Council or any other election from providing comment to the media in their capacity as candidates at the election.



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- 7.2 Any media comment provided by the Mayor or Councillors who are candidates at a Council or another election must not be provided in an advertisement, newspaper column, or a radio or television broadcast paid for by the Council or produced by the Council or with Council resources.

8 RECORDS MANAGEMENT REQUIREMENTS

- 8.1 Media content created and received by Council officials (including Councillors) acting in their official capacity is a Council record and may be subject to information access applications made under the Government Information (Public Access) Act 2009. These records must also be managed in accordance with the requirements of the State Records Act 1998 and the Council's approved records management policies and practices.

9 DEFINITIONS

In this Media Policy, the following terms have the following meanings:

Council official	Councillors, members of staff and delegates of the council (including members of committees that are delegates of the council)
Media Coordinator	means a person appointed under clause 1.3 of this policy
Media	means print, broadcast and online media used for communicating information to the public, including, but not limited to, newspapers, magazines, internet publishers, radio, and television broadcasters
Personal information	means information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
Social media	means online platforms and applications, such as but not limited to social networking sites, wikis, blogs, microblogs, video and audio sharing sites, and message boards, that allow people to easily publish, share and discuss content. Examples of social media platforms include, but are not limited to Facebook, Twitter, Snapchat, LinkedIn, Yammer, YouTube, Instagram, Flickr and Wikipedia

ST19 – Strategic Policy – Media		
Review Due: November 2024	Version 1_23	Last Revision: New Policy
Approved By:	Minute Number:	Approval Date:



Strategic Policy ST20

Community Engagement

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1 PURPOSE

- 1.1 This Community Engagement Policy guides a consistent approach to engaging with the community.
- 1.2 The policy provides for Council's compliance with relevant legislation and the Integrated Planning & Reporting guidelines for Local Government in NSW requiring Council's to have a strategy that sets out how they will engage with the community.
- 1.3 This Policy is based on the internationally recognised levels of community participation –Inform, Consult, Involve, Collaborate and Empower (see below).
- 1.4 The Policy operates in conjunction with the Operational Community Engagement procedures.

2 APPLICABILITY

This policy applies to all areas of Orange City Council including Staff, Councillors, Contractors, Volunteers and Council Delegates.

3 OBJECTIVES

- 3.1 Engagement assists Council to:
 - a) better meet the needs of the community
 - b) tap into local knowledge and expertise
 - c) have a more informed community
 - d) encourage and enable the community to participate in decision making
 - e) ensure Council works on behalf of the people in the community
 - f) meet the requirements of legislation, policies and procedures
 - g) to provide corporate direction and ensure the community, Councillors and staff are informed of decisions, policies, issues, events and programs of Council
 - h) to ensure that this information is provided consistently and accurately.

4 ENGAGEMENT

When to engage

- 4.1 Council must consult when:
 - a) It is required by legislation
 - b) It wants to identify community issues, needs and priorities
- 4.2 Council should consult when:
 - a) Any proposed changes will impact on current users or customers of a Council service or facility
 - b) Any proposed changes which will affect the rights or entitlements of community members, including minority groups
 - c) There is potential impact on surrounding neighbours
 - d) It wants to monitor customer satisfaction with Council's services facilities
 - e) There is a level of controversy or sensitivity about a particular issue
 - f) There is conflict among community members about an issue.

When will community engagement occur

- 4.3 Council will engage the community in the following areas:
 - a) **Strategic Planning** – This refers to the development of strategic plans and projects that inform the Delivery/Operational Plan.
 - b) **Policy Development and Implementation** - This includes any policy development that has a direct impact on the community.
 - c) **Site Specific** - This refers to any changes to a site that may have impact on the community.
 - d) **Service Planning** - This includes the development and/or improvement/changes to a service.
 - e) **Areas of Improvement** - This refers to any improvement required to increase the quality of lifestyle for the community.



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- f) **Legislative Requirements (including planning issues)** - This refers to all prescribed plans and
- g) projects under the Local Government Act (1993) and other relevant Acts.
- c) Media Releases
- d) E-News
- e) Media Briefings
- f) Report It
- g) Your Say
- h) Memos, Briefings and Meeting Notifications to Councillors
- i) Advertising
- j) Letters or Mailbox drops to residents or stakeholders
- k) Community Committees
- l) Community Interaction at Council Meetings
- m) Community Meetings and Medication outside the regular meeting structure.
- What Level of engagement will occur**
- 4.4 Council will call for different levels of engagement depending on the issue and the immediate or long term impact on the community.
- 4.5 Council's Operational Community Engagement Procedures are followed by staff to develop, deliver, monitor and evaluate community engagement campaigns for their projects and programs using the following tools:
- a) Orange City Council Website
- b) Social Media

IAP2'S PUBLIC PARTICIPATION SPECTRUM



The IAP2 Federation has developed the Spectrum to help groups define the public's role in any public participation process. The IAP2 Spectrum is quickly becoming an international standard.

INCREASING IMPACT ON THE DECISION					
	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
PUBLIC PARTICIPATION GOAL	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision making in the hands of the public.
PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.

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ST20 – Strategic Policy – Community Engagement

Review Due: November 2024	Version 1_23	Last Revision: 20 April 2021
Approved By:	Minute Number:	Approval Date:

5.2 STRATEGIC POLICY ADOPTION - POST EXHIBITION

RECORD NUMBER: 2023/626

AUTHOR: Janessa Constantine, Manager Corporate Governance

EXECUTIVE SUMMARY

This report presents Strategic Policy – ST26 – Council Related Development Applications – Managing Conflict of Interests for the adoption of Council. The policy has been on public exhibition for a period of 28 days and no submissions were received during the exhibition period.

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy “17.1. Provide representative, responsible and accountable community governance”.

FINANCIAL IMPLICATIONS

Nil

POLICY AND GOVERNANCE IMPLICATIONS

As a new strategic policy this will require public exhibition for 28 days prior to adoption. No Council-Related Development Applications will be able to be considered from 3 April 2023 until the policy has been adopted by the Council.

Council’s Strategic Policies are reviewed and amended to ensure ongoing compliance with legislation and industry best practice.

Policies of Council are of two types – Strategic Policies are determined by Council, and relate to Councillors, required by Legislation or Regulation and/or have an impact on the Orange community. The Local Government Act 1993 requires the public exhibition of Policies (if new or include significant changes) and adoption by Council. Operational Policies are determined and implemented by the Chief Executive Officer and relate to staff and the operations of the organisation.

RECOMMENDATION

That Council resolves to adopt Strategic Policy – ST26 – Council Related Development Applications – Managing Conflict of Interests.

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**Policy for Adoption**

The following policy has been reviewed and outlined below are changes/updates made. It is recommended this policy be adopted.

ST26 – Council-Related Development Applications – Managing Conflict of Interests

The Council-Related Development Applications – Managing Conflict of Interests policy is based on the Model policy issued by the Department of Planning and Environment. The policy is mandatory and Councils can adapt the policy for their own circumstances.

The policy has been prepared with the DPE Guidelines to assist with the requirements of implementing this policy. The Regulation can be viewed at the following link [Environmental Planning and Assessment Amendment \(Conflict of Interest\) Regulation 2023 \(nsw.gov.au\)](https://www.nsw.gov.au/environmental-planning-and-assessment/amendment-conflict-interest-regulation-2023)

Reference	Update
General	• New Policy

ATTACHMENTS

- 1 FOR ADOPTION - Strategic Policy - ST26 - Council-Related Development Applications - Managing Conflict of Interests, D23/21873 [↓](#)



Strategic Policy ST26

Council-Related Development
Applications – Managing Conflict of
Interests

FOR ADOPTION

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1 OVERVIEW

Purpose

- 1.1 This policy aims to manage potential conflict of interests and increase transparency at all stages of the development process for Council-related development.

Applicability

- 1.2 This policy applies to all Council-related Development.

2 PROCESS FOR IDENTIFYING AND MANAGING POTENTIAL CONFLICT OF INTERESTS

Management Controls and Strategies

- 2.1 Management controls for the assessment of an application for council-related development:

- a) Development Applications will be assessed by Council's Development Assessment Team or as otherwise directed by Council's CEO following an assessment of whether or not there is a potential conflict of interest. The assessment could for example include consideration of the type of development (non-controversial, small scale development, development of a certain value with or without commercial interest, controversial development) or the Capital investment value (Refer to Section 3 of this policy relating to risk assessment). In circumstances where it is determined by the CEO that a potential conflict of interest exists the CEO may consider alternate options to the assessment of the development application, such as referral to either:
 - (1) another council;
 - (2) independent planning consultant.
- b) The applicant/proponent shall only engage with the assessing officer/s of the development application, the same as any other member of the general public.

- c) Council related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process (Environmental Planning and Assessment Act 1979, schedule 1, clause 9B)

- 2.2 The following management controls that shall apply to the determination of a development application for council-related development.

- a) Determination of an application could be undertaken by staff under delegation – this is appropriate only if the CEO is of the view that the proposal is considered to be a low risk level or non- controversial.
- b) Determination of significant Council related development where the CEO is of the view that Council will be financial beneficiary will be undertaken by PDC/Council.
- c) Determination of Council related development with a CIV greater than \$2,500,000 but less than \$5,000,000 will be undertaken by PDC/Council.
- d) Determination of Council related development with a CIV of more than \$5,000,000 will be undertaken by the Western Region Planning Panel, a statutory body independent of Council.

- 2.3 Management controls relating to the regulation and enforcement of approved Council related development:

- a) The regulation and enforcement of approved Council related development shall be in accordance with the relevant legislation.
- b) The regulation and enforcement of Council related development may include:
 - Engagement of a private certifier
 - publication of certificates issued under Part 6 of the Act on the NSW Planning Portal
 - Peer review by a neighbouring council and/or entering into a shared services arrangement with a neighbouring council.
 - Reporting of key milestones to Council/PDC.



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- 2.4 The management strategy for the following kinds of development is that no management controls need to be applied:
- a) Exempt developments
 - b) commercial fit outs and minor changes to the buildings
 - c) internal alterations or additions to buildings that are not a heritage item
 - d) advertising signage
 - e) minor building structures projecting from a building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services)
 - f) development where the council might receive a small fee for the use of their land.
 - g) Subdivisions comprising boundary adjustments, provision of public facilities and/or assets, road widenings etc and community land used for a public purpose
 - h) temporary structures and/or the use of land for community events.
- d) determine what (if any) management controls should be implemented to address the identified conflict of interest (in each phase of the development process if necessary) having regard to any controls and strategies outlined in the policy. *Note: The Chief Executive Officer could determine that no management controls are necessary in the circumstances.*
- e) document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.

4 MANAGEMENT STATEMENT

In accordance with Clause 66A of the Environmental Planning and Assessment Regulation the applicant for a Council related development application is required to either provide a "statement" specifying how the Council will manage conflicts of interest that may arise in connection with the application because the Council is the consent authority or alternatively provide a "statement" that the Council does not have a management strategy for the application. The latter option would typically apply to minor types of development.

The matters that need to be addressed in the "Statement" are not limited to the following list, and will vary given the nature of the development:

- 3 IDENTIFYING WHETHER A POTENTIAL CONFLICT OF INTEREST EXISTS, ASSESSMENT OF THE RISK LEVEL AND DETERMINATION OF APPROPRIATE MANAGEMENT CONTROLS
- 3.1 Development applications lodged with the council that are council-related development are to be referred to the Chief Executive Officer for a conflict-of-interest risk assessment.
- 3.2 The Chief Executive Officer is to:
- a) assess whether the application is one in which a potential conflict of interest exists.
 - b) identify the phase(s) of the development process at which the identified conflict of interest arises.
 - c) assess the level of risk involved at each phase of the development process.
- Preliminary discussions with Council's assessing officer/s
 - The interaction between the applicant/proponent and Council's assessing officer/s whilst the development is under assessment.
 - The interaction between the applicant/proponent and Council's assessing officer/s following the determination of the application.



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Example - Council Conflict of Interests Management Statement

Name/Address

DA XXX/20XX

Orange City Council is the applicant.
(insert the reason for the conflict)

The Council is managing potential conflict of interests in this matter as follows:

- (insert management strategy(s))

Anyone with concerns about Council fulfilling its obligations should report their concerns to the Council.

5 DEFINITIONS

Application	an application for consent under Part 4 of the Act to carry out development and includes an application for a complying development certificate and an application to modify a development consent
Council	Orange City Council
Council-related development	development for which the council is the applicant developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority
Development process	application, assessment, determination, and enforcement
The Act	the Environmental Planning and Assessment Act 1979

ST26 – Strategic Policy – Council-Related Development Applications – Managing Conflict of Interests

Review Due: November 2024

Version 1_23

Last Revision: New Policy

Approved By:

Minute Number:

Approval Date:

6 CLOSED MEETING - SEE CLOSED AGENDA

The Chief Executive Officer will advise the Council if any written submissions have been received relating to any item advertised for consideration by a closed meeting of Orange City Council.

The Mayor will extend an invitation to any member of the public present at the meeting to make a representation to Council as to whether the meeting should be closed for a particular item. In accordance with the Local Government Act 1993, and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

RECOMMENDATION

That Council adjourn into a Closed Meeting and members of the press and public be excluded from the Closed Meeting, and access to the correspondence and reports relating to the items considered during the course of the Closed Meeting be withheld unless declassified by separate resolution. This action is taken in accordance with Section 10A(2) of the Local Government Act, 1993 as the items listed come within the following provisions:

6.1 Tender - Maintenance of Public Open Space

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

6.2 Expression of Interest - Ophir Car Park

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

6.3 Submission Redactions 6 June 2023

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (e) information that would, if disclosed, prejudice the maintenance of law.

6.1 TENDER - MAINTENANCE OF PUBLIC OPEN SPACE

RECORD NUMBER: 2023/775

AUTHOR: Nigel Hobden, Manager City Presentation

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

6.2 EXPRESSION OF INTEREST - OPHIR CAR PARK

RECORD NUMBER: 2023/836

AUTHOR: Rachelle Robb, Director Corporate & Commercial Services

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

6.3 SUBMISSION REDACTIONS 6 JUNE 2023

RECORD NUMBER: 2023/832

AUTHOR: Janessa Constantine, Manager Corporate Governance

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to (e) information that would, if disclosed, prejudice the maintenance of law.

7 RESOLUTIONS FROM CLOSED MEETING