

JRPP No:	2010WES006
DA No:	DA 221/2010(1)
PROPOSED DEVELOPMENT:	Retail Development (supermarket and specialty shops), Lot 70 DP 851029 - 9 Telopea Way, Orange
APPLICANT:	TPG NSW Pty Ltd
REPORT BY:	Senior Planner (Strategic), Orange City Council

Assessment Report and Recommendation

Application Lodged	14 July 2010
Development Application No	DA 221/2010(1)
Plan No/s	No0-017 DA00 - DA06, DA10, DA11 (10 sheets)
Applicant	TPG NSW Pty Ltd (Attention Marian Higgins) PO Box 1612 NORTH SYDNEY NSW 2059
Owner/s	Fabcot Pty Limited 1 Woolworths Way BELLA VISTA NSW 2153
Land Description	Lot 70 DP 851029 - 9 Telopea Way, Orange
Proposed Land Use	Retail Development (supermarket and specialty shops)
Value of Proposed Development	\$12,896,115
Provisions of LEP 2000 (amended)	Zone 2(a) Urban Residential
Details of Advertisement of Project	Advertised in the Central Western Daily on Saturday, 31 July 2010. Exhibition closed on Monday, 16 August 2010
Recommendation	Approval

THE APPLICATION

Development Consent is sought for the construction of a proposed retail development at 9 Telopea Way, Orange, described as Lot 70 DP 851029. The capital investment value of the proposal is over \$10m and in accordance with Section 13B(1)(a) of State Environmental Planning Policy (Major Development) 2005 is deemed to be regional development. Accordingly, the Joint Regional Planning Panel for the Western Region is the consent authority responsible for determining the application.

THE PROPOSAL

The proposal, as sought, involves the following:

- demolition of an existing dwelling and outbuildings
- clearing of established mature trees
- bulk earthworks to establish site levels
- road widening of Telopea Way
- construction of an at-grade parking area for 287 cars
- construction of a retail centre comprising a 3,200m² full line supermarket and 1,500m² of specialty shops
- associated landscaping and signage (both on building and one pylon sign).

MATTERS FOR CONSIDERATION

Pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 the application has been assessed against the provisions of:

- Orange Local Environmental Plan 2000 (as amended)
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 64
- Orange Development Control Plan 2004 and
- Environmental Planning and Assessment Regulation 2000

Also considered were the likely impacts of the development, the suitability of the site for the development, matters raised in submissions and the public interest. Each of these matters are detailed below.

PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT s79C(1)(a)(i)

Orange Local Environmental Plan 2000 (amended)

The subject land is zoned 2(a) Urban Residential under Orange Local Environmental Plan 2000 (amended) ("the LEP").

Orange Local Environmental Plan 2000 (amended) (cont)

Amendment 8 to Orange Local Environmental Plan 2000 was gazetted 21 May 2010. This amendment provides an additional permitted use over the southern part of Lot 70 DP 851029, known as 9 Telopea Way, Orange. This allows consideration of a development application for a shopping centre comprising a 3,200m² supermarket and 1,500m² of specialty shops. The current application relates to that part of Lot 70 DP 851029 affected by the amendment and is consistent with the floor space limits established by the amendment.

Clause 24 - The Zones

The LEP provides that prior to determining an application for consent under this plan Council shall consider how the development meets:

- (a) *the general aims of this plan, and*
- (b) *the specific objectives of the zone in which it is proposed to be carried out, and*
- (c) *any other relevant objectives and requirements of this plan.*

Consistency with the aims of the plan have been addressed above. The specific objectives of the zone are addressed below.

Clause 2 - Aims of Plan

The proposal creates employment and convenience shopping opportunities in North Orange without ecological detriment and is therefore consistent with aim (b) of the LEP, being to *provide for a range of development opportunities which contribute to the social, economic and environmental resources of the City in a manner that allows present and future generations to meet their needs by implementing the principles for ecologically sustainable development.*

Aim (h) of the LEP is to *improve accessibility within and around the urban area of Orange by providing for traffic relief routes.* In this regard the proposal represents a significant attractor of traffic and pedestrians in the area and is located in proximity to the Northern Distributor Road (NDR). While provision of a relief route is not warranted in this case, the aim serves to underscore the need to maintain the safety and efficient operation of the NDR. In this regard the existing intersection of Telopea Way with the NDR is considered to be inadequate for the development in terms of pedestrian safety and vehicular traffic management.

Clause 8 - General Considerations for Development

The matters that are of relevance to this proposal are:

- (a) the potential of that development to impact on:
 - (i) water quality of waterbodies, and
- (b) the cumulative impact on the environment of:
 - (i) the development, and
 - (ii) other development in the vicinity of the proposed development, and

Clause 8 - General Considerations for Development

- (c) the impact on the scenic, landscape or urban character of the area, and
- (e) the impact of the development on waste generation, and
- (f) any measures necessary to mitigate any of these impacts.

These matters have been addressed below under “The Likely Impacts of the Development”.

Clause 10 - Additional Uses

The land is zoned 2(a) Urban Residential under the LEP, however the site is subject to an Additional Use listing in Schedule 1 as follows:

Ref	Address	Property Description	Development
20	9 Telopea Way, Orange	Part Lot 70 DP 851029, as shown edged heavy black on the map marked “Orange Local Environmental Plan 2000 (Amendment No 8)”	<p>Development for the purposes of a supermarket and specialty shops, subject to the following conditions:</p> <ul style="list-style-type: none">(a) the gross floor area of the development does not exceed 4,700m²,(b) the development includes only one supermarket,(c) the gross floor area of the supermarket does not exceed 3,200m²,(d) the combined gross floor area of the specialty shops does not exceed 1,500m². <p>In this item:</p> <p>supermarket means a self service shop selling food, groceries and other household goods such as alcohol, household cleaning products, medicine and clothes, and may include a café, delicatessen, bakery and butchery.</p> <p>specialty shop means a shop with a maximum floor area of 400m².</p>

The proposal is consistent with the description in the Schedule and is contained within the area identified on the map marked “Orange Local Environmental Plan 2000 (Amendment No 8)”. Accordingly, the application is permissible with consent on the site.

Clause 13 - Sewage Disposal

Clause 13 of the LEP requires the consent authority to consider the ability of the development to be serviced by public sewerage facilities. The proposal is within the serviced area of Orange and is consistent with this consideration.

Clause 15 - Land Shaping

Under the LEP Land Shaping is defined as:

all works or activities involved in the placement of fill on land, or an excavation of land, for the purpose of altering the shape, natural form or drainage of land but which does not result in a dam.

The proposal involves some alteration of ground levels to provide for the development and the associated at grade car park. While the extent of land shaping is relatively minor it will alter stormwater drainage of the site and result in an increased discharge onto the neighbouring private property at Lot 21 DP 632673.

The proposal incorporates onsite detention via basins, utilisation of the car park as a detention basin and rainwater tanks. Overland flow is then released in a controlled manner into an open grass lined drain on the adjoining property. The application has included the consent of the owner adjoining site. To ensure the continuation of this arrangement for the life of the development it is considered appropriate to require the creation of an easement on the adjoining title.

Clause 38 General Controls for Zone 2(a) (Urban Residential Zone)

The objective of the zone is *to provide for a fully serviced urban residential environment with a range of housing forms and complementary community and business uses taking into account the distinct character of existing and proposed localities within the urban area.*

In this regard the proposal establishes a modest shopping precinct to serve the growing residential area of North Orange. Land adjoining the site has not been developed and therefore it has not been possible for the design to respond to any distinct character. Notwithstanding this, the design provides a reasonable standard of appearance to both the Northern Distributor Road (NDR) and Telopea Way such that future residential development in the vicinity will not be overwhelmed by either the bulk, scale or aesthetics of the proposal.

Shopping centres and supermarkets would ordinarily be prohibited in this zone under subclause (2). However, as described under clause 10 the site is subject to a listing in schedule 1 that enables consideration of this proposal as an additional permitted use.

Clause 41 - Urban Residential Zone - General Considerations

Clause 41 states:

Consent may be granted for development on land within Zone 2 (a) only if, in the opinion of the consent authority:

- (a) the development would be compatible with the existing and likely future character and amenity of the residential locality in terms of:*
 - (i) its scale, bulk, design, appearance, height, siting and landscaping, and*
 - (ii) traffic generation and car parking, and*
 - (iii) noise, dust, light and odour generation, and*
 - (iv) privacy and overshadowing, and*
 - (v) hours of operation, and*
- (b) adequate arrangements have been made for the supply of water, and the disposal of sewage and stormwater, and*
- (c) the development incorporates measures for the conservation of energy, and waste management.*

With respect to the matters raised in subclause (a) the scale, bulk, design, appearance, height, siting, landscaping, dust generation, light generation, odour generation, privacy and overshadowing of the proposal are all considered to be appropriate and acceptable due to a combination of appropriate setbacks, being sited next to undeveloped land and the design resisting the temptation to be unduly bold such that future development of adjoining lands is unlikely to be constrained by this proposal.

Additionally, car parking meets the DCP requirements for a proposal of this type and scale. However, traffic generation, noise generation and the proposed hours of operation are of some concern. Telopea Way was originally created as a right-of-way to serve the Waratah sports ground north of the subject site. During construction of the NDR the opportunity was taken to formalise this connection as a public road. At that time it was anticipated that 9 Telopea Way would be developed to accommodate standard residential allotments for detached housing.

With the amendment to the LEP to permit a shopping centre on this site it became apparent that Telopea Way would need to be widened to accommodate the increased traffic volumes and service vehicles generated by the proposal. The proponent acknowledged this situation and ultimately lodged a design that includes widening of Telopea Way onto the subject land. This assessment has also indicated that the existing intersection of Telopea Way and the NDR is unable to safely accommodate the increased traffic flows generated by this development.

Council staff, the proponent and the Roads and Traffic Authority (RTA) have collaboratively sought to identify the most appropriate access treatment to ensure the ongoing efficient operation of the local road network, as well as ensuring pedestrian safety given the proposal will draw significant trade from the established residential areas to the south of the NDR. This matter is addressed further under "The Likely Impacts of the Development".

Clause 41 (cont)

Noise generation from fixed plant and equipment such as compressors can be addressed through noise attenuation conditions. Noise generation from delivery vehicles, particularly refrigerated trucks arriving outside hours of operation are of concern. Consideration may be given to an operational condition requiring such vehicles to be limited to parking in the main (supermarket) loading bay area only. This would have the effect of using the built form as a noise barrier for land to the south and east. In addition a sound barrier fence, or mound and fence, should be required to the north and western boundaries of the site to protect future development of adjoining residential land.

The hours of operation sought by the proponent are from 7am to midnight daily and for deliveries to the development from 6am to midnight daily. These hours are considered reasonable given that the adjoining lands are undeveloped. However, as the adjoining residential lands are developed residents may be impacted upon in terms of noise and light glare. In this respect the northern edge of the development should be subject to conditions requiring mitigation measures such as an appropriate noise barrier, and car park lighting should be hooded to direct light only onto the parking area.

Servicing of the site in terms of water and sewer are satisfactory and stormwater arrangements have been addressed above. Energy conservation and waste management are addressed below under the DCP provisions but are generally considered satisfactory.

Clause 43 - Shops and Business Premises in Residential Zones

Clause 43 enables a limited range of shops and business premises in residential zones to serve the convenience needs of the neighbourhood and prohibits supermarkets in residential zones. Notwithstanding this, the site is subject to clause 10 and a listing in Schedule 1 enabling consideration of the proposal.

Clause 64 - Distributor Roads

The clause prohibits new vehicular access points other than public roads onto the NDR. The proposal does not seek to establish a new connection and is therefore consistent with this clause. Due to the increased traffic flows and pedestrian movements generated by this proposal the existing intersection of Telopea Way and the NDR is seen to be inadequate. This matter is addressed in detail below in "The Likely Impacts of the Development".

Clause 65 - Development Along Transport Routes

Subclause (1) establishes heads of consideration for applications on land adjoining an arterial road. The LEP defines arterial roads to mean main roads or State highways under the Roads Act 1993, as well as roads shown within zone 5(b) or shown as a restricted access road on the map. The NDR is therefore an arterial road for the purposes of this clause. Accordingly the consent authority must consider:

- (a) *the likely impact of the development, including its visual impact, on the safety, efficiency and function of the road, and*

Clause 65 - Development Along Transport Routes (cont)

- (b) whether access can be provided to the site of the development by a road other than an arterial road, and*
- (c) the adequacy of the location and design of any access to the road, and*
- (d) whether any measures are required to alleviate noise impacts from the adjoining road.*

In this regard the visual impact of the development is deemed acceptable due to a reasonable aesthetic presentation, 10m setback and appropriate landscaping. However, the safety, efficiency and function of the NDR, particularly in relation to the access point of the Telopea Way and NDR intersection, are of serious concern. This matter is addressed in more detail below under "The Likely Impacts of the Development". It is also considered appropriate to impose conditions relating to noise mitigation measures on any consent.

The remainder of this clause relates only to Cadia Road, and is therefore not applicable to this proposal.

Clause 82 - Objectives for Advertisements

The clause establishes the objective for Part 13 of the LEP and seeks to ensure that advertisements visible from public places are consistent with the character of the locality and do not detract from the amenity of the City.

In this regard the site is bounded by undeveloped land and has yet to establish a character. However, the site currently contains several pylon signs that attempt to inform motorists of the location of the Waratah sporting facilities. These pylon signs are illuminated at night and positioned in approximately the same position as the proposed pylon sign. Accordingly, the new pylon sign is considered to be consistent with the established context of the site. Furthermore, by rationalising the current clutter of pylon signs into a single coordinated pylon sign the proposal is seen to improve the current situation.

Other signage sought by the proposal consists of flush wall mounted signs that help to brand the building and aid in motorist navigation. The dimension and placement of these signs are considered acceptable. The proposal is yet to determine the mix of tenancies occupying the specialty shops; however the design establishes set positions for sub-tenancy signage that promotes a coordinated and consistent external appearance. Specific tenancy signage will therefore be addressed as part of separate applications, but the current proposal provides confidence that signage of these tenancies can achieve a high standard of appearance.

Clause 84 - Advertisements Requiring Consent

Clause 84 makes advertisements and the structures supporting advertisements permissible with consent.

Clause 85 - Advertisements in High Profile Areas

Clause 85 restricts advertisements in the 2(a) zone that are visible from arterial roads to business identification or public information signs. The signage contained in the proposal consists of business names and logos only, and is therefore consistent with this clause.

REGIONAL ENVIRONMENTAL PLANS

There are no Regional Environmental Plans that apply to the subject land.

STATE ENVIRONMENTAL PLANNING POLICIES

Part 3 of State Environmental Planning Policy (Major Development) 2005 applies to the development by virtue of the capital investment value exceeding \$10 million (Section 13B(1)(a)). Accordingly, Section 13F of that policy establishes that the Joint Regional Planning Panel has the role of determining the application and conveys on the panel the functions of a consent authority under Divisions 2 and 2A of Part 4 of the Environmental Planning and Assessment Act 1979. This report assesses the application in accordance with section 79C of the Act and the JRPP operational guidelines.

State Environmental Planning Policy (Infrastructure) 2007 applies to the subject development in respect of being a traffic generating development. In accordance with clause 104 and Schedule 3 of the SEPP the application was referred to the RTA for comment.

State Environmental Planning Policy 64 - Advertising and Signage applies to the subject development in respect of exterior building signage and a 7m high internally illuminated double sided pylon sign.

The pylon sign is shown as a triangular structure. It is presumed this is due to the curve of the NDR at this point and allows each face to align with oncoming motorists. Each face comprises three panels totalling 19.95m² in each direction or 39.9m² overall.

Schedule 1 of the SEPP outlines 8 assessment criteria and poses a series of questions that need to be considered.

1 Character of the Area

Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?

The site has been identified for a small scale shopping precinct serving a growing area of urban expansion. Adjoining lands are not yet developed. The scale of signage proposed, its siting and design are consistent with the scale of the shopping centre envisaged by the LEP.

Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

Not applicable. There is no particular theme established or identified for the area.

2 Special Areas

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

The site is not part of, adjacent to, or in the vicinity of any environmentally sensitive areas, heritage areas, natural or other conservation areas or waterways. The site adjoins residential areas and open space areas and currently has a rural appearance. However, the proposed signage is compatible with the scale of the shopping centre buildings and is benefitted by appropriate setbacks and landscaping, the combined effect of which will enable the signage to complement the development without unduly dominating the public realm.

3 Views and Vistas

Does the proposal obscure or compromise important views?

No.

Does the proposal dominate the skyline and reduce the quality of vistas?

The built form of the proposal will be prominent in the streetscape of the Northern Distributor Road given its location on the outer side of a sweeping bend. However, the development is single storey and the signage is limited to natural locations on the façade and a pylon sign. The pylon sign is of an equivalent height as the building and will therefore read as a natural complement to the development. Existing trees in the locality are likely to be of a similar or greater height such that overall the skyline remains characterised by open views punctuated by vegetation and buildings.

Does the proposal respect the viewing rights of other advertisers?

Not applicable. Existing pylon signs on the site relate to developments north of the site and will be rationalised by the development. There are no other advertisers in the vicinity.

4 Streetscape, Setting or Landscape

Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?

Yes. The proposal is the first element to be constructed in this part of the NDR. However, the overall scale of the built form and associated signage is mitigated by appropriate setbacks that enable the development to exist comfortably in the landscape without attempting to unduly dominate the setting. This will enable future development in the area to respond appropriately without undue design constraints.

4 Streetscape, Setting or Landscape (cont)

Does the proposal contribute to the visual interest of the streetscape, setting or landscape?

Yes. The design of the shopping centre has sought to provide interest by way of fenestration, colour selection, landscaping, setbacks and presenting an open face towards the car park area and Telopea Way.

Does the proposal reduce clutter by rationalising and simplifying existing advertising?

Yes. The existing pylon signs within the site (that are unrelated to the site) will be removed and provision is made on the proposed pylon sign for a message element that will direct people to the Waratah sports facilities to the north.

Does the proposal screen unsightliness?

No.

Does the proposal protrude above buildings, structures or tree canopies in the area or locality?

No.

Does the proposal require ongoing vegetation management?

No.

5 Site and Building

Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?

Yes, refer above.

Does the proposal respect important features of the site or building, or both?

Yes. The proposal respects the importance of the Northern Distributor Road by way of setbacks, landscaping and moderated scale.

Does the proposal show innovation and imagination in its relationship to the site or building, or both?

No. However this is not considered to be necessary in this circumstance due to the moderate scale of the proposal.

6 Associated Devices and Logos with Advertisements and Advertising Structures

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

Internal illumination of the signs is proposed. These elements will by definition be integrated into the structure on which the signs are to be displayed.

7 Illumination

Would illumination result in unacceptable glare?

It is recommended that the illuminated signage be subject to a condition requiring the illumination to be doused outside of operating hours.

Would illumination affect safety for pedestrians, vehicles or aircraft?

Beneficially. Illumination that terminates at close of business hours will provide a passive navigation cue to motorists and pedestrians, limiting the number of turns through the intersection with the NDR - thereby improving late night traffic flows and allowing pedestrians to avoid unnecessarily crossing a busy road.

Would illumination detract from the amenity of any residence or other form of accommodation?

No. Currently there is no accommodation within proximity of the development. A condition can be considered to ensure that lighting is hooded and screened to protect adjoining residentially zoned land.

Can the intensity of the illumination be adjusted, if necessary?

Unknown. Aside from the suggestion of requiring illumination to terminate at the close of business hours.

Is the illumination subject to a curfew?

Yes. Illumination may be limited to the operating hours of the proposal, refer above.

8 Safety

Would the proposal reduce the safety for any public road?

No. The signage is consistent with the principle of 'glance recognition' through the use of large elements and appropriate logos. This minimises the amount of time a motorist's attention is drawn off the road. The signage also provides an important navigation cue.

8 Safety (cont)

Would the proposal reduce the safety for pedestrians or bicyclists?

No. The signage is contained within the site's boundaries and does not obscure the motorist's visibility of footways.

Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

No.

PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT THAT HAS BEEN PLACED ON EXHIBITION s79C(1)(a)(ii)

There are no draft environmental planning instruments that apply to the subject land or proposed development.

PROVISIONS OF ANY DEVELOPMENT CONTROL PLAN s79C(1)(a)(iii)

Development Control Plan 2004

Orange Development Control Plan 2004 ("the DCP") applies to the subject land. The following sections of the DCP have been identified as being relevant to the application:

- Part 2.1 Water Quality
- Part 3.4 Waste Generation
- Part 4.3 Land Shaping
- Part 7.9 Shops and Businesses in the Urban Residential Zone
- Part 8.7 Design Considerations for Commercial Development in the Vicinity of Distributor Roads
- Part 10.2 Distributor Roads
- Part 10.3 Development Along Major Transport Routes
- Part 14.3 Advertisements for High-Profile Areas
- Part 15.4 Parking Requirements
- Part 15.5 Parking Area Design and Layout,

Part 2.1 - Water Quality

The applicant's stormwater management report prepared by Geolyse demonstrates that onsite detention within the car parking area and detention basins in the landscaped area, as well as use of rainwater tanks, will result in post-development discharges near pre-development levels. Discharges will be via a grass lined open drain on the adjoining land.

Note: The Land and Property Management Authority (owners of the Waratah Sports Club land) has provided conditional owner's consent - in part requiring that no significant increase in peak flow discharge occur onto Crown land and that a suitable license or easement agreement be entered with the LPMA on approval of the development application.

The DCP planning outcomes for stormwater quality include avoiding downstream erosion or sedimentation, promoting onsite detention and protecting natural watercourses and enhancing stream bank stability. The approach detailed in the applicant's stormwater management report is consistent with the DCP planning outcomes. This is dependant on reaching agreement with the LPMA on a suitable easement for stormwater. The supplied owner's consent of the LPMA lands suggests that an easement will be achievable.

Part 3.4 - Waste Generation

The applicant's Waste Minimisation and Management Plan prepared by TPG details appropriate measures to minimise and manage wastes during demolition, construction and operational phases. The approach outlined is consistent with the DCP planning outcomes. In accordance with section 3.1 of the applicant's plan a condition should be imposed to require a more detailed Waste Management Plan (WMP) prior to the issue of a Construction Certificate. Additionally, since the application involves the demolition of a dwelling and outbuildings, a precautionary condition should be imposed in relation to the handling and disposal of any asbestos materials, if encountered.

Part 4.3 - Land Shaping

Land shaping has not been addressed in the application and a Soil Erosion Control Plan, as anticipated by the DCP, has not been supplied. However, while there will be some degree of cut and fill onsite, the extent of landform change is considered to be minor. It is therefore considered appropriate to require the preparation of a Soil Erosion Control Plan prior to the issue of any Construction Certificate.

Part 7.9 - Shops and Businesses in the Urban Residential Zone

The application relates to land in the Urban Residential Zone and, as such, the DCP anticipates that commercial developments would be of a small scale, complementing residential forms and the character of established areas.

However, the LEP was amended on 18 May 2010 to specifically allow a shopping centre on this site by way of an additional permitted use listing. In addition, the adjoining residential land has yet to be developed and therefore does not have an established character.

Part 7.9 (cont)

Notwithstanding this, the single storey nature of the development and the siting of built forms toward the south-western corner of the land (away from future residential development) suggests that the building will not unduly impose on surrounding residential land. Car park landscaping may also soften the development and provide some relief for future neighbours.

Accordingly, strict adherence to the DCP planning outcomes in part 7.9 in terms of building scale, site selection and floor space limits would be contrary to the LEP (as amended). The advertising signage limits of 1m² are also seen to be intended for the smaller scale development envisaged by Part 7.9 prior to the LEP amendment and therefore not applicable to this site given the scale anticipated by the LEP amendment. Signage is assessed under SEPP 64 and Part 14.3 of the DCP. Onsite parking is addressed in response to Part 15.4 and is satisfactory.

Part 8.7 - Design Considerations for Commercial Development in the Vicinity of Distributor Roads

The proposal responds to the range of design criteria outlined in Part 8.7. The 10m setback is observed and appropriate car parking and landscaping have been included as required. Side and rear setbacks exceed the 3m minimum required. The parking area has incorporated appropriate landscaping and manoeuvring. The nominated loading bays are segregated from the main car parking area. The surface of the car parking area can be conditioned to comply with the requirement for a sealed all weather surface. Vehicle access driveways are consistent with the location and width requirements and will be at right angles to the kerb as required. All vehicles will be able to ingress and egress the site in a forwards direction as required. Advertising is acceptable and will be addressed in more detail under Part 14.3.

The landscape plan demonstrates an appropriate range and composition of plants to give confidence that the building's appearance will be suitably softened. A more detailed plan illustrating sprinkler/drip systems may be required by condition prior to the issue of a Construction Certificate. Security fencing has not been detailed and may be resolved through appropriate conditions of consent.

Part 10.2 - Distributor Roads

Part 10.2 outlines the need to restrict direct access onto the NDR and preserve the corridor from inappropriate development that would hinder acquisition of the corridor. In this regard the corridor technically extends onto the subject site. However, during implementation Council determined to align the NDR clear of this property and this corridor will be removed from the site as part of the new standard LEP. The NDR has been constructed in this area and the final route did not encroach onto this land. Accordingly it is appropriate to allow development on this site as it will not be required for acquisition.

Part 10.3 - Development Along Major Transport Routes

Part 10.3 seeks to protect the main approaches to the City and the distributor routes from development that may adversely affect the visual and acoustic amenity of these corridors. Part 10.3 also seeks to manage access and potential noise impacts.

The design responds to these aesthetic concerns by incorporating appropriate landscaping, setbacks, façade embellishment and a mixture of colours and materials. The proposal does not directly access the NDR and the car park lighting and signage illumination can be readily conditioned to mitigate against any impacts.

Part 14.3 - Advertisements for High-Profile Areas

Part 14.3 limits signage along highways and arterial roads to business identification signs. This Part also states that such signs should “relate to the scale of operations” and otherwise complement the area.

The signage for the proposal involves an illuminated pylon sign and several illuminated flush wall signs. The content of these signs may be classed as business identification signs and are therefore consistent with this Part of the DCP. In addition the new pylon sign will result in the rationalisation of several existing illuminated pylon signs located on approximately the same part of the site. Accordingly, the application assists with de-cluttering the streetscape.

Part 15.4 - Parking Requirements

Part 15.4 establishes the parking requirements for a range of activities. Shopping centres between 0m² - 10,000m² are designated as requiring 6.1 spaces per 100m² of gross floor area. This proposal comprises a shopping centre of 4,700m² which equates to 286.7 parking spaces. The design incorporate a parking area of 287 parking spaces and is therefore consistent with the DCP requirement.

Part 15.4 also requires that delivery and service vehicles be provided for onsite and this has been accommodated in the design.

Part 15.5 - Parking Area Design and Layout

Part 15.5 details the dimensions and configurations of parking spaces. The proposal shows the parking area can be consistent with these requirements and this can be assured through an appropriate condition of consent.

Part 15.6 - Parking Area Construction

Part 15.6 outlines construction standards for car parking areas, including lighting, landscaping, bicycle facilities and loading bays. These requirements may be assured through appropriate conditions of consent.

PROVISIONS PRESCRIBED BY THE REGULATIONS s79C(1)(a)(iv)

Demolition of a Building (clause 92)

The proposal involves the demolition of an existing single storey dwelling and associated outbuildings. A condition may be imposed requiring the demolition to be carried out in accordance with *Australian Standard AS2601 - 1991: The Demolition of Structures*.

Fire Safety Considerations (clause 93)

The proposal does not involve a change of building use for an existing building. Fire safety requirements for the initial development may be assured through appropriate conditions of consent.

Buildings to be Upgraded (clause 94)

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

THE LIKELY IMPACTS OF THE DEVELOPMENT s79C(1)(b)

Pedestrian Safety

The single most significant issue arising from the proposal is the appropriate and safe management of pedestrians who would be drawn to the development. This matter is closely associated with traffic impacts addressed in the next section. The subject site is located adjacent to the Northern Distributor Road (NDR) with access via Farrell Road and turning onto Telopea Way. Pedestrians will be drawn to the site principally from two areas which may be described as a northern catchment (being the residential Waratah estate) and a southern catchment (being residential lands south of the NDR).

The northern catchment pedestrians would approach the site along Farrell Road and need to cross Telopea Way. The southern catchment pedestrians would approach the site from the Anson Street intersection and would need to cross the NDR. Depending on where the pedestrians chose to cross the NDR they may need to further cross Telopea Way and/or Farrell Road. It is considered that the road network is conducive to the safe arrival and dispersal of northern catchment pedestrians. However, the safety of southern catchment pedestrians is a significant concern.

The proponent initially suggested that nothing was required to address this issue other than a pedestrian refuge due to the anticipated volumes of traffic and pedestrians being below levels that RTA guidelines indicate require specific treatment. The subject site is located diagonally northwest of the Anson Street/NDR intersection such that pedestrians emerging from this area would be prone to attempt to cross the 70km/h NDR somewhere along a 200m stretch of the NDR. Accordingly, strict adherence to numeric guidelines must be tempered by acknowledgement that the site is not a conventional cross roads where pedestrians would approach the crossing directly and have little reason to deviate.

Pedestrian Safety (cont)

Instead there will be a 200m zone where pedestrians may attempt to navigate across through lanes, turning lanes and median separation strips. Additionally, traffic volumes along the NDR are likely to continue rising due in part to continued development of the Waratah estate as well as increased tendency for through traffic to use the NDR upon its completion.

Accordingly, it is considered that without an appropriate pedestrian management treatment the development would draw pedestrians into a hazardous environment. In response to this concern the proponent advised they would undertake installation of pedestrian traffic lights west of the Telopea Way intersection with footpaths and fencing intended to channel pedestrians to that point. The location of the pedestrian lights, as shown on drawing 02A_E01 prepared by Geolyse is considered to be inconsistent with natural path, or desire lines, of pedestrians between the site and Anson Street. It is acknowledged that the location may suit pedestrians leaving the site, but is highly unlikely to be used by pedestrians approaching the site.

RTA advice has also consistently opposed the suggested location of pedestrian lights and instead favours signalling the Anson Street intersection, involving the re-opening of the northern end of Anson Street and closure of the Farrell Road connection to the NDR. Again this appears to cater well for pedestrians travelling in one direction, toward the development, but may be of limited appeal for pedestrians returning to Anson Street.

A third alternative, preferred by this assessment, involves signalling the Farrell Road intersection (drawing 21-19456-C003A Rev: B prepared by GHD entitled Intersection Improvements Option 3b). This intersection is located between the origin and destination points (being marginally closer to the latter) such that it is reasonably proximate to the natural desire lines of pedestrians. Therefore, if combined with paths to channel pedestrians an appropriate treatment at that location is likely to be used. This location also has the benefit of limiting the number of road crossings to one.

Ultimately, it should be noted that pedestrians have free will and consequently there will always be some who choose to disregard the hazard and attempt to cross the NDR away from a managed location. It is therefore not possible to provide a response that caters for 100% of pedestrians. In considering this development, the consent authority may reasonably discharge its duty of care to the public by ensuring that the most appropriate pedestrian management response available is implemented.

Traffic

Interrelated with the pedestrian management issue described above is the need to ensure the safe and efficient management of traffic flows into and out of the site. The traffic management approach also needs to minimise the disruption to the operation of the NDR for through traffic. The RTA raised a number of concerns on the ability of the existing Farrell Road/NDR intersection to accommodate growth arising from the development.

The RTA advised that while the westbound approach to Farrell Road had a right turn lane capable of providing for vehicles queuing to turn into Farrell Road, it did not provide for appropriate deceleration of vehicles. This would potentially interfere with the management of through traffic. The RTA also advised that the intersection should be provided with an acceleration lane for vehicles leaving Farrell Road westbound along the NDR.

Traffic (cont)

Additionally, the configuration of the NDR/Farrell Road and the Telopea Way/Farrell Road intersections means that as shoppers leave the shopping centre there is likely to be an obstruction of vehicles travelling along Farrell Road which could potentially generate a queue back out onto the NDR.

The proponent's initial position that the intersection does not require alteration or, at most, a pedestrian refuge is not supported. The proponent's revised suggestion consisting of pedestrian lights west of the intersection, a left turn slip lane for eastbound NDR traffic, widening of the Farrell Road connection to allow two northbound lanes (one left turn slip lane into Telopea Way and one through lane along Farrell Road), and a 'no queuing' sign on Telopea Way affecting southbound traffic, is seen as a partial improvement but does not fully respond to the RTA and Council concerns.

The principle deficiencies of this revised suggestion are seen to be:

- The proximity of the NDR/Anson Street intersection means that any extension of the westbound right turn bay into Farrell Road would have to be at the expense of shortening the eastbound right turn bay into Anson Street.
- The suggestion does not provide for acceleration of westbound traffic coming out of Farrell Road as suggested by the RTA. Even were this to be provided motorists may on occasion need to immediately stop should someone be using the pedestrian lights.
- The through lane into Farrell Road remains susceptible to delays caused by traffic leaving the shopping centre and proceeding to the NDR, thus queuing may continue to be pushed back onto the NDR.

The last point above may be resolved by realignment of the Telopea Way/Farrell Road intersection to make the dominant flow along Farrell Road clearer. The proponent has agreed to this alteration.

Instead of the above, the RTA advised a preference for signalling the Anson Street intersection, reopening the northern end of Anson Street and closing the Farrell Road connection to the NDR, albeit with an eastbound slip lane into Farrell Road. Council considers that this would result in significant disruption to the NDR traffic flows as the lights would need to change relatively frequently to accommodate Anson Street traffic.

A further alternative described in the pedestrian management section is seen to be an appropriate way to resolve the traffic issues (drawing 21-19456-C003A Rev: B prepared by GHD entitled Intersection Improvements Option 3b). This would remove the need to provide a westbound acceleration lane and reduce the need for westbound deceleration space since all traffic would be decelerating for a red light. A signalised Farrell Road connection could be widened to provide two north bound lanes so that traffic seeking the shopping centre is not delayed.

The implications for traffic flow along the NDR are preferable to the Anson Street intersection option as the latter would result in signal changes being triggered by all traffic emerging from Anson Street, regardless of destination. Conversely, signalling the Farrell Road intersection would allow vehicles emerging from Anson Street and proceeding eastbound or westbound past the development to have no effect on signal changes.

Noise

The proponent supplied a noise impact assessment that examined potential noise impacts from road traffic and customer vehicles; car park activities; delivery and service vehicles, operation of loading docks; substation kiosk and mechanical plant. This assessment demonstrates that while there is some potential noise issues these can be appropriately mitigated by way of conditions. The recommended conditions contained in the assessment are seen to be appropriate in the circumstances of the site and proposed development.

Soils

Construction of the proposal will involve earthworks broadly across the whole site. Appropriate conditions can be imposed to manage this issue during the construction phase. The finished development will be stabilised with landscaping and sealed surfaces such that erosion will be prevented.

Water

The site is serviced with town water and the development can be conditioned to use only water efficient fittings.

Wastewater

The site is serviced and the development can be accommodated within the existing sewer capacity of the system.

Lighting

The pylon sign and flush wall signs are intended to be illuminated. A condition may be imposed to regulate the intensity and require such lighting to be extinguished outside of trading hours. This would also serve to inform passing motorists that the facility is closed and thereby reduce the number of diversions from the NDR during those times.

Car park lighting has not been shown on the application, however it is possible to impose conditions relating to Australian Standards and require that such lighting be hooded and screened to avoid glare falling onto adjoining lands.

Visual impact

The site is located in a prominent position adjacent to the NDR and development of this site has the potential to dominate an important view corridor and establish a standard for an emerging neighbourhood. By complying with the 10m setback requirement of the DCP the design has been able to accommodate appropriate landscaping forward of the built form and this assists to soften the appearance. In addition, the design incorporates a range of materials and colours that provide further interest. On the eastern side of the building, facing Telopea Way, the design has placed the specialty shop tenancies which are able to open both internally and outwardly to the car park. Accordingly the design is considered to provide an acceptable aesthetic for both the NDR and the future direction of the neighbourhood.

Economic Impact

When fully operational the proposal is anticipated to provide 238 full-time equivalent jobs comprising a mixture of full-time, part-time and casual staff. The proponent's economic impact assessment indicates an average annual wage of approximately \$22,000 resulting in a total salary and wages benefit to the community of \$5.2 million. These figures take into account a projected reduction of employment at existing retail facilities equivalent to 5% of the proposed development. The economic impact assessment forecasts a multiplier effect of a further 225 indirect jobs in the community.

It should be noted that much of the employment opportunities will be suitable for youth and student workers, a segment of the labour market that traditionally has above average unemployment rates. Increasing availability of jobs accessible to this demographic can play an important role in reducing the out-migration of the community's young people.

Provision of a shopping precinct in this location will also enable the North Orange Waratahs Estate population to meet their daily/weekly shopping needs locally. This may help alleviate traffic and parking congestion in the Orange CBD. The extent of trade lost to the CBD will undoubtedly have an effect on existing retailers and supermarkets in the CBD.

However, while the proposal will draw off some trade in the convenience shopping sector, the scale of the development compared to the CBD means that the latter will continue to dominate the City in terms of comparison shopping, higher order goods and professional services sectors. To the extent that the proposal results in some short term churning of operations, this may allow for easier entry of new operators in the latter three sectors.

Social

The proposal will create employment and convenience shopping opportunities for the residents of the Waratahs Estate. This will facilitate the take-up and development of Orange's main growth corridor and ensure that the area becomes more than a dormitory suburb.

The site is located adjacent to residential land, however these sites are presently undeveloped. Accordingly, the design of subsequent developments will have the opportunity to respond to the built form and operational effects of this proposal. Thus, the main concern is to ensure that the scale of the proposal is capable of co-existing with future neighbours rather than responding explicitly to any specific situation. In this regard the design, siting and aesthetic treatment of the proposal are all considered to be acceptable.

THE SUITABILITY OF THE SITE s79C(1)(c)

Amendment No 8 to the LEP was gazetted on 18 May 2010. This amendment applies to the site and provides, by way of additional permitted uses in schedule 1 of the LEP:

Development for the purposes of a supermarket and specialty shops, subject to the following conditions:

- (a) *the gross floor area of the development does not exceed 4,700m²,*
- (b) *the development includes only one supermarket,*
- (c) *the gross floor area of the supermarket does not exceed 3,200m²,*
- (d) *the combined gross floor area of the specialty shops does not exceed 1,500m²*

The Suitability of the Site (cont)

In this item:

supermarket means a self service shop selling food, groceries and other household goods such as alcohol, household cleaning products, medicine and clothes and may include a café, delicatessen, bakery and butchery.

specialty shop means a shop with a maximum floor area of 400m²

The proposed development is consistent with this additional permitted use. Additionally the site is located away from existing development, although it adjoins residentially zoned land. Therefore any future development in the area will have the opportunity to be designed in response to this facility. The site is level and does not pose any known technological or natural hazards.

ANY SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT s79C(1)(d)

The proposed development is not defined as advertised development under the provisions of the LEP and, as such, no formal exhibition of the application was required. Notwithstanding this, Council formed the view that the application should be notified in the public interest. The notification period commenced 31 July 2010 and concluded 16 August 2010.

No submissions have been received in relation to this application.

PUBLIC INTEREST s79C(1)(e)

Assuming that safe pedestrian management across the NDR can be addressed through an appropriate NDR/Farrell Road intersection upgrade, the proposed development is deemed to be consistent with the interest of the wider public. The proposal is not inconsistent with any relevant policy statements, planning studies, guidelines etc that have not been considered in this assessment.

SUMMARY

The proponent has suggested that proceeding with their option of pedestrian lights west of Telopea Way and some widening to allow for slip lanes and the like would not obstruct or prevent Council from upgrading either the Farrell Road intersection or the Anson Street intersection at a future date. While this is true, it is considered to be contrary to section 5(a)(ii) of the Environmental Planning and Assessment Act which establishes:

the promotion and co-ordination of the orderly and economic use and development of land

as one of the objectives of the Act.

In consideration of this objective the suggestion of proceeding with one approach that does not fully address the issues arising from the development on the grounds that further works to fully rectify the situation are not obstructed is neither co-ordinated, nor orderly, nor economic.

Summary (cont)

Therefore it is appropriate to require a coordinated and orderly response to the intersection issue. It is true that the third alternative of signalling Farrell Road would involve some additional cost, however this is a matter of apportionment only. Accordingly, provided the proponent is not required to contribute above and beyond the reasonable cost of works required to satisfactorily resolve issues generated by their own development, and also provided that Council is willing and able to provide for the remainder of the preferred option, there is seen to be no grounds to justify a temporary solution ahead of a permanent one.

In this regard, Council is of the opinion that apportionment of costs for an upgrade of the Farrell Road/NDR intersection should be based on 70% developer contribution and 30% Council contribution. This acknowledges that the existing intersection arrangement is not ideal but, in the absence of this proposal would remain workable for a number of years; and conversely the proposal is a significant traffic and pedestrian attractor, a fact that would have been known prior to the acquisition of the site by the proponent. Initial costings indicate that this would result in a proponent contribution of \$417,461 comprised of:

Traffic signals (including electrical and telecommunication supply):	\$175,500
Intersection reconfiguration roadworks (50% contribution):	84,187
Intersection lighting - required in conjunction with traffic signals (50% contribution):	52,500
Footpaths/pram ramps to direct pedestrians to signalised crossing:	10,800
<u>Sub total:</u>	<u>322,987</u>
Traffic control, site works, contingency	94,474
Total	\$417,461

The proponent has not submitted costings of their revised option of pedestrian lights west of the Farrell Road intersection with associated footpaths and fencing. However, in verbal discussions the proponent suggested that this would be in the order of \$150,000 to \$200,000, and that this would be at 100% cost to the proponent. Discussions suggested that the proponent would be agreeable to an equivalent contribution to the Farrell Road/NDR option.

Given the deficiencies of the pedestrian lights only option, it is considered that a contribution of \$200,000 would place an unreasonable burden on the broader community to provide for works essentially driven by this proposal. Whereas, Council's offer to provide 30% of the cost of the Farrell Road/NDR intersection upgrade reasonably reflects the need to eventually upgrade the intersection. Accordingly, this assessment recommends that the proponent be required to contribute \$417,461 towards the cost of an intersection upgrade that is related to and will clearly benefit the proposal and recommends against the option of pedestrian lights west of the Farrell Road intersection on the grounds of basic public safety. This assessment also recommends that the upgrading of the intersection occur prior to the shopping centre becoming operational.

Summary (cont)

In all other respects the proposed development is permissible with the consent of Council. The applicant has adequately demonstrated that the proposed development complies with the relevant aims, objectives and provisions of the LEP. A section 79C assessment of the development indicates that the development is acceptable in this instance provided the intersection issue is appropriately resolved. Attached is a draft Notice of Approval outlining a range of conditions considered appropriate to ensure that the development proceeds in an acceptable manner, including a requirement to enter into a deed of agreement with the Council in respect of the intersection issue.

COMMENTS

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

RECOMMENDATION

That the Joint Regional Planning Panel approves development application DA 221/2010(1) for a *Retail Development (supermarket and specialty shops)* at Lot 70 DP 851029 - 9 Telopea Way, Orange, pursuant to the conditions of consent in the attached Notice of Approval.



Craig Mortell
SENIOR PLANNER (STRATEGIC)
enc



ORANGE CITY COUNCIL

Development Application No **DA 221/2010(1)**

NA10/

Container PR13715

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

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

Development Application

Applicant Name: TPG NSW Pty Ltd
Applicant Address: (Attention Marian Higgins)
PO Box 1612
NORTH SYDNEY NSW 2059
Owner's Name: Fabcot Pty Limited
Land to Be Developed: Lot 70 DP 851029 - 9 Telopea Way, Orange
Proposed Development: Retail Development (supermarket and specialty shops)

Building Code of Australia building classification:

Class 6

Determination

Made On: 14 October 2010

Determination: **CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:**

Consent to Operate From: 15 October 2010

Consent to Lapse On: 15 October 2015

Terms of Approval

The reasons for the imposition of conditions are:

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

Conditions

- (1) The development is to be carried out generally in accordance with:

(a) **Plan/s numbered No0-017 DA00 - DA06, DA10, DA11**

- (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.

Conditions (cont)**PRESCRIBED CONDITIONS**

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

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

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (4) The Northern Distributor Road and Farrell Road intersection shall be improved by inclusion of traffic signals and associated lane widening on the southern side of the Northern Distributor Road, as well as concrete footpaths, a minimum of 2.5m wide, and intersection lighting to the appropriate standards. Works shall be consistent with drawing 21-19456-C003A Rev: B prepared by GHD entitled Intersection Improvements Option 3b. Works shall be conducted by council with the costs shared between the proponent and the Council on the following basis:

Works	Proponent	Council
Traffic Signals (including electrical and telecommunication supply)	\$175,500	\$nil
Intersection reconfiguration roadworks	84,187	84,187
Intersection lighting	52,500	52,500
Footpaths / Pram Ramps (to direct pedestrian movements)	10,800	nil
Traffic Control, Site works, Contingency	94,474	39,981
Total	\$417,461	\$176,668

The proponent may satisfy this condition by either paying the above contribution or entering into a deed of agreement with Council for the above prior to the issue of a construction certificate.

- (5) The design shall incorporate acoustic treatment measures (including barriers, screening, plant selection, exhaust placement and loading dock treatment). The design and construction of all acoustic treatment is to be consistent with the recommended noise controls detailed in the document "Noise Impact Assessment, Proposed Retail Development, No.9 Telopea Way, North Orange NSW" prepared by Reverb Acoustics dated September 2010 document reference No: 10-1515-R1
- (6) The design must incorporate an acoustic fence or mound 1800mm in height, which must be contained wholly within the allotment boundaries, along the full length of the northern development boundary delineating the development site from the remainder of the residential portion of the allotment.

The acoustic barrier must be impervious from the ground to the required height and constructed of either lapped and capped timber, Hebel Powerpanel, bricks, concrete blocks, earthen mound, mound/fence combination or similar. No significant gaps should remain in the fence or mound to allow the passage of sound below the required height. Alternative construction options that are of equivalent acoustic performance may be permitted. Overland drainage flows affected by this barrier are to be managed by way of subsurface drainage trenches or the like.

Conditions (cont)

Prior to the issue of a construction certificate (cont)
--

- (7) Noise emissions from the substation kiosk shall be limited to 63dB(A), Leq at a distance of 3 metres and employ appropriate barriers, screening or other acoustic measures as required to achieve the stated limit.
- (8) A Construction Certificate application must be submitted to, and issued by, Council/Accredited Certifier prior to any excavation or building works being carried out on site.
- (9) An approval under Section 68 of the Local Government Act shall be sought from Orange City Council, as the Water and Sewer Authority, for water, sewer and stormwater connection.

A detailed plan indicating the proposed layout of internal and external sanitary drainage, external stormwater and external water. The water layout shall include all hydraulics for the required fire main servicing fire safety measures within the site. Details concerning the backflow prevention between the nominated tank and the potable system shall be included.

- (10) A Fire Safety Schedule specifying the fire-safety measures (both current and/or proposed) to be implemented in the building shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the *Environmental Planning and Assessment Regulation 2000*.
- (11) A building assessment report on the existing and proposed development shall be prepared by a suitably qualified and accredited Fire Engineer and be provided to the Principle Certifying Authority prior to the issue of a Construction Certificate. This report shall determine whether the proposed development will achieve compliance with the Building Code of Australia. The report shall identify non-compliance with the Deemed-to-Satisfy provisions of the Building Code of Australia and identify how and where the non-compliance issues are to be dealt with via an alternative solution under Clause A0.5 of the Building Code of Australia.
- (12) Plans and specifications shall be provided indicating all details in relation to the energy efficiency of the building in accordance with Section J (Energy Efficiency) of the Building Code of Australia.
- (13) Detailed plans indicating the layout of all sanitary and access facilities for people with disabilities must be submitted. These designs must be in accordance with Part D3 of the Building Code of Australia, Australian Standard 1428.1:2001 - Design for Access and Mobility: General Requirements for Access - New Building Work.
- (14) Detailed plans and specification shall be provided specifying the proposed fit-out of the food preparation and storage areas in accordance with the requirements of Australian Standard 4674-2004 "Design and construction and fit-out of food premises" and Standard 3.2.3 "Food Premises and Equipment" of the Australian New Zealand Food Standards Code.
- (15) The applicant shall submit a waste management plan that describes the nature of wastes to be removed, the wastes to be recycled, the destination of all wastes and the route to be taken by vehicles transporting wastes to disposal sites. All wastes from the demolition and construction phases of this project are to be deposited at a licensed or approved waste disposal site.
- (16) Engineering plans, showing details of all proposed civil engineering work and adhering to any conditions of development consent, must be submitted to, and approved by, Orange City Council prior to the issuing of a Construction Certificate.
- (17) A water and soil erosion control plan shall be submitted to Orange City Council or an Accredited Certifier for approval prior to the issuing of a Construction Certificate. The control plan is to be in accordance with the Orange City Council Development and Subdivision Code and the Landcom, Managing Urban Stormwater; Soils and Construction Handbook.

Conditions (cont)

Prior to the issue of a construction certificate (cont)
--

- (18) A Certificate of Compliance, from Orange City Council in accordance with the *Water Management Act 2000*, must be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

The Certificate of Compliance will be issued subject to the payment of contributions for water, sewer and drainage works - at the level of contribution applicable at that time. The contributions are based on 3 ET's for water supply headworks 3 ET's for water booster headworks and 4 ET's for sewerage headworks.

- (19) The development's stormwater design shall include stormwater retention within the development, designed to limit peak outflows from the land to the pre-existing natural outflows up to the 100 year ARI frequency, 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 shall be determined in accordance with the requirements of the Dam Safety Committee.

The design of the detention storage shall be undertaken using the ILSAX rainfall-runoff hydrologic model or an approved equivalent capable of assessing runoff volumes and their temporal distribution as well as peak flow rates. The model is to be used to calculate the flow rates for the existing and post-development conditions. The developed flows are to be routed through the proposed storage within the model so that the outflows obtained are no greater than the flows obtained for the 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 and approved by Orange City Council or an Accredited Certifier prior to the issue a Construction Certificate.

- (20) Stormwater from the site shall be piped to the north through Waratah Sports Club, where it is to be discharged through a standard headwall with appropriate scour protection. Engineering plans of this required drainage system must be approved by Orange City Council prior to the issuing of a Construction Certificate.

The written consent of the Waratah Sports Club for the discharge of stormwater through their site shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

- (21) Telopea Way shall be upgraded and constructed generally in accordance with the plan submitted drawn by Geolyse project number 110044 drawing sheet 01A_E05. A concrete footpath/cycleway a minimum of 2.5 metres wide is to be constructed from the Northern Distributor Road to the northern driveway of the proposed development. Engineering plans, showing details of all proposed civil engineering work associated with the construction of Telopea Way and the concrete footpath/cycleway shall be submitted to, and approved by, Orange City Council prior to the issuing of a Construction Certificate.

- (22) A water reticulation analysis by "Watsys" or other Council-approved equivalent flow-modelling computer program, shall be carried out on any proposed water-reticulation system for the development. A professional engineer or other Council-approved person must carry out the analysis. The analysis shall be submitted to the Principal Certifying Authority for approval with engineering plans prior to the issuing 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.

Conditions (cont)

Prior to the issue of a construction certificate (cont)
--

- (23) A 150mm-diameter sewer main and suitably sized water main shall be constructed from Council's existing mains to serve the proposed development. Orange City Council is to approve engineering plans for this sewerage and water system prior to the issuing a Construction Certificate.
- (24) A Liquid Trade Waste Application shall be submitted to Orange City Council prior to the issuing of a Construction (or Occupation) Certificate. The application is to be in accordance with Orange City Council's Liquid Trade Waste Policy. Engineering plans submitted as part of the application shall show details of all proposed liquid trade waste pre-treatment systems and their connection to sewer.

Where applicable, the applicant is to enter into a Liquid Trade Waste Service Agreement with Orange City Council in accordance with the Orange City Council Liquid Trade Waste Policy.

PRIOR TO WORKS COMMENCING

- (25) The contractor responsible for supplying and installing mechanical plant must provide evidence that installed plant meets the noise emission limit of 60dB(A), or that noise control included with the plant is effective in reducing the sound level to 60dB(A). Once the plant layout has been finalised, details should be forwarded to the principal certifying authority for verification.
- (26) A temporary onsite toilet shall be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.
- (27) The relevant authority/ies, prior to the commencement of demolition works of the dwelling and associated sheds, must disconnect the gas, water, the electricity and the telephone services.
- (28) Soil erosion control measures shall be implemented on the site.

DURING CONSTRUCTION/SITEWORKS

- (29) All construction/demolition work on the site shall be carried out between the hours of 7.00 am and 6.00 pm Monday to Friday inclusive, 7.00 am to 5.00 pm Saturdays and 8.00 am to 5.00 pm on Sundays and Public Holidays. Written approval must be obtained from the General Manager of Orange City Council to vary these hours.
- (30) The following inspections will be required to be carried out by Council as the Water and Sewer Authority:
- internal sewer
 - hot and cold water installation
 - external sewer
 - stormwater drainage
 - final on water, sewer and stormwater drainage and Council services.
- (31) All plumbing and drainage (water supply, sanitary plumbing and drainage, stormwater drainage and hot water supply) shall comply with the *Local Government (Water, Sewerage and Drainage) Regulation 1998*, the *NSW Code of Practice - Plumbing & Drainage* and Australian Standard AS3500 - National Plumbing and Drainage Code. Such work shall be installed by a licensed plumber and is to be inspected and approved by Council prior to concealment.
- (32) The floor surfaces of bathrooms, shower rooms, laundries and WC compartments shall be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification shall be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Conditions (cont)

During construction/siteworks (cont)

- (33) The development shall be provided with access and facilities for people with disabilities in accordance with Part D3 of the Building Code of Australia, Australian Standard 1428.1:2001 - Design for Access and Mobility: General Requirements for Access - New Building Work.
- (34) Parking facilities for people with disabilities shall comply with clause NSW D3.5 of the Building Code of Australia and the requirements of Australian Standard 2890.1:1993 - "Parking Facilities - Off-Street Parking".
- (35) Tactile ground surface indicators shall be provided for the orientation of people with vision impairment in accordance with the provisions of Australian Standard 1428 Part 4.
- (36) Bollards shall be installed outside exit doors so that such exit doors are not capable of being obstructed by vehicles, goods or other items.
- (37) The fit-out of the food preparation and storage areas shall be installed in accordance with the requirements of Food Safety Standard 3.2.3 "Food Premises and Equipment" of the Australian New Zealand Food Standards Code and Australian Standard 4674-2004 "Design and construction and fit-out of food premises".
- (38) Building demolition of the dwelling and any associated outbuildings shall be carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures, clause 65 of the *Local Government (Approvals) Regulation 1993* and the requirements of the NSW WorkCover Authority.
- (39) The contents of the existing septic tank relating to the existing dwelling (nominated for demolition) shall be removed by a licensed contractor for disposal into Councils sewer system. The septic tank is to be excavated and disposed of at a licensed landfill and the absorption trench is to be drained and the voids limed and backfilled with clean compacted material.

Evidence of such work is to be provided to the Principal Certifying Authority.

- (40) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.
- (41) The provisions and requirements of the Orange City Council Development and Subdivision Code shall be applied to this application and all work constructed within the development is to be in accordance with that Code.

The developer shall be entirely responsible for the provision of water, sewerage and drainage facilities capable of servicing the development from Council's existing infrastructure. The developer shall 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.

- (42) A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.
- (43) All driveway and parking areas shall be sealed with bitumen, hot mix or concrete and shall be designed for all expected loading conditions (provided however that the minimum pavement depth for gravel and flush seal roadways is 200mm) and shall be in accordance with the Orange City Council Development and Subdivision Code.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE
--

- (44) All roadwork upgrades and improvements required by this consent must be completed prior to the occupation certificate being issued

Conditions (cont)

Prior to the issue of an occupation certificate (cont)

- (45) No person is to use or occupy the building that is the subject of this approval without the prior issuing of an Occupation Certificate.
- (46) Commitments listed in the Section J Report - "Energy Efficiency" must be fulfilled and certified by the installer prior to the issue of an Occupation Certificate.
- (47) The owner of the building/s must cause the Council to be given a Final Fire Safety Certificate on completion of the building in relation to essential fire or other safety measures included in the schedule attached to this approval.
- (48) A final inspection of Water, Sewer and Stormwater drainage shall be carried out by Orange City Council prior to the issue of either an Interim or Final Occupation Certificate.
- (49) Certification from Orange City Council, stating that liquid trade waste measures implemented comply with Orange City Council's Liquid Trade Waste approval, shall be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
- (50) A Certificate of Compliance, from a Qualified Engineer, stating that the stormwater retention basin complies with the approved engineering plans shall be submitted to the Principal Certifying Authority prior to the issuing of an Occupation Certificate.
- (51) Certification from Orange City Council must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate stating that all works relating to connection of the development Council assets, works on Public Land, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions.
- (52) Telopea Way shall be created as a 16.5 metres wide Public Road. Evidence that Telopea Way has been created as a 16.5 metre wide Public Road shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- (53) All of the foregoing conditions shall 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 shall be completed prior to the issuing of an Occupation Certificate, unless stated otherwise.

MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT

- (54) The development is permitted to operate daily between the hours of 7am to midnight only. Loading docks may be operated from 6am to midnight only.
- (55) Signs must be erected in conspicuous locations in the loading docks instructing drivers to turn off their engines once in place.
- (56) Waste disposal bins shall be located in shielded areas, possibly within the loading dock area. Waste collection shall be restricted to the loading dock operating hours.
- (57) Staff induction training for the supermarket and specialty shops must include noise abatement management including advising delivery vehicles of operating hours, the need to screen or shield noise producing plant, the need to keep waste disposal bins within screened and shielded locations,

ADVISORY NOTES

- (1) The disconnection of the water supply of the existing dwelling at the main shall be carried out by Orange City Council. Please note that a fee (described in Orange City Council Management Plan) is required to be paid prior to the disconnection being carried out.

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 97 of *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

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

Disability Discrimination Act 1992:

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

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

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

Disclaimer - S88B 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:**

ALLAN RENIKE - MANAGER DEVELOPMENT ASSESSMENTS

Date:

15 October 2010